

Department of Legislative Services  
Maryland General Assembly  
2019 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 637  
Finance

(Senators Hershey and Klausmeier)

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Insurance – Premium Finance – Refunds and Debts

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This bill authorizes a premium finance company to use a refund due to an insured to instead satisfy a debt owed by the insured to the company under any or all previous premium finance agreements within the preceding three years. A premium finance company must include a specified disclaimer in its premium finance agreement in order to use a refund in this manner.

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Fiscal Summary

**State Effect:** General fund revenues may decrease minimally due to the premium tax. Expenditures are not directly affected.

**Maryland Automobile Insurance Fund (MAIF) Effect:** MAIF operations and finances are likely affected, as discussed below.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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Analysis

**Current Law:** With respect to an insurance policy that uses a premium finance agreement, when an insurance contract is cancelled (regardless of the party responsible for the cancellation) the insurer *must* return any gross unearned premiums that are due under the insurance contract (after taking specified deductions into account) to the premium finance company for the account of the insured. After receiving this return, the premium finance company must refund the insured any amount of unearned premiums that exceed any

amount owed under the premium finance agreement. The refund is not required if the amount of the refund would be less than \$5.

An insurer that fails to return any premium in this manner must pay 1% interest per month until the premium is returned. The interest must be credited to the insured's account.

An insurer may not deduct from any returned premium any amount owed to the insurer by the insured under any other insurance contract.

**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 generally accrue to the general fund.

General fund revenues may decrease minimally to the extent that the bill results in fewer private passenger automobile insurance policies being issued in the State, which is discussed in more detail below.

**MAIF Fiscal Effect:** MAIF advises that 96% of the private passenger automobile insurance policies it issues are paid using premium finance agreements. Over the last three years, about half of the policies were cancelled by the company during the policy term. As a result, MAIF issued a refund to the premium finance company for these policies. **Exhibit 1** shows MAIF's experience with cancellations over the past three years.

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**Exhibit 1**  
**MAIF Policy Cancellations and Refunds**  
**2016-2018**

<u>Year</u>	<u>Number of Cancellations</u>	<u>Refunds to Premium Finance Companies</u>
2016	41,516	\$58,960,620
2017	38,875	61,014,774
2018	39,470	64,619,708
<b>Total</b>	<b>119,861</b>	<b>\$184,595,102</b>

MAIF: Maryland Automobile Insurance Fund

Source: Maryland Automobile Insurance Fund

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Although it is unclear how much of this refund total could be withheld under the bill, MAIF advises that doing so could result in fewer of its policyholders being able to afford MAIF's insurance policies. As the insurer of last resort for private passenger automobile insurance, MAIF generally provides insurance for vehicle owners when no other insurer will. MAIF's policyholders tend to be lower income or have more accidents on their records. MAIF advises that many of these policyholders may rely on refunds from prior policies in order to pay for a new policy; thus, the bill's authorization for premium finance companies to instead use those refunds for other debt may lead to fewer people purchasing policies due to cost. To the extent this occurs, MAIF's nonbudgeted revenues and expenditures decrease; however, any such impact cannot be reliably predicted.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1058 (Delegate Lisanti) - Economic Matters.

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

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