

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
Revised

House Bill 760

(Delegate Feldman, *et al.*)

Economic Matters

Finance

**Insurance - Private Passenger Motor Vehicle Liability Insurance - Cancellations,
Failures to Renew, Reductions in Coverage, and Premium Increases**

This bill establishes, for private passenger motor vehicle liability insurance, separate provisions governing: (1) cancellations, nonrenewals, and reductions in coverage; and (2) premium increases.

The bill takes effect January 1, 2007 and applies to all private passenger motor vehicle liability binders and policies issued or renewed on or after that date.

Fiscal Summary

State Effect: Special fund revenues would increase in FY 2007 to the extent insurers file forms to comply with the bill. Any increase in workload and the reporting requirement could be handled with the existing budgeted resources of the Maryland Insurance Administration (MIA).

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: For cancellations, failures to renew, or reductions in coverage, the insurer's statement to the insured for proposing to take the action must include a brief statement of the basis for the action, including specified information. In addition to the current reasons, the Maryland Insurance Commissioner may not disallow a proposed action because the insurer's statement of actual reason contains erroneous information,

provided that, in its absence, there remains a sufficient basis to support the action. At a hearing challenging a cancellation, nonrenewal, or reduction in coverage the insurer has the burden of proving that its action is in accordance with its filed rating plan, its underwriting standards, or the lawful and applicable terms and conditions of the policy.

For premium increases, at least 45 days before the effective date of an increase in the total premium, the insurer must send written notice of the increase to the insured at the insured's last known address by certificate of mail. (The bill changes other references from "certificate of mailing" to "certificate of mail.") The notice requirement does not apply if the increase is part of a general increase and does not result from a reclassification of the insured. The notice may accompany or be included in the renewal offer or policy and must include specified information about the action.

If the insured believes that the premium increase is incorrect, the insured may protest the proposed action within 30 days after the mailing by mailing or transmitting by facsimile to the Commissioner specified information. The Commissioner must then notify the insurer. Generally, a protest does not stay the proposed action. If a premium increase on the policy exceeds 15%, the Commissioner may order a stay pending a final decision if the Commissioner makes a finding that the increase: (1) may cause undue harm; and (2) violates the insurer's filed rating plan. The Commissioner must determine whether the action is in accordance with the filed rating plan and dismiss or allow the action based on the information contained in the notice.

For a premium increase of more than 15% for the entire policy, an aggrieved party may request a hearing. At such a hearing, the insurer has the burden of proving that it is in accordance with its rating plan and, in so doing, may rely only on the reasons set forth in its notice to the insured. The Commissioner must issue an order within 30 days after the hearing. If the Commissioner finds that the action is in accordance with the insurer's rating plan, the Commissioner must: (1) dismiss the protest; and (2) if the insurer's action is stayed, allow the action on the later of the action's proposed effective date or 30 days after the determination. If the Commissioner finds the proposed action to be unjustified, the Commissioner must disallow the action and award reasonable attorney's fees incurred by the insured for representation at the hearing under specified circumstances. If the Commissioner disallows a premium increase for the entire policy, the insurer must return the disallowed premium with interest, as prescribed under the bill. An insurer that fails to return disallowed premiums must pay interest as provided under the bill. Appeals decisions may be made to the circuit court in the same manner as other appeals of the Commissioner's decisions.

The bill authorizes MIA to establish a pilot program for the purpose of reducing the number of protests filed under the bill. Participation by insurers and insureds is

voluntary. The program may require participating insurers to provide certain information and assistance to consumers who request information about premium increases. MIA must report on the implementation and results of the program by January 1, 2008.

Current Law: Generally, for a policy of private passenger motor vehicle liability insurance or a binder of motor vehicle liability insurance in effect for at least 45 days, an insurer other than the Maryland Automobile Insurance Fund (MAIF) may not: (1) cancel or fail to renew the policy or binder for a reason other than nonpayment of premium; (2) increase a premium for any coverage on the policy; or (3) reduce coverage under the policy. At least 45 days before the proposed effective date of one of these actions, an insurer must send written notice of its proposed action to the insured.

The required notice must state: (1) the proposed action; (2) the proposed effective date; (3) the actual reason for the proposed action; (4) the insured's right to replace the insurance through MAIF; (5) the insured's protest and hearing rights; (6) that the insurer must generally maintain the current insurance until the Commissioner makes a final determination; (7) the Commissioner's authority to award reasonable attorney's fees; and (8) if the action is based on a credit score or information from a credit report, specified information about the score or report. For cancellation or nonrenewal, the notice must be by certified mail. For a cancellation for nonpayment of premium and all other notices, the notice must be by certificate of mailing.

The Commissioner may not disallow a proposed action because the statement of actual reason contains: (1) grammatical errors, typographical errors, other nonmaterial, non-misleading errors; or (2) surplus information, providing the information is nonmaterial and not misleading.

An individual may protest by signing two copies of the notice and sending them to the Commissioner within 30 days after the notice's mailing date. Except for a premium increase of 15% or less for the entire policy, the protest stays the proposed action until the Commissioner makes a final determination. Based on information in the notice, the Commissioner must either dismiss an insured's complaint or disallow the proposed action. If the party aggrieved by the Commissioner's decision so requests, the Commissioner must hold a hearing, except for a premium increase of 15% or less for the entire policy. If the Commissioner finds the insurer's actions to be justified, the Commissioner must dismiss the protest and allow the action on the later of the action's proposed effective date or 30 days after the determination. If the Commissioner finds the proposed action to be unjustified, the Commissioner must disallow the action and award reasonable attorney's fees incurred by the insured for representation at the hearing under specified circumstances.

State Revenues: Private passenger motor vehicle insurers would be required to amend and file their cancellation, nonrenewal, reduction in coverage, and premium increase notices under the bill. Each filing would be subject to the \$125 form filing fee. Revenue from these fees is deposited in the Insurance Regulation Fund. The total number of forms that would be filed cannot be accurately estimated. *For illustrative purposes only*, if 100 insurers each filed four forms, special fund revenue would increase by \$50,000 in fiscal 2007.

Additional Information

Prior Introductions: A similar bill, HB 729 of 2005, was amended and passed the House; it was referred to the Finance Committee in the Senate, where no further action was taken.

Cross File: SB 948 (Senator Astle) – Finance.

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

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