

**Department of Legislative Services**  
Maryland General Assembly  
2014 Session

**FISCAL AND POLICY NOTE**

Senate Bill 99

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

Finance

Economic Matters

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**Insurance - Fraud Violations - Civil and Criminal Actions**

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This departmental bill establishes that a criminal prosecution for insurance fraud may be brought in any county in which specified occurrences related to the fraud take place.

The bill also authorizes the Insurance Commissioner to impose administrative penalties and order restitution under certain circumstances, and it allows a criminal or civil fraud action for all related violations to be joined in the same action under certain circumstances.

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**Fiscal Summary**

**State Effect:** The bill's requirements can be handled with existing budgeted resources. Any additional caseload in the District Court can be handled with existing budgeted resources. Imposition of existing penalty provisions is not expected to materially affect State finances.

**Local Effect:** Any additional caseload in the circuit courts can be handled with existing budgeted resources. Imposition of existing penalty provisions is not expected to materially affect local government finances.

**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

**Bill Summary:** A criminal prosecution for insurance fraud may be brought in any county in which (1) an element of the insurance fraud was committed; (2) the purported insured loss occurred; (3) the insurance policy in question provides coverage; (3) the insurer or an agent of the insurer received a false or misleading statement or document; (5) the defendant or respondent resides; or (6) money or other benefit was received as a result of the insurance fraud.

For a civil fraud violation, the Commissioner may impose administrative penalties and order restitution when one or more of these occurrences take place in the State.

A criminal or civil fraud action for all related violations may be joined in the same action when insurance fraud is determined to have occurred in one of these locations.

**Current Law:** MIA's Fraud Division has the authority to investigate each person suspected of engaging in insurance fraud. If appropriate, following an investigation, the division must refer the case to the Office of the Attorney General or the appropriate local State's Attorney to prosecute the person criminally. Chapters 588 and 589 of 2012 granted the division the authority to investigate allegations of civil fraud in addition to criminal fraud and, if appropriate, impose an administrative penalty of no more than \$25,000 for each act of insurance fraud and order restitution to an insurer or self-insured employer of insurance proceeds paid relating to the fraudulent claim.

Generally, misdemeanor cases are tried in the District Court and felony cases are tried in the circuit courts. However, the District Court has concurrent jurisdiction with the circuit courts in felony insurance fraud cases. Cases are generally tried in the county in which the crime takes place. A person that commits a fraudulent insurance act with a value of \$300 or more is guilty of a felony and, on conviction, subject to a fine of up to three times the value of the claim and \$10,000 and/or imprisonment for up to 15 years. If the value of the claim is less than \$300, a person is guilty of a misdemeanor and, on conviction, subject to restitution, a fine of up to three times the value of the claim and \$10,000, and/or imprisonment for up to 18 months.

Chapters 588 and 589 of 2012 also granted the Commissioner the authority to impose, in addition to any criminal penalties, an administrative penalty of no more than \$25,000 for each act of insurance fraud and order restitution to an insurer or self-insured employer of insurance proceeds paid relating to the fraudulent claim. In determining the amount of the administrative penalty, the Commissioner must consider (1) the nature, circumstances, extent, gravity, and number of violations; (2) the degree of culpability of the violator; (3) prior offenses and repeated violations of the violator; and (4) any other matters the Commissioner considers appropriately relevant.

**Background:** Insurance fraud has a far-reaching effect on consumers and the national economy, in large part due to the massive size of the insurance industry. The Federal Bureau of Investigation (FBI) estimates that the thousands of insurance companies in the United States collect nearly \$1 trillion in premiums each year and lose approximately \$40 billion due to insurance fraud. Insurance fraud costs are passed on to consumers, resulting in higher premiums; in fact, the FBI reports that such costs may raise yearly premiums by as much as \$700 per household. Common insurance fraud schemes include the submission of exaggerated or false insurance claims, premium diversions by unscrupulous insurance agents or brokers, and duplicate submission of the same claim to multiple insurance carriers.

MIA reports that, in the State, jurisdiction for insurance fraud is largely determined by where a false statement was received by an insurance company or where it was sent from by the perpetrator. When the insurance company is located outside of Maryland, MIA must prove where the fraudulent statement originated from. MIA reports that this has become extremely problematic due to current technological advancements. Cell phone and computer transmissions can occur anywhere and are extremely difficult to locate or prove the origin of a transmission. However, without this evidence to determine jurisdiction, The Fraud Division cannot pursue the case. This has led to the rejection of many viable cases.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - January 14, 2014  
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## ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Insurance – Fraud Violations – Civil and Criminal Actions

BILL NUMBER: SB 99

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