

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 348
Economic Matters

(Delegate Bartlett, *et al.*)

Finance

Insurance - Fraud Reporting and Prevention - Expansion

This bill subjects HMOs and registered premium finance companies to provisions on reporting and preventing insurance fraud. It requires a registered premium finance company to report any suspected insurance fraud in writing to the Maryland Insurance Administration (MIA) Fraud Division. Any information or evidence provided by a premium finance company or an independent insurance producer is not subject to public inspection. The bill also subjects the Uninsured Employers' Fund and a self-insurer that provides vehicle liability insurance to provisions on fraudulent insurance acts.

Fiscal Summary

State Effect: Enforcement of fraud provisions could be handled with existing MIA budgeted resources. The civil/criminal penalty provisions of this bill are not expected to significantly affect State finances or operations.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: An authorized insurer (including its employees, fund producers, or insurance producers) or a viatical settlement provider or broker who believes that insurance fraud has been or is being committed must report the suspected insurance fraud in writing to the Insurance Commissioner; the MIA Fraud Division; or the appropriate federal, State, or local law enforcement authorities. Any information submitted is not subject to public inspection. An authorized insurer must also institute and maintain an

insurance antifraud plan and file it with the Commissioner. Failure to do so could result in the Commissioner's denial of an application for a certificate of authority or refusal to renew, suspension of, or revocation of the insurer's certificate of authority. In addition, an insurer is subject to a penalty of \$100 to \$125,000 for each violation. The Commissioner also can issue a cease and desist order against an insurer. Neither an HMO nor a premium finance company is required to report or prevent fraud.

The MIA Fraud Division has jurisdiction over certain State entities engaged in the business of insurance. A person who violates specified insurance fraud provisions may be held civilly or criminally liable and is subject to fines, imprisonment, or both. The Fraud Division does not have jurisdiction over the Uninsured Employers' Fund.

The Uninsured Employers' Fund was created in 1983 to protect workers whose employers are not insured under Workers' Compensation (Chapter 576 of 1983). The operation and administration of the Uninsured Employers' Fund is overseen by the fund's three-member board.

Background: The bill's provisions strengthen MIA's ability to enforce certain fraud provisions. The bill requires HMOs to implement and file an antifraud plan with MIA. Most HMOs currently file an antifraud plan with MIA; however, at least one HMO has refused to do so in the past without a change in the law.

The bill also affords protection from civil liability for premium finance companies that report suspected fraud. The lack of current protections discourages premium finance companies from doing so.

Subjecting the State's Uninsured Employers' Fund and motor vehicle liability self-insurers to provisions on fraudulent insurance acts enhances consumer protections.

Additional Information

Prior Introductions: HB 531, a substantially similar departmental bill, was introduced in 2004. It was not reported from the House Economic Matters Committee.

Cross File: None.

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

Fiscal Note History: First Reader - February 8, 2005
mp/ljm Revised - House Third Reader - March 23, 2005

Analysis by: Susan D. John

Direct Inquiries to:
(410) 946-5510
(301) 970-5510