

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 1170
Judiciary

(Delegate Redmer)

Courts - Abatement or Dismissal of Civil Action Against Insurer - Interpretation
of Insurance Article

This bill requires a claimant who seeks recovery of damages against an insurer on behalf of a class of claimants to exhaust the claimant's administrative remedies before the Maryland Insurance Administration (MIA) before the case proceeds to trial.

Fiscal Summary

State Effect: It is anticipated that any additional costs incurred by MIA could be handled with existing resources.

Local Effect: The bill is not expected to have a significant impact on circuit court operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: A court must abate or dismiss a class action lawsuit filed against an insurer authorized to do business in the State that involves an interpretation, application, or violation of a provision of the Insurance Article, unless the court determines that:

- the interpretation, application, or violation involves only questions of law; and
- the Insurance Commissioner may not make any findings of fact or conclusions of law or issue any orders that would assist the court in resolving the action.

A court may abate or dismiss a class action if it determines that the Insurance Commissioner may order all or part of the requested relief. The court shall refer specific issues or claims within the Commissioner's jurisdiction to the Commissioner, and may direct the Commissioner to report periodically on the disposition of any such matters. The period of abatement is at least six months, or any other reasonable time the court determines.

The statute of limitations is tolled while the claimant seeks an administrative remedy.

Any relief awarded to a claimant may be considered adequate even if the relief does not include exemplary damages, multiple damages, attorney's fees, or court costs.

Current Law: Maryland does not currently require insurance claimants to exhaust administrative remedies before filing suit. However, many insurance policies contain this requirement.

Background: This bill is based on the Exhaustion of Administrative Remedies Model Act, which was proposed by the National Conference of Insurance Legislators (NCOIL) State-Federal Relations and Executive Committees in November 2002. Maryland is not a member of NCOIL.

MIA is the regulatory agency that oversees the State's insurance companies and producers. It has broad authority to investigate complaints concerning life, health, automobile, property, marine, and other types of insurance. MIA may impose civil penalties, but refers possible criminal violations to the Attorney General, for statewide violations, or to a State's Attorney.

State Expenditures: While MIA's workload could increase under this bill, it should not be necessary to hire an additional employee.

Local Effect: The local fiscal effect will depend on how many claimants return to the circuit court after being before the Insurance Commissioner. It is not expected to be significant.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 17, 2003
lc/cer

Analysis by: Rita A. Reimer

Direct Inquiries to:
(410) 946-5510
(301) 970-5510