

SENATE BILL 479

K1, C4

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CF HB 341

By: **Senators Klausmeier, Colburn, Kittleman, and Robey**

Introduced and read first time: January 27, 2014

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Chesapeake Employers' Insurance Company – Rates and Board Structure**

3 FOR the purpose of authorizing the Chesapeake Employers' Insurance Company to
4 take certain actions relating to a subsidiary for certain purposes; altering the
5 selection and appointment process for the members of the Board; specifying the
6 qualifications for the members of the Board; repealing a requirement that
7 certain appointees take a certain oath before taking office as members of the
8 Board; altering the means for staggering the terms of members of the Board;
9 authorizing the Governor to remove only certain members for incompetence or
10 misconduct; requiring a certain designated rating organization to create a
11 certain exception in its classification system for certain authorized insurers;
12 authorizing the Company to remain exempt from certain insurance rate making
13 requirements until a certain date; repealing certain provisions of law that
14 exempt the Company from certain aspects of the insurance rate making process;
15 repealing a provision of law that requires the Board to set rates in a certain
16 manner; declaring the intent of the General Assembly that a rating
17 organization, in consultation with the Company, shall create a certain exception
18 in its classification system for authorized insurers; requiring the terms of
19 certain members to be extended until a certain date; specifying the process for
20 appointing or selecting a certain member of the Board; renumbering certain
21 provisions; making other conforming changes; providing for delayed effective
22 dates for certain provisions of this Act; and generally relating to the
23 Chesapeake Employers' Insurance Company.

24 BY repealing and reenacting, with amendments,
25 Article – Insurance
26 Section 11–202, 11–303, 24–306, and 24–307
27 Annotated Code of Maryland
28 (2011 Replacement Volume and 2013 Supplement)

29 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Insurance
2 Section 11–331 and 11–332
3 Annotated Code of Maryland
4 (2011 Replacement Volume and 2013 Supplement)

5 BY repealing
6 Article – Insurance
7 Section 24–305
8 Annotated Code of Maryland
9 (2011 Replacement Volume and 2013 Supplement)

10 BY renumbering
11 Article – Insurance
12 Section 24–306 through 24–312, respectively
13 to be Section 24–305 through 24–311, respectively
14 Annotated Code of Maryland
15 (2011 Replacement Volume and 2013 Supplement)

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

18 **Article – Insurance**

19 24–306.

20 (a) The Company:

21 (1) shall be an authorized insurer; and

22 (2) on and after October 1, 2013, shall be the workers' compensation
23 insurer of last resort for employers covered under Title 9 of the Labor and
24 Employment Article.

25 (b) Before October 1, 2013, the Fund shall serve as the workers'
26 compensation insurer of last resort for workers' compensation insurance and as a
27 competitive workers' compensation insurer under the same terms and conditions as
28 the Fund served before October 1, 2012.

29 (c) The Company may not cancel or refuse to renew or issue a policy except
30 for:

31 (1) nonpayment of a premium for current or prior policies issued by
32 the Fund or the Company;

33 (2) failure to provide payroll information to the Fund or the Company;
34 or

1 (3) failure to cooperate in any payroll audit conducted by the Fund or
2 the Company.

3 (d) The Company may engage only in the business of workers' compensation
4 insurance in accordance with State law.

5 **(E) THE COMPANY MAY ESTABLISH, OWN, OR CONTROL A SUBSIDIARY**
6 **FOR ANY LAWFUL PURPOSE.**

7 24–307.

8 (a) (1) There is a Board for the Chesapeake Employers' Insurance
9 Company.

10 (2) The Board shall manage the business and affairs of the Company
11 as a private, nonprofit corporation in accordance with State law.

12 (b) **(1)** The Board shall consist of nine members [appointed by the
13 Governor with the advice and consent of the Senate].

14 **(2) OF THE NINE MEMBERS:**

15 **(I) TWO PUBLIC MEMBERS SHALL BE APPOINTED BY THE**
16 **GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE; AND**

17 **(II) SEVEN MEMBERS SHALL BE SELECTED BY THE**
18 **POLICYHOLDERS UNDER PROCEDURES PROVIDED IN THE BYLAWS OF THE**
19 **BOARD.**

20 **(3) THE BYLAWS OF THE BOARD SHALL PROVIDE THAT:**

21 **(I) AT LEAST TWO MEMBERS SHALL HAVE SUBSTANTIAL**
22 **EXPERIENCE AS OFFICERS OR EMPLOYEES OF AN INSURER, BUT MAY NOT BE**
23 **EMPLOYED BY AN INSURER THAT IS IN DIRECT COMPETITION WITH THE**
24 **COMPANY WHILE SERVING ON THE BOARD;**

25 **(II) AT LEAST TWO MEMBERS SHALL BE POLICYHOLDERS OF**
26 **THE COMPANY;**

27 **(III) AT LEAST ONE MEMBER SHALL HAVE SIGNIFICANT**
28 **EXPERIENCE IN THE INVESTMENT BUSINESS; AND**

1 (IV) AT LEAST ONE MEMBER SHALL HAVE SIGNIFICANT
2 EXPERIENCE AS A REPRESENTATIVE, EMPLOYEE, OR MEMBER OF A LABOR
3 UNION.

4 (c) Each member shall be a resident of the State.

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

7 [(e)] (D) (1) The term of a member is 5 years.

8 (2) The terms of members are staggered as [required by the terms
9 provided for members of the Board for the Fund on October 1, 1991] PROVIDED IN
10 THE BYLAWS ADOPTED BY THE BOARD.

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

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

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

16 (i) two full terms; or

17 (ii) a total of 10 years.

18 [(f)] (E) The Governor may remove a member WHO HAS BEEN APPOINTED
19 BY THE GOVERNOR for incompetence or misconduct.

20 [(g)] (F) The Board shall adopt rules, bylaws, and procedures.

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

23 Article – Insurance

24 11–331.

25 ON OR BEFORE OCTOBER 1, 2015, AND EACH YEAR THEREAFTER UNTIL
26 OCTOBER 1, 2019, THE RATING ORGANIZATION THAT THE MARYLAND
27 INSURANCE COMMISSIONER DESIGNATES UNDER § 11–329 OF THIS SUBTITLE,
28 IN CONSULTATION WITH THE CHESAPEAKE EMPLOYERS’ INSURANCE
29 COMPANY, SHALL SUBMIT A REPORT TO THE SENATE FINANCE COMMITTEE
30 AND THE HOUSE ECONOMIC MATTERS COMMITTEE, IN ACCORDANCE WITH §

1 **2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE PROGRESS THAT THE**
2 **CHESAPEAKE EMPLOYERS' INSURANCE COMPANY HAS MADE IN PREPARING TO**
3 **BECOME A MEMBER OF THE RATING ORGANIZATION.**

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

6 **Article – Insurance**

7 **11-332.**

8 **THE RATING ORGANIZATION THAT THE COMMISSIONER DESIGNATES**
9 **UNDER § 11-329 OF THIS SUBTITLE SHALL CREATE AND MAINTAIN AN**
10 **EXCEPTION IN ITS CLASSIFICATION SYSTEM TO ALLOW ANY AUTHORIZED**
11 **INSURER IN THE STATE TO USE A SINGLE CLASSIFICATION CODE FOR**
12 **GOVERNMENTAL OCCUPATIONS THAT ARE NOT INCLUDED IN POLICE,**
13 **FIREFIGHTER, AND CLERICAL CLASSIFICATIONS.**

14 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland
15 read as follows:

16 **Article – Insurance**

17 **11-202.**

18 (a) (1) This subtitle applies to all types of insurers.

19 (2) Except as provided in subsection (b) of this section, this subtitle
20 applies to:

21 (i) property insurance;

22 (ii) casualty insurance;

23 (iii) surety insurance;

24 (iv) marine insurance; and

25 (v) wet marine and transportation insurance.

26 (b) This subtitle does not apply to:

27 (1) reinsurance, except as provided in § 11-222 of this subtitle;

1 (2) insurance of vessels or craft or their cargoes, marine protection and
2 indemnity insurance, or insurance of other risks commonly insured under policies of
3 marine insurance, as distinguished from inland marine insurance;

4 (3) insurance against loss of or damage to aircraft including their
5 accessories and equipment, or insurance against liability, other than workers'
6 compensation insurance or employer's liability insurance, arising out of the ownership,
7 maintenance, or use of aircraft; **OR**

8 (4) title insurance[; or

9 (5) the Chesapeake Employers' Insurance Company].

10 (c) If a kind of insurance, subdivision or combination of kinds of insurance,
11 or type of coverage is subject to this subtitle and is also subject to regulation by
12 another rate regulatory provision of the statutes of the State, an insurer to which both
13 provisions are otherwise applicable shall file with the Commissioner a designation as
14 to which rate regulatory provision is applicable to it with respect to that kind of
15 insurance, subdivision or combination of kinds of insurance, or type of coverage.

16 11-303.

17 (a) Notwithstanding Subtitle 2 of this title, this subtitle applies to the
18 establishment of rates for all types of insurance except:

19 (1) life insurance;

20 (2) annuities;

21 (3) health insurance;

22 (4) marine insurance described in § 11-202(b)(2) of this title;

23 (5) aircraft insurance described in § 11-202(b)(3) of this title;

24 (6) reinsurance;

25 (7) insurance provided under the Maryland Automobile Insurance
26 Fund;

27 [(8) insurance provided under the Chesapeake Employers' Insurance
28 Company;]

29 [(9)] (8) title insurance;

30 [(10)] (9) medical malpractice insurance;

1 ~~[(11)]~~ **(10)** any form or plan of insurance regulated under § 27–217 of
2 this article; and

3 ~~[(12)]~~ **(11)** surety insurance.

4 (b) If and to the extent that the Commissioner finds that the application of
5 any or all of the provisions of this subtitle is unnecessary to achieve the purposes of
6 this subtitle, the Commissioner by rule may exempt a person or class of persons or a
7 line or lines of insurance from any or all of those provisions.

8 ~~[24–305.~~

9 (a) The Company is not subject to Title 11 of this article.

10 (b) The Board shall:

11 (1) adopt a schedule of premium rates in accordance with sound
12 actuarial practices; and

13 (2) ensure that the rates are not excessive, inadequate, or unfairly
14 discriminatory.

15 (c) (1) The Board shall determine the schedule of premium rates by:

16 (i) classifying all of the policyholders of the Company on the
17 basis of the respective level of hazard of their enterprises; and

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

19 1. its level of hazard; and

20 2. incentives to prevent injuries to employees.

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

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

26 (ii) encourages the prevention of injuries; and

27 (iii) ensures the solvency of the Company from year to year.

28 (3) The Board may set minimum premium rates for policies issued by
29 the Company.

1 (d) The Commissioner shall review the Company's rates as part of an
2 examination under § 2-205 of this article to determine whether the Company's rate
3 making practices produce actuarially sound rates.]

4 SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 24-306
5 through 24-312, respectively, of Article – Insurance of the Annotated Code of
6 Maryland be renumbered to be Section(s) 24-305 through 24-311, respectively.

7 SECTION 6. AND BE IT FURTHER ENACTED, That, notwithstanding any
8 other provision of law, it is the intent of the General Assembly that on or before
9 January 1, 2019, the rating organization that the Maryland Insurance Commissioner
10 designates under § 11-329 of the Insurance Article, in consultation with the
11 Chesapeake Employers' Insurance Company, shall create an exception in its
12 classification system, as required under § 11-332 as enacted by Section 3 of this Act,
13 to allow any authorized insurer in Maryland to use a single classification code for
14 governmental occupations that are not included in police, firefighter, and clerical
15 classifications.

16 SECTION 7. AND BE IT FURTHER ENACTED, That:

17 (a) Notwithstanding § 24-307 of the Insurance Article as enacted by Section
18 1 of this Act, the term of any member who is on the Board of the Chesapeake
19 Employers' Insurance Company on the effective date of this Act, shall be extended
20 until September 30, 2019.

21 (b) (1) Except as provided in paragraph (2) of this subsection,
22 policyholders shall select a successor to fill a vacancy that occurs on the Board before
23 October 1, 2019, as provided in § 24-307(b)(2) of the Insurance Article as enacted by
24 Section 1 of this Act.

25 (2) If a vacancy occurs on the Board before October 1, 2019, and the
26 Board includes seven members selected by the policyholders, the Governor shall
27 appoint a successor to fill the vacancy as provided in § 24-307(b)(2) of the Insurance
28 Article as enacted by Section 1 of this Act.

29 SECTION 8. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
30 take effect October 1, 2014. It shall remain effective for a period of 6 years and, at the
31 end of October 1, 2020, with no further action required by the General Assembly,
32 Section 2 of this Act shall be abrogated and of no further force and effect.

33 SECTION 9. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall
34 take effect January 1, 2019.

35 SECTION 10. AND BE IT FURTHER ENACTED, That Sections 4 and 5 of this
36 Act shall take effect January 1, 2020.

1 SECTION 11. AND BE IT FURTHER ENACTED, That, except as provided in
2 Sections 9 and 10 of this Act, this Act shall take effect October 1, 2014.