Department of Legislative Services

Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 760 (Senator Middleton, *et al.*)

Finance Health and Government Operations

Insurance - Interstate Insurance Product Regulation Compact

This bill establishes a task force to study Maryland's entry into the Interstate Insurance Product Regulation Compact, which is administered by the Interstate Insurance Product Regulation Commission. The compact applies to individual or group annuities, life insurance, disability income insurance, and long-term care insurance. The task force is required to report by December 1, 2005. The bill adopts the compact effective October 1, 2006 and appoints the Maryland Insurance Commissioner as the State's representative to the commission.

Fiscal Summary

State Effect: Special fund expenditures by the Maryland Insurance Administration (MIA) would not be immediately affected; however, special fund expenditures related to processing of filings could decrease once the compact comes into effect. Revenues would not be affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: The commission is an instrumentality of the compacting states. The commission has the power to adopt regulations; establish reasonable uniform standards for products covered under the compact; receive and review products, rate filings, and specified advertisements; designate specified products and advertisements for self-certification; adopt operating procedures; remit filing fees to compacting states as provided in the bylaws, rules, or operating procedures; enforce compliance by compacting states; provide for dispute resolution among compacting states; advise compacting states on issues related to insurers domiciled or doing business in noncompacting jurisdictions; and provide advice and training to state insurance department personnel responsible for product review.

The commission may also bring legal actions; issue subpoenas; establish and maintain offices; purchase and maintain insurance and bonds; borrow, accept, or contract for services or personnel; hire employees and elect or appoint officers; accept donations; lease, purchase, or otherwise hold property; sell, convey, mortgage, or otherwise dispose of property; establish a budget; borrow money; appoint committees, including advisory committees; provide and receive information from, and to cooperate with law-enforcement agencies; adopt and use a corporate seal; and perform any other necessary or appropriate functions.

Each compacting state has one member. Each member is entitled to one vote and has the opportunity to participate in the governance of the commission. The commission, by a majority of members, prescribes bylaws to govern its conduct. A management committee of up to 14 members, with membership based on state population, has authority for managing the commission's affairs; establishing and overseeing an organizational structure; overseeing the commission's offices; and planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations. The commission must elect officers from the management committee on an annual basis, as specified in the bylaws. The management committee, subject to the commission's approval, is responsible for selecting the commission's executive director.

The commission must meet at least once during a calendar year and must take actions that are consistent with the compact and the bylaws.

If the commission exercises its rule making authority in a manner that exceeds the scope of the purposes of the compact or the powers granted under the compact, the action is invalid.

A uniform standard becomes effective 90 days after its adoption by the commission or at a later date determined by the commission. A state may opt out of a uniform standard as provided under the compact. If a state elects to opt out of a uniform standard, the standard remains applicable in the compacting state until the opting out legislation becomes law or the regulation opting out becomes effective. Once the opt-out becomes effective, the uniform standard no longer has any force or effect in the state that opts out. If a compacting state has formally initiated regulatory opting out procedures, the state may petition the commission to grant a stay.

The commission must monitor compacting states for compliance with bylaws, rules, and operating procedures and must notify a state if it is not in compliance. A state's insurance commissioner continues to exercise the commissioner's authority to oversee the market regulation of the insurer's activities in accordance with state law. The commission must adopt rules governing the public inspection and copying of its records.

The commission must attempt, on the request of a member, to resolve any disputes or other issues that are subject to the compact and that may arise between two or more compacting states or between compacting and noncompacting states.

Insurers and third-party filers seeking to have a product approved by the commission must file the product with, and pay the applicable filing fees to, the commission. The commission then remits a compacting state's filing fees to that state and keeps the additional filing fee charged by the commission. Any product approved by the commission may be sold or otherwise issued in the compacting states for which the insurer is legally authorized to do business. The compact does not prohibit an insurer from filing its product in a state in which it is licensed. Any such filing is subject to the laws of the state where it was filed. A filer whose product or advertisement is disapproved may appeal to a review panel.

To fund the initial costs of the commission, the commission may accept contributions and other forms of funding from the National Association of Insurance Commissioners (NAIC), compacting states, and other sources. The commission must collect a filing fee for each product filed to cover its cost of operations. The commission is exempt from taxation in and by the compacting states.

The compact becomes effective and binding on legislative enactment of the compact into law by two compacting states. The commission becomes effective after: (1) 26 states are members of the compact; or (2) states representing more than 40% of the premium volume for life insurance, annuity, disability income insurance, and long-term care insurance products, based on NAIC's records for the prior year, become members. Thereafter, it becomes effective and binding on any other compacting state on enactment of the compact in that state. An amendment to the compact becomes effective and binding on the commission and the states when all compacting states enact the amendment into law.

A compacting state may withdraw by enacting a statute specifically repealing the compact. Reinstatement following withdrawal occurs when the withdrawing state reenacts the compact. States found to be in default of the compact may be suspended as provided under the compact. The compact dissolves on the date when states' withdrawals or defaults leave only one compacting state.

Generally, the compact does not prevent enforcement of another law in a compacting state. For products and advertisements that are subject to the commission's authority, the rules, uniform standards, and other requirements are the exclusive applicable provisions. However, a person may continue to bring a civil action based on breach of contract, tort, or other laws in state court. Insurance products filed with individual states are subject to the laws of those states.

The lawful actions of the commission, as well as the agreements between the commission and compacting states, are binding on the compacting states.

Current Law: Individual or group annuities, life insurance, disability income, and long-term care insurance are regulated by the Maryland Insurance Commissioner.

Background: In 2001, the National Conference of State Legislatures (NCSL) established an Executive Committee Task Force to Streamline and Simplify Insurance Regulation. In 2002, NAIC began work on developing model legislation for an interstate insurance regulation compact. Later in 2002, NCSL adopted NAIC's proposed concept. NCSL's task force worked closely with NAIC, the National Association of Attorneys General, and the insurance industry to draft the compact model legislation. NCSL's executive committee unanimously adopted a resolution endorsing the compact on July 22, 2003.

To date, the compact has been adopted in nine states: Colorado, Hawaii, Iowa, Maine, New Hampshire, Rhode Island, Utah, Virginia, and West Virginia. In addition, legislation to adopt the compact has been introduced in 23 states, including Maryland under this bill.

State Revenues: Filing fee revenues would not be affected under the compact because the commission must remit filing fees to compacting states.

State Expenditures: Because the compact has not come into effect under its terms and Maryland's entry into the compact is delayed until October 1, 2006, there would be no immediate effect on MIA. However, once the compact becomes effective, special fund expenditures from the Insurance Regulation Fund could decrease to the extent staff are no longer needed to review filings for annuities, life insurance, disability income insurance, and long-term care insurance. The extent of these decreases cannot be accurately predicted.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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