

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 919
Finance

(Senator Garagiola, *et al.*)

Vehicle Laws - Rental Vehicle Companies - Right of Indemnification

This bill grants a rental vehicle company or its designee the right of indemnification against a renter of a motor vehicle and the renter's insurer for property damage, personal injury, and wrongful death claims paid by the rental vehicle company or the designee that arose from the use or operation of the motor vehicle by the renter. If the renter was not driving the vehicle, the bill grants a rental vehicle company or its designee an identical right against the driver and the driver's insurer.

Fiscal Summary

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

Maryland Automobile Insurance Fund (MAIF) Effect: Nonbudgeted expenditures increase in FY 2014 and subsequent years to account for an increase in the number of claims paid. Revenues are not affected.

Local Effect: The bill does not directly affect local governmental operations or finances.

Small Business Effect: Meaningful.

Analysis

Current Law:

Rental Vehicle: The Motor Vehicle Administration (MVA) may not register any rental motor vehicle, trailer, or semitrailer until the owner of the vehicle certifies to MVA's satisfaction that the owner has the following security amounts:

- 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 (HB 825), 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 the minimum required insurance for liability coverage).

This security covers the owner of the vehicle and each person driving or using the vehicle with the permission of the owner or lessee.

Replacement Vehicle: A “replacement vehicle” is defined as a vehicle that is loaned by an auto repair facility or a dealer, or that an individual rents temporarily, to use while a vehicle owned by the individual is not in use because of breakdown, repair, service, damage, or some other reason described in the individual’s insurance policy.

The owner of a replacement vehicle may satisfy the requirement to maintain required security under the Maryland Vehicle Law by maintaining required security that is secondary to any other valid and collectible coverage of the owner’s vehicle, which meets the minimum required levels, while it is used as a replacement vehicle. If the owner of a replacement vehicle provides this secondary coverage, the agreement to be signed by the individual to whom the replacement vehicle is loaned must contain on the face of the agreement, in at least 10-point bold type, information that the coverage on the vehicle being serviced or repaired is primary coverage for the replacement vehicle and the coverage maintained by the owner on the replacement vehicle is secondary.

Background: Recently, the Supreme Court of Virginia held that a self-insured car rental company was permitted to seek reimbursement from the renter’s personal automobile insurer after the company had satisfied any damages caused by the renter of the vehicle. *Farmers Insurance Exchange v Enterprise Leasing Company*, Case No. 100082 (VA S.Ct., Apr. 21, 2011).

MAIF Effect: Nonbudgeted expenditures increase in fiscal 2014 and subsequent years to account for an increase in the number of claims paid. The increase in nonbudgeted expenditures is not able to be estimated. Contributing factors to the increase include the number of MAIF policyholders that rent a vehicle and subsequently are involved in an accident and the extent of the damage caused by any accident. MAIF estimates that the number of claims paid may increase by 5%; however, as noted above, any estimate is merely conjecture. However, if claims increase by 5%, MAIF will pay an additional 170 bodily injury claims and 322 property damage claims. On average, MAIF pays \$5,453 for a bodily injury claim and \$2,527 for a property damage claim. If 5% is a reasonable estimate, MAIF's nonbudgeted expenditures increase by \$927,010 for bodily injury claims and \$813,694 for property damage claims.

Small Business Effect: Meaningful beneficial impact on small business vehicle rental companies to the extent the bill results in a vehicle rental company being reimbursed for the satisfaction of damages caused by the renter of the vehicle.

Additional Information

Prior Introductions: None.

Cross File: Although designated as a cross file, HB 1089 (Delegate Braveboy - Economic Matters) is not identical.

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

Fiscal Note History: First Reader - March 14, 2013
mc/ljm

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