testimony2023sb816.pdf
Uploaded by: Franz Schneiderman
Position: FAV

Auto Consumer Alliance
13900 Laurel Lakes Avenue, Suite 100
Laurel, MD 20707

Testimony to the Senate Finance Committee
SB 816 – Motor Vehicle Insurance – Rate Filings –
Trade Secrets and Factors Used to Establish Rates
Position: Favorable

The Honorable Melony Griffith
Senate Finance Committee
3 East, Miller Senate Building
Annapolis, MD 21401
cc: Members, Senate Finance Committee

March 15, 2023

Honorable Chair Griffith and Members of the Committee:

I'm a consumer advocate and Executive Director of Consumer Auto, a nonprofit group that works for safety, transparency, and fair treatment for Maryland drivers and car buyers.

Consumer Auto supports **SB 816** because it will limit the discriminatory ways many car insurance firms now used zip codes or territories to help set rates and help consumers, legislators, regulators and others better understand the factors car insurance firms use to set rates.

As is well-known, the zip code or territory where someone lives often has a significant impact on how much a driver must pay for the car insurance every driver is required to purchase to drive legally. To some extent, this may reflect risk differentials among different communities. But the ways those territorial ratings are used today often results in dramatic differences in the cost of insurance for drivers in neighboring communities that are difficult to see as fair or fully justified – and that often work to penalize drivers in lower-income and minority communities.

The problem is particularly acute in Baltimore, where data has long shown that even drivers with good records who live in poorer and mostly African-American areas often pay much more than nearby residents in other city neighborhoods. Research in 2021 by the Consumer Federation of American and Economic Action Maryland found, for instance, that people in the mostly African-American Greater Mondawmin neighborhood pay, on average, more than $700 more than those in the higher-income, mostly white Hampden/Medfield area ($2,424 vs. $1,717). Similarly, drivers in the lower-income, mostly Black Pimlico area paid more than $600 those in wealthier, whiter Mount Washington paid.[1]

But the problem is certainly not confined to Baltimore. In Montgomery County, the same study showed that drivers in the Hyattsville/Langley Park area (which is mostly African-American and Hispanic) paid, on average, $173/year more for insurance than those in nearby Takoma Park paid. In Prince George's County, the study found that drivers in Fairmount Heights (where about 95% of

1. https://static1.squarespace.com/static/5b05bed59772ae16550f90de/t/603d482c9e1e6b26c0d61423/1614628908438/Policy+Brief-How+Zip+Codes+Impact+Maryland+Auto+Insurance+Premiums+.docx+%283%29.pdf

Auto Consumer Alliance
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residents are people of color) were paying $274/year more than those in majority-white College Park.[2]

The study shows these discrepancies are part of a clear pattern: Across the state, drivers in zip codes with a higher percentage of white residents paid significantly less for insurance. Data shows that drivers in areas where 90% or more of residents are white paid an average of $963 for insurance; those in areas that are 40% to 50% white paid about $1,212/year; those in areas where whites are less than 10% of the population paid an average of $1,611/year – or about $650/year more than drivers in overwhelmingly white areas paid. [3]

By limiting insurers that use territories to help set car insurance rates to no more than five territorial ratings across the state, **SB 816** will restrain this kind of micro-targeting that seems to discriminate against minority drivers – and should mitigate some of the territorial ratings practices that make car insurance so expensive for many lower-income and minority Marylanders.

SB 816 also works to protect drivers by eliminating the secrecy around some of rate-setting practices that insurers now label as "proprietary." Under current rules, insurers can conceal important information about their rating model, algorithms, the weight they assign to various risk factors by labelling those practices proprietary in their filings. That information is available to the public in other states – and making it more widely available in Maryland would help consumers better understand their insurance choices and help policymakers get a clearer understanding of how the often-opaque rate-setting process works.

Sunshine alone may not be the best disinfectant for burdensome car insurance rates but better information would surely help consumers and policymakers make better-informed choices.

We support SB 861 and ask the committee to give it a FAVORABLE report.

Sincerely,

Franz Schneiderman
Consumer Auto

[2] Ibid.
[3] Ibid.

SB816 Econ Action Testimony 2023.pdf
Uploaded by: Isadora Stern
Position: FAV

Testimony to the Senate Finance Committee
SB816: Motor Vehicle Insurance - Rate Filings - Trade Secrets and Factors Used to Establish Rates
Position: Favorable

March 15, 2023

Senator Melony Griffith, Chair
Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, Maryland 21401

Cc: Members, Senate Finance Committee

Honorable Chair Griffith and Members of the Committee:

Economic Action Maryland (formerly the Maryland Consumer Rights Coalition) is a people-centered movement to expand economic rights, housing justice, and community reinvestment for working families, low-income communities, and communities of color. Economic Action Maryland provides direct assistance today while passing legislation and regulations to create systemic change in the future.

We are here in strong support of SB816.

Maryland does not use race or income in auto insurance underwriting, but zip codes and other non-driving related factors act as proxies for race and class causing extraordinary price disparities in the cost of insurance for low-income drivers and drivers of color.

Economic Action Maryland's 2021 report *How Zip Codes Affect Auto Insurance Premiums in Maryland* demonstrates that heavy reliance on zip code by insurance carriers disproportionately impacts African American drivers, even if those drivers have pristine driving records.[1] Data shows that zip codes that have a majority African American population pay significantly higher premiums compared to zip codes where the majority of the population is white. Conversely, the more white people living in a zip code, the lower the average auto insurance premium. The unintended impact of the use of zip codes to price auto insurance is that lower-income, predominately Black, and Latinx drivers are charged hundreds of dollars more for the same product.

Auto insurers argue that considering the residential zip codes of policyholders is a useful way to assess drivers' risk and establish their premiums. In particular, insurance companies focus on the frequency of losses associated with a zip code (how often will claims be filed) and the severity of losses for each zip code (how much will an average claim cost). However, for reasons that may be wholly unintended or deeply linked with historic zip code-based discrimination, the outcome of zip code pricing in Maryland is that people of color consistently pay significantly higher premiums for the coverage mandated by state law.

While insurance companies may claim that accident rates, road conditions, and other factors are the reason that the rates differ, a 2013 study from the NIH looked at hotspots and geography of crashes in Baltimore

[1] https://static1.squarespace.com/static/5b05bed59772ae16550f90de/t/603d482c9e1e6b26c0d61423/1614628908438/Policy+Brief-How+Zip+Codes+Impact+Maryland+Auto+Insurance+Premiums+.docx+%283%29.pdf

City and using statistical analysis found that income, age, sex, and population size was not a predictor of crashes, explaining only about 20% of crashes.[2] Therefore, auto insurance rates that use these non-driving factors to set prices are not using factors that explain crashes.

SB816 limits discriminatory pricing by drawing larger boundaries for auto insurance companies to rate. This smoothes out zip code differences and reduces the variance between zip codes. This legislation does not prohibit the use of zip codes to price auto insurance, it simply provides a way to rectify the disparate impact of zip codes in setting rates and ensures that rates are more fair and equitable.

Already states have eliminated or altered the use of zip code and territorial rating. Auto insurance companies are prohibited from using zip codes when setting rates in Michigan.[3] Connecticut ensures that territorial ratings must mix territorial and statewide experience according to a 75%/25% statutory formula and Connecticut regulations prohibit insurers from splitting a town or city into two or more territories. Rhode Island prohibits insurers from using territorial ratings as a credit or reduction to the base rate. California significantly limits territorial rating by prohibiting insurers from using territorial rating as the primary rating method.[4] Maryland should join these states in altering the way territorial ratings are conducted in order to address the price disparities in the cost of insurance for low-income drivers and drivers of color.

SB816 will reduce the reliance on zip code in auto insurance and ensure greater equity in auto insurance rates. For all of these reasons, we support SB816 and urge a favorable report.

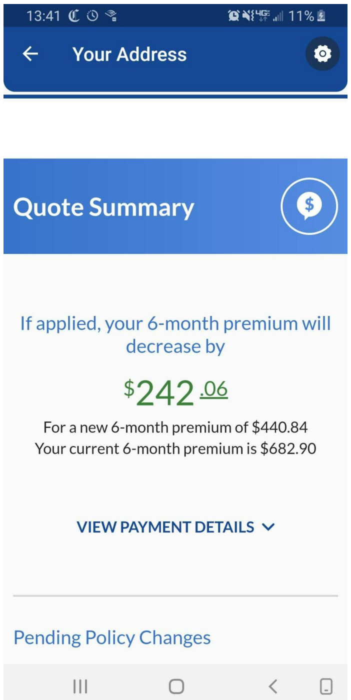
Best,

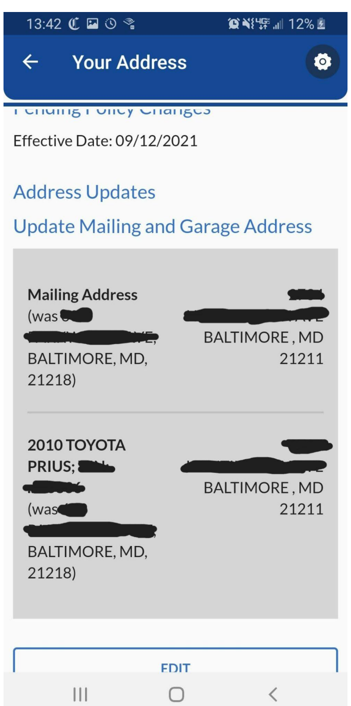
Isadora Stern
Policy Manager

[2] Hotspots and Causes of Motor Vehicle Crashes in Baltimore
[3] https://www.michigan.gov/-/media/Project/Websites/autoinsurance/PDFs/MI_New_Auto_Ins_Law.pdf?rev=e9130745dda247ce8baac79b56a9642f
[4] https://www.cga.ct.gov/2015/rpt/2015-R-0234.htm

ECONOMIC ACTION MD

In addition to my formal written testimony I would like to detail a personal experience. I saw a $242 change in my auto insurance premium when I last moved in 2021. I moved within Baltimore City from a predominantly Black zip code (21218) to a majority white zip code (21211) and saw a significant decrease in the cost of my insurance.





These screenshots show the premium adjustment when I alerted Geico, my carrier, to my change in address. I received a 35.5% decrease for moving under two miles to a majority white zip code. My driving record and all other factors remained the same, the only change to my profile was the change of address.

Furthermore, 21218 and 21211 share a vertical border divided by N Howard St. I now live .2 miles from this border (one block). Insurance companies claim that accident rates, road conditions, and other factors are the reason for the difference in these rates, but the differences between my block and one block over are imperceptible.

I think it is also important to mention that my car was never damaged when it was registered at my address in 21218. In the time that I have lived in 21211 my car has been totaled while parked on my block and my new car has also been hit.

This legislation would smooth out zip codes to rectify occurrences like mine and lessen the disparate impact of zip codes in setting rates. Everyone deserves access to fair and equitable insurance.

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Testimony of CFA in Support of SB 816-Auto Insuran
Uploaded by: Michael DeLong
Position: FAV

Consumer Federation of America

Testimony of Consumer Federation of America to Senate Finance Committee in Support of SB 816—Motor Vehicle Insurance—Trade Secrets and Factors Used to Establish Rates-Favorable

March 15, 2023

Chair Griffith, Vice Chair Klausmeier, members of the Senate Finance Committee:

The Consumer Federation of America (CFA) supports SB 816—Motor Vehicle Insurance—Trade Secrets and Factors Used to Establish Rates, and urges a favorable report on this bill. SB 816, sponsored by Senator Alonzo Washington, will help lower auto insurance rates for consumers by requiring that auto insurers use no more than five territories for establishing rates. The bill also promotes transparency by eliminating the classification of rating factors as trade secrets.

CFA is an association of consumer organizations that was founded in 1968 to advance consumer interests through research, advocacy, and education. Douglas Heller, CFA's Director of Insurance, is a nationally recognized insurance expert, a member of the Treasury Department's Federal Advisory Committee on Insurance, and a board member of the California Automobile Assigned Risk Plan, which oversees California's low-cost auto insurance program. Michael DeLong, CFA's Research and Advocacy Associate, is a funded Consumer Representative at the National Association of Insurance Commissioners and a member of the Nevada Advisory Committee on Property and Casualty Insurance. Our testimony is based on our many years of experience working to make insurance more available and affordable for consumers and to stop unfair discrimination.

Maryland, along with nearly every state, requires drivers to purchase and maintain auto insurance. The state therefore has a responsibility to make sure that this product is affordable and that consumers do not experience unfair discrimination. But, as is well known to many, auto insurance is often very expensive, and in certain communities it is simply unaffordable even for drivers with perfect driving records. Auto insurers use numerous socio-economic factors to set rates and charge people unfairly high premiums. In Maryland, auto insurers cannot use race or income to set premiums, but they can use a number of rating factors that are proxies for race and income.

One of these factors is a consumer's ZIP code. Insurers charge consumers dramatically different rates based on the ZIP codes where they live and work, which disproportionately harms African American drivers. CFA and our partner organization Economic Action Maryland conducted a study of auto insurance premiums in every Maryland ZIP code from ten of the state's largest insurers, representing almost 90% of the market. Our study found that ZIP codes with a majority African American population pay significantly higher premiums compared to ZIP codes with a majority white population.

Table 1 below shows that as the percentage of African Americans in a ZIP code increases the average auto insurance premium increases.

Table 1: Auto Insurance Premiums By ZIP Code and Percentage of African American Residents

African American Population of ZIP Code	Average Annual Auto Insurance Premium	How Many ZIP Codes	Percentage of Total Maryland Population in ZIP Codes
<10%	$988	240	26.72%
10%-20%	$1,101	78	22.66%
20%-30%	$1,149	51	17.95%
30%-40%	$1,180	23	5.80%
40%-50%	$1,361	13	5.36%
50%-60%	$1,407	15	4.43%
60%-70%	$1,473	12	4.28%
70%-80%	$1,962	8	5.48%
80%-90%	$1,664	12	6.81%
>90%	$2,425	1	0.50%

When a large majority of a ZIP code's residents are African American, residents pay hundreds of dollars more in auto insurance premiums compared to residents of other ZIP codes.

This discrimination is also present in ZIP codes that are merely a few miles apart or even adjacent. Consider this example: In Baltimore City, drivers in Greater Mondawmin, a community with a median income of about $41,000, pay on average $2,424 for auto insurance--$700 more than drivers in the nearby neighborhoods in Medfield/Hampden ZIP codes, who pay $1,717 on average for auto insurance.

The pricing of policies based on the small territorial units of ZIP Code leaves some drivers paying much more than neighbors right across the street. Depending upon which side of Cross Country Blvd you live in Baltimore, your premium could jump by more than 80%. To a driver living on the 21209 side of this boundary, the cost of a minimum limits policy from one major insurer is $2,027 a year. But if you live on the opposite side in the ZIP code 21215, the company charges the exact same driver $3,689 for the same exact coverage. Low-income drivers are subsidizing the discounts that auto insurance companies provide to wealthier drivers—and low-income Black and Brown drivers are especially subsidizing them.

SB 816 will reduce the impact of ZIP codes on auto insurance by increasing the size of the territorial pools in which Maryland drivers are grouped. Instead of using the small groupings that arise through ZIP codes, the bill will have insurers spread the risk more widely across five larger territories around the state. This would allow for insurance companies to distinguish between differences they might find related to the frequency and severity of accidents in some parts of Maryland compared to others, but it will also ensure that people who live in generally the same regions will see the same territorial rating. This highlights and addresses one of the major flaws of rating based on ZIP code: where drivers live does not sufficiently determine where they drive.

By requiring the use of broader regions, insurance rates will more accurately reflect the actual regional risk differentials than rates that switch every few miles according to arbitrary postal service boundaries.

The bill also opens insurance companies up to public scrutiny that is available in many other states and that was available in Maryland until recently. In other states, consumers and easily download and review auto insurance pricing methodologies, but not in Maryland. With a view of how insurers slice and dice Maryland drivers, consumers can get a better sense of which insurers will best serve them and policymakers can determine whether additional consumer protection standards are needed.

SB 816 will promote transparency and accountability in the auto insurance market and take meaningful action to address the unfair and excessive auto insurance rates that leave Maryland's Black and Brown communities paying significantly higher premiums. Consumer Federation of America urges a favorable report on this bill.

Please contact us at mdelong@consumerfed.org if you have any questions.

Sincerely,

Michael DeLong

Michael DeLong
Research and Advocacy Associate
Consumer Federation of America

SB 816 _MAMIC_UNF.pdf
Uploaded by: Bryson Popham
Position: UNF

Maryland Association of Mutual Insurance Companies
191 Main Street, Suite 310 – Annapolis MD 21401 – 410-268-6871

March 13, 2023

The Honorable Melony Griffith
Chair, Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, MD 21401

RE: Senate Bill 816 - Motor Vehicle Insurance - Rate Filings - Trade Secrets and Factors Used to Establish Rates
UNFAVORABLE

Dear Chair Griffith and Members of the Senate Finance Committee,

I am writing on behalf of the Maryland Association of Mutual Insurance Companies (MAMIC) in opposition to Senate Bill 816 - Motor Vehicle Insurance - Rate Filings - Trade Secrets and Factors Used to Establish Rates.

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.

Senate Bill 816 is a variation on an old theme: the restriction or removal of territory (sometimes referred to as "garaging") as a factor in establishing the rate for an automobile insurance policy.

A brief history of this issue would be helpful. When automobile insurance was created in the late 19th century, there was little, if any, rate differential within individual insurers. In the early 20th century, territory became one of the first rating factors, for a simple and obvious reason: policyholders in rural areas felt they should not pay as much as policyholders in cities, where there was greater likelihood of accidents that would cause premiums to increase. Territory thus became one of the first rating factors to be used by nearly all insurers, and remains so today.

The question raised by Senate Bill 816 is whether the use of territory in automobile insurance rating is fundamentally fair. (I'll leave aside, for the moment, that the bill establishes the maximum number of territories at 5 – an apparently arbitrary standard). Basically, the question depends on numbers. Rates are higher in some parts of the State because losses are higher in those parts of the State. There may be a complex set of reasons to explain why loss experience is worse in those parts of the State than in others, but at the end of the day, the rate that consumers pay, to a large extent, depends on those loss numbers.

For more than 100 years, Maryland has relied upon its insurance regulator to ensure that Maryland insurance consumers are treated fairly. There is an extensive infrastructure within the Maryland Insurance Administration to examine insurance rates of all kinds. Territory has been included in that process for many years. It passes the basic test under Maryland law – that rates cannot be excessive, inadequate or unfairly discriminatory. If anything, MAMIC believes that the five territory limit under Senate Bill 816 would itself constitute unfair discrimination, by arbitrarily reducing the number of territories in use today from as many as 50 or 60 to 5. The result would be a significant increase in rates for many policyholders in the State, with no actuarial justification for this increase.

Another provision of the bill repeals the use of "proprietary rate-related information," and eliminates an insurer's ability to develop that information solely for its own use. This issue was addressed several years ago. After extensive review, the General Assembly expressly permitted the use of proprietary and confidential rating information. These trade secrets are commonly used tools in business. At the same time the Commissioner retains the ability to overrule a declaration by an insurer that information is confidential and proprietary, and order that the insurer make the information public. This action by the General Assembly struck a reasonable balance between an insurer's ability to keep information confidential and the public's right to access such information. There is no reason to eliminate the use of these valuable trade secrets, because from the consumers' perspective, the most important factor is the total premium that the consumer must pay.

For these reasons, MAMIC respectfully requests an unfavorable report on Senate Bill 816.

Very truly yours,

President, MAMIC

cc: Bryson Popham

SB 816_IAB_UNF.pdf
Uploaded by: Bryson Popham
Position: UNF

March 13, 2023

The Honorable Melony Griffith
Chair, Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, MD 21401

RE: Senate Bill 816 - Motor Vehicle Insurance - Rate Filings - Trade Secrets and Factors Used to Establish Rates
UNFAVORABLE

Dear Chair Griffith 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 816.

Independent insurance agents provide their clients a variety of insurance products through different insurance companies. These companies (insurers) compete for business, and competitive insurance rates are an important component of the services that agents offer their clients. For automobile insurance, insurers have available a number of different rating factors that are included in their individual rating plans. A standard factor – one that has been used for nearly 100 years – is territory. This one word description means that automobile insurance rates are dependent on where the automobile is kept – usually the residence of the insured.

The territory factor has been examined by numerous insurance regulators and is proven to be an accurate and fair tool to estimate the propensity for future losses. It is these future losses on which insurance rates are based, and it is loss experience that provides the hard data for those rates.

Most insurers have several dozen or more territorial rating factors in use in the State of Maryland. Arbitrarily reducing the total number of territories to five, as contemplated in Senate Bill 816, will simply have the effect of unfairly subsidizing some policyholders at the expense of others. It is the task of the Maryland Insurance Commissioner to examine automobile insurance rating plans, including territory, and to require that such plans meet the fundamental rating principals under Maryland law that rates cannot be excessive, inadequate or unfairly discriminatory.

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If the Committee believes that the use of territory should be curtailed as proposed in Senate Bill 816, it should first consult with the Maryland Insurance Administration to ascertain the detailed analysis undertaken by the Administration of the use of territory and other rating factors. Enacting Senate Bill 816 without regulatory support would be unwise and harmful to Maryland insurance consumers.

For these reasons, IA&B respectfully requests an unfavorable report on Senate Bill 816.

Thank you for your consideration.

Very truly yours,

Chairman, IA&B Legislative Committee

Stacey Nicholson
IA&B Legislative Committee Chair

cc: John Savant
Claire Pantaloni
Bryson Popham

HB816_State Farm Testimony_Trade Secrets Territory

Uploaded by: Marta Harting

Position: UNF

STATE FARM INSURANCE COMPANIES

OPPOSITION TO SB 816 (MOTOR VEHICLE INSURANCE – RATE FILINGS -TRADE SECRETS AND FACTORS USED TO ESTABLISH RATES

Trade Secret Protection

SB 816 would eliminate the trade secret protection from public disclosure provided under current law for State Farm's proprietary rating models filed with the Maryland Insurance Administration in connection with a rate filing. Proprietary rating models are critical to a company's competitive position in a robust, open market. While the Maryland Insurance Administration has unrestricted access to these models in reviewing a company's rate filings, it is vitally important that these models not be available to the public at large because that would allow competitors to see and utilize each other's proprietary information.

State Farm's size allows it to amass large volumes of insurance premium and loss data, making its models more precise and predictive than those of many competitors. As a result, competitors with less credible data would like to obtain information about our models and exploit our data.

The elimination of proprietary trade secret protection in current Maryland is likely to result in the use of more generic rating models that are available publicly, which limits price competition, compresses risk segmentation and provides fewer choices to customers in pricing as well as between carriers.

As trade secrets, these models should continue to be considered confidential under the Public Information Act, which has always protected trade secrets and competitively sensitive proprietary information obtained by a state agency from public disclosure. State Farm has committed significant resources to the development of pricing and underwriting sophistication through its pricing models. These are precisely the type of business innovation which should be protected as trade secrets in a competitive market.

Rating Territories
SB 816 would limit the number of territories that an insurer can use to establish rates to five territories. Consistent experience has shown the residence address has a clearly demonstrable effect upon the probability of loss. Legislation attempting to regulate an insurer's use of territories or geographical location, including the establishment of uniform territories, would be detrimental to matching price to risk.

Critics of the current system of basing premiums on geographical territories do not dispute the fact that accident rates vary from one area to another. However, some maintain that basing premiums on geography is socially undesirable and unfair, even though it can be justified by accident statistics. It is argued those who live in large cities are not individually responsible for the high loss costs, and, therefore, should not be penalized for something they cannot control. These critics would like to see the same premiums charged throughout a state so the impact of high loss costs in larger cities would be distributed among policyholders statewide in order to “spread the risk.” Private insurance does not "spread the risk;" it is a transfer of individual risk. The effect of "spreading the risk" using methods advocated by critics would be that insurance premiums in large cities would drop while those in smaller towns and rural areas would increase. Any such departure from cost-based pricing causes unjustified rate increases and adversely affects the competitive market.

The purpose of establishing separate rates by geographic location is to create equity among the individual policyholders of the company. State Farm develops rates based on the loss experience of the particular area. The environment in which a consumer resides exerts a powerful influence on the probable loss experience of policyholders in that area. Loss frequency combines with factors such as the cost of repairs, medical and hospital costs, attorney involvement, the size of jury awards, and other factors to produce the total costs which are reflected in insurance premiums charged in the area.

For additional information, please contact Marta Harting, mdharting@venable.com.

2023 NAMIC SB816 letter Territory Trade Secret.pdf

Uploaded by: Matt Overturf

Position: UNF

NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES

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FINANCE COMMITTEE

MARYLAND SB 816: Motor Vehicle Insurance – Rate Filings – Trade Secrets and Factors Used to Establish Rates—UNFAVORABLE

March 15, 2023

Chairwoman Griffith and members of the committee,

On behalf of the National Association of Mutual Insurance Companies[1] (NAMIC), I respectfully request an unfavorable report on Senate Bill 816.

NAMIC is a national trade association comprised of 1,500 member companies, including seven of the top 10 property/casualty insurers in the United States. The association supports local and regional mutual insurance companies on main streets across America 22 of which are domiciled in the state of Maryland.

Senate Bill 816 how two provisions: the use of territory as a rating factor and the protection of proprietary rate-related information—NAMIC is opposed to all components of SB 816.

Territory

Most people would agree that you should pay a premium that relates to your specific risk. The use of territory determined by an insurer helps tell the insurer what risk a policyholder and their surroundings pose. In order to accurately price premiums, insurers must determine, to the best degree possible, an individual's risk.

Geography is an important consideration in insurance pricing. Historical analyses demonstrate that living in densely populated areas comes with a higher incidence of fender benders, vandalism, and theft. Quite simply, the more people there are, the more cars there are. And with more cars, comes a greater chance of accidents and increased risk.

Trade Secret Rate-Related Information

The motor vehicle insurance market is built on competition. Insurers compete for policyholders with the coverage and pricing options they can offer. Insurers hold their position in the market by using their own rating models, formulas, analyses, etc. that are currently protected as proprietary information. Removing the protection for proprietary rate-related information, would likely minimize competition by allowing insurance competitors to see and use proprietary rate-information which could ultimately lead to the use generic rating models that are less precise to

[1] NAMIC member companies write $357 billion in annual premiums and represent 69 percent of homeowners, 56 percent of automobile, and 31 percent of the business insurance markets. Through its advocacy programs NAMIC promotes public policy solutions that benefit member companies and the policyholders they serve and fosters greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.

the risks which will create upward pressure on auto insurance premiums. We all have a shared interest in maintaining an accessible and affordable insurance market that eases the overall costs of insurance for Maryland drivers while maintaining adequate and accurate rates.

In closing – if enacted, SB 816 will not lower the cost of insurance, instead it will likely create upward pressure on all auto insurance premiums. For that reason, I request the committee return an unfavorable report on Senate Bill 816.

Sincerely,

Matt Overturf, Regional Vice President
Ohio Valley/Mid-Atlantic Region
moverturf@namic.org

SB 816 Terr and Trade Secrets APCIA Opposed .pdf
Uploaded by: Nancy Egan
Position: UNF

American Property Casualty
Insurance Association
INSURING AMERICA apci.org

Testimony of

American Property Casualty Insurance Association (APCIA)

Senate Finance Committee

SB 816 Motor Vehicle Insurance – Rate Filings –Trade Secrets and Factors Used to Establish Rates

March 15, 2023

<u>Letter of Opposition</u>

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 55.7 percent of all private passenger auto insurance sold in Maryland. APCIA appreciates the opportunity to provide written comments in opposition to Senate Bill 816. APCIA opposes this bill which would limit the use of territory as a rating tool into five distinct territories for personal auto and remove the protection of proprietary rate-related information as confidential commercial information.

Removing Trade Secret Protection

Senate Bill 816 would remove under Section 11-307 of the Insurance Article an insurer's designated "proprietary rate-related information" that is filed with the Insurance Commissioner for private passenger auto and designated as a trade secret under Maryland law. Proprietary rate-related information means a rating model and includes the formulas and algorithms given to rating factors. Rating factors are not considered to be proprietary and cannot be designated as such. Trade secret protection is afforded to all industries in Maryland and insurance rating models should not be signaled out. Insurers are in a competitive market and wish to protect their research from their competitors. There is a justification for removing such a designation.

Overview of Rating

For many years, there has been much controversy throughout the United States on the use of territorial rating in private passenger automobile insurance. Interest in this area partially stems from rising insurance losses in both automobile and homeowners insurance, resulting in higher insurance premiums for the policyholder. While some regulators and legislators have attempted to revise traditional rating criteria used by insurers, the property/casualty insurance industry maintains that the use of rating by geographical location, or territory, is an equitable and statistically-supported method of distributing costs among policyholders.

Automobile insurance loss costs are generally the highest in the city, attributable to: (1) the greatest number of claims incurred in the urban area; (2) the highest amount of loss dollars per claim; or (3) a combination of both. Probable factors contributing to higher insurance costs in the city include higher population and/or traffic density and greater exposure to crimes such as theft and vandalism.

If restrictions in geographical location as a rating factor were imposed and limited rating territories were used, in a state, then a redistribution of premiums among policyholders would be necessary. Those policyholders living in higher-cost areas would have a decrease in their premium, while policyholders in lower-cost areas would have an increase. In other words, the residents of less populated communities would be required unfairly to subsidize their counterparts living in the more heavily populated cities. Generally, it is the majority of policyholders in the state who would be affected negatively by this type of change.

While some critics say it is wrong to differentiate in price on the basis of geographical location, insurers say it is wrong to require anyone to pay more than the amount reflected in his or her expected loss cost. Such an imposition is recognized by both insurers and the insurance-buying public. According to public opinion polls, a large majority of people feels it is unfair to make suburban and rural residents pay more automobile premium to help their urban counterparts. Insurance companies need to base their premiums on projected costs and differentiate among areas with varying loss potential. Restrictions placed on territorial rating would: (1) create forced subsidies for some policyholders at the expense of others and limited insurance products or services; (2) undermine the ability to influence responsible behavior on the part of individuals; and (3) cause a shift in the marketplace by companies, thus reducing competition.

Concept of Spreading Risk and Geographical Rating

Insurance is a method of reducing the uncertainty of financial loss through the transfer of risk by many individuals to an insurer. Since individuals generally cannot bear the financial consequence of a large loss, policyholders contribute premium payments to a common fund that covers losses and expenses. The policyholder thus exchanges the possibility of an unknown large loss for a comparatively small certain payment.

Insurers face the challenge of measuring risk; they need to know whether to accept a risk and how much to charge. Ratemaking involves measuring the probability of the occurrence of losses and the financial impact that may be expected to result from the hazards or perils against which insurance is provided. Since rates are determined before all future costs are known, the insurance pricing function is more difficult than that of most other businesses, making it among the most important and intricate company operations. Hence, the insurance industry is unique in American business because it cannot price its product like other businesses with full knowledge of costs and be guaranteed a return on investment. Each state, nevertheless, subjects insurance ratemaking to a specified type of statutory regulatory control; that is, rates may not be "excessive, inadequate, or unfairly discriminatory."

The basic principle underlying the development of insurance rates is the estimate of claims for the varying risks being insured during future months and a determination of whether current rates are adequate or inadequate to pay these losses. Loss experience is measured by two fundamental elements: (1) claim frequency; and (2) average loss or claim severity. Claim frequency is usually expressed as the number of claims occurring per 100 insured vehicles or housing units during one year. For example, if automobile collision coverage claims occurred at the rate of 10 per 100 insured car years (a car year is one car insured for one year), then the frequency is 10 percent. The average loss is the average cost of each claim paid or incurred for a particular coverage. The combination of these two factors is the loss cost, or the average amount of loss paid or incurred by the insurer for each vehicle or housing unit covered.

In most cases, the geographical area having the highest automobile insurance loss cost in each state has the highest claim frequency, the highest average loss per claim, or both. The highest loss cost typically reflects residents of the urban area.. This indicates that people living in these areas are the riskiest to insure, due to the most number of claims incurred per insured exposure and/or the costliest claims incurred in these areas. Clearly, the cost to provide protection to residents of these locations is greater than elsewhere.

Geographical Location in Ratemaking

No one can dispute the fact that automobile accidents, or vandalism and theft losses are more likely to occur in certain locations than in others. The cost of automobile accidents and property damage is more likely to be greater in certain areas as well. Hence, there is a need for insurance companies to distinguish those geographical regions with greater loss potential from those with less.

The territory must contain exposure risks sufficiently large and homogeneous to allow a reasonable accuracy of predicting loss costs by application of the concept of large numbers. For automobile insurance, territorial lines are drawn to commonly group motorists who operate vehicles under similar conditions and face similar hazards. For the sake of simplicity and equity, territorial boundaries generally were developed by using existing political demarcations, geographical features or contiguous zip code areas. The number and size of territories vary from state to state and among insurers; for example, states may comprise anywhere from about 3 to 90 automobile rating territories depending on the particular jurisdiction.

There are many reasons why losses and, hence, insurance rates vary by territory. Some characteristics contributing to loss potential in automobile insurance are population density, traffic density, motor vehicle theft rates, varying types of law enforcement, conditions and maintenance of roadways, health care costs, body shop repair rates, and claiming behavior. For example, population and traffic densities both provide a measure of congestion. The higher the population and the more vehicles there are, the more likely there will be automobile accidents and, hence, insurance claims. Urban areas tend to produce more claims per insured car than rural or suburban areas. Similarly, the cost of paying automobile insurance claims is higher in urban areas because hospital and medical expenses, repair costs, and legal fees tend to be substantially higher in these areas. It has also been found that residents in metropolitan cities typically are more prone to make injury claims than residents living elsewhere. Past studies have also shown that automobile accidents usually take place within five miles of home.

The use of geographical location, or territory, as a rating criterion has been found to be a practical method of allocating costs among policyholders. This indicator is also objective, clear and unequivocal, and based upon statistically supported data. Findings derived from the Property Casualty Insurers Association of America statistical database show that the traditional rating factor of territory is a proven predictor of loss, as insurance experience does vary broadly among different geographical areas. Limiting this variable in the ratemaking process would result in an inequitable redistribution of prices to maintain the same overall premium volume collected by insurers.

If the use of territorial rating were restricted, an increase in premiums for some policyholders would take place to offset the decrease in premiums given to others, unfairly overcharging those persons who actually have less loss exposure than other persons having greater exposure. This imposition usually affects the majority of policyholders in each state who live in the non-urban parts. Invariably, persons residing in rural communities would have premium increases, while their city counterparts would have decreases. The positive or negative impact on suburban and medium-sized city dwellers depends upon how their loss costs compare with the statewide average.

Consumer Survey Results

Even consumers recognize the inequity of forcing suburban and/or rural policyholders to subsidize their counterparts living in the city. In previous public attitude surveys conducted by the Insurance Research Council, the majority of respondents generally favor lower automobile insurance rates for drivers who live in suburban and rural areas because they have fewer accidents than drivers who live in cities. Once again, the majority of consumers feel it is somewhat or very unfair for lower-risk drivers to pay higher automobile insurance rates to compensate for decreases given to higher-risk drivers.

In summary, rating on the basis of territories evolved in order for companies to achieve equity among policyholders and to determine which areas are more likely to result in claims and how serious those claims might be. So that each group of policyholders pays its fair share of losses and expenses, insurers must continue to pursue sound and legitimate business practices and base their premiums on the exposure to risk.

Maryland Results[1]

Territory has been used for classification of personal auto risk. Without the use of territory in pricing, rates will not be reflective of the loss variances in the different territories. Furthermore, there would be subsidies created benefiting risker policyholders at the expense of policyholders in less congested areas with better loss experience.

For this analysis loss experience and average premiums[2] for each territory are compared to that of the statewide total to assess potential impacts of eliminating territorial rates and charging the statewide average premium to all Maryland personal auto policyholders.

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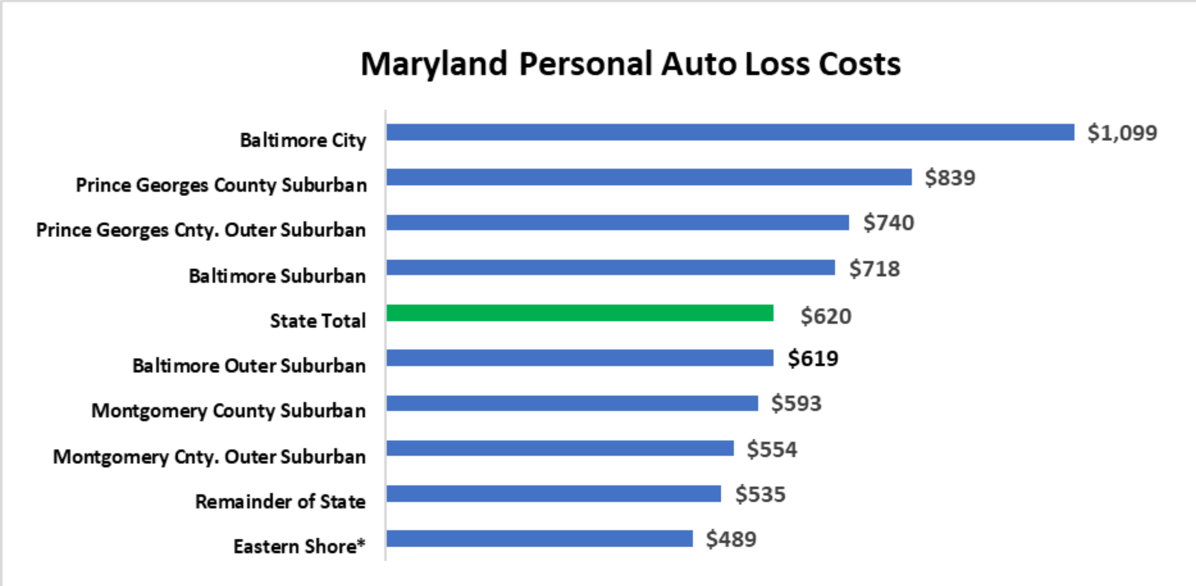
[1] APCIA prepared the estimates in this report using personal auto accident-year data as of March 31, 2021, from the Independent Statistical Service (ISS) reflecting 2018-2020 combined. Personal auto data analyzed include liability coverages (bodily injury and property damage liability, and uninsured/underinsured motorists) and physical damage coverages ($100 deductible comprehensive and $250 deductible collision.

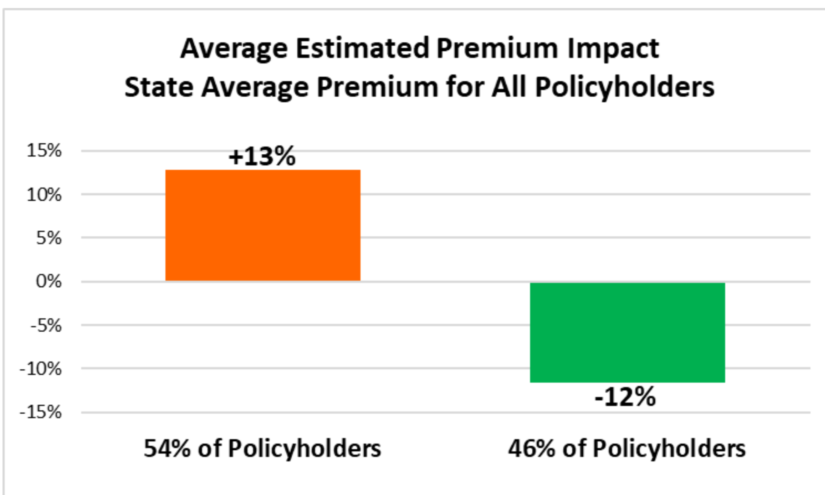
[2] Earned premium divided by earned exposure.

Policyholders in the areas of Baltimore and Prince Georges County, shown below, on average have loss experience above the statewide loss cost[3] (in general indicating higher total cost of claims), while other areas of Maryland have loss experience below the statewide average (generally indicating lower total cost of claims).



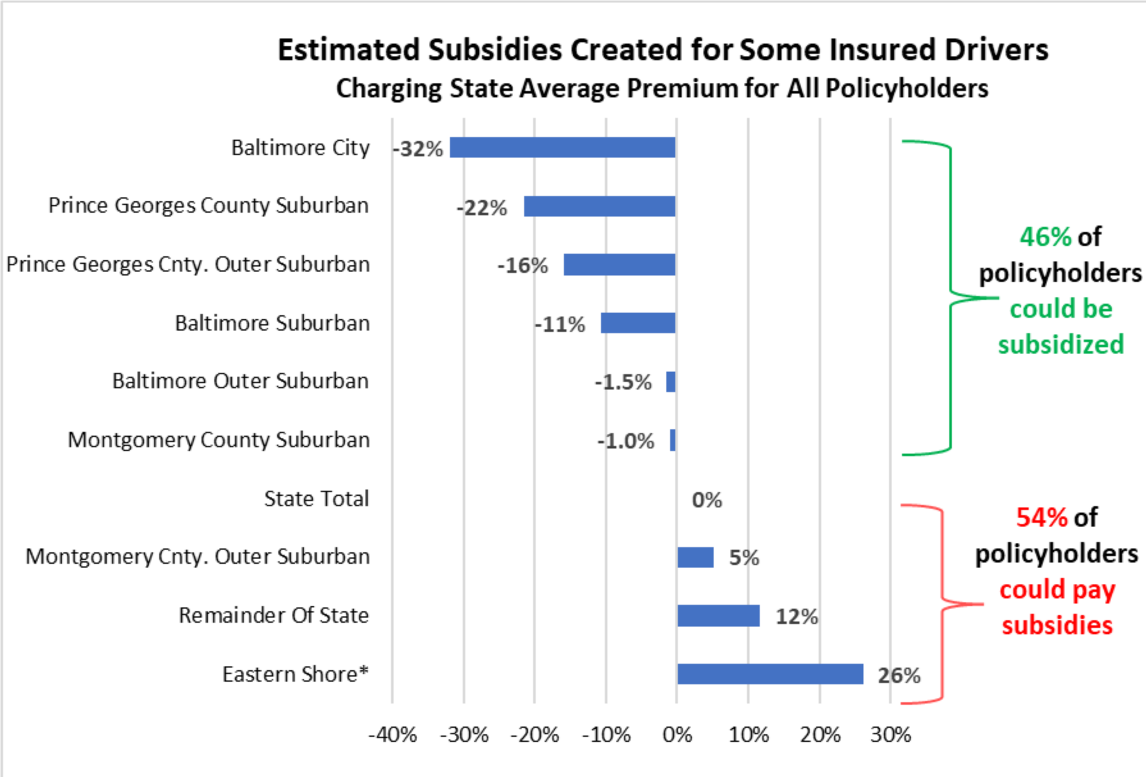
*Eastern Shore: Caroline, Southern Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester Counties

If territorial rating were prohibited, some policyholders with better loss experience (and thus on average pay less than the statewide average) could potentially see a rate increase of about 13 percent (on average). The resulting higher premiums paid by this group of drivers with generally lower claims costs would then subsidize the potential 12 percent (on average) rate decreases for Marylanders with generally higher claims costs.



Below is the estimated potential average premium change by territory, should territorial rating be eliminated and all Maryland personal auto policyholders were charged the statewide average.

3 Average loss per insured vehicle (car-year).



*Eastern Shore: Caroline, Southern Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester Counties

The debate on territorial rating has resulted, no doubt, in part from increases in the cost of insurance, especially to those living in metropolitan areas. Certain special interest groups feel that restrictions on the insurance ratemaking process will result in lower premiums for the policyholder. This is not the case, however, as affordability concerns cannot be mitigated over the long term by establishing artificial barriers on the risk assessment process and prohibiting the use of territorial rating. Rather, premium decreases should only take place when the true problem of high underlying claim costs is recognized and dealt with directly and successfully.

Conclusion

Trade Secret protection is provided to all businesses in Maryland and the insurance industry is not the exception. Removing this protection only benefits our competitors and not the public at large. Insurance companies should continue to have equal footing with other Maryland businesses. With regard to the present territorial rating system, most objections point toward the social philosophy that underlies the criterion of geographical location, and not on the validity of accepted statistical principles of risk assessment. The risk assessment process should be free of restrictions that would prohibit competition and bring about forced subsidies for some consumers at the expense of others. Should different criteria for territorial definitions and boundaries become justified, companies will take the initiative to incorporate them into their systems to benefit the insurance-buying public.

For all these reasons, the APCIA urges the Committee to provide an unfavorable report on Senate Bill 816.

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Testimony from:
Robert Melvin, Senior Manager, State Government Affairs for the Northeast Region, R Street Institute

R Street Testimony in Opposition to MD SB 816 "Motor Vehicle Insurance – Rate Filings – Trade Secrets and Factors Used to Establish Rates."

March 15, 2023

Maryland Senate Finance Committee

Chairwoman Griffith and members of the committee,

My name is Robert Melvin. I am the senior manager of state government affairs for the Northeast region at the R Street Institute. The R Street Institute is a nonprofit, nonpartisan public policy research organization. Our mission is to engage in policy research and outreach to promote free markets and limited, effective government in many areas, including insurance regulation, which we have researched since our founding in 2012. Our efforts to advance competitive insurance markets are why our organization is opposed to SB 816.

The legislation would impose new limits on the use of territory as a rating factor for automobile insurance underwriting, and would make proprietary rate-related information—such as formulas and algorithms used for underwriting—publicly available. We are staunch champions of the principle that the best regulator of insurance rates is the market itself, and view SB 816 as counter to that philosophy.

During the most recent edition of the annual Insurance Regulation Report Card, released by the R Street Institute in December 2022, Maryland's grade was raised from C- to C.[1] One of the weaknesses we identified in the state is "lack of underwriting freedom." Imposing limits on automobile insurance companies' use of territory as a rating factor will only exacerbate the current challenges, and subvert the positive movement made in the state's insurance market.[2] Additionally, the requirement that proprietary rate-related information be made public could undermine competition as each automobile insurance company would be able to view one another's internal processes.

Vehicle location is one of the most commonly used factors for calculating an auto insurance policy.[3] Unfortunately, the use of this variable had raised concerns from consumer groups that claim that the use of territory targets minority communities. It is illegal to incorporate race as a factor in insurance ratemaking.[4] In fact, the reason rates are higher in more urban communities relates to the greater propensity for accidents; greater traffic density; increased incidence for theft and vandalism; more hazardous driving conditions; proclivity to litigate; and the higher cost of auto repair.[5] In fact, studies

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have concluded that "auto-insurance-affordability problems in urban areas with large minority populations reflect higher costs of providing coverage, not unfair discrimination."[6] In addition, urban area residents tend to pay higher premiums for auto insurance because the costs associated with the claims in those areas tend to be greater.[7]

Rating variables, such as the use of territories, are critical for accurate insurance pricing.[8] Placing limits on their use could result in lower-risk policyholders subsidizing higher-risk policyholders.[9] The adverse impacts associated with restricting underwriting freedom prove that restraining rate-related factors, such as the use of territory, produce undesirable results. The primary outcome of such restrictions is that certain insured drivers end up paying more for coverage, thus subsidizing other drivers.[10] Impeding underwriting freedom manipulates market-related signals that help assess risk, and results in increased premiums for all insured drivers, which culminates in higher-risk drivers having a reduced ability to obtain insurance.[11]

As you review SB 816, we urge you to consider the challenges this bill could impose on Maryland's insurance marketplace. Maryland has made progress with improving its insurance market's competitiveness, but limiting the use of territories for auto-insurers for underwriting and rate setting will only set the state back. Territory is not the only factor used to determine risk, but is one of a variety of variables. Moreover, territory is important for measuring potential risk of accidents, and has nothing to do with race, which is illegal to use when calculating insurance rates. For these reasons, we strongly urge you to oppose SB 816.

Thank you,

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Position: INFO

MARYLAND
AUTO INSURANCE

TESTIMONY – SENATE BILL 816

Date: March 15, 2023 **Position:** **Informational**

Bill Number: Senate Bill 816

Bill Title: Motor Vehicle Insurance – Rate Filing – Trade Secrets and Factors Used to Establish Rates

Senate Bill 816 Review and Analysis

Senate Bill 816 provides that an insurer, including Maryland Automobile Insurance Fund (MAIF), may not use more than five territories in establishing automobile insurance rates. MAIF has used territory rating to determine premiums for decades as location is an important actuarial factor in evaluating risk and predicting claims. If territory rating was limited to five territories, MAIF rates would increase on average by +4.9% for 53% of our policyholders and decrease by -4.6% for 47% of our policyholders. The breakdown by region, on average, would be as follows:

REGION	% Change in Average Premium
Baltimore Metropolitan Area	-3.4%
Northeastern Maryland	+2.6%
Eastern Shore	+5.8%
Southern Maryland & Anne Arundel County	+0.1%
Western Maryland	+1.9%
Montgomery & Howard Counties	+0.5%
Prince George's County	+0.4%

Senate Bill 816 would affect, both positively and negatively, the cost of insurance for policyholders of MAIF.

For Information: Sandra Dodson – Government Relations 667-210-5182