

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 1029 (Delegate Conaway)
Economic Matters

Motor Vehicle Liability Insurance - Information from Applicant

This bill prohibits insurers and insurance producers from requesting information from applicants for the issuance or renewal of a policy of private passenger motor vehicle liability insurance that is not directly related to (1) the identity and addresses of each insured and covered driver; (2) the registration information for each covered vehicle; (3) information relating to the condition of each covered vehicle; (4) the driving habits of each insured and covered driver; (5) the driving patterns applicable to each covered vehicle; and (6) the ability of the first named insured or other responsible party to pay for the policy.

The bill takes effect January 1, 2012, and applies to all private passenger motor vehicle liability insurance policies issued, delivered, or renewed in the State on or after that date.

Fiscal Summary

State Effect: If the Maryland Automobile Insurance Fund (MAIF) halts operations, general fund revenues decrease because the Maryland Insurance Administration (MIA) is unable to collect a 2% premium tax from MAIF. Expenditures are not affected.

Maryland Automobile Insurance Fund Effect: MAIF is required to provide insurance to applicants who meet specified eligibility requirements. In order to determine an applicant's eligibility, MAIF requires applicants to answer questions possibly prohibited by the bill. MAIF may need to halt operations if unable to verify eligibility. If so, both nonbudgeted revenues and expenditures decrease.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background:

Private Insurers: With respect to motor vehicle liability insurance, an insurer may not cancel, refuse to renew, or refuse to underwrite a motor vehicle liability insurance because of a claim, traffic violation, or traffic accident that occurred more than three years before the effective date of the policy application or renewal.

Generally, all insurers or insurance producers may not refuse to underwrite or require special conditions, facts, or situations as a condition to its acceptance of a particular insurance risk or class of risk for a reason based on race, color, creed, sex, or blindness of an applicant or policyholder or for any arbitrary, capricious, or unfairly discriminatory reason. An insurer or insurance producer may not refuse to underwrite a particular insurance risk or class of risk except for reasons reasonably related to the insurer's economic and business purposes. Moreover, an insurer or insurance producer may not make an inquiry about race, creed, color, or national origin in an insurance form, questionnaire, or other manner of requesting general information that relates to an application for insurance. An insurer offering policies for life insurance or health insurance is prohibited from discriminating against a person based on status as a victim of domestic violence.

It is possible that some private motor vehicle liability insurers will no longer underwrite risks located in the State if prohibited to ask specified questions. Many insurers ask questions regarding education level, marital status, organizational membership, and employment. Whether these questions relate to the age and identity of the applicant or the applicant's ability to pay is unclear.

MAIF: 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. In other states, private insurance companies share in insuring those unable to obtain insurance (known as the residual market) through an assigned risk plan in their respective state.

MAIF must issue a policy for motor vehicle liability insurance if an applicant pays a premium and:

- owns a covered vehicle registered with the Motor Vehicle Administration (MVA), has a license issued by MVA to drive a covered vehicle, or is a lessee under a "lease not intended as security" as defined by Maryland law;
- does not owe to MAIF (1) an unpaid premium with respect to a policy that has expired or been canceled; or (2) a claim payment obtained by fraud;

- has made at least two good faith efforts to obtain a policy from two separate members of the Industry Automobile Insurance Association (association) or has had a policy canceled or nonrenewed by an association member for a reason other than nonpayment; and
- meets specified residency requirements.

MAIF may not issue a policy if a person does not meet these requirements, including applicants who either lease a private passenger vehicle to an individual who does not meet the residency requirements or garages the vehicle principally outside the State. There are specified exceptions for armed forces members on active duty and students.

MAIF advises that it currently has 64,797 private passenger policies in force.

State Revenues: MIA collects a 2% premium tax from MAIF. MAIF is required by law to ask specified questions which may be prohibited by the bill, most notably including whether the applicant has made two good faith attempts to procure motor vehicle insurance from a private insurer. If unable to ask these questions, it is possible MAIF may halt operations. If so, general fund revenues decrease. In 2010, MAIF received approximately \$111 million in net premium and accrued income, meaning general fund revenues could decrease as much as \$2.3 million.

MAIF Effect: As noted above, MAIF may need to halt operations if not exempted from the bill's prohibitions on specified questions. This eliminates MAIF's nonbudgeted revenues and expenditures.

If, however, MAIF's current eligibility requirements are not prohibited by the bill, MAIF could instead see an increase in business. This would happen if private insurers became more reluctant to underwrite risks in the State, thereby allowing MAIF to issue more policies. Any increase in the amount of policies issued cannot be reliably estimated because the bill's effect on private insurers is not known.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 15, 2011
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Analysis by: Michael F. Bender

Direct Inquiries to:
(410) 946-5510
(301) 970-5510