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

Introduced and read first time: February 11, 2000

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2000

CHAPTER _____

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~~
7 ~~certain provisions that subject the Fund to certain laws; repealing the~~
8 ~~requirement that the State Treasurer is the custodian of the Fund; repealing the~~
9 ~~requirement that the State Treasurer keep the Fund separate from State~~
10 ~~money; repealing the requirement that the State Treasurer disburse money~~
11 ~~from the Fund in a certain manner; repealing certain requirements relating to~~
12 ~~the State Treasurer and Fund investments; repealing the requirement that the~~
13 Legislative Auditor conduct a fiscal audit of the Fund, a compliance audit of the
14 Fund, a statutory audit of the Fund, and a market conduct survey of the Fund;
15 repealing the requirement that the Fund pay for the fiscal portion of the
16 postaudit examination, the market conduct survey, and the statutory audit
17 conducted by the Legislative Auditor; repealing the requirement that the
18 Legislative Auditor submit the results of each auditor to the Governor and to the
19 Legislative Policy Committee; repealing the requirement that the Legislative
20 Auditor submit the results of the market conduct survey to the Legislative
21 Policy Committee; requiring the Fund to be governed by and subject to certain
22 regulatory provisions of the Maryland Insurance Administration; requiring the
23 Insurance Commissioner to ensure that the Fund meet certain solvency
24 standards before the Fund may become a member of a certain corporation;
25 defining certain terms; and generally relating to the Injured Workers' Insurance
26 Fund.

1 BY repealing and reenacting, with amendments,
 2 Article - Labor and Employment
 3 Section ~~10-101~~, 10-105, ~~10-110~~, and ~~10-112~~ 10-118, and 10-122
 4 Annotated Code of Maryland
 5 (1999 Replacement Volume)

6 BY repealing
 7 Article - Labor and Employment
 8 Section 10-119, 10-124, and 10-125
 9 Annotated Code of Maryland
 10 (1999 Replacement Volume)

11 BY adding to
 12 Article - Labor and Employment
 13 Section 10-125
 14 Annotated Code of Maryland
 15 (1999 Replacement Volume)

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

18 **Article - Labor and Employment**

19 ~~10-101.~~

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

21 ~~(B) "ADMINISTRATION" MEANS THE MARYLAND INSURANCE~~
 22 ~~ADMINISTRATION.~~

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

24 ~~[(D)] "COMMISSIONER" MEANS THE MARYLAND INSURANCE COMMISSIONER.~~

25 ~~[(e)] (E) "Fund" means the Injured Workers' Insurance Fund.~~

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

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

30 ~~(2) "Wage" includes:~~

31 ~~(i) a bonus;~~

32 ~~(ii) overtime pay;~~

1 (iii) a share of profits; and

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

4 10-105.

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

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

9 (2) The Fund is subject to:

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

11 (ii) ~~Title 10, Subtitle 6, Part III of the State Government Article;~~

12 (iii) Title 12 of the State Government Article;

13 (iv) (II) the Maryland Public Ethics Law; and

14 (v) (III) Title 5, Subtitle 3 of the State Personnel and Pensions
15 Article.

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

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

20 ~~10-110-~~

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

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

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

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

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

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

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

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

4 ~~10-112.~~

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

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

9 (e) The Board shall determine the times and places of its meetings.

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

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

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

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

15 ~~10-118.~~

16 (a) The Fund shall consist of:

17 (1) premiums for insurance that the Fund issues;

18 (2) income from investments [that the State Treasurer makes for the
19 Fund] under § 10-122 of this subtitle;

20 (3) interests on deposits or investments of money from the Fund; and

21 (4) the money that the Attorney General collects under § 10-133(c) of
22 this subtitle on debts.

23 (b) The Fund shall include each security or other property that is acquired
24 with money of the Fund.

25 (c) The Board shall use the Fund to pay all of the expenses under this subtitle,
26 including losses on insurance that the Fund issues.

27 ~~[10-119.~~

28 (a) The State Treasurer is custodian of the Fund.

29 (b) The State Treasurer shall keep the Fund separate from State money.]

1 10-122.

2 (a) If, at any time, the amount of money in the Fund exceeds the amount that
3 the Board considers necessary for immediate use, the [State Treasurer] EXCESS shall
4 BE[:

5 (1) invest the excess] INVESTED in any investment authorized under
6 Title 5, Subtitle 6 of the Insurance Article for insurance companies [; or

7 (2) deposit the excess in accordance with the laws that govern deposit of
8 State money.

9 (b) If the Board considers it expedient or necessary to use money invested
10 under subsection (a)(1) of this section, the State Treasurer shall collect, sell, or
11 otherwise realize an investment].

12 [10-124.

13 The State Treasurer shall disburse money from the Fund only on a voucher that
14 is signed by:

15 (1) the Chairman or Vice Chairman of the Board; and

16 (2) the President of the Fund.]

17 [10-125.

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

19 (i) a fiscal audit of the accounts and transactions of the Fund each
20 year;

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

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

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

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

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

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

31 (iv) the percentage of claims contested before the Workers'
32 Compensation Commission; and

1 (v) whether the Fund unfairly discriminates or allows unfair
 2 discrimination between individuals of the same class and essentially the same hazard
 3 level:

- 4 1. in the terms or conditions of an insurance policy;
- 5 2. in premiums charged; or
- 6 3. except as provided under the Fund's experience
 7 modification and premium discount plan, in any other manner.

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

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

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

13 (b) The Fund shall pay for:

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

17 10-125.

18 THE FUND SHALL BE GOVERNED BY, AND SUBJECT TO, THE FOLLOWING
 19 PROVISIONS OF THE INSURANCE ARTICLE ~~OF THE CODE~~:

- 20 (1) TITLE 2, SUBTITLE 2 (ENFORCEMENT);
- 21 (2) TITLE 4, SUBTITLE 3 (RISK BASED CAPITAL STANDARDS FOR
 22 INSURERS);
- 23 (3) TITLE 5, SUBTITLES 1, 2, AND 9 (ASSETS AND LIABILITIES, RESERVES,
 24 AND REINSURANCE);
- 25 (4) TITLE 7 (MARYLAND INSURANCE ACQUISITION DISCLOSURE AND
 26 CONTROL ACT);
- 27 (5) TITLE 9 (IMPAIRED ENTITIES);
- 28 (6) TITLE 12, SUBTITLE 1 (POLICY FORMS AND PROVISIONS);
- 29 (7) EXCEPT FOR § 19-403 (SETTING PREMIUM RATES), TITLE 19, SUBTITLE
 30 4 (WORKERS' COMPENSATION INSURANCE); AND

1 (8) TITLE 27 (UNFAIR TRADE PRACTICES AND OTHER PROHIBITED
2 PRACTICES).

3 SECTION 2. AND BE IT FURTHER ENACTED, That the Insurance
4 Commissioner shall examine the financial condition of the Injured Workers'
5 Insurance Fund and ensure that the Fund satisfies the solvency standards for a
6 workers' compensation insurer in this State before the Fund may become a member of
7 the Property and Casualty Insurance Guaranty Corporation.

8 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
9 effect October 1, 2000.