

Department of Legislative Services  
 Maryland General Assembly  
 2010 Session

FISCAL AND POLICY NOTE

House Bill 144 (Delegate Miller, *et al.*)  
 Economic Matters

People's Insurance Counsel Division in the Office of the Attorney General -  
 Repeal

This bill repeals the People’s Insurance Counsel Division within the Office of the Attorney General (OAG) including provisions related to the division’s powers, duties, and funding. The bill transfers all of the equipment and assets of the division to the Maryland Insurance Administration.

The bill takes effect July 1, 2010.

Fiscal Summary

**State Effect:** Special fund revenues decrease by \$547,486 in FY 2011 due to the bill’s repeal of annual assessments collected from each medical professional liability insurer and homeowner’s insurer operating in the State. Special fund expenditures decrease by the same amount due to the bill’s repeal of the People’s Insurance Counsel Division of the OAG.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
SF Revenue	(\$547,500)	\$0	\$0	\$0	\$0
SF Expenditure	(\$547,500)	\$0	\$0	\$0	\$0
Net Effect	\$0	\$0	\$0	\$0	\$0

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** The bill does not directly affect local finances or operations.

**Small Business Effect:** None.

## Analysis

**Current Law:** Chapter 5 of the 2004 special session established the People's Insurance Counsel, appointed by the Attorney General with the advice and consent of the Senate, in the OAG. The People's Insurance Counsel may appear before the Insurance Commissioner or in court to represent the interests of homeowner's insurance and medical professional liability insurance consumers in the State. Complaints handled by the division primarily relate to the cancellation or nonrenewal of coverage, increase in premiums, modification of coverage, claim denials, and claim settlements. To guard against excessive rate making, the division must review any proposed rate increase of 10% or more for homeowner's and medical professional liability insurance policies.

If the division determines that a rate increase is adverse to consumer interests, its representative will appear before the Insurance Commissioner at any hearing on the proposed rate filing. Counsel must be an attorney-at-law of the State, have expertise in the insurance business, and may not have an official relationship with or pecuniary interest in an insurer. The division has the rights of counsel to a party in a proceeding.

The People's Insurance Counsel Fund pays the expenses of the division and is financed by an assessment on insurers that sell homeowner's or medical professional liability insurance. The fund is a continuing, nonlapsing fund that may not revert to the general fund or another special fund, unless otherwise provided by law.

Under the State Personnel and Pensions Article, a director or chief of a division of the OAG is considered a special political appointment. However, Chapter 690 of 2009 specifies that, with some exceptions, the OAG's staff may not be designated as political special appointees. Rather, OAG staff is classified in the management or executive services as special appointments. An employee under a special appointment, in the management service or in the executive service, serves at the pleasure of the employee's appointing authority and may be terminated at will.

The division consists of counsel (appointed by the Attorney General with the advice and consent of the Senate), an assistant Attorney General, an analyst/investigator, and an associate.

**Background:** In 2006, the People's Insurance Counsel filed suit to challenge Allstate's moratorium on writing new homeowner's and mobile-home insurance policies in certain coastal areas – specifically Calvert, St. Mary's, Somerset, Talbot, Wicomico, and Worcester counties and portions of Anne Arundel, Charles, Dorchester, Prince George's, and Queen Anne's counties. In 2007, the People's Insurance Counsel requested a hearing before the Insurance Commissioner on Allstate's decision to nonwrite policies in those counties. The Commissioner ruled in favor of Allstate and issued a final order finding

that Allstate’s geographic designation had an “objective basis and is neither arbitrary nor unreasonable.”

The People’s Insurance Counsel filed a petition for judicial review in the Circuit Court for Baltimore City. Allstate’s motion to dismiss was granted on the grounds that the division lacked standing to request judicial review of the Insurance Commissioner’s final order, as it was not a “party” to the hearing. The division appealed and the Court of Appeals granted Allstate’s petition for *certiorari* prior to any proceeding in the intermediate appellate court.

In April 2009, the Court of Appeals reversed and remanded, holding that the People’s Insurance Counsel has standing under statute to seek judicial review and that the division was a party to a matter pending before the Commissioner when it requested a hearing on Allstate’s nonwrite decision. In September 2009, the matter returned to the circuit court which affirmed the Commissioner’s final order. The People’s Insurance Counsel appealed; as of January 2010, the matter is pending before the Court of Special Appeals.

The case is *People’s Insurance Counsel Division v. Allstate Insurance Co.*, 408 Md. 336 (2009).

**State Fiscal Effect:** Special fund expenditures decrease by \$547,486 in fiscal 2011. This estimate reflects the bill’s repeal of an entire division within OAG which includes salaries, fringe benefits, and corresponding operating expenses for four positions: counsel, an assistant Attorney General, an analyst/investigator, and one associate. Likewise, special fund revenues decrease by the same amount due to the bill’s repeal of an assessment mechanism on homeowner’s and medical malpractice insurers. Special fund totals are based on appropriations included in the Governor’s proposed fiscal 2011 budget.

Positions	4
Salaries and Fringe Benefits	(\$378,077)
Operating Expenses	<u>(\$169,409)</u>
<b>Total FY 2011 State Expenditures</b>	<b>(\$547,486)</b>

This analysis assumes the four special appointments are laid off rather than transferred to another agency. To the extent these positions are instead absorbed by OAG, general fund expenditures increase as the People’s Insurance Counsel Fund no longer exists to provide funding for salaries and related operating expenses.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Office of the Attorney General (People's Insurance Counsel Division), Judiciary (Court of Appeals), Department of Budget and Management, Maryland Insurance Administration, Comptroller's Office, Maryland State Treasurer's Office, Department of Legislative Services

**Fiscal Note History:** First Reader - January 29, 2010  
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