

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2006

A N A C T

RELATING TO INSURANCE -- WORKERS' COMPENSATION INSURANCE FUND

Introduced By: Senators Badeau, Ruggerio, Ciccone, Bates, and Revens

Date Introduced: January 05, 2006

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 1 through 21 inclusive of Chapter 410 of the 2003 Public Laws
2 entitled "An Act Relating to Insurance -- Workers' Compensation Fund" are hereby amended to
3 read as follows:

4 ~~SECTION 1. Title. — Workers' Compensation Insurance Fund.~~

5 ~~SECTION 2. Definitions. — When used in this act, the following words have the~~
6 ~~following meanings:~~

7 ~~(1) "Board" means the board of directors of the state compensation insurance fund;~~

8 ~~(2) "Fund" means the state compensation insurance fund known as The Beacon Mutual~~
9 ~~Insurance Company;~~

10 ~~(3) "Chief executive officer" means the chief executive officer of the state compensation~~
11 ~~insurance fund;~~

12 ~~(4) "Personal injury" or "injury" has the meaning given to it in chapter 29 of title 28.~~

13 ~~SECTION 3. Creation of fund. — (a) The purpose of the fund is to ensure that all~~
14 ~~employers in the state of Rhode Island have the opportunity to obtain workers' compensation~~
15 ~~insurance at the lowest possible price. It is also the policy and purpose of this act to establish and~~
16 ~~maintain that the fund shall be the workers' compensation insurance carrier of last resort. The~~
17 ~~fund is created as a nonprofit independent public corporation for the purpose of insuring~~
18 ~~employers against liability for personal injuries for which their employees may be entitled to~~
19 ~~benefits under chapter 33 of title 28 or under 33 U.S.C. Section 901 et seq., and other employer's~~

1 ~~liabilities incidental to those provisions.~~

2 ~~(b) The fund shall be organized and, except as provided in subsection (c) of this section,~~
3 ~~subsection (c) of section 11, or in this act, operated as a domestic mutual insurance company.~~

4 ~~(c) The fund shall be deemed to have met the requirements of sections 27-1-37 and 27-8-~~
5 ~~5 when the director of the department of labor and training has appropriated to the fund any~~
6 ~~portion of the amount provided for in section 18 and all policies issued by the fund shall be~~
7 ~~without the contingent mutual liability of the policyholders for assessment.~~

8 ~~(d) The fund shall be deemed for all purposes to be an insurance company organized in~~
9 ~~accordance with section 7-1-5 and chapter 1.1 of title 7. Without limiting the foregoing, section 7-~~
10 ~~1.1-4.1 relating to, among other things, indemnification of officers, directors, and employees, and~~
11 ~~section 7-1.1-33(b)—(e) relating to directors shall apply to the fund.~~

12 ~~(e) The fund may amend its charter pursuant to section 7-1.1-53.1, subject to the prior~~
13 ~~approval of all amendments by the director of the department of business regulation.~~

14 ~~(f) The general assembly declares that a stable market for workers' compensation~~
15 ~~insurance for all employers seeking coverage is necessary to the economic welfare of Rhode~~
16 ~~Island; that a stable and competitive insurance market will benefit all employers, all employees~~
17 ~~and their families, and all insurance companies doing business in Rhode Island; that without this~~
18 ~~insurance at a competitive rate, the orderly growth and economic development of the state would~~
19 ~~be severely impeded; and that the provision of competitive insurance coverage by the fund for~~
20 ~~employers in Rhode Island and the capitalization of the fund through capital assessments as~~
21 ~~provided in this act is for the benefit of the public and in furtherance of a public purpose.~~

22 ~~**SECTION 4. Board of directors.**—The board of directors shall be comprised of seven~~
23 ~~(7) members elected or appointed as provided in this section and the director of the department of~~
24 ~~labor and training and the chief executive officer of the fund who shall be ex officio members.~~

25 ~~Each director shall hold office until a successor is appointed and qualified. Except for ex~~
26 ~~officio members, each director shall be a policyholder or an officer or employee of a~~
27 ~~policyholder. The governor shall appoint four (4) directors and three (3) directors shall be elected~~
28 ~~by the fund's policyholders. In addition to the director of the department of labor and training, no~~
29 ~~more than one (1) member of the board may be an elected or appointed official of state or~~
30 ~~municipal government. At least three (3) members of the board shall be policyholders of an~~
31 ~~officer or employee of a policyholder which is a for profit entity. No member other than the chief~~
32 ~~executive officer may represent or be an employee of an insurance company. The terms of board~~
33 ~~members, except for ex officio members, shall be four (4) years in accordance with the provisions~~
34 ~~for the election and classification of directors as may be established in the fund's bylaws. Any~~

1 ~~vacancy occurring during the term of any director shall be filled as provided in the fund's bylaws~~
2 ~~in the same manner as the member's predecessor. The board shall annually elect a chairperson~~
3 ~~from among its members, and any other officers it deems necessary for the performance of its~~
4 ~~duties.~~

5 ~~SECTION 5. **Fund management.**—The management and control of the fund is vested~~
6 ~~solely in the board.~~

7 ~~SECTION 6. **Power and duties of the board.**—The board is vested with full power,~~
8 ~~authority, and jurisdiction over the fund. The board may perform all acts necessary or convenient~~
9 ~~in the exercise of any power, authority, or jurisdiction over the fund, either in the administration~~
10 ~~of the fund or in connection with the insurance business to be carried on by it under the~~
11 ~~provisions of this act, as fully and completely as the governing body of all other domestic~~
12 ~~insurance carriers to fulfill the objectives and intent of this act. The board's authority to invest~~
13 ~~funds is subject to the limitations imposed on domestic insurance companies in chapter 11.1 of~~
14 ~~title 27.~~

15 ~~SECTION 7. **Chief executive officer.**—Subject to the authority of the board, the chief~~
16 ~~executive officer appointed by the board pursuant to section 12 shall administer the fund.~~

17 ~~SECTION 8. **Personal liability excluded.**—The members of the board and officers or~~
18 ~~employees of the fund are not liable personally, either jointly or severally, for any debt or~~
19 ~~obligation created or incurred by the fund.~~

20 ~~SECTION 9. **Insurance of workers' compensation liability.**—The fund may insure an~~
21 ~~employer against any workers' compensation claim, claims under 33 U.S.C. Section 901 et seq.,~~
22 ~~and other employer's liabilities incidental to those provisions arising out of and in the course of~~
23 ~~employment, including the provision of excess workers' compensation insurance coverage, as~~
24 ~~fully as any other insurer.~~

25 ~~SECTION 10. **General powers and limitations.**—For the purposes of exercising the~~
26 ~~specific powers granted in this act and effectuating the other purposes of this act, the fund may:~~

27 ~~(1) Sue and be sued;~~

28 ~~(2) Have a seal and alter it at will;~~

29 ~~(3) Make, amend, and repeal bylaws and rules relating to the conduct of the business of~~
30 ~~the fund;~~

31 ~~(4) Enter into contracts relating to the administration of the fund;~~

32 ~~(5) Rent, lease, buy, or sell property, real and personal, in its own name and may~~
33 ~~construct or repair buildings necessary to provide space for its operations;~~

34 ~~(6) Declare dividends to its policyholders when there is an excess of assets over~~

1 ~~liabilities, and minimum surplus requirements;~~

2 ~~(7) Pay medical expenses, rehabilitation expenses, compensation due claimants of insured~~
3 ~~employers, pay salaries, and pay administrative and other expenses of the fund;~~

4 ~~(8) Hire personnel and set salaries and compensation; and~~

5 ~~(9) Perform all other functions and exercise all other powers of a domestic mutual~~
6 ~~insurance company that are necessary, appropriate, or convenient to administer the fund and to its~~
7 ~~members; provided, that the fund shall not be a member of the National Council on~~
8 ~~Compensation Insurance (NCCI).~~

9 SECTION 1. The Beacon Mutual Insurance Company is established as a nonprofit,
10 independent mutual insurance company for the purpose of transacting the following kinds of
11 insurance:

12 (a) Workers' compensation and employer liability insurance and related coverages only
13 for employers located in Rhode Island and their out-of-state employees and residual market
14 programs;

15 (b) To accept and cede the reinsurance of the kind or kinds of insurance business in
16 which the corporation is authorized to engage by the terms of this act or otherwise to the extent
17 permitted by law;

18 (c) To engage in any and all kinds of business to the extent that are necessarily or
19 properly incidental to the kind or kinds of insurance business in which the corporation is
20 authorized to engage hereunder or otherwise to the extent permitted by law;

21 (d) To exercise all of the rights and privileges of a domestic mutual insurance company
22 pursuant to Chapter 1 of Title 27 of the Rhode Island general laws and the Rhode Island Business
23 Corporation Act, as amended, provided the corporation shall not have the right or privilege to
24 transact any insurance other than workers' compensation insurance claims under 33 U.S.C.
25 Section 901 et. seq. and employer's liabilities incidental to those arising out of and in the course
26 of employment.

27 The corporation shall be for all purposes a mutual insurance company and, without
28 limiting or enlarging the effect of this general grant of authority, the corporation shall have all of
29 the general powers set forth in Chapter 6 of Title 7 of the Rhode Island general laws, and all acts
30 and amendments thereof, and all of the powers and privileges and be subject to all the duties and
31 obligations set forth therein so far as the same are not inconsistent with the powers and privileges
32 granted herein.

33 SECTION 2. The management of the business and affairs of the corporation shall be
34 vested in the board of directors, all of whom shall be elected, except as provided herein, from

1 time to time by the policyholders, upon the expiration of the terms of the elected or appointed
2 members of the board of directors having terms of office as of the effective date of this act. The
3 number of members of the board of directors shall be determined in accordance with bylaws to be
4 adopted by the board of directors. Provided, however, the board shall consist of not more than
5 thirteen (13) and not less than nine (9) members." after the phrase "adopted by the board of
6 directors. There shall be no ex-officio directors. Each director, howsoever appointed or elected,
7 shall be a policyholder or an officer or employee of a policyholder or an officer of the
8 corporation. Commencing with the expiration of the terms of office of directors appointed by the
9 governor in 2002 or elected by the policyholders in 2003, a majority of the directors shall be, at
10 all times, elected by the policyholders. In view of the corporation's additional obligations as the
11 insurer of last resort as provided in Section 3 hereof, upon expiration of the terms of office of the
12 directors appointed by the governor in 2002, three (3) positions on the board of the corporation
13 shall be filled by public appointment. The governor, the president of the senate, and the speaker
14 of the house of representatives shall each appoint one director who shall serve a term of three (3)
15 years. The board of directors of the corporation may elect such officers as are provided for in the
16 bylaws of the corporation and the board of directors may also appoint such committees as they
17 deem fit from their own number and may delegate to such committees such of the powers of the
18 board of directors and such other powers as they deem expedient. The general assembly declares
19 that a stable market for workers' compensation insurance for all employers seeking coverage is
20 necessary to the economic welfare of Rhode Island, that a stable and competitive insurance
21 market will benefit all employers, all employees and their families, and all insurance companies
22 doing business in Rhode Island. The corporation shall offer all employers in the state of Rhode
23 Island the opportunity to obtain workers' compensation insurance at the lowest possible price.

24 ~~SECTION 11. Insurance coverage program.~~ SECTION 3. Additional obligations as
25 insurance carrier of last resort; Denial, cancellation and non-renewal; Rate regulation. --
26 ~~(a) Provision of workers' compensation coverage. Subject to the limitations set forth in this act,~~
27 ~~the fund shall~~ (a) Additional obligations. In addition to, and not in derogation of, its purposes to
28 transact and provide workers' compensation and employer liability insurance and related
29 coverage, the corporation shall also be the workers' compensation insurance carrier of last resort
30 obligated to provide workers' compensation insurance against liabilities arising under title 28 for
31 any employer that tenders the necessary premium.

32 ~~(b) Applications; provisions of coverage.~~

33 ~~(1) Policy applications.—Applicants may apply for coverage by the fund in good faith,~~
34 ~~either directly or through an insurance producer licensed by the state of Rhode Island to procure~~

1 ~~workers' compensation insurance according to rules adopted by the board under section 16.~~

2 ~~(2) Denial, cancellation, and nonrenewal.~~ (b) Denial, cancellation, and nonrenewal of
3 coverage for all employees. -- Notwithstanding the provision of the foregoing subsection (a) The
4 the nonpayment of premium for current or prior policies issued by the ~~fund~~ corporation to the
5 applicant, or to another entity for which the fund deems the applicant to be a successor in interest,
6 may be a basis for the fund to deny, not renew or terminate coverage. The failure or refusal by an
7 applicant or ~~insured~~ policyholder to fully and accurately disclose to the ~~fund~~ corporation
8 information concerning the applicant's or ~~insured's~~ policyholder's ownership, management,
9 change of ownership, prior ownership, operations, or payroll, including allocation of payroll
10 among state and federal compensation programs, classification of payroll, and any other
11 information determined by the ~~fund~~ corporation to be important in determining ~~proper rates~~
12 appropriate premiums shall be sufficient grounds for the ~~fund~~ corporation to deny an application
13 or to not renew or cancel an existing policy or to assess a premium surcharge against the ~~insured~~
14 policyholder pursuant to subsection ~~(d)~~ (c). The failure or refusal by any ~~insured~~ policyholder or
15 applicant to comply with the ~~fund's~~ corporation's safety requirements or to permit premises
16 inspections to the sole satisfaction of the ~~fund~~ corporation shall be sufficient grounds for having
17 its workers' compensation insurance coverage surcharged, not renewed, or cancelled, or an
18 application for the coverage denied in the sole discretion of the corporation.

19 ~~(3) Appeal to director.~~ Any determination of the ~~fund~~ corporation with respect to the
20 denial, cancellation, or nonrenewal of any workers' compensation insurance policy against
21 liabilities arising under title 28, with the exception of cancellation for nonpayment of premium,
22 may be appealed to the director of the department of business regulation, in writing, within thirty
23 (30) days of notice of this action. If the director determines that the ~~fund~~ corporation has
24 unreasonably denied, cancelled, or failed to renew any workers' compensation insurance policy,
25 the ~~fund~~ corporation shall in good faith reconsider issuing, reinstating, or renewing the workers'
26 compensation insurance policy. If the ~~fund~~ corporation has not issued, reinstated, or renewed the
27 workers' compensation insurance policy within thirty (30) days of a determination of the director,
28 the applicant or ~~insured~~ policyholder may appeal the denial, cancellation, or failure to renew by
29 the ~~fund~~ corporation to the superior court for Providence County.

30 (c) ~~Exemptions~~ Rate Regulation.

31 ~~(1) Except as provided in subsection (d), the fund~~ The corporation shall be subject to rate
32 regulation under chapter 7.1 of title 27-~~;~~ , subject to the following:

33 (1) The corporation shall not be required to adhere to the uniform classification system or
34 uniform experience rating plan required under section 27-7.1-9.1 in effect from time to time after

1 the approval by the director of the department of business regulation of the corporation's own
2 classification plan, experience rating plan, manuals, schedules and rules, which approval shall be
3 deemed to be effective ninety (90) days after the acceptance of the filing unless the director finds
4 that the classification system and experience rating plan fails to meet the requirements of sections
5 27-7.1-1.1(3) and (8), respectively. The corporation may, upon the filing of the corporation's own
6 classification plan or experience rating plan also file its rates in accordance with section 27-7.1-5-
7 1 utilizing such classification system or experience rating plan. The information furnished in
8 support of the filing may include:

9 (i) the use of Rhode Island data only;
10 (ii) the experience or judgment of the corporation;
11 (iii) its interpretation of any statistical data it relies upon;
12 (iv) the experience of other insurers or rating organizations;
13 (v) any other relevant factors including past and prospective loss experience within the
14 state, a reasonable margin for profits and contingencies, dividend savings or unabsorbed premium
15 deposits allowed or returned by the corporation to policyholders past and prospective expenses
16 specifically applicable to this state, provisions for special assessments and all other relevant
17 factors within this state and only to the extent applicable or desirable, from outside of Rhode
18 Island. If the filing of a classification system or experience rating plan is disapproved by the
19 director, the corporation may request a hearing on disapproval within ten (10) days of the date of
20 the order of disapproval and the director shall schedule a hearing within thirty (30) days of the
21 receipt of the request.

22 (2)(i) From and after January 1, 2007, notwithstanding any law to the contrary, the
23 corporation, may file rates with the director of the department of business regulation and may use
24 the rates thirty (30) days after the filing. The corporation shall not file and use any rates which
25 would increase rates in excess of an average of five percent (5%) annually of its rates then in
26 effect without prior approval of the director of the department of business regulation

27 (ii) Notwithstanding the foregoing, if the director finds that a rate of filing made pursuant
28 to section 4(c)(2) hereof of the corporation is excessive, inadequate or unfairly discriminatory by
29 written order of disapproval specifying the reasons the rate or filing fails to meet the standards
30 established hereunder, and stating when within a reasonable period thereafter, the rate shall no
31 longer be used or the filing shall be deemed no longer effective, the rate or filing shall be deemed
32 disapproved. If the rate or filing is disapproved by the director, the corporation may request a
33 hearing on the disapproval within ten (10) days of the date of the order of disapproval and the
34 director shall schedule a hearing within thirty (30) days of the receipt of the request. An order of

1 disapproval shall not affect any contract or policy made or issued prior to the expiration of the
2 period set forth in the order. If, however, the director finds that an unfair discrimination exists in
3 the application of a rate or filing to an individual risk, the director may, after a hearing held on
4 like notice to the corporation issue an order that the discrimination be removed with respect to
5 such individual risk.

6 (iii) The corporation may continue to provide workers' compensation insurance coverage
7 at the rates filed or adopted by the corporation in effect as of the effective date of this act until the
8 effectiveness of any revised rates filed or adopted by the corporation and approved pursuant to
9 this subsection (c).

10 (3) Notwithstanding any law to the contrary, the corporation and any workers'
11 compensation insurance policyholder may mutually consent to modify the rates for the
12 policyholder's workers' compensation insurance policy, provided the corporation files notice of
13 the modification if the modification is in excess of the rate determined in accordance with the
14 provisions of this chapter with the director of the department of business regulation.

15 (4) Notwithstanding any law to the contrary, the corporation may establish and apply a
16 premium surcharge of up to three (3) times its applicable premium rate for policyholders who
17 present higher than normal risks within a class. The surcharge may be payable, at the option of
18 the corporation, upon assessment from time to time, over the policy year, or upon renewal. Any
19 premium surcharge assessed by the corporation may be appealed to the director of the department
20 of business regulation within twenty (20) days of notice of the surcharge, and the director may
21 modify or rescind the surcharge if the director determines that the surcharge is unjust,
22 unreasonable, inadequate, excessive or unfairly discriminatory. The corporation may also
23 establish and apply discounts to the policyholders who present lower than normal risks within a
24 class.

25 ~~(2) Notwithstanding the provisions of this section, if, at any time, the director finds that a~~
26 ~~rate or filing of the fund is unjust, unreasonable, inadequate, excessive, or unfairly discriminatory,~~
27 ~~he or she shall, after a hearing held upon not less than ten (10) days written notice, specifying the~~
28 ~~matters to be considered at that hearing, issue an order specifying in what respects he or she finds~~
29 ~~that the rate or filing is unjust, unreasonable, inadequate, excessive, or unfairly discriminatory~~
30 ~~and stating when within a reasonable period after this the rate shall no longer be used or the filing~~
31 ~~shall be deemed no longer effective. That order shall not affect any contract or policy made or~~
32 ~~issued prior to the expiration of the period set forth in the order. If the director finds that an unfair~~
33 ~~discrimination exists in the application of a rate or filing to an individual applicant or insured, the~~
34 ~~director may, after a hearing held on similar notice to the fund, issue an order that the~~

1 ~~discrimination be removed.~~

2 ~~(d) Rate regulation.~~

3 ~~(1) When a filing is not accompanied by the information upon which the fund supports~~
4 ~~that filing, and the director does not have sufficient information to determine whether the filing~~
5 ~~meets the requirements of applicable law, the director may require the fund to furnish the~~
6 ~~information upon which it supports the filing. The information furnished in support of a filing~~
7 ~~may include: (i) the experience or judgment of the fund, (ii) its interpretation of any statistical~~
8 ~~data it relies upon, (iii) the experience of other insurers or rating organizations, or (iv) any other~~
9 ~~relevant factors.~~

10 ~~(2) Notwithstanding any law to the contrary, the fund and any workers' compensation~~
11 ~~insurance policyholder may mutually consent to modify the rates for that policyholder's workers'~~
12 ~~compensation insurance policy, provided the fund files notice of the modification with the~~
13 ~~director of the department of business regulation.~~

14 ~~(3) Notwithstanding any law to the contrary, the fund may establish and apply a~~
15 ~~premium surcharge protocol. The protocol shall provide for higher premium and surcharge~~
16 ~~payments by insured who present higher than normal risks within a class, including the ability of~~
17 ~~the fund to assess from time to time a premium surcharge of up to three (3) times its applicable~~
18 ~~premium rate, as it deems appropriate to further the public purposes set forth in this act. The~~
19 ~~surcharge may be payable, at the option of the fund, upon assessment, over the policy year, or~~
20 ~~upon renewal. Any premium surcharge assessed by the fund may be appealed to the director of~~
21 ~~the department of business regulation within twenty (20) days of notice of the surcharge, and the~~
22 ~~director may modify or rescind the surcharge if the director determines that the surcharge is~~
23 ~~unjust, unreasonable, inadequate, excessive or unfairly discriminatory.~~

24 ~~(4) Notwithstanding any other provisions of law, immediately upon May 18, 1992, the~~
25 ~~fund may issue workers' compensation insurance policies at an initial rate not in excess of the~~
26 ~~rates then in effect for residual market workers' compensation insurance coverage offered by any~~
27 ~~other insurers within the state of Rhode Island, subject to the discretion of the fund to apply~~
28 ~~discounts and surcharge multipliers of up to three (3) times the premiums that would otherwise be~~
29 ~~applicable under the rates, with the premium surcharge to be payable as provided in subdivision~~
30 ~~(d)(3). The fund may continue to issue workers' compensation insurance coverage at the initial~~
31 ~~rates until the effectiveness of any revised rates filed pursuant to subdivision (d)(1).~~

32 (5) The corporation shall not be a member of the national council on compensation
33 insurance but shall provide its workers' compensation experience data to the national council on
34 compensation insurance or other approved advisory organization as required by section 27-7.1-

1 9.1 so long as such advisory organization shall not charge the corporation for providing such
2 information and notwithstanding any law to the contrary, shall not be required to pay any costs
3 associated with any filing made by the national council of compensation insurance or such other
4 approved advisory organization unless the corporation shall adopt the same.

5 ~~SECTION 12. Chief executive officer. Appointment and qualifications. The board~~
6 ~~shall appoint a chief executive officer of the fund who shall be in charge of the day to day~~
7 ~~operations of the fund. The chief executive officer shall have proven successful experience as an~~
8 ~~executive at the general management level. The chief executive officer shall receive~~
9 ~~compensation as set by the board and shall serve at the pleasure of the board.~~

10 ~~SECTION 13. Chief executive officer's powers. Subject to the authority of the board~~
11 ~~and the provisions of this act, the chief executive officer shall perform the duties of chief~~
12 ~~executive officer as provided in the fund's bylaws or that have been determined by resolution of~~
13 ~~the board of directors. Without limitation on this provision, the chief executive officer or~~
14 ~~qualified officers or employees of the fund designated by the chief executive officer shall:~~

15 ~~(1) Make safety inspections of risks and furnish advisory services to employers on safety~~
16 ~~and health measures;~~

17 ~~(2) Act for the fund in collecting and disbursing money necessary to administer the fund~~
18 ~~and conduct the business of the fund; and~~

19 ~~(3) Cause an abstract summary of any audit or survey conducted. The chief executive~~
20 ~~officer may perform all other acts necessary to exercise the powers, authorities and jurisdictions~~
21 ~~of the fund, either in the administration of the fund or in connection with the insurance business~~
22 ~~to be carried on by the fund under this act, including the establishment of premium rates. Subject~~
23 ~~to the approval of the board, the chief executive officer may delegate any duties, on behalf of the~~
24 ~~fund, to qualified officers and employees of the fund, and may contract with the qualified~~
25 ~~independent contractors to perform those duties for the fund.~~

26 SECTION 14 4. Property of fund Not a state agency. – The obligation of the
27 corporation to insure any employer with employees in Rhode Island that tenders the necessary
28 premium and the power to appoint directors as provided in Section 2 hereof shall not cause the
29 state to be liable for any obligation, expense, liability or debt of the corporation, any claim or
30 right to the assets or property of the corporation; alter the legal status of the corporation as a
31 domestic mutual insurance company; or remove from the board of directors any managerial,
32 financial or operational control of the corporation. The corporation shall not be considered a state
33 agency for any purpose. All premiums and other money paid to the ~~fund~~ corporation, all property
34 and securities acquired through the use of money belonging to the ~~fund, all capital assessment~~

1 ~~amounts received pursuant to section 19, and~~ corporation, all interest and dividends earned upon
2 money belonging to the fund corporation and ~~deposited all deposits or~~ invested by the fund
3 corporation are the sole property of the fund corporation and shall be used exclusively for the
4 ~~operation operations and obligations~~ of the fund corporation. The money of the fund corporation
5 is not state money. The property of the fund corporation is not state property. The employees of
6 the fund corporation shall not be considered state employees for any purpose.

7 ~~SECTION 15. Not a state agency.—The fund shall not be considered a state agency for~~
8 ~~any purpose.~~

9 SECTION ~~16~~ 5. **Private independent insurance producers.** – Private independent
10 insurance producers licensed to sell workers’ compensation insurance in this state may sell
11 insurance coverage for the fund according to rules adopted by the board. The board shall by rule
12 also establish a schedule of commissions ~~for voluntary risk and residual risk coverage~~ that the
13 fund corporation will pay for the services of an insurance producer.

14 SECTION ~~17~~ 6. **Annual report.** – The board shall submit an annual report to the
15 governor and legislature indicating the business done by the fund corporation during the previous
16 year and containing a statement of the resources and liabilities of the fund corporation.

17 ~~SECTION 18. Funding.—The director of the department of labor and training is~~
18 ~~mandated and directed to appropriate an amount not to exceed five million dollars (\$5,000,000) to~~
19 ~~the state compensation insurance fund to be repaid pursuant to a term and at a rate to be~~
20 ~~negotiated and determined by the director of the department of labor and training and the board of~~
21 ~~directors of the state compensation insurance fund. The rate shall not exceed three percent (3%)~~
22 ~~over the federal discount rate and will be adjusted annually on October first of each year. The~~
23 ~~payment schedule shall be no less than ten (10) years or more than fifteen (15) years. Payment~~
24 ~~shall not commence until October 1, 1992. The terms of the agreement must be approved by the~~
25 ~~state auditor general. Any scheduled payment may be deferred at the time the payment is due, if~~
26 ~~in the opinion of the board, the director of labor and training, and the state auditor general there~~
27 ~~is, or the scheduled payment would cause there to be if made, insufficient surplus to support the~~
28 ~~risk insured by the fund.~~

29 SECTION ~~19~~ 7. **Workers’ compensation capital assessment.** – (a) In order to establish
30 the capital reserves and surplus to allow the fund corporation to effect the assumption of residual
31 risk market in fulfillment of the public purposes as set forth in this act, a workers’ compensation
32 capital assessment shall be assessed and collected by the director of the department of labor and
33 training against each insurance company deemed by the director of the department of business
34 regulation to have been licensed as of January 1, 1991, to write workers’ compensation insurance

1 in Rhode Island. The assessment shall be payable quarterly and due within fifteen (15) days
2 following the close of each calendar quarter or, at the discretion of the director of the department
3 of labor and training, on an annual basis on or before July first of each year. The director of the
4 department of labor and training shall have the power to institute suit to collect any assessment
5 under this section to the same extent as provided in section 28-37-28.

6 (b) The director of the department of labor and training shall collect all of the capital
7 assessment amounts in a separate restricted purpose account and shall promptly transfer all the
8 amounts to the ~~fund~~ corporation upon receipt and the amounts shall become the property of the
9 ~~fund~~ corporation pursuant to section ~~14~~ 4 for capital reserve and surplus purposes in recognition
10 of the ~~fund's~~ corporation's role as carrier of last resort. During the transition period, the
11 assessment for this party shall equal three percent (3%) of gross premiums received from
12 workers' compensation insurance or employer's liability insurance written or renewed on risks
13 within the state or subject to the jurisdiction of the state, or any other level of gross premiums that
14 the director of the department of business regulation deems appropriate to ensure both the
15 solvency of the ~~fund~~ corporation and the ~~fund's~~ corporation's ability to establish a surplus
16 reasonably adequate to allow it to complete the assumption of the residual risk market in
17 furtherance of the public purposes stated in this act. For the purpose of this act, "gross premiums"
18 shall be calculated for insurance companies in the same manner as provided in section 28-37-14
19 for the applicable period. From and after the transition period, the director of the department of
20 business regulation shall periodically determine the rate of the assessment at levels adequate to
21 allow the ~~fund~~ corporation to service the ~~residual risk~~ market, ~~and satisfy the reserve and surplus~~
22 ~~requirements of section 20.~~ Notwithstanding the foregoing, from and after: (i) the use by the
23 corporation of rates filed by the corporation with the director of the department of business
24 regulation as provided in section 4 hereof; (ii) the corporation obtains a financial strength rating
25 from A.M. Best Company; and (iii) the corporation participates in and is subject to the insurers'
26 insolvency fund established under section 27-34-6, the workers' compensation capital assessment
27 authority of the director of the department of labor and training shall terminate.

28 (c) Each insurance company may pass through the entire capital assessment amount to
29 each of its policyholders on a pro rata basis.

30 ~~(d) In the event that any insurance company deemed by the director of the department of~~
31 ~~business regulation to have been licensed on January 1, 1991, to write workers' compensation~~
32 ~~insurance discontinues the issuance of workers' compensation insurance policies in Rhode Island~~
33 ~~prior to December 31, 1994, that company shall be and remain obligated to pay the capital~~
34 ~~assessment surcharge through December 31, 1994, calculated on the basis of the average~~

1 ~~voluntary and residual risk gross premiums received or the average voluntary and residual risk~~
2 ~~gross losses paid in the thirty six (36) month period prior to its departure from the Rhode Island~~
3 ~~market.~~

4 (e) (d) The ~~fund~~ corporation shall pay an annual fee to the director of the department of
5 labor and training in the amount of two-tenths of one percent (.2%) of the earned premiums of the
6 ~~fund~~ corporation for the prior year in recognition of the continuing obligations of the department
7 of labor and training under subsections (a) and (b) of this section until the authority to assess by
8 the director of the department of labor and training shall terminate.

9 SECTION 8. Insolvency Fund. -- Subject to the approval of the director of the
10 department of business regulation and no earlier than January 1, 2007, the corporation shall
11 participate in the insurers' insolvency fund established under section 27-34-6.

12 SECTION 9. Liquidation. -- In the event of the liquidation of the corporation pursuant
13 to the Insurers' Rehabilitation and Liquidation Act, chapter 14.3 of title 27, the corporation's
14 policyholders, in their capacity as owners, shall have no distributive claims under section 27-
15 14.3-46(8) to the liquidation estate of the corporation and, upon satisfaction of any other class 1
16 through class 7 claims under section 27-14.3-46, the insurance commissioner, as receiver, shall
17 distribute the residual, if any, of the corporation's liquidation estate to the director of the
18 department of labor and training; provided, that in no event shall these provisions affect the
19 validity or priority of any claims arising from and within the coverage of any policies of the
20 corporation.

21 SECTION 10. The duration of the corporation shall be perpetual.

22 SECTION 11. The corporation shall pay assessments in the same manner as any
23 insurance carrier authorized to issue workers' compensation insurance in Rhode Island. In no
24 event shall any amounts received by the corporation relating to the workers' compensation capital
25 assessment be subject to any form of state taxation or assessment.

26 SECTION 12. The corporation may issue non-assessable policies.

27 SECTION 13. (a) The corporation shall be subject to the provisions of Chapter 17 of
28 Title 44 of the general laws and shall file returns and pay taxes in accordance therewith, provided,
29 however, that the corporation shall be taxed on gross premiums on contracts of insurance written
30 by the corporation after July 1, 2005.

31 (b) The corporation shall be subject to the provisions of Chapter 26 of Title 44 of the
32 general laws except that the "safe harbor" provisions contained in section 44-26-2.1(j) shall not
33 apply to tax year 2006, and estimated tax payments for tax year 2006 shall be due on March 15,
34 2006 and June 15, 2006 in accordance with the other provisions of Chapter 26 of Title 44, and

1 such estimated payments shall together be equal to at least two percent (2%) of the gross
2 premiums on contracts of insurance written by the corporation in calendar year 2005.

3 SECTION 14. Notwithstanding any law to the contrary, the corporation shall not convert
4 to a stock company.

5 ~~SECTION 20. Reserves—Premium to surplus ratio—Insolvency fund.—(a) The fund~~
6 ~~shall maintain a ratio of premiums on policies written to surplus of not more than three (3) to one~~
7 ~~(1), or any greater or lesser ratio that the director of the department of business regulation deems~~
8 ~~appropriate. In determining the ratio, the director may at all times consider the net present value~~
9 ~~of future capital assessment amounts as current surplus. To facilitate the ongoing oversight of the~~
10 ~~fund, the fund shall submit to the department of business regulation quarterly and annual~~
11 ~~statements in the format and scope specified in section 27-12-2.~~

12 ~~(b) The fund shall not participate in, or be subject to, the insurers' insolvency fund~~
13 ~~established under section 27-34-6.~~

14 ~~(c) In the event of the liquidation of the fund pursuant to the Insurers' Rehabilitation and~~
15 ~~Liquidation Act, chapter 14.3 of title 27, the fund's policyholders, in their capacity as owners of~~
16 ~~the fund, shall have no distributive claims under section 27-14.3-46(8) to the liquidation estate of~~
17 ~~the fund and, upon satisfaction of any other class 1 through class 7 claims under section 27-14.3-~~
18 ~~46, the insurance commissioner, as receiver, shall distribute the residual, if any, of the fund's~~
19 ~~liquidation estate to the director of the department of labor and training; provided, that in no event~~
20 ~~shall these provisions affect the validity or priority of:~~

21 ~~(1) any claims arising from and within the coverage of any policies of the fund; or~~

22 ~~(2) claims of the director of the department of labor and training to repayment of the term~~
23 ~~note of the fund issued pursuant to section 18.~~

24 ~~SECTION 21. Payment assessments and fees.—(a) Except as provided in this act, the~~
25 ~~fund shall pay assessments in the same manner as an insurance carrier authorized to issue~~
26 ~~workers' compensation insurance in Rhode Island.~~

27 ~~(b) In light of the express purpose of the fund to serve as the insurance carrier of last~~
28 ~~resort, the fund shall be exempt from any taxes due pursuant to chapter 17 of title 44. In no event~~
29 ~~shall any amounts received by the fund relating to the workers' compensation capital assessment~~
30 ~~be subject to any form of state taxation or assessment.~~

31 SECTION 2. This act shall take effect upon passage.

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LC00355/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO INSURANCE -- WORKERS' COMPENSATION INSURANCE FUND

- 1 This act would amend the charter of the Beacon Mutual Insurance Company.
- 2 This act would take effect upon passage.

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LC00355/SUB
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