

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 854
Economic Matters

(Delegate Stein, *et al.*)

Finance

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

This bill requires certain homeowner's or personal property insurance policies that insure for replacement cost to allow an insured to file a claim for additional payments for not less than two years after the date of loss. An insurer may require an insured seeking additional payments on a replacement cost basis to notify the insurer, within 180 days after the date of loss, of the insured's intent to repair or replace the dwelling or personal property.

The bill applies prospectively to all homeowner's, farmowner's, and dwelling insurance policies issued, sold, delivered, or renewed in the State on or after January 1, 2011.

This bill takes effect January 1, 2011.

Fiscal Summary

State Effect: Potential minimal special fund revenue increase in FY 2011 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 seeks 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: Some insurers have been requiring insureds to file claims for repair or replacement under a replacement policy within six months after the date of loss, even though the insured may not have final plans approved (in the case of a house rebuilding) or may not be able to obtain goods that are seasonal (such as clothing or patio furniture).

Under the bill, an insurer may require the insured, within 180 days after the date of loss, to notify the insurer that the insured *intends* to repair or replace the dwelling or personal property. However, an insured must be allowed file a claim for the difference between actual cash value and the replacement cost of completed repairs or replacement for not less than two years after the date of loss.

Additional Information

Prior Introductions: A nearly identical bill, HB 1516 of 2009, received an unfavorable report from the House Economic Matters Committee.

Cross File: Although SB 647 (Senator Pugh – Finance) is designated as a cross file, it is not identical.

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

Fiscal Note History: First Reader - February 19, 2010
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