

# SENATE BILL 148

C4

8lr0058

---

By: **Chair, Finance Committee (By Request – Departmental – Automobile Insurance Fund)**

Introduced and read first time: January 18, 2008

Rules suspended

Assigned to: Finance

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Automobile Insurance Fund – Uninsured Division – Claims**

3 FOR the purpose of altering the requirements for making a qualifying claim against  
4 the Uninsured Division of the Maryland Automobile Insurance Fund to exclude,  
5 from those eligible to make a qualifying claim, a beneficiary of a certain  
6 self–insurance certificate, an owner or operator of a taxicab that does not have  
7 uninsured motorist coverage, a person that owns any registered uninsured  
8 motor vehicle, a claimant driving a motor vehicle without a valid certificate of  
9 registration, and a claimant that does not hold a valid driver’s license; altering a  
10 certain definition; and generally relating to claims against the Maryland  
11 Automobile Insurance Fund.

12 BY repealing and reenacting, with amendments,  
13 Article – Insurance  
14 Section 20–601  
15 Annotated Code of Maryland  
16 (2006 Replacement Volume and 2007 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Insurance**

20 20–601.

21 (a) (1) In this section, “qualified person” means:

22 (i) a resident of the State;

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) the owner of a motor vehicle registered in the State, unless  
2 the owner is not a resident of the State and the motor vehicle bears temporary  
3 registration plates issued under Title 13, Subtitle 6, Part I of the Transportation  
4 Article;

5 (iii) a resident of another state or foreign country that affords  
6 recourse to residents of this State that is substantially similar to that provided under  
7 this title; or

8 (iv) an individual injured by an uninsured motorist who later  
9 files for bankruptcy or other protection from creditors that bars the Fund from a  
10 subrogation recovery.

11 (2) "Qualified person" does not include:

12 (i) an automobile collision insurer or other insurer that seeks  
13 by subrogation to recover payment for damages to a motor vehicle or real or other  
14 personal property, or injuries to individuals under any insurance coverages, including  
15 collision, fire, theft, medical payments, and uninsured motorist coverages;

16 (ii) a holder **OR BENEFICIARY** of a certificate of self-insurance  
17 under this article; [or]

18 **(III) AN OWNER OR OPERATOR OF A TAXICAB, AS DEFINED IN**  
19 **§ 11-165 OF THE TRANSPORTATION ARTICLE, THAT DOES NOT HAVE**  
20 **UNINSURED MOTORIST COVERAGE;**

21 [(iii)] **(IV)** an insured under a policy provision that:

22 1. provides coverage for damages sustained by the  
23 insured as a result of the operation of an uninsured motor vehicle; and

24 2. is authorized to be included in an automobile liability  
25 policy delivered or issued for delivery in the State; **OR**

26 **(V) A PERSON THAT OWNS ANY REGISTERED UNINSURED**  
27 **VEHICLE.**

28 (b) To the extent that a policy of motor vehicle liability insurance does not  
29 provide coverage, a claim that arises out of circumstances described in subsection (c),  
30 (d), or (e) of this section may be made against the Fund if:

31 (1) the claim is for:

32 (i) damage to property greater than \$250; or

33 (ii) the death of or personal injury to a qualified person;

1           (2) (i) at the time of the accident, the claimant was not driving or  
2 riding in an uninsured motor vehicle owned by the claimant or a member of the  
3 claimant's family who resides in the claimant's household; and

4           (ii) the claimant is not the personal representative of the  
5 individual who was driving or riding in the uninsured motor vehicle; [and]

6           (3) (i) at the time of the accident, the claimant:

7                       **1.** was [not] driving a motor vehicle with a **VALID**  
8 certificate of registration that was **NOT** suspended, canceled, or revoked[, or]; **AND**

9                       **2.** was holding a **VALID** driver's license that was **NOT**  
10 suspended, canceled, or revoked; and

11           (ii) the claimant is not the personal representative or a member  
12 of the family who resides in the household of the individual who was driving the motor  
13 vehicle; **AND**

14           **(4) AT THE TIME OF THE ACCIDENT, THE CLAIMANT WAS NOT**  
15 **DRIVING OR RIDING IN A MOTOR VEHICLE OPERATED WITHOUT THE**  
16 **PERMISSION OF THE OWNER.**

17           (c) A claim that arises out of the ownership, maintenance, or use of a motor  
18 vehicle in the State may be made against the Fund if:

19           (1) the requirements of subsection (b) of this section are met;

20           (2) (i) the identity of the motor vehicle and of its driver and owner  
21 cannot be established; or

22           (ii) the identity of the individual who was driving the motor  
23 vehicle cannot be established and it is established that, at the time of the accident, the  
24 motor vehicle was in the possession of an individual other than the owner without the  
25 owner's consent;

26           (3) the claimant has a cause of action against the driver or owner of  
27 the motor vehicle; and

28           (4) all reasonable efforts to establish the identity of the motor vehicle  
29 and of its owner and driver are unsuccessful.

30           (d) A claim that arises out of ownership, maintenance, or use of a motor  
31 vehicle in the State may be made against the Fund if:

32           (1) the requirements of subsection (b) of this section are met;

1           (2)    the claimant has a cause of action against the driver or owner of  
2 the motor vehicle;

3           (3)    despite all reasonable efforts, the driver or owner of the motor  
4 vehicle cannot be located; and

5           (4)    (i)    at the time of the accident the motor vehicle was an  
6 uninsured motor vehicle; or

7                   (ii)    despite all reasonable efforts, it is impossible to establish  
8 whether the motor vehicle was insured.

9           (e)    (1)    Subject to paragraph (2) of this subsection, a claim that arises out  
10 of the ownership, maintenance, or use of a motor vehicle in the State may be made  
11 against the Fund if:

12                   (i)    the requirements of subsection (b) of this section are met;

13                   (ii)    the driver or owner of the motor vehicle is uninsured and  
14 can be located for service of process;

15                   (iii)   1.    the claimant is not the uninsured driver's spouse who  
16 resides in the uninsured driver's household or another family member who resides in  
17 the uninsured driver's household; and

18                               2.    the claimant is not the personal representative of the  
19 spouse who resided in that household;

20                   (iv)    the claim is not made for damage to or destruction of an  
21 uninsured motor vehicle owned wholly or partly by the claimant; and

22                   (v)    the claimant is not eligible to make a claim arising from the  
23 same accident against the Property and Casualty Insurance Guaranty Corporation  
24 under Title 9, Subtitle 3 of this article.

25           (2)    A claim under this subsection may not be made by or for:

26                   (i)    an insurer under a policy that makes the insurer liable to  
27 pay, wholly or partly, the amount of the claim; or

28                   (ii)    an insurer for any amount sought or claimed for damages or  
29 destruction to the property of the claimant or an insured by reason of:

30                               1.    collision with a motor vehicle or other object, or by  
31 upset of the motor vehicle; or

1                                   2.     coverage of the insured that provides indemnification  
2 from injury or damages caused by uninsured motorists.

3                   (3)     The amount to be paid out of the Fund may not be sought, wholly  
4 or partly, to:

5                                   (i)     take the place of making a claim or receiving a payment that  
6 is payable under a policy specified in paragraph (2)(i) of this subsection; or

7                                   (ii)    reimburse or otherwise indemnify an insurer for an amount  
8 paid or payable under a policy specified in paragraph (2)(i) of this subsection.

9                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2008.