

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 662
Finance

(Senator Pugh, *et al.*)

Vehicle Laws - Rental Vehicle Companies - Right of Subrogation

This bill grants a rental vehicle company or its designee the right of subrogation against a renter of a motor vehicle and the renter's insurer or the driver of the motor vehicle or the driver's insurer under specified conditions.

Fiscal Summary

State Effect: Minimal increase in Maryland Insurance Administration (MIA) special fund revenues in FY 2015 due to \$125 rate and form filings. Review of the filings can be handled with existing resources. General fund revenues increase to the extent that the bill results in increased premiums for motor vehicle insurance policyholders due to the 2% tax collected on all premiums in the State.

Maryland Automobile Insurance Fund (MAIF) Effect: Nonbudgeted expenditures increase in FY 2015 and subsequent years to account for an increase in the number of claims paid. Revenues may increase if premiums increase to cover additional claims activity.

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

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill grants a rental vehicle company or its designee the right of subrogation against a renter of a motor vehicle and the renter's insurer for property damage, personal injury, and wrongful death claims paid by the rental vehicle company or the designee that arose from the use or operation of the motor vehicle by the renter. If

the renter was not driving the vehicle, the bill grants a rental vehicle company or its designee an identical right against the driver and the driver's insurer. This right applies only to claims related to insurance security requirements that (1) provide for bodily injury or death; (2) provide for the damage or destruction of property that belongs to others; and (3) are related to the minimum security benefits required of all motor vehicles for registration in the State.

If a rental vehicle company receives a third-party claim, the rental vehicle company must notify the insurer of the renter (or the driver) of the claim. After receiving this notice, an insurer may choose to handle the claim. Until the insurer assumes the handling of the claim, the rental vehicle company must continue to handle the claim.

A rental vehicle company may not seek recovery or reimbursement for third-party claims greater than the limit of the insurance policy (1) covering the renter or driver or (2) from a renter or driver that lacks valid and collectible insurance coverage.

Current Law:

Rental Vehicle: The Motor Vehicle Administration (MVA) may not register any rental motor vehicle, trailer, or semitrailer until the owner of the vehicle certifies to MVA's satisfaction that the owner has the following security amounts:

- the payment of claims for bodily injury or death arising from an accident of up to \$30,000 for any one person and up to \$60,000 for any two or more persons, in addition to interest and costs (liability coverage) (these limits were increased from \$20,000 and \$40,000, respectively under Chapter 441 of 2010, effective January 1, 2011);
- the payment of claims for property of others damaged or destroyed in an accident of up to \$15,000, in addition to interest and costs;
- unless waived, personal injury protection coverage (minimum coverage for medical, hospital, and disability benefits up to \$2,500 for payment of expenses that arise from the accident, lost income, and reimbursement for essential services for care and maintenance of the family or family household); and
- uninsured motorist coverage (unless waived, the amount equals the amount of liability coverage provided under the policy; if waived, the amount equals the minimum required insurance for liability coverage).

This security covers the owner of the vehicle and each person driving or using the vehicle with the permission of the owner or lessee.

Replacement Vehicle: A “replacement vehicle” is defined as a vehicle that is loaned by an auto repair facility or a dealer, or that an individual rents temporarily, to use while a vehicle owned by the individual is not in use because of breakdown, repair, service, damage, or some other reason described in the individual’s insurance policy.

Under Chapter 673 of 1996 and later clarified under Chapter 362 of 1997, the owner of a replacement vehicle, while it is used as a replacement vehicle, may maintain the security required under the Maryland Vehicle Law by maintaining required security that is secondary to any other valid and collectible coverage of the owner’s vehicle, which meets the minimum required levels. If the owner of a replacement vehicle provides this secondary coverage, the agreement signed by the individual who is loaned the replacement vehicle must state on the face of the agreement, in at least 10-point bold type, information that the coverage on the vehicle being serviced or repaired is primary coverage for the replacement vehicle and the coverage maintained by the owner on the replacement vehicle is secondary. As such, a renter’s insurance is only the primary coverage if a rental car is rented as a replacement vehicle.

Background: Recently, the Supreme Court of Virginia held that a self-insured car rental company was permitted to seek reimbursement from the renter’s personal automobile insurer after the company had satisfied any damages caused by the renter of the vehicle. *Farmers Insurance Exchange v Enterprise Leasing Company*, Case No. 100082 (VA S.Ct., Apr. 21, 2011).

MAIF Effect: Nonbudgeted expenditures increase in fiscal 2015 and subsequent years to account for an increase in the number of claims paid. Because any expenditure increase depends on the number of MAIF policyholders who rent a vehicle and are subsequently involved in an accident under the specified circumstances, as well as the extent of the damage caused by any accident, the increase in nonbudgeted expenditures cannot be reliably estimated at this time.

Nonetheless, MAIF estimates that the liability associated with claims increases by 5%. Under this scenario, *for illustrative purposes*, MAIF would pay an additional 171 bodily injury claims and 283 property damage claims each year. On average, MAIF pays \$5,568 for a bodily injury claim and \$2,706 for a property damage claim. Thus, MAIF’s nonbudgeted expenditures would increase annually by approximately \$952,128 for bodily injury claims and \$756,798 for property damage claims. MAIF advises that these expenses could lead to a 6.3% increase in premiums for all MAIF policyholders. If so, expenditures would increase further to account for the 2% tax collected on all insurance premiums.

State Revenues: General fund revenues increase to the extent that the bill results in increased premiums for policyholders of motor vehicle insurance in the State due to the 2% tax collected on all insurance premiums paid in the State. This increase depends on how insurance premium rates are altered by insurers in the State as a result of the bill and, thus, cannot be reliably estimated at this time.

For illustrative purposes, using MAIF's estimate of a 5% increase in claims paid, MAIF premiums may increase by as much as \$1.7 million to account for its additional expenditures. In this case, general fund revenues increase by approximately \$34,000 due to the 2% premium tax. If other insurers in the State raise premiums to account for the liability established by the bill, general fund revenues may increase significantly.

Small Business Effect: Meaningful beneficial impact on small business vehicle rental companies to the extent the bill results in a vehicle rental company being reimbursed for the satisfaction of damages caused by the renter of the vehicle.

Additional Information

Prior Introductions: HB 1089 of 2013 passed the House with amendments, was heard by the Senate Finance Committee, and was referred to interim study. Its nonidentical cross file, SB 919, received a hearing from the Senate Finance Committee and was likewise referred to interim study. Related legislation was considered in previous sessions.

Cross File: HB 730 (Delegate Braveboy) - Economic Matters.

Information Source(s): Department of Legislative Services

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