

Chapter 827

(House Bill 90)

AN ACT concerning

Insurance – Hearing Representation

FOR the purpose of requiring the Maryland Insurance Commissioner to allow certain business entities that are small employers to be represented by certain authorized individuals rather than an attorney in certain hearings held by the Commissioner; and generally relating to insurance and hearing representation.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 2–213
Annotated Code of Maryland
(2017 Replacement Volume and 2023 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Insurance

2–213.

(a) (1) Except as otherwise provided in this subsection, all hearings shall be open to the public in accordance with § 8–505 of the State Government Article.

(2) A hearing held by the Commissioner that relates to a filing under Title 11 of this article is not required to be open to the public.

(3) A hearing held by the Commissioner to determine whether an insurer is being operated in a hazardous manner that could result in its impairment is not required to be open to the public if:

(i) the insurer requests that the hearing not be a public hearing; and

(ii) the Commissioner determines that it is not in the interest of the public to hold a public hearing.

(4) A hearing held by the Commissioner to evaluate the financial condition of an insurer under the risk based capital standards set out in Title 4, Subtitle 3 of this article is not required to be open to the public.

(5) A hearing shall be considered open to the public if a member of the public may observe the hearing virtually through an electronic media platform.

(b) (1) The Commissioner shall allow any party to a hearing to:

(i) subject to paragraph ~~[(2)]~~ **(3)** of this subsection, appear in person;

(ii) be represented:

1. by counsel; ~~[or]~~

2. in the case of an insurer, by a designee of the insurer who:

A. is employed by the insurer in claims, underwriting, or as otherwise provided by the Commissioner; and

B. has been given the authority by the insurer to resolve all issues involved in the hearing; **OR**

3. BY A REPRESENTATIVE AUTHORIZED UNDER PARAGRAPH (2) OF THIS SUBSECTION;

(iii) be present while evidence is given;

(iv) have a reasonable opportunity to inspect all documentary evidence and to examine witnesses; and

(v) present evidence.

(2) (I) IN THIS PARAGRAPH, “BUSINESS ENTITY” MEANS A CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR SOLE PROPRIETORSHIP.

(II) SUBJECT TO SUBPARAGRAPHS (III), (IV), (V), AND (VI) OF THIS PARAGRAPH, A BUSINESS ENTITY MAY AUTHORIZE THE FOLLOWING TO REPRESENT IT IN A HEARING UNDER THIS SECTION:

1. FOR A CORPORATION, AN OFFICER OF THE CORPORATION OR AN EMPLOYEE DESIGNATED BY AN OFFICER OF THE CORPORATION;

2. FOR A PARTNERSHIP, A PARTNER IN THE PARTNERSHIP OR AN EMPLOYEE DESIGNATED BY A PARTNER;

3. FOR A LIMITED LIABILITY COMPANY, A MEMBER OF THE LIMITED LIABILITY COMPANY OR AN EMPLOYEE DESIGNATED BY A MEMBER OF THE LIMITED LIABILITY COMPANY; OR

4. FOR A SOLE PROPRIETORSHIP, AN EMPLOYEE DESIGNATED BY THE OWNER OF THE SOLE PROPRIETORSHIP.

(III) THE BUSINESS ENTITY MUST PROVIDE PROOF TO THE COMMISSIONER THAT IT MEETS THE DEFINITION OF A “SMALL EMPLOYER” UNDER § 31–101 OF THIS ARTICLE.

(IV) THE HEARING MAY NOT BE ~~NOT~~ BASED ON AN ASSIGNMENT OF THE CLAIM OF ANOTHER TO THE BUSINESS ENTITY.

(V) IN THE CASE OF A DESIGNATED EMPLOYEE, THE EMPLOYEE:

1. MUST PROVIDE TO THE COMMISSIONER A POWER OF ATTORNEY SWORN TO BY THE EMPLOYER THAT CERTIFIES THAT THE DESIGNATED EMPLOYEE IS AN AUTHORIZED AGENT OF THE BUSINESS ENTITY AND MAY BIND THE BUSINESS ENTITY ON MATTERS PENDING BEFORE THE COMMISSIONER; AND

2. MAY NOT BE AN INDIVIDUAL WHO IS DISBARRED OR SUSPENDED AS A LAWYER IN ANY STATE.

(VI) THE BUSINESS ENTITY MAY NOT CONTRACT WITH, HIRE, OR EMPLOY ANOTHER BUSINESS ENTITY TO PROVIDE APPEARANCE SERVICES.

(3) (i) Subject to subparagraph (ii) of this paragraph, the Commissioner may direct that a hearing be held virtually.

(ii) The Commissioner may not require a party to participate virtually in a hearing if the party demonstrates that it is unable to exercise any of the rights under paragraph (1)(ii) through (v) of this subsection by appearing virtually.

(iii) The Commissioner shall make available to the parties to a virtual hearing a space within the office of the Maryland Insurance Administration with access to the equipment necessary to allow the parties to participate in the virtual hearing.

[(3)] (4) On request of a party, the Commissioner shall issue subpoenas to compel attendance of witnesses or production of evidence on behalf of the party.

(c) The Commissioner shall allow any person that was not an original party to a hearing to become a party by intervention if:

(1) the intervention is timely; and

(2) the financial interests of the person will be directly and immediately affected by an order of the Commissioner resulting from the hearing.

(d) Formal rules of pleading or evidence need not be observed at a hearing.

(e) (1) On timely written request by a party to a hearing, the Commissioner shall have a full stenographic record of the proceedings made by a competent reporter at the expense of that party.

(2) If the stenographic record is transcribed, a copy shall be given on request to any other party to the hearing at the expense of that party.

(3) If the stenographic record is not made or transcribed, the Commissioner shall prepare an adequate record of the evidence and proceedings.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.

Approved by the Governor, May 16, 2024.