

# HOUSE BILL 1235

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9lr2854

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By: **Delegate Krysiak**

Introduced and read first time: February 13, 2009

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Injured Workers' Insurance Fund - Rate Filing**

3 FOR the purpose of requiring the Injured Workers' Insurance Fund to file with the  
4 Maryland Insurance Commissioner all rates, supplementary rate information,  
5 policy forms, and endorsements that the Fund proposes to use; authorizing the  
6 Commissioner to approve or disapprove rates proposed by the Fund in a certain  
7 manner; subjecting the Fund to certain provisions of the Insurance Article  
8 relating to prior approval rate making; repealing a certain prohibition against  
9 the Commissioner issuing a certain order to the Fund; authorizing the  
10 Commissioner to suspend the authority of the Fund to write insurance under  
11 certain circumstances; authorizing the Commissioner to examine or review the  
12 Fund for compliance with certain provisions of law on setting premium rates;  
13 making a certain schedule of premium rates set by the Board for the Fund  
14 subject to approval of the Commissioner; providing for the application of this  
15 Act; making stylistic changes; and generally relating to the Injured Workers'  
16 Insurance Fund.

17 BY repealing and reenacting, without amendments,  
18 Article - Insurance  
19 Section 1-101(k), 11-205(a) through (e), and 11-206(a)  
20 Annotated Code of Maryland  
21 (2003 Replacement Volume and 2008 Supplement)

22 BY repealing and reenacting, with amendments,  
23 Article - Insurance  
24 Section 11-202(b)  
25 Annotated Code of Maryland  
26 (2003 Replacement Volume and 2008 Supplement)

27 BY repealing and reenacting, with amendments,  
28 Article - Insurance

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 19–403  
2 Annotated Code of Maryland  
3 (2006 Replacement Volume and 2008 Supplement)

4 BY repealing and reenacting, without amendments,  
5 Article – Labor and Employment  
6 Section 10–101(e)  
7 Annotated Code of Maryland  
8 (2008 Replacement Volume)

9 BY repealing and reenacting, with amendments,  
10 Article – Labor and Employment  
11 Section 10–125(a), (b), and (c) and 10–130(a)  
12 Annotated Code of Maryland  
13 (2008 Replacement Volume)

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

16 **Article – Insurance**

17 1–101.

18 (k) “Commissioner” means the Maryland Insurance Commissioner.

19 11–202.

20 (b) This subtitle does not apply to:

21 (1) reinsurance, except as provided in § 11–222 of this subtitle;

22 (2) insurance of vessels or craft or their cargoes, marine protection and  
23 indemnity insurance, or insurance of other risks commonly insured under policies of  
24 marine insurance, as distinguished from inland marine insurance;

25 (3) insurance against loss of or damage to aircraft including their  
26 accessories and equipment, or insurance against liability, other than workers’  
27 compensation insurance or employer’s liability insurance, arising out of the ownership,  
28 maintenance, or use of aircraft; **OR**

29 (4) title insurance[; or

30 (5) the Injured Workers’ Insurance Fund].

31 11–205.

1 (a) All rates shall be made in accordance with the principles set forth in this  
2 section.

3 (b) Uniformity among insurers in matters within the scope of this subtitle is  
4 neither required nor prohibited.

5 (c) Due consideration shall be given to:

6 (1) past and prospective loss experience within and outside the State;

7 (2) conflagration and catastrophe hazards, if any;

8 (3) past and prospective expenses, both countrywide and those  
9 specially applicable to the State;

10 (4) underwriting profits;

11 (5) contingencies;

12 (6) investment income from unearned premium reserve and reserve  
13 for losses;

14 (7) dividends, savings, or unabsorbed premium deposits allowed or  
15 returned by insurers to policyholders; and

16 (8) all other relevant factors within and outside the State.

17 (d) Rates may not be excessive, inadequate, or unfairly discriminatory.

18 (e) The systems of expense provisions included in the rates for use by an  
19 insurer or group of insurers may differ from those of other insurers or groups of  
20 insurers to reflect the requirements of the operating methods of the insurer or group  
21 with respect to a kind of insurance, or with respect to a subdivision or combination of  
22 kinds of insurance for which separate expense provisions are applicable.

23 11-206.

24 (a) (1) Except as otherwise provided in this section, each insurer shall file  
25 with the Commissioner all rates, supplementary rate information, policy forms, and  
26 endorsements and all modifications of rates, supplementary rate information, policy  
27 forms, and endorsements that the insurer proposes to use.

28 (2) Each filing shall state its proposed effective date and shall indicate  
29 the character and extent of the coverage contemplated.

30 19-403.

31 (a) The Commissioner may:

1 (1) determine whether the premium rates of an insurer adequately  
2 cover the risks applicable to a workers' compensation insurance policy under Titles 9  
3 and 10 of the Labor and Employment Article; and

4 (2) require the insurer to set premium rates that are adequate to cover  
5 those risks.

6 (b) Each insurer shall set premium rates for workers' compensation  
7 insurance in accordance with the requirements of the Commissioner under subsection  
8 (a) of this section.

9 (c) (1) A person that violates subsection (b) of this section is guilty of a  
10 misdemeanor and on conviction is subject to a fine not exceeding \$1,000.

11 (2) The Commissioner may revoke the certificate of authority of a  
12 person that is convicted under this section.

13 **(3) FOR A CONVICTION UNDER THIS SECTION, THE**  
14 **COMMISSIONER MAY SUSPEND THE ABILITY OF THE INJURED WORKERS'**  
15 **INSURANCE FUND TO WRITE INSURANCE.**

#### 16 **Article – Labor and Employment**

17 10–101.

18 (e) “Fund” means the Injured Workers’ Insurance Fund.

19 10–125.

20 (a) The Fund shall be:

21 (1) examined by the Commissioner in accordance with Title 2, Subtitle  
22 2 (Enforcement) of the Insurance Article; and

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

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

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

28 (iii) Title 9 (Impaired Entities);[and]

29 (iv) §§ 3–124 (Bulk Reinsurance – Stock Insurers), 4–115 (Home  
30 Office; Location of Accounting Records and Assets), 4–116 (Annual and Interim

1 Statements; Audited Financial Reports), and 4–118 (Qualified Independent Certified  
2 Public Accountants); **AND**

3 **(V) TITLE 11, SUBTITLE 2 (PRIOR APPROVAL RATE**  
4 **MAKING).**

5 (b) (1) The Commissioner may enforce any provision of the Insurance  
6 Article to which the Fund is subject under subsections (a) and (c) of this section.

7 (2) Any order issued under this subsection[:

8 (i) may not include a requirement that the Fund increase rates;  
9 and

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

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

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

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

17 (ii) [except for § 19–403 (Setting Premium Rates),] Title 19,  
18 Subtitle 4 of the Insurance Article (Workers' Compensation Insurance); and

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

21 (2) The Commissioner shall report to the Board on the results of any  
22 examination or review conducted under this subsection.

23 10–130.

24 (a) [The] **SUBJECT TO THE APPROVAL OF THE COMMISSIONER, THE**  
25 Board shall adopt, by regulation, a schedule of premium rates, as provided in this  
26 section.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
28 construed to apply only prospectively and may not be applied or interpreted to have  
29 any effect on or application to any policies for workers' compensation insurance that  
30 were issued or renewed by the Injured Workers' Insurance Fund before the effective  
31 date of this Act.

1           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2009.