

SENATE BILL 371

Unofficial Copy
K1

2002 Regular Session
2lr1317
CF 2lr1318

By: **Senators Bromwell and Dorman**
Introduced and read first time: January 28, 2002
Assigned to: Finance

Committee Report: Favorable
Senate action: Adopted
Read second time: March 8, 2002

CHAPTER 22

1 AN ACT concerning

2 **Injured Workers' Insurance Fund - Phase-In of Regulatory Requirements**

3 FOR the purpose of subjecting the Injured Workers' Insurance Fund to certain
4 provisions of the Insurance Article; requiring the Insurance Commissioner to
5 ensure that the Fund has a certain level of excess capital; establishing a certain
6 phase-in schedule for the Fund to comply with certain excess capital
7 requirements; establishing the applicability of certain sections of the Insurance
8 Article to the Fund; requiring certain reports under certain circumstances;
9 allowing the Fund to exclude premium growth from residual market business in
10 a risk based capital calculation under certain circumstances; and generally
11 relating to the Injured Workers' Insurance Fund.

12 BY repealing and reenacting, with amendments,
13 Article - Labor and Employment
14 Section 10-125
15 Annotated Code of Maryland
16 (1999 Replacement Volume and 2001 Supplement)

17 BY repealing and reenacting, with amendments,
18 Chapter 567 of the Acts of the General Assembly of 2000
19 Section 2

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

1 **Article - Labor and Employment**

2 10-125.

3 (a) Except as provided in subsection (b) of this section, the Fund shall be:

4 (1) examined by the Commissioner in accordance with §§ 2-205 and
5 2-207 through 2-209 of the Insurance Article; and

6 (2) subject to the following provisions of the Insurance Article:

7 (i) Title 4, Subtitle 3 (Risk Based Capital Standards for Insurers)
8 AS PROVIDED IN SUBSECTION (D) OF THIS SECTION;

9 (ii) Title 5, Subtitles 1, 2, 4, and 9 (Assets and Liabilities, Reserves,
10 VALUATION OF ASSETS and Reinsurance); [and]

11 (iii) Title 9 (Impaired Entities); AND

12 (IV) §§ 3-124 (BULK REINSURANCE - STOCK INSURERS), 4-115 (HOME
13 OFFICE; LOCATION OF ACCOUNTING RECORDS AND ASSETS), 4-116 (ANNUAL AND
14 INTERIM STATEMENTS; AUDITED FINANCIAL REPORTS), AND 4-118 (QUALIFIED
15 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS).

16 (b) (1) The Commissioner may not take any action to enforce any provision
17 of the Insurance Article to which the Fund is subject under subsection (a) of this
18 section except:

19 (i) the Commissioner may issue an order under Title 9 (Impaired
20 Entities) of the Insurance Article; and

21 (ii) the Commissioner may take action authorized under §§ 4 -305,
22 4-306, 4-307, and 4-308 of the Insurance Article relating to risk based capital
23 standards for insurers.

24 (2) Any order issued under this subsection:

25 (i) may not include a requirement that the Fund increase rates;
26 and

27 (ii) shall be subject to Title 2, Subtitle 2, of the Insurance Article.

28 (3) The Commissioner shall report to the Board on the results of any
29 examination conducted under subsection (a)(1) of this section.

30 (c) (1) The Commissioner may examine or review the Fund for compliance
31 with:

32 (i) Title 12, Subtitle 1 of the Insurance Article (Policy Forms and
33 Provisions);

1 (ii) except for § 19-403 (Setting Premium Rates), Title 19, Subtitle
2 4 of the Insurance Article (Workers' Compensation Insurance); and

3 (iii) Title 27 of the Insurance Article (Unfair Trade Practices and
4 Other Prohibited Practices).

5 (2) The Commissioner may not take any action to enforce any provision
6 of the Insurance Article under which the Commissioner has examined or reviewed
7 compliance under this subsection.

8 (3) The Commissioner shall report to the Board on the results of any
9 examination or review conducted under this subsection.

10 (D) WITH RESPECT TO ANY RISK BASED CAPITAL CALCULATION UNDER TITLE
11 4, SUBTITLE 3 OF THE INSURANCE ARTICLE, THE FUND SHALL BE SUBJECT TO THE
12 FOLLOWING REDUCTIONS:

13 (1) FOR CALENDAR YEAR 2001, THE REQUIRED RISK BASED CAPITAL FOR
14 THE FUND SHALL BE 50% OF THE REQUIREMENT FOR EACH ACTION LEVEL SET
15 FORTH IN §§ 4-305 THROUGH 4-308 OF THE INSURANCE ARTICLE;

16 (2) FOR CALENDAR YEAR 2002, THE REQUIRED RISK BASED CAPITAL FOR
17 THE FUND SHALL BE 60% OF THE REQUIREMENT FOR EACH ACTION LEVEL SET
18 FORTH IN §§ 4-305 THROUGH 4-308 OF THE INSURANCE ARTICLE;

19 (3) FOR CALENDAR YEAR 2003, THE REQUIRED RISK BASED CAPITAL FOR
20 THE FUND SHALL BE 70% OF THE REQUIREMENT FOR EACH ACTION LEVEL SET
21 FORTH IN §§ 4-305 THROUGH 4-308 OF THE INSURANCE ARTICLE;

22 (4) FOR CALENDAR YEAR 2004, THE REQUIRED RISK BASED CAPITAL FOR
23 THE FUND SHALL BE 85% OF THE REQUIREMENT FOR EACH ACTION LEVEL SET
24 FORTH IN §§ 4-305 THROUGH 4-308 OF THE INSURANCE ARTICLE; AND

25 (5) FOR CALENDAR YEAR 2005, THE REQUIRED RISK BASED CAPITAL FOR
26 THE FUND SHALL BE 100% OF THE REQUIREMENT FOR EACH ACTION LEVEL SET
27 FORTH IN §§ 4-305 THROUGH 4-308 OF THE INSURANCE ARTICLE.

28 (E) FOR CALENDAR YEARS 2002 THROUGH 2005:

29 (1) IF THE FUND'S RISK BASED CAPITAL DOES NOT EQUAL OR EXCEED
30 THE PHASE-IN LEVEL REQUIRED UNDER SUBSECTION (B) OF THIS SECTION, THE
31 PROVISIONS OF §§ 4-305 THROUGH 4-308 OF THE INSURANCE ARTICLE APPLICABLE
32 TO THAT LEVEL SHALL APPLY;

33 (2) (I) IF THE FUND'S RISK BASED CAPITAL EQUALS OR EXCEEDS THE
34 PHASE-IN LEVEL REQUIRED UNDER SUBSECTION (B) OF THIS SECTION, BUT IS LESS
35 THAN 100% OF THE COMPANY ACTION LEVEL REQUIRED UNDER TITLE 4, SUBTITLE 3
36 OF THE INSURANCE ARTICLE, THE FUND SHALL FILE A STATUS REPORT
37 CONCERNING THE FUND'S NOVEMBER 2, 2001 RISK BASED CAPITAL PLAN; AND

1 (II) THE STATUS REPORT SHALL STATE WHETHER THE ANNUAL
2 RESULTS MEET OR EXCEED THE RESULTS PROJECTED IN THE RISK BASED CAPITAL
3 PLAN AND SHALL DESCRIBE ANY APPROPRIATE MODIFICATION OR ADJUSTMENT TO
4 THE PLAN; AND

5 (3) IF THE FUND'S RISK BASED CAPITAL EQUALS OR EXCEEDS 100% OF
6 THE COMPANY ACTION LEVEL REQUIRED UNDER TITLE 4, SUBTITLE 3 OF THE
7 INSURANCE ARTICLE, THE FUND MAY NOT BE REQUIRED TO FILE A RISK BASED
8 CAPITAL PLAN FOR THAT YEAR.

9 (F) THE FUND MAY EXCLUDE PREMIUM GROWTH ASSOCIATED WITH THE
10 RESIDUAL MARKET BUSINESS IN ANY RISK BASED CAPITAL CALCULATION IF THE
11 INSURANCE COMMISSIONER APPROVES THE DEFINITION OF RESIDUAL BUSINESS
12 USED BY THE FUND.

13 **Chapter 567 of the Acts of 2000**

14 SECTION 2. AND BE IT FURTHER ENACTED, That the Insurance
15 Commissioner shall examine the financial condition of the Injured Workers'
16 Insurance Fund and ensure that the Fund satisfies the solvency standards for a
17 workers' compensation insurer in this State AND HAS CAPITAL IN EXCESS OF THE
18 AMOUNT THAT WOULD TRIGGER A COMPANY ACTION LEVEL EVENT UNDER § 4-305
19 OF THE INSURANCE ARTICLE, before the Fund may become a member of the Property
20 and Casualty Insurance Guaranty Corporation.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 June 1, 2002.