

**MAJ - EUIM Opt Out - hb266.sb301 - 2022.pdf**

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Position: FAV



## **HB 266/ SB 301 Private Passenger Motor Vehicle Liability Insurance – Enhanced Underinsured Motorist Coverage – Opt-Out Option**

### **FAVORABLE**

HB 266/ SB 301 will let Maryland motorists get the full benefit of the insurance they are currently paying for.

“Car insurance,” to most people, is coverage that pays someone else. You have an accident that is your fault which causes personal injury; the victim is compensated by your carrier. This type of insurance, known as “liability coverage,” exists to ensure that the injured do not have to bear the financial burden of losses caused by someone else’s negligence, and to protect the insured negligent driver against the risk of having to personally pay for damages they cause. Under current law, Maryland motorists are only required to buy \$30,000 in liability coverage. This is the state minimum coverage. What this means is that no matter how badly injured, the maximum the liability insurance company will pay any victim is \$30,000.

Unfortunately, not every driver buys insurance, and others do not buy enough. An uninsured driver is a person who does not have insurance, while an underinsured driver is a person who did not buy enough liability coverage to pay for all the damages he or she has caused. Uninsured/underinsured motorist insurance coverage is used if a person with either no insurance or not enough insurance causes damages that they do not have enough insurance to cover. Without uninsured/underinsured motorist insurance, the injured person has to pay for these losses themselves, even though they were caused by someone else’s negligence.

Maryland law requires that insurers provide uninsured/underinsured motorist coverage (“UM Coverage”) to protect Maryland citizens against damages caused by the negligence of an uninsured or underinsured driver. Md. Ins. Art. §19-509. The amount of that UM coverage, unless waived by the insured consumer in writing, may be as much as, but no greater than, the coverage purchased against liability to other drivers.

Currently when you buy motor vehicle insurance your insurance company issues a declarations page which explains the amount of your UM Coverage. What you do not know, unless you read the entire policy, is that your insurance company is entitled to deduct from that coverage the amount paid by an underinsured motorist. The only way currently that this does not happen is if the consumer purchase “Enhanced Underinsured Coverage” which was passed into law in 2017 and approved by this committee in a bipartisan fashion with a 15-4 vote in favor. However, since the passage of this law very few consumers have purchased this coverage, primarily because they do not know that is an option.

Assume for example that a person who purchases coverage of \$50,000 also has UM Coverage in the same amount. Assume further he is involved in an accident in which the other driver is at fault who only has the minimum coverage of \$30,000. Currently, if the injured person incurs \$80,000 of economic damages (medical expenses) he looks to his UM policy to cover that portion of his damages above the other driver's insurance coverage. One would think that he will recover \$30,000 from the other driver, and \$50,000 from his own UM Coverage and have 100% of the \$80,000 damages paid. Sadly, that is not the case unless that person purchased Enhanced Underinsured Motorist Coverage.

Under current motor vehicle insurance law in Maryland, he can receive no more than \$50,000, the maximum amount of his UM Coverage unless he has the enhanced coverage. His insurer will deduct the amount he receives from the other driver from the amount of his UM Coverage and pay a mere \$20,000, leaving \$30,000 of his loss uncompensated – despite his paying for \$50,000.00 in coverage! So, in this example, the insurer deducts what the other driver pays from the maximum amount of UM Coverage. HB 266/ SB 301 makes the enhanced coverage the norm unless the consumer makes the affirmative decision to waive that coverage. When they are purchasing their policy they will be presented with the option to “opt out” of the enhanced coverage, and they will be shown the difference in price between the two options. They can then make an informed decision as to whether or not they want the coverage.

HB 266/ SB 301 offers consumers the opportunity to buy better coverage for themselves and their families by eliminating this “hidden deductible” and allowing them to receive the benefit of the bargain for which they paid. They also will see exactly how much they are deciding to pay for this coverage and can decide if they do not want it. This bill allows consumers to be better informed about the insurance they are paying for. If they do not want to pay for it, they can opt out by waiving the coverage.

In our example, the injured person paid for \$50,000.00 in coverage but is only receiving \$20,000.00. Why is this fair? If the at-fault driver had been uninsured, the injured party would have received the entire \$50,000.00 in benefits for which he paid without any hidden deductible.

HB 266/ SB 301 will eliminate the “hidden deductible” and allow our victim in the example to stack the coverages. The consumer will be able to see the difference in price between the two coverages and can make an informed decision as to whether or not they want to pay for better coverage. So, in the example, had the injured party not waived enhanced underinsured motorist coverage he would receive \$30,000 from the negligent driver of the other car, and the full \$50,000 from his own UM coverage. He would get what he paid a premium for. This additional money will allow the injured party to become “whole” as well as diminish the amount of uncompensated healthcare for there will be additional funds with which to pay for the medical expenses.

## **The Maryland Association for Justice urges a Favorable Report**

**SB 301\_IAB\_UNF.pdf**

Uploaded by: Bryson Popham

Position: UNF

## Bryson F. Popham, P.A.

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January 29, 2022

The Honorable Delores G. Kelley  
Chairman, Senate Finance Committee  
3 East, Miller Senate Office Building  
Annapolis, Maryland 21401

RE: Senate Bill 301 - Private Passenger Motor Vehicle Liability Insurance – Enhanced Underinsured Motorist Coverage – Opt-Out Option - UNFAVORABLE

Dear Chairman Kelley and Members of the Senate Finance Committee,

Our client, the Insurance Agents and Brokers of Maryland (IA&B), is a trade association comprised of nearly 200 independent agencies, employing between 1,000 and 2,000 licensed Maryland insurance producers, which are located in and doing business throughout the State of Maryland and surrounding states. IA&B wishes to register its opposition to Senate Bill 301, Private Passenger Motor Vehicle Liability Insurance – Enhanced Underinsured Motorist Coverage (EUIM) – Opt-Out Option.

IA&B understands that opposition to Senate Bill 301 has been raised because it takes a previously optional insurance coverage and makes it mandatory, unless a policyholder decides to “opt out” of the requirement. IA&B agrees that such a decision is unwise public policy and would likely result in the purchase of this coverage by insurance consumers who have not elected to do so since EUIM was first available in 2017.

Independent insurance agents, who comprise the membership of IA&B, have an informed view of consumer behavior with respect to the purchase of coverage options under private passenger automobile insurance. The overall cost of the product is, perhaps obviously, the most significant factor. IA&B members, however, also consider the individual needs of policyholders, the risks they may face while operating their vehicles, and the insurance coverages that are responsive to those risks. Agents must balance these and other factors in advising and servicing their clients. IA&B has not heard from its members or others that EUIM should be made a compulsory coverage in any way. Conversely, IA&B members consult with clients on such common coverage options as suitable limits of liability, deductibles for comprehensive and collision coverage on different vehicles, and other options. EUIM is one of the options that may be considered. It is a tool that both agents and their clients may use if deemed appropriate.

If the statutory formula changes from the current practice of electing EUIM coverage to a formula which mandates its purchase unless expressly rejected, many insureds would simply pay the additional premium without evaluating the need for the coverage. This prospect was considered when the EUIM legislation was before the General Assembly in 2017, and the policy decision at that time was to allow the insured to make the decision whether to purchase EUIM coverage. The General Assembly made the correct decision in 2017, and there is no need to change it today.

For these reasons, IA&B respectfully requests an unfavorable report on Senate Bill 301.

Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink that reads "Bryson Popham". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Bryson F. Popham

**SB 301\_MAMIC\_UNF.pdf**

Uploaded by: Bryson Popham

Position: UNF

## Bryson F. Popham, P.A.

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January 25, 2022

The Honorable Delores G. Kelley  
Chairman, Senate Finance Committee  
3 East, Miller Senate Office Building  
Annapolis, Maryland 21401

RE: Senate Bill 301 - Private Passenger Motor Vehicle Liability Insurance – Enhanced Underinsured Motorist Coverage – Opt–Out Option - UNFAVORABLE

Dear Chairman Kelley and Members of the Senate Finance Committee,

I am writing on behalf of the Maryland Association of Mutual Insurance Companies (MAMIC) in respectful opposition to Senate Bill 301 - Private Passenger Motor Vehicle Liability Insurance – Enhanced Underinsured Motorist Coverage – Opt–Out Option.

MAMIC is comprised of 12 mutual insurance companies that are headquartered both in Maryland and in neighboring states. Together, MAMIC members offer a wide variety of homeowners and other insurance products, both personal and commercial, for thousands of Maryland citizens. MAMIC members are a key component of the property and casualty insurance industry that serves Maryland.

A number of MAMIC members offer private passenger automobile insurance policies in the State. As required by statute, these policies offer insureds the option to elect Enhanced Underinsured Motorist Coverage (EUIM). This option has been in place for several years. It is worth noting that both uninsured and underinsured motorist coverage have been required under Maryland law for many more years, and have collectively served to protect Maryland motorists who have been involved in accidents with vehicles having either no insurance or inadequate insurance to cover the loss that has occurred.

This system worked well for the benefit of consumers before the addition of EUIM in 2017. It continues to work well today. There has been no evidence since enactment that consumers have been, in any way, disadvantaged by this combination of coverages that protects them. If consumers desire to add EUIM coverage, they may easily do so. It is also worth noting that there has been no statement from the Maryland Insurance Administration indicating the need for a policy change with respect to EUIM.

Senate Bill 301 seeks to enact just such a policy change. It would reverse the agreement made among legislators and stakeholders in 2017 to add this coverage to the menu of available insurance coverages for Maryland insurance consumers. Instead, it would require all consumers to purchase the coverage, unless they affirmatively reject – “opt out” of – the obligation to do so.

This new mandate would result in needless additional expense for the many insureds who, for a variety of reasons, may not have the opportunity to carefully review their options. These consumers would simply pay the new, additional premium for EUIM coverage that they did not previously elect to have.

Absent some compelling public policy argument illustrating the need to compel EUIM coverage, of which there is none, the result of enacting this legislation would be to further increase in the cost of a product required by law that is already expensive. The current statutory model of permitting, but not requiring, consumers to elect EUIM coverage was the correct decision in 2017, and remains so today.

For these reasons, MAMIC respectfully requests an unfavorable report on Senate Bill 301.

Very truly yours,

A handwritten signature in black ink, reading "Bryson Popham". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Bryson F. Popham

cc: Bob Glass

# **SB301 Testimony Unfavorable State Farm.pdf**

Uploaded by: Marta Harting

Position: UNF

**STATE FARM INSURANCE COMPANIES**  
**OPPOSITION TO SB 301 (PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE –**  
**ENHANCED UNDERINSURED MOTORIST COVERAGE – OPT OUT OPTION)**

SB 301 would change enhanced underinsured motorist (EUIM) coverage from being an optional coverage that must be offered to all private passenger motor vehicle insurance applicants, but provided only to those demonstrate their desire to purchase (and pay for) the coverage by opting in, to being a default coverage that is provided to all insureds except those that affirmative decline it.

Under current law, all insurance applicants must be notified in writing of the availability of this coverage and given the option to purchase it if they choose. The Maryland Insurance Administration promulgated the form of the notice that must be provided to applicants and explaining what EUIM coverage is so that applicants can make an informed choice whether to purchase the coverage. If the applicant decides that s/he wants the coverage, the applicant simply checks the box on the form to purchase the coverage and signs the form.

Since the law requiring EUIM coverage to be made available passed in 2017, only 0.5% of State Farm's auto insurance policies include this coverage. Put another way, virtually all – 99.5% - of insurance applicants do not opt to buy this coverage, which costs 123% more than traditional UM coverage on average. Given the overwhelming lack of interest in this coverage, there is no basis to make it the default option. Doing so will result in insureds being provided -- and paying higher premiums for -- coverage that experience has shown they do not want or need.

For more information, please contact Marta Harting ([mdharting@venable.com](mailto:mdharting@venable.com)).

# **NAMIC SB 301 testimony.pdf**

Uploaded by: Matt Overturf

Position: UNF

January 31, 2022

The Honorable Delores Kelley  
Chair, Senate Finance Committee  
3 East Miller Senate Office Building  
Annapolis, MD 21401

RE: Senate Bill 301 – Private Passenger Motor Vehicle Liability Insurance – Enhanced Underinsured Motorist Coverage – Opt-Out Option - UNFAVORABLE

Dear Chairwoman Kelley and Members of the Senate Finance Committee,

My name is Matt Overturf, Regional Vice President for the Ohio Valley/Mid-Atlantic region with the National Association of Mutual Insurance Companies (NAMIC). NAMIC is the largest property/casualty insurance trade group with a diverse membership of nearly 1,500 local, regional, and national member companies, including eight of the top 10 property/casualty insurers in the United States. NAMIC members lead the personal lines sector representing 67 percent of the homeowner's insurance market and 55 percent of the auto market. NAMIC requests an unfavorable report on Senate Bill 301 as it will likely create upward pressure on auto insurance premiums for Maryland drivers.

Since 2018, Maryland law has required insurers to offer Enhanced Underinsured Motorist Coverage (EUIM) to policyholders and provide the policyholder the opportunity to choose the enhanced coverage. SB 301 would create a more burdensome process for the consumer with the proposed opt-out option. We have a shared interest in reducing the cost of insurance; therefore, NAMIC is concerned that this proposed change could adversely impact the cost of auto insurance.

NAMIC appreciates the opportunity to provide our concerns to the committee and requests an unfavorable report on SB 301.

Thank you,

Matt Overturf  
Regional Vice President  
Ohio Valley / Mid-Atlantic Region  
937.935.0432 | [mverturf@namic.org](mailto:mverturf@namic.org)

**SB 301 APCIA OPPOSE UIM 020222.pdf**

Uploaded by: Nancy Egan

Position: UNF



## Testimony of

### American Property Casualty Insurance Association (APCIA)

#### Senate Finance Committee

#### Senate Bill 301 Private Passenger Motor Vehicle Liability Insurance – Enhanced Underinsured Motorist Coverage – Opt-Out Option

January 27, 2022

#### Letter of Opposition

The American Property Casualty Insurance Association (APCIA) is a national trade organization representing nearly 60 percent of the U.S. property casualty insurance market. Our members write approximately 50.9 percent of all private passenger auto insurance sold in Maryland. APCIA appreciates the opportunity to provide written comments in opposition to SB 301. APCIA strongly opposes this bill which would change the current system which defaults to “offset” underinsured motorist coverage with “enhanced” underinsured motorist coverage being an option to the opposite which would increase the costs of insurance for all consumers across the state without a showing of demonstrative need by the consumer. **It automatically converts current auto policies to Enhanced UIM coverage without the consumer’s agreement. Their premiums will automatically go up October 1, 2022, even though they didn’t request this coverage.**

#### Underinsured Motorist Coverage (UIM)

Maryland law requires for private passenger vehicles registered in the state to provide certain minimum coverages which includes uninsured motorist coverage in a limit that is equal to limits provided for bodily injury and property damage under the policy. (Section § 19-509 (e)(2))

Underinsured motorist coverage for bodily injury (UIM-BI) provides reimbursement to the non-at-fault party who is hurt in an accident. If the negligent driver’s liability insurance limits are too low to adequately compensate the victim, the UIM-BI coverage pays for the additional excess. This bill changes Maryland UIM law from a default “offset” definition to an “enhanced” provision. The difference between the two provisions is essentially how an “underinsured” motorist is defined. **However, this change could increase auto insurance costs by two thirds.**

Current law provides that the default coverage provided for UIM is an offset coverage.

- The **Offset** provision works as a **comparison** between the two parties’ insurance coverage: The injured party’s UIM-BI coverage is triggered when the UIM-BI limit exceeds the at-fault driver’s policy liability limit. The maximum amount paid is the difference (offset) between the victim’s UIM-BI limit and the at-fault driver’s liability limit. For example, if the injured party’s UIM-BI limit is \$100,000 and the negligent driver’s liability limit is \$25,000, the victim could collect the difference between \$25,000 from the at-fault driver and injured parties UIM limit of \$100,000, up to \$75,000 more.
- The **Enhanced** provision defines an underinsured motorist in terms of the injured party’s damages. Again, the injured party’s damages must be greater than the at-fault driver’s liability limit. Using the same example, the maximum compensation may equal the injured party’s UIM-BI coverage limit added to the amount of liability coverage from the at-fault driver. The injured

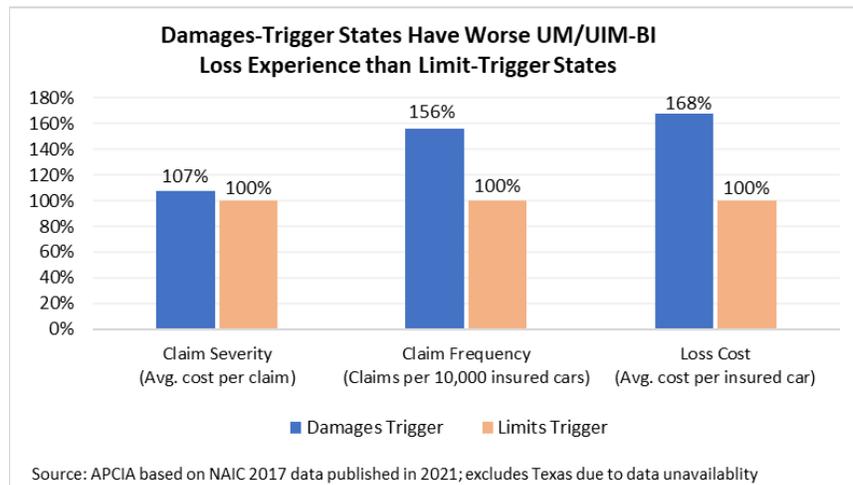
party could collect \$25,000 from the at-fault driver plus an additional \$100,000 under his or her own UIM-BI coverage, or a total of \$125,000.

APCIA’s analysis, using data for uninsured/underinsured motorist coverage for bodily injury (UIM-BI), found that the average loss per insured car in states with an enhanced UIM provision is **two thirds more as much as the average loss per insured car in states with an offset UIM provision.**

### Insured loss comparison of states with offset versus excess UIM provisions.

Using UM/UIM-BI experience compiled by the National Association of Insurance Commissioners (NAIC),<sup>1</sup> a comparison between the enhanced and offset states shows the following:

- On average, enhanced-trigger states compensate over **56 percent more UM/UIM-BI claimants than offset-trigger states.** For every 10,000 insured cars, there are about 24 UM/UIM-BI claims in excess-trigger states compared to approximately 15 UM/UIM-BI claims in offset-trigger states.
- **The average cost of a UM/UIM-BI claim is 7 percent higher in excess-trigger states than in offset-trigger states (\$30,474 – damages vs. \$28,411 – limits).**
- Combining the above claim frequency and average claim cost (i.e., claim severity) together results in a **UM/UIM-BI loss cost<sup>2</sup> that is two thirds larger (68% higher) in excess- trigger states than in offset-trigger states.**



<sup>1</sup> The 27 offset trigger states are: CA, CO, CT, HI, IL, IN, KS, ME, MD, MA, MS, MO, NE, NH, NJ, NM, NY, NC, ND, OH, OR, TN, TX, VT, VA, WV, and WI. The 20 enhanced trigger states are: AL, AK, AZ, AR, DE, DC, FL, ID, IA, KY, LA, MN, MT, NV, OK, PA, SC, SD, UT and WA. The 4 remaining states have the following provisions: GA has a excess trigger default, but policyholders can select a offset trigger default or reject it. RI allows for either a offset or excess trigger. MI & WY have no statutory provisions pertaining to a UIM-BI coverage trigger. APCIA calculations using 2016 NAIC data, the most recent available from the NAIC *Auto Insurance Database Report*, 2020 Ed. Since UIM data alone are not available, UM/UIM data are examined. TX is excluded from calculations due to data limitations from the NAIC source report. NAIC does not endorse any analysis or conclusions based upon the use of its data.

<sup>2</sup> iii Loss Cost is the average claim cost per insured vehicle.

## Conclusion

Higher insurance costs are found in enhanced states than in states with offset trigger provisions. While states with an enhanced trigger provide more coverage, **costs two thirds more for insurers and their customers.** Offset triggers and offsets for the at-fault driver's liability limit benefit all policyholders and, as such, should continue to be allowed.

**During this time of continued economic recovery, keeping costs down for consumers should be the most significant consideration. APCIA respectfully urges lawmakers to defeat any legislative bill that proposes to alter the UIM trigger from an offset provision to an enhanced provision in order to protect Maryland consumers from a likely significant increase in auto insurance costs.**

For all these reasons, the APCIA urges the Committee to provide an unfavorable report on SB 301.

Nancy J. Egan,

State Government Relations Counsel, DC, DE, MD, VA, WV

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**SB 301 2022 MIA Letter of Information Final.pdf**

Uploaded by: Kory Boone

Position: INFO

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TESTIMONY OF  
THE  
MARYLAND INSURANCE ADMINISTRATION  
BEFORE THE  
SENATE FINANCE COMMITTEE

FEBRUARY 2, 2022

**SENATE BILL 301 – PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE – ENHANCED  
UNDERINSURED MOTORIST COVERAGE - OPT-OUT OPTION**

**POSITION: LETTER OF INFORMATION**

Thank you for the opportunity to provide written comments regarding Senate Bill 301 (cross-filed with HB 266). The Maryland Insurance Administration (MIA) notes that the passage of SB 301 will increase the cost of motor vehicle liability insurance for all Marylanders, including those who can least afford it.

Maryland law currently requires all private passenger motor vehicle liability policies to have Uninsured Motorist (UM) or Enhanced Underinsured Motorist (EUIM) coverage.<sup>1</sup> The difference between UM and EUIM coverage is that, in the event of a claim, the UM coverage limit is reduced by the amount of any available coverage from the at-fault party's insurer, while EUIM coverage limit is not so reduced. EUIM coverage became a mandatory offering as a result of legislation passed in 2018.

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<sup>1</sup> UM and EUIM are forms of first-party coverage that protect an insured when a third-party causes an accident, but does not have insurance or enough insurance to cover the bodily injury and/or property damage that they caused. The minimum required limits for UM and EUIM coverage are the same as for liability coverage: \$30,000 per person / \$60,000 per accident for bodily injury and \$15,000 per accident for property damage (30/60/15) or a combined single limit of \$75,000 for bodily injury and property damage per accident. If the policy's liability limits exceed the statutory minimum the UM or EUIM coverage is deemed to be the same as the liability limits, unless the named insured has expressly elected lower UM limits.

Under current law, carriers must offer EUIM coverage, and must provide policy purchasers with written notice of their UM and EUIM coverage options. Currently, a consumer must “opt in” to EUIM coverage. The default coverage is UM coverage with the same limits as liability limits. EUIM is the **most expensive and least chosen** form of uninsured motorist coverage options available. It is, however, an available coverage that must be offered to every policy purchaser. Policyholders who desire and can afford to purchase EUIM to obtain more protection against loss or damage caused by an uninsured motorist can readily do so by opting to purchase EUIM. Alternatively, a policyholder can reject EUIM, but choose to purchase higher liability limits, with the same effect and often at a lower cost than EUIM.

SB 301 will make EUIM coverage the included or default option for **all** motor vehicle liability policies issued in Maryland. If passed, all such insurance policies will include the higher cost EUIM coverage option, unless the applicant or insured affirmatively “opts out” from EUIM. This will result in consumers inadvertently purchasing coverage that they do not want or need, and **significant premium increases**.

The MIA surveyed 10 of our largest insurance groups that write motor vehicle liability insurance in the state. These groups capture about 70% of Maryland’s private passenger automobile insurance market. Our research confirms that in the past 4-plus years since the legislature required insurers to offer the EUIM coverage option, the percentage of policyholders selecting EUIM is very small. Specifically, five of our top 10 market share groups (including the top two) report that EUIM is chosen on less than 1% of policies; three of our top 10 writers report EUIM is chosen less than 2% of the time. It is clear that **there is not a high demand for the EUIM coverage** option at this time.

The refusal of consumers to elect EUIM coverage likely reflects the fact that it is only in the rare instance of a large damages claim caused by an uninsured motorist that the purchase of EUIM provides a benefit to the consumer. To illustrate this, we note that a domestic automobile insurer conducted a manual review of over 100 EUIM claims and did not find a single instance where the purchase of EUIM coverage resulted in a higher payment than what would have been paid out under standard UM coverage.

All 10 surveyed groups reported that EUIM costs significantly more than standard UM coverage. The increased cost of EUIM versus standard UM coverage ranges from 25% to over 123%, resulting in **premium increases** that could range from \$50 to several hundreds of dollars per policy period. If EUIM becomes the included coverage option as called for in SB 301, the average cost of automobile insurance in the state will rise. This is particularly concerning to the MIA, because the motor vehicle liability insurance market is presently experiencing significant upward pressure on loss costs and rates. To the extent that rates rise as a result, the added cost of EUIM coverage will be amplified and even more burdensome.

The MIA believes that consumers should have choices in the market. Current law provides these choices without penalizing those who may be unsophisticated in insurance matters or may find it difficult to understand the nuances of coverage selection forms, particularly in an

increasingly digital environment where consumers do not always have the benefit of an insurance producer to explain the available options. **Consumers are best protected by the current law**, which mandates that EUIM be offered, but requires that the consumer affirmatively opt-in to that coverage. This approach assures that the consumer is aware of the enhanced nature and cost of the coverage and has made a choice to incur the additional expense to secure the enhanced coverage. The additional cost that results from carrying limits higher than are necessary to satisfy Maryland's mandatory minimum coverage requirements should never be incurred by an insured without their full knowledge and consent. **Maryland has long recognized that consumers are best protected by an opt-in process. Default coverage selections should never be the most expensive option available.**

The MIA thanks the Committee for its close attention to this important consumer protection and market conditions matter.