

**Department of Legislative Services**  
Maryland General Assembly  
2005 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 85 (Chairman, Judicial Proceedings Committee)  
(By Request – Departmental – Automobile Insurance Fund)

Judicial Proceedings

Judiciary

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**State Personnel - Maryland Tort Claims Act - Employees and Officials of  
Maryland Automobile Insurance Fund**

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This departmental bill alters the definition of “State personnel” for purposes of the Maryland Tort Claims Act to include individuals who are employed by the Maryland Automobile Insurance Fund (MAIF).

The bill takes effect June 1, 2005 and does not affect and may not be construed to affect any provision of Title 20 of the Insurance Article.

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**Fiscal Summary**

**State Effect:** None. The bill codifies existing practice, as MAIF employees have historically been afforded protection under the Maryland Tort Claims Act and MAIF is charged an annual premium for coverage.

**Local Effect:** None.

**Small Business Effect:** The Maryland Automobile Insurance Fund has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

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**Analysis**

**Current Law:** Under the Maryland Tort Claims Act (MTCA), State personnel are immune from liability for acts or omissions performed in the course of their official

duties, so long as the acts or omissions are made without malice or gross negligence. The State essentially waives its own common law immunity for its employees' actions. The MTCA limits the liability of the State to \$200,000 to a single claimant for injuries arising from a single incident. The MTCA's definition of State personnel includes:

- State employees or officials paid through the Central Payroll Bureau;
- employees or officials of various State agencies;
- individuals who, without compensation, exercise a part of the sovereignty of the State;
- students of a State educational institution providing clinical services who also meet specified liability insurance requirements;
- a sheriff or deputy sheriff of a county or Baltimore City;
- a county employee assigned to a local department of social services;
- a State's Attorney and employees of a State's Attorney's office;
- members of various county boards;
- judges and employees of the circuit courts and orphans' courts;
- nonprofit organizations, without other insurance, that have been approved as third-party payees for providing temporary cash assistance, transitional assistance, or child-specific benefits to Family Investment Program recipients; and
- students, faculty, or staff of a higher education institution who are providing a service under the Family Investment Program.

**Background:** MAIF was created by the Maryland General Assembly in 1972 to provide automobile liability insurance for Maryland residents who are unable to obtain insurance. MAIF is an independent agency of the State of Maryland and reports directly to the Governor. MAIF currently has 551 employees.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Automobile Insurance Fund, Treasurer's Office, Department of Legislative Services

**Fiscal Note History:** First Reader - February 9, 2005  
ncs/jr Revised - Enrolled Bill - May 3, 2005

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