

# SENATE BILL 230

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By: **Chair, Finance Committee (By Request – Departmental – Insurance Administration, Maryland)**

Introduced and read first time: January 20, 2012

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Insurance – Maryland Health Care Provider Rate Stabilization Fund**

3 FOR the purpose of altering the time at which certain professional liability insurers  
4 seeking reimbursement from the Rate Stabilization Account of the Maryland  
5 Health Care Provider Rate Stabilization Fund on behalf of certain health care  
6 providers are required to make a certain determination, send a certain notice,  
7 and apply to the Rate Stabilization Account for reimbursement; repealing a  
8 requirement that money be disbursed from the Rate Stabilization Account on a  
9 quarterly basis; repealing a certain audit requirement; requiring the Secretary  
10 of Health and Mental Hygiene, instead of the Maryland Insurance  
11 Commissioner, to include a certain audit in a certain annual report and to  
12 report to a certain committee of the General Assembly on or before a certain  
13 date each year; altering the contents of a certain report; and generally relating  
14 to the Maryland Health Care Provider Rate Stabilization Fund.

15 BY repealing and reenacting, with amendments,  
16 Article – Insurance  
17 Section 19–805 and 19–808  
18 Annotated Code of Maryland  
19 (2011 Replacement Volume)

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

22 **Article – Insurance**

23 19–805.

24 (a) (1) Participation in the Fund by a medical professional liability  
25 insurer shall be voluntary.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1                   (2)    [On at least an annual basis, a] A medical professional liability  
2 insurer seeking reimbursement from the Rate Stabilization Account shall:

3                           (i)    determine the amount of the subsidy for each policyholder;  
4 and

5                           (ii)   send a written notice to each policyholder stating:

6                                   1.    the amount of the estimated annual subsidy provided  
7 by the State; and

8                                   2.    the procedure a health care provider shall follow if  
9 electing not to receive a rate reduction, credit, or refund.

10                   (b)   Subject to § 19–804(d) of this subtitle and subsection (c) of this section,  
11 the subsidy provided to each policyholder shall be:

12                           (1)   for medical professional liability insurance policies subject to rates  
13 that were approved for an initial effective date on or after January 1, 2005, but prior  
14 to January 1, 2006, the amount of a premium increase that is greater than 5% of the  
15 approved rates in effect 1 year prior to the effective date of the policy; and

16                           (2)   for medical professional liability insurance policies subject to rates  
17 that were approved for an initial effective date on or after January 1, 2006, a  
18 percentage of the policyholder’s premium for the prior year that equals the quotient,  
19 measured as a percentage of the balance of the Rate Stabilization Account for the  
20 current calendar year divided by the aggregate amount of premiums for medical  
21 professional liability insurance that would have been paid by health care providers at  
22 the approved rate during the prior calendar year.

23                   (c)   The State subsidy calculated under subsection (b) of this section may not  
24 include the amount of a rate increase resulting from a premium surcharge or the loss  
25 of a discount due to a health care provider’s loss experience.

26                   (d)   A health care provider may elect not to receive a rate reduction, credit, or  
27 refund by:

28                           (1)   notifying the medical professional liability insurer within 15 days  
29 of receiving the notice under subsection (a) of this section of the health care provider’s  
30 intent not to accept a rate reduction, credit, or refund; and

31                           (2)   paying, either in full, or on an installment basis, the amount of  
32 premium billed by the medical professional liability insurer.

33                   (e)   (1)   [On at least an annual basis, a] A medical professional liability  
34 insurer seeking reimbursement from the Rate Stabilization Account on behalf of

1 health care providers shall apply to the Rate Stabilization Account **ON OR BEFORE**  
2 **SEPTEMBER 30, 2012**, on a form and in a manner approved by the Commissioner.

3 (2) The Commissioner may adopt regulations that specify the  
4 information that medical professional liability insurers shall submit to receive money  
5 from the Rate Stabilization Account.

6 (3) The information required shall include:

7 (i) by health care provider classification and geographic  
8 territory, the amount of the base premium rate charged by the insurer at the approved  
9 rate;

10 (ii) by health care provider classification and geographic  
11 territory, the amount of the base premium rate charged by the insurer reduced by the  
12 amount of the subsidy;

13 (iii) the number of health care providers in each classification  
14 and geographic territory;

15 (iv) the total amount of reimbursement requested from the Rate  
16 Stabilization Account;

17 (v) the name, classification, and geographic territory of each  
18 health care provider electing not to receive a rate reduction, credit, or refund; and

19 (vi) any other information the Commissioner considers  
20 necessary to disburse money from the Rate Stabilization Account.

21 (f) Within 60 days of receipt of a request for reimbursement from the Fund,  
22 the Commissioner shall disburse money from the Rate Stabilization Account [on a  
23 quarterly basis] to medical professional liability insurers to be used to provide a rate  
24 reduction, credit, or refund to health care providers.

25 (g) In anticipation of reimbursement or on reimbursement from the Rate  
26 Stabilization Account, a medical professional liability insurer shall provide a rate  
27 reduction, credit, or refund to a policyholder as follows:

28 (1) for premiums paid on an installment basis, the rate reduction or  
29 credit shall be applied against the base premium rate due on the next installment; and

30 (2) if the amount of the rate reduction or credit is more than the  
31 amount due on the next installment, or if a policy is paid in full, the policyholder may  
32 elect that either a refund be issued, or that a credit be applied against the base  
33 premium rate due on the policyholder's next renewal.

1 (h) During the period in which disbursements are made from the Rate  
2 Stabilization Account to pay for health care provider rate reductions, credits, or  
3 refunds:

4 (1) a disbursement from the Rate Stabilization Account to a medical  
5 professional liability insurer conducting business as a mutual company shall be  
6 reduced by the value of a dividend that may be issued by the insurer; and

7 (2) a disbursement may not be made from the Rate Stabilization  
8 Account to the Medical Mutual Liability Insurance Society of Maryland during any  
9 period for which the Commissioner has determined, under § 24–212 of this article,  
10 that the surplus of the Society is excessive.

11 [(i) The Commissioner or the Commissioner’s designee shall conduct an  
12 annual audit to verify the information submitted by a medical professional liability  
13 insurer applying for reimbursement from the Rate Stabilization Account.]

14 19–808.

15 (a) Each year the Office of Legislative Audits shall audit the receipts and  
16 disbursements of the Fund and the [Commissioner] **SECRETARY OF HEALTH AND**  
17 **MENTAL HYGIENE** shall include the audit as a part of the annual report required  
18 under subsection (c) of this section.

19 (b) The Fund, the Rate Stabilization Account, and the Medical Assistance  
20 Program Account shall be used only for the purposes stated in this subtitle.

21 (c) On or before March 15 of each year, the [Commissioner] **SECRETARY OF**  
22 **HEALTH AND MENTAL HYGIENE** shall report to the Legislative Policy Committee, in  
23 accordance with § 2–1246 of the State Government Article, on:

24 [(1) for each year that an allocation is made to the Rate Stabilization  
25 Account:

26 (i) the amount of money applied for by medical professional  
27 liability insurers during the previous calendar year;

28 (ii) by classification and geographic territory, the amount of  
29 money disbursed to medical professional liability insurers on behalf of health care  
30 providers during the previous calendar year;

31 (iii) by classification and geographic territory, the number of  
32 health care providers electing not to receive a rate reduction, credit, or refund in the  
33 previous calendar year;

1                   (iv) the costs incurred by the Commissioner in administering the  
2 Rate Stabilization Account during the previous calendar year, including a justification  
3 of the audit costs incurred under § 19–805(i) of this subtitle; and

4                   (v) the amount of money available in the Rate Stabilization  
5 Account on the last day of the previous calendar year;

6                   (2) the amount of money available in the Fund and the Medical  
7 Assistance Program Account on the last day of the previous calendar year;

8                   (3) (i) **(1)** the amount of money disbursed to the Maryland  
9 Medical Assistance Program under § 19–807 of this subtitle;

10                   [(ii) **(2)** the amount of increase in fee–for–service health care  
11 provider rates; and

12                   [(iii) **(3)** the amount of increase in capitation payments to  
13 managed care organizations]; and

14                   (4) the report of audited receipts and disbursements of the Fund as  
15 required under subsection (a) of this section].

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