

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1529
Economic Matters

(Delegate Harrison)

Finance

Property and Casualty Insurance Guaranty Corporation - Definition of
"Covered Claim"

This bill excludes from the definition of a "covered claim" under the provisions governing the Property and Casualty Insurance Guaranty Corporation, notwithstanding any other provision specifically governing the corporation, a claim filed with the corporation after the earlier of: (1) 18 months after the date of the liquidation order; or (2) the final date set by the court for filing claims against an insolvent insurer's liquidator or receiver. The bill also excludes from the definition a claim filed with the corporation or a liquidator for protection afforded under the insured's policy for losses that are incurred but not reported.

The bill takes effect June 1, 2004 and applies to claims against insurers placed in liquidation 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 (MIA).

Local Effect: None.

Small Business Effect: Minimal.

Analysis

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.

Under the provisions governing the corporation, a “covered claim” is an insolvent insurer’s unpaid obligation, including specified unearned premium. The definition of a covered claim excludes: (1) an amount due to a reinsurer, insurer, insurance pool, or underwriting association as a subrogation recovery or otherwise; or (2) an amount due that arises out of insurance covering the members of a purchasing group if the insurance obtained by the purchasing group is written by an unauthorized insurer. The definition also excludes a first-party claim by an insured whose net worth is greater than \$50 million, including the net worth of its subsidiaries, on December 31 of the year before the year in which the insurer becomes insolvent.

For obligations other than surety bonds, the corporation is obligated to the extent of the covered claims existing on or before the determination of insolvency or arising: (1) within 30 days after the insolvency determination; (2) before the policy expiration date, if the date is less than 30 days after the determination of insolvency; or (3) before the insured replaces the policy or causes its cancellation, if the insured does so within 30 days after the insolvency determination.

Generally, the corporation must pay the amount of a covered claim ranging from \$100 to \$300,000 for obligations other than surety bonds. However, the corporation must pay the full amount of a claim arising from a workers’ compensation policy. The corporation is not obligated to a policyholder or claimant in an amount exceeding the obligation of the insolvent insurer under the policy.

For surety bonds, the corporation is obligated to the extent of the covered claims existing on or before the insolvency determination, or arising within 18 months after the determination of the insolvency, whether or not the surety bonds are issued for a stated period. The corporation must pay the amount of a covered claim ranging from \$100 to \$300,000. The corporation is not liable for an aggregate amount exceeding \$1 million under any one surety bond. If the covered claims exceed \$1 million under any one surety bond, the corporation must make prorated payment on account of each covered claim. The corporation is not obligated to a claimant for more than the amount of the obligation of the insolvent insurer under the surety bond out of which the claim arises.

Background: MIA advises that the statutory three-year limit on filing a civil action is typically included as a standard provision in property and casualty insurance contracts and that the bill would shorten this period to the limits established under the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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