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Date: February 9, 2023

Bill # / Title: House Bill 128 - Private Passenger Motor Vehicle Liability Insurance - Enhanced Underinsured Motorist Coverage - Opt-Out Option

Committee: House Economic Matters Committee

Position: Letter of Information (LOI)

Thank you for the opportunity to provide written comments regarding House Bill 128 (HB 128), which is cross filed with Senate Bill 171.

The MIA is concerned that the passage of HB 128 will harm Maryland consumers by creating a coverage default position that forces consumers to accept and pay for a form of uninsured motorist coverage that is not mandated, is very expensive, rarely selected, and not necessary to achieve the financial protection goals that underlie the legislation. At a time when automobile insurance costs are already increasing in response to increases in loss costs, forcing consumers to elect out of the most expensive uninsured/underinsured coverage option will undoubtedly result in even larger rate increases for those who can least afford it.

Maryland law currently requires all private passenger motor vehicle liability policies to have either Uninsured Motorist (UM) or Enhanced Underinsured Motorist (EUIM) coverage.¹ The difference between UM and EUIM coverage is that, in the event of a claim, under UM coverage the coverage limit is reduced by the amount of any available coverage from the at-fault party's insurer, while under EUIM coverage the coverage limit is not so reduced. EUIM is one way to increase the amount of coverage available and it became a mandatory *offering* as a result of legislation passed in 2018.

Under current law, carriers must offer EUIM coverage, and must provide policy purchasers with written notice of their UM and EUIM coverage options. Currently, a consumer must "opt in" to EUIM coverage. The default coverage is UM coverage with the same limits as the policy's liability limits. EUIM is the **most expensive and least chosen** form of the three uninsured motorist coverage options available. It is, however, an available coverage that must be offered to every policy purchaser. Policyholders who desire and can afford to purchase EUIM to obtain more protection against loss or damage caused by an uninsured motorist can readily do so by opting to purchase EUIM. Alternatively, a policyholder can reject EUIM, but choose to purchase higher liability limits, **with the same effect and often at a lower cost than EUIM.**

HB 128 will make EUIM coverage the included or default option for **all** motor vehicle liability policies issued in Maryland. That includes both new policies and the renewal of existing policies. If the bill passes, all insurance policies

¹ UM and EUIM are forms of first-party coverage that protect an insured when a third-party causes an accident, but does not have insurance or enough insurance to cover the bodily injury and/or property damage that they caused. The minimum required limits for UM and EUIM coverage are the same as for liability coverage: \$30,000 per person / \$60,000 per accident for bodily injury and \$15,000 per accident for property damage (30/60/15) or a combined single limit of \$75,000 for bodily injury and property damage per accident. Under current law, if the insured's liability limits exceed the statutory minimum the UM or EUIM coverage is deemed to be the same as the liability limits, unless the named insured has expressly elected lower UM limits.

will automatically include the higher cost EUIM coverage option, **unless** the applicant or insured affirmatively “opts out” from EUIM. **This will result in consumers inadvertently purchasing coverage that they do not want or need at significant premium increases.** Over the past year, inflation and other economic conditions beyond any consumer’s control have already resulted in significantly higher loss costs for insurers and substantially higher insurance premiums. Creating circumstances in which consumers will inadvertently pay more is not in the interest of those consumers.

During last year’s legislative session, the MIA surveyed 10 of our largest insurance groups that write motor vehicle liability insurance in the state. These groups capture approximately 70% of Maryland’s private passenger automobile insurance market. This research confirmed that in the past 4-plus years since the legislature required insurers to offer the EUIM coverage option, the percentage of policyholders selecting EUIM is very small. Specifically, five of our top 10 market share groups (including the top two) report that EUIM is chosen on less than 1% of policies; three of our top 10 writers report EUIM is chosen less than 2% of the time. It is clear that **there is not a high demand for the EUIM coverage option at this time. That is because many insureds and their insurance advisors do not consider EUIM to be a valuable or cost effective option.**

It is only in the rare instance of a large damages claim caused by an uninsured/underinsured motorist that the purchase of EUIM provides a benefit to the consumer. To illustrate this, we note that a domestic automobile insurer conducted a manual review of over 100 EUIM claims and did not find a single instance where the purchase of EUIM coverage resulted in a higher payment than what would have been paid out under standard UM coverage.

More significantly, the same additional benefit that EUIM provides can typically be purchased by a policyholder at a lower cost than EUIM, by increasing the policy’s liability coverage limit. This method has the dual benefit of saving premium dollars for the insured, while also lowering the frequency of uninsured/underinsured motorist claims.

All 10 surveyed groups reported that EUIM costs significantly more than standard UM coverage. The increased cost of EUIM versus standard UM coverage ranges from 25% to over 123%, resulting in **premium increases** that could range from \$50 to several hundreds of dollars per policy period. If EUIM becomes the included coverage option as called for in HB 128, the average cost of automobile insurance in the state will rise. This is particularly concerning to the MIA, because the motor vehicle liability insurance market is presently experiencing significant upward pressure on loss costs and rates. To the extent that rates rise as a result, the added cost of EUIM coverage will be amplified and even more burdensome.

The MIA believes that consumers should have choices in the market. Current law provides these choices without penalizing those who may be unsophisticated in insurance matters or may find it difficult to understand the nuances of coverage selection forms, particularly in an increasingly digital environment where consumers do not always have the benefit of an insurance producer to explain the available options. **Consumers are best protected by the current law**, which mandates that EUIM be offered, but requires that the consumer affirmatively opt-in to that coverage. This approach assures that the consumer is aware of the enhanced nature and cost of the coverage and has made a choice to incur the additional expense to secure the enhanced coverage. The additional cost that results from carrying limits higher than are necessary to satisfy Maryland’s mandatory minimum coverage requirements should never be incurred by an insured without their full knowledge and consent. **Maryland has long recognized that, in most instances, consumers are best protected by an opt-in process for coverages that exceed required minimums. Default coverage selections should never be the most expensive option available.**

The MIA thanks the Committee for its close attention to this important consumer protection and market conditions matter.