

# INDEPENDENT INSURANCE AGENTS OF MARYLAND, INC.

DBA BIG I MARYLAND



## Senate Judicial Proceedings Committee

### Senate Bill 474

#### Position: Unfavorable

Dear Chairman Smith and the Members of the Senate Judicial Proceedings Committee,

The BIG I MARYLAND (“Big I”) is the State’s oldest trade association of independent insurance agents. It represents 200 independent agencies, which employ over 2000 people in the state. We represent independent insurance agents and brokers who present consumers with a choice of policy options from a variety of different insurance companies. These small, medium, and large businesses offer a variety of insurance products – including property, casualty, life, health, employee benefit plans, and retirement products.

The Big I opposes SB474 for the reasons described below.

#### **CURRENT LAW ALREADY BALANCES FAIRNESS AND PREDICTABILITY**

Maryland law already allows injured people to recover unlimited economic damages—such as medical bills, lost wages, and future care costs—as well as punitive damages where available, without any cap at all. The existing limit applies only to subjective noneconomic losses like pain and suffering, and that cap increases automatically every year to keep pace with inflation and changing economic conditions. This structure reflects a carefully considered balance between compensating injured plaintiffs and maintaining a stable, predictable civil justice system.

Importantly, Maryland’s appellate courts have repeatedly upheld the constitutionality of these caps, recognizing that the General Assembly has the authority to place reasonable limits on inherently subjective awards. SB 474 would abandon that balanced framework by eliminating any ceiling on noneconomic damages, even though the current system is functioning as intended.

#### **REMOVING THE CAP WILL INCREASE COSTS FOR MARYLAND FAMILIES AND SMALL BUSINESSES**

Eliminating caps on noneconomic damages tends to increase liability costs, which are then passed on to consumers through higher insurance premiums. Studies cited in prior testimony before this Committee

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indicate that even a substantial increase in the cap—to \$1.75 million—would raise commercial auto insurance premiums by roughly 23–30% and personal auto rates by approximately 14–19%. Removing the cap altogether logically risks even larger premium increases, particularly for high-risk sectors like transportation, construction, health care, and small retail.

These additional costs will not fall on large corporations alone. They will directly affect:

- Small businesses that rely on affordable liability and commercial auto coverage to operate.
- Individual drivers, who may see higher auto premiums and could be priced out of adequate coverage.
- Local governments and nonprofits, which are funded by taxpayers and donations and must budget for increased liability costs.

In a time of rising living and operating costs, Maryland should be cautious about adopting changes that could add another layer of financial pressure to residents and employers.

### **UNLIMITED NONECONOMIC DAMAGES CREATE UNPREDICTABILITY AND ENCOURAGES FORUM SHOPPING**

Noneconomic damages are subjective by nature. Different juries can value the same injury very differently, leading to wide variation in awards. A reasonable statutory cap moderates this variability and promotes consistency in verdicts and settlements. Without any cap, outlier verdicts for pain and suffering become more likely, making it harder for insurers, businesses, and local governments to assess risk and set premiums.

Removing the cap also risks turning Maryland into a more attractive forum for high-dollar litigation. When one state has unlimited noneconomic damages while neighboring jurisdictions maintain limits, plaintiffs' attorneys have strong incentives to file or keep cases here whenever possible. That kind of forum shopping can distort our civil justice system and further increase aggregate liability exposure for Maryland defendants.

Additionally, the removal of caps could lead to third party litigation funding by private equity groups seeking to cash in on higher awards and settlements.

### **CAPS ENCOURAGE FAIR SETTLEMENTS AND REDUCE LITIGATION BURDENS**

The presence of a clear noneconomic damages cap helps both sides evaluate cases and reach reasonable settlements. When there is no upper bound on subjective pain-and-suffering awards, plaintiffs' demands naturally increase, and defendants become more reluctant to settle because potential exposure is open-ended. This dynamic can:

- Prolong litigation and delay compensation for legitimately injured plaintiffs.
- Increase defense and court costs as more cases go to trial.
- Burden Maryland's judiciary with more complex and higher-stakes civil dockets.

The existing cap provides a shared reference point that promotes earlier resolution and reduces strain on courts, parties, and witnesses.

## **THE CAP TARGETS ONLY SUBJECTIVE HARMS; OBJECTIVE LOSSES REMAIN FULLY COMPENSABLE**

Some advocates argue that caps on noneconomic damages “limit justice” for severely injured people. But in Maryland, there is no limit on recovery for actual, documented financial losses such as surgery costs, rehabilitation, long-term care, lost income, and diminished earning capacity. These are the damages that most directly address a plaintiff’s practical needs and future security. Noneconomic damages, by contrast, attempt to assign a dollar figure to pain, suffering, grief, and emotional distress—harms that are real but inherently difficult to quantify.

By maintaining a generous and ever increasing, but finite, cap on this subjective category, the General Assembly has ensured that plaintiffs receive substantial noneconomic awards while still protecting the broader public from the systemic effects of unlimited liability. SB 474 would remove that important safeguard without changing the fact that economic and punitive damages remain uncapped.

## **MARYLAND’S APPROACH IS CONSISTENT WITH A LONG-STANDING POLICY CHOICE**

Maryland first enacted a cap on noneconomic damages in 1986, and the General Assembly has updated that framework several times to increase the cap and provide an annual escalator. Over nearly four decades, the legislature has consistently recognized the need to contain unpredictable, subjective awards for pain and suffering while allowing full recovery for economic losses. Multiple attempts to fully repeal the cap in recent sessions—including bills that would have imposed unlimited noneconomic damages—have not passed, reflecting ongoing bipartisan concern about the economic consequences of such a change.

SB 474 would reverse this long-standing policy without any clear evidence that the current, steadily increasing cap is inadequate to fairly compensate injured Marylanders. Before taking such a drastic step, the Committee should weigh carefully the substantial potential impact on insurance markets, small businesses, and consumers.

## **CONCLUSION**

For these reasons—the risk of higher insurance premiums, increased costs to small businesses and consumers, greater unpredictability in verdicts, and departure from a balanced, time-tested policy—I respectfully request an unfavorable report on SB 474. Maryland can continue to protect legitimately injured people through unlimited economic damages and a robust, annually increasing noneconomic cap, without exposing families, job creators, and local governments to the open-ended liability SB 474 would create.

We appreciate the opportunity to provide these comments.