

SENATE BILL 886

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4r2284
CF 4r2287

By: **Senators Feldman, Kelley, and Middleton**

Introduced and read first time: January 31, 2014

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Legal Mutual Liability Insurance Society of Maryland – Conservatorship and**
3 **Transfer**

4 FOR the purpose of providing for the assumption and exercise of certain powers of the
5 Legal Mutual Liability Insurance Society of Maryland by the Minnesota
6 Lawyers Mutual Insurance Company (Minnesota Mutual) in a certain manner
7 for certain purposes; stating certain findings of the General Assembly;
8 appointing Minnesota Mutual as conservator of the Society for a certain period
9 for certain purposes; providing certain powers to Minnesota Mutual for certain
10 purposes; requiring Minnesota Mutual to provide public notice in certain
11 manners of its appointment as conservator, of certain processes and the transfer
12 of certain policies, assets, and liabilities of the Society to the Property and
13 Casualty Insurance Guaranty Corporation, of a certain bar date, and of certain
14 effects of the conservatorship and transfer; authorizing the referral of certain
15 claims to the Guaranty Corporation under certain circumstances after the
16 occurrence of a certain event; authorizing the transfer of certain assets to the
17 Guaranty Corporation in a certain manner as of a certain date; providing for the
18 termination of the conservatorship; prohibiting Minnesota Mutual from
19 receiving certain compensation for certain actions but authorizing the
20 reimbursement of certain expenses; requiring Minnesota Mutual to report to the
21 Maryland Insurance Commissioner on certain matters at a certain frequency;
22 defining certain terms; providing for the construction of a portion of this Act;
23 dissolving the Board of Directors of the Society and terminating the terms of the
24 directors and officers of the Society as of a certain date; requiring the
25 reimbursement of Minnesota Mutual for certain costs as of a certain date;
26 requiring the transfer of certain assets and liabilities of the Society to the
27 Guaranty Corporation on the earlier of certain dates; providing for the
28 continuity of certain transactions, rights, duties, assets, liabilities, and causes of
29 action; requiring Minnesota Mutual to study and report on certain matters to
30 the Commissioner, the Guaranty Corporation, and certain committees of the
31 General Assembly on or before a certain date; requiring Minnesota Mutual to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 consult with certain entities for a certain purpose; repealing provisions of law
 2 relating to the Society as of a certain date; providing that existing obligations or
 3 contract rights may not be impaired by this Act; providing for a delayed
 4 effective date for certain provisions of this Act; and generally relating to the
 5 Legal Mutual Liability Insurance Society of Maryland and its conservatorship.

6 BY repealing and reenacting, with amendments,
 7 Article – Insurance
 8 Section 24–101 and 24–104
 9 Annotated Code of Maryland
 10 (2011 Replacement Volume and 2013 Supplement)

11 BY repealing
 12 Article – Insurance
 13 Section 24–102
 14 Annotated Code of Maryland
 15 (2011 Replacement Volume and 2013 Supplement)

16 BY adding to
 17 Article – Insurance
 18 Section 24–102 and 24–110
 19 Annotated Code of Maryland
 20 (2011 Replacement Volume and 2013 Supplement)

21 BY repealing
 22 Article – Insurance
 23 Section 24–101 through 24–110, inclusive, and the subtitle “Subtitle 1. Legal
 24 Mutual Liability Insurance Society of Maryland”
 25 Annotated Code of Maryland
 26 (2011 Replacement Volume and 2013 Supplement)
 27 (As enacted by Section 1 of this Act)

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

30 **Article – Insurance**

31 24–101.

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

33 (b) **“GUARANTY CORPORATION” MEANS THE PROPERTY AND**
 34 **CASUALTY INSURANCE GUARANTY CORPORATION ESTABLISHED UNDER TITLE**
 35 **9, SUBTITLE 3 OF THIS ARTICLE.**

36 (c) **“Lawyer”** means an individual who is admitted to the Bar of the Court of
 37 Appeals of Maryland.

1 **[(c)] (D)** **“MINNESOTA MUTUAL” MEANS THE MINNESOTA LAWYERS**
2 **MUTUAL INSURANCE COMPANY.**

3 **(E)** (1) “Practice law” has the meaning stated by the Court of Appeals of
4 Maryland.

5 (2) “Practice law” includes the meaning stated in § 10–101(h) of the
6 Business Occupations and Professions Article.

7 **[(d)] (F)** “Society” means the Legal Mutual Liability Insurance Society of
8 Maryland.

9 **[24–102.**

10 Subject to the limitations and immunities of this subtitle, the purpose of this
11 subtitle is to provide:

12 (1) a means to pay indemnities to persons that suffer injuries arising
13 out of the rendering of or failure to render professional services by lawyers;

14 (2) a means for lawyers to obtain insurance against liability for
15 injuries arising out of the rendering of or failure to render professional services; and

16 (3) property insurance and casualty insurance related or incidental to
17 practicing law.]

18 **24–102.**

19 **THE GENERAL ASSEMBLY FINDS THAT:**

20 **(1)** **AT THE TIME THAT IT WAS ESTABLISHED IN 1986, THE LEGAL**
21 **MUTUAL LIABILITY INSURANCE SOCIETY OF MARYLAND PROVIDED A**
22 **VALUABLE SERVICE TO THE LEGAL COMMUNITY OF THE STATE BY PROVIDING**
23 **OTHERWISE UNAVAILABLE AFFORDABLE LEGAL PROFESSIONAL LIABILITY**
24 **INSURANCE;**

25 **(2)** **IN 2006, THE SOCIETY ENTERED INTO A MANAGEMENT**
26 **AGREEMENT WITH MINNESOTA LAWYERS MUTUAL INSURANCE COMPANY, A**
27 **“BAR–RELATED” INSURANCE COMPANY THAT IS DOMICILED IN MINNESOTA AND**
28 **WRITES LEGAL PROFESSIONAL LIABILITY INSURANCE IN 14 ADDITIONAL**
29 **STATES, UNDER WHICH MINNESOTA MUTUAL ASSUMED RESPONSIBILITY FOR**
30 **THE DAY–TO–DAY OPERATIONS OF THE SOCIETY;**

1 **(3) IN THE INTERVENING YEARS, OTHER LIABILITY INSURERS**
2 **HAVE ENTERED THE MARYLAND MARKET, MAKING AFFORDABLE LEGAL**
3 **PROFESSIONAL LIABILITY INSURANCE AVAILABLE TO LAWYERS IN THE STATE,**
4 **AND AS A RESULT THE SOCIETY IS NO LONGER NEEDED FOR ITS ORIGINAL**
5 **PURPOSE;**

6 **(4) THE SOCIETY IS A MEMBER OF THE PROPERTY AND**
7 **CASUALTY INSURANCE GUARANTY CORPORATION, THE INSURER OF LAST**
8 **RESORT FOR PROPERTY AND CASUALTY INSURERS IN THE STATE;**

9 **(5) AT THIS TIME, THE SOCIETY HAS NO ACTIVE INSURANCE**
10 **POLICIES IN FORCE; AND**

11 **(6) ALTHOUGH THE SOCIETY REMAINS FULLY SOLVENT AND IS**
12 **NOT AN IMPAIRED INSURER IT IS DESIRABLE TO WIND UP THE AFFAIRS OF THE**
13 **SOCIETY IN A REGULAR MANNER AND TO TRANSFER ITS REMAINING POLICIES**
14 **AND ASSETS TO ANOTHER INSURER BY APPOINTING MINNESOTA MUTUAL IN**
15 **THE MANNER OF A CONSERVATOR OF THE SOCIETY.**

16 24–104.

17 (a) [There is a Board of Directors of the Society.

18 (b) (1) There shall be at least 11 directors on the Board.

19 (2) The directors shall be elected by the members of the Society in
20 accordance with the articles of incorporation and bylaws of the Society.

21 (c) The Board of Directors] **DURING THE CONSERVATORSHIP AND**
22 **TRANSFER UNDER § 24–110 OF THIS SUBTITLE, MINNESOTA LAWYERS MUTUAL**
23 **INSURANCE COMPANY governs the Society and exercises the powers of the Society IN**
24 **THE PLACE OF THE FORMER BOARD OF DIRECTORS OF THE SOCIETY.**

25 **(B) (1) MINNESOTA MUTUAL SHALL EXERCISE THE POWERS OF THE**
26 **SOCIETY IN THE MANNER OF A CONSERVATOR TO WIND UP THE AFFAIRS OF THE**
27 **SOCIETY AND TRANSFER ANY REMAINING ASSETS AND LIABILITIES OF THE**
28 **SOCIETY TO THE PROPERTY AND CASUALTY INSURANCE GUARANTY**
29 **CORPORATION IN ACCORDANCE WITH § 24–110 OF THIS SUBTITLE.**

30 **(2) IN EXERCISING THESE POWERS, MINNESOTA MUTUAL SHALL**
31 **EXERCISE A DUTY OF CARE AND FIDUCIARY RESPONSIBILITY TO THE GUARANTY**
32 **CORPORATION AND TO THOSE INSUREDS WHO CONTINUE TO HAVE COVERAGE**
33 **FROM THE SOCIETY.**

1 24-110.

2 (A) IN THIS SECTION, "BAR DATE" MEANS DECEMBER 31, 2015.

3 (B) (1) MINNESOTA MUTUAL IS APPOINTED AS A CONSERVATOR TO
4 WIND UP THE AFFAIRS OF THE SOCIETY AND TRANSFER ANY REMAINING ASSETS
5 AND LIABILITIES OF THE SOCIETY TO THE GUARANTY CORPORATION.

6 (2) IN PERFORMING ITS DUTIES UNDER THIS SECTION,
7 MINNESOTA MUTUAL MAY:

8 (I) SUBJECT TO SUBSECTION (G) OF THIS SECTION,
9 CONTINUE TO MANAGE THE AFFAIRS OF THE SOCIETY IN THE MANNER
10 AUTHORIZED BY CONTRACT UNDER § 24-105 OF THIS SUBTITLE;

11 (II) SETTLE CLAIMS, INCLUDING PAYING THE EXPENSES OF
12 SETTLEMENT;

13 (III) INVEST AND DISPOSE OF ASSETS;

14 (IV) MAINTAIN FINANCIAL RECORDS; AND

15 (V) TAKE ANY OTHER ACTION THAT MAY BE NECESSARY OR
16 DESIRABLE TO FURTHER THE PURPOSES OF THIS SECTION.

17 (C) (1) MINNESOTA MUTUAL SHALL PROVIDE PUBLIC NOTICE OF:

18 (I) ITS APPOINTMENT AS CONSERVATOR UNDER THIS
19 SECTION;

20 (II) THE PROCESS OF THE CONSERVATORSHIP AND THE
21 TRANSFER OF THE POLICIES, ASSETS, AND LIABILITIES OF THE SOCIETY TO THE
22 GUARANTY CORPORATION;

23 (III) THE BAR DATE; AND

24 (IV) THE EFFECTS OF THE CONSERVATORSHIP AND
25 TRANSFER, INCLUDING:

26 1. THE NEED FOR ANY PERSON WISHING TO ASSERT
27 ANY CLAIM ARISING UNDER ANY INSURANCE POLICY ISSUED BY THE SOCIETY
28 TO DO SO BEFORE THE BAR DATE;

1 **2. THE BAR AND ESTOPPEL AGAINST ASSERTING A**
2 **CLAIM AGAINST THE SOCIETY AFTER THE BAR DATE; AND**

3 **3. THE REQUIREMENT TO PURSUE THE CLAIM**
4 **THROUGH THE GUARANTY CORPORATION AFTER THE BAR DATE.**

5 **(2) THE NOTICE SHALL BE PUBLISHED:**

6 **(I) IN AT LEAST TWO NEWSPAPERS OF GENERAL**
7 **CIRCULATION IN THE STATE, INCLUDING AT LEAST ONE NEWSPAPER THAT**
8 **PRINCIPALLY SERVES THE LEGAL COMMUNITY OF THE STATE, ONCE EVERY 6**
9 **MONTHS BEGINNING ON JULY 1, 2014, AND ENDING ON JANUARY 1, 2016;**

10 **(II) ON THE WEB SITES OF THE SOCIETY, MINNESOTA**
11 **MUTUAL, AND THE GUARANTY CORPORATION; AND**

12 **(III) IN ANY OTHER MANNER AND FREQUENCY THAT THE**
13 **COMMISSIONER REQUIRES.**

14 **(D) DURING THE CONSERVATORSHIP UNDER THIS SECTION, IF THE**
15 **ASSETS OF THE SOCIETY ARE EXHAUSTED BEFORE ALL CLAIMS ARE SATISFIED,**
16 **ANY UNSATISFIED CLAIMS SHALL BE REFERRED TO THE GUARANTY**
17 **CORPORATION.**

18 **(E) IF ASSETS OF THE SOCIETY REMAIN AFTER ALL FILED CLAIMS HAVE**
19 **BEEN SATISFIED AS OF THE BAR DATE, THOSE REMAINING ASSETS SHALL BE**
20 **TRANSFERRED TO THE GUARANTY CORPORATION FREE AND CLEAR OF ANY**
21 **FURTHER CLAIM OR ENCUMBRANCE.**

22 **(F) (1) THE CONSERVATORSHIP UNDER THIS SECTION SHALL**
23 **TERMINATE ON THE EARLIER OF:**

24 **(I) THE EXHAUSTION OF THE ASSETS OF THE SOCIETY**
25 **UNDER SUBSECTION (D) OF THIS SECTION; AND**

26 **(II) THE DATE WHEN ALL CLAIMS ASSERTED AGAINST THE**
27 **SOCIETY BEFORE THE BAR DATE ARE SATISFIED OR OTHERWISE SETTLED.**

28 **(2) IF THE CONSERVATORSHIP UNDER THIS SECTION**
29 **TERMINATES BEFORE THE BAR DATE, MINNESOTA MUTUAL SHALL TRANSFER**
30 **ALL POLICIES, ASSETS, AND LIABILITIES TO THE GUARANTY CORPORATION AS**
31 **OF THE TERMINATION DATE.**

1 **(G) NOTWITHSTANDING § 24-105 OF THIS SUBTITLE, MINNESOTA**
2 **MUTUAL:**

3 **(1) MAY NOT RECEIVE ANY FEE FOR ADMINISTERING THE**
4 **SOCIETY DURING THE CONSERVATORSHIP AND TRANSFER UNDER THIS**
5 **SECTION; BUT**

6 **(2) IS ENTITLED TO REIMBURSEMENT FOR JUST AND**
7 **REASONABLE EXPENSES THAT MINNESOTA MUTUAL INCURS IN CONNECTION**
8 **WITH THE CONSERVATORSHIP AND TRANSFER.**

9 **(H) DURING THE CONSERVATORSHIP UNDER THIS SECTION,**
10 **MINNESOTA MUTUAL SHALL REPORT AT LEAST ONCE EVERY 3 MONTHS TO THE**
11 **COMMISSIONER ON THE STATUS AND PROGRESS OF THE CONSERVATORSHIP**
12 **AND THE PREPARATION FOR TRANSFER OF ANY REMAINING POLICIES, ASSETS,**
13 **AND LIABILITIES OF THE SOCIETY TO THE GUARANTY CORPORATION.**

14 **(I) SUBJECT TO § 24-104(B) OF THIS SUBTITLE, THIS SECTION MAY**
15 **NOT BE CONSTRUED TO PREVENT THE TRANSFER OF ANY POLICY OR OTHER**
16 **LIABILITY OF A PRESENT OR FORMER POLICYHOLDER OF THE SOCIETY TO**
17 **MINNESOTA MUTUAL OR TO ANY OTHER INSURER THAT HAS A CERTIFICATE OF**
18 **AUTHORITY FROM THE ADMINISTRATION UNDER THIS ARTICLE.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That the Board of Directors of
20 the Legal Mutual Liability Insurance Society of Maryland and the term of each of its
21 members and the officers of the Society shall terminate on July 1, 2014.

22 SECTION 3. AND BE IT FURTHER ENACTED, That on the earlier of January
23 1, 2016, and the termination date of the conservatorship under § 24-110(f) of the
24 Insurance Article as enacted by Section 1 of this Act:

25 (1) the Minnesota Lawyers Mutual Insurance Company shall be
26 reimbursed all just and reasonable costs incurred by it in the performance of its duties
27 under this Act and under contract in accordance with § 24-105 of the Insurance
28 Article through the earlier of December 31, 2015, and the termination date; and

29 (2) all net remaining assets and liabilities of the Society, whether
30 positive or negative, including any coverage provided by the Society under a “tail”
31 policy and any balance in the Rate Stabilization Reserve Fund of the Society, shall be
32 transferred to the Property and Casualty Insurance Guaranty Corporation.

33 SECTION 4. AND BE IT FURTHER ENACTED, That, except as expressly
34 provided to the contrary in this Act, any transaction affected by or flowing from any
35 statute here amended or repealed and validly entered into before the effective date of
36 this Act and every right, duty, or interest following from it remain valid after the

1 effective date of this Act and may be terminated, completed, consummated, or enforced
2 pursuant to law.

3 SECTION 5. AND BE IT FURTHER ENACTED, That, except as expressly
4 provided to the contrary in this Act, all standards and guidelines, proposed standards
5 and guidelines, orders and other directives, forms, plans, memberships, contracts,
6 properties, rights to sue and be sued, and all other duties and responsibilities
7 associated with those assets and liabilities of the Legal Mutual Liability Insurance
8 Society of Maryland transferred by this Act shall continue in effect under the Property
9 and Casualty Insurance Guaranty Corporation until completed, withdrawn, canceled,
10 modified, or otherwise changed pursuant to law.

11 SECTION 6. AND BE IT FURTHER ENACTED, That:

12 (a) In addition to the quarterly reports required under § 24–110 of the
13 Insurance Article, as enacted by Section 1 of this Act, on or before January 1, 2015, the
14 Minnesota Lawyers Mutual Insurance Company shall report to the Maryland
15 Insurance Commissioner, the Property and Casualty Insurance Guaranty Corporation,
16 and, subject to § 2–1246 of the State Government Article, the Senate Finance
17 Committee and the House Economic Matters Committee on the status of the
18 conservatorship of the Legal Mutual Liability Insurance Society of Maryland, the
19 winding up of its affairs, and the progress of the transfer of its policies, assets, and
20 liabilities to the Guaranty Corporation.

21 (b) (1) In connection with the report required under subsection (a) of this
22 section, Minnesota Mutual shall consult with the Maryland Insurance Administration
23 and the Guaranty Corporation on the status of the Society, on the most efficient and
24 appropriate means to wind up the affairs of the Society, and on the most suitable
25 continuation of coverage for the Society’s remaining liabilities along with the best
26 protection for the Society’s insureds and the Guaranty Corporation as the insurer of
27 last resort.

28 (2) The report required under subsection (a) of this section shall
29 include any recommended changes to this Act, including any changes in the ultimate
30 disposition of the Society’s assets and liabilities to the Guaranty Corporation, to
31 Minnesota Mutual, or to another insurer or insurers, developed by Minnesota Mutual
32 through the consultation under paragraph (1) of this subsection.

33 SECTION 7. AND BE IT FURTHER ENACTED, That a presently existing
34 obligation or contract right may not be impaired in any way by this Act.

35 SECTION 8. AND BE IT FURTHER ENACTED, That Section(s) 24–101
36 through 24–110, and the subtitle “Subtitle 1. Legal Mutual Liability Insurance Society
37 of Maryland” of Article – Insurance of the Annotated Code of Maryland be repealed.

38 SECTION 9. AND BE IT FURTHER ENACTED, That Section 8 of this Act shall
39 take effect January 1, 2016.

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