

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 903 (Delegate Crosby)
 Economic Matters and Appropriations

Insurance - Maryland Automobile Insurance Fund - Assessments

This bill increases the Maryland Automobile Insurance Fund’s (MAIF) share of uninsured motorist penalties collected by the Motor Vehicle Administration (MVA). The bill also alters the assessment collection process that takes place when MAIF experiences a significant operating loss by (1) authorizing MAIF to withdraw a portion of assessment immediately upon certification and approval of the assessment by the Insurance Commissioner; (2) specifying when insurers that pay the assessment may and may not be subject to an assessment; and (3) requiring the Industry Automobile Insurance Association (IAIA) to promptly return any excess assessment payments, as specified. **The bill takes effect June 1, 2023.**

Fiscal Summary

State Effect: General fund revenues decrease by \$826,000 in FY 2023 and by \$9.9 million annually thereafter. Nonbudgeted fund balance totaling \$10.2 million is transferred to MAIF in FY 2023 (reflected below as a reduction in revenues). Expenditures are not affected. **This bill modifies a mandated distribution beginning in FY 2023.**

(\$ in millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
GF Revenue	(\$0.8)	(\$9.9)	(\$9.9)	(\$9.9)	(\$9.9)
NonBud Rev.	(10.2)				
Expenditure	0	0	0	0	0
Net Effect	(\$11.0)	(\$9.9)	(\$9.9)	(\$9.9)	(\$9.9)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

MAIF Effect: Nonbudgeted revenues for MAIF increase by \$11.0 million in FY 2023 (primarily from a fund balance transfer that year) and \$9.9 million annually thereafter, as discussed below. Expenditures are not affected.

(\$ in millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
NonBud Rev.	\$11.0	\$9.9	\$9.9	\$9.9	\$9.9
Expenditure	0	0	0	0	0
Net Effect	\$11.0	\$9.9	\$9.9	\$9.9	\$9.9

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

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

Small Business Effect: None.

Analysis

Bill Summary:

Uninsured Motorist Penalties

Instead of receiving a portion of uninsured motorist penalties near the end of the funding formula based on previous year remittances, MAIF must receive 20% of the total uninsured motorist penalties collected by MVA each year.

Assessments to Fund the Maryland Automobile Insurance Fund

Promptly after the certification of a total assessment for commercial auto or private passenger auto insurers, the IAIA board of directors must notify the Commissioner of the certification. On approval of the certification, the Commissioner must authorize MAIF to withdraw (1) an amount equal to the total commercial auto or private passenger auto assessment, if the total assessment balance for that portion exceeds the total assessment or (2) the entire commercial auto or private passenger auto balance in the account, if the total assessment equals or exceeds the balance in the account for that portion. Funds withdrawn by MAIF in this manner must be credited to MAIF's surplus and may not be credited to IAIA members.

Association members may not be subject to an annual assessment if funds in the overassessment account are equal to or greater than the total assessment. Association members are subject to an annual assessment if funds in the overassessment account are less than the total assessment, based on the difference between the total commercial auto assessment or private passenger auto assessment and the applicable funds in the overassessment account.

Overassessments on Association Members

If an IAIA member overpays for their portion of the assessment, then IAIA must promptly return the excess to the member and is no longer authorized to deposit the overpayment into the Insufficiency Assessment Reserve Fund. An association member who receives a refund must either (1) refund the excess to the policyholders who paid the excess or (2) apply the excess as an expense reduction in a subsequent rate filing. Obsolete provisions related to overpayment credits against future assessments and any such overpayment revenue in the Insufficiency Assessment Reserve Fund are repealed.

Current Law:

Maryland Automobile Insurance Fund

Created by the General Assembly in 1972, MAIF is an independent nonbudgeted State agency. Through its Insured Division, MAIF provides automobile liability insurance to residents of the State who are unable to obtain policies in the private insurance market. As the insurer of last resort, MAIF is not in direct competition with the private insurance industry because a customer must generally have been turned down by other insurers (and meet other requirements) in order to obtain a policy with MAIF.

Like other insurers, MAIF is primarily funded through premiums on the insurance policies it issues; however, MAIF is authorized to issue an assessment paid by other motor vehicle insurers in the State if it experiences a significant operating loss (as defined by State law) and meets other specified conditions. This is to ensure MAIF's continued viability as the insurer of last resort. The assessment is grouped and paid separately by private passenger auto insurers and commercial auto insurers. Once an insurer pays the assessment, they are authorized to recoup the cost from their policyholders. MAIF has not issued an assessment since 1989.

Industry Automobile Insurance Association and Assessments

IAIA is an association that consists of all insurers in the State (except for MAIF) that are licensed to issue motor vehicle liability insurance or motor vehicle physical damage insurance. Any such insurer must join IAIA as a condition of its authority to sell insurance. IAIA is governed by a board of directors and it is responsible for, among other things, working with the Commissioner and MAIF to calculate, assess, and collect the MAIF assessment. The assessment must be deposited into the Insufficiency Assessment Reserve Fund and then the amount of the assessment must be remitted to MAIF from the fund.

In the event that an association member overpays and recoups too much from its policyholders, the excess must be retained in the Insufficiency Assessment Reserve Fund,

and the member must receive a credit against any future assessment. IAIA may adjust the assessment allocation percentages for an association to account for any such overpayment or an underpayment.

Uninsured Motorist Penalties and Revenue Distribution

MVA may assess the owner of a vehicle a penalty of \$150 for each vehicle without the required security for the first 30 days. Beginning on the thirty-first day, the fine increases by a rate of \$7 per day, but the total fine may not exceed \$2,500 annually, not including the additional misdemeanor penalty of up to \$500, which may be prepaid with a fine of \$290. Knowingly operating a vehicle without adequate security is a misdemeanor, subject to maximum penalties of a \$1,000 fine and/or one year imprisonment for a first offense and a \$1,000 fine and/or two years imprisonment for a subsequent offense. The violation requires a court appearance, results in the imposition of five points on the driver's record, and subjects the driver to participation in the Driver Improvement Program.

A portion of the fines collected under the escalating penalty structure for lapsed security is retained in MVA (30%) for specified purposes; the rest (70%) is directed under the following allocation formula:

- \$600,000 to the Safe Schools Fund;
- \$2.0 million to the State Police's Vehicle Theft Prevention Fund;
- a specified amount to MAIF based on the amount provided in the prior fiscal year adjusted for inflation; and
- the balance to the general fund.

State/MAIF Revenues: MAIF is currently operating in a deficit as the projected income for its insured division for fiscal 2023 is \$5.2 million, while projected costs are \$5.5 million. The insured division has a surplus of \$1.8 million, but this amount cannot keep MAIF solvent for more than six years (or fewer if the annual operating loss increases). The bill assists MAIF by increasing its revenues in two separate ways. First, the bill alters the distribution of uninsured motorist penalties by increasing MAIF's share of the revenues and decreasing the general fund share of the revenues. Second, the bill alters the process by which assessments are issued to automobile insurers in the State and collected when MAIF experiences a significant operating loss and, in doing so, allows MAIF to access overpayment reserve funds that were collected during the 1989 assessment.

In summary, nonbudgeted revenues for MAIF increase by (1) an estimated \$826,038 in fiscal 2023 and \$9.9 million annually beginning in fiscal 2024 due to the redistribution of uninsured motorist penalties (general fund expenditures decrease correspondingly) and

(2) \$10.2 million in fiscal 2023 as the nonbudgeted reserve funds become available to MAIF. A more detailed discussion of each of these effects can be found below.

Uninsured Motorist Penalty Distribution

Exhibit 1 shows the distribution of the \$70.7 million in uninsured motorist penalties collected by MVA for fiscal 2022 and what the distribution of funds would have been had the bill been in effect for that year. Historically, MVA has collected approximately \$70.0 million in penalties each year, except for fiscal 2020 and fiscal 2021 when far fewer individuals were regularly driving due to the COVID-19 pandemic.

Exhibit 1
Uninsured Motorist Penalties
Distribution Under Current Law vs. as Proposed Under HB 903 of 2023
Fiscal 2022

	<u>Current Law</u>	<u>Under the Bill</u>	<u>Change</u>
MVA	\$21,237,244	\$21,237,244	\$0
MAIF	4,221,157	14,133,608	9,912,451
Safe Schools Fund	600,000	600,000	0
Vehicle Theft Prevention Fund	2,000,000	2,000,000	0
General Fund (remainder)	42,609,641	32,697,190	(9,912,451)
Total Fines:	\$70,668,042	\$70,668,042	\$0

MAIF: Maryland Automobile Insurance Fund

MVA: Motor Vehicle Administration

Source: Maryland Automobile Insurance Fund, Motor Vehicle Administration

For purposes of this analysis, it is assumed that \$70.7 million in penalties are collected annually beginning in fiscal 2023 and the revenue distribution is similar to what is estimated above in Exhibit 1. Therefore, nonbudgeted revenues for MAIF increase by \$826,038 in fiscal 2023 (this reflects the increase for the final month of fiscal 2023 as the bill takes effect June 1, 2023) and \$9.9 million annually thereafter; general fund revenues decrease correspondingly.

Changes to Assessments

MAIF advises that, during the 1989 assessment, more than 100 insurers doing business in the State overpaid their assessments resulting in credits totaling \$9.7 million from private

passenger insurers and \$478,000 from commercial insurers. These funds are in the Insufficiency Assessment Reserve Fund but cannot be used until the insurer liabilities to its policyholders are paid and the credit is subsequently redeemed. However, given that the last assessment was 34 years ago, many insurers cannot provide a return to their policyholders because the insurer is no longer doing business in Maryland (which is true for more than 50 insurers), or the policyholder is no longer with the insurer.

The bill allows MAIF to access these nonbudgeted reserve funds, increasing MAIF revenues by \$10.2 million in fiscal 2023 (since the bill takes effect June 1, 2023). Also, should there be any future assessments, the bill requires insurers to immediately return any overpayments to insureds.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

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

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