

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 67

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

Economic Matters

Finance

Insurance - Penalties - Unauthorized Insurers, Insurance Producers, and Public Adjusters

This departmental bill increases the maximum civil penalty that the Insurance Commissioner may impose on an unauthorized insurer or person engaging in the business of insurance in the State from \$50,000 to \$125,000 per violation. The maximum civil penalty for an insurance producer or public adjuster who violates provisions of the Insurance Article is increased from \$500 to \$5,000 per violation. The minimum penalties that may be assessed for these violations remain the same.

Fiscal Summary

State Effect: General fund revenues increase, likely minimally, beginning in FY 2025 to the extent the Maryland Insurance Administration (MIA) assesses increased penalties under the bill. Expenditures are not affected.

Local Effect: None.

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.

Analysis

Current Law: An insurer must have a certificate of authority issued by MIA and comply with formation and financial standards to engage in the insurance business in the State. Insurers must maintain an adequate level of assets, capital, surplus, and reserves.

Unlicensed entities engaged in the business of insurance are subject to a civil penalty of at least \$100 and up to \$50,000 per violation.

MIA issues an insurance producer license to each person who sells, solicits, or negotiates insurance contracts. Applicants for an insurance producer license must pass an examination and meet other qualifications, including experience and continuing education requirements. MIA also issues a public adjuster license, which allows the holder to adjust claims on behalf of the insured for loss or damage to real or personal property of the insured covered by an insurance policy. To be licensed as a public adjuster, an individual must pass an examination and complete and submit the NAIC Uniform Individual Application.

Insurance professionals who violate provisions of the Insurance Article are subject to various penalties. In addition to the suspension or revocation of an insurance producer or public adjuster license, the Insurance Commissioner may impose a penalty of at least \$100 and up to \$500 for each violation of the Insurance Article. Penalties accrue to the general fund.

Background: The current maximum penalties assessable against an insurance producer or public adjuster who violates the Insurance Article (\$500) and an unlicensed person engaging in the business of insurance in the State (\$50,000) have not been increased since 1963 and 1987, respectively. MIA advises that the maximum penalty of \$50,000 for an unauthorized insurer or person engaging in the business of insurance in the State is no longer a meaningful deterrent and limits the administration's ability to penalize fraudulent actors. The bill increases the maximum penalty consistent with MIA's current maximum penalty for licensed insurers. The bill also more closely aligns the penalties for an insurance producer or public adjuster to those in surrounding states. For example, the maximum penalty for an insurance producer or public adjuster who violates a provision of insurance law is \$5,000 in Virginia, Washington DC, and West Virginia; \$10,000 in Pennsylvania; and \$20,000 in Delaware.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced in the last three years.

Designated Cross File: SB 229 (Chair, Finance Committee)(By Request - Departmental - Maryland Insurance Administration) - Finance.

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

Fiscal Note History: First Reader - January 19, 2024
km/jc Third Reader - February 16, 2024

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Insurance – Penalties – Unauthorized Insurers, Insurance Producers, and Public Adjusters

BILL NUMBER: HB0067

PREPARED BY: Jamie Sexton

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

The only impact of this bill on small businesses would be on those that violate the law, because the amount of penalties assessed would be higher.