

HOUSE BILL 998

Unofficial Copy
K1

2001 Regular Session
1lr1086
CF 1lr1085

By: **Delegates Mitchell and Fulton**

Introduced and read first time: February 9, 2001

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2001

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 a certain joint committee to~~
10 perform a certain study and report to the House Economic Matters and Senate
11 Finance Committees on or before a certain date; and generally relating to
12 workers' compensation self-insurance groups.

13 BY repealing and reenacting, with amendments,
14 Article - Insurance
15 Section ~~25-304 and 25-305~~ 25-301 and 25-304
16 Annotated Code of Maryland
17 (1997 Volume and 2000 Supplement)

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

20 **Article - Insurance**

21 25-301.

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

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

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

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

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

13 (2) "Self-insurance group" does not include a governmental
14 self-insurance group organized under § 9-404 of the Labor and Employment Article,
15 25-304.

16 (a) Before a self-insurance group may operate, the self-insurance group must
17 obtain the approval of the Commissioner, including approval of its self-insurance
18 agreement.

19 (b) Each self-insurance group must have combined net assets of at least
20 \$1,000,000.

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

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

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

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

1 ~~25-305.~~

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

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

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

7 (d) (1) IN THE EVENT THAT A SELF-INSURANCE GROUP BECOMES
8 INSOLVENT, THE UNINSURED EMPLOYERS' FUND, ON BEHALF OF THE
9 SELF INSURERS' GUARANTY FUND, SHALL ASSESS EACH SELF INSURANCE GROUP
10 BASED ON THE PROPORTION THAT THE PREMIUM OF EACH GROUP BEARS TO THE
11 TOTAL PREMIUM OF ALL SELF INSURANCE GROUPS.

12 (2) THE COMMISSIONER MAY EXEMPT A SELF-INSURANCE GROUP FROM
13 ASSESSMENT IF THE COMMISSIONER DETERMINES THAT PAYMENT OF THE
14 ASSESSMENT WOULD RENDER THE GROUP INSOLVENT.

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

21 (e) IF AN ASSESSMENT IS MADE IN ACCORDANCE WITH SUBSECTION (D) OF
22 THIS SECTION, THE COMMISSIONER SHALL:

23 (1) TAKE ACTION TO ENFORCE THE MEMBERS' OBLIGATIONS UNDER §
24 ~~25-304(C)~~ OF THIS SUBTITLE; AND

25 (2) RECOUP FROM THE INSOLVENT GROUP'S MEMBERS;

26 (i) ALL COSTS INCURRED BY THE COMMISSIONER IN ENFORCING
27 THE JOINT AND SEVERAL LIABILITY OBLIGATIONS; AND

28 (ii) AMOUNTS THAT THE COMMISSIONER ASSESSED EACH OTHER
29 SELF-INSURANCE GROUP IN ACCORDANCE WITH THIS SECTION.

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

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

35 SECTION 2. AND BE IT FURTHER ENACTED, That the Workers'
36 Compensation Benefit and Insurance Oversight Committee shall study and make

1 recommendations regarding the payment of claims of an insolvent self-insurance
2 group under Title 25, Subtitle 3 of the Insurance Article. The Committee shall report
3 its findings and recommendations to the House Economic Matters Committee and
4 Senate Finance Committee on or before December 1, 2001.

5 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
6 effect October 1, 2001.