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Via Email: kathryn.callahan1@maryland.gov
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Maryland Insurance Administration
200 St. Paul Place, Suite 2700
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Dear Kathryn:

RE: IA&B COMMENTS – DRAFT REPORT OF THE MARYLAND PRIVATE PASSENGER AUTOMOBILE INSURANCE AFFORDABILITY WORKGROUP

On behalf of the Insurance Agents & Brokers of Maryland (IA&B), thank you for the opportunity to provide our comments on the draft report of the Private Passenger Automobile Insurance Affordability Workgroup. IA&B is a professional trade association for independent insurance agents in Maryland, representing nearly 200 member agencies and their 1,800-plus employees who work directly with private passenger automobile insurance consumers in every region of the state. We appreciate the considerable time and effort invested by the Workgroup members, the Maryland Insurance Administration and Insurance Commissioner Marie Grant, Senator Gile and Delegate Fraser-Hidalgo, and all others involved in convening public meetings, gathering data, and producing this draft report.

Data and Definition of Affordability

IA&B appreciates the report's thorough explanation of the Federal Insurance Office (FIO) and Insurance Research Council (IRC) affordability indices. While both the FIO and IRC measures can be useful tools for tracking and quantifying affordability over time, they should never be viewed in isolation. <u>Premiums are a direct reflection of claims costs, and a deterioration in affordability metrics is, first and foremost, a sign that underlying claim frequency and severity are rising.</u>

When underlying costs rise, corresponding premium adjustments are not only appropriate but necessary. In fact, failing to adjust premiums in response to rising claim costs would represent a true market failure. The final report should therefore emphasize that many of the pressures affecting affordability originate outside the insurance sector and cannot be remedied through insurer-directed regulation alone. Policymakers aiming to improve affordability in a meaningful way should focus first on the external forces driving claims costs upward, including the tort and litigation environment, predatory towing practices, inflation, vehicle repair costs, medical expenses, and other systemic cost drivers.

By the standard of the FIO's 2% affordability index ratio threshold, the proportion of Maryland's population in affected ZIP codes declined from 12.4% to 6.1% between the 2015 and 2022 (a decrease of over 50%). That is no small accomplishment. Over roughly the same period, Maryland's minimum wage rose from $8.00 in 2015 to $12.50 in 2022, a 56% increase, and has since continued to increase to $15.00 statewide and up to $17.65 in certain counties, depending on employer size. Because income is the denominator in the affordability ratio, it is reasonable to conclude that Maryland's FIO affordability index has likely improved further since 2022.

Affordability indices, however, should not be converted into hard legal thresholds, used to define a mandated "affordable" rate level, or employed as the basis for a pared-down product design. It is also essential to distinguish between individuals who genuinely cannot afford minimum required coverage and those who simply prefer to pay less for insurance than their risk profile justifies. Policy choices should be carefully calibrated to assist the former group without unintentionally subsidizing the latter.

Factors that Contribute to Premium Rate Increases

IA&B concurs with the draft report's emphasis on several external factors as meaningful structural cost drivers. The draft report correctly identifies that recent premium increases are rooted in higher loss costs rather than in administrative expenses or excessive insurer profits. Data from Maryland and nationwide demonstrate that private passenger auto insurers have experienced only modest underwriting profits over the past decade, with several years of outright underwriting loss. Where strong underwriting results do appear, most notably in 2020 and again in 2024, they are best understood as temporary anomalies linked to sharply reduced driving during the COVID-19 pandemic and necessary catch-up after years of poor underwriting performance, not as evidence of overpricing.

The report appropriately calls attention to predatory towing and storage practices, which IA&B views as a significant and growing concern. Towing and recovery bills can reach many thousands of dollars, and in the case of commercial vehicles, even into the tens of thousands, with prices that do not reflect the cost of services actually performed. These inflated invoices are ultimately borne by policyholders through higher premiums. Addressing abusive towing practices is one of the clearest opportunities for policymakers to tackle an underlying driver of claim costs rather than attempting to redistribute those costs within the insurance system.

In its review of various medical coverages, the report outlines the interaction of bodily injury liability, medical payments coverage, and personal injury protection (PIP). However, we flag the potential overlap between two optional coverages: medical payments and PIP. It would be useful to clarify why two separate overlapping medical coverages are needed, whether they are triggered differently in practice, and whether their coexistence can lead to pricing discrepancies or consumer confusion. A more streamlined structure might benefit both policyholders and insurers.

Finally, the legal and litigation environment remains a major factor. Maryland's relatively high jury trial threshold, ongoing debates about caps on noneconomic damages, and a higher-than-average propensity to litigate bodily injury claims all contribute to rising defense and settlement costs. Experience from other states, including the recent example of Florida's broad tort reform package followed by measurable rate reductions and refunds, underscores how changes in the legal environment can have a much larger impact on overall premiums than narrow adjustments to rating mechanics or expense loading rules. It can also have a secondary benefit of deterring fraudulent claims by making them less likely to succeed.

Workgroup Recommendations and Policy Options to Increase Transparency and Affordability

In light of the underlying cost drivers identified in the draft report, IA&B urges the Workgroup to clearly distinguish between policy options that meaningfully address the root causes of rising automobile insurance premiums and those that simply reshuffle costs among different groups of insureds. True affordability improvements come from reducing claim costs and structural pressures on the insurance system, not from forcing one group of policyholders to subsidize another.

Real-Time Verification Improvements: IA&B strongly agrees that the Motor Vehicle Administration's Online Insurance Verification Program is a major step forward in reducing the uninsured motorist rate. The next logical step is to enable "live" verification during traffic stops by allowing law enforcement through the Department of Public Safety and Correctional Services to access the system in real time. This targeted enforcement enhancement would help improve compliance with existing insurance requirements and, over time, reduce the burden on insured drivers who currently pay for uninsured motorists through higher premiums.

Prior Approval Rate Regulation: IA&B recommends that the Workgroup's final report include an acknowledgement that the National Association of Insurance Commissioners (NAIC) explicitly recommends against the use of rate regulation to address affordability issues:

> *Insurance rate regulation is not an appropriate public policy tool to address affordability. Auto insurance is a necessity for many, but to shift prices based on an arbitrary income benchmark will cause a major disruption to insurance markets, raising prices for all insureds.*

Experience in other states shows that a rigid market has a detrimental effect on affordability. In New York, auto insurance rates stabilized or reduced immediately after converting from Prior Approval to a Flex-Rating system, and the number of insurers increased by 28 percent, providing greater coverage options from which to select. In Massachusetts, strict regulation reduced the number of insurers in the state to less than 55 percent of the average in other northeastern states. In New Jersey and South Carolina, firms left the market due to strict price regulation in auto insurance, and the price of auto insurance subsequently increased. Each of these policies were enacted to improve the "affordability" of insurance for high-risk drivers or homeowners. The result in every case was a failed market with fewer insurers and higher prices.

Limiting Expense Loading: IA&B understands the intuitive appeal of proposals that would cap or disallow certain categories of insurer expenses, particularly executive compensation and broad institutional advertising, as seen in California and Louisiana. However, these proposals do not withstand scrutiny as affordability solutions. Even where a CEO of a nationwide P&C carrier earns compensation in the tens of millions of dollars, that amount is spread across tens of millions of policies, meaning that the premium impact of this "expense loading" on a given policy would be fractions of a penny per year. Such measures may resonate with those who believe premium increases are driven primarily by "corporate greed," but they are profoundly unserious symbolic gestures that do nothing to improve affordability.

Moreover, nothing in the California or Louisiana approaches appears to constrain expense loading for the underlying cost drivers that are actually pushing premiums upward, such as vehicle repair costs, medical services, towing and storage charges, or litigation expenses. If the logic is that certain high salaries or overheads should not be recoverable through prices charged to consumers, it is unclear why that principle would apply only to insurers and not to every other participant in the claims ecosystem. Should a personal-injury law firm be prohibited from reflecting its partners' compensation in its billable rates? Should medical providers be barred from recovering their own executive salaries and overhead in the prices they charge? Singling out insurers while leaving these other sectors untouched will not meaningfully change the trajectory of claim costs or premiums; it simply narrows the focus to the one party whose pricing is already heavily regulated, while ignoring the areas in which the cost growth is actually occurring.

Restricting Non-Driving Rating Factors: Many empirical studies, including those summarized by the NAIC, as well as the Federal Trade Commission's 2007 report to Congress, have found that credit-based insurance scores are strongly correlated with automobile insurance loss risk and that, while scores differ across income and racial groups, their predictive power is not primarily derived from those socio-economic characteristics.

It should be noted that eliminating credit-based and territorial rating factors does not reduce premiums; it merely reallocates costs so that lower-risk policyholders pay less and higher-risk policyholders pay more. The use of these rating factors scores permits insurers to evaluate risk with greater accuracy, which makes them more willing to offer insurance to higher-risk consumers for whom they otherwise would not be able to determine an appropriate premium.

As mentioned in the draft report, the Maryland Supreme Court has held that "[u]nfair discrimination, as the term is employed by the Insurance Code, means discrimination among insureds of the same class based upon something other than actuarial risk." If the many studies linking credit history and territorial rating to actuarial risk are wrong, then the Maryland Insurance Administration already has both the authority and the duty to prohibit their use as unfairly discriminatory. If those studies are right, and credit and territorial factors are in fact predictive of risk, then legislation restricting them would undercut sound ratemaking and distort the market. Put simply: if the studies are wrong, new legislation is unnecessary; if they're right, such legislation would be bad policy.

Low-Cost Options: We agree that exploring a carefully targeted low-cost coverage option may be worth consideration, but it is a double-edged sword. Any such product should be strictly means-tested, yet means testing itself can be cumbersome and vulnerable to misrepresentation and fraud if not designed with strong safeguards and simple, verifiable criteria. It is also essential to maintain robust liability limits for most drivers. If too many motorists are permitted to carry very low limits, more accident victims will be left with unpaid damages and uncompensated medical bills. If those same drivers also reduce or drop their own comprehensive, collision, and PIP-type coverages, we may simply be postponing a more serious affordability and adequacy crisis.

Telematics Programs: Telematics programs can be an important tool to align price with individual driving behavior and to encourage safer habits. However, many consumers do not fully understand how these programs operate or which behaviors are penalized. It should be clear that certain work schedules or driving patterns, such as regular overnight driving or heavy stop-and-go commuting, are simply ill-suited to telematics pricing and are likely to result in higher premiums. Those individuals may be better served by traditional, non-telematics products.

In our experience, independent agents often provide robust counseling to help customers decide whether telematics is appropriate for them. However, online purchasers may or may not read the information provided. One practical step would be to require a simple, plain-language warning at enrollment outlining the primary behaviors that typically increase telematics-based premiums. Because most programs provide live feedback through mobile applications, policyholders who do not like their results can switch to a different product at renewal.

Consumer Disclosures: We agree that transparency around premium changes is valuable, but caution that Maryland already mandates a large number of notices. There is little evidence that ever-increasing notice volume has significantly improved consumer understanding. Meanwhile, each additional notice adds administrative cost, which ultimately feeds into the expense ratio and premiums. Any new disclosure requirement should therefore be evaluated against its likely benefit to consumers relative to the cost of implementation. In our view, more focused communication and consumer education efforts may be more effective than expanding the universe of boilerplate notices.

MAIF, the Affordability Index, and Economic Relief Credits: IA&B supports the Maryland Automobile Insurance Fund's proposal to move from 12-month to 6-month policy terms as it phases out the Affordability Index. This is a practical, non-controversial measure that should help reduce down payments, foster more frequent comparison shopping, and allow MAIF to reach rate adequacy more quickly. We also support monitoring and reporting on whether shorter terms affect renewal behavior or retention, particularly considering the high rate of cancellations of MAIF policies.

On the other hand, IA&B strongly urges the Workgroup to oppose any proposal that would revive MAIF's former affordability index, whether directly or under a new label such as an "Economic Relief Credit." If policymakers wish to provide targeted assistance to low-income motorists, that objective should be pursued transparently through means-tested programs or broader social policy, not by quietly embedding subsidies in MAIF's rate structure and shifting the cost onto other insureds.

For many years, MAIF's use of an affordability index in its ratemaking produced chronic and severe rate inadequacy. MAIF's surplus declined from roughly $184 million to just $3.5 million, ultimately triggering a statewide MAIF assessment surcharge on all automobile policies statewide. Over the past two decades, MAIF's combined loss ratio has averaged 119%, meaning that for every $1.00 in premium collected, MAIF has paid $1.19 in claims and other expenses. Loss ratios of this magnitude are not sustainable, and the Maryland Insurance Administration was correct to require MAIF to phase out the affordability index and move toward fully actuarially justified rates.

Additionally, MAIF's inadequate rates distorted competition in the marketplace. By underpricing coverage relative to the true risk, MAIF was able to attract moderate-risk drivers who should have been written in the private market, undermining MAIF's statutory role as a residual market of last resort. This is reflected in MAIF's recent policy count growth: Private Passenger Auto Policies in Force increased from 19,553 in January 2022 to 44,269 in December 2024, a sharp expansion that is difficult to reconcile with the notion of a narrowly targeted safety net. Any attempt to reintroduce an affordability index through an Economic Relief Credit would once again invite underpricing relative to risk, fuel cross-subsidies from private-market policyholders, and increase the likelihood of future assessments on all Maryland drivers.

More broadly, the success of a residual market should be measured by two metrics: how few drivers remain uninsured, and how few drivers need to be placed in the residual market. By that standard, MAIF's recent trajectory is troubling. Most states operate their residual markets through assigned risk plans, in which high-risk policyholders are placed with admitted carriers in proportion to each carrier's market share. IA&B believes the Workgroup's final report should recommend further study into alternative residual market mechanisms, including the potential benefits of a transition to an assigned risk plan model.

Conclusion

In closing, we commend the workgroup and the Maryland Insurance Administration for assembling a thorough and data-driven draft report. Our comments are intended to sharpen the diagnosis of what is driving costs and to focus policy attention on measures that address root causes rather than shifting costs within the system or undermining risk-based pricing.

Across our comments, we have tried to emphasize two core themes. First, premium levels are ultimately a function of claim frequency and severity. Sustainable improvements in affordability will come from addressing the underlying cost drivers, such as the litigation environment, predatory towing and storage practices, vehicle repair and medical costs, severe weather impacts, roadway conditions, and uninsured driving, not from artificially shifting costs from one driver to another or holding premiums below actuarially indicated levels.

As the workgroup finalizes its recommendations, we suggest beginning with the areas where there appears to be broad agreement across stakeholders, including:

- Targeted reforms to address predatory towing and excessive post-towing fees; and
- Technical fixes to give law enforcement live access to the MVA's Online Insurance Verification Program.

IA&B and its member agencies stand ready to assist the Workgroup, the Maryland Insurance Administration, and the General Assembly as this report is finalized and as any subsequent legislation is developed. We appreciate your continued engagement with stakeholders on these complex issues and thank you again for the opportunity to present our perspective on how Maryland can improve auto insurance affordability in a way that is responsible, data-driven, and sustainable.

Sincerely,

John Savant

Johnathan Savant
Government Affairs Director

Cc: Jason Ernest, President & CEO, IA&B
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