

Chapter 570

(Senate Bill 745)

AN ACT concerning

Injured Workers' Insurance Fund – Conversion to Chesapeake Employers' Insurance Company

FOR the purpose of converting the Injured Workers' Insurance Fund into a statutorily created, private, nonprofit, and nonstock workers' compensation insurer to be named the Chesapeake Employers' Insurance Company; requiring the Company to file certain documents and take certain actions before a certain transfer date; providing that the Company has certain powers, privileges, and immunities granted by and is subject to certain provisions imposed on certain insurers; requiring the Company to be authorized, examined, and regulated by the Maryland Insurance Commissioner in a certain matter and to a certain extent and to be subject to certain provisions of law; providing that the Company is a member of the Property and Casualty Insurance Guaranty Corporation; requiring the Company to be an authorized insurer and, on and after a certain date, a certain insurer of last resort; requiring the Fund, before a certain date, to serve as the workers' compensation insurer of last resort and as a competitive workers' compensation insurer under certain terms and conditions; specifying the circumstances under which the Company may cancel or refuse to renew or issue a policy; authorizing the Company to engage only in a certain business; establishing the Board for the Chesapeake Employers' Insurance Company; requiring the Board to adopt a certain schedule of premium rates; requiring the Commissioner to review certain rates for a certain purpose; requiring the Board to manage the business and affairs of the Company as a private, nonprofit corporation; specifying the qualifications and terms of members of the Board; requiring the Board to adopt rules, bylaws, and procedures; authorizing the Board to declare a policyholder dividend in a certain form under certain circumstances; providing that the Company is independent of State government and that the employees of the Company are not State employees and not members of the State Retirement and Pension System; providing that the money of the Company is not part of the General Fund of the State; providing that the State may not budget for or provide General Fund appropriations to the Company; providing that the debts, claims, obligations, and liabilities of the Company are not a debt of the State or a pledge of the credit of the State; requiring the Board to attempt to use minority business enterprises under certain circumstances for certain brokerage and investment management services; requiring the Board to submit a certain report on or before a certain date each year; requiring, on a certain date, that certain functions, powers, duties, assets, property, accounts, liabilities, contracts, and obligations be irrevocably transferred to the Company; prohibiting a certain contract or

agreement with the State from being transferred or assigned to the Company until a certain time; requiring the Fund to retain certain assets; prohibiting the Company from being converted to a mutual or stock company, being sold, or being dissolved; providing that the Fund is an instrumentality of the State; requiring, on and after a certain date, the Company, and not the Fund, to serve as a certain insurer of last resort in a certain manner before a certain date; providing that the Fund shall continue to exist on and after a certain date; prohibiting the Fund from issuing certain policies or engaging in a certain business except through the Company on and after a certain date; authorizing the Fund to continue to be a certain third party administrator on and after a certain date; requiring the Company to utilize certain employees; ~~authorizing~~ requiring the Fund to utilize certain employees; requiring the Fund to maintain a certain payroll and human resources system and be responsible for paying certain taxes and contributions and paying for certain benefits; providing that employees of the Fund may be assigned to perform certain functions of the Company; requiring the Company and the Fund to execute a certain agreement; prohibiting the Fund from hiring certain employees on and after a certain date; authorizing certain employees to remain employees of the Fund and continue to be State employees on and after a certain date; providing that certain employees of the Fund may not be required to be employees of the Company; authorizing certain employees to make a certain election; requiring the Board for the Fund to manage the business and affairs of the Fund in a certain manner; providing that members of the Board for the Fund continue to serve a certain term and serve on the Board for the Company under certain terms and conditions; requiring the Board for the Fund to be subject to certain rules, bylaws, and procedures; ~~authorizing~~ requiring the President of the Fund to be the President of the Company; requiring the Fund to remain in existence under certain circumstances; providing for the termination of the Fund; repealing certain provisions relating to the Fund that are obsolete upon the conversion of the Fund to the Company; requiring the Fund to pay, on and after a certain date, certain amounts to the Employees' Retirement System or the Employees' Pension System on behalf of certain employees; requiring the Fund to pay a certain withdrawal liability contribution beginning on or before a certain date and each year thereafter; defining certain terms; stating certain findings of the General Assembly; providing that the Company is the successor of the Fund, the Board for the Company is the successor of the Board for the Fund, and the President of the Company is the successor of the President of the Fund; requiring that certain names and titles of certain agencies and officials mean the names and titles of the successor agency or official; providing that certain forms and documents may be used by the Company; ~~providing that certain functions, powers, duties, equipment, assets, and liabilities be transferred to the Company on a certain date; providing that compliance with certain provisions of law is not required until a certain time~~ requiring the Maryland Insurance Administration to study, in consultation with certain persons and entities, whether the Company should be subject to a certain rating law; requiring the Administration to report on or before a certain date on certain findings and

recommendations; defining certain terms; stating a certain intent of the General Assembly; requiring the publisher of the Annotated Code, in consultation with the Department of Legislative Services, to make certain corrections in the Code; requiring the Administration to contract with a certain firm to conduct a certain study; requiring the study to consider the fair value of certain financial contributions and benefits; specifying the items that the study is required to consider in determining a certain fair value; requiring a certain firm, in conducting a certain study, to consult with certain persons; requiring the Administration to require a certain firm to report certain findings and conclusions to the Administration before a certain date; requiring the Administration to report the firm's findings and conclusions to certain legislative committees on or before a certain date; requiring the Administration to contract with certain consultants to conduct a certain assessment under certain circumstances; providing that the Company shall owe a certain debt to the General Fund under certain circumstances; specifying the manner in which the Company must pay the debt; requiring the Fund to be responsible for the payment of the costs of a certain study and a certain assessment; requiring the Fund and the Board of Trustees for the State Retirement and Pension System to enter into a certain agreement on or before a certain date; requiring the Fund to be responsible for the payment of certain costs incurred in calculating a certain liability liabilities; requiring the Fund to begin paying a certain amount to the State Employee and Retiree Health and Welfare Benefits Fund on or before a certain date; requiring the Injured Workers' Insurance Fund and the Department of Budget and Management, on or before a certain date, to enter into a memorandum of agreement establishing the terms, conditions, and schedule for certain payments by the Fund; making this Act an emergency measure; providing for the effective dates of certain provisions of this Act; and generally relating to the conversion of the Injured Workers' Insurance Fund to the Chesapeake Employers' Insurance Company.

BY adding to

Article – Insurance

Section 24–301 through ~~24–311~~ 24–312 to be under the new subtitle “Subtitle 3. Chesapeake Employers’ Insurance Company” and the amended title “Title 24. State Created Mutual Societies and Other Entities”

Annotated Code of Maryland

(2011 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Labor and Employment

Section 10–101, 10–104, 10–107, 10–109, and 10–113

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

BY repealing

Article – Labor and Employment

The part designation “Part I. Definitions” immediately preceding Section 10–101; and Section 10–105, 10–106, and 10–108 and the part “Part II. Fund”; 10–110, 10–111, 10–112, and 10–114 and the part “Part III. Board”; 10–117, 10–118, 10–120, 10–121, 10–122, 10–125, 10–126, and 10–127 and the part “Part IV. Purposes and Administration of Fund”; 10–130, 10–131, 10–132, 10–133, 10–134, 10–135, 10–136, 10–137, and 10–138 and the part “Part V. Insurance Program”; and 10–141 and the part “Part VI. Prohibited Acts; Penalty”

Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

BY adding to

Article – Labor and Employment
Section 10–103 and 10–107
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

BY adding to

Article – State Personnel and Pensions
Section 21–307(p)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – Insurance

Title 24. State Created Mutual Societies AND OTHER ENTITIES.

SUBTITLE 3. CHESAPEAKE EMPLOYERS’ INSURANCE COMPANY.

24–301.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “BOARD” MEANS THE BOARD FOR THE CHESAPEAKE EMPLOYERS’ INSURANCE COMPANY.

(C) “COMPANY” MEANS THE CHESAPEAKE EMPLOYERS’ INSURANCE COMPANY.

(D) “FUND” MEANS THE INJURED WORKERS’ INSURANCE FUND ESTABLISHED UNDER TITLE 10 OF THE LABOR AND EMPLOYMENT ARTICLE.

24-302.

THE GENERAL ASSEMBLY FINDS AND DETERMINES THAT:

(1) EMPLOYERS' ACCESS TO AFFORDABLE WORKERS' COMPENSATION INSURANCE IS OF UTMOST IMPORTANCE TO THE ECONOMY OF THE STATE;

(2) THE FUND HAS BEEN THE STATE'S INSURER OF LAST RESORT FOR WORKERS' COMPENSATION INSURANCE SINCE 1914;

(3) SINCE ITS CREATION, THE FUND WAS PERMITTED TO COMPETE WITH THE PRIVATE INSURANCE MARKET; HOWEVER, THE FUND DID NOT BECOME AN EFFECTIVE COMPETITIVE INSURER UNTIL THE GENERAL ASSEMBLY EXEMPTED THE FUND FROM MOST LAWS THAT APPLY TO STATE GOVERNMENT AGENCIES AND REQUIRED THE FUND TO BE A REGULATED INSURER;

(4) THE MOST EFFECTIVE WAY TO ENSURE THAT MARYLAND'S WORKERS' COMPENSATION SYSTEM REMAINS STABLE AND AFFORDABLE IS TO ENCOURAGE AND CREATE AS MUCH COMPETITION IN THE MARKETPLACE AS POSSIBLE;

(5) THE LONG-TERM COMPETITIVE SUCCESS OF THE FUND WOULD BE ENHANCED IF THE FINAL BARRIERS TO FULL COMPETITION WERE ELIMINATED BY CONVERTING THE FUND INTO A FULLY COMPETITIVE, FULLY REGULATED, PRIVATE INSURER;

(6) CONVERTING THE FUND INTO A PRIVATE, NONSTOCK, NONPROFIT INSURER WOULD LEVEL THE COMPETITIVE PLAYING FIELD FOR ALL WORKERS' COMPENSATION INSURERS OPERATING IN THE STATE;

(7) CONVERTING THE FUND INTO A PRIVATE, NONSTOCK, NONPROFIT INSURER WOULD PROVIDE ASSURANCE TO MARYLAND EMPLOYERS THAT THE FINANCIAL SUCCESS OF THE FUND WOULD INURE TO THEIR BENEFIT AS POLICYHOLDERS THROUGH DIVIDENDS AND LOWER RATES AND THAT SURPLUS FUNDS COULD NOT BE TRANSFERRED TO THE STATE'S GENERAL FUND;

(8) THE INTERESTS OF THE STATE WOULD BE PROTECTED IF THE FUND'S STATUTORY PURPOSE OF INSURER OF LAST RESORT FOR WORKERS' COMPENSATION INSURANCE IS PRESERVED AND THE GOVERNOR RETAINS THE RIGHT TO APPOINT THE MEMBERS OF THE BOARD OF THE NEW COMPANY;

(9) (I) THE INTERESTS OF THE EMPLOYEES OF THE FUND WOULD BE SATISFIED BY ENSURING THAT CURRENT EMPLOYEES HAVE THE OPTION TO REMAIN STATE EMPLOYEES OF THE FUND AFTER THE CONVERSION OF THE FUND TO A PRIVATE, NONSTOCK, NONPROFIT INSURER; AND

(II) THE INTERESTS OF EMPLOYEES OF THE FUND WOULD FURTHER BE SATISFIED BY ENSURING THAT CURRENT LONG-TERM STATE EMPLOYEES WHO REMAIN STATE EMPLOYEES OF THE FUND AFTER THE CONVERSION OF THE FUND TO A PRIVATE, NONSTOCK, NONPROFIT INSURER SHALL REMAIN IN THE STATE RETIREMENT SYSTEM AND, THEREFORE, WOULD NOT BE UNFAIRLY PENALIZED BY BEING PREMATURELY FORCED OUT OF THE STATE RETIREMENT SYSTEM DUE TO THE CONVERSION; AND

(10) THE INTERESTS OF THE RESIDENTS OF THE STATE, BOTH EMPLOYERS AND EMPLOYEES, WILL BE BEST MET BY CONVERTING THE FUND INTO A PRIVATE, NONSTOCK, NONPROFIT, FULLY REGULATED, COMPETITIVE INSURER.

24-303.

(A) THERE IS A CHESAPEAKE EMPLOYERS' INSURANCE COMPANY.

(B) THE COMPANY SHALL BE:

(1) A PRIVATE, NONPROFIT, NONSTOCK ~~COMPANY~~ CORPORATION ORGANIZED UNDER STATE LAW; AND

(2) SUBJECT TO THE APPLICABLE PROVISIONS OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE AS A NONSTOCK ~~COMPANY~~ CORPORATION.

(C) BEFORE ~~MARCH~~ OCTOBER 1, 2013, THE COMPANY SHALL:

(1) FILE ARTICLES OF INCORPORATION UNDER THE CORPORATIONS AND ASSOCIATIONS ARTICLE; AND

(2) TAKE ALL STEPS NECESSARY TO BE A PRIVATE, NONPROFIT, NONSTOCK ~~COMPANY~~ CORPORATION ORGANIZED UNDER STATE LAW.

24-304.

(A) BEFORE ~~MARCH~~ OCTOBER 1, 2013, THE COMPANY SHALL:

(1) FILE AN APPLICATION FOR A CERTIFICATE OF AUTHORITY UNDER THIS ARTICLE AND A STATEMENT OF THE RISK-BASED CAPITAL LEVELS OF THE COMPANY AS OF THE DATE OF THE APPLICATION PREPARED IN ACCORDANCE WITH § 4-303 OF THIS ARTICLE; AND

(2) TAKE ALL STEPS NECESSARY TO BE AN AUTHORIZED DOMESTIC INSURER UNDER STATE LAW.

(B) ON APPROVAL OF THE APPLICATION FOR A CERTIFICATE OF AUTHORITY, THE COMMISSIONER SHALL ISSUE TO THE COMPANY A CERTIFICATE OF AUTHORITY THAT AUTHORIZES THE COMPANY TO ISSUE POLICIES UNDER TITLE 9 OF THE LABOR AND EMPLOYMENT ARTICLE.

(C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE COMPANY HAS THE POWERS, PRIVILEGES, AND IMMUNITIES GRANTED BY AND IS SUBJECT TO THE PROVISIONS APPLICABLE TO INSURERS AUTHORIZED TO WRITE WORKERS' COMPENSATION INSURANCE UNDER THIS ARTICLE.

(D) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE COMPANY SHALL BE:

(1) AUTHORIZED, EXAMINED, AND REGULATED BY THE COMMISSIONER IN THE SAME MANNER AND TO THE SAME EXTENT AS OTHER AUTHORIZED PROPERTY AND CASUALTY INSURERS; AND

(2) SUBJECT TO EACH PROVISION OF THIS ARTICLE THAT IS APPLICABLE TO OTHER AUTHORIZED PROPERTY AND CASUALTY INSURERS.

~~(D)~~ (E) THE COMPANY IS A MEMBER OF THE PROPERTY AND CASUALTY INSURANCE GUARANTY CORPORATION.

24-305.

(A) THE COMPANY IS NOT SUBJECT TO TITLE 11 OF THIS ARTICLE.

(B) THE BOARD SHALL:

(1) ADOPT A SCHEDULE OF PREMIUM RATES IN ACCORDANCE WITH SOUND ACTUARIAL PRACTICES; AND

(2) ENSURE THAT THE RATES ARE NOT EXCESSIVE, INADEQUATE, OR UNFAIRLY DISCRIMINATORY.

(C) (1) THE BOARD SHALL DETERMINE THE SCHEDULE OF PREMIUM RATES BY:

(I) CLASSIFYING ALL OF THE POLICYHOLDERS OF THE COMPANY ON THE BASIS OF THE RESPECTIVE LEVEL OF HAZARD OF THEIR ENTERPRISES; AND

(II) SETTING A PREMIUM RATE FOR EACH CLASS ON THE BASIS OF:

1. ITS LEVEL OF HAZARD; AND

2. INCENTIVES TO PREVENT INJURIES TO EMPLOYEES.

(2) TO DETERMINE THE SCHEDULE OF PREMIUM RATES, THE BOARD SHALL USE THE RATING SYSTEM THAT, IN THE OPINION OF THE BOARD:

(I) MOST ACCURATELY MEASURES THE LEVEL OF HAZARD FOR EACH POLICYHOLDER ON THE BASIS OF THE NUMBER OF INJURIES THAT OCCUR IN THE ENTERPRISES OF THE POLICYHOLDER;

(II) ENCOURAGES THE PREVENTION OF INJURIES; AND

(III) ENSURES THE SOLVENCY OF THE COMPANY FROM YEAR TO YEAR.

(3) THE BOARD MAY SET MINIMUM PREMIUM RATES FOR POLICIES ISSUED BY THE COMPANY.

(D) THE COMMISSIONER SHALL REVIEW THE COMPANY'S RATES AS PART OF AN EXAMINATION UNDER § 2-205 OF THIS ARTICLE TO DETERMINE WHETHER THE COMPANY'S RATE MAKING PRACTICES PRODUCE ACTUARIALLY SOUND RATES.

24-306.

(A) THE COMPANY ~~SHALL BE~~:

(1) SHALL BE AN AUTHORIZED INSURER; AND

(2) ON AND AFTER OCTOBER 1, 2013, SHALL BE THE WORKERS' COMPENSATION INSURER OF LAST RESORT FOR EMPLOYERS COVERED UNDER TITLE 9 OF THE LABOR AND EMPLOYMENT ARTICLE.

(B) BEFORE OCTOBER 1, 2013, THE FUND SHALL SERVE AS THE WORKERS' COMPENSATION INSURER OF LAST RESORT FOR WORKERS' COMPENSATION INSURANCE AND AS A COMPETITIVE WORKERS' COMPENSATION INSURER UNDER THE SAME TERMS AND CONDITIONS AS THE FUND SERVED BEFORE OCTOBER 1, 2012.

~~(B)~~ (C) THE COMPANY MAY NOT CANCEL OR REFUSE TO RENEW OR ISSUE A POLICY EXCEPT FOR:

(1) NONPAYMENT OF A PREMIUM FOR CURRENT OR PRIOR POLICIES ISSUED BY THE FUND OR THE COMPANY;

(2) FAILURE TO PROVIDE PAYROLL INFORMATION TO THE FUND OR THE COMPANY; OR

(3) FAILURE TO COOPERATE IN ANY PAYROLL AUDIT CONDUCTED BY THE FUND OR THE COMPANY.

~~(C)~~ (D) THE COMPANY MAY ENGAGE ONLY IN THE BUSINESS OF WORKERS' COMPENSATION INSURANCE IN ACCORDANCE WITH STATE LAW.

~~24-306.~~ 24-307.

(A) (1) THERE IS A BOARD FOR THE CHESAPEAKE EMPLOYERS' INSURANCE COMPANY.

(2) THE BOARD SHALL MANAGE THE BUSINESS AND AFFAIRS OF THE COMPANY AS A PRIVATE, NONPROFIT CORPORATION IN ACCORDANCE WITH STATE LAW.

(B) THE BOARD SHALL CONSIST OF NINE MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

(C) EACH MEMBER SHALL BE A ~~CITIZEN~~ RESIDENT OF THE STATE.

(D) BEFORE TAKING OFFICE, EACH APPOINTEE TO THE BOARD SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

(E) (1) THE TERM OF A MEMBER IS 5 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD FOR THE FUND ON OCTOBER 1, 1991.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) A MEMBER MAY NOT SERVE FOR MORE THAN:

(I) TWO FULL TERMS; OR

(II) A TOTAL OF 10 YEARS.

(F) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR MISCONDUCT.

(G) THE BOARD SHALL ADOPT RULES, BYLAWS, AND PROCEDURES.

~~24-307.~~ 24-308.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE BOARD MAY DECLARE A POLICYHOLDER DIVIDEND IN THE FORM OF A CASH REFUND OR CREDIT TO:

(1) A POLICYHOLDER BASED ON THE ACTUAL LOSS RATIO THAT IS BETTER THAN THE LOSS RATIO USED TO CALCULATE THE POLICYHOLDER'S PREMIUM; OR

(2) ALL POLICYHOLDERS WHOSE LOSS RATIO CONTRIBUTED TO THE COMPANY'S SURPLUS FOR THAT YEAR.

(B) (1) THE BOARD MAY NOT ISSUE A POLICYHOLDER DIVIDEND UNDER SUBSECTION ~~(A)~~ (A)(2) OF THIS SECTION UNLESS THE COMMISSIONER HAS APPROVED THE POLICYHOLDER DIVIDEND.

(2) IN DETERMINING WHETHER TO APPROVE THE POLICYHOLDER DIVIDEND UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER SHALL CONSIDER:

(I) THE COMPANY'S SURPLUS;

(II) MATERIAL CHANGES IN PREMIUM RATES, CLAIMS, MARKET SHARE, OR TYPES OF INSURED RISKS;

(III) THE METHODOLOGY THE BOARD USED TO DETERMINE THAT POLICYHOLDERS ARE ELIGIBLE FOR THE POLICYHOLDER DIVIDEND; AND

(IV) ANY OTHER FACTOR THE COMMISSIONER CONSIDERS RELEVANT.

~~24-308.~~ 24-309.

(A) THE COMPANY IS NOT AND MAY NOT BE DEEMED TO BE A DEPARTMENT, UNIT, AGENCY, OR INSTRUMENTALITY OF THE STATE FOR ANY PURPOSE.

(B) EMPLOYEES OF THE COMPANY ARE NOT:

(1) EMPLOYEES OF THE STATE; OR

(2) MEMBERS OF THE STATE RETIREMENT AND PENSION SYSTEM.

(C) ALL DEBTS, CLAIMS, OBLIGATIONS, AND LIABILITIES OF THE COMPANY, WHENEVER INCURRED, SHALL BE THE DEBTS, CLAIMS, OBLIGATIONS, AND LIABILITIES OF THE COMPANY ONLY AND NOT OF THE STATE OR THE STATE'S DEPARTMENTS, UNITS, AGENCIES, INSTRUMENTALITIES, OFFICERS, OR EMPLOYEES.

(D) (1) MONEY OF THE COMPANY IS NOT PART OF THE GENERAL FUND OF THE STATE.

(2) THE STATE MAY NOT BUDGET FOR OR PROVIDE GENERAL FUND APPROPRIATIONS TO THE COMPANY.

(3) THE DEBTS, CLAIMS, OBLIGATIONS, AND LIABILITIES OF THE COMPANY ARE NOT A DEBT OF THE STATE OR A PLEDGE OF THE CREDIT OF THE STATE.

~~24-309.~~ 24-310.

(A) CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES

OF THE BOARD, THE BOARD SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES TO THE BOARD.

(B) FOR PURPOSES OF THIS SECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES.

(C) (1) TO ASSIST THE BOARD IN ACHIEVING THE GOAL DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION, THE BOARD SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE COMPANY.

(2) THE MEASURES UNDERTAKEN BY THE BOARD SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE BOARD'S WEB SITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE COMPANY.

(D) IN CONJUNCTION WITH THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, THE BOARD SHALL DEVELOP GUIDELINES TO ASSIST IT IN IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP THE COMPANY ACHIEVE THE OBJECTIVE FOR GREATER USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT MANAGEMENT SERVICES.

(E) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE BOARD SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS AND, ~~SUBJECT TO~~ IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(1) THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS USED BY THE BOARD IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

(2) THE PERCENTAGE AND DOLLAR VALUE OF THE COMPANY ASSETS THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS; AND

(3) THE MEASURES THE BOARD UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH SUBSECTION (C)(2) OF THIS SECTION.

~~24-310.~~ 24-311.

(A) EXCEPT AS PROVIDED IN ~~SUBSECTION (B)~~ SUBSECTIONS (B) AND (C) OF THIS SECTION, ON ~~MARCH~~ OCTOBER 1, 2013, ALL THE FUNCTIONS, POWERS, DUTIES, ASSETS, REAL AND PERSONAL PROPERTY, ACCOUNTS, LIABILITIES, CONTRACTS, AND OBLIGATIONS OF THE FUND SHALL BE IRREVOCABLY TRANSFERRED TO THE COMPANY, INCLUDING LIABILITY FOR ALL CLAIMS, WHETHER KNOWN OR UNKNOWN, ARISING OUT OF ANY INSURANCE POLICY PREVIOUSLY ISSUED BY THE FUND.

(B) ANY CONTRACT OR AGREEMENT WITH THE STATE FOR THE THIRD PARTY ADMINISTRATION OF THE STATE'S SELF-INSURED WORKERS' COMPENSATION PROGRAM FOR STATE EMPLOYEES MAY NOT BE TRANSFERRED OR ASSIGNED TO THE COMPANY UNTIL THE FUND NO LONGER HAS EMPLOYEES.

(C) THE FUND SHALL RETAIN THOSE ASSETS NECESSARY TO PERFORM ITS DUTIES UNDER TITLE 10 OF THE LABOR AND EMPLOYMENT ARTICLE.

~~24-311.~~ 24-312.

THE COMPANY MAY NOT:

- (1) BE CONVERTED TO A MUTUAL OR STOCK COMPANY; ~~OR~~**
- (2) BE SOLD; OR**
- ~~(2)~~ (3) BE DISSOLVED.**

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Labor and Employment

[Part I. Definitions.]

10-101.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Administration” means the Maryland Insurance Administration.

(c) “Board” means the Board for the Injured Workers’ Insurance Fund.

(d) “Commissioner” means the Maryland Insurance Commissioner.

(E) “COMPANY” MEANS THE CHESAPEAKE EMPLOYERS’ INSURANCE COMPANY ESTABLISHED UNDER TITLE 24, SUBTITLE 3 OF THE INSURANCE ARTICLE.

[(e) (F) “Fund” means the Injured Workers’ Insurance Fund.

[(f) “Policyholder” means an employer who holds a policy of insurance under this subtitle.

(g) (1) “Wage” means all earnings that are due to an employee for employment.

(2) “Wage” includes:

(i) a bonus;

(ii) overtime pay;

(iii) a share of profits; and

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

[Part II. Fund.]

[10–104.] **10–102.**

(A) (1) There is an Injured Workers’ Insurance Fund.

(2) THE FUND IS AN INSTRUMENTALITY OF THE STATE.

(B) ~~BEFORE MARCH 1, 2013~~ ON AND AFTER OCTOBER 1, 2013, THE COMPANY, AND NOT THE FUND, SHALL SERVE AS THE WORKERS’ COMPENSATION INSURER OF LAST RESORT FOR WORKERS’ COMPENSATION INSURANCE AND AS A COMPETITIVE WORKERS’ COMPENSATION INSURER UNDER THE SAME TERMS AND CONDITIONS AS THE FUND SERVED BEFORE OCTOBER 1, 2012.

(C) ~~ON AND AFTER MARCH~~ OCTOBER 1, 2013, THE FUND:

(1) SHALL CONTINUE TO EXIST; BUT

(2) MAY NOT ISSUE NEW POLICIES OR OTHERWISE ENGAGE IN THE BUSINESS OF INSURANCE ~~EXCEPT THROUGH THE COMPANY.~~

(D) ON AND AFTER ~~MARCH~~ OCTOBER 1, 2013, THE FUND MAY CONTINUE TO BE THE THIRD PARTY ADMINISTRATOR FOR THE STATE'S SELF-INSURED WORKERS' COMPENSATION PROGRAM FOR STATE EMPLOYEES UNDER A CONTRACT WITH THE STATE.

(E) (1) ~~IN~~ SUBJECT TO SUBSECTION (F) OF THIS SECTION, IN THE OPERATION OF THE COMPANY, THE COMPANY SHALL UTILIZE EMPLOYEES OF THE FUND AND THE COMPANY.

(2) IN THE OPERATION OF THE FUND, THE FUND ~~MAY~~ SHALL UTILIZE EMPLOYEES OF THE FUND ~~OR THE COMPANY.~~

(3) THE FUND SHALL:

(I) MAINTAIN A PAYROLL AND HUMAN RESOURCES SYSTEM;
AND

(II) BE RESPONSIBLE FOR PAYING:

1. THE EMPLOYER PORTION OF ANY PAYROLL OR OTHER TAXES AND RETIREMENT OR PENSION CONTRIBUTIONS FOR EMPLOYEES OF THE FUND; AND

2. FOR ANY HEALTH OR OTHER EMPLOYEE BENEFITS THAT ARE AVAILABLE TO EMPLOYEES OF THE FUND.

(F) (1) EMPLOYEES OF THE FUND MAY BE ASSIGNED TO PERFORM FUNCTIONS OF THE COMPANY UNDER A CONTRACT BETWEEN THE FUND AND THE COMPANY.

(2) THE COMPANY AND THE FUND SHALL ANNUALLY EXECUTE AN AGREEMENT THAT LISTS THE EMPLOYEES OF THE FUND ~~AND THE EMPLOYEES OF THE COMPANY~~ WHO HAVE BEEN ASSIGNED TO PERFORM DUTIES ON BEHALF OF THE COMPANY.

~~(2)~~ (3) THE AGREEMENT SHALL:

(I) SPECIFY THE EMPLOYEES ~~THAT~~ WHO WILL BE UTILIZED BY THE COMPANY AND THE FUND;

~~(II) STATE THE RELATIONSHIP BETWEEN THE COMPANY AND THE FUND;~~

~~(III)~~ PROVIDE THAT, EXCEPT WITH RESPECT TO ASSETS NECESSARY FOR THE FUND TO PERFORM ITS DUTIES UNDER THIS SUBTITLE, ALL ASSETS AND LIABILITIES OF THE FUND ARE THE ASSETS AND LIABILITIES OF THE COMPANY; AND

~~(IV)~~ (III) BE FILED WITH THE ADMINISTRATION.

10-103.

(A) ON AND AFTER ~~MARCH~~ OCTOBER 1, 2013:

(1) THE FUND MAY NOT HIRE NEW EMPLOYEES; AND

(2) EMPLOYEES OF THE FUND:

(I) MAY REMAIN EMPLOYEES OF THE FUND;

(II) SHALL CONTINUE TO BE STATE EMPLOYEES ONLY IF THEY REMAIN EMPLOYEES OF THE FUND;

(III) MAY NOT BE REQUIRED TO BE EMPLOYEES OF THE COMPANY;

(IV) SHALL BE SUBJECT TO EACH LAW THAT APPLIED TO EMPLOYEES OF THE FUND IMMEDIATELY BEFORE ~~MARCH~~ OCTOBER 1, 2013;

(V) SHALL BE SUBJECT TO THE SAME TERMS AND CONDITIONS OF EMPLOYMENT AS EXISTED IMMEDIATELY BEFORE ~~MARCH~~ OCTOBER 1, 2013, INCLUDING BENEFITS, LEAVE, AND PAY GRADE;

(VI) SHALL REMAIN IN THE STATE RETIREMENT SYSTEM ONLY IF THEY REMAIN EMPLOYEES OF THE FUND;

(VII) EXCEPT FOR CHANGES IN BENEFITS OR COMPENSATION APPLICABLE TO STATE EMPLOYEES GENERALLY, MAY NOT BE DENIED ANY COMPENSATION OR BENEFIT PROVIDED TO EMPLOYEES OF THE FUND AS OF ~~MARCH~~ OCTOBER 1, 2013;

(VIII) MAY NOT BE DENIED A PROMOTION, BASED ON THE EMPLOYEE'S STATUS AS AN EMPLOYEE OF THE FUND; AND

(IX) SUBJECT TO SUBSECTION (B) OF THIS SECTION, MAY ELECT TO BE AN EMPLOYEE OF THE COMPANY.

(B) IF AN EMPLOYEE OF THE FUND INTENDS TO ELECT TO BE AN EMPLOYEE OF THE COMPANY UNDER SUBSECTION (A)(2)(IX) OF THIS SECTION, THE COMPANY SHALL:

(1) REQUIRE THE EMPLOYEE TO MAKE THE ELECTION IN WRITING; AND

(2) PROVIDE THE EMPLOYEE WITH INFORMATION THAT:

(I) STATES THAT THE ELECTION OF THE EMPLOYEE TO BECOME AN EMPLOYEE OF THE COMPANY IS VOLUNTARY AND IRREVOCABLE; AND

(II) FULLY ~~DISCLOSES~~ DISCLOSES THE TERMS OF EMPLOYMENT WITH THE COMPANY.

(C) AN EMPLOYEE OF THE COMPANY MAY NOT ELECT TO BE AN EMPLOYEE OF THE FUND.

[10–105.

(a) Except for Title 3, Subtitle 1, Title 8, Subtitle 3, and Title 11 of the Insurance Article and as otherwise provided by law, the Fund is subject to the Insurance Article to the same extent as an authorized domestic workers' compensation insurer.

(b) Notwithstanding subsection (a) of this section, the Fund shall register with the Commissioner and be subject to the provisions of Title 8, Subtitle 3 of the Insurance Article if the Fund operates as an administrator, as defined in § 8–301 of the Insurance Article.]

[10–106.

(a) Subject to subsection (b) of this section, the Fund shall operate in a manner similar to an authorized domestic workers' compensation insurer.

(b) The Fund shall:

(1) serve as a competitive insurer in the marketplace;

(2) guarantee the availability of workers' compensation insurance in the State;

- (3) serve as the workers' compensation insurer of last resort; and
- (4) engage only in the business of workers' compensation insurance in accordance with State law.]

[10–107.] 10–104.

- (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 6, Part III of the State Government Article;
 - (ii) Title 12 of the State Government Article;
 - (iii) the Maryland Public Ethics Law; and
 - (iv) 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.]

[10–108.

Beginning with calendar year 1994, the calendar year is the fiscal year of the Fund.]

[Part III. Board.]

[10–109.] 10–105.

- (A) **(1)** There is a Board for the Injured Workers' Insurance Fund.
- (2) THE BOARD SHALL MANAGE THE BUSINESS AND AFFAIRS OF THE FUND AS AN INSTRUMENTALITY OF THE STATE IN ACCORDANCE WITH STATE LAW.**

(B) THE BOARD IS THE BOARD FOR THE COMPANY ESTABLISHED UNDER TITLE 24, SUBTITLE 3 OF THE INSURANCE ARTICLE.

(C) MEMBERS OF THE BOARD THAT WERE APPOINTED TO THE BOARD AS OF OCTOBER 1, 2012, SHALL:

(1) CONTINUE TO SERVE ~~THE CURRENT TERM~~ THEIR CURRENT TERMS ON THE BOARD; AND

(2) SERVE ON THE BOARD FOR THE COMPANY UNDER THE SAME TERMS AND CONDITIONS AS IF THEY WERE APPOINTED TO THE BOARD FOR THE COMPANY UNDER TITLE 24, SUBTITLE 3 OF THE INSURANCE ARTICLE.

(D) THE BOARD:

(1) SHALL BE SUBJECT TO THE RULES, BYLAWS, AND PROCEDURES THAT THE BOARD FOR THE COMPANY ADOPTS UNDER TITLE 24, SUBTITLE 3 OF THE INSURANCE ARTICLE; AND

(2) MAY ADOPT ANY POLICY TO CARRY OUT THIS SUBTITLE.

[10–110.

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

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

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

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

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

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

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

(5) A member may not serve for more than:

- (i) two full terms; or
- (ii) a total of 10 years.

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

[10–111.

(a) From among its members, the Board annually shall elect a chairman, a vice chairman, and a secretary.

(b) The manner of election of officers shall be as the Board determines.]

[10–112.

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

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

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

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

- (i) the salary provided in the budget of the Board; and
- (ii) reimbursement for reasonable expenses:

1. incurred in the performance of the Board member's duties; and

2. as provided in the budget of the Board.

(2) Each member of the Board shall be paid biweekly.]

[10–113.] **10–106.**

(a) **(1)** The Board[:

(1)] shall appoint a President of the Fund[;

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

(3) may employ other staff].

(2) THE PRESIDENT OF THE FUND ~~MAY~~ SHALL BE THE PRESIDENT OF THE COMPANY.

(b) (1) Except as provided in paragraph (2) of this subsection, employees of the Fund are special appointments.

(2) A classified employee of the Fund hired before July 1, 1990 in a nonprofessional or nontechnical position shall remain a member of the classified service or its equivalent in the State Personnel Management System as long as the employee remains in a nonprofessional or nontechnical position with the Fund.

(c) (1) The Board shall set compensation for its employees.

(2) Except as otherwise provided in this subtitle, an employee of the Fund is not subject to any law, regulation, or executive order governing State employee compensation, including furloughs, salary reductions, or any other General Fund cost savings measure.

(d) (1) This subsection does not apply to the layoff of an employee because of lack of work.

(2) An employee of the Fund may not be permanently removed unless:

(i) written charges are filed;

(ii) the employee has an opportunity for a hearing in accordance with Title 10, Subtitle 2 of the State Government Article; and

(iii) there is cause for removal.

10-107.

~~THE~~ NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, THE FUND SHALL REMAIN IN EXISTENCE UNTIL IT:

~~(1) SHALL REMAIN IN EXISTENCE SO LONG AS THE FUND CONTINUES TO HAVE~~ NO LONGER HAS ANY EMPLOYEES; AND

(2) ~~MAY BE~~ IS TERMINATED ~~ONLY~~ BY THE REPEAL OF THIS SUBTITLE.

[10-114.

(a) The Board may adopt any policy to carry out this subtitle.

(b) (1) The Board shall have a plan to promote the services of the Fund to employers in the State.

(2) As part of the plan, the Board may prepare a pamphlet about the Fund and provide copies to each county for distribution to businesses with personal property tax bills.]

[Part IV. Purposes and Administration of Fund.]

[10–117.

The Board:

(1) shall use the Fund to insure employers against liability under Title 9 of this article; and

(2) may use the Fund:

(i) to provide employer's liability insurance; and

(ii) on behalf of a policyholder, to pay benefits equal to benefits allowed under:

1. a compensation law of another state; or

2. a federal compensation law.]

[10–118.

(a) The Fund shall consist of:

(1) premiums for insurance that the Fund issues;

(2) income from investments 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.]

[10–120.

- (a) The Board shall administer the Fund.
- (b) (1) The Board shall prepare capital and operating budgets for the Fund.

(2) For information only, the Board shall submit the budgets to the Senate Budget and Taxation Committee and the House Appropriations Committee.
- (c) The Board shall issue receipts for money that the Fund receives.]

[10–121.

The Board shall keep reserves and surplus in accordance with the Insurance Article.]

[10–122.

- (a) Consistent with minority business purchasing standards applicable to units of State government under the State Finance and Procurement Article and consistent with the fiduciary duties of the Board, the Board shall attempt to use to the greatest extent feasible minority business enterprises to provide brokerage and investment management services to the Board.
- (b) For purposes of this section, brokerage and investment management services shall include services relating to all allocated asset classes.
- (c) (1) To assist it in achieving the goal described under subsection (a) of this section, the Board shall undertake measures to remove any barriers that limit full participation by minority business enterprises in brokerage and investment management services opportunities afforded by the Fund.

(2) The measures undertaken by the Board shall include the use of a wide variety of media, including the Board's website, to provide notice to a broad and varied range of potential providers about the brokerage and investment management services opportunities afforded by the Fund.
- (d) In conjunction with the Governor's Office of Minority Affairs, the Board shall develop guidelines to assist it in identifying and evaluating qualified minority business enterprises in order to help the Fund achieve the objective for greater use of minority business enterprises for brokerage and investment management services.

(e) On or before September 1 each year, the Board shall submit a report to the Governor's Office of Minority Affairs and, subject to § 2-1246 of the State Government Article, the General Assembly on:

(1) the identity of the minority business enterprise brokerage and investment management services firms used by the Board in the immediately preceding fiscal year;

(2) the percentage and dollar value of the Fund assets that are under the investment control of minority business enterprise brokerage and investment management services firms; and

(3) the measures the Board undertook in the immediately preceding fiscal year in accordance with subsection (c)(2) of this section.]

[10-125.

(a) The Fund shall be examined by the Commissioner in accordance with Title 2, Subtitle 2 (Enforcement) of the Insurance Article.

(b) As part of an examination under § 2-205 of the Insurance Article, the Commissioner shall, at least once every 5 years, determine whether the Fund's rate making practices produce actuarially sound rates.]

[10-126.

(a) Within 90 days after the close of each fiscal year, the Board shall submit to the Governor an annual report that includes a detailed statement of:

(1) the condition and expenses of the Fund in detail;

(2) growth of the Fund;

(3) changes in earned premiums of the Fund;

(4) changes in the number of policyholders of the Fund;

(5) the degree of the Fund's personnel flexibility;

(6) trends in the overall market share; and

(7) trends in the premium to expense ratio.

(b) (1) On or before October 1 of each year, the Fund shall submit to the Governor:

- (i) a copy of each policy form that the Fund will use during the next calendar year;
- (ii) the schedule of premium rates that the Fund will charge for the next calendar year;
- (iii) information about provision for claim payment, as defined in § 11–330(a) of the Insurance Article, for each class for which the Fund writes coverage; and
- (iv) other information that the Governor requests about premium rates, including classes, financial information, and losses.

(2) (i) Information required under paragraph (1)(ii) through (iv) of this subsection shall be submitted on the form that the Governor requires.

(ii) The form shall conform as closely as possible to the form that a rating organization uses to comply with §§ 11–307, 11–329, and 11–330 of the Insurance Article.]

[10–127.

If the General Assembly repeals this subtitle, money in the Fund at the time of repeal shall be distributed:

- (1) as the General Assembly provides; or
- (2) if the General Assembly does not provide for distribution, as justice requires, with due regard for existing obligations for compensation.]

[Part V. Insurance Program.]

[10–130.

(a) The Board shall adopt a schedule of premium rates in accordance with sound actuarial practices and shall ensure that the rates are not excessive, inadequate, or unfairly discriminatory.

(b) The Commissioner shall review the Fund's rates as part of an examination under § 2–205 of the Insurance Article to determine whether the Fund's rate making practices produce actuarially sound rates.

- (c) (1) The Board shall determine the schedule by:
 - (i) classifying all of the policyholders on the basis of the respective level of hazard of their enterprises; and

(ii) setting a premium rate for each class on the basis of:

1. its level of hazard; and
2. incentives to prevent injuries to employees.

(2) To determine the schedule, the Board shall use the rating system that, in the opinion of the Board:

(i) most accurately measures the level of hazard for each policyholder on the basis of the number of injuries that occur in the enterprises of the policyholder;

(ii) encourages the prevention of injuries; and

(iii) ensures the solvency of the Fund from year to year.

(3) The Board may set minimum premium rates.

(d) (1) The Board shall state premium rates as a percentage of the gross annual wages of employees to whom Title 9 of this article applies.

(2) For employees who work partly in and partly outside the State, the premium shall be based on wages for employment in the State.

(e) (1) Except as provided in paragraph (2) of this subsection, the schedule of premium rates in effect at the beginning of a calendar year remains in effect for the year.

(2) The Board shall adjust classes and rates as often as the Board determines to be just and advantageous to meet the criteria under subsection (c)(2) of this section and to reflect changes in levels of hazards.]

[10–131.

An employer shall apply for insurance under this subtitle in accordance with the policies of the Board.]

[10–132.

Each employer who applies and is eligible for insurance under this subtitle shall be assigned, after consideration of the number of employees and the relative hazards of the various types of work performed in the enterprise of the employer:

- (1) to the class that includes the work; or

(2) if more than 1 class clearly applies to the work, to each applicable class.]

[10–133.

(a) The Board shall adopt policies that provide procedures and standards for the payment of premiums.

(b) (1) Subject to paragraph (2) of this subsection, the Board, the President of the Fund, or the Executive Vice President of the Fund may:

(i) cancel the insurance of a policyholder who fails to pay a premium due to the Fund; and

(ii) refer to the Attorney General, for collection, the debt of any policyholder whose insurance is being canceled under this paragraph.

(2) At least 10 days before the date set for cancellation of insurance under this subsection, the Board shall:

(i) serve on the policyholder, by personal service or by certified or registered mail sent to the last known resident address of the policyholder, a notice of intention to cancel insurance; and

(ii) submit a copy of the notice to the Workers' Compensation Commission's designee.

(3) Notice under this subsection may be given:

(i) for a policyholder that is a corporation, to an official or other agent of the corporation on whom legal process may be served; and

(ii) for a policyholder that is a partnership, to any partner.

(4) Notice under this subsection shall state the date on which the cancellation is to become effective.

(5) Whenever a debt is referred under this subsection for collection, the insurance may not be reinstated until the debt is paid in full.

(c) (1) Whenever a debt is referred under this section for collection, the Board, the President of the Fund, or the Executive Vice President of the Fund shall provide the Attorney General with:

(i) the name of the policyholder;

(ii) each known business or resident address of the policyholder;
and

(iii) a statement of the amount that the policyholder owes to the Fund.

(2) The Attorney General may sue, in the name of the Fund, to collect the debt.

(d) If the President of the Fund considers settlement to be in the best interest of the Fund, a debt that is referred under this section for collection may be settled.]

[10–134.

The Board shall issue a certificate of insurance.]

[10–135.

(a) The Board may:

(1) adopt requirements for uniform payroll; and

(2) require each policyholder to conform to the requirements.

(b) In accordance with the requirements that the Board adopts, each policyholder shall submit a report on wages or other documentation to the Board at intervals that the Board sets.

(c) The Board or its authorized employee may inspect at any time the payroll of a policyholder.

(d) (1) Subject to paragraph (2) of this subsection, the Board, the President of the Fund, or the Executive Vice President of the Fund may cancel the insurance of a policyholder who:

(i) fails to comply with subsection (b) of this section; or

(ii) refuses to allow an inspection authorized under subsection (c) of this section.

(2) At least 30 days before the date set for cancellation of insurance under this subsection, the Board shall:

(i) serve on the policyholder, by personal service or by certified or registered mail sent to the last known resident address of the policyholder, a notice of intention to cancel insurance; and

(ii) submit a copy of the notice to the Workers' Compensation Commission's designee.

(3) Notice under this subsection may be given:

(i) for a policyholder that is a corporation, to an official or other agent of the corporation on whom legal process may be served; and

(ii) for a policyholder that is a partnership, to any partner.

(4) Notice under this subsection shall state the date on which the cancellation is to become effective.]

[10-136.

A policyholder may cancel a policy under this subtitle, if the policyholder:

(1) gives the Fund written notice; and

(2) promptly pays all premiums owed to the Fund.]

[10-137.

If the Board considers an account to be uncollectible, the account may be charged from the books of the Fund.]

[10-138.

(a) Subject to subsection (b) of this section, the President of the Fund may settle a claim that the Fund has against a governmental unit or person who is alleged to be liable for an accident for which the Fund pays compensation.

(b) The President may settle a claim under this section only if:

(1) the Workers' Compensation Commission consents; and

(2) for a settlement that will prejudice any right of an injured employee, the employee consents.]

[Part VI. Prohibited Act; Penalty.]

[10-141.

(a) An employer may not with fraudulent intent misrepresent to the Board the wages on which a premium under this subtitle is based.

(b) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 90 days or both.]

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – State Personnel and Pensions

21–307.

(P) (1) ON AND AFTER OCTOBER 1, 2013, ON BEHALF OF ITS EMPLOYEES WHO ARE MEMBERS OF THE EMPLOYEES’ RETIREMENT SYSTEM OR THE EMPLOYEES’ PENSION SYSTEM, THE INJURED WORKERS’ INSURANCE FUND SHALL:

(I) PAY AN AMOUNT EQUAL TO THE PRODUCT OF MULTIPLYING:

1. THE AGGREGATE ANNUAL EARNABLE COMPENSATION OF THOSE MEMBERS; AND

2. THE NORMAL CONTRIBUTION RATE OTHERWISE PAID BY THE STATE FOR MEMBERS OF THE EMPLOYEES’ RETIREMENT SYSTEM AND THE EMPLOYEES’ PENSION SYSTEM;

(II) PAY AN ADDITIONAL AMOUNT EQUAL TO 5% OF THE AGGREGATE ANNUAL EARNABLE COMPENSATION OF ITS EMPLOYEES WHO ARE MEMBERS OF THE EMPLOYEES’ RETIREMENT SYSTEM; AND

(III) REMIT TO THE EMPLOYEES’ RETIREMENT SYSTEM OR THE EMPLOYEES’ PENSION SYSTEM THE CONTRIBUTIONS REQUIRED TO BE PAID BY ITS EMPLOYEES.

(2) BEGINNING ON OR BEFORE DECEMBER 31, 2013, AND EACH YEAR THEREAFTER, IN ADDITION TO THE AMOUNTS REQUIRED TO BE PAID UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE INJURED WORKERS’ INSURANCE FUND SHALL PAY A WITHDRAWAL LIABILITY CONTRIBUTION:

(I) AS CALCULATED BY THE ACTUARY OF THE STATE RETIREMENT AND PENSION SYSTEM; AND

(II) IN ACCORDANCE WITH PARAGRAPHS (3) AND (4) OF THIS SUBSECTION.

(3) THE PARTICIPANT FUNDING RATIO FOR THE INJURED WORKERS' INSURANCE FUND SHALL BE A FRACTION THAT HAS:

(I) AS ITS NUMERATOR, THE MARKET VALUE OF ASSETS FOR THE EMPLOYEES' RETIREMENT SYSTEM AND THE EMPLOYEES' PENSION SYSTEM REPORTED IN THE JUNE 30, 2013, ANNUAL ACTUARIAL VALUATION FOR THE STATE; AND

(II) AS ITS DENOMINATOR, THE ENTRY AGE ACTUARIAL ACCRUED LIABILITY FOR THE EMPLOYEES' RETIREMENT SYSTEM AND THE EMPLOYEES' PENSION SYSTEM REPORTED IN THE JUNE 30, 2013, ANNUAL ACTUARIAL VALUATION FOR THE STATE.

(4) THE WITHDRAWAL LIABILITY CONTRIBUTION OF THE INJURED WORKERS' INSURANCE FUND SHALL BE THE COMPLEMENT OF THE PARTICIPANT FUNDING RATIO FOR THE FUND MULTIPLIED BY THE ENTRY AGE ACTUARIAL ACCRUED LIABILITY FOR THE FUND BASED ON DATA SUBMITTED AS OF OCTOBER 1, 2013, FOR THE FUND.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That, as provided in this Act:

(1) The Chesapeake Employers' Insurance Company is the successor of the Injured Workers' Insurance Fund, the Board for the Chesapeake Employers' Insurance Company is the successor of the Board for the Injured Workers' Insurance Fund, and the President of the Chesapeake Employers' Insurance Company is the successor of the President of the Injured Workers' Insurance Fund.

(2) In every law, executive order, rule, regulation, policy, or document created by an official, employee, or unit of this State, the names and titles of those agencies and officials mean the names and titles of the successor agency or official, as provided in this Act.

(3) Policy forms and other documents that were approved prior to ~~March~~ October 1, 2013, by the Maryland Insurance Administration or the Workers' Compensation Commission in the name of the Injured Workers' Insurance Fund may be used by the Chesapeake Employers' Insurance Company to the same extent as if the policy forms and other documents had been approved in the name of the Chesapeake Employers' Insurance Company.

~~SECTION 3. AND BE IT FURTHER ENACTED, That, on March 1, 2013, all the functions, powers, duties, equipment, assets, and liabilities of the Injured Workers' Insurance Fund shall be transferred to the Chesapeake Employers' Insurance Company.~~

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Insurance Administration shall study, in consultation with the Injured Workers' Insurance Fund and the National Council on Compensation Insurance, Inc., whether the Chesapeake Employers' Insurance Company should be subject to Title 11 of the Insurance Article, including whether the Company should be a member of the rating organization.

(b) In conducting the study, the Administration:

(1) may consult with any other person or entity that the Administration considers appropriate;

(2) shall consider the impact on the Company and its policyholders if the Company is made subject to Title 11 of the Insurance Article, including the impact of the membership and transaction fees payable to the rating organization and additional administrative and system costs associated with complying with Title 11 of the Insurance Article; and

(3) if the Administration determines that the Company should be subject to Title 11 of the Insurance Article, shall consider:

(i) the extent to which the Company should be in compliance with the rating plan requirements under Title 11 of the Insurance Article; and

(ii) an appropriate timeline for the Company to phase in participation in the rating plan requirements to avoid disruption to its policyholders.

(c) On or before October 1, 2012, the Administration shall report, in accordance with § 2-1246 of the State Government Article, its findings and recommendations to the Senate Finance Committee and the House Economic Matters Committee.

~~(1) Notwithstanding any other provision of law, full compliance by the Chesapeake Employers' Insurance Company with Title 11 of the Insurance Article is not required until 5 years after the effective date of this Act; and~~

~~(2) It is the intent of the General Assembly that the Chesapeake Employers' Insurance Company and the rating organization phase in the rating plan to avoid disruption to policyholders.~~

SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2012 that affects provisions enacted by this Act. The publisher shall adequately describe any such correction in an editor's note following the section affected.

SECTION 7. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Insurance Administration shall contract with an independent financial, accounting, or valuation consulting firm to conduct a study to determine, since the enactment of Chapter 800 of 1914, the fair value of:

(1) any financial contribution made by the State to the Injured Workers' Insurance Fund; and

(2) any financial benefit the Fund received from the State.

(b) (1) The study shall consider the fair value of:

(i) funds, including start-up funding, provided by the State to the Fund at any time;

(ii) real estate or other assets transferred or otherwise provided to the Fund, net of any amounts paid for the real estate or other asset by the Fund out of Fund revenues;

(iii) property taxes or transfer taxes on Fund-owned real property that would have been paid if the Fund had not been a State agency;

(iv) sales and excise taxes that would have been paid to the State if the Fund had not been a State agency;

(v) premium taxes not paid to the State by the Fund due to its tax exempt status prior to June 1, 2011, ~~but only to the extent that the benefit of the tax exemption was not passed on to policyholders of the Fund through the rate making process;~~ and

(vi) any other direct financial contribution made by the State to the Fund and any other financial benefit the Fund received from the State.

(2) In determining the fair value of the items listed in paragraph (1) of this subsection, the study shall consider:

(i) additional costs the Fund incurred from the Fund's status as the insurer of last resort which required the Fund to provide workers' compensation insurance to businesses regardless of the degree of risk;

(ii) that the Fund is a nonprofit entity with profits passed on to its policyholders;

(iii) whether the benefit of the taxes not paid was passed on to policyholders since the Fund was not subject to the taxes;

(iv) that since the Fund only began advertising and paying commissions to licensed insurance producers beginning in 1996, the Fund's entire book of business was considered the residual market through 1995;

(v) that effective October 1, 2009, the Fund was statutorily required to serve as a competitive insurer in the marketplace, in addition to guaranteeing the availability of workers' compensation insurance in the State, serving as the workers' compensation insurer of last resort, and engaging only in the business of workers' compensation insurance in accordance with State law; and

(vi) that effective October 1, 2003, the Fund was required to be subject to risk-based capital standards.

~~(2)~~ (3) The study also shall consider:

~~(i) additional costs the Fund incurred from the Fund's status as the insurer of last resort which required the Fund to provide workers' compensation insurance to businesses regardless of the degree of risk;~~

~~(ii) that while the Fund was part of the former State Department of Personnel, the State purchased four parcels of land with Fund revenues, but the State held the title to the land until it was transferred to the Fund;~~

(i) any subsidy that the Fund provided to the State in connection with the State self-insured workers' compensation program; and

~~(iii)~~ (ii) that the Fund is required to transfer \$6,000,000 to the General Fund on or before June 30, 2012, as provided in Section 20 of Chapter 397 of the Acts of the General Assembly of 2011, less the amount received by the State on or before June 30, 2012, as a result of the imposition of a premium tax on the Fund under § 6-101 of the Insurance Article;

~~(iv) that the Fund is a nonprofit entity with profits passed on to its policyholders; and~~

~~(v) the estimated cost of any subsidy provided by the State to cover the future costs of retiree health benefits for retired Fund employees and their dependents.~~

(c) In conducting the study, the firm:

(1) shall consult with the Fund, the Maryland Insurance Commissioner, and the Secretary of Budget and Management;

(2) may consult with any other person or entity that the firm considers appropriate; and

(3) shall consider any studies conducted by the Administration or the Department of Budget and Management on the Fund, including the study on the Fund's role as the third party administrator for the State.

(d) (1) The Administration shall require the firm to report the findings and conclusions of its study of the fair value to the Administration before October 1, 2012.

(2) On or before October 1, 2012, the Administration shall report, in accordance with § 2-1246 of the State Government Article, the firm's findings and conclusions of its study of the fair value to the Legislative Policy Committee, the Fund, the Governor, the Senate Budget and Taxation Committee, the Senate Finance Committee, the House Appropriations Committee, and the House Economic Matters Committee.

(e) If the study concludes that the fair value is \$50,000,000 or more:

(1) the Administration shall contract with consultants to conduct a comprehensive assessment of the long-term effect of transferring the fair value to the State on the adequacy of the Fund's surplus;

(2) the Chesapeake Employers' Insurance Company shall owe a debt to the General Fund in an amount equal to:

(i) the fair value; less

(ii) 1. the \$50,000,000 which is required to be transferred from the Fund to the General Fund under Chapter (S.B. 152/H.B. 87) of the Acts of the General Assembly of 2012; and

2. the cost of the study and the assessment paid by the Fund, as provided under subsection (g) of this section.

(f) (1) Subject to paragraph (2) of this subsection, the Company shall pay the debt calculated under subsection (e) of this section, without interest, to the State in 10 equal annual installments beginning in fiscal year 2014 or, as agreed by the Fund and the Secretary of Budget and Management, in payments over an alternative period of time.

(2) (i) 1. An installment or other payment shall be suspended or delayed, and may not be paid, in any year in which the Company's risk-based capital ratio is less than 700% of its authorized control level.

2. If the Company's risk-based capital ratio is 700% or higher than its authorized control level, an installment or other payment shall be suspended or delayed, and may not be paid, in any year in which the Maryland Insurance Commissioner determines that the Company's surplus is not adequate to make a payment or that the Company's ability to meet its financial obligations would be impaired if a payment is made.

(ii) The Company shall pay any suspended or delayed installment or other payment in a subsequent year until the debt is fully satisfied.

(g) The Fund shall be responsible for the payment of the costs of the study required under subsection (a) of this section and the assessment required under subsection (e) of this section, including any costs incurred by the Administration in contracting with consultants to perform the study and the assessment.

SECTION 8. AND BE IT FURTHER ENACTED, That:

(a) On or before July 1, 2013, the Injured Workers' Insurance Fund and the Board of Trustees for the State Retirement and Pension System shall enter into an agreement specifying the terms and conditions of payment for the withdrawal of the Fund from the State Retirement and Pension System in accordance with § 21-307(p) of the State Personnel and Pensions Article, as enacted by Section 3 of this Act.

(b) The Fund shall be responsible for the payment of any costs incurred in calculating the Fund's liability for withdrawing from the State Retirement and Pension System.

SECTION 9. AND BE IT FURTHER ENACTED, That:

(a) (1) On or before December 1, 2012, the Injured Workers' Insurance Fund and the Department of Budget and Management shall enter into a memorandum of agreement establishing the terms, conditions, and schedule for payment by the Injured Workers' Insurance Fund of the projected costs for the State retiree health benefits of current and former Injured Workers' Insurance Fund employees.

(2) The Injured Workers' Insurance Fund shall be responsible for the payment of any costs incurred in calculating the Injured Workers' Insurance Fund's liability for retiree health benefits.

(b) On or before July 1, 2013, the Injured Workers' Insurance Fund, in accordance with the schedule established in the memorandum of agreement required under subsection (a) of this section, shall begin to pay to the State Employee and Retiree Health and Welfare Benefits Fund established under § 2-516 of the State Personnel and Pensions Article an amount sufficient to satisfy the projected costs for the State retiree health benefits of current and former Injured Workers' Insurance Fund employees, as determined by the actuary for the State Employee and Retiree Health Benefits Program.

SECTION ~~6~~ ~~9~~ 10. AND BE IT FURTHER ENACTED, That Sections 1 and 3 of this Act shall take effect October 1, 2012.

SECTION ~~10~~ 11. AND BE IT FURTHER ENACTED, That Sections 2 and 4 of this Act shall take effect October 1, 2013.

SECTION ~~11~~ 12. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly and, except as provided in Sections ~~9 and 10~~ 10 and 11 of this Act, shall take effect from the date it is enacted.

Approved by the Governor, May 22, 2012.