

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

Senate Bill 930
Finance

(Senator Pugh, *et al.*)

Maryland Automobile Insurance Fund - Acceptance of Premiums on Installment
Payment Basis

This bill authorizes the Maryland Automobile Insurance Fund (MAIF) to accept premiums on an installment payment basis on 12-month personal lines policies if specified requirements are met and the Insurance Commissioner provides approval.

The bill applies prospectively and does not apply to policies and contracts issued by MAIF before October 1, 2013.

Fiscal Summary

State Effect: General fund revenues decrease minimally if MAIF lowers its premiums due to the bill. Special fund revenues increase by \$125 for the one-time form filing fee charged to MAIF. The Maryland Insurance Administration (MIA) can handle review of the installment payment plan and the evaluation report and the report to the General Assembly with existing resources.

MAIF Effect: MAIF's nonbudgeted expenditures increase minimally due to processing monthly installment payments. MAIF's nonbudgeted revenues from installment fees increase correspondingly to cover additional expenditures; the magnitude of the increase depends on the number of MAIF policyholders who choose to pay on an installment basis. MAIF is unable to predict the number of policyholders who will choose to pay on an installment basis. Increases in fee revenues may be offset by decreases in premium revenues to the extent that MAIF is able to lower its premiums as a result of the bill.

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: When considering whether to accept MAIF's plan to accept premiums on an installment payment basis, the Commissioner must ensure that MAIF's installment payment plan:

- requires an insured's initial premium payment to be at least 25% of the total premium;
- is structured and administered to ensure that MAIF at no time provides insurance coverage to an insured for a period during which MAIF has not received the actuarially justified premium payment;
- offers no more than six installment payments on the 12-month policy;
- allows insureds to make an initial premium payment and installment payments in any commercially acceptable form, which must include payment by check, credit card, or electronic transfer; and
- allows MAIF to impose an administrative processing fee on insureds participating in the installment plan of up to \$8 per installment payment.

The bill prohibits MAIF from (1) discriminating among insureds by charging different written or earned premium based on the payment option selected by an insured or on whether the MAIF producer is employed by a public entity or private entity and (2) paying a higher commission to a MAIF producer who places an insured in an installment payment plan over any other payment option, including a premium finance agreement.

Disclosure Requirements: The bill requires that any written and electronic communications, including MAIF's website, affecting the placement of coverage by MAIF or a MAIF producer must include a statement, on a Commissioner-approved form, advising an applicant or an insured of the payment options available to the applicant or insured. The statement must state that the applicant or insured (1) may make payments through MAIF's installment plan, a premium finance agreement, or payment of the policy in full and (2) should consult a MAIF producer who will fully describe the terms of each payment option.

The bill requires that the statement be included on written or electronic communications when the applicant or insured (1) is issued a new policy; (2) is issued a reissuance, rewrite, or renewal of an existing policy; or (3) incurs additional premiums under an existing policy.

Evaluation and Report: The bill requires that MAIF's Executive Director, in consultation with the Commissioner and appropriate State agencies, develop criteria for evaluating the

impact and effectiveness of MAIF's installment payment plan. The evaluation must consider the plan's impact on the (1) cost of automobile insurance for MAIF insureds; (2) the number of insured and uninsured motorists in the State; (3) the number of MAIF policies in force by geographic area; (4) the duration of MAIF policies in force; and (5) the frequency of payment methods used by MAIF insureds, including MAIF's installment payment plan, premium finance agreements, and cash and credit card payments.

By March 31 of each year, MAIF must prepare a report on the impact and effectiveness of the installment payment plan for the prior year. The report must be based on the aforementioned evaluation criteria and the bill's limitations on initial down payments and number of installment payments. Once the Commissioner receives the report, the Commissioner must make a determination of the impact and effectiveness of MAIF's installment payment plan, including a review of complaints received by the Commissioner relating to MAIF's installment payment plan and premium finance agreements. Based on this determination, the Commissioner must submit a report to the Senate Finance Committee and the House Economic Matters Committee by December 1 of each year.

The bill requires that an independent insurance producer selling coverage under a personal lines automobile insurance policy through MAIF must provide a disclosure to be signed by the insured comparing the costs and terms of premium financing with MAIF's alternative payment plan.

Current Law/Background: Created by the General Assembly in 1972, MAIF provides automobile liability insurance to residents of the State who are unable to obtain policies in the private insurance market. MAIF is authorized to insure a person who owns or leases a vehicle registered in the State, has a valid State driver's license, and has made good faith attempts to obtain a policy from at least two private insurers and has been rejected or refused for any reason other than nonpayment of premiums. In other states, private insurance companies share in insuring those unable to obtain insurance (known as the residual market) through an assigned risk plan in their respective state.

MAIF may not provide directly or indirectly for the financing of premiums or accept premiums on an installment basis. A premium owed to MAIF may be financed by a premium finance company registered with the Insurance Commissioner.

Thus, policyholders who are unable to pay their total insurance premium in advance must use the services of a premium finance company. The policyholder enters into a premium financing agreement, where the premium finance company pays the policyholder's total premium to MAIF and the policyholder agrees to repay the loan with finance charges and service fees in installments.

The finance charge and initial service fee that a premium finance company may assess include all interest, fees, and charges incident to the premium finance agreement and the resulting extension of credit. The allowable finance charge under a premium finance agreement is 1.15% for each 30 days, charged in advance. The finance charge is computed on the amount of the entire premium loan advanced, including taxes and fees, after the insured's down payment, if any, from the insurance contract's date of inception or the premium's due date. Premium finance companies typically require a down payment ranging from 11% to 15% of the premium with 10 additional installment payments to pay the outstanding balance owed.

The maximum initial service fee permitted is \$20 for actual expenses. The fee is not refundable on cancellation or repayment. In addition, a premium finance company may charge an electronic payment fee of up to \$8 for actual expenses incurred if the insured elects to pay the premium finance company with an electronic payment, including payment by credit card or debit card.

An independent insurance producer, who directly or indirectly has an ownership interest in a premium finance company, must provide a disclosure to be signed by the insured comparing the costs and terms of premium financing with the insurer's alternative payment plan.

An insurer that markets through independent insurance producers may not discriminate, intimidate, or retaliate against an insurance producer or insured that uses premium financing by denying the insurance producer or insured the same rights accorded those who do not.

MAIF is the only state fund mechanism established to provide automobile insurance to applicants who cannot obtain coverage in the voluntary market. Neighboring jurisdictions such as District of Columbia, Delaware, Virginia, and Pennsylvania each have a direct assignment system in which applicants who cannot obtain insurance in the voluntary market are shared equitably among all insurers licensed to write automobile insurance. Each of these jurisdictions allows the payment of premiums on an installment basis.

State Revenues: MAIF is subject to the 2% premium tax administered by MIA. General fund revenues from the premium tax decrease to the extent MAIF is able to lower its premiums because of the bill. Any such decrease in revenues cannot be accurately estimated but is assumed to be minimal. Based on information attained for similar prior introductions of the bill, MIA anticipates that MAIF will make one filing subject to the \$125 filing fee as a result of the bill.

MIA can handle review and approval of the installment payment plan, review of the evaluation report, and the report to the General Assembly with existing resources.

MAIF Effect: MAIF's nonbudgeted revenues increase to the extent its policyholders choose to pay premiums on an installment basis. MAIF advises that it has approximately 40,931 private passenger policies *in force* and that most policyholders currently finance their premiums through a premium finance company. Some installment payments may be submitted by electronic fund transfer, but the majority are likely to be paid by check.

The bill authorizes MAIF to impose an administrative processing fee of up to \$8 per installment payment. The bill also prohibits MAIF from instituting an installment plan that requires more than six payments per year. For the purposes of this estimate, it is assumed that MAIF charges the maximum fee allowed under the bill for each payment; however, any processing fee must be approved by the Insurance Commissioner. *For illustrative purposes only*, if MAIF charges an \$8 bimonthly fee to 15,200 policyholders, its revenues increase by \$729,600 on an annual basis.

To the extent MAIF's fee revenues exceed its additional expenditures, MAIF can lower its premium rates. MAIF advises that the bill may save MAIF policyholders between \$200 and \$400 per year.

Small Business Effect: Small premium finance companies that finance MAIF insurance premiums may experience a significant loss of business to the extent MAIF policyholders choose to pay premiums on an installment basis through MAIF. Currently 97% of MAIF's policyholders use a premium finance company to pay their premiums. It is assumed that the vast majority of these policyholders will participate in MAIF's installment plan rather than use a premium finance company. Thus, these companies will experience a significant loss of revenue.

Small businesses that purchase insurance through MAIF and currently use premium finance companies may experience savings to the extent MAIF's fees are lower than the fees and interest charged by their premium finance companies. Any such impact is assumed to be minimal.

Additional Information

Prior Introductions: A similar bill, SB 394 of 2011, was heard by the Senate Finance Committee, but no further action was taken. SB 603 of 2008, another similar bill, received a favorable report from the Senate Finance Committee and passed second reading, but no further action was taken. Its cross file, HB 32, received a favorable report from the House Economic Matters Committee, but no further action was taken. Similar bills were introduced in the 2005 through 2007 sessions.

Cross File: None.

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

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mc/ljm

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