

Department of Legislative Services

Maryland General Assembly

2004 Session

FISCAL AND POLICY NOTE

House Bill 535 (Chairman, Economic Matters Committee)
(By Request – Departmental – Insurance Administration, Maryland)

Economic Matters

Insurance - Premium Finance Companies - Penalties

This departmental bill increases the range of the civil penalties the Maryland Insurance Commissioner may impose on a premium finance company for a violation of the laws governing premium finance companies from a minimum of \$25 and a maximum of \$500 to a minimum of \$100 and a maximum of \$125,000. The bill also repeals the restriction that the penalty may be imposed only for a first or second violation.

Fiscal Summary

State Effect: General fund revenues would increase to the extent that the Commissioner imposes higher penalties on premium finance companies. Any increase may be offset by the deterrent effect of the increased penalty. The number or amount of any penalties that would be imposed cannot be accurately estimated, but both are assumed to be minimal. Expenditures by the Maryland Insurance Administration (MIA) would not be affected.

Local Effect: None.

Small Business Effect: MIA has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: Subject to applicable hearing requirements, the Commissioner may deny a registration to an applicant or suspend, revoke, or refuse to renew the registration of a premium finance company if the Commissioner finds that the applicant or registrant: (1)

failed to comply with a lawful requirement of the Commissioner's; (2) violated applicable law; (3) made a material misstatement in the application for registration; (4) engaged in fraudulent or dishonest practices; or (5) demonstrated incompetence or untrustworthiness to engage in the business of a premium finance company.

Instead of or in addition to suspending, revoking, or refusing to renew a registration, the Commissioner may: (1) impose on the registrant, for a first or second violation, a penalty ranging from \$25 to \$500; or (2) require the registrant to make restitution to a person that had suffered financial injury as a result of a violation of the applicable law.

Background: There are about 90 premium finance companies operating in Maryland. Very few financial penalties have been assessed.

MIA advises that many registered premium finance companies are owned by insurers. Penalties that the Commissioner may impose on insurers range from \$100 to \$125,000 for each violation. Penalties for producers range from \$100 to \$500 for each violation. Penalties for managing general agents of insurers range from \$100 to \$50,000.

By regulation, in deciding whether to impose a financial penalty, the Commissioner must consider: (1) the seriousness of the violation; (2) the good faith of the violator; (3) the violator's history of previous violations; (4) the harmful effect of the violation on the public and the insurance industry; and (5) the assets of the violator.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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