

**Department of Legislative Services**  
 Maryland General Assembly  
 2017 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 1541  
 Economic Matters

(Delegate Brooks)

**Maryland Automobile Insurance Fund - Operations**

This bill changes the Maryland Automobile Insurance Fund’s (MAIF) operations in several ways, including allowing MAIF to file rates under the same procedure used by other automobile insurance carriers, expanding eligibility to apply for a policy from MAIF, and exempting MAIF from being required to pay the 2% premium tax for its insurance policies.

**Fiscal Summary**

**State Effect:** General fund revenues decrease by \$1.2 million in FY 2018 and \$1.6 million annually thereafter due to exempting MAIF from paying the 2% tax collected on insurance premiums. Changing eligibility may reduce the number of uninsured drivers in the State, thereby reducing the uninsured motorist penalties collected by the Motor Vehicle Administration (MVA) and distributed for specified purposes; however, any such impact cannot be reliably estimated and is not reflected in this analysis. State expenditures are not otherwise affected.

(\$ in millions)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
GF Revenue	(\$1.2)	(\$1.6)	(\$1.6)	(\$1.6)	(\$1.6)
Expenditure	0	0	0	0	0
Net Effect	(\$1.2)	(\$1.6)	(\$1.6)	(\$1.6)	(\$1.6)

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

**MAIF Effect:** MAIF’s nonbudgeted revenues increase by approximately \$1.7 million in FY 2018 and \$2.1 million annually thereafter due to being exempted from paying the premium tax, allowed to file and then use rates (without waiting for approval), and authorized to charge a fee for certain reinstatements. Nonbudgeted revenues (additional premiums) and expenditures (additional claim payments) increase, potentially

significantly, to the extent that the number of MAIF policyholders increases due to expanded eligibility; however, any such impact cannot be reliably estimated and is not quantified in this analysis.

(\$ in millions)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
NonBud Rev.	\$1.7	\$2.1	\$2.1	\$2.1	\$2.1
Expenditure	-	-	-	-	-
Net Effect	\$1.7	\$2.1	\$2.1	\$2.1	\$2.1

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

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

**Small Business Effect:** Minimal.

## Analysis

**Bill Summary:** The bill makes the following substantive changes to MAIF’s operations.

- MAIF is no longer required to pay the 2% premium tax for its automobile insurance policies. The tax is generally collected on all insurance premiums paid in the State.
- MAIF is authorized to file and use rates for automobile insurance in the same manner as other automobile insurers in the State.
- The Executive Director of MAIF is no longer a member of the audit committee that oversees MAIF’s annual fiscal compliance audits.
- MAIF is no longer subject to the Open Meetings Act.
- The bill expands eligibility for an individual to obtain a MAIF policy, such that an individual is eligible if he or she has been uninsured for a continuous period of six months or more immediately preceding the effective date of the MAIF policy. To be eligible for a policy, an individual must still meet existing ownership, licensure, and residency requirements. Additionally, an individual may not owe MAIF an unpaid premium or claim payment obtained by fraud.
- MAIF is authorized to reinstate a canceled insurance policy without a lapse in coverage if a policyholder certifies that there have not been any losses attributable to the policy on or after the effective date of the policy. Such a reinstatement must be done in the manner required by MAIF. When reinstating a policy, MAIF may charge the policyholder a fee of up to \$10, and an insurance producer requesting the reinstatement on behalf of the policyholder may charge a fee of up to \$15.

The bill also makes the following changes that are technical, corrective, or conform State law to existing practice.

- Chapter 73 of 2013 exempted MAIF from any law that affects governmental units, with five specific exceptions; however, some provisions of Maryland law still refer to regulations for MAIF. MAIF is not generally required to create regulations. To correct this oversight, the bill repeals references to regulations and replaces them with references to policies adopted by MAIF’s board of trustees.
- MAIF is generally exempt from the Administrative Procedure Act; however, MAIF’s Uninsured Division needs regulations related to the claims filed with the division. Thus, the bill conforms State law to current practice by subjecting MAIF’s Uninsured Division to the relevant parts of the Administrative Procedure Act.

**Current Law/Background:**

*Maryland Automobile Insurance Fund – Insured Division*

Created by the General Assembly in 1972, MAIF is an independent nonbudgeted State agency. Through its Insured Division, MAIF provides automobile liability insurance to residents of the State who are unable to obtain policies in the private insurance market. MAIF is not in direct competition with the private insurance industry. 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 states. The residual market for personal automobile insurance is the “market of last resort” for drivers who are unable to find coverage in the voluntary market. Maryland is the only state that has a state plan. Most states have an automobile assigned risk plan.

MAIF must issue a policy for motor vehicle liability insurance if an applicant:

- pays a premium and (1) owns a covered vehicle registered with MVA; (2) has a license issued by MVA to drive a covered vehicle; or (3) is a lessee under a “lease not intended as security,” as defined by Maryland law;
- does not owe MAIF an unpaid premium (with respect to a policy that has expired or been canceled) or a claim payment obtained by fraud;
- has made at least two good faith efforts to obtain a policy from two other insurers in a specified manner or has had a policy canceled or not renewed by an insurer for a reason other than nonpayment of a premium; and
- meets one of the following residency requirements: the person must (1) be domiciled in the State; (2) own, lease, or rent a primary place of residence in the State and, regardless of the person’s domicile, reside in the State for more than one year; (3) maintain a main or branch office or warehouse facility in the State and base and operate motor vehicles intrastate in the State; (4) have filed as a State resident for income tax purposes; or (5) have a nonresident permit.

### *Maryland Automobile Insurance Fund – Uninsured Division*

MAIF's Uninsured Division is available to qualified Maryland citizens involved in accidents with an uninsured vehicle. To be eligible, Maryland residents must have no other form of collectible insurance. For example, a pedestrian, struck by an uninsured vehicle, who does not own a vehicle and has no other collectible household coverage, would be eligible to collect from the Uninsured Division. The Uninsured Division is funded through a portion of the uninsured motorist penalty fines issued by MVA. The uninsured motorist penalty fines are distributed to the Transportation Trust Fund (TTF), Maryland Department of State Police (DSP), MAIF's Uninsured Division, and the general fund based on a specified formula.

If the required security for a vehicle lapses, MVA may assess the owner of the vehicle a penalty of \$150 for each vehicle without the required security for the first 30 days. Beginning on the thirty-first day, the fine increases by a rate of \$7 for each day, but the total fine may not exceed \$2,500 annually, not including the additional misdemeanor penalty of up to \$500, which may be prepaid with a fine of \$290. *Knowingly* operating a vehicle without adequate security is a misdemeanor, subject to maximum penalties of a \$1,000 fine and/or one year imprisonment for a first offense and a \$1,000 fine and/or two years imprisonment for a subsequent offense. The violation requires a court appearance, results in the imposition of five points on the driver's record, and subjects the driver to participation in the Driver Improvement Program.

### *Maryland Automobile Insurance Fund – Administration*

Chapter 73 of 2013 exempted MAIF from any law that affects governmental units, with five specific exceptions. MAIF is subject to (1) the Public Information Act; (2) the Maryland Public Ethics Law; (3) the Open Meetings Act; (4) the Maryland Tort Claims Act; and (5) the Maryland Whistleblower Law in the Executive Branch of State Government.

An audit committee, composed of the members of MAIF's Board of Trustees and the Executive Director must require MAIF's internal auditor to conduct fiscal compliance and fiscal audits of the accounts and transactions of MAIF each year. The audit must (1) examine financial transactions and records and internal controls; (2) evaluate compliance with applicable laws and regulations; and (3) examine electronic data processing operations.

### *Filing of Insurance Rates*

The Insurance Reform Act of 1995 authorized insurers to use rates for certain lines of property and casualty insurance (including private passenger automobile insurance)

without the prior approval of the Insurance Commissioner; this practice is known as competitive rating. Each authorized insurer and rating organization designated by an insurer must submit all rates and supplementary rate information, before they become effective, and rates may not be excessive, inadequate, or unfairly discriminatory. Unlike other automobile insurers, MAIF is required to obtain approval from the Commissioner before it changes its rates.

For MAIF and other insurers that are not authorized to use competitive rating, a filing may not take effect until 30 working days after it is filed with the Insurance Commissioner. The waiting period may be extended by the Commissioner for an additional 30 days in a specified manner. A filing is deemed approved unless disapproved by the Commissioner.

### *Open Meetings Act*

Under the Open Meetings Act, with limited exceptions, a “public body” must (1) provide reasonable advance notice of the time and location of meetings and (2) meet in open session in a location that is reasonably accessible to attendees. Pursuant to Chapter 255 of 2016, generally, a public body must make an agenda available to the public prior to meeting in an open session. The agenda must include known items of business or topics to be discussed at the meeting and indicate whether the public body expects to close any portion of the meeting in accordance with State law. As soon as practicable after each open session, a public body must prepare minutes of the meeting. Minutes of each meeting must be made available to the public during normal business hours and must be retained by the public body for at least five years.

**State Revenues:** General fund revenues decrease beginning in fiscal 2018 due to exempting MAIF from paying the 2% premium tax that is generally collected on all insurance premiums paid in the State. The Maryland Insurance Administration (MIA) estimates that MAIF has paid an average of \$1.6 million per year since 2013. Therefore, general fund revenues decrease by \$1.2 million in fiscal 2018 (which accounts for the bill’s October 1, 2017 effective date) and \$1.6 million annually thereafter. To the extent that more vehicle owners choose to insure their vehicles with MAIF instead of other insurers that pay the premium tax (due to the expansion of eligibility for MAIF policies), revenues may further decrease. However, it is unclear whether and to what extent this would happen and, therefore, any such impact cannot be reliably estimated.

The bill’s changes may also reduce the total number of uninsured drivers in the State, resulting in fewer uninsured motorist penalties collected by MVA and distributed to TTF, DSP, MAIF’s Uninsured Division, and the general fund. However, any such impact is potential, indirect, cannot be reliably estimated at this time and is, therefore, not included in this analysis.

**MAIF Effect:** Along with operational efficiencies gained from exempting MAIF from the Open Meetings Act, the bill affects MAIF's finances in four distinct ways. Each effect is discussed below and, although the cumulative effect on MAIF's finances is difficult to predict, given the competitive market for automobile insurance in the State, MAIF nonbudgeted revenues are expected to increase by approximately \$1.7 million in fiscal 2018 and \$2.1 million annually thereafter. This estimate accounts for the bill's October 1, 2017 effective date, but it does not encompass any increased revenues and expenditures resulting from more people purchasing MAIF policies under the bill's eligibility expansion, which could be significant.

#### *Increased Revenues from Premium Tax Exemption*

As discussed above, exempting MAIF from paying the 2% premium tax is expected to decrease general fund revenues by about \$1.2 million in fiscal 2018 (which accounts for the bill's October 1, 2017 effective date) and \$1.6 million annually thereafter. Therefore, MAIF revenues increase by the same amount.

#### *Increased Revenues from Competitive Rating*

The bill authorizes MAIF to "file and use" (commonly known as competitive rating) its rates in the same manner as other automobile insurers in the State. Currently, MAIF cannot raise or lower its rates without prior approval from MIA. MAIF advises that its most recent private passenger automobile rate was filed on April 20, 2016, approved on June 16, 2016, and implemented on June 20, 2016. MAIF estimates that each month of delay between the filing and implementation of the rate resulted in about \$483,000 in lost revenue. Because not all rate changes are as significant as this one, MAIF estimates that its revenues increase by an average of \$400,000 each year using competitive rating, including in fiscal 2018.

#### *Increased Revenues and Expenditures from Eligibility Expansion for Maryland Automobile Insurance Fund Policies*

The bill expands eligibility for an individual to obtain a MAIF policy, such that an individual is eligible if he or she has been uninsured for a continuous period of six months or more immediately preceding the effective date of the MAIF policy and meets other existing eligibility requirements. This change is expected to increase the total number of MAIF's policies, increase premium revenues, and increase expenditures as MAIF collects premiums and pays additional claims on the increased liability. However, the number of people who may be eligible under the new condition, and any corresponding increase in revenues and expenditures, cannot be predicted.

### *Increased Revenues from Reinstatement Authority*

The bill expressly authorizes MAIF to reinstate a canceled insurance policy without a lapse in coverage and to charge a fee to do so (subject to a \$10 cap), if specified conditions (prescribed by the bill and adopted by MAIF) are met. MAIF advises that it will allow a prior policyholder to reinstate his or her policy within 60 days of cancellation if the policyholder signs a no-loss letter and pays the \$10 reinstatement fee MAIF intends to establish. MAIF estimates that its revenues increase by about \$102,690 annually as a result of the fees; the impact in fiscal 2018 is about \$77,000. The estimate is based on the 10,269 no-loss letters MAIF issued in 2016. This change may also result in policyholders staying with MAIF when they otherwise would have become uninsured or moved to a different insurance company; however, any such impact cannot be reliably estimated.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 910 (Senator Middleton) - Finance.

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

**Fiscal Note History:** First Reader - April 7, 2017  
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