

SENATE BILL 881

Unofficial Copy
K1

2000 Regular Session
0lr0195
CF 0lr0196

By: **Senator Bromwell**

Introduced and read first time: February 29, 2000

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Injured Workers' Insurance Fund**

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; requiring the
7 Maryland Insurance Commissioner to examine the Injured Workers' Insurance
8 Fund in accordance with provisions of the Insurance Article relating to the
9 examination of an insurer's affairs, transactions, accounts, records, and assets;
10 requiring the Commissioner to submit a final report of any examination to the
11 Governor and the Legislative Policy Committee of the General Assembly;
12 altering provisions relating to the investment of excess moneys in the Fund;
13 repealing provisions making the State Treasurer the custodian of the Fund and
14 governing how the State Treasurer disburses money from the Fund; defining
15 certain terms; and generally relating to the Injured Workers' Insurance Fund.

16 BY repealing and reenacting, with amendments,
17 Article - Labor and Employment
18 Section 10-101, 10-105, 10-110, 10-112, 10-118, 10-122, and 10-125
19 Annotated Code of Maryland
20 (1999 Replacement Volume)

21 BY repealing
22 Article - Labor and Employment
23 Section 10-119 and 10-124
24 Annotated Code of Maryland
25 (1999 Replacement Volume)

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

1

Article - Labor and Employment

2 10-101.

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

4 (B) "ADMINISTRATION" MEANS THE MARYLAND INSURANCE
5 ADMINISTRATION.

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

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

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

9 [(d)] (F) "Policyholder" means an employer who holds a policy of insurance
10 under this subtitle.11 [(e)] (G) (1) "Wage" means all earnings that are due to an employee for
12 employment.

13 (2) "Wage" includes:

14 (i) a bonus;

15 (ii) overtime pay;

16 (iii) a share of profits; and

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

19 10-105.

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

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

24 (2) The Fund is subject to:

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

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

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

28 (iv) the Maryland Public Ethics Law; and

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

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

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

5 10-110.

6 (a) The Board consists of [7] 9 members appointed by the Governor with the
7 advice and consent of the Senate.

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

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

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

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

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

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

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

19 10-112.

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

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

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

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

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

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

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

30 10-118.

31 (a) The Fund shall consist of:

- 1 (1) premiums for insurance that the Fund issues;
- 2 (2) income from investments [that the State Treasurer makes for the
3 Fund] under § 10-122 of this subtitle;
- 4 (3) interests on deposits or investments of money from the Fund; and
- 5 (4) the money that the Attorney General collects under § 10-133(c) of
6 this subtitle on debts.

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

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

11 [10-119.

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

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

14 10-122.

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

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

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

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

25 [10-124.

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

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

29 (2) the President of the Fund.]

30 10-125.

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

- 1 (i) a fiscal audit of the accounts and transactions of the Fund each
2 year;
- 3 (ii) a compliance audit of the accounts and transactions of the Fund
4 every 2 years; and
- 5 (iii) a statutory audit of the Fund at least every 3 years in a manner
6 recognized and required by the Legislative Auditor.

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

- 9 (i) the average caseload of the Fund's attorneys;
- 10 (ii) the average length of time to process a claim;
- 11 (iii) each complaint submitted during the calendar year before the
12 survey, the nature of the complaint, and the resolution of the complaint;
- 13 (iv) the percentage of claims contested before the Workers'
14 Compensation Commission; and
- 15 (v) whether the Fund unfairly discriminates or allows unfair
16 discrimination between individuals of the same class and essentially the same hazard
17 level:

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

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

- 24 (i) each audit to the Governor and, subject to § 2-1246 of the State
25 Government Article, to the Legislative Policy Committee; and
- 26 (ii) the market conduct survey to the Legislative Policy Committee.

27 [(b)] (4) The Fund shall pay for:

- 28 [(1)] (I) the fiscal portion of the postaudit examination;
- 29 [(2)] (II) the market conduct survey; and
- 30 [(3)] (III) the statutory audit.

1 (B) (1) THE MARYLAND INSURANCE COMMISSIONER SHALL EXAMINE THE
2 FUND IN ACCORDANCE WITH §§ 2-205 AND 2-207 THROUGH 2-209 OF THE INSURANCE
3 ARTICLE.

4 (2) THE MARYLAND INSURANCE COMMISSIONER SHALL SUBMIT THE
5 FINAL REPORT OF ANY EXAMINATION OF THE FUND TO THE GOVERNOR AND,
6 SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE LEGISLATIVE
7 POLICY COMMITTEE OF THE GENERAL ASSEMBLY.

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