

HOUSE BILL 998

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2001 Regular Session
(11r1086)

ENROLLED BILL
-- Economic Matters/Finance --

Introduced by **Delegates Mitchell and Fulton**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Workers' Compensation - Self-Insurance Groups - ~~Guaranty Fund~~**

3 FOR the purpose of establishing certain obligations for certain workers' compensation
4 self-insurance groups; ~~altering certain procedures in the event of a certain~~
5 ~~insolvency; authorizing the Insurance Commissioner to exempt a certain group~~
6 ~~from a certain assessment under certain circumstances; providing that a certain~~
7 ~~assessment does not relieve a certain group member of certain obligations;~~
8 ~~requiring the Commissioner to take certain actions in the event of a certain~~
9 ~~assessment; defining a certain term; *requiring the Maryland Insurance*~~
10 ~~*Administration to report to certain committees of the General Assembly on or*~~
11 ~~*before a certain date; requiring a certain joint committee to perform a certain*~~
12 ~~*study and report to the House Economic Matters and Senate Finance*~~
13 ~~*Committees on or before a certain date;* and generally relating to workers'
14 compensation self-insurance groups.~~

15 BY repealing and reenacting, with amendments,
16 Article - Insurance

1 Section ~~25-304 and 25-305~~ 25-301 and 25-304
2 Annotated Code of Maryland
3 (1997 Volume and 2000 Supplement)

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

6 **Article - Insurance**

7 25-301.

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

9 (b) "Administrator" means a person engaged by a workers' compensation
10 self-insurance group to carry out the policies established by the self-insurance group
11 and to provide management of the self-insurance group.

12 (C) "INSOLVENT SELF-INSURANCE GROUP" MEANS A SELF-INSURANCE
13 GROUP IN WHICH EACH INDIVIDUAL MEMBER OF THE GROUP IS UNABLE TO MEET
14 THE MEMBER'S DEBTS AS THEY MATURE IN THE ORDINARY COURSE OF BUSINESS,
15 AS DETERMINED BY THE COMMISSIONER.

16 [(c)] (D) "Self-insurance agreement" means the partnership arrangement
17 between the members of a self-insurance group that defines the rights, obligations,
18 and liabilities of the members of the self-insurance group.

19 [(d)] (E) (1) "Self-insurance group" means two or more employers organized
20 in accordance with this subtitle.

21 (2) "Self-insurance group" does not include a governmental
22 self-insurance group organized under § 9-404 of the Labor and Employment Article.

23 25-304.

24 (a) Before a self-insurance group may operate, the self-insurance group must
25 obtain the approval of the Commissioner, including approval of its self-insurance
26 agreement.

27 (b) Each self-insurance group must have combined net assets of at least
28 \$1,000,000.

29 (C) (1) A SELF-INSURANCE GROUP SHALL PAY ALL WORKERS'
30 COMPENSATION BENEFITS FOR WHICH EACH MEMBER INCURS LIABILITY DURING
31 ITS PERIOD OF MEMBERSHIP.

32 (2) EACH MEMBER OF A SELF-INSURANCE GROUP IS JOINTLY AND
33 SEVERALLY LIABLE FOR THE WORKERS' COMPENSATION OBLIGATIONS OF THE
34 GROUP AND ITS MEMBERS THAT ARE INCURRED DURING ITS PERIOD OF
35 MEMBERSHIP.

1 (3) A MEMBER WHO ELECTS TO TERMINATE ITS MEMBERSHIP IN OR IS
2 CANCELED BY A GROUP REMAINS JOINTLY AND SEVERALLY LIABLE FOR WORKERS'
3 COMPENSATION OBLIGATIONS OF THE GROUP AND ITS MEMBERS WHICH WERE
4 INCURRED DURING THE CANCELED OR TERMINATED MEMBER'S PERIOD OF
5 MEMBERSHIP.

6 (4) THE INSOLVENCY OR BANKRUPTCY OF A MEMBER DOES NOT
7 RELIEVE THE SELF-INSURANCE GROUP OR ANY OTHER MEMBER OF LIABILITY FOR
8 THE PAYMENT OF WORKERS' COMPENSATION BENEFITS INCURRED DURING THE
9 INSOLVENT OR BANKRUPT MEMBER'S PERIOD OF MEMBERSHIP.

10 ~~25-305.~~

11 (a) ~~A self insurance group is not liable for payments to the Property and~~
12 ~~Casualty Insurance Guaranty Corporation.~~

13 (b) ~~There is a Self Insurers' Guaranty Fund.~~

14 (c) ~~The Uninsured Employers' Fund established under § 10-304 of the Labor~~
15 ~~and Employment Article shall administer the Self Insurers' Guaranty Fund.~~

16 (d) (1) ~~IN THE EVENT THAT A SELF-INSURANCE GROUP BECOMES~~
17 ~~INSOLVENT, THE UNINSURED EMPLOYERS' FUND, ON BEHALF OF THE~~
18 ~~SELF-INSURERS' GUARANTY FUND, SHALL ASSESS EACH SELF-INSURANCE GROUP~~
19 ~~BASED ON THE PROPORTION THAT THE PREMIUM OF EACH GROUP BEARS TO THE~~
20 ~~TOTAL PREMIUM OF ALL SELF-INSURANCE GROUPS.~~

21 (2) ~~THE COMMISSIONER MAY EXEMPT A SELF-INSURANCE GROUP FROM~~
22 ~~ASSESSMENT IF THE COMMISSIONER DETERMINES THAT PAYMENT OF THE~~
23 ~~ASSESSMENT WOULD RENDER THE GROUP INSOLVENT.~~

24 (3) ~~AN ASSESSMENT LEVIED UNDER THIS SUBSECTION DOES NOT~~
25 ~~RELIEVE ANY MEMBER OF AN INSOLVENT GROUP OF ITS JOINT AND SEVERAL~~
26 ~~LIABILITY. [Each self insurance group shall pay an assessment into the~~
27 ~~Self Insurers' Guaranty Fund at the same level assessed against other workers'~~
28 ~~compensation insurers by the Property and Casualty Insurance Guaranty~~
29 ~~Corporation under Title 9, Subtitle 3 of this article.]~~

30 (E) ~~IF AN ASSESSMENT IS MADE IN ACCORDANCE WITH SUBSECTION (D) OF~~
31 ~~THIS SECTION, THE COMMISSIONER SHALL:~~

32 (1) ~~TAKE ACTION TO ENFORCE THE MEMBERS' OBLIGATIONS UNDER §~~
33 ~~25-304(C) OF THIS SUBTITLE; AND~~

34 (2) ~~RECOUP FROM THE INSOLVENT GROUP'S MEMBERS:~~

35 (1) ~~ALL COSTS INCURRED BY THE COMMISSIONER IN ENFORCING~~
36 ~~THE JOINT AND SEVERAL LIABILITY OBLIGATIONS; AND~~

1 (H) ~~AMOUNTS THAT THE COMMISSIONER ASSESSED EACH OTHER~~
2 ~~SELF-INSURANCE GROUP IN ACCORDANCE WITH THIS SECTION.~~

3 ~~((c))~~ (F) ~~((1))~~ The Self-Insurers' Guaranty Fund shall pay any outstanding
4 ~~obligations of a self insurance group that becomes insolvent.~~

5 (2)] ~~If the Self-Insurers' Guaranty Fund becomes insolvent, any~~
6 ~~outstanding obligations of an insolvent self insurance group are a joint and several~~
7 ~~liability of each member of the self insurance group.~~

8 SECTION 2. AND BE IT FURTHER ENACTED, That the Workers'
9 Compensation Benefit and Insurance Oversight Committee shall study and make
10 recommendations regarding the payment of claims of an insolvent self-insurance
11 group under Title 25, Subtitle 3 of the Insurance Article. The Committee shall report
12 its findings and recommendations to the House Economic Matters Committee and
13 Senate Finance Committee on or before December 1, 2001.

14 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1,
15 2001, the Maryland Insurance Administration shall report to the Senate Finance
16 Committee and the House Economic Matters Committee, in accordance with § 2-1246
17 of the State Government Article, on:

18 (1) the name of each workers' compensation self-insurance group, the type of
19 businesses that generally become members of each group, the number of employers that
20 belong to each group, and the total number of employees that are served by each group;

21 (2) the status of the regulation and operation of the workers' compensation
22 self-insurance groups; and

23 (3) any recommendations for changes to the law regarding the regulation of
24 workers' compensation self-insurance groups.

25 SECTION ~~2-3, 4.~~ AND BE IT FURTHER ENACTED, That this Act shall take
26 effect October 1, 2001.