

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 556
Finance

(Senator Mathias)

Personal Automobile Insurance - Rescission of Policy or Binder -
Misrepresentations by Applicant

This bill authorizes an insurer to rescind a policy or binder of personal automobile insurance if an applicant misrepresents that (1) a motor vehicle covered under the policy or binder is principally garaged at a specific location in the State or (2) an owner or operator of a motor vehicle covered under the policy or binder resides in the State. The bill establishes other requirements for insurers that relate to rescinding a policy or binder due to misrepresentations by an applicant.

The bill applies prospectively to all policies and binders of personal automobile insurance issued or delivered on or after the bill's October 1, 2016 effective date.

Fiscal Summary

State Effect: Minimal increase in Maryland Insurance Administration special fund revenues in FY 2017 due to \$125 rate and form filings. Review of the filings can be handled with existing resources. To the extent the bill results in fewer automobile insurance policies issued in the State, general fund revenues decrease minimally due to the 2% tax collected on all insurance premiums paid in the State.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: Under the bill, an insurer must:

- provide notice of its ability to rescind the policy or binder to an applicant;
- apply underwriting standards that clearly state the ineligibility of a risk based on the misrepresentation, before a policy or binder is rescinded;
- conduct a reasonable investigation to confirm that an applicant has made the misrepresentation, before a policy or binder is rescinded;
- send written notice to the applicant that contains specified information in order to rescind the policy or binder; and
- provide coverage under a rescinded policy or binder to (1) a secured creditor identified on the policy or binder for a specified period of time and (2) a person other than the applicant for a claim occurring in the State if the person was not involved in making the misrepresentation that was the basis for the rescission.

Current Law: A binder or policy is subject to a 45-day underwriting period beginning on the effective date of coverage. A binder is a written or oral acknowledgment that an insurance applicant has accepted an insurer's offer to purchase insurance coverage. During this underwriting period, an insurer may cancel a binder or policy if the risk does not meet the underwriting standards of the insurer. An insurer must provide notice of this ability either at the time of application or when a binder or policy is issued. A notice of cancellation must be sent at least 15 days before the cancellation's effective date or at least 10 days before the effective date if the cancellation is due to nonpayment.

An insurer may also rescind a policy or binder of automobile insurance if (1) the applicant's initial premium payment is made by a dishonored check or other remittance and (2) the insurer has disclosed to the applicant at the time of application that no coverage will be in effect if the initial premium payment is not honored on presentation. If an insurer rescinds a policy or binder because of a dishonored check, the insurer must immediately, or within the next business day, notify the applicant and any secured creditor of the rescission. The notice must also state that no coverage is in effect under the policy or binder but that the insurer may continue or reinstate the policy or binder if specified conditions are met.

In the case of homeowner's insurance and automobile insurance, an insurer may cancel a policy mid-term if the insured does not pay the policy premium. At least 10 days before the date an insurer proposes to cancel a policy for nonpayment of premium, the insurer must send, by certified mail, to the named insured at the named insured's last known address a written notice of intention to cancel for nonpayment of premium.

The Maryland Automobile Insurance Fund (MAIF) is authorized to void a policy if a prospective insured fails to meet MAIF's eligibility requirements. MAIF is required by State law to rescind any policy when it discovers that either the insured resides or the vehicle is garaged outside of Maryland, because MAIF is only authorized to issue policies in Maryland. Even so, MAIF only rescinded 82 out of a total 60,000 policies in 2015 due to the residency requirement.

Additional Information

Prior Introductions: SB 950 of 2013, a similar bill, received a hearing in the Senate Finance Committee, but no further action was taken.

Cross File: None.

Information Source(s): Maryland Insurance Administration, Maryland Automobile Insurance Fund, Department of Legislative Services

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kb/ljm

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