

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 128
Economic Matters

(Delegate Crosby)

Finance

**Private Passenger Motor Vehicle Liability Insurance - Enhanced Underinsured
Motorist Coverage - Opt-Out Option**

This bill requires a person who obtains a new private passenger motor vehicle insurance policy issued on or after July 1, 2024, at the time the policy is purchased, to opt out of obtaining enhanced underinsured motorist (EUIM) coverage through a waiver process instead of opting in to EUIM coverage under current law. The bill makes a series of conforming changes related to the purchase, renewal, and maintenance of EUIM coverage. The bill also requires the Maryland Insurance Administration (MIA) to conduct a study on the impact of converting EUIM coverage under a private passenger motor vehicle liability insurance from an opt-in coverage option to an opt-out coverage option. The bill's provisions related to EUIM coverage apply to each policy of private passenger motor vehicle insurance issued, sold, or delivered in the State on or after July 1, 2024. **The bill terminates June 30, 2029.**

Fiscal Summary

State Effect: Minimal special fund revenue increase for MIA from the \$125 rate and form filing fee in FY 2024. MIA can review filings, complete the required reports, and meet the bill's other requirements using existing budgeted resources. Potential minimal increase in general fund revenues from the premium tax, as discussed below.

Maryland Automobile Insurance Fund (MAIF) Effect: MAIF advises that the bill is not anticipated to affect its operations or finances.

Local Effect: The bill does not directly affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law:

Enhanced Underinsured Motorist Coverage

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 under Chapters 425 and 426 of 2016, for personal injury protection coverage of \$2,500 per person; and
- for uninsured motorist (UIM) or EUIM coverage under Chapters 20 and 815 of 2017 (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).

Under current law, an insurer must *offer* EUIM coverage when an insurance policy is purchased, and the insured must choose to obtain the EUIM coverage. If the insured does not do so, then the policy must contain UIM coverage. Essentially, an insured must opt in to EUIM coverage under current law.

Conversely, under the bill, an insurer must *provide* EUIM coverage to an insured when an insurance policy is purchased; to obtain UIM coverage instead, the insured must make an affirmative written statement waiving the EUIM coverage. Essentially, an insured must opt out of EUIM coverage using the process established under the bill. A waiver made under the bill is not effective unless, before the waiver, the insurer provides a written notice of the nature, extent, benefit, and cost of the level of the EUIM coverage being waived. The waiver must be made on a form that the Insurance Commissioner requires, meet specified criteria, and include specified information. If the first named insured does not make an affirmative written statement waiving EUIM coverage, the insurer must provide EUIM coverage for the policy.

Maryland Insurance Administration Study

By December 31, 2026, MIA must submit an interim report and by December 31, 2028, MIA must submit a final report to the Governor and specified committees of the

General Assembly. Each report must include any findings and recommendations from the required study. The study conducted by MIA must include:

- a comparison of the rate of selection of EUIM coverage before and after implementation of the bill;
- an analysis of the impact on premiums from EUIM coverage being offered as a default selection for coverage, as specified;
- to the extent information is available, an analysis of the impact of offering EUIM coverage as a default option on compensation for damages resulting from motor vehicle accidents, as specified;
- a review of notice and waiver procedures relating to the offering of EUIM coverage as a default coverage option, as specified; and
- any other relevant matters relating to the offering of UIM coverage and EUIM coverage by private passenger motor vehicle liability insurers.

State Revenues: Title 6 of the Insurance Article imposes a 2% premium tax on each authorized insurance company, surplus lines broker, or unauthorized insurance company that sells, or an individual who independently procures, any type of insurance coverage upon a risk that is located in the State. Revenues accrue to the general fund.

By requiring private passenger automobile insurance policyholders to opt out rather than opt in to EUIM coverage, the bill likely results in additional EUIM policies being issued and fewer UIM policies being issued. As EUIM coverage is more expensive than UIM coverage due to the higher limits of liability discussed below, total premiums paid in the State (and corresponding premium tax revenues) may increase. Even so, any such revenue is anticipated to be minimal.

Additional Comments: EUIM coverage differs from UIM coverage as UIM coverage does not pay unless the limits of liability under all valid and collectible liability insurance policies are less than the UIM coverage. Conversely, EUIM coverage pays in addition to the limits of liability under all other valid and collectible liability insurance policies. EUIM is more expensive than UIM due to the increased benefits it may provide.

The following example illustrates the difference in the total amount a driver may recover if the driver has UIM coverage or EUIM coverage. Under both types of coverage, a driver may only receive up to the total amount of the driver's injuries. In the example, Driver A (the at-fault driver) hits Driver B's vehicle, which causes Driver B to have \$80,000 in injuries. Driver A only has \$30,000 in liability coverage, while Driver B has \$50,000 in either UIM or EUIM coverage. In this circumstance, Driver B receives the following payments from Driver A's liability coverage and Driver B's own coverage.

Driver B: UIM Coverage

- \$30,000 from the at-fault driver's liability coverage
- \$20,000 from Driver B's own UIM coverage (reflecting \$50,000 of own coverage – \$30,000 from at-fault driver)

Total Recovered by Driver B: \$50,000
(Cannot receive, in total, more than the limit of any policy)

Driver B: EUIM Coverage

- \$30,000 from the at-fault driver's liability coverage
- \$50,000 from Driver B's own EUIM coverage (paid up to the limit of own coverage)

Total Recovered by Driver B: \$80,000
(May use full amount of own coverage to cover injuries sustained)

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See HB 266 and SB 301 of 2022.

Designated Cross File: SB 171 (Senators Feldman and Klausmeier) - Finance.

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

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