
By: **Senator Harris**

Introduced and read first time: February 6, 2003

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Health Insurance Reform Act - Modifications - Health**
3 **Reimbursement Plan - Reinsurance Pool**

4 FOR the purpose of repealing provisions of law relating to the Maryland Small
5 Employer Health Reinsurance Pool, its Board of Directors, its plan of operation,
6 the requirement that a carrier elect to become a risk-assuming carrier or
7 reinsuring carrier, reinsurance with the Pool, premiums for reinsurance,
8 management of Pool moneys, assessments to recoup losses by the Pool, required
9 reports and audits, immunity of the Pool, and dissolution of the Pool; requiring
10 the Maryland Health Care Commission to adopt regulations to specify a certain
11 health reimbursement account plan for purposes of small group health
12 insurance; establishing the Maryland Small Group Reinsurance Pool; requiring
13 certain carriers to belong to the Pool; authorizing certain employer self-funded
14 small group plans to elect to participate in the Pool; providing for the status,
15 Board of Directors, and plan of operation of the Pool; requiring the proposed
16 plan of operation to be submitted to the Insurance Commissioner within a
17 certain period of time; requiring the Commissioner to take certain action
18 regarding the plan of operation; requiring the Board to file a certain report with
19 the Commissioner; authorizing each member of the Pool to determine whether
20 or not to cede a risk to the Pool; providing for the determination of a certain
21 reinsurance premium; establishing certain powers and authority of the Board;
22 requiring the Board to deal with a surplus or deficit in the Pool in a certain
23 manner; authorizing the Board to recoup deficits of the Pool by imposing
24 assessments on Pool members in a certain manner; establishing certain
25 eligibility requirements for participation in the small group health insurance
26 plan; exempting the Pool and the Board from payment of certain fees and taxes;
27 establishing certain immunity against liability; defining certain terms; making
28 stylistic changes; and generally relating to modifications to the Maryland
29 Health Insurance Reform Act.

30 BY repealing

31 Article - Insurance

32 Section 15-1215 through 15-1224

33 Annotated Code of Maryland

34 (2002 Replacement Volume and 2002 Supplement)

1 BY repealing and reenacting, without amendments,
2 Article - Insurance
3 Section 15-1201(a)
4 Annotated Code of Maryland
5 (2002 Replacement Volume and 2002 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article - Insurance
8 Section 15-1201(b), (i), and (l) through (p) and 15-1207
9 Annotated Code of Maryland
10 (2002 Replacement Volume and 2002 Supplement)

11 BY adding to
12 Article - Insurance
13 Section 15-1215 through 15-1220
14 Annotated Code of Maryland
15 (2002 Replacement Volume and 2002 Supplement)

16 BY renumbering
17 Article - Insurance
18 Section 15-1225
19 to be Section 15-1221
20 Annotated Code of Maryland
21 (2002 Replacement Volume and 2002 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That Section(s) 15-1215 through 15-1224 of Article - Insurance of the
24 Annotated Code of Maryland be repealed.

25 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
26 read as follows:

27 **Article - Insurance**

28 15-1201.

29 (a) In this subtitle the following words have the meanings indicated.

30 (b) "Board" means the Board of Directors of the Pool established under [§
31 15-1216] § 15-1215 of this subtitle.

32 (i) "Pool" means the [Maryland Small Employer Health Reinsurance Pool]
33 MARYLAND SMALL GROUP REINSURANCE POOL established under this subtitle.

34 (l) ["Reinsuring carrier" means a carrier that participates in the Pool.

1 (m) "Risk-assuming carrier" means a carrier that does not participate in the
2 Pool.

3 (n)] "Small employer" means:

4 (1) an employer described in § 15-1203 of this subtitle; or

5 (2) an entity that leases employees from a professional employer
6 organization, coemployer, or other organization engaged in employee leasing and that
7 otherwise meets the description of § 15-1203 of this subtitle.

8 [(o)] (M) "Special enrollment period" means a period during which a group
9 health plan shall permit certain individuals who are eligible for coverage, but not
10 enrolled, to enroll for coverage under the terms of the group health benefit plan.

11 [(p)] (N) "Standard Plan" means the Comprehensive Standard Health Benefit
12 Plan adopted by the Commission in accordance with § 15-1207 of this subtitle and
13 Title 19, Subtitle 1 of the Health - General Article.

14 15-1207.

15 (a) In accordance with Title 19, Subtitle 1 of the Health - General Article, the
16 Commission shall adopt regulations that specify:

17 (1) the Comprehensive Standard Health Benefit Plan to apply under this
18 subtitle; [and]

19 (2) a modified health benefit plan for medical savings accounts that
20 qualify under the federal Health Insurance Portability and Accountability Act of 1996,
21 including:

22 (i) a waiver of deductibles as permitted under federal law;

23 (ii) minimum funding standards for medical savings accounts; and

24 (iii) authorization for offering the modified plan only by those
25 persons who offer the Comprehensive Standard Health Benefit Plan adopted in
26 accordance with item (1) of this subsection; AND

27 (3) A HEALTH REIMBURSEMENT ACCOUNT PLAN THAT:

28 (I) CONFORMS TO THE REQUIREMENTS FOR HEALTH
29 REIMBURSEMENT ACCOUNT PLANS SET FORTH IN INTERNAL REVENUE RULING
30 2002-41; AND

31 (II) IS SOLD BY A CARRIER TO A SMALL EMPLOYER IN THE STATE.

32 (b) The Commission shall require that the minimum benefits allowed to be
33 offered in the Standard Plan:

1 (1) by a health maintenance organization, shall include at least the
2 actuarial equivalent of the minimum benefits required to be offered by a federally
3 qualified health maintenance organization; and

4 (2) by an insurer or nonprofit health service plan on an
5 expense-incurred basis, shall be actuarially equivalent to at least the minimum
6 benefits required to be offered under item (1) of this subsection.

7 (c) (1) Subject to paragraph (2) of this subsection, the Commission shall
8 exclude or limit benefits or adjust cost-sharing arrangements in the Standard Plan if
9 the average rate for the Standard Plan exceeds 12% of the average annual wage in the
10 State.

11 (2) The Commission annually shall determine the average rate for the
12 Standard Plan by using the average rate submitted by each carrier that offers the
13 Standard Plan.

14 (d) In establishing benefits, the Commission shall judge preventive services,
15 medical treatments, procedures, and related health services based on:

16 (1) their effectiveness in improving the health status of individuals;

17 (2) their impact on maintaining and improving health and on reducing
18 the unnecessary consumption of health care services; and

19 (3) their impact on the affordability of health care coverage.

20 (e) The Commission may exclude:

21 (1) a health care service, benefit, coverage, or reimbursement for covered
22 health care services that is required under this article or the Health - General Article
23 to be provided or offered in a health benefit plan that is issued or delivered in the
24 State by a carrier; or

25 (2) reimbursement required by statute, by a health benefit plan for a
26 service when that service is performed by a health care provider who is licensed under
27 the Health Occupations Article and whose scope of practice includes that service.

28 (f) The Standard Plan shall include uniform deductibles and cost-sharing
29 associated with its benefits, as determined by the Commission.

30 (g) In establishing cost-sharing as part of the Standard Plan, the Commission
31 shall:

32 (1) include cost-sharing and other incentives to help prevent consumers
33 from seeking unnecessary services;

34 (2) balance the effect of cost-sharing in reducing premiums and in
35 affecting utilization of appropriate services; and

1 (3) limit the total cost-sharing that may be incurred by an individual in
2 a year.

3 15-1215.

4 (A) THERE IS A MARYLAND SMALL GROUP REINSURANCE POOL.

5 (B) (1) EACH CARRIER LICENSED TO WRITE AND ENGAGED IN THE WRITING
6 OF SMALL GROUP HEALTH INSURANCE IN THE STATE SHALL BELONG TO THE POOL
7 AS A CONDITION OF ITS AUTHORITY TO TRANSACT BUSINESS IN THE STATE.

8 (2) (I) AN EMPLOYER SELF-FUNDED SMALL GROUP PLAN COVERED
9 BY THE FEDERAL ERISA STATUTE MAY VOLUNTARILY ELECT TO PARTICIPATE IN THE
10 POOL.

11 (II) A SELF-FUNDED PLAN THAT ELECTS TO PARTICIPATE IN THE
12 POOL IS A FULL MEMBER OF THE POOL AND IS ENTITLED TO THE POOL'S BENEFITS
13 AND SUBJECT TO THE POOL'S OBLIGATIONS.

14 (III) A SELF-FUNDED PLAN THAT ELECTS TO PARTICIPATE IN THE
15 POOL SHALL, AS A CONDITION OF PARTICIPATION, ENTER INTO A BINDING
16 AGREEMENT WITH THE POOL TO REMAIN LIABLE FOR POOL ASSESSMENTS FOR A
17 PERIOD OF 3 YEARS AFTER THE DATE OF WITHDRAWAL FROM THE POOL.

18 (C) (1) THE POOL IS A SELF-GOVERNING MARYLAND NONPROFIT
19 CORPORATION.

20 (2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, EACH
21 PARTICIPATING CARRIER AND SELF-FUNDED POOL MEMBER SHALL HAVE VOTING
22 RIGHTS APPORTIONED ACCORDING TO ITS RESPECTIVE SHARE OF THE TOTAL
23 NUMBER OF COVERED LIVES WITH SMALL GROUP HEALTH INSURANCE IN THE
24 STATE.

25 (II) A SINGLE CARRIER MAY NOT HAVE MORE THAN 49% VOTING
26 POWER.

27 (D) (1) THE POOL SHALL ELECT A BOARD OF DIRECTORS.

28 (2) THE BOARD SHALL BE COMPOSED OF AT LEAST FIVE MEMBERS.

29 (3) EACH MEMBER OF THE BOARD SHALL BE A FULL-TIME EMPLOYEE
30 OF A MEMBER OF THE POOL.

31 (4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, EACH
32 MEMBER OF THE BOARD SHALL SERVE FOR A TERM OF 3 YEARS.

33 (II) THE TERMS OF SOME OF THE ORIGINAL BOARD MEMBERS
34 SHALL BE LESS THAN 3 YEARS IN ORDER TO ESTABLISH A SYSTEM OF STAGGERED
35 TERMS.

1 (5) THE MEMBERSHIP OF THE BOARD SHALL FAIRLY REFLECT THE
2 DIVERSITY OF TYPES OF ORGANIZATIONS COMPRISING THE MEMBERSHIP OF THE
3 POOL.

4 (6) THE BOARD SHALL CHOOSE ONE OF ITS MEMBERS TO SERVE AS
5 PRESIDENT AND SHALL CHOOSE OTHER OFFICERS AS ARE REQUIRED BY LAW OR
6 CONSIDERED BY THE POOL TO BE NECESSARY.

7 (7) EACH OFFICER OF THE BOARD SHALL SERVE IN THAT CAPACITY FOR
8 A TERM OF 1 YEAR.

9 (E) THE COMMISSIONER MAY REMOVE ANY MEMBER OF THE BOARD FOR
10 NEGLECT OF DUTY, MISFEASANCE, MALFEASANCE, OR NONFEASANCE IN OFFICE.

11 (F) A MEMBER OF THE BOARD:

12 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE BOARD;
13 BUT

14 (2) IS ENTITLED FOR REIMBURSEMENT FOR EXPENSES UNDER THE
15 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

16 (G) (1) WITHIN 180 DAYS AFTER OCTOBER 1, 2003, THE POOL SHALL SUBMIT
17 TO THE COMMISSIONER A PROPOSED PLAN OF OPERATION THAT IS CONSISTENT
18 WITH THIS SUBTITLE AND ANY OTHER APPLICABLE LAWS OR REGULATIONS.

19 (2) THE PLAN OF OPERATION SHALL PROVIDE FOR ECONOMICAL, FAIR,
20 AND NONDISCRIMINATORY ADMINISTRATION OF THE POOL AND FOR THE PROMPT
21 AND EFFICIENT IMPLEMENTATION OF THE RISK TRANSFER MECHANISMS OF THE
22 POOL.

23 (3) THE PLAN OF OPERATION SHALL INCLUDE PROVISIONS FOR:

24 (I) CREATING A MARYLAND SMALL GROUP REINSURANCE POOL AS
25 CONTEMPLATED BY THIS SUBTITLE, INCLUDING PROCEDURES FOR THE HANDLING
26 AND ACCOUNTING OF ASSETS AND MONEYS OF THE POOL;

27 (II) ESTABLISHING A BUDGET FOR THE OPERATION OF THE POOL;

28 (III) ENGAGING A POOL ADMINISTRATOR, ADOPTING BYLAWS AND
29 OPERATING PROCEDURES, AND MONITORING THE OPERATION OF THE POOL;

30 (IV) DESIGNING PROCEDURES FOR THE TRANSFER RISKS TO THE
31 POOL;

32 (V) ESTABLISHING PROCEDURES FOR THE ASSESSMENT OF
33 MEMBERS FOR ADMINISTRATIVE COSTS AND FOR THE COSTS OF THE POOL; AND

34 (VI) PROVIDING FOR ANY OTHER MATTERS AS MAY BE NECESSARY
35 AND PROPER FOR THE EXECUTION OF THE POOL'S POWERS, DUTIES, AND
36 OBLIGATIONS.

1 (H) (1) THE PLAN OF OPERATION MAY NOT TAKE EFFECT UNTIL APPROVED
2 BY THE COMMISSIONER.

3 (2) IF THE COMMISSIONER DISAPPROVES ALL OR PART OF THE PLAN OF
4 OPERATION, THE COMMISSIONER SHALL STATE THE REASON FOR SO DOING AND
5 SHALL WORK WITH THE POOL TO MODIFY OR AMEND THE PLAN OF OPERATION.

6 (3) IF THE POOL FAILS TO SUBMIT A PLAN OF OPERATION ACCEPTABLE
7 TO THE COMMISSIONER, THE COMMISSIONER SHALL ADOPT A PLAN OF OPERATION
8 FOR THE POOL.

9 (I) (1) AFTER A PLAN OF OPERATION HAS BEEN IMPLEMENTED, THE POOL
10 MAY, IN ACCORDANCE WITH ITS GOVERNING PROCEDURES, ON ITS OWN INITIATIVE
11 FROM TIME TO TIME AMEND THE PLAN OF OPERATION, SUBJECT TO APPROVAL OF
12 ANY CHANGE BY THE COMMISSIONER.

13 (2) THE POOL SHALL ALSO AMEND THE PLAN OF OPERATION AT THE
14 DIRECTION OF THE COMMISSIONER.

15 (J) THE BOARD SHALL OPERATE THE POOL IN A MANNER SO THAT THE
16 ESTIMATED COST OF THE PROGRAM DURING ANY FISCAL YEAR WILL NOT
17 SIGNIFICANTLY EXCEED THE TOTAL INCOME IT EXPECTS TO RECEIVE FROM
18 PREMIUMS PAID BY CARRIERS FOR RISKS CEDED TO THE POOL, INVESTMENT
19 INCOME, ASSESSMENTS, OR FEES COLLECTED OR RECEIVED BY THE BOARD AND ANY
20 OTHER FUNDS PAYABLE TO THE POOL FOR THAT FISCAL YEAR.

21 (K) (1) THE BOARD SHALL FILE WITH THE COMMISSIONER EACH YEAR BY
22 SEPTEMBER 30 A REPORT THAT SUMMARIZES THE ACTIVITIES OF THE POOL IN THE
23 PRECEDING CALENDAR YEAR INCLUDING PREMIUMS FROM RISKS CEDED TO THE
24 POOL, THE EXPENSE OF ADMINISTRATION, THE PAID AND INCURRED LOSSES FOR
25 THE YEAR, AND OTHER INFORMATION AS MAY BE REQUESTED BY THE
26 COMMISSIONER OR DETERMINED TO BE APPROPRIATE BY THE BOARD.

27 (2) THE COMMISSIONER SHALL MAKE THE REPORT AVAILABLE TO THE
28 GOVERNOR, THE GENERAL ASSEMBLY, AND THE PUBLIC.

29 (L) EACH MEMBER OF THE POOL MAY DETERMINE ON A CASE-BY-CASE BASIS
30 AND ON ITS OWN INITIATIVE WHETHER OR NOT TO CEDE A RISK TO THE POOL.

31 (M) EACH RISK CEDED TO THE POOL SHALL BE FOR ALL CLAIMS ASSOCIATED
32 WITH THE COVERAGE PROVIDED BY THE CEDING CARRIER FOR THE RISK.

33 (N) (1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, EACH
34 CARRIER OR PLAN SPONSOR CEDING A RISK TO THE POOL SHALL PAY THE POOL A
35 PREMIUM DETERMINED BY THE RULES GOVERNING THE POOL.

36 (II) THE PREMIUM SHALL BE A MULTIPLE OF THE PREMIUM
37 CHARGED BY THE CARRIER TO THE INSURED FOR THE INDIVIDUAL RISK AND THE
38 MULTIPLE MAY NOT BE LESS THAN ONE.

1 (2) THE POOL HAS THE AUTHORITY TO SET AND, PERIODICALLY AS IT
2 CONSIDERS APPROPRIATE, TO CHANGE THIS REQUIREMENT ABOVE THIS MINIMUM.

3 (3) FOR PURPOSES OF DETERMINING THE REINSURANCE PREMIUM, THE
4 PREMIUM CHARGED BY THE CARRIER TO THE INSURED SHALL BE THE ACTUAL
5 PREMIUM CHARGED FOR THE RISK OR, IF COVERAGE OF THE INSURED IS
6 UNDERWRITTEN ON A GROUP BASIS, THE PREMIUM THAT WOULD OTHERWISE BE
7 CHARGED TO THE INDIVIDUAL RISK AFTER ELECTION OF COBRA COVERAGE.

8 (O) (1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A
9 CARRIER OR PLAN SPONSOR CEDING A RISK TO THE POOL SHALL RETAIN A PORTION
10 OF THE RISK (RISK CORRIDOR), AS DETERMINED BY THE RULES GOVERNING THE
11 POOL, AND SHALL BE LIABLE FOR THAT PORTION OF ALL CLAIMS ASSOCIATED WITH
12 THE CEDED RISK.

13 (II) THE RETAINED RISK MAY NOT BE LESS THAN 10%.

14 (2) THE POOL SHALL HAVE THE AUTHORITY TO SET AND, PERIODICALLY
15 AS IT CONSIDERS APPROPRIATE, CHANGE THIS REQUIREMENT ABOVE THIS
16 MINIMUM.

17 (P) (1) EACH RISK CEDED TO THE POOL SHALL BE CEDED FOR THE LESSER
18 OF A PERIOD OF 12 MONTHS OR UNTIL THE RISK IS NO LONGER COVERED BY A SMALL
19 GROUP INSURANCE PLAN PROVIDED BY THE CEDING CARRIER.

20 (2) THE POOL MAY NOT IMPOSE ANY RESTRICTION ON THE NUMBER OF
21 CONSECUTIVE TIMES A CARRIER MAY CEDE A SPECIFIC RISK TO THE POOL.

22 (Q) (1) THE BOARD IS NOT LIABLE FOR ANY OBLIGATION OF THE POOL.

23 (2) THERE IS NO LIABILITY ON THE PART OF ANY MEMBER OR
24 EMPLOYEE OF THE BOARD, AND NO CAUSE OF ACTION OF ANY NATURE MAY ARISE
25 AGAINST THEM, FOR ANY ACTION TAKEN OR OMISSION MADE BY THEM IN THE
26 PERFORMANCE OF THEIR POWERS AND DUTIES UNDER THIS SUBTITLE , UNLESS THE
27 ACTION OR OMISSION CONSTITUTES WILLFUL OR WANTON MISCONDUCT.

28 (3) THE BOARD MAY PROVIDE IN ITS BYLAWS OR RULES FOR
29 INDEMNIFICATION OF AND LEGAL REPRESENTATION FOR ITS MEMBERS AND
30 EMPLOYEES.

31 15-1216.

32 THE BOARD SHALL HAVE THE FOLLOWING POWERS AND AUTHORITY:

33 (1) TO ESTABLISH AND MAINTAIN A POOL FUND, AS DESCRIBED IN THIS
34 SUBTITLE;

35 (2) TO ENTER INTO CONTRACTS AS ARE NECESSARY OR PROPER TO
36 CARRY OUT THE PROVISIONS AND PURPOSES OF THIS SUBTITLE, INCLUDING THE
37 AUTHORITY, WITH THE APPROVAL OF THE COMMISSIONER, TO ENTER INTO

1 CONTRACTS WITH SIMILAR PLANS OF OTHER STATES FOR THE JOINT PERFORMANCE
2 OF COMMON ADMINISTRATIVE FUNCTIONS, OR WITH PERSONS OR OTHER
3 ORGANIZATIONS FOR THE PERFORMANCE OF ADMINISTRATIVE FUNCTIONS;

4 (3) TO SUE OR BE SUED;

5 (4) TO TAKE LEGAL ACTION AS MAY BE NECESSARY:

6 (I) TO AVOID THE PAYMENT OF IMPROPER CLAIMS AGAINST THE
7 POOL OR THE COVERAGE PROVIDED BY OR THROUGH THE POOL;

8 (II) TO RECOVER ANY AMOUNTS ERRONEOUSLY OR IMPROPERLY
9 PAID BY THE POOL;

10 (III) TO RECOVER ANY AMOUNTS PAID BY THE POOL AS A RESULT
11 OF A MISTAKE OF FACT OR LAW; OR

12 (IV) TO RECOVER OR COLLECT ANY OTHER AMOUNTS, INCLUDING
13 ASSESSMENTS, THAT ARE DUE OR OWED THE POOL OR HAVE BEEN BILLED ON THE
14 BOARD'S OR THE POOL'S BEHALF;

15 (5) TO BORROW MONEY AND PAY INTEREST;

16 (6) TO APPLY FOR AND RECEIVE ANY APPLICABLE FEDERAL, STATE, OR
17 PRIVATE GRANT MONEY TO FUND EITHER THE ADMINISTRATION OF THE POOL OR
18 POOL LOSSES;

19 (7) TO ESTABLISH RULES, CONDITIONS, AND PROCEDURES FOR
20 REINSURING RISKS UNDER THIS SUBTITLE; AND

21 (8) TO EMPLOY, FIX THE COMPENSATION, AND TERMINATE
22 EMPLOYMENT OF EMPLOYEES OF THE POOL.

23 15-1217.

24 (A) (1) IN THIS SUBSECTION, "FUTURE LOSSES" INCLUDES RESERVES FOR
25 INCURRED BUT NOT REPORTED CLAIMS.

26 (2) IF PREMIUMS OR OTHER RECEIPTS MAINTAINED BY THE BOARD
27 EXCEED THE AMOUNT REQUIRED FOR THE OPERATION OF THE POOL, INCLUDING
28 ACTUAL LOSSES AND ADMINISTRATIVE EXPENSES OF THE POOL, THE BOARD SHALL
29 DIRECT THAT THE EXCESS BE HELD AT INTEREST, IN A BANK DESIGNATED BY THE
30 BOARD, OR USED TO OFFSET FUTURE LOSSES.

31 (B) FOR PURPOSES OF THIS SECTION, A DEFICIT SHALL BE INCURRED WHEN
32 ANTICIPATED LOSSES AND INCURRED BUT NOT REPORTED CLAIMS EXPENSES
33 EXCEED ANTICIPATED INCOME FROM EARNED PREMIUMS NET OF ADMINISTRATIVE
34 EXPENSES.

35 (C) (1) ANY DEFICIT INCURRED OR EXPECTED TO BE INCURRED SHALL BE
36 RECOUPED BY PREMIUMS PAID TO THE POOL BY POOL MEMBERS TO REINSURE

1 RISKS AND AN ASSESSMENT OF ALL POOL MEMBERS MADE IN ACCORDANCE WITH
2 THIS SUBTITLE.

3 (2) (I) AT THE END OF THE YEAR, THE POOL ADMINISTRATOR SHALL
4 ESTIMATE THE AMOUNT OF FUNDS NECESSARY TO COVER THE COSTS OF THE POOL
5 FOR THE FOLLOWING YEAR, TAKING INTO ACCOUNT ANY DEFICIT FOR THE CURRENT
6 YEAR, AND SHALL NOTIFY THE BOARD OF THE MONEYS NEEDED TO OPERATE THE
7 POOL FOR THE YEAR.

8 (II) THIS DETERMINATION SHALL BE MADE SUFFICIENTLY IN
9 ADVANCE TO ALLOW CARRIERS TO BUILD THE ASSESSMENTS INTO THEIR RATES.

10 (3) THE BOARD SHALL DETERMINE THE PROPORTIONATE ASSESSMENT
11 FOR POOL MEMBERS, BASED ON EACH MEMBER'S NUMBER OF COVERED LIVES WITH
12 SMALL GROUP HEALTH INSURANCE IN THE STATE, AND SHALL NOTIFY EACH POOL
13 MEMBER ANNUALLY OF ITS ASSESSMENT AMOUNT FOR THE ANTICIPATED DEFICIT.

14 (4) IF NECESSARY, THE BOARD MAY ASSESS POOL MEMBERS MORE
15 OFTEN THAN ANNUALLY BUT NOT MORE OFTEN THAN FOUR TIMES A YEAR.

16 (5) (I) IN THE FIRST YEAR OF THE OPERATION OF THE POOL, THE
17 BOARD SHALL ESTIMATE THE POOL'S ANTICIPATED LOSS.

18 (II) THE INITIAL ASSESSMENT SHALL BE MADE 60 DAYS AFTER THE
19 PLAN OF OPERATION HAS BEEN APPROVED BY THE COMMISSIONER.

20 (D) (1) A POOL MEMBER MAY PETITION THE BOARD FOR AN ABATEMENT OR
21 DEFERMENT OF ALL OR PART OF AN ASSESSMENT.

22 (2) THE BOARD MAY ABATE OR DEFER ALL OR PART OF THE
23 ASSESSMENT IF, IN THE OPINION OF THE BOARD, PAYMENT OF THE ASSESSMENT
24 WOULD ENDANGER THE ABILITY OF THE POOL MEMBER TO FULFILL THE POOL'S
25 CONTRACTUAL OBLIGATIONS TO PAY COVERED HEALTH CARE CLAIMS.

26 (3) IF ALL OR PART OF AN ASSESSMENT AGAINST A POOL MEMBER IS
27 ABATED OR DEFERRED, THE AMOUNT BY WHICH THE ASSESSMENT IS ABATED OR
28 DEFERRED SHALL BE ASSESSED AGAINST THE POOL MEMBERS IN A MANNER
29 CONSISTENT WITH THE BASIS FOR ASSESSMENTS SET FORTH IN THIS SECTION.

30 (4) THE POOL MEMBER RECEIVING A DEFERMENT REMAINS LIABLE TO
31 THE POOL FOR THE DEFICIENCY FOR 4 YEARS.

32 (E) A POOL MEMBER MAY APPEAL TO THE COMMISSIONER AN ADVERSE
33 DECISION BY THE BOARD OF A REQUEST TO ABATE OR DEFER AN ASSESSMENT.

34 15-1218.

35 (A) SECTIONS 15-1215 THROUGH 15-1220 OF THIS SUBTITLE APPLY TO ALL
36 SMALL GROUP HEALTH INSURANCE PLANS SOLD IN THE STATE.

1 (B) ALL MEMBERS OF THE POOL, WHETHER MANDATORY OR VOLUNTARY
2 MEMBERS IN ACCORDANCE WITH § 15-1215 OF THIS SUBTITLE, SHALL PARTICIPATE
3 IN THE POOL IN ACCORDANCE WITH THIS SECTION.

4 (C) THE CARRIER MAY REQUIRE VERIFICATION OF RESIDENCY OR
5 EMPLOYMENT, AND MAY REQUIRE ANY ADDITIONAL INFORMATION OR
6 DOCUMENTATION, OR STATEMENTS UNDER OATH, WHEN NECESSARY TO
7 DETERMINE RESIDENCY OR EMPLOYMENT STATUS OF AN APPLICANT ON INITIAL
8 APPLICATION AND FOR THE ENTIRE TERM OF THE POLICY.

9 (D) COVERAGE BY THE POOL FOR A CEDED RISK CEASES:

10 (1) AT THE END OF THE 12-MONTH PERIOD FOR WHICH THE RISK HAS
11 BEEN CEDED;

12 (2) ON THE DATE A PERSON IS NO LONGER A COVERED INDIVIDUAL
13 UNDER A SMALL GROUP HEALTH INSURANCE PLAN ISSUED IN THE STATE BY THE
14 CARRIER; OR

15 (3) AT THE CARRIER'S OPTION, 30 DAYS AFTER THE CARRIER MAKES AN
16 INQUIRY CONCERNING A PERSON'S ELIGIBILITY OR PLACE OF RESIDENCE OR
17 EMPLOYMENT TO WHICH THE COVERED PERSON DOES NOT REPLY OR WHOSE REPLY
18 DOES NOT SATISFY THE CARRIER THAT THE PERSON IS ELIGIBLE FOR COVERAGE
19 UNDER A SMALL GROUP HEALTH INSURANCE PLAN ISSUED IN THE STATE BY THE
20 CARRIER.

21 (E) THE COVERAGE OF ANY PERSON WHO CEASES TO MEET THE ELIGIBILITY
22 REQUIREMENTS OF THIS SECTION SHALL BE TERMINATED AT THE END OF THE
23 CURRENT POLICY PERIOD FOR WHICH THE NECESSARY PREMIUMS HAVE BEEN PAID.
24 15-1219.

25 THE POOL AND THE BOARD ESTABLISHED UNDER THIS SUBTITLE ARE EXEMPT
26 FROM PAYMENT OF ALL FEES AND ALL TAXES LEVIED BY THE STATE.

27 15-1220.

28 PARTICIPATION IN THE OPERATION OF THE POOL, THE ESTABLISHMENT OF
29 RATES, FORMS OR PROCEDURES, OR ANY OTHER JOINT OR COLLECTIVE ACTION
30 REQUIRED BY THIS SUBTITLE MAY NOT BE THE BASIS OF ANY LEGAL ACTION,
31 CRIMINAL OR CIVIL LIABILITY, OR PENALTY AGAINST THE POOL, THE POOL
32 ADMINISTRATOR, THE BOARD OR ANY OF THE BOARD'S MEMBERS, EMPLOYEES,
33 CONTRACTORS, OR CONSULTANTS.

34 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 15-1225 of
35 Article - Insurance of the Annotated Code of Maryland be renumbered to be
36 Section(s) 15-1221.

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

