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2001 Regular Session

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By: Senator Dorman

Introduced and read first time: February 2, 2001

Assigned to: Finance

A BILL ENTITLED

4	4 3 T	A (717)	
1	AN	ACT	concerning

2 Workers' Compensation Self-Insurance Groups - Regulation

- 3 FOR the purpose of transferring responsibility for the regulation of workers'
- 4 compensation self-insurance groups from the Insurance Commissioner to the
- 5 Workers' Compensation Commission; altering requirements relating to
- 6 minimum levels of contributions, excess insurance coverage, and surety bonds;
- 7 altering the amount of combined net assets that a self-insurance group must
- 8 have; altering the assessment that a self-insurance group must pay to the
- 9 Self-Insurers' Guaranty Fund; adding to the liabilities of the members of a
- self-insurance group that becomes insolvent; altering the conditions for
- terminating or withdrawing from a self-insurance group; altering the conditions
- under which a self-insurance group's authority to operate may be suspended or
- revoked; defining "insolvent self-insurance group"; and generally relating to
- group self-insurance for workers' compensation and the regulation and
- operation of self-insurance groups.

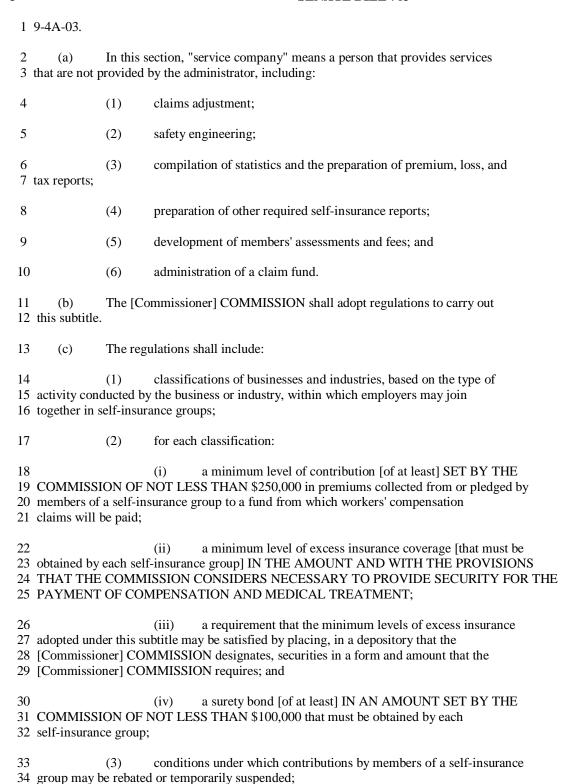
16 BY transferring

- 17 Article Insurance
- Section 25-301 through 25-308 and the subtitle "Subtitle 3. Group
 - Self-Insurance for Workers' Compensation", respectively
- 20 Annotated Code of Maryland
- 21 (1997 Volume and 2000 Supplement)
- 22 to be

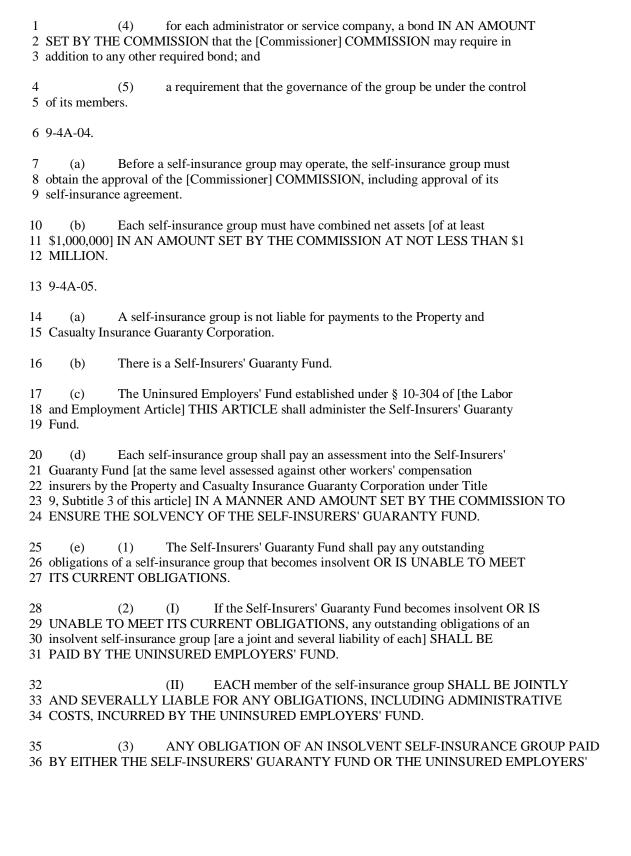
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- 23 Article Labor and Employment
- Section 9-4A-01 through 9-4A-08 and the subtitle "Subtitle 4A. Group
- 25 Self-Insurance for Workers' Compensation", respectively
- 26 Annotated Code of Maryland
- 27 (1999 Replacement Volume and 2000 Supplement)
- 28 BY repealing and reenacting, with amendments,
- 29 Article Labor and Employment
- 30 Section 9-4A-01 through 9-4A-08
- 31 Annotated Code of Maryland

- **SENATE BILL 763** 1 (1999 Replacement Volume and 2000 Supplement) (As enacted by Section 1 of this Act) 2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 3 4 MARYLAND, That Section(s) 25-301 through 25-308 and the subtitle "Subtitle 3. 5 Group Self-Insurance for Workers' Compensation", respectively, of Article -6 Insurance of the Annotated Code of Maryland be transferred to be Section(s) 9-4A-01 7 through 9-4A-08 and the subtitle "Subtitle 4A. Group Self-Insurance for Workers' 8 Compensation", respectively, of Article - Labor and Employment of the Annotated 9 Code of Maryland. 10 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland 11 read as follows: 12 **Article - Labor and Employment** 13 Subtitle 4A. Group Self-Insurance for Workers' Compensation. 14 9-4A-01. 15 In this subtitle the following words have the meanings indicated. (a) 16 "Administrator" means a person engaged by a workers' compensation (b) self-insurance group to carry out the policies established by the self-insurance group 18 and to provide management of the self-insurance group. "INSOLVENT SELF-INSURANCE GROUP" MEANS A SELF-INSURANCE 19 20 GROUP THAT CANNOT MEET ITS CURRENT OBLIGATIONS UNDER THE WORKERS' 21 COMPENSATION LAWS OF THIS STATE. 22 (D) "Self-insurance agreement" means the partnership arrangement 23 between the members of a self-insurance group that defines the rights, obligations, 24 and liabilities of the members of the self-insurance group. "Self-insurance group" means two or more employers organized 25 [(d)](E) (1) 26 in accordance with this subtitle. "Self-insurance group" does not include a governmental 28 self-insurance group organized under § 9-404 of [the Labor and Employment 29 Article] THIS TITLE.
- 30 9-4A-02.
- 31 An employer may satisfy the requirements of § 9-402 of [the Labor and
- 32 Employment Article THIS TITLE by participating in a self-insurance group that
- 33 meets the requirements of this subtitle.



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35 and

1 FUND IS A JOINT AND SEVERAL LIABILITY OF EACH MEMBER OF THE 2 SELF-INSURANCE GROUP. (4) ANY LITIGATION COSTS OR FEES OR ANY OTHER COLLECTION COSTS 4 PAID BY EITHER THE SELF-INSURERS' GUARANTY FUND OR THE UNINSURED 5 EMPLOYERS' FUND IN RECOVERING OUTSTANDING OBLIGATIONS OF AN INSOLVENT 6 SELF-INSURANCE GROUP ARE A JOINT AND SEVERAL LIABILITY OF EACH MEMBER 7 OF THE SELF-INSURANCE GROUP. 8 9-4A-06. 9 (a) The [Commissioner] COMMISSION may not grant the request of a 10 self-insurance group to terminate its self-insurance agreement unless EACH 11 MEMBER OF the self-insurance group has insured or reinsured all incurred workers' 12 compensation obligations with an authorized insurer under an agreement filed with 13 and approved in writing by the [Commissioner] COMMISSION. 14 Subject to the approval of the [Commissioner] COMMISSION, a 15 self-insurance group may merge with another self-insurance group engaged in the 16 same or similar type of business only if the resulting self-insurance group assumes 17 all the obligations of the merging self-insurance groups. The [Commissioner] COMMISSION shall hold a hearing on the 18 merger at the request of any party including a member of either self-insurance group. 20 For purposes of this section, obligations include known claims and 21 associated expenses and claims incurred but not reported and associated expenses. A WITHDRAWAL BY AN EMPLOYER FROM A SELF-INSURANCE GROUP IS 22 23 NOT EFFECTIVE UNTIL: 24 30 DAYS AFTER THE DATE THAT THE COMMISSION RECEIVES NOTICE (1) 25 OF THE EMPLOYER'S INTENT TO WITHDRAW FROM THE GROUP; AND THE EMPLOYER HAS SECURED WORKERS' COMPENSATION FOR 27 COVERED EMPLOYEES AS REQUIRED UNDER § 9-402 OF THIS TITLE. 28 9-4A-07. 29 The [Commissioner] COMMISSION may: 30 require actuarial studies and audits to determine the financial 31 solvency of each self-insurance group as often as the [Commissioner] COMMISSION 32 desires:

assess each self-insurance group an annual amount [of not more

34 than \$500 to be used for REOUIRED TO PAY FOR the actuarial studies and audits;

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	(3) require an annual report that may include payroll audit reports, summary loss reports, [and] quarterly financial statements, AND ANY OTHER INFORMATION REQUIRED BY THE COMMISSION.
4	9-4A-08.
7	(a) (1) After notice and opportunity for a hearing, the [Commissioner] COMMISSION may impose a monetary penalty on a person or self-insurance group that the [Commissioner] COMMISSION finds to be in violation of this subtitle or a regulation adopted under this subtitle.
9 10	(2) A monetary penalty imposed under this subsection may not exceed \$1,000 for each violation or \$10,000 in the aggregate.
	(3) A person or self-insurance group that is assessed a monetary penalty under this subsection shall pay the penalty to the [Commissioner] COMMISSION for the use of the State.
16 17	(b) (1) After written notice and opportunity for a hearing, the [Commissioner] COMMISSION may issue an order that requires a person or self-insurance group to cease and desist from engaging in an act or practice that the [Commissioner] COMMISSION finds to be in violation of this subtitle or a regulation adopted under this subtitle.
	(2) If the [Commissioner] COMMISSION finds, after notice and opportunity for a hearing, that a person or self-insurance group has violated an order issued under this subsection, the [Commissioner] COMMISSION may:
22 23	(i) impose a monetary penalty of not more than \$10,000 for each violation of the order or \$100,000 in the aggregate; and
24 25	(ii) suspend or revoke the authority of the self-insurance group to operate.
28	(c) Notwithstanding any other provision of this subtitle, after notice and opportunity for a hearing, the [Commissioner] COMMISSION may suspend or revoke the authority of a self-insurance group to operate if the [Commissioner] COMMISSION determines that the self-insurance group:
30	(1) is insolvent OR IS UNABLE TO MEET ITS CURRENT OBLIGATIONS:
31 32	(2) failed to pay the special fund contribution or regulatory fee imposed on the self-insurance group;
	(3) failed to comply within the time set with a provision of this subtitle, a regulation adopted under this subtitle, or a lawful order of the [Commissioner] COMMISSION;

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- 1 (4) obtained its authority to operate by fraud, including making a
 2 material misrepresentation in the application for authority to operate as a
 3 self-insurance group;

 4 (5) misappropriated, converted, illegally withheld, or refused to pay on
 5 proper demand moneys that have been entrusted to the self-insurance group or its
 6 administrator in its fiduciary capacity and that belong to a member of the
 7 self-insurance group, an employee of a member, or a person entitled to payment; or
- 8 (6) for any other reason, must have its authority to operate suspended or 9 revoked to protect the members or insureds of a self-insurance group or the public.
- SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect 11 October 1, 2001.