

# Preliminary Evaluation of the Maryland Insurance Administration

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**Recommendations: Waive from Full Evaluation**

**Extend Evaluation Date by Six Years to July 1, 2018**

## The Sunset Review Process

This evaluation was undertaken under the auspices of the Maryland Program Evaluation Act (§ 8-401 *et seq.* of the State Government Article), which establishes a process better known as “sunset review” because most of the agencies subject to review are also subject to termination. Since 1978, the Department of Legislative Services (DLS) has evaluated about 70 State agencies according to a rotating statutory schedule as part of sunset review. The review process begins with a preliminary evaluation conducted on behalf of the Legislative Policy Committee (LPC). Based on the preliminary evaluation, LPC decides whether to waive an agency from further (or full) evaluation. If waived, legislation to reauthorize the agency typically is enacted. Otherwise, a full evaluation typically is undertaken the following year.

The Maryland Insurance Administration (MIA) last underwent a full evaluation as part of sunset review in 2001. The full evaluation identified several areas in which change would improve the operations of MIA. Although not subject to termination, Chapter 317 of 2002 extended the administration’s evaluation date under the Maryland Program Evaluation Act by 10 years to July 1, 2012, and required MIA to report to committees of the General Assembly regarding implementation of the recommendations contained in the evaluation report.

In conducting this preliminary evaluation, DLS staff reviewed applicable State law and regulations; recent legislative and regulatory actions; prior full and preliminary sunset reviews; annual reports submitted by MIA; and other information provided by MIA regarding expenditures, revenues, licensing, examinations, complaints, and disciplinary actions. DLS staff met with the acting commissioner, MIA administrative staff, and the associate commissioner of the Fraud Division. The administration reviewed a draft of this preliminary evaluation and provided the written comments attached at the end of this document as **Appendix 4**. Appropriate factual corrections and clarifications have been made throughout the document; therefore, references in administration comments may not reflect the final version of the report.

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## **The Maryland Insurance Administration**

Regulation of the insurance industry in Maryland began in 1872 with the creation of the Maryland Department of Insurance. Since then, several structural changes have been implemented and the statutes related to the industry and its regulations have been recodified numerous times. In 1970, the Maryland Insurance Division was established within the Department of Licensing and Regulation. The Maryland Insurance Administration was created in 1993 as an independent agency and, in 1997, the Insurance Article, under which the Insurance Commissioner and MIA now operate, was enacted.

The Insurance Commissioner heads the agency and is appointed by the Governor with the advice and consent of the Senate. The role of the Insurance Commissioner and MIA is to regulate the insurance industry in Maryland through enforcement of the State's laws and regulations governing insurance companies, health maintenance organizations (HMOs), producers, and related entities. Insurance is one of the most regulated industries in the State, with regulation encompassing the financial examination and licensing of insurance companies; review of rates, policies, forms, manuals, and endorsements; licensing of producers, advisors, and private review agents (PRAs); and the investigation of consumer complaints and insurance fraud.

Even though most Maryland citizens are unaware of the activities of the Insurance Commissioner and MIA, the administration plays a part in their financial lives. MIA impacts every citizen with life, health, property, casualty, accident, long-term care, or any other type of insurance policy because it determines which companies may offer insurance products for sale in the State; which individuals or firms can sell insurance products; which individuals can advise them or solicit insurance on their behalf; whether a policy or other contract provision meets the requirements of law; and what rate will be charged for the insurance policy.

MIA develops policies, procedures, and regulations and implements laws that affect Maryland's insurance industry. The agency performs actuarial valuations, rate and form reviews, financial audits, licensing examinations, market conduct examinations, and fraud investigations; resolves consumer complaints; and issues producer licenses and company licenses. Thus, MIA's key goals are to:

- ensure that the terms and conditions of insurance contracts are reasonable and meet the requirements of Maryland law;
- adjudicate consumer complaints in accordance with insurance law and in a prompt and fair manner;
- protect the public from unfair trade practices and other violations of the Insurance Article;
- enforce solvency standards to ensure that insurers have the financial ability to pay claims when due; and
- protect Maryland citizens through enforcement of statutory provisions relating to insurance fraud.

## **Legislative Changes Affecting MIA Since the 2001 Sunset Review**

Since MIA's last sunset review in 2001, numerous legislative changes have affected the insurance industry, the Insurance Commissioner, and MIA. **Exhibit 1** details the most significant statutory changes affecting the Insurance Commissioner and MIA since the 2001 sunset review.

About half of the statutory changes enacted have been related to health insurance. **Appendix 1** lists legislative changes to health insurance since the last evaluation. Major legislative changes regarding health insurance have included regulation of nonprofit health service plans (oversight of CareFirst BlueCross BlueShield), access to prescription drug coverage, altering requirements for PRAs, regulation of relationships between health insurance carriers and health care providers, altering the Comprehensive Standard Health Benefit Plan sold in the small group market, adding new health insurance mandates, increasing access to care, enhancing consumer protections through increased regulation of health insurance products, and stronger regulation of the business practices of health insurers and other entities.

Significant legislation was also enacted impacting nonhealth-related insurance. **Appendix 2** lists legislative changes in nonhealth-related insurance. Major changes included measures to address specific insurance crises such as Hurricane Isabel and medical professional liability insurance, and legislation impacting insurance producers, antitrust provisions, fraud reporting and prevention, business entities that employ public adjusters, premium financing, surety insurers, property and casualty insurance policies, homeowner's insurance, motor vehicle insurance, title insurance, and life insurance. A regulatory framework for portable electronics insurance was established, and penalty provisions were expanded for surety insurers.

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**Exhibit 1**  
**Major Legislative Changes Since the 2001 Sunset Evaluation**

<u>Year</u>	<u>Chapter</u>	<u>Change</u>
<b>2003</b>	35	Requires an insurer to maintain a registry of appointed producers who sell, solicit, or negotiate insurance contracts for the insurer.
	356/357	Ratify the Insurance Commissioner's ruling that the conversion of CareFirst to a for-profit entity was not in the public interest. Establish what a nonprofit health service plan's nonprofit mission must include and require a nonprofit health service plan to meet certain criteria to maintain favorable tax treatment.
<b>2005</b>	347	Prohibits self-employed individuals and sole proprietors from obtaining health insurance in the small group market.
<b>2006</b>	350	Establishes separate provisions governing cancellations, nonrenewals, and reductions in coverage from the provisions governing premium increases for motor vehicle liability coverage, and revises notice requirement for changes in premiums.
<b>2007</b>	150	Provides for recovery of actual damages, expenses, litigation costs, and interest authorized in first-party claims against property and casualty insurers if the insurer fails to act in good faith.
<b>2008</b>	259	Removes the Maryland Health Insurance Plan (MHIP) from MIA and makes MHIP an independent unit of State government.
	612	Subjects the Injured Workers' Insurance Fund (IWIF) to additional regulation by MIA.
<b>2009</b>	375	Subjects property and casualty insurers to additional financial regulation to keep State law consistent with National Association of Insurance Commissioners (NAIC) standards.
<b>2010</b>	17	Authorizes the Insurance Commissioner to enforce federal health care reform provisions against regulated health insurance plans in the State.
	441	Increases minimum limits for motor vehicle liability coverage.

Source: Laws of Maryland

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## **Federal Health Care Reform**

The Patient Protection and Affordable Care Act, signed by President Barack Obama on March 23, 2010, is intended to expand health care coverage, control health care costs, and improve the health care delivery system. The new law has far-reaching implications for the states. Major

features of the law include individual and employer mandates, expansion of the Medicaid program, establishment of American Health Benefit Exchanges and Small Business Health Options Program (SHOP) Exchanges for individuals and small businesses, and significant changes to private health insurance intended to make it easier to obtain insurance and protect patients. While health care reform will impact the entire health care delivery system, the most immediate responsibilities for MIA include the implementation of new health insurance requirements such as new benefits, rating rules, and increased oversight of the insurance industry.

### **Health Insurance Exchange(s)**

By 2014, the State must establish an American Health Benefit Exchange that facilitates the individual purchase of qualified health plans and includes a SHOP Exchange for small businesses. The State will need to enact legislation to establish the exchange. Key decisions to be made include governance and operation of the exchange, how many exchanges to establish, functions of the exchange, market considerations, participation by small businesses, required benefits, and financing.

In September 2010, the U.S. Department of Health and Human Services awarded Maryland a \$1 million grant to assist with the establishment of an exchange. The grant will help the Department of Health and Mental Hygiene (DHMH) create an information infrastructure plan, develop an outreach and communications strategy, fund Maryland-specific studies to determine whether to merge the individual and small group health insurance markets, develop governance options and a sustainable business model, determine whether existing public- or private-sector capacity could be adapted for online public access, and develop a request for proposal for eligibility system expansion or acquisition.

### **Implementation of New Health Insurance Requirements**

As the State's insurance regulator, MIA is responsible for overseeing and enforcing many of the new federal and State insurance requirements. While the individual and employer mandates will be enforced primarily by the federal government, partly through information generated through the exchange, MIA will regulate insurance sold both inside and outside the exchange. MIA will ensure that insurers are adhering to all of the new consumer protections in the federal law and has already begun to do so for the protections that took effect on September 23, 2010. These protections, which affect new policies upon issuance and existing policies upon renewal, require coverage for children up to age 26 on a parent's policy; prohibit lifetime limits and pre-existing condition limitations on children; restrict annual limits; and require coverage of certain preventive services without cost-sharing. Chapter 17 of 2010 gave the commissioner broad authority to enforce the provisions of the federal reform law; however, the authority was only extended until July 1, 2011. Legislation is anticipated at the 2011 session to amend the specific sections of the Insurance Article that are out of compliance with the provisions of federal law.

As part of federal reforms, Maryland was 1 of 46 states that each received another \$1 million grant to enhance current processes for reviewing health insurance premium increases. MIA will use the grant to improve the health insurance premium review process by contracting for consulting services to provide recommendations on which data elements should be included in rate filing submissions, which markets should require additional data elements in their rate filings, and the implementation of policies and procedures to carry out a more robust rate review process. The grant will also be used to make more information about rate filings publicly available to consumers and policymakers.

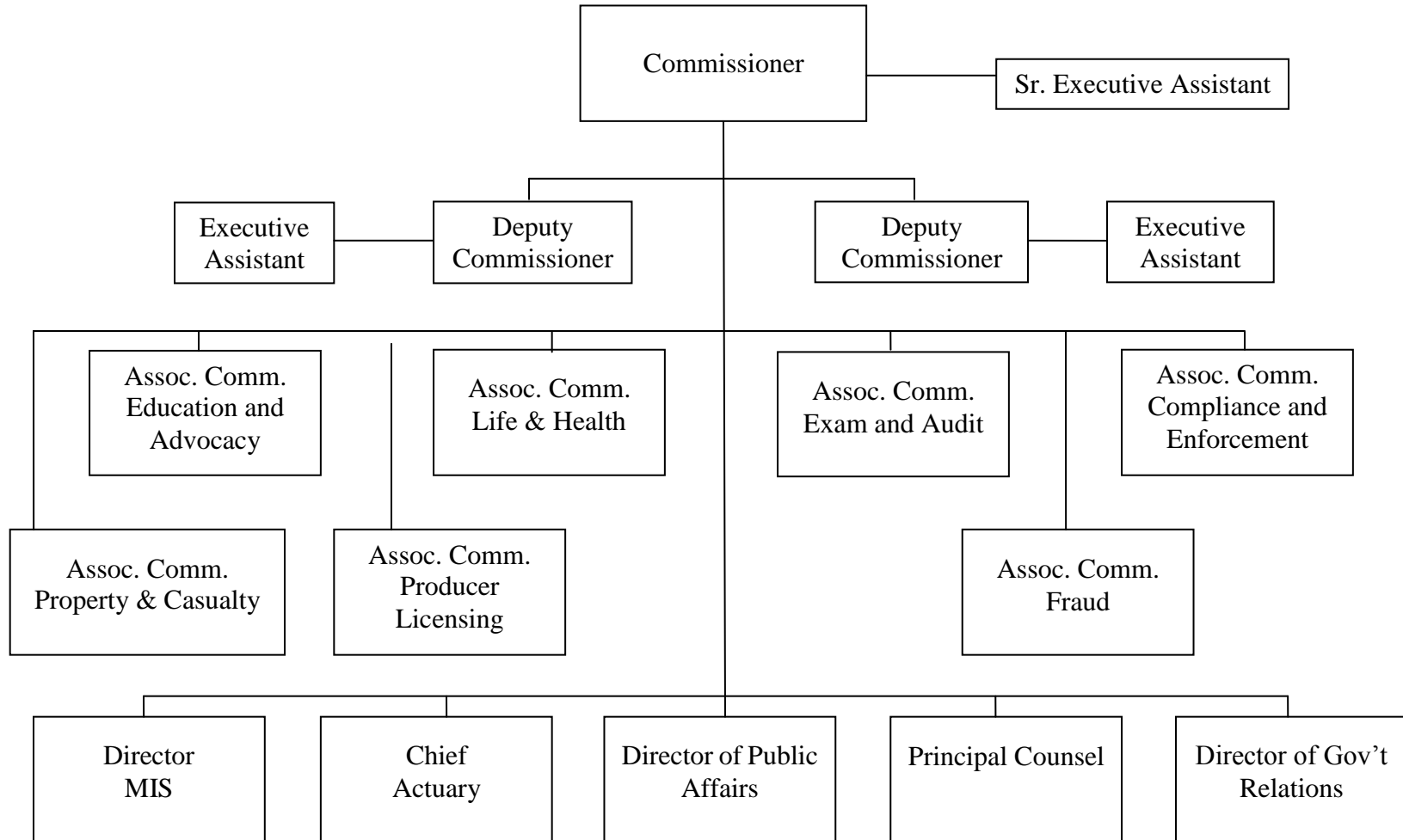
## **MIA Comprises Seven Major Policy Units**

As shown in **Exhibit 2**, MIA comprises seven major policy units under the Insurance Commissioner, as well as the Office of the Commissioner, the Office of the Attorney General (OAG), the Office of the Chief Actuary, and the Management Information Systems (MIS) Unit.

### **Consumer Education and Advocacy Unit**

The Consumer Education and Advocacy Unit (CEAU) is responsible for providing consumers with information about what is covered under their insurance policies and assisting them in gaining a better understanding of their rights and obligations under those policies. CEAU also operates a Rapid Response Program that facilitates resolution of property and casualty claims.

**Exhibit 2**  
**Maryland Insurance Administration Organizational Chart**



Source: Department of Legislative Services

## **Compliance and Enforcement Section**

The Compliance and Enforcement Section provides regulatory oversight of the insurance industry through a comprehensive program of market conduct examinations, investigations, data analysis, and communication. The section is divided into three units: Market Analysis, Market Conduct, and Producer Enforcement. In fiscal 2009, section activities resulted in the return of more than \$9.5 million to Maryland consumers, as well as the payment of approximately \$3.0 million to the general fund due to administrative penalties assessed to insurers, producers, and other regulated entities.

## **Insurance Fraud Division**

The Insurance Fraud Division is responsible for investigating insurance fraud and referring suspected cases to appropriate authorities for criminal prosecution. The division is also responsible for the administration of insurance regulations concerning the implementation of antifraud plans by licensed insurers, HMOs, and third-party administrators (TPAs), to detect, guard against, and report instances of insurance fraud committed within and/or against their company and the insurance business.

## **Examination and Auditing Section**

The Examination and Auditing Section provides financial surveillance of insurance companies holding certificates of authority to conduct the business of insurance in Maryland. These insurers generate premium revenues from Maryland consumers totaling approximately \$27 billion annually. Financial surveillance is conducted through periodic on-site examinations and ongoing financial analyses. The section focuses on about 70 insurers that are domiciled in Maryland with the goal of detecting potential financial trouble and taking appropriate action to prevent the need to initiate rehabilitation or liquidation proceedings. The costs of all such examinations are borne by the insurer being examined.

This section also issues certificates of authority to insurers to conduct insurance business in Maryland; administers the Maryland Health Care Provider Rate Stabilization Fund; and collects premium, retaliatory, and surplus lines taxes. These taxes, totaling approximately \$372 million annually, represent one of the largest sources of revenue to the State.

## **Life and Health Section**

The Life and Health Section oversees insurance contracts written by insurers, HMOs, nonprofit health service plans, and dental plan organizations and investigates health insurance and life insurance complaints. This section also approves applications for PRAs and HMO medical director certification. The section consists of four units: Rate and Form Review, Complaints, Appeals and Grievances, and Medical Director/Private Review Agent Oversight.



## **Property and Casualty Unit**

The Property and Casualty Unit, along with support from the Financial and Enforcement Unit, oversees the regulation of all insurance companies that sell property, casualty, surety, mortgage guaranty, or title insurance. The unit comprises two sections: Rates and Forms and Complaint Investigation. The Rates and Forms Section reviews all policy forms, endorsements, rates, rating plans, rating rules, and amendments to these items, while the Property and Casualty Complaint Section investigates automobile, homeowner, commercial insurance, and other complaints regarding property and casualty insurance policies.

## **Producer Licensing Section**

The Producer Licensing Section issues licenses to qualified resident and nonresident producers, including corporations, partnerships, and limited liability companies. In addition, licenses are issued to public adjusters, insurance advisers, bail bondsmen, title insurance producers, motor vehicle rental companies, motor club representatives, surplus lines producers, and TPAs. The section also issues Letters of Certification or Clearance for Maryland resident producers applying for licenses in other states and processes renewals of all licenses.

## **MIA's Regulatory Activity Is Broad in Scope**

For many regulatory commissions or boards, licensing involves the issuance and renewal of a single or small number of occupational licenses or certificates. Because the insurance industry is regulated at a level similar to that of public utilities or banking, the licensing function of MIA has a much broader scope. It begins with the companies that offer insurance products but encompasses all other aspects of insurance such as sellers, their products, rates, forms, policies, and contracts.

## **Licensure and Certification of Insurance-related Occupations**

Every company offering insurance products for sale in Maryland must have a certificate of authority, which is renewed annually. To receive an original certificate, specified financial and corporation information, in addition to information on company officers and directors, must be provided for review. The Examination and Auditing Section monitors the financial condition of all companies holding certificates through an ongoing financial analysis process and takes action to suspend or revoke the certificate of any company that no longer meets the financial standards to hold a certificate. MIA may also place such an insurer into rehabilitation, receivership, or liquidation. In addition, each insurer domiciled in Maryland (those formed under Maryland law) is examined at least once every five years. These examinations are performed to verify the financial condition of the insurer.

MIA regulates all individuals and entities that provide insurance products and services, including issuing certificates of authority, insurance producer licenses, nonresident producer licenses, public adjuster licenses, medical director certification, PRA certification, and TPA certification. **Exhibit 3** shows primary types of new and renewed licenses and certifications issued in fiscal 2006 through 2009.

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**Exhibit 3**  
**Licensing & Certification Activity for Insurance-related Occupations**  
**Fiscal 2006-2009**

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
<b>Licenses</b>				
Insurance Producer	55,016	61,464	61,807	65,174*
Advisor	99	347	88	374
Public Adjuster	33	161	72	334
Third-party Administrator	94	314	78	331
<b>Certificates</b>				
Medical Director	57	38	56	39
Private Review Agent	56	43	58	49
<b>Certificates of Authority</b>				
HMO	10	10	10	11
Nonprofit	7	7	7	7
Life & Health	456	460	464	466
Dental	10	11	13	13
Property & Casualty	824	851	866	880
Title	22	23	24	24

\*Of the total licensed insurance producers, 46,166 are nonresident producers licensed in Maryland.

Source: Maryland Insurance Administration, Department of Legislative Services

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### **Insurance Producer Licenses**

Any individual or company that sells, solicits, or negotiates insurance contracts (including contract renewals) in Maryland for compensation must have an insurance producer license. In addition, a person in the bail bonds business must have a license for surety insurance. Licenses

are not issued to a person who has been the subject of a disciplinary action by any state unless approved by MIA. Examinations are necessary for some producer licenses, and applicants must be approved by MIA before taking an examination because the applicant must meet certain study or experience requirements. Each examination has a fee of \$70, and an applicant failing an examination must wait 14 days before retaking the examination. Licenses are valid for two years and may be renewed. Before certain licenses can be renewed, the applicant must meet continuing education requirements.

Since October 1, 2009, all resident licensees holding a major line of authority, with the exception of title, must complete 24 hours of continuing education before their license can be renewed. Title producers have a 16-hour requirement. If, prior to October 1, 2008, a resident licensee has been consecutively licensed for 25 or more years, their continuing education requirement is 8 hours. Of the required hours of continuing education for all resident producers per renewal period, at least 3 hours must relate directly to ethics.

As shown in Exhibit 3, producer licensing has increased.

### **Nonresident Licensing Reciprocation**

A nonresident may receive a license for activity in Maryland. A nonresident producer may be exempt from examination if he or she has taken a written examination in the home state and is in good standing in the home state.

### **Advisors**

A person who receives compensation for examining insurance products and giving advice to insurance policyholders must have an advisor license in Maryland. To receive a license, an applicant must pass a written examination and be a member of certain industry organizations or have completed a course of study approved by the Commissioner. A nonresident of the State who is licensed as an insurance advisor in his or her state of residence may also receive a license. The advisor license expires on June 30 and is valid for two years.

### **Public Adjusters**

Persons receiving compensation from an insured for working as an adjuster for first-party claims of loss or damage arising under an insurance contract that insures real or personal property must have a public adjuster license in Maryland. To receive a license, an applicant must pass a written test and have been employed for one year by MIA, an insurer, an adjuster, a producer, or a public adjuster. If an individual fails the examination, the examination cannot be retaken until at least 14 days have passed. A business entity must employ one or more licensed public adjusters to obtain a license. Licenses expire after two years on June 30.

As shown in Exhibit 3, public adjuster licensing has increased.

### **Health Certifications**

Three certifications, all of which are renewed on a biennial basis, are specific to the health area: medical director, PRA, and TPA. A medical director certificate is needed for a physician employed or under contract with an HMO and responsible for:

- establishing and maintaining policies and procedures for quality assurance and utilization management;
- compliance with the HMO's quality assurance and utilization management policies and procedures; and
- oversight of utilization review decisions by PRAs employed by or under contract with the HMO.

If any of these functions is delegated to an associate medical director or assistant medical director, that individual must have a medical director certificate.

A PRA is an individual or firm that conducts utilization review. Utilization review is a system for reviewing the allocation of health services given (or proposed to be given) to a patient or group of patients. A TPA works between the insurer and the insured to pay claims and manage the health care program. TPA licenses are issued to businesses and not to individuals.

A schedule of the license fees and any applicable surety or bond requirements for certificates and licenses issues to insurance providers is shown in **Appendix 3**.

### **Motor Club Representatives and Viatical Settlements Brokers**

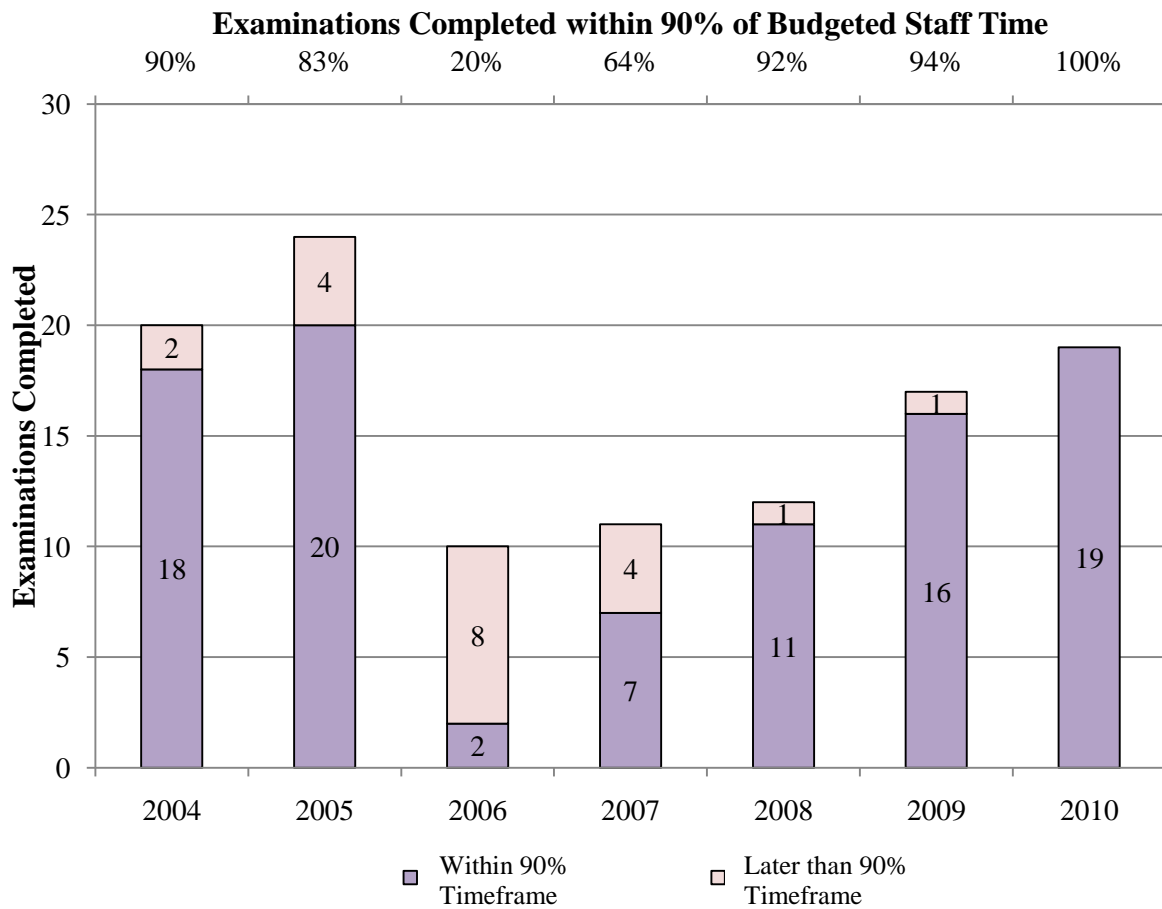
MIA also licenses motor club representatives and registers viatical settlement brokers. Motor clubs can provide emergency road service, bail bonds for certain arrests, certain financing and insurance services, travel information, and towing services. Motor club representative licenses must be renewed annually. A viatical settlement broker or provider facilitates the sale of a life insurance policy from an individual policyholder to an investor at a discount. Under a viatical settlement contract, the policyholder may receive a loan or compensation for the policyholder's use in an amount less than the expected death benefit in return for the policyholder's assignment or transfer of the death benefit to the investor. Viatical settlement broker registration must be renewed biennially.

### **Financial Examinations of Domestic Companies**

MIA is required to conduct financial examinations of domestic insurance companies (those formed under Maryland law) at least once every five years. MIA has conducted financial examinations of all insurers domiciled in Maryland within the statutory timeframe from fiscal 2004 through 2010. In conducting its financial examinations, the administration's goal is to complete 90% of the financial examinations within the amount of staff time budgeted because

timely completion results in earlier detection of insurers exhibiting financial distress. **Exhibit 4** shows the number of financial examinations conducted each year from fiscal 2004 through 2010 and the number of examinations that were conducted within 90% of the staff time budgeted.

**Exhibit 4  
Financial Examinations of Domestic Companies  
Fiscal 2004-2010**



Source: Maryland Insurance Administration

The number of financial examinations conducted in fiscal 2006 through 2008 was low due to a shortage of supervisory staff, which was partially remedied by the use of outside contractors. MIA addressed the staffing issue, and fiscal 2009 and 2010 reflect its improved performance.

## Oversight of Insurance Products – Review and Approval of Insurance Rates

In addition to determining which companies may offer insurance and who can advise, sell, or solicit insurance on behalf of consumers, MIA regulates insurance products. Every insurance contract, policy amendment, and form is reviewed to ensure that the legal requirements are met. In reviewing insurance policies or contract amendments, MIA staff uses a checklist to ensure that all statutory requirements for that type of policy have been met.

MIA reviews and approves rates for all insurance products, other than life insurance, offered in the State. For health insurance, companies must have the rates approved before they may be charged to the consumer. For most property and casualty insurance, competitive rating is in effect. Rates may be used by companies as soon as they are filed with MIA. The administration may approve or disapprove the rates after they are in use.

**Exhibit 5** shows the rate and form filings for life and health and property and casualty insurance for fiscal 2005 through 2009. Rate and form filings are largely dictated by insurer response to market conditions, including offering new products, making changes to existing products, or adjusting the rates for their products. Statutory changes and additions also result in additional rate and form filings. MIA indicates that, other than legislative changes, it has no way to predict the amount of rate and form filings in a given year.

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<b>Exhibit 5</b>					
<b>Rate and Form Filings</b>					
<b>Fiscal 2005-2009</b>					
	<b><u>FY 2005</u></b>	<b><u>FY 2006</u></b>	<b><u>FY 2007</u></b>	<b><u>FY 2008</u></b>	<b><u>FY 2009</u></b>
<b>Life and Health*</b>					
Rate Filings	1,315	1,712	1,319	1,405	1,123
Form Filings	13,365	12,975	11,805	12,826	14,186
<b>Property and Casualty</b>					
Rate Filings	2,872	2,680	2,293	2,313	2,148
Form Filings	17,356	15,534	20,538	21,224	29,662

\*Rate filings for renewals are reviewed by the Office of the Actuary; rate filings for new products are reviewed by the Life and Health Section.

Source: Maryland Insurance Administration

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## Complaint Activity

MIA is the point of contact for complaints related to both life and health and property and casualty insurance. It investigates both consumer complaints and complaints from firms or individuals related to agents, firms, or insurance fraud. For life and health complaints, if MIA determines in its initial review that a complaint involves a quality-of-care issue for an HMO, the complaint is sent to DHMH for resolution. In addition to taking action on individual complaints, if a business habit or practice of an insurer is discovered during the complaint investigation, the matter is referred to the Market Conduct Unit of the Compliance and Enforcement Section where it is investigated and may lead to a market conduct examination. If the complaint involves a self-insurer or is not within MIA's scope of authority, the complainant is notified and the complaint case closed. Complaints by consumers must be filed in writing. This may be done via MIA's website, through a form available at MIA's office (which may also be requested by telephone), or by writing a letter containing information specific to the complaint.

### Complaint Volume Decreases – Primarily Auto Insurance-related

**Exhibit 6** shows the number of complaints for life and health and property and casualty insurance for fiscal 2005 through 2010. Complaints related to property and casualty insurance decreased by 50% between fiscal 2005 and 2009. The majority of the decrease occurred in auto insurance protest complaints, which dropped from 11,044 in fiscal 2005 to 5,356 in fiscal 2009. MIA advises that auto protest complaints decreased nationwide during this period for unknown reasons. Life and health insurance complaints fluctuated during this period with a high of 4,617 complaints in fiscal 2008 and a low of 3,986 in fiscal 2006. Overall, the volume of complaints is below the volume experienced a decade earlier.

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**Exhibit 6**  
**Complaints Received**  
**Fiscal 2005-2010**

	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>
<b>Life and Health</b>	4,500	3,986	4,120	4,617	4,091	4,380
<b>Property and Casualty</b>	14,999	11,477	9,373	7,624	7,492	–

Source: Maryland Insurance Administration

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In fiscal 2010, MIA resolved over 94% of health medical necessity complaints within 60 days. Its goal for these complaints is to resolve 100% within that timeframe. For health nonmedical necessity complaints, MIA's goal is to resolve 85% of complaints within 60 days, and it resolved nearly 94% of these claims within that timeframe in fiscal 2010. For property and

casualty complaints, MIA resolved 83% of the complaints received in fiscal 2010 within 90 days, which is short of its goal of resolving 95% of the claims within this timeframe.

### **Two Levels of Appeals and Grievances for Denied Medical Coverage**

Effective January 1, 1999, every health insurer, including HMOs, must have an internal appeals and grievance process to address consumer complaints concerning denials of items or services on the basis that the item or service is not medically necessary. After a consumer has completed the internal appeals and grievance process of his or her health insurer, the consumer can file an appeals and grievance complaint with MIA. There are statutory time limits for MIA to complete action on these complaints – generally in 30 days. If services have already been provided, the administration has 45 days to complete action. For emergencies, the administration must resolve the complaint within 24 hours. The number of appeals and grievance complaints for 2009 by outcome of the complaint is shown in **Exhibit 7**. As noted above, in fiscal 2010 MIA resolved over 94% of these complaints within the 60-day statutory timeframe.

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**Exhibit 7**  
**Health Insurance Appeals and Grievance Complaints by Outcome**  
**Calendar 2009**

Carrier Denial Upheld	192
Carrier Denial Reversed	14
Carrier Denial Modified	7
Carrier Reversed Itself	214
Complaint Referred to Health Education Advocacy Unit (because insurer's internal process was not exhausted)	93
No Jurisdiction	268
Complaint Withdrawn	11
Insufficient Information	45
Other	81
<b>Total Complaints</b>	<b>925</b>

Source: Maryland Insurance Administration

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## Producer Complaint Investigations Handled Timely

MIA also handles complaints about agents and insurance agencies, which can originate with individual consumers or insurance companies. Generally this type of complaint is not about a policy issue, but rather centers on agent behavior involving the consumer or the consumer's or firm's money. Possible outcomes of an investigation include license revocation or suspension. **Exhibit 8** shows the number of producer investigations for fiscal 2005 through 2009 and the number of license revocations and suspensions.

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### Exhibit 8 Producer Enforcement Investigations Fiscal 2005-2009

	Fiscal Years				
	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Producer Enforcement Cases Opened	573	520	449	809	981
Producer Enforcement Cases Closed	499	508	401	525	621
Producer License Revocations	20	21	21	42	25
Producer License Suspensions	6	3	0	1	2

Source: Maryland Insurance Administration

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MIA strives to complete 75% of cases initiated each year. In fiscal 2009, due to understaffing, it completed only 73% of cases opened. In fiscal 2010, however, additional staffing was added, and MIA closed all cases opened during the year and eliminated the backlog from the previous year.

## Absence of Good Faith Claims Following 2007 Legislation

In 2007, legislation was enacted that requires the Insurance Commissioner to conduct an on-the-record review of complaints from policyholders alleging that an insurer failed to act in good faith when improperly denying coverage or failing to pay the full value of a first-party property and casualty claim. There was some concern expressed by the regulated community that the legislation would result in numerous claims being filed. However, MIA has not been subjected to an overwhelming volume of complaints. In fiscal 2008, cases were filed at a rate of 4.4 cases per month. In fiscal 2009, cases were being filed at a rate of 4.3 cases per month. Fifty-two cases were filed in fiscal 2009, 31 of which were reviewed and decided on the merits.

The remaining 21 cases were settled, withdrawn, or dismissed because of lack of jurisdiction. MIA only found that an insurer failed to act in good faith in three cases in fiscal 2009.

MIA indicates that, although the legislation has not generated the number of cases anticipated, it still provides insurance policyholders with valuable consumer protections. The legislation deters insurance companies from making offers below policy limits when damages clearly exceed those limits and also ensures companies carefully and honestly consider all information available in the claims adjustment process.

### **Insurance Fraud Division Effectively Managing Increasing Caseloads**

The Insurance Fraud Division is responsible for the investigation of persons suspected of engaging in insurance fraud and referring suspected cases of insurance fraud to appropriate authorities for criminal prosecution. The division works in cooperation with the Maryland State Police, OAG, and the Offices of the State's Attorneys in all 24 subdivisions within Maryland. In addition, the division operates a toll-free insurance fraud hotline and conducts public outreach and awareness programs on the costs of insurance fraud to the public.

#### **2001 Full Sunset Evaluation Recommendation to Place the Fraud Division with Another State Agency**

One of the recommendations from the 2001 MIA sunset evaluation was that the fraud division should be moved to another agency that is focused on criminal investigation, such as the Maryland State Police or OAG. At the time, division offices were separate from the rest of MIA due to a lack of physical space. The evaluation also questioned whether the activities of the division were functionally different from the regulatory activities of MIA. However, the criminal investigation function of the division would be severely reduced if the division were to be merged into another law enforcement agency. OAG typically limits the cases it accepts for prosecution to those which are prosecutable in circuit court. However, much of the criminal enforcement conducted by the division is done through the State District Court. Additionally, the Maryland State Police does not have the subject matter expertise and resources available to the division by being a part of MIA. Further, the division also has regulatory responsibility concerning insurer antifraud plans.

Office space was also a concern feeding into the recommendation under the 2001 sunset evaluation. Due to limited office space, the division was operating in a separate location. However, when MIA moved into its current offices, space was no longer an issue. The division has all its personnel in MIA offices and even has space for a secure evidence locker.

## Fraud Investigation Duties Cover Broad Subject Areas and High Case Volume

The investigative function of the Insurance Fraud Division is divided into two sections, the Criminal Investigation Section (CIS) – which processes the vast majority of cases and refers them to local State’s Attorneys for prosecution – and the Attorney General Investigation Team (AGIT) – which only handles the most complex and/or sensitive of the cases.

**Exhibit 9** shows the number of fraud complaints over the fiscal 2004 through 2010 period. Beginning in 2009, the division has seen significant annual increases in insurance fraud complaints and tips from consumers. Complaints received by the division nearly doubled, from 1,503 in fiscal 2008 to 2,810 in fiscal 2009 and increased by 23% between fiscal 2009 and 2010. The division attributes this increase to MIA resuming its participation in the National Insurance Crime Bureau’s (NICB) electronic reporting system, which it recently resumed under the current associate commissioner. The division indicates that significant numbers of fraud referrals are made through this system. The dip in complaint activity in fiscal 2007 and 2008 likely resulted from a lack of referrals from nonparticipation in the NICB system, rather than decreases in fraud activity. In fiscal 2010, total referrals continued to increase, topping out at 3,448.

**Exhibit 9**  
**Fraud Complaints**  
**Fiscal 2004-2010**

	<b>Fiscal Years</b>						
	<u><b>2004</b></u>	<u><b>2005</b></u>	<u><b>2006</b></u>	<u><b>2007</b></u>	<u><b>2008</b></u>	<u><b>2009</b></u>	<u><b>2010</b></u>
Complaints Received	2,255	2,257	2,842	1,563	1,503	2,810	3,448
Investigations Opened	556	601	562	366	378	564	678
Individuals Charged	133	143	136	135	161	159	147

Source: Maryland Insurance Administration

In fiscal 2010, the Fraud Division received 3,448 complaints. Fraudulent claims for property loss were the most common type of complaint. **Exhibit 10** shows the number of complaints by type of fraud in fiscal 2010.

These referrals are from a variety of sources, including insurance companies, law enforcement agencies, prosecutors, other divisions of MIA, other State agencies, and citizens. The complaints are reviewed by the associate commissioner in charge of the Fraud Division and by the division’s chief investigator for investigative merit. Many of these complaints are determined not to be criminal in nature and are either declined or are referred elsewhere in MIA, to insurance

companies, or otherwise. In fiscal 2009, 531 of the complaints received were determined by CIS to have investigative merit and led to open division investigations. That number rose in fiscal 2010 to 678 open investigations. Of these, 171 were determined after investigation to have merit for prosecution and were referred to local State's Attorneys for review and prosecution. In the last fiscal year, 53 additional referrals were forwarded to the AGIT section of the division, which accepted 19 for further investigation and possible prosecution.

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**Exhibit 10**  
**Insurance Fraud Complaints by Type**  
**Fiscal 2010**

Agent/Broker Fraud	88
Personal Injury – Auto	739
Personal Injury – Other	227
Health Care Provider Fraud	106
Health Insurance Fraud	43
False Application Fraud	522
Property Claim Fraud – Other	280
Property Claim Fraud – Auto Theft, Etc.	988
Workers' Compensation Fraud – Claimant	162
Insurer Fraud	1
Life Insurance Fraud	27
Adjuster/Employee Fraud	0
Other Fraud	265

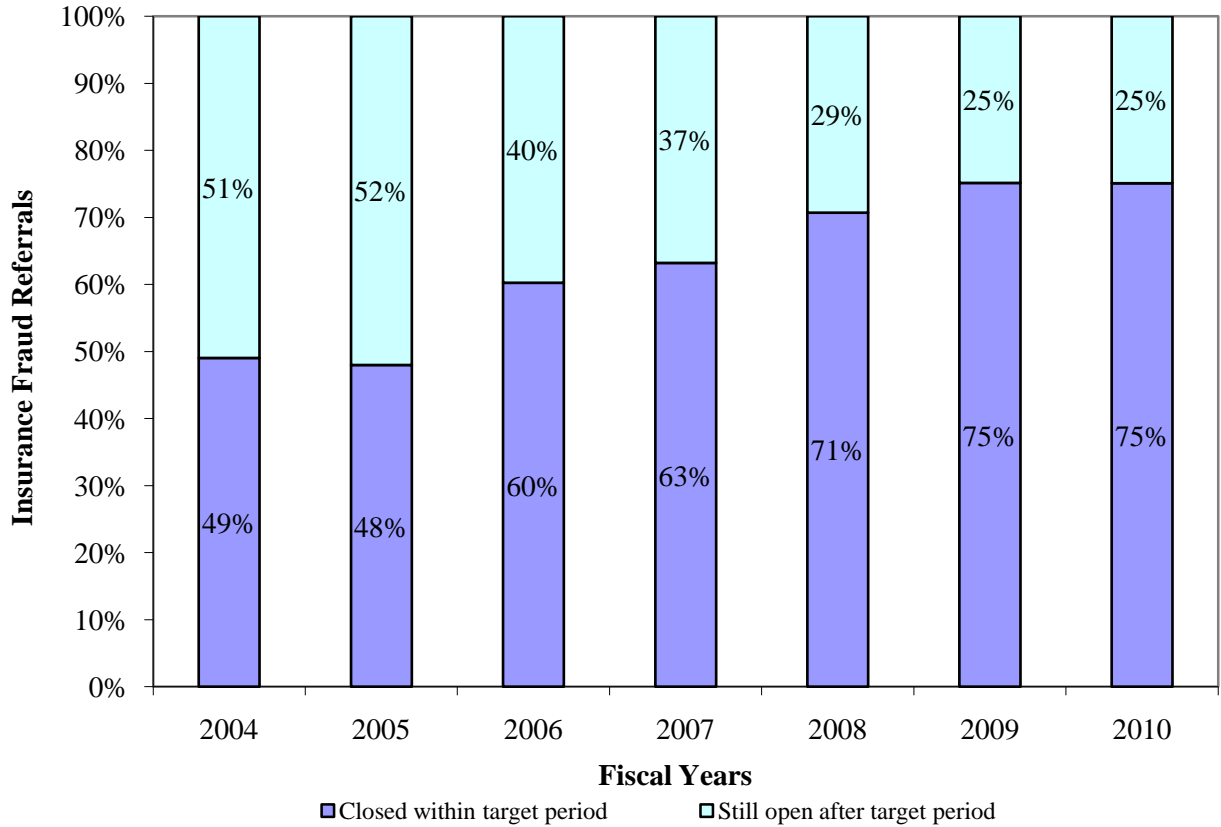
Source: Maryland Insurance Administration

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The number of investigations closed with criminal charges has remained well over 100 for each of the past 10 years. During fiscal 2010, 147 cases were closed with charges.

As shown by **Exhibit 11**, MIA has improved its performance in investigating fraud since fiscal 2004 and met its goal of closing 75% of cases within 180 days in fiscal 2009 and 2010.

**Exhibit 11**  
**Percent of Insurance Fraud Referrals**  
**Closed within 180 Days**  
**Fiscal 2004-2010**



Source: Maryland Insurance Administration

### **Fraud Division Regulatory Activities**

The division is also responsible for the administration of insurance regulations concerning the filing and implementation of antifraud plans by licensed insurers, HMOs, and TPAs to detect, guard against, and report instances of insurance fraud committed within or against their company and the insurance business. The division is tasked with enforcing the statutory provisions mandating that antifraud plans and annual fraud data reports are filed with the Commissioner. Approximately 2,000 entities are obligated to make such filings.

## **MIA Lacks Authority to Impose Civil Penalties**

Maryland law requires the Fraud Division to include in its annual reports the number and percentage of cases that result in the imposition of civil penalties. However, statute does not currently empower the division to seek civil fraud penalties. MIA has stated during the course of this preliminary sunset evaluation that the ability of the administration to seek civil penalties for fraud activities could bolster enforcement efforts, resulting in enhanced consumer and industry protections.

Presently, MIA may only pursue criminal charges in fraud cases. To do so, however, it must refer the case out to OAG or find a local State's Attorney to take the case. OAG has high standards that must be met before it will take and pursue a case referred from MIA. This results in a low percentage of fraud complaints being pursued by OAG. Most of the criminal prosecutions are done through local State's Attorneys. However, MIA has indicated it can sometimes be difficult to find a State's Attorney to prosecute the case depending on the caseload and prosecution priorities of a jurisdiction. If authorized to pursue civil penalties, MIA could prosecute cases that are not accepted by OAG or a local State's Attorney, resulting in more instances of fraud being addressed. MIA indicated that this approach would have two main advantages. First, the fraud division personnel with specialized expertise in insurance fraud would be involved in handling the civil prosecutions. Second, the burden of proof is lower in a civil prosecution, making it easier for MIA to carry out its enforcement activities in these cases. MIA advises it will continue to consider the feasibility and desirability of this approach.

## **Special Funds Support Regulation**

MIA collects fees for various certificates, licenses, and services. The remainder of MIA's funding comes from an assessment on insurers. Statute caps the total assessment at 60% of MIA's budget. Each insurer pays a share based on the number of premiums it writes as a percent of total premiums written, with a minimum charge of \$300 per insurer. The assessment is apportioned by class of insurer as follows: (1) health insurers, 40%; (2) life insurers, 26%; and (3) property and casualty insurers, 34%. Fee and assessment revenue is held in the Insurance Regulation Fund. MIA is required to maintain the fund at 105% of its approved annual budget. If the amount of revenues collected exceeds 105%, the excess amount is carried forward within the fund and reduces the size of the subsequent year's assessment.

## **Revenues Generated Have Covered Expenses**

The fiscal history of MIA for fiscal 2006 through 2011 is shown in **Exhibit 11**. Special fund revenues have been sufficient to cover expenditures and maintain the 5% reserve required by statute. In fiscal 2009 and 2010, funds were transferred from the Insurance Regulation Fund to the general fund as part of the budget balancing efforts. The transfers were made through the Budget Reconciliation and Financing Acts of 2009 and 2010. Exhibit 11 also shows that MIA collects, for the benefit of the general fund, premium taxes, retaliatory taxes, and fines totaling over \$270 million annually.

**Exhibit 11**  
**Fiscal History of the Maryland Insurance Administration**  
**Fiscal 2006-2011**  
**(\$ in Thousands)**

	Fiscal Years					
	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
Premium Taxes	\$274,143	\$282,424	\$300,771	\$274,570	\$266,946	\$273,821
Retaliatory Taxes	27	901	1,016	583	750	750
Fines and Costs	817	750	1,877	3,043	3,000	3,000
Company Licensing Fees	1,733	1,816	1,942	1,595	1,650	1,650
Agent/Broker Licensing Fees	3,821	4,090	4,427	4,831	4,000	4,000
Rate and Form Filing Fees	2,738	2,830	3,251	3,453	3,000	3,000
Financial/Market Conduct Examination Fees	2,412	2,251	2,457	2,868	2,600	2,400
Miscellaneous Fees	43	73	82	74	50	50
Insurance Fraud Prevention Fee	1,331	1,365	1,192	1,452	1,400	1,400
Interest Income	84	125	964	436	400	400
Cash Forward	4,991	4,880	4,313	7,352	5,996	4,057
Health Regulatory Fund	1,361	1,571	1,307	1,712	1,139	1,560
Insurance Regulatory Fund	8,884	9,270	11,247	10,657	10,523	10,671
<b>Total</b>	<b>\$302,385</b>	<b>\$312,346</b>	<b>\$334,846</b>	<b>\$312,626</b>	<b>\$301,454</b>	<b>\$306,759</b>
Premium & Retaliatory Taxes – GF Revenue	\$274,170	\$283,325	\$301,787	\$275,152	\$267,696	\$274,571
Fines and Costs – GF Revenue	817	750	1,877	3,043	3,000	3,000
All Other Revenues – SF Revenue	27,397	28,271	31,182	34,431	30,758	29,188
<b>Total Revenue</b>	<b>\$302,385</b>	<b>\$312,346</b>	<b>\$334,846</b>	<b>\$312,626</b>	<b>\$301,454</b>	<b>\$306,759</b>
Total Expenditures	\$22,585	\$26,722	\$22,585	\$27,146	\$26,701	\$27,829
Surplus/(Deficit) for SF	\$4,813	\$1,549	\$8,598	\$5,680	\$2,056	\$1,359

## Notes:

1. Excludes Rate Stabilization Fund and Maryland Health Insurance Program which are not related to MIA's regulatory duties.
2. Fiscal 2010 and 2011 are estimates.
3. The fiscal 2009 and 2010 balances reflect transfers of \$1.6 and \$2.0 million respectively to the general fund made through the Budget Reconciliation and Finance Acts of 2009 and 2010 to help balance the State budget.

Source: *Maryland Governor's Budget Books, Fiscal 2008 through 2011*

## Staffing Levels Generally Adequate

As seen in **Exhibit 12**, the total number of positions at MIA remained relatively stable between fiscal 2004 and 2010. However, the administration did experience some staffing problems during this period. A shortage of supervisory staff negatively impacted the administration's performance in completing financial examinations on domestic companies within the statutory timeframes in fiscal 2006 and 2007. In fiscal 2006, only 20% of these examinations were completed on time. Performance improved in fiscal 2007 with 64% of examinations completed on time, but this was still significantly lower than the 90% target the administration has set as one of its Managing for Results goals. In fiscal 2009, the administration exceeded its goal, completing 94% of the financial examinations on time. The improved performance was due in part to a greater reliance by the administration on outside contractors to conduct the examinations.

**Exhibit 12**  
**Regular and Contractual Staff**  
**Fiscal 2005-2010**

	Fiscal Years						
	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
<b>Full-time Equivalent</b>							
Regular	288.00	290.00	282.00	280.00	282.00	282.00	282.00
Contractual	5.10	4.50	7.05	6.60	8.70	10.80	8.20
<b>Total</b>	<b>293.10</b>	<b>294.50</b>	<b>289.05</b>	<b>286.60</b>	<b>290.70</b>	<b>292.80</b>	<b>290.20</b>

Source: Maryland Insurance Administration

## Administration Maintains National Accreditation

MIA achieved accredited status by NAIC in September 1994 and has maintained this status since that time. Accreditation is a voluntary program among state regulators that emphasizes the importance of adequate solvency laws and regulations, the use of effective and efficient financial analysis and examination procedures, and appropriate organizational and personnel practices. One of the criteria necessary to become accredited is having adequate staffing and resources to maintain effective regulatory oversight. Maryland-based companies benefit from MIA's accredited status, which allows other states to be confident that MIA's financial and solvency examinations are adequate. Since companies pay the costs of regulatory examinations, limiting such examinations to a single state helps keep these costs low.



## **Recommendations**

MIA is meeting its statutory mandate to ensure the financial viability of insurers. In fiscal 2010, all examinations were completed within 90% of the budgeted staff time. In the previous two years, all but two of the examinations were completed on time.

In regards to complaint handling, MIA achieves or is close to achieving its stated goals. In fiscal 2010, MIA resolved over 94% of health medical necessity complaints within 60 days; its goal for these complaints is to resolve 100% within that timeframe. For health nonmedical necessity complaints, MIA's goal is to resolve 85% of complaints within 60 days, and it resolved nearly 94% of these claims in fiscal 2010. For property and casualty complaints, MIA resolved 83% of the complaints received in fiscal 2010 within 90 days, which is short of its goal of resolving 95% of the claims within this timeframe.

MIA continues to combat insurance fraud, with well over 100 cases referred for prosecution each year for the past decade. Since fiscal 2008 this number has been over 150 per year. In addition, for the past two years MIA has achieved its goal of resolving 75% of fraud complaints within 180 days.

MIA was accredited by NAIC in 1994 and has maintained accreditation since. Accreditation indicates that MIA has the policies and procedures in place, along with the resources, to ensure that Maryland's oversight of the insurance industry is robust. **Consequently, DLS recommends that LPC waive MIA from full evaluation. However, given that significant changes in the area of health insurance are anticipated under federal health care reform, DLS recommends that legislation be enacted to extend the board's evaluation date by 6 years to July 1, 2018, rather than the more standard 10-year extension.**

Federal health care reform is making significant changes in the area of health insurance. Health insurance exchanges are required to be in operation by 2014. At this time, the nature of MIA's involvement in the insurance exchanges is still being determined. However, MIA will undoubtedly continue its insurance regulation duties into the expansion of the health insurance industry and implementation of reform requirements. Accordingly, it is recommended that the next preliminary sunset evaluation occur in 2016, once the exchanges have been operational for a period of time, to identify any issues MIA is experiencing related to federal health care reform.



## **Appendix 1. Legislative Changes Since the 2001 Full Sunset Review – Health**

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### **2002**

Chapter 29 (HB 85): Health Insurance – Small Group Market – Producer Commissions

Chapter 153 (HB 1228): Health Insurance Safety Net Act of 2002

Chapter 154 (HB 1254): Acquisition of a Nonprofit Health Entity – Determination by Regulating Entity

Chapter 247 (HB 754): Health Insurance – Nonrenewal of Individual Health Benefit Plans – Requirements for Carriers with Affiliates

Chapter 284 (HB 1427): Health Insurance – Small Group – Open Enrollment Period

Chapter 382 (HB 692): Health Insurance – Habilitative Services – Modification and Clarification

Chapter 394 (HB 896): Health Insurance – Mental Illness – Coverage for Residential Crisis Services

Chapter 409 (HB 1158): Health Insurance – Continuation Coverage – Voluntary Termination of Employment

Chapter 411 (HB 1192): Health Insurance – Coverage Under Medical Support Notices

### **2003**

Chapter 1 (HB 803): Maryland Health Insurance Plan and Senior Prescription Drug Program – Modifications and Clarifications

Chapter 2 (HB 1100): Health Insurance Coverage Availability Act of 2003

Chapter 41 (HB 498): Health Insurance – Medicare Supplement Contracts – Availability

Chapter 93 (SB 477): Small Business Health Insurance Affordability Act

Chapter 289 (HB 335): Community Access Program Grants – Coordination of Health Care Provider Reimbursements – Pilot Programs

Chapter 338 (HB 894): Health Insurance – Reimbursement for Provider Services – Professional Counselors and Therapists

Chapter 356/357 (SB772/HB 1179): Health Insurance – Nonprofit Health Service Plans – Reform

## **2004**

Chapter 257 (HB 341): Regulation and Acquisition of Nonprofit Health Entities

Chapter 287 (SB 570): Health Insurance – Small Group Market – Limited Health Benefit Plan

Chapter 322 (HB 125): Health Insurance – Medicare Supplement Policies – Individuals Enrolled in the Maryland Health Insurance Plan

Chapter 323 (HB 127): Nonprofit Health Service Plans and Health Maintenance Organizations – Underwriting Standards

Chapter 330 (HB 350): Nonprofit Health Service Plans – Compensation of Officers and Executives – Authority of Insurance Commissioner

Chapter 415 (HB 1361): Health Insurance – Hearings on Appeals and Grievances

Chapter 459 (SB 437): Health Insurance – Required Reimbursement – Podiatrists

Chapter 486 (SB 868): Health Insurance – Treatment of Morbid Obesity

Chapter 510 (HB 667): Maryland Health Insurance Plan – Authority and Composition of Board of Directors – Plan Fund

## **2004 Special Session**

Chapter 5 (HB 2): Maryland Patients' Access to Quality Health Care Act of 2004

## **2005**

Chapter 1 (SB 836): Maryland Patients' Access to Quality Health Care Act of 2004 – Implementation and Corrective Provisions

Chapter 172 (SB 772): Health Insurance – Substance Abuse Treatment – Copayments

Chapter 193 (HB 85): Maryland Medical Assistance Program – Medical Loss Ratio and Quality of Care

Chapter 281/282 (SB 282/HB 324): Maryland Pharmacy Programs – Modifications and Subsidies for Medicare Drug Benefits

Chapter 289 (SB 191): Medicare Supplement Plan A Policies – Individuals With a Disability – Rates

Chapter 316 (SB 521): Health Insurance – High-Deductible Health Plans – Prohibition on Deductible – Exception

Chapter 333 (SB 779): Health Insurance – Human Papillomavirus Screening Test – Coverage

Chapter 347 (SB 1014): Health Insurance – Small Group Market – Self-Employed Individuals

Chapter 375 (HB 458): Health Insurance – Coverage for Psychological and Neuropsychological Testing

## **2006**

Chapter 54 (SB 636): Health Insurance – Credentialing and Recredentialing of Health Care Providers

Chapter 242 (SB 284): Health Insurance – Maryland Health Insurance Plan – Authority

Chapter 259 (SB 491): Health Insurance – Coverage for Home Visits after Mastectomy or Surgical Removal of a Testicle – Repeal of Sunset

Chapter 331 (HB 549): Health Insurance – Private Review Agents – Emergency Inpatient and Residential Crisis Services Admission Determinations

Chapter 345 (HB 702): Maryland Health Insurance Plan – Senior Prescription Drug Assistance Program

Chapter 476 (HB 868): Health Insurance – Participation of Health Care Providers on Provider Panels – Workers' Compensation Services

Chapter 554 (SB 1086): Health Insurance – Contracts of Carriers with Providers, Ambulatory Surgical Facilities, or Hospitals – Prohibited Provisions

Chapter 597 (HB 1003): Health Insurance – Carrier Provider Panels – Participation by Providers

## **2006 Special Session**

None

## **2007**

Chapter 25/26 (SB 269/ HB 788): Health Insurance – Collection of Racial and Ethnic Data

Chapter 141/142 (SB 263/HB 519): Health Insurance – Carrier Provider Panels – Nonphysician Specialists

Chapter 168/169 (SB 601/HB 169): Health Insurance – Health Care Providers – Reimbursement and Charges

Chapter 174/175 (SB 651/HB 372): Medical Malpractice Liability Insurance – Garrett County Memorial Hospital – Subsidy for Family Practitioners Who Also Perform Obstetrical Services

Chapter 243 (HB 579): Health Insurance – Authorization of Additional Products and Small Group Administrative Discounts and Study

Chapter 452 (HB 1082): Managed Care Organizations – Retroactive Denial of Claims and Applicability of State Laws

Chapter 467 (HB 1283): Maryland Health Insurance Plan – Authority

Chapter 508/509 (SB 824/HB 1370): Senior Prescription Drug Assistance Program – Modifications and Sunset Extension

Chapter 591 (HB 157): Health Insurance – Prohibited Discrimination and Rebates – Incentives for Participation in Wellness Programs and Other Exceptions

Chapter 600 (HB 339): Health Insurance – Small Group Market – Health Benefit Plans – Rates

Chapter 609 (HB 487): Nonprofit Health Service Plans – Boards of Directors – Term Limits and Compensation

Chapter 612 (HB 515): Health Insurance – Credentialing Intermediaries and Uniform Credentialing Form

Chapter 629 (HB 847): Discount Medical Plan Organizations and Discount Drug Plan Organizations – Registration and Regulation

Chapter 638 (HB 1033): Health Insurance – Prescription Drugs and Devices – Copayment or Coinsurance

Chapter 639 (HB 1057): Health Insurance – Family Coverage Expansion Act

## **2007 Special Session**

Chapter 7 (SB 6): Working Families and Small Business Health Coverage Act

## **2008**

Chapter 25 (SB 192): Maryland Health Insurance Plan – Application of Insurance Fraud Law

Chapter 70 (HB 395): Health Insurance Carriers – Financial Reporting

Chapter 201/202 (SB 722/HB 419): Pharmacy Benefits Managers – Registration

Chapter 203/204 (SB 723/HB 343): Pharmacy Benefits Managers – Therapeutic Interchanges

Chapter 205/206 (SB 724/HB 120): Pharmacy Benefits Managers – Disclosures

Chapter 259 (HB 238): Maryland Health Insurance Plan – Status, Operation, and Regulation

Chapter 262 (HB 257): Pharmacy Benefits Managers – Contracts with Pharmacies and Pharmacists

Chapter 264 (HB 272): Medical Stop-Loss Insurance

Chapter 279 (HB 580): Pharmacy Benefits Managers – Pharmacy and Therapeutics Committees

Chapter 329 (HB 1522): Maryland Health Care Provider Rate Stabilization Fund – Allocations to and Disbursements from the Medical Assistance Program Account

Chapter 440/441 (SB 701/HB 1100): Insurance Producers – Life and Health Insurance Examinations – Annual Report

Chapter 510 (HB 578): Health Insurance – Coverage for Amino Acid-based Elemental Formula

Chapter 557/558 (SB 906/HB 1492): Senior Prescription Drug Assistance Program – Subsidy for Medicare Part D Coverage Gap and Sunset Extension

Chapter 598 (SB 595): Health Insurance – Carrier Credentialing – Reimbursement of Providers of Health Care Services

Chapter 626/627 (SB 852/HB 872): Health Insurance – Public-Private Health Care Programs

Chapter 631/632 (SB 918/HB 29): Long-Term Care Insurance – Prohibited Acts – Genetic Tests, Genetic Information, or Genetic Services

Chapter 673 (HB 815): Health Insurance – Reimbursement of Health Care Practitioners – Information Provided by Carriers

Chapter 688 (HB 1219): Health Insurance – Health Care Provider Panels – Provider Contracts

## **2009**

Chapter 22 (SB 84): Health Insurance – Medicare Coverage and Continuation Coverage – Provisions That Relate to Federal Laws and Programs

Chapter 66/67 (SB 439/HB 440): Health Insurance – Prompt Pay – Clarifications

Chapter 90 (SB 646): Credentialing of Health Care Providers by Managed Care Organizations, Insurance Carriers, and Hospitals

Chapter 91 (HB 526): Credentialing of Health Care Providers by Managed Care Organizations, Insurance Carriers, and Hospitals

Chapter 103/104 (SB 854/HB 1071): Health Insurance – Definition of Coverage Decisions – Pharmacy Inquiries

Chapter 112/113 (SB 985/HB 456): Health Insurance – Coverage for Off-Label Use of Drugs – Standard Reference Compendia



Chapter 131 (HB 141): Insurance – Insurer Provider Panels – Health Care Providers

Chapter 243/244 (SB 341/HB 579): Prosthetic Parity Act

Chapter 348/349 (SB 1070/HB 1534): Nonprofit Health Service Plans – Hearing and Order – Impact of Law by Another State

Chapter 509 (SB 79): Health Insurance – Reform

Chapter 516/517 (SB 173/HB 41): Health Insurance – Mandated Benefits – Hospitalization and Home Visits Following a Mastectomy

Chapter 549/550 (SB 481/HB 145): Health Insurance – Dental Provider Panels – Provider Contracts

Chapter 577/578 (SB 637/HB 674): Health Insurance – Small Group Market Regulation – Modifications

Chapter 585/586 (SB 661/HB 585): Health Insurance – Use of Physician Rating Systems by Carriers

Chapter 597/598 (SB 716/HB 590): Long-Term Care Insurance – Annuity Contracts and Qualified State Long-Term Care Insurance Partnership

Chapter 653 (HB 32): Health Insurance – Limitations on Preexisting Condition Provisions – Individual Health Benefit Plans

Chapter 654 (HB 39): Health Insurance – Out-of-State Association Contracts – Regulation

Chapter 663 (HB 235): Health Insurance – Out-of-State Association Contracts – Regulation

Chapter 670 (HB 405): Health Insurance – Mandated Benefits – Breast Cancer Screening

Chapter 682/683 (HB 610/SB 638): Health Insurance – Bona Fide Wellness Programs – Incentives

Chapter 689 (HB 706): Electronic Health Records – Regulation and Reimbursement

Chapter 734 (HB 1472): Health Insurance – Senior Prescription Drug Assistance Program – Funding

## **2010**

Chapter 5/6 (SB 855/HB 929): Patient Centered Medical Home Program

Chapter 16 (SB 56): Health Insurance – Medicare Supplement Policies – Repeal of Requirement to Offer Plan I

Chapter 17 (SB 57): Health Insurance – Conformity with Federal Law – Mental Health Benefits, Medical and Surgical Benefits for Mastectomies, and the Federal Patient Protection and Affordable Care Act

Chapter 119 (HB 67): Senior Prescription Drug Assistance Program – Sunset Extension

Chapter 121 (HB 71): Senior Prescription Drug Assistance Program – Training for Insurance Producers

Chapter 166 (HB 1050): Maryland Health Insurance Plan – Plan Options – Governmental Third Party Payers

Chapter 173 (HB 1564): Maryland Health Insurance Plan – Administration of National High Risk Pool Program

Chapter 340/341 (SB 704/HB 1073): Insurance – Coordination of Benefits – Health Insurance and Personal Injury Protection

Chapter 403 (HB 292): Health Insurance – Uniform Consultation Referral Form – Electronic Transmission

Chapter 535/536 (SB 313/HB 878): Health Insurance – Annual Preventive Care

Chapter 537 (SB 314): Health Insurance – Assignment of Benefits and Reimbursement of Nonpreferred Providers

Chapter 595/596 (SB 700/HB 1017): Health Insurance – Child Wellness Benefits

Chapter 598/599 (SB 723/HB 1093): Health Insurance – Clinically Integrated Organizations

Chapter 673 (HB 435): Health Insurance – Reimbursement of Primary Care Providers – Bonus Payments

Chapter 702 (HB 804): Health Insurance – Dental Provider Panels – Provider Contracts

Chapter 703 (HB 814): Health Insurance – Individual Health Benefit Plans – Frequency of Premium Increases

Source: Laws of Maryland

## **Appendix 2. Legislative Changes Since the 2001 Full Sunset Review – Nonhealth**

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### **2002**

Chapter 80 (HB 726): Insurance – Surplus Lines Brokers – Disclosure and Notification Requirements

Chapter 88 (HB 812): Motor Clubs – Required Security – Letters of Credit

Chapter 286 (HB 1456): Insurance – Certificate of Authority – Penalties

Chapter 317 (SB 472): Maryland Insurance Administration – Program Evaluation

Chapter 356 (HB 229): Premium Finance Agreements – Delinquency and Collection Charge – Cancellation Charge

Chapter 452 (SB 158): Maryland Insurance Administration – Subpoenas – Issuance

Chapter 553 (HB 1002): Motor Vehicle Liability Insurance – Premium Increases – Consumer Information

Chapter 580 (HB 521): Property and Casualty Insurance – Use of Credit History

### **2003**

Chapter 35 (HB 200): Insurance – Regulation of Insurance Producers

Chapter 69 (SB 167): Insurance – Premium Finance Agreements

Chapter 82 (SB 333): Individual Deferred Annuities – Minimum Nonforfeiture Amount – Interest Rate on Accumulations

Chapter 106 (SB 601): Life Insurance – Separate Investment Accounts – Asset Holding Requirements

Chapter 119 (HB 114): Insurance – Reinsurance – Ceding Insurers

Chapter 173 (HB 711): Insurance – Offers of Educational or Promotional Materials or Articles of Merchandise

Chapter 193 (HB 1037): Life Insurers – Board of Directors – Investments Practices

Chapter 289 (HB 335): Community Access Program Grants – Coordination of Health Care Provider Reimbursements – Pilot Programs

Chapter 305 (HB 499): Maryland Insurance Administration – Disability Benefits – Adoption of Regulations

Chapter 355 (HB 1153): Insurance – Maryland Property Insurance Availability Act

Chapter 399 (SB 652): Insurers – Assets and Investments – Location

Chapter 400 (SB 658): Life Insurance – Prohibited Use of Terrorism Exclusions

Chapter 439 (HB 641): Motor Vehicle Liability Insurance – Valuation of Motor Vehicles

Chapter 472 (HB 1125): Private Passenger Motor Vehicle Insurance – Underwriting Standards – Statistical Validation

## **2004**

Chapter 49 (HB 533): Insurance – Impaired Insurers

Chapter 91 (SB 101): Private Passenger Motor Vehicle Insurance – Use of Credit History – Repeal of Sunset

Chapter 127 (SB 460): Private Passenger Motor Vehicle Liability Insurance – Coverage for Claims of Family Members

Chapter 162 (HB 231): Life Insurers – Funding Agreements – Priority in Liquidation Proceedings

Chapter 211 (HB 941): Insurance – Premium Financing – Electronic Payment Fee

Chapter 253 (SB 147): Insurance – Regulation of Insurance Producers – Written Documentation of Appointment

Chapter 255 (SB 236): Motor Vehicle Liability Insurance – Personal Injury Protection Coverage – Waiver

Chapter 256 (SB 238): Insurance – Surplus Lines Brokers – Policy and Inspection Fees

Chapter 275 (SB 439): Insurance – Viatical Settlement Providers and Viatical Settlement Brokers

Chapter 289 (SB 584): Insurance Producers – Continuing Education Requirements

Chapter 290/291 (SB 586/HB 15): Insurance – Public Adjusters – Regulation

Chapter 291 (HB 15): Insurance – Public Adjusters – Regulation

Chapter 464 (SB 533): Homeowner’s Insurance – Cancellation

Chapter 553 (HB 1520): Liability Insurance – Minors – Settlement of Claims

Chapter 554 (HB 1529): Property and Casualty Insurance Guaranty Corporation – Definition of “Covered Claim”

## **2005**

Chapter 33 (HB 160): Insurance Producers – Continuing Education Requirements

Chapter 38 (HB 217): Insurance – Property and Casualty – Filing Fees

Chapter 117 (SB 97): Motor Vehicle Liability Insurance – Hearings on Proposed Actions by Insurers – Attorney Fees

Chapter 289 (SB 191): Medicare Supplement Plan A Policies – Individuals With a Disability – Rates

Chapter 369 (HB 348): Insurance – Fraud Reporting and Prevention – Expansion

Chapter 424 (HB 1248): Private Passenger Motor Vehicle Insurance and Homeowner’s Insurance – Underwriting Standards and Requirements – Active Duty Military Personnel Returning from Overseas

Chapter 498 (SB 662): Insurance – Individual Deferred Annuities – Minimum Nonforfeiture Amounts

Chapter 568 (HB 666): Insurance – Delinquency Proceedings Against Insolvent Insurers – Financial Contracts

Chapter 611 (HB 1570): Industry Automobile Insurance Association – Board of Directors – Composition

## 2006

Chapter 43 (SB 158): Private Review Agents – Treatment Plan Form – Form Mandated by Another State

Chapter 79 (HB 165): Insurance – Examination Reports

Chapter 83 (HB 246): Insurance – Temporary Insurance Producer Licenses – Specified Types of Insurance

Chapter 182 (HB 597): Insurance – Prohibited Acts – Inducements to Financing an Insurance Contract

Chapter 194 (HB 861): Insurance – Regulation of Premium Finance Companies

Chapter 146 (SB 689): Insurance – Viatical Settlements

Chapter 349 (HB 739): Insurance – Improper Premiums and Charges – Bail Bonds – Penalty

Chapter 350 (HB 760): Insurance – Private Passenger Motor Vehicle Liability Insurance – Cancellations, Failures to Renew, Reductions in Coverage, and Premium Increases

Chapter 388 (HB 1261): Homeowner's Insurance – Summary of Coverage, Notice Regarding Flood Insurance, and Statement of Additional Optional Coverage

Chapter 393 (HB 285): Personal Insurance – Premium – Notice

Chapter 410 (HB 1600): Insurance – Automobile Insurance and Prosecution of Automobile Theft

Chapter 514 (SB 251): Insurance – Loans and Advances Made to Stock Insurers and Mutual Insurers

Chapter 516 (SB 300): Life Insurance – Insurable Interests – Trustees, Partnerships, Limited Partnerships, and Limited Liability Companies

Chapter 564 (HB 245): Insurance – Prior Approval Rating Law – Exempt Commercial Policyholders

Chapter 580 (HB 570): Insurance – Notice – Cancellation, Nonrenewal, and Premiums

Chapter 581 (HB 583): Surplus Lines Insurance – Compliance with Filing Requirement – Electronic Transmission

Chapter 586 (HB 833): Surety Insurance – Failure to Pay Bail Bond Judgment – Penalties

Chapter 620 (HB 1460): Title Insurers and Title Insurance Producers

## **2006 Special Session**

None

## **2007**

Chapter 22 (SB 236): Life Insurance – Investment Accounts

Chapter 23 (HB 248): Life Insurance – Investment Accounts

Chapter 88 (HB 1187): Motor Vehicle Liability Insurance – Exclusion of Named Driver

Chapter 109 (HB 1425): Insurance Producers – Use of Trade Name

Chapter 110 (HB 1432): Insurance – Analyses and Examination Reports – Use and Sharing of Documents, Materials, and Information

Chapter 131 (SB 156): Insurers – Third Party Claimants – Notice of Payment to Claimant’s Attorney

Chapter 150 (HB 425): Civil Actions – Liability of Insurer – Failure to Act in Good Faith

Chapter 576 (SB 790): Homeowner’s Insurance – Insurance Producers – Notice of Coverage for Flood Loss – Statement of Additional Optional Coverage

Chapter 586 (SB 1022): Group Life Insurance – Additional Insureds – Domestic Partners

Chapter 651 (HB 1409): Insurance – Fraud – Intentional Motor Vehicle Accidents, Creation of Documentation of Motor Vehicle Accidents, and Reports

## **2007 Special Session**

None

## **2008**

Chapter 63 (HB 277): Maryland Insurance Commissioner – Adoption of Regulations Applicable in an Emergency – Required

Chapter 72 (HB 405): Homeowner’s Insurance – Loss from Water and Sewer Backup – Offer of Coverage

Chapter 88 (HB 750): Insurance – Notice of Cancellation of Binders or Policies – Certificate of Mail

Chapter 95 (HB 859): Property and Casualty Insurance Policies – Coverage for Additional Living Expenses

Chapter 117 (HB 1581): Private Passenger Motor Vehicle Insurance, Homeowner’s Insurance, and Personal Insurance – Renewals of Policies – Transfers of Policyholders Between Insurers

Chapter 192 (SB 571): Surety Insurers – Failure to Pay Bail Bond Judgment – Penalties

Chapter 271 (HB 404): Insurance Fraud – Required Disclosure Statements

Chapter 331 (HB 1589): Insurance Producers – Licensing Requirements

Chapter 440 (SB 701): Insurance Producers – Life and Health Insurance Examinations – Annual Report

Chapter 441 (HB 1100): Insurance Producers – Life and Health Insurance Examinations – Annual Report

Chapter 540 (HB 1353): Omnibus Coastal Property Insurance Reform Act

Chapter 692 (HB 1391): Kids First Act

## **2009**

Chapter 9 (SB 8): Insurance – Unfair and Deceptive Practices – Limit on Offer, Promise, or Gift of Valuable Consideration Not Specified in a Contract or Policy

Chapter 23 (SB 85): Insurance – Notice of Cancellation or Nonrenewal – Mailing Address

Chapter 97 (SB 751): Insurance – Slavery Era Insurance Policies – Reporting



Chapter 98/99 (SB 768/HB648): Commercial Insurance and Workers' Compensation Insurance – Renewals of Policies – Transfers of Policyholders Between Insurers

Chapter 131 (HB 141): Insurance – Insurer Provider Panels – Health Care Providers

Chapter 133 (HB 160): Insurance – Fraudulent Acts – Insurance Producers and Adjusters

Chapter 316/317 (SB 792/HB868): Property and Casualty Insurance – Portable Electronics Insurance – Regulation

Chapter 361 (SB 86): Title Insurance Producers – Regulation and Requirements

Chapter 372 (HB 142): Insurance – Antifraud Plans

Chapter 375 (HB 161): Insurance – Company Action Level Events – Property and Casualty Insurers

Chapter 376 (HB 162): Insurance – Notice of Premium Increase for Commercial and Workers' Compensation Insurance

Chapter 378 (HB 164): Automobile Liability and Homeowner's Insurance – Rating, Retiering, and Discounts

Chapter 379 (HB 165): Insurance – Cancellation of Policies – Limitation on Midterm Cancellations

Chapter 500 (SB 277): Vehicle Laws – Speed Monitoring Systems – Statewide Authorization and Use in Highway Work Zones

Chapter 571/572 (SB 616/HB 246): Insurance Producers – Continuing Education – Funeral Directors and Morticians

Chapter 579/580 (SB 645/HB 537): Fraternal Benefit Societies – Exemption for Mutual Aid Associations – Clarification

## **2010**

Chapter 83/84 (SB 547/HB 305): Insurance – Domestic Reinsurers

Chapter 91/92 (SB 647/HB 854): Homeowner's, Farmowner's, and Dwelling Insurance Policies – Claims for Additional Payments

Chapter 119 (HB 67): Senior Prescription Drug Assistance Program – Sunset Extension

Chapter 120 (HB 69): Insurance – Insurers – Audits, Investments, and Operations

Chapter 121 (HB 71): Senior Prescription Drug Assistance Program – Training for Insurance Producers

Chapter 340/341 (SB 704/HB 1073): Insurance – Coordination of Benefits – Health Insurance and Personal Injury Protection

Chapter 414 (HB 423): Life and Health Insurance Guaranty Corporation – Maximum Liability

Chapter 604/605 (SB 774/HB 882): Insurance Producers – Use of Senior or Retiree Credential or Designation

Chapter 634 (SB 900): Title Insurers – Required Reserves, Capital Stock, and Surplus

Chapter 663 (HB 249): Insurance – Premium Increase for Commercial and Workers' Compensation Insurance – Notice

Chapter 740 (HB 1470): Title Insurance – Title Insurers and Title Insurance Producers – Regulation and Reports

Source: Laws of Maryland

## Appendix 3. Schedule of Fees for Certificates and Licenses

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<b><u>Certificates of Authority</u></b>	<b><u>Fee</u></b>	<b><u>Surety/Bond Requirement</u></b>
Application fee	\$1,000	
Initial certificate of authority	\$200	
Renewal – foreign/domestic insurers with their home or executive office in Maryland	\$500	
Renewal – domestic insurers with their home or executive office outside of Maryland, except for those outside the State before January 1, 1929	\$2,500 to \$11,000	based on premiums written in the prior calendar year
Reinstatement of certificate of authority	\$500	
 <b><u>Certificates of Qualification</u></b>		
Application fee	\$25	
<b>Insurance Producer</b>		
Initial	\$54	
Renewal (\$15 of which is a fraud fee)	\$69	
<b>Managing General Agent</b>		
Initial	\$30	
Annual Renewal	\$30	
<b>Surplus Lines Broker</b>		
Initial within 1 year of renewal	\$100	Resident applicants must include an original \$10,000 surety bond (nonresidents are not required to submit a bond)
Initial over 1 year from renewal	\$100	
Biennial renewal	\$200	
<b>Medical Director</b>		
Initial and biennial renewal	\$100	
<b>Private Review Agent</b>		
Initial and biennial renewal	\$1,500	
<b>Third-party Administrator</b>		
Initial application fee	\$250	
Renewal	\$50	
Reinstatement	\$100	

**Licenses****Motor Club**

Original filing fee	\$200	\$15,000 to \$100,000 surety bond,
Annual Renewal	\$100	Depending on membership fees

**Public Adjuster**

Initial within 1 year of renewal	\$25
Initial over 1 year from renewal	\$50
Biennial renewal	\$50

**Advisor**

Initial within 1 year of renewal	\$100	\$1,000 surety bond
Initial over 1 year from renewal	\$200	
Biennial renewal	\$200	

**Insurance Vending Machine**

Each machine, every second year	\$50
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**Viatical Settlement Broker**

Initial	\$250
Renewal	\$50

**Viatical Settlement Provider**

Initial	\$1,000
Renewal	\$50

**Registration Certificate****Motor Club Representative**

Initial	\$5
Renewal	\$2

Source: Laws of Maryland

## **Appendix 4. Written Comments of the Insurance Commissioner**

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MARTIN O'MALLEY  
Governor

ANTHONY G. BROWN  
Lt. Governor



BETH SAMMIS, Ph.D.  
Acting Commissioner

KAREN STAKEM HORNIG  
Deputy Commissioner

**INSURANCE  
ADMINISTRATION**

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1-800-492-6116 TTY: 1-800-735-2258  
[www.mdinsurance.state.md.us](http://www.mdinsurance.state.md.us)

December 2, 2010

Jennifer B. Chasse  
Senior Policy Analyst  
Department of Legislative Services  
90 State Circle  
Annapolis, MD 21401

Dear Ms. Chasse:

Thank you for the opportunity to review the draft copy of the "Preliminary Evaluation of the Maryland Insurance Administration." The draft has been reviewed by the appropriate staff. Our suggested changes are noted on the attached document. The Maryland Insurance Administration agrees with the report's recommendation to waive the MIA from full evaluation and extend the sunset date by six years to July 1, 2018.

We have noted our corrections on the attached document. We are hopeful you will accept these changes.

I look forward to continuing to work with you.

Sincerely,

A handwritten signature in cursive script that reads "Beth Sammis".

Beth Sammis, Ph.D.  
Acting Insurance Commissioner

BS:tlw  
Attachment