

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 726 (Chairman, Economic Matters Committee)
(By Request – Departmental – Insurance Administration, Maryland)
Economic Matters

Insurance - Ownership of Expirations by Insurance Producers

This departmental bill excludes specified insurance producers and policies from the provisions governing the termination of an agreement between an insurer and an insurance producer and the insurer's refusal to cover a class of renewal business.

Fiscal Summary

State Effect: Enforcement could be handled with the existing budgeted resources of the Maryland Insurance Administration (MIA).

Local Effect: None.

Small Business Effect: MIA has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Bill Summary: The provisions governing an insurer's intention to cancel a written agreement with an insurance producer or refusal of a class of renewal business do not apply to an insurance producer or policy of a company (or group of companies) represented by insurance producers who are company employees if the termination of employment does not result in the cancellation or refusal to renew any policies.

The provisions also do not apply to insurance producers or policies of a company (or group of companies) represented by insurance producers who are not company

employees but who, by contractual agreement, represent only that company (or group of companies) if: (1) the insurance producer has no economic interest in the business; (2) the insurance producer has no right to transfer or seek to transfer the business or any interest in the business to a third party for financial consideration; and (3) the cancellation of any contractual agreement between the company (or group of companies) and the insurance producer does not result in the cancellation or refusal to renew any policies.

Current Law: Generally, if an insurer intends to cancel a written agreement with an insurance producer or intends to refuse a class of renewal business from an insurance producer, the insurer must give the producer at least 90 days' written notice. Notwithstanding any provision of its agency agreement with an insurance producer to the contrary, an insurer must continue to renew through the insurance producer, for at least two years after the termination of the agreement, any of the policies that have not been replaced with other insurers as expirations occur. These provisions do not apply to: (1) policies of life insurance, health insurance, surety insurance, wet marine and transportation insurance, and title insurance; or (2) insurance producers or policies of a company or group of companies represented by insurance producers who by contractual agreement represent only that company or group if the business is owned by the company or group and canceling any contractual agreement does not result in the cancellation or refusal to renew any policies.

Background: MIA advises that some insurers have stopped employing "captive" agents and have instead made some insurance producers independent contractors who are prohibited contractually from selling insurance for other insurers. These insurance producers operate under written agreements that give the producers certain economic rights in the business that they have developed for the insurer. MIA further advises that a captive insurance producer whose agency agreement has been terminated would be entitled to continue for at least two years to receive commissions on policies that were sold by the insurance producer unless the insurer: (1) owns the business; and (2) has the exclusive right to sell the business without the insurance producer's input, initiation, or consent.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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