HB 1499

Department of Legislative Services

Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1499 (Delegate Valderrama)
Economic Matters Finance

Workers' Compensation - Self-Insured Employers - Suspected Fraud Reporting

This bill expands the authority of the Maryland Insurance Administration's (MIA) Insurance Fraud Division to encompass investigating and taking action on fraud committed by or against a governmental self-insurance (workers' compensation) group and employers who self-insure. The bill also expands the definition of "insurance fraud" and requires governmental self-insurance (workers' compensation) groups and employers who self-insure or participate in a self-insurance group for workers' compensation to report suspected insurance fraud cases, in writing, to the Insurance Fraud Division. Information submitted to the fraud division in this manner is not subject to public inspection, except under specified circumstances.

Fiscal Summary

State Effect: MIA can handle the bill's requirements with existing resources, and State entities can make the required reports to MIA using existing resources. Imposition of existing penalties is not anticipated to materially affect revenues.

Local Effect: Local governments can make the required reports using existing resources. Imposition of existing penalties is not anticipated to materially affect revenues.

Small Business Effect: None.

Analysis

Bill Summary: If a person knowingly affects or knowingly attempts to affect the payment of compensation, fees, or expenses under Workers' Compensation Law by means of a fraudulent representation, it is considered insurance fraud.

Current Law:

Limitations of the Insurance Fraud Division's Authority

Section 1-204 of the Insurance Article specifically states that, for the purposes of workers' compensation insurance, the Insurance Article, and therefore the authority of MIA, does not apply to an employer who participates in a governmental self-insurance group or self-insurers. Additionally, the Insurance Article defines "insurance fraud" as fraudulent activity that is committed by or against a person regulated by the Insurance Article.

Insurance Fraud

Authorized insurers, their employees, producers, viatical settlement providers and brokers, and registered premium finance companies are required to report suspected insurance fraud cases, in writing, to the Insurance Fraud Division of MIA. The Insurance Fraud Division is responsible for investigating complaints relating to alleged insurance fraud committed by insurance companies, insurance producers, consumers, and the general public. During its investigations of insurance fraud cases, the division makes a determination about whether to pursue a criminal or civil case based on numerous factors such as the alleged offender's criminal history and intent, as well as the position of authority he or she holds. Criminal cases are referred to a State's Attorney or Office of the Attorney General for prosecution, while civil fraud sanctions are imposed by MIA. Civil and criminal penalties imposed by MIA or the courts generally accrue to the general fund.

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. 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.

For a civil fraud case, MIA may 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.

Workers' Compensation False Claim Penalties

A person may not knowingly affect or knowingly attempt to affect the payment of compensation, fees, or expenses under Workers' Compensation Law by means of a fraudulent representation. A person who violates this prohibition is subject to the general theft penalty provisions of the Criminal Law Article. The penalty is more severe depending on the value of theft. For example, a person convicted of theft of property or services with a value of at least $1,500 but less than $25,000 is guilty of a felony and subject to imprisonment for up to five years and/or a fine of up to $10,000.

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 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. These losses are then passed on to consumers through increased premiums.

Additional Information

Prior Introductions: None.

Cross File: SB 575 (Senator Klausmeier) - Finance.

Information Source(s): Anne Arundel and Garrett counties; Maryland Association of Counties; Maryland Insurance Administration; Federal Bureau of Investigation; Department of Legislative Services

Fiscal Note History: First Reader - February 11, 2018
mm/ljm Third Reader - March 23, 2018
Revised - Amendment(s) - March 23, 2018

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