

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	05/17/2016	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 6/24/2016

2. COMAR Codification

Title Subtitle Chapter Regulation

31 04 02 00-.07

3. Name of Promulgating Authority

Maryland Insurance Administration

4. Name of Regulations Coordinator

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5. Name of Person to Call About this Document

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6. Check applicable items:

- New Regulations
- Amendments to Existing Regulations
 - Date when existing text was downloaded from COMAR online: .
- Repeal of Existing Regulations
- Recodification
- Incorporation by Reference of Documents Requiring DSD Approval

X- Reproposal of Substantively Different Text:

43: 4 Md. R 343-345 2/19/16
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: 16-062-P.

7. Is there emergency text which is identical to this proposal:

- Yes **X- No**

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Ioannis Laskaris, Assistant Attorney General, (telephone #410-468-2033) on 5/16/16. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Alfred W. Redmer, Jr.

Title

Insurance Commissioner

Telephone No.

410-468-2090

Date

5-16-16

Title 31
MARYLAND INSURANCE ADMINISTRATION
Subtitle 04 INSURERS

31.04.02 Examination of [Promoters] Principal Management or Controllers of Insurers

Authority: See attached.

Notice of Proposed Action

[]

The Insurance Commissioner proposes to amend the enabling authority of this Chapter, amend Regulations .01-.07 of this chapter, and repeal Regulation .08 of this Chapter.

Statement of Purpose

The purpose of this action is to update certain provisions of COMAR that provide for the suitability of certain individuals who exercise control of any substantial portion of insurance companies that do business in the State. Specifically, these amendments specify the circumstances under which certain insurance companies are required to submit biographical affidavits of principal management to the Maryland Insurance Administration, and the means by which the Maryland Insurance Administration may verify the information contained therein. These proposed amendments implement procedures recommended by the NAIC in their 2014 Company Licensing Best Practices Handbook. The purpose of this reproposal is to: clarify the scope of the regulations with regard to workers' compensation self-insurance groups in Regulation .01; amend an inaccurate statutory cross-reference in Regulation .02; amend the lead in to Regulation .03A to clarify to whom biographical affidavits shall be submitted; and to correct an inaccurate reference to an inapplicable statutory requirement regarding principal management of an ultimate controlling person in Regulation .03A(4).

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

These proposed regulations will result in a minimal decrease in expenditures for the Maryland Insurance Administration and a minimal increase in costs for insurance companies.

II. Types of Economic Impact.

Revenue (R+/R-)

Expenditure (E+/E-)

Magnitude

- A. On issuing agency:
 Reduction in Affidavit Review Time (E-) Minimal
- B. On other State agencies: NONE
- C. On local governments: NONE

Benefit (+)
 Cost (-) Magnitude

- D. On regulated industries or trade groups:
 Cost of Background Reports (-) Minimal
- E. On other industries or trade groups: NONE
- F. Direct and indirect effects on public: NONE

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. MIA staff members currently spend an average of 1½ hours reviewing information contained in each biographical affidavit submitted. Approximately 160 affidavits are currently reviewed by MIA staff per year. Under this regulation, the MIA staff will only be spending a few minutes reviewing the background report submitted by an independent third party for each affidavit submitted, opening up staff resources which may be expended elsewhere.

D. Insurance companies are responsible for the payment of the services provided by the independent third party for the preparation and submission of background reports to the Commissioner. The cost per report is approximately \$300, which is not significant.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Lisa Larson, Assistant Director of Regulatory Affairs, Maryland Insurance Administration, 200 St. Paul Place, Ste. 2700, Baltimore, MD 21202, or call 410-468-2007, or email to insuranceregreview.mia@maryland.gov, or fax to 410-468-2020. Comments will be accepted through July 25, 2016. A public hearing has not been scheduled.

Economic Impact Statement Part C

- A. Fiscal Year in which regulations will become effective: FY 17
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?
No
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:
- D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:
The MIA can implement these regulations without additional funds.
- E. If these regulations have no economic impact under Part A, indicate reason briefly:
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
Under the proposed regulations, insurance companies are responsible for the payment of the services provided by the independent third party for the preparation and submission of the background report to the Commissioner. However, insurance companies are not considered small businesses in Maryland.
- G. Small Business Worksheet:

Attached Document:

Title 31

MARYLAND INSURANCE ADMINISTRATION

Subtitle 04 INSURERS

31.04.02 Examination of [Promoters] *Principal Management* or Controllers of Insurers

Authority: *Health-General Article, §§15-102.6, 19-705, 19-708, 19-7A-03, and 19-7A-04; Insurance Article, §§2-109, 2-205(c), 4-108, 4-113(a)(7)–(9), 7-304, 7-603, 8-412, 8-417, 14-109(3), and 14-405; Annotated Code of Maryland*

.01 [Authority and] Purpose and Scope.

[This chapter is promulgated to supplement the statutory provisions set forth in Insurance Article, §§2-206, 3-104, and 4-115, Annotated Code of Maryland.] The purpose of [the] *this* chapter is to ensure protection [to] of the public interest [in the promotion of insurance companies proposed to be operated in Maryland] *by providing for the evaluation of the suitability of certain individuals who exercise control of any substantial portion of certain entities that do insurance business in the State, including an insurer, health maintenance organization, managed care organization, fraternal benefit society, nonprofit health service plan, and dental plan organization. This chapter does not apply to workers' compensation self-insurance groups organized pursuant to Insurance Article 25, Subtitle 3, Annotated Code of Maryland.*

.02 Definitions.

A. (originally proposed text unchanged)

B. Terms Defined.

(1)-(12) (originally proposed text unchanged)

(13) "Insurer" has the meaning stated in Insurance Article, [[[§1-101(g)]]] **§1-101**, Annotated Code of Maryland.

(14)-(21) (originally proposed text unchanged)

.03 Biographical Affidavit.

A. *Biographical affidavits shall be submitted on the individuals required by the applicable filing when:*

(1)-(3) (originally proposed text unchanged)

(4) A *[[[change in principal management of a domestic insurer or other entity subject to Insurance Article, Title 7, Annotated Code of Maryland, is reported in]]] person files a registration statement pursuant to Insurance Article, §7-603, Annotated Code of Maryland; and*

(5) (originally proposed text unchanged)

B.-C. (originally proposed text unchanged)