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**Date:** February 1, 2024

**Bill # / Title:** House Bill 90 - Insurance - Hearing Representation

**Committee:** House Economic Matters Committee

**Position:** Support

The Maryland Insurance Administration (MIA) appreciates the opportunity to share its support for House Bill 90, which is a Departmental bill.

House Bill 90 would eliminate the need for certain small businesses to engage an attorney to represent the business in administrative proceedings before the MIA or hearings at the Office of Administrative Hearings (OAH) on behalf of the MIA. The small businesses which would be impacted by this bill are businesses that meet the definition of a "small employer" in § 31–101 of the Insurance Article (employers of not more than 50 employees). In drafting HB 90, the MIA relied upon Md. Ann. Code, Bus. Occ. & Prof., § 10-206(b)(4) which identifies individuals who are authorized to act on behalf of certain business entities when appearing before the District Courts of Maryland. Importantly, HB 90 places the owners of small businesses on equal footing with insurance companies, which are currently permitted under § 2-213(b)(ii)(2) to be represented by an employee of the insurer who is not an attorney.

For some small businesses, the cost of hiring an attorney is a significant economic barrier to exercising its right to pursue an evidentiary hearing on an administrative complaint with respect to which the MIA has not found a statutory violation. Rather than being represented by its owner or an officer of the company, small businesses are required to hire an attorney because, representing a person (including a business entity) before a unit of state government is deemed to be practicing law and an individual must be a member of the Maryland Bar to practice law, except as otherwise permitted by statute.

The inability of small businesses to incur the expense of counsel is a basis on which the MIA has seen small business owners abandon their hearing request and a basis on which either the MIA or the OAH have been forced to dismiss the case on motion of the insurer.

House Bill 90 proposes an amendment to §2–213 of the Insurance Article to permit small businesses, 50 employees or fewer, to designate an employee to represent them in such hearings mentioned above. The language used in this Departmental bill to define the scope of individuals who may represent a small business in administrative hearings is similar language used in enacted legislation that allows representatives of small businesses to appear without counsel to represent the business in the Maryland small claims court. And, as noted, this places Maryland small businesses on equal footing with insurers, which are not required to be represented by attorneys in evidentiary hearings before the Administration.

For these reasons, the MIA urges a favorable committee report on House Bill 90 and thanks the Committee for the opportunity to share its support.