



SENATE BILL 745

K1, C4

EMERGENCY BILL
ENROLLED BILL

(2lr1711)

— Finance/Economic Matters —

Introduced by ~~Senator Middleton~~ Senators Middleton, Kelley, and Klausmeier

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Injured Workers' Insurance Fund – Conversion to Chesapeake Employers'**
3 **Insurance Company**

4 FOR the purpose of converting the Injured Workers' Insurance Fund into a statutorily
5 created, private, nonprofit, and nonstock workers' compensation insurer to be
6 named the Chesapeake Employers' Insurance Company; requiring the Company
7 to file certain documents and take certain actions before a certain transfer date;
8 providing that the Company has certain powers, privileges, and immunities
9 granted by and is subject to certain provisions imposed on certain insurers;
10 requiring the Company to be authorized, examined, and regulated by the
11 Maryland Insurance Commissioner in a certain matter and to a certain extent
12 and to be subject to certain provisions of law; providing that the Company is a
13 member of the Property and Casualty Insurance Guaranty Corporation;
14 requiring the Company to be an authorized insurer and, on and after a certain
15 date, a certain insurer of last resort; requiring the Fund, before a certain date.

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.

Italics indicate opposite chamber / conference committee amendments.



SENATE BILL 745

1 to serve as the workers' compensation insurer of last resort and as a competitive
2 workers' compensation insurer under certain terms and conditions; specifying
3 the circumstances under which the Company may cancel or refuse to renew or
4 issue a policy; authorizing the Company to engage only in a certain business;
5 establishing the Board for the Chesapeake Employers' Insurance Company;
6 requiring the Board to adopt a certain schedule of premium rates; requiring the
7 Commissioner to review certain rates for a certain purpose; requiring the Board
8 to manage the business and affairs of the Company as a private, nonprofit
9 corporation; specifying the qualifications and terms of members of the Board;
10 requiring the Board to adopt rules, bylaws, and procedures; authorizing the
11 Board to declare a policyholder dividend in a certain form under certain
12 circumstances; providing that the Company is independent of State government
13 and that the employees of the Company are not State employees and not
14 members of the State Retirement and Pension System; providing that the
15 money of the Company is not part of the General Fund of the State; providing
16 that the State may not budget for or provide General Fund appropriations to
17 the Company; providing that the debts, claims, obligations, and liabilities of the
18 Company are not a debt of the State or a pledge of the credit of the State;
19 requiring the Board to attempt to use minority business enterprises under
20 certain circumstances for certain brokerage and investment management
21 services; requiring the Board to submit a certain report on or before a certain
22 date each year; requiring, on a certain date, that certain functions, powers,
23 duties, assets, property, accounts, liabilities, contracts, and obligations be
24 irrevocably transferred to the Company; prohibiting a certain contract or
25 agreement with the State from being transferred or assigned to the Company
26 until a certain time; requiring the Fund to retain certain assets; prohibiting the
27 Company from being converted to a mutual or stock company, being sold, or
28 being dissolved; providing that the Fund is an instrumentality of the State;
29 requiring, on and after a certain date, the Company, and not the Fund, to serve
30 as a certain insurer of last resort in a certain manner before a certain date;
31 providing that the Fund shall continue to exist on and after a certain date;
32 prohibiting the Fund from issuing certain policies or engaging in a certain
33 business ~~except through the Company~~ on and after a certain date; authorizing
34 the Fund to continue to be a certain third party administrator on and after a
35 certain date; requiring the Company to utilize certain employees; ~~authorizing~~
36 requiring the Fund to utilize certain employees; requiring the Fund to maintain
37 a certain payroll and human resources system and be responsible for paying
38 certain taxes and contributions and paying for certain benefits; providing that
39 employees of the Fund may be assigned to perform certain functions of the
40 Company; requiring the Company and the Fund to execute a certain agreement;
41 prohibiting the Fund from hiring certain employees on and after a certain date;
42 authorizing certain employees to remain employees of the Fund and continue to
43 be State employees on and after a certain date; providing that certain
44 employees of the Fund may not be required to be employees of the Company;
45 authorizing certain employees to make a certain election; requiring the Board
46 for the Fund to manage the business and affairs of the Fund in a certain
47 manner; providing that members of the Board for the Fund continue to serve a

1 certain term and serve on the Board for the Company under certain terms and
2 conditions; requiring the Board for the Fund to be subject to certain rules,
3 bylaws, and procedures; ~~authorizing~~ requiring the President of the Fund to be
4 the President of the Company; requiring the Fund to remain in existence under
5 certain circumstances; providing for the termination of the Fund; repealing
6 certain provisions relating to the Fund that are obsolete upon the conversion of
7 the Fund to the Company; requiring the Fund to pay, on and after a certain
8 date, certain amounts to the Employees' Retirement System or the Employees'
9 Pension System on behalf of certain employees; requiring the Fund to pay a
10 certain withdrawal liability contribution beginning on or before a certain date
11 and each year thereafter; defining certain terms; stating certain findings of the
12 General Assembly; providing that the Company is the successor of the Fund, the
13 Board for the Company is the successor of the Board for the Fund, and the
14 President of the Company is the successor of the President of the Fund;
15 requiring that certain names and titles of certain agencies and officials mean
16 the names and titles of the successor agency or official; providing that certain
17 forms and documents may be used by the Company; ~~providing that certain~~
18 ~~functions, powers, duties, equipment, assets, and liabilities be transferred to the~~
19 ~~Company on a certain date; providing that compliance with certain provisions of~~
20 ~~law is not required until a certain time~~ requiring the Maryland Insurance
21 Administration to study, in consultation with certain persons and entities,
22 whether the Company should be subject to a certain rating law; requiring the
23 Administration to report on or before a certain date on certain findings and
24 recommendations; ~~defining certain terms; stating a certain intent of the General~~
25 ~~Assembly; requiring the publisher of the Annotated Code, in consultation with~~
26 the Department of Legislative Services, to make certain corrections in the Code;
27 requiring the Administration to contract with a certain firm to conduct a certain
28 study; requiring the study to consider the fair value of certain financial
29 contributions and benefits; specifying the items that the study is required to
30 consider in determining a certain fair value; requiring a certain firm, in
31 conducting a certain study, to consult with certain persons; requiring the
32 Administration to require a certain firm to report certain findings and
33 conclusions to the Administration before a certain date; requiring the
34 Administration to report the firm's findings and conclusions to certain
35 legislative committees on or before a certain date; requiring the Administration
36 to contract with certain consultants to conduct a certain assessment under
37 certain circumstances; providing that the Company shall owe a certain debt to
38 the General Fund under certain circumstances; specifying the manner in which
39 the Company must pay the debt; requiring the Fund to be responsible for the
40 payment of the costs of a certain study and a certain assessment; requiring the
41 Fund and the Board of Trustees for the State Retirement and Pension System to
42 enter into a certain agreement on or before a certain date; requiring the Fund to
43 be responsible for the payment of certain costs incurred in calculating ~~a~~ certain
44 ~~liability~~ liabilities; requiring the Fund to begin paying a certain amount to the
45 State Employee and Retiree Health and Welfare Benefits Fund on or before a
46 certain date; requiring the Injured Workers' Insurance Fund and the Department
47 of Budget and Management, on or before a certain date, to enter into a

1 memorandum of agreement establishing the terms, conditions, and schedule for
 2 certain payments by the Fund; making this Act an emergency measure;
 3 providing for the effective dates of certain provisions of this Act; and generally
 4 relating to the conversion of the Injured Workers' Insurance Fund to the
 5 Chesapeake Employers' Insurance Company.

6 BY adding to

7 Article – Insurance

8 Section 24–301 through ~~24–311~~ 24–312 to be under the new subtitle “Subtitle 3.

9 Chesapeake Employers' Insurance Company” and the amended title

10 “Title 24. State Created Mutual Societies and Other Entities”

11 Annotated Code of Maryland

12 (2011 Replacement Volume)

13 BY repealing and reenacting, with amendments,

14 Article – Labor and Employment

15 Section 10–101, 10–104, 10–107, 10–109, and 10–113

16 Annotated Code of Maryland

17 (2008 Replacement Volume and 2011 Supplement)

18 BY repealing

19 Article – Labor and Employment

20 The part designation “Part I. Definitions” immediately preceding Section

21 10–101; and Section 10–105, 10–106, and 10–108 and the part “Part II.

22 Fund”; 10–110, 10–111, 10–112, and 10–114 and the part “Part III.

23 Board”; 10–117, 10–118, 10–120, 10–121, 10–122, 10–125, 10–126, and

24 10–127 and the part “Part IV. Purposes and Administration of Fund”;

25 10–130, 10–131, 10–132, 10–133, 10–134, 10–135, 10–136, 10–137, and

26 10–138 and the part “Part V. Insurance Program”; and 10–141 and the

27 part “Part VI. Prohibited Acts; Penalty”

28 Annotated Code of Maryland

29 (2008 Replacement Volume and 2011 Supplement)

30 BY adding to

31 Article – Labor and Employment

32 Section 10–103 and 10–107

33 Annotated Code of Maryland

34 (2008 Replacement Volume and 2011 Supplement)

35 BY adding to

36 Article – State Personnel and Pensions

37 Section 21–307(p)

38 Annotated Code of Maryland

39 (2009 Replacement Volume and 2011 Supplement)

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

1 (5) THE LONG-TERM COMPETITIVE SUCCESS OF THE FUND
2 WOULD BE ENHANCED IF THE FINAL BARRIERS TO FULL COMPETITION WERE
3 ELIMINATED BY CONVERTING THE FUND INTO A FULLY COMPETITIVE, FULLY
4 REGULATED, PRIVATE INSURER;

5 (6) CONVERTING THE FUND INTO A PRIVATE, NONSTOCK,
6 NONPROFIT INSURER WOULD LEVEL THE COMPETITIVE PLAYING FIELD FOR ALL
7 WORKERS' COMPENSATION INSURERS OPERATING IN THE STATE;

8 (7) CONVERTING THE FUND INTO A PRIVATE, NONSTOCK,
9 NONPROFIT INSURER WOULD PROVIDE ASSURANCE TO MARYLAND EMPLOYERS
10 THAT THE FINANCIAL SUCCESS OF THE FUND WOULD INURE TO THEIR BENEFIT
11 AS POLICYHOLDERS THROUGH DIVIDENDS AND LOWER RATES AND THAT
12 SURPLUS FUNDS COULD NOT BE TRANSFERRED TO THE STATE'S GENERAL
13 FUND;

14 (8) THE INTERESTS OF THE STATE WOULD BE PROTECTED IF THE
15 FUND'S STATUTORY PURPOSE OF INSURER OF LAST RESORT FOR WORKERS'
16 COMPENSATION INSURANCE IS PRESERVED AND THE GOVERNOR RETAINS THE
17 RIGHT TO APPOINT THE MEMBERS OF THE BOARD OF THE NEW COMPANY;

18 (9) (I) THE INTERESTS OF THE EMPLOYEES OF THE FUND
19 WOULD BE SATISFIED BY ENSURING THAT CURRENT EMPLOYEES HAVE THE
20 OPTION TO REMAIN STATE EMPLOYEES OF THE FUND AFTER THE CONVERSION
21 OF THE FUND TO A PRIVATE, NONSTOCK, NONPROFIT INSURER; AND

22 (II) THE INTERESTS OF EMPLOYEES OF THE FUND WOULD
23 FURTHER BE SATISFIED BY ENSURING THAT CURRENT LONG-TERM STATE
24 EMPLOYEES WHO REMAIN STATE EMPLOYEES OF THE FUND AFTER THE
25 CONVERSION OF THE FUND TO A PRIVATE, NONSTOCK, NONPROFIT INSURER
26 SHALL REMAIN IN THE STATE RETIREMENT SYSTEM AND, THEREFORE, WOULD
27 NOT BE UNFAIRLY PENALIZED BY BEING PREMATURELY FORCED OUT OF THE
28 STATE RETIREMENT SYSTEM DUE TO THE CONVERSION; AND

29 (10) THE INTERESTS OF THE RESIDENTS OF THE STATE, BOTH
30 EMPLOYERS AND EMPLOYEES, WILL BE BEST MET BY CONVERTING THE FUND
31 INTO A PRIVATE, NONSTOCK, NONPROFIT, FULLY REGULATED, COMPETITIVE
32 INSURER.

33 24-303.

34 (A) THERE IS A CHESAPEAKE EMPLOYERS' INSURANCE COMPANY.

35 (B) THE COMPANY SHALL BE:

1 (1) A PRIVATE, NONPROFIT, NONSTOCK ~~COMPANY~~ CORPORATION
2 ORGANIZED UNDER STATE LAW; AND

3 (2) SUBJECT TO THE APPLICABLE PROVISIONS OF THE
4 CORPORATIONS AND ASSOCIATIONS ARTICLE AS A NONSTOCK ~~COMPANY~~
5 CORPORATION.

6 (C) BEFORE ~~MARCH~~ OCTOBER 1, 2013, THE COMPANY SHALL:

7 (1) FILE ARTICLES OF INCORPORATION UNDER THE
8 CORPORATIONS AND ASSOCIATIONS ARTICLE; AND

9 (2) TAKE ALL STEPS NECESSARY TO BE A PRIVATE, NONPROFIT,
10 NONSTOCK ~~COMPANY~~ CORPORATION ORGANIZED UNDER STATE LAW.

11 24-304.

12 (A) BEFORE ~~MARCH~~ OCTOBER 1, 2013, THE COMPANY SHALL:

13 (1) FILE AN APPLICATION FOR A CERTIFICATE OF AUTHORITY
14 UNDER THIS ARTICLE AND A STATEMENT OF THE RISK-BASED CAPITAL LEVELS
15 OF THE COMPANY AS OF THE DATE OF THE APPLICATION PREPARED IN
16 ACCORDANCE WITH § 4-303 OF THIS ARTICLE; AND

17 (2) TAKE ALL STEPS NECESSARY TO BE AN AUTHORIZED
18 DOMESTIC INSURER UNDER STATE LAW.

19 (B) ON APPROVAL OF THE APPLICATION FOR A CERTIFICATE OF
20 AUTHORITY, THE COMMISSIONER SHALL ISSUE TO THE COMPANY A
21 CERTIFICATE OF AUTHORITY THAT AUTHORIZES THE COMPANY TO ISSUE
22 POLICIES UNDER TITLE 9 OF THE LABOR AND EMPLOYMENT ARTICLE.

23 (C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE
24 COMPANY HAS THE POWERS, PRIVILEGES, AND IMMUNITIES GRANTED BY AND
25 IS SUBJECT TO THE PROVISIONS APPLICABLE TO INSURERS AUTHORIZED TO
26 WRITE WORKERS' COMPENSATION INSURANCE UNDER THIS ARTICLE.

27 (D) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE
28 COMPANY SHALL BE:

29 (1) AUTHORIZED, EXAMINED, AND REGULATED BY THE
30 COMMISSIONER IN THE SAME MANNER AND TO THE SAME EXTENT AS OTHER
31 AUTHORIZED PROPERTY AND CASUALTY INSURERS; AND

1 (2) SUBJECT TO EACH PROVISION OF THIS ARTICLE THAT IS
2 APPLICABLE TO OTHER AUTHORIZED PROPERTY AND CASUALTY INSURERS.

3 ~~(D)~~ (E) THE COMPANY IS A MEMBER OF THE PROPERTY AND
4 CASUALTY INSURANCE GUARANTY CORPORATION.

5 24-305.

6 (A) THE COMPANY IS NOT SUBJECT TO TITLE 11 OF THIS ARTICLE.

7 (B) THE BOARD SHALL:

8 (1) ADOPT A SCHEDULE OF PREMIUM RATES IN ACCORDANCE
9 WITH SOUND ACTUARIAL PRACTICES; AND

10 (2) ENSURE THAT THE RATES ARE NOT EXCESSIVE, INADEQUATE,
11 OR UNFAIRLY DISCRIMINATORY.

12 (C) (1) THE BOARD SHALL DETERMINE THE SCHEDULE OF PREMIUM
13 RATES BY:

14 (I) CLASSIFYING ALL OF THE POLICYHOLDERS OF THE
15 COMPANY ON THE BASIS OF THE RESPECTIVE LEVEL OF HAZARD OF THEIR
16 ENTERPRISES; AND

17 (II) SETTING A PREMIUM RATE FOR EACH CLASS ON THE
18 BASIS OF:

19 1. ITS LEVEL OF HAZARD; AND

20 2. INCENTIVES TO PREVENT INJURIES TO
21 EMPLOYEES.

22 (2) TO DETERMINE THE SCHEDULE OF PREMIUM RATES, THE
23 BOARD SHALL USE THE RATING SYSTEM THAT, IN THE OPINION OF THE BOARD:

24 (I) MOST ACCURATELY MEASURES THE LEVEL OF HAZARD
25 FOR EACH POLICYHOLDER ON THE BASIS OF THE NUMBER OF INJURIES THAT
26 OCCUR IN THE ENTERPRISES OF THE POLICYHOLDER;

27 (II) ENCOURAGES THE PREVENTION OF INJURIES; AND

1 (III) ENSURES THE SOLVENCY OF THE COMPANY FROM YEAR
2 TO YEAR.

3 (3) THE BOARD MAY SET MINIMUM PREMIUM RATES FOR
4 POLICIES ISSUED BY THE COMPANY.

5 (D) THE COMMISSIONER SHALL REVIEW THE COMPANY'S RATES AS
6 PART OF AN EXAMINATION UNDER § 2-205 OF THIS ARTICLE TO DETERMINE
7 WHETHER THE COMPANY'S RATE MAKING PRACTICES PRODUCE ACTUARIALLY
8 SOUND RATES.

9 24-306.

10 (A) THE COMPANY ~~SHALL BE~~:

11 (1) SHALL BE AN AUTHORIZED INSURER; AND

12 (2) ON AND AFTER OCTOBER 1, 2013, SHALL BE THE WORKERS'
13 COMPENSATION INSURER OF LAST RESORT FOR EMPLOYERS COVERED UNDER
14 TITLE 9 OF THE LABOR AND EMPLOYMENT ARTICLE.

15 (B) BEFORE OCTOBER 1, 2013, THE FUND SHALL SERVE AS THE
16 WORKERS' COMPENSATION INSURER OF LAST RESORT FOR WORKERS'
17 COMPENSATION INSURANCE AND AS A COMPETITIVE WORKERS' COMPENSATION
18 INSURER UNDER THE SAME TERMS AND CONDITIONS AS THE FUND SERVED
19 BEFORE OCTOBER 1, 2012.

20 ~~(B)~~ (C) THE COMPANY MAY NOT CANCEL OR REFUSE TO RENEW OR
21 ISSUE A POLICY EXCEPT FOR:

22 (1) NONPAYMENT OF A PREMIUM FOR CURRENT OR PRIOR
23 POLICIES ISSUED BY THE FUND OR THE COMPANY;

24 (2) FAILURE TO PROVIDE PAYROLL INFORMATION TO THE FUND
25 OR THE COMPANY; OR

26 (3) FAILURE TO COOPERATE IN ANY PAYROLL AUDIT CONDUCTED
27 BY THE FUND OR THE COMPANY.

28 ~~(C)~~ (D) THE COMPANY MAY ENGAGE ONLY IN THE BUSINESS OF
29 WORKERS' COMPENSATION INSURANCE IN ACCORDANCE WITH STATE LAW.

30 ~~24-306.~~ 24-307.

1 (A) (1) THERE IS A BOARD FOR THE CHESAPEAKE EMPLOYERS'
2 INSURANCE COMPANY.

3 (2) THE BOARD SHALL MANAGE THE BUSINESS AND AFFAIRS OF
4 THE COMPANY AS A PRIVATE, NONPROFIT CORPORATION IN ACCORDANCE WITH
5 STATE LAW.

6 (B) THE BOARD SHALL CONSIST OF NINE MEMBERS APPOINTED BY THE
7 GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

8 (C) EACH MEMBER SHALL BE A ~~CITIZEN~~ RESIDENT OF THE STATE.

9 (D) BEFORE TAKING OFFICE, EACH APPOINTEE TO THE BOARD SHALL
10 TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND
11 CONSTITUTION.

12 (E) (1) THE TERM OF A MEMBER IS 5 YEARS.

13 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY
14 THE TERMS PROVIDED FOR MEMBERS OF THE BOARD FOR THE FUND ON
15 OCTOBER 1, 1991.

16 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE
17 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

18 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN
19 SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS
20 APPOINTED AND QUALIFIES.

21 (5) A MEMBER MAY NOT SERVE FOR MORE THAN:

22 (I) TWO FULL TERMS; OR

23 (II) A TOTAL OF 10 YEARS.

24 (F) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR
25 MISCONDUCT.

26 (G) THE BOARD SHALL ADOPT RULES, BYLAWS, AND PROCEDURES.

27 ~~24-307.~~ 24-308.

1 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE BOARD MAY
2 DECLARE A POLICYHOLDER DIVIDEND IN THE FORM OF A CASH REFUND OR
3 CREDIT TO:

4 (1) A POLICYHOLDER BASED ON THE ACTUAL LOSS RATIO THAT IS
5 BETTER THAN THE LOSS RATIO USED TO CALCULATE THE POLICYHOLDER'S
6 PREMIUM; OR

7 (2) ALL POLICYHOLDERS WHOSE LOSS RATIO CONTRIBUTED TO
8 THE COMPANY'S SURPLUS FOR THAT YEAR.

9 (B) (1) THE BOARD MAY NOT ISSUE A POLICYHOLDER DIVIDEND
10 UNDER SUBSECTION ~~(A)~~ (A)(2) OF THIS SECTION UNLESS THE COMMISSIONER
11 HAS APPROVED THE POLICYHOLDER DIVIDEND.

12 (2) IN DETERMINING WHETHER TO APPROVE THE POLICYHOLDER
13 DIVIDEND UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER
14 SHALL CONSIDER:

15 (I) THE COMPANY'S SURPLUS;

16 (II) MATERIAL CHANGES IN PREMIUM RATES, CLAIMS,
17 MARKET SHARE, OR TYPES OF INSURED RISKS;

18 (III) THE METHODOLOGY THE BOARD USED TO DETERMINE
19 THAT POLICYHOLDERS ARE ELIGIBLE FOR THE POLICYHOLDER DIVIDEND; AND

20 (IV) ANY OTHER FACTOR THE COMMISSIONER CONSIDERS
21 RELEVANT.

22 ~~24-308.~~ 24-309.

23 (A) THE COMPANY IS NOT AND MAY NOT BE DEEMED TO BE A
24 DEPARTMENT, UNIT, AGENCY, OR INSTRUMENTALITY OF THE STATE FOR ANY
25 PURPOSE.

26 (B) EMPLOYEES OF THE COMPANY ARE NOT:

27 (1) EMPLOYEES OF THE STATE; OR

28 (2) MEMBERS OF THE STATE RETIREMENT AND PENSION
29 SYSTEM.

1 (C) ALL DEBTS, CLAIMS, OBLIGATIONS, AND LIABILITIES OF THE
2 COMPANY, WHENEVER INCURRED, SHALL BE THE DEBTS, CLAIMS,
3 OBLIGATIONS, AND LIABILITIES OF THE COMPANY ONLY AND NOT OF THE
4 STATE OR THE STATE'S DEPARTMENTS, UNITS, AGENCIES,
5 INSTRUMENTALITIES, OFFICERS, OR EMPLOYEES.

6 (D) (1) MONEY OF THE COMPANY IS NOT PART OF THE GENERAL
7 FUND OF THE STATE.

8 (2) THE STATE MAY NOT BUDGET FOR OR PROVIDE GENERAL
9 FUND APPROPRIATIONS TO THE COMPANY.

10 (3) THE DEBTS, CLAIMS, OBLIGATIONS, AND LIABILITIES OF THE
11 COMPANY ARE NOT A DEBT OF THE STATE OR A PLEDGE OF THE CREDIT OF THE
12 STATE.

13 ~~24-309.~~ 24-310.

14 (A) CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS
15 APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE FINANCE
16 AND PROCUREMENT ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES
17 OF THE BOARD, THE BOARD SHALL ATTEMPT TO USE TO THE GREATEST EXTENT
18 FEASIBLE MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE AND
19 INVESTMENT MANAGEMENT SERVICES TO THE BOARD.

20 (B) FOR PURPOSES OF THIS SECTION, BROKERAGE AND INVESTMENT
21 MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL
22 ALLOCATED ASSET CLASSES.

23 (C) (1) TO ASSIST THE BOARD IN ACHIEVING THE GOAL DESCRIBED
24 UNDER SUBSECTION (A) OF THIS SECTION, THE BOARD SHALL UNDERTAKE
25 MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY
26 MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT
27 MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE COMPANY.

28 (2) THE MEASURES UNDERTAKEN BY THE BOARD SHALL
29 INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE BOARD'S
30 WEB SITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL
31 PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES
32 OPPORTUNITIES AFFORDED BY THE COMPANY.

33 (D) IN CONJUNCTION WITH THE GOVERNOR'S OFFICE OF MINORITY
34 AFFAIRS, THE BOARD SHALL DEVELOP GUIDELINES TO ASSIST IT IN
35 IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES

1 IN ORDER TO HELP THE COMPANY ACHIEVE THE OBJECTIVE FOR GREATER USE
2 OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT
3 MANAGEMENT SERVICES.

4 (E) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE BOARD SHALL
5 SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS AND,
6 ~~SUBJECT TO~~ IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT
7 ARTICLE, THE GENERAL ASSEMBLY ON:

8 (1) THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE
9 BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS USED BY THE
10 BOARD IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

11 (2) THE PERCENTAGE AND DOLLAR VALUE OF THE COMPANY
12 ASSETS THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS
13 ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS;
14 AND

15 (3) THE MEASURES THE BOARD UNDERTOOK IN THE
16 IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH SUBSECTION
17 (C)(2) OF THIS SECTION.

18 ~~24-310.~~ 24-311.

19 (A) EXCEPT AS PROVIDED IN ~~SUBSECTION (B)~~ SUBSECTIONS (B) AND (C)
20 OF THIS SECTION, ON ~~MARCH~~ OCTOBER 1, 2013, ALL THE FUNCTIONS, POWERS,
21 DUTIES, ASSETS, REAL AND PERSONAL PROPERTY, ACCOUNTS, LIABILITIES,
22 CONTRACTS, AND OBLIGATIONS OF THE FUND SHALL BE IRREVOCABLY
23 TRANSFERRED TO THE COMPANY, INCLUDING LIABILITY FOR ALL CLAIMS,
24 WHETHER KNOWN OR UNKNOWN, ARISING OUT OF ANY INSURANCE POLICY
25 PREVIOUSLY ISSUED BY THE FUND.

26 (B) ANY CONTRACT OR AGREEMENT WITH THE STATE FOR THE THIRD
27 PARTY ADMINISTRATION OF THE STATE'S SELF-INSURED WORKERS'
28 COMPENSATION PROGRAM FOR STATE EMPLOYEES MAY NOT BE TRANSFERRED
29 OR ASSIGNED TO THE COMPANY UNTIL THE FUND NO LONGER HAS EMPLOYEES.

30 (C) THE FUND SHALL RETAIN THOSE ASSETS NECESSARY TO PERFORM
31 ITS DUTIES UNDER TITLE 10 OF THE LABOR AND EMPLOYMENT ARTICLE.

32 ~~24-311.~~ 24-312.

33 THE COMPANY MAY NOT:

[Part II. Fund.]

1
2 [10-104.] 10-102.

3 (A) (1) There is an Injured Workers' Insurance Fund.

4 (2) THE FUND IS AN INSTRUMENTALITY OF THE STATE.

5 (B) ~~BEFORE MARCH 1, 2013~~ ON AND AFTER OCTOBER 1, 2013, THE
6 COMPANY, AND NOT THE FUND, SHALL SERVE AS THE WORKERS'
7 COMPENSATION INSURER OF LAST RESORT FOR WORKERS' COMPENSATION
8 INSURANCE ~~AND AS A COMPETITIVE WORKERS' COMPENSATION INSURER~~
9 ~~UNDER THE SAME TERMS AND CONDITIONS AS THE FUND SERVED BEFORE~~
10 ~~OCTOBER 1, 2012.~~

11 (C) ON AND AFTER ~~MARCH~~ OCTOBER 1, 2013, THE FUND:

12 (1) SHALL CONTINUE TO EXIST; BUT

13 (2) MAY NOT ISSUE NEW POLICIES OR OTHERWISE ENGAGE IN
14 THE BUSINESS OF INSURANCE ~~EXCEPT THROUGH THE COMPANY.~~

15 (D) ON AND AFTER ~~MARCH~~ OCTOBER 1, 2013, THE FUND MAY
16 CONTINUE TO BE THE THIRD PARTY ADMINISTRATOR FOR THE STATE'S
17 SELF-INSURED WORKERS' COMPENSATION PROGRAM FOR STATE EMPLOYEES
18 UNDER A CONTRACT WITH THE STATE.

19 (E) (1) ~~IN~~ SUBJECT TO SUBSECTION (F) OF THIS SECTION, IN THE
20 OPERATION OF THE COMPANY, THE COMPANY SHALL UTILIZE EMPLOYEES OF
21 ~~THE FUND AND~~ THE COMPANY.

22 (2) IN THE OPERATION OF THE FUND, THE FUND ~~MAY~~ SHALL
23 UTILIZE EMPLOYEES OF THE FUND ~~OR THE COMPANY.~~

24 (3) THE FUND SHALL:

25 (I) MAINTAIN A PAYROLL AND HUMAN RESOURCES SYSTEM;

26 AND

27 (II) BE RESPONSIBLE FOR PAYING:

28 1. THE EMPLOYER PORTION OF ANY PAYROLL OR
29 OTHER TAXES AND RETIREMENT OR PENSION CONTRIBUTIONS FOR EMPLOYEES
30 OF THE FUND; AND

1 (IV) SHALL BE SUBJECT TO EACH LAW THAT APPLIED TO
2 EMPLOYEES OF THE FUND IMMEDIATELY BEFORE ~~MARCH~~ OCTOBER 1, 2013;

3 (V) SHALL BE SUBJECT TO THE SAME TERMS AND
4 CONDITIONS OF EMPLOYMENT AS EXISTED IMMEDIATELY BEFORE ~~MARCH~~
5 OCTOBER 1, 2013, INCLUDING BENEFITS, LEAVE, AND PAY GRADE;

6 (VI) SHALL REMAIN IN THE STATE RETIREMENT SYSTEM
7 ONLY IF THEY REMAIN EMPLOYEES OF THE FUND;

8 (VII) EXCEPT FOR CHANGES IN BENEFITS OR COMPENSATION
9 APPLICABLE TO STATE EMPLOYEES GENERALLY, MAY NOT BE DENIED ANY
10 COMPENSATION OR BENEFIT PROVIDED TO EMPLOYEES OF THE FUND AS OF
11 ~~MARCH~~ OCTOBER 1, 2013;

12 (VIII) MAY NOT BE DENIED A PROMOTION, BASED ON THE
13 EMPLOYEE'S STATUS AS AN EMPLOYEE OF THE FUND; AND

14 (IX) SUBJECT TO SUBSECTION (B) OF THIS SECTION, MAY
15 ELECT TO BE AN EMPLOYEE OF THE COMPANY.

16 (B) IF AN EMPLOYEE OF THE FUND INTENDS TO ELECT TO BE AN
17 EMPLOYEE OF THE COMPANY UNDER SUBSECTION (A)(2)(IX) OF THIS SECTION,
18 THE COMPANY SHALL:

19 (1) REQUIRE THE EMPLOYEE TO MAKE THE ELECTION IN
20 WRITING; AND

21 (2) PROVIDE THE EMPLOYEE WITH INFORMATION THAT:

22 (I) STATES THAT THE ELECTION OF THE EMPLOYEE TO
23 BECOME AN EMPLOYEE OF THE COMPANY IS VOLUNTARY AND IRREVOCABLE;
24 AND

25 (II) FULLY ~~DISCLOSURES~~ DISCLOSES THE TERMS OF
26 EMPLOYMENT WITH THE COMPANY.

27 (C) AN EMPLOYEE OF THE COMPANY MAY NOT ELECT TO BE AN
28 EMPLOYEE OF THE FUND.

29 [10-105.

30 (a) Except for Title 3, Subtitle 1, Title 8, Subtitle 3, and Title 11 of the
31 Insurance Article and as otherwise provided by law, the Fund is subject to the

1 Insurance Article to the same extent as an authorized domestic workers' compensation
2 insurer.

3 (b) Notwithstanding subsection (a) of this section, the Fund shall register
4 with the Commissioner and be subject to the provisions of Title 8, Subtitle 3 of the
5 Insurance Article if the Fund operates as an administrator, as defined in § 8-301 of
6 the Insurance Article.]

7 [10-106.

8 (a) Subject to subsection (b) of this section, the Fund shall operate in a
9 manner similar to an authorized domestic workers' compensation insurer.

10 (b) The Fund shall:

11 (1) serve as a competitive insurer in the marketplace;

12 (2) guarantee the availability of workers' compensation insurance in
13 the State;

14 (3) serve as the workers' compensation insurer of last resort; and

15 (4) engage only in the business of workers' compensation insurance in
16 accordance with State law.]

17 [10-107.] 10-104.

18 (a) The Fund is independent of all State units.

19 (b) (1) Except as provided in paragraph (2) of this subsection and
20 elsewhere in this subtitle, the Fund is not subject to any law, including § 6-106 of the
21 State Government Article, that affects governmental units.

22 (2) The Fund is subject to:

23 (i) Title 10, Subtitle 6, Part III of the State Government Article;

24 (ii) Title 12 of the State Government Article;

25 (iii) the Maryland Public Ethics Law; and

26 (iv) Title 5, Subtitle 3 of the State Personnel and Pensions
27 Article.

28 (3) Paragraph (1) of this subsection does not affect the exemption from
29 property tax under § 7-210 of the Tax - Property Article.

1 (b) Each member shall be a citizen of the State.

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

4 (d) (1) The term of a member is 5 years.

5 (2) The terms of members are staggered as required by the terms
6 provided for members of the Board on October 1, 1991.

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

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

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

12 (i) two full terms; or

13 (ii) a total of 10 years.

14 (e) The Governor may remove a member for incompetence or misconduct.]

15 [10-111.

16 (a) From among its members, the Board annually shall elect a chairman, a
17 vice chairman, and a secretary.

18 (b) The manner of election of officers shall be as the Board determines.]

19 [10-112.

20 (a) The Board may not act on any matter unless at least 5 members concur.

21 (b) Each member of the Board shall devote the time needed to carry out the
22 duties of office.

23 (c) The Board shall determine the times and places of its meetings.

24 (d) (1) Each member of the Board is entitled to:

25 (i) the salary provided in the budget of the Board; and

26 (ii) reimbursement for reasonable expenses:

1 1. incurred in the performance of the Board member's
2 duties; and

3 2. as provided in the budget of the Board.

4 (2) Each member of the Board shall be paid biweekly.]

5 [10-113.] **10-106.**

6 (a) (1) The Board[:

7 (1)] shall appoint a President of the Fund[;

8 (2) shall appoint or employ attorneys to advise and represent the Fund
9 in all legal matters and, where necessary, to sue or defend suits in the name of the
10 Fund; and

11 (3) may employ other staff].

12 **(2) THE PRESIDENT OF THE FUND ~~MAY~~ SHALL BE THE**
13 **PRESIDENT OF THE COMPANY.**

14 (b) (1) Except as provided in paragraph (2) of this subsection, employees
15 of the Fund are special appointments.

16 (2) A classified employee of the Fund hired before July 1, 1990 in a
17 nonprofessional or nontechnical position shall remain a member of the classified
18 service or its equivalent in the State Personnel Management System as long as the
19 employee remains in a nonprofessional or nontechnical position with the Fund.

20 (c) (1) The Board shall set compensation for its employees.

21 (2) Except as otherwise provided in this subtitle, an employee of the
22 Fund is not subject to any law, regulation, or executive order governing State
23 employee compensation, including furloughs, salary reductions, or any other General
24 Fund cost savings measure.

25 (d) (1) This subsection does not apply to the layoff of an employee because
26 of lack of work.

27 (2) An employee of the Fund may not be permanently removed unless:

28 (i) written charges are filed;

29 (ii) the employee has an opportunity for a hearing in accordance
30 with Title 10, Subtitle 2 of the State Government Article; and

1 (iii) there is cause for removal.

2 10-107.

3 ~~THE~~ NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, THE FUND
4 SHALL REMAIN IN EXISTENCE UNTIL IT:

5 (1) ~~SHALL REMAIN IN EXISTENCE SO LONG AS THE FUND~~
6 ~~CONTINUES TO HAVE NO LONGER HAS ANY EMPLOYEES; AND~~

7 (2) ~~MAY BE~~ IS ~~TERMINATED ONLY~~ BY THE REPEAL OF THIS
8 SUBTITLE.

9 [10-114.

10 (a) The Board may adopt any policy to carry out this subtitle.

11 (b) (1) The Board shall have a plan to promote the services of the Fund to
12 employers in the State.

13 (2) As part of the plan, the Board may prepare a pamphlet about the
14 Fund and provide copies to each county for distribution to businesses with personal
15 property tax bills.]

16 [Part IV. Purposes and Administration of Fund.]

17 [10-117.

18 The Board:

19 (1) shall use the Fund to insure employers against liability under Title
20 9 of this article; and

21 (2) may use the Fund:

22 (i) to provide employer's liability insurance; and

23 (ii) on behalf of a policyholder, to pay benefits equal to benefits
24 allowed under:

25 1. a compensation law of another state; or

26 2. a federal compensation law.]

27 [10-118.

1 (a) The Fund shall consist of:

2 (1) premiums for insurance that the Fund issues;

3 (2) income from investments under § 10-122 of this subtitle;

4 (3) interests on deposits or investments of money from the Fund; and

5 (4) the money that the Attorney General collects under § 10-133(c) of
6 this subtitle on debts.

7 (b) The Fund shall include each security or other property that is acquired
8 with money of the Fund.

9 (c) The Board shall use the Fund to pay all of the expenses under this
10 subtitle, including losses on insurance that the Fund issues.]

11 [10-120.

12 (a) The Board shall administer the Fund.

13 (b) (1) The Board shall prepare capital and operating budgets for the
14 Fund.

15 (2) For information only, the Board shall submit the budgets to the
16 Senate Budget and Taxation Committee and the House Appropriations Committee.

17 (c) The Board shall issue receipts for money that the Fund receives.]

18 [10-121.

19 The Board shall keep reserves and surplus in accordance with the Insurance
20 Article.]

21 [10-122.

22 (a) Consistent with minority business purchasing standards applicable to
23 units of State government under the State Finance and Procurement Article and
24 consistent with the fiduciary duties of the Board, the Board shall attempt to use to the
25 greatest extent feasible minority business enterprises to provide brokerage and
26 investment management services to the Board.

27 (b) For purposes of this section, brokerage and investment management
28 services shall include services relating to all allocated asset classes.

1 (c) (1) To assist it in achieving the goal described under subsection (a) of
2 this section, the Board shall undertake measures to remove any barriers that limit full
3 participation by minority business enterprises in brokerage and investment
4 management services opportunities afforded by the Fund.

5 (2) The measures undertaken by the Board shall include the use of a
6 wide variety of media, including the Board's website, to provide notice to a broad and
7 varied range of potential providers about the brokerage and investment management
8 services opportunities afforded by the Fund.

9 (d) In conjunction with the Governor's Office of Minority Affairs, the Board
10 shall develop guidelines to assist it in identifying and evaluating qualified minority
11 business enterprises in order to help the Fund achieve the objective for greater use of
12 minority business enterprises for brokerage and investment management services.

13 (e) On or before September 1 each year, the Board shall submit a report to
14 the Governor's Office of Minority Affairs and, subject to § 2-1246 of the State
15 Government Article, the General Assembly on:

16 (1) the identity of the minority business enterprise brokerage and
17 investment management services firms used by the Board in the immediately
18 preceding fiscal year;

19 (2) the percentage and dollar value of the Fund assets that are under
20 the investment control of minority business enterprise brokerage and investment
21 management services firms; and

22 (3) the measures the Board undertook in the immediately preceding
23 fiscal year in accordance with subsection (c)(2) of this section.]

24 [10-125.

25 (a) The Fund shall be examined by the Commissioner in accordance with
26 Title 2, Subtitle 2 (Enforcement) of the Insurance Article.

27 (b) As part of an examination under § 2-205 of the Insurance Article, the
28 Commissioner shall, at least once every 5 years, determine whether the Fund's rate
29 making practices produce actuarially sound rates.]

30 [10-126.

31 (a) Within 90 days after the close of each fiscal year, the Board shall submit
32 to the Governor an annual report that includes a detailed statement of:

33 (1) the condition and expenses of the Fund in detail;

- 1 (2) growth of the Fund;
- 2 (3) changes in earned premiums of the Fund;
- 3 (4) changes in the number of policyholders of the Fund;
- 4 (5) the degree of the Fund's personnel flexibility;
- 5 (6) trends in the overall market share; and
- 6 (7) trends in the premium to expense ratio.

7 (b). (1) On or before October 1 of each year, the Fund shall submit to the
8 Governor:

9 (i) a copy of each policy form that the Fund will use during the
10 next calendar year;

11 (ii) the schedule of premium rates that the Fund will charge for
12 the next calendar year;

13 (iii) information about provision for claim payment, as defined in
14 § 11-330(a) of the Insurance Article, for each class for which the Fund writes coverage;
15 and

16 (iv) other information that the Governor requests about
17 premium rates, including classes, financial information, and losses.

18 (2) (i) Information required under paragraph (1)(ii) through (iv) of
19 this subsection shall be submitted on the form that the Governor requires.

20 (ii) The form shall conform as closely as possible to the form
21 that a rating organization uses to comply with §§ 11-307, 11-329, and 11-330 of the
22 Insurance Article.]

23 [10-127.

24 If the General Assembly repeals this subtitle, money in the Fund at the time of
25 repeal shall be distributed:

26 (1) as the General Assembly provides; or

27 (2) if the General Assembly does not provide for distribution, as justice
28 requires, with due regard for existing obligations for compensation.]

29

[Part V. Insurance Program.]

1 [10-130.

2 (a) The Board shall adopt a schedule of premium rates in accordance with
3 sound actuarial practices and shall ensure that the rates are not excessive,
4 inadequate, or unfairly discriminatory.

5 (b) The Commissioner shall review the Fund's rates as part of an
6 examination under § 2-205 of the Insurance Article to determine whether the Fund's
7 rate making practices produce actuarially sound rates.

8 (c) (1) The Board shall determine the schedule by:

9 (i) classifying all of the policyholders on the basis of the
10 respective level of hazard of their enterprises; and

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

12 1. its level of hazard; and

13 2. incentives to prevent injuries to employees.

14 (2) To determine the schedule, the Board shall use the rating system
15 that, in the opinion of the Board:

16 (i) most accurately measures the level of hazard for each
17 policyholder on the basis of the number of injuries that occur in the enterprises of the
18 policyholder;

19 (ii) encourages the prevention of injuries; and

20 (iii) ensures the solvency of the Fund from year to year.

21 (3) The Board may set minimum premium rates.

22 (d) (1) The Board shall state premium rates as a percentage of the gross
23 annual wages of employees to whom Title 9 of this article applies.

24 (2) For employees who work partly in and partly outside the State, the
25 premium shall be based on wages for employment in the State.

26 (e) (1) Except as provided in paragraph (2) of this subsection, the
27 schedule of premium rates in effect at the beginning of a calendar year remains in
28 effect for the year.

1 (2) The Board shall adjust classes and rates as often as the Board
2 determines to be just and advantageous to meet the criteria under subsection (c)(2) of
3 this section and to reflect changes in levels of hazards.]

4 [10-131.

5 An employer shall apply for insurance under this subtitle in accordance with
6 the policies of the Board.]

7 [10-132.

8 Each employer who applies and is eligible for insurance under this subtitle shall
9 be assigned, after consideration of the number of employees and the relative hazards
10 of the various types of work performed in the enterprise of the employer:

11 (1) to the class that includes the work; or

12 (2) if more than 1 class clearly applies to the work, to each applicable
13 class.]

14 [10-133.

15 (a) The Board shall adopt policies that provide procedures and standards for
16 the payment of premiums.

17 (b) (1) Subject to paragraph (2) of this subsection, the Board, the
18 President of the Fund, or the Executive Vice President of the Fund may:

19 (i) cancel the insurance of a policyholder who fails to pay a
20 premium due to the Fund; and

21 (ii) refer to the Attorney General, for collection, the debt of any
22 policyholder whose insurance is being canceled under this paragraph.

23 (2) At least 10 days before the date set for cancellation of insurance
24 under this subsection, the Board shall:

25 (i) serve on the policyholder, by personal service or by certified
26 or registered mail sent to the last known resident address of the policyholder, a notice
27 of intention to cancel insurance; and

28 (ii) submit a copy of the notice to the Workers' Compensation
29 Commission's designee.

30 (3) Notice under this subsection may be given:

1 (i) for a policyholder that is a corporation, to an official or other
2 agent of the corporation on whom legal process may be served; and

3 (ii) for a policyholder that is a partnership, to any partner.

4 (4) Notice under this subsection shall state the date on which the
5 cancellation is to become effective.

6 (5) Whenever a debt is referred under this subsection for collection,
7 the insurance may not be reinstated until the debt is paid in full.

8 (c) (1) Whenever a debt is referred under this section for collection, the
9 Board, the President of the Fund, or the Executive Vice President of the Fund shall
10 provide the Attorney General with:

11 (i) the name of the policyholder;

12 (ii) each known business or resident address of the policyholder;
13 and

14 (iii) a statement of the amount that the policyholder owes to the
15 Fund.

16 (2) The Attorney General may sue, in the name of the Fund, to collect
17 the debt.

18 (d) If the President of the Fund considers settlement to be in the best
19 interest of the Fund, a debt that is referred under this section for collection may be
20 settled.]

21 [10-134.

22 The Board shall issue a certificate of insurance.]

23 [10-135.

24 (a) The Board may:

25 (1) adopt requirements for uniform payroll; and

26 (2) require each policyholder to conform to the requirements.

27 (b) In accordance with the requirements that the Board adopts, each
28 policyholder shall submit a report on wages or other documentation to the Board at
29 intervals that the Board sets.

1 (c) The Board or its authorized employee may inspect at any time the payroll
2 of a policyholder.

3 (d) (1) Subject to paragraph (2) of this subsection, the Board, the
4 President of the Fund, or the Executive Vice President of the Fund may cancel the
5 insurance of a policyholder who:

6 (i) fails to comply with subsection (b) of this section; or

7 (ii) refuses to allow an inspection authorized under subsection
8 (c) of this section.

9 (2) At least 30 days before the date set for cancellation of insurance
10 under this subsection, the Board shall:

11 (i) serve on the policyholder, by personal service or by certified
12 or registered mail sent to the last known resident address of the policyholder, a notice
13 of intention to cancel insurance; and

14 (ii) submit a copy of the notice to the Workers' Compensation
15 Commission's designee.

16 (3) Notice under this subsection may be given:

17 (i) for a policyholder that is a corporation, to an official or other
18 agent of the corporation on whom legal process may be served; and

19 (ii) for a policyholder that is a partnership, to any partner.

20 (4) Notice under this subsection shall state the date on which the
21 cancellation is to become effective.]

22 [10-136.

23 A policyholder may cancel a policy under this subtitle, if the policyholder:

24 (1) gives the Fund written notice; and

25 (2) promptly pays all premiums owed to the Fund.]

26 [10-137.

27 If the Board considers an account to be uncollectible, the account may be
28 charged from the books of the Fund.]

29 [10-138.

1 (a) Subject to subsection (b) of this section, the President of the Fund may
 2 settle a claim that the Fund has against a governmental unit or person who is alleged
 3 to be liable for an accident for which the Fund pays compensation.

4 (b) The President may settle a claim under this section only if:

5 (1) the Workers' Compensation Commission consents; and

6 (2) for a settlement that will prejudice any right of an injured
 7 employee, the employee consents.]

8 [Part VI. Prohibited Act; Penalty.]

9 [10-141.

10 (a) An employer may not with fraudulent intent misrepresent to the Board
 11 the wages on which a premium under this subtitle is based.

12 (b) A person who violates any provision of this section is guilty of a
 13 misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or
 14 imprisonment not exceeding 90 days or both.]

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

17 Article – State Personnel and Pensions

18 21-307.

19 (P) (1) ON AND AFTER OCTOBER 1, 2013, ON BEHALF OF ITS
 20 EMPLOYEES WHO ARE MEMBERS OF THE EMPLOYEES' RETIREMENT SYSTEM OR
 21 THE EMPLOYEES' PENSION SYSTEM, THE INJURED WORKERS' INSURANCE
 22 FUND SHALL:

23 (I) PAY AN AMOUNT EQUAL TO THE PRODUCT OF
 24 MULTIPLYING:

25 1. THE AGGREGATE ANNUAL EARNABLE
 26 COMPENSATION OF THOSE MEMBERS; AND

27 2. THE NORMAL CONTRIBUTION RATE OTHERWISE
 28 PAID BY THE STATE FOR MEMBERS OF THE EMPLOYEES' RETIREMENT SYSTEM
 29 AND THE EMPLOYEES' PENSION SYSTEM;

1 (II) PAY AN ADDITIONAL AMOUNT EQUAL TO 5% OF THE
2 AGGREGATE ANNUAL EARNABLE COMPENSATION OF ITS EMPLOYEES WHO ARE
3 MEMBERS OF THE EMPLOYEES' RETIREMENT SYSTEM; AND

4 (III) REMIT TO THE EMPLOYEES' RETIREMENT SYSTEM OR
5 THE EMPLOYEES' PENSION SYSTEM THE CONTRIBUTIONS REQUIRED TO BE
6 PAID BY ITS EMPLOYEES.

7 (2) BEGINNING ON OR BEFORE DECEMBER 31, 2013, AND EACH
8 YEAR THEREAFTER, IN ADDITION TO THE AMOUNTS REQUIRED TO BE PAID
9 UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE INJURED WORKERS'
10 INSURANCE FUND SHALL PAY A WITHDRAWAL LIABILITY CONTRIBUTION:

11 (I) AS CALCULATED BY THE ACTUARY OF THE STATE
12 RETIREMENT AND PENSION SYSTEM; AND

13 (II) IN ACCORDANCE WITH PARAGRAPHS (3) AND (4) OF
14 THIS SUBSECTION.

15 (3) THE PARTICIPANT FUNDING RATIO FOR THE INJURED
16 WORKERS' INSURANCE FUND SHALL BE A FRACTION THAT HAS:

17 (I) AS ITS NUMERATOR, THE MARKET VALUE OF ASSETS
18 FOR THE EMPLOYEES' RETIREMENT SYSTEM AND THE EMPLOYEES' PENSION
19 SYSTEM REPORTED IN THE JUNE 30, 2013, ANNUAL ACTUARIAL VALUATION
20 FOR THE STATE; AND

21 (II) AS ITS DENOMINATOR, THE ENTRY AGE ACTUARIAL
22 ACCRUED LIABILITY FOR THE EMPLOYEES' RETIREMENT SYSTEM AND THE
23 EMPLOYEES' PENSION SYSTEM REPORTED IN THE JUNE 30, 2013, ANNUAL
24 ACTUARIAL VALUATION FOR THE STATE.

25 (4) THE WITHDRAWAL LIABILITY CONTRIBUTION OF THE
26 INJURED WORKERS' INSURANCE FUND SHALL BE THE COMPLEMENT OF THE
27 PARTICIPANT FUNDING RATIO FOR THE FUND MULTIPLIED BY THE ENTRY AGE
28 ACTUARIAL ACCRUED LIABILITY FOR THE FUND BASED ON DATA SUBMITTED AS
29 OF OCTOBER 1, 2013, FOR THE FUND.

30 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That, as provided in this
31 Act:

32 (1) The Chesapeake Employers' Insurance Company is the successor
33 of the Injured Workers' Insurance Fund, the Board for the Chesapeake Employers'
34 Insurance Company is the successor of the Board for the Injured Workers' Insurance

1 Fund, and the President of the Chesapeake Employers' Insurance Company is the
2 successor of the President of the Injured Workers' Insurance Fund.

3 (2) In every law, executive order, rule, regulation, policy, or document
4 created by an official, employee, or unit of this State, the names and titles of those
5 agencies and officials mean the names and titles of the successor agency or official, as
6 provided in this Act.

7 (3) Policy forms and other documents that were approved prior to
8 ~~March~~ October 1, 2013, by the Maryland Insurance Administration or the Workers'
9 Compensation Commission in the name of the Injured Workers' Insurance Fund may
10 be used by the Chesapeake Employers' Insurance Company to the same extent as if
11 the policy forms and other documents had been approved in the name of the
12 Chesapeake Employers' Insurance Company.

13 ~~SECTION 3. AND BE IT FURTHER ENACTED, That, on March 1, 2013, all~~
14 ~~the functions, powers, duties, equipment, assets, and liabilities of the Injured Workers'~~
15 ~~Insurance Fund shall be transferred to the Chesapeake Employers' Insurance~~
16 ~~Company.~~

17 SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That:

18 (a) The Maryland Insurance Administration shall study, in consultation with
19 the Injured Workers' Insurance Fund and the National Council on Compensation
20 Insurance, Inc., whether the Chesapeake Employers' Insurance Company should be
21 subject to Title 11 of the Insurance Article, including whether the Company should be
22 a member of the rating organization.

23 (b) In conducting the study, the Administration:

24 (1) may consult with any other person or entity that the
25 Administration considers appropriate;

26 (2) shall consider the impact on the Company and its policyholders if
27 the Company is made subject to Title 11 of the Insurance Article, including the impact
28 of the membership and transaction fees payable to the rating organization and
29 additional administrative and system costs associated with complying with Title 11 of
30 the Insurance Article; and

31 (3) if the Administration determines that the Company should be
32 subject to Title 11 of the Insurance Article, shall consider:

33 (i) the extent to which the Company should be in compliance
34 with the rating plan requirements under Title 11 of the Insurance Article; and

35 (ii) an appropriate timeline for the Company to phase in
36 participation in the rating plan requirements to avoid disruption to its policyholders.

1 (c) On or before October 1, 2012, the Administration shall report, in
 2 accordance with § 2-1246 of the State Government Article, its findings and
 3 recommendations to the Senate Finance Committee and the House Economic Matters
 4 Committee.

5 ~~(1) Notwithstanding any other provision of law, full compliance by the~~
 6 ~~Chesapeake Employers' Insurance Company with Title 11 of the Insurance Article is~~
 7 ~~not required until 5 years after the effective date of this Act; and~~

8 ~~(2) It is the intent of the General Assembly that the Chesapeake~~
 9 ~~Employers' Insurance Company and the rating organization phase in the rating plan~~
 10 ~~to avoid disruption to policyholders.~~

11 SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That the publisher of the
 12 Annotated Code of Maryland, in consultation with and subject to the approval of the
 13 Department of Legislative Services, shall correct, with no further action required by
 14 the General Assembly, terminology rendered incorrect by this Act or by any other Act
 15 of the General Assembly of 2012 that affects provisions enacted by this Act. The
 16 publisher shall adequately describe any such correction in an editor's note following
 17 the section affected.

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

19 (a) The Maryland Insurance Administration shall contract with an
 20 independent financial, accounting, or valuation consulting firm to conduct a study to
 21 determine, since the enactment of Chapter 800 of 1914, the fair value of:

22 (1) any financial contribution made by the State to the Injured
 23 Workers' Insurance Fund; and

24 (2) any financial benefit the Fund received from the State.

25 (b) (1) The study shall consider the fair value of:

26 (i) funds, including start-up funding, provided by the State to
 27 the Fund at any time;

28 (ii) real estate or other assets transferred or otherwise provided
 29 to the Fund, net of any amounts paid for the real estate or other asset by the Fund out
 30 of Fund revenues;

31 (iii) property taxes or transfer taxes on Fund-owned real
 32 property that would have been paid if the Fund had not been a State agency;

33 (iv) sales and excise taxes that would have been paid to the
 34 State if the Fund had not been a State agency;

1 (v) premium taxes not paid to the State by the Fund due to its
 2 tax exempt status prior to June 1, 2011, but only to the extent that the benefit of the
 3 tax exemption was not passed on to policyholders of the Fund through the rate making
 4 process; and

5 (vi) any other direct financial contribution made by the State to
 6 the Fund and any other financial benefit the Fund received from the State.

7 (2) In determining the fair value of the items listed in paragraph (1) of
 8 this subsection, the study shall consider:

9 (i) additional costs the Fund incurred from the Fund's status as
 10 the insurer of last resort which required the Fund to provide workers' compensation
 11 insurance to businesses regardless of the degree of risk;

12 (ii) that the Fund is a nonprofit entity with profits passed on to
 13 its policyholders;

14 (iii) whether the benefit of the taxes not paid was passed on to
 15 policyholders since the Fund was not subject to the taxes;

16 (iv) that since the Fund only began advertising and paying
 17 commissions to licensed insurance producers beginning in 1996, the Fund's entire book
 18 of business was considered the residual market through 1995;

19 (v) that effective October 1, 2009, the Fund was statutorily
 20 required to serve as a competitive insurer in the marketplace, in addition to
 21 guaranteeing the availability of workers' compensation insurance in the State, serving
 22 as the workers' compensation insurer of last resort, and engaging only in the business of
 23 workers' compensation insurance in accordance with State law; and

24 (vi) that effective October 1, 2003, the Fund was required to be
 25 subject to risk-based capital standards.

26 ~~(2)~~ (3) The study also shall consider:

27 ~~(i)~~ additional costs the Fund incurred from the Fund's status as
 28 the insurer of last resort which required the Fund to provide workers' compensation
 29 insurance to businesses regardless of the degree of risk;

30 ~~(ii)~~ that while the Fund was part of the former State
 31 Department of Personnel, the State purchased four parcels of land with Fund
 32 revenues, but the State held the title to the land until it was transferred to the Fund;

33 (i) any subsidy that the Fund provided to the State in
 34 connection with the State self-insured workers' compensation program; and

1 ~~(iii)~~ (ii) that the Fund is required to transfer \$6,000,000 to the
2 General Fund on or before June 30, 2012, as provided in Section 20 of Chapter 397 of
3 the Acts of the General Assembly of 2011, less the amount received by the State on or
4 before June 30, 2012, as a result of the imposition of a premium tax on the Fund under
5 § 6-101 of the Insurance Article;

6 ~~(iv)~~ ~~that the Fund is a nonprofit entity with profits passed on to~~
7 ~~its policyholders; and~~

8 ~~(v)~~ ~~the estimated cost of any subsidy provided by the State to~~
9 ~~cover the future costs of retiree health benefits for retired Fund employees and their~~
10 ~~dependents.~~

11 (c) In conducting the study, the firm:

12 (1) shall consult with the Fund, the Maryland Insurance
13 Commissioner, and the Secretary of Budget and Management;

14 (2) may consult with any other person or entity that the firm considers
15 appropriate; and

16 (3) shall consider any studies conducted by the Administration or the
17 Department of Budget and Management on the Fund, including the study on the
18 Fund's role as the third party administrator for the State.

19 (d) (1) The Administration shall require the firm to report the findings
20 and conclusions of its study of the fair value to the Administration before October 1,
21 2012.

22 (2) On or before October 1, 2012, the Administration shall report, in
23 accordance with § 2-1246 of the State Government Article, the firm's findings and
24 conclusions of its study of the fair value to the Legislative Policy Committee, the Fund,
25 the Governor, the Senate Budget and Taxation Committee, the Senate Finance
26 Committee, the House Appropriations Committee, and the House Economic Matters
27 Committee.

28 (e) If the study concludes that the fair value is \$50,000,000 or more:

29 (1) the Administration shall contract with consultants to conduct a
30 comprehensive assessment of the long-term effect of transferring the fair value to the
31 State on the adequacy of the Fund's surplus;

32 (2) the Chesapeake Employers' Insurance Company shall owe a debt
33 to the General Fund in an amount equal to:

34 (i) the fair value; less

1 (ii) 1. the \$50,000,000 which is required to be transferred
2 from the Fund to the General Fund under Chapter (S.B. 152/H.B. 87) of the Acts of
3 the General Assembly of 2012; and

4 2. the cost of the study and the assessment paid by the
5 Fund, as provided under subsection (g) of this section.

6 (f) (1) Subject to paragraph (2) of this subsection, the Company shall pay
7 the debt calculated under subsection (e) of this section, without interest, to the State
8 in 10 equal annual installments beginning in fiscal year 2014 or, as agreed by the
9 Fund and the Secretary of Budget and Management, in payments over an alternative
10 period of time.

11 (2) (i) 1. An installment or other payment shall be suspended
12 or delayed, and may not be paid, in any year in which the Company's risk-based
13 capital ratio is less than 700% of its authorized control level.

14 2. If the Company's risk-based capital ratio is 700% or
15 higher than its authorized control level, an installment or other payment shall be
16 suspended or delayed, and may not be paid, in any year in which the Maryland
17 Insurance Commissioner determines that the Company's surplus is not adequate to
18 make a payment or that the Company's ability to meet its financial obligations would
19 be impaired if a payment is made.

20 (ii) The Company shall pay any suspended or delayed
21 installment or other payment in a subsequent year until the debt is fully satisfied.

22 (g) The Fund shall be responsible for the payment of the costs of the study
23 required under subsection (a) of this section and the assessment required under
24 subsection (e) of this section, including any costs incurred by the Administration in
25 contracting with consultants to perform the study and the assessment.

26 SECTION 8. AND BE IT FURTHER ENACTED, That:

27 (a) On or before July 1, 2013, the Injured Workers' Insurance Fund and the
28 Board of Trustees for the State Retirement and Pension System shall enter into an
29 agreement specifying the terms and conditions of payment for the withdrawal of the
30 Fund from the State Retirement and Pension System in accordance with § 21-307(p)
31 of the State Personnel and Pensions Article, as enacted by Section 3 of this Act.

32 (b) The Fund shall be responsible for the payment of any costs incurred in
33 calculating the Fund's liability for withdrawing from the State Retirement and
34 Pension System.

35 SECTION 9. AND BE IT FURTHER ENACTED, That:

1 (a) (1) On or before December 1, 2012, the Injured Workers' Insurance
 2 Fund and the Department of Budget and Management shall enter into a memorandum
 3 of agreement establishing the terms, conditions, and schedule for payment by the
 4 Injured Workers' Insurance Fund of the projected costs for the State retiree health
 5 benefits of current and former Injured Workers' Insurance Fund employees.

6 (2) The Injured Workers' Insurance Fund shall be responsible for the
 7 payment of any costs incurred in calculating the Injured Workers' Insurance Fund's
 8 liability for retiree health benefits.

9 (b) On or before July 1, 2013, the Injured Workers' Insurance Fund, in
 10 accordance with the schedule established in the memorandum of agreement required
 11 under subsection (a) of this section, shall begin to pay to the State Employee and Retiree
 12 Health and Welfare Benefits Fund established under § 2-516 of the State Personnel
 13 and Pensions Article an amount sufficient to satisfy the projected costs for the State
 14 retiree health benefits of current and former Injured Workers' Insurance Fund
 15 employees, as determined by the actuary for the State Employee and Retiree Health
 16 Benefits Program.

17 SECTION ~~6~~ ~~9~~ 10. AND BE IT FURTHER ENACTED, That Sections 1 and 3 of
 18 this Act shall take effect October 1, 2012.

19 SECTION ~~10~~ 11. AND BE IT FURTHER ENACTED, That Sections 2 and 4 of
 20 this Act shall take effect October 1, 2013.

21 SECTION ~~11~~ 12. AND BE IT FURTHER ENACTED, That this Act is an
 22 emergency measure, is necessary for the immediate preservation of the public health
 23 or safety, has been passed by a ye and nay vote supported by three-fifths of all the
 24 members elected to each of the two Houses of the General Assembly and, except as
 25 provided in Sections ~~9 and 10~~ 10 and 11 of this Act, shall take effect from the date it is
 26 enacted.

Approved:

 Governor.

 President of the Senate.

 Speaker of the House of Delegates.