

## Chapter 509

**(Senate Bill 910)**

AN ACT concerning

**Maryland Automobile Insurance Fund – Operations**

FOR the purpose of repealing ~~an exception for a provision of law~~ subjecting the Maryland Automobile Insurance Fund from certain provisions of law governing to the imposition of a certain premium tax; altering the scope of certain provisions of law governing prior approval rate making to exclude the Fund from prior approval rate making; providing that certain provisions of law governing competitive rating rate making apply to the Fund under certain circumstances; repealing a provision of law that makes the Fund subject to the provisions of the Open Meetings Act; removing the Executive Director of the Fund as a member of a certain audit committee; clarifying that, under certain circumstances, the Board of Trustees of the Fund adopts policies and not regulations; clarifying that, with respect to certain provisions of law, the Fund is subject to the Administrative Procedure Act; authorizing the Fund to sell, issue, and deliver a policy that provides a certain security to a person that has had a motor vehicle liability insurance policy but has been uninsured for a certain continuous period of time immediately preceding the effective date of the Fund policy and meets certain other requirements; ~~authorizing the Fund to reinstate a canceled policy without a lapse in coverage under certain circumstances and in a certain manner; authorizing the Fund to charge a policyholder a certain reinstatement fee not to exceed a certain amount; authorizing a certain fund producer to charge a policyholder a certain reinstatement fee not to exceed a certain amount~~ requiring the Maryland Insurance Commissioner to require the Fund to file certain reports with the Commissioner on or before certain dates; requiring the Commissioner to review the Fund's reports and make certain determinations; requiring the Commissioner to report the Commissioner's findings to certain committees of the General Assembly on or before certain dates; providing for the effective dates of this Act; providing for the termination of certain provisions of this Act; making conforming and clarifying changes; and generally relating to the Maryland Automobile Insurance Fund.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 6–101(a), 11–303, 20–201(d), 20–304(a), 20–502(a), 20–507(a), (b), and (d),  
20–509(a) and (b), 20–513, ~~20–514, and 20–516~~ and 20–514

Annotated Code of Maryland

(2011 Replacement Volume and 2016 Supplement)

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

**Article – Insurance**

6–101.

(a) The following persons are subject to taxation under this subtitle:

(1) a person engaged as principal in the business of writing insurance contracts, surety contracts, guaranty contracts, or annuity contracts;

(2) a managed care organization authorized by Title 15, Subtitle 1 of the Health – General Article;

(3) a for–profit health maintenance organization authorized by Title 19, Subtitle 7 of the Health – General Article;

(4) an attorney in fact for a reciprocal insurer; **AND**

(5) [the Maryland Automobile Insurance Fund; and

(6)] a credit indemnity company.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

**Article – Insurance**

11–303.

(a) Notwithstanding Subtitle 2 of this title, this subtitle applies to the establishment of rates for all types of insurance except:

(1) life insurance;

(2) annuities;

(3) health insurance;

(4) marine insurance described in § 11–202(b)(2) of this title;

(5) aircraft insurance described in § 11–202(b)(3) of this title;

(6) reinsurance;

(7) [insurance provided under the Maryland Automobile Insurance Fund;

(8)] insurance provided under the Chesapeake Employers’ Insurance Company;

~~[(9)]~~ **(8)** title insurance;

~~[(10)]~~ **(9)** medical malpractice insurance;

~~[(11)]~~ **(10)** any form or plan of insurance regulated under § 27–217 of this article; and

~~[(12)]~~ **(11)** surety insurance.

(b) If and to the extent that the Commissioner finds that the application of any or all of the provisions of this subtitle is unnecessary to achieve the purposes of this subtitle, the Commissioner by rule may exempt a person or class of persons or a line or lines of insurance from any or all of those provisions.

20–201.

(d) (1) Except as otherwise provided by law, the Fund is subject to the provisions of this article.

(2) Except as provided in paragraph (3) of this subsection, the Fund is not subject to any law, including § 6–106 of the State Government Article, that affects governmental units.

(3) The Fund is subject to:

(i) Title 4 of the General Provisions Article;

(ii) ~~[(Title 3 of the General Provisions Article;~~

~~[(iii)]~~ the Maryland Public Ethics Law;

**(III) TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE WITH RESPECT TO REGULATIONS ADOPTED UNDER SUBTITLE 6 OF THIS TITLE;**

(iv) Title 12 of the State Government Article; and

(v) Title 5, Subtitle 3 of the State Personnel and Pensions Article.

(4) Paragraph (2) of this subsection does not affect the exemption from property tax under § 7–210 of the Tax – Property Article.

20–304.

(a) (1) An audit committee, composed of members of the Board of Trustees [and the Executive Director], shall require the Fund's internal auditor to conduct fiscal compliance and fiscal audits of the accounts and transactions of the Fund each year.

(2) A fiscal compliance audit shall:

- (i) examine financial transactions and records and internal controls;
- (ii) evaluate compliance with applicable laws and regulations; and
- (iii) examine electronic data processing operations.

20-502.

(a) On payment of the premium set by the Fund, the Fund is authorized to and shall sell, issue, and deliver a policy that provides the security required under § 17-103 of the Transportation Article to a person:

(1) that owns a covered vehicle registered with the Motor Vehicle Administration, has a license issued by the Motor Vehicle Administration to drive a covered vehicle, or is a lessee under a "lease not intended as security", as defined in § 11-127.1(b) of the Transportation Article;

(2) that does not owe to the Fund:

- (i) an unpaid premium with respect to a policy that has expired or been canceled; or
- (ii) a claim payment obtained by fraud;

(3) that:

(i) has attempted in good faith to obtain a policy that provides the security required under § 17-103 of the Transportation Article from at least two Association members and has been rejected or refused the policy by two Association members for any reason other than nonpayment of premiums; [or]

(ii) has had a policy that provides the security required under § 17-103 of the Transportation Article canceled or nonrenewed by an Association member for any reason other than nonpayment of premiums; OR

**(III) HAS HAD A MOTOR VEHICLE LIABILITY INSURANCE POLICY BUT HAS BEEN UNINSURED FOR A CONTINUOUS PERIOD OF ~~6~~ 12 MONTHS OR MORE IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THE FUND POLICY, AS VERIFIED BY A COMMERCIAL THIRD-PARTY DATABASE OR A STATE AGENCY; and**

- (4) that meets the requirements of subsection (b) of this section.

20-507.

(a) Subject to the [approval] **AUTHORITY** of the Commissioner **TO DETERMINE WHETHER RATES ARE EXCESSIVE, INADEQUATE, OR UNFAIRLY DISCRIMINATORY, AS PROVIDED IN TITLE 11, SUBTITLE 3 OF THIS ARTICLE**, the Executive Director shall determine the premiums to be charged on policies issued by the Fund.

(b) (1) Except as provided in subsection (c) of this section, the provisions of Title 11, Subtitle [2] **3** of this article apply to the determination of premiums by the Executive Director **AND THE FILING OF RATES WITH THE COMMISSIONER**.

(2) Notwithstanding Title 11, Subtitle [2] **3** of this article or any other provision of this title, the Executive Director may base premiums on one or both of the following items:

(i) the number of points accumulated by an insured or applicant for insurance under the point system provided for in Title 16, Subtitle 4 of the Transportation Article; or

(ii) the prior claims experience of an insured or applicant for insurance.

(d) In reviewing rates filed by the Fund, the Commissioner shall consider not only the rating principles under Title 11, Subtitle [2] **3** of this article but also the statutory purpose of the Fund under § 20-301 of this title.

20-509.

(a) (1) Subject to this section and the [regulations] **POLICIES ADOPTED BY THE BOARD OF TRUSTEES** that relate to the binding of coverage, a fund producer may bind the minimum required coverage for an applicant in the Fund if the applicant submits an application to the fund producer and pays the appropriate premium.

(2) To effect coverage, the fund producer must receive payment of the appropriate premium required under the [regulations] **POLICIES ADOPTED BY THE BOARD OF TRUSTEES** that relate to the binding of coverage.

(3) Payment of the appropriate premium does not occur so as to effect coverage if payment of all or part of the premium is made by an instrument that is later dishonored.

(b) (1) The Board of Trustees shall adopt and make available to each fund producer reasonable [regulations] **POLICIES** that relate to the authority of fund producers to bind coverage.

(2) The [regulations] **POLICIES** shall include:

- (i) the amount of premium to be collected;
- (ii) the evidence necessary to establish the qualification of an applicant to be insured by the Fund;
- (iii) procedures for notifying the Fund of the binding of coverage; and
- (iv) the time within which the fund producer is to give notice.

20–513.

The Fund may refuse to accept further applications from a fund producer or may terminate the authority of the fund producer to bind coverage or both if:

(1) the Fund finds that the fund producer has engaged in the practice of binding coverage in the Fund in violation of [regulations] **POLICIES** adopted by the Board of Trustees; or

(2) after demand has been made by the Fund, the fund producer fails to pay money owed the Fund as a result of:

- (i) the binding or change of coverage; or
- (ii) a commission paid to the fund producer on a policy that is canceled after the effective date of coverage.

20–514.

(a) Except as provided in subsection (b) of this section, the Fund shall give prior written notice to a fund producer of its intended action under § 20–513 of this subtitle and give the fund producer an opportunity for a hearing before taking the action.

(b) (1) The Fund may exercise immediately any option under § 20–513 of this subtitle if the Fund determines that there is a likelihood of substantial and immediate harm to the Fund, its policyholders, or others because of:

- (i) a violation of a [regulation] **POLICY ADOPTED BY THE BOARD OF TRUSTEES** that relates to the binding of coverage; or
- (ii) a failure to pay money owed.

(2) After taking an action under § 20-513 of this subtitle, the Fund promptly shall give notice to the fund producer and hold a hearing within 10 working days before a member of the Board of Trustees.

(c) The Board of Trustees shall adopt [regulations] **POLICIES** to provide procedures for notice and hearings under this section.

~~20-516.~~

~~(a) Subject to § 20-517 of this subtitle, the Fund:~~

~~(1) may reject an application of insurance if the applicant owes to the Fund an unpaid premium on an expired or canceled policy;~~

~~(2) at any time may cancel a policy for nonpayment of premiums; or~~

~~(3) may reject an application of insurance or at any time may cancel a policy if it is found that the driver's license of the applicant or policyholder is:~~

~~(i) suspended, unless the suspension is for a first offense under § 16-205.1 of the Transportation Article for driving with an alcohol concentration of 0.08 or more; or~~

~~(ii) revoked.~~

~~(b) The Fund shall notify the applicant or policyholder promptly after the Fund rejects an application or cancels a policy.~~

~~(c) If a person does not have a valid license or other privilege to drive a covered vehicle in the State, or is otherwise ineligible to be insured by the Fund, the Fund may issue the appropriate policy with an excluded driver endorsement under § 27-609 of this article.~~

~~(d) (1) The Fund may cancel a policy if:~~

~~(i) the temporary registration issued for the covered vehicle under § 13-405 or § 23-107(b) of the Transportation Article has expired; and~~

~~(ii) the covered vehicle is not otherwise validly registered in the State.~~

~~(2) The cancellation may not take effect until the day after the temporary registration of the covered vehicle expires.~~

~~(E) (1) THE FUND MAY REINSTATE A CANCELED POLICY WITHOUT A LAPSE IN COVERAGE PROVIDED THAT A POLICYHOLDER CERTIFIES IN A MANNER SPECIFIED BY THE FUND THAT THERE HAVE NOT BEEN ANY LOSSES ATTRIBUTABLE TO THE POLICY ON OR AFTER THE EFFECTIVE DATE OF THE CANCELLATION.~~

~~(2) TO EFFECTUATE THE REINSTATEMENT:~~

~~(I) THE FUND MAY CHARGE THE POLICYHOLDER A REINSTATEMENT FEE NOT TO EXCEED \$10; AND~~

~~(II) THE FUND PRODUCER REQUESTING THE REINSTATEMENT OF THE CANCELED POLICY MAY CHARGE THE POLICYHOLDER A REINSTATEMENT FEE NOT TO EXCEED \$15.~~

SECTION 3. AND BE IT FURTHER ENACTED, That the Maryland Insurance Commissioner shall:

(1) require the Maryland Automobile Insurance Fund to file a premium tax exemption report with the Commissioner on or before October 1, 2019, October 1, 2020, and October 1, 2021, that specifies, since the premium tax exemption provided for in § 6–101 of the Insurance Article, as enacted by Section 1 of this Act, became effective:

(i) the amount of the premium tax subject to the exemption;

(ii) the year-over-year change in the Fund's surplus;

(iii) the increase or decrease in the Fund's overall premium rate structure;

(iv) the impact of the premium tax exemption on the Fund's surplus;

and

(v) the surplus to assessment threshold ratio;

(2) review the Fund's premium tax exemption reports and determine whether, since the premium tax exemption provided for in § 6–101 of the Insurance Article, as enacted, by Section 1 of this Act, became effective:

(i) the Fund's surplus has increased or decreased;

(ii) any additions to the Fund's surplus due to the premium tax exemption has allowed the surplus to become excessive;

(iii) the Fund has decreased its overall premium rate structure; and



(iv) the Fund's premium rates have been subsidized by the premium tax exemption; and

(3) report the findings to the Senate Finance Committee and the House Economic Matters Committee on or before December 1, 2019, December 1, 2020, and December 1, 2021.

SECTION 4. AND BE IT FURTHER ENACTED, That Sections 1 and 3 of this Act shall take effect January 1, 2018. Sections 1 and 3 of this Act shall remain effective for a period of 4 years and 6 months and, at the end of June 30, 2022, with no further action required by the General Assembly, Sections 1 and 3 of this Act shall be abrogated and of no further force and effect.

SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect ~~October~~ July 1, 2017.

**Approved by the Governor, May 4, 2017.**