

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 805
Finance

(Senator Peters)

Motor Vehicle Insurance - Rate Filings - Discrimination, Trade Secrets, and
States of Emergency

This bill authorizes the Insurance Commissioner to require a private passenger motor vehicle insurer to reduce the rates for its policies (and file the changes to those rates) if the Governor has declared a state of emergency by either executive order or proclamation. The Commissioner must *require* insurers to do so if the current COVID-19 state of emergency is renewed after the bill's July 1, 2021 effective date but before August 1, 2021. The bill repeals the authority of a private passenger motor vehicle insurer to take specified actions based wholly or partly on the territory of the insured or applicant. The bill also repeals the ability of property and casualty insurers to identify that part of a rate filing includes "proprietary rate-related information" that must be kept confidential. **Provisions related to rate reductions during a state of emergency take effect July 1, 2021. Provisions related to the use of territory by private passenger motor vehicle insurers and repeal of provisions related to proprietary rate-related information apply to all automobile insurance policies offered, issued, or delivered in the State on or after January 1, 2022.**

Fiscal Summary

State Effect: Minimal special fund revenue increase for the Maryland Insurance Administration (MIA) from the \$125 rate and form filing fee in FY 2022. MIA review of additional filings may necessitate contractual support in FY 2022 only. General fund revenues may decrease in FY 2022 and be affected in future years, as discussed below.

Maryland Automobile Insurance Fund Effect: Although the bill changes the factors that a private passenger motor vehicle insurer may take into consideration to determine premiums, it is not expected to change the total amount of premiums collected by the Maryland Automobile Insurance Fund (MAIF) or any corresponding premium tax revenue attributable to MAIF policies. The bill's requirements can be handled with existing resources.

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

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law:

Private Passenger Automobile Insurance – Rating

Under current law, a private passenger automobile insurer in the State is authorized to use territory as a rating factor (generally, the applicant's or insured's zip code, county, or city of residence) only if the insurer submits a statement to the Insurance Commissioner certifying that (1) the territories used by the insurer have been reviewed within the previous three years and (2) the use of the territories is actuarially justified.

Under the bill, a private passenger motor vehicle insurer is prohibited from using an applicant's or insured's territory to refuse to underwrite, cancel, refuse to renew, rate a risk, or increase the renewal premium for a motor vehicle insurance policy.

Filing of Proprietary Rate-related Information by Property and Casualty Insurers

Under current law, the information a property and casualty insurer files with the Commissioner is generally open to public inspection as soon as it is filed; however, an insurer may identify the information it files as "proprietary rate-related information" (defined as a rating model, including the formulas, algorithms, analyses, and specific weights given to variables used in the model.) If identified in this way, the information (1) constitutes a trade secret and confidential commercial information; (2) must generally be kept confidential by the Commissioner; and (3) is not subject to subpoena, as specified. The Commissioner may determine that a filing is not proprietary rate-related information and, if so, must follow specified procedures. Proprietary rate-related information may only be disclosed under specified circumstances.

Under the bill, all of these authorizations and procedures related to proprietary rate-related information are repealed. As a result, each filing and any supporting information is always open to public inspection as soon as it is filed.

State Revenues: Title 6 of the Insurance Article imposes a 2% premium tax on each authorized insurance company, surplus lines broker, or unauthorized insurance company that sells, or an individual who independently procures, any type of insurance coverage upon a risk that is located in the State. Revenues accrue to the general fund. The bill potentially affects these premium tax revenues in two ways.

First, premium tax revenues decrease to the extent that the COVID-19 state of emergency is renewed between July 1, 2021, and August 1, 2021, and, as a result, the Commissioner requires private passenger automobile insurers to reduce their premiums. Any such impact depends on if the state of emergency is renewed and by how much premiums are reduced, which cannot be reliably predicted or estimated at this time.

Second, MIA advises that nearly all private passenger automobile insurers in the State use territory as a rating factor and must recalculate and refile their rates under the bill. Currently available information indicates that private passenger automobile insurers in the State are uncertain as to what effect the bill has on premiums. Thus, the direction and extent of any impact on general fund revenues through the premium tax cannot be reliably estimated at this time. Additionally, if insurers restructure their premiums in the same manner as MAIF (as discussed in the following section), general fund revenues are not affected.

MAIF Fiscal Effect: MAIF advises that, while the bill is not expected to affect its total revenue because premium rates are established to cover overall risk, the bill’s prohibition against use of territory would significantly alter rates for many or all of its policyholders. Specifically, a preliminary estimate of the bill’s effect on MAIF premium rates by region is illustrated in **Exhibit 1**. Other insurers in the State may have a similar experience.

Exhibit 1
Estimated Effect on Maryland Automobile Insurance Fund Premium Rates
By Region

| <u>Region</u> | <u>Average Change in Premiums</u> | <u>% Average Change in Premiums</u> |
|---|---------------------------------------|---|
| Baltimore Metropolitan Area | (\$847) | (34.1%) |
| Northern Maryland | (213) | (10.8%) |
| Eastern Shore | 661 | 57.5% |
| Southern Maryland and Anne Arundel County | 65 | 3.8% |
| Western Maryland | 403 | 27.4% |
| Montgomery and Howard Counties | 160 | 10.6% |
| Prince George’s County | 54 | 3.5% |
| Statewide | \$0 | 0.0% |

Source: Maryland Automobile Insurance Fund

Additional Information

Prior Introductions: None.

Designated Cross File: HB 1251 (Delegate Washington) - Economic Matters.

Information Source(s): Maryland Insurance Administration; Maryland Automobile Insurance Fund; Department of Legislative Services

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an/jc

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