

HOUSE BILL 1483

C4

4lr3499

By: **Delegate Fraser–Hidalgo**

Introduced and read first time: February 15, 2024

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of requiring, before the Board of Directors of the Industry Automobile
4 Insurance Association authorizes the Maryland Automobile Insurance Fund to
5 withdraw certain amounts, that the Maryland Insurance Commissioner approve the
6 certification of the Board of Trustees for the Fund of a certain assessment to be made
7 on certain private passenger auto and commercial insurance carriers due to a certain
8 loss of the Fund; requiring the Commissioner to make a certain decision regarding
9 certain assessment allocation percentages within a certain time period; and
10 generally relating to the Maryland Automobile Insurance Fund.

11 BY repealing and reenacting, with amendments,
12 Article – Insurance
13 Section 20–404, 20–405, and 20–408
14 Annotated Code of Maryland
15 (2017 Replacement Volume and 2023 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article – Insurance
18 Section 20–406 and 20–407
19 Annotated Code of Maryland
20 (2017 Replacement Volume and 2023 Supplement)

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

23 **Article – Insurance**

24 20–404.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(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 an assessment by the Board of Trustees 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) On the Commissioner's verification **AND APPROVAL** of the Board of Trustees' certification, the Board of Directors shall authorize the Fund to withdraw:

(1) an amount equal to the commercial auto or private passenger auto assessment, if the assessment balance for that portion exceeds the assessment; or

(2) the entire commercial auto or private passenger auto balance, if the assessment equals or exceeds the balance for that portion.

(i) Association members may not be subject to an annual assessment if the amount of money held by the Fund from a prior overassessment is equal to or greater than the assessment.

(j) Association members are subject to an annual assessment under § 20–405 of this subtitle if the amount of money held by the Fund from a prior overassessment is less than the assessment, based on the difference between:

(1) the commercial auto assessment or private passenger auto assessment; and

(2) the applicable amount of money held by the Fund from a prior overassessment.

(k) (1) On June 1, 2023, the Board of Directors shall authorize the Fund to withdraw from the money held by the Fund from a prior overassessment.

(2) The funds withdrawn:

(i) shall be allocated to the surplus of the Fund; and

(ii) may not be credited to Association members.

(l) On or before July 1, 2023, the Fund shall submit a report to the General Assembly, in accordance with § 2–1257 of the State Government Article, on the application of the funds withdrawn under this section and all fund balances in the Fund's Insured and Uninsured Divisions.

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) (1) 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.

(2) WITHIN 30 DAYS AFTER RECEIVING NOTICE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER SHALL:

(I) APPROVE, APPROVE WITH MODIFICATION, OR DENY THE ASSESSMENT UNDER § 20-406(A) OF THIS SUBTITLE; AND

(II) NOTIFY THE BOARD OF DIRECTORS AND ALL ASSOCIATION MEMBERS OF THE COMMISSIONER'S DECISION.

(f) [The] **ON RECEIVING NOTIFICATION OF APPROVAL UNDER SUBSECTION (E)(2) OF THIS SECTION,** 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

1 appropriate assessment allocation percentage, calculated under subsection (d) of this
2 section; and

3 (2) adjusting the resulting product for any shortfall experienced by the
4 Association member for the previous applicable surcharge year.

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

8 (h) (1) The Association:

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

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

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

17 20–406.

18 (a) (1) The Commissioner promptly shall review the assessment allocation
19 percentages calculated by the Association.

20 (2) Unless the Commissioner finds the calculation to be inaccurate, the
21 Commissioner shall authorize each Association member to impose an assessment
22 surcharge on each policy of motor vehicle liability insurance or motor vehicle physical
23 damage insurance that is written or renewed in the State during the 1–year period
24 beginning on the next July 1 following notice of the assessment.

25 (3) Subject to § 20–407 of this subtitle, the assessment surcharge shall be
26 calculated by applying the appropriate assessment allocation percentage that is adjusted
27 for any excess or shortfall to the premium at the inception or renewal of the policy.

28 (4) The assessment surcharge may not be:

29 (i) subject to change or refund; or

30 (ii) considered premium income for the State premium tax or the
31 payment of commissions.

(b) (1) In conformity with §§ 20–405 through 20–409 of this subtitle, each year the Fund shall impose an assessment surcharge on all of its policyholders as if the Fund were a member of the Association.

(2) The Fund may not make a payment to the Insufficiency Assessment Reserve Fund.

(3) The Fund shall account separately for the assessment surcharges that the Fund assesses and receives.

20–407.

(a) On or before June 30 of each year, each Association member shall elect whether to recoup its share of the assessment for the immediately preceding year by imposing an assessment surcharge, where appropriate, on each of the Association member's commercial auto policyholders or private passenger auto policyholders, or both.

(b) An Association member that does not elect on or before June 30 to recoup its share of an assessment is considered to have recouped that assessment and to have waived its option to impose an assessment surcharge on its policyholders.

(c) (1) This section does not deny an Association member the right to:

(i) absorb an annual assessment; or

(ii) recover all or part of an annual assessment as costs in rate filings made under this article.

(2) An Association member that recovers assessments as costs in rate filings shall identify the assessment on any premium billing to the policyholder.

20–408.

(a) (1) Each Association member shall apply and collect any assessment surcharge that the Association member elects to recoup under § 20–407 of this subtitle.

(2) Policyholders of an Association member shall receive any excess surcharge credits and may be charged for any surcharge shortfall that the Association member receives from or is charged by the Association.

(b) (1) If an Association member elects on or before June 30 to recoup its share of an assessment, the Association member must identify clearly the assessment surcharge imposed on its policyholders by stating on the premium billing of each policyholder: “Recoupment of MAIF assessment **AS AUTHORIZED BY THE MARYLAND INSURANCE COMMISSIONER**, \$_____”.

(2) No other statement may accompany the premium billing.

1 (c) Each Association member shall:

2 (1) report quarterly to the Association; and

3 (2) require an officer of the Association member to certify, in the manner
4 required by the Board of Directors, that any amounts collected and paid are an accurate
5 accounting of the assessment surcharges of the Association member.

6 (d) (1) Each Association member may keep separate and detailed records of
7 any expenses actually incurred that are directly attributable to collection of the assessment
8 surcharge authorized under subsection (a) of this section.

9 (2) The Commissioner shall consider verified and relevant expenses to be
10 appropriate cost items in a subsequent rate filing by the Association member.

11 (e) If a policyholder fails to pay the assessment surcharge when due, the
12 Association member may cancel the policy in accordance with the terms of the policy for
13 nonpayment of premium.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
15 1, 2024.