

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

House Bill 833

(Delegate Zirkin, *et al.*)

Economic Matters

Finance

Surety Insurance - Failure to Pay Bail Bond Judgment - Penalties

This bill provides that a surety insurer that is removed by the District Court from a list of surety insurers eligible to post bond with the court because of a failure to timely resolve or satisfy a bail bond forfeiture is subject to a fine or suspension or revocation of the surety insurer's certificate of authority, as currently provided in statute.

Within 14 days after the failure of a surety insurer to resolve or satisfy all bond forfeitures in default by the District Court's deadline, the District Court clerk must notify the Insurance Commissioner in writing of the name of the surety insurer and each bond forfeiture that was not resolved or satisfied by the District Court deadline.

Fiscal Summary

State Effect: Potential general fund revenue increase to the extent the bill's monetary penalties are imposed. Potential revenue increase for the Insurance Regulation Fund to the extent surety insurers whose certificates of authority are suspended or revoked have to apply for reinstatement.

Local Effect: None.

Small Business Effect: Potential meaningful. Revenues could decrease for surety insurers who qualify for small business status to the extent the monetary penalties are imposed and loss of business as a result of suspension/revocation of the surety insurer's certificate of authority.

Analysis

Current Law: A “surety insurer” is a person in the business of becoming, either directly or through an authorized agent, a surety on a bail bond for compensation. A “surety” is a person other than the defendant who guarantees the appearance of the defendant in court. Bail bondsmen are authorized agents of surety insurers.

The Chief Clerk of the District Court is required to maintain a list containing: (1) the names of all surety insurers who are in default in the payment of any bail bond forfeited in any court in the State for a period of 60 days or more; (2) the names of all bail bondsmen authorized to write bail bonds in this State; and (3) the limit for any one bond specified in the bail bondsman’s general power of attorney on file with the Chief Clerk of the District Court.

The District Court will not accept a bond if the surety on the bond is on the current list maintained by the Chief Clerk of the District Court of those in default. No bail bond executed by a surety insurer directly may be accepted unless accompanied by an affidavit reciting that the surety insurer is authorized by the Insurance Commissioner of Maryland to write bail bonds in this State.

The Insurance Commissioner must deny a certificate of authority to an applicant or refuse to renew, suspend, or revoke a certificate of authority under specific circumstances, including if the action is required by any provision of the Insurance Article.

Instead of or in addition to suspending or revoking a certificate of authority, the Commissioner may: (1) impose on the certificate holder a penalty between \$100 and \$125,000, inclusive, per violation; and (2) require the certificate holder to make restitution to any person who has suffered financial injury because of the certificate holder’s violation.

Background: Twenty-five insurers are on the District Court’s list of authorized surety insurers. Nine insurers are in default. This includes one surety insurer that was added to the default list based on the District Court’s most recent report.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Insurance Administration, Department of Legislative Services

Fiscal Note History: First Reader - March 5, 2006
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