

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 238

(Senator Astle)

Finance

Economic Matters

Insurance - Surplus Lines Brokers - Policy and Inspection Fees

This bill specifies that the current authorization for fees a surplus lines broker may charge for policies procured by a licensed insurance producer applies only to policies: (1) issued by a surplus lines insurer; and (2) procured by a producer not affiliated with or controlled by the surplus lines broker. The bill then specifically authorizes a surplus lines broker who is also an insurance producer to collect the same fee on a commercial lines policy issued by an authorized insurer not affiliated with or controlled by the surplus lines broker. The bill specifies that the current authorization for a surplus lines broker to recoup costs applies only to policies issued by a surplus lines insurer. The bill then specifically authorizes a surplus lines broker who is also an insurance producer to recoup the same costs on a policy issued by an authorized insurer.

Fiscal Summary

State Effect: Special fund revenues for the Maryland Insurance Administration (MIA) would increase to the extent that licensed insurance producers obtain surplus lines broker certificates under the bill. Expenditures would not be affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Generally, a person may not collect a premium or other charge for insurance if the insurance is not then provided or to be provided subject to acceptance of

the risk by the insurer. However, a surplus lines broker may charge a fee of up to \$100 on a personal lines policy or \$250 on a commercial lines policy procured by a licensed insurance producer to whom the broker pays a commission. The fee must reasonably relate to the cost of underwriting, issuing, processing, and servicing the policy by the surplus lines broker from the surplus lines insurer.

A surplus lines broker may recoup from a prospective insured the actual cost of an inspection required for the placement of surplus lines insurance if: (1) the inspection is required by the surplus lines insurer; (2) the cost is actually incurred by the broker and not retained by the broker; and (3) the cost of the inspection is documented and verifiable.

Background: Surplus lines insurance is the full amount or kind of insurance needed to protect the interest of the insured that: (1) cannot be obtained from an authorized insurer; or (2) for insurance to provide coverage against liability for certain medical malpractice claims, cannot be obtained from three or more authorized medical malpractice insurers.

State Revenues: MIA advises that there are approximately 42,800 licensed property and casualty insurance producers. Of those, approximately 600 also hold a certificate to act as a surplus lines broker. Additional producers might seek a surplus lines broker certificate because of the bill. Those who do would be subject to a \$25 application fee, a \$100 fee for an initial certificate, and a \$200 biennial renewal fee. Renewals are due at the same time of a certificate holder's producer license. Licenses renew on a rotating basis, with roughly half renewing in a given year. The number of producers who would obtain certificates under the bill cannot be accurately estimated but is assumed to be minimal.

Additional Information

Prior Introductions: None.

Cross File: HB 422 (Delegate Moe) – Economic Matters.

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

Fiscal Note History: First Reader - February 9, 2004
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