

LARRY HOGAN
Governor

BOYD K. RUTHERFORD
Lt. Governor



Maryland

INSURANCE ADMINISTRATION

200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202

Direct Dial: 410-468-2471 Fax: 410-468-2020

Email: kathleen.birrane@maryland.gov

www.insurance.maryland.gov

KATHLEEN A. BIRrane
Commissioner

GREGORY M. DERWART
Deputy Commissioner

TESTIMONY OF
THE
MARYLAND INSURANCE ADMINISTRATION
BEFORE THE
SENATE FINANCE COMMITTEE

JANUARY 19, 2022

SENATE BILL 185 – MARYLAND INSURANCE ADMINISTRATION - VIRTUAL HEARINGS

POSITION: SUPPORT

Thank you for the opportunity to provide written comments in support of Senate Bill (SB) 185.

SB 185 amends §2-213 of the Insurance Article to authorize the Maryland Insurance Administration (MIA) Commissioner to direct that a hearing be held virtually, subject to the condition that the Commissioner cannot require a party to participate virtually in a hearing if the party would be unable to effectively participate. This amendment to the Insurance Article aligns with the contested case provisions of the Maryland Administrative Procedure Act, which allows hearings to be conducted by electronic means in accordance with §10-211 of the State Government Article, Annotated Code of Maryland.

As currently written, §2-213(a) of the Insurance Article requires administrative hearings to be held in-person. During the COVID-19 State of Emergency, the MIA was unable to hold in-person public hearings. The MIA secured advice from the Office of the Attorney General that the MIA could conduct its hearings virtually, but only if all parties agreed to do so. This was a positive development, which enabled the MIA's hearing unit to continue to function during the pandemic.

However, while the MIA did proceed with a virtual hearing by agreement in many cases, parties with an interest in deferring a resolution could do so by refusing to consent to a virtual hearing. When the MIA finds a violation of the law and/or takes disciplinary action against a licensee, the MIA's order is automatically stayed pending a hearing if the hearing is requested

within 10 days of the issuance of the finding. As a result, in circumstances where the MIA had, for example, revoked the license of a producer for unlawful conduct, the producer could prevent that revocation from going forward by requesting a hearing within 10 days and then refusing to consent to a virtual hearing. To prevent that scenario and backlogs in general, the Governor utilized his emergency powers to authorize the MIA to suspend the in-person administrative hearing requirement, provided that parties had the means to participate electronically.

The MIA has found that virtual hearings are as effective as in-person hearings, and are a more practical, cost-effective way for both consumers and insurers to participate. Insurers prefer virtual hearings as it reduces travel costs and the need to bring in witnesses and counsel from out-of-state. Likewise, many consumers prefer the ability to present their cases from the comfort of their own homes and find the virtual setting less intimidating. Where convenience and accessibility are concerned, virtual hearings also remove the transportation and mobility barriers for parties and their witnesses. Conducting hearings virtually also allows for social distancing, and avoids the difficulties in attempting to conduct hearings using plexi-glass barriers and masks while attempting to record the proceedings in order to produce an accurate transcript.

The MIA has successfully conducted its hearings and has demonstrated that video conferencing or other electronic means can be accomplished consistent with all other statutory requirements. Since initiating virtual hearings, the MIA has enhanced its technology infrastructure and has added new tools to make electronic hearings easily accessible and user friendly for all. In addition to being able to conduct hearings on multiple platforms, the MIA has set up a virtual presentation room within the MIA's offices that is equipped with audio visual equipment that may be used by a party who otherwise lacks equipment or reliable internet access to participate virtually. The MIA is available to assist such a party to operate the equipment and to participate.

Due to the fact that §2-213(a) currently requires all hearings at the MIA to be held in person, the proposed amendment is necessary to allow the MIA to direct that a hearing be virtual. Parties who are not able to effectively participate virtually are protected, as the amendment clearly prohibits the MIA Commissioner from requiring a party to participate virtually if the party cannot exercise its hearing rights by appearing virtually.

For the reasons explained above, the MIA respectfully requests a favorable report on SB 185.