

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
 Enrolled - Revised

Senate Bill 530
 Finance

(Senators Klausmeier and McCray)

Economic Matters

Insurance – Maryland Automobile Insurance Fund – Assessments

This bill increases the Maryland Automobile Insurance Fund’s (MAIF) share of uninsured motorist penalties collected by the Motor Vehicle Administration (MVA) by \$2.0 million for fiscal 2024 only and makes conforming changes. The bill also alters the assessment collection process that takes place when MAIF experiences a significant operating loss and, on June 1, 2023, requires the Industry Automobile Insurance Association (IAIA) Board of Directors to authorize MAIF to withdraw from the money held by MAIF from a prior overassessment. By July 1, 2023, MAIF must submit a report to the General Assembly on the application of the overassessment funds withdrawn and all fund balances in its insured and uninsured divisions. **The bill takes effect June 1, 2023.**

Fiscal Summary

State Effect: Nonbudgeted fund balance totaling \$10.2 million is transferred to MAIF in FY 2023 (reflected below as an increase in expenditures). General fund revenues decrease by \$2.0 million in FY 2024. **This bill modifies a mandated distribution in FY 2024.**

| (\$ in millions) | FY 2023 | FY 2024 | FY 2025 | FY 2026 | FY 2027 |
|------------------|----------|---------|---------|---------|---------|
| GF Revenue | \$0 | (\$2.0) | \$0 | \$0 | \$0 |
| NonBud Exp. | 10.2 | 0 | 0 | 0 | 0 |
| Net Effect | (\$10.2) | (\$2.0) | \$0 | \$0 | \$0 |

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

MAIF Effect: Nonbudgeted revenues for MAIF increase by \$10.2 million in FY 2023 (due to the fund balance transfer that year) and increase by \$2.0 million in FY 2024. MAIF can complete the required report using existing budgeted resources.

| (\$ in millions) | FY 2023 | FY 2024 | FY 2025 | FY 2026 | FY 2027 |
|------------------|---------|---------|---------|---------|---------|
| NonBud Rev. | \$10.2 | \$2.0 | \$0 | \$0 | \$0 |
| Expenditure | 0 | 0 | 0 | 0 | 0 |
| Net Effect | \$10.2 | \$2.0 | \$0 | \$0 | \$0 |

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

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

Small Business Effect: None.

Analysis

Bill Summary:

Assessments to Fund the Maryland Automobile Insurance Fund

Promptly after the certification of an assessment by the Board of Trustees for commercial auto or private passenger auto insurers, the IAIA Board of Directors must notify the Commissioner of the certification. On the Commissioner's verification of the Board of Trustees' certification, the IAIA Board of Directors must authorize MAIF to withdraw from the money held by MAIF from a prior overassessment (1) an amount equal to the commercial auto or private passenger auto assessment, if the assessment balance for that portion exceeds the assessment or (2) the entire commercial auto or private passenger auto balance, if the assessment equals or exceeds the balance for that portion. Additionally, on June 1, 2023, the IAIA Board of Directors must authorize MAIF to withdraw from the money held by MAIF from a prior overassessment. Funds withdrawn by MAIF in this manner must be credited to MAIF's surplus and may not be credited to IAIA members.

Association members may not be subject to an annual assessment if the amount of money held by MAIF from a prior overassessment is equal to or greater than the assessment. Association members are subject to an annual assessment if the amount of money held by MAIF from a prior overassessment is less than the assessment, based on the difference between the commercial auto assessment or private passenger auto assessment and the applicable amount of money held by MAIF from a prior overassessment.

Overassessments on Association Members

If an IAIA member overpays for their portion of the assessment, then IAIA must promptly return the excess to the member and is no longer authorized to deposit the overpayment into the Insufficiency Assessment Reserve Fund. An association member who receives a refund must either (1) refund the excess to the policyholders who paid the excess or (2) apply the excess as an expense reduction in a subsequent rate filing. Obsolete provisions related to overpayment credits against future assessments and any such overpayment revenue in the Insufficiency Assessment Reserve Fund are repealed.

Current Law:

Maryland Automobile Insurance Fund

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. As the insurer of last resort, MAIF is not in direct competition with the private insurance industry because a customer must generally have been turned down by other insurers (and meet other requirements) in order to obtain a policy with MAIF.

Like other insurers, MAIF is primarily funded through premiums on the insurance policies it issues; however, MAIF is authorized to issue an assessment paid by other motor vehicle insurers in the State if it experiences a significant operating loss (as defined by State law) and meets other specified conditions. This is to ensure MAIF's continued viability as the insurer of last resort. The assessment is grouped and paid separately by private passenger auto insurers and commercial auto insurers. Once an insurer pays the assessment, they are authorized to recoup the cost from their policyholders. MAIF has not issued an assessment since 1989.

Industry Automobile Insurance Association and Assessments

IAIA is an association that consists of all insurers in the State (except for MAIF) that are licensed to issue motor vehicle liability insurance or motor vehicle physical damage insurance. Any such insurer must join IAIA as a condition of its authority to sell insurance. IAIA is governed by its Board of Directors, and it is responsible for, among other things, working with the Commissioner and MAIF to calculate, assess, and collect the MAIF assessment. The assessment must be deposited into the Insufficiency Assessment Reserve Fund and then the amount of the assessment must be remitted to MAIF from that fund.

In the event that an association member overpays and recoups too much from its policyholders, the excess must be retained in the Insufficiency Assessment Reserve Fund, and the member must receive a credit against any future assessment. IAIA may adjust the assessment allocation percentages for an association to account for any such overpayment or an underpayment.

Uninsured Motorist Penalties and Revenue Distribution

MVA may assess the owner of a 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 per 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.

A portion of the fines collected under the escalating penalty structure for lapsed security is retained in MVA (30%) for specified purposes; the rest (70%) is directed under the following allocation formula:

- \$600,000 to the Safe Schools Fund;
- \$2.0 million to the State Police's Vehicle Theft Prevention Fund;
- a specified amount to MAIF based on the amount provided in the prior fiscal year adjusted for inflation; and
- the balance to the general fund.

State/MAIF Fiscal Effect: MAIF is currently operating at a deficit as the projected income for its uninsured division for fiscal 2023 is \$5.2 million, while projected costs are \$5.5 million. The uninsured division has a surplus of \$1.8 million, but this amount can only keep MAIF's uninsured division solvent for about six years (or fewer if the annual operating deficit increases). Moreover, MAIF's insured division has had difficulties in recent years ensuring that premium revenues are adequate to cover all claims and expenses.

The bill assists MAIF by increasing its revenues in two separate ways. First, the bill alters the distribution of uninsured motorist penalties by increasing MAIF's share of the revenues and decreasing the general fund share of the revenues for fiscal 2024. Second, the bill alters the process by which assessments are issued to automobile insurers in the State and collected when MAIF experiences a significant operating loss and, in doing so, allows MAIF to access overpayment reserve funds that were collected during the 1989 assessment.

In summary, nonbudgeted revenues for MAIF (1) increase by \$10.2 million in fiscal 2023 as the nonbudgeted reserve funds become available to MAIF and (2) increase by \$2.0 million in fiscal 2024 due to redistribution of uninsured motorist penalties in that year only.

Uninsured Motorist Penalty Distribution

Exhibit 1 shows the distribution of the assumed \$70.7 million in uninsured motorist penalties collected by MVA for fiscal 2024, with MAIF receiving an additional \$2.0 million that would otherwise have gone to the general fund.

Exhibit 1
Estimated Uninsured Motorist Penalties
Distribution Under Current Law vs. as Proposed Under the Bill
Fiscal 2024

| | <u>Current Law</u> | <u>Under the Bill</u> | <u>Change</u> |
|-------------------------------|---------------------|-----------------------|---------------|
| MVA | \$21,237,244 | \$21,237,244 | \$0 |
| MAIF | 4,400,307 | 6,400,307 | 2,000,000 |
| Safe Schools Fund | 600,000 | 600,000 | 0 |
| Vehicle Theft Prevention Fund | 2,000,000 | 2,000,000 | 0 |
| General Fund (remainder) | 42,430,491 | 40,430,491 | -2,000,000 |
| Total Fines | \$70,668,042 | \$70,668,042 | \$0 |

MAIF: Maryland Automobile Insurance Fund

MVA: Motor Vehicle Administration

Source: Maryland Automobile Insurance Fund, Motor Vehicle Administration

Changes to Assessments

MAIF advises that, during the 1989 assessment, more than 100 insurers doing business in the State overpaid their assessments resulting in credits totaling \$9.7 million from private passenger insurers and \$478,000 from commercial insurers. These funds are in the Insufficiency Assessment Reserve Fund but cannot be used until the insurer liabilities to its policyholders are paid and the credit is subsequently redeemed. However, given that the last assessment was 34 years ago, many insurers cannot provide a return to their policyholders because the insurer is no longer doing business in Maryland (which is true for more than 50 insurers), or the policyholder is no longer with the insurer.

The bill allows MAIF to access these nonbudgeted reserve funds, increasing MAIF revenues by \$10.2 million in fiscal 2023 (since the bill takes effect June 1, 2023). Also, should there be any future assessments, the bill requires insurers to immediately return any overpayments to insureds.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

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

Fiscal Note History: First Reader - February 21, 2023
km/jc Third Reader - April 5, 2023
Revised - Amendment(s) - April 5, 2023
Revised - Correction - April 5, 2023
Enrolled - May 3, 2023
Revised - Amendment(s) - May 3, 2023
Revised - Clarification - May 3, 2023

Analysis by: Richard L. Duncan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510