

Department of Legislative Services  
Maryland General Assembly  
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 97

(Chair, Finance Committee)(By Request - Departmental -  
Insurance Administration, Maryland)

Finance

Economic Matters

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Insurance - Public Adjusters - Prohibited Inducements

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This departmental bill prohibits a person from paying, allowing, giving, or offering to pay, allow, or give any valuable consideration to an insured as an inducement to use the services of a public adjuster.

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Fiscal Summary

**State Effect:** None. The bill's requirements can be handled with existing budgeted resources.

**Local Effect:** None.

**Small Business Effect:** The Maryland Insurance Administration (MIA) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

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Analysis

**Current Law:** A "public adjuster" is a person that solicits business or represents itself to the public as an adjuster of first-party insurance claims for losses or damages that arise under contracts of insurance that insure the personal or real property of an insured. A public adjuster receives compensation from the insured, directly or indirectly, for adjusting losses, investigating, appraising, evaluating, or otherwise giving advice or help to an insured in the adjustment of claims. The definition does not include a person that investigates, adjusts, or appraises claims that cover a motor vehicle insurance policy. To act as a public adjuster in the State, a person must obtain a license from MIA.

The Insurance Commissioner may deny a license to an applicant or suspend, revoke, or refuse to renew or reinstate the license of a public adjuster after notice and opportunity for a hearing. Instead of or in addition to suspending or revoking the license of a public adjuster, the Commissioner may impose a penalty of between \$100 and \$500 for each violation, require restitution be made to any citizen who has suffered financial injury, or require the individual to pass an examination and file a new application before a suspension is lifted. These penalties can only be applied for specified reasons that include violating the Insurance Article, engaging in fraudulent or dishonest practices, or willfully and materially misrepresenting the provisions of a policy.

Generally, insurers and insurance producers are prohibited from paying, allowing, giving or offering to pay, allow or give inducements to incentivize the purchase of insurance. These inducements include rebates, discounts, abatements, credits, or reductions of the premium stated in the policy; special favors or advantages in the dividends or other benefits to accrue on the policy; and any valuable consideration not specified in the policy. Violators of this provision are subject to suspension or revocation of their license, as well as other specified penalties.

**Background:** Public adjusters act as advocates on behalf of policyholders in appraising and negotiating insurance claims. Most public adjusters charge a fee that is a certain percentage of the settlement received by their client. The fee is paid by the policyholder, not the insurance company, and the amount is often deducted from the settlement payments made by the insurance company. The fee charged by a public adjuster is negotiable and not set by law.

MIA has received reports that some public adjusters in the State have been offering cash payments to insured persons incentivizing the use of the services of the public adjuster, leading to increased costs to insurance companies.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - January 14, 2014  
ns/ljm

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Insurance – Public Adjusters – Prohibited Inducements

BILL NUMBER: SB 97

PREPARED BY: Maryland Insurance Administration

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS