

DRAFTER'S NOTE: This section seeks to recognize the constitutional limits on de novo review set forth in DNR v. Linchester Sand and Gravel Corp., 274 Md. 211 (1975). See also, Nuger v. Insurance Commissioner, 238 Md. 55 (1965). Because such "de novo" statutes affect some agencies not subject to the APA, the proposed language is included as an amendment to Article 1 of the Code.

Article 48A – Insurance Code

35.

(1) The Commissioner may hold hearings for any purpose within the scope of this article deemed by him to be necessary.

(2) The Commissioner shall hold a hearing if required by any provision, or upon written demand therefor by a person aggrieved by any act, threatened act or failure of the Commissioner to act, or by any report, rule, regulation or order of the Commissioner (other than an order for the holding of a hearing, or an order on hearing or pursuant thereto). Any such demand shall specify the grounds to be relied upon as a basis for the relief to be demanded at the hearing, and unless postponed by mutual consent, such hearing shall be held within thirty (30) consecutive calendar days after receipt by the Commissioner of demand therefor.

(3) If within such thirty (30) day period the Commissioner does not either (i) grant the hearing, or (ii) issue his order refusing the hearing, as to such previous report, rule, regulation, or order as to which such person so claims to be aggrieved, then the hearing shall thereby be deemed to have been refused.

(4) (I) EXCEPT AS PROVIDED IN PARAGRAPH (II) OF THIS SUBSECTION, A HEARING HELD UNDER THIS SECTION SHALL BE CONDUCTED IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE (ADMINISTRATIVE PROCEDURE ACT - CONTESTED CASES).

(II) A HEARING HELD UNDER THIS SECTION IS NOT SUBJECT TO § 10-216 OF THE STATE GOVERNMENT ARTICLE.

40.

(1) An appeal from the Commissioner shall be taken only from an order or hearing or with respect to a matter which the Commissioner has refused a hearing. Any person who was a party to such hearing, or whose pecuniary interests are directly and immediately affected by any such order or refusal and who is aggrieved thereby may, within 30 days after (i) the order has been mailed or delivered to the persons entitled to receive it, or (ii) the Commissioner's order denying rehearing or reargument has been so mailed or delivered, or (iii) the Commissioner's refusal to grant a hearing, appeal from such order or hearing or such refusal of a hearing. The appeal shall be taken to the Circuit Court for Baltimore City, by filing written notice of appeal in such court and by filing a copy of such notice with the Commissioner. However, in appeals from the suspension or revocation of the certificate of authority of a domestic insurer or of the certificate of qualification of an agent or broker, or the license of a public adjuster, or adviser, the person taking the appeal at his option, in lieu of the Circuit Court for Baltimore City, may take the appeal to the circuit court of the county of Maryland in