

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

Senate Bill 290

(Senator Middleton, *et al.*)

Finance

Economic Matters

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Motor Vehicle Liability Insurance Policies - Placement and Reinstatement

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This bill expressly authorizes a motor vehicle insurer, including the Maryland Automobile Insurance Fund (MAIF), to reinstate a private passenger motor vehicle liability insurance policy that was canceled for nonpayment of a premium, without a lapse in coverage, under certain circumstances. An insurer may only reinstate the policy if the policyholder pays the premiums owed to the insurer and any reasonable fee approved by the Insurance Commissioner. The Commissioner must review the administrative expenses of an insurer that are associated with reinstatements and may approve a fee that does not exceed (1) \$10 if charged by an insurer and (2) \$15 if charged by an insurance producer. The bill also increases the amount an insurance producer that places automobile insurance with MAIF may charge an applicant to \$25 plus \$1 more than the actual charge by the Motor Vehicle Administration (MVA) for a driving record, instead of \$10 plus \$1 more than the actual charge.

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Fiscal Summary

**State Effect:** Maryland Insurance Administration (MIA) special fund revenues increase minimally in FY 2018 due to rate and form filing fees. MIA can handle review of the filings and the bill's other requirements using existing resources. The bill may reduce the number of uninsured drivers in the State, thereby reducing the uninsured motorist penalties collected by MVA and distributed for specified purposes; however, any such impact cannot be reliably estimated and is not reflected in this analysis. To the extent that the bill does result in more people maintaining automobile insurance when they otherwise would have become uninsured, general fund revenues increase minimally due to the 2% tax collected on premiums.

**MAIF Effect:** MAIF's nonbudgeted revenues increase by approximately \$77,000 in FY 2018 and approximately \$102,700 annually thereafter. MAIF nonbudgeted revenues

and expenditures increase to the extent that more policyholders are able to and choose to reinstate their policies with MAIF instead of becoming uninsured or purchasing a policy from another insurer; however, there is no net effect on MAIF finances due to this provision, as discussed below.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
NonBud Rev.	\$77,000	\$102,700	\$102,700	\$102,700	\$102,700
NonBud Exp.	-	-	-	-	-
Net Effect	\$77,000	\$102,700	\$102,700	\$102,700	\$102,700

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** None.

**Small Business Effect:** Minimal. Small business insurance producers are expressly authorized to charge a fee when reinstating an insurance policy and can charge a higher fee when placing insurance applicants with MAIF under the bill.

## Analysis

**Bill Summary:** Before a policy is reinstated, the policyholder must certify that there have not been any losses incurred from the time and date the policy was canceled through the time and date the policy is reinstated. A policy that is reinstated under the bill must be implemented in accordance with the underwriting guidelines adopted by the insurer and is subject to existing prohibitions when canceling, refusing to underwrite, or refusing to renew a policy. A premium finance company is not required to reinstate a policy if the insurer requires a fee for the reinstatement and the insured does not pay the fee in a timely manner.

The bill clarifies that existing requirements for the collection of premiums do not prohibit an insurer or insurance producer from collecting the reinstatement fee authorized by the bill.

### **Current Law:**

#### *Required Security*

Maryland law requires an owner of a motor vehicle that is required to be registered in the State to maintain insurance for the vehicle during the registration period. The security required must provide at least the payment of claims:

- for bodily injury or death arising from an accident of up to \$30,000 for any one person and up to \$60,000 for any two or more persons;
- for property of others damaged or destroyed in an accident of up to \$15,000;
- unless waived or exempt by Chapters 425 and 426 of 2016, for personal injury protection (PIP) of \$2,500 per person; and
- for uninsured motorist coverage (unless waived, the amount equals the amount of liability coverage provided under the policy; if waived, the amount equals the minimum required insurance for liability coverage).

If the first-named insured does waive PIP, the waiver (1) constitutes a waiver under the first-named insured's policy or any other motor vehicle liability insurance policy in the State and (2) is binding on each named insured, each listed driver, and each member of the first-named insured's family who is age 16 or older and resides in the first-named insured's household.

If the required security for a vehicle lapses, MVA may assess the owner of the vehicle a penalty of \$150 for each vehicle without the required security for the first 30 days. Beginning on the thirty-first day, the fine increases by a rate of \$7 for each day, but the total fine may not exceed \$2,500 annually, not including the additional misdemeanor penalty of up to \$500, which may be prepaid with a fine of \$290. Knowingly operating a vehicle without adequate security is a misdemeanor, subject to maximum penalties of a \$1,000 fine and/or one year imprisonment for a first offense and a \$1,000 fine and/or two years imprisonment for a subsequent offense. The violation requires a court appearance, results in the imposition of five points on the driver's record, and subjects the driver to participation in the Driver Improvement Program. The uninsured motorist penalty fines are distributed to the Transportation Trust Fund, Maryland Department of State Police, MAIF's Uninsured Division, and the general fund based on a specified formula.

#### *Prohibitions Related to Policy Cancellation and Nonrenewal*

An insurer or insurance producer may not cancel or refuse to renew or underwrite a particular risk or class of risk for a reason based on race, color, creed, sex, or blindness of an applicant or policyholder or for any arbitrary, capricious, or unfairly discriminatory reason. Unless otherwise authorized, an insured or insurance producer may not cancel or refuse to renew or underwrite a particular risk or class of risk unless it is applying standards that are reasonably related to the insurer's economic and business purposes.

#### *Maryland Automobile Insurance Fund*

Created by the General Assembly in 1972, MAIF is an independent nonbudgeted State agency. Through its Insured Division, MAIF provides automobile liability insurance to

residents of the State who are unable to obtain policies in the private insurance market. MAIF is not in direct competition with the private insurance industry. In other states, private insurance companies share in insuring those unable to obtain insurance (known as the residual market) through an assigned risk plan in their respective states. The residual market for personal automobile insurance is the “market of last resort” for drivers who are unable to find coverage in the voluntary market. Maryland is the only state that has a state plan. Most states have an automobile assigned risk plan.

MAIF must issue a policy for motor vehicle liability insurance if an applicant:

- pays a premium and (1) owns a covered vehicle registered with MVA; (2) has a license issued by MVA to drive a covered vehicle; or (3) is a lessee under a “lease not intended as security” as defined by Maryland law;
- does not owe MAIF an unpaid premium (with respect to a policy that has expired or been canceled) or a claim payment obtained by fraud;
- has made at least two good faith efforts to obtain a policy from two other insurers in a specified manner or has had a policy canceled or nonrenewed by an insurer for a reason other than nonpayment of a premium; and
- meets one of the following residency requirements: the person must (1) be domiciled in the State; (2) own, lease, or rent a primary place of residence in the State and, regardless of the person’s domicile, reside in the State for more than one year; (3) maintain a main or branch office or warehouse facility in the State, and base and operate motor vehicles intrastate in the State; (4) have filed as a State resident for income tax purposes; or (5) have a nonresident permit.

**Background:** MVA charges \$9 for a noncertified driving record and \$12 for a certified driving record. MAIF advises that the fee its insurance producers may charge an applicant for a driving record has not been increased since 1980 and that about one-half of its insurance producers collect the fee.

Automobile liability insurance coverage is mandatory in 49 states and the District of Columbia. Only New Hampshire does not have compulsory automobile insurance liability laws; however, its laws require financial responsibility (*i.e.*, sufficient assets to pay claims against the motorist if the motorist causes an accident and does not have automobile insurance) to operate a vehicle. Further, uninsured motorist coverage is not obligatory in every state; therefore, some insured drivers are not covered when they are hit by an uninsured driver.

**State Revenues:** General fund revenues increase beginning in fiscal 2018 due to the 2% tax collected on all premiums in the State based on the number of automobile insurance policies that are reinstated instead of the policyholder becoming uninsured; however, the

number of policies, and any corresponding premium tax revenues, cannot be reliably estimated at this time.

**MAIF Fiscal Effect:** The bill expressly authorizes MAIF to reinstate a canceled insurance policy without a lapse in coverage and to charge a fee to do so (subject to a \$10 cap), if specified conditions are met. MAIF advises that it will allow a prior policyholder to reinstate his or her policy within 60 days of cancellation if the policyholder signs a no-loss letter and pays the \$10 reinstatement fee MAIF intends to establish. MAIF estimates that its revenues increase by about \$102,690 annually as a result of the fees; the impact in fiscal 2018 is about \$77,000. The estimate is based on the 10,269 no-loss letters MAIF issued in 2016.

This change may also result in policyholders staying with MAIF when they otherwise would have become uninsured or purchased a policy from a different insurance company. To the extent that more policyholders stay with MAIF, nonbudgeted revenues increase as additional premiums are paid and nonbudgeted expenditures increase correspondingly due to the additional liability as claims are paid. Although the total impact cannot be reliably estimated, this effect is anticipated to result in no net impact on MAIF finances.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Insurance Administration; Maryland Automobile Insurance Fund; Maryland Department of Transportation; U.S. Census Bureau; Department of Legislative Services

**Fiscal Note History:** First Reader - February 26, 2017  
mm/ljm Third Reader - March 28, 2017  
Revised - Amendment(s) - March 28, 2017

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