

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 279

(Senator Middleton, *et al.*)

Finance

Economic Matters

Homeowner's Insurance - Notices

This bill authorizes a homeowner's insurer to send specified offers, renewal notices, and statements to an insured or applicant for a policy using electronic means; any notice sent in this manner must meet existing requirements for notices sent using electronic means. The bill also requires the Insurance Commissioner to adopt by regulation a notice containing specified information about homeowner's insurance policies. A homeowner's insurer may fulfill certain (but not all) notice requirements by using the Commissioner's notice, instead of having to send individual notices. The Commissioner's notice does not create a private right of action and may also be sent to an insured using electronic means.

Fiscal Summary

State Effect: Minimal increase in Maryland Insurance Administration (MIA) special fund revenues in FY 2018 due to \$125 rate and form filings from homeowner's insurers that choose to use the bill's consolidated notice. Review of the filings can be handled using existing resources. MIA has already developed a draft of the notice required by the bill and, therefore, can adopt the consolidated notice using existing resources.

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

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law: *Under the bill*, the notice adopted by the Commissioner must contain information regarding areas of concerns, including (1) flood; (2) coverage for loss from water that backs up through sewers and drains; (3) deductibles; (4) storm loss

protective device discount; (5) claims history; and (6) increased hazard. The notice must be written in clear and specific language and contain a statement that the notice (1) is not the insurance policy; (2) does not give any new or additional rights beyond those in the policy; and (3) does not alter the policy in any way.

Under the bill, a homeowner's insurer may meet the following *current law* offer and notice requirements using (1) electronic means and (2) the notice adopted by the Commissioner:

- An insurer must offer in writing to provide coverage for loss that is caused by or results from water that backs up through sewers or drains and is not caused by the negligence of the insured.
- An insurer must offer at least one actuarially justified premium discount to a policyholder who submits proof of improvements made to the insured premises to mitigate loss from a hurricane or other storm. An insurer that offers a premium discount must send a policyholder an annual statement regarding the availability of the discount and method for applying.
- An insurer must provide a written notice concerning the insurer's right to cancel or refuse to renew a policy due to (1) the number of weather-related claims made within a three-year period under specified circumstances and (2) a change in the physical condition or contents of the premises that increases the hazard insured against and, if known to the insurer before the policy was issued, would have caused the insurer to refuse to issue the policy.

Generally, each offer or notice must be given to an applicant at the time of application and/or sent to an insured when a policy is renewed.

Under the bill, a homeowner's insurer may meet a disclosure requirement related to the use of claims history for the purposes of canceling or refusing to renew coverage by using the notice adopted by the Commissioner.

Under the bill, a homeowner's insurer may meet the following *current law* notice requirements using electronic means:

- An insurer must provide an insured with an annual statement that summarizes the coverages and exclusions of the insured's policy.
- An insurer must provide an applicant, at the time a policy is initially purchased, with a written notice that states the policy does not cover losses from flood. The notice must also include specified information about the National Flood Insurance Program and the insured's other options for flood insurance.

- A homeowner's or renter's insurer that does not provide coverages for losses caused by specific breeds of dogs must provide an applicant or insured with a notice that identifies the breeds of dogs not covered.
- An insurer must provide an applicant with a written statement that lists all additional optional coverage available from the insurer to the applicant.
- An insurer that issues a policy that includes a specified percentage-based deductible must provide a statement to an applicant or insured that includes the actual percentage of the deductible, the circumstances under which the deductible applies, and other specified information.
- An insurer that issues a policy that contains an anti-concurrent causation (ACC) clause must annually provide each policyholder with a notice that describes the ACC clause, informs the insured to read the policy for complete information, and encourages the insured to communicate with the insurance producer or insurer for more information.

Generally, each notice or statement must be given to an applicant at the time of application and/or sent to an insured when a policy is renewed.

Under current law, Chapters 259 and 260 of 2011 authorized insurers in the State to deliver a required notice to an applicant, insured, or policyholder (collectively, party) by electronic means if the party has consented to that method of delivery and has not withdrawn the consent. The party must also be provided, prior to giving consent, with a clear and conspicuous statement informing the party of specified rights and other information pertaining to the scope of the party's consent. The process used to obtain consent must meet the requirements of the Maryland Uniform Electronic Transactions Act. A withdrawal of consent is effective within a reasonable period of time after the insurer receives the withdrawal and does not affect the legal effectiveness, validity, or enforceability of an electronic notice provided to the party before the withdrawal of consent is effective.

Delivery of a notice through electronic means must be considered equivalent to any delivery method required elsewhere in Subtitle 6 (Cancellations, Nonrenewals, Premium Increases, and Reductions in Coverage) of Title 27 (Unfair Trade Practices and Other Prohibited Practices) of the Insurance Article.

Background: During the 2016 interim, MIA convened a Homeowner's Disclosure Workgroup involving representatives from insurance companies, industry associations, producer associations, and the People's Insurance Counsel Division to review the current mandated homeowner's insurance disclosures and to determine which disclosures should be consolidated into a single notice. The workgroup developed a draft disclosure notice that was posted to MIA's website for public comment. After reviewing the comments,

MIA adopted many of the suggested changes. MIA advises that the bill is needed to authorize homeowner's insurers to use the new disclosure notice after it is finalized.

Additional Information

Prior Introductions: None.

Cross File: HB 291 (Delegate Davis) - Economic Matters.

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

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