

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 1528
Economic Matters

(Delegate Harrison)

Finance

Property and Casualty Insurance Guaranty Corporation – Actions for Claims
Information of Insolvent Insurers

This bill authorizes the Property and Casualty Insurance Guaranty Corporation to bring civil actions against specified representatives of insolvent insurers to obtain custody and control of files and records related to claims information and provides that the corporation is not subject to defenses in an action brought under the bill.

The bill takes effect June 1, 2004 and applies only to insurer insolvencies that occur on or after June 1, 2004.

Fiscal Summary

State Effect: The bill would not directly affect the finances or operations of the Maryland Insurance Administration.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: The Property and Casualty Insurance Guaranty Corporation, to the extent appropriate or necessary, may bring an action against a third party administrator, producer, agent, attorney, or other representative of an insolvent insurer to obtain custody and control of all files and records related to claims information that involves the insolvent insurer.

In an action brought under the bill, the corporation: (1) has the absolute right through emergency equitable relief to obtain custody and control of all claims information; and (2) is not subject to any defense, lien, or other legal or equitable ground that might be asserted against the insolvent insurer for refusal to surrender claims information.

If an action is required to obtain claims information after refusal to provide the information in response to a written demand, the court must award to the corporation its costs, expenses, and reasonable attorney's fees. The bill does not affect the rights and remedies that the custodian of the applicable claims information may have against the insolvent insurer if those rights and remedies do not conflict with the corporation's right to custody and control of the claims information.

Current Law: The Property and Casualty Insurance Guaranty Corporation is a private, nonprofit, nonstock corporation. Its purpose is to provide a mechanism for the payment of property and casualty insurance claims and other claims against an insolvent property and casualty insurer.

Generally, the corporation is deemed to be the insolvent insurer to the extent of the corporation's covered claims and, to that extent, has the rights, duties, and obligations that the insolvent insurer would have had if it had not become insolvent. No provision specifically addresses civil actions the corporation might bring against defendants or the defenses they might assert in response.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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