

BY: Economic Matters Committee

AMENDMENTS TO SENATE BILL NO. 881

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, after "Fund" insert "- Regulation"; and strike beginning with "requiring" in line 3 down through "Fund" in line 22, inclusive, and substitute "requiring the Injured Workers' Insurance Fund (Fund) to be a member of the Property and Casualty Insurance Guaranty Corporation; repealing certain provisions that subject the Fund to certain laws; repealing the requirement that the State Treasurer is the custodian of the Fund; repealing the requirement that the State Treasurer keep the Fund separate from State money; repealing the requirement that the State Treasurer disburse money from the Fund in a certain manner; repealing certain requirements relating to the State Treasurer and Fund investments; repealing the requirement that the Legislative Auditor conduct a fiscal audit of the Fund, a compliance audit of the Fund, a statutory audit of the Fund, and a market conduct survey of the Fund; repealing the requirement that the Fund pay for the fiscal portion of the postaudit examination, the market conduct survey, and the statutory audit conducted by the Legislative Auditor; repealing the requirement that the Legislative Auditor submit the results of each auditor to the Governor and to the Legislative Policy Committee; repealing the requirement that the Legislative Auditor submit the results of the market conduct survey to the Legislative Policy Committee; requiring the Fund to be governed by and subject to certain regulatory provisions of the Maryland Insurance Administration; requiring the Insurance Commissioner to ensure that the Fund meet certain solvency standards before the Fund may become a member of a certain corporation; defining certain terms; and generally relating to the Injured Workers' Insurance Fund".

On pages 1 and 2, strike in their entirety the lines beginning with line 23 on page 1 through line 6 on page 2, inclusive, and substitute:

"BY repealing and reenacting, with amendments,

Article - Labor and Employment

Section 10-105, 10-118, and 10-122

Annotated Code of Maryland

(Over)

(1999 Replacement Volume)

BY repealing

Article - Labor and Employment
Section 10-119, 10-124, and 10-125
Annotated Code of Maryland
(1999 Replacement Volume)

BY adding to

Article - Labor and Employment
Section 10-125
Annotated Code of Maryland
(1999 Replacement Volume)".

AMENDMENT NO 2.

On pages 2 through 6, strike in their entirety the lines beginning with line 10 on page 2 through line 31 on page 6, inclusive and substitute:

"10-105.

(a) The Fund is independent of all State units.

(b) (1) Except as provided in paragraph (2) of this subsection and elsewhere in this subtitle, the Fund is not subject to any law, including § 6-106 of the State Government Article, that affects governmental units.

(2) The Fund is subject to:

(i) [Title 10, Subtitle 5 of the State Government Article;

(ii) Title 10, Subtitle 6, Part III of the State Government Article;

(iii) Title 12 of the State Government Article;

[(iv)] (II) the Maryland Public Ethics Law; and

[(v)] (III) Title 5, Subtitle 3 of the State Personnel and Pensions Article.

(3) Paragraph (1) of this subsection does not affect the exemption from property tax under § 7-210 of the Tax - Property Article.

(C) THE FUND IS A MEMBER OF THE PROPERTY AND CASUALTY INSURANCE GUARANTY CORPORATION.

10-118.

(a) The Fund shall consist of:

(1) premiums for insurance that the Fund issues;

(2) income from investments [that the State Treasurer makes for the Fund] under § 10-122 of this subtitle;

(3) interests on deposits or investments of money from the Fund; and

(4) the money that the Attorney General collects under § 10-133(c) of this subtitle on debts.

(b) The Fund shall include each security or other property that is acquired with money of the Fund.

(c) The Board shall use the Fund to pay all of the expenses under this subtitle, including losses on insurance that the Fund issues.

[10-119.

(a) The State Treasurer is custodian of the Fund.

(b) The State Treasurer shall keep the Fund separate from State money.]

10-122.

(Over)

[(a)] If, at any time, the amount of money in the Fund exceeds the amount that the Board considers necessary for immediate use, the [State Treasurer] EXCESS shall BE[:

(1) invest the excess] INVESTED in any investment authorized under Title 5, Subtitle 6 of the Insurance Article for insurance companies [; or

(2) deposit the excess in accordance with the laws that govern deposit of State money.

(b) If the Board considers it expedient or necessary to use money invested under subsection (a)(1) of this section, the State Treasurer shall collect, sell, or otherwise realize an investment].

[10-124.

The State Treasurer shall disburse money from the Fund only on a voucher that is signed by:

(1) the Chairman or Vice Chairman of the Board; and

(2) the President of the Fund.]

[10-125.

(a) (1) The Legislative Auditor shall conduct:

(i) a fiscal audit of the accounts and transactions of the Fund each year;

(ii) a compliance audit of the accounts and transactions of the Fund every 2 years; and

(iii) a statutory audit of the Fund at least every 3 years in a manner recognized and required by the Legislative Auditor.

(2) As part of the statutory audit, the Legislative Auditor shall perform a market conduct survey about the operations of the Fund, including a review of:

- (i) the average caseload of the Fund's attorneys;
 - (ii) the average length of time to process a claim;
 - (iii) each complaint submitted during the calendar year before the survey, the nature of the complaint, and the resolution of the complaint;
 - (iv) the percentage of claims contested before the Workers' Compensation Commission; and
 - (v) whether the Fund unfairly discriminates or allows unfair discrimination between individuals of the same class and essentially the same hazard level:
 - 1. in the terms or conditions of an insurance policy;
 - 2. in premiums charged; or
 - 3. except as provided under the Fund's experience modification and premium discount plan, in any other manner.
- (3) As soon as possible, the Legislative Auditor shall submit the results of:
- (i) each audit to the Governor and, subject to § 2-1246 of the State Government Article, to the Legislative Policy Committee; and
 - (ii) the market conduct survey to the Legislative Policy Committee.
- (b) The Fund shall pay for:
- (1) the fiscal portion of the postaudit examination;
 - (2) the market conduct survey; and

(3) the statutory audit.]

10-125.

THE FUND SHALL BE GOVERNED BY, AND SUBJECT TO, THE FOLLOWING PROVISIONS OF THE INSURANCE ARTICLE:

(1) TITLE 2, SUBTITLE 2 (ENFORCEMENT);

(2) TITLE 4, SUBTITLE 3 (RISK BASED CAPITAL STANDARDS FOR INSURERS);

(3) TITLE 5, SUBTITLES 1, 2, AND 9 (ASSETS AND LIABILITIES, RESERVES, AND REINSURANCE);

(4) TITLE 7 (MARYLAND INSURANCE ACQUISITION DISCLOSURE AND CONTROL ACT);

(5) TITLE 9 (IMPAIRED ENTITIES);

(6) TITLE 12, SUBTITLE 1 (POLICY FORMS AND PROVISIONS);

(7) EXCEPT FOR § 19-403 (SETTING PREMIUM RATES), TITLE 19, SUBTITLE 4 (WORKERS' COMPENSATION INSURANCE); AND

(8) TITLE 27 (UNFAIR TRADE PRACTICES AND OTHER PROHIBITED PRACTICES).

SECTION 2. AND BE IT FURTHER ENACTED, That the Insurance Commissioner shall examine the financial condition of the Injured Workers' Insurance Fund and ensure that the Fund satisfies the solvency standards for a workers' compensation insurer in this State before the Fund may become a member of the Property and Casualty Insurance Guaranty Corporation.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1,

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