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**TESTIMONY OF
THE
MARYLAND INSURANCE ADMINISTRATION
BEFORE THE
EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE**

FEBRUARY 5, 2020

**SENATE BILL 297 – ADMINISTRATIVE PROCEDURE ACT - DISPOSITIONS AND SUMMARY
SUSPENSIONS - TIME PERIODS**

POSITION: OPPOSE

Thank you for the opportunity to provide written comments regarding Senate Bill 297. Senate Bill 297 makes changes to two statutes in the contested case provisions of the Administrative Procedure Act (APA) of the State Government Article. The first amends § 10-210 to require an agency or the Office of Administrative Hearings (OAH) to "dispose" of a contested case within 90 days after the date of any evidentiary hearing held on the case which are applicable to the Maryland Insurance Administration (MIA) pursuant to §2-210(c) of the Insurance Article. A named party in such a case can then send notice that the decision is due, and if the agency or OAH still does not dispose of the case within 30 days after receipt of the notice, the decision shall be "deemed to be in favor of the named party."

Currently §2-214 of the Insurance Article already requires the MIA to dispose of a case within 30 days, which is quicker than what would be required in Senate Bill 297. However, the requirement that the disposition be deemed to be in favor of the named party is problematic. With a MIA hearing, the MIA does not always participate. In such cases, the case is captioned MIA ex rel (name of complainant) versus the insurer (or sometimes a producer). It is unclear in this situation which party would be the "named party," but, assuming it is the insurer, the statute would penalize the complainant for the delay caused by the agency or OAH. This is unfair. Similarly, in enforcement cases against a licensee, the action against the insurer or producer is done consistent with the police powers of the state to protect the public. Should a delay occur, it is the public that may suffer the consequence. Under the current law, if there is a delay, a licensee does have a means of redress by filing a mandamus action against the agency or OAH to have the court order that the agency or OAH issue its decision.

Senate Bill 297 also amends the summary suspension statute by requiring that an appealable order be issued 30 days after the date of the summary suspension. Currently, the MIA has to wait at least 10 days to hold a hearing as §2-211 of the Insurance Article requires. Coupled with the requirement that orders be issued at least 30 days after the hearing under §2-214 of the Insurance Article, this means the order on the summary suspension (which is only in place until the hearing on the merits of the revocation order is considered), must be issued within 40 days. Senate Bill 297 would shorten that requirement as the counting begins from the date the summary suspension was issued. As drafted, the bill language is unclear that if a party is not available on the suggested hearing date offered by the MIA, if they would be able to request a postponement and if a postponement could be granted.

The Maryland Insurance Administration opposes Senate Bill 297 and urges the Committee to give Senate Bill 297 an unfavorable report.