

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 490

(Senator Astle, *et al.*)

Finance

Economic Matters

Limited Lines Insurance Licenses - Self-Service Storage Producers

This bill authorizes an owner of a self-service storage facility and the owner's designated responsible producer to obtain a self-service storage producer limited lines license to sell coverage to occupants at the self-service storage facility for the loss of or damage to stored personal property that occurs at the facility. An owner may not sell this insurance unless he or she holds a self-service storage limited lines license and has a designated responsible producer.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: Maryland Insurance Administration (MIA) special fund revenues increase due to initial licensing, renewal, fraud, and reinstatement fees for the limited lines license. The processing of any applications for a license received by MIA can be handled with existing resources.

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

Small Business Effect: Potential meaningful. The Self-Storage Association (SSA) reports that 75% of the storage facilities in Maryland are owned by small businesses, and the authority to sell insurance may lead to increased revenues for these businesses.

Analysis

Bill Summary:

Definitions: The bill defines (1) “occupant” as a person or the person’s sublessee, successor, or assignee who is entitled to the use of a leased space at a self-service storage facility; (2) “owner” as the owner of a self-service storage facility; (3) “designated responsible producer” as an individual who holds a self-service storage limited lines license and is designated by the owner as responsible for the owner’s compliance with State insurance laws, rules, and regulations; (4) “self-service responsible producer” as an owner of a self-storage facility who holds a self-storage limited lines license and is a designated responsible producer; (5) “self-service storage facility” as any real property that is used for renting or leasing storage space in which the occupants themselves customarily store and remove personal property on a self-service basis; (6) “authorized representative” as an independent contractor of an owner of a self-service storage facility; and (7) “personal property” as movable property that is not affixed to land and includes goods, wares, merchandise, household items, furnishings, a vehicle as defined by § 11-176 of the Transportation Article, watercraft, and motorized watercraft.

Limited Lines License: The bill *requires* the Insurance Commissioner to issue a limited lines license as a self-service storage producer to an owner of a self-service storage facility and the owner’s designated responsible producer who meet the bill’s requirements. An applicant for a license must file a written application with the Commissioner on a form approved by the Commissioner. An applicant must include the physical address of the company headquarters of the producer and a list of all self-service storage facilities where the producer will conduct business under the license. However, the bill does not require a licensee to have a separate license for each facility where insurance is offered or sold. Once licensed, the bill requires a producer to notify the Commissioner of any location of a facility in the State where the producer will either commence or cease to do business within 30 days after the change.

The bill exempts a self-service storage producer from meeting the continuing education requirements for insurance producers under Title 10 of the Insurance Article.

The bill does not prohibit (1) an insurer from paying and a self-service storage producer from receiving a commission, service fee, or any other valuable consideration that *is dependent* on the sale of insurance or (2) the payment of compensation by the self-service storage producer to an employee or authorized representative who offers or sells limited lines insurance that is incidental to the employee’s or authorized representative’s overall compensation and *not dependent* on the sale of insurance.

Disclosure Requirements: A self-service storage producer may not offer or sell insurance unless the producer makes readily available to prospective occupants brochures or other written materials that:

- summarize the material terms of insurance coverage offered to occupants;
- disclose that the policies offered by the producer may provide coverage that is comparable to coverage already provided under other types of property insurance;
- state whether the purchase of coverage under the policy would make the coverage primary to any other coverage;
- state that the purchase of insurance coverage is not required as a condition of rental at a self-service storage facility if the occupant presents evidence of other applicable insurance coverage;
- describe the process for filing a claim; and
- include contact information for filing a complaint with the Commissioner.

Prior to offering or selling insurance, a producer must also ensure that (1) all costs related to the insurance are stated in writing; (2) evidence of coverage is provided on a Commissioner-approved form to each occupant who purchases coverage; (3) the insurance is provided by an insurer authorized to transact the applicable kinds of insurance in the State; (4) as a condition of the sale of insurance, the self-service storage producer requires the occupant to sign a document acknowledging the amount of coverage purchased under the policy; and (5) if the occupant has contents in the leased space greater than the coverage under the policy, the occupant is advised in writing to contact an insurer to obtain additional coverage and acknowledges in writing that he or she received this notification.

Employees and Authorized Representatives: The bill authorizes an employee or authorized representative of a self-service storage producer to act on behalf of and under the supervision of the self-service storage producer in matters relating to the conduct of business under the limited lines license if the employee or representative receives required training. Each self-service storage producer must provide a training program, approved by the Commissioner, for employees and authorized representatives of the self-service storage producer. This training program must:

- include general information about homeowners, renters, business, and similar insurance that an occupant may have that may provide coverage for property located in a self-storage facility;
- include information about the material terms of self-service storage insurance coverage offered to occupants;
- provide basic instruction about the bill's provisions; and
- include any other information the Commissioner may require.

Any conduct by an employee or authorized representative is considered to be the conduct of the self-service storage producer. The designated responsible producer is responsible for the acts of employees or authorized representatives and must use reasonable means to ensure compliance with the law. The designated responsible producer must also maintain a register, on a form the Commissioner requires, of each employee or authorized representative. If requested by the Commissioner, the register must be submitted for inspection within 30 days of the request.

The bill prohibits a self-service storage producer, or any of its employees or authorized representatives, from (1) offering or selling insurance except in connection with, and incidental to the rental of space at a self-service storage facility or (2) advertising, representing, or otherwise holding themselves out as authorized insurers or licensed insurance producers.

Suspension, Revocation, and Refusal to Renew a Limited Lines License: The Commissioner may suspend, revoke, or refuse to renew a self-service storage limited lines license after notice and opportunity for a hearing if a producer, employee, or authorized representative has:

- willfully violated State law relating to insurance;
- operated without a limited lines license as required by the bill;
- failed to provide the disclosures required under the bill's provisions;
- offered or sold unapproved insurance products;
- failed to train employees or authorized representatives as required by the bill; or
- misrepresented pertinent facts or policy provisions concerning a policy for a self-service storage facility.

Instead of or in addition to suspending or revoking a self-service storage limited lines license, the Commissioner may (1) impose a penalty of no more than \$2,500 for each violation of the bill's provisions and (2) require restitution to be made to any person who has suffered financial injury because of a violation of the bill's provisions.

Tracking of Complaints: The Commissioner must keep track of complaints from consumers related to the offering and sale of self-service storage insurance by self-service storage producers, their employees, and their authorized representatives. Based on these complaints, and other information the Commissioner determines is necessary, the Commissioner must determine whether and how producers, their employees, and their authorized representatives should be compensated for offering and selling self-service storage insurance. By January 1, 2017, findings and recommendations must be reported to the Senate Finance Committee and House Economic Matters Committee.

Current Law: Except as otherwise specified, an insurance producer may not sell, solicit, or negotiate any insurance without a license in the kind of insurance for which the person intends to act as an insurance producer. No specific State law currently governs the sale of a policy providing coverage for loss of or damage to personal property in connection with a leased self-service storage space.

MIA issues limited lines licenses for certain restricted kinds of insurance, including automobile, credit products, health maintenance organizations, motor vehicle rental cars, travel, and portable electronics.

MIA is authorized under § 2-112 of the Insurance Article to collect fees for specified certificates, licenses, and services. MIA is authorized to collect initial licensing fees and biennial renewal fees from the issuance of insurance producer licenses.

Background: According to SSA, there are 48,404 self-service storage facilities in the United States and 530 in Maryland; 65% of facility owners in the United States own a single facility. SSA estimates that 73% (387) of the facilities in the State are small businesses.

The Maryland Self-Service Storage Act was adopted in 1983. It applies to all rental agreements entered into or renewed after July 1, 1983, and authorizes operators of facilities to hold a public sale of property stored within a leased space to enforce a lien on any unpaid rental fees that have been in default for 60 days.

MIA released a report in January 2014 concerning limited lines insurance in the State. MIA reports that Maryland currently authorizes eight limited lines of insurance including three of the four core lines suggested by the National Association of Insurance Commissioners (credit, crop, car rental, and travel). The report states that 14 states permit the sale of self-service storage limited lines insurance; of those states, none requires an examination to receive a self-service limited lines license, only one requires pre-licensing and continuing education, and almost all require employee training.

State Fiscal Effect: MIA reports that fees for the limited lines self-service storage license would be the same as those charged for other insurance producer licenses in the State including the limited lines portable electronics license established in 2012. These fees include a \$54 initial fee; a \$69 renewal fee (which includes a \$15 fraud fee) charged to existing license holders every two years; and a \$169 reinstatement fee. The bill does not require the owner of a self-service storage facility to obtain a license unless he or she wishes to sell insurance, and a producer that owns multiple facilities is only required to obtain a single license. Consequently, it is unknown how many self-service storage facilities and individuals will apply for a license; therefore, any increase in revenues cannot be reliably estimated at this time. Review and processing of license applications, as well as monitoring of licenses, can be handled with existing budgeted resources.

As noted above, there are 530 self-service storage facilities in the State. Additionally, SSA reports that 73% (387) of the storage facilities in Maryland are owned by small businesses. The number of storage facility owners in the State that own only a single facility, as well as the number of storage facility owners that own multiple facilities is unknown; thus, the maximum amount of revenue that may be obtained by MIA for license fees cannot be reliably estimated at this time. *For illustrative purposes*, if it is assumed that each of the owners of the 387 facilities that qualify as small businesses own only a single facility, and that the remaining 143 facilities are all owned by a single owner, MIA may receive up to 388 license applications from the owners of self-service storage facilities because the bill allows an owner to hold one license for multiple storage facilities. The bill also requires that each owner identify a licensed designated individual who would be responsible for the owner's compliance with insurance laws, rules, and regulations of the State. This would result in the possible issuance of 388 additional licenses. In this case, revenues could increase by as much as \$41,904 (\$54 x 776 facilities) in the initial year and as much as \$53,544 (\$69 x 776 licenses) every two years thereafter.

Additional Information

Prior Introductions: SB 780 of 2013, a similar bill, received an unfavorable report from the Senate Finance Committee.

Cross File: HB 603 (Delegate Jameson, *et al.*) - Economic Matters.

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

Fiscal Note History: First Reader - February 11, 2014
mm/ljm Revised - Senate Third Reader - March 25, 2014

Analysis by: Richard L. Duncan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510