

SENATE BILL 174

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CF HB 114

By: **Senators Klausmeier, Kittleman, Middleton, and Muse**

Introduced and read first time: January 20, 2012

Assigned to: Finance

Committee Report: Favorable

Senate action: Adopted

Read second time: February 7, 2012

CHAPTER _____

1 AN ACT concerning

2 **Subsequent Injury Fund and Uninsured Employers' Fund – Assessments on**
3 **Settlement Agreements**

4 FOR the purpose of excluding from the assessments imposed by the Workers'
5 Compensation Commission and payable to the Subsequent Injury Fund and the
6 Uninsured Employers' Fund the amount of certain medical benefits under a
7 certain settlement agreement under certain circumstances; and generally
8 relating to settlement agreements and assessments payable to the Subsequent
9 Injury Fund and the Uninsured Employers' Fund.

10 BY repealing and reenacting, with amendments,
11 Article – Labor and Employment
12 Section 9–806 and 9–1007
13 Annotated Code of Maryland
14 (2008 Replacement Volume and 2011 Supplement)

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

17 **Article – Labor and Employment**

18 9–806.

19 (a) **(1)** The Commission shall impose an assessment of 6.5%, payable to
20 the Subsequent Injury Fund, on:

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 ~~[(1)] (I)~~ each award against an employer or its insurer for
2 permanent disability or death, including awards for disfigurement and mutilation;

3 ~~[(2)] (II)~~ **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
4 **SUBSECTION**, each amount payable by an employer or its insurer under a settlement
5 agreement approved by the Commission; and

6 ~~[(3)] (III)~~ each amount payable under item ~~[(1)] (I)~~ or ~~[(2)] (II)~~ of this
7 ~~[subsection]~~ **PARAGRAPH** by the Property and Casualty Guaranty Corporation on
8 behalf of an insolvent insurer.

9 **(2) THE AMOUNT OF MEDICAL BENEFITS SPECIFIED IN A FORMAL**
10 **SET-ASIDE ALLOCATION THAT IS PART OF AN APPROVED SETTLEMENT**
11 **AGREEMENT SHALL BE EXCLUDED FROM THE ASSESSMENT IMPOSED BY THE**
12 **COMMISSION UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION IF:**

13 **(I) 1. THE AMOUNT OF MEDICAL BENEFITS IS IN EXCESS**
14 **OF \$50,000; AND**

15 **2. THE PAYMENT OF MEDICAL BENEFITS BY THE**
16 **EMPLOYER OR ITS INSURER IS DIRECTLY TO AN AUTHORIZED INSURER THAT**
17 **PROVIDES PERIODIC PAYMENTS TO THE COVERED EMPLOYEE PURSUANT TO A**
18 **SINGLE PREMIUM ANNUITY; OR**

19 **(II) 1. THE AMOUNT OF MEDICAL BENEFITS IS IN ANY**
20 **AMOUNT; AND**

21 **2. THE PAYMENT OF MEDICAL BENEFITS BY THE**
22 **EMPLOYER OR ITS INSURER IS TO AN INDEPENDENT THIRD-PARTY**
23 **ADMINISTRATOR THAT CONTROLS AND PAYS THE MEDICAL SERVICES IN**
24 **ACCORDANCE WITH THE FORMAL SET-ASIDE ALLOCATION, PROVIDED THERE IS**
25 **NO REVERSIONARY INTEREST TO THE COVERED EMPLOYEE OR THE COVERED**
26 **EMPLOYEE'S BENEFICIARIES.**

27 (b) In computing the amount of an assessment, the Commission shall round
28 off any fractional dollar to the nearest whole dollar.

29 (c) Payment of an assessment under this section is in addition to any
30 payment of compensation to a covered employee who has sustained an accidental
31 personal injury, occupational disease, or compensable hernia or a dependent of the
32 covered employee, as provided in this title.

1 (d) (1) The Director of the Subsequent Injury Fund promptly shall remit
2 to the State Treasurer each payment of assessment received by the Subsequent Injury
3 Fund.

4 (2) The State Treasurer shall hold, manage, and disburse the money
5 in accordance with Title 10, Subtitle 2 of this article.

6 (e) The assessment imposed under this section is for payment of claims
7 submitted to the Subsequent Injury Fund and is not a tax intended to benefit the
8 State.

9 9–1007.

10 (a) (1) Except as provided in subsection (b) of this section, the
11 Commission shall impose against an employer or, if insured, its insurer an assessment
12 equal to 1% of:

13 (i) each award against the employer for permanent disability or
14 death, including awards for disfigurement or mutilation; and

15 (ii) **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
16 **SUBSECTION**, each amount payable by the employer or its insurer under a settlement
17 agreement approved by the Commission.

18 **(2) THE AMOUNT OF MEDICAL BENEFITS SPECIFIED IN A FORMAL**
19 **SET-ASIDE ALLOCATION THAT IS PART OF AN APPROVED SETTLEMENT**
20 **AGREEMENT SHALL BE EXCLUDED FROM THE ASSESSMENT IMPOSED BY THE**
21 **COMMISSION UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION IF:**

22 **(I) 1. THE AMOUNT OF MEDICAL BENEFITS IS IN EXCESS**
23 **OF \$50,000; AND**

24 **2. THE PAYMENT OF MEDICAL BENEFITS BY THE**
25 **EMPLOYER OR ITS INSURER IS DIRECTLY TO AN AUTHORIZED INSURER THAT**
26 **PROVIDES PERIODIC PAYMENTS TO THE COVERED EMPLOYEE PURSUANT TO A**
27 **SINGLE PREMIUM ANNUITY; OR**

28 **(II) 1. THE AMOUNT OF MEDICAL BENEFITS IS IN ANY**
29 **AMOUNT; AND**

30 **2. THE PAYMENT OF MEDICAL BENEFITS BY THE**
31 **EMPLOYER OR ITS INSURER IS TO AN INDEPENDENT THIRD-PARTY**
32 **ADMINISTRATOR THAT CONTROLS AND PAYS THE MEDICAL SERVICES IN**
33 **ACCORDANCE WITH THE FORMAL SET-ASIDE ALLOCATION, PROVIDED THERE IS**

1 **NO REVERSIONARY INTEREST TO THE COVERED EMPLOYEE OR THE COVERED**
2 **EMPLOYEE'S BENEFICIARIES.**

3 **[(2)] (3)** (i) Notwithstanding any other provision of law, if the
4 employer is a corporation the assets of which are not sufficient to satisfy an
5 assessment, any officer of the corporation who has responsibility for the general
6 management of the corporation in the State is jointly and severally liable for the
7 assessment if the corporate officer knowingly failed to secure workers' compensation
8 insurance.

9 (ii) Notwithstanding any other provision of law, if the employer
10 is a limited liability company the assets of which are not sufficient to satisfy an
11 assessment, any member of the limited liability company who has responsibility for
12 the general management of the limited liability company in the State is jointly and
13 severally liable for the assessment if a member of the limited liability company who
14 has general management responsibility knowingly failed to secure workers'
15 compensation insurance.

16 (b) Notwithstanding the limit on the balance of the Fund under § 9-1011 of
17 this subtitle, if the Board determines that the reserves of the Fund are inadequate to
18 meet anticipated losses, the Board may direct the Commission to assess an additional
19 1% under subsection (a) of this section.

20 (c) Any fractional dollar of payment under this section shall be rounded off to
21 the nearest whole dollar.

22 (d) The Commission shall direct payment of an assessment under subsection
23 (a) or (b) of this section into the Fund.

24 (e) Payments under this section are in addition to the payment of
25 compensation to a covered employee or the dependents of a covered employee under
26 this title.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 July 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.