

SENATE BILL 979

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8lr2817
CF 8lr2904

By: **Senator Klausmeier**

Introduced and read first time: February 5, 2018

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation – Third-Party Actions – Subsequent Injury Fund**

3 FOR the purpose of repealing the authorization for the Subsequent Injury Fund to bring
4 an action for damages against a third party under certain circumstances; repealing
5 the requirement that a covered employee or dependents of a covered employee
6 reimburse the Fund under certain circumstances; repealing the requirement that
7 the Fund pay certain court costs and attorney's fees under certain circumstances;
8 making certain conforming changes; providing for the application of this Act; and
9 generally relating to third-party actions involving the Subsequent Injury Fund.

10 BY repealing and reenacting, with amendments,
11 Article – Labor and Employment
12 Section 9–902
13 Annotated Code of Maryland
14 (2016 Replacement Volume and 2017 Supplement)

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

17 **Article – Labor and Employment**

18 9–902.

19 (a) If a claim is filed and compensation is awarded or paid under this title, a
20 self-insured employer, an insurer, [the Subsequent Injury Fund,] or the Uninsured
21 Employers' Fund may bring an action for damages against the third party who is liable for
22 the injury or death of the covered employee.

23 (b) If the self-insured employer, insurer, [Subsequent Injury Fund,] or
24 Uninsured Employers' Fund recovers damages exceeding the amount of compensation paid

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 or awarded and the amount of payments for medical services, funeral expenses, or any
2 other purpose under Subtitle 6 of this title, the self-insured employer, insurer, [Subsequent
3 Injury Fund,] or Uninsured Employers' Fund shall:

4 (1) deduct from the excess amount its costs and expenses for the action;
5 and

6 (2) pay the balance of the excess amount to the covered employee or, in case
7 of death, the dependents of the covered employee.

8 (c) If the self-insured employer, insurer, [Subsequent Injury Fund,] or
9 Uninsured Employers' Fund does not bring an action against the third party within 2
10 months after the Commission makes an award, the covered employee or, in case of death,
11 the dependents of the covered employee may bring an action for damages against the third
12 party.

13 (d) The period of limitations for the right of action of a covered employee or the
14 dependents of the covered employee against the third party does not begin to run until 2
15 months after the first award of compensation made to the covered employee or the
16 dependents under this title.

17 (e) If the covered employee or the dependents of the covered employee recover
18 damages, the covered employee or dependents:

19 (1) first, may deduct the costs and expenses of the covered employee or
20 dependents for the action;

21 (2) next, shall reimburse the self-insured employer, insurer, [Subsequent
22 Injury Fund,] or Uninsured Employers' Fund for:

23 (i) the compensation already paid or awarded; and

24 (ii) any amounts paid for medical services, funeral expenses, or any
25 other purpose under Subtitle 6 of this title; and

26 (3) finally, may keep the balance of the damages recovered.

27 (f) In an action brought by a covered employee or the dependents of the covered
28 employee under subsection (c) of this section, the covered employee or the dependents of
29 the covered employee, the self-insured employer, the insurer, [the Subsequent Injury
30 Fund,] and the Uninsured Employers' Fund shall pay court costs and attorney's fees in the
31 proportion that the amount received by each bears to the whole amount paid in settlement
32 of any claim or satisfaction of any judgment obtained in the case.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
34 apply only prospectively and may not be applied or interpreted to have any effect on or

1 application to any action filed before the effective date of this Act.

2 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
3 October 1, 2018.