

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 540

(Delegates Feldman and Miller)

Economic Matters

Finance

Insurance - Notice - Cancellation, Nonrenewal, and Premiums

This bill makes various changes to the provisions governing cancellation and nonrenewal of policies and premiums.

Fiscal Summary

State Effect: The Maryland Insurance Administration (MIA) advises that it may need to issue a bulletin notifying the insurance industry of the bill's changes and providing guidance on compliance with the bill's provisions. This could be done with MIA's existing resources. Revenues would not be affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill establishes a 30-day underwriting period for a binder or policy, other than a renewal, of private passenger motor vehicle, homeowners, or commercial property insurance, or liability insurance consistent with current law. During this period, an insurer may cancel a binder or policy if the risk does not meet the insurer's underwriting standards. An insurer must give written notice concerning its ability to cancel during the underwriting period. A cancellation notice during the period must meet the bill's specifications. If an insurer intends to cancel a binder given to a consumer borrower to satisfy a lender's requirement, the insurer must give the lender and the consumer borrower 15 days' written notice.

Cancellation and Nonrenewal

The bill establishes separate provisions governing the current notice requirements for cancellations for reasons other than nonpayment of premium and nonrenewals to personal insurance and excludes: (1) policies subject to the bill's 30-day underwriting period; and (2) policies issued to exempt commercial policyholders if their policies provide for at least a 30-day written notice period.

For commercial insurance, in addition to the current requirements, the bill requires an insurer to maintain proof of mailing for notices sent for cancellation or nonrenewal for reasons other than nonpayment of premium. For these commercial insurance policies, if the insurer provides a renewal policy and notice of the premium at least 45 days before the due date and the insured fails to pay on time, the insurer may cancel for nonpayment of premium. The insurer must first send, by certificate of mailing, an offer to reinstate the policy without a lapse in coverage. The offer to reinstate must provide at least 10 days for the insured to make the required payment.

Statement of Reason/Notices

The bill similarly splits the requirements for a statement of the actual reason for cancellation or nonrenewal between personal insurance and insurance purchased on the residual market (including insurance issued under the Maryland Property Insurance Availability Act or a similar act instituted to ensure the availability of insurance) and commercial insurance. The bill repeals the requirement for binders that have been in effect for 15 days. The bill also repeals the requirement that the statement be sufficiently clear and specific so that a person of reasonable intelligence could identify the basis of the decision without making further inquiry. Instead, the bill requires the statement be clear and specific. The bill prohibits the Maryland Insurance Commissioner from disallowing an insurer's proposed action because the statement contains: (1) nonmaterial and non-misleading grammatical, typographical, or other errors; (2) non-misleading surplus information; or (3) erroneous information, if in its absence there is a sufficient basis to support the action.

For commercial insurance, the statement must include the insurer's offer to provide additional information upon written request. The bill sets out requirements for making the request and responding to it.

For personal insurance policies and insurance policies in the residual market, the bill repeals the requirement that an insurer send a specific notice to the insured and the insurance producer for premium increases of 20% or more. Instead, the bill requires insurers to send a notice to the insured and the insurance producer stating both the amounts of the renewal and expiring premium.

For commercial insurance, the bill retains the current notice requirement for premium increases of 20% or more and specifies that the statement include the amounts of the renewal and expiring premium as well as contact information where the insured can get additional information. If an insurer's rating methodology requires the insured to provide information to calculate the renewal premium, the insurer must provide a reasonable estimate of that premium if the insurer has requested but has not received the required information from the insured. The bill specifies criteria for basing the estimate and for mailing the required notice. The bill excludes increases resulting from specified occurrences in determining the amount of a premium increase.

The bill restricts the current 17-day notice requirements for renewal notices to personal insurance and personal motor vehicle liability insurance.

Under the bill, personal insurance is property insurance or casualty insurance issued to an individual, trust, estate, or similar entity intended to insure against noncommercial activities. Personal insurance excludes: (1) motor vehicle liability insurance, which is subject to other requirements; (2) policies issued by the Maryland Automobile Insurance Fund (MAIF); (3) policies issued by the Joint Insurance Association; and (4) surety insurance. Commercial insurance is insurance issued to a business entity intended to insure against loss arising from the business pursuits of the insured. Commercial insurance excludes: (1) policies issued by MAIF; (2) policies issued by the Joint Insurance Association; (3) workers' compensation insurance; (4) title insurance; and (5) professional liability insurance.

Current Law: Generally, a binder or other contract for temporary insurance is considered to include all the usual terms of the policy for which the binder was given and the applicable endorsements. The binder is no longer valid after the policy to which it was given is issued. Binders given to a consumer borrower to satisfy a lender's insurance requirement must contain specified information. If one of these binders is to be canceled, the insurer must give the consumer borrower and the lender 10 days' written notice. Within 30 days after the date the binder was given to a consumer borrower, the insurer must issue an insurance policy or provide the required notice of cancellation.

The general notice provisions governing renewal or cancellation of policies do not apply to life insurance, health insurance, private passenger motor vehicle liability insurance, or surety insurance. Generally, under these provisions, when an insurer intends to cancel or decline to renew an insurance policy, the insurer must send to the insured, by certificate of mailing, a written notice at least 45 days before the proposed cancellation or expiration of the policy. An insurer must send a written notice of its intention to cancel a policy for nonpayment of premium at least 10 days before the proposed cancellation date.

Generally, when an insurer cancels or refuses to renew a policy, the insurer must provide the applicant a statement of the actual reason for the action if the authorized premium has been tendered or paid. This requirement applies to the cancellation or refusal to renew a binder that has been in effect for at least 15 days or an actual policy that has been issued. A person of reasonable intelligence must be able to identify the basis of the decision without making further inquiry.

Generally, when an insurer intends to increase a premium for a particular policy by 20% or more, the insurer must notify the insured and the insurance producer of the increase. The notices must be sent by first-class mail at least 45 days before the proposed increase.

Unless an insurer has provided notice of its intention not to renew a policy in compliance with applicable provisions, the insurer must provide each policyholder with notice of renewal premium due at least 17 days before the due date. A licensed insurance producer may provide the required notice on behalf of the insurer.

Unless a person seeking insurance no longer wishes the coverage, has obtained substantially similar coverage, or has failed to pay, an insurer is liable for the coverage that was requested if an insurer fails to comply with any provision governing: (1) notice about cancellation or nonrenewal; (2) statement of actual reason; (3) a premium increase of 20% or more; (4) motor vehicle liability insurance; or (5) notice of renewal premium due.

Additional Information

Prior Introductions: None.

Cross File: SB 659 (Senator Astle) – Finance.

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

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