

SENATE BILL 371

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2002 Regular Session
2r1317
CF 2r1318

By: **Senators Bromwell and Dorman**
Introduced and read first time: January 28, 2002
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Injured Workers' Insurance Fund - Phase-In of Regulatory Requirements**

3 FOR the purpose of subjecting the Injured Workers' Insurance Fund to certain
4 provisions of the Insurance Article; requiring the Insurance Commissioner to
5 ensure that the Fund has a certain level of excess capital; establishing a certain
6 phase-in schedule for the Fund to comply with certain excess capital
7 requirements; establishing the applicability of certain sections of the Insurance
8 Article to the Fund; requiring certain reports under certain circumstances;
9 allowing the Fund to exclude premium growth from residual market business in
10 a risk based capital calculation under certain circumstances; and generally
11 relating to the Injured Workers' Insurance Fund.

12 BY repealing and reenacting, with amendments,
13 Article - Labor and Employment
14 Section 10-125
15 Annotated Code of Maryland
16 (1999 Replacement Volume and 2001 Supplement)

17 BY repealing and reenacting, with amendments,
18 Chapter 567 of the Acts of the General Assembly of 2000
19 Section 2

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

22 **Article - Labor and Employment**

23 10-125.

24 (a) Except as provided in subsection (b) of this section, the Fund shall be:

25 (1) examined by the Commissioner in accordance with §§ 2-205 and
26 2-207 through 2-209 of the Insurance Article; and

27 (2) subject to the following provisions of the Insurance Article:

1 (i) Title 4, Subtitle 3 (Risk Based Capital Standards for Insurers)
2 AS PROVIDED IN SUBSECTION (D) OF THIS SECTION;

3 (ii) Title 5, Subtitles 1, 2, 4, and 9 (Assets and Liabilities, Reserves,
4 VALUATION OF ASSETS and Reinsurance); [and]

5 (iii) Title 9 (Impaired Entities); AND

6 (IV) §§ 3-124 (BULK REINSURANCE - STOCK INSURERS), 4-115 (HOME
7 OFFICE; LOCATION OF ACCOUNTING RECORDS AND ASSETS), 4-116 (ANNUAL AND
8 INTERIM STATEMENTS; AUDITED FINANCIAL REPORTS), AND 4-118 (QUALIFIED
9 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS).

10 (b) (1) The Commissioner may not take any action to enforce any provision
11 of the Insurance Article to which the Fund is subject under subsection (a) of this
12 section except:

13 (i) the Commissioner may issue an order under Title 9 (Impaired
14 Entities) of the Insurance Article; and

15 (ii) the Commissioner may take action authorized under §§ 4 -305,
16 4-306, 4-307, and 4-308 of the Insurance Article relating to risk based capital
17 standards for insurers.

18 (2) Any order issued under this subsection:

19 (i) may not include a requirement that the Fund increase rates;
20 and

21 (ii) shall be subject to Title 2, Subtitle 2, of the Insurance Article.

22 (3) The Commissioner shall report to the Board on the results of any
23 examination conducted under subsection (a)(1) of this section.

24 (c) (1) The Commissioner may examine or review the Fund for compliance
25 with:

26 (i) Title 12, Subtitle 1 of the Insurance Article (Policy Forms and
27 Provisions);

28 (ii) except for § 19-403 (Setting Premium Rates), Title 19, Subtitle
29 4 of the Insurance Article (Workers' Compensation Insurance); and

30 (iii) Title 27 of the Insurance Article (Unfair Trade Practices and
31 Other Prohibited Practices).

32 (2) The Commissioner may not take any action to enforce any provision
33 of the Insurance Article under which the Commissioner has examined or reviewed
34 compliance under this subsection.

1 (3) The Commissioner shall report to the Board on the results of any
2 examination or review conducted under this subsection.

3 (D) WITH RESPECT TO ANY RISK BASED CAPITAL CALCULATION UNDER TITLE
4 4, SUBTITLE 3 OF THE INSURANCE ARTICLE, THE FUND SHALL BE SUBJECT TO THE
5 FOLLOWING REDUCTIONS:

6 (1) FOR CALENDAR YEAR 2001, THE REQUIRED RISK BASED CAPITAL FOR
7 THE FUND SHALL BE 50% OF THE REQUIREMENT FOR EACH ACTION LEVEL SET
8 FORTH IN §§ 4-305 THROUGH 4-308 OF THE INSURANCE ARTICLE;

9 (2) FOR CALENDAR YEAR 2002, THE REQUIRED RISK BASED CAPITAL FOR
10 THE FUND SHALL BE 60% OF THE REQUIREMENT FOR EACH ACTION LEVEL SET
11 FORTH IN §§ 4-305 THROUGH 4-308 OF THE INSURANCE ARTICLE;

12 (3) FOR CALENDAR YEAR 2003, THE REQUIRED RISK BASED CAPITAL FOR
13 THE FUND SHALL BE 70% OF THE REQUIREMENT FOR EACH ACTION LEVEL SET
14 FORTH IN §§ 4-305 THROUGH 4-308 OF THE INSURANCE ARTICLE;

15 (4) FOR CALENDAR YEAR 2004, THE REQUIRED RISK BASED CAPITAL FOR
16 THE FUND SHALL BE 85% OF THE REQUIREMENT FOR EACH ACTION LEVEL SET
17 FORTH IN §§ 4-305 THROUGH 4-308 OF THE INSURANCE ARTICLE; AND

18 (5) FOR CALENDAR YEAR 2005, THE REQUIRED RISK BASED CAPITAL FOR
19 THE FUND SHALL BE 100% OF THE REQUIREMENT FOR EACH ACTION LEVEL SET
20 FORTH IN §§ 4-305 THROUGH 4-308 OF THE INSURANCE ARTICLE.

21 (E) FOR CALENDAR YEARS 2002 THROUGH 2005:

22 (1) IF THE FUND'S RISK BASED CAPITAL DOES NOT EQUAL OR EXCEED
23 THE PHASE-IN LEVEL REQUIRED UNDER SUBSECTION (B) OF THIS SECTION, THE
24 PROVISIONS OF §§ 4-305 THROUGH 4-308 OF THE INSURANCE ARTICLE APPLICABLE
25 TO THAT LEVEL SHALL APPLY;

26 (2) (I) IF THE FUND'S RISK BASED CAPITAL EQUALS OR EXCEEDS THE
27 PHASE-IN LEVEL REQUIRED UNDER SUBSECTION (B) OF THIS SECTION, BUT IS LESS
28 THAN 100% OF THE COMPANY ACTION LEVEL REQUIRED UNDER TITLE 4, SUBTITLE 3
29 OF THE INSURANCE ARTICLE, THE FUND SHALL FILE A STATUS REPORT
30 CONCERNING THE FUND'S NOVEMBER 2, 2001 RISK BASED CAPITAL PLAN; AND

31 (II) THE STATUS REPORT SHALL STATE WHETHER THE ANNUAL
32 RESULTS MEET OR EXCEED THE RESULTS PROJECTED IN THE RISK BASED CAPITAL
33 PLAN AND SHALL DESCRIBE ANY APPROPRIATE MODIFICATION OR ADJUSTMENT TO
34 THE PLAN; AND

35 (3) IF THE FUND'S RISK BASED CAPITAL EQUALS OR EXCEEDS 100% OF
36 THE COMPANY ACTION LEVEL REQUIRED UNDER TITLE 4, SUBTITLE 3 OF THE
37 INSURANCE ARTICLE, THE FUND MAY NOT BE REQUIRED TO FILE A RISK BASED
38 CAPITAL PLAN FOR THAT YEAR.

1 (F) THE FUND MAY EXCLUDE PREMIUM GROWTH ASSOCIATED WITH THE
2 RESIDUAL MARKET BUSINESS IN ANY RISK BASED CAPITAL CALCULATION IF THE
3 INSURANCE COMMISSIONER APPROVES THE DEFINITION OF RESIDUAL BUSINESS
4 USED BY THE FUND.

5

Chapter 567 of the Acts of 2000

6 SECTION 2. AND BE IT FURTHER ENACTED, That the Insurance
7 Commissioner shall examine the financial condition of the Injured Workers'
8 Insurance Fund and ensure that the Fund satisfies the solvency standards for a
9 workers' compensation insurer in this State AND HAS CAPITAL IN EXCESS OF THE
10 AMOUNT THAT WOULD TRIGGER A COMPANY ACTION LEVEL EVENT UNDER § 4-305
11 OF THE INSURANCE ARTICLE, before the Fund may become a member of the Property
12 and Casualty Insurance Guaranty Corporation.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 June 1, 2002.