

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 105
Finance

(Senator Astle)

Maryland Automobile Insurance Fund - Authority of Commissioner to Impose Penalties and Restitution

This bill allows the Maryland Insurance Commissioner to impose specified existing administrative penalties against the Maryland Automobile Insurance Fund. The Insurance Commissioner may also require MAIF to make restitution to persons who have suffered financial injury resulting from a violation of the Insurance Article.

Fiscal Summary

State Effect: General fund revenues would increase to the extent the Insurance Commissioner imposes penalties on MAIF under the bill. Any increase in workload could be handled with the existing budgeted resources of the Maryland Insurance Administration.

MAIF: MAIF could experience an increase in expenditures due to penalties imposed under the bill. Any such increase is assumed to be minimal and could be offset by a corresponding increase in MAIF premium revenues.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Current Law: Generally, insurers operate in Maryland under a certificate of authority from the Insurance Commissioner. Under specified circumstances, the Insurance

Commissioner may deny a certificate of authority to an applicant or may refuse to renew, suspend, or revoke a certificate of authority. The actions are mandatory under other circumstances.

Instead of or in addition to suspending or revoking a certificate of authority, the Insurance Commissioner may impose on the holder a penalty ranging from \$100 to \$125,000 for each violation of the Insurance Article. The Insurance Commissioner may also require the holder to make restitution to any person who has suffered financial injury because of the violation of the Insurance Article.

In an opinion issued in 2000, the Attorney General opined that:

. . . the Commissioner has no authority to impose a fine on MAIF absent a waiver of sovereign immunity by the General Assembly. Because MAIF does not operate under a certificate of authority, the Commissioner's powers under IN § 4-113 [the provision being amended by the bill] ordinarily do not extend to MAIF. However . . . the Commissioner may require MAIF to make restitution, if MAIF violates a provision of the Insurance Article applicable to MAIF and if the Commissioner has jurisdiction over the violation.

85 Op. Att'y Gen. 132, 163-64 (2000).

Current practice reflects the Attorney General's opinion.

Background: Created by the General Assembly in 1972, MAIF provides automobile liability insurance to residents of the State who are unable to obtain policies in the private insurance market. MAIF is an independent agency of the State that reports directly to the Governor and is responsible to the Maryland General Assembly. Rules governing MAIF are set out by law in Title 20 of the Insurance Article of the Annotated Code of Maryland. Operating funds for MAIF are received from the insurance premiums written with MAIF. MAIF receives no State funding, and any debts or obligations of MAIF cannot be deemed to be debts of the State of Maryland.

Additional Information

Prior Introductions: Identical bills, SB 789 and HB 1105 of 2007, were heard in the Senate Finance Committee and House Economic Matters Committee, respectively, and later withdrawn.

Cross File: None.

Information Source(s): Maryland Automobile Insurance Fund, Maryland Insurance Administration, Department of Legislative Services

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