

SENATE BILL 881

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2000 Regular Session
(01r0195)

ENROLLED BILL
-- Finance/Economic Matters --

Introduced by **Senator Bromwell**

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.

President.

CHAPTER 567

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; ~~requiring the~~
7 ~~Maryland Insurance Commissioner to examine the Injured Workers' Insurance~~
8 ~~Fund in accordance with provisions of the Insurance Article relating to the~~
9 ~~examination of an insurer's affairs, transactions, accounts, records, and assets;~~
10 ~~requiring the Commissioner to submit a final report of any examination to the~~
11 ~~Governor and the Legislative Policy Committee of the General Assembly;~~
12 ~~altering provisions relating to the investment of excess moneys in the Fund;~~
13 ~~repealing provisions making the State Treasurer the custodian of the Fund and~~
14 ~~governing how the State Treasurer disburses money from the Fund; requiring~~
15 ~~the Insurance Commissioner to ensure that the Fund meets certain solvency~~
16 ~~standards before the Fund may become a member of a certain corporation;~~
17 ~~providing that certain member insurers of a certain corporation are obligated~~

1 ~~only for liabilities arising from certain claims filed against the Fund; providing~~
 2 ~~that the Fund is obligated as a member of a certain corporation only for~~
 3 ~~liabilities arising from certain claims filed against certain member insurers~~
 4 ~~prohibiting a member from serving more than two terms under certain~~
 5 ~~circumstances; repealing the requirement that the board appoint an executive~~
 6 ~~vice president; repealing a certain provision that subjects the Fund to certain~~
 7 ~~laws; repealing the requirement that the State Treasurer is the custodian of the~~
 8 ~~Fund; repealing the requirement that the State Treasurer keep the Fund separate~~
 9 ~~from State money; repealing the requirement that the State Treasurer disburse~~
 10 ~~money from the Fund in a certain manner; repealing certain requirements~~
 11 ~~relating to the State Treasurer and Fund investments; repealing the requirement~~
 12 ~~that the Legislative Auditor conduct a fiscal audit of the Fund, a compliance~~
 13 ~~audit of the Fund, a statutory audit of the Fund, and a market conduct survey of~~
 14 ~~the Fund; repealing the requirement that the Fund pay for the fiscal portion of~~
 15 ~~the postaudit examination, the market conduct survey, and the statutory audit~~
 16 ~~conducted by the Legislative Auditor; repealing the requirement that the~~
 17 ~~Legislative Auditor submit the results of each audit to the Governor and to the~~
 18 ~~Legislative Policy Committee; repealing the requirement that the Legislative~~
 19 ~~Auditor submit the results of the market conduct survey to the Legislative Policy~~
 20 ~~Committee; requiring the Fund to be examined in accordance with provisions of~~
 21 ~~the Insurance Article relating to the examination of an insurer's affairs,~~
 22 ~~transactions, accounts, records, and assets; requiring the Fund to be subject to~~
 23 ~~certain regulatory provisions of the Insurance Article; prohibiting the Insurance~~
 24 ~~Commissioner from taking a certain action except under certain circumstances;~~
 25 ~~allowing the Insurance Commissioner to examine or review the Fund for~~
 26 ~~compliance with certain laws; requiring the Insurance Commissioner to report to~~
 27 ~~the Board on the results of a certain examination or review; requiring the~~
 28 ~~Insurance Commissioner to ensure that the Fund meets certain solvency~~
 29 ~~standards before the Fund may become a member of a certain corporation;~~
 30 ~~providing that a certain service does not count toward a certain term limitation;~~
 31 defining certain terms; and generally relating to the Injured Workers' Insurance
 32 Fund.

33 BY repealing and reenacting, with amendments,
 34 Article - Labor and Employment
 35 Section 10-101, 10-105, 10-110, 10-112, 10-113(a), 10-118, 10-122, and 10-125
 36 Annotated Code of Maryland
 37 (1999 Replacement Volume)

38 BY repealing
 39 Article - Labor and Employment
 40 Section 10-119 and 10-124
 41 Annotated Code of Maryland
 42 (1999 Replacement Volume)

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

1

Article - Labor and Employment

2 10-101.

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

4 (B) "ADMINISTRATION" MEANS THE MARYLAND INSURANCE
5 ADMINISTRATION.

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

7 (D) "COMMISSIONER" MEANS THE MARYLAND INSURANCE COMMISSIONER.

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

9 [(d)] (F) "Policyholder" means an employer who holds a policy of insurance
10 under this subtitle.11 [(e)] (G) (1) "Wage" means all earnings that are due to an employee for
12 employment.

13 (2) "Wage" includes:

14 (i) a bonus;

15 (ii) overtime pay;

16 (iii) a share of profits; and

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

19 10-105.

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

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

24 (2) The Fund is subject to:

25 ~~(i) Title 10, Subtitle 5 of the State Government Article;~~26 ~~(ii)~~ (I) Title 10, Subtitle 6, Part III of the State Government
27 Article;28 ~~(iii)~~ (II) Title 12 of the State Government Article;29 ~~(iv)~~ (III) the Maryland Public Ethics Law; and

1 (⇔) (IV) Title 5, Subtitle 3 of the State Personnel and Pensions
2 Article.

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

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

7 10-110.

8 (a) The Board consists of [7] 9 members appointed by the Governor with the
9 advice and consent of the Senate.

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

11 (c) Before taking office, each appointee to the Board shall take the oath
12 required by Article I, § 9 of the Maryland Constitution.

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

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

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

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

20 (5) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
21 PARAGRAPH, A MEMBER MAY NOT SERVE FOR MORE THAN TWO TERMS.

22 (II) SERVICE FOR A PARTIAL TERM OF 1 YEAR OR LESS MAY NOT BE
23 COUNTED TOWARD THE TWO-TERM LIMITATION.

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

25 10-112.

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

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

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

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

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

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

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

4 10-113.

5 (a) The Board:

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

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

11 (3) may employ other staff.

12 10-118.

13 (a) The Fund shall consist of:

14 (1) premiums for insurance that the Fund issues;

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

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

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

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

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

24 [10-119.

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

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

27 10-122.

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

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

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

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

8 [10-124.

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

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

12 (2) the President of the Fund.]

13 10-125.

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

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

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

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

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

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

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

25 ~~(iii) each complaint submitted during the calendar year before the~~
26 ~~survey, the nature of the complaint, and the resolution of the complaint;~~

27 ~~(iv) the percentage of claims contested before the Workers'~~
28 ~~Compensation Commission; and~~

29 ~~(v) whether the Fund unfairly discriminates or allows unfair~~
30 ~~discrimination between individuals of the same class and essentially the same hazard~~
31 ~~level:~~

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

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

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

6 (2) ANY ORDER ISSUED UNDER THIS SUBSECTION:

7 (I) MAY NOT INCLUDE A REQUIREMENT THAT THE FUND
 8 INCREASE RATES; AND

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

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

14 (C) (1) THE COMMISSIONER MAY EXAMINE OR REVIEW THE FUND FOR
 15 COMPLIANCE WITH:

16 (I) TITLE 12, SUBTITLE 1 OF THE INSURANCE ARTICLE (POLICY
 17 FORMS AND PROVISIONS);

18 (II) EXCEPT FOR § 19-403 (SETTING PREMIUM RATES), TITLE 19,
 19 SUBTITLE 4 OF THE INSURANCE ARTICLE (WORKERS' COMPENSATION INSURANCE);
 20 AND

21 (III) TITLE 27 OF THE INSURANCE ARTICLE (UNFAIR TRADE
 22 PRACTICES AND OTHER PROHIBITED PRACTICES).

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

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

28 SECTION 2. AND BE IT FURTHER ENACTED, That:

29 (a) ~~The~~ the Insurance Commissioner shall examine the financial condition of
 30 the Injured Workers' Insurance Fund and ensure that the Fund satisfies the solvency
 31 standards for a workers' compensation insurer in this State before the Fund may
 32 become a member of the Property and Casualty Insurance Guaranty Corporation.

33 (b) ~~With regard to claims filed against the Injured Workers' Insurance Fund,~~
 34 ~~member insurers of the Property and Casualty Insurance Corporation are obligated,~~
 35 ~~under Title 9, Subtitle 3 of the Insurance Article, only for liabilities arising from~~
 36 ~~claims filed against the Injured Workers' Insurance Fund on or after the~~

1 ~~commencement of membership of the Injured Workers' Insurance Fund in the~~
2 ~~Corporation.~~

3 (c) ~~With regard to claims filed against any member insurer other than the~~
4 ~~Injured Workers' Insurance Fund, the Injured Workers' Insurance Fund is obligated~~
5 ~~as a member of the Property and Casualty Insurance Corporation, under Title 9,~~
6 ~~Subtitle 3 of the Insurance Article, only for liabilities arising from claims filed against~~
7 ~~other member insurers of the Corporation on or after the commencement of~~
8 ~~membership of the Injured Workers' Insurance Fund in the Corporation~~

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

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

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

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