

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Maryland Insurance Administration
(DLS Control No. 15-301)**

Overview and Legal and Fiscal Impact

The regulations update the statutory citations for three COMAR chapters and repeal two obsolete chapters within COMAR 31.16, Maryland Insurance Administration: Miscellaneous.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Maryland Insurance Administration:

Miscellaneous:

Disclosure to Policyholders of the Possible Effects of Assessable Insurance Policies:
COMAR 31.16.01.00

Provision of Completed Premium Finance Agreement to Insured: COMAR 31.16.04.00

Cancellation of Insurance Contracts by Premium Finance Companies:
COMAR 31.16.05.01

Bulk Reinsurance, Stock, and Mutual Insurers: COMAR 31.16.06.00

Holocaust Victims Insurance Claims and Reports: COMAR 31.16.07.01-.09

Legal Analysis

Summary of Regulations

The regulations are the product of the Evaluation Report on COMAR 31.16, “Maryland Insurance Administration: Miscellaneous,” under the Regulatory Review and Evaluation process. The administration is correcting the cited authority for three chapters of existing regulations in Subtitle 16: Chapter .01, “Disclosure to Policyholders of the Possible Effects of Assessable Insurance Policies”; Chapter .04, “Provision of Completed Premium Finance Agreement to Insured”; and Chapter .06, “Bulk Reinsurance, Stock, and Mutual Insurers.”

In addition, the regulations repeal two obsolete chapters of existing regulations. The first, Chapter .05, “Cancellation of Insurance Contracts by Premium Finance Companies,” authorized premium finance companies to cancel insurance contracts through a power of attorney obtained from the insured. That chapter of regulations was vacated by order of the Circuit Court of Baltimore City in 1994.

The second set of repealed regulations, Chapter .07, “Holocaust Victims Insurance Claims and Reports,” implemented Chapter 117 of the Acts of 1999, which opened a 10-year window for filing certain insurance claims. The filing period ended June 30, 2009, and the final reports required under the statute ended the same year.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The administration cites §§ 2-109, 3-111, 3-113, 3-124, 3-125, 23-103, 23-207, and 23-302(c) as statutory authority for the regulations. The administration is merely updating and correcting existing cited statutory authority for the regulations. This authority is correct and complete. Except as noted below, the regulations comply with legislative intent.

The repeal of two obsolete chapters was identified in the administration’s Evaluation Report of March 25, 2015, on COMAR 31.16.01 through .07. The repeal of Chapter .05 as obsolete is supported by the fact that it was vacated and set aside on October 18, 1994 by order of the Circuit Court of Baltimore City (Case Nos. 93048002 and 93056020) (Kaplan, J.). There is no indication of contrary legislative intent.

The repeal of Chapter .07 is supported not only by the fact that the final reports required by the regulations and the underlying statute were completed in 2009, but also that the U.S. Supreme Court declared a similar statute to be federally preempted in *American Ins. Ass’n v. Garamendi*, 539 U.S. 396 (2003). Although the underlying Maryland statute, Title 28, Subtitle 1 of the Insurance Article, remains in effect, federal preemption renders any issue of authority moot, whatever the legislative intent may be.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The administration advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The administration advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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