

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 857
Economic Matters

(Delegate Smigiel, *et al.*)

Motor Vehicle Liability Insurance - Disclosure of Coverage

This bill requires certain motor vehicle liability insurers, upon being notified of potential litigation relating to an accident involving the insured, to disclose to the plaintiff the existence of any policies or excess coverage of the insured that may be available to pay a claim related to the accident.

Fiscal Summary

State Effect: The bill does not directly affect State finances or operations.

Maryland Automobile Insurance Fund (MAIF) Effect: The number of claims that reach the policy limit likely increases.

Local Effect: The bill does not directly affect local finances or operations.

Small Business Effect: Minimal.

Analysis

Background/Current Law: Under the Maryland Rules of Civil Procedure, a party may obtain discovery regarding any matter that is not privileged communication, including the existence of any documents, if the matter sought is relevant to the subject matter involved in the action. In discovery, a party may obtain evidence of any insurance agreement that may in whole or in part satisfy a judgment.

Although evidence of an insurance policy is discoverable by a party to an action, it is not necessarily admissible at trial. Generally, evidence that a person is insured against

liability is inadmissible to prove that the person acted negligently, or as evidence that the person has an ability to pay a substantial judgment. However, evidence of insurance against liability may be admissible when offered for another purpose, such as proof of agency, ownership, or control, or the bias or prejudice of a witness. Additionally, in an action against an insurer or the Maryland Automobile Insurance Fund under a policy providing uninsured motor vehicle liability coverage, the person asserting the uninsured status of a motor vehicle has the burden to prove that status.

Maryland Automobile Insurance Fund (MAIF) Effect: MAIF advises 8,629 bodily injury claims were settled in 2008. Three percent of those claims (286) were settled for the full \$20,000 policy limit, which is the minimum amount of motor vehicle liability insurance coverage required by State law. MAIF advises that the disclosure of excess coverage or policy limits to plaintiff's counsel prior to discovery may double the number of claims that reach the policy limit. Those additional 286 claims that would otherwise settle in the \$10,000 to \$12,000 range would be settling at the \$20,000 policy limit. MAIF advises that the fiscal impact may be as much as \$2,574,000 (286 additional policy limit claims multiplied by an additional \$9,000 per claim).

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Insurance Administration, Judiciary (Administrative Office of the Courts), Maryland Automobile Insurance Fund, Department of Legislative Services

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ncs/ljm

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