

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 136
Finance

(Senator Stone)

**Homeowner's Insurance - Coverage for Loss from Discharge of Water - Required
Notice by Insurer**

This bill requires an insurer writing homeowner's insurance in the State to inform via written notice, at the time of renewal or application, a policyholder or applicant whether the insurer provides coverage for loss that (1) is caused by or results from a discharge of water arising from a plumbing system or source located on or off the insured premises, including a discharge from a water main break; and (2) is not caused by the negligence of the policyholder. If the insurer's standard policy does not provide coverage for such a loss, the notice must also provide information assisting the policyholder or applicant in finding such coverage.

The bill applies to all homeowner's insurance policies issued, delivered, or received in the State on or after October 1, 2011.

Fiscal Summary

State Effect: The bill does not directly affect governmental operations or finances.

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

Small Business Effect: Potential minimal.

Analysis

Bill Summary: If the standard policy does not include coverage for such loss, the notice must also indicate that the coverage may be available through the National Flood

Insurance Program, or other sources, and that the policyholder or applicant may wish to consult with an insurance producer for additional information.

If a renewal or application is made by telephone or using the Internet, the insurer must send the notice within seven calendar days after the date of the renewal or application.

Current Law: An insurer issuing, selling, or delivering homeowner's insurance policies in the State must offer the policyholder in writing the opportunity to purchase coverage for sewer or drain water backup damage at the time of initial policy application and at each renewal.

For the initial offer at the time of application, an insurer may make the offer for coverage for loss arising from water damage as part of the application itself, or include the offer of coverage in a separate form as part of the application records. At renewal, an insurer may notify the policyholder of the option of purchasing coverage for loss caused by water damage by including an offer of coverage in the renewal package. The renewal offer must clearly state that the offer is mandatory, and include language that instructs the policyholder on how to obtain coverage for loss arising from water damage should the insured elect to purchase a policy.

If a renewal or application is made by telephone, the insurer must send the offer to the applicant by certificate of mailing within seven calendar days after the date of the renewal or application. Likewise, if the renewal or application occurs via the Internet, the insurer must provide the offer to the policyholder or applicant before the submission of the renewal or application.

Background: SB 906 of 2010, as amended by the Senate, would have required the Maryland Insurance Administration (MIA) to conduct a study on coverage for damage caused by specified water damage. While the bill did not pass, MIA agreed to conduct the study and report its findings to the Senate Finance Committee and the House Economic Matters Committee. The report was released in January 2011.

MIA's report made several findings:

- the number of flood-type events has increased since 2003;
- recent laws and MIA guidance ensure that insurers generally provide enough information to enable policyholders and applicants to make an informed decision; however, many people fail to read their policy and applicable disclosures;
- insurers are required to offer coverage for damages resulting from water and sewer backup not caused by the insured's negligence; however, purchase of this endorsement does not cover flooding or surface water damage;

- Maryland is “ahead of the national curve” on the issue of statutorily required offer of coverage or mandated coverage for losses stemming from water – of the 16 states that responded to a survey conducted by MIA, none requires insurers to offer the coverage; and
- because the vast majority of homeowner’s insurance policies exclude losses from flood and surface water, the National Flood Insurance Program is usually the only option for consumers wishing to purchase this type of insurance.

Based on these findings, MIA presented its recommendations to stakeholders. Given the response from stakeholders, MIA concluded that it is feasible to:

- add a matrix summarizing coverage and exclusions to annual statements;
- require insurers to more prominently disclose all types of water loss and advise policyholders how to obtain more information; and
- provide consumers with questions to ask insurers and insurance producers when purchasing a homeowner’s insurance policy.

While this bill is not a direct response to MIA’s report, it does address MIA’s recommendation to advise policyholders on how to obtain more information concerning coverage for water damage.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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