

HOUSE BILL 724

C4

3lr0108

By: **Chair, Health and Government Operations Committee (By Request – Departmental – Insurance Administration, Maryland)**

Introduced and read first time: February 4, 2013

Assigned to: Health and Government Operations

Committee Report: Favorable

House action: Adopted

Read second time: March 6, 2013

CHAPTER _____

1 AN ACT concerning

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

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

15 BY repealing and reenacting, without amendments,
16 Article – Insurance
17 Section 4–301(a)
18 Annotated Code of Maryland
19 (2011 Replacement Volume and 2012 Supplement)

20 BY adding to
21 Article – Insurance
22 Section 4–301(f–1)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2011 Replacement Volume and 2012 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Insurance
5 Section 4–301(k), 4–304, 4–305(a), 4–308, and 8–403
6 Annotated Code of Maryland
7 (2011 Replacement Volume and 2012 Supplement)

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

10 **Article – Insurance**

11 4–301.

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

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

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

20 4–304.

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

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

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

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

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

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

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

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

9 (i) asset risk;

10 (ii) credit risk;

11 (iii) underwriting risk; and

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

14 4-305.

15 (a) A company action level event occurs:

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

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

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

20 2. less than its company action level RBC;

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

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

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

28 3. has a negative trend;

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

1 **BENEFIT SOCIETY**, the Commissioner shall take any action that may be necessary to
2 place the life insurer **OR FRATERNAL BENEFIT SOCIETY** under conservation,
3 rehabilitation, or liquidation under Title 9 of this article.

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

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

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

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

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

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

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

28 8-403.

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

30 (i) governed exclusively by this subtitle; and

31 (ii) exempt from the other insurance laws of the State.

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

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

4 (i) Title 1 of this article;

5 (ii) Title 2, Subtitle 1 of this article, including § 2–112 of this
6 article;

7 (iii) Title 2, Subtitle 2 of this article;

8 (iv) § 3–117 of this article;

9 (v) § 3–127 of this article;

10 (vi) § 4–102(b) of this article;

11 (vii) § 4–113(a)(7), (8), and (9) of this article;

12 (viii) § 4–203 of this article;

13 (ix) § 4–204 of this article;

14 (x) § 5–103 of this article;

15 (xi) § 5–201 of this article;

16 (xii) Title 6, Subtitle 2 of this article;

17 (xiii) Title 9, Subtitle 2 of this article;

18 (xiv) § 10–120 of this article;

19 (xv) Title 15, Subtitle 9 of this article;

20 (xvi) Title 27 of this article; [and]

21 (xvii) § 1–301 of this article; AND

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

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

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