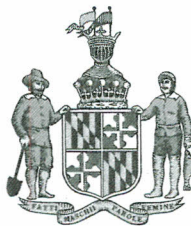


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STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

WRITER'S DIRECT DIAL No.
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December 31, 2015

The Honorable Thomas V. Mike Miller
President of the Senate of Maryland
State House
Annapolis, Maryland 21401

The Honorable Michael E. Busch
Speaker of the House of Delegates
State House
Annapolis, Maryland 21401

Re: Annual Report of the People's Insurance Counsel Division – Fiscal Year 2015

Dear Mr. President, Mr. Speaker and Ladies and Gentlemen of the General Assembly:

In accordance with Maryland Annotated Code, State Government Section 6-308, the People's Insurance Counsel Division of the Office of the Attorney General is submitting its Annual Report for Fiscal Year 2015. Five (5) copies have been transmitted to the Department of Legislative Services.

Yours truly,

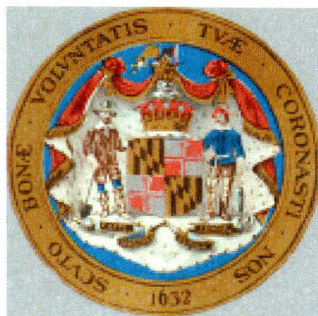
A handwritten signature in black ink, appearing to read "Peter K. Killough".

Peter K. Killough
Counsel
People's Insurance Counsel Division

Attachment

✓cc: Sarah Albert (5 copies), MLIS





**State of Maryland
OFFICE OF THE ATTORNEY GENERAL**

ANNUAL REPORT OF THE PEOPLE'S INSURANCE COUNSEL DIVISION

Fiscal Year 2015

Submitted to the Governor and General Assembly

I. INTRODUCTION

The People's Insurance Counsel Division in the Office of the Attorney General (hereinafter referred to as the "Division") submits this annual report as required by the Maryland General Assembly.¹ On or before the First of January of each year, the Division reports on its activities for the prior fiscal year. This report covers the time period from July 1, 2014 through June 30, 2015.

A. Statutory Basis and Funding

The Division was created in 2005 with the enactment of the Maryland Patients' Access to Quality Health Care Act of 2004 (hereinafter referred to as "Act").² The provisions of the Act relating to the Division have been codified in Md. Code Ann., State Government Section 6-301 through 6-308.

Funding of the Division is provided through a People's Insurance Counsel Fund consisting of funds collected by the Maryland Insurance Commissioner (hereinafter referred to as the "Commissioner") through an annual assessment from each medical professional liability insurer and homeowners' insurer issuing policies in the State. The purpose of the Fund is to pay the costs and expenses of the Division in carrying out its duties.³

B. Statutory Duties

The duties of the Division include evaluation of each medical professional liability insurance and homeowners' insurance matter pending before the Commissioner to determine whether the interests of insurance consumers are affected.⁴ The Division has explicit statutory authority to conduct investigations and request the Commissioner to initiate an action or proceeding to protect the interests of insurance consumers. If the Division determines that a rate increase is adverse to the interests of consumers, its representative shall appear before the Commissioner at any hearing on the rate filing. At any time, the Division may conduct

¹ Md. Code Ann., State Government § 6-308.

² The Act was introduced as an emergency measure as House Bill 2 in a 2004 Special Session of the Maryland General Assembly convened on December 28, 2004. The Bill passed and was enacted in 2005 over the Governor's veto with an effective date of January 11, 2005. The Act was amended in 2005, effective March 31, 2005, by another emergency measure, House Bill 836.

³ Md. Code Ann., State Government §§ 6-304 and 6-305. Because the duties of the Division only involve two types of insurance, homeowners insurance and medical professional liability insurance, the insurers who are assessed for the Fund are limited to the insurers issuing those types of policies in Maryland.

⁴ Md. Code Ann., State Government § 6-306(a). The Act defines insurance consumers as those insured under homeowners policies or medical professional liability insurance policies.

investigations and request the Commissioner to initiate an action or proceeding to protect the interests of insurance consumers.⁵

In any appearance before the Commissioner or the courts, the Division has the rights of counsel for a party to the proceeding, including summoning witnesses, cross-examination of witnesses, presenting evidence and argument.⁶ The Division may also take depositions in proceedings before the Commissioner and in proceedings in court, in accordance with applicable law and procedure.

The Division “shall have full access to the Commissioner’s records,” including rate filings, and shall have the benefit of all other information of the Commissioner.⁷ The Division is entitled to the assistance of the Commissioner’s staff provided that the assistance is consistent with the staff’s responsibilities and with the respective interests of the staff and the Division.⁸

The Division may recommend legislation on matters that promote the interests of insurance consumers in Maryland.⁹

II. DIVISION STAFF AND BUDGET

In Fiscal Year 2015, the Division was staffed by the People’s Insurance Counsel, Peter K. Killough,¹⁰ an Assistant Attorney General, an analyst/investigator, and a management associate.

Three actuarial firms provided consulting services to the Division reviewing rates and other documents that were filed by insurers issuing policies in Maryland. The following consultants were selected for their expertise in property and casualty rate filings: American Actuarial Consulting Group, LLC, Kufera Consulting, Inc. and Madison Consulting Group.

⁵ The Division’s duties are described in Md. Code Ann., State Government § 6-306.

⁶ Md. Code Ann., State Government § 6-307.

⁷ Md. Code Ann., State Government § 6-307(c). The Division’s access to information is only limited by applicable statutes in the Insurance Article and the Maryland Public Information Act, State Government Article, §§ 10-611 to 10-630.

⁸ Md. Code Ann., State Government § 6-307 (c)(2).

⁹ Md. Code Ann., State Government § 6-307(d).

¹⁰ Mr. Killough was appointed by Attorney General Douglas F. Gansler and the appointment was confirmed by the Senate on February 16, 2009, as required by Md. Code Ann., State Government § 6-302(a)(2).

III. DIVISION RESPONSIBILITIES

The Division concentrates its efforts in four areas:¹¹

- Review of consumer complaints filed with the Maryland Insurance Administration (hereinafter “MIA”) relating to homeowners insurance and medical professional liability insurance;
- Review of rate, rule and form filings in those two lines of insurance;¹²
- Review of proposed legislation and participation in the legislative process, as required, to represent consumer interests; and
- Review of “lack of good faith complaints” under Insurance Article Section 27-1001.¹³

A. Division Review of Complaint Determination Letters

After a consumer has initiated a complaint with the MIA regarding the action of an insurance company, the MIA conducts an investigation and issues a determination letter to the complainant and insurer at the completion of its investigation. The Division reviews all complaint determination letters to identify new issues and to assess the existence of patterns of insurer conduct contrary to the insurance laws. The complaints primarily relate to the cancellation or non-renewal of coverage, increase in premiums, modification of coverage, claim denial or claim settlements.

It has become the practice of the Division to issue its own explanatory letter and printed materials to the majority of individuals who have received an MIA determination letter.¹⁴ The Division’s letter explains that a staff member is available to discuss a consumer’s right to an administrative hearing and explains applicable statutory and regulatory frameworks for hearings. Through calls from consumers who have received the Division’s letter, the Division obtains

¹¹ The Division has interpreted its statutory authority to include the review of any matter before MIA that impacts homeowners and medical professional liability policyholders. This decision derives from the Division’s broad mandate to review “each medical professional liability insurance and homeowners insurance matter pending before the Commissioner.” Md. Code Ann., State Government § 6-306(a). Rate filings are reviewed pursuant to a specific mandate to “review any rate increase of 10% or more filed with the Commissioner by a medical professional liability insurer or homeowners insurer.” Md. Code Ann., State Government § 6-306(a).

¹² In this Report, references to “Rate Filings” shall mean all filings made under Insurance Article, Title 11, including new and revised rates, rating rules, policy forms and supplementary rate information.

¹³ Md. Code Ann., Ins. Art. § 27-1001, Effective October 1, 2007.

¹⁴ Division letters are not sent to individuals whose complaints have been resolved in their favor, who have withdrawn their complaints, or who have replaced their coverage resulting in an MIA letter stating that the issue is rendered moot and no remedy is available.

additional information about company practices beyond the information detailed in the determination letters themselves. The Division's review of the determination letters has provided an opportunity to understand the procedures and policies of insurers in making underwriting and claim decisions that, at times, appear to adversely affect consumers generally. The Division routinely advises consumers that it does not provide legal representation for individuals in their disputes with insurers, although the Division attorneys will give guidance to consumers about the administrative hearing process.

As in the past fiscal year, the Division has found that there are significantly more homeowners' insurance complaints than medical professional liability insurance related complaints. Most homeowners' insurance complaints involve either consumer dissatisfaction with the handling or payment of a claim or with the action taken by an insurer to cancel insurance coverage or decline to renew coverage.

The Division reviewed 409 homeowners' insurance complaint determination letters issued by MIA between July 1, 2014 and June 30, 2015. (*See Appendix A*). Of the 409 complaint matters, MIA found one insurance company violation of the insurance laws. In addition to reviewing complaint determination letters, the Division received and reviewed 34 Final Orders that were issued by the MIA following hearings held during fiscal year 2015. Among these Orders, one was found in favor of the Complainant and one was dismissed because the matter was resolved.

Each year, the Division investigates consumer complaint matters that appear to involve insurance law violations. Most matters are addressed informally through discussions with the MIA, the insurer and the consumer.

B. Division Review of Rate Filings

Insurance companies issuing homeowners' policies in Maryland are required by Title 11 of the Insurance Article to file with the Commissioner all rates, supplementary rate information, policy forms, endorsements and modifications of any of these documents.¹⁵ Homeowners' insurance is subject to the competitive ratings laws. Insurers are allowed to use the filed rates without obtaining the prior approval of the Commissioner.¹⁶ All policy forms must be approved by the Commissioner before use in Maryland.¹⁷

¹⁵ Md. Code Ann., Ins. Art. § 11-206.

¹⁶ Md. Code Ann., Ins. Art. § 11-307.

¹⁷ The General Assembly enacted a statute, effective October 1, 2011, that provides that homeowners' insurance companies may not cancel, refuse to underwrite or renew, refuse to issue a policy, or refuse to pay a claim under a homeowner's policy to a co-insured "victim" of a crime of violence. *See* Md. Code Ann., Ins. Art. § 27-504.1.

Insurance companies issuing medical professional liability insurance policies in Maryland are required by statute to obtain the approval of the Commissioner before using rates, rules, policy forms and any modifications of such documents.¹⁸ These filings may not take effect until 30 working days after filing with the Commissioner.¹⁹

The Division reviewed a total of 519 insurance filings for FY 2015 (*See* Appendix B). The Division expressed concern about several filings to the MIA who, in response, either rejected the filing or persuaded the company to withdraw or modify the filing. Accordingly, The Division did not initiate any hearings in FY 2015 on these filings. Eight of these filings, however, remain unresolved and may result in a hearing request.

1. Homeowners Insurance

The Division reviewed 281 homeowners filings made with the MIA during the fiscal year. (*See* Appendix B) These filings included rate increases and decreases, new rating rules, rule changes, new policy forms, and revisions to policy forms. Typically, the effect of a rate, rule or form change on consumers is not easily ascertained without in-depth analysis of the filing. The services of three actuarial consulting firms, each under contract with the Division, are used to analyze each filing that included actuarial data. In most instances, the Division's consultants determined that filings did not include adequate supporting actuarial data and the Division's consultants generated questions on the filed documents and made requests for additional supporting information. Following review and approval by the Division, these questions and requests were forwarded to the filing insurer. The Division, through its consultants, advised the MIA of inquiries being forwarded to the insurers. With a few exceptions, the Division consultants received satisfactory responses from the insurers' actuaries. In several cases, however, the insurers' responses were unsatisfactory, and the Division notified the MIA of its concerns, and all were resolved with MIA's intervention.

Availability of Homeowners Insurance in Coastal and Bay Areas

The Division continues to monitor filings that adversely affect the availability of homeowners insurance in Maryland's coastal and bay areas. As a result of the Commissioner's approval of Allstate's 2007 filing that allowed Allstate to no-write in a vast area of Maryland (which included all or part of eleven counties) and which the Division challenged in the Court of Appeals,²⁰ however, it is easier for insurance companies to satisfy the requirements of the Insurance Article when restricting insurance in coastal Maryland due to the threat of catastrophic losses stemming from a hurricane. During the 2015 legislative session a bill was introduced that

¹⁸ Md. Code Ann., Ins. Art. § 11-206(a).

¹⁹ Md. Code Ann. Ins. Art. § 11-206(g).

²⁰ *See People's Insurance Counsel Division v. Allstate Insurance Co.*, 424 Md. 443 (2012).

would have repealed the requirement that insurance companies obtain Commissioner approval before adopting underwriting standards that require a deductible that exceeds 5% of the “Coverage A – Dwelling Limit” of the policy in the case of a hurricane or other storm. The Division opposed the bill and the bill received an unfavorable report. The Division believes there is a high likelihood that a similar bill may be introduced in an upcoming legislative session and is prepared to advocate on behalf of insurance consumers to maintain this important protection.

Significant Rate and Rule Filings

Predictive Modeling

In FY 2015, a large number of insurers began using non-catastrophe predictive models to set homeowners rates. Based on research done by the Division, it appears predictive modeling has experienced a nationwide surge in popularity due to the rise of “big data.” The increased availability of large datasets, cheap data storage capacity and computers capable of quickly processing large amounts of data make it feasible to apply these predictive models in an attempt to gain new insights and potentially reap competitive advantages. The data used in these models and the manner in which the output is obtained is difficult for the Division to evaluate because this information is not included in the filing made by the insurers. The Division has seen correspondence from MIA’s actuaries experiencing similar difficulties.

It is the Division’s view that these models fall under the purview of Section 19-211(a) of the Insurance Article which states that an insurer shall make arrangements for the vendor of a model to explain to the Commissioner and the Division the data used in the model and the manner in which the output is obtained if it uses that model to set insurance rates. The Division is in discussions with MIA to determine the best way to ensure these filings are adequately reviewed and the interests of Maryland homeowners are protected.

Use of Auto Driving History

Allstate Insurance Group (“Allstate”) has made two²¹ filings that use auto driving history in setting homeowners premiums. The Division believes that the use of auto history in determining homeowners’ rates is anti-consumer and discriminatory and has notified the MIA of its position. The Division has done significant research on this issue and found that at least two other states have prohibited Allstate from using auto history in setting homeowners’ rates.

2. Medical Professional Liability Insurance

There are significantly fewer medical professional liability insurance filings received each year by MIA as compared to homeowners’ insurance filings. The Division reviewed 238 filings

²¹ SERFF Tracking Numbers: ALSE-128736763 and ESUR-129915149

made by medical professional liability insurers during the fiscal year. The Division's consultants reviewed the medical professional liability filings in the same manner as the homeowners' filings, with requests for additional documentation being sent to insurers with copies to MIA actuaries.

C. Division Review of Section 27-1001 Complaints

In 2007, the General Assembly amended the Insurance Article to provide policyholders, who believe that their insurer has failed to act with good faith, with a procedure for review of the matter. The provisions in Section 27-1001²² and regulations adopted by the Insurance Administration in October 2007²³ require a policyholder to file a complaint with the MIA, with supporting documentation, stating the facts of the matter where the insurer is alleged to have acted without good faith. This procedure is only available to a policyholder. Injured third parties (*e.g.*, a neighbor with damage to their home) may not file under Section 27-1001. After the insurer submits its opposition and supporting documentation, the MIA issues its finding based only on the documents. If the finding is adverse, the policyholder can either appeal the finding by requesting a *de novo* hearing at the Office of Administrative Hearings or file a request for judicial review with the appropriate circuit court. During FY 2015, MIA issued 20 Section 27-1001 decisions involving homeowners' insurance policies. MIA found 3 violations of Section 27-1001.

As an alternative to filing under Section 27-1001, consumers may file a complaint with MIA alleging that an insurer has failed to act in good faith. The list of unfair claim settlement practices in Section 27-303 was amended in 2007 to add "fail to act in good faith."²⁴ Like Section 27-1001, an insurer can be found in violation of failing to act in good faith when the consumer who makes the allegation is the policyholder of that insurer (first party claims). An insurer cannot be held in violation of the law for failing to act in good faith if the person who suffered a loss and filed a claim (a third party claim) is not the policyholder of the insurer. Based on the Division's review of the FY 2015 complaint determination letters issued by MIA, a small number of consumers have specifically alleged a failure to act in good faith.

D. 2015 Legislative Session

On January 29, 2015, at the request of the House Economic Matters Committee, the People's Insurance Counsel, Peter Killough, introduce himself to the new members of the Committee and discussed the Division's responsibilities. Much of the Division's legislative activity takes place before the House Economic Matters Committee.

²² Md. Code Ann., Ins. Art. § 27-1001.

²³ COMAR 31.08.11.

²⁴ Md. Code Ann., Ins. Art. § 27-303(9). The full provision states: (9) fail to act in good faith, as defined in 27-1001 of this title, in settling a first-party claim under a policy of property and casualty insurance."

During the 2015 Legislative Session the Division provided testimony or monitored the following bills:

House Bill 107 - Medical Professional Liability Insurance for Nonprofit Health Care Providers MC 4-15

The Division monitored HB 107, which would have required counties to provide medical professional liability insurance for specified nonprofit health care providers in the amount of \$200,000 per occurrence or claim, and \$500,000 per total claims that arise from the same occurrence. An unfavorable report was issued by the House Economic Matters Committee after the first reading and the bill was withdrawn by the sponsor.

House Bill 684 - Underwriting Standards - Deductibles

The Division opposed HB 684, which would have amended Insurance Article Section 19-209 by repealing the requirement that insurance companies obtain Commissioner approval before adopting underwriting standards that require a deductible that exceeds 5% of the “Coverage A – Dwelling Limit” of the policy in the case of a hurricane or other storm. It also enabled insurance companies to adopt such underwriting standards without supplying the Commissioner with the data it relied upon in developing the standard, and it limited the power of the Commissioner to require additional information. Finally, HB 684 repealed the requirement that an insured’s home must be located in the part of the State in which a hurricane warning is issued for an insurance company to apply a hurricane percentage deductible. The Division opposed the bill because, among other reasons, many homeowners do not know what a percentage deductible is, how it works, or how it could affect them if they suffer a loss. Because of the consequences of percentage deductibles, Section 19-209 was enacted to protect homeowners from such deductibles by requiring insurance companies to obtain approval from the Commissioner and to provide the Commissioner with data relied upon by the insurer in developing the deductible. HB 684 would have removed this important protection. An unfavorable report was issued by the House Economic Matters Committee and the bill was withdrawn by the sponsor.

House Bill 685 (Cross Filed as Senate Bill 435) – Coverage for Loss caused by Water Damage

The Division opposed HB 685, which would have removed an important protection for Maryland homeowners who suffered losses as a result of water damage. Under the current law, Section 19-202 of the Insurance Article requires insurers “at the time of application or renewal [to] offer in writing to provide coverage for loss that . . . is caused by or results from water that backs up through sewers or drains.” The Maryland Insurance Administration adopted COMAR 31.08.14.03, effective January 1, 2015, that requires insurers to offer homeowners insurance coverage that is equal to the limits of coverage found in their policies. House Bill 685 would have

modified Section 19-202 so as to require insurers to “make available” water back-up coverage rather than offer this coverage “in writing.” House Bill 685 would have also lowered the minimum amount of coverage insurers must “make available” to \$5,000, effectively nullifying COMAR 31.08.14.03. The Division opposed HB 685 because it was anti-consumer. It was not clear what “make available” meant. Requiring insurers to provide an offer in writing to all homeowners at the time of application and renewal is clear and unambiguous and serves as an important reminder to consumers about the value of this type of coverage. Moreover, damages resulting from water back-up claims can easily exceed \$5,000 and, in fact, can be equal to the limits of coverage found in the insurance policy. An unfavorable report was issued by the House Economic Matters Committee and the bill was withdrawn by the sponsor.

House Bill 691 – Notices to Policyholders – Required

The Division opposed HB 691, which would have repealed all mandatory consumer disclosures and replaced them with a one-page summary, the form of which did not have to be approved by the Insurance Commissioner. Currently, insurers must provide nine separate notices to applicants and homeowners regarding their insurance coverage. These consumer protections have been enacted over several years and in the face of active industry opposition. HB 691 would have repealed these important consumer protections and would not have replace them with any protections that are substantive. The Division believes that Maryland homeowners would benefit from a summary of mandatory disclosures in an easy-to-understand document. The Division, in fact, has been involved in such efforts in the past. The Division supported HB 548 in 2011, which would have provided consumers important notices in their annual statements and which would not have repealed any consumer notice contained in the Insurance Article. That bill did not pass, but ultimately was referred to an interim summer study to be completed by the Maryland Insurance Administration (“MIA”) with the Division’s involvement. This led to the creation of an 8-page document containing all notices based on the results of 39 consumer focus group meetings throughout the state. The Division also supported SB 1060 during the 2014 legislative session, which would have required insurers to use a summary of consumer notices created or approved by the MIA and which would not have repealed any protections contained in the Insurance Article. House Bill 691 would have been a major step backwards in the effort to protect consumers. It would repeal important consumer protections that were hard won and replace them with a one-page summary devised by the insurance industry. Notably, the bill repealed Section 19-215 of the Insurance Article, which was adopted in 2014 and which requires consumer notification and description of anti-concurrent causation clauses. An unfavorable report was issued by the House Economic Matters Committee and the bill was withdrawn by the sponsor.

House Bill 724 (Cross Filed as Senate Bill 569) – Health Care Provider Malpractice Insurance – Scope of Coverage

The Division provided comment and monitored HB 724, which would have amended Section 19-104 of the Insurance Article and allowed insurers to include coverage for the defense of a health care provider in a disciplinary hearing arising from her practice. Currently, insurers must offer this type of coverage as a separately offered and priced policy. The Division did not take a position on the bill but filed a comment to ensure the Committee members were aware of all possible implications of the bill. HB 724 was passed by the House, but the Senate took no action.

House Bill 1012 – Homeowner’s Insurance and Renter’s Insurance – Adjustment and Settlement Practices

The Division monitored HB 1012, which would prohibit an adjuster from making misrepresentations to an insured regarding the relationship between the adjusted and the insured. A hearing was held and an unfavorable report was issued by the House Economic Matters Committee.

Senate Bill 457 – Liability Insurance – Reservation of Rights for Failure to Cooperate – Prohibition

The Division monitored SB 457, which would prohibiting an insurer from disclaiming coverage under a policy of liability insurance on the ground that the insured or a specified person has breached the policy by failing to cooperate with the insurer or by not giving the insurer required notice. A hearing was held and an unfavorable report was issued by the Senate Finance Committee.

Senate Bill 608 – Property and Casualty Insurance – Notices, Policies, and Proof of Insurance – Electronic Format

The Division monitored SB 608, which was requested by the MIA to allow, among other things, certain notices by electronic means. The bill did not pass.

IV. INVESTIGATIONS

During FY 2015, the Division investigated 112 new matters. Investigations are commenced when the Division identifies an issue in an insurance complaint matter that potentially affects a broad number of consumers. These investigations are usually prompted by contact from the consumer who filed the complaint, but sometimes arise from consumers who contact the Division before a complaint is filed with the MIA. Details provided by the consumer that are not apparent from the determination letter are obtained and often the Division requests MIA’s investigative file. Some investigations are commenced following contact from a consumer who has not filed a complaint with the MIA. A few investigations are commenced from a pattern or practice noted by the Division as a result of review of numerous determination letters from particular insurance companies.

Investigation of the complaint determination letter sent to Gregory and Moira Taylor resulted in the Division's request for a hearing on the complaint concerning a claim denial by State Farm. The company stated the Taylor's policy did not provide coverage for the collapse of their carport during the winter of 2010. The Taylors requested a hearing. The Division determined that the interests of insurance consumers were adversely affected by the actions of State Farm regarding the Taylor's claim; the policy provisions at issue included the terms "structure" and "building" but did not define those terms. The pertinent policy provisions did not dictate a claim denial for the loss of a carport and any personal property under a carport. MIA granted the Division's hearing request and the hearing was conducted on February 7, 2012. At the conclusion of a day-long hearing, the MIA ruled in favor of State Farm. The Division lost its appeal to the Circuit Court and the Court of Special Appeals, and appealed to the Court of Appeals and was granted certiorari. On June 10, 2014, the Division submitted its brief and on October 14, 2014 the Division submitted its reply brief. The Division was also able to obtain four national consumer organizations to participate as *amicus curiae*. On November 7, 2014, the Division participated in oral arguments and argued to the Court of Appeals that common law regarding insurance contract interpretation should be changed to favor consumers, recognizing the fact that insurance policies are contracts of adhesion.

On February 24, 2015, the Court of Appeals dismissed the Taylor's case as being improvidently granted. The Court, unfortunately, gave no explanation for its dismissal. Two judges (the Honorable Sally D. Adkins and the Honorable Robert N. McDonald) wrote a lengthy dissent disagreeing with the Court's decision. The dissent reasoned that the public importance of the case was clear as the interpretation of the policy language would impact thousands of Marylanders with carports or similar structures. Moreover, the dissent stated that a decision on the merits would have afforded the Court an opportunity to refine Maryland's law establishing the rules regarding contract construction of insurance policies, especially where ambiguity is present. The Dissent concluded by stating: "[w]e owe the parties and the people of the State due consideration of the issues properly presented. Here, unfortunately, the litigants and public are left in the dark again, in a case that could impact thousands of Maryland homeowners."

The Division will look for other opportunities to challenge the Maryland common law regarding insurance contract interpretation.

Investigation of the complaint determination letter of Michael Lipchock resulted in Mr. Lipchock's claim being paid in full. Mr. Lipchock filed a complaint against Nationwide Mutual Fire Insurance alleging Nationwide had improperly denied full payment for damages to his home as a result of a derecho that passed through his neighborhood. Mr. Lipchock hired a contractor to inspect his home and the contractor found severe hail damage. Nationwide obtained its own contractor to inspect the home and found no hail damage to the roof. The contractor stated that the damage to the roofing materials were due to a combination of normal wear/tear and alleged that the shingles on the home were known to be defective. Mr. Lipchock's contractor forwarded to

Nationwide information asserting that the type of shingle Nationwide was asserting was used on the home was not distributed in the northeast. The Division assisted Mr. Lipchock in his preparation for his hearing, which he lost, and assisted him in filing an action in small claims court. Shortly after filing his small claims court action, Nationwide agreed to pay the full amount he was seeking.

Investigation of the complaint determination letter of Cheryl Queen resulted in Ms. Queen's claim being paid in full. Ms. Queen filed a claim for storm and water damage. State Farm Fire and Casualty Company issued payment, but refused to provide payment for certain personal property and additional living expenses. From November 2013 to September 2015 the Division worked with Ms. Queen in resolving her dispute and preparing for her administrative hearing. On the morning of her hearing she was able to reach a settlement and her claim was paid in full.

Investigation of the complaint determination letter of Gail Waddell led to the Division filing an intent to intervene on September 3, 2015. Ms. Waddell's home was damaged by fire on January 4, 2014. Ms. Waddell notified her insurer Safeco Insurance Company of America who completed an initial estimate of \$78,000. Ms. Waddell was concerned about the structural integrity of her home and retained an engineering firm who found significant issues. Safeco then retained its own engineering firm and increased the replacement cost to \$181,000. The \$181,000 estimate was based on the estimate of a contractor that Ms. Waddell was planning to use, but then was unable to use because the contractor was unlicensed. Ms. Waddell then obtained a licensed contractor, who provided her with an estimate of \$203,000 to rebuild the home. Safeco refused to increase its estimate because it alleged that it obtained a bid from a third contractor for \$181,000. Safeco, however, has never produced this estimate to Ms. Waddell. Ms. Waddell opposes using this contractor because it is unlicensed. Under current Maryland law, insurers may not require an insured to use a specific contractor. No hearing date has been set for this matter.

The Division had several meetings with the Commissioner and other MIA professionals in FY 2015. Primarily, these meetings concerned catastrophe modeling; legislation; preparing for the hurricane season; and various property & casualty statutes and regulations.

V. CONSUMER ASSISTANCE EFFORTS

In addition to assisting the consumers who contact the Division, the Division maintained its website, added consumer alerts providing information about weather events that result in insurance claims and participated in various community events throughout the year, including: "Buying into Baltimore," "Money Power Day," and "Live Baltimore."

On May 11, 2015, following the civil unrest related to the death of Freddie Gray, the Division contacted each Baltimore City Senator and Delegate to offer assistance to their constituents in locating copies of their policies, making claims, interpreting their policies, and assisting in any way possible.

VI. FY 2016 ACTIVITIES

The Division closes FY 2015 with several goals for FY 2016:

- Due to an overhaul of the Office of Attorney General website, the Division did not accomplish its goal of updating its website. The Division has compiled electronic copies of the largest 15 homeowners insurers in Maryland and hopes to add the policies to its website in 2016, which will allow consumers to compare policies and eligibility rules of different insurers.
- Take steps necessary to ensure that auto driving history is not used in setting homeowner's premiums.
- Implement procedures to ensure that the predictive models being used by insurers are thoroughly reviewed.
- Continue its efforts to coordinate a meeting with other state insurance consumer protection agencies and non-profit organizations to identify emerging trends in the homeowner's and medical malpractice insurance industries, and identify new practices to assist Maryland consumers.
- Participate in national meetings hosted by the National Association of Insurance Commissioners.
- Review rate increase filings, negotiate with the MIA on the filings that are not justified and actively represent consumer interests' at rate hearings requested by the Division.
- Review and advocate for consumer interests for all proposed bills filed in the legislative session and advocate for the legislation proposed by the Division.
- Produce additional educational materials, adding information to the website on specific topics relating to homeowners insurance.
- Participate in additional community programs to educate consumers about insurance topics and address consumer misunderstandings that result in cancellation, non-renewal or claim denials.
- Broaden expertise on Hurricane Catastrophe Planning Models, and other models.
- Focus on consumer notice regulations and legislation.
- Focus on anti-concurrent causation cases, regulations, and legislation.

VII. CONCLUSION

The Division will continue its efforts to advocate on behalf of consumers regarding homeowner's insurance and medical professional liability insurance matters pending before the MIA. The Division will continue its review of all rate filings and will analyze the changes made for their effect on consumers. As in past years, the Division will represent consumer interests before the House and Senate committees, reviewing insurance bills and supporting legislation that will protect consumer interests.

APPENDIX A

PEOPLE'S INSURANCE COUNSEL DIVISION REVIEW OF DETERMINATION LETTERS ISSUED BY MARYLAND INSURANCE ADMINISTRATION

DETERMINATION LETTER INFORMATION FISCAL YEAR 2015	
NUMBER OF DETERMINATION LETTERS REVIEWED BY PICD	409 Homeowners 1 Medical Malpractice
NUMBER OF TIMES MIA DETERMINED NO INSURANCE CODE VIOLATION **	355
NUMBER OF INSURANCE CODE VIOLATIONS CITED	1
NUMBER OF CONSUMERS WHO CONTACTED PICD AFTER RECEIVING PICD'S LETTER	33

** In forty-four (44) cases the insurance company changed its position vis-à-vis the complaint or the complainant withdrew his/her complaint. Eight (8) cases were considered moot because the consumer purchased other insurance. In one (1) case, the MIA determined the insurer was not under the jurisdiction of the Maryland Insurance Commissioner. In three (3) cases, the letter reviewed did not involve homeowners or medical malpractice insurance issues.

INSURANCE COMPANIES WITH THE MOST COMPLAINTS IN DETERMINATION LETTERS REVIEWED BY PICD	
NAME OF COMPANY	NUMBER OF COMPLAINTS
Standard Insurance Company/Travelers Insurance Company	40/32
State Farm Insurance Company	62
Allstate Insurance Company/Encompass Insurance Company	45/10
Nationwide Insurance Company	29
Liberty Mutual Insurance Corporation/Liberty Insurance Corporation/Liberty Mutual Fire/Safeco	6/9/3/10
Erie Insurance Company	22
Homesite Insurance Company of the Midwest	18

United Services Automobile Association/Garrison Property and Casualty Insurance Company/Foremost	12/2/4
Brethren Mutual Insurance Company	17
Hartford Insurance Company/Twin City Fire Insurance Company	13/1

APPENDIX B

PEOPLE'S INSURANCE COUNSEL DIVISION'S REVIEW OF INSURER FILINGS

RATE/RULE/FORM FILINGS	
HOMEOWNERS	281
MEDICAL MALPRACTICE	238
TOTAL = 519	

FORMS filings contain insurance policy forms, including endorsements and required policyholder notifications that insurance companies wish to introduce or use as replacements for previously approved forms.

RATE/RULES filings contain the insurer's proposed rating factors associated with numerous characteristics of risks. These factors are used in calculating the premium to be paid by individual policyholders. These filings generally include actuarial data to support the rating factors, supplementary rate information and underwriting guidelines or rules that explain the eligibility rules for different types of risks.