



appropriate license; • make false or fraudulent statements on an insurance application; • place insurance with an unauthorized insurer and refuse to obey an order of the Insurance Commissioner to produce certain documents; • operate or conduct an insurance business without an appropriate certificate from the Insurance Commissioner; • make a false sworn statement in an examination, investigation, or hearing conducted by the Insurance Commissioner; or • knowingly exhibit a false account, document, or advertisement about an insurer with the intent to deceive.

It is a fraudulent insurance act for an insurer to knowingly write or place a policy or insurance contract in the State through, or pay a commission or other consideration to, an unqualified person.

It is a fraudulent insurance act for an insurance producer to • solicit, take, or place applications without an appropriate license; • knowingly violate the law regarding payment of consideration for selling, soliciting, or negotiating insurance; or • intentionally fail to report to an insurer certain information regarding the consideration charged for an insurance contract.

A person that commits fraud with a value of \$300 or more is guilty of a felony. On conviction relating to failure to return premiums or false or misleading claims, a person is subject to • a fine of at least \$500, the maximum being the greater of three times the value of the fraud and \$10,000; and/or • imprisonment for up to 15 years. On a felony conviction for other fraudulent insurance acts, a person is subject to • a fine of up to \$10,000; and/or • imprisonment for up to 15 years.

A person that commits fraud with a value of less than \$300 is guilty of a misdemeanor. On conviction relating to failure to return premiums or false or misleading claims, a person is subject to • a fine of at least \$500, the maximum of which is the greater of three times the value of the fraud and \$10,000; and/or • imprisonment for up to 18 months. On a misdemeanor conviction for other fraudulent acts, a person is subject to • a fine of up to \$10,000; and/or • imprisonment for up to 18 months.

A person convicted of any fraudulent insurance act is also subject to liability for restoring to the victim the property taken or the value of the property taken.

Provisions relating to fraudulent insurance acts apply to the Maryland Automobile Insurance Fund and the Injured Workers' Insurance Fund, but not MHIP.

**Background:** MHIP is an independent unit that operates within MIA. The purpose of MHIP is to decrease uncompensated care costs by providing access to affordable, comprehensive health benefits for medically uninsurable residents. As of

November 2007, MHIP had 12,210 members. The Governor's proposed fiscal 2009 budget includes \$100.0 million for MHIP. MHIP's fund balance at the end of fiscal 2008 is expected to be \$141.8 million, less a required capital adequacy reserve of \$99.5 million. On July 1, 2008, per Chapter 7 of the 2007 special session, \$75 million of this balance will be transferred from the MHIP fund to the Health Care Coverage Fund for the expansion of Medicaid and the Small Employer Health Benefit Plan Premium Subsidy Program.

Currently, MHIP cannot refer individuals who commit fraudulent acts to the Insurance Fraud Division for investigation and possible prosecution as the provisions of the insurance fraud law do not apply to MHIP.

**State Revenues:** General fund revenues could increase minimally as a result of the bill's monetary penalty provisions from cases heard in the District Court.

**State Expenditures:** General fund expenditures could increase minimally as a result of the bill's incarceration penalties due to more people being committed to Division of Correction facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted under the bill is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$2,600 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$526 per month. Excluding medical care, the average variable costs total \$148 per month.

**Local Revenues:** Revenues could increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

**Local Expenditures:** Expenditures could increase minimally as a result of the bill's incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$40 to \$129 per inmate in fiscal 2009.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene, Maryland Insurance Administration, Department of Legislative Services

**Fiscal Note History:** First Reader - January 31, 2008  
ncs/ljm

---

Analysis by: Jennifer B. Chasse

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