

SENATE BILL 212

K1
SB 953/10 – FIN

11r1349
CF HB 417

By: **Senators Klausmeier, Edwards, ~~and Kittleman~~ Kittleman, Middleton, Garagiola, Glassman, Kelley, Mathias, Muse, and Pugh**

Introduced and read first time: January 27, 2011

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 4, 2011

CHAPTER _____

1 AN ACT concerning

2 **Workers' Compensation – Death Benefits – Dependency**

3 FOR the purpose of providing that certain death benefit provisions of the workers'
4 compensation law apply only to certain covered employees of a municipal
5 corporation or a county and their dependents; altering the authority of the
6 Workers' Compensation Commission to make certain determinations of
7 dependency; altering a provision of law that specifies that certain surviving
8 spouses and individuals are not entitled to certain death benefits; altering the
9 provisions relating to the calculation of death benefits for certain individuals
10 who are wholly or partly dependent; requiring an employer or its insurer to pay
11 certain death benefits to certain dependents for a certain period of time;
12 specifying the calculation of certain death benefits; specifying the minimum
13 amount of certain death benefits; specifying the minimum amount of time for
14 the payment of certain death benefits; providing for an exception to the time
15 limitation for certain dependents who are incapable of self-support under
16 certain circumstances; providing for the termination of certain death benefits
17 under certain circumstances; providing for an exception to the termination of
18 certain death benefits for certain children under certain circumstances;
19 providing for the amount of death benefits to certain dependents who are
20 neither a dependent spouse nor a dependent child; providing for an annual
21 adjustment in a certain manner of a certain death benefit; specifying that the
22 Commission has continuing jurisdiction under certain circumstances;
23 authorizing a municipal corporation or county to make a certain election;
24 increasing the amount of certain funeral expenses that the employer or its

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.



insurer is required to pay; providing for the application of this Act; making stylistic changes; and generally relating to workers' compensation death benefits for dependents of covered employees.

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 9–678
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–679, ~~9–680, 9–681, 9–682~~, through 9–683 and 9–689
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

~~BY repealing~~
~~Article – Labor and Employment~~
~~Section 9–682~~
~~Annotated Code of Maryland~~
~~(2008 Replacement Volume and 2010 Supplement)~~

BY adding to
Article – Labor and Employment
Section ~~9–682~~ 9–683.1, 9–683.2, 9–683.3, 9–683.4, 9–683.5, and 9–683.6
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

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

Article – Labor and Employment

9–678.

A dependent of a covered employee who is entitled to compensation for the death of the covered employee resulting from an accidental personal injury or occupational disease shall be paid compensation in accordance with this Part XII of this subtitle.

9–679.

(A) THIS SECTION APPLIES ONLY TO A COVERED EMPLOYEE OF A MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9–503 OF THIS TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER § 9–683.6 OF THIS SUBTITLE.

1 **(B)** Except as otherwise provided in this subtitle, the Commission shall
2 determine all questions of ~~partial or total~~ dependency in accordance with the facts of
3 each case that existed:

4 (1) at the time of the occurrence of the accidental personal injury that
5 caused the death of the covered employee; or

6 (2) on the date of disablement from the occupational disease that
7 caused the death of the covered employee.

8 ~~**(B) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE**~~
9 ~~COMMISSION MAY DETERMINE THE QUESTION OF DEPENDENCY OF A CHILD OF~~
10 ~~A COVERED EMPLOYEE BORN AFTER:~~

11 ~~**(1) THE TIME OF THE OCCURRENCE OF THE ACCIDENTAL**~~
12 ~~PERSONAL INJURY THAT CAUSED THE DEATH OF THE COVERED EMPLOYEE;~~

13 ~~**(2) THE DATE OF DISABLEMENT FROM THE OCCUPATIONAL**~~
14 ~~DISEASE THAT CAUSED THE DEATH OF THE COVERED EMPLOYEE; OR~~

15 ~~**(3) THE DEATH OF THE COVERED EMPLOYEE RESULTING FROM**~~
16 ~~THE ACCIDENTAL PERSONAL INJURY OR OCCUPATIONAL DISEASE.~~

17 9-680.

18 ~~**[(a)] THIS SECTION APPLIES ONLY TO A COVERED EMPLOYEE OF A**~~
19 ~~**MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS**~~
20 ~~**TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE**~~
21 ~~**MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER §**~~
22 ~~**9-683.6 OF THIS SUBTITLE.**~~

23 **(B)** The surviving spouse of a ~~DECEASED~~ covered employee whose death was
24 caused by an accidental personal injury or an occupational disease is not entitled to
25 ~~DEATH~~ benefits under this title if:

26 (1) the surviving spouse deserts the covered employee for more than 1
27 year before the time of the occurrence of the accidental personal injury or the date of
28 disablement from the occupational disease;

29 (2) the surviving spouse deserts the covered employee at any time
30 after the time of the occurrence of the accidental personal injury or the date of
31 disablement from the occupational disease; or

32 ~~**(3)]**~~ the surviving spouse and the covered employee~~]:~~

(i) were married after the time of the occurrence of the accidental personal injury or the date of disablement from the occupational disease; and

(ii) do not have any dependent children.

~~(4)~~ (C) (1) Except as provided in paragraph (2) of this subsection, an individual is not entitled to compensation due to the death of a covered employee from an occupational disease if the individual became dependent on the covered employee after the beginning of the 1st compensable disability of the covered employee resulting from the occupational disease.

(2) The prohibition against compensation in paragraph (1) of this subsection does not apply to a child of the deceased covered employee born:

(i) after the beginning of the 1st compensable disability of the covered employee resulting from the occupational disease; and

(ii) of a marriage that existed at the beginning of the disability.

9-681.

(a) **THIS SECTION APPLIES ONLY TO A COVERED EMPLOYEE OF A MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER § 9-683.6 OF THIS SUBTITLE.**

(B) If there are individuals who were wholly dependent on a deceased covered employee at the time of death resulting from an accidental personal injury or occupational disease, the employer or its insurer shall pay death benefits in accordance with this section.

~~(4)~~ (C) (1) Except as provided in paragraph (2) of this subsection, the death benefit payable under this section shall equal two-thirds of the average weekly wage of the deceased covered employee, but may not:

(i) exceed the State average weekly wage; or

(ii) be less than \$25.

(2) If the average weekly wage of the deceased covered employee was less than \$25 at the time of the accidental personal injury or the last injurious exposure to the hazards of the occupational disease, the weekly death benefit payable under this section shall equal the average weekly wage of the deceased covered employee.

1 ~~(D)~~ **(D)** Except as otherwise provided in this section, the employer or its
2 insurer shall pay the weekly death benefit:

3 (1) for the period of total dependency; or

4 (2) until \$45,000 has been paid.

5 ~~(E)~~ **(E)** If a surviving spouse who was wholly dependent at the time of
6 death continues to be wholly dependent after \$45,000 has been paid, the employer or
7 its insurer shall continue to make payments to the surviving spouse at the same
8 weekly rate during the total dependency of the surviving spouse.

9 ~~(F)~~ **(F)** (1) If a surviving spouse who is wholly dependent at the time of
10 death becomes wholly self-supporting before \$45,000 has been paid, the employer or
11 its insurer shall continue to pay death benefits until \$45,000 has been paid.

12 (2) If a surviving spouse who is wholly dependent at the time of death
13 becomes partly self-supporting, the employer or its insurer shall continue to make
14 payments to the surviving spouse in accordance with § 9-682 of this subtitle.

15 ~~(G)~~ **(G)** (1) Except as provided in paragraph (2) of this subsection, if a
16 surviving spouse who is wholly dependent remarries, payment to the surviving spouse
17 shall stop on the date of remarriage, even if \$45,000 has not been paid.

18 (2) If a surviving spouse who is wholly dependent remarries and does
19 not have dependent children at the time of the remarriage, the employer or its insurer
20 shall continue to make payments to the surviving spouse for 2 years after the date of
21 the remarriage.

22 ~~(H)~~ **(H)** If a surviving child continues to be wholly dependent after the total
23 amount of \$45,000 has been paid, the employer or its insurer shall continue to make
24 payments at the same weekly rate during the total dependency of the surviving child.

25 ~~(I)~~ **(I)** Except as provided in subsection (i) of this section, if a child who is
26 wholly dependent at the time of death becomes wholly or partly self-supporting, the
27 employer or its insurer shall continue to pay death benefits until \$45,000 has been
28 paid.

29 ~~(J)~~ **(J)** (1) Except as provided in paragraphs (2) and (3) of this subsection, the
30 employer or its insurer shall continue to make payments to, or for the benefit of, a
31 surviving child until the child reaches 18 years of age.

32 (2) The employer or its insurer shall continue to make payments to, or
33 for the benefit of, a child who is 18 years old or older for the period of dependency if
34 the child is:

1 (i) wholly dependent on the deceased covered employee; and

2 (ii) incapable of self-support because of mental or physical
3 disability or other sufficient reason as determined by the Commission.

4 (3) The employer or its insurer shall continue to make payments to, or
5 for the benefit of, a child who is 18 years old or older for up to 5 years after reaching
6 the age of 18 if:

7 (i) the child is attending school on a full-time basis; and

8 (ii) the school offers an educational program or a vocational
9 training program, that is accredited or approved by the State Department of
10 Education.

11 ~~(K)~~ (K) The Commission has continuing jurisdiction to:

12 (1) determine whether a surviving spouse or child has become wholly
13 or partly self-supporting;

14 (2) suspend or terminate payments of compensation; and

15 (3) reinstate payments of compensation that have been suspended or
16 terminated.†

17 9-682.

18 (A) THIS SECTION APPLIES ONLY TO A COVERED EMPLOYEE OF A
19 MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS
20 TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE
21 MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER §
22 9-683.6 OF THIS SUBTITLE.

23 [(a)](B) The employer or its insurer shall pay a death benefit in accordance
24 with this section if:

25 (1) there are no individuals who were wholly dependent on the
26 deceased covered employee at the time of death, but there are individuals who were
27 partly dependent; or

28 (2) a surviving spouse who was wholly dependent on the deceased
29 covered employee at the time of death becomes partly self-supporting.

30 [(b)](C) (1) The maximum weekly death benefit payable under this
31 section shall equal two-thirds of the average weekly wage of the deceased covered
32 employee, but may not exceed two-thirds of the State average weekly wage.

1 (2) The weekly death benefit payable under this section shall be the
2 percentage of the maximum weekly death benefit under paragraph (1) of this
3 subsection that:

4 (i) the weekly earnings of the deceased covered employee bears
5 to the combined weekly earnings of the deceased covered employee and the partly
6 dependent individuals; and

7 (ii) does not exceed the maximum weekly death benefit.

8 **[(c)] (D)** Except as otherwise provided in this section, the employer or its
9 insurer shall pay the weekly death benefit:

10 (1) for the period of partial dependency; or

11 (2) until \$75,000 has been paid, including any payments made during
12 a period of total dependency under § 9–681 of this subtitle.

13 **[(d)] (E)** (1) Subject to paragraph (2) of this subsection, if a surviving
14 spouse who is partly dependent remarries and does not have dependent children at the
15 time of the remarriage, the employer or its insurer shall make payments to the
16 surviving spouse for 2 years after the date of the remarriage.

17 (2) The total of the payments made before the remarriage may not
18 exceed \$75,000.

19 **[(e)] (F)** (1) Except as provided in paragraphs (2) and (3) of this
20 subsection, the employer or its insurer shall continue to make payments to, or for the
21 benefit of, a surviving child until the child reaches 18 years of age.

22 (2) If a child who is 18 years old or older remains partly dependent on
23 the deceased covered employee, the employer or its insurer shall continue to make
24 payments in accordance with subsections **[(b) and] (c) AND (D)** of this section.

25 (3) The employer or its insurer shall continue to make payments to, or
26 for the benefit of, a child who is 18 years old or older for up to 5 years after reaching
27 the age of 18 if:

28 (i) the child is attending school on a full–time basis; and

29 (ii) the school offers an educational program or a vocational
30 training program and the program is accredited or approved by the Maryland State
31 Department of Education.

32 9–683.

1 (A) THIS SECTION APPLIES ONLY TO A COVERED EMPLOYEE OF A
2 MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS
3 TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE
4 MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER §
5 9-683.6 OF THIS SUBTITLE.

6 [(a)] (B) If there are multiple dependents entitled to death benefits, the
7 Commission may apportion an award of death benefits among the dependents in the
8 manner that the Commission considers just and equitable.

9 [(b)] (C) If there are wholly and partly dependent individuals entitled to
10 death benefits, the Commission may:

11 (1) award the death benefits to the wholly dependent individuals only;
12 or

13 (2) apportion the award among the wholly and partly dependent
14 individuals in the manner that the Commission considers to be fair and equitable
15 under all of the facts and circumstances of the case.

16 [(c)] (D) (1) Death benefits shall be paid to 1 or more of the dependents
17 of a covered employee who are entitled to death benefits, as determined by the
18 Commission, for the benefit of all of the dependents who are entitled to death benefits.

19 (2) A dependent to whom death benefits are paid shall apply the death
20 benefits to the use of all of the dependents who are entitled to death benefits:

21 (i) according to the respective claims of the dependents on the
22 deceased covered employee for support; and

23 (ii) in compliance with the findings and direction of the
24 Commission.

25 9-683.1.

26 (A) THIS SECTION DOES NOT APPLY TO A COVERED EMPLOYEE OF A
27 MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS
28 TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE
29 MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER §
30 9-683.6 OF THIS SUBTITLE.

31 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE
32 COMMISSION SHALL DETERMINE ALL QUESTIONS OF DEPENDENCY IN
33 ACCORDANCE WITH THE FACTS OF EACH CASE THAT EXISTED:

1 (1) AT THE TIME OF THE OCCURRENCE OF THE ACCIDENTAL
2 PERSONAL INJURY THAT CAUSED THE DEATH OF THE COVERED EMPLOYEE; OR

3 (2) ON THE DATE OF DISABLEMENT FROM THE OCCUPATIONAL
4 DISEASE THAT CAUSED THE DEATH OF THE COVERED EMPLOYEE.

5 (C) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, THE
6 COMMISSION MAY DETERMINE THE QUESTION OF DEPENDENCY OF A CHILD OF
7 A COVERED EMPLOYEE BORN AFTER:

8 (1) THE TIME OF THE OCCURRENCE OF THE ACCIDENTAL
9 PERSONAL INJURY THAT CAUSED THE DEATH OF THE COVERED EMPLOYEE;

10 (2) THE DATE OF DISABLEMENT FROM THE OCCUPATIONAL
11 DISEASE THAT CAUSED THE DEATH OF THE COVERED EMPLOYEE; OR

12 (3) THE DEATH OF THE COVERED EMPLOYEE RESULTING FROM
13 THE ACCIDENTAL PERSONAL INJURY OR OCCUPATIONAL DISEASE.

14 9-683.2.

15 (A) THIS SECTION DOES NOT APPLY TO A COVERED EMPLOYEE OF A
16 MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS
17 TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE
18 MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER §
19 9-683.6 OF THIS SUBTITLE.

20 (B) THE SURVIVING SPOUSE OF A DECEASED COVERED EMPLOYEE
21 WHOSE DEATH WAS CAUSED BY AN ACCIDENTAL PERSONAL INJURY OR AN
22 OCCUPATIONAL DISEASE IS NOT ENTITLED TO DEATH BENEFITS UNDER THIS
23 TITLE IF THE SURVIVING SPOUSE AND THE COVERED EMPLOYEE WERE
24 MARRIED AFTER THE TIME OF THE OCCURRENCE OF THE ACCIDENTAL
25 PERSONAL INJURY OR THE DATE OF DISABLEMENT FROM THE OCCUPATIONAL
26 DISEASE.

27 9-683.3.

28 (A) THIS SECTION DOES NOT APPLY TO A COVERED EMPLOYEE OF A
29 MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS
30 TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE
31 MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER §
32 9-683.6 OF THIS SUBTITLE.

33 (B) IF THERE ARE INDIVIDUALS WHO WERE DEPENDENT ON A
34 DECEASED COVERED EMPLOYEE AT THE TIME OF DEATH RESULTING FROM AN

1 ACCIDENTAL PERSONAL INJURY OR OCCUPATIONAL DISEASE, THE EMPLOYER
2 OR ITS INSURER SHALL PAY DEATH BENEFITS IN ACCORDANCE WITH THIS
3 SECTION.

4 ~~(B)~~ (C) (1) BEGINNING ON THE DATE OF DEATH OF A DECEASED
5 COVERED EMPLOYEE AND CONTINUING FOR A PERIOD OF 144 MONTHS, THE
6 EMPLOYER OR ITS INSURER SHALL PAY DEATH BENEFITS, AS CALCULATED IN
7 THIS SECTION, TO THE DEPENDENTS OF THE DECEASED COVERED EMPLOYEE.

8 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,
9 DEATH BENEFITS SHALL BE PAID AT THE RATE OF TWO-THIRDS OF THE
10 DECEASED COVERED EMPLOYEE'S AVERAGE WEEKLY WAGE AT THE TIME OF
11 THE OCCURRENCE OF THE ACCIDENTAL PERSONAL INJURY THAT CAUSED THE
12 DEATH OF THE COVERED EMPLOYEE OR ON THE DATE OF DISABLEMENT FROM
13 THE OCCUPATIONAL DISEASE THAT CAUSED THE DEATH OF THE COVERED
14 EMPLOYEE, NOT TO EXCEED THE STATE AVERAGE WEEKLY WAGE.

15 (3) THE AVERAGE WEEKLY WAGE OF ALL DEPENDENTS AND THE
16 DECEASED COVERED EMPLOYEE'S AVERAGE WEEKLY WAGE SHALL BE
17 COMBINED TO DETERMINE THE FAMILY INCOME.

18 (4) THE DECEASED COVERED EMPLOYEE'S INCOME SHALL BE
19 DIVIDED BY THE FAMILY INCOME TO DETERMINE THE PERCENT OF THE FAMILY
20 INCOME EARNED BY THE DECEASED COVERED EMPLOYEE.

21 (5) THE PERCENT OF THE FAMILY INCOME EARNED BY THE
22 DECEASED COVERED EMPLOYEE SHALL BE MULTIPLIED BY THE DEATH
23 BENEFIT, AS CALCULATED IN PARAGRAPH (2) OF THIS SUBSECTION, TO
24 DETERMINE THE AMOUNT PAYABLE, COLLECTIVELY, TO ALL DEPENDENTS.

25 (6) IF THE AVERAGE WEEKLY WAGE OF THE DECEASED COVERED
26 EMPLOYEE WAS LESS THAN \$100 AT THE TIME OF THE OCCURRENCE OF THE
27 ACCIDENTAL PERSONAL INJURY THAT CAUSED THE DEATH OF THE COVERED
28 EMPLOYEE OR ON THE DATE OF DISABLEMENT FROM THE OCCUPATIONAL
29 DISEASE THAT CAUSED THE DEATH OF THE COVERED EMPLOYEE, THE WEEKLY
30 DEATH BENEFIT PAID UNDER THIS SECTION SHALL EQUAL THE AVERAGE
31 WEEKLY WAGE OF THE DECEASED COVERED EMPLOYEE UP TO \$100 PER WEEK.

32 ~~(C)~~ (D) (1) DEATH BENEFITS SHALL BE PAID FOR A MINIMUM OF 5
33 YEARS AFTER THE COVERED EMPLOYEE'S DEATH.

34 (2) SUBJECT TO SUBSECTIONS ~~(D) THROUGH (H)~~ (E) THROUGH (I)
35 OF THIS SECTION, PROVIDED THAT A MINIMUM OF 5 YEARS OF DEATH BENEFITS

HAS BEEN PAID, DEATH BENEFITS SHALL TERMINATE ON THE DATE THAT WOULD HAVE BEEN THE DECEASED COVERED EMPLOYEE'S 70TH BIRTHDAY.

~~(D)~~ (E) NOTWITHSTANDING THE TIME LIMITATIONS UNDER SUBSECTIONS ~~(B) AND (C)~~ (C) AND (D) OF THIS SECTION, IF A DEPENDENT SPOUSE OR DEPENDENT CHILD IS INCAPABLE OF SELF-SUPPORT BECAUSE OF A MENTAL OR PHYSICAL DISABILITY THAT PREEXISTED THE COVERED EMPLOYEE'S DEATH, DEATH BENEFITS SHALL CONTINUE FOR THE DURATION OF THE DEPENDENT'S DISABILITY.

~~(E)~~ (F) IF A DEPENDENT SPOUSE REMARRIES, DEATH BENEFITS SHALL TERMINATE 2 YEARS AFTER THE DATE OF REMARRIAGE.

~~(F)~~ (G) THE EMPLOYER OR ITS INSURER SHALL CONTINUE TO MAKE PAYMENTS TO OR FOR THE BENEFIT OF A DEPENDENT CHILD UNTIL THE CHILD REACHES 18 YEARS OF AGE.

~~(G)~~ (H) THE EMPLOYER OR ITS INSURER SHALL CONTINUE TO MAKE PAYMENTS TO, OR FOR THE BENEFIT OF, A DEPENDENT CHILD FOR UP TO 5 YEARS AFTER THE CHILD REACHES 18 YEARS OF AGE IF:

(1) THE CHILD IS ATTENDING SCHOOL ON A FULL-TIME BASIS;
AND

(2) THE SCHOOL OFFERS AN EDUCATIONAL PROGRAM OR A VOCATIONAL TRAINING PROGRAM THAT IS ACCREDITED OR APPROVED BY THE STATE DEPARTMENT OF EDUCATION.

~~(H)~~ (I) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ALL DEPENDENTS WHO ARE NEITHER A DEPENDENT SPOUSE NOR A DEPENDENT CHILD SHALL BE ENTITLED TO NO MORE THAN A TOTAL OF \$65,000, COLLECTIVELY, AS THEIR PORTION OF THE TOTAL DEATH BENEFITS PAYABLE IN ACCORDANCE WITH SUBSECTION ~~(B)~~ (C) OF THIS SECTION.

(2) BEGINNING ON JANUARY 1, 2012, THE BENEFIT LIMIT UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE ADJUSTED ANNUALLY BY THE SAME PERCENT APPLICABLE TO THE ADJUSTMENT OF THE STATE AVERAGE WEEKLY WAGE.

9-683.4.

(A) THIS SECTION DOES NOT APPLY TO A COVERED EMPLOYEE OF A MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE

MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER § 9-683.6 OF THIS SUBTITLE.

(B) THE COMMISSION HAS CONTINUING JURISDICTION TO:

(1) SUSPEND, REALLOCATE, OR TERMINATE PAYMENTS OF COMPENSATION IN ACCORDANCE WITH THIS PART; AND

(2) REINSTATE PAYMENTS OF COMPENSATION THAT HAVE BEEN SUSPENDED OR TERMINATED UNDER THIS SECTION.

9-683.5.

(A) THIS SECTION DOES NOT APPLY TO A COVERED EMPLOYEE OF A MUNICIPAL CORPORATION OR A COUNTY WHO IS SUBJECT TO § 9-503 OF THIS TITLE AND THE DEPENDENTS OF THOSE COVERED EMPLOYEES, UNLESS THE MUNICIPAL CORPORATION OR COUNTY HAS MADE AN ELECTION UNDER § 9-683.6 OF THIS SUBTITLE.

(B) IF THERE ARE MULTIPLE DEPENDENTS ENTITLED TO DEATH BENEFITS, THE COMMISSION MAY APPORTION AN AWARD OF DEATH BENEFITS AMONG THE DEPENDENTS IN THE MANNER THAT THE COMMISSION CONSIDERS JUST AND EQUITABLE.

(C) (1) DEATH BENEFITS SHALL BE PAID TO 1 OR MORE OF THE DEPENDENTS OF A COVERED EMPLOYEE WHO ARE ENTITLED TO DEATH BENEFITS, AS DETERMINED BY THE COMMISSION, FOR THE BENEFIT OF ALL OF THE DEPENDENTS WHO ARE ENTITLED TO DEATH BENEFITS.

(2) A DEPENDENT TO WHOM DEATH BENEFITS ARE PAID SHALL APPLY THE DEATH BENEFITS TO THE USE OF ALL OF THE DEPENDENTS WHO ARE ENTITLED TO DEATH BENEFITS:

(I) ACCORDING TO THE RESPECTIVE CLAIMS OF THE DEPENDENTS OF THE DECEASED COVERED EMPLOYEE FOR SUPPORT; AND

(II) IN COMPLIANCE WITH THE FINDINGS AND DIRECTION OF THE COMMISSION.

9-683.6.

(A) A MUNICIPAL CORPORATION OR COUNTY MAY MAKE A ONE-TIME ELECTION TO MAKE THEIR COVERED EMPLOYEES WHO ARE SUBJECT TO § 9-503 OF THIS TITLE AND THEIR DEPENDENTS SUBJECT TO §§ 9-683.1 THROUGH 9-683.5 OF THIS SUBTITLE.

1 **(B) TO MAKE THE ELECTION DESCRIBED UNDER SUBSECTION (A) OF**
2 **THIS SECTION, THE GOVERNING BODY OF THE MUNICIPAL CORPORATION OR**
3 **COUNTY SHALL:**

4 **(1) ADOPT AN ORDINANCE OR RESOLUTION STATING THAT IT IS**
5 **THE INTENT OF THE GOVERNING BODY TO EXERCISE THE RIGHT OF ELECTION;**
6 **AND**

7 **(2) FORWARD A COPY OF THE ORDINANCE OR RESOLUTION TO**
8 **THE COMMISSION.**

9 **(C) ON RECEIPT OF A COPY OF THE RESOLUTION, THE COMMISSION**
10 **SHALL ACKNOWLEDGE RECEIPT OF THE ORDINANCE OR RESOLUTION TO THE**
11 **MUNICIPAL CORPORATION OR COUNTY.**

12 **(D) ONCE THE COMMISSION HAS ACKNOWLEDGED RECEIPT OF THE**
13 **ORDINANCE OR RESOLUTION, ANY WORKERS' COMPENSATION CASE ARISING ON**
14 **OR AFTER THE DATE OF ACKNOWLEDGEMENT AND INVOLVING A COVERED**
15 **EMPLOYEE OF THE MUNICIPAL CORPORATION OR COUNTY WHO IS SUBJECT TO §**
16 **9-503 OF THIS TITLE AND THE DEPENDENTS OF THE COVERED EMPLOYEE**
17 **SHALL BE SUBJECT TO §§ 9-683.1 THROUGH 9-683.5 OF THIS SUBTITLE.**

18 ~~**§ 9-682.**~~

19 ~~**(a) The employer or its insurer shall pay a death benefit in accordance with**~~
20 ~~**this section if:**~~

21 ~~**(1) there are no individuals who were wholly dependent on the**~~
22 ~~**deceased covered employee at the time of death, but there are individuals who were**~~
23 ~~**partly dependent; or**~~

24 ~~**(2) a surviving spouse who was wholly dependent on the deceased**~~
25 ~~**covered employee at the time of death becomes partly self-supporting.**~~

26 ~~**(b) (1) The maximum weekly death benefit payable under this section**~~
27 ~~**shall equal two thirds of the average weekly wage of the deceased covered employee,**~~
28 ~~**but may not exceed two thirds of the State average weekly wage.**~~

29 ~~**(2) The weekly death benefit payable under this section shall be the**~~
30 ~~**percentage of the maximum weekly death benefit under paragraph (1) of this**~~
31 ~~**subsection that:**~~

32 ~~**(i) the weekly earnings of the deceased covered employee bears**~~
33 ~~**to the combined weekly earnings of the deceased covered employee and the partly**~~
34 ~~**dependent individuals; and**~~

(ii) ~~does not exceed the maximum weekly death benefit.~~

(e) ~~Except as otherwise provided in this section, the employer or its insurer shall pay the weekly death benefit:~~

(1) ~~for the period of partial dependency; or~~

(2) ~~until \$75,000 has been paid, including any payments made during a period of total dependency under § 9-681 of this subtitle.~~

(d) (1) ~~Subject to paragraph (2) of this subsection, if a surviving spouse who is partly dependent remarries and does not have dependent children at the time of the remarriage, the employer or its insurer shall make payments to the surviving spouse for 2 years after the date of the remarriage.~~

(2) ~~The total of the payments made before the remarriage may not exceed \$75,000.~~

(e) (1) ~~Except as provided in paragraphs (2) and (3) of this subsection, the employer or its insurer shall continue to make payments to, or for the benefit of, a surviving child until the child reaches 18 years of age.~~

(2) ~~If a child who is 18 years old or older remains partly dependent on the deceased covered employee, the employer or its insurer shall continue to make payments in accordance with subsections (b) and (c) of this section.~~

(3) ~~The employer or its insurer shall continue to make payments to, or for the benefit of, a child who is 18 years old or older for up to 5 years after reaching the age of 18 if:~~

(i) ~~the child is attending school on a full-time basis; and~~

(ii) ~~the school offers an educational program or a vocational training program and the program is accredited or approved by the Maryland State Department of Education.]~~

~~9-682.~~

~~THE COMMISSION HAS CONTINUING JURISDICTION TO:~~

(1) ~~SUSPEND, REALLOCATE, OR TERMINATE PAYMENTS OF COMPENSATION IN ACCORDANCE WITH THIS PART; AND~~

(2) ~~REINSTATE PAYMENTS OF COMPENSATION THAT HAVE BEEN SUSPENDED OR TERMINATED UNDER THIS SECTION.~~

~~9-683.~~

~~(a) If there are multiple dependents entitled to death benefits, the Commission may apportion an award of death benefits among the dependents in the manner that the Commission considers just and equitable.~~

~~[(b) If there are wholly and partly dependent individuals entitled to death benefits, the Commission may:~~

~~(1) award the death benefits to the wholly dependent individuals only;~~
~~or~~

~~(2) apportion the award among the wholly and partly dependent individuals in the manner that the Commission considers to be fair and equitable under all of the facts and circumstances of the case.]~~

~~[(c)] (B) (1) Death benefits shall be paid to 1 or more of the dependents of a covered employee who are entitled to death benefits, as determined by the Commission, for the benefit of all of the dependents who are entitled to death benefits.~~

~~(2) A dependent to whom death benefits are paid shall apply the death benefits to the use of all of the dependents who are entitled to death benefits:~~

~~(i) according to the respective claims of the dependents on the deceased covered employee for support; and~~

~~(ii) in compliance with the findings and direction of the Commission.~~

~~9-689.~~

(a) The employer or its insurer shall pay reasonable funeral expenses of a deceased covered employee, not exceeding ~~[\$5,000]~~ **\$7,000**, if the covered employee died as a result of:

(1) an accidental personal injury, within 7 years of the accidental personal injury; or

(2) an occupational disease.

(b) Unless approved by the Commission, a bill for funeral expenses of more than ~~[\$5,000]~~ **\$7,000** is void and uncollectable out of:

(1) workers' compensation benefits payable with respect to the deceased covered employee; or

(2) personal assets of any person to whom workers' compensation benefits are payable with respect to the deceased covered employee.

(c) If there are no dependents, the employer[,] **OR** its insurer[, or the Injured Workers' Insurance Fund, as appropriate,] shall pay the expenses of the last sickness and [burial] **FUNERAL EXPENSES** of the covered employee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively to deaths occurring on or after the effective date of this Act and may not be applied or interpreted to have any effect on or application to any death occurring before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.