SENATE BILL 227

K1 5lr0067

(PRE–FILED) CF 5lr0068

By: **Chair, Finance Committee (By Request – Departmental – Uninsured Employers' Fund)**
Requested: October 12, 2024
Introduced and read first time: January 8, 2025
Assigned to: Finance

A BILL ENTITLED

AN ACT concerning

Workers' Compensation – Payment From Uninsured Employers' Fund – Revisions

FOR the purpose of altering the process by which an award is payable from the Uninsured Employers' Fund; requiring the Workers' Compensation Commission to make the Fund a party to a claim filed against an uninsured employer; authorizing a covered employee or the dependents of a covered employee to apply to the Director of the Fund for payment from the Fund; altering requirements related to notice of claims, raising of issues, payment of awards, and reimbursement of awards; requiring the Fund to pay certain additional awards under certain circumstances; and generally relating to the Uninsured Employers' Fund.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–1002
Annotated Code of Maryland
(2016 Replacement Volume and 2024 Supplement)

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

Article – Labor and Employment

9–1002.

(a) An award is payable out of the Fund in accordance with this section.

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

[(b) Unless an application for review has been timely filed under subsection (g) of this section or a notice of timely appeal served, an employer is in default on a claim by a covered employee or the dependents of a covered employee if the employer fails to:

(1) secure payment of compensation in accordance with § 9–402 of this title;

(2) except for a governmental self–insurance group authorized by § 9–404 of this title, deposit security in accordance with § 9–405 of this title that is:

(i) sufficient to cover a claim by a covered employee; and

(ii) at least $100,000; and

(3) pay compensation in accordance with an award within 30 days after the date of the award.

(c) If an employer is in default under subsection (b) of this section, promptly after the expiration of 30 days after the date of the award, the Commission shall notify the employer that:

(1) the employer is in default; and

(2) the license or permit of the employer to do business in the State may be suspended.

(d) (1) On receipt of a notice of default, an employer promptly shall pay the award.

(2) To object to an award, the employer, within 30 days after receipt of the notice of default, shall notify the Commission of the reasons why the employer objects to the award.

(3) The notice of objection by the employer to the Commission serves as an application for review under subsection (g) of this section.

(e) If the employer does not pay the award and does not notify the Commission of its objection to the award in accordance with subsection (d) of this section, the covered employee or the dependents of the covered employee may apply to the Director for payment from the Fund.

(f) On receipt of an application for payment, the Fund may:

(1) pay the award; or

(2) apply for review under subsection (g) of this section.]

(B) IF A CLAIM HAS BEEN FILED AGAINST AN UNINSURED EMPLOYER, THE COMMISSION SHALL MAKE THE FUND A PARTY TO THE CLAIM BY:

(1) PROVIDING THE FUND WITH NOTICE OF THE CLAIM; AND

(2) SENDING NOTICE TO THE COVERED EMPLOYEE OR THE DEPENDENTS OF THE COVERED EMPLOYEE THAT ANY DOCUMENTATION REQUIRED BY THE FUND MUST BE COMPLETED.

(C) AN UNINSURED EMPLOYER SHALL BE GIVEN ACTUAL NOTICE OF A CLAIM BEFORE ACTION IS TAKEN AGAINST THE UNINSURED EMPLOYER.

(D) THE FUND MAY RAISE DEFENSES TO A CLAIM, INCLUDING DEFENSES THAT MAY HAVE BEEN RAISED BY THE UNINSURED EMPLOYER.

(E) THE REQUIREMENTS OF § 9–713 OF THIS TITLE APPLY TO THE FUND BEGINNING ON THE DATE THAT THE FUND RECEIVES NOTICE UNDER SUBSECTION (B) OF THIS SECTION.

(F) THE FUND MAY IMPLEAD OTHER EMPLOYERS AND INSURERS TO THE CLAIM.

(g) (1) **[**The**] SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE** provisions of Subtitle 7 of this title about procedure and the right to appeal apply to:

(i) a covered employee or the dependents of a covered employee who file a claim;

(ii) the uninsured employer; and

(iii) the Fund.

(2) The right of review of the Fund includes:

(i) raising issues;

(ii) discovery; and

(iii) a hearing before the Commission.

(H) AN EMPLOYER IS IN DEFAULT ON AN AWARD TO A COVERED EMPLOYEE OR THE DEPENDENTS OF A COVERED EMPLOYEE IF THE EMPLOYER FAILS TO:

(1) SECURE PAYMENT OF COMPENSATION IN ACCORDANCE WITH § 9–402 OF THIS TITLE;

(2) EXCEPT FOR A GOVERNMENTAL SELF–INSURANCE GROUP AUTHORIZED BY § 9–404 OF THIS TITLE, DEPOSIT SECURITY IN ACCORDANCE WITH § 9–405 OF THIS TITLE THAT IS:

(I) SUFFICIENT TO COVER A CLAIM BY A COVERED EMPLOYEE; AND

(II) AT LEAST $100,000; AND

(3) PAY COMPENSATION IN ACCORDANCE WITH AN AWARD WITHIN 30 DAYS AFTER THE DATE OF THE AWARD.

(I) IF AN EMPLOYER IS IN DEFAULT AND THE COVERED EMPLOYEE OR THE DEPENDENTS OF A COVERED EMPLOYEE HAS DEMANDED PAYMENT FROM THE EMPLOYER AT LEAST 15 DAYS BEFORE THE DATE OF APPLICATION, THE COVERED EMPLOYEE OR THE DEPENDENTS OF THE COVERED EMPLOYEE MAY APPLY TO THE DIRECTOR FOR PAYMENT FROM THE FUND.

(J) ON RECEIPT OF AN APPLICATION FOR PAYMENT, THE FUND MAY:

(1) PAY THE AWARD; OR

(2) IF THE FUND HAS NOT YET PARTICIPATED IN A HEARING ON COMPENSABILITY, FILE ISSUES REQUESTING A HEARING BEFORE THE COMMISSION.

(K) IF THE FUND PAYS AN AWARD IN ACCORDANCE WITH THIS SUBTITLE WHILE AN APPEAL IS PENDING, THE FUND REMAINS ENTITLED TO FULL REIMBURSEMENT FROM THE UNINSURED EMPLOYER FOR AN AWARD PAID, NOTWITHSTANDING THE RESULT OF THE APPEAL.

(L) ONCE THE FUND HAS PAID AN AWARD ON A CLAIM, THE FUND SHALL PAY ANY ADDITIONAL AWARD ORDERED WITHOUT REQUIRING A COVERED EMPLOYEE OR THE DEPENDENTS OF A COVERED EMPLOYEE TO COMPLETE AN APPLICATION FOR PAYMENT.

(M) IF THE FUND PAYS AN AWARD TO A COVERED EMPLOYEE OR THE DEPENDENTS OF A COVERED EMPLOYEE THAT WAS ALSO PAID BY THE EMPLOYER, THE FUND IS ENTITLED TO REIMBURSEMENT FROM THE COVERED EMPLOYEE OR THE DEPENDENTS OF A COVERED EMPLOYEE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2025.