MARYLAND
AUTO INSURANCE

POSITION ON PROPOSED LEGISLATION

Date: February 23, 2023 **Position:** **Favorable**

Bill Number: House Bill 903

Bill Title: Insurance – Maryland Automobile Insurance Fund – Assessments

House Bill 903 Review and Analysis:

For the past 20 years, Maryland Automobile Insurance Fund's (MAIF) business, measured by both policies and earned premium, has steadily declined. During this period, private insurance companies have been increasingly able and willing to write a larger portion of the Maryland market. This decline is reflected in a substantially reduced MAIF surplus.

Year	Policies in Force	Premium (millions)	Surplus (millions)
2004	122,118	$ 241.5	$ 114.0
2014	41,161	$ 75.2	$ 97.2
2020	28,709	$ 75.2	$ 54.0
2022	24,303	$ 53.3	$ 24.4
2023 (projected)	22,394	$ 59.0	$ 6.2

In most of these years, MAIF had a net loss, most recently $(20.7) million in 2022. Over this period there were no assessments. MAIF was able to avoid an assessment due to a much higher number of policies in force and premium base, which contained many moderate risk drivers, in addition to the core high risk business. This premium and policy base allowed the accumulation of a large surplus and significant investment income. The investment income was able to off-set the underwriting losses which were the result of a combined loss ratio that has been as high as 142.5% (in 2013) and has averaged 119% over the previous 20 years. Obviously, loss ratios of this magnitude are not sustainable without a significant subsidy.

House Bill 903 addresses this financial situation. First, House Bill 903 amends *Insurance Article §20-401 et seq.* which provides funding to MAIF through an assessment on insurance carriers and their policyholders. By amending the assessment statute, House Bill 903 will allow MAIF to directly access nearly $10 million in overpayment credits without insurers and their policyholders being charged for the assessment.

Second, House Bill 903 amends *Transportation Article §17-106* to alter the formula which provides funding to MAIF from the uninsured motorist penalty fines collected by the Maryland Department of Transportation Motor Vehicle Administration (MDOT MVA). By amending the Transportation Article, House Bill 903 will provide MAIF additional funding to assist the Uninsured Division with operations and the Insured Division with rate inadequacy to avoid or reduce an assessment on the insurance companies and their policyholders.

1. Insurance Article – Assessment Credits.
MAIF was created in 1973 as the residual insurer and is required to offer insurance to all applicants that have been turned down by two insurance companies or canceled by one. *Insurance Article §20-301*. The Legislature provided a mechanism to impose assessments on motor vehicle insurance carriers in the State, in proportion to their market share. This assessment is triggered if MAIF needs financial support, based on its statutory operating loss, net written premium and surplus at the end of the calendar year. *Insurance Article §20-404.* These assessments are grouped separately by private passenger auto and commercial auto. The last assessment was in 1989.

After paying their share of the total assessment, insurance companies are permitted to recoup the assessment from their policyholders. If an insurer recouped more than the assessment called for, the insurers receive a credit and at the next assessment, the insurance company would use the credit to surcharge its policyholders less. *Insurance Article §20-409(b).*

During 1989-1990, insurance companies were authorized to recoup the approved assessment from 1989 from its policyholders. These recoupments were separate charges on the premium bill for "MAIF Assessment" and constituted a direct pass through to individual policyholders. The assessments were not absorbed by or paid for by the insurance company.

The difficulty is that insurance companies continued to surcharge their policyholders after the entire assessment had been recouped and did not "turn off the faucet" in time. More than 100 insurance companies over recouped assessments from their policyholders resulting in current credits totaling $9.7 million (private passenger) and $478,000 (commercial). There has not been an assessment since 1989, the credits were never used, and these credits remain on the books of MAIF. These funds are in a MAIF account but cannot be used as surplus since there is a liability for the insurance company credits.

Because over 30 years have elapsed, it is no longer feasible to recognize individual insurance company credits. Companies could not possibly return the funds to the policyholders that paid the over assessment in 1989-1990. Moreover, the insurance industry has changed considerably since then and more than half of the insurance companies that have credits do not currently have any Maryland market share.

House Bill 903 amends *Insurance Article §20-404* to allow MAIF to access the over assessment funds, once an assessment is declared and verified by the Insurance Commissioner. For example, if a $5 million private passenger auto assessment was declared and verified by the Maryland Insurance Administration, MAIF would be authorized to use $5 million from the account and these funds would be a contribution to MAIF's surplus and the credits would no longer exist. Use of the credits in this fashion would benefit the whole industry - no insurance company would pay anything until the credits were exhausted. Insurance companies with the largest market share would get the most benefit. There would be no billing or collection from individual insurance companies until the overpayments were exhausted for private passenger auto ($9.7 million) or commercial auto ($478,000).

The amendments made to the Insurance Article in House Bill 903 do not have any fiscal impact on MAIF or the State. House Bill 903 does not change the assessment calculation or process. If an assessment is certified, MAIF will receive the amount that was certified either entirely from the over recoupment account or from a combination of the account and an assessment on the insurance industry.

House Bill 903 improves the assessment process considerably. It simplifies the assessment process, up to a $9.7 million (private passenger) or $478,000 (commercial) assessment and avoids time consuming and expensive collections from insurers and their policyholders. House Bill 903 also avoids overpayment credits in the future by providing that any overpayments be returned to the insurer and be refunded to the policyholders or used to reduce rates generally.

2. Transportation Article – Uninsured Motorist Fines.
Since 1973, MAIF's Uninsured Division has administered the State's program to provide financial recovery to qualified Maryland residents involved in automobile accidents where there is no other collectible insurance and is the primary State agency with the objective to reduce the rate of uninsured motorists. Funding is through a portion of uninsured motorist penalty fines under *Transportation Article §17-106*, collections and investment income which to date has only supported the Uninsured Division

Distribution of uninsured motorist penalty fines is subject to a funding formula under *Transportation Article §17-106* which provides that thirty percent (30%) of the total fines are allocated to the MDOT MVA. The other seventy percent (70%) is distributed to the Safe Schools Fund, Vehicle Theft Prevention Fund, MAIF, and the balance to the General Fund.

House Bill 903 amends *Transportation Article §17-106* to increase the funding to 20% for MAIF and leaving the other funding provisions the same. The amount is dependent on the fines collected for that year. For illustrative purposes, based on the uninsured motorist penalty fines collected in 2022, the formulas would be:

	Current Law	20% to Md. Auto	Change
Total Fines	$ 70,668,042	$ 70,668,042	-0-
MDOT MVA (30% of total)	$ 21,237,244	$ 21,237,244	-0-
MAIF (fixed amount)	$ 4,221,157	$ 14,133,608	$ 9,912,451
Safe Schools Fund (fixed amount)	$ 600,000	$ 600,000	-0-
Veh.Theft Prev. Fund (fixed amount)	$ 2,000.000	$ 2,000.000	-0-
General Fund (remainder)	$ 42,609,641	$ 32,697,190	($ 9,912,451)

House Bill 903 would have a positive fiscal impact on MAIF of approximately $9.9 million, depending on the total fines collected by MDOT MVA in a given year. The additional $9.9 million would be used to support the Uninsured Division operations and assist the Insured Division with rate inadequacy in regions where premiums exceed our 2.5% targeted affordability index cap.

The Uninsured Division's surplus is $1.8 million. The Uninsured Division's current projected income for 2023 is $5,153,707. This includes $4.4 million from the uninsured motorist penalty fines and $731,558 in collections. Little if any investment income is projected given current market conditions. This $5.2 million will not cover the expected expenditures of $5.7 million, resulting in a net loss and decline in surplus.

The Insured Division rates are not "adequate" to fully cover claim payments and expenses from its insurance operations. From an actuarial perspective, an "adequate" rate is a rate which fully covers the expected claim losses and expenses. MAIF cannot charge adequate rates and at the same time fulfill its statutory mission to provide affordable rates as the insurer of last resort. To close the adequacy gap would require an immediate 32% statewide rate increase, including an increase of 37.4% in Baltimore City and 29.2% in Prince Georges County. The adequacy gap based on current premiums exists in all regions of the State.

There is a substantial gap between the rates charged and the rates that are indicated to fully cover the cost of claims and expenses. Where premiums collected do not cover the full cost of claims, the difference is paid out of surplus and an ever diminishing surplus is not sustainable. MAIF will file a rate increase in the mid to high single digits in March 2023 with a May effective date which will assist with inadequacy and claims costs. Even with this rate increase, the majority of the gap will remain.

Despite offering inadequate rates, MAIF's premiums are not fully affordable. MAIF considers rates to be marginally affordable if they are generally below 2.5% of the Median Household Income in that area of the State. (The US Dept. of Treasury, Federal Office of Insurance, adopted a 2% affordability index). MAIF is able to offer generally affordable insurance in most areas of the State but not in all regions.

In order to fully cover the costs of claims while continuing to meet its goal of charging inadequate rates so that it can meet or approach the 2.5% affordability index in all jurisdictions, MAIF would need an infusion of millions annually. A portion of this number will come from the May rate increase but rates will never be fully adequate. For example, in Baltimore City, the average annual policy would have to be raised $1,034 to be fully adequate.

House Bill 903 would provide funding that would cover a substantial portion of the inadequacy gap and stabilize surplus. It would also allow MAIF to slow rates increases especially in the Baltimore region to diminish the affordability gap.

Without the funding provided by House Bill 903, MAIF would have to consider a further rate increase, exacerbating the affordability problem. A dramatic rate increase would be self-defeating as it may decrease the number of policies and the overall premiums while increasing the number of uninsured motorists.

In addition, even with rate increases, an assessment is inevitable at year end 2023. While is possible the $9.7 million in credits will cover the 2023 assessment, this result is not guaranteed. If MAIF's forecast is even slightly off, an assessment exceeding $9.7 could occur, resulting in an assessment on the insurance companies and their Maryland policyholders. This would be avoided by the passage of House Bill 903.

Conclusion

For these reasons, MAIF urges a favorable report on House Bill 903.

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