

SENATE BILL 530

C4

3lr2095

By: **Senators Klausmeier and McCray**
Introduced and read first time: February 3, 2023
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance – Maryland Automobile Insurance Fund – Assessments**

3 FOR the purpose of altering the formula for the calculation of certain assessments by the
4 Maryland Automobile Insurance Fund; requiring the Maryland Insurance
5 Commissioner, under certain circumstances, to authorize the Maryland Automobile
6 Insurance Fund to withdraw certain amounts from a certain overassessment account
7 to offset certain private passenger auto and commercial auto assessments;
8 prohibiting members of the Industry Automobile Insurance Association from being
9 subject to an annual assessment under certain circumstances; requiring certain
10 Association members to return certain excess surcharges, rather than depositing the
11 excess in a certain reserve fund; requiring that a certain percentage of certain fines
12 collected from uninsured motorists be paid to the Fund; and generally relating to the
13 Maryland Automobile Insurance Fund.

14 BY repealing and reenacting, without amendments,
15 Article – Insurance
16 Section 20–401
17 Annotated Code of Maryland
18 (2017 Replacement Volume and 2022 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Insurance
21 Section 20–404, 20–405, 20–409, and 20–410
22 Annotated Code of Maryland
23 (2017 Replacement Volume and 2022 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article – Transportation
26 Section 17–106(e) and (f)
27 Annotated Code of Maryland
28 (2020 Replacement Volume and 2022 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
2 That the Laws of Maryland read as follows:

3 **Article – Insurance**

4 20–401.

5 There is an Industry Automobile Insurance Association.

6 20–404.

7 (a) On or before March 15 of each year, the Fund shall determine and the Board
8 of Trustees shall certify to the Board of Directors the information required under
9 subsections (b) and (c) of this section.

10 (b) Subject to subsection (f) of this section, the following information certified to
11 the Board of Directors shall be separately identified by commercial auto and private
12 passenger auto results:

13 (1) the statutory operating loss for the immediately preceding calendar
14 year;

15 (2) a calculation to yield a private passenger auto assessment limit that is
16 determined by subtracting the year–end total surplus of the Fund for the immediately
17 preceding calendar year from an amount equal to 25% of the average of net direct written
18 private passenger auto premiums of the Fund for each of the three immediately preceding
19 calendar years; and

20 (3) a calculation to yield a commercial auto assessment limit that is
21 determined by subtracting the year–end commercial auto surplus of the Fund for the
22 immediately preceding calendar year from an amount equal to 25% of the average of net
23 direct written commercial auto premiums of the Fund for each of the 3 immediately
24 preceding calendar years.

25 (c) The assessment certified to the Board of Directors shall be equal to:

26 (1) subject to subsection (d) of this section, the assessment limit, if the
27 assessment limit is less than or equal to the statutory operating loss; or

28 (2) the statutory operating loss, if the assessment limit is greater than the
29 statutory operating loss.

30 (d) If the calculation under subsection (b)(2) of this section yields a number that
31 is less than or equal to zero, the assessment limit is zero.

1 (e) The statutory operating loss or assessment certified to the Board of Directors
2 may not include:

3 (1) assessment money received for a prior year; or

4 (2) money transferred between the commercial auto and private passenger
5 auto divisions within the Fund.

6 (f) In a calculation made under this section, income or expenses not clearly
7 attributable to either commercial auto or private passenger auto may be allocated pro rata
8 for that year.

9 **(G) PROMPTLY AFTER THE CERTIFICATION OF A TOTAL ASSESSMENT FOR**
10 **COMMERCIAL AUTO OR PRIVATE PASSENGER AUTO UNDER SUBSECTION (C) OF THIS**
11 **SECTION THE BOARD OF DIRECTORS SHALL NOTIFY THE COMMISSIONER OF THE**
12 **CERTIFICATION.**

13 **(H) NOTWITHSTANDING THE COMMERCIAL AUTO AND PASSENGER AUTO**
14 **PORTIONS OF THE OVERASSESSMENT ACCOUNT HELD BY THE FUND, ON APPROVAL**
15 **OF THE CERTIFICATION BY THE COMMISSIONER, THE COMMISSIONER SHALL**
16 **AUTHORIZE THE FUND TO WITHDRAW:**

17 **(1) AN AMOUNT EQUAL TO THE TOTAL COMMERCIAL AUTO OR**
18 **PRIVATE PASSENGER AUTO ASSESSMENT, IF THE TOTAL ASSESSMENT BALANCE FOR**
19 **THAT PORTION EXCEEDS THE TOTAL ASSESSMENT; OR**

20 **(2) THE ENTIRE COMMERCIAL AUTO OR PRIVATE PASSENGER AUTO**
21 **BALANCE IN THE ACCOUNT, IF THE TOTAL ASSESSMENT EQUALS OR EXCEEDS THE**
22 **BALANCE IN THE ACCOUNT FOR THAT PORTION.**

23 **(I) ASSOCIATION MEMBERS MAY NOT BE SUBJECT TO AN ANNUAL**
24 **ASSESSMENT IF FUNDS IN THE OVERASSESSMENT ACCOUNT ARE EQUAL TO OR**
25 **GREATER THAN THE TOTAL ASSESSMENT.**

26 **(J) ASSOCIATION MEMBERS ARE SUBJECT TO AN ANNUAL ASSESSMENT**
27 **UNDER § 20-405 OF THIS SUBTITLE IF FUNDS IN THE OVERASSESSMENT ACCOUNT**
28 **ARE LESS THAN THE TOTAL ASSESSMENT, BASED ON THE DIFFERENCE BETWEEN:**

29 **(1) THE TOTAL COMMERCIAL AUTO ASSESSMENT OR PRIVATE**
30 **PASSENGER AUTO ASSESSMENT; AND**

31 **(2) THE APPLICABLE FUNDS IN THE OVERASSESSMENT ACCOUNT.**

1 **(K) MONEY WITHDRAWN BY THE FUND UNDER SUBSECTION (H) OF THIS**
2 **SECTION:**

3 **(1) SHALL BE ALLOCATED TO THE SURPLUS OF THE FUND; AND**

4 **(2) MAY NOT BE CREDITED TO ASSOCIATION MEMBERS.**

5 20–405.

6 (a) In this section, “net direct written premiums” means direct gross premiums
7 written on all policies of motor vehicle liability insurance and motor vehicle physical
8 damage insurance less return premiums or dividends paid or credited to policyholders with
9 respect to those policies.

10 (b) On or before June 30 of each year in which the Board of Directors receives the
11 certification of an actual commercial auto or private passenger auto assessment for a
12 preceding calendar year, the Board of Directors shall perform the duties specified in this
13 section.

14 (c) The Board of Directors shall obtain from the Commissioner the aggregate net
15 direct written premiums of all Association members during the most recent calendar year
16 determined by the Commissioner for commercial auto and private passenger auto divisions
17 of motor vehicle liability insurance and motor vehicle physical damage insurance.

18 (d) (1) The Board of Directors shall calculate assessment allocation
19 percentages for commercial auto and private passenger auto divisions by dividing the most
20 recent certified assessment for commercial auto and private passenger auto divisions by
21 the total of:

22 (i) the respective aggregate net direct written premiums obtained
23 under subsection (c) of this section; and

24 (ii) the respective total net direct written premiums of the Fund for
25 the same period.

26 (2) The assessment allocation percentage for the private passenger auto
27 division may not exceed 3%.

28 (e) The Board of Directors shall give notice of the assessment allocation
29 percentages determined under this section to the Fund, the Commissioner, and all
30 Association members.

31 (f) The Board of Directors promptly shall assess and collect from each Association
32 member for the commercial auto and private passenger auto divisions an assessment
33 obtained by:

1 (1) multiplying the Association member's net direct written premiums in
2 each division for the most recent calendar year determined by the Commissioner by the
3 appropriate assessment allocation percentage, calculated under subsection (d) of this
4 section; and

5 (2) adjusting the resulting product for any [surcharge excess or] shortfall
6 experienced by the Association member for the previous applicable surcharge year.

7 (g) An Association member may deduct an assessment payment from a
8 retaliatory tax but may not deduct the payment from any other assessment or tax required
9 by law.

10 (h) (1) The Association:

11 (i) first, shall deposit the certified assessment into the Insufficiency
12 Assessment Reserve Fund that is created under § 20-410 of this subtitle and apply the
13 appropriate parts of the certified assessment to the private passenger auto and commercial
14 auto divisions of the Insufficiency Assessment Reserve Fund; and

15 (ii) then, shall pay to the Fund the entire certified assessment in one
16 sum, less the part of the certified assessment allocated to the Fund.

17 (2) Any money in the Insufficiency Assessment Reserve Fund from a
18 previous year shall be paid to the Fund on December 31 of each year.

19 20-409.

20 (a) If the aggregate amount of assessment surcharges received by an Association
21 member during a surcharge year is less than that Association member's assessment
22 payment, the Association member's assessment surcharge authorized under § 20-406 of
23 this subtitle shall be increased accordingly for the next appropriate surcharge year.

24 (b) **(1)** If the aggregate amount of assessment surcharges received by an
25 Association member during a recoupment year exceeds the Association member's
26 assessment payment, the Association [member shall deposit the excess in the Insufficiency
27 Assessment Reserve Fund as provided in § 20-410 of this subtitle and shall receive a credit
28 for the amount deposited against the next appropriate assessment imposed under this
29 subtitle] **SHALL PROMPTLY RETURN THE EXCESS TO THE ASSOCIATION MEMBER.**

30 **(2) AN ASSOCIATION MEMBER TO WHOM AN EXCESS IS RETURNED**
31 **UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:**

32 **(I) REFUND THE EXCESS TO THE POLICYHOLDERS WHO PAID**
33 **THE EXCESS; OR**

1 **(II) APPLY THE EXCESS AS AN EXPENSE REDUCTION IN A**
 2 **SUBSEQUENT RATE FILING.**

3 [(c) The Association may adjust the annual assessment allocation percentage for
 4 an Association member to reflect any surcharge excess or shortfall for the previous
 5 applicable surcharge year.]

6 20–410.

7 (a) There is an Insufficiency Assessment Reserve Fund.

8 (b) The Insufficiency Assessment Reserve Fund shall be maintained by the
 9 Association and shall consist of[:

10 (1) payments of] assessment [surcharges] **PAYMENTS** collected by the
 11 Association [to cover any actual operating loss that the Fund sustains;

12 (2) any gross excess surcharges received by an Association member on
 13 account of an assessment made under this subtitle; and

14 (3) the full amount of the income from assessment payments and gross
 15 excess surcharges in investments] **AND INTEREST, IF ANY.**

16 (c) (1) Except as provided in paragraph (2) of this subsection, the Association
 17 shall hold money of the Insufficiency Assessment Reserve Fund in trust in a separate
 18 interest-bearing account in a financial institution in the State for the use of the Fund.

19 (2) The Association may authorize the financial institution where the
 20 money is deposited to invest all or part of the money in investments allowed for casualty
 21 insurers, as provided in §§ 5–601 through 5–609 of this article.

22 (d) An Association member shall deposit with the Association any gross excess
 23 surcharges received because of a future assessment not later than October 15 after the
 24 surcharge year in which the gross excess surcharge was received.

25 **Article – Transportation**

26 17–106.

27 (e) (1) (i) 1. Except as provided in subparagraphs (iv) and (v) of this
 28 paragraph, in addition to any other penalty provided for in the Maryland Vehicle Law, if
 29 the required security for a vehicle terminates or otherwise lapses during its registration
 30 year, the Administration may assess the owner of the vehicle with a penalty of \$150 for
 31 each vehicle without the required security for a period of 1 to 30 days.

1 2. If a fine is assessed, beginning on the 31st day the fine
2 shall increase by a rate of \$7 for each day.

3 (ii) Each period during which the required security for a vehicle
4 terminates or otherwise lapses shall constitute a separate violation.

5 (iii) The penalty imposed under this subsection may not exceed
6 \$2,500 for each violation in a 12-month period.

7 (iv) The Administration may not assess a penalty under this
8 subsection if:

9 1. The registration plates of the vehicle are returned to the
10 Administration within 10 days after the termination or lapse of the required security, as
11 shown by the records of the Administration; and

12 2. A. The certificate of title for the vehicle has been
13 transferred to a new owner;

14 B. The registered owner has moved out-of-state and the
15 registration plates are returned by mail;

16 C. A salvage certificate has been issued for the vehicle; or

17 D. A licensed dealer has taken possession of the vehicle with
18 an obligation to return the registration plates.

19 (v) Before the Administration may assess a penalty under this
20 subsection, the Administration shall first verify that the registration plates for the vehicle
21 were not returned to the Administration within 10 days after the termination or lapse of
22 the required security.

23 (2) (i) Except as provided under paragraph (3) of this subsection, a
24 penalty assessed under this subsection shall be paid as follows:

25 1. [70%] **50%** to be allocated as provided in subparagraph (ii)
26 of this paragraph; [and]

27 2. 30% to the Administration, which may be used by the
28 Administration, subject to subsection (f) of this section, to provide funding for contracts
29 with independent agents to assist in the recovery of evidences of registration as authorized
30 in subsection (d)(3) of this section; **AND**

31 3. **20% TO THE MARYLAND AUTOMOBILE INSURANCE**
32 **FUND.**

1 (ii) For each fiscal year beginning on or after July 1, 2014, the
2 percentage of the penalties specified under subparagraph (i)1 of this paragraph shall be
3 allocated among the Safe Schools Fund, the Vehicle Theft Prevention Fund[, the Maryland
4 Automobile Insurance Fund,] and the General Fund as follows:

5 1. \$600,000 to the Safe Schools Fund;

6 2. \$2,000,000 to the Vehicle Theft Prevention Fund; **AND**

7 3. [To the Maryland Automobile Insurance Fund, the
8 amount distributed to the Maryland Automobile Insurance Fund in the prior fiscal year
9 under the provisions of this paragraph adjusted by the change for the calendar year
10 preceding the fiscal year in the Consumer Price Index – All Urban Consumers – Medical
11 Care as published by the United States Bureau of Labor Statistics; and

12 4.] The balance to the General Fund.

13 (3) Beginning July 1, 2018, any uninsured motorist penalties the
14 Administration receives under the Program to Incentivize and Enable Uninsured Vehicle
15 Owners to Be Insured established under § 20–612 of the Insurance Article shall be paid to
16 the Uninsured Division of the Maryland Automobile Insurance Fund.

17 (4) If the Administration assesses a vehicle owner, co-owner, or lessee with
18 a penalty under this subsection, the Administration may not take any of the following
19 actions until the penalty is paid:

20 (i) Reinstate a registration suspended under this subsection;

21 (ii) Except for a temporary registration as provided under §
22 13–602(a)(2) of this article, issue a new registration for any vehicle that is owned,
23 co-owned, or leased by that person and is titled after the violation date; or

24 (iii) Renew a registration for a vehicle that is owned, co-owned, or
25 leased by that person.

26 (5) (i) In this paragraph, “family member” means any individual whose
27 relationship to the vehicle owner is one of those listed under § 13–810(c)(1) of this article
28 as being exempt from paying the excise tax imposed on the transfer of a vehicle.

29 (ii) The monetary penalties provided in this subsection may not be
30 avoided by transferring title to the vehicle.

31 (iii) Except as provided in paragraph (1)(iv) and (v) of this subsection,
32 regardless of whether money or other valuable consideration is involved in the transfer, if
33 title to a vehicle is transferred by an individual who has violated this subtitle to a family
34 member, any suspension of the vehicle’s registration that occurred before the transfer shall

1 continue as if no transfer had occurred and a new registration may not be issued until the
2 penalty fee is paid.

3 (6) An amount equal to the monetary penalties paid to the Administration
4 under paragraph (2) of this subsection may be used by the Administration only for the
5 enforcement of this subtitle.

6 (f) From the amount distributed to the Administration under subsection
7 ~~[(e)(2)(i)2]~~ **(E)(2)(I)3** of this section, expenditures to fund contracts entered into under
8 subsection (d)(3) of this section:

9 (1) May not exceed \$1,000,000 in any fiscal year; and

10 (2) May be made only:

11 (i) Pursuant to an appropriation approved by the General Assembly
12 in the annual State budget; or

13 (ii) Through the budget amendment procedure provided for in §
14 7-209 of the State Finance and Procurement Article, provided that:

15 1. The budget amendment and supporting information have
16 been submitted to the budget committees for review and comment; and

17 2. At least 45 days have elapsed from the time the budget
18 amendment and supporting information were submitted to the budget committees.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
20 1, 2023.