

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 921
Judiciary

(Delegate Simmons)

Judicial Proceedings

Courts and Judicial Proceedings - Prelitigation Discovery - Insurance Coverage

This bill requires an insurer to provide a claimant, who files a written tort claim concerning a vehicle accident and provides specified documentation to the insurer, with documentation of the applicable limits of liability coverage in any insurance agreement under which the insurer may be liable to (1) satisfy all or part of the claim; or (2) indemnify or reimburse for payments made to satisfy the claim. The insurer must provide the claimant with this documentation within 30 days after receipt of the claimant's written request, regardless of whether the insurer contests the applicability of coverage to a claim.

An insurer, and the employees and agents of an insurer, may not be civilly or criminally liable for the disclosure of this documentation, and disclosure of the documentation in accordance with the bill does not constitute (1) an admission that a claim is subject to the applicable agreement between the insurer and the person charged with an alleged wrongful act giving rise to a damage claim (tortfeasor); or (2) a waiver of any term or conditions of the applicable agreement between the insurer and the alleged tortfeasor or any right of the insurer, including any potential defense concerning coverage or liability. Documentation of the applicable limits of liability coverage provided by an insurer in accordance with the bill's requirements is not admissible as evidence at trial by reason of its mandatory disclosure under the bill.

The bill applies prospectively to claims filed with an insurer on or after the bill's October 1, 2011 effective date.

Fiscal Summary

State Effect: The bill is procedural in nature and does not materially affect State finances.

Local Effect: The bill is procedural in nature and does not materially affect local finances.

Small Business Effect: None.

Analysis

Bill Summary: An “insurer” includes a property and casualty insurer, a self-insurance plan, or any person required to provide indemnification for a claim for wrongful death, personal injury, or property damage.

Under the bill, a claimant may obtain documentation of the limits of liability coverage if the claimant provides the following information in writing to the insurer: (1) the date of the vehicle accident; (2) the name and last known address of the alleged tortfeasor; (3) a copy of the accident report; (4) the insurer’s claim number, if available; (5) the claimant’s health care bills and documentation of the claimant’s loss of income, if any, resulting from the accident; and (6) the records of health care treatment for the claimant’s injuries caused by the vehicle accident. If the claimant provides documentation of health care bills and loss of income of at least \$12,500, the insurer must disclose in writing to the claimant the applicable limits of coverage in each written agreement under which the insurer may be liable.

However, if the claimant is the estate of an individual or beneficiary of an individual killed in a vehicle accident, the claimant must provide the following information in writing to the insurer to obtain the applicable limits of liability coverage: (1) the date of the vehicle accident; (2) the name and last known address of the alleged tortfeasor; (3) a copy of the accident report, if available; (4) the insurer’s claim number, if available; (5) a copy of the decedent’s death certificate; (6) a copy of the letters of administration issued to appoint the personal representative of the decedent’s estate in the State or a substantially similar document issued by another jurisdiction; (7) the name of each beneficiary of the decedent, if known; (8) the relationship to the decedent of each known beneficiary; (9) the amount of economic damages, if any, claimed by each known beneficiary of the decedent, including any amount claimed based on future loss of earnings of the decedent; (10) the health care bills for health care treatment, if any, of the decedent resulting from the vehicle accident; (11) the records of health care treatment for the decedent’s injuries caused by the vehicle accident; and (12) documentation of the decedent’s past loss of income, if any, resulting from the vehicle accident.

Current Law: The Maryland Rules authorize a party in a circuit court case to obtain discovery of the existence and contents of any insurance agreement under which a person carrying on an insurance business might be liable to satisfy part or all of a judgment or to indemnify or reimburse for payments made to satisfy the judgment. The party may obtain discovery by several methods, including written interrogatories, requests for production of documents, and depositions.

The Maryland Rules authorize a party in a District Court case, by written interrogatories, to obtain discovery of the existence and contents of any insurance agreement under which a person carrying on an insurance business might be liable to satisfy part or all of a judgment or to indemnify or reimburse for payments made to satisfy the judgment.

The Maryland Rules have no application to a claim before an action is filed in a circuit court or the District Court.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Insurance Administration, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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