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FISCAL AND POLICY NOTE
First Reader

Senate Bill 235
Finance

(Senator Young, *et al.*)

Motor Vehicle Insurance - Use of Credit History in Rating Policies

This bill prohibits a private passenger motor vehicle insurer from rating a risk (insurance policy) using the credit history of an applicant and makes conforming changes. As a result of the bill's changes, the credit history of an insured or applicant may no longer be used by a private passenger automobile insurer in any way. The bill applies to all private passenger motor vehicle insurance policies issued, delivered, or renewed in the State on or after October 1, 2019.

Fiscal Summary

State Effect: Minimal special fund revenue increase from the \$125 rate and form filing fee in FY 2020. Maryland Insurance Administration review of additional filings may necessitate contractual support in FY 2020 only; special fund expenditures also increase minimally that year if changes in rate making standards (and the loss of discounts) result in more complaints. General fund revenues may be affected, as discussed below.

Maryland Automobile Insurance Fund Effect: The bill does not directly affect Maryland Automobile Insurance Fund (MAIF) finances or operations.

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

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill specifies that credit history may not be used to rate a risk in any manner, including (1) the provision or removal of a discount; (2) assigning the insured or applicant to a rating tier; or (3) placing an insured or applicant with an affiliated company.

Current Law: “Credit history” means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s creditworthiness, credit standing, or credit capacity used for the purpose of determining personal lines insurance premiums or eligibility for coverage.

A private passenger motor vehicle insurer may not (1) refuse to underwrite, cancel, refuse to renew, or increase the renewal premium based, in whole or in part, on the credit history of an insured or applicant or (2) require a particular payment plan based, in whole or in part, on the credit history of an insured or applicant. However, an insurer may use the credit history of an applicant to rate a new policy; an insurer that does so:

- may not use a factor on the applicant’s credit history that occurred more than five years prior to issuing the new policy;
- must advise the applicant that credit history is used and, at the applicant’s request, provide a premium quote that separately identifies the portion of the premium attributable to the applicant’s credit history;
- may not use the absence of or inability to determine the applicant’s credit history or the number of credit inquiries about the applicant’s credit history as factors in the rating;
- must review the credit history of an insured whose premium was raised due to credit history at initial rating every two years or on request of the insured (and disclose this requirement to the applicant); and
- based on this periodic review, must adjust the premium to reflect any improvement in the insured’s credit history.

An insurer that uses an applicant’s credit history to rate a policy may provide a discount of up to 40% or impose a surcharge of up to 40% based on the credit history.

Current law prohibits insurers, with respect to *homeowner’s* insurance, from rating a risk based, in whole or in part, on the credit history of an applicant or insured in any manner.

Background: In Maryland, auto insurers use complex formulas with numerous variables to determine premium rates for insurance policies. Insurers attempt to measure how likely an insured is to make claims or have accidents based on the characteristics of the driver and the insured vehicle. The characteristics used by insurers include driving records

(e.g., accidents and violations); county or zip code of residence; gender; age; marital status; prior insurance coverage history; and age, make, and model of the vehicle being insured.

Many insurers also offer discounts for behaviors that correlate with good driving and less expensive claims in the event of an accident. For example, some insurers offer discounts for good driving records, safety devices installed in the vehicle and/or anti-theft devices installed in the vehicle, and good grades if the insured is a student.

MAIF advises that it does not use an insured's or applicant's credit history for any reason, including to rate an insurance policy.

State Revenues: Title 6 of the Insurance Article imposes a 2% premium tax on each authorized insurance company, surplus lines broker, or unauthorized insurance company that sells, or an individual who independently procures, any type of insurance coverage upon a risk that is located in the State. Revenues accrue to the general fund.

Currently available information indicates that private passenger automobile insurers in the State are uncertain as to what effect the bill has on premiums for private passenger automobile insurance policies. Thus, the direction and extent of any impact on general fund revenues through the premium tax cannot be reliably estimated at this time.

Additional Information

Prior Introductions: SB 72 of 2018 received a hearing in the Senate Finance Committee, but no further action was taken. Its cross file, HB 1670, received an unfavorable report from the House Economic Matters Committee. Similar bills were introduced in 2008, 2009, 2010, and 2012. In all cases, the bills were either withdrawn, received an unfavorable report, or no further action was taken.

Cross File: HB 351 (Delegate Sydnor, *et al.*) - Economic Matters.

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

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