

Department of Legislative Services  
 Maryland General Assembly  
 2012 Session

FISCAL AND POLICY NOTE

House Bill 279  
 Economic Matters

(Delegate Barkley)

Finance

Maryland Automobile Insurance Fund - Claims for Bodily Injury or Death -  
 Payment Limitation

This bill increases the maximum amount the Maryland Automobile Insurance Fund (MAIF) is authorized to pay, through its Uninsured Division, on authorized unsatisfied claims arising from an injury or death of one individual from \$20,000 to \$30,000 and one or more individuals from \$40,000 to \$60,000, exclusive of interest and costs.

Fiscal Summary

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

**Maryland Automobile Insurance Fund Effect:** MAIF's nonbudgeted expenses increase by \$213,900 in FY 2013 due to the bill's October 1 effective date, the increased number of claims reaching the maximum amount, a higher volume of total claims, and increased administrative and one-time only information technology (IT) expenses. This amount increases to at least \$278,500 in FY 2014 and subsequent years.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Revenues	\$0	\$0	\$0	\$0	\$0
NonBud Exp.	213,900	278,500	278,500	278,500	278,500
Net Effect	(\$213,900)	(\$278,500)	(\$278,500)	(\$278,500)	(\$278,500)

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

**Local Effect:** None.

**Small Business Effect:** None.

## Analysis

### Current Law/Background:

*Maryland Insurance Requirements:* Maryland law requires an owner of a motor vehicle that is required to be registered in the State to maintain insurance for the vehicle during the registration period. The Motor Vehicle Administration (MVA) may not issue or transfer the registration of a motor vehicle unless the owner or prospective owner of the vehicle furnishes evidence satisfactory to MVA that the required insurance is in effect. Maryland drivers are not required to carry proof of insurance. The required insurance, specified under Title 17, Subtitle 1 of the Transportation Article and Title 19, Subtitle 5 of the Insurance Article, must provide for at least:

- the payment of claims for bodily injury or death arising from an accident of up to \$30,000 for any one person and up to \$60,000 for any two or more persons, in addition to interest and costs (liability coverage) (these limits were increased from \$20,000 and \$40,000, respectively under Chapter 441 of 2010, effective January 1, 2011);
- the payment of claims for property of others damaged or destroyed in an accident of up to \$15,000, in addition to interest and costs;
- unless waived, personal injury protection coverage (minimum coverage for medical, hospital, and disability benefits up to \$2,500 for payment of expenses that arise from the accident, lost income, and reimbursement for essential services for care and maintenance of the family or family household); and
- uninsured motorist coverage (unless waived, the amount equals the amount of liability coverage provided under the policy; if waived, the amount equals to the minimum required insurance for liability coverage).

Auto liability insurance coverage is mandatory in 48 states and the District of Columbia. Only New Hampshire and Wisconsin do not have compulsory auto insurance liability laws; however, their respective laws require financial responsibility (*i.e.*, enough assets to pay claims against the motorist if the motorist causes an accident and does not have auto insurance) to operate a vehicle. Further, uninsured motorist coverage is not obligatory in every state; therefore, some insured drivers are not covered when they are hit by an uninsured driver. However, as described above, Maryland law requires drivers to purchase uninsured motorist coverage.

Uninsured motorist coverage pays for injury and damages caused by an uninsured (or underinsured) or hit-and-run driver. This coverage reimburses the policyholder, members of the policyholder's family, or designated driver for an accident caused by the uninsured motorist. This coverage generally pays for medical bills and wage loss; pain, suffering, and disfigurement; emotional distress; and loss of future earning capacity. Uninsured motorist coverage may not include property damage; however, a policyholder may be protected for property losses under collision coverage.

*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 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 – 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, the Budget Reconciliation and Financing Act 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. The Governor must make an additional transfer before June 30, 2012. This transfer, an amount of \$4.0 million, must be from both the MAIF Uninsured and Insured divisions.

**MAIF Effect:** Due to the bill’s October 1, 2012 effective date, MAIF’s expenses increase by \$213,850 in fiscal 2013 as a result of higher-value claims and a one-time IT expense. In fiscal 2014, the first full fiscal year affected by the bill, MAIF’s expenses increase by at least \$278,467. Expenses may increase further in subsequent years as the cost of medical care and administering higher-value claims increases. This estimate is based on the following information and assumptions.

Over the past seven years, MAIF reports that it has settled 1,583 personal injury claims. Over that period, it has paid the \$20,000 maximum amount 89 times. This equates to 5.6% of all personal injury claims or an average of approximately 13 claims a year. Assuming similar claims experience, if each of these 13 annual claims were to reach the new maximum of \$30,000, MAIF's annual expenses should increase by \$130,000 (\$10,000 per claim). Additionally, MAIF reports that there are increased administrative expenses as higher-value claims are more contentious and take longer to administer. MAIF reports that incurred losses and adjustment expenses could increase by \$136,467. This amount is reasonable given the higher maximum amount and increased administrative expenses.

In addition to an increase in expenses estimated from the average number of claims paid at the higher maximum amount, MAIF also expects that increasing the maximum amounts payable will incentivize (1) claimants who would normally not file a claim because of the current smaller maximum to do so; and (2) claimants to continue with medical treatment that would extend the cost past \$20,000. MAIF predicts an additional increase in claim payouts of approximately \$122,000 from this higher volume of claims. This amount appears to be reasonable as only four additional claims at the \$30,000 maximum would fulfill this estimate.

Finally, MAIF anticipates a one-time \$20,000 increase in IT expenses. There are current controls in place to prevent claims being settled for over \$20,000. New controls would have to be created to prevent claims being settled for over \$30,000.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 82 (Senator Zirkin) - Finance.

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

**Fiscal Note History:** First Reader - January 30, 2012  
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