

**Department of Legislative Services**  
Maryland General Assembly  
2012 Session

**FISCAL AND POLICY NOTE**

**Revised**

Senate Bill 938

(Senator Mathias)

Finance

Economic Matters

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**Personal Automobile Insurance - Rescission of Policy or Binder - Authorized**

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This bill authorizes an insurer to rescind a policy or binder of personal automobile insurance if (1) the applicant's initial premium payment is made by a check or other remittance that is not honored on presentation to the financial institution where it is drawn; and (2) the insurer has disclosed to the applicant at the time of application that no coverage will be in effect if the initial premium payment is not honored on presentation. However, an insurer must continue or reinstate a policy or binder without a lapse in coverage if (1) the financial institution failed to honor the check or other remittance in error and the applicant promptly notifies the insurer of the error and provides documentation of the error as it becomes available; or (2) the applicant or any secured creditor pays the insurer the amount of the initial premium within five business days after the insurer has sent notice to the applicant or any secured creditor that the check or other remittance was not honored.

The bill takes effect January 1, 2013, and applies to all policies and binders of personal automobile insurance issued or delivered in the State on or after that date.

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**Fiscal Summary**

**State Effect:** The bill's changes can be handled with existing budgeted resources. However, if the number of complaints received by the Maryland Insurance Administration (MIA) increases significantly, it may be necessary to hire additional personnel. No impact on revenues.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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## **Analysis**

**Bill Summary:** If an insurer rescinds a policy or binder due to a dishonored check, the bill requires the insurer to notify the applicant and any secured creditor that the policy or binder is rescinded as of its proposed effective date because the check or other remittance was not honored on presentation to the financial institution. The notice must also state that no coverage is in effect under the policy or binder but that the insurer must continue or reinstate the policy or binder without a lapse in coverage if the circumstances specified above are met. The bill requires the notice to be sent immediately or the next business day by certified mail and, if available, electronically to the applicant's and any secured creditor's last known address.

**Current Law:** A binder or policy is subject to a 45-day underwriting period beginning on the effective date of coverage. Binders are a written or oral acknowledgment that an insurance applicant has accepted an insurer's offer to purchase insurance coverage. During this underwriting period, an insurer may cancel a binder or policy if the risk does not meet the underwriting standards of the insurer. An insurer must provide notice of this ability either at the time of application or when a binder or policy is issued.

A notice of cancellation must be in writing, be sent by certificate of mail to the named insured's last known address, and be mailed at least 15 days before the cancellation's effective date. The notice must also clearly and specifically state the insurer's actual reason for the cancellation. If the cancellation is for nonpayment of premium, the notice must be sent at least 10 days before the cancellation's effective date and state the insurer's intent to cancel due to nonpayment.

If a binder or other contract is for temporary insurance, the binder or other contract may be made orally or in writing and, unless superseded by the clear and express terms of the binder, is considered to include all the policy's usual terms and the applicable endorsements designated in the binder.

In the case of homeowner's insurance and automobile insurance, an insurer may cancel a policy mid-term if the insured does not pay the policy premium. At least 10 days before the date an insurer proposes to cancel a policy for nonpayment of premium, the insurer must send, by certified mail, to the named insured at the named insured's last known address a written notice of intention to cancel for nonpayment of premium.

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## **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1059 (Delegate Feldman) - Economic Matters.

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

**Fiscal Note History:** First Reader - February 29, 2012  
ncs/mwc Revised - Senate Third Reader - April 3, 2012  
Revised - Enrolled Bill - May 17, 2012

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