

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 641

(Senator Pugh, *et al.*)

Finance

**Insurance - Premium Finance Companies - Acceptance of Consideration During
Term of Premium Financing Agreement - Prohibited**

This bill prohibits any insurance producer, employee of an insurance producer, or any other person from accepting any valuable consideration during the term of a premium financing agreement that (1) was facilitated by the insurance producer, employee or other person; and (2) finances premiums under a personal lines automobile insurance policy written through the Maryland Automobile Insurance Fund (MAIF).

Fiscal Summary

State Effect: Existing penalty provisions for willful violations are not expected to significantly affect State finances.

MAIF Effect: Potential decrease in premiums written to the extent producers direct potential customers to other insurance companies with the motivation of receiving additional compensation from a premium finance company.

Local Effect: Existing penalty provisions for willful violations are not expected to significantly affect local government finances.

Small Business Effect: Potential minimal.

Analysis

Current Law: A “premium finance agreement” means an agreement:

- by which an insured or prospective insured promises to repay a premium finance company the amount advanced, along with accrued interest and a service fee, to an insurer or an insurance producer for payment of premiums; and
- that contains an assignment of, or is otherwise secured by, the unearned premium or refund obtained from the insurer on cancellation of the insurance contract.

A person is prohibited from paying any part of an initial service fee or any other fee or charge to an insurance producer, employee of an insurance producer, or to any other person as an inducement to financing an insurance contract with a premium financing company. An insurance producer, employee of an insurance producer, or any other person may not accept any payment as an inducement to facilitating a premium financing agreement that contains an assignment of, or is otherwise secured by, the unearned premium or refund that is obtainable from an insurer upon the cancellation of an insurance contract.

MAIF pays producers a commission of 10% of the total premium amount for private passenger automobile insurance policies issued by the fund and for other types of insurance, such as commercial policies, up to 10% of the total premium. MAIF is prohibited from paying a commission on a fully earned basis, if a prospective insured fails to qualify, or if a prospective insured's initial payment to MAIF, a fund producer, or premium finance company is dishonored. If a MAIF policy is canceled, any unearned commissions are refunded. All commissions are earned pro rata for the period of time that policy coverage is in effect. Unearned commission must be returned promptly to the insured or to MAIF by the fund producer upon demand

MAIF Effect: MAIF advises that, because the bill only applies to the financing of MAIF private passenger automobile insurance policies, some producers may direct potential customers to other insurance companies with the motivation of receiving additional compensation from the premium finance company. MAIF estimates it could experience a potential reduction of up to 20% of written private passenger automobile insurance new and renewal premiums per year.

Additional Comments: The bill prohibits a producer from accepting directly or indirectly accepting any items of valuable consideration during the term of a premium finance agreement for a MAIF private passenger policy that was facilitated by that person. However, the legislation does not prohibit a producer from accepting valuable consideration once the MAIF policy has been cancelled or when the policy otherwise expires.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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ncs/ljm

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