SENATE BILL 1

Unofficial Copy 2003 Regular Session
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(PRE-FILED)

By: **The President (Department of Legislative Services - Code Revision)**
Requested: July 1, 2002
Introduced and read first time: January 8, 2003
Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable
Senate action: Adopted
Read second time: February 14, 2003

CHAPTER 5

AN ACT concerning

Public Safety

FOR the purpose of adding a new article to the Annotated Code of Maryland, to be designated and known as the "Public Safety Article", to revise, restate, and recodify the laws of the State relating to: benefits for certain employees killed in the performance of duty, the 9-1-1 emergency telephone system, the Department of State Police, police employees and civilian employees in the Department of State Police, the statewide DNA data base system, the Local Division, the Vehicle Theft Prevention Council and the Vehicle Theft Prevention Fund, the Law Enforcement Officers' Bill of Rights, the Police Training Commission, special police officers, the Maryland Railroad Police Act, the Protective Body Armor Fund, the School Bus Safety Enforcement Fund, the Law Enforcement Equipment Fund, the sale, rental, transfer, purchase, possession, or receipt of regulated firearms, regulated firearms dealers' licenses, the purchase or possession of rifles and shotguns, permits to carry, wear, or transport handguns, the Handgun Permit Review Board, the handgun roster and the Handgun Roster Board, the Cease Fire Council and the Cease Fire Council Grant Program, the State Fire Prevention Commission, the State Fire Marshal, mutual aid agreements by fire, rescue, or emergency medical services entities, disability and death benefits for members of volunteer fire companies and rescue squads, length of service award programs, members of fire companies appointed as deputy sheriffs, the Senator William H. Amoss Fire, Rescue, and Ambulance Fund, the Volunteer Company Assistance Fund, county money and loans for volunteer fire companies, smoke detection systems, sprinkler systems, fast response residential fire sprinkler systems, high-rise building safety in case of fire, evacuation procedures in case of fire, disclosure of fire loss investigation reports, fire prevention codes of counties and municipal

corporations, fire inspections by fire departments of counties and municipal corporations, fire sprinkler contractors, regulation of fireworks and sparklers,

permits to discharge fireworks, licenses to operate fireworks plants, regulation of explosives, licenses to engage in business as manufacturers or dealers of explosives and licenses to possess explosives, the Explosives Advisory Council, administrative search warrants, the Model Performance Code for building construction, the Maryland Accessibility Code, the Minimum Livability Code, standards for industrialized buildings and manufactured homes, installation of safety glazing material in hazardous locations, the Maryland Building Performance Standards, the inspection of electrical installations for conformance with electrical codes, the registration and inspection of elevators, the Elevator Safety Review Board, licenses for elevator contractors and elevator mechanics, the Boiler and Pressure Vessel Safety Act, the Maryland Building Rehabilitation Code and the Maryland Rehabilitation Code Advisory Council, the militia of the State, the Adjutant General, the National Guard, the Maryland Defense Force, courts-martial in the organized militia, the Maryland Emergency Management Act, civil relief during states of emergency, the Governor's powers during public emergencies, other emergency powers and provisions relating to local governing bodies, the State standby petroleum fuel set-aside program, the Interstate Emergency Management and Civil Defense Compact, the Emergency Management Assistance Compact, the Maryland Emergency Management Assistance Compact, compulsory work during states of war, and liability of counties and municipal corporations for damages sustained during riots; transferring certain provisions relating to target practice, discharging a gun or weapon, and hunting, forfeiture for violation of explosives laws, the State Aid for Police Protection Fund, citations for violations on watershed property, and smoking in elevators; transferring to the Session Laws certain provisions relating to deputy and special deputy State fire marshals, the State standby petroleum fuel set-aside program, the enhanced 911 system, allocation of funds in the 911 Trust Fund, implementation of the Maryland Building Performance Standards, and pensions for employees of the Department of State Police; repealing certain obsolete provisions; defining certain terms; providing for the construction and application of this Act; providing for the continuity of certain units and the terms of certain officials; providing for the continuity of the status of certain transactions, employees, rights, duties, titles, interests, licenses, registrations, certifications, and permits; and generally relating to the public safety laws of the State.

BY repealing
Article 16A - Maryland Emergency Management Agency
Section 1 through 12A, inclusive, and the subtitle "Emergency Management"; 13 through 16, inclusive, and the subheading "General Provisions"; 17 through 21, inclusive, and the subheading "General Relief"; 22 through 25, inclusive, and the subheading "Rent, Instalment Contracts and Mortgages"; 26 and 27 and the subheading "Taxes"; 28 through 31, inclusive, the subheading "Administrative Remedies", and the subtitle "Civil Relief"; 32 through 34, inclusive, and the subtitle "Emergency Powers of Administration"; 35 and the subtitle "County Powers"; and 36

and the subtitle "When Powers Become Effective"
Annotated Code of Maryland
(2001 Replacement Volume and 2002 Supplement)

BY repealing
Article 23 - Miscellaneous Companies
Section 256 through 266, inclusive, and the subtitle "Maryland Railroad Police"; and 331 and the subtitle "Uniformed Volunteer Companies"
Annotated Code of Maryland
(2001 Replacement Volume and 2002 Supplement)

BY repealing
Article 23A - Corporations - Municipal
Section 6
Annotated Code of Maryland
(2001 Replacement Volume and 2002 Supplement)

BY repealing
Article 24 - Political Subdivisions - Miscellaneous Provisions
Section 5-101 through 5-108, inclusive, and the title "Title 5. Fire Inspection and Permit Fees"
Annotated Code of Maryland
(2001 Replacement Volume and 2002 Supplement)

BY repealing
Article 25 - County Commissioners
Section 3(w), (w-1), and (gg), 11, 13A through 13D, inclusive; 32.5 and 32.6 and the subtitle "Volunteer Length of Service Award Program"
Annotated Code of Maryland
(2001 Replacement Volume and 2002 Supplement)

BY repealing
Article 27 - Crimes and Punishments
In its entirety
Annotated Code of Maryland
(1996 Replacement Volume and 2002 Supplement)

BY repealing
Article 38A - Fires and Investigations
Section 1 through 6A, inclusive, and the subheading "Fire Prevention Commission"; 7(a), (b), (c)(1)(i) and (iii) and (2), and (d), 7A through 12, inclusive, and the subheading "Fire Marshal"; 12A and the subheading "Smoke Detection Systems"; 12B and the subheading "Sprinkler Systems"; 13 and the subheading "Penalties"; the subtitle "Fire Prevention Commission and Fire Marshal"; 14 and the subtitle "Appeals"; 14A and the subtitle "Baltimore City"; 14B and the subtitle "Chimney Fire Reports"; 15 through 25, inclusive, and the subtitle "Fireworks"; 26 through 36,

inclusive, and the subtitle "Explosives"; 37 through 41, inclusive, and the subtitle "Mutual Aid Agreements by Fire Companies or Rescue Companies"; 42 through 45, inclusive, and the subtitle "Volunteer Firefighters and Rescue Squadsmen"; 45A through 45D, inclusive, and the subtitle "Senator William H. Amoss Fire, Rescue, and Ambulance Fund"; 46 through 46H, inclusive, and the subtitle "Volunteer Company Assistance Fund"; 47 and the subtitle "Fast Response Residential Fire Sprinkler Systems"; 48 through 50, inclusive, and the subtitle "High-Rise Building Safety"; 53 through 55A, inclusive, and the subtitle "Buildings Housing Occupants Needing Evacuation Assistance"; 56 and 57 and the subtitle "Insurers - Disclosure of Arson Investigation Reports"; 58 and the subtitle "Emergency Lighting and Power Systems for Buildings"; 59 through 66, inclusive, and the subtitle "Electrical Code"; 67 and 68 and the subtitle "Miscellaneous"
Annotated Code of Maryland
(1997 Replacement Volume and 2002 Supplement)

BY repealing
Article 41 - Governor - Executive and Administrative Departments
Section 2-101 through 2-103, inclusive, and the subtitle "Subtitle 1. Governor's Emergency Powers"; 2-403; 4-101 and the subtitle "Subtitle 1. Law Enforcement Equipment Fund"; 4-201 and the subtitle "Subtitle 2. Police Training Commission"; 4-901 through 4-905, inclusive, 4-907 through 4-913, inclusive, and the subtitle "Subtitle 9. Special Policemen"; 4-1001 through 4-1003, inclusive, and the subtitle "Subtitle 10. Employees Killed in the Line of Duty"; 10-101 and the subtitle "Subtitle 1. Department of Militia"; 10-801 through 10-810, inclusive, the subtitle "Subtitle 8. State Standby Petroleum Fuel Set-Aside", and the title "Title 10. Independent and Miscellaneous Agencies"; the subtitle designation "Subtitle 1. Compact Provisions" in Title 17; and 18-101, 18-102, 18-103, 18-105, 18-106, 18-107(a), (b), (c), and (f), 18-108(a), (b), and (c), and the subtitle "Subtitle 1. 911 Emergency Telephone System"
Annotated Code of Maryland
(1997 Replacement Volume and 2002 Supplement)

BY repealing
Article 48 - Inspections
In its entirety
Annotated Code of Maryland
(1998 Replacement Volume and 2002 Supplement)

BY repealing
Article 65 - Militia
In its entirety
Annotated Code of Maryland
(1998 Replacement Volume and 2002 Supplement)

BY repealing
Article 82 - Riots
In its entirety
Annotated Code of Maryland
(1998 Replacement Volume and 2002 Supplement)

BY repealing
Article 83B - Department of Housing and Community Development
Section 6-101 through 6-104, inclusive, and the subtitle "Subtitle 1. Statewide Building and Housing Codes"; 6-201 through 6-208, inclusive, and the subtitle "Subtitle 2. Industrialized Building and Mobile Homes Act"; 6-301 through 6-306, inclusive, and the subtitle "Subtitle 3. Safety Glazing"; 6-401(a) through (h), (j), and (k), 6-402(a), (b), (c)(1), (d), (e), (f), (g), and (h), 6-403 through 6-406, inclusive, and the subtitle "Subtitle 4. Maryland Building Performance Standards"; 6-501 through 6-505, inclusive, and the subtitle "Subtitle 5. Maryland Building Rehabilitation Code"; and the title "Title 6. Building and Material Codes"
Annotated Code of Maryland
(1998 Replacement Volume and 2002 Supplement)

BY repealing
Article 87 - Sheriffs
In its entirety
Annotated Code of Maryland
(1998 Replacement Volume and 2002 Supplement)

BY repealing
Article 88B - Department of State Police
Section 1 and 2 and the subtitle "General Provisions"; 3 and 4 and the subtitle "Law Enforcement Duties"; 5 through 12A, inclusive, and the subtitle "Coordinate Duties of Department"; 13 and the subtitle "Regulatory Duties"; 14 through 16, inclusive, and the subtitle "Management of Department"; 17 through 19 and 21 through 24A, inclusive, and the subtitle "Police and Civilian Employees"; 25 through 30A, inclusive, and the subtitle "Miscellaneous Provisions"; 63 and the subtitle "Local Division"; 70 and the subtitle "Licensing of Police Dogs"; 71 through 75, inclusive, and the subtitle "Vehicle Theft Prevention Council and Vehicle Theft Prevention Fund"; 76 through 80, inclusive, and the subtitle "Motor Vehicle Registration Enforcement Fund"; 81 and the subtitle "Cease Fire Council"; and 82 through 86, inclusive, and the subtitle "School Bus Safety Enforcement Fund"
Annotated Code of Maryland
(1998 Replacement Volume and 2002 Supplement)

BY repealing

Article 89 - Miscellaneous Business, Work, and Safety Provisions
Section 2A and 2B and the subtitle "In General"; 3 through 9, inclusive, and the subtitle "Compulsory Work Law"; 49B and 49C and the subtitle "Elevator Safety"; and the subtitle designation "Public Elevators" immediately preceding Section 64
Annotated Code of Maryland
(1998 Replacement Volume and 2002 Supplement)

BY repealing
Article 96 1/2 - Veterans
Section 42 and the subtitle "Uniforms"
Annotated Code of Maryland
(1998 Replacement Volume and 2002 Supplement)

BY repealing
Article - Criminal Law
Section 4-207
Annotated Code of Maryland
(2002 Volume)

BY adding
New Article - Public Safety
Section 1-101 through 14-511, inclusive, and 14-901 through 14-1004, inclusive, and the various titles
Annotated Code of Maryland

BY repealing and reenacting, without amendments, and transferring
Article 41 - Governor - Executive and Administrative Departments
Section 17-101 through 17-105, respectively, and the title "Title 17. Interstate Emergency Management and Civil Defense Compact"; and 19-102 and the title "Title 19. Emergency Management Assistance Compact"
Annotated Code of Maryland
(1997 Replacement Volume and 2002 Supplement)
to be
Article - Public Safety
Section 14-601 through 14-605, respectively, and the subtitle "Subtitle 6. Interstate Emergency Management and Civil Defense Compact"; and 14-702 and the subtitle "Subtitle 7. Emergency Management Assistance Compact"
Annotated Code of Maryland

BY repealing and reenacting, with amendments, and transferring
Article 41 - Governor - Executive and Administrative Departments
Section 19-101

Annotated Code of Maryland
(1997 Replacement Volume and 2002 Supplement)
to be
Article - Public Safety
Section 14-701
Annotated Code of Maryland

BY repealing and reenacting, without amendments, and transferring
Article 16A - Maryland Emergency Management Agency
Section 37 through 39, respectively, and the subtitle "Maryland Emergency Management Assistance Compact"
Annotated Code of Maryland
(2001 Replacement Volume and 2002 Supplement)
to be
Article - Public Safety
Section 14-801 through 14-803, respectively, and the subtitle "Subtitle 8. Maryland Emergency Management Assistance Compact"
Annotated Code of Maryland

BY repealing and reenacting, with amendments,
Article 1 - Rules of Interpretation
Section 25
Annotated Code of Maryland
(2001 Volume and 2002 Supplement)

BY adding to
Article - Criminal Law
Section 4-108
Annotated Code of Maryland
(2002 Volume)

BY adding to
Article - Criminal Procedure
Section 13-301 to be under the new subtitle "Subtitle 3. Violations of Explosives Laws"
Annotated Code of Maryland
(2001 Volume and 2002 Supplement)

BY repealing and reenacting, with amendments,
Article - Natural Resources
Section 10-411
Annotated Code of Maryland
(2000 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, with amendments, and transferring
Article 88B - Department of State Police
Section 64 through 69, respectively, and the subtitle "State Aid for Police Protection Fund"
Annotated Code of Maryland
(1998 Replacement Volume and 2002 Supplement)
to be
Article 41 - Governor - Executive and Administrative Departments
Section 4-401 through 4-406, respectively, and the subtitle "Subtitle 4. State Aid for Police Protection Fund"
Annotated Code of Maryland
(1997 Replacement Volume and 2002 Supplement)

BY transferring
Article 41 - Governor - Executive and Administrative Departments
Section 4-906
Annotated Code of Maryland
(1997 Replacement Volume and 2002 Supplement)
to be
Article - Natural Resources
Section 8-2003
Annotated Code of Maryland
(2000 Replacement Volume and 2002 Supplement)

BY transferring
Article 89 - Miscellaneous Business, Work, and Safety Provisions
Section 64
Annotated Code of Maryland
(1998 Replacement Volume and 2002 Supplement)
to be
Article - Health - General
Section 24-212
Annotated Code of Maryland
(2000 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, with amendments, and transferring to the Session Laws
Article 38A - Fires and Investigations
Section 7(c)(1)(ii)
Annotated Code of Maryland
(1997 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, with amendments, and transferring to the Session Laws
Article 41 - Governor - Executive and Administrative Departments
Section 10-811, 18-104, 18-107(d) and (e), and 18-108(d) and (e)
Annotated Code of Maryland
(1997 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, with amendments, and transferring to the Session Laws
Article 83B - Department of Housing and Community Development
Section 6-401(i) and 6-402(c)(2), (3), (4), and (5)
Annotated Code of Maryland
(1998 Replacement Volume and 2002 Supplement)

BY repealing and reenacting, with amendments, and transferring to the Session Laws
Article 88B - Department of State Police
Section 31, 32, 34, 34A, 34B, 35, 36, 36A, and 37, inclusive, and the subtitle "Pensions"
Annotated Code of Maryland
(1998 Replacement Volume and 2002 Supplement)

BY repealing
The article designation "Article 16A - Maryland Emergency Management Agency"
Annotated Code of Maryland
(2001 Replacement Volume and 2002 Supplement)

BY repealing
The article designation "Article 38A - Fires and Investigations"
Annotated Code of Maryland
(1997 Replacement Volume and 2002 Supplement)

BY repealing
The article designation "Article 88B - Department of State Police"
Annotated Code of Maryland
(1998 Replacement Volume and 2002 Supplement)

BY repealing
The article designation "Article 89 - Miscellaneous Business, Work, and Safety Provisions"
Annotated Code of Maryland
(1998 Replacement Volume and 2002 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the following Section(s) of the Annotated Code of Maryland be repealed:

Article 16A - Maryland Emergency Management Agency

Section 1 through 12A, inclusive, and the subtitle "Emergency Management"; 13 through 16, inclusive, and the subheading "General Provisions"; 17 through 21, inclusive, and the subheading "General Relief"; 22 through 25, inclusive, and the subheading "Rent, Instalment Contracts and Mortgages"; 26 and 27 and the subheading "Taxes"; 28 through 31, inclusive, the subheading "Administrative Remedies", and the subtitle "Civil Relief"; 32 through 34, inclusive, and the subtitle "Emergency Powers of Administration"; 35 and the subtitle "County Powers"; and 36 and the subtitle "When Powers Become Effective"

Article 23 - Miscellaneous Companies

Section 256 through 266, inclusive, and the subtitle "Maryland Railroad Police"; and 331 and the subtitle "Uniformed Volunteer Companies"

Article 23A - Corporations - Municipal

Section 6

Article 24 - Political Subdivisions - Miscellaneous Provisions

Section 5-101 through 5-108, inclusive, and the title "Title 5. Fire Inspection and Permit Fees"

Article 25 - County Commissioners

Section 3(w), (w-1), and (gg), 11, 13A through 13D, inclusive; 32.5 and 32.6 and the subtitle "Volunteer Length of Service Award Program"

Article 27 - Crimes and Punishments

In its entirety

Article 38A - Fires and Investigations

Section 1 through 6A, inclusive, and the subheading "Fire Prevention Commission"; 7(a), (b), (c)(1)(i) and (iii) and (2), and (d), 7A through 12, inclusive, and the subheading "Fire Marshal"; 12A and the subheading "Smoke Detection Systems"; 12B and the subheading "Sprinkler Systems"; 13 and the subheading "Penalties"; the subtitle "Fire Prevention Commission and Fire Marshal"; 14 and the subtitle "Appeals"; 14A and the subtitle "Baltimore City"; 14B and the subtitle "Chimney Fire Reports"; 15 through 25, inclusive, and the subtitle "Fireworks"; 26 through 36, inclusive, and the subtitle "Explosives"; 37 through 41, inclusive, and the subtitle "Mutual Aid Agreements by Fire Companies or Rescue Companies"; 42 through 45, inclusive, and the subtitle "Volunteer Firefighters and Rescue Squadsmen"; 45A through 45D, inclusive, and the subtitle "Senator William H. Amoss Fire, Rescue, and Ambulance Fund"; 46 through 46H, inclusive, and the subtitle "Volunteer Company Assistance Fund"; 47 and the subtitle "Fast Response Residential Fire Sprinkler Systems"; 48 through 50, inclusive, and the subtitle "High-Rise Building Safety"; 53 through 55A, inclusive, and the subtitle "Buildings Housing Occupants Needing Evacuation Assistance"; 56 and 57 and the

subtitle "Insurers - Disclosure of Arson Investigation Reports"; 58 and the subtitle "Emergency Lighting and Power Systems for Buildings"; 59 through 66, inclusive, and the subtitle "Electrical Code"; 67 and 68 and the subtitle "Miscellaneous"

Article 41 - Governor - Executive and Administrative Departments

Section 2-101 through 2-103, inclusive, and the subtitle "Subtitle 1. Governor's Emergency Powers"; 2-403; 4-101 and the subtitle "Subtitle 1. Law Enforcement Equipment Fund"; 4-201 and the subtitle "Subtitle 2. Police Training Commission"; 4-901 through 4-905, inclusive, 4-907 through 4-913, inclusive, and the subtitle "Subtitle 9. Special Policemen"; 4-1001 through 4-1003, inclusive, and the subtitle "Subtitle 10. Employees Killed in the Line of Duty"; 10-101 and the subtitle "Subtitle 1. Department of Militia"; 10-801 through 10-810, inclusive, the subtitle "Subtitle 8. State Standby Petroleum Fuel Set-Aside", and the title "Title 10. Independent and Miscellaneous Agencies"; the subtitle designation "Subtitle 1. Compact Provisions" in Title 17; and 18-101, 18-102, 18-103, 18-105, 18-106, 18-107(a), (b), (c), and (f), 18-108(a), (b), and (c), and the subtitle "Subtitle 1. 911 Emergency Telephone System"

Article 48 - Inspections

In its entirety

Article 65 - Militia

In its entirety

Article 82 - Riots

In its entirety

Article 83B - Department of Housing and Community Development

Section 6-101 through 6-104, inclusive, and the subtitle "Subtitle 1. Statewide Building and Housing Codes"; 6-201 through 6-208, inclusive, and the subtitle "Subtitle 2. Industrialized Building and Mobile Homes Act"; 6-301 through 6-306, inclusive, and the subtitle "Subtitle 3. Safety Glazing"; 6-401(a) through (h), (j), and (k), 6-402 (a), (b), (c)(1), (d), (e), (f), (g), and (h), 6-403 through 6-406, inclusive, and the subtitle "Subtitle 4. Maryland Building Performance Standards"; 6-501 through 6-505, inclusive, and the subtitle "Subtitle 5. Maryland Building Rehabilitation Code"; and the title "Title 6. Building and Material Codes"

Article 87 - Sheriffs

In its entirety

Article 88B - Department of State Police

Section 1 and 2 and the subtitle "General Provisions"; 3 and 4 and the subtitle "Law Enforcement Duties"; 5 through 12A, inclusive, and the subtitle "Coordinate Duties of Department"; 13 and the subtitle "Regulatory Duties"; 14 through 16, inclusive, and the subtitle "Management of Department"; 17 through 19 and 21 through 24A, inclusive, and the subtitle "Police and Civilian Employees"; 25 through 30A, inclusive, and the subtitle "Miscellaneous Provisions"; 63 and the subtitle "Local Division"; 70 and the subtitle "Licensing of Police Dogs"; 71 through 75,

inclusive, and the subtitle "Vehicle Theft Prevention Council and Vehicle Theft Prevention Fund"; 76 through 80, inclusive, and the subtitle "Motor Vehicle Registration Enforcement Fund"; 81 and the subtitle "Cease Fire Council"; and 82 through 86, inclusive, and the subtitle "School Bus Safety Enforcement Fund"

Article 89 - Miscellaneous Business, Work, and Safety Provisions

Section 2A and 2B and the subtitle "In General"; 3 through 9, inclusive, and the subtitle "Compulsory Work Law"; 49B and 49C and the subtitle "Elevator Safety"; and the subtitle designation "Public Elevators" immediately preceding Section 64

Article 96 1/2 - Veterans

Section 42 and the subtitle "Uniforms"

Article - Criminal Law

Section 4-207

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

ARTICLE - PUBLIC SAFETY

TITLE 1. DEFINITIONS; GENERAL PROVISIONS.

SUBTITLE 1. DEFINITIONS.

1-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS ARTICLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) COUNTY.

"COUNTY" MEANS A COUNTY OF THE STATE OR BALTIMORE CITY.

REVISOR'S NOTE: This subsection is standard language added to indicate that a reference in this article to a "county" includes Baltimore City unless the reference specifically provides otherwise. *See, e.g.*, IN § 1-101(l), PUC § 1-101(g), CP § 1-101(d), and CR § 1-101(d).

Article 1, § 14(a) provides that "county" includes Baltimore City "unless such construction would be unreasonable". Because the word "unreasonable" in that section has been interpreted in various ways, the Public Safety Article Review Committee decided that an explicit definition of "county" should be included in this article.

(C) PERSON.

"PERSON" MEANS AN INDIVIDUAL, RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, REPRESENTATIVE OF ANY KIND, PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY.

REVISOR'S NOTE: This subsection is standard language added to provide an express definition of the term "person" in this and other revised articles of the Code. *See, e.g.*, IN § 1-101(dd), CS § 1-101(l), and CP § 1-101(l).

The definition of "person" in this subsection does not include a governmental entity or unit. The Court of Appeals of Maryland has held consistently that the word "person" in a statute does not include the State, its units, or subdivisions unless an intention to include these entities is made manifest by the legislature. *See, e.g.*, *Unnamed Physician v. Commission on Medical Discipline*, 285 Md. 1, 12-14 (1979).

As to the term "personal representative", *see* Art. 1, § 5.

(D) STATE.

"STATE" MEANS:

(1) A STATE, POSSESSION, TERRITORY, OR COMMONWEALTH OF THE UNITED STATES; OR

(2) THE DISTRICT OF COLUMBIA.

REVISOR'S NOTE: This subsection is standard language added to provide an express definition of the term "state" in this and other revised articles of the Code. *See, e.g.*, IN § 1-101(mm), PUC § 1-101(ff), CS § 1-101(n), CP § 1-101(n), and CR § 1-101(i).

SUBTITLE 2. EMPLOYEES KILLED IN PERFORMANCE OF DUTY.

1-201. REWARD FOR INFORMATION.

(A) AUTHORITY OF GOVERNOR TO OFFER REWARD.

(1) THE GOVERNOR MAY OFFER A REWARD IN THE NAME OF THE STATE FOR INFORMATION THAT LEADS TO THE ARREST AND CONVICTION OF AN INDIVIDUAL WHO CAUSES THE DEATH OF ANY OF THE FOLLOWING INDIVIDUALS WHO IS KILLED IN THE PERFORMANCE OF DUTY:

(I) A LAW ENFORCEMENT OFFICER OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE;

(II) A CAREER OR VOLUNTEER MEMBER OF A FIRE DEPARTMENT OR AMBULANCE OR RESCUE SQUAD; OR

(III) A SWORN MEMBER OF THE OFFICE OF STATE FIRE MARSHAL.

(2) ON REQUEST OF THE STATE'S ATTORNEY OF THE COUNTY IN WHICH THE DEATH OCCURRED, THE GOVERNOR MAY SET A REWARD FOR THE INFORMATION IN AN AMOUNT NOT EXCEEDING $25,000 IN EACH CASE.

(3) THE DETERMINATION OF THE GOVERNOR OF THE INDIVIDUAL TO WHOM A REWARD IS TO BE PAID IS CONCLUSIVE.

(B) AMOUNT INCLUDED IN STATE BUDGET.

THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET EACH YEAR THE AMOUNT OF ANY REWARD MADE UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-1001.

In the introductory language of subsection (a)(1) of this section, the reference to an "individual" who causes death is substituted for the former reference to a "person" because in this context human beings, and not the other entities included in the defined term "person", cause the death of other individuals. Similarly, in subsection (a)(3) of this section, the reference to an "individual" is substituted for the former references to a "person" or "persons" because in this context the reward is paid to a human being.

In subsection (a)(1)(ii) of this section, the reference to a "career" member of a fire department or ambulance or rescue squad is substituted for the former reference to a "paid" member for consistency with terminology used throughout this article.

In subsection (a)(2) of this section, the reference to the State's Attorney of the "county" in which the death occurred is substituted for the former reference to the State's Attorney of the "political subdivision" in which the death occurred to clarify that counties are the political subdivisions that have State's Attorneys.

Also in subsection (a)(2) of this section, the former phrase "on or after March 1, 1990" is deleted as obsolete.

Also in subsection (a)(2) of this section, the former reference to the authority of the Governor to "announce" a reward is deleted as implicit in the authority to "set" a reward.

In subsection (b) of this section, the former phrase "[w]henever the Governor has determined that any person is entitled to a reward as provided by this section" is deleted as implicit. Presumably the Governor would only include in the State budget an amount to which the Governor determined an individual is entitled.

Defined term: "County" § 1-101

1-202. DEATH BENEFITS.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) "CHILD" MEANS A NATURAL OR ADOPTED, LEGITIMATE OR ILLEGITIMATE CHILD OR STEPCHILD OF THE DECEDENT.

(II) "CHILD" INCLUDES A CHILD OR STEPCHILD BORN POSTHUMOUSLY.

(3) "CORRECTIONAL OFFICER" HAS THE MEANING STATED IN § 8-201(E)(1) OF THE CORRECTIONAL SERVICES ARTICLE.

(4) (I) "LAW ENFORCEMENT OFFICER" HAS THE MEANING STATED IN § 3-101 OF THIS ARTICLE.

(II) "LAW ENFORCEMENT OFFICER" INCLUDES:

1. AN OFFICER WHO SERVES IN A PROBATIONARY STATUS; AND

2. AN OFFICER WHO SERVES AT THE PLEASURE OF THE APPOINTING AUTHORITY OF A COUNTY OR MUNICIPAL CORPORATION.

(5) "PERFORMANCE OF DUTIES" INCLUDES, IN THE CASE OF A VOLUNTEER OR CAREER FIREFIGHTER OR RESCUE SQUAD MEMBER:

(I) ACTIVELY PARTICIPATING IN FIGHTING A FIRE;

(II) GOING TO OR FROM A FIRE;

(III) PERFORMING OTHER DUTIES NECESSARY TO THE OPERATION OR MAINTENANCE OF THE FIRE COMPANY;

(IV) ACTIVELY PARTICIPATING IN THE AMBULANCE, ADVANCED LIFE SUPPORT, OR RESCUE WORK OF AN ADVANCED LIFE SUPPORT UNIT OR A FIRE, AMBULANCE, OR RESCUE COMPANY, INCLUDING GOING TO OR FROM AN EMERGENCY OR RESCUE; AND

(V) PROVIDING EMERGENCY OR RESCUE ASSISTANCE, WHETHER ACTING ALONE OR AT THE DIRECTION OF OR WITH A FIRE, AMBULANCE, OR RESCUE COMPANY OR ADVANCED LIFE SUPPORT UNIT.

(6) "STEPCHILD" MEANS A CHILD OF THE SURVIVING SPOUSE WHO WAS LIVING WITH OR DEPENDENT FOR SUPPORT ON THE DECEDENT AT THE TIME OF THE DECEDENT'S DEATH.

(B) DEATH BENEFIT.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A DEATH BENEFIT OF $50,000 SHALL BE PAID TO THE SURVIVING SPOUSE, CHILD, DEPENDENT PARENT, OR ESTATE OF EACH OF THE FOLLOWING INDIVIDUALS WHO IS KILLED OR DIES IN THE PERFORMANCE OF DUTIES ON OR AFTER JULY 1, 1989:

(I) A LAW ENFORCEMENT OFFICER;

(II) A CORRECTIONAL OFFICER;

(III) A VOLUNTEER OR CAREER FIREFIGHTER OR RESCUE SQUAD MEMBER; OR

(IV) A SWORN MEMBER OF THE OFFICE OF STATE FIRE MARSHAL.

(2) FOR FISCAL YEAR 1999, AND FOR EACH FOLLOWING FISCAL YEAR, THE DEATH BENEFIT PROVIDED IN THE PRIOR FISCAL YEAR SHALL BE ADJUSTED BY ANY CHANGE IN THE CALENDAR YEAR PRECEDING THE FISCAL YEAR IN THE CONSUMER PRICE INDEX (ALL URBAN CUSTOMERS - UNITED STATES CITY AVERAGE - ALL ITEMS), AS PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS.

(3) A DEATH BENEFIT UNDER THIS SUBSECTION IS IN ADDITION TO:

(I) ANY WORKERS' COMPENSATION BENEFITS;

(II) THE PROCEEDS OF ANY FORM OF LIFE INSURANCE, REGARDLESS OF WHO PAID THE PREMIUMS ON THE INSURANCE; AND

(III) THE FUNERAL BENEFIT PROVIDED UNDER SUBSECTION (C) OF THIS SECTION.

(C) FUNERAL BENEFIT.

(1) REASONABLE FUNERAL EXPENSES, NOT EXCEEDING $10,000, SHALL BE PAID TO THE SURVIVING SPOUSE, CHILD, PARENT, OR ESTATE OF EACH OF THE FOLLOWING INDIVIDUALS WHO IS KILLED OR DIES IN THE PERFORMANCE OF DUTIES:

(I) A LAW ENFORCEMENT OFFICER;

(II) A CORRECTIONAL OFFICER;

(III) A VOLUNTEER OR CAREER FIREFIGHTER OR RESCUE SQUAD MEMBER; OR

(IV) A SWORN MEMBER OF THE OFFICE OF STATE FIRE MARSHAL.

(2) THE FUNERAL BENEFIT UNDER THIS SUBSECTION SHALL BE REDUCED BY THE AMOUNT OF ANY RELATED WORKERS' COMPENSATION BENEFITS PAID UNDER § 9-689 OF THE LABOR AND EMPLOYMENT ARTICLE.

(D) FLAG BENEFIT.

(1) THE SECRETARY OF STATE SHALL ISSUE A STATE FLAG TO THE FAMILY OF A FIREFIGHTER, POLICEMAN, OR SWORN MEMBER OF THE OFFICE OF STATE FIRE MARSHAL WHO IS KILLED IN THE PERFORMANCE OF DUTY.

(2) THE FLAG SHALL BE PRESENTED TO THE FAMILY OF THE DECEASED BY THE STATE SENATOR OF THE LEGISLATIVE DISTRICT IN WHICH THE DECEASED RESIDED OR SERVED.

(E) DISCRETIONARY DEATH BENEFIT.

ON A CASE-BY-CASE BASIS, THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES MAY AWARD A DEATH BENEFIT UNDER THIS SECTION IF:

(1) THE DECEDENT'S DEATH WAS CAUSED BY THE DECEDENT'S INTENTIONAL MISCONDUCT;

(2) THE DECEDENT INTENDED TO BRING ABOUT THE DECEDENT'S DEATH; OR

(3) THE DECEDENT'S VOLUNTARY INTOXICATION WAS THE PROXIMATE CAUSE OF THE DECEDENT'S DEATH.

(F) RECIPIENTS OF BENEFITS.

IF THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES DETERMINES THAT THE BENEFITS UNDER THIS SECTION ARE TO BE PAID, THE BENEFITS SHALL BE PAID:

(1) TO THE DECEDENT'S SURVIVING SPOUSE;

(2) IF NO INDIVIDUAL IS ELIGIBLE UNDER ITEM (1) OF THIS SUBSECTION, TO EACH SURVIVING CHILD OF THE DECEDENT IN EQUAL SHARES;

(3) (I) FOR A DEATH BENEFIT UNDER SUBSECTION (B) OF THIS SECTION, IF NO INDIVIDUAL IS ELIGIBLE UNDER ITEM (1) OR (2) OF THIS SUBSECTION, TO THE DECEDENT'S SURVIVING PARENT, IF THE PARENT WAS A DEPENDENT AS DEFINED IN § 152 OF THE INTERNAL REVENUE CODE; OR

(II) FOR ANY OTHER BENEFIT UNDER THIS SECTION, IF NO INDIVIDUAL IS ELIGIBLE UNDER ITEM (1) OR (2) OF THIS SUBSECTION, TO THE DECEDENT'S SURVIVING PARENT; OR

(4) IF NO INDIVIDUAL IS ELIGIBLE UNDER ITEM (1), (2), OR (3) OF THIS SUBSECTION, TO THE DECEDENT'S ESTATE.

(G) MONEY INCLUDED IN STATE BUDGET.

PAYMENTS UNDER THIS SECTION SHALL BE MADE OUT OF MONEY THAT THE GOVERNOR INCLUDES FOR THAT PURPOSE IN THE STATE BUDGET.

(H) APPEAL.

A PERSON AGGRIEVED BY A FINAL DECISION OF THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES UNDER THIS SECTION MAY SEEK JUDICIAL REVIEW AS PROVIDED FOR REVIEW OF FINAL DECISIONS IN TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 44 and Art. 41, §§ 4-1002 and 4-1003.

Subsection (a)(2)(i) of this section is revised to clarify that "legitimate" children as well as illegitimate children are covered by the defined term "child".

Subsection (a)(2)(ii) of this section is revised as an "includes" definition, rather than a "means" definition, because the definition of "child" as including a child or stepchild born posthumously is meant to be illustrative rather than exhaustive. *See* Art. 1, § 30.

Subsection (a)(3) of this section is revised for clarity to track the definition of "correctional officer" from the Correctional Services Article. Consequently, the former definition of "correctional unit", former Art. 41, § 4-1002(a)(5), is deleted as unnecessary because the term is not used in the revision.

Subsection (a)(4)(i) of this section is revised to track the definition of "law enforcement officer" from Title 3, Subtitle 1 of this article. That definition, from the Law Enforcement Officers' Bill of Right (LEOBR), does not include an officer serving in a probationary status or an officer who serves at the pleasure of the appointing authority of a county or municipal corporation. Those officers, therefore, are included as part of the definition of "law enforcement officer" in subsection (a)(4)(ii) of this section. The LEOBR definition of "law enforcement officer" does include the security forces of the Department of General Services, the special police of the Department of Health and Mental Hygiene, and a sheriff or deputy sheriff of Baltimore City. Consequently, those officers are not included in the definition of "law enforcement officer" and former Art. 41, § 4-1002(a)(2)(iv), (v), and (vi) are deleted as unnecessary.

In subsection (a)(4)(ii)2 of this section, the reference to a "municipal corporation" is substituted for the former reference to an "incorporated municipality" for consistency with Art. XI-E of the Maryland Constitution.

Also in subsection (a)(4)(ii)2 of this section, the former reference to "Baltimore City" is deleted in light of the definition of county in § 1-101 of this article.

In the introductory language of subsection (b)(1) of this section, the phrase "[s]ubject to paragraph (2) of this subsection" is added for clarity.

%In subsection (b)(1)(i) of this section, the former references to a "sheriff" or "deputy sheriff" are deleted as included in the defined term "law enforcement officer".

In subsection (d)(1) of this section, the reference to the "performance" of duty is substituted for the former reference to "line" of duty for consistency throughout this section.

Also in subsection (d)(1) of this section, the former reference to the Secretary of State "of Maryland" is deleted as implicit.

Also in subsection (d)(1) of this section, the former reference to the "Maryland" State flag is deleted as implicit.

In subsection (g) of this section, the reference to "money" is substituted for the former reference to "funds" for consistency throughout this article.

Defined terms: "County" § 1-101

"Person" § 1-101

SUBTITLE 3. 9-1-1 EMERGENCY TELEPHONE SYSTEM.

1-301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the introductory language of former Art. 41, § 18-101(f).

The former reference to "terms" is deleted as unnecessary in light of the reference to "words".

(B) ADDITIONAL CHARGE.

"ADDITIONAL CHARGE" MEANS THE CHARGE IMPOSED BY A COUNTY IN ACCORDANCE WITH § 1-311 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 18-101(f)(13).

Defined term: "County" § 1-101

(C) BOARD.

"BOARD" MEANS THE EMERGENCY NUMBER SYSTEMS BOARD.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 18-101(f)(3).

%No changes are made.

(D) COUNTY PLAN.

"COUNTY PLAN" MEANS A PLAN FOR A 9-1-1 SYSTEM OR ENHANCED 9-1-1 SYSTEM, OR AN AMENDMENT TO THE PLAN, DEVELOPED BY A COUNTY OR SEVERAL COUNTIES TOGETHER UNDER THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 18-101(f)(9).

The former specific references to "§§ 18-103" and "18-104" of this subtitle are deleted as unnecessary in light of the general reference "under this subtitle".

Defined terms: "County" § 1-101

"Enhanced 9-1-1 system" § 1-301

"9-1-1 system" § 1-301

(E) ENHANCED 9-1-1 SYSTEM.

"ENHANCED 9-1-1 SYSTEM" MEANS A 9-1-1 SYSTEM THAT PROVIDES:

(1) AUTOMATIC NUMBER IDENTIFICATION;

(2) AUTOMATIC LOCATION IDENTIFICATION; AND

(3) ANY OTHER TECHNOLOGICAL ADVANCEMENTS THAT THE BOARD REQUIRES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 18-101(f)(6).

The defined term "enhanced 9-1-1 system" is substituted for the former defined term "enhanced 911" for clarity and to reflect more accurately the manner in which the defined term is used throughout this subtitle.

In item (3) of this subsection, the former phrase "[a]fter July 1, 1995" is deleted as obsolete.

Also in item (3) of this subsection, the former reference to "future" technological advancements is deleted as implicit in the reference to "advancements".

Defined terms: "Board" § 1-301

"9-1-1 system" § 1-301

(F) 9-1-1-ACCESSIBLE SERVICE.

"9-1-1-ACCESSIBLE SERVICE" MEANS TELEPHONE SERVICE OR ANOTHER COMMUNICATIONS SERVICE THAT CONNECTS AN INDIVIDUAL DIALING THE DIGITS 9-1-1 TO AN ESTABLISHED PUBLIC SAFETY ANSWERING POINT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 18-101(f)(15).

The reference to an "individual" is substituted for the former reference to a "person" because only an individual, and not the other entities included in the defined term "person", can dial 9-1-1. *See* § 1-101 of this article for the definition of "person".

The former phrase "under the 911 system" is deleted as meaningless because a public safety answering point is not "under" the 9-1-1 system.

Defined terms: "9-1-1 system" § 1-301

"Public safety answering point" § 1-301

(G) 9-1-1 FEE.

"9-1-1 FEE" MEANS THE FEE IMPOSED IN ACCORDANCE WITH § 1-310 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 18-101(f)(12).

The only changes are in style.

(H) 9-1-1 SERVICE CARRIER.

(1) "9-1-1 SERVICE CARRIER" MEANS A PROVIDER OF WIRELESS TELEPHONE SERVICE OR OTHER 9-1-1-ACCESSIBLE SERVICE.

(2) "9-1-1 SERVICE CARRIER" DOES NOT INCLUDE A TELEPHONE COMPANY.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 18-101(f)(16).

The only change is in style.

Defined terms: "9-1-1-accessible service" § 1-301

"Wireless telephone service" § 1-301

(I) 9-1-1 SYSTEM.

(1) "9-1-1 SYSTEM" MEANS TELEPHONE SERVICE THAT:

(I) MEETS THE PLANNING GUIDELINES ESTABLISHED UNDER THIS SUBTITLE; AND

(II) AUTOMATICALLY CONNECTS AN INDIVIDUAL DIALING THE DIGITS 9-1-1 TO AN ESTABLISHED PUBLIC SAFETY ANSWERING POINT.

(2) "9-1-1 SYSTEM" INCLUDES:

(I) EQUIPMENT FOR CONNECTING AND OUTSWITCHING 9-1-1 CALLS WITHIN A TELEPHONE CENTRAL OFFICE;

(II) TRUNKING FACILITIES FROM A TELEPHONE CENTRAL OFFICE TO A PUBLIC SAFETY ANSWERING POINT; AND

(III) EQUIPMENT TO CONNECT 9-1-1 CALLS TO THE APPROPRIATE PUBLIC SAFETY AGENCY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 18-101(f)(5).

In paragraph (1)(ii) of this subsection, the reference to an "individual" is substituted for the former reference to a "person" because only an individual, and not the other entities included in the defined term "person", can dial 9-1-1. *See* § 1-101 of this article for the definition of "person".

Also in paragraph (1)(ii) of this subsection, the former specific reference to "§ 18-103" of this subtitle is deleted as unnecessary in light of the general reference "under this subtitle".

In paragraph (2)(ii) of this subsection, the reference to a "telephone" central office is added for clarity and consistency with paragraph (2)(i) of this subsection.

Defined terms: "Public safety agency" § 1-301

"Public safety answering point" § 1-301

(J) 9-1-1 TRUST FUND.

"9-1-1 TRUST FUND" MEANS THE FUND ESTABLISHED UNDER § 1-308 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 18-101(f)(10).

The only changes are in style.

(K) PUBLIC SAFETY AGENCY.

"PUBLIC SAFETY AGENCY" MEANS:

(1) A FUNCTIONAL DIVISION OF A PUBLIC AGENCY THAT PROVIDES FIRE FIGHTING, POLICE, MEDICAL, OR OTHER EMERGENCY SERVICES; OR

(2) A PRIVATE ENTITY THAT PROVIDES FIRE FIGHTING, POLICE, MEDICAL, OR OTHER EMERGENCY SERVICES ON A VOLUNTARY BASIS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 18-101(f)(8).

In item (2) of this subsection, the reference to "fire fighting, police, medical, or other emergency services" is substituted for the former reference to "such services" for clarity.

(L) PUBLIC SAFETY ANSWERING POINT.

"PUBLIC SAFETY ANSWERING POINT" MEANS A COMMUNICATIONS FACILITY THAT:

(1) IS OPERATED ON A 24-HOUR BASIS;

(2) FIRST RECEIVES 9-1-1 CALLS IN A 9-1-1 SERVICE AREA; AND

(3) AS APPROPRIATE, DISPATCHES PUBLIC SAFETY SERVICES DIRECTLY, OR TRANSFERS 9-1-1 CALLS TO APPROPRIATE PUBLIC SAFETY AGENCIES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 18-101(f)(7).

In item (2) of this subsection, the former reference to receiving 911 calls "from persons" in a 911 service area is deleted as surplusage.

In item (3) of this subsection, the former words "extend" and "relay" are deleted as included in the word "transfers".

Defined term: "Public safety agency" § 1-301

(M) SECRETARY.

"SECRETARY" MEANS THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 18-101(f)(4).

The only change is in style.

(N) WIRELESS TELEPHONE SERVICE.

(1) "WIRELESS TELEPHONE SERVICE" MEANS PUBLIC TELEPHONE SERVICE THAT:

(I) IS PROVIDED FOR TWO WAY VOICE OR DATA COMMUNICATION;

(II) IS TRANSMITTED INDEPENDENTLY OF SWITCHED LOCAL EXCHANGE ACCESS TELEPHONE SERVICE; AND

(III) MAY BE TRANSMITTED PARTLY VIA CABLE OR WIRE AS PART OF A LARGER TELEPHONE OR CABLE SYSTEM.

(2) "WIRELESS TELEPHONE SERVICE" INCLUDES:

(I) CELLULAR TELEPHONE SERVICE (CELLULAR);

(II) PERSONAL COMMUNICATION SERVICE (PCS); AND

(III) SPECIALIZED MOBILE RADIO (SMR).

(3) "WIRELESS TELEPHONE SERVICE" DOES NOT INCLUDE SERVICE THAT CANNOT CONNECT AN INDIVIDUAL DIALING THE DIGITS 9-1-1 TO AN ESTABLISHED PUBLIC SAFETY ANSWERING POINT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 18-101(f)(14).

In paragraph (3) of this subsection, the reference to an "individual" is substituted for the former reference to a "person" because only an individual, and not the other entities included in the defined term "person", can dial 9-1-1. *See* § 1-101 of this article for the definition of "person".

Also in paragraph (3) of this subsection, the former phrase "under the 911 system" is deleted as meaningless because a public safety answering point is not "under" the 9-1-1 system.

Defined terms: "9-1-1 system" § 1-301

"Public safety answering point" § 1-301

REVISOR'S NOTE TO SECTION:

Former Art. 41, § 18-101(f)(1), which defined "county" to mean any of the 23 counties of Maryland and Baltimore City, is deleted in light of the definition of "county" in § 1-101 of this article to the same effect.

Former Art. 41, § 18-101(f)(2), which defined "Comptroller" to mean the Comptroller of the State Treasury, is deleted as unnecessary. The term has a commonly understood meaning, and generally is not defined in revised articles of the Code.

Former Art. 41, § 18-101(f)(11), which defined "multicounty" to mean two or more counties which are contiguous, is deleted as obsolete because the term is no longer used in this sense in the law. The term is now used in the sense in which it is commonly used to mean two or more counties and thus a separate definition for this subtitle is unnecessary.

1-302. LEGISLATIVE FINDINGS AND DECLARATIONS; PURPOSES OF SUBTITLE.

(A) LEGISLATIVE FINDINGS AND DECLARATIONS.

THE GENERAL ASSEMBLY:

(1) RECOGNIZES THE PARAMOUNT IMPORTANCE OF THE SAFETY AND WELL-BEING OF THE PUBLIC;

(2) RECOGNIZES THAT TIMELY AND APPROPRIATE ASSISTANCE MUST BE PROVIDED WHEN THE LIVES OR PROPERTY OF THE PUBLIC IS IN IMMINENT DANGER;

(3) RECOGNIZES THAT EMERGENCY ASSISTANCE USUALLY IS SUMMONED BY TELEPHONE, AND THAT A MULTIPLICITY OF EMERGENCY TELEPHONE NUMBERS EXISTED THROUGHOUT THE STATE AND WITHIN EACH COUNTY;

(4) WAS CONCERNED THAT AVOIDABLE DELAYS IN REACHING APPROPRIATE EMERGENCY ASSISTANCE WERE OCCURRING TO THE JEOPARDY OF LIFE AND PROPERTY; AND

(5) ACKNOWLEDGES THAT THE THREE DIGIT NUMBER, 9-1-1, IS A NATIONALLY RECOGNIZED AND APPLIED TELEPHONE NUMBER THAT MAY BE USED TO SUMMON EMERGENCY ASSISTANCE AND TO ELIMINATE DELAYS CAUSED BY LACK OF FAMILIARITY WITH EMERGENCY NUMBERS AND BY CONFUSION IN CIRCUMSTANCES OF CRISIS.

(B) PURPOSES OF SUBTITLE.

THE PURPOSES OF THIS SUBTITLE ARE TO:

(1) ESTABLISH THE THREE DIGIT NUMBER, 9-1-1, AS THE PRIMARY EMERGENCY TELEPHONE NUMBER FOR THE STATE; AND

(2) PROVIDE FOR THE ORDERLY INSTALLATION, MAINTENANCE, AND OPERATION OF 9-1-1 SYSTEMS IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 18-101(a) through (e).

In subsection (a)(1) of this section, the reference to "the public" is substituted for the former reference to "the citizens of Maryland" for consistency throughout this article. Similarly, in subsection (a)(2) of this section, the reference to "the public" is substituted for the former reference to "its citizens". *See* General Revisor's Note to article.

In subsection (a)(3) of this section, the reference to "emergency" assistance is substituted for the former reference to "such" assistance for clarity.

In subsection (a)(4) and (5) of this section, the references to emergency "assistance" are substituted for the former references to emergency "aid" for consistency within subsection (a) of this section.

In subsection (a)(5) of this section, the former reference to "understandable" confusion is deleted as surplusage.

Defined terms: "County" § 1-101

"9-1-1 system" § 1-301

1-303. EFFECTS OF SUBTITLE.

(A) ON PUBLIC SERVICE COMPANIES.

(1) THIS SUBTITLE DOES NOT REQUIRE A PUBLIC SERVICE COMPANY TO PROVIDE ANY EQUIPMENT OR SERVICE OTHER THAN IN ACCORDANCE WITH TARIFFS APPROVED BY THE PUBLIC SERVICE COMMISSION.

(2) THE PROVISION OF SERVICES, THE RATES, AND THE EXTENT OF LIABILITY OF A PUBLIC SERVICE COMPANY ARE GOVERNED BY THE TARIFFS APPROVED BY THE PUBLIC SERVICE COMMISSION.

(B) ON 9-1-1 SERVICE CARRIERS.

(1) THIS SUBTITLE DOES NOT REQUIRE A 9-1-1 SERVICE CARRIER TO PROVIDE ANY EQUIPMENT OR SERVICE OTHER THAN THE EQUIVALENT OF THE EQUIPMENT AND SERVICE REQUIRED OF A TELEPHONE COMPANY UNDER SUBSECTION (A) OF THIS SECTION.

(2) THIS SUBTITLE DOES NOT EXTEND ANY LIABILITY TO A 9-1-1 SERVICE CARRIER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 18-106(a) and (b).

In subsection (a)(2) of this section, the reference to the "provision" of services is substituted for the former reference to the "furnishing" of services for consistency with subsection (a)(1) of this section.

In subsection (b)(1) of this section, the reference to "the equipment and service" required of a telephone company is substituted for the former reference to "that" required of a telephone company for clarity.

In subsection (b)(2) of this section, the reference to a 9-1-1 "service" carrier is added for accuracy and consistency with subsection (b)(1) of this section.

Defined term: "9-1-1 service carrier" § 1-301

1-304. ENHANCED 9-1-1 SYSTEM REQUIRED.

(A) IN GENERAL.

EACH COUNTY SHALL HAVE IN OPERATION AN ENHANCED 9-1-1 SYSTEM.

(B) MULTICOUNTY SYSTEM.

IF IMPLEMENTATION IS PRECEDED BY COOPERATIVE PLANNING, THE ENHANCED 9-1-1 SYSTEM REQUIRED UNDER SUBSECTION (A) OF THIS SECTION MAY OPERATE AS PART OF A MULTICOUNTY SYSTEM.

(C) SERVICE AVAILABLE THROUGH 9-1-1 SYSTEM.

(1) SERVICES AVAILABLE THROUGH A 9-1-1 SYSTEM SHALL INCLUDE POLICE, FIRE FIGHTING, AND EMERGENCY AMBULANCE SERVICES.

(2) OTHER EMERGENCY AND CIVIL DEFENSE SERVICES MAY BE INCORPORATED INTO THE 9-1-1 SYSTEM AT THE DISCRETION OF THE COUNTY OR COUNTIES SERVED BY THE 9-1-1 SYSTEM.

(D) TELEPHONE NUMBERS FOR EMERGENCY AND NONEMERGENCY CALLS.

(1) THE DIGITS 9-1-1 ARE THE PRIMARY EMERGENCY TELEPHONE NUMBER IN THE 9-1-1 SYSTEM.

(2) A PUBLIC SAFETY AGENCY WHOSE SERVICES ARE AVAILABLE THROUGH THE 9-1-1 SYSTEM:

(I) MAY MAINTAIN A SEPARATE SECONDARY BACKUP TELEPHONE NUMBER FOR EMERGENCY CALLS; AND

(II) SHALL MAINTAIN A SEPARATE TELEPHONE NUMBER FOR NONEMERGENCY CALLS.

(E) EDUCATIONAL INFORMATION.

EDUCATIONAL INFORMATION THAT RELATES TO EMERGENCY SERVICES MADE AVAILABLE BY THE STATE OR A COUNTY:

(1) SHALL DESIGNATE THE NUMBER 9-1-1 AS THE PRIMARY EMERGENCY TELEPHONE NUMBER; AND

(2) MAY INCLUDE A SEPARATE SECONDARY BACKUP TELEPHONE NUMBER FOR EMERGENCY CALLS.

(F) NOTIFICATION AND REFERRAL OF CALLS FOR ASSISTANCE.

(1) EACH PUBLIC SAFETY ANSWERING POINT SHALL NOTIFY THE PUBLIC SAFETY AGENCIES IN A COUNTY 9-1-1 SYSTEM OF CALLS FOR ASSISTANCE IN THE COUNTY.

(2) WRITTEN GUIDELINES SHALL BE DEVELOPED TO GOVERN THE REFERRAL OF CALLS FOR ASSISTANCE TO THE APPROPRIATE PUBLIC SAFETY AGENCY.

(3) STATE, COUNTY, AND LOCAL PUBLIC SAFETY AGENCIES WITH CONCURRENT JURISDICTION SHALL HAVE WRITTEN AGREEMENTS TO ENSURE A

CLEAR UNDERSTANDING OF WHICH SPECIFIC CALLS FOR ASSISTANCE WILL BE REFERRED TO WHICH PUBLIC SAFETY AGENCY.

(G) COOPERATIVE AGREEMENTS FOR ALLOCATION OF COSTS.

COUNTIES, OTHER UNITS OF LOCAL GOVERNMENT, PUBLIC SAFETY AGENCIES, AND PUBLIC SAFETY ANSWERING POINTS MAY ENTER INTO COOPERATIVE AGREEMENTS FOR THE ALLOCATION OF MAINTENANCE, OPERATIONAL, AND CAPITAL COSTS ATTRIBUTABLE TO THE 9-1-1 SYSTEM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 18-102.

In subsection (a) of this section, the former phrase "[o]n or before July 1, 1995" is deleted as obsolete.

In subsection (b) of this section, the reference to "the enhanced 9-1-1 system required under subsection (a) of this section" is substituted for the former reference to "[t]his system" for clarity.

In subsections (c)(2) and (d)(1) of this section, the references to a "9-1-1" system are added for clarity and consistency with the terminology used throughout this subtitle.

In subsections (d)(2)(i) and (ii) and (e)(1) and (2) of this section, the references to a "telephone" number are added for clarity.

Subsection (f)(1) of this section is revised in the active voice to clarify that it is the duty of public safety answering points to notify public safety agencies of calls for assistance in the county.

In subsection (f)(1) of this section, the reference to "calls for assistance" is substituted for the former reference to a "request for service" for consistency with subsection (f)(2) and (3) of this section.

Also in subsection (f)(1) of this section, the former requirement that notification of public safety agencies be made "in all cases" is deleted as implicit.

In subsection (f)(2) of this section, the requirement that written guidelines "shall be developed" is substituted for the former requirement that "[t]here shall be" written guidelines for clarity. Similarly, in subsection (f)(3) of this section, the requirement that certain entities "shall have" written agreements is substituted for the former requirement that "there shall be" written agreements among the entities.

Also in subsection (f)(2) of this section, the reference to the "referral" of calls is substituted for the former reference to the "assignment" of calls for clarity and consistency with subsection (f)(3) of this section.

Defined terms: "County" § 1-101

"Enhanced 9-1-1 system" § 1-301

"9-1-1 system" § 1-301

"Public safety agency" § 1-301

"Public safety answering point" § 1-301

1-305. EMERGENCY NUMBER SYSTEMS BOARD.

(A) ESTABLISHED.

THERE IS AN EMERGENCY NUMBER SYSTEMS BOARD IN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(B) COMPOSITION; APPOINTMENT OF MEMBERS.

(1) THE BOARD CONSISTS OF 13 MEMBERS.

(2) OF THE 13 MEMBERS:

(I) ONE MEMBER SHALL REPRESENT A TELEPHONE COMPANY OPERATING IN THE STATE;

(II) ONE MEMBER SHALL REPRESENT THE WIRELESS TELEPHONE INDUSTRY IN THE STATE;

(III) ONE MEMBER SHALL REPRESENT THE MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS;

(IV) ONE MEMBER SHALL REPRESENT THE DEPARTMENT OF STATE POLICE;

(V) ONE MEMBER SHALL REPRESENT THE PUBLIC SERVICE COMMISSION;

(VI) ONE MEMBER SHALL REPRESENT THE ASSOCIATION OF PUBLIC-SAFETY COMMUNICATIONS OFFICIALS INTERNATIONAL, INC.;

(VII) TWO MEMBERS SHALL REPRESENT COUNTY FIRE SERVICES IN THE STATE, WITH ONE MEMBER REPRESENTING CAREER FIRE SERVICES AND ONE MEMBER REPRESENTING VOLUNTEER FIRE SERVICES;

(VIII) ONE MEMBER SHALL REPRESENT POLICE SERVICES IN THE STATE;

(IX) ONE MEMBER SHALL REPRESENT EMERGENCY MANAGEMENT SERVICES IN THE STATE; AND

(X) THREE MEMBERS SHALL REPRESENT THE PUBLIC.

(3) THE GOVERNOR SHALL APPOINT THE MEMBERS WITH THE ADVICE AND CONSENT OF THE SENATE.

(C) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER IS 4 YEARS AND BEGINS ON JULY 1.

(2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2003.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) IF A VACANCY OCCURS AFTER A TERM HAS BEGUN, THE GOVERNOR SHALL APPOINT A SUCCESSOR TO REPRESENT THE ORGANIZATION OR GROUP IN WHICH THE VACANCY OCCURS.

(5) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(D) CHAIRPERSON.

THE GOVERNOR SHALL APPOINT A CHAIRPERSON FROM AMONG THE BOARD MEMBERS.

(E) MEETINGS.

THE BOARD SHALL MEET AS NECESSARY, BUT AT LEAST ONCE EACH QUARTER.

(F) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE BOARD:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE BOARD; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(G) STAFF.

THE SECRETARY SHALL PROVIDE STAFF TO THE BOARD, INCLUDING A COORDINATOR WHO IS RESPONSIBLE FOR THE DAILY OPERATION OF THE OFFICE OF THE BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 18-103(a), (b), (c), (e), (f), (g), and the first sentence of (d).

In subsection (b)(2)(i) of this section, the former reference to a telephone "utility" company is deleted for consistency with the terminology used throughout this subtitle.

%In subsection (b)(2)(iii) of this section, the reference to the Maryland Institute for Emergency Medical Services "Systems" is added to reflect the proper name of the entity. *See* ED § 13-503(a).

In subsection (b)(2)(vi) of this section, the reference to the "Association of Public-Safety Communications Officials International, Inc." is substituted for the former reference to the "Association of Public Safety Communications Officers" to reflect the current name of the organization.

In subsection (b)(2)(ix) of this section, the reference to emergency management services "in the State" is added for clarity and consistency within subsection (b)(1) of this section.

Subsection (b)(3) of this section is revised in the active voice to clarify that it is the duty of the Governor to appoint the members of the Board.

In subsection (c)(1) of this section, the reference to a Board member's term "begin[ning] on July 1" is added to conform to the practice of the Board.

In subsection (c)(2) of this section, the reference to terms being staggered as required by the terms provided for Board members on "October 1, 2003" is substituted for the former obsolete reference to staggering as required by the terms provided for Board members on "July 1, 1983". This substitution is not intended to alter the term of any member of the Board. *See* § ___ of Ch. ___ , Acts of 2003.

In subsection (c)(3) and (5) of this section, the references to a Board member continuing to serve until a successor is appointed "and qualifies" is added for accuracy and to conform to similar provisions in other revised articles of the Code.

In subsection (c)(5) of this section, the reference to "[a] member who is appointed after a term has begun" serving "only" for the rest of the term is substituted for the former reference to a successor "who" serves for the rest of the term to conform to similar provisions in other revised articles of the Code.

Subsection (f) of this section is revised in standard language used to describe the compensation and reimbursement of expenses of members of a board.

In subsection (g) of this section, the reference to a "coordinator who" is responsible for the daily operation of the Board's office is substituted for the former reference to a "coordinator position which" is responsible for the daily operation of the Board's office to clarify that it is an individual, and not a position, who has a responsibility under this subsection.

Also in subsection (g) of this section, the former reference to staff "services" is deleted as implicit in the reference to "staff".

Defined terms: "Board" § 1-301

"County" § 1-101

"9-1-1 Trust Fund" § 1-301

"Secretary" § 1-301

1-306. RESPONSIBILITIES OF BOARD -- COORDINATION OF ENHANCEMENT OF 9-1-1 SYSTEMS.

(A) IN GENERAL.

THE BOARD SHALL COORDINATE THE ENHANCEMENT OF COUNTY 9-1-1 SYSTEMS.

(B) SPECIFIC RESPONSIBILITIES.

THE BOARD'S RESPONSIBILITIES INCLUDE:

(1) ESTABLISHING PLANNING GUIDELINES FOR ENHANCED 9-1-1 SYSTEM PLANS IN ACCORDANCE WITH THIS SUBTITLE;

(2) ESTABLISHING PROCEDURES TO REVIEW AND APPROVE OR DISAPPROVE COUNTY PLANS AND TO EVALUATE REQUESTS FOR VARIATIONS FROM THE PLANNING GUIDELINES ESTABLISHED BY THE BOARD;

(3) ESTABLISHING PROCEDURES FOR THE REQUEST FOR REIMBURSEMENT OF THE COSTS OF ENHANCING A 9-1-1 SYSTEM BY A COUNTY OR COUNTIES IN WHICH A 9-1-1 SYSTEM IS IN OPERATION, AND PROCEDURES TO REVIEW AND APPROVE OR DISAPPROVE THE REQUEST;

(4) TRANSMITTING THE PLANNING GUIDELINES AND PROCEDURES ESTABLISHED UNDER THIS SECTION, AND ANY AMENDMENTS TO THEM, TO THE GOVERNING BODY OF EACH COUNTY;

(5) SUBMITTING TO THE SECRETARY EACH YEAR A SCHEDULE FOR IMPLEMENTING THE ENHANCEMENT OF COUNTY OR MULTICOUNTY 9-1-1 SYSTEMS, AND AN ESTIMATE OF FUNDING REQUIREMENTS BASED ON THE APPROVED COUNTY PLANS;

(6) REVIEWING AND APPROVING OR DISAPPROVING REQUESTS FOR REIMBURSEMENT OF THE COSTS OF ENHANCING 9-1-1 SYSTEMS, AND SUBMITTING TO THE SECRETARY EACH YEAR A SCHEDULE FOR REIMBURSEMENT AND AN ESTIMATE OF FUNDING REQUIREMENTS;

(7) REVIEWING THE ENHANCEMENT OF 9-1-1 SYSTEMS;

(8) PROVIDING FOR AN AUDIT OF COUNTY EXPENDITURES FOR THE OPERATION AND MAINTENANCE OF 9-1-1 SYSTEMS;

(9) ENSURING INSPECTIONS OF PUBLIC SAFETY ANSWERING POINTS;

(10) REVIEWING AND APPROVING OR DISAPPROVING REQUESTS FROM COUNTIES WITH OPERATIONAL ENHANCED 9-1-1 SYSTEMS TO BE EXEMPTED FROM THE EXPENDITURE LIMITATIONS UNDER § 1-312 OF THIS SUBTITLE; AND

(11) AUTHORIZING EXPENDITURES FROM THE 9-1-1 TRUST FUND THAT:

(I) ARE FOR ENHANCEMENTS OF 9-1-1 SYSTEMS THAT:

1. ARE REQUIRED BY THE BOARD;

2. WILL BE PROVIDED TO A COUNTY BY A THIRD PARTY CONTRACTOR; AND

3. WILL INCUR COSTS THAT THE BOARD HAS APPROVED BEFORE THE FORMATION OF A CONTRACT BETWEEN THE COUNTY AND THE CONTRACTOR; AND

(II) ARE APPROVED BY THE BOARD FOR PAYMENT:

1. FROM MONEY COLLECTED UNDER § 1-310 OF THIS SUBTITLE; AND

2. DIRECTLY TO A THIRD PARTY CONTRACTOR ON BEHALF OF A COUNTY.

(C) PLANNING GUIDELINES.

THE GUIDELINES ESTABLISHED BY THE BOARD UNDER SUBSECTION (B)(1) OF THIS SECTION:

(1) SHALL BE BASED ON AVAILABLE TECHNOLOGY AND EQUIPMENT; AND

(2) MAY BE BASED ON ANY OTHER FACTOR THAT THE BOARD DETERMINES IS APPROPRIATE, INCLUDING POPULATION AND AREA SERVED BY 9-1-1 SYSTEMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 18-103(h).

In subsection (b)(1) of this section, the former reference to "§ 18-104" is deleted as obsolete. *See* General Revisor's Note to subtitle. Similarly, in subsection (b)(10) of this section, the former specific reference to "§ 18-108(d)" is deleted as obsolete.

In subsection (b)(2) of this section, the reference to "planning guidelines established by the Board" is substituted for the former reference to "established guidelines" for clarity.

Also in subsection (b)(2) of this section, the former reference to "multicounty" plans is deleted as included in the defined term "county

plan[s]".

In subsection (b)(4) of this section, the broader reference to transmitting certain guidelines and procedures to the "governing body of" each county is substituted for the former narrower reference to transmitting the guidelines and procedures to the "county executive and the county council or to the president of the board of county commissioners in" each county, for brevity and to conform to the apparent legislative intent that this subtitle apply to Baltimore City.

In subsection (b)(8) of this section, the reference to "provid[ing] for an" audit "of" county expenditures is added for accuracy and consistency with § 1-312(e) of this subtitle.

In the introductory language of subsection (b)(11)(i) of this section, the reference to enhancements "of 9-1-1 systems" is added for clarity.

In subsection (b)(11)(ii)1 of this section, the reference to "money" is substituted for the former reference to "proceeds" for accuracy and consistency within this subtitle and this article.

In the introductory language of subsection (c) of this section, the reference to the guidelines "established by the Board under subsection (b)(1) of this section" is added for clarity.

Defined terms: "Board" § 1-301

"County" § 1-101

"County plan" § 1-301

"Enhanced 9-1-1 system" § 1-301

"9-1-1 system" § 1-301

"9-1-1 Trust Fund" § 1-301

"Public safety answering point" § 1-301

"Secretary" § 1-301

1-307. SAME -- ANNUAL REPORT.

(A) REQUIRED.

THE BOARD SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR, THE SECRETARY, AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE LEGISLATIVE POLICY COMMITTEE.

(B) CONTENTS.

THE REPORT SHALL PROVIDE THE FOLLOWING INFORMATION FOR EACH COUNTY:

(1) THE TYPE OF 9-1-1 SYSTEM CURRENTLY OPERATING IN THE COUNTY;

(2) THE TOTAL 9-1-1 FEE AND ADDITIONAL CHARGE CHARGED;

(3) THE FUNDING FORMULA IN EFFECT;

(4) ANY STATUTORY OR REGULATORY VIOLATION BY THE COUNTY AND THE RESPONSE OF THE BOARD;

(5) ANY EFFORTS TO ESTABLISH AN ENHANCED 9-1-1 SYSTEM IN THE COUNTY; AND

(6) ANY SUGGESTED CHANGES TO THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 18-103(j).

In subsection (b)(1) and (5) of this section, the phrase "in the county" is added for clarity.

In subsection (b)(2) of this section, the reference to the "9-1-1 fee" is substituted for the former reference to the "State" fee for clarity. Similarly, the reference to the "additional charge" is substituted for the former reference to the "county fee".

Defined terms: "Additional charge" § 1-301

"Board" § 1-301

"County" § 1-101

"Enhanced 9-1-1 system" § 1-301

"9-1-1 fee" § 1-301

"9-1-1 system" § 1-301

"Secretary" § 1-301

1-308. 9-1-1 TRUST FUND.

(A) ESTABLISHED.

THERE IS A 9-1-1 TRUST FUND.

(B) PURPOSES.

THE PURPOSES OF THE 9-1-1 TRUST FUND ARE TO:

(1) REIMBURSE COUNTIES FOR THE COST OF ENHANCING A 9-1-1 SYSTEM;

(2) PAY CONTRACTORS IN ACCORDANCE WITH § 1-306(B)(11) OF THIS SUBTITLE; AND

(3) FUND THE COORDINATOR POSITION UNDER § 1-305 OF THIS SUBTITLE.

(C) COMPOSITION.

THE 9-1-1 TRUST FUND CONSISTS OF:

(1) MONEY FROM THE 9-1-1 FEE COLLECTED AND REMITTED TO THE COMPTROLLER UNDER § 1-310 OF THIS SUBTITLE;

(2) MONEY FROM THE ADDITIONAL CHARGE COLLECTED AND REMITTED TO THE COMPTROLLER UNDER § 1-311 OF THIS SUBTITLE; AND

(3) INVESTMENT EARNINGS OF THE 9-1-1 TRUST FUND.

(D) MONEY IN 9-1-1 TRUST FUND.

MONEY IN THE 9-1-1 TRUST FUND SHALL BE HELD IN THE STATE TREASURY.

(E) ADMINISTRATION.

THE SECRETARY SHALL ADMINISTER THE 9-1-1 TRUST FUND, SUBJECT TO THE GUIDELINES FOR FINANCIAL MANAGEMENT AND BUDGETING ESTABLISHED BY THE DEPARTMENT OF BUDGET AND MANAGEMENT.

(F) ESTABLISHMENT OF SEPARATE ACCOUNTS.

THE SECRETARY SHALL DIRECT THE COMPTROLLER TO ESTABLISH SEPARATE ACCOUNTS IN THE 9-1-1 TRUST FUND FOR THE PAYMENT OF ADMINISTRATIVE EXPENSES AND FOR EACH COUNTY.

(G) INCOME FROM INVESTMENTS.

(1) ANY INVESTMENT EARNINGS SHALL BE CREDITED TO THE 9-1-1 TRUST FUND.

(2) THE COMPTROLLER SHALL ALLOCATE THE INVESTMENT INCOME AMONG THE ACCOUNTS IN THE 9-1-1 TRUST FUND, PRORATED ON THE BASIS OF THE TOTAL FEES COLLECTED IN EACH COUNTY.

REVISOR'S NOTE: Subsections (a), (b), and (d) through (g) of this section are new language derived without substantive change from former Art. 41, § 18-105(a) and (e) and the second sentence of § 18-103(d).

Subsection (c) of this section is new language added to clarify the composition of the 9-1-1 Trust Fund.

In subsection (b)(1) of this section, the reference to reimbursing counties for "the cost of enhancing a 9-1-1 system" is substituted for the former reference to reimbursing counties for "enhancements to a 911 system" for accuracy and consistency within this subtitle.

In subsection (f) of this section, the word "direct" is substituted for the former word "cause" for clarity and consistency with § 1-309(b)(3) of this subtitle.

Defined terms: "Additional charge" § 1-301

"County" § 1-101

"9-1-1 fee" § 1-301

"9-1-1 system" § 1-301

"9-1-1 Trust Fund" § 1-301

"Secretary" § 1-301

1-309. APPROPRIATIONS AND DISBURSEMENTS FROM 9-1-1 TRUST FUND.

(A) ANNUAL APPROPRIATION.

ON RECOMMENDATION OF THE BOARD, EACH YEAR THE SECRETARY SHALL REQUEST AN APPROPRIATION FROM THE 9-1-1 TRUST FUND IN AN AMOUNT SUFFICIENT TO:

(1) CARRY OUT THE PURPOSES OF THIS SUBTITLE;

(2) PAY THE ADMINISTRATIVE COSTS CHARGEABLE TO THE 9-1-1 TRUST FUND; AND

(3) REIMBURSE COUNTIES FOR THE COST OF ENHANCING A 9-1-1 SYSTEM.

(B) DISBURSEMENTS -- IN GENERAL.

(1) SUBJECT TO THE LIMITATIONS UNDER SUBSECTION (E) OF THIS SECTION, THE COMPTROLLER SHALL DISBURSE THE MONEY IN THE 9-1-1 TRUST FUND AS PROVIDED IN THIS SUBSECTION.

(2) EACH JULY 1, THE COMPTROLLER SHALL ALLOCATE SUFFICIENT MONEY FROM THE 9-1-1 FEE TO PAY THE COSTS OF ADMINISTERING THE 9-1-1 TRUST FUND.

(3) AS DIRECTED BY THE SECRETARY AND IN ACCORDANCE WITH THE STATE BUDGET, THE COMPTROLLER, FROM THE APPROPRIATE ACCOUNT, SHALL:

(I) REIMBURSE COUNTIES FOR THE COST OF ENHANCING A 9-1-1 SYSTEM; AND

(II) PAY CONTRACTORS IN ACCORDANCE WITH § 1-306(B)(11) OF THIS SUBTITLE.

(4) (I) THE COMPTROLLER SHALL PAY TO EACH COUNTY FROM ITS ACCOUNT THE MONEY REQUESTED BY THE COUNTY TO PAY THE MAINTENANCE AND OPERATION COSTS OF THE COUNTY'S 9-1-1 SYSTEM IN ACCORDANCE WITH THE STATE BUDGET.

(II) THE COMPTROLLER SHALL PAY THE MONEY FOR MAINTENANCE AND OPERATION COSTS ON SEPTEMBER 30, DECEMBER 31, MARCH 31, AND JUNE 30 OF EACH YEAR.

(C) SAME -- USE OF MONEY ACCRUING TO 9-1-1 TRUST FUND.

(1) MONEY ACCRUING TO THE 9-1-1 TRUST FUND MAY BE USED AS PROVIDED IN THIS SUBSECTION.

(2) MONEY COLLECTED FROM THE 9-1-1 FEE MAY BE USED TO:

(I) REIMBURSE COUNTIES FOR THE COST OF ENHANCING A 9-1-1 SYSTEM; AND

(II) PAY CONTRACTORS IN ACCORDANCE WITH § 1-306(B)(11) OF THIS SUBTITLE.

(3) MONEY COLLECTED FROM THE ADDITIONAL CHARGE MAY BE USED BY THE COUNTIES FOR THE MAINTENANCE AND OPERATION COSTS OF THE 9-1-1 SYSTEM.

(D) SAME -- REIMBURSEMENTS FOR 9-1-1 SYSTEM ENHANCEMENTS.

(1) REIMBURSEMENT MAY BE MADE ONLY TO THE EXTENT THAT COUNTY MONEY WAS USED TO ENHANCE THE 9-1-1 SYSTEM.

(2) REIMBURSEMENT FOR THE ENHANCEMENT OF 9-1-1 SYSTEMS SHALL INCLUDE THE INSTALLATION OF EQUIPMENT FOR AUTOMATIC NUMBER IDENTIFICATION, AUTOMATIC LOCATION IDENTIFICATION, AND OTHER TECHNOLOGICAL ADVANCEMENTS THAT THE BOARD REQUIRES.

(3) REIMBURSEMENT FROM MONEY COLLECTED FROM THE 9-1-1 FEE MAY BE USED ONLY FOR 9-1-1 SYSTEM ENHANCEMENTS APPROVED BY THE BOARD.

(E) WITHHOLDING MONEY OF COUNTY.

(1) THE BOARD MAY DIRECT THE COMPTROLLER TO WITHHOLD FROM A COUNTY MONEY FOR 9-1-1 SYSTEM EXPENDITURES IF THE COUNTY VIOLATES THIS SUBTITLE OR A REGULATION OF THE BOARD.

(2) (I) THE BOARD SHALL STATE PUBLICLY IN WRITING ITS REASON FOR WITHHOLDING MONEY FROM A COUNTY AND SHALL RECORD ITS REASON IN THE MINUTES OF THE BOARD.

(II) ON REACHING ITS DECISION TO WITHHOLD MONEY, THE BOARD SHALL NOTIFY THE COUNTY.

(III) THE COUNTY HAS 30 DAYS AFTER THE DATE OF NOTIFICATION TO RESPOND IN WRITING TO THE BOARD.

(3) (I) ON NOTIFICATION BY THE BOARD, THE COMPTROLLER SHALL HOLD MONEY FOR THE COUNTY IN THE COUNTY'S ACCOUNT IN THE 9-1-1 TRUST FUND.

(II) MONEY HELD BY THE COMPTROLLER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT ACCRUE INTEREST FOR THE COUNTY.

(III) INTEREST INCOME EARNED ON MONEY HELD BY THE COMPTROLLER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH ACCRUES TO THE 9-1-1 TRUST FUND.

(4) COUNTY MONEY WITHHELD BY THE COMPTROLLER SHALL BE WITHHELD UNTIL THE BOARD DIRECTS THE COMPTROLLER TO RELEASE THE MONEY.

(F) AUDITS.

(1) THE LEGISLATIVE AUDITOR SHALL CONDUCT FISCAL/COMPLIANCE AUDITS OF THE 9-1-1 TRUST FUND AND OF THE APPROPRIATIONS AND DISBURSEMENTS MADE FOR PURPOSES OF THIS SUBTITLE.

(2) THE COST OF THE FISCAL PORTION OF THE AUDITS SHALL BE PAID FROM THE 9-1-1 TRUST FUND AS AN ADMINISTRATIVE COST.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 18-103(i), 18-105(f) and (g), and 18-107(a), (b), and (f).

In subsection (a)(2) of this section, the reference to "pay[ing]" administrative costs is added for clarity.

In subsection (a)(3) of this section, the former reference to reimbursing counties "which are operating" a 9-1-1 system for enhancements to that system is deleted as implicit.

In subsection (b)(2) of this section, the former phrase "as provided by law" is deleted as implicit.

In subsection (b)(4)(i) of this section, the former phrase "[i]f a 911 system is in operation in a county" is deleted as obsolete.

In subsection (c)(1) of this section, the former reference to funds accruing "after January 1, 1991" is deleted as obsolete. Similarly, in subsection (c)(2)(i) of this section, the former reference to enhancements "occurring after January 1, 1991" is deleted.

In subsection (d)(2) of this section, the specific reference to "automatic number identification, automatic location identification, and other technological advancements that the Board requires" is substituted for the former phrase "as described in [former] § 18-101(f)(6) of this subtitle" for clarity.

In subsection (d)(3) of this section, the former reference to "the 911 fee established under § 18-105(b)" is deleted as unnecessary in light of the use

of the defined term "9-1-1 fee".

In subsection (e)(1) of this section, the word "direct" is substituted for the former word "instruct" for clarity and consistency with subsection (e)(4) of this section.

In subsection (e)(2)(i) of this section, the former reference to the minutes "book" is deleted as surplusage.

In subsection (f)(1) of this section, the reference to "fiscal/compliance audits" is substituted for the former reference to "postaudits of a fiscal and compliance nature" for accuracy and consistency with the terminology used in § 2-1220 of the State Government Article. Correspondingly, in subsection (f)(2) of this section, the reference to "audits" is substituted for the former reference to a "postaudit examination".

Former Art. 41, § 18-107(c), which provided that the amount of maintenance and operating costs is subject to the limitations of former §§ 18-107 and 18-108, is deleted as obsolete and superfluous.

Former Art. 41, § 18-107(d) and (e), which specified the manner in which funds in the 911 Trust Fund as of July 1, 1983, were to be allocated, and established limitations on disbursements from the 911 fee collected from July 1, 1980, through June 30, 1983, are not retained in the Code because they apparently are obsolete. However, they are transferred to the Session Laws to avoid any inadvertent substantive effect that their repeal might have.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that the reference in subsection (e)(1) of this section to the authority of the Board to direct the Comptroller to withhold money from a county for a violation of a "regulation of the Board" is misleading. The Board does not have explicit authority to adopt regulations.

Defined terms: "Additional charge" § 1-301

"Board" § 1-301

"County" § 1-101

"9-1-1 fee" § 1-301

"9-1-1 system" § 1-301

"9-1-1 Trust Fund" § 1-301

"Secretary" § 1-301

1-310. 9-1-1 FEE.

(A) IN GENERAL.

EACH SUBSCRIBER TO SWITCHED LOCAL EXCHANGE ACCESS SERVICE, WIRELESS TELEPHONE SERVICE, OR OTHER 9-1-1-ACCESSIBLE SERVICE SHALL PAY A 9-1-1 FEE.

(B) AMOUNT; WHEN PAYABLE.

THE 9-1-1 FEE IS 10 CENTS PER MONTH, PAYABLE WHEN THE BILL FOR TELEPHONE SERVICE IS DUE.

(C) COLLECTION -- BY TELEPHONE COMPANIES.

(1) THE PUBLIC SERVICE COMMISSION SHALL DIRECT EACH TELEPHONE COMPANY TO ADD THE 9-1-1 FEE TO ALL CURRENT BILLS RENDERED FOR SWITCHED LOCAL EXCHANGE ACCESS SERVICE IN THE STATE.

(2) EACH TELEPHONE COMPANY:

(I) SHALL ACT AS A COLLECTION AGENT FOR THE 9-1-1 TRUST FUND WITH RESPECT TO THE 9-1-1 FEES;

(II) SHALL REMIT ALL MONEY COLLECTED TO THE COMPTROLLER ON A MONTHLY BASIS; AND

(III) IS ENTITLED TO CREDIT, AGAINST THE MONEY FROM THE 9-1-1 FEES TO BE REMITTED TO THE COMPTROLLER, AN AMOUNT EQUAL TO 0.75% OF THE 9-1-1 FEES TO COVER THE EXPENSES OF BILLING, COLLECTING, AND REMITTING THE 9-1-1 FEES AND ANY ADDITIONAL CHARGES.

(3) THE COMPTROLLER SHALL DEPOSIT THE MONEY REMITTED IN THE 9-1-1 TRUST FUND.

(D) SAME -- BY 9-1-1 SERVICE CARRIERS.

(1) EACH 9-1-1 SERVICE CARRIER SHALL ADD THE 9-1-1 FEE TO ALL CURRENT BILLS RENDERED FOR WIRELESS TELEPHONE SERVICE OR OTHER 9-1-1-ACCESSIBLE SERVICE IN THE STATE.

(2) EACH 9-1-1 SERVICE CARRIER:

(I) SHALL ACT AS A COLLECTION AGENT FOR THE 9-1-1 TRUST FUND WITH RESPECT TO THE 9-1-1 FEES;

(II) SHALL REMIT ALL MONEY COLLECTED TO THE COMPTROLLER ON A MONTHLY BASIS; AND

(III) IS ENTITLED TO CREDIT, AGAINST THE MONEY FROM THE 9-1-1 FEES TO BE REMITTED TO THE COMPTROLLER, AN AMOUNT EQUAL TO 0.75% OF THE 9-1-1 FEES TO COVER THE EXPENSES OF BILLING, COLLECTING, AND REMITTING THE 9-1-1 FEES AND ANY ADDITIONAL CHARGES.

(3) THE COMPTROLLER SHALL DEPOSIT THE MONEY REMITTED IN THE 9-1-1 TRUST FUND.

(E) APPLICABILITY TO INTERMEDIATE SERVICE LINES.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE 9-1-1 FEE DOES NOT APPLY TO AN INTERMEDIATE SERVICE LINE USED EXCLUSIVELY TO CONNECT A WIRELESS TELEPHONE SERVICE OR OTHER 9-1-1-ACCESSIBLE SERVICE, OTHER THAN A SWITCHED LOCAL ACCESS SERVICE, TO ANOTHER TELEPHONE SYSTEM OR SWITCHING DEVICE.

(F) LIABILITY OF CELLULAR TELEPHONE OR PERSONAL COMMUNICATION COMPANIES.

A CELLULAR TELEPHONE COMPANY OR PERSONAL COMMUNICATION COMPANY THAT PAYS OR COLLECTS 9-1-1 FEES UNDER THIS SECTION HAS THE SAME IMMUNITY FROM LIABILITY FOR TRANSMISSION FAILURES AS THAT APPROVED BY THE PUBLIC SERVICE COMMISSION FOR LOCAL EXCHANGE TELEPHONE COMPANIES THAT ARE SUBJECT TO REGULATION BY THE COMMISSION UNDER THE PUBLIC UTILITY COMPANIES ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 18-105(b) and (d) and 18-106(c).

Subsection (a) of this section is revised in the active voice to clarify that it is a duty of certain subscribers to pay a 9-1-1 fee.

In subsection (a) of this section, the former introductory language, "[f]or purposes of this subtitle", is deleted as surplusage.

In subsections (c)(2)(ii) and (iii) and (d)(2)(ii) and (iii) of this section, the references to "money" are substituted for the former references to "proceeds" for accuracy and consistency within this subtitle. Correspondingly, in subsections (c)(3) and (d)(3) of this section, the references to "money" are substituted for the former references to "funds".

In subsections (c)(2)(ii) and (d)(2)(ii) of this section, the references to all money "collected" are added for clarity.

In subsections (c)(2)(iii) and (d)(2)(iii) of this section, the references to the money from the 9-1-1 fee to be remitted "to the Comptroller" are added for clarity.

In subsection (e) of this section, the former reference to "the 911 fee authorized under this subtitle" is deleted as unnecessary in light of the use of the defined term "9-1-1 fee".

Defined terms: "Additional charge" § 1-301

"9-1-1-accessible service" § 1-301

"9-1-1 fee" § 1-301

"9-1-1 service carrier" § 1-301

"9-1-1 Trust Fund" § 1-301

"Wireless telephone service" § 1-301

1-311. ADDITIONAL CHARGE.

(A) AUTHORIZED.

IN ADDITION TO THE 9-1-1 FEE, THE GOVERNING BODY OF EACH COUNTY, BY ORDINANCE OR RESOLUTION ENACTED OR ADOPTED AFTER A PUBLIC HEARING, MAY IMPOSE AN ADDITIONAL CHARGE TO BE ADDED TO ALL CURRENT BILLS RENDERED FOR SWITCHED LOCAL EXCHANGE ACCESS SERVICE, WIRELESS TELEPHONE SERVICE, OR OTHER 9-1-1-ACCESSIBLE SERVICE IN THE COUNTY.

(B) LIMITATION ON AMOUNT.

(1) THE ADDITIONAL CHARGE IMPOSED BY A COUNTY MAY NOT EXCEED 50 CENTS PER MONTH PER BILL.

(2) THE AMOUNT OF THE ADDITIONAL CHARGES MAY NOT EXCEED A LEVEL NECESSARY TO COVER THE TOTAL ELIGIBLE MAINTENANCE AND OPERATION COSTS OF THE COUNTY.

(C) DURATION.

THE ADDITIONAL CHARGE CONTINUES IN EFFECT UNTIL REPEALED OR MODIFIED BY A SUBSEQUENT COUNTY ORDINANCE OR RESOLUTION.

(D) CERTIFICATION TO PUBLIC SERVICE COMMISSION.

AFTER IMPOSING, REPEALING, OR MODIFYING AN ADDITIONAL CHARGE, THE COUNTY SHALL CERTIFY THE AMOUNT OF THE ADDITIONAL CHARGE TO THE PUBLIC SERVICE COMMISSION.

(E) ADDITION TO BILLS -- BY TELEPHONE COMPANIES.

THE PUBLIC SERVICE COMMISSION SHALL DIRECT EACH TELEPHONE COMPANY THAT PROVIDES SERVICE IN A COUNTY THAT IMPOSED AN ADDITIONAL CHARGE TO ADD, WITHIN 60 DAYS, THE FULL AMOUNT OF THE ADDITIONAL CHARGE TO ALL CURRENT BILLS RENDERED FOR SWITCHED LOCAL EXCHANGE ACCESS SERVICE IN THE COUNTY.

(F) SAME -- BY 9-1-1 SERVICE CARRIERS.

WITHIN 60 DAYS AFTER A COUNTY ENACTS OR ADOPTS AN ORDINANCE OR RESOLUTION THAT IMPOSES, REPEALS, OR MODIFIES AN ADDITIONAL CHARGE, EACH 9-1-1 SERVICE CARRIER THAT PROVIDES SERVICE IN THE COUNTY SHALL ADD THE FULL AMOUNT OF THE ADDITIONAL CHARGE TO ALL CURRENT BILLS RENDERED FOR WIRELESS TELEPHONE SERVICE OR OTHER 9-1-1-ACCESSIBLE SERVICE IN THE COUNTY.

(G) COLLECTION.

(1) EACH TELEPHONE COMPANY AND EACH 9-1-1 SERVICE CARRIER SHALL:

(I) ACT AS A COLLECTION AGENT FOR THE 9-1-1 TRUST FUND WITH RESPECT TO THE ADDITIONAL CHARGE IMPOSED BY EACH COUNTY;

(II) COLLECT THE MONEY FROM THE ADDITIONAL CHARGE ON A COUNTY BASIS; AND

(III) REMIT ALL MONEY COLLECTED TO THE COMPTROLLER ON A MONTHLY BASIS.

(2) THE COMPTROLLER SHALL DEPOSIT THE MONEY REMITTED IN THE 9-1-1 TRUST FUND ACCOUNT MAINTAINED FOR THE COUNTY THAT IMPOSED THE ADDITIONAL CHARGE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 18-105(c).

In subsection (a) of this section, the reference to an ordinance or resolution "enacted or adopted" after a public hearing is added, and the reference to "impos[ing]" an additional charge is substituted, for the former reference to "enact[ing] or adopt[ing]" an additional charge, for accuracy.

Also in subsection (a) of this section, the reference to an additional charge to be "added" to bills is substituted for the former reference to an additional charge to be "applied" to bills for consistency with subsections (e) and (f) of this section.

Also in subsection (a) of this section, the former reference to "the 911 fee imposed by subsection (b) of this section" is deleted as unnecessary in light of the use of the defined term "9-1-1 fee".

In subsection (b)(1) of this section, the reference to the additional charge "imposed by a county" is added for clarity.

Also in subsection (b)(1) of this section, the phrase "per bill" is added to clarify that the additional charge may be added to each bill.

In subsection (c) of this section, the reference to a "county" ordinance or resolution is added for clarity and consistency with subsection (a) of this section.

In subsection (d) of this section, the reference to "imposing" an additional charge is substituted for the former reference to "adopting" an additional charge for accuracy.

In subsection (f) of this section, the reference to a county "adopt[ing]" an ordinance or resolution is added for consistency with subsection (a) of this section.

Also in subsection (f) of this section, the reference to an ordinance or resolution that "imposes" an additional charge is substituted for the former

reference to an ordinance or resolution that "adopts" an additional charge for accuracy.

In subsection (g)(1)(iii) of this section, the requirement that "all" money "collected" be remitted "on a" monthly "basis" is added for clarity and consistency with § 1-310(c)(2)(ii) and (d)(2)(ii) of this subtitle.

Subsection (g)(2) of this section is revised in the active voice to clarify that it is the duty of the Comptroller to deposit the money collected under this section in the appropriate 9-1-1 Trust Fund account.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that there is no procedure specified in the law for notifying 9-1-1 service carriers that an additional charge has been imposed by a county under this section.

Defined terms: "Additional charge" § 1-301

"County" § 1-101

"9-1-1-accessible service" § 1-301

"9-1-1 fee" § 1-301

"9-1-1 service carrier" § 1-301

"9-1-1 Trust Fund" § 1-301

"Wireless telephone service" § 1-301

1-312. EXPENDITURES BY COUNTIES FOR 9-1-1 SYSTEMS.

(A) AUTHORIZED.

DURING EACH COUNTY'S FISCAL YEAR, THE COUNTY MAY SPEND THE AMOUNTS DISTRIBUTED TO IT FROM 9-1-1 FEE COLLECTIONS FOR THE INSTALLATION, ENHANCEMENT, MAINTENANCE, AND OPERATION OF A COUNTY OR MULTICOUNTY 9-1-1 SYSTEM.

(B) ITEMS INCLUDED IN MAINTENANCE AND OPERATION COSTS.

MAINTENANCE AND OPERATION COSTS MAY INCLUDE TELEPHONE COMPANY CHARGES, EQUIPMENT COSTS, EQUIPMENT LEASE CHARGES, REPAIRS, UTILITIES, PERSONNEL COSTS, AND APPROPRIATE CARRYOVER COSTS FROM PREVIOUS YEARS.

(C) AUDIT OF COUNTY EXPENDITURES.

THE BOARD SHALL PROVIDE FOR AN AUDIT OF EACH COUNTY'S EXPENDITURES FOR THE MAINTENANCE AND OPERATION OF THE COUNTY'S 9-1-1 SYSTEM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 18-108.

In subsection (c) of this section, the reference to "the county's" 9-1-1 system is added for clarity.

Defined terms: "Board" § 1-301

"County" § 1-101

"9-1-1 fee" § 1-301

"9-1-1 system" § 1-301

GENERAL REVISOR'S NOTE TO SUBTITLE:

Throughout this subtitle, references to the three digits "9-1-1" are substituted for the former references to "911" for clarity at the request of the Emergency Number Systems Board. Correspondingly, references to the "9-1-1" system, "9-1-1" accessible service, the "9-1-1" fee, "9-1-1" service carriers, and the "9-1-1" Trust Fund are used throughout this subtitle. The Public Safety Article Review Committee notes these substitutions for consideration by the General Assembly.

Former Art. 41, § 18-104, which required submission to the Board of a plan for the enhancement of the 911 system for a county or a multicounty area, is transferred to the Session Laws. The dates for submitting the plans have passed and the provision is obsolete. The provision is decodified and retained in the law, however, for historical purposes.

Former Art. 41, § 18-108(d) and (e), which provided for counties without operational enhanced 911 systems, are transferred to the Session Laws. These provisions are obsolete because all counties have operational enhanced 9-1-1 systems. The provisions are decodified and retained in the law, however, for historical purposes.

TITLE 2. DEPARTMENT OF STATE POLICE.

SUBTITLE 1. DEFINITIONS.

2-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the introductory language of former Art. 88B, § 2.

The former phrase "unless the context manifestly indicates a different meaning" is deleted as an unnecessary statement of a general rule of statutory construction.

(B) CIVILIAN CLASSIFICATION.

"CIVILIAN CLASSIFICATION" MEANS THE POSITION HELD BY A CIVILIAN EMPLOYEE.

REVISOR'S NOTE: This subsection formerly was Art. 88B, § 2(1).

%No changes are made.

Defined term: "Civilian employee" § 2-101

(C) CIVILIAN EMPLOYEE.

"CIVILIAN EMPLOYEE" MEANS AN EMPLOYEE OF THE DEPARTMENT OTHER THAN A POLICE EMPLOYEE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first and third sentences of former Art. 88B, § 2(4).

Defined terms: "Department" § 2-101

"Police employee" § 2-101

(D) COMMISSIONED RANK.

(1) "COMMISSIONED RANK" MEANS THE RANKS OF LIEUTENANT, CAPTAIN, MAJOR, AND LIEUTENANT COLONEL.

(2) "COMMISSIONED RANK" DOES NOT INCLUDE THE SECRETARY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first and third sentences of former Art. 88B, § 2(2).

In paragraph (1) of this subsection, the general reference to the rank of "Lieutenant" is substituted for the former specific reference to the ranks of "Second Lieutenant" and "First Lieutenant". According to the consultant from the Department of State Police, the rank of Second Lieutenant is obsolete.

Defined term: "Secretary" § 2-101

(E) DEPARTMENT.

"DEPARTMENT" MEANS THE DEPARTMENT OF STATE POLICE.

REVISOR'S NOTE: This subsection formerly was Art. 88B, § 2(3).

No changes are made.

(F) GRADE.

"GRADE" MEANS THE STATUS OF POLICE EMPLOYEES THAT HAVE THE SAME PRIMARY AREAS OF DUTY AND RESPONSIBILITY WITHIN A RANK.

REVISOR'S NOTE: This subsection formerly was the second sentence of Art. 88B, § 2(7).

%The only changes are in style.

Defined terms: "Police employee" § 2-101

"Rank" § 2-101

(G) LAW ENFORCEMENT AGENCY.

(1) "LAW ENFORCEMENT AGENCY" MEANS A LAW ENFORCEMENT AGENCY OF A DEPARTMENT, COUNTY, OR MUNICIPAL CORPORATION OF THE STATE.

(2) "LAW ENFORCEMENT AGENCY" INCLUDES:

(I) SHERIFFS; AND

(II) SIMILAR AGENCIES OF OTHER STATES AND THE UNITED STATES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88B, § 2(5).

In paragraph (1) of this subsection, the term "municipal corporation" is substituted for the former term "municipality" to conform to Md. Constitution, Art. XI-E.

In paragraph (2)(ii) of this subsection, the former phrase "unless otherwise limited" is deleted as a general rule of statutory construction.

Defined terms: "County" § 1-101

"State" § 1-101

(H) NONCOMMISSIONED RANK.

(1) "NONCOMMISSIONED RANK" MEANS A RANK OTHER THAN A COMMISSIONED RANK.

(2) "NONCOMMISSIONED RANK" DOES NOT INCLUDE THE SECRETARY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the second and third sentences of former Art. 88B, § 2(2).

In paragraph (1) of this subsection, the reference to "a rank other than a commissioned rank" is substituted for the former reference to "any other rank" for specificity and clarity.

Defined terms: "Commissioned rank" § 2-101

"Rank" § 2-101

"Secretary" § 2-101

(I) POLICE EMPLOYEE.

"POLICE EMPLOYEE" MEANS AN EMPLOYEE OF THE DEPARTMENT TO WHOM THE SECRETARY ASSIGNS THE POWERS CONTAINED IN § 2-412 OF THIS TITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first and second sentences of former Art. 88B, § 2(4).

Defined terms: "Department" § 2-101

"Secretary" § 2-101

(J) RANK.

"RANK" MEANS THE STATUS, ESTABLISHED BY RULE, OF POLICE EMPLOYEES THAT HAVE THE SAME RELATIVE POSITION IN THE CHAIN OF COMMAND.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first sentence of former Art. 88B, § 2(7).

Defined terms: "Police employee" § 2-101

"Rule" § 2-101

(K) RULE.

(1) "RULE" MEANS A RULE, ORDER, OR OTHER DIRECTIVE ADOPTED BY THE SECRETARY UNDER THIS ARTICLE.

(2) "RULE" DOES NOT INCLUDE A REGULATION WITHIN THE MEANING OF TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88B, § 2(8).

In paragraph (1) of this subsection, the former reference to a "regulation" is deleted as unnecessary and confusing in light of paragraph (2) of this subsection.

In paragraph (2) of this subsection, the reference to a "regulation" is substituted for the former reference to a "rule" for clarity. The Public Safety Article Review Committee notes this substitution for consideration by the General Assembly. The former reference to a "rule" was misleading because Title 10, Subtitle 1 of the State Government Article generally covers regulations, not rules. Under SG § 10-101(g)(2), "regulation" does not include a statement that concerns only the internal management of a unit and does not directly affect the rights of the public or the procedures available to the public. "Rule" as defined in this subsection deals with the internal management of the Department of State Police and thus is not a "regulation" for purposes of the State Government Article.

The Public Safety Article Review Committee also notes, for consideration by the General Assembly, that the former reference to a rule, order, or

other directive adopted by the Secretary "pursuant to this article" referred to the power of the Secretary under former Article 88B. Under the revision, the reference "under this article" encompasses the powers of the Secretary under the Public Safety Article. Because the powers of the Secretary were contained in former Article 88B, which is revised in this article, the reference "under this article" does not result in a substantive change.

Defined term: "Secretary" § 2-101

(L) SECRETARY.

"SECRETARY" MEANS THE SECRETARY OF STATE POLICE.

REVISOR'S NOTE: This subsection formerly was Art. 88B, § 2(10).

The only change is in style.

SUBTITLE 2. ORGANIZATION AND ADMINISTRATION OF DEPARTMENT.

2-201. DEPARTMENT ESTABLISHED.

THERE IS A DEPARTMENT OF STATE POLICE, ESTABLISHED AS A PRINCIPAL DEPARTMENT OF STATE GOVERNMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 1(a), as it related to establishing the Department.

It is set forth as a separate section for emphasis.

Former Art. 88B, § 1(a), as it related to the Department having powers and duties and being administered in accordance with former Article 88B, is deleted as unnecessary. The various provisions of former Article 88B relating to the powers, duties, and administration of the Department - all of which are revised in this article - apply whether or not this section so states.

See generally SG § 8-201, which lists the principal departments of State government.

2-202. SECRETARY.

(A) APPOINTMENT.

THE GOVERNOR SHALL APPOINT THE SECRETARY OF STATE POLICE WITH THE ADVICE AND CONSENT OF THE SENATE.

(B) QUALIFICATIONS.

(1) THE APPOINTEE SHALL BE A CITIZEN OF THE UNITED STATES.

(2) THE APPOINTEE SHALL BE QUALIFIED ON THE BASIS OF TRAINING, EXPERIENCE, AND ABILITY TO DISCHARGE THE DUTIES OF THE SECRETARY.

(C) TERM.

THE SECRETARY SERVES AT THE PLEASURE OF THE GOVERNOR.

(D) SALARY.

THE SECRETARY IS ENTITLED TO THE SALARY PROVIDED IN THE STATE BUDGET.

(E) DUTIES.

(1) THE SECRETARY SHALL SUPERVISE AND DIRECT THE AFFAIRS AND OPERATIONS OF THE DEPARTMENT.

(2) THE SECRETARY IS RESPONSIBLE FOR CARRYING OUT THE GOVERNOR'S POLICIES WITH RESPECT TO THOSE MATTERS SPECIFIED IN TITLES 2, 4, 5, 11, AND 14 OF THIS ARTICLE.

(3) THE SECRETARY SHALL REPORT TO THE GOVERNOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 14.

In subsection (e)(2) of this section, the reference to "Titles 2, 4, 5, 11, and 14 of this article" is substituted for the former obsolete reference to "this article [Article 88B] and Article 16A of the Code". Former Article 88B and former Article 16A are revised in Titles 2, 4, 5, 11, and 14 of this article.

Defined terms: "Department" § 2-101

"Secretary" § 2-101

2-203. DEPUTY SECRETARY.

(A) DESIGNATION.

WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY MAY DESIGNATE WITHOUT EXAMINATION ONE POLICE EMPLOYEE HOLDING THE HIGHEST COMMISSIONED RANK TO BE DEPUTY SECRETARY.

(B) TERM.

THE DEPUTY SECRETARY SERVES AT THE PLEASURE OF THE SECRETARY.

(C) SALARY.

THE DEPUTY SECRETARY:

(1) IS ENTITLED TO THE SALARY PROVIDED IN THE STATE BUDGET; BUT

(2) MAY NOT BE PAID IN ACCORDANCE WITH § 2-405 OF THIS TITLE.

(D) AUTHORITY, RESPONSIBILITY, AND DUTIES.

(1) THE DEPUTY SECRETARY HAS THE AUTHORITY, RESPONSIBILITY, AND DUTIES ASSIGNED BY THE SECRETARY.

(2) WHENEVER THE SECRETARY IS ABSENT FROM THE STATE OR INCAPACITATED, THE DEPUTY SECRETARY HAS, UNTIL THE SECRETARY RETURNS OR IS NO LONGER INCAPACITATED, ALL OF THE POWERS AND DUTIES CONFERRED BY LAW ON THE SECRETARY.

(E) EFFECT OF TERMINATION.

AFTER THE SECRETARY TERMINATES A DESIGNATION AS DEPUTY SECRETARY, THE INDIVIDUAL:

(1) RETURNS TO THE RANK HELD BEFORE DESIGNATION AS DEPUTY SECRETARY; AND

(2) SHALL THEN BE PAID IN ACCORDANCE WITH § 2-405 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 16.

In subsection (b) of this section, the former phrase "notwithstanding any other provision of this article" is deleted as unnecessary.

Also in subsection (b) of this section, the former reference to the deputy secretary being "designated in accordance with this section" is deleted as surplusage because no other section authorizes a deputy secretary to be designated.

In subsection (d)(2) of this section, the reference to the Secretary being "incapacitated" is substituted for the former reference to the Secretary having an "incapacitating disability" for brevity. Similarly, the phrase "until the Secretary ... is no longer incapacitated" is substituted for the former phrase "until the disability is removed" for consistency.

Defined terms: "Department" § 2-101

"Police employee" § 2-101

"Secretary" § 2-101

2-204. GENERAL POWERS OF SECRETARY.

(A) POLICE POWERS.

THE SECRETARY AND DEPUTY SECRETARY HAVE THROUGHOUT THE STATE THE SAME POWERS, PRIVILEGES, IMMUNITIES, AND DEFENSES AS SHERIFFS, CONSTABLES, POLICE OFFICERS, AND OTHER PEACE OFFICERS POSSESSED AT

COMMON LAW AND MAY NOW OR IN THE FUTURE EXERCISE WITHIN THEIR RESPECTIVE JURISDICTIONS.

(B) MANAGEMENT OF DEPARTMENT.

IN ADDITION TO ANY POWERS SET FORTH ELSEWHERE, THE SECRETARY MAY:

(1) ESTABLISH THE ORGANIZATION OF THE DEPARTMENT;

(2) CREATE UNITS IN THE DEPARTMENT;

(3) DEFINE THE FUNCTIONS, DUTIES, AND RESPONSIBILITIES OF EACH UNIT IN THE DEPARTMENT;

(4) REDEFINE PERIODICALLY THE FUNCTIONS, DUTIES, AND RESPONSIBILITIES OF ANY UNIT IN THE DEPARTMENT, WHETHER CREATED BY THE SECRETARY OR BY LAW;

(5) ASSIGN AND REASSIGN EMPLOYEES OF THE DEPARTMENT TO THE DUTIES, UNITS, AND REGIONAL FACILITIES OF THE DEPARTMENT AS THE SECRETARY CONSIDERS NECESSARY TO SERVE THE NEEDS OF THE DEPARTMENT AND THE PUBLIC;

(6) ESTABLISH STANDARDS, QUALIFICATIONS, AND PREREQUISITES OF CHARACTER, TRAINING, EDUCATION, AND EXPERIENCE FOR EMPLOYEES OF THE DEPARTMENT;

(7) ESTABLISH RANKS AND GRADES AND, IN ACCORDANCE WITH TITLE 6, SUBTITLE 4 OF THE STATE PERSONNEL AND PENSIONS ARTICLE, CIVILIAN CLASSIFICATIONS AS THE SECRETARY CONSIDERS NECESSARY AND APPROPRIATE;

(8) DESIGNATE THE AUTHORITY, RESPONSIBILITY, AND DUTIES OF RANKS, GRADES, AND CIVILIAN CLASSIFICATIONS AND THE ORDER OF SUCCESSION TO POSITIONS OF COMMAND WITHIN THE DEPARTMENT;

(9) APPOINT, PROMOTE, REDUCE IN RANK OR CIVILIAN CLASSIFICATION, REASSIGN, RECLASSIFY, RETIRE, AND DISCHARGE ANY EMPLOYEE OF THE DEPARTMENT IN THE MANNER REQUIRED BY LAW;

(10) REGULATE ATTENDANCE, CONDUCT, TRAINING, DISCIPLINE, AND PROCEDURE FOR EMPLOYEES OF THE DEPARTMENT;

(11) PROVIDE SYSTEMS FOR PERIODIC EVALUATION AND IMPROVEMENT OF THE PERFORMANCE AND PHYSICAL CONDITION OF EMPLOYEES OF THE DEPARTMENT, INCLUDING IN-SERVICE TRAINING PROGRAMS AND COURSES;

(12) ESTABLISH HEADQUARTERS, BARRACKS, POSTS, COMMANDS, AND OTHER REGIONAL FACILITIES IN LOCALITIES AS NECESSARY FOR THE EFFICIENT PERFORMANCE OF THE DUTIES OF THE DEPARTMENT;

(13) CLOSE HEADQUARTERS, BARRACKS, POSTS, COMMANDS, AND OTHER REGIONAL FACILITIES WHEN THEIR NEED CEASES TO EXIST;

(14) PURCHASE OR OTHERWISE ACQUIRE THE LAND, FACILITIES, EQUIPMENT, OR SERVICES AS ARE CONSIDERED ESSENTIAL FOR THE NEEDS OF THE DEPARTMENT OR ITS EMPLOYEES IN CARRYING OUT THEIR DUTIES, IN THE MANNER REQUIRED BY LAW;

(15) SELL OR DISPOSE OF LAND, FACILITIES, OR EQUIPMENT AS THEY BECOME UNNECESSARY OR UNFIT FOR FURTHER USE, IN THE MANNER REQUIRED BY LAW;

(16) ESTABLISH AND MODIFY SYSTEMS FOR RECEIVING, PROCESSING, AND MAINTAINING:

(I) REPORTS AND RECORDS OF OCCURRENCES OR ALLEGED OCCURRENCES OF CRIME AND MOTOR VEHICLE ACCIDENTS IN THE STATE; AND

(II) REPORTS AND RECORDS OF THE ADMINISTRATION, MANAGEMENT, AND OPERATIONS OF THE DEPARTMENT; AND

(17) ESTABLISH PROCEDURES FOR SAFEKEEPING, COPYING, AND DESTROYING RECORDS OF THE DEPARTMENT.

(C) LIMITATION.

THE SECRETARY MAY NOT EXERCISE OR PERFORM THE POWERS, DUTIES, RESPONSIBILITIES, AND FUNCTIONS SET FORTH IN §§ 6-301, 6-302, AND 6-501 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 15(c) and (b)(1) through (13) and, as it related to the Secretary and deputy secretary, the first sentence of § 4(b).

In the introductory language of subsection (b) of this section, the former reference to the Secretary "supervising and directing the affairs of the Department and exercising the powers referred to in the preceding subsection" is deleted as unnecessary. The Secretary has the duty to supervise and direct the affairs of the Department under § 2-202(e)(1) of this subtitle. The "preceding subsection" - former Art. 88B, § 15(a) - is revised in § 2-205(a) of this subtitle. The power of the Secretary under § 2-205(a) of this subtitle stands on its own as a substantive provision and need not specifically be cross-referenced in subsection (b) of this section.

In subsection (b)(1) of this section, the former reference to the power to "determine" the "form of" organization of the Department is deleted as surplusage in light of the reference to the power to "establish" the organization of the Department.

In subsection (b)(2) of this section, the reference to "units" is substituted

for the former reference to "subordinate organizational subdivisions" for brevity and consistency with other revised articles of the Code. Similarly, in subsection (b)(3), (4), and (5) of this section, the references to a "unit" are substituted for the former references to an "organizational subdivision[s]" and a "departmental subdivision". *See* General Revisor's Note to article.

In subsection (b)(3) of this section, the former word "determine" is deleted as surplusage in light of the word "define". Similarly, in subsection (b)(4) of this section, the former word "reclassify" is deleted as included in the word "redefine".

In subsection (b)(5) of this section, the former reference to the power to "allocate and reallocate" employees is deleted as included in the reference to the power to "assign and reassign" employees.

Also in subsection (b)(5) of this section, the former reference to "best" serve the needs of the Department and the public is deleted as implicit.

In subsection (b)(12) and (13) of this section, the Secretary has the power to establish specified facilities "as necessary" for the efficient performance of the duties of the Department and to close them when their need "ceases to exist". Former Art. 88B, § 15(b)(10), from which these revised provisions were derived, did not specify what entity determined when the facilities were necessary or when their need ceased to exist. Arguably, it is implicit that the entity who makes these determinations is the Secretary. Similarly, in subsection (b)(14) of this section, the Secretary has the power to make specified purchases and acquisitions "as are considered essential for the needs of the Department", but the provision does not explicitly state the entity that considers them to be essential. *See* former Art. 88B, § 15(b)(11). However, in subsection (b)(5) and (7) of this section, the revision, reflecting former Art. 88B, § 15(b)(3) and (5) from which those revised provisions were derived, states explicitly that the Secretary determines when assignment and reassignment of employees and the establishment of ranks and grades is necessary. The Public Safety Article Review Committee calls this difference in similar provisions of the law to the attention of the General Assembly.

In subsection (b)(17) of this section, the former phrase "not inconsistent with law", which modified procedures for safekeeping, copying, and destroying records of the Department, is deleted as implicit.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that the references in former Art. 88B, § 15(c) to "Article 38A, §§ 7(a) and 14(a) of the Code", revised in subsection (c) of this section, do not make sense. The cross-referenced provisions establish the office of State Fire Marshal and provide for appeals to the State Fire Prevention Commission. Because the Public Safety Article Review Committee could not determine what the proper cross-references should be, the seemingly incorrect cross-references are retained in the revision.

Defined terms: "Civilian classification" § 2-101

"Department" § 2-101

"Grade" § 2-101

"Rank" § 2-101

"Secretary" § 2-101

2-205. RULES.

(A) POWER OF SECRETARY TO ADOPT.

THE SECRETARY MAY ADOPT RULES NECESSARY TO:

(1) PROMOTE THE EFFECTIVE AND EFFICIENT PERFORMANCE OF THE DUTIES OF THE DEPARTMENT; AND

(2) ENSURE THE GOOD GOVERNMENT OF THE DEPARTMENT AND ITS EMPLOYEES.

(B) CHANGES TO RULES.

THE SECRETARY MAY SUSPEND, AMEND, RESCIND, ABROGATE, OR CANCEL ANY RULE ADOPTED BY THE SECRETARY OR ANY FORMER SECRETARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 15(a) and (b)(14).

Defined terms: "Department" § 2-101

"Rule" § 2-101

"Secretary" § 2-101

2-206. COUNSEL TO DEPARTMENT.

THE ATTORNEY GENERAL SHALL REPRESENT THE DEPARTMENT.

REVISOR'S NOTE: This section formerly was Art. 88B, § 29.

The only changes are in style.

See generally SG § 6-106, which provides that the Attorney General generally "is the [sole] legal adviser [for] ... each ... unit of the State government".

Defined term: "Department" § 2-101

2-207. UNITS IN DEPARTMENT.

THE FOLLOWING UNITS ARE IN THE DEPARTMENT:

(1) THE STATE FIRE PREVENTION COMMISSION;

(2) THE OFFICE OF STATE FIRE MARSHAL; AND

(3) ANY OTHER UNIT DETERMINED BY THE SECRETARY TO BE PART OF THE DEPARTMENT OR ESTABLISHED BY LAW AS PART OF THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 1(b).

In items (1) and (2) of this section, the former phrase "as provided by Article 38A of the Code" is deleted as unnecessary. The relevant provisions on the State Fire Prevention Commission and the office of State Fire Marshal that formerly appeared in Article 38A now appear in Title 6 of this article.

In item (3) of this section, the reference to a "unit" is substituted for the former reference to any other "divisions, agencies, offices, commissions, boards, committees, councils, or units of government" for brevity and consistency throughout this article. *See* General Revisor's Note to article.

Defined terms: "Department" § 2-101

"Secretary" § 2-101

2-208. DEPARTMENTAL FINANCES.

(A) SALARIES, EXPENSES, AND COSTS OF DEPARTMENT.

(1) SALARIES, EXPENSES, AND OTHER COSTS INCIDENT TO THE OPERATION OF THE DEPARTMENT AND THE PERFORMANCE OF ITS DUTIES, IN ACCORDANCE WITH THE STATE BUDGET, SHALL BE DISBURSED IN THE MANNER REQUIRED BY LAW.

(2) THE SOURCE OF THE DEPARTMENT'S MONEY FOR THE COSTS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE DETERMINED IN ACCORDANCE WITH § 12-118 OF THE TRANSPORTATION ARTICLE OR AS OTHERWISE PROVIDED BY LAW.

(B) DISPOSITION OF MONEY.

EXCEPT AS PROVIDED IN § 2-311 OF THIS TITLE OR AS OTHERWISE PROVIDED BY LAW, ALL OTHER MONEY RECEIVED BY THE DEPARTMENT SHALL BE PAID INTO THE STATE TREASURY AND CREDITED TO THE USE OF THE DEPARTMENT.

(C) AUDIT.

THE FINANCES OF THE DEPARTMENT ARE SUBJECT TO AUDIT AS PROVIDED BY LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 28.

In subsection (a)(1) of this section, the phrase "[i]n accordance with" the State budget is substituted for the former phrase "in such amount as is

established by" the budget for consistency with similar provisions throughout the revised articles of the Code.

In subsection (a)(2) of this section, the reference to "money" is substituted for the former reference to "funds" for consistency with subsection (b) of this section.

Defined term: "Department" § 2-101

SUBTITLE 3. POWERS AND DUTIES OF DEPARTMENT.

2-301. GENERAL DUTIES OF DEPARTMENT.

(A) LAW ENFORCEMENT DUTIES.

(1) THE DEPARTMENT HAS THE GENERAL DUTY TO SAFEGUARD THE LIVES AND SAFETY OF ALL PERSONS IN THE STATE, TO PROTECT PROPERTY, AND TO ASSIST IN SECURING TO ALL PERSONS THE EQUAL PROTECTION OF THE LAWS.

(2) SPECIFICALLY, THIS DUTY INCLUDES THE RESPONSIBILITY TO:

(I) PRESERVE THE PUBLIC PEACE;

(II) DETECT AND PREVENT THE COMMISSION OF CRIME;

(III) ENFORCE THE LAWS AND ORDINANCES OF THE STATE, COUNTIES, AND MUNICIPAL CORPORATIONS;

(IV) APPREHEND AND ARREST CRIMINALS AND THOSE WHO VIOLATE OR ARE LAWFULLY ACCUSED OF VIOLATING THE LAWS AND ORDINANCES OF THE STATE, COUNTIES, AND MUNICIPAL CORPORATIONS;

(V) PRESERVE ORDER AT PUBLIC PLACES;

(VI) MAINTAIN THE SAFE AND ORDERLY FLOW OF TRAFFIC ON PUBLIC STREETS AND HIGHWAYS;

(VII) COOPERATE WITH AND ASSIST LAW ENFORCEMENT AGENCIES IN CARRYING OUT THEIR RESPECTIVE DUTIES; AND

(VIII) DISCHARGE THE DUTIES AND RESPONSIBILITIES OF THE DEPARTMENT WITH THE DIGNITY AND IN A MANNER THAT WILL INSPIRE PUBLIC CONFIDENCE AND RESPECT.

(B) REGULATORY DUTIES.

THE DEPARTMENT SHALL:

(1) ADMINISTER THE LAWS THAT RELATE TO:

(I) THE SALES OF PISTOLS AND REVOLVERS;

(II) THE LICENSING AND SUPERVISION OF PRIVATE DETECTIVE AGENCIES;

(III) THE CERTIFICATION OF PRIVATE DETECTIVES AND SECURITY GUARDS;

(IV) THE REGISTRATION OF EAVESDROPPING OR WIRETAPPING DEVICES; AND

(V) THE INSPECTION OF CLASSES OF MOTOR VEHICLES AS PROVIDED ELSEWHERE IN THE CODE; AND

(2) PERFORM ANY OTHER DUTY THAT MAY BE ASSIGNED BY THE GENERAL ASSEMBLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, §§ 3 and 13.

In subsection (a)(2)(iii) of this section, the specific references to "counties" and "municipal corporations" are substituted for the former general reference to "local subdivisions" for clarity and consistency throughout this article. Consequently, in subsection (a)(2)(iv) of this section, the reference to the laws and ordinances "of the State, counties, and municipal corporations" is added to clarify the former reference to "such" laws and ordinances.

As to subsection (b)(1)(v) of this section, *see generally* Title 24 of the Transportation Article.

In subsection (b)(2) of this section, the former phrase "from time to time" is deleted as implicit.

Defined terms: "County" § 1-101

"Department" § 2-101

"Law enforcement agency" § 2-101

"Person" § 1-101

2-302. COORDINATION WITH OTHER LAW ENFORCEMENT AGENCIES.

(A) SUPPLEMENTAL AND CONCURRENT POWERS AND DUTIES.

THE POWERS AND DUTIES OF THE DEPARTMENT WITH RESPECT TO LAW ENFORCEMENT ARE SUPPLEMENTAL TO AND CONCURRENT WITH SIMILAR POWERS AND DUTIES CONFERRED BY LAW ON OTHER LAW ENFORCEMENT AGENCIES OF THE STATE IN THEIR RESPECTIVE JURISDICTIONS.

(B) COOPERATION AMONG LAW ENFORCEMENT AGENCIES.

(1) TECHNOLOGICAL DEVELOPMENTS, CHANGES IN THE POPULATION AND ECONOMY OF THE STATE, AND OTHER FACTORS DIRECTLY RELATED TO PROPER

LAW ENFORCEMENT REQUIRE EFFECTIVE COOPERATION AMONG ALL LAW ENFORCEMENT AGENCIES IN ORDER TO PROVIDE:

(I) EFFICIENT UTILIZATION OF EQUIPMENT, PERSONNEL, AND INFORMATION; AND

(II) PROMPT MEANS OF COLLECTION, ANALYSIS, AND DISSEMINATION OF INFORMATION RELEVANT TO THE DUTIES OF THE LAW ENFORCEMENT AGENCIES.

(2) THE DUTIES IMPOSED ON THE DEPARTMENT BY THIS TITLE:

(I) SHALL PROMOTE EFFECTIVE COOPERATION AMONG LAW ENFORCEMENT AGENCIES; AND

(II) DO NOT LIMIT THE POWERS OR RESPONSIBILITIES OF ANY OTHER LAW ENFORCEMENT AGENCY OR MAKE ANY OTHER LAW ENFORCEMENT AGENCY SUBJECT TO THE SUPERVISION OF THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 5.

In the introductory language of subsection (b)(2) of this section, the general reference to the duties imposed by this "title" is substituted for the former specific reference to the duties imposed by this "subtitle" because some duties of the Department are found in other subtitles of this title. No substantive change is intended.

Defined terms: "Department" § 2-101

"Law enforcement agency" § 2-101

2-303. TRAINING FACILITIES.

(A) AVAILABILITY TO OTHER AGENCIES.

AS PROVIDED IN THE STATE BUDGET, THE DEPARTMENT SHALL MAKE ITS TRAINING FACILITIES AVAILABLE TO ANY LAW ENFORCEMENT AGENCY OF THE STATE AND TO THE POLICE TRAINING COMMISSION TO THE EXTENT THAT THE TRAINING FACILITIES AND EMPLOYEES OF THE DEPARTMENT ARE AVAILABLE.

(B) RULES.

THE SECRETARY SHALL ADOPT RULES TO GOVERN:

(1) THE EXTENT TO WHICH THE TRAINING FACILITIES OF THE DEPARTMENT MAY BE USED;

(2) THE COURSE OF TRAINING; AND

(3) THE QUALIFICATIONS OF INDIVIDUALS WHO WILL USE THE TRAINING FACILITIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 6.

In subsection (a) of this section, the phrase "[a]s provided in the State budget" is substituted for the former phrase "to the extent permitted by fiscal appropriation" to conform to language used in other revised articles of the Code.

In subsection (b)(3) of this section, the reference to "individuals" is substituted for the former reference to "persons" because human beings, and not the other entities included in the defined term "person", use the training facilities of the Department.

Defined terms: "Department" § 2-101

"Law enforcement agency" § 2-101

"Rule" § 2-101

"Secretary" § 2-101

2-304. COMPUTER AND COMMUNICATION SYSTEMS.

(A) USE BY OTHER AGENCIES AND UNITS.

THE DEPARTMENT MAY PERMIT A LAW ENFORCEMENT AGENCY OF THE STATE OR A STATE UNIT TO CONNECT WITH AND USE A COMPUTER OR COMMUNICATION SYSTEM ESTABLISHED BY THE DEPARTMENT FOR STATEWIDE USE INCLUDING:

(1) A VOICE COMMUNICATION SYSTEM;

(2) A DATA COMMUNICATION SYSTEM;

(3) A MESSAGE SWITCHING SYSTEM;

(4) THE MARYLAND INTERAGENCY LAW ENFORCEMENT SYSTEM (MILES);

(5) THE NATIONAL CRIME INFORMATION CENTER (NCIC); AND

(6) THE NATIONAL LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM (NLETS).

(B) RULES.

(1) THE CONNECTION WITH AND USE OF A COMPUTER OR COMMUNICATION SYSTEM UNDER THIS SECTION IS SUBJECT TO RULES ADOPTED BY THE SECRETARY TO:

(I) PROMOTE THE PURPOSES OF THIS TITLE;

(II) ENSURE THE EFFECTIVE, ECONOMICAL, AND EFFICIENT UTILIZATION OF THE ENTIRE SYSTEM; AND

(III) PREVENT INTERFERENCE WITH THE LAW ENFORCEMENT DUTIES OF THE DEPARTMENT.

(2) VIOLATION OF A RULE ADOPTED UNDER THIS SUBSECTION IS A SUFFICIENT BASIS TO WITHDRAW PERMISSION TO CONNECT WITH AND USE THE COMPUTER OR COMMUNICATION SYSTEM.

(C) COSTS.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AS PROVIDED IN THE STATE BUDGET, THE STATE SHALL PAY THE COST OF RENTAL OF THE COMPUTER AND COMMUNICATION EQUIPMENT AND THE CIRCUITRY NECESSARY FOR THE EQUIPMENT UNDER THIS SECTION.

(2) A LAW ENFORCEMENT AGENCY THAT USES THE DEPARTMENT'S COMPUTER OR COMMUNICATION SYSTEM SHALL PAY THE COSTS OF SUPPLIES AND OTHER CHARGES FOR THE RENTAL OR PURCHASE OF TERMINAL DEVICES AND THE CIRCUITRY NECESSARY TO CONNECT WITH THE DEPARTMENT'S COMPUTER OR COMMUNICATION SYSTEM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 7.

In the introductory language of subsection (a) of this section, the reference to "a computer or communication system" is substituted for the former reference to "any computer ... or other communication system" for clarity. Consequently, throughout subsections (b) and (c) of this section, references to a "computer or communication system" are added for consistency with subsection (a) of this section.

Also in the introductory language of subsection (a) of this section, the former reference to a State unit "authorized by the Department" is deleted as redundant.

In subsection (c)(1) of this section, the phrase "as provided in the State budget" is substituted for the former phrase "[t]o the extent permitted by specific budget appropriation" to conform to language used in other revised articles of the Code.

Defined terms: "Department" § 2-101

"Law enforcement agency" § 2-101

"Rule" § 2-101

"Secretary" § 2-101

2-305. CIVIL CHILD SUPPORT WARRANTS AND CIVIL PROTECTIVE ORDERS.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "CIVIL CHILD SUPPORT WARRANT" MEANS ANY OF THE FOLLOWING, WHEN ISSUED FOR THE ENFORCEMENT OF A CHILD SUPPORT ORDER:

(I) AN ARREST WARRANT;

(II) A BENCH WARRANT;

(III) A BODY ATTACHMENT ISSUED BY A CIRCUIT COURT; OR

(IV) A WARRANT FOR FAILURE TO APPEAR.

(3) "CIVIL PROTECTIVE ORDER" MEANS:

(I) A TEMPORARY EX PARTE ORDER ISSUED UNDER § 4-505 OF THE FAMILY LAW ARTICLE;

(II) A PROTECTIVE ORDER ISSUED UNDER § 4-506 OF THE FAMILY LAW ARTICLE; OR

(III) AN ORDER FOR PROTECTION, AS DEFINED IN § 4-508.1 OF THE FAMILY LAW ARTICLE, ISSUED BY A COURT OF ANOTHER STATE OR A NATIVE AMERICAN TRIBE AND FILED WITH THE DISTRICT COURT OR A CIRCUIT COURT UNDER § 4-508.1 OF THE FAMILY LAW ARTICLE.

(4) "SYSTEM" MEANS THE MARYLAND INTERAGENCY LAW ENFORCEMENT SYSTEM.

(B) DUTIES OF DEPARTMENT.

THE DEPARTMENT SHALL:

(1) COOPERATE WITH LOCAL CHILD SUPPORT ENFORCEMENT OFFICES AND LAW ENFORCEMENT AGENCIES TO RECEIVE, ACCEPT, AND INCORPORATE CIVIL CHILD SUPPORT WARRANTS IN THE SYSTEM; AND

(2) COOPERATE WITH THE ADMINISTRATIVE OFFICE OF THE COURTS, THE CHIEF CLERK OF THE DISTRICT COURT OF MARYLAND, AND THE CLERKS OF THE CIRCUIT COURTS TO RECEIVE, ACCEPT, AND INCORPORATE CIVIL PROTECTIVE ORDERS IN THE SYSTEM.

(C) ENTRY IN SYSTEM.

(1) LOCAL CHILD SUPPORT ENFORCEMENT OFFICES AND APPROPRIATE LOCAL LAW ENFORCEMENT AGENCIES SHALL BE RESPONSIBLE FOR ENTRY, MAINTENANCE, AND PROMPT VALIDATION OF CIVIL CHILD SUPPORT WARRANTS IN THE SYSTEM IN ACCORDANCE WITH PROCEDURES ADOPTED BY THE DEPARTMENT.

(2) THE CLERKS OF THE COURTS AND APPROPRIATE LOCAL LAW ENFORCEMENT AGENCIES SHALL BE RESPONSIBLE FOR ENTRY, MAINTENANCE, AND PROMPT VALIDATION OF CIVIL PROTECTIVE ORDERS IN THE SYSTEM IN ACCORDANCE WITH PROCEDURES ADOPTED BY THE DEPARTMENT.

(D) ACCESS TO SYSTEM TO DETERMINE STATUS.

A JUDGE OR LAW ENFORCEMENT AGENCY OR OFFICER MAY ACCESS THE SYSTEM TO DETERMINE THE STATUS OF:

(1) AN OUTSTANDING CIVIL CHILD SUPPORT WARRANT ISSUED BY A COURT OF THE STATE;

(2) AN OUTSTANDING CIVIL PROTECTIVE ORDER ISSUED BY A COURT OF THE STATE; AND

(3) AN OUTSTANDING CIVIL PROTECTIVE ORDER ISSUED BY A COURT OF ANOTHER STATE OR AN INDIAN TRIBE AND FILED WITH THE DISTRICT COURT OR A CIRCUIT COURT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 7A.

In subsection (a)(3)(i) of this section, the reference to a "temporary" ex parte order is added for consistency with terminology used in FL § 4-505.

Defined terms: "Department" § 2-101

"Law enforcement agency" § 2-101

"State" § 2-101

2-306. INFORMATION ABOUT OCCURRENCE OF MOTOR VEHICLE ACCIDENTS.

(A) IN GENERAL.

THE DEPARTMENT SHALL COLLECT, ANALYZE, AND DISSEMINATE INFORMATION ABOUT THE OCCURRENCE OF MOTOR VEHICLE ACCIDENTS IN THE STATE.

(B) INFORMATION PROVIDED BY OTHER AGENCIES AND COMMISSIONS.

THE MOTOR VEHICLE ADMINISTRATION, STATE HIGHWAY ADMINISTRATION, STATE POSTMORTEM EXAMINERS COMMISSION, COMMISSIONS CONCERNED WITH HIGHWAY SAFETY, AND LAW ENFORCEMENT AGENCIES OF THE STATE SHALL PROVIDE INFORMATION ABOUT THE OCCURRENCE OF MOTOR VEHICLE ACCIDENTS IN THE STATE TO THE DEPARTMENT AT THE TIMES AND IN THE FORM THAT THE SECRETARY REQUIRES BY RULE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 8.

In subsection (a) of this section, former Art. 88B, § 2(6), which defined "motor vehicle" to mean a motor vehicle as defined in the Maryland Vehicle Law, is deleted. The sense in which the former law defined the term "motor vehicle" is implicit in the way the term is used in the revision and consequently the former definition is unnecessary in the revision.

%In subsection (b) of this section, the reference to information provided to "the Department" is added to clarify to whom the information is to be provided.

Defined terms: "Department" § 2-101

"Law enforcement agency" § 2-101

"Rule" § 2-101

"Secretary" § 2-101

2-307. INFORMATION ABOUT INCIDENCE OF CRIME.

(A) IN GENERAL.

THE DEPARTMENT SHALL COLLECT, ANALYZE, AND DISSEMINATE INFORMATION ABOUT THE INCIDENCE OF CRIME IN THE STATE.

(B) HATE CRIMES.

(1) THE DEPARTMENT SHALL COLLECT AND ANALYZE INFORMATION ABOUT INCIDENTS APPARENTLY DIRECTED AGAINST AN INDIVIDUAL OR GROUP BECAUSE OF RACE, RELIGION, ETHNICITY, OR SEXUAL ORIENTATION.

(2) EACH LOCAL LAW ENFORCEMENT AGENCY AND THE STATE FIRE MARSHAL SHALL PROVIDE THE DEPARTMENT WITH THE INFORMATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

(3) THE DEPARTMENT SHALL ADOPT PROCEDURES FOR THE COLLECTION AND ANALYSIS OF THE INFORMATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

(4) THE DEPARTMENT SHALL MAKE MONTHLY REPORTS TO THE COMMISSION ON HUMAN RELATIONS ABOUT THE INFORMATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, §§ 9 and 10(b).

In subsection (b)(1) of this section, the former reference to the "individual's or the group's" race, religion, ethnicity, or sexual orientation is deleted as implicit.

In subsection (b)(4) of this section, the reference to the "Commission on Human Relations" is substituted for the former reference to the "State Human Relations Commission" to reflect the official name of that unit. *See* Art. 49B, § 1.

Defined terms: "Department" § 2-101

"Law enforcement agency" § 2-101

2-308. DISSEMINATION OF INFORMATION.

(A) AVAILABILITY OF INFORMATION TO AGENCIES AND UNITS.

(1) ANY INFORMATION, RECORDS, OR STATISTICS COLLECTED UNDER THIS SUBTITLE SHALL BE AVAILABLE FOR USE BY ANY AGENCY OR UNIT REQUIRED TO PROVIDE INFORMATION TO THE DEPARTMENT.

(2) BY RULE, THE SECRETARY MAY ESTABLISH CONDITIONS FOR THE USE OR AVAILABILITY OF THE INFORMATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION AS NECESSARY:

(I) TO PRESERVE THE INFORMATION;

(II) TO PROTECT ANY CONFIDENTIAL INFORMATION; OR

(III) BECAUSE OF A PENDING PROSECUTION.

(B) PUBLICATION OF STATISTICS.

(1) THE DEPARTMENT:

(I) SHALL PERIODICALLY PUBLISH STATISTICS ON THE INCIDENCE OF CRIME IN THE STATE; AND

(II) AT LEAST MONTHLY SHALL PUBLISH STATISTICS ABOUT THE OCCURRENCE AND CAUSE OF ALL MOTOR VEHICLE ACCIDENTS IN THE STATE.

(2) A STATISTICAL REPORT ON THE INCIDENCE OF CRIME PUBLISHED UNDER THIS SUBSECTION MAY NOT NAME OR OTHERWISE IDENTIFY A PARTICULAR KNOWN OR SUSPECTED OFFENDER.

(3) THE DEPARTMENT SHALL DISTRIBUTE THE REPORTS REQUIRED BY THIS SUBSECTION TO:

(I) EACH AGENCY OR UNIT THAT CONTRIBUTED INFORMATION CONTAINED IN THE REPORTS;

(II) THE PRESS; AND

(III) ANY OTHER INTERESTED PERSON.

(4) BY RULE, THE SECRETARY MAY ESTABLISH CONDITIONS UNDER WHICH REPORTS OF SPECIFIC MOTOR VEHICLE ACCIDENTS MAY BE MADE AVAILABLE ON REQUEST TO THE PUBLIC.

(C) DOCUMENT SEARCH FEE.

(1) THE FEE FOR CONDUCTING A DOCUMENT SEARCH IS $4.

(2) THE DEPARTMENT SHALL APPLY THE MONEY RECEIVED FROM CONDUCTING DOCUMENT SEARCHES TO THE COST OF PROVIDING THIS SERVICE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, §§ 11 and 10(a).

In subsections (a)(1) and (b)(3)(i) of this section, the references to a "unit" are added because some of the entities required to provide information are units of State government.

In subsection (a)(1) of this section, the phrase "to the Department" is added to clarify the entity to which information was provided.

In subsection (a)(2)(iii) of this section, the former reference to the "circumstances of" a pending prosecution is deleted as surplusage.

Defined terms: "Department" § 2-101

"Person" § 1-101

"Rule" § 2-101

"Secretary" § 2-101

2-309. RECOMMENDATIONS FOR LEGISLATION.

IN ANY REPORT ISSUED UNDER § 2-308 OF THIS SUBTITLE, THE DEPARTMENT MAY INCLUDE RECOMMENDATIONS TO THE GOVERNOR, THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY FOR LEGISLATION THAT THE REPORT INDICATES IS NECESSARY OR DESIRABLE TO PROMOTE TRAFFIC SAFETY OR REDUCE CRIME OR OTHERWISE TO ENSURE PROPER LAW ENFORCEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 12.

The former specific reference to "the contents" of reports is deleted in light of the general reference to "the report".

Defined term: "Department" § 2-101

2-310. CONFINEMENT OF ARRESTEES.

(A) IN GENERAL.

UNLESS SUFFICIENT FACILITIES ARE NOT AVAILABLE, THE MANAGING OFFICIAL OF A CORRECTIONAL FACILITY SHALL RECEIVE AND CONFINE AN INDIVIDUAL ARRESTED BY A POLICE EMPLOYEE WITHOUT WARRANT OR ON WARRANT FROM A COUNTY.

(B) CUSTODY OF DEPARTMENT; RELEASE.

(1) AN INDIVIDUAL CONFINED UNDER SUBSECTION (A) OF THIS SECTION:

(I) IS DEEMED TO BE IN THE CUSTODY OF THE DEPARTMENT; AND

(II) SHALL REMAIN CONFINED UNTIL A COURT OF COMPETENT JURISDICTION ISSUES A WARRANT OR OTHER PROCESS, OR THE INDIVIDUAL IS RETURNED TO THE COUNTY.

(2) BEFORE THE ISSUANCE OF A WARRANT OR PROCESS, AN INDIVIDUAL CONFINED UNDER SUBSECTION (A) OF THIS SECTION MAY BE RELEASED ONLY TO AND ON WRITTEN ORDER OF A POLICE EMPLOYEE.

(C) PROMPT ARRAIGNMENT.

(1) THIS SECTION DOES NOT ABRIDGE THE RIGHT OF AN INDIVIDUAL TO BE TAKEN BEFORE A JUDICIAL OFFICER OF THE STATE PROMPTLY AFTER ARREST.

(2) THE MANAGING OFFICIAL OF A CORRECTIONAL FACILITY IN WHICH AN INDIVIDUAL IS CONFINED UNDER THIS SECTION, SHALL NOTIFY THE STATE'S ATTORNEY IMMEDIATELY IF THE INDIVIDUAL IS CONFINED FOR MORE THAN 12 HOURS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 25.

Throughout this section, references to an "individual" are substituted for the former references to a "person" because only an individual, and not the other entities included in the defined term "person", can be confined in a correctional facility.

In subsections (a) and (b)(1)(ii) of this section, references to a "county" are substituted for the former references to "another county" and "such other county" because only one county is referred to in this section.

In subsections (a) and (c)(2) of this section, the references to a "managing official" of a "correctional facility" are substituted for the former references to a "person having charge of" a "jail or other place of detention" for consistency with the terminology used in the Correctional Services Article. *See* General Revisor's Note to Correctional Services Article.

Defined terms: "County" § 1-101

"Department" § 2-101

"Police employee" § 2-101

2-311. PERSONAL PROPERTY IN POSSESSION OF DEPARTMENT.

(A) SCOPE OF SECTION.

THIS SECTION DOES NOT APPLY TO PERSONAL PROPERTY PURCHASED OR OTHERWISE ACQUIRED FOR USE BY THE DEPARTMENT OR TO CONTRABAND.

(B) IN GENERAL.

THE DEPARTMENT SHALL HOLD PERSONAL PROPERTY THAT COMES INTO THE POSSESSION OF THE DEPARTMENT UNTIL THE DEPARTMENT DETERMINES THAT THE PROPERTY IS NO LONGER NEEDED IN CONNECTION WITH A PROSECUTION.

(C) RETURN OF PROPERTY.

AFTER THE DEPARTMENT DETERMINES THAT PERSONAL PROPERTY IS NO LONGER NEEDED IN CONNECTION WITH A PROSECUTION, THE DEPARTMENT SHALL DELIVER THE PROPERTY TO THE PERSON WHO SATISFACTORILY ESTABLISHES THE RIGHT TO POSSESSION OF THE PROPERTY AND GIVES A PROPER RECEIPT FOR THE PROPERTY.

(D) SALE OF PROPERTY.

(1) AT ANY TIME AFTER PERSONAL PROPERTY HAS BEEN IN THE POSSESSION OF THE DEPARTMENT FOR 6 MONTHS AND THE DEPARTMENT DETERMINES THAT THE PROPERTY IS NO LONGER NEEDED IN CONNECTION WITH A PROSECUTION, THE DEPARTMENT SHALL:

(I) GIVE NOTICE OF THE SALE OF THE PROPERTY BY REGISTERED OR CERTIFIED MAIL TO THOSE PERSONS ENTITLED TO ITS POSSESSION AND TO THOSE LIENHOLDERS WHOSE NAMES AND ADDRESSES CAN BE ASCERTAINED BY THE EXERCISE OF REASONABLE DILIGENCE; AND

(II) PUBLISH A DESCRIPTION OF THE PROPERTY AND THE TIME, PLACE, AND TERMS OF THE SALE OF THE PROPERTY IN A NEWSPAPER OF GENERAL CIRCULATION IN BALTIMORE CITY IN EACH OF TWO SUCCESSIVE WEEKS.

(2) AFTER COMPLYING WITH THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT MAY SELL THE PROPERTY AT PUBLIC AUCTION.

(3) THE TERMS AND MANNER OF SALE MAY BE ESTABLISHED BY RULE.

(E) EVIDENCE OF TITLE.

THE CERTIFICATE OF THE DEPARTMENT THAT PERSONAL PROPERTY HAS BEEN SOLD UNDER THIS SECTION IS SUFFICIENT EVIDENCE OF TITLE TO THE PROPERTY FOR ALL PURPOSES, INCLUDING THE RIGHT TO OBTAIN A CERTIFICATE OF TITLE OR REGISTRATION FROM AN APPROPRIATE UNIT OF THE STATE.

(F) PROCEEDS FROM SALE.

(1) THE AMOUNT RECEIVED FROM THE SALE OF PERSONAL PROPERTY IN ACCORDANCE WITH THIS SECTION SHALL BE DISTRIBUTED IN THE FOLLOWING ORDER OF PRIORITY:

(I) FIRST, TO THE DEPARTMENT IN AN AMOUNT EQUAL TO THE EXPENSE OF SALE AND ALL EXPENSES INCURRED WHILE THE PROPERTY WAS IN THE POSSESSION OF THE DEPARTMENT;

(II) SECOND, TO LIENHOLDERS IN ORDER OF THEIR PRIORITY; AND

(III) THIRD, TO THE GENERAL FUND SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION.

(2) AT ANY TIME WITHIN 3 YEARS AFTER THE DATE OF A SALE UNDER THIS SECTION, A PERSON WHO SUBMITS SATISFACTORY PROOF OF THE RIGHT TO POSSESSION OF THE PROPERTY SHALL BE PAID, WITHOUT INTEREST, THE AMOUNT DISTRIBUTED TO THE GENERAL FUND UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION.

(3) A CLAIM UNDER PARAGRAPH (2) OF THIS SUBSECTION IS BARRED IF MORE THAN 3 YEARS HAS PASSED SINCE THE DATE OF A SALE UNDER THIS SECTION.

(G) EFFECT OF SECTION.

THIS SECTION DOES NOT CREATE OR RECOGNIZE ANY CAUSE, ACTION, OR DEFENSE OR ABRIDGE ANY IMMUNITY NOW OR IN THE FUTURE HELD BY THE DEPARTMENT, THE SECRETARY, OR AN EMPLOYEE OF THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 27.

Subsection (a) of this section is revised as a scope provision, rather than a definition of "personal property", because the former definition served to delineate what types of property were not covered by this section.

Subsections (b), (c), and (d) of this section are revised to state expressly that which only was implied in the former law, *i.e.*, that the Department is responsible for holding the property, delivering it to the person with the right to possession, and selling the property in accordance with the requirements of this section.

In subsection (e) of this section, the reference to a "unit" is substituted for the former reference to a "department". *See* General Revisor's Note to article.

In subsection (f)(1)(iii) of this section, the former reference to the General Fund "of the State of Maryland" is deleted as implicit in the reference to the "General Fund".

In subsection (f)(3) of this section, the former reference to a claim being "absolutely" barred is deleted as surplusage.

In subsection (g) of this section, the reference to an employee "of the Department" is added for specificity.

Defined terms: "Department" § 2-101

"Person" § 1-101

"Rule" § 2-101

"Secretary" § 2-101

2-312. FINGERPRINTING FEES.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE SECRETARY SHALL CHARGE A FEE OF $5 PER FINGERPRINT CARD TO EACH INDIVIDUAL WHO REQUESTS THAT THE INDIVIDUAL BE FINGERPRINTED.

(B) EXCEPTIONS.

A FEE MAY NOT BE CHARGED TO AN INDIVIDUAL WHO IS:

(1) FINGERPRINTED AS A MATTER OF PROCEDURE IN A LAW ENFORCEMENT ACTION;

(2) REQUIRED TO HAVE FINGERPRINTS RETAKEN BECAUSE OF ANY FAULT OR ERROR BY THE DEPARTMENT DURING THE PREPARATION OF THE FINGERPRINT CARD; OR

(3) OTHERWISE DECLARED BY THE SECRETARY TO BE EXEMPT FROM THIS SECTION.

(C) REGULATIONS.

SUBJECT TO THE ADMINISTRATIVE PROCEDURE ACT, THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 27A.

In subsections (a) and (b) of this section, the references to an "individual" are substituted for the former references to a "person" because only an individual, and not the other entities included in the defined term "person", can have fingerprints.

In subsection (a) of this section, the former reference to "the preparation of" each fingerprint card is deleted as surplusage.

In subsection (c) of this section, the former reference to "rules" is deleted. Because this provision specifically refers to "regulations" subject to the "Administrative Procedure Act", the use of the defined term "rule" is inappropriate in this context. *See* § 2-101 of this title.

Defined terms: "Department" § 2-101

"Secretary" § 2-101

2-313. LICENSES FOR DOGS USED FOR LAW ENFORCEMENT.

(A) REQUIRED.

EACH PUBLICLY OWNED DOG USED FOR LAW ENFORCEMENT WORK BY THE STATE OR A LOCAL SUBDIVISION OF THE STATE SHALL HAVE A LICENSE ISSUED BY THE DEPARTMENT UNDER THIS SECTION.

(B) ISSUANCE; CONTENTS; SCOPE.

(1) A LICENSE UNDER THIS SECTION SHALL BE ISSUED:

(I) ON THE FORM PREPARED AND PROVIDED BY THE DEPARTMENT; AND

(II) TO THE LAW ENFORCEMENT OFFICER TO WHOM THE LICENSED DOG IS ASSIGNED.

(2) EACH LICENSE SHALL:

(I) BE DATED AND NUMBERED;

(II) STATE THE LAW ENFORCEMENT AGENCY TO WHICH THE DOG BELONGS; AND

(III) DESCRIBE THE DOG THAT IS LICENSED.

(3) A LICENSE ISSUED UNDER THIS SECTION IS VALID FOR ALL DOG LICENSING PURPOSES ANYWHERE IN THE STATE.

(C) TERM.

A LICENSE ISSUED UNDER THIS SECTION IS IN EFFECT UNTIL THE EARLIER OF:

(1) REVOCATION OF THE LICENSE BY THE DEPARTMENT; AND

(2) REMOVAL OF THE LICENSED DOG FROM LAW ENFORCEMENT WORK.

(D) TAGS AND COLLAR.

(1) THE DEPARTMENT SHALL PROVIDE WITH EACH LICENSE A METAL TAG THAT:

(I) IS STAMPED "DEPARTMENT OF STATE POLICE"; AND

(II) BEARS THE LICENSE NUMBER OF THE DOG.

(2) THE TAG SHALL BE AFFIXED TO A SUBSTANTIAL COLLAR TO BE PROVIDED BY THE LAW ENFORCEMENT AGENCY TO WHICH THE DOG BELONGS.

(3) THE TAG AND COLLAR SHALL BE KEPT ON THE LICENSED DOG AT ALL TIMES UNLESS THE DOG IS CONFINED IN A KENNEL OR IS UNDER THE PERSONAL CHARGE OF THE LAW ENFORCEMENT OFFICER TO WHOM THE DOG IS ASSIGNED.

(E) LIABILITY.

THE LICENSING RESPONSIBILITY OF THIS SECTION DOES NOT CREATE LIABILITY FOR THE DEPARTMENT OR ITS OFFICERS OR EMPLOYEES FOR ANY ACTION OF A LICENSED DOG OR THE LAW ENFORCEMENT OFFICER TO WHOM IT IS ASSIGNED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 70.

In subsection (a) of this section, the reference to a "local subdivision" of the State is substituted for the former reference to "any of its political subdivisions" for specificity and to conform to language used throughout this article.

Also in subsection (a) of this section, the former effective date "January 1, 1969" is deleted as obsolete.

In subsections (b)(2)(ii) and (d)(2) of this section, the references to a "law enforcement agency" are substituted for the former references to an "agency" for clarity and to use the defined term.

Defined terms: "Department" § 2-101

"Law enforcement agency" § 2-101

SUBTITLE 4. POLICE EMPLOYEES AND CIVILIAN EMPLOYEES.

2-401. APPLICABILITY OF STATE PERSONNEL AND PENSIONS ARTICLE.

(A) IN GENERAL.

IF THERE ARE INCONSISTENCIES BETWEEN THIS ARTICLE AND THE STATE PERSONNEL AND PENSIONS ARTICLE, THIS ARTICLE CONTROLS AS TO ANY MATTER THAT RELATES TO THE DEPARTMENT.

(B) POLICE EMPLOYEES.

EXCEPT AS EXPRESSLY PROVIDED IN THIS ARTICLE, THE STATE PERSONNEL AND PENSIONS ARTICLE DOES NOT APPLY TO OR AFFECT THE COMPENSATION, RANK, GRADE, OR STATUS OF POLICE EMPLOYEES.

(C) CIVILIAN EMPLOYEES.

EXCEPT AS EXPRESSLY PROVIDED IN THIS ARTICLE, THE COMPENSATION, CIVILIAN CLASSIFICATION, AND STATUS OF CIVILIAN EMPLOYEES SHALL BE DETERMINED IN ACCORDANCE WITH THE STATE PERSONNEL AND PENSIONS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 24.

%In subsections (a) and (c) of this section, the general references to "this article" are retained. The references in the revision to "this article" are broader than the former references to "this article", which meant former Article 88B, because this revised article includes provisions from other articles in addition to Article 88B. No substantive change is intended.

In subsection (b) of this section, the reference to being expressly provided "in this article" is substituted for the former reference to being expressly provided "herein" for specificity and to conform to subsections (a) and (c) of this section.

Defined terms: "Civilian classification" § 2-101

"Civilian employee" § 2-101

"Department" § 2-101

"Grade" § 2-101

"Police employee" § 2-101

"Rank" § 2-101

2-402. APPOINTMENT OF EMPLOYEES.

(A) IN GENERAL.

(1) IN ACCORDANCE WITH THE STATE BUDGET, THE SECRETARY SHALL APPOINT THE EMPLOYEES THAT THE SECRETARY CONSIDERS NECESSARY FOR THE EFFICIENT ADMINISTRATION OF THE DEPARTMENT.

(2) THE SECRETARY SHALL MAKE EACH APPOINTMENT FROM A LIST OF ELIGIBLE CANDIDATES IN ACCORDANCE WITH THE STATE PERSONNEL AND PENSIONS ARTICLE.

(B) QUALIFICATIONS FOR APPOINTMENT.

EACH APPOINTEE TO THE DEPARTMENT SHALL:

(1) BE A RESIDENT OF THE STATE ON THE DATE OF APPOINTMENT; AND

(2) HAVE THE CHARACTER, EDUCATION, AND OTHER QUALIFICATIONS ESTABLISHED BY THE SECRETARY UNDER THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 17(a) and the first sentence of (b).

In subsection (a)(1) of this section, the phrase "[i]n accordance with the State budget" is substituted for the former phrase "within the limits of any appropriation made for such purpose" to conform to language used in this and other revised articles of the Code. *See, e.g.*, CS § 2-106(a), BR § 2-103(b)(1), and LE § 2-104(g).

In subsection (a)(2) of this section, the reference to the "Secretary" is added to clarify who makes appointments to the Department and to restate this

provision in the active voice.

Also in subsection (a)(2) of this section, the reference to eligible "candidates" is substituted for the former reference to eligible "persons" to conform to language used in the State Personnel and Pensions Article. *See, e.g.*, SP § 7-203.

In subsection (b)(1) of this section, the former reference to a "bona fide" resident of the State is deleted as surplusage.

In subsection (b)(2) of this section, the former specific reference to "§ 15" of former Article 88B is deleted as unnecessary in light of the general reference to "this title". Former Art. 88B, § 15, as it related to establishing qualifications for employees of the Department, is revised in § 2-204(b) of this title.

Defined terms: "Department" § 2-101

"Secretary" § 2-101

2-403. PROBATION AFTER APPOINTMENT.

(A) POLICE EMPLOYEES.

EACH POLICE EMPLOYEE, INCLUDING AN INDIVIDUAL WHO IS APPOINTED TO THE DEPARTMENT FOR TRAINING BEFORE REGULAR ASSIGNMENT AS A POLICE EMPLOYEE, SHALL REMAIN IN PROBATIONARY STATUS FOR A PERIOD OF 2 YEARS AFTER THE DATE OF APPOINTMENT TO THE DEPARTMENT.

(B) CIVILIAN EMPLOYEES.

EACH CIVILIAN EMPLOYEE SHALL REMAIN IN PROBATIONARY STATUS FOR THE PERIOD REQUIRED UNDER TITLE 7, SUBTITLE 4 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the first and second sentences of former Art. 88B, § 18.

Defined terms: "Civilian employee" § 2-101

"Department" § 2-101

"Police employee" § 2-101

2-404. PROMOTIONS.

(A) "OBSOLETE RANK" DEFINED.

IN THIS SECTION, "OBSOLETE RANK" MEANS A RANK DESIGNATED BY THE SECRETARY TO WHICH NO FURTHER PROMOTIONS WILL BE MADE.

(B) SECRETARY TO MAKE PROMOTIONS.

THE SECRETARY SHALL MAKE ALL PROMOTIONS.

(C) POLICE EMPLOYEES -- IN GENERAL.

(1) PROMOTION TO A RANK, EXCEPT DEPUTY SECRETARY, SHALL BE MADE IN THE MANNER REQUIRED BY RULE.

(2) FOR A NONCOMMISSIONED RANK THAT HAS FEWER THAN 25 POLICE EMPLOYEES, THE SECRETARY BY RULE MAY DIRECT THAT IT IS UNNECESSARY TO FILL THE NONCOMMISSIONED RANK FOR PURPOSES OF PROMOTION.

(3) (I) THIS PARAGRAPH DOES NOT APPLY TO A RANK THAT REQUIRES TECHNICAL KNOWLEDGE.

(II) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A POLICE EMPLOYEE MAY NOT BE APPOINTED OR PROMOTED TO A RANK UNLESS THE POLICE EMPLOYEE:

1. IS BYPASSING AN OBSOLETE RANK AND CURRENTLY FILLS THE RANK IMMEDIATELY BELOW THE OBSOLETE RANK; OR

2. HAS FILLED THE RANK IMMEDIATELY BELOW THE RANK TO WHICH THE POLICE EMPLOYEE IS TO BE PROMOTED.

(D) SAME -- PROMOTION TO MAJOR OR LIEUTENANT COLONEL.

(1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE SECRETARY MAY APPOINT WITHOUT EXAMINATION:

(I) A POLICE EMPLOYEE WHO HOLDS A COMMISSIONED RANK TO THE RANK OF MAJOR; AND

(II) A POLICE EMPLOYEE WHO HOLDS A COMMISSIONED RANK OF NOT LESS THAN CAPTAIN TO THE RANK OF LIEUTENANT COLONEL.

(2) A POLICE EMPLOYEE APPOINTED IN ACCORDANCE WITH THIS SUBSECTION CONTINUES TO SERVE AT THE PLEASURE OF THE SECRETARY.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ON TERMINATION OF AN APPOINTMENT UNDER THIS SUBSECTION, THE POLICE EMPLOYEE MAY:

(I) RETURN TO THE RANK HELD BEFORE THE APPOINTMENT; OR

(II) BE PROMOTED TO A HIGHER RANK TO WHICH THE POLICE EMPLOYEE BECAME ELIGIBLE FOR PROMOTION DURING THE APPOINTMENT.

(E) SAME -- OBSOLETE RANK.

AN INCUMBENT POLICE EMPLOYEE IN AN OBSOLETE RANK REMAINS IN THAT RANK UNTIL PROMOTED, DEMOTED, RETIRED, OR TERMINATED.

(F) CIVILIAN EMPLOYEES.

PROMOTIONS OF CIVILIAN EMPLOYEES SHALL BE MADE IN ACCORDANCE WITH THE STATE PERSONNEL AND PENSIONS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, §§ 19, 2(9), and the fourth sentence of § 23(a).

Defined terms: "Civilian employee" § 2-101

"Commissioned rank" § 2-101

"Noncommissioned rank" § 2-101

"Police employee" § 2-101

"Rank" § 2-101

"Rule" § 2-101

"Secretary" § 2-101

2-405. PAY RATES.

(A) SECRETARY TO ESTABLISH PAY PLAN.

(1) THE SECRETARY SHALL DEVELOP A PAY PLAN FOR POLICE EMPLOYEES, STATE POLICE COMMUNICATIONS OPERATORS, AND STATE POLICE COMMUNICATIONS SUPERVISORS THAT INCLUDES THE RANKS AND THE GRADES WITHIN RANKS THAT THE SECRETARY CONSIDERS APPROPRIATE.

(2) THE PAY PLAN UNDER THIS SUBSECTION:

(I) IS SUBJECT TO APPROVAL BY THE SECRETARY OF BUDGET AND MANAGEMENT; AND

(II) IS EFFECTIVE ON APPROVAL BY THE GOVERNOR ONLY TO THE EXTENT THAT SUFFICIENT MONEY IS INCLUDED IN THE STATE BUDGET.

(B) PAY RATES GENERALLY.

EACH POLICE EMPLOYEE, STATE POLICE COMMUNICATIONS OPERATOR, AND STATE POLICE COMMUNICATIONS SUPERVISOR IS ENTITLED TO RECEIVE THE PAY RATE, INCLUDING ANY INCREMENT BASED ON LENGTH OF SERVICE, SET FORTH IN THE PAY PLAN ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION.

(C) PAY INCREASES.

(1) EACH POLICE EMPLOYEE IS ENTITLED TO THE PAY RATE FOR THE NEXT HIGHEST STEP WITHIN THE POLICE EMPLOYEE'S RANK ON:

(I) EACH JULY 1, IF THE POLICE EMPLOYEE WAS A POLICE EMPLOYEE ON JULY 1, 1967; OR

(II) EACH ANNIVERSARY OF THE DATE OF EMPLOYMENT, FOR ALL OTHER POLICE EMPLOYEES.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, ON PROMOTION A POLICE EMPLOYEE IS ENTITLED TO THE PAY SPECIFIED FOR THE NEW RANK IN THE SAME STEP THAT THE POLICE EMPLOYEE OCCUPIED BEFORE PROMOTION.

(II) IF THE STEP THAT THE POLICE EMPLOYEE OCCUPIED BEFORE PROMOTION IS HIGHER THAN THAT HELD BY A POLICE EMPLOYEE WHO IS ALREADY IN THE RANK AND HAS EQUAL OR HIGHER TOTAL SERVICE TIME, ON PROMOTION THE POLICE EMPLOYEE IS ENTITLED ONLY TO THE PAY SPECIFIED FOR THE NEW RANK IN THE NEXT LOWER STEP THAN THE POLICE EMPLOYEE OCCUPIED BEFORE PROMOTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, §§ 22(a) and 23(b) and the first and second sentences of (a).

Throughout this section, references to a "pay rate" and a "pay plan" are substituted for former references to a "salary" and a "salary plan" for consistency with terminology used in the State Personnel and Pensions Article. *See* Title 8, Subtitle 4 of the State Personnel and Pensions Article.

In subsection (b) of this section, the former phrase "[f]rom and after July 1, 1974" is deleted as obsolete.

Defined terms: "Grade" § 2-101

"Police employee" § 2-101

"Rank" § 2-101

"Secretary" § 2-101

2-406. EXPENSES OF EMPLOYEES.

(A) VOUCHERS FOR EXPENSES.

(1) THE SECRETARY MAY APPROVE VOUCHERS IN PAYMENT OF EXPENSES INCURRED BY EMPLOYEES IN THE DISCHARGE OF THEIR DUTIES, INCLUDING EXPENSES FOR LODGING AND SUBSISTENCE WHILE AN EMPLOYEE IS AWAY FROM THE FACILITY TO WHICH THE EMPLOYEE IS REGULARLY ASSIGNED.

(2) THE VOUCHERS SHALL BE:

(I) AUDITED AND PAID IN ACCORDANCE WITH THE STATE BUDGET IN THE MANNER REQUIRED BY LAW; AND

(II) SUBMITTED IN A MANNER CONSISTENT WITH THE PRACTICES REQUIRED BY THE COMPTROLLER'S OFFICE.

(3) LODGING AND SUBSISTENCE PROVIDED TO EMPLOYEES AT FACILITIES OF THE DEPARTMENT:

(I) ARE NOT EXPENSES WITHIN THE MEANING OF THIS SECTION; AND

(II) MAY BE PROVIDED BY THE DEPARTMENT IN ACCORDANCE WITH THE STATE BUDGET AND RULE OF THE SECRETARY.

(B) LEGAL EXPENSES OF POLICE EMPLOYEES.

(1) IN A CIVIL OR CRIMINAL CASE, OTHER THAN A DISCIPLINARY PROCEEDING OR AN APPEAL FROM A DISCIPLINARY PROCEEDING, WHEN A POLICE EMPLOYEE IS CHARGED WITH THE COMMISSION OF A WRONG AS THE RESULT OF AN ACT DONE IN THE COURSE OF THE POLICE EMPLOYEE'S OFFICIAL DUTIES, THE SECRETARY MAY PAY ANY PART OF THE LEGAL EXPENSES OF THE POLICE EMPLOYEE IF:

(I) THE SECRETARY DETERMINES THAT PAYMENT IS IN THE BEST INTERESTS OF THE DEPARTMENT, THE PUBLIC, AND THE POLICE EMPLOYEE; AND

(II) THE ATTORNEY GENERAL APPROVES THE PAYMENT.

(2) PAYMENT OF LEGAL EXPENSES UNDER THIS SUBSECTION MAY BE MADE IN ACCORDANCE WITH THE STATE BUDGET OR FROM GENERAL OR CONTINGENCY FUNDS OF THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 22(b) and (d).

In subsection (a)(2)(i) and (3)(ii) of this section, the phrase "in accordance with the State budget" is substituted for the former references to "appropriations to the Department" and "to the extent permitted by appropriation" for clarity and consistency with language used in this subtitle and other revised articles of the Code. Similarly, in subsection (b)(2) of this section, reference to payment "in accordance with the State budget" is substituted for the former phrase "from any funds specifically appropriated for that purpose" for clarity and consistency.

Defined terms: "Department" § 2-101

"Police employee" § 2-101

"Rule" § 2-101

"Secretary" § 2-101

2-407. UNIFORMS AND EQUIPMENT.

(A) IN GENERAL.

(1) THE DEPARTMENT SHALL PROVIDE UNIFORMS AND EQUIPMENT NECESSARY FOR THE PERFORMANCE OF THE DUTIES OF EMPLOYEES IN ACCORDANCE WITH THE STATE BUDGET.

(2) UNIFORMS AND EQUIPMENT SHALL BE PURCHASED BY THE DEPARTMENT IN ACCORDANCE WITH DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE AND REMAIN THE PROPERTY OF THE STATE.

(B) OFF-DUTY USE OF POLICE VEHICLES.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE SECRETARY MAY GRANT PERMISSION TO OFF-DUTY POLICE EMPLOYEES TO USE POLICE VEHICLES DURING OFF-DUTY HOURS IF, IN THE OPINION OF THE SECRETARY, THE VEHICLES WILL NOT BE NEEDED BY ON-DUTY POLICE EMPLOYEES.

(2) ONLY THE POLICE EMPLOYEES TO WHOM PERMISSION HAS BEEN GRANTED TO USE THE POLICE VEHICLES MAY OPERATE THE POLICE VEHICLES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, §§ 15(b)(15) and 22(c).

In subsection (b)(1) and (2) of this section, the defined term "police employees" is substituted for the former references to "State Police officers" and "officers" for consistency with terminology used throughout this title.

Defined terms: "Department" § 2-101

"Police employee" § 2-101

"Secretary" § 2-101

2-408. OTHER COMPENSATION PROHIBITED.

(A) IN GENERAL.

EXCEPT AS ALLOWED BY THIS ARTICLE, TITLE 9 OR TITLE 10 OF THE LABOR AND EMPLOYMENT ARTICLE, OR RULE, AN EMPLOYEE OF THE DEPARTMENT MAY NOT RECEIVE MONEY OR ANY OTHER THING OF VALUE FOR SERVICES PERFORMED BY THE EMPLOYEE AS AN EMPLOYEE OF THE DEPARTMENT OR OTHERWISE RESULTING FROM EMPLOYMENT BY THE DEPARTMENT.

(B) ACCEPTANCE BY EMPLOYEE.

WHEN AN EMPLOYEE IS ALLOWED BY THE SECRETARY TO ACCEPT MONEY OR ANY OTHER THING OF VALUE, THE MONEY OR OTHER THING OF VALUE SHALL BE DELIVERED TO THE DEPARTMENT AND DISPOSED OF AS PROVIDED BY RULE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 22(e).

In subsection (a) of this section, the general reference to "this article" is retained. The reference in the revision to "this article" is broader than the former reference to "this article", which meant former Article 88B, because this revised article includes provisions from other articles in addition to Article 88B. No substantive change is intended.

Defined terms: "Department" § 2-101

"Rule" § 2-101

"Secretary" § 2-101

2-409. SICK LEAVE RESERVE.

(A) ESTABLISHED.

THERE IS A SICK LEAVE RESERVE.

(B) SECRETARY TO ADMINISTER.

THE SECRETARY SHALL ADMINISTER THE SICK LEAVE RESERVE.

(C) REGULATIONS ABOUT ELIGIBILITY.

THE SECRETARY SHALL ADOPT RULES AND REGULATIONS ABOUT THE ELIGIBILITY OF POLICE EMPLOYEES TO WITHDRAW SICK LEAVE FROM THE SICK LEAVE RESERVE INCLUDING:

(1) A REQUIREMENT THAT THE POLICE EMPLOYEE HAVE A LONG TERM ILLNESS AND BE UNABLE TO WORK; AND

(2) THE LENGTH OF TIME FOR WHICH A POLICE EMPLOYEE MAY RECEIVE SICK LEAVE.

(D) DONATIONS OF SICK LEAVE.

WITH THE APPROVAL OF THE SECRETARY, A POLICE EMPLOYEE MAY DONATE UP TO 2 DAYS OF SICK LEAVE EACH YEAR TO THE SICK LEAVE RESERVE.

(E) TRANSFERS OF SICK LEAVE.

(1) THE SECRETARY MAY TRANSFER DAYS OF SICK LEAVE THAT HAVE BEEN ACCUMULATED IN THE SICK LEAVE RESERVE TO A POLICE EMPLOYEE WHO:

(I) HAS A DOCUMENTED MEDICAL DISABILITY; AND

(II) HAS EXHAUSTED ALL FORMS OF LEAVE.

(2) THE SECRETARY MAY NOT TRANSFER SICK LEAVE UNDER THIS SECTION TO A POLICE EMPLOYEE WHO HAS BEEN GRANTED DISABILITY RETIREMENT BY THE BOARD OF TRUSTEES OF THE STATE RETIREMENT SYSTEMS FOR USE AFTER THE FIRST DATE ON WHICH DISABILITY RETIREMENT MAY BECOME EFFECTIVE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 23C.

Throughout subsection (c) of this section, the defined term "police employee" is substituted for the former references to a "member" for

consistency with terminology used throughout this section.

Defined terms: "Police employee" § 2-101

"Rule" § 2-101

"Secretary" § 2-101

2-410. WORK-RELATED ADMINISTRATIVE LEAVE.

(A) AUTHORIZED.

THE SECRETARY MAY GRANT WORK-RELATED ADMINISTRATIVE LEAVE TO A POLICE EMPLOYEE WHO IS TEMPORARILY DISABLED IN THE PERFORMANCE OF THE POLICE EMPLOYEE'S WORK IF THE DISABILITY RESULTED FROM AN INJURY OR ILLNESS SUSTAINED IN THE PERFORMANCE OF THE POLICE EMPLOYEE'S WORK.

(B) PERIOD OF LEAVE.

(1) THE WORK-RELATED ADMINISTRATIVE LEAVE REMAINS IN EFFECT UNTIL THE POLICE EMPLOYEE IS RETURNED TO DUTY OR IS RETIRED BECAUSE OF THE INJURY OR ILLNESS FROM WHICH THE DISABILITY RESULTED.

(2) HOWEVER, THE WORK-RELATED ADMINISTRATIVE LEAVE MAY NOT:

(I) EXCEED 2 YEARS; AND

(II) EXTEND BEYOND THE SECOND ANNIVERSARY OF THE DATE OF THE INJURY OR ILLNESS.

(C) PAYMENT RATE; EFFECT ON OTHER BENEFITS.

(1) PAYMENT TO A POLICE EMPLOYEE ON WORK-RELATED ADMINISTRATIVE LEAVE IS BASED ON TWO-THIRDS OF THE POLICE EMPLOYEE'S REGULAR PAY.

(2) PAYMENT FOR WORK-RELATED ADMINISTRATIVE LEAVE IS A SEPARATE BENEFIT ON ACCOUNT OF ACCIDENTAL DISABILITY AND IS NOT A CONTINUATION OF SALARY.

(3) NOTWITHSTANDING THE REDUCED RATE AT WHICH A POLICE EMPLOYEE IS PAID WHILE ON WORK-RELATED ADMINISTRATIVE LEAVE, THE POLICE EMPLOYEE:

(I) CONTINUES SENIORITY AND LEAVE ACCRUALS BASED ON THE POLICE EMPLOYEE'S REGULAR PAY; AND

(II) DOES NOT LOSE HEALTH CARE BENEFITS WITH THE SUBSIDY ALLOWED IN TITLE 2, SUBTITLE 5 OF THE STATE PERSONNEL AND PENSIONS ARTICLE SOLELY BECAUSE THE POLICE EMPLOYEE IS ON WORK-RELATED ADMINISTRATIVE LEAVE.

(4) A POLICE EMPLOYEE MAY NOT RECEIVE TEMPORARY TOTAL DISABILITY BENEFITS UNDER THE MARYLAND WORKERS' COMPENSATION ACT WHILE THE POLICE EMPLOYEE IS RECEIVING PAYMENT UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 23A.

Throughout this section, the defined term "police employee" is substituted for the former references to "law-enforcement officer[s]", "State Police officer", and "officer" for consistency with terminology used throughout this subtitle and this title.

In subsection (a) of this section, the former phrase "in the Department" is deleted as implicit.

In subsection (b)(1) of this section, the reference to "the injury or illness from which the disability resulted" is substituted for the former reference to "those injuries" for clarity and consistency throughout this section.

Defined terms: "Police employee" § 2-101

"Secretary" § 2-101

2-411. MODIFIED WORK WEEK.

(A) AUTHORIZED.

IF AUTHORIZED BY THE SECRETARY, A POLICE EMPLOYEE OR A 40-HOUR CIVILIAN EMPLOYEE MAY WORK AN ALTERNATIVE WORKDAY OF NOT MORE THAN 12 HOURS INSTEAD OF AN 8-HOUR WORKDAY.

(B) COMPENSATION; PERSONAL LEAVE.

(1) EMPLOYEES WHO PARTICIPATE IN THE ALTERNATIVE MODIFIED WORKDAY PROGRAM ARE ENTITLED TO COMPENSATION IN ACCORDANCE WITH § 8-305 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(2) PERSONAL LEAVE FOR THESE EMPLOYEES SHALL BE BASED ON AN 8-HOUR WORKDAY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 23B(b) and (c).

In subsection (a) of this section, the defined term "police employee" is substituted for the former reference to a "law-enforcement employee" for consistency with terminology used throughout this subtitle and this title.

Also in subsection (a) of this section, the former phrase "of the Department" is deleted as unnecessary in light of the defined terms "police employee" and "civilian employee".

Former Art. 88B, § 23B(a), which defined "nonexempt" as being entitled to

pay for overtime work under the federal Fair Labor Standards Act, is deleted as unnecessary because the term was not used in the former law and is not used in the revision.

Defined terms: "Civilian employee" § 2-101

"Department" § 2-101

"Police employee" § 2-101

"Secretary" § 2-101

2-412. POWERS OF POLICE EMPLOYEES.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "EMERGENCY" MEANS A SUDDEN OR UNEXPECTED HAPPENING OR AN UNFORESEEN COMBINATION OF CIRCUMSTANCES THAT CALLS FOR IMMEDIATE ACTION TO PROTECT HEALTH, SAFETY, WELFARE, OR PROPERTY FROM ACTUAL OR THREATENED HARM OR FROM AN UNLAWFUL ACT.

(3) "MUNICIPAL CORPORATION" INCLUDES BALTIMORE CITY.

(B) POLICE POWERS.

(1) POLICE EMPLOYEES HAVE THROUGHOUT THE STATE THE SAME POWERS, PRIVILEGES, IMMUNITIES, AND DEFENSES AS SHERIFFS, CONSTABLES, POLICE OFFICERS, AND OTHER PEACE OFFICERS POSSESSED AT COMMON LAW AND MAY NOW OR IN THE FUTURE EXERCISE WITHIN THEIR RESPECTIVE JURISDICTIONS.

(2) A POLICE EMPLOYEE MAY EXECUTE AN ARREST WARRANT IN ANY PART OF THE STATE WITHOUT FURTHER ENDORSEMENT.

(C) AUTHORITY TO ACT WITHIN MUNICIPAL CORPORATIONS.

POLICE EMPLOYEES MAY NOT ACT WITHIN THE LIMITS OF A MUNICIPAL CORPORATION THAT MAINTAINS A POLICE FORCE EXCEPT:

(1) WHEN IN PURSUIT OF A CRIMINAL OR SUSPECT;

(2) WHEN IN SEARCH OF A CRIMINAL OR SUSPECT WANTED FOR A CRIME COMMITTED OUTSIDE OF THE LIMITS OF THE MUNICIPAL CORPORATION OR WHEN INTERVIEWING OR SEEKING TO INTERVIEW A WITNESS OR SUPPOSED WITNESS TO THE CRIME;

(3) WHEN A CRIME IS COMMITTED IN THE PRESENCE OF THE POLICE EMPLOYEE, AND THE ARRESTED PARTY MUST BE IMMEDIATELY TRANSFERRED TO THE CUSTODY OF THE LOCAL LAW ENFORCEMENT AGENCY;

(4) WHEN REQUESTED TO ACT BY THE CHIEF EXECUTIVE OFFICER OR CHIEF POLICE OFFICER OF THE MUNICIPAL CORPORATION;

(5) WHEN ORDERED BY THE GOVERNOR TO ACT WITHIN THE MUNICIPAL CORPORATION;

(6) WHEN ENFORCING THE MOTOR VEHICLE LAWS OF THE STATE, EXCEPT IN BALTIMORE CITY;

(7) IN BALTIMORE CITY, ONLY WHEN ENFORCING TITLE 23 OF THE TRANSPORTATION ARTICLE;

(8) IN ANY BUILDING OR PLACE WHEN ORDERED BY EITHER THE PRESIDENT OF THE SENATE OR THE SPEAKER OF THE HOUSE OF DELEGATES TO GUARD THE SAFETY OF LEGISLATORS OR THE INTEGRITY OF THE LEGISLATIVE PROCESS;

(9) TO PROTECT THE SAFETY OF AN ELECTED STATE OFFICIAL;

(10) IN THE MUNICIPAL CORPORATIONS OF SOMERSET COUNTY;

(11) WHEN ENFORCING § 11-207 OF THE CRIMINAL LAW ARTICLE;

(12) (I) 1. WHEN PARTICIPATING IN A JOINT INVESTIGATION WITH OFFICIALS FROM ANOTHER STATE, FEDERAL, OR LOCAL LAW ENFORCEMENT AGENCY AT LEAST ONE OF WHICH HAS LOCAL JURISDICTION;

2. WHEN RENDERING ASSISTANCE TO A POLICE OFFICER;

3. WHEN ACTING AT THE REQUEST OF A LOCAL POLICE OFFICER; OR

4. WHEN AN EMERGENCY EXISTS; AND

(II) WHEN ACTING IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE SECRETARY TO IMPLEMENT THIS ITEM; OR

(13) WHEN CONDUCTING INVESTIGATIONS RELATING TO OR OTHERWISE ENFORCING § 7-302 OF THE CRIMINAL LAW ARTICLE.

(D) DETACHED SERVICE FOR FEDERAL GOVERNMENT.

A POLICE EMPLOYEE MAY NOT BE PLACED ON DETACHED SERVICE AND ACT FOR A FEDERAL DEPARTMENT, AGENCY, OR COMMITTEE OUTSIDE OF THE STATE WITHOUT THE WRITTEN APPROVAL OF THE GOVERNOR OR AS OTHERWISE PROVIDED BY LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 4(a), (c), (d), (e), and the second sentence of (b) and, except as it related to the Secretary and deputy secretary, the first sentence.

Subsection (a)(3) of this section is revised as a definition of "municipal corporation" rather than a definition of "incorporated municipality" to

conform to Art. XI-E of the Maryland Constitution.

In subsection (a)(3) of this section, the former reference to "territory within the limits of an incorporated city or town within any county of this State" is deleted as unnecessary. This is the common meaning of "municipal corporation". The term "municipal corporation" is generally not defined in this sense in revised articles of the Code.

Also in subsection (a)(3) of this section, the former phrase "as used in subsection (b) of this section" is deleted as unnecessary and inaccurate. The former term "incorporated municipality" was used in former Art. 88B, § 4(c), not § 4(b).

Also in subsection (a)(3) of this section, the second sentence of former Art. 88B, § 4(e), which provided that the term "incorporated municipality" may not be construed to include any other territory within the limits of any county, is deleted as incomprehensible.

In subsection (b)(1) of this section, the former reference to "employees designated by the Secretary as" police employees is deleted as surplusage.

In subsection (c)(7) of this section, the former parenthetical "(Vehicle Laws - Inspection of Used Vehicles and Warnings for Defective Equipment)" is deleted as unnecessary in the revision.

Defined terms: "Police employee" § 2-101

"Secretary" § 2-101

2-413. DEMOTIONS.

A POLICE EMPLOYEE MAY NOT BE DEMOTED OR OTHERWISE AFFECTED IN RANK, PAY, OR STATUS EXCEPT FOR CAUSE.

REVISOR'S NOTE: This section is new language derived without substantive change from the third sentence of former Art. 88B, § 23(a).

The former phrase "as hereinbefore required" is deleted as surplusage. The former phrase was a cross-reference to Art. 88B, § 20, which covered demotions and was repealed by Ch. 735, Acts of 1984.

Defined term: "Police employee" § 2-101

2-414. END OF EMPLOYMENT -- IN GENERAL.

EMPLOYMENT OF AN EMPLOYEE OF THE DEPARTMENT ENDS ON THE DEATH, RETIREMENT, RESIGNATION, OR TERMINATION OF THE EMPLOYEE.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 88B, § 21.

The reference to an employee "of the Department" is added for clarity.

%The reference to "termination" of the employee is substituted for the former reference to "discharge" to conform to terminology used in the State Personnel and Pensions Article. *See* Title 11, Subtitle 3 of the State Personnel and Pensions Article. Consequently, the reference that employment "ends" is substituted for the former reference that employment "shall terminate" for consistency.

Defined term: "Department" § 2-101

2-415. SAME -- RETIREMENT.

(A) IN GENERAL.

(1) RETIREMENT SHALL OCCUR IN ACCORDANCE WITH THE STATE PERSONNEL AND PENSIONS ARTICLE.

(2) EXCEPT FOR THE SECRETARY, RETIREMENT IS MANDATORY AS PROVIDED IN § 24-401(C) OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(B) DISABILITY RETIREMENT.

(1) THE SECRETARY MAY APPLY FOR DISABILITY RETIREMENT ON BEHALF OF A POLICE EMPLOYEE IN ACCORDANCE WITH § 29-103 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(2) THIS SUBSECTION DOES NOT PREVENT A POLICE EMPLOYEE FROM EXERCISING THE INDIVIDUAL'S RIGHTS UNDER § 21-111 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(C) DISPOSITION OF HANDGUN ON RETIREMENT OF POLICE EMPLOYEE.

(1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A POLICE EMPLOYEE, ON RETIREMENT IN GOOD STANDING, MAY KEEP OR ACQUIRE THE HANDGUN ISSUED BY THE STATE TO THAT POLICE EMPLOYEE IF:

(I) THE POLICE EMPLOYEE REIMBURSES THE DEPARTMENT FOR THE REPLACEMENT VALUE OF THE HANDGUN; AND

(II) THE SECRETARY AUTHORIZES THE TRANSACTION.

(2) THE SECRETARY SHALL ADOPT REGULATIONS NECESSARY TO CARRY OUT THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, §§ 24A, 15(b)(16) and (d), and the second sentence of § 21.

In subsection (a)(1) of this section, the former cross-reference to "§§ 31 through 37 of this article [former Art. 88B]" is deleted as obsolete. Similarly, in subsection (a)(2) of this section, the former cross-reference to "§ 31(a) of this article" is deleted. Former Art. 88B, §§ 31 to 37 are

transferred to the Session Laws. *See* General Revisor's Note to subtitle.

Subsection (a)(2) of this section cross-references § 24-401(c) of the State Personnel and Pensions Article. According to 69 Op. Att'y Gen. 150 (1984), SP § 24-401(c) is in direct conflict with the federal Age Discrimination in Employment Act and, consequently, may not be enforced. The Public Safety Article Review Committee calls this issue to the attention of the General Assembly.

Subsection (b)(1) of this section is revised to cross-reference SP § 29-103 for clarity. Former Art. 88B, § 15(b)(16) and (d) were also revised in SP § 29-103. By cross-referencing that provision in this article, the potential for inconsistent amendments to the two provisions is avoided.

Defined terms: "Department" § 2-101

"Police employee" § 2-101

"Secretary" § 2-101

2-416. SAME -- RESIGNATION.

RESIGNATION OF AN EMPLOYEE IS NOT VALID UNTIL ACCEPTED BY THE SECRETARY, BUT THE SECRETARY MAY NOT WITHHOLD ACCEPTANCE UNLESS PROCEEDINGS FOR TERMINATION ARE CONTEMPLATED OR PENDING.

REVISOR'S NOTE: This section is new language derived without substantive change from the third sentence of former Art. 88B, § 21.

The reference to proceedings for "termination" is substituted for the former reference to proceedings for "discharge" to conform to terminology used in the State Personnel and Pensions Article. *See* Title 11, Subtitle 3 of the State Personnel and Pensions Article.

Defined term: "Secretary" § 2-101

2-417. SAME -- TERMINATION.

(A) IN GENERAL.

AN EMPLOYEE, OTHER THAN AN EMPLOYEE IN PROBATIONARY STATUS, MAY BE TERMINATED FROM EMPLOYMENT ONLY IN ACCORDANCE WITH THE STATE PERSONNEL AND PENSIONS ARTICLE.

(B) EMPLOYEES IN PROBATIONARY STATUS.

THE SECRETARY MAY TERMINATE THE EMPLOYMENT OF AN EMPLOYEE IN PROBATIONARY STATUS FOR ANY REASON THAT THE SECRETARY CONSIDERS SUFFICIENT.

REVISOR'S NOTE: This section is new language derived without substantive change from the third sentence of former Art. 88B, § 18 and the fourth

sentence of § 21.

In subsection (a) of this section, the reference to an "employee in probationary status" is substituted for the former reference to a "probationary employee" for consistency with subsection (b) of this section and § 2-403 of this subtitle.

Also in subsection (a) of this section, the reference to an employee being "terminated" from employment is substituted for the former reference to being "discharged" to conform to terminology used in the State Personnel and Pensions Article. *See* Title 11, Subtitle 3 of the State Personnel and Pensions Article.

In subsection (b) of this section, the former phrase "in the Secretary's sole discretion" is deleted as implicit in the power of the Secretary to terminate the employment of a probationary employee.

Defined term: "Secretary" § 2-101

2-418. REAPPOINTMENTS.

(A) POLICE EMPLOYEES.

(1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A POLICE EMPLOYEE WHO RESIGNS FROM THE DEPARTMENT FOR ANY REASON MAY NOT BE REAPPOINTED.

(2) A POLICE EMPLOYEE WHO RESIGNS TO ENTER MILITARY SERVICE MAY BE REAPPOINTED.

(3) BY RULE, THE SECRETARY MAY REAPPOINT A POLICE EMPLOYEE WHO RESIGNED IN GOOD STANDING IF THE INDIVIDUAL MEETS THE REQUIREMENTS THEN APPLICABLE FOR INITIAL APPOINTMENT.

(4) AN INDIVIDUAL MAY NOT BE REAPPOINTED TO A RANK HIGHER THAN THE RANK THAT THE INDIVIDUAL PREVIOUSLY HELD AS A POLICE EMPLOYEE.

(B) TERMINATED EMPLOYEES.

AN EMPLOYEE WHO IS TERMINATED FROM THE DEPARTMENT MAY NOT BE REAPPOINTED.

REVISOR'S NOTE: This section is new language derived without substantive change from the second, third, and fourth sentences of former Art. 88B, § 17(b).

In subsection (a)(3) and (4) of this section, the reference to an "individual" is substituted for the former reference to a "person" because only human beings, and not the other entities included in the defined term "person", are police employees.

%In subsection (b) of this section, the reference to an employee being "terminated" is substituted for the former reference to an employee being "discharged" for consistency throughout this subtitle.

Defined terms: "Department" § 2-101

"Police employee" § 2-101

"Rule" § 2-101

"Secretary" § 2-101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 88B, §§ 31, 32, 34, 34A, 34B, 35, 36, 36A, and 37, which covered pensions for employees of the Department of State Police who elected not to become members of the State Police Retirement System, are transferred to the Session Laws because of their limited and diminishing applicability. The State Police Retirement System is covered under Title 24 of the State Personnel and Pensions Article. Today police employees are members of the State Police Retirement System and civilian employees are members of the Employees' Retirement System or the Employees' Pension System.

SUBTITLE 5. STATEWIDE DNA DATA BASE SYSTEM.

2-501. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 88B, § 12A(a)(1).

In this subsection and throughout this subtitle, the reference to this "subtitle" is substituted for the former reference to this "section" to reflect the reorganization of former § 12A as a subtitle in this revision.

No other changes are made.

(B) CODIS.

"CODIS" MEANS THE FEDERAL BUREAU OF INVESTIGATION'S "COMBINED DNA INDEX SYSTEM" THAT ALLOWS THE STORAGE AND EXCHANGE OF DNA RECORDS SUBMITTED BY STATE AND LOCAL FORENSIC DNA LABORATORIES.

REVISOR'S NOTE: This subsection formerly was Art. 88B, § 12A(a)(2).

No changes are made.

Defined terms: "DNA" § 2-501

"DNA records" § 2-501

"State" § 1-101

(C) CRIME LABORATORY.

"CRIME LABORATORY" MEANS THE CRIME LABORATORY DIVISION OF THE DEPARTMENT.

REVISOR'S NOTE: This subsection formerly was Art. 88B, § 12A(a)(3).

The only change is in style.

Defined term: "Department" § 2-101

(D) CRIME OF VIOLENCE.

"CRIME OF VIOLENCE" MEANS:

(1) SEXUAL ABUSE OF A MINOR UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE;

(2) RAPE IN ANY DEGREE;

(3) A SEXUAL OFFENSE IN THE FIRST, SECOND, OR THIRD DEGREE;

(4) MURDER;

(5) ROBBERY UNDER § 3-402 OR § 3-403 OF THE CRIMINAL LAW ARTICLE;

(6) FIRST DEGREE ASSAULT; OR

(7) ATTEMPTS TO COMMIT THE OFFENSES LISTED IN ITEMS (1) THROUGH (6) OF THIS SUBSECTION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88B, § 12A(a)(8).

The Public Safety Article Review Committee decided to use the term "crime of violence" instead of the former term "qualifying crime of violence" because the Committee believed the former term was misleading and not appropriately descriptive.

(E) DIRECTOR.

"DIRECTOR" MEANS THE DIRECTOR OF THE CRIME LABORATORY OR THE DIRECTOR'S DESIGNEE.

REVISOR'S NOTE: This subsection formerly was Art. 88B, § 12A(a)(4).

No changes are made.

Defined term: "Crime Laboratory" § 2-501

(F) DNA.

"DNA" MEANS DEOXYRIBONUCLEIC ACID.

REVISOR'S NOTE: This subsection formerly was Art. 88B, § 12A(a)(5).

No changes are made.

(G) DNA RECORD.

(1) "DNA RECORD" MEANS DNA INFORMATION STORED IN CODIS OR THE STATEWIDE DNA DATA BASE SYSTEM.

(2) "DNA RECORD" INCLUDES THE INFORMATION COMMONLY REFERRED TO AS A DNA PROFILE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88B, § 12A(a)(6).

Defined terms: "CODIS" § 2-501

"DNA" § 2-501

"Statewide DNA data base system" § 2-501

(H) DNA SAMPLE.

"DNA SAMPLE" MEANS A BODY FLUID OR TISSUE SAMPLE THAT IS:

(1) PROVIDED BY AN INDIVIDUAL WHO IS CONVICTED OF A CRIME OF VIOLENCE AS DEFINED IN THIS SECTION; OR

(2) SUBMITTED TO THE STATEWIDE DNA DATA BASE SYSTEM FOR ANALYSIS AS PART OF A CRIMINAL INVESTIGATION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88B, § 12A(a)(7).

In item (1) of this subsection, the reference to an "individual" is substituted for the former reference to a "person" because only an individual, and not the other entities included in the defined term "person", can provide a DNA sample.

Defined terms: "Crime of violence" § 2-501

"Statewide DNA data base system" § 2-501

(I) STATEWIDE DNA DATA BASE SYSTEM.

"STATEWIDE DNA DATA BASE SYSTEM" MEANS THE DNA RECORD SYSTEM ADMINISTERED BY THE DEPARTMENT FOR IDENTIFICATION PURPOSES.

REVISOR'S NOTE: This subsection formerly was Art. 88B, § 12A(a)(9).

The only changes are in style.

Defined terms: "Department" § 2-101

"DNA record" § 2-501

(J) STATEWIDE DNA REPOSITORY.

"STATEWIDE DNA REPOSITORY" MEANS THE STATE REPOSITORY OF DNA SAMPLES COLLECTED UNDER THIS SUBTITLE.

REVISOR'S NOTE: This subsection formerly was Art. 88B, § 12A(a)(10).

The only change is in style.

Defined term: "DNA sample" § 2-501

2-502. STATEWIDE DNA DATA BASE SYSTEM.

(A) ESTABLISHED.

THERE IS A STATEWIDE DNA DATA BASE SYSTEM IN THE CRIME LABORATORY.

(B) PURPOSE.

THE STATEWIDE DNA DATA BASE SYSTEM IS THE CENTRAL REPOSITORY FOR ALL DNA TESTING INFORMATION AS PROVIDED IN THIS SUBTITLE.

(C) DUTIES OF DIRECTOR.

THE DIRECTOR SHALL:

(1) ADMINISTER AND MANAGE THE STATEWIDE DNA DATA BASE SYSTEM;

(2) CONSULT WITH THE SECRETARY ON THE ADOPTION OF APPROPRIATE REGULATIONS FOR PROTOCOLS AND OPERATIONS OF THE STATEWIDE DNA DATA BASE SYSTEM;

(3) ENSURE COMPATIBILITY WITH FEDERAL BUREAU OF INVESTIGATION AND CODIS REQUIREMENTS, INCLUDING THE USE OF COMPARABLE TEST PROCEDURES, QUALITY ASSURANCE, LABORATORY EQUIPMENT, AND COMPUTER SOFTWARE; AND

(4) ENSURE THE SECURITY AND CONFIDENTIALITY OF ALL RECORDS IN THE STATEWIDE DNA DATA BASE SYSTEM.

(D) DUTIES OF CRIME LABORATORY.

THE CRIME LABORATORY SHALL:

(1) RECEIVE DNA SAMPLES FOR ANALYSIS, CLASSIFICATION, AND STORAGE;

(2) FILE THE DNA RECORD OF IDENTIFICATION CHARACTERISTIC PROFILES OF DNA SAMPLES SUBMITTED TO THE CRIME LABORATORY; AND

(3) MAKE INFORMATION THAT RELATES TO DNA SAMPLES AND DNA RECORDS AVAILABLE TO OTHER AGENCIES AND INDIVIDUALS AS AUTHORIZED BY THIS SUBTITLE.

(E) CONTRACT WITH DNA LABORATORY.

THE DIRECTOR MAY CONTRACT WITH A QUALIFIED DNA LABORATORY TO COMPLETE DNA TYPING ANALYSES IF THE LABORATORY MEETS THE GUIDELINES ESTABLISHED BY THE DIRECTOR.

(F) RECORD RETENTION.

SUBJECT TO § 2-511 OF THIS SUBTITLE, RECORDS OF TESTING SHALL BE PERMANENTLY RETAINED ON FILE AT THE CRIME LABORATORY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 12A(b), (l), and (k)(4).

Defined terms: "CODIS" § 2-501

"Crime Laboratory" § 2-501

"Director" § 2-501

"DNA" § 2-501

"DNA record" § 2-501

"DNA sample" § 2-501

"Secretary" § 2-101

"Statewide DNA data base system" § 2-501

2-503. REQUIRED REGULATIONS.

(A) IN GENERAL.

AFTER CONSULTING WITH THE DIRECTOR, THE SECRETARY SHALL ADOPT APPROPRIATE REGULATIONS:

(1) FOR PROTOCOLS AND OPERATIONS OF THE STATEWIDE DNA DATA BASE SYSTEM;

(2) TO GOVERN THE METHODS USED TO OBTAIN INFORMATION FROM THE STATEWIDE DNA DATA BASE SYSTEM AND CODIS, INCLUDING PROCEDURES TO VERIFY THE IDENTITY AND AUTHORITY OF THE INDIVIDUAL OR AGENCY THAT REQUESTS THE INFORMATION; AND

(3) TO GOVERN THE PROCEDURES USED:

(I) TO COLLECT, SUBMIT, IDENTIFY, ANALYZE, STORE, AND DISPOSE OF DNA SAMPLES; AND

(II) TO ALLOW ACCESS TO AND DISSEMINATION OF TYPING RESULTS AND PERSONAL IDENTIFICATION INFORMATION OF DNA SAMPLES THAT ARE SUBMITTED UNDER THIS SUBTITLE.

(B) QUALITY ASSURANCE GUIDELINES.

EACH PROCEDURE ADOPTED BY THE DIRECTOR SHALL INCLUDE QUALITY ASSURANCE GUIDELINES TO ENSURE THAT DNA RECORDS MEET STANDARDS AND AUDIT REQUIREMENTS FOR LABORATORIES THAT SUBMIT DNA RECORDS FOR INCLUSION IN THE STATEWIDE DNA DATA BASE SYSTEM AND CODIS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 12A(b)(4), (k)(1) and (3)(i), and (m)(3).

Defined terms: "CODIS" § 2-501

"Director" § 2-501

"DNA" § 2-501

"DNA record" § 2-501

"DNA sample" § 2-501

"Secretary" § 2-101

"Statewide DNA data base system" § 2-501

2-504. COLLECTION OF DNA SAMPLES.

(A) IN GENERAL.

(1) IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS SUBTITLE, AN INDIVIDUAL WHO IS CONVICTED OF A CRIME OF VIOLENCE, AS DEFINED IN § 2-501 OF THIS SUBTITLE, SHALL:

(I) HAVE A DNA SAMPLE COLLECTED ON INTAKE TO A CORRECTIONAL FACILITY, IF THE INDIVIDUAL IS SENTENCED TO A TERM OF IMPRISONMENT; OR

(II) PROVIDE A DNA SAMPLE AS A CONDITION OF SENTENCE OR PROBATION, IF THE INDIVIDUAL IS NOT SENTENCED TO A TERM OF IMPRISONMENT.

(2) AN INDIVIDUAL WHO WAS CONVICTED OF A CRIME OF VIOLENCE, AS DEFINED IN § 2-501 OF THIS SUBTITLE, BEFORE OCTOBER 1, 1999, AND WHO REMAINS CONFINED IN A CORRECTIONAL FACILITY ON OR AFTER OCTOBER 1, 1999, SHALL SUBMIT A DNA SAMPLE TO THE DEPARTMENT.

(B) PLACE OF COLLECTION.

IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS SUBTITLE, EACH DNA SAMPLE REQUIRED TO BE COLLECTED UNDER THIS SECTION SHALL BE COLLECTED:

(1) AT THE CORRECTIONAL FACILITY WHERE THE INDIVIDUAL IS CONFINED, IF THE INDIVIDUAL IS CONFINED IN A CORRECTIONAL FACILITY ON OR

AFTER OCTOBER 1, 1999 OR IS SENTENCED TO A TERM OF IMPRISONMENT ON OR AFTER OCTOBER 1, 1999; OR

(2) AT A FACILITY SPECIFIED BY THE DIRECTOR, IF THE INDIVIDUAL IS NOT SENTENCED TO A TERM OF IMPRISONMENT.

(C) AUTHORIZED COLLECTORS.

EACH DNA SAMPLE SHALL BE COLLECTED BY:

(1) A CORRECTIONAL HEALTH NURSE TECHNICIAN;

(2) A PHYSICIAN;

(3) A REGISTERED NURSE;

(4) A LICENSED PRACTICAL NURSE;

(5) A LABORATORY TECHNICIAN; OR

(6) A PHLEBOTOMIST.

(D) SECOND DNA SAMPLE.

A SECOND DNA SAMPLE SHALL BE TAKEN IF ORDERED BY THE COURT FOR GOOD CAUSE SHOWN.

(E) FAILURE TO PROVIDE DNA SAMPLE.

FAILURE OF AN INDIVIDUAL WHO IS NOT SENTENCED TO A TERM OF IMPRISONMENT TO PROVIDE A DNA SAMPLE WITHIN 90 DAYS AFTER NOTICE BY THE DIRECTOR IS A VIOLATION OF PROBATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 12A(c), (d), (e), (f), (i), and (j).

Throughout this section, the references to an "individual" are substituted for the former references to a "person" because only an individual, and not the other entities included in the defined term "person", can be convicted of a crime of violence, as defined in this subtitle.

In the introductory language of subsection (a)(1) and the introductory language of subsection (b) of this section, the former phrases "adopted by the Secretary" and "after consultation with the Director", which modified "regulations", are deleted as unnecessary in light of § 2-503 of this subtitle, which describes the process for adopting regulations under this subtitle.

In subsection (a)(1)(i) of this section, the phrase "if the individual is sentenced to a term of imprisonment" is added for clarity.

%Also in subsection (a)(1)(i) of this section, the reference to a "correctional facility" is substituted for the former reference to a "prison or detention facility" for consistency with terminology used in the Correctional Services Article. *See* the General Revisor's Note to that article. Similarly, in subsection (b)(1) of this section, the reference to a "correctional facility" is substituted for the former reference to a "place of incarceration".

In subsections (a)(2) and (b)(1) of this section, the phrase "confined in a correctional facility" is substituted for the former word "incarcerated" for consistency with terminology used in the Correctional Services Article. *See* General Revisor's Note to that article.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that subsection (e) of this section provides only for the situation in which an individual who is not sentenced to a term of imprisonment is placed on probation. A sentence may be imposed and suspended without probation.

Defined terms: "Department" § 2-101

"Director" § 2-501

"DNA sample" § 2-501

"Crime of violence" § 2-501

2-505. PURPOSES OF TESTING DNA SAMPLES.

(A) IN GENERAL.

TO THE EXTENT FISCAL RESOURCES ARE AVAILABLE, DNA SAMPLES SHALL BE TESTED:

(1) TO ANALYZE AND TYPE THE GENETIC MARKERS CONTAINED IN OR DERIVED FROM THE DNA SAMPLES;

(2) AS PART OF AN OFFICIAL INVESTIGATION INTO A CRIME;

(3) TO HELP IDENTIFY HUMAN REMAINS;

(4) TO HELP IDENTIFY MISSING INDIVIDUALS; AND

(5) FOR RESEARCH AND ADMINISTRATIVE PURPOSES, INCLUDING:

(I) DEVELOPMENT OF A POPULATION DATA BASE AFTER PERSONAL IDENTIFYING INFORMATION IS REMOVED;

(II) SUPPORT OF IDENTIFICATION RESEARCH AND PROTOCOL DEVELOPMENT OF FORENSIC DNA ANALYSIS METHODS; AND

(III) QUALITY CONTROL.

(B) LIMITATIONS ON DNA RECORDS.

(1) ONLY DNA RECORDS THAT DIRECTLY RELATE TO THE IDENTIFICATION OF INDIVIDUALS SHALL BE COLLECTED AND STORED.

(2) DNA RECORDS MAY NOT BE USED FOR ANY PURPOSES OTHER THAN THOSE SPECIFIED IN THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 12A(g).

In the introductory language of subsection (a) of this section, the former phrase "for the following purposes" is deleted as implicit.

In subsection (a)(4) of this section, the reference to missing "individuals" is substituted for the former reference to missing "persons" because only an individual, and not the other entities included in the defined term "person", would be considered "missing" in this context.

In subsection (a)(5)(iii) of this section, the former reference to quality control "purposes" is deleted as redundant.

Defined terms: "DNA" § 2-501

"DNA record" § 2-501

"DNA sample" § 2-501

2-506. STORAGE OF DNA RECORDS AND DNA SAMPLES.

(A) DNA RECORDS.

EACH DNA RECORD OF IDENTIFICATION CHARACTERISTICS THAT RESULTS FROM DNA TESTING SHALL BE STORED AND MAINTAINED BY THE CRIME LABORATORY IN THE STATEWIDE DNA DATA BASE SYSTEM.

(B) DNA SAMPLES.

EACH DNA SAMPLE SHALL BE STORED SECURELY AND MAINTAINED BY THE CRIME LABORATORY IN THE STATEWIDE DNA REPOSITORY.

(C) TYPING RESULTS.

TYPING RESULTS SHALL BE STORED SECURELY IN THE STATEWIDE DNA DATA BASE SYSTEM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 12A(h) and (k)(2).

Defined terms: "Crime Laboratory" § 2-501

"DNA" § 2-501

"DNA record" § 2-501

"DNA sample" § 2-501

"Statewide DNA data base system" § 2-501

"Statewide DNA repository" § 2-501

2-507. PROFICIENCY TESTING.

AT REGULAR INTERVALS NOT EXCEEDING 180 DAYS, THE CRIME LABORATORY AND EACH ANALYST WHO PERFORMS DNA ANALYSES AT THE CRIME LABORATORY SHALL UNDERGO EXTERNAL PROFICIENCY TESTING, INCLUDING AT LEAST ONE EXTERNAL BLIND TEST, BY A DNA PROFICIENCY TESTING PROGRAM THAT MEETS THE STANDARDS ISSUED UNDER:

(1) § 1003 OF THE FEDERAL DNA IDENTIFICATION ACT OF 1994 (42 U.S.C. § 14131); OR

(2) THE GUIDELINES FOR A QUALITY ASSURANCE PROGRAM FOR DNA ANALYSIS, KNOWN AS THE "TWGDAM" GUIDELINES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 12A(k)(3)(ii).

In item (1) of this section, the parenthetical reference to "42 U.S.C. § 14131" is added for clarity.

Defined terms: "Crime Laboratory" § 2-501

"DNA" § 2-501

2-508. AVAILABILITY OF DNA PROFILE.

(A) IN GENERAL.

(1) ON WRITTEN OR ELECTRONIC REQUEST AFTER VERIFICATION BY THE DIRECTOR THAT A MATCH HAS BEEN MADE IN THE POPULATION DATA BASE, THE TYPING RESULTS AND PERSONAL IDENTIFICATION INFORMATION OF THE DNA PROFILE OF AN INDIVIDUAL IN THE STATEWIDE DNA DATA BASE SYSTEM MAY BE MADE AVAILABLE TO:

(I) FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT AGENCIES;

(II) CRIME LABORATORIES THAT HAVE BEEN APPROVED BY THE DIRECTOR AND THAT SERVE FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT AGENCIES;

(III) A STATE'S ATTORNEY'S OFFICE OR OTHER PROSECUTORIAL OFFICE; AND

(IV) A PERSON PARTICIPATING IN A JUDICIAL PROCEEDING IN WHICH THE DATA BASE INFORMATION MAY BE OFFERED AS EVIDENCE.

(2) A REQUEST FOR DNA INFORMATION UNDER PARAGRAPH (1) OF THIS SUBSECTION MUST BE IN FURTHERANCE OF A PURPOSE SET FORTH IN § 2-505 OF THIS SUBTITLE.

(B) AVAILABILITY TO DEFENDANT.

(1) THE TYPING RESULTS AND PERSONAL IDENTIFICATION INFORMATION OF THE DNA PROFILE OF AN INDIVIDUAL IN THE STATEWIDE DNA DATA BASE SYSTEM SHALL BE MADE AVAILABLE TO A DEFENDANT OR DEFENDANT'S COUNSEL ON WRITTEN ORDER OF THE COURT IN WHICH THE CASE IS PENDING.

(2) A SEARCH OF THE DATA BASE TO DETERMINE THE EXISTENCE OF A MATCH TO DNA OBTAINED FROM CRIME SCENE EVIDENCE TAKEN IN RELATION TO THE CRIME FOR WHICH A DEFENDANT IS CHARGED SHALL BE CONDUCTED IF:

(I) THE DEFENDANT REQUESTS THE SEARCH; AND

(II) A COURT ISSUES A WRITTEN ORDER FOR THE SEARCH.

(3) THIS SUBTITLE DOES NOT LIMIT A COURT FROM ORDERING DISCOVERY OF A DNA RECORD OR OTHER RELATED MATERIAL IN A CRIMINAL CASE.

(4) THE DIRECTOR SHALL MAINTAIN A FILE OF ALL ORDERS ISSUED UNDER THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 12A(m)(1) and (2).

Defined terms: "Director" § 2-501

"DNA" § 2-501

"DNA record" § 2-501

"Person" § 1-101

"Statewide DNA data base system" § 2-501

2-509. POPULATION DATA BASE.

(A) CREATION BY DIRECTOR.

THE DIRECTOR SHALL CREATE A POPULATION DATA BASE COMPRISED OF DNA SAMPLES COLLECTED UNDER THIS SUBTITLE.

(B) REMOVAL OF PERSONAL IDENTIFIERS.

ALL PERSONAL IDENTIFIERS SHALL BE REMOVED BEFORE INFORMATION IS ENTERED INTO THE POPULATION DATA BASE.

(C) AVAILABILITY OF INFORMATION.

(1) NOTHING SHALL PROHIBIT THE SHARING OR DISSEMINATING OF POPULATION DATA BASE INFORMATION WITH:

(I) FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT AGENCIES;

(II) CRIME LABORATORIES THAT HAVE BEEN APPROVED BY THE DIRECTOR AND THAT SERVE FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT AGENCIES;

(III) A STATE'S ATTORNEY'S OFFICE; OR

(IV) A THIRD PARTY THAT THE DIRECTOR CONSIDERS NECESSARY TO ASSIST THE CRIME LABORATORY WITH STATISTICAL ANALYSES OF THE POPULATION DATA BASE.

(2) THE POPULATION DATA BASE MAY BE MADE AVAILABLE TO AND SEARCHED BY ANY AGENCY THAT PARTICIPATES IN CODIS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 12A(m)(4).

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that subsection (c)(1)(iii) of this section provides for sharing of information with a State's Attorney's office but not with other prosecutorial officers such as the U.S. Attorney's office. *See, e.g.,* § 2-508(a)(1)(iii) of this subtitle.

Defined terms: "CODIS" § 2-501

"Crime Laboratory" § 2-501

"Director" § 2-501

"DNA sample" § 2-501

2-510. USE OF MATCH AS EVIDENCE.

A MATCH OBTAINED BETWEEN AN EVIDENCE SAMPLE AND A DATA BASE ENTRY MAY ONLY BE USED AS PROBABLE CAUSE TO OBTAIN A BLOOD SAMPLE FROM THE SUBJECT AND IS NOT ADMISSIBLE AT TRIAL UNLESS CONFIRMED BY ADDITIONAL TESTING.

REVISOR'S NOTE: This section formerly was Art. 88B, § 12A(n).

The only change is in style.

2-511. EXPUNGEMENT OF DNA INFORMATION.

(A) IN GENERAL.

AN INDIVIDUAL WHOSE DNA RECORD OR PROFILE IS INCLUDED IN THE STATEWIDE DNA DATA BASE SYSTEM AND WHOSE DNA SAMPLE IS STORED IN THE STATEWIDE DNA REPOSITORY MAY REQUEST THAT INFORMATION BE EXPUNGED ON THE GROUNDS THAT THE CONVICTION THAT RESULTED IN THE INCLUSION MEETS THE EXPUNGEMENT CRITERIA SPECIFIED IN § 10-105 OR § 10-106 OF THE CRIMINAL PROCEDURE ARTICLE.

(B) PROCEEDINGS.

EXPUNGEMENT PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH § 10-105 OR § 10-106 OF THE CRIMINAL PROCEDURE ARTICLE.

(C) PURGE OF DNA INFORMATION.

ON RECEIPT OF AN ORDER OF EXPUNGEMENT, THE DIRECTOR SHALL PURGE ANY DNA RECORD, DNA SAMPLE, OR OTHER IDENTIFIABLE INFORMATION COVERED BY THE ORDER FROM THE STATEWIDE DNA DATA BASE SYSTEM AND THE STATEWIDE DNA REPOSITORY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 12A(o).

In subsection (a) of this section, the reference to an "individual" is substituted for the former reference to a "person" because only an individual, and not the other entities included in the defined term "person", can give a DNA sample.

Defined terms: "Director" § 2-501

"DNA record" § 2-501

"DNA sample" § 2-501

"Statewide DNA data base system" § 2-501

"Statewide DNA repository" § 2-501

2-512. PROHIBITED ACTS; PENALTY.

(A) DISCLOSURE OF DNA INFORMATION TO UNAUTHORIZED PERSONS PROHIBITED.

A PERSON WHO, BY VIRTUE OF EMPLOYMENT OR OFFICIAL POSITION, HAS POSSESSION OF OR ACCESS TO INDIVIDUALLY IDENTIFIABLE DNA INFORMATION CONTAINED IN THE STATEWIDE DNA DATA BASE SYSTEM OR STATEWIDE DNA REPOSITORY MAY NOT WILLFULLY DISCLOSE THE INFORMATION IN ANY MANNER TO A PERSON OR AGENCY NOT ENTITLED TO RECEIVE THE INFORMATION.

(B) OBTAINING DNA INFORMATION WITHOUT AUTHORIZATION PROHIBITED.

A PERSON MAY NOT, WITHOUT AUTHORIZATION, WILLFULLY OBTAIN INDIVIDUALLY IDENTIFIABLE DNA INFORMATION FROM THE STATEWIDE DNA DATA BASE SYSTEM OR STATEWIDE DNA REPOSITORY.

(C) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING $1,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 12A(p).

Defined terms: "DNA" § 2-501

"Person" § 1-101

"Statewide DNA data base system" § 2-501

"Statewide DNA repository" § 2-501

SUBTITLE 6. LOCAL DIVISION.

2-601. LOCAL DIVISION ESTABLISHED.

(A) IN GENERAL.

THERE IS A LOCAL DIVISION IN THE DEPARTMENT.

(B) RESOURCES PROVIDED BY DEPARTMENT.

THE DEPARTMENT MAY HAVE AND PROVIDE THE EMPLOYEES, BUILDINGS, EQUIPMENT, FACILITIES, AND OTHER OPERATING MATERIALS FOR THE LOCAL DIVISION AS PROVIDED IN THE STATE BUDGET.

(C) LOCAL DIVISION EMPLOYEES.

THE EMPLOYEES IN THE LOCAL DIVISION ARE IN ADDITION TO THE REGULAR NUMBER OF EMPLOYEES IN THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 63(a), (f), and (g).

In subsection (a) of this section, the former phrase "with the powers, duties, functions, and employees provided in this subtitle" is deleted as unnecessary. The various provisions that relate to the powers, duties, functions, and employees of the Local Division are stated explicitly in this subtitle.

In subsections (b) and (c) of this section, the former phrase "from time to time" is deleted as surplusage.

In subsection (c) of this section, the reference to employees "in the Department" is added for clarity.

Defined term: "Department" § 1-101

2-602. AGREEMENTS WITH LOCAL GOVERNING BODIES.

(A) IN GENERAL.

(1) THE LOCAL GOVERNING BODY OF A COUNTY AND THE SECRETARY MAY ENTER INTO AN AGREEMENT FOR THE DEPARTMENT TO ACT AS AND TAKE OVER ALL OR SOME OF THE FUNCTIONS OF A LOCAL POLICE FORCE FOR THE COUNTY OR A MUNICIPAL CORPORATION IN THE COUNTY.

(2) THE LOCAL GOVERNING BODY OF A COUNTY MAY ENTER INTO AN AGREEMENT WITH A MUNICIPAL CORPORATION IN THE COUNTY FOR THE PARTICIPATION OF THE MUNICIPAL CORPORATION IN AN AGREEMENT ENTERED INTO UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) IN CHARLES COUNTY AND ST. MARY'S COUNTY, A MUNICIPAL CORPORATION ALSO MAY ENTER INTO A SEPARATE AGREEMENT WITH THE DEPARTMENT.

(B) ENFORCEMENT RESPONSIBILITIES OF DEPARTMENT.

(1) IN ACCORDANCE WITH AN AGREEMENT ENTERED INTO UNDER SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT WITHIN THE COUNTY SHALL:

(I) ENFORCE THE PUBLIC LOCAL LAWS OF THE COUNTY OR MUNICIPAL CORPORATION;

(II) PERFORM RELATED POLICE SERVICES; AND

(III) PERFORM THE DEPARTMENT'S OTHER AND REGULAR DUTIES IN THE COUNTY.

(2) FOR PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL PROVIDE THE EMPLOYEES, BUILDINGS, AND FACILITIES THAT ARE REQUIRED BY AGREEMENT OR, IF NOT SO REQUIRED, THAT THE DEPARTMENT CONSIDERS REASONABLE AND PROPER TO ACHIEVE THE OBJECTIVES OF THE AGREEMENT.

(C) REIMBURSEMENTS TO DEPARTMENT.

EACH AGREEMENT ENTERED INTO UNDER SUBSECTION (A) OF THIS SECTION SHALL PROVIDE:

(1) THAT THE SECRETARY SHALL DETERMINE THE REASONABLE AND PROPER COST OF THE LOCAL DIVISION FOR AND WITHIN THE PARTICULAR COUNTY OR MUNICIPAL CORPORATION;

(2) THAT THE COUNTY OR MUNICIPAL CORPORATION SHALL REIMBURSE THE DEPARTMENT THE ENTIRE AMOUNT OF THE COST OF THE LOCAL DIVISION IN THE COUNTY OR MUNICIPAL CORPORATION; AND

(3) FOR THE TIME AND MANNER OF REIMBURSEMENTS BY THE COUNTY OR MUNICIPAL CORPORATION TO THE DEPARTMENT FOR THE COST OF THE LOCAL DIVISION.

(D) PRIOR APPROVAL OF AGREEMENT.

(1) EACH AGREEMENT ENTERED INTO UNDER SUBSECTION (A) OF THIS SECTION REQUIRES THE PRIOR APPROVAL OF THE ATTORNEY GENERAL AS TO LEGAL SUFFICIENCY.

(2) FINANCIAL ARRANGEMENTS IN EACH AGREEMENT ENTERED INTO UNDER SUBSECTION (A) OF THIS SECTION REQUIRE THE PRIOR APPROVAL OF THE SECRETARY OF BUDGET AND MANAGEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 63(b), (c), (d), and (e).

Throughout this section, references to a "municipal corporation" are substituted for the former references to a "municipality" to conform to Md. Constitution, Art. XI-E.

In subsection (a)(1) of this section, the reference to the "local governing body of a county" is substituted for the former reference to the "board of county commissioners or county council of any county, or the Mayor and City Council of the City of Baltimore" for brevity, and to conform to subsection (a)(2) of this section. The Public Safety Article Review Committee notes this substitution for the consideration of the General Assembly. No substantive change is intended.

In subsection (a)(2) of this section, the reference to "an agreement entered into under paragraph (1) of this subsection" is substituted for the former reference to "the contractual agreements entered into by the local governing bodies and the Department" to avoid confusion with the reference to agreements between a county and a municipal corporation.

In subsection (b)(1)(iii) of this section, the former phrase "in addition" is deleted as surplusage.

In subsection (b)(2) of this section, the phrase "achieve the objectives" of the agreement is substituted for the former phrase "perform the objects" of the agreement for clarity.

In subsection (c)(1) of this section, the reference to the cost of the Local Division within the "municipal corporation" is added for consistency with subsection (c)(2) and (3) of this section.

In subsection (c)(3) of this section, the reference to "reimbursements" is substituted for the former reference to "payments" to conform to the requirement that the county or municipal corporation "reimburse" the Department in subsection (c)(2) of this section.

In subsection (d)(1) of this section, the former reference to the "Office of" the Attorney General is deleted as surplusage. Prior approval of an agreement entered into under this section is a duty of the Attorney General, not the Office of the Attorney General.

Defined terms: "County" § 1-101

"Department" § 2-101

"Secretary" § 2-101

2-603. DEPRECIATION OF EQUIPMENT IF AGREEMENT TERMINATED.

(A) IN GENERAL.

IF AN AGREEMENT ENTERED INTO UNDER § 2-602 OF THIS SUBTITLE IS TERMINATED, THE VALUE OF MOTOR VEHICLES, RADIOS, AND LIGHT BARS PAID FOR BY A COUNTY OR MUNICIPAL CORPORATION UNDER THE AGREEMENT SHALL BE DEPRECIATED IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

(B) DEPRECIATION SCHEDULE.

THE VALUE OF MOTOR VEHICLES, RADIOS, AND LIGHT BARS SHALL BE DEPRECIATED OVER A 5-YEAR PERIOD BEGINNING ON THE DATE THE EQUIPMENT WAS PUT IN SERVICE AS FOLLOWS:

(1) AFTER 1 YEAR, THE EQUIPMENT SHALL BE VALUED AT 80% OF ITS INITIAL COST;

(2) AFTER 2 YEARS, THE EQUIPMENT SHALL BE VALUED AT 60% OF ITS INITIAL COST;

(3) AFTER 3 YEARS, THE EQUIPMENT SHALL BE VALUED AT 40% OF ITS INITIAL COST;

(4) AFTER 4 YEARS, THE EQUIPMENT SHALL BE VALUED AT 20% OF ITS INITIAL COST; AND

(5) AFTER 5 YEARS, THE EQUIPMENT SHALL BE CONSIDERED TO HAVE NO REMAINING VALUE FOR PURPOSES OF THIS SECTION.

(C) REIMBURSEMENT BY DEPARTMENT.

THE DEPARTMENT SHALL REIMBURSE THE COUNTY OR MUNICIPAL CORPORATION FOR THE DEPRECIATED VALUE OF THE MOTOR VEHICLES, RADIOS, AND LIGHT BARS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 63(i).

Throughout this section, the substance of the former definition of "equipment" is incorporated into each revised provision.

Defined terms: "County" § 1-101

"Department" § 1-101

2-604. TERMINATION OF SERVICES OF POLICE EMPLOYEES UNDER AGREEMENT.

(A) IN GENERAL.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF EIGHT OR MORE POLICE EMPLOYEES ARE ASSIGNED TO A COUNTY OR MUNICIPAL CORPORATION IN ACCORDANCE WITH AN AGREEMENT ENTERED INTO UNDER § 2-602 OF THIS SUBTITLE:

(1) THE COUNTY OR MUNICIPAL CORPORATION SHALL GIVE THE DEPARTMENT AT LEAST 5 YEARS' NOTICE WHENEVER THE COUNTY OR MUNICIPAL CORPORATION DECIDES TO TERMINATE THE SERVICES OF POLICE EMPLOYEES PROVIDED UNDER THE AGREEMENT; AND

(2) THE NUMBER OF POLICE EMPLOYEES ASSIGNED TO THE COUNTY OR MUNICIPAL CORPORATION IN ACCORDANCE WITH THE AGREEMENT SHALL BE PHASED OUT OVER 5 YEARS.

(B) MODIFICATION OF MANNER OF TERMINATION AUTHORIZED.

THE DEPARTMENT AND COUNTY OR MUNICIPAL CORPORATION MAY MODIFY THE MANNER IN WHICH THE SERVICES OF POLICE EMPLOYEES ARE TERMINATED IN AN AGREEMENT ENTERED INTO UNDER § 2-602 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 63(j).

In subsections (a)(1) and (b) of this section, the reference to services "of police employees" is added for clarity.

Defined terms: "County" § 1-101

"Department" § 1-101

"Police employee" § 2-101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 88B, § 63(h), which provided that the term "county" includes Baltimore City, is deleted in light of the defined term "county" in § 1-101 of this article to the same effect.

SUBTITLE 7. VEHICLE THEFT PREVENTION COUNCIL AND VEHICLE THEFT PREVENTION FUND.

2-701. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 88B, § 71(a).

No changes are made.

(B) COMMERCIAL MOTOR VEHICLE.

"COMMERCIAL MOTOR VEHICLE" HAS THE MEANING STATED IN § 11-109.1 OF THE TRANSPORTATION ARTICLE.

REVISOR'S NOTE: This subsection formerly was Art. 88B, § 71(b).

%No changes are made.

(C) COUNCIL.

"COUNCIL" MEANS THE VEHICLE THEFT PREVENTION COUNCIL.

REVISOR'S NOTE: This subsection formerly was Art. 88B, § 71(c).

No changes are made.

(D) FUND.

"FUND" MEANS THE VEHICLE THEFT PREVENTION FUND.

REVISOR'S NOTE: This subsection formerly was Art. 88B, § 71(d).

No changes are made.

2-702. VEHICLE THEFT PREVENTION COUNCIL.

(A) ESTABLISHED; PURPOSE.

(1) THERE IS A VEHICLE THEFT PREVENTION COUNCIL IN THE DEPARTMENT.

(2) THE PURPOSE OF THE COUNCIL IS TO HELP PREVENT AND DETER THEFT OF PRIVATE PASSENGER AND COMMERCIAL MOTOR VEHICLES AND RELATED CRIME, INCLUDING VANDALISM AND THEFT OF PROPERTY FROM VEHICLES, IN THE STATE.

(B) MEMBERSHIP.

(1) THE COUNCIL CONSISTS OF THE FOLLOWING 13 MEMBERS APPOINTED BY THE GOVERNOR:

(I) AS EX OFFICIO MEMBERS OF THE COUNCIL:

1. THE SECRETARY OR A DESIGNEE;

2. THE SECRETARY OF JUVENILE JUSTICE OR A DESIGNEE;

3. THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES OR A DESIGNEE; AND

4. THE MOTOR VEHICLE ADMINISTRATOR OF THE MOTOR VEHICLE ADMINISTRATION; AND

(II) NINE REGULAR MEMBERS.

(2) OF THE NINE REGULAR MEMBERS:

(I) ONE MEMBER SHALL REPRESENT A LOCAL LAW ENFORCEMENT AGENCY;

(II) ONE MEMBER SHALL REPRESENT A STATE'S ATTORNEY'S OFFICE IN THE STATE;

(III) ONE MEMBER SHALL REPRESENT A DOMESTIC INSURER THAT ISSUES PRIVATE PASSENGER AUTOMOBILE OR COMMERCIAL MOTOR VEHICLE LIABILITY INSURANCE IN THE STATE;

(IV) ONE MEMBER SHALL REPRESENT A FOREIGN INSURER THAT ISSUES PRIVATE PASSENGER AUTOMOBILE OR COMMERCIAL MOTOR VEHICLE LIABILITY INSURANCE IN THE STATE;

(V) ONE MEMBER SHALL REPRESENT THE GOVERNOR'S OFFICE;

(VI) ONE MEMBER SHALL REPRESENT THE NATIONAL INSURANCE CRIME BUREAU OR A SIMILAR ORGANIZATION; AND

(VII) THREE MEMBERS SHALL REPRESENT THE PUBLIC, INCLUDING ONE MEMBER WHO REPRESENTS A NEIGHBORHOOD OR COMMUNITY ASSOCIATION.

(C) TENURE; VACANCY.

(1) THE MEMBERS SERVE AT THE PLEASURE OF THE GOVERNOR.

(2) THE TERM OF A REGULAR MEMBER IS 3 YEARS.

(3) THE TERMS OF THE REGULAR MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COUNCIL ON OCTOBER 1, 2003.

(4) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(D) CHAIRMAN.

THE GOVERNOR SHALL APPOINT THE CHAIRMAN OF THE COUNCIL.

(E) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE COUNCIL:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COUNCIL; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES FROM THE FUND IN ACCORDANCE WITH THE STANDARD STATE TRAVEL REGULATIONS.

(F) EXECUTIVE DIRECTOR; EXPENSES; LEGAL ADVISOR.

(1) THE COUNCIL SHALL EMPLOY AN EXECUTIVE DIRECTOR, WHO SHALL BE APPOINTED BY THE GOVERNOR.

(2) THE EXPENSES OF THE COUNCIL, INCLUDING STAFF SALARIES AND ADMINISTRATIVE EXPENSES, SHALL BE PAID FROM THE FUND BUT MAY NOT EXCEED 7% OF THE TOTAL EXPENDITURES FROM THE FUND IN A FISCAL YEAR.

(3) THE ASSISTANT ATTORNEY GENERAL ASSIGNED TO THE DEPARTMENT IS THE LEGAL ADVISOR TO THE COUNCIL.

(G) POWERS AND DUTIES.

(1) THE COUNCIL HAS THE FOLLOWING POWERS AND DUTIES:

(I) TO MAKE GRANTS FROM THE FUND FOR MOTOR VEHICLE THEFT INTERVENTION PROGRAMS, AS PROVIDED IN § 2-703 OF THIS SUBTITLE;

(II) TO SOLICIT AND ACCEPT MONEY FOR DEPOSIT INTO THE FUND, TO BE USED TO CARRY OUT THE PURPOSES OF THIS SUBTITLE;

(III) TO ESTABLISH OR ASSIST IN THE ESTABLISHMENT OF PROGRAMS DESIGNED TO REDUCE THE INCIDENCE OF VEHICLE THEFT AND RELATED CRIME;

(IV) TO IDENTIFY PRIORITIES FOR THEFT PREVENTION STRATEGIES IN THE STATE AND CRITERIA FOR THE COUNCIL'S EVALUATION OF RECIPIENTS OF ASSISTANCE FROM THE COUNCIL; AND

(V) TO STUDY AND PROPOSE LAWS THAT WILL FURTHER PREVENT AND DETER VEHICLE THEFT AND RELATED CRIME.

(2) THE COUNCIL SHALL DEVELOP AND IMPLEMENT A PLAN OF OPERATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, §§ 72, 73, and 75.

In subsection (b)(2)(i) of this section, the reference to a local law enforcement "agency" is substituted for the former reference to an "authority" for consistency with terminology used throughout this article.

In subsection (b)(2)(vii) of this section, the former reference to the "general" public is deleted as surplusage.

In subsection (c)(3) of this section, the reference to "October 1, 2003" is substituted for the former obsolete reference to "July 1, 1994" to reflect the effective date of this revision. This substitution is not intended to alter the term of any member of the Council. *See* § ___ of Ch. ___, Acts of 2003.

Subsection (e) of this section is revised in standard language used to describe the compensation and reimbursement of expenses of members of a

board or commission.

In subsection (g)(1)(i) of this section, the former reference to "awards" is deleted as included in the reference to "grants". The term "grants" is used for consistency throughout this article.

Defined terms: "Commercial motor vehicle" § 2-701

"Council" § 2-701

"Department" § 2-101

"Fund" § 2-701

"Secretary" § 2-101

2-703. VEHICLE THEFT PREVENTION FUND.

(A) ESTABLISHED.

THERE IS A VEHICLE THEFT PREVENTION FUND.

(B) STATUS.

(1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(C) COMPOSITION.

THE FUND CONSISTS OF:

(1) MONEY RECEIVED BY THE FUND UNDER §§ 13-507 AND 17-106 OF THE TRANSPORTATION ARTICLE;

(2) MONEY RECEIVED BY THE COUNCIL OR THE FUND FROM ANY SOURCE; AND

(3) INVESTMENT EARNINGS OF THE FUND.

(D) INVESTMENTS.

THE MONEY OF THE FUND SHALL BE INVESTED IN THE SAME MANNER AS OTHER STATE MONEY.

(E) PRIORITY OF EXPENDITURES.

THE COUNCIL SHALL SPEND MONEY IN THE FUND IN THE FOLLOWING ORDER OF PRIORITY:

(1) TO PAY THE EXPENSES OF THE COUNCIL; AND

(2) TO CARRY OUT THE PURPOSES OF THIS SUBTITLE.

(F) PRIORITY OF ENTITIES AND PROGRAMS.

WHEN MAKING GRANTS FROM THE FUND, THE COUNCIL SHALL CONSIDER AND PRIORITIZE THE FOLLOWING ENTITIES AND PROGRAMS:

(1) STATE AND LOCAL LAW ENFORCEMENT AGENCIES:

(I) TO ENHANCE VEHICLE THEFT ENFORCEMENT AND PREVENTION TEAMS OR EFFORTS; AND

(II) FOR PROGRAMS DESIGNED TO REDUCE THE INCIDENCE OF VEHICLE THEFT;

(2) LOCAL PROSECUTORS AND JUDICIAL AGENCIES, FOR ENHANCED PROSECUTION AND ADJUDICATION OF VEHICLE THEFT CRIME;

(3) NEIGHBORHOOD, COMMUNITY, OR BUSINESS ORGANIZATIONS, FOR PROGRAMS DESIGNED TO REDUCE THE INCIDENCE OF VEHICLE THEFT;

(4) EDUCATIONAL PROGRAMS DESIGNED TO INFORM MOTOR VEHICLE OWNERS OF METHODS TO PREVENT MOTOR VEHICLE THEFT AND TO PROVIDE EQUIPMENT, FOR EXPERIMENTAL PURPOSES, TO ENABLE MOTOR VEHICLE OWNERS TO PREVENT MOTOR VEHICLE THEFT;

(5) PROGRAMS DESIGNED TO REDUCE THE INCIDENCE OF VEHICLE THEFT AND RECIDIVISM BY JUVENILES; AND

(6) PROGRAMS DESIGNED TO REDUCE OR DETER DAMAGE OR VANDALISM TO VEHICLES IN CONNECTION WITH VEHICLE THEFT OR THEFT OF PROPERTY FROM VEHICLES.

(G) ALLOCATION OF GRANTS.

TO THE EXTENT PRACTICABLE, THE COUNCIL SHALL ALLOCATE GRANTS MADE UNDER THIS SUBTITLE AMONG THE SUBDIVISIONS OF THE STATE ON A PRO RATA BASIS DETERMINED BY THE TOTAL NUMBER OF VEHICLES REGISTERED IN EACH SUBDIVISION DIVIDED BY THE TOTAL NUMBER OF VEHICLES REGISTERED IN THE STATE.

(H) EXPENDITURES FROM FUND.

(1) EXPENDITURES FROM THE FUND MAY BE MADE ONLY:

(I) IN ACCORDANCE WITH THE STATE BUDGET; OR

(II) BY THE BUDGET AMENDMENT PROCEDURE AS PROVIDED IN § 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, IF AT LEAST 45 DAYS HAVE PASSED SINCE THE BUDGET AMENDMENT AND SUPPORTING INFORMATION WERE SUBMITTED TO THE BUDGET COMMITTEES FOR THEIR REVIEW AND COMMENT.

(2) THE PROPOSED BUDGET AND ANY BUDGET AMENDMENT SUBMITTED TO THE GENERAL ASSEMBLY SHALL INCLUDE AN ITEMIZED LIST OF EACH GRANT AND OTHER EXPENDITURE FROM THE FUND TO BE MADE IN THE FISCAL YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 74.

In subsection (b)(2) of this section, the reference to holding the Fund "separately" is added to clarify that the Treasurer shall keep this Fund separate from other State funds. This language is standard language used for special funds. *See, e.g.*, CS § 10-503(a)(3) and HG § 19-1515(d)(3).

Also in subsection (b)(2) of this section, the reference to the "Fund" is substituted for the former reference to "funds" for clarity and to conform to usage throughout this section.

Also in subsection (b)(2) of this section, the word "State", which formerly modified "Treasurer" and "Comptroller", respectively, is deleted to conform to SG §§ 5-101(a) and 4-101(a), respectively.

In subsection (c)(2) of this section, the former specific reference to "gifts, grants, awards, or money from the federal or State government, a local government or association, organization, or other private source" is deleted as included in the general reference to money received "from any source".

Subsection (c)(3) of this section is revised to clarify that investment earnings of the Fund are part of the Fund. Consequently, the former reference to investment earnings being "paid into" the Fund is deleted as implicit. Similarly, the former requirement that money received by the Council "be placed" in the Fund is deleted as implicit in light of subsection (c)(2) of this section, which provides that money received by the Council is part of the Fund.

Subsection (d) of this section is revised in standard language to provide that money in the Fund shall be invested in the same manner as other State money. Therefore, the former reference to money being "reinvested" is deleted as implicit and unnecessary.

In subsection (e)(2) of this section, the former reference to the "objectives" of this subtitle is deleted as included in the reference to the "purposes".

In the introductory language of subsection (f) of this section, the reference to "grants" is substituted for the former reference to "awards" for consistency throughout this subtitle. Similarly, in subsection (g) of this section, the former reference to "awards" is deleted as included in the reference to "grants".

In subsection (f)(1)(i) of this section, the former reference to "augment" is deleted as included in the reference to "enhance".

%In subsection (h)(1)(i) of this section, the phrase "in accordance with the State budget" is substituted for the former phrase "[p]ursuant to an appropriation approved by the General Assembly in the annual State budget" for brevity and consistency with language used throughout this article.

Defined terms: "Council" § 2-701

"Fund" § 2-701

TITLE 3. LAW ENFORCEMENT.

SUBTITLE 1. LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS.

3-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 27, § 727(a).

The only changes are in style.

(B) CHIEF.

(1) "CHIEF" MEANS THE HEAD OF A LAW ENFORCEMENT AGENCY.

(2) "CHIEF" INCLUDES THE OFFICER DESIGNATED BY THE HEAD OF A LAW ENFORCEMENT AGENCY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 727(g).

Paragraph (1) of this subsection is revised for clarity to refer generally to the "head" of a law enforcement agency. Consequently, the former specific references to the "superintendent", "commissioner", "chief of police", and "sheriff" are deleted as included in the general reference to the "head" of a law enforcement agency.

In paragraph (2) of this subsection, the reference to the "head of a law enforcement agency" is substituted for the former reference to the "official" for clarity and consistency with terminology used in paragraph (1) of this subsection.

(C) HEARING.

(1) "HEARING" MEANS A PROCEEDING DURING AN INVESTIGATION CONDUCTED BY A HEARING BOARD TO TAKE TESTIMONY OR RECEIVE OTHER EVIDENCE.

(2) "HEARING" DOES NOT INCLUDE AN INTERROGATION AT WHICH NO TESTIMONY IS TAKEN UNDER OATH.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 727(e).

In paragraph (1) of this subsection, the reference to a "proceeding" is substituted for the former reference to a "meeting" for clarity. Correspondingly, the reference to an "investigation" is substituted for the former reference to an "investigatory proceeding" to avoid using the term "proceeding" twice.

Also in paragraph (1) of this subsection, the former reference to "adducing" testimony is deleted as included in the reference to "tak[ing]" testimony.

Defined term: "Hearing board" § 3-101

(D) HEARING BOARD.

"HEARING BOARD" MEANS A BOARD THAT IS AUTHORIZED BY THE CHIEF TO HOLD A HEARING ON A COMPLAINT AGAINST A LAW ENFORCEMENT OFFICER.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first clause of the first sentence of former Art. 27, § 727(d)(1).

Defined terms: "Chief" § 3-101

"Hearing" § 3-101

"Law enforcement officer" § 3-101

(E) LAW ENFORCEMENT OFFICER.

(1) "LAW ENFORCEMENT OFFICER" MEANS AN INDIVIDUAL WHO:

(I) IN AN OFFICIAL CAPACITY IS AUTHORIZED BY LAW TO MAKE ARRESTS; AND

(II) IS A MEMBER OF ONE OF THE FOLLOWING LAW ENFORCEMENT AGENCIES:

1. THE DEPARTMENT OF STATE POLICE;

2. THE POLICE DEPARTMENT OF BALTIMORE CITY;

3. THE BALTIMORE CITY SCHOOL POLICE FORCE;

4. THE BALTIMORE CITY WATERSHED POLICE FORCE;

5. THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A COUNTY;

6. THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A MUNICIPAL CORPORATION;

7. THE OFFICE OF THE SHERIFF OF A COUNTY;

8. THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A BICOUNTY AGENCY;

9. THE MARYLAND TRANSPORTATION AUTHORITY POLICE;

10. THE POLICE FORCES OF THE DEPARTMENT OF TRANSPORTATION;

11. THE POLICE FORCES OF THE DEPARTMENT OF NATURAL RESOURCES;

12. THE FIELD ENFORCEMENT DIVISION OF THE COMPTROLLER'S OFFICE;

13. THE HOUSING AUTHORITY OF BALTIMORE CITY POLICE FORCE;

14. THE CROFTON POLICE DEPARTMENT;

15. THE POLICE FORCE OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;

16. THE POLICE FORCE OF THE DEPARTMENT OF GENERAL SERVICES;

17. THE POLICE FORCE OF THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION;

18. THE POLICE FORCES OF THE UNIVERSITY SYSTEM OF MARYLAND;

19. THE POLICE FORCE OF MORGAN STATE UNIVERSITY; OR

20. THE OFFICE OF STATE FIRE MARSHAL.

(2) "LAW ENFORCEMENT OFFICER" DOES NOT INCLUDE:

(I) AN INDIVIDUAL WHO SERVES AT THE PLEASURE OF THE POLICE COMMISSIONER OF BALTIMORE CITY;

(II) AN INDIVIDUAL WHO SERVES AT THE PLEASURE OF THE APPOINTING AUTHORITY OF A CHARTER COUNTY;

(III) THE POLICE CHIEF OF A MUNICIPAL CORPORATION; OR

(IV) AN OFFICER WHO IS IN PROBATIONARY STATUS ON INITIAL ENTRY INTO THE LAW ENFORCEMENT AGENCY EXCEPT IF AN ALLEGATION OF BRUTALITY IN THE EXECUTION OF THE OFFICER'S DUTIES IS MADE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 727(b) and (c).

In the introductory language of paragraph (1) and in paragraph (2)(i) and (ii) of this subsection, the reference to an "individual" is substituted for the former reference to a "person" because only an individual, and not the other entities included in the defined term "person", can be a law enforcement officer. *See* § 1-101 of this article for the definition of "person".

In paragraphs (1)(ii)6 and (2)(iii) of this subsection, the references to a "municipal corporation" are substituted for the former references to an "incorporated city or town" for consistency with Md. Constitution, Art. XI-E.

In paragraph (1)(ii)7 of this subsection, the former reference to "Baltimore City" is deleted as surplusage in light of the article-wide definition of "county" in § 1-101 of this article.

In paragraph (1)(ii)11, 15, 16, 17, and 19 of this subsection, the reference to the police "force[s]" is substituted for the former reference to police "officers" for internal consistency in this paragraph in referring to law enforcement agencies.

In paragraph (1)(ii)18 of this subsection, the reference to the police "forces" of the University System of Maryland is substituted for the former reference to police "officers" to indicate that each college/university in the University System of Maryland has a separate police force.

In paragraph (1)(ii)20 of this subsection, the former reference to a "full-time investigative and inspection assistant" is deleted for accuracy. These individuals do not have arrest powers.

In paragraph (2)(iv) of this subsection, the reference to initial entry into the "law enforcement agency" is substituted for the former reference to initial entry into the "Department" because this provision is not limited to officers who are entering a particular police department, but covers officers entering any law enforcement agency listed in paragraph (1)(ii) of this subsection.

Defined term: "County" § 1-101

3-102. EFFECT OF SUBTITLE.

(A) CONFLICTING LAW SUPERSEDED.

EXCEPT FOR THE ADMINISTRATIVE HEARING PROCESS UNDER TITLE 3, SUBTITLE 2 OF THIS ARTICLE THAT RELATES TO THE CERTIFICATION ENFORCEMENT POWER OF THE POLICE TRAINING COMMISSION, THIS SUBTITLE SUPERSEDES ANY OTHER LAW OF THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION THAT CONFLICTS WITH THIS SUBTITLE.

(B) PREEMPTION OF LOCAL LAW.

ANY LOCAL LAW IS PREEMPTED BY THE SUBJECT AND MATERIAL OF THIS SUBTITLE.

(C) AUTHORITY OF CHIEF NOT LIMITED.

THIS SUBTITLE DOES NOT LIMIT THE AUTHORITY OF THE CHIEF TO REGULATE THE COMPETENT AND EFFICIENT OPERATION AND MANAGEMENT OF A LAW ENFORCEMENT AGENCY BY ANY REASONABLE MEANS INCLUDING TRANSFER AND REASSIGNMENT IF:

(1) THAT ACTION IS NOT PUNITIVE IN NATURE; AND

(2) THE CHIEF DETERMINES THAT ACTION TO BE IN THE BEST INTERESTS OF THE INTERNAL MANAGEMENT OF THE LAW ENFORCEMENT AGENCY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, §§ 734B and 728(c).

In subsection (a) of this section, the former specific references to any "ordinance" and "regulation" are deleted as included in the general reference to "law".

In subsection (b) of this section, the reference to any local "law" is substituted for the former reference to local "legislation" for consistency with subsection (a) of this section.

In the introductory language of subsection (c) of this section, the former phrase "but not limited to" is deleted as surplusage in light of the word "including". *See* Art. 1, § 30.

Defined terms: "Chief" § 3-101

"County" § 1-101

3-103. RIGHTS OF LAW ENFORCEMENT OFFICERS GENERALLY.

(A) RIGHT TO ENGAGE IN POLITICAL ACTIVITY.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A LAW ENFORCEMENT OFFICER HAS THE SAME RIGHTS TO ENGAGE IN POLITICAL ACTIVITY AS A STATE EMPLOYEE.

(2) THIS RIGHT TO ENGAGE IN POLITICAL ACTIVITY DOES NOT APPLY WHEN THE LAW ENFORCEMENT OFFICER IS ON DUTY OR ACTING IN AN OFFICIAL CAPACITY.

(B) REGULATION OF SECONDARY EMPLOYMENT.

A LAW ENFORCEMENT AGENCY:

(1) MAY NOT PROHIBIT SECONDARY EMPLOYMENT BY LAW ENFORCEMENT OFFICERS; BUT

(2) MAY ADOPT REASONABLE REGULATIONS THAT RELATE TO SECONDARY EMPLOYMENT BY LAW ENFORCEMENT OFFICERS.

(C) DISCLOSURE OF PROPERTY, INCOME, AND OTHER INFORMATION.

A LAW ENFORCEMENT OFFICER MAY NOT BE REQUIRED OR REQUESTED TO DISCLOSE AN ITEM OF THE LAW ENFORCEMENT OFFICER'S PROPERTY, INCOME, ASSETS, SOURCE OF INCOME, DEBTS, OR PERSONAL OR DOMESTIC EXPENDITURES, INCLUDING THOSE OF A MEMBER OF THE LAW ENFORCEMENT OFFICER'S FAMILY OR HOUSEHOLD, UNLESS:

(1) THE INFORMATION IS NECESSARY TO INVESTIGATE A POSSIBLE CONFLICT OF INTEREST WITH RESPECT TO THE PERFORMANCE OF THE LAW ENFORCEMENT OFFICER'S OFFICIAL DUTIES; OR

(2) THE DISCLOSURE IS REQUIRED BY FEDERAL OR STATE LAW.

(D) RETALIATION.

A LAW ENFORCEMENT OFFICER MAY NOT BE DISCHARGED, DISCIPLINED, DEMOTED, OR DENIED PROMOTION, TRANSFER, OR REASSIGNMENT, OR OTHERWISE DISCRIMINATED AGAINST IN REGARD TO THE LAW ENFORCEMENT OFFICER'S EMPLOYMENT OR BE THREATENED WITH THAT TREATMENT BECAUSE THE LAW ENFORCEMENT OFFICER:

(1) HAS EXERCISED OR DEMANDED THE RIGHTS GRANTED BY THIS SUBTITLE; OR

(2) HAS LAWFULLY EXERCISED CONSTITUTIONAL RIGHTS.

(E) RIGHT TO SUE.

A STATUTE MAY NOT ABRIDGE AND A LAW ENFORCEMENT AGENCY MAY NOT ADOPT A REGULATION THAT PROHIBITS THE RIGHT OF A LAW ENFORCEMENT OFFICER TO BRING SUIT THAT ARISES OUT OF THE LAW ENFORCEMENT OFFICER'S DUTIES AS A LAW ENFORCEMENT OFFICER.

(F) WAIVER OF RIGHTS.

A LAW ENFORCEMENT OFFICER MAY WAIVE IN WRITING ANY OR ALL RIGHTS GRANTED BY THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, §§ 729, 729A, 733, 734D, and 728(a) and (b)(11).

In subsection (a)(1) of this section, the introductory phrase "[s]ubject to paragraph (2) of this subsection" is added to clarify that the right to engage in political activity is limited by subsection (a)(2) of this section.

In subsection (f) of this section, the defined term "law enforcement officer" is substituted for the former term "officer" for consistency with terminology used throughout this subtitle.

Also in subsection (f) of this section, the reference to rights "granted" by this subtitle is substituted for the former reference to rights "provided" in this subtitle for consistency with subsection (d)(1) of this section.

Defined term: "Law enforcement officer" § 3-101

3-104. INVESTIGATION OR INTERROGATION OF LAW ENFORCEMENT OFFICER.

(A) IN GENERAL.

THE INVESTIGATION OR INTERROGATION BY A LAW ENFORCEMENT AGENCY OF A LAW ENFORCEMENT OFFICER FOR A REASON THAT MAY LEAD TO DISCIPLINARY ACTION, DEMOTION, OR DISMISSAL SHALL BE CONDUCTED IN ACCORDANCE WITH THIS SECTION.

(B) INTERROGATING OR INVESTIGATING OFFICER.

FOR PURPOSES OF THIS SECTION, THE INVESTIGATING OFFICER OR INTERROGATING OFFICER SHALL BE:

(1) A SWORN LAW ENFORCEMENT OFFICER; OR

(2) IF REQUESTED BY THE GOVERNOR, THE ATTORNEY GENERAL OR ATTORNEY GENERAL'S DESIGNEE.

(C) COMPLAINT THAT ALLEGES BRUTALITY.

(1) A COMPLAINT AGAINST A LAW ENFORCEMENT OFFICER THAT ALLEGES BRUTALITY IN THE EXECUTION OF THE LAW ENFORCEMENT OFFICER'S DUTIES MAY NOT BE INVESTIGATED UNLESS THE COMPLAINT IS SWORN TO, BEFORE AN OFFICIAL AUTHORIZED TO ADMINISTER OATHS, BY:

(I) THE AGGRIEVED INDIVIDUAL;

(II) A MEMBER OF THE AGGRIEVED INDIVIDUAL'S IMMEDIATE FAMILY;

(III) AN INDIVIDUAL WITH FIRSTHAND KNOWLEDGE OBTAINED BECAUSE THE INDIVIDUAL WAS PRESENT AT AND OBSERVED THE ALLEGED INCIDENT; OR

(IV) THE PARENT OR GUARDIAN OF THE MINOR CHILD, IF THE ALLEGED INCIDENT INVOLVES A MINOR CHILD.

(2) UNLESS A COMPLAINT IS FILED WITHIN 90 DAYS AFTER THE ALLEGED BRUTALITY, AN INVESTIGATION THAT MAY LEAD TO DISCIPLINARY ACTION UNDER THIS SUBTITLE FOR BRUTALITY MAY NOT BE INITIATED AND AN ACTION MAY NOT BE TAKEN.

(D) DISCLOSURES TO LAW ENFORCEMENT OFFICER UNDER INVESTIGATION.

(1) THE LAW ENFORCEMENT OFFICER UNDER INVESTIGATION SHALL BE INFORMED OF THE NAME, RANK, AND COMMAND OF:

(I) THE LAW ENFORCEMENT OFFICER IN CHARGE OF THE INVESTIGATION;

(II) THE INTERROGATING OFFICER; AND

(III) EACH INDIVIDUAL PRESENT DURING AN INTERROGATION.

(2) BEFORE AN INTERROGATION, THE LAW ENFORCEMENT OFFICER UNDER INVESTIGATION SHALL BE INFORMED IN WRITING OF THE NATURE OF THE INVESTIGATION.

(E) DISCLOSURES TO LAW ENFORCEMENT OFFICER UNDER ARREST.

IF THE LAW ENFORCEMENT OFFICER UNDER INTERROGATION IS UNDER ARREST, OR IS LIKELY TO BE PLACED UNDER ARREST AS A RESULT OF THE INTERROGATION, THE LAW ENFORCEMENT OFFICER SHALL BE INFORMED COMPLETELY OF ALL OF THE LAW ENFORCEMENT OFFICER'S RIGHTS BEFORE THE INTERROGATION BEGINS.

(F) TIME OF INTERROGATION.

UNLESS THE SERIOUSNESS OF THE INVESTIGATION IS OF A DEGREE THAT AN IMMEDIATE INTERROGATION IS REQUIRED, THE INTERROGATION SHALL BE CONDUCTED AT A REASONABLE HOUR, PREFERABLY WHEN THE LAW ENFORCEMENT OFFICER IS ON DUTY.

(G) PLACE OF INTERROGATION.

(1) THE INTERROGATION SHALL TAKE PLACE:

(I) AT THE OFFICE OF THE COMMAND OF THE INVESTIGATING OFFICER OR AT THE OFFICE OF THE LOCAL PRECINCT OR POLICE UNIT IN WHICH THE INCIDENT ALLEGEDLY OCCURRED, AS DESIGNATED BY THE INVESTIGATING OFFICER; OR

(II) AT ANOTHER REASONABLE AND APPROPRIATE PLACE.

(2) THE LAW ENFORCEMENT OFFICER UNDER INVESTIGATION MAY WAIVE THE RIGHT DESCRIBED IN PARAGRAPH (1)(I) OF THIS SUBSECTION.

(H) CONDUCT OF INTERROGATION.

(1) ALL QUESTIONS DIRECTED TO THE LAW ENFORCEMENT OFFICER UNDER INTERROGATION SHALL BE ASKED BY AND THROUGH ONE INTERROGATING OFFICER DURING ANY ONE SESSION OF INTERROGATION CONSISTENT WITH PARAGRAPH (2) OF THIS SUBSECTION.

(2) EACH SESSION OF INTERROGATION SHALL:

(I) BE FOR A REASONABLE PERIOD; AND

(II) ALLOW FOR PERSONAL NECESSITIES AND REST PERIODS AS REASONABLY NECESSARY.

(I) THREAT OF TRANSFER, DISMISSAL, OR DISCIPLINARY ACTION PROHIBITED.

THE LAW ENFORCEMENT OFFICER UNDER INTERROGATION MAY NOT BE THREATENED WITH TRANSFER, DISMISSAL, OR DISCIPLINARY ACTION.

(J) RIGHT TO COUNSEL.

(1) (I) ON REQUEST, THE LAW ENFORCEMENT OFFICER UNDER INTERROGATION HAS THE RIGHT TO BE REPRESENTED BY COUNSEL OR ANOTHER RESPONSIBLE REPRESENTATIVE OF THE LAW ENFORCEMENT OFFICER'S CHOICE WHO SHALL BE PRESENT AND AVAILABLE FOR CONSULTATION AT ALL TIMES DURING THE INTERROGATION.

(II) THE LAW ENFORCEMENT OFFICER MAY WAIVE THE RIGHT DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(2) (I) THE INTERROGATION SHALL BE SUSPENDED FOR A PERIOD NOT EXCEEDING 10 DAYS UNTIL REPRESENTATION IS OBTAINED.

(II) WITHIN THAT 10-DAY PERIOD, THE CHIEF FOR GOOD CAUSE SHOWN MAY EXTEND THE PERIOD FOR OBTAINING REPRESENTATION.

(3) DURING THE INTERROGATION, THE LAW ENFORCEMENT OFFICER'S COUNSEL OR REPRESENTATIVE MAY:

(I) REQUEST A RECESS AT ANY TIME TO CONSULT WITH THE LAW ENFORCEMENT OFFICER;

(II) OBJECT TO ANY QUESTION POSED; AND

(III) STATE ON THE RECORD OUTSIDE THE PRESENCE OF THE LAW ENFORCEMENT OFFICER THE REASON FOR THE OBJECTION.

(K) RECORD OF INTERROGATION.

(1) A COMPLETE RECORD SHALL BE KEPT OF THE ENTIRE INTERROGATION, INCLUDING ALL RECESS PERIODS, OF THE LAW ENFORCEMENT OFFICER.

(2) THE RECORD MAY BE WRITTEN, TAPED, OR TRANSCRIBED.

(3) ON COMPLETION OF THE INVESTIGATION, AND ON REQUEST OF THE LAW ENFORCEMENT OFFICER UNDER INVESTIGATION OR THE LAW ENFORCEMENT OFFICER'S COUNSEL OR REPRESENTATIVE, A COPY OF THE RECORD OF THE INTERROGATION SHALL BE MADE AVAILABLE AT LEAST 10 DAYS BEFORE A HEARING.

(L) TESTS AND EXAMINATIONS -- IN GENERAL.

(1) THE LAW ENFORCEMENT AGENCY MAY ORDER THE LAW ENFORCEMENT OFFICER UNDER INVESTIGATION TO SUBMIT TO BLOOD ALCOHOL TESTS, BLOOD, BREATH, OR URINE TESTS FOR CONTROLLED DANGEROUS SUBSTANCES, POLYGRAPH EXAMINATIONS, OR INTERROGATIONS THAT SPECIFICALLY RELATE TO THE SUBJECT MATTER OF THE INVESTIGATION.

(2) IF THE LAW ENFORCEMENT AGENCY ORDERS THE LAW ENFORCEMENT OFFICER TO SUBMIT TO A TEST, EXAMINATION, OR INTERROGATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION AND THE LAW ENFORCEMENT OFFICER REFUSES TO DO SO, THE LAW ENFORCEMENT AGENCY MAY COMMENCE AN ACTION THAT MAY LEAD TO A PUNITIVE MEASURE AS A RESULT OF THE REFUSAL.

(3) IF THE LAW ENFORCEMENT AGENCY ORDERS THE LAW ENFORCEMENT OFFICER TO SUBMIT TO A TEST, EXAMINATION, OR INTERROGATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE RESULTS OF THE TEST, EXAMINATION, OR INTERROGATION ARE NOT ADMISSIBLE OR DISCOVERABLE IN A CRIMINAL PROCEEDING AGAINST THE LAW ENFORCEMENT OFFICER.

(M) SAME -- POLYGRAPH EXAMINATIONS.

(1) IF THE LAW ENFORCEMENT AGENCY ORDERS THE LAW ENFORCEMENT OFFICER TO SUBMIT TO A POLYGRAPH EXAMINATION, THE RESULTS OF THE POLYGRAPH EXAMINATION MAY NOT BE USED AS EVIDENCE IN AN ADMINISTRATIVE HEARING UNLESS THE LAW ENFORCEMENT AGENCY AND THE LAW ENFORCEMENT OFFICER AGREE TO THE ADMISSION OF THE RESULTS.

(2) THE LAW ENFORCEMENT OFFICER'S COUNSEL OR REPRESENTATIVE NEED NOT BE PRESENT DURING THE ACTUAL ADMINISTRATION OF A POLYGRAPH EXAMINATION BY A CERTIFIED POLYGRAPH EXAMINER IF:

(I) THE QUESTIONS TO BE ASKED ARE REVIEWED WITH THE LAW ENFORCEMENT OFFICER OR THE COUNSEL OR REPRESENTATIVE BEFORE THE ADMINISTRATION OF THE EXAMINATION;

(II) THE COUNSEL OR REPRESENTATIVE IS ALLOWED TO OBSERVE THE ADMINISTRATION OF THE EXAMINATION; AND

(III) A COPY OF THE FINAL REPORT OF THE EXAMINATION BY THE CERTIFIED POLYGRAPH EXAMINER IS MADE AVAILABLE TO THE LAW ENFORCEMENT OFFICER OR THE COUNSEL OR REPRESENTATIVE WITHIN A REASONABLE TIME, NOT EXCEEDING 10 DAYS, AFTER COMPLETION OF THE EXAMINATION.

(N) INFORMATION PROVIDED ON COMPLETION OF INVESTIGATION.

(1) ON COMPLETION OF AN INVESTIGATION AND AT LEAST 10 DAYS BEFORE A HEARING, THE LAW ENFORCEMENT OFFICER UNDER INVESTIGATION SHALL BE:

(I) NOTIFIED OF THE NAME OF EACH WITNESS AND OF EACH CHARGE AND SPECIFICATION AGAINST THE LAW ENFORCEMENT OFFICER; AND

(II) PROVIDED WITH A COPY OF THE INVESTIGATORY FILE AND ANY EXCULPATORY INFORMATION, IF THE LAW ENFORCEMENT OFFICER AND THE LAW ENFORCEMENT OFFICER'S REPRESENTATIVE AGREE TO:

1. EXECUTE A CONFIDENTIALITY AGREEMENT WITH THE LAW ENFORCEMENT AGENCY NOT TO DISCLOSE ANY MATERIAL CONTAINED IN THE INVESTIGATORY FILE AND EXCULPATORY INFORMATION FOR ANY PURPOSE OTHER THAN TO DEFEND THE LAW ENFORCEMENT OFFICER; AND

2. PAY A REASONABLE CHARGE FOR THE COST OF REPRODUCING THE MATERIAL.

(2) THE LAW ENFORCEMENT AGENCY MAY EXCLUDE FROM THE EXCULPATORY INFORMATION PROVIDED TO A LAW ENFORCEMENT OFFICER UNDER THIS SUBSECTION:

(I) THE IDENTITY OF CONFIDENTIAL SOURCES;

(II) NONEXCULPATORY INFORMATION; AND

(III) RECOMMENDATIONS AS TO CHARGES, DISPOSITION, OR PUNISHMENT.

(O) ADVERSE MATERIAL.

(1) THE LAW ENFORCEMENT AGENCY MAY NOT INSERT ADVERSE MATERIAL INTO A FILE OF THE LAW ENFORCEMENT OFFICER, EXCEPT THE FILE OF THE INTERNAL INVESTIGATION OR THE INTELLIGENCE DIVISION, UNLESS THE LAW

ENFORCEMENT OFFICER HAS AN OPPORTUNITY TO REVIEW, SIGN, RECEIVE A COPY OF, AND COMMENT IN WRITING ON THE ADVERSE MATERIAL.

(2) THE LAW ENFORCEMENT OFFICER MAY WAIVE THE RIGHT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, §§ 727(h) and 728(b)(1) through (10), (12)(i), and (14).

In subsection (a) of this section, the former reference to conducting an investigation or interrogation under "the following conditions" is deleted as implicit in the reference to the investigation or interrogation being conducted in accordance with this section.

Subsection (b) of this section is revised to incorporate the substance of the former definitions of "interrogating officer" and "investigating officer". The former defined terms appeared only in former Art. 27, § 728(b)(2) and (3), which are revised in subsections (d)(1) and (g) of this section. The former defined terms listed the qualifications of an individual who may conduct an interrogation or investigation and are revised as a substantive provision for purposes of this section. Consequently, the former phrase "all other forms of those terms" is deleted as unnecessary.

In subsections (c)(1)(i), (ii), and (iii) and (d)(1)(iii) of this section, the reference to an "individual" is substituted for the former reference to a "person" because only an individual, and not the other entities included in the defined term "person", may be aggrieved by an alleged incident, swear to complaints, and be present during an interrogation. *See* § 1-101 of this article for the definition of "person".

In subsection (c)(1)(iv) of this section, the phrase "if the alleged incident involves" a minor child is substituted for the former phrase "in the case of" a minor child for clarity.

In subsection (f) of this section, the former phrase "at a time" is deleted as redundant of the word "when".

In subsection (h)(1) of this section, the reference to an "interrogating officer" is substituted for the former reference to an "interrogator" for consistency with terminology used in subsection (b) of this section.

In subsection (k)(1) of this section, the reference to the "entire" interrogation is substituted for the former reference to the "complete" interrogation because in the context of this provision the adjective "entire" seemed to the Public Safety Article Review Committee to be a better word choice.

In subsection (k)(3) of this section, the reference to the law enforcement officer's "representative" is added for consistency with subsection (j) of this

section.

In subsection (m)(2) of this section, the references to the law enforcement officer's "counsel" is added for consistency with subsection (j) of this section.

Defined terms: "Chief" § 3-101

"Hearing" § 3-101

"Law enforcement officer" § 3-101

"Person" § 1-101

3-105. APPLICATION FOR SHOW CAUSE ORDER.

(A) IN GENERAL.

A LAW ENFORCEMENT OFFICER WHO IS DENIED A RIGHT GRANTED BY THIS SUBTITLE MAY APPLY TO THE CIRCUIT COURT OF THE COUNTY WHERE THE LAW ENFORCEMENT OFFICER IS REGULARLY EMPLOYED FOR AN ORDER THAT DIRECTS THE LAW ENFORCEMENT AGENCY TO SHOW CAUSE WHY THE RIGHT SHOULD NOT BE GRANTED.

(B) CONDITIONS.

THE LAW ENFORCEMENT OFFICER MAY APPLY FOR THE SHOW CAUSE ORDER:

(1) EITHER INDIVIDUALLY OR THROUGH THE LAW ENFORCEMENT OFFICER'S CERTIFIED OR RECOGNIZED EMPLOYEE ORGANIZATION; AND

(2) AT ANY TIME PRIOR TO THE BEGINNING OF A HEARING BY THE HEARING BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 734.

In subsection (a) of this section, the references to a right "granted" by this subtitle are substituted for the former references to a right "afforded" for consistency with language used throughout this subtitle.

Defined terms: "County" § 1-101

"Hearing" § 3-101

"Hearing board" § 3-101

"Law enforcement officer" § 3-101

3-106. LIMITATION ON ADMINISTRATIVE CHARGES.

(A) IN GENERAL.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, A LAW ENFORCEMENT AGENCY MAY NOT BRING ADMINISTRATIVE CHARGES AGAINST A LAW ENFORCEMENT OFFICER UNLESS THE AGENCY FILES THE CHARGES WITHIN 1 YEAR AFTER THE ACT

THAT GIVES RISE TO THE CHARGES COMES TO THE ATTENTION OF THE APPROPRIATE LAW ENFORCEMENT AGENCY OFFICIAL.

(B) EXCEPTION.

THE 1-YEAR LIMITATION OF SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO CHARGES THAT RELATE TO CRIMINAL ACTIVITY OR EXCESSIVE FORCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 730(b).

Subsection (a) of this section is revised in the active voice to clarify that a law enforcement agency files administrative charges against a law enforcement officer.

Defined term: "Law enforcement officer" § 3-101

3-107. HEARING BY HEARING BOARD.

(A) RIGHT TO HEARING.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND § 3-111 OF THIS SUBTITLE, IF THE INVESTIGATION OR INTERROGATION OF A LAW ENFORCEMENT OFFICER RESULTS IN A RECOMMENDATION OF DEMOTION, DISMISSAL, TRANSFER, LOSS OF PAY, REASSIGNMENT, OR SIMILAR ACTION THAT IS CONSIDERED PUNITIVE, THE LAW ENFORCEMENT OFFICER IS ENTITLED TO A HEARING ON THE ISSUES BY A HEARING BOARD BEFORE THE LAW ENFORCEMENT AGENCY TAKES THAT ACTION.

(2) A LAW ENFORCEMENT OFFICER WHO HAS BEEN CONVICTED OF A FELONY IS NOT ENTITLED TO A HEARING UNDER THIS SECTION.

(B) NOTICE OF HEARING.

(1) THE LAW ENFORCEMENT AGENCY SHALL GIVE NOTICE TO THE LAW ENFORCEMENT OFFICER OF THE RIGHT TO A HEARING BY A HEARING BOARD UNDER THIS SECTION.

(2) THE NOTICE REQUIRED UNDER THIS SUBSECTION SHALL STATE THE TIME AND PLACE OF THE HEARING AND THE ISSUES INVOLVED.

(C) MEMBERSHIP OF HEARING BOARD.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION AND IN § 3-111 OF THIS SUBTITLE, THE HEARING BOARD AUTHORIZED UNDER THIS SECTION SHALL CONSIST OF AT LEAST THREE MEMBERS WHO:

(I) ARE APPOINTED BY THE CHIEF AND CHOSEN FROM LAW ENFORCEMENT OFFICERS WITHIN THAT LAW ENFORCEMENT AGENCY, OR FROM LAW ENFORCEMENT OFFICERS OF ANOTHER LAW ENFORCEMENT AGENCY WITH THE APPROVAL OF THE CHIEF OF THE OTHER AGENCY; AND

(II) HAVE HAD NO PART IN THE INVESTIGATION OR INTERROGATION OF THE LAW ENFORCEMENT OFFICER.

(2) AT LEAST ONE MEMBER OF THE HEARING BOARD SHALL BE OF THE SAME RANK AS THE LAW ENFORCEMENT OFFICER AGAINST WHOM THE COMPLAINT IS FILED.

(3) (I) IF THE CHIEF IS THE LAW ENFORCEMENT OFFICER UNDER INVESTIGATION, THE CHIEF OF ANOTHER LAW ENFORCEMENT AGENCY IN THE STATE SHALL FUNCTION AS THE LAW ENFORCEMENT OFFICER OF THE SAME RANK ON THE HEARING BOARD.

(II) IF THE CHIEF OF A STATE LAW ENFORCEMENT AGENCY IS UNDER INVESTIGATION, THE GOVERNOR SHALL APPOINT THE CHIEF OF ANOTHER LAW ENFORCEMENT AGENCY TO FUNCTION AS THE LAW ENFORCEMENT OFFICER OF THE SAME RANK ON THE HEARING BOARD.

(III) IF THE CHIEF OF A LAW ENFORCEMENT AGENCY OF A COUNTY OR MUNICIPAL CORPORATION IS UNDER INVESTIGATION, THE OFFICIAL AUTHORIZED TO APPOINT THE CHIEF'S SUCCESSOR SHALL APPOINT THE CHIEF OF ANOTHER LAW ENFORCEMENT AGENCY TO FUNCTION AS THE LAW ENFORCEMENT OFFICER OF THE SAME RANK ON THE HEARING BOARD.

(IV) IF THE CHIEF OF A STATE LAW ENFORCEMENT AGENCY OR THE CHIEF OF A LAW ENFORCEMENT AGENCY OF A COUNTY OR MUNICIPAL CORPORATION IS UNDER INVESTIGATION, THE OFFICIAL AUTHORIZED TO APPOINT THE CHIEF'S SUCCESSOR, OR THAT OFFICIAL'S DESIGNEE, SHALL FUNCTION AS THE CHIEF FOR PURPOSES OF THIS SUBTITLE.

(4) (I) A LAW ENFORCEMENT AGENCY OR THE AGENCY'S SUPERIOR GOVERNMENTAL AUTHORITY THAT HAS RECOGNIZED AND CERTIFIED AN EXCLUSIVE COLLECTIVE BARGAINING REPRESENTATIVE MAY NEGOTIATE WITH THE REPRESENTATIVE AN ALTERNATIVE METHOD OF FORMING A HEARING BOARD.

(II) A LAW ENFORCEMENT OFFICER MAY ELECT THE ALTERNATIVE METHOD OF FORMING A HEARING BOARD IF:

1. THE LAW ENFORCEMENT OFFICER WORKS IN A LAW ENFORCEMENT AGENCY DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND

2. THE LAW ENFORCEMENT OFFICER IS INCLUDED IN THE COLLECTIVE BARGAINING UNIT.

(III) THE LAW ENFORCEMENT AGENCY SHALL NOTIFY THE LAW ENFORCEMENT OFFICER IN WRITING BEFORE A HEARING BOARD IS FORMED THAT THE LAW ENFORCEMENT OFFICER MAY ELECT AN ALTERNATIVE METHOD OF FORMING A HEARING BOARD IF ONE HAS BEEN NEGOTIATED UNDER THIS PARAGRAPH.

(IV) IF THE LAW ENFORCEMENT OFFICER ELECTS THE ALTERNATIVE METHOD, THAT METHOD SHALL BE USED TO FORM THE HEARING BOARD.

(V) AN AGENCY OR EXCLUSIVE COLLECTIVE BARGAINING REPRESENTATIVE MAY NOT REQUIRE A LAW ENFORCEMENT OFFICER TO ELECT AN ALTERNATIVE METHOD OF FORMING A HEARING BOARD.

(VI) IF THE LAW ENFORCEMENT OFFICER HAS BEEN OFFERED SUMMARY PUNISHMENT, AN ALTERNATIVE METHOD OF FORMING A HEARING BOARD MAY NOT BE USED.

(VII) THIS PARAGRAPH IS NOT SUBJECT TO BINDING ARBITRATION.

(D) SUBPOENAS.

(1) IN CONNECTION WITH A DISCIPLINARY HEARING, THE CHIEF OR HEARING BOARD MAY ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS, RECORDS, AND DOCUMENTS AS RELEVANT OR NECESSARY.

(2) THE SUBPOENAS MAY BE SERVED WITHOUT COST IN ACCORDANCE WITH THE MARYLAND RULES THAT RELATE TO SERVICE OF PROCESS ISSUED BY A COURT.

(3) EACH PARTY MAY REQUEST THE CHIEF OR HEARING BOARD TO ISSUE A SUBPOENA OR ORDER UNDER THIS SUBTITLE.

(4) IN CASE OF DISOBEDIENCE OR REFUSAL TO OBEY A SUBPOENA SERVED UNDER THIS SUBSECTION, THE CHIEF OR HEARING BOARD MAY APPLY WITHOUT COST TO THE CIRCUIT COURT OF A COUNTY WHERE THE SUBPOENAED PARTY RESIDES OR CONDUCTS BUSINESS, FOR AN ORDER TO COMPEL THE ATTENDANCE AND TESTIMONY OF THE WITNESS OR THE PRODUCTION OF THE BOOKS, PAPERS, RECORDS, AND DOCUMENTS.

(5) ON A FINDING THAT THE ATTENDANCE AND TESTIMONY OF THE WITNESS OR THE PRODUCTION OF THE BOOKS, PAPERS, RECORDS, AND DOCUMENTS IS RELEVANT OR NECESSARY:

(I) THE COURT MAY ISSUE WITHOUT COST AN ORDER THAT REQUIRES THE ATTENDANCE AND TESTIMONY OF WITNESSES OR THE PRODUCTION OF BOOKS, PAPERS, RECORDS, AND DOCUMENTS; AND

(II) FAILURE TO OBEY THE ORDER MAY BE PUNISHED BY THE COURT AS CONTEMPT.

(E) CONDUCT OF HEARING.

(1) THE HEARING SHALL BE CONDUCTED BY A HEARING BOARD.

(2) THE HEARING BOARD SHALL GIVE THE LAW ENFORCEMENT AGENCY AND LAW ENFORCEMENT OFFICER AMPLE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ABOUT THE ISSUES INVOLVED.

(3) THE LAW ENFORCEMENT AGENCY AND LAW ENFORCEMENT OFFICER MAY BE REPRESENTED BY COUNSEL.

(4) EACH PARTY HAS THE RIGHT TO CROSS-EXAMINE WITNESSES WHO TESTIFY AND EACH PARTY MAY SUBMIT REBUTTAL EVIDENCE.

(F) EVIDENCE.

(1) EVIDENCE WITH PROBATIVE VALUE THAT IS COMMONLY ACCEPTED BY REASONABLE AND PRUDENT INDIVIDUALS IN THE CONDUCT OF THEIR AFFAIRS IS ADMISSIBLE AND SHALL BE GIVEN PROBATIVE EFFECT.

(2) THE HEARING BOARD SHALL GIVE EFFECT TO THE RULES OF PRIVILEGE RECOGNIZED BY LAW AND SHALL EXCLUDE INCOMPETENT, IRRELEVANT, IMMATERIAL, AND UNDULY REPETITIOUS EVIDENCE.

(3) EACH RECORD OR DOCUMENT THAT A PARTY DESIRES TO USE SHALL BE OFFERED AND MADE A PART OF THE RECORD.

(4) DOCUMENTARY EVIDENCE MAY BE RECEIVED IN THE FORM OF COPIES OR EXCERPTS, OR BY INCORPORATION BY REFERENCE.

(G) JUDICIAL NOTICE.

(1) THE HEARING BOARD MAY TAKE NOTICE OF:

(I) JUDICIALLY COGNIZABLE FACTS; AND

(II) GENERAL, TECHNICAL, OR SCIENTIFIC FACTS WITHIN ITS SPECIALIZED KNOWLEDGE.

(2) THE HEARING BOARD SHALL:

(I) NOTIFY EACH PARTY OF THE FACTS SO NOTICED EITHER BEFORE OR DURING THE HEARING, OR BY REFERENCE IN PRELIMINARY REPORTS OR OTHERWISE; AND

(II) GIVE EACH PARTY AN OPPORTUNITY AND REASONABLE TIME TO CONTEST THE FACTS SO NOTICED.

(3) THE HEARING BOARD MAY UTILIZE ITS EXPERIENCE, TECHNICAL COMPETENCE, AND SPECIALIZED KNOWLEDGE IN THE EVALUATION OF THE EVIDENCE PRESENTED.

(H) OATHS.

(1) WITH RESPECT TO THE SUBJECT OF A HEARING CONDUCTED UNDER THIS SUBTITLE, THE CHIEF SHALL ADMINISTER OATHS OR AFFIRMATIONS AND EXAMINE INDIVIDUALS UNDER OATH.

(2) IN CONNECTION WITH A DISCIPLINARY HEARING, THE CHIEF OR A HEARING BOARD MAY ADMINISTER OATHS.

(I) WITNESS FEES AND EXPENSES.

(1) WITNESS FEES AND MILEAGE, IF CLAIMED, SHALL BE ALLOWED THE SAME AS FOR TESTIMONY IN A CIRCUIT COURT.

(2) WITNESS FEES, MILEAGE, AND THE ACTUAL EXPENSES NECESSARILY INCURRED IN SECURING THE ATTENDANCE OF WITNESSES AND THEIR TESTIMONY SHALL BE ITEMIZED AND PAID BY THE LAW ENFORCEMENT AGENCY.

(J) OFFICIAL RECORD.

AN OFFICIAL RECORD, INCLUDING TESTIMONY AND EXHIBITS, SHALL BE KEPT OF THE HEARING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, §§ 727(d)(1) and (2), 728(b)(13), and 730(a) and (c) through (j).

Subsection (a)(1) of this section is revised to state explicitly what was implicit in the former law, *i.e.* that the law enforcement officer is entitled to a hearing on the issues by a hearing board under this section.

In subsection (a)(2) of this section, the former reference to being "charged" with a felony is deleted as implicit in the reference to being "convicted" of a felony.

Throughout subsection (c)(4) of this section, references to an "alternative" method of forming a hearing board are substituted for the former references to an "alternate" method to use the proper word in the context of this provision.

In subsection (c)(4)(ii) of this section, the former phrase "instead of the method described in paragraph (1) of this subsection" is deleted as surplusage.

Throughout subsection (d) of this section, references to "subpoenas" are substituted for the former references to "summonses" for consistency with Maryland Rule 2-510 and similar provisions of the Code.

In subsection (h)(1) of this section, the former reference to an "officer designated by the chief" is deleted as surplusage in light of the defined term "chief", which includes a designee of the chief.

Defined terms: "Chief" § 3-101

"County" § 1-101

"Hearing" § 3-101

"Hearing board" § 3-101

"Law enforcement officer" § 3-101

3-108. DISPOSITION OF ADMINISTRATIVE ACTION.

(A) IN GENERAL.

(1) A DECISION, ORDER, OR ACTION TAKEN AS A RESULT OF A HEARING UNDER § 3-107 OF THIS SUBTITLE SHALL BE IN WRITING AND ACCOMPANIED BY FINDINGS OF FACT.

(2) THE FINDINGS OF FACT SHALL CONSIST OF A CONCISE STATEMENT ON EACH ISSUE IN THE CASE.

(3) A FINDING OF NOT GUILTY TERMINATES THE ACTION.

(4) IF THE HEARING BOARD MAKES A FINDING OF GUILT, THE HEARING BOARD SHALL:

(I) RECONVENE THE HEARING;

(II) RECEIVE EVIDENCE; AND

(III) CONSIDER THE LAW ENFORCEMENT OFFICER'S PAST JOB PERFORMANCE AND OTHER RELEVANT INFORMATION AS FACTORS BEFORE MAKING RECOMMENDATIONS TO THE CHIEF.

(5) A COPY OF THE DECISION OR ORDER, FINDINGS OF FACT, CONCLUSIONS, AND WRITTEN RECOMMENDATIONS FOR ACTION SHALL BE DELIVERED OR MAILED PROMPTLY TO:

(I) THE LAW ENFORCEMENT OFFICER OR THE LAW ENFORCEMENT OFFICER'S COUNSEL OR REPRESENTATIVE OF RECORD; AND

(II) THE CHIEF.

(B) RECOMMENDATION OF PENALTY.

(1) AFTER A DISCIPLINARY HEARING AND A FINDING OF GUILT, THE HEARING BOARD MAY RECOMMEND THE PENALTY IT CONSIDERS APPROPRIATE UNDER THE CIRCUMSTANCES, INCLUDING DEMOTION, DISMISSAL, TRANSFER, LOSS OF PAY, REASSIGNMENT, OR OTHER SIMILAR ACTION THAT IS CONSIDERED PUNITIVE.

(2) THE RECOMMENDATION OF A PENALTY SHALL BE IN WRITING.

(C) FINAL DECISION OF HEARING BOARD.

(1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE DECISION OF THE HEARING BOARD AS TO FINDINGS OF FACT AND ANY PENALTY IS FINAL IF:

(I) A CHIEF IS AN EYEWITNESS TO THE INCIDENT UNDER INVESTIGATION; OR

(II) A LAW ENFORCEMENT AGENCY OR THE AGENCY'S SUPERIOR GOVERNMENTAL AUTHORITY HAS AGREED WITH AN EXCLUSIVE COLLECTIVE BARGAINING REPRESENTATIVE RECOGNIZED OR CERTIFIED UNDER APPLICABLE LAW THAT THE DECISION IS FINAL.

(2) THE DECISION OF THE HEARING BOARD THEN MAY BE APPEALED IN ACCORDANCE WITH § 3-109 OF THIS SUBTITLE.

(3) PARAGRAPH (1)(II) OF THIS SUBSECTION IS NOT SUBJECT TO BINDING ARBITRATION.

(D) REVIEW BY CHIEF AND FINAL ORDER.

(1) WITHIN 30 DAYS AFTER RECEIPT OF THE RECOMMENDATIONS OF THE HEARING BOARD, THE CHIEF SHALL:

(I) REVIEW THE FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS OF THE HEARING BOARD; AND

(II) ISSUE A FINAL ORDER.

(2) THE FINAL ORDER AND DECISION OF THE CHIEF IS BINDING AND THEN MAY BE APPEALED IN ACCORDANCE WITH § 3-109 OF THIS SUBTITLE.

(3) THE RECOMMENDATION OF A PENALTY BY THE HEARING BOARD IS NOT BINDING ON THE CHIEF.

(4) THE CHIEF SHALL CONSIDER THE LAW ENFORCEMENT OFFICER'S PAST JOB PERFORMANCE AS A FACTOR BEFORE IMPOSING A PENALTY.

(5) THE CHIEF MAY INCREASE THE RECOMMENDED PENALTY OF THE HEARING BOARD ONLY IF THE CHIEF PERSONALLY:

(I) REVIEWS THE ENTIRE RECORD OF THE PROCEEDINGS OF THE HEARING BOARD;

(II) MEETS WITH THE LAW ENFORCEMENT OFFICER AND ALLOWS THE LAW ENFORCEMENT OFFICER TO BE HEARD ON THE RECORD;

(III) DISCLOSES AND PROVIDES IN WRITING TO THE LAW ENFORCEMENT OFFICER, AT LEAST 10 DAYS BEFORE THE MEETING, ANY ORAL OR WRITTEN COMMUNICATION NOT INCLUDED IN THE RECORD OF THE HEARING BOARD ON WHICH THE DECISION TO CONSIDER INCREASING THE PENALTY IS WHOLLY OR PARTLY BASED; AND

(IV) STATES ON THE RECORD THE SUBSTANTIAL EVIDENCE RELIED ON TO SUPPORT THE INCREASE OF THE RECOMMENDED PENALTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 731.

In subsections (b)(1) and (2), (c)(1), and (d)(3) of this section, the reference to a "penalty" is substituted for the former reference to a "punishment" for consistency throughout this section.

In subsection (d)(4) of this section, the reference to the "chief" is substituted for the former reference to the "person who may take any disciplinary action following any hearing in which there is a finding of guilt" for specificity and to use the defined term.

Defined terms: "Chief" § 3-101

"Hearing" § 3-101

"Hearing board" § 3-101

"Law enforcement officer" § 3-101

3-109. JUDICIAL REVIEW.

(A) BY CIRCUIT COURT.

AN APPEAL FROM A DECISION MADE UNDER § 3-108 OF THIS SUBTITLE SHALL BE TAKEN TO THE CIRCUIT COURT FOR THE COUNTY IN ACCORDANCE WITH MARYLAND RULE 7-202.

(B) BY COURT OF SPECIAL APPEALS.

A PARTY AGGRIEVED BY A DECISION OF A COURT UNDER THIS SUBTITLE MAY APPEAL TO THE COURT OF SPECIAL APPEALS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 732.

Defined term: "County" § 1-101

3-110. EXPUNGEMENT OF RECORD OF FORMAL COMPLAINT.

ON WRITTEN REQUEST, A LAW ENFORCEMENT OFFICER MAY HAVE EXPUNGED FROM ANY FILE THE RECORD OF A FORMAL COMPLAINT MADE AGAINST THE LAW ENFORCEMENT OFFICER IF:

(1) (I) THE LAW ENFORCEMENT AGENCY THAT INVESTIGATED THE COMPLAINT:

1. EXONERATED THE LAW ENFORCEMENT OFFICER OF ALL CHARGES IN THE COMPLAINT; OR

2. DETERMINED THAT THE CHARGES WERE UNSUSTAINED OR UNFOUNDED; OR

(II) A HEARING BOARD ACQUITTED THE LAW ENFORCEMENT OFFICER, DISMISSED THE ACTION, OR MADE A FINDING OF NOT GUILTY; AND

(2) AT LEAST 3 YEARS HAVE PASSED SINCE THE FINAL DISPOSITION BY THE LAW ENFORCEMENT AGENCY OR HEARING BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 728(b)(12)(ii).

In item (2) of this section, the reference to the "final disposition" by the law enforcement agency or hearing board is substituted for the former reference to "findings" for clarity because the law enforcement agency or hearing board do more than make "findings" in this situation.

Defined terms: "Hearing board" § 3-101

"Law enforcement officer" § 3-101

3-111. SUMMARY PUNISHMENT.

(A) AUTHORIZED.

THIS SUBTITLE DOES NOT PROHIBIT SUMMARY PUNISHMENT BY HIGHER RANKING LAW ENFORCEMENT OFFICERS AS DESIGNATED BY THE CHIEF.

(B) IMPOSITION.

(1) SUMMARY PUNISHMENT MAY BE IMPOSED FOR MINOR VIOLATIONS OF LAW ENFORCEMENT AGENCY RULES AND REGULATIONS IF:

(I) THE FACTS THAT CONSTITUTE THE MINOR VIOLATION ARE NOT IN DISPUTE;

(II) THE LAW ENFORCEMENT OFFICER WAIVES THE HEARING PROVIDED UNDER THIS SUBTITLE; AND

(III) THE LAW ENFORCEMENT OFFICER ACCEPTS THE PUNISHMENT IMPOSED BY THE HIGHEST RANKING LAW ENFORCEMENT OFFICER, OR INDIVIDUAL ACTING IN THAT CAPACITY, OF THE UNIT TO WHICH THE LAW ENFORCEMENT OFFICER IS ATTACHED.

(2) SUMMARY PUNISHMENT IMPOSED UNDER THIS SUBSECTION MAY NOT EXCEED SUSPENSION OF 3 DAYS WITHOUT PAY OR A FINE OF $150.

(C) REFUSAL.

(1) IF A LAW ENFORCEMENT OFFICER IS OFFERED SUMMARY PUNISHMENT IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION AND REFUSES:

(I) THE CHIEF MAY CONVENE A HEARING BOARD OF ONE OR MORE MEMBERS; AND

(II) THE HEARING BOARD HAS ONLY THE AUTHORITY TO RECOMMEND THE SANCTIONS PROVIDED IN THIS SECTION FOR SUMMARY PUNISHMENT.

(2) IF A SINGLE MEMBER HEARING BOARD IS CONVENED:

(I) THE MEMBER NEED NOT BE OF THE SAME RANK AS THE LAW ENFORCEMENT OFFICER; BUT

(II) ALL OTHER PROVISIONS OF THIS SUBTITLE APPLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, §§ 727(d)(3) and (f) and 734A(1) and, as it related to summary suspension, the first sentence of § 734A.

In subsection (a) of this section, the defined term "chief" is substituted for the former reference to the "head of a law enforcement agency" for consistent use of the defined term throughout this subtitle.

In the introductory language of subsection (b)(1) of this section, the reference to "law enforcement agency" rules and regulations is substituted for the former reference to "departmental" rules and regulations for consistency with terminology used throughout this subtitle.

Defined terms: "Chief" § 3-101

"Hearing" § 3-101

"Hearing board" § 3-101

"Law enforcement officer" § 3-101

3-112. EMERGENCY SUSPENSION.

(A) AUTHORIZED.

THIS SUBTITLE DOES NOT PROHIBIT EMERGENCY SUSPENSION BY HIGHER RANKING LAW ENFORCEMENT OFFICERS AS DESIGNATED BY THE CHIEF.

(B) IMPOSITION -- WITH PAY.

(1) THE CHIEF MAY IMPOSE EMERGENCY SUSPENSION WITH PAY IF IT APPEARS THAT THE ACTION IS IN THE BEST INTEREST OF THE PUBLIC AND THE LAW ENFORCEMENT AGENCY.

(2) IF THE LAW ENFORCEMENT OFFICER IS SUSPENDED WITH PAY, THE CHIEF MAY SUSPEND THE POLICE POWERS OF THE LAW ENFORCEMENT OFFICER AND REASSIGN THE LAW ENFORCEMENT OFFICER TO RESTRICTED DUTIES PENDING:

(I) A DETERMINATION BY A COURT WITH RESPECT TO A CRIMINAL VIOLATION; OR

(II) A FINAL DETERMINATION BY A HEARING BOARD WITH RESPECT TO A LAW ENFORCEMENT AGENCY VIOLATION.

(3) A LAW ENFORCEMENT OFFICER WHO IS SUSPENDED UNDER THIS SUBSECTION IS ENTITLED TO A PROMPT HEARING.

(C) SAME -- WITHOUT PAY.

(1) IF A LAW ENFORCEMENT OFFICER IS CHARGED WITH A FELONY, THE CHIEF MAY IMPOSE AN EMERGENCY SUSPENSION OF POLICE POWERS WITHOUT PAY.

(2) A LAW ENFORCEMENT OFFICER WHO IS SUSPENDED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS ENTITLED TO A PROMPT HEARING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 734A(2), (3), and, as it related to emergency suspension, the first sentence of § 734A.

In subsection (a) of this section, the defined term "chief" is substituted for the former reference to the "head of a law enforcement agency" for consistent use of the defined term throughout this subtitle.

In subsection (b)(2)(i) of this section, the former reference to a court "of competent jurisdiction" is deleted as surplusage.

In subsection (b)(2)(ii) of this section, the reference to a "law enforcement agency" violation is substituted for the former reference to a "departmental" violation for consistency with terminology used throughout this subtitle.

Defined terms: "Chief" § 3-101

"Hearing" § 3-101

"Hearing board" § 3-101

"Law enforcement officer" § 3-101

3-113. FALSE STATEMENT, REPORT, OR COMPLAINT.

(A) PROHIBITED.

A PERSON MAY NOT KNOWINGLY MAKE A FALSE STATEMENT, REPORT, OR COMPLAINT DURING AN INVESTIGATION OR PROCEEDING CONDUCTED UNDER THIS SUBTITLE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO THE PENALTIES OF § 9-501 OF THE CRIMINAL LAW ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 734C.

Defined term: "Person" § 1-101

SUBTITLE 2. POLICE TRAINING COMMISSION.

3-201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the introductory language of former Art. 41, § 4-201(a).

In this subsection and throughout this subtitle, references to this "subtitle" are substituted for former references to this "section" to reflect the revision of former Art. 41, § 4-201 as this subtitle.

(B) COMMISSION.

"COMMISSION" MEANS THE POLICE TRAINING COMMISSION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 4-201(a)(2).

The former reference to "officers or employees ... acting on ... behalf" of the Commission is deleted for consistency with similar provisions in other revised articles of the Code. *See, e.g.*, BOP §§ 16-101(g) and 17-101(d), CS § 8-201(c), ED §§ 10-101(b) and 16-502(d), EN §§ 5-1201(b) and 6-801(e), HG §§ 5-301(b) and 13-101(b), LE § 9-101(d), and SG §§ 9-101(c) and 9-201(b).

(C) DEPARTMENT.

"DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title "Department of Public Safety and Correctional Services".

(D) LAW ENFORCEMENT AGENCY.

(1) "LAW ENFORCEMENT AGENCY" MEANS A GOVERNMENTAL POLICE FORCE, SHERIFF'S OFFICE, OR SECURITY FORCE OR LAW ENFORCEMENT ORGANIZATION OF THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION THAT BY STATUTE, ORDINANCE, OR COMMON LAW IS AUTHORIZED TO ENFORCE THE GENERAL CRIMINAL LAWS OF THE STATE.

(2) "LAW ENFORCEMENT AGENCY" DOES NOT INCLUDE MEMBERS OF THE MARYLAND NATIONAL GUARD WHO:

(I) ARE UNDER THE CONTROL AND JURISDICTION OF THE MILITARY DEPARTMENT;

(II) ARE ASSIGNED TO THE MILITARY PROPERTY DESIGNATED AS THE GLENN L. MARTIN STATE AIRPORT; AND

(III) ARE CHARGED WITH EXERCISING POLICE POWERS IN AND FOR THE GLENN L. MARTIN STATE AIRPORT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 4-201(a)(4).

Throughout this subsection, the term "law enforcement agency" is substituted for the former reference to a "law enforcement unit" for consistency with terminology used throughout this article. *See, e.g.*, § 2-101 of this article.

In paragraph (1) of this subsection, the reference to a sheriff's "office" is substituted for the former reference to a sheriff's "department" to use common terminology. *See, e.g.*, § 3-101(e)(1)(ii)7 of this title.

Defined term: "County" § 1-101

(E) POLICE OFFICER.

(1) "POLICE OFFICER" MEANS AN INDIVIDUAL WHO:

(I) IS AUTHORIZED TO ENFORCE THE GENERAL CRIMINAL LAWS OF THE STATE; AND

(II) IS A MEMBER OF ONE OF THE FOLLOWING LAW ENFORCEMENT AGENCIES:

1. THE DEPARTMENT OF STATE POLICE;

2. THE POLICE DEPARTMENT OF BALTIMORE CITY;

3. THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A COUNTY;

4. THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A MUNICIPAL CORPORATION;

5. THE MARYLAND TRANSIT ADMINISTRATION POLICE FORCE;

6. THE MARYLAND TRANSPORTATION AUTHORITY POLICE;

7. THE POLICE FORCES OF THE UNIVERSITY SYSTEM OF MARYLAND;

8. THE POLICE FORCE OF MORGAN STATE UNIVERSITY;

9. THE OFFICE OF THE SHERIFF OF A COUNTY;

10. THE POLICE FORCES OF THE DEPARTMENT OF NATURAL RESOURCES;

11. THE POLICE FORCE OF THE DEPARTMENT OF GENERAL SERVICES;

12. THE POLICE FORCE OF A STATE, COUNTY, OR MUNICIPAL CORPORATION IF THE SPECIAL POLICE OFFICERS ARE APPOINTED UNDER SUBTITLE 3 OF THIS TITLE;

13. THE HOUSING AUTHORITY OF BALTIMORE CITY POLICE FORCE;

14. THE BALTIMORE CITY SCHOOL POLICE FORCE;

15. THE CROFTON POLICE DEPARTMENT;

16. THE POLICE FORCE OF THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION; OR

17. THE WASHINGTON SUBURBAN SANITARY COMMISSION POLICE FORCE.

(2) "POLICE OFFICER" INCLUDES:

(I) A MEMBER OF THE FIELD ENFORCEMENT DIVISION OF THE COMPTROLLER'S OFFICE;

(II) THE STATE FIRE MARSHAL OR A DEPUTY STATE FIRE MARSHAL; AND

(III) AN INVESTIGATOR OF THE INTERNAL INVESTIGATIVE UNIT OF THE DEPARTMENT.

(3) "POLICE OFFICER" DOES NOT INCLUDE:

(I) AN INDIVIDUAL WHO SERVES AS A POLICE OFFICER ONLY BECAUSE THE INDIVIDUAL OCCUPIES ANOTHER OFFICE OR POSITION;

(II) A SHERIFF, THE SECRETARY OF STATE POLICE, A COMMISSIONER OF POLICE, A DEPUTY OR ASSISTANT COMMISSIONER OF POLICE, A CHIEF OF POLICE, A DEPUTY OR ASSISTANT CHIEF OF POLICE, OR ANOTHER INDIVIDUAL WITH AN EQUIVALENT TITLE WHO IS APPOINTED OR EMPLOYED BY A GOVERNMENT TO EXERCISE EQUIVALENT SUPERVISORY AUTHORITY; OR

(III) A MEMBER OF THE MARYLAND NATIONAL GUARD WHO:

1. IS UNDER THE CONTROL AND JURISDICTION OF THE MILITARY DEPARTMENT;

2. IS ASSIGNED TO THE MILITARY PROPERTY DESIGNATED AS THE GLENN L. MARTIN STATE AIRPORT; AND

3. IS CHARGED WITH EXERCISING POLICE POWERS IN AND FOR THE GLENN L. MARTIN STATE AIRPORT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 4-201(a)(8)(i), (iii), and the first and second sentences of (ii).

In the introductory language of paragraph (1) and in paragraph (3)(ii) of this subsection, the reference to an "individual" is substituted for the former reference to a "person" because only an individual, and not the other entities included in the defined term "person", can be a member of a law enforcement agency or can be appointed or employed by a government to exercise supervisory authority. *See* § 1-101 of this article for the definition of "person".

In paragraph (1)(ii)4 of this subsection, the reference to a "municipal corporation" is substituted for the former reference to an "incorporated city or town" to conform to Md. Constitution, Art. XI-E.

In paragraph (1)(ii)6 of this subsection, the former reference to the "Maryland Port Administration Police Force of the Department of Transportation" is deleted as unnecessary because this police force has been consolidated into the Maryland Transportation Authority Police.

Paragraph (1)(ii)7 of this subsection is revised to reflect the proper name of the University System of Maryland and to indicate that each college/university in the University System of Maryland has a separate police force.

In paragraph (1)(ii)9 of this subsection, the reference to the sheriff's "office" is substituted for the former reference to the sheriff's "department" to use common terminology. *See, e.g.*, § 3-101(e)(1)(ii)7 of this title.

Also in paragraph (1)(ii)9 of this subsection, the former reference to "Baltimore City" is deleted as included in the reference to "county".

In paragraph (1)(ii)10 of this subsection, the general reference to the "police forces" of the Department of Natural Resources is substituted for the former specific references to the "Natural Resources Police Force" and the "Forest and Park Service Police Force" for consistency with § 3-101(e) of this title.

In paragraph (1)(ii)11 and 12 of this subsection, the reference to the "police" force is substituted for the former reference to the "security" force

for consistency within this paragraph and with § 3-101(e) of this title.

In paragraph (2)(ii) of this subsection, the reference to a "deputy State fire marshal" is substituted for the former reference to a "full-time investigative and inspection assistant of the Office of the State Fire Marshal" to reflect the current title of the position.

Defined terms: "County" § 1-101

"Department" § 3-201

"Law enforcement agency" § 3-201

"Police officer" § 3-201

"State" § 1-101

(F) SECRETARY.

"SECRETARY" MEANS THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title "Secretary of Public Safety and Correctional Services".

REVISOR'S NOTE TO SECTION:

Former Art. 41, § 4-201(a)(3), which defined the term "county" to mean any county that has or will have a law enforcement unit within its jurisdiction, is deleted as unnecessary. The term "county" as used in this subtitle is used in the general sense in which it is defined in § 1-101 of this article.

Former Art. 41, § 4-201(a)(5), which defined the term "municipality" to mean any incorporated city of any class that has or will have a law enforcement unit within its jurisdiction, is deleted as unnecessary. The term "municipality" was used throughout the former law in the general sense in which the term "municipal corporation" is generally used in revised articles of the Code. Therefore, the term "municipal corporation" is substituted for the former term "municipality" throughout this section and this subtitle to conform to Md. Constitution, Art. XI-E.

3-202. ESTABLISHED.

THERE IS A POLICE TRAINING COMMISSION IN THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from the introductory language of former Art. 41, § 4-201(b), as it related to establishing the Commission.

It is set forth as a separate section for emphasis.

Defined term: "Department" § 3-201

3-203. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

(1) THE COMMISSION CONSISTS OF 15 MEMBERS.

(2) OF THE 15 MEMBERS OF THE COMMISSION:

(I) ONE SHALL BE THE PRESIDENT OF THE MARYLAND CHIEFS OF POLICE ASSOCIATION;

(II) ONE SHALL BE THE PRESIDENT OF THE MARYLAND SHERIFFS ASSOCIATION;

(III) ONE SHALL BE THE PRESIDENT OF THE MARYLAND LAW ENFORCEMENT OFFICERS, INC.;

(IV) ONE SHALL BE THE ATTORNEY GENERAL OF THE STATE;

(V) ONE SHALL BE THE SECRETARY OF STATE POLICE;

(VI) ONE SHALL BE THE POLICE COMMISSIONER OF BALTIMORE CITY;

(VII) ONE SHALL BE THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND;

(VIII) ONE SHALL BE THE AGENT IN CHARGE OF THE BALTIMORE OFFICE OF THE F.B.I.;

(IX) ONE SHALL BE THE PRESIDENT OF THE EASTERN SHORE POLICE ASSOCIATION;

(X) ONE SHALL REPRESENT THE MARYLAND STATE LODGE OF FRATERNAL ORDER OF POLICE;

(XI) ONE SHALL BE THE DEPUTY SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES;

(XII) ONE SHALL BE THE CHAIRMAN OF THE MARYLAND MUNICIPAL LEAGUE POLICE EXECUTIVE ASSOCIATION; AND

(XIII) THREE SHALL BE POLICE OFFICIALS OF THE STATE APPOINTED UNDER SUBSECTION (B) OF THIS SECTION.

(B) POLICE OFFICIAL MEMBERS.

(1) THE SECRETARY SHALL APPOINT THE THREE POLICE OFFICIALS TO BE MEMBERS OF THE COMMISSION WITH THE APPROVAL OF THE GOVERNOR AND THE ADVICE AND CONSENT OF THE SENATE.

(2) THE THREE MEMBERS APPOINTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL REPRESENT DIFFERENT GEOGRAPHIC AREAS OF THE STATE.

(C) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER WHO IS APPOINTED UNDER SUBSECTION (B) OF THIS SECTION IS 3 YEARS.

(2) THE TERMS OF THE MEMBERS WHO ARE APPOINTED UNDER SUBSECTION (B) OF THIS SECTION ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON OCTOBER 1, 2003.

(3) AT THE END OF A TERM, A MEMBER WHO IS APPOINTED UNDER SUBSECTION (B) OF THIS SECTION CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REMAINDER OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(D) DESIGNATION OF REPRESENTATIVES.

EXCEPT FOR THE THREE MEMBERS APPOINTED BY THE SECRETARY UNDER SUBSECTION (B) OF THIS SECTION, A MEMBER OF THE COMMISSION MAY SERVE PERSONALLY AT A COMMISSION MEETING OR MAY DESIGNATE A REPRESENTATIVE FROM THE MEMBER'S UNIT, AGENCY, OR ASSOCIATION WHO MAY ACT AT ANY MEETING TO THE SAME EFFECT AS IF THE MEMBER WERE PERSONALLY PRESENT.

REVISOR'S NOTE: Subsections (a), (b), (c)(1) and (2), and (d) of this section are new language derived without substantive change from former Art. 41, § 4-201(b)(1) and (2) and, except as it related to establishing the Commission, the introductory language of (b).

Subsection (c)(2) of this section is standard language substituted for the former obsolete reference in Art. 41, § 4-201(b)(1) to the initial terms of the three police officials appointed to the Commission. This substitution is not intended to alter the term of any member of the Commission. The terms of the members serving on October 1, 2003, end as follows: (1) one on June 30, 2004; (2) one on June 30, 2005; and (3) one on June 30, 2006.

Subsection (c)(3) of this section is standard language added to avoid gaps in membership by indicating that a member serves until a successor takes office. This addition is supported by the holdings in *Benson v. Mellor*, 152 Md. 481 (1927), and *Grooms v. LaVale Zoning Board*, 27 Md. App. 266 (1975).

Subsection (c)(4) of this section is also added as standard language. It follows logically from the requirement that there be staggered terms. An inherent aspect of staggered terms is that they must begin and end at set intervals. For circumstances under which subsection (c)(4) of this section

applies, *see* General Revisor's Note to article.

In subsection (d) of this section, the word "unit" is substituted for the former references to "office", "department", and "university" for brevity. *See* General Revisor's Note to article.

Defined terms: "Commission" § 3-201

"Secretary" § 3-201

3-204. OFFICERS.

(A) CHAIRMAN.

THE DEPUTY SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES OR THE DEPUTY SECRETARY'S REPRESENTATIVE IS THE CHAIRMAN OF THE COMMISSION.

(B) VICE CHAIRMAN.

THE COMMISSION ANNUALLY SHALL ELECT A VICE CHAIRMAN FROM AMONG ITS MEMBERS.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence and the first clause of the second sentence of former Art. 41, § 4-201(c)(1).

In subsection (b) of this section, the former phrase "at its initial organization meeting to be held promptly after the appointment and qualifications of its members" is deleted as obsolete because the Commission has already had its initial organizational meeting.

Defined term: "Commission" § 3-201

3-205. QUORUM; MEETINGS; COMPENSATION; RECORDS.

(A) QUORUM.

A MAJORITY OF THE COMMISSION IS A QUORUM.

(B) MEETINGS.

THE COMMISSION SHALL MEET IN THE STATE AT THE TIMES THAT IT OR ITS CHAIRMAN DETERMINES.

(C) COMPENSATION.

A MEMBER OF THE COMMISSION:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(D) RECORDS.

THE COMMISSION SHALL:

(1) MAINTAIN MINUTES OF ITS MEETINGS AND ANY OTHER RECORDS THAT IT CONSIDERS NECESSARY; AND

(2) PROVIDE INFORMATION, ON REQUEST, REGARDING THE BUDGET, ACTIVITIES, AND PROGRAMS OF THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-201(c)(2), (3), and the third sentence and second clause of the second sentence of (1).

In subsection (a) of this section, the former requirement that a majority of the Commission constitutes a quorum "for the transaction of any business, the performance of any duty, or for the exercise of any of its authority" is deleted as implicit in the use of the term "quorum".

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that the meaning of the references to "a majority" of the Commission in subsection (a) of this section is unclear. The Committee is uncertain as to whether this means a majority of the authorized membership of the Commission (*i.e.*, eight members) or a majority of the members of the Commission who are then serving. The General Assembly may wish to clarify the meaning of this provision.

Subsection (c)(2) of this section is revised in standard language used to describe the compensation and reimbursement of expenses of members of a board or commission.

Defined term: "Commission" § 3-201

3-206. STAFF.

(A) EXECUTIVE DIRECTOR.

(1) WITH THE APPROVAL OF THE SECRETARY, THE COMMISSION SHALL APPOINT AN EXECUTIVE DIRECTOR.

(2) THE EXECUTIVE DIRECTOR SHALL PERFORM GENERAL ADMINISTRATIVE AND TRAINING MANAGEMENT FUNCTIONS.

(3) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE COMMISSION.

(B) DEPUTY DIRECTOR; ADMINISTRATIVE EMPLOYEES.

(1) WITH THE APPROVAL OF THE SECRETARY, THE COMMISSION SHALL APPOINT A DEPUTY DIRECTOR AND ANY OTHER EMPLOYEES THAT THE COMMISSION CONSIDERS NECESSARY TO PERFORM GENERAL ADMINISTRATIVE AND TRAINING MANAGEMENT FUNCTIONS.

(2) THE DEPUTY DIRECTOR AND OTHER EMPLOYEES APPOINTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL SERVE AT THE PLEASURE OF THE COMMISSION.

(C) OTHER EMPLOYEES.

WITH THE APPROVAL OF THE SECRETARY, THE COMMISSION SHALL EMPLOY OTHER INDIVIDUALS AS NECESSARY TO CARRY OUT THIS SUBTITLE.

(D) COMPENSATION.

THE EXECUTIVE DIRECTOR, DEPUTY DIRECTOR, AND OTHER EMPLOYEES OF THE COMMISSION ARE ENTITLED TO RECEIVE COMPENSATION AS ESTABLISHED BY THE COMMISSION IN ACCORDANCE WITH THE STATE BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-201(d)(9) and (10).

In subsections (a), (b), and (c) of this section, the mandatory language which provides that the Commission "shall" appoint an executive director, a deputy director, and other employees as necessary to perform general administrative and training management functions and "shall" employ other individuals as necessary to carry out this subtitle, is substituted for the former references to the "responsibility" and "duty" of the Commission for consistency with similar provisions in other revised articles of the Code.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that the introductory language in former Art. 41, § 4-201(d) refers to the "authority", "responsibility", and "duty" of the Commission. This language gives rise to the issue of whether former Art. 41, § 4-201(d)(9) and (10) establish powers (*i.e.*, authority) or duties (*i.e.*, responsibilities). This section has been drafted to create mandatory duties because the word "shall" (which indicates a duty) was used several times in former Art. 41, § 4-201(d)(9). If the General Assembly wishes to make these powers discretionary, the word "may" should be substituted for the word "shall".

In subsection (c) of this section, the reference to "individuals" is substituted for the former reference to "persons" because only individuals, and not the other entities included in the defined term "person", can be employed by the Commission. *See* § 1-101 of this article for the definition of "person".

Also in subsection (c) of this section, the former reference to approval by the "legislature" is deleted. Because it is unlikely that former Art. 41, §

4-201(d)(10) literally contemplated specific approval by the General Assembly of each employee of the Commission, a more reasonable reading of the former provision is to make the compensation of each employee of the Commission subject to the State budget, as provided in subsection (d) of this section.

In subsection (d) of this section, the reference to receiving compensation "in accordance with the State budget", in connection with the executive director, the deputy director, and other employees who perform administrative and training management functions, is added to state expressly that which was only implied in the former law.

Defined terms: "Commission" § 3-201

"Secretary" § 3-201

3-207. GENERAL POWERS AND DUTIES OF COMMISSION.

SUBJECT TO THE AUTHORITY OF THE SECRETARY, THE COMMISSION HAS THE FOLLOWING POWERS AND DUTIES:

(1) TO ESTABLISH STANDARDS FOR THE APPROVAL AND CONTINUATION OF APPROVAL OF SCHOOLS THAT CONDUCT POLICE ENTRANCE-LEVEL AND IN-SERVICE TRAINING COURSES REQUIRED BY THE COMMISSION, INCLUDING STATE, REGIONAL, COUNTY, AND MUNICIPAL TRAINING SCHOOLS;

(2) TO APPROVE AND ISSUE CERTIFICATES OF APPROVAL TO POLICE TRAINING SCHOOLS;

(3) TO INSPECT POLICE TRAINING SCHOOLS;

(4) TO REVOKE, FOR CAUSE, THE APPROVAL OR CERTIFICATE OF APPROVAL ISSUED TO A POLICE TRAINING SCHOOL;

(5) TO ESTABLISH THE FOLLOWING FOR POLICE TRAINING SCHOOLS:

(I) CURRICULUM;

(II) MINIMUM COURSES OF STUDY;

(III) ATTENDANCE REQUIREMENTS;

(IV) ELIGIBILITY REQUIREMENTS;

(V) EQUIPMENT AND FACILITIES;

(VI) STANDARDS OF OPERATION; AND

(VII) MINIMUM QUALIFICATIONS FOR INSTRUCTORS;

(6) TO REQUIRE, FOR ENTRANCE-LEVEL POLICE TRAINING AND AT LEAST EVERY 3 YEARS FOR IN-SERVICE LEVEL POLICE TRAINING CONDUCTED BY

THE STATE AND EACH COUNTY AND MUNICIPAL POLICE TRAINING SCHOOL, THAT THE CURRICULUM AND MINIMUM COURSES OF STUDY INCLUDE SPECIAL TRAINING, ATTENTION TO, AND STUDY OF THE APPLICATION AND ENFORCEMENT OF THE CRIMINAL LAWS CONCERNING RAPE AND SEXUAL OFFENSES, INCLUDING:

(I) THE SEXUAL ABUSE OF CHILDREN;

(II) RELATED EVIDENTIARY PROCEDURES; AND

(III) THE CONTACT WITH AND TREATMENT OF VICTIMS OF THESE CRIMES;

(7) TO CERTIFY AND ISSUE APPROPRIATE CERTIFICATES TO QUALIFIED INSTRUCTORS FOR POLICE TRAINING SCHOOLS AUTHORIZED BY THE COMMISSION TO OFFER POLICE TRAINING PROGRAMS;

(8) TO VERIFY THAT POLICE OFFICERS HAVE SATISFACTORILY COMPLETED TRAINING PROGRAMS AND ISSUE DIPLOMAS TO THOSE POLICE OFFICERS;

(9) TO CONDUCT AND OPERATE POLICE TRAINING SCHOOLS AUTHORIZED BY THE COMMISSION TO OFFER POLICE TRAINING PROGRAMS;

(10) TO MAKE A CONTINUOUS STUDY OF ENTRANCE-LEVEL AND IN-SERVICE TRAINING METHODS AND PROCEDURES;

(11) TO CONSULT WITH AND ACCEPT THE COOPERATION OF ANY RECOGNIZED FEDERAL, STATE, OR MUNICIPAL LAW ENFORCEMENT AGENCY OR EDUCATIONAL INSTITUTION;

(12) TO CONSULT AND COOPERATE WITH UNIVERSITIES, COLLEGES, AND INSTITUTIONS IN THE STATE TO DEVELOP SPECIALIZED COURSES OF STUDY FOR POLICE OFFICERS IN POLICE SCIENCE AND POLICE ADMINISTRATION;

(13) TO CONSULT AND COOPERATE WITH OTHER AGENCIES AND UNITS OF THE STATE CONCERNED WITH POLICE TRAINING; AND

(14) TO PERFORM ANY OTHER ACT THAT IS NECESSARY OR APPROPRIATE TO CARRY OUT THE POWERS AND DUTIES OF THE COMMISSION UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-201(a)(1) and (d)(1) through (5), (8), (12), (13), (14), and (16).

In the introductory language of this section, the former references to the Commission's "authority" and "responsibility" are deleted as surplusage in light of the synonymous reference to the "powers" and "duties" of the Commission.

%In item (1) of this section, the former reference to "present existing" training schools is deleted as implicit in the reference to "training schools".

In item (3) of this section, the former phrase "from time to time" is deleted as surplusage.

In item (5)(iv) of this section, the phrase "eligibility requirements" is substituted for the former reference to "eligibility to attend" for grammatical consistency within this item.

In items (7) and (9) of this section, the former reference to a school that is "approved" by the Commission is deleted as implicit in the reference to a school that is "authorized" by the Commission.

Defined terms: "Commission" § 3-201

"County" § 1-101

"Law enforcement agency" § 3-201

"Police officer" § 3-201

"Secretary" § 3-201

3-208. REGULATIONS.

(A) IN GENERAL.

SUBJECT TO THE AUTHORITY OF THE SECRETARY, THE COMMISSION HAS THE FOLLOWING POWERS AND DUTIES:

(1) TO ADOPT REGULATIONS NECESSARY OR APPROPRIATE TO CARRY OUT THIS SUBTITLE; AND

(2) TO ADOPT REGULATIONS THAT ESTABLISH AND ENFORCE STANDARDS FOR PRIOR SUBSTANCE ABUSE BY INDIVIDUALS APPLYING FOR CERTIFICATION AS A POLICE OFFICER.

(B) CERTIFIED FIREARMS SAFETY TRAINING COURSE -- IN GENERAL.

SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, THE COMMISSION SHALL ADOPT REGULATIONS ON OR BEFORE JANUARY 1, 2001, FOR A CERTIFIED FIREARMS SAFETY TRAINING COURSE REQUIRED FOR AN APPLICANT FOR A REGULATED FIREARMS PURCHASE, RENTAL, OR TRANSFER MADE ON OR AFTER JANUARY 1, 2002.

(C) SAME -- ENTITIES OFFERING OR CONDUCTING COURSE.

THE CERTIFIED FIREARMS SAFETY TRAINING COURSE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL:

(1) BE OFFERED BY THE COMMISSION; OR

(2) CONTAIN A HANDGUN SAFETY COMPONENT AND BE CONDUCTED BY AN INDIVIDUAL OR ORGANIZATION CERTIFIED BY:

(I) THE COMMISSION;

(II) THE DEPARTMENT OF NATURAL RESOURCES;

(III) THE DEPARTMENT OF STATE POLICE; OR

(IV) ANY REPUTABLE ORGANIZATION:

1. THAT HAS AS ONE OF ITS OBJECTIVES THE PROMOTION OF COMPETENCY AND SAFETY IN HANDLING HANDGUNS; AND

2. WHOSE COURSE HAS BEEN DETERMINED BY THE COMMISSION TO MEET THE REGULATIONS ADOPTED BY THE COMMISSION.

(D) SAME -- REQUIREMENTS FOR COURSE OFFERED BY COMMISSION.

ANY COURSE OFFERED BY THE COMMISSION UNDER SUBSECTION (C) OF THIS SECTION:

(1) SHALL BE OFFERED FREE OF CHARGE OR FEE;

(2) MAY NOT BE MORE THAN 2 HOURS IN DURATION;

(3) SHALL BE CONDUCTED OR OFFERED AT LEAST ONCE EACH WEEK IN ALL GEOGRAPHIC AREAS OF THE STATE;

(4) SHALL BE AVAILABLE AFTER REGULAR BUSINESS HOURS;

(5) SHALL BE OPEN TO EACH INDIVIDUAL REQUIRED BY LAW TO COMPLETE THE FIREARMS SAFETY TRAINING COURSE, WITHIN 2 WEEKS AFTER REQUEST OF THE INDIVIDUAL;

(6) SHALL ONLY REQUIRE ATTENDANCE THROUGHOUT THE DURATION OF THE COURSE IN ORDER TO COMPLETE THE COURSE SUCCESSFULLY; AND

(7) MAY NOT REQUIRE ANY SKILLS OR KNOWLEDGE TESTING IN THE USE OF A REGULATED FIREARM IN ORDER TO COMPLETE THE COURSE SUCCESSFULLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-201(d)(11) and (15) and (d-1).

In the introductory language of subsection (a) of this section, the former references to the Commission's "authority" and "responsibility" are deleted as surplusage in light of the synonymous references to the "powers" and "duties" of the Commission.

In subsection (a)(1) of this section, the requirement that the Commission "adopt" regulations "to carry out this subtitle" is substituted for the former requirement that the Commission "make" regulations "to accomplish the purposes and objectives of this section" for consistency with similar

provisions in this and other revised articles of the Code. *See* General Revisor's Note to article.

Also in subsection (a)(1) of this section, the former reference to "rules" is deleted in light of the reference to "regulations". *See* General Revisor's Note to article.

Also in subsection (a)(1) of this section, the former requirement that regulations be "reasonably" necessary or appropriate is deleted in light of Title 10, Subtitle 1 of the State Government Article, which requires that regulations be adopted according to a procedure designed to ensure reasonableness. *See, e.g.*, SG § 10-111.1(b).

In subsection (a)(2) of this section and throughout this subtitle, the reference to an "individual[s]" is substituted for the former reference to a "person[s]" because only an individual, and not the other entities included in the defined term "person", may be certified as a police officer. *See* § 1-101 of this article for the definition of "person".

In subsection (d)(2) of this section, the reference to 2 hours in "duration" is substituted for the former reference to 2 hours in "length" to use the proper term.

Defined terms: "Commission" § 3-201

"Police officer" § 3-201

"Secretary" § 3-201

3-209. CERTIFICATION OF POLICE OFFICERS.

(A) IN GENERAL.

THE COMMISSION SHALL CERTIFY AS A POLICE OFFICER EACH INDIVIDUAL WHO:

(1) SATISFACTORILY MEETS THE STANDARDS OF THE COMMISSION; OR

(2) PROVIDES THE COMMISSION WITH SUFFICIENT EVIDENCE THAT THE INDIVIDUAL HAS SATISFACTORILY COMPLETED A TRAINING PROGRAM IN ANOTHER STATE OF EQUAL QUALITY AND CONTENT AS REQUIRED BY THE COMMISSION.

(B) CERTIFICATION OF OTHER INDIVIDUALS AUTHORIZED.

THE COMMISSION MAY CERTIFY AS A POLICE OFFICER AN INDIVIDUAL WHO IS NOT CONSIDERED A POLICE OFFICER UNDER § 3-201(E)(3) OF THIS SUBTITLE IF THE INDIVIDUAL MEETS THE SELECTION AND TRAINING STANDARDS OF THE COMMISSION.

(C) CERTIFICATE REMAINS PROPERTY OF COMMISSION.

EACH CERTIFICATE ISSUED TO A POLICE OFFICER UNDER THIS SUBTITLE REMAINS THE PROPERTY OF THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-201(d)(6), (k), and the third sentence of (a)(8)(ii).

In the introductory language of subsection (a) of this section, the mandatory language which provides that the Commission "shall" certify as police officers individuals who have satisfactorily met the Commission's standards or who have provided the Commission with sufficient evidence that the individual has satisfactorily completed an equivalent training course in another state, is substituted for the former references to the "responsibility" and "duty" of the Commission for consistency with similar provisions in other revised articles of the Code. The word "shall" is used in revised articles to indicate a duty or responsibility.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that the introductory language in former Art. 41, § 4-201(d) refers to the "authority", "responsibility", and "duty" of the Commission. This language gives rise to the issue of whether former Art. 41, § 4-201(d)(6) establishes a power (*i.e.*, authority) or a duty (*i.e.*, responsibility). Subsection (a) of this section has been drafted to create a mandatory duty because the word "shall" (which indicates a duty) was used several times in former Art. 41, § 4-201 with regard to certification of police officers. For example, under former Art. 41, § 4-201(j)(1), a person may not be employed as a police officer unless certified by the Commission. If certification were not a duty of the Commission, then there would be no individuals legally acting as police officers in the State if the Commission chose not to certify police officers. If the General Assembly wishes to make this power discretionary, the word "may" should be substituted for the word "shall".

In subsection (c) of this section, the reference to a certificate "issued ... under this subtitle" is substituted for the former reference to a certificate "provided for in subsection (d)(6) of this section" for clarity. Former Art. 41, § 4-201(d)(6) referred to the certification of police officers by the Commission.

Defined terms: "Commission" § 3-201

"Police officer" § 3-201

"State" § 1-101

3-210. LAPSE OF CERTIFICATION -- IN GENERAL.

(A) AUTOMATIC LAPSE OF CERTIFICATION.

THE CERTIFICATION OF A POLICE OFFICER AUTOMATICALLY LAPSES 3 YEARS AFTER THE DATE OF THE PREVIOUS CERTIFICATION.

(B) APPLICATION FOR RECERTIFICATION.

IF THE CERTIFICATION OF A POLICE OFFICER LAPSES, THE POLICE OFFICER MAY APPLY FOR RECERTIFICATION IMMEDIATELY.

(C) AUTHORITY OF COMMISSION TO RECERTIFY.

THE COMMISSION MAY RECERTIFY A POLICE OFFICER AFTER THE CERTIFICATION OF THE POLICE OFFICER LAPSES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-201(h)(1), (2)(i), and (3).

In this section and throughout this subtitle, the terms "certify", "certification", "recertify", and "recertification" are used for grammatical consistency and are substituted for former references to a "certificate" as necessary.

Defined terms: "Commission" § 3-201

"Police officer" § 3-201

3-211. SAME -- FAILURE TO MEET STANDARDS.

(A) IN GENERAL.

IF THE CERTIFICATION OF A POLICE OFFICER IS IN DANGER OF LAPSING OR HAS LAPSED BECAUSE OF THE FAILURE OF THE POLICE OFFICER TO MEET THE STANDARDS OF THE COMMISSION, THE POLICE OFFICER MAY REQUEST A HEARING BEFORE THE COMMISSION TO PRESENT EVIDENCE THAT:

(1) THE POLICE OFFICER'S LAW ENFORCEMENT AGENCY UNREASONABLY FAILED TO PROVIDE THE POLICE OFFICER WITH THE REQUIRED TRAINING OR ASSIGNED THE POLICE OFFICER TO SPECIAL DUTY THAT PREVENTED THE POLICE OFFICER FROM COMPLETING THE REQUIRED TRAINING TO ACHIEVE THIS CERTIFICATION; AND

(2) THIS FAILURE IS THROUGH NO FAULT OF THE POLICE OFFICER.

(B) HEARING REQUIRED.

(1) ON REQUEST OF THE POLICE OFFICER FOR A HEARING UNDER THIS SECTION, THE COMMISSION SHALL HOLD A HEARING.

(2) FOR PURPOSES OF THIS SUBSECTION, THE COMMISSION SHALL FOLLOW THE PROCEDURES REQUIRED FOR A HEARING BOARD UNDER THE LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS AND THE POLICE OFFICER IS ENTITLED TO ALL OF THE RIGHTS PROVIDED UNDER THE LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS.

(C) STAY OF LAPSE OF CERTIFICATION.

IF THE COMMISSION CONCLUDES THAT THE POLICE OFFICER'S LAW ENFORCEMENT AGENCY UNREASONABLY FAILED TO PROVIDE THE POLICE OFFICER WITH THE REQUIRED TRAINING OR ASSIGNED THE POLICE OFFICER TO SPECIAL DUTY THAT PREVENTED THE POLICE OFFICER FROM COMPLETING THE REQUIRED TRAINING TO ACHIEVE CERTIFICATION:

(1) THE COMMISSION SHALL STAY THE LAPSE OF THE CERTIFICATION UNTIL THE POLICE OFFICER AND THE POLICE OFFICER'S LAW ENFORCEMENT AGENCY MEET THE TRAINING REQUIREMENTS OF THE COMMISSION;

(2) THE POLICE OFFICER SHALL BE RETAINED IN THE POLICE OFFICER'S LAW ENFORCEMENT AGENCY AT FULL PAY PENDING THE COMPLETION OF THE TRAINING; AND

(3) THE COMMISSION SHALL ORDER THE POLICE OFFICER'S LAW ENFORCEMENT AGENCY TO PAY ALL REASONABLE HEARING COSTS AND ATTORNEY'S FEES INCURRED AS A RESULT OF THE ACTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-201(i).

Throughout this section, the reference to the police officer's "law enforcement agency" is substituted for the former reference to the officer's "department" for consistency with terminology used throughout this subtitle.

In subsection (b)(1) of this section, the phrase "[o]n request of the police officer for a hearing under this section" is added for clarity.

In subsection (c) of this section, the references to "required" training are substituted for the former references to "necessary" training for consistency with subsection (a)(1) of this section.

Defined terms: "Commission" § 3-201

"Law enforcement agency" § 3-201

"Police officer" § 3-201

3-212. SUSPENSIONS AND REVOCATIONS OF CERTIFICATION; HEARINGS; JUDICIAL REVIEW.

(A) GROUNDS FOR SUSPENSIONS AND REVOCATIONS.

SUBJECT TO THE HEARING PROVISIONS OF SUBSECTION (B) OF THIS SECTION, THE COMMISSION MAY SUSPEND OR REVOKE THE CERTIFICATION OF A POLICE OFFICER IF THE POLICE OFFICER:

(1) VIOLATES OR FAILS TO MEET THE COMMISSION'S STANDARDS; OR

(2) KNOWINGLY FAILS TO REPORT SUSPECTED CHILD ABUSE IN VIOLATION OF § 5-704 OF THE FAMILY LAW ARTICLE.

(B) HEARINGS.

(1) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, BEFORE THE COMMISSION TAKES ANY FINAL ACTION UNDER SUBSECTION (A) OF THIS SECTION, THE COMMISSION SHALL GIVE THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE COMMISSION.

(2) THE COMMISSION SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(C) JUDICIAL REVIEW.

A POLICE OFFICER AGGRIEVED BY THE FINDINGS AND ORDER OF THE COMMISSION MAY TAKE AN APPEAL AS ALLOWED IN §§ 10-222 AND 10-223 OF THE STATE GOVERNMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-201(d)(7) and (g).

In subsection (a) of this section, the language which provides that the Commission "may" suspend or revoke the certification of a police officer under certain circumstances, is substituted for the former reference to the "authority" of the Commission for consistency with similar provisions in other revised articles of the Code. The word "may" is used in revised articles to indicate the authority of an entity to exercise a power. In addition, the ability of a licensing body to suspend or revoke a license is generally expressed as a power, rather than a duty, under licensing schemes in other revised articles of the Code. Consequently, the former reference to the power of the Commission to "initiate an action against the officer" is deleted as included in the power of the Commission to suspend or revoke the certificate.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that the introductory language in former Art. 41, § 4-201(d) refers to the "authority", "responsibility", and "duty" of the Commission. This language gives rise to the issue of whether former Art. 41, § 4-201(d)(7) establishes a power (*i.e.*, authority) or a duty (*i.e.*, responsibility). Subsection (a) of this section has been drafted to establish a power because "may" (which indicates a power) was used in former Art. 41, § 4-201(g)(1) with regard to the Commission initiating an action against a police officer if the Commission believed that grounds for suspension or revocation of certification existed. If the General Assembly wishes to make this power mandatory, the word "shall" should be substituted for the word "may".

The introductory language of subsection (b)(1) of this section, "[e]xcept as otherwise provided in Title 10, Subtitle 2 of the State Government Article," is added to clarify that the Commissioner may act summarily under certain circumstances. *See* SG § 10-226(c).

%In subsection (b)(2) of this section, the specific reference to "Title 10, Subtitle 2 of the State Government Article" is substituted for the former general reference to "the Administrative Procedure Act". Consequently, the former references to the "time and place of the hearing" and the "grounds for revocation and suspension of the certificate" are deleted as unnecessary. Similarly, in subsection (c) of this section, the specific references to "§§ 10-222 and 10-223 of the State Government Article" are substituted for the former general reference to the "Administrative Procedure Act".

Defined terms: "Commission" § 3-201

"Police officer" § 3-201

3-213. RECALL OF CERTIFICATE.

THE COMMISSION MAY RECALL THE CERTIFICATE OF A POLICE OFFICER IF THE CERTIFICATION OF THE POLICE OFFICER IS SUSPENDED OR REVOKED FOR ANY OF THE FOLLOWING REASONS:

(1) THE CERTIFICATE WAS ISSUED BY ADMINISTRATIVE ERROR;

(2) THE CERTIFICATE WAS OBTAINED THROUGH MISREPRESENTATION OR FRAUD;

(3) THE POLICE OFFICER HAS BEEN CONVICTED OF A FELONY; OR

(4) THE POLICE OFFICER HAS BEEN CONVICTED OF A MISDEMEANOR FOR WHICH A SENTENCE OF IMPRISONMENT EXCEEDING 1 YEAR MAY BE IMPOSED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-201(l).

In items (3) and (4) of this section, references to the "police officer" are substituted for former references to the "holder" for consistency with the introductory language of this section.

Defined terms: "Commission" § 3-201

"Police officer" § 3-201

3-214. RECERTIFICATION AFTER REVOKED CERTIFICATION.

(A) IN GENERAL.

IF THE CERTIFICATION OF A POLICE OFFICER IS REVOKED, THE POLICE OFFICER MAY NOT APPLY FOR RECERTIFICATION UNTIL 2 YEARS AFTER THE EFFECTIVE DATE OF THE REVOCATION ORDER.

(B) AUTHORITY OF COMMISSION TO RECERTIFY.

THE COMMISSION MAY RECERTIFY AN INDIVIDUAL AS A POLICE OFFICER AFTER THE CERTIFICATION OF THE POLICE OFFICER IS REVOKED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-201(h)(2)(ii) and (4).

Defined terms: "Commission" § 3-201

"Police officer" § 3-201

3-215. APPOINTMENT OF POLICE OFFICERS, POLICE SUPERVISORS, AND POLICE ADMINISTRATORS.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "PERMANENT APPOINTMENT" MEANS THE APPOINTMENT OF AN INDIVIDUAL WHO HAS SATISFACTORILY MET THE MINIMUM STANDARDS OF THE COMMISSION AND IS CERTIFIED AS A POLICE OFFICER.

(3) "POLICE ADMINISTRATOR" MEANS A POLICE OFFICER WHO HAS BEEN PROMOTED TO FIRST-LINE ADMINISTRATIVE DUTIES UP TO BUT NOT EXCEEDING THE RANK OF CAPTAIN.

(4) "POLICE SUPERVISOR" MEANS A POLICE OFFICER WHO HAS BEEN PROMOTED TO FIRST-LINE SUPERVISORY DUTIES.

(B) QUALIFICATIONS.

AN INDIVIDUAL MAY NOT BE GIVEN OR ACCEPT A PROBATIONARY APPOINTMENT OR PERMANENT APPOINTMENT AS A POLICE OFFICER, POLICE SUPERVISOR, OR POLICE ADMINISTRATOR UNLESS THE INDIVIDUAL SATISFACTORILY MEETS THE QUALIFICATIONS ESTABLISHED BY THE COMMISSION.

(C) PROBATIONARY APPOINTMENT FOR TRAINING.

A PROBATIONARY APPOINTMENT AS A POLICE OFFICER, POLICE SUPERVISOR, OR POLICE ADMINISTRATOR MAY BE MADE FOR A PERIOD NOT EXCEEDING 1 YEAR TO ENABLE THE INDIVIDUAL SEEKING PERMANENT APPOINTMENT TO TAKE A TRAINING COURSE REQUIRED BY THIS SUBTITLE.

(D) LEAVE OF ABSENCE.

A PROBATIONARY APPOINTEE IS ENTITLED TO A LEAVE OF ABSENCE WITH PAY DURING THE PERIOD OF THE TRAINING PROGRAM.

REVISOR'S NOTE: Subsection (a)(1) of this section is standard language added as the introductory language to a definition subsection.

Subsections (a)(2), (3), and (4), (b), (c), and (d) of this section are new language derived without substantive change from former Art. 41, § 4-201(a)(6), (9), and (10), (e), and (f).

%In subsection (a)(3) and (4) of this section, the former reference to a "law enforcement" officer is deleted as unnecessary in light of the defined term "police officer".

In subsection (a)(3) of this section, the former phrase "from the noncommissioned rank" is deleted as surplusage. Similarly, in subsection (a)(4) of this section, the former phrase "from the patrolman rank" is deleted.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that the references in subsections (b), (c), and (d) of this section to a "probationary" appointment may be more properly characterized as a "provisional" appointment.

Defined terms: "Commission" § 3-201

"Police officer" § 3-201

3-216. EMPLOYMENT OF INDIVIDUAL WITHOUT CERTIFICATION PROHIBITED.

(A) IN GENERAL.

A LAW ENFORCEMENT AGENCY MAY NOT EMPLOY AN INDIVIDUAL AS A POLICE OFFICER FOR A PERIOD NOT EXCEEDING 1 YEAR UNLESS THE INDIVIDUAL IS CERTIFIED BY THE COMMISSION.

(B) EXCEPTION.

(1) IN THIS SUBSECTION, "NONFULL-TIME POLICE OFFICER" MEANS AN INDIVIDUAL WHO DOES NOT WORK IN THE LAW ENFORCEMENT FIELD AT LEAST 7 MONTHS DURING THE CALENDAR YEAR.

(2) THE CERTIFICATION REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION DO NOT APPLY TO THE NONFULL-TIME POLICE OFFICERS OF A LAW ENFORCEMENT AGENCY THAT:

(I) EMPLOYS, DURING A CALENDAR YEAR, AT LEAST 70 FULL-TIME SWORN POLICE OFFICERS; AND

(II) EMPLOYS AT LEAST 100 NONFULL-TIME POLICE OFFICERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-201(j)(1) and (2).

In subsection (a) of this section, the reference to a "period not exceeding 1 year" is substituted for the former reference to a "period [not] to exceed 12 months" for consistency with § 3-215(c) of this subtitle.

Defined terms: "Commission" § 3-201

"Law enforcement agency" § 3-201

"Police officer" § 3-201

3-217. ACTING AS POLICE OFFICER WITH LAPSED, SUSPENDED, OR REVOKED CERTIFICATE PROHIBITED.

AN INDIVIDUAL MAY NOT SERVE AS A POLICE OFFICER WHEN THE CERTIFICATION OF THE POLICE OFFICER HAS LAPSED OR HAS BEEN SUSPENDED OR REVOKED BY THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-201(j)(3).

Defined terms: "Commission" § 3-201

"Police officer" § 3-201

3-218. EFFECT OF SUBTITLE.

(A) ON LOCAL GOVERNMENT.

EXCEPT AS EXPRESSLY PROVIDED IN THIS SUBTITLE, THIS SUBTITLE DOES NOT LIMIT THE POWERS, RIGHTS, DUTIES, OR RESPONSIBILITIES OF THE GOVERNMENT OF A COUNTY OR MUNICIPAL CORPORATION.

(B) CONFLICTING LAW SUPERSEDED.

THIS SUBTITLE SUPERSEDES ANY LAW, ORDINANCE, OR REGULATION OF THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION THAT CONFLICTS WITH THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-201(m) and (n).

Defined term: "County" § 1-101

SUBTITLE 3. SPECIAL POLICE OFFICERS.

3-301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language used as the standard introductory language to a definition section.

(B) COMMISSION.

"COMMISSION" MEANS A SPECIAL POLICE COMMISSION ISSUED UNDER THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language added to standardize the reference to commissions issued to special police officers under this subtitle. The definition is based on the first and second sentences of former

Art. 41, § 4-901.

(C) SECRETARY.

"SECRETARY" MEANS THE SECRETARY OF STATE POLICE.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title "Secretary of State Police".

(D) SPECIAL POLICE OFFICER.

"SPECIAL POLICE OFFICER" MEANS AN INDIVIDUAL WHO HOLDS A COMMISSION ISSUED UNDER THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of phrases such as "individual appointed as a special police officer", "individual appointed under this subtitle", and "special police officer who receives a commission under this subtitle".

Defined term: "Commission" § 3-301

3-302. GOVERNOR TO APPOINT SPECIAL POLICE OFFICERS.

THE GOVERNOR MAY APPOINT AND DEPUTIZE AS A SPECIAL POLICE OFFICER EACH INDIVIDUAL THAT THE GOVERNOR CONSIDERS QUALIFIED FOR A COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 41, § 4-901.

In this section and throughout this subtitle, the reference to an "individual" is substituted for the former reference to a "person[s]" because only an individual, and not the other entities included in the defined term "person", may be commissioned as a special police officer. *See* § 1-101 of this article for the definition of "person".

Defined terms: "Commission" § 3-301

"Special police officer" § 3-301

3-303. ENTITIES AUTHORIZED TO APPLY FOR APPOINTMENT OF SPECIAL POLICE OFFICERS; QUALIFICATIONS OF APPLICANTS.

(A) ENTITIES AUTHORIZED TO APPLY FOR APPOINTMENT OF SPECIAL POLICE OFFICERS.

THE FOLLOWING ENTITIES MAY APPLY FOR THE APPOINTMENT OF SPECIAL POLICE OFFICERS FOR THE FOLLOWING PURPOSES:

(1) A MUNICIPAL CORPORATION, COUNTY, OR OTHER GOVERNMENTAL BODY OF THE STATE, IN ORDER TO PROTECT PROPERTY OWNED, LEASED, OR REGULARLY USED BY THE GOVERNMENTAL BODY OR ANY OF ITS UNITS;

(2) ANOTHER STATE, OR SUBDIVISION OR UNIT OF ANOTHER STATE, THAT HAS AN INTEREST IN PROPERTY LOCATED WHOLLY OR PARTLY IN THIS STATE, IN ORDER TO PROTECT THE PROPERTY;

(3) A COLLEGE, UNIVERSITY, OR PUBLIC SCHOOL SYSTEM IN THE STATE, IN ORDER TO PROTECT ITS PROPERTY OR STUDENTS; OR

(4) A PERSON THAT EXISTS AND FUNCTIONS FOR A LEGAL BUSINESS PURPOSE, IN ORDER TO PROTECT ITS BUSINESS PROPERTY.

(B) AGE.

THE APPLICANT FOR A COMMISSION SHALL BE AT LEAST 18 YEARS OLD.

(C) TRAINING AND EDUCATION.

THE SECRETARY MAY REQUIRE TRAINING AND EDUCATION FOR SPECIAL POLICE OFFICERS AS THE SECRETARY CONSIDERS NECESSARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-904, § 4-902(a)(3), and the second clause of § 4-903(b).

In the introductory language of subsection (a) of this section, the reference to the authority of specified entities to "apply for the appointment of special police officers for the following purposes" is substituted for the former reference to "[a]pplication for special police commission may be made by any of the following" for clarity.

In subsection (a)(2) of this section, the phrase "in order to protect the property" is added to state what only was implied in the former law and for consistency with subsection (a)(1), (3), and (4) of this section.

In subsection (a)(3) of this section, the former word "located" is deleted as surplusage.

In subsection (a)(4) of this section, the former reference to a "legitimate" business purpose is deleted as included in the reference to a "legal" business purpose.

Defined terms: "Commission" § 3-301

"County" § 1-101

"Person" § 1-101

"Secretary" § 3-301

"Special police officer" § 3-301

"State" § 1-101

3-304. APPLICATIONS FOR COMMISSIONS.

(A) EMPLOYER TO SUBMIT.

(1) THE EMPLOYER OF AN APPLICANT FOR A COMMISSION SHALL SUBMIT THE APPLICATION UNDER THIS SECTION.

(2) A SEPARATE APPLICATION IS REQUIRED FOR EACH INDIVIDUAL APPLICANT FOR A COMMISSION.

(B) CONTENTS; FEES.

(1) THE EMPLOYER OF AN APPLICANT FOR A COMMISSION SHALL:

(I) SUBMIT TO THE SECRETARY AN APPLICATION ON THE FORM THAT THE SECRETARY REQUIRES;

(II) SUBMIT TO THE SECRETARY A COMPLETE SET OF THE APPLICANT'S LEGIBLE FINGERPRINTS ON STANDARD FINGERPRINT CARDS;

(III) PAY TO THE SECRETARY A FEE TO COVER THE COST OF THE FINGERPRINT RECORD CHECKS; AND

(IV) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, PAY TO THE SECRETARY AN APPLICATION FEE OF $100, TO COVER THE COST OF AN INVESTIGATION OF THE APPLICANT.

(2) THE APPLICATION FEE IS NONREFUNDABLE IF THE APPLICATION IS DENIED.

(3) AN APPLICATION FEE MAY NOT BE CHARGED TO A UNIT OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-902(b) and (a)(1), (2), and the first and second sentences and, except as it related to the renewal fee, the third sentence of (4).

In subsection (b)(1)(ii) and (iii) of this section, the reference to the "Secretary" is substituted for the former reference to the "Department" for consistency with subsection (b)(1)(i) and (iv) of this section.

In subsection (b)(1)(iii) of this section, the former reference to the fingerprint "card" record checks is deleted as surplusage.

Defined terms: "Commission" § 3-301

"Secretary" § 3-301

3-305. INVESTIGATIONS OF APPLICANTS.

(A) IN GENERAL.

(1) THE SECRETARY SHALL INVESTIGATE THE CHARACTER, REPUTATION, AND QUALIFICATIONS OF EACH APPLICANT FOR A COMMISSION.

(2) THE INVESTIGATION SHALL INCLUDE AN INVESTIGATION OF THE APPLICANT'S CRIMINAL RECORD, INCLUDING CHECKING RECORDS OF LOCAL POLICE DEPARTMENTS AND THE FEDERAL BUREAU OF INVESTIGATION.

(3) THE SECRETARY SHALL CONDUCT THE INVESTIGATION IN ACCORDANCE WITH RULES AND REGULATIONS ADOPTED BY THE SECRETARY.

(B) RECOMMENDATION TO GOVERNOR.

(1) THE SECRETARY SHALL TRANSMIT TO THE GOVERNOR:

(I) THE RESULTS OF THE INVESTIGATION;

(II) A RECOMMENDATION ON DENYING OR GRANTING THE APPLICATION; AND

(III) THE REASONS FOR THE RECOMMENDATION.

(2) THE GOVERNOR MAY ACCEPT THE RECOMMENDATION OF THE SECRETARY BUT NEED NOT ISSUE A COMMISSION APPROVED BY THE SECRETARY IF THE GOVERNOR BELIEVES IT NOT TO BE IN THE BEST INTEREST OF THE STATE TO DO SO.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-903(a).

Subsection (b)(1) of this section is revised in the active voice to clarify that the Secretary transmits the results of the investigation and the recommendation to the Governor.

Defined terms: "Commission" § 3-301

"Secretary" § 3-301

3-306. ISSUANCE OF COMMISSION.

(A) ISSUANCE.

THE GOVERNOR SHALL ISSUE A COMMISSION TO EACH APPLICANT APPROVED BY THE GOVERNOR.

(B) CONTENTS.

THE COMMISSION SHALL INDICATE:

(1) THE TERM OF THE COMMISSION; AND

(2) THE PROPERTY THAT THE COMMISSION IS INTENDED TO COVER OR THE PURPOSE FOR WHICH THE COMMISSION IS ISSUED.

REVISOR'S NOTE: This section is new language derived without substantive change from the second and third sentences of former Art. 41, § 4-901.

%Subsection (a) of this section is revised in the active voice to clarify that the Governor issues commissions.

Defined term: "Commission" § 3-301

3-307. SCOPE OF COMMISSION.

(A) IN GENERAL.

EACH SPECIAL POLICE OFFICER SHALL PROTECT AND PRESERVE PEACE AND GOOD ORDER ON THE PROPERTY DESCRIBED IN THE APPLICATION FOR THE COMMISSION.

(B) POWERS OF SPECIAL POLICE OFFICER.

A SPECIAL POLICE OFFICER MAY:

(1) ARREST INDIVIDUALS WHO TRESPASS OR COMMIT OFFENSES ON THE PROPERTY DESCRIBED IN THE APPLICATION FOR THE COMMISSION;

(2) EXERCISE THE POWERS OF A POLICE OFFICER ON THE PROPERTY DESCRIBED IN THE APPLICATION FOR THE COMMISSION;

(3) EXERCISE THE POWERS OF A POLICE OFFICER IN A COUNTY OR MUNICIPAL CORPORATION OF THE STATE IN CONNECTION WITH THE CARE, CUSTODY, AND PROTECTION OF OTHER PROPERTY OF THE ENTITY THAT REQUESTED THE APPOINTMENT OF THE SPECIAL POLICE OFFICER OR OTHER PROPERTY, REAL OR PERSONAL, FOR WHICH THE ENTITY HAS ASSUMED AN OBLIGATION TO MAINTAIN OR PROTECT; AND

(4) DIRECT AND CONTROL TRAFFIC ON PUBLIC HIGHWAYS AND ROADS IN THE IMMEDIATE VICINITY OF THE PROPERTY DESCRIBED IN THE APPLICATION FOR THE COMMISSION IN ORDER TO FACILITATE THE ORDERLY MOVEMENT OF TRAFFIC TO AND FROM THE PROPERTY, IF THE SECRETARY APPROVES OF THIS ACTIVITY IN ADVANCE.

(C) LIMITATIONS AS TO VEHICLE LAWS.

(1) A SPECIAL POLICE OFFICER MAY MAKE AN ARREST OR ISSUE A TRAFFIC CITATION FOR A VIOLATION OF THE MARYLAND VEHICLE LAW OR ANY OTHER STATE OR LOCAL TRAFFIC LAW OR REGULATION ONLY IF THE SPECIAL POLICE OFFICER:

(I) HAS A PROBATIONARY OR PERMANENT APPOINTMENT AS A SECURITY OFFICER OR IS A MEMBER OF AN INDUSTRIAL POLICE FORCE; AND

(II) HAS COMPLETED THE BASIC TRAINING COURSE FOR POLICE OFFICERS AS ESTABLISHED BY THE POLICE TRAINING COMMISSION IN ACCORDANCE WITH SUBTITLE 2 OF THIS TITLE.

(2) A SPECIAL POLICE OFFICER MAY EXERCISE THE POWER DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION ONLY ON THE PROPERTY OF THE SPECIAL POLICE OFFICER'S EMPLOYER AS DESCRIBED IN THE APPLICATION FOR THE COMMISSION, UNLESS THE SPECIAL POLICE OFFICER IS IN ACTIVE PURSUIT FOR THE PURPOSE OF IMMEDIATE APPREHENSION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first through fifth sentences of former Art. 41, § 4-905.

In subsection (a)(1) of this section, the reference to the power to arrest "individuals" is substituted for the former reference to the power to arrest "persons" because only individuals, and not the other entities included in the defined term "person", are subject to arrest. *See* § 1-101 of this article for the definition of "person".

In subsection (b)(3) of this section, the reference to a "municipal corporation" is substituted for the former reference to a "city" for consistency with Md. Constitution, Art. XI-E.

In subsection (b)(4) of this section, the former phrase "adjacent to", which modified "the property described in the application", is deleted as surplusage in light of the phrase "in the immediate vicinity of".

Also in subsection (b)(4) of this section, the reference to the "movement" of traffic is substituted for the former reference to "ingress and egress" for clarity.

In subsection (c)(2) of this section, the former phrase "of an individual" is deleted as implicit in the reference to "active pursuit" for the purpose of immediate apprehension.

Defined terms: "Commission" § 3-301

"Secretary" § 3-301

"Special police officer" § 3-301

3-308. LIABILITY FOR WRONGFUL ACTIONS OR ABUSE OF POWERS.

(A) RESPONSIBILITY OF SPECIAL POLICE OFFICER.

THE SPECIAL POLICE OFFICER IS RESPONSIBLE FOR:

(1) ANY ABUSE OF THE SPECIAL POLICE OFFICER'S POWERS; AND

(2) THE EXERCISE OF THE SPECIAL POLICE OFFICER'S POWERS ON PROPERTY NOT WITHIN THE SPECIAL POLICE OFFICER'S JURISDICTION.

(B) RESPONSIBILITY OF ENTITY.

THE ENTITY THAT REQUESTED THE APPOINTMENT OF THE SPECIAL POLICE OFFICER IS ALSO RESPONSIBLE FOR:

(1) ANY WRONGFUL ACTION THAT THE SPECIAL POLICE OFFICER COMMITS IN THE COURSE OF THE SPECIAL POLICE OFFICER'S DUTIES; AND

(2) ANY ABUSE OF THE POWERS GRANTED BY THE COMMISSION, EITHER ON OR OFF THE PREMISES.

REVISOR'S NOTE: This section is new language derived without substantive change from the sixth and seventh sentences of former Art. 41, § 4-905.

Throughout this section, the defined term "special police officer" is substituted for the former references to the "officer" for clarity and consistency throughout this subtitle.

In the introductory language of subsection (b) of this section, the former phrase "for whose convenience and protection the officer has been appointed" is deleted as surplusage.

Defined terms: "Commission" § 3-301

"Special police officer" § 3-301

3-309. OATH.

(A) REQUIRED.

WITHIN 30 DAYS AFTER ISSUANCE OF A COMMISSION AND BEFORE PERFORMING THE DUTIES OF A SPECIAL POLICE OFFICER, EACH SPECIAL POLICE OFFICER SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION BEFORE THE CLERK OF THE CIRCUIT COURT WHERE THE COMMISSION IS RECEIVED.

(B) CERTIFICATE OF OATH.

THE CLERK OF THE COURT SHALL TRANSMIT TO THE SECRETARY OF STATE A CERTIFICATE THAT INDICATES THAT THE SPECIAL POLICE OFFICER HAS TAKEN THE OATH REQUIRED BY SUBSECTION (A) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-908.

In subsections (a) and (b) of this section, the defined term "special police officer" is substituted for the former references to a "person appointed under this subtitle" and a "person commissioned" for clarity and consistency with terminology used throughout this subtitle.

In subsection (a) of this section, the reference to the "oath required by Article I, § 9 of the Maryland Constitution" is substituted for the former reference to the "constitutional oath of office" for specificity and to conform to language used in similar provisions in other revised articles of the Code.

Also in subsection (a) of this section, the reference to the clerk of the

"circuit" court where the commission is received is substituted for the former reference to the clerk of the court in the "county or Baltimore City" for specificity.

Also in subsection (a) of this section, the former reference to "Baltimore City" is deleted as included in the defined term "county". *See* § 1-101 of this article.

Defined terms: "Commission" § 3-301

"County" § 1-101

"Special police officer" § 3-301

3-310. UNIFORM, BADGE, AND IDENTIFICATION.

(A) IN GENERAL.

(1) UNLESS A SPECIAL POLICE OFFICER IS ON DETECTIVE DUTY, THE SPECIAL POLICE OFFICER SHALL WEAR:

(I) A UNIFORM THAT IS DISTINGUISHABLE FROM ORDINARY CIVILIAN CLOTHING AND THAT GIVES NOTICE THAT THE SPECIAL POLICE OFFICER IS A LAW ENFORCEMENT OFFICIAL; AND

(II) A DISTINCTIVE POLICE BADGE THAT PROPERLY IDENTIFIES THE OFFICER AS A SPECIAL POLICE OFFICER.

(2) THE BADGE SHALL BE WORN IN PLAIN VIEW.

(3) THE UNIFORM, BADGE, AND IDENTIFICATION ARE SUBJECT TO APPROVAL BY THE DEPARTMENT OF STATE POLICE.

(B) DETECTIVE DUTY.

EACH SPECIAL POLICE OFFICER ON DETECTIVE DUTY SHALL CARRY:

(1) IDENTIFICATION THAT PROPERLY IDENTIFIES THE SPECIAL POLICE OFFICER AS A SPECIAL POLICE OFFICER; AND

(2) THE DISTINCTIVE POLICE BADGE DESCRIBED IN SUBSECTION (A) OF THIS SECTION.

(C) SURRENDER OF IDENTIFICATION OR BADGE.

A SPECIAL POLICE OFFICER SHALL SURRENDER TO THE SPECIAL POLICE OFFICER'S EMPLOYER ANY IDENTIFICATION OR BADGE THAT IDENTIFIES THE INDIVIDUAL AS A SPECIAL POLICE OFFICER WITHIN 48 HOURS AFTER THE SUSPENSION OR TERMINATION OF:

(1) THE EMPLOYMENT OF THE SPECIAL POLICE OFFICER; OR

(2) THE COMMISSION OF THE SPECIAL POLICE OFFICER IN ACCORDANCE WITH § 3-313 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-907.

In subsection (a)(2) of this section, the former phrase "to all who come in contact with the officer" is deleted as surplusage in light of the requirement that the badge be worn "in plain view".

In subsection (a)(3) of this section, the former reference to "refusal" is deleted as implicit in the requirement for "approval by the Department of State Police".

Defined terms: "Commission" § 3-301

"Department" § 3-301

"Special police officer" § 3-301

3-311. EMPLOYEE STATUS; COMPENSATION.

(A) EMPLOYEE STATUS.

EACH SPECIAL POLICE OFFICER IS DEEMED TO BE AN EMPLOYEE OF THE ENTITY THAT REQUESTED THE APPOINTMENT.

(B) COMPENSATION.

A SPECIAL POLICE OFFICER SHALL BE COMPENSATED BY THE ENTITY ON WHATEVER TERMS CONTRACTED FOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-909.

In subsection (a) of this section, the general reference to the "entity" that requested the appointment is substituted for the former reference to the "State, agency, governing body, school system, or business concern" that requested the appointment for brevity and consistency with language used elsewhere in this subtitle.

3-312. TERM AND RENEWAL OF COMMISSION.

(A) TERM OF COMMISSION.

AN INITIAL COMMISSION EXPIRES 2 YEARS AFTER ITS DATE OF ISSUANCE.

(B) APPLICATION FOR RENEWAL.

(1) AT THE END OF THE TERM OF A COMMISSION, THE COMMISSION IS RENEWABLE FOR A 3-YEAR TERM IF THE EMPLOYER OF THE SPECIAL POLICE OFFICER:

(I) SUBMITS TO THE SECRETARY A RENEWAL APPLICATION ON THE FORM THAT THE SECRETARY REQUIRES;

(II) SUBMITS TO THE SECRETARY A COMPLETE SET OF THE SPECIAL POLICE OFFICER'S LEGIBLE FINGERPRINTS ON STANDARD FINGERPRINT CARDS;

(III) PAYS TO THE SECRETARY A FEE TO COVER THE COST OF THE FINGERPRINT RECORD CHECKS; AND

(IV) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, PAYS TO THE SECRETARY A RENEWAL FEE OF $60.

(2) A RENEWAL FEE MAY NOT BE CHARGED TO A UNIT OF THE STATE.

(C) DEADLINE FOR RENEWAL.

THE SECRETARY MAY SET THE DEADLINE FOR SUBMITTING A RENEWAL APPLICATION TO THE SECRETARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-910 and, as it related to the renewal fee, the third sentence of § 4-902(a)(4).

In the introductory language of subsection (b)(1) of this section, the reference to the "employer" is substituted for the former references to the "requesting agency" and the "applicant" for clarity and consistency because only the employer of a special police officer may submit a renewal application and the fingerprint cards have always been turned in to the Secretary by the employer.

In subsection (b)(1)(ii) of this section, the reference to the "special police officer's" fingerprints is substituted for the former reference to the "applicant's" fingerprints for clarity.

In subsection (b)(1)(iii) of this section, the former reference to the fingerprint "card" record checks is deleted as surplusage.

In subsection (b)(1)(iv) of this section, the former reference to a fee "to cover the costs of renewal" is deleted as implicit in the reference to a "renewal" fee.

Defined terms: "Commission" § 3-301

"Secretary" § 3-301

"Special police officer" § 3-301

3-313. SUSPENSIONS AND TERMINATIONS.

(A) IN GENERAL.

(1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A COMMISSION IS SUSPENDED OR TERMINATES WHEN THE EMPLOYER OF THE SPECIAL POLICE OFFICER FILES WRITTEN NOTICE THAT STATES THAT THE SPECIAL POLICE OFFICER IS SUSPENDED FROM OR RELIEVED OF THE DUTIES OF A SPECIAL POLICE OFFICER.

(2) THE GOVERNOR MAY SUSPEND OR TERMINATE A COMMISSION:

(I) ON RECOMMENDATION OF THE SECRETARY; OR

(II) ON THE GOVERNOR'S OWN MOTION IF THE GOVERNOR FINDS IT IN THE BEST INTEREST OF THE STATE.

(3) THE SUSPENSION OR TERMINATION SHALL BE NOTED IN THE OFFICIAL RECORDS OF THE GOVERNOR.

(4) THE SUSPENSION OR TERMINATION MAY NOT TAKE EFFECT UNTIL 5 DAYS AFTER NOTICE IS SENT TO BOTH THE SPECIAL POLICE OFFICER AND THE SPECIAL POLICE OFFICER'S EMPLOYER.

(B) DELEGATION OF POWER BY GOVERNOR.

THE GOVERNOR MAY DELEGATE THE POWER TO SUSPEND OR TERMINATE A COMMISSION TO THE SECRETARY OF STATE, THE ASSISTANT SECRETARY OF STATE, OR BOTH.

(C) EXCEPTION.

A COMMISSION DOES NOT TERMINATE IF:

(1) AN EMPLOYER NO LONGER NEEDS THE SERVICES OF A SPECIAL POLICE OFFICER BECAUSE THE EMPLOYER HAS TRANSFERRED THE BUSINESS PROPERTY DESCRIBED IN THE COMMISSION TO ANOTHER PERSON FOR LEGAL BUSINESS PURPOSES; AND

(2) THE OTHER PERSON EXECUTES A FORM PREPARED BY THE SECRETARY OF STATE THAT AFFIRMS THAT THE OTHER PERSON WILL EMPLOY THE SPECIAL POLICE OFFICER TO PROTECT THAT BUSINESS PROPERTY AND WILL ASSUME THE RESPONSIBILITIES OF THE ORIGINAL EMPLOYER AS DESCRIBED IN THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-913(b), (c), and the first, second, and third sentences of (a).

In subsection (a)(1) of this section, the word "terminates" is substituted for the former words "shall cease" for clarity and consistency throughout this section.

Also in subsection (a)(1) of this section, the reference to the "employer" of

the special police officer is substituted for the former reference to the "State, agency, college, school system, or business" that requested the appointment for brevity and consistency with language used elsewhere in this subtitle.

In subsection (c)(1) of this section, the former reference to "legitimate" business purposes is deleted as included in the reference to "legal" business purposes.

In subsection (c)(2) of this section, the reference to the "other person" is substituted for the former reference to the "transferee" for clarity and consistency with subsection (c)(1) of this section.

Defined terms: "Commission" § 3-301

"Secretary" § 3-301

"Special police officer" § 3-301

3-314. IMMUNITY OF STATE, SUBDIVISION, OR MUNICIPAL CORPORATION.

THE STATE AND ANY SUBDIVISION OR MUNICIPAL CORPORATION OF THE STATE SHALL HAVE THE IMMUNITY FROM LIABILITY DESCRIBED UNDER § 5-613 OF THE COURTS ARTICLE UNLESS THE SUBDIVISION OR MUNICIPAL CORPORATION REQUESTS THE APPOINTMENT OF AN INDIVIDUAL AS A SPECIAL POLICE OFFICER AND THE REQUEST IS GRANTED AS PROVIDED IN THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-912.

The references to a "municipal corporation" are substituted for the former references to a "municipality" to conform to Md. Constitution, Art. XI-E.

Defined term: "Special police officer" § 3-301

3-315. PROHIBITED ACTS; PENALTY.

(A) ACTING AS SPECIAL POLICE OFFICER WITHOUT COMMISSION PROHIBITED.

AN INDIVIDUAL MAY NOT EXERCISE OR ATTEMPT TO EXERCISE ANY OF THE POWERS OF A SPECIAL POLICE OFFICER GRANTED UNDER THIS SUBTITLE WITHOUT A COMMISSION.

(B) ACTING AS SPECIAL POLICE OFFICER WITH KNOWLEDGE OF SUSPENSION OR TERMINATION PROHIBITED.

(1) AN INDIVIDUAL MAY NOT EXERCISE OR ATTEMPT TO EXERCISE ANY OF THE POWERS OF A SPECIAL POLICE OFFICER GRANTED UNDER THIS SUBTITLE IF THE INDIVIDUAL KNOWS OF THE SUSPENSION OR TERMINATION OF THE INDIVIDUAL'S COMMISSION OR IF THE INDIVIDUAL HAS IN ANY MANNER RECEIVED NOTICE OF THE SUSPENSION OR TERMINATION OF THE INDIVIDUAL'S COMMISSION.

(2) AN INDIVIDUAL IS PRESUMED TO KNOW OF A SUSPENSION OR TERMINATION IF NOTICE OF THE SUSPENSION OR TERMINATION IS FILED AND MAILED IN ACCORDANCE WITH § 3-313 OF THIS SUBTITLE.

(C) EMPLOYING INDIVIDUAL AS SPECIAL POLICE OFFICER WITHOUT COMMISSION PROHIBITED.

AN EMPLOYER MAY NOT KNOWINGLY:

(1) HIRE AN INDIVIDUAL TO PERFORM THE DUTIES OF A SPECIAL POLICE OFFICER UNLESS THE INDIVIDUAL HOLDS A COMMISSION; OR

(2) CONTINUE TO EMPLOY AN INDIVIDUAL TO PERFORM THE DUTIES OF A SPECIAL POLICE OFFICER:

(I) UNLESS THE INDIVIDUAL HOLDS A COMMISSION; OR

(II) IF THE INDIVIDUAL'S COMMISSION IS SUSPENDED OR TERMINATED.

(D) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING $1,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-911 and the fourth and fifth sentences of § 4-913(a).

In subsections (a) and (b)(1) of this section, the references to the powers "of a special police officer" are added for clarity.

In subsection (a) of this section, the reference to this "subtitle" is substituted for the former reference to this "subheading" for clarity and accuracy.

In subsection (b)(1) and (2) of this section, the reference to "termination" of a commission is substituted for the former reference to "revocation" for clarity and consistency with § 3-313 of this subtitle. Similarly, in subsection (c)(2)(ii) of this section, the word "terminated" is substituted for the former word "revoked" for clarity and consistency.

In subsection (c)(2)(i) and (ii) of this section, the reference to an "individual" is substituted for the former reference to an "employee" for consistency throughout this section.

Defined terms: "Commission" § 3-301

"Special police officer" § 3-301

3-316. REGULATIONS.

THE SECRETARY MAY, AS THE SECRETARY CONSIDERS NECESSARY TO CARRY OUT THE PURPOSE OF THIS SUBTITLE, ADOPT RULES AND REGULATIONS FOR THE CONDUCT OF SPECIAL POLICE OFFICERS.

REVISOR'S NOTE: This section is new language derived without substantive change from the first clause of former Art. 41, § 4-903(b).

The former reference to regulations necessary to "fully" carry out this subtitle is deleted as surplusage.

The former reference to the "provisions" of this subtitle is deleted as included in the reference to the "purpose" of this subtitle.

Defined terms: "Secretary" § 3-301

"Special police officer" § 3-301

SUBTITLE 4. MARYLAND RAILROAD POLICE ACT.

3-401. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 23, § 256(a).

In this subsection and throughout this subtitle, the reference to this "subtitle" is substituted for the former reference to this "subheading" to reflect the revision of former Art. 23, §§ 256 through 266 as this subtitle.

No other changes are made.

(B) RAILROAD COMPANY.

(1) "RAILROAD COMPANY" MEANS A RAILWAY COMPANY OR CORPORATION, TOGETHER WITH ITS SUBSIDIARIES, CORPORATE AFFILIATES, AND PARENT COMPANIES, THAT IS ENGAGED AS A COMMON CARRIER IN THE FURNISHING OR SALE OF TRANSPORTATION SUBJECT TO SUBTITLE IV OF TITLE 49 OF THE UNITED STATES CODE.

(2) "RAILROAD COMPANY" INCLUDES A CORPORATION THE TITLE OF WHICH CONTAINS A COMBINATION OF WORDS SIMILAR TO "RAILWAY COMPANY".

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 23, § 256(d).

The term "railroad company" is substituted for the former term "railroad" for clarity and consistency with other revised articles of the Code. The term "railroad" usually connotes a common carrier by rail and the physical plant

and equipment of the common carrier. The term "railroad company" connotes the corporation that operates the railroad. *See* LE § 5.5-101 and PUC § 9-301.

(C) RAILROAD POLICE OFFICER.

"RAILROAD POLICE OFFICER" MEANS AN INDIVIDUAL APPOINTED BY THE GOVERNOR TO ACT AS A POLICE OFFICER FOR A RAILROAD COMPANY UNDER THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 23, § 256(b).

The references to a "[r]ailroad police" officer acting as a police officer "for a railroad company" are added for clarity because this subtitle applies only to railroad police officers, and not to other police officers.

The reference to an "individual" is substituted for the former reference to a "person" because only an individual, and not the other entities included in the defined term "person", may be appointed to act as a railroad police officer. *See* § 1-101 of this article for the definition of "person".

The phrase "by the Governor" is substituted for the former phrase "by the State" for clarity because the Governor issues appointments under this subtitle. *See* § 3-405 of this subtitle.

The former phrase "selected by a railroad" is deleted as implicit because the railroad police officer is acting as a police officer for a railroad company.

Defined term: "Railroad company" § 3-401

(D) SECRETARY.

"SECRETARY" MEANS THE SECRETARY OF STATE POLICE.

REVISOR'S NOTE: This subsection formerly was Art. 23, § 256(e).

The only change is in style.

3-402. APPOINTMENT OF RAILROAD POLICE OFFICERS AUTHORIZED.

EACH RAILROAD COMPANY LOCATED WHOLLY OR PARTLY IN THE STATE MAY APPLY FOR THE APPOINTMENT OF RAILROAD POLICE OFFICERS:

(1) TO PROTECT PROPERTY, PATRONS, PASSENGERS, TENANTS, EMPLOYEES, EQUIPMENT, AND SERVICES; AND

(2) TO PRESERVE PEACE AND ORDER ON RAILROAD PREMISES, EASEMENTS, APPURTENANT PROPERTY, TRAINS, CARS, AND OTHER VEHICLES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23, § 257(a).

The former reference to a railroad making application "for qualified persons as they may require" is deleted as implicit.

Defined terms: "Railroad company" § 3-401

"Railroad police officer" § 3-401

3-403. QUALIFICATIONS OF APPLICANTS.

(A) IN GENERAL.

TO QUALIFY FOR APPOINTMENT TO ACT AS A RAILROAD POLICE OFFICER UNDER THIS SUBTITLE, AN APPLICANT SHALL BE AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SECTION.

(B) MORAL CHARACTER.

(1) THE APPLICANT SHALL BE OF GOOD MORAL CHARACTER.

(2) THE APPLICANT MAY NOT HAVE BEEN CONVICTED OF A FELONY OR MISDEMEANOR INVOLVING MORAL TURPITUDE.

(C) AGE.

THE APPLICANT SHALL BE AT LEAST 21 YEARS OLD.

(D) EDUCATION AND EXPERIENCE.

THE APPLICANT SHALL:

(1) BE A FULL-TIME POLICE OFFICER EMPLOYED BY A RAILROAD COMPANY ON JULY 1, 1979; OR

(2) MEET ALL THE EDUCATIONAL AND TRAINING REQUIREMENTS REQUIRED BY THE POLICE TRAINING COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23, § 256(c).

It is revised as substantive provisions rather than a definition of "qualified person" because the former definition listed the qualifications necessary for appointment to act as a railroad police officer.

In subsection (d)(1) of this section, the former reference to the "Maryland" Police Training Commission is deleted to use the proper title of the Commission.

As to the Police Training Commission, *see* Subtitle 2 of this title.

Defined terms: "Railroad company" § 3-401

"Railroad police officer" § 3-401

3-404. APPLICATIONS FOR APPOINTMENTS.

(A) IN GENERAL.

THE CHIEF RAILROAD POLICE OFFICER OF A RAILROAD COMPANY SHALL:

(1) SUBMIT TO THE SECRETARY UNDER OATH AN APPLICATION FOR APPOINTMENT OF EACH RAILROAD POLICE OFFICER ON THE FORM THAT THE SECRETARY REQUIRES; AND

(2) PAY TO THE SECRETARY THE APPLICATION FEE SET BY THE SECRETARY.

(B) APPLICATION FEE NONREFUNDABLE.

THE APPLICATION FEE IS NONREFUNDABLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23, § 257(b).

In the introductory language of subsection (a) of this section, the former reference to the "requesting" railroad is deleted as implicit.

In subsection (a)(1) of this section, the former reference to making an application "in writing" is deleted as unnecessary in light of the requirement to submit the application on the form that the Secretary requires.

Defined terms: "Railroad company" § 3-401

"Railroad police officer" § 3-401

"Secretary" § 3-401

3-405. ISSUANCE OF APPOINTMENT.

(A) RECOMMENDATION TO GOVERNOR.

(1) THE SECRETARY SHALL SUBMIT TO THE GOVERNOR:

(I) EACH APPLICATION FOR APPOINTMENT OF A RAILROAD POLICE OFFICER RECEIVED UNDER THIS SUBTITLE;

(II) A RECOMMENDATION ON DENYING OR GRANTING THE APPLICATION; AND

(III) THE REASONS FOR THE RECOMMENDATION.

(2) THE GOVERNOR MAY ACCEPT THE RECOMMENDATION OF THE SECRETARY BUT NEED NOT ISSUE AN APPOINTMENT APPROVED BY THE SECRETARY

IF THE GOVERNOR BELIEVES IT IS NOT IN THE BEST INTEREST OF THE STATE TO DO SO.

(B) ISSUANCE OF APPOINTMENT.

THE GOVERNOR SHALL ISSUE AN APPOINTMENT TO ACT AS A RAILROAD POLICE OFFICER TO EACH APPLICANT APPROVED BY THE GOVERNOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23, § 258(a) and (b).

In subsection (b) of this section, standard language is added to express the formerly implied duty of the Governor to issue an appointment to an applicant approved by the Governor.

Defined terms: "Railroad police officer" § 3-401

"Secretary" § 3-401

3-406. SCOPE OF APPOINTMENT.

(A) IN GENERAL.

EACH RAILROAD POLICE OFFICER HAS ALL THE POWERS GRANTED TO A PEACE OR POLICE OFFICER.

(B) LIMITATION OF POWERS.

A RAILROAD POLICE OFFICER MAY EXERCISE THE POWERS GRANTED UNDER THIS SUBTITLE ONLY IF THE RAILROAD POLICE OFFICER:

(1) IS ON REAL OR PERSONAL PROPERTY OWNED, LEASED, OPERATED, OR CONTROLLED BY THE RAILROAD COMPANY THAT EMPLOYS THE RAILROAD POLICE OFFICER;

(2) IS IN FRESH PURSUIT OF A SUSPECT;

(3) IS REQUESTED OR AUTHORIZED TO ACT BY THE EXECUTIVE OFFICER OR CHIEF POLICE OFFICER OF A COUNTY; OR

(4) IS ORDERED TO ACT BY THE GOVERNOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23, § 260(a) and (b).

In subsection (a) of this section, the defined term "railroad police officer" is substituted for the former reference to "[m]embers of the Maryland railroad police" for consistency with terminology used throughout this subtitle. Similarly, in the introductory language of subsection (b) of this section, the former reference to a "Maryland" railroad police officer is deleted.

%In subsection (b)(1) of this section, the former phrase "hereinafter referred to as railroad property" is deleted as surplusage because the term "railroad property" does not appear anywhere else in this revised subtitle in this context.

In subsection (b)(2) of this section, the reference to a "suspect" is substituted for the former reference to a "suspected offender" for brevity.

In subsection (b)(3) of this section, the former reference to "Baltimore City" is deleted as included in the defined term "county".

Defined terms: "County" § 1-101

"Railroad company" § 3-401

"Railroad police officer" § 3-401

3-407. LIABILITY FOR WRONGFUL ACTIONS OR ABUSE OF POWERS.

THE RAILROAD COMPANY THAT EMPLOYS A RAILROAD POLICE OFFICER IS LIABLE FOR ANY WRONGFUL ACTION OR ABUSE OF POWER BY THE RAILROAD POLICE OFFICER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23, § 260(c).

The former reference to a "Maryland" railroad police officer is deleted for consistency with terminology used throughout this subtitle.

Defined terms: "Railroad company" § 3-401

"Railroad police officer" § 3-401

3-408. OATH.

BEFORE PERFORMING THE DUTIES OF A RAILROAD POLICE OFFICER, EACH RAILROAD POLICE OFFICER SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION BEFORE THE CLERK OF THE CIRCUIT COURT WHERE THE APPOINTMENT IS RECEIVED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23, § 259.

The defined term "railroad police officer" is substituted for the former reference to "each officer appointed under this subheading" for clarity and consistency with terminology used throughout this subtitle.

The reference to the "oath required by Article I, § 9 of the Maryland Constitution" is substituted for the former reference to an "oath of office" for specificity and to conform to language used in similar provisions in other revised articles of the Code.

The reference to the clerk of the "circuit" court where the appointment is

received is substituted for the former reference to the clerk of the court in the "jurisdiction" for specificity.

The reference to an "appointment" being received is substituted for the former reference to the "commission" for clarity and consistency with terminology used throughout this subtitle.

Defined terms: "County" § 1-101

"Railroad police officer" § 3-401

3-409. BADGES AND IDENTIFICATION CARDS.

(A) BADGES.

EACH RAILROAD POLICE OFFICER WHO IS IN UNIFORM AND ON DUTY SHALL WEAR IN PLAIN VIEW A BADGE THAT IDENTIFIES THE RAILROAD COMPANY THAT EMPLOYS THE RAILROAD POLICE OFFICER.

(B) IDENTIFICATION CARDS.

EACH RAILROAD POLICE OFFICER SHALL CARRY AN IDENTIFICATION CARD ISSUED BY THE RAILROAD COMPANY THAT EMPLOYS THE RAILROAD POLICE OFFICER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23, § 262.

In subsection (a) of this section, the reference to the "railroad company that employs the railroad police officer" is substituted for the former phrase "appointing railroad employer" for consistency with terminology used throughout this subtitle, as the Governor appoints railroad police officers. Similarly, in subsection (b) of this section, the reference to the "railroad company that employs the railroad police officer" is substituted for the former phrase "appointing railroad".

Defined terms: "Railroad company" § 3-401

"Railroad police officer" § 3-401

3-410. COMPENSATION.

EACH RAILROAD POLICE OFFICER SHALL RECEIVE COMPENSATION FROM THE RAILROAD COMPANY THAT EMPLOYS THE RAILROAD POLICE OFFICER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23, § 263.

The reference to the "railroad company that employs the railroad police officer" is substituted for the former phrase "appointing railroad" for consistency with terminology used throughout this subtitle, as the Governor appoints railroad police officers.

Defined terms: "Railroad company" § 3-401

"Railroad police officer" § 3-401

3-411. TERM OF APPOINTMENT.

AN APPOINTMENT ISSUED UNDER THIS SUBTITLE REMAINS IN EFFECT UNTIL:

(1) TERMINATED BY THE RAILROAD COMPANY THAT EMPLOYS THE RAILROAD POLICE OFFICER; OR

(2) REVOKED FOR CAUSE BY THE GOVERNOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23, § 258(c).

In item (2) of this section, the reference to "the Governor" is substituted for the former reference to "the issuing authority" for clarity, as the Governor issues appointments under this subtitle.

Defined terms: "Railroad company" § 3-401

"Railroad police officer" § 3-401

3-412. END OF EMPLOYMENT.

(A) IN GENERAL.

EMPLOYMENT OF A RAILROAD POLICE OFFICER ENDS ON THE RETIREMENT, RESIGNATION, OR TERMINATION OF THE RAILROAD POLICE OFFICER.

(B) EFFECT ON POWERS.

THE POWERS GRANTED TO A RAILROAD POLICE OFFICER UNDER THIS SUBTITLE END WHEN THE EMPLOYMENT OF THE RAILROAD POLICE OFFICER ENDS.

(C) NOTICE.

WITHIN 10 DAYS AFTER THE EMPLOYMENT OF A RAILROAD POLICE OFFICER ENDS, THE RAILROAD COMPANY THAT EMPLOYED THE RAILROAD POLICE OFFICER SHALL FILE NOTICE WITH THE GOVERNOR THAT THE EMPLOYMENT HAS ENDED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23, § 264.

Throughout this section, references to employment "end[ing]" are substituted for the former references to "terminat[ion]" of employment to conform to language used in Title 2, Subtitle 4 of this article for police employees and civilian employees of the Department of State Police. Consequently, in subsection (a) of this section, the reference to "termination" is substituted for the former reference to "discharge".

In subsection (c) of this section, the reference to the "railroad company that

employed the railroad police officer" is substituted for the former phrase "appointing railroad" for consistency with terminology used throughout this subtitle, as the Governor appoints railroad police officers.

Defined terms: "Railroad company" § 3-401

"Railroad police officer" § 3-401

3-413. CONFINEMENT OF ARRESTEES.

(A) IN GENERAL.

IF SUFFICIENT FACILITIES ARE AVAILABLE, THE PERSON IN CHARGE OF A JAIL OR PLACE OF DETENTION SHALL RECEIVE AND CONFINE AN INDIVIDUAL ARRESTED BY A RAILROAD POLICE OFFICER.

(B) STATUS.

AN INDIVIDUAL CONFINED UNDER SUBSECTION (A) OF THIS SECTION:

(1) IS DEEMED TO BE IN THE CUSTODY OF THE RAILROAD POLICE; AND

(2) HAS THE SAME STATUS AS AN INDIVIDUAL ARRESTED BY ANY OTHER PEACE OR POLICE OFFICER OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23, § 261.

Throughout this section, references to an "individual" are substituted for the former references to a "person[s]" because only an individual, and not the other entities included in the defined term "person", can be arrested and confined in a jail or place of detention. *See* § 1-101 of this article for the definition of "person".

Defined term: "Railroad police officer" § 3-401

3-414. RECIPROCAL AGREEMENTS.

TO CARRY OUT THE PURPOSES OF THIS SUBTITLE, THE GOVERNOR MAY ENTER INTO A RECIPROCAL AGREEMENT WITH THE GOVERNOR OF ANOTHER STATE TO EMPOWER RAILROAD POLICE OFFICERS TO PERFORM POLICE FUNCTIONS LAWFULLY EXERCISED BY AN OFFICER OF THE RECIPROCAL STATE THAT RELATE TO THE PURPOSES DESCRIBED IN THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23, § 265.

The phrase "in this subtitle" is substituted for the former phrase "in §§ 257 and 260 of this subheading" for clarity. The former cross-references seemed overly specific and potentially misleading. Former Art. 23, §§ 257(a) and 260(a) and (b), revised in §§ 3-402 and 3-406 of this subtitle, described the purposes for which a railroad company may apply for the

appointment of railroad police officers and the powers that railroad police officers are authorized to exercise. Although potentially broader in scope than the former law, the phrase "in this subtitle" used in the revision is intended to cover any powers or purposes added to this law in the future. No substantive change is intended.

Defined terms: "Railroad police officer" § 3-401

"State" § 1-101

3-415. SHORT TITLE.

THIS SUBTITLE MAY BE CITED AS THE MARYLAND RAILROAD POLICE ACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23, § 266.

SUBTITLE 5. MISCELLANEOUS PROVISIONS.

3-501. DISPOSAL OF HANDGUNS OWNED BY LAW ENFORCEMENT AGENCIES.

A LAW ENFORCEMENT AGENCY SEEKING TO DISPOSE OF A HANDGUN OWNED BY THE AGENCY SHALL:

(1) DESTROY THE HANDGUN;

(2) SELL, EXCHANGE, OR TRANSFER THE HANDGUN TO ANOTHER LAW ENFORCEMENT AGENCY FOR OFFICIAL USE BY THAT AGENCY;

(3) SELL THE HANDGUN TO A RETIRED POLICE EMPLOYEE IN ACCORDANCE WITH § 2-415(C) OF THIS ARTICLE; OR

(4) SELL THE HANDGUN TO THE LAW ENFORCEMENT OFFICER TO WHOM THE HANDGUN WAS ASSIGNED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 36C-1.

In item (3) of this section, the reference to a retired "police employee" is substituted for the former reference to a retired "State police officer" to conform to terminology used in Title 2, Subtitle 4 of this article.

3-502. IMPERSONATING POLICE OFFICER.

(A) "POLICE OFFICER" DEFINED.

IN THIS SECTION, "POLICE OFFICER" MEANS A MEMBER OF:

(1) A POLICE FORCE OF THIS STATE OR ANOTHER STATE;

(2) A POLICE FORCE OF A COUNTY OR MUNICIPAL CORPORATION OF THIS STATE OR ANOTHER STATE;

(3) THE UNITED STATES SECRET SERVICE UNIFORMED DIVISION;

(4) THE UNITED STATES PARK POLICE;

(5) THE FEDERAL BUREAU OF INVESTIGATION;

(6) THE DRUG ENFORCEMENT ADMINISTRATION; OR

(7) A DIVISION OF A FEDERAL AGENCY THE PRIMARY DUTIES OF WHICH ARE THE INVESTIGATION, APPREHENSION, OR DETENTION OF INDIVIDUALS SUSPECTED OR CONVICTED OF FEDERAL CRIMES.

(B) IMPERSONATING POLICE OFFICER PROHIBITED.

A PERSON MAY NOT, WITH FRAUDULENT DESIGN ON PERSON OR PROPERTY, FALSELY REPRESENT THAT THE PERSON IS A POLICE OFFICER, SPECIAL POLICE OFFICER, SHERIFF, DEPUTY SHERIFF, OR CONSTABLE.

(C) WEARING POLICE ARTICLES PROHIBITED.

EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A PERSON MAY NOT HAVE, USE, WEAR, OR DISPLAY A UNIFORM, SHIELD, BUTTON, ORNAMENT, BADGE, IDENTIFICATION, OR SHOULDER PATCH ADOPTED BY THE DEPARTMENT OF STATE POLICE TO BE WORN BY ITS MEMBERS, INSIGNIA, OR EMBLEM OF OFFICE, AS IS WORN BY A POLICE OFFICER, SHERIFF, DEPUTY SHERIFF, OR CONSTABLE.

(D) IMITATIONS OF POLICE ARTICLES PROHIBITED.

A PERSON MAY NOT, FOR THE PURPOSE OF DECEPTION, HAVE A SIMULATION OR IMITATION OF AN ARTICLE DESCRIBED IN SUBSECTION (C) OF THIS SECTION AS IS WORN BY A POLICE OFFICER, SHERIFF, DEPUTY SHERIFF, OR CONSTABLE.

(E) AUTHORITY TO WEAR POLICE ARTICLES.

A PERSON MAY HAVE, USE, WEAR, OR DISPLAY AN ARTICLE DESCRIBED IN SUBSECTION (C) OF THIS SECTION WITH THE APPROPRIATE AUTHORITY OF:

(1) THE SECRETARY OF STATE POLICE;

(2) A POLICE FORCE OF ANOTHER STATE;

(3) THE POLICE COMMISSIONER OF BALTIMORE CITY;

(4) THE CHIEF OF POLICE OF A COUNTY OR MUNICIPAL CORPORATION OF THIS STATE OR ANOTHER STATE;

(5) A SHERIFF OR DEPUTY SHERIFF;

(6) A CONSTABLE;

(7) THE UNITED STATES SECRET SERVICE UNIFORMED DIVISION;

(8) THE UNITED STATES PARK POLICE;

(9) THE FEDERAL BUREAU OF INVESTIGATION;

(10) THE DRUG ENFORCEMENT ADMINISTRATION; OR

(11) A DIVISION OF A FEDERAL AGENCY THE PRIMARY DUTIES OF WHICH ARE THE INVESTIGATION, APPREHENSION, OR DETENTION OF INDIVIDUALS SUSPECTED OR CONVICTED OF FEDERAL CRIMES.

(F) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING $100 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 440.

In subsection (a)(2) of this section, the former reference to "Baltimore City" is deleted in light of the definition of "county" in § 1-101 of this article.

In subsections (a)(7) and (e)(11) of this section, the reference to "federal crimes" is substituted for the former reference to "offenses against the criminal laws of the United States" for brevity.

In subsection (b) of this section, the defined term "police officer" is substituted for the former phrase "member of a police force of the United States or of this State or another state, of Baltimore City or of any county or municipal corporation of the State or of another state" to use the defined term. Similarly, in subsection (c) of this section, the defined term "police officer" is substituted for the former phrase "members of the respective police forces".

Also in subsection (b) of this section, the phrase "special police officer" is substituted for the former reference to "special policeman" to conform to terminology used in Subtitle 3 of this title.

In subsection (f) of this section, the former phrase "in the discretion of the court" is deleted as implicit in the normal prerogatives of a court.

Defined terms: "County" § 1-101

"Person" § 1-101

"State" § 1-101

3-503. REGULATION OF SURVEILLANCE ACTIVITIES.

(A) LEGISLATIVE POLICY.

THE PURPOSE OF THIS SECTION IS TO PRESERVE, PROMOTE, AND PROTECT PUBLIC SAFETY AND PEACE IN THE STATE.

(B) SCOPE OF SECTION.

THIS SECTION APPLIES TO AN AGENT, EMPLOYEE, OR REPRESENTATIVE OF ANOTHER STATE OR A POLITICAL SUBDIVISION OF ANOTHER STATE WHO IS PRESENT IN THIS STATE TO ENFORCE THE LAWS OF THE OTHER STATE.

(C) REGISTRATION REQUIRED.

(1) A PERSON SUBJECT TO THIS SECTION SHALL REGISTER WITH THE LAW ENFORCEMENT AGENCY DESIGNATED BY THE GOVERNING BODY OF A COUNTY WHEN THE PERSON ENTERS THE COUNTY FOR THE PURPOSE OF SURVEILLANCE OF THE PRESENCE OR ACTIVITIES OF CUSTOMERS OR PATRONS OF A BUSINESS ESTABLISHMENT IN THE STATE THAT IS ENGAGED IN THE LAWFUL SALE OR SUPPLY OF GOODS OR SERVICES.

(2) WHEN REGISTERING, A PERSON SUBJECT TO THIS SECTION SHALL PROVIDE:

(I) THE NAME AND ADDRESS OF THE PERSON;

(II) THE NAME OF THE PERSON'S EMPLOYER OR PRINCIPAL; AND

(III) THE LOCATION OF THE PROPOSED SURVEILLANCE.

(3) ON REQUEST, THE REGISTRATION RECORD SHALL BE MADE AVAILABLE DURING NORMAL BUSINESS HOURS TO THE PUBLIC AND TO LAWFUL BUSINESS OR COMMERCIAL ENTERPRISES IN THE STATE.

(D) SUSPENSION OF RIGHT TO REGISTER; SUSPENSION OF REGISTRATION.

(1) A PERSON WHO FAILS TO REGISTER IN ACCORDANCE WITH THIS SECTION MAY NOT REGISTER FOR 6 MONTHS AFTER THE FAILURE TO REGISTER IS JUDICIALLY DETERMINED.

(2) THE REGISTRATION OF A PERSON WHO VIOLATES THIS SECTION SHALL BE SUSPENDED FOR 6 MONTHS AFTER THE VIOLATION IS JUDICIALLY DETERMINED.

(E) CRIMINAL PENALTY.

A PERSON WHO VIOLATES THIS SECTION WHILE THE PERSON'S RIGHT TO REGISTER IS SUSPENDED OR WHILE THE PERSON'S REGISTRATION IS SUSPENDED, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 2 YEARS OR A FINE NOT EXCEEDING $1,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 555.

Subsection (a) of this section is revised to set forth the purpose for enactment of this section.

%In subsection (a) of this section, the former phrase "of the community" is deleted as unclear and ambiguous.

Subsection (b) of this section is revised as a scope provision for brevity and to clarify the applicability of this section.

In subsection (b) of this section, the former references to the "District of Columbia" are deleted in light of the defined term "state" in § 1-101 of this article.

In subsection (c)(1) and (2) of this section, the phrase "[a] person subject to this section" is substituted for the former phrase "any agent, employee or representative of another state or the District of Columbia, or any political subdivision thereof" in light of subsection (b) of this section, which establishes the scope of this section.

In subsection (c)(1) of this section, the former reference to "Baltimore City" is deleted in light of the definition of "county" in § 1-101 of this article.

In subsection (c)(3) of this section, the reference to "the public" is substituted for the former reference to "any citizen" for clarity, in light of the fact that the term "citizen" is ambiguous.

In subsection (d) of this section, the former phrase "as the case may be" is deleted as surplusage.

In subsection (e) of this section, the former phrase "in the discretion of the court" is deleted as implicit in the normal prerogatives of a court.

Defined terms: "County" § 1-101

"Person" § 1-101

"State" § 1-101

TITLE 4. LAW ENFORCEMENT FUNDS.

SUBTITLE 1. PROTECTIVE BODY ARMOR FUND.

4-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 88B, § 30(a)(1).

In this subsection and throughout this subtitle, the word "subtitle" is substituted for the former word "section" to reflect the reorganization of former § 30 as a subtitle in this revision.

No other changes are made.

(B) FUND.

"FUND" MEANS THE PROTECTIVE BODY ARMOR FUND.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88B, § 30(a)(2).

The former phrase "established under this section" is deleted as unnecessary in a definition. The Fund is established by § 4-102 of this subtitle and that provision stands on its own as a substantive provision.

(C) LOCAL LAW ENFORCEMENT AGENCY.

"LOCAL LAW ENFORCEMENT AGENCY" MEANS THE POLICE DEPARTMENT OF A COUNTY OR MUNICIPAL CORPORATION IN THE STATE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88B, § 30(a)(3).

The reference to a "municipal corporation" is substituted for the former reference to an "incorporated city or town" to conform to Md. Constitution, Art. XI-E.

The former phrase "including Baltimore City" is deleted as unnecessary because Baltimore City is included in the defined term "county". *See* § 1-101 of this article.

Defined term: "County" § 1-101

(D) PROTECTIVE BODY ARMOR.

"PROTECTIVE BODY ARMOR" MEANS A VEST OR SIMILAR ARTICLE THAT IS:

(1) DESIGNED TO BE WORN ON THE BODY TO PROTECT AGAINST BLUNT FORCE TRAUMA ASSOCIATED WITH THE IMPACT OF A FIREARM PROJECTILE; AND

(2) MANUFACTURED OF BULLET RESISTANT FABRIC THAT CONFORMS TO NATIONAL INSTITUTE OF JUSTICE (NIJ) STANDARD 0101.03 (OR THE CURRENT EDITION) AND V-50 BALLISTIC TESTING REQUIREMENTS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88B, § 30(a)(4).

(E) SECRETARY.

"SECRETARY" MEANS THE SECRETARY OF STATE POLICE.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title "Secretary of State Police".

4-102. PROTECTIVE BODY ARMOR FUND.

(A) ESTABLISHED.

THERE IS A PROTECTIVE BODY ARMOR FUND.

(B) PURPOSES.

THE PURPOSES OF THE FUND ARE TO ASSIST LOCAL LAW ENFORCEMENT AGENCIES TO:

(1) ACQUIRE PROTECTIVE BODY ARMOR FOR EACH POLICE OFFICER OF THE LOCAL LAW ENFORCEMENT AGENCY; AND

(2) REPLACE PROTECTIVE BODY ARMOR AT LEAST EVERY 10 YEARS, OR SOONER IF TESTING INDICATES A NEED FOR REPLACEMENT.

(C) ADMINISTRATION.

THE SECRETARY SHALL ADMINISTER THE FUND.

(D) COMPOSITION.

THE FUND CONSISTS OF MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND.

(E) PAYMENTS.

(1) AS AUTHORIZED BY THE SECRETARY, THE TREASURER SHALL MAKE PAYMENTS OUT OF THE FUND TO LOCAL LAW ENFORCEMENT AGENCIES.

(2) A LOCAL LAW ENFORCEMENT AGENCY MAY USE STATE MONEY PROVIDED UNDER THIS SUBTITLE ONLY TO PURCHASE OR REPLACE PROTECTIVE BODY ARMOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 30(b) and (c).

In subsection (b)(1) of this section, the defined term "local law enforcement agency" is substituted for the former word "unit" for clarity and to use the defined term.

In subsection (c) of this section, the former reference to administering the Fund "in accordance with this section and other applicable law" is deleted as implicit.

In subsection (d) of this section, the phrase "to the Fund" is added for clarity and consistency with similar provisions throughout this article that relate to the composition of a fund.

In subsection (e)(1) of this section, the former reference to the "State"

Treasurer is deleted as implicit.

In subsection (e)(2) of this section, the reference to State "money" is substituted for the former reference to State "funds" to conform to subsection (d) of this section and for consistency with terminology used throughout this subtitle and this article.

Defined terms: "Fund" § 4-101

"Local law enforcement agency" § 4-101

"Protective body armor" § 4-101

"Secretary" § 4-101

4-103. APPLICATIONS FOR MONEY FROM FUND.

(A) PROCEDURES.

THE SECRETARY SHALL ESTABLISH PROCEDURES FOR LOCAL LAW ENFORCEMENT AGENCIES TO APPLY FOR MONEY FROM THE FUND.

(B) CONTENTS OF APPLICATION.

A LOCAL LAW ENFORCEMENT AGENCY THAT APPLIES FOR MONEY FROM THE FUND SHALL PROVIDE THE SECRETARY WITH THE FOLLOWING INFORMATION:

(1) THE NUMBER OF VIOLENT CRIME INCIDENTS COMMITTED WITHIN THE JURISDICTION OF THE LOCAL LAW ENFORCEMENT AGENCY FOR THE LAST 2 YEARS;

(2) THE CURRENT NUMBER OF SWORN OFFICERS;

(3) THE CURRENT NUMBER OF SWORN OFFICERS NOT ASSIGNED PROTECTIVE BODY ARMOR;

(4) THE NUMBER AND AGE OF PROTECTIVE BODY ARMOR UNITS CURRENTLY IN USE BY THE LOCAL LAW ENFORCEMENT AGENCY;

(5) THE NUMBER OF PROTECTIVE BODY ARMOR UNITS REQUESTED:

(I) FOR OFFICERS NOT CURRENTLY ASSIGNED PROTECTIVE BODY ARMOR; AND

(II) FOR OFFICERS ASSIGNED PROTECTIVE BODY ARMOR IN NEED OF REPLACEMENT DUE TO AGE OR WEAR;

(6) THE REGULATIONS OF THE LOCAL LAW ENFORCEMENT AGENCY THAT RELATE TO THE USE OF PROTECTIVE BODY ARMOR;

(7) THE LOCAL LAW ENFORCEMENT AGENCY'S BUDGET REQUEST FOR SUPPLIES AND EQUIPMENT FOR THE CURRENT AND LAST 2 FISCAL YEARS; AND

(8) ANY OTHER INFORMATION THAT THE SECRETARY CONSIDERS NECESSARY TO MAKE GRANTS FOR PROTECTIVE BODY ARMOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 30(d).

In subsection (a) of this section, the former reference to "application" procedures is deleted as redundant.

In subsection (b)(3) of this section, the reference to officers not "assigned" protective body armor is substituted for the former reference to officers not "issued" protective body armor for consistency with subsection (b)(5) of this section.

In subsection (b)(4) of this section, the former reference to the "total" number of protective body armor units is deleted as surplusage.

In subsection (b)(7) of this section, the former reference to a "copy" of the local law enforcement agency's budget request is deleted as surplusage.

In subsection (b)(8) of this section, the reference to "grants" is substituted for the former reference to "awards" for consistency with terminology used throughout this subtitle and this article.

Defined terms: "Fund" § 4-101

"Local law enforcement agency" § 4-101

"Protective body armor" § 4-101

"Secretary" § 4-101

4-104. GRANTS FROM FUND.

(A) IN GENERAL.

(1) IN ACCORDANCE WITH THE STATE BUDGET, THE SECRETARY SHALL MAKE GRANTS TO LOCAL LAW ENFORCEMENT AGENCIES TO PURCHASE AND REPLACE PROTECTIVE BODY ARMOR BASED ON THE COMPARATIVE NEEDS OF EACH LOCAL LAW ENFORCEMENT AGENCY AS DETERMINED BY THE CRITERIA SET FORTH IN § 4-103(B) OF THIS SUBTITLE.

(2) A SINGLE GRANT MAY NOT INITIALLY EXCEED 10% OF THE TOTAL MONEY BUDGETED IN THE FUND FOR ANY FISCAL YEAR.

(B) DISTRIBUTION OF REMAINING MONEY.

AFTER THE INITIAL ALLOCATION OF MONEY, THE SECRETARY MAY DISTRIBUTE ANY MONEY REMAINING IN THE FUND ON AN EQUITABLE BASIS, AS DETERMINED BY THE CRITERIA SET FORTH IN § 4-103(B) OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 30(e).

%In subsection (a)(1) of this section, the reference to the duty of the Secretary to "make grants" is substituted for the former reference to the duty to "grant awards" for consistency with terminology used throughout this subtitle and this article. Similarly, in subsection (a)(2) of this section, the reference to a "grant" is substituted for the former reference to an "award".

In subsection (b) of this section, the reference to any "money" remaining in the Fund is substituted for the former reference to any "funds" remaining for consistency with terminology used throughout this subtitle and this article. Consequently, the reference to "money" is substituted for the former reference to "aid" for consistency within this subsection.

Defined terms: "Fund" § 4-101

"Local law enforcement agency" § 4-101

"Protective body armor" § 4-101

"Secretary" § 4-101

4-105. MONEY ADDITIONAL TO OTHER APPROPRIATIONS; EXPENDITURES BY LOCAL LAW ENFORCEMENT AGENCIES.

(A) MONEY ADDITIONAL TO OTHER APPROPRIATIONS.

A LOCAL LAW ENFORCEMENT AGENCY SHALL USE THE MONEY DISTRIBUTED UNDER THIS SUBTITLE AS AN ADDITION TO AND NOT AS A SUBSTITUTE FOR MONEY APPROPRIATED FROM SOURCES OTHER THAN THE FUND TO ACQUIRE OR REPLACE PROTECTIVE BODY ARMOR.

(B) EXPENDITURES BY LOCAL LAW ENFORCEMENT AGENCIES.

(1) EACH LOCAL LAW ENFORCEMENT AGENCY SHALL SPEND MONEY FROM ITS OWN SOURCES TO ACQUIRE OR REPLACE PROTECTIVE BODY ARMOR IN AN AMOUNT AT LEAST EQUAL TO THE AMOUNT OF STATE MONEY AWARDED FROM THE FUND.

(2) AFTER A LOCAL LAW ENFORCEMENT AGENCY RECEIVES NOTICE FROM THE SECRETARY OF A GRANT, THE LOCAL LAW ENFORCEMENT AGENCY SHALL SUBMIT TO THE SECRETARY PROOF OF EXPENDITURES ON PROTECTIVE BODY ARMOR.

(3) AFTER CERTIFYING THE EXPENDITURES UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE SECRETARY MAY AUTHORIZE THE REIMBURSEMENT OF ONE-HALF OF THE LOCAL LAW ENFORCEMENT AGENCY'S EXPENDITURES ON PROTECTIVE BODY ARMOR, UP TO A MAXIMUM OF THE AMOUNT OF THE GRANT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 30(f) and (g).

In subsections (a) and (b)(1) of this section, the reference to "money" is substituted for the former reference to "aid" for consistency with

terminology used throughout this subtitle and this article.

In subsection (b)(1) of this section, the reference to "spend[ing] money" is substituted for the former reference to "expend[ing] funds" for clarity and consistency throughout this subtitle and this article.

Defined terms: "Fund" § 4-101

"Local law enforcement agency" § 4-101

"Protective body armor" § 4-101

"Secretary" § 4-101

4-106. BULK PURCHASE ENCOURAGED.

TO REDUCE THE COST OF PROTECTIVE BODY ARMOR, THE SECRETARY SHOULD ENCOURAGE THE BULK PURCHASE OF PROTECTIVE BODY ARMOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 30(h).

Defined terms: "Protective body armor" § 4-101

"Secretary" § 4-101

4-107. ANNUAL REPORT.

ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE SECRETARY SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON:

(1) THE DISTRIBUTION OF MONEY UNDER THIS SUBTITLE; AND

(2) THE RATIO OF PROTECTIVE BODY ARMOR TO POLICE OFFICERS IN EACH LOCAL JURISDICTION OF THE STATE THAT APPLIED FOR MONEY FROM THE FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 30(i).

In items (1) and (2) of this section, the reference to "money" is substituted for the former reference to "aid" for consistency with terminology used throughout this subtitle and this article.

Defined terms: "Fund" § 4-101

"Protective body armor" § 4-101

"Secretary" § 4-101

SUBTITLE 2. SCHOOL BUS SAFETY ENFORCEMENT FUND.

4-201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 88B, § 82(a).

No changes are made.

(B) FUND.

"FUND" MEANS THE SCHOOL BUS SAFETY ENFORCEMENT FUND.

REVISOR'S NOTE: This subsection formerly was Art. 88B, § 82(b).

No changes are made.

(C) LAW ENFORCEMENT AGENCY.

"LAW ENFORCEMENT AGENCY" MEANS THE DEPARTMENT OF STATE POLICE, THE POLICE DEPARTMENT OF A COUNTY OR MUNICIPAL CORPORATION, OR A SHERIFF'S OFFICE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 88B, § 82(c).

The reference to the Department "of State Police" is added for clarity.

Defined term: "County" § 1-101

(D) SCHOOL VEHICLE.

"SCHOOL VEHICLE" HAS THE MEANING STATED IN § 11-154 OF THE TRANSPORTATION ARTICLE.

REVISOR'S NOTE: This subsection formerly was Art. 88B, § 82(d).

No changes are made.

(E) SECRETARY.

"SECRETARY" MEANS THE SECRETARY OF STATE POLICE.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title "Secretary of State Police".

4-202. SCHOOL BUS SAFETY ENFORCEMENT FUND.

(A) ESTABLISHED.

THERE IS A SCHOOL BUS SAFETY ENFORCEMENT FUND.

(B) PURPOSE.

THE PURPOSE OF THE FUND IS TO ASSIST LAW ENFORCEMENT AGENCIES IN ADDRESSING THE PROBLEM OF DRIVERS ILLEGALLY FAILING TO STOP FOR SCHOOL VEHICLES.

(C) ADMINISTRATION.

(1) THE SECRETARY SHALL ADMINISTER THE FUND.

(2) THE SECRETARY SHALL RECEIVE FROM THE FUND EACH FISCAL YEAR THE AMOUNT, NOT EXCEEDING $50,000 IN A FISCAL YEAR, NECESSARY TO OFFSET ITS COSTS IN ADMINISTERING THIS SUBTITLE.

(D) STATUS.

(1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND IN CONJUNCTION WITH THE SECRETARY.

(E) COMPOSITION.

THE FUND CONSISTS OF:

(1) MONEY CREDITED TO THE FUND UNDER § 17-106(E) OF THE TRANSPORTATION ARTICLE;

(2) MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND; AND

(3) INVESTMENT EARNINGS OF THE FUND.

(F) INVESTMENTS.

THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(G) EXPENDITURES.

EXPENDITURES FROM THE FUND MAY ONLY BE MADE:

(1) IN ACCORDANCE WITH THE STATE BUDGET; OR

(2) BY THE BUDGET AMENDMENT PROCEDURE AS PROVIDED IN § 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, IF AT LEAST 45 DAYS HAVE PASSED SINCE THE BUDGET AMENDMENT AND SUPPORTING INFORMATION WERE SUBMITTED TO THE BUDGET COMMITTEES FOR THEIR REVIEW AND COMMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 83(a), (b), (c), (e), and (d)(1), (2), and (3).

%In subsection (b) of this section, the phrase "failing to stop for" school vehicles is substituted for the former word "passing" school vehicles for accuracy and consistency within this subtitle. *See* § 4-203(b) and (c) of this subtitle.

In subsections (c)(2) and (d)(2) of this section, the reference to the "Secretary" is substituted for the former reference to the "Department" for consistency within this section.

In subsections (d)(2) and (f) of this section, the former reference to the "State" Treasurer is deleted as implicit. Similarly, in subsection (d)(2) of this section, the former reference to the "State" Comptroller is deleted.

In subsection (d)(2) of this section, the word "separately" is added to modify "hold" to clarify that the Treasurer shall keep the Fund separate from other State funds. This language is standard language used for special funds. *See*, *e.g.*, CS § 10-503(a)(3).

In subsection (e)(2) of this section, the general reference to "any other source" is substituted for the former reference to "any governmental or private source" for consistency with similar provisions throughout this article.

Defined terms: "Fund" § 4-201

"Law enforcement agency" § 4-201

"School vehicle" § 4-201

"Secretary" § 4-201

4-203. GRANTS FROM FUND.

(A) IN GENERAL.

THE SECRETARY MAY MAKE GRANTS TO LAW ENFORCEMENT AGENCIES FROM THE FUND.

(B) APPLICATION PROCEDURES.

THE SECRETARY SHALL ESTABLISH PROCEDURES FOR LAW ENFORCEMENT AGENCIES TO APPLY FOR GRANTS FROM THE FUND AND FOR THE EVALUATION OF PROGRESS IN ADDRESSING THE PROBLEM OF DRIVERS ILLEGALLY FAILING TO STOP FOR SCHOOL VEHICLES.

(C) FACTORS CONSIDERED.

WHEN MAKING GRANTS FROM THE FUND, THE SECRETARY SHALL CONSIDER:

(1) THE EXTENT OF THE PROBLEM OF DRIVERS ILLEGALLY FAILING TO STOP FOR SCHOOL VEHICLES IN THE AREA IDENTIFIED BY THE LAW ENFORCEMENT AGENCY APPLYING FOR A GRANT;

(2) THE LAW ENFORCEMENT AGENCY'S GOALS AND PLANS WITH RESPECT TO ENHANCED ENFORCEMENT EFFORTS THAT RELATE TO § 21-706 OF THE TRANSPORTATION ARTICLE; AND

(3) OTHER FACTORS THAT THE SECRETARY CONSIDERS APPROPRIATE THAT RELATE TO DRIVERS ILLEGALLY FAILING TO STOP FOR SCHOOL VEHICLES.

(D) LIMITATION ON AMOUNT OF GRANT.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE SECRETARY MAY NOT MAKE A GRANT FROM THE FUND EXCEEDING $35,000 IN A FISCAL YEAR FOR USE IN A SINGLE COUNTY.

(2) IF MONEY REMAINS AVAILABLE IN THE FUND AFTER GRANTS ARE INITIALLY AWARDED IN A FISCAL YEAR, THE SECRETARY MAY MAKE SUPPLEMENTAL GRANTS TO LAW ENFORCEMENT AGENCIES IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE SECRETARY.

(E) USE OF GRANTS.

A LAW ENFORCEMENT AGENCY THAT RECEIVES A GRANT UNDER THIS SUBTITLE:

(1) MAY USE THE GRANT ONLY IN ACCORDANCE WITH THE TERMS OF THE GRANT FOR EFFORTS THAT RELATE TO THE ENFORCEMENT OF § 21-706 OF THE TRANSPORTATION ARTICLE; AND

(2) SHALL COMPLY WITH REPORTING REQUIREMENTS ESTABLISHED BY THE SECRETARY TO EVALUATE:

(I) THE LAW ENFORCEMENT AGENCY'S ENFORCEMENT EFFORTS UNDER THE GRANT; AND

(II) STATEWIDE ENFORCEMENT EFFORTS UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, §§ 84, 85, and 83(d)(4).

In subsection (e)(2)(i) and (ii) of this section, the word "enforcement" is added to modify the reference to "efforts" for clarity and consistency with subsection (c)(2) of this section.

Defined terms: "County" § 1-101

"Fund" § 4-201

"Law enforcement agency" § 4-201

"Secretary" § 4-201

4-204. ANNUAL REPORT.

ON OR BEFORE MARCH 1 OF EACH YEAR, THE SECRETARY SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON:

(1) THE STATUS OF THE FUND;

(2) THE GRANTS MADE UNDER THIS SUBTITLE;

(3) THE COSTS OF ADMINISTERING THIS SUBTITLE; AND

(4) THE EFFECT OF THIS SUBTITLE IN REDUCING THE PROBLEM OF DRIVERS ILLEGALLY FAILING TO STOP FOR SCHOOL VEHICLES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 86.

In the introductory language of this section, the former phrase "on or before March 1, 2002" is deleted as obsolete and unnecessary given the ongoing reporting requirement.

In item (4) of this section, the reference to "illegally" failing to stop is added for clarity and consistency throughout this subtitle.

Defined terms: "Fund" § 4-201

"School vehicle" § 4-201

"Secretary" § 4-201

SUBTITLE 3. LAW ENFORCEMENT EQUIPMENT FUND.

4-301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-101(a)(1).

In this subsection and throughout this subtitle, the word "subtitle" is substituted for the former word "section" to reflect the reorganization of former § 4-101 as a subtitle in this revision.

No other changes are made.

(B) EXECUTIVE DIRECTOR.

"EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-101(a)(2).

%No changes are made.

(C) FUND.

"FUND" MEANS THE LAW ENFORCEMENT EQUIPMENT FUND.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 4-101(a)(3).

The former phrase "established under this section" is deleted as unnecessary in a definition. The Fund is established by § 4-302 of this subtitle and that provision stands on its own as a substantive provision.

(D) LAW ENFORCEMENT EQUIPMENT.

(1) "LAW ENFORCEMENT EQUIPMENT" MEANS EQUIPMENT USED FOR LAW ENFORCEMENT PURPOSES.

(2) "LAW ENFORCEMENT EQUIPMENT" INCLUDES BODY ARMOR, CRIME TRACKING TECHNOLOGY, PHOTO IMAGING EQUIPMENT, SURVEILLANCE DEVICES, WEAPONS, AMMUNITION, AND COMMUNICATION DEVICES.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-101(a)(5).

The only changes are in style.

(E) LOCAL LAW ENFORCEMENT AGENCY.

"LOCAL LAW ENFORCEMENT AGENCY" MEANS THE AGENCY OF A COUNTY OR MUNICIPAL CORPORATION IN THE STATE THAT PERFORMS POLICE PROTECTION FUNCTIONS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 4-101(a)(4).

The former phrase "including Baltimore City" is deleted as unnecessary because Baltimore City is included in the defined term "county". *See* § 1-101 of this article.

Defined term: "County" § 1-101

4-302. LAW ENFORCEMENT EQUIPMENT FUND.

(A) ESTABLISHED.

THERE IS A LAW ENFORCEMENT EQUIPMENT FUND.

(B) PURPOSE.

THE PURPOSE OF THE FUND IS TO ASSIST LOCAL LAW ENFORCEMENT AGENCIES IN ACQUIRING LAW ENFORCEMENT EQUIPMENT NEEDED TO ADDRESS VIOLENT CRIME.

(C) ADMINISTRATION.

THE EXECUTIVE DIRECTOR SHALL ADMINISTER THE FUND.

(D) STATUS.

(1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND IN CONJUNCTION WITH THE EXECUTIVE DIRECTOR.

(E) COMPOSITION.

THE FUND CONSISTS OF MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND.

(F) INVESTMENTS.

THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(G) PAYMENTS.

AS AUTHORIZED BY THE EXECUTIVE DIRECTOR, THE TREASURER SHALL MAKE PAYMENTS OUT OF THE FUND TO LOCAL LAW ENFORCEMENT AGENCIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-101(b) and (c).

In subsection (c) of this section, the former reference to administering the Fund "in accordance with this section and other applicable law" is deleted as implicit.

In subsection (d)(1) of this section, the reference to a "special" fund is substituted for the former reference to a "continuing" fund for consistency with similar provisions throughout this article that relate to the status of funds.

In subsection (e) of this section, the phrase "to the Fund" is added for consistency with similar provisions throughout this article that relate to the composition of a fund.

In subsection (f) of this section, the word "shall" is substituted for the former word "may" because the Treasurer has no discretion in how money in this particular Fund is invested. The Public Safety Article Review

Committee calls this substitution to the attention of the General Assembly.

In subsection (g) of this section, the former reference to the "State" Treasurer is deleted as implicit and for consistency with subsections (d)(2) and (f) of this section.

Defined terms: "Executive Director" § 4-301

"Fund" § 4-301

"Law enforcement equipment" § 4-301

"Local law enforcement agency" § 4-301

4-303. GRANTS FROM FUND.

(A) APPLICATION PROCEDURES.

THE EXECUTIVE DIRECTOR SHALL ESTABLISH PROCEDURES FOR LOCAL LAW ENFORCEMENT AGENCIES TO APPLY FOR MONEY FROM THE FUND, WITH PRIORITY GIVEN TO THOSE JURISDICTIONS WITH THE HIGHEST INCIDENCE OF VIOLENT CRIME.

(B) CONTENTS OF APPLICATION.

A LOCAL LAW ENFORCEMENT AGENCY THAT APPLIES FOR MONEY FROM THE FUND SHALL PROVIDE THE EXECUTIVE DIRECTOR WITH:

(1) INFORMATION ON THE NUMBER OF VIOLENT CRIME INCIDENTS COMMITTED WITHIN THE JURISDICTION OF THE LOCAL LAW ENFORCEMENT AGENCY FOR THE LAST 2 YEARS; AND

(2) ANY OTHER INFORMATION THAT THE EXECUTIVE DIRECTOR CONSIDERS NECESSARY TO MAKE GRANTS FOR LAW ENFORCEMENT EQUIPMENT.

(C) COMPARATIVE NEEDS OF LOCAL LAW ENFORCEMENT AGENCIES.

IN ACCORDANCE WITH THE STATE BUDGET, THE EXECUTIVE DIRECTOR SHALL MAKE GRANTS TO LOCAL LAW ENFORCEMENT AGENCIES TO PURCHASE OR REPLACE LAW ENFORCEMENT EQUIPMENT BASED ON THE COMPARATIVE NEEDS OF EACH LOCAL LAW ENFORCEMENT AGENCY AS DETERMINED FROM THE INFORMATION PROVIDED UNDER SUBSECTION (B) OF THIS SECTION.

(D) PROOF OF EXPENDITURES.

AFTER A LOCAL LAW ENFORCEMENT AGENCY RECEIVES NOTICE FROM THE EXECUTIVE DIRECTOR OF A GRANT, THE LOCAL LAW ENFORCEMENT AGENCY SHALL SUBMIT TO THE EXECUTIVE DIRECTOR PROOF OF EXPENDITURES ON LAW ENFORCEMENT EQUIPMENT.

(E) MONEY TO SUPPLEMENT OTHER FUNDING.

MONEY DISTRIBUTED UNDER THIS SUBTITLE SHALL BE USED TO SUPPLEMENT, NOT SUPPLANT, OTHER LOCAL LAW ENFORCEMENT FUNDING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-101(d), (e), (f), and (g).

In subsections (a), the introductory language of (b), and (e) of this section, the reference to "money" is substituted for the former reference to "aid" for consistency with terminology used throughout this section and this article.

In subsection (a) of this section, the former reference to "application" procedures is deleted as redundant.

In subsection (d) of this section, the former reference to a grant "award" is deleted as redundant.

Defined terms: "Executive Director" § 4-301

"Fund" § 4-301

"Law enforcement equipment" § 4-301

"Local law enforcement agency" § 4-301

4-304. ANNUAL REPORT.

ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE EXECUTIVE DIRECTOR SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE DISTRIBUTION OF MONEY UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 4-101(h).

The reference to "money" is substituted for the former reference to "aid" for consistency with terminology used throughout this subtitle and this article.

Defined term: "Executive Director" § 4-301

TITLE 5. FIREARMS.

SUBTITLE 1. REGULATED FIREARMS.

5-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 441(a).

%The reference to this "subtitle" is substituted for the former reference to this "subheading" to reflect the reorganization of the former statutory provisions on regulated firearms in this subtitle.

(B) ANTIQUE FIREARM.

"ANTIQUE FIREARM" HAS THE MEANING STATED IN § 4-201 OF THE CRIMINAL LAW ARTICLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 441(c).

This subsection is revised to conform to the definition of "antique firearm" in CR § 4-201 to avoid the possibility of unintended language variations if the definition in the Criminal Law Article is amended in the future. Former Art. 27, § 36F(c), from which CR § 4-201(b) was derived, and former Art. 27, § 441(c), from which this subsection is derived, were substantially identical provisions.

Defined term: "Firearm" § 5-101

(C) CRIME OF VIOLENCE.

"CRIME OF VIOLENCE" MEANS:

(1) ABDUCTION;

(2) ARSON IN THE FIRST DEGREE;

(3) ASSAULT IN THE FIRST OR SECOND DEGREE;

(4) BURGLARY IN THE FIRST, SECOND, OR THIRD DEGREE;

(5) CARJACKING AND ARMED CARJACKING;

(6) ESCAPE IN THE FIRST DEGREE;

(7) KIDNAPPING;

(8) VOLUNTARY MANSLAUGHTER;

(9) MAIMING AS PREVIOUSLY PROSCRIBED UNDER FORMER ARTICLE 27, § 386 OF THE CODE;

(10) MAYHEM AS PREVIOUSLY PROSCRIBED UNDER FORMER ARTICLE 27, § 384 OF THE CODE;

(11) MURDER IN THE FIRST OR SECOND DEGREE;

(12) RAPE IN THE FIRST OR SECOND DEGREE;

(13) ROBBERY;

(14) ROBBERY WITH A DANGEROUS WEAPON;

(15) SEXUAL OFFENSE IN THE FIRST, SECOND, OR THIRD DEGREE;

(16) AN ATTEMPT TO COMMIT ANY OF THE CRIMES LISTED IN ITEMS (1) THROUGH (15) OF THIS SUBSECTION; OR

(17) ASSAULT WITH INTENT TO COMMIT ANY OF THE CRIMES LISTED IN ITEMS (1) THROUGH (15) OF THIS SUBSECTION OR A CRIME PUNISHABLE BY IMPRISONMENT FOR MORE THAN 1 YEAR.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 441(e).

In item (9) of this subsection, the reference to "former Article 27, § 386 of the Code" is added because the crime of maiming, which was set out in former Art. 27, § 386, was repealed by Chapter 632, Acts of 1996. Similarly, in item (10) of this subsection, the reference to "former Article 27, § 384 of the Code" refers to provisions that were repealed by Chapter 632, Acts of 1996.

In items (13) and (14) of this subsection, references to "robbery" and "robbery with a dangerous weapon" are substituted for the former reference to "[r]obbery under § 486 or § 487 of this article" for clarity.

In items (16) and (17) of this subsection, the references to "crime[s]" are substituted for the former references to "offense[s]" for consistency with the Criminal Procedure Article and the Criminal Law Article.

(D) DEALER.

"DEALER" MEANS A PERSON WHO IS ENGAGED IN THE BUSINESS OF:

(1) SELLING, RENTING, OR TRANSFERRING FIREARMS AT WHOLESALE OR RETAIL; OR

(2) REPAIRING FIREARMS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 441(f).

Defined terms: "Firearm" § 5-101

"Person" § 1-101

(E) DEALER'S LICENSE.

"DEALER'S LICENSE" MEANS A STATE REGULATED FIREARMS DEALER'S LICENSE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 441(s), except for the reference concerning issuance by the Secretary.

%This subsection defines the term "[d]ealer's license" instead of "[r]egulated firearms dealer" for convenience. In this subtitle, the defined term "licensee" is used to denote a holder of a regulated firearms dealer's license.

The former reference to a "valid" State regulated firearms dealer's license is deleted as implicit in the reference to a dealer's "license".

Defined term: "Regulated firearm" § 5-101

(F) DESIGNATED LAW ENFORCEMENT AGENCY.

"DESIGNATED LAW ENFORCEMENT AGENCY" MEANS A LAW ENFORCEMENT AGENCY THAT THE SECRETARY DESIGNATES TO PROCESS APPLICATIONS TO PURCHASE REGULATED FIREARMS FOR SECONDARY SALES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 441(g).

The former reference to a law enforcement agency that is "approved" by the Secretary is deleted as included in the reference to a law enforcement agency that the Secretary "designates".

Defined terms: "Regulated firearm" § 5-101

"Secondary sale" § 5-101

"Secretary" § 5-101

(G) DISQUALIFYING CRIME.

"DISQUALIFYING CRIME" MEANS:

(1) A CRIME OF VIOLENCE;

(2) A VIOLATION CLASSIFIED AS A FELONY IN THE STATE; OR

(3) A VIOLATION CLASSIFIED AS A MISDEMEANOR IN THE STATE THAT CARRIES A STATUTORY PENALTY OF MORE THAN 2 YEARS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, §§ 442(h)(2)(i)1, 2, and 3; 443(e)(4)(iii)1, 2, and 3; (j)(2)(i), (ii), and (iii); and 445(b)(3) and (1)(i), (iii), and, except for reference to conspiracy to commit certain crimes, (ii); and (d)(3) and (1)(i), (ii), and (iii).

The term "disqualifying crime" is added to avoid the repetition of the phrases "a crime of violence", "any violation classified as a felony in this State", and "any violation classified as a misdemeanor in this State that carries a statutory penalty of more than 2 years".

Defined term: "Crime of violence" § 5-101

(H) FIREARM.

(1) "FIREARM" MEANS:

(I) A WEAPON THAT EXPELS, IS DESIGNED TO EXPEL, OR MAY READILY BE CONVERTED TO EXPEL A PROJECTILE BY THE ACTION OF AN EXPLOSIVE; OR

(II) THE FRAME OR RECEIVER OF SUCH A WEAPON.

(2) "FIREARM" INCLUDES A STARTER GUN.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 441(i).

(I) FIREARM APPLICANT.

"FIREARM APPLICANT" MEANS A PERSON WHO MAKES A FIREARM APPLICATION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first clause of former Art. 27, § 442(f)(1).

It is revised as a defined term to provide a concise reference to a person who makes a firearm application.

Defined terms: "Firearm application" § 5-101

"Person" § 1-101

(J) FIREARM APPLICATION.

"FIREARM APPLICATION" MEANS AN APPLICATION TO PURCHASE, RENT, OR TRANSFER A REGULATED FIREARM.

REVISOR'S NOTE: This subsection is new language added to provide a concise reference to an application to purchase, rent, or transfer a regulated firearm.

Defined term: "Regulated firearm" § 5-101

(K) FUGITIVE FROM JUSTICE.

"FUGITIVE FROM JUSTICE" MEANS A PERSON WHO HAS FLED TO AVOID PROSECUTION OR GIVING TESTIMONY IN A CRIMINAL PROCEEDING.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 441(j).

The former reference to avoiding prosecution "for a crime" is deleted as surplusage.

%The Public Safety Article Review Committee notes, for consideration by the General Assembly, that the former reference to a person who has fled "from a sheriff or other peace officer within this State, or who has fled from any state, the District of Columbia, or territory or possession of the United States" is deleted for brevity. A person who has fled to avoid prosecution or giving testimony in a criminal proceeding is a fugitive from justice, regardless of from whom or where the person has fled.

Defined term: "Person" § 1-101

(L) HABITUAL DRUNKARD.

"HABITUAL DRUNKARD" MEANS A PERSON WHO HAS BEEN FOUND GUILTY OF ANY THREE CRIMES UNDER § 21-902(A), (B), OR (C) OF THE TRANSPORTATION ARTICLE, ONE OF WHICH OCCURRED IN THE PAST YEAR.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 441(b) and (l).

The former defined term "alcohol offense" is revised as part of this subsection because this subsection is the only provision in this subtitle in which the former defined term is used.

The reference to "crimes" is substituted for the former reference to "offenses" for consistency with the Criminal Procedure Article and the Criminal Law Article.

Defined term: "Person" § 1-101

(M) HABITUAL USER.

"HABITUAL USER" MEANS A PERSON WHO HAS BEEN FOUND GUILTY OF TWO CONTROLLED DANGEROUS SUBSTANCE CRIMES, ONE OF WHICH OCCURRED IN THE PAST 5 YEARS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 441(m).

The reference to "crimes" is substituted for the former reference to "offenses" for consistency with the Criminal Procedure Article and the Criminal Law Article.

The former reference to a habitual user "of controlled dangerous substances" is deleted as unnecessary in light of the reference to a person who has been found guilty "of two controlled dangerous substances" crimes.

Defined term: "Person" § 1-101

(N) HANDGUN.

(1) "HANDGUN" MEANS A FIREARM WITH A BARREL LESS THAN 16 INCHES IN LENGTH.

(2) "HANDGUN" INCLUDES SIGNAL, STARTER, AND BLANK PISTOLS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 441(n).

Defined term: "Firearm" § 5-101

(O) LICENSEE.

"LICENSEE" MEANS A PERSON WHO HOLDS A DEALER'S LICENSE.

REVISOR'S NOTE: This subsection is new language added to provide a concise reference to a person who holds a dealer's license.

Defined terms: "Dealer's license" § 5-101

"Person" § 1-101

(P) REGULATED FIREARM.

"REGULATED FIREARM" MEANS:

(1) A HANDGUN; OR

(2) A FIREARM THAT IS ANY OF THE FOLLOWING SPECIFIC ASSAULT WEAPONS OR THEIR COPIES, REGARDLESS OF WHICH COMPANY PRODUCED AND MANUFACTURED THAT ASSAULT WEAPON:

(I) AMERICAN ARMS SPECTRE DA SEMIAUTOMATIC CARBINE;

(II) AK-47 IN ALL FORMS;

(III) ALGIMEC AGM-1 TYPE SEMI-AUTO;

(IV) AR 100 TYPE SEMI-AUTO;

(V) AR 180 TYPE SEMI-AUTO;

(VI) ARGENTINE L.S.R. SEMI-AUTO;

(VII) AUSTRALIAN AUTOMATIC ARMS SAR TYPE SEMI-AUTO;

(VIII) AUTO-ORDNANCE THOMPSON M1 AND 1927 SEMI-AUTOMATICS;

(IX) BARRETT LIGHT .50 CAL. SEMI-AUTO;

(X) BERETTA AR70 TYPE SEMI-AUTO;

(XI) BUSHMASTER SEMI-AUTO RIFLE;

(XII) CALICO MODELS M-100 AND M-900;

(XIII) CIS SR 88 TYPE SEMI-AUTO;

(XIV) CLARIDGE HI TEC C-9 CARBINES;

(XV) COLT AR-15, CAR-15, AND ALL IMITATIONS EXCEPT COLT AR-15 SPORTER H-BAR RIFLE;

(XVI) DAEWOO MAX 1 AND MAX 2, AKA AR 100, 110C, K-1, AND K-2;

(XVII) DRAGUNOV CHINESE MADE SEMI-AUTO;

(XVIII) FAMAS SEMI-AUTO (.223 CALIBER);

(XIX) FEATHER AT-9 SEMI-AUTO;

(XX) FN LAR AND FN FAL ASSAULT RIFLE;

(XXI) FNC SEMI-AUTO TYPE CARBINE;

(XXII) F.I.E./FRANCHI LAW 12 AND SPAS 12 ASSAULT SHOTGUN;

(XXIII) STEYR-AUG-SA SEMI-AUTO;

(XXIV) GALIL MODELS AR AND ARM SEMI-AUTO;

(XXV) HECKLER AND KOCH HK-91 A3, HK-93 A2, HK-94 A2 AND A3;

(XXVI) HOLMES MODEL 88 SHOTGUN;

(XXVII) AVTOMAT KALASHNIKOV SEMIAUTOMATIC RIFLE IN ANY FORMAT;

(XXVIII) MANCHESTER ARMS "COMMANDO" MK-45, MK-9;

(XXIX) MANDELL TAC-1 SEMI-AUTO CARBINE;

(XXX) MOSSBERG MODEL 500 BULLPUP ASSAULT SHOTGUN;

(XXXI) STERLING MARK 6;

(XXXII) P.A.W.S. CARBINE;

(XXXIII) RUGER MINI-14 FOLDING STOCK MODEL (.223 CALIBER);

(XXXIV) SIG 550/551 ASSAULT RIFLE (.223 CALIBER);

(XXXV) SKS WITH DETACHABLE MAGAZINE;

(XXXVI) AP-74 COMMANDO TYPE SEMI-AUTO;

(XXXVII) SPRINGFIELD ARMORY BM-59, SAR-48, G3, SAR-3, M-21 SNIPER RIFLE, M1A, EXCLUDING THE M1 GARAND;

(XXXVIII) STREET SWEEPER ASSAULT TYPE SHOTGUN;

(XXXIX) STRIKER 12 ASSAULT SHOTGUN IN ALL FORMATS;

(XL) UNIQUE F11 SEMI-AUTO TYPE;

(XLI) DAEWOO USAS 12 SEMI-AUTO SHOTGUN;

(XLII) UZI 9MM CARBINE OR RIFLE;

(XLIII) VALMET M-76 AND M-78 SEMI-AUTO;

(XLIV) WEAVER ARMS "NIGHTHAWK" SEMI-AUTO CARBINE; OR

(XLV) WILKINSON ARMS 9MM SEMI-AUTO "TERRY".

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 441(d) and (r).

Defined terms: "Firearm" § 5-101

"Handgun" § 5-101

(Q) RENT.

"RENT" MEANS THE TEMPORARY TRANSFER FOR CONSIDERATION OF A REGULATED FIREARM THAT IS TAKEN FROM THE PROPERTY OF THE OWNER OF THE REGULATED FIREARM.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 441(t).

Defined term: "Regulated firearm" § 5-101

(R) SECONDARY SALE.

"SECONDARY SALE" MEANS A SALE OF A REGULATED FIREARM IN WHICH NEITHER PARTY TO THE SALE:

(1) IS A LICENSEE;

(2) IS LICENSED BY THE FEDERAL GOVERNMENT AS A FIREARMS DEALER;

(3) DEVOTES TIME, ATTENTION, AND LABOR TO DEALING IN FIREARMS AS A REGULAR COURSE OF TRADE OR BUSINESS WITH THE PRINCIPAL OBJECTIVE OF EARNING A PROFIT THROUGH THE REPEATED PURCHASE AND RESALE OF FIREARMS; OR

(4) REPAIRS FIREARMS AS A REGULAR COURSE OF TRADE OR BUSINESS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 441(h) and (u).

Former Art. 27, § 441(h), which defined "engaged in the business", is revised as part of the definition of "secondary sale" for clarity in light of the cross-reference in former Art. 27, § 441(u) to being "engaged in the business as defined in this section". No substantive change is intended.

In the introductory language of this subsection, the reference to a party to the "sale" is substituted for the former reference to a party to the "transaction" to conform to the language used in this subsection.

Defined terms: "Firearm" § 5-101

"Licensee" § 5-101

"Regulated firearm" § 5-101

(S) SECRETARY.

"SECRETARY" MEANS THE SECRETARY OF STATE POLICE OR THE SECRETARY'S DESIGNEE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 441(v).

(T) STRAW PURCHASE.

"STRAW PURCHASE" MEANS A SALE OF A REGULATED FIREARM IN WHICH A PERSON USES ANOTHER, KNOWN AS THE STRAW PURCHASER, TO:

(1) COMPLETE THE APPLICATION TO PURCHASE A REGULATED FIREARM;

(2) TAKE INITIAL POSSESSION OF THE REGULATED FIREARM; AND

(3) SUBSEQUENTLY TRANSFER THE REGULATED FIREARM TO THE PERSON.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 441(w).

The defined term "person" is substituted for the former references to an "individual" to conform to the terminology of this subtitle.

The former reference to another "person" is deleted as implicit in the reference to "another".

Defined terms: "Person" § 1-101

"Regulated firearm" § 5-101

REVISOR'S NOTE TO SECTION: Former Art. 27, § 441(o), which defined "minor" to mean any person under the age of 18 years, is deleted in light of Art. 1, § 24(b)(2) to the same effect.

Former Art. 27, § 441(q), which defined "person" to mean an individual, partnership, association, or corporation, is deleted in light of § 1-101 of this article to the same effect.

5-102. SCOPE OF SUBTITLE.

THIS SUBTITLE DOES NOT APPLY TO:

(1) THE TRANSFER OR POSSESSION OF A REGULATED FIREARM OR DETACHABLE MAGAZINE:

(I) FOR TESTING OR EXPERIMENTATION AUTHORIZED BY THE SECRETARY; AND

(II) BY A FEDERALLY LICENSED GUN MANUFACTURER, DEALER, OR IMPORTER;

(2) THE SALE, TRANSFER, OR POSSESSION OF AN ANTIQUE FIREARM;

(3) AN UNSERVICEABLE FIREARM SOLD, TRANSFERRED, OR POSSESSED AS A CURIO OR MUSEUM PIECE;

(4) LAW ENFORCEMENT PERSONNEL OF ANY UNIT OF THE FEDERAL GOVERNMENT, MEMBERS OF THE ARMED FORCES OF THE UNITED STATES OR THE NATIONAL GUARD, OR LAW ENFORCEMENT PERSONNEL OF THE STATE OR ANY LOCAL AGENCY IN THE STATE, WHILE THOSE PERSONNEL OR MEMBERS ARE ACTING WITHIN THE SCOPE OF THEIR OFFICIAL DUTIES;

(5) A REGULATED FIREARM MODIFIED TO RENDER IT PERMANENTLY INOPERATIVE;

(6) PURCHASES, SALES, AND TRANSPORTATION TO OR BY A FEDERALLY LICENSED GUN MANUFACTURER, DEALER, OR IMPORTER;

(7) AN ORGANIZATION THAT IS REQUIRED OR AUTHORIZED BY FEDERAL LAW GOVERNING ITS SPECIFIC BUSINESS OR ACTIVITY TO MAINTAIN FIREARMS;

(8) THE RECEIPT OF A REGULATED FIREARM BY INHERITANCE, IF THE HEIR FORWARDS TO THE SECRETARY A COMPLETED APPLICATION TO PURCHASE OR TRANSFER THAT REGULATED FIREARM; OR

(9) A SIGNAL PISTOL OR OTHER VISUAL DISTRESS SIGNAL THAT THE UNITED STATES COAST GUARD APPROVES AS A MARINE SAFETY DEVICE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, §§ 441A, 447, and 447A.

%In the introductory language of this section, the reference to "[t]his subtitle" is substituted for the former narrower reference to "[t]he prohibitions of this subheading" to conform to the standard terminology used in a scope of subtitle section and to avoid the erroneous implication that elements of this subtitle, other than prohibitions, do apply to the items listed in this section.

In items (1)(ii) and (6) of this section, the reference to a "federally licensed gun manufacturer, dealer, or importer" is substituted for the former references to a "licensed manufacturer, dealer, or importer" and to a "licensed gun dealer, manufacturer, or importer" to state expressly that which only was implied in the former law, *i.e.*, in these provisions, the federal government is the licensing authority for gun manufacturers, dealers, and importers.

In item (7) of this section, the former reference to federal "regulations" is deleted as included in the reference to federal "law".

Defined terms: "Antique firearm" § 5-101

"Firearm" § 5-101

"Person" § 1-101

"Regulated firearm" § 5-101

"Secretary" § 5-101

5-103. EFFECT OF SUBTITLE.

THIS SUBTITLE DOES NOT AFFECT:

(1) A SALE OR TRANSFER FOR BONA FIDE RESALE IN THE ORDINARY COURSE OF BUSINESS OF A LICENSEE; OR

(2) A SALE, RENTAL, TRANSFER, OR THE USE OF A REGULATED FIREARM BY A PERSON AUTHORIZED OR REQUIRED TO DO SO AS PART OF THE PERSON'S DUTIES AS A MEMBER OF:

(I) AN OFFICIAL POLICE FORCE OR OTHER LAW ENFORCEMENT AGENCY;

(II) THE ARMED FORCES OF THE UNITED STATES, INCLUDING ALL OFFICIAL RESERVE ORGANIZATIONS; OR

(III) THE MARYLAND NATIONAL GUARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 442(n).

In the introductory language of this section, the reference to this "subtitle" is substituted for the former narrower reference to this "section" in light of the placement of elements of former § 442 throughout this revised subtitle. No substantive change is made by this substitution because no other

provision of this subtitle affects the items listed in this section.

In items (1) and (2) of this section, the references to "or" are substituted for the former references to "and/or" for clarity.

Defined terms: "Licensee" § 5-101

"Person" § 1-101

"Regulated firearm" § 5-101

5-104. PREEMPTION BY STATE.

THIS SUBTITLE SUPERSEDES ANY RESTRICTION THAT A LOCAL JURISDICTION IN THE STATE IMPOSES ON A SALE OF A REGULATED FIREARM, AND THE STATE PREEMPTS THE RIGHT OF ANY LOCAL JURISDICTION TO REGULATE THE SALE OF A REGULATED FIREARM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 442(a).

The references to a "local" jurisdiction are substituted for the former references to "subordinated" jurisdictions and to "such" jurisdictions to conform to the terminology used throughout this title and in other revised articles of the Code.

The reference to this "subtitle" is substituted for the former narrower reference to this "section" to reflect that parts of former § 442 now appear throughout this subtitle.

The former reference to restrictions imposed "by the laws, ordinances or regulations" of local jurisdictions is deleted as surplusage.

Defined term: "Regulated firearm" § 5-101

5-105. REGULATIONS.

THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, §§ 448 and 442B(f).

The former reference to this "section" is deleted as included in the reference to this "subtitle".

Defined term: "Secretary" § 5-101

5-106. DEALER'S LICENSE.

(A) REQUIRED.

A PERSON MUST LAWFULLY POSSESS A DEALER'S LICENSE ISSUED BY THE SECRETARY BEFORE THE PERSON ENGAGES IN THE BUSINESS OF SELLING, RENTING, OR TRANSFERRING REGULATED FIREARMS.

(B) ONE LICENSE FOR EACH PLACE OF BUSINESS.

ONE DEALER'S LICENSE IS REQUIRED FOR EACH PLACE OF BUSINESS WHERE REGULATED FIREARMS ARE SOLD.

REVISOR'S NOTE: This section is new language derived without substantive change from the third sentence of former Art. 27, § 443(a) and, as it related to the requirement that a person have a license before the person may engage in the business of selling, renting, or transferring regulated firearms, the first sentence.

Defined terms: "Dealer's license" § 5-101

"Person" § 1-101

"Regulated firearm" § 5-101

"Secretary" § 5-101

5-107. APPLICATION FOR DEALER'S LICENSE REQUIRED.

(A) IN GENERAL.

(1) AN APPLICANT FOR A DEALER'S LICENSE SHALL:

(I) SUBMIT TO THE SECRETARY AN APPLICATION ON THE FORM THAT THE SECRETARY PROVIDES; AND

(II) PAY TO THE SECRETARY AN APPLICATION FEE OF $50, PAYABLE TO THE COMPTROLLER.

(2) A REFUND OR PRORATION OF THE APPLICATION FEE IS PROHIBITED.

(B) REQUIRED INFORMATION.

AN APPLICATION FOR A DEALER'S LICENSE SHALL CONTAIN:

(1) THE APPLICANT'S NAME, ADDRESS, SOCIAL SECURITY NUMBER, PLACE AND DATE OF BIRTH, HEIGHT, WEIGHT, RACE, EYE AND HAIR COLOR, AND SIGNATURE;

(2) A CLEAR AND RECOGNIZABLE PHOTOGRAPH OF THE APPLICANT, UNLESS THE PHOTOGRAPH HAS BEEN SUBMITTED WITH A PRIOR YEAR'S APPLICATION;

(3) A SET OF THE APPLICANT'S FINGERPRINTS, UNLESS THE FINGERPRINTS HAVE BEEN SUBMITTED WITH A PRIOR YEAR'S APPLICATION; AND

(4) A STATEMENT BY THE APPLICANT THAT THE APPLICANT:

(I) IS A CITIZEN OF THE UNITED STATES;

(II) IS AT LEAST 21 YEARS OLD;

(III) HAS NEVER BEEN CONVICTED OF A DISQUALIFYING CRIME;

(IV) HAS NEVER BEEN CONVICTED OF A VIOLATION CLASSIFIED AS A COMMON LAW CRIME AND RECEIVED A TERM OF IMPRISONMENT OF MORE THAN 2 YEARS;

(V) IS NOT A FUGITIVE FROM JUSTICE;

(VI) IS NOT A HABITUAL DRUNKARD;

(VII) IS NOT ADDICTED TO A CONTROLLED DANGEROUS SUBSTANCE OR IS NOT A HABITUAL USER; AND

(VIII) HAS NEVER SPENT MORE THAN 30 CONSECUTIVE DAYS IN A MEDICAL INSTITUTION FOR TREATMENT OF A MENTAL DISORDER, UNLESS A PHYSICIAN'S CERTIFICATE ISSUED WITHIN 30 DAYS BEFORE THE DATE OF APPLICATION IS ATTACHED TO THE APPLICATION, CERTIFYING THAT THE APPLICANT IS CAPABLE OF POSSESSING A REGULATED FIREARM WITHOUT UNDUE DANGER TO THE APPLICANT OR TO ANOTHER.

(C) REQUIRED WARNING.

EACH APPLICATION FOR A DEALER'S LICENSE SHALL CONTAIN THE FOLLOWING STATEMENT: "ANY FALSE INFORMATION SUPPLIED OR STATEMENT MADE IN THIS APPLICATION IS A CRIME WHICH MAY BE PUNISHED BY IMPRISONMENT FOR A PERIOD OF NOT MORE THAN 3 YEARS, OR A FINE OF NOT MORE THAN $5,000 OR BOTH.".

(D) APPLICATION OF CORPORATION.

IF AN APPLICANT IS A CORPORATION, A CORPORATE OFFICER WHO IS A RESIDENT OF THE STATE SHALL COMPLETE AND EXECUTE THE APPLICATION.

REVISOR'S NOTE: Subsection (a)(1)(i) of this section is standard language added to state expressly that which only was implied in the former law, *i.e.*, applications may be made only on the form that the Secretary provides.

Subsection (a)(1)(ii) and (2) of this section is new language derived without substantive change from former Art. 27, § 443(b)(2), except as it related to the annual renewal fee of $25, and the second clause of the first sentence of (3).

Subsections (b) through (d) of this section are new language derived without substantive change from former Art. 27, § 443(d) and (e).

In subsection (b)(4)(viii) of this section, the defined term "regulated firearm" is substituted for the former reference to a "pistol or revolver" to

conform to the terminology used throughout this subtitle.

Also in subsection (b)(4)(viii) of this section, the former reference to mental "disorders" is deleted as included in the reference to a "mental disorder". *See* Art. 1, § 8, which provides that the singular always includes the plural unless the construction would be unreasonable.

In subsection (c) of this section, the former reference to an "annual" application is deleted as misleading. New applications are not required each year. Under § 5-111 of this subtitle, the term of a license is 1 year. After the term is expired, a license may be renewed.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that in subsection (d) of this section the reference to a "corporation" and the requirements for corporate applicants would not include other legal persons such as limited partnerships and limited liability companies. *See also* § 5-117(c) of this subtitle.

Defined terms: "Dealer's license" § 5-101

"Disqualifying crime" § 5-101

"Fugitive from justice" § 5-101

"Habitual drunkard" § 5-101

"Habitual user" § 5-101

"Person" § 1-101

"Regulated firearm" § 5-101

"Secretary" § 5-101

5-108. CRIMINAL HISTORY RECORDS CHECK.

(A) "CENTRAL REPOSITORY" DEFINED.

IN THIS SECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(B) APPLICATION REQUIRED.

THE SECRETARY SHALL APPLY TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR EACH APPLICANT FOR A DEALER'S LICENSE.

(C) CONTENTS OF APPLICATION.

AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE SECRETARY SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(1) TWO COMPLETE SETS OF THE APPLICANT'S LEGIBLE FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

(2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS; AND

(3) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(D) INFORMATION FORWARDED TO APPLICANT AND STATE POLICE.

IN ACCORDANCE WITH §§ 10-201 THROUGH 10-234 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE APPLICANT AND THE SECRETARY A PRINTED STATEMENT OF THE APPLICANT'S CRIMINAL HISTORY RECORD INFORMATION.

(E) RESTRICTIONS ON INFORMATION.

INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SECTION:

(1) IS CONFIDENTIAL AND MAY NOT BE DISSEMINATED; AND

(2) SHALL BE USED ONLY FOR THE LICENSING PURPOSE AUTHORIZED BY THIS SECTION.

(F) SUBJECT MAY CONTEST CONTENTS.

THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL PROCEDURE ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 443(c).

In subsections (b), the introductory language of (c), and (d) of this section, the defined term "Secretary" is substituted for the former reference to the "Department of State Police" to conform to the terminology used in other provisions of this subtitle relating to dealer's licenses. *See, e.g.*, §§ 5-106(a), 5-107(a)(1), 5-109, and 5-110 of this subtitle.

In subsection (b) of this section, the reference to each applicant "for a dealer's license" is added for clarity.

Defined term: "Secretary" § 5-101

5-109. INVESTIGATION OF APPLICANT FOR DEALER'S LICENSE.

THE SECRETARY SHALL CONDUCT AN INVESTIGATION TO DETERMINE THE TRUTH OR FALSITY OF THE INFORMATION SUPPLIED AND THE STATEMENTS MADE IN AN APPLICATION FOR A DEALER'S LICENSE.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 27, § 443(f).

Defined terms: "Dealer's license" § 5-101

"Secretary" § 5-101

5-110. DISAPPROVAL OF DEALER'S LICENSE APPLICATION.

(A) GROUNDS.

THE SECRETARY SHALL DISAPPROVE AN APPLICATION FOR A DEALER'S LICENSE IF:

(1) THE SECRETARY DETERMINES THAT THE APPLICANT SUPPLIED FALSE INFORMATION OR MADE A FALSE STATEMENT;

(2) THE SECRETARY DETERMINES THAT THE APPLICATION IS NOT PROPERLY COMPLETED; OR

(3) THE SECRETARY RECEIVES A WRITTEN NOTIFICATION FROM THE APPLICANT'S LICENSED ATTENDING PHYSICIAN THAT THE APPLICANT SUFFERS FROM A MENTAL DISORDER AND IS A DANGER TO THE APPLICANT OR TO ANOTHER.

(B) NOTICE.

IF THE SECRETARY DISAPPROVES AN APPLICATION FOR A DEALER'S LICENSE, THE SECRETARY SHALL NOTIFY THE APPLICANT IN WRITING OF THE DISAPPROVAL.

(C) EFFECT OF DISAPPROVAL.

A PERSON WHOSE APPLICATION FOR A DEALER'S LICENSE HAS BEEN DISAPPROVED MAY NOT ENGAGE IN THE BUSINESS OF SELLING, RENTING, OR TRANSFERRING REGULATED FIREARMS, UNLESS THE DISAPPROVAL HAS BEEN SUBSEQUENTLY WITHDRAWN BY THE SECRETARY OR OVERRULED BY A COURT IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION.

(D) APPEAL.

(1) AN APPLICANT WHO IS AGGRIEVED BECAUSE THE SECRETARY HAS DISAPPROVED THE APPLICATION FOR A DEALER'S LICENSE MAY APPEAL TO THE CIRCUIT COURT OF THE COUNTY WHERE THE APPLICANT'S PLACE OF BUSINESS IS TO BE LOCATED.

(2) THE APPEAL MUST BE FILED NOT LATER THAN 30 DAYS AFTER THE SECRETARY MAILS NOTIFICATION OF DISAPPROVAL TO THE APPLICANT.

(3) IF THE APPEAL IS PROPERLY AND TIMELY FILED, THE COURT SHALL AFFIRM OR REVERSE THE DISAPPROVAL OF THE SECRETARY DEPENDING ON WHETHER THE COURT FINDS THAT:

(I) THE APPLICANT SUPPLIED FALSE INFORMATION OR MADE A FALSE STATEMENT; OR

(II) THE APPLICATION WAS NOT PROPERLY COMPLETED.

(4) THE SECRETARY OR THE APPLICANT MAY APPEAL THE DECISION OF THE CIRCUIT COURT TO THE COURT OF SPECIAL APPEALS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 443(g), (h), and the second sentence of (f).

In subsections (b) and (d)(2) of this section, the reference to the "applicant" is substituted for the former reference to the "prospective licensee" to conform to the terminology used throughout this subtitle. Similarly, in subsection (d)(1) of this section, the reference to an "applicant" is substituted for the former reference to a "person".

In subsection (c) of this section, the references to "renting" and "transferring" regulated firearms are added to reflect all the activities that a person whose application for a dealer's license had been disapproved would be prohibited from taking.

Also in subsection (c) of this section, the former reference to a disapproval that is overruled by "the action" of a court is deleted as surplusage.

In subsection (d)(1) of this section, the former reference to the applicant's "intended" place of business is deleted as implicit in the clause "where the applicant's place of business is to be located".

Also in subsection (d)(1) of this section, the reference to the circuit court of the county where the applicant's place of business is to be "located" is substituted for the former reference to the circuit court of the county where the applicant's place of business is to be "conducted" for clarity.

In subsection (d)(4) of this section, the former reference to a decision reached by the circuit court "in accordance with this subsection" is deleted as surplusage.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that subsection (a) of this section requires the Secretary to disapprove an application for a dealer's license if the Secretary receives specified notification that the applicant suffers from a mental disorder. Subsection (d) of this section, however, does not include a finding that the applicant suffers from a mental disorder as a ground on the basis of which the court may affirm or reverse the disapproval of an application by the Secretary. The Committee notes this inconsistency for consideration by the General Assembly.

Defined terms: "County" § 1-101

"Dealer's license" § 5-101

"Firearm" § 5-101

"Person" § 1-101

"Regulated firearm" § 5-101

"Secretary" § 5-101

5-111. TERM OF DEALER'S LICENSE.

(A) IN GENERAL.

UNLESS A DEALER'S LICENSE IS RENEWED FOR A 1-YEAR TERM AS PROVIDED IN THIS SECTION, A DEALER'S LICENSE EXPIRES ON THE FIRST JUNE 30 AFTER ITS EFFECTIVE DATE.

(B) APPLICATIONS FOR RENEWAL.

(1) BEFORE A DEALER'S LICENSE EXPIRES, THE LICENSEE PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL 1-YEAR TERM, IF THE LICENSEE:

(I) IS OTHERWISE ENTITLED TO BE LICENSED;

(II) PAYS TO THE SECRETARY A RENEWAL FEE OF $25, PAYABLE TO THE COMPTROLLER; AND

(III) SUBMITS TO THE SECRETARY A RENEWAL APPLICATION ON THE FORM THAT THE SECRETARY PROVIDES.

(2) A REFUND OR PRORATION OF THE RENEWAL FEE IS PROHIBITED.

REVISOR'S NOTE: Subsection (a) of this section is new language derived without substantive change from former Art. 27, § 443(b)(1).

Subsection (b)(1)(i) of this section is new language added for clarity.

Subsection (b)(1)(ii) of this section is new language derived without substantive change from former Art. 27, § 443(b)(2), as it related to the annual renewal fee of $25.

Subsection (b)(1)(iii) of this section is standard language added to state expressly that which only was implied in the former law, *i.e.*, renewal applications may be made only on the form that the Secretary provides.

Subsection (b)(2) of this section is new language derived without substantive change from the second clause of the first sentence of former Art. 27, § 443(b)(3).

In subsection (a) of this section, the reference to the expiration of a dealer's license "on the first June 30 after its effective date" is substituted for the former reference to "the 30th day of June of each year" to conform to the practice of the Secretary and to similar provisions governing other State-regulated businesses. *See, e.g.*, BR §§ 12-207 and 16-207.

%Also in subsection (a) of this section, the former reference to a dealer's license "required by subsection (a) above" is deleted as surplusage.

Defined terms: "Dealer's license" § 5-101

"Licensee" § 5-101

"Secretary" § 5-101

5-112. NONTRANSFERABILITY OF DEALER'S LICENSE; NEW PLACE OF BUSINESS.

(A) NONTRANSFERABILITY OF DEALER'S LICENSE.

A DEALER'S LICENSE IS NOT TRANSFERABLE.

(B) NOTICE TO SECRETARY OF NEW PLACE OF BUSINESS.

BEFORE MOVING A PLACE OF BUSINESS, A LICENSEE SHALL INFORM THE SECRETARY AND SURRENDER THE DEALER'S LICENSE.

(C) NEW DEALER'S LICENSE FOR NEW PLACE OF BUSINESS.

IF A CAUSE TO REVOKE THE DEALER'S LICENSE DOES NOT EXIST, THE SECRETARY SHALL ISSUE A NEW DEALER'S LICENSE WITHOUT CHARGE COVERING THE NEW PLACE OF BUSINESS FOR THE REST OF THE TERM OF THE SURRENDERED DEALER'S LICENSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 443(b)(3), except for the second clause of the first sentence.

In subsection (c) of this section, the reference to "the rest of the term" is substituted for the former reference to "the duration of the unexpired term" for brevity.

Defined terms: "Dealer's license" § 5-101

"Licensee" § 5-101

"Secretary" § 5-101

5-113. DISPLAY OF DEALER'S LICENSE.

(A) REQUIRED.

A LICENSEE SHALL DISPLAY CONSPICUOUSLY THE DEALER'S LICENSE AND ANY OTHER LICENSE REQUIRED BY LAW AT THE LICENSEE'S PLACE OF BUSINESS.

(B) IDENTIFICATION OF LICENSEE AND LOCATION.

THE DEALER'S LICENSE SHALL IDENTIFY THE LICENSEE AND THE LOCATION OF THE LICENSEE'S PLACE OF BUSINESS.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 27, § 443(a) and, except as

it related to the requirement that a person lawfully possess a regulated firearms dealer's license, the first sentence.

Defined terms: "Dealer's license" § 5-101

"Licensee" § 5-101

5-114. SUSPENSIONS AND REVOCATIONS -- GROUNDS; NOTICE; EFFECT.

(A) SUSPENSIONS.

THE SECRETARY SHALL SUSPEND A DEALER'S LICENSE IF THE LICENSEE:

(1) IS UNDER INDICTMENT FOR A CRIME OF VIOLENCE; OR

(2) IS ARRESTED FOR A VIOLATION OF THIS SUBTITLE THAT PROHIBITS THE PURCHASE OR POSSESSION OF A REGULATED FIREARM.

(B) REVOCATIONS.

THE SECRETARY SHALL REVOKE A DEALER'S LICENSE IF:

(1) IT IS DISCOVERED THAT FALSE INFORMATION HAS BEEN SUPPLIED OR FALSE STATEMENTS HAVE BEEN MADE IN AN APPLICATION REQUIRED BY THIS SUBTITLE; OR

(2) THE LICENSEE:

(I) IS CONVICTED OF A DISQUALIFYING CRIME;

(II) IS CONVICTED OF A VIOLATION CLASSIFIED AS A COMMON LAW CRIME AND RECEIVES A TERM OF IMPRISONMENT OF MORE THAN 2 YEARS;

(III) IS A FUGITIVE FROM JUSTICE;

(IV) IS A HABITUAL DRUNKARD;

(V) IS ADDICTED TO A CONTROLLED DANGEROUS SUBSTANCE OR IS A HABITUAL USER;

(VI) HAS SPENT MORE THAN 30 CONSECUTIVE DAYS IN A MEDICAL INSTITUTION FOR TREATMENT OF A MENTAL DISORDER, UNLESS THE LICENSEE PRODUCES A PHYSICIAN'S CERTIFICATE, ISSUED AFTER THE LAST INSTITUTIONALIZATION AND CERTIFYING THAT THE LICENSEE IS CAPABLE OF POSSESSING A REGULATED FIREARM WITHOUT UNDUE DANGER TO THE LICENSEE OR TO ANOTHER;

(VII) HAS KNOWINGLY OR WILLFULLY MANUFACTURED, OFFERED TO SELL, OR SOLD A HANDGUN NOT ON THE HANDGUN ROSTER IN VIOLATION OF § 5-406 OF THIS TITLE; OR

(VIII) HAS KNOWINGLY OR WILLFULLY PARTICIPATED IN A STRAW PURCHASE OF A REGULATED FIREARM.

(C) NOTICE.

IF THE SECRETARY SUSPENDS OR REVOKES A DEALER'S LICENSE, THE SECRETARY SHALL NOTIFY THE LICENSEE IN WRITING OF THE SUSPENSION OR REVOCATION.

(D) EFFECT OF SUSPENSION OR REVOCATION.

A PERSON WHOSE DEALER'S LICENSE IS SUSPENDED OR REVOKED MAY NOT ENGAGE IN THE BUSINESS OF SELLING, RENTING, OR TRANSFERRING REGULATED FIREARMS, UNLESS THE SUSPENSION OR REVOCATION HAS BEEN SUBSEQUENTLY WITHDRAWN BY THE SECRETARY OR OVERRULED BY A COURT IN ACCORDANCE WITH § 5-116 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 443(i), (j), and (k).

In subsection (b)(1) of this section, the reference to this "subtitle" is substituted for the former reference to this "section" to reflect the reorganization of the former provisions on regulated firearms in this subtitle. As to the requirement for an application, *see* § 5-107 of this subtitle.

In subsection (b)(2)(vi) of this section, the former reference to mental "disorders" is deleted as included in the reference to a "mental disorder". *See* Art. 1, § 8, which provides that the singular always includes the plural unless the construction would be unreasonable.

In subsection (d) of this section, the references to "renting" and "transferring" regulated firearms are added to reflect all the activities that a licensee whose license had been suspended or revoked would be prohibited from taking.

Defined terms: "Crime of violence" § 5-101

"Dealer's license" § 5-101

"Disqualifying crime" § 5-101

"Fugitive from justice" § 5-101

"Habitual drunkard" § 5-101

"Habitual user" § 5-101

"Handgun" § 5-101

"Licensee" § 5-101

"Person" § 1-101

"Regulated firearm" § 5-101

"Secretary" § 5-101

"Straw purchase" § 5-101

5-115. SAME -- HEARINGS.

(A) RIGHT TO HEARING.

(1) A PERSON WHOSE DEALER'S LICENSE IS SUSPENDED OR REVOKED AND WHO IS AGGRIEVED BY THE ACTION OF THE SECRETARY MAY REQUEST A HEARING BY WRITING TO THE SECRETARY WITHIN 30 DAYS AFTER THE SECRETARY FORWARDS NOTICE TO THE APPLICANT UNDER § 5-114(C) OF THIS SUBTITLE.

(2) THE SECRETARY SHALL GRANT THE HEARING WITHIN 15 DAYS AFTER RECEIVING THE REQUEST.

(B) APPLICATION OF CONTESTED CASE PROVISIONS.

THE HEARING SHALL BE HELD IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence and, except as it related to judicial review, the second sentence of former Art. 27, § 443(l).

In subsection (a)(1) of this section, the reference to a "person whose dealer's license is suspended or revoked" is substituted for the former reference to a "prospective" dealer to clarify the identity of the person who may request a hearing under this subsection.

In subsection (b) of this section, the reference to "Title 10, Subtitle 2 of the State Government Article" is substituted for the former reference to "the provisions of the Administrative Procedure Act" to state explicitly the law governing review of the Secretary's decisions.

Defined terms: "Dealer's license" § 5-101

"Person" § 1-101

"Secretary" § 5-101

5-116. JUDICIAL REVIEW.

(A) STAY OF REVOCATION.

A REVOCATION MAY NOT TAKE EFFECT WHILE AN APPEAL IS PENDING.

(B) APPLICATION OF CONTESTED CASE PROVISIONS.

ANY SUBSEQUENT JUDICIAL REVIEW SHALL BE HELD IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the third sentence and, as it related to judicial review, the second sentence of former Art. 27, § 443(l).

In subsection (b) of this section, the reference to "Title 10, Subtitle 2 of the

State Government Article" is substituted for the former reference to "the provisions of the Administrative Procedure Act" to state explicitly the law governing judicial review.

5-117. APPLICATION FOR REGULATED FIREARM REQUIRED.

A PERSON MUST SUBMIT A FIREARM APPLICATION IN ACCORDANCE WITH THIS SUBTITLE BEFORE THE PERSON PURCHASES, RENTS, OR TRANSFERS A REGULATED FIREARM.

REVISOR'S NOTE: This section is new language added to state expressly that which only was implied in the former law, *i.e.*, a person must submit an application to purchase, rent, or transfer a regulated firearm. It is based on the references to an application to purchase, rent, or transfer a regulated firearm in former Art. 27, § 442.

Defined terms: "Firearm application" § 5-101

"Person" § 1-101

"Regulated firearm" § 5-101

5-118. FIREARM APPLICATION.

(A) IN GENERAL.

A FIREARM APPLICANT SHALL:

(1) SUBMIT TO A LICENSEE OR DESIGNATED LAW ENFORCEMENT AGENCY A FIREARM APPLICATION ON THE FORM THAT THE SECRETARY PROVIDES; AND

(2) PAY TO THE LICENSEE OR DESIGNATED LAW ENFORCEMENT AGENCY AN APPLICATION FEE OF $10.

(B) REQUIRED INFORMATION.

A FIREARM APPLICATION SHALL CONTAIN:

(1) THE FIREARM APPLICANT'S NAME, ADDRESS, SOCIAL SECURITY NUMBER, PLACE AND DATE OF BIRTH, HEIGHT, WEIGHT, RACE, EYE AND HAIR COLOR, SIGNATURE, DRIVER'S OR PHOTOGRAPHIC IDENTIFICATION SOUNDEX NUMBER, OCCUPATION, AND REGULATED FIREARM INFORMATION FOR EACH REGULATED FIREARM TO BE PURCHASED, RENTED, OR TRANSFERRED;

(2) THE DATE AND TIME THAT THE FIREARM APPLICANT DELIVERED THE COMPLETED FIREARM APPLICATION TO THE PROSPECTIVE SELLER OR TRANSFEROR; AND

(3) A STATEMENT BY THE FIREARM APPLICANT UNDER THE PENALTY OF PERJURY THAT THE FIREARM APPLICANT:

(I) IS AT LEAST 21 YEARS OLD;

(II) HAS NEVER BEEN CONVICTED OF A DISQUALIFYING CRIME;

(III) HAS NEVER BEEN CONVICTED OF A VIOLATION CLASSIFIED AS A COMMON LAW CRIME AND RECEIVED A TERM OF IMPRISONMENT OF MORE THAN 2 YEARS;

(IV) IS NOT A FUGITIVE FROM JUSTICE;

(V) IS NOT A HABITUAL DRUNKARD;

(VI) IS NOT ADDICTED TO A CONTROLLED DANGEROUS SUBSTANCE OR IS NOT A HABITUAL USER;

(VII) HAS NEVER SPENT MORE THAN 30 CONSECUTIVE DAYS IN A MEDICAL INSTITUTION FOR TREATMENT OF A MENTAL DISORDER, UNLESS A PHYSICIAN'S CERTIFICATE ISSUED WITHIN 30 DAYS BEFORE THE DATE OF APPLICATION IS ATTACHED TO THE APPLICATION, CERTIFYING THAT THE FIREARM APPLICANT IS CAPABLE OF POSSESSING A REGULATED FIREARM WITHOUT UNDUE DANGER TO THE FIREARM APPLICANT OR TO ANOTHER;

(VIII) IS NOT A RESPONDENT AGAINST WHOM A CURRENT NON EX PARTE CIVIL PROTECTIVE ORDER HAS BEEN ENTERED UNDER § 4-506 OF THE FAMILY LAW ARTICLE;

(IX) IF UNDER THE AGE OF 30 YEARS AT THE TIME OF APPLICATION, HAS NOT BEEN ADJUDICATED DELINQUENT BY A JUVENILE COURT FOR AN ACT THAT WOULD BE A DISQUALIFYING CRIME IF COMMITTED BY AN ADULT; AND

(X) SUBJECT TO § 5-119 OF THIS SUBTITLE, HAS COMPLETED A CERTIFIED FIREARMS SAFETY TRAINING COURSE THAT THE POLICE TRAINING COMMISSION CONDUCTS WITHOUT CHARGE OR THAT MEETS THE STANDARDS THAT THE POLICE TRAINING COMMISSION ESTABLISHES UNDER § 3-207 OF THIS ARTICLE.

(C) REQUIRED WARNING.

EACH FIREARM APPLICATION SHALL CONTAIN THE FOLLOWING STATEMENT: "ANY FALSE INFORMATION SUPPLIED OR STATEMENT MADE IN THIS APPLICATION IS A CRIME WHICH MAY BE PUNISHED BY IMPRISONMENT FOR A PERIOD OF NOT MORE THAN 3 YEARS, OR A FINE OF NOT MORE THAN $5,000, OR BOTH.".

(D) FIREARM APPLICATION OF CORPORATION.

IF THE FIREARM APPLICANT IS A CORPORATION, A CORPORATE OFFICER WHO IS A RESIDENT OF THE STATE SHALL COMPLETE AND EXECUTE THE FIREARM APPLICATION.

REVISOR'S NOTE: Subsection (a)(1) of this section is standard language added to state expressly that which only was implied in the former law, *i.e.*, applications may be made only on the form that the Secretary provides.

%Subsections (a)(2) through (d) of this section are new language derived without substantive change from former Art. 27, § 442(g), (h), and (f)(1).

In subsection (a)(2) of this section, the former reference that a firearm applicant pay a fee of $10 "with the application" is deleted in light of the reference to an "application fee".

In subsection (b)(3)(vii) of this section, the former reference to mental "disorders" is deleted as included in the reference to a "mental disorder". *See* Art. 1, § 8 which provides that the singular always includes the plural unless the construction would be unreasonable.

In subsection (b)(3)(ix) of this section, the reference to an adjudication for an "act" that would be a disqualifying crime "if committed by an adult" is added for consistency with § 5-306 of this title.

Also in subsection (b)(3)(ix) of this section, the reference to "if" under the age of 30 years is substituted for the former apparently erroneous reference to "is" [under the age of] 30 years to avoid the mistaken interpretation requiring an applicant to be under the age of 30 years to be eligible to purchase a regulated firearm.

In subsection (b)(3)(x) of this section, the former reference to "an application made on or after January 1, 2002" is deleted as obsolete.

Defined terms: "Designated law enforcement agency" § 5-101

"Disqualifying crime" § 5-101

"Firearm" § 5-101

"Firearm applicant" § 5-101

"Firearm application" § 5-101

"Fugitive from justice" § 5-101

"Habitual drunkard" § 5-101

"Habitual user" § 5-101

"Licensee" § 5-101

"Regulated firearm" § 5-101

"Secretary" § 5-101

5-119. EXEMPTION FROM CERTIFIED FIREARMS TRAINING COURSE REQUIREMENT.

A FIREARM APPLICANT IS NOT REQUIRED TO COMPLETE A CERTIFIED FIREARMS TRAINING COURSE REQUIRED UNDER §§ 5-118 AND 5-134 OF THIS SUBTITLE IF THE FIREARM APPLICANT:

(1) HAS ALREADY COMPLETED A CERTIFIED FIREARMS TRAINING COURSE REQUIRED UNDER §§ 5-118 AND 5-134 OF THIS SUBTITLE;

(2) IS A LAW ENFORCEMENT OFFICER OF THE STATE OR ANY LOCAL LAW ENFORCEMENT AGENCY IN THE STATE;

(3) IS A MEMBER, RETIRED MEMBER, OR HONORABLY DISCHARGED MEMBER OF THE ARMED FORCES OF THE UNITED STATES OR THE NATIONAL GUARD;

(4) IS A MEMBER OF AN ORGANIZATION THAT IS REQUIRED BY FEDERAL LAW GOVERNING ITS SPECIFIC BUSINESS OR ACTIVITY TO MAINTAIN HANDGUNS AND APPLICABLE AMMUNITION; OR

(5) HOLDS A PERMIT TO CARRY A HANDGUN UNDER SUBTITLE 3 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 442(h-1).

In the introductory language of this section, the defined term "firearm applicant" is substituted for the overly broad defined term "person" for accuracy.

In item (4) of this section, the former reference to federal "regulations" is deleted as implicit in the reference to federal "law".

In item (5) of this section, the reference to "Subtitle 3 of this title" is substituted for the former reference to "§ 36E of this article" to reflect the reorganization of the former provisions on handgun permits. In this revision, the reference is broader because Subtitle 3 of this title includes other provisions not in former § 36E. No substantive change is intended by use of this broader reference to "Subtitle 3 of this title".

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that in the introductory language of this section and in item (1) of this section, the cross-references to a certified firearms training course required under "§ 5-134" of this subtitle are misleading because, although the course requirement is mentioned in § 5-134, the section does not require a firearm applicant to complete the course.

Defined terms: "Firearm" § 5-101

"Firearm applicant" § 5-101

"Handgun" § 5-101

5-120. COPIES OF FIREARM APPLICATION; FEES.

(A) COPY TO SECRETARY.

(1) ON RECEIPT OF A FIREARM APPLICATION, A LICENSEE OR DESIGNATED LAW ENFORCEMENT AGENCY SHALL PROMPTLY FORWARD ONE COPY OF IT TO THE SECRETARY BY CERTIFIED MAIL OR FACSIMILE MACHINE.

(2) THE COPY OF THE FIREARM APPLICATION FORWARDED TO THE SECRETARY SHALL CONTAIN THE NAME, ADDRESS, AND SIGNATURE OF THE PROSPECTIVE SELLER, LESSOR, OR TRANSFEROR.

(B) OTHER COPIES.

(1) THE PROSPECTIVE SELLER, LESSOR, OR TRANSFEROR SHALL KEEP ONE COPY OF THE FIREARM APPLICATION FOR NOT LESS THAN 3 YEARS.

(2) THE FIREARM APPLICANT IS ENTITLED TO THE REMAINING COPY OF THE FIREARM APPLICATION.

(C) FEES.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE LICENSEE OR DESIGNATED LAW ENFORCEMENT AGENCY SHALL FORWARD THE $10 APPLICATION FEE WITH THE FIREARM APPLICATION TO THE SECRETARY.

(2) A LICENSEE OR DESIGNATED LAW ENFORCEMENT AGENCY THAT USES A FACSIMILE MACHINE TO FORWARD THE FIREARM APPLICATION TO THE SECRETARY SHALL:

(I) BE BILLED $10 FOR EACH FIREARM APPLICATION FORWARDED TO THE SECRETARY DURING THE MONTH; AND

(II) PAY THE TOTAL APPLICATION FEE BY THE FIFTEENTH DAY OF THE FOLLOWING MONTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 442(e) and (f)(2) and (3).

In subsection (a)(1) of this section, the former reference to a firearm application "completed in accordance with subsection (h) below" is deleted as surplusage.

In subsection (b)(1) of this section, the former reference to "a period of" not less than 3 years is deleted for brevity.

In subsection (c)(1) of this section, the phrase "[e]xcept as provided in paragraph (2) of this subsection," is added for clarity.

Defined terms: "Designated law enforcement agency" § 5-101

"Firearm applicant" § 5-101

"Firearm application" § 5-101

"Licensee" § 5-101

"Secretary" § 5-101

5-121. INVESTIGATION OF FIREARM APPLICANT.

(A) SECRETARY TO CONDUCT INVESTIGATION.

ON RECEIPT OF A FIREARM APPLICATION, THE SECRETARY SHALL CONDUCT AN INVESTIGATION PROMPTLY TO DETERMINE THE TRUTH OR FALSITY OF THE INFORMATION SUPPLIED AND STATEMENTS MADE IN THE FIREARM APPLICATION.

(B) REQUEST FOR ASSISTANCE.

IN CONDUCTING AN INVESTIGATION UNDER THIS SUBSECTION, THE SECRETARY MAY REQUEST THE ASSISTANCE OF THE POLICE COMMISSIONER OF BALTIMORE CITY, THE CHIEF OF POLICE IN ANY COUNTY MAINTAINING A POLICE FORCE, OR THE SHERIFF IN A COUNTY NOT MAINTAINING A POLICE FORCE.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 27, § 442(i).

Defined terms: "County" § 1-101

"Firearm application" § 5-101

"Secretary" § 5-101

5-122. DISAPPROVAL OF FIREARM APPLICATION.

(A) GROUNDS.

THE SECRETARY SHALL DISAPPROVE A FIREARM APPLICATION IF:

(1) THE SECRETARY DETERMINES THAT THE FIREARM APPLICANT SUPPLIED FALSE INFORMATION OR MADE A FALSE STATEMENT;

(2) THE SECRETARY DETERMINES THAT THE FIREARM APPLICATION IS NOT PROPERLY COMPLETED; OR

(3) THE SECRETARY RECEIVES WRITTEN NOTIFICATION FROM THE FIREARM APPLICANT'S LICENSED ATTENDING PHYSICIAN THAT THE FIREARM APPLICANT SUFFERS FROM A MENTAL DISORDER AND IS A DANGER TO THE FIREARM APPLICANT OR TO ANOTHER.

(B) NOTICE.

(1) IF THE SECRETARY DISAPPROVES A FIREARM APPLICATION, THE SECRETARY SHALL NOTIFY THE PROSPECTIVE SELLER, LESSOR, OR TRANSFEROR IN WRITING OF THE DISAPPROVAL WITHIN 7 DAYS AFTER THE DATE THAT THE EXECUTED FIREARM APPLICATION IS FORWARDED TO THE SECRETARY BY CERTIFIED MAIL OR FACSIMILE MACHINE.

(2) AFTER NOTIFYING THE PROSPECTIVE SELLER, LESSOR, OR TRANSFEROR UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE SECRETARY SHALL NOTIFY THE PROSPECTIVE PURCHASER, LESSEE, OR TRANSFEREE IN WRITING OF THE DISAPPROVAL.

(3) THE DATE WHEN THE PROSPECTIVE SELLER, LESSOR, OR TRANSFEROR FORWARDS THE EXECUTED FIREARM APPLICATION TO THE SECRETARY BY CERTIFIED MAIL OR BY FACSIMILE MACHINE IS THE FIRST DAY OF THE 7-DAY PERIOD ALLOWED FOR NOTICE OF DISAPPROVAL TO THE PROSPECTIVE SELLER, LESSOR, OR TRANSFEROR.

REVISOR'S NOTE: This section is new language derived without substantive change from the second through fourth sentences of former Art. 27, § 442(i).

In the introductory language of subsection (a) of this section, the requirement that "[t]he Secretary shall disapprove a firearm application" is added to state expressly that which only was implied in the former law, *i.e.*, the Secretary is required to deny an application for the reasons stated in law. Similarly, in subsection (a)(1) of this section, the reference to "the Secretary" determining grounds exist for disapproval is added to state expressly that the Secretary is required to determine whether grounds exist for disapproval.

In subsection (a)(3) of this section, the former reference to mental "disorders" is deleted as included in the reference to a "mental disorder". *See* Art. 1, § 8 which provides that the singular always includes the plural unless the construction would be unreasonable.

The fifth sentence of former Art. 27, § 442(i), which stated "[i]f the seventh day of the seven-day period allowed for the notice of disapproval shall fall on a Sunday or legal holiday, the computation period shall be extended to the first day next following, which is neither a Sunday nor a legal holiday", is deleted in light of Art. 1, § 36, which states that if the last day of a period of time is a Sunday or a legal holiday, the time period runs until the next day that is not a Sunday or legal holiday.

Defined terms: "Firearm applicant" § 5-101

"Firearm application" § 5-101

"Secretary" § 5-101

5-123. TIME FOR LICENSEE TO COMPLETE TRANSACTIONS.

(A) SEVEN-DAY WAITING PERIOD.

A LICENSEE MAY NOT SELL, RENT, OR TRANSFER A REGULATED FIREARM UNTIL AFTER 7 DAYS FOLLOWING THE TIME A FIREARM APPLICATION IS EXECUTED BY THE FIREARM APPLICANT, IN TRIPLICATE, AND THE ORIGINAL IS FORWARDED BY THE PROSPECTIVE SELLER OR TRANSFEROR TO THE SECRETARY.

(B) COMPLETION REQUIRED IN 90 DAYS.

A LICENSEE SHALL COMPLETE THE SALE, RENTAL, OR TRANSFER OF A REGULATED FIREARM WITHIN 90 DAYS AFTER THE FIREARM APPLICATION WAS STAMPED BY THE SECRETARY AS NOT BEING DISAPPROVED.

(C) INCOMPLETE TRANSACTIONS.

(1) IF THE SALE, RENTAL, OR TRANSFER OF A REGULATED FIREARM IS NOT COMPLETED WITHIN 90 DAYS AFTER THE FIREARM APPLICATION WAS STAMPED

BY THE SECRETARY AS NOT BEING DISAPPROVED, A LICENSEE SHALL RETURN THE FIREARM APPLICATION TO THE SECRETARY WITHIN 7 DAYS.

(2) THE SECRETARY SHALL VOID A FIREARM APPLICATION RETURNED UNDER PARAGRAPH (1) OF THIS SUBSECTION AS AN INCOMPLETE SALE, RENTAL, OR TRANSFER.

(D) NOTIFICATION OF COMPLETED TRANSACTION.

(1) (I) A LICENSEE WHO SELLS, RENTS, OR TRANSFERS A REGULATED FIREARM IN COMPLIANCE WITH THIS SUBTITLE SHALL FORWARD A COPY OF THE WRITTEN NOTIFICATION OF THE COMPLETED TRANSACTION TO THE SECRETARY WITHIN 7 DAYS AFTER DELIVERY OF THE REGULATED FIREARM.

(II) THE NOTIFICATION SHALL CONTAIN AN IDENTIFYING DESCRIPTION OF THE REGULATED FIREARM, INCLUDING ITS CALIBER, MAKE, MODEL, ANY MANUFACTURER'S SERIAL NUMBER, AND ANY OTHER SPECIAL OR PECULIAR CHARACTERISTIC OR MARKING BY WHICH THE REGULATED FIREARM MAY BE IDENTIFIED.

(2) THE SECRETARY SHALL MAINTAIN A PERMANENT RECORD OF ALL NOTIFICATIONS RECEIVED OF COMPLETED SALES, RENTALS, AND TRANSFERS OF REGULATED FIREARMS IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 442(c) and, except as they related to persons, (l) and (m).

In subsection (a) of this section, the defined term "firearm application" is substituted for the former reference to an "application to purchase or transfer" for brevity.

Also in subsection (a) of this section, the reference to a "firearm applicant" is substituted for the former reference to a "prospective purchaser or transferee" for brevity.

Also in subsection (a) of this section, the former reference to the original "copy" is deleted as surplusage.

In subsections (b) and (c)(1) of this section, the former references to 90 days after "the date" the firearm application was stamped are deleted as surplusage.

In subsection (b) of this section, the former reference to an application "of the prospective purchaser, lessee, or transferee" is deleted as implicit in the defined term "firearm application".

In subsection (c)(2) of this section, the requirement that "[t]he Secretary shall void" is substituted for the former phrase "shall be voided" to state expressly that which only was implied in the former law, *i.e.*, that the

Secretary is required to void any returned firearm application.

In subsection (d)(1)(ii) of this section, the former reference to a regulated firearm "sold, rented, or transferred" is deleted as implicit in the reference to a "transaction" under subsection (d)(1)(i) of this section.

In subsection (d)(2) of this section, the requirement that the Secretary maintain a record of all "notifications received" is substituted for the former reference to "such completed" transactions for clarity.

Defined terms: "Firearm applicant" § 5-101

"Firearm application" § 5-101

"Licensee" § 5-101

"Regulated firearm" § 5-101

"Secretary" § 5-101

5-124. SECONDARY TRANSACTIONS.

(A) SEVEN-DAY WAITING PERIOD.

(1) A PERSON WHO IS NOT A LICENSEE MAY NOT SELL, RENT, TRANSFER, OR PURCHASE A REGULATED FIREARM UNTIL AFTER 7 DAYS FOLLOWING THE TIME A FIREARM APPLICATION IS EXECUTED BY THE FIREARM APPLICANT, IN TRIPLICATE, AND THE ORIGINAL IS FORWARDED BY A LICENSEE TO THE SECRETARY.

(2) AS AN ALTERNATIVE TO COMPLETING A SECONDARY SALE OF A REGULATED FIREARM THROUGH A LICENSEE, A PROSPECTIVE SELLER, LESSOR, OR TRANSFEROR AND A PROSPECTIVE PURCHASER, LESSEE, OR TRANSFEREE MAY COMPLETE THE TRANSACTION THROUGH A DESIGNATED LAW ENFORCEMENT AGENCY.

(B) PROCESSING FEE.

A FIREARM APPLICANT FOR A SECONDARY SALE OF A REGULATED FIREARM THROUGH A LICENSEE SHALL PAY TO THE LICENSEE A PROCESSING FEE NOT EXCEEDING $20.

(C) COMPLETION REQUIRED IN 90 DAYS.

A PERSON SHALL COMPLETE THE SALE, RENTAL, OR TRANSFER OF A REGULATED FIREARM WITHIN 90 DAYS AFTER THE FIREARM APPLICATION WAS STAMPED BY THE SECRETARY AS NOT BEING DISAPPROVED.

(D) INCOMPLETE TRANSACTIONS.

(1) IF THE SALE, RENTAL, OR TRANSFER OF A REGULATED FIREARM IS NOT COMPLETED WITHIN 90 DAYS AFTER THE FIREARM APPLICATION WAS STAMPED BY THE SECRETARY AS NOT BEING DISAPPROVED, A PERSON SHALL RETURN THE FIREARM APPLICATION TO THE SECRETARY WITHIN 7 DAYS.

(2) THE SECRETARY SHALL VOID A FIREARM APPLICATION RETURNED UNDER PARAGRAPH (1) OF THIS SUBSECTION AS AN INCOMPLETE SALE, RENTAL, OR TRANSFER.

(E) NOTIFICATION OF COMPLETED TRANSACTION.

(1) (I) A PERSON WHO SELLS, RENTS, OR TRANSFERS A REGULATED FIREARM IN COMPLIANCE WITH THIS SUBTITLE SHALL FORWARD A COPY OF THE WRITTEN NOTIFICATION OF THE COMPLETED TRANSACTION TO THE SECRETARY WITHIN 7 DAYS AFTER DELIVERY OF THE REGULATED FIREARM.

(II) THE NOTIFICATION SHALL CONTAIN AN IDENTIFYING DESCRIPTION OF THE REGULATED FIREARM, INCLUDING ITS CALIBER, MAKE, MODEL, ANY MANUFACTURER'S SERIAL NUMBER, AND ANY OTHER SPECIAL OR PECULIAR CHARACTERISTIC OR MARKING BY WHICH THE REGULATED FIREARM MAY BE IDENTIFIED.

(2) THE SECRETARY SHALL MAINTAIN A PERMANENT RECORD OF ALL NOTIFICATIONS RECEIVED OF COMPLETED SALES, RENTALS, AND TRANSFERS OF REGULATED FIREARMS IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 442(d) and, as they related to persons, (l) and (m).

In subsection (a)(1) of this section, the reference to a "lessor" is added for consistency throughout this subtitle. Similarly, the reference to a "lessee" is added.

Also in subsection (a)(1) of this section, the former reference to the original "copy" is deleted as surplusage.

In subsection (b) of this section, the defined term "firearm applicant" is substituted for the former reference to a "person who makes an application to purchase, rent, or transfer" for brevity and consistency.

Also in subsection (b) of this section, the phrase "through a licensee" is added to state expressly that which only was implied in the former law, *i.e.*, that the fee is only paid to a licensee when the licensee processes the firearm application.

In subsections (c) and (d)(1) of this section, the former references to 90 days after "the date" the firearm application was stamped are deleted as surplusage.

In subsection (c) of this section, the former reference to an application "of the prospective purchaser, lessee, or transferee" is deleted as implicit in the defined term "firearm application".

In subsection (d)(2) of this section, the requirement that "[t]he Secretary

shall void" is substituted for the former phrase "shall be voided" to state expressly that which only was implied in the former law, *i.e.*, that the Secretary is required to void any returned firearm application.

In subsection (e)(1)(ii) of this section, the former reference to a regulated firearm "sold, rented, or transferred" is deleted as implicit in the reference to a "transaction" under subsection (e)(1)(i) of this section.

In subsection (e)(2) of this section, the requirement that the Secretary maintain a record of all "notifications received" is substituted for the former reference to "such completed" transactions for clarity.

Defined terms: "Designated law enforcement agency" § 5-101

"Firearm applicant" § 5-101

"Firearm application" § 5-101

"Licensee" § 5-101

"Person" § 1-101

"Regulated firearm" § 5-101

"Secretary" § 5-101

5-125. APPROVED, ON HOLD, AND DISAPPROVED APPLICATIONS.

(A) APPROVED APPLICATIONS.

AN APPROVED FIREARM APPLICATION IS VALID ONLY FOR THE PURCHASE, RENTAL, OR TRANSFER OF THE REGULATED FIREARM LISTED IN THE FIREARM APPLICATION.

(B) ON HOLD AND DISAPPROVED APPLICATIONS.

A LICENSEE OR OTHER PERSON MAY NOT SELL, RENT, OR TRANSFER A REGULATED FIREARM TO A FIREARM APPLICANT WHOSE FIREARM APPLICATION IS PLACED ON HOLD BECAUSE OF AN OPEN DISPOSITION OF CRIMINAL PROCEEDINGS AGAINST THE FIREARM APPLICANT OR DISAPPROVED, UNLESS THE HOLD OR DISAPPROVAL HAS BEEN SUBSEQUENTLY WITHDRAWN BY THE SECRETARY OR OVERRULED BY A COURT IN ACCORDANCE WITH § 5-127 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 442(j).

In subsection (b) of this section, the reference to the "hold" or disapproval being withdrawn or overruled is added for clarity and consistency.

Defined terms: "Firearm applicant" § 5-101

"Firearm application" § 5-101

"Licensee" § 5-101

"Person" § 1-101

"Regulated firearm" § 5-101

"Secretary" § 5-101

5-126. HEARINGS.

(A) RIGHT TO HEARING.

(1) A FIREARM APPLICANT WHO IS AGGRIEVED BY THE ACTION OF THE SECRETARY MAY REQUEST A HEARING BY WRITING TO THE SECRETARY WITHIN 30 DAYS AFTER THE SECRETARY FORWARDS NOTICE TO THE FIREARM APPLICANT UNDER § 5-122 OF THIS SUBTITLE.

(2) THE SECRETARY SHALL GRANT THE HEARING WITHIN 15 DAYS AFTER RECEIVING THE REQUEST.

(B) APPLICATION OF CONTESTED CASE PROVISIONS.

THE HEARING SHALL BE HELD IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(C) VENUE.

THE HEARING SHALL BE HELD IN THE COUNTY OF THE LEGAL RESIDENCE OF THE FIREARM APPLICANT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 442(k)(1), (3), and except as it related to judicial review, (2).

In subsections (a)(1) and (c) of this section, the defined term "firearm applicant" is substituted for the former term "aggrieved person" for clarity and consistency.

In subsection (a)(1) of this section, the defined term "Secretary" is substituted for the former term "State Police" because the Secretary has the duty to decide applications under this subtitle.

In subsection (b) of this section, the reference to "Title 10, Subtitle 2 of the State Government Article" is substituted for the former reference to "the Administrative Procedure Act" to state explicitly the law governing review of the Secretary's decisions.

Defined terms: "County" § 1-101

"Firearm applicant" § 5-101

"Secretary" § 5-101

5-127. JUDICIAL REVIEW.

ANY SUBSEQUENT JUDICIAL REVIEW SHALL BE HELD IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 442(k)(2), as it related to judicial review.

%The reference to "Title 10, Subtitle 2 of the State Government Article" is substituted for the former reference to "the Administrative Procedure Act" to state explicitly the law governing judicial review.

5-128. PURCHASES WITHIN 30 DAYS -- IN GENERAL.

(A) SCOPE OF SUBSECTION.

SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO:

(1) A LAW ENFORCEMENT AGENCY;

(2) AN AGENCY AUTHORIZED TO PERFORM LAW ENFORCEMENT DUTIES;

(3) A STATE OR LOCAL CORRECTIONAL FACILITY;

(4) A PRIVATE SECURITY COMPANY LICENSED TO DO BUSINESS IN THE STATE;

(5) THE PURCHASE OF AN ANTIQUE FIREARM;

(6) A PURCHASE BY A LICENSEE;

(7) THE EXCHANGE OR REPLACEMENT OF A REGULATED FIREARM BY A SELLER FOR A REGULATED FIREARM PURCHASED FROM THE SELLER BY THE SAME PERSON SEEKING THE EXCHANGE OR REPLACEMENT WITHIN 30 DAYS IMMEDIATELY BEFORE THE EXCHANGE OR REPLACEMENT; OR

(8) A PERSON WHOSE REGULATED FIREARM IS STOLEN OR IRRETRIEVABLY LOST AND WHO CONSIDERS IT ESSENTIAL THAT THE REGULATED FIREARM BE REPLACED IMMEDIATELY, IF:

(I) THE PERSON PROVIDES THE LICENSEE WITH A COPY OF THE OFFICIAL POLICE REPORT OR AN OFFICIAL SUMMARY OF THE REPORT, A COPY OF WHICH SHALL BE ATTACHED TO THE FIREARM APPLICATION;

(II) THE OFFICIAL POLICE REPORT OR OFFICIAL SUMMARY OF THE REPORT CONTAINS THE NAME AND ADDRESS OF THE REGULATED FIREARM OWNER, A DESCRIPTION OF THE REGULATED FIREARM, THE LOCATION OF THE LOSS OR THEFT, THE DATE OF THE LOSS OR THEFT, AND THE DATE WHEN THE LOSS OR THEFT WAS REPORTED TO THE LAW ENFORCEMENT AGENCY; AND

(III) THE LOSS OR THEFT OCCURRED WITHIN 30 DAYS BEFORE THE PERSON'S ATTEMPT TO REPLACE THE REGULATED FIREARM, AS REFLECTED BY THE DATE OF LOSS OR THEFT ON THE OFFICIAL POLICE REPORT OR OFFICIAL SUMMARY OF THE REPORT.

(B) ONE PURCHASE LIMIT.

A PERSON MAY NOT PURCHASE MORE THAN ONE REGULATED FIREARM IN A 30-DAY PERIOD.

(C) ON HOLD AND DISAPPROVED APPLICATIONS.

A LICENSEE OR OTHER PERSON MAY NOT SELL, RENT, OR TRANSFER A REGULATED FIREARM TO A FIREARM APPLICANT WHOSE FIREARM APPLICATION IS PLACED ON HOLD BECAUSE OF AN OPEN DISPOSITION OF CRIMINAL PROCEEDINGS AGAINST THE FIREARM APPLICANT OR DISAPPROVED, UNLESS THE HOLD OR DISAPPROVAL HAS BEEN SUBSEQUENTLY WITHDRAWN BY THE SECRETARY OR OVERRULED BY A COURT IN ACCORDANCE WITH § 5-127 OF THIS SUBTITLE.

(D) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING $5,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, §§ 442A(a) and (e) and 449(c).

In the introductory language of subsection (a) of this section, the reference to this "section" is substituted for the former reference to this "subsection" to reflect the reorganization of the former provisions concerning the purchase of regulated firearms within a 30-day period in this section. No substantive change is intended.

In subsection (a)(2) of this section, the former reference to being "duly" authorized is deleted as unnecessary in describing an agency's authority to perform law enforcement duties.

In subsection (a)(8)(iii) of this section, the reference to "the loss or theft" is added to clarify that it is the date of loss or theft and not the date of the report that determines if a regulated firearm is to be replaced immediately.

In subsection (b) of this section, the former phrase "[e]xcept as provided in this subsection" is deleted as unnecessary. The provisions to which the former phrase referred are revised in subsection (a) of this section.

Defined terms: "Antique firearm" § 5-101

"Firearm applicant" § 5-101

"Firearm application" § 5-101

"Licensee" § 5-101

"Person" § 1-101

"Regulated firearm" § 5-101

"Secretary" § 5-101

5-129. SAME -- MULTIPLE PURCHASES ALLOWED.

(A) REQUIREMENTS.

NOTWITHSTANDING § 5-128(B) OF THIS SUBTITLE, A PERSON MAY PURCHASE MORE THAN ONE REGULATED FIREARM IN A 30-DAY PERIOD IF:

(1) THE PERSON APPLIES FOR AND THE SECRETARY APPROVES A MULTIPLE PURCHASE; AND

(2) (I) THE PURCHASE OF THE REGULATED FIREARMS IS FOR A PRIVATE COLLECTION OR A COLLECTOR SERIES;

(II) THE PURCHASE OF THE REGULATED FIREARMS IS A BULK PURCHASE FROM AN ESTATE SALE;

(III) 1. THE PURCHASE OF NOT MORE THAN TWO REGULATED FIREARMS IS A MULTIPLE PURCHASE TO TAKE ADVANTAGE OF A LICENSEE'S DISCOUNTED PRICE AVAILABLE ONLY FOR A MULTIPLE PURCHASE; AND

2. THE PURCHASER IS PROHIBITED FROM PURCHASING A REGULATED FIREARM DURING THE FOLLOWING 30-DAY PERIOD UNLESS APPROVED UNDER ITEM (I) OR (II) OF THIS ITEM; OR

(IV) THE PURCHASE IS FOR OTHER PURPOSES SIMILAR TO ITEMS (I) THROUGH (III) OF THIS ITEM.

(B) APPLICATION.

(1) THE APPLICATION FOR A MULTIPLE PURCHASE SHALL:

(I) LIST THE REGULATED FIREARMS TO BE PURCHASED;

(II) STATE THE PURPOSE OF THE PURCHASE OF MORE THAN ONE REGULATED FIREARM IN A 30-DAY PERIOD;

(III) BE WITNESSED BY A LICENSEE OR DESIGNATED LAW ENFORCEMENT AGENCY; AND

(IV) BE SIGNED UNDER THE PENALTY OF PERJURY BY THE FIREARM APPLICANT.

(2) THE APPLICATION FOR A MULTIPLE PURCHASE OF REGULATED FIREARMS SHALL BE ATTACHED TO A COMPLETED FIREARM APPLICATION AND FORWARDED TO THE SECRETARY BY A LICENSEE OR DESIGNATED LAW ENFORCEMENT AGENCY.

(C) BACKGROUND INVESTIGATION.

ON RECEIPT OF THE FIREARM APPLICATION AND THE APPLICATION FOR A MULTIPLE PURCHASE, THE SECRETARY SHALL CONDUCT A BACKGROUND INVESTIGATION AS REQUIRED IN § 5-121 OF THIS SUBTITLE.

(D) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING $5,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, §§ 442A(b), (c), and (d) and 449(c).

In subsection (a)(2)(iv) of this section, the reference to other purposes similar "to items (i) through (iii) of this item" is added for clarity.

In the introductory language of subsection (b)(1) of this section, the reference to an application for "a multiple purchase" is added to state explicitly the purpose of the application.

In subsection (b)(1)(iv) of this section, the defined term "firearm applicant" is substituted for the former reference to the "applicant" for clarity.

In subsections (b)(2) and (c) of this section, the defined term "firearm application" is substituted for the former reference to an application "to purchase a regulated firearm" for brevity and consistency.

In subsection (c) of this section, the reference to the requirement that the Secretary "conduct" an investigation is substituted for the former reference that the Secretary "complete" an investigation, to conform to the terminology used in § 5-121 of this subtitle.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that in subsection (a) of this section, although the purchase of more than one regulated firearm in a 30-day period is allowed under this section, the transfer of more than one is not. Therefore, in subsection (b)(1)(i) of this section, the former reference to the regulated firearm to be purchased "or transferred" is deleted in light of the absence in subsection (a) of this section of explicit authority for the transfer of more than one regulated firearm in a 30-day period.

Defined terms: "Designated law enforcement agency" § 5-101

"Firearm applicant" § 5-101

"Firearm application" § 5-101

"Licensee" § 5-101

"Person" § 1-101

"Regulated firearm" § 5-101

"Secretary" § 5-101

5-130. GUN SHOWS.

(A) "GUN SHOW" DEFINED.

IN THIS SECTION, "GUN SHOW" MEANS ANY ORGANIZED GATHERING OPEN TO THE PUBLIC AT WHICH ANY FIREARM IS DISPLAYED.

(B) SCOPE OF SECTION.

SUBSECTIONS (C) THROUGH (H) OF THIS SECTION DO NOT APPLY TO A LICENSEE.

(C) TEMPORARY TRANSFER PERMIT REQUIRED.

A PERSON MUST OBTAIN A TEMPORARY TRANSFER PERMIT ISSUED BY THE SECRETARY BEFORE THE PERSON DISPLAYS A REGULATED FIREARM FOR SALE OR TRANSFER FROM A TABLE OR FIXED DISPLAY AT A GUN SHOW.

(D) APPLICATION FOR TEMPORARY TRANSFER PERMIT.

(1) AN APPLICANT FOR A TEMPORARY TRANSFER PERMIT SHALL:

(I) SUBMIT TO THE SECRETARY AN APPLICATION ON THE FORM THAT THE SECRETARY PROVIDES; AND

(II) PAY TO THE SECRETARY A FEE OF $10 FOR EACH CALENDAR YEAR.

(2) EACH ADDITIONAL TEMPORARY TRANSFER PERMIT DURING THE SAME CALENDAR YEAR SHALL BE ISSUED WITHOUT CHARGE.

(E) REQUIRED INFORMATION.

THE APPLICATION FOR A TEMPORARY TRANSFER PERMIT SHALL CONTAIN ANY INFORMATION THAT IS NECESSARY FOR THE SECRETARY TO CONDUCT A COMPUTER BACKGROUND INVESTIGATION.

(F) REQUIRED WARNING.

EACH APPLICATION FOR A TEMPORARY TRANSFER PERMIT SHALL CONTAIN THE FOLLOWING STATEMENT: "ANY FALSE INFORMATION SUPPLIED OR STATEMENT MADE IN THIS APPLICATION IS A CRIME WHICH MAY BE PUNISHED BY IMPRISONMENT FOR A PERIOD OF NOT MORE THAN 3 YEARS OR A FINE NOT MORE THAN $5,000 OR BOTH.".

(G) INVESTIGATION OF APPLICATION; GROUNDS FOR DISAPPROVAL.

(1) THE SECRETARY SHALL CONDUCT AN INVESTIGATION TO DETERMINE THE TRUTH OR FALSITY OF THE INFORMATION SUPPLIED AND THE STATEMENTS MADE IN THE APPLICATION FOR A TEMPORARY TRANSFER PERMIT.

(2) IF THERE IS NO REASON TO DISAPPROVE THE APPLICATION FOR A TEMPORARY TRANSFER PERMIT, THE SECRETARY SHALL ISSUE THE PERMIT WITHIN 7 DAYS AFTER THE DATE OF APPLICATION.

(3) THE SECRETARY SHALL DISAPPROVE AN APPLICATION FOR A TEMPORARY TRANSFER PERMIT IF THE SECRETARY DETERMINES THAT:

(I) THE APPLICANT SUPPLIED FALSE INFORMATION OR MADE A FALSE STATEMENT; OR

(II) THE APPLICATION IS NOT PROPERLY COMPLETED.

(4) IF THE SECRETARY DISAPPROVES AN APPLICATION FOR A TEMPORARY TRANSFER PERMIT, THE SECRETARY SHALL NOTIFY THE APPLICANT IN WRITING OF THE DISAPPROVAL.

(H) LABEL AND DISPLAY.

(1) A TEMPORARY TRANSFER PERMIT SHALL BE CLEARLY LABELED "TEMPORARY" AND SHALL INCLUDE THE STATEMENT: "THIS IS NOT A LICENSE TO ENGAGE IN THE BUSINESS OF SELLING FIREARMS.".

(2) THE TEMPORARY TRANSFER PERMIT SHALL BE PLACED IN PUBLIC VIEW AS PART OF ANY DISPLAY OF A REGULATED FIREARM.

(I) FIVE PERMIT LIMIT.

(1) A PERSON MAY NOT RECEIVE MORE THAN FIVE TEMPORARY TRANSFER PERMITS DURING A SINGLE CALENDAR YEAR.

(2) TO DISPLAY A REGULATED FIREARM FOR SALE, TRADE, OR TRANSFER AT MORE THAN FIVE GUN SHOWS IN A CALENDAR YEAR, A PERSON SHALL OBTAIN A DEALER'S LICENSE UNDER THIS SUBTITLE.

(J) SALE OR TRANSFER OF REGULATED FIREARM.

A SALE OR TRANSFER OF A REGULATED FIREARM FROM A TABLE OR FIXED DISPLAY AT A GUN SHOW IS GOVERNED BY §§ 5-103, 5-104, 5-117 THROUGH 5-129, AND 5-136 OF THIS SUBTITLE.

REVISOR'S NOTE: Subsections (a) through (c) and (d)(1)(ii) through (j) of this section are new language derived without substantive change from former Art. 27, §§ 441(k) and 443A.

Subsection (d)(1)(i) of this section is new language added to state expressly that which was only implied in the former law, *i.e.*, applications may be made only on the form that the Secretary provides.

In subsection (c) of this section, the reference to a person's obtaining a permit "issued by" the Secretary is substituted for the former reference to a permit "from" the Secretary to conform to the terminology used in § 5-106 of this subtitle concerning the issuance of dealer's licenses.

In the introductory language of subsection (g)(3) of this section, the requirement that the Secretary "shall disapprove" an application is added to state expressly that which only was implied in the former law, *i.e.*, the Secretary must disapprove an application if any of the stated conditions exist.

Subsection (g)(3)(i) of this section is revised in the active voice to state expressly that which only was implied in the former law, *i.e.*, the applicant is held responsible for supplying false information or making a false

statement.

In subsection (g)(4) of this section, the clause "[i]f the Secretary disapproves an application for a temporary transfer permit" is added to state expressly that which only was implied in the former law, *i.e.*, the Secretary must send a notice of disapproval if the Secretary disapproves an application.

In subsection (h)(2) of this section, the reference to a display "of a regulated firearm" is added for clarity.

In subsection (i)(2) of this section, the reference to a person "obtain[ing] a dealer's license under § 5-107 of this subtitle" is substituted for the former reference to the requirement that the person "comply with § 443 of this article" for clarity.

In subsection (j) of this section, the reference to "§§ 5-103, 5-104, 5-117 through 5-129, and 5-136 of this subtitle" is substituted for the former reference to "§§ 442 and 442A of this article". These revised sections contain all of the provisions of former Art. 27, §§ 442 and 442A.

Defined terms: "Dealer's license" § 5-101

"Firearm" § 5-101

"Licensee" § 5-101

"Person" § 1-101

"Regulated firearm" § 5-101

"Secretary" § 5-101

5-131. HANDGUN IDENTIFICATION REQUIREMENTS.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "MANUFACTURER" MEANS A PERSON WHO POSSESSES A FEDERAL LICENSE TO ENGAGE IN THE BUSINESS OF MANUFACTURING FIREARMS OR AMMUNITION FOR SALE OR DISTRIBUTION.

(3) "PROJECTILE" MEANS THE PART OF HANDGUN AMMUNITION THAT IS EXPELLED THROUGH THE BARREL OF THE HANDGUN BY AN EXPLOSION.

(4) "SHELL CASING" MEANS THE PART OF HANDGUN AMMUNITION THAT CONTAINS THE PRIMER AND PROPELLENT POWDER TO DISCHARGE THE PROJECTILE.

(B) MANUFACTURER REQUIREMENTS.

A MANUFACTURER THAT SHIPS OR TRANSPORTS A HANDGUN FOR SALE, RENTAL, OR TRANSFER IN THE STATE SHALL INCLUDE IN THE BOX WITH THE HANDGUN IN A SEPARATE, SEALED CONTAINER:

(1) A SHELL CASING OF A PROJECTILE DISCHARGED FROM THE HANDGUN; AND

(2) ADDITIONAL INFORMATION THAT THE SECRETARY REQUIRES TO IDENTIFY THE TYPE OF HANDGUN AND SHELL CASING.

(C) ACTIONS BY DEALER.

(1) ON RECEIPT OF A HANDGUN FROM A MANUFACTURER, THE DEALER SHALL CONFIRM TO THE DEPARTMENT OF STATE POLICE THAT THE MANUFACTURER HAS COMPLIED WITH SUBSECTION (B) OF THIS SECTION.

(2) ON THE SALE, RENTAL, OR TRANSFER OF THE HANDGUN, THE DEALER SHALL FORWARD THE SEALED CONTAINER TO THE DEPARTMENT OF STATE POLICE CRIME LABORATORY.

(D) CRIME LABORATORY DATABASE.

ON RECEIPT OF A SHELL CASING AND INFORMATION AS REQUIRED IN SUBSECTION (B) OF THIS SECTION, THE DEPARTMENT OF STATE POLICE CRIME LABORATORY SHALL ENTER THE INFORMATION IN EACH RELEVANT DATABASE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 442B(a) through (e).

In subsection (a)(2) of this section, the former reference to a "valid" federal license is deleted as implicit.

Also in subsection (a)(2) of this section, the former reference to a federal license "issued by the Secretary of the Treasury that permits the person" to engage in the business of manufacturing firearms or ammunition is deleted as implicit in the reference to a "federal license" to engage in the business of manufacturing firearms or ammunition.

In subsection (b)(2) of this section, the former reference to information that the Secretary requires "to meet the provisions of this section" is deleted as surplusage.

In subsection (c)(2) of this section, the reference to the "rental" of a handgun is added for consistency in light of the introductory language of subsection (b) of this section, which concerns a manufacturer that ships or transports a handgun for sale, "rental", or transfer in the State.

Defined terms: "Firearm" § 5-101

"Handgun" § 5-101

"Licensee" § 5-101

"Person" § 1-101

"Secretary" § 5-101

5-132. HANDGUN SAFETY DEVICES.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "AUTHORIZED USER" MEANS THE OWNER OF A HANDGUN OR A PERSON AUTHORIZED BY THE OWNER TO POSSESS AND USE THE HANDGUN.

(3) "EXTERNAL SAFETY LOCK" MEANS AN EXTERNAL DEVICE THAT IS:

(I) ATTACHED TO A HANDGUN WITH A KEY OR COMBINATION LOCK; AND

(II) DESIGNED TO PREVENT A HANDGUN FROM BEING DISCHARGED UNLESS THE DEVICE HAS BEEN DEACTIVATED.

(4) "HANDGUN" DOES NOT INCLUDE A SIGNAL, STARTER, OR BLANK PISTOL.

(5) "HANDGUN ROSTER BOARD" MEANS THE HANDGUN ROSTER BOARD ESTABLISHED UNDER § 5-404 OF THIS TITLE.

(6) "INTEGRATED MECHANICAL SAFETY DEVICE" MEANS A DISABLING OR LOCKING DEVICE THAT IS:

(I) BUILT INTO A HANDGUN; AND

(II) DESIGNED TO PREVENT THE HANDGUN FROM BEING DISCHARGED UNLESS THE DEVICE HAS BEEN DEACTIVATED.

(7) "PERSONALIZED HANDGUN" MEANS A HANDGUN MANUFACTURED WITH INCORPORATED DESIGN TECHNOLOGY THAT:

(I) ALLOWS THE HANDGUN TO BE FIRED ONLY BY THE AUTHORIZED USER; AND

(II) PREVENTS ANY OF THE SAFETY CHARACTERISTICS OF THE HANDGUN FROM BEING READILY DEACTIVATED.

(B) SCOPE OF SECTION.

THIS SECTION DOES NOT APPLY TO:

(1) THE PURCHASE, SALE, OR TRANSPORTATION OF A HANDGUN TO OR BY A FEDERALLY LICENSED GUN DEALER OR MANUFACTURER THAT PROVIDES OR SERVICES A HANDGUN FOR:

(I) PERSONNEL OF ANY UNIT OF THE FEDERAL GOVERNMENT;

(II) MEMBERS OF THE ARMED FORCES OF THE UNITED STATES OR THE NATIONAL GUARD;

(III) LAW ENFORCEMENT PERSONNEL OF THE STATE OR ANY LOCAL LAW ENFORCEMENT AGENCY IN THE STATE WHILE ACTING WITHIN THE SCOPE OF THEIR OFFICIAL DUTIES; AND

(IV) AN ORGANIZATION THAT IS REQUIRED BY FEDERAL LAW GOVERNING ITS SPECIFIC BUSINESS OR ACTIVITY TO MAINTAIN HANDGUNS AND APPLICABLE AMMUNITION;

(2) A FIREARM MODIFIED TO BE PERMANENTLY INOPERATIVE;

(3) THE SALE OR TRANSFER OF A HANDGUN BY A FEDERALLY LICENSED GUN DEALER OR MANUFACTURER COVERED UNDER ITEM (1) OF THIS SUBSECTION;

(4) THE SALE OR TRANSFER OF A HANDGUN BY A FEDERALLY LICENSED GUN DEALER OR MANUFACTURER TO A LAWFUL CUSTOMER OUTSIDE THE STATE; OR

(5) AN ANTIQUE FIREARM.

(C) RESTRICTION ON SALE, RENT, OR TRANSFER OF HANDGUNS.

(1) A DEALER MAY NOT SELL, OFFER FOR SALE, RENT, OR TRANSFER IN THE STATE A HANDGUN MANUFACTURED ON OR BEFORE DECEMBER 31, 2002, UNLESS THE HANDGUN IS SOLD, OFFERED FOR SALE, RENTED, OR TRANSFERRED WITH AN EXTERNAL SAFETY LOCK.

(2) ON OR AFTER JANUARY 1, 2003, A DEALER MAY NOT SELL, OFFER FOR SALE, RENT, OR TRANSFER IN THE STATE A HANDGUN MANUFACTURED ON OR AFTER JANUARY 1, 2003, UNLESS THE HANDGUN HAS AN INTEGRATED MECHANICAL SAFETY DEVICE.

(D) REPORT.

(1) THE HANDGUN ROSTER BOARD ANNUALLY SHALL:

(I) REVIEW THE STATUS OF PERSONALIZED HANDGUN TECHNOLOGY; AND

(II) ON OR BEFORE JULY 1, REPORT ITS FINDINGS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

(2) IN REVIEWING THE STATUS OF PERSONALIZED HANDGUN TECHNOLOGY UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE HANDGUN ROSTER BOARD SHALL CONSIDER:

(I) THE NUMBER AND VARIETY OF MODELS AND CALIBERS OF PERSONALIZED HANDGUNS THAT ARE AVAILABLE FOR SALE;

(II) EACH STUDY, ANALYSIS, OR OTHER EVALUATION OF PERSONALIZED HANDGUNS CONDUCTED OR COMMISSIONED BY:

1. THE NATIONAL INSTITUTE OF JUSTICE;

2. A FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT LABORATORY; OR

3. ANY OTHER ENTITY WITH AN EXPERTISE IN HANDGUN TECHNOLOGY; AND

(III) ANY OTHER INFORMATION THAT THE HANDGUN ROSTER BOARD CONSIDERS RELEVANT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 442C.

In subsection (a)(2) of this section, the conjunction "or" is substituted for the former conjunction "and" because the phrases "the owner of a handgun" and "a person authorized by the owner" represent alternatives in the definition.

In subsection (b)(1), (3), and (4) of this section, the reference to "federally" licensed gun dealer or manufacturer is added to clarify that the federal government licenses gun dealers and manufacturers.

In subsection (b)(1)(i) of this section, the reference to personnel "of any unit of the federal government" is substituted for the former reference to personnel "of the United States government or any agency or department of the United States" for brevity.

In subsection (b)(1)(iii) of this section, the reference to personnel acting within the scope of their official "duties" is substituted for the former reference to their official "business" to conform to the terminology used throughout this title.

In subsection (b)(1)(iv) of this section, the former reference to federal "regulations" is deleted as included in the reference to federal "law".

In subsection (d)(1) of this section, the former phrase "beginning on or before July 1, 2002" is deleted as obsolete.

Defined terms: "Antique firearm" § 5-101

"Dealer" § 5-101

"Firearm" § 5-101

"Handgun" § 5-101

"Licensee" § 5-101

"Person" § 1-101

5-133. RESTRICTIONS ON POSSESSION OF REGULATED FIREARMS.

(A) PREEMPTION BY STATE.

THIS SECTION SUPERSEDES ANY RESTRICTION THAT A LOCAL JURISDICTION IN THE STATE IMPOSES ON THE POSSESSION BY A PRIVATE PARTY OF A REGULATED FIREARM, AND THE STATE PREEMPTS THE RIGHT OF ANY LOCAL JURISDICTION TO REGULATE THE POSSESSION OF A REGULATED FIREARM.

(B) POSSESSION OF REGULATED FIREARM PROHIBITED.

A PERSON MAY NOT POSSESS A REGULATED FIREARM IF THE PERSON:

(1) HAS BEEN CONVICTED OF A DISQUALIFYING CRIME;

(2) HAS BEEN CONVICTED OF A VIOLATION CLASSIFIED AS A COMMON LAW CRIME AND RECEIVED A TERM OF IMPRISONMENT OF MORE THAN 2 YEARS;

(3) IS A FUGITIVE FROM JUSTICE;

(4) IS A HABITUAL DRUNKARD;

(5) IS ADDICTED TO A CONTROLLED DANGEROUS SUBSTANCE OR IS A HABITUAL USER;

(6) SUFFERS FROM A MENTAL DISORDER AS DEFINED IN § 10-101(F)(2) OF THE HEALTH - GENERAL ARTICLE AND HAS A HISTORY OF VIOLENT BEHAVIOR AGAINST THE PERSON OR ANOTHER, UNLESS THE PERSON HAS A PHYSICIAN'S CERTIFICATE THAT THE PERSON IS CAPABLE OF POSSESSING A REGULATED FIREARM WITHOUT UNDUE DANGER TO THE PERSON OR TO ANOTHER;

(7) HAS BEEN CONFINED FOR MORE THAN 30 CONSECUTIVE DAYS TO A FACILITY AS DEFINED IN § 10-101 OF THE HEALTH - GENERAL ARTICLE, UNLESS THE PERSON HAS A PHYSICIAN'S CERTIFICATE THAT THE PERSON IS CAPABLE OF POSSESSING A REGULATED FIREARM WITHOUT UNDUE DANGER TO THE PERSON OR TO ANOTHER;

(8) IS A RESPONDENT AGAINST WHOM A CURRENT NON EX PARTE CIVIL PROTECTIVE ORDER HAS BEEN ENTERED UNDER § 4-506 OF THE FAMILY LAW ARTICLE; OR

(9) IF UNDER THE AGE OF 30 YEARS AT THE TIME OF POSSESSION, HAS BEEN ADJUDICATED DELINQUENT BY A JUVENILE COURT FOR AN ACT THAT WOULD BE A DISQUALIFYING CRIME IF COMMITTED BY AN ADULT.

(C) PENALTY FOR POSSESSION BY CONVICTED FELON.

(1) A PERSON MAY NOT POSSESS A REGULATED FIREARM IF THE PERSON WAS PREVIOUSLY CONVICTED OF:

(I) A CRIME OF VIOLENCE;

(II) A VIOLATION OF § 5-602, § 5-603, § 5-604, § 5-605, § 5-606, § 5-607, § 5-608, § 5-609, § 5-612, § 5-613, OR § 5-614 OF THE CRIMINAL LAW ARTICLE; OR

(III) ANY OTHER VIOLATION CLASSIFIED AS A FELONY IN THE STATE.

(2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT LESS THAN 5 YEARS, NO PART OF WHICH MAY BE SUSPENDED.

(3) A PERSON SENTENCED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE ELIGIBLE FOR PAROLE.

(4) EACH VIOLATION OF THIS SUBSECTION IS A SEPARATE CRIME.

(D) POSSESSION BY PERSON UNDER AGE OF 21 YEARS PROHIBITED; EXCEPTIONS.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON WHO IS UNDER THE AGE OF 21 YEARS MAY NOT POSSESS A REGULATED FIREARM OR AMMUNITION SOLELY DESIGNED FOR A REGULATED FIREARM.

(2) UNLESS A PERSON IS OTHERWISE PROHIBITED FROM POSSESSING A REGULATED FIREARM, THIS SUBSECTION DOES NOT APPLY TO:

(I) THE TEMPORARY TRANSFER OR POSSESSION OF A REGULATED FIREARM OR AMMUNITION SOLELY DESIGNED FOR A REGULATED FIREARM IF THE PERSON IS:

1. UNDER THE SUPERVISION OF ANOTHER WHO IS AT LEAST 21 YEARS OLD AND WHO IS NOT PROHIBITED BY STATE OR FEDERAL LAW FROM POSSESSING A FIREARM; AND

2. ACTING WITH THE PERMISSION OF THE PARENT OR LEGAL GUARDIAN OF THE TRANSFEREE OR PERSON IN POSSESSION;

(II) THE TRANSFER BY INHERITANCE OF TITLE, AND NOT OF POSSESSION, OF A REGULATED FIREARM;

(III) A MEMBER OF THE ARMED FORCES OF THE UNITED STATES OR THE NATIONAL GUARD WHILE PERFORMING OFFICIAL DUTIES;

(IV) THE TEMPORARY TRANSFER OR POSSESSION OF A REGULATED FIREARM OR AMMUNITION SOLELY DESIGNED FOR A REGULATED FIREARM IF THE PERSON IS:

1. PARTICIPATING IN MARKSMANSHIP TRAINING OF A RECOGNIZED ORGANIZATION; AND

2. UNDER THE SUPERVISION OF A QUALIFIED INSTRUCTOR;

(V) A PERSON WHO IS REQUIRED TO POSSESS A REGULATED FIREARM FOR EMPLOYMENT AND WHO HOLDS A PERMIT UNDER SUBTITLE 3 OF THIS TITLE; OR

(VI) THE POSSESSION OF A FIREARM OR AMMUNITION FOR SELF-DEFENSE OR THE DEFENSE OF OTHERS AGAINST A TRESPASSER INTO THE RESIDENCE OF THE PERSON IN POSSESSION OR INTO A RESIDENCE IN WHICH THE PERSON IN POSSESSION IS AN INVITED GUEST.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, §§ 449(e) and 445(d), (e), and, except as it related to the transfer of regulated firearms, (a).

In subsection (a) of this section, the references to a "local" jurisdiction are substituted for the former references to "subordinate" jurisdictions and "such" jurisdictions to conform to the terminology used throughout this title and in other revised articles of the Code.

Also in subsection (a) of this section, the former reference to restrictions imposed "by the laws, ordinances or regulations" of local jurisdictions is deleted as surplusage.

In subsection (b)(9) of this section, the reference to an adjudication for an "act" that would be a disqualifying crime "if committed by an adult" is added for consistency with § 5-306 of this title.

In subsection (c)(4) of this section, the reference to a "crime" is substituted for the former reference to an "offense" to conform to the terminology used in the Criminal Procedure Article and the Criminal Law Article.

In subsection (d)(2)(i) and (iv) of this section, the former phrases "if the person is under 21 years of age" are deleted as duplicative in light of subsection (d)(1) of this section.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that the meaning of the reference in former Art. 27, § 449(e) to a person "who is in illegal possession of a firearm as defined in § 445(d)(1)(i) and (ii) of [Art. 27]" is unclear. Former Art. 27, § 445(d)(1)(i) and (ii) prohibited a person who has been convicted of a crime of violence or any violation classified as a felony in this State from possessing a regulated firearm. The General Assembly may wish to clarify the meaning of former Art. 27, § 449(e), which is revised in subsection (c) of this section.

Defined terms: "Crime of violence" § 5-101

"Disqualifying crime" § 5-101

"Firearm" § 5-101

"Fugitive from justice" § 5-101

"Habitual drunkard" § 5-101

"Habitual user" § 5-101

"Person" § 1-101

"Regulated firearm" § 5-101

5-134. RESTRICTIONS ON SALE, RENTAL, OR TRANSFER OF REGULATED FIREARMS.

(A) PREEMPTION BY STATE.

THIS SECTION SUPERSEDES ANY RESTRICTION THAT A LOCAL JURISDICTION IN THE STATE IMPOSES ON THE TRANSFER BY A PRIVATE PARTY OF A REGULATED FIREARM, AND THE STATE PREEMPTS THE RIGHT OF ANY LOCAL JURISDICTION TO REGULATE THE TRANSFER OF A REGULATED FIREARM.

(B) SALE, RENTAL, OR TRANSFER OF REGULATED FIREARM PROHIBITED.

A DEALER OR OTHER PERSON MAY NOT SELL, RENT, OR TRANSFER A REGULATED FIREARM TO A PURCHASER, LESSEE, OR TRANSFEREE WHO THE DEALER OR OTHER PERSON KNOWS OR HAS REASONABLE CAUSE TO BELIEVE:

(1) IS UNDER THE AGE OF 21 YEARS;

(2) HAS BEEN CONVICTED OF A DISQUALIFYING CRIME;

(3) HAS BEEN CONVICTED OF A CONSPIRACY TO COMMIT A FELONY;

(4) HAS BEEN CONVICTED OF A VIOLATION CLASSIFIED AS A COMMON LAW CRIME AND RECEIVED A TERM OF IMPRISONMENT OF MORE THAN 2 YEARS;

(5) IS A FUGITIVE FROM JUSTICE;

(6) IS A HABITUAL DRUNKARD;

(7) IS ADDICTED TO A CONTROLLED DANGEROUS SUBSTANCE OR IS A HABITUAL USER;

(8) SUFFERS FROM A MENTAL DISORDER AS DEFINED IN § 10-101(F)(2) OF THE HEALTH - GENERAL ARTICLE, AND HAS A HISTORY OF VIOLENT BEHAVIOR AGAINST THE PURCHASER, LESSEE, OR TRANSFEREE OR ANOTHER, UNLESS THE PURCHASER, LESSEE, OR TRANSFEREE POSSESSES A PHYSICIAN'S CERTIFICATE THAT THE RECIPIENT IS CAPABLE OF POSSESSING A REGULATED FIREARM WITHOUT UNDUE DANGER TO THE PURCHASER, LESSEE, OR TRANSFEREE OR TO ANOTHER;

(9) HAS BEEN CONFINED FOR MORE THAN 30 CONSECUTIVE DAYS TO A FACILITY AS DEFINED IN § 10-101 OF THE HEALTH - GENERAL ARTICLE, UNLESS THE PURCHASER, LESSEE, OR TRANSFEREE POSSESSES A PHYSICIAN'S CERTIFICATE THAT THE RECIPIENT IS CAPABLE OF POSSESSING A REGULATED FIREARM WITHOUT UNDUE DANGER TO THE PURCHASER, LESSEE, OR TRANSFEREE OR TO ANOTHER;

(10) IS A RESPONDENT AGAINST WHOM A CURRENT NON EX PARTE CIVIL PROTECTIVE ORDER HAS BEEN ENTERED UNDER § 4-506 OF THE FAMILY LAW ARTICLE;

(11) IF UNDER THE AGE OF 30 YEARS AT THE TIME OF THE TRANSACTION, HAS BEEN ADJUDICATED DELINQUENT BY A JUVENILE COURT FOR AN ACT THAT WOULD BE A DISQUALIFYING CRIME IF COMMITTED BY AN ADULT;

(12) IS VISIBLY UNDER THE INFLUENCE OF ALCOHOL OR DRUGS;

(13) IS A PARTICIPANT IN A STRAW PURCHASE; OR

(14) SUBJECT TO SUBSECTION (C) OF THIS SECTION FOR A TRANSACTION UNDER THIS SUBSECTION THAT IS MADE ON OR AFTER JANUARY 1, 2002, HAS NOT COMPLETED A CERTIFIED FIREARMS SAFETY TRAINING COURSE CONDUCTED FREE OF CHARGE BY THE POLICE TRAINING COMMISSION OR THAT MEETS STANDARDS ESTABLISHED BY THE POLICE TRAINING COMMISSION UNDER § 3-207 OF THIS ARTICLE.

(C) EXEMPTION FROM CERTIFIED FIREARMS TRAINING COURSE REQUIREMENT.

A PERSON IS NOT REQUIRED TO COMPLETE A CERTIFIED FIREARMS SAFETY TRAINING COURSE UNDER SUBSECTION (B)(14) OF THIS SECTION AND § 5-118(B)(3)(X) OF THIS SUBTITLE IF THE PERSON:

(1) HAS ALREADY COMPLETED A CERTIFIED FIREARMS SAFETY TRAINING COURSE REQUIRED UNDER SUBSECTION (B)(14) OF THIS SECTION AND § 5-118(B)(3)(X) OF THIS SUBTITLE;

(2) IS A LAW ENFORCEMENT OFFICER OF THE STATE OR ANY LOCAL LAW ENFORCEMENT AGENCY IN THE STATE;

(3) IS A MEMBER, RETIRED MEMBER, OR HONORABLY DISCHARGED MEMBER OF THE ARMED FORCES OF THE UNITED STATES OR THE NATIONAL GUARD;

(4) IS A MEMBER OF AN ORGANIZATION THAT IS REQUIRED BY FEDERAL LAW GOVERNING ITS SPECIFIC BUSINESS OR ACTIVITY TO MAINTAIN HANDGUNS AND APPLICABLE AMMUNITION; OR

(5) HAS BEEN ISSUED A PERMIT TO CARRY A HANDGUN UNDER SUBTITLE 3 OF THIS TITLE.

(D) SALE, RENTAL, OR TRANSFER OF REGULATED FIREARM TO MINOR PROHIBITED.

(1) A PERSON MAY NOT SELL, RENT, OR TRANSFER:

(I) AMMUNITION SOLELY DESIGNED FOR A REGULATED FIREARM TO A PERSON WHO IS UNDER THE AGE OF 21 YEARS; OR

(II) 1. A FIREARM OTHER THAN A REGULATED FIREARM TO A MINOR;

2. AMMUNITION FOR A FIREARM TO A MINOR;

3. PEPPER MACE, WHICH IS AN AEROSOL PROPELLED COMBINATION OF HIGHLY DISABLING IRRITANT BASED PRODUCTS AND IS ALSO KNOWN AS OLEO-RESIN CAPSICUM (O.C.) SPRAY, TO A MINOR; OR

4. ANOTHER DEADLY WEAPON TO A MINOR.

(2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING $1,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, §§ 441(p), 449(a), and 445(b), (b-1), (c), and, as it related to the transfer of regulated firearms, (a).

In subsection (a) of this section, the references to a "local" jurisdiction are substituted for the former references to "subordinate" jurisdictions and "such" jurisdiction to conform to the terminology used throughout this title and in other revised articles of the Code.

Also in subsection (a) of this section, the former reference to restrictions imposed "by the laws, ordinances or regulations" of local jurisdictions is deleted as surplusage.

In subsection (b)(3) of this section, the reference to a "felony" is substituted for the former reference to "any crimes established by those sections" for brevity.

In subsection (b)(11) of this section, the reference to an adjudication for an "act" that would be a disqualifying crime "if committed by an adult" is added for consistency with § 5-306 of this title.

In subsection (c)(4) of this section, the former reference to federal "regulations" is deleted as implicit in the reference to federal "law".

In subsection (c)(5) of this section, the reference to "Subtitle 3 of this title" is substituted for the former reference to "§ 36E of this article" to reflect the reorganization of the former provisions on handgun permits. In the revision, the reference is broader because Subtitle 3 of this title includes some provisions not in former § 36E. No substantive change is intended.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that in the introductory language of subsection (c) of this section and in subsection (c)(1) of this section, the cross-references to "subsection (b)(14) of this section" are misleading because, although the course requirement is mentioned, subsection (b)(14) of this section does not require a firearm applicant to complete the course.

Defined terms: "Dealer" § 5-101

"Disqualifying crime" § 5-101

"Firearm" § 5-101

"Fugitive from justice" § 5-101

"Habitual drunkard" § 5-101

"Habitual user" § 5-101

"Handgun" § 5-101

"Person" § 1-101

"Regulated firearm" § 5-101

"Straw purchase" § 5-101

5-135. REGULATED FIREARMS SUBJECT TO SEIZURE.

A REGULATED FIREARM THAT IS SOLD, RENTED, TRANSFERRED, POSSESSED, RECEIVED, OR PURCHASED IN VIOLATION OF THIS SUBTITLE MAY BE:

(1) SEIZED BY A LAW ENFORCEMENT AGENCY AS CONTRABAND; AND

(2) AFTER A FINDING OF GUILT, DISPOSED OF IN ACCORDANCE WITH TITLE 13, SUBTITLE 2 OF THE CRIMINAL PROCEDURE ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 445B.

Defined term: "Regulated firearm" § 5-101

5-136. STRAW PURCHASES.

(A) SCOPE OF SECTION.

(1) THIS SECTION DOES NOT APPLY TO A PERSON WHO PURCHASES A REGULATED FIREARM AS A GIFT IF:

(I) THE REGULATED FIREARM IS A GIFT TO A RESIDENT OF THE STATE; AND

(II) 1. BOTH THE PURCHASER AND RECIPIENT OF THE GIFT COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE THAT RELATE TO THE POSSESSION, SALE, RENTAL, RECEIPT, TRANSFER, OR PURCHASE OF A REGULATED FIREARM; OR

2. IF THE GIFT IS IN THE FORM OF A GIFT CERTIFICATE, ONLY THE RECIPIENT OF THE GIFT NEED COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE THAT RELATE TO THE POSSESSION, SALE, RENTAL, RECEIPT, TRANSFER, OR PURCHASE OF A REGULATED FIREARM.

(2) IF THE REGULATED FIREARM IS A GIFT TO THE PURCHASER'S SPOUSE, PARENT, GRANDPARENT, GRANDCHILD, SIBLING, OR CHILD, THE RECIPIENT SHALL:

(I) COMPLETE AN APPLICATION TO PURCHASE OR TRANSFER A REGULATED FIREARM; AND

(II) FORWARD THE APPLICATION TO THE SECRETARY WITHIN 5 DAYS AFTER RECEIPT OF THE REGULATED FIREARM.

(3) THE SECRETARY SHALL WAIVE THE $10 APPLICATION FEE REQUIRED UNDER § 5-118(A)(2) OF THIS SUBTITLE FOR A GIFT PURCHASED IN ACCORDANCE WITH THIS SUBSECTION.

(B) PROHIBITED.

A PERSON MAY NOT KNOWINGLY OR WILLFULLY PARTICIPATE IN A STRAW PURCHASE OF A REGULATED FIREARM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 442(b).

In subsection (a)(2) of this section, the reference to "the purchaser's" spouse, parent, grandparent, grandchild, sibling, or child is added for clarity.

In subsection (a)(3) of this section, the reference to an application fee "for a gift purchased in accordance with this subsection" is added for clarity.

Also in subsection (a)(3) of this section, the reference to the application fee "under § 5-118(a)(2) of this subtitle", which revises former Art. 27, § 442(f)(1), is substituted for the former erroneous reference to "subsection (g) of this section". Former Art. 27, § 442(g) referred to the statement required in a firearm application and is revised in § 5-118(c) of this subtitle.

Defined terms: "Person" § 1-101

"Regulated firearm" § 5-101

"Secretary" § 5-101

"Straw purchase" § 5-101

5-137. OUT-OF-STATE PURCHASES.

(A) REQUIREMENTS FOR PURCHASE.

A PERSON WHO SEEKS TO OWN A REGULATED FIREARM AND PURCHASES THE REGULATED FIREARM FROM AN OUT-OF-STATE FEDERALLY LICENSED GUN IMPORTER, MANUFACTURER, OR DEALER SHALL:

(1) HAVE THE FEDERALLY LICENSED IMPORTER, MANUFACTURER, OR DEALERSHIP THE REGULATED FIREARM TO A LICENSEE FOR PROCESSING; AND

(2) COMPLY WITH §§ 5-103, 5-104, 5-117 THROUGH 5-129, AND 5-136 OF THIS SUBTITLE.

(B) WAIVER OF REQUIREMENTS.

IF A PERSON PURCHASES A REGULATED FIREARM FOR USE WITHIN THE SCOPE OF THE PERSON'S OFFICIAL DUTIES, THE SECRETARY MAY WAIVE THE 7-DAY WAITING PERIOD UNDER § 5-124 OF THIS SUBTITLE FOR:

(1) LAW ENFORCEMENT PERSONNEL OF ANY UNIT OF THE FEDERAL GOVERNMENT;

(2) MEMBERS OF THE ARMED FORCES OF THE UNITED STATES OR THE NATIONAL GUARD; OR

(3) LAW ENFORCEMENT PERSONNEL OF THE STATE OR ANY LOCAL AGENCY IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 445A.

In the introductory language of subsection (a) and in subsection (a)(1) of this section, the reference to a "federally" licensed importer, manufacturer, or dealer is added to clarify that the federal government is the licensing authority for importers, manufacturers, and dealers under this provision.

In subsection (a)(2) of this subtitle, the reference to "§§ 5-103, 5-104, 5-117 through 5-129, and 5-136 of this subtitle" is substituted for the former reference to "§§ 442 and 442A of this subheading". These revised sections contain all of the provisions of former Art. 27, §§ 442 and 442A.

Defined terms: "Licensee" § 5-101

"Person" § 1-101

"Regulated firearm" § 5-101

"Secretary" § 5-101

5-138. SALE, TRANSFER, OR DISPOSAL OF STOLEN REGULATED FIREARM PROHIBITED.

A PERSON MAY NOT POSSESS, SELL, TRANSFER, OR OTHERWISE DISPOSE OF A STOLEN REGULATED FIREARM IF THE PERSON KNOWS OR HAS REASONABLE CAUSE TO BELIEVE THAT THE REGULATED FIREARM HAS BEEN STOLEN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 446.

Defined terms: "Person" § 1-101

"Regulated firearm" § 5-101

5-139. FALSE INFORMATION OR MISSTATEMENT IN APPLICATION.

(A) PROHIBITED.

A PERSON MAY NOT KNOWINGLY GIVE FALSE INFORMATION OR MAKE A MATERIAL MISSTATEMENT IN A FIREARM APPLICATION OR IN AN APPLICATION FOR A DEALER'S LICENSE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING $5,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 449(b).

Defined terms: "Dealer's license" § 5-101

"Firearm application" § 5-101

"Person" § 1-101

5-140. TRANSPORTING REGULATED FIREARM FOR UNLAWFUL SALE OR TRAFFICKING.

(A) PROHIBITED.

A DEALER OR OTHER PERSON MAY NOT TRANSPORT A REGULATED FIREARM INTO THE STATE FOR THE PURPOSE OF UNLAWFULLY SELLING OR TRAFFICKING OF THE REGULATED FIREARM.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING $25,000 OR BOTH.

(C) SEPARATE CRIME.

EACH VIOLATION OF THIS SECTION IS A SEPARATE CRIME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 449(d), except as it related to straw purchases.

Defined terms: "Dealer" § 5-101

"Person" § 1-101

"Regulated firearm" § 5-101

5-141. KNOWING PARTICIPATION IN STRAW PURCHASE.

(A) PROHIBITED.

A DEALER OR OTHER PERSON MAY NOT BE A KNOWING PARTICIPANT IN A STRAW PURCHASE OF A REGULATED FIREARM TO A MINOR OR TO A PERSON PROHIBITED BY LAW FROM POSSESSING A REGULATED FIREARM.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING $25,000 OR BOTH.

(C) SEPARATE CRIME.

EACH VIOLATION OF THIS SECTION IS A SEPARATE CRIME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 449(d), as it related to straw purchases.

In subsection (a) of this section, the reference to a "person prohibited by law from possessing a regulated firearm" is substituted for the former reference to a "prohibited person" for clarity.

Defined terms: "Dealer" § 5-101

"Person" § 1-101

"Regulated firearm" § 5-101

"Straw purchase" § 5-101

5-142. REMOVAL OR ALTERATION OF IDENTIFICATION MARK OR NUMBER ON FIREARM.

(A) PROHIBITED.

A PERSON MAY NOT OBLITERATE, REMOVE, CHANGE, OR ALTER THE MANUFACTURER'S IDENTIFICATION MARK OR NUMBER ON A FIREARM.

(B) PRESUMPTION.

IF ON TRIAL FOR A VIOLATION OF THIS SECTION POSSESSION OF THE FIREARM BY THE DEFENDANT IS ESTABLISHED, THE DEFENDANT IS PRESUMED TO HAVE OBLITERATED, REMOVED, CHANGED, OR ALTERED THE MANUFACTURER'S IDENTIFICATION MARK OR NUMBER ON THE FIREARM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 444.

Defined terms: "Firearm" § 5-101

"Person" § 1-101

5-143. KNOWING PARTICIPATION IN VIOLATION OF SUBTITLE.

(A) PROHIBITED.

EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A DEALER OR OTHER PERSON MAY NOT KNOWINGLY PARTICIPATE IN THE ILLEGAL SALE, RENTAL, TRANSFER, PURCHASE, POSSESSION, OR RECEIPT OF A REGULATED FIREARM IN VIOLATION OF THIS SUBTITLE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING $10,000 OR BOTH.

(C) SEPARATE CRIME.

EACH VIOLATION OF THIS SECTION IS A SEPARATE CRIME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 449(f).

In subsection (a) of this section, the reference to this "subtitle" is substituted for the former reference to this "section" even though this subtitle is derived, in part, from provisions outside of former Art. 27, § 449. Because the provisions revised in this subtitle do not affect the application of this subtitle in a way contrary to the provisions set forth here, no substantive change results.

Defined terms: "Dealer" § 5-101

"Person" § 1-101

"Regulated firearm" § 5-101

REVISOR'S NOTE TO SUBTITLE: The Public Safety Article Review Committee notes, for consideration by the General Assembly, that throughout this subtitle exceptions or exemptions from certain provisions or requirements are provided for law enforcement personnel or law enforcement officers. There seems to be no consistency in these provisions. For example, law enforcement personnel of the federal government and law enforcement personnel of the State are exempted from this subtitle while acting within the scope of their official duties. *See* § 5-102(4) of this subtitle. A firearm applicant is exempted from the requirement to complete a certified firearms training course if the applicant is a law enforcement officer of the State or a local law enforcement agency. *See* § 5-119(2) of this subtitle. *See also* § 5-134(c)(2) of this subtitle. The Secretary of State Police may waive the 7-day waiting period under § 5-124 of this subtitle for law enforcement personnel of the State if the person purchases a regulated firearm for use within the scope of the person's official duties. *See* § 5-137(b)(3) of this subtitle. The General Assembly may wish to standardize these references. *See also* § 5-203(a)(1) of this title.

SUBTITLE 2. RIFLES AND SHOTGUNS.

5-201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 481C(a)(1).

%The reference to this "subtitle" is substituted for the former reference to this "section" for consistency in this subtitle, even though the terms "rifle" and "shotgun" as used in §§ 5-204 and 5-205 of this subtitle were not explicitly in the scope of former § 481C. However, § 5-204 of this subtitle, because it contains references to a "federally licensed gun dealer", implicitly refers to the definitions of "rifle" and "shotgun" in federal law. *See* 18 U.S.C. § 921. Similarly, § 5-205 of this subtitle, which prohibits possession of a "rifle or shotgun" by a person suffering from a mental disorder, implicitly refers to the federal law definitions or their substantively identical counterparts under State law. *See* CR § 4-201. Because the terms "rifle" and "shotgun" are defined in this subtitle to be substantively identical to the definitions in 18 U.S.C. § 921 and CR § 4-201, no substantive change results.

(B) RIFLE.

"RIFLE" HAS THE MEANING STATED IN § 4-201 OF THE CRIMINAL LAW ARTICLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 481C(a)(2).

This subsection is revised to conform to the definition of "rifle" in § 4-201 of the Criminal Law Article to avoid the possibility of unintended language variations if the definition in the Criminal Law Article is amended in the future. Former Art. 27, § 36F(d), from which CR § 4-201(e) was derived, and former Art. 27, § 481C(a)(2), from which this subsection is derived, were identical provisions.

(C) SHORT-BARRELED RIFLE.

"SHORT-BARRELED RIFLE" HAS THE MEANING STATED IN § 4-201 OF THE CRIMINAL LAW ARTICLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 481C(a)(4).

This subsection is revised to conform to the definition of "short-barreled rifle" in § 4-201 of the Criminal Law Article to avoid the possibility of unintended language variations if the definition in the Criminal Law Article is amended in the future. Former Art. 27, § 36F(f), from which CR § 4-201(f) was derived, and former Art. 27, § 481C(a)(4), from which this subsection is derived, were substantially identical provisions.

(D) SHORT-BARRELED SHOTGUN.

"SHORT-BARRELED SHOTGUN" HAS THE MEANING STATED IN § 4-201 OF THE CRIMINAL LAW ARTICLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 481C(a)(3).

%This subsection is revised to conform to the definition of "short-barreled shotgun" in § 4-201 of the Criminal Law Article to avoid the possibility of unintended language variations if the definition in the Criminal Law Article is amended in the future. Former Art. 27, § 36F(e), from which CR § 4-201(g) was derived, and former Art. 27, § 481C(a)(3), from which this subsection is derived, were substantially identical provisions.

(E) SHOTGUN.

"SHOTGUN" HAS THE MEANING STATED IN § 4-201 OF THE CRIMINAL LAW ARTICLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 481C(a)(5).

This subsection is revised to conform to the definition of "shotgun" in § 4-201 of the Criminal Law Article to avoid the possibility of unintended language variations if the definition in the Criminal Law Article is amended in the future. Former Art. 27, § 36F(g), from which CR § 4-201(h) was derived, and former Art. 27, § 481C(a)(5), from which this subsection is derived, were identical provisions.

5-202. SCOPE OF SUBTITLE.

THIS SUBTITLE DOES NOT APPLY TO A SHORT-BARRELED RIFLE OR SHORT-BARRELED SHOTGUN THAT IS:

(1) AN ANTIQUE FIREARM AS DEFINED IN § 4-201 OF THE CRIMINAL LAW ARTICLE;

(2) A DEVICE DESIGNED OR REDESIGNED FOR USE OTHER THAN AS A WEAPON;

(3) A DEVICE DESIGNED OR REDESIGNED FOR USE AS A SIGNALING, PYROTECHNIC, LINE THROWING, SAFETY, OR SIMILAR DEVICE; OR

(4) A FIREARM THAT CANNOT:

(I) DISCHARGE A PROJECTILE BY AN EXPLOSIVE; AND

(II) BE READILY RESTORED TO A FIRING CONDITION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 481C(a)(6).

This section is revised as an exclusion of certain types of weapons from the scope of this subtitle rather than as parts of the definitions of "short-barreled rifle" and "short-barreled shotgun" for clarity.

In item (4)(i) of this section, the reference to a "projectile" is substituted for the former reference to a "shot" to conform to the terminology used in CR §

4-201. *See also* § 5-101(h) of this title.

Defined terms: "Short-barreled rifle" § 5-201

"Short-barreled shotgun" § 5-201

5-203. POSSESSION OF SHORT-BARRELED RIFLE OR SHORT-BARRELED SHOTGUN.

(A) PROHIBITED.

A PERSON MAY NOT POSSESS A SHORT-BARRELED RIFLE OR SHORT-BARRELED SHOTGUN UNLESS:

(1) THE PERSON, WHILE ON OFFICIAL BUSINESS IS:

(I) A MEMBER OF THE LAW ENFORCEMENT PERSONNEL OF THE FEDERAL GOVERNMENT, THE STATE, OR A POLITICAL SUBDIVISION OF THE STATE;

(II) A MEMBER OF THE ARMED FORCES OF THE UNITED STATES OR THE NATIONAL GUARD WHILE ON DUTY OR TRAVELING TO OR FROM DUTY;

(III) A MEMBER OF THE LAW ENFORCEMENT PERSONNEL OF ANOTHER STATE OR A POLITICAL SUBDIVISION OF ANOTHER STATE, WHILE TEMPORARILY IN THIS STATE;

(IV) A WARDEN OR CORRECTIONAL OFFICER OF A CORRECTIONAL FACILITY IN THE STATE; OR

(V) A SHERIFF OR A TEMPORARY OR FULL-TIME DEPUTY SHERIFF; AND

(2) THE SHORT-BARRELED SHOTGUN OR SHORT-BARRELED RIFLE HAS BEEN REGISTERED WITH THE FEDERAL GOVERNMENT IN ACCORDANCE WITH FEDERAL LAW.

(B) BURDEN OF PROOF.

IN A PROSECUTION UNDER THIS SECTION, THE DEFENDANT HAS THE BURDEN OF PROVING THE LAWFUL REGISTRATION OF THE SHORT-BARRELED SHOTGUN OR SHORT-BARRELED RIFLE.

(C) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING $5,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 481C(b), (c), and (d).

In subsection (a)(1)(i) of this section, the reference to law enforcement personnel of the "federal government" is substituted for the former

reference to law enforcement personnel of the "United States" to conform to the terminology used elsewhere in this title. Similarly, in subsection (a)(2) of this section, the reference to the "federal government" is substituted for the former reference to the "United States government".

In subsection (a)(1)(iv) of this section, the reference to a "correctional officer" is substituted for the former references to a "jailer", "prison guard", "guard", and "keeper" for brevity and to conform to the terminology used in CS § 8-201. Similarly, the reference to a "correctional facility" is substituted for the former reference to a "penal, correctional, or detention institution" for brevity and to conform to the terminology in CS § 1-101.

In subsection (a)(2) of this section, the reference to "federal law" is substituted for the former reference to "United States statutes" for brevity.

Defined terms: "Person" § 1-101

"Short-barreled rifle" § 5-201

"Short-barreled shotgun" § 5-201

"State" § 1-101

5-204. PURCHASERS OF RIFLES OR SHOTGUNS.

(A) "ADJACENT STATE" DEFINED.

IN THIS SECTION, "ADJACENT STATE" MEANS DELAWARE, PENNSYLVANIA, VIRGINIA, OR WEST VIRGINIA.

(B) RESIDENT OF THIS STATE IN ADJACENT STATE.

IF A RESIDENT OF THIS STATE IS ELIGIBLE TO PURCHASE A RIFLE OR SHOTGUN UNDER THE LAWS OF AN ADJACENT STATE, THE RESIDENT MAY PURCHASE A RIFLE OR SHOTGUN FROM A FEDERALLY LICENSED GUN DEALER IN THE ADJACENT STATE.

(C) RESIDENT OF ADJACENT STATE IN THIS STATE.

IF A RESIDENT OF AN ADJACENT STATE IS ELIGIBLE TO PURCHASE A RIFLE OR SHOTGUN UNDER THE LAWS OF THIS STATE, THE RESIDENT MAY PURCHASE A RIFLE OR SHOTGUN FROM A FEDERALLY LICENSED GUN DEALER IN THIS STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, §§ 481A and 481B.

Subsection (a) of this section is revised as a definition of "adjacent state" to allow concise reference to Delaware, Pennsylvania, Virginia, or West Virginia.

In subsection (b) of this section, the defined term "adjacent state" is substituted for the former phrase "adjoining state" for clarity and consistency.

Defined terms: "Rifle" § 5-201

"Shotgun" § 5-201

5-205. POSSESSION BY PERSON WITH MENTAL DISORDER.

(A) PROHIBITED.

UNLESS THE PERSON POSSESSES A PHYSICIAN'S CERTIFICATE THAT THE PERSON IS CAPABLE OF POSSESSING A RIFLE OR SHOTGUN WITHOUT UNDUE DANGER TO THE PERSON OR TO ANOTHER, A PERSON MAY NOT POSSESS A RIFLE OR SHOTGUN IF THE PERSON:

(1) SUFFERS FROM A MENTAL DISORDER AS DEFINED IN § 10-101(F)(2) OF THE HEALTH - GENERAL ARTICLE AND HAS A HISTORY OF VIOLENT BEHAVIOR AGAINST THE PERSON OR ANOTHER; OR

(2) HAS BEEN CONFINED FOR MORE THAN 30 CONSECUTIVE DAYS IN A FACILITY AS DEFINED IN § 10-101 OF THE HEALTH - GENERAL ARTICLE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING $1,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 481D.

Defined terms: "Person" § 1-101

"Rifle" § 5-201

"Shotgun" § 5-201

SUBTITLE 3. HANDGUN PERMITS.

5-301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 36F(a).

The reference to this "subtitle" is substituted for the former reference to this "subheading" to reflect the reorganization of the former statutory provisions on handgun permits in this subtitle.

(B) BOARD.

"BOARD" MEANS THE HANDGUN PERMIT REVIEW BOARD.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title of the "Handgun Permit Review Board".

(C) HANDGUN.

"HANDGUN" HAS THE MEANING STATED IN § 4-201 OF THE CRIMINAL LAW ARTICLE.

REVISOR'S NOTE: This subsection formerly was Art. 27, § 36F(b).

No changes are made.

(D) PERMIT.

"PERMIT" MEANS A PERMIT ISSUED BY THE SECRETARY TO CARRY, WEAR, OR TRANSPORT A HANDGUN.

REVISOR'S NOTE: This subsection is new language added to provide a convenient shorthand reference for the phrase "a permit issued by the Secretary to carry, wear, or transport a handgun".

Defined terms: "Handgun" § 5-301

"Secretary" § 5-301

(E) SECRETARY.

"SECRETARY" MEANS THE SECRETARY OF STATE POLICE OR THE SECRETARY'S DESIGNEE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 36E(l).

The reference to "the Secretary's designee" is substituted for the former reference to the Secretary "acting directly or through duly authorized officers and agents of the Secretary" to conform to the terminology used throughout this article.

The former phrase "[a]s used in this section" is deleted as unnecessary in light of subsection (a) of this section.

5-302. HANDGUN PERMIT REVIEW BOARD.

(A) ESTABLISHED.

THERE IS A HANDGUN PERMIT REVIEW BOARD IN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(B) MEMBERSHIP; APPOINTMENT.

THE BOARD CONSISTS OF FIVE MEMBERS APPOINTED FROM THE PUBLIC BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

(C) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER IS 3 YEARS.

(2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2003.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) A MEMBER OF THE BOARD IS ELIGIBLE FOR REAPPOINTMENT.

(D) COMPENSATION.

A MEMBER OF THE BOARD IS ENTITLED TO:

(1) COMPENSATION IN ACCORDANCE WITH THE STATE BUDGET FOR EACH DAY THAT THE MEMBER ACTUALLY IS ENGAGED IN THE DISCHARGE OF THE MEMBER'S OFFICIAL DUTIES; AND

(2) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 36E(i)(1).

In subsection (a) of this section, the former reference to the Board being a "separate agency" is deleted as implicit in the reference to the Board being created "in the Department of Public Safety and Correctional Services".

In subsection (c)(2) of this section, standard language is substituted for the third and fourth sentences of former Art. 27, § 36E(i)(1), which provided for the initial terms of the members appointed to the Board and were obsolete. This substitution is not intended to alter the term of any member of the Board. *See* § _____ of Ch. ___, Acts of 2003. The terms of the members serving on October 1, 2003, end as follows: (1) one on March 27, 2004; (2) three on March 27, 2005; and (3) one on March 27, 2006.

In subsection (c)(3) and (4) of this section, the requirement that a member serves "until a successor is appointed and qualifies" is added for accuracy and to conform to similar provisions in other revised articles of the Code.

In subsection (d)(1) of this section, the former reference to "per diem" compensation is deleted in light of the reference to compensation for "each day" the member is engaged in the discharge of official duties.

Subsection (d)(2) of this section is revised in standard language used to

describe the reimbursement for expenses of members of a board.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that this section does not require any qualification other than being a member of the public for appointment as a member of the Board (*e.g.*, residency in the State for a certain minimum period, a minimum age, registration as a voter, absence of a record of a conviction for a crime of moral turpitude, etc.).

Defined term: "Board" § 5-301

5-303. PERMIT REQUIRED.

A PERSON SHALL HAVE A PERMIT ISSUED UNDER THIS SUBTITLE BEFORE THE PERSON CARRIES, WEARS, OR TRANSPORTS A HANDGUN.

REVISOR'S NOTE: This section is new language added to state expressly that which only was implied in the former law, *i.e.*, a person must have a permit before the person carries, wears, or transports a handgun. It is based on the references to a permit to carry a handgun in former Art. 27, § 36E.

Defined terms: "Handgun" § 5-301

"Permit" § 5-301

"Person" § 1-101

5-304. APPLICATION FOR PERMIT.

(A) OATH.

AN APPLICATION FOR A PERMIT SHALL BE MADE UNDER OATH.

(B) FEES -- IN GENERAL.

(1) SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, THE SECRETARY MAY CHARGE A NONREFUNDABLE FEE PAYABLE WHEN AN APPLICATION IS FILED FOR A PERMIT.

(2) THE FEE MAY NOT EXCEED:

(I) $75 FOR AN INITIAL APPLICATION;

(II) $50 FOR A RENEWAL OR SUBSEQUENT APPLICATION; AND

(III) $10 FOR A DUPLICATE OR MODIFIED PERMIT.

(3) THE FEES UNDER THIS SUBSECTION ARE IN ADDITION TO THE FEES AUTHORIZED UNDER § 5-305 OF THIS SUBTITLE.

(C) SAME -- REDUCTION.

THE SECRETARY MAY REDUCE THE FEE UNDER SUBSECTION (B) OF THIS SECTION ACCORDINGLY FOR A PERMIT THAT IS GRANTED FOR ONE DAY ONLY AND AT ONE PLACE ONLY.

(D) SAME -- EXCEPTIONS.

THE SECRETARY MAY NOT CHARGE A FEE UNDER SUBSECTION (B) OF THIS SECTION TO:

(1) A STATE, COUNTY, OR MUNICIPAL PUBLIC SAFETY EMPLOYEE WHO IS REQUIRED TO CARRY, WEAR, OR TRANSPORT A HANDGUN AS A CONDITION OF GOVERNMENTAL EMPLOYMENT; OR

(2) A RETIRED LAW ENFORCEMENT OFFICER OF THE STATE OR A COUNTY OR MUNICIPAL CORPORATION OF THE STATE.

(E) SAME -- METHOD OF PAYMENT.

THE APPLICANT MAY PAY A FEE UNDER THIS SECTION BY A PERSONAL CHECK, BUSINESS CHECK, CERTIFIED CHECK, OR MONEY ORDER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 36E(b), the second sentence of (e), and the reference to an application under oath in the introductory language of (a).

In subsection (c) of this section, the reference to a "fee under subsection (b) of this section" is substituted for the former reference to the "cost of the permit" for consistency with subsection (b) of this section.

In subsection (d)(1) of this section, the reference to a government employee who is required to "carry, wear, or transport" a handgun is substituted for the former reference to an employee required to "wear or carry" a handgun to conform to the terminology used in § 5-308 of this subtitle.

The Public Safety Article Review Committee notes, for the consideration of the General Assembly, that in subsection (c) of this section, which authorizes the Secretary to reduce the fee "accordingly" if the permit is granted "for one day only and at one place only", the word "accordingly" may be ambiguous. There is a lack of a clear statutory standard for determining whether to reduce the fee and the amount of any reduction. Ambiguity in the standard for the exercise of administrative discretion may constitute an invalid delegation of legislative authority.

Defined terms: "County" § 1-101

"Handgun" § 5-301

"Permit" § 5-301

"Secretary" § 5-301

5-305. CRIMINAL HISTORY RECORDS CHECK.

(A) "CENTRAL REPOSITORY" DEFINED.

IN THIS SECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(B) APPLICATION REQUIRED.

THE SECRETARY SHALL APPLY TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR EACH APPLICANT FOR A PERMIT.

(C) CONTENTS OF APPLICATION.

AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE SECRETARY SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(1) TWO COMPLETE SETS OF THE APPLICANT'S LEGIBLE FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

(2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS; AND

(3) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(D) INFORMATION FORWARDED TO APPLICANT AND STATE POLICE.

IN ACCORDANCE WITH §§ 10-201 THROUGH 10-234 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE APPLICANT AND THE SECRETARY A PRINTED STATEMENT OF THE APPLICANT'S CRIMINAL HISTORY RECORD INFORMATION.

(E) RESTRICTIONS ON INFORMATION.

INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SECTION:

(1) IS CONFIDENTIAL AND MAY NOT BE DISSEMINATED; AND

(2) SHALL BE USED ONLY FOR THE LICENSING PURPOSE AUTHORIZED BY THIS SECTION.

(F) SUBJECT MAY CONTEST CONTENTS.

THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE

CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL PROCEDURE ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 36E(c).

In subsections (b), the introductory language of (c), and (d) of this section, the defined term "Secretary" is substituted for the former reference to the "Department of State Police" to conform to the terminology used in other provisions dealing with handgun permits. *See, e.g.*, §§ 5-304 and 5-306 of this subtitle.

In subsection (b) of this section, the reference to each applicant "for a permit" is added for clarity.

Defined terms: "Permit" § 5-301

"Secretary" § 5-301

5-306. QUALIFICATIONS FOR PERMIT.

(A) IN GENERAL.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE SECRETARY SHALL ISSUE A PERMIT WITHIN A REASONABLE TIME TO A PERSON WHO THE SECRETARY FINDS:

(1) IS AN ADULT;

(2) (I) HAS NOT BEEN CONVICTED OF A FELONY OR OF A MISDEMEANOR FOR WHICH A SENTENCE OF IMPRISONMENT FOR MORE THAN 1 YEAR HAS BEEN IMPOSED; OR

(II) IF CONVICTED OF A CRIME DESCRIBED IN ITEM (I) OF THIS ITEM, HAS BEEN PARDONED OR HAS BEEN GRANTED RELIEF UNDER 18 U.S.C. § 925(C);

(3) HAS NOT BEEN CONVICTED OF A CRIME INVOLVING THE POSSESSION, USE, OR DISTRIBUTION OF A CONTROLLED DANGEROUS SUBSTANCE;

(4) IS NOT PRESENTLY AN ALCOHOLIC, ADDICT, OR HABITUAL USER OF A CONTROLLED DANGEROUS SUBSTANCE UNLESS THE HABITUAL USE OF THE CONTROLLED DANGEROUS SUBSTANCE IS UNDER LEGITIMATE MEDICAL DIRECTION; AND

(5) BASED ON AN INVESTIGATION:

(I) HAS NOT EXHIBITED A PROPENSITY FOR VIOLENCE OR INSTABILITY THAT MAY REASONABLY RENDER THE PERSON'S POSSESSION OF A HANDGUN A DANGER TO THE PERSON OR TO ANOTHER; AND

(II) HAS GOOD AND SUBSTANTIAL REASON TO WEAR, CARRY, OR TRANSPORT A HANDGUN, SUCH AS A FINDING THAT THE PERMIT IS NECESSARY AS A REASONABLE PRECAUTION AGAINST APPREHENDED DANGER.

(B) APPLICANT UNDER AGE OF 30 YEARS.

AN APPLICANT UNDER THE AGE OF 30 YEARS IS QUALIFIED ONLY IF THE SECRETARY FINDS THAT THE APPLICANT HAS NOT BEEN:

(1) COMMITTED TO A DETENTION, TRAINING, OR CORRECTIONAL INSTITUTION FOR JUVENILES FOR LONGER THAN 1 YEAR AFTER AN ADJUDICATION OF DELINQUENCY BY A JUVENILE COURT; OR

(2) ADJUDICATED DELINQUENT BY A JUVENILE COURT FOR:

(I) AN ACT THAT WOULD BE A CRIME OF VIOLENCE IF COMMITTED BY AN ADULT;

(II) AN ACT THAT WOULD BE A FELONY IN THIS STATE IF COMMITTED BY AN ADULT; OR

(III) AN ACT THAT WOULD BE A MISDEMEANOR IN THIS STATE THAT CARRIES A STATUTORY PENALTY OF MORE THAN 2 YEARS IF COMMITTED BY AN ADULT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 36E(a)(1) through (6) and the first and third clauses of the introductory language of (a).

In subsection (a)(1) of this section, the reference to an "adult" is substituted for the former reference to a person "eighteen years of age or older" for brevity in light of the definition of the term "adult" in Art. 1, § 24.

In the introductory language of subsection (a)(5) of this section, the former reference to the "results" of an investigation is deleted as implicit in the reference to an "investigation".

In subsection (a)(5)(i) of this section, the former reference to a "law-abiding" person is deleted as unnecessarily narrowing the field of persons to whom an applicant for a permit may not exhibit a propensity or instability that may reasonably render handgun possession a danger.

In subsection (b)(2)(ii) and (iii) of this section, the reference to an adjudication for an "act" that would be a crime "if committed by an adult" is substituted for the former references to a "violation" classified as a felony or a misdemeanor that carries a statutory penalty of 2 years, for consistency with CJ §§ 3-801 and 3-804. Similarly, in subsection (b)(2)(i) of this section, the reference to an "act" that would be a crime of violence "if committed by an adult" is added.

The Public Safety Article Review Committee notes, for the consideration of the General Assembly, that the qualifications for being issued a permit are similar but not identical to the qualifications for being issued a regulated firearms dealer's license (*see* § 5-107 of this title) and for obtaining

approval to purchase, rent, or transfer a regulated firearm (*see* § 5-118 of this title). For example, under subsection (a)(4) of this section, an applicant for a permit may not be an "alcoholic", but an applicant for a regulated firearms dealer's license or for permission to purchase, rent, or transfer a regulated firearm may not be a "habitual drunkard".

Defined terms: "Handgun" § 5-301

"Permit" § 5-301

"Person" § 1-101

"Secretary" § 5-301

5-307. SCOPE OF PERMIT.

(A) IN GENERAL.

A PERMIT IS VALID FOR EACH HANDGUN LEGALLY IN THE POSSESSION OF THE PERSON TO WHOM THE PERMIT IS ISSUED.

(B) LIMITATIONS.

THE SECRETARY MAY LIMIT THE GEOGRAPHIC AREA, CIRCUMSTANCES, OR TIMES OF THE DAY, WEEK, MONTH, OR YEAR IN WHICH A PERMIT IS EFFECTIVE.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 27, § 36E(e) and the second sentence of (f).

Defined terms: "Handgun" § 5-301

"Permit" § 5-301

"Person" § 1-101

"Secretary" § 5-301

5-308. POSSESSION OF PERMIT REQUIRED.

A PERSON TO WHOM A PERMIT IS ISSUED OR RENEWED SHALL CARRY THE PERMIT IN THE PERSON'S POSSESSION WHENEVER THE PERSON CARRIES, WEARS, OR TRANSPORTS A HANDGUN.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 27, § 36E(f).

The Public Safety Article Review Committee notes, for the consideration of the General Assembly, that this section on its face requires that a holder of a permit carry the permit even under circumstances in which a person is not required under CR § 4-203(b) to hold a permit (*e.g.*, wearing or carrying a handgun within the confines of a person's residence or a business establishment under certain circumstances, or transporting a handgun under certain circumstances).

Defined terms: "Handgun" § 5-301

"Permit" § 5-301

"Person" § 1-101

5-309. TERM AND RENEWAL OF PERMIT.

(A) TERM OF PERMIT.

A PERMIT EXPIRES ON THE LAST DAY OF THE HOLDER'S BIRTH MONTH FOLLOWING 2 YEARS AFTER THE DATE THE PERMIT IS ISSUED.

(B) RENEWAL OF PERMIT.

A PERMIT MAY BE RENEWED FOR SUCCESSIVE PERIODS OF 3 YEARS EACH IF, AT THE TIME OF AN APPLICATION FOR RENEWAL, THE APPLICANT POSSESSES THE QUALIFICATIONS FOR THE ISSUANCE OF A PERMIT AND PAYS THE RENEWAL FEE STATED IN THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 36E(d).

Defined term: "Permit" § 5-301

5-310. REVOCATIONS.

(A) IN GENERAL.

THE SECRETARY MAY REVOKE A PERMIT ON A FINDING THAT THE HOLDER:

(1) DOES NOT MEET THE QUALIFICATIONS DESCRIBED IN § 5-306 OF THIS SUBTITLE; OR

(2) VIOLATED § 5-308 OF THIS SUBTITLE.

(B) RETURN OF PERMIT.

A HOLDER OF A PERMIT THAT IS REVOKED BY THE SECRETARY SHALL RETURN THE PERMIT TO THE SECRETARY WITHIN 10 DAYS AFTER RECEIPT OF WRITTEN NOTICE OF THE REVOCATION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first and second sentences of former Art. 27, § 36E(g).

In the introductory language of subsection (a) of this section, the former reference to a permit that is "issued or renewed" is deleted as implicit in light of the defined term "permit".

Also in the introductory language of subsection (a) of this section, the former phrase "at any time" is deleted as surplusage.

In subsection (b) of this section, the reference to a "written" notice of the

revocation is added for clarity in light of § 5-311(a) of this subtitle, which allows a person to file a request for an informal review within 10 days after receipt of "written" notice of the Secretary's initial action.

Defined terms: "Permit" § 5-301

"Secretary" § 5-301

5-311. INFORMAL REVIEW OF SECRETARY'S ACTION.

(A) REQUEST FOR INFORMAL REVIEW.

A PERSON WHO IS DENIED A PERMIT OR RENEWAL OF A PERMIT OR WHOSE PERMIT IS REVOKED OR LIMITED MAY REQUEST THE SECRETARY TO CONDUCT AN INFORMAL REVIEW BY FILING A WRITTEN REQUEST WITHIN 10 DAYS AFTER RECEIPT OF WRITTEN NOTICE OF THE SECRETARY'S INITIAL ACTION.

(B) PERSONAL INTERVIEW.

AN INFORMAL REVIEW:

(1) MAY INCLUDE A PERSONAL INTERVIEW OF THE PERSON WHO REQUESTED THE INFORMAL REVIEW; AND

(2) IS NOT SUBJECT TO TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(C) ACTION BY SECRETARY.

IN AN INFORMAL REVIEW, THE SECRETARY SHALL SUSTAIN, REVERSE, OR MODIFY THE INITIAL ACTION TAKEN AND NOTIFY THE PERSON WHO REQUESTED THE INFORMAL REVIEW OF THE DECISION IN WRITING WITHIN 30 DAYS AFTER RECEIPT OF THE REQUEST FOR INFORMAL REVIEW.

(D) REQUEST FOR REVIEW BY BOARD.

A PERSON NEED NOT FILE A REQUEST FOR AN INFORMAL REVIEW UNDER THIS SECTION BEFORE REQUESTING REVIEW UNDER § 5-312 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 36E(h).

In subsections (b)(1) and (c) of this section, the references to a "person who requested the informal review" is substituted for the former reference to an "applicant" for clarity. Similarly, in subsection (d) of this section, the reference to a "person" is substituted for the former reference to an "applicant" to conform to the terminology used in this section.

In subsection (b)(2) of this section, the reference to "Title 10, Subtitle 2 of the State Government Article", which governs contested administrative hearings, is substituted for the former reference to the "Administrative Procedure Act" for clarity and consistency with § 5-312(e) of this subtitle.

%In subsection (d) of this section, the reference to a person not needing to "request ... an informal review ... before requesting review under § 5-312 of this subtitle" is substituted for the former references to the "[i]nstitution of proceedings under this section" and the "institution of proceedings under subsection (h) of this section" for consistency with subsection (a) of this section and § 5-312(a) of this subtitle.

Also in subsection (d) of this section, the former phrase "within the discretion of the applicant" and the former reference to a "condition precedent" are deleted as included in the reference that a person "need not" take certain action.

Defined terms: "Permit" § 5-301

"Person" § 1-101

"Secretary" § 5-301

5-312. ACTION BY BOARD.

(A) REQUEST FOR REVIEW AUTHORIZED.

(1) A PERSON WHO IS DENIED A PERMIT OR RENEWAL OF A PERMIT OR WHOSE PERMIT IS REVOKED OR LIMITED MAY REQUEST THE BOARD TO REVIEW THE DECISION OF THE SECRETARY BY FILING A WRITTEN REQUEST WITH THE BOARD WITHIN 10 DAYS AFTER RECEIPT OF WRITTEN NOTICE OF THE SECRETARY'S FINAL ACTION.

(2) A PERSON WHOSE APPLICATION FOR A PERMIT OR RENEWAL OF A PERMIT IS NOT ACTED ON BY THE SECRETARY WITHIN 90 DAYS AFTER SUBMITTING THE APPLICATION TO THE SECRETARY MAY REQUEST A HEARING BEFORE THE BOARD BY FILING A WRITTEN REQUEST WITH THE BOARD.

(B) FORM OF REVIEW.

WITHIN 90 DAYS AFTER RECEIVING A REQUEST TO REVIEW A DECISION OF THE SECRETARY, THE BOARD SHALL:

(1) REVIEW THE RECORD DEVELOPED BY THE SECRETARY; OR

(2) CONDUCT A HEARING.

(C) EVIDENCE.

THE BOARD MAY RECEIVE AND CONSIDER ADDITIONAL EVIDENCE SUBMITTED BY A PARTY IN CONDUCTING A REVIEW OF THE DECISION OF THE SECRETARY.

(D) DECISION BY BOARD.

(1) BASED ON THE BOARD'S CONSIDERATION OF THE RECORD AND ANY ADDITIONAL EVIDENCE, THE BOARD SHALL SUSTAIN, REVERSE, OR MODIFY THE DECISION OF THE SECRETARY.

(2) IF THE ACTION BY THE BOARD RESULTS IN THE DENIAL OF A PERMIT OR RENEWAL OF A PERMIT OR THE REVOCATION OR LIMITATION OF A PERMIT, THE BOARD SHALL SUBMIT IN WRITING TO THE APPLICANT OR THE HOLDER OF THE PERMIT THE REASONS FOR THE ACTION TAKEN BY THE BOARD.

(E) ADMINISTRATIVE PROCEDURES.

(1) ANY HEARING AND ANY SUBSEQUENT PROCEEDINGS OF JUDICIAL REVIEW SHALL BE CONDUCTED IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, A COURT MAY NOT ORDER THE ISSUANCE OR RENEWAL OF A PERMIT OR ALTER A LIMITATION ON A PERMIT PENDING A FINAL DETERMINATION OF THE PROCEEDING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 36E(i)(2), (3), and (4).

In subsection (d)(2) of this section, the reference to an "applicant or the holder of the permit" is substituted for the former reference to "that person" for clarity.

In subsection (e)(2) of this section, the former reference to a court "of this State" is deleted as implicit.

The Public Safety Article Review Committee notes, for the consideration of the General Assembly, that in subsection (a)(2) of this section there is no time period stated within which a written request for a hearing before the Board must be made if the Secretary has not acted on an application for a permit or renewal of a permit.

Defined terms: "Board" § 5-301

"Permit" § 5-301

"Person" § 1-101

"Secretary" § 5-301

5-313. FAILURE TO RETURN REVOKED PERMIT.

(A) PROHIBITED. ...

A PERSON MAY NOT FAIL TO RETURN A REVOKED PERMIT.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE OF NOT LESS THAN $100 OR EXCEEDING $1,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from the third sentence of former Art. 27, § 36E(g).

%In subsection (a) of this section, the former phrase "in violation of this subtitle" is deleted as implicit.

The Public Safety Article Review Committee notes, for the consideration of the General Assembly, that in subsection (b) of this section it is not clear whether the reference to a "fine of not less than $100" is subject to reduction under CR § 14-102 or is a true minimum penalty. The General Assembly may wish to clarify this matter in substantive legislation.

Defined terms: "Permit" § 5-301

"Person" § 1-101

5-314. CARRYING, WEARING, OR TRANSPORTING HANDGUN WHILE UNDER INFLUENCE OF ALCOHOL OR DRUGS.

(A) PROHIBITED.

A PERSON WHO HOLDS A PERMIT MAY NOT WEAR, CARRY, OR TRANSPORT A HANDGUN WHILE THE PERSON IS UNDER THE INFLUENCE OF ALCOHOL OR DRUGS.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING $1,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former CR § 4-207.

In subsection (a) of this section, the reference to a person "who holds a permit" is substituted for the former reference to a person "to whom a permit has been issued or whose permit has been renewed under Article 27, § 36E of the Code" for clarity. Former Art. 27, § 36E is revised in this subtitle.

Defined terms: "Handgun" § 5-301

"Permit" § 5-301

"Person" § 1-101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 27, § 36E(j) and (k), which provided that certain persons were authorized to continue to wear, carry, or transport a handgun without a permit, are deleted as obsolete in light of their limited effect of delaying the requirement of a permit for those persons until "one year after March 27, 1972".

SUBTITLE 4. HANDGUN ROSTER.

5-401. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 36F(a).

The reference to this "subtitle" is substituted for the former reference to this "subheading" to reflect the reorganization of the former statutory provisions on the handgun roster in this subtitle.

(B) BOARD.

"BOARD" MEANS THE HANDGUN ROSTER BOARD.

REVISOR'S NOTE: This subsection formerly was Art. 27, § 36F(l).

No changes are made.

(C) HANDGUN.

"HANDGUN" HAS THE MEANING STATED IN § 4-201 OF THE CRIMINAL LAW ARTICLE.

REVISOR'S NOTE: This subsection formerly was Art. 27, § 36F(b).

No changes are made.

(D) HANDGUN ROSTER.

"HANDGUN ROSTER" MEANS THE ROSTER OF AUTHORIZED HANDGUNS COMPILED BY THE BOARD UNDER § 5-405 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 36F(h).

The reference to "authorized" handguns is substituted for the former reference to "permitted" handguns to avoid confusion with handguns that require the issuance of a permit.

Defined terms: "Board" § 5-401

"Handgun" § 5-401

(E) SECRETARY.

"SECRETARY" MEANS THE SECRETARY OF STATE POLICE OR THE SECRETARY'S DESIGNEE.

REVISOR'S NOTE: This subsection formerly was Art. 27, § 36F(j).

The only changes are in style.

5-402. APPLICATION OF SUBTITLE.

(A) MANUFACTURE AND SALE OF WEAPONS.

THIS SUBTITLE DOES NOT AFFECT A PERSON'S RIGHT TO:

(1) MANUFACTURE, SELL, OR OFFER TO SELL A RIFLE OR OTHER WEAPON THAT IS NOT DEFINED AS A HANDGUN IN § 4-201 OF THE CRIMINAL LAW ARTICLE;

(2) MANUFACTURE A PROTOTYPE HANDGUN MODEL REQUIRED FOR DESIGN, DEVELOPMENT, TESTING, AND APPROVAL BY THE BOARD; AND

(3) MANUFACTURE IN THIS STATE A HANDGUN THAT IS NOT ON THE HANDGUN ROSTER BY A FEDERALLY LICENSED GUN MANUFACTURER WHO IS ALSO LICENSED AS A REGULATED FIREARMS DEALER IN THIS STATE FOR DIRECT SALE TO A UNIT OF:

(I) THE FEDERAL GOVERNMENT;

(II) A STATE OTHER THAN THIS STATE;

(III) A LOCAL GOVERNMENT IN A STATE OTHER THAN THIS STATE; OR

(IV) A LAW ENFORCEMENT AGENCY IN A STATE OTHER THAN THIS STATE.

(B) STRICT LIABILITY.

(1) A PERSON IS NOT STRICTLY LIABLE FOR DAMAGES FOR INJURIES TO ANOTHER THAT RESULT FROM THE CRIMINAL USE OF A FIREARM BY A THIRD PERSON.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY IF THE PERSON CONSPIRED WITH THE THIRD PERSON TO COMMIT THE CRIMINAL ACT IN WHICH THE FIREARM WAS USED OR WILLFULLY AIDED, ABETTED, OR CAUSED THE COMMISSION OF THE CRIMINAL ACT IN WHICH THE FIREARM WAS USED.

(3) THIS SUBTITLE DOES NOT OTHERWISE NEGATE, LIMIT, OR MODIFY THE DOCTRINE OF NEGLIGENCE OR STRICT LIABILITY THAT RELATES TO ABNORMALLY DANGEROUS PRODUCTS OR ACTIVITIES AND DEFECTIVE PRODUCTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 36-I(f) and (h).

In the introductory language of subsection (a) of this section, the reference

to "[t]his subtitle" is substituted for the former reference to "this section" even though this subtitle is derived, in part, from material outside of former Art. 27, § 36-I. Because the material revised in this subtitle that was not contained in former Art. 27, § 36-I does not affect the application of this subtitle in a way contrary to the material set forth here, no substantive change results.

In subsection (a) of this section, the statement that this subtitle "does not affect a person's right to" manufacture certain weapons is substituted for the former statement that "[n]othing in this section shall be construed to interfere with ... a person's ability to" manufacture as a more precise statement of the effect of this subtitle.

In subsection (b)(1) and (2) of this section, the former references to an "entity" are deleted in light of the definition of "person".

In subsection (b)(1) of this section, the phrase "is not strictly liable" is substituted for the former phrase "may not be held strictly liable" for clarity.

Also in subsection (b)(1) of this section, the former reference to damages "of any kind" is deleted as surplusage. Similarly, the former reference to injuries "sustained" is deleted.

Defined terms: "Board" § 5-401

"Handgun" § 5-401

"Handgun roster" § 5-401

"Person" § 1-101

"State" § 1-101

5-403. REGULATIONS.

THE SECRETARY SHALL ADOPT REGULATIONS NECESSARY TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 36-I(e).

The former requirement to adopt regulations "[s]ubject to the provisions of the Administrative Procedure Act" is deleted in light of SG § 10-102, which extends the Administrative Procedure Act to the Secretary.

The former reference adopting "rules" is deleted in light of the reference to adopting "regulations". *See* General Revisor's Note to article.

Defined term: "Secretary" § 5-401

5-404. HANDGUN ROSTER BOARD.

(A) ESTABLISHED.

THERE IS A HANDGUN ROSTER BOARD IN THE DEPARTMENT OF STATE POLICE.

(B) MEMBERSHIP; APPOINTMENT.

(1) THE BOARD CONSISTS OF 11 MEMBERS.

(2) OF THE 11 MEMBERS OF THE BOARD:

(I) ONE SHALL BE THE SECRETARY AS AN EX OFFICIO MEMBER; AND

(II) TEN SHALL BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

(3) OF THE TEN APPOINTED MEMBERS OF THE BOARD:

(I) ONE SHALL BE A REPRESENTATIVE OF THE ASSOCIATION OF CHIEFS OF POLICE;

(II) ONE SHALL BE A REPRESENTATIVE OF THE MARYLAND STATE'S ATTORNEYS' ASSOCIATION;

(III) ONE SHALL BE A HANDGUN DEALER, GUNSMITH, OR REPRESENTATIVE OF A HANDGUN MANUFACTURER;

(IV) ONE SHALL BE A RESIDENT OF THE STATE WHO IS A REPRESENTATIVE OF THE NATIONAL RIFLE ASSOCIATION OR ITS AFFILIATED STATE ASSOCIATION;

(V) ONE SHALL BE A REPRESENTATIVE OF THE MARYLANDERS AGAINST HANDGUN ABUSE; AND

(VI) FIVE SHALL BE PUBLIC MEMBERS, TWO OF WHOM SHALL BE MECHANICAL OR ELECTRICAL ENGINEERS.

(C) TENURE.

THE TERM OF AN APPOINTED MEMBER IS 4 YEARS.

(D) CHAIRMAN.

THE SECRETARY SHALL SERVE AS CHAIRMAN.

(E) MEETINGS.

THE BOARD SHALL MEET AT THE REQUEST OF THE CHAIRMAN OR OF A MAJORITY OF THE MEMBERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 36J(a)(1) through (5).

%In subsection (b)(2)(i) of this section, the reference to the Secretary "as an ex officio member" is added for clarity. As an ex officio member, the Secretary is a member of the Board by virtue of the office of Secretary. Thus the condition that a member be appointed by the Governor with the advice and consent of the Senate does not apply to the Secretary. Accordingly, in subsections (b)(3) and (c) of this section, the reference to "appointed" members is added for clarity. Subsection (c) of this section does not apply to the Secretary, who serves as long as the Secretary holds office.

In subsection (b)(3)(vi) of this section, the reference to "public" members is substituted for the former reference to "citizen" members for clarity and to conform to language used in provisions that establish other boards under this article.

Defined terms: "Board" § 5-401

"Handgun" § 5-401

"Secretary" § 5-401

5-405. DUTIES AND PROCEDURES OF BOARD.

(A) ESTABLISHMENT AND PUBLICATION OF ROSTER.

THE BOARD SHALL:

(1) COMPILE AND MAINTAIN A HANDGUN ROSTER OF AUTHORIZED HANDGUNS THAT ARE USEFUL FOR LEGITIMATE SPORTING, SELF-PROTECTION, OR LAW ENFORCEMENT PURPOSES;

(2) SEMIANNUALLY PUBLISH THE HANDGUN ROSTER IN THE MARYLAND REGISTER; AND

(3) SEMIANNUALLY SEND A COPY OF THE HANDGUN ROSTER TO ALL PERSONS WHO HOLD A STATE REGULATED FIREARM DEALER'S LICENSE UNDER SUBTITLE 1 OF THIS TITLE.

(B) CRITERIA FOR PLACEMENT ON ROSTER.

THE BOARD SHALL CONSIDER CAREFULLY EACH OF THE FOLLOWING CHARACTERISTICS OF A HANDGUN WITHOUT PLACING UNDUE WEIGHT ON ANY ONE CHARACTERISTIC IN DETERMINING WHETHER ANY HANDGUN SHOULD BE PLACED ON THE HANDGUN ROSTER:

(1) CONCEALABILITY;

(2) BALLISTIC ACCURACY;

(3) WEIGHT;

(4) QUALITY OF MATERIALS;

(5) QUALITY OF MANUFACTURE;

(6) RELIABILITY AS TO SAFETY;

(7) CALIBER;

(8) DETECTABILITY BY THE STANDARD SECURITY EQUIPMENT THAT IS COMMONLY USED AT AN AIRPORT OR COURTHOUSE AND THAT IS APPROVED BY THE FEDERAL AVIATION ADMINISTRATION FOR USE AT AIRPORTS IN THE UNITED STATES; AND

(9) UTILITY FOR LEGITIMATE SPORTING ACTIVITIES, SELF-PROTECTION, OR LAW ENFORCEMENT.

(C) PLACEMENT PROCESS.

(1) THE BOARD MAY PLACE A HANDGUN ON THE HANDGUN ROSTER ON ITS OWN INITIATIVE.

(2) THE BOARD SHALL PLACE A HANDGUN ON THE HANDGUN ROSTER ON THE SUCCESSFUL PETITION OF ANY PERSON SUBJECT TO SUBSECTIONS (D) AND (E) OF THIS SECTION, UNLESS A COURT, AFTER ALL APPEALS ARE EXHAUSTED, HAS MADE A FINDING THAT THE DECISION OF THE BOARD SHALL BE AFFIRMED.

(3) A PETITION TO PLACE A HANDGUN ON THE HANDGUN ROSTER SHALL BE SUBMITTED TO THE BOARD IN WRITING IN THE FORM AND MANNER THAT THE BOARD REQUIRES.

(4) A PERSON WHO PETITIONS FOR PLACEMENT OF A HANDGUN ON THE HANDGUN ROSTER HAS THE BURDEN OF PROVING TO THE BOARD THAT THE HANDGUN SHOULD BE PLACED ON THE HANDGUN ROSTER.

(D) ACTION OF BOARD ON PETITION.

(1) WITHIN 45 DAYS AFTER RECEIPT OF A PETITION TO PLACE A HANDGUN ON THE HANDGUN ROSTER, THE BOARD SHALL:

(I) DENY THE PETITION IN WRITING, STATING THE REASONS FOR DENIAL; OR

(II) APPROVE THE PETITION AND PUBLISH A DESCRIPTION OF THE HANDGUN IN THE MARYLAND REGISTER, INCLUDING NOTICE THAT ANY OBJECTION TO THE HANDGUN'S INCLUSION ON THE HANDGUN ROSTER SHALL BE FILED WITH THE BOARD WITHIN 30 DAYS.

(2) IF THE BOARD FAILS TO DENY OR APPROVE A PETITION WITHIN THE TIME REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE PETITION SHALL BE CONSIDERED DENIED.

(E) NOTICE OF DENIAL; HEARING; APPEAL.

(1) IF THE BOARD DENIES A PETITION TO PLACE A HANDGUN ON THE HANDGUN ROSTER, THE BOARD SHALL NOTIFY THE PETITIONER BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

(2) THE PETITIONER MAY REQUEST A HEARING WITHIN 15 DAYS AFTER THE DATE THAT THE BOARD'S DENIAL LETTER IS RECEIVED.

(3) (I) IF THE PETITIONER REQUESTS A HEARING UNDER PARAGRAPH (2) OF THIS SUBSECTION, WITHIN A REASONABLE TIME NOT TO EXCEED 90 DAYS AFTER RECEIVING THE REQUEST, THE BOARD SHALL:

1. HOLD A HEARING ON THE PETITION; AND

2. ISSUE A WRITTEN FINAL DECISION ON THE PETITION.

(II) THE BOARD SHALL PROVIDE NOTICE OF THE HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(III) AT A HEARING HELD UNDER THIS PARAGRAPH, THE PETITIONER HAS THE BURDEN OF PROVING TO THE BOARD THAT THE HANDGUN SHOULD BE PLACED ON THE HANDGUN ROSTER BECAUSE THE HANDGUN IS USEFUL FOR LEGITIMATE SPORTING ACTIVITIES, SELF-PROTECTION, OR LAW ENFORCEMENT PURPOSES.

(4) ANY PARTY OF RECORD WHO IS AGGRIEVED MAY APPEAL WITHIN 30 DAYS AFTER A FINAL DECISION OF THE BOARD IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(F) EFFECT OF SECTION.

THIS SECTION DOES NOT REQUIRE THE BOARD TO TEST ANY HANDGUN OR HAVE ANY HANDGUN TESTED AT THE EXPENSE OF THE BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 36J(b) through (f).

In subsection (a)(1) of this section, the reference to "authorized" handguns is substituted for the former reference to "permitted" handguns to avoid confusion with handguns that require the issuance of a permit.

Also in subsection (a)(1) of this section, the former requirement to "publish in the Maryland Register by July 1, 1989, and thereafter" is deleted as obsolete and as surplusage in light of subsection (a)(2) of this section.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that in subsection (c)(2) of this section, the meaning of the clause "unless a court, after all appeals are exhausted, has made a finding that the decision of the Board shall be affirmed" is unclear in light of subsections (d) and (e) of this section, which provide appeals procedures for a party who is aggrieved by the decision of the Board.

%In subsection (e)(3)(ii) and (4) of this section, the reference to "Title 10, Subtitle 2 of the State Government Article" is substituted for the former reference to the "Administrative Procedure Act" for clarity.

Defined terms: "Board" § 5-401

"Handgun" § 5-401

"Handgun roster" § 5-401

"Person" § 1-101

5-406. MANUFACTURE OR SALE OF HANDGUNS.

(A) PROHIBITIONS.

(1) EXCEPT AS PROVIDED IN § 5-402 OF THIS SUBTITLE, A PERSON MAY NOT MANUFACTURE FOR DISTRIBUTION OR SALE A HANDGUN THAT IS NOT INCLUDED ON THE HANDGUN ROSTER IN THE STATE.

(2) A PERSON MAY NOT SELL OR OFFER FOR SALE IN THE STATE A HANDGUN MANUFACTURED AFTER JANUARY 1, 1985, THAT IS NOT INCLUDED ON THE HANDGUN ROSTER.

(3) A PERSON MAY NOT MANUFACTURE, SELL, OR OFFER FOR SALE A HANDGUN ON WHICH THE MANUFACTURER'S IDENTIFICATION MARK OR NUMBER IS OBLITERATED, REMOVED, CHANGED, OR OTHERWISE ALTERED.

(B) INJUNCTION AUTHORIZED.

THE SECRETARY MAY SEEK AN ORDER FROM A CIRCUIT COURT TO PERMANENTLY OR TEMPORARILY ENJOIN THE WILLFUL AND CONTINUOUS MANUFACTURE, SALE, OR OFFER FOR SALE, IN VIOLATION OF THIS SECTION, OF A HANDGUN THAT IS NOT INCLUDED ON THE HANDGUN ROSTER.

(C) PENALTIES.

(1) A PERSON WHO MANUFACTURES A HANDGUN FOR DISTRIBUTION OR SALE IN VIOLATION OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $10,000 FOR EACH VIOLATION.

(2) A PERSON WHO SELLS OR OFFERS TO SELL A HANDGUN IN VIOLATION OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $2,500 FOR EACH VIOLATION.

(3) FOR PURPOSES OF THIS SUBSECTION, EACH HANDGUN MANUFACTURED, SOLD, OR OFFERED FOR SALE IN VIOLATION OF THIS SUBSECTION IS A SEPARATE VIOLATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 36-I(a), (b), (c), (d), and (g).

In subsection (c)(1) and (2) of this section, the reference to a person "on

conviction" being subject to a certain penalty is added to state expressly that which only was implied in the former law, and for consistency with other penalty provisions in this and other revised articles of the Code.

Defined terms: "Handgun" § 5-401

"Handgun roster" § 5-401

"Person" § 1-101

"Secretary" § 5-401

SUBTITLE 5. CEASE FIRE COUNCIL.

5-501. "COUNCIL" DEFINED.

IN THIS SUBTITLE, "COUNCIL" MEANS THE CEASE FIRE COUNCIL.

REVISOR'S NOTE: This section is new language added to avoid repetition of the full title "Cease Fire Council".

5-502. CEASE FIRE COUNCIL.

(A) ESTABLISHED.

THERE IS A CEASE FIRE COUNCIL IN THE DEPARTMENT OF STATE POLICE.

(B) MEMBERSHIP; APPOINTMENT.

(1) THE COUNCIL CONSISTS OF 11 MEMBERS.

(2) OF THE 11 MEMBERS OF THE COUNCIL:

(I) ONE SHALL BE THE SECRETARY OF JUVENILE JUSTICE OR A DESIGNEE;

(II) ONE SHALL BE THE SECRETARY OF STATE POLICE OR A DESIGNEE;

(III) ONE SHALL BE THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES OR A DESIGNEE;

(IV) ONE SHALL BE THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION OR A DESIGNEE;

(V) TWO SHALL BE STATE'S ATTORNEYS WHO ARE RECOMMENDED BY THE PRESIDENT OF THE MARYLAND STATE'S ATTORNEYS' ASSOCIATION, APPOINTED BY THE GOVERNOR;

(VI) ONE SHALL BE A SHERIFF, APPOINTED BY THE GOVERNOR;

(VII) ONE SHALL REPRESENT THE MARYLAND CHIEFS OF POLICE ASSOCIATION, APPOINTED BY THE GOVERNOR;

(VIII) ONE SHALL REPRESENT THE MARYLAND MUNICIPAL POLICE EXECUTIVES ASSOCIATION, APPOINTED BY THE GOVERNOR; AND

(IX) TWO SHALL REPRESENT THE PUBLIC, APPOINTED BY THE GOVERNOR.

(C) TENURE; VACANCIES.

(1) THE APPOINTED MEMBERS SERVE AT THE PLEASURE OF THE GOVERNOR.

(2) THE TERM OF AN APPOINTED MEMBER IS 3 YEARS.

(3) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR APPOINTED MEMBERS OF THE COUNCIL ON OCTOBER 1, 2003.

(4) AT THE END OF A TERM, AN APPOINTED MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(D) CHAIRMAN.

THE SECRETARY OF STATE POLICE OR THE SECRETARY'S DESIGNEE IS THE CHAIRMAN OF THE COUNCIL.

(E) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE COUNCIL:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COUNCIL; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(F) STAFF; LEGAL ADVISOR.

(1) THE DEPARTMENT OF STATE POLICE SHALL PROVIDE STAFF SUPPORT FOR THE COUNCIL.

(2) THE ASSISTANT ATTORNEY GENERAL ASSIGNED TO THE DEPARTMENT OF STATE POLICE IS THE LEGAL ADVISOR TO THE COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 81(a)(1), (2), and (5).

In subsection (b)(1) of this section, the former reference to members being "appointed by the Governor" is deleted in light of the references to members being "appointed by the Governor" in subsection (b)(2)(v) through (ix) of this section. The former general reference was misleading with respect to the ex officio members because they serve on the Council by

virtue of their positions.

Throughout subsection (c) of this section, the references to "appointed" members are added for clarity in light of the fact that subsection (c) of this section does not apply to ex officio members (*i.e.*, those listed in subsection (b)(2)(i) through (iv) of this section) who serve on the Council as long as they hold office.

In subsection (c)(3) of this section, the reference to the staggering of terms "as required by the terms provided for appointed members of the Council on October 1, 2003" is standard language added to clarify a stagger provision. This addition is not intended to alter the term of any member of the Council. *See* § _____ of Ch. ___, Acts of 2003. The terms of the appointed members serving on October 1, 2003, end as follows: (1) two on September 30, 2004; (2) two on September 30, 2005; and (3) three on September 30, 2006.

Subsection (e) of this section is revised in standard language used to describe the compensation and reimbursement of expenses of a member of a board or commission.

Defined term: "Council" § 5-501

5-503. PURPOSE AND DUTIES.

(A) PURPOSE.

THE PURPOSE OF THE COUNCIL IS TO ADMINISTER THE CEASE FIRE COUNCIL GRANT PROGRAM TO SUPPORT INNOVATIVE AND COLLABORATIVE FIREARMS VIOLENCE REDUCTION INITIATIVES.

(B) DUTIES.

THE COUNCIL SHALL:

(1) MAKE GRANTS IN ACCORDANCE WITH § 5-504 OF THIS SUBTITLE;

(2) ESTABLISH OR ASSIST IN THE ESTABLISHMENT OF PROGRAMS DESIGNED TO REDUCE THE INCIDENCE OF FIREARMS VIOLENCE RELATED CRIME AND ENCOURAGE PARTICIPATION IN EXISTING PROGRAMS WITH THESE OBJECTIVES;

(3) IDENTIFY SPECIFIC GOALS, OBJECTIVES, AND METHODOLOGIES TO BE USED IN SUPPORT OF PROGRAMS ELIGIBLE FOR FUNDING UNDER THIS SUBTITLE;

(4) IDENTIFY PRIORITIES FOR FIREARMS VIOLENCE RELATED CRIME PREVENTION STRATEGIES IN THE STATE; AND

(5) DEVELOP CRITERIA TO EVALUATE THE OUTCOMES OF PROGRAMS THAT RECEIVE MONEY UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 81(a)(3) and (4).

In subsection (a) of this section, the reference to the "Cease Fire Council Grant Program" is substituted for the former vague reference to a "State Grant Program" to conform to the terminology used in § 5-504 of this subtitle.

Defined term: "Council" § 5-501

5-504. CEASE FIRE COUNCIL GRANT PROGRAM.

(A) ESTABLISHED.

THERE IS A CEASE FIRE COUNCIL GRANT PROGRAM.

(B) FUNDING.

THE CEASE FIRE COUNCIL GRANT PROGRAM SHALL BE FUNDED AS PROVIDED IN THE STATE BUDGET.

(C) GRANTS.

GRANTS MADE BY THE COUNCIL SHALL BE USED TO CARRY OUT THE PURPOSES OF THIS SUBTITLE.

(D) CONSIDERATIONS IN MAKING GRANTS.

WHEN MAKING GRANTS, THE COUNCIL SHALL CONSIDER AND GIVE PRIORITY TO:

(1) COMPREHENSIVE AND COORDINATED LAW ENFORCEMENT AND PROSECUTION PROGRAMS THAT TARGET CRIMINALS AND JUVENILES WHO USE OR ILLEGALLY POSSESS FIREARMS;

(2) LAW ENFORCEMENT AND PROSECUTION SALARIES AND OVERTIME IN SUPPORT OF FIREARM VIOLENCE REDUCTION PROGRAMS;

(3) COVERT FIREARMS-RELATED INVESTIGATIONS AND DEBRIEFING OF CRIMINAL AND JUVENILE ARRESTEES AND OFFENDERS FOR INFORMATION RELATED TO ILLEGAL FIREARMS TRAFFICKING;

(4) INITIATIVES THAT SUPPORT THE TRACING OF FIREARMS USED TO COMMIT CRIMES OR DELINQUENT ACTS AND THE IDENTIFICATION OF ILLEGAL FIREARMS TRAFFICKERS;

(5) PURCHASES OF TECHNOLOGY AND INFORMATION SYSTEMS TO SUPPORT FIREARM VIOLENCE REDUCTION INITIATIVES; AND

(6) OTHER EFFORTS THAT AID IN APPREHENDING AND PROSECUTING CRIMINALS OR APPREHENDING AND FILING A COMPLAINT AGAINST JUVENILES WHO USE OR ILLEGALLY POSSESS FIREARMS.

(E) EXPENDITURES FROM PROGRAM.

EXPENDITURES FROM THE CEASE FIRE COUNCIL GRANT PROGRAM MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET OR BY BUDGET AMENDMENT.

(F) REGULATIONS.

THE COUNCIL SHALL ADOPT REGULATIONS FOR THE GRANT PROCESS AND THE OVERSIGHT OF GRANTS MADE BY THE COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 81(b).

In subsection (c) of this section, the reference to grants "made" by the Council is substituted for the former reference to grants "approved" by the Council for consistency throughout this subtitle. Similarly, in subsection (f) of this section, the reference to grants "made" is substituted for the former reference to grants "awarded".

Also in subsection (c) of this section, the former reference to the "objectives" of this section, now this subtitle, is deleted as included in the reference to the "purposes" of this subtitle.

In the introductory language of subsection (d) of this section, the reference to "grants" is substituted for the former reference to "Program awards" for consistency throughout this subtitle.

In subsection (d)(6) of this section, the reference to "filing a complaint against" juveniles is added to conform to the terminology used in the Juvenile Justice System.

In subsection (e) of this section, the phrase "in accordance with the State budget" is substituted for the former phrase "pursuant to an appropriation in the annual State budget" for brevity and consistency with language used throughout this article.

Defined term: "Council" § 5-501

TITLE 6. STATE FIRE PREVENTION COMMISSION AND STATE FIRE MARSHAL.

SUBTITLE 1. DEFINITIONS.

6-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language used as the standard introductory language to a definition section.

(B) COMMISSION.

"COMMISSION" MEANS THE STATE FIRE PREVENTION COMMISSION.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title "State Fire Prevention Commission".

(C) DEPARTMENT.

"DEPARTMENT" MEANS THE DEPARTMENT OF STATE POLICE.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title "Department of State Police".

(D) SECRETARY.

"SECRETARY" MEANS THE SECRETARY OF STATE POLICE.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title "Secretary of State Police".

SUBTITLE 2. STATE FIRE PREVENTION COMMISSION.

6-201. ESTABLISHED.

THERE IS A STATE FIRE PREVENTION COMMISSION IN THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence and, as it related to the creation of the State Fire Prevention Commission, the first sentence of former Art. 38A, § 1(a).

It is set forth as a separate section for emphasis.

Defined term: "Department" § 6-101

6-202. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

(1) THE COMMISSION CONSISTS OF NINE MEMBERS.

(2) OF THE NINE MEMBERS OF THE COMMISSION:

(I) ONE SHALL BE A MEMBER OF A CAREER FIRE COMPANY;

(II) THREE SHALL BE MEMBERS OF VOLUNTEER FIRE COMPANIES;

(III) ONE SHALL BE AN ARCHITECT OR ENGINEER;

(IV) ONE SHALL BE A BUILDING CONTRACTOR;

(V) TWO SHALL BE REPRESENTATIVES OF INDUSTRY; AND

(VI) ONE SHALL BE A MEMBER OF THE PUBLIC.

(3) OF THE NINE MEMBERS OF THE COMMISSION:

(I) ONE SHALL RESIDE IN WESTERN MARYLAND, WHICH IS THE REGION THAT CONSISTS OF ALLEGANY, CARROLL, FREDERICK, GARRETT, AND WASHINGTON COUNTIES;

(II) ONE SHALL RESIDE IN CENTRAL MARYLAND, WHICH IS THE REGION THAT CONSISTS OF BALTIMORE, HARFORD, AND HOWARD COUNTIES;

(III) ONE SHALL RESIDE IN SOUTHERN MARYLAND, WHICH IS THE REGION THAT CONSISTS OF ANNE ARUNDEL, CALVERT, CHARLES, AND ST. MARY'S COUNTIES;

(IV) ONE SHALL RESIDE IN THE WASHINGTON METROPOLITAN AREA, WHICH IS THE REGION THAT CONSISTS OF MONTGOMERY AND PRINCE GEORGE'S COUNTIES;

(V) ONE SHALL RESIDE ON THE EASTERN SHORE, WHICH IS THE REGION THAT CONSISTS OF CAROLINE, CECIL, DORCHESTER, KENT, QUEEN ANNE'S, SOMERSET, TALBOT, WICOMICO, AND WORCESTER COUNTIES; AND

(VI) FOUR SHALL REPRESENT THE STATE AT LARGE.

(4) THE SECRETARY SHALL APPOINT THE MEMBERS WITH THE APPROVAL OF THE GOVERNOR.

(B) QUALIFICATIONS.

EACH MEMBER SHALL HAVE EXPERIENCE AND TRAINING TO DEAL WITH THE MATTERS THAT ARE THE RESPONSIBILITIES OF THE COMMISSION.

(C) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER IS 5 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON OCTOBER 1, 2003.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) A MEMBER MAY NOT SERVE MORE THAN 2 TERMS.

(D) REMOVAL.

WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY MAY REMOVE A MEMBER FOR NEGLECT OF DUTY OR OTHER SUFFICIENT CAUSE.

REVISOR'S NOTE: Subsections (a), (b), (c)(1), (4), and (5), and (d) of this section are new language derived without substantive change from the fourth through ninth sentences and, except as it related to the creation of the State Fire Commission, the first sentence of former Art. 38A, § 1(a).

Subsection (c)(2) of this section is standard language substituted for the third sentence of former Art. 38A, § 1(a), which provided for the terms of the initial members and is obsolete.

Subsection (c)(3) and the clause "until a successor is appointed and qualifies" in subsection (c)(4) of this section are standard language added to avoid gaps in membership by indicating that a member serves until a successor takes office.

In subsection (a)(2)(i) of this section, the reference to a "career" fire company is substituted for the former reference to a "paid" fire company for consistency with terminology used throughout this article.

In subsection (a)(2)(vi) of this section, the reference to the "public" is substituted for the former phrase "general public interest" for consistency with terminology used throughout this article.

In subsection (d) of this section, the phrase "other sufficient cause" is substituted for the former phrase "other cause which in the opinion of the Secretary makes his [the member's] continued membership unwise in the public interest" for brevity.

Also in subsection (d) of this section, the former phrase "at any time" is deleted as surplusage.

Defined terms: "Commission" § 6-101

"Secretary" § 6-101

6-203. OFFICERS.

(A) IN GENERAL.

THE COMMISSION SHALL ELECT A CHAIRMAN AND VICE CHAIRMAN FROM AMONG ITS MEMBERS.

(B) ABSENCE OF CHAIRMAN.

IF THE CHAIRMAN IS ABSENT, THE VICE CHAIRMAN SHALL EXERCISE THE POWERS AND PERFORM THE DUTIES OF THE CHAIRMAN.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence and the first clause of the first sentence of former Art. 38A, § 2(a).

In subsection (b) of this section, the reference to "perform[ing]" the duties of the chairman is added for consistency with terminology used throughout the revised articles of the Code.

Defined term: "Commission" § 6-101

6-204. QUORUM; MEETINGS; COMPENSATION.

(A) QUORUM.

(1) A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE COMMISSION IS A QUORUM.

(2) THE COMMISSION MAY NOT DO BUSINESS UNLESS:

(I) THERE IS A QUORUM; AND

(II) EITHER THE CHAIRMAN OR VICE CHAIRMAN IS PRESENT.

(B) MEETINGS.

THE COMMISSION SHALL MEET:

(1) AT LEAST ONCE EVERY 2 MONTHS; AND

(2) WHEN CALLED BY THE CHAIRMAN OR THE SECRETARY.

(C) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE COMMISSION:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 1(b) and 2(b) and the second clause of the first sentence of (a).

In subsection (a) of this section, the former provision that called for a

quorum of "5 members" of the Commission is restated, without substantive change, in more general language that refers to a "majority of the authorized membership of the Commission". This restatement conforms to similar provisions in other revised articles of the Code and will accommodate possible future legislative changes in the number of members to be appointed to the Commission, without the necessity of enacting a conforming change here.

In subsection (b) of this section, the former specific references to "regular" and "special" meetings are deleted as unnecessary.

Subsection (c) of this section is revised to conform to other similar provisions in the Code and reflects that, under SF § 10-203, the Board of Public Works has adopted regulations for reimbursement of expenses. *See* COMAR 23.02.01.01 through 12.

In subsection (c)(1) of this section, the phrase "as a member of the Commission" is added to clarify that the prohibition on receipt of compensation is only applicable to a member of the Commission in the capacity of that individual as a member.

Defined terms: "Commission" § 6-101

"Secretary" § 6-101

6-205. MISCELLANEOUS POWERS AND DUTIES.

(A) AUTHORITY OVER STATE FIRE MARSHAL.

THE COMMISSION MAY MAKE RECOMMENDATIONS TO THE SECRETARY ABOUT THE DAILY OPERATIONS OF THE OFFICE OF STATE FIRE MARSHAL, INCLUDING RECOMMENDATIONS ABOUT BUDGET AND PERSONNEL MATTERS, BUT THE COMMISSION DOES NOT HAVE DIRECT LINE AUTHORITY OVER THE ADMINISTRATION OF THE OFFICE OF STATE FIRE MARSHAL.

(B) SUBPOENAS; OATHS.

THE COMMISSION MAY ISSUE SUBPOENAS AND ADMINISTER OATHS IN CONNECTION WITH ANY PUBLIC HEARING HELD UNDER THIS TITLE.

(C) ANNUAL REPORT.

ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE COMMISSION SHALL TRANSMIT TO THE GOVERNOR AND THE SECRETARY AN ANNUAL REPORT OF THE COMMISSION'S ACTIVITIES.

(D) ANNUAL SEMINARS.

AT LEAST ONCE EACH YEAR, THE COMMISSION SHALL PROMOTE AND CONDUCT SEMINARS, CONFERENCES, WORKSHOPS, AND MEETINGS TO INFORM THE PUBLIC AND FIRE FIGHTING PERSONNEL OF THE LATEST TECHNIQUES IN:

(1) FIRE PREVENTION PROGRAMS AND PROCEDURES;

(2) LIFE SAFETY MEASURES;

(3) CHANGES IN THE STATE FIRE PREVENTION CODE; AND

(4) DEVELOPMENT OF IMPROVED FIRE SAFETY GOALS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 5, 6, 6A, and 2(d).

In subsection (b) of this section, the authority of the Commission to issue subpoenas and administer oaths is restated for clarity to conform with language used in other revised articles of the Code.

Also in subsection (b) of this section, the reference to a public hearing held under this "title" is substituted for the former reference to a public hearing under this "article" to indicate that the provisions of former Article 38A that related to the Commission are revised in Title 6 of this article. No substantive change is intended.

Defined terms: "Commission" § 6-101

"Secretary" § 6-101

6-206. REGULATIONS.

(A) STATE FIRE PREVENTION CODE.

(1) (I) TO PROTECT LIFE AND PROPERTY FROM THE HAZARDS OF FIRE AND EXPLOSION, THE COMMISSION SHALL ADOPT COMPREHENSIVE REGULATIONS AS A STATE FIRE PREVENTION CODE.

(II) THE STATE FIRE PREVENTION CODE SHALL COMPLY WITH STANDARD SAFE PRACTICE AS EMBODIED IN WIDELY RECOGNIZED STANDARDS OF GOOD PRACTICE FOR FIRE PREVENTION AND FIRE PROTECTION.

(III) THE STATE FIRE PREVENTION CODE HAS THE FORCE AND EFFECT OF LAW IN THE POLITICAL SUBDIVISIONS OF THE STATE.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE REGULATIONS ADOPTED UNDER THIS SUBSECTION DO NOT APPLY TO EXISTING INSTALLATIONS, PLANTS, OR EQUIPMENT.

(II) IF THE COMMISSION DETERMINES THAT AN INSTALLATION, PLANT, OR EQUIPMENT IS A HAZARD SO INIMICABLE TO THE PUBLIC SAFETY AS TO REQUIRE CORRECTION, THE REGULATIONS ADOPTED UNDER THIS SUBSECTION APPLY TO THE INSTALLATION, PLANT, OR EQUIPMENT.

(B) FEE SCHEDULE.

(1) THE COMMISSION SHALL ADOPT REGULATIONS TO ESTABLISH AND ADMINISTER A FEE SCHEDULE FOR:

(I) REVIEWING BUILDING PLANS TO ENSURE COMPLIANCE WITH THE STATE FIRE PREVENTION CODE; AND

(II) CONDUCTING INSPECTIONS IN ACCORDANCE WITH SUBTITLE 3 OF THIS TITLE.

(2) THE COMMISSION SHALL REVIEW THE FEE SCHEDULE ANNUALLY TO ENSURE THAT THE MONEY COLLECTED AT LEAST COVERS THE COSTS OF ADMINISTERING PLAN REVIEW AND CONDUCTING INSPECTIONS.

(3) THIS SUBSECTION DOES NOT LIMIT THE AUTHORITY OF A LOCAL AUTHORITY TO ESTABLISH A FEE SCHEDULE FOR PLAN REVIEW AND INSPECTIONS CONDUCTED BY THE LOCAL AUTHORITY.

(C) HEARINGS.

(1) BEFORE ADOPTING A REGULATION, THE COMMISSION SHALL HOLD AT LEAST ONE PUBLIC HEARING ON THE PROPOSED REGULATION.

(2) (I) THE COMMISSION SHALL PUBLISH NOTICE OF THE HEARING AT LEAST 15 DAYS BEFORE THE HEARING IN A NEWSPAPER OF GENERAL CIRCULATION IN THE STATE.

(II) AT THE SAME TIME, THE COMMISSION SHALL SEND A COPY OF THE NOTICE TO EACH PERSON WHO HAS FILED A REQUEST FOR NOTIFICATION WITH THE COMMISSION.

(III) THE NOTICE SHALL CONTAIN THE TIME, PLACE, AND SUBJECT OF THE HEARING AND THE PLACE AND TIMES TO EXAMINE THE PROPOSED REGULATION.

(D) MORE STRINGENT LAW GOVERNS.

(1) THE STATE FIRE PREVENTION CODE ESTABLISHES THE MINIMUM REQUIREMENTS TO PROTECT LIFE AND PROPERTY FROM THE HAZARDS OF FIRE AND EXPLOSION.

(2) IF A STATE OR LOCAL LAW OR REGULATION IS MORE STRINGENT THAN THE STATE FIRE PREVENTION CODE, THE MORE STRINGENT LAW OR REGULATION GOVERNS IF THE MORE STRINGENT LAW OR REGULATION IS:

(I) NOT INCONSISTENT WITH THE STATE FIRE PREVENTION CODE; AND

(II) NOT CONTRARY TO RECOGNIZED STANDARDS AND GOOD ENGINEERING PRACTICES.

(3) IF THERE IS A QUESTION WHETHER A STATE OR LOCAL LAW OR REGULATION GOVERNS, THE DECISION OF THE COMMISSION DETERMINES:

(I) WHICH LAW OR REGULATION GOVERNS; AND

(II) WHETHER STATE AND LOCAL OFFICIALS HAVE COMPLIED WITH THE STATE FIRE PREVENTION CODE.

(E) COPIES OF STATE FIRE PREVENTION CODE.

THE COMMISSION SHALL MAKE AVAILABLE FOR PUBLIC INFORMATION A COPY OF THE STATE FIRE PREVENTION CODE, AND ANY AMENDMENTS TO THE STATE FIRE PREVENTION CODE, IN EACH COUNTY COURTHOUSE IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 3(a), (b), (c), (d), and (e) and 4(b).

Subsection (a)(1)(i) of this section is revised to require the Commission to adopt regulations as a State Fire Prevention Code. Consequently, the former power of the Commission to "promulgate, amend, and repeal" regulations is deleted as included in the requirement to "adopt" them. Also, the former requirement to promulgate regulations "by September 1, 1964" is deleted as obsolete.

In subsections (a)(1)(i) and (d)(1) of this section, the words "[t]o protect" are substituted for the former reference to "safeguarding" for clarity.

In subsection (a)(1)(iii) of this section, the former references to the "several counties" and "cities" are deleted as included in the general reference to the "political subdivisions of the State".

In subsection (c)(1) of this section, the reference to "adopting a regulation" is substituted for the former reference to "promulgation, amendment, or repeal of any additional regulation" for consistency with terminology used throughout the revised articles of the Code. *See* Title 10, Subtitle 1 of the State Government Article. Consequently, the former references to the "amendment" and "repeal" of a regulation are deleted as included in the concept of "adopting" regulations. *See* SG § 10-101(g). Similarly, in subsection (c)(2)(iii) of this section, the former references to the "amendment" or "repealer" are deleted.

Also in subsection (c)(1) of this section, the former phrase "to be separately submitted" is deleted as implicit in the requirement to hold a hearing on the proposed regulation.

Subsection (c)(2)(i) and (ii) of this section is revised in the active voice to clarify that the Commission is responsible for publishing and sending notice of hearings on proposed regulations.

In subsection (c)(2)(ii) of this section, the former words "firm" and

"corporation" are deleted as included in the defined term "person". *See* § 1-101 of this article.

In subsection (d)(1), (2), and (3)(ii) of this section, the reference to the "State Fire Prevention Code" is substituted for the former references to the "regulations promulgated under this chapter", "regulations promulgated under this article", and "State fire regulations", respectively, for clarity, consistency, and accuracy.

In subsection (d)(1) of this section, the former reference to the "interpretation and application" of the regulations is deleted as implicit in the statement that the State Fire Prevention Code establishes the minimum requirements to protect life and property.

In subsection (d)(2) of this section, the former reference to "impos[ing] higher standards" is deleted as included in the reference to the regulation being "more stringent".

Former Art. 38A, § 4(a), which required the State Fire Prevention Commission to hold public hearings before the adoption of the State Fire Prevention Code in 1964, is deleted as obsolete.

Defined terms: "Commission" § 6-101

"Person" § 1-101

6-207. AUTHORITY OF SECRETARY.

THE EXERCISE OF ALL POWERS AND AUTHORITY AND THE PERFORMANCE OF ALL DUTIES AND FUNCTIONS VESTED IN THE COMMISSION UNDER THIS ARTICLE ARE SUBJECT TO THE POWERS AND AUTHORITY OF THE SECRETARY SET FORTH IN TITLE 2 OF THIS ARTICLE OR ELSEWHERE IN STATE LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 2(c), as it related to the Commission.

The reference to the powers and duties of the Commission under "this article" is retained in the revision although the Public Safety Article includes provisions derived from articles other than former Article 38A. No substantive change results because the powers and duties of the Commission under the Public Safety Article are the same as the powers and duties of the Commission under former Article 38A.

The reference to "Title 2 of this article" is substituted for the former reference to "Article 88B of this Code" for specificity because most of the provisions from former Article 88B that related to the power of the Secretary of State Police are revised in Title 2 of this article. In addition, the use of the phrase "or elsewhere in State law" picks up any other powers of the Secretary wherever codified.

Defined terms: "Commission" § 6-101

"Secretary" § 6-101

SUBTITLE 3. STATE FIRE MARSHAL.

6-301. OFFICE ESTABLISHED.

THERE IS AN OFFICE OF STATE FIRE MARSHAL IN THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 7(a)(1).

This section is revised in standard language used for the creation of a unit of State government.

Defined term: "Department" § 6-101

6-302. STATE FIRE MARSHAL.

(A) APPOINTMENT.

THE SECRETARY SHALL APPOINT A STATE FIRE MARSHAL FROM A LIST OF THREE NAMES SUBMITTED BY THE COMMISSION.

(B) QUALIFICATIONS.

THE STATE FIRE MARSHAL SHALL:

(1) BE A GRADUATE OF AN ACCREDITED COLLEGE OR UNIVERSITY; AND

(2) HAVE 5 YEARS OF RECENT PROGRESSIVELY RESPONSIBLE EXPERIENCE, AT LEAST 3 YEARS OF WHICH SHALL HAVE BEEN AT THE ADMINISTRATIVE LEVEL, IN FIRE PREVENTION INSPECTION, FIRE INVESTIGATION, FIRE SAFETY PROMOTION, FIRE PROTECTION ENGINEERING, FIRE FIGHTING, OR TEACHING FIRE SAFETY ENGINEERING.

(C) TERM.

THE STATE FIRE MARSHAL SERVES FOR A TERM OF 6 YEARS.

(D) EXECUTIVE SERVICE.

THE STATE FIRE MARSHAL IS IN THE EXECUTIVE SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM.

(E) REMOVAL.

(1) AT ANY TIME, THE SECRETARY MAY REMOVE THE STATE FIRE MARSHAL FOR NEGLECT OF DUTY OR OTHER CONDUCT UNBECOMING THE OFFICE.

(2) THE COMMISSION MAY RECOMMEND TO THE SECRETARY THAT THE STATE FIRE MARSHAL BE REMOVED FOR CAUSE.

(3) (I) BEFORE REMOVING THE STATE FIRE MARSHAL, THE SECRETARY SHALL GIVE THE STATE FIRE MARSHAL:

1. TIMELY NOTICE WITH A STATEMENT OF THE CHARGES; AND

2. AN OPPORTUNITY FOR A PUBLIC HEARING ON THE CHARGES.

(II) THE STATE FIRE MARSHAL MAY BE REPRESENTED AT THE HEARING BY COUNSEL.

(F) SALARY.

THE STATE FIRE MARSHAL IS ENTITLED TO THE SALARY PROVIDED IN THE STATE BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 7(a)(2).

In subsection (e)(3)(i)2 of this section, the former reference to an opportunity for a public hearing "in person" is deleted as implicit.

Defined terms: "Commission" § 6-101

"Secretary" § 6-101

6-303. STAFF.

(A) IN GENERAL.

THE STATE FIRE MARSHAL MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE BUDGET.

(B) DEPUTY STATE FIRE MARSHALS.

(1) THE FULL TIME INVESTIGATIVE AND INSPECTION ASSISTANTS IN THE OFFICE SHALL BE KNOWN AS DEPUTY STATE FIRE MARSHALS.

(2) DEPUTY STATE FIRE MARSHALS SHALL MEET THE MINIMUM QUALIFICATIONS AND COMPLETE THE TRAINING REQUIRED BY THE POLICE TRAINING COMMISSION FOR A POLICE OFFICER.

(3) THE QUALIFICATION AND TRAINING REQUIREMENTS OF PARAGRAPH (2) OF THIS SUBSECTION DO NOT APPLY TO THE FIRE INSPECTORS AND FIRE INVESTIGATORS OF THE POLITICAL SUBDIVISIONS OF THE STATE.

(C) CIVILIAN EMPLOYEES.

(1) THE STATE FIRE MARSHAL MAY DESIGNATE CIVILIAN EMPLOYEES TO CONDUCT INSPECTIONS AND SUBMIT REPORTS AS NECESSARY.

(2) THE MINIMUM QUALIFICATIONS FOR A CIVILIAN EMPLOYEE SHALL BE COMPLETION OF THE NATIONAL FIRE PROTECTION ASSOCIATION STANDARD 1031.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 7(d).

In subsection (a) of this section, the reference to the "State" budget is added for clarity.

Also in subsection (a) of this section, the reference to a "staff" is substituted for the former specific reference to "assistants, consultants, and employees" for brevity and consistency with similar provisions in other revised articles of the Code. *See, e.g.*, BOP §§ 5-204(e)(1) and 14-204(d), BR § 2-103(b)(1), and CS § 2-106(a).

Also in subsection (a) of this section, the former phrase "from time to time" is deleted as surplusage.

In subsection (b)(3) of this section, the former reference to "local" political subdivisions is deleted as implicit.

6-304. ASSISTANT AND SPECIAL ASSISTANT STATE FIRE MARSHALS.

(A) ASSISTANT STATE FIRE MARSHALS -- IN GENERAL.

(1) A COUNTY OR MUNICIPAL CORPORATION OF THE STATE MAY DESIGNATE A FIRE MARSHAL OR APPROPRIATE FIRE OFFICIAL TO SERVE AS ASSISTANT STATE FIRE MARSHAL TO CARRY OUT THIS TITLE, INCLUDING ISSUING ORDERS, IN THAT COUNTY OR MUNICIPAL CORPORATION.

(2) AN ASSISTANT STATE FIRE MARSHAL MAY NOT RECEIVE COMPENSATION FROM THE STATE.

(3) THE STATE FIRE MARSHAL SHALL CARRY OUT THIS TITLE IN A COUNTY OR MUNICIPAL CORPORATION THAT HAS NOT DESIGNATED AN ASSISTANT STATE FIRE MARSHAL.

(B) SAME -- MINIMUM QUALIFICATIONS.

(1) AN ASSISTANT STATE FIRE MARSHAL SHALL HAVE AT LEAST COMPLETED NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) STANDARD 1031 - FIRE INSPECTOR I, OR THE EQUIVALENT, AS DETERMINED BY THE STATE FIRE MARSHAL.

(2) THE STATE FIRE MARSHAL MAY ADMINISTER AN EXAMINATION BASED ON NFPA STANDARD 1031 BEFORE DESIGNATING AN INDIVIDUAL AS AN ASSISTANT STATE FIRE MARSHAL.

(C) SPECIAL ASSISTANT STATE FIRE MARSHALS.

(1) THE STATE FIRE MARSHAL MAY DESIGNATE AS A SPECIAL ASSISTANT STATE FIRE MARSHAL:

(I) A LAW ENFORCEMENT OFFICER INVOLVED IN ARSON INVESTIGATIONS;

(II) ANY OTHER SUITABLE INDIVIDUAL WHO MEETS THE STANDARDS ESTABLISHED UNDER THIS SECTION; OR

(III) ON THE ADVICE OF AN ASSISTANT STATE FIRE MARSHAL, A MEMBER OF A FIRE DEPARTMENT IF:

1. THE DESIGNEE IS A FULL-TIME EMPLOYEE OF THE FIRE DEPARTMENT;

2. THE DESIGNEE PERFORMS FIRE INSPECTIONS OR FIRE INVESTIGATIONS FOR THE FIRE DEPARTMENT; AND

3. THE FIRE DEPARTMENT IS ORGANIZED AND OPERATES IN THE STATE.

(2) A SPECIAL ASSISTANT STATE FIRE MARSHAL SERVES AT THE PLEASURE OF THE STATE FIRE MARSHAL.

(3) A SPECIAL ASSISTANT STATE FIRE MARSHAL MAY NOT RECEIVE COMPENSATION FROM THE STATE.

(4) EACH SPECIAL ASSISTANT STATE FIRE MARSHAL SHALL ASSIST THE STATE FIRE MARSHAL IN CARRYING OUT THE DUTIES OF THE STATE FIRE MARSHAL UNDER THIS TITLE.

(D) REMOVAL.

THE COMMISSION MAY REMOVE AN ASSISTANT OR SPECIAL ASSISTANT STATE FIRE MARSHAL FOR JUST CAUSE BY A MAJORITY DECISION:

(1) ON THE RECOMMENDATION OF THE STATE FIRE MARSHAL; AND

(2) AFTER AN ADMINISTRATIVE HEARING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 7(c)(2) and (1)(i), (iii), and the first and third sentences of (ii).

In subsections (a)(1) and (3) and (c)(4) of this section, the references to carrying out this "title" are substituted for the former references to this "article" to reflect that the provisions of former Article 38A that related to the State Fire Marshal are revised in this title. No substantive change is intended.

%In subsection (a)(1) and (3) of this section, the former reference to an assistant State fire marshal being "legally" designated is deleted as surplusage.

In subsection (a)(2) of this section, the reference to receiving compensation "from the State" is added for clarity.

In subsection (a)(3) of this section, the reference to an "assistant State" fire marshal is added for clarity and consistency with subsection (a)(1) of this section.

In subsection (c)(1)(ii) of this section, the reference to the standards established under "this section" is substituted for the former reference to the standards established under "this article" for specificity and accuracy.

The second sentence of former Art. 38A, § 7(c)(1)(ii), which exempted fire marshals serving as of July 1, 1985 from certain minimum standards, is transferred to the Session Laws because of its diminishing applicability.

Defined terms: "Commission" § 6-101

"County" § 1-101

6-305. GENERAL POWERS AND DUTIES OF STATE FIRE MARSHAL.

(A) ENFORCEMENT OF LAWS AND REGULATIONS.

THE STATE FIRE MARSHAL SHALL ENFORCE:

(1) ALL LAWS OF THE STATE THAT RELATE TO:

(I) THE PREVENTION OF FIRE;

(II) THE STORAGE, SALE, AND USE OF EXPLOSIVES, COMBUSTIBLES, OR OTHER DANGEROUS ARTICLES, IN SOLID, LIQUID, OR GASEOUS FORM;

(III) THE INSTALLATION AND MAINTENANCE OF ALL KINDS OF EQUIPMENT INTENDED TO CONTROL, DETECT, OR EXTINGUISH FIRE;

(IV) THE MEANS AND ADEQUACY OF EXIT, IN CASE OF FIRE, FROM BUILDINGS AND ALL OTHER PLACES IN WHICH INDIVIDUALS WORK, LIVE, OR CONGREGATE, EXCEPT BUILDINGS THAT ARE USED SOLELY AS DWELLING HOUSES FOR NO MORE THAN TWO FAMILIES; AND

(V) THE SUPPRESSION OF ARSON; AND

(2) THE REGULATIONS ADOPTED BY THE COMMISSION UNDER SUBTITLE 2 OF THIS TITLE.

(B) IMPLEMENTATION OF FIRE SAFETY PROGRAMS.

BY DELEGATION OF AUTHORITY VESTED IN THE COMMISSION AND WITHIN POLICY ESTABLISHED BY THE COMMISSION, THE STATE FIRE MARSHAL SHALL IMPLEMENT FIRE SAFETY PROGRAMS IN THE STATE TO MINIMIZE FIRE HAZARDS AND DISASTERS AND LOSS OF LIFE AND PROPERTY FROM THESE CAUSES, INCLUDING:

(1) THE ESTABLISHMENT AND ENFORCEMENT OF FIRE SAFETY PRACTICES THROUGHOUT THE STATE;

(2) PREVENTIVE INSPECTION AND CORRECTION ACTIVITIES;

(3) COORDINATION OF FIRE SAFETY PROGRAMS WITH VOLUNTEER AND CAREER FIRE COMPANIES AND OTHER STATE AGENCIES AND POLITICAL SUBDIVISIONS EXERCISING ENFORCEMENT ASPECTS; AND

(4) CRITICAL ANALYSIS AND EVALUATION OF STATE FIRE LOSS STATISTICS TO DETERMINE PROBLEMS AND SOLUTIONS.

(C) ASSISTANCE IN FIRE PREVENTION MATTERS.

ON REQUEST, THE STATE FIRE MARSHAL SHALL ASSIST IN FIRE PREVENTION MATTERS:

(1) A CHIEF OF A FIRE COMPANY OR DEPARTMENT;

(2) A LEGALLY DESIGNATED FIRE MARSHAL OF A COUNTY OR MUNICIPAL CORPORATION; OR

(3) A UNIT OR AGENCY OF THE STATE OR A COUNTY OR MUNICIPAL CORPORATION.

(D) FIRE SAFETY AND EMERGENCY EVACUATION PROCEDURES FOR STATE PROPERTY.

(1) THE STATE FIRE MARSHAL, ASSISTANT STATE FIRE MARSHALS, AND SPECIAL ASSISTANT STATE FIRE MARSHALS SHALL DEVELOP FOR EACH PROPERTY OWNED OR LEASED BY THE STATE:

(I) FIRE SAFETY PROCEDURES, INCLUDING FIRE DRILLS AT LEAST QUARTERLY; AND

(II) EMERGENCY EVACUATION PROCEDURES.

(2) INFORMATION ABOUT FIRE SAFETY AND EMERGENCY EVACUATION PROCEDURES SHALL BE AVAILABLE TO ALL STATE EMPLOYEES ON REQUEST.

(3) THE STATE FIRE MARSHAL SHALL REQUIRE THE STATE UNIT EXERCISING CONTROL OVER THE PROPERTY OWNED OR LEASED BY THE STATE TO KEEP RECORDS OF FIRE DRILLS OR OTHER EXERCISES THAT RELATE TO FIRE SAFETY AND EMERGENCY EVACUATION PROCEDURES CONDUCTED IN THE PROPERTY.

(E) ISSUANCE OF PERMITS AND LICENSES.

THE STATE FIRE MARSHAL MAY ISSUE PERMITS AND LICENSES AS REQUIRED UNDER THIS ARTICLE.

(F) DISPOSAL OF HAZARDOUS DEVICES AND SUBSTANCES.

ON REQUEST, THE STATE FIRE MARSHAL MAY ASSIST POLICE AND FIRE AUTHORITIES TO DISPOSE OF HAZARDOUS DEVICES AND SUBSTANCES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 7(b), 8(a), (b), (c), (k), and (n), and the second sentence of § 33.

In subsection (a)(1)(iv) of this section, the word "solely" is substituted for the former word "wholly" as a better word choice.

Also in subsection (a)(1)(iv) of this section, the former phrases "from time to time" and "for any purpose", which modified "live, work, or congregate", are deleted as surplusage.

In subsection (b)(3) of this section, the reference to "career" fire companies is substituted for the former reference to "paid" fire companies for consistency with terminology used throughout this article.

In subsection (c)(1) of this section, the former reference to a "recognized" fire company or department is deleted as surplusage.

In the introductory language of subsection (d)(1) of this section, the reference to "special assistant State fire marshals" is substituted for the former reference to "special deputy fire marshals" for accuracy.

In subsection (d)(1)(ii) of this section, the former phrase "in case of an emergency", which modified "emergency evacuation procedures", is deleted as redundant.

In subsection (e) of this section, the reference to licenses and permits issued under "this article" is retained in the revision although the Public Safety Article includes provisions from articles other than former Article 38A. No substantive change results because the powers of the State Fire Marshal are the same under this article as under former Article 38A.

Defined terms: "Commission" § 6-101

"County" § 1-101

6-306. CRIMINAL HISTORY RECORDS CHECK OF FIREFIGHTERS, RESCUE SQUAD MEMBERS, AND PARAMEDICS.

(A) REQUEST FOR CRIMINAL HISTORY RECORDS CHECK.

(1) SUBJECT TO TITLE 10, SUBTITLE 2 OF THE CRIMINAL PROCEDURE ARTICLE, A FIRE DEPARTMENT OR RESCUE SQUAD OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE, A VOLUNTEER FIRE COMPANY OR RESCUE SQUAD, OR AN AMBULANCE SERVICE LICENSED UNDER § 13-515 OF THE EDUCATION ARTICLE MAY REQUEST THE STATE FIRE MARSHAL OR OTHER AUTHORIZED AGENCY THAT HAS ACCESS TO THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY IN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES TO CONDUCT AN INITIAL CRIMINAL HISTORY RECORDS CHECK ON AN APPLICANT FOR EMPLOYMENT OR APPOINTMENT AS A VOLUNTEER OR CAREER FIREFIGHTER, RESCUE SQUAD MEMBER, OR PARAMEDIC.

(2) THE REQUEST SHALL BE MADE ON THE FORM REQUIRED BY THE STATE FIRE MARSHAL.

(B) APPLICANT TO PROVIDE FINGERPRINTS.

(1) AN APPLICANT FOR EMPLOYMENT OR APPOINTMENT AS A VOLUNTEER OR CAREER FIREFIGHTER, RESCUE SQUAD MEMBER, OR PARAMEDIC SHALL PROVIDE A CLASSIFIABLE SET OF FINGERPRINTS IN ACCORDANCE WITH PARAGRAPHS (2) AND (3) OF THIS SUBSECTION:

(I) FOR SUBMISSION TO THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY FOR A CRIMINAL HISTORY RECORDS CHECK; AND

(II) FOR FORWARDING TO THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(2) THE APPLICANT SHALL PROVIDE THE FINGERPRINTS ON A FORM APPROVED BY THE DIRECTOR OF THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY.

(3) (I) ON REQUEST OF THE STATE FIRE MARSHAL OR AN APPROPRIATE AUTHORITY DESIGNATED BY RULE OF THE STATE FIRE MARSHAL, THE APPLICANT SHALL PROVIDE THE FINGERPRINTS TO THE STATE FIRE MARSHAL OR THE DESIGNATED AUTHORITY.

(II) IN A JURISDICTION THAT HAS DESIGNATED AN ASSISTANT STATE FIRE MARSHAL, ON REQUEST OF THE ASSISTANT STATE FIRE MARSHAL AN APPLICANT IN THE JURISDICTION SHALL PROVIDE THE FINGERPRINTS TO THE ASSISTANT STATE FIRE MARSHAL.

(C) CONVICTION AND ARREST RECORDS.

A FIRE DEPARTMENT OR RESCUE SQUAD OPERATED BY THE STATE OR A POLITICAL SUBDIVISION OF THE STATE OR A VOLUNTEER FIRE COMPANY OR RESCUE SQUAD MAY OBTAIN CONVICTION AND ARREST RECORDS PRODUCED BY A CRIMINAL HISTORY RECORDS CHECK BASED ON A CLASSIFIABLE SET OF FINGERPRINTS.

(D) CONSIDERATION OF CONVICTION.

A VOLUNTEER OR CAREER FIRE COMPANY OR RESCUE SQUAD MAY CONSIDER THE EXISTENCE OF A CRIMINAL CONVICTION IN DETERMINING WHETHER TO EMPLOY OR APPOINT AN APPLICANT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 7A.

In subsection (a)(1) of this section, the reference to a "career firefighter" is substituted for the former reference to a "paid fire fighter" for consistency with terminology used throughout this article. Similarly, in subsection (d) of this section, the reference to a "career" fire company is substituted for the former reference to a "paid" fire company.

In subsection (b)(3)(ii) of this section, the reference to an "assistant State fire marshal" is substituted for the former reference to a "deputy State fire marshal" for consistency with § 6-304 of this subtitle.

6-307. INSPECTIONS.

(A) DUTY TO INSPECT PUBLIC BUILDINGS.

(1) THE STATE FIRE MARSHAL SHALL INSPECT FOR FIRE EXITS AND REASONABLE SAFETY STANDARDS:

(I) ALL INSTITUTIONS OWNED BY THE STATE OR A COUNTY OR MUNICIPAL CORPORATION; AND

(II) ALL SCHOOLS, THEATERS, CHURCHES, AND OTHER PLACES OF PUBLIC ASSEMBLY.

(2) THE STATE FIRE MARSHAL SHALL REPORT THE FINDINGS OF AN INSPECTION AND ANY RECOMMENDATIONS TO THE INDIVIDUAL IN CHARGE OF THE INSTITUTION OR OTHER PLACE THAT WAS INSPECTED.

(B) AUTHORITY TO CONDUCT INSPECTIONS AS NECESSARY.

(1) THIS SUBSECTION DOES NOT APPLY TO A BUILDING OR PREMISES ACTUALLY OCCUPIED AS A PRIVATE DWELLING.

(2) THE STATE FIRE MARSHAL MAY ENTER A BUILDING OR PREMISES WITHIN THE JURISDICTION OF THE STATE FIRE MARSHAL AT REASONABLE HOURS TO CONDUCT AN INSPECTION THAT THE STATE FIRE MARSHAL CONSIDERS NECESSARY UNDER THIS SUBTITLE.

(C) PRIOR NOTICE PROHIBITED.

AN INDIVIDUAL, INCLUDING AN EMPLOYEE OF THE STATE FIRE MARSHAL, MAY NOT GIVE PRIOR NOTICE OF AN INSPECTION AUTHORIZED UNDER THIS SUBTITLE WITHOUT THE WRITTEN APPROVAL OF THE STATE FIRE MARSHAL OR DESIGNEE OF THE STATE FIRE MARSHAL.

(D) INSPECTION OF PLACE OF EMPLOYMENT.

(1) SUBJECT TO REGULATIONS ADOPTED BY THE COMMISSION, WHENEVER THE STATE FIRE MARSHAL OR DESIGNEE OF THE STATE FIRE MARSHAL INSPECTS A PLACE OF EMPLOYMENT, A REPRESENTATIVE OF THE EMPLOYER AND AN AUTHORIZED EMPLOYEE REPRESENTATIVE SHALL BE GIVEN AN OPPORTUNITY TO ACCOMPANY THE STATE FIRE MARSHAL OR DESIGNEE DURING THE INSPECTION.

(2) IF THERE IS NO AUTHORIZED EMPLOYEE REPRESENTATIVE, THE STATE FIRE MARSHAL OR DESIGNEE SHALL CONSULT WITH A REASONABLE NUMBER OF EMPLOYEES ABOUT MATTERS OF SAFETY AND HEALTH IN THE PLACE OF EMPLOYMENT.

(E) PROTECTION OF TRADE SECRETS.

(1) IN THIS SUBSECTION, "TRADE SECRET" MEANS A CONFIDENTIAL FORMULA, PATTERN, DEVICE, OR COMPILATION OF INFORMATION THAT:

(I) IS USED IN AN EMPLOYER'S BUSINESS;

(II) GIVES THE EMPLOYER AN OPPORTUNITY TO OBTAIN AN ADVANTAGE OVER COMPETITORS WHO DO NOT KNOW OR USE THE INFORMATION; AND

(III) IS KNOWN ONLY TO THE EMPLOYER AND THOSE EMPLOYEES TO WHOM IT IS NECESSARY TO CONFIDE THE INFORMATION.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, ANY INFORMATION REPORTED TO OR OTHERWISE OBTAINED BY THE STATE FIRE MARSHAL OR DESIGNEE OF THE STATE FIRE MARSHAL IN CONNECTION WITH AN INSPECTION OR PROCEEDING UNDER THIS SUBTITLE THAT CONTAINS OR MIGHT REVEAL A TRADE SECRET IS CONFIDENTIAL.

(II) INFORMATION DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BE DISCLOSED ONLY:

1. TO OTHER OFFICERS OR EMPLOYEES RESPONSIBLE FOR CARRYING OUT THIS SUBTITLE; OR

2. IF RELEVANT IN A PROCEEDING UNDER THIS SUBTITLE.

(3) IN A PROCEEDING UNDER THIS SUBTITLE, THE STATE FIRE MARSHAL, DESIGNEE OF THE STATE FIRE MARSHAL, OR A COURT OF COMPETENT JURISDICTION, AS APPLICABLE, SHALL ISSUE APPROPRIATE ORDERS TO PROTECT THE CONFIDENTIALITY OF A TRADE SECRET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 8(d) and (e).

In subsection (a)(2) of this section, the reference to the "individual in

charge of the institution or other place that was inspected" is substituted for the former reference to the "proper administrative head[s]" for clarity and to conform to current practice.

In subsection (b)(2) of this section, the reference to this "subtitle" is substituted for the former reference to this "article" for clarity and accuracy. Provisions that relate to inspections by the State Fire Marshal are revised in this subtitle.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that the General Assembly may wish to consider substituting a more widely used definition of the term "trade secret" for the definition used in subsection (e)(1) of this section. This definition was originally enacted in 1972 and predates the Uniform Trade Secrets Act, which was approved by the National Conference of Commissioners on Uniform State Laws in 1979 and amended in 1985. The uniform act has been adopted by 42 states. It was enacted in Maryland in 1989 and is codified in Title 11, Subtitle 12 of the Commercial Law Article.

"Trade secret" is defined in the Maryland Uniform Trade Secrets Act (CL § 11-1201(e)) as follows:

"Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(1) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Defined terms: "County" § 1-101

"State" § 1-101

6-308. FEES.

(A) FOR INSPECTIONS.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE STATE FIRE MARSHAL SHALL COLLECT THE FEES ESTABLISHED BY THE COMMISSION UNDER § 6-206 OF THIS TITLE FOR CONDUCTING INSPECTIONS.

(2) THE STATE FIRE MARSHAL MAY NOT COLLECT A FEE FOR INSPECTING PROPERTY THAT IS OWNED BY:

(I) THE STATE OR A COUNTY OR MUNICIPAL CORPORATION; OR

(II) A GOVERNMENT-AFFILIATED OR VOLUNTEER FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES ENTITY.

(B) FOR PLAN REVIEW.

(1) (I) IN THIS SUBSECTION, "PLAN REVIEW" MEANS THE REVIEW OF ALL CONSTRUCTION DRAWINGS AND SPECIFICATIONS FOR COMMERCIAL AND RESIDENTIAL CONSTRUCTION.

(II) "PLAN REVIEW" INCLUDES THE REVIEW OF SITE, ARCHITECTURAL, MECHANICAL, ELECTRICAL, SPRINKLER, FIRE ALARM, AND SPECIAL EXTINGUISHING SYSTEMS DRAWINGS AND SPECIFICATIONS.

(2) THIS SUBSECTION DOES NOT APPLY TO:

(I) CONSTRUCTION OF ONE- AND TWO-FAMILY DWELLINGS; OR

(II) CONSTRUCTION FOR WHICH PLAN REVIEW IS CONDUCTED BY THE LOCAL AUTHORITY.

(3) THE STATE FIRE MARSHAL SHALL COLLECT THE FEES ESTABLISHED BY THE COMMISSION UNDER § 6-206 OF THIS TITLE FOR REVIEWING BUILDING PLANS TO ENSURE COMPLIANCE WITH THE STATE FIRE PREVENTION CODE.

(4) THE FEE FOR PLAN REVIEW SHALL BE SUBMITTED WITH THE PLANS.

(C) DISPOSITION OF FEES.

THE STATE FIRE MARSHAL SHALL:

(1) KEEP RECORDS OF ALL FEES COLLECTED UNDER THIS SECTION; AND

(2) PAY THE MONEY COLLECTED UNDER THIS SECTION INTO THE GENERAL FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 8C and 8(m).

In subsections (a)(1) and (b)(3) of this section, the reference to fees established by the Commission "under § 6-206 of this title" is added for clarity.

In subsection (b)(3) of this section, the former phrase "in accordance with the provisions of this article" is deleted as surplusage.

Defined terms: "Commission" § 6-101

"County" § 1-101

6-309. INVESTIGATIONS.

(A) POWER TO INVESTIGATE FIRES AND EXPLOSIONS.

AT ANY TIME, THE STATE FIRE MARSHAL MAY INVESTIGATE THE ORIGIN OR CIRCUMSTANCES OF A FIRE OR EXPLOSION OR AN ATTEMPT TO CAUSE A FIRE OR EXPLOSION THAT OCCURS IN THE STATE.

(B) ENTRY INTO BUILDINGS AND PREMISES.

AT ANY TIME, THE STATE FIRE MARSHAL:

(1) MAY ENTER INTO AND EXAMINE A BUILDING OR PREMISES WHERE A FIRE IS BURNING OR WHERE A FIRE OR ATTEMPT TO CAUSE A FIRE HAS OCCURRED;

(2) MAY ENTER INTO A BUILDING OR PREMISES ADJACENT TO A BUILDING OR PREMISES WHERE A FIRE OR ATTEMPT TO CAUSE A FIRE HAS OCCURRED; AND

(3) MAY TAKE FULL CONTROL AND CUSTODY OF THE BUILDING OR PREMISES AND PLACE AN INDIVIDUAL THAT THE STATE FIRE MARSHAL CONSIDERS PROPER IN CHARGE OF THE BUILDING OR PREMISES, UNTIL THE EXAMINATION AND INVESTIGATION OF THE STATE FIRE MARSHAL IS COMPLETED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 8(f).

In the introductory language of subsection (b) of this section, the phrase "[a]t any time" is substituted for the former phrase "at all times of the day or night" for brevity.

In subsection (b)(1) of this section, the former phrase "in performance of the duties imposed by the provisions of this article" is deleted as implicit and unnecessary. Similarly, in subsection (b)(2) of this section, the former phrase "should he deem it necessary in the proper discharge of his duties" is deleted.

In subsection (b)(2) of this section, the reference to "premises" is added for consistency with subsection (b)(1) and (3) of this section.

6-310. TESTIMONY.

(A) IN GENERAL.

(1) THE STATE FIRE MARSHAL MAY:

(I) TAKE THE TESTIMONY UNDER OATH OF ANY PERSON SUSPECTED TO KNOW OR TO HAVE THE MEANS TO KNOW ANY FACTS THAT RELATE TO THE MATTER THAT IS THE SUBJECT OF THE INSPECTION OR INVESTIGATION; AND

(II) CAUSE THE TESTIMONY TO BE REDUCED TO WRITING.

(2) THE STATE FIRE MARSHAL SHALL TRANSMIT A COPY OF THE TESTIMONY TAKEN UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE STATE'S ATTORNEY FOR THE COUNTY WHERE THE FIRE OR EXPLOSION OR ATTEMPT TO CAUSE A FIRE OR EXPLOSION OCCURRED.

(B) WITNESSES, SUBPOENAS, AND OATHS.

THE STATE FIRE MARSHAL MAY:

(1) ISSUE SUBPOENAS REQUIRING THE ATTENDANCE OF WITNESSES TO TESTIFY IN RELATION TO ANY MATTER THAT IS THE SUBJECT OF AN INVESTIGATION BY THE STATE FIRE MARSHAL UNDER THIS SUBTITLE;

(2) ISSUE SUBPOENAS REQUIRING THE PRODUCTION OF DOCUMENTS THAT RELATE TO ANY MATTER THAT IS THE SUBJECT OF AN INVESTIGATION BY THE STATE FIRE MARSHAL UNDER THIS SUBTITLE; AND

(3) ADMINISTER OATHS TO WITNESSES.

(C) PERJURY.

A PERSON WHO TESTIFIES FALSELY UNDER OATH IN A MATTER OR PROCEEDING OF THE STATE FIRE MARSHAL UNDER THIS SUBTITLE IS GUILTY OF PERJURY AND ON CONVICTION IS SUBJECT TO THE PENALTIES FOR PERJURY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 8(h) and the first and third clauses of (g)(1).

In subsection (a)(1)(i) of this section, the reference to an "inspection or investigation" is substituted for the former reference to "the matter herein required to be examined and inquired into" for brevity and consistency within this section.

Also in subsection (a)(1)(i) of this section, the former phrase "when in his judgment necessary" is deleted as surplusage.

In subsection (a)(2) of this section, the reference to the State's Attorney for the "city", which presumably was a reference to Baltimore City, is deleted because Baltimore City is included in the defined term "county".

In subsection (b)(1) and (2) of this section, the references to an "investigation" are substituted for the former references to "a subject of inquiry and investigation" and "such examination" for brevity and consistency within this section and with § 6-309 of this subtitle.

In subsection (b)(1) of this section, the phrase "under this subtitle" is substituted for the former phrase "by the provision of this article" because investigations by the State Fire Marshal are covered under this subtitle.

%In subsection (b)(3) of this section, the former word "affirmations" is deleted as unnecessary in light of the word "oaths". *See* Art. 1, § 9.

Defined terms: "County" § 1-101

"Person" § 1-101

6-311. ARRESTS.

(A) FIRE OR EXPLOSION OF INCENDIARY ORIGIN OR RELATED TO DESTRUCTIVE DEVICE.

IF IN THE JUDGMENT OF THE STATE FIRE MARSHAL TESTIMONY TAKEN UNDER OATH DISCLOSES THAT A FIRE OR EXPLOSION OR AN ATTEMPT TO CAUSE A FIRE OR EXPLOSION WAS OF INCENDIARY ORIGIN OR WAS RELATED TO A DESTRUCTIVE DEVICE, AS DEFINED IN § 4-501 OF THE CRIMINAL LAW ARTICLE, THE STATE FIRE MARSHAL MAY ARREST THE SUSPECTED INCENDIARY OR CAUSE THE SUSPECTED INCENDIARY TO BE ARRESTED AND CHARGED.

(B) OTHER CRIMES.

IF ON INVESTIGATION THE STATE FIRE MARSHAL HAS PROBABLE CAUSE TO BELIEVE THAT A PERSON HAS COMMITTED OR HAS ATTEMPTED TO COMMIT A CRIME THAT INVOLVES A FIRE, FIRE BOMBING, OR FALSE ALARM, OR THAT INVOLVES THE POSSESSION OR MANUFACTURE OF DESTRUCTIVE DEVICES OR EXPLOSIVE SUBSTANCES, FIREWORKS, OR FIRE BOMBS, THE STATE FIRE MARSHAL MAY ARREST THAT PERSON OR CAUSE THE PERSON TO BE ARRESTED AND CHARGED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 8(g)(2) and the second clause of (1).

In subsection (a) of this section, the reference to "testimony taken under oath" is substituted for the former reference to "the examination" for clarity and consistency with § 6-310(a) of this subtitle.

In subsection (b) of this section, the former phrase "in accordance with the appropriate procedures provided by law" is deleted as surplusage.

Defined term: "Person" § 1-101

6-312. WRITTEN REPORTS OF INVESTIGATIONS.

(A) REQUESTED BY LOCAL GOVERNMENT.

AT THE REQUEST OF THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION OF THE STATE, THE STATE FIRE MARSHAL SHALL MAKE A WRITTEN REPORT OF THE INVESTIGATION OF A FIRE THAT OCCURRED WITHIN THAT COUNTY OR MUNICIPAL CORPORATION.

(B) REQUESTED BY PROPERTY OWNER OR INSURER.

AT THE REQUEST OF THE OWNER OR INSURER OF PROPERTY DESTROYED OR DAMAGED BY FIRE OR EXPLOSION, OR IN WHICH AN ATTEMPT TO CAUSE A FIRE OR EXPLOSION MAY HAVE OCCURRED, THE STATE FIRE MARSHAL SHALL MAKE A WRITTEN REPORT OF THE RESULT OF THE INVESTIGATION REGARDING THE PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 8(i) and the third sentence of (j).

In subsections (a) and (b) of this section, the references to an "investigation" are substituted for the former references to an "examination" for consistency with § 6-309 of this subtitle.

In subsection (a) of this section, the reference to "the governing body of a county or municipal corporation" is substituted for the former references to "the county commissioners" and "the municipal authorities" for accuracy and consistency with terminology used throughout this article.

Defined term: "County" § 1-101

6-313. CHIMNEY FIRE REPORTS.

(A) IN GENERAL.

ON DETERMINING THAT A CHIMNEY CONTRIBUTED TO CAUSING A FIRE, THE STATE FIRE MARSHAL OR THE LOCAL AUTHORITY WITH JURISDICTION OVER FIRE INVESTIGATIONS SHALL FILE WITH THE STATE FIRE MARSHAL A REPORT THAT IDENTIFIES THE CHIMNEY AS:

(1) A LINED, MASONRY CHIMNEY;

(2) AN UNLINED, MASONRY CHIMNEY; OR

(3) A PREFABRICATED, METAL CHIMNEY.

(B) REPOSITORY OF REPORTS.

THE STATE FIRE MARSHAL SHALL ESTABLISH AND MAINTAIN A REPOSITORY OF REPORTS FILED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 14B and 8(l).

In the introductory language of subsection (a) of this section, the former reference to the State Fire Marshal's "office" is deleted as surplusage for consistency with subsection (b) of this section.

6-314. REPORTS OF LOSSES BY INSURERS.

(A) IN GENERAL.

WITHIN 10 DAYS AFTER THE ADJUSTMENT OF A LOSS FROM A FIRE IN EXCESS OF $5,000 DAMAGE SUSTAINED BY AN INSURER DOING BUSINESS IN THE STATE, THE INSURER SHALL REPORT TO THE STATE FIRE MARSHAL, ON A FORM PROVIDED BY THE STATE FIRE MARSHAL, THE INFORMATION THAT THE STATE FIRE MARSHAL CONSIDERS NECESSARY.

(B) REPORT ADDITIONAL TO INFORMATION REQUIRED BY INSURANCE COMMISSIONER.

THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION IS IN ADDITION TO ANY INFORMATION REQUIRED BY THE INSURANCE COMMISSIONER.

REVISOR'S NOTE: This section is new language derived without substantive change from the first and second sentences of former Art. 38A, § 8(j).

In subsection (a) of this section, the general reference to an "insurer" is substituted for the former specific reference to a "fire insurance company or association" to conform to terminology used in the Insurance Article.

Also in subsection (a) of this section, the former specific references to "the amount of insurance, the value of the property insured, and the amount of the claim as adjusted" are deleted as included in the general reference to "the information that the State Fire Marshal considers necessary".

6-315. ADMINISTRATIVE SEARCH WARRANTS -- FOR FIRE INVESTIGATIONS.

(A) APPLICATION FOR WARRANT -- IN GENERAL.

THE STATE FIRE MARSHAL, A DESIGNEE OF THE STATE FIRE MARSHAL, A FULL-TIME FIRE INVESTIGATOR WHO IS A MEMBER OF A FIRE DEPARTMENT, OR A POLICE OFFICER MAY APPLY TO A JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT FOR AN ADMINISTRATIVE SEARCH WARRANT TO ENTER A VEHICLE, BUILDING, OR PREMISES WHERE A FIRE HAS OCCURRED TO CONDUCT A SEARCH TO DETERMINE THE CAUSE AND ORIGIN OF THE FIRE.

(B) SAME -- FORM AND CONTENTS.

AN APPLICATION UNDER SUBSECTION (A) OF THIS SECTION SHALL:

(1) BE IN WRITING;

(2) BE SIGNED AND SWORN TO BY THE APPLICANT; AND

(3) PARTICULARLY DESCRIBE THE VEHICLE, BUILDING, OR PREMISES TO BE SEARCHED AND THE NATURE, SCOPE, AND PURPOSE OF THE SEARCH TO BE PERFORMED BY THE APPLICANT.

(C) ISSUANCE OF WARRANT.

A JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT MAY ISSUE THE WARRANT ON FINDING THAT:

(1) A FIRE OF UNDETERMINED ORIGIN HAS OCCURRED;

(2) THE SCOPE OF THE PROPOSED SEARCH IS REASONABLE AND WILL NOT INTRUDE UNNECESSARILY ON THE FIRE VICTIM'S PRIVACY;

(3) THE SEARCH WILL BE EXECUTED AT A REASONABLE AND CONVENIENT TIME; AND

(4) THE OWNER, TENANT, OR OTHER INDIVIDUAL IN CHARGE OF THE PROPERTY HAS DENIED ACCESS TO THE PROPERTY, OR AFTER MAKING A REASONABLE EFFORT, THE APPLICANT HAS BEEN UNABLE TO LOCATE ANY OF THESE INDIVIDUALS.

(D) CONTENTS OF WARRANT; SCOPE OF SEARCH.

(1) AN ADMINISTRATIVE SEARCH WARRANT ISSUED UNDER THIS SECTION SHALL SPECIFY THE VEHICLE, BUILDING, OR PREMISES TO BE SEARCHED.

(2) THE SEARCH CONDUCTED MAY NOT EXCEED THE LIMITS SPECIFIED IN THE WARRANT.

(E) EXECUTION AND RETURN.

AN ADMINISTRATIVE SEARCH WARRANT ISSUED UNDER THIS SECTION SHALL BE EXECUTED AND RETURNED TO THE JUDGE WHO ISSUED IT WITHIN:

(1) THE TIME SPECIFIED IN THE WARRANT, NOT EXCEEDING 30 DAYS; OR

(2) IF NO TIME PERIOD IS SPECIFIED IN THE WARRANT, 15 DAYS AFTER ITS ISSUANCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 8A.

In subsection (a) of this section, the former specific references to a "factory", "warehouse", "residence", and "establishment" are deleted as included in the general references to a "building" or "premises". Similarly, in subsection (d)(1) of this section, the former references to the "place" or "structure" to be searched are deleted as included in the general reference to the "building" or "premises" for consistency.

In subsection (c)(1) of this section, the former phrase "on the premises" is deleted as implicit.

6-316. SAME -- FOR FIRE PREVENTION INSPECTIONS.

(A) APPLICATION FOR WARRANT -- IN GENERAL.

THE STATE FIRE MARSHAL, A DESIGNEE OF THE STATE FIRE MARSHAL, OR A FULL-TIME FIRE PREVENTION INSPECTOR WHO IS EMPLOYED BY A FIRE

DEPARTMENT MAY APPLY TO A JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT FOR AN ADMINISTRATIVE SEARCH WARRANT TO ENTER A BUILDING OR PREMISES TO CONDUCT A FIRE PREVENTION INSPECTION.

(B) SAME -- FORM AND CONTENTS.

AN APPLICATION UNDER SUBSECTION (A) OF THIS SECTION SHALL:

(1) BE IN WRITING;

(2) BE SIGNED AND SWORN TO BY THE APPLICANT; AND

(3) PARTICULARLY DESCRIBE THE BUILDING OR PREMISES TO BE SEARCHED AND THE NATURE, SCOPE, AND PURPOSE OF THE SEARCH TO BE PERFORMED BY THE APPLICANT.

(C) ISSUANCE OF WARRANT.

A JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT MAY ISSUE THE WARRANT ON FINDING THAT:

(1) THE APPLICANT IS AUTHORIZED OR REQUIRED BY LAW TO MAKE THE INSPECTION;

(2) THE APPLICANT HAS DEMONSTRATED THAT THE INSPECTION OF THE PREMISES IS SOUGHT AS A RESULT OF:

(I) EVIDENCE OF AN EXISTING VIOLATION OF THIS ARTICLE THAT RELATES TO FIRE SAFETY, THE STATE FIRE PREVENTION CODE, OR A LOCAL FIRE PREVENTION CODE, IF APPLICABLE; OR

(II) A GENERAL AND NEUTRAL ADMINISTRATIVE PLAN TO CONDUCT FIRE PREVENTION INSPECTIONS;

(3) THE OWNER, TENANT, OR OTHER INDIVIDUAL IN CHARGE OF THE PROPERTY HAS DENIED ACCESS TO THE PROPERTY, OR AFTER MAKING A REASONABLE EFFORT, THE APPLICANT HAS BEEN UNABLE TO LOCATE ANY OF THESE INDIVIDUALS; AND

(4) THE INSPECTION IS SOUGHT FOR SAFETY RELATED PURPOSES.

(D) CONTENTS OF WARRANT; SCOPE OF SEARCH.

(1) AN ADMINISTRATIVE SEARCH WARRANT ISSUED UNDER THIS SECTION SHALL SPECIFY THE BUILDING OR PREMISES TO BE SEARCHED.

(2) THE INSPECTION CONDUCTED MAY NOT EXCEED THE LIMITS SPECIFIED IN THE WARRANT.

(E) EXECUTION AND RETURN.

AN ADMINISTRATIVE SEARCH WARRANT ISSUED UNDER THIS SECTION SHALL BE EXECUTED AND RETURNED TO THE JUDGE WHO ISSUED IT WITHIN:

(1) THE TIME SPECIFIED IN THE WARRANT, NOT EXCEEDING 30 DAYS; OR

(2) IF NO TIME PERIOD IS SPECIFIED IN THE WARRANT, 15 DAYS AFTER ITS ISSUANCE.

(F) INFORMATION OBTAINED CONFIDENTIAL.

INFORMATION OBTAINED IN ACCORDANCE WITH AN ADMINISTRATIVE SEARCH WARRANT UNDER THIS SECTION IS CONFIDENTIAL AND MAY NOT BE DISCLOSED EXCEPT:

(1) TO THE EXTENT USED IN AN ADMINISTRATIVE OR JUDICIAL PROCEEDING THAT ARISES OUT OF A VIOLATION THAT RELATES TO THE PURPOSE FOR WHICH THE WARRANT WAS ISSUED AND WITHIN THE SCOPE OF THE WARRANT; OR

(2) TO AN OWNER OR OCCUPANT OF THE BUILDING OR PREMISES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 8B.

In subsection (a) of this section, the former specific references to a "factory", "warehouse", and "establishment" are deleted as included in the general references to a "building" or "premises".

In subsections (b)(3), (d)(1), and (f)(2) of this section, the references to the "building" or "premises" are added for consistency within this section.

In subsection (c)(2)(i) of this section, the reference to a violation of this article "that relates to fire safety" is added to clarify that only certain violations of this article may be the basis for an administrative search warrant.

6-317. MAINTENANCE OF FIRE HAZARD PROHIBITED.

(A) IN GENERAL.

A PERSON MAY NOT ERECT, CONSTRUCT, RECONSTRUCT, ALTER, MAINTAIN, OR USE A BUILDING, STRUCTURE, OR EQUIPMENT OR USE LAND:

(1) IN A WAY THAT ENDANGERS LIFE OR PROPERTY DUE TO THE HAZARDS OF FIRE OR EXPLOSION; OR

(2) IN VIOLATION OF ANY REGULATION ADOPTED BY THE COMMISSION UNDER § 6-206 OF THIS TITLE.

(B) SEPARATE OFFENSES.

EACH DAY ON WHICH A VIOLATION OF THIS SECTION CONTINUES AFTER KNOWLEDGE OR OFFICIAL NOTICE OF THE VIOLATION IS A SEPARATE OFFENSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 9(a) and 13(b).

In subsection (a)(2) of this section, the specific reference to "§ 6-206 of this title" is substituted for the former general reference "under the authority of this article" for clarity and precision.

Also in subsection (a)(2) of this section, the former reference to "any change" of any regulation is deleted as unnecessary in light of Art. 1, § 21, which provides that a reference to the Code or any other law applies to any subsequent amendment.

Defined terms: "Commission" § 6-101

"Person" § 1-101

6-318. ABATEMENT ORDERS -- IN GENERAL.

(A) AUTHORITY TO ISSUE.

THE STATE FIRE MARSHAL MAY ISSUE A REASONABLE ABATEMENT ORDER IF THE STATE FIRE MARSHAL:

(1) DETERMINES THAT A BUILDING OR STRUCTURE HAS BEEN CONSTRUCTED, ALTERED, OR REPAIRED IN A MANNER THAT VIOLATES A REGULATION ADOPTED BY THE COMMISSION BEFORE THE CONSTRUCTION, ALTERATION, OR REPAIRS BEGAN;

(2) DETERMINES THAT A BUILDING OR STRUCTURE:

(I) IS A FIRE HAZARD BECAUSE OF DISREPAIR, AGE, DILAPIDATED OR ABANDONED CONDITION, OR FOR ANY OTHER REASON; AND

(II) ENDANGERS OTHER BUILDINGS AND PROPERTY; OR

(3) FINDS IN A BUILDING OR ON PREMISES A COMBUSTIBLE, FLAMMABLE, OR EXPLOSIVE SUBSTANCE OR MATERIAL, OR OTHER CONDITION DANGEROUS TO THE SAFETY OF INDIVIDUALS WHO OCCUPY THE BUILDING OR PREMISES AND ADJACENT PREMISES OR PROPERTY.

(B) FORM AND CONTENTS.

AN ABATEMENT ORDER UNDER THIS SECTION SHALL:

(1) BE IN WRITING;

(2) BE DIRECTED TO THE OWNER OR OCCUPANT OF THE BUILDING, STRUCTURE, OR PREMISES; AND

(3) CONTAIN A NOTICE THAT:

(I) COMPLIANCE WITH THE ORDER IS REQUIRED WITHIN THE TIME SPECIFIED IN THE NOTICE; AND

(II) ANY PERSON AGGRIEVED BY THE ORDER MAY FILE AN APPEAL FROM THE ORDER IN ACCORDANCE WITH SUBTITLE 5 OF THIS TITLE.

(C) RELIEF.

THE ABATEMENT ORDER MAY ORDER:

(1) THE REPAIR OR DEMOLITION OF THE BUILDING OR STRUCTURE OR THE REMOVAL OF THE COMBUSTIBLE, FLAMMABLE, OR EXPLOSIVE SUBSTANCE OR MATERIAL; AND

(2) THE REMEDYING OF ANY CONDITION FOUND TO BE IN VIOLATION OF A REGULATION ADOPTED BY THE COMMISSION OR TO BE DANGEROUS TO THE SAFETY OF INDIVIDUALS OR PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 9(b) and the fourth sentence of § 10.

In this section and in §§ 6-319 and 6-320 of this subtitle, the references to an "abatement" order are added for clarity and consistency.

In subsection (a)(1) of this section, the former reference to a regulation that was "lawfully" adopted is deleted as implicit.

In subsections (a)(3) and (c)(2) of this section, the references to the safety of "individuals" are substituted for the former references to "persons" because these provisions are concerned with the safety of human beings.

In subsection (b)(3) of this section, the former reference to a "copy" of an order containing a specified notice is deleted as implicit in the requirement that the order contain the notice.

In subsection (b)(3)(ii) of this section, the reference to "any person aggrieved by the order" is substituted for the former reference to "any person desiring to contest the validity of any such order" for consistency with Subtitle 5 of this title.

Defined terms: "Commission" § 6-101

"Person" § 1-101

6-319. SAME -- SERVICE OF ORDER.

(A) ON OCCUPANT.

AN ABATEMENT ORDER DIRECTED TO THE OCCUPANT OF THE PREMISES SHALL BE SERVED WITHIN 5 DAYS AFTER THE ORDER IS ISSUED:

(1) BY DELIVERING A TRUE COPY OF THE ORDER TO THE OCCUPANT OR TO AN ADULT WHO IS APPARENTLY IN CHARGE OF THE PREMISES; OR

(2) IF NO OCCUPANT OR ADULT IS FOUND ON THE PREMISES:

(I) BY POSTING A TRUE COPY OF THE ORDER IN A CONSPICUOUS PLACE ON THE DOOR OR OTHER PROMINENT ENTRANCE TO THE PREMISES; AND

(II) 1. BY MAILING A COPY OF THE ORDER BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE OCCUPANT AT THE OCCUPANT'S LAST KNOWN ADDRESS; OR

2. IF THE ADDRESS OF THE OCCUPANT IS NOT KNOWN, BY MAILING A COPY OF THE ORDER BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE OCCUPANT IN CARE OF GENERAL DELIVERY AT THE POST OFFICE THAT SERVES THE COMMUNITY WHERE THE PREMISES ARE LOCATED.

(B) ON OWNER.

AN ABATEMENT ORDER DIRECTED TO THE OWNER OF THE PREMISES SHALL BE SERVED WITHIN 5 DAYS AFTER THE ORDER IS ISSUED:

(1) BY DELIVERING A TRUE COPY OF THE ORDER TO THE OWNER; OR

(2) IF THE OWNER IS ABSENT FROM THE STATE OR THE OWNER'S WHEREABOUTS ARE UNKNOWN TO THE STATE FIRE MARSHAL:

(I) BY POSTING A TRUE COPY OF THE ORDER IN A CONSPICUOUS PLACE ON THE DOOR OR OTHER PROMINENT ENTRANCE TO THE PREMISES; AND

(II) 1. BY MAILING A COPY OF THE ORDER BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE OWNER AT THE OWNER'S LAST KNOWN ADDRESS; OR

2. IF THE ADDRESS OF THE OWNER IS NOT KNOWN, BY MAILING A COPY OF THE ORDER BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE OWNER IN CARE OF GENERAL DELIVERY AT THE POST OFFICE THAT SERVES THE COMMUNITY WHERE THE PREMISES ARE LOCATED.

REVISOR'S NOTE: This section is new language derived without substantive change from the first, second, and third sentences of former Art. 38A, § 10.

In subsections (a)(2)(ii)1 and 2 and (b)(2)(ii)1 and 2 of this section, the former references to certified mail "bearing a postmark from the United States Postal Service" are deleted as unnecessary in light of Art. 1, § 20, which provides that the term "certified mail" means "the uses, procedures, and fees provided and generally referred to by the United States Post Office Department".

In subsections (a)(2)(ii)1 and (b)(2)(ii)1 of this section, the former reference

to the last known "post office" address is deleted as surplusage.

6-320. SAME -- FAILURE TO COMPLY WITH ORDER.

(A) AUTHORITY OF STATE FIRE MARSHAL TO ABATE AT EXPENSE OF OWNER OR OCCUPANT.

IF AN OWNER OR OCCUPANT OF A BUILDING, STRUCTURE, OR PREMISES WHO IS SERVED WITH A COPY OF AN ABATEMENT ORDER IN ACCORDANCE WITH § 6-319 OF THIS SUBTITLE FAILS TO COMPLY WITH THE ORDER WITHIN 30 DAYS AFTER THE ORDER IS ISSUED, OR WITHIN 30 DAYS AFTER A COURT'S AFFIRMATION OF THE ORDER BECOMES FINAL, THE STATE FIRE MARSHAL:

(1) MAY ENTER THE BUILDING, STRUCTURE, OR PREMISES AFFECTED BY THE ORDER; AND

(2) AT THE EXPENSE OF THE OWNER OR OCCUPANT, MAY CAUSE:

(I) THE BUILDING, STRUCTURE, OR PREMISES TO BE REPAIRED OR DEMOLISHED;

(II) THE COMBUSTIBLE, FLAMMABLE, OR EXPLOSIVE MATERIALS TO BE REMOVED; AND

(III) THE DANGEROUS CONDITIONS TO BE REMEDIED.

(B) SUIT TO RECOVER EXPENSES.

IF THE OWNER OR OCCUPANT FAILS TO REIMBURSE THE STATE FIRE MARSHAL FOR THE EXPENSES INCURRED BY THE STATE FIRE MARSHAL UNDER SUBSECTION (A) OF THIS SECTION WITHIN 30 DAYS AFTER WRITTEN DEMAND IS MAILED TO THE OWNER OR OCCUPANT AT THE OWNER'S OR OCCUPANT'S LAST KNOWN ADDRESS, THE STATE FIRE MARSHAL MAY SUE IN THE NAME OF THE STATE TO RECOVER THE EXPENSES, WITH INTEREST, IN A COURT OF COMPETENT JURISDICTION.

(C) COOPERATION BY COUNTY OR MUNICIPAL CORPORATION.

(1) IF THE OWNER OR OCCUPANT FAILS TO COMPLY WITH THE ABATEMENT ORDER AFTER THE PERIOD OF TIME SPECIFIED IN SUBSECTION (A) OF THIS SECTION, THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION MAY COOPERATE WITH THE STATE FIRE MARSHAL IN REPAIRING, DEMOLISHING, OR OTHERWISE REMEDYING DANGEROUS CONDITIONS IN A BUILDING OR STRUCTURE IN THE COUNTY OR MUNICIPAL CORPORATION.

(2) A LIEN SHALL ATTACH TO THE PROPERTY ON WHICH THE BUILDING OR STRUCTURE STOOD IN THE AMOUNT OF THE EXPENSE OF THE WORK DONE BY THE COUNTY OR MUNICIPAL CORPORATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 11.

%In subsection (a)(1) of this section, the references to the "building" and "structure" are added for consistency throughout subsection (a) of this section.

In subsection (b) of this section, the former reference to the last known "post office" address is deleted as surplusage.

In subsection (c)(1) and (2) of this section, the reference to a "municipal corporation" is substituted for the former reference to a "municipality" to conform to Art. XI-E of the Maryland Constitution.

In subsection (c)(1) of this section, the reference to "the period of time specified in subsection (a) of this section" is substituted for the former reference to "the specified period of time" for clarity and precision.

Defined term: "County" § 1-101

6-321. ADDITIONAL REMEDIES.

IF A BUILDING, STRUCTURE, OR EQUIPMENT IS OR IS PROPOSED TO BE ERECTED, CONSTRUCTED, RECONSTRUCTED, ALTERED, MAINTAINED, OR USED, OR IF LAND IS OR IS PROPOSED TO BE USED IN A WAY THAT ENDANGERS LIFE OR PROPERTY DUE TO THE HAZARDS OF FIRE OR EXPLOSION OR IN VIOLATION OF THIS ARTICLE OR OF ANY REGULATION ADOPTED BY THE COMMISSION UNDER THIS ARTICLE, THE COMMISSION, STATE FIRE MARSHAL, OR ATTORNEY GENERAL MAY, IN ADDITION TO OTHER REMEDIES PROVIDED BY LAW, FILE AN ACTION FOR INJUNCTION, MANDAMUS, OR ABATEMENT OR ANY OTHER APPROPRIATE ACTION TO PREVENT, ENJOIN, ABATE, OR REMOVE THE UNLAWFUL ERECTION, CONSTRUCTION, RECONSTRUCTION, ALTERATION, MAINTENANCE, OR USE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 12.

The reference to a violation of "this article" is retained in the revision although the Public Safety Article encompasses provisions derived from articles other than former Article 38A. No substantive change is intended.

The former reference to the "change" of any regulation is deleted as unnecessary in light of Art. 1, § 21, which provides that a reference to the Code or any other law applies to any subsequent amendment.

Defined term: "Commission" § 6-101

6-322. AUTHORITY OF SECRETARY.

THE EXERCISE OF ALL POWERS AND AUTHORITY AND THE PERFORMANCE OF ALL DUTIES AND FUNCTIONS VESTED IN THE STATE FIRE MARSHAL UNDER THIS ARTICLE ARE SUBJECT TO THE POWERS AND AUTHORITY OF THE SECRETARY SET FORTH IN TITLE 2 OF THIS ARTICLE OR ELSEWHERE IN STATE LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 2(c), as it related to the State Fire Marshal.

The reference to the powers and duties of the State Fire Marshal under "this article" is retained in the revision although the Public Safety Article includes provisions derived from articles other than former Article 38A. No substantive change results because the powers and duties of the State Fire Marshal under the Public Safety Article are the same as the powers and duties of the State Fire Marshal under former Article 38A.

The reference to "Title 2 of this article" is substituted for the former reference to "Article 88B of this Code" for specificity because most of the provisions from former Article 88B that related to the power of the Secretary of State Police are revised in Title 2 of this title. In addition, the use of the phrase "or elsewhere in State law" picks up any other powers of the Secretary wherever codified.

Defined term: "Secretary" § 6-101

SUBTITLE 4. BALTIMORE CITY.

6-401. APPLICABILITY IN BALTIMORE CITY.

THE POWERS, DUTIES, AND JURISDICTION CONFERRED BY THIS ARTICLE ON THE COMMISSION AND THE STATE FIRE MARSHAL, AND ANY CODE, REGULATION, OR PRACTICE ADOPTED BY THEM UNDER THE AUTHORITY OF THIS ARTICLE, APPLY IN BALTIMORE CITY ONLY TO:

(1) PROPERTIES OWNED OR OPERATED BY THE STATE;

(2) HOSPITALS, NURSING HOMES, AND SIMILAR INSTITUTIONS THAT REQUIRE STATE LICENSURE; AND

(3) THE LICENSING OF FIRE SPRINKLER CONTRACTORS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 14A(a).

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that this provision has been revised to reflect the Public Safety Article Review Committee's understanding of the intent and meaning of the provision. Consequently, the former phrase "[n]otwithstanding any provisions in §§ 1 through 14 of this article" is deleted. No substantive change is intended.

In the introductory language of this section, the reference to any code, regulation, or practice "adopted" by the Commission and the State Fire Marshal is substituted for the former reference to any code, regulation, or practice "promulgated" by the Commission and the State Fire Marshal for consistency within this article. *See* General Revisor's Note to article.

Defined term: "Commission" § 6-101

6-402. ASSISTANCE FROM COMMISSION AND STATE FIRE MARSHAL.

ON REQUEST OF THE CHIEF OF THE BALTIMORE CITY FIRE DEPARTMENT, THE COMMISSION AND STATE FIRE MARSHAL SHALL PROVIDE ANY ASSISTANCE NECESSARY TO:

(1) ENFORCE FIRE PREVENTION REGULATIONS IN BALTIMORE CITY; AND

(2) INVESTIGATE THE CAUSE OR ORIGIN OF A FIRE IN BALTIMORE CITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 14A(b).

In the introductory language of this section, the former reference to "all" assistance is deleted as unnecessary in light of the reference to "any" assistance.

In item (2) of this section, the reference to assistance necessary to "investigate" the cause or origin of a fire is substituted for the former reference to assistance necessary to "[a]ssist in the investigation of" the cause or origin of a fire for brevity.

Defined term: "Commission" § 6-101

6-403. REPORTS BY BALTIMORE CITY FIRE DEPARTMENT.

THE BALTIMORE CITY FIRE DEPARTMENT SHALL REPORT TO THE APPROPRIATE AGENCY ANY NONCOMPLIANCE WITH THE FIRE PREVENTION CODE OR REGULATIONS OF BALTIMORE CITY OR THE FIRE PREVENTION REQUIREMENTS OF THE STATE OR FEDERAL GOVERNMENT:

(1) ON PROPERTY THAT IS OWNED BY THE STATE; AND

(2) IN A HOSPITAL, NURSING HOME, INSTITUTION, OR SCHOOL THAT IS LICENSED BY THE STATE OR THAT RECEIVES ANY MONEY FROM THE STATE OR FEDERAL GOVERNMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 14A(c).

In item (2) of this section, the reference to a hospital, nursing home, institution, or school "that is licensed by the State or that receives any money from the State or federal government" is substituted for the former reference to a hospital, nursing home, institution, or school "where State licenses or State or federal moneys are involved" for clarity.

SUBTITLE 5. APPEALS.

6-501. RIGHT TO FILE APPEAL.

AN APPEAL TO THE COMMISSION MAY BE TAKEN BY:

(1) A PERSON WHO IS AGGRIEVED BY AN ORDER OR DECISION OF THE STATE FIRE MARSHAL MADE IN THE ADMINISTRATION OR ENFORCEMENT OF THIS ARTICLE; OR

(2) AN OFFICER, UNIT, OR AGENCY OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE THAT IS AFFECTED BY AN ORDER OR DECISION OF THE STATE FIRE MARSHAL MADE IN THE ADMINISTRATION OR ENFORCEMENT OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 14(a).

In items (1) and (2) of this section, the former references to an appeal by certain persons aggrieved or affected by an order or decision of the State Fire Marshal made in the administration or enforcement of "this article" are retained. Although "this article" referred only to former Article 38A, and the Public Safety Article is derived, in part, from provisions outside of former Article 38A, retaining that reference does not constitute a substantive change. The authority of the State Fire Marshal to issue an order or decision under this article is the same as under former Article 38A, and therefore the circumstances under which an appeal may be taken remain unchanged.

In item (1) of this section, the former reference to an order or decision "based upon" the administration or enforcement of this article is deleted as unnecessary in light of the reference to an order or decision "made in" the administration or enforcement of this article.

In item (2) of this section, the reference to an order or decision "made" in the administration or enforcement of this article is added for clarity and consistency with item (1) of this section.

Also in item (2) of this section, the reference to a "unit" of the State is substituted for the former references to a "department" and a "board" of the State for brevity and consistency throughout this article. *See* General Revisor's Note to article.

Defined terms: "Commission" § 6-101

"Person" § 1-101

6-502. PROCEDURE.

THE TIME WITHIN WHICH AN APPEAL UNDER § 6-501 OF THIS SUBTITLE MUST BE TAKEN, AND THE EFFECT, FORM, AND OTHER PROCEDURES THAT RELATE TO THE APPEAL, SHALL BE AS SPECIFIED IN REGULATIONS ADOPTED BY THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 14(b).

The reference to "an appeal under § 6-501 of this subtitle" is substituted for the former reference to "such appeal" for clarity.

The reference to "tak[ing]" an appeal is substituted for the former reference to an appeal being "made" for consistency with § 6-501 of this subtitle.

The reference to regulations "adopt[ed]" by the Commission is substituted for the former reference to regulations "promulgated" by the Commission for consistency throughout this article. *See* General Revisor's Note to article.

The former reference to regulations adopted by the Commission "in accordance with provisions of the Administrative Procedure Act, Title 10, Subtitle 1 of the State Government Article, as amended from time to time" is deleted as surplusage. The Commission, as a unit in the Executive Branch of State government, is required under the Administrative Procedure Act to comply with the Act in adopting regulations. *See* SG § 10-102, which establishes the scope of the Administrative Procedure Act - Regulations.

Defined term: "Commission" § 6-101

6-503. JUDICIAL REVIEW.

A PARTY WHO IS AGGRIEVED BY A FINAL DECISION OF THE COMMISSION IS ENTITLED TO JUDICIAL REVIEW OF THE DECISION AS PROVIDED IN TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 14(c).

The reference to judicial review "of the decision" is added for clarity.

The former reference to "the Administrative Procedure Act" is deleted as unnecessary in light of the reference to "Title 10, Subtitle 2 of the State Government Article".

The phrase "as amended from time to time", which formerly modified "Title 10, Subtitle 2 of the State Government Article", is deleted as unnecessary in light of Art. 1, § 21.

Defined term: "Commission" § 6-101

SUBTITLE 6. PROHIBITED ACTS; PENALTIES.

6-601. VIOLATION OF TITLE OR REGULATION.

(A) PROHIBITED.

A PERSON MAY NOT KNOWINGLY VIOLATE THIS TITLE OR A REGULATION ADOPTED BY THE COMMISSION.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 DAYS OR A FINE NOT EXCEEDING $1,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 13(a).

In subsection (a) of this section, the reference to any regulation "adopted" by the Commission is substituted for the former reference to any regulation "promulgated" by the Commission for consistency throughout this article. *See* General Revisor's Note to article.

In subsection (b) of this section, the reference to a person who violates this section being guilty "of a misdemeanor" is added to state expressly that which was only implied in the former law. In this State, any crime that was not a felony at common law and has not been declared a felony by statute is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Dutton v. State*, 123 Md. 373, 378 (1914); and *Williams v. State*, 4 Md. App. 342, 347 (1968).

Also in subsection (b) of this section, the reference to a person "on conviction" being subject to certain penalties is added to state expressly that which was only implied in the former law, and for consistency with other penalty provisions in this and other revised articles of the Code.

Defined terms: "Commission" § 6-101

"Person" § 1-101

6-602. INTERFERENCE, OBSTRUCTION, OR FALSE REPRESENTATION.

(A) INTERFERENCE WITH OR OBSTRUCTION OF EMERGENCY ASSISTANCE PROHIBITED.

A PERSON MAY NOT WILLFULLY INTERFERE WITH OR OBSTRUCT THE STATE FIRE MARSHAL, A DEPUTY STATE FIRE MARSHAL, OR A SPECIAL ASSISTANT STATE FIRE MARSHAL WHILE THE STATE FIRE MARSHAL, DEPUTY STATE FIRE MARSHAL, OR SPECIAL ASSISTANT STATE FIRE MARSHAL:

(1) IS FIGHTING A FIRE, PERFORMING EMERGENCY SERVICE, OR PROCEEDING TO A FIRE OR OTHER EMERGENCY; OR

(2) IS DISPATCHED ON A CALL FOR EMERGENCY SERVICE.

(B) INTERFERENCE WITH OR OBSTRUCTION OF INVESTIGATION PROHIBITED.

A PERSON MAY NOT WILLFULLY INTERFERE WITH OR OBSTRUCT THE STATE FIRE MARSHAL, A DEPUTY STATE FIRE MARSHAL, OR A SPECIAL ASSISTANT STATE FIRE MARSHAL IN THE COURSE OF CONDUCTING AN INSPECTION OR INVESTIGATING A FIRE OR EXPLOSION.

(C) IMPERSONATING FIRE MARSHAL PROHIBITED.

A PERSON MAY NOT, WITH FRAUDULENT DESIGN ON PERSON OR PROPERTY, FALSELY REPRESENT THAT THE PERSON IS A STATE FIRE MARSHAL OR A SWORN EMPLOYEE OF THE OFFICE OF STATE FIRE MARSHAL.

(D) WEARING ARTICLES OF FIRE MARSHAL OR IMITATIONS PROHIBITED.

A PERSON MAY NOT HAVE, USE, WEAR, OR DISPLAY WITHOUT PROPER AUTHORITY, FOR THE PURPOSE OF DECEPTION, A UNIFORM, SHIELD, BUTTON, ORNAMENT, IDENTIFICATION, OR SHOULDER PATCH, OR A SIMULATION OR IMITATION OF THESE ARTICLES, ADOPTED BY THE OFFICE OF STATE FIRE MARSHAL.

(E) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 11D(b), (d), and, except as they related to firefighters, rescue squad members, and emergency services personnel, (a) and (c).

In subsections (a) and (b) of this section, the former references to a "Special Deputy State Fire Marshal" are deleted because this position no longer exists.

In subsection (e) of this section, the reference to a person "on conviction" being subject to a certain penalty is added to state expressly that which was only implied in the former law, and for consistency with other penalty provisions in this and other revised articles of the Code.

Also in subsection (e) of this section, the reference to "[a] person who violates this section [being] guilty of" a misdemeanor is substituted for the former reference to "[v]iolation of this section [being]" a misdemeanor for consistency with other penalty provisions in this and other revised articles of the Code. Similarly, the phrase "is subject to" imprisonment is substituted for the former phrase "punishable by" imprisonment.

Defined term: "Person" § 1-101

TITLE 7. FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES ENTITIES.

SUBTITLE 1. MUTUAL AID AGREEMENTS BY FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES ENTITIES.

7-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 37(a)(1).

The only change is in style.

(B) FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES ENTITY.

"FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES ENTITY" MEANS:

(1) A GOVERNMENTAL SUBDIVISION, BY ITS APPROPRIATE DESIGNATED AUTHORITY;

(2) A BOARD OR FIRE COMMISSION OF A FIRE DEPARTMENT OR GOVERNMENTAL SUBDIVISION;

(3) A FIRE DEPARTMENT;

(4) A FIRE COMPANY;

(5) A RESCUE SQUAD; OR

(6) AN EMERGENCY MEDICAL SERVICES UNIT, INCLUDING AN ENTITY THAT PROVIDES EMERGENCY MEDICAL SERVICES AT ANY LEVEL.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 37(a)(2).

The only changes are in style.

(C) MUTUAL AID AGREEMENT.

(1) "MUTUAL AID AGREEMENT" MEANS AN AGREEMENT TO ESTABLISH AND CARRY OUT A PLAN TO ASSIST IN EXTINGUISHING FIRES AND PRESERVING LIFE AND PROPERTY BY PROVIDING FIRE FIGHTING, RESCUE, OR EMERGENCY MEDICAL EQUIPMENT, PERSONNEL, AND SERVICES.

(2) "MUTUAL AID AGREEMENT" INCLUDES A RECIPROCAL AGREEMENT ENTERED INTO IN ACCORDANCE WITH FORMER ARTICLE 38A, § 37 BEFORE JULY 1, 1989.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 38A, § 37(a)(3).

In paragraph (1) of this subsection, the former phrase "within this State, the District of Columbia, Virginia, West Virginia, Delaware, or Pennsylvania" is deleted as unnecessary in light of § 7-103(a) of this subtitle.

In paragraph (2) of this subsection, the reference to a reciprocal agreement entered into in accordance with "former Article 38A, § 37" is substituted for the former reference to a reciprocal agreement entered into in accordance with "this section" for clarity and accuracy.

7-102. LIBERAL CONSTRUCTION.

THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED IN ORDER TO EFFECT ITS PURPOSE TO PROVIDE MUTUAL AID FOR A FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES ENTITY IN TIME OF NEED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 41.

The phrase "[t]his subtitle" is substituted for the former phrase "[t]he foregoing sections" for clarity and to reflect the reorganization of former Art. 38A, §§ 37 through 41 as a subtitle in this revision.

Defined term: "Fire, rescue, or emergency medical services entity" § 7-101

7-103. MUTUAL AID AGREEMENTS WITH OTHER STATES AND ENTITIES OF OTHER STATES.

(A) AUTHORIZED.

A FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES ENTITY MAY ENTER INTO AND RENEW A MUTUAL AID AGREEMENT IN ACCORDANCE WITH THIS SECTION WITH:

(1) DELAWARE;

(2) THE DISTRICT OF COLUMBIA;

(3) PENNSYLVANIA;

(4) VIRGINIA;

(5) WEST VIRGINIA; OR

(6) A FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES ENTITY OF THIS STATE, DELAWARE, THE DISTRICT OF COLUMBIA, PENNSYLVANIA, VIRGINIA, OR WEST VIRGINIA.

(B) CLAIMS ARISING OUT OF MUTUAL AID ACTIVITIES.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A MUTUAL AID AGREEMENT MAY PROVIDE THAT A PARTY THAT REQUESTS ASSISTANCE UNDER THE MUTUAL AID AGREEMENT INDEMNIFIES AND HOLDS HARMLESS A PARTY THAT PROVIDES ASSISTANCE UNDER THE MUTUAL AID AGREEMENT FROM ANY CLAIM BY A THIRD PARTY FOR PROPERTY DAMAGE OR PERSONAL INJURY THAT ARISES OUT OF THE MUTUAL AID ACTIVITIES, INCLUDING TRAVEL, OF THE PARTY THAT PROVIDES ASSISTANCE THAT OCCURS OUTSIDE ITS OWN JURISDICTION.

(2) THE PARTY THAT REQUESTS ASSISTANCE NEED NOT INDEMNIFY THE PARTY THAT PROVIDES ASSISTANCE IF:

(I) THE PARTY THAT PROVIDES ASSISTANCE DOES NOT COOPERATE IN DEFENDING AGAINST A CLAIM MADE BY A THIRD PARTY; OR

(II) THE CLAIM BY A THIRD PARTY ARISES OUT OF A MALICIOUS ACT OF THE PARTY THAT PROVIDES ASSISTANCE.

(C) REQUIRED WAIVER OF CLAIMS.

EACH MUTUAL AID AGREEMENT SHALL PROVIDE THAT EACH PARTY TO THE MUTUAL AID AGREEMENT SHALL WAIVE ANY AND ALL CLAIMS AGAINST ALL OTHER PARTIES TO THE MUTUAL AID AGREEMENT IF THE CLAIM ARISES OUT OF THE ACTIVITIES OF A PARTY OUTSIDE ITS OWN JURISDICTION UNDER THE MUTUAL AID AGREEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 37(b), (c), and (d).

In the introductory language of subsection (a) of this section, the phrase "in accordance with this section" is substituted for the former phrase "[e]xcept as provided in subsection (d) of this section" because subsection (c) of this section, which revises former Art. 38A, § 37(d), provides a qualification of the mutual aid agreement, not an exception to the agreement.

In subsections (b)(1) and (c) of this section, the former references to a "subscribing" party are deleted as implicit.

In subsection (b)(1) of this section, the reference to "holds" harmless is substituted for the former reference to "saves" harmless to use common legal terminology.

Defined terms: "Fire, rescue, or emergency medical services entity" § 7-101

"Mutual aid agreement" § 7-101

7-104. AGREEMENTS WITH FEDERAL GOVERNMENT TO PROVIDE FIRE FIGHTING OR RESCUE ACTIVITIES.

(A) AUTHORIZED.

A FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES ENTITY MAY ENTER INTO AN AGREEMENT WITH THE FEDERAL GOVERNMENT IN ACCORDANCE WITH THIS SECTION TO PROVIDE FIRE FIGHTING OR RESCUE ACTIVITIES ON PROPERTY UNDER THE JURISDICTION OF THE UNITED STATES.

(B) LIMITATION.

AN AGREEMENT ENTERED INTO UNDER THIS SECTION SHALL BE LIMITED TO THE PROVISION OF FIRE FIGHTING OR RESCUE EQUIPMENT AND PERSONNEL OR BOTH.

(C) REQUIRED PROVISIONS.

AN AGREEMENT ENTERED INTO UNDER THIS SECTION SHALL INCLUDE:

(1) A WAIVER BY EACH PARTY OF ANY CLAIM AGAINST ANY OTHER PARTY FOR COMPENSATION FOR ANY LOSS, DAMAGE, PERSONAL INJURY, OR DEATH THAT OCCURS IN THE PERFORMANCE OF THE AGREEMENT;

(2) A PROVISION TO INDEMNIFY AND HOLD HARMLESS EACH PARTY TO THE AGREEMENT FROM ANY CLAIM BY A THIRD PARTY FOR PROPERTY DAMAGE OR PERSONAL INJURY, WITHIN THE LIMITATIONS PERMITTED BY FEDERAL LAW, THAT ARISE OUT OF THE ACTIVITIES OF EACH PARTY TO THE AGREEMENT; AND

(3) EXCEPT IN ANNE ARUNDEL COUNTY, A PROVISION THAT ENTITLES THE FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES ENTITY TO OBTAIN REIMBURSEMENT FROM THE APPROPRIATE FEDERAL AUTHORITY FOR ALL OR PART OF THE COST OF PROVIDING FIRE PROTECTION ON PROPERTY UNDER THE JURISDICTION OF THE UNITED STATES IN ACCORDANCE WITH FEDERAL LAW.

(D) BENEFITS UNDER WORKERS' COMPENSATION LAW.

IF AN INDIVIDUAL ENGAGING IN AN ACTIVITY AUTHORIZED UNDER THIS SECTION SUSTAINS AN INJURY THAT ARISES OUT OF THE ACTIVITY, THE INDIVIDUAL IS ENTITLED TO ANY OR ALL BENEFITS AVAILABLE UNDER THE MARYLAND WORKERS' COMPENSATION ACT AS THE PRIMARY REMEDY FOR REIMBURSEMENT OF EXPENSES FOR MEDICAL BILLS, LOSS OF EARNINGS, AND DISABILITY THAT ARISES UNDER OR AS A RESULT OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 38.

In subsection (a) of this section, the former phrase "acting through authorized agents" is deleted as surplusage.

Also in subsection (a) of this section, the former phrase "in their discretion" is deleted as surplusage.

In subsection (b) of this section, the former phrase "to extinguish fires and save lives on property which is under the jurisdiction of the United States"

is deleted as duplicative of what an agreement under this section may provide for as stated in subsection (a) of this section.

In subsection (c)(2) and (3) of this section, the former reference to "applicable" federal law is deleted as surplusage.

In subsection (c)(2) of this section, the reference to "hold" harmless is substituted for the former reference to "save" harmless to use common legal terminology.

In subsection (d) of this section, the reference to an activity "authorized" under this section is added for clarity.

Defined term: "Fire, rescue, or emergency medical services entity" § 7-101

7-105. TRAINING IN EMERGENCY RESPONSE MEASURES.

(A) IN GENERAL.

EACH FIRE DEPARTMENT IN THE STATE MAY HAVE MEMBERS TRAINED IN RESPONSE MEASURES THAT INVOLVE FIRE AND OTHER EMERGENCY TECHNIQUES INCLUDING, IF APPROVED BY THE SECRETARY OF STATE POLICE, THE USE OF HELICOPTERS OR OTHER EQUIPMENT OF THE DEPARTMENT OF STATE POLICE.

(B) AUTHORITY TO FUNCTION AT SPECIFIED LOCATION.

ON REQUEST OF A FIRE CHIEF AT ANY LOCATION IN THE STATE, A FIREFIGHTER OR MEMBER OF THE DEPARTMENT OF STATE POLICE WHO HAS BEEN TRAINED IN THE RESPONSE MEASURES DESCRIBED IN SUBSECTION (A) OF THIS SECTION MAY FUNCTION AT THAT LOCATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 38A.

7-106. BENEFITS ACCRUING UNDER WORKERS' COMPENSATION AND RELATED LAWS.

FOR PURPOSES OF A WORKERS' COMPENSATION OR OTHER LAW OR BENEFIT THAT WOULD ACCRUE TO AN INDIVIDUAL, CAREER OR VOLUNTEER, WHO IS PERFORMING A SERVICE ANYWHERE FOR A FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES ENTITY UNDER A MUTUAL AID AGREEMENT, THE INDIVIDUAL IS CONSIDERED TO HAVE PERFORMED THAT SERVICE IN THE COURSE OF EMPLOYMENT AND IN THE LINE OF DUTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 39.

The references to an "individual" are substituted for the former references to "personnel" for consistency with the Maryland Workers' Compensation Act. *See* LE §§ 9-202 and 9-234.

%The reference to a "career" individual is substituted for the former reference to a "paid" individual to conform to terminology used throughout this article to distinguish career and volunteer fire companies and similar entities.

The former reference to a fire, rescue, or emergency medical services entity "of this State, or elsewhere" is deleted as implicit in that an individual performing service under a mutual aid agreement is performing the service for a fire, rescue, or emergency medical services entity of Maryland or another state. *See* § 7-103(a) of this subtitle.

The former phrase "in order to fully qualify for any benefits otherwise accruing" is deleted as surplusage.

Defined terms: "Fire, rescue, or emergency medical services entity" § 7-101

"Mutual aid agreement" § 7-101

7-107. EXPENDITURES.

NECESSARY EXPENDITURES FOR PURPOSES OF THIS SUBTITLE SHALL BE MADE OUT OF ANY APPROPRIATIONS USUALLY AVAILABLE TO A FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES ENTITY.

REVISOR'S NOTE: This section formerly was Art. 38A, § 40.

The only change is in style.

Defined term: "Fire, rescue, or emergency medical services entity" § 7-101

SUBTITLE 2. MEMBERS OF VOLUNTEER FIRE COMPANIES AND RESCUE SQUADS.

PART I. DISABILITY AND DEATH BENEFITS.

7-201. "BOARD" DEFINED.

IN PART I OF THIS SUBTITLE, "BOARD" MEANS THE BOARD OF TRUSTEES OF THE MARYLAND STATE FIREMEN'S ASSOCIATION.

REVISOR'S NOTE: This section formerly was Art. 38A, §§ 42(a) and 42A(a).

The reference to "Part I of this subtitle" is substituted for the former references to this "section" to reflect the reorganization of former §§ 42 and 42A as Part I of this subtitle in this revision.

No other changes are made.

7-202. DISABILITY BENEFITS.

(A) ELIGIBILITY.

(1) A MEMBER OF A VOLUNTEER FIRE COMPANY OR VOLUNTEER RESCUE SQUAD IS ELIGIBLE FOR DISABILITY BENEFITS FROM THE MARYLAND STATE FIREMEN'S ASSOCIATION IF:

(I) THE MEMBER'S FIRE COMPANY OR RESCUE SQUAD RECOMMENDS THAT THE MEMBER RECEIVE BENEFITS; AND

(II) THE MEMBER IS PERMANENTLY OR TEMPORARILY DISABLED:

1. AS A DIRECT RESULT OF ACTIVELY PARTICIPATING IN FIGHTING A FIRE;

2. WHILE GOING TO OR FROM A FIRE;

3. WHILE PERFORMING OTHER DUTIES NECESSARY TO THE OPERATION OR MAINTENANCE OF THE FIRE COMPANY;

4. WHILE ACTIVELY PARTICIPATING IN THE EMERGENCY MEDICAL SERVICES UNIT, OR RESCUE WORK OF A VOLUNTEER ADVANCED LIFE SUPPORT UNIT OR A VOLUNTEER FIRE, AMBULANCE, OR RESCUE COMPANY LOCATED IN THE STATE; OR

5. WHILE PROVIDING EMERGENCY OR RESCUE ASSISTANCE, WHETHER ACTING ALONE OR AT THE DIRECTION OF OR WITH A FIRE, AMBULANCE, OR RESCUE COMPANY OR ADVANCED LIFE SUPPORT UNIT.

(2) A BENEFIT UNDER THIS SECTION SHALL BE PAID:

(I) REGARDLESS OF THE DISTRICT IN WHICH THE BENEFICIARY WAS DISABLED; OR

(II) REGARDLESS OF WHETHER THE BENEFICIARY WAS DISABLED IN THIS STATE, DELAWARE, THE DISTRICT OF COLUMBIA, PENNSYLVANIA, VIRGINIA, OR WEST VIRGINIA.

(B) AMOUNT AND MANNER OF PAYMENT.

THE BOARD SHALL PAY A BENEFIT UNDER THIS SECTION FROM THE TREASURY OF THE MARYLAND STATE FIREMEN'S ASSOCIATION IN THE AMOUNT AND IN THE MANNER THAT THE BOARD DETERMINES UNTIL THE BENEFICIARY IS NO LONGER DISABLED.

(C) NAME OF BENEFICIARY ADDED TO LIST.

THE SECRETARY OF THE BOARD SHALL ADD THE NAME OF EACH BENEFICIARY UNDER THIS SECTION TO THE DISABLED FIREMEN'S AND RESCUE SQUADMEN'S LIST.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 42(b), (c), (d), and (e).

Throughout this section, references to a "member" of a volunteer fire

company or volunteer rescue squad are substituted for the former references to a "person" who is a volunteer "firefighter", "individual" serving on a volunteer rescue squad, and "person" for clarity and consistency throughout this section and this subtitle.

In the introductory language of subsection (a)(1) of this section, the word "disability" is added to modify "benefits" to distinguish disability benefits from the death benefits and pension benefits also provided for in this subtitle.

Also in the introductory language of subsection (a)(1) of this section, the reference to the "Maryland State Firemen's Association" is substituted for the former reference to the "Board" to clarify that the Association is responsible for funding death benefits.

In subsection (a)(1)(ii)4 of this section, the reference to a volunteer unit or company "located" in the State is added to clarify that the volunteer unit or company must be located in the State.

In subsection (a)(2)(ii) of this section, the former reference to "adjacent states" is deleted as surplusage.

In subsection (c) of this section, the word "add" is substituted for the former phrase "place and keep" for clarity and brevity.

Defined term: "Board" § 7-201

7-203. DEATH BENEFITS.

(A) ELIGIBILITY.

(1) THE BOARD SHALL PAY DEATH BENEFITS UNDER THIS SECTION IF A MEMBER OF A VOLUNTEER FIRE COMPANY OR MEMBER OF A VOLUNTEER RESCUE SQUAD DIES:

(I) AS A DIRECT RESULT OF ACTIVELY PARTICIPATING IN FIGHTING A FIRE;

(II) WHILE GOING TO OR FROM A FIRE;

(III) WHILE PERFORMING OTHER DUTIES NECESSARY TO THE OPERATION OR MAINTENANCE OF THE FIRE COMPANY;

(IV) WHILE ACTIVELY PARTICIPATING IN THE AMBULANCE, ADVANCED LIFE SUPPORT, OR RESCUE WORK OF A VOLUNTEER ADVANCED LIFE SUPPORT UNIT OR VOLUNTEER FIRE, AMBULANCE, OR RESCUE COMPANY LOCATED IN THE STATE; OR

(V) WHILE PROVIDING EMERGENCY OR RESCUE ASSISTANCE, WHETHER ACTING ALONE OR AT THE DIRECTION OF OR WITH A FIRE, AMBULANCE, OR RESCUE COMPANY OR ADVANCED LIFE SUPPORT UNIT.

(2) A BENEFIT UNDER THIS SUBSECTION SHALL BE PAID:

(I) REGARDLESS OF THE DISTRICT IN WHICH THE DECEDENT DIED; OR

(II) REGARDLESS OF WHETHER THE DECEDENT DIED IN THIS STATE, DELAWARE, THE DISTRICT OF COLUMBIA, PENNSYLVANIA, VIRGINIA, OR WEST VIRGINIA.

(B) AMOUNT OF PAYMENT AND TO WHOM PAID.

(1) THE BOARD SHALL PAY A BENEFIT UNDER THIS SECTION FROM THE TREASURY OF THE MARYLAND STATE FIREMEN'S ASSOCIATION IN THE AMOUNT THAT THE BOARD DETERMINES, BUT NOT LESS THAN $2,000.

(2) THE BOARD SHALL PAY A BENEFIT UNDER THIS SUBSECTION:

(I) TO THE DECEDENT'S SURVIVING SPOUSE OR DEPENDENT CHILD;

(II) IF NO INDIVIDUAL IS ELIGIBLE UNDER ITEM (I) OF THIS PARAGRAPH, TO THE DECEDENT'S SURVIVING DEPENDENT PARENT;

(III) IF NO INDIVIDUAL IS ELIGIBLE UNDER ITEM (I) OR (II) OF THIS PARAGRAPH, TO EACH SURVIVING CHILD OF THE DECEDENT IN EQUAL SHARES;

(IV) IF NO INDIVIDUAL IS ELIGIBLE UNDER ITEM (I), (II), OR (III) OF THIS PARAGRAPH, TO THE DECEDENT'S SURVIVING PARENT; OR

(V) IF NO INDIVIDUAL IS ELIGIBLE UNDER ITEM (I), (II), (III), OR (IV) OF THIS PARAGRAPH, TO EACH SURVIVING SISTER, BROTHER, OR GRANDPARENT OF THE DECEDENT IN EQUAL SHARES.

(C) PENSION BENEFITS.

(1) IF THERE IS A SURVIVING SPOUSE OR DEPENDENT CHILD:

(I) UNTIL THE SURVIVING SPOUSE REMARRIES, THE SURVIVING SPOUSE IS ENTITLED TO RECEIVE A PENSION FROM THE MARYLAND STATE FIREMEN'S ASSOCIATION; AND

(II) UNTIL THE DEPENDENT CHILD BECOMES AN ADULT, EACH DEPENDENT CHILD IS ENTITLED TO RECEIVE A PENSION FROM THE MARYLAND STATE FIREMEN'S ASSOCIATION.

(2) THE BOARD SHALL PAY A BENEFIT UNDER THIS SUBSECTION FROM THE TREASURY OF THE MARYLAND STATE FIREMEN'S ASSOCIATION IN THE AMOUNT, AT THE TIMES, AND IN THE INSTALLMENTS THAT THE BOARD DETERMINES.

(3) THE SECRETARY OF THE BOARD SHALL ADD THE NAME OF EACH BENEFICIARY UNDER THIS SUBSECTION TO THE DISABLED FIREMEN'S AND RESCUE SQUADMEN'S LIST.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 42A(b), (c), and (d).

In subsection (a)(1) of this section, the reference to a "member" of a volunteer fire company or volunteer rescue squad is substituted for the former references to a volunteer "firefighter" and "individual" serving on a volunteer rescue squad for clarity and consistency with § 7-202 of this subtitle.

In subsection (a)(1)(iv) of this section, the reference to a volunteer unit or company "located" in the State is added to clarify that the volunteer unit or company must be located in the State.

In subsection (a)(2)(ii) of this section, the former reference to "adjacent states" is deleted as surplusage.

Subsection (b)(2) of this section is revised in the active voice to clarify that the Board is responsible for paying death benefits under this section.

In subsection (b)(2)(i) and (ii) of this section, the word "decedent's" is added to modify the terms "surviving spouse", "dependent child", and "dependent parent", respectively, to clarify that benefits will only be paid to the decedent's specified relatives.

In subsections (b)(2)(i) and (ii) and (c)(1)(ii) of this section, the former references to "children" and "parents", respectively, are deleted in light of Art. 1, § 8, which provides that the singular includes the plural.

In subsection (b)(2)(ii) of this section, the reference to the "surviving" dependent parent is added for clarity and consistency throughout subsection (b)(2) of this section.

In the introductory language of subsection (c)(1) of this section, the former language "the case shall be laid before the Board, and if the facts are established as provided in § 42" is deleted as implicit.

In subsection (c)(1)(ii) of this section, the phrase "becomes an adult" is substituted for the former reference to children who "attain the age of 18 years" in light of Art. 1, § 24, which provides that the term "adult" refers to persons who have attained the age of 18 years.

In subsection (c)(3) of this section, the word "add" is substituted for the

former phrase "be placed" for consistency with § 7-202(c) of this subtitle.

Defined term: "Board" § 7-201

7-204. FUNDING.

(A) IN GENERAL.

THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET EACH YEAR AT LEAST $55,000:

(1) FOR THE PURPOSES SET FORTH IN §§ 7-202 AND 7-203 OF THIS SUBTITLE; AND

(2) FOR SCHOLARSHIPS FOR CHILDREN OF MEMBERS OF VOLUNTEER FIRE COMPANIES OR VOLUNTEER RESCUE SQUADS WHO ARE KILLED OR DISABLED IN THE LINE OF DUTY, AS PROVIDED IN § 18-602 OF THE EDUCATION ARTICLE.

(B) ADMINISTRATION.

THE BOARD:

(1) SHALL ADMINISTER THE MONEY PROVIDED UNDER SUBSECTION (A) OF THIS SECTION; AND

(2) MAY NOT USE IT FOR ADMINISTRATIVE COSTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 42B.

Former Art. 38A, § 42B(a) required that the State budget include at least $55,000 for the purposes set forth in §§ 7-202 and 7-203 of this subtitle and ED § 18-602. However, the General Assembly can reduce funding in the State budget regardless of this provision. Therefore, subsection (a) of this section is revised to require the Governor to include funding in the State budget but not to require that the funding actually be appropriated.

In subsection (a)(2) of this section, the reference to "members" of volunteer fire companies or volunteer rescue squads is substituted for the former references to volunteer "firemen" and volunteer "rescue squadmen" for consistency with §§ 7-202 and 7-203 of this subtitle.

Defined term: "Board" § 7-201

7-205. ON DUTY FOR PURPOSES OF FEDERAL ACT.

A MEMBER OF A VOLUNTEER FIRE COMPANY OR RESCUE SQUAD WHO IS ENGAGED IN A FIRE FIGHTING OR RESCUE ACTIVITY WITH AN ORGANIZED FIRE OR RESCUE COMPANY IS CONSIDERED TO BE ON DUTY DURING THE ACTIVITY FOR THE PURPOSES OF THE FEDERAL PUBLIC SAFETY OFFICERS' BENEFITS ACT OF 1976.

REVISOR'S NOTE: This section formerly was Art. 38A, § 45.

The reference to a "member" of a volunteer fire company is substituted for the former reference to a volunteer "firefighter" for consistency throughout this subtitle.

The only other changes are in style.

7-206. RESERVED.

7-207. RESERVED.

PART II. LENGTH OF SERVICE AWARD PROGRAMS.

7-208. CALVERT COUNTY.

IN CALVERT COUNTY, THE FIRE AND RESCUE COMMISSION SHALL ADMINISTER A LENGTH OF SERVICE AWARD PROGRAM FOR MEMBERS OF VOLUNTEER FIRE COMPANIES AND RESCUE SQUADS, AS PROVIDED IN TITLE 14 OF THE CODE OF PUBLIC LOCAL LAWS OF CALVERT COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 13B.

The reference to "members" of volunteer fire companies is substituted for the former reference to volunteer "firemen" for clarity and consistency with terminology used throughout this subtitle.

7-209. CECIL COUNTY.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "BOARD" MEANS THE BOARD OF COUNTY COMMISSIONERS OF CECIL COUNTY.

(3) "PROGRAM" MEANS THE VOLUNTEER LENGTH OF SERVICE AWARD PROGRAM.

(B) AUTHORITY TO ESTABLISH PROGRAM.

IN CECIL COUNTY, THE BOARD MAY ESTABLISH AND FUND A VOLUNTEER LENGTH OF SERVICE AWARD PROGRAM FOR QUALIFIED MEMBERS OF VOLUNTEER FIRE DEPARTMENTS, RESCUE SQUADS, AND AMBULANCE CORPS.

(C) BYLAWS.

(1) THE BOARD MAY ADOPT BYLAWS FOR THE PROGRAM BY RESOLUTION.

(2) IN THE BYLAWS, THE BOARD MAY:

(I) DEFINE TERMS;

(II) ESTABLISH ELIGIBILITY REQUIREMENTS FOR CERTIFICATION PROCEDURES BASED ON LENGTH OF SERVICE, NUMBER OF HOURS OF SERVICE, AMOUNT OF TRAINING, NUMBER OF HOURS OF TRAINING, PRIOR SERVICE, OR ANY OTHER CRITERIA CONSIDERED RELEVANT BY THE BOARD BASED ON REQUIREMENTS AND PROCEDURES RECOMMENDED BY THE CECIL COUNTY FIREMAN'S ASSOCIATION;

(III) ESTABLISH APPEALS PROCEDURES FOR MEMBERS WHO CONTEST ELIGIBILITY REQUIREMENT DETERMINATIONS BY THE BOARD;

(IV) ESTABLISH A BENEFITS SCHEDULE AND DETERMINE ELIGIBILITY REQUIREMENTS, INCLUDING AGE AND LENGTH OF SERVICE REQUIREMENTS;

(V) DELEGATE RECORDKEEPING RESPONSIBILITIES OF THE PROGRAM TO THE PROGRAM ADMINISTRATIVE COMMITTEE OF THE CECIL COUNTY FIREMAN'S ASSOCIATION;

(VI) DELEGATE ADMINISTRATION OF THE PROGRAM TO THE CECIL COUNTY TREASURER, A COMMITTEE OR BOARD, AN INSURER, A FINANCIAL INSTITUTION, OR ANY OTHER AGENCY, GROUP, OR ORGANIZATION THAT THE BOARD DETERMINES IS COMPETENT TO ADMINISTER THE PROGRAM;

(VII) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, ESTABLISH DISABILITY, DEATH, AND SURVIVOR BENEFITS FOR QUALIFIED INDIVIDUALS;

(VIII) ESTABLISH ANY OTHER REQUIREMENTS, CRITERIA, OR BENEFITS CONSIDERED BY THE BOARD TO BE IN THE BEST INTEREST OF CECIL COUNTY AND THE BEST INTEREST OF THE VOLUNTEER FIRE DEPARTMENTS, RESCUE SQUADS, AND AMBULANCE CORPS;

(IX) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, ALLOCATE FROM THE GENERAL REVENUE OF CECIL COUNTY OR FROM ANY OTHER SOURCE, FUNDS FOR THE PROGRAM; AND

(X) ESTABLISH ANY OTHER PROVISION FOR THE ADMINISTRATION OF THE PROGRAM.

(3) A "SURVIVING SPOUSE" BENEFIT IS DISCONTINUED WHEN THE SURVIVOR REMARRIES.

(4) FUNDS FOR THE PROGRAM ALLOCATED FROM THE GENERAL REVENUE OF CECIL COUNTY MAY NOT EXCEED:

(I) $35,000 DURING THE FIRST YEAR OF THE PROGRAM;

(II) $39,000 DURING THE SECOND YEAR OF THE PROGRAM;

(III) $44,000 DURING THE THIRD YEAR OF THE PROGRAM;

(IV) $49,000 DURING THE FOURTH YEAR OF THE PROGRAM;

(V) $55,000 DURING THE FIFTH YEAR OF THE PROGRAM; AND

(VI) AN ADDITIONAL $10,000 FOR EACH ADDITIONAL YEAR OF THE PROGRAM OR WHATEVER AMOUNT WOULD MAKE THE PROGRAM ACTUARIALLY SOUND BY JULY 1, 2014.

(D) MANDATORY PROVISIONS.

TO CARRY OUT THIS SECTION, THE BOARD SHALL ADOPT THE FOLLOWING PROVISIONS AS PART OF THE PROGRAM:

(1) A MEMBER WHO HAS CERTIFIED CREDIT VOLUNTEER SERVICE ON OR AFTER JANUARY 1, 1979 OR WHO DISCONTINUED ACTIVE VOLUNTEER SERVICE BEFORE JANUARY 1, 1979 MAY RECEIVE CREDIT FOR THIS SERVICE AFTER BEING CERTIFIED IN ACCORDANCE WITH THIS SECTION TO HAVE PERFORMED 5 YEARS OF ACTIVE VOLUNTEER SERVICE AFTER JANUARY 1, 1979;

(2) A MEMBER WHO HAS COMPLETED 25 YEARS OF CERTIFIED VOLUNTEER SERVICE AND IS UNDER THE AGE OF 60 YEARS MAY BE QUALIFIED AND WILL BE ELIGIBLE FOR BENEFITS WHEN THE MEMBER REACHES THE AGE OF 60 YEARS IF THE MEMBER IS CERTIFIED TO THE 25 YEARS OF QUALIFIED SERVICE BEFORE JANUARY 1, 1984; AND

(3) AFTER JANUARY 1, 1984, A MEMBER WHO ACCUMULATES THE PROPER NUMBER OF POINTS NEEDED TO QUALIFY AND CERTIFY FOR 25 YEARS OF SERVICE AND WHO FAILS TO REMAIN ACTIVE OR MAINTAIN MEMBERSHIP IN A VOLUNTEER FIRE COMPANY IS NOT DISQUALIFIED OR OTHERWISE RESTRICTED FROM RECEIVING BENEFITS AT THE AGE OF 60 YEARS.

REVISOR'S NOTE: Subsection (a)(1) of this section is new language added as the standard introductory language to a definition subsection.

Subsection (a)(2) of this section is new language added to avoid repetition of the full title "Board of County Commissioners of Cecil County".

Subsection (a)(3) of this section is new language added to avoid repetition of the full title "Volunteer Length of Service Award Program".

Subsections (b), (c), and (d) of this section are new language derived without substantive change from former Art. 25, § 32.5.

In subsection (c)(2)(iii) of this section, the reference to "members" is substituted for the former reference to "volunteers" for consistency with terminology used throughout this section.

In subsection (c)(2)(viii) of this section, the former reference to "the citizens

of" Cecil County is deleted because the meaning in this context is unclear.

In subsection (d)(1), (2), and (3) of this section, the reference to a "member" is substituted for the former reference to a "person" for clarity and consistency with terminology used throughout this section.

7-210. CHARLES COUNTY.

IN CHARLES COUNTY, THE COUNTY COMMISSIONERS SHALL ADMINISTER THE LENGTH OF SERVICE AWARD PROGRAM FOR MEMBERS OF VOLUNTEER FIRE COMPANIES, RESCUE SQUADS, AND MOBILE INTENSIVE CARE UNITS, AS PROVIDED IN §§ 54-8 THROUGH 54-11 OF THE CODE OF PUBLIC LOCAL LAWS OF CHARLES COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 13A.

The reference to "members" of volunteer fire companies and rescue squads is substituted for the former reference to volunteer "firemen" and rescue "squadsmen" for consistency with terminology used throughout this subtitle.

7-211. FREDERICK COUNTY.

(A) AUTHORITY TO ENACT MONETARY SERVICE AWARD PLAN.

TO ENCOURAGE VOLUNTEER SERVICE IN FREDERICK COUNTY, THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY MAY ENACT A MONETARY SERVICE AWARD PLAN BASED ON LENGTH OF SERVICE FOR MEMBERS OF VOLUNTEER FIRE COMPANIES IN FREDERICK COUNTY.

(B) IMPLEMENTATION OF PLAN.

THE BOARD OF COUNTY COMMISSIONERS MAY IMPLEMENT THE PLAN BY ENACTING ORDINANCES OR RESOLUTIONS THAT RELATE TO THE PROVISIONS AND IMPLEMENTATION OF THE PLAN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 13D.

In subsection (a) of this section, the reference to "members" of volunteer fire companies is substituted for the former reference to volunteer "firemen" for consistency with terminology used throughout this subtitle.

7-212. ST. MARY'S COUNTY.

THE BOARD OF COUNTY COMMISSIONERS OF ST. MARY'S COUNTY MAY:

(1) ESTABLISH A LENGTH OF SERVICE AWARD PROGRAM FOR QUALIFIED MEMBERS OF VOLUNTEER FIRE DEPARTMENTS AND RESCUE SQUADS; AND

(2) ADOPT BYLAWS FOR THE PROGRAM BY RESOLUTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 13C.

In item (1) of this section, the former word "[c]reate" is deleted as included in the word "establish".

7-213. WASHINGTON COUNTY.

BY RESOLUTION OR ORDINANCE, THE WASHINGTON COUNTY COMMISSIONERS MAY ESTABLISH AND FUND A VOLUNTEER LENGTH OF SERVICE AWARD PROGRAM FOR QUALIFIED MEMBERS OF VOLUNTEER FIRE DEPARTMENTS, RESCUE SQUADS, AND AMBULANCE CORPS.

REVISOR'S NOTE: This section formerly was Art. 25, § 32.6.

The only changes are in style.

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 38A, § 43, which authorized the governments of Kent and Queen Anne's counties to enact a service award plan for volunteer firemen based on length of service, is deleted as obsolete. The plan was required to become effective prior to July 2, 1980. To date, neither Kent County or Queen Anne's County has enacted a service award plan for volunteer firefighters.

SUBTITLE 3. MEMBERS OF FIRE COMPANIES APPOINTED AS DEPUTY SHERIFFS.

7-301. "COMMANDING OFFICER" DEFINED.

IN THIS SUBTITLE, "COMMANDING OFFICER" MEANS THE CAPTAIN, CHIEF, OR OTHER OFFICER IN CHARGE OF A FIRE COMPANY OR AMBULANCE COMPANY.

REVISOR'S NOTE: This section is new language added to avoid repetition of the phrase "captain, chief or other commanding officer" of a fire company or ambulance company.

7-302. APPOINTMENT OF MEMBERS OF FIRE COMPANIES AS DEPUTY SHERIFFS -- BALTIMORE, CAROLINE, CECIL, QUEEN ANNE'S, AND WASHINGTON COUNTIES.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO BALTIMORE COUNTY, CAROLINE COUNTY, CECIL COUNTY, QUEEN ANNE'S COUNTY, AND WASHINGTON COUNTY.

(B) IN GENERAL.

THE SHERIFF OF A COUNTY SUBJECT TO THIS SECTION MAY APPOINT AS DEPUTY SHERIFFS MEMBERS OF FIRE COMPANIES, WHETHER VOLUNTEER, CAREER,

INCORPORATED, OR UNINCORPORATED, TO EXERCISE THE POWERS OF DEPUTY SHERIFFS AT FIRES AND WHILE GOING TO AND FROM FIRES.

(C) DESIGNATION BY COMMANDING OFFICER.

(1) THE COMMANDING OFFICER MAY DESIGNATE THREE MEMBERS OF THE FIRE COMPANY TO BE APPOINTED AS DEPUTY SHERIFFS.

(2) THE COMMANDING OFFICER MAY BE ONE OF THE THREE MEMBERS DESIGNATED UNDER THIS SUBSECTION.

(D) APPOINTMENT BY SHERIFF.

(1) (I) EXCEPT IN CAROLINE COUNTY, THE SHERIFF OF A COUNTY SUBJECT TO THIS SECTION SHALL APPOINT AS DEPUTY SHERIFF A MEMBER OF THE FIRE COMPANY DESIGNATED UNDER SUBSECTION (C) OF THIS SECTION ON REQUEST OF THE DESIGNATED MEMBER.

(II) IN CAROLINE COUNTY, THE SHERIFF OF CAROLINE COUNTY MAY APPOINT THE DESIGNATED MEMBER AS DEPUTY SHERIFF.

(2) A REQUEST FOR APPOINTMENT SHALL BE ACCOMPANIED BY A WRITTEN CERTIFICATE OF DESIGNATION SIGNED BY THE COMMANDING OFFICER.

(E) POWERS.

(1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A MEMBER OF A FIRE COMPANY APPOINTED AS DEPUTY SHERIFF UNDER THIS SECTION MAY EXERCISE THE POWERS OF DEPUTY SHERIFFS AT FIRES AND WHILE GOING TO AND FROM FIRES.

(2) THE POWERS OF MEMBERS APPOINTED AS DEPUTY SHERIFFS DO NOT APPLY AND MAY NOT BE EXERCISED IN A MUNICIPAL CORPORATION THAT MAINTAINS AN ORGANIZED POLICE FORCE.

(3) IN WASHINGTON COUNTY, A MEMBER APPOINTED AS DEPUTY SHERIFF HAS THE POWERS NECESSARY TO PERFORM THE DUTIES OF DEPUTY SHERIFFS WHILE GOING TO, FUNCTIONING AT, OR RETURNING FROM:

(I) FIRES;

(II) ACCIDENTS;

(III) FLOODS;

(IV) OTHER EMERGENCIES; OR

(V) OTHER FUNCTIONS CONDUCTED BY A FIRE COMPANY.

(F) TERMINATION OF APPOINTMENT; REMOVAL; REPLACEMENT.

(1) THE APPOINTMENT OF A MEMBER OF A FIRE COMPANY AS DEPUTY SHERIFF TERMINATES IF THE MEMBER CEASES TO BE A MEMBER OF THE FIRE COMPANY.

(2) THE SHERIFF OF A COUNTY SUBJECT TO THIS SECTION MAY REMOVE A MEMBER APPOINTED AS DEPUTY SHERIFF AT ANY TIME FOR JUST CAUSE.

(3) IF A MEMBER APPOINTED AS DEPUTY SHERIFF DIES, RESIGNS, IS DISMISSED, REFUSES TO SERVE, OR IS UNABLE TO SERVE, THE COMMANDING OFFICER MAY DESIGNATE ANOTHER MEMBER OF THE FIRE COMPANY TO BE APPOINTED AS DEPUTY SHERIFF.

(4) (I) EXCEPT IN CAROLINE COUNTY, IF THE COMMANDING OFFICER DESIGNATES ANOTHER MEMBER OF THE FIRE COMPANY TO BE APPOINTED AS DEPUTY SHERIFF, THE SHERIFF OF THE COUNTY SHALL APPOINT THAT MEMBER AS DEPUTY SHERIFF, SUBJECT TO SUBSECTIONS (D) AND (E) OF THIS SECTION.

(II) IN CAROLINE COUNTY, THE SHERIFF OF CAROLINE COUNTY MAY APPOINT THE DESIGNATED MEMBER AS DEPUTY SHERIFF.

(G) WASHINGTON COUNTY -- PENSIONS.

IN WASHINGTON COUNTY, A MEMBER OF A FIRE COMPANY APPOINTED AS DEPUTY SHERIFF UNDER THIS SECTION IS DEEMED AN APPOINTED OFFICIAL AND SHALL BE TREATED AS AN APPOINTED OFFICIAL FOR PURPOSES OF TITLES 22 AND 23 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 87, §§ 49, 50, 51, 52, 54, and 53(a) and (c).

In subsections (b) and (d)(1)(i) of this section, the reference to a sheriff of a "county subject to this section" is substituted for the former reference to the sheriffs of "the several counties" for clarity.

In subsection (b) of this section, the reference to a "career" fire company is substituted for the former reference to a "paid" fire company for consistency with terminology used throughout this article.

In subsection (c)(1) of this section, the former phrase "as is described in § 49 of this article", which modified "fire company", is deleted as an unnecessary cross-reference.

Subsections (d)(1)(ii) and (f)(4)(ii) of this section are revised to state that the Sheriff of Caroline County "may" appoint the designated member as deputy sheriff for clarity. Former Art. 87, § 53(c), from which subsections (d)(1)(ii) and (f)(4)(ii) of this section are derived, stated that these duties "are not mandatory on the Sheriff of Caroline County".

In subsection (e)(2) of this section, the former reference to a "regular" police force is deleted as included in the reference to an "organized" police

force.

In subsection (f)(4)(i) of this section, the phrase "subject to subsections (d) and (e) of this section" is substituted for the former language "in the same manner and upon the same conditions as provided in § 51 of this article; and the powers of a member of a fire company so appointed shall be the same and subject to the same limitations as provided in § 51 of this article" for brevity.

In subsection (g) of this section, the reference to a "member of a fire company appointed as deputy sheriff under this section" is substituted for the former reference to a "deputy sheriff in this State" for specificity.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that the reference to a "volunteer" fire company in former Art. 87, § 51(b)(4) was too narrow. This section applies to career and volunteer fire companies. Consequently, subsection (e)(3)(v) of this section is revised to refer to a "fire company" for consistency throughout this section.

Defined terms: "Commanding officer" § 7-301

"County" § 1-101

7-303. SAME -- ALLEGANY, CARROLL, CECIL, FREDERICK, HARFORD, KENT, SOMERSET, WICOMICO, AND WORCESTER COUNTIES.

(A) SCOPE OF SECTION; APPLICABILITY OF § 7-302.

(1) THIS SECTION APPLIES ONLY TO ALLEGANY COUNTY, CARROLL COUNTY, CECIL COUNTY, FREDERICK COUNTY, HARFORD COUNTY, KENT COUNTY, SOMERSET COUNTY, WICOMICO COUNTY, AND WORCESTER COUNTY.

(2) EXCEPT AS MODIFIED BY THIS SECTION, THE PROVISIONS OF § 7-302 OF THIS SUBTITLE APPLY TO THIS SECTION.

(B) DESIGNATION BY COMMANDING OFFICER.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE COMMANDING OFFICER MAY DESIGNATE 12 MEMBERS OF A FIRE COMPANY TO BE APPOINTED AS DEPUTY SHERIFFS.

(2) IN CECIL COUNTY, THE COMMANDING OFFICER MAY DESIGNATE 20 MEMBERS OF A FIRE COMPANY TO BE APPOINTED AS DEPUTY SHERIFFS.

(C) TRAINING.

(1) THE SHERIFF OF A COUNTY SUBJECT TO THIS SECTION MAY REQUIRE A MEMBER OF A FIRE COMPANY APPOINTED AS DEPUTY SHERIFF TO DEMONSTRATE A SATISFACTORY LEVEL OF TRAINING IN THOSE AREAS OF LAW

ENFORCEMENT COMMENSURATE WITH THE DUTIES OF DEPUTY SHERIFF DESCRIBED IN THIS SECTION.

(2) IF THE SHERIFF REQUIRES DEMONSTRATION OF A SATISFACTORY LEVEL OF TRAINING, THEN THE SHERIFF MUST PROVIDE THE TRAINING, AT A TIME AND PLACE THAT THE SHERIFF CONSIDERS SUITABLE.

(D) POWERS.

(1) THE POWERS OF MEMBERS OF FIRE COMPANIES APPOINTED AS DEPUTY SHERIFFS UNDER THIS SECTION ARE LIMITED TO THOSE NECESSARY TO PERFORM THE DUTIES OF DEPUTY SHERIFFS WHILE FUNCTIONING AT:

(I) PARADES;

(II) ACCIDENTS;

(III) FLOODS;

(IV) OTHER EMERGENCIES; OR

(V) PUBLIC EVENTS CONDUCTED BY OR UNDER THE AUSPICES OF A FIRE COMPANY OR THE SHERIFF'S DEPARTMENT.

(2) THE POWERS AUTHORIZED UNDER THIS SUBSECTION MAY BE EXERCISED:

(I) IN A MUNICIPAL CORPORATION, SUBJECT TO THE DISCRETION AND CONTROL OF THE CHIEF OF THE POLICE FORCE OF THE MUNICIPAL CORPORATION;

(II) IN OTHER AREAS OF THE COUNTY; AND

(III) ON STATE ROADS, SUBJECT TO THE DISCRETION AND CONTROL OF THE DEPARTMENT OF STATE POLICE.

(3) A MEMBER APPOINTED AS DEPUTY SHERIFF IS DEEMED TO BE PERFORMING THE DUTIES OF DEPUTY SHERIFF WHEN ON DUTY AND WEARING A BADGE OF AUTHORITY.

(4) A MEMBER APPOINTED AS DEPUTY SHERIFF MAY NOT USE A WEAPON IN THE PERFORMANCE OF DUTIES AUTHORIZED UNDER THIS SUBSECTION.

(5) IN ALLEGANY COUNTY, CARROLL COUNTY, FREDERICK COUNTY, AND HARFORD COUNTY, A MEMBER APPOINTED AS DEPUTY SHERIFF MAY ALSO PERFORM TRAFFIC CONTROL FOR PUBLIC FUNCTIONS HELD BY A MUNICIPAL CORPORATION, GROUP, OR COMMITTEE ON REQUEST FOR AND APPROVAL OF THE SERVICES BY THE SHERIFF.

(E) CHAIN OF COMMAND.

(1) (I) A MEMBER APPOINTED AS DEPUTY SHERIFF PERFORMING THE DUTIES OF DEPUTY SHERIFF IN AN EMERGENCY SITUATION TO WHICH A FIRE COMPANY OR AMBULANCE COMPANY HAS BEEN DISPATCHED BY THE ALLEGANY COUNTY EMERGENCY MANAGEMENT CENTER IN ALLEGANY COUNTY, THE FREDERICK COUNTY CENTRAL ALARM BOARD IN FREDERICK COUNTY, OR THE CARROLL COUNTY EMERGENCY OPERATIONS CENTER IN CARROLL COUNTY, IS SUBJECT TO THE AUTHORITY OF THE COMMANDING OFFICER OF THAT FIRE COMPANY OR AMBULANCE COMPANY.

(II) IF A MEMBER APPOINTED AS DEPUTY SHERIFF IS NOT A MEMBER IN GOOD STANDING OF THE FIRE COMPANY OR AMBULANCE COMPANY THAT HAS BEEN DISPATCHED, THEN THE MEMBER MAY NOT PERFORM THE DUTIES DESCRIBED IN THIS SECTION.

(2) A MEMBER APPOINTED AS DEPUTY SHERIFF PERFORMING THE DUTIES OF DEPUTY SHERIFF AT A PUBLIC EVENT CONDUCTED BY OR UNDER THE AUSPICES OF A FIRE COMPANY OR AMBULANCE COMPANY IS SUBJECT TO THE AUTHORITY OF THE COMMANDING OFFICER OF THAT FIRE COMPANY OR AMBULANCE COMPANY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 87, § 53(b)(1) through (7).

In subsections (c)(1), (d)(3), (4), and (5), and (e)(1)(i) and (ii) and (2) of this section, the references to "member[s] [of a fire company] appointed as deputy sheriff[s]" are substituted for the former references to "fire police" for consistency with terminology used throughout this subtitle. The former phrase "fire police" only appeared in former Art. 87, § 53(b), and was not used elsewhere in the former subtitle.

In subsection (d)(5) of this section, the reference to a "municipal corporation" is substituted for the former references to a "municipality" and "town" to conform to Md. Constitution, Art. XI-E.

In subsection (e)(1)(i) of this section, the reference to the Carroll County "Emergency Operations Center" is substituted for the former reference to the Carroll County "Communication Control Center" to use the current name of the entity.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that the reference to a "volunteer" fire company in the first sentence of former Art. 87, § 53(b)(4) was too narrow. This section applies to career and volunteer fire companies. Consequently, subsection (d)(1)(v) of this section is revised to refer to a "fire company" for consistency throughout this section.

The Public Safety Article Review Committee also notes, for consideration by the General Assembly, that this section applies to Cecil County. Chapter 352, Acts of 1977, added Cecil County to former Art. 87, § 53(b)(1). There are potential conflicts in the law as it applies to Cecil County because Cecil

County is covered by both §§ 7-302 and 7-303 of this subtitle.

Former Art. 87, § 53(b)(8), which provided that the Sheriff of Allegany County may remove a member appointed as deputy sheriff at any time for just cause, is deleted as surplusage. The Sheriff of Allegany County may dismiss a member appointed as deputy sheriff at any time for just cause under former Art. 87, § 51(a), which is revised in § 7-302(f)(2) of this subtitle.

Defined terms: "Commanding officer" § 7-301

"County" § 1-101

SUBTITLE 4. MISCELLANEOUS PROVISIONS.

7-401. PROVISION OF FIRE, AMBULANCE, AND RESCUE SERVICES BY FOR-PROFIT ENTITIES.

(A) SCOPE OF SECTION.

THIS SECTION DOES NOT APPLY TO NONEMERGENCY TRANSPORTATION OR AMBULANCE BILLING SERVICES PERFORMED BY AN AMBULANCE SERVICE OR BY ANY OTHER PROVIDER.

(B) LIMITATION.

A COUNTY OR MUNICIPAL CORPORATION THAT BARGAINS COLLECTIVELY WITH FIRE, EMERGENCY MEDICAL SERVICES, PARAMEDIC, AND RESCUE PERSONNEL MAY NOT CONTRACT WITH A FOR-PROFIT ENTITY TO PROVIDE THE COUNTY'S OR MUNICIPAL CORPORATION'S COMPLETE FIRE SUPPRESSION OR AMBULANCE AND RESCUE SERVICES WITHOUT THE ENACTMENT OF AN ORDINANCE OR OTHER LOCAL LAW THAT AUTHORIZES THE ACTION.

(C) ENACTMENT OF LOCAL BUDGET BILL.

THE REQUIREMENT THAT A COUNTY OR MUNICIPAL CORPORATION ENACT AN ORDINANCE OR OTHER LOCAL LAW UNDER SUBSECTION (B) OF THIS SECTION MAY NOT BE SATISFIED THROUGH THE ENACTMENT OF A LOCAL BUDGET BILL.

REVISOR'S NOTE: This section formerly was Art. 38A, § 68.

The only changes are in style.

Defined term: "County" § 1-101

7-402. INTERFERENCE, OBSTRUCTION, OR FALSE REPRESENTATION.

(A) INTERFERENCE WITH OR OBSTRUCTION OF EMERGENCY ASSISTANCE PROHIBITED.

A PERSON MAY NOT WILLFULLY INTERFERE WITH OR OBSTRUCT A FIREFIGHTER, A RESCUE SQUAD MEMBER, OR EMERGENCY SERVICES PERSONNEL WHILE THE FIREFIGHTER, RESCUE SQUAD MEMBER, OR EMERGENCY SERVICES PERSONNEL:

(1) IS FIGHTING A FIRE, PERFORMING EMERGENCY SERVICES, OR PROCEEDING TO A FIRE OR OTHER EMERGENCY; OR

(2) IS DISPATCHED ON A CALL FOR EMERGENCY SERVICES.

(B) IMPERSONATING FIREFIGHTER OR EMERGENCY SERVICES PERSONNEL PROHIBITED.

A PERSON MAY NOT, WITH FRAUDULENT DESIGN ON PERSON OR PROPERTY, FALSELY REPRESENT THAT THE PERSON IS A MEMBER OF A CAREER OR VOLUNTEER FIRE DEPARTMENT, RESCUE SQUAD, OR EMERGENCY SERVICES UNIT OF THE STATE OR A COUNTY OR MUNICIPAL CORPORATION OF THE STATE.

(C) WEARING FIREFIGHTER ARTICLES OR IMITATIONS PROHIBITED.

A PERSON MAY NOT HAVE, USE, WEAR, OR DISPLAY WITHOUT PROPER AUTHORITY, FOR THE PURPOSE OF DECEPTION, A UNIFORM, SHIELD, BUTTON, ORNAMENT, IDENTIFICATION, OR SHOULDER PATCH, OR A SIMULATION OR IMITATION OF THESE ARTICLES, ADOPTED BY A CAREER OR VOLUNTEER FIRE DEPARTMENT, RESCUE SQUAD, OR EMERGENCY SERVICES UNIT.

(D) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 11D(d) and, as they related to firefighters, rescue squad members, and emergency services personnel, (a) and (c).

In subsection (b) of this section, the former reference to "Baltimore City" is deleted as included in the defined term "county".

In subsection (d) of this section, the reference to a person "on conviction" being subject to a certain penalty is added to state expressly that which was only implied in the former law, and for consistency with other penalty provisions in this and other revised articles of the Code.

Also in subsection (d) of this section, the reference to "[a] person who violates this section [being] guilty of" a misdemeanor is substituted for the former reference to "[v]iolation of this section [being]" a misdemeanor for consistency with other penalty provisions in this and other revised articles of the Code. Similarly, the phrase "is subject to" imprisonment is substituted for the former phrase "punishable by" imprisonment.

Defined terms: "County" § 1-101

"Person" § 1-101

TITLE 8. FIRE AND RESCUE FUNDS.

SUBTITLE 1. SENATOR WILLIAM H. AMOSS FIRE, RESCUE, AND AMBULANCE FUND.

8-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 45A(a).

No changes are made.

(B) EXPENDITURES FOR FIRE PROTECTION.

(1) "EXPENDITURES FOR FIRE PROTECTION" MEANS:

(I) REVENUES APPROPRIATED OR TO BE APPROPRIATED BY A COUNTY FOR FIRE PROTECTION, RESCUE, AND AMBULANCE SERVICES; AND

(II) THE PROCEEDS OF ANY COUNTY BONDS USED TO FINANCE FACILITIES THAT HOUSE EQUIPMENT FOR FIRE PROTECTION, RESCUE, AND AMBULANCE SERVICES.

(2) "EXPENDITURES FOR FIRE PROTECTION" INCLUDES THE COSTS OF TRAINING PERSONNEL.

(3) "EXPENDITURES FOR FIRE PROTECTION" DOES NOT INCLUDE:

(I) SALARIES, WORKERS' COMPENSATION, FRINGE BENEFITS, OR OTHER PERSONNEL COSTS;

(II) ADMINISTRATIVE COSTS; OR

(III) IN CARROLL COUNTY, APPROPRIATIONS FOR LOANS TO A VOLUNTEER FIRE, RESCUE, OR AMBULANCE COMPANY, SECURED BY MORTGAGES, NOTES, OR OTHER EVIDENCE OF INDEBTEDNESS OF THE VOLUNTEER FIRE, RESCUE, OR AMBULANCE COMPANY, IF THE APPROPRIATIONS DERIVE FROM THE PROCEEDS OF BONDS USED TO FINANCE FACILITIES THAT HOUSE EQUIPMENT FOR FIRE PROTECTION, RESCUE, AND AMBULANCE SERVICES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 38A, § 45A(c) and (d).

In the introductory language of paragraphs (1), (2), and (3) of this subsection, the former phrases "expend for fire protection" are deleted as unnecessary because the defined term "expenditures for fire protection" is

used throughout this subtitle.

In paragraphs (1)(ii) and (3)(iii) of this subsection, the former reference to "apparatus" is deleted as included in the reference to "equipment".

Defined term: "County" § 1-101

(C) FUND.

"FUND" MEANS THE SENATOR WILLIAM H. AMOSS FIRE, RESCUE, AND AMBULANCE FUND.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 45A(e).

The former phrase "established under this subtitle" is deleted as unnecessary in a definition.

No other changes are made.

(D) QUALIFIED MUNICIPAL CORPORATION.

(1) "QUALIFIED MUNICIPAL CORPORATION" MEANS A MUNICIPAL CORPORATION IN THE STATE WHOSE EXPENDITURES FOR FIRE PROTECTION FROM MUNICIPAL SOURCES EXCEED $25,000.

(2) "QUALIFIED MUNICIPAL CORPORATION" DOES NOT INCLUDE BALTIMORE CITY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 38A, § 45A(f).

In paragraph (1) of this subsection, the defined term "qualified municipal corporation" is substituted for the former defined term "[q]ualified municipality" to conform to Md. Constitution, Art. XI-E. Similarly, the reference to a "municipal corporation" is substituted for the former reference to an "incorporated city or town".

Defined term: "Expenditures for fire protection" § 8-101

(E) SECRETARY.

"SECRETARY" MEANS THE SECRETARY OF STATE POLICE.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 45A(g).

The only change is in style.

REVISOR'S NOTE TO SECTION:
Former Art. 38A, § 45A(b), which defined "county" to include Baltimore City, is deleted as unnecessary in light of the definition of "county" in §

1-101 of this article to the same effect.

8-102. SENATOR WILLIAM H. AMOSS FIRE, RESCUE, AND AMBULANCE FUND.

(A) ESTABLISHED.

THERE IS A SENATOR WILLIAM H. AMOSS FIRE, RESCUE, AND AMBULANCE FUND.

(B) PURPOSES.

THE PURPOSES OF THE FUND ARE TO PROMOTE:

(1) THE DELIVERY OF EFFECTIVE AND HIGH QUALITY FIRE PROTECTION, RESCUE, AND AMBULANCE SERVICES IN THE STATE;

(2) INCREASED FINANCIAL SUPPORT FOR FIRE, RESCUE, AND AMBULANCE COMPANIES BY COUNTIES; AND

(3) THE CONTINUED FINANCIAL VIABILITY OF VOLUNTEER FIRE, RESCUE, AND AMBULANCE COMPANIES GIVEN THE GREATLY INCREASED COSTS OF EQUIPMENT.

(C) ADMINISTRATION.

(1) THE SECRETARY SHALL ADMINISTER THE FUND.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE SECRETARY MAY ADOPT PROCEDURES TO CARRY OUT THIS SUBTITLE, INCLUDING ADDITIONAL AUDITING AND REPORTING REQUIREMENTS.

(3) THE SECRETARY MAY NOT:

(I) IMPOSE TRAINING OR OPERATIONAL REQUIREMENTS AS A PRECONDITION TO RECEIPT OF MONEY, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS SUBTITLE; OR

(II) REQUIRE THAT CAPITAL EQUIPMENT PURCHASED WITH STATE MONEY HAVE A USEFUL LIFE EXPECTANCY OF GREATER THAN 1 YEAR.

(D) COMPOSITION.

THE FUND CONSISTS OF MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND.

(E) PAYMENTS.

(1) AS AUTHORIZED BY THE SECRETARY, THE TREASURER SHALL MAKE PAYMENTS OUT OF THE FUND TO EACH COUNTY ON WARRANT OF THE COMPTROLLER.

(2) THE TREASURER SHALL MAKE THE PAYMENTS REQUIRED UNDER THIS SUBSECTION TO THE APPROPRIATE COUNTY IN APPROXIMATELY EQUAL AMOUNTS ON OR ABOUT AUGUST 15, NOVEMBER 15, FEBRUARY 15, AND MAY 15.

(F) USE OF STATE MONEY.

(1) STATE MONEY PROVIDED UNDER THIS SECTION MAY ONLY BE USED TO:

(I) ACQUIRE OR REHABILITATE FIRE OR RESCUE EQUIPMENT, INCLUDING AMBULANCES;

(II) ACQUIRE OR REHABILITATE CAPITAL EQUIPMENT USED IN CONNECTION WITH FIRE OR RESCUE EQUIPMENT; AND

(III) REHABILITATE FACILITIES USED PRIMARILY TO HOUSE FIRE FIGHTING EQUIPMENT, AMBULANCES, AND RESCUE VEHICLES.

(2) STATE MONEY PROVIDED UNDER THIS SECTION MAY NOT BE USED:

(I) FOR ADMINISTRATIVE COSTS;

(II) FOR COMPENSATION OR FRINGE BENEFITS TO EMPLOYEES OR MEMBERS OF COUNTY GOVERNMENTS, OR FIRE, RESCUE, OR AMBULANCE COMPANIES;

(III) FOR TRAVEL OR MEAL EXPENSES;

(IV) FOR FUEL, UTILITY, OR ROUTINE MAINTENANCE COSTS OF FACILITIES OR EQUIPMENT;

(V) TO ACQUIRE NEW OR REPLACEMENT FIRE HYDRANTS, WATER MAINS, OR EMERGENCY ALARM SYSTEMS NOT INSTALLED AT A FIRE, RESCUE, OR AMBULANCE FACILITY;

(VI) FOR INSURANCE;

(VII) FOR FUND-RAISING ACTIVITIES;

(VIII) TO REFINANCE DEBT OR ANOTHER OBLIGATION INCURRED BEFORE JULY 1, 1985;

(IX) TO REPLACE OR REPAIR ELIGIBLE ITEMS TO THE EXTENT THAT INSURANCE PROCEEDS ARE AVAILABLE;

(X) FOR COSTS ASSOCIATED WITH THE "9-1-1" EMERGENCY TELEPHONE SYSTEM; OR

(XI) FOR LAND OR INTERESTS IN LAND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 45B.

In subsection (b)(1) of this section, the reference to delivery of services "in the State" is substituted for the former reference to delivery of services "to the citizens of this State" for clarity and brevity.

In subsection (b)(2) of this section, the reference to "counties" is substituted for the former reference to "local governments" for consistency throughout this subtitle. *See* Revisor's Note to § 8-103 of this subtitle.

In subsections (b)(3) and (f)(1)(iii) of this section, the former reference to "apparatus" is deleted as included in the reference to "equipment". Consequently, in subsection (f)(1)(i) and (ii) and (2)(iv) of this section, the reference to "equipment" is substituted for the former reference to "apparatus".

In subsection (c)(1) of this section, the former reference to administering the Fund "in accordance with this subtitle and other applicable law" is deleted as implicit.

In subsection (c)(2) of this section, the reference to the Secretary adopting procedures to "carry out" this subtitle is substituted for the former reference to procedures for the "implementation" of this subtitle to conform to terminology used in other revised articles.

In subsections (c)(3)(i) and (ii) and the introductory language of (f)(1) and (2) of this section and throughout this subtitle, the word "money" is substituted for the former word "funds" for clarity and consistency with terminology used throughout this article.

In subsection (d) of this section, the phrase "to the Fund" is added for clarity and consistency with similar provisions throughout this article that relate to the composition of a fund.

In subsection (f)(2)(x) of this section, the reference to the "9-1-1 emergency telephone system" is substituted for the former reference to the "`911' emergency number system" to conform to terminology used in Title 1, Subtitle 3 of this article.

Defined terms: "Fund" § 8-101

"Secretary" § 8-101

8-103. ALLOCATION AND DISTRIBUTION OF MONEY.

(A) ALLOCATION TO COUNTIES.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, EACH COUNTY SHALL RECEIVE AN INITIAL ALLOCATION OF MONEY BASED ON A PERCENTAGE TO BE DETERMINED IN THE FOLLOWING MANNER:

(1) THE DIRECTOR OF ASSESSMENTS AND TAXATION SHALL CERTIFY TO THE SECRETARY EACH COUNTY'S TOTAL PERCENTAGE OF LAND USE PROPERTY TAX ACCOUNTS, INCLUDING VACANT UNIMPROVED PROPERTIES, RELATIVE TO THE STATEWIDE TOTAL OF ALL LAND USE PROPERTY TAX ACCOUNTS FOR THE FIRST COMPLETED FISCAL YEAR IMMEDIATELY PRECEDING THE FISCAL YEAR FOR WHICH MONEY IS TO BE ALLOCATED;

(2) EXCEPT AS PROVIDED IN ITEM (3) OF THIS SUBSECTION, THE PERCENTAGE DETERMINED IN ITEM (1) OF THIS SUBSECTION SHALL THEN BE APPLIED FOR EACH COUNTY TO ANY AMOUNT INCLUDED IN THE STATE BUDGET FOR THE PURPOSES OF THIS SUBTITLE; AND

(3) EACH COUNTY SHALL RECEIVE AN ALLOCATION OF AT LEAST 2% OF THE TOTAL FUND AS APPROPRIATED IN THE STATE BUDGET, IN ADDITION TO THE AMOUNT THAT IS DISTRIBUTED TO FIRE, RESCUE, AND AMBULANCE COMPANIES, DEPARTMENTS, OR STATIONS LOCATED IN QUALIFIED MUNICIPAL CORPORATIONS IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

(B) DISTRIBUTION TO FIRE, RESCUE, AND AMBULANCE COMPANIES, DEPARTMENTS, OR STATIONS.

(1) SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION, EACH COUNTY SHALL DISTRIBUTE THE MONEY PROVIDED UNDER THIS SUBTITLE ON THE BASIS OF NEED TO FIRE, RESCUE, AND AMBULANCE COMPANIES, DEPARTMENTS, OR STATIONS IN THE COUNTY, INCLUDING COMPANIES, DEPARTMENTS, OR STATIONS LOCATED IN MUNICIPAL CORPORATIONS.

(2) EACH COUNTY SHALL DETERMINE NEED IN ACCORDANCE WITH PROCEDURES THAT THE COUNTY USES TO ADOPT ITS BUDGET.

(3) IN DETERMINING NEED UNDER THIS SUBSECTION, THE COUNTY SHALL CONSIDER:

(I) THE FAILURE TO MEET MINIMUM STANDARDS ESTABLISHED BY THE COUNTY OR THE MARYLAND STATE FIREMEN'S ASSOCIATION;

(II) THE EXISTENCE OR POTENTIAL EXISTENCE OF AN EMERGENCY SITUATION AS DESCRIBED IN § 8-204 OF THIS TITLE;

(III) THE AGE AND CONDITION OF EXISTING FACILITIES AND EQUIPMENT;

(IV) THE LACK OF AVAILABILITY OF MUTUAL AID;

(V) ANY SERVICE PROBLEMS ASSOCIATED WITH DEMOGRAPHIC CONDITIONS; AND

(VI) ANY OTHER RELEVANT FACTORS.

(4) IN ADDITION TO CONSIDERATION OF THE FACTORS IN PARAGRAPH (3) OF THIS SUBSECTION, FOR A VOLUNTEER COMPANY THE COUNTY SHALL CONSIDER THE COMPANY'S INABILITY TO RAISE MONEY TO PAY FOR THE ITEM.

(5) NOTWITHSTANDING PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, EACH COUNTY SHALL GIVE THE HIGHEST FUNDING PRIORITY TO THE FAILURE TO MEET MINIMUM STANDARDS OR THE EXISTENCE OF AN EMERGENCY SITUATION AS DESCRIBED IN § 8-204 OF THIS TITLE.

(6) DISTRIBUTION OF MONEY TO FIRE, RESCUE, AND AMBULANCE COMPANIES, DEPARTMENTS, OR STATIONS LOCATED IN QUALIFIED MUNICIPAL CORPORATIONS IN A COUNTY IN THE AGGREGATE MAY NOT BE LESS THAN 50% OF THE PROPORTION THAT THE EXPENDITURES OF THE QUALIFIED MUNICIPAL CORPORATION BEAR TO TOTAL AGGREGATE EXPENDITURES FOR FIRE PROTECTION IN THAT COUNTY.

(7) TO RECEIVE MONEY UNDER THIS SUBSECTION, EACH COUNTY SHALL PARTICIPATE IN THE MARYLAND FIRE INCIDENT REPORTING SYSTEM AND AMBULANCE INFORMATION SYSTEM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 45C.

In subsection (a)(1) of this section, the reference to the "Director of Assessments and Taxation" is substituted for the former reference to the "Director of the Department of Assessments and Taxation" to use the proper title of the Director.

Also in subsection (a)(1) of this section, the general reference to "land use property tax accounts" is substituted for the former specific references to "agricultural, agricultural-residential, residential, condominium, apartment, commercial, industrial, and exempted property tax accounts" to accommodate future changes by the Department of Assessments and Taxation in the names of various property tax accounts. The Public Safety Article Review Committee notes this substitution for consideration by the General Assembly.

In subsection (a)(3) of this section, the word "Fund" is substituted for the former word "funds" for clarity. Because the Fund is not a nonlapsing fund, the entire Fund must be appropriated each year.

In subsection (b)(2) of this section and throughout this subtitle, the word "county" is substituted for the former phrase "local government" for clarity. The intent of the General Assembly clearly was that need be determined by a county on a countywide basis within the limits set by subsection (b)(6) of this section. *See* Report of the Ways and Means Committee on SB 508 (1985), which became Chapter 118, Acts of 1985. *See also* subsections (a)(3) and (b)(1) of this section. The Public Safety Article Review Committee notes this substitution for consideration by the General Assembly.

%In subsection (b)(2) of this section, the reference to each county "determin[ing] need in accordance with procedures that the county uses to adopt its budget" is substituted for the former reference to the county determining need "pursuant to procedures used by the local government in the adoption of its budget" for clarity.

In subsection (b)(3)(ii) of this section, the cross-reference to "§ 8-204 of this title" is added to conform to subsection (b)(5) of this section.

In subsection (b)(3)(iii) of this section, the former reference to "apparatus" is deleted as included in the reference to "equipment" for consistency throughout this subtitle.

In subsection (b)(7) of this section, the word "money" is substituted for the former phrase "financial assistance" for clarity.

Also in subsection (b)(7) of this section, the former phrase "as appropriate" is deleted as implicit.

Defined terms: "County" § 1-101

"Expenditures for fire protection" § 8-101

"Fund" § 8-101

"Qualified municipal corporation" § 8-101

"Secretary" § 8-101

8-104. USE AND EXPENDITURES OF MONEY.

(A) IN GENERAL.

(1) (I) THE MONEY DISTRIBUTED UNDER THIS SUBTITLE SHALL BE USED BY EACH COUNTY FOR THE PURPOSES LISTED IN § 8-102(F)(1) OF THIS SUBTITLE AS AN ADDITION TO AND MAY NOT BE SUBSTITUTED FOR ANY MONEY APPROPRIATED FROM SOURCES OTHER THAN THE FUND.

(II) IN EACH FISCAL YEAR, EACH COUNTY SHALL MAKE EXPENDITURES FOR FIRE PROTECTION FROM SOURCES OTHER THAN THE FUND IN AN AMOUNT THAT IS AT LEAST EQUAL TO THE AVERAGE AMOUNT OF THE EXPENDITURES FOR FIRE PROTECTION DURING THE 3 PRECEDING FISCAL YEARS.

(III) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A COUNTY THAT FAILS TO SATISFY THE REQUIREMENTS OF THIS SUBSECTION MAY NOT RECEIVE MONEY UNDER THIS SUBTITLE FOR THAT FISCAL YEAR.

(2) FOR EACH FISCAL YEAR, EACH COUNTY THAT FAILS TO SATISFY THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION MAY RECEIVE MONEY UNDER THIS SUBTITLE SUBJECT TO A PENALTY EQUAL TO THE PERCENTAGE BY WHICH THE COUNTY FAILS TO MEET THE COUNTY'S MAINTENANCE OF EFFORT FOR THAT FISCAL YEAR.

(B) MATCHING STATE MONEY.

(1) EACH COUNTY SHALL MAKE EXPENDITURES FOR FIRE PROTECTION FROM ITS OWN SOURCES THAT ARE AT LEAST EQUAL TO THE AMOUNT OF STATE MONEY TO BE RECEIVED.

(2) A COUNTY MAY RECEIVE LESS THAN THE AMOUNT INITIALLY ALLOCATED.

(3) IN DETERMINING THE AMOUNT OF EXPENDITURES FOR FIRE PROTECTION MADE BY A COUNTY, BEFORE CERTIFICATION, THE SECRETARY SHALL REVIEW THE FINANCIAL INFORMATION OF THE COUNTY FOR THE FIRST COMPLETED FISCAL YEAR BEFORE THE FISCAL YEAR FOR WHICH STATE MONEY IS APPROPRIATED.

(4) MONEY RECEIVED FROM THE EMERGENCY ASSISTANCE TRUST FUND UNDER § 8-204 OF THIS TITLE OR OTHER STATE MONEY MAY NOT BE USED AS THE MATCH REQUIRED UNDER THIS SUBSECTION.

(C) ALLOCATION OF UNDISTRIBUTED MONEY.

(1) MONEY NOT DISTRIBUTED TO A COUNTY BECAUSE THE REQUIREMENTS OF SUBSECTIONS (A) AND (B) OF THIS SECTION ARE NOT SATISFIED SHALL BE DISTRIBUTED TO THE COUNTIES THAT MEET THE REQUIREMENTS OF SUBSECTIONS (A) AND (B) OF THIS SECTION IN ACCORDANCE WITH THIS SUBSECTION.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, EACH COUNTY THAT MEETS THE REQUIREMENTS OF SUBSECTIONS (A) AND (B) OF THIS SECTION SHALL RECEIVE AN ALLOCATION OF THE MONEY DISTRIBUTED UNDER PARAGRAPH (1) OF THIS SUBSECTION BASED ON A PERCENTAGE TO BE DETERMINED IN ACCORDANCE WITH § 8-103(A) OF THIS SUBTITLE.

(II) FOR PURPOSES OF DETERMINING THE PERCENTAGE ALLOCATED TO EACH COUNTY UNDER THIS SUBSECTION, THE PROPERTY TAX ACCOUNTS OF EACH COUNTY THAT FAILS TO SATISFY THE REQUIREMENTS OF SUBSECTION (A) OR (B) OF THIS SECTION SHALL BE EXCLUDED FROM THE STATEWIDE TOTAL.

(3) EACH COUNTY SHALL DISTRIBUTE MONEY PROVIDED UNDER THIS SUBSECTION IN ACCORDANCE WITH § 8-103(B) OF THIS SUBTITLE.

(D) ACCOUNTING AND AUDIT OF MONEY DISTRIBUTED TO COUNTIES.

(1) THE MONEY DISTRIBUTED UNDER THIS SUBTITLE AND ALLOCATED TO A COUNTY SHALL BE ACCOUNTED FOR AND AUDITED IN ACCORDANCE WITH THE PROCEDURES FOR ACCOUNTING AND AUDITING OF OTHER GOVERNMENTAL REVENUES.

(2) MONEY NOT EXPENDED BY THE COUNTY BY THE END OF A FISCAL YEAR SHALL BE PLACED IN A SPECIAL FUND FOR EXPENDITURE IN THE NEXT SUCCEEDING FISCAL YEAR.

(3) (I) MONEY DISTRIBUTED UNDER THIS SUBTITLE THAT REMAINS UNENCUMBERED OR UNEXPENDED BY THE COUNTY AFTER THE SECOND FISCAL YEAR SHALL BE REPAID TO THE SECRETARY FOR DEPOSIT IN THE GENERAL FUND.

(II) THE COMPTROLLER MAY SET OFF ANY SHARED REVENUES DUE TO A COUNTY INSTEAD OF REPAYMENT UNDER THIS SUBSECTION.

(4) (I) MONEY DISTRIBUTED UNDER THIS SUBTITLE TO BE EXPENDED BY A VOLUNTEER OR MUNICIPAL FIRE, RESCUE, OR AMBULANCE COMPANY SHALL BE MAINTAINED IN A SEPARATE ACCOUNT AND SHALL BE AUDITED IN THE SAME MANNER AS OTHER MONEY OF THE VOLUNTEER OR MUNICIPAL COMPANY IS AUDITED.

(II) COPIES OF THE AUDIT OF THE SEPARATE ACCOUNT SHALL BE SUBMITTED TO THE RESPECTIVE COUNTY GOVERNMENT AND TO THE DEPARTMENT OF STATE POLICE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 45D(a) through (d).

In subsection (a)(1)(i) of this section, the reference to sources other than the "Fund" is substituted for the former reference to sources other than "this program" for consistency throughout this subtitle.

In subsection (a)(1)(ii) of this section, the former obsolete reference to "fiscal year 1986" is deleted.

In subsections (b)(2) and (d)(3)(ii) of this section, the reference to a "county" is substituted for the former reference to a "local government" for consistency throughout this subtitle. *See* Revisor's Note to § 8-103 of this subtitle.

In subsection (b)(4) of this section, the phrase "as the match required under this subsection" is substituted for the former phrase "as matching funds" for clarity.

In subsection (c)(3) of this section, the reference to "§ 8-103(b) of this subtitle", which is the revision of former Art. 38A, § 45C(b), is substituted for the former inaccurate and meaningless reference to former Art. 38A, "§ 45(b)". The Public Safety Article Review Committee notes this substitution for consideration by the General Assembly.

Defined terms: "County" § 1-101

"Expenditures for fire protection" § 8-101

"Fund" § 8-101

"Secretary" § 8-101

8-105. REQUIRED REPORTS.

(A) BY COUNTIES.

(1) ON OR BEFORE DECEMBER 31 OF EACH YEAR, EACH COUNTY SHALL SUBMIT TO THE SECRETARY A REPORT FOR THE PRECEDING FISCAL YEAR THAT STATES:

(I) THE AMOUNT OF MONEY DISTRIBUTED TO EACH RECIPIENT AND THE PURPOSE OF EXPENDITURE OF THIS MONEY CATEGORIZED AS PROVIDED IN § 8-102(F)(1) OF THIS SUBTITLE;

(II) THE AMOUNT AND DISPOSITION OF ANY UNENCUMBERED OR UNEXPENDED MONEY; AND

(III) THE AMOUNT OF EXPENDITURES FOR FIRE PROTECTION BY THE COUNTY.

(2) EACH COUNTY SHALL PROVIDE A COPY OF THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE DEPARTMENT OF LEGISLATIVE SERVICES.

(B) BY SECRETARY.

EACH YEAR THE SECRETARY SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE INFORMATION PROVIDED BY THE COUNTIES ON THE DISTRIBUTION OF MONEY PROVIDED UNDER THIS SUBTITLE, INCLUDING AN ASSESSMENT OF THE EXTENT TO WHICH THE PURPOSES OF THIS SUBTITLE ARE BEING ACHIEVED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 45D(e)(1) and (2) and (f).

In subsection (b) of this section, the reference to "money" is substituted for the former reference to "aid" for consistency with terminology used throughout this subtitle.

Defined terms: "County" § 1-101

"Expenditures for fire protection" § 8-101

"Secretary" § 8-101

8-106. FAILURE TO COMPLY WITH SUBTITLE.

(A) IN GENERAL.

(1) THE SECRETARY MAY WITHHOLD MONEY ALLOCATED FOR THE NEXT FISCAL YEAR UNDER THIS SUBTITLE FROM A COUNTY IF THE COUNTY DOES NOT COMPLY WITH THIS SUBTITLE.

(2) AFTER NOTICE AND AN OPPORTUNITY FOR A HEARING, FAILURE OF A COUNTY TO COMPLY WITH THIS SUBTITLE MAY RESULT IN THE FORFEITURE OF THE ALLOCATED MONEY, IN WHOLE OR IN PART.

(B) REVERSION OF WITHHELD MONEY.

MONEY WITHHELD UNDER THIS SECTION REVERTS TO THE GENERAL FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 45D(e)(3).

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that subsection (b) of this section accurately reflects former Art. 38A, § 45D(e)(3), which provided that failure of a county to comply with this subtitle may result in forfeiture of the allocated money and "reversion to the State General Fund". Money for the Amoss Fund, however, comes from the Maryland Emergency Medical System Operations Fund (MEMSOF). *See* SF § 7-121(b)(5) and TR § 13-955(d)(5).

Defined terms: "County" § 1-101

"Secretary" § 8-101

SUBTITLE 2. VOLUNTEER COMPANY ASSISTANCE FUND.

8-201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 46(a)(1).

No changes are made.

(B) ASSOCIATION.

"ASSOCIATION" MEANS THE MARYLAND STATE FIREMEN'S ASSOCIATION.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 46(a)(2).

No changes are made.

(C) DEPARTMENT.

"DEPARTMENT" MEANS THE DEPARTMENT OF BUDGET AND MANAGEMENT.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 46(a)(4).

No changes are made.

(D) FUND.

"FUND" MEANS THE VOLUNTEER COMPANY ASSISTANCE FUND.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title of the "Volunteer Company Assistance Fund".

(E) VOLUNTEER COMPANY.

"VOLUNTEER COMPANY" MEANS A VOLUNTEER AMBULANCE, FIRE, OR RESCUE COMPANY LOCATED IN THE STATE.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 46(a)(5).

No changes are made.

REVISOR'S NOTE TO SECTION:
Former Art. 38A, § 46(a)(3), which defined "[b]oard" to mean the Board of Public Works, is deleted to avoid confusion. Because different boards are discussed in this subtitle, the full name of each board is used.

8-202. VOLUNTEER COMPANY ASSISTANCE FUND -- IN GENERAL.

(A) ESTABLISHED.

THERE IS A VOLUNTEER COMPANY ASSISTANCE FUND.

(B) ACCOUNTS.

THE FUND IS COMPOSED OF:

(1) THE EMERGENCY ASSISTANCE TRUST ACCOUNT; AND

(2) THE LOW INTEREST REVOLVING LOAN ACCOUNT.

(C) STATUS.

(1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(D) COMPOSITION.

(1) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.

(2) REPAYMENTS ON LOANS FROM THE EMERGENCY ASSISTANCE TRUST ACCOUNT OR THE LOW INTEREST REVOLVING LOAN ACCOUNT SHALL BE PLACED IN THE RESPECTIVE ACCOUNT AND MADE AVAILABLE TO FUND REQUESTS FOR MONEY.

(E) REGULATIONS.

WITH THE APPROVAL OF THE BOARD OF PUBLIC WORKS, THE DEPARTMENT SHALL ADOPT REGULATIONS TO ADMINISTER THE FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 46(b) through (e).

In subsection (c)(1) of this section, the reference to a "special" fund is substituted for the former reference to a "continuing" fund for consistency with similar provisions throughout this article that relate to the status of funds.

In subsection (d)(2) of this section, the former reference to "[a]mounts received as" repayments on loans is deleted as surplusage.

In subsection (e) of this section, the former reference to adopting regulations "in accordance with Title 10, Subtitle 1 of the State Government Article" is deleted as surplusage. Regulations of the Executive Branch of State government are adopted in accordance with these provisions in any event.

Also in subsection (e) of this section, the former reference to regulations "necessary" to administer the Fund is deleted as surplusage.

Defined terms: "Department" § 8-201

"Fund" § 8-201

8-203. SAME -- AUDITS.

(A) AUTHORITY OF COMPTROLLER.

THE COMPTROLLER MAY AUDIT THE FINANCIAL AFFAIRS OF THE ASSOCIATION TO ENSURE COMPLIANCE WITH THIS SUBTITLE.

(B) FINANCIAL STATEMENTS FROM VOLUNTEER COMPANIES.

(1) THE DEPARTMENT SHALL REQUIRE EACH VOLUNTEER COMPANY RECEIVING MONEY UNDER THIS SUBTITLE TO SUBMIT WITHIN 90 DAYS AFTER RECEIPT OF THE EQUIPMENT OR BENEFICIAL OCCUPANCY:

(I) FINANCIAL STATEMENTS FOR THE FISCAL YEAR IN WHICH THE MONEY WAS RECEIVED; AND

(II) DOCUMENTATION OF ACTUAL EXPENDITURES.

(2) EACH VOLUNTEER COMPANY RECEIVING MONEY UNDER THIS SUBTITLE SHALL FORWARD THE FINANCIAL STATEMENTS AND DOCUMENTATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE LEGISLATIVE AUDITOR.

(C) REVIEW BY LEGISLATIVE AUDITOR.

THE LEGISLATIVE AUDITOR SHALL:

(1) REVIEW THE FINANCIAL STATEMENTS AND DOCUMENTATION SUBMITTED IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION TO DETERMINE IF THE MONEY WAS SPENT IN ACCORDANCE WITH THE REQUEST FOR MONEY APPROVED BY THE BOARD OF PUBLIC WORKS; AND

(2) REPORT THE FINDINGS TO THE DEPARTMENT AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE JOINT AUDIT COMMITTEE OF THE GENERAL ASSEMBLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 46C.

In subsections (b)(1) and (2) and (c)(1) of this section and throughout this subtitle, the reference to "money" is substituted for the former reference to "funds" for consistency with terminology used throughout this title and this article. Similarly, in subsection (c)(1) of this section, the word "money" is substituted for the former phrase "financial assistance" for consistency with terminology used throughout this subtitle.

Defined terms: "Association" § 8-201

"Department" § 8-201

"Volunteer company" § 8-201

8-204. EMERGENCY ASSISTANCE TRUST ACCOUNT -- IN GENERAL.

(A) "ACCOUNT" DEFINED.

IN THIS SECTION, "ACCOUNT" MEANS THE EMERGENCY ASSISTANCE TRUST ACCOUNT.

(B) ESTABLISHED.

THERE IS AN EMERGENCY ASSISTANCE TRUST ACCOUNT.

(C) PURPOSE.

THE PURPOSE OF THE ACCOUNT IS TO ENSURE ADEQUATE FIRE PROTECTION AND RESCUE SERVICES IN THE STATE.

(D) ANNUAL APPROPRIATION.

AFTER CONSULTATION WITH THE ASSOCIATION, THE GOVERNOR MAY INCLUDE IN THE STATE BUDGET EACH YEAR AN AMOUNT FOR THE PURPOSES SET FORTH IN SUBSECTION (E) OF THIS SECTION.

(E) USE OF MONEY.

A GRANT OR LOAN AWARDED UNDER THIS SECTION SHALL BE USED ONLY FOR:

(1) EQUIPMENT, INCLUDING ELEVATED EQUIPMENT, PUMPERS, TANKERS, LADDER TRUCKS, AMBULANCES, RESCUE VEHICLES, OR OTHER LARGE EQUIPMENT USED FOR FIRE FIGHTING AND EMERGENCY SERVICES;

(2) COMMUNICATIONS EQUIPMENT;

(3) PROTECTIVE EQUIPMENT, INCLUDING HELMETS, TURNOUT COATS AND PANTS, BOOTS, EYESHIELDS, GLOVES, AND SELF-CONTAINED RESPIRATORY PROTECTION UNITS;

(4) ANY OTHER EQUIPMENT NECESSARY TO CARRY OUT THE ORDINARY FUNCTIONS OF SUPPORTING FIRE FIGHTING AND RESCUE ACTIVITIES; OR

(5) FACILITIES USED TO HOUSE FIRE FIGHTING EQUIPMENT, AMBULANCES, AND RESCUE VEHICLES.

(F) REQUIRED MATCH.

(1) (I) A VOLUNTEER COMPANY RECEIVING MONEY FROM THE ACCOUNT SHALL PROVIDE AT LEAST A 30% MATCH OF THE AMOUNT OF THE GRANT OR LOAN.

(II) IF A VOLUNTEER COMPANY CANNOT REASONABLY PROVIDE THE REQUIRED MATCH BEFORE THE MONEY IS DISBURSED, THE BOARD OF PUBLIC WORKS MAY WAIVE THE REQUIREMENT OR MAY ALLOW REPAYMENT OF THE MATCH WITHIN A REASONABLE TIME NOT EXCEEDING 18 MONTHS AFTER THE PURCHASE OF THE EQUIPMENT OR FACILITIES.

(2) (I) MONEY TO PROVIDE THE REQUIRED MATCH MAY INCLUDE CONTRIBUTIONS FROM LOCAL GOVERNMENT.

(II) A LOCAL GOVERNMENT MAY NOT REDUCE THE AMOUNT OF MONEY THAT THE VOLUNTEER COMPANY WOULD OTHERWISE BE ENTITLED TO RECEIVE FROM THE LOCAL GOVERNMENT BECAUSE OF STATE MONEY PROVIDED UNDER THIS SECTION.

(G) AWARD OF GRANTS OR LOANS.

AFTER A FAVORABLE RECOMMENDATION FROM THE DEPARTMENT, THE BOARD OF PUBLIC WORKS MAY AWARD A GRANT, LOAN, OR BOTH FROM THE ACCOUNT TO A VOLUNTEER COMPANY IF:

(1) (I) AN ACT OF GOD OR OTHER UNFORESEEN EVENT SUBSTANTIALLY IMPAIRS THE ABILITY OF THE VOLUNTEER COMPANY TO PROVIDE ADEQUATE AND SAFE SERVICE; OR

(II) THE VOLUNTEER COMPANY IS UNABLE TO MAINTAIN THE MINIMUM LEVEL OF PERFORMANCE FOR ADEQUATE AND SAFE SERVICE ESTABLISHED BY STANDARDS OF THE ASSOCIATION BECAUSE OF A DEMONSTRATED LACK OF FINANCIAL RESOURCES; AND

(2) THE DEPARTMENT AND THE VOLUNTEER COMPANY HAVE EXECUTED AN AGREEMENT THAT:

(I) PROVIDES THAT MONEY WILL BE USED AS REPRESENTED TO THE BOARD OF PUBLIC WORKS IN THE REQUEST FOR APPROVAL; AND

(II) GIVES TO THE STATE SECURITY IN THE EQUIPMENT OR FACILITIES PURCHASED WITH THE MONEY AND IN THE PROCEEDS OF THAT EQUIPMENT OR THOSE FACILITIES AS DETERMINED BY THE BOARD OF PUBLIC WORKS TO BE APPROPRIATE AND ADEQUATE.

(H) PROHIBITIONS ON USE OF MONEY.

A GRANT OR LOAN AWARDED UNDER THIS SECTION MAY NOT:

(1) BE USED TO REFINANCE A DEBT OR OTHER OBLIGATION OF A VOLUNTEER COMPANY INCURRED BEFORE JULY 1, 1982; OR

(2) BE SPENT TO REPLACE OR REPAIR ELIGIBLE ITEMS TO THE EXTENT THAT INSURANCE PROCEEDS ARE AVAILABLE FOR THOSE PURPOSES.

(I) LOCAL GOVERNMENT MONEY.

THE BOARD OF PUBLIC WORKS MAY NOT APPROVE A GRANT OR LOAN FROM THE ACCOUNT TO A VOLUNTEER COMPANY IF THE VOLUNTEER COMPANY HAS NOT MADE A GOOD FAITH EFFORT TO OBTAIN MONEY FROM ITS LOCAL GOVERNMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 46A.

In subsection (c) of this section, the reference to fire protection and rescue services "in the State" is substituted for the former reference to services "for the people of this State" for brevity and consistency with § 8-102(b)(1) of this title.

In subsection (e)(1) of this section, the former word "[a]pparatus" is deleted as redundant of the word "equipment" for consistency with terminology used throughout this subtitle and this title.

Throughout subsection (f) of this section, references to a "match" are substituted for the former references to a "matching dollar amount" and "dollar match" for brevity and consistency throughout the subsection.

In the introductory language of subsection (g) of this section, the reference to awarding a grant or loan "to a volunteer company" is added for clarity.

In subsection (g)(2) of this section, the former reference to the volunteer company "receiving assistance" is deleted as surplusage.

In subsection (h)(2) of this section, the phrase "spent to" is substituted for the former phrase "expended for" for clarity.

%In subsection (i) of this section, the reference to a "grant or loan" is substituted for the former reference to "financial assistance" for specificity.

Defined terms: "Association" § 8-201

"Department" § 8-201

"Volunteer company" § 8-201

8-205. SAME -- REQUESTS FOR MONEY.

(A) SUBMISSION TO ASSOCIATION; CONTENTS.

(1) A VOLUNTEER COMPANY SHALL SUBMIT EACH REQUEST FOR MONEY FROM THE EMERGENCY ASSISTANCE TRUST ACCOUNT TO THE ASSOCIATION FOR APPROVAL BY A BOARD OF REVIEW IN ACCORDANCE WITH THE ASSOCIATION'S BYLAWS.

(2) EACH REQUEST FOR MONEY SHALL INCLUDE:

(I) FINANCIAL STATEMENTS FOR THE 2 FISCAL YEARS IMMEDIATELY PRECEDING THE FISCAL YEAR IN WHICH THE REQUEST IS MADE; AND

(II) ANY AVAILABLE AUDIT OF THE FINANCIAL STATEMENTS.

(3) FOR EACH REQUEST FOR MONEY FROM THE EMERGENCY ASSISTANCE TRUST ACCOUNT, THE VOLUNTEER COMPANY SHALL CERTIFY THAT THE VOLUNTEER COMPANY APPLIED FOR MONEY FROM ITS LOCAL GOVERNMENT AND WAS DENIED, EITHER WHOLLY OR PARTLY.

(B) APPEAL TO PANEL.

(1) IF THE ASSOCIATION DISAPPROVES A REQUEST OR DOES NOT TAKE ACTION WITHIN 45 DAYS AFTER THE REQUEST, THE VOLUNTEER COMPANY REQUESTING MONEY MAY APPEAL TO A PANEL COMPOSED OF THE PRESIDENT OF THE ASSOCIATION, THE STATE FIRE MARSHAL, AND THE CHAIRMAN OF THE FIRE AND RESCUE EDUCATION AND TRAINING COMMISSION.

(2) THE DECISION OF THE PANEL IS FINAL AND IS NOT SUBJECT TO FURTHER REVIEW.

(C) APPROVAL OF REQUEST.

ON APPROVAL OF A REQUEST FOR MONEY, THE ASSOCIATION OR THE PANEL SHALL TRANSMIT ITS RECOMMENDATION TO THE DEPARTMENT WITH THE REQUEST FOR MONEY AND ANY OTHER SUPPORTING INFORMATION REQUIRED BY THE DEPARTMENT.

(D) REVIEW BY DEPARTMENT OF LEGISLATIVE SERVICES.

(1) THE DEPARTMENT SHALL FORWARD EACH REQUEST FOR MONEY FROM THE EMERGENCY ASSISTANCE TRUST ACCOUNT TO THE DEPARTMENT OF LEGISLATIVE SERVICES FOR REVIEW.

(2) ON REVIEW OF THE FINANCIAL STATEMENTS, THE DEPARTMENT OF LEGISLATIVE SERVICES MAY ADVISE THE DEPARTMENT IF THE REQUEST FOR MONEY APPEARS JUSTIFIED.

(E) AUTHORIZATION OF USE OF MONEY.

THE BOARD OF PUBLIC WORKS MAY AUTHORIZE THE USE OF MONEY FROM THE EMERGENCY ASSISTANCE TRUST ACCOUNT ON A RECOMMENDATION BY THE DEPARTMENT IN ACCORDANCE WITH THIS SECTION.

(F) DISBURSEMENT OF MONEY.

AS AUTHORIZED BY THE BOARD OF PUBLIC WORKS, THE TREASURER SHALL DISBURSE MONEY FROM THE FUND TO A VOLUNTEER COMPANY FOR THE PURPOSES OF THIS SUBTITLE ON WARRANT OF THE COMPTROLLER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 46B(b) through (f).

Throughout this section, the word "money" is substituted for the former phrase "financial assistance" and the former word "assistance" for consistency with terminology used throughout this subtitle.

In subsection (a)(1) of this section, the reference to a request for money "from the Emergency Assistance Trust Account" is substituted for the former reference to a request "under this subtitle" for clarity and specificity. Similarly, in subsection (d)(1) of this section, the reference to a request "from the Emergency Assistance Trust Account" is added.

In subsection (a)(2)(ii) of this section, the reference to "any available" audit is added to express that which was implied in the former law, *i.e.*, that any audit that exists can be submitted for a particular fiscal year. Therefore, the former phrase "if an audit was conducted" is deleted as surplusage.

In subsection (a)(3) of this section, the former reference to the denial of "funding for the request" is deleted as surplusage.

In subsections (b)(2) and (c) of this section, the word "appeals", which formerly modified the word "panel", is deleted as surplusage.

Former Art. 38A, § 46B(a), which provided that former § 46B applied only to the Emergency Assistance Trust Account, is deleted as surplusage given that former § 46B applied only to money from the Emergency Assistance Trust Account.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that subsection (d) of this section requires the Department of Budget and Management to forward to the Department of Legislative Services for review requests for money from the Emergency Assistance Trust Account. This additional level of review contributes little

to the process. In addition, review by the Department of Legislative Services is not required for requests for money from the Low Interest Revolving Loan Account.

Defined terms: "Association" § 8-201

"Department" § 8-201

"Fund" § 8-201

"Volunteer company" § 8-201

8-206. LOW INTEREST REVOLVING LOAN ACCOUNT -- IN GENERAL.

(A) "ACCOUNT" DEFINED.

IN THIS SECTION, "ACCOUNT" MEANS THE LOW INTEREST REVOLVING LOAN ACCOUNT.

(B) ESTABLISHED.

THERE IS A LOW INTEREST REVOLVING LOAN ACCOUNT.

(C) COMPOSITION.

THE ACCOUNT CONSISTS OF MONEY APPROPRIATED IN THE STATE BUDGET TO THE ACCOUNT.

(D) USE OF MONEY.

THE BOARD OF PUBLIC WORKS MAY AWARD A LOAN FROM THE ACCOUNT TO A VOLUNTEER COMPANY TO ASSIST WITH UP TO 75% OF THE COST OF:

(1) PURCHASING OR REFURBISHING EQUIPMENT; AND

(2) UPGRADING OR REPLACING FACILITIES NEEDED TO STORE EQUIPMENT.

(E) PROHIBITION ON REDUCTION OF LOCAL FUNDING.

A LOCAL GOVERNMENT MAY NOT REDUCE THE AMOUNT OF MONEY THAT THE VOLUNTEER COMPANY WOULD OTHERWISE BE ENTITLED TO RECEIVE FROM THE LOCAL GOVERNMENT BECAUSE OF STATE MONEY PROVIDED UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 46E.

In subsection (c) of this section, the phrase "to the Account" is added for consistency with similar provisions throughout this article that relate to the composition of funds.

In the introductory language of subsection (d) of this section, the former phrase "to provide a loan" is deleted as surplusage.

%In subsection (d)(1) of this section, the word "equipment" is substituted for the former word "apparatus" for consistency with terminology used throughout this subtitle and this title.

In subsection (e) of this section, the reference to "this section" is substituted for the former reference to "this Account" for clarity and consistency with § 8-204(f)(2)(ii) of this subtitle.

Defined term: "Volunteer company" § 8-201

8-207. SAME -- LOAN REQUESTS.

(A) RESPONSIBILITIES OF ASSOCIATION.

FOR THE PURPOSE OF MAKING LOANS UNDER § 8-206 OF THIS SUBTITLE, THE ASSOCIATION SHALL:

(1) DEVELOP LOAN CRITERIA;

(2) DEVELOP LOAN TERMS, INCLUDING INTEREST RATES;

(3) ESTABLISH A LOW INTEREST REVOLVING LOAN ACCOUNT BOARD; AND

(4) RECOMMEND TO THE BOARD OF PUBLIC WORKS THE APPROVAL OR DENIAL OF LOANS.

(B) SUBMISSION TO ASSOCIATION; CONTENTS.

(1) A VOLUNTEER COMPANY MAY SUBMIT A LOAN REQUEST TO THE ASSOCIATION.

(2) EACH LOAN REQUEST SHALL INCLUDE:

(I) A DETAILED EXPLANATION OF THE REASONS FOR THE REQUEST;

(II) FINANCIAL STATEMENTS FOR THE 2 FISCAL YEARS IMMEDIATELY PRECEDING THE FISCAL YEAR IN WHICH THE LOAN REQUEST IS MADE; AND

(III) ANY AVAILABLE AUDIT OF THE FINANCIAL STATEMENTS.

(C) LOW INTEREST REVOLVING LOAN ACCOUNT BOARD.

(1) THE LOW INTEREST REVOLVING LOAN ACCOUNT BOARD SHALL REVIEW EACH LOAN REQUEST IN ACCORDANCE WITH CRITERIA DEVELOPED BY THE ASSOCIATION UNDER SUBSECTION (A) OF THIS SECTION.

(2) THE LOW INTEREST REVOLVING LOAN ACCOUNT BOARD SHALL RECOMMEND TO THE ASSOCIATION THE APPROVAL OR DENIAL OF EACH LOAN REQUEST.

(3) (I) THE ASSOCIATION MAY AGREE OR DISAGREE WITH THE RECOMMENDATION OF THE LOW INTEREST REVOLVING LOAN ACCOUNT BOARD.

(II) IF THE LOW INTEREST REVOLVING LOAN ACCOUNT BOARD RECOMMENDS TO THE ASSOCIATION THAT A LOAN REQUEST BE DENIED AND THE ASSOCIATION AGREES, THE ASSOCIATION SHALL SEND PROMPTLY TO THE VOLUNTEER COMPANY A WRITTEN NOTICE THAT STATES THAT THE REQUEST HAS BEEN DENIED.

(III) IF THE LOW INTEREST REVOLVING LOAN ACCOUNT BOARD RECOMMENDS TO THE ASSOCIATION THAT A LOAN REQUEST BE APPROVED AND THE ASSOCIATION AGREES, THE ASSOCIATION SHALL SUBMIT THE LOAN REQUEST TO THE BOARD OF PUBLIC WORKS FOR APPROVAL.

(D) APPROVAL BY BOARD OF PUBLIC WORKS.

ON FINAL APPROVAL BY THE BOARD OF PUBLIC WORKS, THE LOAN SHALL BE MADE TO THE REQUESTING VOLUNTEER COMPANY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 46F and 46G.

In subsection (a)(2) of this section, the former reference to the "establishment of" interest rates is deleted as included in the requirement to develop loan terms.

In subsection (b)(1) of this section, the former phrase "for financial assistance" is deleted as implicit in the reference to a "loan".

In subsection (b)(2)(iii) of this section, the reference to "any available" audit is added to express that which was implied in the former law, *i.e.*, that any audit that exists can be submitted for a particular fiscal year. Therefore, the former phrase "if an audit was conducted" is deleted as surplusage.

In subsection (c)(1) of this section, the reference to criteria "developed by the Association under subsection (a) of this section" is substituted for the former reference to criteria "developed under § 46F of this subtitle" for clarity and precision.

Also in subsection (c)(1) of this section, the former reference to the Board "established by the Association under § 46F of this subtitle" is deleted as surplusage. The Low Interest Revolving Loan Account Board is established under subsection (a) of this section.

Also in subsection (c)(1) of this section, the former reference to each loan

request "received by a volunteer company" is deleted as misleading because volunteer companies make loan requests and the Association receives them.

In subsection (c)(2) of this section, the word "denial" is substituted for the former word "rejection" to conform to language used in subsection (a)(4) of this section. Similarly, in subsection (c)(3)(ii) of this section, the references to a loan request being "denied" are substituted for the former references to the request being "rejected".

Defined terms: "Association" § 8-201

"Volunteer company" § 8-201

8-208. ANNUAL APPROPRIATION.

(A) IN GENERAL.

AFTER CONSULTATION WITH THE ASSOCIATION, THE GOVERNOR MAY INCLUDE IN THE STATE BUDGET EACH YEAR AN AMOUNT FOR THE PURPOSES SET FORTH IN SUBSECTION (B) OF THIS SECTION.

(B) USE OF MONEY.

THE ASSOCIATION MAY USE MONEY APPROPRIATED UNDER SUBSECTION (A) OF THIS SECTION TO:

(1) FORMULATE, PUBLISH, AND DISTRIBUTE THE FIRE LAWS OF MARYLAND;

(2) FORMULATE, PUBLISH, AND DISTRIBUTE AN ANNUAL REPORT AND MONTHLY OR OTHER TIMELY BULLETINS AND REPORTS;

(3) PUBLISH AND DISTRIBUTE FIRE PREVENTION MATERIAL;

(4) KEEP RECORDS THAT RELATE TO THE ANNUAL INSPECTIONS OF FIRE AND RESCUE EQUIPMENT AND FACILITIES; AND

(5) ESTABLISH AND MAINTAIN A DATABASE ON MANPOWER AVAILABILITY AND TRAINING, OPERATIONAL COST, EQUIPMENT AVAILABILITY, RESPONSE TIME, STATE AND LOCAL FINANCIAL SUPPORT, AND OTHER RELEVANT FACTORS IN PROVIDING FIRE AND RESCUE SERVICES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 46D.

In the introductory language of subsection (b) of this section, the former phrase "administered by the Association" is deleted as surplusage in light of the reference to the Association "us[ing] money appropriated" to the Fund.

In subsection (b)(4) of this section, the former word "apparatus" is deleted

as redundant of the word "equipment" for consistency with terminology used throughout this subtitle and this title. Consequently, in subsection (b)(5) of this section, the word "equipment" is substituted for the former word "apparatus" for consistency.

Defined term: "Association" § 8-201

8-209. ANNUAL REPORTS BY ASSOCIATION.

(A) IN GENERAL.

ON OR BEFORE AUGUST 30 OF EACH FISCAL YEAR, THE ASSOCIATION SHALL SUBMIT TO THE DEPARTMENT AND TO THE BOARD OF PUBLIC WORKS A REPORT THAT INCLUDES FOR THE PREVIOUS FISCAL YEAR:

(1) THE NUMBER OF LOANS MADE;

(2) EACH VOLUNTEER COMPANY THAT RECEIVED A LOAN AND THE AMOUNT OF THE LOAN;

(3) THE SPECIFIC PURPOSE FOR MAKING EACH LOAN; AND

(4) FOR EACH VOLUNTEER COMPANY THAT RECEIVED A LOAN:

(I) THE FINANCIAL STATEMENT OF THE VOLUNTEER COMPANY FOR THE FISCAL YEAR IN WHICH THE MONEY WAS RECEIVED; AND

(II) DOCUMENTATION OF THE VOLUNTEER COMPANY'S ACTUAL EXPENDITURES.

(B) REVIEW BY DEPARTMENT.

THE DEPARTMENT SHALL:

(1) REVIEW EACH FINANCIAL STATEMENT AND THE DOCUMENTATION SUBMITTED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION TO DETERMINE IF THE MONEY WAS SPENT IN ACCORDANCE WITH THE REQUEST FOR MONEY APPROVED BY THE BOARD OF PUBLIC WORKS; AND

(2) REPORT THE FINDINGS TO THE SENATE BUDGET AND TAXATION COMMITTEE AND THE HOUSE APPROPRIATIONS COMMITTEE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 46H.

In the introductory language of subsection (a) of this section, the phrase "[o]n or before" August 30 is substituted for the former reference to "by" August 30 for clarity and consistency with style in the revised articles of the Code.

In subsection (a)(1) through (3) of this section, the former phrase "during

the fiscal year" is deleted as surplusage in light of the introductory language of subsection (a) of this section, which requires the report to include information for the previous fiscal year.

In subsection (a)(2) of this section, the reference to "each volunteer company" that received a loan is substituted for the former reference to the "entities" that received a loan because only volunteer companies receive loans under this subtitle.

In subsection (b)(1) of this section, the word "money" is substituted for the former phrase "financial assistance" for consistency with terminology used throughout this subtitle.

Also in subsection (b)(1) of this section, the word "spent" is substituted for the former word "expended" for clarity.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that the reporting requirement only applies to loans, but grants may also be awarded under this subtitle. *See* § 8-204(g) of this subtitle. The absence of a reporting requirement for grants may be an oversight.

Defined terms: "Association" § 8-201

"Department" § 8-201

"Volunteer company" § 8-201

SUBTITLE 3. COUNTY MONEY AND LOANS FOR VOLUNTEER FIRE COMPANIES.

8-301. CONTRIBUTION OF MONEY TO VOLUNTEER FIRE COMPANIES -- IN GENERAL.

(A) SCOPE OF SECTION.

THE SECTION DOES NOT APPLY TO ANNE ARUNDEL COUNTY, BALTIMORE COUNTY, CECIL COUNTY, HOWARD COUNTY, PRINCE GEORGE'S COUNTY, QUEEN ANNE'S COUNTY, AND WORCESTER COUNTY.

(B) EXPRESS POWER.

THE COUNTY COMMISSIONERS OF EACH COUNTY HAVE THE EXPRESS POWER TO CONTRIBUTE MONEY TO A VOLUNTEER FIRE COMPANY IN THE COUNTY.

REVISOR'S NOTE: Subsection (a) of this section is new language added to reference the exceptions to the express powers of the county commissioners as provided in Art. 25, § 3(a)(2).

Subsection (b) of this section is new language derived without substantive change from former Art. 25, § 3(a)(1) and (w).

In subsection (b) of this section, the reference to "money" is substituted for the former reference to "funds" for consistency with terminology used

throughout this title and this article.

Also in subsection (b) of this section, the reference to a "fire company" is substituted for the former reference to "fire departments" for consistency within this title.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that of the counties listed as excepted from the scope of this section, Anne Arundel, Baltimore, Howard, and Prince George's counties are charter counties and have county councils. Cecil County is a commission county and is governed by a board of county commissioners. Queen Anne's and Worcester counties are code home rule counties and retain boards of county commissioners as their governing bodies.

Defined term: "County" § 1-101

8-302. SAME -- DORCHESTER COUNTY.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO DORCHESTER COUNTY.

(B) MONEY FOR VOLUNTEER FIRE COMPANIES.

(1) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, THE COUNTY COMMISSIONERS OF DORCHESTER COUNTY SHALL PAY AT LEAST THE SUM OF $118,500 EACH YEAR TO THE VOLUNTEER FIRE COMPANIES IN THE COUNTY FOR THEIR BENEFIT AS LONG AS THE VOLUNTEER FIRE COMPANIES ARE ACTIVE, FIRE-FIGHTING ORGANIZATIONS.

(2) EACH VOLUNTEER FIRE COMPANY SHALL USE THE MONEY RECEIVED TO SUPPORT, MAINTAIN, EQUIP, AND OPERATE THE VOLUNTEER FIRE COMPANY FOR THE PURPOSE OF FIGHTING FIRES IN THE COUNTY.

(3) EACH VOLUNTEER FIRE COMPANY SHALL COMPLY WITH THE BYLAWS OF THE VOLUNTEER FIRE COMPANIES ASSOCIATION OF DORCHESTER COUNTY.

(4) THE COUNTY COMMISSIONERS MAY NOT MAKE A PAYMENT TO A VOLUNTEER FIRE COMPANY UNLESS THE VOLUNTEER FIRE COMPANY COMPLIES WITH THE BYLAWS OF THE VOLUNTEER FIRE COMPANIES ASSOCIATION OF DORCHESTER COUNTY.

(C) USE OF PROPERTY TAX REVENUE.

THE COUNTY COMMISSIONERS SHALL USE PROPERTY TAX REVENUE TO PAY VOLUNTEER FIRE COMPANIES IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

(D) DISTRIBUTION OF MONEY.

(1) THE COUNTY COMMISSIONERS SHALL DISTRIBUTE THE MONEY REQUIRED BY SUBSECTION (B) OF THIS SECTION ON OCTOBER 1 OF EACH YEAR TO THE FOLLOWING VOLUNTEER FIRE COMPANIES IN AT LEAST THE FOLLOWING AMOUNTS:

CAMBRIDGE	$10,500
HURLOCK	9,500
SECRETARY	9,000
VIENNA	9,000
EAST NEW MARKET	8,000
ELDORADO	7,500
NECK	7,500
LLOYDS	7,500
LAKES & STRAITS	8,500
CHURCH CREEK	8,500
MADISON	8,500
HOOPERS ISLAND	8,500
LINKWOOD-SALEM	7,500
TAYLORS ISLAND	8,500

(2) THE ELLIOTTS VOLUNTEER FIRE COMPANY SHALL RECEIVE AN AMOUNT SET BY THE COUNTY COMMISSIONERS.

(E) EVIDENCE REQUIRED TO RECEIVE MONEY.

(1) BEFORE PAYING MONEY TO A VOLUNTEER FIRE COMPANY, THE COUNTY COMMISSIONERS MAY REQUIRE THE OFFICERS OF THE VOLUNTEER FIRE COMPANY TO APPEAR BEFORE THE COUNTY COMMISSIONERS AND SUBMIT EVIDENCE SATISFACTORY TO THE COUNTY COMMISSIONERS THAT THE VOLUNTEER FIRE COMPANY:

(I) IS AN ACTIVE FIRE-FIGHTING ORGANIZATION; AND

(II) HAS SPENT THE MONEY RECEIVED IN PRIOR YEARS UNDER THIS SECTION IN ACCORDANCE WITH THIS SECTION.

(2) IF A VOLUNTEER FIRE COMPANY CEASES TO BE AN ACTIVE FIRE-FIGHTING ORGANIZATION OR FAILS TO SPEND THE MONEY RECEIVED IN ACCORDANCE WITH THIS SECTION, THE COUNTY COMMISSIONERS SHALL:

(I) WITHHOLD THE CURRENT YEAR'S MONEY FROM THE VOLUNTEER FIRE COMPANY; AND

(II) ALLOCATE THE UNSPENT MONEY TO THE CONTINGENT FUND OF DORCHESTER COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 3(w-1).

Throughout this section, the term "volunteer fire company" is substituted for the former references to "fire companies" and "companies" for consistency throughout this section.

Subsection (a) of this section is revised to clarify the scope of this section. It is based on the reference in former Art. 25, § 3(w-1)(1) to the County Commissioners of Dorchester County.

In subsection (c) of this section, the phrase "shall use property tax revenue" is substituted for the former phrase "shall levy each year on the assessable property" for clarity.

Also in subsection (c) of this section, the former phrase "as determined by the County Commissioners in accordance with this subsection" is deleted as surplusage.

In subsection (e)(1) of this section, the phrase "submit evidence satisfactory to the County Commissioners" is substituted for the former phrase "show to the satisfaction of the Commissioners" for brevity and clarity.

Subsection (e)(2)(i) of this section is revised to state expressly that which was implied in the former law, *i.e.*, in order to allocate a volunteer fire company's money to the contingent fund, the County Commissioners must first withhold the money from the volunteer fire company.

8-303. GUARANTEE OF LOANS TO VOLUNTEER FIRE COMPANIES.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO ALLEGANY COUNTY, CALVERT COUNTY, CHARLES COUNTY, FREDERICK COUNTY, GARRETT COUNTY, KENT COUNTY, AND ST. MARY'S COUNTY.

(B) EXPRESS POWER.

THE COUNTY COMMISSIONERS OF A COUNTY SUBJECT TO THIS SECTION HAVE THE EXPRESS POWER TO GUARANTEE OR INSURE FINANCIAL LOANS MADE BY A GOVERNMENTAL THIRD PARTY TO A VOLUNTEER FIRE COMPANY THAT:

(1) IS LOCATED WITHIN THE COUNTY; OR

(2) HAS A MUTUAL AID AGREEMENT WITH THE COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 25, § 3(a)(1) and (gg).

%In the introductory language of subsection (b) of this section, the reference to a "fire company" is substituted for the former reference to a "fire department" for consistency within this title.

Defined term: "County" § 1-101

TITLE 9. FIRE PROTECTION AND PREVENTION.

SUBTITLE 1. SMOKE DETECTION SYSTEMS.

9-101. SCOPE OF SUBTITLE.

(A) APPLICABILITY IN BALTIMORE CITY.

(1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THIS SUBTITLE APPLIES IN BALTIMORE CITY.

(2) IN BALTIMORE CITY, THE BALTIMORE CITY FIRE DEPARTMENT SHALL ENFORCE THIS SUBTITLE.

(3) IN BALTIMORE CITY, APPEALS CONCERNING THIS SUBTITLE SHALL BE MADE TO THE BALTIMORE CITY FIRE BOARD.

(B) EFFECT OF SUBTITLE.

THIS SUBTITLE DOES NOT AFFECT A PUBLIC LOCAL LAW OR REGULATION THAT EXISTED ON JULY 1, 1982, THAT REQUIRED SMOKE DETECTORS IN OCCUPANCIES WITH LESS THAN TEN DWELLING UNITS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 12A(l) and (m).

In subsection (a)(1) of this section, the reference to "this article" is retained in the revision although the Public Safety Article includes provisions from articles other than former Article 38A. No substantive change results because this subtitle applies in Baltimore City regardless of any other provisions in the Public Safety Article.

In subsection (a)(2) and (3) of this section, the references to the "Baltimore City" fire department and the "Baltimore City" fire board, respectively, are added for clarity.

In subsection (b) of this section, the general reference to "[t]his subtitle" is substituted for the former specific reference to "subsections (a) through (l) of this section". This revised subtitle contains all of former Art. 38A, § 12A, which included subsections (a) through (q). However, former Art. 38A, § 12A(n) through (q) applied only to new residential dwelling units for which building permits were issued on or after January 1, 1989, or July 1, 1990, and required detectors in those units. The substitution of the reference to "this subtitle" therefore may expand the scope of the revised provision. No

substantive change is intended.

9-102. INSTALLATION OF SMOKE DETECTORS REQUIRED.

(A) IN GENERAL.

(1) EACH SLEEPING AREA WITHIN EACH OCCUPANCY CLASSIFIED RESIDENTIAL, AS DEFINED IN THE MOST RECENT EDITION OF THE NATIONAL FIRE PROTECTION ASSOCIATION LIFE SAFETY CODE ADOPTED BY THE STATE FIRE PREVENTION COMMISSION, SHALL BE EQUIPPED WITH AT LEAST ONE APPROVED SMOKE DETECTOR THAT:

(I) SENSES VISIBLE OR INVISIBLE PARTICLES OF COMBUSTION; AND

(II) IS INSTALLED IN A MANNER AND LOCATION APPROVED BY THE STATE FIRE PREVENTION COMMISSION.

(2) WHEN ACTIVATED, THE SMOKE DETECTOR SHALL PROVIDE AN ALARM SUITABLE TO WARN THE OCCUPANTS.

(B) LANDLORDS AND TENANTS.

(1) THE LANDLORD SHALL INSTALL SMOKE DETECTORS AS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.

(2) ON WRITTEN NOTIFICATION BY CERTIFIED MAIL BY THE TENANT OR ON NOTIFICATION IN PERSON BY THE TENANT, THE LANDLORD SHALL REPAIR OR REPLACE THE SMOKE DETECTOR.

(3) IF THE TENANT PERSONALLY NOTIFIES THE LANDLORD OF THE FAILURE OF A SMOKE DETECTOR, THE LANDLORD SHALL PROVIDE A WRITTEN RECEIPT ACKNOWLEDGING THE NOTIFICATION.

(4) A TENANT MAY NOT REMOVE A SMOKE DETECTOR OR RENDER A SMOKE DETECTOR INOPERATIVE.

(5) EXCEPT FOR HOTELS OR MOTELS, A LANDLORD MAY REQUIRE A REFUNDABLE DEPOSIT FOR A SMOKE DETECTOR NOT EXCEEDING THE VALUE OF THE SMOKE DETECTOR.

(6) ON WRITTEN REQUEST OF A TENANT WHO IS DEAF OR HEARING IMPAIRED, THE LANDLORD SHALL PROVIDE A SMOKE DETECTOR THAT, WHEN ACTIVATED, PROVIDES A SIGNAL THAT:

(I) IS APPROVED BY A NATIONALLY RECOGNIZED TESTING LABORATORY FOR ELECTRICAL APPLIANCES; AND

(II) IS SUFFICIENT TO WARN THE DEAF OR HEARING IMPAIRED TENANT.

(C) HOTELS AND MOTELS.

(1) REGARDLESS OF THE NUMBER OF UNITS, EACH HOTEL OR MOTEL SHALL HAVE AVAILABLE AT LEAST ONE SMOKE DETECTOR FOR THE DEAF OR HEARING IMPAIRED FOR EACH 50 UNITS OR FRACTION OF 50 UNITS.

(2) THE HOTEL OR MOTEL MAY REQUIRE A REFUNDABLE DEPOSIT FOR A PORTABLE SMOKE DETECTOR NOT EXCEEDING THE VALUE OF THE SMOKE DETECTOR.

(3) THE HOTEL OR MOTEL SHALL POST IN A CONSPICUOUS PLACE AT THE REGISTRATION DESK A PERMANENT SIGN THAT STATES THE AVAILABILITY OF SMOKE DETECTORS FOR THE DEAF OR HEARING IMPAIRED.

(D) RESIDENTIAL DWELLINGS.

ON OR BEFORE JULY 1, 1982, AN OCCUPANT OF A ONE, TWO, OR THREE FAMILY RESIDENTIAL DWELLING CONSTRUCTED BEFORE JULY 1, 1975, SHALL:

(1) EQUIP EACH OCCUPANT'S LIVING UNIT WITH AT LEAST ONE APPROVED BATTERY OR ALTERNATING CURRENT (AC) PRIMARY ELECTRIC POWERED SMOKE DETECTOR; AND

(2) MAINTAIN THE SMOKE DETECTOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 12A(a)(1), (3), and (4) and (b).

In subsection (a)(1) of this section, the reference to the "most recent edition" of the National Fire Protection Association Life Safety Code "adopted by the State Fire Prevention Commission" is substituted for the former obsolete reference to the "1988 Edition" for accuracy and to accommodate reference to future editions of the NFPA Life Safety Code.

In subsections (a)(2) and (b)(2) of this section, the references to a "smoke" detector are added for clarity and consistency. Similarly, in subsection (b)(3) of this section, the reference to failure "of a smoke detector" is added.

In subsection (b)(3) of this section, the former reference to the "mechanical" failure of a smoke detector is deleted to accommodate electronic and other kinds of failures. The Public Safety Article Review Committee calls this deletion to the attention of the General Assembly.

In the introductory language of subsection (b)(6) of this section, the reference to a "tenant" is substituted for the former phrase "[w]here an occupancy is occupied by a person" for consistency with terminology used throughout subsection (b) of this section. Similarly, in subsection (b)(6)(ii) of this section, the reference to a "tenant" is substituted for the former reference to an "individual".

%In subsection (c)(2) and (3) of this section, the references to a "hotel or motel" are substituted for the former references to the "proprietor" for clarity and consistency with subsection (c)(1) of this section.

In subsection (c)(3) of this section, the reference to smoke detectors for the "deaf" is added for consistency with subsection (c)(1) of this section.

Also in subsection (c)(3) of this section, the former reference to a "counter" is deleted as implicit in the reference to the "registration desk".

Former Art. 38A, § 12A(a)(2), which required smoke detectors to be installed in hotels and multifamily buildings by specified dates, all of which are prior to January 1, 1984, is deleted as obsolete because the dates for compliance have passed.

9-103. CONSTRUCTION OF NEW RESIDENTIAL DWELLING UNITS.

(A) MINIMUM NUMBER OF SMOKE DETECTORS.

AT LEAST ONE SMOKE DETECTOR SHALL BE INSTALLED ON EACH LEVEL, INCLUDING A BASEMENT BUT EXCLUDING AN ATTIC, OF EACH NEW RESIDENTIAL DWELLING UNIT:

(1) THAT CONTAINS ALTERNATING CURRENT (AC) ELECTRICAL SERVICE;

(2) THAT IS CLASSIFIED RESIDENTIAL, AS DEFINED IN THE MOST RECENT EDITION OF THE NATIONAL FIRE PROTECTION ASSOCIATION LIFE SAFETY CODE ADOPTED BY THE STATE FIRE PREVENTION COMMISSION; AND

(3) FOR WHICH A BUILDING PERMIT IS ISSUED FOR NEW CONSTRUCTION ON OR AFTER JANUARY 1, 1989.

(B) ACTIVATION OF MULTIPLE SMOKE DETECTORS.

IF TWO OR MORE SMOKE DETECTORS ARE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, THE SMOKE DETECTORS SHALL BE OF A TYPE AND INSTALLED IN A MANNER SO THAT ACTIVATION OF ONE SMOKE DETECTOR CAUSES ACTIVATION OF ALL OTHER REQUIRED SMOKE DETECTORS IN THE RESIDENTIAL DWELLING UNIT.

(C) OPERATION BY BATTERY AND ELECTRIC POWER.

A SMOKE DETECTOR REQUIRED UNDER THIS SUBTITLE SHALL OPERATE BOTH BY BATTERY AND ON AN ALTERNATING CURRENT (AC) PRIMARY SOURCE OF ELECTRIC POWER IF THE SMOKE DETECTOR IS INSTALLED IN A NEW RESIDENTIAL DWELLING UNIT:

(1) THAT CONTAINS ALTERNATING CURRENT (AC) ELECTRICAL SERVICE;

(2) THAT IS DESIGNED TO BE OCCUPIED BY ONE OR MORE FAMILIES; AND

(3) FOR WHICH A BUILDING PERMIT IS ISSUED FOR NEW CONSTRUCTION ON OR AFTER JULY 1, 1990.

(D) ENFORCEMENT OF SECTION; ENACTMENT OF MORE STRINGENT LAWS.

THIS SECTION:

(1) MAY BE ENFORCED BY A COUNTY FIRE CHIEF, FIRE ADMINISTRATOR, OR MUNICIPAL FIRE CHIEF; AND

(2) DOES NOT PREVENT A COUNTY FROM ENACTING MORE STRINGENT LAWS THAT RELATE TO SMOKE DETECTORS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 12A(n), (o), (p), and (q).

In subsection (a)(2) of this section, the reference to the "most recent edition" of the National Fire Protection Association Life Safety Code "adopted by the State Fire Prevention Commission" is substituted for the former obsolete reference to the "1985 Edition" for accuracy and to accommodate reference to future editions of the NFPA Life Safety Code.

In the introductory language of subsection (c) of this section, the former requirement that a smoke detector be "of a type" is deleted as surplusage.

Defined term: "County" § 1-101

9-104. GENERAL REQUIREMENTS FOR SMOKE DETECTORS.

(A) ALTERNATING CURRENT PRIMARY SOURCE OF ELECTRIC POWER; EXCEPTIONS.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND § 9-102(D) OF THIS SUBTITLE, SMOKE DETECTION SYSTEMS SHALL OPERATE ON AN ALTERNATING CURRENT (AC) PRIMARY SOURCE OF ELECTRIC POWER.

(2) SMOKE DETECTION SYSTEMS MAY OPERATE ON APPROVED POWER SUPPLIES OTHER THAN AN ALTERNATING CURRENT (AC) PRIMARY SOURCE OF ELECTRIC POWER IF:

(I) THE POWER SUPPLY IS APPROVED BY THE STATE FIRE PREVENTION COMMISSION; AND

(II) IT IS CLEARLY EVIDENT THAT REASONABLE SAFETY IS SECURED.

(B) LINEAL OR SQUARE FOOTAGE ALLOWANCES.

EACH APPROVED SMOKE DETECTOR SHALL BE INSTALLED SO AS NOT TO EXCEED THE LINEAL OR SQUARE FOOTAGE ALLOWANCES SPECIFIED FOR THE SMOKE DETECTOR, BASED ON THE GENERALLY ACCEPTED TEST STANDARDS UNDER WHICH THE SMOKE DETECTOR WAS TESTED AND APPROVED.

(C) APPROVAL AND USE.

SMOKE DETECTION SYSTEMS, INCLUDING SPECIALIZED SMOKE DETECTORS FOR THE DEAF AND HEARING IMPAIRED, SHALL BE APPROVED FOR THE PARTICULAR SYSTEM AND SHALL ONLY BE USED FOR DETECTION AND SIGNALING IN THE EVENT OF FIRE.

(D) LEASES FOR RESIDENTIAL DWELLING UNITS.

EACH LEASE FOR AN EXISTING RESIDENTIAL DWELLING UNIT THAT CONTAINS ALTERNATING CURRENT (AC) ELECTRIC SERVICE SHALL CONTAIN A DISCLOSURE IN 10-POINT BOLD TYPE THAT STATES:

"THIS RESIDENTIAL DWELLING UNIT CONTAINS ALTERNATING CURRENT (AC) ELECTRIC SERVICE. IN THE EVENT OF A POWER OUTAGE, AN ALTERNATING CURRENT (AC) POWERED SMOKE DETECTOR WILL NOT PROVIDE AN ALARM. THEREFORE, THE OCCUPANT SHOULD OBTAIN A DUAL POWERED SMOKE DETECTOR OR A BATTERY POWERED SMOKE DETECTOR."

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 12A(e), (f), (g), (h), and (r).

In subsection (b) of this section, the reference to a "smoke detector" is substituted for the former reference to "smoke detecting devices" for consistency with terminology used throughout this subtitle.

9-105. SALE AND INSTALLATION OF SMOKE DETECTORS.

(A) COMPLIANCE WITH STATE FIRE PREVENTION CODE.

A PERSON MAY SELL OR INSTALL A SMOKE DETECTION SYSTEM OR SPECIALIZED SMOKE DETECTORS FOR THE DEAF AND HEARING IMPAIRED ONLY IN ACCORDANCE WITH THE STATE FIRE PREVENTION CODE.

(B) MANUFACTURERS TO OBTAIN APPROVAL.

(1) EACH MANUFACTURER COMMERCIALLY SELLING OR OFFERING FOR SALE SMOKE DETECTION SYSTEMS IN THE STATE SHALL OBTAIN APPROVAL OF EACH MODEL OF SMOKE DETECTOR FROM THE STATE FIRE MARSHAL.

(2) AN APPLICATION FOR APPROVAL OF EACH MODEL OF SMOKE DETECTOR SHALL BE:

(I) SUBMITTED IN THE MANNER REQUIRED BY THE STATE FIRE MARSHAL; AND

(II) ACCOMPANIED BY A FEE OF $25.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 12A(i) and (j).

In subsection (a) of this section, the reference to the "State Fire Prevention Code" is substituted for the former reference to the "State of Maryland Fire Prevention Code regulations" for consistency with terminology used in § 6-206 of this article.

Defined term: "Person" § 1-101

9-106. SPRINKLER SYSTEMS.

(A) IN GENERAL.

IF APPROVED BY THE STATE FIRE PREVENTION COMMISSION, AN APPROVED AUTOMATIC FIRE SPRINKLER SYSTEM MAY BE INSTALLED INSTEAD OF A SMOKE DETECTION SYSTEM.

(B) EFFECT ON OTHER REQUIREMENTS.

INSTALLING AN APPROVED AUTOMATIC FIRE SPRINKLER SYSTEM DOES NOT NULLIFY THE OTHER REQUIREMENTS OF THE STATE FIRE PREVENTION CODE OR EXEMPT AN OCCUPANCY FROM OTHER REQUIREMENTS THAT ARE CLEARLY APPLICABLE UNDER THE STATE FIRE PREVENTION CODE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 12A(k).

In subsection (b) of this section, the references to "the State Fire Prevention Code" are substituted for the references to "the code" and "the text of the code" for clarity and accuracy.

9-107. PROPERTY INSURANCE CLAIMS.

FAILURE TO COMPLY WITH THIS SUBTITLE MAY NOT BE USED AS A POLICY DEFENSE IN THE SETTLEMENT OF A PROPERTY INSURANCE CLAIM.

REVISOR'S NOTE: This section formerly was Art. 38A, § 12A(d).

The only changes are in style.

9-108. SMOKE DETECTION INSTALLATION ORDER.

(A) IN GENERAL.

IF AFTER INVESTIGATING A FIRE IN A ONE, TWO, OR THREE FAMILY RESIDENTIAL DWELLING THE STATE FIRE MARSHAL OR LOCAL INVESTIGATING AUTHORITY FINDS THE ABSENCE OF REQUIRED SMOKE DETECTORS, THE STATE

FIRE MARSHAL OR LOCAL INVESTIGATING AUTHORITY SHALL ISSUE TO THE OCCUPANT A SMOKE DETECTION INSTALLATION ORDER.

(B) FAILURE TO COMPLY WITH ORDER.

A PERSON MAY NOT FAIL TO COMPLY WITH A SMOKE DETECTION INSTALLATION ORDER WITHIN 15 DAYS OF REOCCUPANCY.

(C) PENALTY.

(1) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $50.

(2) THE PENALTY PROVISION OF § 9-109 OF THIS SUBTITLE DOES NOT APPLY TO THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 12A(c).

In subsection (a) of this section, the reference to a "one, two, or three family" residential dwelling is substituted for the former reference to a residential dwelling "place described in subsection (b) of this section" to conform to language used in § 9-102(d) of this subtitle.

In subsection (c)(1) of this section, the reference to a person who violates this section being guilty "of a misdemeanor" is added to state expressly that which was only implied in the former law. In this State, any crime that was not a felony at common law and has not been declared a felony by statute is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Dutton v. State*, 123 Md. 373, 378 (1914); and *Williams v. State*, 4 Md. App. 342, 347 (1968).

Also in subsection (c)(1) of this section, the reference to a person "on conviction" being subject to certain penalties is added to state expressly that which was only implied in the former law, and for consistency with other penalty provisions in this and other revised articles of the Code.

Defined term: "Person" § 1-101

9-109. VIOLATION OF SUBTITLE.

(A) PROHIBITED.

A PERSON MAY NOT KNOWINGLY VIOLATE THIS SUBTITLE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 DAYS OR A FINE NOT EXCEEDING $1,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 13(a), except as it related to violations of regulations.

In subsection (b) of this section, the reference to a person who violates this section being guilty "of a misdemeanor" is added to state expressly that which was only implied in the former law. In this State, any crime that was not a felony at common law and has not been declared a felony by statute is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Dutton v. State*, 123 Md. 373, 378 (1914); and *Williams v. State*, 4 Md. App. 342, 347 (1968).

Also in subsection (b) of this section, the reference to a person "on conviction" being subject to certain penalties is added to state expressly that which was only implied in the former law, and for consistency with other penalty provisions in this and other revised articles of the Code.

Defined term: "Person" § 1-101

SUBTITLE 2. SPRINKLER SYSTEMS.

9-201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 12B(a)(1).

The reference to this "subtitle" is substituted for the former reference to this "section" to reflect the reorganization of former § 12B as a subtitle in this revision.

No other changes are made.

(B) DORMITORY.

(1) "DORMITORY" MEANS A BUILDING OR SPACE IN A BUILDING THAT:

(I) IS UNDER JOINT OCCUPANCY AND SINGLE MANAGEMENT; AND

(II) PROVIDES GROUP SLEEPING ACCOMMODATIONS:

1. WITH OR WITHOUT MEALS, BUT WITHOUT INDIVIDUAL COOKING FACILITIES;

2. FOR MORE THAN 16 INDIVIDUALS WHO ARE NOT MEMBERS OF THE SAME FAMILY GROUP; AND

3. IN ONE ROOM OR IN A SERIES OF CLOSELY ASSOCIATED ROOMS.

(2) "DORMITORY" INCLUDES A SCHOOL DORMITORY, FRATERNITY HOUSE, AND MILITARY BARRACKS.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 12B(a)(2).

The only changes are in style.

(C) DWELLING UNIT.

"DWELLING UNIT" MEANS A SINGLE UNIT THAT:

(1) PROVIDES COMPLETE, INDEPENDENT LIVING FACILITIES FOR ONE OR MORE INDIVIDUALS; AND

(2) CONTAINS PERMANENT PROVISIONS FOR LIVING, SLEEPING, EATING, COOKING, AND SANITATION.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 12B(a)(3).

In item (2) of this subsection, the word "contains" is substituted for the former word "includ[es]" for clarity.

The only other changes are in style.

(D) HOTEL.

(1) "HOTEL" MEANS A BUILDING OR GROUP OF BUILDINGS THAT:

(I) IS UNDER THE SAME MANAGEMENT;

(II) CONTAINS MORE THAN 16 SLEEPING ACCOMMODATIONS FOR HIRE; AND

(III) IS USED PRIMARILY BY TRANSIENTS WHO ARE LODGED WITH OR WITHOUT MEALS.

(2) "HOTEL" INCLUDES AN INN, MOTEL, CLUB, AND APARTMENT HOTEL.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 12B(a)(4).

The only changes are in style.

(E) LODGING OR ROOMING HOUSE.

(1) "LODGING OR ROOMING HOUSE" MEANS A BUILDING:

(I) IN WHICH SEPARATE SLEEPING ROOMS ARE RENTED; AND

(II) THAT PROVIDES SLEEPING ACCOMMODATIONS:

1. FOR 16 OR FEWER INDIVIDUALS;

2. ON EITHER A TRANSIENT OR PERMANENT BASIS; AND

3. WITH OR WITHOUT MEALS, BUT WITHOUT INDIVIDUAL COOKING FACILITIES.

(2) "LODGING OR ROOMING HOUSE" INCLUDES AN INN, CLUB, AND BED AND BREAKFAST ESTABLISHMENT.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 12B(a)(5).

In paragraph (1)(ii)3 of this subsection, the phrase "without individual cooking facilities" is substituted for the former phrase "without separate cooking facilities for individual occupants" to conform to subsection (b)(1)(ii)1 of this section.

The only other changes are in style.

(F) MULTIFAMILY RESIDENTIAL DWELLING.

(1) "MULTIFAMILY RESIDENTIAL DWELLING" MEANS A BUILDING OR PART OF A BUILDING THAT:

(I) CONTAINS MORE THAN TWO DWELLING UNITS; AND

(II) IS NOT CLASSIFIED AS A ONE OR TWO FAMILY DWELLING.

(2) "MULTIFAMILY RESIDENTIAL DWELLING" DOES NOT INCLUDE A TOWN HOUSE.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 12B(a)(6).

The only changes are in style.

Defined term: "Dwelling unit" § 9-201

(G) PUBLIC WATER SYSTEM.

(1) "PUBLIC WATER SYSTEM" MEANS A SYSTEM THAT:

(I) PROVIDES THE PUBLIC WITH PIPED WATER FOR HUMAN CONSUMPTION; AND

(II) HAS AT LEAST 15 SERVICE CONNECTIONS OR REGULARLY SERVES AT LEAST 25 INDIVIDUALS.

(2) "PUBLIC WATER SYSTEM" INCLUDES:

(I) A COLLECTION, TREATMENT, STORAGE, OR DISTRIBUTION FACILITY THAT IS UNDER THE CONTROL OF THE OPERATOR OF THE SYSTEM AND IS USED PRIMARILY IN CONNECTION WITH THE SYSTEM; AND

(II) A COLLECTION OR PRETREATMENT STORAGE FACILITY THAT IS NOT UNDER THE CONTROL OF THE OPERATOR OF THE SYSTEM AND IS USED PRIMARILY IN CONNECTION WITH THE SYSTEM.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 12B(a)(7).

The only changes are in style.

(H) SPRINKLER SYSTEM.

"SPRINKLER SYSTEM" MEANS A DEVICE THAT:

(1) OPENS AUTOMATICALLY BY OPERATION OF A HEAT RESPONSIVE RELEASING MECHANISM;

(2) DISCHARGES WATER IN A SPECIFIC PATTERN OVER A DESIGNATED AREA TO EXTINGUISH OR CONTROL FIRE; AND

(3) USES THE SAME SERVICE WATER SUPPLY PIPE TO THE DWELLING UNIT THAT THE PUBLIC WATER SYSTEM USES.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 12B(a)(8)(i), (ii), and (iii).

The only changes are in style.

Defined terms: "Dwelling unit" § 9-201

"Public water system" § 9-201

(I) TOWN HOUSE.

"TOWN HOUSE" MEANS A SINGLE FAMILY DWELLING UNIT THAT IS CONSTRUCTED IN A HORIZONTAL SERIES OF ATTACHED UNITS WITH PROPERTY LINES SEPARATING THE UNITS.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 12B(a)(9).

The only changes are in style.

Defined term: "Dwelling unit" § 9-201

9-202. EFFECT OF SUBTITLE.

(A) ADOPTION OF MORE STRINGENT STANDARDS.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS SUBTITLE DOES NOT PRECLUDE A LOCAL JURISDICTION FROM ADOPTING MORE STRINGENT STANDARDS TO GOVERN THE INSTALLATION OF SPRINKLER SYSTEMS IN NEW CONSTRUCTION.

(B) EXCEPTION.

INDUSTRIALIZED BUILDINGS UNDER THE AUTHORITY OF THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT IN ACCORDANCE WITH TITLE 12, SUBTITLE 3 OF THIS ARTICLE SHALL COMPLY WITH THE STANDARD FOR THE INSTALLATION OF SPRINKLER SYSTEMS IN RESIDENTIAL OCCUPANCIES AS ADOPTED IN THE REGULATIONS OF THE STATE FIRE PREVENTION COMMISSION.

REVISOR'S NOTE: This section formerly was Art. 38A, § 12B(d).

The only changes are in style.

Defined term: "Sprinkler system" § 9-201

9-203. ENFORCEMENT OF SUBTITLE.

THE STATE FIRE MARSHAL OR A LOCAL OR STATE AUTHORITY WITH JURISDICTION OVER THE ENFORCEMENT OF FIRE AND BUILDING CODES MAY ENFORCE THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 38A, § 12B(e).

The reference to this "subtitle" is substituted for the former reference to this "subheading" to reflect the reorganization of former § 12B as a subtitle in this revision.

The only other changes are in style.

9-204. INSTALLATION OF SPRINKLER SYSTEMS REQUIRED.

(A) STANDARDS FOR SPRINKLER SYSTEMS.

EACH SPRINKLER SYSTEM REQUIRED UNDER THIS SECTION SHALL:

(1) BE INSTALLED IN ACCORDANCE WITH ACCEPTED ENGINEERING PRACTICES THAT MEET THE STANDARD FOR THE INSTALLATION OF SPRINKLER SYSTEMS IN RESIDENTIAL OCCUPANCIES UNDER THE REGULATIONS OF THE STATE FIRE PREVENTION COMMISSION OR THE LOCAL AUTHORITY WITH JURISDICTION OVER THE ENFORCEMENT OF FIRE AND BUILDING CODES;

(2) MEET THE REQUIREMENTS OF THE CURRENT NATIONAL FIRE PROTECTION ASSOCIATION STANDARDS; AND

(3) BE APPROVED BY THE STATE FIRE MARSHAL OR THE LOCAL AUTHORITY WITH JURISDICTION OVER THE ENFORCEMENT OF FIRE CODES.

(B) BUILDINGS IN WHICH SPRINKLER SYSTEMS REQUIRED.

(1) IN A JURISDICTION IN WHICH BUILDING PERMITS ARE ISSUED, A SPRINKLER SYSTEM SHALL BE INSTALLED IN:

(I) EACH NEWLY CONSTRUCTED DORMITORY, HOTEL, LODGING OR ROOMING HOUSE, OR MULTIFAMILY RESIDENTIAL DWELLING FOR WHICH THE INITIAL BUILDING PERMIT IS ISSUED ON OR AFTER JULY 1, 1990; AND

(II) EACH NEWLY CONSTRUCTED TOWN HOUSE FOR WHICH THE INITIAL BUILDING PERMIT IS ISSUED ON OR AFTER JULY 1, 1992.

(2) IN A JURISDICTION IN WHICH BUILDING PERMITS ARE NOT ISSUED, A SPRINKLER SYSTEM SHALL BE INSTALLED IN:

(I) EACH DORMITORY, HOTEL, LODGING OR ROOMING HOUSE, OR MULTIFAMILY RESIDENTIAL DWELLING ON WHICH CONSTRUCTION BEGINS ON OR AFTER JULY 1, 1990; AND

(II) EACH TOWN HOUSE ON WHICH CONSTRUCTION BEGINS ON OR AFTER JULY 1, 1992.

(C) EXCEPTION.

IF A DWELLING UNIT IS NOT SERVICED BY A PUBLIC WATER SYSTEM, SUBSECTIONS (A) AND (B) OF THIS SECTION DO NOT APPLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 12B(b) and (a)(8)(iv) and (v).

In subsection (a)(2) and (3) of this section, former Art. 38A, § 12B(a)(8)(iv) and (v) are restated as substantive requirements for sprinkler systems, rather than as part of the definition of "sprinkler system", for clarity.

In subsection (c) of this section, the former reference to a public water "supply" system is deleted as surplusage.

Defined terms: "Dormitory" § 9-201

"Dwelling unit" § 9-201

"Hotel" § 9-201

"Lodging or rooming house" § 9-201

"Multifamily residential dwelling" § 9-201

"Public water system" § 9-201

"Sprinkler system" § 9-201

"Town house" § 9-201

9-205. AUTHORITY TO GRANT EXCEPTIONS.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IF THERE IS CLEAR EVIDENCE THAT AN EXCEPTION WILL NOT ADVERSELY AFFECT THE FIRE SAFETY OF A BUILDING OR ITS OCCUPANTS, THE STATE FIRE MARSHAL OR A LOCAL AUTHORITY WITH JURISDICTION OVER THE ENFORCEMENT OF FIRE AND BUILDING CODES MAY GRANT AN EXCEPTION TO:

(1) A REQUIREMENT OF A STATE OR LOCAL FIRE AND BUILDING CODE IF A SPRINKLER SYSTEM IS INSTALLED IN A BUILDING AS REQUIRED BY THIS SUBTITLE; OR

(2) THE SPRINKLER SYSTEM REQUIREMENT OF THIS SUBTITLE IF, ON OR BEFORE JUNE 30, 1990:

(I) THE LOCAL AUTHORITY GAVE APPROVAL TO A CONSTRUCTION PLAN FOR A DORMITORY, HOTEL, LODGING OR ROOMING HOUSE, MULTIFAMILY RESIDENTIAL UNIT, OR TOWN HOUSE; AND

(II) THE APPROVED PLAN DID NOT INCLUDE THE INSTALLATION OF A SPRINKLER SYSTEM AS REQUIRED BY THIS SUBTITLE.

(B) SMOKE DETECTORS.

THE STATE FIRE MARSHAL OR A LOCAL AUTHORITY MAY NOT GRANT AN EXCEPTION UNDER THIS SECTION TO A SMOKE DETECTOR REQUIREMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 12B(c).

In subsection (a)(2)(i) of this section, the specific references to a "dormitory, hotel, lodging or rooming house, multifamily residential unit, or town house" are substituted for the former general reference to a "building covered by this section" for precision.

In subsection (a)(2)(ii) of this section, the reference to the "plan" is substituted for the former reference to "plans" for consistency with subsection (a)(2)(i) of this section.

Defined terms: "Dormitory" § 9-201

"Hotel" § 9-201

"Lodging or rooming house" § 9-201

"Multifamily residential dwelling" § 9-201

"Sprinkler system" § 9-201

"Town house" § 9-201

9-206. VIOLATION OF SUBTITLE.

(A) PROHIBITED.

A PERSON MAY NOT KNOWINGLY VIOLATE THIS SUBTITLE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 DAYS OR A FINE NOT EXCEEDING $1,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 13(a), except as it related to violations of regulations.

In subsection (b) of this section, the reference to a person who violates this section being guilty "of a misdemeanor" is added to state expressly that which was only implied in the former law. In this State, any crime that was not a felony at common law and has not been declared a felony by statute is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Dutton v. State*, 123 Md. 373, 378 (1914); and *Williams v. State*, 4 Md. App. 342, 347 (1968).

Also in subsection (b) of this section, the reference to a person "on conviction" being subject to certain penalties is added to state expressly that which was only implied in the former law, and for consistency with other penalty provisions in this and other revised articles of the Code.

Defined term: "Person" § 1-101

SUBTITLE 3. FAST RESPONSE RESIDENTIAL FIRE SPRINKLER SYSTEMS.

9-301. SCOPE OF SUBTITLE.

(A) EFFECT ON FIRE SAFETY LAWS.

THIS SUBTITLE:

(1) IS IN ADDITION TO ANY EXISTING FIRE SAFETY LAWS; AND

(2) DOES NOT LIMIT THE AUTHORITY OF THE STATE FIRE PREVENTION COMMISSION OR STATE FIRE MARSHAL TO ACT UNDER EXISTING FIRE SAFETY LAWS.

(B) EXCEPTIONS TO SUBTITLE.

IF THERE IS CLEAR EVIDENCE THAT EQUIVALENT PROTECTION OF HUMAN LIFE WILL BE PROVIDED AS REQUIRED BY THIS SUBTITLE, EXCEPTIONS TO THIS SUBTITLE MAY BE MADE BY:

(1) THE STATE FIRE PREVENTION COMMISSION;

(2) THE STATE FIRE MARSHAL;

(3) A COUNTY FIRE CHIEF;

(4) A FIRE ADMINISTRATOR WITH RESPONSIBILITY FOR CODE ENFORCEMENT; AND

(5) IN BALTIMORE CITY, THE BOARD OF FIRE COMMISSIONERS OR THE CHIEF OF THE FIRE DEPARTMENT.

(C) ENACTMENT OF MORE STRINGENT LAWS.

THIS SUBTITLE DOES NOT PREVENT A COUNTY OR MUNICIPAL CORPORATION FROM ENACTING MORE STRINGENT LAWS TO GOVERN THE INSTALLATION OF FIRE SPRINKLER SYSTEMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 47(d), (e), and (i).

In this section and throughout this subtitle, the reference to this "subtitle" is substituted for the former reference to this "section" to reflect the reorganization of former Art. 38A, § 47 as a subtitle in this revision.

In subsection (b)(5) of this section, the conjunction "or" is substituted for the former conjunction "and" to clarify that the Board of Fire Commissioners or the Chief of the Fire Department may make exceptions in Baltimore City.

In subsection (c) of this section, the former reference to the "City of Baltimore" is deleted because Baltimore City is included in the defined term "county".

Defined term: "County" § 1-101

9-302. ENFORCEMENT OF SUBTITLE.

A COUNTY FIRE CHIEF, FIRE ADMINISTRATOR, OR MUNICIPAL FIRE CHIEF MAY ENFORCE THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 47(f).

Defined term: "County" § 1-101

9-303. INSTALLATION REQUIRED.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, EACH HOTEL OR MOTEL WITH 10 OR MORE UNITS FOR WHICH A CONTRACT FOR CONSTRUCTION IS EXECUTED AFTER JULY 1, 1989, SHALL HAVE INSTALLED A FAST RESPONSE RESIDENTIAL FIRE SPRINKLER SYSTEM THAT IS INTENDED:

(1) TO DETECT AND CONTROL A FIRE AUTOMATICALLY;

(2) TO PROVIDE IMPROVED PROTECTION AGAINST INJURY, LOSS OF LIFE, AND PROPERTY DAMAGE;

(3) TO MAINTAIN SURVIVABLE CONDITIONS IN THE ROOM OF FIRE ORIGIN; AND

(4) TO IMPROVE THE CHANCE FOR OCCUPANTS TO ESCAPE OR BE EVACUATED.

(B) EXCEPTION.

A HOTEL OR MOTEL NEED NOT INSTALL A FAST RESPONSE RESIDENTIAL FIRE SPRINKLER SYSTEM IF:

(1) THE HOTEL OR MOTEL IS A ONE OR TWO STORY BUILDING; AND

(2) ALL OCCUPANTS ARE ABLE TO EXIT DIRECTLY TO THE EXTERIOR OF THE BUILDING AND NOT ONLY TO A CENTRAL CORRIDOR THROUGH AN APPROVED EXIT DOOR, AS THOSE TERMS ARE USED IN THE MOST RECENT EDITION OF THE NATIONAL FIRE PROTECTION ASSOCIATION LIFE SAFETY CODE ADOPTED BY THE STATE FIRE PREVENTION COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 47(a) and (b).

Subsection (a) of this section is revised to incorporate the substance of the former definition of "fast response residential fire sprinkler system" for clarity.

In subsection (a)(3) of this section, the former phrase "when sprinklered" is deleted as surplusage.

In subsection (b)(2) of this section, the reference to the "most recent edition" of the National Fire Protection Association Life Safety Code "adopted by the State Fire Prevention Commission" is substituted for the former obsolete reference to the "1985 Edition" for accuracy and to accommodate reference to future editions of the NFPA Life Safety Code.

9-304. REQUIREMENTS FOR SYSTEMS.

EACH FAST RESPONSE RESIDENTIAL FIRE SPRINKLER SYSTEM INSTALLED SHALL:

(1) BE DESIGNED AND CONSTRUCTED IN ACCORDANCE WITH ACCEPTED ENGINEERING PRACTICES; AND

(2) COMPLY WITH STANDARDS AND REGULATIONS DEVELOPED AND ADOPTED BY:

(I) THE STATE FIRE PREVENTION COMMISSION;

(II) A COUNTY FIRE CHIEF;

(III) A FIRE ADMINISTRATOR WITH RESPONSIBILITY FOR CODE ENFORCEMENT; OR

(IV) IN BALTIMORE CITY, THE CHIEF OF THE FIRE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 47(c).

Defined term: "County" § 1-101

9-305. COST OF INSTALLATION CONSIDERED.

WHEN EVALUATING AND APPROVING A BUILDER'S OVERALL SITE DEVELOPMENT AND CONSTRUCTION PLANS, THE COST OF THE BUILDER'S INSTALLATION OF FAST RESPONSE RESIDENTIAL FIRE SPRINKLER SYSTEMS SHALL BE CONSIDERED BY:

(1) LOCAL BUILDING OFFICIALS;

(2) LOCAL FIRE CHIEFS;

(3) THE STATE FIRE PREVENTION COMMISSION;

(4) THE STATE FIRE MARSHAL;

(5) FIRE ADMINISTRATORS WITH RESPONSIBILITY FOR CODE ENFORCEMENT; AND

(6) IN BALTIMORE CITY, THE CHIEF OF THE FIRE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 47(h).

9-306. PENALTY FOR VIOLATION OF SUBTITLE.

A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO THE PENALTY PROVIDED IN § 6-601 OF THIS ARTICLE.

REVISOR'S NOTE: This section formerly was Art. 38A, § 47(g).

The only changes are in style.

Defined term: "Person" § 1-101

SUBTITLE 4. HIGH-RISE BUILDING SAFETY IN CASE OF FIRE.

9-401. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the introductory language of former Art. 38A, § 49.

The former limitation, "unless the context otherwise requires", is deleted as an unnecessary statement of a standard rule of statutory construction that applies to all definitions.

(B) HIGH-RISE BUILDING.

(1) "HIGH-RISE BUILDING" MEANS A BUILDING FOR HUMAN OCCUPANCY THAT IS:

(I) FOUR OR MORE STORIES ABOVE GRADE LEVEL; OR

(II) OVER 45 FEET IN HEIGHT.

(2) "HIGH-RISE BUILDING" DOES NOT INCLUDE:

(I) A STRUCTURE OR BUILDING USED EXCLUSIVELY FOR OPEN AIR PARKING; OR

(II) A BUILDING USED EXCLUSIVELY FOR AGRICULTURAL PURPOSES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first and last sentences of former Art. 38A, § 49(1).

In paragraph (2)(i) of this subsection, the former phrase "wherever located" is deleted as surplusage.

(C) LOCAL FIRE DEPARTMENT.

"LOCAL FIRE DEPARTMENT" MEANS A CAREER OR VOLUNTEER FIRE DEPARTMENT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 38A, § 49(3).

The reference to a "career" fire department is substituted for the former reference to a "full-time" fire department for consistency with terminology used throughout this article.

(D) PUBLIC WAY.

"PUBLIC WAY" MEANS A PAVED THOROUGHFARE OVER 21 FEET IN WIDTH THAT:

(1) IS LOCATED ON PRIVATELY OWNED AND PRIVATELY MAINTAINED PROPERTY BUT IS DESIGNATED FOR PUBLIC USE; OR

(2) IS PUBLICLY OWNED AND PUBLICLY MAINTAINED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first sentence of former Art. 38A, § 49(2), except as it related to a public way being accessible to the fire department.

9-402. PURPOSE OF SUBTITLE; LEGISLATIVE FINDINGS.

(A) PURPOSE OF SUBTITLE.

THE PURPOSE OF THIS SUBTITLE IS TO PROVIDE FOR THE PHYSICAL SAFETY AND PROTECTION OF PROPERTY OF OCCUPANTS OF HIGH-RISE BUILDINGS IN CASE OF FIRE.

(B) LEGISLATIVE FINDINGS.

(1) WITHOUT ADEQUATE PROTECTION, RESIDENTS OF HIGH-RISE BUILDINGS ARE DEPENDENT ON DESCENDING MULTIPLE FLIGHTS OF STEPS OR JUMPING FROM WINDOWS WHEN A FIRE OCCURS.

(2) FOR MANY ELDERLY RESIDENTS OF HIGH-RISE BUILDINGS, THIS IS PHYSICALLY IMPOSSIBLE.

(3) MOST FIRE FIGHTING AND RESCUE OPERATIONS ARE ALSO CONDUCTED INSIDE THE HIGH-RISE BUILDING, WHERE THERE ARE GREATER OBSTACLES TO RESCUING OCCUPANTS AND CONTROLLING AND EXTINGUISHING THE FIRE.

(4) MANY TRAGEDIES COULD BE AVOIDED BY INSTALLATION OF AUTOMATIC FIRE EXTINGUISHING EQUIPMENT IN THESE SITUATIONS, USUALLY AT NO GREAT ADDITIONAL COST TO BUILDERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 48.

In subsection (a) of this section, the reference to providing for "the physical safety and protection of property" of occupants is substituted for the former reference to providing "protection for the life, limb, and property" of occupants for clarity.

In subsection (b)(1) and (3) of this section, the reference to "high-rise building[s]" is substituted for the former reference to "structure[s]" for clarity and to use the defined term. Similarly, in subsection (b)(2) of this section, the reference to "high-rise buildings" is substituted for the former reference to "high-rise apartments" for consistency.

Defined term: "High-rise building" § 9-401

9-403. AUTOMATIC SPRINKLER SYSTEM REQUIRED.

(A) IN GENERAL.

EACH HIGH-RISE BUILDING CONSTRUCTED AFTER JULY 1, 1974, SHALL BE PROTECTED BY A COMPLETE AUTOMATIC SPRINKLER SYSTEM INSTALLED IN ACCORDANCE WITH ACCEPTED ENGINEERING PRACTICES AS APPROVED BY THE AUTHORITY WITH JURISDICTION.

(B) EXCEPTION.

(1) THIS SECTION DOES NOT APPLY TO A BUILDING THAT IS LESS THAN 75 FEET IN HEIGHT ABOVE GRADE LEVEL IF:

(I) THE LOCAL FIRE DEPARTMENT HAS AT LEAST ONE APPROVED FIRST LINE PIECE OF AERIAL EQUIPMENT THAT IS CAPABLE OF REACHING THE ROOF OF THE BUILDING; AND

(II) ACCESSIBILITY TO THE BUILDING IS PROVIDED ON TWO SIDES OF THE PERIMETER OF THE BUILDING BY A PUBLIC WAY THAT IS:

1. KEPT ACCESSIBLE AT ALL TIMES TO THE LOCAL FIRE DEPARTMENT; AND

2. CLOSE ENOUGH TO THE BUILDING TO ALLOW THE FIRE DEPARTMENT AERIAL EQUIPMENT TO REACH 75 FEET IN HEIGHT.

(2) FOR PURPOSES OF THIS SUBSECTION, HEIGHT ABOVE GRADE LEVEL SHALL BE DETERMINED BY USING THE LOWEST ELEVATION OF THE PUBLIC WAY AS A REFERENCE DATUM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 50(a), the second sentence and (i), (ii), and (iii) of § 49(1), and the second sentence of § 49(2) and, as it related to a public way being accessible to the fire department, the first sentence.

Subsection (b)(1) of this section is revised as an exception to the requirement for an automatic sprinkler system rather than an exception to what type of building is considered a "high-rise building", for clarity. Similarly, the requirements that a public way be accessible to the fire department and close enough to the building are revised as elements of the exception for certain buildings rather than parts of the definition of "public way", for clarity.

In subsection (b)(1) and (2) of this section, the reference to height above grade "level" is added for clarity.

Defined terms: "High-rise building" § 9-401

"Local fire department" § 9-401

"Public way" § 9-401

9-404. APPEAL OF ORDERS FOR COMPLIANCE.

(A) APPEAL TO STATE FIRE PREVENTION COMMISSION.

AN ORDER FOR COMPLIANCE WITH THE REQUIREMENTS OF § 9-403 OF THIS SUBTITLE THAT IS ISSUED IN ACCORDANCE WITH THE AUTHORITY GRANTED UNDER TITLE 6, SUBTITLE 3 OF THIS ARTICLE MAY BE APPEALED TO THE STATE FIRE PREVENTION COMMISSION.

(B) APPEAL TO LOCAL AUTHORITY.

AN ORDER FOR COMPLIANCE WITH THE REQUIREMENTS OF § 9-403 OF THIS SUBTITLE THAT IS ISSUED IN ACCORDANCE WITH THE AUTHORITY GRANTED BY A LOCAL LAW, ORDINANCE, OR REGULATION MAY BE APPEALED AS PROVIDED BY LAW, ORDINANCE, OR REGULATION OF THE LOCAL JURISDICTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 50(b) and (c).

In subsection (a) of this section, the specific reference to "Title 6, Subtitle 3 of" this article is added to cross-reference the provisions that relate to the authority of the State Fire Marshal to make orders for compliance.

SUBTITLE 5. EVACUATION PROCEDURES IN CASE OF FIRE.

9-501. SCOPE OF SUBTITLE.

(A) IN GENERAL.

THIS SUBTITLE DOES NOT APPLY TO WASHINGTON COUNTY.

(B) EFFECT ON FIRE SAFETY LAWS.

THIS SUBTITLE:

(1) IS IN ADDITION TO ANY EXISTING FIRE SAFETY LAWS; AND

(2) DOES NOT LIMIT THE AUTHORITY OF THE STATE FIRE PREVENTION COMMISSION OR STATE FIRE MARSHAL TO ACT UNDER EXISTING FIRE SAFETY LAWS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 54(b) and 55(c).

In subsection (b)(1) and (2) of this section, the reference to "fire safety laws" is substituted for the former reference to "safety fire laws" for clarity and consistency with terminology used throughout this article.

9-502. POSTING OF FIRE SAFETY INFORMATION IN HOTELS, MOTELS, AND LODGING HOUSES.

EACH HOTEL, MOTEL, AND LODGING HOUSE SHALL POST IN A PROMINENT PLACE IN EACH GUEST ROOM A NOTICE THAT STATES:

(1) THE LOCATION OF THE NEAREST EXITS AND FIRE PULL STATIONS;

(2) THE PROCEDURES TO BE FOLLOWED IF THE FIRE OR SMOKE DETECTOR GIVES WARNING SIGNALS; AND

(3) THE PROCEDURES TO BE FOLLOWED IF FIRE OR SMOKE DEVELOPS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 53A(a).

In the introductory language of this section, the reference to a notice that "states" certain information is substituted for the former reference to a notice "containing the following information" for brevity.

9-503. AUTOMATIC FIRE EXTINGUISHING SYSTEMS IN SPECIFIED BUILDINGS.

(A) REQUIRED.

EACH BUILDING CONSTRUCTED AFTER JULY 1, 1977, THAT IS INTENDED TO HOUSE 50 OR MORE OCCUPANTS WHO, BECAUSE OF AGE, BLINDNESS, DISABILITY, OR PHYSICAL OR MENTAL ILLNESS, ARE UNABLE TO EVACUATE THE BUILDING WITHOUT ASSISTANCE IN CASE OF FIRE, SHALL BE PROTECTED THROUGHOUT THE ENTIRE BUILDING BY A SYSTEM THAT IS:

(1) DESIGNED TO DETECT AND EXTINGUISH A FIRE AUTOMATICALLY WHILE SOUNDING AN ALARM; AND

(2) INSTALLED IN ACCORDANCE WITH ACCEPTED ENGINEERING PRACTICES APPROVED BY THE AUTHORITY WITH JURISDICTION.

(B) APPEAL OF ORDERS FOR COMPLIANCE.

(1) AN ORDER FOR COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION THAT IS ISSUED IN ACCORDANCE WITH THE AUTHORITY GRANTED UNDER TITLE 6, SUBTITLE 3 OF THIS ARTICLE MAY BE APPEALED TO THE STATE FIRE PREVENTION COMMISSION.

(2) AN ORDER FOR COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION THAT IS ISSUED IN ACCORDANCE WITH THE AUTHORITY GRANTED BY A LOCAL LAW, ORDINANCE, OR REGULATION MAY BE APPEALED AS PROVIDED BY LAW, ORDINANCE, OR REGULATION OF THE LOCAL JURISDICTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 53(b) and (c) and 54(a) and (c).

In subsection (a) of this section, the former definitions of "[o]ccupant needing evacuation assistance" and "[a]utomatic fire extinguishing system" are revised as part of the requirement that certain buildings have a certain automatic fire extinguishing system, for clarity and to avoid defining terms that are used only once outside of their own definitions. Correspondingly, former Art. 38A, § 53(a), which was standard introductory language used in a definition section, is deleted as unnecessary.

In subsection (b)(1) of this section, the specific reference to "Title 6, Subtitle 3 of" this article is added to cross-reference the provisions that relate to the authority of the State Fire Marshal to make orders for

compliance.

9-504. SYMBOLS TO IDENTIFY DWELLINGS OF OCCUPANTS NEEDING EVACUATION ASSISTANCE.

(A) DEVELOPMENT OF PROGRAM REQUIRED.

THE STATE FIRE PREVENTION COMMISSION SHALL DEVELOP A PROGRAM TO IDENTIFY BY THE DISPLAY OF A SIGN, STICKER, OR OTHER APPROPRIATE SYMBOL, THE DWELLINGS OF OCCUPANTS WHO, BECAUSE OF AGE, BLINDNESS, DISABILITY, OR PHYSICAL OR MENTAL ILLNESS, ARE UNABLE TO EVACUATE THE BUILDING WITHOUT ASSISTANCE IN CASE OF FIRE.

(B) ADOPTION OF REGULATIONS REQUIRED.

THE COMMISSION SHALL ADOPT REGULATIONS TO GOVERN THE DISTRIBUTION AND USE OF THE SYMBOLS DESCRIBED IN SUBSECTION (A) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 53(b) and 55A(a) and (b).

In subsection (a) of this section, the former definition of "[o]ccupant needing evacuation assistance" is revised as part of the requirement that the State Fire Prevention Commission develop a program to identify the dwellings of certain occupants, for clarity and to avoid defining a term that is used only once outside of its own definition.

In subsection (b) of this section, the reference to the "use" of symbols is substituted for the former reference to the "employment" of symbols for clarity.

Also in subsection (b) of this section, the former reference to "rules" is deleted because the State Fire Prevention Commission adopts "regulations", not rules. *See* General Revisor's Note to article.

Former Art. 38A, § 55A(c), which required the State Fire Marshal to enforce regulations adopted by the Commission, is deleted as redundant in light of former Art. 38A, § 8(c), which required the State Fire Marshal to enforce the regulations adopted by the State Fire Prevention Commission. Former Art. 38A, § 8(c) is revised in § 6-305(a)(2) of this article.

9-505. ALTERNATIVE REQUIREMENTS FOR ACUTE CARE HOSPITALS.

ALTERNATIVE AND EQUIVALENT FIRE AND SAFETY REQUIREMENTS ARE ALLOWED IN ACUTE CARE HOSPITALS IN ACCORDANCE WITH CURRENT NATIONALLY RECOGNIZED CODES AND STANDARDS ADOPTED BY THE APPROPRIATE AUTHORITY WITH JURISDICTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 55(b).

9-506. PENALTIES FOR VIOLATION OF SUBTITLE.

(A) IN GENERAL.

A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO THE PENALTIES PROVIDED IN § 6-601 OF THIS ARTICLE.

(B) HOTELS, MOTELS, AND LODGING HOUSES.

A HOTEL, MOTEL, OR LODGING HOUSE THAT VIOLATES A REGULATION ADOPTED BY THE STATE FIRE PREVENTION COMMISSION IS SUBJECT TO THE PENALTIES PROVIDED IN § 6-601 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 53A(b) and 55(a).

Defined term: "Person" § 1-101

SUBTITLE 6. DISCLOSURE OF FIRE LOSS INVESTIGATION REPORTS.

9-601. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 56(a).

The only changes are in style.

(B) FIRE INVESTIGATOR.

(1) "FIRE INVESTIGATOR" MEANS AN OFFICIAL OF THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION WHO IS LEGALLY DESIGNATED TO HAVE LEGAL RESPONSIBILITY FOR INVESTIGATING FIRES AND SUPPRESSING ARSON.

(2) "FIRE INVESTIGATOR" INCLUDES A FIRE MARSHAL.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 38A, § 56(b).

In paragraph (2) of this subsection, the former reference to a "fire investigator" is deleted to avoid using the term being defined in its own definition.

Defined term: "County" § 1-101

(C) INSURER.

"INSURER" MEANS A PERSON LICENSED OR ESTABLISHED BY THE STATE TO INSURE PROPERTY OF ANY KIND.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 38A, § 56(c).

The reference to an "[i]nsurer" is substituted for the former reference to an "[i]nsurance company" for consistency with the terminology used in the Insurance Article.

Defined term: "Person" § 1-101

9-602. DISCLOSURE OF INFORMATION BY INSURER -- IN GENERAL.

ON REQUEST OF A FIRE INVESTIGATOR, AN INSURER INVESTIGATING A FIRE LOSS OF REAL OR PERSONAL PROPERTY SHALL COOPERATE WITH AND RELEASE TO THE FIRE INVESTIGATOR ANY INFORMATION IT HAS ABOUT THE FIRE LOSS, INCLUDING:

(1) EACH INSURANCE POLICY AND APPLICATION FOR THE POLICY RELEVANT TO THE FIRE LOSS;

(2) POLICY PREMIUM PAYMENT RECORDS;

(3) PREVIOUS CLAIMS MADE BY THE INSURED FOR FIRE LOSS; AND

(4) MATERIAL THAT RELATES TO THE INVESTIGATION OF THE FIRE LOSS, PROOF OF LOSS, AND ANY OTHER RELEVANT EVIDENCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 57(a).

In the introductory language of this section, the defined term "fire investigator" is substituted for the former reference to "any official authorized to request such information pursuant to this section" for clarity because a fire investigator is the only official authorized to request information under this section.

Also in the introductory language of this section, the former phrase "but is not limited to" is deleted as unnecessary in light of Art. 1, § 30, which provides that the term "including" is used "by way of illustration and not by way of limitation".

In item (1) of this section, the former reference to a fire loss "under investigation" is deleted as implicit.

In item (3) of this section, the former reference to a "[h]istory of" previous claims made by the insured is deleted as surplusage.

Defined terms: "Fire investigator" § 9-601

"Insurer" § 9-601

9-603. SAME -- FIRE LOSS CAUSED BY INCENDIARY MEANS.

IF AN INSURER HAS REASON TO SUSPECT THAT A FIRE LOSS TO REAL OR PERSONAL PROPERTY OF THE INSURED WAS CAUSED BY INCENDIARY MEANS, THE INSURER SHALL:

(1) NOTIFY THE FIRE INVESTIGATOR;

(2) PROVIDE THE FIRE INVESTIGATOR WITH ALL RELEVANT MATERIAL ACQUIRED DURING THE INSURER'S INVESTIGATION OF THE FIRE LOSS;

(3) COOPERATE WITH AND TAKE ANY ACTION REQUESTED BY THE FIRE INVESTIGATOR; AND

(4) ALLOW A PERSON, ON COURT ORDER, TO INSPECT ANY OF THE INSURER'S RECORDS THAT RELATE TO THE POLICY AND THE FIRE LOSS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 57(c).

Defined terms: "Fire investigator" § 9-601

"Insurer" § 9-601

"Person" § 1-101

9-604. CONFIDENTIALITY OF INFORMATION.

A FIRE INVESTIGATOR WHO RECEIVES INFORMATION UNDER THIS SUBTITLE SHALL KEEP THE INFORMATION CONFIDENTIAL UNTIL THE RELEASE OF THE INFORMATION IS REQUIRED IN ACCORDANCE WITH A CIVIL OR CRIMINAL PROCEEDING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 57(b).

The reference to a fire investigator "keep[ing] the information confidential" is substituted for the former reference to the fire investigator "hold[ing] the information in confidence" for clarity.

The former requirement that a fire investigator keep information confidential until "such time as" the release of the information is required is deleted as surplusage.

Defined term: "Fire investigator" § 9-601

9-605. IMMUNITY FROM CRIMINAL PROSECUTION AND CIVIL LIABILITY.

(A) CRIMINAL PROSECUTION.

IN THE ABSENCE OF FRAUD, AN INSURER OR PERSON WHO PROVIDES INFORMATION ON ITS BEHALF IS NOT SUBJECT TO CRIMINAL PROSECUTION FOR AN

ORAL OR WRITTEN STATEMENT MADE OR OTHER ACTION TAKEN THAT IS NECESSARY TO PROVIDE INFORMATION REQUIRED UNDER THIS SUBTITLE.

(B) CIVIL LIABILITY.

AN INSURER OR PERSON WHO PROVIDES INFORMATION ON ITS BEHALF HAS THE IMMUNITY FROM LIABILITY DESCRIBED IN § 5-409 OF THE COURTS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 57(d).

Defined terms: "Insurer" § 9-601

"Person" § 1-101

9-606. PROHIBITED ACTS; PENALTY.

(A) PROHIBITED ACTS.

A PERSON MAY NOT PURPOSELY:

(1) REFUSE TO RELEASE INFORMATION THAT A FIRE INVESTIGATOR REQUESTS UNDER § 9-602 OF THIS SUBTITLE;

(2) REFUSE TO REPORT A FIRE LOSS TO A FIRE INVESTIGATOR UNDER §§ 9-602 AND 9-603 OF THIS SUBTITLE;

(3) REFUSE TO PROVIDE A FIRE INVESTIGATOR WITH RELEVANT INFORMATION REQUIRED TO BE PROVIDED UNDER §§ 9-602 AND 9-603 OF THIS SUBTITLE; OR

(4) FAIL TO KEEP INFORMATION CONFIDENTIAL AS REQUIRED UNDER § 9-604 OF THIS SUBTITLE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 DAYS OR A FINE NOT EXCEEDING $1,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 57(e) and (f).

In subsection (a)(4) of this section, the reference to failure to "keep information confidential" is substituted for the former reference to a failure to "hold in confidence information required to be held in confidence" for clarity and conformity with § 9-604 of this subtitle.

In subsection (b) of this section, the reference to a person being subject to a certain penalty "on conviction" is added to state expressly that which only was implied in the former law, and for consistency with other penalty provisions in this and other revised articles of the Code.

Defined terms: "Fire investigator" § 9-601

"Person" § 1-101

SUBTITLE 7. FIRE PREVENTION CODES OF COUNTIES AND MUNICIPAL CORPORATIONS.

9-701. AUTHORITY OF COUNTIES AND MUNICIPAL CORPORATIONS TO ADOPT FIRE PREVENTION CODES.

(A) IN GENERAL.

SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE LOCAL GOVERNING BODY OF EACH COUNTY AND THE LEGISLATIVE BODY OF EACH MUNICIPAL CORPORATION IN THE STATE MAY ADOPT BY ORDINANCE OR RESOLUTION A FIRE PREVENTION CODE TO:

(1) PROVIDE FOR PROTECTION AGAINST FIRES AND THE REMOVAL OF FIRE HAZARDS;

(2) PROVIDE FOR THE APPOINTMENT OF INSPECTORS TO ENFORCE THE FIRE PREVENTION CODE; AND

(3) ESTABLISH PENALTIES FOR VIOLATION OF THE FIRE PREVENTION CODE OR AN ORDINANCE, RESOLUTION, OR REGULATION FOR THE PREVENTION OF FIRES OR REMOVAL OF FIRE HAZARDS.

(B) INCORPORATION BY REFERENCE OF STANDARD OR MODEL CODES.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A FIRE PREVENTION CODE OF A COUNTY OR MUNICIPAL CORPORATION ADOPTED UNDER THIS SECTION MAY INCORPORATE BY REFERENCE A CODE OR PART OF A CODE PREPARED BY A GOVERNMENTAL UNIT OR A TRADE OR PROFESSIONAL ASSOCIATION FOR GENERAL DISTRIBUTION IN PRINTED FORM AS A STANDARD OR MODEL ON ANY SUBJECT THAT RELATES TO FIRE PREVENTION, FIRE HAZARDS, OR FLAMMABLE OR DANGEROUS SUBSTANCES.

(2) AN AMENDMENT TO A STANDARD OR MODEL CODE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION IS NOT EFFECTIVE UNTIL SPECIFICALLY INCORPORATED INTO THE FIRE PREVENTION CODE OF THE COUNTY OR MUNICIPAL CORPORATION.

(C) PUBLICATION; PUBLIC HEARING.

(1) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, THE LOCAL GOVERNING BODY OF A COUNTY OR LEGISLATIVE BODY OF A MUNICIPAL CORPORATION MAY NOT ADOPT A FIRE PREVENTION CODE UNDER THIS SECTION UNTIL A SUMMARY OF THE PROPOSAL IS PUBLISHED FOR AT LEAST 3 WEEKS IN ONE OR MORE NEWSPAPERS OF GENERAL CIRCULATION IN THE COUNTY OR MUNICIPAL CORPORATION.

(2) THE SUMMARY SHALL SPECIFY THE DATE FOR A PUBLIC HEARING ON THE PROPOSAL AND SHALL STATE THAT COPIES OF THE PROPOSAL MAY BE OBTAINED ON APPLICATION TO:

(I) FOR A COUNTY FIRE PREVENTION CODE, THE ADMINISTRATIVE OFFICER OF THE COUNTY; OR

(II) FOR A MUNICIPAL FIRE PREVENTION CODE, THE CLERK OF THE MUNICIPAL CORPORATION.

(D) APPLICATION OF COUNTY CODES WITHIN MUNICIPAL CORPORATIONS.

EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A FIRE PREVENTION CODE ADOPTED BY A COUNTY UNDER THIS SECTION DOES NOT APPLY WITHIN A MUNICIPAL CORPORATION THAT HAS ADOPTED A FIRE PREVENTION CODE AFTER THE EFFECTIVE DATE OF THE ADOPTION OF THE FIRE PREVENTION CODE BY THE MUNICIPAL CORPORATION.

(E) FREDERICK COUNTY.

(1) THIS SUBSECTION APPLIES ONLY TO FREDERICK COUNTY.

(2) THE SUMMARY OF THE FIRE PREVENTION CODE REQUIRED TO BE PUBLISHED UNDER SUBSECTION (C) OF THIS SECTION SHALL BE PUBLISHED IN ONE OR MORE NEWSPAPERS OF GENERAL CIRCULATION IN THE COUNTY AT LEAST 2 WEEKS BEFORE THE ADOPTION OF THE FIRE PREVENTION CODE BY THE COUNTY.

(3) A COPY OF THE FIRE PREVENTION CODE PROPOSED FOR ADOPTION UNDER THIS SECTION MAY BE OBTAINED ON APPLICATION TO THE ADMINISTRATIVE OFFICER OF THE COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 6(a) and former Art. 25, § 11.

In the introductory language of subsection (a) and in subsection (c)(1) of this section, the general reference to the "local governing body" of each county is substituted for the former narrow reference to the "county commissioners" to encompass counties whose governing body is a county council as well as counties whose governing body is composed of county commissioners.

In the introductory language of subsection (a) of this section, the reference to each "municipal corporation" is substituted for the former reference to each "incorporated municipality" to conform to Md. Constitution, Art. XI-E. Similarly, in subsection (c)(1) and (2)(ii) of this section, the reference to a "municipal corporation" is substituted for the former references to a "municipality" and an "incorporated municipality", respectively.

Also in the introductory language of subsection (a) of this section, the former reference to each municipal corporation in the State "except

Baltimore City" is deleted as unnecessary. Baltimore City is usually considered a "county" for purposes of this article and thus need not be excluded as a municipal corporation. *See* § 1-101 of this article.

Also in the introductory language of subsection (a) of this section, the former reference to the legislative body of an incorporated municipality in this State "by whatever name known" is deleted as surplusage.

Also in the introductory language of subsection (a) of this section, the former reference to the authority of a county or municipal corporation to adopt "and to amend from time to time" a fire prevention code is deleted as implicit in the authority to "adopt" a fire prevention code.

In subsection (b)(1) of this section, the phrase "[s]ubject to paragraph (2) of this subsection" is added for clarity.

Also in subsection (b)(1) of this section, as to the substitution of the reference to a governmental "unit" for the former reference to a governmental "agency", *see* General Revisor's Note to article.

In subsections (c)(1) and (d) of this section, the phrase "[e]xcept as provided in subsection (e) of this section" is added for clarity.

Also in subsections (c)(1) and (d) of this section, the former references to an "ordinance" and "resolution" are deleted as included in the general reference to a "fire prevention code". The fire prevention code is adopted by ordinance or resolution.

In subsections (c)(1) and (e)(2) of this section, the reference to a summary being "published" is substituted for the former reference to the summary being "advertised" for clarity. The Public Safety Article Review Committee notes this substitution for consideration by the General Assembly.

In subsection (c)(1) of this section, the references to the local governing body "of a county" and the legislative body "of a municipal corporation" are added for clarity.

Also in subsection (c)(1) of this section, the former reference to a newspaper "published" in the county or municipal corporation is deleted as unrealistic. The Public Safety Article Review Committee notes this deletion for consideration by the General Assembly.

In subsection (c)(2) of this section, the reference to a "public hearing" is substituted for the former reference to "giving an opportunity for hearing any protest[s] or objection[s]" for clarity.

Also in subsection (c)(2) of this section, the reference to copies of the "proposal" is substituted for the former references to "such proposed code, ordinance or resolution" and "such proposed ordinances or resolutions" for brevity and consistency.

%In subsection (c)(2)(i) of this section, the reference to the "administrative officer of the county" is substituted for the former reference to the "clerk to the county commissioners" for accuracy and conformity with subsection (e)(2) of this section.

In subsection (d) of this section, the former reference to "the corporate limits of" a municipal corporation is deleted as surplusage.

Also in subsection (d) of this section, the former reference to a municipal corporation that "may adopt" a fire prevention code is deleted as meaningless. The Public Safety Article Review Committee notes this deletion for consideration by the General Assembly.

In subsection (e)(2) and (3) of this section, the reference to a "fire prevention code" is substituted for the former references to an "ordinance" and "resolution" for clarity and consistency throughout this section.

Defined term: "County" § 1-101

9-702. INSPECTIONS AND PLAN REVIEW.

(A) "PLAN REVIEW" DEFINED.

IN THIS SECTION, "PLAN REVIEW" HAS THE MEANING STATED IN § 6-308 OF THIS ARTICLE.

(B) SCOPE OF SECTION.

(1) THIS SECTION APPLIES ONLY TO:

(I) A COUNTY THAT HAS ADOPTED A COMPREHENSIVE NATIONALLY RECOGNIZED FIRE PREVENTION CODE AS THE FIRE PREVENTION CODE OF THE COUNTY; OR

(II) A MUNICIPAL CORPORATION THAT HAS ADOPTED A COMPREHENSIVE NATIONALLY RECOGNIZED FIRE PREVENTION CODE AS THE FIRE PREVENTION CODE OF THE MUNICIPAL CORPORATION.

(2) THIS SECTION DOES NOT APPLY TO AN INSPECTION OR PLAN REVIEW THAT IS NOT WITHIN THE JURISDICTION OF OR IS NOT CONDUCTED BY:

(I) THE COUNTY FIRE PREVENTION BUREAU OR OFFICE OF COUNTY FIRE MARSHAL; OR

(II) THE MUNICIPAL FIRE PREVENTION BUREAU OR OFFICE OF MUNICIPAL FIRE MARSHAL.

(C) FEES AND FEE SCHEDULES.

(1) TO ENSURE COMPLIANCE WITH THE FIRE PREVENTION CODE OF THE COUNTY OR MUNICIPAL CORPORATION, THE LOCAL GOVERNING BODY OF THE

COUNTY OR LEGISLATIVE BODY OF THE MUNICIPAL CORPORATION MAY ADOPT ORDINANCES OR REGULATIONS TO ESTABLISH AND ADMINISTER A FEE SCHEDULE FOR CONDUCTING INSPECTIONS AND PLAN REVIEWS.

(2) (I) THE COUNTY FIRE PREVENTION BUREAU SHALL:

1. COLLECT THE FEES ESTABLISHED BY THE LOCAL GOVERNING BODY OF THE COUNTY FOR CONDUCTING INSPECTIONS;

2. KEEP RECORDS OF ALL FEES COLLECTED UNDER THIS SECTION; AND

3. PAY ALL MONEYS COLLECTED UNDER THIS SECTION INTO THE GENERAL FUND OF THE COUNTY.

(II) THE MUNICIPAL FIRE PREVENTION BUREAU SHALL:

1. COLLECT THE FEES ESTABLISHED BY THE LEGISLATIVE BODY OF THE MUNICIPAL CORPORATION FOR CONDUCTING INSPECTIONS;

2. KEEP RECORDS OF ALL FEES COLLECTED UNDER THIS SECTION; AND

3. PAY ALL MONEYS COLLECTED UNDER THIS SECTION INTO THE GENERAL FUND OF THE MUNICIPAL CORPORATION.

(3) TO ENSURE THAT THE MONEYS COLLECTED AT LEAST COVER THE COSTS OF CONDUCTING INSPECTIONS AND PLAN REVIEWS, THE FEE SCHEDULE ADOPTED UNDER THIS SECTION SHALL BE REVIEWED ANNUALLY BY:

(I) FOR A COUNTY, THE LOCAL GOVERNING BODY OF THE COUNTY AND THE CHIEF FISCAL OFFICER OF THE COUNTY; AND

(II) FOR A MUNICIPAL CORPORATION, THE LEGISLATIVE BODY OF THE MUNICIPAL CORPORATION AND THE CHIEF FISCAL OFFICER OF THE MUNICIPAL CORPORATION.

(D) PLAN REVIEW.

(1) PLANS SHALL BE SUBMITTED TO THE COUNTY FIRE PREVENTION BUREAU AND TO THE MUNICIPAL FIRE PREVENTION BUREAU FOR PLAN REVIEW AND APPROVAL BEFORE ACTUAL CONSTRUCTION OF:

(I) A NEW BUILDING OR ADDITION;

(II) A BUILDING UNDERGOING A CHANGE OF OCCUPANCY THAT REQUIRES SUBSTANTIAL MODIFICATION; OR

(III) A PART OF A BUILDING THAT HAS SUSTAINED DAMAGE FROM FIRE, EXPLOSION, OR OTHER CAUSE.

(2) PLANS FOR A BUILDING UNDERGOING ALTERATIONS, RENOVATIONS, OR REMODELING THAT DO NOT REQUIRE SUBMISSION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE SUBMITTED FOR REVIEW OF MAINTENANCE OF PROPER EGRESS AND FIRE PROTECTION FEATURES.

(3) (I) THE COUNTY FIRE PREVENTION BUREAU SHALL CONDUCT A PLAN REVIEW TO ENSURE COMPLIANCE WITH THE FIRE PREVENTION CODE OF THE COUNTY.

(II) THE MUNICIPAL FIRE PREVENTION BUREAU SHALL CONDUCT A PLAN REVIEW TO ENSURE COMPLIANCE WITH THE FIRE PREVENTION CODE OF THE MUNICIPAL CORPORATION.

(4) THE FEE FOR EACH PLAN REVIEW SHALL BE SUBMITTED WITH THE PLANS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23A, § 6(b) and former Art. 24, §§ 5-101(a), (c), (d), and (e), 5-102, 5-103, 5-104, 5-105, 5-106, and 5-107.

Throughout this section, references to a "municipal corporation" are substituted for the former references to "municipalities" and a "municipality" to conform to Md. Constitution, Art. XI-E.

In subsection (b)(1)(i) and (ii) of this section, the reference to a comprehensive nationally recognized fire prevention "code" is substituted for the former reference to a "standard" for consistency with terminology used throughout this subtitle.

In subsection (c)(1), (2)(i)1, and (3)(i) of this section, the reference to the "local governing body of the county" is substituted for the former references to the "county council" and the "county commissioners" for consistency with terminology used in § 9-701 of this subtitle.

In subsection (c)(2)(ii)1 of this section, the reference to the legislative body "of the municipal corporation" is added for clarity.

In subsection (d)(1)(iii) of this section, the reference to a building that has "sustained" damage is substituted for the former reference to a building that has "suffered" damage for clarity.

Former Art. 24, § 5-101(b), which defined "county" to mean a county of the State including a code county, charter county, and Baltimore City, is deleted as unnecessary in light of the definition of "county" in § 1-101 of this article.

Former Art. 23, § 6(b)(1)(ii) and former Art. 24, § 5-101(c), which defined "fees" as having the meaning stated in Article 38A, § 8C(a)(2), are deleted as confusing and meaningless. Former Art. 38A, § 8C(a)(2) referred to the establishment of fees by the State Fire Prevention Commission. Subsection

(c) of this section, however, refers to fees established by the county or municipal corporation.

Defined term: "County" § 1-101

SUBTITLE 8. FIRE INSPECTIONS BY FIRE DEPARTMENTS OF COUNTIES AND MUNICIPAL CORPORATIONS.

9-801. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) COMBUSTIBLE MATERIAL.

"COMBUSTIBLE MATERIAL" INCLUDES WASTE PAPER, RAGS, SHAVINGS, WASTE, LEATHER, RUBBER, CRATES, BOXES, BARRELS, RUBBISH, OR OTHER MATERIAL THAT IS OR MAY BECOME DANGEROUS AS A FIRE MENACE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first sentence of former Art. 48, § 181(a), as it related to the description of what is considered combustible material.

(C) FIRE OFFICIAL.

"FIRE OFFICIAL" MEANS:

(1) A MEMBER OF A BOARD OF FIRE COMMISSIONERS OF A MUNICIPAL CORPORATION OF THE STATE;

(2) A CHIEF OR ASSISTANT TO THE CHIEF OF A FIRE DEPARTMENT OF A MUNICIPAL CORPORATION OF THE STATE;

(3) AN OFFICER OR MEMBER OF A FIRE DEPARTMENT OF A MUNICIPAL CORPORATION OF THE STATE ACTING UNDER THE DIRECTION OF THE BOARD OF FIRE COMMISSIONERS OR FIRE CHIEF; OR

(4) A CHIEF, CHIEF ENGINEER, CAPTAIN, OR LIEUTENANT OF A VOLUNTEER FIRE COMPANY, FIRE DISTRICT, OR ANY OTHER ORGANIZATION CREATED FOR THE PURPOSE OF AND ENGAGED IN THE WORK OF EXTINGUISHING FIRES IN AN UNINCORPORATED TOWN, MUNICIPAL CORPORATION, OR COUNTY OF THE STATE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first sentence of former Art. 48, § 181(a), as it related to the entities that are authorized to conduct inspections.

%In items (1), (2), and (3) of this subsection, the reference to a "municipal corporation" of the State is substituted for the former reference to "each of the cities" of the State for clarity and to conform to Md. Constitution, Art. XI-E.

Defined term: "County" § 1-101

9-802. SCOPE OF SUBTITLE.

THIS SUBTITLE DOES NOT APPLY TO BALTIMORE COUNTY.

REVISOR'S NOTE: This section is new language added to provide an explicit scope provision for this subtitle. It is based on the exception for Baltimore County in the first sentence of former Art. 48, § 181(a).

9-803. FIRE INSPECTIONS AUTHORIZED.

(A) IN GENERAL.

(1) A FIRE OFFICIAL MAY INSPECT A BUILDING, STRUCTURE, OR OTHER PLACE UNDER THE JURISDICTION OF THE FIRE OFFICIAL, EXCEPT THE INTERIOR OF A PRIVATE DWELLING, WHERE COMBUSTIBLE MATERIAL HAS BEEN ALLOWED TO ACCUMULATE OR WHERE THE FIRE OFFICIAL HAS REASON TO BELIEVE THAT COMBUSTIBLE MATERIAL HAS ACCUMULATED OR MAY BE ACCUMULATED.

(2) AT ANY TIME AND WITHOUT LIABILITY FOR TRESPASS, A FIRE OFFICIAL:

(I) MAY ENTER, AT THE FIRE OFFICIAL'S OWN RISK, A BUILDING, INCLUDING A PRIVATE DWELLING, OR ON PREMISES WHERE A FIRE IS BURNING, OR WHERE THERE IS REASONABLE CAUSE TO BELIEVE A FIRE IS BURNING, TO EXTINGUISH THE FIRE;

(II) MAY ENTER, AT THE FIRE OFFICIAL'S OWN RISK, A BUILDING, INCLUDING A PRIVATE DWELLING, OR ON PREMISES NEAR THE SCENE OF A FIRE TO PROTECT THE BUILDING OR PREMISES OR TO EXTINGUISH THE FIRE;

(III) WHEN RESPONDING TO OR OPERATING AT A FIRE OR OTHER EMERGENCY:

1. MAY ORDER AN INDIVIDUAL TO LEAVE A BUILDING OR PLACE IN THE VICINITY OF THE FIRE OR OTHER EMERGENCY TO PROTECT THE INDIVIDUAL FROM INJURY;

2. MAY ORDER, AFTER CONSULTATION WITH THE SENIOR RAILROAD OR TRANSPORTATION OFFICIAL PRESENT, A CONVOY, CARAVAN, OR TRAIN OF VEHICLES, CRAFT, OR RAILWAY CARS TO BE DETACHED OR UNCOUPLED IF THE FIRE OFFICIAL DETERMINES THAT TO DO SO IS IN THE INTEREST OF SAFETY OF INDIVIDUALS OR PROPERTY; AND

3. MAY ENTER A BUILDING THAT IS IN DANGER OF THE SPREAD OF FIRE TO PREVENT A POTENTIAL EMERGENCY, INCLUDING AN EXPLOSION, IN THE BUILDING; AND

(IV) TO MAINTAIN ORDER IN THE VICINITY OF A FIRE OR OTHER EMERGENCY:

1. MAY DIRECT THE ACTIONS OF FIREFIGHTERS AT THE FIRE OR OTHER EMERGENCY;

2. MAY KEEP BYSTANDERS OR OTHER INDIVIDUALS AT A SAFE DISTANCE FROM THE FIRE OR OTHER EMERGENCY AND FROM FIRE EQUIPMENT;

3. MAY FACILITATE THE SPEEDY MOVEMENT AND OPERATION OF FIRE-FIGHTING EQUIPMENT AND FIREFIGHTERS; AND

4. UNTIL THE ARRIVAL OF SUFFICIENT POLICE OFFICERS, MAY DIRECT TRAFFIC PERSONALLY OR HAVE A SUBORDINATE DO SO TO FACILITATE THE MOVEMENT OF TRAFFIC.

(B) OBSTRUCTING RESCUE SQUADS PROHIBITED.

NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, A FIRE OFFICIAL MAY NOT INHIBIT OR OBSTRUCT MEMBERS OF RESCUE SQUADS FROM PERFORMING THEIR DUTIES IN THE VICINITY OF A FIRE OR OTHER EMERGENCY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48, § 181(a).

In subsection (a)(2)(ii) of this section, the former phrase "which is in progress in another building or premises" is deleted as surplusage.

In subsection (a)(2)(iii)1 and 2 and (iv)2 of this section, the reference to an "individual" is substituted for the former reference to a "person" because this provision covers human beings and not the other entities included in the defined term "person". *See* § 1-101 of this article.

In subsection (a)(2)(iv)1 of this section, the reference to "firefighter" is substituted for former term "firemen" for gender neutrality.

In subsection (a)(2)(iv)4 of this section, the former reference to the authority to "control" traffic is deleted as included in the reference to the authority to "direct" traffic.

Defined terms: "Combustible material" § 9-801

"Fire official" § 9-801

9-804. NOTICE TO OCCUPANT TO REMOVE COMBUSTIBLE MATERIAL.

(A) IN GENERAL.

A FIRE OFFICIAL SHALL GIVE WRITTEN NOTICE TO THE OCCUPANT OF PREMISES WHERE COMBUSTIBLE MATERIAL HAS ACCUMULATED TO REMOVE THE COMBUSTIBLE MATERIAL FROM THE PREMISES WITHIN 48 HOURS AFTER RECEIPT OF THE NOTICE, IF AFTER AN INSPECTION MADE UNDER THIS SUBTITLE, THE FIRE OFFICIAL DETERMINES THAT THE ACCUMULATION OF COMBUSTIBLE MATERIAL INCREASES THE DANGER OF FIRE TO:

(1) THE PREMISES WHERE THE COMBUSTIBLE MATERIAL HAS ACCUMULATED; OR

(2) ADJACENT PROPERTY.

(B) REMOVAL BY FIRE OFFICIAL AT OCCUPANT'S EXPENSE.

(1) IF THE COMBUSTIBLE MATERIAL IS NOT REMOVED FROM THE PREMISES WITHIN 48 HOURS AFTER RECEIPT OF A NOTICE UNDER SUBSECTION (A) OF THIS SECTION, THE FIRE OFFICIAL MAY:

(I) REMOVE THE COMBUSTIBLE MATERIAL FROM THE PREMISES;

(II) SEND A BILL TO THE OCCUPANT OF THE PREMISES FOR THE COST OF THE REMOVAL; AND

(III) CERTIFY THE COST OF THE REMOVAL TO THE TREASURER OF THE JURISDICTION.

(2) IF THE COST OF THE REMOVAL IS NOT PAID TO THE TREASURER WITHIN 30 DAYS AFTER RECEIPT OF THE BILL, THE JURISDICTION MAY BRING A CIVIL ACTION AGAINST THE OCCUPANT TO RECOVER THE COST.

(C) REFUSAL TO COMPLY WITH NOTICE.

(1) A PERSON MAY NOT REFUSE OR NEGLECT TO REMOVE COMBUSTIBLE MATERIAL WITHIN 48 HOURS AFTER RECEIPT OF A NOTICE UNDER SUBSECTION (A) OF THIS SECTION.

(2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT LESS THAN $5 AND NOT EXCEEDING $50 FOR EACH VIOLATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48, §§ 183 and 181(b) and (c).

In the introductory language of subsection (a) and in subsection (b)(1)(ii) and (2) of this section, the former reference to "occupants" is deleted in accordance with Art. 1, § 8, which provides that the singular includes the plural.

In the introductory language of subsection (a) of this section, the former phrase "cause to be removed" is deleted in light of the reference to the

notice to "remove" the combustible material. Consequently, in subsection (b)(1)(i) of this section, the reference to the authority of the fire official to "remove" the combustible material is substituted for the former reference to "caus[ing] the same to be removed" for consistency.

In subsection (b)(1)(ii) and (2) of this section, the former references to "expenses" are deleted as included in the references to "cost".

In subsection (b)(1)(ii) of this section, the reference to "send[ing] a bill" is substituted for the former reference to "caus[ing] notice in writing ... to be given" for brevity and clarity. Similarly, in subsection (b)(2) of this section, the reference to a "bill" is substituted for the former reference to "such notice".

In subsection (b)(2) of this section, the reference to "receipt of" the bill is added for clarity.

Also in subsection (b)(2) of this section, the reference to bringing a "civil action" is substituted for the former reference to an "action on the case" to conform to terminology of modern civil procedure.

In subsection (c)(2) of this section, the reference to a person who violates this section being guilty "of a misdemeanor" is added to state expressly that which was only implied in the former law. In this State, any crime that was not a felony at common law and has not been declared a felony by statute is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Dutton v. State*, 123 Md. 373, 378 (1914); and *Williams v. State*, 4 Md. App. 342, 347 (1968).

Also in subsection (c)(2) of this section, the reference to a person "on conviction" being subject to certain penalties is added to state expressly that which was only implied in the former law, and for consistency with other penalty provisions in this and other revised articles of the Code.

Defined terms: "Combustible material" § 9-801

"Fire official" § 9-801

"Person" § 1-101

9-805. HINDERING, OBSTRUCTING, OR REFUSING TO ALLOW FIRE INSPECTION.

(A) PROHIBITED.

A PERSON MAY NOT HINDER, OBSTRUCT, OR REFUSE TO ALLOW A FIRE INSPECTION UNDER THIS SUBTITLE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT FOR EACH VIOLATION TO IMPRISONMENT NOT EXCEEDING 30 DAYS OR A FINE NOT LESS THAN $10 AND NOT EXCEEDING $100.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48, § 182.

In subsection (b) of this section, the reference to a person who violates this section being guilty "of a misdemeanor" is added to state expressly that which was only implied in the former law. In this State, any crime that was not a felony at common law and has not been declared a felony by statute is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Dutton v. State*, 123 Md. 373, 378 (1914); and *Williams v. State*, 4 Md. App. 342, 347 (1968).

Also in subsection (b) of this section, the reference to a person "on conviction" being subject to certain penalties is added to state expressly that which was only implied in the former law, and for consistency with other penalty provisions in this and other revised articles of the Code.

Defined term: "Person" § 1-101

SUBTITLE 9. FIRE SPRINKLER CONTRACTORS.

9-901. "FIRE SPRINKLER CONTRACTOR" DEFINED.

IN THIS SUBTITLE, "FIRE SPRINKLER CONTRACTOR" MEANS A PERSON WHO DESIGNS, INSTALLS, INSPECTS, TESTS, REPAIRS, OR MODIFIES A FIRE SPRINKLER SYSTEM.

REVISOR'S NOTE: This section is new language added to provide a definition of "fire sprinkler contractor" for this subtitle. It is based on the description in former Art. 38A, § 3(f)(2) and (4) of what a fire sprinkler contractor does.

Former Art. 38A, § 3(f)(1), which defined "person" as an individual, receiver, trustee, guardian, personal representative, fiduciary, representative of any kind, partnership, firm, association, corporation, or other entity, is deleted as unnecessary in light of the defined term "person" in § 1-101 of this article to the same effect.

Defined term: "Person" § 1-101

9-902. PROGRAM TO LICENSE FIRE SPRINKLER CONTRACTORS.

(A) REQUIRED.

THE STATE FIRE PREVENTION COMMISSION SHALL ADOPT REGULATIONS TO ESTABLISH A PROGRAM TO LICENSE AND REGULATE FIRE SPRINKLER CONTRACTORS IN THE STATE.

(B) DUTIES OF STATE FIRE PREVENTION COMMISSION.

THE STATE FIRE PREVENTION COMMISSION SHALL ADOPT REGULATIONS TO:

(1) DEFINE FIRE SPRINKLER CONTRACTOR;

(2) DEFINE FIRE SPRINKLER SYSTEM, IN A MANNER THAT DOES NOT CONFLICT WITH § 12-101(L), (M), OR (N) OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE;

(3) DESIGNATE AND IDENTIFY EXEMPTIONS TO THE REGULATIONS;

(4) ESTABLISH REQUIREMENTS FOR LICENSURE INCLUDING PROFESSIONAL AND TECHNICAL STANDARDS AND REQUIREMENTS FOR LIABILITY INSURANCE;

(5) ESTABLISH A SCHEDULE OF FEES FOR LICENSES THAT WILL RECOVER BUT NOT EXCEED THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE ISSUANCE OF THE LICENSES; AND

(6) ESTABLISH PROCEDURES FOR THE STATE FIRE MARSHAL TO DENY, SUSPEND, OR REVOKE THE LICENSE OF A PERSON WHO FAILS TO COMPLY WITH ANY REGULATION ADOPTED BY THE STATE FIRE PREVENTION COMMISSION UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 3(f)(2) and (3).

In subsection (a) of this section, the former phrase "in any residential or commercial building in the State" is deleted as an unnecessary limitation because fire sprinkler contractors must be licensed to install a fire sprinkler system in any type of building in the State.

In the introductory language of subsection (b) of this section, the requirement to "adopt regulations to" define certain terms and establish certain requirements is added to clarify that the State Fire Prevention Commission performs the specified duties by adopting regulations.

In subsection (b)(1) and (2) of this section, the references to "fire" sprinkler contractor and "fire" sprinkler system are added for clarity and consistency throughout this subtitle.

In subsection (b)(5) of this section, the former phrase "using dollar amounts" is deleted as surplusage.

In subsection (b)(6) of this section, the phrase "under this subtitle" is added for specificity.

Defined terms: "Fire sprinkler contractor" § 9-901

"Person" § 1-101

9-903. FIRE SPRINKLER CONTRACTOR LICENSE REQUIRED.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON MAY NOT PROVIDE SERVICES AS A FIRE SPRINKLER CONTRACTOR IN THE STATE UNLESS THE PERSON:

(1) IS LICENSED BY THE STATE FIRE MARSHAL; OR

(2) IS A CONTRACTOR OF A PERSON WHO IS LICENSED BY THE STATE FIRE MARSHAL.

(B) EXCEPTIONS.

THIS SUBTITLE DOES NOT PROHIBIT:

(1) INSPECTIONS AND TESTS OF FIRE SPRINKLER SYSTEMS BY INSURANCE REPRESENTATIVES IF THE REPRESENTATIVES ARE ACTING IN THE PERFORMANCE OF THEIR ASSIGNED DUTIES;

(2) INSPECTIONS, TESTS, AND REPAIRS OF FIRE SPRINKLER SYSTEMS BY FULL-TIME MAINTENANCE EMPLOYEES OF A PROPERTY OWNER IF THE EMPLOYEES:

(I) ARE KNOWLEDGEABLE ABOUT FIRE SPRINKLER SYSTEMS; AND

(II) ARE ACTING IN THE PERFORMANCE OF THEIR ASSIGNED DUTIES FOR THE PROPERTY OWNER;

(3) INSPECTIONS, TESTS, PLAN REVIEW, AND ENSURING THE MAINTENANCE OF FIRE SPRINKLER SYSTEMS, EMERGENCY MAINTENANCE ACTIVITY ON FIRE SPRINKLER SYSTEMS, OR RESTORATION TO ACTIVE SERVICE OF OPERATING OR RECENTLY OPERATED FIRE SPRINKLER SYSTEMS BY MEMBERS OF STATE, COUNTY, MUNICIPAL, CAREER, OR VOLUNTEER FIRE DEPARTMENTS, OR AUTHORITIES WITH JURISDICTION IF THE MEMBERS ARE ACTING IN THEIR CAPACITY AS MEMBERS OF THE FIRE DEPARTMENTS OR AUTHORITIES;

(4) INSTALLATION OF LIMITED AREA FIRE SPRINKLER SYSTEMS OR EMERGENCY TEMPORARY REPAIRS ON FIRE SPRINKLER SYSTEMS PERFORMED BY MASTER PLUMBERS IF THE PLUMBERS ARE ACTING IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE STATE FIRE PREVENTION COMMISSION; OR

(5) INSPECTIONS, TESTS, PREPARATION OF DESIGN AND SPECIFICATION DOCUMENTS, HYDRAULIC CALCULATIONS, LAYOUT, AND PLAN REVIEW OF FIRE SPRINKLER SYSTEMS BY MARYLAND PROFESSIONAL ENGINEERS IF THE ENGINEERS ARE KNOWLEDGEABLE ABOUT FIRE SPRINKLER SYSTEMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 3(f)(4) and (g)(1), (2), and (3).

In the introductory language of subsection (a) of this section, the introductory phrase is added to indicate that exceptions exist.

In subsection (a)(1) of this section, the former phrase "unless the person

has complied with the licensing and regulatory requirements established by the State Fire Prevention Commission" is deleted as redundant. The State Fire Prevention Commission is required to establish a program to license and regulate fire sprinkler contractors under § 9-902(a) of this subtitle. Under this program, the State Fire Marshal issues licenses to those who meet the requirements for licensure so a person who is licensed by the State Fire Marshal has met the requirements established by the State Fire Prevention Commission.

In subsection (a)(2) of this section, the former reference to an "employer" of a person who is licensed by the State Fire Marshal is deleted as redundant and included in the reference to a "contractor". The Public Safety Article Review Committee notes this deletion for consideration by the General Assembly.

In subsection (b)(4) of this section, the former reference to a "licensed" master plumber is deleted as unnecessary because master plumbers are licensed by the State Board of Plumbing.

In subsection (b)(5) of this section, the reference to "Maryland professional engineer[s]" is substituted for the former reference to "Maryland registered professional engineer" for consistency with terminology in the Business Occupations and Professions Article.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that subsection (b)(4) of this section is not limited to plumbers licensed in the State, but that subsection (b)(5) of this section is limited to professional engineers licensed in the State.

Defined terms: "Fire sprinkler contractor" § 9-901

"Person" § 1-101

9-904. DUTIES OF STATE FIRE MARSHAL.

THE STATE FIRE MARSHAL SHALL:

(1) ISSUE FIRE SPRINKLER CONTRACTORS LICENSES;

(2) COLLECT LICENSE FEES ESTABLISHED BY THE STATE FIRE PREVENTION COMMISSION;

(3) KEEP RECORDS OF ALL FEES COLLECTED UNDER THIS SUBTITLE;

(4) PAY ALL MONEY COLLECTED UNDER THIS SUBTITLE INTO THE GENERAL FUND; AND

(5) INVESTIGATE COMPLAINTS RELATED TO VIOLATIONS OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 8(o).

In items (3) and (4) of this section, the phrase "under this subtitle" is substituted for the former phrase "under this subsection" for accuracy and to reflect the reorganization of the licensing of fire sprinkler contractors as a subtitle in this revision.

Defined term: "Fire sprinkler contractor" § 9-901

9-905. VIOLATION OF SUBTITLE.

(A) PROHIBITED.

A PERSON MAY NOT KNOWINGLY VIOLATE THIS SUBTITLE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 DAYS OR A FINE NOT EXCEEDING $1,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 13(a), except as it related to violations of regulations.

In subsection (b) of this section, the reference to a person who violates this section being guilty "of a misdemeanor" is added to state expressly that which was only implied in the former law. In this State, any crime that was not a felony at common law and has not been declared a felony by statute is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Dutton v. State*, 123 Md. 373, 378 (1914); and *Williams v. State*, 4 Md. App. 342, 347 (1968).

Also in subsection (b) of this section, the reference to a person "on conviction" being subject to certain penalties is added to state expressly that which was only implied in the former law, and for consistency with other penalty provisions in this and other revised articles of the Code.

Defined term: "Person" § 1-101

SUBTITLE 10. MISCELLANEOUS PROVISIONS.

9-1001. RESTRICTIONS ON USE OF BARBECUE GRILL.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "BARBECUE GRILL" MEANS EQUIPMENT USED FOR OUTDOOR COOKING THAT USES AS ITS HEAT SOURCE ELECTRICITY OR THE BURNING OF CHARCOAL, LIQUID PROPANE GAS, OR OTHER FUEL.

(3) (I) "RESIDENTIAL DWELLING" MEANS A BUILDING OR PART OF A BUILDING THAT PROVIDES LIVING OR SLEEPING FACILITIES FOR ONE OR MORE INDIVIDUALS.

(II) "RESIDENTIAL DWELLING" INCLUDES A MULTIFAMILY RESIDENTIAL DWELLING, HOTEL, MOTEL, BOARDINGHOUSE, LODGING HOUSE, ROOMING HOUSE, INN, CLUB, OR DORMITORY.

(III) "RESIDENTIAL DWELLING" DOES NOT INCLUDE:

1. A SINGLE FAMILY RESIDENTIAL DWELLING; OR

2. A MULTIFAMILY RESIDENTIAL DWELLING IN WHICH THE INDIVIDUAL DWELLING UNITS ARE ARRANGED IN A ROW, SIDE BY SIDE, AND NOT CONSTRUCTED ABOVE EACH OTHER.

(B) IN GENERAL.

IN CHARLES COUNTY AND WICOMICO COUNTY, A PERSON MAY NOT USE A BARBECUE GRILL:

(1) ON A BALCONY OF A RESIDENTIAL DWELLING; AND

(2) WITHIN 20 FEET OF ANY PART, INCLUDING A BALCONY, OF A RESIDENTIAL DWELLING.

(C) PENALTIES.

A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO THE PENALTIES OF § 6-601 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 67.

In subsection (a)(3)(iii)2 of this section, the phrase "arranged in a row" is substituted for the former phrase "in a rowhouse format" for clarity.

Also in subsection (a)(3)(iii)2 of this section, the phrase "constructed above each other" is substituted for the former phrase "superimposed above another" for clarity.

In the introductory language of subsection (b) of this section, the former phrase "for outdoor cooking", which modified using a barbecue grill, is deleted as unnecessary because the definition of "barbecue grill" includes the concept that it is used for outdoor cooking.

Defined term: "Person" § 1-101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 48, §§ 1 through 8, which were enacted in 1874 and regulated the manufacture and sale of illuminating oils in the State, are deleted as obsolete.

TITLE 10. FIREWORKS AND SPARKLERS.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

10-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) 1.3 G FIREWORKS.

(1) "1.3 G FIREWORKS" MEANS SPECIAL FIREWORKS DESIGNED PRIMARILY TO PRODUCE VISIBLE OR AUDIBLE EFFECTS BY COMBUSTION OR EXPLOSION.

(2) "1.3 G FIREWORKS" INCLUDES:

(I) TOY TORPEDOES, RAILWAY TORPEDOES, FIRECRACKERS AND SALUTES THAT DO NOT QUALIFY AS 1.4 G FIREWORKS, EXHIBITION DISPLAY PIECES, ILLUMINATING PROJECTILES, INCENDIARY PROJECTILES, AND INCENDIARY GRENADES;

(II) SMOKE PROJECTILES OR BOMBS CONTAINING EXPELLING CHARGES BUT WITHOUT BURSTING CHARGES;

(III) FLASH POWDERS IN INNER UNITS NOT EXCEEDING 2 OUNCES EACH, FLASH SHEETS IN INTERIOR PACKAGES, AND FLASH POWDER OR SPREADER CARTRIDGES CONTAINING AN AMOUNT NOT EXCEEDING 72 GRAINS OF FLASH POWDER EACH; AND

(IV) FLASH CARTRIDGES CONSISTING OF A PAPER CARTRIDGE SHELL, SMALL ARMS PRIMER, AND FLASH COMPOSITION, NOT EXCEEDING 180 GRAINS, ALL ASSEMBLED IN ONE PIECE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 38A, § 15(b).

In paragraph (2)(iii) of this subsection, the reference to "an amount not exceeding" 72 grains is substituted for the former reference to "containing not over" 72 grains for consistency within this subsection.

%The second sentence of former Art. 38A, § 15(b), which states that the "use of the term `1.3 G fireworks' is based on United States Department of Transportation regulations" is deleted as unnecessary and somewhat inaccurate because the federal regulations do not use the term "1.3 G fireworks" but rather classify similar explosives as "Division 1.3" explosives.

Defined terms: "Fireworks" § 10-101

"1.4 G fireworks" § 10-101

(C) 1.4 G FIREWORKS.

(1) "1.4 G FIREWORKS" MEANS COMMON FIREWORKS DESIGNED PRIMARILY TO PRODUCE VISIBLE EFFECTS BY COMBUSTION.

(2) "1.4 G FIREWORKS" INCLUDES:

(I) SMALL DEVICES CONTAINING LESS THAN 2 GRAINS OF PYROTECHNIC COMPOSITION DESIGNED TO PRODUCE AN AUDIBLE EFFECT;

(II) ROMAN CANDLES, NOT EXCEEDING 10 BALLS, THAT HAVE A TOTAL PYROTECHNIC COMPOSITION NOT EXCEEDING 20 GRAMS AND INSIDE TUBE DIAMETER NOT EXCEEDING 3/8 INCH;

(III) SKY ROCKETS WITH STICKS, THAT HAVE A TOTAL PYROTECHNIC COMPOSITION NOT EXCEEDING 20 GRAMS AND AN INSIDE TUBE DIAMETER NOT EXCEEDING 1/2 INCH;

(IV) HELICOPTER-TYPE ROCKETS THAT HAVE A TOTAL PYROTECHNIC COMPOSITION NOT EXCEEDING 20 GRAMS AND AN INSIDE TUBE DIAMETER NOT EXCEEDING 1/2 INCH;

(V) WHEELS THAT HAVE A TOTAL PYROTECHNIC COMPOSITION NOT EXCEEDING 60 GRAMS FOR EACH DRIVER UNIT OR 240 GRAMS FOR EACH WHEEL AND AN INSIDE TUBE DIAMETER OF DRIVER UNITS NOT EXCEEDING 1/2 INCH;

(VI) ILLUMINATING TORCHES AND COLORED FIRE IN ANY FORM THAT HAVE A TOTAL PYROTECHNIC COMPOSITION NOT EXCEEDING 100 GRAMS EACH;

(VII) DIPPED STICKS THAT HAVE A PYROTECHNIC COMPOSITION CONTAINING ANY PERCHLORATE NOT EXCEEDING 5 GRAMS;

(VIII) MINES OR SHELLS IN WHICH THE MORTAR IS AN INTEGRAL PART, THAT HAVE A TOTAL PYROTECHNIC COMPOSITION NOT EXCEEDING 40 GRAMS;

(IX) FIRECRACKERS OR SALUTES WITH CASINGS THAT HAVE A TOTAL PYROTECHNIC COMPOSITION NOT EXCEEDING 2 GRAINS EACH AND EXTERNAL DIMENSIONS NOT EXCEEDING 1 1/2 INCHES IN LENGTH OR 1/4 INCH IN DIAMETER; AND

(X) NOVELTIES THAT CONSIST OF TWO OR MORE 1.4 G FIREWORKS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 38A, § 15(c).

In paragraph (2)(ii), (iii), (iv), (viii), and (ix) of this subsection, the former references to grams "in weight" are deleted as unnecessary.

The second sentence of former Art. 38B, § 15(c), which states that the "use of the term `1.4 G fireworks' is based on United States Department of Transportation regulations", is deleted as unnecessary and somewhat inaccurate because the federal regulations do not use the term "1.4 G fireworks", but rather classify similar explosives as "Division 1.4" explosives.

Defined terms: "Fireworks" § 10-101

"Pyrotechnic composition" § 10-101

(D) EXPLOSIVE COMPOSITION.

"EXPLOSIVE COMPOSITION" MEANS A MIXTURE OR SUBSTANCE THAT, WHEN IGNITED, MAY CAUSE SUCH A GENERATION OF HIGHLY HEATED GASES THAT THE RESULTING GASEOUS PRESSURES ARE CAPABLE OF PRODUCING DESTRUCTIVE EFFECTS ON CONTIGUOUS OBJECTS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 38A, § 15(e).

(E) FINISHING AND ASSEMBLING BUILDING.

"FINISHING AND ASSEMBLING BUILDING" MEANS A STRUCTURE IN WHICH FIREWORKS ARE ASSEMBLED AND PACKED BUT ARE NOT MIXED OR PRESSED.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 15(g).

The former reference to a "building" is deleted as included in the reference to a "structure".

The only other changes are in style.

Defined term: "Fireworks" § 10-101

(F) FIREWORKS.

(1) "FIREWORKS" MEANS COMBUSTIBLE, IMPLOSIVE OR EXPLOSIVE COMPOSITIONS, SUBSTANCES, COMBINATIONS OF SUBSTANCES, OR ARTICLES THAT ARE PREPARED TO PRODUCE A VISIBLE OR AUDIBLE EFFECT BY COMBUSTION, EXPLOSION, IMPLOSION, DEFLAGRATION, OR DETONATION.

(2) "FIREWORKS" INCLUDES 1.3 G FIREWORKS, 1.4 G FIREWORKS, FIRECRACKERS, SQUIBS, ROCKETS, ROMAN CANDLES, FIRE BALLOONS, AND SIGNAL LIGHTS.

(3) "FIREWORKS" DOES NOT INCLUDE:

(I) TOY PISTOLS, TOY CANES, TOY GUNS, OR OTHER DEVICES THAT USE PAPER CAPS THAT CONTAIN 0.25 GRAINS OR LESS OF EXPLOSIVE COMPOSITION IF THE DEVICES ARE CONSTRUCTED SO THAT A HAND CANNOT TOUCH THE CAP WHEN THE CAP IS IN PLACE FOR USE;

(II) TOY PISTOL PAPER CAPS THAT CONTAIN LESS THAN 0.20 GRAINS OF EXPLOSIVE COMPOSITION;

(III) SPARKLERS THAT DO NOT CONTAIN CHLORATES OR PERCHLORATES;

(IV) GROUND-BASED SPARKLING DEVICES THAT ARE NONAERIAL AND NONEXPLOSIVE, AND ARE LABELED IN ACCORDANCE WITH THE REQUIREMENTS OF THE U.S. CONSUMER PRODUCT SAFETY COMMISSION;

(V) PAPER WRAPPED SNAPPERS THAT CONTAIN LESS THAN 0.03 GRAINS OF EXPLOSIVE COMPOSITION; OR

(VI) ASH-PRODUCING PELLETS KNOWN AS "SNAKES" THAT DO NOT CONTAIN MERCURY AND ARE NOT REGULATED BY THE U. S. DEPARTMENT OF TRANSPORTATION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 38A, § 15(a).

In paragraph (1) of this subsection, the former phrase "the purpose of" is deleted as unnecessary.

In paragraph (2) of this subsection, the reference to "1.3 G fireworks [and] 1.4 G fireworks" is added for clarity.

In paragraph (3)(i) and (ii) of this subsection, the defined term "explosive composition" is substituted for the former references to "explosive compound" and "explosive mixture" for consistency within this paragraph.

In paragraph (3)(i) of this subsection, the reference to the "devices" that are constructed is added for clarity.

Also in paragraph (3)(i) of this subsection, the reference to not being able to "touch" the cap is substituted for the former reference to not being able to "come in contact with" the cap for brevity.

Defined terms: "Explosive composition" § 10-101

"1.3 G fireworks" § 10-101

"1.4 G fireworks" § 10-101

(G) FIREWORKS PLANT.

(1) "FIREWORKS PLANT" MEANS LAND AND ANY BUILDING ON THE LAND USED IN CONNECTION WITH THE MANUFACTURE, PACKAGING, REPACKAGING, OR PROCESSING OF FIREWORKS.

(2) "FIREWORKS PLANT" INCLUDES A STORAGE BUILDING USED IN CONNECTION WITH PLANT OPERATION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 38A, § 15(f).

In paragraph (1) of this subsection, the former reference to "all" lands is deleted as unnecessary.

Also in paragraph (1) of this subsection, the reference to buildings "used in connection with" is substituted for the former reference to buildings "used for or in connection with" for brevity. Similarly, in paragraph (2) of this subsection, the reference to a building "used in connection with" is substituted for the former reference to buildings "used with or in connection with".

Defined terms: "Fireworks" § 10-101

"Storage building" § 10-101

(H) MIXING BUILDING.

"MIXING BUILDING" MEANS A BUILDING PRIMARILY USED TO MIX AND BLEND PYROTECHNIC COMPOSITION OTHER THAN WET SPARKLER MIXES.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 15(i).

The only changes are in style.

Defined term: "Pyrotechnic composition" § 10-101

(I) PRESS BUILDING.

"PRESS BUILDING" MEANS A BUILDING USED PRIMARILY FOR PRESSING OR LOADING PYROTECHNIC COMPOSITION INTO TUBES OR CONTAINERS.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 15(h).

The reference to the defined term "pyrotechnic composition" is substituted for the former reference to pyrotechnic "powder" for consistency.

The only other changes are in style.

Defined term: "Pyrotechnic composition" § 10-101

(J) PYROTECHNIC COMPOSITION.

"PYROTECHNIC COMPOSITION" MEANS A CHEMICAL MIXTURE THAT ON BURNING AND WITHOUT EXPLOSION PRODUCES VISIBLE OR BRILLIANT DISPLAYS, BRIGHT LIGHTS, OR WHISTLES.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 15(d).

The only changes are in style.

(K) STORAGE BUILDING.

"STORAGE BUILDING" MEANS A STRUCTURE IN WHICH FINISHED FIREWORKS OR FIREWORKS IN ANY STATE OF PROCESSING ARE STORED, BUT IN WHICH PROCESSING OR MANUFACTURING IS NOT PERFORMED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first sentence of former Art. 38A, § 15(j).

The former reference to a "building ... or facility" is deleted as included in the comprehensive reference to a "structure".

As to the second sentence of former Art. 38A, § 15(j), *see* § 10-204(a) of this title.

Defined term: "Fireworks" § 10-101

10-102. SCOPE OF TITLE.

(A) IN GENERAL.

THIS TITLE DOES NOT APPLY TO:

(1) THE SALE, POSSESSION, OR USE OF FIREWORKS TO OR BY THE FEDERAL GOVERNMENT OR A STATE OR A POLITICAL SUBDIVISION OF A STATE;

(2) THE SALE, POSSESSION, OR USE OF A COMBUSTIBLE OR EXPLOSIVE PREPARATION TO OR BY AN INDUSTRIAL OR COMMERCIAL BUSINESS FOR USE AS A SIGNAL OR OTHERWISE IN THE NORMAL COURSE OF BUSINESS;

(3) THE POSSESSION OR USE OF A FUSEE, RAILROAD TORPEDO, ROCKET, VERY SIGNAL CARTRIDGE, OR OTHER SIGNAL DEVICE THAT IS ESSENTIAL TO AND IS KEPT AND USED TO PROMOTE SAFETY IN THE OPERATION OF A MOTOR VEHICLE, BOAT, RAILROAD, OR AIRCRAFT;

(4) THE USE OF A FLARE, SIGNAL PISTOL, OR OTHER EQUIPMENT IF USED AS A SIGNAL IN AN ATHLETIC CONTEST OR FOR A SIMILAR PURPOSE; OR

(5) SUBJECT TO THE TERMS AND CONDITIONS OF A PERMIT ISSUED BY THE STATE FIRE MARSHAL UNDER SUBSECTION (B) OF THIS SECTION, THE SALE, POSSESSION, OR USE OF AN EXPLOSIVE DEVICE OR PREPARATION WITH A

SLOW-BURNING FUSE ROPE TO OR BY A FARMER FOR CONTROLLING DESTRUCTIVE ANIMALS.

(B) PERMITS -- CONTROLLING DESTRUCTIVE ANIMALS.

THE STATE FIRE MARSHAL OR A STATE GAME WARDEN AS A REPRESENTATIVE OF THE STATE FIRE MARSHAL MAY GRANT A NONTRANSFERABLE PERMIT TO A FARMER TO USE AN EXPLOSIVE DEVICE OR PREPARATION DESCRIBED UNDER SUBSECTION (A)(5) OF THIS SECTION FOR CONTROLLING DESTRUCTIVE ANIMALS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 24.

In the introductory language of subsection (a) of this section, the reference to "this title" is substituted for the former reference to "this subtitle" for clarity to reflect the reorganization of material in this revision.

In subsection (a)(2) of this section, the reference to an industrial or commercial "business" is substituted for the former reference to industrial or commercial "concerns" for clarity.

Also in subsection (a)(2) of this section, the former reference to combustibles or explosives "required by" business is deleted as surplusage.

In subsection (a)(4) of this section, the disjunctive "or" is substituted for the conjunctive "and" to clarify that one of the types of signals may be used, not necessarily all of the ones listed.

In subsections (a)(5) and (b) of this section, the former references to "birds" are deleted as included in the references to "animals".

In subsection (a)(5) of this section, the former reference to "firecrackers, salutes or cherry bombs" is deleted as included in the reference to an "explosive device or preparation".

In subsection (b) of this section, the reference to the use of "an explosive device or preparation described under subsection (a)(5) of this section" is added for clarity.

Also in subsection (b) of this section and throughout this subtitle, the reference to a "permit" is substituted for the former reference to a "special permit" because there is no clear distinction among the permits issued by the State Fire Marshal under this subtitle.

Defined terms: "Fireworks" § 10-101

"State" § 1-101

10-103. AUTHORITY TO GRANT PERMITS TO DISCHARGE FIREWORKS.

(A) IN GENERAL.

SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, THE STATE FIRE MARSHAL MAY ISSUE A PERMIT TO AUTHORIZE THE DISCHARGE OF FIREWORKS IN A PLACE WHERE THE DISCHARGE OF FIREWORKS IS LEGAL.

(B) FINDINGS REQUIRED BY STATE FIRE MARSHAL.

THE STATE FIRE MARSHAL SHALL ISSUE A PERMIT TO DISCHARGE FIREWORKS ONLY IF THE STATE FIRE MARSHAL DETERMINES THAT THE PROPOSED DISCHARGE OF FIREWORKS WILL:

(1) NOT ENDANGER HEALTH OR SAFETY OR DAMAGE PROPERTY; AND

(2) BE SUPERVISED BY AN EXPERIENCED AND QUALIFIED PERSON WHO HAS PREVIOUSLY SECURED WRITTEN AUTHORITY FROM THE STATE FIRE MARSHAL TO DISCHARGE FIREWORKS.

(C) SCOPE OF PERMIT.

A PERMIT TO DISCHARGE FIREWORKS:

(1) DOES NOT AUTHORIZE THE HOLDER OF THE PERMIT TO POSSESS OR DISCHARGE FIREWORKS IN VIOLATION OF AN ORDINANCE OR REGULATION OF THE POLITICAL SUBDIVISION WHERE THE FIREWORKS ARE TO BE DISCHARGED; AND

(2) DOES NOT RELIEVE AN APPLICANT FOR A PERMIT FROM ANY REQUIREMENT TO OBTAIN ANY ADDITIONAL LICENSE OR AUTHORITY FROM THE GOVERNING BODY OF THE POLITICAL SUBDIVISION WHERE THE FIREWORKS ARE TO BE DISCHARGED.

REVISOR'S NOTE: This section is new language derived without substantive change from the first and second sentences and the fifth sentence, as it related to findings required by the State Fire Marshal, of former Art. 38A, § 18(a)(1).

In subsections (a) and (b) of this section, the reference to the "discharge" of fireworks is substituted for the former reference to the "display" of fireworks for consistency within this subtitle to avoid the implication that a "display" means an exhibit without any discharge.

In subsection (a) of this section, the introductory clause "[s]ubject to subsections (b) and (c) of this section" is added for clarity.

In subsection (b)(1) of this section, the former reference to endangering the health or safety "of persons in the locality" is deleted as implicit for brevity. Similarly, the former reference to damaging property "belonging to others" is deleted.

In subsection (c)(1) and (2) of this section, the references to a "political subdivision" are substituted for the former reference to a "locality" for clarity and consistency.

%In subsection (c)(1) of this section, the reference to "where the fireworks are to be discharged" is substituted for the former reference to "where the display is to be made" for clarity and consistency. Correspondingly, in subsection (c)(2) of this section, the reference to "where the fireworks are to be discharged" is added.

Also in subsection (c)(1) of this section, the former reference to an ordinance or regulation that is "in effect" is deleted as surplusage.

Defined terms: "Fireworks" § 10-101

"Person" § 1-101

10-104. PERMIT TO DISCHARGE FIREWORKS.

(A) REQUIRED.

A PERSON MUST HAVE A PERMIT TO DISCHARGE FIREWORKS AS PROVIDED BY THIS SUBTITLE BEFORE THE PERSON:

(1) DISCHARGES FIREWORKS; OR

(2) POSSESSES FIREWORKS WITH THE INTENT TO DISCHARGE FIREWORKS OR TO ALLOW THE DISCHARGE OF FIREWORKS.

(B) APPLICATION.

AN APPLICANT FOR A PERMIT TO DISCHARGE FIREWORKS SHALL:

(1) APPLY TO THE STATE FIRE MARSHAL FOR THE PERMIT AT LEAST 10 DAYS BEFORE THE DATE OF DISCHARGE;

(2) PAY TO THE STATE FIRE MARSHAL A PERMIT FEE OF $50; AND

(3) POST A BOND WITH THE STATE FIRE MARSHAL IN ACCORDANCE WITH § 10-105 OF THIS SUBTITLE.

(C) LATE FEE.

IF THE STATE FIRE MARSHAL DOES NOT RECEIVE THE APPLICATION FOR A PERMIT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION AT LEAST 10 DAYS BEFORE THE DATE OF THE DISCHARGE, THE STATE FIRE MARSHAL SHALL CHARGE THE APPLICANT A LATE FEE OF $50 IN ADDITION TO ALL REQUIRED FEES.

(D) EXEMPTION FROM FEE.

THE PERMIT FEE REQUIRED UNDER SUBSECTION (B)(2) OF THIS SECTION AND THE LATE FEE REQUIRED UNDER SUBSECTION (C) OF THIS SECTION DO NOT APPLY TO A VOLUNTEER FIRE DEPARTMENT OR VOLUNTEER AMBULANCE AND RESCUE COMPANY.

(E) PERMIT NONTRANSFERABLE.

A PERMIT TO DISCHARGE FIREWORKS IS NONTRANSFERABLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 16(a)(2), and the second sentence, and, as it related to a prohibition against the discharge of fireworks or possession of fireworks without a permit, the first sentence of (1) and 18(a)(2) and (3), and the third and fourth sentences and, as it related to permit transfer, the fifth sentence of § 18(a)(1) and, as it related to requiring a bond to be posted, the sixth sentence of § 18(a)(1).

In subsections (b) and (c) of this section, references to the "discharge[s]" of fireworks are substituted for the former references to the "display" of fireworks for clarity and consistency.

In subsection (b) of this section, the reference to an "applicant for a permit to discharge" is substituted for the former reference to "applications for permits for public display" for clarity and consistency within this subtitle.

In subsection (b)(1) and (2) of this section, the references to the "State Fire Marshal" are added for clarity.

In subsection (b)(3) of this section, the reference to posting a bond "in accordance with § 10-105 of this subtitle" is added for clarity.

In subsection (c) of this section, the cross-reference to a permit "required under subsection (b) of this section" is substituted for the former reference to a permit required "for public display" for clarity.

As to the balance of former Art. 38A, § 16(a)(1), *see* § 10-110(a) of this subtitle.

As to the balance of former Art. 38A, § 18(a)(1), *see* § 10-105 of this subtitle.

Defined terms: "Fireworks" § 10-101

"Person" § 1-101

10-105. BOND OR INSURANCE.

(A) IN GENERAL.

(1) BEFORE ISSUING A PERMIT TO DISCHARGE FIREWORKS, THE STATE FIRE MARSHAL SHALL REQUIRE AN APPLICANT TO FURNISH A SURETY BOND WITH CORPORATE SURETY APPROVED BY THE STATE FIRE MARSHAL OR AN APPROVED LIABILITY AND PROPERTY INSURANCE POLICY.

(2) THE STATE FIRE MARSHAL SHALL PRESCRIBE THE AMOUNT OF THE BOND OR POLICY.

(3) THE BOND OR POLICY:

(I) SHALL BE CONDITIONED ON THE PAYMENT OF ALL DAMAGES TO PERSONS OR PROPERTY CAUSED BY THE DISCHARGE OR FIREWORKS DESCRIBED IN THE PERMIT;

(II) SHALL BE PAYABLE TO THE STATE; AND

(III) MAY BE ENFORCED BY A PERSON WHO SUFFERS DAMAGE CAUSED BY THE DISCHARGE OF FIREWORKS DESCRIBED IN THE PERMIT BY SUIT FILED IN THE NAME OF THE STATE FOR THE BENEFIT OF THE PERSON.

(B) CLAIMS.

IF CLAIMS UNDER A BOND OR POLICY REQUIRED UNDER THIS SUBTITLE ARE FOR AN AMOUNT GREATER THAN THE PENAL SUM OF THE BOND OR AMOUNT OF THE POLICY, THE CLAIMS SHALL BE PAYABLE PRO RATA TO THE AMOUNT OF THE PENAL SUM OF THE BOND OR AMOUNT OF THE POLICY.

REVISOR'S NOTE: This section is new language derived without substantive change from the sixth, seventh, and eighth sentences of former Art. 38A, § 18(a)(1).

In subsection (a)(3)(iii) of this section, the reference to damage "caused by the discharge of fireworks described in the permit" is substituted for the former reference to damage "as aforesaid" for clarity.

In subsection (b) of this section, the former reference to "executions ... issu[ing] accordingly" is deleted as implicit in the requirement that the claims be payable pro rata.

Defined terms: "Fireworks" § 10-101

"Person" § 1-101

10-106. WORKERS' COMPENSATION; ACCIDENT INSURANCE.

AN APPLICANT FOR A PERMIT SHALL PROVIDE:

(1) WORKERS' COMPENSATION COVERAGE AS REQUIRED BY THE MARYLAND WORKERS' COMPENSATION ACT; AND

(2) FOR OPERATORS NOT COVERED BY WORKERS' COMPENSATION, APPROVED ACCIDENT INSURANCE COVERAGE IN AMOUNTS THAT THE STATE FIRE MARSHAL PRESCRIBES.

REVISOR'S NOTE: This section is new language derived without substantive change from the ninth and tenth sentences of former Art. 38A, § 18(a)(1).

In the introductory language of this section, the reference to "[a]n applicant for a permit" is added to clarify who is responsible for providing workers' compensation or accident insurance coverage.

10-107. INSPECTIONS AND INVESTIGATIONS FOR PERMITS.

THE STATE FIRE MARSHAL MAY DEPUTIZE THE CHIEF OR ANOTHER MEMBER OF A LOCAL FIRE DEPARTMENT OR ANOTHER QUALIFIED OFFICIAL TO INSPECT, INVESTIGATE, AND RECEIVE APPLICATIONS FOR PERMITS.

REVISOR'S NOTE: This section is new language derived without substantive change from the twelfth sentence of former Art. 38A, § 18(a)(1).

The reference to a "qualified" official is substituted for the former reference to a "suitable" official to better indicate an appropriate level of ability.

The former reference to the official "act[ing] as [the State Fire Marshal's] deputy" is deleted as surplusage.

10-108. ADVERTISING DISCHARGE OF FIREWORKS.

A PERSON MAY NOT ADVERTISE IN WRITTEN OR PRINTED FORM THAT A FIREWORKS DISPLAY OR DISCHARGE WILL TAKE PLACE IN BALTIMORE CITY UNLESS THE ADVERTISEMENT STATES:

(1) THAT THE PROMOTER IS COVERED BY A POLICY OF LIABILITY INSURANCE; AND

(2) THE NAME OF THE INSURER AND THE POLICY NUMBER OF THE INSURANCE POLICY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 18(b).

The reference to a fireworks "discharge" is added for clarity and consistency within this subtitle.

The Public Safety Article Review Committee notes, for the consideration of the General Assembly, that this section is limited to "written or printed" advertisements. The General Assembly may wish to include broadcast and electronic advertisements.

Defined terms: "Fireworks" § 10-101

"Person" § 1-101

10-109. REGULATIONS.

THE STATE FIRE PREVENTION COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the eleventh sentence of former Art. 38A, § 18(a)(1).

The reference to "carry[ing] out" this subtitle is substituted for the former

reference to "the enforcement of this subtitle" for consistency with similar references throughout the revised articles of the Code.

10-110. PROHIBITED ACTS.

(A) PERMIT FOR DISCHARGE OR POSSESSION OF FIREWORKS.

UNLESS THE PERSON HOLDS A PERMIT ISSUED UNDER THIS SUBTITLE, A PERSON MAY NOT:

(1) DISCHARGE FIREWORKS; OR

(2) POSSESS FIREWORKS:

(I) WITH INTENT TO DISCHARGE OR ALLOW THE DISCHARGE OF THE FIREWORKS IN VIOLATION OF THIS SUBTITLE; OR

(II) FOR THE PURPOSE OF DISPOSING OR SELLING THE FIREWORKS TO A PERSON FOR USE OR DISCHARGE WITHOUT A PERMIT, IF A PERMIT IS REQUIRED BY THIS SUBTITLE.

(B) UNLAWFUL SALE.

(1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A PERSON MAY NOT SELL FIREWORKS TO ANOTHER PERSON WITHOUT A PERMIT ISSUED UNDER THIS SUBTITLE.

(2) (I) A PERSON LICENSED BY THE STATE FIRE MARSHAL UNDER SUBTITLE 2 OF THIS TITLE MAY SELL OR DELIVER FIREWORKS TO A BONA FIDE DISTRIBUTOR, JOBBER, OR WHOLESALER WITH A PRINCIPAL PLACE OF BUSINESS IN A STATE WHERE THE SALE OR POSSESSION OF FIREWORKS IS ALLOWED.

(II) THE STATE FIRE MARSHAL MAY REQUIRE A PERSON WHO IS AN OUT-OF-STATE DISTRIBUTOR, JOBBER, OR WHOLESALER TO SUBMIT A CERTIFICATE ISSUED BY THE PERSON'S STATE OF OPERATION THAT DEMONSTRATES AUTHORITY TO BUY AND RECEIVE FIREWORKS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 16(b) and the first sentence of (a)(1).

In subsection (b)(1) of this section, the introductory clause is added to clarify that exceptions exist. *See, e.g.*, § 10-102 of this subtitle.

In subsection (b)(2)(i) of this section, the reference to a "person" is substituted for the former reference to a "manufacturer" to reflect the terminology used in Subtitle 2 of this title. *See, e.g.*, § 10-201 of this title.

Also in subsection (b)(2)(i) of this section, the reference to "[s]ubtitle 2 of this title" is substituted for the former reference to "this subtitle" to reflect the revision of the former provisions relating to the licensing of manufacturers in Subtitle 2 of this title.

%In subsection (b)(2)(ii) of this section, the reference to a certificate that "demonstrates authority" is substituted for the former reference to a certificate "of permission or approval" for brevity and clarity.

Defined terms: "Fireworks" § 10-101

"Person" § 1-101

"State" § 1-101

10-111. PENALTY PROVISIONS.

(A) PENALTY FOR POSSESSING OR DISCHARGING FIREWORKS.

A PERSON WHO POSSESSES OR DISCHARGES FIREWORKS IN VIOLATION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $250 FOR EACH OFFENSE.

(B) PENALTY FOR SELLING FIREWORKS.

A PERSON WHO SELLS FIREWORKS IN VIOLATION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $1,000 FOR EACH OFFENSE.

(C) SEIZURE AND FORFEITURE OF FIREWORKS.

(1) AT THE EXPENSE OF THE OWNER, THE STATE FIRE MARSHAL SHALL SEIZE AND REMOVE ALL FIREWORKS POSSESSED OR SOLD IN VIOLATION OF THIS SUBTITLE.

(2) FIREWORKS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE FORFEITED AND DESTROYED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 17.

In subsection (c)(2) of this section, the former reference to forfeiting "the ownership" of the fireworks is deleted for brevity.

Defined terms: "Fireworks" § 10-101

"Person" § 1-101

10-112. SALE OF SPARKLERS AND SPARKLING DEVICES TO MINORS PROHIBITED.

(A) IN GENERAL.

A PERSON MAY NOT SELL SPARKLERS OR SPARKLING DEVICES TO A PERSON UNDER THE AGE OF 16 YEARS.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $1,000.

REVISOR'S NOTE: This section formerly was Art. 38A, § 16A.

The only changes are in style.

Defined term: "Person" § 1-101

10-113. REGISTRATION OF DISTRIBUTORS OR WHOLESALERS OF SPARKLERS OR SPARKLING DEVICES.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO A DISTRIBUTOR OR WHOLESALER OF SPARKLERS OR SPARKLING DEVICES WHO:

(1) INTENDS TO CONDUCT BUSINESS IN THE STATE; OR

(2) SELLS, SHIPS, OR ASSIGNS FOR SALE IN THE STATE THE PRODUCTS OF THE DISTRIBUTOR OR WHOLESALER.

(B) REGISTRATION REQUIRED.

A DISTRIBUTOR OR WHOLESALER SHALL REGISTER ANNUALLY WITH THE STATE FIRE MARSHAL ON FORMS THE STATE FIRE MARSHAL PROVIDES.

(C) ANNUAL FEE FOR REGISTRATION.

THE ANNUAL FEE FOR REGISTRATION UNDER THIS SECTION IS $750.

(D) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING $1,000 OR BOTH.

REVISOR'S NOTE: This section formerly was Art. 38A, § 19A.

In subsection (b) of this section, the former references to the "[o]ffice" of the State Fire Marshal are deleted for consistency.

The only other changes are in style.

Defined term: "Person" § 1-101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 38A, § 15(k), which defined "warehouse", is deleted because the term was not used in the provisions covered by the definition.

Former Art. 38A, § 25, which provided for severability, is deleted in light of Art. 1, § 23, which provides the same effect.

SUBTITLE 2. FIREWORKS PLANTS.

10-201. LICENSE TO OPERATE PLANT, MANUFACTURE, STORE.

(A) LICENSE TO OPERATE PLANT.

(1) ONLY THE STATE FIRE MARSHAL MAY ISSUE A LICENSE TO OPERATE A FIREWORKS PLANT.

(2) A PERSON SHALL BE LICENSED BY THE STATE FIRE MARSHAL BEFORE THE PERSON MAY OPERATE A FIREWORKS PLANT IN THE STATE.

(3) A LICENSE TO OPERATE A FIREWORKS PLANT ISSUED UNDER THIS SUBTITLE AUTHORIZES THE LICENSEE TO:

(I) MANUFACTURE, PROCESS, AND STORE 1.4 G FIREWORKS, SPARKLERS, SPARKLING DEVICES, ROCKETS, AND ROMAN CANDLES AS AUTHORIZED UNDER THIS SUBTITLE; AND

(II) STORE 1.4 G FIREWORKS AND 1.3 G FIREWORKS AT AN APPROVED LOCATION IN A STORAGE BUILDING APPROVED BY THE STATE FIRE MARSHAL OR A LOCAL AUTHORITY HAVING JURISDICTION OVER LOCAL FIRE PREVENTION CODES.

(B) COMPLIANCE WITH SUBTITLE REQUIRED FOR ISSUING OR RENEWING OF LICENSE.

EACH FIREWORKS PLANT IN THE STATE, REGARDLESS OF WHEN CONSTRUCTED, MUST CONFORM TO THE REQUIREMENTS OF THIS SUBTITLE BEFORE A LICENSE TO OPERATE A FIREWORKS PLANT IS ISSUED OR RENEWED.

(C) DETERMINATION OF COMPLIANCE BEFORE LICENSURE.

BEFORE THE STATE FIRE MARSHAL ISSUES OR RENEWS A LICENSE TO OPERATE A FIREWORKS PLANT:

(1) THE STATE FIRE MARSHAL, OR A DESIGNEE OF THE STATE FIRE MARSHAL, SHALL:

(I) INSPECT THE FIREWORKS PLANT FOR COMPLIANCE WITH THIS SUBTITLE AND REGULATIONS ADOPTED UNDER THIS SUBTITLE; AND

(II) FIND THE FIREWORKS PLANT TO BE IN FULL COMPLIANCE WITH THIS SUBTITLE AND THE REGULATIONS ADOPTED UNDER THIS SUBTITLE;

(2) EACH UNIT OF THE STATE OR POLITICAL SUBDIVISION OF THE STATE THAT IS RESPONSIBLE FOR DETERMINING COMPLIANCE WITH OTHER APPLICABLE STATUTES, ORDINANCES, AND REGULATIONS SHALL:

(I) DETERMINE WHETHER THE FIREWORKS PLANT IS IN COMPLIANCE WITH THE OTHER APPLICABLE STATUTES, ORDINANCES, AND REGULATIONS; AND

(II) REPORT THE RESULTS OF THE DETERMINATION TO THE STATE FIRE MARSHAL; AND

(3) THE STATE FIRE MARSHAL MUST RECEIVE A REPORT FROM EACH UNIT OF THE STATE OR POLITICAL SUBDIVISION OF THE STATE THAT IS RESPONSIBLE FOR DETERMINING COMPLIANCE WITH APPLICABLE STATUTES, ORDINANCES, AND REGULATIONS, THAT STATES THAT THE FIREWORKS PLANT IS IN FULL COMPLIANCE.

(D) PRIOR CONVICTION.

THE STATE FIRE MARSHAL MAY DENY A LICENSE TO OPERATE A FIREWORKS PLANT TO AN APPLICANT WHO HAS BEEN CONVICTED OF A FELONY UNDER FEDERAL LAW OR ANY STATE LAW.

(E) TERM OF LICENSE.

THE TERM OF A LICENSE MAY NOT EXCEED 1 YEAR.

(F) LICENSING FEE.

AN APPLICANT SHALL PAY TO THE STATE FIRE MARSHAL A LICENSE FEE OF $750.

(G) LICENSE SUSPENSION AND REVOCATION.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OR (3) OF THIS SUBSECTION, IF A LICENSEE COMMITS A VIOLATION OF THIS SUBTITLE OR A REGULATION ADOPTED BY THE STATE FIRE PREVENTION COMMISSION UNDER THIS SUBTITLE, THE STATE FIRE MARSHAL MAY SUSPEND THE LICENSE OF THE LICENSEE FOR NOT MORE THAN 30 DAYS.

(2) THE STATE FIRE MARSHAL SHALL SUSPEND FOR 30 DAYS THE LICENSE OF A LICENSEE WHO, WITHIN 5 YEARS OF COMMITTING A FIRST VIOLATION, COMMITS A SECOND VIOLATION OF THIS SUBTITLE OR A REGULATION ADOPTED BY THE STATE FIRE PREVENTION COMMISSION UNDER THIS SUBTITLE.

(3) THE STATE FIRE MARSHAL SHALL REVOKE THE LICENSE OF A LICENSEE WHO, WITHIN 5 YEARS OF COMMITTING A FIRST VIOLATION, COMMITS A THIRD VIOLATION, OF THIS SUBTITLE OR A REGULATION ADOPTED BY THE STATE FIRE PREVENTION COMMISSION UNDER THIS SUBTITLE.

(4) ON SUSPENDING OR REVOKING A LICENSE UNDER THIS SUBSECTION, THE STATE FIRE MARSHAL SHALL:

(I) FILE AND KEEP A STATEMENT OF THE NATURE OF THE VIOLATION THAT RESULTED IN THE SUSPENSION OR REVOCATION; AND

(II) PROVIDE A COPY OF THE STATEMENT TO THE OWNER AND THE OPERATOR OF THE FIREWORKS PLANT.

(5) (I) IF THE STATE FIRE MARSHAL SUSPENDS, REVOKES, OR REFUSES TO RENEW A LICENSE, THE STATE FIRE MARSHAL OR DESIGNEE OF THE STATE FIRE MARSHAL SHALL:

1. DETERMINE WHETHER THE CONTINUED PRESENCE OF EXPLOSIVE COMPOSITION WITHIN THE FIREWORKS PLANT CONSTITUTES A DANGER TO PUBLIC SAFETY; AND

2. IF THERE IS A FINDING OF A DANGER TO PUBLIC SAFETY, REMOVE AND DISPOSE OF THE EXPLOSIVE COMPOSITION.

(II) IF THE STATE FIRE MARSHAL DETERMINES THAT THE DANGER TO PUBLIC SAFETY UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS A CLEAR AND PRESENT DANGER, THE STATE FIRE MARSHAL OR DESIGNEE OF THE STATE FIRE MARSHAL SHALL REMOVE AND DISPOSE OF THE EXPLOSIVE COMPOSITION EVEN IF AN APPEAL IS PENDING.

REVISOR'S NOTE: Subsections (a)(1) and (3) and (b) through (f) of this section are new language derived without substantive change from former Art. 38A, §§ 20(e), 19(a), (f), and (g), and the first and fourth sentences of (e).

Subsection (a)(2) of this section is standard language added to state affirmatively that an individual must be licensed to operate a fireworks plant in the State.

In subsection (a)(3) of this section, the former reference to "manufactur[ing] fireworks, sparklers, or sparkling devices" is deleted as included in the reference to "operat[ing] a fireworks plant".

In subsection (a)(3)(i) of this section, the reference to "rockets, and Roman candles" is retained although arguably included in the defined term "1.4 G fireworks". However, the Public Safety Article Review Committee notes, for the consideration of the General Assembly, that the defined term "1.4 G fireworks" does not include all kinds of rockets or Roman candles.

In subsection (a)(3)(ii) of this section, the reference to the defined term "1.3 G fireworks" is substituted for the former reference to "1.3 G display fireworks" for consistency.

In subsection (b) of this section, the reference to a license "to operate a fireworks plant" is added for clarity.

Also in subsection (b) of this section, the reference to a license being "issued or renewed" is substituted for the former reference to the granting

of a "new" license or renewal of a "currently effective" license for brevity.

In subsection (c)(1)(ii) of this section, the reference to being "in full compliance" is substituted for the former reference to "wholly in compliance" for clarity.

In subsection (c)(2) of this section, the reference to a "unit ... that is responsible for determining compliance with other applicable statutes, ordinances, and regulations" is substituted for the former reference to "agency responsible" for clarity.

In subsection (c)(3) of this section, the reference to the "unit of the State or political subdivision of the State that is responsible for determining compliance" is substituted for the former reference to "appropriate" agencies for clarity.

Also in subsection (c)(3) of this section, the reference to compliance "with the applicable statutes, ordinances, and regulations" is added for clarity.

In subsection (d) of this section, the reference to a "felony under federal law or any state law" is substituted for the former reference to "a crime defined as a felony under federal law or the laws of the state in which the conviction was adjudged, regardless of point in time" for brevity.

Also in subsection (d) of this section, the reference to a license "to operate a fireworks plant" is substituted for the former reference to a "fireworks manufacturing" license for consistency within this subtitle.

In subsection (e) of this section, the reference to "[t]he term of a license" is substituted for the former statement that "[a] license ... shall be issued for no longer than" for consistency.

In subsection (f) of this section, the reference to "[a]n applicant" is added to state affirmatively that an applicant must pay the licensing fee to operate a fireworks plant in the State.

In subsection (g) of this section, the former reference to the "additional effect" of a violation is deleted as unnecessary.

In subsection (g)(1) of this section, the introductory clause "[e]xcept as provided in paragraph (2) or (3) of this subsection" is added for clarity.

Also in subsection (g)(1) of this section, the reference to a "licensee" is added to clarify who is committing a violation.

Also in subsection (g)(1) of this section, the word "may" is substituted for the former phrase "at the discretion" for brevity.

In subsection (g)(2) and (3) of this section, the references to the "State Fire Marshal" are added to clarify who is responsible for suspending or

revoking a license.

In subsection (g)(4) of this section, the former reference to "finding a violation" is deleted as included in the reference to "suspending or revoking a license".

In subsection (g)(4)(i) of this section, the reference to "file and keep" is substituted for the former reference to "file in his office" for clarity.

Also in subsection (g)(4)(i) of this section, the reference to the nature of the violation "that resulted in the suspension or revocation" is added for clarity.

In subsection (g)(5)(i)1 of this section, the reference to the "presence" of explosive composition is substituted for the former reference to the "maintenance" of explosive composition for clarity.

In subsection (g)(5)(i)2 of this section, the reference to the State Fire Marshal or designee "remov[ing] and dispos[ing]" is substituted for the former reference to the State Fire Marshal or designee "assum[ing] responsibility for the removal and disposal" for brevity.

In subsection (g)(5)(ii) of this section, the reference to "the State Fire Marshal or designee of the State Fire Marshal ... remov[ing] and dispos[ing] of the explosive composition" is substituted for the former reference that "this subsection appl[ies]" for clarity.

Defined terms: "Explosive composition" § 10-101

"Fireworks plant" § 10-101

"1.3 G fireworks" § 10-101

"1.4 G fireworks" § 10-101

"Person" § 1-101

"State" § 1-101

"Storage building" § 10-101

10-202. REGULATIONS.

(A) ADOPTION AND ENFORCEMENT.

AS NECESSARY OR ADVISABLE TO PROTECT THE SAFETY OF EMPLOYEES OF A FIREWORKS PLANT AND THE PUBLIC AND TO PROTECT PUBLIC PROPERTY, THE STATE FIRE PREVENTION COMMISSION SHALL:

(1) ADOPT REGULATIONS CONSISTENT WITH THIS SUBTITLE; AND

(2) ENFORCE THE REGULATIONS THROUGH THE OFFICE OF THE STATE FIRE MARSHAL.

(B) SCOPE.

THE SCOPE OF THE REGULATIONS ADOPTED UNDER THIS SECTION MAY INCLUDE:

(1) THE IMPLEMENTATION OF THIS SUBTITLE; AND

(2) REQUIREMENTS RELATING TO:

(I) THE LOCATION, CONSTRUCTION, ARRANGEMENT, AND OPERATION OF A FIREWORKS PLANT;

(II) PERSONNEL;

(III) PUBLIC LIABILITY AND WORKERS' COMPENSATION INSURANCE; AND

(IV) FIREWORKS PLANT SAFETY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 19(b).

In subsection (a) of this section, the former reference to the "general" public is deleted as unnecessary.

In the introductory language of subsection (b) of this section, the reference to regulations "adopted under this section" is added for clarity.

Also in the introductory language of subsection (b) of this section, the former phrase "is not limited to" is deleted as included in the reference to "include". *See* Art. 1, § 30.

In subsection (b)(2) of this section, the reference to "requirements relating to" is substituted for the former reference to "any and all aspects of" for clarity.

Defined term: "Fireworks plant" § 10-101

10-203. INSPECTIONS.

(A) AUTHORITY.

THE STATE FIRE MARSHAL OR A DESIGNEE OF THE STATE FIRE MARSHAL SHALL INSPECT PERIODICALLY EACH FIREWORKS PLANT OWNED OR OPERATED BY A PERSON LICENSED UNDER THIS SUBTITLE.

(B) AREA OF INSPECTION.

AN INSPECTION UNDER THIS SECTION SHALL INCLUDE ALL ASPECTS OF FIREWORKS PLANT OPERATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 19(c).

%In subsection (a) of this section, the reference to "each fireworks plant owned or operated by a person" licensed is substituted for the former reference to "all fireworks plants" licensed since it is the owner or operator who is licensed and not the plant.

Defined terms: "Fireworks plant" § 10-101

"Person" § 1-101

10-204. LOCATIONS OF BUILDINGS; FENCING.

(A) LOCATION.

(1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A MIXING BUILDING OR STORAGE BUILDING OF A FIREWORKS PLANT SHALL BE LOCATED AT LEAST:

(I) 1,000 FEET FROM A SCHOOL, CHURCH, HOSPITAL, PLACE OF PUBLIC ASSEMBLY, OR GASOLINE OR FUEL OIL STORAGE BUILDING OR SERVICE STATION; AND

(II) 200 FEET FROM ANY OTHER INHABITED BUILDING, A HIGHWAY, OR A RAILROAD.

(2) A BUILDING WITHIN A FIREWORKS PLANT THAT CONTAINS HAZARDOUS MIXES OR ITEMS MAY NOT BE LOCATED NEARER TO THE FIREWORKS PLANT PROPERTY LINE THAN IS AUTHORIZED UNDER REGULATIONS ADOPTED BY THE STATE FIRE PREVENTION COMMISSION.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A FINISHING AND ASSEMBLING BUILDING SHALL BE LOCATED AT LEAST:

1. 75 FEET FROM ANY OTHER FINISHING AND ASSEMBLING BUILDING; AND

2. 200 FEET FROM ANY STORAGE BUILDING USED PRIMARILY TO STORE FINISHED FIREWORKS OTHER THAN SPARKLERS.

(II) IF A CANDLE BUILDING OR ROCKET PRESS BUILDING OF A FIREWORKS PLANT IS CONSTRUCTED OF APPROVED FIRE-RESISTANT MATERIALS, IS BARRICADED, AND OTHERWISE MEETS THE REQUIREMENTS OF THE STATE FIRE PREVENTION COMMISSION, THE BUILDING SHALL BE LOCATED AT LEAST 50 FEET FROM OTHER FINISHING AND ASSEMBLING BUILDINGS.

(4) A LICENSEE MAY PACKAGE AND REPACKAGE 1.4 G FIREWORKS IN FINISHED FORM IN A STORAGE BUILDING IF THERE IS A MINIMUM SEPARATION DISTANCE OF 25 FEET BETWEEN THE PACKAGING AREA AND ANY STORED FIREWORKS.

(5) EXCEPT AS PROVIDED UNDER PARAGRAPH (3)(II) OF THIS SUBSECTION, A DISTANCE PRESCRIBED UNDER THIS SECTION MAY NOT BE REDUCED BECAUSE OF THE PRESENCE OF A BARRICADE OR EARTH COVER.

(B) FENCING.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A FIREWORKS PLANT SHALL BE COMPLETELY SURROUNDED BY A SUBSTANTIAL FENCE THAT:

(I) IS AT LEAST 6 FEET TALL;

(II) CONTAINS AT LEAST THREE STRANDS OF BARBED WIRE; AND

(III) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, CONTAINS OPENINGS EQUIPPED WITH SUITABLE GATES THAT ARE KEPT SECURELY LOCKED WHEN NOT IN USE.

(2) EXCEPT FOR AN OFFICE BUILDING IN WHICH PROCESSING OR STORAGE IS PROHIBITED, EACH BUILDING IN A FIREWORKS PLANT SHALL BE LOCATED WITHIN THE FENCE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) THE MAIN GATE OF THE PLANT MAY BE LEFT OPEN DURING THE REGULAR HOURS OF PLANT OPERATION IF THE GATE IS WITHIN THE UNOBSTRUCTED VIEW AND UNDER THE OBSERVATION OF AUTHORIZED RESPONSIBLE EMPLOYEES OR GUARDS.

(4) THE LICENSEE SHALL POST CONSPICUOUS SIGNS AT LEAST EVERY 500 FEET ALONG THE FENCE OF THE FIREWORKS PLANT THAT STATE "WARNING -- NO SMOKING -- NO TRESPASSING".

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 20(a), (c), and (d) and the second sentence of § 15(j).

In the introductory language of subsection (a)(1) of this section, the clause "[s]ubject to paragraphs (2) and (3) of this subsection" is added for clarity.

Also in the introductory language of subsection (a)(1) of this section, the former phrase "[n]o fireworks plant shall be located so" is deleted for brevity, since it is the distance of the mixing building or storage building which is delimited by the subsection, and not the entire plant.

In subsection (a)(1)(ii) of this section, the reference to any "other" inhabited building is added for clarity, since it is unlikely that a school, church, hospital, or place of assembly -- unless abandoned -- would ever be uninhabited long enough to justify the lesser 200-foot distance.

In subsection (a)(3)(i) of this section, the conjunction "and" is substituted

for the former reference to "or" to clarify that a finishing and assembling building must be both 75 feet from other finishing and assembling buildings "and" 200 feet from fireworks storage buildings.

In subsection (a)(3)(i)2 of this section, the reference to a building "used primarily" is substituted for the former reference to "devoted principally" for clarity.

In subsection (a)(3)(ii) of this section, the reference to a building "constructed of approved fire-resistant materials" is substituted for the former reference to a building "of an approved fire resistant construction" for clarity.

Also in subsection (a)(3)(ii) of this section, the reference to "shall be located at least" is substituted for the former reference to "may be no less than" for clarity and consistency within this section.

In subsection (a)(5) of this section, the reference to distances "prescribed" is substituted for the former reference to distances "specified or provided" for brevity and clarity.

In subsection (b)(1)(i) of this section, the reference to a fence that "is at least 6 feet tall" is substituted for the former reference to a fence "having a minimum height of six feet" for clarity.

In subsection (b)(1)(iii) of this section, the reference to gates being "kept securely locked when not in use" is substituted for the former reference to gates being locked "at all times, except when in actual use" for clarity.

In subsection (b)(2) of this section, the reference to "each building in a fireworks plant" is substituted for the former reference to "[a]ll buildings" for clarity.

In subsection (b)(3) of this section, the reference to an "unobstructed" view is substituted for the former reference to being in "plain" view for clarity.

Also in subsection (b)(3) of this section, the reference to "if the gate is" is substituted for the former reference to "while" for clarity.

In subsection (b)(4) of this section, the reference to "[t]he licensee" is added to clarify who has the obligation for seeing that conspicuous signs are posted.

Also in subsection (b)(4) of this section, the reference to signs "stat[ing]" is substituted for the former reference to signs "indicating" for clarity.

Also in subsection (b)(4) of this section, the reference to "at least every" 500 feet is substituted for the former reference to "at intervals not to exceed" 500 feet for brevity.

Defined terms: "Finishing and assembly building" § 10-101

"Fireworks" § 10-101

"Fireworks plant" § 10-101

"Mixing building" § 10-101

"1.4 G fireworks" § 10-101

"Press building" § 10-101

"Storage building" § 10-101

10-205. CONSTRUCTION OF PLANT BUILDINGS.

(A) IN GENERAL.

EACH BUILDING IN A FIREWORKS PLANT SHALL BE CONSTRUCTED AS PROVIDED IN THIS SECTION.

(B) EXTERIOR WALLS AND ROOFS.

(1) THIS SUBSECTION APPLIES TO A BUILDING THAT IS CONSTRUCTED OR IMPROVED AFTER JULY 1, 1970, OR TO WHICH AN ADDITION IS MADE AFTER JULY 1, 1970.

(2) THE FOLLOWING BUILDINGS IN A FIREWORKS PLANT SHALL HAVE EXTERIOR WALLS AND ROOFS THAT ARE CONSTRUCTED OF NONCOMBUSTIBLE MATERIAL AND SHALL BE CONSTRUCTED TO BE FRANGIBLE:

(I) A FINISHING AND ASSEMBLING BUILDING;

(II) A PRESS BUILDING; AND

(III) A MIXING BUILDING.

(C) LIMITATION ON STORIES.

A BUILDING IN A FIREWORKS PLANT MAY NOT CONTAIN A BASEMENT OR EXCEED ONE STORY.

(D) FLOORS AND INTERIOR WALLS.

(1) THE INTERIOR WALL SURFACES AND CEILINGS OF A BUILDING IN A FIREWORKS PLANT SHALL:

(I) BE SMOOTH, FREE FROM CRACKS AND CREVICES, AND FIRE RESISTANT; AND

(II) CONTAIN A MINIMUM NUMBER OF HORIZONTAL LEDGES ON WHICH DUST MAY ACCUMULATE.

(2) (I) A FLOOR OR WORK SURFACE IN A BUILDING IN A FIREWORKS PLANT MAY NOT HAVE CRACKS OR CREVICES IN WHICH EXPLOSIVES MAY LODGE.

(II) A WALL JOINT OR OPENING FOR WIRING OR PLUMBING IN A BUILDING IN A FIREWORKS PLANT SHALL BE SEALED TO PREVENT ENTRY OF DUST.

(3) A MIXING BUILDING OR PRESS BUILDING IN A FIREWORKS PLANT SHALL CONTAIN CONDUCTIVE FLOORING THAT IS PROPERLY GROUNDED.

(E) HEATING.

A BUILDING IN A FIREWORKS PLANT SHALL BE HEATED BY:

(1) STEAM;

(2) INDIRECTLY RADIATING HOT AIR;

(3) HOT WATER; OR

(4) ANY OTHER MEANS APPROVED BY THE STATE FIRE PREVENTION COMMISSION.

(F) ELECTRICAL WIRING AND LIGHTING.

(1) ALL ELECTRIC WIRING IN A FIREWORKS PLANT SHALL BE PERMANENT AND INSTALLED IN APPROVED CONDUITS.

(2) ALL ELECTRICAL SERVICE SHALL COMPLY WITH APPLICABLE ELECTRICAL CODES.

(3) TEMPORARY OR LOOSE ELECTRIC WIRING OR EXTENSION LIGHTS MAY NOT BE USED EXCEPT:

(I) DURING REPAIR OPERATIONS WHILE USING APPROVED TEMPORARY EXTENSIONS; AND

(II) AFTER THE AREA HAS BEEN CLEARED OF ALL EXPLOSIVE COMPOSITION AND WASHED OF DUST.

(4) EACH FIREWORKS PLANT SHALL HAVE A MASTER SWITCH THAT:

(I) IS LOCATED AT THE POINT WHERE ELECTRIC CURRENT ENTERS THE FIREWORKS PLANT; AND

(II) ON BEING OPENED, IMMEDIATELY CUTS OFF ALL ELECTRIC CURRENT TO THE FIREWORKS PLANT.

(5) OTHER THAN IN A WAREHOUSE, AN OPEN KNIFE SWITCH MAY NOT BE USED INSIDE A BUILDING OF A FIREWORKS PLANT.

(6) ARTIFICIAL LIGHTING IN A FIREWORKS PLANT SHALL BE PROVIDED BY ELECTRIC, VAPOR-PROOF, KEYLESS LAMPS.

(G) EXITS.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH BUILDING SHALL CONTAIN:

(I) AT LEAST TWO EXITS FOR EACH WORK AREA; AND

(II) AT LEAST TWO EXITS FROM THE BUILDING.

(2) EACH SMALL BUILDING WITH A DESIGNATED CAPACITY OF ONE INDIVIDUAL MAY HAVE ONLY ONE EXIT.

(3) EACH EXIT SHALL BE AT LEAST 30 INCHES WIDE.

(4) EXITS SHALL BE LOCATED:

(I) SO THAT THE PATH OF TRAVEL FROM THE WORK AREA IS UNOBSTRUCTED; AND

(II) AT OPPOSITE ENDS OF THE WORK AREA.

(5) AN EXIT DOOR SHALL:

(I) OPEN OUTWARD;

(II) REMAIN UNLOCKED DURING THE HOURS THAT THE WORK AREA OR BUILDING IS OCCUPIED; AND

(III) REMAIN UNOBSTRUCTED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 21(1), (4), (6), (8), and, as they related to setting building and heating standards, (2), (5), and the introductory language of § 21.

In subsection (b)(2) of this section, the former reference to "breakway" construction is deleted as included in the reference to "frangible" construction for brevity.

In subsection (c) of this section, the reference to a building not "exceed[ing] one story" is substituted for the former reference to a building being not "more than one story high" for brevity.

In subsection (d)(1)(i) of this section, the reference to wall surfaces and ceilings being fire "resistant" is substituted for the former reference to wall surfaces and ceilings being fire "resistive" for clarity.

In the introductory language of subsection (e) of this section, the reference to a "building in a fireworks plant" is added for clarity.

In subsection (f)(1) of this section, the reference to all electric wiring "in a fireworks plant" is added for clarity.

%Also in subsection (f)(1) of this section, the reference to electric wiring being "permanent" is substituted for the former reference to electric wiring having a "permanent character" for brevity.

In subsection (f)(2) of this section, the requirement that electrical service "comply" with applicable electrical codes is substituted for the former requirement that electrical service "be in accordance" with applicable electrical codes for clarity.

In subsection (f)(3)(i) of this section, the former reference to a "type" of extension is deleted as included in the reference to an "approved" extension.

In subsection (f)(3)(ii) of this section, the former reference to washing "down" is deleted as implicit in the reference to being "washed" for brevity.

In subsection (f)(6) of this section, the reference to "electric" vapor-proof, keyless lamps is substituted for the former reference to lighting "by electricity, with" vapor-proof, keyless lamps for brevity.

In subsection (g)(1)(i) of this section, the reference to a "work area" is substituted for the former reference to an "operating room" for clarity.

In subsection (g)(4)(ii) of this section, the reference to a "work area" is substituted for the former reference to an "area involved" for clarity.

In subsection (g)(5)(ii) of this section, the reference to "the hours that the work area or building is occupied" is substituted for the former reference to "hours of occupancy" for clarity.

Defined terms: "Explosive composition" § 10-101

"Finishing and assembling building" § 10-101

"Fireworks plant" § 10-101

"Mixing building" § 10-101

"Press building" § 10-101

10-206. PLANT EQUIPMENT.

(A) IN GENERAL.

EACH BUILDING IN A FIREWORKS PLANT SHALL BE EQUIPPED AS PROVIDED IN THIS SECTION.

(B) HEATING EQUIPMENT.

(1) A STOVE, AN EXPOSED FLAME, OR AN ELECTRIC HEATER MAY NOT BE USED IN A FIREWORKS PLANT, EXCEPT IN A BOILER ROOM, MACHINE SHOP, OFFICE BUILDING, PUMP HOUSE, OR LAVATORY IN WHICH FIREWORKS, FIREWORKS COMPONENTS, OR VOLATILE CHEMICALS ARE PROHIBITED.

(2) IF A UNIT HEATER IS LOCATED INSIDE A BUILDING THAT COULD, AT ANY TIME, CONTAIN EXPLOSIVE COMPOSITION:

(I) THE HEATER SHALL BE EQUIPPED WITH AN EXPLOSION-PROOF MOTOR; AND

(II) THE SWITCHES CONTROLLING THE MOTOR OF THE UNIT HEATER SHALL BE LOCATED OUTSIDE THE BUILDING IN WHICH THE MOTOR IS LOCATED.

(C) DEVICES CAPABLE OF PRODUCING OPEN SPARK.

AN ELECTRIC MOTOR, FAN, OPEN SWITCH, OR OTHER DEVICE CAPABLE OF PRODUCING AN OPEN SPARK SHALL BE LOCATED:

(1) OUTSIDE ANY BUILDING IN A FIREWORKS PLANT THAT AT ANY TIME CONTAINS EXPLOSIVE COMPOSITION; AND

(2) IN A MANNER SO THAT AN OPEN SPARK CANNOT BE INTRODUCED INTO A BUILDING IN A FIREWORKS PLANT THAT, AT ANY TIME, CONTAINS EXPLOSIVE COMPOSITION.

(D) PRESSES OR OTHER MECHANICAL DEVICES.

A PRESS OR OTHER MECHANICAL DEVICE LOCATED IN A BUILDING IN A FIREWORKS PLANT THAT, AT ANY TIME, CONTAINS EXPLOSIVE COMPOSITION SHALL BE PROPERLY GROUNDED TO PREVENT THE ACCUMULATION OF STATIC ELECTRICITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 21(7) and, as they related to setting standards for plant equipment, (5) and the introductory language to § 21.

In subsection (b)(1) of this section, the former reference to "the presence of" certain materials is deleted as included in the reference to areas "in which" those materials exist for brevity.

In subsection (b)(2)(ii) of this section, the reference to the building "in which the motor is located" is added for clarity.

In subsection (d) of this section, the reference to a device "located in a building in a fireworks plant that, at any time, contains explosive composition" is added for clarity.

Defined terms: "Explosive composition" § 10-101

"Fireworks" § 10-101

"Fireworks plant" § 10-101

10-207. SAFETY STANDARDS FOR BUILDINGS.

(A) MATERIALS.

(1) IN THIS SUBSECTION, "EXPLOSIVE COMPOSITION" OR "PYROTECHNIC COMPOSITION" INCLUDES RAW MATERIALS, MATERIALS BEING PROCESSED, AND FINISHED PRODUCTS.

(2) BY REGULATION, THE STATE FIRE PREVENTION COMMISSION SHALL DETERMINE THE MAXIMUM AMOUNT OF EXPLOSIVE COMPOSITION OR PYROTECHNIC COMPOSITION THAT MAY BE SAFELY KEPT IN ANY BUILDING IN A FIREWORKS PLANT AT ANY TIME.

(3) A LICENSEE SHALL:

(I) POST CONSPICUOUSLY ON EACH BUILDING IN THE FIREWORKS PLANT, THE LIMITS ON THE AMOUNT OF EXPLOSIVE COMPOSITION OR PYROTECHNIC COMPOSITION AUTHORIZED UNDER THIS SUBSECTION; AND

(II) STRICTLY COMPLY WITH THE LIMITS.

(B) SANITATION.

(1) A LICENSEE SHALL KEEP EACH BUILDING IN A FIREWORKS PLANT CLEAN, ORDERLY, AND FREE FROM ACCUMULATED DUST OR RUBBISH.

(2) IF POWDER OR OTHER EXPLOSIVE MATERIALS ARE SPILLED ON THE FLOOR OF A BUILDING IN A FIREWORKS PLANT, THE LICENSEE SHALL ENSURE THAT THE FLOOR IS CLEANED IMMEDIATELY AND THAT THE POWDER OR MATERIALS ARE REMOVED IMMEDIATELY FROM THE BUILDING.

(C) WASTE MATERIALS.

(1) A LICENSEE SHALL ENSURE THAT RAGS, COMBUSTIBLE AND EXPLOSIVE SCRAP, AND PAPER ARE:

(I) KEPT SEPARATE FROM EACH OTHER; AND

(II) PLACED IN APPROVED MARKED CONTAINERS.

(2) A LICENSEE SHALL ENSURE THAT WASTE AND REJECTED HAZARDOUS MATERIALS ARE:

(I) REMOVED DAILY FROM EACH BUILDING;

(II) REMOVED AT REGULAR INTERVALS FROM THE FIREWORKS PLANT; AND

(III) DESTROYED BY SUBMERSION IN WATER OR BY BURNING.

(3) A LICENSEE SHALL ENSURE THAT NONHAZARDOUS WASTE IS:

(I) REMOVED AT REGULAR INTERVALS FROM THE FIREWORKS PLANT; AND

(II) DISPOSED OF IN A LANDFILL SYSTEM OR BY OTHER SUITABLE MEANS.

(D) FIRE EXTINGUISHERS.

A LICENSEE SHALL ENSURE THAT ADEQUATE AND APPROPRIATE FIRE EXTINGUISHERS THAT MEET THE STATE FIRE PREVENTION CODE ARE:

(1) KEPT IN EACH BUILDING IN A FIREWORKS PLANT; AND

(2) READILY ACCESSIBLE AT ALL TIMES.

(E) VISITORS.

(1) UNLESS AN INDIVIDUAL HAS SIGNED INTO A LOG AND HAS STATED IN WRITING THE PURPOSE OF THE INDIVIDUAL'S VISIT TO THE FIREWORKS PLANT, A LICENSEE MAY NOT ALLOW ENTRY INTO A FIREWORKS PLANT BY AN INDIVIDUAL OTHER THAN:

(I) AN AUTHORIZED EMPLOYEE; OR

(II) A REPRESENTATIVE OF A UNIT OF THE FEDERAL GOVERNMENT, A STATE GOVERNMENT, OR A POLITICAL SUBDIVISION, HAVING JURISDICTION OVER THE FIREWORKS PLANT.

(2) A LICENSEE SHALL:

(I) MAINTAIN THE LOG OF VISITORS TO THE FIREWORKS PLANT FOR AT LEAST 2 YEARS; AND

(II) MAKE THE LOG AVAILABLE FOR INSPECTION BY THE STATE FIRE MARSHAL OR A REPRESENTATIVE OF THE STATE FIRE MARSHAL.

(3) ALL VISITORS SHALL WEAR CONDUCTIVE FOOTWEAR.

(F) SECURITY GUARDS.

(1) THERE SHALL BE AT LEAST ONE COMPETENT SECURITY GUARD PRESENT ON DUTY WHENEVER ANY EXPLOSIVE COMPOSITION IS LOCATED WITHIN A FIREWORKS PLANT.

(2) THE SECURITY GUARD:

(I) MAY NOT SLEEP ON DUTY; AND

(II) SHALL PATROL THE ENTIRE FIREWORKS PLANT REGULARLY WHEN THE FIREWORKS PLANT IS NOT IN OPERATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 20(b), 22(a) through (d), 23(a), and, as it related to visitors wearing conductive footwear, § 21(2).

%In subsection (a)(2) of this section, the reference to the "maximum" amount is substituted for the former reference to the "total" amount for clarity.

Also in subsection (a)(2) of this section, the reference to explosive composition or pyrotechnic composition "kept" is substituted for the former reference to explosive composition or pyrotechnic composition "permitted" for clarity.

Also in subsection (a)(2) of this section, the reference to "[b]y regulation" is substituted for the former reference to being "promulgated" for clarity.

In the introductory language of subsection (a)(3) of this section, the reference to a "licensee" is added to clarify who has the responsibility for posting the limits and complying with those limits.

In subsection (a)(3)(ii) of this section, the requirement to "comply with" limits is substituted for the former requirement that the limits be "adhered to" for clarity.

In subsections (b)(1) and (2), (c), (d), and (e)(1) and (2) of this section, the references to a "licensee" are added to clarify who is responsible for compliance.

In subsection (b)(2) of this section, the phrase "the floor is cleaned immediately and that the powder or materials are removed immediately" is substituted for the former reference to "explosive materials ... [being] immediately cleaned up and removed" for clarity.

In subsection (c)(3)(ii) of this section, the reference to a "landfill system" is substituted for the former obsolete reference to a "public dump" for clarity and in conformity with EN § 9-204.2.

In the introductory language of subsection (d) of this section, the former reference to meeting Fire Prevention Code "requirements" is deleted as included in the reference to meeting the Fire Prevention "Code" for brevity.

In subsection (d)(1) of this section, the reference to fire extinguishers being "kept" is substituted for the former reference to fire extinguishers being "located" for clarity.

Also in subsection (d)(1) of this section, the reference to "each" building is added for clarity.

In the introductory language of subsection (e)(1) of this section, the reference to an individual who has "signed into a log and has stated in writing" is substituted for the former reference to an individual who has "signed in, stating" for clarity.

In subsection (e)(2)(i) of this section, the reference to "the log of visitors to the fireworks plant" is substituted for the former reference to "[a] record of

these visits" for clarity.

In subsection (e)(2)(ii) of this section, the reference to "[a] licensee ... mak[ing] the log available for inspection" is substituted for the former reference to a record being "subject to inspection" for clarity and to clarify who is responsible for compliance.

In subsection (f)(1) and (2) of this section, the references to "security guard" are substituted for the former obsolete references to "watchman" for clarity.

Defined terms: "Explosive composition" § 10-101

"Fireworks plant" § 10-101

"Pyrotechnic composition" § 10-101

"State" § 1-101

10-208. TESTING OF FIREWORKS.

(A) IN GENERAL.

A LICENSEE MAY TEST FIREWORKS OR THEIR COMPONENTS ONLY IN AN AREA THAT IS:

(1) SET ASIDE FOR THAT PURPOSE; AND

(2) LOCATED AT A SAFE DISTANCE FROM ANY FIREWORKS PLANT BUILDING OR OTHER STRUCTURE, CONSIDERING THE NATURE OF THE MATERIALS BEING TESTED.

(B) EXPERIMENTAL TESTING.

A LICENSEE MAY EXPERIMENT WITH FIREWORKS, PYROTECHNICS, OR THEIR COMPONENTS ONLY AS AUTHORIZED BY THE STATE FIRE MARSHAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 22(e) and (f).

In subsection (a) of this section, the reference to a "licensee" is added to clarify who is responsible for compliance.

Also in subsection (a) of this section, the reference to testing "only" in the specified areas is added for clarity.

In subsection (b) of this section, the reference to a "licensee" is substituted for the former reference to a "licensed fireworks manufacturer" for consistency within this subtitle.

Defined terms: "Fireworks" § 10-101

"Fireworks plant" § 10-101

10-209. SAFETY REQUIREMENTS FOR PERSONNEL.

(A) PLANT SAFETY OFFICER; EMPLOYEE SAFETY INSTRUCTION.

(1) THE LICENSEE SHALL DESIGNATE AN EMPLOYEE IN EACH FIREWORKS PLANT AS SAFETY OFFICER.

(2) WHEN AN EMPLOYEE OF A FIREWORKS PLANT BEGINS EMPLOYMENT IN THE FIREWORKS PLANT AND AT LEAST ANNUALLY THEREAFTER, THE SAFETY OFFICER SHALL INSTRUCT THE EMPLOYEE FORMALLY ABOUT:

(I) THE PROVISIONS OF THIS SUBTITLE;

(II) REGULATIONS ADOPTED BY THE STATE FIRE PREVENTION COMMISSION;

(III) PROPER METHODS AND PROCEDURES IN FIREWORKS PLANTS;

(IV) SAFETY REQUIREMENTS AND PROCEDURES FOR HANDLING EXPLOSIVES AND FIREWORKS; AND

(V) OTHER SUBJECTS THAT THE STATE FIRE PREVENTION COMMISSION REQUIRES.

(3) AFTER RECEIVING EACH COURSE OF INSTRUCTION, THE EMPLOYEE SHALL SIGN A STATEMENT THAT THE EMPLOYEE:

(I) HAS RECEIVED INSTRUCTION IN THE SUBJECTS REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION; AND

(II) UNDERSTANDS THE REQUIREMENTS FOR SAFE PRACTICES.

(4) THE STATEMENT REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION SHALL BE:

(I) FILED IN THE PERSONNEL RECORDS OF THE FIREWORKS PLANT; AND

(II) MADE AVAILABLE FOR INSPECTION BY THE STATE FIRE MARSHAL.

(B) MAXIMUM NUMBER OF EMPLOYEES AND OTHERS.

A LICENSEE SHALL POST CONSPICUOUSLY IN EACH BUILDING SIGNS STATING THE MAXIMUM NUMBER OF WORKERS AND VISITORS WHO MAY BE PRESENT IN THE BUILDING AT ANY ONE TIME.

(C) CLOTHING AND EQUIPMENT.

(1) A LICENSEE SHALL:

(I) PROVIDE COTTON WORKING UNIFORMS AND CONDUCTIVE SHOES TO EACH INDIVIDUAL WORKING IN A MIXING BUILDING AND PRESS BUILDING IN A FIREWORKS PLANT;

(II) PROVIDE FACILITIES FOR:

1. INDIVIDUALS TO CHANGE INTO AND OUT OF UNIFORMS; AND

2. THE SAFEKEEPING OF CLOTHING;

(III) WASH UNIFORMS FREQUENTLY TO PREVENT THE ACCUMULATION OF EXPLOSIVE COMPOSITION ON THE UNIFORMS; AND

(IV) PROVIDE FOR EMPLOYEES WASHING AND SHOWERING FACILITIES DESIGNATED BY THE SECRETARY OF HEALTH AND MENTAL HYGIENE.

(2) (I) EACH INDIVIDUAL WORKING IN A MIXING BUILDING AND PRESS BUILDING IN A FIREWORKS PLANT SHALL WEAR THE COTTON UNIFORMS AND CONDUCTIVE SHOES THAT THE LICENSEE PROVIDES.

(II) EACH INDIVIDUAL WORKING IN A PRODUCTION BUILDING IN A FIREWORKS PLANT SHALL WEAR THE TYPE OF EYE PROTECTION DESIGNATED BY THE SECRETARY OF HEALTH AND MENTAL HYGIENE.

(III) EACH INDIVIDUAL WORKING IN A MIXING AREA IN A FIREWORKS PLANT SHALL WEAR THE TYPE OF RESPIRATOR DESIGNATED BY THE SECRETARY OF HEALTH AND MENTAL HYGIENE.

(3) AN INDIVIDUAL MAY NOT WEAR THE UNIFORM OUTSIDE THE FIREWORKS PLANT.

(D) USE OF TOBACCO PRODUCTS.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON MAY NOT SMOKE OR CARRY A LIGHTED PIPE, CIGARETTE, CIGAR, MATCH, LIGHTER, OR OPEN FLAME INSIDE THE FENCE OF A FIREWORKS PLANT.

(2) A LICENSEE MAY ALLOW SMOKING IN:

(I) AN OFFICE BUILDING; OR

(II) ANOTHER BUILDING IF:

1. THE BUILDING IS USED EXCLUSIVELY AS A LUNCHROOM OR FOR REST ROOMS; AND

2. THE PRESENCE OF FIREWORKS OR ANY EXPLOSIVE COMPOSITION IN THE BUILDING IS PROHIBITED.

(3) THE LICENSEE SHALL MARK LOCATIONS IN WHICH SMOKING IS AUTHORIZED.

(4) SMOKING LOCATIONS SHALL CONTAIN:

(I) SUITABLE RECEPTACLES FOR CIGARETTE AND CIGAR BUTTS AND PIPE HEELS; AND

(II) AT LEAST ONE SERVICEABLE FIRE EXTINGUISHER OF A TYPE THAT IS ACCEPTABLE TO THE STATE FIRE MARSHAL.

(5) A PERSON WHOSE CLOTHING IS SO CONTAMINATED WITH EXPLOSIVES OR OTHER DANGEROUS MATERIALS AS TO POSSIBLY ENDANGER THE SAFETY OF OTHER FIREWORKS PLANT PERSONNEL MAY NOT BE ALLOWED IN A SMOKING LOCATION.

(E) INFLAMMATORY MATERIALS AND TOOLS.

(1) A PERSON MAY NOT BRING INTO A FINISHING AND ASSEMBLING BUILDING, PRESS BUILDING, MIXING BUILDING, OR STORAGE BUILDING:

(I) A MATCH, CIGARETTE LIGHTER, OR OTHER FLAME-PRODUCING DEVICE; OR

(II) A KEY, KNIFE, COIN, OR OTHER PERSONAL ARTICLE MADE OF METAL.

(2) A PERSON SHALL ONLY USE PROPERLY MAINTAINED AND NONFERROUS SAFETY HAND TOOLS IN ANY AREA OF A FIREWORKS PLANT IN WHICH THERE IS A DANGER THAT MATERIALS MAY BE IGNITED BY SPARKS.

(F) USE OF LIQUOR AND NARCOTICS.

A PERSON MAY NOT:

(1) ENTER OR ATTEMPT TO ENTER A FIREWORKS PLANT WHILE:

(I) POSSESSING LIQUOR OR NARCOTICS; OR

(II) UNDER THE INFLUENCE OF LIQUOR OR NARCOTICS; OR

(2) CONSUME INTOXICANTS OR NARCOTICS WHILE IN A FIREWORKS PLANT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 23(b) through (g), 21(3), and, as it related to employees wearing conductive footwear, § 21(2).

In subsections (a)(1), (b), and (c)(1) and (2)(i) and the introductory language of subsection (d)(2) and (3) of this section, the references to a "licensee" are added to clarify who is responsible for compliance.

%In the introductory language of subsection (a)(3) of this section, the reference to "each course" of instruction is substituted for the former reference to each "time" of instruction for clarity.

In subsection (a)(4)(ii) of this section, the reference to the statement being "made available for" inspection is substituted for the former reference to the statement being "subject to" inspection for clarity.

In subsection (b) of this section, the reference to signs "stating" is substituted for the former reference to signs "indicating" for clarity.

Also in subsection (b) of this section, the reference to "visitors" is substituted for the former obsolete reference to "transients" for clarity.

In subsections (c)(1) and (2) and (e)(1) of this section, the defined term "press building" is substituted for the former references to "pressing building" for clarity and consistency.

In subsection (c)(1)(i) and (2) of this section, the references to buildings or areas "in a fireworks plant" are added for clarity.

In subsection (c)(1), (2), and (3) of this section, the references to an "individual" are substituted for the former references to "persons working at or supervising the operations" and "operating personnel" for brevity and clarity.

In subsection (c)(1)(ii)1 of this section, the former reference to facilities for "chang[ing] into and out of uniforms" is substituted for the former reference to facilities for "changing into these uniforms" for clarity.

In subsection (c)(1)(iii) of this section, the defined term "explosive composition" is substituted for the former reference to "explosive compounds" for clarity and consistency.

Also in subsection (c)(1)(iii) of this section, the reference to accumulations "on the uniforms" is added for clarity.

In subsection (d)(4)(ii) of this section, the reference to a fire extinguisher of a type that is acceptable "to the State Fire Marshal" is added for clarity.

In subsection (d)(5) of this section, the statement that "[a] person ... may not be allowed in" is substituted for the former statement that "[p]ersons ... shall not be permitted in" for clarity.

In subsection (e)(1) of this section, the reference to "[a] person may not bring" is substituted for the former phrase "shall not be brought" for clarity.

In subsection (e)(2) of this section, the reference to "[a] person shall only use" nonferrous safety tools is substituted for the former reference that

nonferrous safety tools "shall be used" for clarity.

In subsection (f) of this section, the former reference to an "employee" is deleted in light of the comprehensive reference to a "person" for brevity.

In subsection (f)(2) of this section, the reference to "consum[ing]" is substituted for the former reference to "partak[ing]" for clarity.

Defined terms: "Explosive composition" § 10-101

"Finishing and assembling building" § 10-101

"Fireworks" § 10-101

"Fireworks plant" § 10-101

"Mixing building" § 10-101

"Person" § 1-101

"Press building" § 10-101

"Storage building" § 10-101

10-210. PROHIBITED ACTS.

(A) UNLICENSED MANUFACTURING OR PROCESSING.

(1) A PERSON MAY NOT MANUFACTURE OR PROCESS FIREWORKS IN THE STATE EXCEPT IN A FIREWORKS PLANT OF A LICENSEE.

(2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING $1,000 OR BOTH.

(B) UNAUTHORIZED MANUFACTURE OR STORAGE OF FIREWORKS.

(1) UNLESS OTHERWISE AUTHORIZED BY LAW, A PERSON UNDER THIS SUBTITLE MAY NOT MANUFACTURE:

(I) 1.3 G FIREWORKS OTHER THAN ROCKETS AND ROMAN CANDLES;

(II) FIREWORKS COMMONLY KNOWN AS "FLASH AND SOUND";

(III) PRODUCTS UTILIZING POTASSIUM CHLORATE; OR

(IV) EXPLOSIVES.

(2) EXCEPT AS OTHERWISE AUTHORIZED UNDER THIS SUBTITLE OR TITLE 11, SUBTITLE 1 OF THIS ARTICLE, A PERSON MAY NOT STORE 1.3 G FIREWORKS OTHER THAN ROCKETS OR ROMAN CANDLES.

(3) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING $1,000 OR BOTH.

(C) UNLICENSED OPERATION OF A FIREWORKS PLANT.

(1) A PERSON WHO HAS BEEN DENIED A LICENSE TO OPERATE A FIREWORKS PLANT IN THE STATE OR WHOSE LICENSE TO OPERATE A FIREWORKS PLANT IN THE STATE HAS BEEN SUSPENDED OR REVOKED MAY NOT OPERATE THAT FIREWORKS PLANT IN THE STATE.

(2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 2 YEARS OR A FINE NOT EXCEEDING $2,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 19(d), (h), and the second, third, and fifth sentences of (e).

In subsection (a)(1) of this section, the reference to "a fireworks plant of a licensee" is substituted for the former reference to "a licensed fireworks plant" for clarity, because the owner or operator of the plant, and not the plant itself, is licensed. Similarly, in subsection (c)(1) of this section, the reference to "[a] person ... whose license to operate a fireworks plant" is substituted for the former reference to "[a]ny person operating a fireworks plant ... for which a license".

In subsection (b)(1)(i) and (2) of this section, the reference to the defined term "1.3 G fireworks" is substituted for the former reference to "1.3 G display fireworks" for clarity and consistency.

Defined terms: "Fireworks" § 10-101

"Fireworks plant" § 10-101

"1.3 G fireworks" § 10-101

"Person" § 1-101

TITLE 11. EXPLOSIVES.

SUBTITLE 1. LICENSES TO ENGAGE IN BUSINESS AS MANUFACTURER OR DEALER OR TO POSSESS EXPLOSIVES.

11-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the introductory language of former Art. 38A, § 26.

It is revised in the standard introductory language used for a definition section.

(B) DEALER.

(1) "DEALER" MEANS A PERSON WHO IS ENGAGED IN THE BUSINESS OF BUYING OR SELLING EXPLOSIVES.

(2) "DEALER" DOES NOT INCLUDE A MANUFACTURER.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 38A, § 26(4).

Defined terms: "Explosives" § 11-101

"Manufacturer" § 11-101

"Person" § 1-101

(C) EXPLOSIVES.

(1) "EXPLOSIVES" MEANS GUNPOWDER, POWDERS FOR BLASTING, HIGH EXPLOSIVES, BLASTING MATERIALS, FUSES OTHER THAN ELECTRIC CIRCUIT BREAKERS, DETONATORS AND OTHER DETONATING AGENTS, SMOKELESS POWDER, AND ANY CHEMICAL COMPOUND OR MECHANICAL MIXTURE THAT CONTAINS OXIDIZING AND COMBUSTIBLE UNITS OR OTHER INGREDIENTS IN SUCH PROPORTIONS, QUANTITIES, OR PACKING THAT IGNITION BY FIRE, FRICTION, CONCUSSION, PERCUSSION, OR DETONATION OF ANY PART OF THE COMPOUND OR MIXTURE MAY AND IS INTENDED TO CAUSE AN EXPLOSION.

(2) "EXPLOSIVES" INCLUDES BOMBS AND DESTRUCTIVE DEVICES DESIGNED TO OPERATE BY CHEMICAL, MECHANICAL, OR EXPLOSIVE ACTION.

(3) "EXPLOSIVES" DOES NOT INCLUDE FIXED AMMUNITION FOR SMALL ARMS, SMALL ARMS AMMUNITION PRIMERS, SMALL ARMS PERCUSSION CAPS, SAFETY AND PYROTECHNIC FUSES, QUILLS, QUICK AND SLOW MATCHES, FRICTION PRIMERS, FIREWORKS, OR COMMON MATCHES WHEN USED IN THEIR ORIGINAL CONFIGURATION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 38A, § 26(1).

In paragraph (1) of this subsection, a comma is added after "high explosives" to clarify that "high explosives" does not modify "blasting materials".

(D) EXPLOSIVES FOR USE IN FIREARMS.

"EXPLOSIVES FOR USE IN FIREARMS" MEANS:

(1) SMOKELESS POWDER FOR LOADING OR RELOADING SMALL ARMS AMMUNITION; OR

(2) BLACK POWDER FOR LOADING OR RELOADING SMALL ARMS AMMUNITION, ANTIQUE ARMS, OR REPLICAS OF ANTIQUE ARMS.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 26(6).

%The only changes are in style.

(E) LOCAL LICENSING AUTHORITY.

"LOCAL LICENSING AUTHORITY" MEANS THE SHERIFF OR CHIEF OF POLICE OF THE COUNTY OR COMMUNITY WHERE THE APPLICANT FOR A LICENSE RESIDES OR HAS A REGULAR PLACE OF BUSINESS.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 26(5).

The reference to "a regular place of business" is added to conform with the requirement in former Art. 38A, § 28(c) that an application for a license to possess explosives be made to the local licensing authority where the applicant resides or has a regular place of business.

Defined term: "County" § 1-101

(F) MANUFACTURER.

"MANUFACTURER" MEANS A PERSON WHO MANUFACTURES OR OTHERWISE PRODUCES EXPLOSIVES.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 26(3).

The only changes are in style.

Defined terms: "Explosives" § 11-101

"Person" § 1-101

REVISOR'S NOTE TO SECTION: Former Art. 38A, § 26(2), which defined "persons" to include a natural person, partnership, association, or corporation, is deleted in light of the definition of "person" in § 1-101 of this article to the same effect.

11-102. SCOPE OF SUBTITLE.

(A) TRANSPORTATION OF EXPLOSIVES.

THIS SUBTITLE DOES NOT APPLY TO EXPLOSIVES WHILE BEING TRANSPORTED ON VESSELS, VEHICLES, OR RAILROAD CARS, OR WHILE BEING HELD FOR DELIVERY, IF THE TRANSPORTATION OR DELIVERY IS SUBJECT TO AND CONFORMS WITH REGULATIONS ADOPTED BY THE UNITED STATES DEPARTMENT OF TRANSPORTATION OR UNITED STATES COAST GUARD.

(B) SAFETY SIGNALS.

THIS SUBTITLE DOES NOT APPLY TO THE RECEIPT, POSSESSION, AND USE OF SIGNALS REQUIRED FOR THE SAFE OPERATION OF VESSELS, MOTOR VEHICLES, RAILROAD CARS, OR AIRCRAFT BY THEIR OPERATORS.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 38A, § 35.

Defined term: "Explosives" § 11-101

11-103. REGULATIONS.

THE STATE FIRE PREVENTION COMMISSION MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 38A, § 33.

The former reference to "rules" is deleted as included in the reference to "regulations". *See* General Revisor's Note to article.

The former reference to regulations that the Commission "may deem necessary and proper" is deleted as implicit in the authority to adopt regulations to carry out this subtitle.

11-104. POWERS OF STATE FIRE MARSHAL.

(A) INVESTIGATIONS OF EXPLOSIONS AND FIRES -- IN GENERAL.

(1) THE STATE FIRE MARSHAL MAY INVESTIGATE AN EXPLOSION OR FIRE THAT OCCURS IN ANY PLACE WHERE EXPLOSIVES OR INGREDIENTS FOR EXPLOSIVES ARE MANUFACTURED, TRANSPORTED, STORED, OR USED.

(2) THE STATE FIRE MARSHAL MAY INVESTIGATE AN EXPLOSION, ACCIDENT, OR FIRE IF THERE IS REASON TO BELIEVE EXPLOSIVES WERE INVOLVED.

(B) SAME -- REPORT OF FINDINGS.

THE STATE FIRE MARSHAL MAY REPORT THE FINDINGS OF AN INVESTIGATION UNDER SUBSECTION (A) OF THIS SECTION TO FEDERAL OR STATE AUTHORITIES:

(1) IF THE EXPLOSION OR FIRE WAS A WILLFUL ACT, FOR CRIMINAL PROSECUTION OF THE PERSON CAUSING THE WILLFUL ACT; OR

(2) IF THE EXPLOSION OR FIRE WAS ACCIDENTAL, SO THAT PRECAUTIONS MAY BE TAKEN TO PREVENT SIMILAR ACCIDENTS FROM OCCURRING.

(C) SAME -- AUTHORITY OF EMPLOYEES TO ENTER PREMISES.

(1) IN AN INVESTIGATION UNDER SUBSECTION (A) OF THIS SECTION, THE EMPLOYEES UNDER THE DIRECTION OF THE STATE FIRE MARSHAL MAY ENTER THE PREMISES WHERE THE EXPLOSION OR FIRE HAS OCCURRED TO:

(I) EXAMINE DOCUMENTS; OR

(II) ADMINISTER OATHS TO AND EXAMINE WITNESSES AND OTHER PERSONS CONCERNED.

(2) THE OWNER, LESSEE, OR OPERATOR OF THE PREMISES WHERE THE EXPLOSION OR FIRE HAS OCCURRED, OR AN AGENT OF THESE PERSONS, MAY NOT HINDER THE ACTIONS OF AN EMPLOYEE OF THE STATE FIRE MARSHAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(D) MISCELLANEOUS FEES.

THE STATE FIRE MARSHAL MAY COLLECT A FEE OF $20 FOR:

(1) INSPECTION OF THE VEHICLE OF AN EXPLOSIVE HAULER; AND

(2) A BLASTER'S CERTIFICATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 32(d) and the third through sixth sentences of § 33.

In subsection (a)(1) of this section, the reference to ingredients "for explosives" is added to state explicitly that which was only implied in the former law.

Also in subsection (a)(1) of this section, the former specific references to "mines", "quarries", "factories", "warehouses", "magazines", "houses", "cars", "boats", and "conveyances" are deleted as unnecessary in light of the general reference to "any place" where explosives or ingredients for explosives are manufactured, transported, stored, or used.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that subsection (a)(1) of this section does not explicitly authorize entry into a place where an explosion or fire occurs.

In the introductory language of subsection (b) of this section, the former phrase "in his discretion" is deleted as implicit. Similarly, the former phrase "in such manner as he may deem fit" is deleted as implicit in the authority to report.

Also in the introductory language of subsection (b) of this section, the former word "proper", which modified "federal or State authorities", is deleted as surplusage.

In subsection (b)(1) and (2) of this section, the reference to a "fire" is added for consistency with subsections (a) and (c) of this section.

In subsection (b)(1) of this section, the phrase "for criminal prosecution" is substituted for the former phrase "may be proceeded against and brought to justice" for clarity and brevity.

%In the introductory language of subsection (c)(1) of this section, the former reference to "prosecution" is deleted as implicit in the reference to "investigation".

In subsection (c)(1)(i) of this section, the general reference to "documents" is substituted for the former specific reference to "plans, books and papers" for brevity.

Subsection (c)(2) of this section is revised as a prohibition to state explicitly that which only was implied in the former law.

In subsection (c)(2) of this section, the former word "let" is deleted as included in the reference to "hinder".

Defined terms: "Explosives" § 11-101

"Person" § 1-101

11-105. LICENSE REQUIRED; EXCEPTIONS.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A PERSON SHALL OBTAIN A LICENSE ISSUED UNDER THIS SUBTITLE BEFORE THE PERSON ENGAGES IN BUSINESS AS A MANUFACTURER OR DEALER, POSSESSES EXPLOSIVES OTHER THAN EXPLOSIVES FOR USE IN FIREARMS, OR POSSESSES OR STORES EXPLOSIVES FOR USE IN FIREARMS IN THE STATE.

(B) LICENSE TO ENGAGE IN BUSINESS AS DEALER REQUIRED.

(1) A PERSON SHALL OBTAIN A LICENSE TO ENGAGE IN BUSINESS AS A DEALER UNDER THIS SUBTITLE BEFORE THE PERSON ENGAGES IN THE BUSINESS OF LOADING OR RELOADING SMALL ARMS AMMUNITION IN THE STATE.

(2) THE OWNER OR OPERATOR OF A MINE, QUARRY, OR OTHER OPERATION OR BUSINESS THAT USES EXPLOSIVES, OR A CONTRACTOR WHO PERFORMS WORK THAT USES EXPLOSIVES, SHALL OBTAIN A LICENSE TO ENGAGE IN BUSINESS AS A DEALER UNDER THIS SUBTITLE.

(C) EXCEPTIONS -- ARMED FORCES AND OTHERS HANDLING EXPLOSIVES.

THIS SECTION DOES NOT APPLY TO THE ARMED FORCES OF THE UNITED STATES, THE NATIONAL GUARD, THE STATE GUARD, OR OFFICERS OR EMPLOYEES OF THE UNITED STATES, THE STATE, OR A LOCAL SUBDIVISION OF THE STATE WHO ARE AUTHORIZED TO HANDLE EXPLOSIVES IN THE PERFORMANCE OF THEIR DUTIES.

(D) SAME -- POSSESSION OF EXPLOSIVES FOR USE IN FIREARMS.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON NEED NOT OBTAIN A LICENSE TO POSSESS OR STORE UP TO 5 POUNDS OF SMOKELESS POWDER FOR THE LOADING OR RELOADING OF SMALL ARMS AMMUNITION, AND UP

TO 5 POUNDS OF BLACK POWDER FOR THE LOADING OR RELOADING OF SMALL ARMS AMMUNITION OR FOR USE IN THE LOADING OF ANTIQUE ARMS OR REPLICAS OF ANTIQUE ARMS, IF THE SMOKELESS POWDER AND BLACK POWDER ARE STORED IN THEIR ORIGINAL SHIPPING CONTAINERS AND ARE POSSESSED ONLY FOR PERSONAL USE IN FIREARMS.

(2) A PERSON MAY NOT POSSESS OR STORE EXPLOSIVES FOR USE IN FIREARMS IN ANY QUANTITY IN MULTIFAMILY DWELLINGS, APARTMENTS, DORMITORIES, HOTELS, SCHOOLS, OTHER PUBLIC BUILDINGS, OR BUILDINGS OR STRUCTURES OPEN FOR PUBLIC USE.

(3) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, THE STATE FIRE MARSHAL MAY ISSUE A PERMIT TO ALLOW TEMPORARY POSSESSION OF EXPLOSIVES FOR USE IN FIREARMS IN A BUILDING OR STRUCTURE OPEN FOR PUBLIC USE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 27, 27A, 27B, the first clause of the first sentence of § 29, and the first sentence of § 35.

Subsection (a) of this section is rephrased in standard language to state affirmatively that a person must be licensed to engage in business as a manufacturer or dealer, to possess explosives other than explosives for use in firearms, or to possess or store explosives for use in firearms in the State.

In subsection (a) of this section, the defined term "explosives for use in firearms" is substituted for the former reference to "smokeless powder or black powder for use in firearms" for clarity and to use the defined term.

Also in subsection (a) of this section, the former reference to "a quantity ... in excess of those quantities set forth in subsection (a) of this section" is deleted. Except as provided in subsection (d) of this section, a person must obtain a license to possess or store explosives for use in firearms.

In subsection (d)(1) of this section, the former phrase "confined strictly for use" in firearms is deleted as redundant. Subsection (d)(1) of this section is limited solely to personal use of these explosives.

Defined terms: "Dealer" § 11-101

"Explosives" § 11-101

"Explosives for use in firearms" § 11-101

"Manufacturer" § 11-101

"Person" § 1-101

11-106. APPLICATIONS FOR LICENSES.

(A) IN GENERAL.

(1) AN APPLICANT FOR A LICENSE TO ENGAGE IN BUSINESS AS A MANUFACTURER OR DEALER, TO POSSESS EXPLOSIVES OTHER THAN EXPLOSIVES FOR USE IN FIREARMS, OR TO POSSESS EXPLOSIVES FOR USE IN FIREARMS SHALL SUBMIT AN APPLICATION ON THE FORM THAT THE STATE FIRE MARSHAL PROVIDES.

(2) THE APPLICATION SHALL INCLUDE THE FOLLOWING INFORMATION:

(I) THE NAME AND ADDRESS OF THE APPLICANT;

(II) THE REASON FOR DESIRING THE REQUESTED LICENSE;

(III) IF THE APPLICANT IS AN INDIVIDUAL, THE CITIZENSHIP OF THE INDIVIDUAL; AND

(IV) IF THE APPLICANT IS A PARTNERSHIP, ASSOCIATION, OR CORPORATION, THE NAMES, ADDRESSES, AND CITIZENSHIP OF THE PARTNERS OF THE PARTNERSHIP OR OFFICERS AND DIRECTORS OF THE ASSOCIATION OR CORPORATION.

(B) PROOF OF LIABILITY INSURANCE.

AN APPLICANT FOR A LICENSE TO ENGAGE IN BUSINESS AS A MANUFACTURER OR DEALER OR TO POSSESS EXPLOSIVES OTHER THAN EXPLOSIVES FOR USE IN FIREARMS SHALL PROVIDE PROOF OF LIABILITY INSURANCE IN THE AMOUNT THAT THE STATE FIRE PREVENTION COMMISSION SETS.

(C) ADDITIONAL INFORMATION FOR LICENSE TO POSSESS EXPLOSIVES.

IN ADDITION, AN APPLICANT FOR A LICENSE TO POSSESS EXPLOSIVES OTHER THAN EXPLOSIVES FOR USE IN FIREARMS SHALL INCLUDE THE FOLLOWING INFORMATION:

(1) THE PLACE WHERE THE EXPLOSIVES WILL BE STORED;

(2) THE PLACE WHERE THE EXPLOSIVES WILL BE USED; AND

(3) THE SPECIFIC PURPOSE FOR USING THE EXPLOSIVES.

(D) WHERE TO SUBMIT APPLICATION.

(1) AN APPLICANT FOR A LICENSE TO POSSESS EXPLOSIVES OTHER THAN EXPLOSIVES FOR USE IN FIREARMS SHALL SUBMIT THE APPLICATION:

(I) TO THE LOCAL LICENSING AUTHORITY; OR

(II) IF THE APPLICANT IS A NONRESIDENT OF THE STATE AND HAS NO REGULAR PLACE OF BUSINESS IN THE STATE, TO THE STATE FIRE MARSHAL.

(2) ALL OTHER APPLICANTS FOR LICENSES SHALL SUBMIT THE APPLICATION TO THE STATE FIRE MARSHAL.

(E) FEES.

(1) EACH APPLICATION FOR A LICENSE SHALL BE ACCOMPANIED BY THE FOLLOWING FEE:

(I) LICENSE TO ENGAGE IN BUSINESS AS A MANUFACTURER OF:

1. 0-499 POUNDS OF EXPLOSIVES.....$50

2. 500-4,999 POUNDS OF EXPLOSIVES.....$100

3. 5,000-9,999 POUNDS OF EXPLOSIVES.....$250

4. 10,000 POUNDS OR MORE OF EXPLOSIVES .$500

(II) LICENSE TO ENGAGE IN BUSINESS AS A DEALER FOR:

1. RETAIL ONLY.....$25

2. USERS $50

3. WHOLESALE AND RETAIL.....$100

(III) STORAGE LICENSE FOR:

1. CLASS A - 500 POUNDS OR MORE OF EXPLOSIVES $50

2. CLASS B - 499 POUNDS OR LESS OF EXPLOSIVES $25

(2) IF AN APPLICATION IS DENIED, THE APPLICATION FEE SHALL BE RETURNED TO THE APPLICANT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 32(c) and the first sentences of § 28(a), (b), (c), and (d).

In subsection (d)(1)(i) of this section, the defined term "local licensing authority" is substituted for the former reference to the "sheriff of the county, or chief of police of the county or of the community in which the applicant resides or has his regular place of business" for brevity and to use the defined term.

Also in subsection (d)(1)(i) of this section, the former phrase "in writing" is deleted as implicit.

In subsection (d)(1)(ii) of this section, the reference to a nonresident "of the State" is added to state explicitly that which formerly was only implied.

Defined terms: "Dealer" § 11-101

"Explosives" § 11-101

"Explosives for use in firearms" § 11-101

"Local licensing authority" § 11-101

"Manufacturer" § 11-101

11-107. ISSUANCE OF LICENSE.

(A) IN GENERAL.

THE STATE FIRE MARSHAL SHALL ISSUE A LICENSE TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.

(B) DENIAL OF APPLICATION -- GROUNDS.

SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE STATE FIRE MARSHAL SHALL DENY AN APPLICATION FOR A LICENSE IF THE STATE FIRE MARSHAL FINDS THAT:

(1) THE APPLICANT, OR AN OFFICER, AGENT, OR EMPLOYEE OF THE APPLICANT WHO WILL BE HANDLING EXPLOSIVES, IS NOT SUFFICIENTLY EXPERIENCED AND WILL NOT BE SUPERVISED SATISFACTORILY IN MANUFACTURING, DEALING IN, OR HANDLING OF EXPLOSIVES, AS APPLICABLE;

(2) THE APPLICANT LACKS SUITABLE FACILITIES FOR MANUFACTURING, DEALING IN, OR HANDLING EXPLOSIVES;

(3) THE APPLICANT, OR AN OFFICER, AGENT, OR EMPLOYEE OF THE APPLICANT WHO WILL BE HANDLING EXPLOSIVES, HAS BEEN CONVICTED OF A FELONY OR CRIME INVOLVING VIOLENCE;

(4) THE APPLICANT, OR AN OFFICER, AGENT, OR EMPLOYEE OF THE APPLICANT WHO WILL BE HANDLING EXPLOSIVES, IS DISLOYAL TO THE UNITED STATES;

(5) THE APPLICANT, OR AN OFFICER, AGENT, OR EMPLOYEE OF THE APPLICANT WHO WILL BE HANDLING EXPLOSIVES, WILL USE THE EXPLOSIVES FOR AN ILLEGAL PURPOSE;

(6) THE APPLICATION CONTAINS FALSE INFORMATION; OR

(7) THE APPLICATION FAILS TO PROVIDE REQUIRED INFORMATION.

(C) SAME -- EXCEPTIONS.

(1) AN APPLICANT FOR A LICENSE TO POSSESS EXPLOSIVES FOR USE IN FIREARMS NEED NOT HAVE SUFFICIENT EXPERIENCE IN HANDLING EXPLOSIVES AND BE SUPERVISED SATISFACTORILY IN HANDLING EXPLOSIVES.

(2) AN APPLICANT FOR A LICENSE TO POSSESS EXPLOSIVES OTHER THAN EXPLOSIVES FOR USE IN FIREARMS TO BE USED FOR AGRICULTURAL PURPOSES ON THE PREMISES OF THE APPLICANT NEED NOT:

(I) HAVE SUFFICIENT EXPERIENCE IN HANDLING EXPLOSIVES;

(II) BE SUPERVISED SATISFACTORILY IN HANDLING EXPLOSIVES; OR

(III) HAVE SUITABLE FACILITIES FOR HANDLING EXPLOSIVES.

(D) CERTIFICATION OF COMPLIANCE WITH WORKERS' COMPENSATION ACT.

BEFORE A LICENSE MAY BE ISSUED UNDER THIS SUBTITLE TO AN EMPLOYER TO ENGAGE IN AN ACTIVITY IN WHICH THE EMPLOYER MAY EMPLOY A COVERED EMPLOYEE, AS DEFINED IN § 9-101 OF THE LABOR AND EMPLOYMENT ARTICLE, THE EMPLOYER SHALL FILE WITH THE STATE FIRE MARSHAL:

(1) A CERTIFICATE OF COMPLIANCE WITH THE MARYLAND WORKERS' COMPENSATION ACT; OR

(2) THE NUMBER OF A WORKERS' COMPENSATION INSURANCE POLICY OR BINDER.

(E) NOTICE OF ISSUANCE.

ON ISSUANCE OF A LICENSE UNDER THIS SECTION, THE STATE FIRE MARSHAL SHALL NOTIFY:

(1) THE FIRE CHIEF OR FIRE ADMINISTRATOR IN THE COUNTY WHERE THE LICENSE WAS ISSUED; OR

(2) IF THE COUNTY DOES NOT HAVE A COUNTY FIRE CHIEF OR FIRE ADMINISTRATOR, THE LOCAL 9-1-1 CENTER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 29A and 28(e) and the second sentences of (a), (b), (c), and (d).

In subsection (b)(1) of this section, the phrase "as applicable" is added to clarify that a person would be disqualified from obtaining a license only for the reasons relating to that particular license.

Subsection (c)(1) of this section is added to clarify what was implicit in the former law, *i.e.*, that an applicant to possess explosives for use in firearms need not have sufficient experience in handling explosives and be supervised satisfactorily in handling explosives.

In the introductory language of subsection (d) of this section, the former word "permit" is deleted as unnecessary. The only permit provided for in this subtitle is a permit to allow temporary possession of explosives for use in firearms in a building or structure open for public use. This is not an activity that normally involves an employer of individuals.

Also in the introductory language of subsection (d) of this section, the reference to this "subtitle" is substituted for the former reference to this

"article" to limit the scope of this provision to the explosives provisions, and not to all activities regulated by the State Fire Marshal under this article. The Public Safety Article Review Committee notes this substitution for the consideration of the General Assembly.

In subsection (e)(2) of this section, the reference to the "9-1-1" center is substituted for the former reference to the "911" center for consistency with terminology used in Title 1, Subtitle 3 of this article.

Also in subsection (e)(2) of this section, the former reference to notification "of the license issued" is deleted as redundant.

Defined terms: "County" § 1-101

"Explosives" § 11-101

"Explosives for use in firearms" § 11-101

"Local licensing authority" § 11-101

11-108. SCOPE OF LICENSE TO ENGAGE IN BUSINESS AS DEALER.

A LICENSE TO ENGAGE IN BUSINESS AS A DEALER AUTHORIZES THE LICENSEE TO STORE 1.4 G FIREWORKS AND 1.3 G DISPLAY FIREWORKS AT APPROVED LOCATIONS IN STORAGE BUILDINGS APPROVED BY THE STATE FIRE MARSHAL OR THE LOCAL AUTHORITY WITH JURISDICTION OVER LOCAL FIRE PREVENTION CODES.

REVISOR'S NOTE: This section is new language derived without substantive change from the fourth sentence of former Art. 38A, § 19(e), as it related to licensed explosives dealers.

Defined term: "Dealer" § 11-101

11-109. TERM OF LICENSE.

A LICENSE ISSUED UNDER THIS SUBTITLE EXPIRES ON THE FIRST ANNIVERSARY OF ITS EFFECTIVE DATE UNLESS SOONER REVOKED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 32(b).

11-110. EMPLOYEES OF BUSINESSES OR OPERATIONS THAT USE EXPLOSIVES.

(A) SALE OR ISSUANCE OF EXPLOSIVES TO EMPLOYEES.

THE OWNER OR OPERATOR OF A MINE, QUARRY, OR OTHER OPERATION OR BUSINESS THAT USES EXPLOSIVES, OR A CONTRACTOR WHO PERFORMS WORK THAT USES EXPLOSIVES, REQUIRED TO OBTAIN A LICENSE TO ENGAGE IN BUSINESS AS A DEALER UNDER THIS SUBTITLE:

(1) MAY ISSUE OR SELL TO EACH EMPLOYEE ONLY THE AMOUNT OF EXPLOSIVES AS IS REASONABLY REQUIRED BY THAT EMPLOYEE TO PERFORM THE EMPLOYEE'S DUTIES;

(2) SHALL ENSURE THAT ANY EXPLOSIVES ISSUED OR SOLD TO AN EMPLOYEE ARE NOT TAKEN BY THE EMPLOYEE TO A PLACE NOT NECESSARY FOR THE EMPLOYEE TO PERFORM THE EMPLOYEE'S DUTIES; AND

(3) SHALL ENSURE THAT ANY UNUSED EXPLOSIVES ARE RETURNED TO THE OWNER, OPERATOR, OR CONTRACTOR ON TERMINATION OF THE WORK FOR WHICH THE EXPLOSIVES WERE ISSUED OR SOLD TO THE EMPLOYEE.

(B) LICENSE NOT REQUIRED.

REGARDLESS OF WHETHER THE OWNER, OPERATOR, OR CONTRACTOR HAS OBTAINED A LICENSE TO ENGAGE IN BUSINESS AS A DEALER, AN EMPLOYEE OF THE OWNER, OPERATOR, OR CONTRACTOR NEED NOT OBTAIN A LICENSE TO POSSESS EXPLOSIVES OTHER THAN EXPLOSIVES FOR USE IN FIREARMS IN ORDER TO POSSESS EXPLOSIVES ISSUED OR SOLD TO THE EMPLOYEE BY THE OWNER, OPERATOR, OR CONTRACTOR.

REVISOR'S NOTE: This section is new language derived without substantive change from the second and third clauses of the first sentence and second clause of the second sentence of former Art. 38A, § 29.

In subsection (a)(1) of this section, the word "may" is substituted for the former phrase "shall be the duty" to indicate that this provision is a grant of authority to an owner, operator, or contractor, not a duty.

In subsection (a)(2) and (3) of this section, the word "ensure" is substituted for the former word "see" for clarity.

Defined terms: "Dealer" § 11-101

"Explosives" § 11-101

11-111. REVOCATIONS OF LICENSES.

A LICENSE ISSUED UNDER THIS SUBTITLE MAY BE REVOKED BY THE STATE FIRE MARSHAL FOR:

(1) A GROUND SPECIFIED UNDER § 11-107 OF THIS SUBTITLE FOR DENYING AN APPLICATION FOR A LICENSE; OR

(2) A VIOLATION OF REGULATIONS ADOPTED BY THE STATE FIRE PREVENTION COMMISSION TO REGULATE THE USE, HANDLING, AND STORAGE OF EXPLOSIVES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 32(a).

In the introductory language of this section, the reference to the "State Fire Marshal" is substituted for the former reference to the "official issuing the [license]" for specificity.

Defined term: "Explosives" § 11-101

11-112. RECORDS AND REPORTS OF MANUFACTURERS AND DEALERS.

(A) RECORDS.

(1) EACH MANUFACTURER AND EACH DEALER SHALL KEEP, FOR ALL EXPLOSIVES SHIPPED, PURCHASED, OR SOLD, A RECORD THAT INCLUDES:

(I) THE NAME AND ADDRESS OF EACH CONSIGNEE, BUYER, OR SELLER OF THE EXPLOSIVES;

(II) THE DATE OF EACH SHIPMENT, PURCHASE, OR SALE; AND

(III) THE AMOUNT AND DESCRIPTION OF THE EXPLOSIVES.

(2) EACH RECORD KEPT UNDER THIS SUBSECTION SHALL AT ALL TIMES BE OPEN FOR INSPECTION BY AGENTS OF THE LICENSING AUTHORITY AND BY FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT OFFICERS.

(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, EACH MANUFACTURER AND EACH DEALER SHALL PROVIDE A COPY OF EACH RECORD KEPT UNDER THIS SUBSECTION TO THE STATE FIRE MARSHAL IN THE FORM THAT THE STATE FIRE MARSHAL REQUIRES.

(II) A RECORD KEPT UNDER THIS SUBSECTION SHALL BE PROVIDED ON REQUEST, BUT NEED NOT BE FILED MORE THAN ONCE IN EACH CALENDAR MONTH.

(B) REPORTS TO LICENSING AUTHORITIES.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, EACH MANUFACTURER SHALL FILE WITH THE LICENSING AUTHORITY OF EACH STATE, OTHER THAN THIS STATE, TO WHICH EXPLOSIVES HAVE BEEN SHIPPED BY THE MANUFACTURER, A REPORT THAT INCLUDES:

(I) THE NAME OF EACH BUYER TO WHOM EXPLOSIVES HAVE BEEN SHIPPED IN THAT STATE; AND

(II) THE AMOUNT AND DESCRIPTION OF THE EXPLOSIVES.

(2) A REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE FILED ON REQUEST, BUT NEED NOT BE FILED MORE THAN ONCE IN EACH CALENDAR MONTH.

(3) IN LIKE MANNER, EACH MANUFACTURER SHALL FILE WITH THE STATE FIRE MARSHAL A REPORT THAT INCLUDES:

(I) THE NAME OF EACH BUYER OF EXPLOSIVES IN THIS STATE; AND

(II) THE AMOUNT AND DESCRIPTION OF THE EXPLOSIVES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 30.

In subsection (a)(1)(i) of this section, the references to the "buyer" or "seller" are substituted for the former references to the "vendor" or "vendee", respectively, for clarity. Consequently, in subsection (b)(1)(i) and (3)(i) of this section, the reference to each "buyer" is substituted for the former reference to each "purchaser" for consistency.

In subsection (a)(1)(iii) of this section, the reference to a "description" of the explosives is substituted for the former reference to the "kind" of explosives to conform with subsection (b)(1)(ii) and (3)(ii) of this section.

In subsection (a)(2) of this section, the former reference to "duly authorized" agents is deleted as implicit.

Defined terms: "Dealer" § 11-101

"Explosives" § 11-101

"Manufacturer" § 11-101

"State" § 1-101

11-113. REPORTS OF THEFT OF EXPLOSIVES.

EACH THEFT OR OTHER UNAUTHORIZED TAKING OF EXPLOSIVES FROM A LICENSEE UNDER THIS SUBTITLE SHALL BE REPORTED BY THE LICENSEE TO THE STATE FIRE MARSHAL:

(1) IMMEDIATELY BY TELEPHONE; AND

(2) BY A WRITTEN REPORT IN THE FORM REQUIRED BY THE STATE FIRE MARSHAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 33A.

In the introductory language of this section, the former reference to the "office of" the State Fire Marshal is deleted as surplusage.

In item (1) of this section, the former reference to reporting a theft "upon discovery" is deleted as implicit in light of the requirement that the theft be reported immediately.

Defined term: "Explosives" § 11-101

11-114. PROHIBITED ACTS; PENALTY -- IN GENERAL.

(A) ENGAGING IN BUSINESS AS MANUFACTURER OR DEALER WITHOUT LICENSE PROHIBITED.

EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A PERSON MAY NOT ENGAGE IN BUSINESS AS A MANUFACTURER OR DEALER IN THE STATE UNLESS THE PERSON IS LICENSED UNDER THIS SUBTITLE.

(B) POSSESSION OF EXPLOSIVES OTHER THAN EXPLOSIVES FOR USE IN FIREARMS WITHOUT LICENSE PROHIBITED.

EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A PERSON MAY NOT POSSESS EXPLOSIVES OTHER THAN EXPLOSIVES FOR USE IN FIREARMS IN THE STATE UNLESS THE PERSON IS LICENSED UNDER THIS SUBTITLE.

(C) SALE TO UNLICENSED PERSONS PROHIBITED.

EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A DEALER MAY NOT SELL, BARTER, GIVE, OR DISPOSE OF EXPLOSIVES OTHER THAN EXPLOSIVES FOR USE IN FIREARMS TO A PERSON UNLESS THE PERSON IS LICENSED UNDER THIS SUBTITLE.

(D) ENGAGING IN BUSINESS AS DEALER WITHOUT LICENSE PROHIBITED.

THE OWNER OR OPERATOR OF A MINE, QUARRY, OR OTHER OPERATION THAT USES EXPLOSIVES, AND A CONTRACTOR PERFORMING WORK THAT USES EXPLOSIVES, MAY NOT ENGAGE IN BUSINESS AS A DEALER IN THE STATE UNLESS THE PERSON IS LICENSED UNDER THIS SUBTITLE.

(E) PROHIBITIONS ON EMPLOYEES.

AN EMPLOYEE OF AN OWNER OR OPERATOR OF A MINE, QUARRY, OR OTHER OPERATION THAT USES EXPLOSIVES, OR OF A CONTRACTOR PERFORMING WORK THAT USES EXPLOSIVES, MAY NOT POSSESS EXPLOSIVES IN A PLACE NOT NECESSARY FOR THE EMPLOYEE TO PERFORM THE EMPLOYEE'S DUTIES UNLESS THE EMPLOYEE IS LICENSED TO POSSESS EXPLOSIVES UNDER THIS SUBTITLE.

(F) VIOLATION OF REGULATIONS PROHIBITED.

A PERSON MAY NOT VIOLATE A REGULATION ADOPTED UNDER THIS SUBTITLE.

(G) PENALTY.

EXCEPT AS OTHERWISE PROVIDED IN § 11-116 OF THIS SUBTITLE, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING $5,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 27, 27A, 31, 34, 34C, and the third sentence and the first clauses of the first and second sentences of § 29.

In subsection (g) of this section, the reference to being guilty "of a misdemeanor" is added to state expressly that which was only implied in

the former law. In this State, any crime that was not a felony at common law and has not been declared a felony by statute is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Dutton v. State*, 123 Md. 373, 378 (1914); and *Williams v. State*, 4 Md. App. 342, 347 (1968).

Also in subsection (g) of this section, the former phrases "in the discretion of the court" are deleted as implicit in the prerogatives of courts.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that the reference in former Art. 38A, § 34 to former § 32 appears to be incorrect. Former § 32 covered administrative provisions. The Committee suggests that corrective legislation is needed.

Defined terms: "Dealer" § 11-101

"Explosives" § 11-101

"Explosives for use in firearms" § 11-101

"Manufacturer" § 11-101

"Person" § 1-101

11-115. SAME -- EXPLOSIVES FOR USE IN FIREARMS; REQUIRED REPORTS.

(A) PROHIBITIONS ON POSSESSION OR STORAGE OF EXPLOSIVES FOR USE IN FIREARMS.

(1) A PERSON MAY NOT POSSESS AT ANY TIME OR STORE IN ANY ONE PLACE MORE THAN 5 POUNDS OF SMOKELESS POWDER OR MORE THAN 5 POUNDS OF BLACK POWDER FOR USE IN FIREARMS UNLESS THE PERSON IS LICENSED UNDER THIS SUBTITLE.

(2) A PERSON MAY NOT ENGAGE IN THE BUSINESS OF LOADING OR RELOADING SMALL ARMS AMMUNITION UNLESS THE PERSON IS LICENSED TO ENGAGE IN BUSINESS AS A DEALER UNDER THIS SUBTITLE.

(3) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A PERSON MAY NOT POSSESS OR STORE EXPLOSIVES FOR USE IN FIREARMS IN ANY QUANTITY IN MULTIFAMILY DWELLINGS, APARTMENTS, DORMITORIES, HOTELS, SCHOOLS OR OTHER PUBLIC BUILDINGS, OR BUILDINGS OR STRUCTURES OPEN FOR PUBLIC USE.

(B) PROHIBITION ON SALE OF EXPLOSIVES FOR USE IN FIREARMS.

A DEALER MAY NOT SELL, BARTER, GIVE, OR DISPOSE OF MORE THAN 5 POUNDS OF BLACK POWDER OR MORE THAN 5 POUNDS OF SMOKELESS POWER FOR USE IN FIREARMS TO ANY ONE PERSON AT ANY ONE TIME UNLESS THE PERSON IS LICENSED UNDER THIS SUBTITLE.

(C) FAILURE TO FILE REPORTS OR RECORDS PROHIBITED.

A PERSON MAY NOT FAIL TO FILE REPORTS OR RECORDS REQUIRED UNDER § 11-112 OF THIS SUBTITLE.

(D) FAILURE TO FILE REPORT OF THEFT PROHIBITED.

A PERSON MAY NOT FAIL TO FILE A REPORT OF THEFT OF EXPLOSIVES REQUIRED UNDER § 11-113 OF THIS SUBTITLE.

(E) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING $500 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 31A, 34D, and 27B(b), (c), and (d)(1).

In subsection (e) of this section, the reference to being guilty "of a misdemeanor" is added to state expressly that which was only implied in the former law. In this State, any crime that was not a felony at common law and has not been declared a felony by statute is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Dutton v. State*, 123 Md. 373, 378 (1914); and *Williams v. State*, 4 Md. App. 342, 347 (1968).

Also in subsection (e) of this section, the former phrase "in the discretion of the court" is deleted as implicit in the prerogatives of courts.

Defined terms: "Dealer" § 11-101

"Explosives for use in firearms" § 11-101

"Person" § 1-101

11-116. ADDITIONAL PENALTIES.

(A) FOR VIOLATION OF § 11-114(B).

(1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON WHO VIOLATES § 11-114(B) OF THIS SUBTITLE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 20 YEARS OR A FINE NOT EXCEEDING $10,000 OR BOTH.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO NEITHER INTENDED TO USE NOR USED THE EXPLOSIVES INVOLVED IN VIOLATION OF:

(I) TITLE 3, SUBTITLE 3 OR SUBTITLE 5, TITLE 5, SUBTITLE 1, SUBTITLE 2, SUBTITLE 3, OR SUBTITLE 4, § 6-602, § 7-402, OR § 12-1101 OF THIS ARTICLE;

(II) TITLE 1, SUBTITLE 3, TITLE 3, SUBTITLE 7, OR § 4-123.1 OF THE AGRICULTURE ARTICLE;

(III) TITLE 19, SUBTITLE 2 OR SUBTITLE 3 OF THE BUSINESS REGULATION ARTICLE;

(IV) TITLE 14, SUBTITLE 29, § 11-810, § 14-1316, OR § 14-1317 OF THE COMMERCIAL LAW ARTICLE;

(V) § 3-218, § 3-305(C)(2), § 3-409(A) OR (C), § 3-803(B), § 3-807(I), § 3-808(D), § 3-811(C), § 8-801, § 8-802, § 9-602(E), § 11-702(D)(8), § 11-703(D)(5)(III), § 11-706(B)(8), § 11-708(B)(8)(II), § 11-711(H)(2), § 11-712(C)(6)(II), § 11-714(C)(6), § 11-715(G)(2), § 11-716(H)(2), § 11-723(B)(8), OR § 11-726 OF THE CORRECTIONAL SERVICES ARTICLE;

(VI) THE CRIMINAL LAW ARTICLE OTHER THAN TITLE 8, SUBTITLE 2, PART II OR § 10-614;

(VII) TITLE 5, SUBTITLE 10A OF THE ENVIRONMENT ARTICLE;

(VIII) § 5-503 OF THE FAMILY LAW ARTICLE;

(IX) TITLE 20, SUBTITLE 7 OR § 21-259.1 OF THE HEALTH - GENERAL ARTICLE;

(X) § 8-713.1, § 8-724.1, § 8-725.5, § 8-725.6, § 8-726.1, § 8-738.1, OR § 8-740.1 OF THE NATURAL RESOURCES ARTICLE;

(XI) § 14-127 OF THE REAL PROPERTY ARTICLE;

(XII) ARTICLE 2B, TITLE 22 OR § 18-104 OF THE CODE;

(XIII) ARTICLE 24, § 11-512, § 11-513, OR § 11-514 OF THE CODE;

(XIV) § 109 OF THE CODE OF PUBLIC LOCAL LAWS OF CAROLINE COUNTY;

(XV) § 4-103 OF THE CODE OF PUBLIC LOCAL LAWS OF CARROLL COUNTY;

(XVI) § 8A-1 OF THE CODE OF PUBLIC LOCAL LAWS OF TALBOT COUNTY; OR

(XVII) FORMER ART. 27, §§ 268B, 268C, AND 268D.

(B) FOR VIOLATION OF § 11-114(C) OR CONSPIRACY TO VIOLATE § 11-114(B).

(1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON WHO VIOLATES § 11-114(C) OF THIS SUBTITLE OR WHO CONSPIRES TO VIOLATE § 11-114(B) OF THIS SUBTITLE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 20 YEARS OR A FINE NOT EXCEEDING $10,000 OR BOTH.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO HAD PROBABLE CAUSE TO BELIEVE THAT THE EXPLOSIVES INVOLVED WOULD BE USED FOR A PURPOSE OTHER THAN THE VIOLATION OF:

(I) TITLE 3, SUBTITLE 3 OR SUBTITLE 5, TITLE 5, SUBTITLE 1, SUBTITLE 2, SUBTITLE 3, OR SUBTITLE 4, § 6-602, § 7-402, OR § 12-1101 OF THIS ARTICLE;

(II) TITLE 1, SUBTITLE 3, TITLE 3, SUBTITLE 7, OR § 4-123.1 OF THE AGRICULTURE ARTICLE;

(III) TITLE 19, SUBTITLE 2 OR SUBTITLE 3 OF THE BUSINESS REGULATION ARTICLE;

(IV) TITLE 14, SUBTITLE 29, § 11-810, § 14-1316, OR § 14-1317 OF THE COMMERCIAL LAW ARTICLE;

(V) § 3-218, § 3-305(C)(2), § 3-409(A) OR (C), § 3-803(B), § 3-807(I), § 3-808(D), § 3-811(C), § 8-801, § 8-802, § 9-602(E), § 11-702(D)(8), § 11-703(D)(5)(III), § 11-706(B)(8), § 11-708(B)(8)(II), § 11-711(H)(2), § 11-712(C)(6)(II), § 11-714(C)(6), § 11-715(G)(2), § 11-716(H)(2), § 11-723(B)(8), OR § 11-726 OF THE CORRECTIONAL SERVICES ARTICLE;

(VI) THE CRIMINAL LAW ARTICLE OTHER THAN TITLE 8, SUBTITLE 2, PART II OR § 10-614;

(VII) TITLE 5, SUBTITLE 10A OF THE ENVIRONMENT ARTICLE;

(VIII) § 5-503 OF THE FAMILY LAW ARTICLE;

(IX) TITLE 20, SUBTITLE 7 OR § 21-259.1 OF THE HEALTH - GENERAL ARTICLE;

(X) § 8-713.1, § 8-724.1, § 8-725.5, § 8-725.6, § 8-726.1, § 8-738.1, OR § 8-740.1 OF THE NATURAL RESOURCES ARTICLE;

(XI) § 14-127 OF THE REAL PROPERTY ARTICLE;

(XII) ARTICLE 2B, TITLE 22 OR § 18-104 OF THE CODE;

(XIII) ARTICLE 24, § 11-512, § 11-513, OR § 11-514 OF THE CODE;

(XIV) § 109 OF THE CODE OF PUBLIC LOCAL LAWS OF CAROLINE COUNTY;

(XV) § 4-103 OF THE CODE OF PUBLIC LOCAL LAWS OF CARROLL COUNTY;

(XVI) § 8A-1 OF THE CODE OF PUBLIC LOCAL LAWS OF TALBOT COUNTY; OR

(XVII) FORMER ART. 27, §§ 268B, 268C, AND 268D.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 34A and 34B.

Former Article 27 of the Code is repealed by the enactment of the Public Safety Article. Prior to the repeal of Article 27, any remaining provisions have been revised in this article or elsewhere in the Code. Therefore, specific cross-references to provisions that formerly appeared in Article 27 are added to subsections (a)(2) and (b)(2) of this section. The Public Safety Article Review Committee notes these changes for consideration by the General Assembly. No substantive change is intended.

In subsections (a)(2)(i) and (b)(2)(i) of this section, the specific references to provisions of the Public Safety Article are substituted for the former reference to a "provision of Article 27 of the Code" for clarity.

In subsection (b)(1) of this section, the former reference to a person who "aids or counsels ... or who commits any other act in furtherance of a violation" is deleted as unnecessary due to the abrogation of accessory before the fact liability. *See* CP § 4-204.

Defined terms: "Explosives" § 11-101

"Person" § 1-101

11-117. MERGER OF CONVICTIONS; PREEMPTION AMONG PENALTIES.

(A) MERGER OF CONVICTIONS.

IF A PERSON HAS BEEN CONVICTED OF A VIOLATION OF § 11-114(A) AND (B) OF THIS SUBTITLE, OR OF A VIOLATION OF § 11-115(A) AND 11-114(B) OF THIS SUBTITLE, AND THE CONVICTIONS ARISE OUT OF THE SAME TRANSACTION, THE CONVICTION UNDER § 11-114(A) OR § 11-115(A) OF THIS SUBTITLE MERGES INTO THE CONVICTION UNDER § 11-114(B) OF THIS SUBTITLE.

(B) PREEMPTION AMONG PENALTIES.

IF A PERSON HAS BEEN CONVICTED OF TWO OR MORE VIOLATIONS UNDER THIS SUBTITLE AND HAS BEEN PENALIZED UNDER § 11-114(G), § 11-115(E), OR § 11-116 OF THIS SUBTITLE FOR ONE VIOLATION, THE PERSON IS NOT SUBJECT TO AN ADDITIONAL PENALTY UNDER § 11-116 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 34E.

In subsection (b) of this section, the former reference to "any penalty and/or fine imposed pursuant to § 34B shall preempt the other penalties and/or fines imposed pursuant to any other of such sections as a result of such violation or violations except any penalty and/or fine imposed pursuant to § 34A hereof" is deleted as obsolete in light of the revision of § 11-116 of this subtitle, which combines the identical penalty provisions of former Art. 38A, §§ 34A and 34B. Subsection (b) of this section is revised to

prohibit explicitly the imposition of two or more penalties for any two or more violations of this subtitle if the person has been penalized under § 11-116 of this subtitle for one of the violations.

Defined term: "Person" § 1-101

11-118. PROCEDURES FOR ACTION UNDER SUBTITLE.

IN AN ACTION UNDER THIS SUBTITLE:

(1) THE STATE NEED NOT DISPROVE ANY EXCEPTION, EXCUSE, PROVISO, OR EXEMPTION UNDER THIS SUBTITLE; AND

(2) THE BURDEN OF PROOF OF AN EXCEPTION, EXCUSE, PROVISO, OR EXEMPTION IS ON THE DEFENDANT OR THE HOLDER OF ANY ALLEGED SECURITY INTEREST, AS THE CASE MAY BE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 34G.

In the introductory language of this section, the former references to any "complaint, information, or indictment" and any "proceeding" are deleted as included in the reference to an "action". *See* Maryland Rule 1-202(a), which defines the term "action" to mean "collectively all the steps by which a party seeks to enforce any right in a court or all the steps of a criminal prosecution".

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 38A, § 36, which provided for the severability of provisions in this subtitle, is deleted as unnecessary in light of the general severability provision in Art. 1, § 23.

SUBTITLE 2. EXPLOSIVES ADVISORY COUNCIL.

11-201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 88B, § 30A(a)(1).

The reference to this "subtitle" is substituted for the former reference to this "section" to reflect the reorganization of former § 30A as a subtitle in this revision.

No other changes are made.

(B) COUNCIL.

"COUNCIL" MEANS THE EXPLOSIVES ADVISORY COUNCIL.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title "Explosives Advisory Council".

(C) DEPARTMENT.

"DEPARTMENT" MEANS THE DEPARTMENT OF STATE POLICE.

REVISOR'S NOTE: This subsection formerly was Art. 88B, § 30A(a)(2).

No changes are made.

(D) EXPLOSIVES.

(1) "EXPLOSIVES" MEANS CHEMICAL COMPOUNDS, MIXTURES, OR DEVICES, THE PRIMARY PURPOSE OF WHICH IS TO FUNCTION BY EXPLOSION.

(2) "EXPLOSIVES" INCLUDES:

(I) DYNAMITE;

(II) OTHER HIGH EXPLOSIVES;

(III) BLACK POWDER;

(IV) PELLET POWDER;

(V) INITIATING EXPLOSIVES;

(VI) DETONATORS;

(VII) SAFETY FUSES;

(VIII) SQUIBS;

(IX) DETONATING CORD;

(X) IGNITER CORD; AND

(XI) IGNITERS.

REVISOR'S NOTE: This subsection formerly was Art. 88B, § 30A(a)(3).

The only changes are in style.

11-202. ESTABLISHED; STATUS.

(A) ESTABLISHED.

THERE IS AN EXPLOSIVES ADVISORY COUNCIL IN THE DEPARTMENT.

(B) STATUS.

THE COUNCIL IS INDEPENDENT OF THE DEPARTMENT, EXCEPT FOR STAFF ASSISTANCE AND SUPPLIES THAT MAY BE PROVIDED BY THE DEPARTMENT TO THE COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 30A(b) and (f).

In subsection (b) of this section, the reference to assistance and supplies "that may be" provided is substituted for the former reference to "limited" assistance and supplies for clarity.

Defined terms: "Council" § 11-201

"Department" § 11-201

11-203. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

(1) THE COUNCIL CONSISTS OF 19 MEMBERS APPOINTED BY THE GOVERNOR.

(2) OF THE 19 MEMBERS:

(I) FIVE MEMBERS SHALL BE APPOINTED FROM EXPLOSIVES USER INDUSTRIES, WITH ONE MEMBER APPOINTED FROM EACH OF THE FOLLOWING INDUSTRIES:

1. COAL MINING;

2. UTILITY CONSTRUCTION;

3. EXPLOSIVES DISTRIBUTION;

4. QUARRY OR AGGREGATE MINING; AND

5. HOME OR COMMERCIAL CONSTRUCTION;

(II) FIVE MEMBERS SHALL BE APPOINTED FROM EXPLOSIVES REGULATORY UNITS, WITH ONE MEMBER APPOINTED FROM EACH OF THE FOLLOWING UNITS:

1. DIVISION OF LABOR AND INDUSTRY OF THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION;

2. STATE FIRE MARSHAL;

3. STATE FIRE PREVENTION COMMISSION;

4. BUREAU OF MINES OF THE DEPARTMENT OF THE ENVIRONMENT; AND

5. DEPARTMENT OF NATURAL RESOURCES;

(III) FIVE MEMBERS SHALL BE APPOINTED FROM THE PUBLIC, WITH ONE MEMBER APPOINTED FROM EACH OF THE FOLLOWING GEOGRAPHIC REGIONS OF THE STATE:

1. WESTERN;

2. CENTRAL;

3. METROPOLITAN, INCLUDING BALTIMORE AND WASHINGTON, D.C.;

4. SOUTHERN; AND

5. EASTERN SHORE;

(IV) TWO MEMBERS SHALL BE APPOINTED FROM THE SCIENTIFIC COMMUNITY, WITH ONE MEMBER APPOINTED FROM EACH OF THE FOLLOWING AREAS OF SCIENTIFIC SPECIALIZATION:

1. VIBRATION TECHNOLOGY; AND

2. PYROTECHNICS; AND

(V) TWO MEMBERS SHALL BE EX OFFICIO MEMBERS, WHOM THE GOVERNOR MAY CHOOSE FROM ADMINISTRATIVE UNITS OF THE STATE.

(B) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER IS 5 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COUNCIL ON OCTOBER 1, 2003.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) IF A VACANCY OCCURS, THE COUNCIL SHALL RECOMMEND A REPLACEMENT TO THE GOVERNOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 30A(c).

%In subsection (a)(1) of this section, the former reference to "not more than" 19 members is deleted as surplusage.

In subsection (a)(2)(ii) and (v) of this section, the reference to "units" is substituted for the former reference to "agencies". *See* General Revisor's Note to article.

In subsection (a)(2)(ii)4 of this section, the reference to the "Department of the Environment" is added for clarity. *See* EN § 15-201.

In subsection (a)(2)(iv)1 of this section, the reference to vibration "technology" is substituted for the former reference to a vibration "technologist" for grammatical consistency. Similarly, in subsection (a)(2)(iv)2 of this section, the reference to "pyrotechnics" is substituted for the former reference to "[p]yrotechnic specialists".

In subsection (a)(2)(v) of this section, the former reference to "the Governor's discretion" is deleted as redundant in light of the power of the Governor to choose ex officio members from administrative units.

In subsection (b)(2) of this section, the reference to "October 1, 2003" is substituted for the former obsolete reference to "July 1, 1984" to reflect the effective date of this revision. This substitution is not intended to alter the term of any member of the Board. *See* § ___ of Ch. ___, Acts of 2003.

Defined terms: "Council" § 11-201

"Explosives" § 11-201

11-204. OFFICERS.

THE GOVERNOR SHALL APPOINT A CHAIRMAN AND A VICE CHAIRMAN FROM AMONG THE COUNCIL MEMBERS.

REVISOR'S NOTE: This section formerly was Art. 88B, § 30A(d).

The only changes are in style.

Defined term: "Council" § 11-201

11-205. MEETINGS; COMPENSATION; SUBGROUPS.

(A) MEETINGS.

THE COUNCIL SHALL MEET 6 TIMES A YEAR, OR AS NEEDED, AT THE TIMES AND PLACES DETERMINED BY THE CHAIRMAN.

(B) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE COUNCIL:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COUNCIL; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(C) SUBGROUPS.

THE CHAIRMAN MAY DIVIDE THE MEMBERS INTO SUBGROUPS OR COMMITTEES AS NEEDED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 30A(e).

In subsections (a) and (c) of this section, the former reference to the chairman "of the Council" is deleted as implicit.

In subsection (b)(1) of this section, the phrase "as a member of the Council" is added to clarify that the prohibition on receipt of compensation is only applicable to a member of the Council in the capacity of that individual as a member.

Defined term: "Council" § 11-201

11-206. DUTIES.

THE COUNCIL SHALL:

(1) ADVISE, ASSIST, AND RECOMMEND TO THE DEPARTMENT REGULATIONS FOR THE STORAGE, USE, MANUFACTURE, AND TRANSPORTATION OF DESIGNATED EXPLOSIVES MATERIALS;

(2) CONTINUALLY REVIEW NEW DEVELOPMENTS IN THE EXPLOSIVES INDUSTRY INCLUDING:

(I) SAFETY PRECAUTIONS FOR MANUFACTURERS, USERS, AND DISTRIBUTORS;

(II) TECHNIQUES FOR BLASTING; AND

(III) FEDERAL REGULATION OF EXPLOSIVES;

(3) REVIEW ANY PROPOSED REGULATION OF THE DEPARTMENT THAT AFFECTS THE MANUFACTURE, USE, OR DISTRIBUTION OF EXPLOSIVES;

(4) RECOMMEND TO THE DEPARTMENT REVISIONS OR ADDITIONS TO STATE LAW THAT REGULATES ANY ASPECT OF THE MANUFACTURE, USE, OR DISTRIBUTION OF EXPLOSIVES;

(5) CONDUCT FORUMS TO DISSEMINATE INFORMATION AND EDUCATE THE PUBLIC ABOUT THE MANUFACTURE, USE, OR DISTRIBUTION OF EXPLOSIVES;

(6) SUBMIT AN ANNUAL REPORT TO THE GOVERNOR, SECRETARY OF STATE POLICE, AND STATE FIRE MARSHAL; AND

(7) PERIODICALLY ASSESS THE PERFORMANCE AND SUFFICIENCY OF THE COUNCIL AS NOW CONSTITUTED AND RECOMMEND CHANGES AS NECESSARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 88B, § 30A(g).

In items (1) and (3) of this section, the former reference to "rule[s]" is deleted as included in the reference to "regulation[s]". *See* General Revisor's Note to article.

Defined terms: "Council" § 11-201

"Department" § 11-201

"Explosives" § 11-201

TITLE 12. BUILDING AND MATERIAL CODES; OTHER SAFETY PROVISIONS.

SUBTITLE 1. GENERAL PROVISIONS.

12-101. ADMINISTRATIVE SEARCH WARRANTS.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO INSPECTIONS UNDER § 12-909 AND SUBTITLE 8, PART II OF THIS TITLE.

(B) APPLICATION.

AN INSPECTOR OF THE DIVISION OF LABOR AND INDUSTRY MAY APPLY TO THE DISTRICT COURT FOR AN ADMINISTRATIVE SEARCH WARRANT UNDER THIS SECTION IF THE INSPECTOR:

(1) IS AUTHORIZED OR REQUIRED BY LAW TO INSPECT PROPERTY IN THE STATE; AND

(2) IS DENIED ACCESS TO THE PROPERTY AFTER MAKING A PROPER REQUEST FOR ACCESS OF THE OWNER, LESSEE, OR OTHER PERSON IN CHARGE OF THE PROPERTY.

(C) ISSUANCE.

A JUDGE MAY ISSUE AN ADMINISTRATIVE SEARCH WARRANT UNDER THIS SECTION IF THE APPLICATION:

(1) SPECIFIES THE NATURE, SCOPE, AND PURPOSE OF THE INSPECTION; AND

(2) SHOWS THAT:

(I) THE APPLICANT IS AUTHORIZED OR REQUIRED BY LAW TO INSPECT THE PROPERTY;

(II) THE APPLICANT WAS DENIED ACCESS TO THE PROPERTY AFTER MAKING A PROPER REQUEST FOR ACCESS AT A REASONABLE TIME;

(III) THE APPLICATION IS APPROVED BY THE ATTORNEY GENERAL; AND

(IV) THE INSPECTION IS SOUGHT FOR SAFETY OR HEALTH RELATED PURPOSES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 2A.

In subsection (a) of this section, the reference to inspections "under" certain provisions is substituted for the former reference to inspections "sought pursuant to the following" for brevity.

Also in subsection (a) of this section, the former reference to "[s]ection 3-402 of the Business Regulation Article relating to amusement attraction safety" is deleted in light of § 3-205 of the Business Regulation Article to the same effect.

In the introductory language of subsection (b) of this section, the former reference to an "investigator" is deleted because this section applies only to inspections and not investigations.

Also in the introductory language of subsection (b) of this section, the former phrase "under the following conditions" is deleted as surplusage.

In subsections (b)(1) and (2) and (c)(2)(ii) of this section, the former reference to "premises" is deleted as included in the reference to "property".

In subsection (b)(2) of this section, the former reference to "seek[ing] access to such premises or property for the purpose of making an inspection" is deleted as implicit in the reference to "making a proper request for access".

Also in subsection (b)(2) of this section, the former reference to a "tenant" is deleted as synonymous with the reference to a "lessee".

In the introductory language of subsection (c) of this section, the former reference to a judge "of the District Court" is deleted as implicit in the reference in subsection (b) of this section to an application made to the District Court.

Defined term: "Person" § 1-101

SUBTITLE 2. STATEWIDE BUILDING AND HOUSING CODES.

12-201. MODEL PERFORMANCE CODE FOR BUILDING CONSTRUCTION.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "DEPARTMENT" MEANS THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

(3) "INDUSTRIALIZED BUILDING" HAS THE MEANING STATED IN § 12-301 OF THIS TITLE.

(B) LEGISLATIVE FINDINGS.

THE GENERAL ASSEMBLY FINDS THAT:

(1) THE POTENTIAL BENEFITS OF NEW MATERIALS AND TECHNIQUES FOR BUILDING CONSTRUCTION ARE NOT READILY AVAILABLE TO THE STATE PARTLY BECAUSE EXISTING BUILDING CODES PRECLUDE THEIR USE; AND

(2) SEVERAL SUBDIVISIONS IN THE STATE HAVE NO BUILDING CODES OF ANY TYPE TO PROTECT THE PUBLIC AGAINST UNSAFE, UNSOUND, OR UNSANITARY BUILDINGS IN THEIR COMMUNITIES AND THIS MEASURE OF PROTECTION SHOULD BE PROVIDED TO THESE COMMUNITIES.

(C) AUTHORIZED.

THE DEPARTMENT MAY ADOPT A MODEL PERFORMANCE CODE FOR BUILDING CONSTRUCTION IN THE STATE.

(D) NOT BINDING IN SUBDIVISION UNLESS SPECIFICALLY ADOPTED.

THE MODEL PERFORMANCE CODE FOR BUILDING CONSTRUCTION IS NOT BINDING IN A SUBDIVISION OF THE STATE UNLESS THE SUBDIVISION SPECIFICALLY ADOPTS IT.

(E) CONTENTS.

(1) THE MODEL PERFORMANCE CODE FOR BUILDING CONSTRUCTION SHALL COVER ELEMENTS APPROPRIATE TO ENSURE SAFE AND SOUND CONSTRUCTION, INCLUDING PLUMBING, STRUCTURE, AND ELECTRICAL SYSTEMS.

(2) ANY PART OF THE MODEL PERFORMANCE CODE THAT RELATES TO STRUCTURE SHALL INCORPORATE BY REFERENCE THE MARYLAND BUILDING PERFORMANCE STANDARDS ESTABLISHED UNDER SUBTITLE 5 OF THIS TITLE.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, ANY PART OF THE MODEL PERFORMANCE CODE THAT RELATES TO

PLUMBING SHALL BE CONSISTENT WITH THE STATE PLUMBING CODE CURRENTLY IN EFFECT UNDER THE MARYLAND PLUMBING ACT.

(II) SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT APPLY TO INDUSTRIALIZED BUILDINGS.

(4) THE MODEL PERFORMANCE CODE SHALL ALSO INCLUDE ELEMENTS THAT PROMOTE THE EFFICIENT UTILIZATION OF ENERGY RESOURCES.

(5) THE MODEL PERFORMANCE CODE SHALL BE FRAMED IN TERMS OF THE PURPOSES FOR WHICH BUILDING CODES ARE ENACTED INSTEAD OF THE SPECIFICATIONS OF MATERIALS AND METHODS REQUIRED TO ACHIEVE THE GOALS.

(F) DUTIES OF DEPARTMENT.

(1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ESTABLISH STANDARDS FOR INDUSTRIALIZED BUILDINGS.

(2) AFTER PUBLIC HEARING, THE DEPARTMENT SHALL ADOPT REGULATIONS TO PROHIBIT A JURISDICTION IN WHICH THE MODEL PERFORMANCE CODE IS APPLICABLE FROM ALTERING OR MODIFYING THE MODEL PERFORMANCE CODE WITHOUT THE APPROVAL OF THE DEPARTMENT.

(3) THE DEPARTMENT SHALL PROVIDE AN APPEAL PROCEDURE FOR CHALLENGES TO THE INTERPRETATION OR APPLICATION OF THE MODEL PERFORMANCE CODE.

(4) THE DEPARTMENT SHALL:

(I) CONSULT REGULARLY WITH LOCAL OFFICIALS TO REVIEW THE APPLICATION AND EFFECTIVENESS OF THE MODEL PERFORMANCE CODE IN EACH JURISDICTION; AND

(II) REVIEW RECOMMENDATIONS FROM LOCAL OFFICIALS FOR CHANGES, MODIFICATIONS, OR EXCEPTIONS TO INCREASE THE EFFECTIVENESS AND USEFULNESS OF THE MODEL PERFORMANCE CODE IN THOSE JURISDICTIONS.

(5) THE DEPARTMENT SHALL TRAIN AND CERTIFY BUILDING CODE ENFORCEMENT OFFICIALS IN EACH JURISDICTION WHERE THE MODEL PERFORMANCE CODE IS IN EFFECT.

(G) REQUESTS FOR SPECIAL PROVISIONS.

THE DEPARTMENT MAY NOT UNREASONABLY WITHHOLD APPROVAL OF REQUESTS FOR SPECIAL PROVISIONS IN THE MODEL PERFORMANCE CODE TO MEET LOCAL CONDITIONS.

REVISOR'S NOTE: Subsection (a)(1) of this section is new language added as the standard introductory language to a definition subsection.

Subsection (a)(2) of this section is new language added to avoid repetition

of the full title of the "Department of Housing and Community Development".

Subsections (a)(3) and (b) through (g) of this section are new language derived without substantive change from former Art. 83B, § 6-101.

In subsection (b)(1) of this section, the former reference to existing building codes being "so written as to" preclude their use is deleted as surplusage.

In subsection (b)(2) of this section, the reference to the finding that several subdivisions have no building codes to protect "the public" is substituted for the former reference to building codes to protect "their citizens" for clarity and accuracy. Subdivisions of the State do not have citizens; rather, they have residents. However, this provision is broadly drafted and would seem to be intended to cover anyone living in the community, *i.e.*, the public, not just "residents" of the community or subdivision.

Also in subsection (b)(2) of this section, the former reference to the "intrusion" of unsafe, unsound, or unsanitary buildings is deleted as surplusage.

In subsection (c) of this section, the authority to "adopt" a Model Performance Code is substituted for the former authority to "prepare and issue" a Model Performance Code for brevity and consistency with language used in other revised articles. The Department has adopted a Model Performance Code for building construction in COMAR 05.02.01.02.

In subsection (d) of this section, the former reference to the Model Performance Code "authorized by this section" is deleted as surplusage. Similarly, in subsection (e)(1) of this section, the former reference to the Model Performance Code "which the Department is authorized to issue" is deleted as surplusage.

In subsection (e)(5) of this section, the reference to the purposes for which building codes are "enacted" is substituted for the former reference to the purposes for which they are "drawn" for clarity.

In subsection (f)(2) of this section, the reference to the "approval" of the Department is substituted for the former reference to "concurrence" of the Department to use a more precise term. Consequently, in subsection (g) of this section, the reference to "approval" of requests is substituted for the former reference to "[c]oncurrence" for consistency.

Also in subsection (f)(2) of this section, the former reference to "rules" is deleted as included in the reference to "regulations". *See* General Revisor's Note to article.

In subsection (f)(4)(ii) of this section, the reference to "those jurisdictions" is substituted for the former reference to "a given subdivision, or subdivisions" for brevity and consistency with subsection (f)(4)(i) of this

section.

In subsection (f)(5) of this section, the requirement that the Department "shall train and certify" building code enforcement officials is substituted for the former requirement to "assume the responsibility to train and certify" them for consistency with language used in other revised articles to state a duty or responsibility.

12-202. MARYLAND ACCESSIBILITY CODE.

(A) "DEPARTMENT" DEFINED.

IN THIS SECTION, "DEPARTMENT" MEANS THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

(B) ADOPTION.

(1) THE DEPARTMENT SHALL ADOPT BY REGULATION A STATE BUILDING CODE TO MAKE BUILDINGS AND FACILITIES ACCESSIBLE AND USABLE BY INDIVIDUALS WITH PHYSICAL DISABILITIES TO THE EXTENT FEASIBLE.

(2) THE REGULATIONS SHALL BE DEVELOPED IN CONJUNCTION WITH:

(I) THE GOVERNOR'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES;

(II) THE MARYLAND REHABILITATION ASSOCIATION; AND

(III) THE MARYLAND SOCIETY OF ARCHITECTS.

(C) ENFORCEMENT.

THE MARYLAND ACCESSIBILITY CODE SHALL BE ENFORCED BY LOCAL JURISDICTIONS OR ANY OTHER GOVERNMENTAL UNITS WITH AUTHORITY OVER BUILDINGS OR FACILITIES.

(D) INTERPRETATION; WAIVERS.

THE DEPARTMENT:

(1) SHALL DECIDE QUESTIONS OF INTERPRETATION OF THE MARYLAND ACCESSIBILITY CODE; AND

(2) MAY AUTHORIZE WAIVERS OR EXEMPTIONS UNDER THE MARYLAND ACCESSIBILITY CODE.

(E) INVESTIGATION BY DEPARTMENT.

IN ADDITION TO ANY OTHER PENALTY FOR A VIOLATION OF THE MARYLAND ACCESSIBILITY CODE, THE DEPARTMENT SHALL INVESTIGATE TO DETERMINE IF A VIOLATION EXISTS.

(F) ACTION BY DEPARTMENT.

(1) IF THE DEPARTMENT DETERMINES THAT A VIOLATION OF THE MARYLAND ACCESSIBILITY CODE EXISTS, THE DEPARTMENT MAY RESOLVE ANY ISSUE RELATED TO THE VIOLATION BY MEDIATION AND CONCILIATION.

(2) IN ADDITION, THE DEPARTMENT MAY BRING AN ACTION FOR EQUITABLE OR OTHER APPROPRIATE RELIEF IN A COURT IN THE JURISDICTION IN WHICH THE VIOLATION OCCURRED, INCLUDING AN ACTION TO ENJOIN THE CONSTRUCTION, RENOVATION, OR OCCUPANCY OF A BUILDING OR FACILITY THAT VIOLATES THE MARYLAND ACCESSIBILITY CODE.

(3) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT MAY NOT SEEK AN INJUNCTION UNTIL 5 WORKING DAYS AFTER THE DEPARTMENT HAS SOUGHT TO RESOLVE THE VIOLATION THROUGH MEDIATION AND CONCILIATION.

(G) PROSECUTION BY ATTORNEY GENERAL.

THE ATTORNEY GENERAL MAY PROSECUTE CIVIL CASES THAT ARISE UNDER THIS SECTION THAT ARE REFERRED TO THE ATTORNEY GENERAL BY THE DEPARTMENT.

(H) COOPERATION WITH HUMAN RELATIONS COMMISSION.

(1) THE DEPARTMENT SHALL COOPERATE WITH AND PROVIDE TECHNICAL ASSISTANCE TO THE HUMAN RELATIONS COMMISSION CONCERNING AN ACTION BROUGHT BY THE HUMAN RELATIONS COMMISSION TO ENFORCE ARTICLE 49B, § 22 OF THE CODE.

(2) THIS SECTION DOES NOT LIMIT THE AUTHORITY OF THE HUMAN RELATIONS COMMISSION TO ENFORCE ARTICLE 49B, § 22 OF THE CODE.

(I) VIOLATION OF MARYLAND ACCESSIBILITY CODE PROHIBITED; PENALTIES.

(1) A PERSON MAY NOT WILLFULLY VIOLATE THE MARYLAND ACCESSIBILITY CODE.

(2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT FOR EACH VIOLATION TO IMPRISONMENT NOT EXCEEDING 3 MONTHS OR A FINE NOT EXCEEDING $500 FOR EACH DAY THE VIOLATION EXISTS OR BOTH.

(3) A PENALTY IMPOSED UNDER THIS SUBSECTION IS IN ADDITION TO AND NOT A SUBSTITUTE FOR ANY OTHER PENALTY IMPOSED UNDER FEDERAL, STATE, OR LOCAL LAW.

REVISOR'S NOTE: Subsection (a) of this section is new language added to avoid repetition of the full title of the "Department of Housing and Community Development".

%Subsections (b) through (i) of this section are new language derived without substantive change from former Art. 83B, § 6-102.

In subsection (b)(1) of this section, the former reference to "an appropriate division of the Department" is deleted for brevity because divisions of the Department are included in the general reference to the "Department".

Also in subsection (b)(1) of this section, the former phrase "for the purpose of developing rules and regulations" is deleted for clarity and brevity.

In the introductory language of subsection (b)(2) of this section, the former reference to "rules" is deleted as included in the reference to "regulations". *See* General Revisor's Note to article.

In subsection (b)(2)(i) of this section, the reference to the "Governor's Committee on Employment of People with Disabilities" is substituted for the former reference to the "Governor's Committee for Employment of the Handicapped" to reflect the current name of the committee.

In subsection (c) of this section, the reference to the "Maryland Accessibility Code" is substituted for the former reference to the "Code" for clarity and consistency throughout this section. Similarly, in subsection (d)(1) and (2) of this section, the reference to the "Maryland Accessibility Code" is substituted for the former reference to the "Disability Code". Similarly, in subsection (e) of this section, the reference to the "Maryland Accessibility Code" is substituted for the former reference to the "State building code for the handicapped". Similarly, in subsections (f)(2) and (i)(1) of this section, the reference to the "Maryland Accessibility Code" is substituted for the former reference to the "Maryland Building Code for the Handicapped".

Also in subsection (c) of this section, the reference to "governmental units" is substituted for the former reference to "public agencies" for consistency with similar provisions in this and other revised articles of the Code.

In subsections (e), (f)(1), (2), and (3), and (g) of this section, the reference to the "Department" is substituted for the former reference to the "Secretary" for consistency throughout this section and this subtitle.

In subsection (f)(1) of this section, the reference to a violation of the "Maryland Accessibility Code" is added for clarity.

Defined term: "Person" § 1-101

12-203. MINIMUM LIVABILITY CODE.

(A) "DEPARTMENT" DEFINED.

IN THIS SECTION, "DEPARTMENT" MEANS THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

(B) LOCAL HOUSING CODE REQUIRED.

EACH POLITICAL SUBDIVISION SHALL ADOPT BY REGULATION A LOCAL HOUSING CODE THAT SETS MINIMUM PROPERTY MAINTENANCE STANDARDS FOR HOUSING IN THE SUBDIVISION.

(C) MINIMUM LIVABILITY CODE REQUIRED.

THE DEPARTMENT SHALL ADOPT BY REGULATION A MINIMUM LIVABILITY CODE.

(D) APPLICABILITY OF MINIMUM LIVABILITY CODE.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE MINIMUM LIVABILITY CODE APPLIES TO RESIDENTIAL STRUCTURES USED FOR HUMAN HABITATION.

(2) THE MINIMUM LIVABILITY CODE DOES NOT APPLY TO:

(I) AN OWNER-OCCUPIED HOUSING UNIT;

(II) ANY HOUSING IN A POLITICAL SUBDIVISION THAT HAS ADOPTED A LOCAL HOUSING CODE THAT SUBSTANTIALLY CONFORMS TO THE MINIMUM LIVABILITY CODE; OR

(III) ANY HOUSING EXEMPTED BY THE DEPARTMENT.

(E) CONTENTS OF MINIMUM LIVABILITY CODE.

THE MINIMUM LIVABILITY CODE SHALL:

(1) SET MINIMUM PROPERTY STANDARDS FOR HOUSING IN THE STATE;

(2) ALLOW FOR EXCEPTIONS AND VARIATIONS BETWEEN POLITICAL SUBDIVISIONS:

(I) TO REFLECT GEOGRAPHIC DIFFERENCES; OR

(II) IF THE DEPARTMENT DETERMINES THAT UNIQUE LOCAL CONDITIONS JUSTIFY EXCEPTIONS OR VARIATIONS RECOMMENDED BY POLITICAL SUBDIVISIONS; AND

(3) INCLUDE MINIMUM STANDARDS FOR:

(I) BASIC EQUIPMENT AND FACILITIES USED FOR LIGHT, VENTILATION, HEAT, AND SANITATION; AND

(II) SAFE AND SANITARY MAINTENANCE OF RESIDENTIAL STRUCTURES AND PREMISES.

(F) ENFORCEMENT.

(1) THE POLITICAL SUBDIVISION IN WHICH THE HOUSING IS LOCATED SHALL ENFORCE THE MINIMUM LIVABILITY CODE.

(2) UNLESS ALTERNATIVE HOUSING IS PROVIDED, AN INDIVIDUAL MAY NOT BE DISPLACED BY ENFORCEMENT OF THE MINIMUM LIVABILITY CODE.

(3) A POLITICAL SUBDIVISION MAY CHARGE A PROPERTY OWNER A FEE FOR AN INSPECTION MADE TO ENFORCE THE MINIMUM LIVABILITY CODE.

(G) WAIVER OF APPLICABILITY BY POLITICAL SUBDIVISION.

(1) ON APPLICATION OF THE PROPERTY OWNER, A POLITICAL SUBDIVISION MAY WAIVE THE APPLICABILITY OF THE MINIMUM LIVABILITY CODE TO A UNIT OF RENTAL HOUSING IF:

(I) EACH TENANT OF THE UNIT IS GIVEN ADEQUATE NOTICE IN THE FORM AND MANNER SPECIFIED BY THE POLITICAL SUBDIVISION;

(II) EACH TENANT IS GIVEN AN OPPORTUNITY TO COMMENT ON THE APPLICATION IN WRITING OR IN PERSON; AND

(III) THE WAIVER WOULD NOT THREATEN THE HEALTH OR SAFETY OF ANY TENANT.

(2) A POLITICAL SUBDIVISION MAY WAIVE APPLICABILITY OF THE MINIMUM LIVABILITY CODE IF THE WAIVER IS GRANTED ON THE BASIS OF THE RELIGIOUS PRACTICES OF THE TENANT OF A UNIT OF RENTAL HOUSING.

(H) INTERPRETATION AND WAIVER BY DEPARTMENT.

THE DEPARTMENT:

(1) SHALL DECIDE QUESTIONS OF INTERPRETATION OF THE MINIMUM LIVABILITY CODE, INCLUDING QUESTIONS THAT RELATE TO UNIFORM ENFORCEMENT BY POLITICAL SUBDIVISIONS; AND

(2) MAY AUTHORIZE WAIVERS OR EXEMPTIONS UNDER THE MINIMUM LIVABILITY CODE.

(I) GRANTS AND TECHNICAL ASSISTANCE.

(1) THE DEPARTMENT MAY PROVIDE MATCHING GRANTS AND TECHNICAL ASSISTANCE TO POLITICAL SUBDIVISIONS TO IMPLEMENT THE MINIMUM LIVABILITY CODE.

(2) THE MATCHING GRANTS SHALL BE ALLOCATED USING A FORMULA DEVELOPED BY THE DEPARTMENT TO TAKE INTO ACCOUNT POPULATION AND OTHER RELEVANT FACTORS.

(3) THE DEPARTMENT MAY WAIVE THE REQUIREMENT OF A MATCH IF ADEQUATE LOCAL MONEY IS NOT AVAILABLE.

(J) VIOLATION OF MINIMUM LIVABILITY CODE PROHIBITED; PENALTIES.

(1) A PROPERTY OWNER MAY NOT WILLFULLY VIOLATE THE MINIMUM LIVABILITY CODE.

(2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT FOR EACH VIOLATION TO IMPRISONMENT NOT EXCEEDING 3 MONTHS OR A FINE NOT EXCEEDING $500 FOR EACH DAY THE VIOLATION EXISTS OR BOTH.

(3) A PENALTY IMPOSED UNDER THIS SUBSECTION IS IN ADDITION TO AND NOT A SUBSTITUTE FOR ANY OTHER PENALTY AUTHORIZED UNDER FEDERAL, STATE, OR LOCAL LAW.

REVISOR'S NOTE: Subsection (a) of this section is new language added to avoid repetition of the full title of the "Department of Housing and Community Development".

Subsections (b) through (j) of this section are new language derived without substantive change from former Art. 83B, § 6-103.

Throughout this section, the reference to a "political subdivision" is substituted for the former references to "local political subdivision", "subdivision", and "local subdivision" for clarity and consistency.

In subsections (c), (e)(2)(ii), and (i)(2) and (3) of this section, the reference to the "Department" is substituted for the former reference to the "Secretary" for consistency throughout this section and this subtitle.

In subsection (d)(1) of this section, the reference to the "Minimum Livability Code" is substituted for the former reference to the "livability code" for clarity and consistency throughout this section. Similarly, in subsection (d)(2)(ii) of this section, the reference to the "Minimum Livability Code" is substituted for the former reference to the "statewide livability code". Similarly, in subsection (j)(1) of this section, the reference to the "Minimum Livability Code" is substituted for the former reference to the "housing livability code adopted under subsection (a) of this section".

In subsection (d)(2)(ii) of this section, the former phrase "containing provisions" that substantially conform to the Minimum Livability Code is deleted as surplusage.

In subsection (f)(2) of this section, the reference to "alternative" housing is substituted for the former reference to "alternate" housing to use a more precise word.

Also in subsection (f)(2) of this section, the reference to an "individual" is substituted for the former reference to a "person" because only a human being, and not the other kinds of entities included in the defined term "person", are subject to displacement under this section.

%In subsection (g)(2) of this section, the reference to a "tenant" of a unit of rental housing is substituted for the former reference to an "occupant" for consistency with subsection (g)(1) of this section.

In subsection (i)(3) of this section, the reference to local "money" is substituted for the former reference to local "resources" for consistency with terminology used throughout this article.

Defined term: "Person" § 1-101

12-204. GUIDELINES FOR ILLUMINATION LEVELS IN PUBLIC BUILDINGS.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "ASHRAE" MEANS THE AMERICAN SOCIETY OF HEATING, REFRIGERATING, AND AIR CONDITIONING ENGINEERS.

(3) "GUIDELINES" MEANS THE GUIDELINES FOR RECOMMENDED ILLUMINATION LEVELS IN EXISTING PUBLIC BUILDINGS.

(4) "PUBLIC BUILDING" MEANS A BUILDING OWNED BY THE STATE, A COUNTY, OR MUNICIPAL CORPORATION OR A UNIT OF THE STATE, A COUNTY, OR MUNICIPAL CORPORATION.

(B) SCOPE OF SECTION.

THIS SECTION APPLIES TO EACH PUBLIC BUILDING THAT IS 10,000 OR MORE SQUARE FEET IN AREA PER FLOOR.

(C) ADOPTION OF GUIDELINES.

IN CONJUNCTION WITH THE DEPARTMENT OF NATURAL RESOURCES, THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT SHALL DEVELOP GUIDELINES FOR RECOMMENDED ILLUMINATION LEVELS IN EXISTING PUBLIC BUILDINGS IN THE STATE 6 MONTHS AFTER ASHRAE 100 STANDARDS ARE ADOPTED.

(D) PUBLICATION OF GUIDELINES.

AFTER APPROVAL BY THE JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW, THE GUIDELINES SHALL BE PUBLISHED IN THE MARYLAND REGISTER AND OTHER APPROPRIATE MEDIA TO:

(1) ENCOURAGE USE OF THE GUIDELINES; AND

(2) PROVIDE STANDARDS IN ACCORDANCE WITH WHICH OWNERS, OPERATORS, OR BOTH OF EXISTING PUBLIC BUILDINGS, INCLUDING LOCAL GOVERNMENTS, THE DEPARTMENT OF GENERAL SERVICES, AND OTHER

GOVERNMENTAL UNITS THAT MANAGE STATE BUILDINGS, MAY TARGET THEIR ENERGY CONSERVATION EFFORT WITH REGARD TO ILLUMINATION.

(E) TRAINING OF LOCAL JURISDICTIONS.

(1) IN CONJUNCTION WITH THE DEPARTMENT OF NATURAL RESOURCES, THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT SHALL PROVIDE TRAINING TO LOCAL JURISDICTIONS ON THE APPLICATION OF THE GUIDELINES.

(2) THE TRAINING MAY INCLUDE A PROGRAM DEVELOPED BY A FEDERAL AGENCY OR A CONTRACT AGENT.

(F) ASSISTANCE TO LOCAL JURISDICTIONS.

THE DEPARTMENT OF NATURAL RESOURCES SHALL ASSIST LOCAL JURISDICTIONS TO:

(1) DETERMINE THE COST-BENEFIT IMPACTS OF IMPLEMENTING THE GUIDELINES; AND

(2) PERFORM AUDITS OF SPECIFIC BUILDINGS OR INSTALLATIONS TO DETERMINE LIGHTING PERFORMANCE CHARACTERISTICS AND THE SAVINGS POSSIBLE THROUGH IMPLEMENTING THE GUIDELINES.

(G) ADVISORY COMMISSION.

(1) THERE IS AN ADVISORY COMMISSION ON ENERGY CONSERVATION IN BUILDINGS.

(2) THE COMMISSION CONSISTS OF 15 MEMBERS APPOINTED BY THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT.

(3) THE MEMBERS SHALL BE BROADLY REPRESENTATIVE, INCLUDING REPRESENTATIVES FROM:

(I) STATE AND LOCAL CODE ENFORCEMENT AGENCIES;

(II) ARCHITECTURAL AND ENGINEERING PROFESSIONS;

(III) PUBLIC UTILITIES;

(IV) THE CONSTRUCTION INDUSTRY;

(V) LEGISLATIVE BODIES OF LOCAL GOVERNMENT; AND

(VI) THE PUBLIC.

(4) A MEMBER OF THE COMMISSION:

(I) MAY NOT RECEIVE COMPENSATION FOR SERVICE ON THE COMMISSION; BUT

(II) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS AS PROVIDED IN THE STATE BUDGET.

REVISOR'S NOTE: Subsections (a)(1), (2), and (4), and (b) through (g) of this section are new language derived without substantive change from former Art. 83B, § 6-104.

Subsection (a)(3) of this section is new language added to avoid repetition of the full reference to the "guidelines for recommended illumination levels in existing public buildings".

In subsection (b) of this section, the former reference to public buildings "as defined" is deleted because the term is presumed to be used as defined.

In subsection (g)(3)(vi) of this section, the former reference to the "general" public is deleted as implicit in the reference to the "public" and for consistency with terminology used throughout this article.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, the guidelines required by this section have never been developed and the advisory committee on energy conservation was never appointed.

Defined term: "County" § 1-101

SUBTITLE 3. INDUSTRIALIZED BUILDINGS AND MANUFACTURED HOMES.

12-301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) DEPARTMENT.

"DEPARTMENT" MEANS THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-202(b).

No changes are made.

(C) FIRST USER.

(1) "FIRST USER" MEANS A PERSON WHO INITIALLY INSTALLS AN INDUSTRIALIZED BUILDING OR MANUFACTURED HOME IN THE STATE.

(2) "FIRST USER" DOES NOT INCLUDE A PERSON WHO SUBSEQUENTLY BUYS A BUILDING THAT CONSISTS WHOLLY OR PARTLY OF AN INDUSTRIALIZED BUILDING.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 6-202(c).

In paragraph (1) of this subsection, the references to an "industrialized building" and a "manufactured home" are substituted for the former reference to "factory-built buildings" for clarity. The types of factory-built buildings covered by this subtitle are industrialized buildings and manufactured homes.

Also in paragraph (1) of this subsection, the former references to a "firm" and a "corporation" are deleted as included in the defined term "person". *See* § 1-101 of this article.

Defined terms: "Industrialized building" § 12-301

"Install" § 12-301

"Manufactured home" § 12-301

"Person" § 1-101

(D) INDUSTRIALIZED BUILDING.

(1) "INDUSTRIALIZED BUILDING" MEANS A BUILDING ASSEMBLY OR SYSTEM OF BUILDING SUBASSEMBLIES MANUFACTURED IN ITS ENTIRETY, OR IN SUBSTANTIAL PART, OFF SITE AND TRANSPORTED TO A SITE FOR INSTALLATION OR ERECTION, WITH OR WITHOUT OTHER SPECIFIED COMPONENTS, AS A FINISHED BUILDING OR AS PART OF A FINISHED BUILDING THAT COMPRISES TWO OR MORE INDUSTRIALIZED BUILDING UNITS.

(2) "INDUSTRIALIZED BUILDING" INCLUDES THE ELECTRICAL, PLUMBING, HEATING, VENTILATING, INSULATION, AND OTHER SERVICE SYSTEMS OF THE BUILDING ASSEMBLY OR SYSTEM OF BUILDING SUBASSEMBLIES IF THE SERVICE SYSTEMS ARE INSTALLED AT THE OFF SITE MANUFACTURE OR ASSEMBLY POINT.

(3) "INDUSTRIALIZED BUILDING" DOES NOT INCLUDE:

(I) OPEN FRAME CONSTRUCTION THAT CAN BE COMPLETELY INSPECTED ON SITE; OR

(II) A MANUFACTURED HOME.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 6-202(d).

%In paragraph (1) of this subsection, the defined term "site" is substituted for the former reference to the "point of use" for accuracy and consistency throughout this subtitle.

In paragraph (3)(ii) of this subsection and throughout this subtitle, the term "manufactured home" is substituted for the former term "mobile home" to conform to terminology used in the federal law that regulates manufactured homes.

Defined terms: "Install" § 12-301

"Manufactured home" § 12-301

"Site" § 12-301

(E) INSTALL.

"INSTALL" MEANS TO ASSEMBLE AN INDUSTRIALIZED BUILDING OR MANUFACTURED HOME ON SITE AND TO AFFIX THE INDUSTRIALIZED BUILDING OR MANUFACTURED HOME TO LAND, A FOUNDATION, FOOTINGS, OR AN EXISTING BUILDING.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 6-202(e).

The reference to a "manufactured home" is added for clarity and consistency throughout this subtitle.

Defined terms: "Industrialized building" § 12-301

"Manufactured home" § 12-301

"Site" § 12-301

(F) LOCAL ENFORCEMENT AGENCY.

"LOCAL ENFORCEMENT AGENCY" MEANS AN AGENCY OF THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION THAT ENFORCES LAWS THAT GOVERN THE CONSTRUCTION OF BUILDINGS.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-202(f).

The reference to a "municipal corporation" is substituted for the former reference to a "city" to conform to Md. Constitution, Art. XI-E.

The former reference to "ordinances" is deleted as included in the reference to "laws".

Defined term: "County" § 1-101

(G) MANUFACTURED HOME.

(1) "MANUFACTURED HOME" MEANS A STRUCTURE THAT:

(I) IS TRANSPORTABLE IN ONE OR MORE SECTIONS;

(II) IS 8 BODY FEET OR MORE IN WIDTH AND 30 BODY FEET OR MORE IN LENGTH;

(III) IS BUILT ON A PERMANENT CHASSIS; AND

(IV) IS DESIGNED TO BE USED AS A DWELLING, WITH OR WITHOUT A PERMANENT FOUNDATION, WHEN CONNECTED TO THE REQUIRED UTILITIES.

(2) "MANUFACTURED HOME" INCLUDES THE PLUMBING, HEATING, AIR-CONDITIONING, AND ELECTRICAL SYSTEMS CONTAINED IN THE STRUCTURE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 6-202(g).

In this subsection and throughout this subtitle, the term "manufactured home" is substituted for the former term "mobile home" to conform to terminology used in the federal law that regulates manufactured homes.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that the federal law that regulates manufactured homes includes as manufactured homes structures that are 40 body feet or more in length. The General Assembly may wish to consider amending this subsection to follow federal law.

(H) MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS ACT.

"MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS ACT" MEANS THE NATIONAL MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS ACT OF 1974, 42 U.S.C. § 5401 ET SEQ.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 6-202(h).

The reference to the "Manufactured Home Construction and Safety Standards Act" is substituted for the former reference to the "Mobile Home Construction and Safety Standards Act" to reflect the current title of the federal statute.

Defined term: "Manufactured home" § 12-301

(I) SITE.

"SITE" MEANS THE ENTIRE TRACT, SUBDIVISION, OR PARCEL OF LAND ON WHICH AN INDUSTRIALIZED BUILDING OR MANUFACTURED HOME IS INSTALLED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 6-202(j).

Defined terms: "Industrialized building" § 12-301

"Install" § 12-301

"Manufactured home" § 12-301

REVISOR'S NOTE TO SECTION:

Former Art. 83B, § 6-202(i), which defined "Secretary" as the Secretary of Housing and Community Development, is deleted because the term is not used in the revision.

12-302. LEGISLATIVE FINDINGS.

THE GENERAL ASSEMBLY FINDS THAT:

(1) WITH THE ACCELERATION IN DEVELOPMENT OF NEW MATERIALS, PROCESSES, AND ASSEMBLIES OF BUILDING COMPONENTS, INDUSTRIALIZED BUILDINGS, MANUFACTURED HOMES, AND SUBASSEMBLIES, AND THE INCREASED USE OF TEMPORARY AND MOBILE STRUCTURES, THERE IS A NEED FOR A STATEWIDE BUILDING REGULATORY SYSTEM;

(2) UNTIL THE RECENT INCREASE IN DEMAND FOR USE OF TEMPORARY AND MOBILE STRUCTURES, THE PRESENT SYSTEM WITH ITS ESSENTIALLY LOCAL BUILDING REGULATORY DEPARTMENTS HAS DONE A CREDITABLE JOB PROTECTING THE HEALTH AND SAFETY OF THE PUBLIC IN THEIR RESPECTIVE COMMUNITIES;

(3) THIS NEW DEMAND CALLS FOR MORE IN DEPTH PERFORMANCE EVALUATIONS IN TERMS OF THE INTENT OF THE BUILDING REGULATIONS AND INSPECTION SERVICES THAT USUALLY INVOLVE GOING BEYOND THE BOUNDARIES OF LOCAL UNITS OF GOVERNMENT AND REQUIRE THE ASSISTANCE OF THE STATE;

(4) LOCAL OFFICIALS IN THE STATE POSSESS GREAT KNOWLEDGE AND INSIGHT IN THIS FIELD AND ARE AWARE OF THE NEEDS FOR MODIFICATION, AND THEIR COOPERATION IN DEVELOPING, APPLYING, AND REFINING A SATISFACTORY PROGRAM IS ESSENTIAL;

(5) THERE IS A GREAT OPPORTUNITY TO COOPERATE WITH OTHER STATES, WITH ORGANIZATIONS THAT HAVE PUBLISHED WIDELY USED MODEL BUILDING CODES OR STANDARDS OF REGULATIONS, AND WITH OTHER SIMILARLY ENGAGED AGENCIES, INCLUDING THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY;

(6) THIS COOPERATION SHALL BE AN INTEGRAL ELEMENT IN THE APPLICATION AND ENFORCEMENT OF THIS STATEWIDE PROGRAM; AND

(7) THE HEALTH AND SAFETY OF THE PUBLIC WILL BE PROTECTED BEST IF THE STATE ASSUMES THE RESPONSIBILITY TO ENFORCE IN THE STATE FEDERAL CONSTRUCTION AND SAFETY STANDARDS IN ACCORDANCE WITH THE MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS ACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 6-201.

In the introductory language of this section, the phrase "[t]he General Assembly finds" is substituted for the former phrases "[i]t is found" and

"[i]t is further found" to clarify the entity who makes these findings.

Also in the introductory language of this section, the former references to "declared" are deleted as redundant of the word "finds" and for consistency with similar provisions in other revised articles of the Code. *See, e.g.*, BR § 3-102 and IN § 7-102.

In item (2) of this section, the reference to the health and safety of "the public" is substituted for the former reference to the health and safety of "the people" for consistency throughout this article. Similarly, in item (7) of this section, the phrase "the public" is substituted for the former reference to "Maryland residents" for clarity and consistency throughout this article.

In item (7) of this section, the specific reference to the "Manufactured Home Construction and Safety Standards Act" is substituted for the former reference to the "federal law establishing the standards" for clarity.

Defined terms: "Industrialized building" § 12-301

"Manufactured home" § 12-301

"Manufactured Home Construction and Safety Standards Act" § 12-301

"State" § 1-101

12-303. POWERS RESERVED TO LOCAL GOVERNMENT.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, LOCAL LAND USE REQUIREMENTS, BUILDING SETBACK REQUIREMENTS, SIDE AND REAR YARD REQUIREMENTS, SITE DEVELOPMENT AND PROPERTY LINE REQUIREMENTS, ZONING REQUIREMENTS AND UNIFORM FIRE CONTROL REGULATIONS, REGARDLESS OF WHERE THE REQUIREMENTS, ORDINANCES, REGULATIONS, OR STATUTES ARE SET FORTH, ARE RESERVED TO LOCAL GOVERNMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 6-204(c)(4).

The reference to "local" government is substituted for the former reference to "city and county" government for brevity and consistency with terminology used throughout this article.

12-304. DUTIES OF DEPARTMENT.

(A) FEES.

(1) THE DEPARTMENT SHALL ESTABLISH A SCHEDULE OF FEES TO ADMINISTER THE INSPECTION AND CERTIFICATION PROGRAM FOR INDUSTRIALIZED BUILDINGS AND THE ON-SITE INSPECTION AND ENFORCEMENT PROGRAM FOR MANUFACTURED HOMES.

(2) TO THE EXTENT POSSIBLE, THE FEES SHALL BE BASED ON THE COST OF ADMINISTRATION OF THESE PROGRAMS.

(3) THE PAYMENTS OF THE FEES SHALL BE INCLUDED IN THE MONEY OF THE DEPARTMENT WITH RECEIPTS FROM CONTRACTS OR GRANTS UNDER FEDERAL OR INTERSTATE PROGRAMS.

(4) ANY MONEY UNEXPENDED AT THE END OF THE FISCAL YEAR DOES NOT REVERT TO THE GENERAL FUND, BUT SHALL BE KEPT IN A SPECIAL FUND AVAILABLE TO THE DEPARTMENT TO CARRY OUT THIS SUBTITLE.

(B) ENFORCEMENT.

THE DEPARTMENT:

(1) SHALL ENFORCE THIS SUBTITLE AND THE REGULATIONS ADOPTED UNDER THIS SUBTITLE; AND

(2) MAY REFER AN APPARENT VIOLATION OF THIS SUBTITLE TO THE APPROPRIATE STATE'S ATTORNEY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 6-204(f) and 6-206(a).

In subsection (a)(3) and (4) of this section, the reference to "money" is substituted for the former reference to "funds" for consistency with terminology used throughout this article.

In the introductory language of subsection (b) of this section, the reference to the "Department" is substituted for the former reference to the "Secretary" for consistency with terminology used in this section and throughout this subtitle and this title.

In subsection (b)(1) of this section, the former reference to "rules" is deleted as included in the reference to "regulations". *See* General Revisor's Note to article.

In subsection (b)(2) of this section, the former phrase "on information" is deleted as surplusage.

Defined terms: "Department" § 12-301

"Industrialized building" § 12-301

"Manufactured home" § 12-301

12-305. STANDARDS FOR INDUSTRIALIZED BUILDINGS AND MANUFACTURED HOMES.

(A) INDUSTRIALIZED BUILDINGS -- IN GENERAL.

THE DEPARTMENT:

(1) SHALL ADOPT REGULATIONS THAT SET STANDARDS TO WHICH INDUSTRIALIZED BUILDINGS SHALL COMPLY TO PROTECT AGAINST THE HAZARDS OF INDUSTRIALIZED BUILDINGS TO SAFETY, HEALTH, AND PROPERTY;

(2) MAY ADOPT REGULATIONS THAT GOVERN THE ENFORCEMENT, INSPECTION, AND CERTIFICATION PROGRAMS AUTHORIZED BY THIS SUBTITLE; AND

(3) WITH RESPECT TO INDUSTRIALIZED BUILDINGS, SHALL ADOPT THE MARYLAND BUILDING PERFORMANCE STANDARDS WITH EXCEPTIONS OR MODIFICATIONS THAT, AFTER ADEQUATE PUBLIC NOTICE AND PUBLIC HEARING, THE DEPARTMENT CONSIDERS APPROPRIATE TO MEET THE NEEDS AND JUDGMENTS OF THE STATE.

(B) SAME -- ACCEPTANCE OF NEW MATERIALS AND METHODS.

(1) IF PRACTICAL, THE REGULATIONS THAT SET STANDARDS FOR INDUSTRIALIZED BUILDINGS SHALL BE STATED IN TERMS OF REQUIRED LEVELS OF PERFORMANCE TO FACILITATE THE PROMPT APPROVAL OF ACCEPTABLE NEW BUILDING MATERIALS AND METHODS.

(2) IF GENERALLY RECOGNIZED STANDARDS OF PERFORMANCE ARE NOT AVAILABLE, THE REGULATIONS SHALL PROVIDE FOR ACCEPTANCE OF MATERIALS AND METHODS WHOSE PERFORMANCE HAS BEEN DETERMINED BY THE DEPARTMENT, ON THE BASIS OF RELIABLE TEST AND EVALUATION DATA PRESENTED BY THE PROPONENT, TO BE SUBSTANTIALLY EQUAL IN SAFETY TO THE MATERIALS AND METHODS SPECIFIED WHEN USED FOR THE PURPOSE AND IN THE MANNER RECOMMENDED.

(C) SAME -- PAMPHLETS.

(1) THE DEPARTMENT SHALL HAVE PRINTED AND KEEP IN PAMPHLET FORM THE REGULATIONS THAT SET STANDARDS FOR INDUSTRIALIZED BUILDINGS.

(2) THE PAMPHLETS SHALL BE PROVIDED AT COST TO THE PUBLIC ON REQUEST.

(D) MANUFACTURED HOME CONSTRUCTION OR SAFETY.

THE DEPARTMENT MAY ADOPT REGULATIONS THAT RELATE TO ISSUES OF CONSTRUCTION OR SAFETY OF MANUFACTURED HOMES FOR WHICH A FEDERAL STANDARD HAS NOT BEEN ESTABLISHED AND WHICH ARE NOT RESERVED TO A LOCAL GOVERNMENT UNDER § 12-303 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 6-203(a), (b), and (c) and 6-207(b).

Throughout this section, the former reference to "rules" is deleted as included in the reference to "regulations". *See* General Revisor's Note to article.

In subsection (a)(2) of this section, the former reference to "all aspects of" the enforcement, inspection, and certification programs is deleted as surplusage.

%In subsection (a)(3) of this section, the reference to the "Maryland Building Performance Standards" is substituted for the former obsolete reference to the "Building Officials Conference of America basic code" for accuracy. *See* Subtitle 5 of this title.

In subsection (c)(2) of this section, the former reference to "members of" the public is deleted as surplusage.

In subsection (d) of this section, the former reference to "amend[ing]" regulations is deleted as implicit in the authority to "adopt" regulations.

Also in subsection (d) of this section, the reference to "local" government is substituted for the former reference to "city and county" government for brevity and consistency with terminology used throughout this article.

Former Art. 83B, § 6-203(d), which provided an effective date in 1972 for regulations adopted under this subtitle, is deleted as obsolete.

Defined terms: "Department" § 12-301

"Industrialized building" § 12-301

"Manufactured home" § 12-301

12-306. CERTIFICATION AND INSIGNIA REQUIRED.

(A) INDUSTRIALIZED BUILDINGS.

AN INDUSTRIALIZED BUILDING THAT IS MANUFACTURED AFTER JUNE 30, 1977, MAY NOT BE SOLD, OFFERED FOR SALE, OR INSTALLED IN THE STATE UNLESS THE INDUSTRIALIZED BUILDING:

(1) IS CERTIFIED BY THE DEPARTMENT FOR SALE IN THE STATE; AND

(2) BEARS THE INSIGNIA PROVIDED BY THE DEPARTMENT.

(B) MANUFACTURED HOMES.

A MANUFACTURED HOME THAT IS MANUFACTURED AFTER JANUARY 1, 1973, MAY NOT BE SOLD OR OFFERED FOR SALE TO A FIRST USER IN THE STATE UNLESS THE MANUFACTURED HOME:

(1) IS CERTIFIED BY THE DEPARTMENT FOR SALE IN THE STATE AND BEARS THE INSIGNIA PROVIDED BY THE DEPARTMENT; OR

(2) IS CERTIFIED AND LABELED UNDER THE MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS ACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 6-208 and 6-204(c)(1).

In subsection (b)(1) of this section, the reference to the manufactured home being "certified by the Department for sale in the State" is added for

clarity. The manufactured home would not bear the insignia of the Department unless it was certified for sale in the State.

Defined terms: "Department" § 12-301

"First user" § 12-301

"Industrialized building" § 12-301

"Install" § 12-301

"Manufactured home" § 12-301

"Manufactured Home Construction and Safety Standards Act" § 12-301

12-307. EVALUATION AND TESTING OF INDUSTRIALIZED BUILDINGS.

(A) IN GENERAL.

(1) THE DEPARTMENT SHALL DETERMINE WHETHER EACH PROPOSED INDUSTRIALIZED BUILDING MEETS THE STANDARDS CONTAINED IN THE REGULATIONS OF THE DEPARTMENT.

(2) THE DETERMINATION SHALL INCLUDE THE EVALUATION AND TESTING OF THE INDUSTRIALIZED BUILDING AND THE QUALITY CONTROL SYSTEM AT THE FACTORY OF ORIGIN AND AT THE BUILDING SITE.

(B) AUTHORIZED TESTERS.

(1) THE DEPARTMENT SHALL PERFORM THE DETERMINATION REQUIRED BY SUBSECTION (A) OF THIS SECTION THROUGH ITS OWN PERSONNEL OR THROUGH A DESIGNATED AGENT.

(2) THE DESIGNATED AGENT SHALL BE:

(I) QUALIFIED PERSONNEL OF A LOCAL ENFORCEMENT AGENCY; OR

(II) A TESTING FACILITY THAT IS APPROVED BY THE DEPARTMENT.

(3) THE TESTING FACILITY SHALL BE:

(I) AN ARCHITECT OR PROFESSIONAL ENGINEER WHOSE REGISTRATION IS ACCEPTED BY THE STATE; OR

(II) A TESTING ORGANIZATION THAT IS DETERMINED BY THE DEPARTMENT TO BE SPECIFICALLY QUALIFIED BY REASON OF FACILITIES, PERSONNEL, EXPERIENCE, AND DEMONSTRATED RELIABILITY TO INVESTIGATE, TEST, AND EVALUATE INDUSTRIALIZED BUILDINGS OR THEIR COMPONENT PARTS.

(4) IN ADDITION TO EVALUATING AND TESTING INDUSTRIALIZED BUILDINGS OR THEIR COMPONENT PARTS, THE TESTING FACILITY SHALL:

(I) LIST THE UNITS IN COMPLIANCE WITH THE STANDARDS ADOPTED BY THE DEPARTMENT;

(II) PROVIDE ADEQUATE FOLLOW-UP SERVICES AT THE POINT OF MANUFACTURE TO ENSURE THAT PRODUCTION UNITS ARE IN FULL COMPLIANCE; AND

(III) PROVIDE FOR EACH UNIT AN INSIGNIA IN THE FORM OF A LABEL, SEAL, OR OTHER EVIDENCE OF COMPLIANCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 6-202(a) and the first and second sentences of § 6-204(a).

Subsection (b)(3) and (4) of this section are revised as substantive provisions that relate to testing facilities rather than a definition of "approved testing facility" for clarity.

In subsection (b)(4)(iii) of this section, the reference to "an insignia in the form of" a label, seal, or other evidence of compliance is added to clarify that the evidence of compliance is in the form of an insignia.

Defined terms: "Department" § 12-301

"Industrialized building" § 12-301

"Local enforcement agency" § 12-301

"Site" § 12-301

12-308. CERTIFICATION OF INDUSTRIALIZED BUILDINGS.

(A) IN GENERAL.

IF THE DEPARTMENT DETERMINES THAT AN INDUSTRIALIZED BUILDING MEETS THE STANDARDS SET BY THE REGULATIONS OF THE DEPARTMENT, THE DEPARTMENT SHALL CERTIFY THE INDUSTRIALIZED BUILDING FOR THE PRESCRIBED AREA.

(B) LOCAL PUBLIC HEARINGS.

IF A PROBLEM ARISES THAT IS LIMITED TO A PARTICULAR LOCALITY IN THE STATE, THE DEPARTMENT IF PRACTICABLE SHALL HOLD A PUBLIC HEARING IN THAT LOCALITY.

(C) STANDARDS SET BY ANOTHER STATE.

BY REGULATION, THE DEPARTMENT MAY PROVIDE THAT INDUSTRIALIZED BUILDINGS APPROVED BY ANOTHER STATE ARE ENTITLED TO CERTIFICATION BY THE DEPARTMENT IF, AFTER PUBLIC HEARING, THE DEPARTMENT DETERMINES THAT THE STANDARDS SET BY LAW OF THE OTHER STATE:

(1) ARE AT LEAST EQUAL TO THE REGULATIONS ADOPTED UNDER THIS SUBTITLE; AND

(2) ARE ENFORCED ADEQUATELY BY THE OTHER STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from the fourth and fifth sentences and the second clause of the third sentence of former Art. 83B, § 6-204(a).

In the introductory language of subsection (c) of this section, the reference to standards set "by law" is substituted for the former reference to standards set "by statute, rule or regulation" for brevity.

In subsection (c)(2) of this section, the word "actually", which formerly modified "adequately enforced", is deleted as surplusage.

Defined terms: "Department" § 12-301

"Industrialized building" § 12-301

"State" § 1-101

12-309. INSIGNIA ON CERTIFIED BUILDINGS.

(A) IN GENERAL.

INDUSTRIALIZED BUILDINGS CERTIFIED BY THE DEPARTMENT FOR SALE IN THE STATE SHALL BEAR THE INSIGNIA PROVIDED BY THE DEPARTMENT.

(B) EFFECT OF INSIGNIA.

AN INDUSTRIALIZED BUILDING THAT BEARS AN INSIGNIA PROVIDED BY THE DEPARTMENT IS ACCEPTABLE IN ALL LOCALITIES OF THE STATE:

(1) TO COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE; AND

(2) TO MEET THE REQUIREMENTS OF SAFETY TO LIFE, HEALTH, AND PROPERTY REQUIRED BY A LAW OR ORDINANCE OF A LOCAL GOVERNING BODY OF THE STATE WITHOUT FURTHER INVESTIGATION OR INSPECTION BY THE LOCAL GOVERNING BODY IF THE INDUSTRIALIZED BUILDING IS ERECTED OR INSTALLED IN ACCORDANCE WITH THE CONDITIONS OF THE CERTIFICATION.

(C) INDUSTRIALIZED BUILDINGS NOT REQUIRED TO BEAR INSIGNIA.

(1) AN INDUSTRIALIZED BUILDING THAT WAS MANUFACTURED ON OR BEFORE JUNE 30, 1977, AND IS NOT REQUIRED TO BEAR THE INSIGNIA PROVIDED BY THE DEPARTMENT:

(I) MAY BE LAWFULLY SOLD OR INSTALLED; AND

(II) IS SUBJECT TO REGULATION BY THE LOCAL GOVERNING BODY OF THE JURISDICTION WHERE THE INDUSTRIALIZED BUILDING WILL BE INSTALLED.

(2) IF AN INDUSTRIALIZED BUILDING THAT IS NOT REQUIRED TO BEAR THE INSIGNIA PROVIDED BY THE DEPARTMENT IS OFFERED FOR SALE, THE SELLER OR MANUFACTURER SHALL SPECIFICALLY ADVISE THE PROSPECTIVE PURCHASER THAT THE BUILDING HAS NOT BEEN CERTIFIED BY THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 6-204(c)(2) and (3) and the first sentence of (1).

In the introductory language of subsection (c)(1) of this section, the reference to an industrialized building that "was manufactured on or before June 30, 1977" is substituted for the former phrase "by reason of date of manufacture" for clarity and consistency with § 12-306(a) of this subtitle.

In subsection (c)(1)(ii) of this section, the reference to "regulation by" the local governing body is substituted for the former reference to "control" of that body for clarity.

Defined terms: "Department" § 12-301

"Industrialized building" § 12-301

"Install" § 12-301

12-310. ISSUANCE, DENIAL, OR MODIFICATION OF CERTIFICATION; FORFEITURE.

(A) IN GENERAL.

THE ISSUANCE, DENIAL, OR MODIFICATION OF A CERTIFICATION:

(1) SHALL BE MADE BY THE DEPARTMENT; AND

(2) MAY BE REVIEWED BY THE DEPARTMENT'S BOARD OF REVIEW.

(B) REVIEW OF ISSUANCE OR DENIAL OF CERTIFICATION.

LOCAL ENFORCEMENT AGENCY REPRESENTATIVES, MANUFACTURERS, AND INSTALLERS OF INDUSTRIALIZED BUILDINGS MAY SEEK REVIEW BY THE DEPARTMENT OF THE ISSUANCE OR DENIAL OF A CERTIFICATION.

(C) FORFEITURE OF CERTIFICATION AND INSIGNIA.

ANY ALTERATION, MODIFICATION, OR ATTEMPTED USE OF AN INDUSTRIALIZED BUILDING BEYOND THE SCOPE OF THE CERTIFICATION RESULTS IN FORFEITURE OF THE CERTIFICATION AND INSIGNIA UNLESS APPROVAL FOR THE MODIFICATION OR USE IS SECURED FROM THE DEPARTMENT IN ADVANCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 6-204(d) and the first and second sentences and first clause of the third sentence of (e).

Defined terms: "Department" § 12-301

"Local enforcement agency" § 12-301

12-311. INSPECTIONS.

(A) IN GENERAL.

THE DEPARTMENT SHALL MAINTAIN A PROGRAM OF ADEQUATE INSPECTION OF INDUSTRIALIZED BUILDINGS.

(B) UNANNOUNCED INSPECTIONS.

(1) EACH MANUFACTURER OF INDUSTRIALIZED BUILDINGS TO BE SOLD OR OFFERED FOR SALE TO FIRST USERS IN THE STATE SHALL AGREE THAT THE DEPARTMENT HAS THE RIGHT TO CONDUCT UNANNOUNCED INSPECTIONS AT THE MANUFACTURING SITE TO REVIEW ANY ASPECT OF THE MANUFACTURER'S QUALITY CONTROL PROGRAM.

(2) THE COST OF TWO UNANNOUNCED INSPECTIONS MAY BE CHARGED TO THE MANUFACTURER IN ACCORDANCE WITH A FEE SCHEDULE ESTABLISHED BY THE DEPARTMENT.

(3) IN ADDITION, THE TOTAL TRAVEL COSTS ON PUBLISHED AIR FARE, OR EQUIVALENT RATE, BETWEEN BALTIMORE AND THE LOCATION OF THE FACTORY, PLUS NECESSARY SUPPLEMENTAL SURFACE TRANSPORTATION AND REIMBURSEMENT FOR FOOD AND LODGING CONSISTENT WITH ALLOWANCES FOR STATE EMPLOYEES MAY BE CHARGED TO THE MANUFACTURER.

(C) INSPECTIONS BY LOCAL ENFORCEMENT AGENCY PERSONNEL.

(1) THE DEPARTMENT MAY ESTABLISH A PROGRAM OF TRAINING AND ACCREDITATION OF LOCAL ENFORCEMENT AGENCY PERSONNEL TO:

(I) ENABLE THEM TO BE MOST EFFECTIVE IN INSPECTION OF INDUSTRIALIZED BUILDINGS OR MANUFACTURED HOMES; AND

(II) PROMOTE THE POSSIBILITY OF RECIPROCAL RELIANCE BETWEEN BUILDING PERSONNEL IN THIS STATE AND BETWEEN THIS STATE AND OTHER STATES.

(2) IN THOSE JURISDICTIONS THAT EMPLOY ACCREDITED LOCAL ENFORCEMENT AGENCY PERSONNEL, THE FUNCTION OF ON-SITE INSPECTION OF THE INSTALLATION OR ASSEMBLY OF INDUSTRIALIZED BUILDINGS IS RESERVED TO THOSE JURISDICTIONS WITH APPROPRIATE APPEAL PROCEDURES FROM THEIR DECISIONS.

(D) REINSPECTIONS.

(1) LOCAL ENFORCEMENT AGENCY REPRESENTATIVES, MANUFACTURERS, AND INSTALLERS MAY REPORT TO THE DEPARTMENT AN INDUSTRIALIZED BUILDING THAT HAS BEEN DAMAGED EN ROUTE TO THE SITE SO THAT THE DEPARTMENT MAY ARRANGE FOR A REINSPECTION OF THE INDUSTRIALIZED BUILDING.

(2) THE DEPARTMENT MAY CHARGE A REINSPECTION FEE TO THE INSTALLER OF THE INDUSTRIALIZED BUILDING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 6-204(b), the third sentence of (a), as it related to inspections, and the fourth sentence and second clause of the third sentence of (e).

Defined terms: "Department" § 12-301

"First user" § 12-301

"Industrialized building" § 12-301

"Local enforcement agency" § 12-301

"Manufactured home" § 12-301

"Site" § 12-301

"State" § 1-101

12-312. ENFORCEMENT OF MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS ACT.

(A) IN GENERAL.

THE DEPARTMENT MAY ACT AS NECESSARY OR DESIRABLE TO CARRY OUT A STATE PLAN OF ENFORCEMENT UNDER THE MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS ACT.

(B) SPECIFIC AUTHORITY.

THE AUTHORITY OF THE DEPARTMENT UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE AUTHORITY TO:

(1) CONTRACT WITH OR ACCEPT GRANTS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, THE NATIONAL CONFERENCE OF STATES ON BUILDING CODES AND STANDARDS, THEIR SUCCESSORS, OR OTHER SIMILAR ORGANIZATIONS WITH RESPECT TO THE ENFORCEMENT OF MANUFACTURED HOME STANDARDS AND PERFORM THE UNDERTAKINGS AND CONDITIONS OF THE CONTRACT OR GRANT;

(2) ENGAGE IN FACTORY INSPECTION AND QUALITY CONTROL MONITORING OF MANUFACTURED HOME MANUFACTURERS IN THE STATE AND OUTSIDE THE STATE WITH RESPECT TO MANUFACTURED HOMES TO BE SOLD IN THE STATE OR, IF ON A RECIPROCAL OR COOPERATIVE BASIS, NOT INTENDED FOR SALE IN THE STATE;

(3) TRAIN AND ACCREDIT LOCAL ENFORCEMENT AGENCY PERSONNEL WITH RESPECT TO MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS AND MANUFACTURED HOME INSTALLATION;

(4) INSPECT MANUFACTURED HOMES IN THE POSSESSION OF DEALERS OR OTHERWISE DISTRIBUTED IN THE STATE, TO:

(I) VERIFY THAT THE FEDERAL CERTIFICATION IS PROPER FOR THE INTENDED ZONE; AND

(II) ASCERTAIN ANY DAMAGE IN TRANSIT THAT AFFECTS COMPLIANCE WITH CONSTRUCTION OR SAFETY STANDARDS OR CONSTITUTES A SAFETY HAZARD;

(5) ESTABLISH PROCEDURES TO ASCERTAIN, REPORT ON, AND CORRECT COMPLAINTS AND REPORTS OF DEFECTS FROM OR TO DEALERS OR USERS OF MANUFACTURED HOMES;

(6) CONDUCT ON-SITE INSPECTION OF THE INSTALLATION OF MANUFACTURED HOMES, REQUIRE A PERMIT OR OTHER EVIDENCE OF APPROVAL OF THE ON-SITE INSTALLATION, AND CHARGE A FEE TO COVER COSTS ALTHOUGH THESE FUNCTIONS MAY BE PERFORMED BY A LOCAL ENFORCEMENT AGENCY THAT EMPLOYS ACCREDITED INSPECTORS; AND

(7) REQUIRE MANUFACTURED HOME DEALERS AND MANUFACTURED HOME PARK OPERATORS TO ALLOW ENTRY AND INSPECTION OF MANUFACTURED HOMES FOR PURPOSES OF THIS SUBTITLE AND SUBMIT REPORTS FOR PURPOSES OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 6-207(a).

Defined terms: "Department" § 12-301

"Install" § 12-301

"Local enforcement agency" § 12-301

"Manufactured home" § 12-301

"Manufactured Home Construction and Safety Standards Act" § 12-301

12-313. PROHIBITED ACTS; PENALTIES.

(A) VIOLATION OF SUBTITLE OR REGULATION PROHIBITED; PENALTY.

(1) A PERSON MAY NOT VIOLATE THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE.

(2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT FOR EACH VIOLATION TO A FINE NOT EXCEEDING $1,000.

(3) THIS SUBSECTION DOES NOT APPLY TO A VIOLATION OF 42 U.S.C. § 5409.

(B) VIOLATION OF FEDERAL ACT -- CIVIL PENALTY.

(1) A PERSON MAY NOT IN THE STATE VIOLATE 42 U.S.C. § 5409 OR A REGULATION ADOPTED OR ORDER ISSUED UNDER IT.

(2) A PERSON WHO VIOLATES THIS SUBSECTION IS LIABLE TO THE STATE FOR A CIVIL PENALTY NOT EXCEEDING $1,000 FOR EACH VIOLATION.

(3) EACH VIOLATION UNDER THIS SUBSECTION IS A SEPARATE VIOLATION WITH RESPECT TO EACH MANUFACTURED HOME OR WITH RESPECT TO EACH FAILURE OR REFUSAL TO ALLOW OR PERFORM AN ACT REQUIRED BY 42 U.S.C. § 5409 OR A REGULATION ADOPTED OR ORDER ISSUED UNDER IT.

(4) A CIVIL PENALTY UNDER THIS SUBSECTION MAY NOT EXCEED $1,000,000 FOR ANY RELATED SERIES OF VIOLATIONS OCCURRING WITHIN 1 YEAR AFTER THE DATE OF THE FIRST VIOLATION.

(C) SAME -- CRIMINAL PENALTY.

(1) AN INDIVIDUAL OR A DIRECTOR, OFFICER, OR AGENT OF A CORPORATION MAY NOT IN THE STATE KNOWINGLY AND WILLFULLY VIOLATE 42 U.S.C. § 5409 IN A MANNER THAT THREATENS THE HEALTH OR SAFETY OF A PURCHASER OF A MANUFACTURED HOME.

(2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING $1,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 6-206(b), (c), and (d).

In subsection (a)(1) of this section, the former reference to a "rule" is deleted as included in the reference to a "regulation". *See* General Revisor's Note to article.

In subsection (c)(1) of this section, the reference to a purchaser "of a manufactured home" is added for clarity.

In subsection (c)(2) of this section, the reference to being "guilty of a misdemeanor" is added to state expressly that which was only implied in the former law. In this State, any crime that was not a felony at common law and has not been declared a felony by statute, is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Williams v. State*, 4 Md. App. 342, 347 (1968); and *Dutton v. State*, 123 Md. 373, 378 (1914).

Also in subsection (c)(2) of this section, the reference to a person "on conviction" being subject to a certain penalty is added to state expressly that which only was implied in the former law and for consistency with other penalty provisions in this and other revised articles of the Code.

Defined terms: "Manufactured home" § 12-301

"Person" § 1-101

SUBTITLE 4. SAFETY GLAZING.

12-401. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-301(a).

No changes are made.

(B) ANSI STANDARD.

"ANSI STANDARD" MEANS THE AMERICAN NATIONAL STANDARDS INSTITUTE STANDARD ANSI Z 97.1 - 1984, AS ADOPTED MOST RECENTLY BY THE DEPARTMENT IN THE MARYLAND BUILDING PERFORMANCE STANDARDS.

REVISOR'S NOTE: This subsection is new language added as a shorthand reference to the "American National Standards Institute Standard ANSI z 97.1 - 1984, as adopted most recently by the Department of Housing and Community Development in the Maryland Building Performance Standards".

Defined term: "Department" § 12-401

(C) DEPARTMENT.

"DEPARTMENT" MEANS THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title "Department of Housing and Community Development".

(D) FIXED GLAZED PANEL IMMEDIATELY ADJACENT TO AN ENTRANCE OR EXIT DOOR.

"FIXED GLAZED PANEL IMMEDIATELY ADJACENT TO AN ENTRANCE OR EXIT DOOR" MEANS THE FIRST FIXED GLAZED PANEL THAT:

(1) IS BESIDE AN ENTRANCE OR EXIT DOOR;

(2) HAS A GLAZING LESS THAN 18 INCHES FROM THE FINISHED FLOOR OR THE LEAST DIMENSION OF WHICH IS 18 INCHES OR MORE; AND

(3) MAY BE MISTAKEN AS A MEANS OF EGRESS OR INGRESS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 6-301(d).

In item (1) of this subsection, the reference to "beside an entrance or exit

door" is substituted for the former reference to "on either or both sides of the door(s)" for clarity and brevity.

(E) HAZARDOUS LOCATION.

(1) "HAZARDOUS LOCATION" MEANS A PLACE FOR A DOOR, PANEL, ENCLOSURE, OR OTHER ELEMENT, THAT IS GLAZED OR TO BE GLAZED, IN A RESIDENTIAL, INDUSTRIAL, COMMERCIAL, INSTITUTIONAL, OR PUBLIC BUILDING WHERE THE USE OF MATERIAL OTHER THAN SAFETY GLAZING MATERIAL CONSTITUTES AN UNREASONABLE HAZARD.

(2) "HAZARDOUS LOCATION" INCLUDES A PLACE FOR A FRAMED OR UNFRAMED EXIT DOOR, A STORM DOOR EXCEPT AN OPERATING VENT ON A JALOUSIE DOOR, A FIXED OR MOVING SLIDING DOOR, A SHOWER DOOR, A TUB ENCLOSURE, A FIXED GLAZED PANEL IMMEDIATELY ADJACENT TO AN ENTRANCE OR EXIT DOOR, AND ANY OTHER ELEMENT, THAT IS GLAZED OR TO BE GLAZED, WHETHER OR NOT THE GLAZING IS TRANSPARENT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first sentence of former Art. 83B, § 6-301(c), except as it related to determinations by the Secretary of Housing and Community Development.

Defined terms: "Fixed glazed panel immediately adjacent to an entrance or exit door" § 12-401

"Safety glazing material" § 12-401

(F) SAFETY GLAZING MATERIAL.

(1) "SAFETY GLAZING MATERIAL" MEANS GLAZING MATERIAL THAT:

(I) IS CONSTRUCTED, TREATED, OR COMBINED WITH OTHER MATERIALS TO MINIMIZE THE LIKELIHOOD OF CUTTING AND PIERCING INJURIES RESULTING FROM HUMAN CONTACT WITH THE GLAZING MATERIAL; AND

(II) MEETS THE TEST REQUIREMENTS OF THE ANSI STANDARD.

(2) "SAFETY GLAZING MATERIAL" INCLUDES TEMPERED GLASS, LAMINATED GLASS, WIRE GLASS, OR RIGID PLASTIC.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 6-301(b), except as it related to further requirements adopted by the Department of Housing and Community Development.

Defined term: "ANSI Standard" § 12-401

12-402. SCOPE OF SUBTITLE; EFFECT OF SUBTITLE.

(A) CONTRACTS EXECUTED BEFORE JULY 1, 1973.

THIS SUBTITLE DOES NOT APPLY TO A PERSON WHO EXECUTED A LEGALLY BINDING WRITTEN CONTRACT BEFORE JULY 1, 1973, TO SELL, FABRICATE, ASSEMBLE, GLAZE, INSTALL, CONSENT TO, OR CAUSE TO BE INSTALLED, GLAZING MATERIAL OTHER THAN SAFETY GLAZING MATERIAL IN, OR FOR USE IN, A HAZARDOUS LOCATION IN THE STATE.

(B) EFFECT OF SUBTITLE ON COUNTY OR MUNICIPAL ORDINANCES.

(1) THIS SUBTITLE SUPERSEDES ANY COUNTY OR MUNICIPAL ORDINANCE THAT RELATES TO SAFETY GLAZING, THAT IS LESS STRINGENT THAN THOSE IN EFFECT UNDER THIS SUBTITLE.

(2) THIS SUBTITLE DOES NOT PRECLUDE A POLITICAL SUBDIVISION OF THE STATE FROM ADOPTING AND ENFORCING REQUIREMENTS AND REGULATIONS THAT ARE MORE STRINGENT THAN THOSE IN EFFECT UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 6-305 and 6-306.

In subsection (b)(1) of this section, the phrase "that is less stringent than those in effect under this subtitle" is added for clarity. Subsection (b)(2) of this section authorizes the adoption of more stringent requirements and regulations by political subdivisions of the State.

Also in subsection (b)(1) of this section, the reference to "safety glazing" is substituted for the former reference to "the subject matter hereof" for specificity. The subject matter of this subtitle is safety glazing.

Also in subsection (b)(1) of this section, the former reference to a "local" ordinance is deleted as included in the reference to a "county or municipal" ordinance.

Also in subsection (b)(1) of this section, the former phrase "or parts thereof", which related to a county or municipal ordinance, is deleted as surplusage.

Defined terms: "County" § 1-101

"Hazardous location" § 12-401

"Person" § 1-101

"Safety glazing material" § 12-401

12-403. ADOPTION OF ADDITIONAL REQUIREMENTS FOR SAFETY GLAZING MATERIAL.

AFTER NOTICE AND HEARING AS REQUIRED UNDER TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE, THE DEPARTMENT MAY ADOPT ADDITIONAL REQUIREMENTS FOR SAFETY GLAZING MATERIAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 6-301(b), as it related to further

requirements adopted by the Department of Housing and Community Development.

Defined terms: "Department" § 12-401

"Safety glazing material" § 12-401

12-404. DETERMINATION OF HAZARDOUS LOCATION.

(A) IN GENERAL.

AFTER NOTICE AND HEARING AS REQUIRED UNDER TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE, THE DEPARTMENT MAY DETERMINE WHETHER A LOCATION IS A HAZARDOUS LOCATION.

(B) EXCEPTION.

AFTER NOTICE AND HEARING, THE DEPARTMENT MAY EXCEPT FROM SAFETY GLAZING REQUIREMENTS A PANEL IN A HAZARDOUS LOCATION IF THE PANEL:

(1) IS LESS THAN 200 SQUARE INCHES; AND

(2) IS LOCATED SO THAT THE USE OF MATERIAL OTHER THAN SAFETY GLAZING MATERIAL WOULD NOT CONSTITUTE AN UNREASONABLE HAZARD.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 83B, § 6-301(c) and, as it related to determinations by the Secretary of Housing and Community Development, the first sentence.

In the introductory language of subsection (b) of this section, the reference to a panel "in a hazardous location" is added for clarity.

Defined terms: "Department" § 12-401

"Hazardous location" § 12-401

"Safety glazing material" § 12-401

12-405. LABELING OF SAFETY GLAZING MATERIAL.

(A) PERMANENT LABELING REQUIRED.

(1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, EACH LIGHT OF SAFETY GLAZING MATERIAL MANUFACTURED, IMPORTED, OR SOLD FOR USE IN A HAZARDOUS LOCATION OR INSTALLED IN A HAZARDOUS LOCATION IN THE STATE SHALL BE PERMANENTLY LABELED BY ETCHING, SANDBLASTING, FIRING OF CERAMIC MATERIAL, HOT-DIE STAMPING, OR OTHER MEANS.

(2) THE LABEL SHALL BE LEGIBLE AND VISIBLE AFTER INSTALLATION.

(B) CONTENTS.

THE LABEL SHALL:

(1) IDENTIFY THE LABELER;

(2) IDENTIFY WHETHER THE LABELER IS A MANUFACTURER, FABRICATOR, OR INSTALLER;

(3) IDENTIFY THE NOMINAL THICKNESS AND TYPE OF SAFETY GLAZING MATERIAL; AND

(4) STATE THAT THE SAFETY GLAZING MATERIAL MEETS THE TEST REQUIREMENTS OF THE ANSI STANDARD.

(C) EXCEPTION.

WIRE GLASS, LAMINATED GLASS, OR RIGID PLASTIC THAT IS FURTHER FABRICATED AFTER MANUFACTURE NEED NOT BE PERMANENTLY LABELED IF THE SELLER OR INSTALLER OF THE MATERIAL GIVES EACH BUYER OF THE MATERIAL A CERTIFICATE THAT STATES THAT THE WIRE GLASS, LAMINATED GLASS, OR RIGID PLASTIC MEETS THE TEST REQUIREMENTS OF the ANSI STANDARD.

(D) LABELING ON OTHER MATERIAL PROHIBITED.

SAFETY GLAZING LABELING MAY NOT BE USED ON MATERIAL OTHER THAN SAFETY GLAZING MATERIAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 6-302.

In subsection (a)(1) of this section, the former reference to other "suitable" means is deleted as implicit.

Defined terms: "ANSI Standard" § 12-401

"Hazardous location" § 12-401

"Safety glazing material" § 12-401

12-406. SALE OR INSTALLATION OF MATERIAL OTHER THAN SAFETY GLAZING MATERIAL IN HAZARDOUS LOCATION PROHIBITED.

(A) IN GENERAL.

A PERSON MAY NOT IN THE STATE KNOWINGLY SELL, INSTALL, CONSENT, OR CAUSE TO BE INSTALLED GLAZING MATERIAL OTHER THAN SAFETY GLAZING MATERIAL IN, OR FOR USE IN, A HAZARDOUS LOCATION.

(B) LIABILITY OF EMPLOYEES.

A WORKER WHO IS AN EMPLOYEE OF A CONTRACTOR, SUBCONTRACTOR, OR OTHER EMPLOYER RESPONSIBLE FOR COMPLIANCE WITH THIS SUBTITLE, IS NOT LIABLE FOR A VIOLATION OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 6-303.

Defined terms: "Hazardous location" § 12-401

"Person" § 1-101

"Safety glazing material" § 12-401

12-407. VIOLATION OF SUBTITLE.

(A) PROHIBITED.

A PERSON MAY NOT VIOLATE THIS SUBTITLE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING $1,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 6-304.

Defined term: "Person" § 1-101

SUBTITLE 5. MARYLAND BUILDING PERFORMANCE STANDARDS.

12-501. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-401(a).

No changes are made.

(B) BUILDING.

"BUILDING" HAS THE MEANING STATED IN THE INTERNATIONAL BUILDING CODE.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-401(b).

The former reference to the "interpretation set forth" in the International Building Code is deleted as unnecessary because the International Building Code does not include interpretive guidance.

Defined term: "International Building Code" § 12-501

(C) DEPARTMENT.

"DEPARTMENT" MEANS THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title of the "Department of Housing and Community Development".

(D) INTERNATIONAL BUILDING CODE.

(1) "INTERNATIONAL BUILDING CODE" MEANS THE FIRST PRINTING OF THE MOST RECENT EDITION OF THE INTERNATIONAL BUILDING CODE ISSUED BY THE INTERNATIONAL CODE COUNCIL.

(2) "INTERNATIONAL BUILDING CODE" DOES NOT INCLUDE INTERIM AMENDMENTS OR SUBSEQUENT PRINTINGS OF THE MOST RECENT EDITION OF THE INTERNATIONAL BUILDING CODE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 6-401(d) and (e).

In paragraph (1) of this subsection, the word "periodically", which formerly modified "issued", is deleted as surplusage.

Also in paragraph (1) of this subsection, the former reference to "the organization known as" the International Code Council is deleted as surplusage.

(E) LOCAL JURISDICTION.

"LOCAL JURISDICTION" MEANS THE COUNTY OR MUNICIPAL CORPORATION THAT IS RESPONSIBLE FOR IMPLEMENTATION AND ENFORCEMENT OF THE STANDARDS UNDER THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 6-401(f).

The term "municipal corporation" is substituted for the former term "municipality" for consistency with Md. Constitution, Art. XI-E.

The general reference to implementation and enforcement of the Standards "under this subtitle" is substituted for the former specific reference to implementation and enforcement "as more specifically provided in § 6-402(f) of this subtitle" because a specific cross-reference is generally not necessary in a definition.

Defined terms: "County" § 1-101

"Standards" § 12-501

(F) STANDARDS.

"STANDARDS" MEANS THE MARYLAND BUILDING PERFORMANCE STANDARDS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 6-401(g).

%The defined term "Standards" is intended to be used as a shorthand reference to the "Maryland Building Performance Standards".

The former reference to the Maryland Building Performance Standards being "the International Building Code adopted by the Department under § 6-402 of this subtitle" is deleted as unnecessary in the definition because the substantive provision that requires the Department to adopt the International Building Code is stated in § 12-503(a) of this subtitle.

(G) STRUCTURE.

"STRUCTURE" HAS THE MEANING STATED IN THE INTERNATIONAL BUILDING CODE.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-401(k).

The former reference to the "interpretation set forth" in the International Building Code is deleted as unnecessary because the International Building Code does not include interpretive guidance.

Defined term: "International Building Code" § 12-501

REVISOR'S NOTE TO SECTION:

Former Art. 83B, § 6-401(c), which defined "county" to mean any of the 23 counties of the State and Baltimore City, is deleted in light of § 1-101 of this article to the same effect.

Former Art. 83B, § 6-401(h), which defined "municipality" as a municipal corporation subject to Article XI-E of the State Constitution, is deleted as unnecessary because the definition did not add anything to the meaning of the term as commonly used in revised articles of the Code.

12-502. EFFECT OF SUBTITLE.

(A) ON STATE BOARDS AND COMMISSIONS.

THIS SUBTITLE DOES NOT ALTER OR ABROGATE THE AUTHORITY OF:

(1) THE STATE BOARD OF PLUMBING TO ADOPT AND ENFORCE THE STATE PLUMBING CODE UNDER THE MARYLAND PLUMBING ACT, TITLE 12 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE;

(2) THE STATE BOARD OF HEATING, VENTILATION, AIR-CONDITIONING, AND REFRIGERATION CONTRACTORS TO ADOPT AND ENFORCE THE STATE HEATING, VENTILATION, AIR-CONDITIONING, AND REFRIGERATION CODE UNDER THE MARYLAND HEATING, VENTILATION, AIR-CONDITIONING, AND REFRIGERATION CONTRACTORS ACT, TITLE 9A OF THE BUSINESS REGULATION ARTICLE;

(3) THE COMMISSIONER OF LABOR AND INDUSTRY TO ADOPT AND ENFORCE STANDARDS FOR ELEVATOR SAFETY UNDER SUBTITLE 8 OF THIS TITLE;

(4) THE STATE FIRE PREVENTION COMMISSION TO ENFORCE THE ELECTRICAL CODE UNDER SUBTITLE 6 OF THIS TITLE; OR

(5) THE PUBLIC SERVICE COMMISSION TO ENFORCE THE ENERGY CODE DEFINED UNDER THE ENERGY CONSERVATION BUILDING STANDARDS ACT, TITLE 7, SUBTITLE 4 OF THE PUBLIC UTILITY COMPANIES ARTICLE.

(B) ON ZONING POWER OF COUNTIES AND MUNICIPAL CORPORATIONS.

THIS SUBTITLE DOES NOT ALTER OR ABROGATE ANY ZONING POWER OR RELATED AUTHORITY THAT A COUNTY OR MUNICIPAL CORPORATION HAD ON OCTOBER 1, 1993.

(C) ON ROLE OF STATE TO ADMINISTER AND ENFORCE STANDARDS.

THIS SUBTITLE DOES NOT ALLOW OR ENCOURAGE THE STATE TO INITIATE OR ASSUME AN INDEPENDENT ROLE IN THE ADMINISTRATION AND ENFORCEMENT OF THE STANDARDS FOR A BUILDING OR STRUCTURE THAT IS NOT OWNED OR OPERATED BY THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 6-406 and 6-402(e)(3) and (h).

In subsection (a)(1) of this section, the reference to the "Maryland Plumbing Act" is added for clarity. Similarly, in subsection (a)(2) of this section, the reference to the "Maryland Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors Act" is added.

In subsection (a)(3) of this section, the phrase "for elevator safety" is added for clarity.

In subsection (a)(5) of this section, the reference to the Energy Code "defined" under the Energy Conservation Building Standards Act is substituted for the former reference to the Energy Code "required" under that law because the Energy Code is not required under that Act. The Energy Code is part of the Maryland Building Performance Standards, so the Energy Code is required under this subtitle, not the Energy Conservation Building Standards Act.

In subsection (c) of this section, the former phrase "within the State, a county, or municipality" is deleted as surplusage.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that the State Fire Marshal, not the State Fire Prevention Commission, enforces the Electrical Code referenced in subsection (a)(4) of this section. Similarly, the Public Safety Article Review Committee notes that local jurisdictions, not the Public Service Commission, enforce the Energy Code referenced in subsection (a)(5) of this section.

Defined terms: "Building" § 12-501

"County" § 1-101

"Standards" § 12-501

"Structure" § 12-501

12-503. MARYLAND BUILDING PERFORMANCE STANDARDS.

(A) ADOPTION REQUIRED.

(1) THE DEPARTMENT SHALL ADOPT BY REGULATION, AS THE MARYLAND BUILDING PERFORMANCE STANDARDS, THE INTERNATIONAL BUILDING CODE WITH THE MODIFICATIONS INCORPORATED BY THE DEPARTMENT UNDER SUBSECTION (B) OF THIS SECTION.

(2) THE DEPARTMENT SHALL ADOPT EACH SUBSEQUENT VERSION OF THE STANDARDS WITHIN 12 MONTHS AFTER IT IS ISSUED.

(B) MODIFICATIONS TO INTERNATIONAL BUILDING CODE.

(1) BEFORE ADOPTING EACH VERSION OF THE STANDARDS, THE DEPARTMENT SHALL:

(I) REVIEW THE INTERNATIONAL BUILDING CODE TO DETERMINE WHETHER MODIFICATIONS SHOULD BE INCORPORATED IN THE STANDARDS;

(II) ACCEPT WRITTEN COMMENTS;

(III) CONSIDER ANY COMMENTS RECEIVED; AND

(IV) HOLD A PUBLIC HEARING ON EACH PROPOSED MODIFICATION.

(2) THE DEPARTMENT MAY NOT ADOPT, AS PART OF THE STANDARDS, A MODIFICATION OF A BUILDING CODE REQUIREMENT THAT IS MORE STRINGENT THAN THE REQUIREMENT IN THE INTERNATIONAL BUILDING CODE.

(C) APPLICABILITY.

THE STANDARDS APPLY TO EACH BUILDING OR STRUCTURE IN THE STATE FOR WHICH A BUILDING PERMIT APPLICATION IS RECEIVED BY A LOCAL JURISDICTION ON OR AFTER AUGUST 1, 1995.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 6-403 and 6-402(a), (b)(2), and (c)(1).

In the introductory language of subsection (b)(1) of this section, the reference to adopting "each version of the Standards" is substituted for the former reference to adopting "the Maryland Building Performance Standards or any subsequent versions of the Standards" because the initial version of the Standards has already been adopted.

In subsection (b)(1)(iii) of this section, the former phrase "before adopting

the Maryland Building Performance Standards" is deleted as redundant of the introductory language to subsection (b) of this section.

In subsection (c) of this section, the former phrase "[e]xcept as otherwise provided in this subsection" is deleted as unnecessary because there are no exceptions to this provision.

Former Art. 83B, § 6-402(b)(1), which required the Department to adopt the initial version of the Standards on or before August 1, 1994, is deleted as obsolete.

Former Art. 83B, §§ 6-401(i) and 6-402(c)(2), (3), (4), and (5), which provided effective dates in 1992 and 1993 for implementation of the Standards, required the Department to provide funding to implement the Standards, and defined relevant terms, are transferred to the Session Laws. These provisions are obsolete because the effective dates for implementation of the Standards have passed, and the Department confirms that all local jurisdictions have implemented the Standards. These dates, however, have historical significance, *e.g.*, providing information as to whether an existing building or structure was subject to the Standards at the time of building permit application. The provisions, therefore, are transferred to the Session Laws.

Defined terms: "Building" § 12-501

"Department" § 12-501

"International Building Code" § 12-501

"Local jurisdiction" § 12-501

"Standards" § 12-501

"Structure" § 12-501

12-504. LOCAL AMENDMENTS TO STANDARDS.

(A) AUTHORITY TO ADOPT.

A LOCAL JURISDICTION MAY ADOPT LOCAL AMENDMENTS TO THE STANDARDS IF THE LOCAL AMENDMENTS DO NOT PROHIBIT THE MINIMUM IMPLEMENTATION AND ENFORCEMENT ACTIVITIES SET FORTH IN § 12-505 OF THIS SUBTITLE.

(B) APPLICABILITY.

IF A LOCAL JURISDICTION ADOPTS A LOCAL AMENDMENT TO THE STANDARDS, THE STANDARDS AS AMENDED BY THE LOCAL JURISDICTION APPLY IN THE LOCAL JURISDICTION.

(C) CONFLICT WITH STANDARDS.

IF A LOCAL AMENDMENT CONFLICTS WITH THE STANDARDS, THE LOCAL AMENDMENT PREVAILS IN THE LOCAL JURISDICTION.

(D) ADOPTED IN ACCORDANCE WITH LOCAL LAW.

A LOCAL JURISDICTION THAT ADOPTS A LOCAL AMENDMENT TO THE STANDARDS SHALL ENSURE THAT THE LOCAL AMENDMENT IS ADOPTED IN ACCORDANCE WITH APPLICABLE LOCAL LAW.

(E) COPY OF AMENDMENTS.

TO KEEP THE DATABASE ESTABLISHED UNDER THIS SUBTITLE CURRENT, A LOCAL JURISDICTION THAT ADOPTS A LOCAL AMENDMENT TO THE STANDARDS SHALL PROVIDE A COPY OF THE LOCAL AMENDMENT TO THE DEPARTMENT:

(1) AT LEAST 15 DAYS BEFORE THE EFFECTIVE DATE OF THE AMENDMENT; OR

(2) WITHIN 5 DAYS AFTER THE ADOPTION OF AN EMERGENCY LOCAL AMENDMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 6-402(d).

In subsection (d) of this section, the former reference to "regulations" is deleted as included in the general reference to "local law".

Defined terms: "Department" § 12-501

"Local jurisdiction" § 12-501

"Standards" § 12-501

12-505. IMPLEMENTATION AND ENFORCEMENT OF STANDARDS.

(A) IN GENERAL.

(1) EACH LOCAL JURISDICTION SHALL IMPLEMENT AND ENFORCE THE STANDARDS AND ANY LOCAL AMENDMENTS TO THE STANDARDS.

(2) AT A MINIMUM, THE LOCAL JURISDICTION SHALL ENSURE THAT IMPLEMENTATION AND ENFORCEMENT OF THE STANDARDS INCLUDES:

(I) REVIEW AND ACCEPTANCE OF APPROPRIATE PLANS;

(II) ISSUANCE OF BUILDING PERMITS;

(III) INSPECTION OF THE WORK AUTHORIZED BY THE BUILDING PERMITS; AND

(IV) ISSUANCE OF APPROPRIATE USE AND OCCUPANCY CERTIFICATES.

(3) EACH LOCAL JURISDICTION SHALL DETERMINE THE MANNER IN WHICH THE MINIMUM IMPLEMENTATION AND ENFORCEMENT ACTIVITIES OF THIS SUBSECTION ARE CARRIED OUT.

(B) RESPONSIBLE COUNTY OR MUNICIPAL CORPORATION.

(1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE COUNTY IN WHICH A BUILDING OR STRUCTURE IS LOCATED SHALL IMPLEMENT AND ENFORCE THE STANDARDS FOR THAT BUILDING OR STRUCTURE IN ACCORDANCE WITH THIS SUBTITLE.

(2) (I) A MUNICIPAL CORPORATION THAT DID NOT ADOPT A BUILDING CODE ON OR BEFORE OCTOBER 1, 1992, MAY ELECT TO IMPLEMENT AND ENFORCE THE STANDARDS IN ACCORDANCE WITH THIS SUBTITLE FOR BUILDINGS OR STRUCTURES LOCATED IN THE MUNICIPAL CORPORATION.

(II) IF A MUNICIPAL CORPORATION ELECTS TO IMPLEMENT AND ENFORCE THE STANDARDS UNDER THIS PARAGRAPH, THE COUNTY IN WHICH THE MUNICIPAL CORPORATION IS LOCATED IS NOT RESPONSIBLE FOR IMPLEMENTATION AND ENFORCEMENT OF THE STANDARDS IN THE MUNICIPAL CORPORATION.

(3) A COUNTY THAT DID NOT ADOPT A BUILDING CODE ON OR BEFORE OCTOBER 1, 1992, SHALL IMPLEMENT AND ENFORCE THE STANDARDS IN THE COUNTY UNLESS IT ELECTS TO NEGOTIATE WITH A MUNICIPAL CORPORATION IN THE COUNTY TO HAVE THE MUNICIPAL CORPORATION IMPLEMENT AND ENFORCE THE STANDARDS IN THE COUNTY.

(4) A MUNICIPAL CORPORATION THAT ADOPTED A BUILDING CODE ON OR BEFORE OCTOBER 1, 1992, SHALL IMPLEMENT AND ENFORCE THE STANDARDS IN THE MUNICIPAL CORPORATION UNLESS IT ELECTS TO NEGOTIATE WITH THE COUNTY IN WHICH THE MUNICIPAL CORPORATION IS LOCATED TO HAVE THE COUNTY IMPLEMENT AND ENFORCE THE STANDARDS IN THE MUNICIPAL CORPORATION.

(C) FEES.

A LOCAL JURISDICTION MAY CHARGE FEES NECESSARY TO COVER THE COST OF IMPLEMENTATION AND ENFORCEMENT OF THE STANDARDS AND ANY LOCAL AMENDMENTS TO THE STANDARDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 6-402(f), (g), and (e)(1) and (2).

In subsection (a)(1) of this section, the former phrase "[i]n accordance with the provisions of subsection (c) of this section" is deleted as surplusage.

Also in subsection (a)(1) of this section, the former phrase "if adopted by the local jurisdiction" is deleted as implicit.

Throughout subsection (b) of this section, the reference to a "municipal corporation" is substituted for the former reference to a "municipality" to conform to Md. Constitution, Art. XI-E.

In subsection (b)(1) and (2) of this section, the reference to a "building[s]" is added for consistency throughout this subtitle. The Public Safety Article Review Committee notes these additions for consideration by the General

Assembly.

Defined terms: "Building" § 12-501

"County" § 1-101

"Local jurisdiction" § 12-501

"Standards" § 12-501

"Structure" § 12-501

12-506. CENTRAL AUTOMATED DATABASE.

(A) IN GENERAL.

THE DEPARTMENT SHALL MAINTAIN A CENTRAL AUTOMATED DATABASE IN ACCORDANCE WITH THIS SECTION.

(B) CONTENTS.

(1) AT A MINIMUM, THE DEPARTMENT SHALL INCLUDE IN THE DATABASE:

(I) THE STANDARDS;

(II) LOCAL AMENDMENTS TO THE STANDARDS;

(III) THE STATE FIRE PREVENTION CODE ADOPTED BY THE STATE FIRE PREVENTION COMMISSION UNDER TITLE 6 OF THIS ARTICLE;

(IV) FIRE PREVENTION CODES ADOPTED BY LOCAL JURISDICTIONS;

(V) THE ELECTRICAL CODE REQUIRED UNDER SUBTITLE 6 OF THIS TITLE;

(VI) LOCAL AMENDMENTS TO THE ELECTRICAL CODE;

(VII) THE ENERGY CODE DEFINED UNDER THE ENERGY CONSERVATION BUILDING STANDARDS ACT, TITLE 7, SUBTITLE 4 OF THE PUBLIC UTILITY COMPANIES ARTICLE;

(VIII) LOCAL CODE PROVISIONS THAT ARE MORE RESTRICTIVE THAN THE ENERGY CODE DEFINED UNDER THE ENERGY CONSERVATION BUILDING STANDARDS ACT;

(IX) INFORMATION COMPILED BY THE DEPARTMENT UNDER PARAGRAPH (2) OF THIS SUBSECTION;

(X) THE MARYLAND BUILDING REHABILITATION CODE;

(XI) LOCAL AMENDMENTS TO THE MARYLAND BUILDING REHABILITATION CODE; AND

(XII) PROPOSED FEDERAL OR STATE LEGISLATION OF WHICH THE DEPARTMENT IS AWARE AND THAT DIRECTLY AFFECTS THE CONSTRUCTION INDUSTRY.

(2) THE DEPARTMENT MAY COMPILE AND INCLUDE IN THE DATABASE:

(I) ANY INFORMATION PROVIDED BY A LOCAL JURISDICTION ON THE IMPLEMENTATION AND INTERPRETATION OF THE STANDARDS BY THE LOCAL JURISDICTION; AND

(II) INTERIM AMENDMENTS TO THE INTERNATIONAL BUILDING CODE INCLUDING SUBSEQUENT PRINTINGS OF THE MOST RECENT EDITION.

(C) OTHER DUTIES OF DEPARTMENT.

THE DEPARTMENT SHALL:

(1) MAKE INFORMATION FROM THE DATABASE AVAILABLE TO A LOCAL JURISDICTION, STATE UNIT, OR OTHER INTERESTED PARTY;

(2) PROVIDE EACH LOCAL JURISDICTION WITH THE NECESSARY HARDWARE OR SOFTWARE TO ENABLE THE LOCAL JURISDICTION TO ACCESS THE INFORMATION IN THE DATABASE; AND

(3) COORDINATE WITH LOCAL BUILDING OFFICIALS, THE STATE FIRE MARSHAL, AND LOCAL FIRE OFFICIALS IN COMPILING INFORMATION FOR THE DATABASE.

(D) FEES FOR INFORMATION FROM DATABASE.

(1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE DEPARTMENT MAY CHARGE A FEE FOR INFORMATION PROVIDED FROM THE DATABASE.

(II) THE DEPARTMENT MAY NOT CHARGE A FEE TO A STATE UNIT OR LOCAL JURISDICTION.

(2) THE DEPARTMENT MAY NOT CHARGE A FEE TO A LOCAL JURISDICTION FOR THE ONGOING MAINTENANCE OF THE DATABASE.

(3) FEES COLLECTED IN ACCORDANCE WITH THIS SUBSECTION UNEXPENDED AT THE END OF THE FISCAL YEAR DO NOT REVERT TO THE GENERAL FUND, BUT SHALL BE KEPT IN A SPECIAL FUND AVAILABLE TO THE DEPARTMENT TO CARRY OUT THIS SUBTITLE.

(E) AMENDMENTS TO LOCAL CODES.

(1) A LOCAL JURISDICTION SHALL PROVIDE TO THE DEPARTMENT A COPY OF EACH AMENDMENT TO THE LOCAL JURISDICTION'S FIRE PREVENTION CODE OR ELECTRICAL CODE WITHIN 15 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDMENT.

(2) A LOCAL JURISDICTION SHALL PROVIDE TO THE DEPARTMENT A COPY OF EACH AMENDMENT TO THE LOCAL JURISDICTION'S ENERGY CODE THAT IS MORE RESTRICTIVE THAN THE ENERGY CODE DEFINED UNDER THE ENERGY CONSERVATION BUILDING STANDARDS ACT WITHIN 15 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 6-404, 6-401(j), and 6-405(a)(1) and (3) and (b)(1).

Throughout this section, references to a "database" are substituted for the former references to a "data base" for consistency throughout this subtitle and to conform to current drafting style.

In subsection (a) of this section, the former reference to the requirement to "establish" a database is deleted as obsolete because the database is already established.

In subsection (b)(1)(iii) of this section, the former reference to "any amendments" to the State Fire Prevention Code is deleted as unnecessary because any amendments adopted by the State Fire Prevention Commission become part of the State Fire Prevention Code. Similarly, in subsection (b)(1)(iv) of this section, the former reference to "any amendments" to the local fire prevention codes is deleted because any amendments adopted by the local jurisdiction become part of the local fire prevention code.

In subsections (b)(1)(iv), (c)(1), and (d)(1)(ii) and (2) of this section, the defined term "local jurisdiction" is substituted for the former references to a "count[y]" and "municipalit[y]" for consistency throughout the subsection.

In subsections (b)(1)(iv) and (e)(1) of this section, the reference to the fire "prevention" code is added for clarity.

In subsection (b)(1)(vii) and (viii) of this section, the word "defined" is substituted for the former reference to "required" for clarity. *See* Revisor's Note to § 12-502 of this subtitle.

In subsection (c)(2) of this section, the former reference to "purchase or otherwise" provide hardware or software is deleted as surplusage.

In subsection (d)(2) of this section, the former reference to a fee "to cover or support" the ongoing maintenance is deleted as surplusage.

Subsection (e) of this section is revised to reflect that, according to the Department, all local jurisdictions have satisfied the requirements of former Art. 83B, § 6-404(c)(1), (d)(1), and (e)(1) to provide copies of their local fire codes on or before December 31, 1993, and to provide local amendments to the Electrical Codes and local code provisions that are

more restrictive than the Energy Code on or before January 1, 1997. The on-going requirements imposed by former Art. 83B, § 6-404(c)(2), (d)(2), and (e)(2) are combined into one revised subsection for brevity.

Defined terms: "County" § 1-101

"Department" § 12-501

"International Building Code" § 12-501

"Local jurisdiction" § 12-501

"Standards" § 12-501

12-507. OTHER POWERS AND DUTIES OF DEPARTMENT.

(A) POWERS.

THE DEPARTMENT MAY:

(1) DEVELOP A VOLUNTARY FORUM THAT MAY BE USED, ON REQUEST OF A LOCAL JURISDICTION, TO RESOLVE CONFLICTS THAT INVOLVE THE STANDARDS; AND

(2) ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

(B) DUTIES.

THE DEPARTMENT:

(1) SHALL NOTIFY EACH LOCAL JURISDICTION OF EACH CHANGE TO THE INTERNATIONAL BUILDING CODE AND THE IMPACT THE CHANGE WILL HAVE ON THE LOCAL AMENDMENTS IN THAT LOCAL JURISDICTION;

(2) IN CONJUNCTION WITH THE MARYLAND BUILDING OFFICIALS ASSOCIATION AND OTHER INTERESTED ORGANIZATIONS, SHALL PROVIDE TRAINING FOR LOCAL BUILDING OFFICIALS ON THE STANDARDS AND CERTIFY THE PARTICIPATION OF LOCAL BUILDING OFFICIALS IN THE TRAINING; AND

(3) ON REQUEST, SHALL PROVIDE A LOCAL JURISDICTION WITH TECHNICAL ASSISTANCE TO IMPLEMENT AND ENFORCE THE STANDARDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 6-405(a)(2), (4), and (5) and (b)(2) and (3).

Defined terms: "Department" § 12-501

"International Building Code" § 12-501

"Local jurisdiction" § 12-501

"Standards" § 12-501

SUBTITLE 6. ELECTRICAL CODE.

12-601. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) AUTHORIZED ELECTRICAL INSPECTION AGENCY.

"AUTHORIZED ELECTRICAL INSPECTION AGENCY" MEANS A NONGOVERNMENTAL ORGANIZATION APPROVED BY THE STATE FIRE MARSHAL TO INSPECT ELECTRICAL INSTALLATIONS FOR CONFORMITY WITH THE NATIONAL ELECTRICAL CODE OR A LOCAL CODE.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 59(a)(2).

The reference to a "nongovernmental" organization is added for clarity.

The only other changes are in style.

Defined term: "Electrical installation" § 12-601

(C) ELECTRICAL INSTALLATION.

"ELECTRICAL INSTALLATION" MEANS ANY INSTALLED:

(1) ELECTRICAL WIRES OR CONDUCTORS THAT TRANSMIT ELECTRIC CURRENT FOR ELECTRIC LIGHT, HEAT, OR POWER PURPOSES;

(2) MOLDING, DUCT, RACEWAY, OR CONDUIT FOR THE RECEPTION OR PROTECTION OF WIRES OR CONDUCTORS; OR

(3) ELECTRICAL MACHINERY, APPARATUS, DEVICE, OR FIXTURE.

REVISOR'S NOTE: This subsection formerly was Art. 38A, § 59(a)(1).

The only changes are in style.

12-602. SCOPE OF SUBTITLE.

(A) COUNTIES EXEMPT FROM SUBTITLE.

THIS SUBTITLE DOES NOT APPLY TO BALTIMORE COUNTY, CARROLL COUNTY, FREDERICK COUNTY, OR MONTGOMERY COUNTY.

(B) PUBLIC UTILITIES.

THIS SUBTITLE DOES NOT APPLY TO PUBLIC UTILITIES, THEIR AFFILIATED COMPANIES, AND ELECTRICAL APPLIANCES AND DEVICES USED IN THEIR WORK.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 63 and 59(b).

12-603. ELECTRICAL INSTALLATION TO CONFORM TO CODE.

EACH ELECTRICAL INSTALLATION IN THE STATE SHALL CONFORM TO:

(1) THE NATIONAL ELECTRICAL CODE; OR

(2) THE ELECTRICAL CODE ADOPTED BY THE COUNTY IN WHICH THE ELECTRICAL INSTALLATION IS DONE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 60.

In item (2) of this section, the phrase "in which the electrical installation is done" is added for clarity.

Also in item (2) of this section, the reference to the "electrical" code is substituted for the former reference to the "electric" code for consistency throughout this subtitle.

Defined terms: "County" § 1-101

"Electrical installation" § 12-601

12-604. CERTIFICATION OF ELECTRICAL INSTALLATION REQUIRED.

WITHIN 15 DAYS AFTER COMPLETION, EACH ELECTRICAL INSTALLATION SHALL BE CERTIFIED BY AN AUTHORIZED ELECTRICAL INSPECTION AGENCY OR A GOVERNMENTAL UNIT THAT IS QUALIFIED TO ISSUE ELECTRICAL INSPECTION CERTIFICATES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 61.

The defined term "authorized electrical inspection agency" is substituted for the former phrase "nongovernmental approved inspection agency" for clarity and to use the defined term.

Defined terms: "Authorized electrical inspection agency" § 12-601

"Electrical installation" § 12-601

12-605. AUTHORIZED ELECTRICAL INSPECTION AGENCIES.

(A) ISSUANCE OF QUALIFICATION CERTIFICATES.

(1) THIS SUBSECTION DOES NOT APPLY IN A COUNTY THAT HAS A BOARD OR DEPARTMENT OF ELECTRICAL INSPECTIONS.

(2) THE STATE FIRE MARSHAL MAY TEST AND ISSUE A QUALIFICATION CERTIFICATE TO A NONGOVERNMENTAL ORGANIZATION THAT SEEKS TO QUALIFY AS AN AUTHORIZED ELECTRICAL INSPECTION AGENCY.

(B) SCOPE OF CERTIFICATE.

AN AUTHORIZED ELECTRICAL INSPECTION AGENCY MAY INSPECT ELECTRICAL INSTALLATIONS FOR CONFORMITY WITH THE NATIONAL ELECTRICAL CODE OR A LOCAL ELECTRICAL CODE.

(C) STATE FIRE MARSHAL TO REGULATE INSPECTIONS.

THE STATE FIRE MARSHAL SHALL REGULATE THE QUALITY AND PERFORMANCE OF INSPECTIONS BY AUTHORIZED ELECTRICAL INSPECTION AGENCIES.

REVISOR'S NOTE: Subsections (a) and (c) of this section are new language derived without substantive change from former Art. 38A, § 62.

Subsection (b) of this section is new language added for clarity. It is based on the former definition of "authorized electrical inspection agency" in former Art. 38A, § 59(a)(2), which stated that the State Fire Marshal approved organizations to inspect electrical installations for conformity with the National Electrical Code or a local code.

In subsection (a)(2) of this section, the former reference to the "Department of State Police" is deleted as surplusage because the State Fire Marshal is the operative entity, not the Department of State Police. The fact that the State Fire Marshal is in the Department of State Police is unnecessary verbiage.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that individuals as well as organizations may be authorized electrical inspection agencies to which qualification certificates may be issued under subsection (a)(2) of this section.

Defined terms: "Authorized electrical inspection agency" § 12-601

"County" § 1-101

"Electrical installation" § 12-601

12-606. INSTALLATION OF ELECTRICAL WIRING BY HOMEOWNERS.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES IN CHARLES COUNTY AND ST. MARY'S COUNTY.

(B) IN GENERAL.

IN A COUNTY SUBJECT TO THIS SECTION, A HOMEOWNER MAY INSTALL ELECTRICAL WIRING IN A HOME THAT IS TO BE USED AS THE HOMEOWNER'S RESIDENCE SUBJECT TO STANDARDS SET BY THE COUNTY COMMISSIONERS.

(C) REGULATIONS.

(1) THE COUNTY COMMISSIONERS OF CHARLES COUNTY MAY ADOPT REGULATIONS TO GOVERN THE ISSUANCE OF PERMITS TO HOMEOWNERS UNDER THIS SECTION.

(2) THE COUNTY COMMISSIONERS OF ST. MARY'S COUNTY SHALL ADOPT REGULATIONS TO GOVERN THE ISSUANCE OF PERMITS TO HOMEOWNERS UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, §§ 65 and 66.

In subsection (b) of this section, the former reference to a "personal" residence is deleted as included in the reference to the "homeowner's" residence.

Defined term: "County" § 1-101

12-607. VIOLATION OF SUBTITLE.

(A) PROHIBITED.

A PERSON MAY NOT VIOLATE THIS SUBTITLE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING $500 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 38A, § 64.

Defined term: "Person" § 1-101

SUBTITLE 7. MISCELLANEOUS SAFETY PROVISIONS.

12-701. EXIT SIGNS IN BUILDINGS WITH THREE OR MORE LEVELS OR FLOORS.

(A) REQUIRED.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH ELEVATOR AND EACH STAIRWAY IN A BUILDING WITH THREE OR MORE LEVELS OR FLOORS SHALL INDICATE CLEARLY BY SIGN OR OTHERWISE WHICH LEVELS OR FLOORS ARE MOST ACCESSIBLE TO THE EXITS OF THE BUILDING.

(2) THIS REQUIREMENT DOES NOT APPLY TO AN ELEVATOR OR STAIRWAY IN A DWELLING FOR THE PERSONAL USE OF A FAMILY.

(B) PROHIBITED ACT; PENALTY.

THE OWNER OF A BUILDING SUBJECT TO THIS SECTION WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $50.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 120C.

In subsection (a)(1) of this section, the introductory phrase "[e]xcept as provided in paragraph (2) of this subsection" is added to clarify that an exception exists.

Also in subsection (a)(1) of this section, the former word "located" is deleted as surplusage.

In subsection (b) of this section, the reference to a "building subject to this section" is substituted for the former reference to a "structure" for consistency with terminology used in subsection (a)(1) of this section.

12-702. EMERGENCY POWER AND LIGHTING SYSTEMS FOR BUILDINGS.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "COMMISSION" MEANS THE STATE FIRE PREVENTION COMMISSION.

(3) "NFPA 70" MEANS THE MOST RECENT EDITION OF THE NATIONAL ELECTRICAL CODE ADOPTED BY THE COMMISSION.

(4) "NFPA 101" MEANS THE MOST RECENT EDITION OF THE NATIONAL LIFE SAFETY CODE ADOPTED BY THE COMMISSION.

(B) APPLICABILITY IN BALTIMORE CITY.

(1) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE, THIS SECTION APPLIES IN BALTIMORE CITY.

(2) IN BALTIMORE CITY, THE BALTIMORE CITY FIRE DEPARTMENT SHALL ENFORCE THIS SECTION.

(3) IN BALTIMORE CITY, APPEALS CONCERNING THIS SECTION SHALL BE MADE TO THE BALTIMORE CITY FIRE BOARD.

(C) EMERGENCY POWER AND LIGHTING REQUIRED.

(1) THIS SUBSECTION APPLIES TO:

(I) A PUBLIC BUILDING OR STRUCTURE OWNED BY THE STATE OR A SUBDIVISION OF THE STATE; AND

(II) A HOTEL, APARTMENT BUILDING, LODGING HOUSE, HOSPITAL, NURSING HOME, DORMITORY, OR EDUCATIONAL BUILDING WITH:

1. A POTENTIAL EVENING OCCUPANCY OF MORE THAN 25 INDIVIDUALS; AND

2. AT LEAST 4 STORIES, EXCLUDING ATTICS AND BASEMENTS.

(2) EACH BUILDING OR STRUCTURE SUBJECT TO THIS SUBSECTION SHALL BE EQUIPPED WITH ADEQUATE EMERGENCY POWER AND LIGHTING IN ACCORDANCE WITH NFPA 101.

(D) POWER SOURCE FOR EMERGENCY SYSTEM.

THE EMERGENCY ELECTRICAL POWER SUPPLY SYSTEM REQUIRED BY THIS SECTION MAY BE POWERED BY GENERATORS, BATTERY PACKS, OR OTHER SIMILAR DEVICES AT THE DISCRETION OF THE OWNER OF THE BUILDING OR STRUCTURE.

(E) DUTIES OF COMMISSION.

(1) THE COMMISSION SHALL ADMINISTER THIS SECTION.

(2) THE COMMISSION SHALL ADOPT REGULATIONS TO ENFORCE THIS SECTION, INCLUDING REGULATIONS THAT REQUIRE:

(I) EMERGENCY ELECTRICAL SYSTEMS IN ACCORDANCE WITH NFPA 101, TO PROVIDE SUFFICIENT LIGHT IN HALLS, CORRIDORS, AND STAIRWAYS DURING OUTAGES OR BLOCKAGES OF REGULAR SERVICES TO FACILITATE THE MOVEMENT OF INDIVIDUALS IN THE EVENT OF AN EMERGENCY;

(II) SUFFICIENT EXIT SIGNS THAT ARE ADEQUATELY LIGHTED TO GUIDE INDIVIDUALS ON THE PREMISES;

(III) SUFFICIENT EMERGENCY ELECTRICAL POWER TO OPERATE ELEVATORS, ELECTRICAL FACILITIES IN HOSPITAL OPERATING ROOMS, HOSPITAL X-RAY EQUIPMENT, AND OTHER EMERGENCY EQUIPMENT THAT ARE NECESSARY TO THE PROPER OPERATION OF MEDICAL SERVICES IN HOSPITALS AND NURSING HOMES;

(IV) ADEQUATE EMERGENCY ELECTRIC LIGHTING IN ACCORDANCE WITH NFPA 101 IN EACH BUILDING FOR COMMERCIAL, MERCANTILE, INDUSTRIAL, STORAGE, OFFICE, OR SIMILAR PURPOSES IF THE BUILDING IS AT LEAST 4 STORIES, EXCLUDING ATTICS AND BASEMENTS, AND EVENING OCCUPANCY IS MORE THAN 25 INDIVIDUALS; AND

(V) INSTALLATION AND OPERATION OF EMERGENCY POWER AND LIGHTING IN ACCORDANCE WITH NFPA 101 AND NFPA 70.

(3) (I) FOR PURPOSES OF PARAGRAPH (2)(III) OF THIS SUBSECTION, THE COMMISSION SHALL CONSULT WITH THE SECRETARY OF HEALTH AND MENTAL HYGIENE TO EVALUATE THE REQUIREMENTS TO BE ADOPTED FOR THE OPERATION OF HOSPITALS AND NURSING HOMES.

(II) IN MAKING THIS EVALUATION, THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL CONSIDER THE SIZE AND NATURE OF THE PARTICULAR HOSPITAL OR NURSING HOME OPERATION.

(F) ENFORCEMENT BY STATE FIRE MARSHAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE STATE FIRE MARSHAL SHALL ENFORCE THIS SECTION AND THE REGULATIONS ADOPTED BY THE COMMISSION SO THAT INDIVIDUALS ON THE PREMISES ARE REASONABLY PROTECTED IN THE EVENT OF AN EMERGENCY.

(G) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO THE PENALTIES OF § 6-601 OF THIS ARTICLE.

REVISOR'S NOTE: Subsection (a)(1) of this section is new language added as the standard introductory language to a definition subsection.

Subsection (a)(2) of this section is new language added to avoid repetition of the full title of the "State Fire Prevention Commission".

Subsection (a)(3) of this section is new language added to avoid repetition of the phrase "NFPA 70 (the National Electrical Code)".

Subsection (a)(4) of this section is new language added to avoid repetition of the phrase "NFPA 101 (the National Life Safety Code)".

Subsections (b) through (g) of this section are new language derived without substantive change from former Art. 38A, § 58.

Throughout this section, the reference to "individuals" is substituted for the former reference to "persons" because individuals, and not the other entities included in the defined term "person" occupy buildings. *See* § 1-101 of this article for the definition of "person".

In subsection (a)(3) and (4) of this section, the references to the "most recent edition" of the National Electrical Code and the Life Safety Code, respectively, "adopted by the Commission" are added for accuracy. This conforms to the practice of the State Fire Prevention Commission.

In subsection (b)(1) of this section, the reference to "this article" is retained

in the revision although the Public Safety Article includes provisions from articles in addition to former Article 38A. No substantive change is intended.

In the introductory language of subsection (e)(2) and in subsection (f) of this section, the former reference to "rules" is deleted because the State Fire Prevention Commission adopts regulations. *See* § 6-206 of this article.

Defined term: "Person" § 1-101

12-703. USE OF WELDED "CLIP-TYPE" CONNECTORS AS TEMPORARY FASTENING DEVICES.

(A) PROHIBITED.

A PERSON MAY NOT USE WELDED CLIP AND SEAT TYPE CONNECTIONS OR OTHER WELDED "CLIP-TYPE" CONNECTORS AS TEMPORARY FASTENING DEVICES IN CONSTRUCTION THAT INVOLVES THE USE OF STRUCTURAL IRON OR STEEL.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $100 FOR EACH VIOLATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48, § 116.

In subsection (a) of this section, the former date "September 1, 1971" is deleted as obsolete.

Defined term: "Person" § 1-101

12-704. USE OF STRUCTURAL IRON OR STEEL BEAMS OR GIRDERS WITH STUDS OR REINFORCING SHEAR CONNECTORS.

(A) PROHIBITED.

A PERSON MAY NOT ERECT STRUCTURAL STEEL OR IRON BEAMS OR GIRDERS WITH SHEAR COMPOSITE STUDS, OTHER STUDS, OR REINFORCING SHEAR CONNECTORS, UNLESS THESE DEVICES ARE ATTACHED AFTER THE ERECTION IS COMPLETED OF ALL STRUCTURAL MEMBERS OR FORMING OR DECKING OF A PARTICULAR FLOOR OR DECK LEVEL OR SPAN OF A BRIDGE OR AREA BETWEEN TRANSVERSE FLOOR BEAMS.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $100 FOR EACH VIOLATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48, § 117.

%In subsection (a) of this section, the former date "September 1, 1971" is deleted as obsolete.

Defined term: "Person" § 1-101

SUBTITLE 8. ELEVATOR SAFETY.

PART I. DEFINITIONS.

12-801. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 89, § 49C(a)(1) and the introductory phrase of § 49B(b).

It is restated in the standard language used as introductory language to a definition section.

The reference to this "subtitle" is substituted for the former reference in former § 49C to this "section" to extend the applicability of the definitions not only to Part III of this subtitle, which revises former § 49C, but to the entire subtitle. No substantive change is intended.

(B) BOARD.

"BOARD" MEANS THE ELEVATOR SAFETY REVIEW BOARD.

REVISOR'S NOTE: This subsection formerly was Art. 89, § 49C(a)(2).

No changes are made.

Defined term: "Elevator" § 12-801

(C) CERTIFICATE.

"CERTIFICATE" MEANS A CERTIFICATE OF REGISTRATION AND INSPECTION ISSUED BY THE COMMISSIONER TO OPERATE AN ELEVATOR UNIT.

REVISOR'S NOTE: This subsection formerly was Art. 89, § 49B(b)(5).

The only changes are in style.

Defined terms: "Commissioner" § 12-801

"Elevator unit" § 12-801

(D) COMMISSIONER.

"COMMISSIONER" MEANS THE COMMISSIONER OF LABOR AND INDUSTRY OR AN AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER OF LABOR AND INDUSTRY.

REVISOR'S NOTE: This subsection formerly was Art. 89, § 49B(b)(10).

The only changes are in style.

(E) DUMBWAITER.

"DUMBWAITER" MEANS A HOISTING AND LOWERING MACHINE EQUIPPED WITH A CAR OF LIMITED CAPACITY AND SIZE THAT MOVES IN GUIDES IN A SUBSTANTIALLY VERTICAL DIRECTION AND IS USED EXCLUSIVELY FOR CARRYING MATERIAL.

REVISOR'S NOTE: This subsection formerly was Art. 89, § 49B(b)(2).

The reference to a hoisting and lowering "machine" is substituted for the former reference to a "mechanism" for consistency with the definition of "elevator" in subsection (f) of this section.

The only other changes are in style.

(F) ELEVATOR.

"ELEVATOR" MEANS A HOISTING AND LOWERING MACHINE EQUIPPED WITH A CAR OR PLATFORM THAT MOVES IN GUIDES IN A SUBSTANTIALLY VERTICAL DIRECTION AND SERVES TWO OR MORE FLOORS OF A BUILDING OR STRUCTURE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first clause of former Art. 89, § 49B(b)(1).

The reference to a hoisting "and" lowering machine is substituted for the former reference to a hoisting "or" lowering machine because an elevator hoists and lowers.

The second clause of former Art. 89, § 49B(b)(1), which referred to the term "elevator" as including "dumbwaiters, escalators, and moving walks", is deleted for clarity and accuracy. Throughout the former law, the phrase "elevators, dumbwaiters, escalators, and moving walks" was used if the provision applied to each of these devices. The former reference to the term "elevator" as including all these devices was therefore unnecessary. In addition, the former reference was potentially misleading because there were provisions in the former law that applied only to elevators, and the "includes" definition literally extended those provisions to dumbwaiters, escalators, and moving walks as well. In the revision, if a provision applies to elevators, dumbwaiters, escalators, and moving walks, the provision explicitly so states.

(G) ELEVATOR CONTRACTOR.

"ELEVATOR CONTRACTOR" MEANS A PERSON WHO IS ENGAGED IN THE BUSINESS OF ERECTING, CONSTRUCTING, WIRING, ALTERING, REPLACING, MAINTAINING, REPAIRING, DISMANTLING, OR SERVICING ELEVATOR UNITS.

REVISOR'S NOTE: This subsection formerly was Art. 89, § 49C(a)(4).

The only changes are in style.

Defined terms: "Elevator unit" § 12-801

"Person" § 1-101

(H) ELEVATOR MECHANIC.

"ELEVATOR MECHANIC" MEANS A PERSON WHO IS ENGAGED IN ERECTING, CONSTRUCTING, WIRING, ALTERING, REPLACING, MAINTAINING, REPAIRING, DISMANTLING, OR SERVICING ELEVATOR UNITS.

REVISOR'S NOTE: This subsection formerly was Art. 89, § 49C(a)(5).

The only changes are in style.

Defined terms: "Elevator unit" § 12-801

"Person" § 1-101

(I) ELEVATOR UNIT.

"ELEVATOR UNIT" INCLUDES AN ELEVATOR, ESCALATOR, DUMBWAITER, AND MOVING WALK.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the lengthy phrase "elevator, escalator, dumbwaiter, and moving walk".

Defined terms: "Dumbwaiter" § 12-801

"Elevator" § 12-801

"Escalator" § 12-801

"Moving walk" § 12-801

(J) ESCALATOR.

"ESCALATOR" MEANS A POWER DRIVEN, INCLINED, CONTINUOUS STAIRWAY USED FOR RAISING AND LOWERING PASSENGERS.

REVISOR'S NOTE: This subsection formerly was Art. 89, § 49B(b)(3).

No changes are made.

(K) LICENSE.

"LICENSE" INCLUDES:

(1) AN ELEVATOR CONTRACTOR LICENSE; AND

(2) AN ELEVATOR MECHANIC LICENSE.

REVISOR'S NOTE: This subsection formerly was Art. 89, § 49C(a)(6).

The only changes are in style.

Defined terms: "Elevator contractor" § 12-801

"Elevator mechanic" § 12-801

(L) MOVING WALK.

"MOVING WALK" MEANS A TYPE OF PASSENGER-CARRYING DEVICE ON WHICH PASSENGERS STAND OR WALK AND IN WHICH THE PASSENGER-CARRYING SURFACE REMAINS PARALLEL TO ITS DIRECTION OF MOTION AND IS UNINTERRUPTED.

REVISOR'S NOTE: This subsection formerly was Art. 89, § 49B(b)(4).

No changes are made.

(M) SAFETY CODE.

"SAFETY CODE" MEANS THE AMERICAN NATIONAL STANDARD/AMERICAN SOCIETY OF MECHANICAL ENGINEERS SAFETY CODE FOR ELEVATORS, DUMBWAITERS, ESCALATORS, AND MOVING WALKS, KNOWN AS ANSI A17.1-1971, AND ALL SUBSEQUENT AMENDMENTS AND REVISIONS TO IT, AS ADOPTED BY THE COMMISSIONER.

REVISOR'S NOTE: This subsection is new language added as a shorthand way to avoid repetition of the longer reference to the "American National Standard/American Society of Mechanical Engineers Safety Code for elevators, dumbwaiters, escalators, and moving walks, known as ANSI A17.1-1971, and all subsequent amendments and revisions to it, as adopted by the Commissioner".

Defined terms: "Commissioner" § 12-801

"Dumbwaiter" § 12-801

"Elevator" § 12-801

"Escalator" § 12-801

"Moving walk" § 12-801

(N) SECRETARY.

"SECRETARY" MEANS THE SECRETARY OF LABOR, LICENSING, AND REGULATION.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title of the "Secretary of Labor, Licensing, and Regulation".

12-802. RESERVED.

12-803. RESERVED.

PART II. REGISTRATION AND INSPECTION OF ELEVATORS.

12-804. SCOPE OF PART; APPLICABILITY OF OTHER PROVISIONS.

(A) SCOPE OF PART.

PART II OF THIS SUBTITLE DOES NOT APPLY TO AN ELEVATOR UNIT THAT IS INSTALLED IN A PRIVATELY OWNED SINGLE-FAMILY RESIDENTIAL DWELLING.

(B) APPLICABILITY OF OTHER PROVISIONS.

SECTIONS 5-205(J), 5-207, 5-214, 5-215, AND 5-216 AND TITLE 5, SUBTITLE 8 OF THE LABOR AND EMPLOYMENT ARTICLE APPLY TO PART II OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49B(k) and (o).

In subsection (a) of this section, the reference to "Part II of this subtitle" is substituted for the former reference to "this section" to reflect the reorganization of former § 49B as Part II of this subtitle. No substantive change is intended.

Also in subsection (a) of this section, the former references to an "existing" or "new" elevator, escalator, moving walk, or dumbwaiter are deleted as unnecessary because this scope provision applies to any elevator unit in a privately owned single-family residential dwelling regardless of when the elevator unit is installed.

In subsection (b) of this section, the former phrase "[i]n addition to provisions enumerated in subsections (f) and (j) of this section" is deleted as unnecessary because former subsections (f) and (j) are revised in §§ 12-814 and 12-805(d), respectively, of this subtitle.

Defined term: "Elevator unit" § 12-801

12-805. ADMINISTRATION AND ENFORCEMENT.

(A) IN GENERAL.

THE COMMISSIONER SHALL ADMINISTER AND ENFORCE PART II OF THIS SUBTITLE.

(B) REGULATIONS.

(1) THE COMMISSIONER SHALL ADOPT REGULATIONS THAT CONFORM GENERALLY TO THE AMERICAN NATIONAL STANDARD/AMERICAN SOCIETY OF MECHANICAL ENGINEERS SAFETY CODE FOR ELEVATORS, DUMBWAITERS,

ESCALATORS, AND MOVING WALKS, ANSI CODE A17.1-1971, AND ALL SUBSEQUENT AMENDMENTS AND REVISIONS TO IT.

(2) IF NECESSARY TO FULFILL THE COMMISSIONER'S RESPONSIBILITIES UNDER PART II OF THIS SUBTITLE, THE COMMISSIONER SHALL:

(I) ADOPT REGULATIONS THAT AMEND STANDARDS SET FORTH IN THE AMERICAN NATIONAL STANDARD/AMERICAN SOCIETY OF MECHANICAL ENGINEERS SAFETY CODE FOR ELEVATORS, DUMBWAITERS, ESCALATORS, AND MOVING WALKS, ANSI CODE A17.1-1971, AND ALL SUBSEQUENT AMENDMENTS AND REVISIONS TO IT; AND

(II) ADOPT OTHER REGULATIONS.

(3) THE REGULATIONS SHALL BE CONSISTENT WITH THE REQUIREMENTS OF § 12-1006 OF THIS TITLE.

(C) CHIEF ELEVATOR INSPECTOR.

THE COMMISSIONER MAY ASSIGN DUTIES AND FUNCTIONS IMPOSED BY PART II OF THIS SUBTITLE TO THE CHIEF ELEVATOR INSPECTOR.

(D) COST OF ADMINISTRATION.

THE COST OF ADMINISTERING PART II OF THIS SUBTITLE IS PROVIDED FOR UNDER § 5-204 OF THE LABOR AND EMPLOYMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49B(e), (j), and (l).

In subsection (b)(1) and (2)(ii) of this section and throughout this subtitle, the former reference to "rules" is deleted as included in the reference to "regulations". *See* General Revisor's Note to article.

Defined terms: "Commissioner" § 12-801

"Dumbwaiter" § 12-801

"Elevator" § 12-801

"Escalator" § 12-801

"Moving walk" § 12-801

12-806. SAFETY STANDARDS FOR ELEVATORS.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, EACH ELEVATOR UNIT SHALL BE INSPECTED, TESTED, AND MAINTAINED IN A SAFE OPERATING CONDITION IN ACCORDANCE WITH:

(1) THE SAFETY CODE; AND

(2) ANY OTHER REGULATIONS ADOPTED BY THE COMMISSIONER.

(B) INSTALLATION BEFORE JULY 1, 1955.

(1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN ELEVATOR UNIT INSTALLED BEFORE JULY 1, 1955, MAY BE USED WITHOUT BEING ALTERED OR REBUILT TO COMPLY WITH THE REQUIREMENTS OF THE SAFETY CODE.

(II) EACH ELEVATOR SHALL BE EQUIPPED WITH STANDARD HOISTWAY ENTRANCE PROTECTION, AND EACH PASSENGER ELEVATOR OF MORE THAN 100 FEET PER MINUTE CONTRACT SPEED SHALL BE PROVIDED WITH CAR DOORS OR GATES THAT MEET THE REQUIREMENTS OF THE SAFETY CODE.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION, EACH ELEVATOR UNIT INSTALLED BEFORE JULY 1, 1955:

(I) SHALL BE MAINTAINED IN A SAFE OPERATING CONDITION SO AS NOT TO CREATE A SUBSTANTIAL PROBABILITY OF SERIOUS PHYSICAL HARM OR DEATH; AND

(II) IS SUBJECT TO INSPECTIONS AND TESTS AS REQUIRED.

(C) ALTERATIONS AND RELOCATIONS.

(1) FOR PURPOSES OF THIS SUBSECTION, AN ALTERATION OF AN EXISTING ELEVATOR UNIT IS ANY CHANGE MADE TO IT OTHER THAN THE REPAIR OR REPLACEMENT OF DAMAGED, WORN, OR BROKEN PARTS NECESSARY FOR NORMAL OPERATION.

(2) EACH ALTERATION OR RELOCATION OF AN ELEVATOR UNIT INSTALLED AFTER JANUARY 1, 1975, SHALL MEET THE REQUIREMENTS OF THE SAFETY CODE.

(D) EXCEPTIONS.

ON WRITTEN REQUEST, THE COMMISSIONER MAY GRANT EXCEPTIONS FROM THE LITERAL REQUIREMENTS OR ALLOW THE USE OF DEVICES OR METHODS OTHER THAN THOSE SPECIFIED UNDER THE SAFETY CODE AND OTHER REGULATIONS ADOPTED BY THE COMMISSIONER IF:

(1) IT IS EVIDENT THAT THE EXCEPTION IS NECESSARY TO PREVENT UNDUE HARDSHIP; OR

(2) EXISTING CONDITIONS PREVENT PRACTICAL COMPLIANCE AND IN THE OPINION OF THE COMMISSIONER REASONABLE SAFETY CAN BE SECURED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49B(b)(9), (d), and (g).

Former Art. 89, § 49B(b)(7) and (8), which defined "new elevator" as an elevator not classified as an existing elevator and "existing elevator" as an elevator in which all work was completed prior to January 1, 1975,

respectively, are deleted as obsolete. The purpose of the former definitions seemed to be to delineate the elevators to which the new standards effective January 1, 1975, were applicable. The former definitions also used the terms defined in a way other than the usual connotation of the words and thus were potentially misleading and confusing.

Defined terms: "Commissioner" § 12-801

"Elevator" § 12-801

"Elevator unit" § 12-801

"Safety Code" § 12-801

12-807. CERTIFICATE REQUIRED.

AN ELEVATOR UNIT MAY NOT BE OPERATED IN A BUILDING, STRUCTURE, OR PLACE OF EMPLOYMENT IN THE STATE UNLESS A CERTIFICATE IS ISSUED BY THE COMMISSIONER.

REVISOR'S NOTE: This section is new language derived without substantive change from the first clause of former Art. 89, § 49B(a).

Former Art. 89, § 49B(b)(6), which defined "place of employment" as any place where employees are suffered or permitted to work, is deleted as unnecessary because it adds nothing to the common meaning of the term.

Former Art. 89, § 49B(n), which authorized the Commissioner to accept certificates of inspection from a political subdivision or municipal corporation, is repealed as obsolete. At present no political subdivision or municipal corporation issues these certificates of inspection.

Defined terms: "Certificate" § 12-801

"Commissioner" § 12-801

"Elevator unit" § 12-801

12-808. REGISTRATION WITH COMMISSIONER.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, EACH ELEVATOR UNIT OWNED OR TO BE OPERATED SHALL BE REGISTERED WITH THE COMMISSIONER AT LEAST 60 DAYS BEFORE ITS PLANNED COMPLETION AND BEFORE IT IS PLACED IN SERVICE.

(B) FORM OF REGISTRATION; INFORMATION REQUIRED.

(1) THE OWNER OR LESSEE OF EACH ELEVATOR UNIT SHALL REGISTER IT ON THE FORM PROVIDED BY THE COMMISSIONER.

(2) FOR EACH ELEVATOR UNIT REGISTERED, THE OWNER OR LESSEE SHALL PROVIDE:

(I) ITS TYPE;

(II) ITS RATING LOAD AND SPEED;

(III) THE NAME OF ITS MANUFACTURER;

(IV) ITS LOCATION;

(V) THE PURPOSE FOR WHICH IT IS USED; AND

(VI) ANY OTHER INFORMATION THE COMMISSIONER REQUIRES.

(C) EMERGENCY CIRCUMSTANCES.

UNDER EMERGENCY CIRCUMSTANCES, AN OWNER OR LESSEE MAY REGISTER AN ELEVATOR UNIT WITH THE COMMISSIONER WITH LESS THAN 60 DAYS' NOTICE IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER PART II OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49B(c).

In subsection (a) of this section, the former phrase "[w]ithin 60 days after January 1, 1975" and the former reference to an elevator unit "whose erection is begun subsequent to January 1, 1975" are deleted as obsolete. The requirements are the same for all elevator units now because the time period for initial registration of elevator units has passed.

In subsection (c) of this section, the reference to regulations adopted under "Part II of this subtitle" is substituted for the former inaccurate reference to regulations adopted under "this subtitle". Regulations that relate to elevators, dumbwaiters, escalators, and moving walks were adopted under former § 49B, which was a section and not a subtitle in the former law. Former § 49B is revised as Part II of this subtitle.

Defined terms: "Commissioner" § 12-801

"Elevator unit" § 12-801

12-809. INSPECTIONS GENERALLY.

(A) STATE INSPECTOR REQUIRED.

EACH INSPECTION REQUIRED BY PART II OF THIS SUBTITLE SHALL BE DONE BY A STATE INSPECTOR.

(B) FEES.

(1) THE CONTRACTOR, OWNER, OR LESSEE OF AN ELEVATOR UNIT SHALL PAY A FEE FOR AN INSPECTION AT THE FOLLOWING RATE:

(I) HALF DAY (UP TO 4 HOURS), NOT TO EXCEED $250

(II) FULL DAY (UP TO 8 HOURS), NOT TO EXCEED $500

(2) EACH FEE COLLECTED UNDER THIS SUBSECTION SHALL BE PAID INTO THE GENERAL FUND.

(3) A CONTRACTOR, OWNER, OR LESSEE WHO NOTIFIES THE COMMISSIONER AT LEAST 24 HOURS IN ADVANCE OF A SCHEDULED INSPECTION THAT THE ELEVATOR UNIT DOES NOT COMPLY WITH THE REQUIREMENTS OF PART II OF THIS SUBTITLE MAY NOT BE CHARGED A FEE UNDER PARAGRAPH (1) OF THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49B(i)(6), (7), and (8) and (m).

Subsection (b)(1) of this section is revised in the active voice to clarify who is required to pay a fee for an inspection of an elevator, dumbwaiter, escalator, or moving walk under Part II of this subtitle.

In subsection (b)(3) of this section, the reference to the requirements of "Part II of this subtitle" is substituted for the former inaccurate reference to the requirements of "this subsection". The requirements for elevators, dumbwaiters, escalators, and moving walks are found in provisions throughout Part II of this revised subtitle, not only in the provisions that revise former Art. 89, § 49B(i).

Defined terms: "Commissioner" § 12-801

"Elevator unit" § 12-801

12-810. FINAL ACCEPTANCE INSPECTION.

(A) REQUIRED.

THE COMMISSIONER SHALL CONDUCT A FINAL ACCEPTANCE INSPECTION ON COMPLETION OF THE INSTALLATION OF AN ELEVATOR UNIT BEFORE IT IS PLACED IN SERVICE.

(B) INSPECTION CHECKLIST.

THE COMMISSIONER SHALL PROVIDE AN INSPECTION CHECKLIST THAT SPECIFIES THE REQUIREMENTS FOR COMPLIANCE WITH THE SAFETY CODE AND OTHER REGULATIONS ADOPTED BY THE COMMISSIONER.

(C) DUTIES OF CONTRACTOR.

BEFORE SCHEDULING A FINAL ACCEPTANCE INSPECTION WITH THE COMMISSIONER FOR AN ELEVATOR UNIT BEING INSTALLED IN THE STATE, THE CONTRACTOR SHALL ENSURE THAT:

(1) THE ELEVATOR UNIT MEETS THE REQUIREMENTS OF THE SAFETY CODE AND OTHER REGULATIONS ADOPTED BY THE COMMISSIONER; AND

(2) THE ELEMENTS INDICATED ON THE INSPECTION CHECKLIST ARE OPERATIONAL, HAVE BEEN TESTED, AND ARE FUNCTIONAL.

(D) FAILURE TO MEET CRITERIA.

IF AN INSPECTOR ARRIVES TO INSPECT AN ELEVATOR UNIT AT THE DESIGNATED TIME AND THE ELEVATOR UNIT DOES NOT MEET THE CRITERIA ESTABLISHED IN SUBSECTION (C) OF THIS SECTION, THE INSPECTOR MAY CANCEL THE INSPECTION AND CHARGE THE CONTRACTOR A FEE IN ACCORDANCE WITH § 12-809 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49B(b)(11) and (12) and (i)(2).

Subsection (a) of this section is revised as a requirement for the Commissioner to conduct a final acceptance inspection of an elevator unit rather than as a definition of "final acceptance inspection" for clarity. The requirement that there be a final acceptance inspection of elevator units is implicit in the requirement that the contractor schedule a final acceptance inspection and the prohibition that an elevator unit may not be operated without a certificate of inspection and registration.

Subsection (b) of this section is revised as a requirement for the Commissioner to provide an inspection checklist rather than as a definition of "inspection checklist" for clarity.

In subsections (b) and (c)(1) of this section, the reference to the "Safety Code and other regulations adopted by the Commissioner" is substituted for the former references to "applicable safety codes and rules and regulations adopted by the Commissioner" for specificity and to use the defined term.

In subsection (d) of this section, the former reference to the "elevator, dumbwaiter, escalator, or moving walk" contractor is deleted as unnecessary given the context of the provision.

Defined terms: "Commissioner" § 12-801

"Elevator unit" § 12-801

"Safety Code" § 12-801

12-811. ISSUANCE OF CERTIFICATE; POSTING; SCOPE.

(A) ISSUANCE OF CERTIFICATE.

IF AN INSPECTION DISCLOSES THAT AN ELEVATOR UNIT COMPLIES WITH THE SAFETY CODE AND OTHER REGULATIONS ADOPTED BY THE COMMISSIONER, THE COMMISSIONER SHALL ISSUE A CERTIFICATE TO THE OWNER OR LESSEE OF THE ELEVATOR UNIT.

(B) POSTING.

THE CERTIFICATE SHALL BE POSTED CONSPICUOUSLY IN OR ON THE ELEVATOR UNIT.

(C) SCOPE OF CERTIFICATE.

WHILE A CERTIFICATE IS IN EFFECT, IT AUTHORIZES THE HOLDER TO OPERATE THE ELEVATOR UNIT IN A BUILDING, STRUCTURE, OR PLACE OF EMPLOYMENT IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from the second clause of former Art. 89, § 49B(a) and the first and third sentences of (i)(1).

In subsection (a) of this section, the reference to the "Safety Code" is substituted for the former reference to the "applicable safety code, as adopted by the Commissioner" for specificity and to use the defined term.

In subsection (b) of this section, the former phrase "when issued" is deleted as surplusage.

Defined terms: "Certificate" § 12-801

"Commissioner" § 12-801

"Elevator unit" § 12-801

"Safety Code" § 12-801

12-812. TERM OF CERTIFICATE; ANNUAL INSPECTION.

(A) TERM OF CERTIFICATE.

A CERTIFICATE EXPIRES 1 YEAR AFTER ITS EFFECTIVE DATE.

(B) ANNUAL INSPECTION -- REQUIRED.

THE COMMISSIONER SHALL CONDUCT AN ANNUAL INSPECTION OF EACH ELEVATOR UNIT TO DETERMINE WHETHER TO REISSUE THE CERTIFICATE.

(C) SAME -- DUTIES OF CONTRACTOR, OWNER, OR LESSEE.

BEFORE SCHEDULING AN ANNUAL INSPECTION WITH THE COMMISSIONER, THE CONTRACTOR, OWNER, OR LESSEE OF AN ELEVATOR UNIT SHALL:

(1) ENSURE THAT THE ELEVATOR UNIT IS OPERATED, INSPECTED, AND REPAIRED IN ACCORDANCE WITH PART II OF THIS SUBTITLE AND THE REGULATIONS ADOPTED UNDER PART II OF THIS SUBTITLE; AND

(2) MAKE INSPECTION, MAINTENANCE, AND REPAIR RECORDS AVAILABLE TO THE INSPECTOR CHARGED WITH INSPECTING THE ELEVATOR UNIT.

(D) SAME -- FAILURE; CORRECTIONS REQUIRED.

(1) WHEN AN INSPECTOR CONDUCTS AN ANNUAL INSPECTION AND THE ELEVATOR UNIT FAILS THE INSPECTION, THE INSPECTOR SHALL ISSUE AN INSPECTION CHECKLIST THAT SPECIFIES THE CORRECTIONS REQUIRED.

(2) THE INSPECTION CHECKLIST SHALL BE ON A FORM PROVIDED BY THE COMMISSIONER AND SHALL SPECIFY THE REQUIREMENTS FOR COMPLIANCE WITH THE SAFETY CODE AND OTHER REGULATIONS ADOPTED BY THE COMMISSIONER.

(3) IF A FOLLOW-UP INSPECTION IS REQUIRED TO ENSURE COMPLIANCE WITH THE CORRECTIONS SPECIFIED ON THE INSPECTION CHECKLIST, THE CONTRACTOR, OWNER, OR LESSEE SHALL PAY A FEE IN ACCORDANCE WITH § 12-809 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49B(b)(12) and (13) and (i)(4) and the second sentence of (1).

Subsection (b) of this section is revised as a requirement for the Commissioner to conduct an annual inspection of an elevator unit rather than as a definition of "annual inspection" for clarity. The requirement that there be an annual inspection of elevator units is implicit in the requirement that the contractor schedule an annual inspection and the prohibition that an elevator unit may not be operated without a certificate of inspection and registration, which is valid for only 1 year.

In subsection (c)(1) of this section, the reference to "Part II of this subtitle" is substituted for the former inaccurate reference to "this subtitle". The requirements for the operation, inspection, and repair of elevators, dumbwaiters, escalators, and moving walks were contained in former Art. 89, § 49B, which was a section and not a subtitle in the former law. Former § 49B is revised as Part II of this subtitle.

Defined terms: "Certificate" § 12-801

"Commissioner" § 12-801

"Elevator unit" § 12-801

"Safety Code" § 12-801

12-813. CANCELLATION OF INSPECTION; MAINTENANCE OF RECORDS.

(A) CANCELLATION OF INSPECTION.

IF AN INSPECTOR CANCELS A FINAL ACCEPTANCE INSPECTION UNDER § 12-810 OF THIS SUBTITLE OR IF A FOLLOW-UP INSPECTION IS REQUIRED UNDER § 12-812 OF THIS SUBTITLE, THE CONTRACTOR, OWNER, OR LESSEE OF THE ELEVATOR UNIT SHALL:

(1) RESCHEDULE THE INSPECTION WITH THE INSPECTOR; AND

(2) ENSURE THAT THE ELEVATOR UNIT COMPLIES WITH THE REQUIREMENTS OF PART II OF THIS SUBTITLE, INCLUDING CORRECTING AS NECESSARY ANY SAFETY HAZARDS OR VIOLATIONS OF THE SAFETY CODE, ON THE DESIGNATED DATE.

(B) MAINTENANCE OF RECORDS.

A CONTRACTOR, OWNER, OR LESSEE SHALL MAINTAIN A COPY OF ANY INSPECTION, MAINTENANCE, AND REPAIR RECORDS AT A CENTRAL LOCATION IN A MANNER CONSISTENT WITH REGULATIONS ADOPTED UNDER PART II OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49B(i)(3) and (5).

In subsections (a)(2) and (b) of this section, the references to "Part II of this subtitle" are substituted for the former inaccurate references to "this subsection" and "this subtitle", respectively. The requirements for elevator units are contained in Part II of this subtitle and regulations are adopted under Part II of this subtitle.

In subsection (a)(2) of this section, the reference to any violations "of the Safety Code" is substituted for the former reference to "code" violations for specificity and to use the defined term.

Defined terms: "Elevator unit" § 12-801

"Safety Code" § 12-801

12-814. INSPECTION DISCLOSES UNSAFE CONDITIONS.

(A) CITATION AND PENALTIES AUTHORIZED.

WHEN AN INSPECTION DISCLOSES THAT AN ELEVATOR UNIT IS IN UNSAFE CONDITION SO THAT ITS CONTINUED OPERATION WILL VIOLATE THE SAFETY CODE, OR ANY OTHER REGULATION ADOPTED BY THE COMMISSIONER UNDER PART II OF THIS SUBTITLE, A CITATION MAY BE ISSUED AND PENALTIES MAY BE ASSESSED IN ACCORDANCE WITH §§ 5-212 AND 5-213 OF THE LABOR AND EMPLOYMENT ARTICLE.

(B) SUBSTANTIAL PROBABILITY OF DEATH OR SERIOUS BODILY INJURY.

IF AFTER INSPECTION OR TESTING OF AN ELEVATOR UNIT THE COMMISSIONER DETERMINES THAT THE ELEVATOR UNIT IS IN VIOLATION OF THE SAFETY CODE OR ANY OTHER REGULATION ADOPTED BY THE COMMISSIONER UNDER PART II OF THIS SUBTITLE, AND THAT THERE IS A SUBSTANTIAL PROBABILITY THAT DEATH OR SERIOUS PHYSICAL HARM COULD RESULT FROM ITS CONTINUED USE, ACTION SHALL BE TAKEN IN ACCORDANCE WITH § 5-210 OF THE LABOR AND EMPLOYMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49B(f) and (h).

%In subsections (a) and (b) of this section, the reference to "the Safety Code or any other regulation adopted by the Commissioner under Part II of this subtitle" is substituted for the former references to "any rule, regulation, standard or Code promulgated and issued under this section" and "any standard or safety code promulgated under this subtitle" for accuracy and specificity.

In subsection (a) of this section, the defined term "elevator unit" is substituted for the former reference to an "elevator" because inspections cover elevator units, not only elevators, under this subtitle.

Defined terms: "Commissioner" § 12-801

"Elevator unit" § 12-801

"Safety Code" § 12-801

12-815. WARNING SIGNS IN CASE OF FIRE.

(A) IN GENERAL.

EACH PASSENGER ELEVATOR IN A PERMANENT INSTALLATION USED BY THE PUBLIC SHALL HAVE A SIGN THAT READS "WARNING - ELEVATORS SHALL NOT BE USED IN EVENT OF FIRE - USE MARKED EXIT STAIRWAYS".

(B) LOCATION OF SIGN -- IN GENERAL.

THE SIGN DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL BE POSTED:

(1) AT THE ENTRANCE TO THE ELEVATOR SHAFT ON EACH FLOOR; AND

(2) DIRECTLY ABOVE THE CALL BUTTON.

(C) SAME -- IN ELEVATOR CAR.

A SIGN SIMILAR TO THE SIGN DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL BE POSTED WITHIN THE ELEVATOR CAR.

(D) REQUIREMENTS FOR SIGNS.

(1) THE TOP OF EACH SIGN MAY NOT BE MORE THAN 6 FEET ABOVE THE FLOOR.

(2) THE LETTERING IN THE WORD "WARNING" SHALL BE AT LEAST THREE-EIGHTHS INCH HIGH AND THE REST OF THE LETTERING SHALL BE AT LEAST ONE-FOURTH INCH HIGH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49B(p).

In subsection (c) of this section, the reference to the elevator "car" is substituted for the former reference to the elevator "cabin" for consistency with the defined term "elevator".

%In subsection (d)(2) of this section, the references to three-eighths inch "high" and one-fourth inch "high" are added for clarity.

Defined term: "Elevator" § 12-801

12-816. ELEVATOR IN NEW BUILDING TO ACCOMMODATE RESCUE LITTER.

(A) SCOPE OF SECTION.

THIS SUBSECTION DOES NOT APPLY TO:

(1) ONE OR TWO FAMILY DWELLINGS; OR

(2) BUILDINGS UNDER THREE STORIES.

(B) REQUIRED.

EACH NEW BUILDING CONSTRUCTED AFTER JULY 1, 1985, IN WHICH AT LEAST ONE ELEVATOR IS PLANNED, SHALL HAVE A PASSENGER ELEVATOR THAT CAN ACCOMMODATE A HORIZONTALLY CARRIED AND POSITIONED 6 FOOT 8 INCH RESCUE LITTER.

(C) EFFECT OF SPECIFIED CHANGES.

(1) IN THIS SECTION, "REPAIR" HAS THE MEANING STATED IN THE SAFETY CODE.

(2) FOR PURPOSES OF THIS SECTION, REPAIR, RENOVATION, MODIFICATION, RECONSTRUCTION, CHANGE OF OCCUPANCY, OR ADDITION TO AN EXISTING BUILDING AS DEFINED IN SUBTITLE 10 OF THIS TITLE DOES NOT CONSTITUTE A NEW BUILDING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49B(b)(14) and (q).

Defined terms: "Elevator" § 12-801

"Safety Code" § 12-801

12-817. RESERVED.

12-818. RESERVED.

PART III. ELEVATOR SAFETY REVIEW BOARD.

12-819. ESTABLISHED.

THERE IS AN ELEVATOR SAFETY REVIEW BOARD IN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49C(b)(1).

%It is set forth as a separate section for emphasis.

Defined term: "Elevator" § 12-801

12-820. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

(1) THE BOARD CONSISTS OF THE FOLLOWING NINE MEMBERS:

(I) AS AN EX OFFICIO MEMBER, THE COMMISSIONER; AND

(II) EIGHT MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE OF THE SECRETARY AND WITH THE ADVICE AND CONSENT OF THE SENATE.

(2) OF THE EIGHT APPOINTED MEMBERS OF THE BOARD:

(I) ONE SHALL REPRESENT A MAJOR ELEVATOR MANUFACTURING COMPANY OR ITS AUTHORIZED REPRESENTATIVE;

(II) ONE SHALL REPRESENT AN ELEVATOR SERVICING COMPANY;

(III) ONE SHALL REPRESENT THE ARCHITECTURAL DESIGN PROFESSION;

(IV) ONE SHALL REPRESENT A MUNICIPAL CORPORATION IN THE STATE;

(V) ONE SHALL REPRESENT A BUILDING OWNER OR MANAGER;

(VI) ONE SHALL REPRESENT LABOR INVOLVED IN THE INSTALLATION, MAINTENANCE, AND REPAIR OF ELEVATORS; AND

(VII) TWO SHALL BE MEMBERS OF THE PUBLIC.

(B) TENURE; VACANCIES.

(1) THE TERM OF AN APPOINTED MEMBER IS 3 YEARS.

(2) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(3) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49C(c).

Defined terms: "Board" § 12-801

"Commissioner" § 12-801

"Elevator" § 12-801

"Secretary" § 12-801

12-821. CHAIRMAN.

(A) IN GENERAL.

THE GOVERNOR SHALL APPOINT A CHAIRMAN FROM AMONG THE MEMBERS OF THE BOARD.

(B) TIE VOTE.

THE CHAIRMAN SHALL BE THE DECIDING VOTE IF THERE IS A TIE VOTE BY THE BOARD.

REVISOR'S NOTE: This section formerly was Art. 89, § 49C(d).

The only changes are in style.

Defined term: "Board" § 12-801

12-822. MEETINGS; COMPENSATION.

(A) MEETINGS.

(1) THE BOARD SHALL MEET AT LEAST ONCE EACH CALENDAR QUARTER, AT THE TIMES AND PLACES THAT IT DETERMINES.

(2) THE BOARD MAY HOLD SPECIAL MEETINGS AS PROVIDED IN ITS REGULATIONS.

(B) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE BOARD:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE BOARD; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49C(e) and (f).

In subsection (b)(1) of this section, the phrase "as a member of the Board" is added to clarify that the prohibition on receipt of compensation is only applicable to a member of the Board in the capacity of that individual as a member.

Defined term: "Board" § 12-801

12-823. MISCELLANEOUS POWERS.

IN ADDITION TO ANY POWERS SET FORTH ELSEWHERE, THE BOARD MAY:

(1) CONSULT WITH ENGINEERING AUTHORITIES AND ORGANIZATIONS CONCERNED WITH STANDARD SAFETY CODES ABOUT:

(I) REGULATIONS GOVERNING THE OPERATION, MAINTENANCE, SERVICING, CONSTRUCTION, ALTERATION, INSTALLATION, AND INSPECTION OF ELEVATOR UNITS; AND

(II) QUALIFICATIONS THAT ARE ADEQUATE, REASONABLE, AND NECESSARY FOR ELEVATOR MECHANICS AND ELEVATOR CONTRACTORS;

(2) RECOMMEND APPLICABLE LEGISLATION;

(3) ADOPT BYLAWS FOR THE CONDUCT OF ITS PROCEEDINGS; AND

(4) ADOPT REGULATIONS TO CARRY OUT PART III OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49C(g)(1), (2), and (4).

In the introductory language of this section, the phrase "[i]n addition to any powers set forth elsewhere" is standard language added to avoid any implication that the only powers the Board has are those specified in this section.

In item (1)(i) of this subsection, the former reference to "rules" is deleted as included in the reference to "regulations". *See* General Revisor's Note to article.

In item (2) of this section, the former ambiguous reference to the authority of the Board to recommend applicable legislation "when appropriate" is deleted as unnecessary as the appropriateness or timing of the Board's action under this item is implicit in its basic authority to recommend applicable legislation.

Defined terms: "Board" § 12-801

"Elevator contractor" § 12-801

"Elevator mechanic" § 12-801

"Elevator unit" § 12-801

12-824. ESTABLISHMENT OF FEES.

(A) IN GENERAL.

THE BOARD SHALL ESTABLISH FEES FOR THE APPLICATION, ISSUANCE, AND RENEWAL OF LICENSES ISSUED UNDER PART III OF THIS SUBTITLE.

(B) MAXIMUM FEES.

THE TOTAL AMOUNT OF FEES ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION MAY NOT EXCEED, FOR THE 2-YEAR TERM OF THE LICENSE:

(1) $100 PER YEAR FOR AN ELEVATOR MECHANIC; AND

(2) $150 PER YEAR FOR AN ELEVATOR CONTRACTOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49C(g)(3).

Defined terms: "Board" § 12-801

"Elevator contractor" § 12-801

"Elevator mechanic" § 12-801

"License" § 12-801

12-825. AUTHORITY OF SECRETARY.

THE BOARD EXERCISES ITS POWERS, DUTIES, AND FUNCTIONS SUBJECT TO THE AUTHORITY OF THE SECRETARY.

REVISOR'S NOTE: This section formerly was Art. 89, § 49C(b)(2).

No changes are made.

Defined terms: "Board" § 12-801

"Secretary" § 12-801

12-826. LICENSE REQUIRED; EXCEPTIONS.

(A) ELEVATOR MECHANIC.

EXCEPT AS OTHERWISE PROVIDED IN PART III OF THIS SUBTITLE, A PERSON SHALL BE LICENSED BY THE BOARD AS AN ELEVATOR MECHANIC BEFORE THE PERSON ERECTS, CONSTRUCTS, WIRES, ALTERS, REPLACES, MAINTAINS, REPAIRS, DISMANTLES, OR SERVICES ELEVATOR UNITS IN THE STATE.

(B) ELEVATOR CONTRACTOR.

EXCEPT AS OTHERWISE PROVIDED IN PART III OF THIS SUBTITLE, A PERSON SHALL BE LICENSED BY THE BOARD AS AN ELEVATOR CONTRACTOR BEFORE THE PERSON ENGAGES IN THE BUSINESS OF ERECTING, CONSTRUCTING, WIRING, ALTERING, REPLACING, MAINTAINING, REPAIRING, DISMANTLING, OR SERVICING ELEVATOR UNITS IN THE STATE.

(C) EXCEPTIONS.

(1) A LICENSED ELEVATOR CONTRACTOR IS NOT REQUIRED FOR REMOVING OR DISMANTLING AN ELEVATOR UNIT IF:

(I) THE ELEVATOR UNIT IS DESTROYED AS A RESULT OF A COMPLETE DEMOLITION OF A BUILDING; OR

(II) A HOISTWAY OR WELLWAY IS DEMOLISHED BACK TO THE BASIC SUPPORT STRUCTURE.

(2) (I) AN INDIVIDUAL WHO WORKS AS AN ELEVATOR APPRENTICE UNDER THE DIRECT SUPERVISION OF A LICENSED ELEVATOR MECHANIC NEED NOT OBTAIN A LICENSE.

(II) AN INDIVIDUAL COMMONLY KNOWN AS AN ELEVATOR HELPER WHO WORKS UNDER THE DIRECT SUPERVISION OF A LICENSED ELEVATOR MECHANIC NEED NOT OBTAIN A LICENSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49C(a)(3) and (h).

In subsection (c)(1) of this section, the reference to an "elevator unit" is substituted for the former reference to a "conveyance" for clarity and consistency with terminology used throughout this subtitle.

Subsection (c)(2) of this section incorporates the former definition of "elevator apprentice" into the substantive provision that relates to elevator apprentices for clarity.

Defined terms: "Board" § 12-801

"Elevator contractor" § 12-801

"Elevator mechanic" § 12-801

"Elevator unit" § 12-801

"License" § 12-801

"Person" § 1-101

12-827. QUALIFICATIONS OF APPLICANTS.

(A) ELEVATOR MECHANIC.

AN APPLICANT FOR AN ELEVATOR MECHANIC LICENSE SHALL:

(1) (I) HAVE AN ACCEPTABLE COMBINATION OF DOCUMENTED EXPERIENCE AND EDUCATION CREDITS, WITH AT LEAST 3 YEARS OF RECENT AND ACTIVE WORK EXPERIENCE IN THE ELEVATOR INDUSTRY, IN CONSTRUCTION, MAINTENANCE, AND SERVICE OR REPAIR, AS VERIFIED BY CURRENT AND PREVIOUS EMPLOYERS; AND

(II) PASS A WRITTEN EXAMINATION ADMINISTERED BY THE BOARD ON THE SAFETY CODE;

(2) (I) HAVE COMPLETED AT LEAST 3 YEARS OF RECENT AND ACTIVE WORK EXPERIENCE IN THE ELEVATOR INDUSTRY, IN CONSTRUCTION, MAINTENANCE, AND SERVICE OR REPAIR, AS VERIFIED BY CURRENT AND PREVIOUS EMPLOYERS; AND

(II) HAVE A CERTIFICATE OF COMPLETION OF THE MECHANIC EXAMINATION OF A NATIONALLY RECOGNIZED TRAINING PROGRAM FOR THE ELEVATOR INDUSTRY SUCH AS THE NATIONAL ELEVATOR INDUSTRY EDUCATIONAL PROGRAM OR ITS EQUIVALENT; OR

(3) HAVE A CERTIFICATE OF COMPLETION OF AN APPRENTICESHIP PROGRAM FOR ELEVATOR MECHANICS THAT HAS STANDARDS SUBSTANTIALLY EQUIVALENT TO THOSE OF PART III OF THIS SUBTITLE AND IS REGISTERED WITH THE BUREAU OF APPRENTICESHIP AND TRAINING OF THE U.S. DEPARTMENT OF LABOR OR A STATE APPRENTICESHIP COUNCIL.

(B) ELEVATOR CONTRACTOR LICENSE.

AN APPLICANT FOR AN ELEVATOR CONTRACTOR LICENSE SHALL HAVE AT LEAST 5 YEARS OF WORK EXPERIENCE IN THE ELEVATOR INDUSTRY IN CONSTRUCTION, MAINTENANCE, SERVICE, OR REPAIR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49C(i)(1) and (3).

In subsection (a)(1)(ii) of this section, the reference to "pass[ing]" a written examination is substituted for the former reference to "satisfactorily complet[ing]" the examination for brevity.

Former Art. 89, § 49C(i)(2), which provided that certain applicants for a license were entitled to a license without examination if the applicant possessed specified ability and experience and applied for the license on or before September 30, 2002, is deleted as obsolete as that date has passed.

Defined terms: "Board" § 12-801

"Elevator" § 12-801

"Elevator contractor" § 12-801

"Elevator mechanic" § 12-801

"Safety Code" § 12-801

12-828. APPLICATIONS FOR LICENSES.

(A) IN GENERAL.

(1) AN APPLICANT FOR A LICENSE SHALL:

(I) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT THE BOARD PROVIDES;

(II) SUBMIT TO THE BOARD ANY PROOF OF ELIGIBILITY THAT THE BOARD REQUIRES; AND

(III) PAY TO THE BOARD OR DESIGNEE OF THE BOARD AN APPLICATION FEE SET BY THE BOARD.

(2) THE APPLICATION FEE IS NONREFUNDABLE.

(B) REQUIRED INFORMATION.

EACH APPLICATION SHALL CONTAIN THE FOLLOWING INFORMATION:

(1) IF THE APPLICANT IS AN INDIVIDUAL, THE NAME, RESIDENCE, AND BUSINESS ADDRESS OF THE APPLICANT;

(2) IF THE APPLICANT IS A PARTNERSHIP, THE NAME, RESIDENCE, AND BUSINESS ADDRESS OF EACH GENERAL PARTNER;

(3) IF THE APPLICANT IS A DOMESTIC CORPORATION, THE NAME AND BUSINESS ADDRESS OF THE CORPORATION AND THE NAME AND RESIDENCE ADDRESS OF THE PRINCIPAL OFFICER OF THE CORPORATION;

(4) IF THE APPLICANT IS A CORPORATION OTHER THAN A DOMESTIC CORPORATION, THE NAME AND ADDRESS OF THE RESIDENT AGENT;

(5) THE NUMBER OF YEARS THE APPLICANT HAS ENGAGED IN THE BUSINESS OF INSTALLING, ALTERING, REPAIRING, OR SERVICING ELEVATORS;

(6) THE APPROXIMATE NUMBER OF INDIVIDUALS, IF ANY, TO BE EMPLOYED BY AN APPLICANT THAT IS AN ELEVATOR CONTRACTOR AND, IF APPLICABLE, EVIDENCE SATISFACTORY TO THE BOARD THAT THE EMPLOYEES ARE OR WILL BE COVERED BY WORKERS' COMPENSATION INSURANCE;

(7) EVIDENCE SATISFACTORY TO THE BOARD THAT THE APPLICANT IS OR WILL BE COVERED BY GENERAL LIABILITY, PERSONAL INJURY, AND PROPERTY DAMAGE INSURANCE; AND

(8) ANY OTHER INFORMATION THAT THE BOARD REQUIRES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49C(j).

In subsection (b)(2) of this section, the reference to a "general" partner is added for clarity. The Public Safety Article Review Committee notes this addition for consideration by the General Assembly. The Committee also notes that limited partnerships are not covered by this provision.

In subsection (b)(4) of this section, the reference to the "resident agent" is substituted for the former ambiguous reference to an "agent located locally who shall be authorized to accept service of process" for clarity.

In subsection (b)(6) and (7) of this section, the reference to "evidence satisfactory to the Board" is substituted for the former ambiguous references to "satisfactory evidence" to identify the entity that must determine whether evidence is satisfactory.

As to the authority of the Board to set fees, *see* § 12-824 of this subtitle.

Defined terms: "Board" § 12-801

"Elevator" § 12-801

"Elevator contractor" § 12-801

"License" § 12-801

12-829. EXAMINATIONS.

(A) RIGHT TO EXAMINATION.

AN APPLICANT WHO OTHERWISE QUALIFIES FOR AN ELEVATOR MECHANIC LICENSE IS ENTITLED TO BE EXAMINED AS PROVIDED IN THIS SECTION ON PAYMENT OF AN EXAMINATION FEE TO THE BOARD OR DESIGNEE OF THE BOARD.

(B) TIME AND PLACE OF EXAMINATION.

THE BOARD PERIODICALLY SHALL GIVE EXAMINATIONS TO APPLICANTS AT THE TIMES AND PLACES THAT THE BOARD DETERMINES.

(C) NOTICE OF EXAMINATION.

THE BOARD SHALL GIVE EACH QUALIFIED APPLICANT NOTICE OF THE TIME AND PLACE OF EXAMINATION.

(D) FEE, SUBJECTS, AND METHODS OF EXAMINATION.

THE BOARD SHALL DETERMINE THE FEE, CONTENT, SCOPE, AND PASSING SCORE FOR EXAMINATIONS GIVEN UNDER THIS SECTION.

(E) USE OF TESTING SERVICE.

(1) THE BOARD MAY USE A TESTING SERVICE TO ADMINISTER THE EXAMINATIONS REQUIRED UNDER THIS SECTION.

(2) IF THE BOARD USES A TESTING SERVICE UNDER THIS SECTION, THE TESTING SERVICE, SUBJECT TO REQUIREMENTS SET BY THE BOARD, MAY:

(I) SET THE TIMES AND PLACES OF THE EXAMINATIONS;

(II) PROVIDE NOTICE OF THE TIMES AND PLACES OF EXAMINATIONS TO THE APPLICANTS; AND

(III) PROVIDE ANY OTHER INFORMATION THAT THE BOARD MAY REQUIRE THE TESTING SERVICE TO PROVIDE.

(F) NOTICE OF EXAMINATION RESULTS.

THE BOARD OR DESIGNEE OF THE BOARD SHALL PROVIDE TO THE APPLICANT NOTICE OF THE EXAMINATION RESULT OF THE APPLICANT.

REVISOR'S NOTE: This section formerly was Art. 89, § 49C(k).

%The only changes are in style.

Defined terms: "Board" § 12-801

"Elevator mechanic" § 12-801

12-830. RECIPROCAL WAIVER OF EXAMINATION REQUIREMENTS.

(A) IN GENERAL.

SUBJECT TO THE LIMITATIONS OF THIS SECTION, THE BOARD MAY WAIVE THE EXAMINATION REQUIREMENTS OF PART III OF THIS SUBTITLE FOR AN INDIVIDUAL WHO IS LICENSED TO PERFORM ELEVATOR INSTALLATION, ALTERATION, REPAIR, OR SERVICE WORK IN ANOTHER STATE OR A SUBDIVISION OF ANOTHER STATE.

(B) CONDITIONS.

THE BOARD MAY GRANT A WAIVER UNDER THIS SECTION ONLY IF THE APPLICANT:

(1) PAYS TO THE BOARD THE APPROPRIATE APPLICATION FEE REQUIRED BY PART III OF THIS SUBTITLE; AND

(2) PROVIDES ADEQUATE EVIDENCE THAT THE APPLICANT:

(I) MEETS THE QUALIFICATIONS OTHERWISE REQUIRED BY PART III OF THIS SUBTITLE;

(II) HOLDS AN ACTIVE LICENSE IN GOOD STANDING IN THE OTHER STATE OR SUBDIVISION THAT IS EQUIVALENT TO A LICENSE IN THIS STATE; AND

(III) BECAME LICENSED IN THE OTHER STATE OR SUBDIVISION AFTER PASSING AN EXAMINATION THAT IS SIMILAR TO THE EXAMINATION FOR WHICH THE APPLICANT IS SEEKING THE WAIVER.

(C) RECIPROCITY.

THE BOARD MAY GRANT A WAIVER ONLY IF THE STATE OR SUBDIVISION IN WHICH THE APPLICANT IS LICENSED WAIVES THE EXAMINATION OF LICENSEES OF THIS STATE TO A SIMILAR EXTENT AS THIS STATE WAIVES THE EXAMINATION REQUIREMENTS FOR INDIVIDUALS LICENSED IN THAT STATE OR SUBDIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49C(l).

Defined terms: "Board" § 12-801

"Elevator" § 12-801

"License" § 12-801

"State" § 1-101

12-831. ISSUANCE OF LICENSE.

(A) NOTICE OF QUALIFICATION.

IF AN APPLICANT QUALIFIES FOR A LICENSE UNDER PART III OF THIS SUBTITLE, THE BOARD SHALL SEND THE APPLICANT A NOTICE THAT STATES:

(1) THE APPLICANT HAS QUALIFIED FOR A LICENSE; AND

(2) ON RECEIPT OF A LICENSE FEE SET BY THE BOARD, THE BOARD SHALL ISSUE A LICENSE TO THE APPLICANT.

(B) ISSUANCE.

ON PAYMENT OF THE LICENSE FEE, THE BOARD SHALL ISSUE A LICENSE TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF PART III OF THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 89, § 49C(m).

The only changes are in style.

Defined terms: "Board" § 12-801

"License" § 12-801

12-832. SCOPE OF LICENSE.

(A) ELEVATOR MECHANIC LICENSE.

WHILE AN ELEVATOR MECHANIC LICENSE IS IN EFFECT, IT AUTHORIZES THE LICENSEE TO ERECT, CONSTRUCT, WIRE, ALTER, REPLACE, MAINTAIN, REPAIR, DISMANTLE, OR SERVICE ELEVATOR UNITS UNDER THE DIRECT SUPERVISION OF A LICENSED ELEVATOR CONTRACTOR.

(B) ELEVATOR CONTRACTOR LICENSE.

WHILE AN ELEVATOR CONTRACTOR LICENSE IS IN EFFECT, IT AUTHORIZES THE LICENSEE TO ENGAGE IN THE BUSINESS OF ERECTING, CONSTRUCTING, WIRING, ALTERING, REPLACING, MAINTAINING, REPAIRING, DISMANTLING, OR SERVICING ELEVATOR UNITS.

REVISOR'S NOTE: This section formerly was Art. 89, § 49C(n).

The only changes are in style.

Defined terms: "Elevator contractor" § 12-801

"Elevator mechanic" § 12-801

"Elevator unit" § 12-801

12-833. TERM AND RENEWAL OF LICENSE.

(A) TERM OF LICENSE.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, UNLESS A LICENSE IS RENEWED FOR A 2-YEAR TERM AS PROVIDED IN THIS SECTION, THE LICENSE EXPIRES ON THE SECOND ANNIVERSARY OF ITS EFFECTIVE DATE.

(2) THE SECRETARY MAY DETERMINE THAT LICENSES ISSUED UNDER PART III OF THIS SUBTITLE SHALL EXPIRE ON A STAGGERED BASIS.

(B) RENEWAL NOTICE.

AT LEAST 1 MONTH BEFORE A LICENSE EXPIRES, THE BOARD SHALL MAIL TO THE LICENSEE, AT THE LAST KNOWN ADDRESS OF THE LICENSEE:

(1) A RENEWAL APPLICATION FORM; AND

(2) A NOTICE THAT STATES:

(I) THE DATE ON WHICH THE CURRENT LICENSE EXPIRES;

(II) THE DATE BY WHICH THE BOARD MUST RECEIVE THE RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE LICENSE EXPIRES; AND

(III) THE AMOUNT OF THE RENEWAL FEE.

(C) APPLICATIONS FOR RENEWAL.

BEFORE THE LICENSE EXPIRES, THE LICENSEE PERIODICALLY MAY RENEW THE LICENSE FOR AN ADDITIONAL 2-YEAR TERM IF THE LICENSEE:

(1) OTHERWISE IS ENTITLED TO BE LICENSED;

(2) PAYS THE RENEWAL FEE TO THE BOARD; AND

(3) SUBMITS TO THE BOARD A RENEWAL APPLICATION ON THE FORM THAT THE BOARD PROVIDES.

(D) CONTINUING PROFESSIONAL COMPETENCY.

THE BOARD SHALL ADOPT REGULATIONS TO:

(1) REQUIRE A DEMONSTRATION OF CONTINUING PROFESSIONAL COMPETENCY FOR A LICENSEE AS A CONDITION OF RENEWAL OF A LICENSE UNDER THIS SECTION;

(2) ESTABLISH CRITERIA FOR CONTINUING EDUCATION PROVIDERS;

(3) PROVIDE FOR A TEMPORARY WAIVER OF CONTINUING EDUCATION UNDER SPECIFIED CIRCUMSTANCES; AND

(4) SET RECORD KEEPING CRITERIA FOR APPROVED CONTINUING EDUCATION PROVIDERS.

(E) ISSUANCE OF RENEWAL.

THE BOARD SHALL RENEW THE LICENSE OF AND ISSUE A RENEWAL CERTIFICATE TO EACH LICENSEE WHO MEETS THE REQUIREMENTS OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from Art. 89, § 49C(o).

In subsection (c)(2) of this section, the former phrase "set by the Board" is deleted as surplusage. *See* § 12-824 of this subtitle.

In subsection (d)(4) of this section, the reference to "continuing education" providers is substituted for the former reference to "training" providers for consistency with subsection (d)(2) and (3) of this section.

Defined terms: "Board" § 12-801

"License" § 12-801

"Secretary" § 12-801

12-834. TEMPORARY ELEVATOR MECHANIC LICENSES.

(A) NOTICE OF SHORTAGE OF LICENSED PERSONNEL.

A LICENSED ELEVATOR CONTRACTOR SHALL NOTIFY THE BOARD IF THERE ARE NO LICENSED ELEVATOR MECHANICS AVAILABLE TO PERFORM ELEVATOR WORK.

(B) REQUEST FOR ISSUANCE OF TEMPORARY LICENSES.

THE LICENSED ELEVATOR CONTRACTOR MAY REQUEST THAT THE BOARD ISSUE TEMPORARY ELEVATOR MECHANIC LICENSES TO INDIVIDUALS CERTIFIED BY THE LICENSED ELEVATOR CONTRACTOR TO HAVE AN ACCEPTABLE COMBINATION OF DOCUMENTED EXPERIENCE AND EDUCATION TO PERFORM ELEVATOR WORK WITHOUT DIRECT AND IMMEDIATE SUPERVISION.

(C) APPLICATION FOR LICENSE; FEE.

AN INDIVIDUAL CERTIFIED BY A LICENSED ELEVATOR CONTRACTOR AS QUALIFIED UNDER SUBSECTION (B) OF THIS SECTION SHALL:

(1) IMMEDIATELY SEEK A TEMPORARY ELEVATOR MECHANIC LICENSE FROM THE BOARD; AND

(2) PAY THE FEE THAT THE BOARD DETERMINES.

(D) TERM OF LICENSE.

A TEMPORARY ELEVATOR MECHANIC LICENSE IS VALID FOR 30 DAYS WHILE THE LICENSEE IS EMPLOYED BY THE LICENSED ELEVATOR CONTRACTOR THAT CERTIFIED THE LICENSEE AS QUALIFIED UNDER SUBSECTION (B) OF THIS SECTION.

(E) RENEWAL OF LICENSE.

A TEMPORARY ELEVATOR MECHANIC LICENSE MAY BE RENEWED AS LONG AS THE SHORTAGE OF LICENSED ELEVATOR MECHANICS CONTINUES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49C(q).

In subsection (a) of this section, the reference to "elevator mechanics" is substituted for the former reference to "personnel" for clarity and consistency with terminology used throughout this section.

In the introductory language of subsection (c) of this section, the reference to an individual certified "as qualified under subsection (b) of this section" is substituted for the former reference to an individual certified "to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision" for brevity.

Defined terms: "Board" § 12-801

"Elevator" § 12-801

"Elevator contractor" § 12-801

"Elevator mechanic" § 12-801

12-835. EMERGENCY ELEVATOR MECHANIC LICENSES.

(A) RESPONSE DURING EMERGENCY.

A LICENSED ELEVATOR CONTRACTOR SHALL RESPOND AS NECESSARY TO ENSURE PUBLIC SAFETY IF:

(1) AN EMERGENCY EXISTS IN THE STATE BECAUSE OF DISASTER, ACT OF GOD, OR WORK STOPPAGE; AND

(2) THE NUMBER OF LICENSED ELEVATOR MECHANICS IN THE STATE IS INSUFFICIENT TO COPE WITH THE EMERGENCY.

(B) CERTIFIED INDIVIDUALS TO SEEK LICENSE.

WITHIN 5 BUSINESS DAYS AFTER BEGINNING WORK THAT REQUIRES AN ELEVATOR MECHANIC LICENSE, AN INDIVIDUAL CERTIFIED BY A LICENSED ELEVATOR CONTRACTOR TO HAVE AN ACCEPTABLE COMBINATION OF DOCUMENTED EXPERIENCE AND EDUCATION TO PERFORM ELEVATOR WORK WITHOUT DIRECT AND IMMEDIATE SUPERVISION SHALL SEEK AN EMERGENCY ELEVATOR MECHANIC LICENSE FROM THE BOARD.

(C) PROOF OF COMPETENCY.

THE LICENSED ELEVATOR CONTRACTOR SHALL PROVIDE PROOF OF COMPETENCY AS THE BOARD MAY REQUIRE FOR AN INDIVIDUAL CERTIFIED BY THE LICENSED ELEVATOR CONTRACTOR UNDER SUBSECTION (B) OF THIS SECTION.

(D) ISSUANCE OF LICENSES.

THE BOARD SHALL ISSUE EMERGENCY ELEVATOR MECHANIC LICENSES.

(E) SCOPE OF LICENSE.

AN EMERGENCY ELEVATOR MECHANIC LICENSE ENTITLES THE LICENSEE TO THE RIGHTS AND PRIVILEGES OF AN ELEVATOR MECHANIC LICENSE ISSUED UNDER PART III OF THIS SUBTITLE.

(F) TERM OF LICENSE.

AN EMERGENCY ELEVATOR MECHANIC LICENSE IS VALID FOR 30 DAYS FOR PARTICULAR ELEVATOR UNITS OR GEOGRAPHICAL AREAS AS THE BOARD DESIGNATES.

(G) RENEWAL OF LICENSE.

THE BOARD SHALL RENEW AN EMERGENCY ELEVATOR MECHANIC LICENSE DURING THE EXISTENCE OF AN EMERGENCY.

(H) FEE.

THE BOARD MAY NOT CHARGE A FEE FOR THE ISSUANCE OR RENEWAL OF AN EMERGENCY ELEVATOR MECHANIC LICENSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49C(p).

In subsection (a)(2) of this section, the reference to licensed "elevator mechanic[s]" is substituted for the former reference to "individuals ... holding licenses issued by the Board" for clarity and consistency with terminology used throughout Part III of this subtitle.

Defined terms: "Board" § 12-801

"Elevator" § 12-801

"Elevator contractor" § 12-801

"Elevator mechanic" § 12-801

"Elevator unit" § 12-801

12-836. INSURANCE REQUIREMENTS.

(A) IN GENERAL.

AN ELEVATOR CONTRACTOR MAY NOT ENGAGE IN THE BUSINESS OF ELEVATOR INSTALLATION, ALTERATION, REPAIR, OR SERVICE WORK UNLESS THE WORK OF THE ELEVATOR CONTRACTOR IS COVERED BY:

(1) GENERAL LIABILITY INSURANCE IN THE AMOUNT OF AT LEAST $1,000,000; AND

(2) PROPERTY DAMAGE INSURANCE IN THE AMOUNT OF AT LEAST $500,000.

(B) PROOF OF INSURANCE.

AN APPLICANT FOR AN ELEVATOR CONTRACTOR LICENSE SHALL SUBMIT PROOF OF THE INSURANCE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION TO THE BOARD WITH THE LICENSE APPLICATION.

(C) LICENSE RENEWAL PROHIBITED.

UNLESS A LICENSEE MEETS THE INSURANCE REQUIREMENTS OF THIS SECTION, THE BOARD MAY NOT RENEW THE LICENSE OF A LICENSEE TO WHOM THE INSURANCE REQUIREMENTS OF THIS SECTION APPLY.

(D) NOTICE OF CANCELLATION.

A LICENSED ELEVATOR CONTRACTOR SHALL GIVE THE BOARD NOTICE OF THE CANCELLATION OF INSURANCE AT LEAST 10 DAYS BEFORE THE EFFECTIVE DATE OF THE CANCELLATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49C(u).

Defined terms: "Board" § 12-801

"Elevator" § 12-801

"Elevator contractor" § 12-801

12-837. DENIALS, REFUSALS TO RENEW, REPRIMANDS, SUSPENSIONS, AND REVOCATIONS -- GROUNDS; CIVIL PENALTY.

(A) GROUNDS.

SUBJECT TO THE HEARING PROVISIONS OF § 12-838 OF THIS SUBTITLE, THE BOARD MAY DENY A LICENSE TO AN APPLICANT, REFUSE TO RENEW A LICENSE, REPRIMAND A LICENSEE, SUSPEND OR REVOKE A LICENSE, OR IMPOSE A CIVIL PENALTY NOT EXCEEDING $1,000 IF THE BOARD FINDS THAT THE APPLICANT OR LICENSEE:

(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A LICENSE;

(2) FAILS TO NOTIFY THE BOARD OR THE OWNER OR LESSEE OF AN ELEVATOR OR RELATED MECHANISM OF ANY CONDITION NOT IN COMPLIANCE WITH PART II OF THIS SUBTITLE;

(3) VIOLATES THIS SUBTITLE;

(4) TRANSFERS THE AUTHORITY GRANTED BY A LICENSE TO ANOTHER PERSON;

(5) INSTALLS, REPAIRS, OR MAINTAINS AN ELEVATOR OR ASSISTS IN THE INSTALLATION, REPAIR, OR MAINTENANCE OF AN ELEVATOR IN A NEGLIGENT OR CARELESS MANNER; OR

(6) WILLFULLY OR DELIBERATELY DISREGARDS AND VIOLATES A BUILDING CODE, ELECTRICAL CODE, OR CONSTRUCTION LAW OF THE STATE OR A COUNTY OR MUNICIPAL CORPORATION OF THE STATE.

(B) CIVIL PENALTY.

IN DETERMINING THE APPROPRIATE PENALTY TO BE IMPOSED UNDER SUBSECTION (A) OF THIS SECTION, THE BOARD SHALL CONSIDER:

(1) THE GRAVITY OF THE VIOLATION;

(2) THE GOOD FAITH OF THE VIOLATOR;

(3) THE NUMBER AND GRAVITY OF PREVIOUS VIOLATIONS BY THE SAME VIOLATOR;

(4) THE HARM CAUSED TO THE COMPLAINANT, THE PUBLIC, AND THE ELEVATOR MECHANIC PROFESSION;

(5) THE ASSETS OF THE VIOLATOR; AND

(6) ANY OTHER FACTORS THAT THE BOARD CONSIDERS RELEVANT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 49C(r).

Defined terms: "Board" § 12-801

"County" § 12-801

"Elevator" § 12-801

"Elevator mechanic" § 12-801

"License" § 12-801

"Person" § 1-101

12-838. SAME -- HEARINGS.

(A) RIGHT TO HEARING.

EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY FINAL ACTION UNDER PART III OF THIS SUBTITLE, THE BOARD SHALL GIVE THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE BOARD.

(B) APPLICATION OF CONTESTED CASE PROVISIONS.

THE BOARD SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

REVISOR'S NOTE: This section formerly was Art. 89, § 49C(s).

The only changes are in style.

Defined term: "Board" § 12-801

12-839. JUDICIAL REVIEW.

ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD IN A CONTESTED CASE, AS DEFINED IN § 10-202 OF THE STATE GOVERNMENT ARTICLE, MAY TAKE AN APPEAL AS ALLOWED IN §§ 10-222 AND 10-223 OF THE STATE GOVERNMENT ARTICLE.

REVISOR'S NOTE: This section formerly was Art. 89, § 49C(t).

No changes are made.

Defined terms: "Board" § 12-801

"Person" § 1-101

12-840. PROHIBITED ACTS.

(A) ELEVATOR INSTALLATION, REPAIR, OR MAINTENANCE WORK WITHOUT LICENSE PROHIBITED.

EXCEPT AS OTHERWISE PROVIDED IN PART III OF THIS SUBTITLE, AN INDIVIDUAL MAY NOT PERFORM, ATTEMPT TO PERFORM, OR OFFER TO PERFORM ELEVATOR INSTALLATION, REPAIR, OR MAINTENANCE WORK IN THE STATE UNLESS LICENSED BY THE BOARD.

(B) ASSISTANCE WITHOUT LICENSE PROHIBITED.

EXCEPT AS OTHERWISE PROVIDED IN PART III OF THIS SUBTITLE, AN INDIVIDUAL MAY NOT ASSIST, ATTEMPT TO ASSIST, OR OFFER TO ASSIST IN PERFORMING ELEVATOR INSTALLATION, REPAIR, OR MAINTENANCE WORK IN THE STATE UNLESS LICENSED BY THE BOARD.

(C) PROHIBITED EMPLOYMENT.

EXCEPT AS OTHERWISE PROVIDED IN PART III OF THIS SUBTITLE, AN ELEVATOR CONTRACTOR MAY NOT EMPLOY AN ELEVATOR MECHANIC UNLESS THE ELEVATOR MECHANIC IS LICENSED BY THE BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from Art. 89, § 49C(v).

In subsection (c) of this section, the phrase "[e]xcept as otherwise provided in Part III of this subtitle" is added to indicate exceptions exist.

%Also in subsection (c) of this section, the defined term "elevator contractor" is substituted for the former reference to a "contractor" for specificity.

Defined terms: "Board" § 12-801

"Elevator" § 12-801

"Elevator contractor" § 12-801

"Elevator mechanic" § 12-801

12-841. PENALTIES.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON WHO VIOLATES PART III OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING $100 FOR EACH DAY THAT THE VIOLATION CONTINUES OR BOTH.

(B) WILLFUL VIOLATION.

A PERSON WHO KNOWINGLY AND WILLFULLY VIOLATES PART III OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING $5,000 OR BOTH.

REVISOR'S NOTE: This section formerly was Art. 89, § 49C(w).

The only changes are in style.

Defined term: "Person" § 1-101

SUBTITLE 9. BOILER AND PRESSURE VESSEL SAFETY ACT.

12-901. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the second sentence of former Art. 48, § 168.

It is restated in the standard introductory language to a definition section.

(B) BOARD.

"BOARD" MEANS THE BOARD OF BOILER RULES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first sentence of former Art. 48, § 169(a), as it related to the Board of Boiler Rules being referred to as the "Board".

Defined term: "Boiler" § 12-901

(C) BOILER.

"BOILER" MEANS:

(1) A CLOSED VESSEL IN WHICH WATER IS HEATED, STEAM IS GENERATED, STEAM IS SUPERHEATED, OR A COMBINATION OF THESE FUNCTIONS IS ACCOMPLISHED, UNDER PRESSURE OR VACUUM FOR USE EXTERNALLY TO THE VESSEL BY THE DIRECT APPLICATION OF HEAT FROM THE COMBUSTION OF FUELS OR FROM ELECTRICITY OR NUCLEAR ENERGY; OR

(2) A FIRED UNIT FOR HEATING OR VAPORIZING LIQUIDS OTHER THAN WATER IF THE UNIT IS SEPARATE FROM A PROCESSING SYSTEM AND IS COMPLETE WITHIN ITSELF.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 48, § 168(a).

In item (2) of this subsection, the word "means" is substituted for the former words "shall include" so that the "means" part of the definition of "boiler" is not expanded by the "includes" part of the definition as it was in the former law. The first sentence of former § 168(a) defined a boiler as a closed vessel in which water was heated. The second sentence of former § 168(a) referred to a fired unit for heating or vaporizing liquids other than water.

(D) CERTIFICATE.

"CERTIFICATE" MEANS A CERTIFICATE ISSUED BY THE CHIEF BOILER INSPECTOR TO OPERATE A BOILER OR PRESSURE VESSEL.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of phrases such as "certificate issued by the Chief Boiler Inspector to operate a boiler or pressure vessel".

Defined terms: "Boiler" § 12-901

"Pressure vessel" § 12-901

(E) CERTIFICATE INSPECTION.

"CERTIFICATE INSPECTION" MEANS AN INSPECTION, THE REPORT OF WHICH IS USED BY THE CHIEF BOILER INSPECTOR TO DETERMINE WHETHER TO ISSUE A CERTIFICATE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first sentence of former Art. 48, § 168(c).

The former phrase "or not" is deleted as surplusage.

Defined term: "Certificate" § 12-901

(F) COMMISSIONER.

"COMMISSIONER" MEANS THE COMMISSIONER OF LABOR AND INDUSTRY.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title of the "Commissioner of Labor and Industry".

(G) HEATING BOILER.

"HEATING BOILER" MEANS:

(1) A STEAM BOILER THAT OPERATES AT PRESSURES NOT EXCEEDING 15 PSIG; OR

(2) A HOT WATER BOILER THAT OPERATES AT PRESSURES NOT EXCEEDING 160 PSIG OR TEMPERATURES NOT EXCEEDING 250 DEGREES FAHRENHEIT.

REVISOR'S NOTE: This subsection formerly was Art. 48, § 168(a)(3).

The only changes are in style.

Defined term: "Boiler" § 12-901

(H) HIGH PRESSURE, HIGH TEMPERATURE WATER BOILER.

"HIGH PRESSURE, HIGH TEMPERATURE WATER BOILER" MEANS A WATER BOILER THAT OPERATES AT PRESSURES EXCEEDING 160 PSIG OR TEMPERATURES EXCEEDING 250 DEGREES FAHRENHEIT.

REVISOR'S NOTE: This subsection formerly was Art. 48, § 168(a)(2).

The only changes are in style.

Defined term: "Boiler" § 12-901

(I) POWER BOILER.

"POWER BOILER" MEANS A BOILER IN WHICH STEAM OR OTHER VAPOR IS GENERATED AT A PRESSURE OF MORE THAN 15 PSIG.

REVISOR'S NOTE: This subsection formerly was Art. 48, § 168(a)(1).

The only changes are in style.

Defined term: "Boiler" § 12-901

(J) PRESSURE VESSEL.

(1) "PRESSURE VESSEL" MEANS A VESSEL IN WHICH THE PRESSURE IS OBTAINED:

(I) FROM AN EXTERNAL SOURCE; OR

(II) BY THE APPLICATION OF HEAT FROM:

1. AN INDIRECT SOURCE; OR

2. A DIRECT SOURCE OTHER THAN A BOILER.

(2) "PRESSURE VESSEL" DOES NOT INCLUDE A PIPE, PIPING COMPONENT, OR STRUCTURE WHOSE PRIMARY FUNCTION IS TO TRANSPORT FLUIDS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 48, §§ 168(b) and 172(d).

In paragraph (1)(ii)2 of this subsection, the former phrase "as defined in subsection (a) of this section" is deleted as surplusage in light of the use of the defined term "boiler".

Defined term: "Boiler" § 12-901

(K) SECRETARY.

"SECRETARY" MEANS THE SECRETARY OF LABOR, LICENSING, AND REGULATION.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title of the "Secretary of Labor, Licensing, and Regulation".

12-902. LEGISLATIVE FINDINGS AND INTENT.

(A) FINDINGS.

THE GENERAL ASSEMBLY FINDS THAT THERE HAVE BEEN MANY INCIDENTS OF DANGER TO PUBLIC SAFETY BECAUSE OF IMPROPER OR INADEQUATE CONSTRUCTION, INSTALLATION, MAINTENANCE, USE, REPAIR, OR INSPECTION OF BOILERS AND PRESSURE VESSELS THAT OPERATE IN THE STATE.

(B) INTENT.

THE INTENT OF THIS SUBTITLE IS TO ESTABLISH BOILER AND PRESSURE VESSEL SAFETY STANDARDS IN THE STATE TO PROVIDE A LEVEL CONSISTENT WITH THE NEEDS OF PUBLIC SAFETY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48, § 167.

In subsections (a) and (b) of this section, the references to "public safety" are substituted for the former references to the "safety of life, limb, and property" for brevity and clarity.

In subsection (b) of this section, the former reference to the "policy of this

subtitle" is deleted as included in the reference to the "intent of this subtitle".

Also in subsection (b) of this section, the former reference to the needs "of the population" is deleted as implicit in the reference to the needs of "public" safety.

Defined terms: "Boiler" § 12-901

"Pressure vessel" § 12-901

12-903. APPLICABILITY AND SCOPE OF SUBTITLE.

(A) APPLICABILITY.

EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THIS SUBTITLE APPLIES TO ALL BOILERS AND PRESSURE VESSELS.

(B) SCOPE.

THIS SUBTITLE DOES NOT APPLY TO:

(1) A BOILER OR PRESSURE VESSEL THAT IS UNDER FEDERAL CONTROL OR REGULATION;

(2) A PRESSURE VESSEL THAT:

(I) IS USED TO TRANSPORT OR STORE COMPRESSED GASES;

(II) IS CONSTRUCTED IN COMPLIANCE WITH SPECIFICATIONS OF THE U.S. DEPARTMENT OF TRANSPORTATION; AND

(III) WHEN CHARGED WITH GAS, IS MARKED, MAINTAINED, AND PERIODICALLY REQUALIFIED FOR USE, AS REQUIRED BY THE REGULATIONS OF THE U.S. DEPARTMENT OF TRANSPORTATION;

(3) AN AIR TANK THAT IS LOCATED ON A VEHICLE THAT IS OPERATING UNDER THE RULES OF OTHER STATE AUTHORITIES AND IS USED FOR CARRYING PASSENGERS OR FREIGHT;

(4) AN AIR TANK THAT IS INSTALLED ON THE RIGHT-OF-WAY OF A RAILROAD AND IS USED DIRECTLY IN THE OPERATION OF TRAINS;

(5) A PRESSURE VESSEL THAT DOES NOT EXCEED:

(I) 5 CUBIC FEET IN VOLUME AND 250 PSIG PRESSURE;

(II) 1 1/2 CUBIC FEET IN VOLUME AND 600 PSIG PRESSURE; OR

(III) AN INSIDE DIAMETER OF 6 INCHES WITH NO LIMITATION ON PRESSURE;

(6) A PRESSURE VESSEL THAT OPERATES AT A WORKING PRESSURE NOT EXCEEDING 15 PSIG;

(7) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A VESSEL THAT CONTAINS WATER UNDER PRESSURE, INCLUDING A VESSEL THAT CONTAINS AIR, THE COMPRESSION OF WHICH SERVES ONLY AS A CUSHION, IF NEITHER OF THE FOLLOWING LIMITATIONS IS EXCEEDED:

(I) A DESIGN PRESSURE OF 300 PSIG; AND

(II) A DESIGN TEMPERATURE OF 210 DEGREES FAHRENHEIT;

(8) A HOT WATER SUPPLY BOILER THAT IS EQUIPPED WITH A SAFETY RELIEF VALVE AND IS DIRECTLY FIRED WITH OIL, GAS, OR ELECTRICITY IF NONE OF THE FOLLOWING LIMITATIONS IS EXCEEDED:

(I) HEAT INPUT OF 200,000 BTU/HOUR;

(II) WATER TEMPERATURE OF 210 DEGREES FAHRENHEIT; AND

(III) NOMINAL WATER CAPACITY OF 120 GALLONS;

(9) A MECHANICAL DEVICE OF ANY OF THE FOLLOWING TYPES:

(I) A PUMP;

(II) A COMPRESSOR;

(III) A TURBINE;

(IV) A GENERATOR; OR

(V) A HYDRAULIC OR PNEUMATIC CYLINDER; OR

(10) THE WATER-CONTAINING PART OF AN AIR-CONDITIONING OR REFRIGERATION SYSTEM CONDENSER OR EVAPORATOR:

(I) THAT USES HALOCARBON REFRIGERANT;

(II) THAT IS CONSTRUCTED IN ACCORDANCE WITH THE REQUIREMENTS OF ANSI/ASHRAE STANDARD 15 (THE SAFETY CODE FOR MECHANICAL REFRIGERATION) IN EFFECT AT THE TIME OF CONSTRUCTION; AND

(III) IF NEITHER OF THE FOLLOWING LIMITATIONS IS EXCEEDED:

1. A DESIGN PRESSURE OF 300 PSIG; AND

2. A DESIGN TEMPERATURE OF 210 DEGREES FAHRENHEIT.

(C) WATER ADDITIVES.

FOR PURPOSES OF SUBSECTION (B)(7) OF THIS SECTION, WATER MAY CONTAIN ADDITIVES IF THE ASTM FLASH POINT OF THE AQUEOUS SOLUTION AT ATMOSPHERIC PRESSURE IS 185 DEGREES FAHRENHEIT OR HIGHER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48, § 172(a), (c), and (e) and the second clause of the first sentence of § 168(a).

In the introductory language of subsection (b) of this section, the former reference to the subtitle not applying to "the following boilers and pressure vessels" is deleted as inaccurate because not all the exemptions listed are types of boilers or pressure vessels.

Defined terms: "Boiler" § 12-901

"Pressure vessel" § 12-901

12-904. BOARD OF BOILER RULES.

(A) ESTABLISHED.

THERE IS A BOARD OF BOILER RULES IN THE DIVISION OF LABOR AND INDUSTRY IN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

(B) COMPOSITION; APPOINTMENT OF MEMBERS.

(1) THE BOARD CONSISTS OF THE FOLLOWING 10 MEMBERS:

(I) AS AN EX OFFICIO MEMBER, THE COMMISSIONER; AND

(II) NINE MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE OF THE SECRETARY AND WITH THE ADVICE AND CONSENT OF THE SENATE.

(2) OF THE NINE APPOINTED MEMBERS OF THE BOARD:

(I) ONE SHALL BE A REPRESENTATIVE OF OWNERS AND USERS OF POWER BOILERS;

(II) ONE SHALL BE A REPRESENTATIVE OF OWNERS AND USERS OF HEATING BOILERS;

(III) ONE SHALL BE A REPRESENTATIVE OF OWNERS AND USERS OF PRESSURE VESSELS;

(IV) ONE SHALL BE A REPRESENTATIVE OF MANUFACTURERS OR ASSEMBLERS OF BOILERS OR PRESSURE VESSELS;

(V) ONE SHALL BE A REPRESENTATIVE OF AN INSURER AUTHORIZED TO INSURE BOILERS OR PRESSURE VESSELS;

(VI) ONE SHALL BE A MECHANICAL ENGINEER ON THE FACULTY OF A RECOGNIZED ENGINEERING COLLEGE IN THE STATE;

(VII) ONE SHALL BE A STATIONARY ENGINEER;

(VIII) ONE SHALL BE A PROFESSIONAL ENGINEER WITH BOILER OR PRESSURE VESSEL EXPERIENCE; AND

(IX) ONE SHALL BE A CONSUMER MEMBER.

(C) CONSUMER MEMBER.

(1) THE CONSUMER MEMBER OF THE BOARD:

(I) SHALL BE A MEMBER OF THE PUBLIC;

(II) MAY NOT BE A LICENSEE OR OTHERWISE BE SUBJECT TO REGULATION BY THE BOARD;

(III) MAY NOT BE REQUIRED TO MEET THE QUALIFICATIONS FOR THE PROFESSIONAL MEMBERS OF THE BOARD; AND

(IV) MAY NOT, WITHIN 1 YEAR BEFORE APPOINTMENT, HAVE HAD A FINANCIAL INTEREST IN OR HAVE RECEIVED COMPENSATION FROM A PERSON REGULATED BY THE BOARD.

(2) WHILE A MEMBER OF THE BOARD, THE CONSUMER MEMBER MAY NOT:

(I) HAVE A FINANCIAL INTEREST IN OR RECEIVE COMPENSATION FROM A PERSON REGULATED BY THE BOARD; OR

(II) GRADE ANY EXAMINATION GIVEN BY OR FOR THE BOARD.

(D) TENURE; VACANCIES.

(1) THE TERM OF AN APPOINTED MEMBER IS 4 YEARS.

(2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2003.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(E) CHAIRMAN.

THE BOARD SHALL ELECT A CHAIRMAN FROM AMONG ITS MEMBERS.

(F) VOTING.

THE COMMISSIONER MAY NOT VOTE.

(G) COMPENSATION.

(1) THE COMMISSIONER MAY NOT RECEIVE ADDITIONAL COMPENSATION AS A MEMBER OF THE BOARD.

(2) AN APPOINTED MEMBER OF THE BOARD:

(I) MAY NOT RECEIVE A SALARY AS A MEMBER OF THE BOARD; BUT

(II) IS ENTITLED TO:

1. COMPENSATION IN ACCORDANCE WITH THE STATE BUDGET; AND

2. REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(H) AUTHORITY OF SECRETARY.

THE EXERCISE OR PERFORMANCE OF THE POWERS, AUTHORITY, DUTIES, AND FUNCTIONS OF THE BOARD UNDER THIS SUBTITLE IS SUBJECT TO THE POWER AND AUTHORITY OF THE SECRETARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48, § 169.

In subsection (a) of this section, the phrase "in the Department of Labor, Licensing, and Regulation" is added for clarity.

In subsection (b)(2)(v) of this section, the reference to "an insurer authorized" to insure boilers or pressure vessels is substituted for the former reference to "a company licensed" to insure them for accuracy because insurers receive certificates of authority, not licenses.

In subsection (d)(2) of this section, standard language is substituted for the second sentence of former Art. 48, § 169(d), which provided for the terms of the initial members of the Board and was obsolete. This substitution is not intended to alter the term of any member of the Board. *See* § _____ of Ch. _____, Acts of 2003.

In subsection (g)(2)(ii)1 of this section, the former reference to compensation for "each day or part thereof necessarily spent in the discharge of their official duties" is deleted as unnecessary in light of the reference to "compensation in accordance with the State budget" and to reflect that members of the Board no longer receive per diem pay.

In subsection (h) of this section, the former phrase "as set forth in the Business Regulation Article or elsewhere in the laws of this State" is

deleted as an unnecessary general reference to every provision of law in which the Secretary's authority is set forth.

Defined terms: "Board" § 12-901

"Boiler" § 12-901

"Commissioner" § 12-901

"Heating boiler" § 12-901

"Person" § 1-101

"Power boiler" § 12-901

"Pressure vessel" § 12-901

"Secretary" § 12-901

12-905. REGULATIONS FOR BOILERS AND PRESSURE VESSELS.

(A) BOARD TO FORMULATE.

THE BOARD SHALL FORMULATE REGULATIONS FOR THE SAFE CONSTRUCTION, USE, INSTALLATION, MAINTENANCE, REPAIR, AND INSPECTION OF BOILERS AND PRESSURE VESSELS IN THE STATE.

(B) CONFORMITY TO SUBTITLE AND NATIONAL CODES.

THE REGULATIONS FORMULATED BY THE BOARD SHALL CONFORM AS NEARLY AS POSSIBLE TO THE REQUIREMENTS OF:

(1) THIS SUBTITLE; AND

(2) THE FOLLOWING CODES AS AMENDED AND INTERPRETED:

(I) THE BOILER AND PRESSURE VESSEL CODE OF THE AMERICAN SOCIETY OF MECHANICAL ENGINEERS;

(II) THE INSPECTION CODE OF THE NATIONAL BOARD OF BOILER AND PRESSURE VESSEL INSPECTORS;

(III) THE CODE FOR POWER PIPING, B31.1 OF THE AMERICAN SOCIETY OF MECHANICAL ENGINEERS;

(IV) THE CODE FOR CONTROLS AND SAFETY DEVICES FOR AUTOMATICALLY FIRED BOILERS, CSD-1 OF THE AMERICAN SOCIETY OF MECHANICAL ENGINEERS;

(V) NFPA 85 BOILER AND COMBUSTION SYSTEMS HAZARDS CODE; AND

(VI) THE CODE FOR CHEMICAL PLANT AND PETROLEUM REFINERY PIPING, B31.3 OF THE AMERICAN SOCIETY OF MECHANICAL ENGINEERS.

(C) ADOPTION BY COMMISSIONER AND APPROVAL BY SECRETARY.

THE REGULATIONS FORMULATED BY THE BOARD MAY BE ADOPTED BY THE COMMISSIONER SUBJECT TO THE APPROVAL OF THE SECRETARY.

(D) CONSISTENCY WITH MARYLAND BUILDING REHABILITATION CODE.

THE BOARD AND THE COMMISSIONER SHALL SUBMIT PROPOSED AMENDMENTS TO REGULATIONS ADOPTED UNDER THIS SUBTITLE TO BE CONSISTENT WITH THE MARYLAND BUILDING REHABILITATION CODE WITHIN 90 DAYS AFTER ANY AMENDMENTS TO THE MARYLAND BUILDING REHABILITATION CODE ARE ADOPTED BY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT UNDER SUBTITLE 10 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48, § 170.

In subsections (a) and (d) of this section, the former references to "definitions" and "rules" are deleted as included in the reference to "regulations". Similarly, in subsections (b) and (c) of this section, the former reference to "rules" is deleted. *See* General Revisor's Note to article.

Subsection (b)(2)(v) of this section is revised to reflect the current title of the Code that covers boilers.

In subsection (c) of this section, the former reference to regulations to be "promulgated" by the Commissioner is deleted as included in the reference to regulations "adopted" by the Commissioner.

Also in subsection (c) of this section, the reference to adopting regulations "in the same manner" as those of the Occupational Safety and Health Advisory Board is deleted because the regulations of that Board are not subject to approval by the Secretary. *See* LE Title 5, Subtitle 3.

In subsection (d) of this section, the reference to "amendments" to the Maryland Building Rehabilitation Code is substituted for the former reference to subsequent "revisions" to the MBRC for consistency with terminology used in this subtitle and Subtitle 10 of this title.

Defined terms: "Board" § 12-901

"Boiler" § 12-901

"Commissioner" § 12-901

"Pressure vessel" § 12-901

"Secretary" § 12-901

12-906. INSPECTORS -- CHIEF BOILER INSPECTOR AND DEPUTY BOILER INSPECTORS.

(A) APPOINTMENT.

(1) WHENEVER THE POSITION OF CHIEF BOILER INSPECTOR OR DEPUTY BOILER INSPECTOR BECOMES VACANT, THE SECRETARY OF BUDGET AND

MANAGEMENT AS SOON AS PRACTICABLE SHALL CONDUCT A COMPETITIVE EXAMINATION IN ACCORDANCE WITH TITLE 7 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(2) THE EXAMINATION SHALL BE THE SAME AS OR EQUIVALENT TO THE EXAMINATION GIVEN BY THE BOARD FOR SPECIAL INSPECTORS UNDER § 12-907 OF THIS SUBTITLE.

(3) WITH THE APPROVAL OF THE SECRETARY, THE COMMISSIONER SHALL APPOINT FROM THE SUCCESSFUL CANDIDATES A CHIEF BOILER INSPECTOR OR DEPUTY BOILER INSPECTOR.

(B) DUTIES OF CHIEF BOILER INSPECTOR.

IF AUTHORIZED BY THE COMMISSIONER, THE CHIEF BOILER INSPECTOR SHALL:

(1) TAKE ACTION NECESSARY TO ENFORCE THE REGULATIONS ADOPTED UNDER THIS SUBTITLE AND THE LAWS OF THE STATE THAT GOVERN THE USE OF BOILERS AND PRESSURE VESSELS TO WHICH THIS SUBTITLE APPLIES;

(2) KEEP A COMPLETE RECORD OF THE TYPE, DIMENSIONS, MAXIMUM ALLOWABLE PRESSURE, AGE, LOCATION, AND DATE OF THE LAST RECORDED INSPECTION OF EACH BOILER AND EACH PRESSURE VESSEL TO WHICH THIS SUBTITLE APPLIES;

(3) ISSUE, AND FOR CAUSE SHOWN, SUSPEND OR REVOKE CERTIFICATES UNDER § 12-911 OF THIS SUBTITLE; AND

(4) REFER FOR PROSECUTION EACH PERSON WHO VIOLATES THIS SUBTITLE.

(C) DUTIES OF DEPUTY BOILER INSPECTORS.

EACH DEPUTY BOILER INSPECTOR:

(1) IS RESPONSIBLE TO THE CHIEF BOILER INSPECTOR; AND

(2) SHALL PERFORM THE DUTIES THAT THE CHIEF BOILER INSPECTOR DIRECTS.

(D) FEES.

ALL MONEY RECEIVED BY THE CHIEF BOILER INSPECTOR FROM FEES SHALL BE DEPOSITED IN THE GENERAL FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48, §§ 173 and 178(c).

In subsection (a)(1) of this section, the reference to a "position" becoming vacant is substituted for the former reference to the "office" becoming vacant for accuracy and consistency with terminology used in Title 7 of the

State Personnel and Pensions Article.

In subsection (a)(3) of this section, the former phrase "as the case may be" is deleted as surplusage.

In the introductory language of subsection (b) of this section, the word "shall" is substituted for the former phrase "is hereby charged, directed and empowered to" for brevity and clarity.

In subsection (b)(1) of this section, the former reference to the "rules" of the Board is deleted as included in the reference to "regulations". *See* General Revisor's Note to article.

Defined terms: "Board" § 12-901

"Boiler" § 12-901

"Commissioner" § 12-901

"Person" § 1-101

"Pressure vessel" § 12-901

"Secretary" § 12-901

12-907. SAME -- SPECIAL INSPECTORS.

(A) AUTHORIZATION TO REQUEST SPECIAL INSPECTOR COMMISSIONS.

(1) THE FOLLOWING ENTITIES MAY REQUEST THE COMMISSIONER TO ISSUE SPECIAL INSPECTOR COMMISSIONS:

(I) AN AUTHORIZED INSURER THAT INSURES BOILERS AND PRESSURE VESSELS IN THE STATE; OR

(II) A PERSON THAT OPERATES PRESSURE VESSELS IN THE STATE THAT REGULARLY ARE INSPECTED AND RATED BY AN ESTABLISHED INSPECTION SERVICE UNDER THE SUPERVISION OF ENGINEERS WHOSE QUALIFICATIONS ARE SATISFACTORY TO THE BOARD AND IN ACCORDANCE WITH THE REGULATIONS ADOPTED UNDER THIS SUBTITLE.

(2) ON REQUEST OF AN ENTITY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER MAY ISSUE A SPECIAL INSPECTOR COMMISSION TO AN INDIVIDUAL EMPLOYED BY THE ENTITY TO SERVE AS A SPECIAL INSPECTOR IF THE ENTITY AND THE INDIVIDUAL SATISFY THE REQUIREMENTS OF THIS SECTION.

(B) QUALIFICATIONS OF APPLICANTS.

(1) AN APPLICANT FOR A SPECIAL INSPECTOR COMMISSION SHALL BE EMPLOYED BY THE ENTITY THAT REQUESTS THE SPECIAL INSPECTOR COMMISSION.

(2) AN APPLICANT FOR A SPECIAL INSPECTOR COMMISSION FOR A PERSON THAT OPERATES PRESSURE VESSELS SHALL:

(I) BE EMPLOYED FULL TIME BY THE PERSON; AND

(II) BE RESPONSIBLE FOR MAKING INSPECTIONS OF PRESSURE VESSELS THAT ARE USED OR TO BE USED BY THE PERSON AND ARE NOT FOR RESALE.

(3) AN APPLICANT FOR A SPECIAL INSPECTOR COMMISSION SHALL:

(I) PASS THE EXAMINATION GIVEN BY THE BOARD UNDER SUBSECTION (D) OF THIS SECTION;

(II) HOLD A COMMISSION OR CERTIFICATE OF COMPETENCY AS AN INSPECTOR OF BOILERS AND PRESSURE VESSELS IN ANOTHER STATE THAT HAS AN EXAMINATION SUBSTANTIALLY EQUIVALENT TO THE EXAMINATION GIVEN BY THE BOARD; OR

(III) 1. HOLD A COMMISSION AS AN INSPECTOR OF BOILERS AND PRESSURE VESSELS ISSUED BY THE NATIONAL BOARD OF BOILER AND PRESSURE VESSEL INSPECTORS; AND

2. PASS THE PART OF THE EXAMINATION GIVEN BY THE BOARD THAT DIFFERS FROM THE NATIONAL EXAMINATION.

(C) APPLICATIONS FOR SPECIAL INSPECTOR COMMISSIONS.

(1) THE EMPLOYER OF AN APPLICANT FOR A SPECIAL INSPECTOR COMMISSION SHALL:

(I) SUBMIT TO THE COMMISSIONER AN APPLICATION ON THE FORM THAT THE COMMISSIONER REQUIRES; AND

(II) PAY TO THE COMMISSIONER A FEE OF $50.

(2) THE APPLICATION SHALL INCLUDE:

(I) THE NAME AND QUALIFICATIONS OF THE INDIVIDUAL WHO WILL SERVE AS A SPECIAL INSPECTOR; AND

(II) EVIDENCE THAT THE INDIVIDUAL SATISFIES THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.

(D) EXAMINATION.

(1) THE BOARD SHALL GIVE EXAMINATIONS TO APPLICANTS FOR SPECIAL INSPECTOR COMMISSIONS AS PROVIDED IN THIS SUBSECTION.

(2) THE EXAMINATION:

(I) SHALL BE IN WRITING;

(II) SHALL BE LIMITED TO QUESTIONS THE ANSWERS TO WHICH WILL HELP TO DETERMINE THE FITNESS AND COMPETENCY OF THE INDIVIDUAL FOR THE INTENDED SERVICE; AND

(III) MAY CONSIST OF QUESTIONS PREPARED BY THE NATIONAL BOARD OF BOILER AND PRESSURE VESSEL INSPECTORS.

(3) (I) AN APPLICANT WHO FAILS THE EXAMINATION MAY APPEAL TO THE BOARD FOR A REEXAMINATION.

(II) THE REEXAMINATION SHALL BE GIVEN BY THE BOARD WITHIN 90 DAYS.

(4) THE RECORD OF AN APPLICANT'S EXAMINATION SHALL BE AVAILABLE TO THE APPLICANT AND THE APPLICANT'S EMPLOYER.

(5) THE FEE FOR AN EXAMINATION OR REEXAMINATION IS $50.

(E) ISSUANCE OF SPECIAL INSPECTOR COMMISSION.

(1) THE COMMISSIONER SHALL ISSUE A SPECIAL INSPECTOR COMMISSION TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.

(2) THE COMMISSIONER MAY ISSUE A SPECIAL INSPECTOR COMMISSION TO A REPRESENTATIVE OF AN EMPLOYEE ORGANIZATION COVERED BY A COLLECTIVE BARGAINING AGREEMENT.

(F) EXEMPTION FROM INSPECTION FEES.

AN INSPECTION BY A SPECIAL INSPECTOR OF A BOILER OR PRESSURE VESSEL INSURED OR PRESSURE VESSEL OPERATED BY THE EMPLOYER OF THE SPECIAL INSPECTOR EXEMPTS THE OWNER OR USER OF THE BOILER OR PRESSURE VESSEL FROM THE PAYMENT TO THE STATE OF INSPECTION FEES REQUIRED BY THIS SUBTITLE FOR THE BOILER OR PRESSURE VESSEL.

(G) SALARY.

A SPECIAL INSPECTOR MAY NOT RECEIVE A SALARY FROM OR HAVE ANY EXPENSES PAID BY THE STATE.

(H) TERM AND RENEWAL OF COMMISSION.

(1) A SPECIAL INSPECTOR COMMISSION EXPIRES 2 YEARS AFTER ITS EFFECTIVE DATE.

(2) BEFORE A SPECIAL INSPECTOR COMMISSION EXPIRES, THE EMPLOYER OF THE SPECIAL INSPECTOR MAY RENEW THE COMMISSION IF THE EMPLOYER:

(I) PAYS TO THE COMMISSIONER A RENEWAL FEE OF $50; AND

(II) SUBMITS EVIDENCE TO THE COMMISSIONER THAT THE SPECIAL INSPECTOR:

1. MEETS THE STANDARDS IMPOSED BY THIS SUBTITLE;

2. REMAINS IN THE EMPLOYMENT OF THE EMPLOYER; AND

3. HAS BEEN TRAINED ON CURRENT BOILER AND PRESSURE VESSEL TECHNOLOGY IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS SUBTITLE.

(I) TERMINATION OF EMPLOYMENT.

WITHIN 30 DAYS AFTER THE TERMINATION OF THE EMPLOYMENT OF A SPECIAL INSPECTOR, THE EMPLOYER SHALL RETURN THE SPECIAL INSPECTOR COMMISSION TO THE CHIEF BOILER INSPECTOR.

(J) LOST OR DESTROYED IDENTIFICATION CARD.

(1) IF AN IDENTIFICATION CARD OF A SPECIAL INSPECTOR IS LOST OR DESTROYED, THE COMMISSIONER SHALL ISSUE A NEW IDENTIFICATION CARD IN ITS PLACE WITHOUT ANOTHER EXAMINATION.

(2) THE FEE FOR REPLACEMENT OF AN IDENTIFICATION CARD IS $50.

(K) SUSPENSION OF COMMISSION.

(1) AFTER INVESTIGATION AND RECOMMENDATION BY THE BOARD, THE COMMISSIONER MAY SUSPEND THE SPECIAL INSPECTOR COMMISSION FOR:

(I) INCOMPETENCE OF THE SPECIAL INSPECTOR;

(II) UNTRUSTWORTHINESS OF THE SPECIAL INSPECTOR;

(III) WILLFUL FALSIFICATION OF ANY MATTER OR STATEMENT CONTAINED IN THE APPLICATION FOR THE SPECIAL INSPECTOR COMMISSION; OR

(IV) WILLFUL FALSIFICATION OF ANY MATTER OR STATEMENT CONTAINED IN A REPORT OF AN INSPECTION MADE BY THE SPECIAL INSPECTOR.

(2) WITHIN 10 DAYS AFTER SUSPENDING A SPECIAL INSPECTOR COMMISSION, THE COMMISSIONER SHALL GIVE WRITTEN NOTICE OF THE SUSPENSION TO THE SPECIAL INSPECTOR AND THE EMPLOYER OF THE SPECIAL INSPECTOR.

(3) (I) AN INDIVIDUAL WHOSE SPECIAL INSPECTOR COMMISSION HAS BEEN SUSPENDED MAY APPEAL TO THE BOARD.

(II) AT THE HEARING ON THE APPEAL, THE INDIVIDUAL MAY BE PRESENT AND REPRESENTED BY COUNSEL.

(4) AN INDIVIDUAL WHOSE SPECIAL INSPECTOR COMMISSION HAS BEEN SUSPENDED MAY APPLY FOR REINSTATEMENT OF THE COMMISSION AFTER 90 DAYS FOLLOWING THE DATE OF THE SUSPENSION.

(L) REVOCATION OF COMMISSION.

(1) IF THE BOARD HAS REASON TO BELIEVE THAT A SPECIAL INSPECTOR IS NO LONGER QUALIFIED TO HOLD A COMMISSION, THE BOARD SHALL HOLD A HEARING.

(2) THE BOARD SHALL GIVE AT LEAST 10 DAYS' WRITTEN NOTICE OF THE HEARING TO THE SPECIAL INSPECTOR AND TO THE EMPLOYER OF THE SPECIAL INSPECTOR.

(3) AT THE HEARING, THE SPECIAL INSPECTOR AND THE EMPLOYER SHALL HAVE AN OPPORTUNITY TO BE HEARD.

(4) IF AFTER THE HEARING THE BOARD FINDS THAT THE SPECIAL INSPECTOR IS NO LONGER QUALIFIED TO HOLD A COMMISSION:

(I) THE BOARD SHALL RECOMMEND TO THE COMMISSIONER THAT THE SPECIAL INSPECTOR COMMISSION BE REVOKED; AND

(II) THE COMMISSIONER SHALL REVOKE THE SPECIAL INSPECTOR COMMISSION IMMEDIATELY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48, §§ 174, 175, and 178(b).

In subsection (a)(1)(i) of this section, the reference to "an authorized insurer" is substituted for the former reference to "any company licensed to insure" boilers and pressure vessels for accuracy because insurers receive certificates of authority, not licenses, to operate.

In subsection (a)(1)(ii) of this section, the phrase "regulations adopted under this subtitle" is substituted for the former phrase "rules and regulations adopted by the Board" for accuracy and consistency with terminology used throughout this subtitle.

In subsections (c)(1), (f), (h)(2), and (i) of this section, the references to the "employer" are substituted for the former references to "a company described in subsection (a) of this section", "companies", "the company employing the special inspector", and "the company" for consistency throughout this section.

In subsection (d)(2)(ii) of this section, the word "limited" is substituted for the former word "confined" to use a more appropriate word in the context.

Subsection (e)(2) of this section is revised to clarify that the Commissioner may issue a special inspector commission to a representative of an employee organization covered by a collective bargaining agreement.

In subsection (h)(1) of this section, the former phrase "as defined by regulations adopted by the Commissioner" is deleted as surplusage.

%In subsection (h)(2)(ii)3 of this section, the former reference to regulations adopted "by the Commissioner" under this subtitle is deleted as surplusage.

Subsection (j) of this section is revised to refer to "identification card[s]" of special inspectors for accuracy and to reflect the longstanding practice of the Commissioner.

In subsection (l)(1) of this section, the reference to a "special" inspector is substituted for the former inaccurate reference to a "licensed" inspector because inspectors are not licensed.

Defined terms: "Board" § 12-901

"Boiler" § 12-901

"Commissioner" § 12-901

"Person" § 1-101

"Pressure vessel" § 12-901

12-908. STANDARDS FOR BOILERS AND PRESSURE VESSELS.

(A) NEW BOILERS AND PRESSURE VESSELS.

(1) A NEW BOILER OR PRESSURE VESSEL MAY NOT BE INSTALLED AND OPERATED IN THE STATE UNLESS:

(I) THE BOILER OR PRESSURE VESSEL CONFORMS TO THE REGULATIONS ADOPTED UNDER THIS SUBTITLE THAT GOVERN NEW CONSTRUCTION AND INSTALLATION; OR

(II) THE BOARD ISSUES A SPECIAL INSTALLATION AND OPERATING PERMIT FOR THE BOILER OR PRESSURE VESSEL.

(2) THE BOARD MAY ISSUE A SPECIAL INSTALLATION AND OPERATING PERMIT FOR A BOILER OR PRESSURE VESSEL IF IT:

(I) IS OF SPECIAL DESIGN OR CONSTRUCTION; AND

(II) IS NOT INCONSISTENT WITH THE SPIRIT AND SAFETY OBJECTIVES OF THE REGULATIONS ADOPTED UNDER THIS SUBTITLE.

(B) EXISTING BOILERS AND PRESSURE VESSELS -- MAXIMUM ALLOWABLE PRESSURE.

FOR EXISTING BOILER AND PRESSURE VESSEL INSTALLATIONS:

(1) THE MAXIMUM ALLOWABLE PRESSURE OF A BOILER OR PRESSURE VESSEL THAT CARRIES THE ASME CODE SYMBOL SHALL BE DETERMINED BY THE APPLICABLE PROVISIONS OF THE ASME CODE UNDER WHICH IT WAS CONSTRUCTED AND STAMPED; AND

(2) THE MAXIMUM ALLOWABLE PRESSURE OF A BOILER OR PRESSURE VESSEL THAT DOES NOT CARRY THE ASME CODE SYMBOL SHALL BE COMPUTED IN ACCORDANCE WITH THE INSPECTION CODE OF THE NATIONAL BOARD OF BOILER AND PRESSURE VESSEL INSPECTORS.

(C) SAME -- EFFECT OF SUBTITLE.

THIS SUBTITLE DOES NOT PREVENT THE USE, SALE, OR REINSTALLATION OF AN EXISTING BOILER OR PRESSURE VESSEL IF THE BOILER OR PRESSURE VESSEL:

(1) HAS BEEN MADE TO CONFORM TO THE REGULATIONS ADOPTED UNDER THIS SUBTITLE THAT GOVERN EXISTING INSTALLATIONS; AND

(2) HAS BEEN INSPECTED AND FOUND NOT TO BE IN AN UNSAFE CONDITION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48, § 171.

In the introductory language of subsection (a)(1) of this section, the former phrase "at any time after twelve (12) months from the date upon which the first rules and regulations under this subtitle pertaining to new construction and installation shall have become effective" is deleted as obsolete because the referenced date has passed. The first regulations were adopted October 15, 1975.

In subsections (a)(1)(i) and (2)(ii) and (c)(1) of this section, the former reference to "rules" is deleted as included in the reference to "regulations". *See* General Revisor's Note to article.

In the introductory language of subsection (c) of this section, the reference to an "existing" boiler or pressure vessel is substituted for the former reference to a boiler or pressure vessel "referred to in this section" for clarity.

Defined terms: "Board" § 12-901

"Boiler" § 12-901

"Pressure vessel" § 12-901

12-909. INSPECTIONS -- IN GENERAL.

(A) SCOPE OF SECTION.

THE REQUIREMENTS OF THIS SECTION AND §§ 12-910 AND 12-911 OF THIS SUBTITLE DO NOT APPLY TO:

(1) A BOILER OR PRESSURE VESSEL THAT IS LOCATED ON A FARM AND USED SOLELY FOR AGRICULTURAL PURPOSES;

(2) A HEATING BOILER THAT IS LOCATED IN A PRIVATE RESIDENCE OR AN APARTMENT HOUSE WITH LESS THAN SIX FAMILY UNITS;

(3) A PRESSURE VESSEL THAT:

(I) CONTAINS ONLY WATER UNDER PRESSURE FOR DOMESTIC SUPPLY PURPOSES, INCLUDING A PRESSURE VESSEL THAT CONTAINS AIR, THE COMPRESSION OF WHICH SERVES ONLY AS A CUSHION OR AIRLIFT PUMPING SYSTEM; AND

(II) IS LOCATED IN A PRIVATE RESIDENCE OR AN APARTMENT HOUSE WITH LESS THAN SIX FAMILY UNITS; OR

(4) AN EXHIBITION OR ANTIQUE BOILER OR PRESSURE VESSEL, INCLUDING A STEAM OR GAS ENGINE, WHEAT THRESHER, OR ANTIQUE TRACTOR, IF THE BOILER OR PRESSURE VESSEL:

(I) HAS BEEN INSPECTED AND ISSUED A CERTIFICATE OF SAFETY BY ANOTHER STATE THAT HAS SAFETY REQUIREMENTS EQUAL TO OR GREATER THAN THOSE OF THIS STATE; AND

(II) HAS BEEN BROUGHT INTO THIS STATE TO BE USED IN A TEMPORARY EXHIBIT OR SHOW.

(B) ACCESS TO PREMISES.

THE CHIEF BOILER INSPECTOR OR A DEPUTY BOILER INSPECTOR SHALL HAVE FREE ACCESS, DURING REASONABLE HOURS, TO ANY PREMISES IN THE STATE:

(1) TO DETERMINE WHETHER A BOILER OR PRESSURE VESSEL IS BEING CONSTRUCTED FOR USE OR INSTALLED IN THE STATE IN ACCORDANCE WITH THIS SUBTITLE;

(2) TO INSPECT OR INVESTIGATE AN ACCIDENT OR EXPLOSION THAT INVOLVES A BOILER OR PRESSURE VESSEL; OR

(3) TO MAKE AN INSPECTION REQUIRED UNDER THIS SUBTITLE.

(C) CERTIFICATE INSPECTIONS -- DUTY TO MAKE.

(1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE CHIEF BOILER INSPECTOR OR A DEPUTY BOILER INSPECTOR SHALL MAKE THE CERTIFICATE INSPECTIONS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION.

(2) IF A BOILER OR PRESSURE VESSEL IS INSURED BY AN INSURER, A SPECIAL INSPECTOR EMPLOYED BY THE INSURER SHALL MAKE THE INSPECTIONS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION.

(3) IF A PRESSURE VESSEL IS OWNED OR OPERATED BY A PERSON WHO EMPLOYS A SPECIAL INSPECTOR WHO HOLDS A COMMISSION, THE SPECIAL

INSPECTOR SHALL MAKE THE INSPECTIONS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION.

(D) SAME -- REQUIRED.

(1) EXCEPT FOR BOILERS AND PRESSURE VESSELS EXEMPT UNDER SUBSECTION (A) OF THIS SECTION OR § 12-903 OF THIS SUBTITLE, EACH BOILER AND EACH PRESSURE VESSEL THAT IS USED OR PROPOSED TO BE USED IN THE STATE SHALL BE INSPECTED THOROUGHLY AS TO ITS CONSTRUCTION, INSTALLATION, AND CONDITION IN ACCORDANCE WITH THIS SUBSECTION.

(2) A CERTIFICATE INSPECTION REQUIRED UNDER THIS SUBSECTION SHALL BE:

(I) AN INTERNAL INSPECTION IF CONSTRUCTION ALLOWS; OR

(II) AN INSPECTION THAT IS AS COMPLETE AS POSSIBLE.

(3) (I) A POWER BOILER OR A HIGH PRESSURE, HIGH TEMPERATURE WATER BOILER SHALL:

1. RECEIVE A CERTIFICATE INSPECTION ANNUALLY; AND

2. BE EXTERNALLY INSPECTED ANNUALLY WHILE UNDER PRESSURE, IF POSSIBLE.

(II) THE BOARD MAY EXTEND TO 2 YEARS THE INTERVAL BETWEEN CERTIFICATE INSPECTIONS OF A POWER BOILER IF:

1. THE POWER BOILER HAS INTERNAL CONTINUOUS WATER TREATMENT UNDER THE GENERAL SUPERVISION OF A PROFESSIONAL ENGINEER WHO HAS EXPERIENCE IN THE TREATMENT OF BOILER WATER; AND

2. THE OWNER OR USER OF THE POWER BOILER KEEPS AVAILABLE, FOR EXAMINATION BY THE CHIEF BOILER INSPECTOR OR BY A DEPUTY BOILER INSPECTOR OR SPECIAL INSPECTOR, ACCURATE RECORDS THAT SHOW:

A. THE DATE, TIME, AND REASON THAT THE POWER BOILER IS OUT OF SERVICE; AND

B. A CHEMICAL AND PHYSICAL ANALYSIS OF SAMPLES OF THE BOILER WATER TAKEN AT REGULAR INTERVALS OF NOT MORE THAN 48 HOURS OF OPERATION THAT ADEQUATELY SHOW THE CONDITION OF THE BOILER WATER AND ANY ELEMENTS OR CHARACTERISTICS OF THE BOILER WATER THAT ARE CAPABLE OF PRODUCING CORROSION OR OTHER DETERIORATION OF THE POWER BOILER OR ITS PARTS.

(4) A HEATING BOILER SHALL RECEIVE A CERTIFICATE INSPECTION BIENNIALLY.

(5) (I) A PRESSURE VESSEL THAT IS SUBJECT TO INTERNAL CORROSION SHALL RECEIVE A CERTIFICATE INSPECTION BIENNIALLY.

(II) A PRESSURE VESSEL THAT IS NOT SUBJECT TO INTERNAL CORROSION SHALL RECEIVE A CERTIFICATE INSPECTION AT INTERVALS SET BY THE BOARD.

(III) INTERNAL INSPECTION IS NOT REQUIRED OF A PRESSURE VESSEL IF:

1. THE CONTENTS OF THE PRESSURE VESSEL ARE KNOWN TO BE NONCORROSIVE TO THE MATERIAL OF WHICH THE SHELL, HEADS, OR FITTINGS ARE CONSTRUCTED:

A. FROM THE CHEMICAL COMPOSITION OF THE CONTENTS; OR

B. FROM EVIDENCE THAT THE CONTENTS ARE ADEQUATELY TREATED WITH A CORROSION INHIBITOR; AND

2. THE PRESSURE VESSEL IS CONSTRUCTED IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS SUBTITLE.

(6) A NUCLEAR VESSEL WITHIN THE SCOPE OF THIS SUBTITLE SHALL BE INSPECTED AND REPORTED IN A FORM AND WITH APPROPRIATE INFORMATION DESIGNATED BY THE BOARD.

(E) HYDROSTATIC TEST.

IF, AT THE DISCRETION OF THE INSPECTOR, A HYDROSTATIC TEST IS CONSIDERED NECESSARY, THE OWNER OR USER OF A BOILER OR PRESSURE VESSEL SHALL MAKE THE HYDROSTATIC TEST.

(F) INSTALLATION OF NEW BOILER OR PRESSURE VESSEL.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AT LEAST 30 DAYS BEFORE INSTALLING A BOILER OR PRESSURE VESSEL COVERED BY THIS SUBTITLE, THE PERSON WHO WILL PERFORM THE INSTALLATION SHALL GIVE THE COMMISSIONER NOTICE OF THE INSTALLATION IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS SUBTITLE.

(2) UNDER EMERGENCY CIRCUMSTANCES, THE PERSON WHO WILL PERFORM THE INSTALLATION OF A BOILER OR PRESSURE VESSEL MAY GIVE THE COMMISSIONER NOTICE OF THE INSTALLATION LESS THAN 30 DAYS BEFORE INSTALLATION IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS SUBTITLE.

(3) EXCEPT FOR A CAST-IRON SECTIONAL BOILER OR PRESSURE VESSEL, EACH BOILER TO BE INSTALLED IN THE STATE SHALL BE INSPECTED:

(I) DURING CONSTRUCTION OR FIELD ASSEMBLY, AS REQUIRED BY REGULATIONS ADOPTED UNDER THIS SUBTITLE, BY AN INSPECTOR AUTHORIZED TO INSPECT BOILERS AND PRESSURE VESSELS IN THE STATE; OR

(II) IF THE BOILER IS CONSTRUCTED OUTSIDE THE STATE, BY AN INSPECTOR WHO HOLDS A COMMISSION ISSUED BY THE NATIONAL BOARD OF BOILER AND PRESSURE VESSEL INSPECTORS.

(G) ACCIDENTS OR EXPLOSIONS.

(1) WITHIN 24 HOURS AFTER AN ACCIDENT OR EXPLOSION, THE OWNER OR USER OF A BOILER OR PRESSURE VESSEL SHALL GIVE THE CHIEF BOILER INSPECTOR NOTICE OF THE ACCIDENT OR EXPLOSION IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS SUBTITLE.

(2) ON NOTIFICATION OR INFORMATION, THE CHIEF BOILER INSPECTOR OR A DEPUTY BOILER INSPECTOR SHALL INVESTIGATE EACH ACCIDENT OR EXPLOSION THAT INVOLVES A BOILER OR PRESSURE VESSEL COVERED BY THIS SUBTITLE.

(H) INTERPRETATION AND APPLICATION OF INSPECTION REQUIREMENTS.

(1) THE BOARD SHALL PROVIDE FOR PUBLIC SAFETY AND THEREFORE HAS JURISDICTION OVER THE INTERPRETATION AND APPLICATION OF THE INSPECTION REQUIREMENTS PROVIDED IN THE REGULATIONS ADOPTED UNDER THIS SUBTITLE.

(2) INSPECTION REQUIREMENTS OF OPERATING EQUIPMENT SHALL:

(I) BE IN ACCORDANCE WITH GENERALLY ACCEPTED PRACTICE; AND

(II) BE COMPATIBLE WITH THE ACTUAL SERVICE CONDITIONS, INCLUDING:

1. PREVIOUS EXPERIENCE, BASED ON RECORDS OF PERFORMANCE AND MAINTENANCE;

2. LOCATION, WITH RESPECT TO PERSONNEL HAZARD;

3. PROVISION FOR RELATED SAFE OPERATION CONTROLS; AND

4. INTERRELATION WITH OTHER OPERATIONS OUTSIDE THE SCOPE OF THIS SUBTITLE.

(I) INSPECTION FEES.

THE OWNER OR USER OF A BOILER OR PRESSURE VESSEL REQUIRED BY THIS SUBTITLE TO BE INSPECTED BY THE CHIEF BOILER INSPECTOR OR A DEPUTY BOILER INSPECTOR SHALL PAY DIRECTLY TO THE CHIEF BOILER INSPECTOR, ON

COMPLETION OF THE INSPECTION, A FEE IN ACCORDANCE WITH THE FOLLOWING SCHEDULE:

(1) CERTIFICATE INSPECTION:

(I) INITIAL CERTIFICATE INSPECTION OF A BOILER OR PRESSURE VESSEL NOT PREVIOUSLY INSPECTED IN THE STATE ..... NO CHARGE

(II) CERTIFICATE INSPECTION OF A BOILER OR PRESSURE VESSEL, OTHER THAN A PRESSURE VESSEL ATTACHED TO AN AIR COMPRESSOR, PREVIOUSLY INSPECTED IN THE STATE.....$40

(III) CERTIFICATE INSPECTION OF A PRESSURE VESSEL, ATTACHED TO AN AIR COMPRESSOR, PREVIOUSLY INSPECTED IN THE STATE.....$10

(IV) CERTIFICATE INSPECTION OF AN ADDITIONAL BOILER OR PRESSURE VESSEL PREVIOUSLY INSPECTED IN THE STATE, AT THE SAME LOCATION, ON THE SAME DATE $10

(V) FOLLOW-UP INSPECTION TO DETERMINE COMPLIANCE $50

(2) INSPECTION OF AN ANTIQUE OR MODEL STEAM BOILER OR PRESSURE VESSEL $15

(3) INVESTIGATION OF AN ACCIDENT OR COMPLAINTNO CHARGE

(4) SPECIAL INSPECTION, SUCH AS AN INSPECTION AT A FABRICATION OR REPAIR FACILITY, ASME JOINT REVIEW, OR NATIONAL BOARD OF INSPECTION CODE REPAIR REVIEW, SHALL BE CHARGED AT THE FOLLOWING RATES, AND SHALL INCLUDE ALL EXPENSES SUCH AS TRAVEL AND HOTEL COSTS:

(I) HALF DAY (UP TO 4 HOURS).....$250

(II) FULL DAY (UP TO 8 HOURS) $500

REVISOR'S NOTE: Subsections (a), (b), (c)(1) and (2), and (d) through (i) of this section are new language derived without substantive change from former Art. 48, §§ 176, 172(b), 178(a), and the second sentence of 168(c).

Subsection (c)(3) of this section is new language added to state explicitly that which only was implied in the former law. Under § 12-907 of this subtitle, owners of pressure vessels may employ special inspectors to make inspections of pressure vessels.

In subsection (a)(4)(i) of this section, the former reference to a "valid" certificate of safety is deleted as surplusage.

In subsection (c)(2) of this section, the reference to an "insurer" is substituted for the former reference to an "insurance company" for consistency with terminology used in the Insurance Article.

%In subsection (d)(1) of this section, the former phrase "[o]n and after July 1, 1969" is deleted as obsolete.

In subsection (d)(2) of this section, the former word "otherwise" is deleted as unnecessary in light of the conjunction "or".

In subsection (d)(3)(ii)1 of this section, the former reference to a professional engineer who is "licensed" is deleted as unnecessary because the use of the term "professional engineer" includes the concept of holding a license as a professional engineer. *See* Title 14 of the Business Occupations and Professions Article.

In subsection (d)(3)(ii)2A of this section, the former reference to the "actual" time the boiler is out of service is deleted as implicit.

In subsections (d)(5)(iii)2, (f)(1), (2), and (3)(i), and (h)(1) of this section, the reference to "regulations adopted under this subtitle" is substituted for the former references to "the rules and regulations of the Board", "regulations adopted by the Commissioner", and "rules and regulations which it [the Board] has formulated" for clarity and consistency throughout this subtitle.

In subsection (f)(3) of this section, the former phrase "after the 12-month period from the date upon which the rules and regulations of the Board shall become effective" is deleted as obsolete as that date has passed.

In subsection (h)(1) of this section, the reference to "public safety" is substituted for the former reference to the "safety of life, limb and property" for brevity and consistency.

Throughout subsection (i)(1) of this section, the reference to a boiler or pressure vessel previously "inspected" is substituted for the former reference to a boiler or pressure vessel previously "registered" for consistency and accuracy.

Defined terms: "Board" § 12-901

"Boiler" § 12-901

"Certificate inspection" § 12-901

"Commissioner" § 12-901

"Heating boiler" § 12-901

"High pressure, high temperature water boiler" § 12-901

"Person" § 1-101

"Power boiler" § 12-901

"Pressure vessel" § 12-901

"State" § 1-101

12-910. SAME -- REPORTS BY SPECIAL INSPECTORS.

(A) INSURERS.

(1) EACH AUTHORIZED INSURER THAT EMPLOYS A SPECIAL INSPECTOR SHALL FILE WITH THE CHIEF BOILER INSPECTOR A REPORT ON:

(I) EACH CERTIFICATE INSPECTION; AND

(II) ANY OTHER INSPECTION FOR WHICH A REPORT IS REQUIRED TO BE FILED UNDER REGULATIONS ADOPTED UNDER THIS SUBTITLE.

(2) THE REPORT FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) BE FILED WITHIN 30 DAYS AFTER AN INSPECTION; AND

(II) BE IN THE FORM REQUIRED BY REGULATIONS ADOPTED UNDER THIS SUBTITLE.

(3) FOR EACH REPORT NOT FILED ELECTRONICALLY, THE AUTHORIZED INSURER SHALL PAY A $5 REPORT FILING FEE.

(4) WITHIN 24 HOURS AFTER AN INSPECTION, EACH AUTHORIZED INSURER THAT EMPLOYS A SPECIAL INSPECTOR SHALL NOTIFY THE CHIEF BOILER INSPECTOR IF AN INSPECTION REVEALS A HAZARDOUS CONDITION AS DESCRIBED IN § 12-915(A)(2) OF THIS SUBTITLE THAT AFFECTS THE SAFETY OF A BOILER OR PRESSURE VESSEL.

(B) OWNER-USER INSPECTION SERVICE.

(1) EACH PERSON THAT OPERATES PRESSURE VESSELS COVERED BY AN OWNER-USER INSPECTION SERVICE THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE SHALL MAINTAIN IN ITS FILES AN INSPECTION RECORD THAT LISTS, BY NUMBER AND BY AN ABBREVIATED IDENTIFICATION DESCRIPTION:

(I) EACH PRESSURE VESSEL COVERED BY THIS SUBTITLE;

(II) THE DATE OF THE LAST INSPECTION OF THE PRESSURE VESSEL; AND

(III) THE APPROXIMATE DATE FOR THE NEXT INSPECTION OF THE PRESSURE VESSEL, CALCULATED BY APPLYING THE APPROPRIATE RULES FOR INSPECTION TO ALL DATA AVAILABLE WHEN THE INSPECTION RECORD IS COMPILED.

(2) THE INSPECTION RECORD SHALL BE READILY AVAILABLE FOR EXAMINATION BY THE CHIEF BOILER INSPECTOR OR AUTHORIZED REPRESENTATIVE DURING BUSINESS HOURS.

(3) (I) IN ADDITION, THE PERSON SHALL FILE ANNUALLY WITH THE CHIEF BOILER INSPECTOR A STATEMENT THAT:

1. IS SIGNED BY THE PROFESSIONAL ENGINEER WHO SUPERVISED THE INSPECTIONS MADE DURING THE PERIOD COVERED;

2. STATES THE NUMBER OF PRESSURE VESSELS COVERED BY THIS SUBTITLE THAT WERE INSPECTED DURING THE YEAR; AND

3. CERTIFIES THAT EACH INSPECTION WAS CONDUCTED IN ACCORDANCE WITH THE INSPECTION REQUIREMENTS OF THIS SUBTITLE.

(II) THE STATEMENT SHALL BE ACCOMPANIED BY A FILING FEE OF:

1. $5 PER PRESSURE VESSEL, FOR A STATEMENT THAT COVERS NOT MORE THAN 25 PRESSURE VESSELS;

2. $125, FOR A STATEMENT THAT COVERS MORE THAN 25 BUT LESS THAN 101 PRESSURE VESSELS;

3. $250, FOR A STATEMENT THAT COVERS MORE THAN 100 BUT LESS THAN 501 PRESSURE VESSELS; OR

4. $325, FOR A STATEMENT THAT COVERS MORE THAN 500 PRESSURE VESSELS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48, § 177(a) and (b).

In subsection (a)(1) of this section, the reference to an "authorized insurer" is substituted for the former reference to "each company" employing a special inspector for accuracy. *See* § 12-907(a) of this subtitle. Consequently, in subsection (a)(3) and (4) of this section, the references to the "authorized insurer" are added.

Also in subsection (a)(1) of this section, the former phrase "[e]xcept for a company operating pressure vessels covered by an owner-user inspection service meeting the requirements of this subtitle" is deleted as unnecessary in light of the revision of this subsection, which only applies to authorized insurers.

In subsection (b)(1) and (3) of this section, the reference to a "person" that operates pressure vessels is substituted for the former reference to a "company" for consistency with § 12-907(a) of this subtitle.

In subsection (b)(1) of this section, the reference to an "owner-user" inspection service is substituted for the former reference to an "owner or user" inspection service for clarity and consistency throughout this subtitle.

In subsection (b)(3)(i)1 of this section, the reference to a "professional" engineer is added for clarity.

Defined terms: "Boiler" § 12-901

"Certificate inspection" § 12-901

"Person" § 1-101

"Pressure vessel" § 12-901

12-911. SAME -- CERTIFICATES.

(A) ISSUANCE.

IF THE REPORT FILED IN ACCORDANCE WITH § 12-910(A) OF THIS SUBTITLE SHOWS THAT A BOILER OR PRESSURE VESSEL COMPLIES WITH REGULATIONS ADOPTED UNDER THIS SUBTITLE, THE CHIEF BOILER INSPECTOR SHALL ISSUE TO THE OWNER OR USER OF THE BOILER OR PRESSURE VESSEL A CERTIFICATE THAT BEARS THE DATE OF INSPECTION AND SPECIFIES THE MAXIMUM PRESSURE UNDER WHICH THE BOILER OR PRESSURE VESSEL MAY BE OPERATED.

(B) TERM.

UNLESS THE BOARD HAS EXTENDED THE INTERVAL BETWEEN CERTIFICATE INSPECTIONS AS AUTHORIZED BY THIS SUBTITLE, THE CERTIFICATE IS VALID FOR:

(1) NOT MORE THAN 12 MONTHS AFTER ITS DATE OF ISSUANCE FOR A POWER BOILER OR HIGH PRESSURE, HIGH TEMPERATURE WATER BOILER; AND

(2) NOT MORE THAN 24 MONTHS AFTER ITS DATE OF ISSUANCE FOR A LOW PRESSURE STEAM OR VAPOR HEATING BOILER, HOT WATER HEATING BOILER, HOT WATER SUPPLY BOILER, OR PRESSURE VESSEL.

(C) POSTING.

(1) THE CERTIFICATE SHALL BE POSTED UNDER GLASS IN THE ROOM THAT CONTAINS THE BOILER OR PRESSURE VESSEL THAT WAS INSPECTED.

(2) IF THE BOILER OR PRESSURE VESSEL IS NOT LOCATED IN A BUILDING, THE CERTIFICATE SHALL BE POSTED IN A LOCATION CONVENIENT TO THE BOILER OR PRESSURE VESSEL THAT WAS INSPECTED OR IN ANY PLACE WHERE THE CERTIFICATE WILL BE ACCESSIBLE TO INTERESTED PARTIES.

(D) SUSPENSION.

(1) THE CHIEF BOILER INSPECTOR OR AN AUTHORIZED DEPUTY BOILER INSPECTOR MAY SUSPEND A CERTIFICATE AT ANY TIME WHEN, IN THE OPINION OF THE INSPECTOR, THE BOILER OR PRESSURE VESSEL FOR WHICH THE CERTIFICATE WAS ISSUED:

(I) CANNOT BE OPERATED WITHOUT DANGER TO PUBLIC SAFETY; OR

(II) IS FOUND NOT TO COMPLY WITH REGULATIONS ADOPTED UNDER THIS SUBTITLE.

(2) THE SUSPENSION OF A CERTIFICATE CONTINUES UNTIL:

(I) THE BOILER OR PRESSURE VESSEL IS MADE TO CONFORM TO THE REGULATIONS ADOPTED UNDER THIS SUBTITLE; AND

(II) THE CERTIFICATE IS REINSTATED.

(E) INSURANCE CEASES.

IF A BOILER OR PRESSURE VESSEL FOR WHICH A CERTIFICATE WAS ISSUED BASED ON THE REPORT OF A SPECIAL INSPECTOR CEASES TO BE INSURED BY AN AUTHORIZED INSURER, THE CERTIFICATE IS INVALID.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48, § 177(c), (d), and (e).

In subsections (a) and (d)(1)(ii) and (2)(i) of this section, the reference to "regulations adopted under this subtitle" is substituted for the former references to "the rules and regulations of the Board" and "the rules and regulations herein provided" for clarity and consistency throughout this subtitle.

In subsection (e) of this section, the reference to an "authorized insurer" is substituted for the former reference to a "company duly authorized by this State to provide such insurance" for clarity and consistency throughout this subtitle.

Defined terms: "Board" § 12-901

"Boiler" § 12-901

"Certificate" § 12-901

"Certificate inspection" § 12-901

"Heating boiler" § 12-901

"High pressure, high temperature water boiler" § 12-901

"Power boiler" § 12-901

"Pressure vessel" § 12-901

12-912. DUTIES OF OWNERS OR USERS.

THE OWNER OR USER OF A BOILER OR PRESSURE VESSEL SHALL:

(1) ENSURE THAT THE BOILER OR PRESSURE VESSEL IS OPERATED, INSPECTED, AND REPAIRED IN ACCORDANCE WITH THIS SUBTITLE AND REGULATIONS ADOPTED UNDER THIS SUBTITLE;

(2) MAINTAIN A COPY OF INSPECTION, MAINTENANCE, AND REPAIR RECORDS AT A CENTRAL LOCATION IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS SUBTITLE; AND

(3) MAKE INSPECTION, MAINTENANCE, AND REPAIR RECORDS AVAILABLE TO THE INSPECTOR REQUIRED TO INSPECT THE BOILER OR PRESSURE VESSEL.

REVISOR'S NOTE: This section formerly was Art. 48, § 176B.

The only changes are in style.

Defined terms: "Boiler" § 12-901

"Pressure vessel" § 12-901

12-913. DUTIES OF AUTHORIZED INSURERS.

(A) IN GENERAL.

AN AUTHORIZED INSURER THAT PROVIDES INSURANCE COVERAGE FOR BOILERS OR PRESSURE VESSELS IN THE STATE SHALL:

(1) CONDUCT THE CERTIFICATE INSPECTION FOR EACH BOILER AND PRESSURE VESSEL THAT THE INSURER INSURES BY THE DATE THE CERTIFICATE INSPECTION IS DUE;

(2) FILE WITH THE CHIEF BOILER INSPECTOR THE REPORTS REQUIRED UNDER § 12-910 OF THIS SUBTITLE;

(3) DEVELOP, MAINTAIN, SUBMIT, AND UPDATE, AS DEFINED BY REGULATION, A DATABASE OF ALL BOILERS AND PRESSURE VESSELS THAT THE INSURER INSURES IN THE STATE AND TRACK THE DATE WHEN THE CERTIFICATE INSPECTION FOR EACH BOILER OR PRESSURE VESSEL IS DUE TO ENSURE THAT THE CERTIFICATE INSPECTIONS ARE DUE AND COMPLETED AS REQUIRED UNDER THIS SUBTITLE; AND

(4) DEVELOP, MAINTAIN, AND MAKE AVAILABLE TO THE COMMISSIONER A QUALITY ASSURANCE PROGRAM IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS SUBTITLE.

(B) MULTIPLE INSURERS OR OWNER-USERS.

IF MORE THAN ONE INSURER PROVIDES INSURANCE COVERAGE FOR A BOILER OR PRESSURE VESSEL OR IF AN OWNER-USER EMPLOYS AN INDIVIDUAL WITH A SPECIAL INSPECTOR COMMISSION, THE INSURERS OR OWNER-USER:

(1) MAY AGREE TO COORDINATE CERTICATE INSPECTIONS TO ENSURE THAT THE BOILER OR PRESSURE VESSEL IS INSPECTED; AND

(2) SHALL ENSURE THAT RESPONSIBILITY FOR THE CERTIFICATE INSPECTION IS CLEARLY DEFINED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48, § 176C.

Throughout this section, references to the "insurer" are substituted for the former references to the "company" and the "insurance company" for consistency throughout this section and this subtitle.

%In subsection (a)(1) of this section, the former reference to each "covered" boiler and pressure vessel is deleted as implicit.

In subsection (b)(1) and (2) of this section, the references to "certificate" inspections are added for clarity.

Defined terms: "Boiler" § 12-901

"Certificate inspection" § 12-901

"Commissioner" § 12-901

"Pressure vessel" § 12-901

12-914. DUTIES OF PERSONS WHO ALTER OR REPAIR BOILERS AND PRESSURE VESSELS.

A PERSON WHO REPAIRS OR ALTERS A BOILER OR PRESSURE VESSEL SHALL:

(1) GIVE NOTICE TO AND OBTAIN APPROVAL FROM THE CHIEF BOILER INSPECTOR, A DEPUTY BOILER INSPECTOR, OR A SPECIAL INSPECTOR BEFORE BEGINNING A REPAIR OR ALTERATION THAT:

(I) AFFECTS THE WORKING PRESSURE OR SAFETY OF A BOILER OR PRESSURE VESSEL; OR

(II) INVOLVES FUSION WELDING;

(2) REPAIR THE BOILER OR PRESSURE VESSEL IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS SUBTITLE; AND

(3) PROVIDE REPORTS, AS REQUIRED BY REGULATIONS ADOPTED UNDER THIS SUBTITLE, TO THE CHIEF BOILER INSPECTOR AND THE OWNER OF THE BOILER OR PRESSURE VESSEL.

REVISOR'S NOTE: This section formerly was Art. 48, § 176D.

The only changes are in style.

Defined terms: "Boiler" § 12-901

"Person" § 1-101

"Pressure vessel" § 12-901

12-915. PROHIBITION ON USE OF BOILER OR PRESSURE VESSEL.

(A) GROUNDS.

ON INSPECTION, THE CHIEF BOILER INSPECTOR OR AN AUTHORIZED DEPUTY BOILER INSPECTOR MAY PROHIBIT THE USE OF A BOILER OR PRESSURE VESSEL IF THE INSPECTOR DETERMINES THAT:

(1) THE BOILER OR PRESSURE VESSEL OR PART OF IT VIOLATES A STANDARD, SAFETY CODE, OR REGULATION ADOPTED UNDER THIS SUBTITLE; AND

(2) THERE IS SUBSTANTIAL PROBABILITY THAT DEATH, SERIOUS PHYSICAL HARM, OR SERIOUS DAMAGE TO PROPERTY COULD RESULT FROM CONTINUED USE OF THE BOILER OR PRESSURE VESSEL.

(B) NOTICE.

(1) TO PROHIBIT THE USE OF A BOILER OR PRESSURE VESSEL, THE CHIEF BOILER INSPECTOR OR AN AUTHORIZED DEPUTY BOILER INSPECTOR SHALL GIVE THE OWNER OR THE OWNER'S AGENT NOTICE THAT USE OF THE BOILER OR PRESSURE VESSEL IS PROHIBITED.

(2) THE NOTICE SHALL DESCRIBE, IN DETAIL:

(I) THE NATURE OF EACH ALLEGED VIOLATION;

(II) THE REASON FOR THE PROHIBITION FROM USE;

(III) THE PENALTIES OF THIS SUBTITLE; AND

(IV) IF APPROPRIATE, A RECOMMENDATION ON HOW TO CORRECT THE VIOLATION.

(C) POSTING OF NOTICE; REMOVAL.

A COPY OF THE NOTICE UNDER SUBSECTION (B) OF THIS SECTION:

(1) SHALL BE ATTACHED TO THE BOILER OR PRESSURE VESSEL; AND

(2) MAY NOT BE REMOVED BY ANY PERSON EXCEPT THE CHIEF BOILER INSPECTOR OR AN AUTHORIZED DEPUTY BOILER INSPECTOR UNTIL THE CHIEF BOILER INSPECTOR OR AN AUTHORIZED DEPUTY BOILER INSPECTOR DETERMINES THAT:

(I) EACH VIOLATION DESCRIBED IN THE NOTICE HAS BEEN CORRECTED; AND

(II) THE THREAT OF DEATH, SERIOUS PHYSICAL HARM, OR SERIOUS DAMAGE TO PROPERTY RESULTING FROM THE VIOLATION HAS BEEN ELIMINATED.

(D) USE PROHIBITED WHILE NOTICE POSTED.

USE OF A BOILER OR PRESSURE VESSEL IS PROHIBITED WHILE A NOTICE UNDER SUBSECTION (B) OF THIS SECTION IS POSTED ON THE BOILER OR PRESSURE VESSEL.

(E) CIVIL PENALTY.

IF THE OWNER OR USER OF A BOILER OR PRESSURE VESSEL CONTINUES TO USE A BOILER OR PRESSURE VESSEL AFTER NOTICE IS ISSUED UNDER SUBSECTION (B) OF THIS SECTION, THE COMMISSIONER MAY ASSESS A CIVIL PENALTY AGAINST

THE OWNER OR USER NOT EXCEEDING $1,000 PER DAY FOR EACH BOILER OR PRESSURE VESSEL IN VIOLATION.

(F) ACTION TO MODIFY OR VACATE DECISION.

(1) AN OWNER OR USER WHO IS AGGRIEVED BY A DECISION OF THE COMMISSIONER, THE CHIEF BOILER INSPECTOR, OR AN AUTHORIZED DEPUTY BOILER INSPECTOR UNDER THIS SECTION MAY BRING AN ACTION TO MODIFY OR VACATE THE DECISION ON THE GROUND THAT IT IS UNLAWFUL.

(2) AN ACTION UNDER THIS SUBSECTION MAY BE BROUGHT IN THE CIRCUIT COURT FOR BALTIMORE CITY OR IN THE CIRCUIT COURT FOR THE COUNTY WHERE THE BOILER OR PRESSURE VESSEL IS LOCATED.

(3) IN A PROCEEDING UNDER THIS SUBSECTION, A COURT MAY NOT STAY A DECISION OF THE COMMISSIONER, THE CHIEF BOILER INSPECTOR, OR AN AUTHORIZED DEPUTY BOILER INSPECTOR UNLESS:

(I) THE COURT GIVES THE COMMISSIONER NOTICE AND AN OPPORTUNITY FOR A HEARING; AND

(II) THE AGGRIEVED OWNER OR USER POSTS SECURITY OR MEETS EACH CONDITION THAT THE COURT CONSIDERS PROPER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48, § 176A.

In subsection (e) of this section, the word "use" is substituted for the former word "operate" to conform to terminology used throughout this section.

In subsection (f)(2) of this section, the word "may" is substituted for the former word "shall" to clarify that the action may be brought in either of the listed jurisdictions.

Defined terms: "Boiler" § 12-901

"Commissioner" § 12-901

"County" § 1-101

"Pressure vessel" § 12-901

12-916. CIVIL PENALTIES.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN § 12-915(E) OF THIS SUBTITLE, THE COMMISSIONER MAY ASSESS A CIVIL PENALTY NOT EXCEEDING $5,000 FOR EACH VIOLATION AGAINST A PERSON WHO:

(1) VIOLATES THIS SUBTITLE;

(2) VIOLATES A REGULATION ADOPTED OR ORDER ISSUED UNDER THIS SUBTITLE; OR

(3) OPERATES IN THE STATE A BOILER OR PRESSURE VESSEL, EXCEPT A PRESSURE VESSEL COVERED BY AN OWNER-USER INSPECTION SERVICE AS PROVIDED BY THIS SUBTITLE, WITHOUT A CERTIFICATE.

(B) FACTORS TO BE CONSIDERED.

IN ASSESSING THE APPROPRIATENESS OF A CIVIL PENALTY UNDER THIS SECTION, THE COMMISSIONER SHALL GIVE DUE CONSIDERATION TO:

(1) THE NATURE OR GRAVITY OF THE VIOLATION;

(2) THE PERSON'S GOOD FAITH; AND

(3) THE PERSON'S HISTORY OF PREVIOUS VIOLATIONS.

(C) APPEAL; REGULATIONS.

(1) A PERSON MAY REQUEST A HEARING BEFORE THE COMMISSIONER OR THE COMMISSIONER'S AUTHORIZED REPRESENTATIVE TO CONTEST A PROPOSED PENALTY OR AN ALLEGED VIOLATION OF THIS SUBTITLE.

(2) THE COMMISSIONER SHALL ADOPT REGULATIONS AS REASONABLY NECESSARY TO CARRY OUT THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48, § 178A(a).

The introductory clause to subsection (a) of this section is added to clarify that exceptions exist.

In subsection (a)(3) of this section, the former reference to a "valid" certificate is deleted as surplusage.

In the introductory language of subsection (b) of this section, the specific reference to "a civil penalty under this section" is substituted for the general reference to "penalties under this subtitle" for clarity because this provision only applies to this section, not to the entire subtitle.

In subsection (c)(2) of this section, the former requirement that regulations be "consistent with the requirements of Title 10, Subtitle 1 of the State Government Article" is deleted as unnecessary. The provisions in the State Government Article govern the adoption of regulations by the Board whether or not cross-referenced here.

Defined terms: "Boiler" § 12-901

"Commissioner" § 12-901

"Person" § 1-101

"Pressure vessel" § 12-901

12-917. PROHIBITED ACTS; PENALTY.

(A) PROHIBITED ACTS.

A PERSON MAY NOT:

(1) WILLFULLY AND PERSISTENTLY OPERATE IN THE STATE A BOILER OR PRESSURE VESSEL, EXCEPT A PRESSURE VESSEL COVERED BY AN OWNER-USER INSPECTION SERVICE AS PROVIDED BY THIS SUBTITLE, WITHOUT A CERTIFICATE;

(2) OPERATE IN THE STATE A BOILER OR PRESSURE VESSEL AT A PRESSURE EXCEEDING THAT SPECIFIED ON THE CERTIFICATE; OR

(3) INTERFERE WITH OR IMPEDE THE OFFICIAL DUTIES OF THE COMMISSIONER, AN AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER, OR A MEMBER OF THE BOARD.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT FOR EACH VIOLATION TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING $5,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48, § 178A(b).

In subsection (a)(1) of this section, the former reference to a "valid" certificate is deleted as surplusage.

In subsection (b) of this section, the reference to a person who violates this section being guilty "of a misdemeanor" is added to state expressly that which only was implied in the former law. In this State, any crime that was not a felony at common law and has not been declared a felony by statute is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Dutton v. State*, 123 Md. 373, 378 (1914); and *Williams v. State*, Md. App. 342, 347 (1968).

Defined terms: "Board" § 12-901

"Boiler" § 12-901

"Certificate" § 12-901

"Commissioner" § 12-901

"Person" § 1-101

"Pressure vessel" § 12-901

12-918. SHORT TITLE.

THIS SUBTITLE MAY BE CITED AS THE BOILER AND PRESSURE VESSEL SAFETY ACT.

REVISOR'S NOTE: This section is new language derived without substantive change from the first clause of the first sentence of former Art. 48, § 168(a).

Defined terms: "Boiler" § 12-901

"Pressure vessel" § 12-901

12-919. TERMINATION OF SUBTITLE.

THE PROVISIONS OF THIS SUBTITLE CREATING THE BOARD AND RELATING TO THE REGULATION OF BOILERS OR PRESSURE VESSELS AND ANY REGULATIONS ADOPTED UNDER THIS SUBTITLE ARE OF NO EFFECT AND MAY NOT BE ENFORCED AFTER JULY 1, 2014.

REVISOR'S NOTE: This section formerly was Art. 48, § 180A.

The only changes are in style.

Defined terms: "Board" § 12-901

"Boiler" § 12-901

"Pressure vessel" § 12-901

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 48, § 180, which provided for the severability of invalid sections of this subtitle, is deleted as unnecessary in light of Art. 1, § 23.

SUBTITLE 10. MARYLAND BUILDING REHABILITATION CODE.

12-1001. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-502(a).

No changes are made.

(B) ADDITION.

"ADDITION" MEANS AN INCREASE IN:

(1) BUILDING AREA;

(2) AGGREGATE FLOOR AREA;

(3) HEIGHT; OR

(4) NUMBER OF STORIES.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-502(b).

%In item (4) of this subsection, the former reference to the stories "of a building or structure" is deleted as unnecessary in light of the definitions of "existing building" and "rehabilitation project".

The only other changes are in style.

(C) CHANGE OF OCCUPANCY.

"CHANGE OF OCCUPANCY" MEANS A CHANGE IN THE PURPOSE OR LEVEL OF ACTIVITY IN A BUILDING OR STRUCTURE THAT INVOLVES A CHANGE IN APPLICATION OF THE LOCAL BUILDING CODE REQUIREMENTS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 6-502(c).

The reference to a "building or" structure is added for consistency with subsection (f) of this section.

(D) CONSTRUCTION PERMIT APPLICATION.

"CONSTRUCTION PERMIT APPLICATION" MEANS AN APPLICATION FOR A PERMIT OR OTHER GOVERNMENTAL APPROVAL FOR A REHABILITATION PROJECT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 6-502(d).

The former reference to an application "made to a local jurisdiction" is deleted as unnecessary in light of the reference in subsection (f) of this section to a construction permit application "made to a local jurisdiction, the Maryland-National Capital Park and Planning Commission, or the Washington Suburban Sanitary Commission", and the reference in § 12-1004(c) of this subtitle to a construction permit application "received by a local jurisdiction, the Maryland-National Capital Park and Planning Commission, or the Washington Suburban Sanitary Commission".

Defined term: "Rehabilitation project" § 12-1001

(E) DEPARTMENT.

"DEPARTMENT" MEANS THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title of the "Department of Housing and Community Development".

(F) EXISTING BUILDING.

"EXISTING BUILDING" MEANS A BUILDING OR STRUCTURE THAT WAS ERECTED AND OCCUPIED, OR WAS ISSUED A CERTIFICATE OF OCCUPANCY, AT LEAST 1 YEAR BEFORE A CONSTRUCTION PERMIT APPLICATION FOR THE BUILDING OR STRUCTURE

WAS MADE TO A LOCAL JURISDICTION, THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, OR THE WASHINGTON SUBURBAN SANITARY COMMISSION.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-502(e).

The reference to a construction permit application made to "the Maryland-National Capital Park and Planning Commission, or the Washington Suburban Sanitary Commission" is added for consistency with § 12-1004(c) of this subtitle.

The only other changes are in style.

Defined terms: "Construction permit application" § 12-1001

"Local jurisdiction" § 12-1001

(G) LOCAL JURISDICTION.

"LOCAL JURISDICTION" MEANS:

(1) A COUNTY; OR

(2) A MUNICIPAL CORPORATION IN THE STATE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 6-502(f).

In item (1) of this subsection, the former reference to "the City of Baltimore" is deleted as unnecessary in light of § 1-101 of this article, which defines "county" to include Baltimore City.

In item (2) of this subsection, the former reference to a municipal corporation in the State "subject to the provisions of Article XI-E of the Constitution" is deleted as unnecessary since all municipal corporations in the State are subject to Article XI-E of the Maryland Constitution.

Defined term: "County" § 1-101

(H) MBRC.

"MBRC" MEANS THE MARYLAND BUILDING REHABILITATION CODE.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-502(g).

No changes are made.

(I) MODIFICATION.

"MODIFICATION" MEANS:

(1) THE RECONFIGURATION OF A SPACE;

(2) THE ADDITION OR ELIMINATION OF A DOOR OR WINDOW;

(3) THE RECONFIGURATION OR EXTENSION OF A SYSTEM; OR

(4) THE INSTALLATION OF ANY ADDITIONAL EQUIPMENT.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-502(h).

The only changes are in style.

(J) RECONSTRUCTION.

"RECONSTRUCTION" MEANS:

(1) THE RECONFIGURATION OF A SPACE THAT:

(I) AFFECTS AN EXIT OR ELEMENT OF THE EGRESS ACCESS THAT IS SHARED BY MORE THAN A SINGLE OCCUPANT; OR

(II) PREVENTS OCCUPANCY OF THE WORK AREA BECAUSE THE EXISTING MEANS OF EGRESS AND FIRE PROTECTION SYSTEMS, OR THEIR EQUIVALENT, ARE NOT IN PLACE OR CONTINUOUSLY MAINTAINED; OR

(2) EXTENSIVE MODIFICATIONS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 6-502(i).

In item (1)(ii) of this subsection, the reference to the reconfiguration of a space "that ... prevents occupancy of the work area" is substituted for the former reference to the reconfiguration of a space "such that the work area is not permitted to be occupied" for clarity and brevity.

Defined term: "Modification" § 12-1001

(K) REHABILITATION PROJECT.

"REHABILITATION PROJECT" MEANS CONSTRUCTION WORK UNDERTAKEN IN AN EXISTING BUILDING THAT INCLUDES REPAIR, RENOVATION, MODIFICATION, RECONSTRUCTION, CHANGE OF OCCUPANCY, OR ADDITION.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-502(j).

No changes are made.

Defined terms: "Addition" § 12-1001

"Change of occupancy" § 12-1001

"Existing building" § 12-1001

"Modification" § 12-1001

"Reconstruction" § 12-1001

"Renovation" § 12-1001

"Repair" § 12-1001

(L) RENOVATION.

(1) "RENOVATION" MEANS:

(I) THE CHANGE, STRENGTHENING, OR ADDITION OF LOAD BEARING ELEMENTS; OR

(II) THE REFINISHING, REPLACEMENT, BRACING, STRENGTHENING, UPGRADING, OR EXTENSIVE REPAIR OF EXISTING MATERIALS, ELEMENTS, COMPONENTS, EQUIPMENT, OR FIXTURES.

(2) "RENOVATION" DOES NOT INCLUDE:

(I) RECONFIGURATION OF A SPACE; OR

(II) INTERIOR OR EXTERIOR PAINTING.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 6-502(k).

The only changes are in style.

Defined term: "Repair" § 12-1001

(M) REPAIR.

"REPAIR" MEANS THE PATCHING, RESTORATION, OR MINOR REPLACEMENT OF MATERIALS, ELEMENTS, COMPONENTS, EQUIPMENT, OR FIXTURES TO MAINTAIN THEM IN GOOD OR SOUND CONDITION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 6-502(l).

The phrase "to maintain them" is substituted for the former phrase "for the purposes of maintaining these materials, elements, components, equipment, or fixtures" for brevity.

12-1002. EFFECT OF SUBTITLE.

(A) ON OTHER LAWS.

THIS SUBTITLE IS EFFECTIVE NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW.

(B) ON AUTHORITY OF UNITS OF LOCAL GOVERNMENT.

THIS SUBTITLE DOES NOT SUPERSEDE THE PLANNING, ZONING, OR SUBDIVISION AUTHORITY OF LOCAL JURISDICTIONS, THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, OR THE WASHINGTON SUBURBAN SANITARY COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 6-501.

Defined term: "Local jurisdiction" § 12-1001

12-1003. MARYLAND BUILDING REHABILITATION CODE ADVISORY COUNCIL.

(A) ESTABLISHED.

THERE IS A MARYLAND BUILDING REHABILITATION CODE ADVISORY COUNCIL.

(B) COMPOSITION.

THE COUNCIL CONSISTS OF THE FOLLOWING 27 MEMBERS:

(1) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT OR THE SECRETARY'S DESIGNEE;

(2) THE SECRETARY OF LABOR, LICENSING, AND REGULATION OR THE SECRETARY'S DESIGNEE;

(3) THE STATE FIRE MARSHAL OR THE FIRE MARSHAL'S DESIGNEE;

(4) THE STATE HISTORIC PRESERVATION OFFICER OR THE OFFICER'S DESIGNEE;

(5) THE DIRECTOR OF THE GOVERNOR'S OFFICE FOR INDIVIDUALS WITH DISABILITIES OR THE DIRECTOR'S DESIGNEE; AND

(6) THE FOLLOWING 22 MEMBERS APPOINTED BY THE GOVERNOR:

(I) ONE REPRESENTATIVE OF THE STATE FIRE PREVENTION COMMISSION;

(II) FOUR REPRESENTATIVES OF THE BUILDING TRADES WHO ARE DIRECTLY INVOLVED OR HAVE EXPERIENCE IN CODE SETTING OR CODE ENFORCEMENT, INCLUDING PLUMBERS, ELECTRICIANS, BOILER OPERATORS, AND HEATING, VENTILATION, AIR-CONDITIONING, AND REFRIGERATION CONTRACTORS;

(III) TWO ARCHITECTS PRACTICING IN THE STATE, A SIGNIFICANT PORTION OF WHOSE PRACTICE INCLUDES REHABILITATION PROJECTS;

(IV) ONE PROFESSIONAL ENGINEER;

(V) TWO CONTRACTORS SPECIALIZING IN REHABILITATION CONSTRUCTION;

(VI) TWO REPRESENTATIVES OF COUNTY GOVERNMENT;

(VII) TWO REPRESENTATIVES OF MUNICIPAL GOVERNMENT;

(VIII) TWO BUILDING CODE OFFICIALS SERVING LOCAL GOVERNMENT;

(IX) ONE COMMERCIAL AND INDUSTRIAL BUILDING OWNER OR DEVELOPER;

(X) ONE MULTIFAMILY BUILDING OWNER OR DEVELOPER;

(XI) TWO LOCAL FIRE OFFICIALS; AND

(XII) TWO MEMBERS OF THE PUBLIC.

(C) DIVERSITY.

THE COMPOSITION OF THE COUNCIL SHALL REFLECT THE RACIAL, GENDER, AND GEOGRAPHIC DIVERSITY OF THE POPULATION OF THE STATE.

(D) TENURE; VACANCIES.

(1) THE TERM OF AN APPOINTED MEMBER IS 4 YEARS AND BEGINS ON JULY 1.

(2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COUNCIL ON OCTOBER 1, 2003.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) AN APPOINTED MEMBER MAY SERVE NO MORE THAN TWO TERMS.

(E) CHAIRMAN.

THE GOVERNOR SHALL DESIGNATE A CHAIRMAN FROM AMONG THE COUNCIL MEMBERS.

(F) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE COUNCIL:

(1) MAY NOT RECEIVE COMPENSATION FOR SERVICE ON THE COUNCIL; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(G) DIRECTOR.

(1) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT SHALL APPOINT THE DIRECTOR OF THE COUNCIL.

(2) THE DIRECTOR IS A SPECIAL APPOINTMENT IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

(H) DUTIES.

THE COUNCIL SHALL:

(1) ADVISE THE DEPARTMENT ON THE DEVELOPMENT AND ADOPTION OF AND AMENDMENTS TO THE MBRC;

(2) PROVIDE TECHNICAL ADVICE ON THE INTERPRETATION OF THE MBRC TO PROPERTY OWNERS, DESIGN PROFESSIONALS, CONTRACTORS, AND CODE OFFICIALS AND CODE APPEAL BOARDS OF LOCAL JURISDICTIONS, THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, AND THE WASHINGTON SUBURBAN SANITARY COMMISSION;

(3) DEVELOP THE MBRC TO THE EXTENT POSSIBLE TO AVOID INCREASED COSTS TO LOCAL JURISDICTIONS RESULTING FROM IMPLEMENTATION OF THE MBRC; AND

(4) TO THE EXTENT PROVIDED IN THE STATE BUDGET, PROVIDE TRAINING ON THE MBRC FOR CODE OFFICIALS AND OTHER PUBLIC AND PRIVATE CONSTRUCTION-RELATED PROFESSIONALS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 6-505.

In subsection (b)(6)(ii) of this section, the reference to "code" enforcement is added for clarity.

In subsection (b)(6)(iii) of this section, the reference to a practice that "includes" rehabilitation projects is substituted for the former reference to a practice that "involves" rehabilitation projects for clarity.

In subsection (d)(1) of this section, the reference to an appointed member's term "begin[ning] on July 1" is added to conform to the practice of the Council.

In subsection (d)(2) of this section, the reference to terms being staggered as required by the terms provided for Council members on "October 1, 2003" is substituted for the former obsolete reference to terms provided for Council members on "July 1, 2000". This substitution is not intended to alter the term of any member of the Council. *See* § ___ of Ch. ___ , Acts of 2003. The terms of the appointed members serving on October 1, 2003, end as follows: (1) 5 in 2004; (2) 6 in 2005; (3) 6 in 2006; and (4) 5 in 2007.

Subsection (f) of this section is revised in standard language used to

describe the compensation and reimbursement of members of a council.

Subsection (g)(1) of this section is revised in the active voice to clarify that it is the duty of the Secretary of Housing and Community Development to appoint the Director of the Council.

In subsection (g)(2) of this section, the reference to a special "appointment" is substituted for the former reference to a special "appointee" for accuracy and consistency with the terminology used in the State Personnel and Pensions Article. *See, e.g.*, SP § 6-405.

In subsection (h)(1) of this section, the reference to "amendments" to the MBRC is substituted for the former reference to "revisions" to the MBRC for accuracy. *See, e.g.*, SG § 10-112(c).

In subsection (h)(2) of this section, the reference to providing technical advice to code officials and code appeal boards of "the Maryland-National Capital Park and Planning Commission, and the Washington Suburban Sanitary Commission" is added for consistency with the apparent legislative intent that those entities that are subject to the MBRC should receive technical advice on its interpretation. This addition is consistent with the purpose of the MBRC as stated in § 12-1004(c) of this subtitle.

Defined terms: "County" § 1-101

"Department" § 12-1001

"Local jurisdiction" § 12-1001

"MBRC" § 12-1001

"Rehabilitation project" § 12-1001

12-1004. MARYLAND BUILDING REHABILITATION CODE -- IN GENERAL.

(A) ADOPTION.

(1) THE DEPARTMENT, IN COOPERATION WITH THE MARYLAND BUILDING REHABILITATION CODE ADVISORY COUNCIL, THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, AND THE STATE FIRE MARSHAL, SHALL ADOPT BY REGULATION THE MARYLAND BUILDING REHABILITATION CODE.

(2) THE MBRC SHALL BE MODELED ON THE NATIONALLY APPLICABLE RECOMMENDED REHABILITATION PROVISIONS DEVELOPED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE NATIONAL ASSOCIATION OF HOME BUILDERS RESEARCH CENTER.

(B) PURPOSE.

THE PURPOSE OF THE MBRC IS TO ENCOURAGE AND FACILITATE THE REHABILITATION OF EXISTING BUILDINGS BY REDUCING THE COST OF AND CONSTRAINTS ON REHABILITATION THAT RESULT FROM EXISTING PROCEDURES AND STANDARDS.

(C) APPLICABILITY.

EXCEPT AS OTHERWISE ALLOWED UNDER THIS SUBTITLE AND SUBTITLES 2, 3, 4, AND 5 OF THIS TITLE, AND NOTWITHSTANDING ARTICLES 23A, 25, 25A, 25B, 28, AND 29 OF THE CODE AND ANY BUILDING CODES, MECHANICAL CODES, PLUMBING CODES, FIRE PREVENTION CODES, AND ELECTRICAL CODES ADOPTED UNDER THOSE ARTICLES OF THE CODE, THE MBRC APPLIES TO ALL REHABILITATION PROJECTS FOR WHICH A CONSTRUCTION PERMIT APPLICATION IS RECEIVED BY A LOCAL JURISDICTION, THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, OR THE WASHINGTON SUBURBAN SANITARY COMMISSION AFTER ADOPTION OF THE MBRC.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 6-503(a), (b), and (d).

In subsection (c) of this section, the reference to "this subtitle and Subtitles 2, 3, 4, and 5 of this title" is substituted for the former reference to "this title" to reflect the organization of this revised article.

Former Art. 83B, § 6-503(c)(1), which required the Department of Housing and Community Development to submit proposed regulations adopting the Maryland Building Rehabilitation Code to the Joint Committee on Administrative, Executive, and Legislative Review on or before December 31, 2000, and to adopt the MBRC as soon as possible thereafter, is deleted as obsolete. The proposed regulations were published in the *Maryland Register* on February 9, 2001, and adopted by the Department on May 4, 2001, effective June 1, 2001. For the text of the final regulations, *see* COMAR 05.16.

Defined terms: "Construction permit application" § 12-1001

"Department" § 12-1001

"Existing building" § 12-1001

"Local jurisdiction" § 12-1001

"MBRC" § 12-1001

"Rehabilitation project" § 12-1001

12-1005. SAME -- CONTENTS.

(A) MINIMUM REQUIREMENTS.

AT A MINIMUM, THE MBRC SHALL:

(1) MAINTAIN A LEVEL OF SAFETY CONSISTENT WITH EXISTING CODES;

(2) PROVIDE FOR MULTIPLE CATEGORIES OF WORK WITH MULTIPLE COMPLIANCE STANDARDS;

(3) BE ENFORCEABLE BY LOCAL OFFICIALS USING EXISTING ENFORCEMENT PROCEDURES;

(4) APPLY TO THE REPAIR, RENOVATION, MODIFICATION, AND RECONSTRUCTION OF, A CHANGE OF OCCUPANCY IN, AND AN ADDITION TO, AN EXISTING BUILDING;

(5) PROVIDE AN EXPEDITED REVIEW PROCESS FOR PROPOSED AMENDMENTS TO THE MBRC SUBMITTED BY A LOCAL GOVERNMENT OR AN ORGANIZATION THAT REPRESENTS LOCAL GOVERNMENTS; AND

(6) PROVIDE AN OPPORTUNITY FOR A PERSON PROPOSING A COMPLEX PROJECT THAT INVOLVES MULTIPLE CODES TO MEET, BEFORE SUBMITTING A CONSTRUCTION PERMIT APPLICATION, WITH THE LOCAL OFFICIALS, OR THEIR DESIGNEES, RESPONSIBLE FOR PERMIT APPROVAL AND ENFORCEMENT OF CONSTRUCTION-RELATED LAWS THAT APPLY TO THE PROJECT.

(B) MEETING ON COMPLEX PROJECTS.

TO THE EXTENT POSSIBLE, THE MEETING PROVIDED FOR UNDER SUBSECTION (A)(6) OF THIS SECTION SHALL INCLUDE THE OFFICIALS RESPONSIBLE FOR PERMIT APPROVAL AND ENFORCEMENT IN ANY OF THE FOLLOWING AREAS THAT APPLY TO THE COMPLEX PROJECT:

(1) BUILDING CODE;

(2) MECHANICAL CODE;

(3) PLUMBING CODE;

(4) ELECTRICAL CODE;

(5) FIRE PREVENTION CODE;

(6) BOILER SAFETY CODE;

(7) ENERGY CODE;

(8) ELEVATOR CODE; AND

(9) LOCAL HISTORIC PRESERVATION ORDINANCES.

(C) PURPOSE OF MEETING.

THE PURPOSE OF THE MEETING PROVIDED FOR UNDER SUBSECTION (A)(6) OF THIS SECTION IS TO ANTICIPATE AND EXPEDITE THE RESOLUTION OF PROBLEMS THAT A COMPLEX PROJECT MAY HAVE IN COMPLYING WITH THE MBRC AND ANY OTHER APPLICABLE LAWS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 6-504.

In subsection (a)(4) of this section, the reference to the repair, renovation, modification, and reconstruction "of", and a change of occupancy "in", an

existing building is added for clarity.

In subsections (a)(6), the introductory language of (b), and (c) of this section, the reference to a "complex project" is substituted for the former reference to the "complex rehabilitation project" to avoid confusion with the defined term "rehabilitation project".

In subsections (a)(6) and (c) of this section, the former references to laws "and regulations" are deleted because the broad reference to a "law" includes a "regulation" adopted under the authority of a law. *See, e.g.*, *Maryland Port Administration v. Brawner Contracting Co.*, 303 Md. 44, 60 (1985).

In subsection (a)(6) of this section, the reference to enforcement "of" construction-related laws is substituted for the former reference to enforcement "in" construction-related laws for clarity and accuracy.

Also in subsection (a)(6) of this section, the former requirement that the MBRC "[c]ontain provisions that" provide a certain opportunity is deleted as surplusage.

In subsection (c) of this section, the reference to complying with the MBRC and "any other" applicable laws is substituted for the former reference to complying with the MBRC and "the" applicable laws to reflect that there may not be applicable laws in addition to the MBRC.

Defined terms: "Addition" § 12-1001

"Change of occupancy" § 12-1001

"Construction permit application" § 12-1001

"Existing building" § 12-1001

"MBRC" § 12-1001

"Modification" § 12-1001

"Person" § 1-101

"Reconstruction" § 12-1001

"Rehabilitation project" § 12-1001

"Renovation" § 12-1001

"Repair" § 12-1001

12-1006. SAME -- CONFORMING CHANGES TO OTHER CODES AND STANDARDS.

WITHIN 90 DAYS AFTER THE ADOPTION OF THE MBRC AND ANY SUBSEQUENT AMENDMENTS TO THE MBRC:

(1) THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, THE STATE BOARD OF HEATING, VENTILATION, AIR-CONDITIONING, AND REFRIGERATION CONTRACTORS, THE STATE BOARD OF PLUMBING, THE COMMISSIONER OF LABOR AND INDUSTRY, AND THE BOARD OF BOILER RULES SHALL SUBMIT PROPOSED AMENDMENTS TO THEIR REGULATIONS TO MAKE THE MECHANICAL CODE, THE STATE PLUMBING CODE, THE BOILER SAFETY CODE, AND THE ELEVATOR CODE CONSISTENT WITH THE MBRC;

(2) THE DEPARTMENT OF STATE POLICE AND THE STATE FIRE PREVENTION COMMISSION SHALL SUBMIT PROPOSED AMENDMENTS TO THEIR REGULATIONS TO MAKE THE STATE FIRE PREVENTION CODE CONSISTENT WITH THE MBRC; AND

(3) THE DEPARTMENT SHALL SUBMIT PROPOSED AMENDMENTS TO ITS REGULATIONS TO MAKE THE MARYLAND BUILDING PERFORMANCE STANDARDS, THE SAFETY GLAZING CODE, THE ENERGY CODE, AND THE MARYLAND ACCESSIBILITY CODE CONSISTENT WITH THE MBRC.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 6-503(e).

In the introductory language of this section, the reference to any "amendments" to the MBRC is substituted for the former reference to any "changes" to the MBRC for accuracy. *See, e.g.*, SG § 10-112(c). Correspondingly, in items (1), (2), and (3) of this section, the references to "amendments" to regulations are substituted for the former references to "changes" to regulations.

In item (1) of this section, the reference to "the Commissioner of Labor and Industry" is added for consistency with § 12-905 of this title, which requires the Board of Boiler Rules and the Commissioner to submit proposed amendments to make the Boiler Safety Code consistent with the MBRC, and § 12-805(b)(3) of this title, which requires the Commissioner to adopt amendments to the Elevator Code that are consistent with the MBRC.

Also in item (1) of this section, the reference to the "State" Plumbing Code is added to reflect the correct name of the Code. *See* COMAR 09.20.01. Similarly, in item (3) of this section, the reference to the "Maryland" Accessibility Code is added. *See* COMAR 05.02.02.01.

Defined terms: "Department" § 12-1001

"MBRC" § 12-1001

12-1007. SAME -- AMENDMENTS.

(A) BY DEPARTMENT.

AT LEAST EVERY 3 YEARS, THE DEPARTMENT, IN COOPERATION WITH THE MARYLAND BUILDING REHABILITATION CODE ADVISORY COUNCIL, SHALL REVIEW THE MBRC AND ADOPT ANY NECESSARY OR DESIRABLE AMENDMENTS.

(B) BY LOCAL JURISDICTIONS -- APPLICABILITY OF AMENDMENTS.

(1) A LOCAL JURISDICTION MAY ADOPT AMENDMENTS TO THE MBRC THAT APPLY ONLY TO THE LOCAL JURISDICTION.

(2) A MUNICIPAL CORPORATION WHOSE AUTHORITY TO ADOPT OR AMEND A BUILDING CODE IS LIMITED, BY LAW, BY THE AUTHORITY OF THE COUNTY IN WHICH IT IS LOCATED, IS NOT SUBJECT TO AN AMENDMENT TO THE MBRC ADOPTED BY THE COUNTY UNLESS THE MUNICIPAL CORPORATION ALSO ADOPTS THE AMENDMENT.

(C) SAME -- COPY OF AMENDMENTS.

TO KEEP CURRENT THE CENTRAL DATABASE ESTABLISHED UNDER § 12-506 OF THIS TITLE, A LOCAL JURISDICTION THAT AMENDS THE MBRC SHALL PROVIDE A COPY OF THE AMENDMENT TO THE DEPARTMENT:

(1) AT LEAST 15 DAYS BEFORE THE EFFECTIVE DATE OF THE AMENDMENT; OR

(2) WITHIN 5 DAYS AFTER THE ADOPTION OF AN EMERGENCY LOCAL AMENDMENT.

(D) SAME -- EFFECT ON ELIGIBILITY FOR FUNDING.

A LOCAL JURISDICTION THAT AMENDS THE MBRC IS NOT ELIGIBLE FOR ANY FUNDING APPROPRIATED ABOVE THE APPROPRIATION IN FISCAL YEAR 2000 FOR:

(1) CIRCUIT RIDER MBRC INSPECTORS PROVIDED UNDER THE CIRCUIT RIDER PROGRAM IN THE DEPARTMENT;

(2) TRAINING FOR THE LOCAL JURISDICTION'S CODE ENFORCEMENT OFFICIALS, AS PROVIDED FOR IN § 12-1003(H)(4) OF THIS SUBTITLE;

(3) A SMART GROWTH MORTGAGE PROGRAM, TO BE ESTABLISHED BY THE DEPARTMENT UNDER TITLE 2, SUBTITLES 2 AND 6 OF ARTICLE 83B OF THE CODE;

(4) THE NEIGHBORHOOD CONSERVATION PROGRAM IN THE DEPARTMENT OF TRANSPORTATION; AND

(5) THE RURAL LEGACY PROGRAM ESTABLISHED UNDER TITLE 5, SUBTITLE 9A OF THE NATURAL RESOURCES ARTICLE.

(E) SAME -- EFFECT ON ELIGIBILITY FOR PRIORITY UNDER TRANSPORTATION ENHANCEMENTS PROGRAMS.

A LOCAL JURISDICTION THAT AMENDS THE MBRC IS NOT ELIGIBLE FOR A PRIORITY UNDER THE DEPARTMENT OF TRANSPORTATION'S TRANSPORTATION ENHANCEMENTS PROGRAMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 6-503(f) and (c)(2).

In subsection (a) of this section, the reference to adopting "amendments" to the MBRC is substituted for the former reference to adopting "revisions" to the MBRC for accuracy. *See, e.g.*, SG § 10-112(c).

%In subsection (b)(1) of this section, the former reference to a local jurisdiction adopting "local" amendments to the MBRC is deleted as unnecessary in light of the reference to the amendments applying "only to the local jurisdiction".

Defined terms: "County" § 1-101

"Department" § 12-1001

"Local jurisdiction" § 12-1001

"MBRC" § 12-1001

GENERAL REVISOR'S NOTE TO TITLE:

Former Art. 48, §§ 111 through 115, which were enacted in 1894 and which provided for the inspection by police officers of scaffolding used in the construction, repairing, or painting of buildings, are deleted as obsolete. Inspection of scaffolding is covered under regulations adopted under the Maryland Occupational Safety and Health Act.

TITLE 13. MILITIA.

SUBTITLE 1. DEFINITIONS.

13-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language used as the standard introductory language to a definition section.

(B) DEPARTMENT.

"DEPARTMENT" MEANS THE MILITARY DEPARTMENT.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title "Military Department".

(C) MARYLAND DEFENSE FORCE.

"MARYLAND DEFENSE FORCE" MEANS THE MILITARY FORCE ESTABLISHED UNDER SUBTITLE 5 OF THIS TITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the third sentence of former Art. 65, § 62, as it applied to the name of the Maryland Defense Force. Although the reference in former Art. 65, § 62 did not apply specifically to the entire article, because the other references in this title are consistent with this definition, no substantive change results.

(D) NATIONAL GUARD.

"NATIONAL GUARD" MEANS THE MARYLAND ARMY NATIONAL GUARD AND MARYLAND AIR NATIONAL GUARD.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 65, § 15(a).

The references to the "Maryland" Army National Guard and the "Maryland" Air National Guard are added for clarity.

(E) STATE ACTIVE DUTY.

(1) "STATE ACTIVE DUTY" MEANS MILITARY DUTY PERFORMED IN SERVICE OF THE STATE BY A UNIT OR MEMBER OF THE MILITIA UNDER ORDERS ISSUED BY THE GOVERNOR UNDER ARTICLE II, § 8 OF THE MARYLAND CONSTITUTION OR § 13-702 OF THIS TITLE.

(2) UNLESS THE GOVERNOR SPECIFICALLY PROVIDES OTHERWISE, "STATE ACTIVE DUTY" DOES NOT INCLUDE DRILL PERIODS, PREPARATION FOR DRILL PERIODS, ANNUAL TRAINING, OR OTHER EQUIVALENT TRAINING OR DUTY CONDUCTED UNDER ORDERS ISSUED UNDER TITLE 10 OR TITLE 32 OF THE UNITED STATES CODE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the third sentence of former Art. 65, § 8(a).

Paragraph (1) of this subsection is new language added to provide uniformity throughout this title for the former terms "active State duty", active State service", "active service of the State", and other similar phrases.

In paragraph (2) of this subsection, the reference to duty "under orders issued under Title 10 or Title 32 of the United States Code" is substituted for the former reference to the duty "while in its capacity as National Guard of the United States" to clarify the circumstances under which the militia is in active duty under federal law.

SUBTITLE 2. GENERAL PROVISIONS.

13-201. APPLICATION OF TITLE; AMENDMENT OR REPEAL OF TITLE.

(A) APPLICATION OF TITLE TO UNIFORMED VOLUNTEER COMPANIES.

THIS TITLE APPLIES TO ALL UNIFORMED VOLUNTEER COMPANIES.

(B) AMENDMENT OR REPEAL OF TITLE.

A PROVISION OF THIS TITLE MAY NOT BE REPEALED OR AMENDED BY ANY STATUTE PASSED BY THE GENERAL ASSEMBLY UNLESS THE STATUTE EXPLICITLY:

(1) REFERS TO THIS TITLE AS THE MILITIA LAW, OR BY ITS OTHER TITLES, AS PART OF THE GENERAL LAWS OF THE STATE; AND

(2) REPEALS OR AMENDS THE REFERENCED PROVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 23, § 331 and former Art. 65, § 59.

In subsection (a) of this section, the phrase "this title" is substituted for the former phrase "laws for the government of the militia of this State" because the laws governing the State militia are now codified under this title.

In the introductory language of subsection (b) of this section, the former word "altered" is deleted as included in the word "amended". Similarly, in subsection (b)(2) of this section, the former word "alters" is deleted as included in the word "amends".

Also in the introductory language of subsection (b) of this section, the former reference to "any part thereof" is deleted as redundant with the word "provision".

13-202. MEMBERSHIP; EXEMPTIONS; WAIVER OF EXEMPTIONS.

(A) MEMBERSHIP.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE MILITIA CONSISTS OF ABLE-BODIED INDIVIDUALS WHO ARE:

(1) CITIZENS OF THE STATE; OR

(2) OF FOREIGN BIRTH AND WHO:

(I) ARE RESIDENTS OF THE STATE; AND

(II) HAVE DECLARED THEIR INTENTION TO BECOME CITIZENS OF THE STATE.

(B) EXEMPTIONS.

SUBJECT TO SUBSECTION (C) OF THIS SECTION, AN INDIVIDUAL IS EXEMPT FROM SUBSECTION (A) OF THIS SECTION IF THE INDIVIDUAL:

(1) IS EXEMPTED BY THE LAWS OF THE UNITED STATES;

(2) IS EXEMPTED BY THE LAWS OF THE STATE;

(3) IS A MEMBER OF A REGULARLY ORGANIZED FIRE OR POLICE DEPARTMENT IN A COUNTY, CITY, VILLAGE, OR TOWN;

(4) IS A JUDGE OR CLERK OF A COURT OF RECORD;

(5) IS A REGISTER OF WILLS AND DEEDS;

(6) IS A SHERIFF;

(7) IS A MEMBER OF THE CLERGY;

(8) IS A PRACTICING PHYSICIAN;

(9) IS A SUPERINTENDENT, OFFICER, OR ASSISTANT OF A HOSPITAL OR CORRECTIONAL FACILITY;

(10) HAS BEEN JUDGED MENTALLY INCOMPETENT;

(11) IS ADDICTED TO NARCOTIC DRUGS; OR

(12) HAS BEEN CONVICTED OF AN INFAMOUS CRIME.

(C) WAIVER OF EXEMPTIONS.

AN INDIVIDUAL EXEMPTED UNDER SUBSECTION (B)(3) THROUGH (12) OF THIS SECTION SHALL BE AVAILABLE FOR MILITARY DUTY IN CASE OF WAR, INSURRECTION, OR INVASION, OR WHEN THE DANGER OF WAR, INSURRECTION, OR INVASION IS IMMINENT.

REVISOR'S NOTE: This section is new language derived without substantive change from the first and second sentences of former Art. 65, § 1.

Throughout this section, the references to an "individual" are substituted for the former references to a "person". *See* General Revisor's Note to title.

In the introductory language of subsection (a) of this section, the word "consists" is substituted for the former phrase "shall constitute" for brevity.

In subsection (b)(9) of this section, the term "correctional facility" is substituted for the former reference to "prisons and jails" to conform to the terminology used elsewhere in the Code. *See, e.g.*, CS § 1-101 and CP § 1-101.

In subsection (b)(10) of this section, the phrase "judged mentally incompetent" is substituted for the former phrase "adjudicated incompetents" for clarity.

The third sentence of former Art. 65, § 1, which provided that "[w]henever the masculine gender is used in this article, it also includes the feminine gender, unless otherwise provided by law" is deleted in light of Art. 1, § 7 which states that "[u]nless the General Assembly specifically provides otherwise in a particular statute, all words in this Code importing one gender include and apply to the other gender as well".

Defined term: "County" § 1-101

13-203. ORGANIZED AND UNORGANIZED MILITIA.

(A) CLASSES.

THERE ARE TWO CLASSES OF STATE MILITIA:

(1) THE ORGANIZED MILITIA; AND

(2) THE UNORGANIZED MILITIA.

(B) ORGANIZED MILITIA.

THE ORGANIZED MILITIA OF THE STATE CONSISTS OF:

(1) THE NATIONAL GUARD;

(2) THE INACTIVE NATIONAL GUARD; AND

(3) THE MARYLAND DEFENSE FORCE.

(C) UNORGANIZED MILITIA.

THE UNORGANIZED MILITIA CONSISTS OF THOSE INDIVIDUALS DESCRIBED UNDER § 13-202 OF THIS SUBTITLE BUT WHO ARE NOT REGULARLY ENLISTED OR COMMISSIONED IN THE ORGANIZED MILITIA.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 5(a), (c), and the first sentence of (b).

In subsection (b) of this section, the defined term "National Guard" is substituted for the former terms "Maryland Army National Guard" and "Maryland Air National Guard" for brevity.

In subsection (c) of this section, the phrase "individuals described under § 13-202 of this subtitle" is substituted for the former phrase "those liable to serve" for clarity.

Defined terms: "Maryland Defense Force" § 13-101

"National Guard" § 13-101

13-204. APPROPRIATIONS; EXPENDITURES.

(A) GENERAL APPROPRIATIONS.

THE GENERAL APPROPRIATIONS FOR THE MILITIA SHALL BE EXCLUSIVELY APPLIED TO THE NECESSARY AND CONTINGENT EXPENSES OF THE OFFICE OF THE ADJUTANT GENERAL AND TO THE EQUIPMENT, MAINTENANCE, AND GENERAL EFFICIENCY OF THE ORGANIZED MILITIA.

(B) APPROVAL OF EXPENSES BY ADJUTANT GENERAL.

(1) EXCEPT AS PROVIDED IN THIS TITLE, UNLESS AUTHORIZED BY THE ADJUTANT GENERAL, A PERSON MAY NOT MAKE A PURCHASE, INCUR A DEBT OR EXPENSE, OR EXPEND MONEY FOR THE MILITIA.

(2) (I) THE ADJUTANT GENERAL SHALL ADOPT RULES FOR THE RECEIPT AND EXPENDITURE OF ALL MONEY THAT COMES UNDER THE CONTROL OF THE ADJUTANT GENERAL.

(II) THE ADJUTANT GENERAL MAY REQUIRE BOND FROM PERSONS INVOLVED IN THE RECEIPT AND EXPENDITURE OF MONEY THAT THE ADJUTANT GENERAL DESIGNATES.

(C) EXCEPTION FOR STATE ACTIVE DUTY.

(1) THE COMMANDING OFFICER OF AN ORGANIZATION OR DETACHMENT OF THE ORGANIZED MILITIA THAT IS ON STATE ACTIVE DUTY MAY PURCHASE NECESSITIES THAT ARE ABSOLUTELY REQUIRED FOR THE IMMEDIATE USE AND CARE OF THE OFFICER'S COMMAND.

(2) IF A COMMANDING OFFICER ON STATE ACTIVE DUTY MAKES A PURCHASE UNDER THIS SUBSECTION, THE COMMANDING OFFICER SHALL:

(I) TAKE A RECEIPT OF THE PURCHASE IN TRIPLICATE; AND

(II) PROMPTLY SUBMIT A REPORT OF THE PURCHASE THROUGH REGULAR CHANNELS TO THE DEPARTMENT'S FINANCE OFFICER.

(3) THE REPORT SHALL CONTAIN:

(I) A LIST OF THE ARTICLES PURCHASED;

(II) THE PRICE OF THE ARTICLES; AND

(III) THE RECEIPTS.

(D) AUDIT AND PAYMENT OF BILLS.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE ADJUTANT GENERAL SHALL AUDIT AND PAY ALL BILLS AND MILITARY ACCOUNTS PAYABLE BY THE STATE.

(2) THE ADJUTANT GENERAL SHALL FOLLOW AS NEARLY AS POSSIBLE THE FINANCIAL OPERATING PROCEDURES ESTABLISHED BY THE UNITED STATES DEPARTMENT OF DEFENSE.

(3) THE COMPTROLLER SHALL BE THE AUDITOR OF ALL ACCOUNTS FOR PROPERTY PURCHASED BY THE ADJUTANT GENERAL.

(4) THE TREASURER SHALL PAY AN AUDITED MILITARY ACCOUNT FROM AN APPROPRIATION MADE BY THE GENERAL ASSEMBLY, ON THE WARRANT OF THE ADJUTANT GENERAL, UNDER THE DIRECTION OF THE GOVERNOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, §§ 12 and 14.

In subsection (a) of this section, the former reference to the organized militia that is "organized and enlisted as provided for in this article" is deleted as surplusage.

Also in subsection (a) of this section, the former reference to the organized militia "of this State" is deleted as surplusage.

In subsection (b)(1) of this section, the reference to a "person" is added for clarity.

Also in subsection (b)(1) of this section, the phrase "for the militia" is added for clarity.

Also in subsection (b)(1) of this section, the former reference to an "officer" of the militia is deleted as included in the comprehensive reference to a "person".

Also in subsection (b)(1) of this section, the former reference to an expense "to be paid by the State" is deleted as implicit in the reference to an "expense ... for the militia".

In subsection (b)(2)(i) of this section, the former reference to "regulations" is deleted as included in the reference to "rules". It is further noted that these regulations are not subject to the Administrative Procedure Act.

In subsection (b)(2)(ii) of this section, the phrase "involved in the receipt and expenditure of money" is added for clarity.

In subsection (c) of this section, the phrase "of the organized militia", which formerly modified an "organization or detachment", is deleted as redundant because "State active duty" as defined in § 13-101 of this title applies only to the organized militia.

In subsection (d)(2) of this section, the phrase "financial operating procedures established by the United States Department of Defense" is substituted for the former phrase "general customs and methods of the finance office of the Army of the United States" to reflect the current terminology and practice of the Military Department.

In subsection (d)(3) and (4) of this section, the former references to the Comptroller and Treasurer "of the State", which modified references to the "Comptroller" and the "Treasurer", are deleted as surplusage.

In subsection (d)(4) of this section, the former reference to a "proper appropriation" is deleted as surplusage.

Defined terms: "Department" § 13-101

"Person" § 1-101

"State active duty" § 13-101

13-205. WHO MAY ENLIST.

SUBJECT TO THE PROVISIONS OF THIS TITLE AND THE REGULATIONS GOVERNING THE ARMED FORCES OF THE UNITED STATES, AN INDIVIDUAL MAY BE ENLISTED IN THE ORGANIZED MILITIA IF THE INDIVIDUAL:

(1) IS A CITIZEN OF THE STATE OR HAS DECLARED AN INTENTION TO BECOME A CITIZEN OF THE STATE;

(2) IS ABLE-BODIED; AND

(3) HAS GOOD CHARACTER AND TEMPERATE HABITS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 24.

In the introductory language of this section, the former reference to the militia "of this State" is deleted as surplusage.

Also in the introductory language of this section, the references to an "individual" are substituted for the former references to a "person". *See* General Revisor's Note to title.

13-206. OATH FOR ENLISTING IN ORGANIZED MILITIA.

(A) OATH.

AN INDIVIDUAL ENLISTING IN THE ORGANIZED MILITIA SHALL TAKE AND SUBSCRIBE TO THE FOLLOWING OATH OF ENLISTMENT:

"I DO HEREBY ACKNOWLEDGE TO HAVE VOLUNTARILY ENLISTED THIS ..... DAY OF ....., 20 ....., IN THE (NATIONAL GUARD) (MARYLAND DEFENSE FORCE) OF THE STATE OF MARYLAND FOR THE PERIOD OF ..... YEAR(S), UNDER THE CONDITIONS PRESCRIBED BY LAW, UNLESS SOONER DISCHARGED BY PROPER AUTHORITY. I, ..., DO SOLEMNLY SWEAR (OR AFFIRM) THAT I WILL BEAR TRUE FAITH AND ALLEGIANCE TO THE UNITED STATES OF AMERICA AND TO THE STATE OF MARYLAND; THAT I WILL SERVE THEM HONESTLY AND FAITHFULLY AGAINST ALL THEIR ENEMIES WHOMSOEVER; AND THAT I WILL OBEY THE ORDERS OF THE PRESIDENT OF THE UNITED STATES AND THE GOVERNOR OF MARYLAND AND THE ORDERS OF THE OFFICERS APPOINTED OVER ME, ACCORDING TO LAW AND REGULATIONS."

(B) AUTHORITY TO ADMINISTER OATH.

ANY OFFICER OF THE ORGANIZED MILITIA MAY ADMINISTER THE OATH OF ENLISTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 25.

In subsection (a) of this section, the reference to an "individual" is substituted for the former reference to "[m]en". *See* General Revisor's Note to title.

Also in subsection (a) of this section, the former parenthetical "(Reserve Militia)" is deleted as obsolete. *See* Ch. 638, Acts of 1999.

In subsection (b) of this section, the former reference to the organized militia "of this State" is deleted as surplusage.

Defined terms: "Maryland Defense Force" § 13-101

"National Guard" § 13-101

13-207. RESPONSIBILITIES OF OFFICERS AND ENLISTED INDIVIDUALS; INSPECTIONS.

(A) ORGANIZATION COMMANDERS.

AN ORGANIZATION COMMANDER:

(1) MAY REQUIRE THOSE UNDER THE COMMAND OF THE ORGANIZATION COMMANDER TO PERFORM ANY MILITARY DUTY; AND

(2) IS RESPONSIBLE TO THE GOVERNOR FOR THE GENERAL EFFICIENCY OF THE UNITS OF THE ORGANIZED MILITIA UNDER THE COMMAND OF THE ORGANIZATION COMMANDER.

(B) COMMANDING OFFICERS.

A COMMANDING OFFICER OF A UNIT IS RESPONSIBLE TO THE OFFICER'S IMMEDIATE COMMANDER FOR THE EQUIPMENT, DRILL, INSTRUCTION, MOVEMENTS, AND EFFICIENCY OF THOSE UNDER THE OFFICER'S COMMAND.

(C) OFFICERS AND ENLISTED INDIVIDUALS.

EACH OFFICER OR ENLISTED INDIVIDUAL IS RESPONSIBLE TO THE INDIVIDUAL'S IMMEDIATE COMMANDING OFFICER FOR PROMPT AND UNHESITATING OBEDIENCE, PROPER DRILL, AND THE PRESERVATION AND PROPER USE OF THE PROPERTY OF THE ORGANIZATION, THE STATE, OR THE UNITED STATES THAT IS IN THE INDIVIDUAL'S POSSESSION.

(D) INSPECTIONS.

A UNIT OF THE ORGANIZED MILITIA SHALL BE INSPECTED:

(1) BY AN OFFICER DETAILED FOR INSPECTION DUTY, WHENEVER THE GOVERNOR CONSIDERS IT ADVISABLE; AND

(2) BY AN OFFICER OF THE UNITED STATES ARMY OR AIR FORCE, AS PROVIDED BY FEDERAL LAW OR REGULATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 26.

In subsection (c) of this section, the reference to an enlisted "individual" is substituted for the former reference to enlisted "men". *See* General Revisor's Note to title.

In subsection (d)(1) of this section, the former reference to "the judgment of" the Governor is deleted as redundant of the requirement that the Governor act whenever the Governor "considers it advisable".

In subsection (d)(2) of this section, the reference to the "Air Force" is added to conform to 32 U.S.C. § 105, which requires the Secretary of the Army to have inspections of the Army National Guard conducted, and which states: "The Secretary of the Air Force has a similar duty with respect to the Air National Guard".

Also in subsection (d)(2) of this section, the reference to "federal law or regulation" is substituted for the former obsolete reference to the "National Defense Act".

13-208. ARREST AND PROHIBITION POWERS OF COMMANDING OFFICERS.

(A) ARREST POWERS.

DURING A TIME OF DUTY, A COMMANDING OFFICER MAY ARREST FOR THE PERIOD OF THE TIME OF DUTY AN INDIVIDUAL WHO:

(1) TRESPASSES ON A CAMP GROUND, PARADE GROUND, ARMORY, OR OTHER PLACE DEVOTED TO THAT DUTY;

(2) DISRUPTS IN ANY WAY THE ORDERLY DISCHARGE OF DUTY BY THOSE UNDER ARMS; OR

(3) INTERRUPTS OR PREVENTS THE PASSAGE OF TROOPS GOING TO OR RETURNING FROM DUTY.

(B) PROHIBITION POWERS.

A COMMANDING OFFICER MAY PROHIBIT WITHIN THE LIMITS OF A POST, CAMP GROUND, PLACE OF ENCAMPMENT, PARADE, OR DRILL THAT IS UNDER THE COMMAND OF THE OFFICER:

(1) THE SALE OR USE OF ALCOHOLIC BEVERAGES;

(2) HUCKSTER OR AUCTION SALES; AND

(3) GAMBLING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 55.

In the introductory language of subsection (a) of this section, the phrase "for the period of the time of duty" is substituted for the former phrase "during the continuance thereof" for clarity.

In subsection (a)(2) of this section, the word "disrupts" is substituted for the former phrase "interrupt or molest" for clarity.

Also in subsection (a)(2) of this section, the former reference to any "manner" is deleted as included in the reference to "any way".

In subsection (a)(3) of this section, the word "interrupts" is substituted for the former word "disturb" for clarity.

In subsection (b) of this section, the former reference to "prevent" is deleted as included in the reference to "prohibit".

In subsection (b)(1) of this section, the term "alcoholic beverages" is substituted for the former phrase "all spirituous liquors, wines, ale or beer" for brevity and clarity.

13-209. COMPENSATION.

(A) CLASSIFICATION AND COMPENSATION OF PERSONNEL; SUBSISTENCE AND ALLOWANCES PROVISIONS.

(1) THE ADJUTANT GENERAL, ASSISTANT ADJUTANTS GENERAL, OFFICERS, WARRANT OFFICERS, AND ENLISTED INDIVIDUALS WHO ARE FULL-TIME EMPLOYEES OF THE DEPARTMENT ARE:

(I) MILITARY PERSONNEL ON STATE ACTIVE DUTY; AND

(II) ENTITLED TO THE SAME PAY, INCLUDING LONGEVITY PAY, SUBSISTENCE, PER DIEM, AND ALLOWANCES, AS OFFICERS, WARRANT OFFICERS, AND ENLISTED INDIVIDUALS OF LIKE GRADE AND LENGTH OF SERVICE IN THE UNITED STATES ARMY OR AIR FORCE.

(2) (I) FOR INCOME TAX PURPOSES, SUBSISTENCE AND ALLOWANCES SHALL BE TREATED IN THE SAME WAY UNDER STATE LAW AS THEY ARE TREATED BY THE INTERNAL REVENUE CODE AND FEDERAL INCOME TAX REGULATIONS.

(II) SUBSISTENCE AND ALLOWANCES MAY NOT BE USED IN CALCULATING THE SALARY BASE FOR RETIREMENT PURPOSES FOR AN EMPLOYEE WHO IS A MEMBER OF THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE.

(B) HOLDING MULTIPLE OFFICES SIMULTANEOUSLY.

AN INDIVIDUAL WHO HOLDS MORE THAN ONE OF THE OFFICES MENTIONED IN SUBSECTION (A) OF THIS SECTION SIMULTANEOUSLY SHALL RECEIVE ONLY THE

PAY, INCLUDING LONGEVITY PAY, SUBSISTENCE, PER DIEM, AND ALLOWANCES AS PROVIDED UNDER THIS SECTION, FOR A SINGLE OFFICE.

(C) OFFICE OF PROFIT.

A MILITARY OFFICE FOR WHICH NO SALARY IS PROVIDED IN THE STATE BUDGET IS NOT AN OFFICE OF PROFIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 9(e) and (f) and the second sentence of § 5(b).

In subsection (a)(1) of this section, the reference to enlisted "individuals" is substituted for the former reference to enlisted "persons". *See* General Revisor's Note to title.

Also in subsection (a)(1) of this section, the former reference to the Army or Air Force "as the case may be" is deleted for brevity.

In subsection (a)(2) of this section, the former reference to the "United States" is deleted as unnecessary.

In subsection (b) of this section, the phrase "pay, including longevity pay, subsistence, per diem, and allowances" is substituted for the former phrase "pay allowances and subsistence" for consistency.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that the Employees' Retirement System of the State is only one of several systems in the State Retirement and Pension System. *See* SP § 21-102. The General Assembly may wish to consider including the other State pension systems.

The Public Safety Article Review Committee also notes, for consideration by the General Assembly, that in subsection (c) of this section, the meaning of the term "military office" is unclear. Article 35 of the Declaration of Rights, the constitutional prohibition on dual office holding, states that "membership in the militia of this State ... shall not be considered an office of profit within the meaning of this Article ...". Article 35 does not limit the provision to an office for which "no salary is provided in the State budget".

Defined terms: "Department" § 13-101

"State active duty" § 13-101

13-210. WORKERS' COMPENSATION INSURANCE.

(A) ORGANIZED MILITIA.

(1) THIS SUBSECTION APPLIES TO THE PERIOD OF TIME THAT AN EMPLOYEE IS ORDERED BY THE GOVERNOR TO ACTIVE MILITARY DUTY IN THE ORGANIZED MILITIA OF THE STATE FOR SERVICE DURING:

(I) A CIVIL DISORDER;

(II) A NATURAL DISASTER;

(III) A LABOR DISORDER; OR

(IV) ANY OTHER ACTIVITY REQUIRING SUPPORT OF THE STATE MILITIA.

(2) THE ADJUTANT GENERAL SHALL SECURE COMPENSATION UNDER THE MARYLAND WORKERS' COMPENSATION ACT FOR EACH OFFICER AND ENLISTED INDIVIDUAL OF THE ORGANIZED MILITIA BY MAINTAINING AN INSURANCE POLICY WITH THE INJURED WORKERS' INSURANCE FUND OR WITH A STOCK CORPORATION OR MUTUAL ASSOCIATION AUTHORIZED TO TRANSACT THE BUSINESS OF WORKERS' COMPENSATION INSURANCE IN THE STATE.

(3) (I) AN OFFICER, ENLISTED INDIVIDUAL, OR EMPLOYEE OF THE DEPARTMENT IS NOT ENTITLED TO THE BENEFITS OF THIS SECTION IF THE OFFICER, ENLISTED INDIVIDUAL, OR EMPLOYEE IS INJURED IN THE COURSE OF EMPLOYMENT AND HAS INSURANCE COVERAGE THROUGH THE FEDERAL GOVERNMENT THAT IS EQUAL TO OR BETTER THAN THE COVERAGE PROVIDED BY THIS TITLE.

(II) IF A BENEFIT PROVIDED BY THE FEDERAL GOVERNMENT IS LESS THAN THAT PROVIDED BY THE MARYLAND WORKERS' COMPENSATION ACT, THE STATE AND ITS INSURER SHALL FURNISH THE ADDITIONAL BENEFIT NECESSARY TO MAKE UP THE DIFFERENCE BETWEEN THE BENEFIT PROVIDED BY THE FEDERAL GOVERNMENT AND THE SIMILAR BENEFIT REQUIRED UNDER THE MARYLAND WORKERS' COMPENSATION ACT.

(4) THE INSURANCE PROVIDED UNDER THIS SUBSECTION SHALL ONLY COVER INCIDENTS THAT OCCUR AFTER JULY 1, 1979.

(B) MARYLAND DEFENSE FORCE.

IN ADDITION TO THE BENEFITS UNDER SUBSECTION (A) OF THIS SECTION, THE ADJUTANT GENERAL SHALL MAINTAIN WORKERS' COMPENSATION INSURANCE FOR MEMBERS OF THE MARYLAND DEFENSE FORCE DURING TRAINING.

(C) PREMIUMS.

THE ADJUTANT GENERAL SHALL PAY THE PREMIUMS FOR THE INSURANCE POLICY REQUIRED UNDER THIS SECTION FROM APPROPRIATIONS FOR THE MILITIA THAT THE GOVERNOR INCLUDES IN THE STATE BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 16.

In subsection (a)(2) of this section, the reference to the "Maryland" Workers' Compensation Act is added for accuracy. *See* LE § 9-1201.

%Also in subsection (a)(2) of this section, the former reference to the organized militia "of the State of Maryland" is deleted as surplusage.

In subsection (a)(2) and (3) of this section, the references to an enlisted "individual" are substituted for the former references to an enlisted "man" and "men". *See* General Revisor's Note to title.

In subsection (a)(4) of this section, the former reference to "State active duty" is deleted as surplusage.

In subsection (b) of this section, the reference to "benefits under subsection (a) of this section" is substituted for the former reference to "State active duty benefits" for clarity.

Defined terms: "Department" § 13-101

"Maryland Defense Force" § 13-101

13-211. SERVICE MEDALS AND RIBBON BADGES.

(A) SERVICE MEDALS.

(1) TO PROMOTE EFFICIENCY AND REWARD CONTINUOUS SERVICE, THE GOVERNOR MAY ISSUE SERVICE MEDALS OF APPROPRIATE DESIGNS TO OFFICERS AND ENLISTED INDIVIDUALS IN THE ORGANIZED MILITIA WHO HAVE COMPLETED 5 YEARS OR MORE OF CONTINUOUS SERVICE.

(2) THE GOVERNOR SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBSECTION.

(B) RIBBON BADGES.

(1) THE STATE MAY ISSUE APPROPRIATE RIBBON BADGES TO REPRESENT ANY ISSUED OR AUTHORIZED MEDAL.

(2) AN OFFICER OR ENLISTED INDIVIDUAL IN THE ORGANIZED MILITIA MAY WEAR A RIBBON BADGE ISSUED UNDER THIS SUBSECTION AS PART OF THE UNIFORM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 37.

In subsection (a)(1) of this section, the former reference to the organized militia "of the State" is deleted as surplusage.

Also in subsection (a)(1) of this section, the reference to enlisted "individuals" is substituted for the former reference to enlisted "men". *See* General Revisor's Note to title.

13-212. FREE PASSAGE OVER ROADS, BRIDGES, AND FERRIES WHILE TRAVELING TO AND FROM DUTY.

A MEMBER OF THE ORGANIZED MILITIA, INCLUDING THE MEMBER'S CONVEYANCE AND MILITARY PROPERTY, SHALL BE ALLOWED FREE PASSAGE THROUGH ANY TOLL GATE AND OVER ANY TOLL ROAD, BRIDGE, OR FERRY IF THE MEMBER:

(1) IS TRAVELING TO OR RETURNING FROM A PARADE, ENCAMPMENT, DRILL, OR OTHER DUTY THAT THE MEMBER MAY BE REQUIRED BY LAW TO ATTEND; AND

(2) PRESENTS AN ORDER FOR DUTY OR IDENTIFICATION CARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 54.

In the introductory language of this section, the former reference to the organized militia "of this State" is deleted as surplusage.

In item (1) of this section, the term "duty" is substituted for the former word "meeting" to reflect the current nomenclature.

In item (2) of this section, the reference to "identification card" is substituted for the obsolete reference to a "certificate of membership" to reflect the current practice of the Military Department.

13-213. RETIRED OFFICERS AND ENLISTED INDIVIDUALS.

(A) IN GENERAL.

THE GOVERNOR MAY ADOPT REGULATIONS THAT PROVIDE FOR THE RETIREMENT OF OFFICERS AND ENLISTED INDIVIDUALS.

(B) REACTIVATION OF RETIRED OFFICERS OR ENLISTED INDIVIDUALS.

THE GOVERNOR MAY ORDER A RETIRED OFFICER OR ENLISTED INDIVIDUAL TO ACTIVE DUTY.

(C) RETIRED LIST.

(1) THERE IS A RETIRED LIST EXCLUSIVELY RESTRICTED TO RETIRED OFFICERS AND ENLISTED INDIVIDUALS OF THE ORGANIZED MILITIA.

(2) THE RETIRED LIST SHALL BE DIVIDED INTO THREE GROUPS OF RETIRED INDIVIDUALS:

(I) THE NATIONAL GUARD;

(II) THE MARYLAND DEFENSE FORCE; AND

(III) THE INACTIVE NATIONAL GUARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 18.

Throughout this section, the references to enlisted "individuals" and "individual" are substituted for the former references to enlisted "men" and "man". *See* General Revisor's Note to title.

In subsection (a) of this section, the former reference to regulations "as he shall deem proper" is deleted as surplusage.

In subsection (c)(2)(iii) of this section, the reference to the "Inactive National Guard" is substituted for the former obsolete reference to the "Maryland Minute Men". *See* Ch. 638, Acts of 1999.

Defined terms: "Maryland Defense Force" § 13-101

"National Guard" § 13-101

13-214. PROHIBITIONS.

(A) FORMING MILITARY ORGANIZATIONS.

EXCEPT FOR THE UNITS OF THE ORGANIZED MILITIA AND THE TROOPS OF THE UNITED STATES, A BODY OF PERSONS MAY NOT ASSOCIATE AS A MILITARY COMPANY OR ORGANIZATION OR PARADE IN PUBLIC AS A MILITARY COMPANY OR ORGANIZATION WITHOUT THE PERMISSION OF THE GOVERNOR.

(B) FOREIGN MILITARY FORCES IN THE STATE WITHOUT PERMISSION OF GOVERNOR.

EXCEPT FOR TROOPS ACTING UNDER THE AUTHORITY OF THE PRESIDENT, AN ARMED MILITARY FORCE FROM ANOTHER STATE MAY NOT ENTER THIS STATE FOR MILITARY DUTY WITHOUT THE PERMISSION OF THE GOVERNOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 35.

In subsection (a) of this section, the former reference to associating "themselves together" is deleted as implicit in the word "associate".

In subsection (b) of this section, the former reference to a "territory or district" is deleted because "state" is defined to include territories and the District of Columbia. *See* § 1-101 of this article.

Defined terms: "Person" § 1-101

"State" § 1-101

13-215. HONOR GUARD AT BURIAL SERVICE OF VETERAN.

(A) IN GENERAL.

(1) THE ADJUTANT GENERAL MAY ORGANIZE A UNIFORMED HONOR GUARD FROM THE NATIONAL GUARD OR THE ORGANIZED MILITIA TO ATTEND THE BURIAL SERVICE OF A DECEASED VETERAN IF:

(I) THE COMMANDER OF AN ACCREDITED VETERANS' ORGANIZATION OR A RELATIVE OR FRIEND OF THE DECEASED VETERAN REQUESTS AN HONOR GUARD TO ATTEND THE BURIAL SERVICE;

(II) A UNIFORMED HONOR GUARD FROM THE ACTIVE ARMED FORCES OR VETERANS' ORGANIZATION IS NOT AVAILABLE; AND

(III) THE ADJUTANT GENERAL DETERMINES THAT PROVIDING AN HONOR GUARD WILL NOT HARM:

1. THE READINESS OF THE NATIONAL GUARD IN THE EVENT OF A STATE OR FEDERAL EMERGENCY; OR

2. THE EMPLOYMENT OF A NATIONAL GUARD MEMBER.

(2) IF AN HONOR GUARD FROM THE ACTIVE ARMED FORCES IS NOT AVAILABLE, THE ADJUTANT GENERAL MAY REQUEST AN HONOR GUARD FROM A VETERANS' ORGANIZATION TO ATTEND THE BURIAL SERVICE OF A DECEASED VETERAN.

(B) COMPENSATION.

(1) THE ADJUTANT GENERAL SHALL SET REASONABLE COMPENSATION FOR HONOR GUARD MEMBERS BASED ON THE AVAILABILITY OF MONEY IN THE BUDGET.

(2) COMPENSATION MAY NOT EXCEED THE EXPENSES INCURRED TO PARTICIPATE IN THE BURIAL SERVICE OF A DECEASED VETERAN PLUS THE GREATER OF:

(I) 100% OF 1 DAY'S PAY AS DETERMINED BY THE CURRENT DEPARTMENT OF DEFENSE PAY SCALE; AND

(II) THE MINIMUM WAGE REQUIRED UNDER § 3-413 OF THE LABOR AND EMPLOYMENT ARTICLE.

(C) REGULATIONS.

THE ADJUTANT GENERAL SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 6.

In the introductory language of subsection (a)(1)(iii) of this section, the word "harm" is substituted for the former reference to "hav[ing] a detrimental effect on" for brevity.

Defined term: "National Guard" § 13-101

13-216. ACQUISITION OF PROPERTY FOR AIR NATIONAL GUARD.

THE DEPARTMENT MAY ACQUIRE BY PURCHASE OR CONDEMNATION REAL PROPERTY LOCATED IN BALTIMORE COUNTY ADJACENT TO THE MARTIN STATE AIRPORT THAT IS NECESSARY FOR THE SAFE OPERATION OF THE FIGHTER SQUADRON OF THE MARYLAND AIR NATIONAL GUARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 60.

The word "may" is substituted for the former phrase "authorized and empowered" for clarity and brevity.

The former reference to "certain" real properties is deleted as surplusage.

The reference to "Martin State Airport" is substituted for the former reference to the "Glenn L. Martin Plant" to reflect the current name of the facility.

Defined term: "Department" § 13-101

13-217. SALE OF SUPERFLUOUS ARMORIES.

(A) IN GENERAL.

WITH THE PRIOR APPROVAL OF THE BOARD OF PUBLIC WORKS, THE DEPARTMENT MAY SELL ARMORIES THAT ARE SUPERFLUOUS TO THE DEPARTMENT'S REQUIREMENTS.

(B) RIGHT OF FIRST REFUSAL BY COUNTY OR MUNICIPAL CORPORATION.

(1) THE COUNTY OR MUNICIPAL CORPORATION IN WHICH THE ARMORY IS LOCATED HAS THE RIGHT OF FIRST REFUSAL TO PURCHASE THE ARMORY.

(2) IF THE COUNTY OR MUNICIPAL CORPORATION DECLINES TO PURCHASE THE PROPERTY, THE DEPARTMENT SHALL SELL THE PROPERTY AT PUBLIC SALE FOR THE HIGHEST CASH PRICE OBTAINABLE.

(C) DISPOSITION OF PROCEEDS.

THE PROCEEDS OF A SALE SHALL BE PLACED IN THE ANNUITY BOND FUND UNDER § 8-132 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 61.

In subsection (a) of this section, the phrase "from time to time", which formerly modified the authority to sell armories, is deleted as surplusage.

%In subsection (c) of this section, the reference to "§ 8-132 of the State Finance and Procurement Article" is added for clarity.

Defined terms: "County" § 1-101

"Department" § 13-101

SUBTITLE 3. ADJUTANT GENERAL; ASSISTANTS AND OTHER PERSONNEL.

13-301. ADJUTANT GENERAL.

(A) IN GENERAL.

THE ADJUTANT GENERAL:

(1) IS THE HEAD OF THE DEPARTMENT;

(2) SHALL BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE;

(3) IS SUBORDINATE ONLY TO THE GOVERNOR IN MATTERS RELATING TO THE DEPARTMENT;

(4) SHALL HAVE A COMMISSIONED GRADE NOT ABOVE THAT OF LIEUTENANT GENERAL; AND

(5) SHALL BE A FULL-TIME EMPLOYEE OF THE DEPARTMENT IN STATE ACTIVE DUTY STATUS.

(B) QUALIFICATIONS.

AT THE TIME OF APPOINTMENT, THE ADJUTANT GENERAL SHALL:

(1) HAVE AT LEAST 10 YEARS OF COMMISSIONED FIELD GRADE SERVICE IN THE NATIONAL GUARD;

(2) HAVE ATTAINED AT LEAST THE RANK OF COLONEL; AND

(3) MEET THE REQUIREMENTS FOR FEDERAL RECOGNITION AT THE RANK OF MAJOR GENERAL.

(C) GOVERNOR'S EXECUTIVE COUNCIL.

THE ADJUTANT GENERAL IS A MEMBER OF THE GOVERNOR'S EXECUTIVE COUNCIL.

(D) ACTING ADJUTANT GENERAL.

IF THE ADJUTANT GENERAL IS ORDERED INTO THE ACTIVE MILITARY SERVICE OF THE UNITED STATES, THE GOVERNOR MAY DESIGNATE AN ACTING ADJUTANT GENERAL TO EXERCISE THE DUTIES OF THE ADJUTANT GENERAL DURING THE PERIOD THE ADJUTANT GENERAL IS ON ACTIVE MILITARY SERVICE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 10-101 and former Art. 65, § 9(a)(1) and (2), (d), (k), and, as they related to full-time employment in active duty status, (e) and (j), and the second and third sentences and the first clause of the first sentence of § 10.

In subsection (a)(1) of this section, the term "Department" is substituted for the former obsolete reference to the "Department of the Militia".

Also in subsection (a)(1) of this section, the former references to the Adjutant General "having and exercising the rights, powers, duties, obligations and functions now or hereafter conferred by law" and "be[ing] in control of the Military Department of the State" are deleted as implicit in the statement that the Adjutant General is the head of the Military Department.

In subsection (a)(5) of this section, the former reference to the Adjutant General being "military personnel" is deleted as included in the reference to being in "State active duty status".

In the introductory language of subsection (b) of this section, the reference to "at the time of appointment" is added to state explicitly what was formerly only implied in subsection (b)(1) and (2) of this section, *i.e.*, that the Adjutant General must fulfill these requirements when appointed. Under former law, this requirement explicitly applied to subsection (b)(3) of this section.

In subsection (c) of this section, the former clause "[n]otwithstanding any other provision of law," is deleted because no other provision of law is in conflict.

Also in subsection (c) of this section, the term "Executive Council" is substituted for the former obsolete term "cabinet" for consistency with the State Government Article. *See* SG Title 8, Subtitle 1.

In subsection (d) of this section, the former reference to being "called" into active military service of the United States is deleted as included in the reference to being "ordered" into active service.

Also in subsection (d) of this section, the former reference to being ordered into service "under the Constitution and laws of the United States" is deleted as implicit in the reference to being ordered into service "of the United States".

Also in subsection (d) of this section, the reference to the duties of the "Adjutant General" is substituted for the former reference to the duties of the "office" for clarity.

Also in subsection (d) of this section, the reference to "the period the Adjutant General is on active military service" is substituted for the former

reference to "such period" for clarity.

Defined terms: "Department" § 13-101

"National Guard" § 13-101

"State active duty" § 13-101

13-302. SAME -- DUTIES.

(A) APPOINTMENTS.

(1) THE ADJUTANT GENERAL MAY APPOINT:

(I) A CHIEF OF STATE OPERATIONS;

(II) AN EXECUTIVE OFFICER;

(III) AN ADMINISTRATIVE OFFICER;

(IV) THE DIRECTORS OF MILITARY INSTALLATIONS, PROCUREMENT, MILITARY SUPPORT TO CIVIL AUTHORITIES, STATE PERSONNEL, FINANCE, AND VETERANS AFFAIRS;

(V) THE SITE MANAGERS FOR MILITARY RESERVATIONS; AND

(VI) A GRANTS ADMINISTRATOR.

(2) THE EXECUTIVE OFFICER AND DIRECTORS APPOINTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SERVE AT THE PLEASURE OF THE ADJUTANT GENERAL.

(B) RECORDS.

(1) THE ADJUTANT GENERAL SHALL KEEP ALL RECORDS REQUIRED TO BE KEPT AND FILED WITH THE ADJUTANT GENERAL'S OFFICE.

(2) ON OR BEFORE EACH OCTOBER 15, THE ADJUTANT GENERAL SHALL SUBMIT TO THE GOVERNOR A DETAILED STATEMENT OF ALL THE RECEIPTS AND EXPENDITURES FOR MILITARY PURPOSES DURING THE YEAR ENDING THE PREVIOUS SEPTEMBER 30.

(C) ARMORIES.

(1) THE ADJUTANT GENERAL IS RESPONSIBLE FOR:

(I) EACH ARMORY THAT THE STATE OWNS; AND

(II) EACH BUILDING OR OTHER PROPERTY PURCHASED, OCCUPIED, OR LEASED BY OR ON BEHALF OF THE STATE MILITARY FORCES.

(2) IF THE ADJUTANT GENERAL REJECTS AN APPLICATION TO USE AN ARMORY FOR NONMILITARY PURPOSES, THE APPLICATION IS SUBJECT TO REVIEW

AND APPROVAL BY THE BOARD OF PUBLIC WORKS, THE ADJUTANT GENERAL, AND THE COMMANDING OFFICER OF THE UNIT OCCUPYING THAT ARMORY.

(3) THE ADJUTANT GENERAL MAY ADOPT REGULATIONS TO ENFORCE THIS SUBSECTION.

(D) BATTLE FLAGS.

THE ADJUTANT GENERAL IS THE CUSTODIAN OF BATTLE FLAGS AND WAR RECORDS AND IS RESPONSIBLE FOR THEIR PROPER CARE AND PRESERVATION.

(E) EMPLOYEES.

THE ADJUTANT GENERAL MAY EMPLOY EMPLOYEES AS REQUIRED.

(F) POLICIES OF GOVERNOR.

THE ADJUTANT GENERAL SHALL CARRY OUT THE GOVERNOR'S POLICIES CONCERNING MATTERS SPECIFIED IN THIS TITLE AND TITLE 14, SUBTITLES 1, 2, AND 4 OF THIS ARTICLE.

(G) SEAL.

THE SEAL OF THE ADJUTANT GENERAL'S OFFICE SHALL BE DELIVERED BY THE ADJUTANT GENERAL TO THE ADJUTANT GENERAL'S SUCCESSOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, §§ 7, 9(a)(4), and the fourth through eighth sentences of § 10.

In subsection (a)(1) of this section, the former phrase "[n]otwithstanding any other provision of law," is deleted because no other provision of law is in conflict.

In subsection (b)(1) of this section, the former reference to keeping records "in his office" is deleted as implicit in the requirement that "[t]he Adjutant General shall keep" the records.

Also in subsection (b)(1) of this section, the former reference to "papers" is deleted as included in the reference to "records".

In subsection (b)(2) of this section, the phrase "[o]n or before each October 15" is substituted for the former reference to "fifteen days" after the "30th of September" for clarity and brevity.

Also in subsection (b)(2) of this section, the reference to "the year ending the previous September 30" is substituted for the former vague phrase "during the year" for clarity.

In the introductory language of subsection (c)(1) of this section, the reference to the Adjutant General being "responsible for" is substituted for

the former references to the Adjutant General being "charged with the care, control, and maintenance" and to having "all power and authority necessary or desirable for the purpose aforesaid" for brevity.

In subsection (c)(1) of this section, the former reference to property "which may now or shall hereafter be authorized by law" is deleted as surplusage.

Also in subsection (c)(1) of this section, the former reference to a building or other property being "rented" is deleted as included in the reference to the building or other property being "leased".

In subsection (c)(3) of this section, the reference to the power of the Adjutant General to "adopt" regulations is substituted for the former reference to a right to "make" regulations for consistency.

Also in subsection (c)(3) of this section, the former reference to "rules" is deleted as included in the reference to "regulations". *See* General Revisor's Note to article.

Also in subsection (c)(3) of this section, the former reference to "reasonable" regulations is deleted in light of SG Title 10, Subtitle 1, which requires that regulations be adopted according to a procedure that ensures reasonableness.

Also in subsection (c)(3) of this section, the phrase "to enforce this subsection" is added for clarity.

In subsections (d) and (e) of this section, the references to the "Adjutant General" are substituted for the former word "[h]e" for gender neutrality and consistency. *See* Art. 1, § 7.

In subsection (e) of this section, the former references to "necessary" employees and "as many" laborers as may be required are deleted for brevity.

Also in subsection (e) of this section, the former references to "clerks" and "laborers" are deleted as included in the reference to "employees".

Also in subsection (e) of this section, the former phrase "from time to time" is deleted as surplusage.

In subsection (f) of this section, the former reference to the Adjutant General "be[ing] responsible for" carrying out the Governor's policies is deleted as surplusage.

In subsection (g) of this section, the former reference to the seal being "used" by the Adjutant General's office is deleted as surplusage and implicit in the reference to the "seal of the Adjutant General's office".

13-303. ASSISTANT ADJUTANTS GENERAL.

(A) IN GENERAL.

(1) THE GOVERNOR SHALL APPOINT TWO ASSISTANT ADJUTANTS GENERAL FOR THE MARYLAND ARMY NATIONAL GUARD AND TWO ASSISTANT ADJUTANTS GENERAL FOR THE MARYLAND AIR NATIONAL GUARD.

(2) AN ASSISTANT ADJUTANT GENERAL SERVES AT THE PLEASURE OF THE GOVERNOR.

(3) UNLESS SELECTED FOR A MILITARY POSITION REQUIRING FEDERAL RECOGNITION AS A MAJOR GENERAL, AN ASSISTANT ADJUTANT GENERAL SHALL HAVE A COMMISSIONED GRADE NOT ABOVE THAT OF BRIGADIER GENERAL.

(B) QUALIFICATIONS.

TO BE APPOINTED AS AN ASSISTANT ADJUTANT GENERAL AN INDIVIDUAL SHALL:

(1) HAVE AT LEAST 10 YEARS OF COMMISSIONED FIELD GRADE SERVICE IN THE NATIONAL GUARD; AND

(2) HAVE ATTAINED AT LEAST THE RANK OF COLONEL.

(C) DUTIES.

AN ASSISTANT ADJUTANT GENERAL SHALL PERFORM THE MILITARY DUTIES THAT ARE ASSIGNED BY THE GOVERNOR OR ADJUTANT GENERAL.

(D) EMPLOYMENT STATUS.

(1) ONE OF THE ASSISTANT ADJUTANTS GENERAL FOR THE MARYLAND ARMY NATIONAL GUARD AND ONE OF THE ASSISTANT ADJUTANTS GENERAL FOR THE MARYLAND AIR NATIONAL GUARD SHALL BE FULL-TIME EMPLOYEES OF THE DEPARTMENT IN STATE ACTIVE DUTY STATUS.

(2) THE OTHER TWO ASSISTANT ADJUTANTS GENERAL SHALL BE TRADITIONAL DRILLING GUARD MEMBERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 9(b)(1), (2), (4), (5), and (6), (c)(1), (2), (4), (5), and (6), (h), (e) as it related to active duty status, and, as it related to Assistant Adjutants General, (j).

In subsections (a) and (d)(1) of this section, the references to the "Maryland Army National Guard" and "Maryland Air National Guard" are substituted for the former references to "Army" and "Air" for clarity.

In subsection (a)(1) of this section, the former reference "[t]here shall be four Assistant Adjutants General" is deleted as redundant of the

requirement that there be two Assistant Adjutants General for the Maryland Army National Guard and two Assistant Adjutants General for the Maryland Air National Guard.

In subsection (d)(1) of this section, the former reference to "each" being a full-time employee is deleted as surplusage.

Also in subsection (d)(1) of this section, the former reference to the Assistant Adjutants General being "military personnel" is deleted as included in the reference to them being in "State active duty status".

Defined terms: "Department" § 13-101

"National Guard" § 13-101

"State active duty" § 13-101

13-304. COMPENSATION.

THE ADJUTANT GENERAL AND THE ASSISTANT ADJUTANTS GENERAL SHALL HAVE A SALARY AS STATED IN THE ANNUAL BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 9(a)(3), (b)(3), (c)(3), and, as it related to the salary of the Adjutant General, the first sentence of § 10.

13-305. DEPUTY ADJUTANT GENERAL FOR MARYLAND ARMY NATIONAL GUARD.

(A) IN GENERAL.

(1) THE GOVERNOR SHALL APPOINT A DEPUTY ASSISTANT ADJUTANT GENERAL FOR THE MARYLAND ARMY NATIONAL GUARD.

(2) THE DEPUTY ASSISTANT ADJUTANT GENERAL SERVES AT THE PLEASURE OF THE ADJUTANT GENERAL.

(B) COMMISSION AND DUTIES.

THE DEPUTY ASSISTANT ADJUTANT GENERAL FOR THE MARYLAND ARMY NATIONAL GUARD SHALL:

(1) HAVE A COMMISSIONED GRADE NOT ABOVE THAT OF BRIGADIER GENERAL; AND

(2) PERFORM THE MILITARY DUTIES ASSIGNED BY THE GOVERNOR OR THE ADJUTANT GENERAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § (9)(i).

In subsection (a)(1) and the introductory language of subsection (b) of this section, the reference to "Maryland Army National Guard" is substituted for the former reference to "Army" for clarity.

13-306. OTHER STAFF.

(A) OFFICERS, WARRANT OFFICERS, AND ENLISTED INDIVIDUALS.

OFFICERS, WARRANT OFFICERS, AND ENLISTED INDIVIDUALS WHO ARE FULL-TIME EMPLOYEES OF THE DEPARTMENT ARE IN STATE ACTIVE DUTY STATUS.

(B) CHIEF OF STAFF AND AIDES.

(1) THE GOVERNOR MAY APPOINT A CHIEF OF STAFF AND AIDES.

(2) THE CHIEF OF STAFF AND AIDES SERVE AT THE PLEASURE OF THE GOVERNOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 9(g) and, as it related to part of the first sentence, (e).

In subsection (a) of this section, the reference to enlisted "individuals" is substituted for the former reference to enlisted "persons". *See* General Revisor's Note to title.

Also in subsection (a) of this section, the former reference to "military personnel" is deleted as implicit in the reference to them being in "State active duty status".

In subsection (b) of this section, the phrase "may appoint" is substituted for the former reference "appointment ... shall be" at the pleasure of the Governor to clarify that these appointments are discretionary with the Governor.

Defined terms: "Department" § 13-101

"State active duty" § 13-101

SUBTITLE 4. NATIONAL GUARD.

13-401. COMPOSITION; ORGANIZATION.

(A) COMPOSITION.

(1) THE NATIONAL GUARD CONSISTS OF:

(I) THE UNITS OF THE ORGANIZED MILITIA ALLOCATED TO THE STATE BY THE UNITED STATES DEPARTMENT OF DEFENSE THAT ARE SUPPORTED WHOLLY OR PARTLY BY FEDERAL FUNDS; AND

(II) INDIVIDUALS TRANSFERRED WITH THE APPROVAL OF THE GOVERNOR TO THE NATIONAL GUARD BY FEDERAL AUTHORITIES TO COMPLETE A RESERVE SERVICE OBLIGATION IMPOSED BY FEDERAL LAW.

(2) THE INACTIVE NATIONAL GUARD CONSISTS OF OFFICERS AND ENLISTED INDIVIDUALS COMMISSIONED IN, ENLISTED IN, OR TRANSFERRED TO THE INACTIVE NATIONAL GUARD.

(3) AN INDIVIDUAL TRANSFERRED TO THE NATIONAL GUARD IS CONSIDERED A MEMBER OF THE NATIONAL GUARD WHETHER OR NOT THE INDIVIDUAL EXECUTED THE OATH PRESCRIBED BY § 13-206 OF THIS TITLE.

(B) ORGANIZATION.

THE NATIONAL GUARD AND ITS UNITS SHALL BE ORGANIZED AS PRESCRIBED FOR THE UNITED STATES ARMY OR UNITED STATES AIR FORCE, SUBJECT IN TIME OF PEACE TO GENERAL EXCEPTIONS THAT THE SECRETARY OF THE ARMY OR THE SECRETARY OF THE AIR FORCE AUTHORIZE.

(C) POWER OF GOVERNOR.

IF THE NATIONAL GUARD OR ANY OF ITS UNITS ARE ORDERED INTO ACTIVE MILITARY SERVICE OF THE UNITED STATES BY THE PRESIDENT OF THE UNITED STATES, THE GOVERNOR MAY INCREASE THE MILITARY FORCE AND ORGANIZE THOSE UNITS AS THE EMERGENCY REQUIRES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, §§ 17 and 15(b), (c), and (d).

In subsection (a)(1)(i) of this section, the reference to the "United States Department of Defense" is added for clarity.

Also in subsection (a)(1)(i) of this section, the former reference to "organizations" is deleted as duplicative of the reference to "units".

In subsection (a)(2) of this section, the reference to enlisted "individuals" is substituted for the former reference to enlisted "men". *See* General Revisor's Note to title.

In subsection (c) of this section, the former reference to being "called" into active service is deleted as included in the reference to being "ordered" into active service.

Also in subsection (c) of this section, the term "may" is substituted for the former reference to the Governor "hav[ing] the power ... in his judgment" for brevity.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that subsection (a)(1) of this section, which describes the composition of the National Guard, is inconsistent with the definition of the National Guard in 10 U.S.C. § 101.

Defined term: "National Guard" § 13-101

13-402. POLICE POWER.

(A) IN GENERAL.

A MEMBER OF THE NATIONAL GUARD HAS THE SAME POLICE POWER, AUTHORITY, AND STATUS WITH RESPECT TO THE ENFORCEMENT OF THE LAW RELATING TO CRIMINAL MATTERS IN THE MILITARY AREA TO WHICH THE MEMBER IS ASSIGNED, AS A LAW ENFORCEMENT OR PEACE OFFICER HAS IN THE OFFICER'S RESPECTIVE JURISDICTION IF:

(1) THE ADJUTANT GENERAL DESIGNATES THE MEMBER AS NATIONAL GUARD FULL-TIME SUPPORT PERSONNEL UNDER TITLE 32 OF THE UNITED STATES CODE;

(2) THE DEPARTMENT CONTROLS OR HAS JURISDICTION OVER THE MEMBER; AND

(3) THE MEMBER IS ACTING AS A NATIONAL GUARD MEMBER.

(B) DEFENSES.

A MEMBER OF THE NATIONAL GUARD HAS THE IMMUNITIES AND DEFENSES AVAILABLE TO A LAW ENFORCEMENT OR PEACE OFFICER IN A CRIMINAL PROCEEDING OR CIVIL SUIT BROUGHT BECAUSE OF AN ACT PERFORMED IN THE COURSE OF EMPLOYMENT AND DUTY UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 8A.

In the introductory language of subsection (a) and in subsection (b) of this section, the reference to "law enforcement" officer is substituted for the former reference to "sheriffs, constables, [or] police" for brevity.

In subsection (b) of this section, the reference to having "immunities and defenses" available is substituted for the former reference to having immunities and defenses "now available or such as hereafter may be made available" for brevity.

Defined terms: "Department" § 13-101

"National Guard" § 13-101

13-403. ASSIGNMENT TO DIVISIONS, BRIGADES, AND OTHER TACTICAL UNITS.

(A) IN GENERAL.

TO MAINTAIN AN APPROPRIATE ORGANIZATION AND TO ASSIST IN INSTRUCTION AND TRAINING, THE PRESIDENT OF THE UNITED STATES MAY:

(1) ASSIGN THE NATIONAL GUARD TO DIVISIONS, BRIGADES, AND OTHER TACTICAL UNITS; AND

(2) DETAIL OFFICERS FROM THE NATIONAL GUARD OR THE UNITED STATES ARMY OR AIR FORCE TO COMMAND THOSE UNITS.

(B) LIMITATIONS.

A COMMANDING OFFICER OF A COMPLETE UNIT ORGANIZED IN THE STATE MAY NOT BE DISPLACED UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 40.

In subsection (a)(2) of this section, the reference to the "Air Force" is added to conform to federal law providing for command by officers of the United States Air Force. *See* General Revisor's Note to title.

Defined term: "National Guard" § 13-101

13-404. POWER OF NATIONAL GUARD TO RECEIVE PROPERTY AND REVENUES.

(A) DESIGNATION AS LAW ENFORCEMENT AGENCY.

EXCEPT AS OTHERWISE AUTHORIZED BY LAW, THE NATIONAL GUARD:

(1) IS DESIGNATED AS A LAW ENFORCEMENT AGENCY FOR THE SOLE PURPOSE OF RECEIVING PROPERTY AND REVENUES; AND

(2) MAY RECEIVE PROPERTY AND REVENUES UNDER 18 U.S.C. § 981(E)(2), 19 U.S.C. § 1616A(C)(1)(B)(II), AND 21 U.S.C. §§ 881(E)(1)(A) AND (E)(3) FROM THOSE FEDERAL UNITS THAT ARE SUPPORTED BY NATIONAL GUARD MEMBERS IN THE COUNTER DRUG PROGRAM.

(B) USAGE OF PROPERTY AND REVENUES RECEIVED.

(1) ANY PROPERTY OR REVENUES RECEIVED BY THE NATIONAL GUARD UNDER THIS SECTION SHALL BE USED TO SUPPLEMENT THE RESOURCES ALLOCATED TO THE COUNTER DRUG PROGRAM.

(2) THE USE OF THE PROPERTY AND REVENUES SHALL CONFORM TO THE GUIDELINES OF THE UNITED STATES DEPARTMENT OF JUSTICE, THE UNITED STATES DEPARTMENT OF DEFENSE, AND THE UNITED STATES DEPARTMENT OF THE TREASURY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 8B.

In subsection (b)(2) of this section, the former reference "received by the National Guard" is deleted as surplusage.

Defined term: "National Guard" § 13-101

13-405. TUITION ASSISTANCE.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "INSTITUTION" MEANS:

(I) ANY CAMPUS OF THE UNIVERSITY SYSTEM OF MARYLAND, ANY COMMUNITY COLLEGE ESTABLISHED UNDER TITLE 16 OF THE EDUCATION ARTICLE, MORGAN STATE UNIVERSITY, OR ST. MARY'S COLLEGE;

(II) ANY PRIVATE INSTITUTION OF HIGHER EDUCATION THAT GRANTS A MEMBER A TUITION WAIVER OF AT LEAST 50%;

(III) ANY PUBLIC POSTSECONDARY VOCATIONAL-TECHNICAL OR TRADE SCHOOL; OR

(IV) ANY PRIVATE POSTSECONDARY VOCATIONAL-TECHNICAL OR TRADE SCHOOL THAT GRANTS A MEMBER A TUITION WAIVER OF AT LEAST 50%.

(3) "MEMBER" MEANS AN INDIVIDUAL WHO:

(I) IS REGULARLY ENLISTED IN THE NATIONAL GUARD; OR

(II) HOLDS A COMMISSION IN THE NATIONAL GUARD AS:

1. AN OFFICER IN THE GRADE OF MAJOR OR BELOW; OR

2. A WARRANT OFFICER.

(4) (I) "TUITION" MEANS THE BASIC INSTRUCTIONAL CHARGE FOR UNDERGRADUATE CREDIT COURSES AND RELATED FEES AT AN INSTITUTION.

(II) "TUITION" DOES NOT INCLUDE CHARGES FOR SELF-SUPPORTING PROGRAMS.

(B) AMOUNT.

TO THE EXTENT THAT FUNDS ARE PROVIDED IN THE STATE BUDGET, THE DEPARTMENT MAY PROVIDE ASSISTANCE EQUAL TO 50% OF THE COST OF IN-STATE TUITION FOR ANY REGULARLY SCHEDULED UNDERGRADUATE CREDIT COURSE, VOCATIONAL-TECHNICAL COURSE, OR TRADE COURSE FOR ANY ACTIVE MEMBER ATTENDING AN INSTITUTION WHO IS CERTIFIED AS ELIGIBLE BY THE ADJUTANT GENERAL.

(C) ELIGIBILITY.

(1) THE ADJUTANT GENERAL MAY NOT CERTIFY A MEMBER AS ELIGIBLE UNLESS THE MEMBER IS:

(I) ENLISTED AND HAS AT LEAST 24 MONTHS REMAINING TO SERVE ON THE CURRENT ENLISTMENT OF THE MEMBER; OR

(II) AN OFFICER OR WARRANT OFFICER AND AGREES IN WRITING TO SERVE FOR A MINIMUM OF 24 MONTHS.

(2) THE 24-MONTH REQUIREMENT RUNS FROM THE FIRST DAY OF CLASSES FOR THE SEMESTER.

(D) EFFECT OF DISCHARGE.

IF A RECIPIENT OF TUITION ASSISTANCE UNDER THIS SECTION IS DISCHARGED FROM THE NATIONAL GUARD FOR A REASON DESIGNATED BY THE ADJUTANT GENERAL, THE ASSISTANCE TERMINATES AND THE MEMBER SHALL REIMBURSE THE DEPARTMENT THE AMOUNT OF TUITION ASSISTANCE RECEIVED FOR THAT SEMESTER WITHIN 30 DAYS OF DISCHARGE.

REVISOR'S NOTE: This section formerly was Art. 65, § 12A.

In subsection (d) of this section, the reference to a requirement that a member "reimburse" the Department is substituted for the former reference to a member "ow[ing]" the Department for clarity.

Defined terms: "Department" § 13-101

"National Guard" § 13-101

SUBTITLE 5. MARYLAND DEFENSE FORCE.

13-501. ESTABLISHED.

(A) IN GENERAL.

(1) THE GOVERNOR MAY ORGANIZE AND MAINTAIN IN THE STATE A MARYLAND DEFENSE FORCE.

(2) THE GOVERNOR MAY DISBAND OR REDUCE THE SIZE OF THE MARYLAND DEFENSE FORCE AT ANY TIME.

(B) SEPARATE FROM NATIONAL GUARD.

THE MARYLAND DEFENSE FORCE IS IN ADDITION TO AND SEPARATE FROM THE NATIONAL GUARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 62, as it related to the organization, maintaining, and naming of the Maryland Defense Force.

In subsection (a)(1) of this section, the former phrase "as the Governor may deem necessary" is deleted as unnecessary in light of the word "may". Similarly, in subsection (a)(2) of this section, the former reference to any

time "he deems proper" is deleted as unnecessary in light of the phrase "may ... at any time".

Defined terms: "Maryland Defense Force" § 13-101

"National Guard" § 13-101

13-502. REGULATIONS.

(A) IN GENERAL.

(1) THE GOVERNOR MAY ADOPT REGULATIONS TO CARRY OUT THIS TITLE GOVERNING THE ENLISTMENT, ORGANIZATION, ADMINISTRATION, EQUIPMENT, MAINTENANCE, TRAINING, AND DISCIPLINE OF THE MARYLAND DEFENSE FORCE.

(2) THE GOVERNOR MAY PRESCRIBE A UNIFORM FOR THE MARYLAND DEFENSE FORCE.

(B) CONSISTENT WITH LAW GOVERNING NATIONAL GUARD.

AS THE GOVERNOR CONSIDERS PRACTICABLE AND DESIRABLE, REGULATIONS ADOPTED UNDER THIS SECTION SHALL CONFORM TO EXISTING LAW AND REGULATIONS THAT GOVERN THE NATIONAL GUARD.

(C) GIFTS, DONATIONS, AND GRATUITIES PROHIBITED.

THE REGULATIONS SHALL PROHIBIT THE MARYLAND DEFENSE FORCE OR A MEMBER OF THE MARYLAND DEFENSE FORCE FROM ACCEPTING GIFTS, DONATIONS, GRATUITIES, OR ANYTHING OF VALUE FROM A PERSON IN CONNECTION WITH THE MEMBER'S SERVICE IN THE MARYLAND DEFENSE FORCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 63 and the fourth sentence of § 62.

In subsections (a)(1) and (b) of this section, the former references to "rules" are deleted as included in the references to "regulations". *See* General Revisor's Note to article.

In subsection (a)(1) of this section, the reference to regulations "carry[ing] out" this subtitle is substituted for the former reference to regulations "not inconsistent with the provisions" of this subtitle for consistency.

Also in subsection (a)(1) of this section, the word "adopt" is substituted for the former word "prescribe" for consistency.

In subsection (c) of this section, the reference to a "person" is substituted for the former phrase "individual, firm, association, or corporation" because these entities are included in the definition of "person" under § 1-101. *See* § 1-101 of this article.

Defined terms: "Maryland Defense Force" § 13-101

"National Guard" § 13-101

"Person" § 1-101

13-503. COMPOSITION.

(A) IN GENERAL.

THE MARYLAND DEFENSE FORCE CONSISTS OF:

(1) COMMISSIONED OR ASSIGNED OFFICERS; AND

(2) ABLE-BODIED CITIZENS OF THE STATE WHO VOLUNTEER TO SERVE.

(B) QUALIFICATIONS.

AN INDIVIDUAL MAY NOT BE COMMISSIONED OR ENLISTED IN THE MARYLAND DEFENSE FORCE IF THE INDIVIDUAL:

(1) IS NOT A CITIZEN OF THE UNITED STATES; OR

(2) HAS BEEN EXPELLED OR DISHONORABLY DISCHARGED FROM A MILITARY OR NAVAL ORGANIZATION OF THIS STATE OR ANOTHER STATE OR FROM THE UNITED STATES ARMED FORCES.

(C) ENLISTING AS ORGANIZATIONS.

A CIVIL ORGANIZATION, SOCIETY, CLUB, POST, ORDER, FRATERNITY, ASSOCIATION, BROTHERHOOD, BODY, UNION, LEAGUE, OR OTHER COMBINATION OF PERSONS OR CIVIL GROUPS MAY NOT ENLIST IN THE MARYLAND DEFENSE FORCE AS AN ORGANIZATION OR UNIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, §§ 71 and 72 and the second sentence of § 62.

In subsection (a) of this section, the former reference "able-bodied persons of foreign birth who have declared their intentions to become citizens, resident in the State" is deleted because it conflicts with the provisions of subsection (b)(1) of this section, which prohibits noncitizens from serving in the Maryland Defense Force, and as contrary to the practice of the Military Department.

In the introductory language of subsection (b) of this section, the reference to an "individual" is substituted for the former reference to a "person". *See* General Revisor's Note to title.

In subsection (b)(2) of this section, the phrase "armed forces" is added to incorporate the various branches of the United States Military.

Defined terms: "Maryland Defense Force" § 13-101

"Person" § 1-101

"State" § 1-101

13-504. COMPENSATION; OATH; ENLISTMENT PERIOD; RESIGNATION.

(A) COMPENSATION.

A MEMBER OF THE MARYLAND DEFENSE FORCE WHO IS ORDERED TO ACTIVE DUTY BY THE GOVERNOR OR BY THE GOVERNOR'S AUTHORITY IS ENTITLED TO THE COMPENSATION SPECIFIED FOR OFFICERS AND ENLISTED INDIVIDUALS AS PROVIDED UNDER § 13-704 OF THIS TITLE.

(B) OFFICER'S OATH.

AN OFFICER COMMISSIONED IN THE MARYLAND DEFENSE FORCE SHALL TAKE AN OATH SUBSTANTIALLY IN THE FORM REQUIRED FOR OFFICERS OF THE ORGANIZED MILITIA, SUBSTITUTING "MARYLAND DEFENSE FORCE" WHERE NECESSARY IN THE OATH.

(C) ENLISTED INDIVIDUAL'S OATH.

AN INDIVIDUAL WHO ENLISTS IN THE MARYLAND DEFENSE FORCE SHALL TAKE AN OATH SUBSTANTIALLY IN THE FORM REQUIRED FOR ENLISTED PERSONNEL OF THE ORGANIZED MILITIA, SUBSTITUTING "MARYLAND DEFENSE FORCE" WHERE NECESSARY IN THE OATH.

(D) ENLISTMENT PERIOD.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE ENLISTMENT PERIOD IN THE MARYLAND DEFENSE FORCE IS 2 YEARS AND MAY BE RENEWED.

(2) IF THE NATIONAL GUARD IS CALLED INTO ACTIVE FEDERAL SERVICE, ALL ENLISTMENTS SHALL CONTINUE UNTIL 6 MONTHS AFTER THE NATIONAL GUARD HAS BEEN RELEASED FROM ACTIVE FEDERAL SERVICE UNLESS THE ENLISTED INDIVIDUAL IS DISCHARGED SOONER BY THE PROPER AUTHORITY.

(E) RESIGNATION OR DISCHARGE.

THE GOVERNOR MAY ACCEPT THE RESIGNATION OF AN OFFICER OR GRANT A DISCHARGE TO AN ENLISTED INDIVIDUAL AT ANY TIME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, §§ 64, 73, 74, and 75.

In subsections (a) and (e) of this section, the term enlisted "individual[s]" is substituted for the former terms enlisted "men" and "man". *See* General Revisor's Note to title.

In subsection (a) of this section, the word "compensation" is substituted for the former word "pay" to conform to similar provisions in other revised articles of the Code.

%Also in subsection (a) of this section, the former reference to "the organized militia" is deleted as surplusage.

In subsections (b) and (c) of this section, the word "required" is substituted for the former word "prescribed" for consistency with other revised articles of the Code.

Defined terms: "Maryland Defense Force" § 13-101

"National Guard" § 13-101

13-505. REQUIREMENTS BY GOVERNOR.

(A) ARMS AND EQUIPMENT.

THE GOVERNOR MAY REQUISITION ANY ARMS AND EQUIPMENT FROM THE SECRETARY OF THE ARMY THAT ARE IN THE POSSESSION OF AND CAN BE SPARED BY THE DEPARTMENT OF THE ARMY FOR USE BY THE MARYLAND DEFENSE FORCE.

(B) STATE ARMORY FACILITIES AND EQUIPMENT.

THE GOVERNOR MAY ALLOW THE MARYLAND DEFENSE FORCE TO USE THE FACILITIES AND EQUIPMENT OF A STATE ARMORY OR OTHER AVAILABLE STATE PREMISES AND PROPERTY.

(C) AUTHORIZATION TO USE SCHOOL BUILDINGS AND PREMISES.

A SCHOOL AUTHORITY MAY ALLOW THE MARYLAND DEFENSE FORCE TO USE A SCHOOL BUILDING OR SCHOOL GROUNDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 66.

Defined term: "Maryland Defense Force" § 13-101

13-506. USE OUTSIDE OF THIS STATE.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION, THE MARYLAND DEFENSE FORCE MAY NOT BE REQUIRED TO SERVE OUTSIDE THE STATE.

(B) REQUEST OF GOVERNOR OF ANOTHER STATE.

(1) ON REQUEST OF THE GOVERNOR OF ANOTHER STATE, THE GOVERNOR OF THIS STATE MAY ORDER THE MARYLAND DEFENSE FORCE TO SERVE OUTSIDE THE STATE TO ASSIST THE MILITARY OR LAW ENFORCEMENT FORCES OF THE OTHER STATE THAT ARE ACTUALLY DEFENDING THAT STATE.

(2) THE GOVERNOR OF THIS STATE MAY RECALL THE MARYLAND DEFENSE FORCE FROM THE OTHER STATE.

(C) FRESH PURSUIT.

IF FRESH PURSUIT IS AUTHORIZED BY LAW OF ANOTHER STATE, ANY ORGANIZATION, UNIT, OR DETACHMENT OF THE MARYLAND DEFENSE FORCE, ON THE ORDER OF THE COMMANDING OFFICER OF THE ORGANIZATION, UNIT, OR DETACHMENT, MAY CONTINUE IN FRESH PURSUIT OF INSURRECTIONISTS, SABOTEURS, OR ENEMIES OUTSIDE OF THIS STATE INTO THE OTHER STATE UNTIL:

(1) THE INSURRECTIONISTS, SABOTEURS, OR ENEMIES ARE APPREHENDED; OR

(2) THE MILITARY OR LAW ENFORCEMENT FORCES OF THE OTHER STATE OR FORCES OF THE UNITED STATES HAVE HAD A REASONABLE OPPORTUNITY TO PURSUE OR APPREHEND THE INSURRECTIONISTS, SABOTEURS, OR ENEMIES.

(D) SURRENDER OF CAPTURED PERSONS.

(1) AN ORGANIZATION, UNIT, OR DETACHMENT OF THE MARYLAND DEFENSE FORCE SHALL SURRENDER WITHOUT UNNECESSARY DELAY AN INDIVIDUAL APPREHENDED IN ANOTHER STATE TO THE MILITARY OR LAW ENFORCEMENT FORCE OF:

(I) THE STATE OF APPREHENSION; OR

(II) THE UNITED STATES.

(2) THE SURRENDER OF AN INDIVIDUAL APPREHENDED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE MILITARY OR LAW ENFORCEMENT FORCES OF ANOTHER STATE IS NOT A WAIVER BY THIS STATE OF THE RIGHT TO EXTRADITE OR PROSECUTE THE INDIVIDUAL FOR A CRIME COMMITTED IN THIS STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 68.

Throughout this section, the references to a "law enforcement" force or forces are substituted for the former references to a "police" force or forces for conformity with other provisions of this title. *See, e.g.*, §§ 13-402 and 13-507 of this title.

In subsection (a) of this section, the former reference to "boundaries" is deleted as implicit in the reference to service "outside the State".

In subsection (b) of this section, the former references to the Governor's "discretion" are deleted as implicit in the word "may".

In subsection (b)(2) of this section, the reference to a recall "from the other state" is added for clarity.

In subsections (c)(1) and (2) and (d)(1) of this section, the former references

to "captured" and "capture" are deleted as implicit in the references to "apprehended", "apprehend", and "apprehension".

In the introductory language of subsection (c) of this section, the reference to pursuit "outside" of this State is substituted for the former reference to pursuit "beyond the borders" of this State for brevity.

In subsection (c)(1) of this section, the former reference to "enemy forces" is deleted as included in the reference to "enemies".

Also in subsection (c)(1) of this section, the former reference to individuals apprehended "by such organization, unit, or detachment" is deleted as surplusage.

In subsection (c)(2) of this section, the reference to "insurrectionists, saboteurs, or enemies" is substituted for the former reference "such persons" for clarity.

In the introductory language of subsection (d)(1) of this section, the reference to an "individual" is substituted for the former reference to "such persons". *See* General Revisor's Note to title.

In subsection (d)(2) of this section, the references to "an individual apprehended" and "the individual" are substituted for the former references to "insurrectionists or saboteurs" for consistency within this section.

Defined terms: "Maryland Defense Force" § 13-101

"State" § 1-101

13-507. PURSUIT BY FORCES OF OTHER STATES.

(A) IN GENERAL.

A MILITARY FORCE OR AN ORGANIZATION, UNIT, OR DETACHMENT OF A MILITARY FORCE OF ANOTHER STATE THAT IS IN FRESH PURSUIT OF INSURRECTIONISTS, SABOTEURS, OR ENEMIES MAY:

(1) CONTINUE PURSUIT INTO THIS STATE UNTIL THE MILITARY OR LAW ENFORCEMENT FORCE OF THIS STATE OR THE FORCES OF THE UNITED STATES HAVE HAD A REASONABLE OPPORTUNITY TO PURSUE OR APPREHEND THE INSURRECTIONISTS, SABOTEURS, OR ENEMIES; AND

(2) ARREST AN INSURRECTIONIST, SABOTEUR, OR ENEMY APPREHENDED IN THIS STATE WHILE IN FRESH PURSUIT.

(B) SURRENDER OF CAPTURED PERSONS.

A MILITARY FORCE OF ANOTHER STATE THAT ARRESTS AN INDIVIDUAL IN THIS STATE SHALL SURRENDER WITHOUT UNNECESSARY DELAY THE INDIVIDUAL TO THE

MILITARY OR LAW ENFORCEMENT FORCE OF THIS STATE OR THE UNITED STATES TO BE DEALT WITH ACCORDING TO LAW.

(C) CONSTRUCTION.

(1) THIS SECTION DOES NOT MAKE UNLAWFUL AN ARREST IN THIS STATE THAT WOULD OTHERWISE BE LAWFUL.

(2) THIS SECTION DOES NOT REPEAL ANY PROVISION OF THE UNIFORM ACT ON FRESH PURSUIT UNDER TITLE 2, SUBTITLE 3, PART II OF THE CRIMINAL PROCEDURE ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 69.

Throughout subsection (a) of this section, the former references to "enemy forces" are deleted as included in the references to "enemies".

In subsections (a)(1) and (2) and (b) of this section, the former references to "capture" and "captured" are deleted as implicit in the references to "apprehen[sion]" and "arrest".

In subsections (a)(1) and (b) of this section, the references to a "law enforcement" force are substituted for the former references to a "police" force for conformity with other provisions of this title. *See, e.g.,* §§ 13-402 and 13-506 of this title.

In subsection (b) of this section, the reference to an "individual" is substituted for the former reference to "such persons". *See* General Revisor's Note to title.

In subsection (c)(2) of this section, the phrase "under Title 2, Subtitle 3, Part II of the Criminal Procedure Article" is added to provide a convenient cross-reference to the Uniform Act on Fresh Pursuit.

Also in subsection (c)(2) of this section, the former reference to the Uniform Act on Fresh Pursuit "of Criminals" is deleted to conform to CP Title 2, Subtitle 3, Part II.

Defined term: "State" § 1-101

13-508. FEDERAL SERVICE.

(A) IN GENERAL.

THIS TITLE DOES NOT AUTHORIZE THE MARYLAND DEFENSE FORCE TO BE ORDERED OR DRAFTED INTO THE MILITARY SERVICE OF THE UNITED STATES.

(B) EXEMPTION FROM FEDERAL SERVICE.

AN INDIVIDUAL IS NOT EXEMPT FROM MILITARY SERVICE UNDER THE LAWS OF THE UNITED STATES BECAUSE THE INDIVIDUAL IS ENLISTED OR COMMISSIONED IN THE MARYLAND DEFENSE FORCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 70.

In subsection (a) of this section, the former phrase "as such" is deleted as redundant of the reference to the "Maryland Defense Force".

Also in subsection (a) of this section, the former reference to being "called" is deleted as implicit in the reference to being "ordered" into service.

In subsection (b) of this section, the reference to an "individual" is substituted for the former reference to a "person". *See* General Revisor's Note to title.

Defined term: "Maryland Defense Force" § 13-101

SUBTITLE 6. OFFICERS.

13-601. APPOINTMENT AND COMMISSION.

(A) APPOINTMENT.

THE GOVERNOR SHALL APPOINT AND COMMISSION EACH OFFICER OF THE ORGANIZED MILITIA ON RECOMMENDATION BY:

(1) THE BRIGADE COMMANDER IF A COMMANDING OFFICER OF A UNIT OF A BRIGADE; OR

(2) THE COMMANDING OFFICER OF THE RESPECTIVE UNIT OR CHIEF OF THE RESPECTIVE STAFF CORPS OR DEPARTMENT IF ANY OTHER OFFICER.

(B) QUALIFICATIONS.

(1) EACH INDIVIDUAL APPOINTED AS AN OFFICER SHALL BE:

(I) AN OFFICER OR ENLISTED INDIVIDUAL OF THE NATIONAL GUARD;

(II) A RETIRED, RESERVE, OR FORMER OFFICER OF THE UNITED STATES ARMY, NAVY, MARINE CORPS, AIR FORCE, OR COAST GUARD;

(III) AN ENLISTED INDIVIDUAL FROM THE UNITED STATES ARMY, NAVY, MARINE CORPS, AIR FORCE, OR COAST GUARD OR A FORMERLY ENLISTED INDIVIDUAL WHO RECEIVED AN HONORABLE DISCHARGE;

(IV) A GRADUATE OF THE UNITED STATES MILITARY ACADEMY, NAVAL ACADEMY, OR AIR FORCE ACADEMY;

(V) A GRADUATE OF A SCHOOL, COLLEGE, UNIVERSITY, OR OFFICERS' TRAINING SCHOOL WHO RECEIVED MILITARY INSTRUCTION UNDER THE SUPERVISION OF AN OFFICER OF THE UNITED STATES ARMY, NAVY, MARINE CORPS, AIR FORCE, OR COAST GUARD WHO CERTIFIED THE GRADUATE'S FITNESS FOR APPOINTMENT AS A COMMISSIONED OFFICER; OR

(VI) A CIVILIAN WHO IS SPECIALLY QUALIFIED FOR DUTY IN THE TECHNICAL BRANCHES OR STAFF CORPS AND DEPARTMENTS.

(2) BEFORE TAKING OFFICE, EACH INDIVIDUAL APPOINTED AS AN OFFICER SHALL TAKE THE OATH AS REQUIRED BY § 13-602 OF THIS SUBTITLE.

(C) GENERAL OFFICERS AND COLONELS.

WHEN APPOINTED, A GENERAL OFFICER OR COLONEL MUST:

(1) BE AN OFFICER IN THE NATIONAL GUARD OF A GRADE OF FIELD OFFICER; OR

(2) HAVE BEEN IN ACTIVE SERVICE IN THE UNITED STATES ARMY, NAVY, MARINE CORPS, AIR FORCE, OR COAST GUARD OR NATIONAL GUARD WITH A GRADE HIGHER THAN CAPTAIN.

(D) LIEUTENANT-COLONELS AND MAJORS.

WHEN APPOINTED, A LIEUTENANT-COLONEL OR MAJOR OF THE LINE MUST HAVE HAD ACTIVE SERVICE AS AN OFFICER FOR AT LEAST 2 YEARS IN THE UNITED STATES ARMY, NAVY, MARINE CORPS, AIR FORCE, OR COAST GUARD OR NATIONAL GUARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 20.

Throughout this section, references to the United States "Navy", "Marine Corps", "Air Force", and "Coast Guard" are added as necessary so that all branches of the armed forces are named. *See* General Revisor's Note to title.

In the introductory language of subsection (a) of this section, the reference to officers "of the organized militia" is added for clarity.

Also in the introductory language of subsection (a) of this section, the former reference to being recommended "before such appointment" is deleted as implicit in the requirement that officers must first be recommended.

In subsections (b)(1), (c)(2), and (d) of this section and throughout this subtitle, the references to the "United States" are added to modify references to the named branches of the armed forces to reflect the proper names of the branches of the armed forces.

%In the introductory language of subsection (b) of this section, the requirement that an individual "shall be" in one of the listed categories is substituted for the former statement that individuals "shall not be recognized as such under any of the provisions of this article unless they shall have been selected from the following classes" for brevity.

In subsection (b)(1)(i) and (iii) of this section, the term enlisted "individual" is substituted for the former term enlisted "men". *See* General Revisor's Note to title.

In subsection (b)(1)(iv) of this section, the reference to the "Air Force Academy" is added to reflect the current practice of the Department. *See* General Revisor's Note to title.

In subsection (b)(1)(v) of this section, the reference to a "school" is substituted for the former obsolete reference to "camps" for accuracy.

Also in subsection (b)(1)(v) of this section, the conjunction "or" is substituted for the former conjunction "and" to clarify that an individual need only satisfy one of the listed criteria to be appointed as an officer. Similarly, in subsection (c) of this section, the conjunction "or" is substituted for the former conjunction "and" to clarify that an individual need not be both a general officer and a colonel at the time of appointment.

In subsection (b)(2) of this section, the former reference to "subscrib[ing] to" an oath is deleted as included in the reference to "tak[ing]" an oath.

In subsection (c)(1) of this section, the former reference to the National Guard "of the State" is deleted in light of the defined term "National Guard" in § 13-101 of this subtitle.

The Public Safety Article Review Committee notes, for consideration of the General Assembly, that while the officers' ranks for the Army, Marines, and Air Force are identical, the Navy's and Coast Guard's are different. Subsection (c)(2) of this section requires the individual to have had a grade higher than captain. The third ranking officer for the other branches is a captain; while for the Navy and Coast Guard, it is a lieutenant. A captain in the Navy and Coast Guard is the sixth ranked officer comparable to a colonel in the other branches.

Defined term: "National Guard" § 13-101

13-602. OATH.

A COMMISSIONED OFFICER OF THE ORGANIZED MILITIA SHALL TAKE THE FOLLOWING OATH OF OFFICE:

"I, ..., DO SOLEMNLY SWEAR THAT I WILL SUPPORT AND DEFEND THE CONSTITUTION OF THE UNITED STATES AND THE CONSTITUTION OF THE STATE OF MARYLAND, AGAINST ALL ENEMIES, FOREIGN AND DOMESTIC; THAT I WILL BEAR

TRUE FAITH AND ALLEGIANCE TO THE SAME; THAT I WILL OBEY THE ORDERS OF THE PRESIDENT OF THE UNITED STATES AND OF THE GOVERNOR OF THE STATE OF MARYLAND; THAT I MAKE THIS OBLIGATION FREELY, WITHOUT ANY MENTAL RESERVATION OR PURPOSE OF EVASION, AND THAT I WILL WELL AND FAITHFULLY DISCHARGE THE DUTIES OF THE OFFICE OF ..... IN THE NATIONAL GUARD OF THE UNITED STATES AND OF THE STATE OF MARYLAND UPON WHICH I AM ABOUT TO ENTER, SO HELP ME GOD."

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 19.

The former reference to "subscrib[ing] to" an oath is deleted as included in the reference to "tak[ing]" an oath.

13-603. EXAMINATION.

(A) SUBJECT OF EXAMINATION.

EACH INDIVIDUAL APPOINTED AS AN OFFICER SHALL PASS THE TESTS THAT THE GOVERNOR REQUIRES ON PHYSICAL, MORAL, AND PROFESSIONAL FITNESS.

(B) METHOD OF EXAMINATION.

THE GOVERNOR SHALL APPOINT A BOARD OF THREE COMMISSIONED OFFICERS FROM THE UNITED STATES ARMY OR AIR FORCE OR THE NATIONAL GUARD TO CONDUCT THE EXAMINATION REQUIRED BY SUBSECTION (A) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 65, § 21 and, as it related to examination, the first sentence.

In subsection (a) of this section, the former statement that "this article shall not apply to any person hereafter" appointed an officer unless the person passes a test is deleted as surplusage.

Also in subsection (a) of this section, the former reference to "successfully" passing tests is deleted as implicit in the requirement to "pass the tests".

In subsection (b) of this section, the reference to the "Air Force" is added to conform to the current practice of the Military Department. *See* General Revisor's Note to title.

13-604. DATE OF TAKING RANK.

AN OFFICER SHALL TAKE RANK FROM THE DATE THAT THE OFFICER WAS COMMISSIONED AND IN THE MANNER THE UNITED STATES DEPARTMENT OF DEFENSE PROVIDES BY REGULATION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 65, § 21, as it related to

taking rank.

The reference to the "United States Department of Defense" is substituted for the former reference to the "Defense Department" to reflect the proper name of the Department.

13-605. BREVET COMMISSIONS.

(A) GOVERNOR TO CONFER GRADE.

(1) ON THE RECOMMENDATION OF THE ADJUTANT GENERAL, THE GOVERNOR MAY GRANT TO AN OFFICER OF THE ORGANIZED MILITIA A BREVET COMMISSION OF THE NEXT HIGHER GRADE THAN THE REGULAR COMMISSION HELD BY THE OFFICER.

(2) THE GOVERNOR MAY GRANT A BREVET COMMISSION TO AN OFFICER OF THE ORGANIZED MILITIA OF A GRADE EQUAL TO THE HIGHEST GRADE IN WHICH THE OFFICER PREVIOUSLY SERVED IN THE ORGANIZED MILITIA OR IN THE UNITED STATES ARMY, NAVY, MARINE CORPS, AIR FORCE, OR COAST GUARD.

(B) RIGHTS AND PRIVILEGES.

A BREVET COMMISSION CARRIES ONLY THE RIGHTS OR PRIVILEGES THAT ARE ALLOWED IN LIKE CASES IN THE MILITARY SERVICE OF THE UNITED STATES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 36.

In subsection (a)(2) of this section, the reference to the United States "Navy, Marine Corps, Air Force, or Coast Guard" is added so that all branches of the armed forces are named. *See* General Revisor's Note to title.

13-606. REMOVAL FROM OFFICE.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE OR BY REGULATIONS OF THE UNITED STATES DEPARTMENT OF DEFENSE, A COMMISSIONED OFFICER MAY NOT BE REMOVED FROM OFFICE UNLESS THE OFFICER CONSENTS TO THE REMOVAL.

(B) ACTION BY EFFICIENCY BOARD.

A COMMISSIONED OFFICER SHALL BE DISCHARGED IF:

(1) AN EFFICIENCY BOARD OF THREE COMMISSIONED OFFICERS, SENIOR IN RANK TO THE OFFICER WHOSE FITNESS FOR SERVICE IS UNDER INVESTIGATION, APPOINTED TO DETERMINE THE MORAL CHARACTER, CAPACITY, OR GENERAL FITNESS FOR SERVICE OF THE COMMISSIONED OFFICER MAKES AN UNFAVORABLE FINDING; AND

(2) THE OFFICIAL AUTHORIZED TO APPOINT THE EFFICIENCY BOARD APPROVES OF THE FINDINGS OF THE EFFICIENCY BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 65, § 22.

In subsection (a) of this section, the reference to this "title" is substituted for the former reference to this "article" for clarity because former Article 65 is revised as this title.

Also in subsection (a) of this section, the reference to the "United States Department of Defense" is substituted for the former reference to the "Defense Department" to reflect the proper name of the Department.

In subsection (b)(1) of this section, the former reference to authority to act "at any time" is deleted as surplusage.

13-607. VACATING COMMISSION.

A COMMISSION OF AN OFFICER MAY BE VACATED:

(1) ON RESIGNATION;

(2) THROUGH ABSENCE WITHOUT LEAVE FOR 3 MONTHS;

(3) ON RECOMMENDATION OF AN EFFICIENCY BOARD; OR

(4) UNDER A SENTENCE OF A COURT-MARTIAL.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 65, § 22.

13-608. RESIGNATION OF OFFICER.

(A) HONORABLE DISCHARGE.

A COMMISSIONED OFFICER TENDERING A RESIGNATION SHALL RECEIVE AN HONORABLE DISCHARGE IF:

(1) THE GOVERNOR ACCEPTS THE RESIGNATION;

(2) THE OFFICER IS NOT UNDER ARREST OR RETURNED TO A MILITARY COURT FOR A DEFICIENCY OR DELINQUENCY;

(3) THE OFFICER IS NOT INDEBTED TO THE STATE; AND

(4) THE ACCOUNTS OF THE OFFICER FOR MONEY OR PUBLIC PROPERTY ARE CORRECT.

(B) OTHER -- DISCHARGES.

(1) IF THE GOVERNOR ACCEPTS THE RESIGNATION OF AN OFFICER WHO, AT THE TIME OF THE RESIGNATION, IS UNDER ARREST, UNDER CHARGES, OR RETURNED TO A MILITARY COURT FOR AN OFFENSE, DEFICIENCY, OR DELINQUENCY, THE OFFICER SHALL:

(I) CEASE TO BE AN OFFICER; AND

(II) RECEIVE A DISCHARGE IN A FORM THAT THE GOVERNOR DIRECTS.

(2) AN OFFICER WHO RESIGNS UNDER PARAGRAPH (1) OF THIS SUBSECTION IS NOT ELIGIBLE TO RECEIVE A COMMISSION UNLESS THE OFFICER:

(I) REENLISTS; AND

(II) PERFORMS AT LEAST 100% OF DUTY IN EACH YEAR OF THE REENLISTMENT FOR 2 SUCCESSIVE YEARS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 23.

Defined term: "State" § 1-101

SUBTITLE 7. ACTIVE DUTY OR TRAINING.

13-701. AUTHORITY TO ORDER OUT FOR SERVICE; FAILURE TO APPEAR.

(A) IN GENERAL.

(1) IF THE MILITIA OF THE STATE IS ORDERED UNDER THE CONSTITUTION AND LAWS OF THE UNITED STATES INTO THE ACTIVE MILITARY SERVICE OF THE UNITED STATES, THE GOVERNOR MAY ORDER OUT FOR ACTIVE DUTY THE ORGANIZED MILITIA.

(2) IF THE NUMBER OF ORGANIZED MILITIA AVAILABLE IS INSUFFICIENT, THE GOVERNOR MAY ORDER OUT THE UNORGANIZED MILITIA.

(B) FAILURE TO APPEAR.

EACH MEMBER OF THE UNORGANIZED MILITIA WHO VOLUNTEERS OR IS ORDERED OUT IS SUBJECT TO COURT-MARTIAL UNDER THIS TITLE FOR FAILURE TO APPEAR AT THE TIME AND PLACE DESIGNATED BY THE MEMBER'S COMMANDING OFFICER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, §§ 2 and 4.

In subsection (a)(1) and (2) of this section, the former references to "part" of the militia are deleted as implicit in ordering out the militia.

Also in subsection (a)(1) and (2) of this section, the former phrases "as may

be necessary" and "as he may deem necessary" are deleted as implicit in the discretion granted to the Governor to order out the militia.

In subsection (a)(1) of this section, the term "active duty" is substituted for the former term "service". *See* General Revisor's Note to title.

Also in subsection (a)(1) of this section, the former reference to being "called" into service is deleted as implicit in the reference to being "ordered" into service.

In subsection (a)(2) of this section, the reference to the number "of organized militia" available is added for clarity.

In subsection (b) of this section, the reference to this "title" is substituted for the former reference to this "article" for clarity because former Article 65 is revised as this title.

13-702. MILITIA IN STATE ACTIVE DUTY.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO THE MARYLAND DEFENSE FORCE WHEN THE MARYLAND DEFENSE FORCE EXISTS UNDER LAW.

(B) GUBERNATORIAL AUTHORITY TO ORDER MILITIA INTO STATE ACTIVE DUTY.

THE GOVERNOR MAY ORDER THE MILITIA INTO STATE ACTIVE DUTY:

(1) IN TIMES OF OR ON REASONABLE APPREHENSION OF IMMINENT PUBLIC CRISIS, DISASTER, RIOTING, CATASTROPHE, INSURRECTION, INVASION, TUMULT, OR BREACH OF PEACE;

(2) WHEN MARTIAL LAW IS DECLARED;

(3) TO ENFORCE THE LAWS; OR

(4) TO CARRY ON ANY FUNCTION OF THE MILITIA OF THE STATE.

(C) AUTHORITY OF MILITIA IN STATE ACTIVE DUTY.

(1) TO ENFORCE THE LAWS, A MEMBER OF THE MILITIA IN STATE ACTIVE DUTY HAS ALL THE AUTHORITY OF A PEACE OR LAW ENFORCEMENT OFFICER.

(2) THE AUTHORITY OF THE MEMBER EXTENDS THROUGHOUT THE STATE DURING THE STATE ACTIVE DUTY.

(D) RELATIONS WITH OTHER AUTHORITIES.

WHENEVER THE MILITIA IS IN STATE ACTIVE DUTY, THE RANKING OFFICER OF THE MILITIA ORDERED INTO STATE ACTIVE DUTY OR THAT OFFICER'S SUBORDINATES ON STATE ACTIVE DUTY SHALL:

(1) COOPERATE WITH LOCAL LAW ENFORCEMENT AUTHORITIES; OR

(2) IF THE EXIGENCIES OF THE CASE REQUIRE AND SUBJECT ONLY TO ORDER FROM THE GOVERNOR:

(I) DIRECT AND CONTROL LOCAL LAW ENFORCEMENT AUTHORITIES AND THE DEPARTMENT OF STATE POLICE; AND

(II) ASSUME ALL THE POWERS VESTED IN THESE SUBORDINATED LAW ENFORCEMENT AUTHORITIES.

(E) 9-11 SERVICE BAR.

(1) ANY INDIVIDUAL WHO IS ORDERED INTO ACTIVE DUTY FOR THE NATIONAL GUARD IN RESPONSE TO THE FOREIGN TERRORIST ATTACKS IN THE UNITED STATES ON SEPTEMBER 11, 2001, SHALL RECEIVE A SERVICE BAR IN RECOGNITION OF THIS SERVICE.

(2) THE SERVICE BAR SHALL DEPICT THE STATE FLAG AND "9-11".

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 8.

In subsection (a) of this section, the former reference to the Maryland Defense Force "as defined in the militia laws of Maryland" is deleted as surplusage.

In the introductory language of subsections (b) and (d) and in subsection (c)(1) of this section, the term "duty" is substituted for the former term "service" to conform with the defined term "State active duty".

Also in the introductory language of subsections (b) and (d) of this section, the former references to "any part" of the militia are deleted as implicit in reference to the militia.

In the introductory language of subsection (b) of this section, the former phrase "as he may deem proper or necessary" is deleted as implicit in the discretion granted to the Governor to order the militia into State active duty.

In subsection (b)(2) of this section, the former reference to the declaration of martial law "by the law of the land" is deleted as surplusage.

In subsections (b)(3) and (c)(1) of this section, the former references to the laws "of this State" are deleted as surplusage.

In subsection (c)(2) of this section, the reference to "[t]he authority of the

member" is substituted for the former reference to the "bailiwick" of militia members for clarity.

In the introductory language of subsection (d) of this section, the former reference to the time when the militia is in the active service of the State "under the provisions of this section" is deleted as implicit in the reference to "State active duty".

In subsection (e)(1) of this section, the former reference to the "Maryland" National Guard is deleted as included in the defined term "National Guard". *See* § 13-101 of this title.

Defined terms: "Maryland Defense Force" § 13-101

"National Guard" § 13-101

"State active duty" § 13-101

13-703. WARNING FOR DUTY.

(A) IN GENERAL.

AN OFFICER OR NONCOMMISSIONED OFFICER MAY WARN OFFICERS AND ENLISTED INDIVIDUALS FOR DUTY BY:

(1) STATING THE SUBSTANCE OF THE ORDER OR READING THE ORDER TO THE INDIVIDUAL WARNED;

(2) LEAVING A COPY OF THE ORDER AT THE LAST KNOWN PLACE OF RESIDENCE OR BUSINESS OF THE INDIVIDUAL; OR

(3) MAILING A COPY OF THE ORDER TO THE LAST KNOWN RESIDENCE OR BUSINESS ADDRESS OF THE INDIVIDUAL.

(B) RETURN OF WARNING.

(1) IF REQUIRED BY THE OFFICER ISSUING THE ORDER, THE OFFICER OR NONCOMMISSIONED OFFICER GIVING WARNING SHALL MAKE A RETURN OF WARNING CONTAINING THE NAME OF THE INDIVIDUAL WARNED AND THE TIME, PLACE, AND MANNER OF WARNING.

(2) A RETURN OF WARNING:

(I) MAY BE VERIFIED BY THE OFFICER OR NONCOMMISSIONED OFFICER'S OATH, WHICH MAY BE ADMINISTERED BY AN OFFICER; AND

(II) IF VERIFIED, AT THE TRIAL OF AN INDIVIDUAL RETURNED AS A DELINQUENT IS EVIDENCE OF THE FACTS STATED IN THE RETURN AND IS TO BE CONSIDERED AS IF THE OFFICER OR NONCOMMISSIONED OFFICER HAD TESTIFIED TO THOSE FACTS BEFORE A COURT-MARTIAL AT TRIAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 28.

%Throughout this section, the references to an "individual" are substituted for the former references to a "person". *See* General Revisor's Note to title.

In the introductory language of subsection (a) of this section, the term enlisted "individuals" is substituted for the former term enlisted "men". *See* General Revisor's Note to title.

In subsection (a)(3) of this section, the reference to a "residence" is substituted for the former reference to a "place of abode" for brevity and conformity to the terminology used throughout this and other revised articles.

Also in subsection (a)(3) of this section, the reference to mailing to the "last known residence or business address of the individual" is substituted for the former reference to mailing "to the post office nearest thereto" to comply with constitutional notice requirements.

In subsection (b)(1) of this section, the former reference to a "notice" is deleted as implicit in the reference to a "warning".

In subsection (b)(2)(ii) of this section, the former reference to "good" evidence is deleted as implicit in the reference to "evidence".

13-704. COMPENSATION FOR MILITIA ORDERED OUT FOR STATE ACTIVE DUTY OR TRAINING.

(A) SCOPE OF SECTION.

THIS SECTION:

(1) APPLIES WHEN THE ORGANIZED MILITIA IS ORDERED OUT FOR STATE ACTIVE DUTY OR TRAINING BY THE GOVERNOR OR BY THE GOVERNOR'S AUTHORITY; AND

(2) DOES NOT APPLY TO THE ORGANIZED MILITIA WHEN ORDERED TO DUTY INCIDENT TO AN ORDER INTO THE ACTIVE MILITARY SERVICE OF THE UNITED STATES.

(B) COMPENSATION FOR OFFICERS, WARRANT OFFICERS, AND ENLISTED PERSONNEL.

SUBJECT TO SUBSECTION (D) OF THIS SECTION:

(1) AN OFFICER, WARRANT OFFICER, AND ENLISTED INDIVIDUAL SHALL RECEIVE THE SAME PAY, INCLUDING LONGEVITY PAY, SUBSISTENCE, PER DIEM, AND ALLOWANCES, AS AN OFFICER, WARRANT OFFICER, AND ENLISTED INDIVIDUAL OF LIKE GRADE AND LENGTH OF SERVICE IN THE UNITED STATES ARMY OR AIR FORCE; AND

(2) AN INDIVIDUAL ORDERED TO ACTIVE DUTY OTHER THAN FOR TRAINING SHALL BE PAID A DAILY RATE OF AT LEAST 12 TIMES THE HOURLY FEDERAL MINIMUM WAGE IN EFFECT AT THE TIME OF ACTIVE DUTY.

(C) COMPENSATION FOR OTHER PERSONNEL.

AN ENLISTED INDIVIDUAL WHO MEETS THE QUALIFICATIONS THAT THE GOVERNOR SETS IN SMALL ARMS PRACTICE OR FOR PROFICIENCY IN THE VARIOUS DUTIES OF THE BRANCH OR ARM TO WHICH THE INDIVIDUAL BELONGS SHALL RECEIVE THE FOLLOWING INCREASE IN PAY OF THE INDIVIDUAL'S GRADE FOR 1 YEAR BEGINNING ON THE FIRST JANUARY 1 AFTER QUALIFICATION:

(1) EXPERTS - 20%;

(2) SHARPSHOOTERS, GUNNERS, DRIVERS, AND MEDICAL, FIRST CLASS - 15%; AND

(3) MARKSMEN, GUNNERS, DRIVERS, AND MEDICAL, SECOND CLASS - 10%.

(D) REDUCTION OF PAY.

ON THE RECOMMENDATION OF THE ADJUTANT GENERAL, THE GOVERNOR MAY REDUCE THE RATES OF PAY, INCLUDING LONGEVITY PAY AND QUALIFICATION PAY UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, §§ 32 and 33.

In subsection (a)(1) and (2) of this section, the former references to "any part" of the organized militia are deleted as implicit in the reference to "the organized militia".

In subsection (a)(2) of this section, the former term "call" is deleted as implicit in the term "order".

In the introductory language of subsection (b) of this section, the introductory clause "[s]ubject to subsection (d) of this section" is added for clarity.

In subsections (b)(1) and (c) of this section, the references to an enlisted "individual" are substituted for the former references to an enlisted "person". *See* General Revisor's Note to title.

In subsection (b)(2) of this section, the reference to a "daily rate" is substituted for the former reference to a "per diem" for clarity.

In the introductory language of subsection (c) of this section, the reference to the "first" January 1 after qualification is added for clarity.

Defined term: "State active duty" § 13-101

13-705. EMPLOYMENT AND OTHER PROTECTIONS FOR MILITIA MEMBERS.

(A) SCOPE OF SECTION.

THE RIGHTS GRANTED TO MEMBERS OF THE NATIONAL GUARD BY THIS SECTION SHALL BE IN ADDITION TO THE RIGHTS GRANTED TO THEM BY FEDERAL LAW, INCLUDING THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940 AND THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT.

(B) PROTECTIONS.

THE FOLLOWING PROVISIONS OF FEDERAL LAW SHALL BE ADOPTED AS STATE LAW AND APPLIED TO MEMBERS OF THE NATIONAL GUARD:

(1) THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940 APPLIES ONLY WHEN MEMBERS OF THE NATIONAL GUARD ARE ORDERED TO MILITARY DUTY UNDER THIS TITLE OR TITLE 10 OR TITLE 32 OF THE UNITED STATES CODE FOR A PERIOD OF 14 CONSECUTIVE DAYS OR LONGER; AND

(2) THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT APPLIES WHEN MEMBERS OF THE NATIONAL GUARD ARE ORDERED TO MILITARY DUTY UNDER THIS TITLE OR TITLE 10 OR TITLE 32 OF THE UNITED STATES CODE FOR ANY PERIOD OF TIME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 32A.

In subsection (a) of this section, the former reference that the rights of this section are "held distinct from, any and all" rights provided by federal law is deleted as included in the statement that these rights are "in addition to" the rights provided by federal law.

Also in subsection (a) of this section, the former reference to the "Maryland" National Guard is deleted in light of the defined term "National Guard". *See* § 13-101 of this title. Correspondingly, in the introductory language of subsection (b) and (b)(1) and (2) of this section, the former references to "Maryland Army" National Guard and the "Maryland Air" National Guard are deleted.

In subsections (a) and (b)(1) of this section, the former references to the Soldiers' and Sailors' Civil Relief Act of 1940 "(SSCRA), as amended, Sections 501 through 593 of Title 50 of the United States Code" are deleted in light of Art. 1, § 21 and for consistency with the other revised articles of the Code. Similarly, in subsections (a) and (b)(2) of this section, the former references to The Uniformed Services Employment and Reemployment Rights Act "(USERRA), as amended, Sections 4301 through 4333 of Title 38 of the United States Code" is deleted.

In subsections (b)(1) and (2) of this section, the references to this "title" are substituted for the references to this "article" to reflect that former Article

65 is revised in this title.

Defined term: "National Guard" § 13-101

13-706. RELIEF FROM DUTY IN MILITIA WHILE IN SERVICE OF UNITED STATES.

(A) IN GENERAL.

A MEMBER OF THE ORGANIZED MILITIA ORDERED INTO THE ACTIVE MILITARY SERVICE OF THE UNITED STATES IS RELIEVED FROM DUTY IN THE ORGANIZED MILITIA DURING ACTIVE MILITARY SERVICE OF THE UNITED STATES.

(B) RETURN TO SERVICE IN MILITIA.

(1) A MEMBER CONTINUES TO SERVE IN THE ORGANIZED MILITIA ON:

(I) THE TERMINATION OF ANY EMERGENCY FOR WHICH MEMBERS OF THE ORGANIZED MILITIA HAVE BEEN ORDERED INTO THE ACTIVE MILITARY SERVICE OF THE UNITED STATES; AND

(II) BEING RELIEVED FROM THE ACTIVE MILITARY SERVICE OF THE UNITED STATES.

(2) (I) AN OFFICER CONTINUES TO SERVE IN THE ORGANIZED MILITIA AS IF THE OFFICER'S SERVICE WAS UNINTERRUPTED.

(II) AN ENLISTED INDIVIDUAL CONTINUES TO SERVE IN THE ORGANIZED MILITIA UNTIL THE DATES WHEN THE INDIVIDUAL'S ENLISTMENT, ENTERED INTO BEFORE THE INDIVIDUAL'S ORDER TO ACTIVE MILITARY SERVICE OF THE UNITED STATES, WOULD HAVE EXPIRED IF UNINTERRUPTED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 41.

In subsections (a) and (b) of this section, the former references to "any part" of the organized militia are deleted as implicit in the reference to "the organized militia".

In subsection (b)(1)(i) and (2)(ii) of this section, references to the "military service of the United States" are substituted for the former references to "federal service" to conform to the terminology used throughout this subtitle.

13-707. LEAVES OF ABSENCE FOR PUBLIC EMPLOYEES WHO ARE MEMBERS OF MILITIA.

(A) INACTIVE DUTY TRAINING.

AN OFFICER OR EMPLOYEE OF THE STATE, A COUNTY, OR OTHER POLITICAL SUBDIVISION OF THE STATE WHO IS A MEMBER OF THE ORGANIZED MILITIA IS

ENTITLED TO A LEAVE OF ABSENCE FROM DUTIES, WITHOUT LOSS OF PAY, TIME, OR EFFICIENCY RATING:

(1) ON EACH DAY ENGAGED IN FIELD OR COAST DEFENSE OR OTHER TRAINING ORDERED OR AUTHORIZED UNDER THIS TITLE; OR

(2) UNDER ANY LAW OF THE UNITED STATES WHILE ON INACTIVE DUTY TRAINING, NOT TO EXCEED 15 DAYS ANNUALLY.

(B) STATE ACTIVE DUTY.

IN ADDITION TO THE 15-DAY PERIOD SPECIFIED IN SUBSECTION (A) OF THIS SECTION, A MEMBER OF THE ORGANIZED MILITIA WHO IS ORDERED TO STATE ACTIVE DUTY UNDER AUTHORITY OF THE GOVERNOR IS ENTITLED TO LEAVE OF ABSENCE WITHOUT LOSS OF PAY, TIME, OR EFFICIENCY RATING WHILE ACTUALLY SERVING UNDER THE STATE ACTIVE DUTY ORDERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 42.

In subsection (a)(1) of this section, the reference to this "title" is substituted for the former reference to this "article" to reflect that former Article 65 is revised in this title.

In subsection (b) of this section, the word "State" active duty is added to conform with the defined term.

Defined terms: "County" § 1-101

"State active duty" § 13-101

13-708. CIVIL OR CRIMINAL LIABILITY FOR ACTS IN DISCHARGE OF DUTY.

(A) IN GENERAL.

A MEMBER OF THE ORGANIZED MILITIA ORDERED INTO STATE ACTIVE DUTY BY PROPER AUTHORITY IS NOT LIABLE CIVILLY OR CRIMINALLY FOR AN ACT DONE WHILE DISCHARGING A DUTY.

(B) SECURITY FOR PAYMENT AND RECOVERY OF COURT COSTS.

(1) THE COURT SHALL REQUIRE A PERSON TO FILE SECURITY FOR THE PAYMENT OF COSTS THAT MAY BE AWARDED TO THE DEFENDANT WHEN THE PERSON PROSECUTES OR BEGINS A SUIT OR PROCEEDING:

(I) AGAINST AN OFFICER OF THE ORGANIZED MILITIA FOR AN ACT DONE BY THE OFFICER IN THE OFFICER'S OFFICIAL CAPACITY IN THE DISCHARGE OF A DUTY UNDER THIS TITLE;

(II) AGAINST A PERSON ACTING UNDER THE AUTHORITY OR ORDER OF AN OFFICER OF THE ORGANIZED MILITIA; OR

(III) BY VIRTUE OF A WARRANT THAT AN OFFICER OF THE MILITIA LAWFULLY ISSUES.

(2) IN ALL CASES, THE DEFENDANT MAY MAKE A GENERAL DENIAL AND GIVE EVIDENCE.

(3) IF THE CASE IS DISMISSED OR A VERDICT OR JUDGMENT IS RENDERED AGAINST THE PLAINTIFF, THE DEFENDANT SHALL RECOVER TREBLE COSTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 52.

In subsection (a) of this section, the former reference to members of the organized militia not being liable for any act done "by them" while discharging their duty is deleted as implicit in the reference to members of the militia not being liable "for an act done while discharging a duty".

Also in subsection (a) of this section, the reference to "State active duty" is substituted for the former reference to "active service of the State". *See* General Revisor's Note to title.

In subsection (b)(2) of this section, the former reference to giving the "special matter in" evidence is deleted as implicit in the reference to giving "evidence".

In subsection (b)(3) of this section, the reference to the "case [being] dismissed" is substituted for the former reference to the "plaintiff [being] nonsuited" to conform with current terminology.

Defined terms: "Person" § 1-101

"State active duty" § 13-101

SUBTITLE 8. COURTS-MARTIAL.

13-801. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES TO A COURT-MARTIAL OF THE ORGANIZED MILITIA NOT IN THE SERVICE OF THE UNITED STATES.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of the second, third, and fourth paragraphs of former Art. 65, § 43 and the first sentence of the third paragraph of § 44, as they each related to the limitation of courts-martial to the organized militia not in the service of the United States.

13-802. IN GENERAL.

(A) TYPES OF COURTS-MARTIAL.

THERE ARE THREE TYPES OF COURTS-MARTIAL:

(1) A GENERAL COURT-MARTIAL;

(2) A SPECIAL COURT-MARTIAL; AND

(3) A SUMMARY COURT-MARTIAL.

(B) JURISDICTION; POWERS; PROCEDURES; COMPOSITION.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A COURT-MARTIAL SHALL BE CONSISTENT WITH A SIMILAR COURT PROVIDED FOR BY THE LAWS AND REGULATIONS GOVERNING THE UNITED STATES ARMY OR AIR FORCE REGARDING:

(I) JURISDICTION;

(II) POWERS, WITH THE EXCEPTION OF PUNISHMENT;

(III) PROCEDURES; AND

(IV) COMPOSITION.

(2) IN A CASE OF ABSENCE WITHOUT LEAVE, AN OFFENDER SHALL BE REFERRED TO A SUMMARY COURT OFFICER FOR TRIAL WITHOUT FIRST BEING REFERRED TO AN INVESTIGATING OFFICER.

(C) PERSONS SUBJECT TO A COURT-MARTIAL.

(1) A MEMBER OF A FORCE ORGANIZED UNDER THIS TITLE IS IN THE ACTUAL SERVICE OF THE STATE AND IS SUBJECT TO ALL MILITARY LAWS, ORDERS, AND REGULATIONS.

(2) A VIOLATION OF A MILITARY LAW, ORDER, OR REGULATION IS AN OFFENSE AGAINST THE STATE AND IS PUNISHABLE AS PROVIDED IN THIS SUBTITLE.

(D) JURISDICTION OF A COURT-MARTIAL.

(1) THE JURISDICTION OF A COURT-MARTIAL ESTABLISHED UNDER THIS SUBTITLE IS PRESUMED TO BE CORRECT.

(2) A PERSON ALLEGING LACK OF JURISDICTION IN AN ACTION OR PROCEEDING HAS THE BURDEN OF PROVING LACK OF JURISDICTION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first paragraph of former Art. 65, § 43, and from the introductory paragraph of former Art. 65, § 47.

In subsections (a) and (b)(1) of this section, the former references to courts-martial and of "the organized militia" are deleted in light of § 13-801 of this subtitle.

%In the introductory language of subsection (b)(1) of this section, the phrase "shall be consistent with" is substituted for the former phrases "shall be ... like", "shall ... possess like", and "shall follow" for clarity.

Also in the introductory language of subsection (b)(1) of this section, the former reference to the "proceedings" of courts-martial is deleted as included in the reference to a "court-martial".

Also in the introductory language of subsection (b)(1) of this section, the reference to "Air Force" is added to conform to current practice and law relating to the Maryland Air National Guard. *See* General Revisor's Note to title.

In subsection (b)(1)(i) of this section, the reference to "jurisdiction" is substituted for the former phrase, "cognizance of the same subjects", to provide clarity through the use of more modern terminology.

In subsection (b)(1)(iii) of this section, the former reference to "forms and modes" of procedure is deleted as included in the reference to "procedures".

In subsection (b)(1)(iv) of this section, the reference to "composition" is substituted for the former phrase "constituted like" for clarity.

In subsection (b)(2) of this section, the phrase "first being referred" is substituted for the former phrase "previous reference" for clarity.

In subsection (c)(1) of this section, the reference to a "member of a force" is substituted for the former reference to "[t]he force" for clarity.

Also in subsection (c)(1) of this section, the reference to this "title" is substituted for the former reference to this "article" to reflect that former Article 65 is revised in this title. Correspondingly, in subsection (c)(2) and (d)(1) of this section, the references to this "subtitle" are substituted for the former references to this "article" to reflect that the provisions of former Article 65 concerning courts-martial and penalties are revised in this subtitle, *see* § 13-812 of this subtitle.

Also in subsection (c)(1) of this section, the former phrase, "prescribed for the government thereof", is deleted as implicit in the reference to "laws, orders, and regulations".

In subsection (c)(2) of this section, the reference to a "violation of a military law" is substituted for the former reference to "military offenses" for clarity.

Also in subsection (c)(2) of this section, the former reference to offenses against the "general police regulations" of the State is deleted as included in the reference to an offense against "the State".

Also in subsection (c)(2) of this section, the former reference to an offense

punishable "by fine or imprisonment" is deleted as surplusage.

In subsection (d)(1) of this section, the reference to the presumption "be[ing] correct" is added for clarity.

Also in subsection (d)(1) of this section, the reference to a "court-martial" is substituted for the former reference to "said courts or boards" for clarity.

In subsection (d)(2) of this section, the reference to a person "alleging lack of jurisdiction" is substituted for the former reference to a person "seeking to oust such courts or boards of jurisdiction" for clarity.

Defined term: "Person" § 1-101

13-803. OFFENSES SUBJECT TO A COURT-MARTIAL.

(A) COMMISSIONED OFFICERS.

(1) THIS SUBSECTION DOES NOT APPLY TO A COMMISSIONED OFFICER ON DUTY DURING A WAR, INSURRECTION, INVASION, OR PUBLIC DANGER OR ON DUTY TO AID CIVIL AUTHORITIES ON ACCOUNT OF ANY BREACH OF PEACE, TUMULT, RIOT, RESISTANCE TO POWER OF THE STATE, OR IMMINENT DANGER OF ANY OF THESE OR ANY CASES NOT OTHERWISE COVERED.

(2) A COMMISSIONED OFFICER MAY BE TRIED BY A COURT-MARTIAL FOR:

(I) NONATTENDANCE WITHOUT EXCUSE AT ANY DRILL, PARADE, ENCAMPMENT, OR OTHER DUTY ORDERED BY COMPETENT AUTHORITY;

(II) UNMILITARY- OR UNOFFICER-LIKE CONDUCT;

(III) DRUNKENNESS ON DUTY;

(IV) NEGLECT OF DUTY;

(V) DISOBEDIENCE OF ORDERS OR AN ACT THAT IS CONTRARY TO THIS TITLE OR TO THE ORDERS AND REGULATIONS THAT GOVERN THE MILITIA;

(VI) REFUSING TO GRANT A DISCHARGE TO AN ENLISTED INDIVIDUAL ENTITLED TO A DISCHARGE;

(VII) OPPRESSION OR INJURY OF AN INDIVIDUAL UNDER THE OFFICER'S COMMAND;

(VIII) CONSPIRACY OR ATTEMPT TO BREAK, RESIST, OR EVADE THE LAWS OR LAWFUL ORDERS GIVEN TO AN INDIVIDUAL OR ADVISING AN INDIVIDUAL TO CONSPIRE OR ATTEMPT TO BREAK, RESIST, OR EVADE A LAW OR LAWFUL ORDER;

(IX) INSULT OR DISRESPECT TO A SUPERIOR OFFICER IN THE LINE OF MILITARY DUTY;

(X) PRESUMING TO EXERCISE THE OFFICER'S COMMAND WHILE UNDER ARREST OR SUSPENSION;

(XI) NEGLECT OR REFUSAL AS COMMANDING OFFICER TO ORDER OUT THE TROOPS UNDER THE OFFICER'S COMMAND WHEN REQUIRED BY LAW OR LAWFULLY ORDERED BY A SUPERIOR OFFICER;

(XII) NEGLECT OR REFUSAL, WHEN LAWFULLY ORDERED, TO MAKE A DRAFT OR DETACHMENT;

(XIII) RECEIVING A FEE OR GRATUITY FOR A CERTIFICATE;

(XIV) NEGLECT, WHEN DETAILED TO DRILL OR INSTRUCT A COMMAND, TO MAKE COMPLAINT FOR NEGLECT OR VIOLATION OF DUTY, AS PROVIDED BY LAW, OR FOR ANY OTHER NEGLECT FOR WHICH A COMMANDING OFFICER WOULD BE LIABLE;

(XV) REFUSAL OR NEGLECT TO OBEY A PRECEPT OR ORDER TO CALL OUT THE NATIONAL GUARD OR MILITIA, OR REFUSAL OR NEGLECT TO OBEY AN ORDER ARISING FROM AN ORDER TO CALL OUT THE NATIONAL GUARD OR MILITIA, OR FOR ADVISING AN OFFICER OR ENLISTED INDIVIDUAL TO REFUSE OR NEGLECT TO OBEY AN ORDER TO CALL OUT THE NATIONAL GUARD OR MILITIA;

(XVI) MAKING A FALSE CERTIFICATE, ACCOUNT, OR MUSTER; OR

(XVII) CONDUCT UNBECOMING AN OFFICER OR CONDUCT PREJUDICIAL TO GOOD ORDER AND MILITARY DISCIPLINE.

(B) ENLISTED INDIVIDUALS.

AN ENLISTED INDIVIDUAL MAY BE TRIED BY A COURT-MARTIAL FOR:

(1) DISOBEDIENCE OF ORDERS;

(2) DISRESPECT TO SUPERIOR;

(3) MUTINY;

(4) DESERTION;

(5) NEGLECT OF DUTY;

(6) DRUNKENNESS ON DUTY;

(7) CONDUCT PREJUDICIAL TO GOOD ORDER AND MILITARY DISCIPLINE;

(8) AN ACT CONTRARY TO THIS TITLE OR TO ORDERS AND REGULATIONS THAT GOVERN THE MILITIA;

(9) WITHOUT PROPER EXCUSE, ABSENCE FROM OR TARDINESS IN ATTENDING A DRILL, PARADE, ENCAMPMENT, OR OTHER DUTY ORDERED BY COMPETENT AUTHORITY;

(10) NEGLECTING TO TAKE PROPER CARE OF OR WILLFULLY DAMAGING OR DESTROYING ARMS, UNIFORMS, EQUIPMENT, OR MILITARY PROPERTY; OR

(11) FRAUDULENT ENLISTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 47(a) and (b).

Throughout this section, the term enlisted "individual" is substituted for the former term enlisted "men". *See* General Revisor's Note to title.

In subsection (a)(1) of this section, the phrase "[t]his subsection does not apply to" is substituted for the former phrase "[e]xcept when" to conform with other similar provisions of the Code and to clarify the circumstances under which the commissioned officers may not be tried for specified offenses.

In subsection (a)(2)(i) of this section, the former reference to "meeting for instruction" is deleted as included in the reference to "duty".

In subsections (a)(2)(v) and (b)(8) of this section, the references to "this title" are substituted for the former references to "the militia law of the State" to reflect that the militia law of the State is revised in this title.

Also in subsections (a)(2)(v) and (b)(8) of this section, the references to regulations that "govern" the militia are substituted for former references to regulations "prescribed for the government of or issued for the government of" the militia for brevity.

In subsection (a)(2)(vi) of this section, the reference to an individual "entitled to a discharge" is substituted for the former reference to an enlisted man "when entitled to same" for clarity.

In subsection (a)(2)(viii) of this section, the references to an "individual" are substituted for the former references to a "person". *See* General Revisor's Note to title.

In subsection (a)(2)(xv) of this section, the reference to an "order arising from an order to call out the National Guard or militia" is substituted for the former reference to an "order issued in obedience thereto" for clarity.

Also in subsection (a)(2)(xv) of this section, the reference to "refus[ing] or neglect[ing] to obey an order to call out the National Guard or militia" is substituted for the former phrase to "do[ing] the like" for clarity.

In subsection (a)(2)(xvi) of this section, a comma is added between the

terms "certificate" and "account" as these are two separate items.

Also in subsection (a)(2)(xvi) of this section, the former term "parade return" is deleted as included in the reference to a "muster". Similarly, the former reference to a "meeting or instruction" is deleted as included in the reference to "other duty".

In subsection (a)(2)(xvii) of this section, the former reference to conduct unbecoming a "gentleman" is deleted as included in the reference to conduct unbecoming "an officer".

In subsection (b)(10) of this section, the term "damaging" is substituted for the former term "injuring" for clarity.

Defined term: "National Guard" § 13-101

13-804. POWER OF PRESIDING MILITARY JUDGE OR OFFICER.

THE MILITARY JUDGE OR OFFICER PRESIDING OVER A COURT-MARTIAL MAY:

(1) ISSUE A WARRANT TO ARREST AND BRING BEFORE THE COURT FOR TRIAL AN ACCUSED INDIVIDUAL WHO HAS RECEIVED A COPY OF THE CHARGE AND AN ORDER TO APPEAR AND WHO FAILS TO APPEAR BEFORE THE COURT-MARTIAL;

(2) ISSUE A SUBPOENA TO ATTEND, GIVE TESTIMONY, OR PRODUCE DOCUMENTS OR OTHER TANGIBLE THINGS;

(3) ENFORCE BY ATTACHMENT THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF DOCUMENTS AND OTHER TANGIBLE THINGS; AND

(4) IMPOSE A SENTENCE FOR A REFUSAL TO BE SWORN OR TO ANSWER AS PROVIDED IN ACTIONS BEFORE CIVIL COURTS.

REVISOR'S NOTE: This section is new language derived without substantive change from the third paragraph of former Art. 65, § 44, as it related to the authority of an individual presiding over a court-martial.

In the introductory language of this section, the reference to the "officer" presiding over a court-martial is substituted for the former reference to "presidents of courts-martial and summary court officers" for brevity.

Also in the introductory language of this section, the reference to "presiding over a court-martial" is substituted for the former reference to "sit[ting] on a military court" for clarity.

In item (1) of this section, the reference to an "individual" is substituted for the former reference to "persons". *See* General Revisor's Note to title.

Also in item (1) of this section, the former reference to an order "in writing from the convening authority" is deleted as surplusage.

%In item (2) of this section, the reference to a subpoena "to attend, give testimony, or produce documents or other tangible things" is substituted for the former reference to a subpoena and "subpoena duces tecum" to conform with current terminology regarding subpoenas. *See* Md. Rule 2-510.

In item (3) of this section, the reference "documents and other tangible things" is substituted for the former reference "books and papers" to conform with the court's subpoena power in item (2) of this section.

The balance of the third paragraph of former Art. 65, § 44 is revised in § 13-801 of this subtitle.

13-805. SERVICE OF PROCESS; EXECUTION OF SENTENCE.

(A) DUTY OF INDIVIDUALS.

(1) ANY SHERIFF, DEPUTY SHERIFF, OR POLICE OFFICER, OR A MEMBER OF THE ORGANIZED MILITIA APPOINTED BY THE COURT-MARTIAL SHALL SERVE PROCESS AND EXECUTE A SENTENCE OF A COURT-MARTIAL OF THE STATE.

(2) THE INDIVIDUAL WHO SERVES PROCESS SHALL MAKE A RETURN OF SERVICE TO THE OFFICER WHO ISSUED SERVICE.

(B) COSTS.

(1) AN INDIVIDUAL MAY NOT CHARGE A FEE IN ADVANCE FOR SERVICE OF PROCESS OR EXECUTION OF A SENTENCE.

(2) COSTS OF SERVICE OF PROCESS OR EXECUTION OF A SENTENCE SHALL BE PAID FROM FUNDS APPROPRIATED TO THE DEPARTMENT.

(C) SERVICE OF A SUMMONS.

AN INDIVIDUAL AUTHORIZED UNDER SUBSECTION (A) OF THIS SECTION SHALL SERVE A SUMMONS TO APPEAR BEFORE A COURT-MARTIAL BY:

(1) DELIVERING A COPY OF THE SUMMONS TO THE OFFENDER;

(2) READING A COPY OF THE SUMMONS TO THE OFFENDER;

(3) LEAVING A COPY OF THE SUMMONS AT THE OFFENDER'S LAST KNOWN RESIDENCE OR PLACE OF BUSINESS; OR

(4) MAILING A COPY OF THE SUMMONS TO THE OFFENDER'S LAST KNOWN RESIDENCE OR BUSINESS ADDRESS.

(D) RETURN OF SUMMONS.

(1) IF REQUIRED, THE INDIVIDUAL WHO SERVES A SUMMONS SHALL MAKE A RETURN OF THE SUMMONS THAT CONTAINS THE TIME, MANNER, AND PLACE OF SERVICE.

(2) THE RETURN MAY BE VERIFIED UNDER OATH BEFORE A COMMISSIONED OFFICER.

(3) A RETURN VERIFIED UNDER OATH UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE ADMITTED INTO EVIDENCE AT THE TRIAL OF THE INDIVIDUAL SUMMONED WITHOUT THE PRESENCE OR TESTIMONY OF THE INDIVIDUAL SERVING THE SUMMONS.

REVISOR'S NOTE: This section is new language derived without substantive change from the first two sentences of the fourth paragraph of former Art. 65, § 44 and the second paragraph of § 48.

In subsection (a)(2) of this section, the phrase "officer who issued service" is substituted for the former phrase "officer issuing or imposing the same" for clarity.

In subsection (b)(1) of this section, the prohibition against "charg[ing] a fee in advance" for service of process or execution of a sentence is substituted for the former requirement that the service or execution "be made by such officer without tender or advancement of fee therefor," for clarity.

In the introductory language of subsection (c) of this section and in subsection (d)(1) and (3) of this section, the references to an "individual authorized under subsection (a) of this section" and an "individual" are substituted for the former references to an "officer or enlisted man" because, under subsection (a) of this section, individuals other than officers or enlisted individuals may serve process for courts-martial.

Throughout subsection (c) of this section, the references to the "offender" and "offender's" are substituted for the former references to the "delinquent", "him", and "his" for consistency.

In subsection (c)(1) of this section, the former reference to "leaving" a copy of the summons with the offender is deleted as included in the reference to "delivering" a copy of the summons.

In subsection (c)(3) and (4) of this section, the reference to the "last known residence" is substituted for the former phrase "last known place of abode" to conform with other similar provisions of the Code.

In subsection (d)(3) of this section, the reference to being "admitted into evidence" is substituted for the former reference to being "as good evidence" for clarity.

Also in subsection (d)(3) of this section, the reference to the admission into evidence "without the presence or testimony" of an individual is

substituted for the former reference to evidence "as if [the individual] had testified to the same before the court-martial" for brevity.

{2hang}Defined term: "Department" § 13-101

13-806. GENERAL COURT-MARTIAL.

A GENERAL COURT-MARTIAL MAY BE CONVENED BY AN ORDER OF THE GOVERNOR.

REVISOR'S NOTE: This section is new language derived without substantive change from the second paragraph of former Art. 65, § 43, as it related to the convening of a general court-martial.

The balance of the second paragraph of former Art. 65, § 43 is revised in §§ 13-801 and 13-812(a) of this subtitle.

13-807. SPECIAL COURT-MARTIAL.

(A) IN GENERAL.

THE COMMANDING OFFICER OF A GARRISON, FORT, POST, CAMP OR OTHER PLACE, BRIGADE, REGIMENT, DETACHED BATTALION, OR OTHER DETACHED COMMAND OR A SUPERIOR AUTHORITY MAY APPOINT FOR THAT COMMAND A SPECIAL COURT-MARTIAL.

(B) POWERS.

EXCEPT FOR A COMMISSIONED OFFICER, A SPECIAL COURT-MARTIAL MAY TRY AN INDIVIDUAL SUBJECT TO MILITARY LAW, FOR ANY CRIME OR OFFENSE MADE PUNISHABLE UNDER THE MILITARY LAWS OF THE UNITED STATES.

REVISOR'S NOTE: This section is new language derived without substantive change from the third paragraph of former Art. 65, § 43, as it related to the convening of a special court-martial.

In subsection (a) of this section, the former reference to the appointment of a special court-martial "when by the latter deemed desirable" is deleted as surplusage.

The balance of the third paragraph of former Art. 65, § 43 is revised in §§ 13-801 and 13-812(b) of this subtitle.

13-808. SUMMARY COURT-MARTIAL.

(A) IN GENERAL.

(1) THE COMMANDING OFFICER OF A GARRISON, FORT, POST OR OTHER PLACE, REGIMENT OR CORPS, DETACHED BATTALION, COMPANY, OR OTHER DETACHMENT MAY APPOINT FOR THAT COMMAND OR PLACE A SUMMARY COURT-MARTIAL.

(2) A SUMMARY COURT-MARTIAL SHALL CONSIST OF ONE OFFICER.

(B) POWERS.

A SUMMARY COURT OFFICER MAY:

(1) TRY AN ENLISTED INDIVIDUAL OF THE SUMMARY COURT-MARTIAL'S PLACE OR COMMAND FOR A BREACH OF DISCIPLINE OR VIOLATION OF LAW GOVERNING THE PLACE OR COMMAND; AND

(2) ADMINISTER AN OATH.

(C) PROCEDURES.

(1) THE PROCEEDINGS OF A SUMMARY COURT-MARTIAL SHALL BE INFORMAL.

(2) THE MINUTES OF A SUMMARY COURT-MARTIAL SHALL BE THE SAME AS PRESCRIBED FOR THE MINUTES FOR A SUMMARY COURT OF THE UNITED STATES ARMY OR AIR FORCE.

REVISOR'S NOTE: This section is new language derived without substantive change from the fourth paragraph of former Art. 65, § 43, as it related to the convening of a summary court-martial and the powers and procedures for a summary court-martial.

In subsection (b)(1) of this section, the term enlisted "individual" is substituted for the former term enlisted "men". *See* General Revisor's Note to title.

In subsection (c)(2) of this section, the reference to the "Air Force" is added to conform to current practice and law relating to the Maryland Air National Guard. *See* General Revisor's Note to title.

The balance of the fourth paragraph of former Art. 65, § 43 is revised in §§ 13-801 and 13-812(c) of this subtitle.

13-809. IMMUNITY FROM LIABILITY.

AN INDIVIDUAL HAS THE IMMUNITY FROM LIABILITY DESCRIBED IN § 5-513 OF THE COURTS ARTICLE IF THE INDIVIDUAL IS:

(1) A MEMBER OF A COURT-MARTIAL; OR

(2) AN OFFICER OR OTHER INDIVIDUAL:

(I) ACTING UNDER THE COURT'S AUTHORITY; OR

(II) REVIEWING THE COURT'S PROCEEDINGS BECAUSE OF THE APPROVAL, IMPOSITION, OR EXECUTION OF A SENTENCE, THE IMPOSITION OR

COLLECTION OF A FINE OR PENALTY, OR THE EXECUTION OF A WARRANT, WRIT, EXECUTION, PROCESS, OR MANDATE OF A COURT-MARTIAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 46.

Throughout this section, the term "court-martial" is substituted for the former term "military court" to conform with the terminology used in this subtitle.

Also throughout this section, the references to an "individual" are substituted for the former references to a "person". *See* General Revisor's Note to title.

13-810. CONVEYING PRISONER.

THE ACTUAL NECESSARY EXPENSE OF CONVEYING A PRISONER WHEN THE CONVEYANCE IS AUTHORIZED AND DIRECTED BY THE ADJUTANT GENERAL SHALL BE PAID FROM FUNDS APPROPRIATED TO THE DEPARTMENT ON A WARRANT APPROVED BY THE ADJUTANT GENERAL.

REVISOR'S NOTE: This section is new language derived without substantive change from the third sentence of the fourth paragraph of former Art. 65, § 44.

Defined term: "Department" § 13-101

13-811. EXCUSE.

(A) ABSENCE FROM ASSEMBLIES.

NO EXCUSE IS VALID FOR ABSENCE FROM AN ASSEMBLY EXCEPT:

(1) GOOD FAITH ABSENCE FROM THE PLACE WHERE THE ASSEMBLY IS ORDERED;

(2) ILLNESS OF THE INDIVIDUAL THAT PREVENTS THE INDIVIDUAL'S ATTENTION TO ORDINARY PURSUITS;

(3) SICKNESS IN THE INDIVIDUAL'S FAMILY THAT REQUIRES THE INDIVIDUAL'S PERSONAL CARE AND PRESENCE; OR

(4) ANY OTHER REASON THAT THE COURT FINDS SATISFACTORY.

(B) ABSENCE FROM ANNUAL INSPECTION.

NO EXCUSE IS VALID FOR ABSENCE FROM AN ANNUAL INSPECTION EXCEPT:

(1) ILLNESS OF THE INDIVIDUAL THAT WOULD PREVENT ATTENDANCE; OR

(2) ILLNESS IN THE INDIVIDUAL'S FAMILY THAT REQUIRES THE INDIVIDUAL'S PERSONAL CARE AND PRESENCE.

REVISOR'S NOTE: This section is new language derived without substantive change from the third and fourth sentences of the first paragraph of former Art. 65, § 48.

Throughout this section, the term "individual" is substituted for the former term "member" for consistency with the rest of the section.

In subsection (a)(1) of this section, the term "good faith" is substituted for the former term "bona fide" for clarity.

Also in subsection (a)(1) of this section, the former reference to the "city" is deleted as included in the reference to the "place".

In subsection (a)(4) of this section, the reference to any other reason "that the court finds satisfactory" is substituted for the former reference to the provision "that the court may, in its discretion, excuse his absence for any other reason satisfactory to it" for brevity.

13-812. PENALTIES.

(A) GENERAL COURT-MARTIAL.

A GENERAL COURT-MARTIAL MAY IMPOSE ONE OR MORE OF THE FOLLOWING PENALTIES:

(1) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A FINE NOT EXCEEDING $200;

(2) FORFEITURE OF PAY AND ALLOWANCES;

(3) REPRIMAND;

(4) DISMISSAL OR DISHONORABLE DISCHARGE FROM THE SERVICE;

(5) REDUCTION OF NONCOMMISSIONED OFFICERS TO THE RANKS; OR

(6) CONFINEMENT, IN LIEU OF A FINE, NOT TO EXCEED 1 DAY FOR EACH DOLLAR OF FINE AUTHORIZED.

(B) SPECIAL COURT-MARTIAL.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A SPECIAL COURT-MARTIAL MAY IMPOSE THE PENALTIES LISTED IN SUBSECTION (A) OF THIS SECTION.

(2) A SPECIAL COURT-MARTIAL MAY NOT IMPOSE A FINE EXCEEDING $100.

(C) SUMMARY COURT-MARTIAL.

A SUMMARY COURT-MARTIAL MAY IMPOSE THE FOLLOWING PENALTIES:

(1) A FINE NOT EXCEEDING $25 FOR A SINGLE OFFENSE;

(2) REDUCTION OF NONCOMMISSIONED OFFICER TO THE RANKS;

(3) FORFEITURE OF PAY AND ALLOWANCES; OR

(4) CONFINEMENT, IN LIEU OF A FINE, NOT TO EXCEED 1 DAY FOR EACH DOLLAR OF FINE AUTHORIZED.

(D) ENLISTED INDIVIDUALS.

AN ENLISTED INDIVIDUAL CONVICTED OF AN OFFENSE LISTED IN § 13-803 OF THIS SUBTITLE IS SUBJECT TO A FINE NOT EXCEEDING $100.

(E) DISMISSAL OR DISHONORABLE DISCHARGE.

A SENTENCE OF DISMISSAL FROM THE SERVICE OR DISHONORABLE DISCHARGE IMPOSED BY A COURT-MARTIAL MAY NOT BE EXECUTED UNTIL APPROVED BY THE GOVERNOR.

REVISOR'S NOTE: This section is new language derived without substantive change from the fourth, sixth, and seventh sentences of former Art. 65, § 43, the first and second sentences of § 44, the first and second sentences of § 48, as each of those sentences related to the penalties that may be imposed by court-martial.

In the introductory language of subsections (a) and (c) of this section, the former references to courts-martial "of the organized militia" are deleted in light of § 13-801 of this subtitle.

In the introductory language of subsection (a) of this section, the reference to "[a] general court-martial ... impos[ing] one or more of the following penalties" is substituted for the former reference to the authority to combine "any two or more of such punishments ... in the sentences imposed by such courts" for brevity.

In subsection (a)(1) of this section, the phrase "except as provided in subsection (d) of this section" is added to provide a cross-reference to a limitation on a fine for an enlisted individual.

In subsections (a)(6) and (c)(4) of this section, the former references to fines "authorized to be imposed" are deleted as surplusage.

In subsection (b)(1) of this section, the reference to the authority to "impose the penalties listed in subsection (a) of this section" is substituted for the former reference to having the "same powers of punishment as do general courts-martial" for clarity.

%In subsection (c) of this section, the former phrase "when satisfied of the guilt of such soldier" is deleted as unnecessary and implicit in the power to impose a penalty.

In subsection (d) of this section, the term enlisted "individual" is substituted for the former phrase enlisted "man of the organized militia". *See* General Revisor's Note to title.

13-813. SENTENCING.

(A) IMPOSITION OF SENTENCE.

(1) AFTER IMPOSING A SENTENCE OF IMPRISONMENT AND ON APPROVAL OF THE FINDINGS AND SENTENCE OF THE COURT BY THE OFFICER APPOINTING THE COURT, THE INDIVIDUAL PRESIDING OVER A COURT-MARTIAL SHALL MAKE OUT AND SIGN A CERTIFICATE ENTITLING THE CASE THAT INCLUDES:

(I) THE NAME OF THE ACCUSED;

(II) THE DATE AND PLACE OF TRIAL;

(III) THE DATE OF APPROVAL OF THE SENTENCE; AND

(IV) THE MANNER, PLACE, AND TERM OF IMPRISONMENT.

(2) THE INDIVIDUAL PRESIDING OVER THE COURT-MARTIAL SHALL DELIVER THE CERTIFICATE ENTITLING THE CASE TO THE SHERIFF OF THE COUNTY WHERE THE SENTENCE IS TO BE EXECUTED OR THE COMMISSIONER OF CORRECTION.

(B) EXECUTION OF SENTENCE.

A SHERIFF OR THE COMMISSIONER OF CORRECTION WHO RECEIVES A CERTIFICATE UNDER SUBSECTION (A)(2) OF THIS SECTION SHALL CARRY OUT THE EXECUTION OF THE SPECIFIED SENTENCE IN THE MANNER PROVIDED FOR COMMITMENTS TO SERVICE OF TERMS OF IMPRISONMENT IN CRIMINAL CASES IN COURTS OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from the fifth paragraph of former Art. 65, § 44.

In subsection (a)(1) of this section, the clause "[a]fter imposing a sentence of imprisonment" is substituted for the former clause "[w]hen any sentence to imprisonment shall be imposed by any military court of this State" for brevity.

Also in subsection (a)(1) of this section, the phrase "person presiding over a court-martial" is substituted for the former phrase "military judge whenever one sits on such court, and otherwise the president of the court or summary court officer" for brevity.

%In subsections (a)(2) and (b) of this section, the references to the "Commissioner of Correction" are added to conform with current law regarding sentences of imprisonment. *See* CS §§ 9-104 and 9-105.

In subsection (b) of this section, the reference to a sheriff "who receives a certificate under subsection (a)(2) of this section" is substituted for the former reference to "such" sheriff for clarity.

Also in subsection (b) of this section, the reference to the "specified" sentence is substituted for the former term "such" sentence for clarity.

Also in subsection (b) of this section, the former reference to the execution of a sentence in the manner "prescribed by law" is deleted as unnecessary in light of the reference to the execution of a sentence in the manner provided "in criminal cases in courts in the State".

Defined term: "County" § 1-101

13-814. FINES.

(A) IN GENERAL.

ON THE IMPOSITION OF A FINE BY A COURT-MARTIAL AND ON THE APPROVAL OF ITS FINDINGS BY THE OFFICER WHO APPOINTED THE COURT-MARTIAL, THE FINE IS PAYABLE AT ONCE.

(B) COLLECTION OF UNPAID FINES.

(1) IF AN OFFICER OR ENLISTED INDIVIDUAL DOES NOT PAY A FINE WITHIN 10 DAYS AFTER NOTIFICATION OF THE IMPOSITION OF THE FINE, THE FINE MAY BE COLLECTED IN THE NAME OF THE STATE IN THE DISTRICT COURT SITTING IN THE COUNTY WHERE THE OFFICER OR ENLISTED INDIVIDUAL RESIDES IN THE SAME MANNER AS OTHER FINES FOR CRIMES UNDER STATE LAW.

(2) THE DISTRICT COURT SHALL REQUIRE THAT A FINE IMPOSED UNDER THIS SUBTITLE BE PAID ALONG WITH COURT COSTS IF:

(I) THE COURT RECEIVES A CERTIFICATE IN WRITING FROM THE PROPER COMMANDING OFFICER SETTING FORTH THE FINDINGS OF THE COURT-MARTIAL AND THE COMMANDING OFFICER'S APPROVAL OF THOSE FINDINGS; AND

(II) THE OFFENDER IS ARRESTED AND BROUGHT BEFORE THE COURT.

(C) PENALTY FOR FAILURE TO PAY FINES.

IF AN OFFENDER DEFAULTS ON PAYMENT OF THE FINE AND COSTS ORDERED UNDER SUBSECTION (B)(2) OF THIS SECTION, THE DISTRICT COURT MAY, UNDER ARTICLE 38, § 4 OF THE CODE, COMMIT THE OFFENDER TO THE LOCAL

CORRECTIONAL FACILITY OF THE MUNICIPAL CORPORATION OR COUNTY WHERE THE OFFENDER RESIDES.

(D) FINES PAID TO FINANCE OFFICER.

(1) A FINE COLLECTED UNDER SUBSECTION (C) OF THIS SECTION SHALL BE PAID TO THE FINANCE OFFICER OF THE ORGANIZATION OF WHICH THE OFFENDER WAS A MEMBER.

(2) THE FINANCE OFFICER SHALL APPLY ANY FINES RECEIVED TO THE MILITARY FUNDS OF THE ORGANIZATION.

(E) REMISSION OF FINES.

THE GOVERNOR MAY REMIT AS A WHOLE OR IN PART A FINE IMPOSED BY A COURT-MARTIAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 45 and former Art. 41, § 2-403.

In subsection (a) of this section, the reference to the "imposition of a fine by a court-martial" is substituted for the former reference to the "finding of any such court-martial imposing any of said fines" for brevity.

Also in subsection (a) of this section, the reference to the fine being "payable at once" is substituted for the former reference to the fine "be[ing] and becom[ing] at once payable" for brevity.

In subsection (b)(1) of this section, the former reference to an officer or enlisted individual "upon whom a fine has been imposed in accordance with the provisions of this section" is deleted as implicit in the reference to the notification of the imposition of the fine.

Also in subsection (b)(1) of this section, the reference to an individual who "does not" pay is substituted for the former reference to an individual who shall "fail, refuse, or neglect" to pay for brevity.

Also in subsection (b)(1) of this section, the term enlisted "individual" is substituted for the former term enlisted "man". *See* General Revisor's Note to title.

Also in subsection (b)(1) of this section, the reference to the "officer or enlisted individual" is substituted for the former reference to the "delinquent" for consistency within the subsection.

Also in subsection (b)(1) of this section, the former reference to a "city" is deleted because the only city authorized to have a District Court, Baltimore City, is included in the definition of "county". *See* § 1-101 of this article.

%Also in subsection (b)(1) of this section, the reference to allowing a fine to be collected in the same manner as other fines "for crimes under State law" is substituted for the former reference to fines for "offenses against the general police regulations of the State" for brevity.

In subsection (b)(2) of this section, the former phrase "forthwith adjudge" is deleted as surplusage.

Also in subsection (b)(2) of this section, the reference to "court costs" is substituted for the former reference to "all the costs of the proceedings before him" for clarity and consistency.

In subsection (b)(2)(i) of this section, the reference to "the court receiv[ing] a certificate in writing" is substituted for the former phrase "upon the certificate in writing ... [and] upon the production of the said certificate before the court" for clarity.

In subsection (b)(2)(ii) of this section, the phrase "brought before the court" is substituted for the former phrase "production ... before the court" for clarity.

In subsection (c) of this section, the term "offender" is substituted for the former term "delinquent" for consistency throughout this subtitle.

Also in subsection (c) of this section, the term "local correctional facility" is substituted for the former term "jail" for consistency with other revised articles. *See, e.g.,* the Correctional Services Article and Criminal Procedure Article.

Also in subsection (c) of this section, the term "municipal corporation" is substituted for the former term "city" to conform with terminology in the Correctional Services Article relating to local correctional facilities. *See* CS § 1-101.

In subsection (d) of this section, the reference to a fine "collected under subsection (c) of this section" is substituted for the former reference to a fine "imposed on appeal from the judgment of the District Court" for clarity. The Public Safety Article Review Committee notes that, although the former law referred to an "appeal from a judgment", this more accurately is an action to collect a fine previously imposed by a court-martial.

Defined term: "County" § 1-101

SUBTITLE 9. PROHIBITED ACTS.

13-901. UNLAWFUL WEARING OF UNIFORM.

(A) SCOPE OF SECTION.

THIS SECTION DOES NOT APPLY TO THE WEARING OF:

(1) SHOES, SOCKS, SHIRTS, TIES, OR SCARFS; OR

(2) TROUSERS, OVERALLS, OVERCOATS, RAINCOATS, FIELD JACKETS, OR HEADGEAR FROM WHICH THE SERVICE BUTTONS, INSIGNIA, AND OTHER DISTINCTIVE MARKINGS HAVE BEEN REMOVED.

(B) PROHIBITED.

WITHOUT AUTHORITY UNDER THE LAWS OF THE UNITED STATES OR THIS STATE, A PERSON MAY NOT WEAR A UNIFORM OR DISTINCTIVE PART OF A UNIFORM OR AN ITEM SIMILAR TO A UNIFORM OR A DISTINCTIVE PART OF A UNIFORM OF:

(1) THE UNITED STATES ARMY, NAVY, AIR FORCE, MARINE CORPS, OR COAST GUARD; OR

(2) THE NATIONAL GUARD OF THIS STATE, ANOTHER STATE, OR THE UNITED STATES;

(3) THE MARYLAND DEFENSE FORCE; OR

(4) AN AUXILIARY OF ANY OF THE MILITARY UNITS LISTED IN THIS SUBSECTION.

(C) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 60 DAYS OR A FINE OF NOT LESS THAN $100 AND NOT EXCEEDING $500 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 96 1/2, § 42.

In subsection (b)(1) of this section, the reference to the "Air Force" is added. *See* General Revisor's Note to title.

In subsection (b)(2) of this section, the former reference to the "naval militia" is deleted as obsolete. There is no longer a naval militia in Maryland. *See* Ch. 638, Acts of 1999.

In subsection (b)(3) of this section, the reference to the "Maryland Defense Force" is substituted for the former reference to the "State guard" for accuracy. *See* § 2, Ch. 239, Acts of 1990, which provides that "with regard to any existing regulation, policy, or document created by any official agency or unit of the State, the term `Maryland State Guard' and every variation of that term means `Maryland Defense Force'".

In subsection (c) of this section, the phrase "on conviction" is added for clarity.

Defined terms: "Maryland Defense Force" § 13-101

"National Guard" § 13-101

"Person" § 1-101

"State" § 1-101

13-902. SALE, PURCHASE, OR IMPROPER USE OF PROPERTY; UNLAWFUL WEARING OF UNIFORM.

(A) SCOPE OF SECTION.

THIS SECTION DOES NOT APPLY TO A MEMBER OF THE UNITED STATES ARMY, NAVY, AIR FORCE, MARINES, OR COAST GUARD, THE ORGANIZED MILITIA OF THIS STATE OR ANOTHER STATE, AN OFFICER OF THE MARYLAND DEFENSE FORCE, OR A MEMBER OF ASSOCIATIONS WHOLLY COMPOSED OF SOLDIERS HONORABLY DISCHARGED FROM THE ARMED FORCES OF THE UNITED STATES.

(B) PROHIBITED.

A PERSON MAY NOT:

(1) HIDE, SELL, DISPOSE OF, OFFER FOR SALE, PURCHASE, RETAIN AFTER A DEMAND BY A COMMISSIONED OFFICER OF THE ORGANIZED MILITIA, OR PLEDGE ANY ARMS, UNIFORMS, EQUIPMENT, OR OTHER MILITARY PROPERTY ISSUED UNDER THIS TITLE; OR

(2) WEAR ANY OF THE FOLLOWING ARTICLES OR OBJECTS PRESCRIBED BY LAW FOR THE USE OF THE ORGANIZED MILITIA:

(I) A UNIFORM;

(II) A DEVICE, STRAP, KNOT, OR INSIGNIA OF ANY DESIGN OR CHARACTER THAT IS USED AS A DESIGNATION OF GRADE, RANK, OR OFFICE; OR

(III) AN ARTICLE OR OBJECT SIMILAR TO AN ARTICLE OR OBJECT DESCRIBED IN ITEM (I) OR (II) OF THIS ITEM.

(C) PENALTY.

(1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT LESS THAN $20 AND NOT EXCEEDING $50 FOR EACH OFFENSE.

(2) (I) A FINE IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE PAID TO THE ADJUTANT GENERAL.

(II) THE ADJUTANT GENERAL SHALL APPLY A FINE PAID UNDER THIS PARAGRAPH TO THE USE OF THE ORGANIZED MILITIA.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 49.

%In subsection (a) of this section, the reference to "Air Force, Marines, Coast Guard" is added. *See* General Revisor's Note to title.

Also in subsection (a) of this section, the term "Maryland Defense Force" is substituted for the former reference "independent military organizations as designated in this article". The Maryland Defense Force is the only military organization designated in this title, other than the National Guard and inactive National Guard. *See* § 13-203 of this title.

Also in subsection (a) of this section, the former reference to "members of the Confederate Veterans or like societies" is deleted as obsolete. There are no living veterans of the Confederacy.

Also in subsection (a) of this section, the term "armed forces" is substituted for the former term "service" for clarity.

In subsection (b)(1) of this section, the former phrase "in any manner" is deleted as surplusage.

Also in subsection (b)(1) of this section, the former reference to "pawn[ing]" military property is deleted as unnecessary in light of the reference to "pledg[ing]" military property.

Also in subsection (b)(1) of this section, the reference to "this title" is substituted for the former reference to the provisions of "this article" to reflect the revision of former Article 65 as this "title".

In subsection (b)(2) of this section, the former reference to "general regulations duly promulgated" is deleted as included in the reference to "law". *See Md. Port Adm. v. Brawner Contracting Co.*, 303 Md. 44, 60 (1984), which states that a regulation has "the force and effect of law".

In subsection (c) of this section, the reference to a conviction "in the District Court sitting in the city or county wherein such offense was committed" is deleted as unnecessary in light of the general provisions of CJ § 4-301, which grants the District Court jurisdiction over misdemeanor cases, and CP § 4-201, which establishes the venue of the District Court in criminal cases.

Also in subsection (c) of this section, the former reference to a person "in default of the payment of the fine and costs" being "committed to the jail of the county or city, as the case may be, pursuant to the provisions of Art. 38, § 4, Annotated Code of Maryland" is deleted as an unnecessary restatement of Art. 38, § 4.

In subsection (c)(2)(i) of this section, the reference to a fine imposed "under paragraph (1) of this subsection" is substituted for the former reference to a fine imposed "on appeal from the judgment of the District Court" to clarify that all fines should be paid to the Adjutant General.

%The Public Safety Article Review Committee notes, for consideration by the General Assembly, that the activity prohibited by subsection (b)(2) of this section is arguably also prohibited by § 13-901, which is broader and carries a greater penalty. The General Assembly may wish to consider whether subsection (b)(2) of this section is necessary in light of § 13-901.

Defined terms: "Maryland Defense Force" § 13-101

"Person" § 1-101

"State" § 1-101

13-903. MISAPPLICATION OR CONVERSION OF MONEY OR PROPERTY.

(A) PROHIBITED.

A PERSON MAY NOT WILLFULLY:

(1) MISAPPLY OR CONVERT TO THE PERSON'S OWN USE ANY MONEY OR OTHER PROPERTY BELONGING TO THE ORGANIZED MILITIA; OR

(2) ON THE LAWFUL REQUEST OF THE PROPER OFFICER, FAIL OR REFUSE TO DELIVER TO THE OFFICER ANY MONEY OR OTHER PROPERTY THAT IS IN THE POSSESSION OF THE PERSON OR FOR WHICH THE PERSON IS CHARGEABLE OR ACCOUNTABLE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING $500 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 50.

In the introductory language of subsection (a) of this section, the former reference "unlawfully" is deleted as implicit in the reference "willfully".

In subsection (a)(1) of this section, the former reference to "any organization thereof" is deleted as implicit in the reference to the "organized militia".

In subsection (b) of this section, the former reference to a conviction in "the District Court sitting in the city or county wherein such offense was committed, or the circuit court of the county wherein such offense was committed, should the accused party prefer a jury trial" is deleted as unnecessary in light of the general provisions of CJ § 4-301, which grants the District Court jurisdiction over misdemeanor cases, and CP § 4-201, which establishes the venue of the District Court in criminal cases.

Also in subsection (b) of this section, the former reference to imprisonment "in jail" is deleted as implicit in the reference to imprisonment.

%Also in subsection (b) of this section, the former reference to "the discretion of the court" is deleted as implicit in the authority to set maximum penalties.

Defined term: "Person" § 1-101

13-904. EXCLUSION FROM PLACES OF AMUSEMENT OR RECREATION.

(A) PROHIBITED.

A PERSON WHO IS THE OWNER OR WHO IS AN AGENT OF THE OWNER OF A PLACE OF AMUSEMENT OR RECREATION OPEN TO THE PUBLIC MAY NOT REFUSE ADMISSION TO AN OFFICER OR ENLISED INDIVIDUAL OF THE UNITED STATES ARMY, NAVY, MARINE CORPS, COAST GUARD, OR AIR FORCE OR THE ORGANIZED MILITIA OF THIS STATE OR OF ANOTHER STATE BECAUSE THE OFFICER OR ENLISTED INDIVIDUAL IS IN UNIFORM.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING $500 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 65, § 51.

In subsection (a) of this section, the reference to the "Air Force" is added. *See* General Revisor's Note to title.

Also in subsection (a) of this section, the reference to an enlisted "individual" is substituted for the former reference to enlisted "men". *See* General Revisor's Note to title.

Also in subsection (a) of this section, the reference to the "Coast Guard" is substituted for the former reference to the "Revenue Cutter Service". In 1915, in accordance with an Act of Congress (38 Statutes at Large, 800), the Revenue Cutter Service and the Life-Saving Service were combined to form the Coast Guard.

Also in subsection (a) of this section, the former reference to an agent "whatever may be the latter's designation" is deleted as surplusage.

Also in subsection (a) of this section, the former reference to admission "which is free or otherwise" is deleted as surplusage.

Also in subsection (a) of this section, the former reference to "exclud[ing]" a person is deleted as included in the reference to "refus[ing] admission" to a person.

Also in subsection (a) of this section, the former reference to refusing

admission "from the said place of amusement or of recreation" is deleted as implicit in the refusal of "admission".

Also in subsection (a) of this section, the former reference to a "territory and ... the District of Columbia" is deleted as included in the defined term "State". *See* § 1-101 of this article.

In subsection (b) of this section, the former reference to "the discretion of the court" is deleted as implicit in the authority to set maximum penalties.

Defined terms: "Person" § 1-101

"State" § 1-101

13-905. IMMUNITY FROM ARREST.

A MEMBER OF THE ORGANIZED MILITIA MAY NOT BE ARRESTED ON ANY PROCESS NOT ISSUED BY A MILITARY AUTHORITY WHILE GOING TO, REMAINING AT, OR RETURNING FROM A PLACE THAT THE MEMBER IS REQUIRED TO ATTEND FOR MILITARY DUTY.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 65, § 51.

GENERAL REVISOR'S NOTE TO TITLE:

In this title, the names of various branches of the armed forces are added for completeness. 10 U.S.C. § 101(a)(4) defines armed forces as follows: "The term `armed forces' means the Army, Navy, Air Forces, Marine Corps, and Coast Guard". Where there is no apparent rationale in former Article 65 for the omission of the names of one or more of these branches, this revision adds the omitted references for completeness and to conform to federal law.

In several instances throughout this title, where the former law only referenced the United States Army, the reference to the United States Air Force has been added. Formerly part of the United States Army known as the Army Air Corps, in 1947 the United States Air Force became an independent branch of the armed forces. Under current law, the National Guard is divided into the Army National Guard and the Air National Guard. Current practice is for officers of the United States Air Force to command units of the Air National Guard and to participate in examining applicants for commissioning as an officer. Also, former officers and enlisted persons of the United States Air Force and graduates from the United States Air Force Academy are eligible for appointment as officers of the National Guard. For conformity with current law and practice, references to the United States Air Force have been added where there are references to the United States Army. The only exception to this is in § 13-305 of this title, which requires appointment of a Deputy Assistant Adjutant General for the Maryland Army National Guard but is silent regarding this position for the Air National Guard.

Also this title adds a definition of "State active duty". It replaces various references in former Article 65 to "active duty status", "active service", and "military

service". The terms "active duty" and "active military service", although not defined, also appear in this title. "Active duty" includes both State active duty and active duty under federal law.

Throughout this title, the terms "enlisted individuals" and "enlisted individual" are substituted for the former terms "enlisted men", "enlisted man", and "enlisted person". Under Art. 1, § 7, "[u]nless the General Assembly specifically provides otherwise in a particular statute, all words in this code importing one gender include and apply to the other gender as well". Also, the references to an "individual" are substituted for the former references to a "person" because only an individual and not the other entities included in the defined term "person" can be members of the militia. *See* § 1-101 of this article for the definition of "person".

Former Art. 65, § 77, which established severability for former Article 65, is deleted as unnecessary in light of Art. 1, § 23, which establishes severability for all statutes enacted after July 1, 1973.

TITLE 14. EMERGENCY MANAGEMENT.

SUBTITLE 1. MARYLAND EMERGENCY MANAGEMENT AGENCY ACT.

14-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the introductory phrase of former Art. 16A, § 3.

It is restated in the standard introductory language to a definition section.

(B) DIRECTOR.

"DIRECTOR" MEANS THE DIRECTOR OF MEMA.

REVISOR'S NOTE: This subsection is new language added as a shorthand reference to the Director of the Maryland Emergency Management Agency.

Defined term: "MEMA" § 14-101

(C) EMERGENCY.

"EMERGENCY" MEANS THE THREAT OR OCCURRENCE OF:

(1) A HURRICANE, TORNADO, STORM, FLOOD, HIGH WATER, WIND-DRIVEN WATER, TIDAL WAVE, EARTHQUAKE, LANDSLIDE, MUDSLIDE, SNOWSTORM, DROUGHT, FIRE, EXPLOSION, AND ANY OTHER DISASTER IN ANY PART

OF THE STATE THAT REQUIRES STATE ASSISTANCE TO SUPPLEMENT LOCAL EFFORTS IN ORDER TO SAVE LIVES AND PROTECT PUBLIC HEALTH AND SAFETY; OR

(2) AN ENEMY ATTACK, ACT OF TERRORISM, OR PUBLIC HEALTH CATASTROPHE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 16A, § 3(d).

In item (1) of this subsection, the reference to a "disaster" is substituted for the former reference to a "catastrophe". In the former law the term "disaster" was used throughout the subtitle, often in conjunction with the term "emergency". By including a reference to "any other disaster" in the defined term "emergency", one term - "emergency" - can be used throughout this subtitle instead of two terms as in the former law.

Also in item (1) of this subsection, the former reference to State "emergency" assistance is deleted to avoid using the term being defined in its own definition.

(D) EMERGENCY MANAGEMENT.

(1) "EMERGENCY MANAGEMENT" MEANS THE PREPARATION FOR AND CARRYING OUT OF FUNCTIONS IN AN EMERGENCY IN ORDER TO SAVE LIVES AND TO MINIMIZE AND REPAIR INJURY AND DAMAGE THAT RESULT FROM EMERGENCIES BEYOND THE CAPABILITIES OF LOCAL AUTHORITIES.

(2) "EMERGENCY MANAGEMENT" DOES NOT INCLUDE THE PREPARATION FOR AND CARRYING OUT OF FUNCTIONS IN AN EMERGENCY FOR WHICH MILITARY FORCES ARE PRIMARILY RESPONSIBLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 16A, § 3(a).

Defined term: "Emergency" § 14-101

(E) LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT.

"LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT" MEANS AN ORGANIZATION ESTABLISHED BY A POLITICAL SUBDIVISION OR OTHER LOCAL AUTHORITY UNDER § 14-109 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 16A, § 3(b).

The defined term "political subdivision" is substituted for the former reference to a "city, town, [or] county" to conform to language used in § 14-109 of this subtitle and to use the defined term.

The former phrase "as authorized by the Governor under the State plan" is

deleted as unnecessary in light of the reference to an organization established by a political subdivision "under § 14-109 of this subtitle".

Defined term: "Political subdivision" § 14-101

(F) MEMA.

"MEMA" MEANS THE MARYLAND EMERGENCY MANAGEMENT AGENCY.

REVISOR'S NOTE: This subsection is new language added as a shorthand reference to the Maryland Emergency Management Agency.

(G) POLITICAL SUBDIVISION.

"POLITICAL SUBDIVISION" MEANS A COUNTY OR MUNICIPAL CORPORATION OF THE STATE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 16A, § 3(c).

The phrase "of the State" is added for clarity and to avoid repetition in the revision of the reference to a political subdivision "of the State". Consequently, throughout this subtitle, former references to a political subdivision "of this State" are deleted.

The former specific references to a "town", "village", and "district" are deleted as unnecessary in light of the general references to a "county" and "municipal corporation".

Defined term: "County" § 1-101

14-102. LEGISLATIVE POLICY.

(A) IN GENERAL.

TO ENSURE THAT THE STATE WILL BE ADEQUATELY PREPARED TO DEAL WITH EMERGENCIES THAT ARE BEYOND THE CAPABILITIES OF LOCAL AUTHORITIES, TO PROVIDE FOR THE COMMON DEFENSE, TO PROTECT THE PUBLIC PEACE, HEALTH, AND SAFETY, AND TO PRESERVE THE LIVES AND PROPERTY OF THE PEOPLE OF THE STATE, IT IS NECESSARY TO:

(1) ESTABLISH A MARYLAND EMERGENCY MANAGEMENT AGENCY;

(2) AUTHORIZE THE ESTABLISHMENT OF LOCAL ORGANIZATIONS FOR EMERGENCY MANAGEMENT IN THE POLITICAL SUBDIVISIONS;

(3) CONFER ON THE GOVERNOR AND ON THE EXECUTIVE HEADS OR GOVERNING BODIES OF THE POLITICAL SUBDIVISIONS THE EMERGENCY POWERS PROVIDED IN THIS SUBTITLE; AND

(4) PROVIDE FOR THE RENDERING OF MUTUAL AID AMONG THE POLITICAL SUBDIVISIONS AND WITH OTHER STATES IN CARRYING OUT EMERGENCY MANAGEMENT FUNCTIONS.

(B) EFFECTIVE USE OF RESOURCES.

IT IS THE POLICY OF THE STATE AND THE PURPOSE OF THIS SUBTITLE TO COORDINATE, TO THE MAXIMUM EXTENT POSSIBLE, ALL EMERGENCY MANAGEMENT FUNCTIONS OF THE STATE WITH THE COMPARABLE FUNCTIONS OF THE FEDERAL GOVERNMENT, OTHER STATES, OTHER LOCALITIES, AND PRIVATE AGENCIES, SO THAT THE MOST EFFECTIVE PREPARATION AND USE MAY BE MADE OF THE RESOURCES AND FACILITIES AVAILABLE FOR DEALING WITH ANY EMERGENCY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, § 2.

In the introductory language of subsection (a) of this section, the former reference to "disasters" is deleted as included in the defined term "emergenc[ies]".

Also in the introductory language of subsection (a) of this section, the former phrase "found and declared to be" is deleted as surplusage.

In subsection (b) of this section, the former phrase "further declared to be" is deleted as surplusage.

Also in subsection (b) of this section, the defined term "emergency" is substituted for the former reference to a "disaster" for clarity.

Also in subsection (b) of this section, the former phrase "of every type", which modified "private agencies", is deleted as surplusage. Similarly, the former phrase "that may occur", which modified "any disaster", is deleted as surplusage.

Defined terms: "Emergency" § 14-101

"Emergency management" § 14-101

"Local organization for emergency management" § 14-101

"Political subdivision" § 14-101

"State" § 1-101

14-103. MARYLAND EMERGENCY MANAGEMENT AGENCY ESTABLISHED.

(A) IN GENERAL.

THERE IS A MARYLAND EMERGENCY MANAGEMENT AGENCY IN THE MILITARY DEPARTMENT.

(B) UNIT OF STATE GOVERNMENT.

MEMA IS A UNIT OF STATE GOVERNMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 65, § 15A and former Art. 16A, § 4(a)(1).

In subsection (b) of this section, the reference to a "unit" of State government is substituted for the former reference to an "agency" for consistency with terminology used throughout the revised articles of the Code. The term "unit" is used as the general term for an entity in the State government because it is inclusive enough to include all such entities. *See* General Revisor's Note to article.

Defined terms: "Emergency management" § 14-101

"MEMA" § 14-101

14-104. DIRECTOR OF MEMA.

(A) APPOINTMENT.

THE ADJUTANT GENERAL SHALL APPOINT THE DIRECTOR OF MEMA WITH THE APPROVAL OF THE GOVERNOR.

(B) TERM.

THE DIRECTOR SERVES AT THE PLEASURE OF THE ADJUTANT GENERAL.

(C) SALARY.

(1) THE DIRECTOR IS IN THE EXECUTIVE SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM AND IS ENTITLED TO THE SALARY PROVIDED IN THE STATE BUDGET.

(2) THE DIRECTOR'S EMPLOYMENT IS NOT SUBJECT TO THE CONDITIONS AND LIMITATIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(D) DUTIES.

(1) THE DIRECTOR IS THE EXECUTIVE HEAD OF MEMA.

(2) THE DIRECTOR IS RESPONSIBLE TO THE GOVERNOR AND THE ADJUTANT GENERAL FOR CARRYING OUT THE STATE EMERGENCY MANAGEMENT PROGRAM.

(3) IF THE GOVERNOR HAS FORMALLY DECLARED THE THREAT OR OCCURRENCE OF AN EMERGENCY, THE DIRECTOR SHALL COORDINATE THE ACTIVITIES OF ALL ORGANIZATIONS FOR EMERGENCY MANAGEMENT OPERATIONS IN THE STATE.

(4) WITH THE APPROVAL OF THE ADJUTANT GENERAL AND IN COLLABORATION WITH OTHER PUBLIC AND PRIVATE AGENCIES IN THE STATE, THE DIRECTOR SHALL DEVELOP OR CAUSE TO BE DEVELOPED MUTUAL AID AGREEMENTS FOR RECIPROCAL EMERGENCY AID AND ASSISTANCE IN CASE OF EMERGENCY OF AN EXTREME NATURE THAT AFFECTS TWO OR MORE POLITICAL SUBDIVISIONS.

(5) THE DIRECTOR SHALL MAINTAIN LIAISON AND COOPERATE WITH EMERGENCY MANAGEMENT AGENCIES AND ORGANIZATIONS OF OTHER STATES AND THE FEDERAL GOVERNMENT.

(E) STAFF.

SUBJECT TO THE AUTHORITY OF THE ADJUTANT GENERAL, THE DIRECTOR MAY EMPLOY PERSONNEL IN ACCORDANCE WITH THE STATE BUDGET AND SUBJECT TO THE CONDITIONS AND LIMITATIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(F) EXPENDITURES FOR EMERGENCY MANAGEMENT.

THE DIRECTOR MAY MAKE EXPENDITURES WITHIN THE APPROPRIATIONS IN THE STATE BUDGET OR FROM OTHER MONEY MADE AVAILABLE TO THE DIRECTOR FOR PURPOSES OF EMERGENCY MANAGEMENT AS NECESSARY TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, §§ 8 and 4(a)(2), (b), and (c).

In subsection (c)(2) of this section, the reference to the "Director's employment" not being subject to the conditions and limitations of the State Personnel and Pensions Article is substituted for the former parenthetical phrase "(except as to the position of Director)" for clarity.

In subsection (d)(3) of this section, the former reference to a "State" emergency is deleted as unnecessary in light of the defined term "emergency".

In subsection (d)(4) of this section, the reference to mutual aid "agreements" is substituted for the former reference to "arrangements" for consistency with terminology used throughout this title.

Also in subsection (d)(4) of this section, the defined term "emergency" is substituted for the former reference to a "disaster" for clarity.

In subsection (e) of this section, the former specific references to "professional, technical, clerical, stenographic, and other" personnel is deleted as included in the general reference to "personnel".

In subsection (f) of this section, the former reference to "the purposes of" this subtitle is deleted as surplusage.

Defined terms: "Director" § 14-101

"Emergency" § 14-101

"Emergency management" § 14-101

"MEMA" § 14-101

"Political subdivision" § 14-101

"State" § 1-101

14-105. EMERGENCY MANAGEMENT ADVISORY COUNCIL.

(A) ESTABLISHED.

THERE IS AN EMERGENCY MANAGEMENT ADVISORY COUNCIL.

(B) MEMBERSHIP.

THE COUNCIL CONSISTS OF THE MEMBERS THAT THE GOVERNOR DESIGNATES, INCLUDING:

(1) FAIR AND REASONABLE REPRESENTATION FOR LOCAL GOVERNMENT;

(2) REPRESENTATION FOR ORGANIZATIONS THAT REPRESENT VOLUNTEER FIREFIGHTERS AND RESCUE SQUADS; AND

(3) REPRESENTATION FROM MANUFACTURING, UTILITIES, AND COMMUNICATIONS INDUSTRIES.

(C) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE COUNCIL:

(1) MAY NOT RECEIVE COMPENSATION FOR SERVICE ON THE COUNCIL; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(D) DUTIES.

THE COUNCIL SHALL ADVISE THE GOVERNOR ON ALL MATTERS THAT RELATE TO EMERGENCY MANAGEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, § 5.

In subsection (b) of this section, the former reference to the members that the Governor "shall deem appropriate" is deleted as implicit in the reference to the members that the Governor "designates".

In subsection (c)(1) of this section, the phrase "for service on the Council" is added for specificity.

Subsection (c)(2) of this section is revised in standard language used to provide for reimbursement of expenses for members of boards and commissions. Under SF § 10-203, the Board of Public Works has adopted regulations for reimbursement of expenses. *See* COMAR 23.02.01.01 through .12.

%In subsection (d) of this section, the former reference to "State" emergency management is deleted as unnecessary in light of the defined term "emergency management".

Defined term: "Emergency management" § 14-101

14-106. EMERGENCY MANAGEMENT POWERS OF GOVERNOR.

(A) IN GENERAL.

(1) THE GOVERNOR:

(I) HAS CONTROL OF AND IS RESPONSIBLE FOR MEMA; AND

(II) IS RESPONSIBLE FOR CARRYING OUT THIS SUBTITLE.

(2) IN THE EVENT OF THE THREAT OR OCCURRENCE OF AN EMERGENCY, THE GOVERNOR MAY ASSUME DIRECT OPERATIONAL CONTROL OVER ALL OR PART OF AN EMERGENCY MANAGEMENT FUNCTION CREATED OR AUTHORIZED BY THIS SUBTITLE AND SUBTITLES 2 AND 4 OF THIS TITLE.

(3) THE GOVERNOR MAY DELEGATE THE POWERS THE GOVERNOR SEES FIT TO AN INDIVIDUAL WHO IS EMPLOYED:

(I) IN THE EXECUTIVE DEPARTMENT OF STATE GOVERNMENT;

(II) AS A SECRETARY OF A PRINCIPAL DEPARTMENT; OR

(III) AS THE HEAD OF AN INDEPENDENT STATE AGENCY.

(B) SPECIFIC POWERS.

IN PERFORMING DUTIES UNDER THIS SUBTITLE, THE GOVERNOR:

(1) MAY COOPERATE WITH THE FEDERAL GOVERNMENT, OTHER STATES, AND PRIVATE AGENCIES IN ALL MATTERS THAT RELATE TO THE EMERGENCY MANAGEMENT OPERATIONS OF THIS STATE AND THE UNITED STATES;

(2) MAY ISSUE ORDERS, RULES, AND REGULATIONS NECESSARY OR DESIRABLE TO:

(I) CARRY OUT THIS SUBTITLE;

(II) PREPARE AND REVISE, AS NECESSARY, A COMPREHENSIVE PLAN AND PROGRAM FOR THE EMERGENCY MANAGEMENT OPERATIONS OF THIS STATE;

(III) INTEGRATE THE PLAN AND PROGRAM OF THIS STATE WITH THE EMERGENCY MANAGEMENT OPERATIONS PLANS OF THE FEDERAL GOVERNMENT AND OTHER STATES; AND

(IV) COORDINATE THE PREPARATION OF PLANS AND PROGRAMS FOR EMERGENCY MANAGEMENT OPERATIONS BY THE POLITICAL SUBDIVISIONS;

(3) MAY AUTHORIZE THE PROCUREMENT OF SUPPLIES AND EQUIPMENT AND THE INSTITUTION OF TRAINING PROGRAMS AND PUBLIC INFORMATION PROGRAMS AND OTHER STEPS TO PREPARE FOR AN EMERGENCY;

(4) MAY AUTHORIZE STUDIES AND SURVEYS OF INDUSTRIES, RESOURCES, AND FACILITIES IN THE STATE AS NECESSARY OR DESIRABLE TO:

(I) ASCERTAIN THE STATE'S CAPABILITIES FOR EMERGENCY MANAGEMENT OPERATIONS; AND

(II) PREPARE PLANS FOR THE EMERGENCY MANAGEMENT OF RESOURCES IN ACCORDANCE WITH THE NATIONAL PLAN FOR EMERGENCY PREPAREDNESS;

(5) MAY APPOINT, IN COOPERATION WITH LOCAL AUTHORITIES, DIRECTORS OF LOCAL ORGANIZATIONS FOR EMERGENCY MANAGEMENT, MAY DELEGATE TO THE DIRECTORS ANY ADMINISTRATIVE AUTHORITY VESTED IN THE GOVERNOR UNDER THIS SUBTITLE, AND MAY PROVIDE FOR THE SUBDELEGATION OF THAT AUTHORITY; AND

(6) MAY DELEGATE THE GOVERNOR'S AUTHORITY UNDER THIS SUBSECTION TO AN INDIVIDUAL WHO IS EMPLOYED:

(I) IN THE EXECUTIVE DEPARTMENT OF STATE GOVERNMENT;

(II) AS A SECRETARY OF A PRINCIPAL DEPARTMENT; OR

(III) AS THE HEAD OF AN INDEPENDENT STATE AGENCY.

(C) HARMFUL CONSEQUENCES OF POTENTIAL EMERGENCIES.

(1) IN ADDITION TO EMERGENCY PREVENTION MEASURES INCLUDED IN THE STATE, LOCAL, AND INTERJURISDICTIONAL EMERGENCY PLANS, THE GOVERNOR SHALL CONSIDER, ON A CONTINUING BASIS, STEPS THAT COULD BE TAKEN TO PREVENT OR REDUCE THE HARMFUL CONSEQUENCES OF POTENTIAL EMERGENCIES.

(2) (I) AT THE DIRECTION OF THE GOVERNOR, AND IN ACCORDANCE WITH ANY OTHER AUTHORITY AND COMPETENCE THEY HAVE, STATE AGENCIES SHALL STUDY MATTERS RELATED TO EMERGENCY PREVENTION.

(II) STATE AGENCIES REQUIRED TO STUDY MATTERS RELATED TO EMERGENCY PREVENTION INCLUDE THOSE CHARGED WITH RESPONSIBILITIES IN CONNECTION WITH FLOOD PLAIN MANAGEMENT, STREAM ENCROACHMENT AND FLOW REGULATION, WEATHER MODIFICATION, FIRE PREVENTION AND CONTROL, AIR QUALITY, PUBLIC WORKS, LAND USE AND LAND-USE PLANNING, AND CONSTRUCTION STANDARDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, § 6.

In subsection (a)(1)(i) of this section, the reference to the Governor being "responsible for" MEMA is substituted for the former reference to the Governor having "general direction" of MEMA for clarity.

In subsection (a)(2) of this section, the reference to "this subtitle and Subtitles 2 and 4 of this title" is substituted for the former reference to "this article" for accuracy. Former Article 16A is revised in Subtitles 1, 2, and 4 of this title.

In subsection (b)(3) of this section, the former reference to a "State" emergency is deleted as unnecessary in light of the defined term "emergency".

Subsection (b)(4) of this section is revised as the power of the Governor to authorize studies and surveys, rather than the duty to do so, in light of the structure of former Art. 16A, § 6(b), which listed other actions the Governor "may" perform. Former Art. 16A, § 6(b)(4), from which subsection (b)(4) of this section is derived, was silent as to whether it was a grant of authority or the imposition of a duty or responsibility.

In subsection (b)(5) of this section, the reference to directors "of local organizations for emergency management" is substituted for the former reference to directors "for the political subdivisions of the State" for clarity. *See* § 14-109 of this subtitle.

Throughout subsection (c)(1) of this section, the defined term "emergenc[ies]" is substituted for the former references to "disaster[s]" to use the defined term and for consistency throughout this subtitle.

Defined terms: "Director" § 14-101

"Emergency" § 14-101

"Emergency management" § 14-101

"Local organization for emergency management" § 14-101

"MEMA" § 14-101

"State" § 1-101

14-107. STATE OF EMERGENCY -- DECLARATION BY GOVERNOR.

(A) IN GENERAL.

(1) IF THE GOVERNOR FINDS THAT AN EMERGENCY HAS DEVELOPED OR IS IMPENDING DUE TO ANY CAUSE, THE GOVERNOR SHALL DECLARE A STATE OF EMERGENCY BY EXECUTIVE ORDER OR PROCLAMATION.

(2) THE STATE OF EMERGENCY CONTINUES UNTIL THE GOVERNOR:

(I) FINDS THAT THE THREAT OR DANGER HAS PASSED OR THE EMERGENCY HAS BEEN DEALT WITH TO THE EXTENT THAT EMERGENCY CONDITIONS NO LONGER EXIST; AND

(II) TERMINATES THE STATE OF EMERGENCY BY EXECUTIVE ORDER OR PROCLAMATION.

(3) A STATE OF EMERGENCY MAY NOT CONTINUE FOR LONGER THAN 30 DAYS UNLESS THE GOVERNOR RENEWS THE STATE OF EMERGENCY.

(4) (I) THE GENERAL ASSEMBLY BY JOINT RESOLUTION MAY TERMINATE A STATE OF EMERGENCY AT ANY TIME.

(II) AFTER THE GENERAL ASSEMBLY TERMINATES A STATE OF EMERGENCY, THE GOVERNOR SHALL ISSUE AN EXECUTIVE ORDER OR PROCLAMATION THAT TERMINATES THE STATE OF EMERGENCY.

(B) CONTENTS OF DECLARATION; PUBLICITY.

(1) EACH EXECUTIVE ORDER OR PROCLAMATION THAT DECLARES OR TERMINATES A STATE OF EMERGENCY SHALL INDICATE:

(I) THE NATURE OF THE EMERGENCY;

(II) THE AREA THREATENED; AND

(III) THE CONDITIONS THAT HAVE BROUGHT ABOUT THE STATE OF EMERGENCY OR THAT MAKE POSSIBLE THE TERMINATION OF THE STATE OF EMERGENCY.

(2) EACH EXECUTIVE ORDER OR PROCLAMATION SHALL BE:

(I) DISSEMINATED PROMPTLY BY MEANS CALCULATED TO PUBLICIZE ITS CONTENTS; AND

(II) UNLESS PREVENTED OR IMPEDED BY THE CIRCUMSTANCES OF THE EMERGENCY, FILED PROMPTLY WITH:

1. MEMA;

2. THE STATE ARCHIVES; AND

3. THE CHIEF LOCAL RECORDS-KEEPING AGENCY IN THE AREA TO WHICH THE EXECUTIVE ORDER OR PROCLAMATION APPLIES.

(C) RESPONSIBILITY OF DIRECTOR; EFFECT OF DECLARATION.

(1) AFTER THE GOVERNOR DECLARES A STATE OF EMERGENCY, THE DIRECTOR SHALL COORDINATE THE ACTIVITIES OF THE AGENCIES OF THE STATE AND OF THOSE POLITICAL SUBDIVISIONS INCLUDED IN THE DECLARATION IN ALL

ACTIONS THAT SERVE TO PREVENT OR ALLEVIATE THE ILL EFFECTS OF THE IMMINENT OR ACTUAL EMERGENCY.

(2) AN EXECUTIVE ORDER OR PROCLAMATION THAT DECLARES A STATE OF EMERGENCY:

(I) ACTIVATES THE EMERGENCY RESPONSE AND RECOVERY ASPECTS OF THE STATE AND LOCAL EMERGENCY PLANS APPLICABLE TO THE POLITICAL SUBDIVISION OR AREA COVERED BY THE DECLARATION; AND

(II) IS AUTHORITY FOR:

1. THE DEPLOYMENT AND USE OF RESOURCES TO WHICH THE STATE OR LOCAL PLANS APPLY; AND

2. THE USE OR DISTRIBUTION OF SUPPLIES, EQUIPMENT, MATERIALS, AND FACILITIES ASSEMBLED, STOCKPILED, OR ARRANGED TO BE MADE AVAILABLE IN ACCORDANCE WITH THIS SUBTITLE OR ANY OTHER LAW THAT RELATES TO EMERGENCIES.

(D) OTHER ACTIONS BY GOVERNOR.

(1) AFTER DECLARING A STATE OF EMERGENCY, THE GOVERNOR, IF THE GOVERNOR FINDS IT NECESSARY IN ORDER TO PROTECT THE PUBLIC HEALTH, WELFARE, OR SAFETY, MAY:

(I) SUSPEND THE EFFECT OF ANY STATUTE OR RULE OR REGULATION OF AN AGENCY OF THE STATE OR A POLITICAL SUBDIVISION;

(II) DIRECT AND COMPEL THE EVACUATION OF ALL OR PART OF THE POPULATION FROM A STRICKEN OR THREATENED AREA IN THE STATE;

(III) SET EVACUATION ROUTES AND THE MODES OF TRANSPORTATION TO BE USED DURING AN EMERGENCY;

(IV) DIRECT THE CONTROL OF INGRESS TO AND EGRESS FROM AN EMERGENCY AREA, THE MOVEMENT OF INDIVIDUALS IN THE AREA, AND THE OCCUPANCY OF PREMISES IN THE AREA;

(V) AUTHORIZE THE USE OF PRIVATE PROPERTY, IN WHICH EVENT THE OWNER OF THE PROPERTY SHALL BE COMPENSATED FOR ITS USE AND FOR ANY DAMAGE TO THE PROPERTY;

(VI) PROVIDE FOR TEMPORARY HOUSING; AND

(VII) AUTHORIZE THE CLEARANCE AND REMOVAL OF DEBRIS AND WRECKAGE.

(2) THE POWERS OF THE GOVERNOR UNDER THIS SUBSECTION ARE IN ADDITION TO ANY OTHER AUTHORITY VESTED IN THE GOVERNOR BY LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, §§ 6A and 6B.

In subsection (a)(4)(ii) of this section, the phrase "[a]fter the General Assembly terminates a state of emergency" is substituted for the former reference to "[t]hereupon" for clarity.

In subsection (b)(2)(i) of this section, the phrase "to publicize its contents" is substituted for the former phrase "to bring its contents to the attention of the general public" for clarity and brevity.

In subsection (b)(2)(ii)3 of this section, the reference to the "chief" local records-keeping agency is added for clarity and consistency with § 14-111(b)(2)(ii) of this subtitle.

In subsection (c)(1) of this section, the reference to the activities of the "agencies of the State" is substituted for the former reference to the activities of the "offices of the State government" for consistency with terminology used throughout this subtitle.

In subsection (c)(2)(i) of this section, the reference to an "emergency" response is substituted for the former reference to a "disaster" response for consistency with terminology used throughout this subtitle. Similarly, the former reference to "disaster" emergency plans is deleted as redundant.

Also in subsection (c)(2)(i) of this section, the reference to the political subdivision or area "covered by the declaration" is substituted for the former reference to the political subdivision or area "in question" for clarity.

In subsection (d)(1)(i) of this section, the reference to the "effect of any" statute, rule, or regulation is added for clarity.

Also in subsection (d)(1)(i) of this section, the reference to a rule or regulation of "an agency of the State or a political subdivision" is substituted for the former reference to a rule or regulation of a "State or local agency" for clarity and consistency throughout this subtitle.

In subsection (d)(1)(iv) of this section, the reference to "individuals" is substituted for the former reference to "persons" because individuals, and not the other entities included in the defined term "person", move about in an area covered by the declaration of a state of emergency. *See* § 1-101 of this article for the definition of "person".

Defined terms: "Emergency" § 14-101

"Emergency management" § 14-101

"MEMA" § 14-101

"Political subdivision" § 14-101

14-108. SAME -- DECLARED IN ANOTHER STATE.

(A) POWERS OF GOVERNOR.

AFTER A STATE OF EMERGENCY IS DECLARED IN ANOTHER STATE AND THE GOVERNOR RECEIVES A WRITTEN REQUEST FOR ASSISTANCE FROM THE EXECUTIVE AUTHORITY OF THAT STATE, THE GOVERNOR MAY:

(1) AUTHORIZE USE IN THE OTHER STATE OF PERSONNEL, EQUIPMENT, SUPPLIES, OR MATERIALS OF THIS STATE, OR OF A POLITICAL SUBDIVISION WITH THE CONSENT OF THE EXECUTIVE OFFICER OR GOVERNING BODY OF THE POLITICAL SUBDIVISION; AND

(2) SUSPEND THE EFFECT OF ANY STATUTE OR RULE OR REGULATION OF AN AGENCY OF THE STATE OR, AFTER CONSULTING WITH THE EXECUTIVE OFFICER OR GOVERNING BODY OF A POLITICAL SUBDIVISION, A RULE OR REGULATION OF AN AGENCY OF A POLITICAL SUBDIVISION, IF THE GOVERNOR FINDS THAT THE SUSPENSION IS NECESSARY TO AID THE OTHER STATE WITH ITS EMERGENCY MANAGEMENT FUNCTIONS.

(B) ISSUANCE OF EXECUTIVE ORDER; CONTENTS; PUBLICITY.

(1) THE GOVERNOR SHALL AUTHORIZE THE USE OF RESOURCES OR THE SUSPENSION OF THE EFFECT OF ANY STATUTE, RULE, OR REGULATION UNDER SUBSECTION (A) OF THIS SECTION BY EXECUTIVE ORDER.

(2) AN EXECUTIVE ORDER ISSUED UNDER THIS SECTION MAY NOT CONTINUE FOR LONGER THAN 30 DAYS UNLESS THE GOVERNOR RENEWS THE EXECUTIVE ORDER.

(3) EACH EXECUTIVE ORDER ISSUED UNDER THIS SECTION SHALL INDICATE:

(I) THE NATURE OF THE EMERGENCY IN THE OTHER STATE; AND

(II) ANY CIRCUMSTANCES THAT MAKE SUSPENSION OF A STATUTE, RULE, OR REGULATION NECESSARY TO AID THE OTHER STATE WITH ITS EMERGENCY MANAGEMENT FUNCTIONS.

(4) EACH EXECUTIVE ORDER SHALL BE:

(I) DISSEMINATED PROMPTLY BY MEANS CALCULATED TO PUBLICIZE ITS CONTENTS; AND

(II) FILED PROMPTLY WITH:

1. MEMA;

2. THE STATE ARCHIVES; AND

3. EACH AGENCY OF THE STATE OR A POLITICAL SUBDIVISION THAT IS AUTHORIZED BY THE ORDER TO USE RESOURCES IN THE OTHER STATE OR RESPONSIBLE FOR THE ENFORCEMENT OF ANY PROVISIONS THAT ARE SUSPENDED BY THE EXECUTIVE ORDER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, § 6D.

In subsection (a)(1) of this section, the reference to the "other" state is substituted for the former reference to the state "requesting assistance" for brevity.

In subsections (a)(2) and (b)(1) of this section, the reference to "the effect of any" statute, rule, or regulation is added for clarity.

In subsection (b)(4)(i) of this section, the phrase "to publicize its contents" is substituted for the former phrase "to bring its contents to the attention of the general public" for clarity and brevity.

In subsection (b)(4)(ii)3 of this section, the reference to each "agency of the State or a political subdivision" is substituted for the former reference to each "State or local agency" for clarity and consistency throughout this section and this subtitle.

Defined terms: "Emergency" § 14-101

"Emergency management" § 14-101

"Political subdivision" § 14-101

"State" § 1-101

14-109. LOCAL ORGANIZATIONS FOR EMERGENCY MANAGEMENT.

(A) ESTABLISHED.

EACH POLITICAL SUBDIVISION SHALL:

(1) ESTABLISH A LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT IN ACCORDANCE WITH THE STATE EMERGENCY MANAGEMENT PLAN AND PROGRAM; AND

(2) PARTICIPATE IN FEDERAL PROGRAMS FOR EMERGENCY MANAGEMENT.

(B) DIRECTORS OF LOCAL ORGANIZATIONS FOR EMERGENCY MANAGEMENT.

(1) ON RECOMMENDATION OF THE MAYOR, EXECUTIVE, OR GOVERNING BODY OF THE POLITICAL SUBDIVISION, THE GOVERNOR SHALL APPOINT A DIRECTOR OF EMERGENCY MANAGEMENT FOR EACH LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT.

(2) EACH DIRECTOR OF A LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT IS DIRECTLY RESPONSIBLE FOR THE ORGANIZATION, ADMINISTRATION, AND OPERATION OF THE LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT.

(3) EACH DIRECTOR OF A LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT IS SUBJECT TO THE DIRECTION AND CONTROL OF THE MAYOR, EXECUTIVE, OR GOVERNING BODY OF THE POLITICAL SUBDIVISION, UNDER THE GENERAL POWER OF THE GOVERNOR.

(C) PERSONNEL.

(1) SUBJECT TO THE BUDGET OF THE POLITICAL SUBDIVISION, EACH LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT SHALL INCLUDE THOSE PROGRAMS AND POSITIONS RECOMMENDED PERIODICALLY BY MEMA TO MEET FEDERAL AND STATE STANDARDS.

(2) (I) IN A COUNTY IN WHICH THERE IS A LOCAL MERIT SYSTEM OR CLASSIFIED SERVICE FOR THE GENERAL EMPLOYEES OF THE COUNTY, THE EMPLOYEES AND OFFICERS OF THE LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT ARE INCLUDED IN AND SUBJECT TO ALL RIGHTS, DUTIES, PRIVILEGES, AND RESPONSIBILITIES OF THAT SYSTEM OR SERVICE.

(II) SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT APPLY TO THE DIRECTOR OF THE LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT.

(3) (I) IF A COUNTY DOES NOT HAVE A LOCAL MERIT SYSTEM OR CLASSIFIED SERVICE, THE GOVERNING BODY OF THE COUNTY, OR THE BOARD OF ESTIMATES OF BALTIMORE CITY, MAY INCLUDE BY REGULATION THE EMPLOYEES AND OFFICERS OF THE LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT IN THE CLASSIFIED SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM.

(II) SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT APPLY TO THE DIRECTOR OF THE LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT.

(III) 1. EXCEPT AS OTHERWISE PROVIDED BY LAW, DURING THE EFFECTIVE PERIOD OF THE REGULATION THE EMPLOYEES AND OFFICERS ARE SUBJECT TO THE RIGHTS, DUTIES, PRIVILEGES, AND RESPONSIBILITIES OF DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

2. THE GOVERNING BODY OF THE COUNTY OR THE MAYOR OF BALTIMORE IS THE APPOINTING OFFICER UNDER DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(4) PARAGRAPH (3) OF THIS SUBSECTION DOES NOT REMOVE FROM THE GOVERNING BODY OF A COUNTY OR FROM THE MAYOR AND CITY COUNCIL OF BALTIMORE THE POWER TO ESTABLISH AND REGULATE THE COMPENSATION, VACATION ALLOWANCE, OR SICK LEAVE OF ALL EMPLOYEES AND OFFICERS OF THE LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT IN THE COUNTY OR BALTIMORE CITY.

(D) FUNDING.

EACH POLITICAL SUBDIVISION MAY MAKE APPROPRIATIONS IN THE MANNER PROVIDED BY LAW TO PAY THE EXPENSES OF ITS LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, §§ 7(a)(1), (b), and (c) and 9(a).

In subsection (c)(2)(i) and (3)(i) of this section, the former reference to "Baltimore City" is deleted as included in the reference to a "county".

In subsection (c)(2)(i) and (4) of this section, the reference to employees of the "county" is substituted for the former reference to employees of the "political subdivision" for clarity and consistency within the subsection. The political subdivision covered by both provisions is a county.

In subsection (c)(3)(i) and (iii)2 and (4) of this section, the reference to the "governing body of the county" is substituted for the former reference to the "county commissioners or county council" for brevity and consistency throughout this article.

Defined terms: "County" § 1-101

"Emergency" § 14-101

"Emergency management" § 14-101

"Local organization for emergency management" § 14-101

"MEMA" § 14-101

"Political subdivision" § 14-101

14-110. LOCAL EMERGENCY PLANS.

(A) EMERGENCY PREPAREDNESS PLAN FOR HAZARDOUS MATERIALS.

(1) EACH COUNTY SHALL:

(I) PREPARE AN EMERGENCY PREPAREDNESS PLAN FOR RESPONDING TO AN EMERGENCY THAT INVOLVES HAZARDOUS MATERIALS OR CONTROLLED HAZARDOUS SUBSTANCES, AS DEFINED IN THE ENVIRONMENT ARTICLE; AND

(II) REVIEW THE PLAN ANNUALLY AND SUBMIT ANY CHANGES TO THE DIRECTOR SO THAT THE DIRECTOR MAY MAINTAIN CURRENT AND ACCURATE INFORMATION ABOUT THE PLAN.

(2) EACH COUNTY SHALL SUBMIT ITS EMERGENCY PREPAREDNESS PLAN TO THE DIRECTOR ON OR BEFORE OCTOBER 1, 1998.

(B) RADIOLOGICAL EMERGENCY RESPONSE PLAN.

(1) A LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT SHALL SUBMIT TO THE DIRECTOR A RADIOLOGICAL EMERGENCY RESPONSE PLAN IF THE POLITICAL SUBDIVISION IN WHICH THE LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT IS LOCATED:

(I) FALLS WITHIN THE PLUME OR INGESTION ZONE OF A COMMERCIAL NUCLEAR REACTOR; OR

(II) MIGHT REASONABLY BE EXPECTED TO HOST EVACUEES FROM ANOTHER JURISDICTION IN A PLUME OR INGESTION ZONE.

(2) THE RADIOLOGICAL EMERGENCY RESPONSE PLAN SHALL PROVIDE FOR THE EVACUATION OF THE RESIDENTS OF THE POLITICAL SUBDIVISION AS A RESULT OF AN EMERGENCY CAUSED BY A DANGEROUS RELEASE OF RADIATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, §§ 4(d) and 7(a)(2).

In the introductory language of subsection (a)(1) and in subsection (a)(2) of this section, the former reference to "Baltimore City" is deleted as included in the defined term "county".

In the introductory language of subsection (b)(1) of this section, the reference to a "political subdivision" is substituted for the former reference to a "jurisdiction" for clarity and to use the defined term.

In subsection (b)(2) of this section, the former reference to a "major disaster" is deleted as included in the defined term "emergency".

Defined terms: "County" § 1-101

"Director" § 14-101

"Emergency" § 14-101

"Local organization for emergency management" § 14-101

"Political subdivision" § 14-101

14-111. LOCAL STATE OF EMERGENCY.

(A) DECLARATION.

ONLY THE PRINCIPAL EXECUTIVE OFFICER OF A POLITICAL SUBDIVISION MAY DECLARE A LOCAL STATE OF EMERGENCY.

(B) DURATION.

(1) EXCEPT WITH THE CONSENT OF THE GOVERNING BODY OF THE POLITICAL SUBDIVISION, A LOCAL STATE OF EMERGENCY MAY NOT CONTINUE OR BE RENEWED FOR LONGER THAN 7 DAYS.

(2) AN ORDER OR PROCLAMATION THAT DECLARES, CONTINUES, OR TERMINATES A LOCAL STATE OF EMERGENCY SHALL BE:

(I) GIVEN PROMPT AND GENERAL PUBLICITY; AND

(II) FILED PROMPTLY WITH THE CHIEF LOCAL RECORDS-KEEPING AGENCY.

(C) EFFECT OF DECLARATION.

DECLARATION OF A LOCAL STATE OF EMERGENCY:

(1) ACTIVATES THE RESPONSE AND RECOVERY ASPECTS OF ANY APPLICABLE LOCAL STATE OF EMERGENCY PLAN; AND

(2) AUTHORIZES THE PROVISION OF AID AND ASSISTANCE UNDER THE APPLICABLE PLAN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, § 6C.

In the introductory language of subsection (c) of this section, the former reference to the "effect" of a declaration is deleted as implicit.

Defined terms: "Emergency" § 14-101

"Political subdivision" § 14-101

14-112. EMERGENCY EXPENDITURES; USE OF EXISTING RESOURCES.

(A) EMERGENCY EXPENDITURES.

(1) EXPENDITURES NECESSITATED BY EMERGENCIES SHALL FIRST BE MADE USING MONEY REGULARLY APPROPRIATED TO STATE AND LOCAL AGENCIES.

(2) IF THE GOVERNOR FINDS THAT REGULARLY APPROPRIATED MONEY IS INADEQUATE TO COPE WITH AN EMERGENCY, THE BOARD OF PUBLIC WORKS MAY MAKE CONTINGENCY MONEY AVAILABLE IN ACCORDANCE WITH THE STATE BUDGET.

(B) FEDERAL MONEY.

THE STATE MAY:

(1) ACCEPT ANY ALLOTMENT OF FEDERAL MONEY AND COMMODITIES AND MANAGE AND DISPOSE OF THEM IN WHATEVER MANNER MAY BE REQUIRED BY FEDERAL LAW; AND

(2) TAKE ADVANTAGE OF THE FEDERAL DISASTER RELIEF ACT OF 1974 AND ANY AMENDMENTS OR SUPPLEMENTS TO IT, AND ANY OTHER FEDERAL LAW THAT PROVIDES GRANTS AND PUBLIC ASSISTANCE FOR THE PURPOSES OF THIS SUBTITLE AND SUBTITLES 2 AND 4 OF THIS TITLE.

(C) USE OF EXISTING RESOURCES.

(1) IN CARRYING OUT THIS SUBTITLE, THE GOVERNOR, ADJUTANT GENERAL, AND EXECUTIVE OFFICERS OR GOVERNING BODIES OF THE POLITICAL SUBDIVISIONS SHALL USE THE SERVICES, EQUIPMENT, SUPPLIES, AND FACILITIES OF EXISTING AGENCIES AND UNITS OF THE STATE AND THE POLITICAL SUBDIVISIONS TO THE MAXIMUM EXTENT PRACTICABLE.

(2) THE OFFICERS AND PERSONNEL OF THE AGENCIES AND UNITS OF THE STATE AND THE POLITICAL SUBDIVISIONS SHALL COOPERATE WITH AND EXTEND SERVICES AND FACILITIES TO THE GOVERNOR, ADJUTANT GENERAL, DIRECTOR, AND THE LOCAL ORGANIZATIONS FOR EMERGENCY MANAGEMENT ON REQUEST.

(3) AT THE DIRECTION OF THE GOVERNOR, THE MARYLAND NATIONAL GUARD SHALL USE ITS SERVICES, EQUIPMENT, SUPPLIES, AND FACILITIES IN LIFE-THREATENING EMERGENCIES THAT ARE BEYOND THE CAPABILITIES OF LOCAL AUTHORITIES.

(D) GIFTS, GRANTS, OR LOANS FOR EMERGENCY MANAGEMENT.

(1) IF THE FEDERAL GOVERNMENT, ANOTHER STATE, OR AN AGENCY OR OFFICER OF THE FEDERAL GOVERNMENT OR ANOTHER STATE OFFERS TO THIS STATE OR A POLITICAL SUBDIVISION SERVICES, EQUIPMENT, SUPPLIES, MATERIALS, OR MONEY BY WAY OF GIFT, GRANT, OR LOAN FOR PURPOSES OF EMERGENCY MANAGEMENT, THE STATE ACTING THROUGH THE GOVERNOR, OR THE POLITICAL SUBDIVISION ACTING WITH THE CONSENT OF THE GOVERNOR AND THROUGH ITS EXECUTIVE OFFICER OR GOVERNING BODY, MAY:

(I) ACCEPT THE OFFER; AND

(II) AUTHORIZE AN OFFICER OF THIS STATE OR THE POLITICAL SUBDIVISION TO RECEIVE THE SERVICES, EQUIPMENT, SUPPLIES, MATERIALS, OR MONEY.

(2) IF A PERSON OFFERS TO THE STATE OR A POLITICAL SUBDIVISION AID OR ASSISTANCE, THE STATE OR POLITICAL SUBDIVISION MAY ACCEPT THE AID AND ASSISTANCE IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, §§ 10 and 9(b), (c), (d), and (e).

In subsection (a)(2) of this section, the reference to the "State" budget is added for clarity.

Also in subsection (a)(2) of this section, the former reference to a "particular" emergency is deleted as surplusage.

In subsection (b)(2) of this section, the reference to "this subtitle and Subtitles 2 and 4 of this title" is substituted for the former reference to "this article" for accuracy. Former Article 16A is revised in this subtitle and Subtitles 2 and 4 of this title.

%In subsection (c)(1) and (2) of this section, the former references to "departments" and "offices" are deleted as included in the references to "agencies" and "units" of the State.

In subsection (c)(2) of this section, the reference to "local organizations for emergency management" is substituted for the former reference to "emergency management organizations throughout the State" for clarity.

In subsection (d)(1) of this section, the reference to "services, equipment, supplies, materials, or money" is substituted for the former reference to "such aid and assistance" for clarity.

Also in subsection (d)(1) of this section, the reference to "money" is substituted for the former reference to "funds" for consistency with terminology used throughout this article.

Defined terms: "Director" § 14-101

"Emergency" § 14-101

"Emergency management" § 14-101

"Local organization for emergency management" § 14-101

"Political subdivision" § 14-101

"State" § 1-101

14-113. ENFORCEMENT.

(A) BY EMERGENCY MANAGEMENT AGENCY.

EACH EMERGENCY MANAGEMENT AGENCY ESTABLISHED UNDER THIS SUBTITLE AND ITS OFFICERS SHALL EXECUTE AND ENFORCE THE ORDERS, RULES, AND REGULATIONS MADE BY THE GOVERNOR UNDER AUTHORITY OF THIS SUBTITLE.

(B) BY LAW ENFORCEMENT AND HEALTH OFFICERS.

WITH RESPECT TO THE THREAT OR OCCURRENCE OF AN ENEMY ATTACK, ACT OF TERRORISM, OR PUBLIC HEALTH CATASTROPHE, EACH LAW ENFORCEMENT OFFICER OF THE STATE OR A POLITICAL SUBDIVISION AND EACH HEALTH OFFICER OF A POLITICAL SUBDIVISION SHALL EXECUTE AND ENFORCE THE ORDERS, RULES, AND REGULATIONS MADE BY THE GOVERNOR UNDER AUTHORITY OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, § 12.

In subsection (b) of this section, the reference to "the threat or occurrence of an enemy attack, act of terrorism, or public health catastrophe" is substituted for the former reference to "an emergency under § 3(d)(2) of this subtitle" for clarity. *See* § 14-101(c)(2) of this subtitle.

14-114. PROHIBITED ACTS; PENALTIES.

(A) VIOLATION OF ORDER, RULE, OR REGULATION PROHIBITED.

A PERSON MAY NOT VIOLATE AN ORDER, RULE, OR REGULATION ISSUED UNDER THE AUTHORITY OF THIS SUBTITLE.

(B) PENALTIES.

(1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING $1,000 OR BOTH.

(2) A PERSON WHO WILLFULLY VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING $5,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, § 12A.

Defined term: "Person" § 1-101

14-115. SHORT TITLE.

THIS SUBTITLE MAY BE CITED AS THE MARYLAND EMERGENCY MANAGEMENT AGENCY ACT.

REVISOR'S NOTE: This section formerly was Art. 16A, § 1.

No changes are made.

Defined term: "Emergency management" § 14-101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 16A, § 11, which provided for the severability of invalid provisions of this subtitle, is deleted as duplicative of Art. 1, § 23, which provides that "[t]he provisions of all statutes enacted after July 1, 1973 are severable unless the statute specifically provides that its provisions are not severable".

SUBTITLE 2. CIVIL RELIEF DURING EMERGENCY PERIODS.

14-201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language added as the standard introductory language to a definition section.

(B) COURT.

"COURT" MEANS A COURT OF COMPETENT JURISDICTION OF THE STATE, WHETHER OR NOT A COURT OF RECORD.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 16A, § 14(f).

The word "means" is substituted for the former word "includes" because the definition is meant to be exhaustive, not illustrative. *See* Art. 1, § 30.

(C) PERSON IN EMERGENCY MANAGEMENT SERVICE.

"PERSON IN EMERGENCY MANAGEMENT SERVICE" MEANS A PERSON WHO, DURING THE EMERGENCY PERIOD TO WHICH THIS SUBTITLE IS APPLICABLE, IS A MEMBER OF OR WORKS FOR THE MARYLAND EMERGENCY MANAGEMENT AGENCY OR A LOCAL EMERGENCY MANAGEMENT ORGANIZATION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 16A, § 14(a) and, as it related to the applicability of the definitions, (c).

The phrase "during the emergency period to which this subtitle is applicable" is added to reflect the substance of former Art. 16A, § 14(c), which stated that the definitions in former § 14(a) and (b) applied only during the period when the Governor proclaimed a stated area to be within an emergency or disaster area. *See* § 14-203 of this subtitle.

The reference to the "Maryland Emergency Management Agency" is substituted for the former reference to the "Maryland emergency management organization" to reflect the proper name of the agency.

Defined term: "Person" § 1-101

(D) PERSON SUFFERING INJURY OR DAMAGE.

"PERSON SUFFERING INJURY OR DAMAGE" MEANS A PERSON WHO, DURING THE EMERGENCY PERIOD TO WHICH THIS SUBTITLE IS APPLICABLE:

(1) SUFFERS SERIOUS PERSONAL INJURY;

(2) SUFFERS EXTENSIVE DAMAGE TO PROPERTY OWNED BY THE PERSON; OR

(3) HAS AN IMMEDIATE FAMILY MEMBER WHO:

(I) DIES;

(II) SUFFERS SERIOUS PERSONAL INJURY; OR

(III) SUFFERS EXTENSIVE DAMAGE TO PROPERTY OWNED BY THE FAMILY MEMBER.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 16A, § 14(b) and, as it related to the applicability of the definitions, (c).

%In the introductory language of this subsection, the phrase "during the emergency period to which this subtitle is applicable" is added to reflect the substance of former Art. 16A, § 14(c), which stated that the definitions in former § 14(a) and (b) applied only during the period when the Governor proclaimed a stated area to be within an emergency or disaster area. *See* § 14-203 of this subtitle.

In items (2) and (3)(iii) of this subsection, the former reference to "property" damage to property is deleted as redundant.

REVISOR'S NOTE TO SECTION:
Former Art. 16A, § 14(e), which defined "person" to include individuals, partnerships, corporations, and other forms of business associations, is deleted as duplicative of the definition in § 1-101 of this article. In addition, the term "person" is not used throughout this subtitle only with reference to "the holder of any right alleged to exist" against a person in emergency management service or a person suffering injury or damage. The former definition therefore was too limited and is deleted for that reason as well.

14-202. LEGISLATIVE POLICY.

(A) PURPOSES OF SUBTITLE.

THE PURPOSES OF THIS SUBTITLE ARE:

(1) TO PROVIDE FOR, STRENGTHEN, AND EXPEDITE NATIONAL DEFENSE WHEN EMERGENCY CONDITIONS THREATEN THE PEACE AND SECURITY OF THE UNITED STATES AND THE STATE; AND

(2) TO ENABLE THE STATE TO FULFILL MORE SUCCESSFULLY THE REQUIREMENTS OF NATIONAL DEFENSE.

(B) EFFECTS OF SUBTITLE.

TO ACHIEVE THESE PURPOSES, THIS SUBTITLE TEMPORARILY SUSPENDS:

(1) ENFORCEMENT OF CIVIL LIABILITIES AGAINST PERSONS IN EMERGENCY MANAGEMENT SERVICE TO ENABLE THEM TO DEVOTE THEIR ENTIRE ENERGY TO THE EMERGENCY MANAGEMENT NEEDS OF THE STATE AND THE UNITED STATES;

(2) ENFORCEMENT OF CIVIL LIABILITIES AGAINST PERSONS SUFFERING INJURY OR DAMAGE TO ENABLE THEM TO DEVOTE THEIR ENTIRE ENERGY TO THE CURE OR IMPROVEMENT OF THE INJURIES OR DAMAGE SUFFERED; AND

(3) LEGAL PROCEEDINGS AND TRANSACTIONS THAT MAY PREJUDICE THE CIVIL RIGHTS OF PERSONS IN EMERGENCY MANAGEMENT SERVICE OR PERSONS SUFFERING INJURY OR DAMAGE DURING THE EMERGENCY PERIOD TO WHICH THIS SUBTITLE IS APPLICABLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, § 13.

In subsection (b)(1) of this section, the reference to the "United States" is substituted for the former reference to the "nation" for consistency with subsection (a)(1) of this section.

In subsection (b)(3) of this section, the reference to "persons suffering injury or damage" is added for consistency within this section and this subtitle, which covers both persons in emergency management service and persons suffering injury or damage.

Defined terms: "Person in emergency management service" § 14-201

"Person suffering injury or damage" § 14-201

14-203. SCOPE OF SUBTITLE; PERIOD OF APPLICABILITY.

(A) SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES TO PROCEEDINGS IN ANY COURT.

(B) PERIOD OF APPLICABILITY.

THIS SUBTITLE APPLIES ONLY DURING THE EFFECTIVE PERIOD OF AN OFFICIAL PROCLAMATION BY THE GOVERNOR THAT DECLARES A STATED AREA TO BE WITHIN AN ACTUAL OR THREATENED EMERGENCY OR DISASTER AREA.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, § 14(c), except as it related to the applicability of the definitions, and the first clause of § 15(a).

In subsection (a) of this section, the former reference to proceedings "commenced" in any court is deleted as surplusage.

For the revision of the definitions in former Art. 16A, § 14(a) and (b), *see* § 14-201(c) and (d) of this subtitle.

Defined term: "Court" § 14-201

14-204. ENFORCEMENT OF PROCEEDINGS.

(A) IN GENERAL.

THIS SUBTITLE SHALL BE ENFORCED IN ACCORDANCE WITH:

(1) THE USUAL PROCEDURES OF THE COURT IN WHICH THE PROCEEDINGS ARE PENDING; OR

(2) THE RULES ADOPTED BY THE COURT IN WHICH THE PROCEEDINGS ARE PENDING.

(B) MOTION REQUIRED WHEN NO PROCEEDING PENDING.

IF THIS SUBTITLE REQUIRES THAT A MOTION BE FILED IN A COURT IN WHICH NO PROCEEDING IS PENDING WITH RESPECT TO THE MATTER, THE MOTION MAY BE FILED IN ANY COURT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, § 15(b) and the second clause of (a).

In subsection (a)(1) of this section, the reference to the procedures of "the court in which the proceedings are pending" is substituted for the former reference to the procedure "obtaining in such court" for clarity.

Also in subsection (a)(1) of this section, the former reference to the "forms of" procedures is deleted for brevity.

In subsection (a)(2) of this section, the reference to the rules "adopted" by the court is substituted for the former reference to the rules "prescribed" for consistency with terminology used in revised articles of the Code.

In subsection (b) of this section, the references to a "motion ... filed" are substituted for the former references to an "application ... made" for clarity.

Also in subsection (b) of this section, the reference to a proceeding "pending" is substituted for the former reference to a proceeding "commenced" for clarity.

Defined term: "Court" § 14-201

14-205. EFFECT OF STAY, POSTPONEMENT, OR SUSPENSION ON SURETIES, GUARANTORS, AND ENDORSERS.

(A) IN GENERAL.

IF IN ACCORDANCE WITH THIS SUBTITLE A COURT STAYS, POSTPONES, OR SUSPENDS THE ENFORCEMENT OF AN OBLIGATION OR LIABILITY, THE PROSECUTION OF A SUIT OR PROCEEDING, THE ENTRY OR ENFORCEMENT OF AN ORDER, WRIT, JUDGMENT, OR DECREE, OR THE PERFORMANCE OF ANY OTHER ACT, THE COURT MAY ALSO GRANT THE SAME STAY, POSTPONEMENT, OR SUSPENSION TO A SURETY, GUARANTOR, ENDORSER, OR OTHER PERSON SUBJECT TO THE SAME OBLIGATION OR LIABILITY, THE PERFORMANCE OR ENFORCEMENT OF WHICH IS STAYED, POSTPONED, OR SUSPENDED.

(B) VACATION OF JUDGMENT OR DECREE.

IF IN ACCORDANCE WITH THIS SUBTITLE A COURT VACATES OR SETS ASIDE ALL OR PART OF A JUDGMENT OR DECREE, THE COURT MAY ALSO VACATE OR SET ASIDE ALL OR PART OF THE JUDGMENT OR DECREE AS TO A SURETY, GUARANTOR,

ENDORSER, OR OTHER PERSON LIABLE UNDER THE CONTRACT OR LIABILITY FOR THE ENFORCEMENT OF WHICH THE JUDGMENT OR DECREE WAS ENTERED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, § 16.

In subsections (a) and (b) of this section, the former phrase "in the discretion of the court" is deleted as included in the authority that "the court may" take specified actions.

Defined terms: "Court" § 14-201

"Person" § 1-101

14-206. ADMINISTRATIVE REMEDIES.

(A) ATTEMPT TO DELAY ENFORCEMENT OF CIVIL RIGHT.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, IF IN A PROCEEDING TO ENFORCE A CIVIL RIGHT IN A COURT THE COURT FINDS THAT AN INTEREST, PROPERTY, OR CONTRACT WAS TRANSFERRED OR ACQUIRED WITH INTENT TO DELAY THE JUST ENFORCEMENT OF THE CIVIL RIGHT BY TAKING ADVANTAGE OF THIS SUBTITLE, THE COURT SHALL ENTER AN APPROPRIATE JUDGMENT OR ISSUE AN APPROPRIATE ORDER.

(B) INTERLOCUTORY ORDERS.

ON ITS OWN INITIATIVE OR OTHERWISE, A COURT MAY REVOKE, MODIFY, OR EXTEND AN INTERLOCUTORY ORDER ISSUED BY THE COURT UNDER THIS SUBTITLE ON NOTICE TO THE AFFECTED PARTIES AS THE COURT REQUIRES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, §§ 28 and 30.

In subsection (a) of this section, the phrase "the court finds" is substituted for the former reference to "it is made to appear to the satisfaction of the court" for brevity and consistency throughout this subtitle.

Also in subsection (a) of this section, the former phrase "to the contrary" is deleted as surplusage.

In subsection (b) of this section, the reference to the court's own "initiative" is substituted for the former reference to the court's own "motion" for clarity.

Defined term: "Court" § 14-201

14-207. PERIODS OF LIMITATIONS.

(A) IN GENERAL.

(1) THE PERIOD DURING WHICH A PERSON IS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE IS NOT INCLUDED IN COMPUTING ANY PERIOD OF LIMITATIONS APPLICABLE TO BRINGING AN ACTION BY OR AGAINST:

(I) THE PERSON IN EMERGENCY MANAGEMENT SERVICE;

(II) THE PERSON SUFFERING INJURY OR DAMAGE; OR

(III) AN HEIR, EXECUTOR, ADMINISTRATOR, OR ASSIGN OF:

1. THE PERSON IN EMERGENCY MANAGEMENT SERVICE; OR

2. THE PERSON SUFFERING INJURY OR DAMAGE.

(2) PARAGRAPH (1) OF THIS SUBSECTION APPLIES WHETHER THE CAUSE OF ACTION ACCRUES BEFORE THE PERSON BECOMES, OR DURING THE PERIOD THAT THE PERSON IS, A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

(B) PRESUMPTION WHEN PERSON REPORTED MISSING.

(1) (I) IF A PERSON IN EMERGENCY MANAGEMENT SERVICE IS REPORTED MISSING, THE PERSON IS PRESUMED TO CONTINUE TO BE A PERSON IN EMERGENCY MANAGEMENT SERVICE UNTIL THE PERSON IS ACCOUNTED FOR.

(II) IF A PERSON SUFFERING INJURY OR DAMAGE IS REPORTED MISSING, THE PERSON IS PRESUMED TO CONTINUE TO BE A PERSON SUFFERING INJURY OR DAMAGE UNTIL THE PERSON IS ACCOUNTED FOR.

(2) A PERIOD OF LIMITATIONS THAT BEGINS OR ENDS WITH THE DEATH OF A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE DOES NOT BEGIN OR END UNTIL THE DEATH:

(I) IS IN FACT CONFIRMED; OR

(II) IS FOUND BY A COURT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, §§ 21, 29, and 14(d).

In the introductory language of subsection (a)(1) of this section, the reference to "any period of limitations" is substituted for the former reference to "any period now or hereafter to be limited by any law" for brevity.

In subsections (a)(1) and (2) and (b)(1)(i) and (ii) of this section, the references to a "person in emergency management service" and a "person suffering injury or damage" are substituted for the former references to "being in such category" and "such category" for clarity and to use the defined terms.

%In subsection (b)(2)(i) of this section, the reference to the death being "confirmed" is substituted for the former reference to the death being "in fact found" for clarity and brevity.

In subsection (b)(2)(ii) of this section, the former reference to a court "of competent jurisdiction" is deleted in light of the defined term "court".

Defined terms: "Court" § 14-201

"Person" § 1-101

"Person in emergency management service" § 14-201

"Person suffering injury or damage" § 14-201

14-208. FAILURE OF PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE TO APPEAR.

(A) FAILURE OF DEFENDANT TO APPEAR.

(1) BEFORE A COURT ENTERS JUDGMENT IN A PROCEEDING IN ANY COURT IN WHICH THE DEFENDANT FAILS TO APPEAR:

(I) THE PLAINTIFF SHALL FILE IN THE COURT AN AFFIDAVIT THAT SETS FORTH FACTS THAT SHOW THAT THE DEFENDANT IS NOT A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE; OR

(II) IF THE PLAINTIFF IS UNABLE TO FILE AN AFFIDAVIT IN ACCORDANCE WITH ITEM (I) OF THIS PARAGRAPH, THE PLAINTIFF SHALL FILE AN AFFIDAVIT THAT STATES THAT:

1. THE DEFENDANT IS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE; OR

2. THE PLAINTIFF IS UNABLE TO DETERMINE WHETHER THE DEFENDANT IS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

(2) IF THE PLAINTIFF DOES NOT FILE AN AFFIDAVIT IN ACCORDANCE WITH PARAGRAPH (1)(I) OF THIS SUBSECTION, JUDGMENT MAY NOT BE ENTERED UNTIL THE COURT:

(I) ORDERS ENTRY OF THE JUDGMENT; AND

(II) APPOINTS AN ATTORNEY TO REPRESENT THE DEFENDANT IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION.

(3) THE COURT ON MOTION SHALL APPOINT AN ATTORNEY TO REPRESENT THE DEFENDANT AND TO PROTECT THE DEFENDANT'S INTERESTS, IF THE DEFENDANT IS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

(4) UNLESS THE COURT FINDS THAT THE DEFENDANT IS NOT A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE, THE COURT BEFORE ENTERING JUDGMENT MAY REQUIRE THAT THE PLAINTIFF FILE A BOND APPROVED BY THE COURT TO INDEMNIFY THE DEFENDANT AGAINST ANY LOSS OR DAMAGE THAT THE DEFENDANT MAY SUFFER BECAUSE OF THE JUDGMENT IF ALL OR PART OF THE JUDGMENT IS LATER SET ASIDE.

(5) THE COURT MAY ISSUE ANY OTHER ORDER OR ENTER ANY JUDGMENT THAT THE COURT CONSIDERS NECESSARY TO PROTECT THE RIGHTS OF THE DEFENDANT UNDER THIS SUBTITLE.

(B) FAILURE OF PARTY TO APPEAR.

(1) IF A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE IS PARTY TO A PROCEEDING AND DOES NOT PERSONALLY APPEAR IN THE PROCEEDING OR IS NOT REPRESENTED BY AN AUTHORIZED ATTORNEY, THE COURT MAY:

(I) APPOINT AN ATTORNEY TO REPRESENT THE PERSON;

(II) REQUIRE A BOND TO BE FILED LIKE THE BOND REQUIRED UNDER SUBSECTION (A)(3) OF THIS SECTION; AND

(III) ISSUE AN ORDER TO PROTECT THE RIGHTS OF THE PERSON.

(2) AN ATTORNEY APPOINTED UNDER THIS SUBSECTION MAY NOT WAIVE ANY RIGHT OF THE PERSON FOR WHOM THE ATTORNEY IS APPOINTED OR BIND THE PERSON BY THE ATTORNEY'S ACTS.

(C) OPENING JUDGMENT ENTERED AGAINST DEFENDANT.

(1) NOT LATER THAN 90 DAYS AFTER A DEFENDANT CEASED TO BE A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE, THE DEFENDANT OR LEGAL REPRESENTATIVE OF THE DEFENDANT MAY FILE WITH THE COURT THAT ENTERED A JUDGMENT AGAINST THE DEFENDANT IN A PROCEEDING SUBJECT TO THIS SECTION A MOTION TO OPEN THE JUDGMENT AGAINST THE DEFENDANT IF:

(I) THE JUDGMENT WAS ENTERED DURING THE PERIOD THAT THE DEFENDANT WAS, OR WITHIN 30 DAYS AFTER THE DEFENDANT CEASED TO BE, A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE; AND

(II) THE COURT FINDS THAT THE DEFENDANT:

1. WAS PREJUDICED IN DEFENDING AGAINST THE ACTION BECAUSE THE PERSON WAS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE; AND

2. HAS A MERITORIOUS OR LEGAL DEFENSE AGAINST ALL OR PART OF THE ACTION IN WHICH THE JUDGMENT WAS ENTERED.

(2) VACATING, SETTING ASIDE, OR REVERSING A JUDGMENT BECAUSE OF THIS SUBTITLE DOES NOT IMPAIR ANY RIGHT OR TITLE ACQUIRED BY A BONA FIDE PURCHASER FOR VALUE UNDER THE JUDGMENT.

(D) STAY AUTHORIZED.

(1) AT ANY STAGE OF A PROCEEDING IN A COURT IN WHICH A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE IS A PLAINTIFF OR DEFENDANT:

(I) ON ITS OWN INITIATIVE THE COURT MAY STAY THE PROCEEDING; AND

(II) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE COURT SHALL STAY THE PROCEEDING ON MOTION BY THE PERSON IN EMERGENCY MANAGEMENT SERVICE, PERSON SUFFERING INJURY OR DAMAGE, OR ANOTHER PERSON ACTING ON BEHALF OF THAT PERSON.

(2) A PROCEEDING MAY BE STAYED UNDER THIS SUBSECTION DURING THE PERIOD THAT THE PLAINTIFF OR DEFENDANT IS, OR WITHIN 60 DAYS AFTER THE PLAINTIFF OR DEFENDANT CEASED TO BE, A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

(3) THE COURT NEED NOT ISSUE A STAY UNDER THIS SUBSECTION IF THE COURT FINDS THAT BEING A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE DID NOT MATERIALLY AFFECT THE ABILITY OF THE PLAINTIFF TO PROSECUTE THE ACTION OR THE ABILITY OF THE DEFENDANT TO CONDUCT A DEFENSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, §§ 14(d) and 17(a), (c), (d), and (e).

Throughout this section, references to a "proceeding" in a court are substituted for former references to an "action or proceeding commenced" in a court, for brevity and consistency with terminology used throughout this subtitle.

In the introductory language of subsection (a)(1) of this section, the reference to an action in which the defendant "fails to appear" is substituted for the former reference to "a default of any appearance by the defendant" for brevity.

In the introductory language of subsection (a)(2) of this section, the reference to filing an affidavit "in accordance with paragraph (1)(i) of this subsection" is substituted for the former reference to filing an affidavit "showing that the defendant is not a person in emergency management service or a person suffering injury or damage" for brevity.

%In subsections (a)(3) and (4) and (c)(1) of this section, the reference to the defendant being "a person in emergency management service or person suffering injury or damage" is substituted for the former reference to the defendant being "in such category" for clarity and to use the defined terms.

Subsection (a)(3) of this section is revised to state explicitly when the court is required to appoint an attorney to represent a defendant who is a person in emergency management service or a person suffering injury or damage.

In subsection (a)(4) of this section, the former reference to a bond that is "conditioned" to indemnify is deleted as included in the concept of indemnification by a bond.

In subsection (a)(5) of this section, the reference to a "further" order is deleted as surplusage.

In the introductory language of subsection (c)(1) of this section, the reference to "fil[ing]" a motion with the court is substituted for the former obsolete reference to an "application being made" to the court for clarity.

In subsection (d)(1)(i) of this section, the former phrase "in the discretion of the court" is deleted as included in the reference that the court "may" take specified actions.

In subsection (d)(2) of this section, the reference to the period that the plaintiff or defendant "ceased to be" a person in emergency management service or person suffering injury or damage is substituted for the former reference to "thereafter" for clarity.

In subsection (d)(3) of this section, the phrase "the court finds" is substituted for the former phrase "in the opinion of the court" for clarity and consistency throughout this subtitle.

Defined terms: "Court" § 14-201

"Person" § 1-101

"Person in emergency management service" § 14-201

"Person suffering injury or damage" § 14-201

14-209. FINES OR PENALTIES FOR NONPERFORMANCE OF CONTRACTS.

(A) NO ACCRUAL DURING STAY.

IF AN ACTION FOR COMPLIANCE WITH THE TERMS OF A CONTRACT IS STAYED UNDER THIS SUBTITLE, A FINE OR PENALTY DOES NOT ACCRUE BECAUSE OF FAILURE TO COMPLY WITH THE TERMS OF THE CONTRACT DURING THE PERIOD OF THE STAY.

(B) RELIEF AGAINST ENFORCEMENT.

A COURT MAY PROVIDE RELIEF AGAINST THE ENFORCEMENT OF A FINE OR PENALTY FOR NONPERFORMANCE OF A CONTRACT IF THE COURT FINDS THAT:

(1) A PERSON FAILED TO PERFORM AN OBLIGATION AND A FINE OR PENALTY FOR NONPERFORMANCE WAS INCURRED;

(2) THE FINE OR PENALTY WAS INCURRED DURING THE PERIOD THAT THE PERSON WAS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE; AND

(3) THE ABILITY OF THE PERSON TO PAY THE FINE OR PENALTY OR PERFORM THE OBLIGATION WAS MATERIALLY IMPAIRED BECAUSE THE PERSON WAS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, §§ 18 and 14(d).

In the introductory language of subsection (b) of this section, the former phrase "on such terms as may be just" is deleted as implicit in the power of a court to provide relief.

In subsection (b)(3) of this section, the reference to the person being "a person in emergency management service or person suffering injury or damage" is substituted for the former reference to impairment "by reason of being in such category" for clarity and to use the defined terms.

Defined terms: "Court" § 14-201

"Person" § 1-101

"Person in emergency management service" § 14-201

"Person suffering injury or damage" § 14-201

14-210. STAY OF EXECUTION OF JUDGMENT OR ORDER; VACATION OR STAY OF ATTACHMENT OR GARNISHMENT.

(A) IN GENERAL.

IN A PROCEEDING IN A COURT AGAINST A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE:

(1) ON ITS OWN INITIATIVE THE COURT MAY:

(I) STAY THE EXECUTION OF A JUDGMENT OR ORDER ENTERED AGAINST THE PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE; AND

(II) VACATE OR STAY AN ATTACHMENT OR GARNISHMENT OF PROPERTY, MONEY, OR DEBTS HELD BY ANOTHER PERSON, WHETHER BEFORE OR AFTER JUDGMENT; AND

(2) SUBJECT TO SUBSECTION (C) OF THIS SECTION, ON MOTION OF THE PERSON IN EMERGENCY MANAGEMENT SERVICE, PERSON SUFFERING INJURY OR DAMAGE, OR ANOTHER PERSON ACTING ON BEHALF OF THAT PERSON, THE COURT SHALL:

(I) STAY THE EXECUTION OF A JUDGMENT OR ORDER ENTERED AGAINST THE PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE; AND

(II) VACATE OR STAY AN ATTACHMENT OR GARNISHMENT OF PROPERTY, MONEY, OR DEBTS HELD BY ANOTHER PERSON, WHETHER BEFORE OR AFTER JUDGMENT.

(B) APPLICABILITY OF SECTION.

THIS SECTION APPLIES TO A PROCEEDING IN A COURT BEFORE OR DURING THE PERIOD THAT THE PERSON IS, OR WITHIN 60 DAYS AFTER THE PERSON CEASED TO BE, A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

(C) EXCEPTION.

THE COURT NEED NOT VACATE OR STAY A JUDGMENT OR ORDER ENTERED OR SOUGHT UNDER THIS SECTION IF THE COURT FINDS THAT THE ABILITY OF THE DEFENDANT TO COMPLY WITH THE JUDGMENT OR ORDER ENTERED OR SOUGHT WAS NOT MATERIALLY AFFECTED BECAUSE THE DEFENDANT WAS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, § 19.

In the introductory language of subsection (a)(1) of this section, the former phrase "in its discretion" is deleted as included in the reference that the court "may" take specified actions.

In subsection (a)(1)(i) and (ii) and (2)(i) and (ii) of this section, the former phrases "as provided in this subtitle" are deleted as surplusage.

Defined terms: "Court" § 14-201

"Person" § 1-101

"Person in emergency management service" § 14-201

"Person suffering injury or damage" § 14-201

14-211. PERIOD AND TERMS OF STAY OF ACTION, PROCEEDING, ATTACHMENT, OR EXECUTION.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED, A COURT UNDER THIS SUBTITLE MAY STAY AN ACTION, PROCEEDING, ATTACHMENT, OR EXECUTION:

(1) FOR ALL OR PART OF THE PERIOD DURING WHICH A PERSON IS, AND FOR 3 MONTHS AFTER THE PERSON CEASED TO BE, A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE; AND

(2) SUBJECT TO THE TERMS THAT THE COURT CONSIDERS JUST, INCLUDING PAYMENT IN INSTALLMENTS IN THE AMOUNTS AND AT THE TIMES SET BY THE COURT.

(B) RIGHT TO PROCEED AGAINST CO-DEFENDANTS.

NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE COURT MAY ALLOW A PLAINTIFF TO PROCEED AGAINST A CO-DEFENDANT OF A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, §§ 20 and 14(d).

In subsection (a)(1) of this section, the phrase "for 3 months after the person ceased to be" a person in emergency management service or person suffering injury or damage is substituted for the former phrase "three months thereafter" for clarity.

In subsection (a)(2) of this section, the former phrase "or otherwise" is deleted as unnecessary in light of the reference to "including".

Defined terms: "Court" § 14-201

"Person" § 1-101

"Person in emergency management service" § 14-201

"Person suffering injury or damage" § 14-201

14-212. EVICTION OR DISTRESS.

(A) IN GENERAL.

EXCEPT BY ORDER OF COURT IN A PROCEEDING AFFECTING THE RIGHT OF POSSESSION, AN ACTION FOR EVICTION OR DISTRESS MAY NOT BE BROUGHT AGAINST A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE IF:

(1) THE RENT FOR THE PREMISES DOES NOT EXCEED $150 PER MONTH; AND

(2) THE PREMISES ARE OCCUPIED FOR DWELLING PURPOSES BY THE SPOUSE, CHILDREN, OR OTHER DEPENDENTS OF THE PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

(B) STAY OF PROCEEDINGS.

(1) IN A PROCEEDING AFFECTING THE RIGHT OF POSSESSION:

(I) 1. ON ITS OWN INITIATIVE THE COURT MAY STAY THE PROCEEDING FOR A PERIOD NOT EXCEEDING 3 MONTHS; AND

2. SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ON MOTION THE COURT SHALL STAY THE PROCEEDING FOR A PERIOD NOT EXCEEDING 3 MONTHS; OR

(II) THE COURT MAY ISSUE ANY OTHER ORDER.

(2) THE COURT NEED NOT STAY THE ACTION IF THE COURT FINDS THAT THE ABILITY OF A TENANT TO PAY THE AGREED RENT WAS NOT MATERIALLY AFFECTED BECAUSE THE TENANT WAS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, § 22(a) and (b).

In the introductory language of subsection (a) and in subsection (b)(1) of this section, the former obsolete references to an "application" are deleted as included in the general reference to a "proceeding affecting the right of possession".

In subsection (a)(2) of this section, the former reference to premises occupied "chiefly" for dwelling purposes is deleted as surplusage.

In subsection (b)(1)(ii) of this section, the former phrase "as may be just" is deleted as implicit.

In subsection (b)(2) of this section, the reference the court "finds" is substituted for the former phrase "in the opinion of" the court for clarity and consistency throughout this subtitle.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that rent under this section may not exceed $150 per month. This rent limitation, which shields a person from eviction or distraint under subsection (a)(1) of this section, is obsolete given current economic conditions because it is doubtful that many premises can be rented today for less than $150 per month.

Defined terms: "Court" § 14-201

"Person in emergency management service" § 14-201

"Person suffering injury or damage" § 14-201

14-213. INSTALLMENT CONTRACTS FOR PURCHASE OF PROPERTY OR OF LEASE OR BAILMENT.

(A) IN GENERAL.

(1) FOR NONPAYMENT OF AN INSTALLMENT DUE UNDER A CONTRACT FOR THE PURCHASE OF REAL OR PERSONAL PROPERTY OR A CONTRACT OF LEASE OR

BAILMENT WITH THE OPTION TO PURCHASE THE PROPERTY, A PERSON OR THE PERSON'S ASSIGNEE MAY NOT EXERCISE A RIGHT OR OPTION UNDER THE CONTRACT TO RESCIND OR TERMINATE THE CONTRACT OR RESUME POSSESSION OF THE PROPERTY IF:

(I) THE PERSON OR THE PERSON'S ASSIGNEE RECEIVED UNDER THE CONTRACT A DEPOSIT OR INSTALLMENT OF THE PURCHASE PRICE OF THE PROPERTY FROM ANOTHER PERSON OR THE ASSIGNEE OF THAT PERSON WHO, AFTER MAKING THE DEPOSIT OR INSTALLMENT, BECAME A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE; AND

(II) THE ATTEMPT TO EXERCISE THE RIGHT OR OPTION UNDER THE CONTRACT OCCURRED WHILE THE PERSON WHO MADE THE DEPOSIT OR INSTALLMENT WAS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY IF A COURT ALLOWS THE PERSON OR THE PERSON'S ASSIGNEE TO EXERCISE THE RIGHT OR OPTION UNDER THE CONTRACT.

(3) THIS SUBSECTION DOES NOT PREVENT THE PARTIES TO A CONTRACT OR THEIR ASSIGNEES FROM MUTUALLY AGREEING IN AN EXECUTED WRITING, AFTER THE MAKING OF THE CONTRACT AND DURING OR AFTER THE PERIOD THAT A PARTY TO THE CONTRACT IS A PERSON IN EMERGENCY MANAGEMENT SERVICE, TO:

(I) MODIFY, TERMINATE, OR CANCEL THE CONTRACT; OR

(II) REPOSSESS OR RETAIN THE PROPERTY PURCHASED OR RECEIVED BY THAT PARTY UNDER THE CONTRACT.

(B) ORDER TO REPAY INSTALLMENTS OR STAY OF ACTION.

(1) AFTER A HEARING ON THE ACTION:

(I) THE COURT MAY ORDER THE REPAYMENT OF ALL OR PART OF ANY PRIOR INSTALLMENT OR DEPOSIT AS A CONDITION OF TERMINATING THE CONTRACT AND RESUMING POSSESSION OF THE PROPERTY;

(II) 1. ON ITS OWN INITIATIVE THE COURT MAY STAY THE ACTION; AND

2. EXCEPT AS PROVIDED IN § 14-215 OF THIS SUBTITLE, ON MOTION BY A PERSON IN EMERGENCY MANAGEMENT SERVICE, PERSON SUFFERING INJURY OR DAMAGE, OR ANOTHER PERSON ACTING ON BEHALF OF THAT PERSON, THE COURT SHALL STAY THE ACTION; OR

(III) THE COURT MAY OTHERWISE DISPOSE OF THE CASE AS IT CONSIDERS EQUITABLE TO PRESERVE THE INTERESTS OF THE PARTIES.

(2) THE COURT NEED NOT STAY THE ACTION IF THE COURT FINDS THAT THE ABILITY OF THE DEFENDANT TO COMPLY WITH THE TERMS OF THE CONTRACT WAS NOT MATERIALLY AFFECTED BECAUSE THE DEFENDANT WAS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, §§ 14(d) and 23(a) and (c).

In the introductory language of subsection (a)(1) and in subsection (a)(1)(i) and (2) of this section, the reference to an "assignee" is substituted for the former reference to an "assignor" for accuracy. The Public Safety Article Review Committee notes these substitutions for consideration by the General Assembly.

In the introductory language of subsection (a)(1) of this section, the phrase "with the option to" is substituted for the former obsolete phrase "with a view to" for clarity and accuracy.

In subsection (a)(3) of this section, the reference to the period "during or after the period that a party to the contract is a person in emergency management service" is substituted for the former reference to "during or after the period of military service of the person concerned" for clarity and to use the defined term. This section covers a person in emergency management service or a person suffering injury or damage, not a person in military service.

In subsection (b)(1)(i)2 of this section, the phrase "on motion" is substituted for the former obsolete phrase "on application to it" for clarity and consistency throughout this subtitle.

In subsection (b)(2) of this section, the reference to a "person suffering injury or damage" is added for consistency throughout this section.

Defined terms: "Court" § 14-201

"Person" § 1-101

"Person in emergency management service" § 14-201

"Person suffering injury or damage" § 14-201

14-214. MORTGAGES.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO AN OBLIGATION THAT:

(1) IS ON REAL OR PERSONAL PROPERTY THAT IS OWNED BY A PERSON WHEN THE PERSON BECOMES A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE;

(2) ORIGINATES BEFORE THE PERSON BECAME A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE; AND

(3) IS SECURED BY A MORTGAGE, DEED OF TRUST, OR OTHER SECURITY IN THE NATURE OF A MORTGAGE.

(B) IN GENERAL.

(1) IN A PROCEEDING IN A COURT AGAINST A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE TO ENFORCE AN OBLIGATION SUBJECT TO THIS SECTION ARISING OUT OF THE NONPAYMENT OF A SUM DUE UNDER THE OBLIGATION OR ARISING OUT OF A BREACH OF THE OBLIGATION THAT OCCURS BEFORE OR DURING THE PERIOD THAT THE PERSON IS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE:

(I) ON ITS OWN INITIATIVE THE COURT, AFTER HEARING, MAY STAY THE PROCEEDING OR OTHERWISE DISPOSE OF THE CASE AS IT CONSIDERS EQUITABLE TO PRESERVE THE INTERESTS OF THE PARTIES; AND

(II) EXCEPT AS PROVIDED IN § 14-215 OF THIS SUBTITLE, ON MOTION BY A PERSON IN EMERGENCY MANAGEMENT SERVICE, PERSON SUFFERING INJURY OR DAMAGE, OR ANOTHER PERSON ACTING ON BEHALF OF THAT PERSON, THE COURT SHALL STAY THE PROCEEDING OR OTHERWISE DISPOSE OF THE CASE AS IT CONSIDERS EQUITABLE TO PRESERVE THE INTERESTS OF THE PARTIES.

(2) THE COURT NEED NOT STAY THE PROCEEDING IF THE COURT FINDS THAT THE ABILITY OF THE DEFENDANT TO COMPLY WITH THE TERMS OF THE OBLIGATION WAS NOT MATERIALLY AFFECTED BECAUSE THE DEFENDANT WAS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

(C) SALE OF PROPERTY UNDER POWER OF SALE OR CONFESSION OF JUDGMENT.

EXCEPT ON AN ORDER OF SALE PREVIOUSLY GRANTED BY A COURT AND A RETURN TO THE ORDER MADE AND APPROVED BY THE COURT, A SALE UNDER A POWER OF SALE OR UNDER A JUDGMENT ENTERED ON A CONFESSION OF JUDGMENT CONTAINED IN AN OBLIGATION SUBJECT TO THIS SECTION IS NOT VALID IF MADE DURING THE PERIOD THAT THE PERSON WHO OWNS THE PROPERTY IS, OR WITHIN 3 MONTHS AFTER THE PERSON CEASED TO BE, A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, §§ 24 and 14(d).

In subsections (a)(1) and (b)(2) of this section, the reference to the person being "a person in emergency management service or person suffering injury or damage" is substituted for the former reference to "being in such

category" for clarity and to use the defined terms.

In subsection (a)(1) of this section, the former phrase "and still so owned by him" is deleted as surplusage.

In subsection (a)(3) of this section, the reference to a "deed of trust" is substituted for the former reference to a "trust deed" for clarity.

In subsection (b)(1)(i) of this section, the former phrase "in its discretion" is deleted as included in the reference the court "may".

In subsection (b)(1)(ii) of this section, the phrase "on motion" is substituted for the former obsolete phrase "on application to it" for clarity and consistency throughout this subsection.

In subsection (c) of this section, the reference to a person "who owns the property" is added for clarity.

Also in subsection (c) of this section, the reference to a "confession of judgment" is substituted for the former obsolete reference to a "warrant of attorney to confess judgment" for brevity.

Also in subsection (c) of this section, the reference to an obligation "subject to this section" is substituted for the former reference to "such" obligation for clarity.

Defined terms: "Court" § 14-201

"Person" § 1-101

"Person in emergency management service" § 14-201

"Person suffering injury or damage" § 14-201

14-215. STAY OF PROCEEDINGS FOR REPOSSESSION OR SALE OF MOTOR VEHICLE OR TRACTOR.

(A) IN GENERAL.

EXCEPT IF A COURT FINDS THAT 50% OR MORE OF THE PURCHASE PRICE OF A MOTOR VEHICLE, TRACTOR, OR THE ACCESSORIES OF A MOTOR VEHICLE OR TRACTOR HAS BEEN PAID, A COURT MAY NOT STAY A PROCEEDING TO RESUME POSSESSION OF OR TO ORDER THE SALE OF A MOTOR VEHICLE, TRACTOR, OR THE ACCESSORIES OF A MOTOR VEHICLE OR TRACTOR THAT IS ENCUMBERED BY A PURCHASE MONEY MORTGAGE, CONDITIONAL SALES CONTRACT, OR A LEASE OR BAILMENT WITH AN OPTION TO PURCHASE.

(B) AUTHORIZATION TO REQUIRE BOND.

BEFORE ENTERING AN ORDER OR JUDGMENT IN A PROCEEDING TO RESUME POSSESSION OF OR TO ORDER THE SALE OF A MOTOR VEHICLE, TRACTOR, OR THE ACCESSORIES OF A MOTOR VEHICLE OR TRACTOR, THE COURT MAY REQUIRE THE PLAINTIFF TO FILE A BOND APPROVED BY THE COURT TO INDEMNIFY THE

DEFENDANT, IF THE DEFENDANT IS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE, AGAINST ANY LOSS OR DAMAGE THAT THE DEFENDANT MAY SUFFER BECAUSE OF THE JUDGMENT OR ORDER IF ALL OR PART OF THE JUDGMENT OR ORDER IS SET ASIDE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, § 25.

In subsection (a) of this section, the phrase "with an option to purchase" is substituted for the former obsolete phrase "with a view to purchase" for clarity and accuracy.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that this section is too limited because the only farm equipment it covers is a tractor. The Committee also notes that this section may be covered by the Uniform Commercial Code.

Defined terms: "Court" § 14-201

"Person in emergency management service" § 14-201

"Person suffering injury or damage" § 14-201

14-216. REAL PROPERTY TAXES.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO REAL PROPERTY:

(1) ON WHICH GENERAL OR SPECIAL TAXES OR ASSESSMENTS FALL DUE BUT ARE NOT PAID DURING THE PERIOD A PERSON IS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE; AND

(2) THAT:

(I) IS OWNED AND OCCUPIED AS A DWELLING OR FOR AGRICULTURAL OR BUSINESS PURPOSES BY THE PERSON IN EMERGENCY MANAGEMENT SERVICE, PERSON SUFFERING INJURY OR DAMAGE, OR A DEPENDENT OR EMPLOYEE OF THAT PERSON WHEN THE PERSON BECOMES A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE; AND

(II) CONTINUES TO BE OCCUPIED BY THE DEPENDENTS OR EMPLOYEES.

(B) FILING OF AFFIDAVIT.

(1) EXCEPT BY ORDER OF COURT GRANTED ON MOTION BY THE COLLECTOR OF TAXES OR ANOTHER OFFICER WHOSE DUTY IS TO ENFORCE THE COLLECTION OF TAXES OR ASSESSMENTS, THE PROPERTY OF A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE MAY NOT BE SOLD TO ENFORCE THE COLLECTION OF A TAX OR ASSESSMENT, AND A

PROCEEDING TO ENFORCE THE COLLECTION OF A TAX OR ASSESSMENT MAY NOT BE BROUGHT, IF THE PERSON IN EMERGENCY MANAGEMENT SERVICE, PERSON SUFFERING INJURY OR DAMAGE, OR ANOTHER PERSON ACTING ON BEHALF OF THAT PERSON, FILES WITH THE COLLECTOR OF TAXES OR OTHER OFFICER AN AFFIDAVIT THAT SHOWS THAT:

(I) A TAX OR ASSESSMENT HAS BEEN ASSESSED ON PROPERTY SUBJECT TO THIS SECTION;

(II) THE TAX OR ASSESSMENT IS UNPAID; AND

(III) THE PERSON'S ABILITY TO PAY THE TAX OR ASSESSMENT IS MATERIALLY AFFECTED BECAUSE THE PERSON IS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

(2) THE COURT MAY STAY THE PROCEEDINGS OR SALE FOR A PERIOD NOT EXCEEDING 6 MONTHS AFTER THE PERSON OWING THE TAX CEASED TO BE A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

(C) REDEMPTION OF PROPERTY.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF BY LAW PROPERTY SUBJECT TO THIS SECTION IS SOLD OR FORFEITED TO ENFORCE THE COLLECTION OF A TAX OR ASSESSMENT ON THE PROPERTY, A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE MAY REDEEM THE PROPERTY OR BRING AN ACTION TO REDEEM THE PROPERTY NOT LATER THAN 6 MONTHS AFTER THE PERSON CEASED TO BE A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT SHORTEN ANY PERIOD FOR REDEMPTION PROVIDED BY STATE LAW.

(D) INTEREST ON UNPAID TAXES AND ASSESSMENTS.

(1) (I) IF A TAX OR ASSESSMENT ON PROPERTY SUBJECT TO THIS SECTION IS NOT PAID WHEN DUE, INTEREST ON THE TAX OR ASSESSMENT DUE AND UNPAID SHALL ACCRUE AT THE RATE OF 6% PER YEAR.

(II) NO OTHER PENALTY OR INTEREST MAY BE IMPOSED BECAUSE OF THE NONPAYMENT.

(2) A LIEN FOR UNPAID TAXES OR AN UNPAID ASSESSMENT SHALL INCLUDE ANY INTEREST THAT ACCRUES UNDER THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, §§ 26 and 14(d).

In the introductory language of subsection (b)(1) of this section, the phrase "by order" of court is substituted for the former obsolete phrase "upon

leave" of court for clarity.

Also in the introductory language of subsection (b)(1) of this section, the phrase "on motion" is substituted for the former obsolete phrase "upon an application made" for clarity.

In subsection (c)(1) of this section, the phrase "[e]xcept as provided in paragraph (2) of this subsection" is added for clarity.

Also in subsection (c)(1) of this section, the reference to "property subject to this section" is substituted for the former reference to "such property" for clarity.

Also in subsection (c)(1) of this section, the reference to the person "ceas[ing] to be" a person in emergency management service or person suffering injury or damage is substituted for the former reference to "after the termination of being in such category" for clarity.

In subsection (c)(2) of this section, the former phrase "now or hereafter" provided by State law is deleted as surplusage.

In subsection (d) of this section, the former reference to bearing interest "until paid" is deleted as surplusage.

Defined terms: "Court" § 14-201

"Person" § 1-101

"Person in emergency management service" § 14-201

"Person suffering injury or damage" § 14-201

14-217. INCOME TAXES.

(A) DEFERRAL OF TAX DUE.

(1) IF A PERSON'S ABILITY TO PAY INCOME TAX IS MATERIALLY IMPAIRED BECAUSE THE PERSON IS A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE, THE COLLECTION OF INCOME TAX FROM THAT PERSON THAT WAS DUE BEFORE THE PERSON BECAME, OR THAT FALLS DUE DURING THE PERIOD THAT THE PERSON IS, A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE SHALL BE DEFERRED FOR A PERIOD NOT EXCEEDING 6 MONTHS AFTER THE PERSON CEASED TO BE A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

(2) IF THE COLLECTION OF INCOME TAXES IS DEFERRED UNDER THIS SECTION, THE RUNNING OF A STATUTE OF LIMITATIONS AGAINST THE COLLECTION OF THOSE TAXES IS SUSPENDED FOR A PERIOD OF 9 MONTHS AFTER THE PERSON CEASED TO BE A PERSON IN EMERGENCY MANAGEMENT SERVICE OR PERSON SUFFERING INJURY OR DAMAGE.

(B) INTEREST AND PENALTIES.

(1) INTEREST ON THE AMOUNT OF TAX DUE AND UNPAID DOES NOT ACCRUE DURING THE PERIOD THAT THE COLLECTION OF THE TAX IS DEFERRED UNDER THIS SECTION.

(2) A PENALTY FOR NONPAYMENT OF TAX DOES NOT ACCRUE DURING THE PERIOD THAT THE COLLECTION OF TAX IS DEFERRED UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, §§ 27 and 14(d).

In subsection (a)(1) of this section, the phrase "because the person is a person in emergency management service or person suffering injury or damage" is substituted for the former reference to "by reason of being in such category" for clarity.

In subsection (a)(2) of this section, the former reference to collection of the tax "by distraint or otherwise" is deleted as surplusage.

Defined terms: "Person" § 1-101

"Person in emergency management service" § 14-201

"Person suffering injury or damage" § 14-201

14-218. PROHIBITED ACTS; PENALTY.

(A) FALSE AFFIDAVITS PROHIBITED.

A PERSON MAY NOT MAKE OR USE AN AFFIDAVIT REQUIRED UNDER § 14-208 OF THIS SUBTITLE IF THE PERSON KNOWS THE AFFIDAVIT IS FALSE.

(B) ILLEGAL EVICTION OR DISTRAINT OF PROPERTY PROHIBITED.

A PERSON MAY NOT KNOWINGLY PARTICIPATE IN AN EVICTION OR DISTRESS IN A MANNER OTHER THAN IN ACCORDANCE WITH § 14-212 OF THIS SUBTITLE.

(C) ILLEGAL REPOSSESSION OF PROPERTY PROHIBITED.

A PERSON MAY NOT KNOWINGLY RESUME POSSESSION OF PROPERTY SUBJECT TO § 14-213 OF THIS SUBTITLE IN A MANNER OTHER THAN IN ACCORDANCE WITH § 14-213(A) OF THIS SUBTITLE.

(D) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING $1,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, §§ 17(b), 22(c), and 23(b).

In subsection (d) of this section, the reference to a person "on conviction" being subject to a certain penalty is added to state expressly that which

only was implied in the former law and for consistency with other penalty provisions in this and other revised articles of the Code.

Defined term: "Person" § 1-101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 16A, § 31, which provides for the severability of the provisions of the former Art. 16A, §§ 13 through 31, is deleted as unnecessary. Article 1, § 23 states that the provisions of statutes enacted after July 1, 1973, are severable unless the statute specifically provides that they are not. Since the Public Safety Article was enacted after July 1, 1973, a severability clause is unnecessary for this subtitle.

SUBTITLE 3. GOVERNOR'S EMERGENCY POWERS.

14-301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first sentence of former Art. 41, § 2-101(b).

(B) ENERGY EMERGENCY.

"ENERGY EMERGENCY" MEANS A SITUATION IN WHICH THE HEALTH, SAFETY, OR WELFARE OF THE PUBLIC IS THREATENED BY AN ACTUAL OR IMPENDING ACUTE SHORTAGE IN ENERGY RESOURCES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first sentence of former Art. 41, § 2-101(c-1)(1).

The defined term "energy emergency" is substituted for the former references to a "crisis", "disaster", "catastrophe", and "similar public emergency" to use a more specific term to describe the type of emergency encompassed by the defined term.

The reference to the "public" is substituted for the former reference to the "citizens of this State" for consistency with terminology used throughout this article.

The former reference to "usable" energy resources is deleted as surplusage.

(C) PUBLIC EMERGENCY.

"PUBLIC EMERGENCY" MEANS:

(1) A SITUATION IN WHICH THREE OR MORE INDIVIDUALS ARE AT THE SAME TIME AND IN THE SAME PLACE ENGAGED IN TUMULTUOUS CONDUCT THAT

LEADS TO THE COMMISSION OF UNLAWFUL ACTS THAT DISTURB THE PUBLIC PEACE OR CAUSE THE UNLAWFUL DESTRUCTION OR DAMAGE OF PUBLIC OR PRIVATE PROPERTY;

(2) A CRISIS, DISASTER, RIOT, OR CATASTROPHE; OR

(3) AN ENERGY EMERGENCY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 2-101(b)(1) and the first sentence of (c-1)(1).

In item (1) of this subsection, the reference to "individuals" is substituted for the former reference to "persons" because individuals, and not the other entities included in the defined term "person", engage in tumultuous conduct. *See* § 1-101 of this article for the definition of "person".

Also in item (1) of this subsection, the phrase "at the same time and in the same place" is substituted for the former reference to "contemporaneously, both as to time and place" for clarity.

Defined term: "Energy emergency" § 14-301

REVISOR'S NOTE TO SECTION: Former Art. 41, § 2-101(b)(3), which defined "promulgate" to mean to announce publicly, is deleted as unnecessary because it merely repeated the ordinary meaning of the word.

Former Art. 41, § 2-101(b)(2), which defined "`[o]rders', `rules' and `regulations'", is revised in the substantive provisions that relate to the authority of the Governor to promulgate orders during a state of emergency. *See* § 14-303(b) of this subtitle.

Former Art. 41, § 2-101(b)(4), which defined "[a]ny action", is revised in the substantive provisions that relate to the authority of the Department of State Police to assist local law enforcement agencies during a state of emergency. *See* § 14-305(c) of this subtitle.

14-302. LEGISLATIVE INTENT.

(A) IN GENERAL.

THE GENERAL ASSEMBLY RECOGNIZES THE GOVERNOR'S BROAD AUTHORITY IN THE EXERCISE OF THE POLICE POWER OF THE STATE TO PROVIDE ADEQUATE CONTROL OVER PERSONS AND CONDITIONS DURING IMPENDING OR ACTUAL PUBLIC EMERGENCIES.

(B) CONSTRUCTION OF SUBTITLE.

THIS SUBTITLE SHALL BE BROADLY CONSTRUED TO CARRY OUT THE PURPOSE OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 2-101(a).

In subsection (a) of this section, the reference to the Governor's "authority" is substituted for the former reference to the Governor's "power of action" for brevity and consistency with terminology used in this and other revised articles of the Code.

Also in subsection (a) of this section, the defined term "public emergency" is substituted for the former reference to a "public crisis or disaster" for brevity and consistency with terminology used throughout this subtitle.

Also in subsection (a) of this section, the former reference to "such periods of" impending or actual public emergencies is deleted as surplusage.

In subsection (b) of this section, the reference to this "subtitle" is substituted for the former reference to this "section". The general reference to this "subtitle" is broader than the former reference to this "section" because Title 14, Subtitle 3 of this article includes former Art. 41, §§ 2-102 and 2-103, revised at §§ 14-307 and 14-308(b) of this subtitle. Section 14-307 of this subtitle authorizes the Governor during an emergency to proclaim a day for the general cessation of business. Section 14-308(b) of this subtitle prohibits fraudulent representation in meeting the requirements of an order, rule, or regulation adopted by the Governor during a state of emergency. Because these provisions relate to the authority of the Governor during an emergency, the intent would seem to be that they be broadly construed just as the other provisions of this subtitle are. No substantive change is intended by the substitution of the reference to this "subtitle" for the former reference to this "section".

Also in subsection (b) of this section, the phrase "to carry out the purpose of this subtitle" is substituted for the former phrase "to effectuate this purpose" for clarity.

Defined term: "Public emergency" § 14-301

14-303. GOVERNOR'S PROCLAMATION OF STATE OF EMERGENCY.

(A) AUTHORITY TO PROCLAIM STATE OF EMERGENCY.

DURING A PUBLIC EMERGENCY IN THE STATE, THE GOVERNOR MAY PROCLAIM A STATE OF EMERGENCY AND DESIGNATE THE EMERGENCY AREA:

(1) IF PUBLIC SAFETY IS ENDANGERED OR ON REASONABLE APPREHENSION OF IMMEDIATE DANGER TO PUBLIC SAFETY; AND

(2) ON:

(I) THE GOVERNOR'S OWN INITIATIVE; OR

(II) THE APPLICATION OF:

1. THE CHIEF EXECUTIVE OFFICER OR GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION; OR

2. THE SECRETARY OF STATE POLICE.

(B) ORDERS, RULES, AND REGULATIONS TO CONTROL AND TERMINATE PUBLIC EMERGENCY -- ISSUANCE.

AFTER PROCLAIMING A STATE OF EMERGENCY, THE GOVERNOR MAY PROMULGATE REASONABLE ORDERS, RULES, OR REGULATIONS THAT THE GOVERNOR CONSIDERS NECESSARY TO PROTECT LIFE AND PROPERTY OR CALCULATED EFFECTIVELY TO CONTROL AND TERMINATE THE PUBLIC EMERGENCY IN THE EMERGENCY AREA, INCLUDING ORDERS, RULES, OR REGULATIONS TO:

(1) CONTROL TRAFFIC, INCLUDING PUBLIC AND PRIVATE TRANSPORTATION, IN THE EMERGENCY AREA;

(2) DESIGNATE SPECIFIC ZONES IN THE EMERGENCY AREA IN WHICH THE OCCUPANCY AND USE OF BUILDINGS AND VEHICLES MAY BE CONTROLLED;

(3) CONTROL THE MOVEMENT OF INDIVIDUALS OR VEHICLES INTO, IN, OR FROM THE DESIGNATED ZONES;

(4) CONTROL PLACES OF AMUSEMENT AND PLACES OF ASSEMBLY;

(5) CONTROL INDIVIDUALS ON PUBLIC STREETS;

(6) ESTABLISH CURFEWS;

(7) CONTROL THE SALE, TRANSPORTATION, AND USE OF ALCOHOLIC BEVERAGES;

(8) CONTROL THE POSSESSION, SALE, CARRYING, AND USE OF FIREARMS, OTHER DANGEROUS WEAPONS, AND AMMUNITION; AND

(9) CONTROL THE STORAGE, USE, AND TRANSPORTATION OF EXPLOSIVES OR FLAMMABLE MATERIALS OR LIQUIDS CONSIDERED TO BE DANGEROUS TO PUBLIC SAFETY, INCLUDING "MOLOTOV COCKTAILS".

(C) SAME -- NOTICE.

BEFORE AN ORDER, RULE, OR REGULATION PROMULGATED UNDER SUBSECTION (B) OF THIS SECTION TAKES EFFECT, THE GOVERNOR SHALL GIVE REASONABLE NOTICE OF THE ORDER, RULE, OR REGULATION:

(1) IN A NEWSPAPER OF GENERAL CIRCULATION IN THE EMERGENCY AREA;

(2) THROUGH TELEVISION OR RADIO SERVING THE EMERGENCY AREA; OR

(3) BY CIRCULATING NOTICES OR POSTING SIGNS AT CONSPICUOUS PLACES IN THE EMERGENCY AREA.

(D) SAME -- EFFECT.

AN ORDER, RULE, OR REGULATION PROMULGATED UNDER SUBSECTION (B) OF THIS SECTION:

(1) TAKES EFFECT FROM THE TIME AND IN THE MANNER SPECIFIED IN THE ORDER, RULE, OR REGULATION;

(2) MAY BE AMENDED OR RESCINDED, IN THE SAME MANNER AS THE ORIGINAL ORDER, BY THE GOVERNOR AT ANY TIME DURING THE STATE OF EMERGENCY; AND

(3) TERMINATES WHEN THE GOVERNOR DECLARES THAT THE STATE OF EMERGENCY NO LONGER EXISTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 2-101(b)(2) and (c).

In the introductory language of subsection (a) of this section, the reference to the "emergency area" is substituted for the former reference to the "area involved" for consistency with terminology used in § 14-306 of this subtitle. Similarly, in subsections (b)(1) and (2) and (c)(1), (2), and (3), the references to the "emergency area" are substituted for the former references to the "affected area".

In subsection (a)(2)(ii)1 of this section, the reference to a "municipal corporation" is substituted for the former references to a "city or local municipality" for brevity and consistency with Md. Constitution, Art. XI-E.

In the introductory language of subsection (b) of this section, the defined term "public emergency" is substituted for the former reference to the "emergency situation" for consistency within this subtitle.

Also in the introductory language of subsection (b) of this section, the former phrase "by way of enumerated example rather than limitation" is deleted as unnecessary in light of Art. 1, § 30, which provides that "[t]he words `includes' or `including' mean, unless the context requires otherwise, includes or including by way of illustration and not by way of limitation". Similarly, in subsection (b)(9) of this section, the former phrase "but not limited to" is deleted.

In subsection (b)(2) of this section, the former phrase "under necessitous circumstances" is deleted as implicit.

%In subsection (b)(3) and (5) of this section, the reference to "individuals" is substituted for the former reference to "persons" because only individuals, and not the other entities included in the defined term "person", are covered by these provisions. *See* § 1-101 of this article for the definition of "person".

In subsection (b)(5) of this section, the former reference to "thoroughfares" is deleted as redundant and obsolete.

In subsection (b)(7) of this section, the former reference to "liquors" is deleted as included in the reference to "alcoholic beverages".

In subsection (b)(9) of this section, the word "flammable" is substituted for the former word "inflammable" to conform to a style convention used in revised articles of the Code.

In subsection (c) of this section, the former phrase "shall be made public prior to such time as provided herein" is deleted as included in the specific requirements of subsection (c) of this section that relate to public notice.

In subsection (c)(1) of this section, the reference to a "newspaper" of general circulation is substituted for the former reference to a "paper" of general circulation for clarity and specificity.

In subsection (d)(2) and (3) of this section, the references to the "state of" emergency are added for clarity and consistency within this section.

In subsection (d)(2) of this section, the former reference to an order being "modified" is deleted as included in the reference to the order being "amended".

Defined term: "Public emergency" § 14-301

14-304. ENERGY EMERGENCIES.

(A) GOVERNOR'S AUTHORITY TO PROCLAIM STATE OF EMERGENCY.

ON REASONABLE APPREHENSION THAT AN ENERGY EMERGENCY EXISTS, THE GOVERNOR MAY PROCLAIM A STATE OF EMERGENCY.

(B) ORDERS, RULES, AND REGULATIONS -- ISSUANCE AND CONTENTS.

NOTWITHSTANDING ANY OTHER PROVISION OR LIMITATION OF STATE OR LOCAL LAW, IF THE GOVERNOR PROCLAIMS A STATE OF EMERGENCY UNDER THIS SECTION, IN ADDITION TO ANY OTHER ORDER, RULE, OR REGULATION PROMULGATED UNDER THIS SUBTITLE, THE GOVERNOR MAY PROMULGATE ORDERS, RULES, OR REGULATIONS TO:

(1) ESTABLISH AND IMPLEMENT PROGRAMS, CONTROLS, STANDARDS, PRIORITIES, AND QUOTAS FOR THE ALLOCATION, CONSERVATION, AND CONSUMPTION OF ENERGY RESOURCES;

(2) SUSPEND AND MODIFY EXISTING STANDARDS AND REQUIREMENTS AFFECTING OR AFFECTED BY THE USE OF ENERGY RESOURCES, INCLUDING THOSE THAT RELATE TO AIR QUALITY CONTROL, THE TYPE AND COMPOSITION OF VARIOUS ENERGY RESOURCES, THE PRODUCTION AND DISTRIBUTION OF ENERGY RESOURCES, AND THE HOURS AND DAYS DURING WHICH PUBLIC BUILDINGS AND COMMERCIAL AND INDUSTRIAL ESTABLISHMENTS ARE AUTHORIZED OR REQUIRED TO REMAIN OPEN; AND

(3) ESTABLISH AND IMPLEMENT REGIONAL PROGRAMS AND AGREEMENTS TO COORDINATE THE ENERGY RESOURCE PROGRAMS AND ACTIONS OF THE STATE WITH THOSE OF THE FEDERAL GOVERNMENT AND OF OTHER STATES AND LOCALITIES.

(C) SAME -- IMPOSITION OF CIVIL PENALTIES.

INSTEAD OF OR IN ADDITION TO THE PENALTIES PROVIDED IN § 14-308 OF THIS SUBTITLE, AN ORDER, RULE, OR REGULATION PROMULGATED BY THE GOVERNOR UNDER THIS SECTION MAY PROVIDE FOR:

(1) THE IMPOSITION OF A CIVIL PENALTY NOT EXCEEDING $1,000 FOR EACH VIOLATION; AND

(2) THE METHOD AND CONDITIONS OF COLLECTING THE CIVIL PENALTY.

(D) SAME -- LEGISLATIVE APPROVAL.

(1) IN THIS SUBSECTION, "COMMITTEE" MEANS:

(I) THE JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW; OR

(II) ANY OTHER JOINT COMMITTEE SUBSTITUTED BY THE GENERAL ASSEMBLY BY LAW TO CARRY OUT THE RESPONSIBILITIES OF THE JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW WITH RESPECT TO AN ENERGY EMERGENCY.

(2) BEFORE PROMULGATING AN ORDER, RULE, OR REGULATION UNDER THIS SECTION, THE GOVERNOR SHALL SUBMIT THE ORDER, RULE, OR REGULATION TO THE COMMITTEE FOR APPROVAL OR REJECTION.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF THE COMMITTEE FAILS TO TAKE ACTION ON THE ORDER, RULE, OR REGULATION WITHIN 7 DAYS AFTER ITS SUBMISSION, THE ORDER, RULE, OR REGULATION TAKES EFFECT AS PROMULGATED BY THE GOVERNOR.

(II) 1. IF BECAUSE OF EXTRAORDINARY CIRCUMSTANCES IT IS NOT FEASIBLE TO SECURE THE PRIOR APPROVAL OF THE COMMITTEE, AN ORDER, RULE, OR REGULATION TAKES EFFECT IMMEDIATELY.

2. WITHIN 2 DAYS AFTER IT TAKES EFFECT, THE ORDER, RULE, OR REGULATION SHALL BE COMMUNICATED TO THE CHAIRMAN OF THE COMMITTEE.

3. THE FULL COMMITTEE SHALL BE CONVENED WITHIN 5 DAYS AFTER THE ORDER, RULE, OR REGULATION IS COMMUNICATED TO THE CHAIRMAN.

4. THE ORDER, RULE, OR REGULATION IS SUBJECT TO DISAPPROVAL BY THE FULL COMMITTEE.

(4) ALL RECORDS OF ORDERS, RULES, REGULATIONS, AND COMMITTEE MEETINGS ARE OPEN TO THE PUBLIC.

(E) CONSTRUCTION OF SECTION.

THIS SECTION DOES NOT AUTHORIZE THE ESTABLISHMENT OF OIL REFINERIES, DEEP WATER PORTS, OFFSHORE DRILLING FACILITIES, OR OTHER SIMILAR MAJOR CAPITAL FACILITIES.

(F) GOVERNOR'S AUTHORITY TO IMPLEMENT FEDERAL PROGRAMS.

IN ADDITION TO THE SPECIFIC EMERGENCY POWERS CONTAINED IN THIS SUBTITLE, THE GENERAL ASSEMBLY RECOGNIZES AND CONFIRMS THE GOVERNOR'S POWER TO EXERCISE FULLY THE AUTHORITY NECESSARY TO IMPLEMENT ANY FEDERAL MANDATORY ENERGY EMERGENCY PROGRAM AS SET FORTH IN ANY FEDERAL PROGRAMS, LAWS, ORDERS, RULES, OR REGULATIONS THAT RELATE TO THE ALLOCATION, CONSERVATION, OR CONSUMPTION OF ENERGY RESOURCES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 2-101(c-1)(2), (3), (4), and (5), and the second and third sentences of (1).

In subsection (b) of this section, the former phrase "may also include, by way of further enumerated example rather than limitation" is deleted as unnecessary in light of Art. 1, § 30, which provides that "[t]he words `includes' or `including' mean, unless the context requires otherwise, includes or including by way of illustration and not by way of limitation".

Defined term: "Energy emergency" § 14-301

14-305. COOPERATION AMONG STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

(A) IN GENERAL.

IF THE GOVERNOR PROCLAIMS THAT A STATE OF EMERGENCY EXISTS, EACH LAW ENFORCEMENT AGENCY, FIRE COMPANY, OR RESCUE SQUAD OF THE STATE, A COUNTY, OR MUNICIPAL CORPORATION SHALL:

(1) COOPERATE IN ANY MANNER REQUESTED BY THE GOVERNOR OR THE GOVERNOR'S DESIGNATED REPRESENTATIVE; AND

(2) SUBJECT TO SUBSECTION (B) OF THIS SECTION, ALLOW THE USE OF ITS EQUIPMENT, FACILITIES, AND PERSONNEL IF THE USE IS REQUIRED BY THE GOVERNOR OR THE GOVERNOR'S DESIGNATED REPRESENTATIVE.

(B) USE OF EQUIPMENT, FACILITIES, AND PERSONNEL.

THE USE OF EQUIPMENT, FACILITIES, AND PERSONNEL UNDER SUBSECTION (A)(2) OF THIS SECTION MAY NOT SUBSTANTIALLY INTERFERE WITH THE NORMAL DUTIES OF A LAW ENFORCEMENT AGENCY, FIRE COMPANY, OR RESCUE SQUAD LOCATED OUTSIDE AN AREA DESIGNATED BY THE GOVERNOR AS AN EMERGENCY AREA.

(C) AUTHORITY OF STATE POLICE TO ASSIST LOCAL LAW ENFORCEMENT.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF THE GOVERNOR PROCLAIMS THAT A STATE OF EMERGENCY EXISTS, THE DEPARTMENT OF STATE POLICE MAY TAKE ANY ACTION IT CONSIDERS NECESSARY TO ASSIST LOCAL LAW ENFORCEMENT AGENCIES.

(2) ANY ACTION THAT THE DEPARTMENT OF STATE POLICE TAKES UNDER THIS SUBSECTION SHALL BE REASONABLY CALCULATED EFFECTIVELY TO CONTROL AND TERMINATE THE PUBLIC EMERGENCY.

(D) DUTY OF LOCAL LAW ENFORCEMENT TO NOTIFY SECRETARY OF DISTURBANCE.

A LAW ENFORCEMENT AGENCY OF A COUNTY OR MUNICIPAL CORPORATION SHALL NOTIFY THE SECRETARY OF STATE POLICE IF THE LOCAL LAW ENFORCEMENT AGENCY RECEIVES NOTICE OF A THREATENED OR ACTUAL DISTURBANCE THAT INDICATES THE POSSIBILITY OF SERIOUS DOMESTIC VIOLENCE.

(E) PERSON DESIGNATED BY GOVERNOR TO DIRECT OPERATIONS.

EXCEPT AS PROVIDED IN § 14-306 OF THIS SUBTITLE, EACH LAW ENFORCEMENT AGENCY, FIRE COMPANY, OR RESCUE SQUAD OF THE STATE, A COUNTY, OR MUNICIPAL CORPORATION WITHIN AN EMERGENCY AREA SHALL OPERATE UNDER THE DIRECTION OF THE PERSON DESIGNATED BY ORDER OF THE GOVERNOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 2-101(d) and (b)(4).

In the introductory language of subsection (a) and in subsection (e) of this section, the former reference to "city" law enforcement bodies or officials,

fire companies, and rescue squads is deleted as included in the reference to those of a "municipal corporation" to conform to Md. Constitution, Art. XI-E. Similarly, in subsection (d) of this section, the former reference to a "city" law enforcement agency is deleted.

In the introductory language of subsection (a) of this section, the reference to law enforcement "agenc[ies]" is substituted for the former reference to law enforcement "bodies" for consistency with terminology used throughout this subtitle and this article. Similarly, in subsection (e) of this section, the reference to law enforcement "agencies" is substituted for the former reference to law enforcement "officials" for consistency within this section.

Also in the introductory language of subsection (a) of this section, the former phrase "of this State" is deleted as implicit in the reference to "each law enforcement agency, fire company, or rescue squad of the State, a county, or municipal corporation".

In subsection (a)(2) of this section, the word "personnel" is substituted for the former word "manpower" to use a gender-neutral equivalent term.

Also in subsection (a)(2) of this section, the former phrase "as they may possess" is deleted as implicit.

In subsection (c)(1) of this section, the reference to local "law enforcement agencies" is substituted for the former reference to local "police" for consistency within this section.

Defined terms: "County" § 1-101

"Public emergency" § 14-301

14-306. MILITIA.

(A) "MILITIA" DEFINED.

IN THIS SECTION, "MILITIA" MEANS THE ORGANIZED AND UNORGANIZED MILITIA AS DESCRIBED IN § 13-203 OF THIS ARTICLE.

(B) AUTHORITY OF GOVERNOR TO CALL MILITIA INTO ACTION.

IF THE GOVERNOR PROCLAIMS THAT A STATE OF EMERGENCY EXISTS, THE GOVERNOR MAY CALL THE MILITIA INTO ACTION.

(C) POWER OF MILITIA.

(1) THE MILITIA SHALL HAVE FULL POWER AND RESPONSIBILITY FOR THE AREA DESIGNATED BY THE GOVERNOR AS AN EMERGENCY AREA.

(2) EACH LAW ENFORCEMENT AGENCY, LAW ENFORCEMENT OFFICIAL, FIRE COMPANY, AND RESCUE SQUAD IN THE EMERGENCY AREA, INCLUDING THE

DEPARTMENT OF STATE POLICE, SHALL COOPERATE WITH THE MILITIA AND OPERATE UNDER ITS DIRECTION.

(D) AUTHORITY OF LOCAL GOVERNMENTS TO REQUEST MILITIA.

THE CHIEF EXECUTIVE OFFICER OR GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION MAY REQUEST THE GOVERNOR TO PROVIDE THE MILITIA TO HELP BRING UNDER CONTROL CONDITIONS EXISTING WITHIN THE COUNTY OR MUNICIPAL CORPORATION THAT, IN THE REQUESTOR'S JUDGMENT, THE LOCAL LAW ENFORCEMENT AGENCIES CANNOT CONTROL WITHOUT ADDITIONAL PERSONNEL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 2-101(e) and (b)(5).

Throughout this section, references to the "militia" are substituted for the former references to the militia "forces" to use the defined term.

In subsection (a) of this section, the word "described" is substituted for the former word "defined" because former Art. 65, § 5 described, rather than defined, the organized and unorganized militia. *See* § 13-203 of this article.

In subsection (c)(2) of this section, the references to a "law enforcement agency" and "law enforcement official" are substituted for the former references to "police forces" and "police officials" for consistency with terminology used throughout this section and this subtitle.

In subsection (d) of this section, the former word "city" is deleted as included in the reference to a "municipal corporation" to conform to Md. Constitution, Art. XI-E.

Defined term: "County" § 1-101

14-307. GENERAL CESSATION OF BUSINESS DURING EMERGENCY; CLOSING OF BANKING INSTITUTION.

(A) "EMERGENCY" DEFINED.

IN THIS SECTION, "EMERGENCY" INCLUDES AN EMERGENCY THAT RESULTS FROM FIRE, FLOOD, RIOT, ROBBERY, WEATHER, OR OTHER CAUSE.

(B) GENERAL CESSATION OF BUSINESS DURING EMERGENCY.

IF AN EMERGENCY EXISTS IN A POLITICAL SUBDIVISION, THE GOVERNOR MAY PROCLAIM A DAY FOR THE GENERAL CESSATION OF BUSINESS IN THAT POLITICAL SUBDIVISION.

(C) CLOSING OF BANKING INSTITUTION.

IF AN EMERGENCY EXISTS AS TO A BANKING INSTITUTION, THE GOVERNOR:

(1) MAY PROCLAIM A DAY ON WHICH THE BANKING INSTITUTION MAY REMAIN CLOSED; AND

(2) SHALL LIMIT THE PROCLAMATION TO THE PRINCIPAL BANKING OFFICE AND BRANCH OFFICES OF THE BANKING INSTITUTION THAT THE EMERGENCY AFFECTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 2-103.

14-308. DUTY OF STATE TO REPAIR DAMAGED PROPERTY.

THE STATE SHALL REPAIR OR REPLACE ANY EQUIPMENT, FACILITIES, OR PROPERTY THAT IS DAMAGED WHILE BEING USED IN ACCORDANCE WITH THE PROCLAMATION OF A STATE OF EMERGENCY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 2-101(f).

14-309. PROHIBITED ACTS; PENALTIES.

(A) VIOLATION OF SUBTITLE, ORDER, RULE, OR REGULATION PROHIBITED.

A PERSON MAY NOT VIOLATE THIS SUBTITLE OR AN ORDER, RULE, OR REGULATION PROMULGATED UNDER THIS SUBTITLE.

(B) FRAUDULENT REPRESENTATIONS PROHIBITED.

IN MEETING THE REQUIREMENTS OF AN ORDER, RULE, OR REGULATION PROMULGATED UNDER THIS SUBTITLE OR IN APPLYING FOR A SERVICE OR BENEFIT PROVIDED BY THE STATE IN THE ALLOCATION OR ASSIGNMENT OF ENERGY SUPPLIES, A PERSON MAY NOT WILLFULLY:

(1) CONCEAL A MATERIAL FACT;

(2) MAKE A FALSE, FICTITIOUS, OR FRAUDULENT STATEMENT OR REPRESENTATION; OR

(3) USE A FALSE WRITING OR DOCUMENT THAT CONTAINS A FALSE, FICTITIOUS, OR FRAUDULENT STATEMENT.

(C) PENALTY.

(1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING $1,000 OR BOTH.

(2) A VIOLATION OF THE MARYLAND VEHICLE LAW FOR WHICH A PENALTY IS PROVIDED IS NOT SUBJECT TO THE PENALTIES OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 2-102 and 2-101(g).

Defined term: "Person" § 1-101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 41, § 2-101(h), which declared that the provisions of former Title 2, Subtitle 1 of Article 41 were severable, is deleted as unnecessary. Article 1, § 23 states that the provisions of statutes enacted after July 1, 1973, are severable unless the statute specifically provides that they are not. Since the Public Safety Article was enacted after July 1, 1973, a severability clause is unnecessary in this subtitle.

SUBTITLE 4. OTHER EMERGENCY POWERS AND PROVISIONS.

14-401. "LOCAL GOVERNING BODY" DEFINED.

IN THIS SUBTITLE, "LOCAL GOVERNING BODY" MEANS:

(1) A BOARD OF COUNTY COMMISSIONERS;

(2) A COUNTY COUNCIL; OR

(3) THE MAYOR AND CITY COUNCIL OF BALTIMORE.

REVISOR'S NOTE: This section is new language added to avoid repetition of the complete phrase "board of county commissioners or county council or Mayor and City Council of Baltimore City".

Defined term: "County" § 1-101

14-402. MAJORITY OF LOCAL GOVERNING BODY KILLED, SICK, OR UNAVAILABLE.

(A) PERIOD OF APPLICABILITY.

THE POWERS IN THIS SECTION MAY BE EXERCISED ONLY DURING THE EFFECTIVE PERIOD OF AN OFFICIAL PROCLAMATION BY THE GOVERNOR THAT DECLARES ALL OR PART OF THE COUNTY TO BE IN AN ACTUAL OR THREATENED EMERGENCY AREA.

(B) AUTHORITY OF GOVERNOR TO EXERCISE POWERS OF LOCAL GOVERNING BODY.

IF A MAJORITY OF THE MEMBERS OF THE LOCAL GOVERNING BODY OF A COUNTY ARE KILLED OR ARE SICK, INCAPACITATED, MISSING, OR OTHERWISE UNAVAILABLE FOR A TEMPORARY OR INDEFINITE PERIOD BECAUSE OF A MILITARY OR WARLIKE CATASTROPHE, THE GOVERNOR MAY EXERCISE THE ADMINISTRATIVE AND EXECUTIVE POWERS OF THAT LOCAL GOVERNING BODY UNTIL THE NUMBER OF MEMBERS OF THE LOCAL GOVERNING BODY SUFFICIENT TO OPERATE THE COUNTY GOVERNMENT ARE APPOINTED AND QUALIFY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, § 32.

In subsection (a) of this section, the former reference that the powers in this section "exist" is deleted as implicit in the reference that the powers "may be exercised".

In subsection (b) of this section, the reference to the powers "of" the local governing body is substituted for the former reference to the powers "provided by law for" the local governing body for brevity.

Defined terms: "County" § 1-101

"Local governing body" § 14-401

14-403. EXECUTIVE OFFICER KILLED, SICK, OR UNAVAILABLE.

(A) "EXECUTIVE OFFICER" DEFINED.

IN THIS SECTION, "EXECUTIVE OFFICER" MEANS THE MAYOR OR COMPARABLE OFFICIAL OF THE LEGISLATIVE BODY OF A MUNICIPAL CORPORATION OF THE STATE.

(B) PERIOD OF APPLICABILITY.

THE POWERS IN THIS SECTION MAY BE EXERCISED ONLY DURING THE EFFECTIVE PERIOD OF AN OFFICIAL PROCLAMATION BY THE GOVERNOR THAT DECLARES ALL OR PART OF THE MUNICIPAL CORPORATION TO BE IN AN ACTUAL OR THREATENED EMERGENCY AREA.

(C) AUTHORITY OF LOCAL GOVERNING BODY TO FILL VACANCY.

(1) IF AN EXECUTIVE OFFICER IS KILLED OR IS SICK, INCAPACITATED, MISSING, OR OTHERWISE UNAVAILABLE FOR A TEMPORARY OR INDEFINITE PERIOD BECAUSE OF A MILITARY OR WARLIKE CATASTROPHE, AND THE MUNICIPAL CORPORATION IS UNABLE TO FILL THAT VACANCY FOR A TEMPORARY OR INDEFINITE PERIOD, THE LOCAL GOVERNING BODY OF THE COUNTY IN WHICH THE MUNICIPAL CORPORATION IS LOCATED MAY APPOINT AN INDIVIDUAL TO FILL THE VACANCY FOR A TEMPORARY OR INDEFINITE PERIOD.

(2) IF THE VACANCY IS IN A MUNICIPAL CORPORATION THAT IS LOCATED IN MORE THAN ONE COUNTY:

(I) THE LOCAL GOVERNING BODY OF ANY OF THE COUNTIES IN WHICH PART OF THE MUNICIPAL CORPORATION IS LOCATED MAY APPOINT AN INDIVIDUAL TO FILL THE VACANCY; OR

(II) THE LOCAL GOVERNING BODIES OF THE COUNTIES MAY AGREE TO APPOINT AN INDIVIDUAL TO FILL THE VACANCY.

(D) QUALIFICATIONS OF APPOINTEES.

TO THE EXTENT POSSIBLE, EACH APPOINTEE SHALL HAVE THE QUALIFICATIONS REQUIRED FOR THE PARTICULAR OFFICE TO WHICH APPOINTED.

(E) POWERS OF APPOINTEES.

EACH APPOINTEE MAY EXERCISE THE POWERS AND PREROGATIVES OF AN OFFICER ELECTED TO THE POSITION.

(F) TENURE OF APPOINTEES.

EACH APPOINTEE SHALL HOLD OFFICE UNTIL:

(1) THE EXECUTIVE OFFICER ORIGINALLY HOLDING THE POSITION RETURNS TO THE POSITION; OR

(2) THE POSITION IS FILLED BY THE REGULAR ELECTION AND QUALIFICATION OF A SUCCESSOR.

(G) AUTHORITY OF GOVERNOR TO EXERCISE POWERS OF MUNICIPAL GOVERNMENT.

UNDER THE CIRCUMSTANCES DESCRIBED IN THIS SECTION, THE GOVERNOR MAY EXERCISE THE EXECUTIVE AND ADMINISTRATIVE POWERS OF THE MUNICIPAL GOVERNMENT UNTIL THE NUMBER OF INDIVIDUALS SUFFICIENT TO OPERATE THE MUNICIPAL GOVERNMENT ARE APPOINTED AND QUALIFIED AS EXECUTIVE OFFICERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, § 33.

In subsection (a) of this section, the defined term "executive officer" is added for brevity to avoid the use of the cumbersome phrase "the mayor or comparable official of the town council or comparable body, or any of them, of any municipal corporation covered by the provisions of Article XI-E of the Constitution of Maryland", and to provide clarity and consistency throughout the rest of the section.

In subsection (b) of this section, the former reference that the powers in this section "exist" is deleted as implicit in the reference that the powers "may be exercised".

Also in subsection (b) of this section, the former reference to the "corporate" boundaries of the municipal corporation is deleted as redundant.

In subsection (c)(1) of this section, the reference to appointing an "individual" is substituted for the former reference to a "person" because only individuals, and not the other entities included in the defined term "person", may hold office. Similarly, in subsection (g) of this section, the reference to the number of "individuals" sufficient to operate the municipal

government is substituted for the former reference to the number of "persons".

In subsection (c)(2)(ii) of this section, the former reference that the counties "by agreement may collaborate" in the appointments is deleted as unnecessary in light of the reference the counties "may agree".

In subsection (e) of this section, the former phrase "[d]uring the tenure of any such appointee" is deleted because by definition the appointee would only be an appointee during his or her tenure.

Also in subsection (e) of this section, the former reference to "regularly" elected officers is deleted as surplusage.

In subsection (f) of this section, the phrase "until ... the executive officer originally holding the position returns to the position" is substituted for the former phrase "during the incapacity or unavailability of the officer whose position he was appointed to fill" for clarity and consistency. The former phrase was incomplete because it did not list all the reasons provided in subsection (c)(1) of this section that an officer could be unavailable.

In subsection (g) of this section, the reference to appointment "as executive officers" is substituted for the former reference to appointment "to fill the vacancies" for clarity and consistency in this section.

Defined terms: "County" § 1-101

"Local governing body" § 14-401

14-404. MEMBER OF GOVERNING BODY OF TAX DISTRICT KILLED, SICK, OR UNAVAILABLE.

(A) "TAX DISTRICT" DEFINED.

IN THIS SECTION, "TAX DISTRICT" INCLUDES:

(1) A SPECIAL TAX AREA;

(2) A SPECIAL TAX DISTRICT;

(3) A SANITARY DISTRICT; AND

(4) A WATER DISTRICT.

(B) PERIOD OF APPLICABILITY.

THE POWERS IN THIS SECTION MAY BE EXERCISED ONLY DURING THE EFFECTIVE PERIOD OF AN OFFICIAL PROCLAMATION BY THE GOVERNOR THAT DECLARES ALL OR PART OF THE TAX DISTRICT TO BE IN AN ACTUAL OR THREATENED EMERGENCY AREA.

(C) AUTHORITY OF GOVERNOR TO EXERCISE POWERS OF TAX DISTRICT.

IF A MAJORITY OF THE MEMBERS OF THE GOVERNING BODY OF A TAX DISTRICT IN THE STATE ARE KILLED OR ARE SICK, INCAPACITATED, MISSING, OR OTHERWISE UNAVAILABLE FOR A TEMPORARY OR INDEFINITE PERIOD BECAUSE OF A MILITARY OR WARLIKE CATASTROPHE, AND THE TAX DISTRICT IS UNABLE TO FUNCTION NORMALLY FOR A TEMPORARY OR INDEFINITE PERIOD, THE GOVERNOR MAY EXERCISE THE EXECUTIVE AND ADMINISTRATIVE POWERS OF THE TAX DISTRICT UNTIL THE NUMBER OF MEMBERS OF THE GOVERNING BODY OF THE TAX DISTRICT SUFFICIENT TO OPERATE THE GOVERNING BODY ARE APPOINTED AND QUALIFIED IN ACCORDANCE WITH THE PROCEDURES OF THE GOVERNING BODY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, § 34.

In subsection (a) of this section, the defined term "tax district" is added for brevity to avoid unnecessary repetition of the former phrase "special tax area or special tax district (including a sanitary district or water district)".

In subsection (b) of this section, the former reference that the powers in this section "exist" is deleted as implicit in the reference that the powers "may be exercised".

In subsection (c) of this section, the phrase "in accordance with the procedures of the governing body" is substituted for the former phrase "according to the particular manner of filling vacancies in the governing body" for clarity and consistency with the style of this revised section.

Also in subsection (c) of this section, the former phrase "by whatever name known", which modified "governing body", is deleted as surplusage.

14-405. POWERS OF LOCAL GOVERNING BODY DURING MILITARY OR WARLIKE CATASTROPHE.

(A) CONDITIONS AND PERIOD OF APPLICABILITY.

(1) IF THERE IS SERIOUS HUMAN SUFFERING, DEATH, PERSONAL INJURY, OR PROPERTY DAMAGE IN A COUNTY BECAUSE OF A MILITARY OR WARLIKE CATASTROPHE, THE LOCAL GOVERNING BODY HAS THE POWERS GRANTED IN THIS SECTION.

(2) THE POWERS IN THIS SECTION MAY BE EXERCISED ONLY DURING THE EFFECTIVE PERIOD OF AN OFFICIAL PROCLAMATION BY THE GOVERNOR THAT DECLARES ALL OR PART OF THE COUNTY TO BE IN AN ACTUAL OR THREATENED EMERGENCY AREA.

(B) POWER TO BORROW MONEY OR CONTRACT FOR MATERIALS OR SERVICES.

THE LOCAL GOVERNING BODY MAY BORROW MONEY OR CONTRACT FOR MATERIALS OR SERVICES ON THE FAITH AND CREDIT OF THE COUNTY.

(C) POWER TO ISSUE BONDS, NOTES, OR CERTIFICATES OF INDEBTEDNESS.

(1) TO PAY FOR THE MONEY BORROWED OR THE MATERIALS OR SERVICES CONTRACTED FOR UNDER SUBSECTION (B) OF THIS SECTION, THE LOCAL GOVERNING BODY MAY ISSUE BONDS, NOTES, OR OTHER CERTIFICATES OF INDEBTEDNESS ON THE FAITH AND CREDIT OF THE COUNTY TO A PERSON OR GOVERNMENTAL UNIT THAT LENDS THE MONEY OR SUPPLIES THE MATERIALS OR SERVICES.

(2) THE LOCAL GOVERNING BODY MAY SET THE TERMS, CONDITIONS, RATE OF INTEREST, AND PROVISIONS FOR REPAYMENT OF THE BONDS, NOTES, OR OTHER CERTIFICATES OF INDEBTEDNESS ISSUED UNDER THIS SUBSECTION.

(D) POWER TO IMPOSE LEVY ON TAXABLE PROPERTY.

THE LOCAL GOVERNING BODY MAY IMPOSE A SPECIAL LEVY ON TAXABLE PROPERTY IN THE COUNTY IN AN AMOUNT SUFFICIENT TO:

(1) PAY FOR THE MONEY BORROWED OR THE MATERIALS AND SERVICES CONTRACTED FOR UNDER SUBSECTION (B) OF THIS SECTION; AND

(2) MAKE ALL PAYMENTS OF PRINCIPAL AND INTEREST ON THE BONDS, NOTES, OR OTHER CERTIFICATES OF INDEBTEDNESS ISSUED UNDER SUBSECTION (C) OF THIS SECTION THAT ARE OUTSTANDING.

(E) COOPERATION WITH OTHER GOVERNMENTAL UNITS.

MONEY, MATERIALS, OR SERVICES OBTAINED UNDER SUBSECTION (B) OF THIS SECTION MAY BE SECURED, EXPENDED, OR USED IN COOPERATION WITH OTHER GOVERNMENTAL UNITS ON A MATCHING BASIS OR OTHERWISE AS DETERMINED BY THE LOCAL GOVERNING BODY.

(F) WAIVER OF LEGAL RESTRICTIONS OR DELAYING PROCEDURES.

ANY LEGAL RESTRICTIONS OR DELAYING PROCEDURES ARE WAIVED AND MAY BE DISREGARDED BY THE LOCAL GOVERNING BODY AS TO:

(1) THE PURCHASE, LEASE, OR RENTAL OF MATERIALS AND EQUIPMENT;

(2) THE SECURING AND HIRING OF PERSONAL SERVICES;

(3) THE FACE VALUE OF NOTES, BONDS, OR OTHER CERTIFICATES OF INDEBTEDNESS THAT MAY BE ISSUED AND OUTSTANDING; OR

(4) THE RATE OF TAXATION THAT MAY BE IMPOSED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, § 35.

In subsection (a)(1) of this section, the former phrase "or any of these

conditions" is deleted as unnecessary in light of the reference to serious human suffering, death, personal injury, "or" property damage. Similarly, in subsection (b) of this section, the former phrase "or any of them" is deleted as unnecessary in light of the reference to money "or" materials "or" services.

In subsection (a)(2) of this section, the reference that the powers in this section "may be exercised" is substituted for the former reference that the local governing body "has" the powers for consistency throughout this subtitle.

In subsection (b) of this section, the former phrase "[i]n such event" is deleted as unnecessary because subsection (a) of this section establishes the conditions under which this section applies.

In subsection (c)(1) of this section, the phrase "under subsection (b) of this section" is added for clarity.

In subsection (c)(2) of this section, the phrase "under this subsection" is added for clarity.

In subsection (d) of this section, the former phrase "for the same purpose, and in order to make payments of principal and interest on any such certificates of indebtedness" is deleted as redundant in light of subsection (d)(1) and (2) of this section.

Defined terms: "County" § 1-101

"Local governing body" § 1-101

"Person" § 1-101

14-406. EFFECTIVE PERIOD OF LAWS, ORDINANCES, RESOLUTIONS, AND REGULATIONS.

(A) IN GENERAL.

EACH LAW, ORDINANCE, RESOLUTION, OR REGULATION OF THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR A UNIT OF STATE OR LOCAL GOVERNMENT THAT RELATES TO OR CONCERNS AN ACTUAL OR THREATENED EMERGENCY OR MILITARY OR WARLIKE CATASTROPHE MAY BE APPLIED DURING THE EFFECTIVE PERIOD OF AN OFFICIAL PROCLAMATION BY THE GOVERNOR THAT DECLARES ALL OR PART OF THE PARTICULAR AREA TO BE IN AN ACTUAL OR THREATENED EMERGENCY AREA.

(B) EFFECT OF SECTION.

THIS SECTION DOES NOT QUALIFY OR REDUCE THE POWERS OF EMERGENCY MANAGEMENT AGENCIES THAT ARE EFFECTIVE WITHOUT THE EXISTENCE OF AN EMERGENCY OR PROCLAMATION BY THE GOVERNOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 16A, § 36.

In subsection (a) of this section, the reference to a "unit of State or local government" is substituted for the former phrase "any board, department, bureau, commission, or other agency of the State or of one of its political subdivisions" for clarity.

Also in subsection (a) of this section, the former reference to laws, ordinances, resolutions, and regulations that "are applicable" is deleted as implicit in the reference that they "may be applied".

SUBTITLE 5. STATE STANDBY PETROLEUM FUEL SET-ASIDE PROGRAM.

14-501. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 10-801(a).

No changes are made.

(B) ADMINISTRATION.

"ADMINISTRATION" MEANS THE MARYLAND ENERGY ADMINISTRATION.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title of the "Maryland Energy Administration".

(C) ASSIGNMENT.

"ASSIGNMENT" MEANS A WRITTEN AUTHORIZATION BY THE ADMINISTRATION THAT ORDERS A SPECIFIED SUPPLIER TO SUPPLY STATE SET-ASIDE PRODUCTS TO A SPECIFIED PURCHASER.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 10-801(c).

Defined terms: "Administration" § 14-501

"State set-aside product" § 14-501

"Supplier" § 14-501

(D) DIRECTOR.

"DIRECTOR" MEANS THE DIRECTOR OF THE ADMINISTRATION.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title of the Director of the Maryland Energy Administration.

Defined term: "Administration" § 14-501

(E) ENERGY EMERGENCY.

"ENERGY EMERGENCY" HAS THE MEANING STATED IN § 14-301 OF THIS TITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 10-801(g).

(F) PERSON.

"PERSON" INCLUDES A FEDERAL, STATE, OR LOCAL GOVERNMENT OR AN AGENCY OR INSTRUMENTALITY OF A FEDERAL, STATE, OR LOCAL GOVERNMENT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 10-801(j).

The word "includes" is substituted for the former word "means" because the definition of "person" in this subsection is not exhaustive but rather expands the definition of "person" in § 1-101 of this article.

The former reference to "any natural person, company, firm, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, any entity organized for a common business purpose" is deleted as included in the article-wide definition of "person". *See* § 1-101 of this article.

Defined term: "Person" § 1-101

(G) PRIME SUPPLIER.

"PRIME SUPPLIER" MEANS THE SUPPLIER WHO MAKES THE FIRST SALE INTO THE STATE DISTRIBUTION SYSTEM OF A STATE SET-ASIDE PRODUCT THAT IS INTENDED FOR CONSUMPTION IN THE STATE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 10-801(k).

Defined terms: "State set-aside product" § 14-501

"Supplier" § 14-501

(H) STATE SET-ASIDE PRODUCT.

"STATE SET-ASIDE PRODUCT" MEANS A PRODUCT TO WHICH THE STATE SET-ASIDE PROGRAM APPLIES.

REVISOR'S NOTE: This subsection is new language added for consistency throughout this subtitle and to avoid repetition of longer references such as "a product that is subject to the State set-aside program".

Defined term: "State set-aside program" § 14-501

(I) STATE SET-ASIDE PROGRAM.

"STATE SET-ASIDE PROGRAM" MEANS THE STATE STANDBY PETROLEUM FUEL SET-ASIDE PROGRAM.

REVISOR'S NOTE: This subsection is new language added to provide clear and consistent references throughout this subtitle for former references such as the "State set-aside", "State standby set-aside program", and "the program established under this subtitle".

(J) STATE SET-ASIDE VOLUME.

"STATE SET-ASIDE VOLUME" MEANS THE STATE SET-ASIDE PERCENTAGE LEVEL FOR A PARTICULAR STATE SET-ASIDE PRODUCT APPLIED TO A PARTICULAR PRIME SUPPLIER'S ESTIMATED PART OF ITS TOTAL SUPPLY FOR A PARTICULAR TIME PERIOD THAT WILL BE SOLD INTO THE STATE DISTRIBUTION SYSTEM FOR CONSUMPTION IN THE STATE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 10-801(n).

Defined terms: "Prime supplier" § 14-501

"State set-aside product" § 14-501

(K) SUPPLIER.

"SUPPLIER" MEANS A BUSINESS ENTITY OR A PART OR SUBSIDIARY OF A BUSINESS ENTITY THAT SUPPLIES, SELLS, TRANSFERS, OR OTHERWISE FURNISHES, INCLUDING BY CONSIGNMENT, A STATE SET-ASIDE PRODUCT TO CONSUMERS OR WHOLESALE PURCHASER-RESELLERS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 10-801(o).

The references to a "business entity" are substituted for the former references to a "firm" to use a more general term in the context of this provision.

Defined terms: "State set-aside product" § 14-501

"Wholesale purchaser-reseller" § 14-501

(L) WHOLESALE PURCHASER-RESELLER.

"WHOLESALE PURCHASER-RESELLER" MEANS A BUSINESS ENTITY THAT:

(1) PURCHASES, RECEIVES THROUGH TRANSFER, OR OTHERWISE OBTAINS, INCLUDING BY CONSIGNMENT, A STATE SET-ASIDE PRODUCT; AND

(2) RESELLS OR OTHERWISE TRANSFERS THE STATE SET-ASIDE PRODUCT TO OTHER PURCHASERS WITHOUT SUBSTANTIALLY CHANGING ITS FORM.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 10-801(s).

In the introductory language of this subsection, reference to a "business entity" is substituted for the former reference to a "firm" to use a more general term in the context of this provision.

Defined term: "State set-aside product" § 14-501

REVISOR'S NOTE TO SECTION: Former Art. 41, § 10-801(b), (d), (e), (f), (h), (i), (l), (m), (p), (q), and (r), which defined various terms for purposes of this subtitle, are revised in the substantive provisions to which the definitions apply. *See* §§ 14-503 and 14-504 of this subtitle.

14-502. ESTABLISHED; ADMINISTRATION AND ENFORCEMENT.

(A) ESTABLISHED.

THE ADMINISTRATION SHALL MAINTAIN PLANS AND PROCEDURES TO CARRY OUT A STATE STANDBY PETROLEUM FUEL SET-ASIDE PROGRAM FOR USE DURING AN ENERGY EMERGENCY.

(B) ADMINISTRATION AND ENFORCEMENT.

THE DIRECTOR SHALL ADMINISTER AND ENFORCE THE STATE SET-ASIDE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 10-802(a) and 10-804(a).

In subsection (a) of this section, the former reference to "establish[ing]" the program is deleted to reflect the fact that the State set-aside program has been established.

Also in subsection (a) of this section, the former reference to maintaining plans and procedures "in a state of readiness" is deleted as implicit in the requirement to maintain plans and procedures to carry out the State set-aside program.

In subsection (b) of this section, the former reference to the "proper" administration and enforcement of the State set-aside program is deleted as implicit in the requirement that the Director administer and enforce the State set-aside program.

Defined terms: "Administration" § 14-501

"Director" § 14-501

"Energy emergency" § 14-501

"State set-aside program" § 14-501

14-503. APPLICABILITY OF STATE SET-ASIDE PROGRAM.

(A) IN GENERAL.

(1) THE STATE SET-ASIDE PROGRAM APPLIES TO:

(I) MOTOR GASOLINE;

(II) MIDDLE DISTILLATE;

(III) PROPANE;

(IV) RESIDUAL FUEL OIL, EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION; AND

(V) AVIATION GASOLINE.

(2) THE STATE SET-ASIDE PROGRAM DOES NOT APPLY TO RESIDUAL FUEL OIL THAT IS USED:

(I) IN AN ELECTRIC GENERATING STATION BY AN ELECTRIC COMPANY, AS DEFINED IN § 1-101 OF THE PUBLIC UTILITY COMPANIES ARTICLE; OR

(II) AS BUNKER FUEL FOR MARINE SHIPPING.

(B) STATE SET-ASIDE PERCENTAGE LEVELS.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DIRECTOR:

(I) SHALL DETERMINE THE APPROPRIATE STATE SET-ASIDE PERCENTAGE LEVEL FOR EACH STATE SET-ASIDE PRODUCT; AND

(II) MAY REVIEW AND REVISE THE STATE SET-ASIDE PERCENTAGE LEVELS AS THE DIRECTOR CONSIDERS APPROPRIATE.

(2) THE STATE SET-ASIDE PERCENTAGE LEVELS MAY NOT EXCEED:

(I) 5% FOR MOTOR GASOLINE;

(II) 4% FOR MIDDLE DISTILLATES;

(III) 3% FOR PROPANE;

(IV) 3% FOR RESIDUAL FUEL OIL; AND

(V) 2% FOR AVIATION GASOLINE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 10-801(e) and 10-802(b) and (c).

In subsection (a)(1) of this section, the reference that the State set-aside programs "applies to" certain products is substituted for the former

reference to the program being "established for" certain products because the program has already been established.

In subsection (b)(2)(iv) of this section, the former exception for residual fuel oil "as used in electric generating stations ... or as bunker fuel for marine shipping" is deleted as unnecessary in light of the exception to the applicability of the State set-aside program to residual fuel oil as specified in subsection (a)(2) of this section.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that the Electric Customer Choice and Competition Act of 1999 (Restructuring Act) makes the reference to electric companies in the context of subsection (a)(2)(i) of this section ambiguous because electric companies no longer generate electricity. The General Assembly may wish to amend subsection (a)(2)(i) of this section to reflect this.

Defined terms: "Director" § 14-501

"State set-aside product" § 14-501

"State set-aside program" § 14-501

14-504. USE OF STATE SET-ASIDE PROGRAM DURING ENERGY EMERGENCY.

(A) DEFINITIONS.

(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "GROSS VEHICLE WEIGHT RATING" MEANS:

(I) FOR A SINGLE VEHICLE, THE VALUE SPECIFIED BY THE MANUFACTURER AS THE LOADED WEIGHT OF THE VEHICLE; OR

(II) FOR A VEHICLE DESIGNED PRIMARILY TO PULL OTHER VEHICLES AND NOT CONSTRUCTED TO CARRY A LOAD OTHER THAN PART OF THE WEIGHT RATING, THE VALUE SPECIFIED BY THE MANUFACTURER AS THE LOADED WEIGHT OF THE COMBINATION VEHICLE.

(3) "TRUCK" MEANS A MOTOR VEHICLE THAT:

(I) IS DESIGNED PRIMARILY TO TRANSPORT PROPERTY OR AS SPECIAL PURPOSE EQUIPMENT; AND

(II) HAS A GROSS VEHICLE WEIGHT RATING, OR THE EQUIVALENT OF A GROSS VEHICLE WEIGHT RATING, IN EXCESS OF 20,000 POUNDS.

(B) IN GENERAL.

DURING AN ENERGY EMERGENCY, THE ADMINISTRATION MAY USE THE STATE SET-ASIDE PROGRAM TO MITIGATE THE HARDSHIP AND EMERGENCY SITUATION OF A PERSON ONLY TO THE EXTENT THE PERSON IS ENGAGED IN:

(1) AGRICULTURAL PRODUCTION, WHICH IS ACTIVITIES FOR THE COMMERCIAL PRODUCTION OF FOOD, INCLUDING FARMING, RANCHING, DAIRYING, AND FISHING, AND RELATED SUPPORT SERVICES;

(2) CARGO FREIGHT AND MAIL HAULING BY TRUCKS AND MAIL CARRIERS;

(3) OPERATION OF CONGREGATE CARE FACILITIES, WHICH ARE PUBLIC OR PRIVATE BUILDINGS USED TO LODGE AND CARE FOR INDIVIDUALS WHOSE PLACES OF LODGING ARE RENDERED UNINHABITABLE DUE TO THE ENERGY EMERGENCY;

(4) EMERGENCY SERVICES, WHICH ARE LAW ENFORCEMENT, FIRE FIGHTING, EMERGENCY ROAD SERVICES, AND EMERGENCY MEDICAL SERVICES;

(5) ENERGY PRODUCTION, WHICH IS THE PROCESSING, PRODUCTION, AND DISTRIBUTION OF ENERGY RESOURCES INCLUDING:

(I) SOLAR ENERGY;

(II) FUEL PRODUCED FROM ORGANIC MATERIAL, INCLUDING WOOD, WASTES, PETROLEUM, COAL, AND NATURAL GAS;

(III) GEOTHERMAL ENERGY;

(IV) NUCLEAR ENERGY; AND

(V) ELECTRICAL ENERGY, OTHER THAN ELECTRICAL ENERGY PRODUCED USING PETROLEUM-BASED FUELS;

(6) PASSENGER TRANSPORTATION SERVICES, OR THE OPERATION OF FACILITIES NECESSARY TO SUPPORT THE SERVICES, INCLUDING:

(I) PUBLICLY OR PRIVATELY OWNED AIR AND SURFACE OPERATIONS FOR TRANSPORTING THE PUBLIC;

(II) BUS TRANSPORTATION OF PUPILS TO AND FROM SCHOOL SPONSORED ACTIVITIES; AND

(III) VANPOOL OPERATIONS, AS DEFINED IN § 11-175.1 OF THE TRANSPORTATION ARTICLE;

(7) RESIDENTIAL SPACE HEATING AND FOOD PREPARATION;

(8) SANITATION SERVICES, WHICH ARE THE COLLECTION AND DISPOSAL OF SOLID WASTES BY PUBLIC OR PRIVATE ENTITIES AND THE MAINTENANCE, OPERATION, AND REPAIR OF LIQUID PURIFICATION AND WASTE FACILITIES;

(9) SOCIAL SERVICE AGENCY USE, WHICH IS THE USE BY PUBLIC OR PRIVATE NONPROFIT SOCIAL SERVICES AGENCIES THAT OPERATE PROGRAMS TO PROVIDE ESSENTIAL HEALTH AND WELFARE SERVICES;

(10) SPACE HEATING FOR MEDICAL AND NURSING BUILDINGS; AND

(11) TELECOMMUNICATION SERVICES, WHICH ARE THE EMERGENCY OR ESSENTIAL INSTALLATION, REPAIR, OPERATION, AND MAINTENANCE OF VOICE, DATA, TELEGRAPH, VIDEO, AND SIMILAR COMMUNICATION SERVICES TO THE PUBLIC BY A COMMUNICATIONS COMMON CARRIER.

(C) PRIORITIES AMONG ACTIVITIES.

IF STATE SET-ASIDE VOLUMES ARE NOT SUFFICIENT TO SATISFY ALL REQUESTS FOR ASSIGNMENTS, THE ADMINISTRATION MAY SET PRIORITIES FOR MAKING ASSIGNMENTS AMONG THE ACTIVITIES LISTED IN SUBSECTION (B) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 10-803 and 10-801(b), (d), (f), (h), (i), (l), (m), (p), (q), and (r).

In subsection (a)(2)(ii) of this section, the reference to a vehicle designed to "pull" other vehicles is substituted for the former reference to vehicles designed for "draw[ing]" other vehicles for clarity.

In subsection (a)(3) of this section, the former reference to a motor vehicle "with a motive power" is deleted as implicit in the reference to a "motor" vehicle.

In subsection (b)(3) of this section, the reference to the "operation" of congregate care facilities is added for clarity and grammatical consistency within subsection (b) of this section. Similarly, in subsection (b)(6) of this section, the reference to the "operation" of facilities is added.

In subsection (b)(5)(iii) of this section, the reference to geothermal "energy" is added for clarity and grammatical consistency within subsection (b)(5) of this section.

Defined terms: "Administration" § 14-501

"Assignment" § 14-501

"Person" §§ 1-101 and 14-501

"State set-aside program" § 14-501

"State set-aside volume" § 14-501

14-505. REPORTS BY PRIME SUPPLIERS.

(A) REQUIRED.

IF DURING AN ENERGY EMERGENCY THE FEDERAL GOVERNMENT DOES NOT PROVIDE FOR THE COLLECTION AND TIMELY TRANSMITTAL TO THE STATES OF FUEL SUPPLY DATA, EACH PRIME SUPPLIER SHALL REPORT TO THE ADMINISTRATION MONTHLY AS PROVIDED IN THIS SECTION.

(B) CONTENTS.

THE PRIME SUPPLIER SHALL REPORT INFORMATION THAT INCLUDES:

(1) THE TOTAL ACTUAL DELIVERIES INTO THE STATE DURING THE PRECEDING MONTH BY STATE SET-ASIDE PRODUCT;

(2) THE ESTIMATED TOTAL SUPPLY AVAILABLE FOR DISTRIBUTION INTO THE STATE FOR CONSUMPTION IN THE STATE DURING THE FOLLOWING MONTH BY STATE SET-ASIDE PRODUCT BEFORE THE ADJUSTMENT UNDER THE STATE SET-ASIDE PROGRAM; AND

(3) THE ESTIMATED STATE SET-ASIDE VOLUME FOR DISTRIBUTION IN THE STATE DURING THE FOLLOWING MONTH BY STATE SET-ASIDE PRODUCT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 10-804(b).

In the introductory language of subsection (b) of this section, the former phrase "but not limited to" is deleted as unnecessary in light of Art. 1, § 30, which provides that the term "including" is used "by way of illustration and not by way of limitation".

In subsection (b)(2) of this section, the phrase "under the State set-aside program" is substituted for the former phrase "for State set-aside" for clarity.

Defined terms: "Administration" § 14-501

"Assignment" § 14-501

"Energy emergency" § 14-501

"Prime supplier" § 14-501

"State set-aside product" § 14-501

"State set-aside volume" § 14-501

14-506. ASSIGNMENTS.

(A) DESIGNATION OF REPRESENTATIVE BY PRIME SUPPLIER.

(1) EACH PRIME SUPPLIER SHALL DESIGNATE A REPRESENTATIVE WITH FULL AUTHORITY TO ACT ON BEHALF OF THE PRIME SUPPLIER WITH RESPECT TO ASSIGNMENTS AND APPLICATIONS FOR ASSIGNMENTS.

(2) TO THE MAXIMUM EXTENT FEASIBLE, THE ADMINISTRATION SHALL CONSULT WITH THE REPRESENTATIVE OF A PRIME SUPPLIER BEFORE ISSUING AN

ASSIGNMENT THAT AFFECTS THE AMOUNT OF STATE SET-ASIDE PRODUCT TO BE SUPPLIED BY THE PRIME SUPPLIER.

(B) APPLICATION FOR AND ISSUANCE OF ASSIGNMENT.

(1) DURING AN ENERGY EMERGENCY A PERSON ENGAGED IN AN ACTIVITY SPECIFIED IN § 14-504 OF THIS SUBTITLE MAY REQUEST AN ASSIGNMENT BY SUBMITTING AN APPLICATION ON THE FORM THAT THE ADMINISTRATION PROVIDES.

(2) ON APPROVAL OF THE APPLICATION, THE ADMINISTRATION SHALL:

(I) ISSUE AN ASSIGNMENT TO THE APPLICANT; AND

(II) PROVIDE A COPY OF THE ASSIGNMENT TO THE DESIGNATED REPRESENTATIVE OF THE PRIME SUPPLIER.

(3) AN ASSIGNMENT IS EFFECTIVE ON ISSUANCE AND CONSTITUTES AN ENCUMBRANCE ON THE PRIME SUPPLIER'S STATE SET-ASIDE VOLUMES FOR THE MONTH OF ISSUANCE REGARDLESS OF THE ACTUAL DATE OF DELIVERY OF THE STATE SET-ASIDE PRODUCT TO THE APPLICANT.

(C) EXPIRATION; SUPPLIER'S DUTY.

(1) AN ASSIGNMENT EXPIRES AUTOMATICALLY UNLESS THE APPLICANT PRESENTS IT TO A SUPPLIER WITHIN 10 DAYS AFTER ISSUANCE.

(2) ON PRESENTATION OF AN ASSIGNMENT, THE SUPPLIER SHALL SUPPLY TO THE APPLICANT THE ASSIGNED AMOUNT OF THE STATE SET-ASIDE PRODUCT.

(3) A DESIGNATED WHOLESALE PURCHASER-RESELLER OF A PRIME SUPPLIER:

(I) SHALL HONOR ASSIGNMENTS ON PRESENTATION; AND

(II) MAY NOT DELAY DELIVERY WHILE CONFIRMING THE ASSIGNMENT WITH THE PRIME SUPPLIER.

(D) REPLACING STATE SET-ASIDE PRODUCT.

(1) IF A SUPPLIER OTHER THAN A PRIME SUPPLIER SUPPLIES A STATE SET-ASIDE PRODUCT IN ACCORDANCE WITH AN ASSIGNMENT, THE SUPPLIER SHALL IN TURN RECEIVE FROM ITS SUPPLIER AN EQUIVALENT VOLUME OF THE STATE SET-ASIDE PRODUCT.

(2) THE VOLUME OF A STATE SET-ASIDE PRODUCT RECEIVED BY A SUPPLIER FROM ITS SUPPLIER UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSIDERED PART OF THE ALLOCATION THAT WOULD OTHERWISE HAVE BEEN SUPPLIED TO THE SUPPLIER DURING THE SAME PERIOD.

(E) SUPPLY TO WHOLESALE PURCHASER-RESELLER.

THE ADMINISTRATION MAY DIRECT THAT A WHOLESALE PURCHASER-RESELLER BE SUPPLIED UNDER THE STATE SET-ASIDE PROGRAM SO THAT THE WHOLESALE PURCHASER-RESELLER IS ABLE TO SUPPLY SPECIFIED INDIVIDUAL CONSUMERS WHO WOULD OTHERWISE BE ELIGIBLE FOR AN ASSIGNMENT UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 10-805.

In subsection (a)(2) of this section, the defined term "assignment" is substituted for the former reference to "any authorizing document" for clarity.

In subsection (b)(1) of this section, the former parenthetical phrase "(relating to priority activities during an energy emergency)", which described former § 10-803, is deleted as surplusage.

In subsection (b)(2)(ii) of this section, the former reference to the "prime supplier assigned by the Administration to the applicant" is deleted as implicit in the concept of an assignment.

In subsections (c)(2) and (d)(1) and (2) of this section, the reference to a State set-aside product being "supplied" is substituted for the former reference to a State set-aside product being "provided" for clarity and consistency throughout this subtitle.

In subsection (c)(3) of this section, the reference to "the assignment" is substituted for the former reference to "such action" for clarity.

In subsection (e) of this section, the defined term "State set-aside program" is substituted for the former phrase "State set-aside" for clarity.

Defined terms: "Administration" § 14-501

"Assignment" § 14-501

"Energy emergency" § 14-501

"Person" §§ 1-101 and 14-501

"Prime supplier" § 14-501

"State set-aside product" § 14-501

"State set-aside program" § 14-501

"State set-aside volume" § 14-501

"Supplier" § 14-501

"Wholesale purchaser-reseller" § 14-501

14-507. APPEALS.

(A) RIGHT OF APPEAL TO DIRECTOR.

AN APPLICANT OR SUPPLIER MAY APPEAL TO THE DIRECTOR A DECISION BY THE ADMINISTRATION ON AN APPLICATION FOR AN ASSIGNMENT.

(B) APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT.

AN APPEAL UNDER THIS SECTION:

(1) IS NOT SUBJECT TO THE ADMINISTRATIVE PROCEDURE ACT; AND

(2) SHALL BE RESOLVED INFORMALLY, EXPEDITIOUSLY, AND INEXPENSIVELY.

(C) DECISION OF DIRECTOR FINAL.

THE DECISION OF THE DIRECTOR IS THE FINAL AGENCY DECISION FOR PURPOSES OF JUDICIAL REVIEW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 10-806.

Defined terms: "Administration" § 14-501

"Assignment" § 14-501

"Director" § 14-501

"Supplier" § 14-501

14-508. RELEASE OF PRIME SUPPLIER'S STATE SET-ASIDE VOLUME.

(A) IN GENERAL.

THE ADMINISTRATION MAY ALLOW THE RELEASE OF ALL OR PART OF A PRIME SUPPLIER'S STATE SET-ASIDE VOLUME INTO THE PRIME SUPPLIER'S NORMAL STATEWIDE DISTRIBUTION SYSTEM.

(B) RELEASE INTO DESIGNATED AREA DURING ENERGY EMERGENCY.

(1) DURING AN ENERGY EMERGENCY, THE GOVERNOR BY EXECUTIVE ORDER MAY DESIGNATE CERTAIN GEOGRAPHIC AREAS IN THE STATE AS SUFFERING FROM AN INTRASTATE SUPPLY IMBALANCE.

(2) AT ANY TIME DURING AN ENERGY EMERGENCY, THE ADMINISTRATION BY WRITTEN ORDER MAY REQUIRE A PRIME SUPPLIER TO RELEASE ALL OR PART OF ITS STATE SET-ASIDE VOLUME INTO AN AREA DESIGNATED UNDER PARAGRAPH (1) OF THIS SUBSECTION THROUGH ITS NORMAL DISTRIBUTION SYSTEM.

(3) AN ORDER ISSUED UNDER PARAGRAPH (2) OF THIS SUBSECTION:

(I) IS EFFECTIVE IMMEDIATELY ON RECEIPT BY THE DESIGNATED REPRESENTATIVE OF THE PRIME SUPPLIER; AND

(II) CONSTITUTES AN ENCUMBRANCE ON THE PRIME SUPPLIER'S STATE SET-ASIDE VOLUME FOR THE MONTH OF ISSUANCE REGARDLESS OF THE ACTUAL DATE OF DELIVERY OF THE STATE SET-ASIDE PRODUCT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 10-807.

In subsection (b)(2) of this section, the phrase "during an energy emergency" is added for clarity.

Defined terms: "Administration" § 14-501

"Energy emergency" § 14-501

"Prime supplier" § 14-501

"State set-aside product" § 14-501

"State set-aside volume" § 14-501

14-509. ACCUMULATION OR DEFERRAL OF STATE SET-ASIDE VOLUMES.

THE STATE SET-ASIDE VOLUMES FOR A PARTICULAR MONTH:

(1) MAY NOT BE ACCUMULATED OR DEFERRED; AND

(2) SHALL BE MADE AVAILABLE FROM THE STOCKS OF PRIME SUPPLIERS, DIRECTLY OR THROUGH THEIR WHOLESALE PURCHASER-RESELLERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 10-808.

Defined terms: "Prime supplier" § 14-501

"State set-aside volume" § 14-501

"Wholesale purchaser-reseller" § 14-501

14-510. REPORT.

(A) REQUIRED.

WITHIN 120 DAYS AFTER THE END OF A FISCAL YEAR WHEN THE ADMINISTRATION USES THE STATE SET-ASIDE PROGRAM, THE ADMINISTRATION SHALL REPORT TO THE GENERAL ASSEMBLY, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE USE OF THE STATE SET-ASIDE PROGRAM.

(B) CONTENTS.

THE REPORT REQUIRED UNDER THIS SECTION SHALL INCLUDE A DESCRIPTION OF THE NUMBER AND TYPES OF APPLICATIONS FOR EACH STATE SET-ASIDE PRODUCT RECEIVED AND APPROVED BY THE ADMINISTRATION DURING THAT FISCAL YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 10-809.

Defined terms: "Administration" § 14-501

"State set-aside product" § 14-501

"State set-aside program" § 14-501

14-511. PROHIBITED ACTS; PENALTIES.

(A) VIOLATION OF SUBTITLE PROHIBITED; PENALTY.

(1) A PERSON MAY NOT KNOWINGLY VIOLATE THIS SUBTITLE OR A RULE OR REGULATION ADOPTED UNDER IT.

(2) AN OFFICER, DIRECTOR, OR EMPLOYEE OF A CORPORATION OR OTHER ENTITY ORGANIZED FOR A COMMON BUSINESS PURPOSE MAY NOT KNOWINGLY PARTICIPATE IN A VIOLATION OF THIS SUBTITLE OR A RULE OR REGULATION ADOPTED UNDER IT.

(3) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING $1,000 OR BOTH.

(B) REFUSAL TO SUPPLY STATE SET-ASIDE PRODUCT; CIVIL PENALTY.

A SUPPLIER WHO REFUSES TO SUPPLY A STATE SET-ASIDE PRODUCT AS REQUIRED BY AN ASSIGNMENT UNDER THIS SUBTITLE:

(1) IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING $10,000; AND

(2) MAY BE ENJOINED FROM CONTINUING THE VIOLATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 10-810.

In subsection (b)(1) of this section, the reference to a "civil" penalty is substituted for the former reference to the penalty being recoverable "in a civil action" for brevity.

Defined terms: "Assignment" § 14-501

"Person" § 14-501

"State set-aside product" § 14-501

"Supplier" § 14-501

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 41, § 10-811, which provides that this subtitle shall remain effective only until July 1, 2005, is transferred to the Session Laws. Generally, when a subtitle is of limited duration, the termination provision for the subtitle is not codified.

SUBTITLE 6. INTERSTATE EMERGENCY MANAGEMENT AND CIVIL DEFENSE COMPACT.

14-601. PREAMBLE.

WHEREAS, the Congress of the United States of America has enacted the procedure for granting its consent to emergency management and civil defense compacts by an act entitled "Federal Civil Defense Act of 1950" (Public Law 920, 81st Congress, Second Session, approved January 12, 1951); and

WHEREAS, the State of Maryland contemplates entering into emergency management and civil defense compacts with other states, possessions and territories of the United States and with the District of Columbia, substantially in the form following:

REVISOR'S NOTE: This section formerly was Art. 41, § 17-101.

No changes are made.

14-602. INTERSTATE EMERGENCY MANAGEMENT AND CIVIL DEFENSE COMPACT.

INTERSTATE EMERGENCY MANAGEMENT AND CIVIL DEFENSE COMPACT

The contracting states solemnly agree:

(1) ARTICLE 1. PURPOSE.

The purpose of this compact is to provide mutual aid among the states in meeting any emergency from enemy attack or other cause (natural or otherwise) including sabotage and subversive acts and direct attacks by bombs, shellfire, and atomic, radiological, chemical, bacteriological means, and other weapons. The prompt, full and effective utilization of the resources of the respective states, including such resources as may be available from the United States government or any other source, are essential to the safety, care and welfare of the people thereof in the event of enemy action or other emergency, and any other resources, including personnel, equipment or supplies, shall be incorporated into a plan or plans of mutual aid to be developed among emergency management and civil defense agencies or similar bodies of the states that are parties hereto. The directors of emergency management and civil defense of all party states shall constitute a committee to formulate plans and take all necessary steps for the implementation of this compact.

(2) ARTICLE 2. EMERGENCY MANAGEMENT AND CIVIL DEFENSE PLANS AND PROGRAMS.

It shall be the duty of each party state to formulate emergency management and civil defense plans and programs for application within such state. There shall be frequent consultation between the representatives of the states and with the United States government and the free exchange of information and plans, including inventories of any materials and equipment available for emergency management and civil defense. In carrying out such emergency management and civil defense

plans and programs the party states shall so far as possible provide and follow uniform standards, practices and rules and regulations including:

(a) Insignia, arm bands and any other distinctive articles to designate and distinguish the different emergency management and civil defense services;

(b) Blackouts and practice blackouts, air raid drills, mobilization of emergency management and civil defense forces and other tests and exercises;

(c) Warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith;

(d) The effective screening or extinguishing of all lights and lighting devices and appliances;

(e) Shutting off water mains, gas mains, electric power connections and the suspension of all other utility services;

(f) All materials or equipment used or to be used for emergency management and civil defense purposes in order to assure that such materials and equipment will be easily and freely interchangeable when used in or by any other party state;

(g) The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic, prior, during and subsequent to drills or attacks;

(h) The safety of public meetings or gatherings; and

(i) Mobile support units.

(3) ARTICLE 3. RESOURCES; EMERGENCY MANAGEMENT AND CIVIL DEFENSE FORCES.

Any party state requested to render mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state. Each party state shall extend to the emergency management and civil defense forces of any other party state, while operating within its state limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving state), duties, rights, privileges and immunities as are extended to the emergency management and civil defense forces of such state. Emergency management and civil defense forces will continue under the command and control of their regular leaders but the organizational units will come under the operational control of the emergency management and civil defense authorities of the state receiving assistance.

(4) ARTICLE 4. LICENSES AND PERMITS.

Whenever any person holds a license, certificate or other permit issued by any state evidencing the meeting of qualifications for professional, mechanical or other skills, such person may render aid involving such skill in any party state to meet an emergency or disaster and such state shall give due recognition to such license, certificate or other permit as if issued in the state in which aid is rendered.

(5) ARTICLE 5. LIABILITY.

No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

(6) ARTICLE 6. SUPPLEMENTARY AGREEMENTS.

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that appropriate among other states party hereto, this instrument contains elements of a broad base common to all states, and nothing herein contained shall preclude any state from entering into supplementary agreements with another state or states. Such supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons, and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, equipment and supplies.

(7) ARTICLE 7. COMPENSATION AND DEATH BENEFITS.

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency management and civil defense forces of that state and the representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such state.

(8) ARTICLE 8. REIMBURSEMENT FOR LOSS, DAMAGE, EXPENSE, OR COST.

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further that any two or more party states may enter into supplementary agreements establishing a different allocation of costs as among those states. The United States government may relieve the party state receiving aid from any liability and reimburse the party state supplying emergency management and civil defense forces for the compensation paid to and the transportation, subsistence and maintenance expenses of such forces during the time of the rendition of such aid or assistance outside the state and may also pay fair and reasonable compensation for

the use or utilization of the supplies, materials, equipment or facilities so utilized or consumed.

(9) ARTICLE 9. PLANS FOR EVACUATION OF CIVIL POPULATION.

Plans for the orderly evacuation and reception of the civilian population as the result of an emergency shall be worked out from time to time between representatives of the party states and the various local emergency management and civil defense areas thereof. Such plans shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care and like items. Such expenditures shall be reimbursed by the party state of which the evacuees are residents, or by the United States government under plans approved by it. After the termination of the emergency the party state of which the evacuees are residents shall assume the responsibility for the ultimate support or repatriation of such evacuees.

(10) ARTICLE 10. AVAILABILITY OF COMPACT; "STATE" DEFINED.

This compact shall be available to any state, possession or territory of the United States, and the District of Columbia. The term "state" may also include any neighboring foreign country or province or state thereof.

(11) ARTICLE 11. ROLE OF FEDERAL EMERGENCY MANAGEMENT AGENCY.

The committee established pursuant to Article 1 of this compact may request the Federal Emergency Management Agency of the United States government to act as an informational and coordinating body under this compact, and representatives of such agency of the United States government may attend meetings of such committee.

(12) ARTICLE 12. COMPACT OPERATIVE ON RATIFICATION.

This compact shall become operative immediately upon its ratification by any state as between it and any other state or states so ratifying and shall be subject to approval by Congress unless prior congressional approval has been given. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States government.

(13) ARTICLE 13. WITHDRAWAL FROM COMPACT.

This compact shall continue in force and remain binding on each party state until the legislature or the governor of such party state takes action to withdraw

therefrom. Such action shall not be effective until 30 days after notice thereof has been sent by the governor of the party state desiring to withdraw to the governors of all other party states.

(14) ARTICLE 14. CONSTRUCTION OF COMPACT; SEVERABILITY.

This compact shall be construed to effectuate the purposes stated in Article 1 hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected thereby.

(15) ARTICLE 15. ADDITIONAL APPLICABILITY.

(a) This article shall be in effect only as among those states which have enacted it into law or in which the governors have adopted it pursuant to constitutional or statutory authority sufficient to give it the force of law as part of this compact. Nothing contained in this article or in any supplementary agreement made in implementation thereof shall be construed to abridge, impair or supersede any other provision of this compact or any obligation undertaken by a state pursuant thereto, except that if its terms so provide, a supplementary agreement in implementation of this article may modify, expand or add to any such obligation as among the parties to the supplementary agreement.

(b) In addition to the occurrences, circumstances and subject matters to which preceding articles of this compact make it applicable, this compact and the authorizations, entitlements and procedures thereof shall apply to:

(1) Searches for and rescue of persons who are lost, marooned, or otherwise in danger;

(2) Action useful in coping with disasters arising from any cause or designed to increase capability to cope with any such disasters;

(3) Incidents, or the imminence thereof, which endanger the health or safety of the public and which require the use of special equipment, trained personnel or personnel in larger numbers than are locally available in order to reduce, counteract or remove the danger;

(4) The giving and receiving of aid by subdivisions of party states;

(5) Exercises, drills or other training or practice activities designed to aid personnel to prepare for, cope with, or prevent any disaster or other emergency to which this compact applies.

(c) Except as expressly limited by this compact or a supplementary agreement in force pursuant thereto, any aid authorized by this compact or any supplementary agreement may be furnished by any agency of a party state, a subdivision of a party state, or by a joint agency of any two or more party states or of their subdivisions. Any joint agency providing aid shall be entitled to reimbursement

therefor to the same extent and in the same manner as a state. The personnel of a joint agency, when rendering aid pursuant to this compact, shall have the same rights, authority and immunity as personnel of party states.

(d) Nothing in this article shall be construed to exclude from the coverage of Articles 1-14 of this compact any matter which, in the absence of this article, could reasonably be construed to be covered thereby.

REVISOR'S NOTE: This section formerly was Art. 41, § 17-102.

No changes are made.

14-603. AUTHORITY OF GOVERNOR TO ENTER INTO AND EXECUTE COMPACT; ALTERATIONS; RATIFICATION.

The Governor is hereby authorized and empowered to enter into and execute, on behalf of the State of Maryland, such emergency management and civil defense compacts with other states, possessions or territories of the United States or with the District of Columbia, substantially in the form hereinbefore set forth, provided that the Board of Public Works, with the concurrence of the Director of the Maryland Emergency Management Agency, may approve alterations of the terms, provisions and conditions of the aforesaid proposed emergency management and civil defense compact so long as said alterations are in substantial compliance with the terms, provisions and conditions hereinbefore set forth and when the Governor, in the exercise of the power as aforesaid, enters into and executes an emergency management and civil defense compact on behalf of the State of Maryland, said compact is hereby approved and ratified and every paragraph, clause, provision, matter and thing in the said compact contained shall be obligatory on this State and the citizens thereof, and shall be forever faithfully and inviolably observed, and kept by the government of this State and all of its citizens according to the true intent and meaning of the said compact.

REVISOR'S NOTE: This section formerly was Art. 41, § 17-103.

No changes are made.

14-604. SECRETARY OF STATE TO TRANSMIT COPIES OF COMPACTS.

The Secretary of State is authorized and directed to prepare and transmit duly authenticated copies of such compacts and of this act to the governor of each state entering into such compact, the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Federal Emergency Management Agency Director, the Secretary of State of the United States, and the Council of State Governments.

REVISOR'S NOTE: This section formerly was Art. 41, § 17-104.

No changes are made.

14-605. SEVERABILITY.

If any clause, sentence, paragraph, or section of this subtitle shall, for any reason, be adjudged by any court of competent jurisdiction to be unconstitutional and invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or section thereof so found unconstitutional and invalid.

REVISOR'S NOTE: This section formerly was Art. 41, § 17-105.

No changes are made.

GENERAL REVISOR'S NOTE TO SUBTITLE:

In revising the various articles of the Annotated Code, it was the usual practice of the former Commission to Revise the Annotated Code and article review committees to make very few, if any, changes to compacts. The Public Safety Article Review Committee has made no changes to the text of the Interstate Emergency Management and Civil Defense Compact, which comprises § 14-602 of this subtitle. To conform to current code revision drafting conventions, catchlines have been added to sections and subsections of sections of this subtitle. These catchlines, however, are not law and the addition of catchlines to this subtitle does not affect the substance of the Compact.

SUBTITLE 7. EMERGENCY MANAGEMENT ASSISTANCE COMPACT.

14-701. PARTICIPATION WITH OTHER JURISDICTIONS.

The Emergency Management Assistance Compact is entered into with all other jurisdictions which adopt the Compact in a form substantially as the Compact appears in [§ 19-102] § 14-702 of this [title] SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 41, § 19-101.

The reference to "§ 14-702 of this subtitle" is substituted for the former reference to "§ 19-102 of this title" to reflect the reorganization of this revised subtitle.

No other changes are made.

14-702. EMERGENCY MANAGEMENT ASSISTANCE COMPACT.

EMERGENCY MANAGEMENT ASSISTANCE COMPACT

(1) Article I. Purpose and Authorities.

This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this compact, the term "states" is taken to mean the several states, the

Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the Governor of the affected state(s), whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

(2) Article II. General Implementation.

Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

On behalf of the Governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

(3) Article III. Party State Responsibilities.

(a) It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

(1) Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made

disaster, emergency aspects of resources shortages, civil disorders, insurgency, or enemy attack.

(2) Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency.

(3) Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans.

(4) Assist in warning communities adjacent to or crossing the state boundaries.

(5) Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material.

(6) Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness.

(7) Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

(b) The authorized representative of a party state may request assistance of another party state by contacting the authorized representative of that state. The provisions of this compact shall apply only to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within 30 days of the verbal request. Requests shall provide the following information:

(1) A description of the emergency service function for which assistance is needed, including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.

(2) The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed.

(3) The specific place and time for staging of the assisting party's response and a point of contact at that location.

(c) There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States Government, with free exchange of information, plans, and resource records relating to emergency capabilities.

(4) Article IV. Limitations.

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the governor of the party state that is to receive assistance or upon commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state(s), whichever is longer.

(5) Article V. Licenses and Permits.

Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the Governor of the requesting state may prescribe by executive order or otherwise.

(6) Article VI. Liability.

Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

(7) Article VII. Supplementary Agreements.

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this compact contains elements of a broad base common to all states, and nothing herein contained shall preclude any state from entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not

be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

(8) Article VIII. Compensation.

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

(9) Article IX. Reimbursement.

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this article.

(10) Article X. Evacuation.

Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

(11) Article XI. Implementation.

(a) This compact shall become effective immediately upon its enactment into law by any two states. Thereafter, this compact shall become effective as to any other state upon its enactment by such state.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until 30 days after the Governor of the withdrawing state has given notice in writing of such withdrawal to the Governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

(c) Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States Government.

(12) Article XII. Validity.

This compact shall be construed to effectuate the purposes stated in Article I hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected thereby.

(13) Article XIII. Additional Provisions.

Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the Army or the Air Force would in the absence of express statutory authorization be prohibited under Section 1385 of Title 18 of the United States Code.

REVISOR'S NOTE: This section formerly was Art. 41, § 19-102.

No changes are made.

GENERAL REVISOR'S NOTE TO SUBTITLE:

In revising the various articles of the Annotated Code, it was the usual practice of the former Commission to Revise the Annotated Code and article review committees to make very few, if any, changes to compacts. The Public Safety Article Review Committee has made no changes to the text of the Emergency Management Assistance Compact, which comprises § 14-702 of this subtitle. To conform to current code revision drafting conventions, catchlines have been added to sections and subsections of sections of this subtitle. These catchlines, however, are not law and the addition of catchlines to this subtitle does not affect the substance of the Compact.

SUBTITLE 8. MARYLAND EMERGENCY MANAGEMENT ASSISTANCE COMPACT.

14-801. DEFINITIONS.

(a) IN GENERAL.

In this subtitle the following words have the meanings indicated.

REVISOR'S NOTE: This subsection formerly was Art. 16A, § 37(a).

No changes are made.

(b) AUTHORIZED REPRESENTATIVE.

"Authorized representative" means an employee of a local jurisdiction authorized by the senior elected official of that jurisdiction to request, offer, or provide assistance under the terms of the compact.

REVISOR'S NOTE: This subsection formerly was Art. 16A, § 37(b).

No changes are made.

Defined terms: "Compact" § 14-801

"Senior elected official" § 14-801

(c) COMPACT.

"Compact" means the Maryland Emergency Management Assistance Compact.

REVISOR'S NOTE: This subsection formerly was Art. 16A, § 37(c).

No changes are made.

(d) JURISDICTIONS.

"Jurisdictions" means the 23 counties within Maryland, Baltimore City, and Ocean City.

REVISOR'S NOTE: This subsection formerly was Art. 16A, § 37(d).

No changes are made.

Defined term: "County" § 1-101

(e) SENIOR ELECTED OFFICIAL.

"Senior elected official" means:

(1) The Mayor;

(2) The County Executive; or

(3) For a county that does not have a county executive, the president of the board of county commissioners or county council or other chief executive officer of the county.

REVISOR'S NOTE: This subsection formerly was Art. 16A, § 37(e).

No changes are made.

Defined term: "County" § 1-101

14-802. PARTICIPATION WITH OTHER JURISDICTIONS.

The Maryland Emergency Management Assistance Compact is entered into with all other jurisdictions that adopt the Compact in a form substantially similar to the Compact set forth in this subtitle.

REVISOR'S NOTE: This section formerly was Art. 16A, § 38.

No changes are made.

Defined terms: "Compact" § 14-801

"Jurisdictions" § 14-801

14-803. MARYLAND EMERGENCY MANAGEMENT ASSISTANCE COMPACT.

(1) Article 1. Purpose.

(a) (1) The purpose of this Compact is to provide for mutual assistance between the jurisdictions entering into this Compact in managing an emergency.

(2) This Compact also shall provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment or personnel simulating performance of any aspect of the giving and receiving of aid by party jurisdictions during emergencies.

(2) Article 2. Requests for Assistance.

(b) (1) The senior elected official of each jurisdiction shall designate an authorized representative. The authorized representative of a party jurisdiction may request assistance of another party jurisdiction by contacting the authorized representative of that jurisdiction.

(2) The provisions of this Compact shall apply only to requests for assistance made by and to authorized representatives.

(3) Requests may be verbal or in writing.

(4) If verbal, the request shall be confirmed in writing at the earliest possible date, but no later than 10 calendar days following the verbal request.

(5) Written requests shall provide the following information:

(i) A description of the emergency support function for which assistance is needed;

(ii) The emergency support function shall include, but not be limited to, fire services, law enforcement, emergency medical services, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;

(iii) The amount and type of personnel, equipment, materials, and supplies needed and a reasonable estimate of the length of time they will be needed; and

(iv) The specific place and time for staging of the assisting party's response and a point of contact at that location.

(6) There shall be frequent consultations between the Maryland Emergency Management agency and appropriate representatives of the party jurisdictions with free exchange of information and plans generally relating to emergency capabilities.

(7) A senior elected official or an authorized representative will advise the Maryland Emergency Management Agency of verbal requests and provide copies of written requests.

(3) Article 3. Limitations.

(c) (1) Any jurisdiction which is a party to this Compact and which receives a request for assistance shall take such actions as are necessary to provide requested resources.

(2) Any jurisdiction may withhold resources to the extent necessary to provide reasonable protection to its own jurisdiction.

(3) Each party jurisdiction shall afford to the emergency responders of any party jurisdiction operating within the requesting jurisdiction under the terms and conditions of this Compact, the same powers, duties, rights, and privileges as are afforded those of the jurisdiction in which they are performing emergency services.

(4) Emergency responders will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the requesting jurisdiction.

(5) Emergency responders shall have the same powers, duties, rights, and privileges as personnel of the requesting jurisdiction correspondent to performing the same function.

(6) (i) The provisions of this article shall only take effect:

1. Subsequent to a local declaration of a state of emergency by the requesting jurisdiction; or

2. Upon commencement of exercises, testing, or training for mutual aid.

(ii) The provisions of this article shall continue as long as:

1. The exercises, testing, or training for the mutual aid are in progress;

2. The state of emergency or the disaster remains in effect; or

3. Loaned resources remain in the requesting jurisdiction.

(4) Article 4. Liability.

(d) (1) Officers or emergency responders of a party jurisdiction rendering aid in another jurisdiction pursuant to this Compact shall be considered agents of the requesting jurisdiction for tort liability and immunity purposes.

(2) No party jurisdiction or its officers or emergency responders rendering aid in another jurisdiction pursuant to this Compact shall be liable on account of any act or omission in good faith on the part of responding personnel while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith.

(3) Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

(5) Article 5. Supplementary Agreements.

(e) (1) Nothing in this Compact shall:

(i) Preclude any jurisdiction from entering into supplementary agreements with another jurisdiction; or

(ii) Affect any other agreements between jurisdictions.

(2) Supplementary agreements may include, but are not limited to:

(i) Provisions for evacuation and reception of injured and other persons; and

(ii) The exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation, and communications personnel, equipment, and supplies.

(6) Article 6. Reimbursement.

(f) (1) Each party jurisdiction shall provide for the payment of workers' compensation and death benefits to injured members of the emergency responders of its own jurisdiction.

(2) The requesting jurisdiction will reimburse the responding jurisdiction for all reasonable and necessary expenses incurred by the responding jurisdiction provided that any responding jurisdiction may:

(i) Assume in whole or in part such loss, damage, expense, or other cost;

(ii) Loan equipment or donate services to the requesting jurisdiction without charge or cost; and

(iii) Agree to any allocation of expenses between the responding and requesting jurisdiction.

(3) Any two or more jurisdictions may enter into supplemental agreements establishing a different allocation of costs among those jurisdictions.

(4) Records of expenses incurred in sufficient detail to satisfy auditing requirements shall be submitted by the responding jurisdiction as soon as possible following the termination of the assistance provided.

(7) Article 7. Implementation.

(g) (1) Party jurisdictions are encouraged to consult frequently with each other and with the Maryland Emergency Management Agency and to exchange information and plans relating to emergency management.

(2) This Compact shall become effective immediately upon its enactment into law by local jurisdictions.

(3) Any party jurisdiction may withdraw from this Compact by enacting a repeal of the same but no such withdrawal shall take effect until 30 days after the senior elected official of the withdrawing jurisdiction has given notice in writing of such withdrawal to the senior elected officials of all party jurisdictions.

(4) Withdrawal from the Compact shall not relieve the withdrawing jurisdiction from obligations assumed under Article 4 or Article 6 of this Compact prior to the effective date of withdrawal.

(5) Authenticated copies of this Compact and of such supplementary agreements as may be entered into shall at the time of their approval be retained by each party jurisdiction and with the Maryland Emergency Management Agency.

(8) Article 8. Validity.

(h) (1) This Compact shall be construed to effectuate the purposes stated in Article 1 hereof.

(2) If any part or provision of this Compact or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Compact which can be given effect without the invalid provision or application, and for this purpose the provisions of this Compact are declared severable.

REVISOR'S NOTE: This section formerly was Art. 16A, § 39.

No changes are made.

Defined terms: "Authorized representative" § 14-801

"Compact" § 14-801

"Jurisdictions" § 14-801

"Senior elected official" § 14-801

GENERAL REVISOR'S NOTE TO SUBTITLE:

In revising the various articles of the Annotated Code, it was the usual practice of the former Commission to Revise the Annotated Code and article review committees to make very few, if any, changes to compacts. The Public Safety Article Review Committee has made no changes to the text of the Maryland Emergency Management Assistance Compact, which comprises § 14-803 of this subtitle. To conform to current code revision drafting conventions, catchlines have been added to sections and subsections of sections of this subtitle. These catchlines, however, are not law and the addition of catchlines to this subtitle does not affect the substance of the Compact.

SUBTITLE 9. COMPULSORY WORK DURING STATE OF WAR.

14-901. SCOPE OF SUBTITLE.

THIS SUBTITLE DOES NOT APPLY TO:

(1) STUDENTS;

(2) INDIVIDUALS WHO ARE PREPARING THEMSELVES TO ENGAGE IN TRADE OR INDUSTRIAL PURSUITS;

(3) INDIVIDUALS WHO ARE TEMPORARILY UNEMPLOYED BECAUSE OF DIFFERENCES WITH THEIR EMPLOYERS; AND

(4) INDIVIDUALS WHO ARE ENGAGED OR EMPLOYED IN A SEASONAL BUSINESS, TRADE, OR OCCUPATION IN BALTIMORE CITY OR ALLEGANY COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, §§ 8, 9, and the second sentence of § 4.

%In this section and throughout this subtitle, references to "individuals" are substituted for the former references to "persons" because only an individual, and not the other entities included in the defined term "person", can be employed. *See* § 1-101 of this article for the definition of "persons".

In item (2) of this section, the reference to individuals who are "preparing" themselves to engage in a trade is substituted for the former archaic reference to "fitting" themselves to engage in a trade for clarity.

In item (4) of this section, the former reference to an occupation "carried on" in Baltimore City or Allegany County is deleted as surplusage.

14-902. APPOINTMENT OR EMPLOYMENT OF ASSISTANTS.

TO CARRY OUT THIS SUBTITLE, THE GOVERNOR MAY APPOINT OR EMPLOY ASSISTANTS AND USE ANY AVAILABLE AND APPROPRIATE AGENCIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 7.

The former reference to employing assistants "as may be necessary" is deleted as surplusage.

The former reference to the use of assistants and agencies "to aid" the Governor in carrying out this subtitle is deleted as implicit in the general authority of the Governor to appoint assistants to "carry out this subtitle".

14-903. REGISTRATION FOR WORK.

(A) IN GENERAL.

(1) THE GOVERNOR BY PROCLAMATION MAY REQUIRE THAT EACH ABLE-BODIED INDIVIDUAL IN THE STATE BETWEEN 18 AND 50 YEARS OLD, INCLUSIVE, WHO IS NOT REGULARLY OR CONTINUOUSLY EMPLOYED OR ENGAGED IN A LAWFUL AND USEFUL BUSINESS, OCCUPATION, TRADE, OR PROFESSION IMMEDIATELY REGISTER FOR WORK UNDER THIS SUBTITLE.

(2) THE GOVERNOR MAY REQUIRE REGISTRATION FOR WORK UNDER PARAGRAPH (1) OF THIS SUBSECTION IF THE GOVERNOR DETERMINES THAT BECAUSE OF A STATE OF WAR:

(I) IT IS NECESSARY FOR THE PROTECTION AND WELFARE OF THE PEOPLE OF THE STATE THAT THOSE INDIVIDUALS WORK IN AGRICULTURAL, INDUSTRIAL, OR OTHER OCCUPATIONS CARRIED ON BY THE STATE, A COUNTY, OR A PRIVATE EMPLOYER;

(II) THE OCCUPATIONS SPECIFIED IN ITEM (I) OF THIS PARAGRAPH ARE ESSENTIAL FOR THE PROTECTION AND WELFARE OF THE PEOPLE OF THE STATE AND THE UNITED STATES; AND

(III) THE OCCUPATIONS SPECIFIED IN ITEM (I) OF THIS PARAGRAPH CANNOT BE CARRIED ON AS REQUIRED FOR THE PROTECTION AND WELFARE OF THE PEOPLE OF THIS STATE AND THE UNITED STATES WITHOUT RESORT TO THIS SUBTITLE.

(B) SELF-SUPPORTING INDIVIDUALS AND INDIVIDUALS SUPPORTED BY OTHERS.

INDIVIDUALS WHO ARE SELF-SUPPORTING BECAUSE OF INCOME OR OWNERSHIP OF PROPERTY AND INDIVIDUALS WHO ARE SUPPORTED BY OTHERS SHALL BE REQUIRED TO REGISTER UNDER THIS SUBTITLE.

(C) REGISTRATION REQUIREMENTS.

(1) EACH INDIVIDUAL REQUIRED TO REGISTER UNDER THIS SECTION SHALL REGISTER WITH THE CLERK OF THE CIRCUIT COURT OF THE COUNTY IN WHICH THE INDIVIDUAL RESIDES.

(2) THE INDIVIDUAL SHALL PROVIDE TO THE CLERK THE INDIVIDUAL'S NAME, ADDRESS, AGE, AND ANY OTHER INFORMATION THAT THE GOVERNOR REQUIRES.

(D) DUTY OF CIRCUIT COURT CLERK.

ON REQUEST OF THE GOVERNOR, THE CLERK OF THE CIRCUIT COURT SHALL PROVIDE THE GOVERNOR WITH THE INFORMATION OBTAINED UNDER SUBSECTION (C)(2) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first and second sentences of former Art. 89, § 3 and the first sentence of § 4.

In subsection (a)(1) of this section, the reference to an individual "immediately" registering for work is substituted for the former archaic reference to an individual registering for work "forthwith" for clarity.

Also in subsection (a)(1) of this section, the former reference to an individual who is not "then or thereafter" regularly employed is deleted as implicit in the reference to an individual who is "not regularly ... employed".

Also in subsection (a)(1) of this section, the former reference to a business, trade, profession, or occupation "of any kind" is deleted as surplusage.

In the introductory language of subsection (a)(2) of this section, the former references to the Governor "find[ing]" that certain circumstances exist are deleted in light of the reference to the Governor "determin[ing]" that certain circumstances exist.

In subsection (a)(2)(i) of this section, the former reference to "the City of

Baltimore" is deleted in light of the definition of "county" in § 1-101 of this article.

Also in subsection (a)(2)(i) of this section, the former phrase "or any of their agencies" is deleted as surplusage.

Also in subsection (a)(2)(i) of this section, the former reference to private "firms or corporations" is deleted as unnecessary in light of the definition of "person" in § 1-101 of this article.

In subsection (a)(2)(ii) of this section, the former reference to occupations "whether carried on by the State, the counties, the City of Baltimore, or by private employers" is deleted as redundant of the language in subsection (a)(1) of this section.

In subsection (c)(1) of this section, the reference to the county in which the individual "resides" is substituted for the former reference to the county in which the individual "may be" for clarity.

In subsection (c)(2) of this section, the reference to an individual "provid[ing]" information to the clerk is added for clarity.

In subsection (d) of this section, the reference to the "information obtained under subsection (c)(2) of this section" is substituted for the former reference to "lists of the names, addresses, age and such other information aforesaid as may have been obtained and registered" for brevity.

Also in subsection (d) of this section, the former requirement that the clerk provide certain information to the Governor "from time to time" is deleted as surplusage.

Defined terms: "County" § 1-101

"Person" § 1-101

14-904. ASSIGNMENT TO WORK.

(A) IN GENERAL.

THE GOVERNOR SHALL ASSIGN OR CAUSE TO BE ASSIGNED AND, IF NECESSARY, REASSIGN OR CAUSE TO BE REASSIGNED, FOR A PERIOD NOT EXCEEDING 6 CONTINUOUS MONTHS FOR EACH INDIVIDUAL AT ONE TIME, INDIVIDUALS WHO HAVE REGISTERED UNDER § 14-903 OF THIS SUBTITLE TO THE OCCUPATIONS DESCRIBED IN § 14-903(A) OF THIS SUBTITLE IF THE EMPLOYERS ACCEPT THE SERVICES OF THESE INDIVIDUALS.

(B) QUALIFICATIONS FOR ASSIGNMENT.

EACH INDIVIDUAL ASSIGNED TO WORK UNDER SUBSECTION (A) OF THIS SECTION SHALL BE PHYSICALLY ABLE TO PERFORM THE WORK TO WHICH THE INDIVIDUAL IS ASSIGNED.

(C) DURATION AND NATURE OF WORK.

(1) IN DETERMINING THE DURATION AND NATURE OF THE WORK TO WHICH AN INDIVIDUAL IS ASSIGNED, THE GOVERNOR SHALL CONSIDER THE AGE, PHYSICAL CONDITION, AND ANY OTHER APPROPRIATE CIRCUMSTANCES OF THE INDIVIDUAL.

(2) AN INDIVIDUAL MAY NOT BE REQUIRED TO WORK UNDER THIS SUBTITLE A GREATER NUMBER OF HOURS PER DAY THAN LAWFULLY CONSTITUTES A DAY'S WORK IN THE OCCUPATION TO WHICH THE INDIVIDUAL IS ASSIGNED.

REVISOR'S NOTE: This section is new language derived without substantive change from the third, fourth, and sixth sentences of former Art. 89, § 3 and the seventh sentence of § 6.

In subsection (a) of this section, the reference to individuals "who have registered under § 14-903 of this subtitle" is substituted for the former reference to "such" individuals for clarity.

Also in subsection (a) of this section, the reference to occupations "described in § 14-903(a) of this subtitle" is substituted for the former reference to occupations "as aforesaid, carried on by the State, the counties or the City of Baltimore, or to private employers engaged in occupations of the character above mentioned" for clarity and brevity.

Also in subsection (a) of this section, the former reference to the Governor "thereupon" assigning an individual to an occupation is deleted as implicit in the condition precedent that an individual first have "registered under § 14-903 of this subtitle" before the Governor may assign the individual to an occupation.

In subsection (b) of this section, the reference to an individual assigned "to work under subsection (a) of this section" is substituted for the former reference to an individual "so" assigned for clarity.

Also in subsection (b) of this section, the former reference to a person being physically able "in every case" to perform the work is deleted as implicit.

In subsection (c)(1) of this section, the reference to "determining" the duration of the work is substituted for the former reference to "fixing" the duration for clarity.

Also in subsection (c)(1) of this section, the reference to the "duration" of work is substituted for the former reference to the "period" of work for clarity.

Also in subsection (c)(1) of this section, the former reference to an individual "so assigned" is deleted as surplusage.

In subsection (c)(2) of this section, the reference to the occupation "to which

the individual is assigned" is substituted for the former reference to the occupation "in which such person is required to engage" for clarity.

14-905. RULES AND REGULATIONS OF GOVERNOR.

AS SOON AS THE GOVERNOR ISSUES A PROCLAMATION UNDER § 14-903 OF THIS SUBTITLE, THE GOVERNOR SHALL PREPARE AND PUBLISH RULES AND REGULATIONS TO GOVERN THE ASSIGNMENT OF INDIVIDUALS TO WORK UNDER THIS SUBTITLE THAT:

(1) ENSURE THAT ALL INDIVIDUALS SIMILARLY SITUATED SHALL BE TREATED ALIKE TO THE EXTENT POSSIBLE; AND

(2) MAKE ALLOWANCES FOR THE AGE, PHYSICAL CONDITION, AND OTHER APPROPRIATE CIRCUMSTANCES OF INDIVIDUALS ASSIGNED TO WORK UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the fifth and seventh sentences of former Art. 89, § 3.

In the introductory language of this section, the reference to a proclamation issued "under § 14-903 of this subtitle" is substituted for the former reference to a proclamation issued "as herein provided" for clarity.

In item (2) of this section, the reference to allowances "for the age, physical condition, and other appropriate circumstances of individuals assigned to work under this subtitle" is substituted for the former reference to allowances "for such facts and circumstances" for clarity.

14-906. COMPENSATION.

(A) AMOUNT.

EACH INDIVIDUAL REQUIRED TO WORK UNDER THIS SUBTITLE IS ENTITLED TO COMPENSATION NOT LESS THAN THE COMPENSATION PAID TO OTHERS FOR THE SAME WORK.

(B) INDIVIDUAL ASSIGNED TO WORK -- FOR STATE.

IF AN INDIVIDUAL IS ASSIGNED TO WORK FOR A UNIT OF THE STATE, THE COMPENSATION OF THE INDIVIDUAL SHALL BE PAID BY THE UNIT OUT OF THE APPROPRIATION MADE TO IT BY THE STATE.

(C) SAME -- FOR COUNTY.

IF AN INDIVIDUAL IS ASSIGNED TO WORK FOR A COUNTY, THE COMPENSATION OF THE INDIVIDUAL SHALL BE PAID BY THE COUNTY.

(D) SAME -- FOR PRIVATE EMPLOYER.

(1) IF AN INDIVIDUAL IS ASSIGNED TO WORK FOR A PRIVATE EMPLOYER, THE COMPENSATION OF THE INDIVIDUAL SHALL BE PAID BY THE PRIVATE EMPLOYER.

(2) EACH PRIVATE EMPLOYER SHALL EXECUTE A BOND TO THE STATE IN THE PENALTY AND WITH THE SURETY THAT THE GOVERNOR APPROVES, CONDITIONED TO GUARANTEE THE PAYMENT OF COMPENSATION DUE TO INDIVIDUALS ASSIGNED TO WORK FOR THE PRIVATE EMPLOYER.

(3) (I) IF A PRIVATE EMPLOYER FAILS TO PAY THE COMPENSATION DUE TO AN INDIVIDUAL UNDER THIS SUBSECTION, THE COMPENSATION SHALL BE PAID BY THE STATE.

(II) IF MONEY IS APPROPRIATED FOR THE PURPOSE SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. PAYMENT SHALL BE MADE ON THE ORDER OF THE EXECUTIVE COMMITTEE OF THE MARYLAND COUNCIL OF DEFENSE WITH THE APPROVAL OF THE GOVERNOR;

2. THE ORDER SHALL BE DIRECTED TO THE COMPTROLLER; AND

3. THE COMPTROLLER SHALL DRAW A WARRANT ON THE TREASURER FOR THE AMOUNT OF PAYMENT AS PROVIDED BY LAW.

(4) IF THE STATE COMPENSATES AN INDIVIDUAL UNDER THIS SUBSECTION, THE EMPLOYER'S BOND SHALL BE IN DEFAULT AND SHALL BE PUT INTO SUIT BY THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from the first through the sixth sentences of former Art. 89, § 6.

In subsections (b), (c), and (d)(1) of this section, the former references to "such person" are deleted as implicit in the references to an individual "assigned to work".

In subsection (b) of this section, the reference to "unit" is substituted for the former reference to "department, board or commission". The term "unit" is used as the general term for an entity in the State government because it is inclusive enough to include all those entities. *See* General Revisor's Note to article.

In subsection (c) of this section, the former references to "the City of Baltimore" are deleted in light of the definition of "county" in § 1-101 of this article.

In subsection (d)(1) of this section, the former reference to a private employer "accepting his services" is deleted as redundant in light of the requirement in § 14-904 of this subtitle that a private employer accept the

services of an individual before the individual may be assigned to work for the employer.

In subsection (d)(3)(i) of this section, the former phrase "out of any moneys in the treasury available therefor and not otherwise appropriated, or out of any moneys appropriated therefor" is deleted as surplusage.

In subsection (d)(3)(ii) of this section, the phrase "[i]f money is appropriated for the purpose specified in subparagraph (i) of this paragraph" is substituted for the former phrase "in the latter event" for clarity.

In subsection (d)(4) of this section, the phrase "[i]f the State compensates an individual under this section" is substituted for the former phrase "[i]n the event of such payment by the State" for clarity.

Also in subsection (d)(4) of this section, the former reference to the "said" bond of the employer is deleted as surplusage.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that the Maryland Council of Defense no longer exists. According to the *Maryland Manual 1917-1918*, the Council of Defense was appointed in 1917 by the Governor under an Act of the extra session of the legislature held in June 1917. The Council appeared to have been designed to assist in the State's efforts to mobilize during World War I. The last reference to the Council was in the 1919-1920 *Maryland Manual*. It appeared that the Executive Committee of the Council had authority over expenditures "under the Act of the Extraordinary Session authorizing a State Debt not exceeding one million dollars `for defense of the State in the present war'". Whenever the Executive Committee was given authority with respect to the disbursement of moneys appropriated by the State, the Comptroller of the Treasury and the State Treasurer formed part of the Executive Committee.

Defined term: "County" § 1-101

14-907. FAILURE TO REGISTER FOR WORK.

(A) PROHIBITED ACT.

AN INDIVIDUAL MAY NOT FAIL TO REGISTER UNDER THIS SUBTITLE.

(B) PENALTY.

AN INDIVIDUAL WHO VIOLATES SUBSECTION (A) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $50.

(C) DUTY OF LAW ENFORCEMENT OFFICERS.

AFTER THE GOVERNOR ISSUES A PROCLAMATION UNDER THIS SUBTITLE, THE COUNTY SHERIFFS, THE POLICE DEPARTMENT OF BALTIMORE CITY, AND ANY OTHER OFFICER OF THE STATE, A COUNTY, OR MUNICIPAL CORPORATION CHARGED WITH ENFORCING THE LAW SHALL:

(1) SEEK DILIGENTLY THE NAMES AND ADDRESSES OF ABLE-BODIED INDIVIDUALS WITHIN THEIR RESPECTIVE JURISDICTIONS WHO ARE BETWEEN 18 AND 50 YEARS OLD, INCLUSIVE, AND NOT REGULARLY OR CONTINUOUSLY EMPLOYED OR ENGAGED IN A LAWFUL AND USEFUL OCCUPATION AND WHO HAVE FAILED TO REGISTER UNDER THIS SUBTITLE; AND

(2) OBTAIN CRIMINAL SUMMONSES OR WARRANTS FROM A DISTRICT COURT COMMISSIONER FOR THE ARREST OF INDIVIDUALS DESCRIBED IN ITEM (1) OF THIS SUBSECTION.

(D) DUTY OF DISTRICT COURT.

THE DISTRICT COURT SHALL SEND THE NAME OF EACH INDIVIDUAL CONVICTED OF FAILING TO REGISTER AND THE INFORMATION SPECIFIED IN SUBSECTION (C)(1) OF THIS SECTION TO THE CLERK OF THE CIRCUIT COURT OF THE COUNTY IN WHICH THE INDIVIDUAL RESIDES.

(E) DUTY OF CIRCUIT COURT CLERKS.

THE CIRCUIT COURT CLERKS SHALL REGISTER EACH INDIVIDUAL CONVICTED OF FAILING TO REGISTER UNDER THIS SUBTITLE AND REPORT THE REGISTRATION TO THE GOVERNOR IN ACCORDANCE WITH § 14-903 OF THIS SUBTITLE.

(F) ASSIGNMENT TO WORK BY GOVERNOR.

THE GOVERNOR SHALL ASSIGN EACH INDIVIDUAL REGISTERED UNDER SUBSECTION (E) OF THIS SECTION TO WORK AS PROVIDED IN § 14-904 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 5.

Subsection (a) of this section is revised in standard language used to state a prohibition. Similarly, subsection (b) of this section is revised in standard language used to state a penalty.

In the introductory language of subsection (c) of this section, the reference to the issuance of a proclamation "under this subtitle" is substituted for the former archaic reference to the issuance of a proclamation "hereinbefore provided for" for clarity.

In subsection (c)(1) of this section, the reference to "addresses" is substituted for the former reference to "places of residence" for clarity.

Also in subsection (c)(1) of this section, the former phrase "and to continue

to seek" is deleted as surplusage.

Also in subsection (c)(1) of this section, the reference to individuals who are between "18 and 50 years old" is substituted for the former reference to persons between "the ages aforesaid" for clarity. Similarly, the reference to individuals who have failed to register "under this subtitle" is substituted for the former reference to persons who have failed to register "as aforesaid".

Also in subsection (c)(1) of this section, the reference to individuals not regularly employed "or engaged in a lawful and useful occupation" is substituted for the former reference to a person not regularly employed "as aforesaid" for clarity and for consistency with § 14-903(a) of this subtitle.

In subsection (d) of this section, the reference to the information "specified in subsection (c)(1) of this section" is substituted for the former reference to information "as aforesaid" for clarity.

In subsection (e) of this section, the reference to registering each individual convicted of failing to register and reporting the registration to the Governor "in accordance with § 14-903 of this subtitle" is substituted for the former references to registering a person "as aforesaid" and reporting the registration to the Governor "as hereinbefore provided" for clarity.

In subsection (f) of this section, the reference to an individual "registered under subsection (e) of this section" is substituted for the former reference to "such" person for clarity.

Also in subsection (f) of this section, the reference to an assignment to work "as provided in § 14-904 of this subtitle" is substituted for the former reference to an assignment to work "as provided in § 3" for specificity. Although former Art. 89, § 3 is revised as §§ 14-903, 14-904, 14-905, and 14-908 of this subtitle, only § 14-904 of this subtitle pertains to registration for work.

Defined terms: "County" § 1-101

"Person" § 1-101

14-908. FAILURE TO WORK.

(A) PROHIBITED.

AN INDIVIDUAL MAY NOT FAIL TO DO THE WORK ASSIGNED TO THE INDIVIDUAL UNLESS THE INDIVIDUAL BECOMES REGULARLY OR CONTINUOUSLY EMPLOYED IN A BUSINESS, OCCUPATION, PROFESSION, OR TRADE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING $500 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from the eighth sentence of former Art. 89, § 3.

Subsection (a) of this section is revised in standard language used to state a prohibition. Similarly, subsection (b) of this section is revised in standard language used to state a penalty.

In subsection (a) of this section, the former reference to "failing or refusing to do or to continue to do" the work assigned is deleted as included in the reference to "fail[ing]" to do the work assigned.

Also in subsection (a) of this section, the phrase "unless the individual becomes" regularly employed is substituted for the former reference to a person "who, in the meanwhile ha[ving] not" become regularly employed for clarity and consistency within this subtitle.

In subsection (b) of this section, the reference to being "guilty of a misdemeanor" is added to state expressly that which was only implied in the former law. In this State, any crime that was not a felony at common law and has not been declared a felony by statute, is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v. State*, 136 Md. 342 (1920); *Williams v. State*, 4 Md. App. 342, 347 (1968); and *Dutton v. State*, 123 Md. 373, 378 (1914).

Also in subsection (b) of this section, the former reference to the penalty being "in the discretion of the court" is deleted as implicit in the reference to a person being "subject to" a certain penalty.

Defined term: "Person" § 1-101

SUBTITLE 10. RIOTS.

14-1001. LIABILITY OF COUNTY OR MUNICIPAL CORPORATION FOR DAMAGES.

(A) "STRUCTURE" DEFINED.

IN THIS SECTION, "STRUCTURE" MEANS:

(1) A CHURCH, CHAPEL, OR CONVENT;

(2) A DWELLING;

(3) A BUILDING USED OR DESIGNED AS A PLACE TO TRANSACT BUSINESS OR STORE PROPERTY;

(4) A BARN, STABLE, OR OTHER OUTBUILDING; OR

(5) A SHIP, SHIPYARD, OR LUMBERYARD.

(B) CAUSE OF ACTION AUTHORIZED.

SUBJECT TO § 14-1002 OF THIS SUBTITLE, IF A STRUCTURE OR PERSONAL PROPERTY IS STOLEN, DAMAGED, OR DESTROYED IN A RIOT, THE INJURED PARTY MAY RECOVER ACTUAL DAMAGES SUSTAINED IN A CIVIL ACTION AGAINST THE COUNTY OR MUNICIPAL CORPORATION OF THE STATE IN WHICH THE RIOT OCCURRED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 82, § 1.

Subsection (a) of this section is revised as a definition of "structure" to avoid repetition of the items included within this definition in the substantive provisions of this section.

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that under former Art. 82, § 1 - revised as the definition of "structure" in subsection (a) of this section - an injured party could recover only for damage sustained to those buildings, etc., specifically listed in the former law. It seems unlikely that the General Assembly intended, for example, to provide compensation for damage to a church or convent, but not for damage to a rectory. The General Assembly may wish to expand the definition of "structure" to cover other types of buildings.

In subsection (a)(2) of this section, the former reference to a dwelling "house" is deleted as implicit in the word "dwelling".

In subsection (a)(3) of this section, the reference to a "building" used or designed for certain purposes is substituted for the former reference to a "house" for accuracy.

Also in subsection (a)(3) of this section, the reference to a place to "store" property is substituted for the former reference to a place to "deposit" property for clarity and accuracy.

Also in subsection (a)(3) of this section, the former reference to a building used or designed "by any person or any body corporate" is deleted as surplusage.

In subsection (a)(4) of this section, the reference to an "outbuilding" is substituted for the former reference to an "outhouse" to use the term in a more general sense. This conforms to a similar change made in the Criminal Law Article. *See* CR § 6-101(b).

In subsection (b) of this section, the introductory language "[s]ubject to § 14-1002 of this subtitle" is added to reflect that certain limitations exist on the cause of action authorized under subsection (b) of this section.

%Also in subsection (b) of this section, the references to a structure or property being "damaged" are substituted for the former references to a structure or property being "injured" for accuracy.

Also in subsection (b) of this section, the reference to property being "stolen" is substituted for the former reference to property being "taken away" for clarity.

Also in subsection (b) of this section, the phrase "in a riot" is substituted for the former phrase "by any riotous or tumultuous assemblage of people" for brevity and consistency within subsection (b) of this section.

Also in subsection (b) of this section, the reference to the "injured party" is substituted for the former reference to the "sufferer" for clarity and consistency with language used in other revised articles of the Code. Correspondingly, the former reference to "sufferers" is deleted in light of Art. 1, § 8, which provides that the singular generally includes the plural.

Also in subsection (b) of this section, the reference to the "actual damages sustained" is substituted for the former reference to the "full amount of the damage so done" for clarity and brevity.

Also in subsection (b) of this section, the reference to a "civil action" is substituted for the former reference to a "suit at law" to reflect the merger of law and equity effected by Md. Rule 2-301, which mandates "one form of action known as `civil action'".

Also in subsection (b) of this section, the reference to a "municipal corporation" is substituted for the former reference to an "incorporated town or city" to conform to Md. Constitution, Art. XI-E.

Also in subsection (b) of this section, the former reference to certain structures or personal property "in any county or incorporated town or city of this State" being damaged or destroyed by a riotous or tumultuous assembly of people is deleted as unnecessary in light of the reference to bringing a civil action against the "county or municipal corporation of the State in which" the riot occurred. Similarly, the former reference to property "therein" is deleted.

Also in subsection (b) of this section, the former reference to "any articles of" personal property is deleted as surplusage.

Also in subsection (b) of this section, the former reference to a "tumult" is deleted as unnecessary in light of the reference to a "riot".

Defined term: "County" § 1-101

14-1002. CONDITIONS OF LIABILITY.

(A) NOTICE AND ABILITY TO PREVENT DAMAGE.

A COUNTY OR MUNICIPAL CORPORATION IS NOT LIABLE UNDER § 14-1001 OF THIS SUBTITLE FOR THEFT, DAMAGE, OR DESTRUCTION THAT OCCURS IN A RIOT UNLESS THE AUTHORITIES OF THE COUNTY OR MUNICIPAL CORPORATION:

(1) HAD GOOD REASON TO BELIEVE THAT THE RIOT WAS ABOUT TO TAKE PLACE OR, HAVING TAKEN PLACE, HAD NOTICE OF THE RIOT IN TIME TO PREVENT THE THEFT, DAMAGE, OR DESTRUCTION; AND

(2) HAD THE ABILITY, EITHER BY USE OF THE COUNTY'S OR MUNICIPAL CORPORATION'S POLICE OR WITH THE AID OF THE RESIDENTS OF THE COUNTY OR MUNICIPAL CORPORATION, TO PREVENT THE THEFT, DAMAGE, OR DESTRUCTION.

(B) USE OF REASONABLE DILIGENCE.

A PERSON MAY NOT RECOVER DAMAGES FROM A COUNTY OR MUNICIPAL CORPORATION UNDER § 14-1001 OF THIS SUBTITLE IF IT IS SATISFACTORILY PROVED THAT THE AUTHORITIES OF THE COUNTY OR MUNICIPAL CORPORATION, AND THE RESIDENTS OF THE COUNTY OR MUNICIPAL CORPORATION WHEN CALLED ON BY THE AUTHORITIES, USED REASONABLE DILIGENCE AND ALL THE POWERS ENTRUSTED TO THEM TO PREVENT OR SUPPRESS THE RIOT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 82, § 3 and, except as it related to a limitations period for actions, § 2.

In the introductory language of subsection (a) of this section, the reference to a "municipal corporation" is substituted for the former reference to an "incorporated town or city" to conform to Md. Constitution, Art. XI-E. Correspondingly, in subsections (a)(2) and (b) of this section, the references to a "municipal corporation" are substituted for the former references to an "incorporated town or city".

Also in the introductory language of subsection (a) of this section, the reference to a county or municipal corporation "not [being] liable under § 14-1001 of this subtitle for theft, damage, or destruction that occurs in a riot" is substituted for the former reference to "[n]o such liability [being] incurred" by a county or municipal corporation, for clarity.

In subsection (a)(1) and (2) of this section, the references to "theft" are added for consistency with § 14-1001(b) of this subtitle.

Also in subsection (a)(1) and (2) of this section, the references to "damage" are substituted for the former references to "injury" for consistency with § 14-1001(b) of this subtitle.

In subsection (a)(1) of this section, the reference to "the riot" is substituted for the former reference to "such riot or tumultuous assemblage" for consistency within this subtitle. Correspondingly, in subsection (b) of this section, the reference to "the riot" is substituted for the former reference to "such riotous or unlawful assemblages".

%In subsection (a)(2) of this section, the reference to "destruction" is added for consistency with subsection (a)(1) of this section and § 14-1001(b) of this subtitle.

Also in subsection (a)(2) of this section, the former phrase "it being the intention of this article that no such liability shall devolve on such county, town or city" is deleted as surplusage.

In subsection (b) of this section, the prohibition that "[a] person may not recover damages from a county or municipal corporation under § 14-1001 of this subtitle" is substituted for the former prohibition that "[i]n no case shall indemnity be recovered" for clarity.

Also in subsection (b) of this section, the former reference to "civil" authorities is deleted for consistency with subsection (a) of this section.

Also in subsection (b) of this section, the word "entrusted" is substituted for the former word "intrusted" to use the more common form of the word.

Also in subsection (b) of this section, the reference to "all" reasonable diligence is deleted as implicit.

Defined terms: "County" § 1-101

"Person" § 1-101

14-1003. LIMITATION.

AN ACTION FOR DAMAGES UNDER § 14-1001 OF THIS SUBTITLE SHALL BE FILED WITHIN 3 YEARS AFTER THE DATE IT ACCRUES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 82, § 2, as it related to a limitations period for actions.

The reference to "[a]n action for damages" is substituted for the former reference to "all causes of action" for clarity and consistency with § 14-1001(b) of this subtitle.

The reference to "fil[ing]" an action is substituted for the former reference to "prosecut[ing]" an action for consistency with the terminology used in Title 5, Subtitle 1 of the Courts Article, which establishes limitations periods for various kinds of actions.

14-1004. PLEADINGS.

THE FORM OF ANY PLEADING IN AN ACTION UNDER § 14-1001 OF THIS SUBTITLE SHALL BE GOVERNED BY THE MARYLAND RULES.

REVISOR'S NOTE: This section is new language substituted for former Art. 82, § 4 to reflect that, under current rules of civil procedure, the form and

contents of pleadings are prescribed by the Maryland Rules. *See* Md. Rules 2-303 and 3-303.

GENERAL REVISOR'S NOTE TO SUBTITLE:

The Public Safety Article Review Committee notes, for consideration by the General Assembly, that former Article 82, §§ 1 through 4 of the Code (the "Riot Act"), were enacted in 1835 as a result of the bank riots which occurred in Baltimore in August 1835. Since its enactment, the "Riot Act" has been amended only once, in 1867, and apparently was last used to sue for damages sustained in the civil disorders that occurred in Baltimore in April 1968 following the assassination of Dr. Martin Luther King, Jr. (*see City of Baltimore v. Blibaum*, 280 Md. 652 (1977)). It is questionable whether the policies and premises underpinning the law are valid in today's society (for example, the policy of imposing liability on a local government to encourage local authorities and citizens to try to suppress a riot when today there are law enforcement agencies trained to control crime). The General Assembly may wish to review this law to determine whether it continues to serve a purpose in modern society.

GENERAL REVISOR'S NOTE TO ARTICLE:

The Department of Legislative Services is charged with revising the law in a clear, concise, and organized manner, without changing the effect of the law. One precept of revision has been that, once something is said, it should be said in the same way every time. To that end, the Public Safety Article Review Committee conformed the language and organization of this article to that of previously enacted revised articles to the extent possible.

It is the manifest intent both of the General Assembly and the Public Safety Article Review Committee that this bulk revision of the substantive public safety law of the State render no substantive change. The guiding principle of the preparation of this article is that stated in *Welch v. Humphrey*, 200 Md. 410, 417 (1952):

> [T]he principal function of a Code is to reorganize the statutes and state them in simpler form. Consequently any changes made in them by a Code are presumed to be for the purpose of clarity rather than change of meaning. Therefore, even a change in the phraseology of a statute by a codification thereof will not ordinarily modify the law, unless the change is so radical and material that the intention of the Legislature to modify the law appears unmistakably from the language of the Code. (citations omitted)

Accordingly, except to the extent that changes, which are noted in Revisor's Notes, clarify the former law, the enactment of this article in no way is intended to make any change to the substantive law of Maryland.

Throughout this article, as in other revised articles, the word "regulations" generally is substituted for former references to "rules and regulations" to distinguish, to the extent possible, between regulations of executive units and rules of judicial or legislative units and to establish consistency in the use of the words. This

substitution conforms to the practice of the Division of State Documents. However, in some instances, references to "rules" of executive agencies such as the Department of State Police are retained to reflect that the agency has adopted rules to govern the internal management of the agency.

Also throughout this article, for consistency and to avoid unnecessary confusion, the singular verb "adopt" is used in relation to rules or regulations, and verbs such as "prescribe" and "promulgate" are deleted. The procedures to be followed in adopting regulations are set forth in Title 10, Subtitle 1 of the State Government Article.

Also throughout this article, for consistency, references to adopting regulations to "carry out" particular provisions of this article are substituted for former references to adopting regulations to "administer", "implement", "accomplish the purpose of", or "accomplish the objectives of" the relevant provisions.

Also throughout this article, for consistency, the word "law" is substituted for former phrases such as "law or regulation" because the broad reference to a "law" includes a "regulation" adopted under the authority of a law. *See, e.g., Maryland Port Administration v. Brawner Contracting Co.*, 303 Md. 44, 60 (1985).

Also throughout this article, for clarity and consistency, references to "the public" or "members of the public" are substituted for former references such as "the citizens of this State" and "the citizens of Maryland" because the meaning of the word "citizen" in this context is unclear. Also throughout this article, for brevity and consistency, references to "the public" are substituted for former references such as "the general public" and "the public at large".

Also throughout this article, for clarity and consistency, references to "career" firefighters are substituted for former references to "paid" firefighters, "full-time" firefighters, and "professional" firefighters. References to "volunteer" firefighters are retained. Similarly, throughout this article, for consistency, references to "career" fire companies and departments are substituted for former references to "paid" fire companies and departments and references to "volunteer" fire companies and departments are retained.

Also throughout this article, for consistency, the word "money" is substituted for former references to "moneys" and "funds" and, if appropriate, for former references to "aid", "resources", "financial assistance", and "proceeds". In this article, a reference to a "fund" usually indicates a special fund, which consists of revenues that by law are dedicated to support a particular purpose and may not be used for other purposes. *See generally* Titles 4 and 8 of this article.

Also throughout this article, for consistency, the term "grants" is used and is substituted for former references such as "awards" and "grants and awards".

Also throughout this article, for consistency, the term "municipal corporation" is substituted for former references such as "municipality", "incorporated city", "incorporated town", and "incorporated municipality" to conform to Art. XI-E of the Maryland Constitution.

Also throughout this article, for consistency, references to the "local governing body of a county" are substituted for former references such as the "board of county commissioners, county council of the county, and the Mayor and City Council of Baltimore". The reference to the "local governing body" of a county is broad enough to encompass any form of government in the county, including traditional commission government, charter home rule, and code home rule.

In some provisions in this article, as in other revised articles, the term "unit" is substituted for former references to State entities such as an "agency", "department", "division", "office", "commission", "board", "committee", and "council". In revised articles of the Code, the term "unit" is used as the general term for an organization in the State government because it is broad enough to include all such entities. The titles "Police Training Commission" and "State Fire Prevention Commission" are retained in the revision, however, because they indicate specific entities.

The Public Safety Article Review Committee also decided to use the term "law enforcement agency", rather than "law enforcement unit", throughout this article because "law enforcement agency" is the more commonly used term.

References to current units and positions are substituted for obsolete references to entities and positions that have been abolished or have otherwise ceased to exist.

In some "Membership" provisions in this article, there is a subsection captioned "Tenure; vacancies". A standard paragraph included in those subsections provides that a "member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies". This paragraph applies: (1) when a successor is appointed to replace a member who has died, resigned, or failed for any other reason to complete a term; (2) when a member is appointed to succeed a member who has "held over" to part of the next term, pending the delayed appointment and qualification of the successor; or (3) when, in any other situation, a member takes office after a term has begun, *e.g.*, when, at the completion of a term, there is a delay in the appointment of a successor but the member who served the prior term does not "hold over".

The Public Safety Article Review Committee considered several provisions contained in the public safety laws to be more suitable for revision in other articles.

Former Art. 27, § 268C and part of § 268B, which prohibited target practice or discharging a gun or weapon on the land of another without permission in Anne Arundel County, Caroline County, and St. Mary's County, are revised in § 4-108 of the Criminal Law Article.

Former Art. 27, § 268D and part of § 268B, which prohibited hunting on the land of another without permission in Anne Arundel County, Caroline County, and Harford County, are revised in § 10-411 of the Natural Resources Article.

Former Art. 38A, § 34F, which authorized forfeiture of vehicles, vessels, and aircraft used or employed during violation of the explosives laws, is revised in § 13-301 of the Criminal Procedure Article.

The Public Safety Article Review Committee considered several provisions contained in the public safety laws to be more suitable for transfer to other articles or for repeal than for revision in the Public Safety Article.

Former Art. 88B, §§ 64 through 69, the State Aid for Police Protection Fund, is transferred to Article 41, §§ 4-401 through 4-406 of the Code.

Former Art. 41, § 4-906, which authorized citations for offenses on publicly owned watershed property, is transferred to § 8-2003 of the Natural Resources Article.

Former Art. 89, § 64, which prohibited smoking tobacco products in public elevators and provided a civil penalty, is transferred to § 24-212 of the Health - General Article.

Former Art. 89, § 2B, which provided for the termination of certain provisions relating to the regulation of labor and industry, is repealed as duplicative of § 2-109 of the Labor and Employment Article.

A few provisions allocated to the Public Safety Article are transferred to the Session Laws because of limited and diminishing applicability or limited duration. In addition, some apparently obsolete provisions allocated to the Public Safety Article are transferred to the Session Laws for historical purposes or to avoid any inadvertent substantive effect their repeal might have.

In some instances, the staff of the Department of Legislative Services may create "Special Revisor's Notes" to reflect the substantive effect of legislation enacted during the 2003 Session on some provisions of this article.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article 1 - Rules of Interpretation

25.

(a) Unnumbered revised articles of the Annotated Code of Maryland may be cited as stated in this section.

(b) A section of the Agriculture Article may be cited as: "§ ___ of the Agriculture Article".

(c) A section of the Business Occupations and Professions Article may be cited as: "§ ___ of the Business Occupations and Professions Article".

(d) A section of the Business Regulation Article may be cited as: "§ ___ of the Business Regulation Article".

(e) A section of the Commercial Law Article may be cited as: "§ ___ of the Commercial Law Article".

(f) A section of the Corporations and Associations Article may be cited as: "§ ___ of the Corporations and Associations Article".

(g) A section of the Correctional Services Article may be cited as: "§ ___ of the Correctional Services Article".

(h) A section of the Courts and Judicial Proceedings Article may be cited as: "§ ___ of the Courts Article".

(i) A section of the Criminal Law Article may be cited as: "§ ___ of the Criminal Law Article".

(j) A section of the Criminal Procedure Article may be cited as: "§ ___ of the Criminal Procedure Article".

(k) A section of the Education Article may be cited as: "§ ___ of the Education Article".

(l) A section of the Election Law Article may be cited as: "§ ___ of the Election Law Article".

(m) A section of the Environment Article may be cited as: "§ ___ of the Environment Article".

(n) A section of the Estates and Trusts Article may be cited as: "§ ___ of the Estates and Trusts Article".

(o) A section of the Family Law Article may be cited as: "§ ___ of the Family Law Article".

(p) A section of the Financial Institutions Article may be cited as: "§ ___ of the Financial Institutions Article".

(q) A section of the Health - General Article may be cited as: "§ ___ of the Health - General Article".

(r) A section of the Health Occupations Article may be cited as: "§ ___ of the Health Occupations Article".

(s) A section of the Insurance Article may be cited as: "§ ___ of the Insurance Article".

(t) A section of the Labor and Employment Article may be cited as: "§ ___ of the Labor and Employment Article".

(u) A section of the Natural Resources Article may be cited as: "§ ___ of the Natural Resources Article".

(V) A SECTION OF THE PUBLIC SAFETY ARTICLE MAY BE CITED AS : "§ ___ OF THE PUBLIC SAFETY ARTICLE".

[(v)] (W) A section of the Public Utility Companies Article may be cited as: "§ ___ of the Public Utility Companies Article".

[(w)] (X) A section of the Real Property Article may be cited as: "§ ___ of the Real Property Article".

[(x)] (Y) A section of the State Finance and Procurement Article may be cited as: "§ ___ of the State Finance and Procurement Article".

[(y)] (Z) A section of the State Government Article may be cited as: "§ ___ of the State Government Article".

[(z)] (AA) A section of the State Personnel and Pensions Article may be cited as: "§ ___ of the State Personnel and Pensions Article".

[(aa)] (BB) A section of the Tax - General Article may be cited as: "§ ___ of the Tax - General Article".

[(bb)] (CC) A section of the Tax - Property Article may be cited as: "§ ___ of the Tax - Property Article".

[(cc)] (DD) A section of the Transportation Article may be cited as: "§ ___ of the Transportation Article".

Article - Criminal Law

4-108. TARGET PRACTICE OR DISCHARGING GUN OR WEAPON.

(A) PROHIBITED.

IN ANNE ARUNDEL COUNTY, CAROLINE COUNTY, AND ST. MARY'S COUNTY A PERSON MAY NOT TARGET PRACTICE WITH A GUN OR WEAPON OR DISCHARGE A GUN OR WEAPON ON THE LAND OF ANOTHER WITHOUT FIRST OBTAINING WRITTEN PERMISSION FROM THE OWNER OR POSSESSOR OF THE LAND.

(B) PENALTIES.

(1) (I) IN ANNE ARUNDEL COUNTY AND CAROLINE COUNTY A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

1. FOR A FIRST VIOLATION, A FINE OF NOT LESS THAN $250 AND NOT EXCEEDING $1,000; AND

2. FOR EACH SUBSEQUENT VIOLATION, A FINE OF NOT LESS THAN $500 AND NOT EXCEEDING $2,000.

(II) IF A PERSON FAILS TO PAY A FINE IMPOSED UNDER THIS PARAGRAPH, FURTHER PROCEEDINGS SHALL BE HELD IN ACCORDANCE WITH ARTICLE 38, § 4 OF THE CODE.

(2) IN ST. MARY'S COUNTY A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $1,000.

REVISOR'S NOTE: Chapter ___, Acts of 2003, which enacted the Public Safety Article, also enacted this section, which is new language derived without substantive change from former Art. 27, § 268C and, as it related to target practice or discharging a gun or weapon, § 268B.

The balance of former Art. 27, § 268B is revised in § 10-411 of the Natural Resources Article.

In subsection (a) of this section, the former reference to the "landowner's agent or lessee" is deleted as unnecessary in light of the general reference to the "owner or possessor of the land".

In subsection (b)(1)(i)1 of this section, the former phrase "by the judge of the District Court" is deleted as implicit in the reference to being subject to a fine.

In subsection (b)(1)(i)2 of this section, the former reference to a "second" conviction is deleted as included in the reference to a conviction for a "subsequent" violation.

Also in subsection (b)(1)(i)2 of this section, the second clause of the fourth sentence of former Art. 27, § 268B, which provided for the right to appeal to the Circuit Court within 30 days after the date of conviction in the District Court, is deleted as unnecessary in light of the rules of appellate procedure. See CJ § 12-401.

Defined term: "Person" § 1-101

Article - Criminal Procedure

SUBTITLE 3. VIOLATIONS OF EXPLOSIVES LAWS.

13-301. FORFEITURE FOR VIOLATION OF EXPLOSIVES LAWS.

(A) SCOPE OF SECTION.

THIS SECTION DOES NOT APPLY TO A VEHICLE UNLESS THE OWNER AUTHORIZED OR ALLOWED THE VEHICLE TO BE USED OR EMPLOYED IN CONCEALING, CONVEYING, OR TRANSPORTING EXPLOSIVES DURING THE COURSE OF A VIOLATION OF TITLE 11, SUBTITLE 1 OF THE PUBLIC SAFETY ARTICLE.

(B) IN GENERAL.

IN ADDITION TO ANY OTHER PENALTY PROVIDED FOR A VIOLATION OF TITLE 11, SUBTITLE 1 OF THE PUBLIC SAFETY ARTICLE, IF A PERSON ON WHOM A PENALTY IS IMPOSED UNDER § 11-116 OF THE PUBLIC SAFETY ARTICLE USES OR EMPLOYS A

MOTOR VEHICLE, OTHER VEHICLE, VESSEL, OR AIRCRAFT IN CONCEALING, CONVEYING, OR TRANSPORTING EXPLOSIVES DURING THE COURSE OF A VIOLATION OF TITLE 11, SUBTITLE 1 OF THE PUBLIC SAFETY ARTICLE, THE COURT ON CONVICTION OF THE PERSON SHALL ORDER THE MOTOR VEHICLE, OTHER VEHICLE, VESSEL, OR AIRCRAFT TO BE FORFEITED TO THE STATE OR A COUNTY, BASED ON WHICH JURISDICTION INITIATED THE INVESTIGATION.

(C) SECURITY INTERESTS.

IF A COURT ORDERS FORFEITURE UNDER SUBSECTION (B) OF THIS SECTION, THE INTEREST TRANSFERRED TO THE STATE OR COUNTY IS SUBORDINATE TO THE HOLDER OF A PERFECTED SECURITY INTEREST IN THE MOTOR VEHICLE, OTHER VEHICLE, VESSEL, OR AIRCRAFT.

(D) DISPOSITION OF FORFEITED PROPERTY.

(1) AFTER DISCHARGING ANY PERFECTED SECURITY INTEREST IN A FORFEITED MOTOR VEHICLE, OTHER VEHICLE, VESSEL, OR AIRCRAFT, THE SECRETARY OF STATE POLICE OR THE LOCAL GOVERNING BODY OF A COUNTY MAY:

(I) USE THE FORFEITED MOTOR VEHICLE, OTHER VEHICLE, VESSEL, OR AIRCRAFT FOR PUBLIC PURPOSES; OR

(II) SELL, EXCHANGE, OR CONVEY THE FORFEITED MOTOR VEHICLE, OTHER VEHICLE, VESSEL, OR AIRCRAFT.

(2) ANY MONEY RECEIVED FROM THE SALE, EXCHANGE, OR CONVEYANCE SHALL BE DEPOSITED IN THE GENERAL FUND OF THE STATE OR COUNTY.

REVISOR'S NOTE: Chapter ___, Acts of 2003, which enacted the Public Safety Article, also enacted this section, which is new language derived without substantive change from former Art. 38A, § 34F.

In subsections (b), (c), and (d) of this section, the former references to "Baltimore City" are deleted in light of the defined term "county", which includes Baltimore City. See § 1-101 of this article.

In subsection (b) of this section, the former references to "fine[s]" are deleted as included in the reference to a "penalty".

In subsection (c) of this section, the phrase "[i]f a court orders forfeiture under subsection (b) of this section" is added to state explicitly how the interest is transferred.

In subsection (d)(1) of this section, the general reference to the "local governing body" of a county is substituted for the former specific reference to the "county commissioners or the Mayor and City Council of Baltimore City" to conform to terminology used in the Public Safety Article. See Title 14, Subtitle 4 of the Public Safety Article. This provision applies to all

counties in the State, regardless of their form of governance.

In subsection (d)(2) of this section, the former reference to "cash" is deleted as included in the reference to "money".

Defined terms: "County" § 1-101

"Person" § 1-101

Article - Natural Resources

10-411.

(a) Except as otherwise provided, a person may not come to hunt upon any pretense whatever on lands owned by another person without the permission of the landowner or the landowner's agent or lessee. Any person hunting on private property shall be liable for any damage he causes to the private property while hunting. The landowner is not liable for accidental injury or damage to the person, whether or not the landowner or the landowner's agent or lessee gave the permission to hunt.

(b) (1) A person may not upon any pretense come to hunt on the lands owned by another person without the written permission of the landowner or the landowner's agent or lessee. Any person hunting on this private property is liable for any damage the person causes to the private property while hunting on the private property. The landowner may not be liable for accidental injury or damage to the person whether or not the landowner or the landowner's agent gave permission to hunt on the private property.

(2) The provisions of this subsection apply only in the following counties:

(i) Allegany County;

(ii) Anne Arundel County;

(iii) Baltimore County;

(iv) Calvert County;

(v) Carroll County;

(vi) Cecil County;

(vii) Charles County;

(viii) Frederick County;

(ix) Garrett County;

(x) Harford County;

(xi) Howard County;

(xii) Montgomery County;

(xiii) Prince George's County;

(xiv) St. Mary's County; and

(xv) Washington County.

(3) IN HARFORD COUNTY A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT LESS THAN $25 AND NOT EXCEEDING $250.

(c) In Allegany, Anne Arundel, Baltimore, Carroll, Charles, Garrett, Frederick, Wicomico, Somerset, Howard, or Worcester counties, a person may not enter or trespass upon land owned by another person for the purpose of hunting deer on the land with gun, rifle, bow and arrow, or any other means without first securing the written permission of the landowner or the landowner's agent or lessee. Any person hunting deer on land owned by another person shall exhibit written permission upon the request of any Natural Resources police officer, any law enforcement officer, the landowner, or the landowner's agent or lessee. The Natural Resources police officer or any law enforcement officer shall arrest any person hunting without written permission upon the request of the landowner or the landowner's agent or lessee.

(d) (1) In Anne Arundel, Caroline, Carroll, Cecil, Frederick, Howard, Kent, Prince George's, Queen Anne's, Talbot, and Washington counties, a person who hunts with a gun or other weapon upon the lands of another without first obtaining written permission from the owner or possessor of the land is guilty of a misdemeanor, and upon conviction of a first offense is subject to a fine not exceeding $1,000. Upon conviction of a second or subsequent offense, the person is subject to a fine not exceeding $2,000.

(2) IN ANNE ARUNDEL COUNTY AND CAROLINE COUNTY A PERSON WHO FAILS TO PAY A FINE IMPOSED UNDER THIS SUBSECTION IS SUBJECT TO FURTHER PROCEEDINGS IN ACCORDANCE WITH ARTICLE 38, § 4 OF THE CODE.

REVISOR'S NOTE: Chapter ___, Acts of 2003, which enacted the Public Safety Article, also amended this section to revise without substantive change former Art. 27, § 268D and, except as it related to target practice or discharging a gun or weapon, § 268B.

The balance of former Art. 27, § 268B is revised in § 4-108 of the Criminal Law Article.

SECTION 4. AND BE IT FURTHER ENACTED, That Section(s) 64 through 69, respectively, and the subtitle "State Aid for Police Protection Fund" of Article 88B - Department of State Police of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to be Section(s) 4-401 through 4-406, respectively, and the subtitle "Subtitle 4. State Aid for Police Protection Fund" of

Article 41 - Governor - Executive and Administrative Departments of the Annotated Code of Maryland, to read as follows:

Article 41 - Governor - Executive and Administrative Departments

SUBTITLE 4. State Aid for Police Protection Fund.

[64.] 4-401.

There is hereby created out of the general funds of the State a fund to be known as the State Aid for Police Protection Fund, to be used for the purpose and distributed in the manner hereinafter specified.

REVISOR'S NOTE: This section formerly was Art. 88B, § 64.

No changes are made.

[65.] 4-402.

(a) The State Aid for Police Protection Fund is a continuing grant, intended for and to be used exclusively to provide adequate police protection in the subdivisions and qualifying municipalities of this State, by State and subdivision sharing of costs on an equitable basis within certain limits related to population factors.

(b) Provided, however, that nothing herein shall be construed as requiring a subdivision or qualifying municipality to expend more for police protection than the greater of:

(1) The actual expenditures for police protection, as defined in [§ 66 of this article] § 4-403 OF THIS SUBTITLE, except for capital expenditures; or

(2) The sum of the amount received in State aid under this program and local funds equal to that percentage of the local wealth used in calculating the State share in basic expenditures under the provisions of [§ 66(b)(1) of this article] § 4-403(B)(1) OF THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 88B, § 65.

The only changes are in style.

[66.] 4-403.

(a) As used in this subtitle:

(1) "Subdivision" means any county of Maryland but does not include Baltimore City; or where the context requires, the governing body thereof.

(2) "Municipality" means any incorporated city or town, except Baltimore City, within Maryland; or where the context requires, the governing body thereof.

(3) "Expenditures for police protection" shall be those for the fiscal year immediately preceding the fiscal year for which the calculation of State aid is to be made. Thus, State aid for the first year of this grant (1968-1969) shall be based on "expenditures for police protection" in the fiscal year ending June 30, 1968; State aid for the second year of this grant (1969-1970) shall be based on expenditures in the fiscal year ending June 30, 1969, and so forth. "Expenditures for police protection" means salaries and wages, other operating expenses, capital outlays from current operating funds, and properly identifiable debt service, paid for police protection. Expenditures for sheriffs and constables are included only to the extent that such officers perform police protection functions. Expenditures for traffic control, park police, and a share of the cost of a central alarm system proportionate to its police use, are included. No part of expenditures for collecting from or servicing parking meters, nor of constructing or operating jails, is included.

(4) "Adjusted assessed valuation of real property" means 100% of the assessed valuation of the operating real property of public utilities, plus 40% of the assessed valuation of all other real property reported by the State Department of Assessments and Taxation as of July 1 of the second fiscal year preceding the fiscal year for which the calculation of State aid is to be made, plus 20% of new property assessed between July 1 and December 31 of the second preceding fiscal year. "Real property" means all property classified as real property under § 8-101(b) of the Tax - Property Article.

(5) "Net taxable income" shall be the taxable income of individuals under Title 10 of the Tax - General Article, as certified by the Comptroller of the Treasury for the third completed calendar year preceding the fiscal year for which the calculation of State aid is to be made. Thus, State aid for the first year of this grant shall be based on taxable income in calendar year 1965, and State aid in succeeding years on taxable income in corresponding succeeding calendar years.

(6) Population figures for total number of people in a subdivision, i.e. figures used in per capita and density determinations, shall be those estimated by the State Department of Health and Mental Hygiene, as of July 1 of each year. Percentage of population residing in municipalities shall be determined from time to time by the most recently published federal decennial census data.

(7) "Qualifying municipality" means a municipality:

(i) 1. Whose "expenditures for police protection", as defined above, exceed $5,000; and

2. That employs at least one qualified full-time police officer, as determined by the Secretary OF STATE POLICE; or

(ii) 1. Whose "expenditures for police protection", as defined above, exceed $80,000; and

2. That employs at least two qualified part-time police officers, as determined by the Secretary OF STATE POLICE, from a county police department or county sheriff's department.

(8) "Wealth base" of a subdivision means the sum of the "adjusted assessed valuation of real property" and "net taxable income".

(9) "Aggregate expenditures for police protection" for a subdivision means the sum of "expenditures for police protection", as defined above, of that subdivision and of every qualifying municipality in that subdivision.

(10) "Equivalent of X dollars per capita" means an amount of money equal to the product of X times the number of people in the particular subdivision.

(11) Repealed.

(12) "Sworn officer" means:

(i) A law enforcement officer certified by the Police Training Commission; or

(ii) A full-time probationary employee of a local government who:

1. Is hired to attend a police training academy to become a certified law enforcement officer; and

2. Is in training or is functioning as a law enforcement officer pending training.

(b) For the fiscal year beginning July 1, 1975, and thereafter, the State shall pay to each subdivision, and to each qualifying municipality, each year in the manner and subject to the limitations and requirements hereinafter provided, an amount determined as follows:

(1) Share in Basic Expenditure. If the aggregate expenditures for police protection in a subdivision equal or exceed $6.00 per capita, the State shall pay to the subdivision the amount, if any, by which the equivalent of $6.00 per capita exceeds 0.09% of the wealth base. If the aggregate expenditures for police protection in a subdivision are less than $6.00 per capita, the State shall pay to the subdivision the amount, if any, by which aggregate expenditures for police protection exceed that proportion of 0.09 percent of the wealth base which aggregate expenditures for police protection bear to the equivalent of $6.00 per capita.

(2) Share Over the Basic Expenditure. In addition to the amount, if any, payable under [subparagraph] PARAGRAPH (1) of this subsection, the State shall pay to each subdivision an amount equal to 25% of the amount, if any, by which aggregate expenditures for police protection exceed the equivalent of $6.00 per capita. Provided however:

(i) For subdivisions with a population density less than 100 per square mile, and less than 30% of total population residing in municipalities, there shall be no payment under this [subparagraph (2)] PARAGRAPH.

(ii) For subdivisions with population density 100 or more but less than 500 per square mile, and for subdivisions with population density less than 100 per square mile but with 30% or more of total population residing in municipalities, payment under this [subparagraph (2)] PARAGRAPH shall not exceed the equivalent of $3.50 per capita.

(iii) For subdivisions with population density 500 or more but less than 900 per square mile, payment under this [subparagraph (2)] PARAGRAPH shall not exceed the equivalent of $7.50 per capita.

(iv) For subdivisions with population density 900 or more but less than 1,100 per square mile, payment under THIS paragraph [(2)] shall not exceed the equivalent of $8.00 per capita.

(v) For subdivisions with population density 1,100 or more but less than 1,300 per square mile, payment under THIS paragraph [(2)] shall not exceed the equivalent of $9.25 per capita.

(vi) For subdivisions with population density 1,300 or more but less than 8,000 per square mile, payment under this [subparagraph (2)] PARAGRAPH shall be 25% of the amount by which aggregate expenditures for police protection exceed the equivalent of $6.00 per capita but do not exceed the equivalent of $36.00 per capita and 50% of the amount by which aggregate expenditures for police protection exceed the equivalent of $36.00 per capita but do not exceed the equivalent of $45.50 per capita.

(vii) For subdivisions with population density 8,000 or more per square mile, payment under this [subparagraph (2)] PARAGRAPH shall be 25% of the amount by which aggregate expenditures for police protection exceed the equivalent of $6.00 per capita but do not exceed the equivalent of $36.00 per capita and 50% of the amount by which aggregate expenditures for police protection exceed the equivalent of $36.00 per capita but do not exceed the equivalent of $101.50 per capita.

(3) Minimum Grant. The State shall pay to each subdivision the amount, if any, by which the equivalent of $2.50 per capita exceeds the total payments determined under [subparagraphs] PARAGRAPHS (1) AND (2) OF THIS SUBSECTION. No subdivision for which the population estimate is less than the population estimated for the first year of this grant shall receive in any year a smaller amount of State aid for police protection than it received in any previous year, provided it has not reduced the level of expenditure for police protection which entitled it to the amount of that previous year's grant.

(4) Incentive Grant. In addition to the payments made under [subparagraphs] PARAGRAPHS (1), (2), and (3) of this subsection, the State shall pay to each subdivision with a population density of less than 500 per square mile, an amount the equivalent of $2.00 per capita.

(5) Supplemental Grant. (i) In addition to the payments made under [subparagraphs] PARAGRAPHS (1), (2), (3) and (4) of this subsection, the State shall pay:

1. To each subdivision, subject to subparagraph (ii) of this paragraph, an amount the equivalent of $2.50 per capita; and

2. To Baltimore City, an amount the equivalent of fifty cents per capita.

(ii) The State shall allocate and distribute the supplemental grant to each subdivision among the subdivisions and the qualifying municipalities in those subdivisions on a per capita basis.

(6) Additional Grant. For the fiscal year ending June 30, 1981, and for each fiscal year thereafter, an additional grant equal to 10 percent of the total of the payments determined under [subparagraphs] PARAGRAPHS (1), (2), (3) and (4) of this subsection, or an amount which shall not exceed the equivalent of $1 per capita, whichever is the larger, shall be paid to the subdivisions.

(7) Minimum Payment in Certain Years. Each subdivision shall be paid that amount, if any, by which the grant paid to the subdivision in the fiscal year ending June 30, 1984 exceeds the total payments determined under [subparagraphs] PARAGRAPHS (1), (2), (3), (4), (5) and (6) of this subsection.

(8) Municipal Sworn Officer Allocation. The State shall pay to each qualifying municipality, in addition to the payments made under [subparagraphs] PARAGRAPHS (1) through (7) of this subsection an amount equal to $1,800 for each sworn police officer actually employed on a full-time basis by the qualifying municipality, as determined by the Secretary OF STATE POLICE.

(c) The payment received by each subdivision under [subparagraphs] SUBSECTION (B)(1), (2), (3), (4), (6) and (7) of [subsection (b)] THIS SECTION shall be paid to each subdivision and qualifying municipality, in the exact proportion which the expenditures for police protection of the subdivision and of each qualifying municipality bear to aggregate expenditures for police protection.

REVISOR'S NOTE: This section formerly was Art. 88B, § 66.

The only changes are in style.

[67.] 4-404.

Payments out of the State Aid for Police Protection Fund shall be made to each subdivision and qualifying municipality by the State Treasurer upon warrants of the State Comptroller. Payments shall be made at the end of each quarter of each fiscal year thereafter, and shall be paid in approximately equal amounts for each quarter to the appropriate qualifying municipality or subdivision.

REVISOR'S NOTE: This section formerly was Art. 88B, § 67.

No changes are made.

[68.] 4-405.

(a) If the Secretary OF STATE POLICE finds that a county is not complying with the maintenance of effort provisions of [§ 65 of this article] § 4-402 OF THIS SUBTITLE, the Secretary OF STATE POLICE shall notify the subdivision or qualifying municipality of such noncompliance.

(b) If a subdivision or qualifying municipality disputes the finding within 30 days of the issuance of such notice, the dispute shall be promptly referred to the Secretary of the Department of Budget and Management, who shall make a final determination.

(c) Upon receipt of certification of noncompliance by the Secretary of [the] State Police or the Secretary of the Department of Budget and Management, as the case may be, the Comptroller shall suspend, until notification of compliance is received, payment of any funds due the subdivision or qualifying municipality for the current fiscal year, as provided in [§ 66 of this article] § 4-403 OF THIS SUBTITLE, to the extent that the State's aid due the subdivision or qualifying municipality in the current fiscal year under that section exceeds the amount which the subdivision or qualifying municipality received in the prior fiscal year.

REVISOR'S NOTE: This section formerly was Art. 88B, § 68.

The only changes are in style.

[69.] 4-406.

(a) The Secretary of [the] State Police shall administer the State Aid for Police Protection Fund.

(b) The Secretary OF STATE POLICE shall:

(1) Certify to the Comptroller and to the subdivisions and qualifying municipalities the amount of payments to the subdivisions and qualifying municipalities; and

(2) Make such regulations and require such reports as are necessary to certify the amounts.

(c) In administering the Fund, the Secretary OF STATE POLICE shall:

(1) Make a continuing effort to establish standards of police protection adequate to the various local situations; and

(2) Subject to § 2-1246 of the State Government Article, report periodically to the General Assembly on progress in establishing and meeting those standards, including the payment amounts certified under subsection (b) of this section and any other relevant fiscal information.

(d) In determining qualification under [§ 66(a)(7) of this subtitle] § 4-403(A)(7) OF THIS SUBTITLE, the minimum standards determined by the Police Training Commission under authority of [Article 41, § 4-201 of the Code] TITLE 3, SUBTITLE 2 OF THE PUBLIC SAFETY ARTICLE shall be applied.

(e) The Police Training Commission shall print and distribute to all municipalities its rules and regulations setting forth the minimum standards of police qualifications.

(f) (1) In the event a municipality fails to meet the minimum standards for two successive years, the Secretary OF STATE POLICE shall withhold payments to the municipality with respect to the second year.

(2) Any payment withheld for noncompliance is forfeited, and a claim may not be made by the municipality for the funds.

REVISOR'S NOTE: This section formerly was Art. 88B, § 69.

The only changes are in style.

SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 4-906 of Article 41 - Governor - Executive and Administrative Departments of the Annotated Code of Maryland be transferred to be Section(s) 8-2003 of Article - Natural Resources of the Annotated Code of Maryland.

SECTION 6. AND BE IT FURTHER ENACTED, That Section(s) 64 of Article 89 - Miscellaneous Business, Work, and Safety Provisions of the Annotated Code of Maryland be transferred to be Section(s) 24-212 of Article - Health - General of the Annotated Code of Maryland.

SECTION 7. AND BE IT FURTHER ENACTED, That Section(s) 7(c)(1)(ii) of Article 38A - Fires and Investigations of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

DEPUTY AND SPECIAL DEPUTY STATE FIRE MARSHALS SERVING ON JULY 1, 1985

[7.] 1.

[(c) (1) (ii) The minimum qualifications for an assistant State fire marshal shall be the completion of National Fire Protection Association (NFPA) Standard 1031 - Fire Inspector I or the equivalent, as determined by the State Fire Marshal. However, all] ALL legally appointed deputy State fire marshals or special deputy State fire marshals serving as of July 1, 1985, are exempt from the minimum standard provisions of [this section] § 6-304 OF THE PUBLIC SAFETY ARTICLE. [The State Fire Marshal may administer an examination based upon NFPA 1031 before a person is certified as an assistant State fire marshal.]

REVISOR'S NOTE: This section formerly was Art. 38A, § 7(c)(1)(ii).

%The first and third sentences of former Art. 38A, § 7(c)(1)(ii) are revised as § 6-304(b) of the Public Safety Article.

The second sentence of former Art. 38A, § 7(c)(1)(ii) exempts from certain minimum qualifications deputy State fire marshals and special deputy State fire marshals who were serving on July 1, 1985. It is not retained in the Code because of its limited and diminishing applicability. However, it is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have.

The only changes are in style.

SECTION 8. AND BE IT FURTHER ENACTED, That Section(s) 10-811 of Article 41 - Governor - Executive and Administrative Departments of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

TERMINATION OF STATE STANDBY PETROLEUM FUEL SET-ASIDE PROGRAM

[10-811.] 1.

[This subtitle] TITLE 14, SUBTITLE 5 OF THE PUBLIC SAFETY ARTICLE shall remain effective only until July 1, 2005, and, at the end of June 30, 2005, with no further action required by the General Assembly, [this Act] TITLE 14, SUBTITLE 5 OF THE PUBLIC SAFETY ARTICLE shall be abrogated and of no further force and effect.

REVISOR'S NOTE: This section formerly was Art. 41, § 10-811.

The Public Safety Article Review Committee decided to transfer this provision to the Session Laws because generally when a subtitle is of limited duration, the termination provision for the subtitle is not codified.

The only changes are in style.

SECTION 9. AND BE IT FURTHER ENACTED, That Section(s) 18-104 and 18-108(d) and (e) of Article 41 - Governor - Executive and Administrative Departments of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

ENHANCED 911 SYSTEM

[18-104.] 1.

(a) Any county or any several counties together which seek reimbursement for the enhancement of a 911 system shall submit to the EMERGENCY NUMBER SYSTEMS Board a 911 system plan for that county or multicounty area. The county or the several counties shall submit plans for enhancement of a 911 system on or before July 1, 1993. The plan shall conform to the planning guidelines set by the EMERGENCY NUMBER SYSTEMS Board and shall be designed to meet the requirements of those

public safety agencies whose services are available through the 911 system. The plan shall include:

(1) The type of equipment to be used in enhancing the 911 system, including associated costs;

(2) The personnel necessary to operate and maintain the enhanced 911 system;

(3) The timetable for implementing the enhanced 911 system; and

(4) Any other information required by the EMERGENCY NUMBER SYSTEMS Board.

(b) Those counties which do not seek reimbursement for the cost of enhancing a 911 system shall submit a report to the EMERGENCY NUMBER SYSTEMS Board by July 1, 1995 containing the same information required in the county plans described in subsection (a) of this section.

(c) Those counties which are certified by the EMERGENCY NUMBER SYSTEMS Board as having an operational enhanced 911 system in place by January 1, 1991 are exempt from the reporting requirements under this section.

REVISOR'S NOTE: This section formerly was Art. 41, § 18-104.

Former Art. 41, § 18-104 is not retained in the Code because the dates have passed for submitting the plans for enhancement of the 911 system for a county or multicounty area and the provision is obsolete. However, it is transferred to the Session Laws for historical purposes.

The only changes are in style.

[18-108.] 2.

[(d)] (A) For those counties without an operational enhanced 911 system, the Board shall adopt procedures to assure that:

(1) The moneys collected from the additional charge and distributed to the counties are expended in the following proportions during each county's fiscal year:

(i) For a 911 system in a county or a multicounty area with a population of 100,000 persons or less, a maximum of 85 percent for personnel costs; AND

(ii) For a 911 system in a county or multicounty area with a population in excess of 100,000 persons, a maximum of 70 percent for personnel costs; AND

(2) The total amount collected from the 911 fee and the additional charge shall be expended only for the installation, enhancement, maintenance, and operation of a county or multicounty system.

[(e)] (B) If a county has an operational enhanced 911 system, it shall be exempt from the provisions of [subsection (d)(1)] SUBSECTION (A)(1) of this section, subject to the annual approval of the EMERGENCY NUMBER SYSTEMS Board under [§ 18-103 of this subtitle] § 1-306 OF THE PUBLIC SAFETY ARTICLE.

REVISOR'S NOTE: This section formerly was Art. 41, § 18-108(d) and (e).

Former Art. 41, § 18-108(d) and (e) are obsolete because all counties have operational enhanced 911 systems. The provisions are decodified and retained in the Session Laws, however, for historical purposes.

The only changes are in style.

SECTION 10. AND BE IT FURTHER ENACTED, That Section(s) 18-107(d) and (e) of Article 41 - Governor - Executive and Administrative Departments of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

ALLOCATION OF FUNDS IN 911 TRUST FUND INTO COUNTY ACCOUNTS

[18-107.] 1.

[(d)] (A) The Secretary OF PUBLIC SAFETY AND CORRECTIONAL SERVICES shall cause the Comptroller to allocate the balance of the funds in the 911 Trust Fund as of July 1, 1983 into the appropriate account established for each county within the 911 Trust Fund as follows:

(1) For each county with a population of less than 100,000 persons - $50,000 minus the amounts previously disbursed to the county under [this section] FORMER ARTICLE 41, § 18-107 OF THE CODE;

(2) For each county with a population of 100,000 or more persons but less than 250,000 persons - $250,000 minus the amounts previously disbursed to the county under [this section] FORMER ARTICLE 41, § 18-107 OF THE CODE; and

(3) For each county with a population of 250,000 or more persons - $800,000 minus the amounts previously disbursed to the county under [this section] FORMER ARTICLE 41, § 18-107 OF THE CODE.

[(e)] (B) The amount of money disbursed to any county from the 911 fee that was collected from July 1, 1980 through June 30, 1983 may not exceed the amount allocated from this fee to that county's account established within the 911 Trust Fund.

REVISOR'S NOTE: This section formerly was Art. 41, § 18-107(d) and (e).

Former Art. 41, § 18-107(d) and (e) are not retained in the Code because

they are apparently obsolete. These provisions specified the manner in which funds in the 911 Trust Fund as of July 1, 1983, were to be allocated and established limitations on disbursements from the 911 fee collected from July 1, 1980, through June 30, 1983. However, they are transferred to the Session Laws to avoid any inadvertent effect that their repeal might have.

The only changes are in style.

SECTION 11. AND BE IT FURTHER ENACTED, That Section(s) 6-401(i) and 6-402(c)(2), (3), (4), and (5) of Article 83B - Department of Housing and Community Development of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

IMPLEMENTATION OF MARYLAND BUILDING PERFORMANCE STANDARDS

[6-401.] 1.

[(i)] (A) ["Standard building code"] IN THIS SECTION, "STANDARD BUILDING CODE" means the standard building code issued by the Southern Building Code Congress International, Inc.

[6-402.]

[(c) (2)] (B) In counties or municipalities that [have] HAD not adopted a building code as of October 1, 1992, the MARYLAND BUILDING PERFORMANCE Standards shall apply to all buildings and structures for which a building permit application [is] WAS received by the local jurisdiction on or after August 1, 1997.

[(3)] (C) In counties or municipalities that [have] HAD adopted the standard building code as of October 1, 1993, the MARYLAND BUILDING PERFORMANCE Standards shall apply to all buildings and structures for which a building permit application [is] WAS received by the local jurisdiction on or after August 1, 2001.

[(4)] (D) [(i)] (1) If the Department OF HOUSING AND COMMUNITY DEVELOPMENT [has] HAD not provided funding to a county or municipality to cover all direct and reasonable costs necessary for converting or establishing local systems to implement the MARYLAND BUILDING PERFORMANCE Standards, then the provisions of this [subsection] SECTION shall be void and without effect as to the particular county or municipality until the time that the needed funds [are] WERE made available by the Department OF HOUSING AND COMMUNITY DEVELOPMENT.

[(ii)] (2) [1.] (I) In this [paragraph] SUBSECTION, "costs" means expenses associated with hardware, software, training, technical assistance, or other direct expenses that a county or municipality incurs to implement the MARYLAND BUILDING PERFORMANCE Standards.

[2.] (II) In this [paragraph] SUBSECTION, "costs" does not include expenses that a county or municipality would incur without implementation of the MARYLAND BUILDING PERFORMANCE Standards.

[(5)] (E) A local jurisdiction may implement and enforce the Maryland Building Performance Standards and any local amendment on or before the dates specified in this [subsection] SECTION for application of the MARYLAND BUILDING PERFORMANCE Standards.

REVISOR'S NOTE: This section formerly was Art. 83B, §§ 6-401(i) and 6-402(c)(2), (3), (4), and (5).

Former Art. 83B, §§ 6-401(i) and 6-402(c)(2), (3), (4), and (5) provided effective dates in 1992 and 1993 for implementation of the Maryland Building Performance Standards, required the Department of Housing and Community Development to provide funding to implement the Standards, and defined a relevant term. These provisions are obsolete because the effective dates for implementation of the Standards have passed and the Department confirms that all local jurisdictions have implemented the Standards. These dates, however, have historical significance, e.g., providing information as to whether an existing building or structure was subject to the Standards at the time of building permit application. The provisions, therefore, are transferred to the Session Laws.

The only changes are in style.

SECTION 12. AND BE IT FURTHER ENACTED, That Section(s) 31, 32, 34, 34A, 34B, 35, 36, 36A, and 37, inclusive, and the subtitle "Pensions" of Article 88B - Department of State Police of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

Pensions - DEPARTMENT OF STATE POLICE

[31.] 1.

(a) Whenever any of the employees of the Department OF STATE POLICE, who have elected not to become members of the State Police Retirement System of the State of Maryland, and any of the license examiners of the Commissioner of Motor Vehicles shall have given meritorious service as an employee for a period of fifteen continuous years, and shall have reached the age of 55 years, excepting the physician of the Department OF STATE POLICE who shall have reached the age of 65 years, the employees shall be eligible for retirement forthwith upon his or her voluntary application or may be retired by the Secretary OF STATE POLICE. These employees shall retire forthwith upon reaching the age of 64, excepting the physician of the Department OF STATE POLICE who shall be retired forthwith upon reaching the age of 70. In all retirements under the provisions of this section the employee in question shall be paid during the remainder of his or her natural life a salary or pension, payable monthly, equal to fifty percent (50%) of his or her annual remuneration, the annual remuneration to be taken as of the year immediately preceding the granting of

his or her application for retirement; provided, however, that any employee who is retired and is receiving retirement benefits under the provisions of this subtitle and such benefits in the aggregate are less than $200.00 per month, shall receive an additional sum so that the amount received as benefit is in no event less than $200.00. Any employee who is retired and who is receiving retirement benefits under the provisions of this section and is also receiving benefits from the federal Old Age and Survivors Insurance System, when the benefits in the aggregate are less than $200.00 per month shall receive an additional sum equal to the difference. No money payable under this subtitle shall, prior to issuance and delivery of the warrant or voucher therefor, be capable of being assigned, charged or taken in execution or attachment. All employees subject to the provisions of this subtitle shall contribute to the pension fund, hereinafter provided for, a sum equal to the contribution which the employees would have paid to the State Police Retirement System for all benefits thereunder had they elected to become members thereof. The amount of the contribution of each of the employees subject to the provisions of this subtitle shall be fixed annually in advance by the board of trustees of the retirement and pension system of the Maryland State Police and shall be deducted monthly from the remuneration of the employees and paid in lieu thereof to the board to be placed by it forthwith in the pension fund.

(b) For the purpose of determining the fifteen years of continuous meritorious service rendered by any of the employees of said Department OF STATE POLICE, transferred thereto from the Commissioner of Motor Vehicles, or by any of the license examiners of the Commissioner of Motor Vehicles, the years of service shall include those rendered to the Commissioner and/or to the Department as the case may be.

(c) Every police employee retired on pension under the provisions of [this article] FORMER ARTICLE 88B OF THE CODE shall be paid a pension determined by using his or her annual remuneration, and all contributions made by such police employee to the pension fund of the Department OF STATE POLICE shall be made from the annual remuneration. "Annual remuneration," as used in this [article] SUBTITLE, shall mean salary plus the longevity pay herein provided for.

REVISOR'S NOTE: This section formerly was Art. 88B, § 31.

Former Art. 88B, § 31 related to retirement by employees of the Department of State Police who elected not to become members of the State Police Retirement System. This provision is not retained in the Code because of its limited and diminishing applicability. However, it is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have.

The only changes are in style.

[32.] 2.

Any provision of law and particularly the provisions of subsection (3) of § 1 and of § 3 of FORMER Article 73B OF THE CODE, as amended, to the contrary notwithstanding,

(1) All civilian employees of the Department OF STATE POLICE and all license examiners of the Commissioner of Motor Vehicles, who became employees of said Department or of said Commissioner after October 1, 1941, and before June 1, 1943, shall, as of the later date, be removed from the pension fund of said Department and within 60 days thereafter the Secretary OF STATE POLICE shall, out of the moneys held by him in said pension fund, pay to each of the employees and license examiners so removed the total amount of contributions theretofore made by him to said fund, without interest;

(2) Any civilian employee of said Department and any license examiner of said Commissioner, who became an employee of said Department or of said Commissioner on or before October 1, 1941, may elect to remove himself from said pension fund and may apply for and be admitted to membership in said Employees' Retirement System as hereinafter provided; and within 60 days after said Secretary shall receive written notice of election so to remove he shall, out of the moneys held by him in said pension fund, pay to any employee or license examiner so electing to remove the total amount of contribution theretofore made by him to said fund, without interest;

(3) Any civilian employee or license examiner of the Commissioner of Motor Vehicles who is removed or elects to remove himself from said pension fund shall be entitled to membership in said Employees' Retirement System and may at any time thereafter become a member thereof by filing with the board of trustees of said system application on a form prescribed by said board. If any such application is made before December 31, 1961, the applicant shall be admitted to membership in said system with the same prior service credit, and shall be entitled to the same retirement allowances and other benefits, as employees of the State of Maryland who became members thereof as of October 1, 1941, and have remained such in good standing since that date; provided, however, that any such applicant shall, before being admitted into such membership, pay to said board of trustees a sum equivalent to the total of all contributions made by him to the pension fund of said Department of State Police between October 1, 1941, and the date of his removal or of his election to remove from said fund. No such person applying for membership in said system on or after December 31, 1961, shall be entitled to receive such prior service credit; AND

(4) No civilian employee of said Department or license examiner of said Commissioner who becomes an employee of said Department or of said Commissioner on or after June 1, 1943, shall be entitled to contribute to, or be eligible to become a member of the pension fund of said Department, but shall become a member of, and shall in every respect be subject to, said Employees' Retirement System.

REVISOR'S NOTE: This section formerly was Art. 88B, § 32.

Former Art. 88B, § 32 related to the election to be removed from the pension fund of the Department of State Police by certain employees of the Department who became employees of the Department before June 1, 1943. This provision is not retained in the Code because of its limited and diminishing applicability. However, it is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have.

%The only changes are in style.

[34.] 3.

If a member of the Department OF STATE POLICE becomes physically incapable of performing his or her duties and the disability is the result of an accident or injuries occurring in the course of duty or is the result of sickness, accident or disease contracted in the course of duty and if the member has been in the Department OF STATE POLICE for ten years or more, then he or she shall be entitled to the same retirement pension as provided for in FORMER ARTICLE 88B, § 31 OF THE CODE, if the member is found, after medical examination given by a medical board of three physicians, consisting of the medical examiner of the Department OF STATE POLICE and two other physicians to be selected by the board of trustees of the retirement and pensions system of State Police and acceptable to the State Police employee concerned, to be physically incapable of performing his or her duties.

If any member of the old retirement and pension system of the Department of State Police dies before retirement, or after retirement from service on a pension, there shall be paid to the surviving spouse, as long as he or she remains unmarried, a pension equal to 25 percent of the deceased member's annual remuneration. If the member does not leave a surviving spouse but there is or are a surviving child or children, any or all of whom are under the age of 18 years, the pension shall be paid to the surviving child or children who are under the age of 18 years, in equal amounts to each. Any payments made to a surviving spouse under this section shall terminate on either the death or remarriage of the surviving spouse. In either event if there is or are a child or children of the deceased member, who are under the age of 18 years, the payments under this section shall continue to the child or children in equal amounts. Payments under this section to the surviving spouse of a member shall continue for the duration of his or her natural life, unless he or she remarries. If the surviving spouse has died or has remarried, as in this section specified, payments to any surviving child shall terminate when he or she reaches the age of 18 years. If a pension is paid under this section, it shall in no event be less than $100 per month in the aggregate. A surviving spouse, child, or children resulting from any marriage contracted after the retirement of the member are not eligible for any payments under the provisions of this subtitle. For the purposes of this section the remuneration of a retired member shall be computed as it was in the year immediately preceding the granting of the member's application for retirement. With respect to a member who dies while in service the word "remuneration" shall be computed as it was in the year immediately preceding the date of his or her death.

REVISOR'S NOTE: This section formerly was Art. 88B, § 34.

Former Art. 88B, § 34 related to disability retirement by employees of the Department of State Police who elected not to become members of the State Police Retirement System. This provision is not retained in the Code because of its limited and diminishing applicability. However, it is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have.

%The only changes are in style.

[34A.] 4.

(a) For the fiscal year beginning July 1, 1971, and for each fiscal year thereafter, each retired member's retirement allowance as hereunder defined, exclusive of any additional voluntary annuity, shall be adjusted by a ratio as provided in this section.

(b) (1) Each retired member shall have a base which shall be the consumer price index for the calendar year ending December 31st of the fiscal year in which he was last employed.

(2) The consumer price index to be used for the fiscal year in which the retirement allowance is payable shall be the consumer price index for the calendar year ending December 31st of the preceding fiscal year.

(3) The ratio of adjustment of the retirement allowance referred to in subsection (a) of this section shall be obtained by dividing the consumer price index in subsection (b)(2) OF THIS SECTION by the consumer price index in subsection (b)(1) of this section.

(c) For the purposes of this section the retirement allowance referred to in subsection (a) of this section, shall be that retirement allowance elected by the member under FORMER ARTICLE 88B, § 31 of [this article] THE CODE, exclusive of any additional voluntary annuity.

(d) For the purposes of this section, consumer price index shall mean the consumer price index (all items -- United States city average), as published by the United States Department of Labor, Bureau of Labor Statistics.

(e) In no instance shall any retired member receive less than the benefits to which he would be entitled under the provisions of FORMER ARTICLE 88B, § 31 of [this article] THE CODE provided further that any member retired prior to July 1, 1973, shall, in no instance, receive less benefits than he had received prior to such date. Any member who retired prior to July 1, 1958 with thirty (30) or more years of service shall not receive benefits in any amount less than $5,000 per annum.

(f) The allowance of a surviving beneficiary of a retired member shall, when and if payable, be adjusted by the same ratio as provided in this section.

REVISOR'S NOTE: This section formerly was Art. 88B, § 34A.

Former Art. 88B, § 34A related to the calculation of the retirement allowance for retired members of the pension system. This provision is not retained in the Code because of its limited and diminishing applicability. However, it is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have.

The only changes are in style.

[34B.] 5.

Any person who, on July 1, 1973, is receiving a pension under the provisions of [§§ 31 or 34 of this article] FORMER ARTICLE 88B, § 31 OR § 34 OF THE CODE shall receive an additional amount equal to 11 percent of the pension he or she received as of June 30, 1973. For the purpose of this section, the pension upon which the additional amount is calculated does not include the adjustment of retirement allowance made under FORMER ARTICLE 88B, § 34A OF THE CODE.

REVISOR'S NOTE: This section formerly was Art. 88B, § 34B.

Former Art. 88B, § 34B related to an additional amount for persons receiving a pension on July 1, 1973. This provision is not retained in the Code because of its limited and diminishing applicability. However, it is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have.

The only changes are in style.

[35.] 6.

The administration of the retirement and pension system, established by this subtitle, is hereby vested in the Secretary OF STATE POLICE, who shall keep separate records and accounts and report his receipts and disbursements hereunder in the same manner as is provided in [this article] THE PUBLIC SAFETY ARTICLE for other receipts and disbursements of his Department. The Secretary OF STATE POLICE shall receive no additional compensation for these duties, but shall be reimbursed for all necessary expenses which he may sustain through his service in administering this subtitle; and all claims for reimbursement shall be subject to the approval of the Legislative Auditor. And there shall be no additional paid employees engaged for the administration of this subtitle. The Secretary OF STATE POLICE shall have the power and authority to make all reasonable rules and regulations for the administration of the retirement and pension system; and shall have the power and authority to hold and invest all funds accruing to the pension fund for the benefit of the said fund; provided, however, that no investment or reinvestment of said fund shall be made without the advice and approval of a board consisting of the Commissioner of Financial Regulation and two persons to be appointed by the Secretary OF STATE POLICE who shall be officers of a bank or trust company located and doing business in Maryland. The chief actuary of the State Insurance Commissioner's office shall be the technical adviser of the Secretary OF STATE POLICE, in the administration of this fund, on all actuarial questions. The Secretary OF STATE POLICE shall be authorized to set aside annually an amount sufficient to defray the annual cost of the pension together with at least $1,000 toward the necessary reserve, plus interest at the rate of 4% per annum upon that portion of the pension fund reserve remaining unpaid. This reserve shall be that amount necessary to cover the accrued liability existing at the time of the establishment of the pension fund, by reason of the service rendered by the present members of the Department OF STATE POLICE, prior to such date of establishment. This pension fund reserve shall be that amount shown to be necessary for the proper operation of the system, by accepted actuarial standards. The Secretary

shall also retain biennially all unexpended funds in the budget item of the Department OF STATE POLICE, designated therein compensation insurance and pension fund, for the purpose of establishing the above mentioned reserve, until such reserve is complete. Every person who knowingly and wilfully in anywise procures the making or presentation of any false or fraudulent affidavit or affirmation concerning any claim for a share of payment thereof shall in every case forfeit a sum not exceeding $200 to be sued for and recovered by and in the name of the Secretary; and when recovered to be paid over to, and thereupon becoming a part of the fund here provided. Any person who shall wilfully swear falsely in any oath or affirmation in obtaining or procuring any share or payment thereof under the provisions of this subtitle shall be guilty of perjury.

REVISOR'S NOTE: This section formerly was Art. 88B, § 35.

Former Art. 88B, § 35 related to the administration of the pension fund by the Secretary of State Police. This provision is not retained in the Code because of its limited and diminishing applicability. However, it is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have.

The only changes are in style.

[36.] 7.

It shall be the duty of the Secretary OF STATE POLICE biennially, to submit to the Governor of the State a full report on the state and condition of the system; this report shall include a full record of all persons retired under this subtitle, the rate of pay respectively given them, and also an estimate of the sum required for future requirements in accordance with the provisions of this subtitle until the next budget appropriation becomes effective. And it is further provided that the Governor of the State may upon receipt of the report from the Secretary OF STATE POLICE recommend such future increases in the appropriation as he may deem necessary for the proper administration of this subtitle.

REVISOR'S NOTE: This section formerly was Art. 88B, § 36.

Former Art. 88B, § 36 related to reports by the Secretary of State Police on the condition of the pension system. This provision is not retained in the Code because of its limited and diminishing applicability. However, it is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have.

The only changes are in style.

[36A.] 8.

At his discretion, the Legislative Auditor may conduct an annual audit of a fiscal and compliance nature of the accounts and transactions of the State Police Retirement System in place of conducting these audits on a biennial basis. Officials of

the State Police Retirement System shall be advised whether annual or biennial audits will be conducted.

REVISOR'S NOTE: This section formerly was Art. 88B, § 36A.

Former Art. 88B, § 36A related to audits by the Legislative Auditor of the accounts and transactions of the State Police Retirement System. This provision is duplicative of SP § 21-127. However, it is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have.

No changes are made.

[37.] 9.

(a) There is hereby created a board of trustees of the retirement and pension system of the State Police, which shall be part of the Department of Budget and Management. Said board shall consist of six trustees, as follows: the State Secretary of Budget and Management, the State Comptroller, the State Treasurer, the Secretary of the State Police and two members of the Department of State Police to be appointed by the Board of Public Works. Said board shall be organized immediately after three of such trustees have qualified and taken the oath of office. The Secretary of Budget and Management shall be responsible for such administrative functions as had previously been performed by the Director of retirement systems to carry out the duties and business of the board of trustees; however, the Secretary of Budget and Management is authorized to delegate to the Executive Director of the State Retirement Agency such of these administrative functions as the Secretary deems appropriate.

(b) On and after June 1, 1947, or as soon thereafter as the said board of trustees is organized, the functions, duties and obligations of the Secretary of the State Police with respect to the administration of the retirement and pension system, established by this subtitle, are hereby transferred and vested in the said board of trustees.

(c) Whenever the term Secretary OF STATE POLICE is used in this subtitle with respect to the administration of the said retirement and pension system or with respect to contributions thereto, such term shall be taken to mean the said board of trustees.

REVISOR'S NOTE: This section formerly was Art. 88B, § 37.

Former Art. 88B, § 37 related to the establishment of a board of trustees of the retirement and pension system of the State Police. This provision is not retained in the Code because of its limited and diminishing applicability. However, it is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have.

The only changes are in style.

SECTION 13. AND BE IT FURTHER ENACTED, That the following article designations of the Annotated Code of Maryland be repealed:

The article designation "Article 16A - Maryland Emergency Management Agency"

The article designation "Article 38A - Fires and Investigations"

The article designation "Article 88B - Department of State Police"

The article designation "Article 89 - Miscellaneous Business, Work, and Safety Provisions"

SECTION 14. AND BE IT FURTHER ENACTED, That it is the intention of the General Assembly that, except as expressly provided in this Act, this Act shall be construed as a nonsubstantive revision, and may not otherwise be construed to render any substantive change in the law of the State.

SECTION 15. AND BE IT FURTHER ENACTED, That the catchlines, captions, Revisor's Notes, Special Revisor's Notes, and General Revisor's Notes contained in this Act are not law and may not be considered to have been enacted as a part of this Act.

SECTION 16. AND BE IT FURTHER ENACTED, That nothing in this Act affects the term of office of an appointed or elected member of any commission, office, department, agency, or other unit. An individual who is a member of a unit on the effective date of this Act shall remain a member for the balance of the term to which appointed or elected, unless the member sooner dies, resigns, or is removed under provisions of law.

SECTION 17. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any transaction or employment status affected by or flowing from any change of nomenclature or any statute amended, repealed, or transferred by this Act and validly entered into or existing before the effective date of this Act and every right, duty, or interest flowing from a statute amended, repealed, or transferred by this Act remains valid after the effective date of this Act and may be terminated, completed, consummated, or enforced as required or allowed by any statute amended, repealed, or transferred by this Act as though the repeal, amendment, or transfer had not occurred. If a change in nomenclature involves a change in name or designation of any State unit, the successor unit shall be considered in all respects as having the powers and obligations granted the former unit.

SECTION 18. AND BE IT FURTHER ENACTED, That the continuity of every commission, office, department, agency, or other unit is retained. The personnel, records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, and obligations of each retained unit are continued as the personnel, records, files, furniture, fixtures, properties, appropriations, credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.

SECTION 19. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any person licensed, registered, certified, or issued a permit or certificate by any commission, office, department, agency, or other unit established or continued by any statute amended, repealed, or transferred by this Act is considered for all purposes to be licensed, registered, certified, or issued a permit or certificate by the appropriate unit continued under this Act for the duration of the term for which the license, registration, certification, or permit was issued, and may renew that authorization in accordance with the appropriate renewal provisions of this Act.

SECTION 20. AND BE IT FURTHER ENACTED, That this Act does not rescind, supersede, change, or modify any rule adopted by the Court of Appeals that is or was in effect on the effective date of this Act concerning the practice and procedure in and the administration of the appellate courts and the other courts of this State.

SECTION 21. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2003 that affects provisions enacted by this Act. The publisher shall adequately describe any such correction in an editor's note following the section affected.

SECTION 22. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2003.