

HOUSE BILL 1412

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2001 Regular Session
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By: **Delegate McHale**

Introduced and read first time: February 28, 2001

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance - Assets, Reserves, and Investments of Insurers**

3 FOR the purpose of altering the assets owned by an insurer that are allowed as
4 admitted assets in determining the financial condition of the insurer; altering
5 the assets that are not allowed as admitted assets in determining the financial
6 condition of an insurer; repealing certain provisions of law governing loss
7 reserves for certain liability and workers' compensation insurance; requiring
8 that unearned premium reserves with respect to certain types of insurance be
9 computed in a certain manner; requiring the statutory reserve or unearned
10 premium reserve that a title insurer is required to maintain to be computed in a
11 certain manner; altering the manner of releasing the aggregate sum of any
12 excess reserves that result from a certain recalculation; altering the
13 circumstances under which an insurer that owns stock of another insurer must
14 have its stock valued at book value; altering certain provisions of law relating to
15 the valuation of real estate investments of insurers; altering the amount that a
16 life insurer may lend to a policyholder on the policy as collateral security;
17 updating certain terminology; and generally relating to assets, reserves, and
18 investments of insurers.

19 BY repealing and reenacting, with amendments,
20 Article - Insurance
21 Section 5-101, 5-102(a), 5-205(c), 5-206(a), 5-401(b) and (d), and 5-508
22 Annotated Code of Maryland
23 (1997 Volume and 2000 Supplement)

24 BY repealing
25 Article - Insurance
26 Section 5-204
27 Annotated Code of Maryland
28 (1997 Volume and 2000 Supplement)

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

Article - Insurance

2 5-101.

3 (a) In determining the financial condition of an insurer, the following assets
4 that the insurer owns shall be allowed as admitted assets:

5 (1) cash that the insurer holds or that it controls while the cash is in
6 transit, and the true balance of any deposit in a solvent bank or trust company;

7 (2) shares or deposits in a savings and loan association or building and
8 loan association, to the extent that the investment or account is insured by an
9 instrumentality of the United States or of Canada;

10 (3) in an amount not exceeding the [legal reserve and other policy
11 liabilities carried on] CASH SURRENDER VALUE OF each individual policy:

12 (i) premium notes[, AND policy loans, [and other policy assets]
13 EXCEPT FOR COLLATERAL ASSIGNMENT LOANS; AND

14 (ii) [liens on policies and certificates of life insurance and annuity
15 contracts; and

16 (iii)] accrued interest THAT IS 90 DAYS OR MORE PAST DUE on each
17 asset listed in subitem (i) [or (ii)] of this item;

18 (4) IN AN AMOUNT NOT EXCEEDING THE POLICY RESERVE ON EACH
19 INDIVIDUAL POLICY:

20 (I) COLLATERAL ASSIGNMENT LOANS; AND

21 (II) ACCRUED INTEREST THAT IS 90 DAYS OR MORE PAST DUE ON
22 THE ASSET LISTED IN SUBITEM (I) OF THIS ITEM;

23 [(4)] (5) for a life insurer[,];

24 (I) the net amount of uncollected PREMIUMS THAT ARE NOT MORE
25 THAN 90 DAYS PAST DUE, UNLESS PAYABLE DIRECTLY OR INDIRECTLY BY AN
26 INSTRUMENTALITY OF THE UNITED STATES; and

27 (II) THE NET AMOUNT OF deferred premiums and annuity
28 considerations;

29 [(5)] (6) except for life insurance premiums, the amount of premiums in
30 the course of collection that:

31 (i) are not more than [3 months] 90 DAYS past due, unless payable
32 directly or indirectly by an instrumentality of the United States; and

33 (ii) do not include commissions;

1 [(6)] (7) to the extent of the unearned premium reserves carried on
2 policies:

3 (i) installment premiums other than life insurance premiums; and

4 (ii) notes or similar written obligations not past due taken for
5 premiums other than life insurance premiums;

6 [(7)] (8) the full amount of reinsurance that a ceding insurer may
7 recover from a solvent reinsurer under Subtitle 9 of this title;

8 [(8)] (9) amounts receivable by an assuming insurer that represent
9 funds that a solvent ceding insurer withholds under a reinsurance treaty;

10 [(9)] (10) deposits or equities recoverable from an underwriting
11 association, syndicate, reinsurance fund, or suspended banking institution:

12 (i) to the extent [the Commissioner considers that] the deposits or
13 equities are available for payment of losses and claims; [and] OR

14 (ii) at values that the Commissioner determines;

15 [(10)] (11) ELECTRONIC data processing EQUIPMENT and [accounting
16 systems] OPERATING SYSTEM SOFTWARE [that cost at least \$25,000,] amortized
17 over a period of not more than [10] 3 calendar years[;], TO THE EXTENT IT DOES NOT
18 EXCEED 3% OF THE INSURER'S CAPITAL AND SURPLUS AS REQUIRED TO BE SHOWN
19 ON THEIR STATUTORY FINANCIAL STATEMENT, ADJUSTED TO EXCLUDE DEFERRED
20 TAX ASSETS AND NET POSITIVE GOOD WILL;

21 [(11)] (12) investments, securities, properties, and loans acquired or
22 held in accordance with this article, and the related items listed in subsection (b) of
23 this section;

24 (13) POSITIVE GOOD WILL RECORDED UNDER THE STATUTORY
25 PURCHASE METHOD OF ACCOUNTING:

26 (I) TO THE EXTENT THAT IT DOES NOT EXCEED 10% OF THE
27 PARENT INSURER'S CAPITAL AND SURPLUS, AS REQUIRED TO BE SHOWN ON THE
28 STATUTORY BALANCE SHEET, EXCLUDING ANY NET POSITIVE GOOD WILL,
29 ELECTRONIC DATA PROCESSING EQUIPMENT, OPERATING SYSTEM SOFTWARE, AND
30 NET DEFERRED TAX ASSETS; AND

31 (II) AMORTIZED OVER A PERIOD OF NOT MORE THAN 10 CALENDAR
32 YEARS;

33 [(12)] (14) [all] OTHER assets[, whether or not consistent with the
34 provisions of this section,] that an insurer may list AS ADMITTED ASSETS in the
35 annual statement required under this article, UNLESS SPECIFICALLY NOT ADMITTED
36 UNDER § 5-102 OF THIS SUBTITLE; and

1 [(13)] (15) at values determined by the Commissioner, other assets:

2 (i) that are not inconsistent with this title; and

3 (ii) that the Commissioner considers available for the payment of
4 losses and claims.

5 (b) In determining the financial condition of an insurer, the following items
6 related to investments, securities, properties, or loans that the insurer owns shall be
7 allowed as admitted assets:

8 (1) IF IT IS NOT MORE THAN 90 DAYS PAST DUE:

9 (I) interest that is due or accrued on a bond or evidence of
10 indebtedness that is:

11 [(i)] 1. not in default; and

12 [(ii)] 2. not valued on a basis that includes accrued interest;

13 [(2)] (II) declared and unpaid dividends on shares of stock, unless the
14 amount of those dividends has otherwise been allowed as an asset;

15 [(3) interest that is due or accrued on a collateral loan and that does not
16 exceed 1 year's interest on the loan;]

17 [(4)] (III) interest that is due or accrued on deposits in solvent banks,
18 solvent trust companies, or savings and loan associations insured by an
19 instrumentality of the United States or of Canada; OR

20 [(5)] (IV) if the Commissioner considers that the interest is a collectible
21 asset, interest that is due or accrued on other assets;

22 (2) INTEREST THAT IS DUE OR ACCRUED ON A COLLATERAL LOAN:

23 (I) TO THE EXTENT THAT THE INTEREST DOES NOT EXCEED 1
24 YEAR'S INTEREST ON THE LOAN; AND

25 (II) TO THE EXTENT THAT THE UNPAID BALANCE OF THE LOAN
26 PLUS ACCRUED INTEREST DOES NOT EXCEED THE NET VALUE OF THE COLLATERAL
27 THAT WOULD BE ADMITTED, LESS ESTIMATED COSTS TO OBTAIN AND SELL THE
28 COLLATERAL;

29 [(6)] (3) if the interest IN ITS ENTIRETY IS LESS THAN 180 DAYS PAST
30 DUE AND has not accrued for more than 18 months, interest that is due or accrued on
31 a mortgage loan, in an amount not more than any amount by which the value of the
32 property, reduced by the amount of delinquent taxes AND OTHER COSTS TO OBTAIN
33 AND SELL THE PROPERTY, exceeds the unpaid principal;

34 [(7)] (4) rent that is due or accrued on real property if:

1 (i) the rent is not past due for more than [3 months] 90 DAYS; or
2 (ii) the payment is adequately secured by property held in the name
3 of the tenant and conveyed to the insurer as collateral; AND

4 [(8) the unaccrued part of taxes on real property paid before the due date;
5 and]

6 [(9)] (5) for a title insurer, title plants as provided in § 5-104 of this
7 subtitle.
8 5-102.

9 (a) Notwithstanding § 5-101 of this subtitle, in determining the financial
10 condition of an insurer, the following expressly are not allowed as admitted assets:

11 (1) [good will,] organizational expenses, trade names, and other similar
12 intangible assets;

13 (2) except for policy loans, a secured or unsecured advance to an officer
14 of the insurer;

15 (3) an advance given only on personal security to an employee or agent of
16 the insurer or to another person;

17 (4) stock of the insurer owned by it, any material interest in the stock of
18 the insurer, any loan that is secured by the stock of the insurer, or any material
19 proportionate interest in the stock of the insurer acquired or held through the
20 insurer's ownership of an interest in another firm, corporation, or business unit;

21 (5) except for ELECTRONIC data processing EQUIPMENT and [accounting
22 systems] OPERATING SYSTEM SOFTWARE allowed as admitted assets under [§
23 5-101(a)(10)] § 5-101(A)(11) of this subtitle, fixtures, furniture, furnishings, libraries,
24 safes, stationery, supplies, and vehicles; and

25 (6) the amount, if any, by which the aggregate book value of investments
26 carried in the ledger assets of the insurer exceeds the AMOUNT DEEMED
27 COLLECTIBLE OR THE aggregate value of those investments as determined under this
28 article.

29 [5-204.

30 (a) The reserves against loss or damage from accident to or injuries suffered
31 by an employee or other person that must be included in an insurer's annual
32 statement required under this article shall be computed in accordance with this
33 section.

34 (b) For all liability policies written during the 3 years immediately preceding
35 the date of the annual statement, the reserves shall be 60% of the earned liability

1 premiums of each of the 3 years, less all losses and expense payments made under
2 liability policies written in the corresponding years.

3 (c) (1) For all workers' compensation claims under policies written more
4 than 3 years before the date of the annual statement, the reserves shall be the
5 present value at 4% interest of the determined and the estimated future payments.

6 (2) For all workers' compensation claims under policies written in the 3
7 years immediately preceding the date of the annual statement, the reserves shall be
8 65% of the earned workers' compensation premiums of each of the 3 years, less all
9 losses and expense payments made in connection with claims under policies written
10 in the corresponding years.

11 (3) For the first year of the 3-year period, the reserves may not be less
12 than the present value at 4% interest of the determined and the estimated unpaid
13 workers' compensation claims under policies written during that year.

14 (d) (1) If the Commissioner approves, the reserves for all health care
15 professional liability claims may be discounted, but not to a level less than the
16 present value at 4% interest of the determined or the estimated future payments, or
17 both.

18 (2) If a health care professional liability insurer reserves its health care
19 professional liability claims at less than the full amount of the determined or the
20 estimated future payment of those claims, or both, the insurer shall file interim
21 statements with the Commissioner under Title 4 of this article.

22 (3) A medical malpractice insurer that benefits from a discount of
23 reserves under this subsection shall reduce its premiums proportionately to the
24 amount of the discount.

25 (e) The Commissioner may waive the requirements of this section for
26 combination or multiple peril policies if the policies:

27 (1) place the predominating exposure to loss on types of insurance other
28 than liability insurance; and

29 (2) do not include motor vehicle liability or workers' compensation
30 insurance.]

31 5-205.

32 (c) Reserves under this section [may] SHALL be computed[,]:

33 (1) at the option of the insurer, on a [yearly or more frequent] DAILY
34 PRO RATA BASIS OR A MONTHLY pro rata basis IF THE INSURANCE RISK DOES NOT
35 VARY SIGNIFICANTLY DURING THE CONTRACT PERIOD; OR

1 (2) OVER THE PERIOD OF RISK IN PROPORTION TO THE AMOUNT OF
2 INSURANCE PROTECTION PROVIDED IF THE PERIOD OF RISK DIFFERS
3 SIGNIFICANTLY FROM THE CONTRACT PERIOD.

4 5-206.

5 (a) (1) In addition to adequate reserves required by § 5-103 of this title for
6 outstanding losses, a title insurer shall maintain a [guaranty fund] STATUTORY
7 RESERVE or unearned premium [reserves] RESERVE of at least an amount computed
8 as follows:

9 (i) 10% of the total amount of the risk premiums written in the
10 calendar year for title insurance contracts shall be as assigned originally to the
11 reserves; and

12 (ii) during each of the 20 years that follow the year in which the
13 contract is issued, the reserves applicable to the contract shall be reduced in
14 accordance with the following formula:

15 1. [30%]35% of the aggregate sum on [December 31] JULY 1
16 of the year next succeeding the year of addition;

17 2. 15% of the aggregate sum on [December 31] JULY 1 of
18 EACH OF the succeeding [year] 2 YEARS;

19 3. 10% of the aggregate sum on [December 31] JULY 1 of
20 [each of] the succeeding [2 years] YEAR;

21 4. [5% of the aggregate sum on December 31 of each of the
22 succeeding 2 years;

23 5.] 3% of the aggregate sum on [December 31] JULY 1 of each
24 of the succeeding [2] 3 years;

25 [6.] 5. 2% of the aggregate sum on [December 31] JULY 1 of
26 each of the succeeding [7] 3 years; and

27 [7.] 6. 1% of the aggregate sum on [December 31] JULY 1 of
28 each of the succeeding [5] 10 years.

29 [(2) The guaranty fund or unearned premium reserve established for title
30 insurance contracts issued during the 20 years preceding October 1, 1997 shall be
31 recalculated in accordance with this subsection.]

32 (2) (I) THE TITLE INSURER SHALL CALCULATE RETROACTIVE
33 ADJUSTED STATUTORY RESERVE OR UNEARNED PREMIUM RESERVE ON AN
34 AGGREGATE BASIS ON JANUARY 1, 2001.

1 (II) THE ADJUSTED AGGREGATE RESERVE SHALL BE
2 RECALCULATED AS IF PARAGRAPH (1)(II) OF THIS SUBSECTION HAD BEEN IN EFFECT
3 DURING THE 20 YEARS PRECEDING JANUARY 1, 2001.

4 (3) The aggregate sum of any excess reserves resulting from a
5 recalculation under this subsection shall be released over a [5-year] 6-YEAR period
6 in equal installments of [20%] ONE-SIXTH per year, BEGINNING WITH THE 2001
7 CALENDAR YEAR.

8 5-401.

9 (b) (1) An insurer that owns [15] 10% or more of the stock of another
10 insurer shall have its stock valued at book value as shown by the more recent of:

11 (i) the last annual statement of the other insurer; or

12 (ii) the last report on examination of the other insurer.

13 (2) Except as provided in paragraph (3) of this subsection, the book value
14 of a share of common stock of an insurer shall be represented by a fraction:

15 (i) the numerator of which is the amount of the insurer's capital
16 and surplus, less the value of any outstanding preferred stock; and

17 (ii) the denominator of which is the number of shares of the
18 insurer's common stock issued and outstanding.

19 (3) An insurer may value its holdings of stock in a subsidiary insurer in
20 an amount that is not less than the acquisition cost, if the acquisition cost is less than
21 the value determined under paragraph (2) of this subsection.

22 (d) Real estate that is acquired by foreclosure or by deed in lieu of foreclosure
23 [and that lacks a recent appraisal that the Commissioner considers reliable] may not
24 be valued at an amount greater than the sum of:

25 (1) the unpaid principal of any defaulted loan at the date of the
26 foreclosure or deed;

27 (2) any taxes and expenses that the insurer pays or incurs [at the date of
28 the foreclosure or deed] TO PROTECT THE INVESTMENT OR in connection with the
29 acquisition, except for uncollected interest on any loan;

30 (3) the cost of a later addition or improvement by the insurer; and

31 (4) an amount that the insurer pays later on assessments levied for
32 improvements in connection with the property.

1 5-508.

2 (a) A life insurer may lend to its policyholder on the policy as collateral
3 security an amount not exceeding the [reserve on] CASH SURRENDER VALUE OF the
4 policy.

5 (b) A policy loan is an eligible reserve investment of a life insurer.

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