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By: **Delegates Wood and Minnick**  
Introduced and read first time: February 5, 2003  
Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Injured Workers' Insurance Fund - Risk Based Capital - Exemption from**  
3 **Excessive Premium Growth Charge**

4 FOR the purpose of exempting the Injured Workers' Insurance Fund from the  
5 excessive premium growth charge or other penalty associated with premium  
6 growth in any risk based capital calculation; and generally relating to the  
7 Injured Workers' Insurance Fund.

8 BY repealing and reenacting, with amendments,  
9 Article - Labor and Employment  
10 Section 10-125  
11 Annotated Code of Maryland  
12 (1999 Replacement Volume and 2002 Supplement)

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

15 **Article - Labor and Employment**

16 10-125.

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

18 (1) examined by the Commissioner in accordance with §§ 2-205 and  
19 2-207 through 2-209 of the Insurance Article; and

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

21 (i) Title 4, Subtitle 3 (Risk Based Capital Standards for Insurers)  
22 as provided in subsection (d) of this section;

23 (ii) Title 5, Subtitles 1, 2, 4, and 9 (Assets and Liabilities, Reserves,  
24 Valuation of Assets and Reinsurance);

25 (iii) Title 9 (Impaired Entities); and

1 (iv) §§ 3-124 (Bulk Reinsurance - Stock Insurers), 4-115 (Home  
2 Office; Location of Accounting Records and Assets), 4-116 (Annual and Interim  
3 Statements; Audited Financial Reports), and 4-118 (Qualified Independent Certified  
4 Public Accountants).

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

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

10 (ii) the Commissioner may take action authorized under §§ 4 -305,  
11 4-306, 4-307, and 4-308 of the Insurance Article relating to risk based capital  
12 standards for insurers.

13 (2) Any order issued under this subsection:

14 (i) may not include a requirement that the Fund increase rates;  
15 and

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

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

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

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

23 (ii) except for § 19-403 (Setting Premium Rates), Title 19, Subtitle  
24 4 of the Insurance Article (Workers' Compensation Insurance); and

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

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

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

32 (d) With respect to any risk based capital calculation under Title 4, Subtitle 3  
33 of the Insurance Article, the Fund shall be subject to the following reductions:

34 (1) for calendar year 2001, the required risk based capital for the Fund  
35 shall be 50% of the requirement for each action level set forth in §§ 4-305 through  
36 4-308 of the Insurance Article;

1 (2) for calendar year 2002, the required risk based capital for the Fund  
2 shall be 60% of the requirement for each action level set forth in §§ 4-305 through  
3 4-308 of the Insurance Article;

4 (3) for calendar year 2003, the required risk based capital for the Fund  
5 shall be 70% of the requirement for each action level set forth in §§ 4-305 through  
6 4-308 of the Insurance Article;

7 (4) for calendar year 2004, the required risk based capital for the Fund  
8 shall be 85% of the requirement for each action level set forth in §§ 4-305 through  
9 4-308 of the Insurance Article; and

10 (5) for calendar year 2005, the required risk based capital for the Fund  
11 shall be 100% of the requirement for each action level set forth in §§ 4-305 through  
12 4-308 of the Insurance Article.

13 (e) For calendar years 2002 through 2005:

14 (1) if the Fund's risk based capital does not equal or exceed the phase-in  
15 level required under subsection (b) of this section, the provisions of §§ 4-305 through  
16 4-308 of the Insurance Article applicable to that level shall apply;

17 (2) (i) if the Fund's risk based capital equals or exceeds the phase-in  
18 level required under subsection (b) of this section, but is less than 100% of the  
19 company action level required under Title 4, Subtitle 3 of the Insurance Article, the  
20 Fund shall file a status report concerning the Fund's November 2, 2001 risk based  
21 capital plan; and

22 (ii) the status report shall state whether the annual results meet or  
23 exceed the results projected in the risk based capital plan and shall describe any  
24 appropriate modification or adjustment to the plan; and

25 (3) if the Fund's risk based capital equals or exceeds 100% of the  
26 company action level required under Title 4, Subtitle 3 of the Insurance Article, the  
27 Fund may not be required to file a risk based capital plan for that year.

28 (f) The Fund [may exclude] IS NOT SUBJECT TO THE EXCESSIVE PREMIUM  
29 GROWTH CHARGE OR ANY OTHER PENALTY ASSOCIATED WITH premium growth  
30 [associated with the residual market business] in any risk based capital calculation  
31 [if the Insurance Commissioner approves the definition of residual business used by  
32 the Fund].

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
34 October 1, 2003.