

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 436
Finance

(Senator Klausmeier, *et al.*)

Economic Matters

Vehicle Laws - Rental Vehicles - Security

This bill allows the owner of a rental vehicle to satisfy the minimum security required by law for the rental vehicle by maintaining the minimum security on the vehicle that is *secondary* to a renter's personal insurance coverage, under specified circumstances. However, this authorization does not apply when the renter's personal coverage is provided by the Maryland Automobile Insurance Fund (MAIF). **The bill takes effect January 1, 2020, and applies to all claims arising in the State on or after that date.**

Fiscal Summary

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

MAIF Effect: 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: Minimal.

Analysis

Bill Summary:

Applicability

The owner of a rental vehicle must provide notice to the renter in a specified manner in order to maintain the owner's coverage on the vehicle as secondary to the renter's coverage.

If coverage maintained by the renter has lapsed or does not provide the required security, the security maintained by the owner of the rental vehicle is primary and must provide coverage beginning with the first dollar of a claim; the owner of the rental vehicle has the duty to defend the claim. The bill establishes that these requirements also apply to replacement vehicles (meaning vehicles rented or loaned because the vehicle of the renter or individual to whom a vehicle is loaned is broken, being repaired, etc.).

Furthermore, the bill specifies that a rental vehicle company is generally responsible for providing the required security on a primary basis for a third-party liability claim if the company (1) fails to deliver notice of the claim; (2) fails to cooperate with the insurer; (3) prejudiced the handling of the claim; (4) has provided coverage that is applicable to the claim as a benefit under either the rental agreement or an insurance policy sold to the renter in a specified manner; or (5) fails to provide the notices discussed above to the renter.

Coverage provided by the rental company is primary for a third-party liability claim if the driver of the vehicle is an individual who is neither the renter nor an authorized driver.

Information Required Upon Request from a Rental Vehicle Owner

“Adverse event” means an incident that may subject the owner or driver of a rental vehicle to legal liability, including liability for damages, costs of defense, legal costs and fees, and any other claims expenses.

A person involved in an adverse event that involves a rental vehicle rented by another person may request information from the motor vehicle rental company that owns the rental vehicle by submitting a written request. Such a request must include specified information about the adverse event and the rental vehicle and be submitted to the motor vehicle rental company’s registered agent in the State. After receiving a request, the company must respond as soon as practicable and provide specified information to the requestor if that information is known. Otherwise, the company must make a reasonable effort to obtain and provide the information, as specified. A company may not be compelled to disclose any other information about the persons identified as renters or authorized drivers. If a request is made more than three years after the date of the adverse event, a company may refuse to provide the information. Generally, a motor vehicle rental company may not be held civilly or criminally liable for disclosing information in the manner specified by the bill.

Current Law/Background:

Required Security

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 security required must provide 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;
- for property of others damaged or destroyed in an accident of up to \$15,000;
- unless waived or exempt by Chapters 425 and 426 of 2016, for personal injury protection of \$2,500 per person; and
- for 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).

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 provides satisfactory evidence to MVA that the required security is in effect. If the required security for a vehicle lapses at any time, the registration of that vehicle is suspended automatically as of the date of the lapse, effective within 60 days after notification to MVA. The registration remains suspended until the vehicle owner submits evidence of replaced security on a designated MVA form, certified by the insurance provider, along with the uninsured motorist penalty fee.

When a motor vehicle is covered by two or more insurance policies, one of the policies acts as the *primary* policy, meaning that it pays out when a claim takes place. Other policies then act as *secondary* policies and are not required to pay out until the primary policy limits are exhausted.

The Maryland Vehicle Law and Rental Vehicles

The Maryland Vehicle Law governs rental vehicles. Generally, it is a misdemeanor to violate any provision of the Maryland Vehicle Law, unless the violation is declared to be a felony or is punishable by a civil penalty, as specified.

Generally, the owner of a rental vehicle must maintain the minimum security required by law for the vehicle that is *primary* to a renter's personal insurance coverage; the renter's personal insurance coverage is secondary. However, when a rental vehicle is rented as a replacement vehicle (which is a type of rental vehicle that is loaned out to or rented temporarily by a person while the person's own vehicle is not in use because of a

breakdown, repair, etc.), the owner of the rental vehicle may satisfy the security requirement by maintaining the minimum required security that is *secondary* to the renter's personal insurance coverage if that personal insurance coverage maintains the minimum required security. In such a case, the renter's (of the replacement vehicle) personal insurance coverage is primary. If applicable, this information must be disclosed to a renter in a specified manner.

Additional Information

Prior Introductions: Similar bills were introduced in the 2018 and 2017 legislative sessions. SB 573 of 2018 received a hearing in the Senate Finance Committee, but no further action was taken. SB 961 of 2017 received a hearing in the Senate Finance Committee, but no further action was taken; its cross file, HB 1385, received a hearing in the House Economic Matters Committee and was later withdrawn.

Cross File: HB 1003 (Delegate Valderrama, *et al.*) - Economic Matters.

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

Fiscal Note History: First Reader - February 28, 2019
md/jc Third Reader - May 10, 2019
Revised - Amendment(s) - May 10, 2019

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