



**2017 Report on
Peer-to-Peer Personal Auto Rentals**

**Al Redmer, Jr.
Commissioner**

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- #2 - Working Group Agenda for conference call of July 25, 2017
- #3 - Minutes from conference call of July 25, 2017
- #4 - August 28, 2017 Supplemental Information memo for Working Group
- #5 - ACRA written comments of September 29, 2017
- #6 - TURO written comments submitted October 16, 2017
- #7 - PCI written comments of September 29, 2017
- #8 - Insurance Article, § 19-512
- #9 - Commercial Law Article, § 14-2101
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- #12 - Public Utilities Article, § 10-405
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Executive Summary

There is an active peer to peer (“P2P”) market operating in Maryland for the listing and rental of personal automobiles via the internet. A business entity known as TURO, operating in this space in 49 states, appears to be the most active internet platform in Maryland at this time. Other platforms (e.g. Getaround and Justshareit) may already, or may soon, be operating in Maryland. There are no insurance laws or regulations in place that make specific reference to this market segment.

In light of the important public policy that all motor vehicles registered in the State be protected by liability insurance at all times, there is a need for clarification of existing insurance laws and their applicability to the P2P market model. A further need may exist for new legislation that allows for the evolution of both the traditional and P2P motor vehicle rental markets in a manner that protects both the safety interests of Maryland’s consumers and supports the State’s interest in meeting the economic needs of individuals and businesses.

Introduction

During the 2017 Regular Session of the Legislature, the Maryland Insurance Administration (“Administration”) became aware of the operation of a P2P “sharing economy” business model enabling Maryland residents to list their personal automobiles for rent via an internet platform. HB 1520 (see Exhibit #1) marked an initial effort to implement a statutory framework for the operation of this business model in Maryland. HB 1520 was drafted with input from the traditional motor vehicle industry but without the participation of TURO and without advance inquiry of the Administration. HB 1520 looked to accomplish the objective of addressing the P2P motor vehicle rental through the addition of a new Subtitle 2 in Title 18 of the Transportation Article.

During its review of HB 1520, the Senate Finance Committee noted the existence of both insurance and non-insurance issues that stood in the way of passage of the bill. In an effort to allow all stakeholders to participate in the process, Chairman Middleton requested the Administration convene a working group of interested stakeholders during the interim in order to identify the insurance issues and attempt to reach consensus on these issues where possible. This report will provide the details and outcome of that process.

The P2P Personal Auto Rentals Working Group

In July of 2017, the Administration reached out to all known individuals that participated in the review of HB 1520 during the 2017 Regular Session and to others that had expressed an interest in the subject matter to announce the initial working group conference call. The invitation was posted on the Administration’s website and the first conference call was scheduled for July 26, 2017. In advance of the call, a draft agenda was circulated and suggested additions to the agenda solicited. The final agenda for the call was distributed to all interested parties and posted to the Administration’s website on July 25, 2017 (see Exhibit #2).

Minutes of the first call were distributed to the working group members for review and suggested edits were incorporated into a final version of the minutes (see Exhibit #3). Twenty-

six (26) individuals participated in the July 26, 2016 conference call and all participants are listed in the minutes. As a result of the call, the following two (2) important insurance issues were identified:

- 1) What source should provide the primary liability insurance during the rental transaction; and,
- 2) Is there a need for a limited lines license requirement in the P2P personal auto rental market?

Both issues are discussed under separate headings further on in this report. A second working group conference call was scheduled for August 30, 2017. In advance of the call, the Administration prepared a memorandum with exhibits for the working group's consideration with respect to the two (2) insurance issues listed above (see Exhibit #4). The August 28, 2017 memorandum noted that, based on the dialogue during the first conference call, it seemed unlikely that consensus could be reached with respect to the limited lines license issue. In order to provide the Legislature with comprehensive information, stakeholders were requested to provide the Administration with written comments on the limited lines license issue. Comments were received from the American Car Rental Association ("ACRA") and TURO and are attached to this report (see Exhibits #5 and #6).

The Primary Liability Insurance Source Issue

There is consensus between the P2P market's interests, as expressed by TURO, and the traditional motor vehicle rental market's interests, as expressed by ACRA on this issue. Both markets are in agreement that primary liability insurance for accidents that occur while a vehicle is being rented should come from the renter's personal automobile insurance policy. Both markets also agree that the owner of the vehicle should be required to have liability coverage in place that will provide at least the state mandated minimum liability limits in the event the renter does not have an in force policy at the time of an accident. Both markets also agree that in the case of a rental made via a P2P internet platform, the listing vehicle owner's personal automobile policy should not be exposed to loss.

A regulatory scheme in which primary liability coverage is provided by the renter's personal automobile policy requires a change to existing Maryland insurance law. Under present law, the registered owner of a vehicle must procure security meeting the state mandatory minimum amounts (either by obtaining a motor vehicle liability insurance policy or by meeting the self-insurance requirements spelled out in the Transportation Article). An exception exists under the Transportation Article (§17-104 (e) – See Exhibit #2 within Exhibit #4) that allows the vehicle owner's liability coverage to be secondary when the rented vehicle is a "replacement vehicle" that has been rented while the insured vehicle is out of service due to a loss covered by the renter's insurance policy.

For many consecutive past regular legislative sessions, the traditional motor vehicle rental market has sought to change the law from the current hybrid system described in the prior paragraph, to a system that calls for the renter's personal liability insurance to be primary for all

motor vehicle rentals (not just the “replacement vehicle” exception).¹ Many rental car companies are self-insured, and under the current law they pay as primary insurer when the driver of a rental car is at fault (up to the statutory liability limits). While these legislative efforts have been unsuccessful to date, the argument supporting this change has been cogently stated in ACRA’s letter of September 29, 2017 to the Administration.

Not least among the points made by ACRA in support of the change is that Maryland is now in a small minority of states that do not either require the renter’s personal policy to provide primary liability insurance or allow the rental company to subrogate against the renter’s personal insurer for the renter’s at-fault accidents. ACRA suggests that Maryland’s system, which is contrary to the system in most states including those states that Maryland shares borders with, operates as a competitive disadvantage to the traditional motor vehicle rental market in Maryland and has the effect of importing claim liabilities to Maryland when visitors to Maryland rent cars and have accidents.

While both TURO and ACRA are in agreement that the insurer of an at-fault driver of a rental car should be the primary liability insurance source, the Property and Casualty Insurers Association of America (“PCIAA”) submitted comments opposing a change in Maryland’s existing insurance mechanism for vehicle rental transactions (see Exhibit #7). PCIAA states that: “Attempts to legislatively change the relative legal responsibilities of driver and vehicle owner take away...predictability. The resulting inefficiency makes automobile insurance more expensive without adding any benefit to consumers, the majority of whom may never have need to rent a car.” In addition to certain insurers, the Plaintiff’s bar is generally opposed to having liability insurance follow the driver because it could create difficulty in initiating a claim if the at-fault driver is from out-of- state. Under current law, such claims are filed against Maryland rental car companies.

The Limited Lines License Issue

Unlike the issue of primacy of liability insurance coverage for the rental transaction, there is no consensus between the P2P and traditional motor vehicle rental markets on the limited lines license issue. The opposing viewpoints on this issue are presented within ACRA’s letter of September 29, 2017 and TURO’s submission of October 16, 2017 (Exhibits 5 and 6,

¹ In an attempt to change primacy of liability to a system that would have liability follow the driver instead of the car, legislation has been introduced numerous times. In 2016, SB 751 & HB 1172, “Vehicle Laws – Rental Vehicle Companies Right of Subrogation,” were introduced to the Maryland General Assembly. The legislation would have granted a rental vehicle company or its designee the right of subrogation against a renter of a motor vehicle and the renter’s insurer for property damage, personal injury, and wrongful death claims paid by the rental vehicle company or the designee that arose from the use or operation of the motor vehicle by the renter. If the renter was not driving the vehicle, the legislation granted a rental vehicle company or its designee an identical right against the driver and the driver’s insurer. Similar legislation has been considered in older legislative sessions. SB 662 of 2014 received a hearing in the Senate Finance Committee, but no further action was taken on the bill. Its cross file, HB 730, received a hearing in the House Economic Matters Committee and was subsequently withdrawn. HB 1089 of 2013 passed the House with amendments, was heard by the Senate Finance Committee, and was referred to interim study. Its non-identical cross file, SB 919, received a hearing in the Senate Finance Committee and was likewise referred to interim study.

respectively). At the heart of the dispute is the question of whether or not TURO is a competitor of the traditional motor vehicle rental companies and should be treated the same as a traditional motor vehicle rental company with respect to the sale of “protection packages” that provide various levels of liability and vehicle damage coverage.

For the purposes of the working group discussions, the Administration did not seek to reach conclusions as to whether or not Maryland’s existing limited lines license laws (found in §§ 10-601 through 10-607 of the Insurance Article) are applicable to the P2P market model and, if so, whether or not TURO is compliant with those statutory requirements. The Administration has informed TURO that these are open questions at this time.

While Exhibits #5 and #6 provide detailed support from ACRA and TURO regarding their respective positions on this issue, the Administration wishes to provide the Legislature with additional perspective on this important issue. Maryland has enacted limited lines licensing requirements associated with a number of industries including credit, travel, portable electronics, self-service storage and motor vehicle rentals. At the core of these laws is the State’s objective of protecting and educating Maryland consumers. Limited lines licensing laws ensure that producers of these products are licensed with the State and subject to its oversight, and require appropriate disclosures at point of sale to ensure consumers receive important information prior to purchase.

During the working group process, TURO’s representatives emphasized its position that TURO is an insurance consumer and is not a seller of insurance. While it is true that TURO is the named insured entity on a master commercial auto policy from an admitted insurer that provides liability coverage for accidents that occur during each vehicle rental period, it is also true that TURO markets on its website, insurance protection to both the owners of the vehicles listed on the TURO platform and the consumers that rent vehicles via the platform. TURO also markets on its website “protection packages” at various benefit levels for damage to the rented vehicle without respect to liability (commonly referred to as “Collision” coverage and “Comprehensive” or “Other Than Collision” coverage). Thus, it appears to the Administration that TURO may be both a consumer and seller of insurance.

The existing limited lines license requirements for motor vehicle rental companies are found in §§ 10-601 through 10-607 of the Insurance Article and were provided to the working group in Exhibit # 4 of this report.

Legislative Construction Considerations

In an effort to facilitate the legislative process and with the anticipation that one or more bills may be proposed in the 2018 Regular Session or beyond, the Administration seeks to provide options for consideration as to how best to accomplish various legislative objectives. This section of this report should not be construed to mean that the Administration supports or opposes any specific legislative objective. Rather, the Administration seeks only to put forth options for the statutory mechanism to best accomplish these potential legislative objectives.

Primary Liability Insurance Issue

A bill designed to create a new mechanism calling for a vehicle renter's personal insurance policy to be the primary source of motor vehicle liability insurance may be accomplished via changes within the Transportation Article. This objective can be executed by extending the existing exception for "temporary replacement" vehicle rentals (found under TR, § 17-104 (e)) to include all rentals, including those facilitated through P2P platforms such as TURO. Limiting the statutory change to § 17-104(e), will leave in place the requirement that a registered vehicle owner must still procure primary liability insurance for all instances other than vehicle rental situations.

Limited Lines License Issue

This issue centers on the question of whether or not a P2P platform, like TURO, that facilitates the rental of personal automobiles should be regulated in the same manner as a traditional brick and mortar vehicle rental company with respect to limited lines producer licensing. If the answer to this question is "yes" there will be little or no changes needed to the existing motor vehicle rental limited lines license laws found in the Insurance Article, §§ 10-601 through 10-607 (See Exhibits # 6 – 12 within Exhibit #4). The only potential alteration to the existing law in the case, would be to augment the definition of a "motor vehicle company" found at § 10-601 (c), to specifically include a vehicle rental transaction via a P2P platform. Even this may be unnecessary given the existing definition may ultimately be construed to include a P2P platform.

Alternatively, if a P2P platform (again, like TURO) should not be subjected to a limited lines license requirement, the existing definition of a motor vehicle rental company found at § 10-601(c), should be augmented to include a specific carve out stating that such platforms are not considered to be a "motor vehicle rental company." This change would expressly resolve the issue of whether the existing limited lines license requirement applies to the P2P vehicle rental business model.

Collision and Comprehensive ("Other Than Collision") Coverages

During the initial working group conference call there was brief discussion around the first-party physical damage coverages available with most motor vehicle liability policies for Collision and Comprehensive (also known as "Comp" or "Other Than Collision") damages. There was general agreement that these coverages, which are voluntary purchases, should not be made mandatory for the consumer.

The existing law regarding these coverages, which is applicable to motor vehicle rental situations, can be found at § 19-512 of the Insurance Article (see Exhibit # 8). The law states that a private passenger motor vehicle policy that provides Collision coverage must afford the coverage for losses to "any passenger car" that is rented for a period of thirty (30) days or less under a "rental agreement" as defined in in the Commercial Law Article, § 14-2101 (see Exhibit # 9).² The law also states that a private passenger motor vehicle policy that provides

² The definition of a "rental agreement" found within the Commercial Law Article was not discussed by the working group. That said, it seems quite clear that the contract executed between a renter and vehicle owner via a P2P platform would be considered a "rental agreement" as long as the duration of the rental is less than 180 days.

Comprehensive coverage must afford the coverage for losses to “any passenger car” that is rented as a “replacement vehicle” as defined in TR, § 18-102 (a)(2)(i) (see Exhibit # 10).

Thus, under existing law, if the renter of a vehicle via a P2P platform owns a vehicle and has a policy with Collision and / or Comprehensive Coverage, that policy’s Collision / Comprehensive coverage transfers to the rented vehicle pursuant to the requirements and limitations found in § 19-512 of the Insurance Article. This does not represent an increase in the exposure to the personal automobile insurer as this exposure is already present.

The Livery Exclusion and the Salamon Case

A well-known decision of the Court of Appeals of Maryland (Salamon v. Progressive) in 2003, commonly referred to as the “pizza driver case,” holds that a liability exclusion within a motor vehicle liability insurance policy that reduces or eliminates benefits to below state-mandated minimum levels is not valid unless expressly authorized by statute (see Exhibit # 11). More recently, this issue arose in the context of the Legislature’s response to the Transportation Network (Uber and Lyft) industry.

In the case of Transportation Networks, the Legislature mandated that transportation network operators needed to be covered by motor vehicle liability insurance with minimum limits of \$50,000 (BI per person) / \$100,000 (BI per accident) / \$25,000 (PD) (See Exhibit #12). These amounts are higher than the state mandated minimum liability limits of \$30,000 / \$60,000 / \$15,000 that otherwise exist for motor vehicle liability insurance in Maryland.³ The law for the Transportation Network industry allows for the \$50,000/\$100,000/\$25,000 coverage to be procured by the platform, the driver or a combination of both, and specifies that if both procure coverage, the driver’s policy is primary.

In recognition of the commercial nature of the Transportation Network business model, the Legislature expressly authorized motor vehicle liability insurers to exclude all coverages (liability, uninsured and underinsured motorists, PIP, collision and comprehensive) and the duty to defend for “any loss or injury that occurs while the vehicle operator is providing transportation network services.” This authorization is found in §19-517 of the Insurance Article (See Exhibit # 13). The enactment of § 19-517 resulted in most personal automobile insurers filing complete exclusions for transportation network activity. While some personal auto insurers have filed policy endorsements providing limited coverage for transportation network activity, the bulk of this market segment is being served by commercial insurance paper or new hybrid personal / commercial products.

In the Administration’s examination of the P2P personal vehicle rental market, it is clear that consensus exists that a personal motor vehicle insurance policy should not be exposed to loss when the insured vehicle has been listed for rent on an internet platform and is being driven

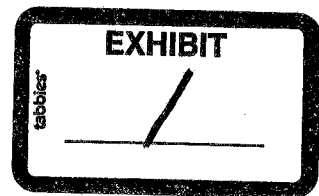
³ In the case of the Transportation Network industry, the Legislature seems to have acknowledged that the P2P business model is a commercial model by allowing motor vehicle liability insurers to utilize a total exclusion of coverage for this activity. Additionally, by requiring those who drive for companies such as Lyft and Uber to be covered by insurance in higher amounts than the otherwise mandated state minimums (in the same manner as taxi operators), the Legislature appears to have concluded that Transportation Network operators (drivers) are engaged in a commercial activity.

by a renter. The logical place in statute for this provision would be a new § 19-520 in the Insurance Article.

Conclusion

As the sharing economy continues to expand across many market segments, there will be a continuing need for the Legislature to review the operations of new business models to ensure robust consumer protection and equitable treatment of new and traditional business models that may be operating in the same space. The Administration stands ready to assist the Legislature in an advisory capacity with respect to the insurance issues that arise in these situations.

The Administration wishes to thank Senator Middleton for the opportunity to serve the legislative process in this instance. Additionally, the Administration wishes to thank all of the working group participants for their active engagement in the process. Stakeholders on all sides of the issues were cordial, insightful and professional throughout the process.



HOUSE BILL 1520

R7

7lr2061
CF SB 1056

By: **Delegates Flanagan and McCray**
Introduced and read first time: February 10, 2017
Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Personal Motor Vehicle Rentals**

3 FOR the purpose of establishing provisions of law governing the rental of personal motor
4 vehicles to other persons in a certain manner; establishing that certain persons may
5 rent only certain classes of personal motor vehicles to other persons; prohibiting a
6 renter of a personal motor vehicle from using the motor vehicle for certain purposes;
7 prohibiting a person from renting a personal motor vehicle to another person unless
8 the motor vehicle is covered by certain security; requiring the Motor Vehicle
9 Administration to suspend the registration of a personal motor vehicle used for
10 rentals if the owner fails to maintain the required security; prohibiting certain
11 persons from renting a personal motor vehicle to another person who does not meet
12 certain driver’s licensing standards; requiring a certain person that rents or
13 facilitates the rental of a personal motor vehicle to keep certain records; authorizing
14 the Administration or any police officer to inspect certain records; prohibiting under
15 certain circumstances certain persons from renting to another person a personal
16 motor vehicle for which any charge is based on the miles traveled; establishing
17 certain provisions governing rental rates and rental agreements for rented personal
18 motor vehicles; providing for the application of certain provisions of law governing
19 for-rent vehicles and personal motor vehicle rentals; establishing that certain
20 violations of this Act are unfair or deceptive trade practices subject to certain
21 enforcement actions; defining certain terms; and generally relating to personal motor
22 vehicle rentals.

23 BY repealing and reenacting, with amendments,
24 Article – Commercial Law
25 Section 13-301(14)(xiii)
26 Annotated Code of Maryland
27 (2013 Replacement Volume and 2016 Supplement)

28 BY adding to
29 Article – Transportation

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 Section 18–101.1; and 18–201 through 18–206 to be under the new subtitle “Subtitle
2 2. Personal Motor Vehicle Rentals”
3 Annotated Code of Maryland
4 (2012 Replacement Volume and 2016 Supplement)

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

7 **Article – Commercial Law**

8 13–301.

9 Unfair or deceptive trade practices include any:

10 (14) Violation of a provision of:

11 (xiii) Section 18–107 OR § 18–206 of the Transportation Article;

12 **Article – Transportation**

13 **18–101.1.**

14 **THIS SUBTITLE DOES NOT APPLY TO PERSONAL MOTOR VEHICLE RENTALS**
15 **GOVERNED UNDER SUBTITLE 2 OF THIS TITLE.**

16 **SUBTITLE 2. PERSONAL MOTOR VEHICLE RENTALS.**

17 **18–201.**

18 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
19 INDICATED.

20 (B) “PERSONAL MOTOR VEHICLE RENTAL” MEANS THE PAID USE OF A
21 PERSONAL PASSENGER MOTOR VEHICLE BY A PERSON OTHER THAN THE
22 REGISTERED OWNER OF THE MOTOR VEHICLE THROUGH THE USE OF A PERSONAL
23 MOTOR VEHICLE RENTAL PROGRAM.

24 (C) “PROGRAM” MEANS A PROGRAM OR PROCESS, WHETHER DIGITAL,
25 ELECTRONIC, OR OTHERWISE, THROUGH WHICH A PERSONAL MOTOR VEHICLE
26 RENTAL IS MADE OR FACILITATED.

27 (D) “PROVIDER” MEANS A PERSON THAT OPERATES OR ADMINISTERS A
28 PROGRAM.

1 (E) "RENTER" MEANS A PERSON WHO RENTS A PERSONAL MOTOR VEHICLE
2 OWNED BY AND REGISTERED TO ANOTHER PERSON THROUGH THE USE OF A
3 PROGRAM.

4 18-202.

5 (A) THIS SUBTITLE APPLIES TO A PERSONAL MOTOR VEHICLE RENTAL FOR
6 A PERIOD NOT EXCEEDING 180 DAYS.

7 (B) (1) AN OWNER OR A PROVIDER MAY RENT TO ANOTHER PERSON ONLY
8 A PERSONAL CLASS A (PASSENGER) VEHICLE, A CLASS E (TRUCK) VEHICLE, OR A
9 CLASS M (MULTIPURPOSE) VEHICLE THROUGH THE USE OF A PROGRAM.

10 (2) A RENTER OF A PERSONAL CLASS A (PASSENGER) VEHICLE OR
11 CLASS M (MULTIPURPOSE) VEHICLE MAY NOT USE THE RENTED PERSONAL MOTOR
12 VEHICLE TO TRANSPORT INDIVIDUALS OR PROPERTY FOR HIRE.

13 18-203.

14 (A) (1) AN OWNER OR A PROVIDER MAY NOT RENT A PERSONAL MOTOR
15 VEHICLE TO ANOTHER PERSON UNDER THIS SUBTITLE UNLESS THE MOTOR VEHICLE
16 IS SECURED IN THE SAME FORM AND PROVIDING FOR THE SAME MINIMUM BENEFITS
17 AS REQUIRED UNDER TITLE 17 OF THIS ARTICLE.

18 (2) AN OWNER OF A MOTOR VEHICLE WHO RENTS THE MOTOR
19 VEHICLE TO ANOTHER PERSON UNDER THIS SUBTITLE MAY SATISFY THE SECURITY
20 REQUIREMENT BY MAINTAINING THE REQUIRED SECURITY DESCRIBED IN § 17-103
21 OF THIS ARTICLE THAT IS SECONDARY TO ANY OTHER VALID AND COLLECTABLE
22 COVERAGE OF THE RENTER THAT EXTENDS COVERAGE TO THE RENTED PERSONAL
23 MOTOR VEHICLE IN AMOUNTS REQUIRED UNDER § 17-103(B) OF THIS ARTICLE
24 DURING THE RENTAL PERIOD.

25 (3) IF AN OWNER OF A RENTED PERSONAL MOTOR VEHICLE PROVIDES
26 COVERAGE IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, THE
27 AGREEMENT FOR THE RENTED PERSONAL MOTOR VEHICLE SHALL CONTAIN A
28 CONSPICUOUS DISCLOSURE THAT INFORMS THE RENTER THAT THE RENTER'S
29 PERSONAL VEHICLE INSURANCE IS THE PRIMARY COVERAGE FOR THE RENTED
30 PERSONAL MOTOR VEHICLE AND THE COVERAGE MAINTAINED BY THE OWNER ON
31 THE RENTED PERSONAL MOTOR VEHICLE IS SECONDARY.

32 (B) NOTWITHSTANDING ANY PROVISION OF THE RENTAL AGREEMENT TO
33 THE CONTRARY, THE SECURITY REQUIRED UNDER THIS SECTION SHALL COVER THE
34 OWNER OF THE MOTOR VEHICLE, EACH INDIVIDUAL WHO OPERATES THE MOTOR

1 VEHICLE WITH THE PERMISSION OF THE OWNER OR RENTER, AND EACH PASSENGER
2 IN THE MOTOR VEHICLE.

3 (C) IF THE ADMINISTRATION FINDS THAT A MOTOR VEHICLE OWNER THAT
4 RENTS THE MOTOR VEHICLE UNDER THIS SUBTITLE HAS FAILED TO MAINTAIN THE
5 REQUIRED SECURITY, THE ADMINISTRATION SHALL SUSPEND THE REGISTRATION
6 OF THE MOTOR VEHICLE.

7 18-204.

8 (A) AN OWNER OR A PROVIDER MAY NOT RENT A PERSONAL MOTOR
9 VEHICLE UNDER THIS SUBTITLE TO ANOTHER PERSON UNLESS EACH INDIVIDUAL
10 WHO WILL OPERATE THE RENTED MOTOR VEHICLE:

11 (1) HOLDS A DRIVER'S LICENSE ISSUED UNDER TITLE 16 OF THIS
12 ARTICLE, AUTHORIZING THE INDIVIDUAL TO DRIVE A VEHICLE OF THE CLASS
13 RENTED; OR

14 (2) IS A NONRESIDENT WHO:

15 (i) KEEPS WITH THE INDIVIDUAL A DRIVER'S LICENSE ISSUED
16 TO THE INDIVIDUAL BY THE STATE OR COUNTRY OF THE INDIVIDUAL'S RESIDENCE,
17 AUTHORIZING THE INDIVIDUAL IN THAT STATE OR COUNTRY TO DRIVE VEHICLES OF
18 THE CLASS RENTED; AND

19 (ii) IS AT LEAST 16 YEARS, 6 MONTHS OLD.

20 (B) A PROVIDER THAT RENTS OR FACILITATES A PERSONAL MOTOR
21 VEHICLE RENTAL TO ANOTHER PERSON SHALL KEEP A RECORD OF:

22 (1) THE REGISTRATION NUMBER OF THE RENTED PERSONAL MOTOR
23 VEHICLE;

24 (2) THE NAME AND ADDRESS OF THE RENTER;

25 (3) THE DRIVER'S LICENSE NUMBER OF ANY INDIVIDUAL WHO WILL
26 OPERATE THE RENTED PERSONAL MOTOR VEHICLE; AND

27 (4) THE DATE AND PLACE OF ISSUANCE OF THE DRIVER'S LICENSE OF
28 ANY INDIVIDUAL WHO WILL DRIVE THE RENTED PERSONAL MOTOR VEHICLE.

29 (C) THE ADMINISTRATION OR ANY POLICE OFFICER MAY INSPECT THE
30 RECORDS KEPT UNDER SUBSECTION (B) OF THIS SECTION.

1 18-205.

2 (A) AN OWNER OR A PROVIDER MAY NOT, WITH INTENT TO DEFRAUD, RENT
3 TO ANOTHER PERSON A PERSONAL MOTOR VEHICLE FOR WHICH ANY CHARGE IS
4 BASED ON THE DISTANCE TRAVELED, IF THE OWNER OR PROVIDER KNOWS THAT THE
5 MOTOR VEHICLE'S ODOMETER DOES NOT RECORD CORRECTLY THE ACTUAL
6 ACCUMULATED MILEAGE OF THE MOTOR VEHICLE.

7 (B) AN OWNER OR A PROVIDER MAY NOT OTHERWISE RENT TO ANOTHER
8 PERSON ANY MOTOR VEHICLE FOR WHICH ANY CHARGE IS BASED ON THE DISTANCE
9 TRAVELED AND DECEIVE THAT OTHER PERSON AS TO THE DISTANCE THAT THE
10 MOTOR VEHICLE TRAVELED DURING THE RENTAL PERIOD.

11 18-206.

12 (A) AN OWNER OR A PROVIDER THAT RENTS A PERSONAL MOTOR VEHICLE
13 TO ANOTHER PERSON SHALL:

14 (1) COMPUTE THE DAILY RENTAL RATE BASED ON A 24-HOUR
15 PERIOD, STARTING AT THE TIME THE RENTAL PERIOD BEGINS;

16 (2) MAKE A NOTATION ON THE RENTAL AGREEMENT OF THE TIME
17 THE RENTAL PERIOD BEGINS; AND

18 (3) INFORM THE RENTER THAT:

19 (I) THE DAILY RENTAL FEE IS BASED ON A 24-HOUR PERIOD;
20 AND

21 (II) THE TIME THE RENTAL PERIOD BEGINS IS NOTED ON THE
22 RENTAL AGREEMENT.

23 (B) (1) REGARDLESS OF WHETHER A RENTER COMPLIES WITH A
24 REQUIREMENT BY AN OWNER OR A PROVIDER TO NOTIFY THE OWNER OR PROVIDER
25 IN ADVANCE OF INTENT TO RETURN THE PERSONAL MOTOR VEHICLE, THE OWNER
26 OR PROVIDER MAY NOT CHARGE FOR THE USE OF A RENTED PERSONAL MOTOR
27 VEHICLE AFTER THE MOTOR VEHICLE HAS BEEN RETURNED.

28 (2) IF A RENTAL AGREEMENT REQUIRES THE RENTER TO NOTIFY THE
29 OWNER OR PROVIDER IN ADVANCE OF INTENT TO RETURN THE PERSONAL MOTOR
30 VEHICLE, THE OWNER OR PROVIDER SHALL MAKE THE FOLLOWING CONSPICUOUS
31 DISCLOSURE TO THE RENTER IN THE RENTAL AGREEMENT:

1 “REGARDLESS OF WHETHER YOU COMPLY WITH A REQUIREMENT BY THE
2 (OWNER OR PROVIDER) TO NOTIFY THE (OWNER OR PROVIDER) IN ADVANCE OF
3 YOUR INTENT TO RETURN THE MOTOR VEHICLE, THE (OWNER OR PROVIDER) MAY
4 NOT CHARGE FOR THE USE OF THE MOTOR VEHICLE AFTER YOU HAVE RETURNED
5 THE MOTOR VEHICLE.”

6 (c) IN ADDITION TO ANY REMEDIES OTHERWISE AVAILABLE AT LAW, A
7 VIOLATION OF THIS SECTION SHALL BE AN UNFAIR OR DECEPTIVE TRADE PRACTICE
8 UNDER TITLE 13, SUBTITLE 3 OF THE COMMERCIAL LAW ARTICLE.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2017.



LARRY HOGAN, JR.
Governor

BOYD K. RUTHERFORD
Lt. Governor



AL REDMER, JR.
Commissioner

NANCY GRODIN
Deputy Commissioner

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Date: July 25, 2017
To: All Interested Parties
From: Robert Baron, Associate Commissioner Property & Casualty
Re: Peer to Peer Personal Auto Rentals

Greetings-

You are receiving this communication because you have expressed an interest in participating in a conversation regarding the insurance issues around the peer to peer personal automobile rental industry. As a starting point for the conversation, we have scheduled a conference call for Wednesday, July 26, 2017 from 1:00 – 2:30 P.M. My objective will be to conclude the initial call in one (1) hour or less.

Dial-in Number: 866-247-6034

Conference Code: 1573490062

The Agenda for Wednesday's call is found below. There is one additional item since the draft agenda was first circulated. If you are aware of any interested party that is not already included in the group, please provide me with a name and email address so we can extend an invitation. Thank you in advance for your time and participation. I look forward to the collaboration.

AGENDA

I. Opening Remarks and Roll Call

- Background information
- Process objective

II. Identification of insurance issues

- Type of Insurance (TOI)
- Liability (BI /PD)
 - Required Limits
 - Primary / Secondary
- 1st Party Vehicle Damage (COLL / COMP)
 - Deductibles
 - Waivers
- Uninsured Motorists (UM)
- Personal Injury Protection (PIP)
- Age and Residency of Renter
- Proof of Insurance (ID Cards)
- Limited Lines License

III. Closing Comments and Next Steps



Personal Auto Insurance Call - Wednesday, July 26, 2017

Participants: Robert Baron, Associate Commissioner, Property & Casualty Unit (Maryland Insurance Administration); Anne Klase, Debbie Gorman (comptroller's office); Eric Goldberg, Larry Eckhouse (American Insurance Association); Eric Bryant, Brad Rifken (Rifkin Weiner Livingston, LLC); John DeRose, Michelle Bosch, John Blauvelt (Enterprise); Camille Fesch (Alexander-Cleaver); Alex Benn, Michelle Fang, Katelin Foley (Turo); Christina Baldwin; Lynn Knauf (Insurance Services Office, Inc); Marta Harting (Venable); Michael Boge (State Farm); Noel Patterson (Allstate); Ricky Duncan, Tami Burt (Legislative Services); Sandra Dodson (Maryland Auto Insurance); Karen Straughn (Office of Attorney General); Minor Carter (NAMIC); Tyler Hoblitzell, Maria Fisher (Maryland Insurance Administration)

Associate Commissioner Robert Baron began the meeting by sharing his and Maria Fisher's email addresses for any future inquiries. Mr. Baron can be reached at robert.baron@maryland.gov and Maria Fisher can be reached at maria.fisher@maryland.gov. Mr. Baron then took roll call.

Background Information

Mr. Baron gave a brief overview of the history leading up to the call. He stated that during the 2017 legislative session, HB1520 reached the Senate Finance Committee. During its early review stages, the Senate Finance Committee realized there were a number of issues not resolved and likely to stall progress of the bill. Senator Middleton asked the Maryland Insurance Administration (MIA) to coordinate a meeting of stakeholders and interested parties to address the insurance issues around peer-to-peer personal auto rentals. It is our hope to identify insurance related issues and reach consensus. Mr. Baron will communicate the results of the process to Senator Middleton and the Senate Finance Committee. For purposes of this call, topics will be limited to insurance related issues.

Process Objective

Mr. Baron identified eight (8) topics of discussion. Mr. Baron discussed how the meeting will be conducted. For each agenda item, Mr. Baron began with providing some MIA perspective, relevant statutes and background information. He then opened the subject up for comments from the participants. See the previously provided Agenda for a list of the eight (8) topics.

Type of Insurance (TOI) – Mr. Baron stated that this is more of a background issue and mostly relevant to the MIA and to insurance companies that need to make Rate and Forms filings with the MIA. Mr. Baron noted that the heart of the Turo transaction is a rental of an automobile from the vehicle owner to a third-party for a fee. This makes the transaction a commercial

transaction even if the owner only rents his or her vehicle occasionally or on a part time basis. Accordingly, the appropriate TOI for a rate or form filing involving personal auto rentals is the Commercial Automobile TOI.

Michelle Fang with Turo commented on California's view of this issue and noted that this may be a hybrid transaction of both personal and commercial nature. Ms. Fang also commented that for ease of discussion she was using the word "renter" or "rental" but that transactions on Turo's marketplace constitute car sharing, not car rental.

Liability Coverage – Mr. Baron noted that when the world of insurance intersects with other businesses and market segments, the MIA looks to keep our insurance laws and regulations in concert with other applicable Maryland law to the greatest extent possible. Maryland has minimum mandatory automobile liability limits spelled out in the Transportation Article for BI and PD, PIP and UM. This coverage can be obtained via an insurance policy from an authorized insurer or by meeting the requirements to self-insure. A question to settle is where will primary liability insurance coverage for the personal automobile rental transaction come from?

Ms. Fang agreed that state mandatory insurance requirements should be met in car sharing. Ms. Fang and Mr. Benn believe that for the vehicle owner, the car sharing platform's group policy should be primary and exclusive, but that the vehicle renter's personal insurance policy should provide primary liability coverage

Mr. Baron noted this is not the existing model in Maryland as liability insurance follows the car. In other words, in Maryland, except when a rental vehicle is a "temporary substitute vehicle" the rental company provides primary liability insurance coverage.

Ms. Fang believes that if any analogy to traditional rental should be used as a guidepost in Maryland in crafting car sharing legislation, the law should allow the renter's personal policy to be primary, as with existing Maryland law for "temporary substitute vehicles."

John Blauvelt (Enterprise) agrees with Turo's position that the renter's personal policy should provide primary liability coverage. Mr. Blauvelt noted that Maryland is one of a small number of states in which the liability coverage follows the vehicle and that Maryland has a hybrid approach where liability coverage from the renter's personal policy transfers as primary when the vehicle rental is as a "temporary substitute" following a covered loss; and, the rental company provides primary liability coverage for all other rentals.

Mr. Eric Bryant with Rifkin Weiner Livingston, LLC commented that Maryland's legislative chambers may be split regarding whether or not the primary liability coverage should come from the vehicle owner or renter. Mr. Bryant also noted Maryland as being among only a small number of states that has the primary coverage tied to the vehicle owner.

Ms. Marta Harting with Venable commented that the Legislature has not reversed the existing law with respect to the source of primary insurance for several years running.

Ms. Sandra Dodson with Maryland Auto Insurance also noted the fact that Maryland law provides that the liability insurance follows the vehicle and also noted that a personal auto policy will have exclusionary language for livery and other commercial uses that would preclude the vehicle owner's policy from providing coverage.

Mr. Baron noted concern regarding the mechanism for provision of primary liability insurance when vehicles are not rented as a "temporary substitute." Mr. Baron again stated that under current law, the vehicle owner must provide primary liability insurance that satisfies the state mandatory minimums and that this can be on a personal or commercial form, or as a registered self-insured; however, a personal auto policy will likely have a livery or other exclusion for commercial use of a vehicle.

First Party Vehicle Damage-Collision and Comprehensive Coverage – Mr. Baron stated that when a person with collision coverage on their personal auto policy rents a vehicle for less than 30 days the Collision insurance transfers to the rental vehicle. Comprehensive coverage transfers from the renter's personal auto policy only if the rental vehicle is a "temporary substitute vehicle."

Mr. Benn stated that Turo's vision is that car sharing is a good thing. Their goal is to have those cars be more productive for society. Turo does not think the rental vehicle owner's personal policy should be on the hook for first party damage. The rental vehicle owner should have a commercial policy of their own or through Turo. Turo does not recommend making Collision or Comprehensive coverage mandatory.

Mr. Baron stated that there is nothing in Maryland that makes Collision or Comprehensive coverage mandatory and this is not contemplated. Mr. Baron asked about Turo's protection packages and if they are for the vehicle owner, renter or both? Mr. Benn stated there are protection packages on each side and they are different. Mr. Benn acknowledged that despite Turo's best efforts, the available protection packages can be hard to understand when looking

at FAQ's in isolation, but that the provisions are very clear when going through the product to actually "rent" or list a car.

Limited Lines License – Mr. Baron raised the question of the need for a Limited Lines License in the peer-to-peer personal automobile rental space. Under current Maryland law, there is a limited lines law for the traditional rental vehicle business. The definition of a "motor vehicle rental company" is any person who is in the business of providing rental vehicles for periods of 180 days or less. A "person" includes a company or an individual. Mr. Baron asked for comments.

Mr. Benn replied that his understanding is that limited lines licenses are meant to address people at rental car counters and Turo does not see a need for a limited lines license requirement in their model. Mr. Benn noted that Turo does not own vehicles for rent and that Turo is not in the business of trying to sell insurance and does not believe a limited lines license requirement is necessary. Ms. Fang also pointed out that because Turo is the named insured on the group policy provided by Liberty Mutual, not the provider of liability insurance, the appropriate person to provide guidance for insurance questions is Turo's insurance broker, and such broker is available to answer any questions from users (owners and renters) of Turo's marketplace.

Mr. Bryant stated that no matter who is on the commercial side of the rental vehicle transaction (traditional rental or peer to peer), the other side of transaction is a citizen consumer without insurance expertise. Consumer protection consideration is needed.

Mr. DeRose (Enterprise) noted that Enterprise views the limited lines license requirement as consumer protection. Mr. DeRose feels that someone has to educate consumers about the insurance issues with a rental vehicle transaction and feels a limited lines license requirement is appropriate in the peer to peer personal vehicle rental market.

Ms. Christine Baldwin raised a question wanting to know if there is any limitation on the number of cars someone can share (rent) at one time? For example, can someone purchase 10-15 cars and share (rent) a fleet? Ms. Fang replied that most people own and rent just one vehicle, but did not say that Turo places a limitation on the number of vehicles an owner can list on the platform.

Age & Residency of Renter - Mr. Baron questioned Turo regarding the minimum age requirement for a renter. Ms. Fang clarified that every Turo renter must be at least 21 years

old. Turo attaches a young renter's fee for anyone under 25 years of age. Mr. Benn feels that a minimum age requirement should not be codified.

Proof of Insurance (ID cards) - Mr. Baron briefly mentioned that a Maryland registered car requires proof of insurance (ID card) in the car. The Transportation Article has a fine component of \$50 if the driver cannot produce the card when pulled over. Ms. Fang and Mr. Benn stated that while Turo provides an ID card which owners and renters are required to keep in the vehicle, the financial responsibility document that must be kept in the car and meet Maryland's proof of insurance requirements is the owner's personal policy (even though it is not operative during the car sharing period).

In conclusion, Mr. Baron mentioned that there are non-insurance issues around the business of personal automobile rentals that will be of interest to the Legislature and Comptroller. While these issues are beyond the scope of this group's activity, Mr. Baron wanted the group to know that Maryland has a track record with respect to peer to peer services and applicable taxes. To the extent that a bill is forthcoming it would be useful for sponsors of the bill to vet these issues with legislators and regulators ahead of time.

Next Steps: Mr. Baron will distribute draft minutes of today's call. We plan to have one more call before the end of August in order to allow interested parties to weigh in on the minutes and to provide any additional information for the group's consideration. Before our next call, Mr. Baron will reach out to Turo and representatives of the traditional rental industry to further discuss the issues of a limited lines license requirement and the provision of primary liability coverage. Mr. Baron will also visit Turo's website for a further review of the links of interest regarding insurance "protection packages."

Following the second phone call, unless a need is identified for an additional call, Mr. Baron will provide Senator Middleton with a letter describing the process and the results. A copy will be provided to the group and posted on the Maryland Insurance Administration's website.

Meeting adjourned at 2:28 p.m.

LARRY HOGAN, JR.
Governor

BOYD K. RUTHERFORD
Lt. Governor



AL REDMER, JR.
Commissioner

NANCY GRODIN
Deputy Commissioner

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Date: August 28, 2017
To: Peer to Peer Personal Auto Rentals Working Group
From: Robert Baron, Associate Commissioner Property & Casualty
Re: Supplemental Information in advance of August 30, 2017 Conference Call

This memo will provide additional material for the workgroup's consideration in advance of our conference call scheduled for August 30, 2017. During the initial call on July 26, 2017, two (2) insurance issues of significance were identified:

- 1) What source should provide the primary liability insurance during the rental¹ transaction; and,
- 2) Is there a need for a limited lines license requirement in the Peer to Peer Personal Auto Rental market?

PRIMARY LIABILITY INSURANCE

Under current and long-standing Maryland law, primary liability insurance "follows the car" in most situations. This means that the owner of a vehicle provides the primary liability insurance resource (either via an insurance policy obtained from an authorized insurer or by satisfying the self-insurance requirements of the Maryland Motor Vehicle Administration). A notable exception to this arrangement is when a Maryland consumer rents a "replacement vehicle" because the consumer's insured vehicle is out of service due to a covered loss; or, due to service, break down, repairs or damage. In the case of a "replacement vehicle" the consumer's liability coverage from their personal auto policy will transfer to the "replacement vehicle."

Maryland is apparently one of a small minority of States with the "follow the car" liability insurance mechanism in place. Despite this, attempts over many successive years to change this arrangement have not passed in the Legislature. During the first conference call, it became clear that both Turo and the traditional car rental markets are in agreement on this issue. Both markets believe that Maryland should

¹ During the initial conference call, Ms. Fang ("Turo") made a distinction between "car rental" and "car sharing." It is Turo's stated position that Turo is not a car rental company. That said, we will utilize the term "rental" throughout this memo in lieu of "sharing," not only for convenience, but also because the transactions in question involve a vehicle owner entering into a contract with a third-party that allows the third-party to use the vehicle in exchange for payment of a fee. As such, it seems clear that the transaction involves the "rental" of an automobile.

eliminate the existing “follow the car” mechanism and implement a requirement that the consumer’s personal auto policy liability coverage must transfer to a rental vehicle in all situations.²

The Administration will review any proposed legislation around this issue and provide feedback to stakeholders and the legislature.

LIMITED LINES LICENSE REQUIREMENT

Unlike the issue of primary liability insurance, there is no consensus between Turo and the traditional rental markets on this issue. Turo’s stated position is that it is not a rental car company and that the vehicle owners listing personal automobiles for rent on the Turo platform should not be regulated in the same manner as the traditional car rental market. The traditional market seeks equal statutory / regulatory treatment for both Turo and traditional rental markets with respect to many issues including the limited lines license requirement.

Current Maryland insurance law requires that a “motor vehicle rental company” must have a limited lines license before the company, its employees or authorized representatives, may sell or offer insurance in connection with or incidental to a “rental agreement.” Additionally, Maryland insurance law requires that only a licensed “producer” may sell or offer insurance policies in the State.

In light of the positions of Turo and the traditional rental markets on the limited lines license issue, further discussion at this time does not seem to have a practical point. That said, in keeping with the working group’s charge to provide the legislature with information around this market’s insurance issues, **we are requesting stakeholders to submit written comments** in support of their respective positions on this issue. To assist you in these efforts, I have attached a reference chart and copies of relevant provisions of Maryland law.³ Within the chart, I have included the statutory references for the legal definitions of certain terms that are particularly relevant to the limited lines license issue. Our request is that written comments be submitted on or before the close of business on September 29, 2017. Please send your submissions to me via email (Robert.Baron@Maryland.gov).

LIST OF RELEVANT STATUTES

Exhibit #	Citation	Provision Title	Subject Notes
1	TR § 17-103	Form and minimum benefits of security; annual assessment.	Contains mandatory minimum limits requirement (30/60/15); contains “authorized insurer” and “self-insure” options for providing required coverage.
2	TR § 17-104	Evidence of security pre-requisite to registration.	Contains the basic liability insurance “follows the car” mechanism (see § 17-104 (b)). Contains “replacement vehicle” definition and “follows the car” exception (see § 17-104 (e)).
3	Ins. § 1-101	Definitions.	(g) authorized insurer (j) certificate of authority (s) insurance (t) insurance business

² During our upcoming conference call, please be prepared to briefly weigh in on the question of primary liability insurance for long-term vehicle rentals (over 30 days).

³ NOTE: The reference to statutes throughout this memo is not meant to be all encompassing or limiting in any manner.

			(u) insurance producer (dd) person (ee) policy (ff) premium (kk) sell (ll) solicit
4	Ins. § 10-103	License required.	Contains requirement to obtain a license from the Administration before acting as an insurance producer (See § 10-103 (c)).
5	Ins. § 10-131	General penalty.	Contains the penalty provision for a person for each violation of § 10-103 (c).
6 - 12	Ins. § 10-601 through § 10-607	Motor Vehicle Rental Companies.	Contains the definitions and limited lines licensing requirements for motor vehicle rental companies.
6	Ins. § 10-601	Definitions.	(c) Motor vehicle rental company (d) rental agreement
7	Ins. § 10-602	Limited lines license to sell rental vehicle insurance – In general.	Contains the requirement for a motor vehicle rental company to hold a limited lines license in order to sell or offer insurance in connection with / incidental to a rental agreement.

Statute Text

Article - Transportation



§17-103.

(a) (1) Except as provided in paragraph (2) of this subsection, the form of security required under this subtitle is a vehicle liability insurance policy written by an insurer authorized to write these policies in this State.

(2) The Administration may accept another form of security in place of a vehicle liability insurance policy if it finds that the other form of security adequately provides the benefits required by subsection (b) of this section.

(3) The Administration shall, by regulation, assess each self-insurer an annual sum which may not exceed \$750, and which shall be used for actuarial studies and audits to determine financial solvency.

(b) The security required under this subtitle shall provide for at least:

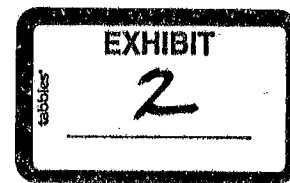
(1) The payment of claims for bodily injury or death arising from an accident of up to \$30,000 for any one person and up to \$60,000 for any two or more persons, in addition to interest and costs;

(2) The payment of claims for property of others damaged or destroyed in an accident of up to \$15,000, in addition to interest and costs;

(3) Unless waived under § 19-506 of the Insurance Article or rejected under § 19-506.1 of the Insurance Article, the benefits described under § 19-505 of the Insurance Article as to basic required primary coverage;

(4) The benefits required under § 19-509 or § 19-509.1 of the Insurance Article as to required additional coverage; and

(5) For vehicles subject to the provisions of § 25-111.1 of this article, the security requirements adopted under 49 C.F.R., Part 387.

Statute Text**Article - Transportation**

§17-104.

(a) The Administration may not issue or transfer the registration of a motor vehicle unless the owner or prospective owner of the vehicle furnishes evidence satisfactory to the Administration that the required security is in effect.

(b) The owner of a motor vehicle that is required to be registered in this State shall maintain the required security for the vehicle during the registration period.

(c) Each insurer or other provider of required security shall:

(1) Except as provided in item (2) of this subsection, immediately notify the Administration electronically of new motor vehicle insurance policies issued for insured vehicles registered in the State; and

(2) For each fleet policy, electronically notify the Administration every 30 days of any additions, deletions, or modifications to the fleet policy, including those policy numbers affected.

(d) The Administration, in consultation with the Maryland Insurance Administration and representatives of the automobile insurance industry, shall adopt regulations that establish procedures to be used by an insurer to provide timely notification to an insured of the penalties that may be imposed in accordance with § 17-106 of this subtitle if the insured fails to renew or replace a policy of motor vehicle liability insurance without surrendering the evidences of registration.

(e) (1) In this subsection, "replacement vehicle" means a vehicle that is loaned by an auto repair facility or a dealer, or that an individual rents temporarily, to use while a vehicle owned by the individual is not in use because of loss, as "loss" is defined in that individual's applicable private passenger automobile insurance policy or because of breakdown, repair, service, or damage.

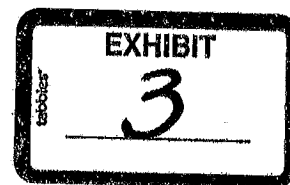
(2) Subject to paragraph (3) of this subsection, an owner of a replacement vehicle may satisfy the requirement of subsection (a) of this section by maintaining the required security described in § 17-103 of this subtitle that is secondary to any other valid and collectible coverage and that extends coverage in amounts required under § 17-103(b) of this subtitle to the owner's vehicle while it is used as a replacement vehicle.

(3) If an owner of a replacement vehicle provides coverage as provided under paragraph (2) of this subsection, the agreement for the replacement vehicle to be signed by the renter or the individual to whom the vehicle is loaned shall contain a provision on the face of the agreement, in at least 10 point bold type, that informs the individual that the coverage on the vehicle being serviced or repaired is primary

coverage for the replacement vehicle and the coverage maintained by the owner on the replacement vehicle is secondary.

Statute Text

Article - Insurance



§1-101.

(a) In this article the following words have the meanings indicated.

(b) "Administration" means the Maryland Insurance Administration.

(b-1) "Affordable Care Act" means the federal Patient Protection and Affordable Care Act, as amended by the federal Health Care and Education Reconciliation Act of 2010; and any regulations adopted or guidance issued under the Acts.

(c) "Alien Insurer" means an insurer that is formed under the laws of a jurisdiction other than the United States or a state.

(d) (1) "Annuity" means an agreement to make periodic payments for which the making or continuance of all or some of a series of the payments, or the amount of a payment, depends on the continuance of a human life.

(2) "Annuity" includes:

(i) an additional benefit that operates to safeguard the contract from lapse or to provide a special surrender value, special benefit, or annuity in the event of the total and permanent disability of the holder; and

(ii) benefits that provide payment or reimbursement for long-term home health care or long-term care in a nursing home or other related institution.

(3) "Annuity" does not include life insurance.

(e) "Annuity contract" means a contract that provides for an annuity.

(f) "Appointment" means an agreement between an insurance producer and insurer under which the insurance producer, for compensation, may sell, solicit, or negotiate policies issued by the insurer.

(g) "Authorized insurer" means an insurer that holds a valid certificate of authority.

(h) "Burial insurance" includes any kind of agreement, certificate, policy, contract, bond, assurance guarantee, or other arrangement, by bylaw, regulation, or otherwise, in or by which the party that issues the certificate, policy, contract, bond, assurance guarantee, or other arrangement agrees to:

(1) provide for the burial of a named or designated deceased individual;

(2) save harmless anyone for all or part of the costs of the burial of a named or designated deceased individual; or

(3) pay all or part of the incidents of the burial of a named or designated deceased individual.

(l) (1) "Casualty Insurance" means:

(i) insurance against legal, contractual, or assumed liability for death, injury, or disability of a human being, or for damage to property;

(ii) if issued as an incidental coverage with or supplemental to liability insurance and regardless of legal liability of the insured, insurance that provides medical, hospital, or surgical disability benefits to injured individuals and funeral and death benefits to dependents, beneficiaries, or personal representatives of individuals killed; or

(iii) unless disapproved by the Commissioner as contrary to law or public policy, insurance against any other kind of loss, damage, or liability that is properly a subject of insurance and not within any other kind of insurance described in this subsection.

(2) "Casualty Insurance" includes motor vehicle physical damage insurance, burglary and theft insurance, glass insurance, workers' compensation insurance, employer's liability insurance, and boiler and machinery insurance.

(j) "Certificate of authority" means a certificate issued by the Commissioner to engage in the insurance business.

(k) "Commissioner" means the Maryland Insurance Commissioner.

(l) "County" means a county of the State or Baltimore City.

(m) "Domestic insurer" means an insurer that is formed under the laws of the State.

(m-1) (1) "First-class mail tracking method" means a mail tracking method that provides evidence of the date that a piece of first-class mail was accepted for mailing by the United States Postal Service.

(2) "First-class mail tracking method" includes:

(i) a certificate of mail; and

(ii) an electronic mail tracking system used by the United States Postal Service.

(3) "First-class mail tracking method" does not include a certificate of bulk mailing.

(n) (1) "Foreign insurer" means an insurer that is formed under the laws of a jurisdiction other than this State.

(2) Unless the context requires otherwise, "foreign insurer" includes an alien insurer.

(o) "Fund producer" means a licensed insurance producer, including a licensed independent insurance producer, that has been assigned an authorization code by the Maryland Automobile Insurance Fund.

(p) (1) "Health insurance" means insurance of human beings against:

(i) bodily injury, disablement, or death by accident or accidental means, or the expenses of bodily injury, disablement, or death by accident or accidental means;

(ii) disablement or expenses resulting from sickness or childbirth; and

(iii) expenses incurred in prevention of sickness or dental care.

(2) "Health insurance" includes:

(i) accident insurance;

(ii) disability insurance; and

(iii) each insurance appertaining to health insurance.

(3) "Health insurance" does not include workers' compensation insurance.

(q) "Independent insurance producer" means an insurance producer:

(1) that is not owned or controlled by an insurer or group of insurers;

(2) the appointment of which does not prohibit the representation of more than one insurer or group of insurers; and

(3) the appointment of which provides that:

(i) at termination, the records of the insurance producer remain the property of the insurance producer; and

(ii) the insurance producer retains the use and control of all expirations incurred during the period when the appointment was in effect.

(r) "Industrial life insurance" means life insurance provided by an individual policy with the term "industrial" printed on the policy as part of the brief description required by § 16-213 of this article, and under which premiums are payable monthly or more frequently, if the face amount of the insurance provided by the policy does not exceed \$1,000.

(s) Except as expressly provided otherwise in this article, "insurance" means a contract to indemnify or to pay or provide a specified or determinable amount or benefit on the occurrence of a determinable contingency.

(t) (1) "Insurance business" includes the transaction of:

(i) all matters pertaining to an insurance contract, either before or after it takes effect; and

(ii) all matters arising from an insurance contract or a claim under it.

(2) "Insurance business" does not include pooling by public entities for self-insurance of casualty, property, or health risks.

(u) (1) "Insurance producer" means a person that, for compensation, sells, solicits, or negotiates insurance contracts, including contracts for nonprofit health service plans, dental plan organizations, and health maintenance organizations, or the renewal or continuance of these insurance contracts for:

(i) persons issuing the insurance contracts; or

(ii) insureds or prospective insureds other than the insurance producer.

(2) "Insurance producer" does not include:

(i) an individual who performs clerical or similar office duties while employed by an insurance producer or insurer, including a clerical employee, other than a clerical employee of an insurer, who takes insurance information or receives premiums in the insurance producer's office, if the employee's compensation does not vary with the number of applications or amount of premiums;

(ii) a regular salaried officer or employee of an insurer who gives help to or for a licensed insurance producer, if the officer or employee is not paid a commission or other compensation that depends directly on the amount of business obtained; or

(iii) if not paid a commission, a person that obtains and forwards information for:

1. group insurance coverage;
2. enrolling individuals under group insurance coverage;
3. issuing certificates under group insurance coverage; or
4. otherwise assisting in administering group plans.

(v) "Insurer" includes each person engaged as indemnitor, surety, or contractor in the business of entering into insurance contracts.

(w) "Licensed insurance producer" means an insurance producer that has:

(1) obtained a license under Title 10, Subtitle 1 of this article; and

(2) in the case of an insurance producer that acts on behalf of an insurer other than the Maryland Automobile Insurance Fund, obtained an appointment under Title 10, Subtitle 1 of this article.

(x) (1) "Life Insurance" means insurance for which the probabilities of the duration of human life or the rate of mortality are an element or condition of the insurance.

(2) "Life Insurance" includes the granting of:

(i) endowment benefits;

(ii) additional benefits in the event of death by accident or accidental means;

(iii) additional disability benefits in the event of dismemberment or loss of sight;

(iv) additional disability benefits that operate to safeguard the contract from lapse or to provide a special surrender value, special benefit, or annuity in the event of total and permanent disability;

(v) benefits that provide payment or reimbursement for long-term home health care, or long-term care in a nursing home or other related institution;

(vi) burial insurance;

(vii) optional modes of settlement of proceeds of life insurance;

(viii) additional benefits for a second opinion for specified health conditions; and

(ix) additional benefits that provide a lump-sum benefit for a specified disease and that meet the requirements established by the Commissioner under § 15-109 of this article.

(3) "Life Insurance" does not include workers' compensation insurance.

(y) "Life Insurer" means an insurer in life insurance.

(z) (1) "Marine Insurance" includes:

(i) insurance against loss or damage in connection with any risk of navigation, transit, or transportation, including war risks, marine builder's risks and personal property floater risks, to vessels, craft, aircraft, automobiles, trailers, or vehicles of any kind, as well as all goods, freight, cargoes, merchandises, effects, disbursements, profits, money, bullion, precious stones, securities, choses in action, evidences of debt,

valuable papers, bottomry and respondentia interests, and all other kinds of property and interests:

1. on or under water, on land, or in the air;
2. while being assembled, packed, crated, baled, compressed, or similarly prepared for shipment or while awaiting shipment; or
3. during any delay, storage, transshipment, or incidental reshipment;

(ii) except as provided in paragraph (2) of this subsection, insurance against:

1. loss or damage to a person or property in connection with or as part of marine, inland marine, transit, or transportation insurance arising out of or in connection with the construction, repair, operation, maintenance, or use of the subject matter of the insurance; and

2. legal liability of the insured for loss of or damage to the person or property;

(iii) insurance against loss or damage to precious stones, jewels, jewelry, gold, silver and other precious metals, whether used in business or trade or otherwise or whether in course of transportation or otherwise; and

(iv) except as provided in paragraph (2) of this subsection, insurance against loss or damage to bridges, tunnels, other instrumentalities of transportation and communication, auxiliary facilities and related equipment, piers, wharves, docks, slips, other aids to navigation and transportation, dry docks, and marine railways.

(2) "Marine insurance" does not include:

(i) life insurance, surety bonds, or insurance against loss because of bodily injury to a person arising out of ownership, maintenance, or use of an automobile; or

(ii) insurance against loss or damage to buildings that are instrumentalities of transportation and communication, their furniture and furnishings, and fixed contents and supplies stored in the buildings.

(aa) "Marine protection and indemnity insurance" means insurance against, or against legal liability of the insured for, loss, damage, or expense arising out of or incident to the ownership, operation, chartering, maintenance, use, repair, or construction of a vessel, craft, or instrumentality used in ocean or inland waterways, including legal liability of the insured for personal injury, illness, or death or for loss or damage to the property of another person.

(bb) "Mutual insurer" means an insurer that is incorporated without capital stock and the governing body of which is elected in accordance with this article.

(cc) "Negotiate" means to confer directly with or offer advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

(dd) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, representative of any kind, partnership, firm, association, corporation, or other entity.

(ee) (1) "Policy" means the written instrument in which an insurance contract is set forth.

(2) ~~"Policy" includes all clauses, endorsements, riders, and other papers attached to or made part of the insurance contract.~~

(ff) (1) "Premium" means consideration for insurance.

(2) "Premium" includes:

(i) except as provided in paragraph (3) of this subsection, an assessment; and

(ii) a membership fee, policy fee, survey fee, inspection fee, service fee, driving record report fee, accident history report fee, or other similar fee in consideration for an insurance contract.

(3) "Premium" does not include:

(i) an assessment as described in § 9-225 of this article; or

(ii) an assessment made under any State law that provides for insolvency protection or insurance availability.

(gg) (1) "Property insurance" means insurance on real or personal property on land, in water, or in the air or an interest in real or personal property against loss or damage from any hazard or cause and against loss that is consequential to the loss or damage.

(2) "Property insurance" includes fire insurance, flood insurance, extended coverage insurance, homeowners insurance, farm owners insurance, allied lines insurance, earthquake insurance, growing crops insurance, aircraft physical damage insurance, automobile physical damage insurance, glass insurance, livestock insurance, and animal insurance.

(3) "Property insurance" does not include insurance against legal liability for loss or damage to real or personal property.

(hh) "Reciprocal Insurance" means Insurance that arises from an exchange among subscribers of mutual agreements of indemnity and that is effected through an attorney in fact common to the subscribers.

(ii) "Reciprocal Insurer" means an unincorporated aggregation of subscribers that operate individually and collectively through an attorney in fact to provide reciprocal insurance.

(jj) "Reinsurance" means a contract under which an insurer obtains insurance for itself from another insurer for all or part of an insurance risk.

(kk) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.

(ll) "Solicit" means to attempt to sell insurance or to ask or urge a person to apply for a particular kind of insurance from a particular insurer.

(mm) Except as otherwise expressly provided in this article, "state" means:

- (1) a state, possession, territory, or commonwealth of the United States; or
- (2) the District of Columbia.

(nn) "Stock insurer" means an insurer that is incorporated with capital that is divided into shares and owned by its stockholders.

(oo) "Surety insurance" includes:

(1) fidelity insurance, which is insurance that guarantees the fidelity of persons that hold positions of public or private trust;

(2) insurance that guarantees the performance of contracts other than insurance contracts;

(3) insurance that guarantees the execution of bonds, undertakings, and contracts of suretyship; and

(4) insurance that indemnifies banks, bankers, brokers, or financial corporations or associations against loss from any cause of bills of exchange, notes, bonds, securities, evidences of debt, deeds, mortgages, warehouse receipts, other valuable papers, documents, money, precious metals, articles made from precious metals, jewelry, watches, necklaces, bracelets, gems, and precious and semi-precious stones, including loss during transportation by messenger or in armored motor vehicles, but not against other risks of transportation or navigation, and insurance against loss or damage to a bank's, banker's, broker's, or financial corporation's or association's premises or furniture, fixtures, equipment, safes, and vaults on the premises caused by burglary, robbery, theft, vandalism, or malicious mischief, or attempted burglary, robbery, theft, vandalism, or malicious mischief.

(pp) "Surplus lines Insurance" means the full amount or kind of insurance needed to protect the interest of the insured that:

(1) cannot be obtained from an authorized insurer; or

(2) for the particular kind and class of insurance to provide coverage against liability of persons described in § 24-206(1) of this article, cannot be obtained from three or more authorized insurers that write that kind and class of insurance on a broad basis.

(qq) "Title insurance" means insurance of owners of property or other persons that have an interest in the property against loss by encumbrance, defective title, invalidity of title, or adverse claim to title.

(rr) "Unauthorized insurer" means an insurer that does not hold a certificate of authority.

(ss) "Wet marine and transportation insurance" means the part of marine insurance that includes only:

(1) insurance of vessels, crafts, or hulls and interests in or related to them;

(2) insurance of marine builder's risks or marine war risks;

(3) marine protection and indemnity insurance;

(4) insurance of freights and disbursements pertaining to a subject of insurance under this subsection; and

(5) insurance of personal property and interests in personal property, in connection with any risk of navigation, transit, or transportation:

(i) in the course of exportation from or importation into a country and in the course of transportation along a coast or on inland waters, including transportation by land, water, or air from point of origin to final destination;

(ii) while being prepared for and while awaiting shipment; and

(iii) during any delay, storage, transshipment, or incidental reshipment.

(tt) (1) "Wholesale life insurance" means life insurance that is:

(i) distributed on a mass merchandising basis;

(ii) administered by group methods provided, with or without evidence of insurability, by individual policies; and

(iii) made available to employees or members under a program, which also may provide coverage of dependents of the employees or members, sponsored by:

1. an employer or association of employers;

2. a union or association of unions;
3. an association of individuals who have the same occupation or profession;
4. an association of civil service employees;
5. a religious, charitable, recreational, educational, civic, or fraternal organization or association;
6. a school;
7. a sports team;
8. a volunteer fire department; or
9. a group approved by the Commissioner that has a common administrative capacity, is not organized primarily for the sale of insurance, and has sufficient numbers to allow for lower rates.

(2) "Wholesale life insurance" does not include a policy solely because the premium for the policy is paid by salary deduction, salary savings, payroll allotment, or similar arrangement.

Statute Text

Article - Insurance



§10-103.

(a) In this section, the term "insurer" does not include an insurer's officers, directors, employees, subsidiaries, or affiliates.

(b) The licensing requirements of this section do not apply to:

(1) an insurer;

(2) an officer, director, or employee of an insurer or of an insurance producer who does not receive any commission on policies written or sold to insure risks residing, located or to be performed in the State if:

(i) the activities of the officer, director, or employee are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance;

(ii) the function of the officer, director, or employee relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or

(iii) the officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the individual's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance;

(3) an individual who performs administrative services related to mass marketed property and casualty insurance, provided that no commission is paid to the individual for the services;

(4) an employer, association, the officers, directors, and employees of an employer or association, or the trustees of an employee trust plan if:

(i) the employer, association, officers, directors, and employees, or trustees are engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates;

(ii) the program involves the use of insurance issued by an insurer;

and

(iii) the employer, association, officers, directors, and employees, or trustees are not in any manner compensated, directly or indirectly, by the insurer issuing the contracts;

(5) an employee of an Insurer or organization employed by an Insurer who is:

(i) engaged in the inspection, rating, or classification of risks or in the supervision of the training of insurance producers; and

(ii) not individually engaged in the sale, solicitation, or negotiation of insurance;

(6) a person whose activities in the State are limited to advertising without the intent to solicit insurance in the State through communications in printed publications or other forms of electronic mass media if:

(i) the distribution of the printed publications or other forms of electronic mass media is not limited to residents of the State; and

(ii) the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in the State;

(7) a person who is not a resident of the State who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under the contract if:

(i) the person is otherwise licensed as an insurance producer to sell, solicit, or negotiate that insurance in the state where the insured maintains its principal place of business; and

(ii) the contract insures risks located in that state; or

(8) a salaried, full-time employee who counsels or advises the employee's employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer, provided that the employee does not sell or solicit insurance or receive a commission.

(c) Except as otherwise provided in this article, before a person acts as an insurance producer in the State, the person must obtain:

(1) a license in the kind or subdivision of insurance for which the person intends to act as an insurance producer; and

(2) if acting for an insurer, an appointment from the insurer.

(d) (1) Except as otherwise provided in this subsection, an insurance producer may not sell, solicit, or negotiate any insurance on behalf of an insurer for which the insurance producer does not have an appointment.

(2) Without an appointment, an insurance producer may:

(i) submit to an insurer an informal inquiry for any kind of life insurance, health insurance, or annuity for which the insurance producer has a license if

the Insurer has a certificate of authority for the kind of Insurance about which the Inquiry is made; and

(ii) solicit an application for any kind of life Insurance, health Insurance, or annuity for which the Insurance producer has a license if the Insurer to which the application is submitted has a certificate of authority for the kind of Insurance requested in the application.

(e) Before a business entity may accept in its own name compensation for acting as an Insurance producer in the State, the business entity must obtain:

(1) a license in the kind or subdivision of Insurance for which the business entity intends to act as an Insurance producer; and

(2) an appointment for the kind or subdivision of Insurance for which it intends to act as an Insurance producer on behalf of an Insurer.

Statute Text

Article - Insurance



§10-131.

A person that violates § 10-103(b) or (c), § 10-130, or § 10-133 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500 or imprisonment not exceeding 6 months or both for each violation.

Statute Text

Article - Insurance



§10-601.

(a) In this subtitle the following words have the meanings indicated.

(b) "Authorized representative" means an independent contractor of a motor vehicle rental company.

(c) "Motor vehicle rental company" means any person that is in the business of providing motor vehicles to the public under a rental agreement for a period of 180 days or less.

(d) "Rental agreement" means any written agreement containing the terms and conditions that govern the use of a vehicle provided by a motor vehicle rental company under the provisions of Title 18 of the Transportation Article.

(e) "Renter" means any person obtaining the use of a vehicle from a motor vehicle rental company under the terms of a rental agreement.

(f) "Vehicle" means a motor vehicle:

(1) of the private passenger type, including passenger vans, minivans, and sport utility vehicles; or

(2) of the cargo type, including cargo vans, pickup trucks, and trucks that do not require the operator to possess a commercial driver's license.

Statute Text

Article - Insurance



§10-602.

(a) A motor vehicle rental company shall hold a limited lines license to sell insurance in connection with, and incidental to, the rental of a motor vehicle before the company or its employees or authorized representatives may sell or offer any policies of insurance in this State to a renter in connection with, and incidental to, a rental agreement.

(b) A limited lines license to sell insurance in connection with, and incidental to, the rental of a motor vehicle issued under this subtitle shall also authorize any employee and any authorized representative of the motor vehicle rental company who is trained, under § 10-604(a)(4) of this subtitle, to act on behalf of, and under the supervision of, a motor vehicle rental company, with respect to the kinds of insurance specified in § 10-604(b)(2) of this subtitle.

(c) The acts of an employee or authorized representative offering or selling insurance coverage on behalf of a motor vehicle rental company shall be deemed the acts of the motor vehicle rental company for the purposes of this subtitle.

(d) A motor vehicle rental company holding a limited lines license to sell insurance in connection with, and incidental to, the rental of a motor vehicle issued under this subtitle is not required to treat premiums collected from a renter that purchased insurance from the motor vehicle rental company as funds received in a fiduciary capacity if:

(1) the insurer represented by the motor vehicle rental company has consented in a written agreement, signed by an officer of the insurer, that the premiums do not need to be segregated from other funds received by the motor vehicle rental company in connection with the vehicle rental; and

(2) the charges for insurance coverage are itemized but not billed to the renter separately from the charges for the vehicle rental.

(e) An employee or an authorized representative of a motor vehicle rental company who offers or sells insurance coverage on behalf of the motor vehicle rental company:

(1) may be compensated for offering or selling insurance coverage under this subtitle; but

(2) may not be compensated in a manner that is based solely on the number of customers who purchase rental vehicle insurance.

(f) This subtitle may not be construed to prohibit payment of compensation to an employee or an authorized representative of a motor vehicle rental company who offers or sells insurance coverage on behalf of the motor vehicle rental company for activities that are incidental to the employee's overall activities.

(g) A motor vehicle rental company that holds a limited lines license to sell insurance in connection with, and incidental to, the rental of a motor vehicle issued under this subtitle shall:

(1) maintain a register, on a form the Commissioner requires, containing:

(i) the names of each employee or authorized representative who offers limited lines insurance on behalf of the motor vehicle rental company; and

~~(ii) the business addresses of all locations in the State where employees or authorized representatives offer limited lines insurance on behalf of the motor vehicle rental company; and~~

(2) submit the register for inspection by the Commissioner as the Commissioner requires.

Statute Text

Article - Insurance



§10-603.

(a) The Commissioner shall issue to a motor vehicle rental company, or a franchisee of a motor vehicle rental company, a limited lines license authorizing the motor vehicle rental company to offer or sell insurance in connection with, and incidental to, the rental of a vehicle if the motor vehicle rental company:

(1) meets the requirements of § 10-604 of this subtitle;

(2) pays the fees for insurance producers required under § 2-112 of this article that are applicable to an insurance producer license; and

(3) submits to the Commissioner any additional information or documentation that the Commissioner requires, including any information or documentation to determine the professional competence, good character, and trustworthiness of the motor vehicle rental company.

(b) A limited lines license to sell insurance in connection with, and incidental to, the rental of a motor vehicle issued under this subtitle is subject to the same term and renewal conditions specified for an insurance producer license under § 10-115 of this title.

Statute Text

Article - Insurance



§10-604.

(a) A limited lines license to sell insurance in connection with, and incidental to, the rental of a motor vehicle issued under this subtitle authorizes the motor vehicle rental company to offer or sell, in connection with, and incidental to, a motor vehicle rental agreement in which the rental period does not exceed 30 days, the insurance products specified in paragraph (b) of this section if:

~~(1) the policies have been filed with and approved by the Commissioner;~~

(2) the motor vehicle rental company holds an appointment with each authorized insurer, under § 10-118 of this title, that the motor vehicle rental company intends to represent;

(3) prior to completion of the rental transaction, an employee or authorized representative of the motor vehicle rental company provides to the renter disclosures approved by the Commissioner that:

(i) summarize, clearly and correctly, the material terms of coverage, including limitations or exclusions;

(ii) identify the authorized insurer or insurers;

(iii) specify that the policies offered by the motor vehicle rental company may provide a duplication of coverage already provided by a renter's personal automobile insurance policy, homeowner's insurance policy, personal liability insurance policy, or other source of coverage;

(iv) specify that the purchase of the coverages offered by the motor vehicle rental company is not required in order for the renter to rent a vehicle;

(v) describe the process by which the renter can file a claim; and

(vi) specify that any excess liability coverage purchased by the renter may duplicate coverage required to be provided under § 18-102(a)(2) of the Transportation Article;

(4) the motor vehicle rental company provides a training program, approved by the Commissioner, for any employee or authorized representative who sells, solicits, or negotiates insurance coverage under this subtitle that includes:

(i) instruction about the kinds of insurance specified in subsection (b) of this section that can be offered to renters;

(II) instruction that the trainee shall inform a renter that the purchase of any insurance from the motor vehicle rental company is not required in order for the renter to rent a vehicle; and

(III) instruction that the trainee shall inform a renter that the renter may have insurance policies that already provide the coverage being offered by the motor vehicle rental company; and

(5) an employee or authorized representative who offers or sells insurance coverage on behalf of the motor vehicle rental company informs a renter that the policies offered by the motor vehicle rental company may duplicate coverage already provided by the renter's personal automobile insurance policy, homeowner's insurance policy, personal liability insurance policy, or other source of coverage.

~~(b) A limited lines license to sell insurance in connection with, and incidental to, the rental of a motor vehicle issued under this subtitle authorizes the motor vehicle rental company to offer or sell insurance policies under this subtitle that are:~~

(1) in excess of or optional to the coverages required to be provided by the motor vehicle rental company under Title 17 of the Transportation Article and any related regulations; and

(2) one of the following kinds of insurance:

(i) bodily injury liability;

(ii) property damage liability;

(iii) uninsured motorist insurance; or

(iv) if approved by the Commissioner, any other insurance coverage that is appropriate in connection with the rental of a motor vehicle.

Statute Text

Article - Insurance



§10-605.

(a) Except as provided in subsection (b) of this section, an insurance policy sold in connection with, and incidental to, the rental of a vehicle under the provisions of this subtitle is primary to any other valid and collectible coverage.

(b) Any insurance sold to a renter under the provisions of this subtitle is not primary to the coverages provided by the motor vehicle rental company on the rental vehicle under § 17-103(b) of the Transportation Article.

Statute Text

Article - Insurance



§10-606.

(a) The Commissioner may suspend, revoke, or refuse to renew a limited lines license to sell insurance in connection with, and incidental to, the rental of a motor vehicle issued under this subtitle after notice and opportunity for a hearing under Title 2, Subtitle 2 of this article if the motor vehicle rental company or an employee or authorized representative of the motor vehicle rental company has:

(1) willfully violated this article or another law of the State that relates to insurance;

(2) operated without a limited lines license to sell insurance in connection with, and incidental to, the rental of a motor vehicle as required under this subtitle;

(3) failed to provide required disclosures;

(4) offered or sold unapproved insurance products;

(5) failed to hold an appointment with the insurer;

(6) failed to train employees and authorized representatives selling or soliciting, or negotiating the sale of, insurance products on behalf of the motor vehicle rental company; or

(7) misrepresented pertinent facts or policy provisions that relate to the coverage offered or sold pursuant to this subtitle.

(b) A motor vehicle rental company and its employees and authorized representatives may not advertise, represent, or otherwise hold itself out as an authorized insurer, or as an insurance producer, for any kind or subdivision of insurance.

(c) Instead of, or in addition to, suspending or revoking the limited lines license to sell insurance in connection with, and incidental to, the rental of a motor vehicle, the Commissioner may:

(1) impose on the motor vehicle rental company a penalty of not less than \$100 but not more than \$2,500 for each violation of this subtitle; and

(2) require that restitution be made to any person who has suffered financial injury because of the violation of this article.

Statute Text

Article - Insurance



§10-607.

The Commissioner may adopt regulations to carry out the provisions of this subtitle, including regulations concerning the form and content of required disclosures to renters, the training requirements for employees and authorized representatives of motor vehicle rental companies, and the qualifications of the individuals who provide training for employees and authorized representatives of motor vehicle rental companies.



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Maryland Insurance Administration

September 29, 2017

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RECEIVED



Mr. Robert Baron
Associate Commissioner, Property and Casualty
Maryland Insurance Administration
200 Saint Paul Place, Suite 2700
Baltimore, Maryland 21202

Re: Maryland Insurance Administration Workgroups on Personal Vehicle Rentals

Dear Mr. Baron:

Thank you for convening the Maryland Insurance Administration ("MIA") workgroups on personal vehicle rentals in Maryland. The work of MIA has been thorough, inclusive, and thoughtful.

This letter quickly summarizes the American Car Rental Association's ("ACRA") perspective on the workgroup discussions related to (i) the third-party liability issues associated with renting a vehicle in Maryland and (ii) comprehensive insurance coverage, collision damage waivers, and more broadly, the limited lines regulatory structure designed to protect consumers who rent vehicles in Maryland. Please do not hesitate to reach out if you have any questions.

I. Third-Party Liability/Primary-Secondary

As noted in the workgroups and before the General Assembly, Maryland is in the overwhelming minority of states that make the entity renting a vehicle primarily liable for third-party damage caused by the person renting the vehicle. While there is an exception for "replacement vehicles" under Maryland law, ACRA members have consistently petitioned for relief from this onerous, unfounded burden. Without duplicating the hours of oral testimony and reams of written testimony before the General Assembly on this subject, please note: (a) the renter's insurance carrier is in the best position to gauge the risk of the renter based upon the assessments conducted by the insurance company when extending and renewing coverage to its client (the renter); (b) the renter's insurance carrier, in fact, already allocates that risk and collects a premium inclusive of that risk; (c) existing Maryland law promotes reckless behavior by renters in that Maryland law does not require renters to be responsible for their own actions; (d) existing Maryland law



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places a burden on Maryland rental car companies that neighboring rental car companies do not have to endure, compounding a competitive disadvantage faced by Maryland rental car companies; and (e) existing Maryland law has the effect of importing legal claims that should be exported to other states in cases where the vehicle renter is not a Maryland resident. As also noted in the workgroups, there should be parity amongst personal vehicle rentals and traditional vehicle rentals in this area.

II. Limited Lines Comment¹ – Comprehensive and Collision Coverage and Collision Damage Waiver

1. *Maryland Statutory Background*

Except as otherwise specified, an insurance producer may not sell, solicit, or negotiate any insurance without a license in the kind of insurance for which the person intends to act as an insurance producer. Over the years, however, the Maryland legislature has passed bills authorizing the MIA to issue limited lines licenses for certain restricted kinds of insurance (e.g. credit, HMO enrolling Medicaid recipients, motor vehicle, portable electronics, rental vehicle, title, travel, viatical settlement brokers, self-service storage producers).² As it relates here, the focus of this comment is on the sale of insurance products by motor vehicle rental companies.

As required by law, a motor vehicle rental company must have a limited lines license before it, or its authorized representatives, may sell or offer insurance. The subsequent provisions of a limited lines license authorize the company and its trained employees to offer or sell insurance in connection with, and incidental to, the rental of a motor vehicle for a rental that does not exceed 30 days if:

- (1) the policies have been filed with and approved by the Insurance Commissioner;
- (2) the motor vehicle rental company holds an appointment with each authorized insurer that the motor vehicle rental company intends to represent;

¹ The workgroup had robust conversations about the “limited lines” consumer protections codified in Maryland statute and regulations. A natural corollary to that dialogue relates to the statutory coverage extended to rented vehicles where the renter has her/his own comprehensive and collision insurance coverage. For example, Title 19, Subtitle 5 of the Insurance Article provides express mandates. Does that comprehensive and collision insurance coverage apply to personal vehicle rentals? And, of course, how does that coverage apply to collision damage waivers sold by personal vehicle rental companies?

² As of a 2015 compendium published by the National Association of Insurance Commissioners, of the 52 U.S. jurisdictions (the 50 states, District of Columbia, and Puerto Rico) 40 had implemented laws permitting the sale of rental car insurance under a limited lines license. http://www.naic.org/prod_serv/I-PL-10.pdf



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- (3) prior to completion of the rental transaction, the company provides specified information to the renter;
- (4) the company provides an Insurance Commissioner-approved training program for employees who sell, solicit, or negotiate insurance coverage. (The Insurance Commissioner may suspend, revoke, or refuse to renew the limited lines license under specified circumstances, including failure to train its employees; penalties may also be imposed); and
- (5) the company complies with regulations established by the Insurance Commissioner.

The governing limited lines licensing laws for motor vehicle rental companies exist in the Maryland Insurance article. Notably, the article defines a “motor vehicle rental company” as “any person that is in the business of providing motor vehicles to the public under a rental agreement for a period of 180 days or less.”³ This definition applies to traditional rental car companies and should also be read to govern personal vehicle rental car companies – as they are, in fact, in the business of providing motor vehicle rentals to the public for a period of 180 days or less. Personal vehicle rental car companies might argue that they are merely the conduit of the transaction; and, that they are not providing rental cars because they do not own any cars to “provide”. This assumption, (analogous to the argument they might make when suggesting the laws governing rental activity and sales and use tax are inapplicable) should not be determinative. Such an interpretation runs counter the Maryland legislature’s intent: to provide protection and flexibility to consumers and third-parties. The consumer protections ensure motor vehicle rental companies are not uninsured or underinsured in the products they are offering. The flexibility allows the consumer an additional choice for insurance coverage beyond that offered by standard insurance brokers. Uniformity in the rental industry for these requirements is in the best interests of Maryland consumers, drivers and third parties.

Accordingly, personal vehicle rental car companies doing business in Maryland should act within the law. For example, embedded in publicly detailed protection packages, some personal vehicle rental companies offer liability insurance to supplement existing insurance coverage of consumers.⁴ As a result, the sale of these products would

³ Md. Insurance Code Ann. § 10-601 (c).

⁴ Information from a personal vehicle rental company’s website is clear about what insurance offerings are available to platform participants. For instance, one website states that the “Premium Package” for a renter to purchase offers: Liability coverage up to \$1,000,000; physical damage to the car covered up to the actual cash value of the car. In each case, coverage is secondary to any other insurance you may already have. There is no deductible for the supplemental liability coverage; for the physical damage protection, once you’ve exhausted your own insurance for physical damage, your out-of-pocket exposure is limited to \$500. There is no coverage in any renter package (*i.e.*, you are fully financially responsible) for mechanical or interior damage.



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require the company to obtain a limited lines license. Personal vehicle rental companies should be brought into compliance with these laws (and regulations, see below) that the legislature has decided should be in place. If it is determined that the current law does not sufficiently cover personal vehicle rental companies, the law should be updated to reflect uniformity in the industry.

2. *Maryland Regulatory Background*

The regulations promulgated by the MIA provide additional clarity for motor vehicle rental companies – including personal vehicle rental companies – that offer or sell insurance on a website or over the telephone in connection with, and incidental to, the rental of a motor vehicle. Notably, after filing an application for a limited lines license with the MIA, as detailed in COMAR 31.03.11.04,⁵ the motor vehicle rental company must also then comply with the disclosure and training provisions set forth in COMAR 31.03.11.06 and COMAR 31.03.11.07.

To our knowledge, unlike traditional rental car companies, personal vehicle rental car companies (all under the umbrella of a “motor vehicle rental company” in law and for the purposes of this comment) do not operate through brick and mortar establishments; and subsequently, do not have a personal interaction with a customer at a countertop during the point of transaction. Rather, a car rented by a personal vehicle rental company is either facilitated through a website or in some circumstances over the telephone (e.g. platform is not working, platform is confusing, etc.). Fortunately, the MIA already has regulations in place to oversee the selling or offering of insurance – in connection with a rental car transaction – over the telephone or online.⁶

31.03.11.06

C. Sale or Offer of Insurance Over Telephone. If a motor vehicle rental company sells or offers to sell insurance over the telephone in connection with, and incidental to, a rental agreement, the motor vehicle rental company shall, if the prospective renter requests insurance coverage or information on insurance coverage or otherwise indicates an interest in insurance coverage, advise the prospective renter that the State of Maryland has a consumer disclosure relating to insurance coverage for

⁵ To our knowledge personal motor vehicle rental companies have not submitted any such applications with the MIA to operate under a limited lines license.

⁶ The regulations in 31.03.11.06 also establish filing and approval requirements that must be followed by the limited lines license holder.



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rental vehicles and offer to read the prospective renter a disclosure that meets the requirements of §F of this regulation.

D. Sale or Offer of Insurance Through a Web Site. If a motor vehicle rental company sells or offers to sell insurance through a web site in connection with, and incidental to, a rental agreement, the motor vehicle rental company shall include on the web site an electronic disclosure that meets the requirements of §F of this regulation:

...

F. Form and Content of Disclosure. The disclosures required by §§A—D of this regulation shall include the following:

(1) A summary that clearly and correctly describes the material terms of coverage offered to the renter, including any limitations or exclusions pertaining to that coverage;

(2) The name of the authorized insurer;

(3) A statement that the coverage offered by the motor vehicle rental company may provide duplication of coverage already provided by the renter's personal automobile insurance policy, homeowner's insurance policy, personal liability policy, or other source of coverage;

(4) A statement, if in writing in at least 10-point type, that:

"You may not need the automobile insurance offered by the (insert motor vehicle rental company name). Your automobile insurance policy may provide coverage for your liability while operating a rental vehicle. You should check the terms and conditions of your automobile insurance policy to determine if coverage is provided for this rental. The purchase of insurance is not required as a condition of renting an automobile. In addition, if you are driving this rental vehicle due to an accident or repairs, state law may require your personal automobile liability policy to provide coverage and purchase of any excess liability coverage may duplicate coverage required by law to be provided by the owner of the rental vehicle."; and



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Mr. Robert Baron
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(5) A description of the process through which the renter can file a claim, including the insurer's address, and where the claim should be filed.

For the record, in order to provide a visualization of the process, the following screenshots were taken when renting a vehicle on a personal vehicle rental car company's platform and selecting the "premium" protection package offered online in connection with the rental vehicle. As you can see from the pictures below, the required consumer protection disclosures are not present.

RENTING A CAR



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Page 7

SELECTING DATES TO RENT A CAR


INITIATING CHECKOUT TO RENT A CAR


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INSURANCE OPTIONS OFFERED ⁷

CHECKOUT

Protection Level
Before you can rent a car, you'll need to choose a level of protection. We'll save your selection for future trips.

Premium 
\$1 million liability insurance
\$500 damage deductible

Basic 
State minimum liability insurance
\$3000 damage deductible

For thanks, it's nice to streamline protection.

Payment info Auto


Message to Auto

I agree to pay the total shown, to the rental car company for the use and operation of the car, and authorize rental car company to obtain my auto insurance score.

TRIP SUMMARY

2007

Thu, Oct 12 **Tue, Oct 17**
7:00 AM 8:30 PM

DELIVERY LOCATION 
BWI - Baltimore, MD

Distance included 400 mi
\$0.15/mile for the trucking portion

Trip price \$274 \$27172/day
Per hour 1%

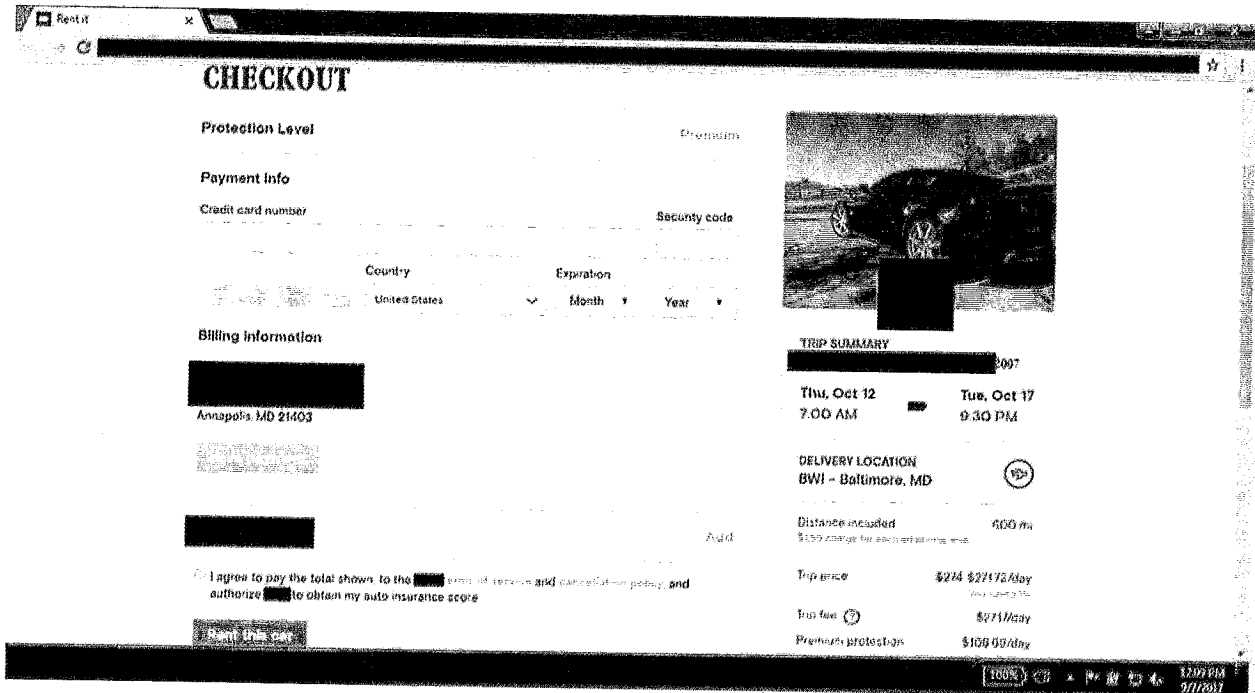
Trip fee \$2717/day

100% 3206 PM 3/22/2017

⁷ During a conference call with the MIA and other stakeholders on July 26, 2017, some made reference to the confusion consumers face on the company's platform when attempting to understand the various protection packages offered and sold by the company.

Mr. Robert Baron
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Page 9

**PREMIUM INSURANCE OPTION SELECTED AT CHECKOUT
INCREASING DAILY RENTAL RATE**



Moreover, personal vehicle rental companies permit renters to call and speak to live representatives who are willing to explain the insurance packages offered. When calling the number of a personal vehicle rental company, its representative may discuss the details of each of the insurance packages offered by the company. Therefore, if company representatives are explaining and offering insurance products, the regulations pertaining to the training of company representatives are also applicable to the company engaged in this activity.⁸

⁸ COMAR 31.03.11.07. (Requiring a motor vehicle rental company to develop a training program for its employees who sell, solicit, or negotiate insurance coverage; specifying the submission of the program for approval to the MIA; and mandating the program include instruction on certain aspects – i.e. information on the insurance products offered or sold by the company, that purchasing the insurance is not required to rent a vehicle, that the insurance may be duplicative to a renters own personal policy and all other requirement set forth in law.)



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3. *Limited Lines Conclusion*

Current limited lines licensing laws for motor vehicle rental companies apply to traditional rental companies and personal vehicle rental companies. Ownership of the vehicle is not a requisite condition to the applicability of the governing laws for limited lines licensure and regulatory compliance. Personal vehicle rental companies engaged in the offering or selling of insurance products may be doing so in an unregulated manner. Therefore, the MIA should ensure personal vehicle rental companies are brought into compliance. If, however, the law needs to be updated, we suggest any change made to current law should reflect uniform accountability for the entire rental car industry.

Again, thank you for the opportunity to provide this written document. We look forward to continued dialogue.

Sincerely

A handwritten signature in cursive script that reads "sharonfaulkner".

Sharon Faulkner
Executive Director

10/18/2017

Maryland.gov Mail - Turo Response Re Limited Lines License



Robert Baron -MDInsurance- <robert.baron@maryland.gov>

Turo Response Re Limited Lines License

1 message

Michelle Fang <michelle@turo.com>

Mon, Oct 16, 2017 at 7:41 PM

To: Robert Baron -MDInsurance- <robert.baron@maryland.gov>

Cc: "Birrane, Kathleen" <kathleen.birrane@dlapiper.com>, Chris Di Pietro <chris.dipietro@live.com>, Michelle Peacock <michelle.peacock@turo.com>, Alex Benn <alex@turo.com>

Robert- please see attached. Thanks!



2 attachments



Michelle Fang
General Counsel
Michelle Fang, Esq. | michelle@turo.com |
207 Market Street 4th Floor San Francisco CA 94103

PastedGraphic-2.png
17K



1 - Baron Letter from Turo Re Limited Lines License in Maryland Oct 2017-alex_turo.com.pdf
203K



Robert Baron, Associate Commissioner
Property and Casualty
Maryland Insurance Administration
200 Saint Paul Place, Suite 2700
Baltimore, Maryland 21202

Via Email robert.baron@maryland.gov

Dear Mr. Baron:

Turo Inc. (“Turo”) is pleased to offer the following comments in response to your August 28, 2017 request for input regarding whether there is a need for limited lines insurance producer licensing in the peer to peer car sharing market. For the reasons set forth below, there is no need to impose such licensure requirements on this particular segment of the peer to peer sharing economy. As is the case with other shared asset platforms, peer to peer car sharing programs are not engaged in either a commercial rental business or the sale of insurance.

Background on the Sharing Economy & Insurance

Peer to peer (“P2P”) car sharing is part of the broader market phenomenon commonly referred to as the “sharing economy.”¹ The National Conference of State Legislators (NCSL) describes car sharing generally as “a free market approach to mobility that can offer important mobility options for those who do not need or want to own a car, but who may need to use one for a few hours to grocery shop or visit a relative.”² NCSL specifically defines P2P car sharing as:

The sharing of privately-owned vehicles in which companies broker transactions among car owners and renters by providing the organizational resources needed to make the exchange possible (i.e., online platform, customer support, driver and motor vehicle safety certification, auto insurance and technology). Examples of such services include Turo and Getaround.

P2P car sharing is not a commercial motor vehicle rental business. P2P car sharing programs like Turo are technology-based platforms that enable individuals to share their personal vehicles with third parties for compensation. Individuals can offset the high cost of vehicle ownership by making an otherwise idle asset

¹ The Oxford on-line dictionary defines the sharing economy as “an economic system in which assets or services are shared between private individuals, either free or for a fee, typically by means of the Internet.”
https://en.oxforddictionaries.com/definition/sharing_economy

² <http://www.ncsl.org/research/transportation/car-sharing-state-laws-and-legislation.aspx>



available for use by others for a fee. The car sharing program provides the electronic platform and framework through which these transactions between private individuals occur.

Making one's private vehicle available for use by third parties for compensation is not the same as owning and leasing a fleet of vehicles as a primary commercial business. Likewise, the technology platform that facilitates such transactions is no more a commercial motor vehicle rental car company than eBay is a seller of antique vases, StubHub is a seller of concert tickets, or craigslist is the seller of used furniture.³ Recognizing this, groups such as NCSL and the National Association of Insurance Commissioners (NAIC) have adopted both a vocabulary and a regulatory approach that accounts for the unique features of the industry and its interface with insurance regulation. As the NAIC's Center for Insurance Policy Research (CIPR) noted in its 2015 article, *Sharing a Ride, Not the Risk*:

The emergence of the car-sharing ... business models are a product of the expanding sharing economy. As our society becomes more technologically connected, innovators will continue to introduce new "sharing" platforms, disrupting traditional business models. The market has already seen the sharing economy expand into boats, apartments, and homes. These new business models will need new insurance solutions, posing challenges and opportunities for insurers.⁴

More recently, in its September 14, 2017 article on the "Sharing Economy," CIPR wrote:

The so-called "sharing economy" involves individuals sharing goods and services with strangers, often through a third party's digital network. The idea of sharing has thrived and expanded tremendously over the past few years and is becoming an everyday feature in modern society. According to a 2015 PwC study, nearly one-fifth of American consumers participate in some form of sharing economy activity. Advances in technology, along with the internet and social media, has brought about this economic and cultural shift. Uber and Lyft (ride-sharing) as well

³ Nor could such a platform be characterized as such. Section 230 of the Communications Decency Act would preempt any local law that would seek hold an internet service provider liable for the conduct of its users. This law was designed to "encourage the unfettered and unregulated development of free speech on the Internet, and to promote the development of e-commerce. . . ." *Batzel v. Smith*, 333 F.3d 1018, 1027 (9th Cir. 2003); *see also* 47 U.S.C. § 230(b)(2) (law intended to "preserve the vibrant and competitive free market that presently exists for the Internet."). To enforce this broad grant of immunity, Section 230 provides that "[n]o cause of action may be brought and no liability may be imposed under any State or local law that is inconsistent with this section." 47 U.S.C. § 230(e)(3). Courts, have held that this language "establish[es] broad 'federal immunity to any cause of action that would make service providers liable for information originating with a third-party user of the service.'" *Perfect 10, Inc. v. CCBill LLC*, 488 F.3d 1102, 1118 (9th Cir. 2007). The CDA "sought to prevent lawsuits from shutting down websites and other services on the Internet." *Batzel v. Smith*, 333 F.3d 1018, 1028 (9th Cir. 2003). Section 230 is the central reason for the growth of the Internet in the U.S. and innovations it has brought to communications and e-commerce, including services such as Turo provides. Accordingly, courts have held the CDA protects online marketplaces like eBay, Amazon, and craigslist from claims based on their roles in facilitating such transactions. *Inman v. Technicolor USA, Inc.*, 2011 WL 5829024, at *6-7 (W.D. Pa. Nov. 18, 2011); *Almeida v. Amazon.com, Inc.*, 2004 WL 4910036, at *3-4 (S.D. Fla. July 30, 2004); *Gibson v. Craigslist, Inc.*, 2009 WL 1704355, at *4 (S.D.N.Y. June 15, 2009).

⁴ http://www.naic.org/cipr_topics/topic_sharing_economy.htm



as Airbnb (accommodation-sharing) are among the most well-known and highest profile companies within the sharing economy. However, the sharing economy extends well beyond sharing homes and cars—entrepreneurs are using digital networks to lend office space, parking spots, boats, bicycles, cameras and more. While the rapid growth of the sharing economy offers opportunities and challenges, there are some consumer and regulatory issues that need to be carefully navigated. The primary concern for insurance regulators is: who is liable if something goes awry, the individual providing the good or service or the company who made the match?⁵

The NAIC, through its Sharing Economy (C) Working Group formed under the Property and Casualty Insurance (C) Committee was formed in 2014 to address insurance regulatory issues, primarily the identification of, and solutions for, insurance coverage gaps. In doing so, the methods by which P2P sharing platforms, including car sharing platforms, assure coverage for both the asset owner and the asset user during the sharing period have been discussed and documented. Those methods differ dramatically from the insurance transactions that occur in the context of commercial rentals.

The business model for P2P car sharing programs has been heavily influenced over the last seven years by the regulation of such programs in California (2010), Oregon (2011), and Washington (2012). As California Insurance Commissioner Jones is quoted as saying in the CIPR article, the California legislation (which was also adopted in Oregon and Washington) requires the P2P car-sharing platform to provide the insurance covering the liability associated with the risk. To that end, P2P car sharing programs generally assume the owner's third-party liability and property damage risk, as well as the risk of physical damage to the shared vehicle, during the sharing period.⁶ The P2P car sharing program then obtains insurance to cover the risks that it has assumed.

In the P2P car sharing program model, the program is the policyholder and the named insured, with sole responsibility for paying all premium. Car sharing vehicle owners and drivers automatically receive the benefit of liability coverage without separate charge, but may be given the opportunity to increase policy limits as part of a protection package for which an additional charge is made.⁷

⁵ http://www.naic.org/cipr_topics/topic_sharing_economy.htm

⁶ The contractual assumption of liability is subject to compliance with the car sharing program agreement.

⁷ This is the same model that is used in other P2P asset sharing platforms, such as Airbnb. In December, 2016, the NAIC adopted a new white paper, *Insurance Implications of Home-Sharing: Regulator Insights and Consumer Awareness*, which outlines insurance considerations regarding home-sharing rentals. The white paper can be accessed through the following url: http://www.naic.org/documents/cmte_c_sharing_econ_wg_related_white_paper_home_sharing.pdf

In the press release that accompanied the release of the white paper, Commissioner Jones is quoted as stating, "We know more and more people use home-sharing companies to find vacation housing as well as rent out their homes ... As insurance regulators, we examined the insurance implications of this emerging trend. This white paper outlines the insurance issues and risks regulators need to understand to help consumers navigate this fluid marketplace."
http://www.naic.org/Releases/2016_docs/naic_adopts_home_sharing_white_paper.htm



It is not surprising that neither the NAIC or NCSL has suggested that a sharing platform's purchase of insurance to cover risk during the sharing period ought to be treated as the sale of insurance by the platform. That is because P2P car sharing programs like Turo do not sell, solicit or negotiate contracts of insurance on behalf of insurers or third-parties for compensation. They are consumers of insurance who purchase coverage to finance the risks that they have assumed.

Maryland Law & Producer Licensing

Maryland requires that "before a person acts as an insurance producer in the State, the person must obtain" a license and an appointment. [10-103(c)]. "Insurance producer" is a defined term. It "means a person that, *for compensation*, sells, solicits, or negotiates insurance contracts . . . or the renewal or continuance of these insurance contracts for (i) persons issuing the insurance contracts; or (ii) insureds or prospective insureds other than the insurance producer." [1-101(u)] (emphasis added). "Sell means to exchange a contract of insurance by any means, *for money or its equivalent*, on behalf of an insurer." 1-101(kk).

The limited lines producer license does not create a licensing obligation where one did not otherwise exist. Like other states, Maryland authorizes individuals who have not obtained an insurance producer's license to nonetheless sell a particular line of insurance when that sale is incidental to a separate commercial transaction. The need for the licensure flows from the fact that insurance is being sold. The limited lines concept merely changes the licensing process and the scope of regulatory oversight relative to the sale of that line of insurance in that context.⁸

The typical limited lines licensing construct in Maryland is the extension of credit, or a commercial sale or leasing transaction during which the buyer/leasee is offered the opportunity to also buy a contract of insurance relative to that transaction. The insurance contract being solicited, while incidental to the commercial sale or leasing transaction, is wholly separate from it. A separate insurance application is completed, the features and amount of the coverage are presented and negotiated, the insurance coverage chosen is bound, and a premium is determined and collected for remittance to the insurer. The compensation of the person making the insurance sale may include compensation for the insurance sale. The entity may charge, or may be paid, an administrative fee or other compensation for their activities.

The insurance transaction that follows the traditional commercial sale/rental transaction discussed in the preceding paragraph fits squarely within the scope of conduct for which one would, by statute, have to hold a producer's license, except for the public policy decision to exempt them from that requirement and, instead, subject them to a different level of regulatory oversight because of the limited circumstances of the solicitation, negotiation and sale and the limited nature of the insurance being sold. Traditional commercial motor vehicle rental companies perform all of these activities and, thus, are properly the subject of producer licensing requirements.

⁸ Hence, as 10-602 recognizes, a "motor vehicle rental company shall hold a limited lines license *to sell* insurance in connection with, and incidental to, the rental of a motor vehicle before the company or its employees or authorized representatives may *sell or offer* any *policies of insurance* in this State to a renter in connection with, and incidental to, a rental agreement."



P2P Car Sharing Providers Are Insurance Consumers Not Producers

No States with Car Sharing Legislation Require the Program to be Licensed

However, P2P car sharing programs and shared car owners perform none of these activities. Insurance coverage for the shared period is bought by the platform and (at least with respect to statutory minimums) extended to platform users for no additional fee. While a platform may provide protection packages that include the ability to increase liability limits, these are not stand-alone sales, separately solicited as insurance contracts executed by consumers for which those consumers are charged a premium. Rather, the increase in liability limits is part of a protection package that is provided for an amount that is typically a percentage of the daily rental. The platform pays any additional premium associated with the increase in liability limits and does not pass this through to the platform user on a dollar by dollar basis. Nor does the platform or its employees receive a commission or a fee as compensation for acting as a conduit for any of the coverage supplied through the platform.⁹

Given these differences, it is no surprise that states that have adopted limited lines licensing for motor vehicle rental companies, do not also require P2P car sharing programs to secure such licenses even when, like California, they have also passed car sharing legislation that requires the car sharing program to assume the risk of liability for, and to secure liability insurance for, shared vehicles.

Adjusting or adding coverage for an additional insured under one's *own* insurance policy is not the kind of activity that subjects a policyholder to licensure as an insurance producer. If a landlord rents a unit in a building and adds the renter as an additional insured on a property damage property policy, the landlord is not selling insurance. If the cost of the rent depends, in part, on the agreement as to how much insurance will be provided under the landlord's policy as opposed to a renter policy, the landlord is not selling insurance. Neither the addition of the renter as an additional insured nor the selection of the limits applicable to the renter as an additional insured is the sale of insurance. Even where the sale of insurance is clearly involved, such as the facilitation of coverage under a group insurance policy, the person who obtains and forwards information for the group coverage, the enrollment of individuals, the issuance of certificates or otherwise assists in administering the group plan is not considered an insurance producer, even though that activity is core to the extension (or "sale") of coverage under the group contract. [1-101(u)(2)(iii)].

P2P Programs Use Licensed Producers

⁹ The P2P car sharing platform also may acquire physical damage insurance that covers physical damage to the shared vehicle that occurs during the sharing period. However, the allocation of risk of damage to the shared vehicle between the car owner and the platform and, separately, between the car driver and the platform, is a matter of contract between them, not a matter of insurance. When a car owner makes a car available on the platform for use by a driver that has been allowed to reserve cars on the platform, responsibility for damage is allocated as part of the owner-facing contract and as part of the driver-facing contract. The P2P car sharing platform may elect to insure the risk that it has assumed. However, the allocation of responsibility for damage that is addressed within "protection packages" is not, and should not be seen as, the extension of the platform's insurance to the car owner or to the car driver.



In addition, P2P car sharing programs typically work through a fully licensed insurance producer, who has negotiated the coverage with the issuing carrier, is identified to shared vehicle owners and drivers, and is the actual conduit of the coverage. For example, on Turo, the existence of liability coverage, the name of the insurer, and the driver's option to increase limits as part of a protection package is identified on the program's website; however, the producer is also identified on that site and questions about the insurance are ultimately referred to that producer. Selecting a protection plan that includes additional insurance occurs on the platform's site in connection with the reservation process. Turo supplies platform users with electronic and printable Turo ID cards that include the name and contact information for the licensed producer and which must be in the car during each trip. Given the virtual presence of a licensed producer in this virtual process, limited lines licensure of the program or vehicle owners is unnecessary and would add no value to Maryland consumers.

Further, P2P car sharing is not conducted in the manner contemplated by limited lines licensing. The limited lines regime, including motor vehicle rental limited lines licensing, was constructed in and for a traditional insurance sales solicitation and transaction between an employee of the commercial motor vehicle rental company and their customer. The licensing regime requires insurance sales training and the maintenance of registers of employees or other authorized representatives who are responsible for the marketing and sale of insurance at the time of the rental and the transfer of the vehicle and whose compensation may be based in part on those sales.

This is an unworkable and an unnecessary model for P2P car sharing. Car sharing transactions are arranged online, with the transfer of possession of the vehicle conducted in the physical world between the vehicle owner and the driver. There are no counters, no paid professionals, no employees or authorized representatives at the point of transfer. While car sharing is a business transaction, it is a business transaction between two private individuals that is facilitated through a technology platform established by the program.

Limited License Licensure Is Not Warranted for P2P Car Sharing

In summary, limited lines licensure of P2P car sharing programs or, worse, car owners is unnecessary because:

- Peer to peer car sharing is not the equivalent of a commercial motor vehicle rental enterprise and should not be regulated as such. For insurance purposes, Turo and its users are no more like Enterprise than Airbnb and its users are like Hilton Hotels. The market equivalent to peer to peer car sharing platforms are other peer to peer sharing platforms, not commercial motor vehicle rental businesses.
- Peer to peer car sharing, like other sharing economy transactions, is a different model that requires a different regulatory response. Both the NAIC and NSCL recognize this, as do the states of California, Washington, and Oregon. The NAIC and NSCL have both studied and written about the sharing economy and both recognize peer to peer car sharing as a part of that economy. Neither draws distinctions between the form of shared asset (e.g. apartment, boat, or car) for insurance regulatory purposes, neither suggests that peer to peer sharing platforms are selling insurance, and neither has proposed limited lines producer licensing for such platforms. Nor do the three states which have regulated P2P car sharing.



- Peer to peer car sharing provides for the coverage of shared cars using a model that is similar to that used by the platforms through which other assets, such as homes or boats, are shared. Neither this State nor any other state requires home or boat or ride sharing platforms to obtain a limited lines insurance producer license. There is no rational reason to treat car sharing differently from home sharing or boat sharing or ride sharing with respect to this issue. Turo is no more an insurance producer than Airbnb, Lyft, Uber, StubHub, eBay, Outdoorsy, Postmates, DoorDash, GetMyBoat, Instacart, VRBO, Homeaway, Onefinestay, Rover, Chegg, RVShare, Yachtico, Boatsetter, Boatbound, Upwork, WeWork, Peerspace, Thumbtack, TaskRabbit and the dozens of other sharing economy companies that provide some level of protection, insurance, or guarantee in connection with goods or services connections made by the marketplace.
- Insurance is not being sold as part of a peer to peer car sharing transaction. Unlike traditional commercial motor vehicle rental transaction, the shared car owner does not provide insurance. Insurance is not part of the transaction between the owner and the driver.
- The insurance that protects the shared car, its owner, and its driver is procured by the peer to peer car sharing platform. As is the case with other shared asset platforms, peer to peer car sharing platforms are consumers, not sellers, of insurance; they are contractually liable for, and buy insurance to protect themselves and platform users against, third-party liability and physical damage to the shared car. Peer to peer car sharing platforms buy insurance to cover their own risk in their own name through appropriately licensed insurance producers and/or brokers.
- Peer to peer car sharing platforms do not solicit or sell insurance. Liability insurance, at least as to statutory minimums, is automatically extended without separate charge to platform users. On Turo, the amount of protection differs between owners and drivers. Protection packages that include, but are not limited to, higher third-party liability insurance limits and different out of pocket physical damage caps may be selected as part of an enhanced protection package. There is no stand-alone insurance transaction. There is no application or stand-alone contract. There is no premium calculated, billed, collected and passed on to an insurer. The platform absorbs all insurance costs, which are baked into the usage fee and into the protection package fee, without differentiation. The platform receives no commission or fee from the insurer for the insurance that is included in the protection package.
- Peer to peer car sharing platforms like Turo identify their licensed producer to shared car owners and drivers and direct questions regarding insurance coverages to that producer.
- Offering an additional insured the opportunity to increase limits of liability for existing coverage as part of a multi-faceted protection package is not the kind of conduct that is, or should be, viewed as the solicitation or sale of insurance. The platform's actions are administrative in nature, a fully licensed insurance producer is available to address insurance questions, and there is no commission or fee paid to the platform relative to the insurance provided automatically or the increased limit.



Trying to force P2P car sharing into a commercial rental paradigm is inconsistent with the approach that insurance regulators have taken with respect to the sharing economy and ignore the reality of the differences between these activities. P2P car sharing programs like Turo are not commercial motor vehicle rental businesses and they are not acting as insurance producers in connection with sharing transactions. The limited role of the platform and the participation and availability of a licensed producer via the platform make limited lines licensure unnecessary. We urge the Administration to resist the efforts of national commercial motor vehicle rental companies to try to blur these distinctions in an effort to create barriers to what they perceive as competition.

Regards,

Alex Benn

Alex Benn
President



Property Casualty Insurers
Association of America
Advocacy. Leadership. Results.



Nancy J. Egan, Esq.
St. Government Relations Counsel,
DE, MD, NC, SC

September 29, 2017

Mr. Robert Baron
Associate Commissioner of Property & Casualty
Maryland Insurance Administration
200 St. Paul Place Suite 2700
Baltimore, MD. 21202

In Re: Peer to Peer Personal Auto Rental Workgroup

Dear Mr. Baron,

The Property Casualty Insurers Association of America ("PCI") has been the leading advocate for rules that support innovation and establish clarity on insurance issues for sharing economy participants. Clarity is particularly important when the commercial activity involves use of a motor vehicle, where long standing policy language often excludes coverage for accidents when the vehicle is available for hire or rented out to others. PCI members, whom together write 42.5 percent of the auto insurance in Maryland representing more than \$2.2 billion in direct written premium do not oppose the practice of "peer to peer" car sharing, but we seek insurance rules that provide clarity for all the parties to the transaction and that do not impose coverage on a private passenger auto policy that it was never intended to provide, nor is it needed by most policyholders.

Maryland law requires that the "owner" of a vehicle provide the coverage required by law, therefore traditional rental car companies are required to provide coverage on a primary basis. This is not unusual, as many states have a similar requirement. What makes Maryland unique is an exception to this rule for vehicles rented as a "replacement vehicle" if the owners vehicle is out of service for repairs due to a mechanical breakdown or accident, then the law allows the rental car company to require that the renter's coverage be primary via the terms of the rental agreement.

PCI has consistently opposed legislation that would change existing statutory or case law regarding the respective responsibilities of a vehicle's owner and a nonowner driver of that vehicle as respects primacy of automobile insurance coverage. Predictability is required for insurers to accurately set rates. Attempts to legislatively change the relative legal responsibilities of driver and vehicle owner take away that predictability. The resulting inefficiency makes automobile insurance more expensive without adding any benefit to consumers, the majority of whom may never have need to rent a car. For that reason, PCI opposes a wholesale change to current Maryland law regarding all rented vehicles.

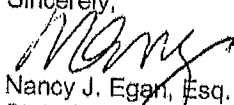
For "peer to peer" car sharing, the vehicle owner is not a rental car company but an individual with a personal auto insurance policy that is likely to exclude coverage while a vehicle is rented to others. The car sharing companies point out that they are not "rental car" company, but they are clearly facilitating car rentals. As was the case with Transportation Network Companies (TNC) like Uber and Lyft, PCI believes that the law should require that there be coverage that specifically recognizes that a vehicle that is being rented out through a peer to peer car sharing program in place for the entire time that the vehicle is in the possession of the renter and that that coverage should not be contingent to, or subject to a denial of coverage by the vehicle owners personal auto policy, nor should the owners personal automobile policy have any duty to defend against a claim or suit arising from an accident that occurs when a vehicle is being rented out.

To their credit, the peer to peer car sharing companies have been clear that it is not their intent to see vehicle owners who participate in their programs personal auto policies forced to provide coverage while the vehicle is being rented to others. However, they do seek to provide coverage that is in excess of coverage that the renter of the vehicle may have. While PCI opposes wholesale changes to the primacy of coverage laws for rental cars, we would be open to discussing a narrow exception for peer to peer car sharing that also incorporates coverage rules similar to those in place for TNC's in Maryland.

The emergence of sharing economy business models provides many opportunities for innovation. PCI looks forward to working together with all the stakeholders to find a solution that protects consumers and supports innovation.

As always, please let me know if you have any questions.

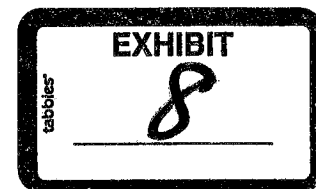
Sincerely,



Nancy J. Egan, Esq.
State Government Relations Counsel, DE, MD, NC, SC
Property Casualty Insurers Association of America
Nancy.egan@pciaa.net
Cell: 443-841-4174
Work: 443-708-4668

Statute Text

Article - Insurance



§19-512.

(a) (1) Each insurer that issues, sells, or delivers a motor vehicle insurance policy in the State shall offer collision coverage for damage to insured motor vehicles subject to deductibles of \$50 to \$250 in \$50 increments.

(2) Collision coverage shall provide insurance, without regard to fault, against accidental property damage to the insured motor vehicle caused by physical contact of the insured motor vehicle with another motor vehicle or other object or by upset of the insured motor vehicle, if the motor vehicle accident occurs in a state, Canada, or Mexico.

(b) (1) In this subsection, "passenger car" means a motor vehicle that is:

(i) a Class A (passenger) vehicle under § 13-912 of the Transportation Article; or

(ii) a Class M (multipurpose) vehicle under § 13-937 of the Transportation Article used primarily for transporting passengers.

(2) If a private passenger motor vehicle insurance policy issued, sold, or delivered in the State includes:

(i) collision coverage under this section, the motor vehicles insured under that coverage shall include any passenger car that is rented by an insured for a period of 30 days or less under a rental agreement as otherwise defined in § 14-2101 of the Commercial Law Article; or

(ii) comprehensive coverage, the motor vehicles insured under that coverage shall include any replacement vehicle as defined under § 18-102(a)(2)(i) of the Transportation Article.

(3) Each insurer that provides a private passenger motor vehicle insurance policy that includes collision coverage shall give the insured a separate notice written in boldface type that the insured does not need a collision damage waiver or any additional collision coverage when renting a passenger car for a period of 30 days or less during the term of the policy.

(4) An insurer may not deny coverage to an insured for collision damage to a rental passenger car because:

(i) the motor vehicle accident involved an uninsured motorist; or

(ii) the identity of the motor vehicle causing the damage cannot be ascertained.

(c) An insurer may offer to provide to the insured coverage for damages incurred by the insured as a result of the loss of use of a rental vehicle that sustains collision damage while rented by the insured.

Statute Text**Article - Commercial Law**

§14-2101.

(a) (1) In this section the following words have the meanings indicated.

(2) "Collision damage waiver" means any contract, whether separate from or part of a rental agreement, in which the lessor agrees, for a charge, to waive all or part of any claims against the lessee for damages to the rental motor vehicle during the term of the rental agreement.

(3) "Lessee" means any person obtaining the use of a rental motor vehicle from a lessor under the terms of a rental agreement.

(4) "Lessor" means any person in the business of providing rental motor vehicles to the public.

(5) "Passenger car" means any motor vehicle that is a Class A (passenger) vehicle under § 13-912 of the Transportation Article, or any motor vehicle that is a Class M (multipurpose) vehicle under § 13-937 of the Transportation Article if the vehicle is used primarily for transporting passengers.

(6) "Rental agreement" means a written agreement setting forth the terms and conditions governing the use of a rental motor vehicle by a lessee for a period of less than 180 days.

(7) "Rental motor vehicle" means a passenger car which, on execution of a rental agreement, is made available to a lessee for the lessee's use.

(b) The Division shall develop a form for collision damage waivers, and shall make it available to all lessors in the State.

(c) The form shall meet the requirements specified in subsection (e) of this section.

(d) A lessor may not deliver or issue for delivery in this State a rental motor vehicle agreement containing a collision damage waiver, unless the lessor uses a separate collision damage waiver form provided by the Division that meets the requirements specified in subsection (e) of this section.

(e) The collision damage waiver form shall contain the following requirements:

(1) The collision damage waiver shall be understandable and written in simple and readable plain language;

(2) The terms of the collision damage waiver, including, but not limited to, any conditions or exclusions applicable to the collision damage waiver, shall be prominently displayed;

(3) All restrictions, conditions, or provisions in, or endorsed on, the collision damage waiver are printed in type at least as large as Brevier or 10 point type;

(4) The collision damage waiver shall include a statement of the total charge for the anticipated rental period or the anticipated total daily charge;

(5) The agreement containing the collision damage waiver shall display the following notice on the face of the agreement, set apart and in boldface type, and in type at least as large as 10 point type:

"Notice:

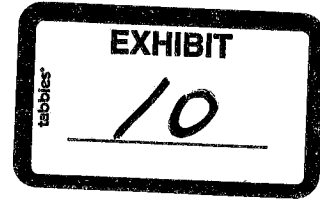
This contract offers, for an additional charge, a collision damage waiver to cover your responsibility for damage to the vehicle. Before deciding whether to purchase the collision damage waiver, you may wish to determine whether your own automobile insurance affords you coverage for damage to the rental vehicle and the amount of the deductible under your own insurance coverage. The purchase of this collision damage waiver is not mandatory and may be waived. Maryland law requires that all Maryland residents' insurance policies with collision coverage automatically extend that collision coverage to passenger cars rented by the insureds named in the policy for a period of 30 days or less."; and

(6) Any additional information that the Division considers reasonable and necessary to carry out the provisions of this subtitle.

(f) A failure by a lessor to comply with subsection (d) of this section is an unfair or deceptive trade practice within the meaning of Title 13, Subtitle 3 of this article.

Statute Text

Article - Transportation



§18-102.

(a) (1) The Administration may not register any motor vehicle, trailer, or semitrailer to be rented until the owner of the vehicle certifies to the satisfaction of the Administration that the owner has security for the vehicle in the same form and providing for the same minimum benefits as the security required by Title 17 of this article for motor vehicles.

(2) (i) In this paragraph, "replacement vehicle" means a vehicle that is loaned by an auto repair facility or a dealer, or that an individual rents temporarily, to use while a vehicle owned by the individual is not in use because of loss, as "loss" is defined in that individual's applicable private passenger automobile insurance policy, or because of breakdown, repair, service, or damage.

(ii) Subject to subparagraph (iii) of this paragraph, an owner of a replacement vehicle may satisfy the requirement of paragraph (1) of this subsection by maintaining the required security described in § 17-103 of this article that is secondary to any other valid and collectible coverage and that extends coverage to the owner's vehicle in amounts required under § 17-103(b) of this article while it is used as a replacement vehicle.

(iii) If an owner of a replacement vehicle provides coverage as provided under subparagraph (ii) of this paragraph, the agreement for the replacement vehicle to be signed by the renter or the individual to whom the vehicle is loaned shall contain a provision on the face of the agreement, in at least 10 point bold type, that informs the individual that the coverage on the vehicle being serviced or repaired is primary coverage for the replacement vehicle and the coverage maintained by the owner on the replacement vehicle is secondary.

(b) Notwithstanding any provision of the rental agreement to the contrary, the security required under this section shall cover the owner of the vehicle and each person driving or using the vehicle with the permission of the owner or lessee.

(c) If the Administration finds that the vehicle owner has failed or is unable to maintain the required security, the Administration shall suspend the registration of the vehicle.

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Court of Appeals of Maryland.

Michael Joseph SALAMON v. PROGRESSIVE CLASSIC INSURANCE COMPANY.

No. 46, Sept. Term, 2003.

Decided: February 10, 2004

Argued before BELL, C.J., RAKER, WILNER, CATHELL, HARRELL, BATTAGLIA and ELDRIDGE (retired, specially assigned), JJ. Robert J. Lynott (Thomas & Libowitz, P.A. of Baltimore), on brief for appellant. Angus R. Everton (Morgan Shelsby Carlo Downs & Everton P.A., of Hunt Valley), on brief, for appellant. This Court, on a number of occasions, has held that, under Maryland's compulsory automobile insurance statute, contractual exclusions in automobile insurance policies that excuse or reduce benefits below the minimum statutorily required levels or types of coverage, and are not expressly authorized by the General Assembly, are invalid. Relevant to the present declaratory judgment action, the insured, a student employed as a part-time pizza delivery driver, was involved in a two car motor vehicle accident while on the job. His insurer, relying on a so-called "pizza exclusion" in the insurance policy contract, declined to indemnify or defend its insured regarding claims brought by the other driver. The "pizza exclusion," which purports to allow the insurer to deny coverage if an insured driver was delivering "property for compensation" at the time of the accident, is not authorized expressly under the statute. Thus, we shall hold that the exclusion is invalid.

I.

On 9 April 2001, Michael Salamon was delivering pizzas for The Pizza Connection, an enterprise operated by GLW Enterprises ("GLW"). On that day, his vehicle collided with a vehicle owned and operated by Carol Dennis. Salamon, the owner of the vehicle he was operating, maintained no commercial vehicle insurance, but instead had a personal automobile policy issued by Progressive Classic Insurance Company ("Progressive").¹ Salamon secured his insurance five months before the accident, before he began employment with The Pizza Connection. There is no indication in the record whether Salamon had contemplated seeking such employment either at the time he applied for the policy or when it was issued by Progressive. The policy contained a series of exclusions, including one referred to here as the "pizza exclusion."²

"Coverage under this Part I [Liability to Others], including [Progressive's] duty to defend, does not apply to:

"1. bodily injury or property damage arising out of the ownership, maintenance, or use of a vehicle while being used to carry persons or property for compensation or a fee, including, but not limited to, delivery of magazines, newspapers, food, or any other products. This exclusion does not apply to shared-expense car pools.

* * *

"Coverage under this Part IV [Damage to a Vehicle] does not apply for loss:

1. to a covered vehicle, non-owned vehicle, or trailer, while being used to carry persons or property for compensation or a fee, including, but not limited to, delivery of magazines, newspapers, food, or any other products. This exclusion does not apply to shared-expense car pools."

After Salamon informed his insurer of the occurrence and circumstances of the accident, Progressive filed a complaint in the Circuit Court for Baltimore County seeking a declaratory judgment that, based on the "pizza exclusion," it was not liable under the policy to Salamon, Dennis, or the Government Employees Insurance Company (GEICO) (Dennis's insurer).³ In a separate, subsequent action, Dennis filed suit in the same court against Salamon, GLW, and Progressive for her injuries and property damage stemming from the accident. The Circuit Court granted a stay in Dennis's suit pending final resolution of this declaratory judgment action brought by Progressive.

Progressive filed a motion for summary judgment in its declaratory judgment action. Salamon opposed Progressive's motion and filed a counter-motion for summary judgment. In memoranda and in oral argument at an 11 December 2002 hearing on the cross-motions, Progressive contended that the pizza

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exclusion in the policy unambiguously excused it from both coverage and the duty to defend. Salamon countered that the exclusion was void because it was inconsistent with Maryland's compulsory insurance statute. The trial court granted Progressive's motion for summary judgment.^{4,5}

Salamon appealed, presenting only the question of whether Progressive's exclusion "contravenes Maryland public policy and, as a result, is invalid and unenforceable." Before the Court of Special Appeals could decide the appeal, this Court granted certiorari on its own initiative. *Salamon v. Progressive*, 376 Md. 139, 829 A.2d 530 (2003).

II.

Maryland Rule 2-501(e), governing summary judgment, states, in relevant part:

"Entry of Judgment. The court shall enter judgment in favor of or against the moving party if the motion and response show that there is no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law."

The facts relevant to the declaratory judgment action—that Salamon, Progressive's insured, was delivering pizzas, in violation of the "pizza exclusion" in the policy, when his car collided with Dennis's vehicle—are not in dispute.⁶ "When reviewing a grant of summary judgment, we must make the threshold determination as to whether a genuine dispute of material fact exists, and only where such dispute is absent will we proceed to review determinations of law." *Rensburg v. Montgomery*, 376 Md. 568, 579, 831 A.2d 18, 24 (2003). "An appellate court reviews a trial court's grant of a motion for summary judgment de novo. The trial court will not determine any disputed facts, but rather makes a ruling as a matter of law. The standard of appellate review, therefore, is whether the trial court was legally correct." *Id.* (citations omitted). The only issue presented in this case is a question of law involving statutory interpretation, which we review de novo.

III.

During the 11 December 2002 hearing, the trial judge explained his reasoning for granting Progressive's motion for summary judgment.⁷ The majority of the judge's comments were directed toward his determination that Salamon's actions fell within the unambiguous language of the contractual "pizza exclusion," a point that Salamon essentially conceded. Salamon's main contention before the trial court, as before this Court, was that the exclusion was invalid as contrary to Maryland public policy. The trial judge gave the following substantive response to Salamon's "public policy" argument:

"[I]n this case Progressive Insurance provides insurance to Mr. Salamon with the understanding that he's not going to use his car for business purposes, to deliver pizzas. And I don't think that anyone who would read the policy would have any doubt about that, that we don't provide coverage if you do that. Well, that was the contract. That's the contract. I don't see anything against public policy for an insurer to contract with an insured under those conditions. Yeah, we will provide you coverage as long as you don't use your car for commercial purposes. I don't see how that can be against public policy, [it] doesn't seem to me to be.

"One would have to wonder if an insurer can't make that a condition of a policy, a contract of insurance, what would all of our insurance rates be? If all of us could get a personal use policy and then use our cars to engage in business which involves the car, the use of the car, my God, what would the rates have to be? That may be a policy, a public policy consideration that would overcome any other, but I'm not deciding that, but I am saying that this was a contract.

"It was an unambiguous contract, it was clear, the contract was violated by Mr. Salamon. And Progressive does not have to provide coverage because it is not provided for in the contract that was entered into between the parties. So, the motion for summary judgment is granted."

The judge, however, failed to address the true gravamen of Salamon's argument: that Maryland's compulsory insurance law, codified at Maryland Code (1977, 2002 Repl. Vol.), §§ 17-101 to 17-110 of the Transportation Article and Maryland Code (1995, 2002 Repl. Vol.), §§ 19-501 to 19-516 of the Insurance Article, renders void the exclusion that Progressive relied upon to deny Salamon coverage and defense. As we shall explain, Salamon was correct in arguing that Progressive may not deny him what he purchased, the statutory minimum levels of coverage, even though the accident occurred while he was employed as a pizza delivery driver. The trial judge's determination to the contrary was erroneous as a matter of law.

A.

The 73rd Act of the 1972 session of the Maryland General Assembly was a "comprehensive law that, among other things, inaugurated compulsory insurance or other required security, established [the Maryland Automobile Insurance Fund] as an insurer of last resort, prohibited the arbitrary cancellation and non-renewal of motor vehicle insurance policies, and required policies to contain collision and [personal injury protection] coverage." *Maryland Auto. Ins. Fund v. Perry*, 356 Md. 668, 674, 741 A.2d 1114, 1117 (1999). Those provisions are now codified at title 19, subtitle 5 of the Insurance Article and title 17, subtitle 1 of the Transportation Article. The portions of that statute relevant to this case are those intended to "make certain that those who own and operate motor vehicles in this State are financially responsible. This legislative policy has the overall remedial purpose of protecting the public by assuring that operators and owners of motor vehicles are financially able to pay compensation for damages resulting from motor vehicle accidents." *Pennsylvania Nat'l Mut. Cas. Ins. Co. v. Gartelman*, 288 Md. 151, 154, 416 A.2d 734, 736 (1980) (citations omitted).

The General Assembly advanced its goal of assuring that every motorist has adequate insurance by enacting provisions requiring each vehicle owner to obtain motor vehicle insurance or a substitute security, limiting the ability of insurers to cancel or refuse to renew insurance policies, establishing the Maryland Automobile

Insurance Fund (MAIF) as an insurer of last resort, and requiring the Motor Vehicle Administration to suspend the registration of any motor vehicle for which the required insurance or security lapsed until replaced. 1972 Md. Laws, Chap. 73. Maryland Code (1977, 2002 Repl. Vol.), § 17-103 of the Transportation Article now reads:

"The security required under this subtitle shall provide for at least:

- (1) The payment of claims for bodily injury or death arising from an accident of up to \$ 20,000 for any one person and up to \$ 40,000 for any two or more persons, in addition to interest and costs;
- (2) The payment of claims for property of others damaged or destroyed in an accident of up to \$ 15,000, in addition to interest and costs;
- (3) Unless waived, the benefits described under § 19-505 of the Insurance Article [personal injury protection coverage] as to basic required primary coverage; and
- (4) The benefits required under § 19-509 of the Insurance Article [uninsured motorist coverage] as to required additional coverage."

More than thirty years after the General Assembly originally enacted compulsory insurance provisions, the requirement that every driver maintain at least these minimum levels of motor vehicle insurance remains an integral part of Maryland statutory law and public policy. Any portion of a motor vehicle insurance policy that is inconsistent with this statutory scheme is void and unenforceable. *Lewis v. Allstate Ins. Co.*, 368 Md. 44, 47, 792 A.2d 272, 274, (2002). See also *Enterprise Leasing Co. v. Allstate Ins. Co.*, 341 Md. 541, 550, 671 A.2d 509, 514 (1996) ("insurance policy exclusion clauses that are inconsistent with the public policy of this State" are invalid).

"In light of the comprehensive nature of the statutory provisions regulating motor vehicle insurance, and the various limitations, conditions, exceptions and exclusions expressly authorized by the Legislature, this Court has consistently "held invalid insurance policy limitations, exclusions and exceptions to the statutorily required coverages which were not expressly authorized by the Legislature."

Lewis, 368 Md. at 48, 792 A.2d at 274 (quoting *Van Horn*, 334 Md. at 686, 641 A.2d at 203).

This Court consistently has declared invalid insurance policy exclusions that excuse or reduce the insured parties' coverage below the statutory minimum level where such exclusions are not authorized explicitly by the General Assembly. Examples of this are legion. A policy provision that reduced the amount of uninsured motorist benefits by the amount of money the insurer previously had paid to the insured under a medical payments endorsement in the policy was not authorized by statute and was, therefore, invalid. *Lewis*, 368 Md. 44, 792 A.2d 272. Where no statute authorized a reduction in coverage for payments from other insurers, an automobile insurance provider was required to pay personal injury protection coverage even though the insured's treatments already had been paid for by his health insurance provider. *Dutta v. State Farm Ins. Co.*, 363 Md. 540, 769 A.2d 948 (2001). The exclusion of vehicles "Owned or operated by a self-insurer" or "Owned by any governmental unit or agency" from the definition of "uninsured/underinsured vehicles" for the purposes of the state's compulsory uninsured/underinsured coverage requirement was unauthorized and void. *West Am. Ins. Co. v. Popa*, 352 Md. 455, 723 A.2d 1 (1998). In *Enterprise Leasing*, 341 Md. 541, 671 A.2d 509, a car rental company had not authorized its lessee to allow third party drivers to drive the rental car without the company's authorization. Nevertheless, the car rental company was liable as a self-insurer for an accident caused by a third-party driver, who was driving the vehicle with the lessee's permission, but without the car rental company's permission, because the General Assembly had not authorized an exclusion of this type.

Similarly, a moving company's insurer was liable to provide coverage for the injuries of one of the moving company's employees who was injured by a truck driven by another employee because the "fellow employee" exclusion in the policy was not authorized by statute. *Larimore v. American Ins. Co.*, 314 Md. 617, 552 A.2d 889 (1989). Although the General Assembly had authorized insurers to reduce their benefits by the amount of worker's compensation payments the insured party already had recovered, an exclusion that reduced the insured party's benefits by the amount of worker's compensation the insured party was entitled to receive in the future was unauthorized and void. *Gable v. Colonial Ins. Co.*, 313 Md. 701, 548 A.2d 135 (1988). The "household exclusion," preventing one family member's recovery for injuries sustained in an accident with another member of the same household, was held to be unauthorized and invalid. *Jennings v. Gov't Employees Ins. Co.*, 302 Md. 352, 488 A.2d 166 (1985).

Where an insurer had notice of a suit between its insured and the uninsured driver of the other vehicle involved in an accident, it could not rely on a "consent to sue" clause in its policy to refrain from paying the judgment against the uninsured driver because "consent to sue" clauses were not authorized by the General Assembly. *Nationwide Mut. Ins. Co. v. Webb*, 291 Md. 721, 436 A.2d 465 (1981). A personal injury protection exclusion that denied coverage when an accident occurred while the insured was riding a "motor vehicle owned by the named insured . which is not an insured motor vehicle" has been held invalid. *Gartelman*, 288 Md. 151, 416 A.2d 734. An insurer was not authorized to require the insured party to secure a judgment against a tortfeasor before recovering uninsured motorist benefits. *Reese v. State Farm Mut. Auto. Ins. Co.*, 285 Md. 548, 403 A.2d 1229 (1979). An insurer was not entitled to limit uninsured motorist coverage to situations in which there was actual contact between the insured vehicle and a phantom vehicle. *State Farm Mut. Auto. Ins. Co. v. Maryland Auto. Ins. Fund*, 277 Md. 602, 356 A.2d 560 (1976); see also *Lee v. Wheeler*, 310 Md. 233, 528 A.2d 912 (1987) (actual contact requirement was invalid even though the accident occurred outside the State of Maryland).

Where the General Assembly authorized exclusions or exemptions, we upheld contractual terms that excused or reduced an insurer's coverage below the statutory minimums. In *Maryland Automobile Insurance Fund v.*

Sun Cab Co., 305 Md. 807, 506 A.2d 641 (1986), we concluded that the General Assembly had exempted taxicabs from certain of the compulsory insurance provisions, and therefore they were not required to carry (or be covered by) uninsured motorist insurance. In *Nationwide Mutual Insurance Company v. Miller*, 305 Md. 614, 505 A.2d 1338 (1986), an insurer was not required to pay uninsured motorist benefits to a passenger in a vehicle driven by the husband of the vehicle's owner because the husband/driver, who had his own insurance with another carrier, was excluded under that vehicle's coverage as authorized by statute. In *DeJarnette v. Federal Kemper Insurance Company*, 299 Md. 708, 475 A.2d 454 (1984), we upheld an exclusion for injuries sustained while using a motorcycle, an exclusion authorized specifically by statute.

Progressive argues that, for analytical purposes, we implicitly have distinguished between insurance policy exclusions "pertaining to classes of insureds, as opposed to exclusions pertaining to acts of individual insureds," upholding exclusions based on actions, but invalidating those that leave entire classes of people uninsured. Although Progressive finds some support in a footnote in *Jennings*, this argument is not supported by the bulk of our cases relating to insurance exclusions or compulsory insurance requirements.

In *Jennings*, we distinguished a prior case with the following footnote:

"GEICO also argued that this Court's decision in *National Grange Mut. Ins. v. Pinkney*, 284 Md. 694, 399 A.2d 877 (1979), in which this [C]ourt declined to adopt the so-called "liberal" rule in interpreting omnibus clauses, stands for the proposition that adoption of mandatory liability insurance does not alter prior Maryland case law regarding liability insurance. This is an overbroad interpretation of *Pinkney*. The instant case deals with a policy exclusion that would exclude classes of people. For example, family members of the named insured's household as well as the named insured are precluded from recovery. The person qua person is precluded from recovery. *Pinkney*, on the other hand, dealt with an exclusion based upon an action taken by a person—in that case, acquiring permission, or failing to do so, to drive the vehicle. In *Pinkney*, this Court stated "that the public policy of this State as enunciated by the General Assembly is that there should be liability coverage for any one person." 284 Md. at 704, 399 A.2d [at 882]."

Jennings, 302 Md. at 360 n. 9, 488 A.2d at 170 n. 9. In no other case, however, has this Court made such a distinction between actions and classes, nor has any exclusion that excused or reduced benefits below the statutory minimums, and that was not authorized by the General Assembly, been deemed valid on this basis. To the extent that the *Jennings* footnote makes our analysis of arguments challenging automobile insurance exclusions unclear, we clarify today that we shall not uphold any exclusion, not authorized by the General Assembly, that excuses or reduces benefits below the statutory minimums. There is no meaningful class/action distinction to be made in this analysis.^a

Pinkney, the case distinguished in the footnote in *Jennings*, is best understood as a case interpreting an omnibus clause in an insurance contract, rather than one focusing on an exclusion. An omnibus clause in an automobile insurance policy extends coverage to a third party who operates the vehicle with the permission of the named insured. See *Universal Underwriters Ins. Co. v. Lowe*, 135 Md.App. 122, 138 n. 10, 761 A.2d 997, 1006 n. 10 (2000). This Court has treated omnibus clauses differently with regard to the requirements of the compulsory insurance law, such as personal injury protection and uninsured motorist coverage, because the dominant purpose of an omnibus clause is "an intent to extend coverage." *DeJarnette*, 299 Md. at 714, 475 A.2d at 457. In *Pinkney*, we declined to follow the "liberal rule" of omnibus clause interpretation, which would have invalidated all "scope of permission" clauses. Instead, we held that such clauses could be valid and, when they are, they should be interpreted in the same manner as any other term in an insurance contract. *Pinkney*, 284 Md. at 706, 399 A.2d at 883. See also *BGE Home Products & Services, Inc. v. Owens*, 377 Md. 236, 833 A.2d 8 (2003) (declining to read a "scope of permission clause" into a self-insurance guarantee where it did not appear, but implying that "scope of permission clauses" are still valid where express).

B.

With that background in mind, we turn to the exclusion *Salamon* challenges. Progressive argues that it is entitled to deny *Salamon* coverage because, at the time of his accident, he was delivering food for compensation in violation of the terms of the insurance contract. Because Progressive seeks to deny all coverage to *Salamon*, rendering him uninsured for the accident, the exclusion reduces coverage below the statutory minimum levels.

The "pizza exclusion" has not been authorized by the General Assembly. Progressive has not pointed to any Maryland statute that either expressly or implicitly gives insurers the authority to add such an exclusion to their insurance contracts, and thereby to reduce or eliminate benefits below the statutory minimum levels. Upon review of title 17 of the Transportation Article and title 19 of the Insurance Article of the Maryland Code, we too are unable to find any such provision.¹¹ Accordingly, Progressive's commercial use exclusion in *Salamon*'s policy is invalid.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY REVERSED. CASE REMANDED TO THAT COURT WITH DIRECTIONS TO GRANT APPELLANT'S MOTION FOR SUMMARY JUDGMENT, DENY APPELLEE'S MOTION FOR SUMMARY JUDGMENT, AND ENTER A DECLARATION OF THE PARTIES' RIGHTS. APPELLEE TO PAY COSTS.

FOOTNOTES

1. The insurance contract in question provided for only the minimum statutory limits of bodily injury/property damage coverage—\$20,000/\$40,000. Thus, this case does not present the additional question of whether, if the relevant exclusion is invalid, the insurer's potential liability is the full amount of the purchased coverage limits or merely the statutory minimum requirements for coverage. See *West Am. Ins. Co. v. Pops*, 352 Md. 455, 723 A.2d 1 (1998); *Van Horn v. Atlantic Mut. Ins. Co.*, 334 Md. 669, 641 A.2d 195

(1994); Larimore v. American Ins. Co., 314 Md. 617, 552 A.2d 889 (1989), State Farm Mut. v. Nationwide Mut., 307 Md. 631, 516 A.2d 586 (1986).

2. "Pizza exclusions," although having a common objective, do not appear in the insurance industry to have a standard phrasing. [I] follows that they must be interpreted pursuant to their terms on a contract by contract or case by case basis, and not by sweeping language saying that regardless of the exact provisions of the contract we shall interpret all similar, but not identical, contracts alike. Nat'l Grange Mut. Ins. v. Pinkney, 284 Md. 694, 706, 399 A.2d 877, 883 (1979) (interpreting an omnibus clause in an insurance contract).

3. In its complaint, Progressive, in relevant part, sought a declaration that: (a) it "is not obligated under Policy Number 10892396-0 to provide coverage, nor is [it] under a duty to defend, in the event that any suit or action is filed arising out of the accident of April 9, 2001," and (b) "[it] is under no duty to pay any amount under the 'collision' coverage contained in Part IV of [its] Policy Number 10892396-0."

4. During the pendency of the Circuit Court action, GEICO filed a Third-Party Complaint seeking to add GLW as a defendant to the declaratory action brought by Progressive. GEICO later submitted a Stipulation of Dismissal, rendering those issues moot.

5. The trial court judge also ruled that a discovery motion, filed by Salamon prior to the filing of Progressive's motion for summary judgment, was rendered moot by his decision to grant Progressive's motion for summary judgment. Salamon asks that this Court, as an alternative to ordering the grant of his counter-motion for summary judgment, remand the case to the Circuit Court with instructions to rule on the discovery motion. Because we conclude that the trial court should have granted Salamon's counter-motion for summary judgment, the discovery motion remains moot. The same applies to other motions pending at the time of the summary judgment hearing.

6. The facts concerning liability, i.e. whether Salamon was negligent, whether GLW is liable under a respondeat superior theory, etc., while relevant and material to the suit subsequently brought by Dennis, are neither relevant nor material to this declaratory judgment action.

7. The judge issued no written memorandum or order memorializing his oral ruling granting Progressive's motion for summary judgment as to the declarations sought in its complaint (see Note 3, above). The only written record of the judgment is a 13 December 2002 Notice of Recorded Judgment signed by the Clerk of the Circuit Court for Baltimore County indicating that a judgment in favor of Progressive was entered on 11 December 2002 and listing the "Amount of Judgment" as "Costs." Neither that Notice of Recorded Judgment, nor any other document indicating the existence of a declaratory judgment, was signed by the judge. See Md. Rule 2-601(a) ("Each judgment shall be set forth on a separate document. Upon a decision by the court granting [] relief [other than costs or a specified amount of money], the court shall promptly review the form of the judgment presented and, if approved, sign it, and the clerk shall forthwith enter the judgment as approved and signed."). Even were we to agree with the trial court's resolution of the substantive issue in this case, we still would be required to reverse the Circuit Court's judgment for failure to file a written declaratory judgment defining the rights and obligations of the parties. See Jackson v. Millstone, 369 Md. 575, 593, 801 A.2d 1034, 1045 (2002). "Once again, we are presented with a declaratory judgment action in which there is no written declaratory judgment. We have admonished trial courts that, when a declaratory judgment action is brought and the controversy is appropriate for resolution by declaratory judgment, the court must enter a declaratory judgment and that judgment, defining the rights and obligations of the parties or the status of the thing in controversy, must be in writing. It is not permissible for the court to issue an oral declaration. The text of the judgment must be in writing. See Harford Mutual Ins. Co. v. Woodfin, 344 Md. 399, 414-15, 687 A.2d 652, 659 (1997); Ashton v. Brown, 339 Md. 70, 87, 660 A.2d 447, 455 (1995); Christ v. Department of Natural Resources, 335 Md. 427, 435, 644 A.2d 34, 38 (1994). Nor, since the 1997 amendment to Maryland Rule 2-601(a), is it permissible for the declaratory judgment to be part of a memorandum. That rule requires that 'each judgment shall be set forth on a separate document.' When entering a declaratory judgment, the court must, in a separate document, state in writing its declaration of the rights of the parties, along with any other order that is intended to be part of the judgment. Although the judgment may recite that it is based on the reasons set forth in an accompanying memorandum, the terms of the declaratory judgment itself must be set forth separately. Incorporating by reference an earlier oral ruling is not sufficient, as no one would be able to discern the actual declaration of rights from the document posing as the judgment. This is not just a matter of complying with a hyper-technical rule. The requirement that the court enter its declaration in writing is for the purpose of giving the parties and the public fair notice of what the court has determined." Jackson, 369 Md. at 594-95, 801 A.2d at 1045-46 (quoting Allstate v. State Farm, 363 Md. 106, 117 n. 1, 767 A.2d 831, 837 n. 1 (2001)). See also, e.g., Baltimore v. Ross, 365 Md. 351, 358 n. 6, 779 A.2d 380, 384 n. 6 (2001); Bushy v. Northern Assurance, 362 Md. 626, 651-652, 766 A.2d 598, 611-612 (2001); Maryland Ass'n of HMO's v. Health Services Cost Review Commission, 356 Md. 581, 603, 741 A.2d 483, 495 (1999). Because this error is not jurisdictional, this Court nonetheless may review, in its discretion, the merits of the present controversy. Bushy, 362 Md. at 651, 766 A.2d at 611. We elect to do so.

8. In fact, a class/action distinction is neither useful nor relevant. Any group of individuals who have acted in the same manner may be grouped in a class. For example, all of the individuals who have signed insurance contracts containing a particular exclusion may be called the class of persons who have done so. Alternatively, they may be regarded as individuals who have taken the action of signing contracts that contained that particular term.



9. The "liberal rule" or "hell or high water rule" requires that, if the vehicle was originally entrusted by the named insured, or one having proper authority to give permission, to the person operating it at the time of the accident, then despite hell or high water, such operation is considered to be within the scope of the permission granted, regardless of how grossly the terms of the original bailment may have been violated. This rule is

also, albeit less colorfully, known as the initial permission rule. *Pinkney*, 284 Md. at 698, 399 A.2d at 879 (citation omitted).

10. A "scope of permission" or "permissive user" clause limits coverage under an omnibus clause to claims that arise while the third party is operating the vehicle within the scope of the permission granted by the named insured. When a vehicle is covered under the typical "scope of permission" clause, the vehicle must be used for a purpose reasonably within the scope of the permission granted, within the time limits imposed or contemplated by the parties, and operated within geographical limits so contemplated. Of course, this does not mean that every immaterial deviation would automatically cut off the policy protection. It merely declares that such use must be reasonably within the intention of the parties at the time consent is given, or a use to which the insured would have consented had he known of it. *Pinkney*, 284 Md. at 698-99, 399 A.2d at 879 (citation omitted). Omnibus clauses and "scope of permission" restrictions do not always contain the same language and should not all be interpreted in the same way. See Note 2 above.

11. We note that the General Assembly does appear to have anticipated some commercial uses by exempting certain vehicles from the requirements of title 17, subtitle 1 of the Transportation Article: "This subtitle does not apply to the following vehicles and their drivers: (1) Farm equipment or special mobile equipment incidentally operated on a highway or on other property open to the public; or (2) A vehicle operated on a highway only to cross the highway from one property to another." Md. Code (1977, 2002 Repl. Vol.), § 17-102 of the Transportation Article. "Special mobile equipment" is defined in § 11-159 of the Transportation Article: (a) "Special mobile equipment" means a vehicle that: (1) Is not used primarily for highway transportation of people or property; and (2) Is operated or moved on a highway only as an incident to its nonhighway use. (b) "Special mobile equipment" includes a road construction or maintenance machine, mobile crane, ditch digger, well driller, concrete mixer, jobsite office vehicle, or portable power generator. Md. Code (1977, 2002 Repl. Vol.), § 11-159 of the Transportation Article. This presumably means that a person cannot expect to be covered under the compulsory automobile insurance statute for accidents caused while operating a bulldozer.

HARRÉLL, Judge.

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Statute Text

Article - Public Utilities



§10-405.

(a) (1) An operator, a transportation network company on behalf of the operator, or a combination of both shall maintain primary motor vehicle insurance that:

(i) recognizes that the operator is a transportation network operator or otherwise uses a motor vehicle to transport passengers for hire; and

(ii) covers the operator while the operator is providing transportation network services.

(2) (i) The following motor vehicle insurance requirements shall apply while an operator is providing transportation network services:

1. security of at least:

A. for the payment of claims for bodily injury or death arising from an accident, up to \$50,000 for any one person and up to \$100,000 for any two or more persons, in addition to interest and costs; and

B. for the payment of claims for property of others damaged or destroyed in an accident, up to \$25,000, in addition to interest and costs;

2. uninsured motorist insurance coverage required under § 19-509 of the Insurance Article; and

3. personal injury protection coverage required under § 19-505 of the Insurance Article; and

(ii) The coverage requirements under this paragraph may be satisfied by motor vehicle insurance maintained by:

1. an operator;

2. a transportation network company; or

3. both an operator and a transportation network company.

(b) If insurance is provided by both the transportation network company and the operator under subsection (a) of this section, the insurance maintained by the transportation network operator is primary.

(c) The insurance maintained by a transportation network company shall provide the coverage required under subsection (a) of this section from the first dollar of a claim

and provide for the duty to defend the claim in the event the insurance maintained by an operator under subsection (a) of this section has coverage that has been canceled or has lapsed or is otherwise not in force.

(d) (1) A transportation network company shall:

(i) verify that the coverage required under subsection (a) of this section is maintained at all times; and

(ii) provide to the Commission and the Insurance Commissioner, annually upon each renewal:

1. a valid certificate of insurance coverage that meets the requirements of subsection (a) of this section and that:

A. is prepared by the insurer;

B. is signed by an officer of the insurer;

C. is in a form acceptable to the Commission;

D. states the name and home office address of the insurer providing coverage to the transportation network company;

E. states the effective dates of the coverage;

F. states a general description of the coverage; and

G. includes a certification of a policy provision that will notify the Commission and the Insurance Commissioner of any termination of coverage at least 60 days in advance of the effective date of the termination; and

2. the underlying policy for the coverage required under subsection (a) of this section.

(2) (i) The Commission may consult with the Insurance Commissioner concerning the provisions of the underlying policy provided to the Commission and the Insurance Commissioner under paragraph (1)(ii)2 of this subsection.

(ii) 1. Records provided to the Commission by a transportation network company under this section are not subject to release under the Maryland Public Information Act or any other law.

2. The Commission and the Insurance Commissioner may not disclose records or information provided to the Commission and the Insurance Commissioner under this section to any person unless the disclosure is required by subpoena or court order.

3. If a subpoena or court order requires the Commission or the Insurance Commissioner to disclose information provided to the Commission or the Insurance Commissioner under this section, the Commission or the Insurance

Commissioner, as appropriate, promptly shall notify the transportation network company before disclosing the information.

(e) Insurance required under subsection (a) of this section shall be issued by:

(1) an insurer authorized to do business in the State; or

(2) solely with respect to insurance maintained by a transportation network company, an eligible surplus lines insurer:

(i) in accordance with the requirements of Title 3, Subtitle 3 of the Insurance Article; and

(ii) having an A.M. Best financial strength rating of A- or better.

(f) Before an operator may accept a request for a ride made through the transportation network company's digital network, the transportation network company shall disclose to the operator, in writing, the following:

(1) the insurance coverage, including the types of coverage and the limits for each coverage, that the transportation network company provides while the operator is providing transportation network services;

(2) that the operator should contact the operator's personal motor vehicle insurer or agent to:

(i) advise the insurer or agent that the operator will be providing transportation network services; and

(ii) to determine the coverage, if any, that may be available from the operator's personal motor vehicle policy; and

(3) that, if the motor vehicle that the operator uses to provide transportation network services has a lien against it, using the motor vehicle for transportation network services without physical damage coverage may violate the terms of the contract with the lienholder.

(g) (1) If an accident occurs that involves a motor vehicle that is being used to provide transportation network services, the operator, on request of directly interested parties, including a motor vehicle insurer or an investigative law enforcement officer, shall:

(i) provide proof of insurance satisfying the requirements of this section; and

(ii) disclose whether the accident occurred while the operator was providing transportation network services.

(2) In a claim coverage investigation following a vehicular accident, a transportation network company and any insurer potentially providing coverage under

this section shall cooperate to facilitate the exchange of information with directly involved parties and any insurer of an operator, if applicable, including:

(i) the precise times that an operator was logged onto the transportation network company's digital network:

1. in the 12-hour period immediately preceding the accident; and
2. in the 12-hour period immediately following the accident; and

(ii) a clear description of the coverage, exclusions, and limits provided under any motor vehicle insurance maintained under this section.



Statute Text

Article - Insurance

§19-517.

(a) (1) In this section the following words have the meanings indicated.

(2) "Transportation network company" has the meaning stated in § 10-101 of the Public Utilities Article.

(3) "Transportation network operator" has the meaning stated in § 10-101 of the Public Utilities Article.

(4) "Transportation network services" has the meaning stated in § 10-101 of the Public Utilities Article.

(b) Insurance required under § 10-405 of the Public Utilities Article shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under §§ 19-505 and 19-509 of this article and Title 17, Subtitle 1 of the Transportation Article.

(c) (1) An authorized insurer that writes motor vehicle liability insurance in the State and the Maryland Automobile Insurance Fund may exclude any and all coverage and the duty to defend afforded under an owner's or operator's personal motor vehicle insurance policy for any loss or injury that occurs while the vehicle operator is providing transportation network services.

(2) If an insurer that writes motor vehicle liability insurance in the State defends or indemnifies a claim against a driver for which coverage is excluded under the terms of its policy, the insurer shall have a right of contribution against other insurers that provide insurance to the same driver in satisfaction of the requirements of § 10-405 of the Public Utilities Article at the time of the loss.

(3) Nothing in this section or § 10-405 of the Public Utilities Article shall be deemed to invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use before July 1, 2015, that excludes coverage for motor vehicles that are used to transport passengers or property for a charge or are available for hire by the public.

(4) The right to exclude coverage and the duty to defend under paragraph (1) of this subsection applies to any coverage included in a motor vehicle liability insurance policy, including:

(i) liability coverage for bodily injury and property damage;

(ii) uninsured and underinsured motorist coverage;

(iii) medical payments coverage;

- (iv) personal injury protection coverage;
- (v) comprehensive physical damage coverage; and
- (vi) collision physical damage coverage.

(5) If an insurer that writes motor vehicle liability insurance in the State excludes coverage for providing transportation network services, the insurer shall provide written notice to the named insured stating that the policy excludes coverage for providing transportation network services:

(i) for a policy initially purchased on or after January 1, 2016, at the time of issuance; and

(ii) for a policy in force before January 1, 2016, at the time the policy first renews after January 1, 2016.

(d) (1) Nothing in this section or § 10-405 of the Public Utilities Article:

(i) may be construed to require a personal motor vehicle insurance policy to provide primary or excess coverage; or

(ii) implies or requires that a personal motor vehicle insurance policy provide coverage while the vehicle operator is providing transportation network services.

(2) Coverage under a motor vehicle insurance policy maintained by a transportation network company may not be dependent on a personal insurer that writes motor vehicle liability insurance in the State first denying a claim, nor may a personal motor vehicle insurance policy be required to first deny a claim.

(3) Nothing in this section or § 10-405 of the Public Utilities Article precludes an insurer that writes motor vehicle liability insurance in the State from providing coverage for an operator's motor vehicle while the operator is providing transportation network services if the insurer elects to do so by contract or endorsement.