

# HOUSE BILL 972

C3

9lr2115

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By: **Delegate Kach**

Introduced and read first time: February 13, 2009

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurers - RBC Reduction Plan**

3 FOR the purpose of requiring each health insurer to notify the Insurance  
4 Commissioner on a certain date if the RBC level of the health insurer exceeds a  
5 certain product; requiring each health insurer filing a certain notification to also  
6 file an RBC reduction plan for a certain purpose; requiring the RBC reduction  
7 plan to consider certain items; requiring the Commissioner to take certain  
8 actions with regard to the RBC reduction plan; authorizing an insurer to  
9 challenge certain actions by the Commissioner; defining a certain term; and  
10 generally relating to RBC levels and RBC reduction plans filed by health  
11 insurers.

12 BY repealing and reenacting, without amendments,  
13 Article – Insurance  
14 Section 4–301(a), (n), and (o)  
15 Annotated Code of Maryland  
16 (2003 Replacement Volume and 2008 Supplement)

17 BY adding to  
18 Article – Insurance  
19 Section 4–301(p) and 4–315  
20 Annotated Code of Maryland  
21 (2003 Replacement Volume and 2008 Supplement)

22 BY repealing and reenacting, with amendments,  
23 Article – Insurance  
24 Section 4–301(p), (q), and (r) and 4–309  
25 Annotated Code of Maryland  
26 (2003 Replacement Volume and 2008 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Insurance**

4 4–301.

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

6 (n) “RBC level” means an insurer’s company action level RBC, regulatory  
7 action level RBC, authorized control level RBC, or mandatory control level RBC if:

8 (1) “company action level RBC” means the product of 2.0 and the  
9 authorized control level RBC;

10 (2) “regulatory action level RBC” means the product of 1.5 and the  
11 authorized control level RBC;

12 (3) “authorized control level RBC” means the number determined  
13 under the risk based capital formula in accordance with the RBC instructions; or

14 (4) “mandatory control level RBC” means the product of .70 and the  
15 authorized control level RBC.

16 (o) “RBC plan” means a comprehensive financial plan that contains the  
17 elements specified in § 4–305(b) of this subtitle.

18 **(P) “RBC REDUCTION PLAN” MEANS A COMPREHENSIVE FINANCIAL**  
19 **PLAN THAT CONTAINS THE ELEMENTS SPECIFIED IN § 4–315(B) AND (C) OF THIS**  
20 **SUBTITLE.**

21 **[(p)] (Q)** “RBC report” means a report prepared by a domestic insurer and  
22 submitted to the Commissioner that details the domestic insurer’s RBC levels as of the  
23 end of the immediately preceding calendar year.

24 **[(q)] (R)** “Revised RBC plan” means an RBC plan that has been:

25 (1) rejected by the Commissioner; and

26 (2) subsequently revised by the insurer, with or without the  
27 Commissioner’s recommendation.

28 **[(r)] (S)** “Total adjusted capital” means the sum of:

29 (1) an insurer’s statutory capital and surplus as determined in  
30 accordance with the statutory accounting principles applicable to the annual financial  
31 statements required to be filed under State law and regulations; and

1 (2) any other items provided for in the RBC instructions.

2 4-309.

3 (a) An insurer may challenge any of the following determinations made or  
4 actions taken by the Commissioner under this subtitle:

5 (1) notification to an insurer by the Commissioner of an adjusted RBC  
6 report;

7 (2) notification to an insurer by the Commissioner that:

8 (i) the insurer's RBC plan or revised RBC plan is  
9 unsatisfactory; and

10 (ii) the notification constitutes a regulatory action level event  
11 with respect to that insurer;

12 (3) notification to an insurer by the Commissioner that:

13 (i) the insurer has failed to adhere to its RBC plan or revised  
14 RBC plan; and

15 (ii) the failure has a substantial adverse effect on the ability of  
16 the insurer to eliminate the company action level event with respect to the insurer in  
17 accordance with its RBC plan or revised RBC plan; [or]

18 (4) notification to an insurer by the Commissioner of a corrective order  
19 with respect to the insurer; **OR**

20 **(5) DENIAL OR MODIFICATION BY THE COMMISSIONER OF AN**  
21 **INSURER'S RBC REDUCTION PLAN.**

22 (b) (1) At the request of an insurer, the Commissioner shall hold a  
23 confidential hearing on the record under § 2-213(a) of this article to determine the  
24 validity of a challenge by the insurer.

25 (2) To request a hearing under this subsection, the insurer shall notify  
26 the Commissioner of its request within 5 days after the notification by the  
27 Commissioner under subsection (a) of this section.

28 (3) On receipt of the insurer's request for a hearing, the Commissioner  
29 shall hold a hearing within 30 days after the date of the insurer's request.

30 4-315.

1           **(A) EACH HEALTH INSURER SHALL NOTIFY THE COMMISSIONER ON**  
2 **THE FILING DATE IF ITS RBC LEVEL EXCEEDS THE PRODUCT OF 5.0 AND THE**  
3 **AUTHORIZED CONTROL LEVEL RBC.**

4           **(B) EACH HEALTH INSURER FILING A NOTIFICATION UNDER**  
5 **SUBSECTION (A) OF THIS SECTION SHALL ALSO FILE AN RBC REDUCTION PLAN**  
6 **TO EFFECT A REDUCTION OF ITS RBC LEVEL IN THE CURRENT CALENDAR YEAR**  
7 **SO THAT ITS RBC LEVEL DOES NOT EXCEED THE PRODUCT OF 5.0 AND THE**  
8 **AUTHORIZED CONTROL LEVEL RBC.**

9           **(C) THE RBC REDUCTION PLAN SHALL CONSIDER:**

10                   **(1) A REDUCTION OF PREMIUMS CHARGED; AND**

11                   **(2) AN INCREASE IN REIMBURSEMENT FOR HEALTH SERVICES**  
12 **DELIVERED UNDER POLICIES OR CONTRACTS OF THE HEALTH INSURER.**

13           **(D) THE COMMISSIONER SHALL APPROVE, DENY, OR MODIFY THE RBC**  
14 **REDUCTION PLAN.**

15           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2009.