



**Final Report of the  
Automobile Insurance Task Force  
to Study Rates in Urban Areas**

April 2006

## **I. INTRODUCTION**

The Automobile Insurance Task Force to Study Rates in Urban Areas was formed in February 2005 by the Maryland Insurance Administration (“MIA”) under the direction of Insurance Commissioner Alfred W. Redmer, Jr. Commissioner Redmer was concerned about the rising cost of automobile insurance in certain Maryland jurisdictions and wanted to know what was causing the increases and how the trend could be stemmed. He was familiar with programs in other states that allowed insurers to develop pilot programs to test alternative approaches for rating automobile insurance policies and believed Maryland citizens would benefit from allowing such pilot programs in the State. As such, Commissioner Redmer supported Senate Bill 938 which was introduced by Baltimore City Senator Lisa A Gladden during the 2005 Legislative Session, but which failed to pass the General Assembly. As a result, Commissioner Redmer formed the Automobile Insurance Task Force to Study Rate in Urban Areas (“Task Force”).

The Task Force was comprised of the Commissioner and nine members of the General Assembly hailing from Baltimore City and Prince George’s County. Commissioner Redmer served as Chair until his departure from the Maryland Insurance Administration in October 2005. He was succeeded by P. Randi Johnson, Associate Commissioner of Property and Casualty at the Maryland Insurance Administration for the final meetings. Commissioner R. Steven Orr has now reviewed the work of the Task Force and has provided input on the recommendations made in this report. Senator Lisa A. Gladden served as Co-chair of the Task Force.

The Task Force was created to investigate the factors that were driving the increasing cost of automobile insurance in urban areas and to make recommendations for ways to reduce these costs. The Task Force conducted its work during five open meetings held between May

2005 and December 2005. Guided by a specific agenda laid out during the introductory meeting, the Task Force set out to find why automobile insurance rates are so much higher in Maryland's urban areas than in other parts of the State and to identify ways in which the rates in urban areas could be decreased. The focus of each meeting centered on identifying the cost drivers that impact automobile insurance rates and learning how each component contributes to the overall rate of automobile insurance in urban areas of Maryland.

## **II. OVERVIEW OF MEETINGS<sup>1</sup>**

The first meeting of the Task Force was used to provide the members with background information concerning automobile insurance rates in urban areas. Staff gave an overview of past legislative action taken by the Maryland General Assembly with respect to this issue.

Thereafter, Tom Waldron, the author of the Abell Foundation's report "Actuarial Discrimination: City Residents Pay Up to 198% More for Car Insurance Than County Residents", presented his findings. Mr. Waldron prefaced his remarks by stating that he is neither an actuary nor an insurance expert. While researching the cost of automobile insurance for residents of Baltimore City, Mr. Waldron found what he believed to be patterns of high rates of automobile insurance in urban areas. He noted that higher rates tend to make automobile insurance less affordable in Baltimore City and thus increases the number of uninsured motorists. While he questioned the general fairness of territorial rating, Mr. Waldron did acknowledge there was actuarial justification for the use of territorial rating. Mr. Waldron suggested that the Task Force consider the following ideas as ways of reducing the cost of automobile insurance in urban areas:

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<sup>1</sup>See Appendix, Minutes from each of the Task Force meetings are included as appendices to the Report along with copies of the handouts that were provided to the Task Force members at each meeting.

- Allowing the Maryland Automobile Insurance Fund (“MAIF”) to accept installment payments as a means of making automobile insurance more affordable for its policyholders;
- Revisiting the use of credit scoring;
- Allowing some type of “Pay As You Drive” policy for urban residents;
- Increasing funding for Auto Theft programs;
- Tort reform dealing with collateral source issues and fee schedules for soft tissue injuries; and
- A study of the relationship between the cost of insurance and the cost of litigation.

The first meeting also included a general overview of the actuarial justification for automobile insurance rates. The actuary noted that while automobile insurance rates continue to be higher in urban areas as compared to the rest of the State, this is no different than it was ten years ago. Recent data established that the frequency of claims in Baltimore City is twice as high as it is in other areas of the State. This testimony produced many questions including how losses are attributed to territories. The actuary and others in the audience advised that claims are attributed to the territory where the at-fault driver garages the vehicle. Thus, if the at fault driver lives in Baltimore County, but causes an accident in Baltimore City, that loss is not counted toward the Baltimore City experience, but is counted toward the Baltimore County experience. Company representatives then discussed territorial rating and how companies draw territories for their competitive advantage in pricing and that territories are just a small part of the rate that the insured ultimately pays. In order to answer questions raised by members of the Task Force, the agenda for future meetings was, in general terms, established.

The second meeting of the Task Force focused on the details of the cost components of rates. Commissioner Redmer gave an overview of the goals, principles and cost drivers of rate making. This overview was designed to provide members of the Task Force with a general overview of rate making. Thereafter, the Task Force was presented with an overview of the components of automobile insurance coverage; those that are mandatory coverages under Maryland law and those coverages that are optional that an insured may elect to purchase.

Following the overview, a panel of both plaintiffs' counsel and defense counsel made a presentation to the Task Force explaining the costs associated with bodily injury claims how insurers adjust claims and the factors that affect the value of a claim. The panel also discussed venue, where the case is tried, and its impact on jury awards.

The panel presentation was followed by a presentation from a claims attorney for a large automobile insurer who also discussed the claims process, the evaluation of bodily injury claims and the factors used to determine the settlement value of a claim. The attorney noted that the frequency of claims are greater for Baltimore City than other jurisdictions as there are more drivers, more claimants and more uninsured motorist claims. In addition, because vandalism and theft claims tend to occur more in urban areas, the cost of comprehensive coverage is increased.

The Task Force then looked at the issue of insurance fraud and the role it plays in insurance rates. Getting an understanding of how insurers investigate fraud gave the Task Force an idea of how much money insurers invest in fraud prevention. This is especially true in urban areas due to the sheer number of automobiles in these locations.

The third meeting of the Task Force focused on insurance ratemaking with presentations from insurance experts. The presentations gave Task Force members information concerning the various components of ratemaking. Dr. Robert Hartwig, a leading industry expert with the

Insurance Information Institute (“III”), presented a basic primer on property and casualty ratemaking. Dr. Hartwig also discussed underwriting, the process by which a company decides whether it should issue a policy, on what terms, and the factors that influence the underwriting.

Following that presentation, a representative from the Insurance Services Office (“ISO”) explained to the Task Force its rate making and how it establishes territories. Territorial rating is based on sound actuarial principles; as it is data driven and methodical. Territorial rating is based on cost drivers in a given geographic area. A zip code is used as the geographic area from which the data of its experience can be analyzed and compared with surrounding zip codes. The data analyzed includes losses, claims, and vehicle density for that zip code. By looking at the past frequency of the experience in the territory, it can be used as a reliable predictor of future experience in the territory.

Finally, the Task Force was given a hand out illustrating how different insurers use different territories and then use different experience within that territory to establish their rates. Territories are established by using a company’s actuarial data, which is proprietary in nature, to obtain what each company believes to be an advantage over its competitors. The Task Force was also told that the MIA publishes a bi-annual guide for auto rate comparisons (“*Comparison Guide to Maryland Automobile Insurance Rates*”) as well as a guide that explains the various coverages available under an automobile insurance policy (“*Consumer Guide to Auto Insurance*”). This presentation established that Maryland has a healthy and competitive automobile insurance market. However, even in a healthy and competitive market, higher claims will result in higher rates.

The fourth meeting of the Task Force focused on what other states were doing to address the issue of high automobile insurance rates in urban areas. The Task Force was given a

presentation by a representative of the American Insurance Association (“AIA”) as well as a representative of the Property Casualty Insurance Association of American (“PCI”) regarding what actions other states have taken to curb rising automobile insurance costs. The presenters began by noting that Maryland has a higher than average claims frequency for bodily injury claims (“BI claims”), for personal injury protection claims (“PIP claims”) and for property damage claims (“PD claims”) when compared to the national average. They discussed the actions taken by Pennsylvania, California, New Jersey, Colorado and New York providing a wide range of examples of what was done, what the intended effect was and what the actual effect was on the marketplace. The presenters also cited the regulatory burdens for companies doing business in Maryland and suggested that regulatory reform, without decreasing consumer protection, would bring additional carriers into the market. While regulatory reforms will not directly result in lower rates, they will make the State more attractive to smaller niche carriers and it is that increased competition that will result in lower rates.

Former Superintendent of the New York Insurance Department, Gregory V. Serio, then gave a detailed presentation to the Task Force on New York’s problem with auto insurance and how they were addressed. This gave the Task Force a number of practical solutions that were made possible in New York only with the buy in from all interested parties. However, it should be noted that New York, unlike Maryland, operates under a “No Fault” system and thus many of the New York responses to rising auto insurance rates would not be applicable or possible in Maryland as we operate under a tort system.

Finally, the Task Force was given information concerning the MIA’s outreach efforts to consumers regarding automobile insurance.

The fifth and final meeting of the Task Force was an opportunity for interested observers to present suggestions to the Task Force on ways to reduce the cost of automobile insurance for those residing in urban areas.

Again, a representative of AIA and PCI came forward to address the Task Force. They advised that in order to reduce premiums for those living in urban areas without increasing premiums for those living in other areas of the State, it was necessary to look at the cost drivers and possible ways to address them. One of the cost drivers identified by these industry representatives was the mandatory coverages and minimum limits set forth in Maryland law. The industry representatives suggested that rates could be reduced by reducing the number of mandatory coverages as well as the limits required for those coverages. Another cost driver was the accident frequency in Baltimore City and Prince George's County which is significantly higher than the rest of the State. They reiterated former Superintendent Serio's statement that "Costs equals rates" and that in order to decrease rates, it is necessary to decrease costs. Therefore, decreasing the number of accidents would result in decreased rates. It was suggested that the Task Force review the Institute for Highway Safety's research regarding the impact frequency in urban areas and suggesting that redesigning intersections, traffic patterns and instituting other public safety measures will result in decreased accidents. The presenters cautioned that this would take both time and money before results would be seen in decreasing the claims frequency and that decrease would then be reflected in the rates. The presenters discussed the impact of the cost of medical treatment on rates. Automobile insurers are the last payers of whatever the healthcare provider charges; that is they are presented with a bill in the amount the healthcare provider believes reflects fair compensation for all the treatment the claimant has received. Other insurers, such as health insurers and workers compensation



insurers, are able to reduce the amount of the fee charged by a healthcare provider to an agreed upon level whether by contract or through the use of a Fee Guide. Additionally, following an automobile accident, a claimant can go for treatment as often as the healthcare provider suggests, thus adding to the costs of the claims. The presenters noted that Pennsylvania uses a medical fee schedule and New Jersey now has uniform protocols for motor vehicle accidents dealing with the amount of treatment to be given. The presenters then focused on auto theft and fraud as another driver of rates. It was suggested that the State needs to continue to pursue theft and fraud claims aggressively. The discussion then turned to uninsured motorist claims (“UM claims”) and it was noted that there are more UM claims in Baltimore City and Prince George’s county as compared to the rest of the State. The way to decrease UM claims is to increase the number of insured vehicles by enforcing the mandatory insurance requirements and by making the insurance policies affordable. The presenters suggested the Task Force consider following the California model of “No Pay, No Play” meaning that an uninsured motorist who is injured in a motor vehicle accident could only recover his or her out of pocket economic losses and not any non-economic losses. It was suggested that this type of a system would operate as an incentive for people to maintain their automobile insurance. A brief discussion of Maryland’s credit scoring law, which allows a limited use of credit for the rating of insurance policies, followed and the presenters suggested that allowing companies to operate with less regulatory burdens would result in more competition, more choices for consumers and, ultimately, lower rates.

A presentation was then made by a representative of the Maryland Automobile Insurance Fund (“MAIF”), the automobile insurer of last resort, during which the Task Force members were told that MAIF is prohibited by statute from accepting installment payments for their insureds. MAIF policies are a year long in duration, as opposed to the private market where

most companies offer 6 month automobile insurance policies, and its insureds, who have already been turned down by two carriers in the private market, are required to pay the full year's premium up front. Thus, the premiums for MAIF tend to be higher than those able to be insured in the private market. For those insureds who are unable to afford the full annual premium, their only option is to go to a premium finance company. Not surprisingly, 96% of all MAIF policies are premium financed. There are significant costs and fees associated with premium financing a MAIF policy; interest is charged up front with rates ranging from 25% to 29%, there are service fees, delinquency fees, reinstatement fees, etc. If MAIF were allowed to accept installments payments, its policyholders would save anywhere from \$200 to \$400 annually.

### **III. MARYLAND INSURANCE ADMINISTRATION**

The Maryland Insurance Administration is the state agency charged with regulating the business of insurance in Maryland. All insurers who sell automobile insurance in the State of Maryland must file all policy forms with the MIA and obtain the Commissioner's prior approval before they can be utilized by the insurer. In contrast, the rates that are filed by insurers for automobile insurance are filed under Maryland's competitive rating law; which authorizes insurers to use the rates once they are filed as no prior approval is required. However, the Rates and Forms Section still reviews the rate filings in order to ensure the filings are in compliance with the Insurance Article and regulations; that is that the rates are actuarially justified. When the MIA's staff questions the company's justification for its rate filing, the MIA works with both its internal actuary and an outside actuarial expert who perform an independent and detailed review. If the review does not support the company's filing, the MIA will require the company

to alter its rates or rating factors. These filing requirements are one way the MIA works to protect Maryland automobile insurance consumers.

In addition to rate and form review, the MIA works to protect Maryland automobile insurance consumers through regulation and examination of the insurance companies and regulation of insurance producers. Additionally, the MIA works hard to empower Maryland insurance consumers through education. On July 1, 2004, Commissioner Redmer exercised his statutory authority to activate the Consumer Education & Advocacy Unit (“CEAU”). The Insurance Article had a provision for such a unit, but it had never been utilized. Commissioner Redmer activated this Unit as a means to fulfill the MIA’s mission to protect Maryland consumers by ensuring that companies and producers are acting in accordance with the insurance laws of Maryland. The CEAU works to provide consumers with information about what is covered under their insurance policies, what their duties and obligations are under the policy, and what the insurance company’s duties and obligations are to the consumer. The CEAU participates in fairs, tradeshow and other events all over the State; including regularly scheduled visits to Motor Vehicle Administration locations. At each event, staff provides educational materials to consumers on various insurance issues, including automobile, homeowners, health and life insurance. At these events, the staff is able to answer numerous questions from consumers, including insurance rate issues and how the claims process works. The Maryland Insurance Administration takes its mission to protect Maryland consumers seriously and the creation of the Task Force was a natural extension of the MIA’s mission.

#### **IV. AUTOMOBILE INSURANCE COVERAGES**

Automobile insurance is comprised of first party coverage, third party coverage and coverage for the costs of defense. First party coverage provides coverage for claims made by the insured against the policy. Third party coverage provides coverage for claims made by others against the insured. Coverage for the costs of defense provides that the insurance company will investigate claims made against the insured, settle them or assign an attorney to defend the insured if suit is filed against the insured. An automobile insurance policy includes different types of coverages and may provide several different types of benefits which are described below:

- ***Bodily Injury Liability***

Bodily Injury Liability coverage is a mandatory coverage. It provides coverage for medical bills, loss of wages and pain and suffering to another person for which the insured is liable, or which was caused by the negligence of the insured. Automobile insurance policies provides limits of coverage on a per person and per occurrence/accident basis. Currently, Maryland law requires minimum coverage in the amount of \$20,000 per person/\$40,000 per occurrence for bodily injury liability coverage.

- ***Property Damage Liability***

Property Damage Liability coverage is a mandatory coverage. It provides coverage for physical damage to other vehicles or property other than property owned by the insured caused by the negligence of the insured. Currently, Maryland law requires minimum coverage in the amount of \$15,000 for property damage liability coverage.

- ***Personal Injury Protection (PIP)***

Personal Injury Protection is a mandatory coverage. It provides limited coverage per person for payment of medical bills and reimbursement for a portion of lost wages incurred as a

result of an occurrence, regardless of fault, up to a minimum of \$2,500. If the insured elects to purchase this coverage for all insured drivers and residents of the household above 16 years of age, this is known as “Full PIP.” However, the insured may elect to waive a portion of this coverage. Coverage may be waived for any listed driver and family members of the household over 16 years of age; this is known as “Limited PIP.” Not surprisingly, there is a difference in cost and it is more expensive if an insured elects to purchase Full PIP as opposed to the Limited PIP.

- ***Comprehensive Coverage***

Comprehensive coverage is an optional coverage. However, if the vehicle was purchased through the use of a loan, most lienholders will require the insured to purchase this type of coverage. It provides coverage over and above any applicable deductible for property damage to the insured vehicle resulting from occurrences other than collision, and is sometimes referred to as coverage for “acts of God.”

Comprehensive coverage includes coverage for theft or vandalism, glass breakage not resulting from an accident, and accidents in which the operator strikes an animal.

- ***Collision Coverage***

Collision coverage is an optional coverage. However, if the vehicle was purchased through the use of a loan, most lienholders will require the insured to purchase this type of coverage. It provides coverage over and above any applicable deductible for property damage to the insured vehicle in the event of a collision or overturn of the vehicle.

- ***Uninsured Motorist Bodily Injury Liability***

Uninsured Motorist Bodily Injury Liability coverage is a mandatory coverage. It provides coverage for medical bills, lost wages and pain and suffering of the occupants of the

insured vehicle when this vehicle is struck by a vehicle that does not have insurance or is struck by a phantom vehicle (i.e. a vehicle which cannot be identified) provided certain coverage conditions are met (usually a requirement to notify the police and report the accident within 24 hours). Coverage applies on a per person and per occurrence/accident basis.

Coverage may be provided up to the limits of the bodily injury liability coverage you have on your policy or coverage may be waived for any amount above the statutory limits (\$20,000 per person/\$40,000 per occurrence).

- ***Uninsured Motorist Property Damage Liability***

Uninsured Motorist Property Damage Liability coverage is a mandatory coverage. It provides coverage for property damage to the insured vehicle and owned property arising out of an accident caused by a vehicle which does not have insurance or a phantom vehicle. Coverage may be provided up to the limit of property damage liability coverage you have on your policy or coverage may be waived for any amount above the statutory limit (\$15,000).

- ***Underinsured Motorist Bodily Injury Liability***

Underinsured Motorist Bodily Injury Liability coverage is a mandatory coverage up to the statutory limits (\$20,000 per person/\$40,000 per occurrence). It provides coverage for medical bills, lost wages and pain and suffering of the occupants of the insured vehicle when this vehicle is struck by a vehicle which maintains limits of liability insurance lower than the damages incurred by the injured parties and the limits on the UIM policy exceed the tortfeasor's limits of liability. Coverage applies on a per person and per occurrence/accident basis and is reduced by the amount paid by the tortfeasor's liability insurer.

- ***Underinsured Property Damage Liability***

Underinsured Property Damage Liability coverage is an optional coverage. It provides coverage for property damage to owned property when this property is struck by a vehicle which maintains lower limits of liability insurance. Coverage is reduced by the amount paid by the tortfeasor's liability insurance.

- ***Medical Payments Coverage***

Medical Payments coverage is an optional coverage and may be purchased to provide additional monies for medical bills arising out of an auto accident regardless of fault.

- ***Towing and Labor***

Towing and Labor coverage is optional and provides coverage to reimburse the insured for towing and labor expenses arising out of a breakdown of the insured vehicle.

- ***Rental Reimbursement***

Rental Reimbursement coverage is optional and provides coverage for the cost of renting a vehicle that is needed as a result of an accident caused by the insured's negligence.

Coverage is usually provided on a fixed rate basis per day for a maximum amount of days (usually not to exceed 30 days).

Claims arising under an automobile insurance policy will involve at least one and perhaps more of these coverages.

## **V. RATEMAKING AND UNDERWRITING**

Ratemaking is an important part of auto insurance. Companies are required to file their rates with the MIA and are reviewed to ensure that the rates are actuarially justified; that is that

the rates are not excessive, inadequate or unfairly discriminatory.<sup>2</sup> Appropriate rates help safeguard companies and, ultimately, policyholders and claimants against insolvency.

Ratemaking is the use of historical data that has been gathered over time to establish a current price for coverage of future losses. Historical data is used to identify trends and to establish a base rate. The base rate is then adjusted for geographic experience (territorial rating), industry specific factors or other factors that are statistically correlated with the risk of future losses. The premium rate for an individual insured is determined by using territorial rating, by looking at individuals and their specific risk characteristics, such as the type of vehicle they drive, and experience rating which is using a policyholder's loss history. Each company uses all of these components to varying degrees. The statistical information reflects the number of claims made, not the actual number of accidents. This is because many accidents may result in damage in amounts below deductible limits or are otherwise not reported to the insurer.

Underwriting is the process by which a company decides whether it should issue a policy and on what terms. There are basic rating factors that insurers use and weigh in their underwriting. These rating factors include the vehicle type being insured, the use of vehicle, the location of vehicle (territory), the driving history of the insured, prior insurance and other factors personal to the insured. Much like ratemaking, each carrier gives different weight to each of these rating factors. Theft prevention plays a varying role in ratemaking depending on where the car is garaged. Geographic areas with higher incidents of automobile theft directly impact the premium paid by the insured. The territorial rating factor also reflects the statistical evidence that urban drivers are more likely to make claims as opposed to rural drivers and that the costs of claims in urban areas are higher than in rural areas. For example, bodily injury liability costs in Baltimore City are more than double the overall state average, property damage liability costs are

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<sup>2</sup> See Insurance Article § 11-306.



47 percent higher in Baltimore City as compared to the rest of the State and personal injury protection costs in Baltimore city are triple the costs compared to the rest of the State. This same disparity has existed since 1998.

Vehicle usage is an important consideration for insurers. The distance driven annually, the commuting distance, and the years of driving experience are all important factors for carriers to evaluate and assess whether it is a risk they are willing to insure and at what price level.

An individual's driving history helps an insurer determine the risk and whether they wish to accept that risk. History of accidents, moving violations, driving related convictions, and frequency of claims filed all contribute to what type of risk an individual represents to an insurer.

Credit scoring has also been found by some studies to be an accurate predictor of risk and the future claims activity of individuals. The logic behind this process is that credit history reflects the same personal responsibility traits that go into risk taking when driving. Maryland law sets forth limitations on how insurers may use credit history for automobile insurance rates.<sup>3</sup>

Statistics have shown that gender plays an important role in assessing risk. For example, males are involved in 50 percent more accidents on average than females and males are 61 percent more likely to be killed in an automobile accident.

It is important to understand how insurance carriers determine automobile insurance rates in order to understand how the various cost drivers impact rates. Premiums are largely determined by the frequency or number of claims as well as the severity or costs of those claims. While different insurance companies will use different rating factors in different ways, all carriers are trying to assess the risk presented by the insured and match the price to the risk.

## **VI. COST DRIVERS**

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<sup>3</sup> The use of credit history in the rating of automobile insurance is limited under § 27-501 of the Insurance Article.

After being presented with the many variables that make up automobile insurance rates, the Task Force saw it prudent to understand what the cost drivers are and why certain cost drivers are disproportionately higher in Baltimore City and Prince George's County than in other parts of the State and the nation as a whole.

Claim frequency plays an important role in automobile rates. Higher loss cost areas are characterized by higher claim frequencies. The relatively high number of personal injury claims filed in Baltimore City and Prince George's County, not necessarily the severity of the injuries that are the subject of those claims, is also a major factor in explaining why certain areas have higher loss costs than others. Insurers look at data regarding the frequency and severity of claims and compare areas of the state by creating an index; there is an index for frequency and for severity. The use of the index allows insurers to examine what is happening in one part of the State and compare that to what is happening in another part of the State or what is happening in the State overall. For example, Baltimore City's bodily injury frequency index was just under two and a half times greater than the rest of the state.<sup>4</sup> At the same time, the severity index for bodily injury claims was slightly less than the rest of the state.<sup>5</sup> The result is that Baltimore City has just over two times the loss cost index as compared to the rest of the state.

PIP claims are more frequent in urban areas as well. Baltimore City's frequency of PIP claims is just over two and a half times greater than the statewide experience.<sup>6</sup> In addition, the severity index is slightly higher for PIP claims in Baltimore City than the rest of the state.<sup>7</sup> This results in a loss cost index in Baltimore City that is three times higher than the statewide figure.

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<sup>4</sup> See Appendix, Presentation to the Task Force given by Patrick Woods, Assistant Vice President and Actuary of the Insurance Services Office, Inc. on August 31, 2005 at the University of Baltimore School of Law.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

Vehicle density is another measure that has a direct impact on loss costs. Vehicle density is the proportion of vehicles on the road in a certain geographic area, such as the number of vehicles in a 2 mile radius. The Baltimore area has a vehicle density index that is nearly two times higher than Prince George's County and many more times higher than Western Maryland and the Eastern Shore.<sup>8</sup> Given Baltimore's higher vehicle density, it is not surprising to find that the bodily injury frequency index and PIP frequency index is much higher than the rest of the State. It seems logical that more cars on the road in a given area results in more accidents and more claims being filed.

Maryland's urban areas are also impacted by the fact that Maryland has a consistently high pattern of claim frequency that exceeds both neighboring states and the national average. As a result, automobile insurance costs in Maryland tend to be higher than neighboring states. As an example, in 2004, Maryland's frequency of bodily injury liability claims was almost one third higher than the national average.<sup>9</sup> Maryland had 1.36 claims per 100 insured cars versus the national average of 1.11 per 100 insured cars.<sup>10</sup> Virginia had only .96 bodily injury liability claims per 100 insured cars, markedly lower than in Maryland.<sup>11</sup> Maryland's frequency of PIP claims is also higher than the nationwide average.<sup>12</sup> There were 1.97 claims per 100 insured cars versus the national average of 1.66.<sup>13</sup> In addition, Maryland's property damage liability claims average is 4.56 compared to the national average of 3.82 and Virginia's of 3.92.<sup>14</sup> Maryland's frequency of collision claims is 7.57 versus the Virginia's 7.14 and the national average of

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<sup>8</sup> *Id.*

<sup>9</sup> See Appendix, Presentation to the Task Force given by David F. Snyder, Vice President & Assistant General Counsel of the American Insurance Association, on October 18, 2005 at the Prince George's Community College.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

6.03.<sup>15</sup> The high number of claims in Maryland's urban areas is even more startling given that the Statewide statistics are higher than the national average. It is these claims that contribute to the high automobile insurance rates in the State's urban areas.

In addition to claims frequency, another cost driver for automobile insurance rates that the Task Force examined was fraud. Insurance fraud is a constant problem for automobile insurers and consumers alike as it drives up the cost of insurance for all. Insurers invest a great deal of money and time into fraud prevention and the MIA spends time and resources in investigating and assisting in the prosecution of insurance fraud.

Common fraudulent practices include lying about the circumstances of an automobile accident in order to make it appear that the accident should be a covered claim, claiming that you were a passenger in a car involved in an accident when you were not, falsifying documents related to an accident or claim, exaggerating injuries, and falsifying injuries. The Maryland Insurance Administration's Insurance Fraud Division investigates fraudulent insurance activity and assists in the prosecution of criminals who commit insurance fraud. In addition, insurers have special investigative units that are charged with investigating suspicious claims. By reducing the number of dollars paid for fraudulent claims, the Insurance Fraud Division and insurers hope to positively impact rates for all Maryland consumers; that is to reduce premiums as less monies will be paid for false claims and the decreased costs will be passed on to the consumers.

## **VII. THE GOVERNOR'S COMMISSION ON BALTIMORE CITY AUTOMOBILE INSURANCE RATE REDUCTION IN 1995**

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<sup>15</sup> *Id.*

Concern regarding high automobile insurance rates in Maryland’s urban areas is not new. In 1995, the Governor’s Commission on Baltimore City Automobile Insurance Rate Reduction (“Commission”) looked at issues surrounding automobile insurance and issued a number of recommendations in its final report. The Commission focused its recommendations on resolving problems and abuses associated with “claiming behavior in Baltimore City.”<sup>16</sup> The Commission’s legislative recommendations fell into two overarching categories: (i) those that address underlying cost drivers, and (ii) those that focus on the elimination of mandatory coverages.<sup>17</sup>

#### A. RECOMMENDATIONS FROM THE FINAL REPORT OF THE GOVERNOR’S COMMISSION ON BALTIMORE CITY AUTOMOBILE INSURANCE RATE REDUCTION IN 1995

The first recommendation of the Commission was to develop legislation that would eliminate multiple recoveries for the same injury suffered during an automobile accident. This recommendation was parsed out into three subcategories. The first subcategory called for personal injury protection (“PIP”) benefits to be paid only to reimburse the insured for expenses not already covered by health or disability benefits in the insured’s health or disability insurance policy.<sup>18</sup> The second subcategory called for uninsured motorist (“UM”) benefits to be reduced by compensation paid or payable from other sources.<sup>19</sup> Maryland law allows for recovery of damages resulting from an accident with an uninsured motorist regardless of whether the victim is compensated by other means for the same damages.<sup>20</sup> The third subcategory sought to deal

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<sup>16</sup> *Final Report of Governor’s Commission on Baltimore City Automobile Insurance Rate Reduction, December 15, 1995*, p. 1.

<sup>17</sup> *Id.* at p. 78.

<sup>18</sup> *Id.* at p. 85. A more detailed discussion of PIP coverage will be provided later in this report.

<sup>19</sup> *Final Report of Governor’s Commission* at 85-86.

<sup>20</sup> A more detailed discussion of UM coverage will be provided later in this report.

with automobile accident claimants who received PIP benefits from their own automobile insurance policies, health insurance benefits from their own health insurer, and then recover all injury-related expenses in any third party claim against an at-fault driver. It called for the reduction of recoveries from third party liability insurers and judgments on third party claims by the compensation paid or payable from collateral sources such as PIP and health insurance.<sup>21</sup>

The second set of recommendations made by the Commission sought to address high automobile insurance rates by means of reducing medical costs and attorney involvement in bodily injury claims. The Commission recommended that a way to reduce medical costs was to allow insurers to offer PIP coverage with a managed care option for soft-tissue injuries. This would reduce the opportunity for over treatment of soft-tissue injuries as the managed care setting limits over utilization of services.<sup>22</sup> The Commission also recommended that health care providers be prohibited from charging more for the treatment of soft-tissue injuries resulting from automobile accidents than would be reimbursed by Medicare.<sup>23</sup> Additionally, the Commission recommended that third party defendants not be liable for medical costs derived from the treatment of soft-tissue injuries arising from automobile accidents in an amount greater than Medicare would reimburse.<sup>24</sup> Finally, the Commission recommended that third party defendants not be liable for the same medical costs if a peer review organization determined that the treatment did not conform to professional standards of performance or was medically unnecessary.<sup>25</sup>

Under the heading of insurance fraud, the Commission recommended to prohibit an insured from recovering UM benefits without physical evidence of contact between the insured's

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<sup>21</sup> *Final Report of Governor's Commission* at 86.

<sup>22</sup> *Id.* at 87.

<sup>23</sup> *Id.* at 88.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

vehicle and the hit-and-run vehicle.<sup>26</sup> The Commission also recommended that an “accident reporting unit” within the Baltimore City police department be created as a pilot program.<sup>27</sup>

The Commission also recommended that the Insurance Fraud Division (“Division”) of the MIA refer evidence of attorney or health care provider fraud to the appropriate licensing and disciplinary boards.<sup>28</sup> They also recommended a requirement that attorney and health care provider licensing report to the Division why disciplinary action was not taken on any case referred to them by the Division.<sup>29</sup> The Commission also recommended mandatory license revocation if any attorney or health care provider was convicted of insurance fraud.<sup>30</sup>

The Commission sought to prohibit the use of “runners.”<sup>31</sup> “Runners” are people who are paid to direct or refer automobile accident victims to an attorney or health care provider. There were other recommendations dealing with fraud within the context of applying for insurance.<sup>32</sup>

The Commission recommended extending waiver of coverage requests to passengers and pedestrians to make an impact on costs.<sup>33</sup> They also recommended that other mandatory coverage items be made optional.<sup>34</sup>

The Commission found that the elimination of territorial rating practices would only shift costs from Baltimore City to other jurisdictions. Thus, the Commission rejected the idea of eliminating territorial rating. It did, however, recommend that the MIA adopt regulations to define the “underlying risk considerations” that automobile insurers may use in establishing or

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<sup>26</sup> *Id.* at 89.

<sup>27</sup> *Id.* at 90.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at 91.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 92. A more detailed explanation of this idea will be provided later in this report.

<sup>34</sup> *Id.* at 93.

applying rating territories.<sup>35</sup> It also recommended that the MIA investigate the relationship between the racial composition of rating territories used by insurance companies and automobile insurance rates. The Commission recommended that cameras be installed at “high-risk” intersections to photograph red light violations.<sup>36</sup> They also recommended allowing police officers to stop a vehicle for a seat-belt violation or child-restraint violation.<sup>37</sup> Finally, the Commission recommended prohibiting the use of radar detectors.<sup>38</sup>

## B. IMPLEMENTATION OF THE 1995 COMMISSION’S RECOMMENDATIONS

The Commission made several recommendations in their final report. Many of these recommendations were sound ideas that would have had a substantial impact on high automobile rates in urban areas. Unfortunately, very few of the recommendations were actually implemented. As a result of this inaction, urban drivers in Maryland continue to face high automobile insurance premiums.

The Maryland General Assembly passed House Bill 264 in 1996.<sup>39</sup> The main focus of this bill was insurance fraud. The first part of the bill sought to address “runners”. The bill made it a fraudulent act for anyone for personal gain to solicit a person injured by or in a motor vehicle to sue or retain a lawyer to represent that person in a lawsuit. It also made it a fraudulent act to solicit a person, for personal gain, to seek care from a health care practitioner to treat injuries resulting from a motor vehicle accident. Not only did the measure address the activities of runners themselves, it made it a fraudulent act for any health care practitioner or lawyer to

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<sup>35</sup> *Id.* at 93-94.

<sup>36</sup> *Id.* at 95.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Chapter 348, Acts of 1996.*



employ, directly or indirectly, or in any way compensate any person for the purpose of having that person solicit or attempt to solicit clients on behalf of the lawyer or health care practitioner.

The bill also focused on the Insurance Fraud Division (“Division”) of the MIA. It required the Division to notify the appropriate professional licensing board or disciplinary body about any evidence of insurance fraud involving professionals that the Division obtained. The Division was also required to notify the appropriate professional licensing board of evidence of gross over utilization of health care services.

The bill did not go so far as to require the appropriate licensing boards or disciplinary bodies to report to the Division on any case referred to them by the Division in which disciplinary action was not taken and the reasons for such inaction. It did, however, allow the various medical provider boards to deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee grossly over utilizes health care services or is convicted of insurance fraud.

The Commission’s recommendations with respect to ways to reduce the exposure to serious injury from automobile accidents were implemented by two bills that came out of the House of Delegates during the 1997 legislative session. The Commission’s recommendation to install cameras at “high-risk” intersections to photograph red light violations was implemented in 1997 by House Bill 391.<sup>40</sup> The applicable statute can be found at § 21-202.1 of the Transportation Article. Additionally, the Commission’s recommendation that police officers be allowed to stop a vehicle solely for violation of Maryland’s seat belt law was implemented and the failure to wear a seatbelt changed from a secondary offense to a primary offense in 1997 by House Bill 816<sup>41</sup>.

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<sup>40</sup> Chapter 315, Acts of 1997.

<sup>41</sup> Chapter 310, Acts of 1997.

The Task Force found that the Commission’s recommendations were generally focused on the cost drivers of automobile insurance rates. Had more than just a few of the Commission’s recommendations been implemented, Maryland citizens in urban areas might not now be facing high automobile insurance rates.

## **VIII. RECOMMENDATIONS ON HOW TO REDUCE THE IMPACT OF COST DRIVERS ON AUTOMOBILE INSURANCE RATES IN MARYLAND’S URBAN AREAS**

### *1. Allow the Maryland Automobile Insurance Fund to Accept Installment Payments*

The Maryland Automobile Insurance Fund (“MAIF”) was created by the Maryland General Assembly as a quasi-public entity that serves as the insurer of last resort for individuals who are unable to obtain automobile insurance coverage in the private market. Thus, its policyholders are unable to obtain insurance from private insurers and its rates reflect the higher risk these drivers represent.

MAIF issues annual policies as opposed to the 6 month policies that most private automobile insurers issue. Additionally, while most private insurers have an installment program allowing their insureds to make partial payments towards their premium, MAIF is prohibited by statute to “accept premiums on an installment basis.”<sup>42</sup> Thus, a MAIF insured must pay for the full amount of the annual premium at the time the policy is taken out. In order to do that, MAIF insureds are often forced to utilize premium financing companies to obtain their mandatory insurance. The Task Force found that although MAIF was never intended to behave in a manner identical to a private insurer, it was intended to provide automobile insurance for those persons unable to obtain automobile insurance from the private market as opposed to having drivers go

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<sup>42</sup> See Insurance Article §20-508(f)(1)(ii).

uninsured. The prohibition on accepting installment payments has a negative impact on the ability of MAIF's insured's to pay their automobile insurance premiums. This impacts most heavily on that segment of the population which can least afford it.

As a result of the statutory prohibition on accepting installment payments, MAIF insureds have only two options: pay the premium in full or finance the premium through a premium finance company. The vast majority of MAIF insureds cannot afford to pay their annual premium upfront and as a result, 96% of its insureds finance their premiums through premium finance companies. Premium finance companies execute a financing agreement with an insured. Under the premium financing agreement, the premium finance company pays MAIF the annual premium on behalf of the insured and then collects from the MAIF insured a monthly payment. In exchange for the ability to pay for insurance on a monthly basis, premium finance companies charge insureds interest on the premium as well as other fees which may be included as part of the monthly payment.<sup>43</sup>

The Task Force finds that although this issue is not directly connected to ratemaking or the cost of insurance in urban areas *per se*, it does drive up the out of pocket expenses of automobile insurance for those who can least afford it. The Task Force recommends that the statutory prohibition against MAIF accepting premiums on an installment basis be removed. It is in the best interest of the consumer to have a lower cost alternative, such as monthly installment payments to MAIF, available. Otherwise, those who cannot afford the insurance or the monthly costs associated with a premium financing agreement may be forced to go uninsured which drives up the cost of insurance for all insured drivers.

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<sup>43</sup> Premium finance companies may charge the insured interest at rates ranging between 25 and 29%. In addition, premium finance companies may charge an initial service fee of \$20, a delinquency and collection charge not to exceed \$8 for private passenger automobile insurance, a cancellation charge not to exceed \$15, and an electronic payment fee not to exceed \$8 and a reinstatement fee of \$5. See Insurance Article, § 23-301 et seq..

2 *Allow Insurers to Create Pilot Programs to Test Alternative Ways for Rating and Pricing Automobile Insurance Policies*

The Task Force finds that certain insurers are willing to test non-traditional ways in rating and pricing automobile insurance. There are unique approaches based on developments in technology that could help insurers get a more accurate assessment of the risk exposure on an individual basis and thereby price their policies to more accurately reflect this risk. However, these innovative ideas cannot be implemented on a Statewide basis without first allowing companies to test them. Under existing Maryland law, there is no provision for allowing insurers to utilize a pilot program as an alternative to the traditional automobile insurance rating and pricing.

The Task Force believes that insurers should be given the ability to introduce alternative programs on a test basis so a company would have sufficient information to assess the likelihood of success such programs could realize if launched on a Statewide basis. Progressive Insurance Company, for example, has been testing a “black box” program known as “Trip Sense” in Minnesota. This program is designed to match the premium charged for coverage to a vehicle’s actual use. The black box is installed in the vehicle to monitor speed, distance driven, and time of day usage. Every few months the consumer downloads data to the insurer. Program participants are eligible for discounts of 5 percent to 25 percent. Another black box program called “Pay As You Drive” has been tested by Norwich Union in the United Kingdom. It uses global positioning technology to report speed, distance driven, and type of driving (i.e. highway, urban, rural). It can also be used to locate stolen vehicles, generate accident reports automatically and provide trip mapping for a driver. While there are concerns about costs associated with the installment, maintenance and use of the black boxes along with issues of privacy surrounding their use and the information generated, these concerns can be dealt with

through statute or regulation. In order to protect consumers willing to participate in a test program, the Task Force recommends that consumers be authorized to withdraw from such program without penalty at any time. Also, in the event that an insurer sponsoring a test program discontinues the test, the insured should be able to obtain any coverage from that company that they would have been able to obtain prior to their participation in the pilot program. In other words, the consumer should not be penalized for being a pilot program participant.

Such a bill authorizing pilot programs for automobile insurance was introduced by Senator Lisa A. Gladden during the 2005 Legislative Session as Senate Bill 938 and was cross-filed in the House by Delegate Ann Marie Doory as House Bill 1573. The MIA assisted in the drafting of this legislation so as to ensure consumer protections. While these bills were not enacted, the Task Force believes such a statute would represent a way of encouraging insurers to be part of the solution for finding ways to offer affordable automobile insurance in urban areas.

*3. Require Insurers to Affirmatively State in each Rate Filing made with the MIA that the Company has Reviewed their Rating Territories and that the Rates for the Territories Actuarially Justified*

The Task Force finds that, in addition to the rating guidelines set forth in law, an insurer should be required to affirmatively state that the company has reviewed its territories and that the rates for each of its territories are actuarially justified. Given that insurers are not required to file rates at any proscribed times, the Task Force finds that for each filing an automobile insurer makes, it should be accompanied by an affirmative statement that the company has reviewed its territories and that its rates for each territory are actuarially justified. Additionally, the Task Force recommends that companies be forced to document that it has reviewed its territories at least once every five years.

Under Maryland law, automobile insurance rates may not be excessive, inadequate or unfairly discriminatory. By requiring that insurers affirmatively state that their territorial rating factors are actuarially justified, the Task Force believes insurers will review their territories and their rating factors more frequently to ensure they are based on the most current data available. This will better serve consumers and insurers as the rates will accurately reflect the risks.

*4. Eliminate Multiple Recoveries for the Same Injury or Damages by Making Personal Injury Protection benefits secondary to Health Insurance or other Source of Recovery, Reducing the Uninsured Motorist Benefits by the Amount of Compensation Paid or Payable from Collateral Sources; and by Reducing Recoveries from Third Party Liability Insurers on Third Party Liability Claims or Judgments by the Amount of Compensation Paid or Payable from Collateral Sources*

The Task Force received testimony concerning personal injury protection (“PIP”) coverage. PIP is a mandatory coverage that provides a limited monetary payment to injured persons for reimbursement or payment of medical bills and/or reimbursement for a portion of lost wages incurred as a result of an occurrence, regardless of fault, up to a minimum of \$2,500.<sup>44</sup> While the insured can elect to purchase either Full PIP or Limited PIP, it is a “no fault” coverage that pays regardless of any other sources of recovery. As such, an individual injured in a motor vehicle accident may obtain coverage for medical expenses and/or lost wages under PIP (up to the limits of the coverage) as well as being compensated for those same expenses as part of a bodily injury (“BI”) claim. Thus, an injured claimant may receive multiple recoveries for the same injuries and damages.

The Task Force learned that bodily injury (“BI”) claims have increased in cost over the years. Part of this rise in cost can be attributed to the well-documented increase in the cost of

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<sup>44</sup> See Appendix, Presentation given to the Task Force by P. Randi Johnson, Associate Commissioner of Property and Casualty for the Maryland Insurance Administration, on June 29, 2005, in the Senate Finance Committee Room in Annapolis.

medical care cost. The increase in costs for BI claims has been further impacted by the frequency of BI claims in urban areas.

Given that city driving involves more stop and go traffic at heavy volumes, there are more accidents in urban areas than in rural areas. Further, many of the urban accidents result in the filing of BI claims and there is a disproportionately high number of BI claims in urban areas compared to rural areas. The reason for this increase in BI claims is hard to pinpoint although it was suggested that advertising by Plaintiffs' lawyers may explain part of this disparity. Irregardless, the Task Force believes that lesser payments will result in decreased costs of insurance. It would be relatively easy to decrease the cost component of PIP coverage if those same benefits are being provided by another source. While there are occasions when PIP may be the sole source of recovery for an injured claimant (i.e. the insured was at fault for the accident and has no health insurance), in those instances where PIP benefits duplicates payments made by either the health insurer or the liability insurer, prohibiting double recovery would lower the cost of the PIP coverage. Currently, Maryland law does not allow PIP to be reduced by payments from collateral sources. The Task Force recommends that PIP be used as a secondary form of reimbursement and that it only be applicable in those instances where the losses are not otherwise covered by another insurance source. In other words the claimant's health insurance policy should be deemed primary and the PIP policy should be deemed supplementary. This coordination of benefits will help reduce the cost of bodily injury claims paid under automobile insurance policies.

Additionally, the Task Force recommends uninsured motorist (UM) benefits be reduced by compensation paid or payable from other sources. UM coverage comes in two variations; UMBI and UMPD. UMBI is a mandatory coverage that provides compensation for bodily

injuries and damages, including medical bills, lost wages and pain and suffering for those persons who are injured by an uninsured vehicle or a “phantom vehicle.”<sup>45</sup> A phantom vehicle is one that cannot be identified after an accident and is considered to be an uninsured motorist.<sup>46</sup> UMBI liability coverage applies on a per person and per occurrence/accident basis.<sup>47</sup> Coverage may be provided up to the limits of the bodily injury liability coverage one has on their policy or coverage may be waived for any amount above the statutory limits (\$20,000 per person/\$40,000 per occurrence).<sup>48</sup>

UMPD is a mandatory coverage that provides compensation for property damage to the insured vehicle and owned property an insured sustains as a result of an uninsured motorist’s negligence.<sup>49</sup> Coverage may be provided up to the limit of property damage liability coverage you have on your policy or coverage may be waived for any amount above the statutory limit of \$15,000.<sup>50</sup>

Currently, Maryland law allows for recovery of all damages resulting from an accident with an uninsured motorist regardless of whether the victim has been compensated from other sources for the same damages. There is no sound policy reason why an individual should receive double compensation for the same injuries or damage. Duplication of these benefits results in higher UM premiums than would be the case if UM benefits were reduced by the amount of collateral source payments. The Task Force recommends that compensation from collateral sources should be taken into account and that payments under the UM coverage should be reduced by the amount of any compensation paid by a collateral source. The reduction of UM

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<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*



payments will result in the decreased cost of UM coverage and, ultimately, decrease the cost of automobile insurance.

Finally, the same logic that calls for eliminating multiple recoveries under PIP and UM coverages applies equally to third party claims. While the Task Force is fully committed to the principal that injured parties are entitled to full compensation for their losses and damages, multiple recoveries from various sources results in over-compensation and drives up the costs of automobile insurance. Thus, the Task Force recommends that any payment by a third party liability insurer or any judgment in favor of the injured party against a third party should be reduced to the extent that compensation has been paid by any collateral source.

#### 5. Continue to Aggressively Fight Automobile Insurance Theft and Fraud

The Task Force found that insurance fraud and automobile theft are increasing problems in Maryland's urban areas; particularly in Prince George's County. The Task Force recommends taking a comprehensive approach to the problems of fraud and automobile theft. More resources need to be given to the MIA's Insurance Fraud Division to allow more coordination of efforts with local police forces.

The Task Force found that insurance fraud and vehicle thefts cost the State of Maryland millions of dollars each year in law enforcement and insurance related expenses.<sup>51</sup> These crimes often impact people in high risk areas who can least afford the loss and the additional costs they create in terms of rising insurance premiums. The Task Force recommends adding additional funds to the State Vehicle Theft Prevention Fund. The Task Force also recommends fully funding Maryland's Vehicle Theft Prevention Council as such funding mechanisms will continue to have a positive impact on decreasing insurance fraud and vehicle theft by way of allowing for

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<sup>51</sup> See Appendix, Cost of Fraud from the June 29, 2005 Task Force Meeting.

more through investigations, increasing arrests and increasing prosecutions to act as a significant deterrent for these actions.

6. Clarify and streamline the requirements under § 27-605 of the Insurance Article

During the 2005 Legislative Session, the Maryland Insurance Administration introduced legislation in an attempt to clarify and streamline the requirements of § 27-605 of the Insurance Article.<sup>52</sup> Section 27-605 of the Insurance Article deals with the cancellation, nonrenewal and increases in premiums for private passenger automobile insurance. The existing statute governs the timing of the notice, the content of the notice, and provides a process by which the insured may contest the insurer's proposed action. The statute has been amended numerous times over the years and has become unwieldy and difficult to navigate which creates confusion for both consumers and insurers. Some of the confusion and difficulty stems from the fact that consumers have certain rights with respect to cancellations and nonrenewals that are different than the rights they have with respect to increases in premium and reductions in coverage.

By updating and streamlining this statute, the process for cancellations and nonrenewals and those for increases in premiums and reductions in coverage will be made easier to understand for Maryland consumers. Clarification of the statute will maintain consumer rights and at the same time ease the costs and administrative burden for insurers.

7. Educate Consumers regarding Automobile Insurance so they Understand the Coverages they are Required to Purchase, the Coverages they may Elect to Purchase and the Factors that Affect the Price of their Automobile Insurance

The MIA believes that the best consumer is an educated to consumer. To that end, the MIA has spent a considerable amount of time creating a consumer guide to assist people in understanding the coverages they receive when they buy an automobile insurance policy. This includes an explanation of those coverages that are required by Maryland law and those

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<sup>52</sup> See House Bill 729(2005).

coverages that are optional for the insured to purchase if they so desire. Additionally, the MIA produces, bi-annually, a rate comparison guide that consumers can use to compare rate for automobile insurance from different companies in various jurisdictions.

The MIA continues to be committed to engaging in consumer outreach efforts so that consumers understand how to shop for automobile insurance and the coverages they have under their automobile insurance policy. The Task Force would recommend continuation of the Consumer Education & Advocacy Unit (“CEAU”) which provides consumers with more information about what is covered under their insurance policies and to assist them in having a better understanding of their rights and obligations under those policies.

8. *Develop a State-Wide Public Safety Initiative. This Educational Campaign Would be Aimed at Improving Driving in Order to Decrease Accidents which will Result in a Decrease in Claims and, Ultimately, a Decrease in Premiums*

The Task Force heard repeatedly that “costs equal rates” and that it is the costs that drive the rates for automobile insurance. Therefore in order to reduce rates, there must be a decrease in costs. One way to decrease costs is to decrease the number of claims. The Task Force believes that claims can be reduced if drivers are made aware of the impact their driving has on their automobile insurance rates. By encouraging safe driving habits, less risky driving behaviors will be engaged in and fewer accidents will occur which will result in a decrease in claims which will translate to a decrease in costs and, ultimately, a decrease in rates.

The Task Force recommends an initiative be undertaken by the Maryland Insurance Administration in concert with the Governor’s office, the Motor Vehicle Administration and the insurance industry to encourage awareness of driving habits, to encourage safe driving habits and to make the correlation between public safety and automobile insurance rates.

9. Encourage the Motor Vehicle Administration to Utilize Electronic Databases to Cross-Check Registration Information

Registration information includes insurance information as well as information regarding the vehicle. When an uninsured motor vehicle is stopped, for whatever reason, law enforcement officers run the tag information and can ascertain the insurance status of the vehicle. Currently, the insurance information provided to the law enforcement officer is only as good as the information in the Motor Vehicle Administration's database. The Task Force learned that there can often be a significant lag between the time an automobile insurance policy lapses and the time that the information concerning the uninsured status of the vehicle is reflected in the Motor Vehicle Administration's database. There are companies in the private marketplace who offer technology and systems that can provide real time information from insurers to the Motor Vehicle Administration. By making use of technology, law enforcement will be in a better position to curtail uninsured motorists in Maryland and lessen their impact on auto insurance premiums. The Task Force recommends that the Motor Vehicle Administration and representatives of law enforcement officers investigate the potential for utilizing real time reporting systems for insurance information to enhance enforcement of the financial responsibility laws and to deter uninsured operators from driving.

Additionally, there is the National Motor Vehicle Title Information System ("NMVTIS") which is a national system for tracking salvage titles for vehicles. Such a system prevents or reduces insurance fraud by stopping the presentation of salvaged vehicles as undamaged vehicles, by preventing the titling of stolen vehicles and may prevent the pay offs on allegedly stolen vehicles. The Task Force recommends that the Motor Vehicle Administration investigate

participation in this national database network utilizing any federal grant monies that may exist to offset the costs.

10. Implement Safety Measures to Prevent Accidents Reducing Property Damage and Injuries from Crashes

The Task Force learned that the Insurance Institute for Highway Safety (“IIHS”) has conducted research and made recommendations on easy ways that States can work to prevent urban car accidents.<sup>53</sup> The Task Force recommends the adoption of several of IIHS’s recommendations for Maryland.

IIHS recommends the use of traffic cameras to deter red light running. While the legislature has already allowed the use of cameras to deter people from running red lights at busy intersections, the Task Force recommends that the use of cameras be increased and that they be placed at more intersections, particularly in those areas with high vehicle density. Additionally, and in accordance with the IIHS research, the Task Force recommends having yellow lights remain yellow for a longer period of time in order to give drivers ample notice that the light is about to turn red. Longer yellow lights used in conjunction with cameras at intersections should deter people from entering an intersection when the light is red. Deterring such risky driving habits would have a positive impact on the number of car accidents in busy urban areas.

The Task Force recommends mandating the use of seatbelts by rear passengers in motor vehicles. Although the legislature has made it mandatory that people seated in the front of a motor vehicle use seatbelts, the law could go further and make seatbelt use mandatory for back seat passengers as well. Such a common-sense measure that would reduce the risk of bodily

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<sup>53</sup> See Appendix, Handout from the American Insurance Association entitled “Moving Forward On Reforms To Reduce Costs, Increase Choice and Expand Competition In the Maryland Auto Insurance System,” December 12, 2005.

injury to rear passengers significantly.<sup>54</sup> Again, reducing the severity of injuries should reduce the cost of claims and, ultimately, will be reflected in decreased rates.

11. Provide Financial Incentives for People to Drive with Insurance

Uninsured Motorist coverage rates are driven by the fact that a significant number of people drive without insurance. While Maryland law requires operators of motor vehicles to have automobile insurance, it is not possible to prevent people without insurance from driving. To discourage uninsured driving, the Task Force recommends Maryland enact a “No Pay/No Play” system. Under such a system, an uninsured driver operating an uninsured motor vehicle would be prohibited from recovering any damages beyond his or her out of pocket losses. In other words, an uninsured driver would not be entitled to receive compensation for non-economic damages (pain and suffering). The prohibition would apply to an uninsured driver operating any uninsured car, not just their own motor vehicle. This recommendation provides a strong market-based incentive to comply with the law governing financial responsibility and is a powerful supplement to state law enforcement efforts.

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<sup>54</sup> *Id.*

## APPENDIX

Meeting Minutes

Presentation Materials