

**Department of Legislative Services**  
Maryland General Assembly  
2006 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 1035  
Economic Matters

(Delegates Simmons and Feldman)

Finance

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**Uninsured Employers' Fund - Liability of Corporate Officers and Limited  
Liability Company Members**

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This bill makes an officer of a corporation with general management responsibility and a member of a limited liability company (LLC) with general management responsibility jointly and severally liable for the payment of workers' compensation awards or assessments, if the assets of the corporation or LLC are not sufficient for payment and the officer knowingly failed to secure workers' compensation insurance.

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**Fiscal Summary**

**State Effect:** Potential increase in special fund revenues for recovered costs of the Uninsured Employers' Fund (UEF) and assessment of the Workers' Compensation Commission (WCC).

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** An officer of a corporation and a member of an LLC are not jointly and severally liable for workers' compensation awards or assessments.

An employer that fails to comply with coverage requirements or fails to pay an award is guilty of a misdemeanor and is subject to a fine of up to \$5,000 and/or one year imprisonment. The general management officers of a corporation are subject to the fine and imprisonment. Members of an LLC are not subject to the same penalties.

**Background:** UEF is authorized to institute a civil action to recover money paid under an award for workers' compensation of an uninsured employer. This authority is seldom used. UEF is funded through assessments imposed by WCC. When WCC makes a decision on a claim against an uninsured employer, it may impose an assessment on the employer of at least \$150 but not exceeding \$500 and 15% of any award made, not exceeding \$2,500 for any one claim. WCC also assesses an amount equal to 1% of each award against an employer for permanent disability or death and 1% of each amount payable by an employer under a settlement approved by WCC.

Numerous states have varying laws that make officers of corporations jointly and severally liable for workers' compensation judgments or fines, including Alaska, New York, New Jersey, Oregon, and the District of Columbia.

**State Revenues:** The magnitude of any increase in revenues collected from officers of corporations and members of LLCs cannot be reliably estimated at this time. Any increase depends on UEF's success in maintaining such an action. UEF advises that it cannot estimate the number of cases to which this bill would apply.

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### **Additional Information**

**Prior Introductions:** HB 1085 of 2005, an identical bill, received an unfavorable report from the House Economic Matters Committee.

**Cross File:** None.

**Information Source(s):** National Council on Compensation Insurance, Uninsured Employers' Fund, Workers' Compensation Commission, Injured Workers' Insurance Fund, Subsequent Injury Fund, Maryland Insurance Administration, Department of Legislative Services

**Fiscal Note History:** First Reader - March 6, 2006  
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