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March 25, 2015

Administrative, Executive and Legislative Review (AELR) Committee
90 State Circle
Annapolis, MD 21401

Governor's Office
Attn: Peggy Watson
State House
Annapolis, MD 21401

Division of State Documents
State House
Annapolis, MD 21401

State Publications Depository and Distribution Program
Attn: Brigid Sye-Jones
Enoch Pratt Free Library
400 Cathedral St.
Baltimore, MD 21201

Department of Legislative Services Library
90 State Circle
Annapolis, MD 21401

RE: Regulatory Review and Evaluation Act Evaluation Report-COMAR 31.16

Dear Sir or Madam:

I am filing the required number of copies of the attached Evaluation Report on behalf of the Maryland Insurance Administration as follows:

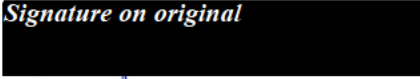
- AELR Committee-one copy
- Governor's Office (Peggy Watson)-one copy
- Division of State Documents-one copy

- State Library Resource Center via State Publications Depository and Distribution Program (Brigid Sye-Jones)-sixteen copies
- Department of Legislative Services Library-five copies

If you have any questions, or require additional information, please contact me at the above-referenced telephone number and email address.

Sincerely,

Signature on original

A black rectangular redaction box covers the signature area. A small blue mark is visible below the box.

Catherine Grason, Esq.
Director of Regulatory Affairs

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification:

Chapter Name:

Authority:

Date Originally Adopted or Last Amended:

Purpose:

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration's (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A.

- (8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to disclosures to policyholders of the possible effects of assessable insurance policies being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to disclosures to policyholders of the possible effects of assessable insurance policies requiring promulgation of regulations or amendments to COMAR 31.16.01.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

- no action
- x amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This Chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions. These regulations continue to be relevant and necessary. No substantive changes are recommended at this time.

The MIA will propose a technical amendment to the enabling authority for this Chapter, as the Corporations and Associations Article, § 6-509, was repealed in 1997. The MIA will add §§ 3-111 and 3-113 of the Insurance Article to the list of enabling authority.

Person performing review: Catherine Grason, Esq.

Title: Director of Regulatory Affairs, Office of the Commissioner

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2012 – 2020**

Chapter Codification:

Chapter Name:

Authority:

Date Originally Adopted or Last Amended:

Purpose:

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration’s (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State’s Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the Maryland Register;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A.

- (8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to the provision of a completed premium finance agreement to an insured which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to the provision of a completed premium finance agreement to an insured requiring promulgation of regulations or amendments to COMAR 31.16.04.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)
(check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions. These regulations continue to be relevant and necessary for compliance with §23-302 of the Insurance Article. No substantive changes are recommended at this time.

A technical amendment to the enabling authority will be proposed to correct an inaccurate reference to 23-302(b) of the Insurance Article. The reference will be changed to 23-302(c) of the Insurance Article.

Person performing review:

Title:

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification:

Chapter Name:

Authority:

Date Originally Adopted or Last Amended:

Purpose:

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. Aside from the stakeholder comments noted in section B(1) above, no comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

COMMENT: The NFPA commented that on October 18, 1994, COMAR 31.16.05 was vacated and set aside by Judge Kaplan (retired).

RESPONSE: The MIA agrees with the NFPA's comments.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

N/A.

- (8) Provide a summary of any other relevant information gathered.

The MIA reviewed the Circuit Court for Baltimore City case numbers 93048002 & 93056020, which were provided with the NFPA's comments as relevant to this evaluation. The MIA also reviewed §§ 23-101, 23-402 and 23-403 of the Insurance Article, Annotated Code of Maryland.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining an insured's ability to confer upon a premium finance company the authority to cancel an insurance contract or contracts on the insured's behalf being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to an insured's ability to confer upon a premium finance company the authority to cancel an insurance contract or contracts on the insured's behalf requiring promulgation of regulations or amendments to COMAR 31.16.05.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)
(check all that apply)

no action

amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

After reviewing Circuit Court for Baltimore City case numbers 93048002 & 93056020 and §§ 23-101, 23-402 and 23-403 of the Insurance Article, the MIA proposes to repeal this Chapter in its entirety. This Chapter is inconsistent with Judge Kaplan's judicial Order issued on October 18, 1994, and is otherwise obsolete.

Person performing review:

Catherine Grason, Esq.

Title:

Director of Regulatory
Affairs, Office of the
Commissioner

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2012 – 2020**

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Date Originally Adopted or Last Amended:

Purpose:

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A. There were no comments received on this chapter.

- (5) Describe any inter unit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

There is no National Association of Insurance Commissioners' (NAIC) model law or regulation related to COMAR 31.16.06.

- (8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to commissions under reinsurance treaties and annual statements being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to commissions under reinsurance treaties and annual statements requiring promulgation of regulations or amendments to COMAR 31.16.06.

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)
(check all that apply)

no action

amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions.

The MIA recommends a technical change to the enabling authority for this Chapter. COMAR 31.16.06 is applicable to all stock and mutual insurers licensed to conduct the business of insurance in Maryland, consistent with §§ 3-124 and 3-125 of the Insurance Article. Therefore, the MIA recommends the inclusion of § 3-125 of the Insurance Article in this Chapter's enabling authority.

Person performing review:

Catherine Grason, Esq.

Title:

Director of Regulatory
Affairs, Office of the
Commissioner

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification:

Chapter Name:

Authority:

Date Originally Adopted or Last Amended:

Purpose:

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

The Supreme Court ruled in *American Ins. Assn. v. Garamendi* 539 U.S 396 (2003) that a California law similar to the enabling statutes for this Chapter was pre-empted by federal law.

(8) Provide a summary of any other relevant information gathered.

This Chapter required that insurers investigate any claims from Holocaust victims for the time period of January 1, 1929 through December 31, 1945, and that certain reports regarding such claim investigations be filed with the Commissioner for 10 years beginning in 1999. Insurers were considered to be in compliance with the report filing requirements if they filed the reports with the "International Commission." As the 10 year period for investigation has passed, impacted insurers have already investigated the claims required by the enabling statutes for this Chapter, and the International Commission has since disbanded.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to Holocaust victims' insurance claims and reports being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to Holocaust victims' insurance claims and reports requiring promulgation of regulations or amendments to COMAR 31.16.07.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

- no action
- amendment
- x repeal
- repeal and adopt new regulations
- reorganization

Summary:

This Chapter is no longer needed and it is recommended that it be repealed. The last report required under this chapter was due in 2009, and no further reports are required. Additionally, the Supreme Court has ruled that a similar requirement in California was pre-empted by federal law.

Person performing review: Catherine Grason, Esq.

Title: Director of Regulatory Affairs, Office of the Commissioner