

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1499 (Delegate Valderrama)
Economic Matters

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

This bill 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 Maryland Insurance Administration's (MIA) 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: Even though the bill requires governmental self-insurance groups and self-insurers to report suspected insurance fraud cases to MIA, MIA has no authority to investigate and take action on such cases and, therefore, the bill does not affect State operations or finances, as discussed below.

Local Effect: Local governments can make the required reports using existing resources. Revenues are not affected.

Small Business Effect: None.

Analysis

Current Law:

Limitations of the 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. Even though the bill requires self-insurance groups and self-insurers to report suspected fraud to MIA, MIA has no authority to investigate and take action on these cases.

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 Fund 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.

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

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