

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 647
Finance

(Senator Klausmeier)

Insurance - Homeowner's and Renter's Policies - Dog Breed Discrimination

This bill prohibits a homeowner's insurer or renter's insurer – that provides coverage for losses from dogs – from discriminating against a specific breed or specific mixed breeds of dogs in an offer of a homeowner's insurance or renter's insurance policy. As a result, each insurer must either cover losses caused by any dog breed or exclude coverage for all dog breeds.

Fiscal Summary

State Effect: Minimal increase in special fund revenues for the Maryland Insurance Administration (MIA) in FY 2020 due to the \$125 rate and form filing fee. MIA can review the filings using existing budgeted resources. General fund revenues from the premium tax are likely not materially affected.

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

Small Business Effect: None.

Analysis

Current Law/Background: On April 26, 2012, the Court of Appeals modified the common law by holding that a dog owner, or a landlord or other person having the right to control a dog's presence on the premises, is strictly liable on proof that (1) the dog that attacked the victim is a pit bull or a mixed-breed pit bull and (2) the owner, landlord, or other person knew or should have known that the dog is a pit bull or a mixed-breed pit bull. *Tracey v. Solesky*, 427 Md. 627 (2012). On August 21, 2012, the court reconsidered its decision and limited its application to purebred pit bulls.

In response to this ruling, some homeowner's insurers and renter's insurers began to cancel and refuse to issue policies to policyholders and applicants who owned pit bull dog breeds and other specified dog breeds (such as dobermans and rottweilers) and began to deny claims related to those same dog breeds. In response to the Court of Appeals ruling and subsequent insurer actions, the State expressly authorized insurers to exclude coverage for losses caused by specific dog breeds or mixed breeds through Chapter 406 of 2013.

Chapter 406 requires an insurer that offers homeowner's or renter's insurance that does not provide coverage for losses caused by specific dog breeds or mixed-breeds to provide to an applicant or insured, at the time of application or issuance of a policy and at each renewal of a policy, written notice that (1) states that the policy does not provide coverage for losses caused by specific dog breeds or mixed breeds and (2) identifies the specific dog breeds or mixed breeds that are not covered.

Generally, an insurer or insurance producer may not cancel or refuse to underwrite or renew a particular insurance risk or class of risk except by the application of standards that are reasonably related to the insurer's economic and business purposes. For example, in addition to the exclusion discussed above for specific dog breeds and mixed breeds, a homeowner's insurer would be allowed to cancel a policy or raise a premium based on a change to a home's physical condition or contents that increases the potential for a fire to take place.

State Revenues: Title 6 of the Insurance Article imposes a 2% premium tax on each authorized insurance company, surplus lines broker, or unauthorized insurance company that sells, or an individual who independently procures, any type of insurance coverage upon a risk that is located in the State. Revenues accrue to the general fund. Under the bill, owners of specific dog breeds that are currently excluded from coverage may be able to obtain insurance; their premiums likely increase (consistent with owners of other dog breeds), resulting in an increase in premium tax revenues. Conversely, insurers may choose to eliminate coverage for losses caused by *any* dogs. These two impacts likely offset; therefore, general fund revenues are not likely materially affected.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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mm/jc

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