

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 751
Finance

(Senator Klausmeier, *et al.*)

Vehicle Laws - Rental Vehicle Companies - Right of Subrogation

This bill grants a rental vehicle company or its designee the right of subrogation against a renter of a motor vehicle and the renter's insurer and against the driver (if not the renter) of the motor vehicle and the driver's insurer under specified claims. The bill only applies to rental vehicle transactions that originate in the State.

Fiscal Summary

State Effect: Maryland Insurance Administration (MIA) special fund revenues increase minimally in FY 2017 due to \$125 rate and form filing fees. Review of the filings can be handled with existing resources. MIA special fund expenditures may increase minimally to the extent the bill results in a high volume of complaints from rental vehicle companies related to the subrogation rights. General fund revenues increase to the extent that the bill results in increased premiums for motor vehicle insurance policyholders due to the 2% tax collected on all premiums in the State.

Maryland Automobile Insurance Fund (MAIF) Effect: Because a rental vehicle company may not seek recovery or reimbursement for third-party claims from a renter or driver that is covered by MAIF, the bill does not affect MAIF operations or finances.

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

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill grants a rental vehicle company or its designee the right of subrogation 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. This right applies only to claims and obligations related to insurance security requirements that (1) provide for bodily injury or death; (2) provide for the damage or destruction of property that belongs to others; and (3) are related to the minimum security benefits required of all motor vehicles for registration in the State.

If a rental vehicle company receives a third-party claim, the rental vehicle company must notify the insurer of the renter (or the driver) of the claim. After receiving this notice, an insurer may choose to handle the claim (on a primary basis). Until the insurer assumes the handling of the claim, the rental vehicle company must continue to handle the claim.

A rental vehicle company may not seek recovery or reimbursement for third-party claims (1) greater than the limit of the insurance policy covering the renter or driver; (2) from a renter or driver that lacks valid and collectible insurance coverage; or (3) from a renter or driver that is covered by MAIF.

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, 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.

Under Chapter 673 of 1996 and later clarified under Chapter 362 of 1997, the owner of a replacement vehicle, while it is used as a replacement vehicle, may maintain the security required 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. If the owner of a replacement vehicle provides this secondary coverage, the agreement signed by the individual who is loaned the replacement vehicle must state 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. As such, a renter’s insurance is only the primary coverage if a rental car is rented as a replacement vehicle.

Background: In 2011, 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, et al.* Case No. 100082 (VA S.Ct., Apr. 21, 2011).

State Revenues: General fund revenues increase to the extent that the bill results in increased premiums for policyholders of motor vehicle insurance in the State due to the 2% tax collected on all insurance premiums paid in the State. This increase depends on how insurance premium rates are altered by insurers in the State as a result of the bill and, thus, cannot be reliably estimated at this time.

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: Similar legislation has been considered in recent legislative sessions. SB 662 of 2014 received a hearing in the Senate Finance Committee, but no further action was taken on the bill. Its cross file, HB 730, received a hearing in the House

Economic Matters Committee and was subsequently withdrawn. HB 1089 of 2013 passed the House with amendments, was heard by the Senate Finance Committee, and was referred to interim study. Its nonidentical cross file, SB 919, received a hearing in the Senate Finance Committee and was likewise referred to interim study.

Cross File: HB 1172 (Delegate Valderrama, *et al.*) - Economic Matters.

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

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Analysis by: Richard L. Duncan

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