<u>TESTIMONY IN SUPPORT OF SB 0008 (2020)</u>
<u>MARYLAND UNINSURED EMPLOYERS' FUND</u>

Bill Number – SB 0008 (2020)
Submitted by – State of Maryland Uninsured Employers' Fund, Michael W. Burns, Director
Position – SUPPORT

The Maryland Uninsured Employers' Fund (UEF) appears today in support of SB 8, "Uninsured Employers' Fund – Additional Assessment on Awards and Settlements – Amount." This legislation would alter the percentage of the additional assessment that the UEF Board may direct the Workers' Compensation Commission (WCC) to impose on certain awards and settlements from the current long-time maximum of 2% to a maximum of 4%, if the board determines that the reserves of the Uninsured Employers' Fund are inadequate to meet anticipated losses and expenses of the agency. The agency respectfully requests that the Senate Finance Committee approve this legislation for the reasons that follow.

UEF is a statutory agency created to protect Maryland workers who are injured on the job (from an accidental injury and occupational disease). The purpose of the agency is to provide workers' compensation benefits where an uninsured employer fails to provide benefits awarded by the WCC or in cases where a self-insured employer becomes insolvent.

UEF is a special fund, which means that is funded by fines levied by the WCC against uninsured employers and assessments imposed on most awards of permanent disability indemnity benefits. The agency also receives reimbursement from uninsured employers for expenditures made to claimants. The agency's obligation to provide benefits and/or compensation is generally triggered when an uninsured employer defaults on an award issued by WCC. <u>The agency is 100% self-funded.</u>

UEF was originally designed to be a limited back-stop fund to care for injured workers whose employers failed to maintain legally required workers' compensation insurance. It was thought that there would only be a fairly small number of such cases because employers would maintain workers compensation insurance to cover their employees because it was required by law. Over the decades, however, this notion has proven to be erroneous as recent events have shown. Some employers, especially those in the construction and landscaping industries, routinely fail to carry required insurance because it enables them to underbid their competitors. Add to this honest employers who simply fail to have coverage and then have a claim from an injured worker, as well as bankrupt self-insured employers, such as Bethlehem Steel (BSC) and A&P Supermarkets (A&P), and by 2019 the result has been that UEF has now grown to cover over 900 claims at any one time, with expenditures for both lost wages and medical bills totaling millions of dollars per year.

There are a number of factors to consider in evaluating the agency's revenue requirements. Years of rising medical costs, hiring a competent Third-Party Claims Administrator (TPA) to manage claims, and filling and compensating long empty staff positions continues to require increased expenditures from the fund. In addition, as noted the law requires

UEF to pay claims of self-insured employers who become insolvent. This statute places unlimited liability on the UEF to pay relevant self-insured employer claimants, but provides no funding mechanism to do so. In recent years both A&P and BSC - both self-insured - have become insolvent and UEF has become responsible for millions of dollars in workers' compensation payments for these two corporations without any source of revenue. Additionally, as a result of decisions taken in the 2019 legislative session, UEF is now responsible for potentially hundreds of additional claims amounting to millions of additional dollars for new BSC claims with no revenue source to offset those mandated payments. The potential liability the UEF faces for insolvent self-insured claims is in the millions of dollars.

An "analysis of the Uninsured Employers' Fund's unfunded estimates of revenue and expenses" produced for the agency in 2014 indicated an ongoing shrinking of the fund balance (the agency is working with procurement staff to obtain a new actuarial analysis), with the balance dropping at an ever-increasing rate year by year, until the balance turns from a positive figure to a negative one at some point after FY 2024.

Dealing with the current expenditure and revenue reality of the UEF in 2020 is the basis and reason for SB 8. The bill will grant the board the authority to raise the relevant assessment on awards and settlements from the current maximum of 2% to a new potential maximum of 4%, if required to maintain the stability of UEF. Each 1% increase in the assessment is estimated, based on past history, to increase revenue annually by $4,000,000.

In summary, it is the agency's evaluation that the present revenue mechanism is outdated and inadequate, and does not address UEF's current responsibilities, requirements and expenditures. This legislation would allow, but not mandate, the Agency Board to increase the assessment up to an additional 2%, if required to maintain the stability of the fund and to continue to make required payments to injured Maryland workers and their families. Should the additional funds not be required by the agency in the future the assessment can be adjusted downward by the UEF Board at any time. It is a reasonable measure that reflects a reality far different than that envisioned in the 1980s when the agency was first established.

The agency thanks the committee for its attention and consideration of SB 8, and sincerely thanks the Committee Chair for agreeing to sponsor this legislation on behalf of the agency.

The agency urges a favorable report on SB 8.

Respectfully submitted,

Michael W. Burns, Esq.
Director