

## **Chapter 385**

**(House Bill 724)**

AN ACT concerning

### **Insurance – Risk Based Capital Standards – Fraternal Benefit Societies and Life Insurers**

FOR the purpose of requiring that a fraternal benefit society's risk based capital be determined in accordance with a certain formula set forth in certain instructions; altering the circumstances under which a company action level event occurs in the case of a life insurer; establishing the circumstances under which a company action level event occurs in the case of a fraternal benefit society; requiring the Maryland Insurance Commissioner to take any action that may be necessary to place a fraternal benefit society under conservation, rehabilitation, or liquidation if a mandatory control level event occurs; providing that certain provisions of law apply to fraternal benefit societies; defining a certain term; and generally relating to company action level events, fraternal benefit societies, and life insurers.

BY repealing and reenacting, without amendments,  
Article – Insurance  
Section 4–301(a)  
Annotated Code of Maryland  
(2011 Replacement Volume and 2012 Supplement)

BY adding to  
Article – Insurance  
Section 4–301(f–1)  
Annotated Code of Maryland  
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,  
Article – Insurance  
Section 4–301(k), 4–304, 4–305(a), 4–308, and 8–403  
Annotated Code of Maryland  
(2011 Replacement Volume and 2012 Supplement)

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

#### **Article – Insurance**

4–301.

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

**(F-1) “FRATERNAL BENEFIT SOCIETY” MEANS A PERSON AUTHORIZED TO TRANSACT INSURANCE BUSINESS IN THE STATE UNDER TITLE 8, SUBTITLE 4 OF THIS ARTICLE.**

(k) “Negative trend” means, with respect to a life insurer [or], health insurer, **OR FRATERNAL BENEFIT SOCIETY**, negative trend over a period of time, as determined in accordance with the “trend test calculation” included in the RBC instructions.

4-304.

(a) (1) A life insurer’s **OR FRATERNAL BENEFIT SOCIETY’S** risk based capital shall be determined in accordance with the formula set forth in the RBC instructions.

(2) By applying the factors in the manner set forth in the RBC instructions, the formula shall take into account and may adjust for the covariance between:

(i) the risk with respect to the life insurer’s **OR FRATERNAL BENEFIT SOCIETY’S** assets;

(ii) the risk of adverse insurance experience with respect to the life insurer’s **OR FRATERNAL BENEFIT SOCIETY’S** liabilities and obligations;

(iii) the interest rate risk with respect to the life insurer’s **OR FRATERNAL BENEFIT SOCIETY’S** business; and

(iv) all other business risks and other relevant risks as set forth in the RBC instructions.

(b) (1) Except as provided in subsection (a) of this section, an insurer’s risk based capital shall be determined in accordance with the formula set forth in the RBC instructions.

(2) By applying the factors in the manner set forth in the RBC instructions, the formula shall take into account and may adjust for the covariance between:

(i) asset risk;

(ii) credit risk;

(iii) underwriting risk; and

(iv) all other business risks and other relevant risks as set forth in the RBC instructions.

4–305.

(a) A company action level event occurs:

(1) when an insurer files an RBC report that indicates that:

(i) the insurer has total adjusted capital that is:

1. greater than or equal to its regulatory action level RBC; and

2. less than its company action level RBC;

(ii) in the case of a life insurer **OR FRATERNAL BENEFIT SOCIETY**, the life insurer **OR FRATERNAL BENEFIT SOCIETY** has total adjusted capital that:

1. is greater than or equal to its company action level RBC;

2. is less than the product of its authorized control level RBC and [2.5] **3.0**; and

3. has a negative trend;

(iii) in the case of a property and casualty insurer, the property and casualty insurer has total adjusted capital that:

1. is greater than or equal to its company action level RBC;

2. is less than the product of its authorized control level RBC and 3.0; and

3. triggers the trend test calculation included in the property and casualty RBC instructions; or

(iv) in the case of a health insurer, the health insurer has total adjusted capital that:

RBC;

1. is greater than or equal to its company action level RBC;
2. is less than the product of its authorized control level RBC and 3.0; and
3. triggers the trend test calculation included in the health RBC instructions;

(2) when the Commissioner notifies an insurer of an adjusted RBC report that indicates an event under item (1) of this subsection; or

(3) if an insurer requests a hearing to challenge an adjusted RBC report that indicates an event under item (1) of this subsection, when the Commissioner notifies the insurer that the Commissioner, after a hearing, has rejected the insurer's challenge.

4-308.

(a) A mandatory control level event occurs when:

(1) an insurer files an RBC report that indicates that the insurer has total adjusted capital that is less than its mandatory control level RBC;

(2) the Commissioner notifies the insurer of an adjusted RBC report that indicates an event under item (1) of this subsection; or

(3) if an insurer requests a hearing to challenge an adjusted RBC report that indicates the event under item (1) of this subsection, the Commissioner notifies the insurer that the Commissioner, after a hearing, has rejected the insurer's challenge.

(b) (1) In the case of a life insurer **OR FRATERNAL BENEFIT SOCIETY**, if a mandatory control level event occurs with respect to the life insurer **OR FRATERNAL BENEFIT SOCIETY**, the Commissioner shall take any action that may be necessary to place the life insurer **OR FRATERNAL BENEFIT SOCIETY** under conservation, rehabilitation, or liquidation under Title 9 of this article.

(2) In the case of a property and casualty insurer, if a mandatory control level event occurs with respect to the property and casualty insurer, the Commissioner:

(i) shall take any action that may be necessary to place the property and casualty insurer under conservation, rehabilitation, or liquidation under Title 9 of this article; or

(ii) in the case of a property and casualty insurer that is not writing any new business and that is running off its existing business, may allow the property and casualty insurer to continue its run-off under the supervision of the Commissioner.

(3) In the case of a health insurer, if a mandatory control level event occurs with respect to the health insurer, the Commissioner shall take any action that may be necessary to place the health insurer under conservation, rehabilitation, or liquidation under Title 9 of this article.

(c) The Commissioner may delay action under subsection (b) of this section for up to 90 days after the occurrence of the mandatory control level event if the Commissioner finds there is a reasonable expectation that the mandatory control level event may be eliminated within the 90-day period.

(d) (1) The Commissioner shall have the rights, powers, and duties under Title 9 of this article needed to carry out the requirements of this section.

(2) If the Commissioner takes any action under Title 9 of this article pursuant to an adjusted RBC report as provided in this section, the insurer shall be entitled to the protections afforded to insurers under Title 9 of this article with regard to summary proceedings.

8-403.

(a) (1) Except as otherwise provided in this section, societies are:

- (i) governed exclusively by this subtitle; and
- (ii) exempt from the other insurance laws of the State.

(2) A statute enacted after December 31, 1963, does not apply to societies unless the statute expressly states that it applies to them.

(b) (1) In addition to the provisions of this subtitle, the following provisions of this article apply to societies to the extent not in conflict with the express provisions and reasonable implications of this subtitle:

- (i) Title 1 of this article;
- (ii) Title 2, Subtitle 1 of this article, including § 2-112 of this article;
- (iii) Title 2, Subtitle 2 of this article;
- (iv) § 3-117 of this article;

- (v) § 3–127 of this article;
- (vi) § 4–102(b) of this article;
- (vii) § 4–113(a)(7), (8), and (9) of this article;
- (viii) § 4–203 of this article;
- (ix) § 4–204 of this article;
- (x) § 5–103 of this article;
- (xi) § 5–201 of this article;
- (xii) Title 6, Subtitle 2 of this article;
- (xiii) Title 9, Subtitle 2 of this article;
- (xiv) § 10–120 of this article;
- (xv) Title 15, Subtitle 9 of this article;
- (xvi) Title 27 of this article; [and]
- (xvii) § 1–301 of this article; **AND**

**(XVIII) TITLE 4, SUBTITLE 3 OF THIS ARTICLE.**

(2) In addition to the provisions of this subtitle, societies are subject to the provisions of Title 13, Subtitle 5 of the Estates and Trusts Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

**Approved by the Governor, May 2, 2013.**