

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 101

(Senator Zirkin)

Judicial Proceedings

Civil Actions - Prolitigation Discovery of Insurance Coverage

This bill extends, from claims involving only vehicle accidents to claims involving any tort involving bodily injury or death, the application of statutory provisions authorizing the prelitigation discovery of specified insurance coverage information. Under the bill, this prelitigation discovery applies to the applicable limits of coverage in any automobile, homeowner's, or renter's insurance policy. The bill expands the documentation a claimant must submit in order to receive this information by requiring a claimant to submit a letter from an attorney admitted to practice law in the State certifying that (1) the attorney has made reasonable efforts to investigate the underlying facts of the claim and (2) based on the attorney's investigation, the attorney reasonably believes that the claim is not frivolous. The bill makes corresponding changes to other statutory provisions.

The bill applies prospectively to claims filed with an insurer on or after the bill's October 1, 2019 effective date.

Fiscal Summary

State Effect: The bill is procedural and does not materially affect State finances.

Local Effect: The bill is procedural and does not materially affect local finances.

Small Business Effect: None. Assuming that claimants in affected tort cases are more likely to contact corporate headquarters or legal departments of insurers rather than small business insurance agencies, the bill is unlikely to materially affect small businesses.

Analysis

Current Law: A “claimant” is (1) a person who alleges damages as a result of a vehicle accident or an attorney who represents the person or (2) a personal representative of the estate of a person who died as a result of a vehicle accident or an attorney who represents the personal representative of the decedent’s estate.

An “insurer” includes a property and casualty insurer, a self-insurance plan, or any person required to provide indemnification for a claim for wrongful death, personal injury, or property damage.

An insurer must provide a claimant, who files a written tort claim concerning a vehicle accident and provides specified documentation to the insurer, with documentation of the applicable limits of liability coverage in any insurance agreement under which the insurer may be liable to (1) satisfy all or part of the claim or (2) indemnify or reimburse for payments made to satisfy the claim. The insurer must provide the claimant with this documentation within 30 days after receipt of the claimant’s written request, regardless of whether the insurer contests the applicability of coverage to a claim.

A claimant may obtain documentation of the limits of liability coverage if the claimant provides the following information in writing to the insurer: (1) the date of the vehicle accident; (2) the name and last known address of the alleged tortfeasor; (3) a copy of the vehicle accident report; and (4) the insurer’s claim number, if available.

However, if the claimant is the estate of an individual or beneficiary of an individual killed in a vehicle accident, the claimant must provide the following information in writing to the insurer to obtain the applicable limits of liability coverage: (1) the date of the vehicle accident; (2) the name and last known address of the alleged tortfeasor; (3) a copy of the vehicle accident report, if available; (4) the insurer’s claim number, if available; (5) a copy of the decedent’s death certificate; (6) a copy of the letters of administration issued to appoint the personal representative of the decedent’s estate in the State or a substantially similar document issued by another jurisdiction; (7) the name of each beneficiary of the decedent, if known; and (8) the relationship to the decedent of each known beneficiary.

An insurer, and the employees and agents of an insurer, may not be civilly or criminally liable for the disclosure of this documentation, and disclosure of the documentation in accordance with statute does not constitute (1) an admission that a claim is subject to the applicable agreement between the insurer and the person charged with an alleged wrongful act giving rise to a damage claim (tortfeasor) or (2) a waiver of any term or conditions of the applicable agreement between the insurer and the alleged tortfeasor or any right of the insurer, including any potential defense concerning coverage or liability. Documentation of the applicable limits of liability coverage provided by an insurer in accordance with the

statutory requirements is not admissible as evidence at trial by reason of its mandatory disclosure under statute.

Additional Information

Prior Introductions: SB 144 of 2017 passed the Senate with amendments and received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of State Police; Maryland Department of Transportation; Maryland Insurance Administration; Department of Legislative Services

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