Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE
Revised

Senate Bill 216 (The President) (Administration)
Judicial Proceedings and Finance

Automobile Insurance Rate Reduction Act of 1996

This Administration bill seeks to reduce the cost of automobile insurance by abating insurance fraud, reducing excessive treatment for minor injuries, eliminating multiple recoveries by accident victims, establishing a managed care option for personal injury protection insurance, and easing mandatory coverage requirements. Most provisions of the bill are effective July 1, 1996.

In addition, effective January 1, 1997, the bill prohibits an insurer from referring a first party claim to a peer review organization and provides that an insured can file a civil action against an insurer for an unfair claim settlement practice. Major provisions of the bill are discussed below.

Fiscal Summary

State Effect: Insurance premium taxes could decrease by $2.4 million in FY 1997, $5.5 million in FY 1998, and by an indeterminate but potentially significant amount in future years. General fund revenues would increase by about $73,600 in FY 1997 due to one-time fees collected by the Maryland Insurance Administration. Special fund revenues and expenditures would increase by $166,600 annually in FYs 1997-1999 due to an assessment imposed on motor vehicle insurers to establish and operate a pilot program in Baltimore City to report motor vehicle accidents. Potential significant decrease in general fund expenditures to the extent that the bill reduces the State's liabilities for motor vehicle accidents.

Local Effect: Potential minimal increase in revenues due to an increase in monetary penalties imposed. Potential significant decrease in expenditures as discussed below.

Small Business Effect: A small business impact statement was not provided by the Administration in time for inclusion in this fiscal note. A revised fiscal note will be issued when the Administration's assessment becomes available.

Fiscal Analysis

Bill Summary: Major provisions of the bill include:

- eliminates mandatory personal injury protection (PIP) and uninsured motorist (UM) coverage and provides that such coverage is optional;
- limits reimbursements to health care providers for the treatment of soft-tissue injuries and provides that insurers can contract with Peer Review Organizations to evaluate the medical necessity of such treatment;
- prohibits "runners" who contact accident victims and direct them to certain lawyers or clinics and provides that lawyers may not solicit accident victims for 30 days from the date of the accident;
- establishes a pilot program in Baltimore City, funded by the insurance industry, for the purpose of reporting motor vehicle accidents;
- limits multiple recovery by auto accident victims by requiring motor vehicle insurers to coordinate benefits with any health, sickness, accident, or income disability insurance available to the claimant;
- limits right to recovery if an individual knowingly operates a vehicle not in compliance with prescribed required security;
- permits an insurer to deny coverage to an insured or a member of the insured's family if there is no physical evidence of contact with an uninsured vehicle;
- establishes penalties against insureds for the misrepresentation of facts in an application for insurance by providing that the insurer can deny certain claims and rescind the policy;
- provides that an insurer may offer a managed care option for PIP coverage and requires the Maryland Automobile Insurance Fund (MAIF) and every other major insurer to provide a managed care option for PIP coverage related to medical, hospital, and disability benefits for soft tissue injuries by January 1, 1997;
- requires the Insurance Fraud Division to notify professional licensing boards of any evidence of fraud and requires the licensing boards to revoke the license of any licensee convicted of motor vehicle insurance fraud; and
- provides that automobile insurance rates may be held excessive if the insurer fails to

reduce rates by a specified percentage before January 1 of each year after the enactment of this legislation.

State Revenues: The bill provides that the Insurance Commissioner may determine that a private passenger automobile insurer's rates are excessive if: (1) on January 1, 1997, the insurer's statewide average rate is more than 88% of the statewide average rate in effect on January 1, 1996; (2) on January 1, 1998, the insurer's statewide average rate is more than 85% of the statewide average rate in effect on January 1, 1996; and (3) on January 1, 1999 and each year thereafter, the insurer's statewide average rate is more than a specified percentage, established by the Commissioner, of the statewide average rate in effect on January 1, 1996.

Based on this provision, it is assumed that private passenger automobile insurance rates will rollback by 12% before January 1, 1997 and by 15% before January 1, 1998. The State collects 2% premium taxes on gross direct written premiums. The anticipated reduction in private passenger automobile insurance premiums would reduce gross direct premium taxes by $2.4 million in fiscal 1997, which reflects a reduction in private passenger insurance premiums for the period of January 1 through June 30, 1997. Gross direct premium taxes would decrease by an estimated $5.5 million in fiscal 1998, which reflects a full-year at the lower premium rates. These estimates are based on the assumption that the rollback provision does not include comprehensive coverage and add-ons. Insurance premium taxes in the out-years could decrease by an indeterminate but potentially significant amount.

Although there is no provision in the bill to force the rollback of commercial motor vehicle insurance premiums, it is assumed that the Automobile Insurance Rate Reduction Act would reduce commercial premiums. Therefore, the State could experience an additional reduction in premium taxes. However, any reduction cannot be reliably estimated at this time.

The bill authorizes the Insurance Fraud Division to impose an annual assessment on each insurer authorized to do business in the State which must be used to fund a pilot program in Baltimore City to report motor vehicle accidents. This assessment may not continue for more than three years and the total of all assessments may not exceed $500,000. Therefore, it is assumed that the division will impose an assessment of about $166,600 annually in the fiscal 1997-1999 period which will be deposited in the Insurance Fraud Division Fund.

Insurers would need to submit revised rate and form filings to the Insurance Commissioner. The Maryland Insurance Administration (MIA) charges $100 for each rate filing and $100 for each form filing. Based on the number of insurers affected by the bill and the number of required filings, MIA would collect about $73,600 in additional filing fees in fiscal 1997.

The bill expands the definition of an "unfair claim settlement practice" and a "fraudulent insurance act." The maximum monetary penalty for engaging in an unfair claim settlement practice is $500 per violation. The maximum monetary penalty for committing a fraudulent insurance act is $10,000. Thus general fund revenue could increase, depending on the number of convictions and fines imposed for those cases heard in the District Court.

State Expenditures: The State owns 12,376 vehicles and is self-insured against losses. Over the past three years, the State incurred $8.3 million in losses or an average annual loss of $2.8 million. This bill could reduce the State's exposure to risk and future claims substantially by combating insurance fraud, reducing excessive treatment for minor injuries, and eliminating multiple recoveries. However, any reduction in future claim expenses cannot be reliably estimated at this time.

The bill directs the Insurance Fraud Division to establish a pilot program in Baltimore City to report motor vehicle accidents. It is assumed that the division will spend at least $166,600 in fiscal 1997, 1998, and 1999 which reflects the assessment revenue that the division would receive to fund the pilot program. In addition, the Department of Fiscal Services advises that the Fraud Investigation Division is expected to have a surplus of about $800,000 in fiscal 1997. To the extent that this money is used to fund the pilot program in Baltimore City, special fund expenditures could increase beyond the $166,600 estimated above.

The bill could generate additional rate and enforcement hearings for MIA which may be delegated to the Office of Administrative Hearings (OAH). It is assumed that OAH and MIA could handle any additional hearings within existing budgeted resources. However, MIA advises that the number of cases handled by the enforcement attorneys for MIA has increased 376% since 1993. Therefore, if the bill increases the number of hearings substantially, additional attorneys may be required.

The Advisory Committee on Practice Parameters must develop practice parameters for the treatment of soft tissue injuries. It is assumed that the committee could meet this requirement without additional costs.

The Motor Vehicle Administration would need to modify language in the Driver's Handbook relating to vehicle insurance. The cost of this one-time change would be minimal and could be absorbed within existing resources.

The bill expands the definition of a "fraudulent insurance act." The maximum incarceration penalty for a fraudulent insurance act is 15 years. General fund revenues could increase if more people are committed to correctional or detention facilities. Persons serving a sentence longer than 12 months are incarcerated in a Division of Correction facility. In fiscal 1997 the average monthly cost per inmate is estimated at $1,400. Persons serving 12 months or less are sentenced to a local detention facility. The State reimburses counties for part of their per diem rate after a person has served 90 days. State per diem reimbursements for fiscal 1997 are estimated at $11 to $50 per inmate depending upon the jurisdiction.

Local Revenues: The bill expands the definition of a "fraudulent insurance act." Local revenue could increase, depending on the number of convictions and the fines imposed, for those cases heard in the circuit courts. The maximum monetary penalty for committing insurance fraud is $10,000.

Local Expenditures: Local expenditures could decrease to the extent that the bill reduces a local unit's insurance premiums or claims paid. Any reduction is indeterminate at this time, but presumed to be significant.

Local expenditures could increase if more people are convicted of insurance fraud and incarcerated in a local detention facility. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from $22 to $108 per inmate in fiscal 1997.

Maryland Automobile Insurance Fund (MAIF): MAIF estimates that many provisions of the bill would reduce policy premiums for MAIF's policyholders including: (1) subrogation of PIP payments; (2) managed-care PIP option; (3) limitations on reimbursements to health care providers for the treatment of soft-tissue injuries; (4) no physical evidence of contact rule; and (5) limitations on the right to recovery if an individual is knowingly operating a vehicle without required security. The cumulative effect of these savings is an estimated 8.8% reduction in the insurance premium for an average MAIF policyholder.

In addition, MAIF policyholders could realize additional savings by electing not to purchase PIP or Uninsured Motorists coverage. Policyholders who waive both of these optional coverages could reduce their costs by 18.8% to 26.7% depending on the territory where the policyholder lives. This estimate does not include any anticipated savings from the provisions itemized above as many of these provisions would no longer be applicable.

Information Source(s): Maryland Insurance Administration, Maryland Automobile Insurance Fund, Office of Administrative Hearings, Department of Budget and Fiscal Planning, Department of Health and Mental Hygiene, State Treasurer, Department of Fiscal Services

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