

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 90

(Chair, Economic Matters Committee)(By Request -
Departmental - Maryland Insurance Administration)

Economic Matters

Finance

Insurance - Hearing Representation

This departmental bill requires the Insurance Commissioner to allow a small employer “business entity” to be represented by specified individuals other than an attorney at a hearing held by the Commissioner.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Local Effect: None.

Small Business Effect: The Maryland Insurance Administration (MIA) has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary: A “business entity” (defined as a corporation, partnership, limited liability company, or sole proprietorship) may authorize an officer of the corporation, a partner in the partnership, a member of the limited liability company, or specified designated employees to represent the business entity during a hearing at MIA or hearings held at the Office of Administrative Hearings on behalf of MIA. The business entity must provide proof to the Commissioner that it meets the definition of small employer.

A business entity may not be represented by an authorized individual instead of an attorney for a hearing based on an assignment of the claim of another to the business entity.

A business entity may not contract with, hire, or employ another business entity to provide appearance services.

If represented by a designated employee, the employee must provide a power of attorney sworn by the employer that certifies that the designated employee is an authorized agent of the business entity and may bind the business entity on matters before the Commissioner.

Current Law: “Small employer” means an employer that, during the preceding calendar year, employed an average of not more than 50 employees.

Various persons under the purview of MIA, including insurance entities and professionals directly regulated by MIA and their customers, may be entitled to a hearing when MIA makes a decision that affects them. Generally, all hearings must be open to the public unless otherwise specified. The Commissioner must allow any party to a hearing to (1) appear in person; (2) be represented by counsel or, in the case of an insurer, a designee of the insurer, as specified; (3) be present while evidence is given; (4) have a reasonable opportunity to inspect all documentary evidence and to examine witnesses; and (5) present evidence.

An insurer may be represented at a hearing before the Commissioner by a designee of the insurer who is employed by the insurer in claims, underwriting, or as otherwise provided by the Commissioner. However, all corporations, limited liability corporations, and partnerships must be represented by an attorney at any hearing before the Commissioner.

Generally, under § 10-206 of the Business Occupations Article, before an individual may practice law in the State, the individual must be admitted to the Bar and meet any requirement that the Court of Appeals (now the Supreme Court of Maryland) may set by rule. However, various exceptions are set forth in statute. For example, specified individuals may appear on behalf of a corporation, partnership, limited liability company, or business operated as a small proprietorship and represent the entity in a small claims action in the District Court (or a subsequent appeal) if the action or appeal is not based on an assignment to the business of the claim of another, as specified.

Background: MIA advises that the bill is intended to eliminate the need for small businesses to incur the expense of engaging counsel to represent their businesses in administrative proceedings before MIA. MIA has found that the cost of hiring an attorney can be a barrier for a small business that wishes to pursue an administrative complaint against an insurer and has witnessed small businesses abandon their hearing request due to this cost. The bill permits a small employer to appear without counsel when participating in most hearings before MIA using similar language to the current exemption afforded in small claims actions.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 230 (Chair, Finance Committee)(By Request - Departmental - Maryland Insurance Administration) - Finance.

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

Fiscal Note History: First Reader - January 17, 2024
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: **Insurance - Hearing Representation**

BILL NUMBER: **HB 90**

PREPARED BY: Jamie Sexton

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS
OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The bill would reduce the cost for a small employer to pursue a claim before the MIA.