

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

A BILL ENTITLED

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)
23 Annotated Code of Maryland
24 (2011 Replacement Volume and 2012 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article – Insurance
27 Section 4–301(k), 4–304, 4–305(a), 4–308, and 8–403

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

5 **Article – Insurance**

6 4–301.

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

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

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

15 4–304.

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

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

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

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

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

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

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

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

4 (i) asset risk;

5 (ii) credit risk;

6 (iii) underwriting risk; and

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

9 4–305.

10 (a) A company action level event occurs:

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

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

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

15 2. less than its company action level RBC;

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

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

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

23 3. has a negative trend;

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

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

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

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

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

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

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

9 3. triggers the trend test calculation included in the
10 health RBC instructions;

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

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

17 4-308.

18 (a) A mandatory control level event occurs when:

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

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

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

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

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

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

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

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

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

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

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

25 8-403.

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

27 (i) governed exclusively by this subtitle; and

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

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

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

34 (i) Title 1 of this article;

- 1 (ii) Title 2, Subtitle 1 of this article, including § 2–112 of this
2 article;
- 3 (iii) Title 2, Subtitle 2 of this article;
- 4 (iv) § 3–117 of this article;
- 5 (v) § 3–127 of this article;
- 6 (vi) § 4–102(b) of this article;
- 7 (vii) § 4–113(a)(7), (8), and (9) of this article;
- 8 (viii) § 4–203 of this article;
- 9 (ix) § 4–204 of this article;
- 10 (x) § 5–103 of this article;
- 11 (xi) § 5–201 of this article;
- 12 (xii) Title 6, Subtitle 2 of this article;
- 13 (xiii) Title 9, Subtitle 2 of this article;
- 14 (xiv) § 10–120 of this article;
- 15 (xv) Title 15, Subtitle 9 of this article;
- 16 (xvi) Title 27 of this article; [and]
- 17 (xvii) § 1–301 of this article; **AND**
- 18 **(XVIII) TITLE 4, SUBTITLE 3 OF THIS ARTICLE.**

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

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