HB 1353

Department of Legislative Services

Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1353 (Delegate Rudolph, *et al.*)
Economic Matters Finance

Omnibus Coastal Property Insurance Reform Act

This bill makes numerous changes to the law governing property insurance in coastal areas of the State.

Fiscal Summary

State Effect: Special fund revenues could increase due to insurer filings required by the bill. The Maryland Insurance Administration collects $125 per filing. General fund revenues from the insurance premium tax would increase to the extent insurers increase rates because of the bill. Enforcement of the bill could be handled with the existing budgeted resources of MIA. The Department of Housing and Community Development could conduct the required review and report with existing resources.

Maryland Automobile Insurance Fund: Since MAIF does not refuse coverage for any resident because of location, there is no fiscal or organizational impact to MAIF as a result of the bill.

Local Effect: The bill would not directly affect local finances or operations.

Small Business Effect: Potential minimal.

Analysis

Bill Summary:

Hurricane and Storm Policies: Under the bill, an insurer that issues a policy of homeowner's insurance may not adopt an underwriting standard that requires a deductible that exceeds 5% of the "Coverage A-Dwelling Limit" of the policy in the case of a hurricane or other storm unless the insurer has filed the underwriting standard for approval by the Commissioner and the Commissioner has approved the underwriting standard in writing. If an insurer has adopted an underwriting standard that requires a deductible equal to a percentage of the policy's limits in the case of such storms, the deductible may only be applicable beginning at the time that the National Hurricane Center of the National Weather Service issues a hurricane warning for any part of the State where the insured's home is located and ending 24 hours after termination of such a warning. When such underwriting standards are adopted by an insurer, the insurer is also required to provide a policyholder with an annual statement explaining the manner in which the deductible is applied. The bill authorizes the Commissioner to adopt regulations in order to implement these provisions.

Filing Requirements: The filing required by the bill must be made at least 60 days before the insurer proposes to implement that underwriting standard in the State. In addition, the filing must include any information required by the Commissioner, including • a copy of the proposed underwriting standard; • the data relied upon by the insurer in developing the standard; and • the proposed implementation date for the standard. Such an underwriting standard may not take effect until 60 days after it is filed. During the initial 60-day waiting period, the Commissioner may extend the waiting period up to an additional 60 days by giving written notice to the insurer that additional time is needed for consideration.

Financial Hardship Exception: The bill authorizes the Commissioner to allow an insurer to implement an underwriting standard within 60 days after filing if the Commissioner finds that compliance with the bill's filing time period provisions would result in impairment of or a significant financial loss to the insurer.

Requirements for Underwriting Standards: Underwriting standards covered under the bill must comply with all applicable laws.

Review and Approval: Under the bill, a filing is deemed approved unless disapproved by the Commissioner during the waiting period or any extension. The insurer must send a copy of the form used to provide required notice to the Commissioner prior to its use.

Loss Mitigation Discounts. The bill requires an insurer to offer at least one actuarially justified premium discount on a policy of homeowner's insurance to a policyholder who submits proof of improvements made to the insured premises as a means of mitigating loss from a hurricane or other storm. Such means include • hurricane shutters; • secondary water barriers; • reinforced roof coverings; • braced gable ends; • reinforced roof to wall connections; • tie downs; • reinforced opening protections; • repair or replacement of specific structural components; and • any mitigation effort that materially mitigates loss from a hurricane or other storm otherwise covered under the policy. These improvements have to be inspected by a contractor licensed by the Department of Labor, Licensing, and Regulation, and an insurer must be allowed to inspect the improvements. Verification of improvements that are the basis of a premium discount rests with the insurer, but an insurer may accept an inspection certificate issued by a governmental agency as verification.

Risk Planning Models: Under the bill, insurers that use a catastrophic risk planning model or other model in setting homeowner's insurance rates or refusing to issue or renew homeowner's insurance because of the geographic location of the risk must file a description of the specific model with the Commissioner and make arrangements to explain the model to the Commissioner. Insurers must notify the Commissioner of any changes to such models. This information is deemed proprietary and confidential information according to State law.

Material Reduction Plans. The bill creates procedures for insurers to implement plans of material reduction for the orderly reduction in coverage provided by homeowner's insurance policies. A "material reduction" is defined as a reduction of homeowner's insurance policies in force for an insurer on a statewide basis by 3% or more due to cancellations or nonrenewals solely because the subject of the risk or the insured's address is located in a certain geographic area of the State. The bill requires an insurer to file with the Commissioner a plan for orderly reduction at least 60 days before implementing a plan of material reduction. The plan has to • describe the insurer's contemplated actions; • set forth the reasons for the actions; • describe the measures the insurer intends to take in order to minimize market disruption; and • provide any other information required by the Commissioner.

The same filing, timing, review, and approval procedures listed above that apply to underwriting standards also apply to material reduction plans. The Commissioner has to approve the plan of material reduction if the insurer demonstrates that the material reduction would be accomplished in a manner that minimizes market disruption in the areas of material reduction. When reviewing a plan of material reduction, the Commissioner has to assess the impact of the plan of material reduction in each county of the State and areas within one mile of any saltwater shoreline directly adjacent to the Chesapeake Bay. The bill prohibits any intended withdrawal in accordance with a plan of material reduction that has been disapproved or has not been amended as required.

Department of Housing and Community Development: The bill requires the Department of Housing and Community Development to review current statewide building codes and develop enhanced codes for coastal regions of the State that promote disaster-resistant construction in these regions. The department has to report its findings and recommendations to the Senate Finance Committee and the House Economic Matters Committee by October 1, 2010, and the building codes must be provided to the planning boards of counties in coastal areas of the State.

The provisions of the bill apply to all homeowner's insurance policies issued, delivered, or renewed in the State on or after October 1, 2008, except for those concerning material loss mitigation discount plans, which apply to such policies issued, delivered, or renewed in the State on or after June 1, 2009.

Current Law: Insurers are prohibited from refusing to issue or renew a contract of motor vehicle, property, or casualty insurance solely because the subject of the risk or the policy holder's address is located in a certain geographic area of the State, unless • the insurer has filed with the Commissioner, at least 60 days before the refusal, a written statement designating the geographic area; and • the designation has an objective basis and is not arbitrary or unreasonable. Such statements are public records. Currently, the approval of the Commissioner is not required for an insurer to change underwriting policies in order to implement geographic coverage restrictions.

Background: In recent years, a number of large insurance companies have made decisions to stop offering property insurance in coastal areas due to an increased risk of hurricane damage linked to rising ocean temperatures. This trend began in Florida after 1992's Hurricane Andrew, a category-five hurricane that caused an estimated $26.5 billion in damage. Recently, a number of insurance companies including Allstate, Liberty Mutual, Nationwide Mutual, and State Farm have decided to stop offering property insurance in Mid-Atlantic coastal areas, including many counties in Maryland. In Florida, Mississippi, and Louisiana, this same trend has led to state-run insurance pools becoming overwhelmed by consumers who can no longer obtain property insurance from private companies due to the geographic locations of their properties. On February 11, 2008, the Maryland Insurance Commissioner announced a decision accepting Allstate's move to refuse new homeowners' insurance policies in specific coastal areas, holding that the company's decision did not violate existing State law.

Chapter 486 of 2007 established the Task Force on the Availability and Affordability of Property Insurance in the Coastal Areas. The task force has not yet issued a final report.

Additional Information

Prior Introductions: Bills related to this topic were introduced in 2007. HB 620 received a hearing in the House Economic Matters Committee but was later withdrawn. SB 494 received an unfavorable report from the Senate Finance Committee.

Cross File: None.

Information Source(s): Maryland Insurance Administration, Department of Housing and Community Development, Department of Legislative Services

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