

# SENATE BILL 679

C4, K1

8lr2542

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By: **Senator Kittleman**

Introduced and read first time: February 1, 2008

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Injured Workers' Insurance Fund – Regulation by the Maryland Insurance**  
3 **Commissioner**

4 FOR the purpose of removing the Injured Workers' Insurance Fund from exceptions to  
5 certain provisions of law; providing that the Fund is subject to examination in  
6 accordance with certain provisions of law; providing that the Fund is subject to  
7 certain provisions of law regarding rate making and rating; authorizing the  
8 Maryland Insurance Commissioner to enforce certain provisions of law to which  
9 the Fund is subject; removing a prohibition that an order of the Commissioner  
10 may not include a requirement that the Fund increase rates; removing a  
11 prohibition that the Commissioner may not take any action to enforce certain  
12 provisions of law; removing a requirement that certain information submitted  
13 by the Fund to the Governor comply as closely as possible to a certain form;  
14 requiring the Board for the Fund to determine a schedule of premium rates in  
15 accordance with certain provisions of law; requiring the Board for the Fund to  
16 adjust certain classes and rates in accordance with certain provisions of law;  
17 making a stylistic change; and generally relating to regulation of the Injured  
18 Workers' Insurance Fund.

19 BY repealing and reenacting, with amendments,  
20 Article – Insurance  
21 Section 11–202 and 11–303  
22 Annotated Code of Maryland  
23 (2003 Replacement Volume and 2007 Supplement)

24 BY repealing and reenacting, with amendments,  
25 Article – Labor and Employment  
26 Section 10–125(a) through (c), 10–126, and 10–130  
27 Annotated Code of Maryland  
28 (1999 Replacement Volume and 2007 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Insurance**

4 11–202.

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

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

8 (i) property insurance;

9 (ii) casualty insurance;

10 (iii) surety insurance;

11 (iv) marine insurance; and

12 (v) wet marine and transportation insurance.

13 (b) This subtitle does not apply to:

14 (1) reinsurance, except as provided in § 11–222 of this subtitle;

15 (2) insurance of vessels or craft or their cargoes, marine protection and  
16 indemnity insurance, or insurance of other risks commonly insured under policies of  
17 marine insurance, as distinguished from inland marine insurance;

18 (3) insurance against loss of or damage to aircraft including their  
19 accessories and equipment, or insurance against liability, other than workers'  
20 compensation insurance or employer's liability insurance, arising out of the ownership,  
21 maintenance, or use of aircraft; **OR**

22 (4) title [insurance; or

23 (5) the Injured Workers' Insurance Fund] **INSURANCE.**

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

30 11–303.

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

3 (1) life insurance;

4 (2) annuities;

5 (3) health insurance;

6 (4) marine insurance described in § 11–202(b)(2) of this title;

7 (5) aircraft insurance described in § 11–202(b)(3) of this title;

8 (6) reinsurance;

9 (7) insurance provided under the Maryland Automobile Insurance  
10 Fund;

11 (8) [insurance provided under the Injured Workers' Insurance Fund;

12 (9)] title insurance;

13 [(10)] (9) medical malpractice insurance;

14 [(11)] (10) any form or plan of insurance regulated under § 27–217 of  
15 this article; and

16 [(12)] (11) surety insurance.

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

## 21 **Article – Labor and Employment**

22 10–125.

23 (a) [Except as provided in subsection (b) of this section, the] **THE** Fund shall  
24 be:

25 (1) examined by the Commissioner in accordance with [§§ 2–205 and  
26 2–207 through 2–209] **TITLE 2, SUBTITLE 2 (ENFORCEMENT)** of the Insurance  
27 Article; and

28 (2) subject to the following provisions of the Insurance Article:

1 (i) Title 4, Subtitle 3 (Risk Based Capital Standards for  
2 Insurers) as provided in subsection (d) of this section;

3 (ii) Title 5, Subtitles 1, 2, 4, and 9 (Assets and Liabilities,  
4 Reserves, Valuation of Assets and Reinsurance);

5 (iii) Title 9 (Impaired Entities); [and]

6 (IV) **TITLE 11, SUBTITLES 2 AND 3 (PRIOR APPROVAL RATE**  
7 **MAKING AND COMPETITIVE RATING); AND**

8 [(iv)] (V) §§ 3–124 (Bulk Reinsurance – Stock Insurers), 4–115  
9 (Home Office; Location of Accounting Records and Assets), 4–116 (Annual and Interim  
10 Statements; Audited Financial Reports), and 4–118 (Qualified Independent Certified  
11 Public Accountants).

12 (b) (1) The Commissioner may [not take any action to] enforce any  
13 provision of the Insurance Article to which the Fund is subject under [subsection (a)]  
14 **SUBSECTIONS (A) AND (C)** of this section [except:

15 (i) the Commissioner may issue an order under Title 9  
16 (Impaired Entities) of the Insurance Article; and

17 (ii) the Commissioner may take action authorized under §§  
18 4–305, 4–306, 4–307, and 4–308 of the Insurance Article relating to risk based capital  
19 standards for insurers].

20 (2) Any order issued under this subsection[:

21 (i) may not include a requirement that the Fund increase rates;  
22 and

23 (ii)] shall be subject to Title 2, Subtitle 2[,] of the Insurance  
24 Article.

25 (3) The Commissioner shall report to the Board on the results of any  
26 examination conducted under subsection (a)(1) of this section.

27 (c) (1) The Commissioner may examine or review the Fund for compliance  
28 with:

29 (i) Title 12, Subtitle 1 of the Insurance Article (Policy Forms  
30 and Provisions);

31 (ii) [except for § 19–403 (Setting Premium Rates),] Title 19,  
32 Subtitle 4 of the Insurance Article (Workers' Compensation Insurance); and

1 (iii) Title 27 of the Insurance Article (Unfair Trade Practices and  
2 Other Prohibited Practices).

3 (2) [The Commissioner may not take any action to enforce any  
4 provision of the Insurance Article under which the Commissioner has examined or  
5 reviewed compliance under this subsection.

6 (3)] The Commissioner shall report to the Board on the results of any  
7 examination or review conducted under this subsection.

8 10–126.

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

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

12 (2) growth of the Fund;

13 (3) changes in earned premiums of the Fund;

14 (4) changes in the number of policyholders of the Fund;

15 (5) the degree of the Fund's personnel flexibility;

16 (6) trends in the overall market share; and

17 (7) trends in the premium to expense ratio.

18 (b) [(1)] On or before October 1 of each year, the Fund shall submit to the  
19 Governor:

20 [(i)] (1) a copy of each policy form that the Fund will use  
21 during the next calendar year;

22 [(ii)] (2) the schedule of premium rates that the Fund will  
23 charge for the next calendar year;

24 [(iii)] (3) information about provision for claim payment, as  
25 defined in § 11–330(a) of the Insurance Article, for each class for which the Fund  
26 writes coverage; and

27 [(iv)] (4) other information that the Governor requests about  
28 premium rates, including classes, financial information, and losses.

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

3                   (ii) The form shall conform as closely as possible to the form  
4 that a rating organization uses to comply with §§ 11–307, 11–329, and 11–330 of the  
5 Insurance Article.]

6 10–130.

7           (a) The Board shall adopt, by regulation, a schedule of premium rates, as  
8 provided in this section.

9           (b) [(1)] The Board shall determine the schedule [by:

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

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

13                           1. its level of hazard; and

14                           2. incentives to prevent injuries to employees.

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

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

20                   (ii) encourages the prevention of injuries; and

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

22           (3) The Board may set minimum premium rates.] **IN ACCORDANCE**  
23 **WITH TITLE 11 OF THE INSURANCE ARTICLE.**

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

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

28           (d) (1) Except as provided in paragraph (2) of this subsection, the  
29 schedule of premium rates in effect at the beginning of a calendar year remains in  
30 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 (b)(2) of  
3 this section and to reflect changes in levels of hazards] **IN ACCORDANCE WITH TITLE**  
4 **11 OF THE INSURANCE ARTICLE.**

5           (e)   (1)    Except as provided in paragraph (2) of this subsection, the Board  
6 may not increase the policy rate of an employer on renewal of a policy by more than  
7 20% unless the Board notifies the employer in writing at least 45 days before the  
8 effective date of the policy rate increase.

9                   (2)    This subsection does not apply to an increase based on the  
10 experience of the employer.

11                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 2008.