

HOUSE BILL 903

C4

3lr2100

By: **Delegate Crosby**

Introduced and read first time: February 9, 2023

Assigned to: Economic Matters and Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance – Maryland Automobile Insurance Fund – Assessments**

3 FOR the purpose of altering the formula for the calculation of certain assessments by the
4 Maryland Automobile Insurance Fund; requiring the Maryland Insurance
5 Commissioner, under certain circumstances, to authorize the Maryland Automobile
6 Insurance Fund to withdraw certain amounts from a certain overassessment account
7 to offset certain private passenger auto and commercial auto assessments;
8 prohibiting members of the Industry Automobile Insurance Association from being
9 subject to an annual assessment under certain circumstances; requiring certain
10 Association members to return certain excess surcharges, rather than depositing the
11 excess in a certain reserve fund; requiring that a certain percentage of certain fines
12 collected from uninsured motorists be paid to the Fund; and generally relating to the
13 Maryland Automobile Insurance Fund.

14 BY repealing and reenacting, without amendments,
15 Article – Insurance
16 Section 20–401
17 Annotated Code of Maryland
18 (2017 Replacement Volume and 2022 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Insurance
21 Section 20–404, 20–405, 20–409, and 20–410
22 Annotated Code of Maryland
23 (2017 Replacement Volume and 2022 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article – Transportation
26 Section 17–106(e) and (f)
27 Annotated Code of Maryland
28 (2020 Replacement Volume and 2022 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Insurance

20–401.

There is an Industry Automobile Insurance Association.

20–404.

(a) On or before March 15 of each year, the Fund shall determine and the Board of Trustees shall certify to the Board of Directors the information required under subsections (b) and (c) of this section.

(b) Subject to subsection (f) of this section, the following information certified to the Board of Directors shall be separately identified by commercial auto and private passenger auto results:

(1) the statutory operating loss for the immediately preceding calendar year;

(2) a calculation to yield a private passenger auto assessment limit that is determined by subtracting the year–end total surplus of the Fund for the immediately preceding calendar year from an amount equal to 25% of the average of net direct written private passenger auto premiums of the Fund for each of the three immediately preceding calendar years; and

(3) a calculation to yield a commercial auto assessment limit that is determined by subtracting the year–end commercial auto surplus of the Fund for the immediately preceding calendar year from an amount equal to 25% of the average of net direct written commercial auto premiums of the Fund for each of the 3 immediately preceding calendar years.

(c) The assessment certified to the Board of Directors shall be equal to:

(1) subject to subsection (d) of this section, the assessment limit, if the assessment limit is less than or equal to the statutory operating loss; or

(2) the statutory operating loss, if the assessment limit is greater than the statutory operating loss.

(d) If the calculation under subsection (b)(2) of this section yields a number that is less than or equal to zero, the assessment limit is zero.

(e) The statutory operating loss or assessment certified to the Board of Directors may not include:

(1) assessment money received for a prior year; or

(2) money transferred between the commercial auto and private passenger auto divisions within the Fund.

(f) In a calculation made under this section, income or expenses not clearly attributable to either commercial auto or private passenger auto may be allocated pro rata for that year.

(G) PROMPTLY AFTER THE CERTIFICATION OF A TOTAL ASSESSMENT FOR COMMERCIAL AUTO OR PRIVATE PASSENGER AUTO UNDER SUBSECTION (C) OF THIS SECTION THE BOARD OF DIRECTORS SHALL NOTIFY THE COMMISSIONER OF THE CERTIFICATION.

(H) NOTWITHSTANDING THE COMMERCIAL AUTO AND PASSENGER AUTO PORTIONS OF THE OVERASSESSMENT ACCOUNT HELD BY THE FUND, ON APPROVAL OF THE CERTIFICATION BY THE COMMISSIONER, THE COMMISSIONER SHALL AUTHORIZE THE FUND 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.

(I) 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.

(J) ASSOCIATION MEMBERS ARE SUBJECT TO AN ANNUAL ASSESSMENT UNDER § 20-405 OF THIS SUBTITLE IF FUNDS IN THE OVERASSESSMENT ACCOUNT ARE LESS THAN THE TOTAL ASSESSMENT, BASED ON THE DIFFERENCE BETWEEN:

(1) THE TOTAL COMMERCIAL AUTO ASSESSMENT OR PRIVATE PASSENGER AUTO ASSESSMENT; AND

(2) THE APPLICABLE FUNDS IN THE OVERASSESSMENT ACCOUNT.

(K) MONEY WITHDRAWN BY THE FUND UNDER SUBSECTION (H) OF THIS SECTION:

(1) SHALL BE ALLOCATED TO THE SURPLUS OF THE FUND; AND

(2) MAY NOT BE CREDITED TO ASSOCIATION MEMBERS.

20–405.

(a) In this section, “net direct written premiums” means direct gross premiums written on all policies of motor vehicle liability insurance and motor vehicle physical damage insurance less return premiums or dividends paid or credited to policyholders with respect to those policies.

(b) On or before June 30 of each year in which the Board of Directors receives the certification of an actual commercial auto or private passenger auto assessment for a preceding calendar year, the Board of Directors shall perform the duties specified in this section.

(c) The Board of Directors shall obtain from the Commissioner the aggregate net direct written premiums of all Association members during the most recent calendar year determined by the Commissioner for commercial auto and private passenger auto divisions of motor vehicle liability insurance and motor vehicle physical damage insurance.

(d) (1) The Board of Directors shall calculate assessment allocation percentages for commercial auto and private passenger auto divisions by dividing the most recent certified assessment for commercial auto and private passenger auto divisions by the total of:

(i) the respective aggregate net direct written premiums obtained under subsection (c) of this section; and

(ii) the respective total net direct written premiums of the Fund for the same period.

(2) The assessment allocation percentage for the private passenger auto division may not exceed 3%.

(e) The Board of Directors shall give notice of the assessment allocation percentages determined under this section to the Fund, the Commissioner, and all Association members.

(f) The Board of Directors promptly shall assess and collect from each Association member for the commercial auto and private passenger auto divisions an assessment obtained by:

(1) multiplying the Association member's net direct written premiums in each division for the most recent calendar year determined by the Commissioner by the appropriate assessment allocation percentage, calculated under subsection (d) of this section; and

(2) adjusting the resulting product for any [surcharge excess or] shortfall experienced by the Association member for the previous applicable surcharge year.

(g) An Association member may deduct an assessment payment from a retaliatory tax but may not deduct the payment from any other assessment or tax required by law.

(h) (1) The Association:

(i) first, shall deposit the certified assessment into the Insufficiency Assessment Reserve Fund that is created under § 20–410 of this subtitle and apply the appropriate parts of the certified assessment to the private passenger auto and commercial auto divisions of the Insufficiency Assessment Reserve Fund; and

(ii) then, shall pay to the Fund the entire certified assessment in one sum, less the part of the certified assessment allocated to the Fund.

(2) Any money in the Insufficiency Assessment Reserve Fund from a previous year shall be paid to the Fund on December 31 of each year.

20–409.

(a) If the aggregate amount of assessment surcharges received by an Association member during a surcharge year is less than that Association member's assessment payment, the Association member's assessment surcharge authorized under § 20–406 of this subtitle shall be increased accordingly for the next appropriate surcharge year.

(b) **(1)** If the aggregate amount of assessment surcharges received by an Association member during a recoupment year exceeds the Association member's assessment payment, the Association [member shall deposit the excess in the Insufficiency Assessment Reserve Fund as provided in § 20–410 of this subtitle and shall receive a credit for the amount deposited against the next appropriate assessment imposed under this subtitle] **SHALL PROMPTLY RETURN THE EXCESS TO THE ASSOCIATION MEMBER.**

(2) AN ASSOCIATION MEMBER TO WHOM AN EXCESS IS RETURNED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) REFUND THE EXCESS TO THE POLICYHOLDERS WHO PAID THE EXCESS; OR

(II) APPLY THE EXCESS AS AN EXPENSE REDUCTION IN A
SUBSEQUENT RATE FILING.

[(c) The Association may adjust the annual assessment allocation percentage for an Association member to reflect any surcharge excess or shortfall for the previous applicable surcharge year.]

20–410.

(a) There is an Insufficiency Assessment Reserve Fund.

(b) The Insufficiency Assessment Reserve Fund shall be maintained by the Association and shall consist of[:

(1) payments of] assessment [surcharges] PAYMENTS collected by the Association [to cover any actual operating loss that the Fund sustains;

(2) any gross excess surcharges received by an Association member on account of an assessment made under this subtitle; and

(3) the full amount of the income from assessment payments and gross excess surcharges in investments] AND INTEREST, IF ANY.

(c) (1) Except as provided in paragraph (2) of this subsection, the Association shall hold money of the Insufficiency Assessment Reserve Fund in trust in a separate interest-bearing account in a financial institution in the State for the use of the Fund.

(2) The Association may authorize the financial institution where the money is deposited to invest all or part of the money in investments allowed for casualty insurers, as provided in §§ 5–601 through 5–609 of this article.

(d) An Association member shall deposit with the Association any gross excess surcharges received because of a future assessment not later than October 15 after the surcharge year in which the gross excess surcharge was received.

Article – Transportation

17–106.

(e) (1) (i) 1. Except as provided in subparagraphs (iv) and (v) of this paragraph, in addition to any other penalty provided for in the Maryland Vehicle Law, if the required security for a vehicle terminates or otherwise lapses during its registration year, the Administration may assess the owner of the vehicle with a penalty of \$150 for each vehicle without the required security for a period of 1 to 30 days.

2. If a fine is assessed, beginning on the 31st day the fine shall increase by a rate of \$7 for each day.

(ii) Each period during which the required security for a vehicle terminates or otherwise lapses shall constitute a separate violation.

(iii) The penalty imposed under this subsection may not exceed \$2,500 for each violation in a 12-month period.

(iv) The Administration may not assess a penalty under this subsection if:

1. The registration plates of the vehicle are returned to the Administration within 10 days after the termination or lapse of the required security, as shown by the records of the Administration; and

2. A. The certificate of title for the vehicle has been transferred to a new owner;

B. The registered owner has moved out-of-state and the registration plates are returned by mail;

C. A salvage certificate has been issued for the vehicle; or

D. A licensed dealer has taken possession of the vehicle with an obligation to return the registration plates.

(v) Before the Administration may assess a penalty under this subsection, the Administration shall first verify that the registration plates for the vehicle were not returned to the Administration within 10 days after the termination or lapse of the required security.

(2) (i) Except as provided under paragraph (3) of this subsection, a penalty assessed under this subsection shall be paid as follows:

1. ~~[70%]~~ **50%** to be allocated as provided in subparagraph (ii) of this paragraph; ~~[and]~~

2. **20% TO THE MARYLAND AUTOMOBILE INSURANCE FUND; AND**

~~[2.]~~ **3.** 30% to the Administration, which may be used by the Administration, subject to subsection (f) of this section, to provide funding for contracts with independent agents to assist in the recovery of evidences of registration as authorized in subsection (d)(3) of this section.

(ii) For each fiscal year beginning on or after July 1, 2014, the percentage of the penalties specified under subparagraph (i)1 of this paragraph shall be allocated among the Safe Schools Fund, the Vehicle Theft Prevention Fund[, the Maryland Automobile Insurance Fund,] and the General Fund as follows:

1. \$600,000 to the Safe Schools Fund;

2. \$2,000,000 to the Vehicle Theft Prevention Fund; **AND**

3. [To the Maryland Automobile Insurance Fund, the amount distributed to the Maryland Automobile Insurance Fund in the prior fiscal year under the provisions of this paragraph adjusted by the change for the calendar year preceding the fiscal year in the Consumer Price Index – All Urban Consumers – Medical Care as published by the United States Bureau of Labor Statistics; and

4.] The balance to the General Fund.

(3) Beginning July 1, 2018, any uninsured motorist penalties the Administration receives under the Program to Incentivize and Enable Uninsured Vehicle Owners to Be Insured established under § 20–612 of the Insurance Article shall be paid to the Uninsured Division of the Maryland Automobile Insurance Fund.

(4) If the Administration assesses a vehicle owner, co-owner, or lessee with a penalty under this subsection, the Administration may not take any of the following actions until the penalty is paid:

(i) Reinstate a registration suspended under this subsection;

(ii) Except for a temporary registration as provided under § 13–602(a)(2) of this article, issue a new registration for any vehicle that is owned, co-owned, or leased by that person and is titled after the violation date; or

(iii) Renew a registration for a vehicle that is owned, co-owned, or leased by that person.

(5) (i) In this paragraph, “family member” means any individual whose relationship to the vehicle owner is one of those listed under § 13–810(c)(1) of this article as being exempt from paying the excise tax imposed on the transfer of a vehicle.

(ii) The monetary penalties provided in this subsection may not be avoided by transferring title to the vehicle.

(iii) Except as provided in paragraph (1)(iv) and (v) of this subsection, regardless of whether money or other valuable consideration is involved in the transfer, if title to a vehicle is transferred by an individual who has violated this subtitle to a family member, any suspension of the vehicle’s registration that occurred before the transfer shall

1 continue as if no transfer had occurred and a new registration may not be issued until the
2 penalty fee is paid.

3 (6) An amount equal to the monetary penalties paid to the Administration
4 under paragraph (2) of this subsection may be used by the Administration only for the
5 enforcement of this subtitle.

6 (f) From the amount distributed to the Administration under subsection
7 ~~[(e)(2)(i)2]~~ **(E)(2)(I)3** of this section, expenditures to fund contracts entered into under
8 subsection (d)(3) of this section:

9 (1) May not exceed \$1,000,000 in any fiscal year; and

10 (2) May be made only:

11 (i) Pursuant to an appropriation approved by the General Assembly
12 in the annual State budget; or

13 (ii) Through the budget amendment procedure provided for in §
14 7–209 of the State Finance and Procurement Article, provided that:

15 1. The budget amendment and supporting information have
16 been submitted to the budget committees for review and comment; and

17 2. At least 45 days have elapsed from the time the budget
18 amendment and supporting information were submitted to the budget committees.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
20 1, 2023.