

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 371

(Senators Bromwell and Dorman)

Finance

Economic Matters

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

This bill subjects the Injured Workers' Insurance Fund (IWIF) to additional regulation by the Maryland Insurance Administration (MIA) and provides for a phase-in of risk-based capital (RBC) standards for IWIF. The bill also requires the Insurance Commissioner to report on IWIF's RBC level.

The bill is effective June 1, 2002.

Fiscal Summary

State Effect: The bill's requirements could be handled with MIA's existing budgeted resources.

Local Effect: Potential savings in workers' compensation costs for local governments that purchase insurance from IWIF.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill adds to the provisions of the Insurance Article to which IWIF is subject provisions relating to: (1) valuation of assets; (2) bulk reinsurance for stock insurers; (3) annual and interim statements; (4) audited financial reports; and (5) qualified independent certified public accountants.

The bill requires IWIF to meet 50% of each of the required RBC action levels in calendar 2001, 60% in 2002, 70% in 2003, 85% in 2004, and 100% in 2005. If IWIF's RBC

levels do not meet the bill's required phase-in levels, the provisions relating to company action level events, regulatory action level events, and mandatory control level events apply. If IWIF's RBC equals or exceeds the bill's required phase-in levels but is less than the company action level, IWIF must file a status report concerning its November 2, 2001 RBC plan. The report must state whether the annual results meet or exceed the results projected in the RBC plan and must describe any appropriate modification or adjustment to the plan. If IWIF's RBC is at least the required company action level, IWIF may not be required to file an RBC plan for that year. The bill allows IWIF to exclude premium growth associated with the residual market business in any RBC calculation if the Maryland Insurance Commissioner approves the definition of "residual business" used by IWIF.

The bill requires the Commissioner to ensure that IWIF has capital in excess of the amount that would trigger a company action level event before IWIF may become a member of the Property and Casualty Insurance Guaranty Corporation.

Current Law: Chapter 657 of 2000 subjects IWIF to regulation by MIA under the Insurance Article for RBC standards, assets and liabilities, reserves, reinsurance, and impaired entities.

The RBC standards for property and casualty insurers, including IWIF, are determined by a formula that follows the RBC instructions developed by the National Association of Insurance Commissioners (NAIC). The formula must take into account and may adjust for the covariance between asset risk, credit risk, underwriting risk, and all other business risks and other relevant risks as stated in NAIC's RBC instructions.

In the event of a company action level event, an insurer must develop and submit a plan to the Insurance Commissioner for the Commissioner's approval. A company action level event occurs when an insurer's total adjusted capital is at least equal to its regulatory action level but less than its company action level.

In the event of a regulatory action level event, the Commissioner must require the insurer to prepare and submit an RBC plan or a revised RBC plan, perform any necessary examination of the insurer, and issue any needed corrective order. A regulatory action level event occurs when: (1) the insurer's total adjusted capital is at least equal to its authorized control level RBC and less than its regulatory action level; (2) with limited exceptions, the insurer fails to file a report; (3) an insurer fails to submit a required RBC plan; (4) an insurer's RBC plan is unsatisfactory; (5) the Commissioner notifies the insurer that the insurer has failed to adhere to its RBC plan under specified circumstances; or (6) the Commissioner has rejected an insurer's challenge of the Commissioner's determination.

If an insurer reaches an authorized control level event, the Commissioner must either: (1) take an action required for a regulatory action level event; or (2) take a necessary action to place the insurer under conservation, rehabilitation, or liquidation. An authorized control level event occurs when an insurer: (1) has total adjusted capital that is at least equal to its mandatory control level RBC and less than its authorized control level RBC; or (2) the insurer fails to respond to a corrective order in a satisfactory manner.

If a mandatory control event occurs to a property and casualty insurer, the Commissioner: (1) must take action to place the insurer under conservation, rehabilitation, or liquidation; or (2) in the event of a property and casualty insurer that is running off its existing business, may allow the insurer to continue its run-off under the Commissioner's supervision. A mandatory control event occurs when an insurer's total adjusted capital is less than its mandatory control level.

Local Expenditures: The bill could result in reduced premium increases for local governments that purchase workers' compensation insurance from IWIF during calendar 2002 and 2003.

Small Business Effect: IWIF policyholders, which are predominately small businesses, could experience lower premium increases because IWIF would no longer be required to increase its capital level as quickly. IWIF advises that averted premiums could be at least 20%. IWIF further advises that the bill's phase-in provision would allow it to achieve RBC standards through operating improvements and more modest rate increases.

Additional Information

Prior Introductions: None.

Cross File: HB 537 (Delegate Busch, *et al.*) – Economic Matters.

Information Source(s): Injured Workers' Insurance Fund, Maryland Insurance Administration, Department of Legislative Services

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