

# HOUSE BILL 114

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CF SB 174

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By: **Delegates Jameson and Minnick**

Introduced and read first time: January 20, 2012

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Subsequent Injury Fund and Uninsured Employers' Fund – Assessments on**  
3 **Settlement Agreements**

4 FOR the purpose of excluding from the assessments imposed by the Workers'  
5 Compensation Commission and payable to the Subsequent Injury Fund and the  
6 Uninsured Employers' Fund the amount of certain medical benefits under a  
7 certain settlement agreement under certain circumstances; and generally  
8 relating to settlement agreements and assessments payable to the Subsequent  
9 Injury Fund and the Uninsured Employers' Fund.

10 BY repealing and reenacting, with amendments,  
11 Article – Labor and Employment  
12 Section 9–806 and 9–1007  
13 Annotated Code of Maryland  
14 (2008 Replacement Volume and 2011 Supplement)

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

17 **Article – Labor and Employment**

18 9–806.

19 (a) **(1)** The Commission shall impose an assessment of 6.5%, payable to  
20 the Subsequent Injury Fund, on:

21 **[(1)] (I)** each award against an employer or its insurer for  
22 permanent disability or death, including awards for disfigurement and mutilation;

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **[(2)] (II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
2 **SUBSECTION,** each amount payable by an employer or its insurer under a settlement  
3 agreement approved by the Commission; and

4           **[(3)] (III)** each amount payable under item **[(1)] (I)** or **[(2)] (II)** of this  
5 **[subsection] PARAGRAPH** by the Property and Casualty Guaranty Corporation on  
6 behalf of an insolvent insurer.

7           **(2) THE AMOUNT OF MEDICAL BENEFITS SPECIFIED IN A FORMAL**  
8 **SET-ASIDE ALLOCATION THAT IS PART OF AN APPROVED SETTLEMENT**  
9 **AGREEMENT SHALL BE EXCLUDED FROM THE ASSESSMENT IMPOSED BY THE**  
10 **COMMISSION UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION IF:**

11                           **(I) 1. THE AMOUNT OF MEDICAL BENEFITS IS IN EXCESS**  
12 **OF \$50,000; AND**

13   **2. THE PAYMENT OF MEDICAL BENEFITS BY THE**  
14 **EMPLOYER OR ITS INSURER IS DIRECTLY TO AN AUTHORIZED INSURER THAT**  
15 **PROVIDES PERIODIC PAYMENTS TO THE COVERED EMPLOYEE PURSUANT TO A**  
16 **SINGLE PREMIUM ANNUITY; OR**

17                           **(II) 1. THE AMOUNT OF MEDICAL BENEFITS IS IN ANY**  
18 **AMOUNT; AND**

19   **2. THE PAYMENT OF MEDICAL BENEFITS BY THE**  
20 **EMPLOYER OR ITS INSURER IS TO AN INDEPENDENT THIRD-PARTY**  
21 **ADMINISTRATOR THAT CONTROLS AND PAYS THE MEDICAL SERVICES IN**  
22 **ACCORDANCE WITH THE FORMAL SET-ASIDE ALLOCATION, PROVIDED THERE IS**  
23 **NO REVERSIONARY INTEREST TO THE COVERED EMPLOYEE OR THE COVERED**  
24 **EMPLOYEE'S BENEFICIARIES.**

25           (b) In computing the amount of an assessment, the Commission shall round  
26 off any fractional dollar to the nearest whole dollar.

27           (c) Payment of an assessment under this section is in addition to any  
28 payment of compensation to a covered employee who has sustained an accidental  
29 personal injury, occupational disease, or compensable hernia or a dependent of the  
30 covered employee, as provided in this title.

31           (d) (1) The Director of the Subsequent Injury Fund promptly shall remit  
32 to the State Treasurer each payment of assessment received by the Subsequent Injury  
33 Fund.

34                           (2) The State Treasurer shall hold, manage, and disburse the money  
35 in accordance with Title 10, Subtitle 2 of this article.

1 (e) The assessment imposed under this section is for payment of claims  
2 submitted to the Subsequent Injury Fund and is not a tax intended to benefit the  
3 State.

4 9–1007.

5 (a) (1) Except as provided in subsection (b) of this section, the  
6 Commission shall impose against an employer or, if insured, its insurer an assessment  
7 equal to 1% of:

8 (i) each award against the employer for permanent disability or  
9 death, including awards for disfigurement or mutilation; and

10 (ii) **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
11 **SUBSECTION**, each amount payable by the employer or its insurer under a settlement  
12 agreement approved by the Commission.

13 **(2) THE AMOUNT OF MEDICAL BENEFITS SPECIFIED IN A FORMAL**  
14 **SET-ASIDE ALLOCATION THAT IS PART OF AN APPROVED SETTLEMENT**  
15 **AGREEMENT SHALL BE EXCLUDED FROM THE ASSESSMENT IMPOSED BY THE**  
16 **COMMISSION UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION IF:**

17 **(I) 1. THE AMOUNT OF MEDICAL BENEFITS IS IN EXCESS**  
18 **OF \$50,000; AND**

19 **2. THE PAYMENT OF MEDICAL BENEFITS BY THE**  
20 **EMPLOYER OR ITS INSURER IS DIRECTLY TO AN AUTHORIZED INSURER THAT**  
21 **PROVIDES PERIODIC PAYMENTS TO THE COVERED EMPLOYEE PURSUANT TO A**  
22 **SINGLE PREMIUM ANNUITY; OR**

23 **(II) 1. THE AMOUNT OF MEDICAL BENEFITS IS IN ANY**  
24 **AMOUNT; AND**

25 **2. THE PAYMENT OF MEDICAL BENEFITS BY THE**  
26 **EMPLOYER OR ITS INSURER IS TO AN INDEPENDENT THIRD-PARTY**  
27 **ADMINISTRATOR THAT CONTROLS AND PAYS THE MEDICAL SERVICES IN**  
28 **ACCORDANCE WITH THE FORMAL SET-ASIDE ALLOCATION, PROVIDED THERE IS**  
29 **NO REVERSIONARY INTEREST TO THE COVERED EMPLOYEE OR THE COVERED**  
30 **EMPLOYEE'S BENEFICIARIES.**

31 **[(2)] (3)** (i) Notwithstanding any other provision of law, if the  
32 employer is a corporation the assets of which are not sufficient to satisfy an  
33 assessment, any officer of the corporation who has responsibility for the general  
34 management of the corporation in the State is jointly and severally liable for the

1 assessment if the corporate officer knowingly failed to secure workers' compensation  
2 insurance.

3 (ii) Notwithstanding any other provision of law, if the employer  
4 is a limited liability company the assets of which are not sufficient to satisfy an  
5 assessment, any member of the limited liability company who has responsibility for  
6 the general management of the limited liability company in the State is jointly and  
7 severally liable for the assessment if a member of the limited liability company who  
8 has general management responsibility knowingly failed to secure workers'  
9 compensation insurance.

10 (b) Notwithstanding the limit on the balance of the Fund under § 9-1011 of  
11 this subtitle, if the Board determines that the reserves of the Fund are inadequate to  
12 meet anticipated losses, the Board may direct the Commission to assess an additional  
13 1% under subsection (a) of this section.

14 (c) Any fractional dollar of payment under this section shall be rounded off to  
15 the nearest whole dollar.

16 (d) The Commission shall direct payment of an assessment under subsection  
17 (a) or (b) of this section into the Fund.

18 (e) Payments under this section are in addition to the payment of  
19 compensation to a covered employee or the dependents of a covered employee under  
20 this title.

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