

**Department of Legislative Services**  
Maryland General Assembly  
2001 Session

**FISCAL NOTE**  
**Revised**

House Bill 385 (Delegate Barve)  
Economic Matters

Finance

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**Insurance - Improper Premiums and Charges - Policy Fee Charged by Surplus  
Lines Brokers**

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This bill alters the limit on the policy fee that a surplus lines broker may charge on policies procured by a qualified agent or broker to whom the surplus lines broker pays a commission to: (1) \$100 on each personal lives policy; and (2) \$250 on each commercial lines policy.

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**Fiscal Summary**

**State Effect:** None. The bill would not directly affect revenues or expenses of the Maryland Insurance Administration (MIA). Surplus lines policies are not generally subject to MIA regulation; thus surplus lines brokers would not be required to pay rate filing fees.

**Local Effect:** Minimal. Local governments that purchase surplus lines could incur increased costs in obtaining the insurance.

**Small Business Effect:** Meaningful.

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**Analysis**

**Current Law:** With limited exceptions, a person may not willfully collect a premium or charge for insurance if the insurance is not provided or is not in due course to be provided subject to acceptance of the risk by the insurer in a policy issued by an insurer as authorized by MIA. A surplus lines broker that holds a certificate of qualification from MIA may charge a reasonable policy fee, up to \$75, on each policy procured by a

qualified agent or qualified broker to whom the surplus lines broker pays a commission. The policy fee must be reasonably related to the cost of underwriting, issuing, processing, and servicing the policy by the surplus lines broker for the surplus lines insurer.

A surplus lines broker may recoup the actual cost of an inspection required for the placement of surplus lines insurance from the prospective insured if: (1) the inspection is required by the surplus lines insurer; (2) the cost of the inspection is actually incurred by the surplus lines broker and not retained by the broker; (3) the surplus lines broker does not have a financial interest in and does not receive compensation from the person that performs the inspection; and (4) the cost of the inspection is documented and verifiable.

**Background:** In a March 1994 final order, the Insurance Commissioner found that surplus lines brokers were forbidden under Maryland law from charging policy fees. MIA advises that prior to the Commissioner's 1994 final order, surplus lines fees ranged from \$50 to \$250 per policy. MIA further advises that in 1992, one of the largest surplus lines brokers earned policy fee revenues exceeding \$250,000. Chapter 749 of 1994 authorized surplus lines brokers to charge a policy fee and limited the fee to \$75.

**Small Business Effect:** Small business surplus lines brokers could see an increase in revenues. Small businesses that purchase surplus lines insurance could incur increased costs in obtaining the insurance.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Automobile Insurance Fund, Maryland Insurance Administration, Department of Legislative Services

**Fiscal Note History:** First Reader – February 5, 2001  
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Analysis by: Ryan Wilson

Direct Inquiries to:  
John Rixey, Coordinating Analyst  
(410) 946-5510  
(301) 970-5510

