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By: **Delegates Malone and DeBoy**

Introduced and read first time: February 10, 2005

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Office of the Attorney General - People's Insurance Counsel Division -**  
3 **Funding**

4 FOR the purpose of requiring that certain costs and expenses of the People's  
5 Insurance Counsel Division in the Office of the Attorney General be paid from  
6 the Insurance Regulation Fund; expanding the purposes of the Fund; repealing  
7 certain provisions of law requiring the Office of the Attorney General to include  
8 certain money in its annual budget; repealing certain provisions of law requiring  
9 the Maryland Insurance Commissioner to collect a certain annual assessment  
10 and deposit the amounts collected into a certain fund; repealing certain  
11 provisions of law establishing the People's Insurance Counsel Fund; and  
12 generally relating to funding for the People's Insurance Counsel Division in the  
13 Office of the Attorney General.

14 BY repealing and reenacting, with amendments,  
15 Article - Insurance  
16 Section 2-505  
17 Annotated Code of Maryland  
18 (2003 Replacement Volume and 2004 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article - State Government  
21 Section 6-303  
22 Annotated Code of Maryland  
23 (2004 Replacement Volume)  
24 (As enacted by Chapter 5 of the Acts of the General Assembly of the 2004 Special  
25 Session)

26 BY repealing  
27 Article - State Government  
28 Section 6-304 and 6-305  
29 Annotated Code of Maryland  
30 (2004 Replacement Volume)

1 (As enacted by Chapter 5 of the Acts of the General Assembly of the 2004 Special  
2 Session)

3 BY renumbering

4 Article - State Government

5 Section 6-306 through 6-308, respectively

6 to be Section 6-304 through 6-306, respectively

7 Annotated Code of Maryland

8 (2004 Replacement Volume)

9 (As enacted by Chapter 5 of the Acts of the General Assembly of the 2004 Special  
10 Session)

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

13 **Article - Insurance**

14 2-505.

15 (a) There is an Insurance Regulation Fund that consists of:

16 (1) all revenue received through the imposition and collection of the  
17 assessment fee under this subtitle;

18 (2) all revenue received through the imposition and collection of the fees  
19 set forth in § 2-112 of this title;

20 (3) all revenue received through the imposition and collection of the  
21 fraud prevention fee under Title 6, Subtitle 2 of this article;

22 (4) all revenue received through the collection of examination expenses  
23 under § 2-208 of this title;

24 (5) except as provided in § 2-114(a) of this title, all other fees received  
25 through the imposition and collection of fees set forth in this article; and

26 (6) income from investments that the State Treasurer makes for the  
27 Fund.

28 (b) The [purpose] PURPOSES of the Fund [is] ARE to:

29 (1) pay all the costs and expenses incurred by the Administration that  
30 are related to its responsibilities to regulate the insurance activities of all insurers  
31 that engage in the insurance business in this State;

32 (2) PAY ALL THE ADMINISTRATIVE AND OPERATIONAL COSTS OF THE  
33 PEOPLE'S INSURANCE COUNSEL DIVISION IN THE OFFICE OF THE ATTORNEY  
34 GENERAL; AND

1 (3) PAY ALL THE COSTS AND EXPENSES INCURRED BY THE PEOPLE'S  
2 INSURANCE COUNSEL DIVISION IN CARRYING OUT ITS DUTIES UNDER TITLE 6,  
3 SUBTITLE 3 OF THE STATE GOVERNMENT ARTICLE.

4 (c) (1) All the costs and expenses of the Administration shall be included in  
5 the State budget.

6 (2) Any expenditures from the Fund to cover costs and expenses of the  
7 Administration may only be made:

8 (i) with an appropriation from the Fund approved by the General  
9 Assembly in the annual State budget; or

10 (ii) by the budget amendment procedure provided for in § 7-209 of  
11 the State Finance and Procurement Article.

12 (3) (i) 1. Subject to subparagraph 2 of this subparagraph, if, in  
13 any fiscal year, the amount of revenue collected by the Commissioner and deposited  
14 into the Fund exceeds 105% of the actual appropriations for the Administration, the  
15 excess amount shall be carried forward within the Fund.

16 2. The assessment fee imposed under this subtitle shall be  
17 adjusted to maintain the Fund at a level that does not exceed 105% of the  
18 Administration's approved annual budget.

19 (ii) If, in any given fiscal year, the amount of revenue collected by  
20 the Commissioner and deposited into the Fund is insufficient to cover the  
21 expenditures of the Administration because of an unforeseen emergency and  
22 expenditures are made in accordance with the budget amendment procedure provided  
23 for in § 7-209 of the State Finance and Procurement Article, an additional assessment  
24 for the expenditures may be made.

25 (d) (1) The State Treasurer is the custodian of the Fund.

26 (2) The State Treasurer shall deposit payments received from the  
27 Commissioner into the Fund.

28 (e) (1) The Fund is a continuing, nonlapsing fund and is not subject to §  
29 7-302 of the State Finance and Procurement Article, and may not be deemed a part of  
30 the General Fund of the State.

31 (2) No part of the Fund may revert or be credited to:

32 (i) the General Fund of the State; or

33 (ii) a special fund of the State, unless otherwise provided by law.

**Article - State Government**

1

2 6-303.

3 (a) [The Office of the Attorney General shall include in its annual budget  
4 sufficient money for the administration and operation of the Division] FUNDS FOR  
5 THE ADMINISTRATION AND OPERATION OF THE DIVISION AND FOR ALL COSTS AND  
6 EXPENSES INCURRED BY THE DIVISION IN CARRYING OUT ITS DUTIES UNDER THIS  
7 SUBTITLE SHALL BE PAID FROM THE INSURANCE REGULATION FUND ESTABLISHED  
8 UNDER § 2-505 OF THE INSURANCE ARTICLE.

9 (b) The Division may retain as necessary for a particular matter or employ  
10 experts in the field of insurance regulation, including accountants, actuaries, and  
11 lawyers.

12 (c) The People's Insurance Counsel shall direct the Division.

13 [6-304.

14 (a) The Commissioner shall:

15 (1) collect an annual assessment from each medical professional liability  
16 insurer and homeowners insurer for the costs and expenses incurred by the Division  
17 in carrying out its duties under this subtitle; and

18 (2) deposit the amounts collected into the People's Insurance Counsel  
19 fund established under § 6-305 of this subtitle.

20 (b) The assessment payable by a medical professional liability insurer or  
21 homeowners insurer is the product of the fraction obtained by dividing the gross  
22 direct premium written by the medical professional liability insurer or homeowners  
23 insurer in the prior calendar year by the total amount of gross direct premium written  
24 by all medical professional liability insurers or homeowners insurers in the prior  
25 calendar year, multiplied by the amount of the total costs and expenses under  
26 subsection (a)(1) of this section.]

27 [6-305.

28 (a) In this section, "Fund" means the People's Insurance Counsel Fund.

29 (b) There is a People's Insurance Counsel Fund.

30 (c) The purpose of the Fund is to pay all costs and expenses incurred by the  
31 Division in carrying out its duties under this subtitle.

32 (d) The Fund shall consist of:

33 (1) all revenue deposited into the Fund that is received through the  
34 imposition and collection of the assessment under § 6-304 of this subtitle; and

1 (2) income from investments that the State Treasurer makes for the  
2 Fund.

3 (e) (1) Expenditures from the Fund may be made only by:

4 (i) an appropriation from the Fund approved by the General  
5 Assembly in the annual State budget; or

6 (ii) the budget amendment procedure provided for in § 7-209 of the  
7 State Finance and Procurement Article.

8 (2) (i) If, in any fiscal year, the amount of the assessment revenue  
9 collected by the Commissioner and deposited into the Fund exceeds the actual costs  
10 and expenses incurred by the Division to carry out its duties under this subtitle, the  
11 excess amount shall be carried forward within the Fund for the purpose of reducing  
12 the assessment imposed by the Commissioner for the following fiscal year.

13 (ii) If, in any fiscal year, the amount of the assessment revenue  
14 collected by the Commissioner and deposited into the Fund is insufficient to cover the  
15 actual expenditures incurred by the Division to carry out its duties under this  
16 subtitle, and expenditures are made in accordance with the budget amendment  
17 procedure provided for in § 7-209 of the State Finance and Procurement Article, an  
18 additional assessment may be made.

19 (f) (1) The State Treasurer is the custodian of the Fund.

20 (2) The Fund shall be invested and reinvested in the same manner as  
21 State funds.

22 (3) The State Treasurer shall deposit payments received from the  
23 Commissioner into the Fund.

24 (g) (1) The Fund is a continuing, nonlapsing fund that is not subject to §  
25 7-302 of the State Finance and Procurement Article.

26 (2) No part of the Fund may revert or be credited to:

27 (i) the General Fund of the State; or

28 (ii) a special fund of the State, unless otherwise provided by law.]

29 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 6-306  
30 through 6-308, respectively, of Article - State Government of the Annotated Code of  
31 Maryland be renumbered to be Section(s) 6-304 through 6-306, respectively.

32 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
33 effect July 1, 2005.