HB 688

Department of Legislative Services

Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 688 (Delegate Simmons)
Economic Matters

Insurance - Medical Mutual Liability Insurance Society of Maryland - Surplus

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This bill authorizes the Maryland Insurance Commissioner to determine that the Medical Mutual Liability Insurance Society of Maryland's surplus is excessive if • the total surplus is greater than the appropriate risk-based capital requirements, as determined by the Commissioner for the preceding calendar year; and • after a hearing, the Commissioner determines that the surplus is unreasonably large. If it is determined that the surplus is excessive, the Commissioner may not approve a rate increase until the surplus is no longer excessive.

Fiscal Summary

State Effect: None. The change is procedural/technical in nature and would not directly affect governmental finances.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: If the society requests a rate increase of more than 7.5% and, at the time of the rate filing, the society's surplus is more than 500% of its authorized control level risk-based capital, the Commissioner may determine whether the society's surplus is excessive. If, after a hearing, the Commissioner determines that the surplus is excessive, the Commissioner may order the rates filed to be reduced.

Title 4, Subtitle 3 of the Insurance Article provides risk-based capital standards for insurers intended to safeguard the solvency of insurance businesses in the State. Insurers must maintain an amount of capital in excess of minimum levels which vary by company and file annual reports on their risk-based capital levels. The four RBC levels, in order from highest to lowest, are • company action; • regulatory action; • authorized control; and • mandatory control. As RBC levels decline, mandatory reporting and restructuring requirements are triggered for insurers and the Commissioner is authorized to take specific corrective actions (*i.e.*, at mandatory control level RBC, the Commissioner must take any action necessary to place the insurer under conservation, rehabilitation, or liquidation).

Background: The society provides medical malpractice insurance for 70% to 75% of physicians in private practice in the State. In 2004 and 2005, the Commissioner approved rate increases for the society of 28% and 33%, respectively, prompting what many called a medical malpractice "crisis." Chapter 1 of 2005 established the Maryland Health Care Provider Rate Stabilization Fund to directly subsidize insurance premiums of doctors and nurse midwives in fiscal 2006 through 2009.

When the subsidy program was enacted, it was anticipated that insurers would increase their rates for the next several years. However, the society has not asked for a rate increase since 2005. After realizing surpluses of $43.7 million in 2005 and $45.9 million in 2006, the society announced in September 2007 its intent to declare a dividend of $68.6 million. Following Maryland Insurance Administration proceedings, on December 13, 2007, the Commissioner and the society announced that the insurer would cut premiums by 8% for 2008 and return $84.0 million to the State. In addition to the rate cut, the society would distribute $13.8 million in dividends to physicians against 2008 premiums, meaning most Maryland physicians would see no rate increase in 2008.

Additional Information

Prior Introductions: Provisions substantially similar to the bill were adopted to the Maryland Patients' Access to Quality Health Care Act of 2004 (Chapter 5 of the 2004 special session) by floor amendment. The provisions were subsequently repealed by Chapter 1 of 2005.

Cross File: None.

Information Source(s): Maryland Health Claims Alternative Dispute Resolution Office, Maryland Insurance Administration, Department of Legislative Services

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