

HOUSE BILL 980

Unofficial Copy  
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2000 Regular Session  
(01r0196)

*ENROLLED BILL*  
*-- Economic Matters/Finance --*

Introduced by **Delegate Busch (Task Force to Study the Injured Workers' Insurance Fund) and Delegate Brown**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Injured Workers' Insurance Fund - Regulation**

3 FOR the purpose of requiring the Injured Workers' Insurance Fund (Fund) to be a  
4 member of the Property and Casualty Insurance Guaranty Corporation;  
5 increasing the number of members on the Board for the Fund; increasing the  
6 number of Board members that must concur for the Board to act; prohibiting a  
7 member from serving more than two terms under certain circumstances;  
8 repealing the requirement that the board appoint an executive vice president;  
9 ~~increasing the number of members on the Board for the Fund; increasing the~~  
10 ~~number of Board members that must concur for the Board to act; repealing~~  
11 ~~certain provisions a certain provision that subject subjects the Fund to certain~~  
12 laws; repealing the requirement that the State Treasurer is the custodian of the  
13 Fund; repealing the requirement that the State Treasurer keep the Fund  
14 separate from State money; repealing the requirement that the State Treasurer  
15 disburse money from the Fund in a certain manner; repealing certain  
16 requirements relating to the State Treasurer and Fund investments; repealing

1 the requirement that the Legislative Auditor conduct a fiscal audit of the Fund,  
 2 a compliance audit of the Fund, a statutory audit of the Fund, and a market  
 3 conduct survey of the Fund; repealing the requirement that the Fund pay for the  
 4 fiscal portion of the postaudit examination, the market conduct survey, and the  
 5 statutory audit conducted by the Legislative Auditor; repealing the requirement  
 6 that the Legislative Auditor submit the results of each auditor to the Governor  
 7 and to the Legislative Policy Committee; repealing the requirement that the  
 8 Legislative Auditor submit the results of the market conduct survey to the  
 9 Legislative Policy Committee; ~~requiring the Fund to be governed by and subject~~  
 10 ~~to certain regulatory provisions of the Maryland Insurance Administration~~  
 11 requiring the Fund to be examined in accordance with provisions of the  
 12 Insurance Article relating to the examination of an insurer's affairs,  
 13 transactions, accounts, records, and assets; requiring the Fund to be subject to  
 14 certain regulatory provisions of the Insurance Article; prohibiting the Insurance  
 15 Commissioner from taking a certain action except under certain circumstances;  
 16 allowing the Insurance Commissioner to examine or review the Fund for  
 17 compliance with certain laws; requiring the Insurance Commissioner to report to  
 18 the Board on the results of a certain examination or review; requiring the  
 19 Insurance Commissioner to ensure that the Fund ~~meet~~ meets certain solvency  
 20 standards before the Fund may become a member of a certain corporation;  
 21 providing that a certain service does not count toward a certain term limitation;  
 22 defining certain terms; and generally relating to the Injured Workers' Insurance  
 23 Fund.

24 BY repealing and reenacting, with amendments,  
 25 Article - Labor and Employment  
 26 ~~Section 10-101, 10-105, 10-110, and 10-112 10-118, and 10-122~~  
 27 Section 10-101, 10-105, 10-110, 10-112, 10-113(a), 10-118, 10-122, and 10-125  
 28 Annotated Code of Maryland  
 29 (1999 Replacement Volume)

30 BY repealing  
 31 Article - Labor and Employment  
 32 ~~Section 10-119, 10-124, and 10-125~~  
 33 Section 10-119 and 10-124  
 34 Annotated Code of Maryland  
 35 (1999 Replacement Volume)

36 ~~BY adding to~~  
 37 ~~Article - Labor and Employment~~  
 38 ~~Section 10-125~~  
 39 ~~Annotated Code of Maryland~~  
 40 ~~(1999 Replacement Volume)~~

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

**Article - Labor and Employment**

1 ~~10-101.~~

2 ~~(a) In this subtitle the following words have the meanings indicated.~~

3 ~~(B) "ADMINISTRATION" MEANS THE MARYLAND INSURANCE~~  
 4 ~~ADMINISTRATION.~~

5 ~~[(b)] (C) "Board" means the Board for the Injured Workers' Insurance Fund.~~

6 ~~(D) "COMMISSIONER" MEANS THE MARYLAND INSURANCE COMMISSIONER.~~

7 ~~[(c)] (E) "Fund" means the Injured Workers' Insurance Fund.~~

8 ~~[(d)] (F) "Policyholder" means an employer who holds a policy of insurance~~  
 9 ~~under this subtitle.~~

10 ~~[(e)] (G) (1) "Wage" means all earnings that are due to an employee for~~  
 11 ~~employment.~~

12 ~~(2) "Wage" includes:~~

13 ~~(i) a bonus;~~

14 ~~(ii) overtime pay;~~

15 ~~(iii) a share of profits; and~~

16 ~~(iv) if, at the time of hiring, an employer and employee set a dollar~~  
 17 ~~value for board or a similar advantage, the advantage.~~

18 ~~10-101.~~

19 ~~(a) In this subtitle the following words have the meanings indicated.~~

20 ~~(B) "ADMINISTRATION" MEANS THE MARYLAND INSURANCE~~  
 21 ~~ADMINISTRATION.~~

22 ~~[(b)] (C) "Board" means the Board for the Injured Workers' Insurance Fund.~~

23 ~~(D) "COMMISSIONER" MEANS THE MARYLAND INSURANCE COMMISSIONER.~~

24 ~~[(c)] (E) "Fund" means the Injured Workers' Insurance Fund.~~

25 ~~[(d)] (F) "Policyholder" means an employer who holds a policy of insurance~~  
 26 ~~under this subtitle.~~

27 ~~[(e)] (G) (1) "Wage" means all earnings that are due to an employee for~~  
 28 ~~employment.~~

29 ~~(2) "Wage" includes:~~

- 1                   (i)     a bonus;
- 2                   (ii)    overtime pay;
- 3                   (iii)   a share of profits; and
- 4                   (iv)    if, at the time of hiring, an employer and employee set a dollar
- 5 value for board or a similar advantage, the advantage.

6 10-105.

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

8       (b)       (1)     Except as provided in paragraph (2) of this subsection and elsewhere

9 in this subtitle, the Fund is not subject to any law, including § 6-106 of the State

10 Government Article, that affects governmental units.

11               (2)     The Fund is subject to:

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

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

14                                *Title 10, Subtitle 6, Part III of the State Government Article;*

15                   (iii)   ~~(II)~~ Title 12 of the State Government Article;

16                   (iv)    ~~(II)~~    ~~(III)~~ the Maryland Public Ethics Law; and

17                   (v)     ~~(III)~~   ~~(IV)~~ Title 5, Subtitle 3 of the State Personnel and Pensions

18 Article.

19               (3)     Paragraph (1) of this subsection does not affect the exemption from

20 property tax under § 7-210 of the Tax - Property Article.

21       (C)       THE FUND IS A MEMBER OF THE PROPERTY AND CASUALTY INSURANCE

22 GUARANTY CORPORATION.

23 10-110.

24       (a)       The Board consists of [7] 9 members appointed by the Governor with the

25 advice and consent of the Senate.

26       (b)       Each member shall be a citizen of the State.

27       (c)       Before taking office, each appointee to the Board shall take the oath

28 required by Article I, § 9 of the Maryland Constitution.

29       (d)       (1)     The term of a member is 5 years.

1           (2)     The terms of members are staggered as required by the terms provided  
 2 for members of the Board on October 1, 1991.

3           (3)     At the end of a term, a member continues to serve until a successor is  
 4 appointed and qualifies.

5           (4)     A member who is appointed after a term has begun serves only for the  
 6 rest of the term and until a successor is appointed and qualifies.

7           (5)     (1)     EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
 8 PARAGRAPH, A MEMBER MAY NOT SERVE FOR MORE THAN TWO TERMS PROVIDED  
 9 THAT SERVICE FOR A PARTIAL TERM OF 1 YEAR OR LESS MAY NOT BE COUNTED  
 10 TOWARD THE TWO-TERM LIMITATION.

11       (e)     The Governor may remove a member for incompetence or misconduct.

12 10-112.

13       (a)     The Board may not act on any matter unless at least [4] 5 members concur.

14       (b)     Each member of the Board shall devote the time needed to carry out the  
 15 duties of office.

16       (c)     The Board shall determine the times and places of its meetings.

17       (d)     (1)     Each member of the Board is entitled to:

18               (i)     the salary provided in the budget of the Board; and

19               (ii)    reimbursement for expenses under the Standard State Travel  
 20 Regulations, as provided in the budget of the Board.

21       (2)     Each member of the Board shall be paid semimonthly.

22 10-113.

23       (a)     The Board:

24               (1)     shall appoint a President [and an Executive Vice President] of the  
 25 Fund;

26               (2)     shall appoint or employ attorneys to advise and represent the Fund in  
 27 all legal matters and, where necessary, to sue or defend suits in the name of the Fund;  
 28 and

29               (3)     may employ other staff.

30 10-110.

31       (a)     The Board consists of [7] 11 members appointed by the Governor with the  
 32 advice and consent of the Senate.

- 1       (b)       Each member shall be a citizen of the State.
- 2       (c)       Before taking office, each appointee to the Board shall take the oath  
3 required by Article I, § 9 of the Maryland Constitution.
- 4       (d)       (1)       The term of a member is 5 years.
- 5               (2)       The terms of members are staggered as required by the terms  
6 provided for members of the Board on October 1, 1991.
- 7               (3)       At the end of a term, a member continues to serve until a successor is  
8 appointed and qualifies.
- 9               (4)       A member who is appointed after a term has begun serves only for  
10 the rest of the term and until a successor is appointed and qualifies.
- 11       (e)       The Governor may remove a member for incompetence or misconduct.  
12 ~~10-112.~~
- 13       (a)       The Board may not act on any matter unless at least [4] 6 members  
14 concur.
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16 duties of office.
- 17       (c)       The Board shall determine the times and places of its meetings.
- 18       (d)       (1)       Each member of the Board is entitled to:
- 19               (i)       the salary provided in the budget of the Board; and
- 20               (ii)       reimbursement for expenses under the Standard State Travel  
21 Regulations, as provided in the budget of the Board.
- 22               (2)       Each member of the Board shall be paid semimonthly.  
23 ~~10-118.~~
- 24       (a)       The Fund shall consist of:
- 25               (1)       premiums for insurance that the Fund issues;
- 26               (2)       income from investments [that the State Treasurer makes for the  
27 Fund] under § 10-122 of this subtitle;
- 28               (3)       interests on deposits or investments of money from the Fund; and
- 29               (4)       the money that the Attorney General collects under § 10-133(c) of  
30 this subtitle on debts.

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

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

5 [10-119.

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

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

8 10-122.

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

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

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

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

19 [10-124.

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

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

23 (2) the President of the Fund.]

24 ~~{~~10-125.

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

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

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

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

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

3                   (i)     the average caseload of the Fund's attorneys;

4                   (ii)    the average length of time to process a claim;

5                   (iii)   each complaint submitted during the calendar year before the  
6 survey, the nature of the complaint, and the resolution of the complaint;

7                   (iv)    the percentage of claims contested before the Workers'  
8 Compensation Commission; and

9                   (v)     whether the Fund unfairly discriminates or allows unfair  
10 discrimination between individuals of the same class and essentially the same hazard  
11 level:

12                           1.     in the terms or conditions of an insurance policy;

13                           2.     in premiums charged; or

14                           3.     except as provided under the Fund's experience  
15 modification and premium discount plan, in any other manner.

16           (3)     As soon as possible, the Legislative Auditor shall submit the results  
17 of:

18                   (i)     each audit to the Governor and, subject to § 2-1246 of the State  
19 Government Article, to the Legislative Policy Committee; and

20                   (ii)    the market conduct survey to the Legislative Policy Committee.

21   (b)     The Fund shall pay for:

22                   (1)     the fiscal portion of the postaudit examination;

23                   (2)     the market conduct survey; and

24                   (3)     the statutory audit.]

25 ~~10-125.~~

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

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

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

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

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

5           (5)     ~~TITLE 9 (IMPAIRED ENTITIES);~~

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

7           (7)     ~~EXCEPT FOR § 19-403 (SETTING PREMIUM RATES), TITLE 19, SUBTITLE~~  
8 ~~4 (WORKERS' COMPENSATION INSURANCE); AND~~

9           (8)     ~~TITLE 27 (UNFAIR TRADE PRACTICES AND OTHER PROHIBITED~~  
10 ~~PRACTICES);~~

11         (A)     EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE FUND  
12 SHALL BE:

13           (1)     EXAMINED BY THE COMMISSIONER IN ACCORDANCE WITH §§ 2-205  
14 AND 2-207 THROUGH 2-209 OF THE INSURANCE ARTICLE; AND

15           (2)     SUBJECT TO THE FOLLOWING PROVISIONS OF THE INSURANCE  
16 ARTICLE:

17           (I)     TITLE 4, SUBTITLE 3 (RISK BASED CAPITAL STANDARDS FOR  
18 INSURERS);

19           (II)    TITLE 5, SUBTITLES 1, 2, AND 9 (ASSETS AND LIABILITIES,  
20 RESERVES, AND REINSURANCE); AND

21           (III)   TITLE 9 (IMPAIRED ENTITIES).

22         (B)     (1)    THE COMMISSIONER MAY NOT TAKE ANY ACTION TO ENFORCE ANY  
23 PROVISION OF THE INSURANCE ARTICLE TO WHICH THE FUND IS SUBJECT UNDER  
24 SUBSECTION (A) OF THIS SECTION EXCEPT:

25           (I)     THE COMMISSIONER MAY ISSUE AN ORDER UNDER TITLE 9  
26 (IMPAIRED ENTITIES) OF THE INSURANCE ARTICLE; AND

27           (II)    THE COMMISSIONER MAY TAKE ACTION AUTHORIZED UNDER  
28 §§ 4-307 AND 4-308 OF THE INSURANCE ARTICLE RELATING TO RISK BASED CAPITAL  
29 STANDARDS FOR INSURERS.

30           (2)     ANY ORDER ISSUED UNDER THIS SUBSECTION:

31           (I)     MAY NOT INCLUDE A REQUIREMENT THAT THE FUND  
32 INCREASE RATES; AND

33           (II)    SHALL BE SUBJECT TO TITLE 2, SUBTITLE 2 OF THE  
34 INSURANCE ARTICLE.

1           (3)     THE COMMISSIONER SHALL REPORT TO THE BOARD ON THE  
2 RESULTS OF ANY EXAMINATION CONDUCTED UNDER SUBSECTION (A)(1) OF THIS  
3 SECTION.

4     (C)     (1)     THE COMMISSIONER MAY EXAMINE OR REVIEW THE FUND FOR  
5 COMPLIANCE WITH:

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

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

9           (III)   TITLE 27 (UNFAIR TRADE PRACTICES AND OTHER PROHIBITED  
10 PRACTICES).

11           (2)     THE COMMISSIONER MAY NOT TAKE ANY ACTION TO ENFORCE ANY  
12 PROVISION OF THE INSURANCE ARTICLE UNDER WHICH THE COMMISSIONER HAS  
13 EXAMINED OR REVIEWED COMPLIANCE UNDER THIS SUBSECTION.

14           (3)     THE COMMISSIONER SHALL REPORT TO THE BOARD ON THE  
15 RESULTS OF ANY EXAMINATION OR REVIEW CONDUCTED UNDER THIS SUBSECTION.

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

21     SECTION 3. AND BE IT FURTHER ENACTED, That notwithstanding §  
22 10-110(d)(5) of the Labor and Employment Article, as enacted under Section 1 of this  
23 Act, for any person who is a member of the Board on the effective date of this Act, the  
24 following service shall not be counted toward the two-term limitation:

25     (a)     any service by the member prior to the effective date of this Act; and

26     (b)     any service included in the term that is in effect for the member on the  
27 effective date of this Act.

28     SECTION ~~2~~ 3, ~~4~~. AND BE IT FURTHER ENACTED, That this Act shall take  
29 effect October 1, 2000.