



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

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**ANNUAL REPORT OF THE PEOPLE'S INSURANCE COUNSEL DIVISION**

**Fiscal Year 2016**

**Submitted to the Governor and General Assembly**

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## 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.<sup>1</sup> 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, 2015 through June 30, 2016.

### 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").<sup>2</sup> 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.<sup>3</sup>

### 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.<sup>4</sup> 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 investigations and request the Commissioner to initiate an action or proceeding to protect the interests of insurance consumers.<sup>5</sup>

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<sup>1</sup> Md. Code Ann., State Government § 6-308.

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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.

<sup>5</sup> The Division's duties are described in Md. Code Ann., State Government § 6-306.

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.<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup>

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

## **II. DIVISION STAFF AND BUDGET**

In Fiscal Year 2016, the Division was staffed by the People’s Insurance Counsel, Peter K. Killough,<sup>10</sup> 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: Kufera Consulting, Inc., Madison Consulting Group, and Taylor and Mulder Property and Casualty Consulting Actuaries.

## **III. DIVISION RESPONSIBILITIES**

The Division concentrates its efforts in four areas:<sup>11</sup>

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<sup>6</sup> Md. Code Ann., State Government § 6-307.

<sup>7</sup> 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.

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

<sup>9</sup> Md. Code Ann., State Government § 6-307(d).

<sup>10</sup> 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).

<sup>11</sup> 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

- 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;<sup>12</sup>
- 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.<sup>13</sup>

#### **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.<sup>14</sup> 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 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.

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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).

<sup>12</sup> 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.

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

<sup>14</sup> 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.

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 441 homeowners' insurance complaint determination letters issued by MIA between July 1, 2015 and June 30, 2016. (*See Appendix A*). Of the 441 complaint matters, MIA found zero insurance companies in violation of the insurance laws. In addition to reviewing complaint determination letters, the Division received and reviewed 22 Final Orders that were issued by the MIA following hearings held during fiscal year 2016. Among these Orders, zero was found in favor of the Complainant.

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.<sup>15</sup> 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.<sup>16</sup> All policy forms must be approved by the Commissioner before use in Maryland.<sup>17</sup>

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.<sup>18</sup> These filings may not take effect until 30 working days after filing with the Commissioner.<sup>19</sup>

The Division reviewed a total of 647 insurance filings for FY 2016 (*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

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<sup>15</sup> Md. Code Ann., Ins. Art. § 11-206.

<sup>16</sup> Md. Code Ann., Ins. Art. § 11-307.

<sup>17</sup> 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.

<sup>18</sup> Md. Code Ann., Ins. Art. § 11-206(a).

<sup>19</sup> Md. Code Ann. Ins. Art. § 11-206(g).

not initiate any hearings in FY 2016 on these filings. Four of these filings, however, remain unresolved and may result in a hearing request.

## **1. Homeowners Insurance**

The Division reviewed 486 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,<sup>20</sup> 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 2016 legislative session a bill was introduced that 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, but the General Assembly passed the legislation and the changes to the statute become effective January 1, 2017. The Division has been working with the Maryland Insurance Administration to assess the impact of the legislation on the availability of homeowner's insurance in coastal areas. The Division and the Insurance Administration are directing a data call request to all Property and Casualty insurers writing homeowner's insurance in the State to gather information on homeowner's policies written during Calendar Year 2016 for 142 ZIP codes that are located in ten Maryland coastal counties. A similar data call will be conducted in early 2020 to gather information on homeowner's insurance policy data in coastal areas for Calendar Year 2019.

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

## Significant Rate and Rule Filings

### *Use of Auto Driving History*

Allstate Insurance Group made two 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 drafted legislation that would prohibit this practice and was able to get Delegate Jameson to sponsor and introduce the legislation. The bill did not pass, but it did pass the House of Delegates and the Senate requested a summer study be completed. Allstate has agreed to stop using this rating characteristic.

### *Use of Late Payment History*

IDS Property and Casualty Insurance Company submitted a filing that used onr late payment by the insured as a rating variable. A single late payment would trigger a rate increase that would remain in effect for three years. Further investigation by the Division suggested that the proposed rate increases were supported by the IDS' analysis, however, the Division believed that use of the late payment variable violated the Insurance Article, which prohibits the use of an insured's credit score. The Division submitted a report to the Maryland Insurance Administration and IDS removed the factor from its filing.

### *Predictive Modeling*

In FY 2016, 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.

During the 2016 legislative session, legislation was passed that makes non-catastrophe predictive models confidential. Prior to being passed, the legislation was amended to allow the Division to have access to the confidential information. According to industry representatives, previously the industry was not using its most sophisticated predictive models in Maryland for fear

of competitors copying models. The legislation went into effect on October 31, 2016. To date, the Division has not seen an increase in the complexity of the non-catastrophe models, but will continue to monitor all filings.

## **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 161 filings 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 27-1001<sup>21</sup> and regulations adopted by the Insurance Administration in October 2007<sup>22</sup> 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 2016, MIA issued one Section 27-1001 decisions involving homeowners' insurance policies. MIA found zero 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."<sup>23</sup> 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 2016 complaint determination letters issued by MIA, a small number of consumers have specifically alleged a failure to act in good faith.

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<sup>21</sup> Md. Code Ann., Ins. Art. § 27-1001.

<sup>22</sup> COMAR 31.08.11.

<sup>23</sup> 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."

## **D. 2016 Legislative Session**

During the 2016 Legislative Session the Division drafted, provided testimony, or monitored the following bills:

### **House Bill 395 - Joint Insurance Association – Insurers – Notice**

The Division supported HB 395, which would provide important notification of the availability of homeowner's coverage through the Maryland Joint Insurance Association ("JIA") for homeowners that are unable to obtain insurance through the competitive marketplace. Currently, insurers are required to give notice to homeowners that coverage is available through the JIA if they cancel or non-renew an insured. HB 395 would require insurers to also give notice that insurance is available through the JIA to applicants who are denied coverage. The PICD believes that Maryland homeowners would benefit from such a notice. HB 395 passed the House, but did not pass the Senate.

### **House Bill 557 - Underwriting Standards - Deductibles**

The Division opposed HB 557 because it would nullify several legislative consumer safeguards that had been enacted to protect consumers from percentage deductibles, including the requirements that: insurers may only apply a mandatory percentage deductible if the National Hurricane Center of the National Weather Service has issued a hurricane warning; a percentage deductible may only be applied in the county the hurricane warning is issued; and, the Commissioner must approve all mandatory percentage deductibles that exceed 5%. Despite the Division's opposition, the bill passed and will become effective January 1, 2017. The Division was, however, effective in voicing its concerns and the Maryland Insurance Administration is working in conjunction with the Division to assess the impact of HB 557 on the availability of homeowner's insurance in coastal areas. The Division and the Insurance Administration are sending a data call request to all Property and Casualty insurers writing homeowner's insurance in the State to gather information on homeowner's policies written during Calendar Year 2016 for 142 ZIP codes that are located in ten Maryland coastal counties. A similar data call will be conducted in early 2020 to gather information on homeowner's insurance policy data in coastal areas for Calendar Year 2019.

### **House Bill 1398 - Discrimination Based on Driving History of Applicant or Insured**

In 2016 the Division discovered that insurers in Maryland began using a consumer's driving history to establish a homeowner's insurance rates. The Division drafted legislation that would prohibit this practice and was able to get Delegate Jameson to sponsor and introduce the legislation as HB 1398. HB 1398 passed the House of Delegates and the Senate requested a summer study be completed. Further, the insurer that was using a consumer's driving history to establish a homeowner's insurance rate has agreed to stop using this rating characteristic.

**Senate Bill 240 - Maryland Insurance Commissioner- Responsibility for Holding Hearings - Delegation**

The Division supported SB 240 because it provided the Insurance Commissioner with the flexibility to designate individuals other than the associate commissioners to hold hearings that the Commissioner considers necessary or are required under the Insurance Article. The Division believes this is important to ensure that consumer hearings are held in a timely manner. The Division did have a concern with the original language of the bill, however, and requested that that the bill be amended to ensure that the hearings are conducted by impartial subject matter experts. The bill was amended and the bill passed the House and Senate and was approved by the Governor.

**Senate Bill 450 (Cross Filed as House Bill 1487) - Health Care Provider Malpractice Insurance – Scope of Coverage**

The Division supported SB 450, which would amend Section 19-104 of the Insurance Article and allow insurers to include coverage for the defense of a health care provider in a disciplinary hearing arising from her practice. Previously, insurers were required to offer this type of coverage as a separately offered and priced policy. The Division supported SB 450 because it believed it would increase the likelihood that health care providers will obtain important disciplinary hearing defense coverage. Prior to offering support, the Division reviewed the Maryland Insurance Administration investigation into the inclusion of disciplinary hearing defense coverage in a medical professional liability insurance policy. The MIA reported that a majority of insurers indicated that there would be no change in the aggregate rate for disciplinary hearing defense coverage and medical professional liability coverage if they were offered within the same policy. Moreover, MIA noted that, if disciplinary hearing defense coverage is not included in medical professional liability insurance policies, health care providers may not be aware of the availability of the coverage and fail to purchase it. SB 450 was passed by both the Senate and the House and was approved by the Governor.

**Senate Bill 839 (Cross Filed as House Bill 958) – Insurance – Rate Filings – Trade Secrets**

The Division opposed SB 839, which would make confidential all rating models filed by insurers. The Division believed that SB 839 was ambiguous and would arguably prohibit the Division from reviewing an insured's "confidential" information and fulfilling its statutory purpose. The Division believed that allowing any and all "rating model[s]" to be deemed confidential would turn every filing into a "black box" and would arguably make the review of such filings by the Division and its actuaries impossible. As a compromise, the Division accepted an amendment to the bill that would include the Division as an entity that has access to the confidential rate filings. The bill passed the House and Senate and was approved by the Governor.

**Senate Bill 1028 – Motor Vehicle Insurance – Discrimination in Underwriting and Rating – Prohibitions**

The Division supported SB 1028, which would prohibit insurers from using a consumer's credit score to rate automobile insurance. Insurers are already prohibited from doing so in rating a homeowner's policy. Insurers, however, often encourage insureds to "bundle" their automobile and homeowners policies together by offering discounts and other incentives. The Division is concerned that by "bundling" automotive and homeowners' insurance policies, insurers have

access to that insureds' credit history and that credit history is a factor in determining rates for a homeowner's insurance policy. SB 1028 would eliminate that loop-hole but it did not pass.

#### IV. INVESTIGATIONS

During FY 2016, the Division investigated 86 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.

Following what the National Weather Service called a "thousand-year rain fall event" that lead to massive flash flooding in Ellicott City, Maryland, in July 2016, the Division contacted the local and state representatives of Ellicott City to offer assistance to their constituents, and provided them with literature prepared by the Division to assist them in filing an insurance claim for damage caused by the storm. The Division was able to assist the Howard County Executive in providing assistance and guidance to the owner of the Horse Spirit Arts Gallery with a coverage dispute. The Division also worked with Howard County Councilman Weinstein's office to assist constituents and officer assistance in the creation of an online survey to gather data on what kind of problems constituents were having with insurers and what insurers were having the most problems.

The investigation into one constituents' issue lead to the Division's involvement of a complaint concerning a water back-up claim denial. On the day of the storm, the constituent's sump pump was overwhelmed by the massive rainfall amount. The constituent's interior sump pump was sealed, with no outlet inside the house, and accordingly the back-up from the sump flowed outside to the exterior drain, mixed with rain water, and entered into the dwelling from under the exterior door. Although the constituent's policy offered coverage for water damage that overflowed or discharged from a sump pump located within the dwelling, the insurer denied the claim asserting that since the water entered the house from the exterior drain the water was considered ground and/or surface water which is excluded from coverage. The Division provided the constituent with case law and a prior Maryland Insurance Administration decision that supported her claim. The Division also contacted the Administration on behalf of the constituents to contend that if the Administration accepted the insurer's contention that a back-up into the stairwell would become surface water once it left the confines of the house, there would never be coverage for a sump pump failure in the complainant's home, and the coverage, fashioned to comply with Maryland law, would be worthless. Further, the Division argued that the insurer was attempting to use an undefined term in its policy to deny the claim, and using the most restrictive definition of that term possible. The Division is still awaiting the Administration's decision.

Investigation of the complaint determination letter sent to Beverly Wessell resulted in the Division intervening in the hearing of a complaint concerning a claim denial and nonrenewal. On March 12, 2014, the water pipes in Ms. Wessell's home froze and subsequently burst. Prior to her pipes freezing her home lost electrical power due to a tree falling on nearby power lines. Ms. Wessell filed a claim for the water damage sustained to her home. Four months later, Ms. Wessell received a notice of non-renewal from Brethren Mutual notifying her that her policy would not be renewed because the frozen pipes were the result of her central heating system being turned off and space heaters being used instead. Ms. Wessell filed a complaint with the Maryland Insurance Administration asserting that at the time of her loss her central heating system was not shut off, but that she had no electrical power in her home. The Maryland Insurance Administration issued a determination letter stating that Brethren Mutual's non-renewal did not violate the Insurance Article. Ms. Wessell requested a hearing and the matter was heard before an Administrative Law Judge. The Associate Commissioner found that Brethren Mutual's non-renewal was based on its underwriting standards and did not violate the insurance laws. The Division appealed the Associate Commissioner's holding because the Associate Commissioner found that "[a]t the time the pipes burst on March 12, 2014, the Complainant's neighborhood was experiencing a power outage" and also that "at the times the pipes burst on March 12, 2014, the Complainant was not utilizing her central heating system and was using space heaters instead." Because the Division believes that these findings cannot be reconciled the Division appealed. The Division filed its memorandum in support of judicial review on November 11, 2016 and its reply to Brethren Mutual's opposition on December 19, 2016. Oral argument is scheduled for January 11, 2016 in the Baltimore City Circuit Court.

The Division had several meetings with the Commissioner and other MIA professionals in FY 2016. Primarily, these meetings concerned catastrophe modeling; legislation; preparing for the hurricane season; and various property & casualty statutes and regulations.

The Division participated in a workgroup, convened by the Maryland Insurance Administration, of interested parties including insurance company representatives, industry association representatives, producer association representatives, and staff from the MIA to once again review the current mandated homeowner's disclosures and see which disclosures should be consolidated into one template. Not all of the disclosures lent themselves to be included into a two-page disclosure. The workgroup met on six occasions and developed a draft Homeowner's Disclosure Notice, which was posted to the MIA website for public comment. The Division was able to reach out to a national policyholder consumer advocate group and obtain comment from the organization. After reviewing the comments, the workgroup amended its draft to incorporate many of the suggested changes. The draft Homeowner's Disclosure Notice will be introduced in the 2017 legislative session and could be adopted by regulation provided that certain revisions are made to the existing law.

## **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."

## **VI. FY 2017 ACTIVITIES**

The Division closes FY 2016 with several goals for FY 2017:

- Obtain electronic copies of the largest 15 homeowners insurers in Maryland and add the policies to its website, which will allow consumers to compare policies and eligibility rules of different insurers.
- Take steps necessary to ensure consumers are aware of the availability of Section 27-1001 Complaints.
- Continue to monitor insurer filings to ensure that homeowners are not adversely impacted by the passage of HB 557, which relaxed the regulation on percentage deductibles.
- Continue to monitor insurer filings to ensure that homeowners are not adversely impacted by the passage of HB 958, which deemed all models filed by insurers to be confidential.
- Continue 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.
- Continue to work with non-profit organizations for the creation of pro-policyholder model legislation.
- 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.

## **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

<b>DETERMINATION LETTER INFORMATION FISCAL YEAR 2015</b>	
NUMBER OF DETERMINATION LETTERS REVIEWED BY PICD	441 Homeowners 0 Medical Malpractice
NUMBER OF TIMES MIA DETERMINED NO INSURANCE CODE VIOLATION **	351
NUMBER OF INSURANCE CODE VIOLATIONS CITED	0
NUMBER OF CONSUMERS WHO CONTACTED PICD AFTER RECEIVING PICD'S LETTER	46

\*\* In seventy-four (74) cases the insurance company changed its position vis-à-vis the complaint or the complainant withdrew his/her complaint. Seven (7) cases were considered moot because the consumer purchased other insurance. In two (2) cases, the letter reviewed did not involve homeowners or medical malpractice insurance issues. MIA determined that it made a clerical error relating to one (1) consumer determination letter. A new determination letter was issued by the MIA.

<b>INSURANCE COMPANIES WITH THE MOST COMPLAINTS IN DETERMINATION LETTERS REVIEWED BY PICD</b>	
NAME OF COMPANY	NUMBER OF COMPLAINTS
Standard Fire Insurance Company/Travelers Home and Marine Insurance Company/Travelers Commercial Insurance Company/Travelers Indemnity Company of America/Automobile Insurance Company of America	34/23/1/2/3
State Farm Fire and Casualty Company/State Farm Mutual Automobile Insurance	55/2
Erie Insurance Company	38
Allstate Indemnity Company/Allstate Insurance Company/Allstate Property and Casualty Insurance Company/Allstate Vehicle and Property Insurance Company/Encompass	3/14/9/10

Home and Automobile Insurance Company/Encompass Indemnity Company	
Liberty Insurance Corporation/Liberty Mutual Insurance Corporation/ Liberty Mutual Fire/Safeco/LM Insurance Corporation	13/8/13/6/2
Nationwide Agribusiness Insurance Company/Nationwide General Insurance Company/Nationwide Mutual Fire Insurance Company/Nationwide Property and Casualty Company	1/6/9/11
United Services Automobile Association/Garrison Property and Casualty Insurance Company/Foremost Insurance Company Grand Rapids, Michigan/USAA Casualty Insurance Company/USAA General Indemnity Company	17/2/2/1/2
Hartford Accident and Indemnity Company/Hartford Insurance Company of the Midwest/Twin City Fire Insurance Company/Sentinel Insurance Company/Trumbull Insurance Company	2/8/3/1/10
Homesite Insurance Company of the Midwest	15
Brethren Mutual Insurance Company	9

## APPENDIX B

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

<b>HOMEOWNERS INSURANCE FILINGS</b>		
<b>FORMS</b>	<b>RATES/RULES</b>	<b>TOTAL</b>
188	298	486
<b>MEDICAL PROFESSIONAL LIABILITY INSURANCE FILINGS</b>		
<b>FORMS</b>	<b>RATES/RULES</b>	<b>TOTAL</b>
83	78	161

**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.