Task Force to Study Maryland Insurance of Last Resort Programs

2013 INTERIM REPORT

Annapolis, Maryland
December 2013

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THE MARYLAND GENERAL ASSEMBLY

ANNAPOLIS, MARYLAND 21401-1991

Task Force to Study Maryland Insurance of Last Resort Programs

December 1, 2013

The Honorable Thomas V. Mike Miller, Jr., President of the Senate
The Honorable Michael E. Busch, Speaker of the House of Delegates
Members of the Maryland General Assembly

Ladies and Gentlemen:

The Task Force to Study Maryland Insurance of Last Resort Programs respectfully submits its final report. The task force met seven times, including twice during the 2012 interim, three times during the 2013 session, and twice during the 2013 interim. Pursuant to Chapter 408 (House Bill 1017) of 2012, the task force was responsible for studying and making recommendations regarding the potential affiliation of one or more of the State's insurers of last resort: the Injured Workers' Insurance Fund (IWIF), the Joint Insurance Association (JIA), the Maryland Automobile Insurance Fund (MAIF), and the Maryland Health Insurance Program (MHIP).

We thank the task force members for their diligence and attention to the work of the task force. Also, on behalf of the task force members, we thank Tami D. Burt, Laura H. Atas, Michael F. Bender, Jennifer A. Ellick, Robert K. Smith, Michelle J. Purcell, and Theresa A. Silkworth of the Office of Policy Analysis, Department of Legislative Services for their assistance.

Very truly yours,

Senator Thomas M. Middleton
Senate Co-chair

Delegate David D. Rudolph
House Co-chair

TMM:DDR/TDB/tas

cc: Mr. Warren G. Deschenaux

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Representative of the Joint Insurance Association:
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Steven M. Sakamoto-Wengel

Representative of the Maryland Consumer Rights Coalition:
Marceline White

Representative of the Insurance Agents and Brokers of Maryland
(also represents Independent Insurance Agents of Maryland):
Edward Larry Sanders, III

Representative of the Public:
Honorable Charles Thomas McMillen

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Task Force to Study Maryland Insurance of Last Resort Programs
Executive Summary

Background and Charge

Maryland has four "Insurance of Last Resort Programs" that provide a variety of insurance coverages for those who cannot otherwise obtain or afford private-sector plans. Among the programs, consumers are able to purchase and maintain workers' compensation insurance from the Injured Workers' Insurance Fund (IWIF) / Chesapeake Employers' Insurance Company (Chesapeake), automobile insurance from the Maryland Automobile Insurance Fund (MAIF), homeowner's insurance from the Joint Insurance Association (JIA), and health insurance from the Maryland Health Insurance (MHIP). Chapter 408 (House Bill 1017) of 2012 established this task force for the purposes of studying and making recommendations regarding the potential costs and benefits to the State from the affiliation of one or more of the State-created insurers of last resort.

Recommendations

2012 Interim

During the 2012 interim, the task force learned about each insurer of last resort and its respective industry. By comparing the four insurers, the task force was able to identify the differences in their operational structures. The task force charged each insurer to identify antiquated statutes, ways in which the other insurers operate that could assist the insurer in achieving its mission, and benefits and drawbacks of a potential consolidation of certain functions that each insurer of last resort performs. MAIF was the only insurer to offer suggestions on how its statute could be changed to facilitate operations. MAIF identified significant differences in its operations as compared to IWIF. IWIF has legislatively evolved over the last 30 years, while MAIF, with a few exceptions, has remained static since its 1972 creation.

The task force agreed that discussions regarding the operations of MHIP should be set aside until more was known as to whether MHIP would remain viable or would be folded into the Maryland Health Benefit Exchange.

Further, based on the passage of Chapter 570 of 2012 (Senate Bill 745), which converted IWIF into a statutorily chartered, private, nonprofit, and nonstock workers' compensation insurer to be named the Chesapeake Employers' Insurance Company, the task force agreed that further changes to IWIF/Chesapeake at that time would not be necessary.

Although the task force discussed numerous possible operational changes to MAIF, the task force ultimately narrowed its recommendations to five operational areas. One issue that the task force agreed would not be included in a legislative proposal during the 2013 legislative session related to the restriction in the law of MAIF creating an installment plan; this issue was under discussion by a group of stakeholders.

2013 Session

During the 2013 session, the task force introduced legislation to align MAIF's operations with IWIF's operations in five areas. Chapters 73 and 74 (Senate Bill 749/House Bill 1132) of 2013 accomplish those changes:

- **Office of Attorney General Representation:** removed from the general charge to legally represent MAIF and required the board to employ attorneys to advise and represent MAIF in all legal matters and, when necessary, to sue or to defend suits in MAIF's name;

- **Procurement:** exempted MAIF from the State procurement law relating to real estate, as was already true for procurement of supplies and services;

- **Governing Body, Governing Body Compensation, Executive Director, and Financial Management Committee:** among other changes, decreased the number of board of trustees' members while increasing the terms of board members, altering the composition of the board, providing compensation to board members, and allowing the board to appoint the executive director without approval from the Governor;

- **Legislative Audits:** among other changes, repealed the requirement that MAIF be subject to review by the Office of Legislative Audits; and

- **State Employees:** among other changes, removed employees of MAIF from the State Personnel Management System except under specified circumstances (which anticipated an impact with regard to closings and retirement buyouts of excess employees).

2013 Interim

During the 2013 interim, the task force learned about the progress of the conversion of IWIF to Chesapeake. Chesapeake reported that the transition had been a smooth process; however, legislation that clarifies two provisions of the conversion bill is anticipated for the 2014 session. **The task force agreed to support the legislative changes which will:**

- **allow Chesapeake to continue IWIF's practice of writing policies for employer's liability insurance and insurance under a federal compensation law; and**

- **allow Chesapeake to cancel or refuse to renew or issue a policy for failure to reimburse Chesapeake under a policy with deductibles.**

The task force also discussed the progress of MAIF in making the operational changes under Chapters 73 and 74. MAIF also reported that the implemented action had been smooth and indicated that MAIF is not asking for any additional changes. **The task force agreed that no additional operational changes were needed at this time for MAIF**.

The task force agreed that the task force would not discuss consolidating MAIF and Chesapeake. However, the task force agreed to require, by letter, Chesapeake and MAIF to discuss and report by October 1, 2015, to the Senate Finance Committee and the House Economic Matters Committee on possible

costs and benefits for the organizations to share specified resources.

Also during the 2013 interim, the task force learned about the status of the State's homeowner's insurance industry from JIA, the Property Insurance Plans Service Office, and the Reinsurance Association of America. **The task force agreed that changes to JIA are not necessary.**

Lastly, the task force agreed not to discuss options that could reduce the rate of uninsured drivers, given that this task force may not be the best group to make recommendations on the issue. However, since the task force is interested in reducing the rate of uninsured drivers, the task force agreed to support legislation that would create a new task force solely charged with addressing that issue.

Task Force to Study Maryland Insurance of Last Resort Programs
Final Report

Background and Charge

Maryland has four "Insurance of Last Resort Programs" that provide a variety of insurance coverages for those who cannot otherwise obtain or afford private-sector plans. Among the programs, consumers are able to purchase and maintain:

- workers' compensation insurance from the Injured Workers' Insurance Fund (IWIF)/Chesapeake Employers' Insurance Company (Chesapeake);
- automobile insurance from the Maryland Automobile Insurance Fund (MAIF);
- homeowner's insurance from the Joint Insurance Association (JIA); and
- health insurance from the Maryland Health Insurance Plan (MHIP).

Chapter 408 (House Bill 1017) of 2012 established the task force for the purposes of studying and making recommendations regarding the potential costs and benefits to the State from the affiliation of one or more of the State-created insurers of last resort. Specifically, the task force was charged with considering:

- potential benefits to the State;
- potential legal and corporate structures (*e.g.*, a holding company structure);
- how each entity would be supported or impaired in performing its statutory duties;
- whether each entity should retain a separate existence with its own board of directors or governing committee;
- the State's ability to regulate each entity (in terms of solvency, rates, and market conduct);
- the financial condition of each entity;
- safeguards to protect policyholders and other stakeholders;
- the extent of each entity's financial independence and/or responsibility for the debts or liabilities of other entities;
- the tax status of each entity and any effects of affiliation on taxation; and
- the issuance of dividends by subsidiaries.

The task force was also required to study and make recommendations regarding whether JIA should become an authorized insurer with a broader mandate and whether MAIF should be converted to a statutorily chartered private, nonprofit, and nonstock insurer for automobile and other forms of insurance. This final report was due by December 1, 2013. See **Appendix 1** for the task force's interim report, which was issued on December 31, 2012.

Meetings

The task force met seven times, including twice during the 2012 interim (November 7 and December 13), three times during the 2013 session (January 14 and 28 and February 18), and twice during the 2013 interim (October 23 and November 12). See **Appendix 2** for the minutes of these meetings.

2012 Interim

November 7, 2012

At the November 7, 2012 meeting, the staff for the task force, policy analysts in the Office of Policy Analysis, Department of Legislative Services reviewed the charge of the task force and presented background documents they had prepared. The task force learned about each insurer of last resort and its respective industry. Specifically, the background documents included information about the history of the creation of the insurers and legislative changes; the development of their organizational structure (governing body and employees); the insurance coverages they provide (types of coverage, market share, and number of policies, installment plan program and policy terms, regulation by the Maryland Insurance Administration (MIA), and use of producers); their financial operations (State's investment and relation to the State, financial data, payment of taxes and fees, dissolution provisions, and consumer protections); and residual markets in other states. By comparing the four insurers, the task force was able to identify the differences in their operational structures. See **Appendix 3** for the background documents of each insurer of last resort. See **Appendix 4** for a chart that compares the four insurers of last resort.

The task force charged each insurer to identify antiquated statutes, ways in which the other insurers operate that could assist the insurer in achieving its mission, and benefits and drawbacks of a potential consolidation of certain functions that each insurer of last resort performs.

December 13, 2012

At the December 13, 2012 meeting, the task force heard presentations from the Insurance Commissioner regarding MIA's regulation of each insurer of last resort (See **Appendix 5** for MIA's presentation document), the Insurance Management Group (relating to the perspective of the coastal property insurance markets by an insurance producer who specializes in the nonadmitted property market), and the Maryland Property and Casualty Insurance Guaranty Corporation regarding its purpose and operations.

MAIF was the only insurer to offer suggestions on how its statute could be changed to facilitate operations. MAIF identified significant differences in its operations as compared to IWIF. IWIF had legislatively evolved over the last 30 years, while MAIF, with few exceptions, had remained static since its 1972 creation. See **Appendix 6** for the document that MAIF provided identifying the operational differences.

The task force agreed that discussions regarding the operations of MHIP should be set aside until more was known as to whether MHIP would remain viable or would be folded into the Maryland Health Benefit Exchange.

Further, based on the passage of Chapter 570 (Senate Bill 745) of 2012 which converted IWIF into a statutorily chartered, private, nonprofit, and nonstock workers' compensation insurer to be named the Chesapeake Employers' Insurance Company, the task force agreed that further changes to IWIF/Chesapeake at that time would not be necessary.

The interim report (See Appendix 1) described the task force's activities and indicated that the task force planned to meet during the 2013 session to consider legislation and to meet after the session to formulate a plan to specifically address the task force's charge of studying the potential affiliation of one or more of the insurers of last resort.

2013 Session

January 14, 2013

At the January 14, 2013, meeting, the task force discussed potential operational changes to MAIF. Specifically, the operational changes the task force discussed are described below.

- **Office of Attorney General (OAG) Representation:** This provision strikes the requirement that MAIF be represented in legal matters by OAG. As a result of 1994 legislation, IWIF was no longer represented by OAG. MAIF, however, was not subject to the 1994 change and was still represented exclusively by OAG. MAIF reported that this was an awkward situation in that MAIF paid for the position, but it

could not dictate who would fill the position. From an institutional standpoint, MIA was also represented by OAG. When MAIF had a conflict with the regulator, OAG represented both sides in the dispute. OAG believes that providing representation to both MAIF and MIA does not present a conflict. OAG regularly represents differing interests without issues.

- **Open Meetings Act:** This provision struck the requirement that MAIF be subject to the Open Meetings Act. IWIF, reflecting its primary role as a competitive insurer, was not subject to this Act as a result of legislation enacted in 2000.

- **Procurement:** This provision struck the requirement that MAIF be subject to Division II of the procurement law (relating to real estate). MAIF was already exempt from Division I of the procurement law (relating to supplies and services). IWIF was not subject to State procurement regulations in either area. According to MAIF, this issue became important when MAIF sought to rent property for drive-by claim centers and considered downsizing its headquarters.

- **Governing Body Structure, Governing Body Compensation, Executive Director, and Financial Management Committee:** These provisions decreased the number of members on the Board of Trustees, made all board members be appointed by the Governor, staggered the board members' terms, and allowed for compensation to the board members. The executive director would be appointed by the board, but the appointment would no longer require the approval of the Governor. Further, these provisions altered the membership of the financial management committee and required that members have financial experience.

  While MAIF's board then consisted of a public/private partnership, IWIF's board members were all appointed by the Governor with the advice and consent of the Senate. Prior to this legislation, 7 of the 13 MAIF board members were appointed by the Governor, with 5 chosen by the Board of Directors of the Industry Automobile Insurance Association (the thirteenth member was the executive director). The industry representatives were placed on the board in the late 1970s at a time when MAIF began assessing the private automobile insurance industry for its operating deficits. There had not been an assessment since 1989. MAIF's board members were not entitled to any salary. The members who were appointed by the Governor received only the State-mandated $100 per diem meeting rate plus expenses. According to MAIF, this level of payment had made MAIF a low-priority board for applications, and MAIF had often struggled to obtain a quorum at board meetings. According to MAIF, allowing board members to be paid at a level more commensurate with the IWIF board would make the MAIF board a more attractive appointment, increase quorums at MAIF board meetings, and harmonize the two boards' structures. While MAIF's board could only appoint its executive director with the approval of the Governor, IWIF's board appointed its president.

- **Legislative Audits:** This provision struck the requirement that MAIF be subject to legislative audits. Like MAIF, IWIF was subject to MIA regulatory reviews, internal audits, and a yearly requirement of filing a financial statement with MIA. Because of these reviews, as a result of legislation that passed in 2000, IWIF was able to end the practice of also being reviewed by the Office of Legislative Audits (OLA). MAIF was still reviewed by OLA.

- **Deficit Assessment:** This provision struck the ability for MAIF to impose assessments and added a requirement that MAIF be subject to risk-based capital (RBC) standards. Unique to MAIF was its ability to assess automobile insurers for its losses. Those insurers historically had recovered all of the funds paid to MAIF through a surcharge on their policyholders.

- **State Employees:** This provision removed MAIF employees from the State Personnel Management System (SPMS), except for skilled service employees. Employees remained State employees and stayed under the State's health and retirement/pension systems. A significant difference between MAIF and IWIF was the nature of State control over the employee work force. Both MAIF and IWIF paid for, and participated in, the State mandated health plan and retirement system, (though this would change for Chesapeake employees. Unlike IWIF, however, MAIF employees were subject to the broad dictates of SPMS. According to MAIF, this was a far more extensive entanglement than IWIF had to deal with, and yielded odd consequences. For example, MAIF, like all of State government, was ordered closed during hurricane Sandy; this was unfortunate because MAIF services were needed, but the broad inclusion of MAIF employees in the SPMS offered no choice. Further, MAIF was unable to offer retirement buyout options to employees who were under SPMS.

- **Ratemaking Process:** This provision allowed MAIF to file rates on a competitive rating basis, meaning that the insurer would be allowed to file its rates and then immediately use them (known as "file and use"); in this situation, the regulator reviews the insurer's rates after implementation. Prior to this legislation, MAIF had to obtain approval of its rates before using them (known as "prior approval"). According to MAIF, it varied tremendously from IWIF on the timing related to MIA's review of proposed rate changes. Every automobile insurer had its rates reviewed by MIA; however, MAIF was the only automobile insurer in the State that required "prior approval" before altering its rates. The "file and use" basis allows insurers to pick a firm date for rate changes, allowing accurate quotes for future policies.

- **Policy Eligibility Requirements:** This provision struck the "two turn down rule." In order to obtain a MAIF policy, an applicant had to be turned down by two private insurers or be cancelled by one other insurer. There was no similar requirement with IWIF, and in this time of an increasing uninsured driving population, MAIF believed that

antiquated barrier to entry should be removed. Automobile insurance today, unlike in 1972, is price sensitive and widely available from well-known sources. MIA's Comparison Guide to Rates showed that a majority of carriers' rates were well below MAIF rates in every jurisdiction and under virtually every age and demographic circumstance. Consumers with driving records that warranted private insurance consideration would not be coming to MAIF. Forcing MAIF applicants to seek coverage from and be turned down by these carriers imposed, in certain circumstances, the untenable result of someone who wanted to obtain insurance not being able to obtain it solely because they had not yet gone through the ritual of being turned down by two other carriers or cancelled by one.

One issue that the task force agreed not to include in a legislative proposal related to the restriction in the law that prohibited MAIF from creating an installment plan; this issue was under discussion by a group of stakeholders. During the 2013 session, Chapter 334 (Senate Bill 930) was adopted authorizing MAIF to accept premiums on an installment payment basis under specified circumstances.

January 28, 2013

At the January 28, 2013 meeting, the task force reviewed the potential operational changes to MAIF. See **Appendix 7** for a letter prepared by IWIF describing IWIF's operations. See **Appendix 8** for a description of the audits and examinations that MAIF was then subject to. The task force agreed to table two of the potential operational changes:

- **Deficit Assessment:** Although the assessment had not been imposed on insurers since 1989, the task force seemed to agree that keeping it provided a safety net, for a public agency, should its use be warranted; without the assessment mechanism, the Property and Casualty Guaranty Fund could be impacted if MAIF's operations realized extensive losses.

- **Policy Eligibility Requirements:** The task force discussed that the two turn down rule might not be the best way to ensure that drivers are insured, that MAIF did not compete with the voluntary market, and that MAIF remained a viable insurer. However, the task force seemed to want some sort of "gate" since MAIF remained the insurer of last resort. No alternative ways to accomplish the same purposes of the two turn down rule were suggested.

February 18, 2013

At the February 18, 2013 meeting, the task force reviewed Senate Bill 749/House Bill 1132 "Maryland Automobile Insurance Fund – Operational Changes." See **Appendix 9** for the legislation. **Although the task force discussed numerous possible operational changes to**

MAIF, the task force ultimately narrowed its recommendations to five operational areas. These included provisions relating to Office of Attorney General Representation; Procurement, Governing Body, Governing Body Compensation, Executive Director, and Financial Management Committee; Legislative Audits; and State Employees. In addition to the potential operational changes that were tabled in the prior meeting, the task force agreed to table two additional potential operational changes:

- **Open Meetings Act:** The task force was concerned that this issue would be controversial given that there were bills that were expected to be introduced as a result of an unrelated issue relating to tightening the open meetings law.

- **Ratemaking Process:** The task force understood that "prior approval" caused delays in MAIF's ability to offer rates that reflected market conditions in a timely fashion. However, the task force seemed to want to maintain some sort of rate approval process for MAIF. The Insurance Commissioner and MAIF planned to meet to discuss a process that would be more efficient.

The provisions of Senate Bill 749/House Bill 1132 of 2013:

- **Office of Attorney General Representation:** removed the general charge of MAIF's legal business from OAG and required the board to employ attorneys to advise and represent MAIF in all legal matters and, where necessary, to sue or defend suits in MAIF's name.

- **Procurement:** exempted MAIF from the State procurement law relating to real estate, as was already true for procurement of supplies and services.

- **Governing Body, Governing Body Compensation, Executive Director, and Financial Management Committee:** decreased the number of members of the board from 13 to 9.

  Required, of the nine members, at least three to have insurance industry expertise and at least two to have financial management expertise.

  Required, of the members with insurance industry expertise, at least one to be appointed from a list of two or more individuals recommended by the board of directors.

  Required each member of the board to be a State resident.

  Required the Governor to appoint all nine members with the advice and consent of the Senate and, to the extent practicable, consider the geographic and demographic diversity of the State, including race and gender.

Repealed the ability of the board of directors to appoint five board members, the requirement that the executive director be on the board, and the requirement that the position of the chairman alternate for each successive term.

Required, before taking office, each appointee to the board to take an oath required by the Maryland Constitution.

Authorized the Governor to remove a board member for incompetence or misconduct.

Repealed the requirement that the board obtain approval of the Governor before appointing an executive director and the prohibition that the executive director could not vote on the choice of a successor.

Increased the number of years in a board member's term, placed a specified cap on the amount of time a board member might serve, and staggered the board members' terms.

Granted each member of the board entitlement, as provided in the board's budget, to collect (1) a reasonable salary for work performed for MAIF's benefit and (2) reimbursement for expenses incurred in the performance of the member's duties.

Required that the two members of the board who sit on the board's financial management committee have financial management expertise.

Required the board to adopt rules, bylaws, and procedures and authorized the board to adopt any policy to carry out laws related to MAIF.

- **Legislative Audits:** repealed the requirement that MAIF be subject to review by OLA; in its place, the board's audit committee, composed of members of the board and the Executive Director, must require MAIF's internal auditor to conduct fiscal compliance and fiscal audits of the accounts and transactions of MAIF each year.

  Required a fiscal compliance audit to (1) examine financial transactions and records and internal controls; (2) evaluate compliance with applicable laws and regulations; and (3) examine electronic data processing operations.

  Required the audit committee to direct the internal auditors not to duplicate the same areas covered by an independent auditor's fiscal audit with the internal auditor's own fiscal audit in the same period.

- **State Employees:** generally removed MAIF employees from the State Personnel Management System; a skilled service employee hired before July 1, 2013, in a nonprofessional or nontechnical position had to remain in the skilled service in the State Personnel Management System or its equivalent as long as the employee remained in a nonprofessional or nontechnical position with MAIF.

  Provided that MAIF employees remained State employees, and might participate in the State health and pension systems.

  Required the executive director to appoint and remove MAIF employees in accordance with the policies of the board.

2013 Interim

October 23, 2013

At the October 23, 2013 meeting, the task force learned about the progress of the conversion of IWIF to Chesapeake. Chesapeake reported that the transition had been a smooth process; however, legislation to clarify two provisions of the conversion bill is anticipated for the 2014 session. **The task force agreed to support the legislative changes which will allow Chesapeake to:**

- **continue IWIF's practice of writing policies for employer's liability insurance and insurance under a federal compensation law; and**

- **cancel or refuse to renew or issue a policy for failure to reimburse Chesapeake under a policy with deductibles.**

The task force also discussed the progress of MAIF in implementing the operational changes under Chapters 73 and 74 of 2013. See **Appendix 10** for MAIF's evolution relating to the operational changes. MAIF also reported that the transition had been smooth and indicated that MAIF was not asking for any additional changes. The task force reviewed the potential operational changes that had been tabled in the past, including Open Meetings Act, Deficit Assessment, Ratemaking Process, and Policy Eligibility Requirements. Except for the Open Meetings Act which would be discussed further at the last meeting, **the task force agreed that no additional operational changes were needed at this time for MAIF**.

The task force agreed that the task force would not discuss the affiliation of MAIF and Chesapeake. However, the task force agreed to require, by letter, Chesapeake and MAIF to discuss and report by October 1, 2015, to the Senate Finance Committee and the House Economic Matters Committee on possible costs and benefits for the organizations to share specified resources.

Further, the task force agreed not to discuss options that could reduce the rate of uninsured drivers, given that this task force might not be the best group to make recommendations on the issue. However, since the task force was interested in reducing the rate of uninsured drivers, the task force agreed to support legislation that would create a new task force solely charged with addressing that issue.

November 12, 2013

At the November 12, 2013 meeting, the task force learned about the status of homeowner's insurance in Maryland from JIA (See **Appendix 11** for JIA policy information); the status of homeowner's insurance in the residual markets in other states from the Property Insurance Plans Service Office (PIPSO) (See **Appendix 12** for information about the Fair Access to Insurance Requirements (FAIR) plans in other states); and the status of reinsurance markets for coastal risks from the Reinsurance Association of America. **JIA indicated that they did not need any legislative changes. Accordingly, the task force agreed that changes to JIA were not necessary.**

The task force also discussed whether MAIF should be exempt from the Open Meetings Act. See **Appendix 13** for a description and applicability of the Open Meetings Act. **The task force agreed to not recommend any changes relating to this issue.** Further, the task force discussed the draft letter that requires MAIF and Chesapeake to report on future opportunities for resource sharing (See **Appendix 14**) and the draft legislation that creates a Task Force to Study Methods to Reduce the Rate of Uninsured Drivers (See **Appendix 15**). The task force members generally agreed with both proposals but were given time to review both proposals and provide their comments to staff. Further, the task force members agreed to review the final report once drafted and provide their comments to staff.

Summary of Recommendations

2012 Interim/2013 Session

During the 2013 session, the task force introduced legislation to align MAIF's operations in five areas with IWIF's operations. Chapters 73 and 74 (Senate Bill 749/House Bill 1132) of 2013:

- **Office of Attorney General Representation:** removed the general charge of MAIF's legal business from OAG and required the board to employ attorneys to advise and represent MAIF in all legal matters and, where necessary, to sue or defend suits in MAIF's name;

- **Procurement:** exempted MAIF from the State procurement law relating to real estate, as was already true for procurement of supplies and services.

- **Governing Body, Governing Body Compensation, Executive Director, and Financial Management Committee:** among other changes, decreased the number of board of trustees' members while increasing the terms of board members, altering the composition of the board, providing compensation to board members, and allowing the board to appoint the executive director without approval of the Governor;

- **Legislative Audits:** among other changes, repealed the requirement that MAIF be subject to review by the Office of Legislative Auditors; and

- **State Employees:** among other changes, removed employees of MAIF from the State Personnel Management System except under specified circumstances (which anticipated an impact with regard to closings and retirement buyouts of excess employees).

2013 Interim

While the task force did not recommend the introduction of new legislation, the task force agreed:

- **Chesapeake Conversion Clarifications:** to support legislation that will allow Chesapeake to (1) continue IWIF's practice of writing policies for employer's liability insurance and insurance under a federal compensation law and (2) cancel or refuse to renew or issue a policy for failure to reimburse Chesapeake under a policy with deductibles;

- **MAIF/Chesapeake Resource Sharing:** to require, by letter, Chesapeake and MAIF to discuss and report by October 1, 2015, to the Senate Finance Committee and the House Economic Matters Committee on possible costs and benefits for the organizations to share specified resources; and

- **Methods to Reduce the Rate of Uninsured Drivers:** to support legislation that creates a new task force that is solely charged with addressing that issue.

Appendix 1. 2012 Interim Report

THE MARYLAND GENERAL ASSEMBLY

ANNAPOLIS, MARYLAND 21401-1991

Task Force to Study Maryland Insurance of Last Resort Programs

December 31, 2012

The Honorable Thomas V. Mike Miller, Jr., Co-chairman
The Honorable Michael E. Busch, Co-chairman
Members of the Senate Finance Committee
Members of the House Economic Matters Committee

Ladies and Gentlemen:

The Task Force to Study Maryland Insurance of Last Resort Programs respectfully submits its preliminary report. Since members of the task force were not appointed until the end of September 2012, the task force was not able to hold its first meeting until November 7, 2012. Subsequently, the task force held another meeting on December 13, 2012.

Pursuant to Chapter 408 (House Bill 1017) of 2012, the task force is responsible for studying and making recommendations regarding the potential affiliation of one or more of the State's insurers of last resort Injured Workers' Insurance Fund (IWIF), Joint Insurance Association (JIA), Maryland Automobile Insurance Fund (MAIF), and Maryland Health Insurance Program (MHIP). Specifically, the task force must consider:

- potential benefits to the State;
- potential legal and corporate structures (*e.g.*, a holding company structure);
- how each entity would be supported or impaired in performing its statutory duties;
- whether each entity should retain a separate existence with its own board of directors or governing committee;
- the State's ability to regulate each entity (in terms of solvency, rates, and market conduct);
- the financial condition of each entity;
- safeguards to protect policyholders and other stakeholders;
- the extent of each entity's financial independence and/or responsibility for the debts or liabilities of other entities;
- the tax status of each entity and any effects of affiliation on taxation; and
- the issuance of dividends by subsidiaries.

The task force must also study and make recommendations regarding whether JIA should become an authorized insurer with a broader mandate and whether MAIF should be converted to

a statutorily created private, nonprofit, and nonstock insurer for automobile and other forms of insurance. A final report is due by December 1, 2013.

At the task force's organizational meeting on November 7, 2012, the members learned about each insurer of last resort and its respective industry. Department of Legislative Services' policy analysts who staff the task force presented background information on each insurer of last resort. The information, detailed in background documents and summarized in a comparison chart, examined the insurers' history, structure, type of insurance coverage offered, and financial information. (Staff can furnish copies of these documents upon request.) Following the presentations and discussion by the members, each insurer of last resort was tasked with identifying (1) antiquated statutes; (2) ways in which the other insurers operate that could assist the insurer in achieving its mission; and (3) benefits and drawbacks of a potential consolidation of certain functions that each insurer of last resort performs.

At the task force's December 13, 2012 meeting, the task force heard from the Insurance Commissioner as to how the Maryland Insurance Administration (MIA) regulates each of the insurers of last resort. None of the insurers of last resort is required to obtain a certificate of authority. All insurers of last resort are required to have financial examinations and market conduct examinations. MIA conducts complaint investigations for all insurers of last resort. MIA approves forms for MAIF and JIA, while the Workers' Compensation Commission approves forms from IWIF. IWIF files and uses its rates (known as competitive rating), while MAIF, JIA, and MHIP must obtain approval by MIA prior to use (known as prior approval). The task force also heard from a producer who is licensed to do business in Maryland, Delaware, and Virginia and has experience in obtaining surplus lines insurance in the coastal areas. Surplus lines insurers play a role in providing insurance in risky areas where admitted carriers choose not to write. A member of the task force who represents the Maryland Property and Casualty Insurance Guaranty Corporation provided an overview of the purpose and operations of the corporation. The corporation assesses member insurers to pay claims on an ongoing basis from insurers who have become insolvent.

MAIF was the only insurer of last resort to offer suggestions on how its statute could be changed to facilitate operations. MAIF identified 12 significant differences in its operations as compared to IWIF. IWIF has legislatively evolved over the last 30 years, while MAIF, with a few exceptions, has remained static since its 1972 creation. The task force began a discussion of which issues could be addressed by legislation during the 2013 session. The task force plans to meet on January 14, 2013, to further discuss whether the proposed legislative changes should be introduced during the 2013 session. The issues that would align MAIF's operations with IWIF's include: altering the governing body structure; providing compensation to board members; allowing the board to appoint the executive director without approval of the Governor; taking MAIF out of the State Personnel Management System with regard to closings and buyouts of

excess employees; repealing the requirement that the Attorney General represent MAIF; repealing the barrier to entry requirement in relation to the "two-turndown rule" for the purposes of keeping policyholders insured; allowing MAIF to "file and use" rates; repealing the requirement that the legislative auditor review MAIF's operations; repealing the deficit assessment which has not been used since 1989; and repealing the requirement that MAIF is subject to the open meeting law and the procurement process for land use. One issue that the task force agreed would not be included in a legislative proposal relates to the restriction in the law of MAIF creating an installment plan.

The task force agreed that discussions regarding the operations of MHIP should be set aside until more is known as to whether MHIP will remain viable or will be folded into the Maryland Health Benefit Exchange. The MHIP representative on the task force will remain engaged in the task force's activities.

Given the time constraints of legislative session, the task force will meet once on January 14, 2012, and will hold any additional meetings following the 2013 session. Accordingly, at those later meetings, the task force will formulate a plan to specifically address the task force's charge of studying the potential affiliation of one or more of the insurers of last resort.

If you have any questions, please do not hesitate to contact us.

Very truly yours,

Senator Thomas M. Middleton
Senate Co-chairman

Delegate David D. Rudolph
House Co-chairman

TMM:DDR/TDB/tas

Appendix 2. Minutes

Minutes
Wednesday, November 7, 2012
2:00 p.m.

- **Co-chairs' Opening Remarks**

- **Charge of the Task Force (Chapter 408 of 2012)**

Tami Burt, Department of Legislative Services (DLS)

- **Discussion of Each Insurer of Last Resort and Comparison**

Joint Insurance Association (JIA) – Tami Burt, DLS, and Craig D. Roswell, Partner of Niles, Barton & Wilmer, LLP and represents JIA

Injured Workers' Insurance Fund (IWIF) – Laura Atas, DLS, and Dennis Carroll, Executive Vice President and General Counsel, IWIF

Maryland Automobile Insurance Fund (MAIF) – Michael F. Bender, DLS, and Mark D. McCurdy, Director of Government and Policy Administration, MAIF

Maryland Health Insurance Program (MHIP) – Jennifer A. Ellick, DLS, and James Sean Safford, Director of Planning and Analysis, MHIP

- **Discussion about Future Meetings and Agenda Items**

I. Co-chairs' Opening Remarks

The meeting convened at 2:08 p.m. Delegate Rudolph welcomed the members of the task force and noted that the task force has no set agenda but has the opportunity to benefit the State. Senator Middleton conveyed similar sentiments.

Each member of the task force and its staff introduced himself or herself.

II. Charge of the Task Force (Chapter 408 of 2012)

At 2:17 p.m., Ms. Burt reviewed the charge of the task force.

The floor was opened for questions regarding the charge at 2:18 p.m.

Senator Pugh: Could the task force provide a report by December 1?

Delegate Rudolph: It could provide a simplified report by that date.

Hon. McMillen: Could the charge of reviewing tax affiliation result in the privatization of the insurers of last resort?

Ms. Burt: That was a possible result for the task force to consider.

III. Discussion of Each Insurer of Last Resort and Comparison

JIA: At 2:21 p.m., Ms. Burt presented JIA information located in the task force comparison chart.

The floor was opened for questions regarding the presentation at 2:29 p.m. Mr. Craig D. Roswell, Partner of Niles, Barton & Wilmer, LLP and represents JIA, was on hand to answer the questions. Questions regarding JIA concluded at 2:50 p.m. The following is a list of the questions asked and answered:

Senator Middleton: Your chart does not say why JIA is not audited by the legislative auditor or why JIA's employees are not State employees.

Mr. Roswell: Looking at history, the State wanted to put the burden on the industry and not on the State. These were for risks that no one wanted to write. There is oversight by MIA.

Senator Pugh: What is the policy breakdown by county?

Mr. Roswell: Mostly policies are in Baltimore City, Prince George's County, and Allegany County. (Mr. Roswell informed the task force that he would retrieve that information)

Senator Pugh: Are the nine-member governing committee members paid?

Mr. Roswell: No, they meet twice a year for overnight meetings. Their expenses are paid by JIA.

Senator Pugh: How does JIA attract business?

Mr. Roswell: JIA advertises and also includes a notice on cancellation notices.

Senator Pugh: The number of JIA policies has decreased recently?

Mr. Roswell: Depopulation has been more dramatic the last four years.

Senator Pugh: What is a safe amount of policies so that JIA can exist?

Mr. Roswell: JIA assessed member insurers $2 million in September 2012. We look at expenses every six months. Recently, we had several fires and had to recoup that amount. We also manage the District of Columbia plan. We have a cost sharing agreement. Having six or seven employees is good.

Mr. Kristiansen: What is causing the depopulation of JIA and is the District of Columbia situation similar?

Mr. Roswell: There is a national trend. The standard market has taken on more risks by forming subsidiaries. There is agent preference as to where risks are placed. JIA does not track where the risk is going but perhaps some goes to the surplus lines.

Mr. Carroll: Is JIA required to reserve? Is JIA subject to risk based capital standards?

Mr. Roswell: Yes, JIA is required to reserve. I am unsure if JIA is subject to Risk Based Capital (RBC). (Mr. Roswell informed the task force that he would retrieve that information)

Delegate Rudolph: How many policies should JIA have so that JIA does not assess member insurers?

Mr. Roswell: JIA's mandate is zero policies.

Delegate Rudolph: On the Eastern Shore, when policies are cancelled or not renewed, where are they going?

Mr. Roswell: JIA does not track where risks are going. Perhaps that is a question for agents.

Hon. McMillen: Could you add more financial information to your report, including claim ratios and administrative costs? (Ms. Burt agreed to do so)

Senator Middleton: Can JIA identify whether there are any ways other insurers of last resort are using that would benefit your mission? What are the pros/cons for some type of consolidation? Get back to us for next meeting. (Mr. Roswell agreed to do so)

Mr. Roswell: JIA has thought about how it can run more efficiently. But, if the mission is not changed, then we are good the way we are. It can be dicey because member insurers may not want us to be a larger insurer. JIA took over the administrative part of District of Columbia. This sharing arrangement works. We can look at VA.

Commissioner Goldsmith: MIA held legislative hearings last December in the coastal areas. The producer testimony was that the risks are going to other admitted carriers and also to non-admitted carriers.

Delegate Rudolph: My concern is with coastal property. Who is insuring them? Surplus lines?

Commissioner Goldsmith: There are insurance policies available and many are written by surplus lines. I am not saying the price is good.

Mr. Roswell: JIA is not allowed to be competitive. JIA is restricted to the limits in the statute ($1.5 million any 1 location and $455,000 furnishings). Hard to compare apples to apples, but JIA is in the ballpark of the prices of other insurers.

IWIF: At 2:51 p.m., Ms. Atas presented IWIF information located in the task force comparison chart. The floor was opened for questions at 2:56 p.m. Mr. Dennis Carroll, Executive Vice President and General Counsel of IWIF, was on hand to answer questions. The questions concluded at 3:04 p.m. The following is a list of questions asked and answered:

Mr. McCurdy: How are IWIF employees different from State employees?

Mr. Carroll: In 1988, the legislature took employees out of the State Personnel System but they are still in the pension law. IWIF employees are generally treated as State employees except in a few areas.

Senator Kittleman: How often does the board meet? How much do they get paid?

Mr. Carroll: Monthly; five-year terms; compensation is set by the board at $20,000 for members and another amount for the chair. (Mr. Carroll agreed to look into this amount and report the information back to the task force)

Senator Middleton: How has it helped IWIF to not have to use the State salary setting plans?

Mr. Carroll: Claims adjusters are not typical type of State employees. It allows IWIF to adjust to the market.

Mr. Kristiansen: There is no legislative audit which uses GAAP accounting but there is MIA examination which uses financial accounting. Rate is political, what is the issue?

Mr. Carroll: IWIF predates National Conference on Compensation Insurance (NCCI). IWIF has developed our own actuarial standards. IWIF objects to joining NCCI because of the cost and that it will interfere with what IWIF does in experience rating at a lower threshold than allowed by NCCI.

MAIF: At 3:05 p.m., Mr. Michael Bender presented MAIF information located in the task force comparison chart.

The floor was opened for questions at 3:10 p.m. Mr. Mark D. McCurdy, Director of Government and Policy Administration for MAIF, was on hand to answer any questions. The questions concluded at 3:30 p.m. The following is a list of questions asked and answered:

Delegate Rudolph: MAIF's number of policies goes up and down. Do you think when MAIF is down, that there are more uninsured?

Mr. McCurdy: Yes.

Delegate Rudolph: Is it MAIF's goal (mission) to depopulate?

Mr. McCurdy: It is impractical to assume that MAIF can depopulate its entire population but MAIF tries to kick out those who have a three year clean driving record.

Senator Pugh: Is MAIF not allowed to do installments?

Mr. McCurdy: 100% of premium is due up front. So consumers go the premium finance companies. The average cost of a MAIF premium is 20% higher due to financing. There are approximately 15% uninsured, although MVA says 5%.

Senator Middleton: How does MAIF's prices compare to the industry?

Mr. McCurdy: MAIF's prices are generally higher, but some carriers have established substandard subsidiaries that have high prices for the risky. It is jurisdiction dependent. In some jurisdictions, MAIF is a good buy.

Senator Middleton: Do you get requests for installments?

Mr. McCurdy: Yes. MAIF has the infrastructure to do installments now.

Senator Middleton: For JIA and IWIF, how many of your policies use installments?

Mr. Carroll: IWIF has a lot of policies using installments.

Mr. Roswell: For JIA, I am not sure.

(Both Mr. Carroll and Mr. Roswell agreed to find the number of policies and report back to the task force.)

Mr. Hinton: What is MAIF's geographic breakdown?

Mr. McCurdy: Pretty much MAIF policyholders are on the I-95 corridor. MAIF has the breakdown by geographic and age. (Mr. McCurdy agreed to find the information and report back to the task force)

Hon. McMillen: For premium financing, there is an 11-15% down payment with 10 installments. Is there a risk in financing to MAIF?

Mr. McCurdy: When a policy is cancelled, MAIF returns any unearned premium to the premium finance company.

Delegate Jameson: If a person cannot make a payment in a lump sum, they will be part of the uninsured.

Mr. McCurdy: There are people who borrow money, come to MAIF, cancel, get caught by MVA, and then the cycle continues over. MAIF is deluged with paper. The cycle causes operational inefficiencies.

Mr. Kristiansen: The uninsured division of MAIF provides for the Unsatisfied Claim and Judgment (UCJ). Are there reserves to ensure its viability?

Mr. McCurdy: MAIF administers the UCJ for the State. The uninsured division is a small piece of MAIF's business ($2 to $3 million). MAIF is committed to make sure the UCJ will not go broke. Right now, it is operating as a "going concern" (just to meet bills). There are no reserves.

Mr. Kristiansen: Are MAIF's rates adequate?

Mr. McCurdy: Yes. Today there is no affordability rebate. Years ago, since MAIF has an affordability component, rates in Baltimore City were 85% of adequate.

Senator Middleton: Look at what MAIF can change so that MAIF may run better.

Mr. McCurdy: MAIF has some inefficiencies. I will put together a comparison of today versus future. There are low hanging fruit that could be fixed now. For example, since MAIF is part of the personnel management system, MAIF had to close (State employees). Other insurers were able to service their policyholders during Hurricane Sandy. MAIF (ninety employees) was able to remotely work during the storm.

Mr. Hinton: What is the cost to write a policy?

MAIF employee, Mr. John Banghart: MAIF's expense ratio is $.72 per $1; loss ratio is $.56 per $1. Ratio is high compared to other carriers.

Mr. Hinton: What is the cost to go through the rewrite cycle?

Mr. McCurdy: The acquisition cost is the most expensive part (paper, underwriting, etc). Half of MAIF's policyholder cancel in the first year.

Mr. Carroll: Is MAIF's surplus adequate?

Mr. McCurdy: Use 25% of premium for last three years. MAIF has an agreement with MIA to have its surplus reviewed every year. It is not excessive, but it is adequate.

Mr. Kristiansen: If MAIF's surplus is too low, MAIF can assess other carriers.

Mr. McCurdy: Yes. The last time that was done was in 1989.

MHIP: At 3:31 p.m., Ms. Jennifer Ellick presented MHIP information located in the task force comparison chart.

The floor was opened for questions at 3:38 p.m. Mr. Safford, Director of Planning and Analysis for MHIP, was on hand to answer any questions. The questions concluded at 3:39. The following is a list of questions asked and answered:

Senator Middleton: How many policies are federal?

Mr. Safford: About 1,200.

Senator Middleton: How much federal money is the State getting? (Mr. Safford did not have this information on hand, but agreed to report the information to the task force)

Delegate Rudolph: MHIP is phasing out in 2014. Is legislation need to do this?

Mr. Safford: With the federal health care act and the implementation of the State's exchange, the need for a high-risk pool is eliminated. Mostly, this is because of the inclusion of the pre-existing condition. Legislation is needed. But, I am not aware of any legislation yet to dissolve MHIP. Health Benefit Exchange (HBX) has a memorandum of understanding (MOU). There has not been a formal decision to dissolve.

IV. Discussion about Future Meetings and Agenda Items

At 3:39 p.m., Delegate Rudolph and Senator Middleton offered their closing remarks. Senator Middleton asked the agencies to put together a list of objectives for the task force, including a summary of antiquated legislation which would be revised in the upcoming legislative session. Senator Middleton also expressed a desire to meet again in December. The meeting then concluded.

Minutes
Thursday, December 13, 2012
1:00 p.m.

- **Co-chairs' Opening Remarks**

- **Maryland Insurance Administration's Regulation of Each Insurer of Last Resort**

Therese M. Goldsmith, Commissioner, Maryland Insurance Administration (MIA)

Description of the Coastal Property Insurance Markets by an Insurance Producer who Specializes in the Non-admitted Property Market and Serves Ocean City and the Maryland, Delaware, and Virginia Coastal Markets

Reese Cropper, President, Insurance Management Group

- **Maryland Property and Casualty Guaranty Fund – Purpose and Operations**

Lars B. Kristiansen, Former Chairman of the Board and Current Member, Maryland Property and Casualty Insurance Guaranty Corporation

- **Discussion of Proposed Changes by Each Insurer of Last Resort**

Maryland Automobile Insurance Fund (MAIF) – Mark D. McCurdy, Director of Government and Policy Administration, MAIF

- **Discussion of Content for the 2012 Interim Report**

I. Co-chairs' Opening Remarks

The meeting convened at 1:10 p.m. Senator Middleton welcomed the members of the task force and requested Ms. Tami Burt to review the meeting's agenda.

II. Maryland Insurance Administration's Regulation of Each Insurer of Last Resort

At 1:14 p.m., Commissioner Therese M. Goldsmith, MIA, presented an overview of MIA's regulation of each insurer of last resort, pausing to answer any questions asked by task force members. Commissioner Goldsmith ended her presentation at 1:20 p.m..

The following is a list of questions asked and answered during the presentation:

Delegate Rudolph: Which entities that sell insurance in Maryland are not regulated by MIA?

Commissioner Goldsmith: Surplus lines.

Delegate Rudolph: Is that nationwide? And what is the reason?

Commissioner Goldsmith: Yes, nationwide. Surplus lines are considered a safety net. There is a turn down rule (must be turned down by two domestic insurers). The risk we run into if we regulate surplus lines is that we may end up with an availability problem. If regulated, they may not want to write in Maryland.

Delegate Rudolph: Do they have to have a physical presence in Maryland? (Delegate Rudolph used as an example an unknown company that has an elephant as a marketing tool.)

Commissioner Goldsmith: If the insurer is domiciled here, they must have a presence. Insurers do not have to have a presence here if they domiciled in another state.

Senator Middleton: Joint Insurance Association (JIA) and MAIF are under prior approval for rates. They are not competitive with other insurers. Is this a good thing that they have prior approval? If it were reversed, would it have an impact?

Commissioner Goldsmith: It is a good thing there is prior approval. For MAIF, there have been questions in past. One filing was withdrawn based on back and forth discussions. If filed and used, then the rates would be out in the market and may not necessarily follow proper standards. For JIA, we see rate filings less often; I can't think of examples when I have seen an issue with JIA.

III. Description of the Coastal Property Insurance Markets by an Insurance Producer who Specializes in the Non-admitted Property Market and Serves Ocean City and the Maryland, Delaware, and Virginia Coastal Markets

At 1:22 p.m., Mr. Bryson Popham, representative of insurance agents and brokers, introduced Mr. Reese Cropper, President of Insurance Management Group. Mr. Popham described Mr. Cropper as being licensed to do business in Maryland, Delaware, and Virginia, as well as experienced in coastal and surplus lines.

Mr. Cropper began his presentation by noting that admitted carriers are regulated by MIA. Non-admitted carriers have been in business 30 years because admitted carriers have not loved water (coastal areas). They do not like that during the winter time, there is a lack of occupancy. They are concerned with wind. Reinsurers care about the wind too. Non-admitted carriers are willing to take risks.

Non-admitted carriers provide deluxe policies and use endorsements to enhance products. Their costs are higher on wind but otherwise the costs are generally the same as admitted carriers' costs. Mr. Copper described how insurance producers in coastal areas operate. We go to both admitted carriers and non-admitted carriers to get quotes. We get different quotes from brokers and then we negotiate; generally we can negotiate through the amount of deductibles. We always fill out the proper form that says we got three quotes. We do not use JIA because its policy forms are not as strong as what can get in the admitted carrier market. We have multiple brokers in order to give us the opportunity to focus on coastal risk.

Recently, there are changes in what admitted carriers want to do. Mr. Cropper asserted that he will be asking MIA for its input on certain changes. These changes are on the heels of Sandy. There are rumblings in Maryland as to what the carriers will offer in 2013 but Mr. Cropper does not foresee major changes. Most of the claims from here to New York were flood related. Wind deductibles were $10,000 but the damage was not that much. There may be a small difference in increased rates.

At 1:27 p.m., Mr. Cropper concluded his presentation and opened the floor for questions. Questions concluded at 1:32 p.m.. The following is a list of questions asked and answered:

Delegate Rudolph: You mentioned that there are non-admitted lines in the property and casualty (homeowner's insurance) area. Do surplus lines operate in other lines of insurance?

Insurance Commissioner's staff: There are surplus lines (Lloyds of London) that do a multitude of risks.

Delegate Rudolph: If my homeowners' insurer drops me in Ocean City, what is the additional cost to deal with surplus lines?

Mr. Cropper: We don't see a significant difference. There was an increase when State Farm pulled out of the market. However, people realized they were paying low rates before. Travelers and Zurick can sometime replace with non-admitted carriers with the same rate.

Delegate Rudolph: Are there any non-admitted carriers with partial ownership with admitted carriers? If so, does the non-admitted carrier take the risk that the admitted carrier does not want?

Mr. Cropper: Scottsdale is owned by Nationwide. Scottsdale takes risks that Nationwide does not want.

Delegate Rudolph: Do you see the need to regulate surplus lines?

Mr. Cropper: No.

Minor Carter: How do deductibles work?

Mr. Cropper: Some will use straight deductibles; some use percentage deductibles. In homeowners' insurance, admitted and non-admitted carriers will use percentage deductibles of the dwelling limit. The consumer may not know. We use straight wind deductibles.

Commissioner Goldsmith: MIA issued a bulletin following Sandy that stated that the percentage deductibles may not apply to admitted carriers (since Sandy was not a hurricane when it hit Maryland). MIA considered whether non-admitted carriers should be limited as well; there is some ambiguity as to whether MIA can regulate how non-admitted carriers use deductibles when a hurricane hits. MIA determined that they will not regulated non-admitted carriers in this regard.

As a final point, Mr. Larry Sanders mentioned that, in Southern Maryland, there are some admitted carriers that use various forms of deductibles.

IV. Maryland Property and Casualty Guaranty Fund – Purpose and Operations

At 1:34 p.m., Mr. Lars B. Kristiansen, Former Chairman of the Board and Current Member of the Maryland Property and Casualty Insurance Guaranty Corporation, presented basic background information on the guaranty corporation. There were no questions asked of Mr. Kristiansen; his presentation ended at 1:37 p.m.

The corporation was formed 40 years ago and is a member of the national organization for guaranty funds. It is in good standing. It was statutorily created and is separate from the State. The State has never paid into the corporation's fund. There is no relation to the State. Money of the fund is not the State's money. Money in the fund is to be used solely to pay claims for policies with insolvent insurers. These occur frequently. Workers' compensation insurance and general liability (asbestos) are troublesome lines. There do not seem to be problems with auto insurers.

If an insurer is in trouble, MIA takes action. That insurer goes through a process of rehabilitation. If not salvageable, then there is liquidation. At this point, the fund steps in and the corporation gets boxes of documents and pays claimants for legitimate claims. In order to pay claims, the fund assesses member insurers. Every insurance carrier is a member if they are

authorized to do business in the State, including MAIF. Assessments are prorated. There are four accounts: auto, workers' compensation, liability, and other. Sooner or later, the fund runs out of money from paying claims so it assesses its members again. The board tries to assess at the beginning of a year. Insurers get a refund at the end of the year if the assessments were too much. Some recoveries are realized when the insolvent insurer works through liquidation and sells pieces of its business. Mr. Kristiansen noted that he is currently working with companies from 30 years ago who went belly up. The fund does not carry a huge balance. The idea is to pay claims on an ongoing basis. Mr. Kristiansen stated that the corporation is one system that has worked well when compared with other crises.

V. Discussion of Proposed Changes by Each Insurer of Last Resort

At 1:37 p.m., Mr. Mark D. McCurdy, Director of Government and Policy Administration for MAIF, presented on proposed legislative changes favored by MAIF.

Mr. McCurdy's presentation ended at 2:00 p.m., and Senator Middleton opened the floor for questions. The questions concluded at 2:23 p.m. The following is a list of statements offered and questions asked and answered:

Senator Middleton: Some of the issues are controversial and thought provoking. Mark would like to see legislation. Let's meet in January to review a legislative proposal. Then, we can go forward depending on the task force's review. The installment issue is off the table.

Senator Pugh: Why take the installment issue off the table?

Senator Middleton: We will likely discuss it later. If the installment issue is in the bill, there is likely to have lobbying against the entire bill.

Hon. McMillen: Is there another model, other than the Injured Workers' Insurance Fund (IWIF)?

Mr. McCurdy: IWIF is a nonstock company. I can think about another. The legislation mentioned MAIF privatizing with broader opportunities.

Hon. McMillen: There is privatization going on. Is there something in other states we should be looking at?

Mr. McCurdy: We urge a broad comparison. In most other states, there is an assigned risk plan. If a carrier has 10% of the market, the carrier will be assigned 10% of the residential market. MAIF's whole genesis is supporting the second class citizen. MAIF's core philosophy is rejected by other states. We say you matter and we will give you the best possible.

Senator Middleton: Compared to IWIF, MAIF's agenda is provider of last resort after being rejected twice. Is MAIF's intension that you will not be competitive? IWIF is allowed to compete. What is the change you suggest? When consumers rate shop, they will not find cheaper rates. With your changes, would that put MAIF in a competitive mode so that your rates could be lower than other carriers?

Mr. McCurdy: The changes allow us to be better than what we do – better at our mission. We had 57,000 insured in 2000; in 2001, the number increased to 93,000; in 2004, the number increased to 122,000; but, in 2008, the number decreased to 68,000. We can handle ups and downs of the leveling force if have some policyholders that are not high risks. There needs to be a discussion later about whether MAIF should be able to write for less risky policyholders. But, the proposed changes do not get into that. The proposed changes make better what we currently are being asked to do.

Senator Middleton: Is the mission also to consolidate? What in the list provides you the best efficiencies? For the attorney general representative, what if you shared an attorney general with IWIF? There is a potential for coordination.

Mr. McCurdy: The workforces are not aligned so there could be more synergy of administrative expenses. We are thought of as State employees. IWIF is thought of as an insurer. If there is an overview body, the workforces has to be aligned.

Mr. Sanders: The 11 points relate to efficiencies and costs. On page three, it shows that MAIF's mandate is the insurer of last resort (depopulation). Do you want to change the mission?

Mr. McCurdy: No, I am not saying to change the mission. Unlike IWIF, we have created barriers to enter MAIF.

Mr. Sanders: MAIF had an expense ratio of 70%. How could MAIF improve this?

Mr. McCurdy: If MAIF could buyout employees, then MAIF could reduce expenses. We are part of the State Personnel Management System (SPMS) and we are looking for ways to be efficient. We are looking to attack the expense ratio.

Senator Middleton: Last year, we allowed MAIF to pay higher commissions.

Mr. McCurdy: We asked for that as a way for producers to help keep policyholders at MAIF longer. It's a labor intensive paper trail process. We have thousands of people coming to us, canceling, coming back, and cancelling, etc. The largest part of expense relating to a policyholder is the acquisition cost of the policyholder. We have no choice because they missed their payment to the premium finance companies. Our mission is to keep people insured.

Senator Middleton: Unions will need to be involved.

Mr. McCurdy: We only have 12 to 15 skilled (merit) employees; the majority of employees are special appointments.

Mr. Carroll: Much of Mr. McCurdy's presentation is about making MAIF better. That was IWIF's interpretation. We have always had a quorum of board members and they are engaged. It is not the same as being on the State plumbing board. If it's a voluntary board, it is hard to get people to devote time and take care of business. IWIF, for last 15 years, has been treated like a business and, as a result, we believe that IWIF is more effective. Its surplus is multiples of what it once was. We are outside of the State procurement process and the State personnel system. I am not an expert of MAIF. I just wanted you to know that these things have helped IWIF so they will probably help MAIF.

Senator Middleton: These changes allow MAIF to be efficient in maintaining its core mission of being the insurer of last resort.

Mr. Kristiansen: You mentioned a legislative proposal. I suggest having a proposal for internal items (changes to employees). Also have a second proposal for other issues (ability to compete, assessments). IWIF is essentially a for-profit insurer, started in 1914. MAIF has only been in existence since 1972. We have been through changes so MAIF would not assess all the time. The legislature spoke about not wanting MAIF to have policyholders. We need to talk about the role of MAIF for the future.

Senator Middleton: Delegate Rudolph and I have been discussing how to do this. It may be a lot easier to handle as one big bill. Let's bring back these issues in January 2013. We can talk about whether it makes sense to split organizational issues from the financial issues.

VI. Discussion of Content for the 2012 Interim Report

At 2:24 p.m., Senator Middleton suggested that the task force set discussion of the Maryland Health Insurance Plan (MHIP) aside until future notice but keep its representative involved in the discussion. The task force members agreed this was acceptable.

Task force members also discussed the 2012 interim report. They agreed that the report would specify that (1) MHIP would be set aside but continue to be engaged; (2) the task force will meet in mid-January to discuss MAIF's efficiency proposals; and (3) the combining of insurers of last resort will be taken up in later meetings. Senator Middleton indicated that the members would receive a copy of the draft 2012 interim report of the task force in a few weeks. The members must respond back by a certain date.

The meeting concluded at 2:30 p.m..

Minutes
Monday, January 14, 2013
3:00 p.m.

- **Co-chairs' Opening Remarks**
- **Discussion of Potential Operational Changes to the Maryland Automobile Insurance Fund (MAIF)**
- **Closing Remarks/Discussion of Next Meeting**

I. Co-chairs' Opening Remarks

The meeting convened at 3:06 p.m. **Senator Middleton** welcomed the members of the task force and provided opening remarks. He discussed that there may have been some misconceptions about how this meeting was going to be handled. The task force will discuss each issue and there will not be any voting today. The task force will meet again to finalize a draft. These issues are being discussed because they would make MAIF line up similar to the Injured Workers' Insurance Fund (IWIF). That will be useful if the task force wants to merge the two.

Delegate Rudolph provided opening remarks. He stressed that the proposed operational changes are not being pushed by Mr. Mark McCurdy or MAIF. They are not considered a wish list. The task force requested each insurer of last resort to provide information as to how they operate as compared to others. Mr. McCurdy provided the areas where MAIF operates in a different manner than IWIF.

II. Discussion of Potential Operational Changes to MAIF

At 3:15 p.m., the task force began review of potential operational changes to MAIF. The following is a list of potential changes, an explanation of each change, and the comments that followed.

Office of the Attorney General (OAG) Representation: At 3:18 p.m., Ms. Burt briefly explained that this provision strikes the requirement that MAIF have OAG representation.

Mr. Sakamoto-Wengel: OAG had some concerns, would like it noted for the record. OAG believes that providing representation to both MAIF and MIA does not present a conflict. OAG regularly represents differing interest without issues.

Senator Middleton: This is a fairness consideration – MAIF pays but cannot pick its representative; MIA is represented by OAG, too – regulator and regulated entity so there may be a conflict of interest.

Mr. Sakamoto-Wengel: MAIF has input as to who is assigned to them. The concern was expressed by the Deputy Attorney General.

Delegate Rudolph: Was IWIF ever represented by OAG?

Mr. Carroll: Yes, until a task force recommended independent legal counsel in 1990; some conflict of interest; different duties of representation; confidentiality conflicts (reporting back to the central office). During discussions in 1990, OAG objected to not having a representative at IWIF.

Senator Middleton: Personnel reform classified employees – is the AG for MAIF a political appointment?

Mr. Piazza: (assistant Attorney General and MAIF's principal counsel) At-will (he will get back to us on his specific classification)

Open Meetings Law: At 3:20 p.m., Ms. Burt briefly explained that this provision strikes the requirement that MAIF be subject to the open meetings law.

Senator Middleton: Dennis, can you speak to IWIF's exemption from open meetings law?

Mr. Carroll: Issue was considered by the 1988 task force; decided to take IWIF out of all laws that affect public agencies except those identified in statute. There was difficulty for the board members when a reporter would come to the meetings.

Ms. White: How often do people attend the meetings? Is it an issue of transparency?

Mr. McCurdy: No one traditionally comes to MAIF meetings – MAIF advertises in *Maryland Register* and/or paper; can look at issue now while it is not a crisis/problem like it was for IWIF; not a matter of making things secret – MAIF would still be subject to the Maryland Public Information Act (MPIA).

Mr. Carroll: IWIF has had a handful of Public Information Act requests – no one has attempted to attend a meeting, but not subject to Open Meetings law; company's concern at the time was that you could have a situation in which competitors would show up to find out what IWIF was doing.

Mr. Kristiansen: MAIF was created with insurers on the board. Nationwide has a representative on the board. He does not know what comes out of board meetings.

Mr. Hinton: Fine with what Mr. Kristiansen said that insurance industry might not have representation on the board. Depending where the task force goes, it is still relevant to have industry members.

Senator Middleton: Industry representatives were on the board before the assessment was set in place? What is the primary reason for having industry members on the board?

Mr. McCurdy: MAIF was created by Governor Marvin Mandel with hope to create a "completely independent insurance agency." The original board was three members with one

being from the Maryland Vehicle Administration (MVA). MAIF opened its doors without any money or policies. Then the decision came to capitalize MAIF and project future losses. The assessment mechanism evolved over time. There is a connection between the assessment mechanism and the types of members on the board. MAIF had no experience handling insurance matters and wanted experts to help.

Mr. Carter: Insurers of last resort have traditionally had insurance industry representation on their respective boards. I cannot recall another state that has a board without it.

Hon. McMillen: Where will the buck stop? It is hard to pick and choose without knowing the whole picture as to where the task force is going with this.

Procurement: At 3:34 p.m., Ms. Burt briefly explained that this provision strikes the requirement that MAIF be subject to Division II of the procurement law (relates to real estate). MAIF is currently exempt from Division I of the procurement law.

Senator Middleton: The proposal would completely exempt MAIF from State procurement process.

Mr. McCurdy: Several years ago, after a search for a drive-by corridor, MAIF was told that the selected vendor was on the wrong side of Liberty Road and MAIF needed to use a different vendor.

Senator Middleton: Dennis, can you speak to IWIF's experience?

Mr. Carroll: IWIF was under the State procurement process until the 1988-1990 task force; IWIF has not been under the procurement process for 20-some years. State procurement law is difficult. By not being under it, IWIF quickly renovated a building and put in a parking lot. IWIF does request for proposals (RFP's) and competitive bidding.

Mr. McCurdy: The task force should know what was not changed. The General Assembly instructed MAIF to make sure investment managers seek minority involvement. This has not been changed.

Governing Body Structure, Governing Body Compensation, and Executive Director: At 3:37 p.m., Ms. Atas briefly explained that these provisions decrease the number of board members, make all board members be appointed by the Governor, and stagger the terms. Further, the executive director would be appointed by the board but the appointment would no longer require the approval of the Governor.

Mr. Kristiansen: For demographics, try to have members represent parts of the State. Would the new appointment process preclude a member of the insurance industry from participating?

Ms. Burt: No, it just reduces the number. At the end of the draft, there is language that staggers the initial board members' first term.

Senator Kittleman: Is there any requirement for a member to have an insurance background?

Senator Middleton: No. Other boards are like that too.

Mr. Hinton: You will lose experience by taking out the requirement that the industry be represented. If there is an assessment mechanism, that's the industries money.

Senator Middleton: Larry, I wonder if there is another way to address it (*e.g.*, "at least x number of members have expertise in insurance-related matters").

Hon. McMillan: Why are there only nine members? That is problematic to get quorum.

Senator Middleton: This draft is modeled after IWIF's statute; Dennis, will you discuss participation issues?

Mr. Carroll: IWIF has nine members. Qualifications are not set in statute. IWIF has never had a quorum problem. IWIF used to have a seven-member board but it was increased to nine in the 1990s; the law requires that five members approve any action even if only seven are present; look at Medical Mutual statute as a model that spells out qualifications.

Delegate Rudolph: Do you believe that you resolved the issue of attendance based on providing compensation?

Mr. Carroll: Board has been compensated the entire time that I have been with IWIF, but my experience in OAG demonstrated that compensation facilitates participation. Being a board member takes a lot of effort and responsibility. Board members prepare for meetings.

Senator Middleton: Mark, do you want to talk about participation?

Mr. McCurdy: I do not want to say that board members do not come to meetings because they are not paid, but will say that the board has a difficult time reaching a quorum; the shortage has been on the public side, but sometimes also on the industry side. The practice is to require three public and three industry members to reach "quorum." Compensation will help with recruiting strong members; the public vacancies last too long. It's a two-fold problem – quorum and recruitment.

Mr. Hinton: Is it a common problem getting members of the public to participate?

Mr. McCurdy: Yes, at times, there is a problem with the public attendance but also at times there is a problem with the industry attendance.

Mr. Hinton: Has the board discussed the issue regarding restructuring?

Mr. McCurdy: I met with the chair of the board. The board is concerned with the idea that its members be put in a position of opining on the issue whether industry members should stay.

Also, the chair says the board should not weigh in on the board's compensation or two turn down rule.

Mr. Kristiansen: Technical point: There is a conflict of interest language that could possibly be included. (Prohibits affiliation if does business with MAIF § 20-202(c)).

Hon. McMillan: Regarding the assessment issue, the Governor makes all appointments but the ultimate recourse would still go back to industry if there were deficits, so there is a "backstop" with the assessment. If the industry has recourse, they should have representatives.

Senator Middleton: If the task force makes the change to say that certain members have to have expertise and continue to be an assessment, does there need to be industry members on the board?

Mr. Sanders: If there is an assessment mechanism, there should be industry members on the board.

Senator Pugh: Are nine board members enough? It may be worth exploring whether to add more members.

Senator Middleton: We have to consider the impact of compensation for the members. We will try to come back with recommendations at the next meeting. We will look at Med Mutual.

Legislative Audits: At 4:00 p.m., Mr. Bender briefly explained that this provision strikes the requirement that MAIF be subject to legislative audits. A copy of the last audit report was provided to the task force members.

Delegate Rudolph: Commissioner Goldsmith, is MIA audit comprehensive?

Commissioner Goldsmith: MIA conducts financial audits that would not be a replacement for a legislative audit which would be more comprehensive. These are the same financial audits conducted for other insurers. MIA would not look at contracts.

Senator Middleton: Commissioner, what does MAIF submit to MIA?

Commissioner Goldsmith: MIA submits annual audit to MIA. MIA focuses on solvency and ability to satisfy obligations to policyholders.

Mr. McCurdy: One of the differences between what MIA does and what Office of Legislative Audits (OLA) does is, *e.g.*, procurement practices; if MAIF is removed from that statute, then OLA would not evaluate MAIF on that basis. IWIF and other carriers are not subject to procurement. MAIF files an annual audit through external auditors and complete a "book of information" that MIA receives from all insurance carriers. OLA audits is an added layer every three years.

Delegate Rudolph: Has OLA come up with many findings that your external auditors have not?

Mr. McCurdy: No.

Hon. McMillan: Does IWIF have an internal audit committee? MAIF would have its own internal audit function.

Mr. McCurdy: MAIF has an internal audit committee and an internal auditor as well.

Senator Kittleman: The industry members on the Board would provide oversight too.

Deficit Assessment: At 4:06 p.m., Ms. Burt briefly explained that this provision strikes assessment and adds a requirement that MAIF be subject to RBC standards.

Mr. Kristiansen: This is a public policy. IF MAIF is a private entity, it would not be a good idea to assess other carriers; a State entity can assess because it is an entity of State power. There has not been as assessment by MAIF for a long time. But, if you take it away, you take away the "airbag."

Senator Middleton: RBC is added in as a protection; if leave assessment in place, would you still want to take out RBC?

Mr. Kristiansen: I prefer that MAIF be subject to every standard so that they would have to stay solvent; I would not want to give a private entity the assessment authority.

Senator Middleton: The guaranty fund is the fall back.

Mr. Kristiansen: MAIF cannot go out of business. MAIF sits on the guaranty fund board. If several auto carriers go belly up, some of that book of business may go to MAIF. Would they be able to handle that?

Commissioner Goldsmith: I am concerned about the timing of the elimination of the assessment. I am concerned about losing the "backstop" – this is a time for a "soft" insurance market; carriers are loosening underwriting standards in the industry (writing more) and, therefore, MAIF has a lower number of policies. The problem will be when carriers do the opposite (tighten their underwriting standards) and then MAIF's book of business increases. I am concerned about the strain on MAIF's surplus if that happens.

State Employees: At 4:15 p.m., Ms. Burt briefly explained that this provision takes MAIF employees out of the State Personnel Management System (SPMS) (exceptions for classified employees). Employees would still be State employees and use the State's health and retirement/pension systems.

Mr. Carroll: This would be identical to latter-day IWIF (pre-conversion-1988 to before Chesapeake); employees can still belong to the union but not collective bargain; impetus to taking IWIF employees out of the State pay system – hiring/retention; I am told that the transition to a private-type entity was helpful/positive. Before being out of the SPMS, IWIF had to hire a certain way, State employees had bumping rights, and there were State job

classifications and pay grades. We were taken out of SPMS because we were running an insurance company and we needed insurance type of positions. Management wanted to hire and retain as needed. This transformed IWIF from a State agency to a private environment.

Senator Middleton: IWIF was taken out of having furloughs and hiring freezes.

Mr. Carroll: Yes, that didn't involve any State funds.

Hon. McMillan: Are there compensatory limits for board members?

Mr. Carroll: None, but the board is appointed by the Governor.

Senator Middleton: This provision does not make MAIF line up completely with Chesapeake.

Mr. Carroll: Chesapeake becomes effective October 1, 2013. If someone is hired by IWIF before that date, they are State employees; then, after October 2013, they would have a choice as to whether they want to remain as a State employee.

Ms. Esty: This draft only lets nonprofessional employees choose whether to stay in State system; difference with conversion legislation. Retirement/pension and health insurance-confused, could they still access pensions and health insurance?

Mr. Carroll: In the late 1980s, State employees were changed to classified or at will. They continued to be in the State's health and retirement/pension systems. Under Chesapeake, new employees will not be State employees and will not be in the State's health and retirement/pension systems. Current employees will have the choice.

Ratemaking Process: At 4:25 p.m., Ms. Burt briefly explained that this provision allows MAIF to file rates based on competitive rating (instead of by prior approval).

Mr. McCurdy: The problem is that MAIF does not know when a rate change will occur (until the process is finished); review and implementation delays; may want alternative language than what is proposed. I will work on language.

Commissioner Goldsmith: I know now that the goal is timing and predictability, not competition. MAIF is not a competitive insurer today so its rates should be subject to greater prior scrutiny (MAIF's rates are higher, there are no installments, and there are added fees); three most recent filings were received two days before MAIF wanted them to be effective. MIA turned them around quickly. Under Title 11, other insurers file 30 days before implementation and MIA can ask for an additional 30 days. If MAIF is looking for complete predictability, that cannot be done. MIA has a back and forth process. I have confidence that we will figure out how to solve the timing concerns.

Delegate Rudolph: Are there concerns that file and use makes MAIF competitive?

Mr. Carter: MAIF is not supposed to be competitive. People would feel more comfortable if there was a law requiring everything to be actuarially sound and there is no ability to manipulate actuarially sound rates. If experts are not on the board, that is worrisome.

Policyholder Eligibility Requirements: At 4:33 p.m., Mr. Bender briefly explained that this provision strikes the two turn down rule (pages 29-30 of draft).

Mr. Carter: No insurance carrier will want someone with a Corvette and three DWI's. The problem with every residual market mechanism is that there is a "gate" – and the two turn down rule might not be much of a "gate" – but there needs to be some mechanism; it serves as somewhat of a gate; suggested affidavit of some sort/statement by an agent or by the insured that they have looked around for insurance in the private market; I cannot suggest an alternative at this time. There is a strong feeling from the insurance industry that there is a gate.

Delegate Rudolph: There may be a policy about the two turn down rule, but it is very weak and is just a process. If you can write a person, you will write the person and not decline; not clear on why it is helpful. Can you accept that it is just a process?

Mr. Kristiansen: I do not have a lot to say about this from the guaranty fund's position.

Commissioner Goldsmith: I think this is a good consumer protection measure that should be re-worked, not eliminated; there are leaks. A subset of MAIF's policyholders are financially disadvantaged and they may not be aware that they have alternatives in the private market. There is a tendency for producers to steer insureds to private insurers because they can get a commission. § 20-512 mentions that the producer can't get a commission if they violate the two turndown rule.

Mr. Sakamoto-Wengel: When a consumer gets turned down for insurance, does it affect their credit rating?

Mr. Kristiansen: No. Credit inquiries are pulled by third parties. There are credit scores but credit inquires do not affect this.

Delegate Rudolph: Give me a hypothetical scenario about to how handle insureds.

Mr. Sanders: Independent agents contract with many insurers – there are plenty of specialty insurers (substandard market). Independent agents look at all markets. Agents would turn to MAIF truly as a last resort; going back to the assessment time in the 1980s was that it was a time of rapidly rising insurance rates, a firm market, and MAIF's rates were very competitive with other carriers – that is not the case today. Other carriers are easier to deal with. Some agents have a limited market (direct writer) – they represent their own carrier so they do not have many choices.

Delegate Rudolph: What really happens? How does an agent verify the two turn down rule?

Mr. Sanders: Some agents make a non-competitor carrier available to prospective insureds. For example, State Farm may have another carrier available if State Farm does not want to write the insurance. Agent fills out the two turn down rule paper. It is a difficult situation.

Senator Middleton: How does MAIF's rates compare with a private carrier?

Mr. Sanders: Vary. In certain situations, they can be competitive in the specialty marketplace; occasionally, with young drivers who have history of tickets/accidents, MAIF can be competitive; I don't know until I try as to exactly how rates will compare; MAIF's rates are generally not competitive. MAIF is not competitive for those with clean records; MAIF is sometimes competitive for those with not clean records.

Mr. Carter: A lot of this is an "accommodation business" – if an insurer does not want a risk, they will price rates high.

Mr. Sanders: Have about 3,000 auto policyholders and only about 20 are MAIF policies. Those were turned down by others.

Senator Pugh: Does the jurisdiction have an impact?

Mr. Sanders: Not sure.

Senator Middleton: I have previously had discussions with industry members and think many agents are doing well because they have repeat customers; it behooves the agent to put the insured in the best product. I will not return to the agent if I find out that I could have found a cheaper product elsewhere. I wonder how often the marketplace is such that you will find a cheaper MAIF product than you will with other carriers.

Mr. Sanders: It is "very seldom" that MAIF rates are cheaper. There needs to be some mechanism to preserve this as a market of last resort.

Senator Middleton: With the high risk, why is the two turn down rule so important when pricing keeps people from going to other carriers?

Mr. Sanders: There needs to be a mechanism for the insurer of last resort.

Senator Middleton: Is this the best way? Or is there a better or more modern way?

Mr. Sanders: MAIF is truly the last option. I can give you a laundry list of why.

Senator Kittleman: If we are heading to make MAIF competitive and become more like IWIF, (IWIF does not have a two turn down rule) it might make sense to eliminate this requirement.

Senator Pugh: Do urban environments have more MAIF insureds?

Mr. McCurdy: The producer and applicant sign the two turn down paper. But, there is no requirement that the insurance carrier keep written records of who they have turned down. MIA has a rate guide. The two turn down rule may be a barrier to entry. We do not want to make it harder for a person to purchase insurance.

Delegate Rudolph: If we do not change MAIF's mission, rates will not change.

Mr. McCurdy: Yes.

Senator Middleton: Commissioner Goldsmith, why is this rule necessary when an insurance agent is likely to put a customer in a cheaper product (unless strictly in for the commission)? Is this the best way – it is about producer discipline? Are we better able to approach it here or somewhere else? Some agents only sell MAIF (including premium finance companies).

Commissioner Goldsmith: There needs to be some consumer protection, but the two turn down rule is not perfect. There may be a better way, but I do not want to eliminate the requirement without replacing it with something else. There are affiliated producers that write only MAIF. The requirement should not allow a person to be turned down by two of the most strict underwriting insurers.

Senator Middleton: What is the best way to do it?

Commissioner Goldsmith: MIA's concern is eliminating it and not replacing it with something else.

Delegate Rudolph: Agent X may always list two companies as part of the process – if you do not agree that it functions to benefit consumers, we need to identify a different mechanism.

Mr. McCurdy: Just want to point out that the draft does not change § 20-503, which is a required disclosure to insureds that they may be able to obtain elsewhere and may not be discriminated against on the basis of past MAIF insurance.

III. Closing Remarks/Discussion of Next Meeting

At 5:00 p.m., Senator Middleton offered his closing comments, again stressing the purpose of the proposed changes reviewed at the meeting. He also discussed plans for having another meeting in two weeks.

At 5:05 p.m., the meeting of the task force adjourned.

Minutes
Monday, January 28, 2013
3:00 p.m.

- **Co-chairs' Opening Remarks**

- **Discussion of Potential Operational Changes to the Maryland Automobile Insurance Fund (MAIF)**

- **Closing Remarks/Discussion of Next Meeting**

I. Co-chairs' Opening Remarks

The meeting convened at 3:08 p.m. Delegate Rudolph provided opening remarks indicating that this meeting is a follow up to the discussions from the previous meeting. The intent of the meeting is for the co-chairs to get a feel as to how the members are on the issues.

Senator Middleton provided opening remarks indicating that he is hoping that the members are open in discussing the issues. He is looking for consensus. The plan is to introduce legislation and reconvene the task force prior to hearings held on the legislation in the Finance Committee and the Economic Matters Committee.

II. Discussion of Potential Operational Changes to MAIF

The task force began review of potential operational changes to MAIF. The following is a list of potential changes, an explanation of each change, and the comments that followed.

Office of the Attorney General (OAG) Representation – At 3:11 p.m., Ms. Burt briefly explained that this provision strikes the requirement that MAIF have OAG representation. Delegate Rudolph asked for comments. There were no comments.

Open Meetings Law – At 3:12 p.m., Ms. Burt briefly explained that this provision strikes the requirement that MAIF be subject to the open meetings law.

Delegate Rudolph mentioned that the co-chairs feel that this provision should not be done at this time.

Senator Middleton explained that he thinks the change should be made but agrees the issue should wait since there are bills relating to open meeting laws introduced this session. This may end up being controversial.

Mr. McCurdy stated that no one is coming to MAIF meetings now. This is not an emergency issue so it does not have to be handled now. He stated that this was a way to align with IWIF.

Procurement – At 3:14 p.m., Ms. Burt briefly explained that this provision strikes the requirement that MAIF be subject to Division II of the procurement law (relates to real estate). MAIF is currently exempt from Division I of the procurement law (relates to other purchases). Delegate Rudolph asked for comments. There were no comments.

Governing Body Structure – At 3:17 p.m. Ms. Atas briefly explained that this provision decreases the number of Board of Trustee members and makes all board members to be appointed by the Governor. The executive director would not be on the board.

Senator Middleton mentioned that the co-chairs propose to make the board nine members, with three having insurance and financial management expertise.

Mr. Hinton stated that he would like a little time to share this proposal with industry members.

Hon. McMillan asked if there has been a situation where insurance has taken a hit.

Mr. Kristiansen responded that there were assessments in years before 1989. There is a pass through to consumers. He mentioned that he supports not having the executive director on the board. He asked if this was a way to make MAIF independent.

Senator Middleton responded that the co-chairs are not suggesting to change MAIF from being a public entity.

Executive Director – At 3:25 p.m., Ms. Atas briefly explained that this provision allows the board to appoint the Governor without the Governor's approval. Delegate Rudolph asked for comments. There were no comments.

State Employees – At 3:26 p.m., Ms. Burt briefly explained that this provision takes MAIF employees out of the State Personnel Management System (except for classified employees). Employees would still be State employees and use the State's health and retirement/pension systems.

Senator Middleton stated that taking the employees out of the State's health and retirement/pension systems would be too burdensome.

Mr. Sakamoto-Wengel asked about the uninsured division and the treatment of those employees.

Mr. McCurdy responded that MAIF serves two functions. One is the high-risk insurance. The other is the uninsured division that was created in 1950. About 20 employees administer this program. These employees may also have responsibilities in the insured division. This program handles claims from a person who was injured by an uninsured driver or a phantom driver when the person does not have to have auto insurance. All MAIF employees are treated the same. This provision put MAIF employees where IWIF was in the 1990s. MAIF pays for the benefits.

Mr. Sakamoto-Wengel stated that he asked because the uninsured division is funded by State funds. He agrees the employees should be treated the same.

Governing Body Compensation – At 3:33 p.m., Ms. Atas briefly explained that this provision allows members of the board to be paid a salary.

Mr. Hinton mentioned that the insurance industry representatives could not be paid because of a conflict of interest. They may receive up to $50 to $75 in outside gifts. So compensation could be a problem. Language could be added that says that if someone is selected for the board and they are a representative of an insurance company, they would not be allowed to accept compensation.

Mr. Carter suggested allowing the board member to turn it down.

Delegate Rudolph asked if a retired agent have a conflict.

Mr. Hinton responded no.

Mr. Kristiansen suggested possibly putting on a ceiling as to the amount of the salary.

Senator Middleton responded that MAIF's budget is approved by legislature so there is an inherent ceiling.

Commissioner Goldsmith stated that CareFirst board's is compensated. There is language in statute ("compensation must be reasonable for work actually performed").

Hon. McMillan stated that most boards figure out salary by "comparables." He asked if "comparable" is standard elsewhere, but nothing is comparable to MAIF. He asked how to determine what reasonableness is (by industry standards).

Senator Pugh suggested looking at other boards.

Mr. McCurdy stated that MAIF would set the salaries "not as high as IWIF." That would be the benchmark. The issue of providing a salary is to attract and retain strong board members.

Financial Management Committee – At 3:41 p.m., Ms. Burt briefly explained that the co-chairs had discussed making changes to the statue regarding the members of the financial management committee. Perhaps the number of members could increase to five, one being the executive director, two board members with financial management expertise, and two other board members.

Mr. McCurdy stated that he is comfortable with the proposal. He thinks a day-to-day person should be on the committee, so this is why executive director should stay.

Senator Middleton questioned whether the number should increase to five. Maybe having three is sufficient. He wondered if all five would show up to meetings.

Mr. Carter stated that having five members is preferable from a quorum perspective. More oversight means the better off the entity will be.

Hon. McMillan stated that investment committees always have people with a financial management background. He suggests that three or more have a financial management background.

Mr. Roswell stated that JIA has three board members on their financial management committee (financial operations in different insurance companies) plus an executive manager. JIA does not have an executive director. The committee reports back to the board.

Hon. McMillan stated that you could have three members plus the executive director as *ex officio*. You rarely see people on financial management committees without financial experience.

Mr. Carter stated that he would like to see a person with an actuarial background on the committee.

Senator Middleton asked if the committee could hire actuaries if needed.

Mr. McCurdy responded that the current three-member committee (executive director and two financial background members) operates well. There are no quorum issues. The system is working well. The members are motivated. They will hire any number of people and already have a fleet of investment people. Having five may be difficult to work.

Delegate Rudolph stated that the co-chairs will decide between three and five.

Mr. McCurdy clarified that the executive director currently votes.

Legislative Audits – At 3:50 p.m., Mr. Bender briefly explained that this provision strikes the requirement that MAIF be subject to legislative audits.

Delegate Rudolph asked if the content of the legislative audit is included in other audits. He wants to look at information beyond finances. The Commissioner needs to be asked if it is required by law.

Commissioner Goldsmith responded that MIA does a financial examination once every five years. Annual financial statements are filed with MIA. She will have to see if that is required in statute and if it is audited.

Mr. McCurdy stated that this provision is trying to align MAIF with IWIF. MAIF's external auditors are Johnson and Lambert. They file yellow books (annual reports) to MIA. The Board of Trustees has an internal audit committee within it. This subcommittee meets every quarter. IWIF has this type of subcommittee too. IWIF is treated like an insurance company. MAIF should be too. State agencies do not have all these examinations. MAIF is not trying to move

out of getting audited. It is just overkill now. He referred to the one pager that staff prepared of the various types of examinations and audits MAIF is subject to.

Senator Middleton asked if there is anything that OLA audit does that the other audits do not do. The task force could require those things to be fully covered by other required audits.

Delegate Rudolph asked if MAIF can confirm that what the legislative auditor does is covered by the other audits.

Senator Middleton asked about overlap.

Mr. McCurdy responded that there is overlap with the internal audit and with the market conduct.

Mr. Kristiansen agreed that the independent auditor/management letter is the best type of a guarantee of finances. They put themselves at risk if they do not adequately check.

Deficit Assessment – At 3:50 p.m., Delegate Rudolph stated that this provision will be tabled for now. Senator Middleton stated that he agrees with Lars Kristiansen that if MAIF is public, then the assessment should be kept.

RBC – At 4:02 p.m., Ms. Burt briefly explained that this provision subjects MAIF to risk-based capital standards.

Senator Middleton stated that the assessment has never been triggered since 1989. If the task force does away with the assessment, make them come under a different standard. If keeping the assessment, it does not make sense to require MAIF to come under RBC. MAIF rates under current law do not have to be adequate in Baltimore City. He thinks that the provision should stay in the law.

Commissioner Goldsmith responded that she thinks Senator Middleton's suggestion would maintain the status quo.

Policyholder Eligibility Requirements – Two Turn Down Rule – At 4:05 p.m., Delegate Rudolph stated that this issue should be set aside for further study. No one was able to come up with an alternative at this point.

Senator Middleton stated that as long as MAIF remains the provider of last resort, there needs to be a gate. The co-chairs have challenged people to see if an alternative can be proposed. It is dehumanizing to MAIF policyholders that they have to get turned down in order to keep MAIF insurance.

Mr. Sanders stated that from the agent's perspective, the two turn down rule is not perfect but it is easy to work with. He agrees to keep it in place.

Mr. Hinton stated that it is a national standard around the country.

Senator Pugh asked what national standards? Maryland is the only state with a "MAIF."

Mr. Hinton responded that there are auto insurers that are similar to insurers of last resort. AIPSO administers the residual market. Insurers of last resort in other states have the two turn down rule.

Mr. McCurdy stated that he and Sandy Dodson have reviewed other state plans and he disagree that this is the "national standard." He thinks the two turn down is unique to MAIF. There is the issue of dignity with regard to the two turn down rule. He did not want to kick over a hornet's nest. The Motor Vehicle Administration just sent MAIF a list of 1,417 new registrations that wrote that they are insured by MAIF. 60.5% are insured with MAIF. That means 40.0% of this random list lied about being insured. IT is a crisis that needs to be discussed. The gate contributes to a big problem. The number of uninsured is a big problem. The issue of the two turn down rule proved to not being low hanging fruit.

Delegate Jameson asked if Larry Sanders could explain whether insurance companies provide a person with a notice that the person has have been turned down. How does MAIF verify the turn downs?

Mr. Sanders responded that the agents can tell on the surface that someone is too risky. This information is provided on the MAIF application.

Mr. Hinton asked what happens if a "clean risk" comes directly to MAIF. Does MAIF write the risk?

Mr. McCurdy responded the MAIF has to write anyone who applies. MAIF does not have agents. Producers are in charge of writing the risk. Other insurers focus on clean risk and they look at credit. If someone didn't have insurance for over 30 days, that person goes to MAIF. Private carriers seemed to be weeding out based on credit. So, a lot goes into the concept of clean. Coming to MAIF and staying at MAIF is the best way to go back to the market. People do not come to MAIF if they should not.

Delegate Rudolph asked what happens with information that MAIF receives from Motor Vehicle Administration (MVA) regarding the uninsured.

Mr. McCurdy responded that MAIF lets MVA know who are not insured with MAIF. Then MVA contacts those persons requiring them to provide proof of insurance.

Senator Middleton stated that the uninsured is a big problem. There are different numbers out there as to how many are uninsured.

Senator Pugh agreed that she has done research that people get insurance from MAIF and then they drop it because they cannot afford insurance. There are upfront costs.

Ratemaking Process – At 4:10 p.m., Ms. Burt briefly explained that this provision allows MAIF to file rates based on competitive rating (known as file and use), instead of prior approval.

Delegate Rudolph stated that at the last meeting the task force talked about the Commissioner working with MAIF on this issue.

Commissioner Goldsmith responded that she had just received an e-mail indicating that there is a meeting tomorrow between MAIF actuaries and MIA's unit. There has not been discussion yet.

Senator Middleton indicated that the issue is about a timely turnaround time – up or down.

Commissioner Goldsmith stated that if the private market seeks to make a change, they often come in to discuss the specifics ahead of filing. They do not want their rates to be unreasonable. Otherwise, they would have to do refunds with interest. It would be a mess. In Title 11, MIA has 30 days to take action. MIA could request another 30 days. She said she would be surprised if an insurer wants to make a change prior to 30 days. Thirty days is not excessive.

Mr. Sanders stated that he has seen the ebb and flow in policy count of MAIF, based on private market. He agrees that there needs to be the due diligence of MIA to oversee any ups and downs.

Senator Middleton stated that it has to do with timing to respond to the market.

Mr. Carter stated that the industry has some concerns about file and use. He would like to see some form of prior approval and maybe an accelerated approval process.

III. Closing Remarks/Discussion of Next Meeting

At 4:25 p.m., Delegate Rudolph summarized the discussion of each of the issues and requested the members let the co-chairs know if they have concerns. Senator Middleton stated that the co-chairs will get legislation to the members for feedback once it is drafted. Prior to bill hearings in the Finance Committee and Economic Matters Committee, the task force will meet again to discuss the legislation.

At 4:27 p.m., the meeting of the task force adjourned.

Minutes
Monday, February 18, 2013
3:30 p.m.

- **Co-chairs' Opening Remarks**

- **Discussion of Senate Bill 749/House Bill 1132 "Maryland Automobile Insurance Fund (MAIF) – Operational Changes"**

- **Closing Remarks**

I. Opening Remarks – 3:33 p.m.

Senator Middleton provided opening remarks indicating that hopefully this meeting is the last meeting of the task force until after session. He indicated that there will be no votes. The task force will discuss each issue in Senate Bill 749/House Bill 1132.

II. Discussion of Senate Bill 749/House Bill 1132

Regulation of MAIF

Ms. Burt briefly explained that the bill clarifies that MAIF is independent of all State units. The bill includes a provision that specifies the laws that MAIF is subject to. Specifically, with an amendment submitted by the Maryland Insurance Administration (MIA), MAIF is subject to the provisions of the Insurance Article, except as otherwise provided by law. The amendment strikes language that is no longer needed. The bill specifies that MAIF is not subject to any law that affects governmental units, including requiring MAIF to have Attorney General representation. MAIF is subject to the Public Information Act, Open Meeting Act, Tort Claims Act, and Whistleblower law.

There was no discussion.

Board of Trustees

Ms. Atas briefly explained that provisions in the bill: change the number of board members from 13 to 9; require that at least 3 members shall have insurance industry expertise (an amendment suggested by the insurance industry provides that at least one of these members shall be from a list of 2 or more individuals recommended by the Board of Directors of the Association); require at least 2 members shall have financial management expertise; remove the executive director from the board; require consideration of geographic and demographic diversity of the State in appointing board members; provide for the terms of the board; allow the Governor to remove a member of the board for incompetence or misconduct; provide that members of the board are entitled to reasonable compensation; require the board to appoint the executive director without approval of the Governor; and require the board to employ certain attorneys.

Mr. Sanders suggested that independent producers should be able to be appointed to the board. The bill, as introduced, would not allow independent producers to be on the board.

Senator Middleton stated that this issue has not been discussed by the task force in the past.

Mr. Carroll mentioned that the reason this is in current law is to prevent a conflict of interest.

Mr. Kristiansen mentioned that in determining whether to allow an independent producer on the board depends on the function of MAIF. Board members are on the board to assist MAIF in its purpose. The board is not supposed to have competitor conflicts.

There was no other discussion.

State Personnel Management System

Ms. Burt briefly explained that the provision of this page provides that employees of MAIF are not in the State Personnel Management System (SPMS) except for skilled service employees hired before October 2, 2013. These employees remain in SPMS as long as they remain in a nonprofessional or nontechnical position with MAIF.

Ms. Esty, representative of one of the State unions, stated that she had talked to Mark McCurdy about making sure that the MAIF employees continued to have similar benefits as they enjoy now. She thought that the idea was to mirror the benefits Injured Workers' Insurance Fund (IWIF) provides to its employees.

Mr. Carroll stated that IWIF, while not required to, generally adheres to State benefits, including terms of leave, accumulation of leave, and holidays. The board found that the employees wanted to have similar policies. IWIF does not provide comp time for overtime worked.

Ms. Esty stated that she thought it was important that the employees' rights and benefits not be diminished.

Senator Middleton stated the idea was to mirror MAIF with Chesapeake Employers Insurance Company (Chesapeake).

Ms. Esty stated that the thought the idea was to mirror MAIF with IWIF.

Senator Middleton responded that the bill does not go as far as mirroring with Chesapeake since MAIF will not be setting up its own health and retirement systems.

Mr. Carroll stated that the statute does not require Chesapeake to provide any benefits. Management wants a happy workforce so the benefits are similar to State benefits. If MAIF wants to be more like the industry, they should be able to do that. It would be a mistake to put something in statute that restricts MAIF. There needs to be an element of trust.

Senator Middleton reiterated that the bill does not change the health and retirement system requirements. If Chesapeake and MAIF merge, MAIF needs to be lined up like Chesapeake.

Financial Management Committee

Ms. Atas briefly explained that a provision of the bill requires the financial management committee to consist of the executive director and two members of the board who have financial management expertise.

There was no discussion.

Legislative Audits

Mr. Bender briefly explained that a provision of the bill eliminates audits by the legislative auditor and, in its place, requires an audit committee to require MAIF's internal audit to conduct fiscal compliance and fiscal audits of the accounts and transaction of MAIF each year.

Mr. Carroll asked if the internal audit is reported to the board.

Mr. McCurdy responded yes. The internal auditor may not be fired by the executive director and must meet privately with the board.

There was no other discussion.

State Procurement Law

Ms. Burt briefly explained that a provision of the bill repeals the requirement that MAIF is subject to the procurement law for real estate transactions. Currently, MAIF is not subject to the procurement law for other supplies and other purchase.

There was no discussion.

State's Health and Pension Systems

Ms. Burt briefly explained that provisions of the bill clarify that MAIF employees remain under the State's health and pension systems.

There was no discussion.

Appointment of Board Members

Ms. Atas briefly explained that a provision of the bill specifies the appointment of the board members on a staggered basis.

There was no discussion.

III. Closing

Senator Middleton thanked the task force members and stated that the task force would begin meeting once again after session ended.

At 4:05 p.m., the meeting of the task force adjourned.

Minutes
Wednesday, October 23, 2013
3:00 p.m.

- **Co-chairs' Opening Remarks**

- **Status of the Injured Workers' Insurance Fund (IWIF)/Chesapeake Employers' Insurance Company and the Maryland Automobile Insurance Fund (MAIF)**

IWIF/Chesapeake – Conversion Changes and Other Suggested Future Changes:

Tom Phelan, President, and Dennis Carroll, Executive Vice President and General Counsel

MAIF – Operational and Payment Plan Changes and Other Suggested Future Changes:

Mark D. McCurdy, Director of Government and Policy Administration and Sandra Dodson, Associate Director, Government Affairs

- **Discussion about Future Meetings and Agenda Items**

I. Co-chairs' Opening Remarks

The meeting convened at 3:08 p.m. Delegate Rudolph reviewed the agenda items for the meeting. Senator Middleton stated that this task force will finish its work within the two years.

II. Status of the Injured Workers' Insurance Fund (IWIF)/Chesapeake Employers' Insurance Company

Mr. Tom Phelan, President, and Mr. Dennis Carroll, Executive Vice President and General Counsel

Mr. Phelan indicated that the conversion has made him realize that you do not know what you do not know until you do it. He indicated that Chesapeake is IWIF; Chesapeake is the same company in terms of arrangement, mission, board composition, and in terms of its role as a third party administrator for the State, an insurer of last resort, and a competitive insurer. Chesapeake only writes one line and only in one state, although it uses Zurich to provide coverage out of the State to employers who have at least 50% of coverage in Maryland. Chesapeake's goal is to keep rates down and the economy working. The Maryland Insurance

Administration (MIA) conducted a study that determined that the State gets a good value from using IWIF as the third party administrator, mostly due to the economies of scale.

Mr. Phelan described the studies that were required under the conversion legislation. MIA hired an outside consultant which concluded that IWIF received $44.5 million in benefits from the State. Since IWIF had guaranteed a $50 million transfer to the State, IWIF transferred $50 million to the Department of Budget and Management in June 2013.

Mr. Phelan discussed the pension liability to IWIF/Chesapeake. IWIF employees were in the State pension system. To pay for those employees, IWIF was billed annually for its share of liability. With the conversion, IWIF's liability (as of June 30, 2012) was anticipated at $19 million to the State; the Chesapeake waited to pay the State until after October 1, 2013, so the company could determine how many employees would transfer to Chesapeake. Based on the number of employees who transferred to Chesapeake and the fact that IWIF had a good year in the stock market, the actual payment liability to the State will be $15 million.

Mr. Phelan discussed the health care liability for retirees. IWIF settled half of its liability which amount to $21 million (sent by wire transfer); the remainder ($19-20 million) will be paid in 2014. Chesapeake has about $329 million in surplus; this is five times the required minimum amount (for risk-based capital standards). Most carriers are at 700%. He indicated that Chesapeake would like to be there. He stated that this ends the rumors that the company would not survive the $50 million transfer.

Mr. Carroll discussed the business filings and other activities of creating a new company. Chesapeake is created as a private nonprofit, nonstock company. Chesapeake had to file articles of incorporation with the State Department of Assessments and Taxation (SDAT) and also with MIA to obtain a new charter. The board conducted organizational meetings to draft and approve bylaws, appoint members, create board committees, develop a corporate code of conduct, and develop procurement procedures. Chesapeake filed personal property tax forms to change the titles of property. Chesapeake filed for licensure with MIA and filed an inter-company agreement between IWIF and Chesapeake so that flow of funds relating to employees are identified. Some funds are State funds which are explained in the agreement. The Workers' Compensation Commission (WCC) approved, effective October 1, 2013, new policy forms.

Mr. Carroll indicated that Chesapeake filed for a certificate of authority with the federal Department of Labor (DOL). IWIF writes insurance under the U.S. Longshore and Harbor (USL&H) Act and for black lung disease (an occupational lung disease that is contracted by prolonged breathing of coal mine dust). IWIF has had a relationship with DOL for a long time. Chesapeake registered its trademark and logo with SDAT. Since Chesapeake is an authorized insurer, Chesapeake has started preparing its filings of financial statements after meeting with the MIA staff. IWIF and the Uninsured Employers' Fund (UEF) transferred their memo of understanding (MOU) that was between IWIF and UEF to Chesapeake and UEF. The MOU had authorized IWIF to manage and pay claims on behalf of Bethlehem Steel when that company went bankrupt about 10 years ago. IWIF transferred its real property deeds of the various parcels of its home office in Towson (its only office) to Chesapeake. Recording these deeds is a basic organization step.

Mr. Phelan discussed that IWIF held meetings every two weeks with employees to let them know what was going on. The employees thanked Mr. Phelan for keeping the employees informed. A few employees stated that nothing happened on October 1, 2013. There are a few items that are not completed. First, he had hoped that Chesapeake could defer going through the A.M. Best process for a year. However, agents have requested that Chesapeake get its certification – a review process that provides each insurer with a rating. Accordingly, Chesapeake is working on this process which has been time consuming. Second, he is working with the National Council on Compensation Insurers (NCCI) to craft legislation requiring Chesapeake to join NCCI and providing other matters. Mr. Phelan stated that, after that, Chesapeake would finally be in the same playing field with other insurers.

Questions

Senator Middleton: Can you review specifics of your retirement and health plans?

Mr. Phelan: Every employee had a choice as to whether they wanted to stay with IWIF or switch to Chesapeake. IWIF hired an outside actuarial firm to assist employees, with computer models, decide what to do. Ninety-six employees switched to Chesapeake and 321 stayed with IWIF. He thinks a bunch of employees stayed with IWIF so that they can see what happens to those who switched to Chesapeake. The plan, for the first three years, is that Chesapeake employees are given 8% of their salary to be placed in a 401k (with no match required by the employee) and given an 8% salary raise; the rationale is that IWIF currently contributes 16% into the State Employees Retirement System (SRPS) for each IWIF employee. Accordingly, the benefit is the same except that Chesapeake employees get their bump in the form of salary and less contribution to retirement. After three years, there will be at least 3% of their salary provided into the employees' 401k; the amount could be higher depending on Chesapeake's financial performance. Chesapeake's health plan is provided by Aetna health care. Chesapeake will pay the same about of subsidy as what IWIF paid as a subsidy.

Mr. Carroll: The State has multiple options for health care plans. Chesapeake only has one option but the employees are happy so far. He joined Aetna and all his doctors are in the plan and there are similar co-pays.

Delegate Rudolph: You only insure companies located in Maryland. What happens with a company that is based in Maryland but has other operations in other states. Do you cover them? What about a trucking firm in Maryland where employees are not in Maryland for weeks?

Mr. Carroll: IWIF/Chesapeake covers Maryland risks and, also, incidental operations in other states. If a Maryland based company occasionally sends employees to New Jersey, those employees are considered a Maryland risk. If the employees go out of State all the time, those employees may not be a Maryland risk. However, if a Maryland-based company has a Pennsylvania office that is located in Pennsylvania, then the Pennsylvania office employees are a Pennsylvania risk. IWIF has an arrangement with Zurick so that IWIF is able to insure the Pennsylvania risk in this situation. It is costly for IWIF to do this but IWIF does it as an accommodation to the Maryland employer.

Mr. Phelan: IWIF found out that there was one employer operating out of Florida. The company indicated that they were operating out of Maryland. So, IWIF implemented a rule that in order for IWIF to write the out of state risk, the employer would have to have at least 50% of its risk in Maryland.

III. Status of the Maryland Automobile Insurance Fund (MAIF)

Mark D. McCurdy, Director of Government and Policy Administration, and Sandra Dodson, Associate Director, Government Affairs

Mr. McCurdy thanked the task force for the task force's work on the legislation that was passed during the 2013 session. He provided an overview, stating that because of 2013 legislation, MAIF is financially healthy; it is trimmer and leaner and well-positioned to continue to serve its statutory mission. The legislation provided the most dramatic changes since MAIF was founded in 1973. Since then, MAIF's statute has remained static during the time when the world was changing. He highlighted the organizational changes and premium installment plan program which had initially been taken off the table by the task force. A lot of people came together to resolve the premium installment plan program issue which had been lingering since before 2005. Many hours were spent in the Finance Committee conference room discussing the installment plan provisions. In addition to Senators Middleton and Pugh, participants included the insurance commissioner, Marta Harting (representing premium finance companies), Bryson Popham (representing Agency Insurance as well as producers), and Steve Wise (representing premium finance companies). For premiums of less than $3,000, there will be three or six installments (25% down) with the first installment payment not due until 60 days later. For premiums of $3,000 and above, there will be four or eight installments (20% down) with the first installment payment not due until 45 days later. Senator Pugh was instrumental in pushing this part of the installment plan for the benefit of Baltimore City and other areas where premium rates are high. The installment plan option is a new tool that allows consumers to pick how to pay their premiums. Premium financing may be the best way to obtain insurance for some consumers. The installment program tool may help with the uninsured motorist problem. The first installment policy was sold October 1, 2013.

Ms. Dodson indicated that the Insurance Research Council estimates 15% of drivers are uninsured; the National Association of Insurance Commissioners (NAIC) estimates that 20% of drivers have cancelled their automobile policies. The Motor Vehicle Administration (MVA) sends quarterly statements to MAIF showing which registrants of their vehicles have indicated that they are insured by MAIF. The most recent statement showed that only 62% of those who stated that they were insured by MAIF were actually insured by MAIF. Of 38% who stated that they were insured by MAIF but were actually NOT insured by MAIF, it's is not likely that they are actually insured by State Farm or other carriers. Most states require drivers to show a proof of insurance card. Maryland does not have that requirement. The only requirement in Maryland is to self certify when registering a vehicle. There is a need for this area to be tightened up.

Mr. McCurdy stated that there are 5.3 million drivers in Maryland. If 15% are uninsured, that is a lot.

Questions

Delegate Rudolph: What percent of policies will be under $3,000 and what percent will be at $3,000 or over?

Mr. McCurdy: Not sure. The average statewide policy cost is $2,000. Baltimore City and other urban areas are more like $3,000.

Delegate Rudolph: What is the motivation to go to MAIF for the installment plan or to a premium financing company for a premium financing plan?

Mr. McCurdy: There is no financial inducement to any producer and there is no difference in the amount of commission paid to producers. The idea behind the options is that the driver, with the assistance of the producer, will determine the best option for the driver based on the driver's situation. The first cut will be whether the driver can afford the 20% or 25% down. There has to be full disclosure. Some consumers will like a lot of installments payments and others will like a lower down payment. The legislation requires a study due in 2015 to determine how the installment plan program is working, based on statistics.

Senator Middleton: Will you be tracking those who use the installment plan option as to where they live? How many installment policies have been sold since the October 1 roll out date?

Mr. McCurdy: Yes. MAIF will not ask for the income level of insureds. But, there is census data by zip codes so MAIF can compare where the plans are being sold. I am not sure how many installment policies have been sold. So far, this has been an educational process. All producers do not know yet about the installment plans. MAIF has to make sure producers understand the availability of this comparison tool.

Mr. Kristiansen: Insurers are required to report to MVA, indicating when insureds drop coverage and when they insure coverage. MVA has always said that the percent of uninsured drivers is 5%. Do they have better numbers now?

Ms. Dodson: Motor Vehicle Administration is still saying 5%, which they have said since Anne Ferro was the head of MVA. When MAIF only has a 62% match of those saying they are insured with MAIF, where are the remaining 38%?

Delegate Rudolph: Is there a computer program that drivers look at with their producers to explain to them the differences? How is it happening? Hopefully, not by hand.

Ms. Dodson: Yes, there is a program called MIPS. The premium comes up and disclosure forms are printed. The first option is to pay in full; the second is the MAIF installment option and shows details; lastly, the third option shows the price if the policy is premium financed. Hopefully, the producer is going through all that. MAIF has had drivers purchase under $3,000 installment policies (perhaps about 20 to 30, generally a few per day).

Presentation Continued

Mr. McCurdy stated that part two of last year's legislation is the operational changes. This includes governance, meaning a reconstituted board. The Governor's Office has named eight board members and identified two nominations. At least two of industry members have to be nominated to the Governor so that the Governor may appoint at least one to the board. They have to be a Maryland resident but not from a Maryland insurer. Two insurers came forth and so those were relayed to the Governor. MAIF hopes the appointments can be in place before session since the board has a lot to do. They need to meet to discuss internally committee formations, frequency of meetings, setting of salaries, by-laws, and code of conduct.

Mr. McCurdy discussed other organizational changes, including the internal auditing department. This department has an increased responsibility and will be working with the external auditor. The department will also be developing a best practices procurement process since MAIF was removed from State procurement provisions. Another change relates to MAIF's counsel. The transition went well. Looking at workforce changes, there has been a dramatic impact on MAIF. In 2004, MAIF had 549 employees, an all time high. As policy volume fell, MAIF stopped hiring and decreased its staff by attrition. In 2011, MAIF was down to 354 employees. Today, there are 249 MAIF employees which is a 30% reduction – this is from a recent voluntary separation process. Years ago, the State had a voluntary separation process but MAIF was excluded from participating. MAIF is now out of the State Personnel Management System so MAIF can do this now. There are times when a reduction in workforce is necessary. MAIF is learning to manage through changes. MAIF lost 105 good employees and they deserved dignity. MAIF has found that when it put up a plan, it scared everyone. Employees had concerns. What happens when no one signs up? Could that be followed by layoffs? But, that did not have to happen. MAIF has had constant meetings with employees so that they know what is happening. Now, there is a new MAIF. This would not have happened without the 2013 operational changes legislation.

Mr. McCurdy continued by saying that changes are volume driven but not financial driven. MAIF is financially healthy, as determined by looking at the surplus (over $100 million). Also looking at the assessment trigger, MAIF's ratio of surplus to assessment is four to five times more than necessary. MAIF is smaller so less amount of surplus is needed. MAIF's finances have remained strong. The study by MIA is a great resource. It determines whether the surplus is excessive. 100% is a red flag. The top 16 writers are well over the 100% amount. MAIF is in the middle at almost 800%, indicating that MAIF is strong and poised.

Questions

Senator Middleton: Looking at the surplus over years, how would MAIF's rates track with the amount of the surplus? Do rates increase from a lower surplus amount? MAIF has implemented an installment plan but also reduced the workforce. What did it cost to implement the installment plan?

Mr. McCurdy: MAIF uses 100% of surplus interest to keep rates low. The amount of the surplus varies when the number of policies changes. Sometimes it shrinks when the number of

policies shrinks. There was little cost to implement the installment plan. MAIF has always been ready. MAIF's information technology staff has been working in house on a two-year endeavor. They just need to integrate the programs. It has been a challenge with a lot of hard work.

Delegate Jameson: How does MAIF get their rates approved? Where do you look for guidance if you think a change is necessary? Other states?

Mr. McCurdy: MAIF needs to better calibrate its rates. After filing rates, MAIF has to get approval for its rates from MIA before the rates may be used. MAIF cannot unilaterally change rates. MAIF is constantly receiving information on loss costs – frequency and severity. Frequency seems to be cyclical. Sometimes people crash less; perhaps this is when the economy is bad, gas prices are high, and people drive less. Now, people are driving more. The guy with the pickup truck may crash more than the driver in a Lexus. Now, MAIF charges the same. MAIF captures data every second – there is a rolling history. MAIF uses its own insurance data since MAIF is small and only writes in one state. Another source would be the Insurance Service Organization.

Commissioner Goldsmith: Is there concern that MAIF does not have enough employees (249) from the voluntary separation to provide service to MAIF's policyholders?

Mr. McCurdy: There was, but MAIF has "back-hired" to fill some vacancies in certain areas. My wife left the claims department. MAIF had to move people around and hired three to eight contractual employees. We feel that MAIF is ok now.

IV. MAIF and Chesapeake Suggested Changes

Senator Middleton: Is there anything legislatively that MAIF and Chesapeake needs? How about any of the other provisions that were tabled last year?

Mr. McCurdy: For MAIF, we are grateful for the work last year. There is nothing that needs to be changed this year. We could have a wish list but we are satisfied. There are other provisions, such as the two turn down rule that could be discussed.

Mr. Carroll: There is a bill in your folder. It provides a few clean up provisions to the conversion bill; these provisions were included in the IWIF statute but were not included in the Chesapeake conversion statute. The first has to do with employer liability (this covers things you would think are covered under workers' compensation but are not – it protects the employer). Also, the bills has to do with federal compensation (allows Chesapeake to write federal worker's compensation, like USL&H and black lung disease – IWIF was authorized to cover these federal coverages 20 years ago when Department of Labor (DOL) gave IWIF a certificate of authority). Further, the bill authorizes Chesapeake to cancel or refuse to renew for the failure of an employer to compensate Chesapeake for the employer's large deductible. IWIF filed a request with the Workers' Compensation Commission (WCC) to allow Chesapeake to issue a policy with a large deductible (Section 19-404 of the Labor and Employment Article). Unlike personal and automobile insurance where the deducible is paid by the insured, with workers' compensation where claims are paid quickly, Chesapeake will pay the claim and later

collect the deductible from the employer. If the employer doesn't pay the deducible, Chesapeake wants to cancel the insurance (as was allowed for IWIF). WCC felt that that Chesapeake lacks the authority to cancel a policy for that reason since the statute says Chesapeake can only cancel for a failure to pay a premium – WCC does not consider a deductible as a premium. This bill clarifies that Chesapeake may do these three things like IWIF has done.

Questions

Senator Middleton: The bill will be pre-filed so now is the time to ask questions. We can put in the task force report that the task force supports the measure.

The task force agreed to support the measure.

Mr. Carter: If the bill is not controversial, why not make it an emergency measure so it is enacted immediately?

Senator Middleton: The employee pension and health care plan issue for MAIF was not resolved last session. Now there are new employees coming into MAIF. Is this something that the new board will look at to see whether it makes sense for employees to get out of the State retirement and health and pension plan?

Mr. McCurdy: Yes. We were taken aback by the amount of money it will cost for MAIF to have its own plans.

Delegate Rudolph: For the installment plan, can a policy be cancelled due to lack of payment? What happens if a policyholder does not pay a premium? Will they need to re-enroll? Is there another process

Mr. McCurdy: The installment bill says that MAIF cannot give coverage to someone who has not paid for it. So, if they do not pay, they will ultimately be cancelled. MAIF is hoping that a 25% down payment will carry people through the general cancellation period that would otherwise have led people to drop coverage (because now they have more "skin in the game"). Also, there is no interest on an installment plan like premium financing ($230 interest and $20 cancellation fee for premium financing).

Mr. Hinton: When will MAIF educate producers on the installment plan?

Mr. McCurdy: The effort began on Tuesday.

V. Issues that the Task Force Previously Tabled

Ms. Burt listed the items that were tabled last year.

1. MAIF is currently subject to Open Meetings Act. IWIF has been exempted for over 15 years.

Ms. White suggested having further discussion about whether MAIF should be subject to this act.

The task force agreed that this will be an item for discussion at the next meeting.

2. MAIF currently has the ability to assess automobile insurers for MAIF losses. The assessment mechanism has not been used since 1989. The task force discussed that there was no interest in changing this provision.

The task force agreed that the task force would not discuss changes to this provision.

3. To be eligible for a MAIF policy, a driver has to be turned down by two other carriers (two turn down rule). The task force discussed that there was no interest in changing this provision.

The task force agreed that the task force would not discuss changes to this provision.

4. MAIF's rates must be approved by the Insurance Commissioner before MAIF may use them (prior approval) unlike other carriers who may file and then use the rates (file and use). The task force discussed that there should be a report in a few years.

The task force agreed that the task force would not discuss changes to this provision.

5. The MAIF statute suggests that MAIF's rates do not have to be adequate since, in approving rates, the Insurance Commissioner may take into consideration MAIF's public purpose.

Mr. Kristiansen mentioned that this was put in statute in 1985. Years ago, Baltimore City's rates were set at 85% of adequacy. At that time, there was a lack of competition in Baltimore City. That is not the case now. For over the past several years, all MAIF rates are adequate.

Senator Middleton mentioned that this issue came up during the discussion of the installment plan legislation last session. He asked Bryson Popham, Marta Harting, and Steve Wise (sitting in the audience) if they would like to comment on this issue. They did not wish to comment.

The task force agreed that the task force would not discuss changes to this provision.

Senator Middleton suggested that MAIF and Chesapeake report back to legislature on future opportunities for affiliation or resource sharing. He mentioned that the possible consolidation was Delegate Busch's vision. However, both MAIF and Chesapeake have a lot on their plates.

Senator Pugh agreed that it will be interesting to see where MAIF goes in the future.

Delegate Rudolph suggested that there be a requirement that MAIF and Chesapeake report back to the legislature. He requested that staff draft language for the task force's review.

The task force agreed that the task force would not discuss consolidating MAIF and Chesapeake and, instead, agreed to require the two organizations to report to the legislature in about one year as to possible areas where resources could be shared.

VI. Uninsured Drivers

Delegate Rudolph reviewed the agenda for future meetings which included the status of the homeowner's insurance industry at the next meeting and the issue of uninsured drivers at a meeting on a date yet to be determined.

Senator Middleton, however, suggested that this task force not discuss the uninsured drivers issue. Instead, he suggested that the issue should be discussed by a task force that is charged solely to discuss that issue (including members of the Finance Committee and the Economic Matters Committee and appropriate other representatives of the industries involved), including whether to have a system of insurance verification. He suggested that a group convene as soon as possible, to the extent practicable.

The task force agreed not to discuss the uninsured drivers issue and supported the idea of requiring that an alternative task force be convened with the sole charge of discussing that issue.

Adjourn at 4:40 p.m.

Minutes
Wednesday, November 12, 2013
10:00 a.m.

- **Co-hairs' Opening Remarks**

- **Status of Homeowner's Insurance in Maryland**

Maryland Joint Insurance Association (JIA): Mr. Craig D. Roswell, Esq., Managing Partner, Niles, Barton & Wilmer, LLP, Counsel to JIA and Mr. Chris Dooley, Manager, JIA

Status of Homeowner's Insurance in Other States (Residual Markets)

Property Insurance Plans Service Office (PIPSO): Mr. Ron Cassesso, President, PIPSO

- **Status of Reinsurance Markets for Coastal Risks**

Reinsurance Association of America (RAA): Mr. Matthew Wulf, V. P., State Relations and Asst. General Counsel, RAA

- **Discussion of Whether Maryland Automobile Insurance Fund (MAIF) Should be Exempt from the Open Meetings Act**

- **Discussion of Draft Letter Requiring MAIF and Chesapeake Employers' Insurance Company to Report on Future Opportunities for Affiliation or Resource Sharing**

I. Co-chairs' Opening Remarks

The meeting convened at 10:20 a.m. Senator Middleton reviewed the agenda items for the meeting. Delegate Rudolph indicated that Tinna Quigley was sitting in for the Insurance Commissioner in her absence.

II. Status of Homeowner's Insurance in Maryland

Maryland Joint Insurance Association (JIA): Mr. Craig D. Roswell, Esq., Managing Partner, Niles, Barton & Wilmer, LLP, Counsel; and Mr. Chris Dooley, Manager

Mr. Roswell indicated that JIA is operating well. He introduced Mr. Dooley saying that he was with GEICO and the DC property plan. Last year, he was appointed general manager. He is knowledgeable in property plans. JIA has an updated computer system and a business continuity plan that will allow JIA to handle changes. JIA continues to depopulate as it hopes policyholders go back to the standard market. JIA was created due to the riots in 1968 in California. The federal government required that property plans be created in urban areas. Accordingly, the Maryland General Assembly created JIA as an unincorporated organization that has no financial affiliation with Maryland. JIA is backed by reinsurers. JIA's mandate it to write homeowner's insurance. JIA started writing in only urban areas and now it writes in all of the State.

Mr. Roswell discussed the number of policies written by JIA by county as of September 30, 2013. He distributed a map that depicts JIA's policy distribution across the State. The highest is Baltimore City with 1,051, the next is Baltimore County with 190, and then Prince George's County with 158. The lowest is Queen Anne's County with 9. The total for the State is 2,058. These policies include commercial fire, dwelling fire, and homeowner's. Of the 2,058, 53% are referrals from producers and 47% are direct from consumers. Of the 2,058, 79% are paid for an entire year; the remaining 21% are paid by an installment basis.

Questions

Senator Middleton: Why are there so many in Baltimore City?

Mr. Roswell: There are different types of risk that the voluntary market does not want to write. They do not want to write vacant homes, but JIA will write those. JIA will insure an owner of a vacant property.

Mr. Dooley: There are conditions to be eligible for JIA to write these properties, including that the property has to be under renovation.

Senator Pugh: What about large investors? Baltimore City lost Maryland Health Insurance Plan (MHIP). Baltimore City had a high of 44,000 vacant homes at one time. This is slowly decreasing.

Mr. Dooley: It is not typically large investors. It is only individuals. When an insurer cancels a policy, the insurer is required to notify the consumer that they may want to contact JIA.

Delegate Rudolph: What is the average value of the homes you insure? What is an HO-8 policy? Does this cover renter policies?

Mr. Dooley: The average HO-2 policy (the main peril policy) is $153,356; for HO-4 with contents, the average is $23,619; for HO-8, the average is $88,255; for HO-6, the average is $27,209. JIA has a sublimit of $455,000. An HO-8 policy has better coverage. JIA does not offer HO-3 policies. JIA is not supposed to be competitive with the voluntary market. HO-8 covers renter policies. Currently, JIA has 833 HO-2 policies, 42 HO-4 policies, 23 HO-6 policies, and 247 HO-8 policies for a total of 1,145 (out of 2,058).

Senator Middleton: Do most policies come to JIA by way of cancellation? What percent? Do you have a two turn down rule? Do you do ads? What is the average stay? How does the premium cost compare to the voluntary market's premium costs?

Mr. Dooley: JIA does not keep records and does not ask questions as to how they come to JIA. We want to be respectful. But, I suspect the bulk come that way. Some may come from seeing JIA's yellow pages or radio ads which are required for educational purposes. JIA does not have a two turn down rule. JIA does not measure how long policyholders stay. JIA only writes one year policies. Policyholders are given ninety days in advance so that they may be able to get insurance elsewhere. Then, JIA advises them again thirty days before that they need to submit a new application. JIA does not do renewals. JIA's premium cost is a little higher than the voluntary market but JIA is writing a higher risk. JIA does not compete in its forms. Based on the average house values, JIA is within the range of rates used by other carriers.

Delegate Jameson: Do you have a breakdown for homeowner's insurance policies in the coastal areas? Specifically, in Charles County. In the past, we have been concerned about the availability of policies in those areas. Have you found that homeowners cannot get insurance?

Mr. Dooley: In Charles County, JIA writes a total of 30 policies.

Mr. Roswell: We thought that when Allstate pulled out, we would get more policies. But, we did not get them. So, other carriers must be writing them.

Delegate Rudolph: What is the limit that JIA covers? Is there some qualification to be able to get JIA insurance? Is JIA a viable alternative to homeowners in Ocean City. Some may be using non-Maryland companies.

Mr. Dooley: $455,000 covers for building and $228,000 for contents.

Mr. Roswell: It is not a matter of qualifying. JIA has limits. But, JIA has never been asked to write near $455,000. JIA has authority to raise the amount to $1 million, but that is not needed for underwriting. JIA is a viable alternative in Ocean City for individual units. JIA could not write a huge hotel like the Carrousel. JIA has a fixed deductible ($5,000 for hail/wind claims). JIA used to have a percentage deductible. The wind storm deductible only applies near water.

Senator Middleton: Is it right that rates are higher for JIA? Can JIA cover a property and then get another carrier to cover the amount that JIA cannot cover? What about a second home in Virginia?

Mr. Roswell: JIA's rates are not necessarily higher. To create a HO-3 policy, more coverages are added and that makes it more expensive. We have seen the situation where another carrier will cover the excess over JIA's limits. JIA does not object to this.

Mr. Sanders: I have seen this in southern Maryland; it is rare, but it can happen and has happened. JIA will insure vacation and second homes. JIA does not require that the main home be with JIA. JIA does not write homeowner's insurance for motor homes or seasonal homes. JIA will write fire/dwelling insurance.

Mr. Dooley: JIA does not cover second or vacation homes in Virginia. There is a Virginia plan that will do that.

Mr. Carter: Does MIA approve JIA's rates?

Mr. Dooley: Yes. MIA approves JIA's plan of operation, forms, and loss costs. Also, JIA is subject to financial auditing.

Delegate Rudolph: JIA has no affiliation with the State. Are there anti-concurrent causation (ACC) clauses in your forms?

Mr. Roswell: JIA has no financial affiliation with the State. JIA is regulated like any other insurer. JIA is not subject to the open meetings law. JIA uses PIPSO's health and retire plans for its employees. There are ACC clauses in JIA's HO-2 form.

Mr. Dooley: JIA will start (January 1, 2013) providing the notice to policyholders – this is the notice that insurers must notify policyholders regarding ACC clauses.

Senator Middleton: When you say JIA has no financial ties, if JIA goes out of business, who owns the assets?

Mr. Roswell: The law does not allow for dissolution. JIA is backed by the assessments on insurers. JIA is not under the Guaranty Fund. In 2012, JIA assessed $2 million. JIA does not have reinsurance. In Massachusetts and Texas, their Fair Access to Insurance Requirement (FAIR) plans have reinsurance because they are larger. JIA is well covered if there is a decrease of the number of policies. Our job is to depopulate. JIA has the ability, if the market hardens, to handle a triple number of policies.

II. Status of Homeowner's Insurance in Other States (Residual Markets)

Property Insurance Plans Service Office (PIPSO): Mr. Ron Cassesso, President

Mr. Cassesso explained that there are 33 beach plans, mostly in urban areas. These plans were created in the 1960s. In 45 years, there has not been any fear of any plan going out of business. Sixteen state plans offer homeowner's insurance, including Maryland, DC, Florida, North Carolina, Wisconsin, and Georgia. The limits for these homeowner's insurance plans range from $200,000 in Wisconsin to $2 million in Georgia. Maryland's limit is $455,000. There are many kinds of homeowner's insurance policies: HO-1, HO-2, HO-3, HO-4, HO-6, and HO-8. Of the HO plans, in comparing premiums, Maryland is the second lowest. Iowa is lower. There are not many in Maryland buying HO-8 policies. Maryland has a good market. Plans were created for availability – they expand and contract based on market conditions. He indicated that he has been with PIPSO for 19 years.

Mr. Cassesso spoke about Massachusetts. When he was in Massachusetts, it was a $25 million plan; after Katrina and other hurricanes, there were no big carriers writing. The small voluntary companies looked at modeling so they could know what their exposure would be if Category 1 or Category 2 hit. The Massachusetts plan had less than 1% on the coast; now that plan has 44% of the Cape. The Massachusetts plan lost money for 18 years except 1 year. It has the best rate in town. The voluntary insurers do not want to write multi-family homes (especially with a flat roof). They do not want the risk if the risk is next to a crack house. FAIR plan will insure them; the property just needs to pass inspection. In the, Cape, there has not been any rate increase in years; they offer HO-3. This is an Insurance Service Office (ISO) form – it is an all-risk policy with a few exclusions. Even if people can obtain insurance in the voluntary market, they do not. They stay with the FAIR plans; there is no reason to leave. It is a perfect storm in Massachusetts, and also in Florida. Louisiana and North Carolina also have FAIR plans. The North Carolina plan is a beach plan, writing up to $355,000.

Questions

Senator Middleton: Do the FAIR plans go through ratesetting in each state?

Mr. Cassesso: Yes. There are open hearings; it can be very political. Some FAIR plans have depressed rates and are not actuarially justified – it is an issue of affordability, not just availability. It is not file and approve. The plans need to have approval. There are political factors so, in the end, the rates are not actuarially sound. But, the FAIR plans are subsidized by other property and casualty insurers. All insurers are required to be members of the FAIR plan in the states the insurers operate in. If a plan loses money, all insurers in that state contribute, except non-admitted insurers do not participate.

Delegate Jameson: HO-3 is the policy that you write more than any other policy. What does it cover?

Mr. Cassesso: It covers all risks with a couple of exclusions. It is the ISO form. That is the most popular form. HO-5 (used in Rhode Island) covers all risks with no exclusions. When the FAIR plans were created in 1968, there was discussion about basic and essential insurance; homeowner's insurance has only been around for about seven years. Most plans still only offer the DP-1 form which was the original form. The DP-1 form is not needed in Maryland.

Delegate Jameson: You think we are okay with the policies JIA is offering, since the HO-3 and HO-5 plans are not available?

Mr. Cassesso: Yes. Once a policy comes in, it never leaves. Producers try to shop around but there may not be other options. Any producer can place a policy with a FAIR plan. There does not have to be a relationship between the FAIR plan and the producer. The property just has to pass an inspection.

Senator Middleton: Do you have a board of directors in each state?

Mr. Cassesso: PIPSO has a board, as well as each states' FAIR plans. By statute, there are seats for trade groups and others. Every board is different. The New Jersey FAIR plan has a 25-member board. Iowa has a 6-member board.

Senator Pugh: Are they compensated?

Mr. Cassesso: No. Some pay for the board's travel expenses.

Mr. Roswell: JIA has a nine-member board which includes the insurance industry. They are not paid, but occasionally get dinner and go on a golf outing.

Mr. Carter: Do you expect changes in the New Jersey plan after Hurricane Sandy?

Mr. Cassesso: There is pressure in both New York and New Jersey. The New York plan issued a DP-2 form which has no liability coverage. Both states' plans are growing. New York had the only plan in the country with a sunset date. It created a lot of work and was political. Every year, the New York plan went out of business. It created a lot of work to cancel policies (about 55,000 policyholders). Notices had to be sent indicating that policies were being cancelled and then again indicating they were being renewed. After Hurricane Sandy, the New York legislature eliminated the sunset provision of the FAIR plan and included a provision allowing the Department of Insurance to mandate that the plan provide homeowner's insurance. A state senator's policy with the plan was cancelled; then, the senator received a notification, as required by law, indicating that the senator may get insurance from the plan under a DP-1 form. The senator said that a DP-1 form would not do; the senator wanted a homeowner's insurance policy. Accordingly, the Commissioner of New York told the New York plan that the plan must offer a homeowner's insurance policy. Now, the New York plan has grown, including hiring employees.

Delegate Rudolph: The FAIR plans do not have an affiliation with states. At what point, is a FAIR plan not sustainable? In Maryland, we only have 2,000 policies. If it decreases to 1,000, what happens? What is the tipping or breaking point? Do other states advertise?

Mr. Cassesso: None have affiliation with the states where they are located. But, in Florida, the state legislature got involved. Now, the FAIR plan in Florida insures about $3 billion in property; this is a disaster waiting to happen. That plan is trying to depopulate (and trying to do this before the next hurricane). People do not read their policies. They have no clue what is in the policy. Some will be looking at a $50,000 deductible. That plan includes too big of a residual market. There is no breaking point – look at Washington, there are 60 policies. They could be absorbed by the Oregon plan. But the commissioner of insurance does not want the Oregon FAIR plan put out of business. It is a safety valve that does not cost a lot; there have been a few assessments on other insurers. The plan needs to be there just in case of a change of the market. FAIR plans distinguish themselves from other insurers in that the FAIR plans do not have marketing departments.

Mr. Roswell: JIA does not advertise, instead JIA educates. On the website, JIA is called Maryland JIA.

Delegate Rudolph: What is "FAIR" spelled out?

Mr. Cassesso: "FAIR" stands for "Fair Access to Insurance Requirements." Beach plans were established after the riots in 1968. President Johnson put together the Hughes Panel to bring together insurance executives. It was left up to states as to whether to have a FAIR plan. In 1969, after Hurricane Camille and Hurricane Celia hit, the voluntary market pulled out of the coasts. At that point, it was determined that FAIR plans in Florida and Texas were needed (these plans did not exist at the time). It was decided to establish Beach plans to cover wind. In Mississippi, the plan only covers wind (and does not include liability or other coverage). In North Carolina and Texas, the plans cover homeowner's insurance only is some parts of those states.

Delegate Rudolph: If I cannot get insurance from Allstate, who is responsible to alert me about the FAIR plan? Is it the consumer's responsibility? Do producers know about JIA? Do producers get a commission for placing insurance with a FAIR plan? What about the policies that are not regulated by the Maryland Insurance Commissioner (surplus lines) – is JIA competitive to surplus lines plans?

Mr. Cassesso: It is up to the consumer and the consumer's producer to know about JIA. Any producer that places business with a FAIR plan gets a 12% commission. Producers can find out about FAIR plans through their insurance associations.

Mr. Roswell: Producers know about JIA. But, few producers send consumers to JIA. We know consumers know about us because the cancellation notice from insurers mentions JIA as an option to the consumer. There is a 12% commission (it is not a referral fee). JIA is not far off in price from surplus lines policies. JIA looked at the language in the law that says that JIA may not compete and originally thought it meant that it is not allowed to compete with regard to "rates." But, now JIA thinks that the competitive language refers to "forms." JIA can sell HO-3 policies. He indicated that he did not know where the Ocean City business was going, but that the consumers looking for homeowner's insurance in Ocean City are not coming to JIA.

Senator Middleton: Are your rates adequate? Do you have producers?

Mr. Roswell: JIA's rates have to be actuarially sound, not adequate, although there is not a real difference between the two. JIA does not have any producers.

Mr. Sanders: The vast majority of producers know about JIA, including independent producers. There are admitted and non-admitted insurers that offer products.

III. Status of Reinsurance Insurance Market for Coastal Risks

Reinsurance Association of America (RAA): Mr. Matthew Wulf, V. P., State Relations and Assistant General Counsel.

Mr. Wulf explained that RAA represents reinsurers writing U.S. risks. RAA also was created in 1968 and is located in Washington DC Reinsurers are the insurance for insurers. He said that just like consumers get insurance, insurers need to get insurance. *(From the handout: "Reinsurance is a contract of insurance whereby one insurer (called the reinsurer or assuming company) agrees, for a portion of the premium, to indemnify another insurer (called the reinsured or ceding company) for losses paid by the reinsured under insurance policies issued by the reinsured to its policyholders.")* If a loss qualifies for reinsurance, the insurer will file a claim to with the insurer; it is indemnity-based. The purpose of insurance is to shift risk. *(From the handout: The Elements of Reinsurance – Reinsurance is a form of insurance. There are only two parties to the reinsurance contract – the Reinsurer and the Reinsured – both of whom are insurers. The subject matter of a reinsurance contract is the insurance liability of the reinsured undertaken by it under insurance policies issued to its own policyholders. A reinsurance contract is an indemnity contract. The reinsurer "reimburses" the insurer for its portion of paid claims.")*

Mr. Wulf stated the functions of reinsurance: financing, stabilization, capacity, catastrophe protection, and services. The Maryland Insurance Administration looks at how much money an insurer has and, if reinsurance is needed, reinsurance is considered "rental capital." It allows a small insurer to write more insurance. *(From the handout: The fundamental objective of insurance, to spread the risk so that no single entity finds itself saddled with a financial burden beyond its ability to pay, is enhanced by reinsurance. Insurers purchase reinsurance for essentially four reasons: (1) to limit liability on specific risks; (2) to stabilize loss experience; (3) to protect against catastrophes; and (4) to increase capacity.)* Reinsurance is a global industry; it has migrated to be mostly non-U.S. companies that provide reinsurance. *(From the handout: in 2012, there were approximately 5,116 reinsurers from 110 jurisdictions. 3,252 of those companies assumed premiums from U.S. cedents. The top reinsurers account for the vast majority (about 80%) of reinsurance assumed and these companies are from 10 jurisdictions (U.K., Bermuda, Germany, Switzerland, France, Japan, Korea, Australia, India, and Spain).* Recently, there has been a record amount of reinsurance. *(From the handout: 2010 saw a record 247 natural catastrophic events in the U.S. that caused $13.6 billion of insured losses. Worldwide, there were 950 natural catastrophic events and $37 billion of insured losses. 2011 eclipsed 2010 with worldwide insured losses in excess of $100 billion and reinsurer losses in excess of $50 billion. U.S. insured catastrophe losses were approximately $36 billion. In 2012, "Superstorm" Sandy caused insured losses estimated at approximately $20 to $25 billion. Total global insured losses, including U.S. crop losses and other severe weather outbreaks, exceeded $50 billion. For global insurers, these events were primarily a drag on earnings, as balance sheets remained robust.)*

Mr. Wulf discussed that there were not a lot of named hurricanes, but there were other catastrophes; Sandy was a flood event. Even so, pricing has been on a downward trend – there is too much competition in the reinsurance market. Capacity is available. It is coming from pension funds/hedge funds who want to get in as reinsurance capacity. *(From the handout: Despite the historic losses of the last three years, reinsurance catastrophe pricing continues to be significantly below 2006 levels. Record $500 billion in reinsurance capital. $7 trillion pension fund industry seeking non-correlated risk; reduced counter party credit risk exposure.)* Reinsurer capital is at an all time record high. We have seen large losses, but the money keeps pouring in. They think it is a good risk. About 20% on average of the property and casualty insurance is reinsured. It is higher with life insurance. Looking at a breakout by line, about 40% of fire and earthquake insurance is reinsured, but only 15% of the traditional homeowner's insurance is reinsured.

Mr. Wulf discussed that the residual markets do buy reinsurance. *(From the handout: Insurance provided by FAIR plans, fiscal year 2012: MD – 2,403 habitational policies, 90 commercial policies, $427 million exposure, $1.5 million DWP. By comparison (policies) – Florida 1.5 million, Massachusetts 215,000, Louisiana 137,000, Texas 135,000, California 124,100, Virginia 28,000, Delaware, 1,980, New Jersey 19,000, Connecticut 2,900, New York 54,000.).* Florida's residual market is high, while Virginia's and Delaware's are small – people are finding that they do not need to go into the residual markets. Massachusetts does not want to be in the residual market, but they offer a Cadillac policy; there is too much political pressure to not increase rates. *(From the handout: Maryland Insured Coastal Exposure: $17.3 in insured coastal exposure in 2012 – residential $8.6 billion and commercial $8.7 billion. Insured coastal*

exposure as percent of statewide insured exposure: 1%. Residual market (JIA) is $421 million which is less than 2.5% of coastal exposure. Reinsurers do provide capital to residual markets. Residual markets undertake their own risk analysis. MD JIA has traditionally not purchased reinsurance given the exposure and existence of industry assessment mechanism. JIA member insurers manage their own risk, including assessment potential, and may purchase reinsurance.)

Questions

Senator Middleton: You said that Massachusetts' plan had a $25 million profit last year. How are they making a profit?

Mr. Wulf: The rate does not match up with the risk. Massachusetts' plan is siting on a lot of money and they make a profit on that money. They do not make a profit from an underwriting standpoint. They are trying to retain better risk so they can make a profit on underwriting. Now, they are making a profit on investments. Just because there were no losses in the Cape, constituents say they must be paying too much. But look over the life of the plan; that is where we say that rates are not actuarially sound. With Texas, the legislature says that there cannot be more than $1.5 billion spent on a storm. If there is, they can come back to the legislature to ask for more money. Be careful thinking that these plans should grow. In Florida, with Hurricane Andrew, insurers pulled out. Now, insurers are coming back in and it is working. He indicated that the industry has seen an uptick in New York, but not on the coast. Sandy was a flood event so we still dealing with issues. The ability to pay is based on the assessment mechanism. These plans (including JIA) are creatures of statute. Insurers are fine with paying assessments because the amount of the assessments is insignificant and the risk is manageable. FAIR plans might not have to purchase re-insurance, instead insurers (who pay the assessments) are probably purchasing reinsurance.

Mr. Cassesso: Massachusetts made a profit due to a mild winter. There were no hurricanes, yet the Cape generated premium revenue. There have not been any catastrophes. 33 FAIR plans purchase reinsurance.

Mr. Kristiansen: If Massachusetts had been hit by storm like the Philippines, there would not be enough money in the FAIR plan to pay policies. What is the impact? Is this a socialized cost?

Mr. Wulf: There would be an assessment on insurers. Insurers buy reinsurance based on the likelihood that storms will occur. A large scale assessment will be passed onto consumers. Insurers will try to recoup the amount of the assessment. They can do this in several ways, including imposing a surcharge on policyholder or taking a tax credit. This cost is outside of the normal loss of the insurer. The cost would be spread out among all insurers.

Senator Middleton: The utilization of reinsurance is dwindling yet the investment is going up. The investment is more demand than supply. When will it equal out? Is this an investment in global warming? What happens when a home that used to be valued at $450,000 now is valued at $250,000?

Mr. Wulf: The reinsurers are thinking that large scale storms will not happen in the next few years so they will put their money there. While utilization is down in the short term, you will see more purchased in the tail end. Reinsurers are not worried about Cat 1 or 2 events, but they are worried about Cat 5 events. It is not a big impact from the lower valuation of a home.

Mr. Kristiansen: I would be interested to see how much the Maryland pension system invests.

Delegate Rudolph: Can an insurance company own a reinsurer? If I sell risk to offshore (surplus lines), does that limit the risk in Maryland? Is a reinsurance company always a surplus lines insurer?

Mr. Wulf: There are lots of accounting rules about risk transfers. They can set up a separate entity. The risk in Maryland would be limited if a risk is sold to surplus lines insurers. A reinsurance company is not always a surplus lines insurer.

Delegate Rudolph: Does JIA want anything legislatively?

Mr. Roswell: No. As we discussed, we do not need anything.

The task force agreed that changes to JIA are not necessary.

IV. Discussion of Whether MAIF Should be Exempt from the Open Meetings Act

Mr. McCurdy mentioned that he has spoken with Ms. White, but would like to further discuss with her and others regarding the issue of exempting MAIF from the Open Meetings Act.

Senator Middleton stated that MAIF will want the MAIF's board to discuss this issue

Mr. McCurdy responded that all are not appointed yet.

Senator Middleton suggested hearing from the board at the next meeting.

The task force agreed to table the issue of exempting MAIF from the Open Meetings Act.

The task force also agreed that another meeting is not necessary.

V. Discussion of Draft Letter Requiring MAIF and Chesapeake Employers' Insurance Company to Report on Future Opportunities for Affiliation or Resource Sharing

Senator Middleton discussed the letter that the two co-chairs would send to MAIF and Chesapeake requiring them to meet and discuss future opportunities for affiliation or resource sharing. The organizations' findings and recommendations would be due October 1, 2015.

Senator Pugh opposed the letter saying that she is concerned with the letter because Chesapeake is a private company.

Mr. Carroll indicated that Chesapeake's board is still appointed by the Governor but that the company is considered to be a private company.

Senator Middleton mentioned that affiliation and resource sharing was the rationale for creating the task force; it is not good timing now to require MAIF and Chesapeake to do any resource sharing. He suggested having those organizations discuss any possibilities for resource sharing and report their findings to the legislature. They would be mandated to report to the legislature and not mandated to actually share resources.

Senator Pugh responded by saying that this would create problems and that she is concerned with requiring a private company, in writing, to meet and report.

Mr. Carroll stated that given Chesapeake's current status and MAIF's current status, it would be challenging to share resources. But Chesapeake would be happy to meet with MAIF. It would be difficult with the current status of both organizations to share resources. Chesapeake is fine with the letter since it is just a request for information.

Mr. McCurdy indicated that Senator Pugh may be concerned with the "affiliation" language in the letter because it goes beyond just resource sharing. To the extent that affiliation would be difficult, he is fine with confining the letter to only resource sharing.

Mr. McMillen stated that there is the need to look for efficiencies.

Senator Middleton stated that he is open to suggestions.

Mr. Roswell stated that Senator Pugh seems to be concerned that the agenda uses the term "requiring."

The task force agreed to review the letter (provided at the meeting) and provide staff with any comments.

VI. Discussion of 2014 Legislation to Create a Task Force to Study Methods to Reduce the Rate of Uninsured Drivers

Senator Middleton discussed legislation that the two co-chairs would introduce during the 2014 session to create a Task Force to Study Methods to Reduce the Rate of Uninsured Drivers. He mentioned that the issues that this new task force would discuss would be specific to motor vehicle insurance and, therefore, not an interest of the entire Task Force to Study Maryland Insurance of Last Resort Programs.

The task force agreed to review the language for the creation of a new task force (provided at the meeting) and provide staff with any comments.

VII. Final Report

The task force agreed to review the final report (once received) and provide staff with any comments.

Senator Middleton ended the meeting by saying that, since this is the last meeting, he has enjoyed chairing with Delegate Rudolph and has enjoyed the committee which has had almost a full complement of members at each meeting. **Delegate Rudolph** agreed.

Adjourn at 11:45 a.m.

Appendix 3. Maryland Automobile Insurance Fund

Revised 9/24/13

The Maryland Automobile Insurance Fund (MAIF) is the automobile insurance carrier of last resort in the State of Maryland. MAIF is an independent, nonbudgeted State agency. MAIF's purpose is two-fold: (1) to provide automobile insurance to those eligible persons who are unable to obtain it in the private market and (2) to administer and pay claims to Maryland residents who are involved in Maryland accidents with uninsured motorists or hit-and-run incidents where no responsible party can be found. MAIF is not in direct competition with the private insurance industry.

History of Creation

Provisions for assigned risk agreements are found in the laws of Maryland as early as the 1949 revisions of Article 48A (Chapter 511). The agreements were optional among insurers "with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods." Eventually, all insurers that issued policies in the State were required to cooperate in the preparation and submission of an assigned risk plan. This requirement was named the Maryland Automobile Insurance Plan by Chapter 462 of 1966.

In 1971, prompted by an unusually high number of complaints, Governor Marvin Mandel requested a study be conducted regarding the automobile industry in Maryland. The study concluded that private insurers were arbitrarily refusing to renew or cancelling the policies of many Maryland drivers. In response to this study, the Maryland General Assembly created MAIF (Chapter 73 of 1972) to replace the Maryland Automobile Insurance Plan and the Unsatisfied Claim and Judgment Fund. In a 1974 report, MAIF's initial executive director states that many insurance companies rejected policy applications based on the applicant's place of residence. By the end of its first year, MAIF had collected over $50 million in premiums from approximately 150,000 policies. Maryland law relating to MAIF is currently codified under Title 20 of the Insurance Article. **Attachment 1** summarizes the legislative history of the development of MAIF.

Development of Structure

Governing Body

Headquartered in Annapolis, effective October 1, 2013, (under Chapters 73 and 74 of 2013) a 9-member board of trustees currently governs MAIF. All members are appointed by the Governor with the advice and consent of the Senate. A member may not be actively affiliated with an insurance agency, insurance producer, insurer, or premium finance company that does business with MAIF. Each member must be a resident of the State. Of the nine

members, at least three must have insurance industry expertise and at least two shall have financial management expertise. Of the members who must have insurance industry expertise, at least one must be appointed from a list of two or more individuals recommended by the board of directors of the Industry Automobile Insurance Association. In deciding which individuals to appoint, the Governor, to the extent practicable, must consider the geographic and demographic, including race and gender, and diversity of the State. Before taking office, each appointee to the board of trustees must take the oath required under the Maryland Constitution (Article I, § 9). The term of a member is five years. A member may not serve for more than two full terms or a total of 10 years. The board of trustees is required to choose a chairman from among its members The Governor may remove a member for incompetence or misconduct.

Each member of the board of trustees is entitled to reasonable compensation in the form of salary for work performed for the benefit of MAIF and to reimbursement of expenses incurred in the performance of the member's duties. A member is not required to take compensation if the member has a conflict of interest with other employment that precludes the member from taking compensation for work performed for the benefit of MAIF.

The board of trustees must adopt rules, bylaws, and procedures and may adopt any policy to carry out the MAIF statute. The board of trustees must appoint the executive director of MAIF and employ attorneys to advise and represent MAIF in all legal matters and, where necessary, to sue or defend suits in the name of MAIF. The executive director serves at the pleasure of the board of trustees.

History of the Governing Body

When MAIF was created in 1972, it had a three-member board. Under then Article 48A, the board was constituted as follows:

The Board of Trustees of the Fund shall consist of three persons, one of whom shall be *ex-officio* the Motor Vehicle Administrator and who shall be Chairman of the Board. The other two Trustees shall be appointed by the Governor and shall serve at the pleasure of the Governor.

In 1976, MAIF was re-evaluated and the make-up of the board dramatically changed. House Bill 1822, as introduced, included a provision expanding the board to seven members. The expanded board included the Motor Vehicle Administrator, MAIF's executive director, and five trustees appointed by the Governor, with the advice and consent of the Senate. The automobile insurance industry argued that key provisions of House Bill 1822 would place MAIF in competition with the private insurance market and require the industry to subsidize MAIF's operating losses. (Thus, House Bill 1822 was amended in the Senate to reflect a compromise: automobile insurance industry participation in an expanded board.) Under Chapter 241 of 1976, the expanded board consisted of five public members appointed by the Governor with the advice and consent of the Senate, five members appointed by the automobile insurance industry, and the executive director. The Motor Vehicle Administrator was removed from MAIF's board.

Chapter 139 of 1995 further expanded the board by requiring the Governor to appoint two additional members from the public. This brought the total number of board members

appointed by the Governor to seven and was the last statutory change in membership until Chapters 73 and 74 of 2013.

Summary of the Governing Body Prior to Chapter 74 and 74 of 2013:

Until October 1, 2013, a 13-member board of trustees governed MAIF. Seven members were appointed by the Governor with the advice and consent of the Senate. These seven members served at the pleasure of the Governor. A member appointed by the Governor was prohibited from being actively affiliated with an insurance agency, insurance producer, insurer, or premium finance company that does business with MAIF. Five were chosen for four-year terms by the Industry Automobile Insurance Association; at least three of the five members were required to be residents of the State. Finally, one of the members was required to be MAIF's executive director, who was appointed by the board and served at its pleasure. The executive director was MAIF's chief operating officer. The incumbent director was not authorized to vote on the choice of a successor. The term of a member appointed by the board of directors was four years and began on September 1. The board of trustees was required to choose a chairman from among its members, with the position of chairman alternating between a gubernatorial appointee and an association appointee; however, the chairman was not allowed to be the executive director.

Each member of the board of trustees was entitled to per diem compensation set by the Board of Public Works for each day actually engaged in the discharge of official duties, if the member was not otherwise an officer or employee of the State and to reimbursement of expenses. The board of trustees was required to formulate policy for MAIF. The board of trustees was required to appoint the executive director of MAIF with the approval of the Governor; the executive director served at the pleasure of the board of trustees.

Employees

Effective July 1, 2013, (under Chapters 73 and 74 of 2013), MAIF employees remain as State employees but not all employees are in the State Personnel Management System. Under Chapters 73 and 74, a skilled service employee of MAIF hired before July 1, 2013, in a nonprofessional or nontechnical position must remain in the skilled service in the State Personnel Management System or its equivalent as long as the employee remains in a nonprofessional or nontechnical position with MAIF. Therefore, these employees are governed by the rules and regulations relating to all State employees, including access to the State grievance system. All other MAIF employees are not in the State Personnel Management System. The executive director must appoint and remove employees of MAIF in accordance with the policies of the board of trustees.

Prior to Chapters 73 and 74 (until July 1, 2013), all MAIF employees were State employees and all employees were governed by the rules and regulations relating to all State employees, including access to the State grievance system. Accordingly, the executive director was required to appoint and remove staff of MAIF in accordance with the provisions of the Sate Personnel and Pensions Article. Positions that the executive director designated with the

approval of the board of trustees as technical or professional positions were in the executive service, management service, or were special appointments of the skilled service or the professional service in the State Personnel Management System.

Currently and unchanged under Chapters 73 and 74, the executive director may appoint claims adjusters, attorneys, and other necessary personnel directly as employees or on a contractual basis. The executive director must determine and administer the compensation of MAIF employees with the approval of the board of trustees. Except under certain instances, a MAIF employee is not subject to any law, regulation, or executive order governing State employee compensation, including furloughs, salary reductions, and any other General Fund cost-saving measure. MAIF employees are eligible to enroll and participate in the State's health insurance program and the State Employees' Retirement System or the State Employees' Pension System.

MAIF's organizational chart is located in **Attachment 2**. MAIF had 500 employees at the end of its first year. This number has fluctuated over the years. As of September 2013, MAIF has approximately 246 permanent and contractual employees, 111 less than 2012. **Exhibit 1** shows MAIF's personnel breakdown.

Exhibit 1
MAIF's Personnel Breakdown with Full-time Equivalents
As of September 2013

Function	Career	Contractuals	Temporary	Total
Executive	12.0	0	0	12.0
Administration	19.0	2	0	21.0
Claims	112.0	0	0	112.0
Fiscal	18.6	0	0	18.6
House Counsel	21.0	0	0	21.0
Human Resources	4.0	0	0	4.0
Information Services	30.8	0	1	31.8
Policy Services	8.6	0	0	8.6
Producer Relations	4.8	0	0	4.8
Underwriting	12.0	0	0	12.0
Total	**242.8**	**2**	**1**	**245.8**

Source: MAIF

Insurance Coverage

MAIF's Insured Division provides automobile insurance policies for the residents of Maryland. However, because MAIF is an insurer of last resort, it only provides insurance to residents whose applications have been declined by private insurers. The Insured Division, like other automobile insurance carriers, handles claims for policyholders. The Insured Division is funded through premiums, investment income, and, when necessary, an assessment on the automobile insurance industry. An assessment has not occurred since 1989.

MAIF must issue a policy for motor vehicle liability insurance if an applicant pays a premium and:

- owns a covered vehicle registered with the Motor Vehicle Administration (MVA), has a license issued by MVA to drive a covered vehicle, or is a lessee under a "lease not intended as security" as defined by Maryland law;

- does not owe to MAIF (1) an unpaid premium with respect to a policy that has expired or been canceled or (2) a claim payment obtained by fraud;

- has made at least two good faith efforts to obtain a policy from two separate members of the Industry Automobile Insurance Association or has had a policy canceled or nonrenewed by an association member for a reason other than nonpayment; and

- meets specified residency requirements.

MAIF may not issue a policy if a person does not meet these requirements, including applicants who either lease a private passenger vehicle to an individual who does not meet the residency requirements or garages the vehicle principally outside the State. There are specified exceptions for armed forces members on active duty and students.

Each policy issued by MAIF must contain same minimum coverage as required by private automobile insurer policies. Thus, if the minimum coverage required for private insurance is statutorily altered, MAIF must alter its own coverage. Title 19, Subtitle 5 of the Insurance Article requires private automobile insurance must provide for at least:

- the payment of claims for bodily injury or death arising from an accident of up to $30,000 for any one person and up to $60,000 for any two or more persons, in addition to interest and costs (liability coverage) (these limits were increased from $20,000 and $40,000, respectively under Chapter 441 of 2010, effective January 1, 2011);

- the payment of claims for property of others damaged or destroyed in an accident of up to $15,000, in addition to interest and costs;

- unless waived by the first named insured, personal injury protection coverage (minimum coverage for medical, hospital, and disability benefits up to $2,500 for payment of expenses that

arise from the accident, lost income, and reimbursement for essential services for care and maintenance of the family or family household); and

- uninsured motorist coverage (unless waived, the amount equals the amount of liability coverage provided under the policy; if waived, the amount equals to the minimum required insurance for liability coverage).

Market Share, Number of Policies, and Geographic Breakdown

In most years since calendar 2006, the numbers of gross and net written policies in the Insured Division have declined. After a slight rebound in calendar 2010, the number of gross and net written policies fell by more than 20% in calendar 2011. There were 74,352 policies issued in 2011 and 64,045 policies issued in 2012. MAIF indicates that possible reasons for the decrease are the current economic conditions and rate increases in calendar 2011. **Exhibit 3** illustrates the geographic breakdown of MAIF's policy distribution.

Exhibit 2
MAIF's Percentage Market Share and Applications Received
2006-2011

Year	Market Share	Applications Received
2006	3.67%	118,859
2007	3.10%	107,193
2008	2.85%	102,480
2009	2.66%	97,040
2010	2.71%	98,528
2011	2.05%	74,352

Source: Maryland Insurance Administration's *Reports on the Effect of Competitive Rating on the Insurance Markets in Maryland* (2012 results will be in the 2013 report that is anticipated to be published in November 2013)

Exhibit 3
MAIF's Geographic Breakdown
As of 7/31/2013

Jurisdiction	Policy Distribution
Prince George's County	35.5%
Eastern Shore	9.0%
Baltimore County	8.7%
Montgomery County	7.0%
Baltimore City	6.1%
Remainder of State	33.7%

Source: MAIF

Installment Plan Program and Policy Terms

Effective July 1, 2013, under Chapter 334 of 2013, MAIF may accept premiums on an installment payment basis only on 12-month personal lines policies. Previously, by statute MAIF was not allowed to accept premiums on an installment basis; over 96% of MAIF policyholders used premium financing. Accordingly, under Chapter 334 policyholders who are unable to pay their total insurance premium in advance may either pay premiums to MAIF on an installment basis or use the services of a premium finance company. By statute, MAIF may not provide directly or indirectly for the financing of premiums.

MAIF Installment Payment Plan

Under Chapter 334 of 2013, in approving MAIF's plan for accepting premiums on an installment payment basis, the Insurance Commissioner must ensure that MAIF's installment payment plan:

- requires an insured's initial premium payment to be no less than (1) for a total annual premium of less than $3,000, 25% of the total annual premium; and (2) for a total annual premium of $3,000 or more, 20% of the total annual premium; and

- adjusts the amount of the total annual premium used to determine the initial premium payment on October 1 of each year using data from the U.S. Government Bureau of Labor Statistics motor vehicle insurance expenditure category of the Consumer Price Index for all urban consumers.

Further, the Insurance Commissioner must ensure that MAIF's installment payment plan:

- is structured and administered to ensure that MAIF at no time provides insurance coverage to an insured for a period during which MAIF has not received the actuarially justified premium payment;

- (1) for a total annual premium of less than $3,000, offers no more than six installment payments on the 12-month policy; and (2) for a total annual premium of $3,000 or more, 2eight installment payments on the 12-month policy;

- Allows insureds to make an initial premium payment and installment payments in any commercially acceptable form; and

- Allows MAIF to impose an administrative processing fee on insureds participating in the installment plan of no more than $8 per installment payment.

Premium Finance Agreements

A premium owed to MAIF may be financed by a premium finance company registered with the Insurance Commissioner. The policyholder enters into a premium financing agreement, where the premium finance company pays the policyholder's total premium to MAIF and the policyholder agrees to repay the loan with finance charges and service fees in installments.

The finance charge and initial service fee that a premium finance company may assess include all interest, fees, and charges incident to the premium finance agreement and the resulting extension of credit. Premium finance companies typically require a down payment ranging from 11% to 15% of the premium with 10 additional installment payments to pay the outstanding balance owed. The finance charge is computed on the amount of the entire premium loan advanced, including taxes and fees, after the insured's down payment, if any, from the insurance contract's date of inception or the premium's due date. Effective July 1, 2013, under Chapter 334 of 2013, the allowable finance charge under a premium finance agreement is computed in an amount not exceeding the sum of 1.15% for each 30 days of the loan, computed in advance. Previously, the allowable finance charge under a premium finance agreement was 1.15% for each 30 days, charged in advance.

Under Chapter 334 of 2013:

- an insured must receive a refund of a finance charge that exceeds any amount due under the premium finance agreement if the insurance contract is canceled or the insured prepays the loan in full at any time;

- the amount of the refund may be calculated by the actuarial method;

- a finance charge is earned in 30-day increments and may be earned on the first day of each 30-day period;

- a premium finance company may not retain more of the finance charge than is earned; and

- a premium finance company is prohibited from using the Rule of 78s in computing a finance charge.

Prior to a 2011 Maryland Court of Appeals case (Maryland Insurance Commissioner v. Central Acceptance Corp. et al., 33A.3d949, 424 Md.1, published Dec. 20, 2011), premium finance companies used the Rule of 78s to compute finance charges. The court held that the application of this method by eight of the State's largest premium finance companies violated the requirement under current law that a premium finance company may not charge more than 1.15% for each 30-day period.

Reject an Application or Cancel a Policy

MAIF may reject an application or cancel a policy if the applicant or policyholder owes MAIF an unpaid premium. MAIF may also reject an application or cancel a policy if the applicant or policyholder's driver's license is suspended, except in limited circumstances, or revoked. Finally, MAIF may cancel a policy if the temporary registration on a policyholder's automobile has expired and the vehicle is not otherwise registered in the State. For any rejection of an application or cancellation of a policy, MAIF must provide prompt notice. In the event of a rejection or cancellation for reasons other than nonpayment of a premium, an applicant or policyholder may appeal the decision to a special board within 10 days after receipt of notice.

Discounts

MAIF offers two types of discounts: one for those policyholders who pay in full; and the other for those policyholders who have clean driving records after one year, two years, and three years. MAIF does not use credit in calculating premiums or offer any other discounts. About 8% of MAIF policyholders receive the safe driver "discount" mandated under §20-508 of the Insurance Article for three continuous years without a moving traffic violation, chargeable accident, or more than one point assessed by MVA. In order to receive the discount, the policyholder must be turned down by two insurers. According to MAIF, the use of credit scoring, as opposed to driving record, may be one of the reasons that some policyholders remain at MAIF after three years.

Producers

Any insurance producer licensed by the Maryland Insurance Administration (MIA) and qualified to do business in the State may sell MAIF coverage. However, MAIF may refuse to grant the authority of a fund producer to an insurance producer that has been previously terminated as a fund producer or that has had its license previously revoked or surrendered. As of July 2013, there were 1,401 fund producers actively selling MAIF coverage. Chapter 336 of 2012 authorized MAIF to determine the amount of commission paid to a fund producer for each private passenger auto insurance policy issued. The amount of commission may not exceed 15%

or be less than 10%. Previous to the 2012 Act, all commissions for private passenger auto insurance policy were 10%.

Uninsured Division

MAIF's Uninsured Division administers and pays claims, if specified conditions are met, to residents of Maryland who are involved in accidents in Maryland with motorists who are uninsured or for hit-and-run incidents where a responsible party cannot be found.

The specified conditions that must be met for a claim made against MAIF through its Uninsured Division include: (1) the claim is for damage to property greater than $250 or the death of or personal injury to a "qualified person" as defined by Title 20, Subtitle 6 of the Insurance Article; (2) the claimant was not, at the time of the accident, in an uninsured automobile owned by either the claimant or a member of the claimant's family residing in the claimant's household; and (3) the claimant was not, at the time of the accident, driving an automobile without a valid registration or driver's license. Additionally, the claimant must also not be (1) the personal representative of either the individual who was driving or riding in the uninsured automobile or (2) the personal representative or member of the family who resides in the household of the individual who was driving the automobile.

MAIF's Uninsured Division is authorized to pay, less specified deductions, up to $15,000, exclusive of interest and costs, on authorized unsatisfied claims arising from damages to property. MAIF is also authorized to pay up to $30,000 on authorized unsatisfied claims arising from an injury or death of one individual and up to $60,000 for injuries or deaths to more than one individual. MAIF must also make specified deductions from each paid claim. MAIF may bring an action to recover any amount paid out of MAIF that exceeds the authorized amount against the person that received the excess payment. Chapter 460 of 2012 raised the personal injury limits from $20,000 and $40,000 to $30,000 and $60,000, respectively.

Regulation by the Maryland Insurance Administration

The Insurance Commissioner's statutory and regulatory authority under the Insurance Article as to MAIF was expanded under Chapters 73 and 74 of 2013, effective October 1, 2013. MAIF is subject to the provisions of the Insurance Article, except as otherwise provided by law. Previously, the Insurance Commissioner's statutory and regulatory authority under the Insurance Article was limited as to MAIF, in comparison to domestic insurers that are authorized insurers, due to MAIF's statutory mission and its status as a State agency that enjoys sovereign immunity.

Financial Operations

State's Investment and Relation to the State

As noted above, MAIF is an independent, nonbudgeted State agency.

Revenues, Expenses, Net Income, and Deficit Assessment

Insured Division: According to MAIF's financial statement, the Insured Division's income fell to $93.1 million in calendar 2012, a decrease of $22.8 million compared to calendar 2011. **Exhibit 4** shows the Insured Division's revenues, expenditures, and surplus balance from 2007 to 2012.

Exhibit 4
Insured Division Financial Data
2007-2012
($ in Millions)

	Revenues	Expenditures	Surplus
2007	$168.0	$150.3	$184.8
2008	123.7	144.5	138.7
2009	114.5	147.6	128.7
2010	129.5	143.3	124.3
2011	115.9	114.4	119.0
2012	93.1	102.7	108.5

Source: MAIF

The 2008 *Joint Chairmen's Report* (JCR) requested that MAIF and MIA submit a report on the following three issues: (1) identifying options on methods to determine the reasonableness of the surplus of the Insured Division; (2) who should be responsible for making the determination; and (3) methods of reducing the surplus if it is determined to be excessive. In October 2008, MAIF and MIA submitted a response to this request which outlined a formal review process to determine whether MAIF's surplus is excessive. A memorandum of understanding between MIA and MAIF formalized the review process in November 2009.

In January 2011, MIA published the report for calendar 2009. MIA concluded that MAIF's surplus was not excessive but noted that it could not determine an amount that would be considered excessive. MIA recommended that because MAIF cannot control its premium volume, as the insurer of last resort, MAIF, in consultation with MIA, should conduct a comprehensive analysis through an independent expert. MAIF reported that such an analysis was not economically feasible. In June 2013, MIA published the report for calendar 2012. MIA's report determined that MAIF's surplus was once again not excessive.

Uninsured Division*:* The Uninsured Division's largest income source is revenue received from the MVA uninsured motorist fine, which is indexed each year based on the Consumer Price Index – All Urban Consumers – Medical Care. MAIF's share reached $2.8 million in calendar 2011. Senate Bill 82 of 2012 (Chapter 460) increased this amount to $3.4 million for fiscal 2014. The Uninsured Division may also recover settlements from the uninsured at-fault party through collections on notes and judgments. These collections have been impacted by the economy in recent years, resulting in lower collections. Collections on

notes and judgments increased in calendar 2011 compared to 2010 but remain below levels seen in the recent past. **Exhibit 5** shows the Uninsured Division's revenues, expenditures, and surplus balance from 2007 to 2012.

Exhibit 5
Uninsured Division Financial Data
2007-2012
($ in Millions)

	Revenues	Expenditures	Surplus
2007	$4.2	$2.7	$8.9
2008	4.4	3.3	9.8
2009	4.2	4.6	2.5
2010	3.9	4.1	2.5
2011	4.0	3.3	(0.9)
2012	4.0	4.1	(1.0)

Source: MAIF

Funds have been transferred from the Uninsured Division three times within the last decade. The Budget Reconciliation and Financing Act (BRFA) of 2011 (Chapter 312) authorized the transfer of $4.0 million from MAIF to the general fund on or before June 30, 2012. The transfer was recorded in calendar 2011. BRFA of 2009 (Chapter 487) transferred $7.0 million from the MAIF Uninsured Division to the general fund in fiscal 2009. Likewise, BRFA of 2002 (Chapter 440) transferred $20.0 million from the MAIF Uninsured Division to the general fund in fiscal 2002.

Taxes and Fees

MAIF is subject to both State premium (2%) and payroll taxes. Premium taxes for the past four years have been $1.743 million (2012), $1.763 million (2011), $2.238 million (2010), and $2.183 million (2009). Payroll taxes for the past four years have been $1.561 million (2012), $1.544 million (2011), $1.519 million (2010), and $1.885 million (2009).

MAIF is not subject to any federal taxes.

Dissolution

There is no formal process for the dissolution of MAIF under current Maryland law.

Consumer Protections

MAIF is subject to the following State laws that affect State governmental units:

- Public Information Act
- Open Meetings Law
- Maryland Tort Claims Act
- Maryland Public Ethics Law
- Whistle Blower Law

As of October 1, 2013, under Chapters 73 and 74 of 2013, MAIF is no longer subject to the State Procurement Law. Previously, MAIF was only subject to the State Procurement Law in regards to real estate procurement.

Notes

Attachment 3 mentions that there are no automobile insurers of last resort in other states.

Attachment 4 provides financial data for MAIF.

Appendix 3. MAIF
Attachment 1 – Legislative History

Chapter 73 of 1972

- Repealed the Maryland Automobile Insurance Plan for assigned risks.
- Created MAIF and provided for its organization, financing, powers, and functions.
- Required owners of every registered motor vehicle and person excluded from coverage by a private insurer or rejected for insurance by MAIF to maintain minimum security in the form of a motor vehicle liability insurance policy or other security approved by the Motor Vehicle Administrator in order to obtain and maintain a registration certificate or to retain a valid operator's license.
- Provided that MAIF is liable for the insurance premium tax.

Chapter 311 of 1973

- Added § 243(e) agents commission on transfer of insured to private company.

Chapter 833 of 1974

- Repealed the requirement that policyholders of MAIF attempt to obtain a privately written policy by a certain date.

Chapter 562 of 1975

- Provided that a person having the mandatory uninsured motorist coverage may not collect from MAIF.
- Changed the assessments made against insurers for payment to MAIF.

Chapter 241 of 1976

- Amended the composition and duties of the board of trustees.
- Repealed the mandatory and discretionary assessments levied on insurers for the account of MAIF and substituted a new method of providing financial assistance to MAIF.
- Modified certain provisions concerning the allocation of certain funds collected and repealed certain provisions concerning the temporary use and repayment of certain funds.
- Increased and clarified the commission authorized to be paid by MAIF to a broker or agency.
- Authorized the executive director to reject or cancel certain insurance policies.
- Amended the appeal procedure in certain cases.

- Required and authorized the executive director to take certain actions with respect to certain policyholders.
- Modified a requirement concerning private companies assuming coverage of MAIF policyholders.
- Created the Industry Automobile Insurance Association and provided for its membership, purpose, duties, and governance.
- Created the board of directors of the association and provided for its composition, powers, and duties.
- Provided for assessments against the association and its members and the method of calculating, collecting, and paying them.
- Provided a new method of selecting MAIF's executive director.

Chapter 776 of 1976

- Clarified that MAIF is a member insurer of the Maryland Insurance Guaranty Association.

Chapter 526 of 1977

- Made nonsubstantive changes.

Chapter 719 of 1977

- Authorized the executive director and certain members of the Board of Trustees of the Maryland Automobile Insurance Fund to manage and invest all funds collected by or on behalf of MAIF.
- Required the State Treasurer to deliver certain investments and moneys to MAIF on the effective date of the Act.
- Removed the State Treasurer and the Board of Public Works from this process.

Chapter 779 of 1977

- Required post compliance audits.

Chapter 11 of 1978

- Authorized the executive director to reject an application of insurance if the applicant owes MAIF any unpaid insurance premium with respect to a prior policy of insurance and specifying a condition of eligibility for insurance by MAIF.

Chapter 14 of 1978

- Specified the membership of the Investment Committee.

Chapter 364 of 1978

- Created procedures in account for the deposit of certain insufficiency assessment monies and their recoupment.

Chapter 151 of 1978

- Made nonsubstantive changes.

Chapter 273 of 1982

- Expanded disciplinary authority against agents and brokers, who after demand has been made, fail to pay money that is due to MAIF.
- Required notice and hearing prior to certain actions by the board and after action has been taken by the board in certain circumstances.

Chapter 628 of 1982

- Altered the method of filling vacancies in the office of the executive director.
- Created a method for the selection and succession of the chairman of the board of trustees.
- Required that the reasonableness and adequacy of the reserves must be reviewed at least annually by the board of trustees.
- Authorized relief by MAIF against certain default and consent judgments.
- Provided MAIF with all defenses available to a defendant and empowered the court to order a defendant to cooperate with MAIF in the defense of an action.
- Created a right of appeal from final orders, decrees, or judgments rendered under the legislation and the rules of MAIF and the Court of Appeals.

Chapter 854 of 1982

- Designated all agents and brokers as producers and expanded authority over producers.

Chapter 577 of 1983

- Altered insufficiency assessment calculation procedures and their application to the Industry Automotive Insurance Association.

Chapter 617 of 1983

- Altered the circumstances in which a commission is paid to the producer of a policyholder.

Chapter 778 of 1984

- Altered the procedures by which insurance agents and brokers are certified to conduct business.
- Changed categories of insurance under which agents and brokers may conduct business.
- Changed the methods for issuing certificates of qualification to insurance agents and brokers.
- Provided for payment of certain fees or bonds by agents and brokers.
- Required that certain temporary certificates of qualification be issued.

Chapter 161 of 1986

- Renamed the Maryland Insurance Guaranty Association to the Property and Casualty Insurance Guaranty Corporation.

Chapter 308 of 1986

- Gave MAIF certain staffing and salary setting authority.

Chapter 443 of 1986

- Clarified and expanded the duties and powers of MAIF with respect to the issuance of commercial vehicle liability insurance.
- Established separate commercial and private passenger vehicle insufficiency assessment mechanisms.
- Imposed certain conditions of coverage by MAIF of commercial vehicles.

Chapter 11 of 1987

- Made nonsubstantive changes.

Chapter 90 of 1987

- Made nonsubstantive changes.

Chapter 752 of 1988

- Prohibited insurers from refusing to underwrite a private passenger motor vehicle insurance risk solely because the applicant previously obtained insurance coverage from MAIF.

Chapter 4 of 1989

- Prohibited commissions from being paid by MAIF to producers on a fully earned basis.

- Fixed commissions paid by MAIF at a certain amount and retained the power of the Board of Trustees of MAIF to fix the level of commissions in certain circumstances.

Chapter 503 of 1989

- Authorized MAIF to initiate, hear, and decide producer discipline cases.
- Authorized MAIF to use the Maryland Tax Refund Intercept Program to recover money owed.

Chapter 55 of 1991

- Made nonsubstantive changes.

Chapter 339 of 1991

- Authorized MAIF to exclude coverage of vehicles not registered or not garaged in the State.

Chapter 22 of 1992

- Made nonsubstantive changes.

Chapter 453 of 1992

- Granted authority to MAIF to exclude from coverage a person who owes money to MAIF for fraudulent claims.

Chapter 594 of 1991

- Granted authority to MAIF to issue a policy to a nonresident who has been issued a nonresident permit.

Chapter 5 of 1993

- Made nonsubstantive changes.

Chapter 441 of 1994

- Required MAIF to include a notice in contracts regarding the circumstances when the applicant is eligible to seek insurance from another insurer.

Chapter 662 of 1994

- Deleted the requirements of an annual report on staff positions, classifications, and salaries.

Chapter 2 of 1995

- Prohibited the board of trustees from certifying an operational loss for calendar 1995.

Chapter 139 of 1995

- Altered the composition of the board of trustees.
- Altered the method for determining the amount in MAIF's annual insufficiency assessment.

Chapter 296 of 1995

- Amended the definition of ownership as it relates to qualifying for insurance from MAIF.
- Altered the method for determining the amount in MAIF's annual insufficiency assessment.

Chapter 352 of 1995 Insurance Reform Act of 1995

- Clarified the circumstances under which MAIF may issue policies.
- Required that MAIF make certain information available.
- Altered the circumstances in which MAIF may not refuse to issue a policy.

Chapter 11 of 1996

- Recodified the Insurance Article.

Chapter 220 of 1997

- Allowed MAIF to collect past-due premiums in any manner allowed by law including through the Tax Refund Intercept Program.

Chapter 592 of 1997

- Established different calculations by which assessment limits for the commercial auto and private passenger auto divisions are determined for annual certification by the Board of Trustees of MAIF to the Board of Directors of the Industry Automobile Insurance Association.

Chapter 400 of 1998

- Authorized MAIF to charge and collect a processing fee or other specified amounts on policies that are void because the insured fails to meet residency requirements for eligibility under specified circumstances.

Chapter 774 of 1988

- Created the Insurance Regulation Assessment.

Chapter 681 of 1999

- Altered, from $10,000 to $15,000, the maximum amount payable from MAIF for unsatisfied claims for property damage.
- Altered the minimum benefits of security, from $10,000 to $15,000, that a motor vehicle liability insurance policy must provide for property damage claims.

Chapter 45 of 2000

- Altered the conditions under which the executive director of MAIF is required to refer an individual to MAIF.

Chapter 731 of 2001

- Required licensure for insurance producers.
- Substituted the term "insurance producer" for the terms "agent" and "broker."
- Substituted the term "license" for the term "certificate of qualification."
- Set standards for licensure of insurance producers.
- Provided for the powers and duties of the Insurance Commissioner with respect to insurance producers.

Chapter 19 of 2002

- Made nonsubstantive changes.

Chapter 580 of 2002

- Prohibited an insurer, with respect to private passenger motor vehicle insurance, from refusing to underwrite, cancel, refuse to renew, or increase the renewal premium based on a specified credit history.

Chapter 21 of 2003

- Made nonsubstantive changes.

Chapter 25 of 2004

- Made nonsubstantive changes.

Chapter 25 of 2005

- Made nonsubstantive changes.

Chapter 115 of 2005

- Altered the definition of "State personnel" for purposes of the Maryland Tort Claims Act to include employees of MAIF.

Chapter 611 of 2005

- Altered the nomination and qualifications of the members of the Board of Directors of the Industry Automobile Insurance Association.

Chapter 44 of 2006

- Made nonsubstantive changes.

Chapters 600 and 601 of 2008

- Required MAIF to attempt to use minority business enterprises to the greatest extent feasible to provide brokerage and investment management services.

Chapter 65 of 2011

- Made nonsubstantive changes.

Chapter 312 of 2011

- Provided that employees of MAIF are not subject to laws, regulations, or executive orders governing State employee compensation.
- Repealed a requirement that the executive director of MAIF determine the compensation of personnel of MAIF in accordance with the State pay plan.
- Required the executive director to administer the compensation of the personnel of MAIF.

Chapters 210 and 211 of 2012

- Included mopeds and motor scooters in the pool of eligible vehicles to be covered by MAIF.

Chapter 336 of 2012

- Authorized MAIF to determine the rate of commission MAIF must pay to a fund producer of a policyholder to whom a policy is issued.
- Required that this rate for private passenger auto insurance be between 10% and 15% of the total premium.
- Required MAIF to report to the Senate Finance Committee and the House Economic Matters Committee on MAIF's implementation of a commission payment structure that provides commissions between 10% and 15% to fund producers by October 1, 2014.
- The report must incorporate whether and how the commission payment structure has incentivized use of advanced electronic technology, incentivized deployment of resources to retention of policyholders, resulted in administrative cost savings for MAIF, and resulted in fewer uninsured motorists.

Chapter 408 of 2012

- Created the Task Force to Study Maryland Insurance of Last Resort Programs.

Chapter 460 of 2012

- Increased from $20,000 to $30,000 the maximum amount payable from MAIF for specified claims on account of injury to or death of one individual arising from a motor vehicle accident.
- Increased from $40,000 to $60,000 the maximum amount payable from MAIF for specified claims on account of injury to or death of more than one individual arising from a motor vehicle accident.
- Provided for the allocation of penalties among specified funds on or after a specified date.

Chapters 488 and 489 of 2012

- Expanded the list of State entities that must attempt to use minority business enterprises to the greatest extent feasible to provide brokerage and investment management services.
- Clarified a reporting requirement related to similar requirements that already apply to the State Treasurer, MAIF, the Injured Workers' Insurance Fund, and the State Retirement and Pension System.

Chapter 334 of 2013 – "Acceptance on Installment Payment Basis and Premium Finance Agreements" – Effective October 1, 2013

General

- Authorized MAIF to accept premiums on an installment payment basis on 12-month personal lines policies if specified requirements are met and the Insurance Commissioner provides approval.
- Authorized MAIF add-on coverage to include motor club services.
- Authorized a premium finance company to enter into a premium finance agreement that includes the costs of a motor club service contract.
- Altered (1) the amount of a cancellation charge in years subsequent to calendar 2014 and (2) the circumstances in which a premium finance agreement may require an insured to pay a cancellation charge and a reinstatement charge.
- Required premium finance companies to make specified disclosures, including that the actuarial method will be used to calculate an earned finance charge when applicable.
- Authorized premium finance companies to assign all rights and obligations under a premium finance agreement to another premium finance company or pledge a premium finance agreement as collateral for a loan (Abrogates after June 30, 2015).
- Required specified studies from MAIF and the Maryland Insurance Administration (MIA) with various reporting dates.

MAIF and Installment Payment Plans

- When considering whether to accept MAIF's plan to accept premiums on an installment payment basis, required the Commissioner to ensure that MAIF's installment payment plan:
- requires an insured's initial premium payment to be at least 25% of the total premium if the total annual premium is less than $3,000;
- requires an insured's initial premium payment to be at least 20% of the total premium if the total annual premium is $3,000 or more;
- adjusts the amount of the total annual premium used to determine the initial premium payment on October 1 of each year using specified data from the U.S. Government Bureau of Labor Statistics;
- is structured and administered to ensure that MAIF at no time provides insurance coverage to an insured for a period during which MAIF has not received the actuarially justified premium payment;
- offers no more than six installment payments on the 12-month policy if the total annual premium is less than $3,000;
- offers no more than eight installment payments on the 12-month policy if the total annual premium is $3,000 or more;
- allows insureds to make an initial premium payment and installment payments in any commercially acceptable form; and

- allows MAIF to impose an administrative processing fee on insureds participating in the installment plan of up to $8 per installment payment.
- Prohibited MAIF from (1) discriminating among insureds by charging different premium based on the payment option selected by an insured and (2) determining commissions paid to a MAIF producer based on whether the producer places an insured in an installment payment plan.

Disclosure Requirements

- Required that any written and electronic communications, including MAIF's website, affecting the placement of coverage by MAIF or a MAIF producer must include a statement, on a Commissioner-approved form, advising an applicant or an insured of the payment options available to the applicant or insured. The statement must state that the applicant or insured (1) may make payments through MAIF's installment plan, a premium finance agreement, or payment of the policy in full and (2) should consult a MAIF producer who will fully describe the terms of each payment option.
- Required that the statement be included on written or electronic communications when the applicant or insured (1) is issued a new policy or (2) is issued a reissuance, rewrite, or renewal of an existing policy.

Computation and Implementation of Various Charges

- Required any finance charge by a premium finance company to be computed in an amount not exceeding the sum of 1.15% for each 30 days of the loan, computed in advance.
- Required a premium finance company to calculate the finance charge as earned in 30-day increments and authorizes the company to earn the finance charge on the first day of each 30-day period.
- Required, if the finance charge is earned on the first day, the premium finance agreement to contain a notice detailing this fact.
- Prohibited a premium finance company from retaining more of the finance charge than is earned.
- Imposed additional restrictions on the imposition of a finance charge in connection with a commercial automobile, fire, or liability insurance policy.
- Prohibited a premium finance company from using the Rule of 78s to compute a finance charge.
- Required the premium finance company to refund to an insured a finance charge that exceeds any amount due under the premium finance agreement if the insurance contract is cancelled or the insured prepays the loan in full at any time.
- Allowed, if the insured receives a refund, the amount of the refund to be calculated using the actuarial method.
- Alerted the amount of time an insurer has to return any gross unearned premiums after the cancellation of an insurance contract.

- Authorized a premium finance agreement to impose a cancellation charge on or after the effective date stated in the notice of cancellation or on or after the cancellation effective date stated in the notice of intent to cancel.
- Required, if the cancellation charge is imposed on or after the cancellation effective date, the premium finance company to provide a specified disclosure in the notice of intent to cancel.
- Increased the amount of a possible cancellation charge for private passenger automobile or personal fire or liability insurance by an additional dollar for each calendar year after 2014; thus, a possible cancellation charge is the difference between a delinquency and collection charge and $15 in calendar 2014, escalating to $20 in calendar 2019 and any subsequent year.
- Authorized a premium finance company to charge an electronic payment fee if the insured elects to pay by electronic check, as defined by the bill.
- Allowed a premium finance company to send any required notice through electronic means if the premium finance company meets specified requirements.

Motor Club

- Prohibited a premium finance company from imposing any finance charge or other charge on any payment for the purchase price of a motor club service contract.
- Prohibited a premium finance company from canceling an insurance contract if any payment under the premium finance agreement (1) is sufficient to pay the installment due under the agreement that is related to the insurance contract obligation but (2) is not sufficient to cover the amount of the monthly payment for the motor club service contract.
- Required an insurance producer, or an employee or agent of the insurance producer, who directly or indirectly has an ownership interest in a motor club to provide a disclosure to be signed by the insured informing the insured of any interest in the motor club of the insurance producer or the producer's employee or agent.

Assignment of Rights and Obligations: (Abrogates after June 30, 2015)

- Authorized, if a premium finance agreement is for the payment of private passenger motor vehicle insurance and/or personal insurance, a premium finance company to (1) assign all rights and obligations under a premium finance agreement to another State-registered premium finance company or (2) pledge a premium finance agreement as collateral for a loan.
- Authorized a premium finance company that is a party to a premium finance agreement for commercial automobile, fire, or liability insurance to assign all rights and obligations under a premium finance agreement to another person if the premium finance agreement expressly confers the right to assign all rights and obligations under the premium finance agreement.
- Authorized the premium finance company to also pledge a premium finance agreement as collateral for a loan.

- Required, if the premium finance company assigns rights and obligations, the premium finance company to retain the obligation to service the premium finance agreement or assign the obligation to another State-registered premium finance company.
- Required, regardless of the type of insurance, in the event the premium finance company assigns the obligation to service a premium finance agreement to another premium finance company, the premium finance company to provide the insured with notice of the assignment and the third-party premium finance company's contact information.
- Required any such notice be by (1) first-class mail or (2) if specified requirements are met, electronic means.

Uncodified Section – MIA Complaint Tracking and Report

- Required MIA to keep track of complaints received from consumers who have had all rights and obligations under premium finance agreements for commercial automobile, fire, or liability insurance assigned.
- Required MIA to report any findings and recommendations to the Senate Finance Committee and the House Economic Matters Committee by December 31, 2014.

Uncodified Section – Other Evaluations and Reports:

- Required that MAIF's Executive Director, in consultation with the Insurance Commissioner and appropriate State agencies, develop criteria for evaluating the impact and effectiveness of MAIF's installment payment plan.
- Required the evaluation to consider the plan's impact on the (1) cost of automobile insurance for MAIF insureds; (2) the number of insured and uninsured motorists in the State; (3) the number of MAIF policies in force by geographic area; (4) the duration of MAIF policies in force; and (5) the frequency of payment methods used by MAIF insureds, including MAIF's installment payment plan, premium finance agreements, and cash and credit card payments.
- Required, by October 1, 2015, MAIF to prepare a report on the impact and effectiveness of the installment payment plan for the prior year and submit it to the Commissioner.
- Required the report be based on the aforementioned evaluation criteria and limitations associated with the terms of the installment payment plan established by the bill.
- Required, once the Commissioner receives the report, the Commissioner to make a determination of the impact and effectiveness of MAIF's installment payment plan, including a review of complaints received by the Commissioner relating to MAIF's installment payment plan and premium finance agreements.
- Required, based on this determination, the Commissioner to submit a report to the Senate Finance Committee and the House Economic Matters Committee by December 31, 2015.

Chapter 73 of 2013 – "Operational Changes" – Effective October 1, 2013, Except Provisions Related to the State Personnel Management System are effective July 1, 2013

General

- Made numerous specified operational changes to MAIF as a result of recommendations by the Task Force to Study Maryland Insurance Programs of Last Resort. (The task force was established by Chapter 408 of 2012 (HB 1017) to study, among other issues, potential benefits to the State from the affiliation of one or more of the State-created insurers of last resort, including MAIF, the Injured Workers' Insurance Fund (IWIF), the Maryland Health Insurance Plan, and the Joint Insurance Association.)

Board of Trustees

- Decreased the number of members of the board from 13 to 9.
- Required, of the nine members, at least three to have insurance industry expertise and at least two must have financial management expertise.
- Required, of the members with insurance industry expertise, at least one to be appointed from a list of two or more individuals recommended by the board of directors.
- Required each member of the board to be a State resident.
- Required the Governor to appoint all nine members with the advice and consent of the Senate and, to the extent practicable, consider the geographic and demographic, including race and gender, diversity of the State.
- Repealed the ability of the Board of Directors to appoint five board members, the requirement that the Executive Director be on the board, and the requirement that the position of the chairman alternate for each successive term.
- Required, before taking office, each appointee to the board to take an oath required by the Maryland Constitution.
- Authorized the Governor to remove a board member for incompetence or misconduct.
- Repealed the requirement that the board obtain approval of the Governor before appointing an Executive Director and the prohibition that the Executive Director may not vote on the choice of a successor.
- Increased the number of years in a board member's term, places a specified cap on the amount of time a board member may serve, and staggers the board members' terms.
- Granted each member of the board entitlement, as provided in the board's budget, to collect (1) a reasonable salary for work performed for MAIF's benefit and (2) reimbursement for expenses incurred in the performance of the member's duties.
- Required that the two members of the board who sit on the board's financial management committee financial management expertise.
- Required the board to adopt rules, bylaws, and procedures and may adopt any policy to carry out laws related to MAIF.

Attorney General

- Removed the general charge of MAIF's legal business from Office of the Attorney General (OAG) and requires the board to employ attorneys to advise and represent MAIF in all legal matters and, where necessary, to sue or defend suits in MAIF's name.

State Personnel Management System:

- Removed, generally, MAIF employees from the State Personnel Management System; a skilled service employee hired before July 1, 2013, in a nonprofessional or nontechnical position must remain in the skilled service in the State Personnel Management System or its equivalent as long as the employee remains in a nonprofessional or nontechnical position with MAIF.
- Provided that MAIF employees remain State employees, including in the State health and pension systems.
- Required the Executive Director to appoint and remove MAIF employees in accordance with the policies of the board.

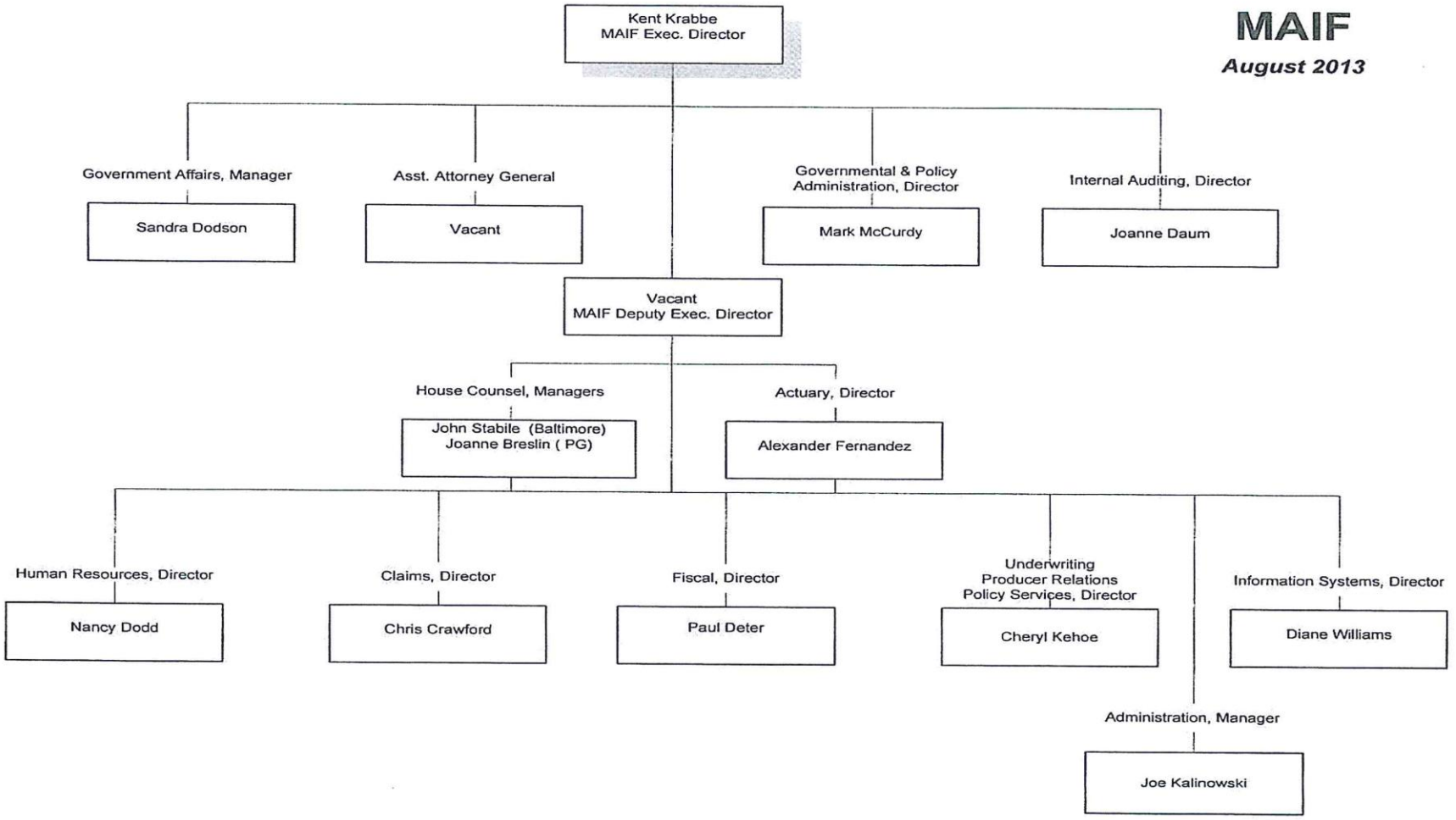
Legislative Auditor

- Repealed the requirement that MAIF be subject to review by Office of Legislative Audits (OLA); in its place, the board's audit committee, composed of members of the board and the Executive Director, must require MAIF's internal auditor to conduct fiscal compliance and fiscal audits of the accounts and transactions of MAIF each year.
- Required a fiscal compliance audit to (1) examine financial transactions and records and internal controls; (2) evaluate compliance with applicable laws and regulations; and (3) examine electronic data processing operations.
- Required the audit committee to direct the internal auditors not to duplicate the same areas covered by an independent auditor's fiscal audit with the internal auditor's own fiscal audit in the same period.

Procurement

- Exempted MAIF from State procurement law relating to real estate.

Appendix 3. MAIF
Attachment 2 – Organizational Chart



Appendix 3. MAIF
Attachment 3 – Automobile Insurers of Last Resort in Other States

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There are no automobile insurers of last resort in other states. Other states insure the residual market by requiring each automobile insurer to write insurance for high-risk policyholders in proportion to their direct written premiums in each state.

Appendix 3. MAIF
Attachment 4 – Financial Data

Net Income – Insured Division
2002-2012
($ in Millions)

Year End	Premium Earned	Net Underwriting Gain/(Loss)	Other Income (incl. Investment Income)	Net Income/(Loss)
2002	$181.7	($44.3)	($2.6)	($47.0)
2003	219.9	(17.4)	25.5	8.1
2004	241.5	(3.4)	28.0	24.7
2005	217.3	21.7	18.9	40.1
2006	173.2	4.6	23.3	27.9
2007	139.6	(10.7)	28.4	17.7
2008	121.6	(22.9)	2.2	(20.7)
2009	113.1	(34.5)	1.3	(33.2)
2010	111.9	(31.4)	17.5	(13.9)
2011	99.5	(14.9)	16.3	1.5
2012	82.8	(19.9)	10.3	(9.6)

Surplus – Insured Division
2002-2012
($ in Millions)

Year	Surplus
2002	$74.4
2003	88.6
2004	114.0
2005	150.0
2006	178.3
2007	184.8
2008	138.7
2009	128.7
2010	124.3
2011	119.0
2012	108.5

Expense, Loss, and Combined Ratios
Insured Division
2002-2012
($ in Millions)

	Premium Earned (A)	Loss and Loss Adjustment Expenses Incurred (B)	Other Net Underwriting Expense (C)	Expense Ratio (C)/(A)	Loss Ratio (B)/(A)	Combined Ratio (B +C)/(A)
2002	$181.7	$187.4	$38.6	.212	1.032	1.244
2003	$219.9	$195.4	$41.8	.190	.889	1.079
2004	$241.5	$201.4	$43.5	.180	.834	1.014
2005	$217.3	$157.6	$38.0	.175	.725	.900
2006	$173.2	$135.8	$32.8	.189	.784	.974
2007	$139.6	$120.0	$30.3	.217	.860	1.077
2008	$121.6	$114.7	$29.7	.245	.944	1.188
2009	$113.1	$120.1	$27.6	.244	1.061	1.305
2010	$111.9	$116.5	$26.8	.240	1.041	1.281
2011	$99.5	$90.3	$24.1	.243	.907	1.149
2012	$82.8	$76.5	$26.2	.316	.924	1.240

Net Income – Uninsured Division
2002-2012
($ in Millions)

Year End	Fines and Collections	Other Income	Total Expenses	Net Income/(Loss)
2002	$3.483	$1.446	$3.851	1.078
2003	3.473	.551	2.754	1.270
2004	3.652	.710	4.206	.156
2005	3.394	.365	4.438	(.679)
2006	3.970	.449	3.290	.679
2007	3.552	.613	2.681	1.484
2008	3.780	.629	3.281	1.128
2009	3.616	.555	4.551	(.380)
2010	3.680	.231	4.096	(.185)
2011	3.792	.169	3.302	.660
2012	3.815	.207	4.103	(.080)

Surplus – Uninsured Division
2002-2012
($ in Millions)

Year	Surplus
2002*	$6.416
2003	7.466
2004	7.230
2005	6.397
2006	7.146
2007	8.852
2008	9.766
2009*	2.535
2010	2.469
2011*	(.916)
2012	(1.021)

*Transfers to State of Maryland: 2002 – $20,000,000, 2009 – $7,000,000, 2011 – $4,000,000

Expense, Loss, and Combined Ratios
Uninsured Division
2002-2012
($ in Millions)

	Fines and Collections (A)	Loss and Loss Adjustment Expenses Incurred (B)	Other Expenses (C)	Expense Ratio (C)/(A)	Loss Ratio (B)/(A)	Combined Ratio (B+C)/(A)
2002	$3.483	$2.426	$1.424	.409	.697	1.106
2003	$3.473	$1.742	$1.012	.291	.502	.793
2004	$3.652	$2.976	$1.231	.337	.815	1.152
2005	$3.394	$3.017	$1.422	.419	.889	1.308
2006	$3.521	$2.109	$1.181	.336	.599	.935
2007	$3.552	$1.479	$1.202	.338	.416	.755
2008	$3.780	$2.083	$1.199	.317	.551	.868
2009	$3.616	$2.774	$1.777	.492	.767	1.259
2010	$3.680	$2.437	$1.659	.451	.662	1.113
2011	$3.792	$1.782	$1.520	.401	.470	.871
2012	$3.815	$2.586	$1.517	.398	.678	1.076

Appendix 3. Injured Workers' Insurance Fund/ Chesapeake Employers' Insurance Company

Revised 10/1/2013

The Injured Workers' Insurance Fund (IWIF), an independent State agency, served as the workers' compensation insurer of last resort for the State of Maryland through September 30, 2013. Effective October 1, 2013, Chesapeake Employers' Insurance Company (Chesapeake), a statutorily created, private, nonprofit, nonstock corporation, serves as the State's workers' compensation insurer of last resort. As insurer of last resort, the entity is required to provide insurance for employers covered under Title 9 of the Labor and Employment Article and is prohibited from canceling or refusing to renew or issue a policy except based on a policyholder's nonpayment of a premium, failure to provide payroll information, or failure to cooperate in a payroll audit.

As the largest writer of workers' compensation insurance in Maryland, IWIF/Chesapeake strives to fulfill a two-fold mission of (1) "provid[ing] Maryland businesses with a readily available source for workers' compensation insurance that features high quality products and services at a fair price" and (2) "protect[ing] workers and employers by championing workplace safety." IWIF remains in existence with one of its functions to continue serving, by contract, as a third-party administrator for the State's workers' compensation claims and, as such, is subject to the provisions regulating administrators under Title 8, Subtitle 3 of the Insurance Article.

History of Creation

The Maryland General Assembly established IWIF by statute in 1914 as the State Accident Fund (SAF) to ensure workers' compensation insurance coverage for all Maryland-based businesses. Chapter 800 of 1914 authorized the State Industrial Accident Commission (SIAC) – now called the State Workers' Compensation Commission (commission) – to create and administer SAF. The Act further authorized appropriations of up to $40,000 annually between fiscal 1914 and 1916 for the maintenance of SIAC and the creation of SAF. SIAC's first annual report, published in December 1915, indicates that SAF received a $15,000 State appropriation in 1915. The report states: "it is our hope and expectation that within a reasonably short time this amount of money may be returned to the State Treasury." The Comptroller's annual reports, in turn, do not indicate that this appropriation has been refunded to the State. In 1916, Chapter 597 required SIAC to assess the workers' compensation industry for the cost of administering the commission – and, by extension, the fund – for the year ending in December 31, 1917. The commission subsequently authorized a transfer to the general fund to reimburse the State for expenses of SIAC and SAF. A 2012 report completed as part of the conversion process, discussed later in this report, indicates that the present net value of the State's investment in IWIF was $44.5 million.

Development of Structure

Changing Relationships with the State and Other Insurers

Beginning in the 1940s, successive changes to what became Title 10 of the Labor and Employment Article altered SAF's relationship with the State and other insurers. Some early changes caused SAF to begin to function more like a private insurance company than a State agency. For example, the General Assembly created the "Commissioners of the State Accident Fund" – separate from SIAC – under Chapter 504 of 1941. In 1970, SAF became part of the newly created Department of Personnel (Chapter 98). In 1987, SAF became independent of all units of State government and exempted from nearly all procurement, personnel, and budget laws that regulate State agencies under Chapter 585.

In contrast, in 1989, SAF became subject to several provisions of law – such as the Maryland Public Ethics Law and the Maryland Tort Claims Act – that govern State agencies, as discussed later in this report. The Task Force to Study the State Accident Fund, which had been established by Chapter 584 of 1987, recommended these changes.

Subsequent changes further aligned SAF with private insurers. Under Chapter 71 of 1990, SAF was renamed the Injured Workers' Insurance Fund and removed from the State budgeting process. Chapter 567 of 2000 extended various provisions of the Insurance Article to IWIF so the fund became (1) subject to examination and regulation by the Maryland Insurance Administration (MIA) rather than by the Office of the Legislative Auditor; (2) required to manage its own investment portfolio without oversight by the State Treasurer; and (3) required to participate in the Property and Casualty Insurance Guaranty Corporation. The law also exempted IWIF from the Open Meetings Act and required the fund to meet certain risk-based capital standards imposed on other insurers. In turn, Chapter 22 of 2002 and Chapter 60 of 2003 phased in the risk-based capital standards and created a temporary exemption from certain related penalties.

Chapter 612 of 2008 authorized the Insurance Commissioner to exercise the same examination and enforcement authority over IWIF as applies to other insurers under the Insurance Article. Chapter 336 of 2009 subjected IWIF to all other provisions of the Insurance Article – with limited specified exceptions – to the same extent as private domestic workers' compensation insurers. The Act clarified that IWIF serves as both the insurer of last resort and a "competitive insurer in the marketplace." Chapters 132 and 276 of 2011 exempted IWIF employees from State laws, regulations, or executive orders governing furloughs and pay restrictions applicable to other State employees. Chapter 397 of 2011 required IWIF to pay a 2% tax on its premiums like other insurers effective July 1, 2011.

Chapter 570 of 2012 converted IWIF to a private, nonprofit, nonstock insurance company that will serve as the State's workers' compensation insurer of last resort effective October 1, 2013. Chesapeake will operate and be regulated like other insurers, except in terms

of ratemaking and the application of several provisions of law governing State agencies. Both the appointment process for and duties ascribed to IWIF's board carry over after the conversion. Current IWIF employees will have the option to remain State employees after the conversion; thus, IWIF is required to remain in existence for as long as it continues to have employees.

The General Assembly made the following findings regarding the conversion:

1. employers' access to affordable workers' compensation insurance is of utmost importance to the economy of the State;

2. the fund has been the State's insurer of last resort for workers' compensation insurance since 1914;

3. since its creation, the fund was permitted to compete with the private insurance market; however, the fund did not become an effective competitive insurer until the General Assembly exempted the fund from most laws that apply to State government agencies and required the fund to be a regulated insurer;

4. the most effective way to ensure that Maryland's workers' compensation system remains stable and affordable is to encourage and create as much competition in the marketplace as possible;

5. the long-term competitive success of the fund would be enhanced if the final barriers to full competition were eliminated by converting the fund into a fully competitive, fully regulated, private insurer;

6. converting the fund into a private, nonstock, nonprofit insurer would level the competitive playing field for all workers' compensation insurers operating in the State;

7. converting the fund into a private, nonstock, nonprofit insurer would provide assurance to Maryland employers that the financial success of the fund would inure to their benefit as policyholders through dividends and lower rates and that surplus funds could not be transferred to the State's general fund;

8. the interests of the State would be protected if the fund's statutory purpose of insurer of last resort for workers' compensation insurance is preserved and the Governor retains the right to appoint the members of the board of the new company;

9. (1) the interests of the employees of the fund would be satisfied by ensuring that current employees have the option to remain State employees of the fund after the conversion of the fund to a private, nonstock, nonprofit insurer and (2) the interests of employees of the fund would further be satisfied by ensuring that current long-term State employees who remain State employees of the fund after the conversion of the Fund to a private, nonstock, nonprofit insurer shall remain in the State retirement system and, therefore, would not be unfairly penalized by being prematurely forced out of the State retirement system due to the conversion; and

10. the interests of the residents of the State, both employers and employees, will be best met by converting the fund into a private, nonstock, nonprofit, fully regulated, competitive insurer.

As part of the conversion process, MIA is required to (1) study whether Chesapeake should be subjected to specified ratemaking requirements – including the requirement for membership in a rating organization – that apply to other workers' compensation insurers and (2) contract with a firm to determine the fair value of the State's investment in IWIF. MIA reported the studies' findings on October 1, 2012, as discussed later in this report.

Attachment 1 summarizes the legislative history of the development of IWIF and Chesapeake.

Governance by Board

IWIF/Chesapeake is located on Loch Raven Boulevard in Towson, Maryland. The fund is governed by a board of nine directors who are appointed by the Governor with the advice and consent of the Senate to serve a maximum of two full 5-year terms or a total of 10 years. The board appoints a president; adopts rules, bylaws, and procedures for the fund; and prepares IWIF/Chesapeake's capital and operating budgets to be reviewed by the budget committees of the General Assembly. Board members receive compensation on an annual basis ranging from $21,424, which a general member receives, to $25,750, which the chairman receives. The board is required to submit an annual report to the Governor of Maryland as well as reports to the Governor's Office of Minority Affairs related to the use of minority business enterprises for brokerage and investment management services.

Following the conversion on October 1, 2013, board members previously appointed to IWIF's board must continue to serve their current terms. The president of IWIF is required to serve as the president of Chesapeake. Many of the board's duties remain the same – for example, as discussed later, those duties regarding ratemaking. Once the conversion occurred, however, the board assumed other duties, such as the duty to manage the company as a private, nonprofit corporation in accordance with State law. The board also gained the authority, subject to MIA approval, to declare policyholder dividends in the form of a cash refund or credit to (1) a policyholder based on an actual loss ratio that is better than the loss ratio used to calculate a premium or (2) all policyholders whose loss ratio contributed to the company's surplus for that year.

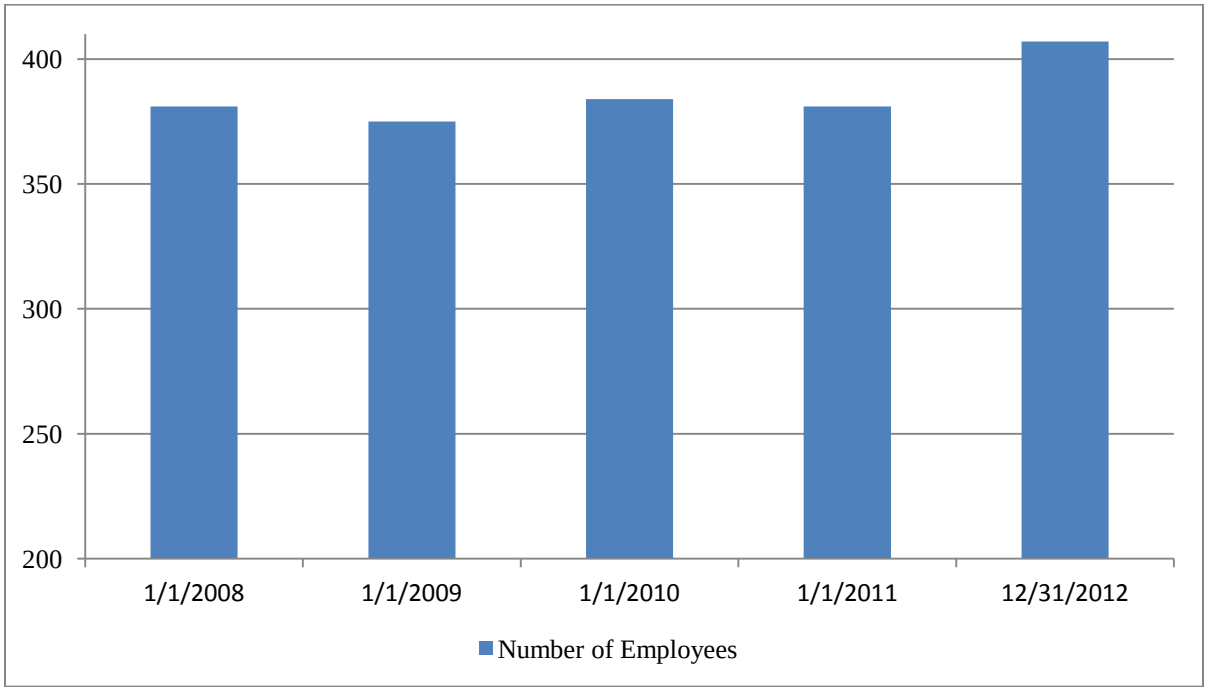
Employees

IWIF's employees are considered State employees and are members of the State Retirement and Pension System (SRPS). However, Chapters 132 and 276 of 2011 specified that IWIF employees are not subject to any State law, regulation, or executive order governing State employee compensation such as furloughs, salary reductions, or any other general fund cost

savings measure. In general, IWIF employees are considered special appointments and may not be removed unless (1) there is cause for removal; (2) written charges are filed; and (3) the employee has an opportunity for an administrative hearing. These conditions do not, however, apply to employees who are laid off due to a lack of work.

Exhibit 1 illustrates the number of IWIF employees over the last five years, which has fluctuated from 375 as of January 1, 2009, to 407 as of December 31, 2012. IWIF most recently reports that it employs 407 individuals in four categories of its organizational chart (1) employees who report to the board of directors; (2) employees who report to the chief executive officer; (3) employees who report to the chief administrative officer and the chief financial officer; and (4) employees who report to the chief operating officer. **Attachment 2** depicts IWIF's organizational chart, which IWIF does not expect to change following the conversion.

Exhibit 1
Number of Employees
2008-2012



Source: Injured Workers' Insurance Fund

Chapter 570 of 2012 prohibits IWIF from hiring new employees on or after October 1, 2013, but authorizes IWIF employees to elect to remain employees of the fund and, thus, the State. Such employees may remain in the State retirement system; may not be denied

any promotion based on their status as IWIF employees; and are subject to the same laws, terms, and conditions of employment, compensation, and benefits that were applicable to IWIF employees before October 1, 2013. An employee of Chesapeake may not elect to be an employee of IWIF.

IWIF employees may be assigned to perform functions of the company under a contract between the company and IWIF. Chesapeake and IWIF are required to annually execute an agreement that (1) lists the employees of the fund who have been assigned to perform duties on behalf of the company; (2) identifies the employees who will be utilized by the company and the fund; and (3) specifies that, except with respect to assets necessary for IWIF to perform specified duties, all assets and liabilities of the fund are the assets and liabilities of the company.

IWIF must maintain a payroll and human resources system and is responsible for paying (1) the employer portion of any payroll or other taxes and retirement or pension contributions for IWIF employees; (2) the employee "pick up" contribution (set at 5% of annual earnable compensation); and (3) any health or other employee benefits that are available to IWIF employees.

IWIF and the Department of Budget and Management must, by December 1, 2012, enter into an agreement establishing the terms, conditions, and schedule for payment by IWIF of the projected costs for the State retiree health benefits of current and former IWIF employees. IWIF must, by July 1, 2013, begin to pay to the State Employee and Retiree Health and Welfare Benefits Fund an amount sufficient to satisfy these projected costs. IWIF advises that it currently pays almost $8 million in pension and health care costs for its active employees and that it expects the company to save at least $3 million annually by emulating benefit and leave structures of the private sector.

In addition, IWIF must, beginning on or before December 31, 2013, annually pay a withdrawal liability contribution to SRPS. IWIF estimates this contribution to be $28 million and expects to pay SRPS approximately $1.5 million annually for 25 years. By July 1, 2013, IWIF and SRPS must enter into an agreement specifying the terms and conditions of payment.

Insurance Coverage

Most employers are required to provide benefits to eligible employees who have injuries arising out of and in the course of their employment. An IWIF/Chesapeake policy provides protection against liability arising under Maryland law with workers' compensation coverage that includes medical, disability, Subsequent Injury Fund, vocational rehabilitation, and death benefits. The extent of coverage for an employer depends on the type of business. While all officers and employees of corporations can receive workers' compensation benefits under an IWIF/Chesapeake policy, officers can elect to be excluded. In turn, all employees of a partnership are covered while partners must elect to be covered. Similarly, all employees of a

sole proprietor are covered but the owner must elect to be covered. Uninsured subcontractors and their employees are also covered, regardless of entity type.

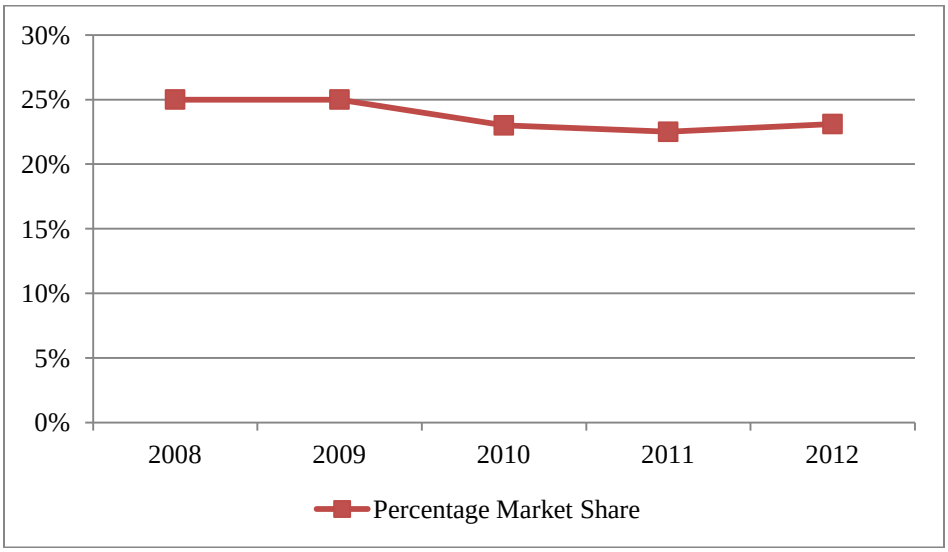
IWIF/Chesapeake writes policies for Maryland-based accidents and exposures, but can provide incidental coverage for Maryland-based employers who have workers in other jurisdictions, subject to some restrictions. As the insurer of last resort, IWIF/Chesapeake cannot decline businesses that seek coverage and must adjust rates in response to changing market conditions. The fund is required to serve as a competitive insurer in the marketplace and operate in a manner similar to an authorized domestic workers' compensation insurer. The conversion legislation requires Chesapeake to take all steps necessary to become a private, nonprofit, nonstock corporation organized under State law. As a competitive insurer, IWIF/Chesapeake is not limited to residual business and does not require insureds to demonstrate that they could not get insurance elsewhere.

Generally, there are about 100 private insurers in the voluntary market that are licensed to offer workers' compensation insurance to Maryland employers. There are also numerous self-insureds, including government entities, hospitals, other self-insured employers, and private groups. The Hartford Group has recently been the second largest insurer, with 14.3% of the market. Other large insurers include Travelers Group (8.1%), Liberty Mutual Group (7.6%), Erie Insurance Group (5.4%), Zurich Insurance Group (3.8%), Old Republic (3.3%), and Selective (3.1%). MIA has consistently characterized the workers' compensation market as competitive in its annual reports.

Market Share

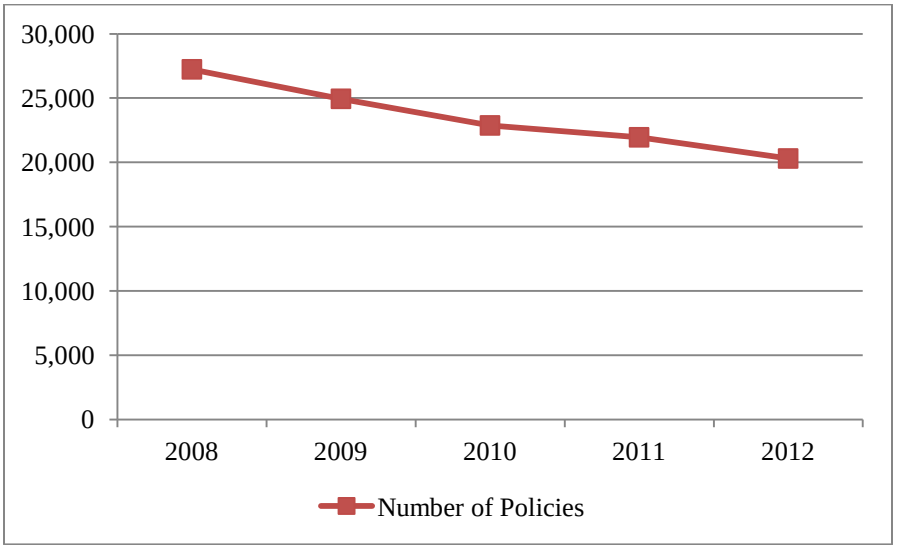
As the largest workers' compensation insurer in the State, IWIF reported a 23.1% share of the market for 2011. **Exhibit 2** details IWIF's market share over the last five years, which declined from 2005 through 2010, but has gradually increased the last few years. As of January 2012, IWIF insured over 20,000 employees working for businesses that operate in Maryland. **Exhibit 3** illustrates the number of policies that IWIF has written over the last five years.

Exhibit 2
Percentage Market Share
2008-2012



Source: Injured Workers' Insurance Fund

Exhibit 3
Number of IWIF Policies
2008-2012



Source: Injured Workers' Insurance Fund

Installment Plans, Policy Terms, Liability Limits, and Depopulation Efforts

Applicable statutes do not specify policy term limits, but in practice, IWIF/Chesapeake issues one-year policies. According to IWIF/Chesapeake's website, IWIF/Chesapeake also provides incidental employer liability coverage where, for example, an employer's vehicle is involved in an automobile accident that injures a nonemployee. Standard liability limits include:

- $100,000 Bodily Injury by Accident Each Accident
- $500,000 Bodily Injury by Disease Policy Limit
- $100,000 Bodily Injury by Disease Each Employee

Liability limits may be increased to $500,000 or $1,000,000 upon request for an additional premium. IWIF policies for workers' compensation benefits do not have limits.

Additionally, IWIF/Chesapeake offers several installment plans that vary based on premium size and payment history. IWIF/Chesapeake's website indicates that the fund charges a $7 per installment payment fee but does not charge an installment fee for payment on a single, annual payment plan. Approximately 76% of all policies – which account for 95% of all premiums – with effective dates between January 1 and December 31, 2012, participated in an installment plan of two or more payments. **Exhibit 4** details participation in IWIF's installment plans for policies effective during this timeframe.

Exhibit 4
IWIF – Installment Payment Plan Information
Policies with Effective Dates Between 1/1/2012 and 12/31/2012

Summary:

- 76% of policies are on a pay plan of more than one payment
- 95% of premiums are on a pay plan of more than one payment
- 69% of premiums are on a pay plan of 10 payments

Description of Payment Plan	Policy Count	Percentage of Policies	Policy Premium	Percentage of Premium
1 Pay Plan	5,445	24.1%	$10,735,135	5.2%
2 Pay Plan	3,442	15.2	3,029,030	1.5
4 Pay Plan	5,165	22.8	10,724,344	5.2
7 Pay Plan	3,514	15.5	20,024,911	9.7
10 Pay Plan	4,715	20.9	142,224,640	68.7
12 Pay Plan	41	0.2	12,892,807	6.2
Payroll Services	287	1.3	7,274,459	3.5
Total	22,609	100.0	206,905,326	100.0

Source: Injured Workers' Insurance Fund

General Regulation by MIA

As discussed previously, IWIF is subject to examination and regulation by MIA in all aspects as other insurers except in terms of ratemaking. IWIF is exempt from Title 11 of the Insurance Article, which requires insurers to (1) file and gain approval of their rates by the Insurance Commissioner and (2) belong to a workers' compensation rating organization. Instead, IWIF is required to submit to the Governor a detailed package of information, including the schedule of premium rates that IWIF will charge for the next calendar year. The board of IWIF is authorized to determine the schedule of premium rates based on the rating system that, in the opinion of the board, (1) most accurately measures the level of hazard for each policyholder on the basis of the number of injuries that occur in the enterprises of the policyholder; (2) encourages the prevention of injuries; and (3) ensures the solvency of IWIF from year to year. Chapter 336 of 2009 required the Insurance Commissioner to, at least once

every five years, study IWIF's ratemaking practices to ensure that the agency produces actuarially sound rates that are not excessive, inadequate, or unfairly discriminatory.

Also discussed previously, Chapter 22 of 2002 and Chapter 60 of 2003 subjected IWIF to risk-based capital (RBC) standards on a phased-in basis and created a temporary exemption from certain related penalties. Chapter 570 of 2012 established additional RBC standards given the stipulation that the company must reimburse the State for the fair value of its investment in IWIF. In particular, any reimbursement over the $50 million required to be transferred under the Budget Reconciliation and Financing Act of 2012 (BRFA) of 2012 can be delayed or suspended until the company's RBC ratio reaches at least 700%. Further, MIA has discretion to decide whether payment should be delayed once the company's RBC ratio reaches 700%.

The conversion legislation preserves the exemption from Title 11 of the Insurance Article and requires Chesapeake's board to (1) adopt a schedule of premium rates in accordance with sound actuarial practices and (2) ensure that its rates are not excessive, inadequate, or unfairly discriminatory. The Insurance Commissioner remains required to review the rates to ensure that they are actuarially sound. Further, the Insurance Commissioner was required to consult with IWIF and the National Council on Compensation Insurance, Inc. (NCCI) – the designated workers' compensation rating organization – to determine whether the company should be required to align its ratemaking practices with those of all other Maryland insurers through NCCI services. In studying the company's potential membership in NCCI, MIA was required to (1) consider the impact that membership and transactional fees would have on the company and its policyholders; and, if it determines that the company should be subject to Title 11, identify (2) the extent to which the company should comply with statutory requirements; and (3) a timeline for phasing-in participation in the rating organization. IWIF has maintained rate stability with no rate increase in 2013. In 2012, IWIF's rates increased 2.9%, as compared with 3.1% in 2011.

On October 1, 2012, MIA recommended in its follow-up report that Chesapeake become subject to Title 11 by "becoming a fully affiliated member of the rating organization and adhering to the rating organization's policy forms, uniform classification system and uniform experience rating plan." MIA further recommended that Chesapeake (1) record and report its experience to the rating organization based on the "point forward reporting approach" on a phased-in basis over a five-year period and (2) develop a merit rating plan in consultation with NCCI and MIA to lessen the impact of transition from the IWIF experience rating plan to NCCI's uniform experience rating plan, subject to MIA approval.

IWIF raised two potential disadvantages of its affiliation with NCCI: (1) costs of affiliation; and (2) time required to make administrative changes to record and report data in the manner that NCCI requires. In terms of costs, NCCI estimates $592,000 as the total cost of affiliation, while IWIF estimates $629,253. IWIF contends that affiliation would only benefit other workers' compensation insurers at the company's expense.

Despite these arguments against Title 11 compliance, MIA reasoned that five potential benefits outweighed possible disadvantages. First, the change would lead to uniformity of

premium rate-making. Second, Chesapeake's compliance would "level the competitive playing field." Third, the change would facilitate NCCI's development of experience modification factors for when an insured leaves Chesapeake to obtain coverage from another insurance company. Fourth, compliance would allow NCCI to incorporate all Maryland data when developing pure loss costs, which are the estimates of the monetary amount needed to pay workers' compensation claims. Finally, the change would facilitate ratemaking transparency and consumer assistance.

Producers

IWIF/Chesapeake markets its insurance products to prospective insureds directly and through insurance producers. In 1996, IWIF established a commission program for agents and brokers. The following year, IWIF began paying commissions to agents and brokers. Unlike residual market insurers in some other lines of business, IWIF/Chesapeake does not specify limitations on producer commissions. Instead, like other authorized insurers, IWIF/Chesapeake determines commission rates based on market competition.

Financial Operations

State's Investment in IWIF and Relation to the State

IWIF/Chesapeake is a self-supporting insurance organization that operates solely on premium and investment income. IWIF's 2012 annual report indicates that as of December 31, 2012, IWIF maintained $1.8 billion in total assets. **Exhibit 5** illustrates IWIF's financial history over the last five calendar years, which reflects decreased earned premiums, net investment income, expenses, and annual net income due to shrinkage in IWIF's book of business. **Attachment 4** depicts IWIF's key financial data for the last five years.

Exhibit 5
Financial Data
2008-2012
($ in Millions)

Year	Earned Premium	Net Investment Income	Total Expenses	Annual Net Income
2008	244.3	71.4	322.0	22.2
2009	182.6	61.4	239.7	12.1
2010	168.9	53.2	221.9	12.0
2011	170.6	50.2	220.0	17.6
2012	189.1	52.0	236.0	7.7

Source: Injured Workers' Insurance Fund

The State's continuing relationship with IWIF caused the fund to gain some financial benefits and incur some financial costs based on its status as a State agency and the workers' compensation insurer of last resort. In terms of benefits, IWIF received, among others (1) start-up capital of $15,000; (2) exemptions from property taxes and transfer taxes; (3) exemptions from sales taxes; (4) exemptions from federal income tax; and (5) until June 1, 2011, exemptions from premium taxes. Although previously considered to be a financial benefit, real estate was found to have "no financial benefit" to IWIF under the October 2012 fair value study. In particular, the consultant determined that IWIF acquired the parcels of land at fair value with IWIF funds.

In terms of financial costs, IWIF incurred additional costs as compared with private insurance companies, including costs (1) due to its status as an insurer in the residual market; (2) based on its status as a nonprofit entity; (3) where it did not advertise or solicit business until 1996; (4) where it was not classified as a competitive insurer until 2009; (5) where it became subject to RBC standards beginning October 1, 2003; and (6) associated with multiple transfers from its surplus to the general fund.

A 1968 Opinion of the Attorney General indicated that assets of a State insurance fund belong exclusively to the policyholders; thus, the State would be prohibited from converting IWIF's assets for general State purposes. In 2012, however, the Office of the Attorney General advised the president of IWIF that if the General Assembly terminated IWIF, any remaining assets in excess of the required reserves and surplus would belong to the State. The State could distribute the assets as directed by the General Assembly or, if not directed by the General Assembly, as justice requires, taking into consideration existing obligations, such as

debts required to be repaid under federal law. The 2012 letter further advised that IWIF could best protect itself from future transfers from its surplus to the general fund through privatization. BRFA of 2012, in turn, authorized the transfer of at least $50 million from IWIF to the Budget Restoration Fund by June 30, 2013, so long as MIA determined that the transfer would not impair the company's required reserves. BRFA further indicated that the State would have no future interest in IWIF's assets. The Attorney General's letter to IWIF, however, suggested that this language alone would not insulate IWIF's surplus from State intervention.

As discussed previously, Chapter 570 of 2012 privatized IWIF effective October 1, 2013. Before the conversion takes effect, the legislation required MIA to contract with a consultant firm to determine the fair value of the State's investment in IWIF. If the consultant had determined the fair value to be in excess of the $50 million authorized to be transferred, MIA would have also been required to contract with a consultant firm to assess the long-term effect on IWIF's surplus of such additional repayment. The company would then have been required to reimburse the State for the fair value amount less the cost of the consultant studies and the $50 million transfer on a schedule to be determined based on RBC ratios.

The consultant's report on the fair value of the State's investment in IWIF concluded that the State has invested a net benefit of $44.5 million since IWIF's establishment. This finding obviated the need for the second consultant study on payment beyond the $50 million BRFA transfer. The consultant determined that the State invested a total of $59.1 million in IWIF due to (1) $900,000 in start-up funding; (2) $1.1 million in unreimbursed operating expenses; and (3) $57.1 million in benefit of competitive business. In turn, the consultant determined that the State received $14.6 million in benefits from IWIF due to (1) $10.8 million in incremental investment income and (2) $3.8 million, due to the $6 million transfer minus the benefit of the premium tax exemption. The Department of Budget and Management submitted a written comment in response to the study, which contends that some of the consultant's methodology was "flawed" and underestimated the State's investment by $10.8 million.

Taxes, Fees, and Assessments

IWIF is regulated in a manner similar to most other insurers in the State, except that IWIF is not required to pay property, transfer, sales, or federal income taxes. IWIF pays a Workers' Compensation Commission assessment fee, Property and Casualty Insurance Guaranty Corporation member fee, excise taxes, and, as of June 1, 2011, a 2% tax on its premiums. Other workers' compensation insurers are not subject to a deficit assessment if IWIF becomes insolvent.

Effective October 1, 2013, Chesapeake is subject to property, transfer, sales, excise, and premium taxes. Chesapeake will remain exempt from federal income taxes. In early 2012, IWIF estimated ongoing sales tax costs of $420,000 and ongoing property tax costs of $180,000.

Consumer Protections

As discussed previously, with a few exceptions, IWIF is not subject to laws that govern State governmental units.

IWIF is not subject to the following laws that affect State governmental units:

- Open Meetings Law; or
- Administrative Procedures Act, except as indicated below.

IWIF is subject to the following four laws that affect State governmental units:

- The Administrative Procedures Act: Access to public records (Title 10, Subtitle 6, Part III, State Government Article);
- The Maryland Tort Claims Act;
- The Maryland Public Ethics Law; and
- Whistle Blower Personnel Action.

Following the conversion, Chesapeake is not subject to these same four laws. MIA fully regulates the company in the same manner as all other insurers except regarding ratemaking.

Notes

Attachment 3 describes the workers' compensation insurers of last resort in other states.

Appendix 3. IWIF/Chesapeake
Attachment 1 – Legislative History

Revised 9/30/2013

Chapter 800 of 1914

- Authorized the State Industrial Accident Commission (SIAC) – now called the State Workers' Compensation Commission – to create and administer the State Accident Fund (SAF).
- Authorized appropriations of up to $40,000 annually between fiscal 1914 and 1916 for the maintenance of SIAC and the creation of SAF.

Chapter 597, Section 16 of 1916

- Established a funding formula where SAF received an appropriation through SIAC, which would then determine all expenses and authorize a transfer for all costs and expenses.

Chapter 504, Section 16 of 1941

- Established the "Commissioners of the State Accident Fund" as a separate agency apart from SIAC.
- Continued to require SAF to reimburse the State for all expenses.
- Identified the State Treasurer as the custodian of SAF's assets.

Chapter 98, Section 7A of 1970

- Converted SAF to a separate State agency under the newly created Department of Personnel.

Chapter 220 of 1981

- Required the State Treasurer rather than the Board of Public Works to invest "money belonging to the State Accident Fund."

Chapter 584 of 1987

- Established the Task Force to Study the State Accident Fund, which studied the role of SAF, the manner and degree to which the fund should be subject to the State budget process, and the adequacy of the fund's services, among other issues.

Chapter 585 of 1987

- Removed SAF from the Department of Personnel to make it "independent of all State agencies and not subject to any law affecting governmental public entities."
- Required the Commissioners of SAF to establish and disclose capital and operating budgets to the General Assembly "for informational purposes only."

Task Force to Study the State Accident Fund Recommendations (1988)

- Continued SAF's exemption from all State personnel and budget laws.
- Subjected SAF to Public Information, Ethics, Tort Claims, and Open Meeting Laws.
- Required SAF to develop a marketing plan.

Chapter 463 of 1989

- Subjected SAF to the Open Meetings Act, the Maryland Public Information Act, the Maryland Tort Claims Act, the Maryland Public Ethics Law, Whistle Blower Personnel Action, and the governmental exemption from property taxes.

Chapter 71 of 1990

- Changed name to the Injured Workers' Insurance Fund (IWIF).
- Required IWIF "commissioners" to be appointed by the Governor with the advice and consent of the Senate.
- Retained the State Treasurer as custodian of IWIF.
- Established various requirements related to personnel matters.

Chapter 511 of 1994

- Altered the provision regarding IWIF's legal representation; stated that the Attorney General no longer serves as counsel to IWIF.

Chapter 567 of 2000

- Exempted IWIF from the Open Meetings Act.
- Subjected IWIF to examination and regulation by MIA rather than by the Office of the Legislative Auditor.
- Required IWIF to manage its own investment portfolio without oversight by the State Treasurer.
- Required IWIF to participate in the Property and Casualty Insurance Guaranty Corporation.

- Required IWIF to meet certain risk-based capital standards.

Chapter 22 of 2002

- Phased in risk-based capital requirements for IWIF on a five-year basis.

Chapter 60 of 2003

- Temporarily exempted IWIF from penalties associated with excessive premium growth in its risk-based capital calculations.

Chapter 612 of 2008

- Authorized the Insurance Commissioner to exercise the same examination and enforcement authority for IWIF as applicable to other insurers under the Insurance Article.
- Required the Insurance Commissioner to study whether IWIF should be subject to certain provisions of law relating to ratemaking, consumer protection, and financial soundness.

Chapter 336 of 2009

- Subjected IWIF to all other provisions of the Insurance Article – with limited exceptions – to the same extent as private domestic workers' compensation insurers.
- Clarified that IWIF serves as both the insurer of last resort and a "competitive insurer in the marketplace."
- Required the Insurance Commissioner to review IWIF's rates at least every five years for actuarial soundness.

Chapters 132 and 276 of 2011

- Specified that employees of IWIF are not subject to any State law, regulation, or executive order governing State employee compensation, including furloughs, salary reductions, or any other general fund cost savings measure.

Chapter 397 of 2011 – Budget Reconciliation and Financing Act of 2011

- Subjected IWIF to the 2% premium tax that all other insurers pay effective July 1, 2011.
- Required IWIF to transfer to the general fund on or before June 30, 2012, $6,000,000 less the amount of premium tax paid.

Chapters 10 and 11 of 2012

- Aligned IWIF's cancellation procedures with those of other workers' compensation insurers by allowing IWIF to cancel policies in accordance with the Insurance Article.
- Authorized IWIF to pursue collection of the debt of any policyholder whose insurance is cancelled for nonpayment of a premium.
- Repeals provisions of law relating to the referral of such cases to the Attorney General.

Chapter 408 of 2012

- Created the Task Force to Study Maryland Insurance of Last Resort Programs.

Chapter 570 of 2012 – Conversion to Chesapeake Employers' Insurance Company

- Converted IWIF to a private, nonstock, nonprofit corporation effective October 1, 2013, named Chesapeake Employers' Insurance Company.
- Required the company before October 1, 2013, to file articles of incorporation and take other necessary steps for establishment as a corporation.
- Authorized the company to have the same powers, privileges, immunities, and regulatory oversight as all other insurers except as provided in this subtitle.
- Exempted the company from Title 11 of the Insurance Article.
- Required the Board of Chesapeake to adopt a schedule of premium rates that meets certain standards.
- Authorized the board to set minimum premium rates.
- Required the Insurance Commissioner to review the company's rates to determine whether the company's ratemaking practices are actuarially sound.
- Required the company to be an authorized insurer and act as the State's insurer of last resort on and after October 1, 2013; specifies that IWIF shall serve as the insurer of last resort before October 1, 2013.
- Limited the bases for cancellation of policies (nonpayment of a premium, failure to provide payroll information, failure to cooperate in a payroll audit).
- Established a board for the company.
- Required the board to manage the company as a private, nonprofit corporation in accordance with State law.
- Described the board's structure and functioning: nine members appointed by the Governor with advice and consent of the Senate, oath, 5-year term, 10-year term limit, removal, and adoption of bylaws, rules, and procedures.
- Authorized the board to declare policyholder dividends in the form of cash refunds or credits to (1) an individual policyholder whose actual loss ratio was better than the loss

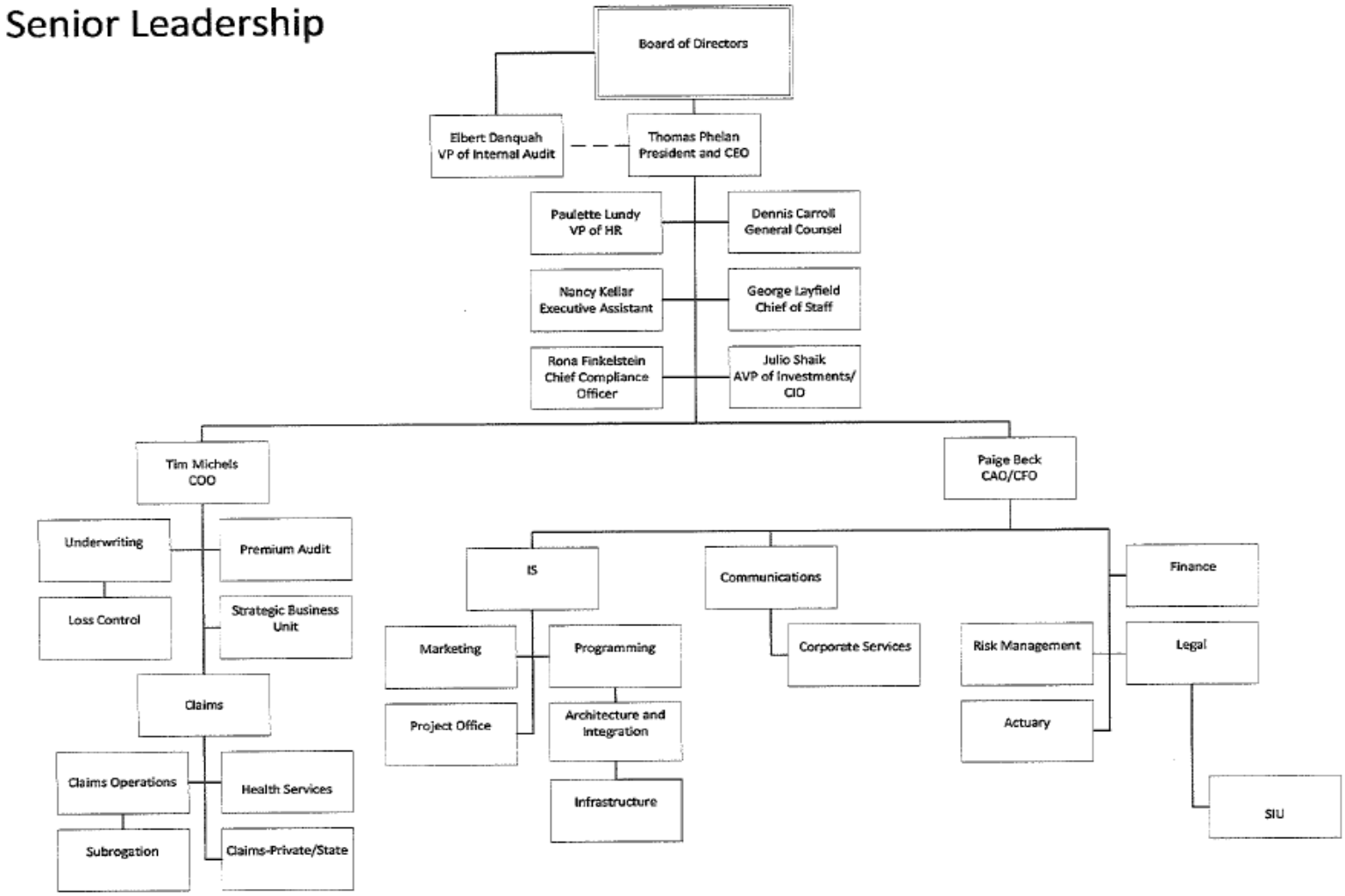
ratio used to calculate the premium or (2) all policyholders whose loss ratio contributed to the company's surplus for that year.

- Requires the Insurance Commissioner to approve all dividends before issuance by the board.
- Specified that the company is not part of the State; company employees are not State employees; debts, obligations, and liabilities of the company are not the State's; and the company's money is not the State's.
- Applied the minority business purchasing standards that apply to units of State government under the State Finance and Procurement Article to the company and the board's fiduciary duties.
- Required the board to work with the Governor's Office of Minority Affairs to develop guidelines to evaluate qualified Minority Business Enterprises (MBE).
- Required the board to submit an annual report by September 1 to the Governor's Office of Minority Affairs with a list of MBEs, percentage, and dollar value of company assets.
- Required all properties, liabilities, contracts, and obligations of IWIF to be irrevocably transferred to the company.
- Prohibited the transfer of IWIF's contract with the State to administer the State's Self-Insured Workers' Compensation Program until IWIF no longer has employees.
- Required IWIF to retain assets necessary to perform its duties under Title 10 of the Labor and Employment Article.
- Prohibited the company from (1) converting to a mutual or stock company; (2) being sold; or (3) being dissolved.
- Stated that IWIF is an instrumentality of the State and the insurer of last resort until October 1, 2013.
- Prohibited IWIF from issuing new policies after October 1, 2013.
- Authorized IWIF to continue serving as the administrator for the State's Self-Insured Workers' Compensation Program for State Employees after October 1, 2013.
- Required the company to use company employees and IWIF to use IWIF employees except where the company and IWIF enter a contract to assign employees to perform company functions.
- Required the company and IWIF to execute an annual agreement that (1) lists IWIF employees who have been assigned to perform duties for the company; (2) provides that the assets and liabilities of IWIF are those of the company except for those assets necessary for IWIF to perform its duties; and (3) would be filed with MIA.
- Required IWIF to maintain payroll and human resources systems and remain responsible for paying taxes, pension contributions, and other benefits.
- Prohibited IWIF from hiring new employees after October 1, 2013.
- Required IWIF to allow employees to remain IWIF employees/State employees and to not require employees to become company employees.
- Stated that laws that applied to IWIF employees before October 1, 2013, remain applicable.

- Required the conditions of employment that existed before October 1, 2013, to remain the same.
- Allowed IWIF employees to remain in the State retirement system only if they remain IWIF employees.
- Stated that IWIF employees may not be denied benefits or compensation provided to them as of October 1, 2013.
- Prohibited IWIF employees from being denied promotions based on status as IWIF employees.
- Allowed an IWIF employee to elect to become a company employee, so long as the employee did so in writing and the company disclosed the irrevocability of the election.
- Prohibited an employee of the company from electing to be an employee of IWIF.
- Required the board to manage the business and affairs of IWIF.
- Required members appointed as of October 1, 2012, to continue to serve their terms and serve on the board for the company under the same terms as if they were appointed to the board for IWIF.
- Authorized the board to adopt any policy to carry out the subtitle.
- Specified that the president of IWIF is the president of the company.
- Required IWIF to remain in existence until (1) it no longer has any employees; and (2) the General Assembly repeals the IWIF subtitle.
- Established requirements for IWIF to gradually withdraw from the State Retirement and Pension System (*e.g.*, required payments, funding ratio).
- Identified the company, board, and president of the company as the successor of IWIF.
- Authorized policy forms approved before October 1, 2013, for IWIF to be used by the company.
- Required MIA to consult with IWIF and NCCI to study whether the company should be subject to Title 11 of the Insurance Article.
- Required consideration of the impact of membership and transaction fees payable to the rating organization, and recommendations regarding the extent to which the company should comply with Title 11 and an appropriate timeline for phasing in NCCI participation; required MIA to report its findings by October 1, 2012.
- Authorized the Code publishers to consult with the Department of Legislative Services to make any necessary corrections.
- Required MIA to contract with an independent financial, accounting, or valuation consulting firm to conduct a study to determine the fair value of the State's investment in IWIF.
- Required MIA to require the firm to report its findings to MIA before October 1, 2012.
- Required MIA to share the firm's conclusions with the Legislative Policy Committee, IWIF, Governor, Senate Budget and Taxation Committee, Senate Finance Committee, House Appropriations Committee, and House Economics Matters Committee.

- Required MIA to contract with consultants to conduct an assessment on the long-term effect on IWIF's surplus of transferring the fair value to the State if it exceeds $50,000,000.
- Indebted the company to pay the fair value less the $50,000,000 that IWIF paid under the Budget Reconciliation and Financing Act of 2012 and the cost of the study and the assessment.
- Required the company to pay the debt without interest in 10 equal annual installments beginning in fiscal 2014 unless IWIF and the Department of Budget and Management (DBM) agree to an alternative period of time.
- Delayed or suspended repayment until risk-based capital ratio is at least 700%; authorized MIA to have discretion once risk-based capital ratio reaches 700% to decide if payment should be further delayed or suspended.
- Required IWIF to pay for the costs of the consultant studies on fair value and the effect of a transfer over $50 million on IWIF's surplus.
- Required IWIF and the State Board of Trustees for the State Retirement and Pension System to agree to the terms for withdrawal from the system.
- Required IWIF to be responsible for paying costs incurred for withdrawing from the system.
- Required IWIF to enter into an agreement with DBM on or before December 1, 2012, to establish terms, conditions, and a schedule for payment to the State.
- Required IWIF to begin to pay the State for retiree health benefits on or before July 1, 2013.

Appendix 3. IWIF/Chesapeake
Attachment 2 – Organizational Chart



Appendix 3. IWIF/Chesapeake
Attachment 3 – Workers' Compensation Insurers of Last Resort in Other States

Revised 12/10/2012

In roughly half of the states and Washington, DC, private insurers provide workers' compensation insurance coverage to all employers except to qualified employers that choose to self-insure. In these states and Washington, DC, private insurers may turn away the worst risks (known as the residual market); however, employers who are unable to obtain coverage from the voluntary market may purchase workers' compensation insurance coverage through an "assigned risk" pool of private insurers.

In the remaining states, a state workers' compensation insurance state fund has been statutorily created to provide workers' compensation insurance to employers. Generally, state funds only write one line of insurance – workers' compensation – and only operate in one state. In four states, a voluntary market also exists, providing employers with the choice of purchasing workers' compensation insurance coverage from the state fund or a private insurer; or being self-insured. Generally, the state funds (known as competitive state funds) in these states serve as a model to private insurers, insure state employees, and act as the insurer of last resort (providing workers' compensation insurance coverage to the residual market). In contrast, in addition to being able to turn away the worst risks, private insurers may operate in multiple states and write comprehensive insurance packages covering other types of insurance, such as general liability and natural disasters. In four states, a voluntary market is not authorized to exist, meaning that employers must purchase workers' compensation insurance coverage from the state fund (known as an exclusive state-owned monopoly) or self-insure.

Alabama: No state fund.

Alaska: No state fund.

Arizona: State Competitive Fund
https://www.scfaz.com/

Arizona's state fund was created by the legislature in 1925 and privatized in 2010, effective 2013 via Chapter 268 [SB 1045] of 2010. It is the largest provider of workers' compensation insurance in the state, but no longer is required by law to serve as the insurer of last resort. According to the Arizona Senate Research Staff, by board resolution, the State Competitive Fund (SCF) voluntarily operates as the "carrier of last resort" for the state. SCF agrees to insure any Arizona business providing that it pays the appropriate premium and has not committed fraud against an insurance company. Should an Arizona employer be declined for workers' compensation coverage by SCF and two private insurers, the employer may have coverage written by Arizona Assigned Risk Plan.

SCF repaid the start-up capital in 1938 and has since been paying the premium tax and property taxes like other insurers. For several years, the legislature considered using some of

SCF's money to help balance the state budget; Chapter 268 prevents that type of action from happening in the future. SCF is required to become a mutual insurance company, regulated by state insurance officials by January 2013. SCF is comparable in size to IWIF as it provided insurance to 40,000 businesses and received over $190 million in direct premiums in 2009.

Arkansas: No state fund.

California: State Compensation Insurance Fund
http://statefundca.com/

Established in 1914 by the legislature, State Compensation Insurance Fund (SCIF) is California's largest provider of workers' compensation insurance. SCIF serves as both a competitive insurer and the workers' compensation insurer of last resort. It writes approximately 150,000 policies and reports more than $1.2 billion in premiums paid and approximately $20 billion in assets. In 2009, the Governor of California proposed selling a portion of the state fund to a private carrier netting proceeds of $1 billion for the general fund. This move sought to keep a large portion of the fund's business intact, including its role as insurer of last resort. With a state budget deficit of $24 billion, the Governor and the legislature approved the July 23, 2009 "Final 2009 Budget Revisions" which included a proposal to sell a portion of the state fund's assets. Prior to a sale, a series of conditions would have had to be met, including an agreement of SCIF's board of directors. The board, as well as the insurance commissioner, opposed the sale. To date, the sale has not taken place.

Colorado: Pinnacol Assurance
http://www.pinnacol.com/

Pinnocol Assurance serves as a competitive state fund that is the workers' compensation insurer of last resort. Created by the legislature in 1915, the Colorado Compensation Insurance Authority (CCIA) as it was formerly known, was a state-chartered, quasi-governmental agency. In 1999, the legislature changed the name to Pinnocol Assurance and made it no longer a state agency.

In 2009, the Colorado legislature attempted to take $500 million from its state fund, Pinnacol Assurance, to help balance the state's budget. In addition to requiring the transfer of funds to the state's general fund, Senate Bill 273 of 2009 (failed) would have repealed the provision of law that provided that "*all revenues, moneys, and assets of Pinnacol belong solely to Pinnacol and that the state of Colorado has no claim to nor any interest in such revenues, moneys, and assets and shall not borrow, appropriate, or direct payments from such revenues, moneys, and assets for any purpose.*" The state fund's surplus had grown to almost $700 million; the proposed transfer would have been used to restore $300 million to the state's Department of Higher Education. The board has distributed dividends exceeding $472 million to its policyholders.

In early 2011, Governor Hickenlooper asked the Pinnacol Board of Directors to examine the feasibility of restructuring the company to ensure its long-term viability while continuing to serve policyholders, injured workers and the people of Colorado. On November 2, 2011, a

proposal to restructure Pinnacol was presented to the board at its monthly meeting. After a thorough review of the proposal, the board authorized pursuing discussions with the Governor regarding its content. On February 2, 2012, Governor Hickenlooper and Pinnacol's Board of Directors agreed that any steps to restructure Pinnacol into a mutual insurance company would require additional time to review. No legislation was introduced during the 2012 legislative session on this issue.

Connecticut: No state fund.

Delaware: No state fund.

District of Columbia: No state fund.

Florida: No state fund.

Georgia: No state fund.

Hawaii: Hawaii Employers' Mutual Insurance Company
http://www.hemic.com/

Hawaii Employers' Mutual Insurance Company (HEMIC) is a private mutual insurance company created by the legislature in 1996. As both a competitive state fund and the workers' compensation insurer of last resort, HEMIC has declared multi-million dollar dividends for its policyholders for the last five years.

Idaho: Idaho State Insurance Fund
http://www.idahosif.org/

The legislature created the State Insurance Fund (SIF) in 1917 as part of the Workers Compensation Act. A competitive state fund, SIF does not serve as the workers' compensation insurer of last resort and is self-supporting from premium and investment earnings. The state is not liable for any indebtedness incurred by the fund. The fund has no regulatory or enforcement powers, as these duties are vested in other agencies.

Illinois: No state fund.

Indiana: No state fund.

Iowa: No state fund.

Kansas: No state fund.

Kentucky: Kentucky Employers' Mutual Insurance Authority
https://www.kemi.com/index.aspx?

Kentucky Employers' Mutual Insurance (KEMI), created by the legislature in 1994 as a mutual insurance company and not a state agency, serves as both a competitive state fund and the workers' compensation insurer of last resort. KEMI is the largest provider of workers' compensation insurance in Kentucky, providing coverage to more than 20,000 policyholders in all 120 counties of the state.

Louisiana: Louisiana Workers' Compensation Corporation
http://www.lwcc.com/

The Louisiana Workers' Compensation Corporation (LWCC) serves as both a competitive state fund and the workers' compensation insurer of last resort. A mutual insurance company created by the legislature in 1991, LWCC is the largest workers' compensation carrier in the state, providing coverage to approximately 17,000 policyholders. Prior to LWCC's establishment, the Louisiana Assigned Risk Workers' Compensation Insurance Plan served as the residual market insurer. Over the last nine years, LWCC has issued dividend payments to policyholders totaling more than $182 million.

Maine: Maine Employers' Mutual Insurance Company
http://www.memic.com/

Established by the legislature in 1993, the Maine Employers' Mutual Insurance Company (MEMIC) serves as both a competitive state fund and the workers' compensation insurer of last resort. In 2000, MEMIC formed a subsidiary called MEMIC Indemnity Corporation that is licensed to insure employers in 45 states plus the District of Columbia. MEMIC and MEMIC Indemnity Corporation comprise the MEMIC Group, which has assets of more than $750 million. MEMIC remains the largest workers' compensation insurer in Maine and is among the top five carriers in New England.

Maryland: IWIF
https://www.iwif.com/

Massachusetts: No state fund.

Michigan: Fund is no longer a competitive, state fund.

Minnesota: SFM – *The Work Comp Experts*
http://www.sfmic.com/

The Minnesota State Fund Mutual Insurance Company, created by the legislature in 1983 as a mutual insurance company independent from the state, serves as a competitive state fund but not the insurer of last resort. Recently, the fund assumed a new name, SFM – The Work Comp Experts, and began servicing employers that operate out of Minnesota, Wisconsin, South Dakota, Iowa, and Nebraska and perform work in 16 states. SFM serves as the largest workers'

compensation insurer in the Midwest and began providing policy, claim, and other services as part of a carrier for the Minnesota Assigned Risk Plan (insurer of last resort).

Mississippi: No state fund.

Missouri: Missouri Employers' Mutual Insurance Company
http://www.mem-ins.com/

Created by the legislature in 1994 and established in 1995, Missouri Employers' Mutual Insurance Company (MEM) serves as a competitive state fund but not the insurer of last resort. By 1999, MEM repaid $5 million it had received from the state as a start-up loan.

Montana: Montana State Fund
http://www.montanastatefund.com/

Since 1999, Montana State Fund (MSF) has served as both a competitive state fund and the insurer of last resort. MSF policyholders have collectively received $64 million in dividends since the fund's establishment. MSF's 2011 Annual Report indicates that the passage of "historic legislation" will help employers reduce operating costs by generally limiting medical care for injured workers to five years, streamlining the treatment process, and making other changes. Based on this legislation, the MSF board voted to endorse a 20% average premium deduction for policyholders effective July 1, 2011.

Nebraska: No state fund.

Nevada: Fund is no longer a state fund.

New Hampshire: No state fund.

New Jersey: No state fund.

New Mexico: New Mexico Mutual Group
http://www.nmmcc.com/

New Mexico Mutual Group, established by the legislature in 1991, serves as a competitive state fund but not the insurer of last resort. The fund fully repaid the state's investment by 1996 and is the largest workers' compensation insurer in New Mexico with approximately 30% of the market.

New York: New York State Insurance Fund
http://ww3.nysif.com/

Established by the legislature in 1914, New York State Insurance Fund (NYSIF) serves as both a competitive state fund and an insurer of last resort. NYSIF consists of two separate funds – the Workers' Compensation Fund and the Disability Benefits Fund, established in 1949 to facilitate receipt of disability benefits for "off-the-job injuries and illnesses." In 2011, the Workers' Compensation Fund reported insuring 38% of the market. The state has previously taken funds from NYSIF, including $230 million in 1990.

North Carolina: No state fund.

North Dakota: North Dakota Workforce Safety and Insurance
http://www.workforcesafety.com/

North Dakota Workforce Safety and Insurance (WSI) was established by the legislature in 1919 as the Workmen's Compensation Bureau to serve as an exclusive state fund.

Ohio: Ohio Bureau of Workers' Compensation
http://www.ohiobwc.com/

Ohio Bureau of Workers' Compensation (BWC), established in 1912 by the legislature, serves as an exclusive state fund. The 2011 BWC Annual Report indicates that the board of directors voted to hold policy year 2013 rates constant for private employers in light of $65 million annual savings from the previous year's rate reduction.

Oklahoma: CompSource Oklahoma
http://www.compsourceok.com/

The legislature created the Oklahoma State Insurance Fund, now known as CompSource Oklahoma, in 1933 as a competitive state fund that also serves as the workers' compensation insurer of last resort. In 2009, a Task Force on Privatization of CompSource Oklahoma recommended privatization for $150 million to $200 million. Subsequent efforts to privatize the fund have failed (*e.g.*, HB 2662, SB 2232 of 2011).

Oregon: SAIF Corporation
http://www.saif.com/

State Accident Insurance Fund (SAIF) Corporation is a competitive state fund that is not the insurer of last resort, but participates in the provision of residual market workers' compensation insurance with other insurers. The legislature originally established SAIF as a monopolistic state fund in 1914. In 1966, the legislature allowed private competition with the state fund. In 1980, the legislature authorized SAIF to become the nation's first public corporation specializing in workers' compensation insurance in 1980.

Pennsylvania: State Workers' Insurance Fund
http://www.portal.state.pa.us/portal/server.pt/community/state_workers_insurance_fund_(swif)/10436

Established in 1915 by the legislature, State Workers' Insurance Fund (SWIF) serves as both a competitive state fund and the insurer of last resort.

Rhode Island: Beacon Mutual Insurance Company
http://www.beaconmutual.com/

Beacon Mutual Insurance Company was established by the legislature in 1990 as the State Compensation Insurance Fund to serve as a private mutual insurer not considered a state agency and the insurer of last resort. In 1992, the legislature authorized a name change. Beacon Mutual currently serves as the largest workers' compensation insurer in the state.

South Carolina: State Accident Fund
http://www.saf.sc.gov/

Established by the legislature in 1943 as a division within the South Carolina Industrial Commission, State Workers' Compensation Fund became a separate state agency in 1974 and received its current name – State Accident Fund (SAF) – in 1993. SAF is the largest provider of workers' compensation insurance in the state as it nearly 700 policyholders that employ 200,000 state and local government employees.

South Dakota: No state fund.

Tennessee: No state fund.

Texas: Texas Mutual Insurance Company
http://www.texasmutual.com/

Established by the legislature as the Texas Workers' Compensation Insurance Fund in 1991, Texas Mutual Insurance Company, as it has been renamed, serves as both a competitive state fund and the workers' compensation insurer of last resort. Although it began operating in 1992, Texas Mutual did not serve the residual market until 1994.

Utah: Workers' Compensation Fund of Utah

Workers' Compensation Fund (WCF), established in 1917 by the legislature as a mutual insurance company, serves as both a competitive state fund and the insurer of last resort. Within four years of its establishment, WCF repaid the state for the value of a start-up loan. Following a 1987, which recommended that WCF serve as a "quasi-public corporation," the legislature approved a measure in 1988 to make WCF independent of the state.

Vermont: No state fund.

Virginia: No state fund.

Washington: Washington State Fund
http://www.lni.wa.gov/ClaimsIns/Insurance/Learn/StateFund/Default.asp

The first state to adopt a workers' compensation act in 1911, Washington established an exclusive state fund within its Department of Labor and Industries. Recent efforts to make the fund competitive with other insurers have failed.

West Virginia: No longer a monopolistic or competitive state fund.

Wisconsin: No state fund.

Wyoming: Workers' Safety and Compensation Division
http://www.wyomingworkforce.org/Pages/default.aspx

The Wyoming Department of Workforce Services administers a state-run monopolistic fund.

Appendix 3. IWIF/Chesapeake
Attachment 4 – Financial Data

Revised 10/1/2013

Net Income
2008-2012
($ in Millions)

Year End	Premium Earned	Underwriting Loss	Net Investment Income (incl. Realized Gains)	Net Income (After Dividends)
2008	244.3	38.3	62.5	22.2
2009	182.6	57.1	70.3	12.1
2010	168.9	53.0	65.1	12.0
2011	170.6	50.2	67.0	17.7
2012	189.1	46.6	75.1	7.7

Surplus, Total Assets, and Dividends Paid to Policyholders
2008-2012
($ in Millions)

Year	Surplus	Total Admitted Assets	Dividends
2008	269.5	1,679.9	2.6
2009	287.5	1,683.1	2.0
2010	306.8	1,752.3	0.9
2011	321.4	1,717.3	0.3
2012	288.8 (after $71 transfer)	1,844.8	0.05

Expense, Loss, and Combined Ratios
2008-2012
($ in Millions)

Year	Premium Earned (A)	Loss and Loss Adjustment Expenses Earned (B)	Other Net Underwriting Expenses (incl. commissions) (C)	Expense Ratio (C)/(A)	Loss Ratio (B)/(A)	Combined Ratio (B+C)/(A)
2008	244.3	234.6	42.6	18.60%	97.00%	115.60%
2009	182.6	202.8	35.1	23.20%	110.00%	134.20%
2010	168.9	186.2	34.2	21.90%	110.30%	132.20%
2011	170.6	178.9	40.0	23.60%	104.90%	128.50%
2012	189.1	185.6	49.6	26.20%	98.10%	124.40%

Source: Injured Workers' Insurance Fund

Appendix 3. Joint Insurance Association

Revised 10/29/13

The Joint Insurance Association (JIA), an unincorporated association, is the property insurance carrier of last resort in the State of Maryland. JIA's purpose is to implement the provisions of the Maryland Property Insurance Availability Act and its program of operation. JIA provides essential property insurance and homeowner's insurance for individuals and businesses that are unable to obtain insurance on property located within the State through the competitive marketplace. According to JIA's website, JIA strives to make sure basic property insurance is available for all qualified properties; assure stability in the property insurance market; and provide for the equitable distribution of risk to all licensed insurers.

History of Creation

Federal Law Established Fair Access to Insurance Plans

During the spring of 1968, riots swept through many urban cities throughout the nation, causing insurers to cancel or nonrenew property insurance policies in risky riot-prone areas and making property insurance coverage substantially unavailable. In response, the federal government implemented a program of riot reinsurance as a financial back-up to encourage insurers to write insurance coverage on properties located in "high-risk" urban areas.

Further, to make property insurance more readily available for those who could not obtain insurance for property located in "high-risk" urban areas from private insurers, federal law established the Fair Access to Insurance Requirement (FAIR) plans. Under P. L., 90-448 (Title XII), the federal Housing and Urban Development Act required each insurer reinsured under the federal National Insurance Development Program for losses from riots or civil disorders to cooperate with the state insurance authority in each state in which it is to acquire reinsurance in establishing and carrying out statewide FAIR plans. The federal law "authorized and established a program which made essential property insurance available to all qualified applicants, with the least possible administrative detail and expense." FAIR plans were required to be "approved by, and administered under the supervision of, the State insurance authority, or be authorized or required by State law, and shall be designed to make essential property insurance more readily available in, but not necessarily limited to, urban areas." Current law defines "essential property insurance" as insurance against direct loss to property from the perils of fire, lightning, removal, explosion, windstorm, hail, smoke, aircraft, vehicles, riot, civil commotion, or vandalism as defined and limited in property insurance forms that JIA files with the Insurance Commissioner.

Maryland Law Established JIA

In the fall of 1968, at a meeting with property insurers licensed to write insurance in the State and the Maryland Insurance Department to discuss a voluntary insurance program (Maryland Property Insurance Availability Program), JIA was established as a voluntary unincorporated association to be administered by a Governing Committee. JIA's initial

nine Governing Committee members, elected by the insurers, defined the areas of the State that were considered "urban" and established the framework of the voluntary program.

Less than a year later, the voluntary program was superseded by the establishment of an involuntary program. Chapter 172 of 1969, the "Maryland Property Insurance Availability Act," converted JIA into a statutorily-mandated, involuntary, unincorporated association. **Attachment 1** summarizes the legislative history of the development of JIA, including a summary of the 1969 Act which required all insurers licensed to write in the State, on a direct basis, essential property insurance to be members of JIA. The 1969 Act codified that member insurers are required to elect nine of their member companies to serve on JIA's Governing Committee. Further, the 1969 Act established the Maryland Insurance Development Fund so that JIA member insurers could obtain federal riot reinsurance to cover their Maryland coverage. The fund was not part of JIA and did not have any impact on JIA's activities.

Although the federal legislation relating to the FAIR plans is no longer in effect, JIA continues to operate under the same premise in which it was established. Also, when the federal riot reinsurance program expired, the monies that had been appropriated to the fund were withdrawn by the State for other uses.

Development of Structure

Maryland law relating to the authorization and creation of JIA is codified under Title 25, Subtitle 4 of the Insurance Article. The subtitle authorizes and establishes programs to make essential property insurance and homeowner's insurance available from JIA to qualified applicants with the least possible administrative detail and expense. The purpose of the subtitle is to:

- encourage the improvement of the condition of properties located in the State;
- further orderly community development in general;
- publicize the purposes and procedures of the subtitle so that no one fails to seek assistance from JIA because of ignorance;
- utilize fully the voluntary insurance market as a source of essential property insurance and homeowner's insurance; and
- encourage the delivery of essential property insurance, and the homeowner's insurance that is provided by JIA, at the most reasonable cost possible, provided that insurance pricing by JIA is actuarially self-supporting and does not actively compete with insurance pricing in the voluntary insurance market.

Governing Body

Headquartered in Ellicott City in Howard County (relocated from Baltimore County), under current law a Governing Committee administers JIA, including adopting a program of operation. Initially, the program of operation had to be submitted for approval by the Insurance Commissioner. Among other changes, Chapter 566 of 1988 eliminated this approval

requirement, although amendments to the program of operation must be approved by the Insurance Commissioner.

Initially, the federal government required the membership of the governing bodies of the FAIR plans to include only insurers. Accordingly, the 1969 Act established the JIA's Governing Committee with 9 insurer members who are elected by insurers that are required to be members of JIA (described below). During the late 1970s, the federal government required the membership of the governing bodies of the FAIR plans to include public members. Failure of a FAIR Plan to comply would make the FAIR Plan's member insurers ineligible to purchase federal riot reinsurance covering the insurers' policies in that state. Accordingly, Chapter 574 of 1980 expanded the membership of JIA's Governing Committee from 9 insurer members to 15 members, comprised of 10 insurer members elected by member insurers and 5 public members appointed by the Commissioner. With the subsequent repeal of the federal mandate for governing committees to include public members, the Maryland General Assembly, under the 1988 Act, changed the law back to eliminate the public members and 1 insurer member, leaving 9 insurer members on JIA's Governing Committee.

JIA member insurers annually elect the members of the Governing Committee. Votes are weighted in accordance with the premiums written by each JIA member insurer. JIA's Governing Committee elects from its number a chairman and a vice chairman and appoints a secretary. The Governing Committee's meetings, held in Baltimore City unless another place is designated by the chairman, are set as often as may be required to perform the general duties of administration. Five members constitute a quorum.

Employees

The general manager of JIA is appointed by the Governing Committee. JIA currently has seven employees. They are not State employees and, therefore, JIA does not follow the State Personnel Article nor participate in the State Personnel and Pension System. JIA does not have an organizational chart, as mentioned in **Attachment 2**. JIA's employees are in the following positions:

- 1 general manager
- 1 accounting supervisor
- 2 underwriters
- 1 claims clerical
- 2 customer service

JIA employees have immunity from liability for any action taken by them in the performance of their powers and duties and for any failure to discover defects in the property inspected or for any statements made in any reports and communications concerning the insurability of the property, or in any findings or hearings.

Member Insurers

JIA is comprised of mandatory member insurers. Mandatory members are all insurers licensed to write in the State, on a direct basis, essential property insurance or any component thereof in multi-peril policies. As a condition of its authority to transact essential property insurance business in the State, an insurer must be and remain a JIA member.

JIA member insurers meet annually to consider amendments to the program of operation. Votes are cast and counted on a weighted basis in accordance with the premiums written by each JIA member insurer. The program of operation must provide for:

- the establishment of adequate service facilities and other necessary facilities;
- the management of JIA;
- the assessment of JIA member insurers to defray losses and expenses;
- commission arrangements;
- reasonable and objective underwriting standards;
- acceptance and cession of reinsurance;
- procedures to determine amounts of insurance to be provided;
- immediate binding of eligible risks;
- a premium installment plan; and
- underwriting guidelines and procedures that allow JIA to shorten the cancellation period for policies of essential property insurance and homeowner's insurance under certain conditions.

Member insurers have immunity from liability for any action taken by them in the performance of their powers and duties and for any failure to discover defects in the property inspected or for any statements made in any reports and communications concerning the insurability of the property, or in any findings or hearings.

Insurance Coverage

As the insurer of last resort, JIA does not act as a competitive insurer. Applicants may apply for coverage through JIA if the person has been:

- unable to obtain essential property insurance or homeowner's insurance;
- able to obtain essential property insurance or homeowner's insurance only after the application by the insured to the Insurance Commissioner for the use of a rate on a specific risk that is in excess of the insurer's rate filing; or
- able to obtain only partial coverage for the value of the property.

Initially, the urban areas within which JIA could provide coverage were designated to be: Annapolis, Baltimore, Cambridge, Cumberland, Frederick, Hagerstown, Salisbury,

Baltimore County (inside the Beltway), Montgomery County (inside the Beltway), and Prince George's County (inside the Beltway). In 1971, the definition of "urban area" was expanded to include Ocean City, except mobile homes are not included. In 1974, the definition of "urban area" was expanded to include the entire State.

Types of Coverage

Initially, the coverage offered by JIA was limited to "essential property insurance," defined as "insurance against direct loss to property as defined and limited in standard fire policies and extended coverage endorsement thereon." Later, the peril of vandalism and malicious mischief were added to the coverage provided by JIA. Policies were written for dwellings containing one to four families, property with commercial and light manufacturing occupancies, and farms. In 1971, JIA specified that its coverage does not include manufacturing risks. Current law defines "essential property insurance" as insurance against direct loss to property from the perils of fire, lightning, removal, explosion, windstorm, hail, smoke, aircraft, vehicles, riot, civil commotion, or vandalism as defined and limited in property insurance forms that JIA files with the Insurance Commissioner. "Essential property insurance" does not include automobile insurance; inland marine insurance; or insurance on property that (1) is used for fabrication, processing, or assembly of products or components of products; (2) has an insurable value in excess of $250,000; and (3) is used in a business that employs at least 25 individuals.

Chapter 574 of 1980 expanded the types of coverage JIA could write to include a limited form of homeowners' insurance and required the establishment of immediate binding procedures, a shortened cancellation period, an installation payment plan, recoupment provisions for the members, and a participation credit to be used as a depopulation effort. Current law defines "homeowner's insurance" as insurance for residential property that provides a combination of coverage including fire, extended coverage, vandalism and malicious mischief, burglary, theft, and personal liability. The following classes of property are not acceptable for homeowners' coverage: seasonal dwellings; farm property unless inactive; mobile homes or trailer units; vacant or unoccupied properties; and properties in the course of construction or major renovation, unless occupied as a residence.

Initially, JIA coverage included up to $500,000 on real or personal property comprised of or contained in a single building or multiple buildings situated on a single parcel of land or multiple, contiguous parcels of land. Chapter 355 of 2003 increased the maximum limit of liability to $1,500,000 on real or personal property comprised of or contained in a single building.

Currently, JIA provides the following maximum coverage amounts:

- Homeowner and Dwelling Fire (dwelling – $455,000 maximum coverage limit; and contents – $228,000 maximum coverage limit).

- Commercial Fire (fire-resistive – $1.5 million maximum coverage limit; masonry - 1.5 million maximum coverage limit; and frame – $1.5 million maximum coverage limit).

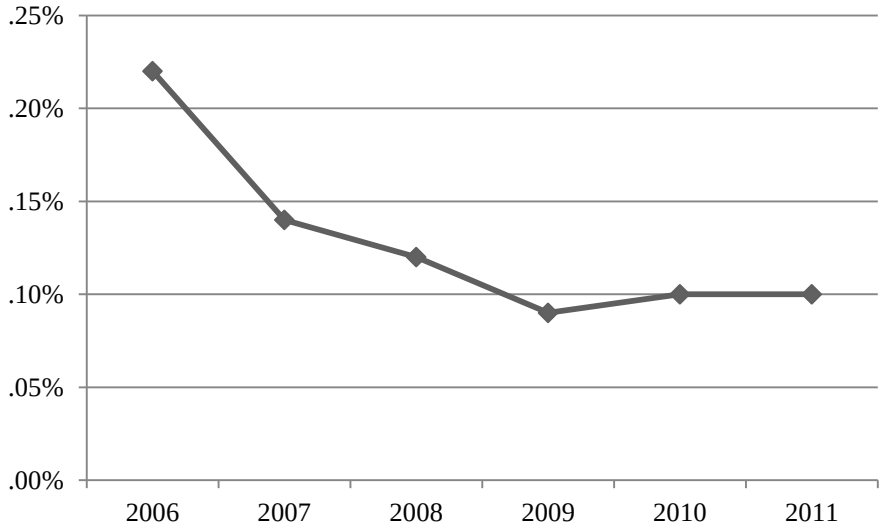
While JIA covers losses for wind damage, JIA has no exposure to loss for damage due to flood or wave wash (*i.e.*, from a hurricane). Flood insurance is available through the Federal Insurance and Mitigation Administration (National Flood Insurance Program). A windstorm or hail deductible of 5% applies to properties within 200 feet of water, or in Ocean City.

Additional information may be found at: http://www.mdjia.org/.

Market Share and Number of Policies

According to the Maryland Insurance Administration's 2010 and 2011 *Reports on the Effect of Competitive Rating on the Insurance Markets in Maryland*, JIA's market share of homeowner's insurance issued in the State has diminished from .22% in 2006 to .10% in 2010 and 2011 (see **Exhibit 1**). The top 10 insurer groups (which includes 47 separate companies out of a total of 129 separate companies operating in the State) for homeowner's insurance are: State Farm, Allstate Insurance Company, Travelers, Nationwide, Erie Insurance Exchange, USAA, Liberty Mutual, Chubb Group, Allianz, and Zurich. These 10 insurer groups accounted for about 86% of the market share in 2010.

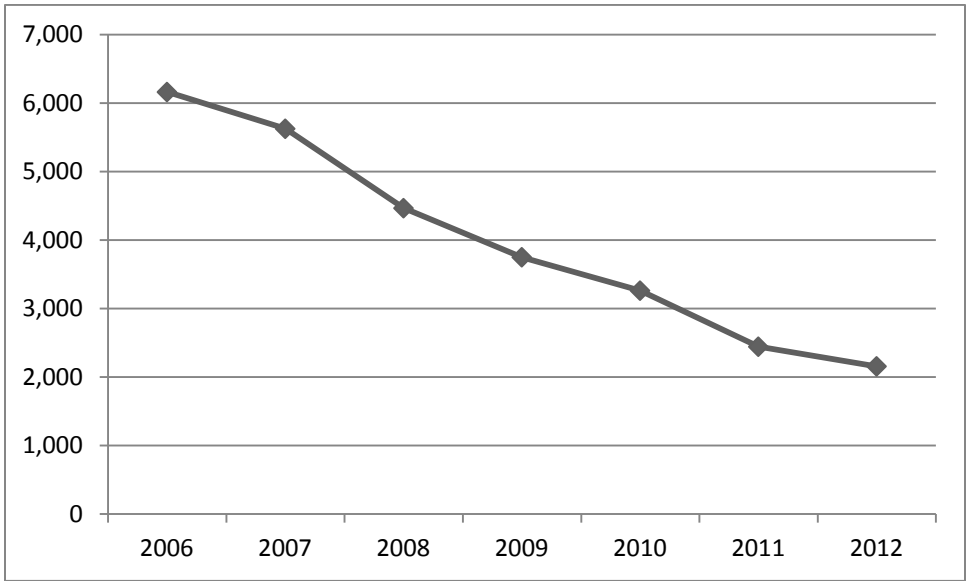
Exhibit 1
JIA's Percentage Market Share
2006-2011



Source: Maryland Insurance Administration's *Reports on the Effect of Competitive Rating on the Insurance Markets in Maryland* (2012 results will be in the 2013 report that is anticipated to be published in November 2013)

JIA is authorized to issue policies exclusively in the State. According to JIA, the number of policies issued by JIA has diminished from 6,150 in 2006 to 2,443 in 2011 and 2,156 in 2012 (see **Exhibits 2 and 3**).

Exhibit 2
Number of JIA Policies
2006-2012



Note: Number of policies is reported at the end of September 30 each year.
Source: Joint Insurance Association

Exhibit 3

Number of Policies by Line of Business and County

2011 to 2012

	Homeowners			Dwelling Fire			Commercial Fire		
	2012	**2011**	**Diff**	**2012**	**2011**	**Diff**	**2012**	**2011**	**Diff**
Allegany	53	65	(12)	24	29	(5)	2	3	(1)
Anne Arundel	48	61	(13)	30	28	2	2	2	(0)
Baltimore	138	150	(12)	52	55	(3)	6	4	2
Baltimore City	479	576	(97)	596	699	(103)	54	56	(2)
Calvert	6	3	3	3	5	(2)	0	0	0
Caroline	27	29	(2)	13	14	(1)	0	0	0
Carroll	2	6	(4)	6	5	1	0	0	0
Cecil	4	8	(4)	9	8	1	0	0	0
Charles	24	19	5	7	7	0	2	4	(2)
Dorchester	33	37	(4)	11	12	(1)	1	1	0
Frederick	5	10	(5)	6	8	(2)	0	0	0
Garrett	7	8	(1)	6	9	(3)	2	2	0
Harford	26	22	4	8	11	(3)	2	2	0
Howard	12	9	3	2	1	1	0	0	0
Kent	9	10	(1)	9	7	2	0	1	(1)
Montgomery	46	49	(3)	13	12	1	3	3	0
Prince George's	113	118	(5)	32	46	(14)	3	7	(4)
Queen Anne's	7	6	1	3	3	0	0	0	0
Saint Mary's	17	18	(1)	13	13	0	0	0	0
Somerset	16	16	0	15	15	0	0	0	0
Talbot	25	25	0	12	9	3	0	1	(1)
Washington	6	7	(1)	2	3	(1)	2	2	0
Wicomico	41	38	3	26	25	1	3	3	0
Worcester	21	21	0	8	16	(8)	3	1	2
Total	**1,165**	**1,311**	**(146)**	**906**	**1,040**	**(134)**	**85**	**92**	**(7)**

Total Number of Overall Policies: 2012 - 2,156; 2011 - 2,443; Difference: -287

Note: Number of policies is reported at the end of September 30 each year.
Source: Joint Insurance Association

Depopulation Efforts

JIA is required to develop an incentive for producers to place risks in the voluntary market and to encourage depopulation of insureds in JIA by producers and insurers. JIA will make available to any producer or insurer a list of all expiring policies insured by JIA. Any producer that places a risk with JIA is considered to have waived any interest in the expiration as

a part of the producer's book of business. Member insurers that write, on a voluntary basis, essential property insurance or homeowner's insurance coverage on a qualifying habitational dwelling in a geographic area of the State with a significant portion of essential property insurance or homeowner's insurance policies issued by JIA are eligible for a participation credit. The credit is an offset against the member insurer's assessment obligations to JIA; the first year a risk is written is worth a participate credit of 100% of the annual premium paid by the risk to the member insurer.

Installment Plan Program and Policy Terms

JIA has an installment payment program that allows payments in three installments, subject to a $10 service charge on the second and third installments. A minimum of 40% of premium is due at the inception of the policy or binder; the remaining balance is billed in two installments of 50% of the unbilled balance. Approximately 23% of its policies are paid through installments, leaving 77% paid in a lump sum. JIA does not track whether the insureds use a premium finance arrangement.

JIA issues policies for one year only; however, a policy may be issued on request of the applicant for a period of less than one year so as to obtain a common expiration date with other policies. Since policies do not automatically renew, to continue coverage past the expiration date, the applicant or the applicant's producer must reapply and pay the required premium prior to the expiration of the existing policy.

JIA's cancellation policy provides that JIA will give not less than five days prior written notice if one of the following conditions exist:

- owner or occupant incendiarism or vandalism or malicious mischief;
- at least 65% of the rental units in a building consisting of five or more units are vacant or unoccupied, and the insured has not obtained prior approval from the association of a rehabilitation plan which necessitates a high degree of vacancy or unoccupancy;
- extensive damage caused by a covered peril which exists at the time of the issuance of a policy or tentative binder under this program of operation;
- following a loss caused by a covered peril, permanent repairs following satisfactory adjustment of loss have not commenced within 60 days;
- real or personal property has been abandoned or there has been removal of salvageable items from the building;
- utilities such as electric, gas, or water services have been disconnected or real estate taxes have not been paid for a two-year period after the taxes have become delinquent (real estate taxes shall not be deemed to be delinquent for this purpose even if they are due and

constitute a lien, so long as grace period remains under local law during which such taxes may be paid without penalty);

- where reliable information that good cause exists to believe that the property will be damaged by a covered peril for the purpose of collecting insurance proceeds on the property;

- conviction or unresolved indictment of a named insured, loss payee, occupant or any person having a financial interest in the property of the crime of arson or any other crime involving an intent to defraud the association or an insurance company;

- where the property has been subject to more than two losses caused by covered perils, in any 12-month period; or more than three losses caused by covered perils in any 24-month period, each such loss amounting to at least $500 or 1% of the insurance in force, whichever is greater, provided that the causes of such losses are due to conditions which are the responsibility of the owner or named insured;

- material misrepresentation;

- nonpayment of premium; or

- after the second unsuccessful attempt to inspect the property.

Any applicant, member insurer, or other affected person may appeal to JIA's Governing Committee within 30 days of a decision by JIA. A decision of the Governing Committee may be appealed to the Insurance Commissioner.

Regulation by the Maryland Insurance Administration

During the late 1970s, the federal government required that the rates charged by the FAIR plans for "essential property insurance" policies could not be greater than those charged by the standard insurance marketplace. Failure of a FAIR Plan to comply would make the FAIR Plan's member insurers ineligible to purchase federal riot reinsurance covering the insurers' policies in that state. After this federal mandate was repealed, Chapter 574 of 1980 was enacted to require JIA to charge rates that are set sufficiently high so that JIA would not compete actively with the pricing of coverage in the voluntary insurance market.

The Maryland Insurance Commissioner has the same powers over JIA as are granted under the Insurance Article with respect to domestic insurers that are authorized insurers, including financial and market conduct examinations. If the Insurance Commissioner determines that the rate structure for policies of essential property insurance and homeowner's insurance offered by JIA does not compete with the rate structure of the voluntary insurance market in the State, the Insurance Commissioner is required to approve the rate structure. The Insurance Commissioner is required to monitor and review the financial condition of JIA member insurers

to ensure that JIA members are able to pay assessments that JIA may levy on them. JIA is not subject to risk-based capital standards.

Producers

Applicants, while encouraged to seek the purchase of insurance coverage through the competitive marketplace, may apply for insurance through JIA directly or through a licensed insurance producer under certain circumstances. Some risk that might be insured by JIA may be placed by producers with surplus lines insurers.

JIA may not appoint insurance producers to act on its behalf; instead, JIA must conduct business directly with applicants or with licensed insurance producers that represent applicants. The commissions paid by JIA to licensed producers may not exceed 12% of the policy premium for essential property insurance and 8% of the policy premium for homeowner's insurance. Approximately 54% of JIA's business is written through producers, leaving 46% written directly with the policyholders.

Financial Operations

State's Investment and Relation to the State

Initially, JIA was established in a way that there could be a question of as to whether JIA was an agency or instrumentality of the State. Under the 1980 Act, one-third of JIA's Governing Committee members (five public members) were appointed by the Insurance Commissioner. Further, the Insurance Commissioner had more authority over JIA than over any other insurer, including approval of its program of operation.

In response to this concern, the 1988 Act made a number of changes, including eliminating the Governing Committee's five public members. More significantly, the 1988 Act specified that JIA is not a State agency. Under current law, JIA is not and may not be deemed a department, unit, agency, or instrumentality of the State. All debts, claims, obligations, and liabilities incurred by JIA shall be the debts, claims, obligations, and liabilities of JIA only and not of the State or the State's agencies, instrumentalities, officers, or employees. The monies of JIA are not part of the general fund of the State. The State may not budget for or provide general fund appropriations to JIA. The debts, claims, obligations, and liabilities of JIA are not debts of the State or pledges of the credit of the State. The records, reports, and communications of JIA, the Governing Committee, the committees of JIA, and their representatives, agents, and employees are not public documents.

Revenues, Expenses, Net Income, and Deficit Assessment

Unlike other insurers operating in the voluntary market, JIA may not be declared insolvent. JIA's financial obligations are backed by other property insurers that issue policies in the State (member insurers). None of JIA's operating funds come from the State or through taxation by the State.

To pay claims and administrative costs, JIA has three principal sources of income:

- insurance policy premiums paid by policyholders;
- net investment income; and
- assessments on member insurers if JIA's first two resources are insufficient.

Initially, each member insurer was required to participate in JIA's expenses, profits, and losses in the proportion that the member insurer's premiums written bear to the aggregate premiums written by all member insurers. Member insurers may recoup the amount of their assessment by adding a surcharge, identified separately, on each essential property insurance policy and each homeowner's insurance policy they issue in the State for property located in the State. During the first 18 years of existence, member insurers were assessed a total of $5.7 million (during 1970 to 1982). In 2012, the last time an assessment was levied, the total assessment was $2 million. Each member insurer has an option to recoup assessments made through a JIA surcharge to premiums which was 0.11% for this assessment. Member insurers reported premium writings during this period of $1.79 billion. **Exhibit 4** depicts JIA's key financial data for the last five years. **Attachment 4** provides detailed financial data during the same period.

Exhibit 4
Financial Data
2007-2012
($ in Millions)

	Premium Earned (Revenues)	Deductions (Losses and Expenses)	Net Underwriting Gain/(Loss)	Other Income/(Outgo)	Net Income/(Loss)
2007	$3.40	$3.20	$0.20	$0.10	$0.30
2008	2.60	2.70	(0.03)	0.07	0.04
2009	2.20	3.00	(0.70)	0.03	(0.70)
2010	1.90	2.70	(0.70)	0.09	(0.70)
2011	1.70	3.10	(1.30)	0.09	(1.30)
2012	1.50	1.70	(0.13)	0.13	(0.12)

Note: JIA reports data on a fiscal year basis (October 1 to September 30); Numbers may not add due to rounding.
Source: Joint Insurance Association

JIA is not a member of the Property and Casualty Guaranty Corporation. JIA's ability to assess member insurers negates the need to be a member of the Property and Casualty Guaranty Fund.

Taxes and Fees

JIA pays the following State and other taxes:

- Premium Tax
- Payroll Tax
- Personal Property Tax
- Maryland Sales and Use Tax

JIA pays the following federal taxes:

- Payroll Tax

Dissolution

Current law does not provide for the dissolution of JIA, effective October 1, 1997 (Chapter 63 of 1996). However, JIA's 2004 program of operation specifies that JIA shall be dissolved when the program terminates and all obligations under policies issued under the program have been discharged.

Consumer Protections

JIA is not subject to the following State laws that affect State governmental units:

- Public Information Act
- Open Meetings Law
- Administrative Procedures Act
- Maryland Tort Claims Act
- Maryland Public Ethics Law
- Whistle Blower Law

Notes

Attachment 3 describes the property insurers of last resort in other states.

Appendix 3. JIA
Attachment 1 – Legislative History

Chapter 172 of 1969 – Maryland Property Insurance Availability Act (Codified under Section 478A to 478-I under Article 48A "Insurance Code")

- Established JIA consisting of all insurers licensed to write in the State, on a direct basis, essential property insurance.
- Required every insurer to be a member of JIA and remain a member as a condition of its authority to transact essential property insurance in the State.
- Allowed other insurers to become members with the consent of the Insurance Commissioner.
- Authorized JIA to establish a program of operation, issue insurance policies, and assume and cede reinsurance on risks written by insurers.
- Required members to participation the expenses, profits, and losses of JIA in the proportion that its premiums written bear to the aggregate premiums written by all members.
- Required JIA to be administered by a Governing Committee, consisting of nine insurer members elected annually by the member insurers.
- Required the Governing Committee to submit to the Insurance Commissioner a proposed program of operation within 30 days of the effective date of the Act.
- Required that the Insurance Commissioner has the right to review the operations of JIA, including examination into the operations and access to all the books, records, files, papers, and documents that relate to operations of JIA.
- Required that an applicant or affected insurer has the right of appeal to the Governing Committee, with a subsequent appeal to the Insurance Commissioner.
- Required inspections by JIA's designated inspection bureau to be at no cost to the owner or applicant.
- Defined essential property insurance to mean insurance against direct loss to property as defined and limited in standard fire policies and extended coverage endorsement thereon, as approved by the Insurance Commissioner, and insurance for such types, classes and locations of property against the perils of vandalism, malicious mischief, burglary, or theft as the Secretary of the U.S. Department of Housing and Urban Development by rule shall designate. Such insurance shall not include automobile insurance and shall not include insurance on such types of manufacturing risks as may be excluded by the Insurance Commissioner.
- Provided that the Maryland Property Insurance Availability Act shall be no longer of any force, except for incurred obligations, after the expiration of the federal Urban Property Protection and Reinsurance Act of 1968.

Chapter 172 of 1969

- Created the Maryland Insurance Development Fund to provide the State "back-up" required by the federal Urban Property Protection and Reinsurance Act of 1968 as a condition of the continued availability of HUD reinsurance in the State.

Chapter 574 of 1980 – Maryland Property Insurance Availability Act

- Broadened representation of the Governing Committee by expanding membership to 15 members (10 members of JIA appointed by the member insurers of JIA, and 5 public representation appointed by the Insurance Commissioner).
- Set the term of members of the Governing Committee to one year.
- Expanded the coverage provided by JIA to include homeowners' insurance.
- Defined homeowner's insurance to mean a policy of insurance providing a combination of coverages, including fire, extended coverage, vandalism and malicious mischief, burglary, theft, and personal liability as applicable to residential properties.
- Provided that the member insurers no longer participate in the profits of JIA.
- Required JIA's program of operation to provide a method of recoupment by member insurers of assessments levied by JIA to recover losses and expenses incurred.
- Required JIA's program of operation to provide for underwriting guidelines and procedures to be utilized by JIA which permit JIA to shorten the cancellation period of policies.
- Allowed JIA to charge for inspections if JIA's designated inspection bureau is unable to complete an inspection of the property due to the fault of the owner or applicant.
- Required JIA's program of operation for the delivery of homeowner's insurance to be at a rate that is actuarially self-supporting, but not less than inspection bureau or standard rates and not more than 30% above the inspection bureau or standard rates.
- Required JIA's program of operation to immediately bind eligible risks, use premium installment payment plans, establish reasonable service standards, and establish adequate marketing and service facilities in all designated areas.
- Encouraged the delivery of essential property insurance at the most reasonable cost possible, provided the pricing may not actively compete with the pricing of property insurance in the voluntary insurance market.
- Utilize fully the voluntary insurance market as a source of essential property and homeowner's insurance.
- Provided that the Maryland Property Insurance Availability Act shall be no longer of any force after the expiration of the federal Urban Property Protection and Reinsurance Act of 1968 or June 30, 1988, whichever occurs last.

Chapter 2 of 1981 (Corrective Bill)

- Made nonsubstantive changes.

Chapter 255 of 1984 (Corrective Bill)

- Made nonsubstantive changes.

Chapter 566 of 1988

- Authorized the establishment of JIA as an unincorporated association.
- Provided that the purpose of the Maryland Property Insurance Availability Act subtitle is to encourage the delivery of essential property insurance and homeowner's insurance at the most reasonable cost possible, "*provided that the pricing by JIA be actuarially self-supporting.*"
- Removed the ability of insurers who are not licensed to write in the State, on a direct basis, essential property insurance to become a member of JIA with the consent of the Insurance Commissioner.
- Removed obsolete provisions caused by the repeal of federal law.
- Reflected designation of entire State as an urban area.
- Removed excessive control by Insurance Commissioner by providing that the Insurance Commissioner has the same powers over JIA as are granted under the Insurance Code with respect to authorized domestic insurers and by requiring the Governing Committee to adopt a program of operations without submitting a proposed one to the Insurance Commissioner.
- Decreased the number of members on the Governing Committee from 15 to 9 by removing all of the 5 public members appointed by the Insurance Commissioner (pursuant to repeal of federal requirement) and removed 1 member who was elected annually by the member insurers of JIA.
- Removed start-up provisions.
- Removed cap on homeowner's rates based on "bureau or standard rates."
- Reflected writing of homeowner's insurance by JIA.
- Set a maximum limit of liability of $500,000 on property at any one location and required appropriate sublimits of liability based upon construction, protection, and class of occupancy.
- Provided that JIA may not have agents and that JIA must do business directly with applicants or with licensed producers which represent applicants.
- Changed emphasis from inspection to policy insurance.
- Specified that JIA is not a State agency; that all debts, claims, obligations, and liabilities incurred by JIA are JIA's and not the State's; that JIA's money may not be considered part of the State's general fund; and that the State may not budget for or provide general fund appropriations to JIA.
- Provided that records, reports, and communications of JIA, the Governing Committee, and other representatives and employees may not be considered public documents.

- Required, rather than allowed, the Insurance Commissioner to approve the rate structure for policies of essential property insurance and homeowner's insurance offered by or through JIA, provided that the rate structure does not compete with the rate structure of the voluntary market in the State.
- Required the Insurance Commissioner to monitor and review the financial condition of JIA's member insurers to assure that the member insurers have the ability to pay any assessments that may be levied by JIA on its member insurers.
- Provided, except for acts of dishonesty or bad faith, that there may not be any liability on the part of or cause of action of any nature against any member insurer, JIA or its agents or employees, the Governing Committee, or the Insurance Commissioner for any a action taken by them in the performance of their duties.
- Provided that the Maryland Property Insurance Availability Act shall be no longer of any force after June 30, 1990, except for incurred obligations (changed from "no longer of any force after the expiration of the federal Urban Property Protection and Reinsurance Act of 1968, or June 30, 1988, whichever occurs last").

Chapter 699 of 1990

- Extended the sunset of the Maryland Property Insurance Availability Act from June 30, 1990, to June 30, 1992 (incurred obligations are not impaired by the expiration of the Act).

Chapter 80 of 1992

- Extended the sunset of the Maryland Property Insurance Availability Act from June 30, 1992 to June 30, 1996 (incurred obligations are not impaired by the expiration of the Act).

Chapter 11 of 1996

- Code Revision from under Section 478A to 478-I under Article 48A "Insurance Code" to Title 25, Subtitle 4 of the Insurance Article.

Chapter 63 of 1996

- Repealed termination date of the Maryland Property Insurance Availability Act (§ 25-411), effective October 1, 1997.

Chapter 14 of 1997

- Corrective bill – minor change to § 25-403.

Chapter 70 of 1997

- Cross-reference bill – minor change to § 25-405.

Chapter 731 of 2001

- Insurance Producer Licensing Act – minor changes, including struck the definition of licensed producer under § 25-401; changed "agent" to "insurance producer" under § 25-405, and added "insurance" before "producer" under § 25-407.

Chapter 355 of 2003

- Maryland Property Insurance Availability Act – under § 25-405, increased the maximum limit of liability (under the program of operation):

  From: "(1) a maximum limit of liability of $500,000 on real or personal property comprised of or contained in (i) a single building; or (ii) multiple buildings situated on a single parcel of land or multiple, contiguous parcels of land; and (2) appropriate sublimits of liability based on construction, protection, and class of occupancy."

  To: "(1) a maximum limit of liability of $1,500,000 on real or personal property comprised of or contained in a single building; and (2) appropriate sublimits of liability based on construction, protection, and class of occupancy."

Chapter 25 of 2004

- Corrective bill – minor change to § 25-405(f).

Chapter 408 of 2012

- Created the Task Force to Study Maryland Insurance of Last Resort Programs.

Appendix 3. JIA
Attachment 2 – Organizational Chart

The general manager of JIA is appointed by the Governing Committee. JIA currently has seven employees. JIA does not have an organizational chart. The employees are in the following positions:

- 1 general manager
- 1 accounting supervisor
- 2 underwriters
- 1 claims clerical
- 2 customer service

Source: Joint Insurance Association

Appendix 3. JIA
Attachment 3 – Property Insurers of Last Resort in Other States

Over the past 40 years, many states have created "residual market" mechanisms to provide consumers with another way to obtain insurance coverage for insurable property, when that coverage is not available through traditional private-sector insurers. The idea behind the concept is that the government facilitates coverage of a pooled group of relatively high-risk policyholders by creating a mechanism whereby, in some states, the scope of coverage provided is limited and risk-based rates are higher. Regardless of the mechanism, insurers doing business in a given state generally must participate in these programs, typically by assuming their fair share of the residual market's operating results. When a deficit occurs, losses are covered, on a state-by-state basis, by (1) assessing participating private insurers (insurers are allowed to recoup the assessments either through increased premiums in future years, or via surcharges that are outside of premium on their policyholders) or (2) using post-event revenue bonds to improve cash flow, fund deficits, defray expenses, purchase reinsurance, or fund any other expense or liability.

According to the American Insurance Association, the two types of "residual market" mechanisms include:

- Fair Access to Insurance Requirements (FAIR) Plans (mostly in urban and coastal areas); and

- Wind, Coastal and Beach Plans and "Citizens"-type Corporations (in natural catastrophe-prone areas).

FAIR Plans

In the late 1960s and early 1970s, FAIR Plans were formed (in 29 states) mostly as partnerships by insurers, regulators, and legislators in response to insurance availability problems in metropolitan areas following property losses of catastrophic proportions from riots and civil disorders. Originally, FAIR Plans offered "bare bones" products that covered the risk of fire only, in order to satisfy mortgage lender insurance requirements. Today, however, roughly half of all FAIR Plans offer full homeowners coverage (*i.e.*, coverage for vandalism and theft and other perils in addition to fire), while the others continue to provide fire-only policies. So as not to compete with the voluntary insurers (and thereby discouraging residual market growth), FAIR Plan rates typically are higher than those of private insurers.

Wind, Coastal and Beach Plans, and "Citizens"

Following Hurricane Camille in 1969, the first coastal/beach pool was created to alleviate insurance availability problems in areas particularly vulnerable to windstorm losses by allowing the insurer to write a policy "ex-wind" and having the pool write a "wind only" or a "wind/hail" policy in designated coastal areas. Today, wind, beach, coastal, and beach pools exist in every Atlantic Coast state south of Virginia, and in every Gulf Coast state. There are variations among the mechanisms with respect to available coverage, rates, and deductibles, as well as the types of property eligible for coverage. Also, there are variations in incentives to encourage voluntary writers to "take-out" or "keep-out" policies from the pools. "Take-out" credits are cash bonuses paid to a private insurer for taking business out of a residual market, while "keep-out" credits are cash bonuses paid to a private insurer once it has kept the business out of the residual market for a certain period of time.

Alabama: Alabama Insurance Underwriting Association (AIUA)
http://www.alabamabeachpool.org/

AIUA was voluntarily formed in the early 1970s by insurance industry leaders in cooperation with the Alabama Department of Insurance. In 2008, the Alabama legislature codified AIUA along with its articles of agreement, plan of operation, and rules and procedures. The purpose of AIUA is to provide a market wherein owners of eligible property located in coastal areas of Baldwin and Mobile counties may obtain essential insurance when they are unable to obtain coverage in the private insurance market.

Connecticut: Connecticut Fair Access to Insurance Requirements (FAIR) Plan
http://www.ctfairplan.com/

The Connecticut FAIR Plan was established to conform to the Urban Property Protection and Reinsurance Act of 1968 and its amendments and Title 38a of the Connecticut General Statutes. The aim of the FAIR Plan is to provide property insurance regardless of environmental conditions. The property and premises must meet reasonable underwriting standards. Property owners are required to get coverage with a standard insurer (for more comprehensive coverage) before coming to the FAIR Plan. A producer should also check with an Excess and Surplus Lines broker. The FAIR Plan is the last resort.

District of Columbia: District of Columbia Property Insurance Facility
http://www.dcpif.com/

The District of Columbia Property Insurance Facility is administered by the Maryland Joint Insurance Association.

Delaware: Delaware Fair Access to Insurance Requirements (FAIR) Plan
http://www.defairplan.com/

The Delaware FAIR Plan, formally known as the Insurance Placement Facility of Delaware, commenced operating October 28, 1968, to make basic property insurance available

to persons who have an insurable interest in real or tangible personal property located in the State of Delaware, and who have been unable to secure such insurance from the voluntary insurance market. The plan was created under House Bill 712 of the General Assembly of Delaware. The Delaware FAIR Plan is an association of the property insurance companies doing business in Delaware.

Florida: Citizens Property Insurance Corporation (CPIC)
https://www.citizensfla.com/

The Florida Residential Property and Casualty Joint Underwriting Association (FRPCJUA) was created after Hurricane Andrew in 1992 devastated Miami. Insurers began to pull out of Florida due to the extraordinary number of hurricanes. In 2002, the Florida legislature merged FRPCJUA with the Florida Windstorm Underwriting Association (FWUA), a wind pool, into one hybrid entity, forming CPIC. CPIC provides wind-only coverage for consumers along the coast and property insurance for homeowners who are unable to obtain insurance elsewhere. As an insurer of last resort, this not-for-profit insurer is the largest insurer in Florida. CPIC may issue a policy for customers if the cost of a comparable policy offered by a private carrier is 15% greater. CPIC policyholders are allowed to keep their CPIC coverage if they do not wish to be insured by an assuming carrier (an insurer who takes risk from CPIC). The restructured new residual markets accomplished two important objectives. First, CPIC has federal income tax-exempt status which enables CPIC to accumulate a surplus more quickly without having to pay corporate income taxes, thereby enhancing claims-paying capacity for a catastrophic event. Second, post-loss deficits were changed to create revenue streams from the combination of regular and emergency assessments, which CPIC can use to back the issuance of pre- and post-event bonds to improve the liquidity of the residual market.

Georgia: Georgia Underwriting Association (GUA) – Fair Access to Insurance Requirements (FAIR) Plan
http://www.georgiaunderwriting.com/

GUA administers the FAIR Plan to provide property insurance to the citizens of Georgia, and encourages improvement and development of properties located in Georgia.

Louisiana: Louisiana Citizens Property Insurance Corporation (CPIC)
http://www.lacitizens.com/

Louisiana created a hybrid property insurance market of last resort to provide wind-only coverage for consumers along the coast, and homeowner's insurance coverage statewide for those who cannot find such coverage in the private insurance market. Louisiana combined its Fair Access to Insurance Requirements (FAIR) and Coastal Plans to create CPIC. In combining their FAIR Plans and wind pools, the restructured new residual markets accomplished two important objectives. First, CPIC has federal income tax-exempt status which enables CPIC to accumulate a surplus more quickly without having to pay corporate income taxes, thereby enhancing claims-paying capacity for a catastrophic event. Second, post-loss deficits were changed to create revenue streams from the combination of regular and emergency assessments,

which CPIC can use to back the issuance of pre- and post-event bonds to improve the liquidity of the residual market.

Massachusetts: Massachusetts Property Insurance Underwriting Association (MPIUA)
http://www.mpiua.com/

MPIUA, known as the Fair Access to Insurance Requirements (FAIR) Plan, is a residual market insurance association in which all companies writing basic property insurance in Massachusetts are required to participate with losses shared among the member companies on a premium volume basis. Responding to federal legislation, the Massachusetts legislature in 1968 called for an urban area insurance placement facility and thereby gave rise to MPIUA.

Mississippi: Mississippi Windstorm Underwriting Association (MWUA)
http://www.msplans.com/mwua/

MWUA was established by the Mississippi legislature in 1987 to provide a method whereby an adequate market for windstorm and hail insurance may be provided in the coastal area of Mississippi.

Mississippi Residential Property Insurance Underwriting Association (MRPIUA)
http://www.msplans.com/MRPIUA/about_us.shtml

MRPIUA was established by the Mississippi legislature in 2003. The former Mississippi Rural Risk Underwriting Association provided a residual market for residential property insurance in rural areas of the state. Under MRPIUA, this will be expanded to provide a residual market for residential property insurance in both rural areas and all other protection classes of the state.

New Jersey Insurance Underwriting Association (NJIUA)
http://www.njiua.org/

NJIUA, originally named the Fair Access to Insurance Requirements (FAIR) Plan, is an association created by the New Jersey legislature in 1968 to provide essential property insurance to any person unable to obtain insurance from a voluntary company. Today NJIUA is the administrator of the FAIR Plan, the Crime Indemnity Plan, and the Windstorm Market Assistance Program.

New York: New York Property Insurance Underwriting Association (NYPIUA)
http://www.nypiua.com/

NYPIUA is a joint underwriting association created in 1968 under the laws of the state of New York to meet the basic insurance needs of the public. Since its inception, NYPIUA has evolved into a true residual market mechanism, responsive to the varied needs of the insuring public.

North Carolina: North Carolina Joint Underwriters Association (NCJUA)
http://www.ncjua-nciua.org/

NCJUA, created in 1969 as the Fair Access to Insurance Requirements (FAIR) Plan, is an association which, as agents for the member insurers, functions like an insurer making basic and broad property insurance available to people who are not able to buy it through the standard insurance markets. NCJUA covers the entire state except the barrier islands adjacent to the Atlantic Ocean. A separate underwriting association (NCIUA, known as a Beach Plan) provides coverage for the barrier islands adjacent to the Atlantic Ocean and for windstorm and hail only and homeowner insurance policies in the 18 coastal counties.

North Carolina: North Carolina Insurance Underwriting Association (NCIUA)
http://www.ncjua-nciua.org/

NCIUA, created in 1969 as the Beach Plan, is an association which, as agents for the member insurers, functions like an insurer, making basic and broad property insurance available to people who are not able to buy it through the standard insurance markets. The Beach Plan covers only those barrier islands adjacent to the Atlantic Ocean. In 1998, the Beach Plan was expanded by the North Carolina legislature to include the 18 coastal counties (called the Coastal Area) for windstorm and hail insurance only coverage. The plan was authorized to begin offering homeowners insurance policies for principle residences effective July 1, 2003, for all 18 coastal counties.

Rhode Island: Rhode Island Joint Reinsurance Association (RIJRA)
http://www.rijra.com/

RIJRA, known as the Rhode Island Fair Access to Insurance Requirements (FAIR) Plan, was founded by the Rhode Island legislature in response to the Federal Urban Property Protection and Reinsurance Act of 1968. Its purpose is to provide basic property insurance on eligible property for applicants who have been unable to gain insurance through the voluntary market. RIJRA offers policies under the homeowners, dwelling fire and commercial property programs as approved by the Rhode Island Division of Insurance. Applicants must meet our reasonable underwriting standards, however coverage is provided without consideration of environmental conditions associated with the property's location.

South Carolina: South Carolina Wind and Hail Underwriting Association (SCWHUA)
http://www.scwind.com/

SCWHUA, as the residual property insurance market in South Carolina, provides coverage for the perils of wind and hail in the coastal area of the state designated by the legislature as "Beach." Referred to as the Beach Plan or Wind Pool, it is an association of insurers which makes wind and hail property insurance available to people and businesses in the coastal area who are not able to buy it through the standard insurance market. In 1971, the South Carolina legislature required the insurance industry to make wind and hail insurance coverages available to home and business owners in the coastal area.

Texas: Texas Windstorm Insurance Association (TWIA)
http://www.twia.org/

When Hurricane Celia struck the Texas coast on August 3, 1970, many insurers ceased to write business in this region. To protect consumers, the Texas legislature created the Texas Catastrophe Property Insurance Association (now called TWIA) in 1971. TWIA is a pool of all property and casualty insurers authorized to write coverage in Texas. TWIA provides basic wind and hail insurance coverage for Gulf Coast property owners who might otherwise be left uninsured. As the provider of last resort, TWIA does not actively compete against private insurers.

Texas FAIR Plan Association (TFPA)
http://www.texasfairplan.org/

TFPA was created by an act of the Texas legislature for the purpose of providing basic residential property insurance to applicants who cannot secure coverage in the voluntary market. As a market of last resort, coverage available through TFPA is not as comprehensive as coverage available through the voluntary market. TFPA does not compete with the private market and applicants must have two declinations from other insurers in order to obtain coverage with TFPA. Applicants are not eligible for coverage with TFPA if they have a current homeowners or other residential property policy, renewal offer, or a binding quote from an authorized insurance company. Although TFPA is considered a market of last resort, applications submitted for coverage are subject to underwriting guidelines for characteristics of ownership, condition, occupancy, maintenance, and liability exposure. Properties owned/deeded in the name of a business (corporation, partnership, association, LLP, LLC, etc.) are not eligible for coverage with TFPA. Vacant/unoccupied properties are also not eligible for coverage with TFPA. TFPA does not sell policies directly to the public and does not have agents of its own. TFPA will accept an application for insurance from a properly licensed and authorized agent that represents the property owner.

Virginia: Virginia Property Insurance Association (VPIA)
http://www.vpia.com

The Virginia Insurance Placement Facility (VIPF) was formed in 1968 as the Virginia Fair Access to Insurance Requirements (FAIR) Plan. In 1976, the FAIR Plan changed its legal structure and name to become VPIA. VPIA provides dwelling and commercial property coverages to individuals and businesses throughout the state who are unable to obtain coverage through the voluntary insurance market. VPIA assures stability in the property insurance market, makes sure basic property insurance is available for all qualified properties, encourages the maximum use of licensed insurers, and provides for the equitable distribution of risk to all licensed insurers.

Source: American Insurance Association and websites from the Residual Insurers

Appendix 3. JIA
Attachment 4 – Financial Data

Net Income
2007-2012
($ in Millions)

	Premium Earned	Net Underwriting (Loss)/ Gain	Net Investment Income (incl. Realized Gains)	Net Income (Loss) (After Dividends)
2007	$3.390	$.220	$.107	$.336
2008	$2.643	($.032)	$.055	$.036
2009	$2.234	($.749)	$.021	($.717)
2010	$1.906	($.743)	$.004	($.734)
2011	$1.750	($1.319)	$0	($1.310)
2012	$1.528	($1.32)	$0	($.118)

Member Equity and Total Admitted Assets
2007-2012
($ in Millions)

	Member Equity	Total Admitted Assets
2007	($.533)	$2.580
2008	($.843)	$2.357
2009	($1.912)	$1.511
2010	($.758)	$2.528
2011	$2.073	$1.666
2012	($.239)	$2.928

Expense, Loss, and Combined Ratios
2007-2012
($ in Millions)

	Premium Earned (A)	Loss and Loss Adjustment Expenses Earned (B)	Other Net Underwriting Expense (incl. commissions) (C)	Expense Ratio (C)/(A)	Loss Ratio (B)/(A)	Combined Ratio (B+C)/(A)
2007	$3.390	$1.482	$1.620	48%	44%	91%
2008	$2.643	$1.083	$1.543	58%	41%	100%
2009	$2.234	$1.467	$1.470	66%	66%	132%
2010	$1.906	$0.942	$1.671	88%	49%	137%
2011	$1.750	$1.544	$1.493	85%	88%	174%
2012	$1.528	$0.194	$1.435	94%	13%	107%

Note: JIA reports data on a fiscal year basis (October 1 to September 30)

Source: JIA

Appendix 3. Maryland Health Insurance Plan

Revised 12/10/12

The Maryland Health Insurance Plan (MHIP) is an independent State entity that was established to lower uncompensated care costs by providing access to affordable, comprehensive health benefits for medically uninsurable residents. MHIP has both a State component and a federal component: MHIP State is a high-risk health insurance pool that is funded with enrollee premiums and an annual uncompensated care assessment on hospital rates, whereas MHIP Federal is a high-risk health insurance pool that was established under the federal Patient Protection and Affordable Care Act (ACA) and is funded by premiums from enrollees and federal funds. MHIP will be phased out beginning January 2014, as changes under ACA take effect and eliminate the need for a State-run, high-risk pool.

History of Creation

The "Health Insurance Safety Net Act" (Chapter 153) of 2002 created MHIP for the purpose of decreasing uncompensated care costs by providing access to affordable comprehensive health benefits for medically uninsured residents of Maryland. MHIP replaced the Substantial, Available, and Affordable Coverage Program (SAAC), which was administered by private carriers and provided health care coverage to State residents who had significant health conditions and were unable to purchase traditional health insurance. Approximately 7,000 State residents who were covered through SAAC were transitioned from that program with an effective coverage date of July 1, 2003.

Development of Structure

Maryland law relating to the authorization and creation of MHIP is codified under Title 14, Subtitle 5 of the Insurance Article. The subtitle establishes MHIP with the purpose of decreasing uncompensated care costs by providing access to affordable, comprehensive health benefits for medically uninsurable residents of the State. MHIP became operational on July 1, 2003, and operated as an independent unit of the Maryland Insurance Administration (MIA) until October 1, 2008, when it was reorganized as an independent State agency pursuant to Chapter 259 of 2008. **Attachment 1** summarizes the legislative history of the development of MHIP.

Governing Body

Headquartered in Baltimore City, MHIP is governed by a board of directors consisting of 10 members: the Secretary of Budget and Management; the Secretary of Health and Mental Hygiene; the executive directors of the Maryland Health Care Commission and the Health Services Cost Review Commission; one insurance carrier representative and one insurance producer representative, both appointed by the Maryland Insurance Commissioner; one hospital representative and one minority-owned business representative, both appointed by the Governor; and two consumer members, both appointed by the Office of the Attorney General. The board is

tasked to establish a standard benefit package to be offered by MHIP as well as a premium rate to be charged for coverage by MHIP.

The board's plan of operation (and any amendments thereto) is subject to approval by the Insurance Commissioner. In addition, the board is required to annually submit to the Commissioner an audited financial report. The board is not subject to the provisions of the State Finance and Procurement Article.

Employees

MHIP's executive director is appointed by (and serves at the pleasure of) the board. Employees of MHIP are State employees who serve either in the executive service, in the management service, or as special appointments in the State Personnel Management System. MHIP's organizational chart is shown in **Attachment 2**. In fiscal 2013, MHIP is authorized to employ 12 full-time staff members, including:

- 1 executive director
- 1 deputy director (currently vacant)
- 1 controller
- 2 staff accountants
- 1 fiscal officer
- 1 director of planning and analysis
- 1 data analyst
- 1 human resources manager
- 1 assistant Attorney General
- 1 compliance officer
- 1 one executive administrative assistant

Third-party Administrator

The board is required to select a third-party administrator to perform functions including receiving and processing applications, determining eligibility, and enrolling members; issuing certificates of coverage; issuing premium invoices and collecting premium payments; maintaining and administering a provider network sufficient to provide the services and benefits required by the third-party administrator services agreement; collecting and reporting data; providing case management; handling member grievances and appeals; providing financial tracking and reporting; processing and paying covered medical, behavioral health, and pharmacy claims; and engaging in marketing and outreach activities.

CareFirst BlueCross BlueShield has served as MHIP's third-party administrator since July 1, 2007. In November 2010, MHIP extended its third-party administrator contract with CareFirst through fiscal 2014.

Insurance Coverage

MHIP is a high-risk health insurance pool, through which individuals who do not have access to (or have been denied) coverage on the basis of health status can access subsidized coverage. MHIP is the third-largest high-risk pool out of 34 such pools nationwide, enrolling over 20,000 individuals for more than a 10% share of Maryland's individual commercial market. As Maryland's health insurer of last resort, MHIP does not act as a competitive insurer.

Types of Coverage

MHIP consists of two basic components: MHIP State and MHIP Federal. In addition, MHIP operates the Senior Prescription Drug Assistance Program (SPDAP).

MHIP State

An individual is eligible to enroll in MHIP State if the individual is a Maryland resident and:

- is unable to obtain substantially similar coverage from a health insurance carrier due to a health condition;
- is unable to obtain substantially similar coverage from a health insurance carrier due to a health condition, except at a rate that exceeds MHIP's rate;
- has federal guaranteed-issue rights under the Health Insurance Portability and Accountability Act (HIPAA) of 1996;
- has a health condition that is included on a list of (dozens of) qualifying health conditions adopted by the board by regulation;
- is eligible for the 65% Health Care Tax Credit under § 35 of the Internal Revenue Code (including former workers and retirees of Bethlehem Steel and Black & Decker); or
- is a dependent of an individual who is eligible for coverage.

Individuals who are eligible for Medicaid, Medicare, employer-sponsored coverage, or any other comparable insurance plan are generally not eligible for MHIP.

Chapter 510 of 2004 authorized MHIP State to also offer an "MHIP Plus" option, which provides additional premium subsidies – and, in some cases, discounted cost-sharing – for program enrollees with incomes at or below 300% of the federal poverty level.

MHIP State is funded by premiums paid by enrollees (nonbudgeted funds) and hospital assessment revenues (special funds) – two fund sources that revert to MHIP's fund balance at the end of the fiscal year in the event that revenues exceed expenditures. The hospital assessment constitutes more than 60% of the program's overall funding.

Enrollees typically pay a higher premium to purchase insurance through MHIP than the average premium in the individual market, which is medically underwritten; this reflects the fact that MHIP's risk pool is generally sicker than the pool of individuals who are able to obtain

coverage in the individual market. However, standard plan premiums may not exceed 110% to 150% of the individual market rates for comparable underwritten coverage. The board reviews premium rates and benefits annually to ensure that this requirement is met and that the program's ongoing solvency is assured.

Both MHIP State and SPDAP have tended to carry significant year-to-year fund balances, as revenues for those programs have consistently exceeded expenditures. Accordingly, significant fund transfers have been made in recent years from these programs to the Maryland Medical Assistance Program and related programs. It is the stated legislative intent of the General Assembly that MHIP operate as a nonprofit entity and that MHIP funds be used, to the extent consistent with good business practices, to subsidize health insurance coverage for medically uninsurable individuals.

MHIP Federal

On March 23, 2010, President Obama signed into law the Patient Protection and Affordable Care Act (ACA), as amended by the Health Care and Education Recovery Act of 2010. Among many other provisions, ACA required the U.S. Secretary of Health and Human Services to establish a temporary high-risk pool program to provide health insurance to uninsured individuals who have preexisting conditions. ACA authorized the Secretary to carry out the program either directly or through contracts with states or other eligible entities. Subsequently, Governor O'Malley signed into law Chapter 173 of 2010, which authorized MHIP's board to administer the federal high-risk pool program for the State. MHIP Federal became operational in September 2010. The program will remain in effect through calendar 2013, when it will be replaced by a health benefit exchange as established in ACA.

To be eligible for coverage under MHIP Federal, an individual must be a resident of Maryland and:

- be a citizen or national of the United States or be lawfully present in the United States;
- not have had health insurance for a continuous six-month period of time immediately prior to the date of application to the program;
- not be eligible for other health insurance coverage; and
- have a preexisting condition.

Members of MHIP Federal receive a comprehensive benefit package similar to the package that is provided to MHIP State members. In addition, "MHIP Federal Plus" provides discounted premiums to MHIP Federal members with limited income.

Currently, approximately 1,200 individuals are enrolled in MHIP Federal. Low enrollment in the program is largely attributable to the fact that MHIP State offers broader coverage and more plan options. Furthermore, MHIP State does not have the federal program's requirement that an individual be without health insurance for at least six months prior to enrollment.

Program funding for MHIP Federal is derived from premiums paid by enrollees (nonbudgeted funds) and federal fund support. However, premiums for MHIP Federal may not exceed what is charged for comparable coverage in the commercial insurance market. Pursuant to MHIP's contract with the U.S. Department of Health and Human Services, Maryland will receive approximately $85 million in federal funding for the federal high-risk pool program during the life of the program.

Senior Prescription Drug Assistance Program

MHIP oversees the administration of State pharmaceutical assistance through SPDAP, which provides subsidies to reduce out-of-pocket costs for low- to moderate-income Medicare recipients (at or below 300% of the federal poverty level) enrolled in Medicare Part D prescription drug coverage. SPDAP is special-funded with a portion of the value of CareFirst's premium tax exemption.

The board is required to publicize SPDAP's existence and eligibility requirements through the Maryland Department of Aging (MDoA), local health departments, continuing care retirement communities, places of worship, civic organizations, and community pharmacies. In addition, MDoA must, through its Senior Health Insurance Program, assist eligible individuals in applying for coverage under the program and provide notice of the program to potentially eligible individuals who seek health insurance counseling services through the department.

Market Share and Number of Policies

MHIP is authorized to issue policies exclusively in the State. According to MHIP, the number of policies issued by MHIP has increased from 12,863 in 2008 to 20,203 in 2012 (see **Exhibit 1**). CareFirst is the State's dominant carrier, insuring the majority of individuals in the nongroup and small group markets.

Exhibit 1
Number of Policies Issued
2008-2012

Year	Policies
2008	12,863
2009	15,310
2010	17,802
2011	20,048
2012	20,203

Source: Maryland Health Insurance Plan

Federal Health Care Reform and Depopulation Efforts

ACA, as noted above, required the creation of a federal temporary high-risk pool (MHIP Federal). ACA also established a number of reforms that do not take effect until January 2014, including new insurance market rules prohibiting industry practices that have historically resulted in individuals losing or being denied coverage. For example, ACA establishes prohibitions on annual or lifetime caps; forbids the cancellation of policies for the sole reason that the insured has become sick; and prohibits exclusions based on pre-existing conditions. ACA also creates a new marketplace, known as an exchange, through which individuals can purchase health insurance.

Shortly after passage of ACA, Governor O'Malley created the Health Care Reform Coordination Council (HCRCC) to develop a plan for implementing ACA in Maryland. In the council's final report (dated January 1, 2011), it advised that, beginning January 2014, MHIP will no longer be needed as a State-run high-risk pool because, under ACA, insurance carriers will be required to enroll all individuals seeking coverage in at least a basic benefit package. Because it is anticipated that enrollees in both high-risk pools will be able to obtain insurance through the exchange, HCRCC advises that MHIP will be phased out beginning January 2014. HCRCC further advised that, depending on how Maryland chooses to implement other components of reform under ACA, changes in current nongroup underwriting practices and the elimination of the high-risk pool may increase premiums for the younger and healthier individuals currently in the individual market as higher-cost individuals from MHIP are included in the risk pool and healthy individuals no longer receive the benefit of medical underwriting.

MHIP advises that it is currently in the early stages of planning for the transition of the MHIP population into the exchange as of January 1, 2014. MHIP is coordinating these efforts with the Maryland Health Benefit Exchange.

Policy Terms

An individual may apply for MHIP coverage throughout each year. MHIP issues policies for one year only and does offer an installment payment program. An individual's coverage may be terminated for nonpayment of premium or, for a dependent child, when the dependent child reaches the limiting age found in the member's certificate of coverage. In addition, an individual's coverage may be terminated if a member ceases to be a resident of the State; moves out of the service area; performs an act or practice that constitutes fraud; makes an intentional misrepresentation of material fact in the application for coverage; obtains other coverage that is substantially similar to MHIP coverage; becomes eligible for employer-sponsored coverage that includes benefits comparable to MHIP benefits (unless the member is eligible for a specified tax credit); or becomes eligible for coverage under Medicare, the Maryland Medical Assistance Program, or the Maryland Children's Health Program.

An individual must file any initial complaints regarding an eligibility denial with MHIP's administrator. If the administrator upholds its initial denial, the individual may appeal to the board or its designee.

Regulation by the Maryland Insurance Commissioner

MHIP is generally regulated by the Insurance Commissioner. However, MHIP is not subject to the State's insurance laws except as specifically provided. MHIP is not examined by the Insurance Commissioner but is required to submit its rates to the Insurance Commissioner for approval prior to the start of each policy year. MHIP is generally subject to the same risk-based capital standards as other insurers. The Insurance Commissioner is generally prohibited from imposing a fine or administrative penalty on MHIP.

Premium Coverage and Subsidy Partners

MHIP has accepted premium payments and enrollment referrals from a number of entities, including the former Maryland AIDS Administration within the Department of Health and Mental Hygiene (DHMH), which subsidized premiums and prescription drug deductible and co-pay costs for its members; the former Center for Cancer Surveillance and Control within DHMH, which paid premiums and other costs for participants in its Breast and Cervical Cancer Diagnosis and Treatment Program; and Holy Cross Hospital in Silver Spring, Maryland, which provides partial or full premium assistance to MHIP members approved by the hospital for such assistance. In addition, several Maryland counties provide premium subsidies for MHIP enrollees in specified circumstances.

Producer Commissions

MHIP pays Maryland-licensed insurance producers $100 for every application that results in an enrollment in the plan as a direct result of a referral.

Financial Operations

Relation to the State

Although initially established as an independent unit of Maryland Insurance Administration (MIA), MHIP was reorganized as an independent State agency pursuant to Chapter 259 of 2008. A debt or obligation of MHIP is not a debt of the State or a pledge of credit of the State.

Revenues, Expenses, and Net Income

MHIP State is funded with enrollee premiums and an annual uncompensated care assessment on hospital rates, whereas MHIP Federal is funded by enrollee premiums and federal funds. **Exhibit 2** depicts MHIP's key financial data for the last five years. **Attachment 4** provides detailed financial data, including federal funds received, during the same period.

Exhibit 2
Financial Data
2008-2012
($ in Millions)

	Revenues	Expenses	Net Income
2008	$149.2	($125.3)	($23.9)
2009	185.7	(151.6)	34.1
2010	204.4	(178.8)	25.6
2011	231.2	(210.2)	21.0
2012	260.5	(262.1)	(1.6)

Source: Maryland Health Insurance Plan

MHIP is not a member of the Maryland Life and Health Guaranty Corporation.

Taxes and Fees

MHIP is exempt from the premium tax and advises that it pays no other State, federal, or other taxes.

Dissolution

HCRCC has advised that MHIP will be phased out beginning January 1, 2014. MHIP advises that it is currently in the early stages of planning for the transition of the MHIP population into the Maryland Health Benefit Exchange by that date.

Consumer Protections

MHIP is subject to the following State laws:

- Public Information Act
- Open Meetings Law
- Administrative Procedures Act
- Maryland Tort Claims Act
- Maryland Public Ethics Law
- Whistle Blower Law

Notes

Attachment 3 describes the health insurers of last resort in other states.

Appendix 3. MHIP
Attachment 1 – Legislative History

Chapter 153 of 2002

- Repealed the Substantial, Available, and Affordable Coverage Program and the Short-Term Prescription Drug Subsidy Plan.
- Established MHIP as an independent unit of the Maryland Insurance Administration (MIA) for the purpose of decreasing uncompensated care costs by providing access to affordable, comprehensive health benefits for medically uninsurable residents by July 1, 2003.
- Established a five-member Board of Directors for MHIP.
- Required the board to appoint an executive director; adopt a plan or operation; submit the plan to the Insurance Commissioner for approval; adopt regulations necessary to operate and administer the plan; establish a standard benefit package to be offered; establish premium rates (required to be from 110% to 200% of a standard risk rate); and select a third-party administrator.
- Prohibited a carrier, insurance producer, or third-party administrator from referring an individual employee to MHIP for the purpose of separating that employee from the group health insurance coverage provided through the individual's employer.
- Established the Senior Prescription Drug Program for Medicare beneficiaries whose household income is at or below 300% of the federal poverty level guidelines.
- Established the MHIP Fund for the operation and administration of both MHIP and the Senior Prescription Drug Program.
- Required the Health Services Cost Review Commission (HSCRC) to determine and collect funds necessary to operate and administer MHIP.

Chapter 1 of 2003

- Repealed the requirement for HSCRC to collect funds necessary to operate and administer MHIP and required HSCRC only to calculate the amount of funds necessary.
- Clarified that MHIP's board must collect an assessment made against hospitals in order to operate and administer MHIP.
- Allowed the board to allow the fund administrator to collect enrollee premiums, deposit premiums in a separate account (titled in the name of the State of Maryland), and pay enrollee claims from the account.
- Specified that, if monthly premiums collected by the administrator exceed monthly claims, the administrator must deposit the remaining balance (including interest) for that month into the MHIP Fund by the fifteenth of the following month.

- Clarified that the amount that the administrator must deposit into the fund for the Senior Prescription Drug Program may not exceed the value of its premium tax exemption for the previous calendar year.
- Allows the board to adjust the premium rate based on member age if the board determines that a standard risk rate would create market dislocation.

Chapter 2 of 2003

- Expanded the definition of "medically uninsurable individual" for the purposes of MHIP eligibility to include a person who is eligible for the tax credit for health insurance costs under the federal Internal Revenue Code.
- Increased the membership of MHIP's board from five to seven.
- Specified that one member must be a representative of carriers operating in the State and one must be an insurance producer selling insurance in the State.
- Required MIA to notify the Centers for Medicare and Medicaid by October 1, 2003, that the State has established MHIP and request that MHIP be approved as an acceptable "alternative mechanism" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- Required that, for those MHIP enrollees whose eligibility is subject to requirements of the federal tax credit, the MHIP board must report annually to the Governor and General Assembly on the number of members enrolled in the plan and the costs to the plan associated with enrollment.

Chapters 356 and 357 of 2003

- Established requirements for a nonprofit health service plan to be and remain exempt from premium taxation.
- Required a nonprofit health service plan to obtain a certificate of authority from the Insurance Commissioner to issue contracts in the State.
- Specified that a nonprofit health service plan's board and its individual members are fiduciaries for the benefit of the corporation and its controlled affiliates or subsidiaries that offer health benefit plans and must act in a manner that is reasonably believed to be in the furtherance of the corporation's nonprofit mission.
- Established specified limitations on nonprofit health service plan board membership, composition, and compensation.
- Specified actions by a nonprofit health service plan that must be approved by the board.

Chapter 60 of 2004

- Specified that MHIP is the alternative mechanism for eligible individuals under HIPAA.

Chapter 510 of 2004

- Allowed MHIP's board to adopt regulations to limit enrollment of otherwise eligible individuals whose premium is paid by a pharmaceutical manufacturer if the board determines that enrollment capacity is adversely impacted.
- Expanded the types of funds that can be deposited into the MHIP Fund to include donations and grant awards.
- Allowed the board to adjust the premium rate by geographical location and subsidize premiums, deductibles, and other policy expenses based on a member's income.
- Expanded the board membership from seven to nine, adding one representative of a minority-owned business and one appointed by the Office of the Attorney General.

Chapters 281 and 282 of 2005

- Renamed the Senior Prescription Drug Program as the Senior Prescription Drug Assistance Program (SPDAP) and modified benefits and eligibility requirements.
- Extended SPDAP termination date by two years to June 30, 2007.

Chapter 347 of 2005

- Required MHIP and MIA to submit a report on the effect of excluding self-employed individuals and sole proprietors from the small group market on the availability and affordability of health insurance in the small group market and the number of self-employed individuals and sole proprietors enrolled in MHIP.

Chapter 242 of 2006

- Allowed MHIP's board to charge different premiums based on the benefit package delivery system when more than one system is offered.
- Specified that, if a carrier denies coverage under a medically underwritten health plan to an individual, the carrier must provide the individual's name and address as well as the insurance producer's name and address (if available) to MHIP (subject to federal privacy laws).

Chapter 467 of 2007

- Authorized MHIP to offer members an optional endorsement to remove a preexisting condition limitation, if such a limitation is implemented.
- Specified that MHIP may charge an actuarially justified additional premium amount for the endorsement, subject to approval by the Insurance Commissioner.
- Allowed MHIP to charge different premiums based on the cost-sharing arrangements when more than one cost-sharing arrangement is offered.

Chapter 628 of 2007

- Required MHIP's board to report annually on the number of MHIP enrollees, any increase or decrease in enrollees from the previous year, actions taken by the board to increase enrollment or benefits, and the amount of any fund surplus.

Chapters 244 and 245 of 2008

- Requires HSCRC to ensure that the hospital assessment is included in the reasonable costs of each hospital when establishing hospital rates; is not considered in determining the reasonableness of rates or hospital financial performance; and is not less than the assessment that was in existence on July 1, 2007.
- Specifies that each hospital must remit one-twelfth of the MHIP portion of the assessment to the MHIP Fund each month.

Chapter 259 of 2008

- Specified that MHIP is an independent unit of State government.
- Removed the Insurance Commissioner from MHIP's board and added the Secretary of Health and Mental Hygiene and a hospital representative.
- Allowed State agency board members to have designees serve on the board.
- Repealed the board's exemption from State personnel and pensions requirements.
- Specified that MHIP is regulated by the Commissioner but is not subject to State insurance laws other than those related to MIA examinations, provider panels and provider reimbursement, continuation coverage provisions, specialist referrals, prescription drug coverage, utilization review, the complaint process for adverse decisions or grievances, private review agents, the complaint process for coverage decisions, and unfair trade practices.
- Specified that these exclusions do not limit the Commissioner's authority to impose authorized penalties on a private review agent conducting utilization review on behalf of MHIP.
- Prohibited the Commissioner from imposing a fine or administrative penalty on MHIP and specified instead that, if the Commissioner finds that MHIP has violated specified provisions, the Commissioner may require MHIP to make restitution to each claimant who has suffered actual economic damages.
- Required the board to develop a master plan document and a certificate or coverage.
- Specified requirement that must be met for the board to change the standard benefit package.

Chapters 557 and 558 of 2008

- Required CareFirst BlueCross BlueShield to provide $4.0 million to SPDAP annually if CareFirst's surplus exceeds 800% of the consolidated risk-based capital for the preceding calendar year.

- Specified that these funds must be used to subsidize the Medicare Part D coverage gap.
- Extended SPDAP's termination date by one year to December 31, 2010.

Chapter 166 of 2010

- Authorized MHIP's board to establish a plan option for members whose premiums are paid by a governmental unit.
- Authorized the board to, in setting premium rates and cost-sharing arrangements for this plan option, include amounts to limit cost shifting from another governmental unit to the plan as long as they are not set at a level that would make it cost prohibitive for the governmental unit.
- Authorized the board to limit plan option eligibility and limit or eliminate any premium subsidy based on income for a member whose premiums are paid by a governmental unit.

Chapter 173 of 2010

- Authorized MHIP's board to elect for MHIP to administer a national temporary high-risk pool program for the State and enter into any necessary administration agreements.
- Authorized the board to limit enrollment based on the amount of federal funding available to the program and to establish a separate benefit package delivery system and premium rate for enrollees according to standards for benefit packages and premium rates established under federal law for the program.

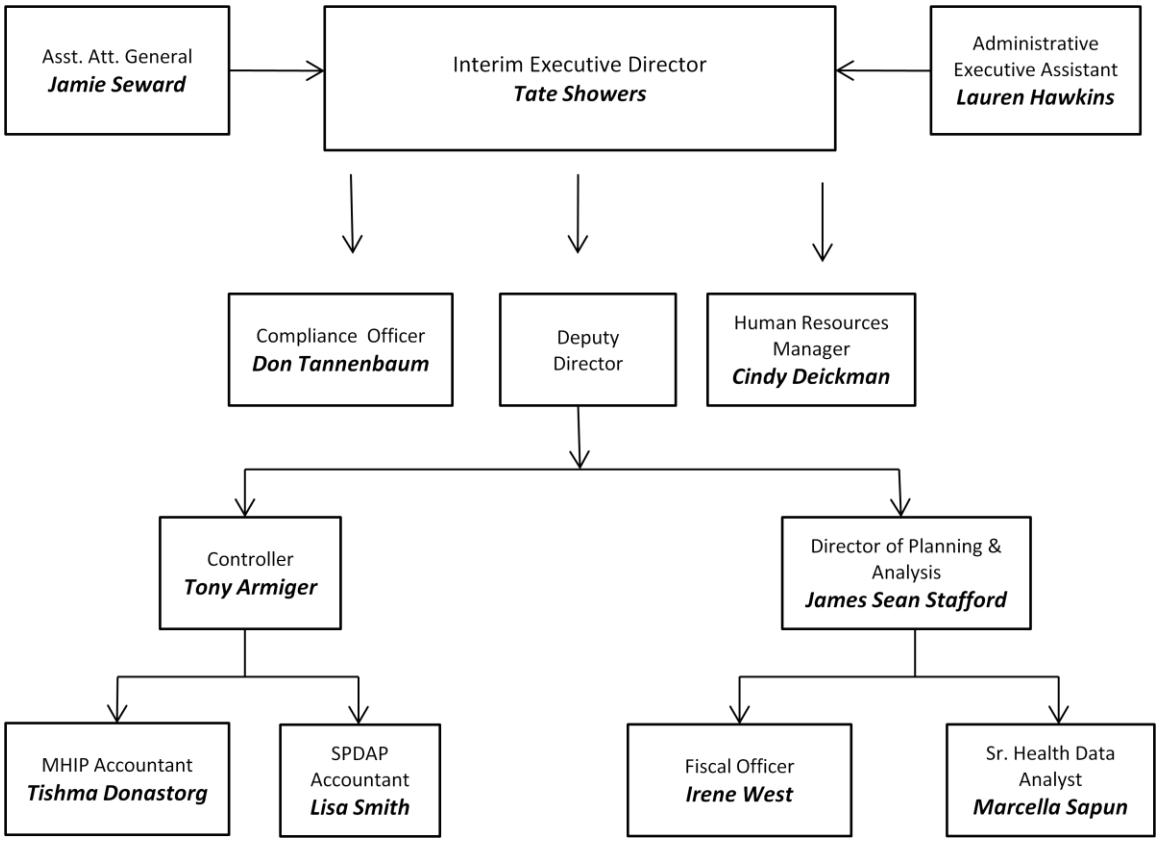
Chapter 1 of 2012 (First Special Session)

- Authorized the Governor to transfer additional funding from SPDAP to the Kidney Disease Program and to the Maryland Medical Assistance Program in fiscal 2013.

Chapter 408 of 2012

- Created the Task Force to Study Maryland Insurance of Last Resort Programs.

Appendix 3. MHIP
Attachment 2 – Organizational Chart



Appendix 3. MHIP
Attachment 3 – Health Insurers of Last Resort in Other States

Most states have established high-risk health insurance pools in an effort to expand access to health insurance coverage. These programs target individuals who are unable to obtain or afford health insurance in the private market (primarily because of preexisting health conditions). Many states also use their high-risk pools to comply with the portability and guaranteed availability provisions of the Health Insurance Portability and Accountability Act of 1996. State-run high-risk pools are generally small and enroll a small percentage of a state's uninsured. In 2008, approximately 200,000 individuals were enrolled in 34 high-risk pools.

Typically, state-established nonprofits run these pools and private insurance companies handle daily operations. Although benefit packages vary among states and plans, they generally reflect health benefits that are available in the private insurance market. Most high-risk pools cap premiums at 150% to 200% of market rates. In general, high-risk pools are subsidized through insurer assessments and other funding mechanisms.

The Patient Protection and Affordable Care Act of 2010 (ACA) required the Secretary of Health and Human Services to establish a temporary high-risk pool program to provide health insurance coverage to eligible individuals who have a preexisting medical condition and have been uninsured for at least six months. This high-risk pool provides temporary coverage until the ACA's broader coverage provisions take effect in January 2014. States can choose to either operate their own high-risk pools or have the federal government carry out their programs.

The chart that begins on the following page depicts, for each state, whether a state-funded high-risk pool is offered, and whether the state also administers the federal high-risk pool. The chart also shows the size of each high-risk pool and the date that coverage began.

	Federally Funded High-risk Pool Established by The Affordable Care Act					State-funded High-risk Pools		
State	State Runs Federal Pool? (as of June 2012)	Date Coverage Began (in 2010)	No. Enrolled (as of December 31, 2011)	No. Enrolled (as of April 30, 2012)	Federal Fund Allocation $ millions (2010-13)	State-only High-risk Pool Enrollment December 31, 2010	Year State Began	Annual Total Expenses $ millions (2010)
Alabama	No	8/1/2010	340	466	$69	2,139	1998	$21.1
Alaska	Yes	9/1/2010	44	45	13	524	1993	11.7
Arizona	No	8/1/2010	1,783	2748	129	X		
Arkansas	Yes	9/1/2010	404	574	46	2,865	1996	26.6
California	Yes	10/25/2010	5,599	8662	761	6,953	1991	61.1
Colorado	Yes	9/1/2010	1,054	1227	90	12,732	1991	120.8
Connecticut	Yes	9/1/2010	163	322	50	1,870	1976	33.3
Delaware	No	8/1/2010	153	217	13	X		
Florida	No	8/1/2010	3,736	5918	351	235	1983	2.9
Georgia	No	8/1/2010	1,476	2066	177	X		
Hawaii	No	8/1/2010	78	107	16	X		
Idaho	No	8/1/2010	316	590	24	1,565	2001	11.5
Illinois	Yes	9/1/2010	1,962	2384	196	18,098	1989	193.7
Indiana	No	8/1/2010	678	1092	93	7,327	1982	125.3
Iowa	Yes	9/1/2010	238	290	35	3,154	1987	35.9
Kansas	Yes	8/1/2010	301	394	36	1,671	1993	26.8
Kentucky	No	8/1/2010	435	727	63	4,837	2001	64.2
Louisiana	No	8/1/2010	377	795	71	1,639	1992	17.1
Maine	Yes	8/1/2010	30	41	17	X		
Maryland	Yes	9/1/2010	741	959	85	19,944	2003	179.9

	Federally Funded High-risk Pool Established by The Affordable Care Act					State-funded High-risk Pools		
State	**State Runs Federal Pool? (as of June 2012)**	**Date Coverage Began (in 2010)**	**No. Enrolled (as of December 31, 2011)**	**No. Enrolled (as of April 30, 2012)**	**Federal Fund Allocation $ millions (2010-13)**	**State-only High-risk Pool Enrollment December 31, 2010**	**Year State Began**	**Annual Total Expenses $ millions (2010)**
Massachusetts *	No	8/1/2010	5	17	77		X	
Michigan	Yes	10/1/2010	789	1263	141		X	
Minnesota	No	8/1/2010	244	424	68	27,073	1976	273.6
Mississippi	No	8/1/2010	163	260	47	3,514	1992	31.2
Missouri	Yes	8/15/2010	1,031	1367	81	4,046	1991	43.2
Montana	Yes	8/1/2010	280	317	16	2,953	1987	24.8
Nebraska	No	8/1/2010	174	266	23	4,570	1986	54.3
Nevada	No	8/1/2010	579	827	61		X	
New Hampshire	Yes	7/1/2010	306	447	20	1,573	2002	13.7
New Jersey	Yes	8/15/2010	794	946	141		X	
New Mexico	Yes	8/1/2010	805	1059	37	8,429	1988	110.8
New York	Yes	10/1/2010	2,632	3320	297		X	
North Carolina	Yes	8/1/2010	2,889	3907	145	4,846	2009	26.4
North Dakota	No	8/1/2010	32	61	8	1,462	1982	12.4
Ohio	Yes	9/1/2010	2,137	2598	152		X	
Oklahoma	Yes	9/1/2010	576	731	60	2,175	1996	29.1
Oregon	Yes	8/1/2010	1,187	1344	66	13,618	1990	174.2
Pennsylvania	Yes	10/1/2010	4,567	5355	160		X	
Rhode Island	Yes	9/15/2010	136	166	13		X	
South Carolina	No	8/1/2010	948	1291	74	2,256	1990	31
South Dakota	Yes	7/15/2010	153	176	11	645	2003	6.6

	Federally Funded High-risk Pool Established by The Affordable Care Act					State-funded High-risk Pools		
State	**State Runs Federal Pool? (as of June 2012)**	**Date Coverage Began (in 2010)**	**No. Enrolled (as of December 31, 2011)**	**No. Enrolled (as of April 30, 2012)**	**Federal Fund Allocation $ millions (2010-13)**	**State-only High-risk Pool Enrollment December 31, 2010**	**Year State Began**	**Annual Total Expenses $ millions (2010)**
Tennessee	No	8/1/2010	878	1191	97	3,973	2007	42.7
Texas	No	8/1/2010	4,029	5684	493	26,431	1998	316.7
Utah	Yes	9/1/2010	696	839	40	4,158	1991	35
Vermont *	No	9/1/2010	0	2	8	X		
Virginia	No	8/1/2010	982	1498	113	X		
Washington	Yes	9/1/2010	708	782	102	3,923	1988	82.2
West Virginia	No	9/1/2010	76	113	27	884	2005	4.7
Wisconsin	Yes	8/1/2010	1,000	1373	73	18,965	1981	162.8
Wyoming	No	8/1/2010	137	185	8	829	1991	9.8
DISTRICT OF COLUMBIA	No	10/1/2010	38	49	9	X		
Nationwide	**Yes = 27**		**Total 48,879** Dec. 31, 2011	**Total 67,482** April 30, 2012	**$5,000**	**221,879**		**$2,418.4**

*Massachusetts and Vermont are guaranteed issue states that have already implemented many of the broader market reforms included in the Affordable Care Act.

Source: National Conference of State Legislatures

Appendix 3. MHIP
Attachment 4 – Financial Data

Fiscal 2008-2012

Fiscal Year		2012	2011	2010	2009	2008
MHIP	Medical Loss Ratio	2.25	2.07	2.35	2.42	2.51
MHIP	Admin Fees	$10,467,075.00	$10,107,592.00	$ 8,819,715.56	$ 7,513,779.65	$ 6,061,403.00
MHIP	Other Admin Expenses	$ 2,347,912.56	$ 2,561,004.63	$ 2,148,443.00	$ 1,527,481.00	$ 1,435,152.00
SPDAP	Admin Fees	$ 1,991,614.00	$ 1,663,795.00	$ 2,073,860.00	$ 2,375,451.00	$ 2,077,010.00
SPDAP[1]	Other Admin Expenses	$ 479,303.00	$ 824,296.00	$ 1,299,260.00	$ 694,170.00	$ 593,598.00
Total	Admin Fees	$12,458,689.00	$11,771,387.00	$10,893,575.56	$ 9,889,230.65	$ 8,138,413.00
Total	Other Admin Expenses	$ 2,827,215.56	$ 3,385,300.63	$ 3,447,703.00	$ 2,221,651.00	$ 2,028,750.00
	Total All Expenses	$15,285,904.56	$15,156,687.63	$14,341,278.56	$12,110,881.65	$10,167,163.00
MHIP-Regular	Federal Grant Revenue	$ 2,454,495.00	$ 2,856,550.00	$ 3,133,656.00	$ 3,206,725.00	$ 1,476,233.00
MHIP-Federal	Federal PCIP[2] Revenue	$13,747,104.00	$ 3,764,824.00	$ -	$ -	$ -
	Total ALL MHIP	$16,201,599.00	$ 6,621,374.00	$ 3,133,656.00	$ 3,206,725.00	$ 1,476,233.00

[1] Senior Prescription Drug Assistance Plan.
[2] PCIP (Pre-Existing Condition Insurance Plan) funds began September 2010.
Source: Maryland Health Insurance Plan

Appendix 4. Insurers of Last Resort Comparison

Revised 9/1/13

	IWIF/CEIC	MAIF	JIA	MHIP
Purpose	Workers' compensation insurer of last resort for Maryland businesses	Automobile insurer of last resort for Maryland residents	Property insurer of last resort for Maryland residents and businesses	Health insurer of last resort for Maryland residents
State Agency	Injured Workers' Insurance Fund (IWIF) – State agency (independent) Chesapeake Employers' Insurance company (CEIC) – private, nonprofit, nonstock	State agency (independent)	No, unincorporated association, nonprofit	Original – operated within Maryland Insurance Association (MIA) Now – State entity (independent)
History of Creation and Development of Structure				
Year Created	IWIF– Created by General Assembly in 1914 CEIC – Effective October 1, 2013	Created by General Assembly in 1972	Created by General Assembly in 1969	Created by General Assembly in 2002; became an independent entity in 2008
Codified	Title 10, Subtitle 1, Labor and Employment Article Title 24, Subtitle 3, Insurance Article Section 21 – 307(p), State Personnel and Pensions Article	Title 20, Insurance Article	Title 25, Subtitle 4, Insurance Article	Title 14, Subtitle 5, Insurance Article

	IWIF/CEIC	MAIF	JIA	MHIP
Headquarters	Towson	Annapolis	Baltimore County (Lutherville)	Baltimore
Governing Body Structure	9-member board of directors, all appointed by the Governor with advice and consent of the Senate	Until 10/1/13: 13-member board of trustees; 7 appointed by the Governor with the advice and consent of the Senate; 5 chosen by the Board of Directors of the Industry Automobile Insurance Association; and 1 member is executive director On and after 10/1/13 under Chapters 73 and 74 of 2013: 9-member board of trustees; all appointed by the Governor with advice and consent of Senate; at least 3 with insurance industry expertise (at least 1 appointed from a list of 2 or more individuals recommended by the Board of Directors) and at least 2 with financial management expertise; all shall be residents of the State; Governor to consider geographic and demographic diversity of the State	9-member Governing Committee subject to limited regulation by MIA Governing Committee elects from its number a chairman and a vice chairman and appoints a secretary	10-member board of directors, including executive directors of Maryland Health Care Commission (MHCC) and Health Services Cost Review Commission (HSCRC); Secretaries of Department of Budget and Management (DBM) and Department of Health and Mental Hygiene (DHMH); 2 appointed by Office of the Attorney General (OAG) to represent consumers; 1 appointed by the Insurance Commissioner to represent carriers; 1 appointed by the Insurance Commissioner to represent producers; 1 appointed by the Governor to represent minority-owned businesses; and 1 appointed by the Governor to represent hospitals

	IWIF/CEIC	MAIF	JIA	MHIP
Governing Body Term Limits	5-year term; may serve 2 full terms or a total of 10 years	Until 10/1/13: 4-year term On and after 10/1/13 under Chapters 73 and 74 of 2013: 5-year term; may serve 2 full terms or a total of 10 years		
Governing Body Compensation	Board members are entitled to salary provided in the budget of the board and reimbursement for reasonable expenses (1) incurred in the performance of duties and (2) as provided in the budget of the board	Until 10/1/13: Board members receive a $100 per diem On and after 10/1/13 under Chapters 73 and 74 of 2013: Entitled to reasonable compensation in the form of salary for work performed for the benefit of MAIF as provided in the budget of board; and reimbursement for expenses as provided in the budget of the board	Board members are entitled to reimbursement for expenses	Board members are entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State budget
Executive Director/ President	IWIF – Board appoints a president CEIC – President of IWIF will become president of CEIC	Until 10/1/13: Board appoints executive director with approval of the Governor On and after 10/1/13 under Chapters 73 and 74 of 2013: Board appoints executive director without approval of the Governor	General manager appointed by the Governing Committee	Board appoints executive director

	IWIF/CEIC	MAIF	JIA	MHIP
State Employees	IWIF – State employees CEIC – New employees hired after October 1, 2013, are not State employees	Yes	No	Yes
Current Number of Employees	377	246 (as of September 2013)	7	11 (an additional position is currently vacant)
Employees under State Personnel and Pension System	IWIF – Yes CEIC – No	Personnel System: Until 7/1/13: Yes On and after 7/1/13 under Chapters 73 and 74 of 2013: No – except 12 skilled service employees hired before 7/1/13 remain in the system Pension System: Yes	No	Yes
Employee Position of Breakout	Report to Board of Directors – 12 Report to chief executive officer (general counsel, compliance, etc.) – 16 Report to chief administrative officer/chief financial officer (finance, marketing, etc) – 154 Report to chief operating officer (claims) – 195	Executive – 12 Administration/ Executive – 21 Claims – 112 Fiscal, counsel, human resources – 44 Information systems – 32 Policy services and producer relations – 13 Underwriting (claims) – 12	Executive – 1 Report to the general Manager – 1 Clerical and customer service – 3 Underwriters (claims) – 2	Executive – 1 Fiscal, counsel, human resources – 6 Planning – 1 Data – 1 Compliance – 1 Clerical – 1

	IWIF/CEIC	MAIF	JIA	MHIP
Attorney General Representation	No	Until 10/1/13: Yes On and after 10/1/13 under Chapters 73 and 74 of 2013: No	No	Yes
Insurance Coverage				
Types of Insurance Coverage	Provide workers' compensation insurance to Maryland businesses	Insured Division – Provides auto insurance to Maryland residents declined by private insurers; and Uninsured Division – Administers and pays claims to Maryland residents involved in accidents in Maryland with uninsured or unknown motorists	Provides essential property insurance and homeowners' insurance for Maryland residents and businesses	Provides access to affordable, comprehensive health benefits for medically uninsurable Maryland residents
Insurer Members	None	None	Mandatory members: insurers licensed to write in the State, on a direct basis, essential property insurance or any component thereof in multi-peril policies	None
Competitive Insurer	Yes	No	No	No

	IWIF/CEIC	MAIF	JIA	MHIP
Current Market Share	23.1% as of 2011	2.05% as of 2011	.10% as of 2011	Maryland Health Insurance Plan (MHIP) was unable to provide this information
Current Number of Policies Issued	21,945	64,045 policies issued in 2012	2,156 total (as of 9/30/2012) Homeowners (1,165) Dwelling Fire Property (906) Commercial Property (85)	20,203
Policyholder Eligibility Requirements	Employers must be based in Maryland	May obtain insurance with MAIF only if has attempted in good faith to obtain a policy from at least 2 association members and has been rejected or refused for any reason other than nonpayment of premium	Property must be located within the State	Policyholder must be resident of the State MHIP Federal – Policyholder must have been without health insurance continuously for 6 months
Depopulation Efforts	None	An insurer may not refuse to issue a policy to any person who has been insured by MAIF, has not had a moving traffic violation, and has not had a chargeable traffic accident in the past 3 years	Provides incentives for the placement of risks in the voluntary market and encourages depopulation of insureds in Joint Insurance Assocation (JIA) by producers and insurers	Planning for transition of MHIP population into the MD Health Benefit Exchange as of January 1, 2014
Sells Exclusively in Maryland	Yes	Yes	Yes	Yes

	IWIF/CEIC	MAIF	JIA	MHIP
Offers Installment Plan	Yes	Until 7/1/2013: No On and after 7/1/13 under Chapter 334 of 2013: Yes (12 – month policy – 25% down and 6 installments for premiums less than $3,000; and 20% down and 8 installments for premiums of $3,000 or more)	May be in 3 installments, subject to a $10 service charge on second and third payments (approximately 23% of policies are paid in installments)	Yes
Policy Terms	No limitation	No limitation Only 12-month policies can have an installment plan option	Only 12-month policies (some exceptions); do not automatically renew (need to reapply)	Only 12-month policies
General Regulation/ Oversight by MIA	Yes, except for rates	Yes	Yes	Yes, but subject to State insurance laws only to the extent specified in statute
MIA Financial and Market Conduct Examinations	Yes	Yes	Yes	Not examined by MIA

	IWIF/CEIC	MAIF	JIA	MHIP
Ratemaking Process	Set and approved by the board and reviewed by MIA every 5 years; MIA recommended on 10/1/12, that CEIC should be subject to Title 11 of the Insurance Article (member of National Council on Compensation Insurance (NCCI)	Yes, MAIF is only auto insurer in the State that requires prior approval. All other auto insurers file and use	Insurance to be provided, at the most reasonable cost possible, provided that insurance pricing is actuarially self-supporting and does not actively compete with insurance pricing in the voluntary market; approval required by MIA	MHIP Federal – premiums may not exceed what is charged for comparable coverage in commercial market; MHIP State – standard plan premiums must be 110% to 150% above individual market rates for comparable underwritten coverage; Approval required by MIA
Subject to Risk-based Capital Standards	IWIF – Subject to RBC standards CEIC – Required to repay State for its investment in IWIF to the extent that certain risk-based capital (RBC) standards are met	No	No	Yes, same as other insurers; but CareFirst must transfer $4 million to Senior Prescription Drug Assistance Program (SPDAP) if its surplus exceeds 800% of the applicable risk-based capital requirements [Ins. Art. sec. 14-106.2(b)]
Member of a Guaranty Corporation	Yes (Property and Casualty Insurance Guaranty Corporation)	Yes (Property and Casualty Insurance Guaranty Corporation)	No	No
Subject to Legislative Audits	No	Until 10/1/13: Yes On and after 10/1/13 under Chapters 73 and 74 of 2013: No, internal auditor handles	No	Yes

	IWIF/CEIC	MAIF	JIA	MHIP
Others Involved	Producers	Premium Finance Companies Producers	Producers (that represent consumers; JIA does not have producers that represent JIA) (approximately 54% of policies are written through producers)	Third-party Administrator (CareFirst)
Marketing Distribution Channels	Producers Direct	Producers	Producers (that represent consumers; JIA does not have producers that represent JIA) Direct	Direct CareFirst
Producer Commissions	None specified – like other authorized insurers, determines commission rates based on market competition	May not exceed 15% or be less than 10%	May not exceed 12% of the policy premium for essential property insurance and 12% on homeowner's insurance	MHIP will pay a producer $100 for every application referral that results in an enrollment
Financial Operations				
Net Income	$17.6 million for 2011	Uninsured Division: ($0.1 million) for 2012; Insured Division: ($9.6 million) for 2012	($1.1 million) for 2012	($1.6 million) as of 2012
State's Investment and Relation to the State	IWIF – State has ability to take surplus CEIC – State has no interest	MAIF's account is not part of the State Treasury. Debts and obligations of MAIF are not a debt of the State or a pledge of credit of the State	Debts and obligations of JIA are not a debt of the State or a pledge of credit of the State. Monies of JIA are not part of the general fund	State has ability to take surplus. A debt or obligation of MHIP is not a debt or pledge of credit of the State

	IWIF/CEIC	MAIF	JIA	MHIP
Budget Appropriation and Other State Revenue	No (self-supporting) Provided funds to the general fund: (1) $6 million which includes $2.2 million of premium tax liability for 2011; and (2) $50 million (based on Chapter 570 of 2012 which includes $44.5 million in fair value of net benefits received by IWIF) payable in 2012/2013	No (self-supporting). State may not provide general fund appropriations to MAIF Provided funds from Uninsured Division to the general fund 3 times in the last decade with the latest being $4 million in 2011	No (self-supporting and may assess members). State may not provide general fund appropriations to JIA Has not provided funds to the general fund	MHIP Federal – funded by premiums and federal funds MHIP State – funded by premiums and hospital assessments Has not provided funds to the general fund
Deficit Assessment	No assessment allowed	Assess other auto insurers; auto insurers may recover through surcharge to policyholders	Assess member insurers; member insurers may recover through surcharge to policyholders with notification to MIA commissioner	MHIP State – funded in part by annual uncompensated care assessment on hospital rates

	IWIF/CEIC	MAIF	JIA	MHIP
State and Other Taxes and Fees	IWIF – Premium Tax Workers' Compensation Commission assessment fee Property and Casualty Insurance Guaranty Fund member fee (Not Maryland sales and excise tax, or property and transfer tax) CEIC – Same payments as above and also: Maryland sales and excise tax Property and transfer tax	Premium Tax Payroll Tax MIA Property and Casualty Assessment Fees MIA financial and market conduct exams fees	Premium Tax Payroll Tax Personal Property Tax Maryland Sales and Use Tax	Exempt from premium tax [Ins. Art. sec. 6-101(b)(1)]
Federal Taxes and Fees	IWIF – No CEIC – No	No	Payroll Tax	No
Dissolution	IWIF – Dissolved if General Assembly repealed Title 10 of Labor and Employment Article CEIC – Assets and liabilities irrevocably transferred to CEIC on10/1/13; CEIC may not be converted to a mutual or stock company, sold, or dissolved	Law does not provide for dissolution	Law does not provide for dissolution	Will be phased out beginning January 2014 due to federal health care reform

Subject to Public Information Act[1]	IWIF – Yes CEIC – No	Yes	No	Yes
Subject to Open Meetings Law[2]	No	Yes	No	Yes
Subject to Administrative Procedures Act[3]	IWIF – Yes, but only Access to Public Records CEIC – No	Until 10/1/13: No (but not specified under MAIF's statute) On and after 10/1/13 under Chapters 73 and 74 of 2013: No	No	Yes
Subject to Maryland Tort Claims Act[4]	IWIF – Yes CEIC – No	Yes	No	Yes
Subject to Maryland Public Ethics Law[5]	IWIF – Yes CEIC – No	Yes	No	Yes

[1] Title 10, Subtitle 6, Part III, State Government Article
[2] Title 10, Subtitle 5, State Government Article
[3] Title 10, Subtitle 2, State Government Article
[4] Title 12, State Government Article
[5] Title 15, State Government Article

Subject to Whistle Blower Law[6]	IWIF – Yes CEIC – No	Yes	No	Yes
Subject to State Procurement Law[7]	IWIF – No CEIC – No	Until 10/1/13: Yes for real estate procurement only On and after 10/1/13 under Chapters 73 and 74 of 2013: No for all procurement	No	No

[6] Title 5, Subtitle 3, State Personnel and Pensions Article
[7] Title 11, Subtitle 2, State Finance and Procurement Article

Appendix 5.
MIA Regulatory Authority:
Presentation – December 13, 2012

MARYLAND
INSURANCE ADMINISTRATION

Presentation to the Task Force to Study Maryland Insurance of Last Resort Programs

MIA Regulatory Authority

Therese M. Goldsmith
Maryland Insurance Commissioner
December 13, 2012

Maryland Insurance Administration (MIA) Overview

- Independent unit of State government
- Regulates all lines of Maryland's $28 billion insurance industry
- Protects consumers through oversight of insurers, producers, and other regulated individuals and entities

Major Areas of Regulatory Activity

- Company and producer licensing
- Financial examinations and analyses
- Policy form approval
- Rate review and/or approval
- Market conduct examinations
- Consumer complaint investigations
- Consumer education and advocacy
- Fraud investigations
- Tax and fee collection

MIA Financial Solvency Regulation

- Financial Surveillance
  - Periodic on-site examinations
  - Ongoing financial analyses
- Early detection of potential financial issues to help prevent the need to initiate rehabilitation or liquidation proceedings
- Financial exams of domestic insurance companies at least once every 5 years
- Review of annual and quarterly financial statements required to be filed by domestic insurers with the MIA

Rate and Form Filings

- Policy Forms and Endorsements
  - Prior approval for all lines of insurance
- Rates
  - Life and health insurance products: Prior approval
  - Property and casualty products: Generally, file and use (competitive rating)
    - Prior approval required for surety, title, medical professional liability, MAIF, and JIA
  - Rates may not be excessive, inadequate, or unfairly discriminatory

Compliance and Enforcement

- Examine the market practices of insurers and producers to ensure compliance with Maryland insurance laws and regulations
- Provide market surveillance to protect consumers

MIA Regulatory Authority Over Maryland Automobile Insurance Fund (MAIF)

Subject to MIA Authority	MIA Function
	Certificate of authority
✓	Financial examinations
✓	Form approval
N/A	Competitive rating
✓	Prior approval of rates
✓	License insurance producers
✓	Market conduct examinations
✓	Complaint investigations
✓	Premium tax collection

MIA Regulatory Authority Over Joint Insurance Association (JIA)

Subject to MIA Authority	MIA Function
	Certificate of authority
✓	Financial examinations
✓	Form approval
N/A	Competitive rating
✓	Prior approval of rates
✓	License insurance producers*
✓	Market conduct examinations
✓	Complaint investigations
✓	Premium tax collection

* An applicant for insurance may also purchase directly from the JIA.

MIA Regulatory Authority Over Injured Workers' Insurance Fund (IWIF)

Subject to MIA Authority	MIA Function
	Certificate of authority
✓	Financial examinations
	Form approval
	Prior approval of pure loss costs in rating
✓	License insurance producers
✓	Market conduct examinations
✓	Complaint investigations*
✓	Premium tax collection

* Complaints regarding claims are handled by the Workers' Compensation Commission.

MIA Regulatory Authority Over Maryland Health Insurance Plan (MHIP)

Subject to MIA Authority	MIA Function
	Certificate of authority
✓	Financial examinations
	Form approval
✓	Rate approval
✓	License insurance producers*
✓	Market conduct examinations
✓	Complaint investigations, including appeals and grievance process
	Premium tax collection

* An applicant for insurance may also purchase directly from MHIP.

Appendix 6.
Operational Differences Between MAIF and IWIF: Memorandum from MAIF – December 10, 2012

Maryland Automobile Insurance Fund
Mark D. McCurdy
Director of Governmental and Policy Administration
1750 Forest Drive
Annapolis, MD 21401-4294
Phone: 410-269-8626 Fax: 410-269-4344
mmccurdy@emaif.com

December 10, 2012

MEMORANDUM

TO: Members of the Task Force to Study Maryland Insurance of Last Resort Programs

FROM: Mark D. McCurdy

RE: Operational Differences between MAIF and IWIF

At the close of the November 7, 2012 meeting, MAIF and the other entities were invited to inform the Task Force of any operational changes that could be implemented by legislation in the upcoming session. After the request, MAIF carefully compared its operations to the current IWIF model and determined twelve significant differences between MAIF and the Injured Workers' Insurance Fund.

This was not a surprise, IWIF legislatively evolved over the last thirty years while MAIF, with a few exceptions, remained static since its 1972 creation. Of course, significant changes that transcend operational issues were also apparent, but such areas are, perhaps, beyond the Co-Chairs' request for potential 2013 legislative consideration.

The twelve items detailed below, then, constitute potential steps in modernizing MAIF's operations. Each is consistent with the Task Force's ultimate charge to decide if MAIF should be converted "to a statutorily created private, non-profit, and non-stock insurer for automobile and other forms of insurance" (Task Force charge 10). Operational changes aligning MAIF and IWIF practices are also necessary and consistent with another Task Force charge as it relates to "potential benefits to the State from the affiliation of one or more of the State-created insurers of last resort."

The following list tracks staff's well-done Insurer of Last Resort Comparison chart, and a highlighted version is attached to aid the discussion.

Governing Body Structure

Unlike IWIF's Board members, who are all appointed by the Governor with the advice and consent of the Senate, MAIF's Board is a public/private partnership. Seven of the thirteen Board members are appointed by the Governor, with five chosen by the Board of Directors of the Industry Automobile Insurance Association (the thirteenth member is the Executive Director). The Industry representatives were placed on the Board in the late 1970's at a time when MAIF began assessing the private automobile insurance industry for its operating deficits. There has been no assessment since 1989.

Governing Body Compensation

As the November briefing highlighted, MAIF's Board members are not entitled to any salary. The seven members appointed by the Governor receive only the state mandated $100 per diem meeting rate, plus expenses. This level of payment has made MAIF a low priority Board for applications, and MAIF often struggled to obtain a quorum at Board of Trustee meetings. Allowing Board members to be paid at a level more commensurate with the IWIF's Board will make the MAIF Board a more attractive appointment, hopefully increase quorums at MAIF, and harmonize the two Boards structures.

Executive Director/President

IWIF's Board appoints its President. MAIF's Board can only appoint its Executive Director "with the approval of the Governor."

State Employees

This is a more nuanced topic then the chart can capture, but on a macro level a simple one. A significant difference between MAIF and IWIF is the nature of state control over the employee work force. Both MAIF and IWIF pay for and participate in the state mandated health plan and retirement system (this will change for Chesapeake Employers Insurance Company employees). Unlike IWIF, however, MAIF employees are subject to the broad dictates of the State Personnel Management System ("SPMS"). This is a far more extensive entanglement than IWIF has to deal with, and yields odd consequences. The example discussed at the last meeting detailed how MAIF, like all of state government, was ordered closed during hurricane Sandy. This was unfortunate because MAIF services were needed, but the broad inclusion of MAIF employees in the SPMS offered no choice.

Attorney General Representation

IWIF, as noted at the November briefing, is no longer represented by the Attorney General's Office. MAIF, however, was not subject to that law change and is still represented exclusively by the Attorney General's Office. This is an awkward situation in that MAIF pays for the position, but cannot dictate who is in it, and whether or not any changes are necessary. From an institutional standpoint, the Maryland Insurance Administration is also represented by Assistant Attorney Generals. When MAIF conflicts with its regulator, the office represents both sides in the dispute.

Policyholder Eligibility Requirements

In order to obtain a MAIF policy, an applicant must have been turned down by two private insurers or cancelled by one other insurer. There is no such requirement with IWIF, and in this time of an exploding uninsured driving population, MAIF believes this antiquated barrier to entry should be removed.

Automobile insurance today, unlike in 1972, is price sensitive and widely available from well-known sources. Indeed, as the Maryland Insurance Administration's Comparison Guide to

Rates establishes, a majority of carriers rates well below the MAIF rate in every jurisdiction and under virtually every age and demographic circumstance imaginable. Consumers with driving records that warrant private insurance consideration will not be coming to MAIF. Forcing MAIF applicants to seek and be turned down by these carriers imposes, in certain circumstances, the untenable result of someone who wants to obtain insurance not being able to obtain it solely because they have not yet gone through the ritual of being turned down by two other carriers or cancelled by one.

Offers Installment Plans

As made clear at the November meeting, only MAIF is restricted by law from creating an installment plan. However, removal of this prohibition has proven to be a controversial issue in the past.

Ratemaking Process

MAIF and IWIF vary tremendously on the timing related to the Insurance Administration's review of proposed rate changes. As the chart notes, "MAIF is the only auto insurer in the State that requires prior approval" before altering its rates.

Every automobile insurer has its rates reviewed by the Maryland Insurance Administration. In the auto insurance market, insurer's rates are reviewed after implementation, on what is known as a "file and use" basis. This smooth system allows insurers to pick a firm date for rate changes, allowing accurate quotes for future policies. MAIF, by state law, is required to receive prior MIA approval before changing rates. This is the result of a legislative anomaly dating back to a request by MAIF in the mid-1990's.

Subject to Legislative Audits

In the November meeting, IWIF noted that it was, like MAIF, subject to Maryland Insurance Administration regulatory reviews, internal audits, and a yearly requirement of filing a financial statement with the Insurance Administration. Because of these reviews, IWIF was able to end the practice of also being reviewed by the Office of Legislative Audits ("OLA").

MAIF, unlike IWIF, is still reviewed by the OLA. The most recent legislative audit of MAIF was utterly unremarkable. MAIF's position is that it is best audited by the Insurance Administration, and should not be subject to legislative audits.

Deficit Assessment

Unique to MAIF is its ability to assess automobile insurers for its losses. Those insurers historically recovered all the funds paid to MAIF via a surcharge on their policyholders. This assessment mechanism has not been used since 1989.

Subject to Open Meetings Law

IWIF, reflecting its primary role as an insurer, is not subject to the Open Meetings law. CEIC will not be subject to the Public Information Act. MAIF is still subject to both.

Procurement

While not mentioned under the chart, MAIF is subject to State procurement regulations for real estate, but not for other (Division II) procurement for normal supplies. IWIF is not subject to State procurement regulations in either area. This becomes important when MAIF seeks to rent property for Drive by Claim Centers, or if MAIF should downsize its headquarters. MAIF should be exempt from all State procurement regulations, not just the Division II procurement.

MAIF is prepared to walk through these changes, explain the history behind the provisions, and the answer any questions at the December meeting.

MDM

MDM/sel

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Appendix 7.
IWIF Operational Letter – January 24, 2013

IWIF Workers' Compensation Insurance
8722 Loch Raven Blvd. Towson, MD 21286
(410) 494-2265 Fax (410) 494-2001
Dcarroll@iwif.com

January 24, 2013

Honorable Thomas McLain (Mac) Middleton
Senator
Miller Senate Office Building, 3 East Wing
11 Bladen Street
Annapolis, MD 21401

Honorable David D. Rudolph
Delegate
House Office Building, Room 231
6 Bladen Street
Annapolis, MD 21401

Dear Senator Middleton and Delegate Rudolph:

Unfortunately, I will not be able to attend the January 28, 2013 meeting of the Task Force to Study Maryland Insurance of Last Resort Programs. Carmine D'Alessandro, Vice President of the legal department and Pillar Klemans, lawyer in my office, will both be in attendance and will be available to answer any questions that may arise about IWIF.

Since I cannot be there, I would like to express my support for the various potential MAIF related legislation changes that have been discussed. Like MAIF, IWIF was once subject to the full array of governmental laws and regulations including personnel, procurement, open meetings, Attorney General representation, legislative audits and other similar statutes that apply generally to government agencies. These laws are obviously necessary to regulate the activities of government agencies and to ensure that tax dollars are dispensed in accordance with law. However, these types of statutes are often not compatible with running an insurance company, especially when there is no tax dollars involved.

IWIF's effectiveness and efficiency dramatically improved during the last 15 - 20 years. These improvements were enabled by the Legislature when it enacted legislation that:

1. removed IWIF from state personnel, procurement and budget laws [Chapter 463, 1989];
2. allowed IWIF to hire employees as unclassified employees, not subject to the State merit system [Chapter 71, 1990]
3. allowed IWIF to retain its' own lawyers and no longer required representation by the Attorney General [Chapter 511, 1994];
4. allowed IWIF to pay Board members as provided in the Board's budget [Chapter 8,1991]
5. exempted IWIF from the Open Meeting laws [Chapter 567, 2000]
6. deleted the requirement that the Treasurer be the custodian of IWIF assets [Chapter 567, 2000]

7. subjected IWIF to RBC requirements as well as Insurance Commissioner examination and regulation, in place of audits by the Office of Legislative Audits [Chapter 567 2000]
8. exempted IWIF employees from State mandated furloughs and pay cuts [Chapter 276, 2011]

These and other changes have allowed IWIF to hire and retain necessary insurance professionals; quickly and efficiently engage in procurement activity and generally run IWIF as a business entity. We think the results speak for themselves as IWIF's surplus has grown from a financially unsafe level of $67 million in 2002 to more than $350 million in 2012. The public, Maryland businesses and the State has benefited from these improvements.

At IWIF, we have no doubt but that IWIF's operational improvements resulted from a series of legislative changes that allowed IWIF to function as a business and not as a government agency. I see no reason why similar benefits would not inure to MAIF, if MAIF was broadly exempted from most laws that govern state agencies and instead treated as a business entity to the fullest extent possible consistent with its statutory mandate.

Sincerely

Dennis W. Carroll
General Counsel

Appendix 8. Summary of MAIF Audits and Examinations

Legislative Audit – The Legislative Auditor conducts a fiscal compliance audit of the Maryland Automobile Insurance Fund (MAIF) at least once every two years. According to Title 2 of the State Government Article, a fiscal compliance audit must (1) examine financial transactions and records and internal controls; (2) evaluate compliance with applicable laws and regulations; and (3) examine electronic data processing operations. The Legislative Audior provides an in-depth look at fiscal compliance but does not offer an opinion on MAIF's financial statements.

Audited Financial Report – Title 6 of the Insurance Article – By June 1 of each year, MAIF, and every other authorized insurer, must file with the Maryland Insurance Administration (MIA) an audited financial report for the previous calendar year. The audit must be performed by an independent CPA This audit must follow Generally Accepted Accounting Principles and present an opinion on MAIF's financial statements for both the Insured and Uninsured Divisions.

Annual Statement – Title 6 of the Insurance Article – MAIF, and every authorized insurer, must file with MIA a complete statement of its financial condition, transactions, and affairs for the preceding calendar year.

MIA Financial Examination – At least once every five years, MIA must perform a financial examination of each domestic insurer, including MAIF. The examination is conducted in accordance with examination policies and standards established by MIA and procedures recommended by the National Association of Insurance Commissioners (NAIC). In this regard, NAIC requires that examinations be planned and performed under a risk-focused approach to evaluate the financial condition and identify prospective risks. An examination also includes assessing the principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation and management's compliance with Statutory Accounting Principles and Annual Statement Instructions, when applicable, to domestic state regulation. In addition, the examination includes tests to provide reasonable assurance that the fund was in compliance with applicable laws, rules, and regulations.

Market Conduct Examination – MAIF is also subject to a Market Conduct Examination. According to MIA, its Compliance Unit reviews insurance company operations to determine how the company operates in the marketplace. The examiners' review includes, but is not limited to, sales practices, advertising materials, underwriting practices, and claims handling practices. Examinations often help alert companies to problems and serve as a form of consumer protection. The resulting examination report presents a detailed analysis of a company's general business practice. In 1999, the agency began to focus on conducting target examinations, which focus on a specific statute, regulation, or business practice. The last market conduct examination of MAIF focused on the two turn down rule and was completed in 2009.

Internal Audit – MAIF's Internal Auditor completes approximately 20 to 30 audits a year on various processes. Examples of these processes include executive director expenses, business continuity/disaster recovery, and IT programs. The Internal Auditor is appointed by the board and the executive director and reports to a three-person board-created committee. The Internal Auditor's reports are not sent to MIA; however, MAIF advises that if a significant finding was discovered, MIA would be sent the report. The reports generally focus less on the financial aspects of MAIF but more so about the effectiveness and efficiency of management.

Prepared by The Department of Legislative Services, November 2013

Appendix 9.
Chapters 73 of 2013 (Chapter 74 Is the Cross-file)

Chapter 73

(Senate Bill 749)

AN ACT concerning

Maryland Automobile Insurance Fund – Operational Changes

FOR the purpose of providing that the Maryland Automobile Insurance Fund is not subject to certain provisions of State law; providing that the Fund is subject to specified provisions of State law; providing that the Fund is independent of all State units; altering the composition, powers, and duties of the Board of Trustees of the Fund; requiring the Governor to appoint all members of the Board; requiring the Governor to consider the geographic and demographic diversity of the State in appointing individuals to the Board; altering the term of a member of the Board; altering the manner in which vacancies on the Board are filled; repealing certain provisions of law relating to a deemed resignation of a member of the Board; authorizing the Governor to remove a member of the Board for certain reasons; altering the compensation and reimbursement to which a member of the Board is entitled; providing that a member of the Board is not required to take compensation under certain circumstances; repealing a provision of law that requires compensation of the Executive Director of the Fund to be determined with the approval of the Governor; requiring the Board to employ certain attorneys for certain purposes; removing employees of the Fund from the State Personnel Management System except under certain circumstances; requiring the Executive Director to appoint and remove employees in accordance with certain policies; requiring the two members of the Board who serve on a certain financial committee to have certain expertise; repealing provisions of law that authorize the Legislative Auditor to conduct certain audits of the Fund; requiring a certain audit committee to require the Fund's internal auditors to conduct certain audits; exempting the Fund from certain State procurement law; clarifying that the employees of the Fund are authorized to participate in the State's health insurance program; clarifying that the employees of the Fund are eligible to participate in the State's pension system; providing for the initial terms of members of the Board; making stylistic, conforming, and clarifying changes; providing for the effective dates of this Act; and generally relating to the Maryland Automobile Insurance Fund.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 20–201 through 20–204 and 20–303(a)
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing

Article – Insurance
Section 20–304
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY adding to
Article – Insurance
Section 20–304
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 11–203(a)(1)(ix) through (xix)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 2–511 and 23–201(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Insurance

20–201.

(a) There is a Maryland Automobile Insurance Fund.

(B) THE FUND IS INDEPENDENT OF ALL STATE UNITS.

[(b)**] (C)** The Fund is a member of the Property and Casualty Insurance Guaranty Corporation.

[(c)**] (D) (1) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE FUND IS SUBJECT TO THE PROVISIONS OF THIS ARTICLE.**

(2) EXCEPT AS PROVIDED IN ~~PARAGRAPHS (2) AND~~ PARAGRAPH (3) OF THIS SUBSECTION, THE FUND IS NOT SUBJECT TO ANY LAW, INCLUDING § 6–106 OF THE STATE GOVERNMENT ARTICLE, THAT AFFECTS GOVERNMENTAL UNITS.

~~(2) In addition to the provisions of this title, the Fund is subject to Title 2, Subtitle 5 of this article.~~

(3) THE FUND IS SUBJECT TO:

(I) TITLE 10, SUBTITLE 6, PART III OF THE STATE GOVERNMENT ARTICLE;

(II) TITLE 10, SUBTITLE 5 OF THE STATE GOVERNMENT ARTICLE;

(III) THE MARYLAND PUBLIC ETHICS LAW;

(IV) TITLE 12 OF THE STATE GOVERNMENT ARTICLE; AND

(V) TITLE 5, SUBTITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE~~; AND~~

~~(VI) §§ 2–205, 2–209, AND 4–116 OF THIS ARTICLE~~.

(4) PARAGRAPH ~~(1)~~ (2) OF THIS SUBSECTION DOES NOT AFFECT THE EXEMPTION FROM PROPERTY TAX UNDER § 7–210 OF THE TAX – PROPERTY ARTICLE.

20–202.

(a) There is a Board of Trustees of the Fund.

(b) (1) The Board of Trustees consists of **[**13**]** **9** members **[**.

(2) Of the 13 members:

(i) seven shall be**]** appointed by the Governor with the advice and consent of the Senate**[**;

(ii) five shall be appointed by the Board of Directors; and

(iii) one shall be the Executive Director**]**.

[(3) Except as provided in § 20–203(a)(3) of this subtitle, the Executive Director may vote on all matters before the Board of Trustees.**]**

(2) OF THE NINE MEMBERS:

(I) AT LEAST THREE SHALL HAVE INSURANCE INDUSTRY EXPERTISE; AND

(II) AT LEAST TWO SHALL HAVE FINANCIAL MANAGEMENT EXPERTISE.

(3) OF THE MEMBERS DESCRIBED IN PARAGRAPH (2)(I) OF THIS SUBSECTION, AT LEAST ONE SHALL BE APPOINTED FROM A LIST OF TWO OR MORE INDIVIDUALS RECOMMENDED BY THE BOARD OF DIRECTORS.

(c) A member **[**appointed by the Governor**]**may not be actively affiliated with an insurance agency, insurance producer, insurer, or premium finance company that does business with the Fund.

(d) **(1) [**At least three of the five members appointed by the Board of Directors**] EACH MEMBER** shall be **[**residents**] A RESIDENT** of the State.

(2) IN DECIDING WHICH INDIVIDUALS TO APPOINT, THE GOVERNOR, TO THE EXTENT PRACTICABLE, SHALL CONSIDER THE GEOGRAPHIC AND DEMOGRAPHIC, INCLUDING RACE AND GENDER, DIVERSITY OF THE STATE.

(E) BEFORE TAKING OFFICE, EACH APPOINTEE TO THE BOARD OF TRUSTEES SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

[(e)**] (F)** (1) **[**A member appointed by the Governor serves at the pleasure of the Governor.

(2)**]** The term of a member **[**appointed by the Board of Directors**]** is **[**4**] 5** years **[**and begins on September 1**]**.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD OF TRUSTEES ON OCTOBER 1, 2013.

(3) At the end of a term, a member **[**appointed by the Board of Directors**]** continues to serve until a successor is **[**chosen**] APPOINTED** and qualifies.

(4) **A MEMBER MAY NOT SERVE FOR MORE THAN:**

(I) TWO FULL TERMS; OR

(II) A TOTAL OF 10 YEARS.

(5) If a member **OF THE BOARD OF TRUSTEES [**appointed by the Board of Directors**]** ceases to be a member of the Board **[**of Trustees**]**, the **[**Board of Directors**] GOVERNOR** shall appoint a successor for the unexpired term.

[(5) A member appointed by the Board of Directors is deemed to have resigned, causing a vacancy on the Board of Trustees, if:

(i) the member was employed by an Association member or insurance trade association when the member's term on the Board of Trustees began; and

(ii) for any reason, the member's employment with the Association member or insurance trade association ends during the member's term on the Board of Trustees.**]**

[(f)**] (G) [**(1)**]** The Board of Trustees shall choose a **[**chairman**] CHAIR** from among its members.

[(2) For each successive term, the position of chairman shall alternate between a gubernatorial appointee and an Association appointee.

(3) The Executive Director may not be the chairman of the Board of Trustees.**]**

[(g)**] (H) THE GOVERNOR MAY REMOVE A MEMBER OF THE BOARD OF TRUSTEES FOR INCOMPETENCE OR MISCONDUCT.**

(I) (1) Each member of the Board of Trustees is entitled to:

[(1)**] (I) [**per diem compensation set by the Board of Public Works for each day actually engaged in the discharge of official duties, if the member is not otherwise an officer or employee of the State**] REASONABLE COMPENSATION:**

1. IN THE FORM OF SALARY FOR WORK PERFORMED FOR THE BENEFIT OF THE FUND; AND

2. AS PROVIDED IN THE BUDGET OF THE BOARD OF TRUSTEES; and

[(2)**] (II)** reimbursement for expenses**:**

1. [under the Standard State Travel Regulations,**] INCURRED IN THE PERFORMANCE OF THE MEMBER'S DUTIES; AND**

2. as provided in the budget of the Board of Trustees.

(2) NOTHING IN PARAGRAPH (1)(I) OF THIS SUBSECTION REQUIRES A MEMBER OF THE BOARD OF TRUSTEES TO TAKE COMPENSATION IF THE MEMBER HAS A CONFLICT OF INTEREST WITH OTHER EMPLOYMENT THAT PRECLUDES THE MEMBER FROM TAKING COMPENSATION FOR WORK PERFORMED FOR THE BENEFIT OF THE FUND.

[(h)**] (J)** The Board of Trustees:

(1) shall **[**formulate policy for the Fund**] ADOPT RULES, BYLAWS, AND PROCEDURES; AND**

(2) MAY ADOPT ANY POLICY TO CARRY OUT THIS TITLE.

20–203.

(a) (1) The Board of Trustees shall**:**

(I) appoint the Executive Director of the Fund **[**with the approval of the Governor**]; AND**

(II) EMPLOY ATTORNEYS TO ADVISE AND REPRESENT THE FUND IN ALL LEGAL MATTERS AND, WHERE NECESSARY, TO SUE OR DEFEND SUITS IN THE NAME OF THE FUND.

(2) The Executive Director serves at the pleasure of the Board of Trustees.

(3) **[**The incumbent Executive Director may not vote on the choice of a successor.

(4)**]** If the Board of Trustees fails to agree on a successor **EXECUTIVE DIRECTOR**, the Governor shall appoint the successor.

(b) (1) The Executive Director:

(i) is the administrative head of the Fund; and

(ii) shall exercise the powers and perform the duties conferred on the Fund by this title, except for those powers and duties conferred on the Board of Trustees.

(2) The Board of Trustees shall advise the Executive Director on the exercise of the powers and duties conferred on the Executive Director by this title.

(c) The Board of Trustees shall determine the compensation of the Executive Director **[**with the approval of the Governor**]**.

~~20–204.~~

~~(a) **[**(1) Except as provided in paragraph (2) of this subsection or otherwise by law, the Executive Director shall appoint and remove staff of the Fund in accordance with the provisions of the State Personnel and Pensions Article.~~

~~(2) Positions that the Executive Director designates with the approval of the Board of Trustees as technical or professional positions are in the executive service, management service, or are special appointments of the skilled service or the professional service in the State Personnel Management System.**]**~~

~~(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EMPLOYEES OF THE FUND ARE NOT IN THE STATE PERSONNEL MANAGEMENT SYSTEM.~~

~~(2) A SKILLED SERVICE EMPLOYEE OF THE FUND HIRED BEFORE OCTOBER 1, 2013, IN A NONPROFESSIONAL OR NONTECHNICAL POSITION SHALL REMAIN IN THE SKILLED SERVICE IN THE STATE PERSONNEL MANAGEMENT SYSTEM OR ITS EQUIVALENT AS LONG AS THE EMPLOYEE REMAINS IN A NONPROFESSIONAL OR NONTECHNICAL POSITION WITH THE FUND.~~

~~(3) THE EXECUTIVE DIRECTOR SHALL APPOINT AND REMOVE EMPLOYEES OF THE FUND IN ACCORDANCE WITH THE POLICIES OF THE BOARD OF TRUSTEES.~~

~~[~~(3)**~~]~~ (4)** ~~Notwithstanding any other provision of law, the Executive Director may appoint claims adjusters, attorneys, and other necessary personnel directly as employees or on a contract basis.~~

~~(b) The Executive Director shall determine and administer the compensation of the **[**personnel**]** EMPLOYEES of the Fund **[**designated under subsection (a)(2) of this section**]** with the approval of the Board of Trustees.~~

~~(c) Except as otherwise provided in this subtitle, an employee of the Fund is not subject to any law, regulation, or executive order governing State employee compensation, including furloughs, salary reductions, and any other General Fund cost–saving measure.~~

20–303.

(a) (1) A financial management committee of the Fund shall manage and invest all moneys collected by or for the Fund through premiums, earnings from investments, or from other sources.

(2) The financial management committee consists of the Executive Director and two members of the Board of Trustees **[**whom**]** **WHO HAVE FINANCIAL MANAGEMENT EXPERTISE, CHOSEN BY** the Board of Trustees **[**chooses**]**.

[(3) Of the two members from the Board of Trustees:

(i) one shall be chosen from the members appointed by the Governor; and

(ii) one shall be chosen from the members appointed by the Association.**]**

[20–304.

(a) The Legislative Auditor:

(1) may conduct fiscal audits and compliance audits of the accounts and transactions of the Fund each year instead of every 2 years; and

(2) shall advise officials of the Fund whether audits will be conducted each year or every 2 years.

(b) (1) If an independent auditor conducts a fiscal audit of the Fund, the Legislative Auditor may not duplicate the fiscal audit for the same period.

(2) If, at the request of the Fund, the Legislative Auditor conducts the fiscal audit instead of an independent auditor, the Legislative Auditor may charge the Fund for the cost of the fiscal audit.

(c) An audit conducted in accordance with this section is in addition to and not instead of any audit or regulatory authority of the Commissioner.**]**

20–304.

(A) (1) AN AUDIT COMMITTEE, COMPOSED OF MEMBERS OF THE BOARD OF TRUSTEES AND THE EXECUTIVE DIRECTOR, SHALL REQUIRE THE FUND'S INTERNAL AUDITOR TO CONDUCT FISCAL COMPLIANCE AND FISCAL AUDITS OF THE ACCOUNTS AND TRANSACTIONS OF THE FUND EACH YEAR.

(2) A FISCAL COMPLIANCE AUDIT SHALL:

(I) EXAMINE FINANCIAL TRANSACTIONS AND RECORDS AND INTERNAL CONTROLS;

(II) EVALUATE COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS; AND

(III) EXAMINE ELECTRONIC DATA PROCESSING OPERATIONS.

(B) IF AN INDEPENDENT AUDITOR CONDUCTS A FISCAL AUDIT OF THE FUND, THE AUDIT COMMITTEE SHALL DIRECT THE FUND'S INTERNAL AUDITORS NOT TO DUPLICATE THE FISCAL AUDIT FOR THE SAME PERIOD.

Article – State Finance and Procurement

11–203.

(a) Except as provided in subsection (b) of this section, this Division II does not apply to:

(1) procurement by:

(ix) **[**the Maryland Automobile Insurance Fund;

(x)**]** the Maryland Historical Trust for:

1. surveying and evaluating architecturally, archeologically, historically, or culturally significant properties; and

2. other than as to architectural services, preparing historic preservation planning documents and educational material;

[(xi)**] (X)** the University of Maryland, for University College Overseas Programs, if the University adopts regulations that:

1. establish policies and procedures governing procurement for University College Overseas Programs; and

2. promote the purposes stated in § 11–201(a) of this subtitle;

[(xii)**] (XI)** the Department of Business and Economic Development, for negotiating and entering into private sector cooperative marketing projects that directly enhance promotion of Maryland and the tourism industry where there will be a private sector contribution to the project of not less than 50% of the total cost of the project, if the project is reviewed by the Attorney General and

approved by the Secretary of Business and Economic Development or the Secretary's designee;

[(xiii)**] (XII)** the Rural Maryland Council;

[(xiv)**] (XIII)** the Maryland State Lottery Agency, for negotiating and entering into private sector cooperative marketing projects that directly enhance promotion of the Maryland State Lottery and its products, if the cooperative marketing project:

1. provides a substantive promotional or marketing value that the lottery determines acceptable in exchange for advertising or other promotional activities provided by the lottery;

2. does not involve the advertising or other promotion of alcohol or tobacco products; and

3. is reviewed by the Attorney General and approved by the Maryland Lottery Director or the Director's designee;

[(xv)**] (XIV)** the Maryland Health Insurance Plan established under Title 14, Subtitle 5 of the Insurance Article;

[(xvi)**] (XV)** the Maryland Energy Administration, when negotiating or entering into grants or cooperative agreements with private entities to meet federal specifications or solicitation requirements related to energy conservation, energy efficiency, or renewable energy projects that benefit the State;

[(xvii)**] (XVI)**the Maryland Developmental Disabilities Administration of the Department of Health and Mental Hygiene for family and individual support services, and individual family care services, as those terms are defined by the Department of Health and Mental Hygiene in regulation;

[(xviii)**] (XVII)** the Department of General Services for the renovation of a structure that:

1. was built during the 18th or 19th century; and

2. is listed in or eligible for listing in the National Register of Historic Places; and

[(xix)**] (XVIII)** the Department of Natural Resources, for negotiating or entering into grants, agreements, or partnerships with nonprofit entities related to conservation service opportunities;

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Insurance

20–204.

(a) **[**(1) Except as provided in paragraph (2) of this subsection or otherwise by law, the Executive Director shall appoint and remove staff of the Fund in accordance with the provisions of the State Personnel and Pensions Article.

(2) Positions that the Executive Director designates with the approval of the Board of Trustees as technical or professional positions are in the executive service, management service, or are special appointments of the skilled service or the professional service in the State Personnel Management System.**]**

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EMPLOYEES OF THE FUND ARE NOT IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

(2) A SKILLED SERVICE EMPLOYEE OF THE FUND HIRED BEFORE JULY 1, 2013, IN A NONPROFESSIONAL OR NONTECHNICAL POSITION SHALL REMAIN IN THE SKILLED SERVICE IN THE STATE PERSONNEL MANAGEMENT SYSTEM OR ITS EQUIVALENT AS LONG AS THE EMPLOYEE REMAINS IN A NONPROFESSIONAL OR NONTECHNICAL POSITION WITH THE FUND.

(3) THE EXECUTIVE DIRECTOR SHALL APPOINT AND REMOVE EMPLOYEES OF THE FUND IN ACCORDANCE WITH THE POLICIES OF THE BOARD OF TRUSTEES.

[(3)**] (4)** Notwithstanding any other provision of law, the Executive Director may appoint claims adjusters, attorneys, and other necessary personnel directly as employees or on a contract basis.

(b) The Executive Director shall determine and administer the compensation of the **[**personnel**] EMPLOYEES** of the Fund **[**designated under subsection (a)(2) of this section**]** with the approval of the Board of Trustees.

(c) Except as otherwise provided in this subtitle, an employee of the Fund is not subject to any law, regulation, or executive order governing State employee compensation, including furloughs, salary reductions, and any other General Fund cost–saving measure.

Article – State Personnel and Pensions

2–511.

(a) This section applies to employees of:

(1) the Maryland Environmental Service;

(2) the Northeast Maryland Waste Disposal Authority; **[**and**]**

(3) the Baltimore Metropolitan Council**; AND**

(4) THE MARYLAND AUTOMOBILE INSURANCE FUND.

(b) Subject to the regulations adopted under § 2–503 of this subtitle, an employee or, while receiving an allowance under the Employees' Retirement System of the State of Maryland or the Employees' Pension System of the State of Maryland, an employee's surviving spouse:

(1) may enroll and participate in the health insurance or other benefit options established under the Program; and

(2) except as provided in subsection (d) of this section, is subject to the same terms and conditions as those provided under § 2–507 of this subtitle.

(c) While receiving an allowance under the Employees' Retirement System of the State of Maryland or the Employees' Pension System of the State of Maryland, a former employee or a former employee's surviving spouse or dependent child:

(1) may enroll and participate in the health insurance benefit options established under the Program; and

(2) except as provided in subsection (d) of this section, is subject to the same terms and conditions as those provided under § 2–508 of this subtitle, with the employee's service with the Maryland Environmental Service, Northeast Maryland Waste Disposal Authority, **[**and**]** the Baltimore Metropolitan Council**, AND THE MARYLAND AUTOMOBILE INSURANCE FUND** being included as part of the employee's State service.

(d) For each participant under this section, the Maryland Environmental Service, the Northeast Maryland Waste Disposal Authority, **[**and**]** the Baltimore Metropolitan Council**, AND THE MARYLAND AUTOMOBILE INSURANCE FUND** or any successor agency, shall pay to the State the respective employer share of the cost of the Program based on the State subsidy allowed under this subtitle.

23–201.

(a) Except as provided in subsection (b) of this section, §§ 23–203 through 23–205 of this subtitle apply only to:

(1) a regular employee whose compensation is provided by State appropriation or paid from State funds;

(2) an appointed or elected official of the State, including:

(i) a clerk of the circuit court;

(ii) a register of wills;

(iii) a State's Attorney; and

(iv) a sheriff;

(3) an employee or official of a participating governmental unit who is eligible to participate under Title 31, Subtitle 1 of this article;

(4) an employee of the Office of the Sheriff of Baltimore City;

(5) an additional employee or agent of the State Racing Commission authorized by § 11–207 of the Business Regulation Article;

(6) a permanent employee of the board of supervisors of elections of a county;

(7) a full–time master in chancery or in juvenile causes who is appointed on or after July 1, 1989, in any county by the circuit court for that county;

(8) an employee of the Maryland Environmental Service who is a member of the Employees' Pension System on June 30, 1993, or transfers from the Employees' Retirement System on or after July 1, 1993;

(9) a former Baltimore City jail employee who became an employee of the Baltimore City Detention Center and a member of the Employees' Pension System on July 1, 1991;

(10) a nonfaculty employee of the Baltimore City Community College who:

(i) is a member of the Employees' Pension System on October 1, 2002;

(ii) transfers from the Employees' Retirement System on or after October 1, 2002;

(iii) transfers from the Teachers' Pension System in accordance with § 23–202.1 of this subtitle; or

(iv) becomes an employee of the Baltimore City Community College on or after October 1, 2002;

(11) a court reporter for the Circuit Court for Charles County who is a member of the Employees' Pension System on July 1, 1994, or transfers from the Employees' Retirement System on or after July 1, 1994;

(12) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who is:

(i) a member of the Employees' Pension System on January 1, 1998, or transfers from the Employees' Retirement System on or after January 1, 1998; or

(ii) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who becomes an employee on or after January 1, 1998;

(13) on or after the date that the Board of Education of Kent County begins participation in the Employees' Pension System, a supportive service employee of the Board of Education of Kent County;

(14) an employee of the Town of Oakland on or after the date that the Town of Oakland begins participation in the Employees' Pension System;

(15) an employee of the City of Frostburg on or after the date that the City of Frostburg begins participation in the Employees' Pension System;

(16) an employee of the Town of Berwyn Heights on or after the date that the Town of Berwyn Heights begins participation in the Employees' Pension System;

(17) an employee of the Town of Sykesville on or after the date that the Town of Sykesville begins participation in the Employees' Pension System; **[**and**]**

(18) an employee of the Town of University Park on or after the date that the Town of University Park begins participation in the Employees' Pension System**; AND**

(19) AN EMPLOYEE OF THE MARYLAND AUTOMOBILE INSURANCE FUND ON OR AFTER THE DATE THAT THE MARYLAND AUTOMOBILE INSURANCE FUND BEGINS PARTICIPATION IN THE EMPLOYEE'S PENSION SYSTEM.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That:

(a) The term for each member of the Board of Trustees of the Fund serving on September 30, 2013, expires effective October 1, 2013.

(b) The initial terms of members of the Board of Trustees of the Fund shall begin on October 1, 2013, and expire as follows:

(1) two ~~members~~ in 2015;

(2) two in 2016;

(3) three ~~members~~ in 2017; and

(4) two in 2018.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That Sections 1 and 3 of this Act shall take effect October 1, 2013.

SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect July 1, 2013.

Approved by the Governor, April 9, 2013.

Appendix 10.
MAIF: Presentation – October 23, 2013

(r)Evolution

maif

Presentation to the Task Force to Study
Maryland Insurance of Last Resort Programs
October 23, 2013

Significant Developments

Because of the Task Force's work and 2013 legislation, a financially healthy, but now trimmer, MAIF is positioned to continue to fulfill its statutory mission.

1973 → 2013

maif

(r)Evolution

A full plate

- Organizational Changes
  - Governance
  - Internal Audit function
  - Counsel
  - Workforce changes
- Installment program

maif

(r)Evolution

Installment Plan Highlights

Premiums less than $3000

25% down

3 or 6 installment payment plans

First installment payment not due until 60 days later

maif

(r)Evolution

Installment Plan Highlights

Premiums $3000 and above

20% down

4 or 8 installment payment plans

First installment payment due until 45 days later

maif

(r)Evolution

Installment Implementation

First installment policy sold October 1, 2013

IT driven, stop-gap solution

Policy Administration System (in development) will fully integrate installment system

maif

(r)Evolution

Organizational Changes

Governance

- Reconstituted Board (ongoing)
  - internal organization
  - committee formation
  - meetings/pay
  - Code of Conduct

maif

(r)Evolution

Organizational Changes

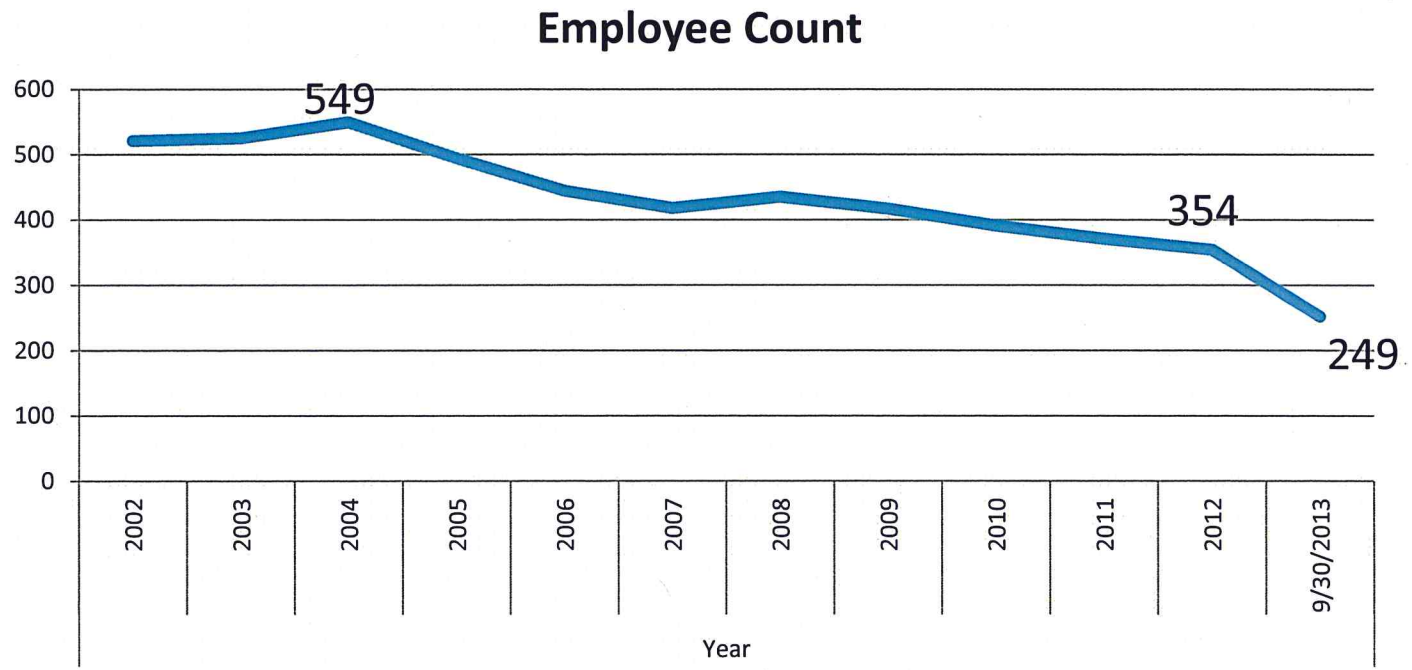
- Internal Auditing Department
  - Increased responsibility
  - External auditor
  - Procurement best practices
- Counsel
  - Strong transition

maif

(r)Evolution

Organizational Changes

Workforce changes



maif

(r)Evolution

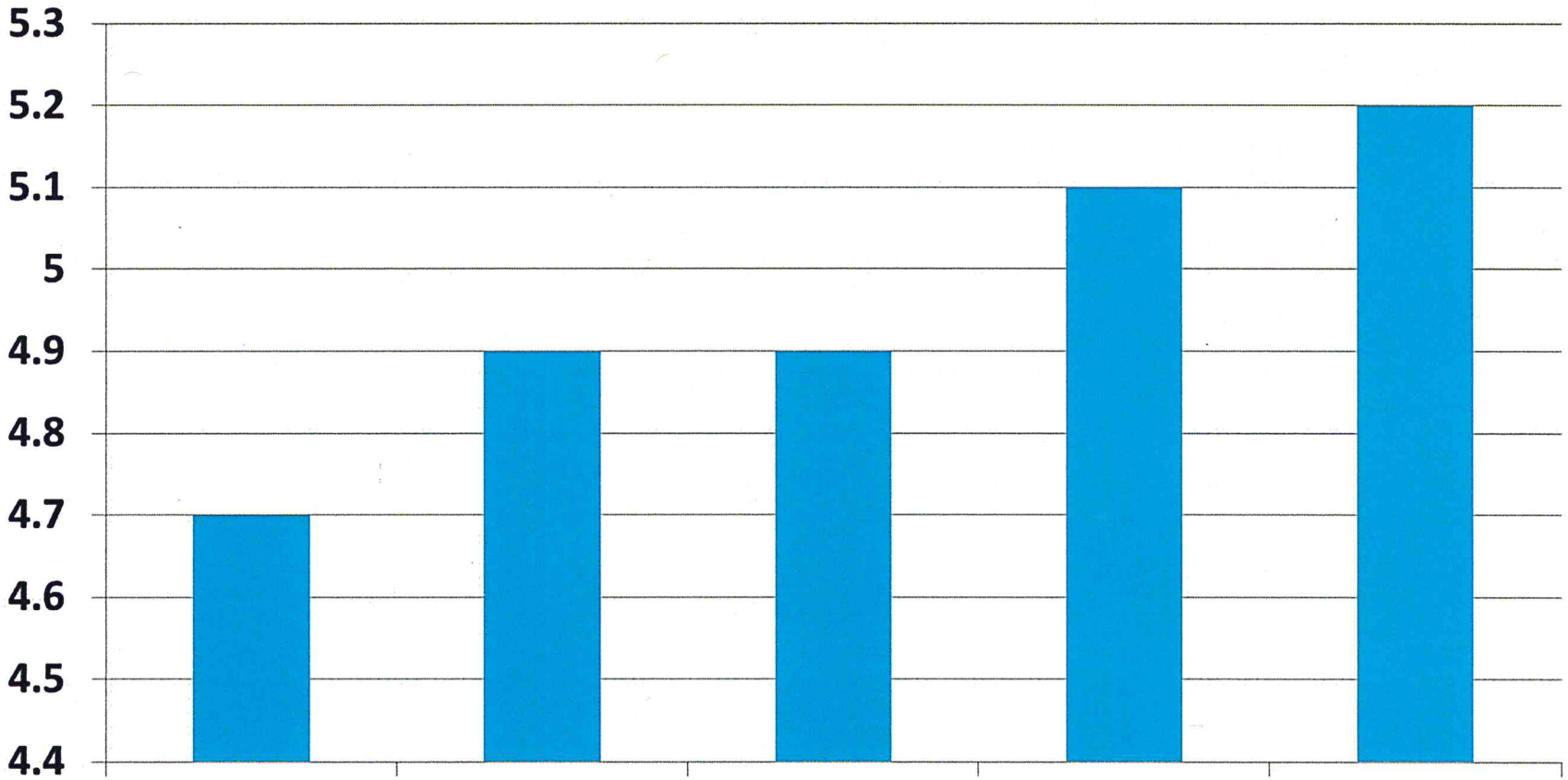
Financially Healthy

Surplus remains strong, but not excessive

Assessment analysis very strong

Risk based capital analysis is very strong

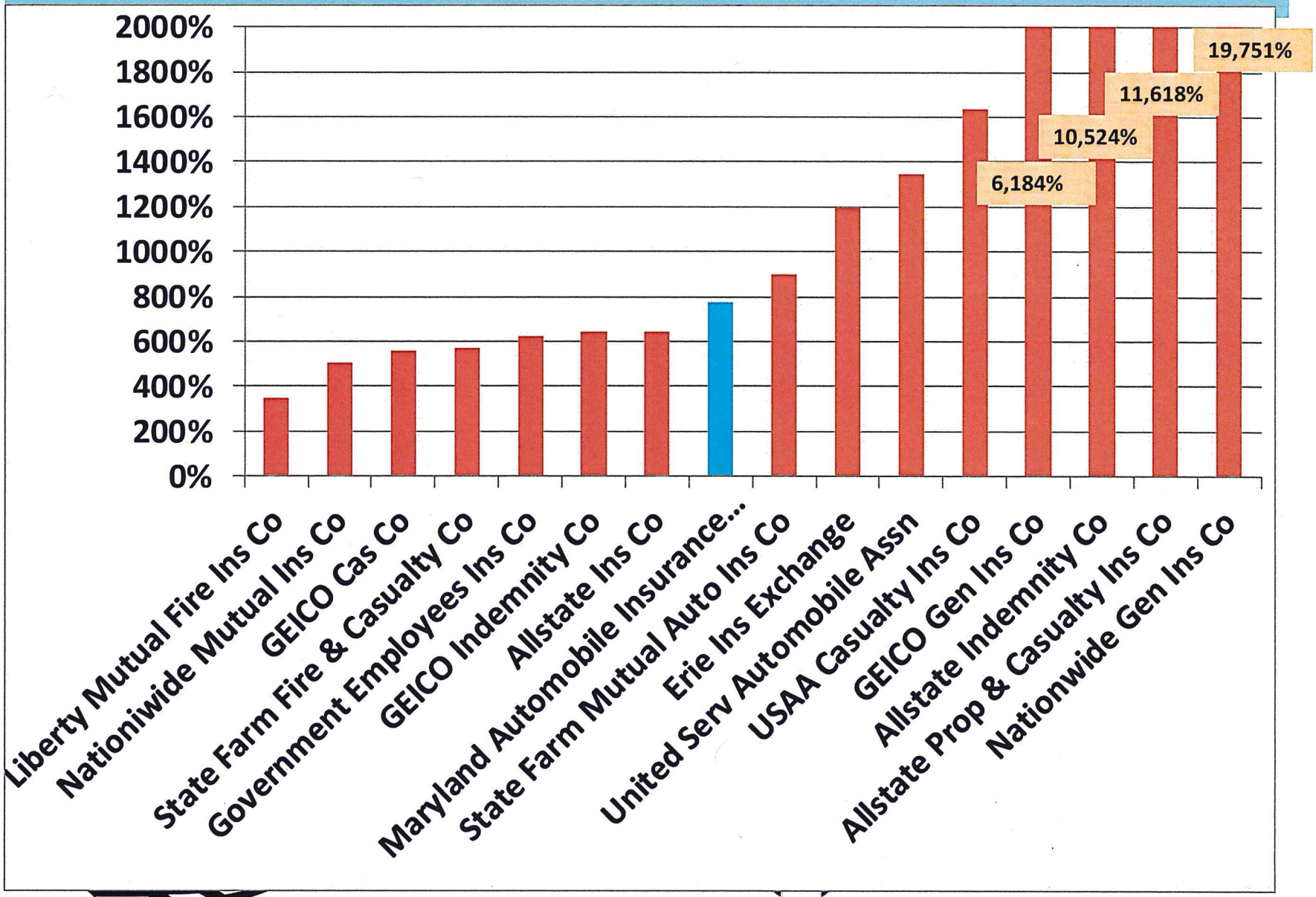
MAIF's Ratio of Surplus to Assessment Trigger



maif

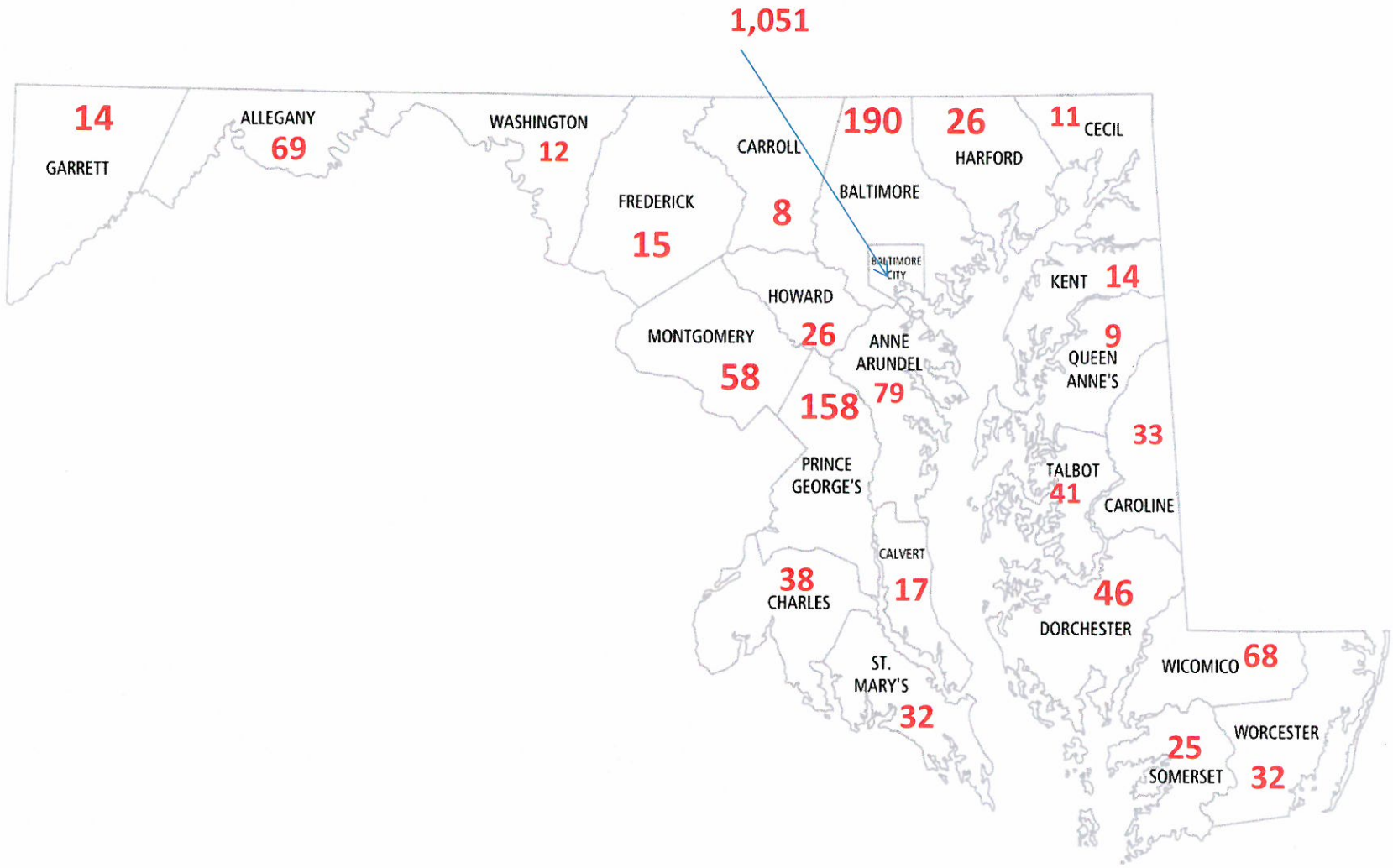
(r)Evolution

RBC as % of Authorized Control Level



Appendix 11.
Maryland Joint Insurance Association:
Policies by County

MDJIA Policies by County as of 9/30/13



MDJIA Policy Distributions as of SEPTEMBER 30, 2013

PREMIUM PAYMENT METHOD					
No. Of Policies	Pay Plan				
LOB	ANNUAL	INSTALLMENT	Grand Total	ANNUAL	INSTALLMENT
Comm Fire	70	12	82	85%	15%
Dwelling Fire	731	100	831	88%	12%
Homeowners	824	321	1,145	72%	28%
Grand Total	**1,625**	**433**	**2,058**	**79%**	**21%**

SOURCE OF BUSINESS					
No. Of Policies	agent/ direct				
LOB	DIRECT	PRODUCER	Grand Total	DIRECT	PRODUCER
Comm Fire	30	52	82	37%	63%
Dwelling Fire	429	402	831	52%	48%
Homeowners	499	646	1,145	44%	56%
Grand Total	**958**	**1,100**	**2,058**	**47%**	**53%**

Policies by County SEPTEMBER 30, 2013			
Number of Policies			
County	Total	9/30/12	DIFF
Allegany	69	79	-10
Anne Arundel	79	80	-1
Baltimore	190	196	-6
Baltimore City	1,051	1,129	-78
Calvert	17	9	8
Caroline	33	40	-7
Carroll	8	8	0
Cecil	11	13	-2
Charles	38	33	5
Dorchester	46	45	1
Frederick	15	11	4
Garrett	14	15	-1
Harford	26	36	-10
Howard	12	14	-2
Kent	14	18	-4
Montgomery	58	62	-4
Prince Georges	158	148	10
Queen Anne's	9	10	-1
Saint Mary's	32	30	2
Somerset	25	31	-6
Talbot	41	37	4
Washington	12	10	2
Wicomico	68	70	-2
Worcester	32	32	0
Grand Total	**2,058**	**2,156**	**-98**

Appendix 12. PIPSO:
FAIR Plan Report of Organizations, Plans that Offer Homeowner Coverage, and Underwriting Results

PIPSO **Exhibit A1**

FAIR Plan Report of Operations
New & Renewal Operational Data
Twelve months ended: September, October, November, December, 2012

STATE	APPLICATIONS* NEW	APPLICATIONS* RENEWAL	INSP. COMPLETED NEW	INSP. COMPLETED RENEWAL	POLICIES NEW	POLICIES RENEWAL	POLICIES BY CLASS HABITATIONAL	POLICIES BY CLASS COMMERCIAL	EXPOSURE** ('000)	LOSSES REPORTED HABITATIONAL	LOSSES REPORTED COMMERCIAL
California	32,756	133,188	14,071	1,242	13,895	115,937	124,122	5,710	$40,222,201	1,619	117
Connecticut	978	2,847	880	1,352	475	2,530	2,872	133	544,239	142	4
Delaware	363	1,991	513	183	302	1,751	1,980	73	290,962	65	5
DC	144	368	120	93	83	361	370	74	120,949	20	5
Florida (Citizens)	N/A	N/A	N/A	N/A	359,090	1,203,027	1,515,169	46,948	429,424,399	75,879	1,455
Georgia	10,006	18,938	0	0	9,743	18,938	26,996	1,685	3,588,963	1,543	53
Illinois	2,533	5,041	2,701	252	1,940	4,487	6,332	95	640,124	1,004	8
Indiana	871	1,802	836	307	608	1,561	2,119	50	198,870	122	0
Iowa	392	679	374	36	380	662	1,009	33	65,573	24	3
Kansas	4,836	9,388	4,652	1,248	4,605	8,333	12,768	170	728,864	1,291	14
Kentucky	3,415	7,668	3,415	1,056	3,415	7,668	10,532	551	510,921	1,022	38
Louisiana (Citizens)	32,521	107,364	N/A	N/A	32,521	107,364	134,037	5,848	19,975,000	19,147	1,543
Maryland	911	1,870	855	609	596	1,897	2,403	90	427,021	130	1
Massachusetts	42,973	205,723	32,138	49,943	40,843	174,147	214,546	444	76,046,929	9,229	20
Michigan	10,030	17,048	10,116	197	10,030	17,048	26,662	416	3,198,256	1,793	18
Minnesota	2,079	3,493	588	492	2,079	3,493	5,530	42	678,643	223	5
Mississippi (Residential)	2,827	8,552	2,827	0	2,827	8,552	11,379	0	692,045	629	N/A
Missouri	1,479	4,237	1,206	928	802	3,628	4,267	163	231,458	323	21
New Jersey	1,762	18,399	1,507	372	1,806	17,679	18,893	592	2,707,750	3,050	66
New Mexico	1,636	9,716	0	93	1,636	8,894	10,279	251	67,777	880	34
New York	5,739	50,929	1,411	0	5,268	50,929	52,435	3,762	14,158,321	10,352	260
North Carolina	N/A	N/A	N/A	N/A	31,668	63,633	93,544	1,757	6,753,354	3,352	55
Ohio	9,335	30,263	7,997	1,050	6,374	26,029	31,828	575	6,910,928	2,601	52
Oregon	218	2,220	200	555	218	2,220	2,357	81	184,388	24	0
Pennsylvania	2,722	22,641	4,928	2,268	2,154	20,944	21,602	1,496	1,689,170	624	54
Rhode Island	4,459	13,967	3,936	4,195	4,015	11,883	15,772	126	3,799,590	752	6
Texas	50,759	29,993	0	0	51,382	83,668	135,050	0	17,966,799	5,640	N/A
Virginia	6,639	22,310	6,311	4,980	6,533	22,310	28,321	522	3,834,422	917	7
Washington	58	68	44	7	16	44	36	24	15,911	0	0
West Virginia	116	624	151	83	86	577	598	65	31,323	20	2
Wisconsin	2,005	N/A	N/A	N/A	1,999	2,024	3,967	56	262,970	137	4
TOTAL	234,562	731,327	101,777	71,541	597,389	1,992,218	2,517,775	71,832	$635,968,120	142,554	3,850

NOTE: Footnotes to Exhibit A1 appear on the next page

FAIR Plan Report of Operations
New & Renewal Operational Data
Twelve months ended: September, October, November, December, 2012

FOOTNOTES:

Source: PIPSO-DATA FORM

*** "Applications" are those that have been accepted by the Plan for processing.**

**** Exposure" is the estimate of the aggregate value of all insurance in force on all lines (except Crime and Liability where applicable) on the last day of the period as defined in the heading above.**

N/A - Not Available/Not Applicable

PIPSO **Exhibit A2**

FAIR Plan Report of Operations
Underwriting Data @
Twelve Months Ended: September, October, November, December, 2012

	PREMIUMS		LOSSES and LAE						EXPENSES (EXCL. LOSS ADJ.)						
STATE	WRITTEN	EARNED	PAID	CURRENT	PRIOR	LOSSES INCURRED	LAE INCURRED	LOSS & LAE INCURRED	COMMISSION	OPERATING EXPENSES	TOTAL EXPENSES	STATUTORY UND. GAIN OR (LOSS)+	INVESTMENT RETURN & MISC. INCOME*	MISC. EXPENSES*	OPERATING GAIN OR (LOSS) **
California	$65,630	$58,534	$23,234	$5,523	$9,081	$19,676	$4,290	$23,966	$5,149	$9,954	$15,103	$19,465	($26)	($293)	$19,732
Connecticut	3,521	3,523	1,948	1,589	2,486	1,051	507	1,558	352	1,305	1,657	308	21	33	296
Delaware	601	605	251	115	147	219	74	293	44	392	436	(124)	0	27	(151)
DC	384	390	226	15	109	132	43	175	20	272	292	(77)	1	0	(76)
Florida (Citizens)	3,180,755	2,248,095	764,811	1,151,922	1,113,972	802,761	258,544	1,061,305	255,760	308,440	564,200	622,590	54,903	(41,919)	719,412
Georgia	23,665	18,033	9,746	2,592	2,377	9,961	1,150	11,111	2,366	3,704	6,070	852	73	23	902
Illinois	6,626	6,342	6,525	1,468	947	7,046	517	7,563	632	3,591	4,223	(5,444)	146	(288)	(5,010)
Indiana	1,803	1,594	641	205	125	721	127	848	185	712	897	(151)	1	0	(150)
Iowa	657	595	209	170	116	263	19	282	64	302	366	(53)	22	(1)	(30)
Kansas	6,254	5,873	3,420	661	1,534	2,547	464	3,011	625	1,252	1,877	985	86	0	1,071
Kentucky	6,806	6,277	5,052	175	387	4,840	929	5,769	595	774	1,369	(861)	409	(143)	(309)
Louisiana (Citizens)	189,106	119,326	207,350	99,202	152,072	154,480	33,460	187,940	18,385	12,902	31,287	(99,901)	16,923	8,441	(91,419)
Maryland	1,481	1,528	467	127	640	(46)	173	127	98	1,277	1,375	26	14	0	40
Massachusetts	272,533	198,833	106,821	70,960	81,632	96,149	13,867	110,016	33,030	23,678	56,708	32,109	18,700	(47)	50,856
Michigan	28,238	29,331	13,706	6,126	7,773	12,059	5,784	17,843	2,785	6,643	9,428	2,060	948	(673)	3,681
Minnesota	4,279	4,473	1,766	699	734	1,731	136	1,867	275	2,679	2,954	(348)	19	(11)	(318)
Mississippi (Res.)	7,760	7,565	4,762	1,067	1,007	4,822	1,224	6,046	782	1,439	2,221	(702)	102	0	(600)
Missouri	2,162	2,257	1,738	389	255	1,872	377	2,249	225	1,181	1,406	(1,398)	20	(4)	(1,374)
New Jersey	11,027	11,191	8,167	9,247	2,883	14,531	1,427	15,958	953	3,873	4,826	(9,593)	(157)	(148)	(9,602)
New Mexico	3,619	3,558	4,906	138	167	4,877	468	5,345	396	754	1,150	(2,937)	117	0	(2,820)
New York	35,497	29,701	41,085	25,127	10,340	55,872	15,555	71,427	3,361	5,158	8,519	(50,245)	7,479	3,817	(46,583)
North Carolina	33,879	15,810	23,635	3,256	19,170	7,721	645	8,366	5,042	3,716	8,758	(1,314)	849	4	(469)
Ohio	24,714	23,187	18,922	4,191	4,721	18,392	3,479	21,871	2,848	3,755	6,603	(5,287)	6,052	1,239	(474)
Oregon	920	957	139	30	0	169	15	184	92	471	563	210	15	0	225
Pennsylvania	8,207	8,310	3,863	1,136	1,821	3,178	970	4,148	466	3,578	4,044	118	(2)	173	(57)
Rhode Island	19,954	17,858	10,033	10,815	12,137	8,711	2,084	10,795	2,392	1,639	4,031	3,032	1,554	8	4,578
Texas	102,383	56,880	31,165	21,132	23,669	28,628	(175)	28,453	11,257	10,149	21,406	7,021	1,151	48	8,124
Virginia	16,468	14,068	7,325	2,531	2,843	7,013	1,472	8,485	1,619	2,753	4,372	1,211	39	(77)	1,327
Washington	145	150	0	36	36	0	0	0	14	219	233	(83)	1	0	(82)
West Virginia	372	384	134	1	164	(29)	(72)	(101)	37	169	206	279	(1)	7	271
Wisconsin	1,900	1,707	973	305	394	884	247	1,131	188	651	839	(263)	7	0	(256)
TOTAL	$4,061,346	$2,896,935	$1,303,020	$1,420,950	$1,453,739	$1,270,231	$347,800	$1,618,031	$350,037	$417,382	$767,419	$511,485	$109,466	($29,784)	$650,735

NOTE: Footnotes to Exhibit A2 appear on the next page

FAIR Plan Report of Operations
Underwriting Data
Twelve Months Ended: September, October, November, December, 2012

FOOTNOTES:

Source: PIPSO DATA FORM

@ All amounts on this exhibit are shown in thousands of dollars.

+ Statutory Underwriting Gain (Loss) = Earned Premium - Total Loss & Loss Adjustment Expense - Total Expenses

***Miscellaneous income or expenses are those which are not related to the development of the statutory underwriting results but impact the financial performance and member's equity. A negative amount in the "Miscellaneous Expenses" column is usually the result of decreased non-admitted assets.**

****Operating Gain (Loss) = Statutory Underwriting Gain (Loss) + Investment and Miscellaneous Income - Miscellaneous Expenses**

The California FAIR Plan Association reinsured a portion of its risks in 2012. The written premium amount shown on the previous page represents the amount of "Gross Premium Written". The net premium written ("Gross Premium" less "Reinsurance Premium Ceded") for the twelve months ending 2012 is $59,367,000.

The Florida Citizens Property Insurance Corporation reinsured a portion of its risks in 2012. The written premium amount shown on the previous page represents the amount of "Gross Premium Written". The net premium written ("Gross Premium" less "Reinsurance Premium Ceded") for the twelve months ending 2012 is $2,109,511,000.

The Georgia Underwriting Association reinsured a portion of its risks in 2012. The written premium amount shown on the previous page represents the amount of "Gross Premium Written". The net premium written ("Gross Premium" less "Reinsurance Premium Ceded") for the twelve months ending 2012 is $18,790,000.

The Kentucky FAIR Plan and Reinsurance Association reinsured a portion of its risks in 2012. The written premium amount shown on the previous page represents the amount of "Gross Premium Written". The net premium written ("Gross Premium" less "Reinsurance Premium Ceded") for the twelve months ending 2012 is $6,626,000.

The Louisiana Citizens Property Insurance Corporation reinsured a portion of its risks in 2012. The written premium amount shown on the previous page represents the amount of "Gross Premium Written". The net premium written ("Gross Premium" less "Reinsurance Premium Ceded") for the twelve months ending 2012 is $118,689,000.

The Massachusetts Property Insurance Underwriting Association reinsured a portion of its risks in 2012. The written premium amount shown on the previous page represents the amount of "Gross Premium Written". The net premium written ("Gross Premium" less "Reinsurance Premium Ceded") for the twelve months ending 2012 is $195,695,000.

The New York Property Insurance Underwriting Association reinsured a portion of its risks in 2012. The written premium amount shown on the previous page represents the amount of "Gross Premium Written". The net premium written ("Gross Premium" less "Reinsurance Premium Ceded") for the twelve months ending 2012 is $29,547,000.

The North Carolina Joint Underwriting Association reinsured a portion of its risks in 2012. The written premium amount shown on the previous page represents the amount of "Gross Premium Written". The net premium written ("Gross Premium" less "Reinsurance Premium Ceded") for the twelve months ending 2012 is $21,969,000.

The Rhode Island Joint Underwriting Association reinsured a portion of its risks in 2012. The written premium amount shown on the previous page represents the amount of "Gross Premium Written". The net premium written ("Gross Premium" less "Reinsurance Premium Ceded") for the twelve months ending 2012 is $17,454,000.

The Texas FAIR Plan Association reinsured a portion of its risks in 2012. The written premium amount shown on the previous page represents the amount of "Gross Premium Written". The net premium written ("Gross Premium" less "Reinsurance Premium Ceded") for the twelve months ending 2012 is $66,185,000.

The Virginia Property Insurance Association reinsured a portion of its risks in 2012. The written premium amount shown on the previous page represents the amount of "Gross Premium Written". the amount of "Gross Premium Written". The net premium written ("Gross Premium" less "Reinsurance Premium Ceded") for the twelve months ending 2012 is $15,008,000.

The PIPSO Reports display "net of reinsurance experience" by using an additional set of exhibits. The extra set of exhibits are included with the"twelve month" PIPSO Reports for each year regardless of whether loss data for that year is affected by reinsurance. The effects of reinsurance on the data contained in Exhibit A2 are displayed in Exhibit B1.

N/A - Not Available/Not Applicable

PIPSO

Exhibit D1

FAIR Plan Report of Operations
New & Renewal Operational Data
Twelve months ended: September, October, November, December, 2012

	APPLICATIONS *		INSPECTIONS COMPLETED		POLICIES		POLICIES BY CLASS		EXPOSURE ** (000)	NUMBER OF LOSSES REPORTED	
STATE	NEW	RENEWAL	NEW	RENEWAL	NEW	RENEWAL	HABITATIONAL	COMMERCIAL		HABITATIONAL	COMMERCIAL
ALABAMA	7,998	22,555	7,597	8,913	6,993	19,849	26,748	94	$4,584,758	429	3
MISSISSIPPI	5,326	38,846	5,326	0	5,326	38,846	43,024	1,148	$6,873,544	2,169	957
NORTH CAROLINA	N/A	N/A	N/A	N/A	50,130	183,273	221,848	11,555	81,003,748	5,003	511
SOUTH CAROLINA	3,622	42,503	3,561	8,431	3,583	42,272	44,902	953	15,727,550	113	1
TEXAS	33,057	249,178	0	0	33,216	253,251	269,840	16,627	74,186,950	8,276	361
TOTAL	50,003	353,082	16,484	17,344	99,248	537,491	606,362	30,377	$182,376,550	15,990	1,833

FOOTNOTES:

Source: PIPSO DATA FORM

***"Applications" are those that have been accepted by the Plan for processing.**

****Exposure" is the estimate of the aggregate value of all insurance in force on all lines (except Crime where applicable) on the last day of the period as defined in the heading above.**

N/A - Not Available/Not Applicable

PIPSO

Exhibit D2

Beach and Windstorm Plan Report of Operations
Underwriting Data @
Twelve Months Ended: September, October, November, December, 2012

	PREMIUMS		LOSSES AND LAE						EXPENSES (EXCL. LOSS ADJUSTMENT)						
				LOSSES OUTSTANDING INCLUDING IBNR											
STATE	WRITTEN	EARNED	LOSSES PAID	CURRENT	PRIOR	LOSSES INCURRED	LOSS ADJ. EXPENSES INCURRED	TOTAL LOSS & LAE INCURRED	COMMISSION TO PRODUCERS	OPERATING EXPENSES	TOTAL EXPENSES	STATUTORY UNDERWRITING GAIN OR (LOSS)+	INVEST RETURN AND MISC. INCOME	MISC. EXPENSE ++	OPERATING GAIN OR LOSS**
ALABAMA *	$46,101	$26,363	$2,053	$1,694	$1,513	$2,234	$332	$2,566	$3,623	$4,424	$8,047	$15,750	$734	$0	$16,484
MISSISSIPPI *	$77,650	$10,262	$6,923	$1,207	$678	$7,452	$3,095	$10,547	$7,820	$3,876	$11,696	($11,981)	$13,420	$0	$1,439
NORTH CAROLINA *	$335,258	$116,721	$96,492	$10,810	$114,260	($6,958)	($1,735)	($8,693)	$43,677	$15,511	$59,188	$66,226	$14,895	$10	$81,111
SOUTH CAROLINA *	$95,819	$8,339	$259	$226	$258	$227	$79	$306	$9,582	$6,359	$15,941	($7,908)	$12	($21)	($7,875)
TEXAS *	$443,480	$321,122	$243,138	$323,135	$204,929	$361,344	$40,529	$401,873	$70,928	$30,880	$101,808	($182,559)	($268,080)	($259,436)	($191,203)
TOTAL	$998,308	$482,807	$348,865	$337,072	$321,638	$364,299	$42,300	$406,599	$135,630	$61,050	$196,680	($120,472)	($239,019)	($259,447)	($100,044)

NOTE: Footnotes to Exhibit D2 appear on the next page.

PIPSO **Exhibit D2**

Beach and Windstorm Plan Report of Operations
Underwriting Data @
Twelve Months Ended: September, October, November, December, 2012

FOOTNOTES:

Source: PIPSO DATA FORM

@All amounts shown in this exhibit are in thousands of dollars.

+Statutory Underwriting Gain (Loss) = Earned Premium - Total Loss & Loss Adjustment Expense - Total Expenses

++ Miscellaneous income or expenses are those which are not related to the development of the statutory underwriting results but impact the financial performance and member's equity. A negative amount in the "Miscellaneous Expenses" column is usually the result of decreased non-admitted assets.

****Operating Gain (Loss) = Statutory Underwriting Gain (Loss) + Investment and Miscellaneous Income - Miscellaneous Expenses**

*** The Alabama Insurance Underwriting Association reinsured a portion of its risks. The written premium amount shown on the previous page represents the amount of "Gross Premium Written". The net premium written ("Gross Premium" less "Reinsurance Premium Ceded") for the twelve months ending 2012 is $26,899,000.**

*** The Mississippi Windstorm Underwriting Association has reinsured a portion of its risks. The written premium amount shown on the previous page represents the amount of "Gross Premium Written". The net premium written ("Gross Premium" less "Reinsurance Premium Ceded") for the twelve months ending 2012 is $7,989,000.**

*** The North Carolina Insurance Underwriting Association has reinsured a portion of its risks. The written premium amount shown on the previous page represents the amount of "Gross Premium Written". The net premium written ("Gross Premium" less "Reinsurance Premium Ceded") for the twelve months ending 2012 is $136,313,000.**

*** The South Carolina Windstorm and Hail Underwriting Association has reinsured a portion of its risks. The written premium amount shown on the previous page represents the amount of "Gross Premium Written". The net premium written ("Gross Premium" less "Reinsurance Premium Ceded") for the twelve months ending 2012 is $7,147,000.**

*** The Texas Windstorm Insurance Association has reinsured a portion of its risks. The written premium amount shown on the previous page represents the amount of "Gross Premium Written". The net written Premium ("Gross Premium" less "Reinsurance Ceded") for the twelve months ending 2012 is $334,995,000.**

The PIPSO Reports display "net of reinsurance experience" by using an additional set of exhibits. The extra set of exhibits are included with the "twelve month" PIPSO Reports for each year regardless of whether loss data for that year is affected by reinsurance. The effects of reinsurance on the data contained in Exhibit D2 are displayed in Exhibit E1.

N/A Not Available/Not Applicable

PLANS THAT OFFER HOMEOWNER COVERAGE

STATE	FORMS	LIMITS
District of Columbia	HO 2, 4, 6 & 8	$455,000
Florida	HO 3, 4, 6 & 8	$1,000,000 (PLC)
Georgia	HO 8	$2,000,000
Illinois	HO 2, 3, 4, 6 & 8	$750,000
Iowa	HO 8	$200,000
Kentucky	HO 2, 4, 6 & 8	$200,000
Louisiana	HO 2, 3, 4, 6, & 8	$750,000
Maryland	HO 2, 4, 6 & 8	$455,000
Massachusetts	HO 2, 3, 4, & 6	$1,000,000
Michigan	HO 2, 3, 4 & 6	100% of R/C (HO 2 only)
Minnesota	HO 4, 6 & 8	$1.32 million
North Carolina	HO 2, 3, 4, 6 & 8	$750,000
Ohio	HO 2, 3 & 8	$1,000,000
Rhode Island	HO 2, 3, 4, 5, 6 & 8	$1,000,000
Texas FAIR Plan	Equivalent of the old HO 1	$1,000,000
Wisconsin	HO 8	$200,000

EXHIBIT 9 - PROPERTY INSURANCE PLANS STATUTORY UNDERWRITING RESULTS INCEPTION TO DATE ('000)

YEAR	FAIR	BEACH	ALL PLANS
*1970	*($57,000)*	$50	*($56,950)*
*1971	*($26,000)*	$100	*($25,900)*
1972	*($1,343)*	$1,338	*($5)*
1973	*($40,737)*	$5,220	*($35,517)*
1974	*($64,836)*	$6,491	*($58,345)*
1975	*($62,459)*	*($2,794)*	*($65,253)*
1976	*($56,058)*	$12,799	*($43,259)*
1977	*($60,460)*	$12,303	*($48,157)*
1978	*($40,278)*	$14,439	*($25,839)*
1979	*($35,221)*	*($18,947)*	*($54,168)*
1980	*($76,685)*	*($4,732)*	*($81,417)*
1981	*($73,137)*	$13,515	*($59,622)*
1982	*($61,962)*	$15,172	*($46,790)*
1983	*($45,368)*	*($147,223)*	*($192,591)*
1984	*($47,536)*	*$3,432*	*($44,104)*
1985	*($44,549)*	*($45,067)*	*($89,616)*
1986	($7,996)	$12,777	$4,781
1987	*$744*	$22,924	*$23,668*
1988	*($31,642)*	$21,056	*($10,586)*
1989	*($35,523)*	*($147,978)*	*($183,501)*
1990	*($56,896)*	$71,604	$14,708
1991	*($66,165)*	$15,353	*($50,812)*
1992	*($110,481)*	*($45,023)*	*($155,504)*
1993	*($238,652)*	*($18,282)*	*($256,934)*
1994	*($191,288)*	$28,746	*($162,542)*
1995	*($62,829)*	*($188,849)*	*($251,678)*
1996	*($50,907)*	*($131,728)*	*($182,635)*
1997	*($23,658)*	*($17,444)*	*($41,102)*
1998	$123,590	*($268,320)*	*($144,730)*
1999	$74,801	*($133,749)*	*($58,948)*
2000	*($21,888)*	$32,776	$10,888
2001	*($14,284)*	($47,787)	*($62,071)*
2002	$426,378	($3,739)	$422,639
2003	$477,502	$10,611	$488,113
2004	*($1,508,632)*	*($797)*	*($1,509,429)*
2005	*($2,353,604)*	*($833,052)*	*($3,186,656)*
2006	*$1,850,331*	*($95,387)*	*$1,754,944*
2007	*$1,925,377*	*($68,280)*	*$1,857,097*
2008	*$826,706*	*($1,368,165)*	*($541,459)*
2009	*$690,272*	*$386,756*	*$1,077,028*
2010	*$850,954*	*($82,666)*	*$768,288*
2011	*$379,828*	*($91,066)*	*$288,762*
2012	*$511,485*	*($120,472)*	*$391,013*
Totals:	*$2,569,894*	*($3,194,085)*	*($624,191)*

*** estimated**

Appendix 13. Applicability of the Open Meetings Act

Applicability of the Open Meetings Act

The Task Force to Study Maryland Insurance of Last Resort Programs is considering exempting the Maryland Automobile Insurance Fund (MAIF) from the Open Meetings Act (OMA). To assist the task force in reaching their decision, the Office of Policy Analysis, Department of Legislative Services prepared this paper to provide (1) an overview of which entities are subject to OMA and (2) the applicability of OMA to the Chesapeake Employers' Insurance Company (Chesapeake) and other private agencies with government boards.

Only a "Public Body" is Subject to the Open Meetings Act

OMA applies only to a "public body," which is defined as an entity that consists of at least two individuals, and is created by:

- the Maryland Constitution;
- a State statute;
- a county or municipal charter;
- a memorandum of understanding or a master agreement to which a majority of the county boards of education and the Maryland State Department of Education (MSDE) are signatories;[1]
- an ordinance;
- a rule, resolution, or bylaw;
- an executive order of the Governor; or
- an executive order of the chief executive authority of a political subdivision of the State.[2]

Thus, in most cases, if an entity is not created by one of these formal legal instruments, it is not considered a "public body," and the Act does not apply.[3] For instance, the Open Meetings Compliance Board (OMCB) has found that an "entity formed as a result of a memorandum of agreement consisting of a single representative from two local governments and one from a private association is not a 'public body.'"[4]

Further, the definition of "public body" includes "any multimember board, commission, or committee appointed by the Governor or the chief executive authority of a political

[1] SB 230 of 2013 expanded the definition of "public body" to include an entity that is created by a memorandum of understanding or a master agreement to which a majority of the county boards of education and the State Department of Education are signatories. The purpose of the change is to subject the Maryland Public Secondary Schools Athletic Association, which is created by a master agreement signed by the local superintendents of schools, to the requirements of the Open Meetings Act.

[2] *See* State Government Article, §10-502(h).

[3] *See* Office of the Attorney General, Open Meetings Act Manual 13-14 (7th ed.) *citing* 80 Opinions of the Attorney General 53 (1995); advice letter from Assistant Attorney General Richard E. Israel to Senator Timothy R. Ferguson (August 1, 2000).

[4] Office of the Attorney General, Open Meetings Act Manual 13-14 (7th ed.) *citing* 5 OMCB Opinions 194 (2007).

subdivision of the State, or appointed by an official who is subject to the policy direction of the Governor or chief executive authority of the political subdivision, if the entity includes in its membership at least two individuals not employed by the State or the political subdivision."[5]

Finally, the definition of "public body" also includes "any multimember board, commission, or committee that is appointed by either (1) an entity in the Executive Branch of State government, the members of which are appointed by the Governor, and that otherwise meets the definition of a public body under this subsection or (2) an official who is subject to the policy direction of an entity described in item (1); and includes in its membership at least two individuals who are not members of the appointing entity or employed by the State."[6]

Unless expressly referenced in § 10-502(h)(2) of the State Government Article, a body is not generally included in the scope of the Act. As a result, the Act does not apply to many bodies that exist as a result of long-standing practice, informal arrangements, or other means. For instance, the Act does not apply to a political gathering or party caucus,[7] a political party central committee,[8] or a group of employees.[9]

Entities Expressly Excluded from Definition of "Public Body"

For purposes of OMA, the definition of "public body" does not include the following:

- any single member entity;[10]
- any judicial nominating commission;
- any grand jury;
- any petit jury;
- the Appalachian States Low Level Radioactive Waste Commission established in § 7-302 of the Environment Article;
- except when a court is exercising rulemaking power, any court established in accordance with Article IV of the Maryland Constitution;
- the Governor's cabinet, the Governor's Executive Council as provided in Title 8, Subtitle 1 of the State Government Article, or any committee of the Executive Council;

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[5] *See* State Government Article, §10-502(h)(2)(i).

[6] *See* State Government Article, §10-502(h)(2)(ii).

[7] *See Ajamian v. Montgomery County*, 99 Md. App. 665, 639 A.2d 157, *cert. denied*, 334 Md. 631, 640 A.2d 1132 (1994).

[8] 3 *OMCB Opinions* 278 (2003) (*Opinion 03-6*).

[9] *See Office of the Attorney General, Open Meetings Act Manual 13-14* (7th ed.) *citing* 80 *Opinions of the Attorney General* 90 (1995). *See also* 4 *OMCB Opinions* 43 (2004).

[10] The OMA Manual further elaborates on the "single member entity" exemption, stating that the Act is inapplicable to a meeting held by the chief executive of a jurisdiction, a department head, or another official acting as a "single member entity." "If a statute requires a single official to hold a public hearing, for example, OMA does not govern notice or other requirements concerning the hearing; the other statute would." *See Office of the Attorney General, Open Meetings Act Manual 13-14* (7th ed.) *citing* 1 *Official Opinions of the Open Meetings Compliance Board 175* (1996) (Opinion 96-8).

- a local government's counterpart to the Governor's cabinet, Executive Council, or any committee of the counterpart of the Executive Council;
- except to the extent that a subcommittee of a public body is created by the legal instruments stipulated in the Act, a subcommittee of a public body as defined in § 10-502(h)(3) of the State Government Article (discussed above);[11]
- the governing body of a hospital as defined in § 19-301 of the Health—General Article;[12] and
- a self-insurance pool that is established in accordance with Title 19, Subtitle 6 of the Insurance Article or § 9-404 of the Labor and Employment Article by either (1) a public entity, as defined in § 19-602 of the Insurance Article or (2) a county or municipal corporation, as defined in § 9-404 of the Labor and Employment Article.[13]

Applicability of the Open Meetings Act to Quasi-private Entities

While the receipt of public funds does not in itself subject a private corporation to OMA, the Act has been applied to ostensibly private corporations that fulfill public functions and are controlled by public officials. Thus, the Maryland Court of Special Appeals has found that a private corporation that "was organized and has functioned as an extension or sub-agency of the …. Government"[14] is subject to OMA. Moreover, according to OMCB, OMA is applicable to a corporate board, "if a corporation's existence is authorized by a direct legislative act, and the legislative body intended the corporation to be governmental in character."[15]

The applicability of OMA to a private agency with a government board varies. According to the *Maryland Manual*, there are eight such entities. They include entities across a broad spectrum ranging from the arts, education, legal services, insurance, health, and commercial and economic development. In 2000, as part of a greater overhaul of the regulatory approach to Chesapeake (formerly IWIF), a bill to exempt the organization from OMA, among other things, was enacted.[16] **Exhibit 1** contains a summary of the applicability of OMA to private agencies with government boards.

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[11] For instances of when the OMA has been found applicable to a subgroup *see Carroll County Educ. Ass'n v. Board of Educ.*, 294 Md. 144, 155, 448 A.2d 345 (1982). *See also Avara v. Baltimore News American*, 292 Md. 543, 550-51, 440 A.2d 368 (1982) (legislative conference committee "authorized" by rule is a "public body"); *See* 5 OMCB Opinions 189 (2007) (advisory panel consisting of members of the Critical Area Commission required pursuant to a statutory directive that, among other things, prescribed panel quorum requirements was a public body).

[12] §19-301 of the Health – General Article defines "hospital" as an institution that (1) has a group of at least five physicians who are organized as a medical staff for the institution; (2) maintains facilities to provide, under the supervision of the medical staff, diagnostic and treatment services for two or more unrelated individuals; and (3) admits or retains the individuals for overnight care.

[13] *See* State Government Article, § 10-502(h)(3).

[14] Andy's Ice Cream, Inc. v. City of Salisbury, 125 Md. App. 125, 724 .2S 717 (1999), CERT. DENIED, 353 Md. 473, 727 A.2d 382 (1999).

[15] Open Meetings Act Manual 13-14 (7th ed.) *citing* 1 *OMCB Opinions* 212 (1997) (Opinion 97-3).

[16] *See* Chapter 567, Acts 2000, effective October 1, 2000.

Exhibit 1
Maryland Private Agencies with Government Boards
Open Meetings Act Exemption Status

Agency	Exempt?
Maryland School for the Blind	No[17]
Blind Industries & Services of Maryland	No[18]
Chesapeake Employers' Insurance Company	Yes[19]
Maryland Humanities Council	Yes*[20]
Maryland Legal Services Corp.	No[21]
MdBIO, Inc.	Yes*[22]
University of Maryland Medical System Corporation	Yes[23]
Washington College	Yes*[24]

*Indicates that the exemption is not explicitly stated in either the OMA or the entity's enacting statute. The conclusion that the entity is exempt is based on an Attorney General opinion/advice letter "attempt[ing] to ascertain legislative intent."

Source: Letter of Chief Counsel, Opinions and Advice, Office of Attorney General, Robert N. McDonald to The Honorable Joan Carter Conway (October 4, 2007); Department of Legislative Services

[17] *See* State Government Article, § 10-502(h)(2)(iii).

[18] *See* Letter of Assistant Attorney General Jack Schwartz to Frederick L. Dewberry, President, Blind Industries and Service of Maryland (January 19, 1988) (Board of Trustees of Blind Industries is public body subject to the OMA).

[19] *See* Chapter 567, Acts 2000, effective October 1, 2000.

[20] *See* Letter of Assistant Attorney General Richard E. Israel to Naomi F. Collins, Executive Director, Maryland Humanities Council (February 12, 1985) (Council is not subject to Open Meetings Act).

[21] *See* Human Services Article § 11-304(b). (specifying that the meetings of MLSC board are to be open to the public, except that they may be closed for the same purposes that a meeting may be closed under the OMA).

[22] *See* Letter of Chief Counsel, Opinions and Advice, Office of Attorney General, Robert N. McDonald to The Honorable Joan Carter Conway (October 4, 2007). ("To the extent that that the University of Maryland was involved in the creation of MdBIO, that participation appears to fall within the University's authorization to promote the economic development of the State through collaboration with private industry. ED § 15-107. It would not, thereby, make the entity a public body or instrumentality of government. Unless there are other factors by which a government agency exercises significant control over MdBIO, a court would likely hold that its board is not subject to the Open Meetings Act.").

[23] *See* Education Article, § 13-303(a)(2). (University of Maryland Medical System Corporation is not a "public body.") *Also see* State Government Article, § 10-502(h)(3)(x). ("Public body" does include "the governing body of a hospital as defined in § 19-301 of the Health – General Article").

[24] *See* Letter of Chief Counsel, Opinions and Advice, Office of Attorney General, Robert N. McDonald to The Honorable Joan Carter Conway (October 4, 2007).

Other Considerations

When analyzing whether OMA applies to a particular meeting of a public body, it must be determined whether the public body is holding a "meeting" as defined in § 10-502(g) of the State Government Article; *i.e.*, "… conven[ing] a quorum of a public body for the consideration or transaction of public business." Further, public access will depend on the type of function the public body is engaged in at the meeting, *e.g.*, whether the function is "advisory," "legislative," or "quasi-legislative," in which case OMA applies.[25]

Conclusion

OMA only applies to a "public body" as defined in § 10-502(h) of the State Government Article. To the extent that § 10-502(h) does not expressly include or exclude an entity, the entity's enacting statute may provide further guidance. Moreover, Maryland courts, OMCB, and opinion letters written by the Maryland Attorney General's Office have also opined on the applicability of OMA to certain entities.

Chesapeake, a similar entity to MAIF, was exempted from OMA in 2000 as part of a greater overhaul of the regulatory handling of the insurance company. Of the eight private agencies with government boards, five have been found to be exempt from OMA. However, only two are expressly exempted from OMA by statute.

Attachment 1 provides additional examples of the applicability of OMA to other entities. **Attachment 2** summarizes key provisions of the Act.

This paper was prepared by Joshua Lowery and Tami Burt, Policy Analysts, Office of Policy Analysis, Department of Legislative Services, November 2013

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[25] *See Office of the Attorney General, Open Meetings Act Manual 13-14* (7th ed.).

Appendix 13. Attachment 1

Examples of the Applicability of OMA to Other Entities Discussed in the Entity's Enacting Statute, Court Decisions, and OMCB Decisions

Subject to OMA

- Maryland Workforce Corporation[1]
- Baltimore Development Corporation[2]
- State Lottery Commission[3]
- Salisbury Zoo Commission[4]
- Prince George's County Hospital Authority[5]
- Local Redevelopment Authorities[6]
- Board of Regents of the University System of Maryland[7]
- Board of Regents of Morgan State University[8]
- Board of Trustees of St. Mary's College of Maryland[9]
- Caroline County School Board[10]
- Interagency Committee on School Construction[11]
- Land Bank Authorities[12]
- Historic St. Mary's City Commission[13]
- Child Fatality Review Team Meetings When Team is *Not* Discussing Individual Cases of Child Deaths with Certain Exceptions. [14]
- Local Domestic Violence Fatality Review Teams When Team is *Not* Discussing Individual Cases with Certain Exceptions[15]

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[1] *See* Labor and Employment Article, § 11-1006(a)(2).

[2] *See* City of Baltimore Dev. Corp. v. Carmel Realty Assoc., 395 Md. 299, 910 A.2d 406 (2006). (OMA is applicable to, BDC, a nonprofit corporation formed to plan and implement long range development strategies in Baltimore City, but is subject to substantial Mayoral control over its board of directors, including sole power to make nominations, appointments, and removals).

[3] *See* 64 Op. Att'y Gen. 208 (1979).

[4] *See* Andy's Ice Cream, Inc. v. City of Salisbury, 125 Md. App. 125, 724 .2S 717 (1999), CERT. DENIED, 353 Md. 473, 727 A.2d 382 (1999).

[5] *See* Health – General Article, §24-1602(e)(2)(i).

[6] *See* Economic Development Article, §11-312(b).

[7] *See* Education Article, § 12-104(j)(1).

[8] *See* Education Article, § 14-104(d)(2).

[9] *See* Education Article, § 14-404(c)(1).

[10] *See* Education Article, § 3-3A-06(b).

[11] *See* Education Article, § 5-302(f).

[12] *See* Article 23A – Corporations – Municipal, §60(a)(3).

[13] *See* Education Article, § 24-512(b)(2).

[14] *See* Health-General Article, § 5-708.

[15] *See* Family Law Article, § 4-706.

An action of a commissioner or employee of the Board of License Commissioners in Baltimore City[16]

Exempt from OMA

- Maryland African American Museum Corporation[17]
- Child Fatality Review Team Meetings When Discussing Individual Cases of Child Deaths[18]
- Local Domestic Violence Fatality Review Teams When Team is Discussing Individual Cases[19]
- Mortality and Quality Review Committee[20]
- Community Reinvestment Fund[21]
- Maryland Agricultural and Resource-Based Industry Development Corporation[22]
- University Task Force on Academic Achievement of Student-Athletics[23]
- Patuxent Institution Board of Review[24]
- Private groups holding meetings in public buildings[25]

Partially Exempt from OMA

- Maryland Economic Development Corporation[26]
- Bainbridge Development Corporation[27]
- PenMar Development Corporation[28]

[16] *See* Article 2B – Alcoholic Beverages, § 15-112(d)(15).
[17] *See* State Government Article, § 9-2612(a)(1).
[18] *See* Health General Article, § 5-708(a).
[19] *See* Family Law Article, § 4-706(a).
[20] *See* Health – General Article, § 5-810.
[21] *See* Housing and Community Development Article, §9-304(b).
[22] *See* Economic Development Article, § 10-508(b)(2).
[23] *See* A.S. Abell Publishing Co. v. Board of Regents, 68 Md. App. 500, 514 A.2d 25 (1986). (University task force relating to academics and student athletes was not created by a rule, resolution, or bylaws of the board of regents, but was an investigatory body wholly under the province of the chancellor, and not subject to the Open Meetings Act).
[24] *See* 65 Op. Att'y Gen. 341 (1980). (Patuxent Institution Board of Review is not required to open its meetings, since it exercises an executive or quasi-judicial function).
[25] *See* 80 Op. Att'y Gen. 90 (August 4, 1995). (A County may allow private groups to hold meetings in public buildings; a group holding such a meeting may bar uninvited member of the public).
[26] *See* Economic Development Article, §10-111(a)(ii)(3)(B) (MEDC is not subject to §§ 10-505 and 10-507 of State Government Article).
[27] *See* Economic Development Article, §11-408(a)(2)(i)(2) (Corporation is not subject to §§ 10-505 and 10-507 of State Government Article).
[28] *See* Economic Development Article, §11-509(a)(2)(i)(2) (Corporation is not subject to §§ 10-505 and 10-507 of State Government Article).

Appendix 13. Attachment 2

Open Meetings Act
Summary of Key Provisions

- **Applicability of the Act:** A meeting is subject to the Act if it involves (1) a public body; (2) has a quorum (convening of a majority); (3) is conducting public business (legislative, quasi-legislative, advisory, or other matters related to the entity's legal responsibilities); and (4) the pubic business is on a topic not excluded from the Act (Act does not apply to administrative functions, including functions that do not fall within any other defined function, that are not part of the policymaking process, and that do not involve administration of existing law or policy).

- **Meeting Notice:** A notice must be issued reasonably far in advance (or as soon as possible if scheduling an unanticipated meeting), in writing, by a generally understood method, and include certain content (date, time, and place – an agenda is not required).

- **Meeting Site:** The meeting must be held in a place reasonably accessible to individuals who would like to attend and in a room large enough to accommodate those members of the public and the press who are expected to attend. The location should be as convenient as possible for public attendance.

- **Openness:** Unless there is a basis for closing a meeting, the meeting must be open to the press and public (public participation is discretionary and audio or video recordings may be reasonable regulated but not prohibited).

- **Closing a Session:** There are 14 exceptions under which a meeting or part of meeting may be closed (specific personnel matter; protection of personal privacy on a matter unrelated to public business; acquisition of real property; proposed business relocation or expansion; investment of public funds; marketing of public securities; obtaining legal advice from counsel; consulting about pending or potential litigation; collective bargaining; public security; scholastic, licensing, or qualifying examinations; criminal investigations; requirement to close a meeting imposed by other law; and preliminary discussion of procurement matters). A written statement must include (1) one or more identified exceptions; (2) reason for invoking the exception; and (3) topics to be discussed.

- **Minutes:** Minutes are required to be prepared as soon as practicable for both open and closed meetings. Open meeting minutes must be available to the public and detailed enough to enable someone who did not attend to learn what actions were taken. Audio or video records may be used instead of written minutes. Closed meeting minutes are sealed. Open meeting minutes following a closed meeting must disclose the authority for closing, topics discussed, identification of those present, and any actions taken.

Appendix 14. Resource Sharing Letter to MAIF and Chesapeake – December 16, 2013

THE MARYLAND GENERAL ASSEMBLY

ANNAPOLIS, MARYLAND 21401-1991

Task Force to Study Maryland Insurance Last Resort Programs

December 16, 2013

Mr. Kent Krabbe, Executive Director
Maryland Automobile Insurance Fund
1750 Forest Drive
Annapolis, Maryland 21401

Mr. Thomas J. Phelan, President and Chief Executive Officer
Chesapeake Employers' Insurance Company
8722 Loch Raven Boulevard
Towson, Maryland 21286-2235

Dear Mr. Krabbe and Mr. Phelan:

As you are aware, the Task Force to Study Maryland Insurance of Last Resort Programs was created under Chapter 408 of 2012 to study and make recommendations regarding the potential benefits to the State from the affiliation of one or more of the State-created insurers of last resort. In the task force's final report, the task force plans to recommend that the Maryland General Assembly should not consider affiliating the Maryland Automobile Insurance Fund (MAIF) with the Chesapeake Employers' Insurance Company (Chesapeake) at this time. However, the task force will recommend that the two organizations meet to determine whether there are future opportunities for resource sharing.

During the 2012 interim, the task force focused its efforts on making operational changes to MAIF to more closely align the insurer with the operational structure of the Injured Workers' Insurance Fund (IWIF). Chapters 73 and 74 of 2013 implement those operational changes. The task force has acknowledged that those measures, along with the implementation of a MAIF installment payment plan under Chapter 334 of 2013, have created a significant workload for MAIF. In the meantime, IWIF has transitioned to Chesapeake in accordance with Chapter 570 of 2012, creating a significant workload for Chesapeake. Accordingly, the task force determined during the 2013 interim that discussion of resource sharing should not occur at this time.

Since there may be future opportunities for resource sharing, on behalf of the task force, we request that your organizations meet to discuss possible areas of cooperation, including employee health plans, employee retirement systems, legal representation, auditing services, and claim processing. We request that you jointly report to the Senate Finance Committee and the House Economic Matters Committee with your findings and recommendations on or before October 1, 2015.

Thank you for your attention to this matter. Please contact one of us if you have questions about our request.

Very truly yours,

Thomas McLain Middleton
Senate Chair

David D. Rudolph
House Chair

TMM:DDR/TDB/tas

cc: Mr. Mark D. McCurdy
Ms. Sandra Dodson
Mr. George L. Layfield
Mr. Dennis W. Carroll

Appendix 15. Proposed Legislation: "Motor Vehicle Insurance – Task Force to Study Methods to Reduce the Rate of Uninsured Drivers"

C4

Bill No.: _____

Requested: _____

Committee: _____

By:

A BILL ENTITLED

EMERGENCY BILL

AN ACT concerning

Motor Vehicle Insurance – Task Force to Study Methods to Reduce the Rate of Uninsured Drivers

FOR the purpose of establishing the Task Force to Study Methods to Reduce the Rate of Uninsured Drivers; providing for the composition, co–chairs, and staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Task Force to study and make recommendations regarding certain matters; requiring the Task Force to report is preliminary and final findings to the General Assembly on or before certain dates; making this Act an emergency measure; providing for the termination of this Act; and generally relating to the Task Force to Study Methods to Reduce the Rate of Uninsured Drivers.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force to Study Methods to Reduce the Rate of Uninsured Drivers.

(b) The Task Force consists of the following members:

(1) two members of the Senate of Maryland, appointed by the President of the Senate;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.

(2) two members of the House of Delegates, appointed by the Speaker of the House;

(3) the Insurance Commissioner of the Maryland Insurance Administration, or the Commissioner's designee;

(4) the Administrator of the Maryland Motor Vehicle Administration, or the Administrator's designee;

(5) the Superintendent of the Maryland Department of State Police, or the Superintendent's designee;

(6) the Executive Director of the Maryland Automobile Insurance Fund, or the Executive Director's designee;

(7) the Executive Director of the Job Opportunities Task Force, or the Executive Director's designee; and

(8) the following members, appointed by the Governor:

(i) three representatives of the private passenger motor vehicle insurance industry;

(ii) a representative of a consumer advocacy organization;

(iii) two representatives of motor vehicle insurance producers; and

(iv) a member of a non–profit national motor club member organization.

(c) (1) The President of the Senate shall designate the Senate co–chair of the Task Force.

(2) The Speaker of the House of Delegates shall designate the House co–chair of the Task Force.

(d) (1) The Department of Legislative Services shall provide staff for the Task Force.

(2) The Motor Vehicle Administration and the Maryland Insurance Administration shall provide staff assistance.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall study and make recommendations regarding:

(1) the rate of uninsured drivers in the State and other states, including the ways in which the rate is calculated by the Motor Vehicle Administration and other insurance data organizations;

(2) whether drivers who are reinstated as having insurance since the inception of the insurance policy by insurers after paying delinquent insurance premiums for lapsed coverage and paying uninsured motorist fines, as assessed through written notice by the Motor Vehicle Administration, were considered uninsured during the time when the delinquent insurance premium for lapsed coverage was outstanding;

(3) the deterrents and incentives used in the State and in other states or could be used in the State to reduce the rate of uninsured drivers, including:

(i) the imposition of, or increase in, fines and penalties on uninsured drivers and the uses of funds collected;

(ii) the requirement that a minimum fine or penalty and a reimbursement obligation of towing expenses to the State may not be waived;

(iii) the implementation of an administrative insurance verification system that verifies the purchase of insurance on a motor vehicle at the time the motor vehicle is registered with the Motor Vehicle Administration;

(iv) the requirement that a driver carry a card that shows evidence of insurance on the motor vehicle the driver is driving;

(v) the implementation of a police insurance verification system that links a license plates database to insurer databases;

(vi) the education of young drivers and others, at the time of initial drivers licensure, of the importance and legal requirement of purchasing insurance; and

(vii) making the act of knowingly presenting a false or otherwise invalid evidence of insurance an offense;

(4) the methods to reduce the cost of insurance to make purchasing insurance more affordable, including:

(i) the implementation of an insurance plan with lower required coverages for specified low–income individuals;

(ii) the expansion of the personal injury protection waiver; and

(iii) the implementation of a pay–as–you–drive insurance plan; and

(5) any other relevant issue or consideration identified by the Task Force.

(g) (1) On or before December 31, 2014, the Task Force shall report its preliminary findings and recommendations, including any proposed legislation, to the Senate Finance Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article.

(2) On or before December 31, 2015, the Task Force shall report its final findings and recommendations, including any proposed legislation, to the Senate Finance Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article.

SECTION 2. BE IT FURTHER ENACTED, That this Act shall take effect as an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. It shall remain effective through December 31, 2015, at the end of December 31, 2015, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.