

HOUSE BILL 1235

C4, K1

9lr2854

By: **Delegate Krysiak**

Introduced and read first time: February 13, 2009

Assigned to: Economic Matters

Committee Report: Favorable

House action: Adopted

Read second time: March 11, 2009

CHAPTER _____

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)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2003 Replacement Volume and 2008 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Insurance
5 Section 19–403
6 Annotated Code of Maryland
7 (2006 Replacement Volume and 2008 Supplement)

8 BY repealing and reenacting, without amendments,
9 Article – Labor and Employment
10 Section 10–101(e)
11 Annotated Code of Maryland
12 (2008 Replacement Volume)

13 BY repealing and reenacting, with amendments,
14 Article – Labor and Employment
15 Section 10–125(a), (b), and (c) and 10–130(a)
16 Annotated Code of Maryland
17 (2008 Replacement Volume)

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

20 **Article – Insurance**

21 1–101.

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

23 11–202.

24 (b) This subtitle does not apply to:

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

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

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

33 (4) title insurance[; or

1 (5) the Injured Workers' Insurance Fund].

2 11-205.

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

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

7 (c) Due consideration shall be given to:

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

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

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

12 (4) underwriting profits;

13 (5) contingencies;

14 (6) investment income from unearned premium reserve and reserve
15 for losses;

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

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

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

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

25 11-206.

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

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

3 19-403.

4 (a) The Commissioner may:

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

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

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

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

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

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

20 **Article - Labor and Employment**

21 10-101.

22 (e) "Fund" means the Injured Workers' Insurance Fund.

23 10-125.

24 (a) The Fund shall be:

25 (1) examined by the Commissioner in accordance with Title 2, Subtitle
26 2 (Enforcement) of the Insurance Article; and

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

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

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

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

2 (iv) §§ 3–124 (Bulk Reinsurance – Stock Insurers), 4–115 (Home
3 Office; Location of Accounting Records and Assets), 4–116 (Annual and Interim
4 Statements; Audited Financial Reports), and 4–118 (Qualified Independent Certified
5 Public Accountants); **AND**

6 (v) **TITLE 11, SUBTITLE 2 (PRIOR APPROVAL RATE**
7 **MAKING).**

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

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

11 (i) may not include a requirement that the Fund increase rates;
12 and

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

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

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

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

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

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

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

26 10–130.

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

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
31 construed to apply only prospectively and may not be applied or interpreted to have

1 any effect on or application to any policies for workers' compensation insurance that
2 were issued or renewed by the Injured Workers' Insurance Fund before the effective
3 date of this Act.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.