

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 1516 (Delegate Stein)
Economic Matters

**Homeowner's, Fire, Farmowner's, and Dwelling Insurance Policies - Claims for
Additional Payments**

This bill requires certain homeowner's or personal property insurance policies to contain a provision that allows an insured to file a claim for additional payments on a replacement cost basis for at least two years after the date of loss. The bill applies prospectively to all homeowner's, fire, farmowner's, and dwelling insurance policies issued, sold, delivered, or renewed in the State on or after October 1, 2009.

Fiscal Summary

State Effect: Potential minimal special fund revenue increase in FY 2010 from the \$125 filing fee to the extent that insurers have to file amended policies for approval by the Maryland Insurance Administration (MIA). Any increase in workload can be handled with existing resources.

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

Small Business Effect: None.

Analysis

Current Law: Homeowner's insurance policies are not currently required to include a provision that allows an insured to file a claim for additional payments, on a replacement cost basis, for the repair or replacement of the dwelling or personal property within a specified time.

Generally, if an insured wishes to challenge a determination by its insurer that a loss is not covered under the policy or the amount of coverage, the insured may (1) pursue a civil action for breach of contract; or (2) appeal the determination to MIA under the unfair claim settlement practices provisions. Under these provisions, it is an unfair claim settlement practice to refuse to pay a claim for an arbitrary or capricious reason. If MIA determines that the unfair claim settlement practices provisions have been violated, it may order restitution of up to the amount of actual damages, subject to the policy's limits. MIA may impose a penalty of up to \$2,500 for each violation of the unfair claim settlement practices provisions. MIA may also issue a cease and desist order. If an insurance company fails to act in good faith in settling a first-party claim under a property and casualty insurance policy, the Commissioner may impose a fine of up to \$125,000.

Background: Chapter 5 of the 2004 special session established the People's Insurance Counsel, appointed by the Attorney General with the advice and consent of the Senate, in the Office of the Attorney General. The People's Insurance Counsel Division may appear before the Insurance Commissioner or in court to represent the interests of homeowner's insurance and medical professional liability insurance consumers in the State and must review any proposed rate increase of 10% or more for these insurance consumers. The division has the rights of counsel to a party in a proceeding. Chapter 5 established a special fund, funded by an assessment on insurers that sell homeowner's or medical professional liability insurance, pursuant to a specified formula, to pay the expenses of the division.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Insurance Administration, Department of Legislative Services

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ncs/ljm

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