



Testimony of Maryland Auto Insurance Fund

Date: February 19, 2025

Position: **Favorable with Amendments**

Bill Number: House Bill 1098

Bill Title: Insurance – Automobile Insurance – Maryland Automobile Insurance Fund and Affordability Study

The Maryland Automobile Insurance Fund

The Maryland Automobile Insurance Fund (MAIF) was created in 1973 to provide automobile insurance to Maryland residents that have been turned down by two insurance companies or canceled or non-renewed by one. *Insurance Article §20-301*. Originally, the statute did not make any provision for ensuring that MAIF rates were affordable. MAIF rates were set according to the basic insurance rating laws, requiring the rates to be “not excessive, inadequate, or unfairly discriminatory.” Article 48A §243C (Chapter 73, 1973). But in 1985, the legislature added the language, which is in the current law, *Insurance Article §20-507* that “In reviewing rates filed by the Fund, the Commissioner shall consider not only the rating principles under Title 11 [not excessive, inadequate, or unfairly discriminatory] . . . but also the statutory purpose of the Fund under § 20-301 of this title.” This language was added to ensure that Maryland Auto’s rates “remain affordable to that segment of the population which is dependent on the Fund for automobile insurance.” (Preamble, Ch. 610, 1985).

From the beginning, the Legislature recognized that MAIF would at times require financial assistance, especially since affordable rates are not usually rates that are adequate to cover all claims and expenses. When MAIF’s operating income and surplus are below the statutory trigger in *Insurance Article §20-404* an assessment on the private insurance market is declared. This year is one of those times and an assessment will be certified in March 2025.

House Bill 1098

House Bill 1098 has three elements. First, the bill requires MAIF to meet RBC standards for the first time. This is an NAIC created financial standard of solvency that analyzes a company’s surplus. It determines a company’s required surplus, below which regulatory action by the MIA would be instituted. It applies to insurance companies generally. MAIF has never been subject to this standard, as MAIF cannot become insolvent. Instead, Title 20 of the Insurance Article provides that, in the event of a surplus deficiency, an assessment would be triggered to bolster MAIF’s surplus and an insolvency could not happen.

HB 1098 does not change the MAIF assessment mechanism but requires MAIF to also meet the RBC standard. The RBC standard requires significantly more surplus than the assessment standard. For example, the Company Action Level RBC requirement for MAIF at year-end 2024 would have been approximately \$33 million. The alternate calculation in §20-306(c)(2)(ii) of HB 1098, as drafted, is 50% more than the Company Action Level and would have been approximately \$50 million at year-end 2024.

RBC level surplus is not appropriate for MAIF as the assessment statute prevents insolvency and has served as an adequate financial benchmark for more than 50 years. MAIF is the residual insurer and is very limited as to business it can write. Residual insurers rarely operate on a break-even basis and the statute has never been a guarantee that an assessment will not occur. Instead, Maryland law protects against an insolvency by imposing an assessment. As a result, regulatory action that flows from an RBC deficiency under Insurance Article §4-308, including rehabilitation and liquidation, do not and should not apply to MAIF. Requiring MAIF to meet this higher requirement will have no effect other than making Maryland Auto appear to be in much worse financial condition than under the assessment statute.

The operative parts of the bill require MAIF, if the RBC surplus level is not met, to file a corrective action plan and to file rates on a “prior approval” basis. MAIF does not object to these provisions but believes it would be more appropriate to trigger these requirements by the certification of an assessment, the financial benchmark of MAIF for the past 50 years, and not the artificial and inapplicable RBC standard. We have provided an amendment to HB 1098 for this purpose.

The second provision of the bill, which requires MAIF to be subject to “prior approval” ratemaking, as opposed to “file and use”, inevitably results in delays with the approval and that delay pushes back implementation of the rates, which puts additional financial pressure on MAIF and exacerbates the surplus decline. Nonetheless, in deference to the Commissioner, we have recently deferred implementing rate filings until we received MIA approval. As a result, we have no objection to the prior approval aspect of HB 1098.

The third aspect of the bill creates a workgroup to study the affordability of motor vehicle insurance in Maryland. MAIF fully supports this workgroup and looks forward to participating as a member.

Please let us know if we can answer any questions.

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