

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 142 (Chair, Health and Government Operations Committee)(By Request  
- Departmental - Insurance Administration, Maryland)

Health and Government Operations

Finance

Insurance - Antifraud Plans

This departmental bill requires third-party administrators to institute and maintain an insurance antifraud plan. As part of an antifraud plan, authorized insurers may require in writing that individuals receiving disability benefits periodically affirm that they remain entitled to the benefits and have had no change in the condition entitling them to the benefits. An insurer that requires affirmation must disclose to the individual receiving benefits that knowingly and willfully providing false information or knowingly and willfully failing to provide information is a crime subject to a fine and imprisonment.

Fiscal Summary

**State Effect:** Enforcement can be handled with existing resources. No effect on revenues.

**Local Effect:** None.

**Small Business Effect:** The Maryland Insurance Administration (MIA) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

**Current Law:** Authorized insurers, nonprofit health service plans, and fraternal benefit societies are required to create and file with the Insurance Commissioner an insurance antifraud plan that includes specific procedures to prevent and report insurance fraud and facilitate prosecution of insurance fraud cases. Third-party administrators are not subject to these requirements.

It is a fraudulent insurance act to provide information in support of a claim with the knowledge that the information is false or misleading. A person that commits a fraudulent insurance act with a value of \$300 or more is guilty of a felony and on conviction subject to a fine of up to three times the value of the claim and \$10,000 and/or imprisonment for up to 15 years. If the value of the claim is less than \$300, a person is guilty of a misdemeanor and on conviction subject to restitution, a fine of up to three times the value of the claim and \$10,000 and/or imprisonment for up to 18 months.

**Background:** Under current law, if an insured has a compensable injury or disability at the time of a claim, insurers have no way to determine if the insured later ceases to be entitled to the benefit. In some cases, an insured no longer entitled to benefits may continue to collect payments, which is insurance fraud subject to existing penalties. In the absence of affirmative statements of continued eligibility, prosecuting these cases of insurance fraud has been difficult for MIA.

**State Fiscal Effect:** The bill may enhance prosecution of insurance fraud by creating additional evidence. MIA does not anticipate any significant increase in the number of investigations or prosecutions. However, the number of convictions may increase. Current convictions typically result in sentences ranging from probation to six months of home detention plus restitution. Any potential increase in caseload for the Department of Public Safety and Correctional Services is anticipated to be absorbable within existing resources.

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### **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 - February 10, 2009  
ncs/mwc Revised - House Third Reader - March 24, 2009

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Insurance – Antifraud Plans

BILL NUMBER: HB 142

PREPARED BY: Maryland Insurance Administration

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.