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February 7, 2023

The Honorable C.T. Wilson
Chairman, House Economic Matters Committee
Room 231, House Office Building
Annapolis, Maryland 21401

RE: House Bill 128 - Private Passenger Motor Vehicle Liability Insurance – Enhanced Underinsured Motorist Coverage – Opt–Out Option - UNFAVORABLE

Dear Chairman Wilson and Members of the House Economic Matters Committee,

I am writing on behalf of the Maryland Association of Mutual Insurance Companies (MAMIC) in respectful opposition to House Bill 128 - Private Passenger Motor Vehicle Liability Insurance – Enhanced Underinsured Motorist Coverage – Opt–Out Option.

MAMIC is comprised of 12 mutual insurance companies that are headquartered both in Maryland and in neighboring states. Together, MAMIC members offer a wide variety of homeowners and other insurance products, both personal and commercial, for thousands of Maryland citizens. MAMIC members are a key component of the property and casualty insurance industry that serves Maryland.

A number of MAMIC members offer private passenger automobile insurance policies in the State. As required by statute, these policies offer insureds the option to elect Enhanced Underinsured Motorist Coverage (EUIM). This option has been in place for several years. It is worth noting that both uninsured and underinsured motorist coverage have been required under Maryland law for many more years, and have collectively served to protect Maryland motorists who have been involved in accidents with vehicles having either no insurance or inadequate insurance to cover the loss that has occurred.

House Bill 128 proposes to change the requirement that an insurer offer EUIM coverage. Instead, on page 3, beginning in line 21, House Bill 128 sets forth a new requirement – that an insured must make “an affirmative written statement waiving the coverage” if the insured does not wish to have the coverage.

This new requirement is a mandated waiver, thus requiring a complicated series of decisions by insureds, insurers and agents who may be involved in the automobile insurance transaction. Even greater complexity is introduced beginning in line 25, where a waiver must, to be valid, also provide “notice of the nature, extent, benefit, and cost of the level of the enhanced underinsured motorist coverage being waived.” It is also worth noting that the nature, extent, and benefit of any coverage being waived is a matter of opinion for the insured, not just the insurer. Furthermore, this language requires notice from the insurer before the waiver is executed. It would require a significant documentation effort by the insurer or agent to prove compliance.

These are significant changes from the current law which, by all accounts, is working well. As we stated in our written testimony on similar legislation last year, if consumers desire to add EUIM coverage, they may easily do so.

We surveyed MAMIC membership and received comments from two carriers that write coverage both in Maryland and in Pennsylvania where a law similar to House Bill 128 is in effect. One of our members stated that claims involving EUIM waivers in Pennsylvania are often challenged over the validity of the waiver. Common, everyday situations experienced by insurance consumers have led to such challenges. One example is a waiver form signed by one spouse who is later removed from the policy thus leaving the remaining spouse, who is not a signatory to the waiver. The waiver form is thus invalidated.

Another common example is adding a vehicle to a policy and no waiver form is obtained for the additional vehicle.

One other example that has resulted in a challenge is where an insured changes the coverages on a policy, perhaps to increase liability limits. It is an open question whether such a change is a "purchase" that would require a waiver. The Pennsylvania experience, from the comments of these two insurers doing business in both Pennsylvania and Maryland, is rife with such "form over substance" challenges. It is likely that Maryland would have the same experience as Pennsylvania if this proposal were adopted.

Absent some compelling public policy argument illustrating the need to compel EUIM coverage, of which there is none, the result of enacting this legislation would be to further increase in the cost of a product required by law that is already expensive. The current statutory model of permitting, but not requiring, consumers to elect EUIM coverage was the correct decision in 2017, and remains so today.

For these reasons, MAMIC respectfully requests an unfavorable report on House Bill 128.

Very truly yours,

A handwritten signature in black ink that reads "Bryson Popham". The signature is written in a cursive, flowing style.

Bryson F. Popham

cc: Jeane A. Peters, President MAMIC