

**Department of Legislative Services**  
Maryland General Assembly  
2019 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 1042  
Economic Matters

(Delegate Boteler, *et al.*)

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**Motor Vehicle Insurance - Total Loss Value**

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This bill requires a private passenger automobile insurer that makes a cash settlement for the total loss of a motor vehicle that is not the claimant's fault to offer at least 95% of the retail value of the vehicle, as determined by the guidance from the National Automobile Dealers Association (NADA).

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**Fiscal Summary**

**State Effect:** Minimal special fund revenue increase for the Maryland Insurance Administration (MIA) from the \$125 rate and form filing fee in FY 2020. MIA review of additional filings may necessitate contractual support in FY 2020 only. General fund revenues may be affected, as discussed below.

**Maryland Automobile Insurance Fund (MAIF) Effect:** MAIF nonbudgeted expenditures increase significantly beginning in FY 2020 as MAIF pays more for total loss claim settlements. MAIF nonbudgeted revenues increase by the same amount as premiums are raised to account for MAIF's additional liability.

**Local Effect:** The bill does not directly affect local governmental operations or finances.

**Small Business Effect:** Minimal.

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**Analysis**

**Current Law/Background:** Title 27 of the Insurance Article expressly prohibits certain insurer practices and activities as unfair trade practices. The Insurance Commissioner has general enforcement authority to issue a cease and desist order when a violation is

discovered, and penalties are prescribed for different types of violations. Certain activities carry more severe penalties; for example, an insurer may be fined up to \$125,000 for each violation when it fails to act in good faith when settling a first-party claim under a policy of property and casualty insurance.

The Commissioner is required to adopt regulations that establish standards and procedures for (1) the settlement of claims involving the total loss of a private passenger motor vehicle and (2) the determination of the private passenger motor vehicle's total loss value. "Total loss" is the technical term for when a motor vehicle is "totaled," meaning that the cost to repair the vehicle exceeds the value the vehicle would have once it is repaired.

Among other things, the [regulations](#) require a cash settlement offer to be made by an insurer within 10 business days after the insurer determines that a motor vehicle is a total loss. The minimum offer, subject to any applicable deductions, must be either (1) the retail value of a substantively similar motor vehicle based on a valuation manual or statistically valid fair market value or (2) a quotation for a substantially similar motor vehicle obtained by or on behalf of the insurer from a qualified dealer at a location reasonably convenient to the claimant. In either case, the offer must also include applicable taxes and transfer fees, as specified.

**Background:** NADA is a national trade organization that represents franchised new car dealers. Its activities include providing education and guidance on regulatory matters, representing dealers' interests before automobile and truck manufacturers, developing research data on the retail automobile industry, and offering training programs to improve dealership business operations, sales, and service practices. Additionally, [NADA publishes a guide](#) that can be used by insurers in the State to value vehicles in different conditions when a total loss occurs.

**State Revenues:** Title 6 of the Insurance Article imposes a 2% premium tax on each authorized insurance company, surplus lines broker, or unauthorized insurance company that sells, or an individual who independently procures, any type of insurance coverage upon a risk that is located in the State. Revenues accrue to the general fund.

Currently available information indicates that private passenger automobile insurers in the State are uncertain as to what effect the bill has on premiums for private passenger automobile insurance policies. Thus, the direction and extent of any impact on general fund revenues through the premium tax cannot be reliably estimated at this time

**MAIF Fiscal Effect:** MAIF advises that NADA has four rating categories for valuing vehicles: (1) rough trade-in; (2) average trade-in; (3) clean trade-in; and (4) clean retail. The range in value between the four categories is 40%, with clean retail being the highest at or above 95%. The bill requires many of MAIF's total loss settlements to be made using

NADA's top rating, regardless of the actual quality of the vehicle and, therefore, significantly increases MAIF's nonbudgeted expenditures for settlements. Even so, MAIF advises that it is likely to increase its premium rates to cover the additional risk and, therefore, there is no material net effect on MAIF's finances.

*For illustrative purposes*, MAIF advises that it had 1,961 total loss settlements in 2018 and 75% of those settlements were for a total loss of a motor vehicle that was not the claimant's fault. Had the bill been in effect in that year, MAIF's nonbudgeted expenditures for total loss settlements would have increased by \$627,600.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - February 26, 2019  
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