

Department of Legislative Services  
Maryland General Assembly  
2005 Session

**FISCAL AND POLICY NOTE**

Senate Bill 436  
Finance

(Senator Stone)

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**Insurance - Unfair Claim Settlement Practices - Flood Insurance Policies**

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This bill adds a standard flood insurance policy adopted under federal law or regulation and issued by a licensed private insurer in the State to the types of policies to which the Unfair Claim Settlement Practices Act applies.

The bill applies to policies in effect on or after September 16, 2003.

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**Fiscal Summary**

**State Effect:** General fund revenues would increase to the extent penalties are imposed under the bill. Enforcement could be handled with the existing resources of the Maryland Insurance Administration.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** The State's unfair claim settlement practices provisions apply to each individual or group policy, contract, or certificate of an insurer or nonprofit health service plan that: (1) is delivered or issued in the State; (2) is issued to a group that has a main office in the State; or (3) covers individuals who reside or work in the State. The provisions do not apply to reinsurance, workers' compensation insurance, or surety insurance.

Under these provisions, it is an unfair claim settlement practice for an insurer to: (1) misrepresent pertinent facts or policy provisions relating to a claim or coverage at issue;

(2) refuse to pay a claim for an arbitrary or capricious reason based on all available information; (3) attempt to settle a claim based on an application that is altered without notice to, or the knowledge and consent of, the insured; (4) fail to include with each claim paid, a statement of the coverage under which payment is being made; (5) fail to settle a claim promptly whenever liability is reasonably clear under one part of a policy, in order to influence settlements under other parts of the policy; and (6) fail to provide promptly on request a reasonable explanation of the basis for a denial of a claim.

A violator is subject to a civil penalty of up to \$2,500 for each violation of these provisions. A violator is also guilty of a misdemeanor and, upon conviction, subject to a fine of up to \$100,000.

It is also an unfair claim settlement practice for an insurer, when committed with the frequency to indicate a general business practice, to attempt to settle a claim for less than the amount to which a reasonable person would expect to be entitled after studying written or printed advertising material accompanying, or made part of, an application. A violator is subject to criminal and civil sanctions for a violation of these provisions.

**Background:** Under federal law and regulation, a standard flood insurance policy and all disputes arising from the handling of a claim under the policy are governed exclusively by the flood insurance regulations issued by the Federal Emergency Management Agency, the National Flood Insurance Act of 1968, and federal common law. All disputes are subject to original jurisdiction of the federal district court.

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### **Additional Information**

**Prior Introductions:** A nearly identical bill, SB 834 of 2004, received an unfavorable report from the Senate Finance Committee.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - February 16, 2005  
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