

House Bill 1186 (AS PASSED HOUSE AND SENATE)

By: Representatives Coan of the 101<sup>st</sup>, Reese of the 98<sup>th</sup>, Hamilton of the 23<sup>rd</sup>, Horne of the 71<sup>st</sup>, Cox of the 102<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

To amend Article 9 of Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to the Subsequent Injury Trust Fund, so as to change certain provisions relating to payment of assessments to the fund by insurers and self-insurers; to provide for a reserve of surplus funds to be maintained by the administrator of the fund; to provide for disbursement of any remaining balance in the fund once all bona fide claims have been paid; to provide for consistent resolutions; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 9 of Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to the Subsequent Injury Trust Fund, is amended by revising Code Section 34-9-358, relating to payment of assessments to the fund by insurers and self-insurers, in its entirety as follows:  
"34-9-358.

(a) Prior to January 1, 2010, each Each insurer and self-insurer under this chapter shall, under regulations prescribed by the board of trustees, make payments to the fund in an amount equal to that proportion of 175 percent of the total disbursement made from the fund during the preceding calendar year less the amount of the net assets in the fund as of December 31 of the preceding calendar year which the total workers' compensation claims paid by the insurer or self-insurer bears to the total workers' compensation claims paid by all insurers and self-insurers during the preceding calendar year.

(b) On or after January 1, 2010, each insurer and self-insurer under this chapter shall, under regulations prescribed by the board of trustees, make payments to the fund in an amount equal to that proportion of 175 percent of the total disbursement made from the fund during the preceding calendar year as of December 31 of the preceding calendar year which the total workers' compensation claims paid by the insurer or self-insurer bears to the total workers' compensation claims paid by all insurers and self-insurers during the

1 preceding calendar year but not to exceed \$100 million. The administrator is authorized  
2 to create and maintain a reserve of surplus moneys as may be deemed necessary by the  
3 board of trustees in order to ensure sufficient moneys will be available for the payment of  
4 all claims that are to be paid by the fund in accordance with Code Section 34-9-368.

5 (c) The administrator is authorized to reduce or suspend assessments for the fund when a  
6 completed actuarial survey shows further assessments are not needed for all bona fide  
7 claims that are to be paid by the fund.

8 (d)(1) When further assessments are not needed as all eligible workers' compensation  
9 claims for which the fund is liable in accordance with Code Section 34-9-368 have been  
10 paid and all related administrative costs have been accrued or paid and a balance remains  
11 in the fund, all insurers and self-insurers in this state who have maintained workers'  
12 compensation insurance in this state for any time during the preceding three years from  
13 the date that the last claim has been paid shall be entitled to a pro rata refund of  
14 assessments previously collected and unexpended in the remaining fund balance.

15 (2) The calculation for such pro rata refund to be paid by the fund to each individual  
16 insurer and self-insurer shall be determined by the following formula:

17 The balance remaining in the fund shall be the numerator and shall be divided by  
18 the total amount of assessments for workers' compensation coverage paid by all  
19 insurers and self-insurers during the three-year period, which shall be the  
20 denominator. The quotient of the numerator and denominator shall be multiplied  
21 by the total amount of assessments that are paid by the individual insurer or  
22 self-insurer during the three-year period. The product of those numbers shall  
23 represent the amount to be paid to such insurer or self-insurer as its pro rata  
24 refund from the balance remaining in the fund.

25 (3) Nothing in this subsection shall preclude the board of trustees from authorizing  
26 a loss portfolio transfer of any unresolved claims.

27 (e) An employer who has ceased to be a self-insurer prior to the end of the calendar year  
28 shall be liable to the fund for the assessment of the calendar year. Such employer who has  
29 ceased to be a self-insurer shall continue to be liable to the fund for assessments in  
30 subsequent calendar years so long as payments are made on any workers' compensation  
31 claims made while in self-insured status.

32 (f) The initial assessment of each insurer or self-insurer for the purpose of generating  
33 revenue to begin operation of the fund shall be in the amount of one-half of 1 percent of  
34 the workers' compensation premiums collected by the insurer for the preceding calendar  
35 years from an employer who is subject to this chapter or the equivalent of such in the case  
36 of a self-insurer."

**SECTION 2.**

Said article is further amended by revising Code Section 34-9-368, relating to reimbursement of self-insured employers or insureds, requirement of an actuarial study, and dissolution of the Subsequent Injury Trust Fund, as follows:

"34-9-368.

(a) The Subsequent Injury Trust Fund shall not reimburse a self-insured employer or an insurer for a subsequent injury for which a claim is made for an injury occurring after June 30, 2006. The Subsequent Injury Trust Fund shall continue to reimburse self-insured employers or insurers for claims for injuries occurring on and prior to June 30, 2006, which qualify for reimbursement.

(b) Self-insured employers and insurers shall continue to pay assessments pursuant to Code Section 34-9-358 to the extent necessary to fund claims for injuries occurring on and prior to June 30, 2006.

(c) Upon or in contemplation of the final payment of all claims filed for subsequent injuries for which claims are filed for injuries occurring on and prior to June 30, 2006, the board of trustees shall adopt and implement resolutions providing for the final dissolution of the Subsequent Injury Trust Fund. Such resolutions shall become effective when all claims made for injuries occurring on and prior to June 30, 2006, have been fully paid or otherwise resolved and shall include provisions for:

(1) The termination of assessments against insurers or self-insurers;

(2) The pro rata refund of assessments previously collected and unexpended, consistent with the provisions of subsection (d) of Code Section 34-9-358;

(3) The termination of employment of the employees of the fund or the transfer of employment of any employees to any other state agency desiring to accept them;

(4) A final accounting of the financial affairs of the fund; and

(5) The transfer of the books, records, and property of the fund to the custody of the State Board of Workers' Compensation.

Upon the completion of all matters provided for in such resolutions, but not later than December 31, 2020, the Subsequent Injury Trust Fund and the members of its board of trustees shall be discharged from their duties except for such personnel necessary to administer any remaining claims."

**SECTION 3.**

All laws and parts of laws in conflict with this Act are repealed.