

State House
Annapolis, Maryland 21404

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 653.

This message would prohibit the Maryland Insurance Guaranty Association (MIGA) from denying a claim on the ground that it is covered by uninsured motorists (UM) coverage. Thus, the bill squarely presents the basic question of how claims against the insureds of an insolvent insurer can best be handled. Should the UM coverage be the primary coverage and MIGA constitute an excess coverage? Or should MIGA constitute the primary coverage?

According to proponents of the measure, since MIGA's purpose is to pay the obligations of an insolvent insurer, the payment of the covered claim should be primary by the Association. Proponents also suggest that such a change in policy would further the express legislative policy which prompted the enactment of MIGA, viz., to provide a mechanism for the prompt payment of covered claims. See, Code, art. 48A, § 504.1/ They also assert that the bill "would cure the present inequity which allows most brokers to be paid more quickly than those who obey the law."2/

Opponents strongly suggest that the present public policy supporting the primacy of UM coverage is clear and compelling. They assert that the proposed transfer from UM to MIGA of the responsibility for providing primary coverage will not promote the claimants' best interest in prompt payment of covered claims, will raise the distinct possibility that the insurance consumer will be forced to pay twice for uninsured motorist coverage, and will leave a claimant's proper cause of action in seeking a satisfaction of a claim against an insolvent insurer wholly unsettled. See, e.g., the attached May 1st letter on behalf of Maryland Casualty Company.

I am sufficiently persuaded by the arguments of the opponents that Senate Bill 653, while representing a good faith attempt to speed up the resolution of valid claims by the insured of an insolvent insurer, may unwittingly lengthen that process, increase its costs and thereby be counterproductive to the very purposes which motivated its passage.

For these reasons, I have decided to veto Senate Bill 653.

Sincerely,
Harry Hughes