
By: Chairman, Judicial Proceedings Committee (Departmental - Transportation)

Introduced and read first time: January 27, 1997

Rule 32(e) suspended

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws - Assurance Fund**

3 FOR the purpose of abolishing the Motor Vehicle Administration's Assurance Fund;
4 requiring the Administration to ensure that certain security interests are properly
5 filed, recorded, and indexed; repealing certain provisions relating to certain claims
6 for payment from the Assurance Fund; altering provisions relating to the
7 distribution of certain filing fees; providing for the transfer of certain funds
8 remaining in the Assurance Fund on the effective date of this Act; providing for the
9 handling of certain claims; and generally relating to security interests in vehicles and
10 the Assurance Fund.

11 BY repealing and reenacting, with amendments,

12 Article - Transportation
13 Section 13-208
14 Annotated Code of Maryland
15 (1992 Replacement Volume and 1996 Supplement)
16 (As enacted by Chapter 163 of the Acts of the General Assembly of 1996)

17 BY repealing

18 Article - Transportation
19 Section 13-209 and 13-210
20 Annotated Code of Maryland
21 (1992 Replacement Volume and 1996 Supplement)

22 BY adding to

23 Article - Transportation
24 Section 13-209
25 Annotated Code of Maryland
26 (1992 Replacement Volume and 1996 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That the Laws of Maryland read as follows:

2

1 **Article - Transportation**

2 13-208.

3 (a) (1) The Administration shall deposit \$14 of each filing fee received under
4 this subtitle in the General Fund.

5 [(b)] (2) For each fiscal year, the Comptroller shall distribute to Baltimore City
6 an amount equal to \$5 for each filing fee received under this subtitle.

7 (B) EXCEPT AS PROVIDED IN SUBSECTION (A) OF THIS SECTION, THE
8 ADMINISTRATION SHALL DEPOSIT THE FILING FEES COLLECTED UNDER THIS
9 SUBTITLE INTO THE TRANSPORTATION TRUST FUND.

10 [13-209.

11 (a) The Administration shall maintain an Assurance Fund and deposit in it that
12 part of the filing fees collected under this subtitle that is not credited to the General Fund
13 under § 13-208 of this subtitle.

14 (b) When the Assurance Fund reaches \$25,000, any money in excess of that
15 amount shall be transferred to the Transportation Trust Fund.]

16 13-209.

17 THE ADMINISTRATION SHALL ENSURE THAT SECURITY INTERESTS ARE
18 PROPERLY FILED, RECORDED, AND INDEXED.

19 [13-210.

20 (a) (1) If an omission or error in the filing, recording, or indexing of a security
21 interest has been made by an employee of the Administration in the course of
22 employment and, as a result of the omission or error, any interested person has sustained
23 loss or damage, the person may file a claim with the Administration for payment of the
24 loss or damage out of the Assurance Fund maintained under § 13-209 of this subtitle. The
25 claim for payment shall include a request for a hearing on the matter and shall be made
26 in the manner and on the form that the Administration requires.

27 (2) A claim for payment under this section may not be made unless it is filed
28 with the Administration within 3 years from the date the cause of action arose.

29 (b) After notice to all interested parties and a hearing on the claim, the
30 Administration may:

31 (1) Order that any loss or damage sustained by the claimant be paid out of
32 the Assurance Fund, subject to the limitations set forth in this section; or

33 (2) Order that the claim be dismissed and deny payment of the claim.

34 (c) (1) Any aggrieved party to a hearing under this section may appeal from the
35 decision of the Administration as follows:

36 (i) To the circuit court for the county in which the party resides or has
37 his principal place of business; or

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1 (ii) If the party does not reside or have a principal place of business in
2 this State, to the Circuit Court for Anne Arundel County.

3 (2) The circuit court to which an appeal is made under this section has
4 jurisdiction to examine the facts of the case and to determine if the claimant is entitled
5 under this section to recover for any loss or damage. The Administration shall pay the
6 amount of any judgment recovered against the Assurance Fund up to the amount of the
7 security interest to which the claim relates.

8 (d) The Assurance Fund is not liable under any circumstances for:

9 (1) Any loss or damage that exceeds the amount of the security interest to
10 which the claim relates; or

11 (2) Any loss or damage that results from:

12 (i) The claimant's breach of any trust, whether expressed, implied, or
13 constructive;

14 (ii) The improper use of the seal of any corporation to deal with the
15 property or interest involved or to execute or take the benefit of the instrument recorded;
16 or

17 (iii) The recording of an instrument executed by a person under legal
18 disability, unless the fact of the disability is disclosed on the instrument.

19 (e) If, in an appeal against the Administration, judgment is given in favor of the
20 Administration or the appeal is dismissed at the request of the claimant, the claimant
21 shall pay the full costs of the appeal.]

22 SECTION 2. AND BE IT FURTHER ENACTED, That any money remaining in
23 the Assurance Fund on the effective date of this Act shall be transferred to the
24 Transportation Trust Fund.

25 SECTION 3. AND BE IT FURTHER ENACTED, That any claim filed with the
26 Motor Vehicle Administration prior to the effective date of this Act shall be decided
27 under the law in effect at the time the claim was filed and any payment shall be made
28 from the Transportation Trust Fund, subject to any statutory limitations in effect at the
29 time the claim was filed.

30 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 1997.