

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE

Senate Bill 406 (Senator Zirkin)
 Finance

Maryland Automobile Insurance Fund - Notice of Claim for Damages - Time for Filing

This bill extends the statute of limitations within which notice of a claim for damages must be filed with the Uninsured Division of the Maryland Automobile Insurance Fund (MAIF). The claim must be made three years from the accident out of which the cause of action arises.

Fiscal Summary

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

MAIF Effect: Nonbudgeted expenditures increase by at least \$192,400 in FY 2013 to account for the bill’s effective date and \$256,500 in FY 2014 and subsequent years due to the extension of the statute of limitations for claims on MAIF’s Uninsured Division. Increase in nonbudgeted revenues to account for the recovery of losses from at-fault drivers in these additional claims.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
NonBud Rev.	-	-	-	-	-
NonBud Exp.	\$192,400	\$256,500	\$256,500	\$256,500	\$256,500
Net Effect	(\$192,400)	(\$256,500)	(\$256,500)	(\$256,500)	(\$256,500)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Generally, before a person may apply or sue for payment from MAIF, notice of a claim for damages must be filed with the Uninsured Division of MAIF within 180 days of the accident out of which the cause of action arises.

If notice of a claim is not filed within 180 days, a claim or suit may not be filed or maintained unless the claimant provides proof that:

- the claimant was physically unable to file notice and either did so within 30 days of becoming able or, if the claimant did not become capable of filing, a reasonable time period;
- the claimant filed notice with MAIF within 30 days of receiving notice that an insurer had disclaimed on a policy and removed or withdrew liability insurance coverage for the claim against a defendant; or
- the claimant filed notice with MAIF within 30 days after receiving notice that the insurer of the defendant was insolvent and the insurer is not authorized to transact insurance business in the State and the claimant is not eligible to make a claim against the Property and Casualty Insurance Guaranty Corporation.

Background:

MAIF – Insured Division: Created by the General Assembly in 1972, MAIF, through its Insured Division, 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 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 – Uninsured Division: The Uninsured Division of MAIF exists to compensate, if specified conditions are met, qualifying individuals who file accident-related claims against unidentified, disappearing, or unavailable and uninsured vehicles.

The specified conditions that must be met for a claim made against MAIF through its Uninsured Division include (1) the claim is for damage to property greater than \$250 or the death of or personal injury to a “qualified person” as defined by Title 20, Subtitle 6 of the Insurance Article; (2) the claimant was not, at the time of the accident, in an uninsured automobile owned by either the claimant or a member of the claimant’s family residing in the claimant’s household; and (3) the claimant was not, at the time of the accident, driving an automobile without a valid registration or driver’s license. The claimant must also not either be the personal representative of either the individual who was driving or riding in the uninsured automobile or the personal representative or member of the family who resides in the household of the individual who was driving the automobile.

MAIF’s Uninsured Division is authorized to pay, less specified deductions, up to \$15,000, exclusive of interest and costs, on authorized unsatisfied claims arising from damages to property. MAIF is also authorized to pay up to \$20,000 on authorized unsatisfied claims arising from an injury or death of one individual and up to \$40,000 for injuries or deaths to more than one individual. MAIF must also make specified deductions from each paid claim. MAIF may bring an action to recover any amount paid out of MAIF that exceeds the authorized amount against the person that received the excess payment.

The majority of the income that MAIF’s Uninsured Division receives is derived from an uninsured motorist fine levied by MVA. The total fine income received by MAIF, approximately \$2.7 million in calendar 2010, is indexed annually based on the Consumer Price Index – All Urban Consumers – Medical Care since its reinstatement to MAIF in fiscal 2002 at a level of \$2.0 million. In 2010, fine income represented almost 70% of total income for the Uninsured Division.

The Budget Reconciliation and Financing Act of 2009 (Chapter 487) transferred \$7.0 million from the MAIF Uninsured Division to the general fund in fiscal 2009. Likewise, BRFA of 2002 (Chapter 440) transferred \$20.0 million from the MAIF Uninsured Division to the general fund in fiscal 2002. Partially as a result of these transfers, the Uninsured Division’s surplus had a balance of approximately \$2.4 million

as of December 31, 2010. BRFA of 2011 (Chapter 397) requires the Governor to make an additional transfer of \$4 million before June 30, 2012. Chapter 397 is silent with regard to whether the funds are transferred from MAIF's Uninsured Division, Insured Division, or both.

MAIF Effect: Nonbudgeted expenditures increase by at least \$192,384 in fiscal 2013 to account for the bill's effective date and \$256,512 in fiscal 2014 and subsequent years due to the extension of the statute of limitations for claims on MAIF's Uninsured Division. MAIF advises that the majority of claims are filed within 30 days of the accident, and few claims are made close to the 180-day time limit. However, if only an additional 5% of claims are filed during the extended period, the resulting expenditures are significant.

According to MAIF, there were 630 claims assigned to the Uninsured Division in 2010. The average bodily injury settlement for claims in 2010 was \$4,800. An additional 5% of claims are 32 more claims a year and an additional \$153,600 in claim losses a year. MAIF further advises that the Uninsured Division's losses and expenditures in 2010 totaled \$900,000 and \$1.5 million, respectively. If the ratio of expenditures to losses remains consistent, expenditures increase by at least \$192,384 in fiscal 2013 to account for the bill's effective date and \$256,512 in fiscal 2014 and subsequent years. It is also important to note that a claim investigation may become more costly as claims are filed further away from the accident due to difficulty in finding witnesses or other drivers.

Nonbudgeted revenues also increase in fiscal 2013 and subsequent years due to the additional collection of claim loss recoveries. The amount of increase in nonbudgeted revenues is not quantifiable due to both the unknown additional amount of claims the extension will create and the additional difficulties in recovering a loss from an at-fault driver multiple years past the accident. For example, if a claim is filed three years after an accident, it is more likely that an at-fault driver is deceased or has changed residences.

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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