

HOUSE BILL 144

C4, P1

0lr0531

By: **Delegates Miller, Aumann, Bartlett, Bates, Beitzel, Boteler, Costa, Dwyer, Eckardt, Elliott, Elmore, Frank, George, Haddaway, Impallaria, Jennings, Kelly, King, Kipke, Krebs, McComas, McConkey, Minnick, Myers, O'Donnell, Serafini, Shank, Shewell, Smigiel, Sossi, Stull, Walkup, and Wood**

Introduced and read first time: January 20, 2010

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **People's Insurance Counsel Division in the Office of the Attorney General –**
3 **Repeal**

4 FOR the purpose of repealing the People's Insurance Counsel Division in the Office of
5 the Attorney General and provisions of law relating to the Division; requiring
6 certain equipment and assets of the Division to be transferred to the Maryland
7 Insurance Administration on a certain date; and generally relating to the repeal
8 of the People's Insurance Counsel Division in the Office of the Attorney General.

9 BY repealing
10 Article – State Government
11 Section 6–301 through 6–308 and the subtitle “Subtitle 3. People's Insurance
12 Counsel”
13 Annotated Code of Maryland
14 (2009 Replacement Volume)

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

17 **Article – State Government**

18 [Subtitle 3. People's Insurance Counsel.]

19 [6–301.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) “Commissioner” means the Maryland Insurance Commissioner.

2 (c) “Division” means the People’s Insurance Counsel Division in the Office of
3 the Attorney General.

4 (d) “Health care provider” has the meaning stated in § 3–2A–01 of the Courts
5 Article.

6 (e) “Homeowners insurer” means an insurer that issues or delivers a policy
7 or contract of homeowner’s insurance in the State.

8 (f) “Insurance consumers” means persons insured under policies or contracts
9 of medical professional liability insurance, and homeowners insurance issued or
10 delivered in the State by a medical professional liability insurer or a homeowners
11 insurer.

12 (g) “Insurer” means a medical professional liability insurer or a homeowners
13 insurer authorized to engage in the insurance business in the State under a certificate
14 of authority issued by the Commissioner.

15 (h) “Medical injury” has the meaning stated in § 3–2A–01 of the Courts
16 Article.

17 (i) “Medical professional liability insurer” means an insurer that issues or
18 delivers a policy in the State that insures a health care provider against damages due
19 to medical injury.

20 (j) “Premium” has the meaning stated in § 1–101 of the Insurance Article to
21 the extent it is allocable to this State.]

22 [6–302.

23 (a) (1) There is a People’s Insurance Counsel Division in the Office of the
24 Attorney General.

25 (2) The Attorney General shall appoint the People’s Insurance Counsel
26 with the advice and consent of the Senate.

27 (b) The People’s Insurance Counsel serves at the pleasure of the Attorney
28 General.

29 (c) The People’s Insurance Counsel shall have been admitted to practice law
30 in the State.

31 (d) The People’s Insurance Counsel shall devote full time to the duties of the
32 Office.

1 (e) The People's Insurance Counsel is entitled to compensation as provided
2 in the State budget.

3 (f) The People's Insurance Counsel and employees of the Division may not
4 hold an official relation to or have any pecuniary interest in an insurer, insurance
5 agency, or insurance transaction, other than as a policyholder or claimant under a
6 policy.]

7 [6-303.

8 (a) The Office of the Attorney General shall include in its annual budget
9 sufficient money for the administration and operation of the Division.

10 (b) The Division may retain as necessary for a particular matter or employ
11 experts in the field of insurance regulation, including accountants, actuaries, and
12 lawyers.

13 (c) The People's Insurance Counsel shall direct the Division.]

14 [6-304.

15 (a) The Commissioner shall:

16 (1) collect an annual assessment from each medical professional
17 liability insurer and homeowners insurer for the costs and expenses incurred by the
18 Division in carrying out its duties under this subtitle; and

19 (2) deposit the amounts collected into the People's Insurance Counsel
20 Fund established under § 6-305 of this subtitle.

21 (b) The assessment payable by a medical professional liability insurer or
22 homeowners insurer is the product of the fraction obtained by dividing the gross direct
23 premium written by the medical professional liability insurer or homeowners insurer
24 in the prior calendar year by the total amount of gross direct premium written by all
25 medical professional liability insurers or homeowners insurers in the prior calendar
26 year, multiplied by the amount of the total costs and expenses under subsection (a)(1)
27 of this section.

28 (c) (1) The assessment collected under this section is:

29 (i) in addition to any penalties or premium tax imposed under
30 the Insurance Article; and

31 (ii) due and payable to the Commissioner on or before a date
32 determined by the Commissioner each year.

1 (2) (i) Failure by an insurer to pay an assessment fee on or before
2 the due date shall subject the insurer to the provisions of §§ 4–113 and 4–114 of the
3 Insurance Article.

4 (ii) In addition to the penalty imposed under subparagraph (i) of
5 this paragraph, if an assessment fee is not paid on or before the due date, the
6 Commissioner may impose a penalty of 5% of the amount due and interest at the rate
7 determined under § 13–701(b)(1) of the Tax – General Article from the due date until
8 payment is made to the Commissioner.]

9 [6–305.

10 (a) In this section, “Fund” means the People’s Insurance Counsel Fund.

11 (b) There is a People’s Insurance Counsel Fund.

12 (c) The purpose of the Fund is to pay all costs and expenses incurred by the
13 Division in carrying out its duties under this subtitle.

14 (d) The Fund shall consist of:

15 (1) all revenue deposited into the Fund that is received through the
16 imposition and collection of the assessment under § 6–304 of this subtitle; and

17 (2) income from investments that the State Treasurer makes for the
18 Fund.

19 (e) (1) Expenditures from the Fund may be made only by:

20 (i) an appropriation from the Fund approved by the General
21 Assembly in the annual State budget; or

22 (ii) the budget amendment procedure provided for in § 7–209 of
23 the State Finance and Procurement Article.

24 (2) (i) If, in any fiscal year, the amount of the assessment revenue
25 collected by the Commissioner and deposited into the Fund exceeds the actual costs
26 and expenses incurred by the Division to carry out its duties under this subtitle, the
27 excess amount shall be carried forward within the Fund for the purpose of reducing
28 the assessment imposed by the Commissioner for the following fiscal year.

29 (ii) If, in any fiscal year, the amount of the assessment revenue
30 collected by the Commissioner and deposited into the Fund is insufficient to cover the
31 actual expenditures incurred by the Division to carry out its duties under this subtitle,
32 and expenditures are made in accordance with the budget amendment procedure
33 provided for in § 7–209 of the State Finance and Procurement Article, an additional
34 assessment may be made.

1 (f) (1) The State Treasurer is the custodian of the Fund.

2 (2) The Fund shall be invested and reinvested in the same manner as
3 State funds.

4 (3) The State Treasurer shall deposit payments received from the
5 Commissioner into the Fund.

6 (g) (1) The Fund is a continuing, nonlapsing fund that is not subject to §
7 7-302 of the State Finance and Procurement Article.

8 (2) No part of the Fund may revert or be credited to:

9 (i) the General Fund of the State; or

10 (ii) a special fund of the State, unless otherwise provided by
11 law.]

12 [6-306.

13 (a) (1) The Division shall evaluate each medical professional liability
14 insurance and homeowners insurance matter pending before the Commissioner to
15 determine whether the interests of insurance consumers are affected.

16 (2) If the Division determines that the interests of insurance
17 consumers are affected, the Division may appear before the Commissioner and courts
18 on behalf of insurance consumers in each matter or proceeding over which the
19 Commissioner has original jurisdiction.

20 (b) (1) The Division shall review any rate increase of 10% or more filed
21 with the Commissioner by a medical professional liability insurer or homeowners
22 insurer.

23 (2) If the Division finds that the rate increase is excessive, inadequate,
24 or unfairly discriminatory, the Division shall appear before the Commissioner on
25 behalf of insurance consumers in any hearing on the rate filing.

26 (c) As the Division considers necessary, the Division shall conduct
27 investigations and request the Commissioner to initiate an action or proceeding to
28 protect the interests of insurance consumers.]

29 [6-307.

30 (a) In appearances before the Commissioner and courts on behalf of
31 insurance consumers, the Division has the rights of counsel for a party to the
32 proceeding, including the right to:

1 (1) summon witnesses, present evidence, and present argument;

2 (2) conduct cross-examination and submit rebuttal evidence; and

3 (3) take depositions in or outside of the State:

4 (i) in proceedings before the Commissioner, subject to
5 regulation by the Commissioner to prevent undue delay; and

6 (ii) in proceedings in court, in accordance with the procedure
7 provided by law or rule of court.

8 (b) The Division may appear before any federal or State tribunal or agency,
9 in a judicial or administrative action, to protect the interests of insurance consumers.

10 (c) (1) Except as otherwise provided in the Insurance Article and any
11 applicable freedom of information act, the Division shall have full access to the
12 Commissioner's records, including rate filings and supplementary rate information
13 filed with the Commissioner by a medical professional liability insurer or homeowners
14 insurer under Title 11 of the Insurance Article, and shall have the benefit of all other
15 facilities or information of the Commissioner.

16 (2) The Division is entitled to the assistance of the Commissioner's
17 staff if:

18 (i) the staff determines that the assistance is consistent with
19 the staff's responsibilities; and

20 (ii) the staff and the Division agree that the assistance, in a
21 particular matter, is consistent with their respective interests.

22 (d) The Division may recommend to the General Assembly legislation on any
23 matter that the Division considers would promote the interests of insurance
24 consumers.]

25 [6-308.

26 On or before January 1 of each year, the Division shall report to the Governor
27 and, subject to § 2-1246 of this article, to the General Assembly on the activities of the
28 Division during the prior fiscal year.]

29 SECTION 2. AND BE IT FURTHER ENACTED, That, on July 1, 2010, all the
30 equipment and other assets of the People's Insurance Counsel Division in the Office of
31 the Attorney General shall be transferred to the Maryland Insurance Administration.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 2010.