HB 1130

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE
Revised

House Bill 1130 (Delegate Fulton)
Economic Matters — Referred to Finance

Insurers - Insolvency - Priority of Claims

This amended bill repeals certain provisions in the Insurance Article regarding the priority of claims against the estate of an insolvent insurer. The bill establishes a new priority of distribution of claims by establishing nine classes of claims. The bill specifies that a liquidator must pay every claim in each class in full or retain adequate funds for each claim before disbursing any payments to the members of the next class, and prohibits the establishment of subclasses within any class. The bill prohibits a claim by a shareholder, policyholder, or other creditor from circumventing the priority classes through the use of equitable remedies. The nine classes are discussed below.

Fiscal Summary

State Effect: Indeterminate. Altering the priority of claims could change the relative position of priority for any claims, including any the State may have, against an insolvent insurer. However, it is unlikely that the bill would have any immediate practical impact since the priority of claims established in the bill would come into play only when a domestic insurer becomes insolvent. The last time a Maryland domiciled insurer became insolvent was in 1985. The bill would not substantively change the operations or finances of the Maryland Insurance Administration.

Local Effect: Indeterminate, as discussed above.

Small Business Effect: Potential meaningful impact on small businesses, as discussed above.

Fiscal Analysis

Bill Summary: The bill establishes the following classes for the priority of claims, generally based on the National Association of Insurance Commissioners (NAIC) model law:

- Class 1: costs and expenses of administration expressly approved by the receiver; including reasonable expenses incurred by guaranty associations and expenses that, but for the activities of the guaranty association, would have been incurred by the receiver;

- Class 2: all claims under policies;

- Class 3: claims of a ceding or assuming insurer under a reinsurance contract;

- Class 4: claims of the federal government other than those included in Class 2;

- Class 5: debts due employees for services and benefits arising out of reasonable compensation for services performed, with certain limitations;

- Class 6: claims of any person, including claims of state or local governments, and claims of attorneys for fees and expenses owed to them for services rendered in opposing a formal delinquency proceeding;

- Class 7: claims of a state or local government for a penalty or forfeiture;

- Class 8: surplus or contribution notes, premium refunds on assessable policies, interest on claims of Classes 1-6, and any other claims specifically subordinated to this class; and

- Class 9: claims of shareholders or other owners of the insolvent insurer except as they may be qualified in Class 2 or 4.

Background: Under current law, there are essentially five categories of claims as follows:

- expenses of administration;

- the first $500 of compensation or wages owed to an officer or employee of an insurer for services rendered within three months before the commencement of a delinquency proceeding against the insurer;

- claims by policyholders, beneficiaries, or insureds;

- liability claims against insureds; and

- claims of the Property and Casualty Insurance Guaranty Corporation, the Life and Health Insurance Guaranty Corporation, and any similar organization.

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

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