

Department of Legislative Services
 Maryland General Assembly
 2014 Session

FISCAL AND POLICY NOTE

Senate Bill 342 (Senator Middleton)
 Finance

**Property and Casualty Insurance - Filing of Supplementary Rate Information -
 Public Inspection**

This bill authorizes insurers of certain types of property and casualty insurance to file supplementary rate information as trade secret or confidential commercial information in certain circumstances.

The bill takes effect June 1, 2014, and applies to all supplementary rate information filed with the Insurance Commissioner on or after that date.

Fiscal Summary

State Effect: Special fund expenditures for the Maryland Insurance Administration (MIA) increase by \$178,700 in FY 2015, which accounts for a 30-day start up delay, to hire two full-time analysts and one half-time analyst. Future years reflect the elimination of one-time costs, regular salary increases, and inflation. Revenues are not affected.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	178,700	170,500	178,500	186,900	195,800
Net Effect	(\$178,700)	(\$170,500)	(\$178,500)	(\$186,900)	(\$195,800)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: To file supplementary rate information as trade secret or confidential commercial information, an insurer must designate the information as trade secret or confidential commercial information and explain the reasoning behind this designation. The Insurance Commissioner must then determine if the supplementary rate information constitutes trade secret or confidential commercial information. If it does, the supplementary rate information is not open to public inspection. However, if the Commissioner determines that the supplementary rate information does not, the Commissioner must notify the insurer in writing and the rate information may not be open to public inspection until at least 10 days after this notice is sent.

Current Law: “Supplementary rate information” includes a manual or plan of rates, statistical plan, classification, rating schedule, minimum premium, policy fee, rating rule, rate-related underwriting rule, minimum rate, class rate, rating plan, manual or schedule of rates or premiums, rule or regulation that governs the setting or making of rates or premiums, and other applicable information that the Commissioner requires by regulation.

Each insurer in the State must file with the Commissioner all rates, supplementary rate information, policy forms, and endorsements as well as all modifications of rates, supplementary rate information, policy forms, and endorsements that the insurer proposes to use. An insurer may include in a filing any additional relevant supporting information. The Commissioner may also require a filer to provide this supporting information. A filing and any supporting information is open to public inspection as soon as it is filed. A filing may not take effect until 30 working days after it is filed. Any filing is considered approved unless disapproved by the Commissioner in the 30-day waiting period. MIA charges a fee of \$125 per filing.

The Maryland Public Information Act (PIA) gives the public the right to access government records without unnecessary cost and delay. Generally, a custodian must grant or deny a PIA request within 30 days of receiving an application. A custodian of public information must deny the inspection of part of a public record if it contains a trade secret, confidential commercial or financial information, or confidential geological or geophysical information.

Background: MIA reports that some insurers have requested supplementary rate information to be designated as trade secret or confidential commercial information. This designation makes the information exempt from public disclosure under PIA. In August 2013, MIA posted a bulletin to all authorized property and casualty insurers and licensed rating organizations for the purposes of reminding them that Title 11 of the Insurance Article requires each rate filing and any supporting information that is filed

with the Commissioner to be open to public inspection as soon as it is filed. In the bulletin, MIA expressly states that this information is required to be open to public inspection and as such, “the Insurance Administration will not grant any requests for confidentiality of a filing, in whole or in part, that contains rate or supplementary rate information necessary to develop the premium to be charged for an insurance policy.”

MIA advises that, under current practice, insurers submit rate and form files through the System for Electronic Rate and Form Filings (SERFF). In this system, underwriting standards and data are kept confidential and protected; however, no information related to rate and form filings is kept confidential. The instant a filing is submitted, it becomes available to public inspection. MIA reports that the public is free to walk in and utilize public workstations to inspect this and other public information. In 2013, MIA received 92 total visits to its public workstations as well as 29 PIA requests for more information. For this reason, MIA reports that any rate and form filing that designates trade secret or confidential commercial information would have to be reviewed as quickly as possible before it becomes available for public inspection in this way.

MIA also advises that it would not be possible to wait until a PIA request is received to begin performing the review required by the bill. MIA reports that rate filings generally include numerous filings with multiple documents that can extend for hundreds of pages. Because PIA requests must be fulfilled or denied within a 30-day timeframe, MIA believes there would not be enough time to analyze the information if it waited until a PIA request were received.

State Expenditures: To implement the bill, MIA needs additional staff. Thus, special fund expenditures increase by \$178,663 in FY 2015, which accounts for a 30-day start-up delay and reflects the cost of hiring two full-time analysts and one half-time analyst, to (1) review supplementary rate information designated as trade secret or confidential commercial information; (2) review insurer explanations for the designation; (3) recommend whether the supplementary rate information constitutes a trade secret or confidential commercial information based on applicable statute, regulations, and case law; (4) provide legal analysis in support of the determination; (5) submit information to the Commissioner for approval; and (6) send notice of the determination to the insurer.

This estimate assumes that, on average, each review of supplementary rate information takes approximately eight hours to complete. Moreover, it assumes that nearly one-fourth – or about 700 – filings each year include a designation of trade secret or confidential commercial information.

	<u>FY 2015</u>	<u>FY 2016</u>
Regular Positions	2.5	
Salary and Fringe Benefits	\$164,103	\$169,046
Operating Expenses	1,450	1,465
Start-up Costs	<u>13,110</u>	<u>0</u>
Total State Expenditures	\$178,663	\$170,511

Future year expenditures reflect full salaries with annual increases as well as annual increases in ongoing operating expenses.

MIA reports that, at the end of fiscal 2013, it had a special fund balance of \$3 million, and it estimates a balance of \$600,000 for the end of fiscal 2014. MIA can likely use existing fund balance to cover the costs of the bill's implementation in fiscal 2015 but may need to increase special fund revenues to cover future year costs.

Additional Comments: To cover the administrative costs required by the bill, MIA may need to charge an additional fee to insurers that designate supplemental rate filings as trade secret or confidential commercial information. Most of the fees charged by MIA are established by § 2-112 of the Insurance Article; therefore, MIA may need statutory authority to charge any additional fee for this designation.

Additional Information

Prior Introductions: None.

Cross File: Although designated as a cross file, HB 380 (Delegate Rudolph - Economic Matters) is not identical.

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

Fiscal Note History: First Reader - February 2, 2014
ncs/ljm

Analysis by: Richard L. Duncan

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