

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 1235
Economic Matters

(Delegate Krysiak)

Finance

Injured Workers' Insurance Fund - Rate Filing

This bill requires the Injured Workers' Insurance Fund (IWIF) to submit its rates, supplementary rate information, policy forms, and endorsements to the Maryland Insurance Administration (MIA) for MIA's prior approval. If IWIF fails to set premium rates for workers' compensation insurance policies according to the Insurance Commissioner's requirements, the Commissioner may suspend IWIF's ability to write insurance.

Fiscal Summary

State Effect: MIA can handle any additional rate filings with existing budgeted resources. Potential minimal special fund revenue increase for MIA from the \$125 rate and form filing fee.

Injured Workers' Insurance Fund (IWIF) Effect: Potential minimal increase in IWIF expenditures associated with rate and filing approval through MIA.

Local Effect: The bill does not directly affect local finances or operations.

Small Business Effect: None.

Analysis

Current Law/Background: IWIF is currently exempt from the provisions of State law governing insurance rate making by private insurers, including regulation, examination, and enforcement by the Commissioner. Under current law, IWIF is required to submit a detailed package of information to the Governor that includes the schedule of premium

rates that IWIF will charge for the next calendar year. The board of IWIF, appointed by the Governor, has the authority to determine the schedule of premium rates based on the rating system that, in the opinion of the board:

- most accurately measures the level of hazard for each policyholder on the basis of the number of injuries that occur in the enterprises of the policyholder;
- encourages the prevention of injuries; and
- ensures the solvency of IWIF from year to year.

Each workers' compensation insurer in Maryland, except IWIF, must join the National Council on Compensation Insurance (NCCI) and adhere to the policy forms filed by NCCI. By statute, IWIF is exempt from NCCI affiliation and from filing its rates with MIA. Although the bill requires IWIF to file its rates with MIA, the bill does not require IWIF to join NCCI. IWIF has developed its own loss costs data system, based solely on IWIF's loss experience. IWIF's rates are formulated based on this data, in consultation with IWIF's outside actuary, and approved by the board for IWIF.

Chapter 612 of 2008 required MIA to study the impact of subjecting IWIF to statutory provisions regarding ratemaking, rating, and rate review that are enforced by MIA for other property and casualty insurers. The study included an analysis of whether IWIF's current rate making practices produce actuarially sound rates; a determination of the cost to IWIF to file its rates with a rating organization; and a comparison of the experience rating plan used by IWIF for small employers as compared to the plan established by a rating organization for small employers.

In its January 2009 report delivered to the Senate Finance Committee and the House Economic Matters Committee, MIA concluded that:

- IWIF should be authorized to continue in its dual role as an insurer of last resort and a competitive insurer, but also subjected to the laws governing other competitive insurers writing workers' compensation policies in the State;
- IWIF be required to pay the premium tax;
- IWIF be required to pay the annual assessment to the Insurance Regulation Fund;
- IWIF be required to become an NCCI member using a five-year transition period;
- IWIF's current rate making procedures produce actuarially sound rates, but those rates should be subject to MIA review and prior approval;
- the General Assembly should remove the statutory prohibition on the Commissioner's ability to order IWIF to increase its rates;

- the General Assembly should require IWIF to use only licensed producers that it appoints and make it responsible for the actions of the producers; and
- IWIF should be provided with an assessment mechanism to allow IWIF, in the event of financial distress, to assess all other competitive insurers writing workers' compensation insurance in the State for losses resulting from its residual business.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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ncs/ljm

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