
By: **Senator Astle**
Introduced and read first time: January 22, 2003
Assigned to: Finance

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.