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By: **Chairman, Judiciary Committee (By Request - Maryland Judicial Conference)**

Introduced and read first time: January 24, 2003

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 11, 2003

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Courts - Subsequent Injury Fund - Effect of Impleading in Workers'**  
3 **Compensation Appeal**

4 FOR the purpose of limiting a requirement of mandatory suspension of further  
5 proceedings in a workers' compensation appeal in a circuit court or the Court of  
6 Special Appeals and remand of a case to the Workers' Compensation  
7 Commission if an impleader of the Subsequent Injury Fund is filed to  
8 circumstances in which the impleader is filed within a certain time; authorizing  
9 a circuit court or the Court of Special Appeals, for good cause shown, to suspend  
10 further proceedings in a workers' compensation appeal and remand a case to the  
11 Commission if an impleader of the Fund is filed ~~under certain circumstances~~  
12 ~~less than a certain number of days before a certain trial or a certain hearing;~~  
13 ~~providing certain exceptions, to a requirement of mandatory suspension of~~  
14 ~~further proceedings in a workers' compensation appeal in the Court of Special~~  
15 ~~Appeals and remand of a case to the Commission if an impleader of the Fund is~~  
16 ~~filed, for an impleader filed in bad faith or without substantial justification;~~  
17 providing for the application of this Act; and generally relating to altering  
18 certain requirements concerning impleading the Fund on a workers'  
19 compensation appeal in a circuit court or the Court of Special Appeals.

20 BY repealing and reenacting, with amendments,  
21 Article - Labor and Employment  
22 Section 9-807(b)  
23 Annotated Code of Maryland  
24 (1999 Replacement Volume and 2002 Supplement)

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

3 **Article - Labor and Employment**

4 9-807.

5 (b) (1) The Subsequent Injury Fund may be impleaded at any stage of the  
6 proceedings:

7 (i) before the Commission; or

8 (ii) on appeal.

9 (2) If the Subsequent Injury Fund is impleaded on appeal before a circuit  
10 court~~for the Court of Special Appeals~~, the court [shall]:

11 (i) AS TO AN IMPLEADER FILED AT LEAST 90 45 DAYS BEFORE THE  
12 SCHEDULED TRIAL IN THE CIRCUIT COURT OR AT LEAST 45 DAYS BEFORE THE  
13 HEARING IN THE COURT OF SPECIAL APPEALS, SHALL:

14 1. suspend further proceedings; and

15 [(ii)] 2. remand the case to the Commission for further  
16 proceedings to give the Subsequent Injury Fund an opportunity to defend against the  
17 claim; AND

18 (II) AS TO AN IMPLEADER FILED AT ANY OTHER TIME LESS THAN 45  
19 DAYS BEFORE THE TRIAL IN THE CIRCUIT COURT OR LESS THAN 45 DAYS BEFORE  
20 THE HEARING IN THE COURT OF SPECIAL APPEALS, MAY FOR GOOD CAUSE SHOWN:

21 1. SUSPEND FURTHER PROCEEDINGS; AND

22 2. REMAND THE CASE TO THE COMMISSION FOR FURTHER  
23 PROCEEDINGS TO GIVE THE SUBSEQUENT INJURY FUND AN OPPORTUNITY TO  
24 DEFEND AGAINST THE CLAIM.

25 (3) ~~IF THE SUBSEQUENT INJURY FUND IS IMPEADED ON APPEAL~~  
26 ~~BEFORE THE COURT OF SPECIAL APPEALS AND UNLESS THE COURT FINDS THAT THE~~  
27 ~~IMPLEADER WHO FILED IN BAD FAITH OR WITHOUT SUBSTANTIAL JUSTIFICATION,~~  
28 ~~THE COURT SHALL:~~

29 (I) ~~SUSPEND FURTHER PROCEEDINGS; AND~~

30 (II) ~~REMAND THE CASE TO THE COMMISSION FOR FURTHER~~  
31 ~~PROCEEDINGS TO GIVE THE SUBSEQUENT INJURY FUND AN OPPORTUNITY TO~~  
32 ~~DEFEND AGAINST THE CLAIM.~~

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
2 construed to apply only prospectively and may not be applied or interpreted to have  
3 any effect on or application to any appeal filed before the effective date of this Act.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
5 effect October 1, 2003.