Unofficial Copy C4 2002 Regular Session 2lr1455 CF 2lr0678

By: Chairman, Finance Committee

Introduced and read first time: February 1, 2002

Assigned to: Finance

A BILL ENTITLED

1	AN	ACT	concerning

2 Maryland Insurance Administration - Program Evaluation

3 FOR the purpose of extending to a certain date the evaluation of the Mar	yland
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- 4 Insurance Administration under the provisions of the Maryland Program
- 5 Evaluation Act; transferring the Insurance Fraud Division from the
- Administration to the Department of State Police; requiring the Department to
- administer certain laws; providing for the management of the Insurance Fraud
- 8 Division; specifying the duties of the Insurance Fraud Division; establishing a
- 9 fund to cover the costs and expenses of the Insurance Fraud Division;
- 10 establishing an annual reporting requirement for the Insurance Fraud Division;
- specifying the contents of the annual report; establishing a certain date on
- which a certain annual report is due; repealing certain fees; creating a certain
- exemption; altering the classification of certain revenue; altering a certain
- definition; altering the contents of a certain fund; requiring that certain revenue
- be used in a certain way; requiring the Insurance Administration to collect, on a
- quarterly basis, certain fees and distribute a certain amount of money to a
- 17 certain administrative account; requiring certain money to be deposited into a
- 18 certain fund to be used for a certain purpose; requiring the Commissioner of the
- 19 Insurance Administration to establish certain fees in regulation; requiring the
- 20 Insurance Commissioner to transfer certain money at certain times to the
- 21 Department for certain purposes; altering the amount of certain fees; altering a
- 22 certain evaluation requirement; providing for the transfer of the Insurance
- 23 Fraud Division and its personnel, expenses, records, equipment, assets, and
- 24 liabilities from the Insurance Administration to the Department; requiring the
- 25 Insurance Administration to report to certain committees on or before a certain
- 26 date; specifying the contents of a certain report; defining certain terms; and
- 27 generally relating to the statutory and regulatory authority of the Maryland
- 28 Insurance Administration.

29 BY repealing

- 30 Article Insurance
- 31 Section 2-112(a)(11), 2-208; 2-401 through 2-406, and 2-408 and the subtitle
- "Subtitle 4. Insurance Fraud Division"
- 33 Annotated Code of Maryland
- 34 (1997 Volume and 2001 Supplement)

- **SENATE BILL 472** 1 BY renumbering Article - Insurance 2 3 Section 6-204 4 to be Section 6-205 5 Annotated Code of Maryland 6 (1997 Volume and 2001 Supplement) 7 BY repealing and reenacting, with amendments, Article 88B - Department of State Police 8 9 Section 13 10 Annotated Code of Maryland (1998 Replacement Volume and 2001 Supplement) 11 12 BY adding to 13 Article 88B - Department of State Police 14 Section 87 through 92, inclusive, to be under the new subtitle "Insurance Fraud 15 Division" 16 Annotated Code of Maryland 17 (1998 Replacement Volume and 2001 Supplement) 18 BY repealing and reenacting, with amendments, 19 Article - Insurance Section 2-110, 2-114, 2-501(b), 2-503, 2-505, 6-202, 6-203, 20-502(e), and 20 27-801(b) 21 22 Annotated Code of Maryland (1997 Volume and 2001 Supplement) 23 24 BY adding to Article - Insurance 25 26 Section 6-107(d) and 6-204 27 Annotated Code of Maryland 28 (1997 Volume and 2001 Supplement) 29 BY repealing and reenacting, with amendments, Article - State Government 30
- 31 Section 8-403(b)(34)
- 32 Annotated Code of Maryland
- 33 (1999 Replacement Volume and 2001 Supplement)
- 34 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 35 MARYLAND, That Section(s) 2-401 through 2-406, inclusive, and 2-408 and the
- 36 subtitle "Subtitle 4. Insurance Fraud Division" of Article Insurance of the Annotated
- 37 Code of Maryland be repealed.

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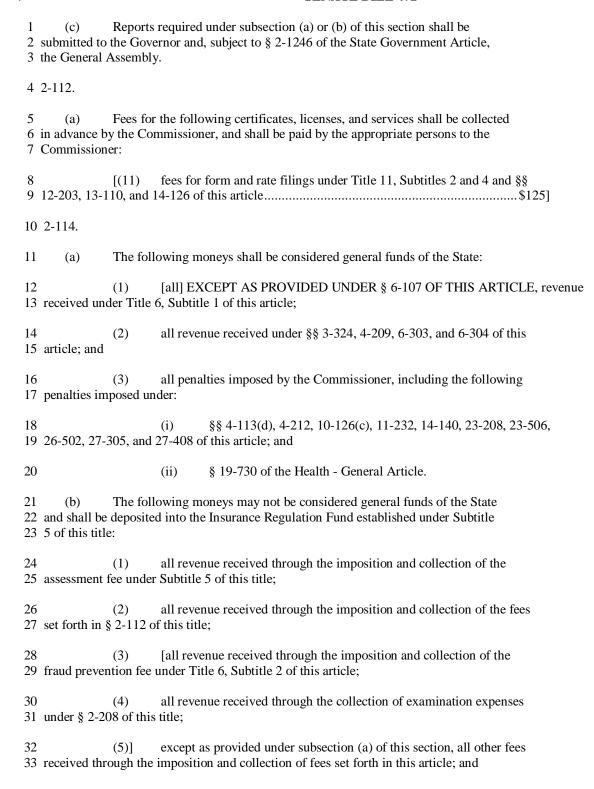
	SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 6-204 of Article - Insurance of the Annotated Code of Maryland be renumbered to be Section(s) 6-205.								
4 5	SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:								
6	Article 88B - Department of State Police								
7	13.								
10 11 12 13	The Department shall administer the laws relating to the sales of pistols and revolvers, the licensing and supervision of private detective agencies and certification of private detectives and security guards, the registration of eavesdropping or wiretapping devices, THE INVESTIGATION AND PROSECUTION OF INSURANCE FRAUD, and the inspection of certain classes of motor vehicles as provided elsewhere in this Code. The Department shall perform such other duties as may be assigned from time to time by the General Assembly.								
15	INSURANCE FRAUD DIVISION								
16	87.								
17 18	(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.								
19 20	(B) "FRAUD DIVISION" MEANS THE INSURANCE FRAUD DIVISION IN THE DEPARTMENT.								
21	(C) "INSURANCE FRAUD" MEANS:								
22	(1) A VIOLATION OF TITLE 27, SUBTITLE 4 OF THE INSURANCE ARTICLE;								
23 24	(2) THEFT, AS SET OUT UNDER ARTICLE 27, §§ 340 THROUGH 342 OF THE CODE:								
25 26	(I) FROM A PERSON REGULATED UNDER THE INSURANCE ARTICLE; OR								
	(II) BY A PERSON REGULATED UNDER THE INSURANCE ARTICLE OR AN OFFICER, DIRECTOR, AGENT, OR EMPLOYEE OF A PERSON REGULATED UNDER THE INSURANCE ARTICLE; OR								
	(3) ANY OTHER FRAUDULENT ACTIVITY SET OUT UNDER ARTICLE 27 OF THE CODE THAT IS COMMITTED BY OR AGAINST A PERSON REGULATED UNDER THE INSURANCE ARTICLE.								
33	88.								
34	THERE IS AN INSURANCE FRAUD DIVISION IN THE DEPARTMENT.								

- 1 89.
- 2 (A) THE HEAD OF THE FRAUD DIVISION IS THE MANAGER.
- 3 (B) (1) THE MANAGER OF THE FRAUD DIVISION SHALL BE APPOINTED BY 4 THE SECRETARY WITH THE APPROVAL OF THE GOVERNOR.
- 5 (2) THE MANAGER IS AN EMPLOYEE OF THE DEPARTMENT.
- 6 (3) THE MANAGER REPORTS DIRECTLY TO AND IS UNDER THE DIRECT 7 SUPERVISION OF THE SECRETARY.
- 8 (C) THE MANAGER OF THE FRAUD DIVISION IS UNCLASSIFIED AND IS 9 ENTITLED TO ANNUAL COMPENSATION AS PROVIDED IN THE STATE BUDGET.
- 10 (D) THE MANAGER OF THE FRAUD DIVISION IS RESPONSIBLE FOR THE
- 11 OPERATION OF THE FRAUD DIVISION AND THE EXERCISE OF ALL AUTHORITY
- 12 GRANTED TO THE FRAUD DIVISION UNDER THIS SUBTITLE.
- 13 90.
- 14 THE FRAUD DIVISION:
- 15 (1) HAS THE AUTHORITY TO INVESTIGATE EACH PERSON SUSPECTED OF 16 ENGAGING IN INSURANCE FRAUD:
- 17 (2) IF APPROPRIATE AFTER AN INVESTIGATION:
- 18 (I) SHALL REFER SUSPECTED CASES OF INSURANCE FRAUD TO
- 19 THE OFFICE OF THE ATTORNEY GENERAL OR APPROPRIATE LOCAL STATE'S
- 20 ATTORNEY TO PROSECUTE THE PERSON CRIMINALLY FOR INSURANCE FRAUD;
- 21 (II) SHALL NOTIFY THE APPROPRIATE PROFESSIONAL LICENSING
- 22 BOARD OR DISCIPLINARY BODY OF EVIDENCE OF INSURANCE FRAUD THAT
- 23 INVOLVES PROFESSIONALS; AND
- 24 (III) SHALL NOTIFY THE APPROPRIATE PROFESSIONAL LICENSING
- 25 BOARD OF EVIDENCE OF GROSS OVERUTILIZATION OF HEALTH CARE SERVICES;
- 26 (3) SHALL COMPILE AND ABSTRACT INFORMATION THAT INCLUDES THE
- 27 NUMBER OF CONFIRMED ACTS OF INSURANCE FRAUD AND THE TYPE OF ACTS OF
- 28 INSURANCE FRAUD;
- 29 (4) IN EXERCISING ITS AUTHORITY UNDER THIS SUBTITLE, SHALL
- 30 COOPERATE WITH THE MARYLAND INSURANCE ADMINISTRATION, OFFICE OF THE
- 31 ATTORNEY GENERAL, LOCAL STATE'S ATTORNEY IN THE JURISDICTION IN WHICH
- 32 THE ALLEGED ACTS OF INSURANCE FRAUD TOOK PLACE, AND APPROPRIATE
- 33 FEDERAL AND LOCAL LAW ENFORCEMENT AUTHORITIES;

- 1 (5) SHALL OPERATE OR PROVIDE FOR A TOLL-FREE INSURANCE FRAUD
- 2 HOT LINE TO RECEIVE AND RECORD INFORMATION ABOUT ALLEGED ACTS OF
- 3 INSURANCE FRAUD; AND
- 4 (6) IN COOPERATION WITH THE OFFICE OF THE ATTORNEY GENERAL
- 5 AND MARYLAND INSURANCE ADMINISTRATION, SHALL CONDUCT PUBLIC OUTREACH
- $\,\,$ 6 AND AWARENESS PROGRAMS ON THE COSTS OF INSURANCE FRAUD TO THE PUBLIC.
- 7 91.
- 8 (A) THE ACTIVITIES OF THE FRAUD DIVISION SHALL BE FUNDED BY THE
- 9 INSURANCE FRAUD DIVISION FUND ESTABLISHED UNDER § 6-204 OF THE
- 10 INSURANCE ARTICLE.
- 11 (B) (1) ALL COSTS AND EXPENSES OF THE FRAUD DIVISION SHALL BE
- 12 INCLUDED IN THE STATE BUDGET.
- 13 (2) EXPENDITURES FROM THE FUND TO COVER COSTS AND EXPENSES
- 14 OF THE FRAUD DIVISION MAY ONLY BE MADE:
- 15 (I) IN ACCORDANCE WITH AN APPROPRIATION APPROVED BY THE
- 16 GENERAL ASSEMBLY IN THE ANNUAL STATE BUDGET; OR
- 17 (II) BY THE BUDGET AMENDMENT PROCEDURE PROVIDED FOR IN §
- 18 7-109 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.
- 19 92.
- 20 (A) ON OR BEFORE JANUARY 1 OF EACH YEAR THE FRAUD DIVISION SHALL
- 21 REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT
- 22 ARTICLE, THE GENERAL ASSEMBLY ON THE OPERATION OF THE FRAUD DIVISION
- 23 AND ON COMPLAINTS AND CASES FILED IN THE PREVIOUS FISCAL YEAR.
- 24 (B) THE REPORT SHALL INCLUDE:
- 25 (1) THE NUMBER OF COMPLAINTS RECEIVED THAT RELATE TO
- 26 INSURANCE FRAUD, THE NATURE OF THE COMPLAINTS, AND THE RESOLUTION OF
- 27 THE COMPLAINTS;
- 28 (2) THE NUMBER OF COMPLAINTS AND CASES REFERRED TO A STATE'S
- 29 ATTORNEY AND THE RESOLUTION OF THE COMPLAINTS OR CASES;
- 30 (3) THE NUMBER OF COMPLAINTS AND CASES REFERRED TO THE
- 31 OFFICE OF THE ATTORNEY GENERAL AND THE RESOLUTION OF THE COMPLAINTS OR
- 32 CASES:
- 33 (4) THE NUMBER OF CALLS MADE TO THE INSURANCE FRAUD HOT LINE;
- 34 (5) THE NUMBER OF COMPLAINTS RECEIVED FROM PERSONS
- 35 REGULATED BY THE SECRETARY;

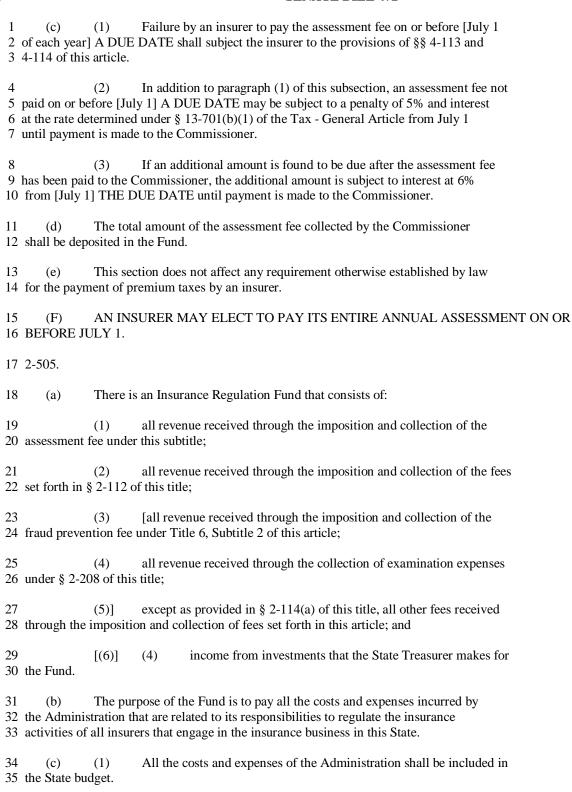
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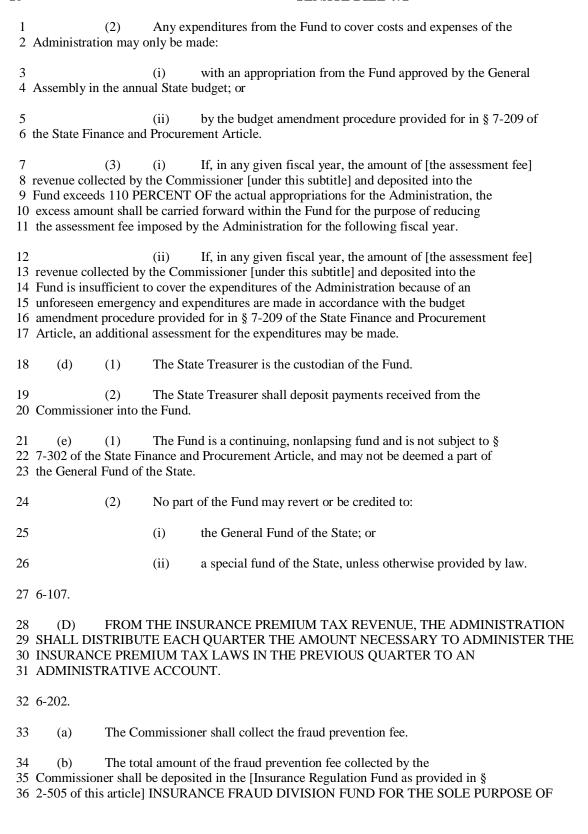
1 2	(6) THE TOTAL NUMBER OF CASES, BY TYPE, OF INSURANCE FRAUD; AND
3	(7) THE NUMBER AND PERCENTAGE OF CASES THAT RESULT IN THE IMPOSITION OF CIVIL OR CRIMINAL PENALTIES.
5	Article - Insurance
6	2-110.
	(a) [As early in each fiscal year as is reasonably possible] NO LATER THAN DECEMBER 31 OF EACH YEAR, the Commissioner shall prepare an annual report about the previous fiscal year that includes:
	(1) a list of the authorized insurers transacting insurance business in the State, with any summary of their financial statements that the Commissioner considers appropriate;
	(2) the name of each insurer whose business was closed during the year, the cause of the closure, and the amount of assets and liabilities of the insurer that is ascertainable;
	(3) the name of each insurer against whom delinquency or similar proceedings were initiated, a concise statement of facts about each delinquency or similar proceeding, and the status of each proceeding;
19 20	(4) a list of the rulings and decisions made in cases before the Administration during the year;
21 22	(5) a statement of all fees, taxes, and administrative fines and penalties received by the Commissioner and deposited into the General Fund of the State;
	(6) the ratio of complaints filed during the calendar year against each insurer for each major line of insurance written by the insurer and a summary of the resolution of the complaints;
26 27	(7) recommendations of the Commissioner about changes in the laws affecting insurance and about matters affecting the Administration; and
28 29	(8) any other relevant information that the Commissioner considers proper.
	(b) (1) At least once every 5 years after December 1, 1995, the Commissioner shall prepare a report recommending any changes that the Commissioner considers appropriate under §§ 4-104 and 4-105 of this article.
	(2) When required, the report described in paragraph (1) of this subsection may be prepared with the annual report required by subsection (a) of this section.



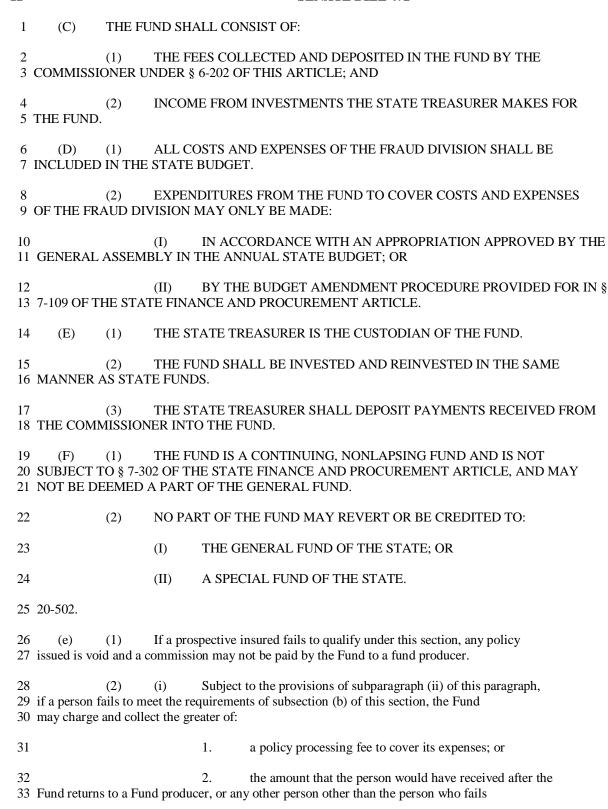
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1 2	the Insurance	[(6)] Regulat		income from investments that the State Treasurer makes for				
3	[2-208.							
6 7	The expense incurred in an examination made under § 2-205 of this subtitle, § 2-206 of this subtitle for surplus lines brokers and insurance holding corporations, § 23-207 of this article for premium finance companies, or § 15-10B-19 of this article for private review agents shall be paid by the person examined in the following manner:							
			ense allo	on examined shall pay to the Commissioner the travel owance, and a per diem as compensation for examiners,				
12			(i)	to the extent incurred for the examination; and				
13			(ii)	at reasonable rates set by the Commissioner;				
	incurred to th		examine	missioner may present a detailed account of expenses ed periodically during the examination or at the end of issioner considers proper; and				
				may not pay and an examiner may not accept any ion in addition to the compensation under paragraph				
20	2-501.							
21	(b)	"Assessr	nent" me	ans an assessment that[:				
22 23		(1)] collected		ne approved Administration's annual budget appropriation is article[; and				
24 25	appropriation	(2) n].	does not	exceed 40% of the Administration's approved budget				
26	2-503.							
29	SUBSECTIO	ON (F) O	F THIS S	oril 1, 1999, the] EXCEPT AS PROVIDED UNDER SECTION, THE Commissioner shall collect the annual TERLY BASIS from each insurer as calculated in § 2-502 of				
31	(b)	The QU	ARTERL	Y assessment fee collected under this section is:				
32 33	article; and	(1)	in additi	on to any penalties or premium tax imposed under this				
34 35	AND QUAR	(2) TERLY		payable to the Commissioner on or before July 1 of each year AFTER.				





- 1 FUNDING THE ACTIVITIES OF THE INSURANCE FRAUD DIVISION IN THE 2 DEPARTMENT OF STATE POLICE ESTABLISHED UNDER ARTICLE 88B, § 87 OF THE 3 CODE. 4 6-203. 5 THE COMMISSIONER SHALL ESTABLISH, BY REGULATION, TIERED (a) 6 FRAUD PREVENTION FEES IN AN AMOUNT SUFFICIENT TO FUND THE ACTIVITIES OF 7 THE INSURANCE FRAUD DIVISION IN THE DEPARTMENT OF STATE POLICE 8 ESTABLISHED UNDER ARTICLE 88B. § 87 OF THE CODE. 9 THE COMMISSIONER SHALL ANNUALLY TRANSFER THE AMOUNT OF (2)10 INSURANCE FRAUD PREVENTION FEES COLLECTED TO THE DEPARTMENT OF STATE 11 POLICE TO BE USED FOR THE SOLE PURPOSE OF FUNDING THE ACTIVITIES OF THE 12 INSURANCE FRAUD DIVISION. 13 (B) For each insurer, health maintenance organization, nonprofit health 14 service plan, fraternal benefit society, or any entity operating in the State under the 15 regulatory jurisdiction of the Commissioner other than a premium finance company, a 16 fraternal benefit society that collected less than \$75,000 in premiums in the 17 preceding calendar year, or a motor club, the fraud prevention fee shall be: 18 (1) [\$1,000; 19 (2)due on or before June 30 of each year; and 20 [(3)](2) if applicable, payable with the certificate of authority or license 21 renewal fee. 22 For each insurance producer, public adjuster, insurance adviser, or [(b)] (C) 23 third party administrator qualified, licensed, or registered by the Commissioner, the 24 fraud prevention fee shall be: 25 (1) [\$15: due on or before June 30 of every other year; and 26 (2)] if applicable, payable with the certificate of qualification, 27 [(3)]28 license, or registration renewal fee. 29 Any person that has more than one of the certificates of qualification, [(c)]30 licenses, or registrations listed in subsection [(b)] (C) of this section shall pay the 31 [\$15] fraud prevention fee only once per renewal period. 32 6-204. 33 THERE IS AN INSURANCE FRAUD DIVISION FUND. (A) THE PURPOSE OF THE FUND IS TO PAY ALL COSTS AND EXPENSES 34 (B)
- 35 INCURRED BY THE DEPARTMENT OF STATE POLICE RELATED TO THE OPERATION OF 36 THE FRAUD DIVISION.



34

1 to meet the requirements of subsection (b) of this section, any gross unearned 2 premiums that are due under the policy. 3 (ii) Prior to charging and collecting a policy processing fee or the 4 amount allowed under subparagraph (i) of this paragraph, the Fund shall refer to the 5 Insurance Fraud Division in the [Administration] DEPARTMENT OF STATE POLICE 6 for investigation and possible prosecution of the person who fails to meet the 7 requirements of subsection (b) of this section. 8 27-801. 9 "Fraud division" means the Insurance Fraud Division in the (b) 10 [Administration] DEPARTMENT OF STATE POLICE. 11 **Article - State Government** 12 8-403. 13 Except as otherwise provided in subsection (a) of this section, on or before 14 the evaluation date for the following governmental activities or units, an evaluation 15 shall be made of the following governmental activities or units and the statutes and 16 regulations that relate to the governmental activities or units: 17 Insurance [Commissioner and] Administration (§§ 2-101 and 2-103 18 of the Insurance Article: July 1, [2002] 2012); SECTION 4. AND BE IT FURTHER ENACTED, That on July 1, 2002, the 20 Insurance Fraud Division shall be transferred from the Maryland Insurance 21 Administration to the Department of State Police along with: 22 all authorized regular positions, full-time equivalent contractual 23 positions, and incumbent personnel in the Insurance Fraud Division; 24 all operating expenses appropriated to the Insurance Fraud Division in the (2) fiscal 2003 budget bill; and 26 (3) all records, equipment, assets, and liabilities of the Insurance Fraud 27 Division. 28 SECTION 5. AND BE IT FURTHER ENACTED, That the Maryland Insurance 29 Administration shall report to the Senate Finance Committee and the House 30 Economic Matters Committee on or before October 1, 2002, in accordance with § 31 2-1246 of the State Government Article, on the implementation of the 32 recommendations of the Department of Legislative Services contained in the sunset 33 evaluation report dated October 2001. This report shall include:

a summary of efforts by the Administration to enhance communication

35 with licensees, to address staff vacancies in the Insurance Fraud Division, to attract

36 and retain skilled staff, and to address issues related to its physical plant;

- $1 \hspace{0.1in} \hspace{0.1in} (2) \hspace{0.1in}$ recommendations for consolidating statutorily required reports into the $2 \hspace{0.1in}$ annual report; and
- $3 \hspace{0.1in} \hbox{(3)} \hspace{0.1in} \hbox{identification of statutory reporting requirements that are outdated or } \\ 4 \hspace{0.1in} \hbox{unnecessary.}$
- 5 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect 6 July 1, 2002.