

Chapter 354

(Senate Bill 886)

AN ACT concerning

Legal Mutual Liability Insurance Society of Maryland – Conservatorship and Transfer

FOR the purpose of providing for the assumption and exercise of certain powers of the Legal Mutual Liability Insurance Society of Maryland by the Minnesota Lawyers Mutual Insurance Company (Minnesota Mutual) in a certain manner for certain purposes; stating certain findings of the General Assembly; appointing Minnesota Mutual as conservator of the Society for a certain period for certain purposes; providing certain powers to Minnesota Mutual for certain purposes; requiring Minnesota Mutual to provide public notice in certain manners of its appointment as conservator, of certain processes and the transfer of certain policies, assets, and liabilities of the Society to the Property and Casualty Insurance Guaranty Corporation, of a certain bar date, and of certain effects of the conservatorship and transfer; authorizing the referral of certain claims to the Guaranty Corporation under certain circumstances after the occurrence of a certain event; authorizing the transfer of certain assets *and certain liabilities* to the Guaranty Corporation in a certain manner as of a certain date; providing for the termination of the conservatorship; prohibiting Minnesota Mutual from receiving certain compensation for certain actions but authorizing the reimbursement of certain expenses; requiring Minnesota Mutual to report to the Maryland Insurance Commissioner on certain matters at a certain frequency; defining certain terms; providing for the construction of a portion of this Act; dissolving the Board of Directors of the Society and terminating the terms of the directors and officers of the Society as of a certain date; requiring the reimbursement of Minnesota Mutual for certain costs as of a certain date; requiring the transfer of certain assets and liabilities of the Society to the Guaranty Corporation on the earlier of certain dates; providing for the continuity of certain transactions, rights, duties, assets, liabilities, and causes of action; requiring Minnesota Mutual to study and report on certain matters to the Commissioner, the Guaranty Corporation, and certain committees of the General Assembly on or before a certain date; requiring Minnesota Mutual to consult with certain entities for a certain purpose; repealing provisions of law relating to the Society as of a certain date; providing that existing obligations or contract rights may not be impaired by this Act; providing for a delayed effective date for certain provisions of this Act; and generally relating to the Legal Mutual Liability Insurance Society of Maryland and its conservatorship.

BY repealing and reenacting, with amendments,
Article – Insurance

Section 24–101 and 24–104
 Annotated Code of Maryland
 (2011 Replacement Volume and 2013 Supplement)

BY repealing

Article – Insurance
 Section 24–102
 Annotated Code of Maryland
 (2011 Replacement Volume and 2013 Supplement)

BY adding to

Article – Insurance
 Section 24–102 and 24–110
 Annotated Code of Maryland
 (2011 Replacement Volume and 2013 Supplement)

BY repealing

Article – Insurance
 Section 24–101 through 24–110, inclusive, and the subtitle “Subtitle 1. Legal
 Mutual Liability Insurance Society of Maryland”
 Annotated Code of Maryland
 (2011 Replacement Volume and 2013 Supplement)
 (As enacted by Section 1 of this Act)

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

Article – Insurance

24–101.

(a) In this subtitle the following words have the meanings indicated.

(b) **“GUARANTY CORPORATION” MEANS THE PROPERTY AND CASUALTY INSURANCE GUARANTY CORPORATION ESTABLISHED UNDER TITLE 9, SUBTITLE 3 OF THIS ARTICLE.**

(c) “Lawyer” means an individual who is admitted to the Bar of the Court of Appeals of Maryland.

[(c)] (D) “MINNESOTA MUTUAL” MEANS THE MINNESOTA LAWYERS MUTUAL INSURANCE COMPANY.

(E) (1) “Practice law” has the meaning stated by the Court of Appeals of Maryland.

(2) “Practice law” includes the meaning stated in § 10–101(h) of the Business Occupations and Professions Article.

[(d)] (F) “Society” means the Legal Mutual Liability Insurance Society of Maryland.

[24–102.

Subject to the limitations and immunities of this subtitle, the purpose of this subtitle is to provide:

(1) a means to pay indemnities to persons that suffer injuries arising out of the rendering of or failure to render professional services by lawyers;

(2) a means for lawyers to obtain insurance against liability for injuries arising out of the rendering of or failure to render professional services; and

(3) property insurance and casualty insurance related or incidental to practicing law.]

24–102.

THE GENERAL ASSEMBLY FINDS THAT:

(1) AT THE TIME THAT IT WAS ESTABLISHED IN 1986, THE LEGAL MUTUAL LIABILITY INSURANCE SOCIETY OF MARYLAND PROVIDED A VALUABLE SERVICE TO THE LEGAL COMMUNITY OF THE STATE BY PROVIDING OTHERWISE UNAVAILABLE AFFORDABLE LEGAL PROFESSIONAL LIABILITY INSURANCE;

(2) IN 2006, THE SOCIETY ENTERED INTO A MANAGEMENT AGREEMENT WITH MINNESOTA LAWYERS MUTUAL INSURANCE COMPANY, A “BAR-RELATED” INSURANCE COMPANY THAT IS DOMICILED IN MINNESOTA AND WRITES LEGAL PROFESSIONAL LIABILITY INSURANCE IN 14 ADDITIONAL STATES, UNDER WHICH MINNESOTA MUTUAL ASSUMED RESPONSIBILITY FOR THE DAY-TO-DAY OPERATIONS OF THE SOCIETY;

(3) IN THE INTERVENING YEARS, OTHER LIABILITY INSURERS HAVE ENTERED THE MARYLAND MARKET, MAKING AFFORDABLE LEGAL PROFESSIONAL LIABILITY INSURANCE AVAILABLE TO LAWYERS IN THE STATE, AND AS A RESULT THE SOCIETY IS NO LONGER NEEDED FOR ITS ORIGINAL PURPOSE;

(4) THE SOCIETY IS A MEMBER OF THE PROPERTY AND CASUALTY INSURANCE GUARANTY CORPORATION, ~~THE INSURER OF LAST RESORT FOR PROPERTY AND CASUALTY INSURERS IN THE STATE;~~

(5) AT THIS TIME, THE SOCIETY HAS NO ACTIVE INSURANCE POLICIES IN FORCE; AND

(6) ALTHOUGH THE SOCIETY REMAINS ~~FULLY~~ SOLVENT AND IS NOT AN IMPAIRED INSURER IT IS DESIRABLE TO WIND UP THE AFFAIRS OF THE SOCIETY IN A REGULAR MANNER AND TO TRANSFER ITS REMAINING POLICIES AND ASSETS TO ANOTHER INSURER BY APPOINTING MINNESOTA MUTUAL IN THE MANNER OF A CONSERVATOR OF THE SOCIETY.

24-104.

(a) [There is a Board of Directors of the Society.

(b) (1) There shall be at least 11 directors on the Board.

(2) The directors shall be elected by the members of the Society in accordance with the articles of incorporation and bylaws of the Society.

(c) The Board of Directors] **DURING THE CONSERVATORSHIP AND TRANSFER UNDER § 24-110 OF THIS SUBTITLE, MINNESOTA LAWYERS MUTUAL INSURANCE COMPANY governs the Society and exercises the powers of the Society IN THE PLACE OF THE FORMER BOARD OF DIRECTORS OF THE SOCIETY.**

(B) (1) MINNESOTA MUTUAL SHALL EXERCISE THE POWERS OF THE SOCIETY IN THE MANNER OF A CONSERVATOR TO WIND UP THE AFFAIRS OF THE SOCIETY AND TRANSFER ANY REMAINING ASSETS AND LIABILITIES OF THE SOCIETY TO THE PROPERTY AND CASUALTY INSURANCE GUARANTY CORPORATION IN ACCORDANCE WITH § 24-110 OF THIS SUBTITLE.

(2) IN EXERCISING THESE POWERS, MINNESOTA MUTUAL SHALL EXERCISE A DUTY OF CARE AND FIDUCIARY RESPONSIBILITY TO THE GUARANTY CORPORATION AND TO THOSE INSUREDS WHO CONTINUE TO HAVE COVERAGE FROM THE SOCIETY.

24-110.

(A) IN THIS SECTION, “BAR DATE” MEANS DECEMBER 31, 2015.

(B) (1) MINNESOTA MUTUAL IS APPOINTED AS A CONSERVATOR TO WIND UP THE AFFAIRS OF THE SOCIETY AND TRANSFER ANY REMAINING ASSETS AND LIABILITIES OF THE SOCIETY TO THE GUARANTY CORPORATION.

(2) IN PERFORMING ITS DUTIES UNDER THIS SECTION, MINNESOTA MUTUAL MAY:

(I) SUBJECT TO SUBSECTION (G) OF THIS SECTION, CONTINUE TO MANAGE THE AFFAIRS OF THE SOCIETY IN THE MANNER AUTHORIZED BY CONTRACT UNDER § 24-105 OF THIS SUBTITLE;

(II) SETTLE CLAIMS, INCLUDING PAYING THE EXPENSES OF SETTLEMENT;

(III) INVEST AND DISPOSE OF ASSETS;

(IV) MAINTAIN FINANCIAL RECORDS; AND

(V) TAKE ANY OTHER ACTION THAT MAY BE NECESSARY OR DESIRABLE TO FURTHER THE PURPOSES OF THIS SECTION.

(C) (1) MINNESOTA MUTUAL SHALL PROVIDE PUBLIC NOTICE OF:

(I) ITS APPOINTMENT AS CONSERVATOR UNDER THIS SECTION;

(II) THE PROCESS OF THE CONSERVATORSHIP AND THE TRANSFER OF THE POLICIES, ASSETS, AND LIABILITIES OF THE SOCIETY TO THE GUARANTY CORPORATION;

(III) THE BAR DATE; AND

(IV) THE EFFECTS OF THE CONSERVATORSHIP AND TRANSFER, INCLUDING:

1. THE NEED FOR ANY PERSON WISHING TO ASSERT ANY CLAIM ARISING UNDER ANY INSURANCE POLICY ISSUED BY THE SOCIETY TO DO SO BEFORE THE BAR DATE;

2. THE BAR AND ESTOPPEL AGAINST ASSERTING A CLAIM AGAINST THE SOCIETY AFTER THE BAR DATE; AND

3. THE REQUIREMENT TO PURSUE THE CLAIM THROUGH THE GUARANTY CORPORATION AFTER THE BAR DATE.

(2) THE NOTICE SHALL BE PUBLISHED:

(I) IN AT LEAST TWO NEWSPAPERS OF GENERAL CIRCULATION IN THE STATE, INCLUDING AT LEAST ONE NEWSPAPER THAT PRINCIPALLY SERVES THE LEGAL COMMUNITY OF THE STATE, ONCE EVERY 6 MONTHS BEGINNING ON JULY 1, 2014, AND ENDING ON JANUARY 1, 2016;

(II) ON THE WEB SITES OF THE SOCIETY, MINNESOTA MUTUAL, AND THE GUARANTY CORPORATION; AND

(III) IN ANY OTHER MANNER AND FREQUENCY THAT THE COMMISSIONER REQUIRES.

(D) DURING THE CONSERVATORSHIP UNDER THIS SECTION, IF THE ASSETS OF THE SOCIETY ARE EXHAUSTED BEFORE ALL CLAIMS ARE SATISFIED, ANY UNSATISFIED CLAIMS SHALL BE REFERRED TO THE GUARANTY CORPORATION.

(E) IF ASSETS OF THE SOCIETY REMAIN AFTER ALL FILED CLAIMS HAVE BEEN SATISFIED AS OF THE BAR DATE, THOSE REMAINING ASSETS SHALL BE TRANSFERRED TO THE GUARANTY CORPORATION FREE AND CLEAR OF ANY FURTHER CLAIM OR ENCUMBRANCE.

(F) (1) THE CONSERVATORSHIP UNDER THIS SECTION SHALL TERMINATE ON THE EARLIER OF:

(I) THE EXHAUSTION OF THE ASSETS OF THE SOCIETY UNDER SUBSECTION (D) OF THIS SECTION; AND

(II) THE DATE WHEN ALL CLAIMS ASSERTED AGAINST THE SOCIETY BEFORE THE BAR DATE ARE SATISFIED OR OTHERWISE SETTLED.

(2) IF THE CONSERVATORSHIP UNDER THIS SECTION TERMINATES BEFORE THE BAR DATE, MINNESOTA MUTUAL SHALL TRANSFER ALL POLICIES, ASSETS, AND LIABILITIES TO THE GUARANTY CORPORATION AS OF THE TERMINATION DATE.

(G) NOTWITHSTANDING § 24-105 OF THIS SUBTITLE, MINNESOTA MUTUAL:

(1) MAY NOT RECEIVE ANY FEE FOR ADMINISTERING THE SOCIETY DURING THE CONSERVATORSHIP AND TRANSFER UNDER THIS SECTION; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR JUST AND REASONABLE EXPENSES THAT MINNESOTA MUTUAL INCURS IN CONNECTION WITH THE CONSERVATORSHIP AND TRANSFER.

(H) DURING THE CONSERVATORSHIP UNDER THIS SECTION, MINNESOTA MUTUAL SHALL REPORT AT LEAST ONCE EVERY 3 MONTHS TO THE COMMISSIONER ON THE STATUS AND PROGRESS OF THE CONSERVATORSHIP AND THE PREPARATION FOR TRANSFER OF ANY REMAINING POLICIES, ASSETS *OF THE SOCIETY*, AND LIABILITIES ~~OF~~ UNDER POLICIES ISSUED BY THE SOCIETY TO THE GUARANTY CORPORATION.

(I) SUBJECT TO § 24-104(B) OF THIS SUBTITLE, THIS SECTION MAY NOT BE CONSTRUED TO PREVENT THE TRANSFER OF ANY POLICY OR OTHER LIABILITY OF A PRESENT OR FORMER POLICYHOLDER OF THE SOCIETY TO MINNESOTA MUTUAL OR TO ANY OTHER INSURER THAT HAS A CERTIFICATE OF AUTHORITY FROM THE ADMINISTRATION UNDER THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Board of Directors of the Legal Mutual Liability Insurance Society of Maryland and the term of each of its members and the officers of the Society shall terminate on July 1, 2014.

SECTION 3. AND BE IT FURTHER ENACTED, That on the earlier of January 1, 2016, and the termination date of the conservatorship under § 24-110(f) of the Insurance Article as enacted by Section 1 of this Act:

(1) the Minnesota Lawyers Mutual Insurance Company shall be reimbursed all just and reasonable costs incurred by it in the performance of its duties under this Act and under contract in accordance with § 24-105 of the Insurance Article through the earlier of December 31, 2015, and the termination date; and

(2) all net remaining assets *of the Society* and liabilities ~~of~~ under policies issued by the Society, whether positive or negative, including any coverage provided by the Society under a "tail" policy and any balance in the Rate Stabilization Reserve Fund of the Society, shall be transferred to the Property and Casualty Insurance Guaranty Corporation.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any transaction affected by or flowing from any statute here amended or repealed and validly entered into before the effective date of this Act and every right, duty, or interest following from it remain valid after the

effective date of this Act and may be terminated, completed, consummated, or enforced pursuant to law.

SECTION 5. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, all standards and guidelines, proposed standards and guidelines, orders and other directives, forms, plans, memberships, contracts, properties, rights to sue and be sued, and all other duties and responsibilities associated with those assets and liabilities of the Legal Mutual Liability Insurance Society of Maryland transferred by this Act shall continue in effect under the Property and Casualty Insurance Guaranty Corporation until completed, withdrawn, canceled, modified, or otherwise changed pursuant to law.

SECTION 6. AND BE IT FURTHER ENACTED, That:

(a) In addition to the quarterly reports required under § 24–110 of the Insurance Article, as enacted by Section 1 of this Act, on or before January 1, 2015, the Minnesota Lawyers Mutual Insurance Company shall report to the Maryland Insurance Commissioner, the Property and Casualty Insurance Guaranty Corporation, and, subject to § 2–1246 of the State Government Article, the Senate Finance Committee and the House Economic Matters Committee on the status of the conservatorship of the Legal Mutual Liability Insurance Society of Maryland, the winding up of its affairs, and the progress of the transfer of its policies, assets, and liabilities to the Guaranty Corporation.

(b) (1) In connection with the report required under subsection (a) of this section, Minnesota Mutual shall consult with the Maryland Insurance Administration and the Guaranty Corporation on the status of the Society, on the most efficient and appropriate means to wind up the affairs of the Society, and on the most suitable continuation of coverage for the Society’s remaining liabilities along with the best protection for the Society’s insureds and the Guaranty Corporation ~~as the insurer of last resort.~~

(2) The report required under subsection (a) of this section shall include any recommended changes to this Act, including any changes in the ultimate disposition of the Society’s assets and liabilities to the Guaranty Corporation, to Minnesota Mutual, or to another insurer or insurers, developed by Minnesota Mutual through the consultation under paragraph (1) of this subsection.

SECTION 7. AND BE IT FURTHER ENACTED, That a presently existing obligation or contract right may not be impaired in any way by this Act.

SECTION 8. AND BE IT FURTHER ENACTED, That Section(s) 24–101 through 24–110, and the subtitle “Subtitle 1. Legal Mutual Liability Insurance Society of Maryland” of Article – Insurance of the Annotated Code of Maryland be repealed.

SECTION 9. AND BE IT FURTHER ENACTED, That Section 8 of this Act shall take effect January 1, 2016.

SECTION 10. AND BE IT FURTHER ENACTED, That, except as provided in Section 9 of this Act, this Act shall take effect July 1, 2014.

Approved by the Governor, May 5, 2014.