

HOUSE BILL 980

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2000 Regular Session
0lr0196
CF 0lr0195

By: **Delegate Busch (Task Force to Study the Injured Workers' Insurance Fund)**

Introduced and read first time: February 11, 2000

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Injured Workers' Insurance Fund - Regulation**

3 FOR the purpose of requiring the Injured Workers' Insurance Fund (Fund) to be a
4 member of the Property and Casualty Insurance Guaranty Corporation;
5 increasing the number of members on the Board for the Fund; increasing the
6 number of Board members that must concur for the Board to act; repealing the
7 requirement that the Legislative Auditor conduct a fiscal audit of the Fund, a
8 compliance audit of the Fund, a statutory audit of the Fund, and a market
9 conduct survey of the Fund; repealing the requirement that the Fund pay for the
10 fiscal portion of the postaudit examination, the market conduct survey, and the
11 statutory audit conducted by the Legislative Auditor; repealing the requirement
12 that the Legislative Auditor submit the results of each auditor to the Governor
13 and to the Legislative Policy Committee; repealing the requirement that the
14 Legislative Auditor submit the results of the market conduct survey to the
15 Legislative Policy Committee; requiring the Fund to be governed by and subject
16 to certain regulatory provisions of the Maryland Insurance Administration;
17 defining certain terms; and generally relating to the Injured Workers' Insurance
18 Fund.

19 BY repealing and reenacting, with amendments,
20 Article - Labor and Employment
21 Section 10-101, 10-105, 10-110, and 10-112
22 Annotated Code of Maryland
23 (1999 Replacement Volume)

24 BY repealing
25 Article - Labor and Employment
26 Section 10-125
27 Annotated Code of Maryland
28 (1999 Replacement Volume)

29 BY adding to
30 Article - Labor and Employment

1 Section 10-125
2 Annotated Code of Maryland
3 (1999 Replacement Volume)

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

6 **Article - Labor and Employment**

7 10-101.

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

9 (B) "ADMINISTRATION" MEANS THE MARYLAND INSURANCE
10 ADMINISTRATION.

11 [(b)] (C) "Board" means the Board for the Injured Workers' Insurance Fund.

12 (D) "COMMISSIONER" MEANS THE MARYLAND INSURANCE COMMISSIONER.

13 [(c)] (E) "Fund" means the Injured Workers' Insurance Fund.

14 [(d)] (F) "Policyholder" means an employer who holds a policy of insurance
15 under this subtitle.

16 [(e)] (G) (1) "Wage" means all earnings that are due to an employee for
17 employment.

18 (2) "Wage" includes:

19 (i) a bonus;

20 (ii) overtime pay;

21 (iii) a share of profits; and

22 (iv) if, at the time of hiring, an employer and employee set a dollar
23 value for board or a similar advantage, the advantage.

24 10-105.

25 (a) The Fund is independent of all State units.

26 (b) (1) Except as provided in paragraph (2) of this subsection and elsewhere
27 in this subtitle, the Fund is not subject to any law, including § 6-106 of the State
28 Government Article, that affects governmental units.

29 (2) The Fund is subject to:

30 (i) Title 10, Subtitle 5 of the State Government Article;

- 1 (ii) Title 10, Subtitle 6, Part III of the State Government Article;
- 2 (iii) Title 12 of the State Government Article;
- 3 (iv) the Maryland Public Ethics Law; and
- 4 (v) Title 5, Subtitle 3 of the State Personnel and Pensions Article.

5 (3) Paragraph (1) of this subsection does not affect the exemption from
6 property tax under § 7-210 of the Tax - Property Article.

7 (C) THE FUND IS A MEMBER OF THE PROPERTY AND CASUALTY INSURANCE
8 GUARANTY CORPORATION.

9 10-110.

10 (a) The Board consists of [7] 11 members appointed by the Governor with the
11 advice and consent of the Senate.

12 (b) Each member shall be a citizen of the State.

13 (c) Before taking office, each appointee to the Board shall take the oath
14 required by Article I, § 9 of the Maryland Constitution.

15 (d) (1) The term of a member is 5 years.

16 (2) The terms of members are staggered as required by the terms
17 provided for members of the Board on October 1, 1991.

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

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

22 (e) The Governor may remove a member for incompetence or misconduct.

23 10-112.

24 (a) The Board may not act on any matter unless at least [4] 6 members
25 concur.

26 (b) Each member of the Board shall devote the time needed to carry out the
27 duties of office.

28 (c) The Board shall determine the times and places of its meetings.

29 (d) (1) Each member of the Board is entitled to:

30 (i) the salary provided in the budget of the Board; and

1 (ii) reimbursement for expenses under the Standard State Travel
2 Regulations, as provided in the budget of the Board.

3 (2) Each member of the Board shall be paid semimonthly.

4 [10-125.

5 (a) (1) The Legislative Auditor shall conduct:

6 (i) a fiscal audit of the accounts and transactions of the Fund each
7 year;

8 (ii) a compliance audit of the accounts and transactions of the Fund
9 every 2 years; and

10 (iii) a statutory audit of the Fund at least every 3 years in a manner
11 recognized and required by the Legislative Auditor.

12 (2) As part of the statutory audit, the Legislative Auditor shall perform a
13 market conduct survey about the operations of the Fund, including a review of:

14 (i) the average caseload of the Fund's attorneys;

15 (ii) the average length of time to process a claim;

16 (iii) each complaint submitted during the calendar year before the
17 survey, the nature of the complaint, and the resolution of the complaint;

18 (iv) the percentage of claims contested before the Workers'
19 Compensation Commission; and

20 (v) whether the Fund unfairly discriminates or allows unfair
21 discrimination between individuals of the same class and essentially the same hazard
22 level:

23 1. in the terms or conditions of an insurance policy;

24 2. in premiums charged; or

25 3. except as provided under the Fund's experience
26 modification and premium discount plan, in any other manner.

27 (3) As soon as possible, the Legislative Auditor shall submit the results
28 of:

29 (i) each audit to the Governor and, subject to § 2-1246 of the State
30 Government Article, to the Legislative Policy Committee; and

31 (ii) the market conduct survey to the Legislative Policy Committee.

32 (b) The Fund shall pay for:

- 1 (1) the fiscal portion of the postaudit examination;
- 2 (2) the market conduct survey; and
- 3 (3) the statutory audit.]

4 10-125.

5 THE FUND SHALL BE GOVERNED BY, AND SUBJECT TO, THE FOLLOWING
6 PROVISIONS OF THE INSURANCE ARTICLE OF THE CODE:

- 7 (1) TITLE 2, SUBTITLE 2 (ENFORCEMENT);
- 8 (2) TITLE 4, SUBTITLE 3 (RISK BASED CAPITAL STANDARDS FOR
9 INSURERS);
- 10 (3) TITLE 5, SUBTITLES 1, 2, AND 9 (ASSETS AND LIABILITIES, RESERVES,
11 AND REINSURANCE);
- 12 (4) TITLE 7 (MARYLAND INSURANCE ACQUISITION DISCLOSURE AND
13 CONTROL ACT);
- 14 (5) TITLE 9 (IMPAIRED ENTITIES);
- 15 (6) TITLE 12, SUBTITLE 1 (POLICY FORMS AND PROVISIONS);
- 16 (7) EXCEPT FOR § 19-403 (SETTING PREMIUM RATES), TITLE 19, SUBTITLE
17 4 (WORKERS' COMPENSATION INSURANCE); AND
- 18 (8) TITLE 27 (UNFAIR TRADE PRACTICES AND OTHER PROHIBITED
19 PRACTICES).

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2000.