

WES MOORE
Governor

ARUNA MILLER
Lt. Governor



KATHLEEN A. BIRrane
Commissioner

TAMMY R. J. LONGAN
Acting Deputy Commissioner

200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202
Direct Dial: 410-468-2471 Fax: 410-468-2020
1-800-492-6116 TTY: 1-800-735-2258
www.insurance.maryland.gov

Date: March 11, 2024
Bill # / Title: HB 1483 - Insurance – Maryland Automobile Insurance Fund - Assessments
Committee: House Economic Matters Committee
Position: Support with Amendments

The Maryland Insurance Administration (MIA) appreciates the opportunity to share its support, with amendments, for House Bill 1483.

The Insurance Administration appreciates the opportunity that HB1483 provides to modify existing law in order to improve the financial stability of the Maryland Auto Insurance Fund (“MAIF”).

As drafted, HB1483 proposes a change to the assessment process that the Insurance Administration respectfully opposes. Under current law, MAIF is required to evaluate whether an assessment of industry has been triggered under the non-discretionary statutory formula set forth in 20-404 of the Insurance Article. The MAIF Board of Trustees certifies the financial information and the calculations used to determine whether an assessment is triggered and, if so, the amount of the assessment. As part of this process, the certification is sent to the Commissioner to verify the accuracy of MAIF’s calculation.

HB 1483 would require the Commissioner to approve, modify, or deny an assessment that is triggered under 20-404. However, under 20-404, an assessment is triggered by law under non-discretionary statutory formulas. The existence and amount of the assessment is a math exercise. There is no discretion as to whether an assessment is triggered or, if triggered, the aggregate amount or pro-rata allocation of the assessment. The assessment is, in essence, designed to equal MAIF’s operating loss in the prior calendar year to restore it to a “break even” proposition. Particularly within the context of the Insurance Article, “approval” is used to mean the exercise of judgment by the Commissioner applying a standard. But, there is no judgment to be exercised in the calculation of the assessment and HB1483 does not create new discretionary standards.

The MIA is concerned that the new provision in HB1483 will create the inaccurate impression that the Commissioner has actually exercised discretion to consider and approve the appropriateness and need for an assessment when, in fact, the assessment is non-discretionary and is based on financial results that reflect business decisions made by MAIF over with the Commissioner has no discretion. Because the addition of “approval” and “authorization” language does not accurately reflect the statutory assessment process and could be misleading, the MIA will submit amendments respectfully requests that that language be stricken from the Bill.

The Insurance Administration does believe that HB1483 provides an opportunity to address the underlying financial circumstances that could, and this year, will almost certainly, lead to the imposition of an assessment. To that end, the Insurance Administration will offer two amendments to the Bill. The first addresses eligibility. The second would provide the Commissioner with the authority to approve MAIF’s rates.

With respect to eligibility, under existing law, a person may obtain coverage from MAIF if they affirm that they have been turned down for mandatory motor vehicle liability coverage by two admitted insurers. The Insurance Administration proposes to eliminate that requirement and, instead, to allow a person to obtain coverage from MAIF if the person:

CERTIFIES IN WRITING THAT, DESPITE GOOD FAITH ATTEMPTS, THE PERSON HAS BEEN UNABLE TO PURCHASE A POLICY THAT PROVIDES THE SECURITY REQUIRED UNDER § 17-103 OF THE TRANSPORTATION ARTICLE FROM ANY ASSOCIATION MEMBER WITHIN 60 DAYS PRIOR TO THE DATE OF THE PERSON'S APPLICATION TO THE FUND FOR A PREMIUM AT OR BELOW THE PREMIUM CHARGED BY THE FUND.

Because of the expansion of coverage for the “substandard” market, the “2 turndown” requirement has not proven to be an effective measure of the actual availability of coverage. The proposed language, which has been adopted by eighteen other states, would allow an individual to obtain coverage from MAIF if they have been unable to obtain private insurance from Association members **or** are only able to get insurance at rates higher than the rates charged by MAIF. This language has the additional benefit of directly and transparently addressing affordability for people whose credit score or territory may impact their insurance costs more than their poor driving records.

With respect to rate review, the Commissioner does not currently have the authority to approve MAIF's rates. Rather, MAIF is treated as a commercial insurer and its rates are regulated under the “file and use” competitive rating laws. Under competitive rating standards, the Commissioner does not approve rates, but may disapprove them if the Commissioner finds that they are inadequate, excessive, or unfairly discriminatory. However, in the context of competitive rating, before the Commissioner can determine that a rate is inadequate, the Commissioner must also find that the rate, if used, would endanger the solvency of the company. Technically, MAIF can never be insolvent, because it has access to assessments. However, even if one were to use the likelihood that proposed rates would be so low as to trigger an assessment in the coming year, that is a standard that allows MAIF to reach insolvency before the Commissioner can consider the rates inadequate.

The standards that apply to competitive rating assume that the entity in question is part of a competitive market. MAIF is an insurer of last resort. It exists to insure the otherwise uninsurable. It should have no competition. Further, restricting the Commissioner's authority to declare a rate inadequate for a commercial insurer makes sense, because insurers have no incentive to drive their business into insolvency and because commercial insurers are subject to guardrails and financial solvency standards that are closely monitored by state regulators. MAIF, however, has no such statutory controls in place. Given that, it is appropriate that the Commissioner have the authority to evaluate MAIF's rates for adequacy under actuarial standards.

For these reasons, the MIA urges the committee to vote favorable with amendments on House Bill 1483. We thank the Committee and the sponsor for the opportunity to share our support.