

# **MDChamber\_Griffin\_FAV\_SB438**

Uploaded by: Griffin, Andrew

Position: FAV



**LEGISLATIVE POSITION:**

**Favorable**

**Senate Bill 438**

**Workers' Compensation Act – Death Benefits – Release of Claim**

**Senate Finance Committee**

**Tuesday, February 11, 2020**

Dear Chairwoman Kelley and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 4,500 members and federated partners, and we work to develop and promote strong public policy that ensures sustained economic growth for Maryland businesses, employees and families.

Senate Bill 438 specifies that a dependent of an employee who dies from an accidental personal injury or occupational disease is not entitled to workers' compensation death benefits if the covered employee has signed a final compromise and settlement agreement. The bill also requires the Workers' Compensation Commission (WCC) to develop a procedure that allowing a dependent of a covered employee to agree to the application of a final compromise and settlement agreement entered into by a covered employee to the dependent and the release of any future death benefits by the dependent as part of that agreement.

The Maryland Chamber of Commerce believes parties should feel secure that Agreements of Final Compromise and Settlements, approved by the WCC, are binding and fully and finally resolve all disputes and causes of action between parties arising out of workers' compensation claims. Additionally, establishing a procedure by which dependents of a Covered Employee can release the employer and insurer from future separate actions would effectuate such security.

Finally, establishing such procedures as laid out in SB 438 would protect all parties against the untenable situation revealed in the *Collins* decision whereby the employer and insurer fully compensated the covered employee via a settlement but was then forced to compensate anew the surviving spouse of the covered employee after the death of the covered employee; even though the community and industry has always understood that Agreements of Final Compromise and Settlement fully resolve all disputes arising out of the claim.

The Maryland Chamber of Commerce has long been committed to and remains invested in promoting an innovative, pro-business climate throughout the state and fostering a robust economy. SB 438 furthers that goal and provides additional transparency and process to help improve Maryland's overall economic competitiveness. For these reasons, the Maryland Chamber of Commerce respectfully requests a **favorable report** on **SB 438**.

# **BaltimoreCounty\_Support\_SB0438**

Uploaded by: Olszewski, Jr., John

Position: FWA



JOHN A. OLSZEWSKI, JR.  
*County Executive*

CHARLES R. CONNER III, ESQ.  
*Chief Legislative Officer*

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*Deputy Legislative Officer*

JOEL N. BELLER  
*Assistant Legislative Officer*

**BILL NO.:**            **SB 438**

**TITLE:**              Workers Compensation Act – Death Benefits – Release of Claim

**SPONSOR:**        Senator Klausmeier

**COMMITTEE:**     Finance

**POSITION:**        **SUPPORT WITH AMENDMENTS**

**DATE:**             February 11, 2020

Baltimore County **SUPPORTS WITH AMENDMENTS** Senate Bill 438 – Workers Compensation Act – Death Benefits – Release of Claim. This bill would alter the circumstances under which an employee would be entitled to compensation for death resulting from accidental injury or occupational disease. The Workers Compensation Commission (WCC) would be obligated to establish a procedure by which a dependent of a covered employee may agree to the application of a final compromise and settlement.

At times, Baltimore County seeks to include a settlement of any future claims for potential surviving dependents in the settlement of workers compensation claims. This bill advances that policy objective by creating a procedure for the WCC to use that allows the dependent of a covered employee to agree to be bound through agreement of a final compromise and settlement the covered employee entered into and can provide for a release by the dependent of any future death benefits.

However, SB 438 does not address how to handle cases when the claimant fails to disclose all potential dependents, which is why we recommend an amendment that requires the claimant to identify all known living potential dependents who might be part of a proposed settlement agreement. This amendment would clarify an important nuance in the proposed legislation.

Accordingly, Baltimore County requests a **FAVORABLE WITH AMENDMENTS** report on SB 438. For more information, please contact Chuck Conner, Chief Legislative Officer, at 443-900-6582.

**CEIC\_UNF\_SB438**

Uploaded by: D'Alessandro, Carmine

Position: UNF



February 11, 2020

Senate Finance Committee

### Testimony of Chesapeake Employers' on SB 438 Oppose

SB 438 proposes to require the Workers' Compensation Commission (WCC) to establish a procedure whereby a dependent of a covered employee may agree to a final settlement of a claim and the release of any future dependency (death) benefits as part of the final settlement of a claim.

The bill would require the WCC to establish procedures whereby a dependent of a covered employee would be entitled to settle a speculative claim leaving the Courts to decide if the settlement was based on adequate consideration years, sometimes, decades after such a settlement. No such settlement would be free from judicial scrutiny and review.

Moreover, and most importantly there is a Maryland case dealing with this exact issue currently making its way through the Maryland Appellate Courts. Specifically, In the Matter of Bernard Collins, No. 591, Sept. Term, 2018, Filed August 2, 2019. In this case, the Court of Special Appeals was called on to determine whether an injured worker who settles his claim during his lifetime may unilaterally, on behalf of his dependents, release their independent contingent right to claim death benefits. The Court held that a dependent's claim for death benefits is not derivative of the injured worker's claim for compensation and that a release the injured worker signed as part of his settlement agreement did not bar his dependent wife's claim for death benefits. As a result of the Maryland Court of Special Appeals' ruling, the case was again appealed. The case was scheduled for oral arguments before the Maryland Court of Appeals, yesterday, on Monday, February 10, 2020.

Chesapeake Employers contends that this body should await the final interpretation of the statute prior to considering a legislative modification to existing law.

For the foregoing reasons, Chesapeake Employers' opposes SB 438.

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**CEIC\_UNF\_SB438**

Uploaded by: Klemans, Pillar

Position: UNF



February 11, 2020

Senate Finance Committee

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