

Chapter 172

(Senate Bill 479)

AN ACT concerning

Chesapeake Employers' Insurance Company – ~~Rates and~~ Board Structure

FOR the purpose of ~~authorizing the Chesapeake Employers' Insurance Company to take certain actions relating to a subsidiary for certain purposes subject to certain requirements and under certain circumstances; specifying a certain condition of being an authorized insurer; altering the selection and appointment process for the members of the Board for the Chesapeake Employers' Insurance Company; requiring, to the extent practicable, that the Board *for the Chesapeake Employers' Insurance Company* reflect a certain diversity of the State; specifying the qualifications for the members of the Board; repealing a requirement that certain appointees take a certain oath before taking office as members of the Board; altering the means for staggering the terms of members of the Board; authorizing the Governor to remove only certain members for incompetence or misconduct; authorizing the Board to remove certain members under certain circumstances; requiring a certain designated rating organization to create a certain exception in its classification system for certain authorized insurers; authorizing the Company to remain exempt from certain insurance rate making requirements until a certain date; repealing certain provisions of law that exempt the Company from certain aspects of the insurance rate making process; repealing a provision of law that requires the Board to set rates in a certain manner; declaring the intent of the General Assembly that a rating organization, in consultation with the Company, shall create a certain exception in its classification system for authorized insurers; requiring the terms of certain members to be extended until a certain date; specifying the process for appointing or selecting a certain member of the Board; renumbering certain provisions; making other conforming changes; providing for delayed effective dates for certain provisions of this Act; *providing for the application of certain provisions of this Act that establish qualifications for members of the Board;* and generally relating to the Chesapeake Employers' Insurance Company.~~

BY repealing and reenacting, with amendments,
 Article – Insurance
 Section ~~11-202, 11-303, 24-306, and 24-307~~
 Annotated Code of Maryland
 (2011 Replacement Volume and 2013 Supplement)

~~BY adding to~~
~~Article – Insurance~~
~~Section 11-331 and 11-332~~

~~Annotated Code of Maryland
(2011 Replacement Volume and 2013 Supplement)~~

~~BY repealing~~

~~Article – Insurance~~

~~Section 24-305~~

~~Annotated Code of Maryland~~

~~(2011 Replacement Volume and 2013 Supplement)~~

~~BY renumbering~~

~~Article – Insurance~~

~~Section 24-306 through 24-312, respectively~~

~~to be Section 24-305 through 24-311, respectively~~

~~Annotated Code of Maryland~~

~~(2011 Replacement Volume and 2013 Supplement)~~

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

Article – Insurance

~~24-306.~~

~~(a) The Company:~~

~~(1) shall be an authorized insurer; and~~

~~(2) on and after October 1, 2013 AS A CONDITION OF BEING AN AUTHORIZED INSURER, shall be the workers' compensation insurer of last resort for employers covered under Title 9 of the Labor and Employment Article.~~

~~(b) Before October 1, 2013, the Fund shall serve as the workers' compensation insurer of last resort for workers' compensation insurance and as a competitive workers' compensation insurer under the same terms and conditions as the Fund served before October 1, 2012.~~

~~(c) The Company may not cancel or refuse to renew or issue a policy except for:~~

~~(1) nonpayment of a premium for current or prior policies issued by the Fund or the Company;~~

~~(2) failure to provide payroll information to the Fund or the Company;~~

~~or~~

~~(3) failure to cooperate in any payroll audit conducted by the Fund or the Company.~~

~~(d) The Company may engage only in the business of workers' compensation insurance in accordance with State law.~~

~~(e) THE SUBJECT TO THE REQUIREMENTS OF TITLE 7 OF THIS ARTICLE, THE COMPANY MAY ESTABLISH, OWN, OR CONTROL OR ACQUIRE A SUBSIDIARY FOR ANY LAWFUL PURPOSE IF THE SUBSIDIARY:~~

~~(1) IS WHOLLY OWNED BY THE COMPANY;~~

~~(2) ENGAGES IN A BUSINESS ACTIVITY THAT IS ANCILLARY TO THE WORKERS' COMPENSATION INSURANCE BUSINESS; AND~~

~~(3) IS OPERATED FOR THE PURPOSE OF BENEFITING THE COMPANY.~~

24-307.

(a) (1) There is a Board for the Chesapeake Employers' Insurance Company.

(2) The Board shall manage the business and affairs of the Company as a private, nonprofit corporation in accordance with State law.

(b) (1) The Board shall consist of nine members [appointed by the Governor with the advice and consent of the Senate].

~~(2) OF THE NINE MEMBERS:~~

~~(i) TWO PUBLIC MEMBERS SHALL BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE; AND~~

~~(ii) SEVEN MEMBERS SHALL BE SELECTED BY THE POLICYHOLDERS UNDER PROCEDURES PROVIDED IN THE BYLAWS OF THE BOARD.~~

~~(3) (2) TO THE EXTENT PRACTICABLE, THE BOARD SHALL REFLECT THE GEOGRAPHIC AND DEMOGRAPHIC, INCLUDING RACE AND GENDER, DIVERSITY OF THE STATE.~~

~~(4) (3) THE BYLAWS OF THE BOARD SHALL PROVIDE THAT: OF THE NINE MEMBERS:~~

(I) AT LEAST TWO MEMBERS SHALL HAVE SUBSTANTIAL EXPERIENCE AS OFFICERS OR EMPLOYEES OF AN INSURER, BUT MAY NOT BE EMPLOYED BY AN INSURER THAT IS IN DIRECT COMPETITION WITH THE COMPANY WHILE SERVING ON THE BOARD;

(II) AT LEAST TWO MEMBERS SHALL BE POLICYHOLDERS OF THE COMPANY;

(III) AT LEAST ONE MEMBER SHALL HAVE SIGNIFICANT EXPERIENCE IN THE INVESTMENT BUSINESS; ~~AND~~

(IV) AT LEAST ONE MEMBER SHALL HAVE SIGNIFICANT EXPERIENCE IN THE ACCOUNTING OR AUDITING FIELD; AND

(V) AT LEAST ONE MEMBER SHALL HAVE SIGNIFICANT EXPERIENCE AS A REPRESENTATIVE, EMPLOYEE, OR MEMBER OF A LABOR UNION.

(c) Each member shall be a resident of the State.

~~¶~~(d) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution. ~~¶~~

~~¶(e) ¶(d)~~ (1) The term of a member is 5 years.

(2) The terms of members are staggered as ~~¶~~required by the terms provided for members of the Board for the Fund on October 1, 1991 ~~¶ PROVIDED IN THE BYLAWS ADOPTED BY THE BOARD.~~

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) A member may not serve for more than:

(i) two full terms; or

(ii) a total of 10 years.

~~¶(f) ¶(e) ¶(d)~~ (1) The Governor may remove a member ~~WHO HAS BEEN APPOINTED BY THE GOVERNOR~~ for incompetence or misconduct.

~~(2) THE BOARD MAY REMOVE A MEMBER WHO HAS BEEN SELECTED BY THE POLICYHOLDERS FOR MISCONDUCT, INCOMPETENCE, OR DERELICTION OF DUTIES.~~

~~{(g)}~~~~(F)~~ The Board shall adopt rules, bylaws, and procedures.

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article Insurance~~

~~11-331.~~

~~ON OR BEFORE OCTOBER 1, 2015, AND EACH YEAR THEREAFTER UNTIL OCTOBER 1, 2019, THE RATING ORGANIZATION THAT THE MARYLAND INSURANCE COMMISSIONER DESIGNATES UNDER § 11-329 OF THIS SUBTITLE, IN CONSULTATION WITH THE CHESAPEAKE EMPLOYERS' INSURANCE COMPANY, SHALL SUBMIT A REPORT TO THE SENATE FINANCE COMMITTEE AND THE HOUSE ECONOMIC MATTERS COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE PROGRESS THAT THE CHESAPEAKE EMPLOYERS' INSURANCE COMPANY HAS MADE IN PREPARING TO BECOME A MEMBER OF THE RATING ORGANIZATION.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article Insurance~~

~~11-332.~~

~~THE RATING ORGANIZATION THAT THE COMMISSIONER DESIGNATES UNDER § 11-329 OF THIS SUBTITLE SHALL CREATE AND MAINTAIN AN EXCEPTION IN ITS CLASSIFICATION SYSTEM TO ALLOW ANY AUTHORIZED INSURER IN THE STATE TO USE A SINGLE CLASSIFICATION CODE FOR GOVERNMENTAL OCCUPATIONS THAT ARE NOT INCLUDED IN POLICE, FIREFIGHTER, AND CLERICAL CLASSIFICATIONS.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article Insurance~~

~~11-202.~~

~~(a) (1) This subtitle applies to all types of insurers.~~

~~(2) Except as provided in subsection (b) of this section, this subtitle applies to:~~

- ~~(i) property insurance;~~
- ~~(ii) casualty insurance;~~
- ~~(iii) surety insurance;~~
- ~~(iv) marine insurance; and~~
- ~~(v) wet marine and transportation insurance.~~

~~(b) This subtitle does not apply to:~~

- ~~(1) reinsurance, except as provided in § 11-222 of this subtitle;~~
- ~~(2) insurance of vessels or craft or their cargoes, marine protection and indemnity insurance, or insurance of other risks commonly insured under policies of marine insurance, as distinguished from inland marine insurance;~~
- ~~(3) insurance against loss of or damage to aircraft including their accessories and equipment, or insurance against liability, other than workers' compensation insurance or employer's liability insurance, arising out of the ownership, maintenance, or use of aircraft; OR~~
- ~~(4) title insurance]; or~~
- ~~(5) the Chesapeake Employers' Insurance Company].~~

~~(e) If a kind of insurance, subdivision or combination of kinds of insurance, or type of coverage is subject to this subtitle and is also subject to regulation by another rate regulatory provision of the statutes of the State, an insurer to which both provisions are otherwise applicable shall file with the Commissioner a designation as to which rate regulatory provision is applicable to it with respect to that kind of insurance, subdivision or combination of kinds of insurance, or type of coverage.~~

~~11-303.~~

~~(a) Notwithstanding Subtitle 2 of this title, this subtitle applies to the establishment of rates for all types of insurance except:~~

- ~~(1) life insurance;~~
- ~~(2) annuities;~~

- ~~(3) health insurance;~~
- ~~(4) marine insurance described in § 11-202(b)(2) of this title;~~
- ~~(5) aircraft insurance described in § 11-202(b)(3) of this title;~~
- ~~(6) reinsurance;~~
- ~~(7) insurance provided under the Maryland Automobile Insurance Fund;~~
- ~~[(8) insurance provided under the Chesapeake Employers' Insurance Company;]~~
- ~~[(9)] (8) title insurance;~~
- ~~[(10)] (9) medical malpractice insurance;~~
- ~~[(11)] (10) any form or plan of insurance regulated under § 27-217 of this article; and~~
- ~~[(12)] (11) surety insurance.~~

~~(b) If and to the extent that the Commissioner finds that the application of any or all of the provisions of this subtitle is unnecessary to achieve the purposes of this subtitle, the Commissioner by rule may exempt a person or class of persons or a line or lines of insurance from any or all of those provisions.~~

~~[24-305.~~

- ~~(a) The Company is not subject to Title 11 of this article.~~
- ~~(b) The Board shall:~~
 - ~~(1) adopt a schedule of premium rates in accordance with sound actuarial practices; and~~
 - ~~(2) ensure that the rates are not excessive, inadequate, or unfairly discriminatory.~~
- ~~(c) (1) The Board shall determine the schedule of premium rates by:~~
 - ~~(i) classifying all of the policyholders of the Company on the basis of the respective level of hazard of their enterprises; and~~

~~(ii) setting a premium rate for each class on the basis of:~~

~~1. its level of hazard; and~~

~~2. incentives to prevent injuries to employees.~~

~~(2) To determine the schedule of premium rates, the Board shall use the rating system that, in the opinion of the Board:~~

~~(i) 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;~~

~~(ii) encourages the prevention of injuries; and~~

~~(iii) ensures the solvency of the Company from year to year.~~

~~(3) The Board may set minimum premium rates for policies issued by the Company.~~

~~(d) The Commissioner shall review the Company's rates as part of an examination under § 2-205 of this article to determine whether the Company's rate making practices produce actuarially sound rates.†~~

~~SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 24-306 through 24-312, respectively, of Article Insurance of the Annotated Code of Maryland be renumbered to be Section(s) 24-305 through 24-311, respectively.~~

~~SECTION 6. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, it is the intent of the General Assembly that on or before January 1, 2010, the rating organization that the Maryland Insurance Commissioner designates under § 11-329 of the Insurance Article, in consultation with the Chesapeake Employers' Insurance Company, shall create an exception in its classification system, as required under § 11-332 as enacted by Section 3 of this Act, to allow any authorized insurer in Maryland to use a single classification code for governmental occupations that are not included in police, firefighter, and clerical classifications.~~

~~SECTION 7. AND BE IT FURTHER ENACTED, That:~~

~~(a) Notwithstanding § 24-307 of the Insurance Article as enacted by Section 1 of this Act, the term of any member who is on the Board of the Chesapeake Employers' Insurance Company on the effective date of this Act, shall be extended until September 30, 2010.~~

~~(b) (1) Except as provided in paragraph (2) of this subsection, policyholders shall select a successor to fill a vacancy that occurs on the Board before October 1, 2019, as provided in § 24-307(b)(2) of the Insurance Article as enacted by Section 1 of this Act.~~

~~(2) If a vacancy occurs on the Board before October 1, 2019, and the Board includes seven members selected by the policyholders, the Governor shall appoint a successor to fill the vacancy as provided in § 24-307(b)(2) of the Insurance Article as enacted by Section 1 of this Act.~~

~~SECTION 8. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2014. It shall remain effective for a period of 6 years and, at the end of October 1, 2020, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.~~

~~SECTION 9. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect January 1, 2019.~~

~~SECTION 10. AND BE IT FURTHER ENACTED, That Sections 4 and 5 of this Act shall take effect January 1, 2020.~~

~~SECTION 11. AND BE IT FURTHER ENACTED, That, except as provided in Sections 9 and 10 of this Act, this Act shall take effect October 1, 2014.~~

SECTION 2. AND BE IT FURTHER ENACTED, That § 24-307(b)(3) of the Insurance Article, as enacted by Section 1 of this Act, which establishes qualifications for members of the Board for the Chesapeake Employers' Insurance Company:

(1) shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any member of the Board appointed to serve on the Board before the effective date of this Act; and

(2) shall apply only to appointments made by the Governor to fill vacancies on the Board occurring on or after the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.

Approved by the Governor, April 14, 2014.