



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

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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

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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