

HOUSE BILL 998

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2001 Regular Session
1r1086
CF 1r1085

By: **Delegates Mitchell and Fulton**
Introduced and read first time: February 9, 2001
Assigned to: Economic Matters

A BILL ENTITLED

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; and generally relating to workers' compensation self-insurance
10 groups.

11 BY repealing and reenacting, with amendments,
12 Article - Insurance
13 Section 25-304 and 25-305
14 Annotated Code of Maryland
15 (1997 Volume and 2000 Supplement)

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

18 **Article - Insurance**

19 25-304.

20 (a) Before a self-insurance group may operate, the self-insurance group must
21 obtain the approval of the Commissioner, including approval of its self-insurance
22 agreement.

23 (b) Each self-insurance group must have combined net assets of at least
24 \$1,000,000.

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

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

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

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

14 25-305.

15 (a) A self-insurance group is not liable for payments to the Property and
16 Casualty Insurance Guaranty Corporation.

17 (b) There is a Self-Insurers' Guaranty Fund.

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

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

25 (2) THE COMMISSIONER MAY EXEMPT A SELF-INSURANCE GROUP FROM
26 ASSESSMENT IF THE COMMISSIONER DETERMINES THAT PAYMENT OF THE
27 ASSESSMENT WOULD RENDER THE GROUP INSOLVENT.

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

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

36 (1) TAKE ACTION TO ENFORCE THE MEMBERS' OBLIGATIONS UNDER §
37 25-304(C) OF THIS SUBTITLE; AND

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

1 (I) ALL COSTS INCURRED BY THE COMMISSIONER IN ENFORCING
2 THE JOINT AND SEVERAL LIABILITY OBLIGATIONS; AND

3 (II) AMOUNTS THAT THE COMMISSIONER ASSESSED EACH OTHER
4 SELF-INSURANCE GROUP IN ACCORDANCE WITH THIS SECTION.

5 [(e)] (F) [(1) The Self-Insurers' Guaranty Fund shall pay any outstanding
6 obligations of a self-insurance group that becomes insolvent.

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

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2001.