

(PRE-FILED)

By: **The Speaker (Department of Legislative Services - Code Revision)**

Requested: July 1, 2004

Introduced and read first time: January 12, 2005

Assigned to: Environmental Matters

Committee Report: Favorable

House action: Adopted

Read second time: February 8, 2005

CHAPTER _____

AN ACT concerning

Housing and Community Development

FOR the purpose of adding a new article to the Annotated Code of Maryland, to be designated and known as the "Housing and Community Development Article", to revise, restate, and recodify the laws relating to the Department of Housing and Community Development and its component parts, including the Division of Credit Assurance, the Division of Development Finance, the Division of Historical and Cultural Programs, the Division of Neighborhood Revitalization, the Assisted Housing Preservation Act, Community Action Agencies, the Community Reinvestment Fund, the Maryland Affordable Housing Trust, and the Maryland State Appalachian Housing Fund; revising, restating, and recodifying certain provisions relating to the functions and responsibilities of the Department of Housing and Community Development, the Maryland Housing Fund, the Community Development Administration, the Down Payment and Settlement Expense Loan Program, the Elderly Rental Housing Program, the Homeownership Programs Fund, the Partnership Rental Housing Fund, the Rental Housing Programs Fund, the Special Loan Programs Fund, the Group Home Financing Program, the Lead Hazard Reduction Grant Program and the Lead Hazard Reduction Loan Program, the Maryland Home Financing Program, the Maryland Housing Rehabilitation Program, the Neighborhood Housing Services Fund, Operating Assistance Grants Demonstration Projects, the Partnership Rental Housing Program, the Radium Pilot Grant Program, the Rental Housing Production Program, residential mortgage programs for certain counties, the Rental Allowance Program, and the Self-Help Homeownership Technical Assistance Program; revising, restating, and recodifying certain provisions relating to the functions and responsibilities of the Commission on African American History and Culture, the Commission

on Indian Affairs, and the Maryland Historical Trust and to historic funds and capital projects of the Maryland Historical Trust; revising, restating, and recodifying certain provisions relating to the regulation of the excavation of submerged archaeological sites, terrestrial archaeological sites, and caves and acquiring certain easements and property for historic preservation; revising, restating, and recodifying certain provisions of the Historical and Cultural Museum Assistance Program; revising, restating, and recodifying certain provisions of the Community Legacy Program, the Neighborhood Business Development Program, and the Neighborhood and Community Assistance Program; revising, restating, and recodifying certain provisions relating to the sale or conveyance of certain buildings containing dwelling units and certain tenant protection assistance measures; revising, restating, and recodifying certain provisions relating to the rights and duties of tenants and owners of certain dwelling units; 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; requiring the Department of Housing and Community Development to send a certain certification to the Department of Legislative Services within a certain time; providing for the continuation of implementation and termination provisions of certain provisions of this Act; and generally relating to laws of the State relating to housing and community development.

BY repealing

Article 83B - Department of Housing and Community Development
Section 1-101 and the subtitle "Subtitle 1. Definitions"; 1-201 through 1-206, the subtitle "Subtitle 2. Department Established and Organized", and the title "Title 1. Organization of Department"; 2-101 and the subtitle "Subtitle 1. Division Established"; 2-201 through 2-208 and the subtitle "Subtitle 2. Community Development Administration"; 2-301 through 2-308 and 2-310 through 2-313 and the subtitle "Subtitle 3. Maryland Housing Rehabilitation Program"; 2-401 through 2-409 and the subtitle "Subtitle 4. Residential Mortgage Program"; 2-501 through 2-510 and the subtitle "Subtitle 5. Rental Housing Production Program"; 2-601 through 2-614 and the subtitle "Subtitle 6. Maryland Home Financing Program"; 2-701 through 2-709 and the subtitle "Subtitle 7. Group Home Financing Program"; 2-801 through 2-810 and the subtitle "Subtitle 8. Elderly Rental Housing Program"; 2-901 through 2-907 and the subtitle "Subtitle 9. Rental Allowance Program"; 2-1001 through 2-1008 and the subtitle "Subtitle 10. Settlement Expense Loan Program"; 2-1101 through 2-1110 and the subtitle "Subtitle 11. Partnership Rental Housing Program"; 2-1201 through 2-1205 and the subtitle "Subtitle 12. Operating Assistance Grants Demonstration Projects"; 2-1301 through 2-1306 and the subtitle "Subtitle 13. Neighborhood Housing Services Fund"; 2-1401 through 2-1411 and the subtitle "Subtitle 14. Lead Hazard Reduction Grant Program and Lead Hazard Reduction Loan Program"; 2-1501 through 2-1509 and the subtitle "Subtitle 15. Self-Help Homeownership Technical

Assistance Program"; 2-1601, the subtitle "Subtitle 16. Radium Pilot Grant Program", and the title "Title 2. Division of Development Finance"; 3-101 and 3-102 and the subtitle "Subtitle 1. Division Established"; 3-201 through 3-208, the subtitle "Subtitle 2. Maryland Housing Fund", and the title "Title 3. Division of Credit Assurance"; 4-101 and the subtitle "Subtitle 1. Division Established"; 4-201 through 4-209 and the subtitle "Subtitle 2. Neighborhood Business Development Program"; 4-701 through 4-706 and the subtitle "Subtitle 7. Neighborhood and Community Assistance Program"; 4-801 through 4-812, the subtitle "Subtitle 8. Community Legacy Program", and the title "Title 4. Division of Neighborhood Revitalization"; 5-101 and the subtitle "Subtitle 1. Division Established"; 5-301 through 5-306 and the subtitle "Subtitle 3. Commission on African American History and Culture"; 5-401 through 5-406 and the subtitle "Subtitle 4. Commission on Indian Affairs"; 5-601 and 5-602 and the part "Part 1. General Provisions", 5-603 through 5-610 and the part "Part 2. Creation and Organization of Trust", 5-611 through 5-630 and the part "Part 3. Historic Funds and Capital Projects", and the subtitle "Subtitle 6. Maryland Historical Trust"; 5-701 through 5-705 and the subtitle "Subtitle 7. Historical and Cultural Museum Assistance Program"; 5-801, the subtitle "Subtitle 8. Rehabilitation Tax Credits", and the title "Title 5. Division of Historical and Cultural Programs"; the subtitle designation "Subtitle 1. In General" in Title 7 and the title designation "Title 7. Maryland Energy Office"; 9-101 through 9-114 and the title "Title 9. Assisted Housing Preservation Act"; 10-101 through 10-111 and the title "Title 10. Community Reinvestment Fund"; 11-101 through 11-107 and the title "Title 11. Maryland Affordable Housing Trust"; 12-101 and the title "Title 12. Community Action Agencies"; and 13-101 through 13-103 and the title "Title 13. Maryland State Appalachian Housing Fund"

Annotated Code of Maryland
(2003 Replacement Volume and 2004 Supplement)

BY repealing

Article 78A - Public Works
Section 14B and 14C
Annotated Code of Maryland
(2003 Replacement Volume and 2004 Supplement)

BY adding

New Article - Housing and Community Development
Section 1-101 through 11-106, inclusive, and the various titles
Annotated Code of Maryland

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 83B - Department of Housing and Community Development

Section 1-101 and the subtitle "Subtitle 1. Definitions"; 1-201 through 1-206, the subtitle "Subtitle 2. Department Established and Organized", and the title "Title 1. Organization of Department"; 2-101 and the subtitle "Subtitle 1. Division Established"; 2-201 through 2-208 and the subtitle "Subtitle 2. Community Development Administration"; 2-301 through 2-308 and 2-310 through 2-313 and the subtitle "Subtitle 3. Maryland Housing Rehabilitation Program"; 2-401 through 2-409 and the subtitle "Subtitle 4. Residential Mortgage Program"; 2-501 through 2-510 and the subtitle "Subtitle 5. Rental Housing Production Program"; 2-601 through 2-614 and the subtitle "Subtitle 6. Maryland Home Financing Program"; 2-701 through 2-709 and the subtitle "Subtitle 7. Group Home Financing Program"; 2-801 through 2-810 and the subtitle "Subtitle 8. Elderly Rental Housing Program"; 2-901 through 2-907 and the subtitle "Subtitle 9. Rental Allowance Program"; 2-1001 through 2-1008 and the subtitle "Subtitle 10. Settlement Expense Loan Program"; 2-1101 through 2-1110 and the subtitle "Subtitle 11. Partnership Rental Housing Program"; 2-1201 through 2-1205 and the subtitle "Subtitle 12. Operating Assistance Grants Demonstration Projects"; 2-1301 through 2-1306 and the subtitle "Subtitle 13. Neighborhood Housing Services Fund"; 2-1401 through 2-1411 and the subtitle "Subtitle 14. Lead Hazard Reduction Grant Program and Lead Hazard Reduction Loan Program"; 2-1501 through 2-1509 and the subtitle "Subtitle 15. Self-Help Homeownership Technical Assistance Program"; 2-1601, the subtitle "Subtitle 16. Radium Pilot Grant Program", and the title "Title 2. Division of Development Finance"; 3-101 and 3-102 and the subtitle "Subtitle 1. Division Established"; 3-201 through 3-208, the subtitle "Subtitle 2. Maryland Housing Fund", and the title "Title 3. Division of Credit Assurance"; 4-101 and the subtitle "Subtitle 1. Division Established"; 4-201 through 4-209 and the subtitle "Subtitle 2. Neighborhood Business Development Program"; 4-701 through 4-706 and the subtitle "Subtitle 7. Neighborhood and Community Assistance Program"; 4-801 through 4-812, the subtitle "Subtitle 8. Community Legacy Program", and the title "Title 4. Division of Neighborhood Revitalization"; 5-101 and the subtitle "Subtitle 1. Division Established"; 5-301 through 5-306 and the subtitle "Subtitle 3. Commission on African American History and Culture"; 5-401 through 5-406 and the subtitle "Subtitle 4. Commission on Indian Affairs"; 5-601 and 5-602 and the part "Part 1. General Provisions", 5-603 through 5-610 and the part "Part 2. Creation and Organization of Trust", 5-611 through 5-630 and the part "Part 3. Historic Funds and Capital Projects", and the subtitle "Subtitle 6. Maryland Historical Trust"; 5-701 through 5-705 and the subtitle "Subtitle 7. Historical and Cultural Museum Assistance Program"; 5-801, the subtitle "Subtitle 8. Rehabilitation Tax Credits", and the title "Title 5. Division of Historical and Cultural Programs"; the subtitle designation "Subtitle 1. In General" in Title 7 and the title designation "Title 7. Maryland Energy Office"; 9-101 through 9-114 and the title "Title 9. Assisted Housing Preservation Act"; 10-101 through 10-111 and the title "Title 10. Community Reinvestment Fund"; 11-101 through 11-107 and the title "Title 11. Maryland Affordable Housing Trust"; 12-101 and the title "Title 12. Community Action Agencies"; and 13-101 through 13-103 and the title "Title 13. Maryland State Appalachian Housing Fund"

Article 78A - Public Works

Section 14B and 14C

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

ARTICLE - HOUSING AND COMMUNITY DEVELOPMENT

DIVISION I. HOUSING, COMMUNITY, AND HERITAGE PROGRAMS.

TITLE 1. DEFINITIONS.

1-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS DIVISION I OF THIS ARTICLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 1-101(a).

The former disclaimer "unless otherwise indicated" is deleted as unnecessary because it merely repeated the normal rule of statutory construction.

(B) COMMUNITY ASSISTANCE.

(1) "COMMUNITY ASSISTANCE" MEANS ACTIVITIES DESIGNED TO ENHANCE THE PHYSICAL, SOCIAL, OR ECONOMIC ENVIRONMENT OF A COMMUNITY TO IMPROVE THE HEALTH, SAFETY, OR SOCIO-ECONOMIC WELFARE OF ITS CITIZENS.

(2) "COMMUNITY ASSISTANCE" INCLUDES THE PROMOTION OF ACTIVITIES SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION THROUGH THE CONCENTRATION AND COORDINATION IN COMMUNITIES IN THE STATE OF FEDERAL, STATE, REGIONAL, AND LOCAL PUBLIC AND PRIVATE RESOURCES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 1-101(b).

(C) COUNTY.

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

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, §§ 1-101(c), 2-302(d), and the second sentence of 2-203(u).

The former reference to "the Mayor and City Council" of Baltimore is deleted as implicit in the reference to "Baltimore City".

(D) DEPARTMENT.

"DEPARTMENT" MEANS THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

REVISOR'S NOTE: This subsection formerly was Art. 83B, §§ 1-101(d) and 2-1402(c).

No changes are made.

(E) FINANCIAL ASSISTANCE.

(1) "FINANCIAL ASSISTANCE" MEANS ANY FORM OF ASSURANCE, GUARANTEE, GRANT, PAYMENT, OR OTHER ASSISTANCE.

(2) "FINANCIAL ASSISTANCE" INCLUDES A LOAN, LOAN GUARANTEE, OR REDUCTION IN THE PRINCIPAL OBLIGATIONS OF OR RATE OF INTEREST PAYABLE ON A LOAN OR PORTION OF A LOAN.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 1-101(e).

(F) GOVERNMENTAL UNIT.

"GOVERNMENTAL UNIT" MEANS AN AGENCY, AUTHORITY, BOARD, COMMISSION, COUNCIL, OFFICE, OR OTHER UNIT OR INSTRUMENTALITY OF THE GOVERNMENT OF THE STATE OR OF A POLITICAL SUBDIVISION OF THE STATE.

REVISOR'S NOTE: This subsection is new language patterned after SG § 9-101 to allow one consistent reference to substantively similar entities. See General Revisor's Note to article.

Defined term: "County" § 1-101

(G) NONPROFIT ORGANIZATION.

"NONPROFIT ORGANIZATION" MEANS A CORPORATION, FOUNDATION, OR OTHER LEGAL ENTITY, NO PART OF THE NET EARNINGS OF WHICH INURES TO THE BENEFIT OF A PRIVATE SHAREHOLDER OR INDIVIDUAL HOLDING AN INTEREST IN THE ENTITY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, §§ 1-101(h), 2-501(k), 2-601(g), 2-701(g), 2-801(f), 2-1201(c), 4-202(f), and 5-601(t).

The former reference to a legal entity "that specifies in its charter or bylaws" that no part of the net earnings may inure to the benefit of any private shareholder or individual holding any interest in such entity is deleted as surplusage.

The former reference to a "governmental entity" is deleted as included in the reference to "other legal entity".

(H) 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 new language added to provide an express definition of the term "person" for this Division I.

The definition of "person" in this subsection does not include a governmental unit. The Court of Appeals of Maryland has held consistently that the word "person" in a statute does not include the State, its agencies, 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).

(I) 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. 83B, §§ 2-203(u), 2-302(n), 2-501(m), 2-901(b), 2-1301(d), and 2-1402(j).

The former references to a municipal corporation "in Maryland subject to the provisions of Article XI-E of the Constitution" are deleted as implicit in the reference to a "municipal corporation".

Defined term: "County" § 1-101

(J) SECRETARY.

"SECRETARY" MEANS THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 1-101(i).

No changes are made.

TITLE 2. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

SUBTITLE 1. DEPARTMENT ESTABLISHED.

2-101. ESTABLISHED.

THERE IS A DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, ESTABLISHED AS A PRINCIPAL DEPARTMENT OF STATE GOVERNMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 1-201(a)(1) and (2).

2-102. FUNCTIONS AND RESPONSIBILITIES OF DEPARTMENT.

THE DEPARTMENT SHALL:

- (1) ENCOURAGE AND ASSIST POLITICAL SUBDIVISIONS AND PUBLIC AND PRIVATE COMMUNITY ORGANIZATIONS TO DEVELOP MUTUAL AND COOPERATIVE SOLUTIONS TO THEIR COMMON PROBLEMS;
- (2) SERVE AS A CLEARINGHOUSE FOR INFORMATION AND MATERIALS THAT MAY BE PERTINENT TO SOUND COMMUNITY ASSISTANCE, INCLUDING INFORMATION ON AVAILABLE FEDERAL, STATE, AND PRIVATE FINANCIAL ASSISTANCE AND TECHNICAL ASSISTANCE;
- (3) IMPLEMENT MODEL OR DEMONSTRATION PROGRAMS AND PROJECTS OR OTHERWISE PROVIDE A PROGRAM OF PRACTICAL RESEARCH IN COMMUNITY ASSISTANCE;
- (4) PROVIDE GRANTS AND LOANS FOR ENERGY CONSERVATION AND THE USE OF SOLAR ENERGY IN COMMERCIAL AND RESIDENTIAL BUILDINGS;
- (5) PROVIDE ADVISORY, CONSULTATIVE, TRAINING, AND EDUCATIONAL SERVICES, AND TECHNICAL ASSISTANCE TO ANY POLITICAL SUBDIVISION, LOCAL PUBLIC AGENCY, OR NONPROFIT ORGANIZATION FOR COMMUNITY ASSISTANCE PURPOSES;
- (6) CONTRACT FOR AND ACCEPT A GIFT, GRANT, CONTRIBUTION, OR LOAN OF MONEY, PROPERTY, OR OTHER AID FOR COMMUNITY ASSISTANCE FROM A GOVERNMENTAL UNIT, THE FEDERAL GOVERNMENT, OR ANOTHER SOURCE AND COMPLY WITH THE TERMS AND CONDITIONS OF THAT AID;
- (7) ATTACH TERMS AND CONDITIONS TO FINANCIAL ASSISTANCE AS THE SECRETARY DETERMINES;
- (8) PARTICIPATE WITH POLITICAL SUBDIVISIONS, REGIONAL GOVERNMENTS, ORGANIZATIONS, AND THE FEDERAL GOVERNMENT IN DEVELOPING, FINANCING, AND IMPLEMENTING A PROGRAM TO BUILD THE MANAGEMENT CAPABILITIES OF MUNICIPAL CORPORATIONS BY SUPPLYING NEEDED MANAGERIAL EXPERTISE THROUGH CIRCUIT RIDING MANAGERS; AND
- (9) ADMINISTER FEDERAL PROGRAMS RELATING TO COMMUNITY ASSISTANCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 1-206.

In the introductory language of this section, the former phrase "[i]n addition to other functions and responsibilities under this article" is

deleted as implicit in each requirement imposed on the Department whenever codified. Similarly, the former reference that the Department shall "have the following functions and responsibilities" is deleted as surplusage.

In item (1) of this section, the former reference to "the efforts of" political subdivisions and other public and private community organizations is deleted as surplusage.

In item (2) of this section, the former reference to "data" is deleted as included in the reference to "information".

In item (6) of this section, as to the substitution of the defined term "governmental unit" for the former reference to an "agency or instrumentality", *see* General Revisor's Note to article.

In item (7) of this section, the former reference to "specific" terms and conditions is deleted as surplusage.

In item (8) of this section, the former reference to a program "designed" to build management capabilities is deleted as surplusage.

Also in item (8) of this section, the former reference to supplying expertise "to municipal corporations" is deleted in light of the reference to "capabilities of municipal corporations".

Defined terms: "Department" § 1-101

"Financial assistance" § 1-101

"Governmental unit" § 1-101

"Political subdivision" § 1-101

"Secretary" § 1-101

2-103. SECRETARY.

(A) POSITION AND APPOINTMENT.

(1) WITH THE ADVICE AND CONSENT OF THE SENATE, THE GOVERNOR SHALL APPOINT THE SECRETARY.

(2) THE SECRETARY IS THE HEAD OF THE DEPARTMENT.

(B) OATH.

BEFORE TAKING OFFICE, THE SECRETARY SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

(C) RESPONSIBILITY TO GOVERNOR.

(1) THE SECRETARY SERVES AT THE PLEASURE OF THE GOVERNOR AND IS DIRECTLY RESPONSIBLE TO THE GOVERNOR.

(2) THE SECRETARY SHALL COUNSEL AND ADVISE THE GOVERNOR ON ALL MATTERS ASSIGNED TO THE DEPARTMENT AND IS RESPONSIBLE FOR CARRYING OUT THE GOVERNOR'S POLICIES ON THOSE MATTERS.

(D) COMPENSATION.

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

REVISOR'S NOTE: Subsection (a) of this section is new language derived without substantive change from former Art. 83B, § 1-201(a)(3).

Subsection (b) of this section is standard language added to state the requirement that an individual appointed to any office of profit or trust take the oath specified in Md. Constitution, Art. I, § 9. This addition is supported by 64 Op. Att'y Gen. 246 (1979).

Subsection (c) of this section is new language derived without substantive change from former Art. 83B, § 1-201(b)(2).

Subsection (d) of this section is new language derived without substantive change from former Art. 83B, § 1-201(b)(1).

In subsection (d) of this section, the term "compensation", which denotes fringe benefits as well as salary, is substituted for the former reference to "salary" to conform to the terminology used in § 2-106(b) of this subtitle and similar provisions in other revised articles.

Defined terms: "Department" § 1-101

"Secretary" § 1-101

2-104. ADMINISTRATION OF DEPARTMENT.

(A) IN GENERAL.

THE SECRETARY IS RESPONSIBLE FOR THE OPERATION OF THE DEPARTMENT AND SHALL ESTABLISH GUIDELINES AND PROCEDURES TO PROMOTE THE ORDERLY AND EFFICIENT ADMINISTRATION OF THE DEPARTMENT.

(B) AREAS OF RESPONSIBILITY.

THE SECRETARY MAY ESTABLISH, REORGANIZE, OR ABOLISH AREAS OF RESPONSIBILITY IN THE OFFICE OF THE SECRETARY AS NECESSARY TO FULFILL THE DUTIES ASSIGNED TO THE SECRETARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 1-201(c).

In subsection (b) of this section, the former reference to fulfill "effectively" the duties of the Secretary is deleted as surplusage.

Defined terms: "Department" § 1-101

"Secretary" § 1-101

2-105. SEAL.

THE SECRETARY SHALL HAVE A SEAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 1-205(c).

The former reference to using the seal "for purposes of authentication of copies of records or papers in the Secretary's office" is deleted as implicit in the reference to a "seal" and for consistency with similar provisions in other revised articles of the Code. *See, e.g.*, CS § 2-104, BR § 2-104(b), and HG § 2-104(e).

2-106. DEPUTY SECRETARY.

(A) POSITION.

WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL APPOINT A DEPUTY SECRETARY.

(B) TENURE AND COMPENSATION.

THE DEPUTY SECRETARY:

(1) SERVES AT THE PLEASURE OF THE SECRETARY; AND

(2) IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE

BUDGET.

(C) DUTIES.

THE DEPUTY SECRETARY SHALL HAVE THE DUTIES PROVIDED BY LAW OR DELEGATED BY THE SECRETARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 1-202(a).

Defined term: "Secretary" § 1-101

2-107. STAFF -- OFFICE OF SECRETARY.

(A) IN GENERAL.

(1) IN THE OFFICE OF THE SECRETARY, THE SECRETARY SHALL HAVE ASSISTANTS, PROFESSIONAL CONSULTANTS, AND EMPLOYEES AS PROVIDED IN THE STATE BUDGET.

(2) THE SECRETARY MAY DESIGNATE A STAFF ASSISTANT TO BE IN CHARGE OF A PARTICULAR AREA OF RESPONSIBILITY WITHIN THE OFFICE OF THE SECRETARY.

(B) EMPLOYMENT STATUS.

IN THE OFFICE OF THE SECRETARY:

(1) EACH STAFF ASSISTANT IN CHARGE OF A PARTICULAR AREA OF RESPONSIBILITY AND EACH PROFESSIONAL CONSULTANT SERVES AT THE PLEASURE OF THE SECRETARY; AND

(2) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE SECRETARY SHALL APPOINT AND MAY REMOVE ALL OTHER EMPLOYEES IN ACCORDANCE WITH THE STATE PERSONNEL AND PENSIONS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 1-202(b).

In subsection (a)(2) of this section, the reference to a "staff" assistant is added to conform to terminology used in subsection (b)(1) of this section.

In subsection (b)(2) of this section, the statement that the Secretary "may" remove other employees is substituted for the former requirement that employees "shall be ... removed" by the Secretary, to avoid the erroneous implication that the Secretary must remove employees.

Defined term: "Secretary" § 1-101

2-108. SAME -- OTHER GOVERNMENTAL UNITS.

(A) APPROVAL BY SECRETARY.

THE APPOINTMENT OR REMOVAL OF PERSONNEL BY A GOVERNMENTAL UNIT IN THE DEPARTMENT IS SUBJECT TO THE APPROVAL OF THE SECRETARY.

(B) AUTHORITY TO DELEGATE.

THE SECRETARY MAY DELEGATE THIS POWER OF APPROVAL TO THE HEAD OR GOVERNING BODY OF THE GOVERNMENTAL UNIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 1-202(c).

In subsections (a) and (b) of this section, respectively, as to the substitution of the defined term "governmental unit" for the former references to "administration, board, commission, division, or other agency" and "boards, commissions, divisions or other agencies", respectively, *see* General Revisor's Note to article.

In subsections (a) and (b) of this section, the former references to "the

jurisdiction" of the Department are deleted as surplusage. All governmental units in the Department's jurisdiction are "in the Department". *See* General Revisor's Note to article.

Defined terms: "Governmental unit" § 1-101

"Secretary" § 1-101

2-109. GOVERNMENTAL UNITS TO REPORT TO SECRETARY.

EACH GOVERNMENTAL UNIT IN THE DEPARTMENT SHALL REPORT TO THE SECRETARY OR THE SECRETARY'S DESIGNEE AS PROVIDED IN REGULATIONS OR WRITTEN DIRECTIVES THAT THE SECRETARY ISSUES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 1-205(h).

As to the substitution of the defined term "governmental unit" for the former reference to "divisions, commissions, boards, offices, authorities, and other agencies" *see* General Revisor's Note to article.

Defined terms: "Department" § 1-101

"Governmental unit" § 1-101

"Secretary" § 1-101

2-110. REMOVAL OF APPOINTEES.

WHENEVER LAW PROVIDES THAT AN APPOINTMENT IS TO BE MADE BY THE SECRETARY WITH THE APPROVAL OF THE GOVERNOR AND THE APPOINTEE IS TO SERVE AT THE PLEASURE OF THE SECRETARY, THE SECRETARY MAY NOT REMOVE THE APPOINTEE WITHOUT THE PRIOR APPROVAL OF THE GOVERNOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 1-205(e).

The former reference to an appointment "to a particular office within the Department" is deleted as implicit in the reference to an "appointment".

Defined terms: "Department" § 1-101

"Secretary" § 1-101

2-111. REGULATIONS.

(A) OFFICE OF SECRETARY.

THE SECRETARY IS RESPONSIBLE FOR ADOPTING REGULATIONS FOR THE OFFICE OF THE SECRETARY.

(B) REVIEW OF REGULATIONS OF GOVERNMENTAL UNITS.

THE SECRETARY SHALL REVIEW AND MAY APPROVE, DISAPPROVE, OR REVISE THE REGULATIONS OF EACH GOVERNMENTAL UNIT IN THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 1-205(b).

In subsection (a) of this section, the reference to the Office "of the Secretary" is added for clarity.

In subsection (b) of this section, as to the substitution of the defined term "governmental unit" for the former reference to "boards, offices, agencies, commissions, etc.", *see* General Revisor's Note to article.

Also in subsection (b) of this section, the former reference to "the jurisdiction" of the Department is deleted as surplusage. All governmental units in the Department's jurisdiction are "in the Department". *See* General Revisor's Note to article.

Defined terms: "Department" § 1-101

"Governmental unit" § 1-101

"Secretary" § 1-101

2-112. SECRETARY'S DUTIES -- BUDGET.

THE SECRETARY IS RESPONSIBLE FOR THE BUDGET OF EACH GOVERNMENTAL UNIT IN THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 1-205(a).

As to the substitution of the defined term "governmental unit" for the former references to "the office" and "other boards, offices, and agencies", *see* General Revisor's Note to article.

The former reference to "the jurisdiction" of the Department is deleted as surplusage. All governmental units in the Department's jurisdiction are "in the Department". *See* General Revisor's Note to article.

Defined terms: "Department" § 1-101

"Governmental unit" § 1-101

"Secretary" § 1-101

2-113. SAME -- PLANNING INITIATIVES.

(A) IN GENERAL.

THE SECRETARY IS RESPONSIBLE FOR THE COORDINATION AND DIRECTION OF ALL PLANNING INITIATIVES OF THE SECRETARY.

(B) AUTHORITY TO REVIEW.

THE SECRETARY SHALL KEEP APPRISED OF AND MAY APPROVE, DISAPPROVE, OR MODIFY PLANS, PROPOSALS, AND PROJECTS OF THE DEPARTMENT AND ITS GOVERNMENTAL UNITS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 1-205(d).

In subsection (a) of this section, the reference to "planning initiatives of the Secretary" is substituted for the former reference to "planning facilities initiated by the Secretary" for clarity.

In subsection (b) of this section, as to the substitution of the defined term "governmental unit" for the former reference to "other agencies or units", *see* General Revisor's Note to article.

Also in subsection (b) of this section, the former reference to keeping the Secretary "fully" apprised of plans is deleted as surplusage.

Defined terms: "Department" § 1-101

"Governmental unit" § 1-101

"Secretary" § 1-101

2-114. SECRETARY'S POWERS -- CALL FOR MEETINGS.

THE SECRETARY MAY CALL A SPECIAL MEETING OF A GOVERNMENTAL UNIT IN THE DEPARTMENT WHENEVER THE SECRETARY CONSIDERS IT NECESSARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 1-205(f).

As to the substitution of the defined term "governmental unit" for the former reference to "any board or commission", *see* General Revisor's Note to article.

The former reference to a subject that the Secretary considers "proper" is deleted as unnecessary in light of the reference to "necessary".

The reference to a "special" meeting is substituted for the former phrase "[i]n addition to the meetings of any board or commission within the Department which are provided for by law or are called by the chairman thereof" for clarity.

Defined terms: "Department" § 1-101

"Governmental unit" § 1-101

"Secretary" § 1-101

2-115. SAME -- ASSUMPTION OF FUNCTIONS.

THE SECRETARY MAY EXERCISE OR PERFORM ANY POWER, DUTY, RESPONSIBILITY, OR FUNCTION ASSIGNED TO A GOVERNMENTAL UNIT IN THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 1-205(g).

As to the substitution of the defined term "governmental unit" for the former reference to "any of the administrations, boards, commissions, offices, authorities, divisions, or other agencies", *see* General Revisor's Note to article.

The former reference to "the jurisdiction" of the Department is deleted as surplusage. All governmental units in the Department's jurisdiction are "in the Department". *See* General Revisor's Note to article.

Defined terms: "Department" § 1-101

"Governmental unit" § 1-101

"Secretary" § 1-101

2-116. LEGAL COUNSEL.

(A) SCOPE.

THIS SECTION DOES NOT APPLY TO A GOVERNMENTAL UNIT IN THE DEPARTMENT TO THE EXTENT THAT THE GOVERNMENTAL UNIT IS AUTHORIZED BY LAW TO EMPLOY ITS OWN LEGAL ADVISER OR COUNSEL.

(B) ATTORNEY GENERAL AS LEGAL ADVISER.

THE ATTORNEY GENERAL IS THE LEGAL ADVISER TO THE DEPARTMENT.

(C) ASSIGNMENT OF ASSISTANTS.

THE ATTORNEY GENERAL SHALL ASSIGN TO THE DEPARTMENT THE NUMBER OF ASSISTANT ATTORNEYS GENERAL AUTHORIZED BY LAW FOR THE DEPARTMENT AND ITS GOVERNMENTAL UNITS.

(D) QUALIFICATIONS OF ASSISTANTS.

AN ASSISTANT ATTORNEY GENERAL SHALL BE A LAWYER OF THE STATE IN GOOD STANDING.

(E) COMPENSATION FOR ASSISTANTS.

AN ASSISTANT ATTORNEY GENERAL IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE BUDGET.

(F) COUNSEL.

(1) THE ATTORNEY GENERAL SHALL DESIGNATE ONE OF THE ASSISTANT ATTORNEYS GENERAL AS COUNSEL TO THE DEPARTMENT AND MAY NOT REASSIGN THE COUNSEL WITHOUT CONSULTING THE SECRETARY.

(2) THE COUNSEL TO THE DEPARTMENT HAS NO DUTY OTHER THAN TO:

(I) GIVE THE LEGAL AID, ADVICE, AND COUNSEL THAT THE SECRETARY AND THE OTHER OFFICIALS OF THE DEPARTMENT REQUIRE; AND

(II) SUPERVISE THE OTHER ASSISTANT ATTORNEYS GENERAL ASSIGNED TO THE DEPARTMENT.

(3) THE COUNSEL SHALL PERFORM THE DUTIES SPECIFIED IN PARAGRAPH (2) OF THIS SUBSECTION SUBJECT TO THE CONTROL AND DISCRETION OF THE ATTORNEY GENERAL.

(G) DUTIES OF COUNSEL AND OTHER ASSISTANTS.

(1) THE COUNSEL AND THE OTHER ASSISTANT ATTORNEYS GENERAL IN THE DEPARTMENT SHALL PERFORM THOSE DUTIES THAT THE ATTORNEY GENERAL ASSIGNS.

(2) THE ATTORNEY GENERAL MAY REQUIRE AN ASSISTANT ATTORNEY GENERAL TO PERFORM, SUBJECT TO THE ATTORNEY GENERAL'S CONTROL AND DISCRETION, ANY DUTY FOR THE DEPARTMENT REQUIRED OF THE ATTORNEY GENERAL BY LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 1-203.

In subsection (a) of this section, as to the substitution of the defined term "governmental unit" for the former references to "any divisions, commissions, boards, authorities, or other agencies", *see* General Revisor's Note to article.

In subsection (c) of this section, the requirement that the Attorney General assign to the Department the number of assistant attorneys general "authorized by law" for the Department and its units is substituted for the former obsolete requirements that the Attorney General assign to the Department the number of assistant attorneys general "as are now" authorized by law and "such additional number ... as may hereafter be authorized by law".

In subsection (g)(1) of this section, the former reference to the duties that the Attorney General may "from time to time" assign to the counsel and the other assistant attorneys general is deleted as surplusage.

In subsection (g)(2) of this section, the reference to the Attorney General "requir[ing] an assistant attorney general" to perform duties, is substituted for the former reference to the Attorney General "assign[ing] to them, and each of them" duties, for clarity.

Defined terms: "Department" § 1-101

"Governmental unit" § 1-101

"Secretary" § 1-101

SUBTITLE 2. GOVERNMENTAL UNITS IN DEPARTMENT.

2-201. GOVERNMENTAL UNITS IN DEPARTMENT.

THE DEPARTMENT CONSISTS OF:

- (1) THE DIVISION OF CREDIT ASSURANCE;
- (2) THE DIVISION OF DEVELOPMENT FINANCE;
- (3) THE DIVISION OF HISTORICAL AND CULTURAL PROGRAMS;
- (4) THE DIVISION OF NEIGHBORHOOD REVITALIZATION;
- (5) THE COMMUNITY DEVELOPMENT ADMINISTRATION;
- (6) THE COMMISSION ON AFRICAN AMERICAN HISTORY AND CULTURE;
- (7) THE COMMISSION ON INDIAN AFFAIRS;
- (8) THE COMMUNITY LEGACY PROGRAM;
- (9) THE COMMUNITY LEGACY BOARD;
- (10) THE ADVISORY COMMITTEE TO THE COMMUNITY LEGACY BOARD;
- (11) THE HOUSING FINANCE REVIEW COMMITTEE;
- (12) THE LEAD HAZARD ADVISORY COMMITTEE;
- (13) THE LIGHTHOUSE PRESERVATION SPECIAL FUND;
- (14) THE MARYLAND HOUSING FUND;
- (15) THE MARYLAND HISTORICAL TRUST;
- (16) THE NEIGHBORHOOD BUSINESS DEVELOPMENT PROGRAM; AND
- (17) ANY OTHER GOVERNMENTAL UNIT THAT UNDER LAW IS A PART OF

THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 1-204(a) and (b), and, as they placed units in the Department, 2-202(b)(1)(part), 2-1410(a)(part), 4-803(a), 5-614.1(b), 4-810(a)(1), 4-201(a), and 4-802(a)(1).

In the introductory language of this section, the former reference to the "following agencies, boards, commissions, councils, corporations, authorities, trusts, and divisions" is deleted as implicit in the clause "[t]he Department consists of".

The former reference to the "Historic St. Mary's City Commission" is

deleted as obsolete. In 1997, the Historic St. Mary's City Commission was made an independent unit in the Office of the Governor. *See* Ch. 583, Acts of 1997.

Defined term: "Department" § 1-101

2-202. ADVISORY COUNCILS, BOARDS, AND COMMITTEES.

(A) IN GENERAL.

(1) THE DEPARTMENT SHALL ESTABLISH ADVISORY COUNCILS, BOARDS, AND COMMITTEES AS THE GOVERNOR AND THE SECRETARY DETERMINE.

(2) THE GOVERNOR AND THE SECRETARY SHALL DETERMINE:

(I) THE SIZE OF THE ADVISORY BODIES;

(II) THE QUALIFICATIONS, METHOD OF APPOINTMENT, TERMS, AND COMPENSATION OF MEMBERS;

(III) THE MANNER OF REMOVAL OF MEMBERS; AND

(IV) THE METHOD OF FILLING VACANCIES.

(B) DUTIES.

THE ADVISORY UNITS SHALL ADVISE AND ASSIST THE SECRETARY ON POLICIES, PROGRAMS, AND ACTIVITIES OF THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 1-204(c).

Defined terms: "Department" § 1-101

"Secretary" § 1-101

TITLE 3. DIVISION OF CREDIT ASSURANCE.

SUBTITLE 1. DIVISION ESTABLISHED.

3-101. "DIVISION" DEFINED.

IN THIS SUBTITLE, "DIVISION" MEANS THE DIVISION OF CREDIT ASSURANCE.

REVISOR'S NOTE: This section is new language added to provide a convenient reference to the "Division of Credit Assurance".

3-102. ESTABLISHED.

THERE IS A DIVISION OF CREDIT ASSURANCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 3-101(a).

The former reference to the Division of Credit Assurance "as an organizational unit within the Department of Housing and Community Development" is deleted in light of § 2-201 of this article.

Defined term: "Department" § 1-101

3-103. ELEMENTS IN DIVISION.

THE DIVISION INCLUDES:

- (1) THE MARYLAND HOUSING FUND, A GOVERNMENTAL UNIT OF THE DEPARTMENT;
- (2) LOAN ASSET MANAGEMENT FOR THE DEPARTMENT; AND
- (3) THE ADMINISTRATION OF STATEWIDE BUILDING AND MATERIAL CODES ESTABLISHED UNDER TITLE 12, SUBTITLES 2, 3, 4, 5, AND 10 OF THE PUBLIC SAFETY ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 3-101(b).

Defined terms: "Department" § 1-101

"Governmental unit" § 1-101

3-104. ADMINISTRATION.

THE DIVISION SHALL ADMINISTER EACH PROGRAM ASSIGNED TO THE DIVISION BY LAW OR BY THE SECRETARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 3-102.

The former reference to programs "designated" by the Secretary is deleted in light of the reference to programs "assigned" by the Secretary.

Defined terms: "Division" § 3-101

"Secretary" § 1-101

SUBTITLE 2. MARYLAND HOUSING FUND.

3-201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 3-202(a).

No changes are made.

(B) CREDIT ENHANCEMENT.

"CREDIT ENHANCEMENT" MEANS A GUARANTEE, INCLUDING A GUARANTEE OF AN OBLIGATION BACKED BY A POOL OF MORTGAGES, OR OTHER ASSURANCE OR SECURITY DEVICE ISSUED TO:

- (1) IMPROVE THE CREDIT OF A QUALIFIED BORROWING ENTITY; OR
- (2) UPGRADE THE SECURITY OR RATING OF A FINANCIAL OBLIGATION, INCLUDING:
 - (I) A MORTGAGE BACKED SECURITY;
 - (II) A CERTIFICATE OF PARTICIPATION; AND
 - (III) A BOND OR NOTE ISSUED TO FINANCE A DEVELOPMENT ACTIVITY DESCRIBED IN THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 3-202(b).

In the introductory language of this subsection, the former references to "any form" and "other form" are deleted as surplusage.

Defined term: "Mortgage" § 3-201

(C) ENERGY CONSERVATION PROJECT.

"ENERGY CONSERVATION PROJECT" HAS THE MEANING STATED IN § 4-201 OF THIS ARTICLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 3-202(d), as it defined "energy conservation project".

(D) FINANCING.

"FINANCING" INCLUDES ACQUISITION FINANCING, PERMANENT FINANCING, SHORT-TERM BRIDGE FINANCING, CONSTRUCTION FINANCING, AND REFINANCING OF A LOAN OR PROJECT AUTHORIZED UNDER THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 3-202(e).

The reference to construction financing "and" refinancing is substituted for the former reference to construction financing "or" refinancing as standard language used in a list of items introduced by the word "includes".

The former reference to "any type of" loan or project is deleted as

surplusage.

(E) FUND.

"FUND" MEANS THE MARYLAND HOUSING FUND.

REVISOR'S NOTE: This subsection is new language added to provide a concise reference to the Maryland Housing Fund.

(F) HOUSING.

"HOUSING" INCLUDES:

- (1) A SINGLE DWELLING UNIT;
- (2) A MULTIPLE DWELLING UNIT;
- (3) AN ACCESSORY UNIT RESIDENTIAL FACILITY;

(4) A SHARED-LIVING UNIT FACILITY, ACCOMMODATING AT LEAST TWO INDIVIDUALS OR FAMILIES, IN WHICH SOME OR ALL OF THE LIVING, DINING, KITCHEN, OR SANITARY FACILITIES ARE SHARED; AND

(5) AN ANCILLARY COMMERCIAL OR OTHER FACILITY THAT IS RELATED TO, INCIDENTAL TO, AND SUPPORTIVE OF THE HOUSING.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 3-202(f) and (i).

(G) INFRASTRUCTURE PROJECT.

"INFRASTRUCTURE PROJECT" HAS THE MEANING STATED IN § 4-201 OF THIS ARTICLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 3-202(d), as it defined "infrastructure project".

(H) MORTGAGE.

"MORTGAGE" INCLUDES:

- (1) A DEED OF TRUST, A SECURITY AGREEMENT, AND A PLEDGE; AND
- (2) ANY OTHER SECURITY ARRANGEMENT SECURING A LOAN,

INCLUDING A MORTGAGE, TO FINANCE:

(I) THE PURCHASE OF STOCK OR MEMBERSHIP IN A COOPERATIVE OWNERSHIP HOUSING CORPORATION; OR

(II) THE CONSTRUCTION OR REHABILITATION OF DWELLING UNITS IN A COOPERATIVE OWNERSHIP HOUSING CORPORATION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 3-202(g).

(I) PUBLIC PURPOSE PROJECT.

"PUBLIC PURPOSE PROJECT" HAS THE MEANING STATED IN § 4-201 OF THIS ARTICLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 3-202(d), as it defined "public purpose project".

(J) SOLAR ENERGY PROJECT.

"SOLAR ENERGY PROJECT" HAS THE MEANING STATED IN § 4-201 OF THIS ARTICLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 3-202(d), as it defined "solar energy project".

3-202. FINDINGS.

(A) HOUSING.

(1) THE GENERAL ASSEMBLY FINDS THAT:

(I) THE FLOW OF PRIVATE INVESTMENT CAPITAL INTO ADEQUATE HOUSING CAN BE STIMULATED BY A SYSTEM INSURING QUALIFIED LENDING INSTITUTIONS AGAINST LOSSES RESULTING FROM NONPAYMENT OF MONEY OWED UNDER THE TERMS OF A NOTE, BOND, OR OTHER EVIDENCE OF INDEBTEDNESS; AND

(II) THE INSURANCE CAN HELP STATE AND LOCAL ACTIVITY TO FINANCE HOUSING AND REHABILITATION.

(2) THE GENERAL ASSEMBLY ALSO FINDS THAT ADEQUATE HOUSING CAN AND SHOULD BE PROVIDED BY PRIVATE CAPITAL UNDER OUR FREE ENTERPRISE SYSTEM AND IN ACCORDANCE WITH SOUND INVESTMENT PRACTICES.

(3) THE GENERAL ASSEMBLY FINDS AS A SUBJECT OF CONCERN THAT:

(I) MANY RESIDENTS OF THE STATE ARE LIVING IN SUBSTANDARD HOUSING; AND

(II) THERE IS A SHORTAGE OF HOUSING AT REASONABLE COSTS FOR VARIOUS INCOME LEVELS.

(B) ENERGY.

THE GENERAL ASSEMBLY FINDS THAT IT IS IN THE PUBLIC INTEREST TO PROMOTE ENERGY CONSERVATION PROJECTS AND SOLAR ENERGY PROJECTS BY PROVIDING INSURANCE FOR:

- (1) LOANS MADE BY QUALIFIED LENDING INSTITUTIONS; AND
 - (2) BONDS OR NOTES ISSUED TO FINANCE THE PROJECTS.
- (C) SALE OF POOLED MORTGAGES OR SECURITIES.

THE GENERAL ASSEMBLY FINDS THAT THE SALE OF POOLED MORTGAGES OR SECURITIES BACKED BY MORTGAGES TO PRIVATE OR PUBLIC INVESTORS, INCLUDING PUBLIC AND PRIVATE PENSION FUNDS, IS IN THE PUBLIC INTEREST AND COULD INCREASE THE INVESTMENT CAPITAL AVAILABLE TO MAKE MORTGAGE LOANS TO ACQUIRE, CONSTRUCT, AND REHABILITATE HOUSING.

- (D) PUBLIC PURPOSE AND INFRASTRUCTURE PROJECTS.

(1) IN THIS SUBSECTION, "DISTRESSED AREA" HAS THE MEANING STATED IN § 4-201 OF THIS ARTICLE.

(2) THE GENERAL ASSEMBLY FINDS THAT IT IS IN THE PUBLIC INTEREST TO ENCOURAGE THE FINANCING OF, AND OTHERWISE TO SUPPORT, THE PLANNING, ACQUISITION, DEVELOPMENT, CONSTRUCTION, RECONSTRUCTION, REHABILITATION, REPAIR, RENOVATION, AND OTHER IMPROVEMENT OF:

(I) PUBLIC PURPOSE PROJECTS IN DISTRESSED AREAS IN THE STATE; AND

- (II) INFRASTRUCTURE PROJECTS.

- (E) LOANS, BONDS, NOTES, MORTGAGES, OR OTHER CREDIT ENHANCEMENTS.

THE GENERAL ASSEMBLY FINDS THAT THE FLOW OF PUBLIC AND PRIVATE CAPITAL TO SUPPORT THE ACTIVITIES SPECIFIED IN THIS SECTION WILL BE ENCOURAGED AND EXPANDED BY:

- (1) INSURING:

- (I) LOANS MADE BY QUALIFIED LENDING INSTITUTIONS;
- (II) BONDS OR NOTES ISSUED BY QUALIFIED ISSUERS; AND
- (III) OBLIGATIONS BACKED BY MORTGAGES; AND

- (2) PROVIDING OTHER CREDIT ENHANCEMENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 3-201(a) through (f) and, as it defined "distressed area", 3-202(d).

In subsections (a)(3), (c), (d), and (e) of this section, the references to "finds" are substituted for the former references to "declares" for consistency with similar provisions in other revised articles of the Code. *See, e.g.*, CS § 8-102 and BR § 3-102. Accordingly, in the introductory language of subsection (b) of this section, the former reference to "declares" is deleted in light of the reference to "finds".

Also in the introductory language of subsection (b) of this section, the former reference to the finding that it is in the public interest "of the citizens of this State to reduce the consumption of energy and to increase the utilization of solar energy" is deleted in light of the finding that it is in the public interest "to promote energy conservation projects and solar energy projects".

Defined terms: "Credit enhancement" § 3-201

"Energy conservation project" § 3-201

"Financing" § 3-201

"Housing" § 3-201

"Infrastructure project" § 3-201

"Mortgage" § 3-201

"Public purpose project" § 3-201

"Solar energy project" § 3-201

3-203. MARYLAND HOUSING FUND.

(A) ESTABLISHED.

THERE IS A MARYLAND HOUSING FUND.

(B) PURPOSE OF FUND.

THE FUND SHALL FURTHER THE STATE INTERESTS EXPRESSED IN § 3-202 OF THIS SUBTITLE.

(C) ADMINISTRATION.

THE DEPARTMENT SHALL MANAGE AND SUPERVISE THE FUND.

(D) STATUS.

(1) THE FUND IS A CONTINUING, NONLAPSING SPECIAL FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE DEPARTMENT SHALL DEPOSIT MONEY FOR THE FUND WITH THE STATE TREASURER.

(3) THE MONEY SHALL BE HELD IN THE FINANCIAL INSTITUTIONS THAT THE STATE TREASURER CONSIDERS PROPER AND SHALL BE ACCOUNTED FOR BY THE COMPTROLLER IN A SPECIAL ACCOUNT KNOWN AS THE "MARYLAND HOUSING FUND".

(4) ALL PREMIUM AND FEE INCOME SHALL BE CREDITED TO THE FUND TO OPERATE THE FUND AND TO PROVIDE ADDITIONAL INSURANCE, GUARANTEES, AND CREDIT ENHANCEMENT.

(E) COMPOSITION.

THE FUND CONSISTS OF:

(1) MONEY APPROPRIATED BY THE STATE TO THE FUND;

(2) PROCEEDS OF ANY STATE LOAN TO THE EXTENT PROVIDED BY THE GENERAL ASSEMBLY OR ANY GOVERNMENTAL UNIT AUTHORIZED TO ISSUE BONDS FOR THE FUND;

(3) FEES AND PREMIUMS THAT THE DEPARTMENT RECEIVES IN CONNECTION WITH INSURANCE OR OTHER CREDIT ENHANCEMENT PROVIDED BY THE FUND; AND

(4) ALL OTHER MONEY MADE AVAILABLE TO THE DEPARTMENT FROM ANY SOURCE FOR THE PURPOSES SET FORTH IN THIS SUBTITLE.

(F) INVESTMENTS.

MONEY IN THE FUND SHALL BE INVESTED IN THE SAME MANNER AS OTHER STATE MONEY.

(G) EXPENDITURES.

(1) MONEY IN THE FUND SHALL BE USED TO:

(I) INSURE LOANS THAT THE DEPARTMENT ACCEPTS UNDER THIS SUBTITLE;

(II) INSURE BONDS OR NOTES ISSUED TO FINANCE A PROJECT THAT IS ELIGIBLE FOR INSURANCE UNDER THIS SUBTITLE; AND

(III) PROVIDE OTHER FORMS OF CREDIT ENHANCEMENT UNDER THIS SUBTITLE.

(2) MONEY IN THE FUND THAT BY AGREEMENT, CONTRACT, SECRETARIAL DETERMINATION, OR REGULATION HAS BEEN CREATED AS AN IDENTIFIABLE INSURANCE OR CREDIT RESERVE MAY BE USED ONLY IN CONFORMANCE WITH THE TERMS AND CONDITIONS CREATING THE RESERVE.

(H) TRANSFERS.

THE SECRETARY MAY TRANSFER TO ANY RESERVE:

(1) OPERATIONAL MONEY;

(2) EARNINGS NOT YET ALLOCATED TO A PARTICULAR RESERVE;

- (3) STATE APPROPRIATED MONEY;
- (4) PROCEEDS OF STATE GENERAL OBLIGATION BONDS; OR
- (5) OTHER MONEY RECEIVED AND NOT ALLOCATED TO A PARTICULAR RESERVE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 3-201(g), 3-203(a) and (b)(1) and (2), and 3-206(a), (b), (c), and (d).

In subsection (d)(1) of this section, the reference to the Fund "not [being] subject to § 7-302 of the State Finance and Procurement Article" is standard language added to special fund sections to ensure that unspent balances of the Fund do not revert to the General Fund. Consequently, in subsection (d)(4) of this section, the former reference to premium and income that "does not revert to the State's General Fund" is deleted as redundant.

In subsections (d)(2), (f), and (h)(1) of this section, as for the substitution of "money" for "funds", *see* General Revisor's Note to article.

In subsection (e)(4) of this section, the former reference to any "public or private" source is deleted as implicit in the reference to any "source".

In subsection (f) of this section, the former reference to money that is to be invested "and reinvested" is deleted as implicit in the reference to "invested".

In subsection (g) of this section, the former reference to the Fund "account" is deleted as surplusage.

In subsection (h) of this section, the former reference to a reserve "now existing or hereafter created" is deleted as surplusage.

Former Art. 83B, §§ 3-203(b)(3), 3-206(f), and 3-208, which allowed money in the Maryland Housing Fund to be used to guarantee obligations backed by a mortgage if the authority to guarantee was exercised on or before June 30, 1994, and if the aggregate amount of outstanding obligations does not exceed \$300 million, are deleted as obsolete.

Defined terms: "Credit enhancement" § 3-201

"Department" § 1-101

"Fund" § 3-201

"Governmental unit" § 1-101

3-204. INSURANCE, GUARANTEES, AND OTHER CREDIT ENHANCEMENTS.

INSURANCE, A GUARANTEE, OR OTHER CREDIT ENHANCEMENT PROVIDED UNDER THIS SUBTITLE:

(1) DOES NOT PLEDGE THE FAITH, CREDIT, OR TAXING POWER OF THE STATE OR THE DEPARTMENT; AND

(2) IS PAYABLE ONLY TO THE EXTENT OF THE RESERVE OR OTHER IDENTIFIED MONEY BACKING THE INSURANCE, GUARANTEE, OR CREDIT ENHANCEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 3-206(e).

In item (2) of this section, as for the substitution of "money" for "funds", *see* General Revisor's Note to article.

Defined terms: "Credit enhancement" § 3-201

"Department" § 1-101

3-205. POWERS OF DEPARTMENT.

(A) "DEVELOPMENT COSTS" DEFINED.

IN THIS SECTION, "DEVELOPMENT COSTS" HAS THE MEANING STATED IN § 4-201 OF THIS ARTICLE.

(B) ENUMERATED POWERS.

THE DEPARTMENT, IN ITS OWN NAME OR IN THE NAME OF THE FUND:

(1) MAY INSURE OR GUARANTEE ON TERMS THAT IT SPECIFIES A MORTGAGE OR POOL OF MORTGAGES OFFERED OR BONDS OR NOTES ISSUED THAT ARE ELIGIBLE FOR INSURANCE UNDER § 3-202 OF THIS SUBTITLE;

(2) MAY INSURE A TOTAL OF NOT MORE THAN \$30,000,000 OF BRIDGE LOANS THAT ARE:

(I) MADE FOR PART OF THE DEVELOPMENT COSTS OF RENTAL HOUSING PROJECTS THAT ARE AWARDED FEDERAL LOW INCOME HOUSING TAX CREDITS; AND

(II) SECURED BY PERSONAL RATHER THAN REAL PROPERTY;

(3) MAY PROVIDE OTHER FORMS OF CREDIT ENHANCEMENT ON TERMS THAT IT SPECIFIES FOR QUALIFIED LENDERS AND BORROWERS WHO OTHERWISE CANNOT GET CREDIT ENHANCEMENT IN THE PRIVATE MARKET;

(4) MAY ISSUE OBLIGATIONS IN ANY FORM BACKED BY A POOL OF MORTGAGES, INCLUDING:

(I) SECURITIES;

(II) CERTIFICATES OF PARTICIPATION;

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- (III) GRANTOR TRUSTS;
- (IV) COLLATERALIZED MORTGAGE OBLIGATIONS; AND
- (V) PASS-THROUGH CERTIFICATES;

(5) NOTWITHSTANDING TITLES 10 THROUGH 17 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, AFTER A DEFAULT UNDER AN OBLIGATION THAT IS INSURED OR OTHERWISE BACKED BY A CREDIT ENHANCEMENT UNDER THIS SUBTITLE, MAY ACQUIRE, HOLD, IMPROVE, OPERATE PENDING SALE OR OTHER DISPOSITION, SELL, ASSIGN, EXCHANGE, TRANSFER, CONVEY, LEASE, MORTGAGE, OR OTHERWISE DISPOSE OF OR ENCUMBER:

- (I) REAL PROPERTY OR AN INTEREST IN REAL PROPERTY;
- (II) PERSONAL PROPERTY OR AN INTEREST IN PERSONAL PROPERTY; OR
- (III) EVIDENCE OF INDEBTEDNESS, INCLUDING:
 - 1. PASS-THROUGH CERTIFICATES;
 - 2. RESIDUAL INTERESTS; AND
 - 3. OTHER SECURITIES BACKED BY REAL ESTATE OR A MORTGAGE; AND

(6) IN CONNECTION WITH A PROPERTY, WHETHER OR NOT INSURED BY THE FUND, ACQUIRED BY THE DEPARTMENT OR THE FUND THROUGH FORECLOSURE, THROUGH DEED IN LIEU OF FORECLOSURE, OR IN SETTLEMENT FOR A CLAIM FOR LOSS:

- (I) MAY CONTRACT WITH A PRIVATE PARTY FOR SERVICES TO SECURE, MAINTAIN, OPERATE, OR IMPROVE THE PROPERTY IN ANTICIPATION OF DISPOSITION OF THE PROPERTY, WITHOUT REQUIRING THAT THE CONTRACT COMPLY WITH DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE; OR
- (II) MAY MAKE A MORTGAGE LOAN TO ASSIST IN THE DISPOSITION OF THE PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 3-204 and 3-202(c).

In subsection (b)(2) of this section, the reference to "total" is substituted for the former reference to an "aggregate amount" for brevity.

In the introductory language of subsection (b)(4) of this section, the former phrase "without limitation" is deleted as surplusage.

In subsection (b)(5)(iii)2 of this section, the reference to residual interests "and" other securities is substituted for the former reference to residual

interests "or" other securities for consistency with the introductory language of item (iii) of that item.

In subsection (b)(6) of this section, the former phrase "otherwise pursuant to any other payment" is deleted as surplusage.

Defined terms: "Credit enhancement" § 3-201

"Department" § 1-101

"Housing" § 3-201

"Mortgage" § 3-201

3-206. ELIGIBILITY STANDARDS FOR INSURANCE AND CREDIT ENHANCEMENTS.

(A) IN GENERAL.

IN OFFERING INSURANCE AND OTHER FORMS OF CREDIT ENHANCEMENT, THE DEPARTMENT SHALL ADOPT ELIGIBILITY STANDARDS THAT ARE REASONABLE TO AID IN:

OF: (1) FINANCING THE PURCHASE, CONSTRUCTION, OR REHABILITATION

(I) HOUSING PROJECTS;

(II) SPECIAL HOUSING FACILITY PROJECTS, CONSISTING OF THE ACQUISITION, REHABILITATION, IMPROVEMENT, RENOVATION, CONSTRUCTION, FINANCING, OR REFINANCING OF A BUILDING THAT:

1. PROVIDES COMMON, SHARED, OR INDEPENDENT LIVING, DINING, KITCHEN, SANITARY, AND SLEEPING FACILITIES;

2. MAY INCLUDE SUPPORTIVE SERVICES OR SUPERVISORY LIVE-IN PERSONNEL FOR INDIVIDUALS WITH SPECIALIZED HOUSING NEEDS; AND

3. MAY INCLUDE NONRESIDENTIAL FACILITIES TO SERVE INDIVIDUALS WITH SPECIAL NEEDS WHO MAY OR MAY NOT BE RESIDENTS OF THE SPECIAL HOUSING FACILITY;

ARTICLE; (III) REHABILITATION PROJECTS, AS DEFINED IN § 4-901 OF THIS

(IV) ENERGY CONSERVATION PROJECTS;

(V) SOLAR ENERGY PROJECTS;

(VI) PUBLIC PURPOSE PROJECTS; OR

(VII) INFRASTRUCTURE PROJECTS; AND

(2) THE SALE OR OTHER TRANSFER OF AN OBLIGATION THAT IS:

(I) DENOTED AS A BOND, NOTE, COLLATERALIZED OBLIGATION, GRANTOR TRUST, CONDUIT, OR OTHER FORM OF SECURITY OR OBLIGATION; AND

(II) BACKED DIRECTLY OR INDIRECTLY BY A MORTGAGE OR A PAYMENT DERIVED FROM A MORTGAGE.

(B) STANDARDS FOR LENDER.

THE STANDARDS ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL ENSURE THAT A LENDER BENEFITING FROM INSURANCE OR OTHER CREDIT ENHANCEMENT PROVIDED BY THE DEPARTMENT IS RESPONSIBLE AND ABLE TO SERVICE THE LOAN.

(C) DETERMINATION BY SECRETARY CONCLUSIVE.

A DETERMINATION BY THE SECRETARY IS CONCLUSIVE IF IT RELATES TO THE ELIGIBILITY OF A PROJECT, FACILITY, OR UNDERTAKING FOR:

(1) INSURANCE OR OTHER CREDIT ENHANCEMENT; OR

(2) OTHER ACTION TAKEN BY THE DEPARTMENT, IN ITS OWN NAME OR IN THE NAME OF THE FUND, UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 3-202(h) and (j), 3-205(a) and (b), and 3-207(d).

In subsection (b) of this section, the former reference to the requirement that standards ensure that a lender be able to service a loan "properly" is deleted as surplusage.

In the introductory language of subsection (c) of this section, the former reference to matters "determined therein" is deleted as surplusage.

Defined terms: "Credit enhancement" § 3-201

"Department" § 1-101

"Energy conservation project" § 3-201

"Financing" § 3-201

"Fund" § 3-201

"Housing" § 3-201

"Infrastructure project" § 3-201

"Mortgage" § 3-201

"Public purpose project" § 3-201

"Secretary" § 1-101

"Solar energy project" § 3-201

3-207. REGULATIONS AND REPORTS.

(A) DEPARTMENT TO ADOPT REGULATIONS.

THE DEPARTMENT SHALL ADOPT REGULATIONS THAT ARE NECESSARY TO CARRY OUT THE PURPOSE OF THIS SUBTITLE.

(B) ANNUAL REPORT.

(1) ANNUALLY, ON OR BEFORE DECEMBER 1, THE DEPARTMENT SHALL MAKE A WRITTEN REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE FINANCIAL STATUS OF THE FUND AND ITS OPERATIONS FOR THE PRECEDING FISCAL YEAR.

(2) THE REPORT SHALL INCLUDE THE TYPES AND AMOUNT OF:

- (I) INSURANCE RESERVES;
- (II) INSURANCE ISSUED;
- (III) PREMIUMS CHARGED; AND
- (IV) CLAIMS MADE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 3-207(a) and (b).

In subsection (a) of this section, the reference to "regulations" is substituted for the former incorrect reference to "rules" to clarify that the Department is required to adopt regulations that are published in the Code of Maryland Regulations (COMAR), "rules" and provisions that concern the internal working of a governmental unit.

Defined terms: "Department" § 1-101

"Fund" § 3-201

3-208. CONSTRUCTION OF SUBTITLE.

THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO CARRY OUT THE FINDINGS SET FORTH IN § 3-202 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 3-207(c).

The former reference to "declarations" is deleted as redundant of the word "findings" and for consistency with similar provisions in other revised articles of the Code. *See, e.g.*, CS § 8-102 and BR § 3-102.

TITLE 4. DIVISION OF DEVELOPMENT FINANCE.

SUBTITLE 1. DIVISION ESTABLISHED; UNITS IN DIVISION.

4-101. 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) ADMINISTRATION.

"ADMINISTRATION" MEANS THE COMMUNITY DEVELOPMENT ADMINISTRATION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, §§ 2-203(b) and 2-801(b).

The former phrase "of the Department of Housing and Community Development" is deleted as unnecessary in light of § 2-202 of this article.

(C) DIVISION.

"DIVISION" MEANS THE DIVISION OF DEVELOPMENT FINANCE.

REVISOR'S NOTE: This subsection is new language added to provide a concise reference to the Division of Development Finance.

(D) ELDERLY RENTAL HOUSING PROJECT.

"ELDERLY RENTAL HOUSING PROJECT" MEANS A PROJECT THAT MEETS THE QUALIFICATIONS IN § 4-407 OF THIS TITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the introductory language of former Art. 83B, § 2-801(e), as it defined "elderly rental housing project".

As for the balance of former Art. 83B, § 2-801(e), *see* § 4-407 of this title.

The former alternative defined term "project" is deleted to avoid confusion.

(E) NONPROFIT SPONSOR.

"NONPROFIT SPONSOR" MEANS A SPONSOR THAT IS:

(1) A NONPROFIT ORGANIZATION; OR

(2) A LIMITED PARTNERSHIP, IF:

(I) 1. EACH GENERAL PARTNER IS A NONPROFIT ORGANIZATION; OR

2. EACH GENERAL PARTNER IS A WHOLLY OWNED SUBSIDIARY OF A NONPROFIT ORGANIZATION;

(II) THE LIMITED PARTNERSHIP IS FORMED TO UNDERTAKE A PROJECT THAT IS ELIGIBLE AS A WHOLE OR IN PART FOR A FEDERAL PROGRAM OR INCENTIVE, INCLUDING LOW-INCOME HOUSING TAX CREDITS; AND

(III) A NONPROFIT ORGANIZATION MANAGES THE PROJECT OR WILL RECEIVE THE NET CASH FLOW OR RESIDUAL SALE PROCEEDS ON THE SALE OF THE PROJECT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, §§ 2-501(l) and 2-801(g).

The Housing Article Review Committee notes, for consideration by the General Assembly, that in item (2)(i)2 of this subsection, the reference to "each general partner" is substituted for the former references to a "limited partnership" to avoid the erroneous implication that a limited partnership may be a wholly owned subsidiary.

Defined term: "Nonprofit organization" § 1-101

4-102. ESTABLISHED.

THERE IS A DIVISION OF DEVELOPMENT FINANCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-101(a).

The former reference to the Division being "an organizational unit" is deleted as implicit in the establishment of a "Division".

The former reference to the Division being "within the Department" is deleted in light of § 2-201 of this article.

4-103. UNITS IN DIVISION.

THE DIVISION INCLUDES:

- (1) THE COMMUNITY DEVELOPMENT ADMINISTRATION;
- (2) THE DOWN PAYMENT AND SETTLEMENT EXPENSE LOAN PROGRAM;
- (3) THE ELDERLY RENTAL HOUSING PROGRAM;
- (4) FEDERAL AND STATE WEATHERIZATION PROGRAMS;
- (5) THE GROUP HOME FINANCING PROGRAM;
- (6) THE LEAD HAZARD REDUCTION GRANT PROGRAM;
- (7) THE LEAD HAZARD REDUCTION LOAN PROGRAM;
- (8) THE LOCAL GOVERNMENT INFRASTRUCTURE PROGRAM;

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- (9) THE MARYLAND HOME FINANCING PROGRAM;
- (10) THE MARYLAND HOUSING REHABILITATION PROGRAM;
- (11) THE NEIGHBORHOOD HOUSING SERVICES FUND;
- (12) THE OPERATING ASSISTANCE GRANTS DEMONSTRATION PROJECTS;
- (13) THE PARTNERSHIP RENTAL HOUSING PROGRAM;
- (14) THE RADIUM PILOT GRANT PROGRAM;
- (15) THE RENTAL ALLOWANCE PROGRAM;
- (16) THE RENTAL HOUSING PRODUCTION PROGRAM; AND
- (17) THE SELF-HELP HOMEOWNERSHIP TECHNICAL ASSISTANCE PROGRAM.

REVISOR'S NOTE: Items (1) through (5), (8) through (13), and (16) of this section are new language derived without substantive change from former Art. 83B, § 2-101(b).

Items (6), (7), and (15) of this section are new language added to state explicitly what was only implied in the former law -- that the Division includes the Lead Hazard Reduction Grant Program, the Lead Hazard Reduction Loan Program, and the Rental Allowance Program.

Item (14) of this section is new language derived without substantive change from former Art. 83B, § 2-1601(a).

Item (17) of this section is new language derived without substantive change from former Art. 83B, § 2-1503(a).

In item (2) of this section, the reference to the "Down Payment and Settlement Expense Loan Program" is substituted for the former obsolete reference to the "Settlement Expense Loan Program".

In items (14) and (17) of this section, the former references to the Radium Pilot Program and the Self-Help Homeownership Technical Assistance Program as being in "the Department" are deleted as implicit in including those programs in the Division.

SUBTITLE 2. COMMUNITY DEVELOPMENT ADMINISTRATION.

PART I. DEFINITIONS; GENERAL PROVISIONS.

4-201. DEFINITIONS.

- (A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-203(a).

No changes are made.

(B) COMMERCIAL BUILDING.

"COMMERCIAL BUILDING" MEANS ANY BUILDING THAT:

- (1) IS USED PRIMARILY TO CARRY ON A BUSINESS WHETHER OR NOT FOR PROFIT;
- (2) IS NOT A RESIDENTIAL BUILDING; AND
- (3) IS NOT USED PRIMARILY TO MANUFACTURE OR PRODUCE RAW MATERIALS, PRODUCTS, OR AGRICULTURAL COMMODITIES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-203(d).

The former phrase "for the purpose of providing financial assistance for an energy conservation project or a solar energy project in a commercial building" is deleted as surplusage.

Defined term: "Residential building" § 4-201

(C) COMMERCIAL ENERGY AUDIT.

"COMMERCIAL ENERGY AUDIT" MEANS:

- (1) AN ENERGY AUDIT PERFORMED FOR PURPOSES OF TITLE VII OF THE NATIONAL ENERGY CONSERVATION POLICY ACT, 42 U.S.C. §§ 6201 THROUGH 6422; OR
- (2) AN ONSITE INSPECTION OF A COMMERCIAL BUILDING THAT INCLUDES A DETERMINATION OF, AND PROVIDES INFORMATION ON:
 - (I) THE TYPE, QUANTITY, AND RATE OF ENERGY CONSUMPTION OF THE BUILDING;
 - (II) THE MAINTENANCE AND OPERATION PROCEDURES TO REDUCE THE ENERGY CONSUMPTION OF THE BUILDING; AND
 - (III) THE COST OF IMPLEMENTING AN APPROPRIATE ENERGY CONSERVATION PROJECT, A SOLAR ENERGY PROJECT, OR BOTH, AND THE SAVINGS IN ENERGY COSTS LIKELY TO RESULT FROM THE PROJECT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-203(e).

In item (2)(ii) of this subsection, the former reference to procedures "that

can be employed" to reduce energy consumption is deleted as surplusage.

Defined terms: "Commercial building" § 4-201

"Energy conservation project" § 4-201

"Solar energy project" § 4-201

(D) COMMUNITY DEVELOPMENT PROJECT.

"COMMUNITY DEVELOPMENT PROJECT" MEANS A PROJECT THAT QUALIFIES UNDER § 4-217 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to "community development project".

(E) DEVELOPMENT COSTS.

(1) "DEVELOPMENT COSTS" MEANS THE COSTS THAT THE DEPARTMENT CONSIDERS REASONABLE AND NECESSARY TO CARRY OUT:

- (I) A COMMUNITY DEVELOPMENT PROJECT;
- (II) AN ENERGY CONSERVATION PROJECT;
- (III) A HOME IMPROVEMENT PROJECT;
- (IV) AN INFRASTRUCTURE PROJECT;
- (V) A PUBLIC PURPOSE PROJECT;
- (VI) A SOLAR ENERGY PROJECT; OR
- (VII) A SPECIAL HOUSING FACILITY.

(2) "DEVELOPMENT COSTS" INCLUDES:

(I) THE COSTS OF:

- 1. STUDIES, SURVEYS, PLANS AND SPECIFICATIONS, AND ARCHITECTURAL, ENGINEERING, OR OTHER SPECIAL SERVICES;
- 2. ACQUISITION OF LAND AND ANY BUILDINGS ON THE LAND;
- 3. SITE PREPARATION AND DEVELOPMENT, CONSTRUCTION, RECONSTRUCTION, REHABILITATION, AND IMPROVEMENT; AND
- 4. ACQUISITION OF MACHINERY, EQUIPMENT, AND FURNISHINGS;

(II) EXPENSES INCURRED IN CONNECTION WITH INITIAL OCCUPANCY OR OPERATION OF THE PROJECT;

(III) AN ALLOCABLE PORTION OF THE ADMINISTRATIVE AND OPERATING EXPENSES OF THE DEPARTMENT;

(IV) THE COST OF FINANCING THE PROJECT, INCLUDING INTEREST ON BONDS AND NOTES ISSUED TO FINANCE THE PROJECT FROM THE DATE ISSUED TO THE DATE THE DEPARTMENT DETERMINES THAT THE PROJECT IS SUBSTANTIALLY OCCUPIED OR SUBSTANTIALLY IN OPERATION; AND

(V) THE COST OF OTHER ITEMS, INCLUDING INDEMNITY AND SURETY BONDS, PREMIUMS ON INSURANCE, FEES, RELOCATION COSTS, AND CHARGES AND EXPENSES OF TRUSTEES, DEPOSITORIES, AND PAYING AGENTS FOR BONDS AND NOTES ISSUED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-203(g).

In paragraph (1) of this subsection, the former reference to costs "incurred in carrying out all works and undertakings" is deleted as surplusage.

In paragraph (2) of this subsection, the former phrase "but are not necessarily limited to" is deleted in light of the reference to "includes". Article 1, § 30 provides that the term "includes" is used "by way of illustration and not by way of limitation".

Defined terms: "Community development project" § 4-201

"Department" § 1-101

"Energy conservation project" § 4-201

"Home improvement project" § 4-201

"Infrastructure project" § 4-201

"Public purpose project" § 4-201

"Solar energy project" § 4-201

"Special housing facility" § 4-201

(F) DIRECTOR.

"DIRECTOR" MEANS THE DIRECTOR OF THE ADMINISTRATION.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-203(h).

No changes are made.

Defined term: "Administration" § 4-101

(G) ENERGY CONSERVATION PROJECT.

"ENERGY CONSERVATION PROJECT" MEANS A PROJECT THAT QUALIFIES UNDER § 4-218 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to "energy conservation project".

(H) FAMILY OF LIMITED INCOME.

"FAMILY OF LIMITED INCOME" MEANS A FAMILY OR INDIVIDUAL WHOSE INCOME DOES NOT EXCEED THE UPPER INCOME LIMITS ESTABLISHED BY THE SECRETARY UNDER § 4-212 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection formerly was the first clause of the first sentence of Art. 83B, § 2-203(l).

The reference to an "individual" is substituted for the former reference to "persons" because only individuals, and not the other kinds of entities included in the defined term "person", have the income specified in this subsection.

The only other changes are in style.

Defined term: "Secretary" § 1-101

(I) HOME IMPROVEMENT PROJECT.

"HOME IMPROVEMENT PROJECT" MEANS A PROJECT THAT QUALIFIES UNDER § 4-219 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to "home improvement project".

(J) INFRASTRUCTURE PROJECT.

"INFRASTRUCTURE PROJECT" MEANS A PROJECT THAT QUALIFIES UNDER § 4-220 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to "infrastructure project".

(K) LIMITED DIVIDEND CORPORATION.

"LIMITED DIVIDEND CORPORATION" MEANS A CORPORATION THAT:

(1) QUALIFIES AS A LIMITED DIVIDEND CORPORATION UNDER THE MODERATE-INCOME RENTAL PROGRAM OF THE NATIONAL HOUSING ACT, TITLE 12, CHAPTER 13 OF THE UNITED STATES CODE; AND

(2) IS OPERATED ONLY TO FURTHER A COMMUNITY DEVELOPMENT PROJECT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-203(p).

The former phrase "in effect from time to time" is deleted as surplusage.

Defined term: "Community development project" § 4-201

(L) LOCAL DEVELOPMENT AGENCY.

"LOCAL DEVELOPMENT AGENCY" MEANS THE GOVERNMENTAL UNIT OF A POLITICAL SUBDIVISION THAT THE CHIEF EXECUTIVE OFFICER OF THE POLITICAL SUBDIVISION DESIGNATES TO CARRY OUT COMMUNITY DEVELOPMENT UNDER THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-203(r).

The reference to "governmental unit of a political subdivision" is substituted for the former reference to any "board, commission, agency, department or authority of any municipality or county" for brevity and consistency.

Defined terms: "Governmental unit" § 1-101

"Political subdivision" § 1-101

(M) LOCAL DEVELOPMENT ENTITY.

"LOCAL DEVELOPMENT ENTITY" MEANS A CORPORATION OR FOUNDATION, NO PART OF THE NET EARNINGS OF WHICH INURES TO THE BENEFIT OF A PRIVATE SHAREHOLDER OR INDIVIDUAL, THAT IS ORGANIZED AND OPERATED PRIMARILY TO FOSTER, ENCOURAGE, AND ASSIST COMMUNITY DEVELOPMENT IN THE STATE.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-203(q).

The defined term "local development entity" is substituted for the former defined term "local development corporation" to reflect that the defined term encompasses both corporations and foundations.

The only changes are in style.

Defined term: "Local development entity" § 4-201

(N) LOCAL OBLIGATION.

"LOCAL OBLIGATION" MEANS A BOND, NOTE, OR OTHER OBLIGATION OF A POLITICAL SUBDIVISION OR A GOVERNMENTAL UNIT OF A POLITICAL SUBDIVISION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-203(s).

Defined terms: "County" § 1-101

"Governmental unit" § 1-101

"Political subdivision" § 1-101

(O) PERSON.

"PERSON" INCLUDES A FEDERAL, STATE, OR LOCAL GOVERNMENT AND AN AGENCY OR INSTRUMENTALITY OF ANY OF THOSE GOVERNMENTS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-203(w)(2).

The former phrase "for the purpose of providing financial assistance for an energy conservation project or a solar energy project" is deleted as surplusage.

Former Art. 83B, § 2-203(w)(1) is deleted in light of the definition of "person" in § 1-101 of this article.

(P) PUBLIC PURPOSE PROJECT.

"PUBLIC PURPOSE PROJECT" MEANS A PROJECT THAT QUALIFIES UNDER § 4-221 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to "public purpose project".

(Q) RESIDENTIAL BUILDING.

"RESIDENTIAL BUILDING" MEANS A SINGLE FAMILY OR MULTIFAMILY STRUCTURE THAT IS USED PRIMARILY FOR HUMAN DWELLING AND THAT HAS A SYSTEM FOR HEATING, COOLING, OR BOTH.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-203(y).

The only changes are in style.

(R) RESIDENTIAL ENERGY AUDIT.

"RESIDENTIAL ENERGY AUDIT" MEANS:

(1) AN INSPECTION OR ENERGY AUDIT OF A RESIDENTIAL BUILDING OR A DWELLING UNIT IN A RESIDENTIAL BUILDING PERFORMED FOR PURPOSES OF TITLE II OR TITLE VII OF THE NATIONAL ENERGY CONSERVATION POLICY ACT, TITLE 42, CHAPTER 91 OF THE UNITED STATES CODE; OR

(2) AN ONSITE INSPECTION OF A RESIDENTIAL BUILDING OR A DWELLING UNIT IN A RESIDENTIAL BUILDING THAT INCLUDES A DETERMINATION OF AND PROVIDES INFORMATION ON:

(I) THE TYPE, QUANTITY, AND RATE OF ENERGY CONSUMPTION OF THE BUILDING OR DWELLING UNIT;

(II) MAINTENANCE AND OPERATING PROCEDURES TO REDUCE THE ENERGY CONSUMPTION OF THE RESIDENTIAL BUILDING OR DWELLING UNIT; AND

(III) THE COST OF IMPLEMENTING AN APPROPRIATE ENERGY CONSERVATION PROJECT, SOLAR ENERGY PROJECT, OR BOTH, AND THE SAVINGS IN ENERGY COSTS THAT ARE LIKELY TO RESULT FROM THE PROJECT.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-203(z).

The only changes are in style.

Defined terms: "Energy conservation project" § 4-201

"Residential building" § 4-201

"Solar energy project" § 4-201

(S) RESIDENTIAL MORTGAGE LOAN.

"RESIDENTIAL MORTGAGE LOAN" MEANS A LOAN, INCLUDING A TEMPORARY LOAN OR ADVANCE, THAT IS SECURED BY A MORTGAGE OF REAL PROPERTY IN THE STATE THAT IS:

(1) IMPROVED BY A RESIDENTIAL BUILDING; OR

(2) UNIMPROVED, IF THE LOAN PROCEEDS ARE TO BE USED TO CONSTRUCT A RESIDENTIAL BUILDING.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-203(aa).

The only changes are in style.

Defined term: "Residential building" § 4-201

(T) SOLAR ENERGY PROJECT.

"SOLAR ENERGY PROJECT" MEANS A PROJECT THAT QUALIFIES UNDER § 4-222 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to "solar energy project".

(U) SPECIAL HOUSING FACILITY.

"SPECIAL HOUSING FACILITY" MEANS A PROJECT OR UNDERTAKING FOR THE REFINANCING, ACQUISITION, REHABILITATION, IMPROVEMENT, RENOVATION, OR CONSTRUCTION OF A BUILDING THAT:

(1) WILL BE OCCUPIED IN SUBSTANTIAL PART BY FAMILIES OF LIMITED INCOME;

(2) WILL PROVIDE COMMON, SHARED, OR INDEPENDENT LIVING, DINING, KITCHEN, SANITARY, AND SLEEPING FACILITIES;

(3) MAY INCLUDE SUPPORTIVE SERVICES OR SUPERVISORY LIVE-IN PERSONNEL FOR INDIVIDUALS WITH SPECIALIZED HOUSING NEEDS;

(4) MAY INCLUDE NONRESIDENTIAL FACILITIES TO SERVE INDIVIDUALS WITH SPECIAL NEEDS WHO NEED NOT BE RESIDENTS OF THE PROJECT OR UNDERTAKING; AND

- (5) IS NOT SUBJECT TO § 4-213(B) OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-203(cc).

In items (3) and (4) of this subsection, the references to "individuals" are substituted for the former references to "persons" because only individuals, and not the other kinds of entities included in the defined term "person", occupy a special housing facility.

The only other changes are in style.

Defined term: "Family of limited income" § 4-201

REVISOR'S NOTE TO SECTION: Former Art. 83B, § 2-203(c), which defined "Code" to mean the Internal Revenue Code of 1986, as amended, or any successor to it, is deleted to avoid confusion with the Annotated Code of Maryland. In this title, each reference to the Internal Revenue Code is written out in full.

4-202. FINDINGS.

THE GENERAL ASSEMBLY FINDS THAT:

(1) IN THIS ERA OF RAPID POPULATION GROWTH AND EXPANSION AND OF INCREASING URBANIZATION, THERE IS A NEED IN MANY AREAS OF THE STATE TO PROMOTE SOUND COMMUNITY DEVELOPMENT;

(2) THE POLITICAL SUBDIVISIONS DO NOT HAVE ADEQUATE RESOURCES TO DEAL EFFECTIVELY WITH ALL OF THE PROBLEMS OF SOUND COMMUNITY DEVELOPMENT, AND THE ORDINARY OPERATIONS OF PRIVATE ENTERPRISE CANNOT DEAL WITH THEM WITHOUT STATE ASSISTANCE;

(3) THERE IS A NEED TO COORDINATE AND CONCENTRATE FEDERAL, STATE, REGIONAL, AND LOCAL PUBLIC AND PRIVATE COMMUNITY DEVELOPMENT EFFORTS AND RESOURCES;

(4) THERE IS A SHORTAGE OF ADEQUATE, SAFE, AND SANITARY HOUSING FOR FAMILIES OF LIMITED INCOME, AND INCREASING THE HOUSING SUPPLY FOR FAMILIES OF LIMITED INCOME WILL EASE THE SHORTAGE AND PROMOTE SOUND COMMUNITY DEVELOPMENT;

(5) INCREASING OPPORTUNITIES FOR HOMEOWNERSHIP IS DESIRABLE AND PROMOTES SOUND COMMUNITY DEVELOPMENT;

(6) REDUCING ENERGY CONSUMPTION AND INCREASING THE USE OF SOLAR ENERGY BY PROVIDING FINANCIAL ASSISTANCE TO ENCOURAGE ENERGY CONSERVATION AND SOLAR ENERGY IMPROVEMENTS TO RESIDENTIAL BUILDINGS AND COMMERCIAL BUILDINGS PROMOTE SOUND COMMUNITY DEVELOPMENT AND THE PUBLIC INTEREST;

(7) THE PUBLIC INFRASTRUCTURE MAINTAINED BY POLITICAL SUBDIVISIONS, INCLUDING STREETS, SIDEWALKS, CURBS, SEWER AND WATER SYSTEMS, BRIDGES, AND PUBLIC BUILDINGS, NEEDS REHABILITATION AND CONSTRUCTION;

(8) THE RESOURCES NECESSARY FOR FINANCING INFRASTRUCTURE PROJECTS HAVE BECOME SCARCER IN RECENT YEARS;

(9) PROVIDING AN ADDITIONAL, ACCESSIBLE, AND UNCOMPLICATED MECHANISM TO FINANCE INFRASTRUCTURE PROJECTS PROMOTES SOUND COMMUNITY DEVELOPMENT, IS VITAL TO A STRONG ECONOMY, IMPROVES THE QUALITY OF THE ENVIRONMENT, AND OTHERWISE PROMOTES THE HEALTH, SAFETY, AND WELFARE OF THE RESIDENTS OF THE STATE;

(10) PROMOTING SOUND COMMUNITY DEVELOPMENT IS A PROPER PUBLIC PURPOSE AND STATE USE, FOR WHICH PUBLIC MONEY MAY BE SPENT AND PROPERTY MAY BE ACQUIRED; AND

(11) THE FUNCTIONS AND RESPONSIBILITIES OF THE ADMINISTRATION SET FORTH IN THIS SUBTITLE ARE NECESSARY TO ACHIEVE THE ENDS LISTED IN THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from the first through fifth sentences and the seventh through ninth sentences of former Art. 83B, § 2-201(a).

In item (2) of this section, the defined term "political subdivision" is substituted for the former reference to the "counties and municipalities of the State" to conform to the terminology used throughout this division. Similarly, in item (7) of this section, the defined term "political subdivision" is substituted for the former reference to "local government".

In item (6) of this section, the defined terms "residential buildings" and "commercial buildings" are substituted for the former references to "housing" and "buildings used for commercial purposes", respectively, to conform to the terminology used in this subtitle.

In item (11) of this section, the former reference to "proper" is deleted in light of the reference to "necessary".

Defined terms: "Administration" § 4-101

"Commercial building" § 4-201

"Family of limited income" § 4-201

"Infrastructure project" § 4-201

"Political subdivision" § 1-101

"Residential building" § 4-201

4-203. PROGRAM FOR TEACHERS.

(A) ALLOWED.

TO ATTRACT AND RETAIN TEACHERS IN THE STATE BY INCREASING HOMEOWNERSHIP OPPORTUNITIES, THE GENERAL ASSEMBLY FINDS THAT THERE IS A NEED TO AUTHORIZE THE DEPARTMENT TO DEVELOP A PROGRAM TO DEDICATE UP TO \$25,000,000 OVER 5 YEARS TO PROVIDE MORTGAGE LOANS TO TEACHERS AT INTEREST RATES BELOW THE PREVAILING INTEREST RATE FOR SIMILAR PROGRAMS.

(B) ELIGIBILITY CRITERIA.

(1) A MORTGAGE LOAN UNDER THIS SECTION SHALL BE AVAILABLE TO A TEACHER WHO IS A FIRST-TIME HOME BUYER.

(2) THE LOAN SHALL BE CONDITIONED ON AN AGREEMENT BY THE TEACHER TO TEACH IN THE STATE FOR AT LEAST 3 YEARS IF WORK IS AVAILABLE FOR THE TEACHER.

(3) THE LOAN SHALL BE USED TO PURCHASE PROPERTY IN A PRIORITY FUNDING AREA AS DEFINED IN §§ 5-7B-02 AND 5-7B-03 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(C) CONSULTATION REQUIRED.

THE ADMINISTRATION SHALL DEVELOP THE PROGRAM IN CONSULTATION WITH:

(1) THE STATE DEPARTMENT OF EDUCATION, TO ENSURE THAT THE PROGRAM IS CONSISTENT WITH THE STATE'S STRATEGY TO ATTRACT AND RETAIN TEACHERS; AND

(2) LOCAL BOARDS OF EDUCATION, TO ENSURE THAT THE PROGRAM IS PROPERLY MARKETED.

REVISOR'S NOTE: This section is new language derived without substantive change from the sixth sentence of former Art. 83B, § 2-201(a).

The Housing Article Review Committee notes, for consideration by the General Assembly, that a program to increase homeownership opportunities for teachers may be implemented by regulation without requiring specific statutory authority.

Defined terms: "Administration" § 4-101

"Department" § 1-101

4-204. ESTABLISHED.

THERE IS A COMMUNITY DEVELOPMENT ADMINISTRATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-201(b)(1), as it established the Administration.

It is set forth as a separate section for emphasis.

The former reference to the Administration "created as a division of the Department" is deleted in light of § 4-103(1) of this title.

Defined terms: "Department" § 1-101

"Political subdivision" § 1-101

4-205. PURPOSE OF ADMINISTRATION.

THE ADMINISTRATION IS CREATED TO:

(1) COORDINATE ACTIVITIES AND PROGRAMS THAT CONTRIBUTE TO SOUND COMMUNITY DEVELOPMENT;

(2) ENCOURAGE AND FACILITATE THE DEVELOPMENT OF NEW AND EXISTING COMMUNITIES BY REDUCING THE COSTS OF DEVELOPMENT THROUGH GRANTS, LOANS, AND OTHER FORMS OF FINANCIAL ASSISTANCE;

(3) ENCOURAGE AND FACILITATE ENERGY CONSERVATION AND THE USE OF SOLAR ENERGY IN RESIDENTIAL BUILDINGS AND COMMERCIAL BUILDINGS THROUGH GRANTS, LOANS, AND OTHER FORMS OF FINANCIAL ASSISTANCE;

(4) MAKE LAND AVAILABLE FOR SOUND COMMUNITY DEVELOPMENT;
AND

(5) ASSIST THE EFFORTS OF PRIVATE ENTERPRISE, POLITICAL SUBDIVISIONS, LOCAL PUBLIC AGENCIES, LOCAL DEVELOPMENT ENTITIES, AND NONPROFIT ORGANIZATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-201(b)(1), except as it established the Administration within the Division of Development Finance.

In item (3) of this section, the defined term "residential buildings" is substituted for the former reference to "housing" to conform to the terminology used throughout this division.

In item (5) of this section, the defined term "political subdivision[s]" is substituted for the former reference to "municipalities, counties" to conform to the terminology used throughout this division.

Also in item (5) of this section, the defined term "local development entities" is substituted for the former reference to "local development corporations" to conform to the terminology used throughout this division.

Defined terms: "Administration" § 4-101

"Commercial building" § 4-201

"Financial assistance" § 1-101

"Local development entity" § 4-201

"Nonprofit organization" § 1-101

"Political subdivision" § 1-101

"Residential building" § 4-201

4-206. LIMITATION ON GRANTS.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A GRANT OF LAND OR MONEY MAY BE MADE ONLY TO A POLITICAL SUBDIVISION, A LOCAL DEVELOPMENT ENTITY, A LOCAL DEVELOPMENT AGENCY, OR A NONPROFIT ORGANIZATION.

(B) EXCEPTIONS.

(1) THIS SECTION DOES NOT APPLY TO GRANTS THAT MAY BE AWARDED TO THE ADMINISTRATION UNDER FEDERAL LAW.

(2) THE ADMINISTRATION MAY AWARD GRANTS TO HOME BUYERS FOR SETTLEMENT EXPENSES AS PROVIDED BY THE DEPARTMENT UNDER THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-201(b)(2).

In subsection (a) of this section, the reference to "political subdivisions" is substituted for the former reference to "organizations which are defined under § 2-203 ... (u) ... of this subtitle" for clarity. Former § 2-203(u) defined "municipality" and "county".

Also in subsection (a) of this section, the defined terms "local development entity" and "local development agency" are substituted for the former references to "organizations which are defined under § 2-203(q), (r) ... of this subtitle" for clarity.

In subsection (b) of this section, the former reference to "Title V of the Energy Security Act, P.L. 96-294" is deleted as obsolete. Title V of the Energy Security Act, P.L. 96-294 was repealed by P.L. 102-550 (1992).

Defined terms: "Administration" § 4-101

"Local development agency" § 4-201

"Local development entity" § 4-201

"Nonprofit organization" § 1-101

"Political subdivision" § 1-101

4-207. DIRECTOR.

(A) APPOINTMENT.

WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL APPOINT THE DIRECTOR.

(B) TERM.

THE DIRECTOR SERVES AT THE PLEASURE OF THE SECRETARY.

(C) STATUS.

THE POSITION OF DIRECTOR IS IN THE EXECUTIVE SERVICE OR MANAGEMENT SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM.

(D) DUTIES.

THE DIRECTOR SHALL OPERATE AND EXERCISE THE POWERS OF THE ADMINISTRATION UNDER THE DIRECTION OF THE SECRETARY AND IN ACCORDANCE WITH THIS SUBTITLE.

(E) COMPENSATION.

THE DIRECTOR IS ENTITLED TO:

(1) COMPENSATION AS PROVIDED IN THE STATE BUDGET; AND

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

(F) STAFF.

THE DIRECTOR SHALL HAVE A STAFF AND PROFESSIONAL CONSULTANTS AS PROVIDED IN THE STATE BUDGET.

REVISOR'S NOTE: Subsections (a) through (e)(1) and (f) of this section are new language derived without substantive change from former Art. 83B, § 2-202(a).

Subsection (e)(2) of this section, which provides for reimbursement for expenses, is added as standard language of a compensation provision.

In subsection (e)(1) of this section, the reference to "compensation" is substituted for the former overly narrow reference to a "salary" for clarity.

In subsection (f) of this section, the former references to "deputies", "assistants", and "employees" are deleted as included in the reference to a "staff".

Defined terms: "Administration" § 4-101

"Director" § 4-201

"Secretary" § 1-101

4-208. HOUSING FINANCE REVIEW COMMITTEE.

(A) ESTABLISHED.

THERE IS A HOUSING FINANCE REVIEW COMMITTEE.

(B) COMPOSITION.

THE HOUSING FINANCE REVIEW COMMITTEE CONSISTS OF SEVEN MEMBERS APPOINTED BY THE GOVERNOR ON RECOMMENDATION OF THE SECRETARY AS FOLLOWS:

(1) THREE EMPLOYEES OF THE DEPARTMENT, ONE OF WHOM MAY BE THE SECRETARY;

(2) ONE EMPLOYEE OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT WHO IS NOT EMPLOYED BY THE DEPARTMENT; AND

(3) THREE MEMBERS OF THE PUBLIC.

(C) TERM.

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

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

(3) A PUBLIC 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) DUTIES.

(1) THE HOUSING FINANCE REVIEW COMMITTEE SHALL REVIEW AND MAKE RECOMMENDATIONS TO THE SECRETARY ABOUT:

(I) SPECIFIC LOAN REQUESTS OR CATEGORIES OF LOAN REQUESTS; AND

(II) THE INVESTMENT AND PROJECT FINANCING POLICIES OF THE ADMINISTRATION.

(2) THE SECRETARY MAY APPROVE A SPECIFIC LOAN REQUEST WITHOUT A RECOMMENDATION OF THE HOUSING FINANCE REVIEW COMMITTEE IF THE REQUEST REQUIRES URGENT ACTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-202(b).

In subsection (a) of this section, the former phrase "of the Department" is deleted in light of § 2-201 of this article.

In subsection (c)(2) and (3) of this section, the references to "public" members are added to clarify that the members from State government serve indefinite terms.

Defined terms: "Administration" § 4-101

"Department" § 1-101

"Secretary" § 1-101

4-209. RESERVED.

4-210. RESERVED.

PART II. POWERS AND DUTIES OF ADMINISTRATION.

4-211. DUTIES.

(A) IN GENERAL.

THE ADMINISTRATION SHALL:

(1) ASSIST THE GOVERNOR IN COORDINATING THE ACTIVITIES OF GOVERNMENTAL UNITS OF THE STATE THAT AFFECT THE SOLUTION OF COMMUNITY DEVELOPMENT PROBLEMS AND THE IMPLEMENTATION OF COMMUNITY PLANS;

(2) ENCOURAGE AND ASSIST POLITICAL SUBDIVISIONS TO DEVELOP MUTUAL AND COOPERATIVE SOLUTIONS TO THEIR COMMON PROBLEMS;

(3) SERVE AS A CLEARINGHOUSE FOR INFORMATION AND OTHER MATERIALS THAT MAY BE PERTINENT TO SOUND COMMUNITY DEVELOPMENT, INCLUDING INFORMATION ON AVAILABLE FEDERAL, STATE, AND PRIVATE FINANCIAL AND TECHNICAL ASSISTANCE;

(4) CARRY OUT CONTINUING STUDIES AND ANALYSES OF SOUND COMMUNITY DEVELOPMENT IN COOPERATION WITH THE DEPARTMENT OF PLANNING;

(5) MAKE RECOMMENDATIONS, IN COOPERATION WITH THE DEPARTMENT OF PLANNING, FOR ADMINISTRATIVE OR LEGISLATIVE ACTION, PAYING PARTICULAR ATTENTION TO THE PROBLEMS OF METROPOLITAN, SUBURBAN, AND OTHER AREAS;

(6) IMPLEMENT MODEL OR DEMONSTRATION PROGRAMS AND PROJECTS, CONTRACT TO ADMINISTER FUNCTIONS OR SERVICES IN A POLITICAL SUBDIVISION, OR OTHERWISE PROVIDE A PROGRAM OF PRACTICAL RESEARCH IN COMMUNITY DEVELOPMENT;

(7) PROMOTE COMMUNITY DEVELOPMENT BY GIVING TO POLITICAL SUBDIVISIONS, LOCAL DEVELOPMENT AGENCIES, LOCAL DEVELOPMENT ENTITIES, OR NONPROFIT ORGANIZATIONS:

(I) TECHNICAL ASSISTANCE AND ADVISORY, CONSULTATIVE, TRAINING, AND EDUCATIONAL SERVICES; AND

(II) GRANTS AND LOANS TO PAY FOR:

1. THE SERVICES AND TECHNICAL ASSISTANCE; AND
2. ANY DEVELOPMENT COSTS;

(8) (I) CONTRACT FOR AND ACCEPT FROM THE FEDERAL GOVERNMENT A GRANT, CONTRIBUTION, OR LOAN OF MONEY, PROPERTY, OR OTHER AID IN ANY FORM FOR COMMUNITY DEVELOPMENT; AND

(II) DO ALL THINGS NECESSARY TO QUALIFY FOR THE GRANT, CONTRIBUTION, OR LOAN, INCLUDING THOSE THINGS NECESSARY TO QUALIFY FOR ASSISTANCE AS A LOCAL PUBLIC AGENCY OR PUBLIC HOUSING AGENCY UNDER A FEDERAL HOUSING OR RENEWAL PROGRAM;

(9) CONTRACT FOR AND ACCEPT FROM ANY GOVERNMENTAL UNIT OF THE STATE OR OTHER SOURCE A GIFT, GRANT, CONTRIBUTION, OR LOAN OF MONEY, PROPERTY, OR OTHER AID IN ANY FORM FOR COMMUNITY DEVELOPMENT AND COMPLY WITH THE TERMS AND CONDITIONS OF THE GIFT, GRANT, CONTRIBUTION, OR LOAN;

(10) ATTACH TO A SALE OR LEASE OF PROPERTY OR TO A LOAN OR GRANT THE TERMS AND CONDITIONS THAT THE DIRECTOR DETERMINES AND THE SECRETARY APPROVES;

(11) ENTER INTO AGREEMENTS TO MAKE ANNUAL PAYMENTS INSTEAD OF ASSESSMENTS, CHARGES, OR PROPERTY TAXES TO A POLITICAL SUBDIVISION IN RESPECT TO REAL PROPERTY THAT THE ADMINISTRATION OWNS; AND

(12) PROVIDE MONEY TO PROGRAMS ELIGIBLE TO RECEIVE FUNDING FROM THE NEIGHBORHOOD BUSINESS DEVELOPMENT FUND UNDER § 6-309 OF THIS ARTICLE.

(B) COMMUNITY DEVELOPMENT PROJECTS OR PUBLIC PURPOSE PROJECTS.

TO IMPLEMENT COMMUNITY DEVELOPMENT PROJECTS AND PUBLIC PURPOSE PROJECTS IN ACCORDANCE WITH PART V OF THIS SUBTITLE, AND SUBJECT TO §§ 4-213(B) AND 4-214 OF THIS SUBTITLE, THE ADMINISTRATION MAY:

(1) (I) ACQUIRE, OWN, AND HOLD LAND THAT IS OPEN, MAINLY OPEN, OR UNDEVELOPED, OR ANY INTEREST IN THE LAND;

(II) INSTALL ACCESS AND INTERIOR STREETS AND ROADS AND SEWER AND WATER LINES IN OR TO THE LAND AND OTHERWISE IMPROVE THE LAND;
OR

(III) TRANSFER, LEASE, MORTGAGE, OR OTHERWISE DISPOSE OF OR ENCUMBER THE LAND;

(2) (I) ACQUIRE, OWN, AND HOLD LAND THAT IS NOT OPEN, MAINLY OPEN, OR UNDEVELOPED, AS WELL AS PERSONAL OR MIXED PROPERTY;

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(II) MANAGE AND OPERATE THE PROPERTY;

PROPERTY;

(III) CLEAR, IMPROVE, CONSTRUCT, OR REHABILITATE THE

ENCUMBER THE PROPERTY; OR

(IV) TRANSFER, LEASE, MORTGAGE, OR OTHERWISE DISPOSE OF OR

PROPERTY;

(V) TAKE ASSIGNMENTS OF RENTALS OR LEASES FOR THE

(3) ARRANGE OR CONTRACT WITH A POLITICAL SUBDIVISION OR PRIVATE PARTY IN CONNECTION WITH A COMMUNITY DEVELOPMENT PROJECT OR PUBLIC PURPOSE PROJECT FOR:

(I) PLANNING, REPLANNING, ZONING, OR REZONING;

OTHER PLACES;

(II) OPENING, GRADING, OR CLOSING STREETS, ROADS, ALLEYS, OR

(III) FURNISHING FACILITIES;

POLITICAL SUBDIVISION; OR

(IV) ACQUIRING PROPERTY OR PROPERTY RIGHTS BY THE

(V) FURNISHING PROPERTY OR SERVICES; AND

(4) SPEND ADMINISTRATION MONEY FOR AN UNDERTAKING THAT THE SECRETARY APPROVES.

(C) WEATHERIZATION PROGRAM.

THE ADMINISTRATION SHALL DEVELOP AND IMPLEMENT A WEATHERIZATION PROGRAM TO PROVIDE MONEY FOR INSULATION MATERIALS AND INSULATION COSTS TO HOUSEHOLDS THAT QUALIFY BASED ON INCOME AND THE PROGRAM ELIGIBILITY GUIDELINES THAT THE SECRETARY ESTABLISHES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-203(j) and 2-204(1) through (6), (8) through (12), (17), and (18).

In subsection (a)(5) of this section, the former reference to other areas "in which economic and population factors are rapidly changing" is deleted as surplusage.

In subsection (a)(7) of this section, the defined term "local development entit[ies]" is substituted for the former reference to "local development corporations" to conform to the terminology used throughout this division.

In subsection (a)(8)(ii) and (9) of this section, the former references to the phrase "subject to the provisions of this subtitle" are deleted as surplusage.

In subsection (a)(8)(ii) of this section, the former reference to including "but not fully enumerative of" things is deleted as implicit in the reference to "including".

Also in subsection (a)(8)(ii) of this section, the former reference to programs "in effect from time to time" is deleted as surplusage.

In subsection (a)(10) of this section, the former reference to a loan or grant "of funds" is deleted as surplusage.

In subsection (a)(11) of this section, the former reference to property that is "located in such municipality, county, or subdivision" is deleted as implicit in the requirement that the Administration enter into agreements to make annual payments to a political subdivision.

In subsection (b)(1)(i) and (2)(i) of this section, the former references to acquiring "by grant, gift, purchase, or otherwise" are deleted as surplusage.

Also in subsection (b)(1)(i) and (2)(i), the former references to "real property" are deleted in light of the references to "land".

In subsection (b)(1)(iii) and (2)(iv) of this section, the former references to "selling", "assigning", "exchanging", and "conveying" are deleted as implicit in the reference to "transfer".

Defined terms: "Administration" § 4-101

"Community development project" § 4-201

"Development costs" § 4-201

"Director" § 4-201

"Governmental unit" § 1-101

"Local development agency" § 4-201

"Local development entity" § 4-201

"Nonprofit organization" § 1-101

"Political subdivision" § 1-101

"Public purpose project" § 4-201

"Secretary" § 1-101

4-212. DETERMINATION OF FAMILIES OF LIMITED INCOME.

(A) FACTORS.

IN ESTABLISHING THE UPPER INCOME LIMITS FOR A FAMILY OF LIMITED INCOME, THE SECRETARY SHALL CONSIDER FACTORS INCLUDING:

- (1) THE INCOME OF THE FAMILY AVAILABLE FOR HOUSING;
- (2) THE SIZE OF THE FAMILY;
- (3) THE COST AND CONDITION OF AVAILABLE HOUSING;

(4) THE ABILITY OF THE FAMILY TO COMPETE IN THE PRIVATE HOUSING MARKET; AND

(5) STANDARDS AND DEFINITIONS ESTABLISHED FOR FEDERAL HOUSING PROGRAMS.

(B) VARIABILITY.

THE LIMITS ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION MAY VARY FOR DIFFERENT:

- (1) TYPES OF HOUSING;
- (2) PROGRAMS OF THE ADMINISTRATION; AND
- (3) AREAS OF THE STATE.

(C) LOWER LIMIT FOR PARTICULAR PROJECT.

A LIMIT ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION MAY BE SUPPLEMENTED FOR A PARTICULAR PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from the second and third sentences of former Art. 83B, § 2-203(1) and items (1) through (5) of the first sentence.

In subsection (a)(1) of this section, the former reference to "the amount of the total" income is deleted as surplusage.

Also in subsection (a)(1) of this section, the former reference to housing "needs" is deleted as implicit in the reference to "housing".

In subsection (a)(4) of this section, the former reference to compete "successfully" is deleted as surplusage.

Also in subsection (a)(4) of this section, the former reference to the "normal" housing market is deleted as surplusage.

In subsection (a)(5) of this section, the former reference to "pertinent" federal housing programs is deleted as implicit in the reference to "federal housing programs".

In subsection (c) of this section, the reference to a limit "established under subsection (a) of this section" is substituted for the former reference to a limit "of general applicability" for clarity.

Defined terms: "Administration" § 4-101

"Family of limited income" § 4-201

"Secretary" § 1-101

4-213. PLAN APPROVAL PROCESS.

(A) IN GENERAL.

IN ACCORDANCE WITH REGULATIONS THAT THE SECRETARY ADOPTS, AN AGREEMENT THAT THE ADMINISTRATION MAKES TO CARRY OUT ITS FUNCTIONS AND RESPONSIBILITIES UNDER §§ 4-211, 4-214, AND 4-225 THROUGH 4-235 OF THIS SUBTITLE SHALL BE APPROVED BY:

- (1) THE SECRETARY; AND
- (2) THE BOARD OF PUBLIC WORKS, IF ITS APPROVAL IS REQUIRED BY

LAW.

(B) LOCAL APPROVAL.

THE ADMINISTRATION SHALL GET APPROVAL OF THE LAND USE FOR A COMMUNITY DEVELOPMENT PROJECT BY RESOLUTION OF THE APPROPRIATE GOVERNING BODY OF THE LOCALITY IN WHICH THE DEVELOPMENT IS LOCATED BEFORE:

- (1) (I) ACQUIRING, OWNING, OR HOLDING LAND THAT IS NOT OPEN, MAINLY OPEN, OR UNDEVELOPED, PERSONAL PROPERTY, OR MIXED PROPERTY;
- (II) CLEARING, IMPROVING, CONSTRUCTING, OR REHABILITATING THE PROPERTY; OR
- (III) TRANSFERRING, LEASING, MORTGAGING, OR OTHERWISE DISPOSING OF THE PROPERTY; OR

- (2) BUILDING HOUSING ON ANY LAND.

(C) ZONING AND BUILDING CODES.

A PROJECT THAT THE ADMINISTRATION FINANCES IS SUBJECT TO APPLICABLE ZONING AND BUILDING CODES.

(D) SALE OR LEASE.

(1) THIS SUBSECTION APPLIES NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE OR OTHER STATE LAW.

(2) IN EXERCISING ITS FUNCTIONS AND RESPONSIBILITIES, THE ADMINISTRATION MAY SELL OR LEASE FOR A TERM NOT EXCEEDING 99 YEARS ALL OR PART OF THE REAL, MIXED, OR PERSONAL PROPERTY CONSTITUTING A COMMUNITY DEVELOPMENT PROJECT.

- (3) A SALE OR LEASE UNDER THIS SECTION MAY BE MADE:

- (I) WITHOUT PUBLIC BIDDING OR PUBLIC SALE; AND

(II) ON TERMS AND CONDITIONS THAT MAKE HOUSING IN THAT DEVELOPMENT ECONOMICALLY FEASIBLE FOR FAMILIES OF LIMITED INCOME.

(4) A SALE OR LEASE UNDER THIS SECTION SHALL CONFORM WITH A PLAN FOR COMMUNITY DEVELOPMENT THAT THE SECRETARY APPROVES AT A PUBLIC HEARING HELD AFTER NOTICE IS PUBLISHED IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN THE POLITICAL SUBDIVISION IN WHICH THE DEVELOPMENT IS LOCATED.

(5) THE PLAN FOR COMMUNITY DEVELOPMENT PRESENTED AT THE HEARING SHALL BE IN ACCORDANCE WITH REGULATIONS THAT THE SECRETARY ADOPTS, REQUIRING:

(I) A DESCRIPTION OF THE PROPERTY;

(II) A STATEMENT OF THE IDENTITY OF THE PROPOSED PURCHASER OR LESSEE AND THE PROPOSED USE OR REUSE OF THE PROPERTY;

(III) THE PRICE OR RENTAL TO BE PAID BY THE PURCHASER OR LESSEE; AND

(IV) THE CONDITIONS OF THE SALE OR LEASE THAT ENSURE THAT THE COMMUNITY DEVELOPMENT PURPOSES OF THIS SUBTITLE WILL BE CARRIED OUT.

(E) COMPLIANCE WITH LOCAL LAWS.

IN CARRYING OUT THIS SUBTITLE, THE ADMINISTRATION SHALL COMPLY WITH LOCAL LAWS APPLICABLE TO THE COMMUNITY DEVELOPMENT PROJECT.

(F) COOPERATION WITH LOCALITIES.

(1) IN CARRYING OUT THIS SUBTITLE, THE ADMINISTRATION SHALL:

(I) WORK CLOSELY, CONSULT, AND COOPERATE WITH LOCAL ELECTED OFFICIALS;

(II) GIVE PRIMARY CONSIDERATION TO LOCAL NEEDS AND DESIRES;

(III) FOSTER LOCAL INITIATIVE AND PARTICIPATION IN COMMUNITY DEVELOPMENT ACTIVITIES; AND

(IV) CONSIDER LOCAL AND REGIONAL GOALS AND POLICIES AS EXPRESSED IN URBAN RENEWAL, COMMUNITY RENEWAL, AND LOCAL COMPREHENSIVE LAND USE PLANS AND REGIONAL PLANS.

(2) WHEREVER POSSIBLE, THE ADMINISTRATION SHALL CARRY OUT COMMUNITY DEVELOPMENT PROJECTS TOGETHER WITH AND THROUGH THE USE OF:

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- (I) PRIVATE ENTERPRISE;
- (II) LIMITED DIVIDEND CORPORATIONS;
- (III) LOCAL DEVELOPMENT AGENCIES; AND
- (IV) LOCAL DEVELOPMENT ENTITIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-205.

In subsections (a) and (d)(1) of this section, the former references to "regulation" are deleted as included in the references to "law".

In subsection (b)(1) of this section, the former reference to acquiring land "by grant, gift, purchase, or otherwise" is deleted as surplusage.

In subsection (c) of this section, the former introductory phrase "[n]otwithstanding the provisions of paragraph (1) of this subsection" is deleted as unnecessary because there is no conflict between subsection (c) and former paragraph (1) -- now revised as subsection (b) of this section.

In subsection (d)(4) of this section, the defined term "political subdivision" is substituted for the former reference to a "municipality or county" to conform to the terminology used throughout this division.

In subsection (e) of this section, the former reference to "the purposes of" this subtitle is deleted as surplusage.

Also in subsection (e) of this section, the former reference to "ordinances, codes, charters or regulations" is deleted as included in the reference to "local laws".

Defined terms: "Administration" § 4-101

"Community development project" § 4-201

"Family of limited income" § 4-201

"Limited dividend corporation" § 4-201

"Local development agency" § 4-201

"Local development entity" § 4-201

"Political subdivision" § 1-101

"Secretary" § 1-101

4-214. EMINENT DOMAIN.

THE ADMINISTRATION HAS THE POWER OF EMINENT DOMAIN, BUT MAY NOT EXERCISE IT IN A POLITICAL SUBDIVISION WITHOUT THE CONSENT OF THE POLITICAL SUBDIVISION GIVEN BY ORDINANCE OF ITS GOVERNING BODY FOR A SPECIFIC COMMUNITY DEVELOPMENT PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-204(7).

The Housing Article Review Committee notes, for consideration by the General Assembly, that former Art. 83B, § 2-204(7) provided that in exercising its functions and responsibilities "the Administration shall not have or exercise the power of eminent domain unless granted to it by ordinance of a municipality or county in connection with a specific community development project situated therein". Like the former law, this section forbids the Administration to exercise the power of eminent domain in a political subdivision without its project-specific consent. This section also makes it clear, however, that the Administration has the power of eminent domain, and that the power comes from the General Assembly and not from a political subdivision.

Defined terms: "Administration" § 4-101

"Community development project" § 4-201

"Political subdivision" § 1-101

4-215. RESERVED.

4-216. RESERVED.

PART III. PROJECTS.

4-217. COMMUNITY DEVELOPMENT PROJECT.

(A) IN GENERAL.

A PROJECT, UNDERTAKING, OR A PART OF A PROJECT OR UNDERTAKING, INCLUDING THE REAL, PERSONAL, AND MIXED PROPERTY INVOLVED, QUALIFIES AS A COMMUNITY DEVELOPMENT PROJECT IF IT IS PLANNED, ACQUIRED, OWNED, DEVELOPED, CONSTRUCTED, RECONSTRUCTED, REHABILITATED, REPAIRED, RENOVATED, OR IMPROVED TO PROMOTE SOUND COMMUNITY DEVELOPMENT.

(B) HOUSING AND FACILITIES REQUIREMENTS.

A COMMUNITY DEVELOPMENT PROJECT SHALL PROVIDE FOR:

(1) NEW OR EXISTING HOUSING:

(I) THAT IS OR WILL BE OCCUPIED IN SUBSTANTIAL PART BY FAMILIES OF LIMITED INCOME; OR

(II) AT LEAST 20% OF WHICH IS OR WILL BE OCCUPIED BY FAMILIES OF LIMITED INCOME, IF THE PROJECT IS FINANCED WITH BONDS, NOTES, OR OTHER EVIDENCES OF INDEBTEDNESS ISSUED BY THE ADMINISTRATION, THE INCOME FROM WHICH BEING INCLUDABLE IN THE HOLDER'S GROSS INCOME UNDER THE INTERNAL REVENUE CODE AS DETERMINED BY THE ADMINISTRATION AT THE TIME OF ISSUE;

(2) ANY IMPROVEMENTS, SUCH AS STREETS, ROADS, SEWER LINES, AND WATER LINES THAT ARE NEEDED TO SUPPORT THE HOUSING; AND

(3) THE PUBLIC OR PRIVATE COMMERCIAL, EDUCATIONAL, CULTURAL, RECREATIONAL, COMMUNITY, OR CIVIC FACILITIES THAT ARE NEEDED TO SUPPORT THE HOUSING.

(C) OPTIONAL FACILITIES.

A COMMUNITY DEVELOPMENT PROJECT MAY INCLUDE PUBLIC OR PRIVATE COMMERCIAL, EDUCATIONAL, CULTURAL, RECREATIONAL, COMMUNITY, OR CIVIC FACILITIES THAT ARE NOT NEEDED TO SUPPORT THE HOUSING, IF:

(1) THEY ARE LESS THAN A SUBSTANTIAL PART OF THE PROJECT; OR

(2) THE SECRETARY FINDS THAT THEY WILL PROMOTE SOUND COMMUNITY DEVELOPMENT.

(D) EXCEPTION TO FAMILIES OF LIMITED INCOME REQUIREMENTS.

THE REQUIREMENTS OF SUBSECTION (B)(1) OF THIS SECTION THAT PARTS OF THE HOUSING BE OCCUPIED BY FAMILIES OF LIMITED INCOME DO NOT APPLY TO A COMMUNITY DEVELOPMENT PROJECT THAT:

(1) IS IN A DESIGNATED NEIGHBORHOOD APPROVED UNDER § 6-305 OF THIS ARTICLE; AND

(2) PROVIDES EMPLOYEES WITH FINANCIAL ASSISTANCE TO BUY HOMES NEAR THEIR WORKPLACES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-203(f) and (dd).

In subsection (a) of this section, the former definition of "community development project" is revised as a list of financing instruments for a project for brevity.

In the introductory language of subsection (b) of this section, the former reference to an exception is deleted as unnecessary in light of the reorganization of this revision.

In subsection (b)(1)(ii) of this section, the former definition of "taxable bonds" is revised as a substantive provision for clarity.

Defined terms: "Administration" § 4-101

"Community development project" § 4-201

"Family of limited income" § 4-201

"Financial assistance" § 1-101

"Secretary" § 1-101

4-218. ENERGY CONSERVATION PROJECT.

(A) RESIDENTIAL BUILDINGS.

A PROJECT FOR A RESIDENTIAL BUILDING QUALIFIES AS AN ENERGY CONSERVATION PROJECT IF IT CONSISTS OF:

- (1) THE PURCHASE OR INSTALLATION OF:
 - (I) CAULKING OR WEATHER STRIPPING;
 - (II) A CLOCK THERMOSTAT;
 - (III) CEILING, ATTIC, WALL, FLOOR, OR DUCT INSULATION;
 - (IV) WATER HEATER INSULATION;
 - (V) A STORM WINDOW OR DOOR, MULTIGLAZED WINDOW OR DOOR, OR HEAT-ABSORBING OR HEAT-REFLECTING WINDOW OR FLOOR MATERIAL;
 - (VI) A DEVICE ASSOCIATED WITH LOAD MANAGEMENT TECHNIQUES;
 - (VII) AN AUTOMATIC ENERGY CONTROL SYSTEM;
 - (VIII) MACHINERY, EQUIPMENT, OR A FACILITY THAT USES GROUNDWATER AS A HEAT SOURCE FOR A HEATING SYSTEM OR AS A HEAT SINK FOR AN AIR CONDITIONING SYSTEM;
 - (IX) A FURNACE EFFICIENCY MODIFICATION, INCLUDING:
 1. A REPLACEMENT BURNER, FURNACE, OR BOILER OR ANY COMBINATION OF THEM THAT INCREASES THE ENERGY EFFICIENCY OF THE HEATING SYSTEM;
 2. A DEVICE FOR MODIFYING A FLUE OPENING THAT INCREASES THE ENERGY EFFICIENCY OF THE HEATING SYSTEM; AND
 3. AN ELECTRICAL OR MECHANICAL FURNACE IGNITION SYSTEM THAT REPLACES A STANDING GAS PILOT LIGHT; AND
 - (X) ANY OTHER ENERGY CONSERVATION IMPROVEMENT THAT THE ADMINISTRATION DETERMINES BY REGULATION TO BE APPROPRIATE AND CONSISTENT WITH THIS SUBTITLE; OR
- (2) A PLANNING OR TECHNICAL SERVICE, A RESIDENTIAL ENERGY AUDIT, OR A CONVERSION FROM A MASTER UTILITY METER TO INDIVIDUAL UTILITY METERS IF THE SERVICE, AUDIT, OR CONVERSION IS RELATED TO OR UNDERTAKEN WITH THE INSTALLATION OF AN ITEM SPECIFIED IN ITEM (1) OF THIS SUBSECTION.

(B) COMMERCIAL BUILDINGS.

A PROJECT FOR A COMMERCIAL BUILDING QUALIFIES AS AN ENERGY CONSERVATION PROJECT IF IT CONSISTS OF:

(1) THE PURCHASE, INSTALLATION, OR MODIFICATION OF AN INSTALLATION THAT IS DESIGNED PRIMARILY TO REDUCE THE CONSUMPTION OF ENERGY, INCLUDING:

(I) CAULKING OR WEATHER STRIPPING;

(II) INSULATING THE BUILDING STRUCTURE OR A SYSTEM IN THE BUILDING;

(III) A STORM WINDOW OR DOOR, A MULTIGLAZED WINDOW OR DOOR, A HEAT-ABSORBING OR HEAT-REFLECTING WINDOW OR DOOR SYSTEM, GLAZING, A REDUCTION IN GLASS AREA, OR ANOTHER WINDOW OR DOOR SYSTEM MODIFICATION;

(IV) AN AUTOMATIC ENERGY CONTROL SYSTEM;

(V) EQUIPMENT THAT IS ASSOCIATED WITH AN AUTOMATIC ENERGY CONTROL SYSTEM AND THAT IS REQUIRED TO OPERATE A VARIABLE STEAM, HYDRAULIC, OR VENTILATION SYSTEM;

(VI) THE REPLACEMENT OR MODIFICATION OF A LIGHTING SYSTEM TO INCREASE ENERGY EFFICIENCY WITHOUT INCREASING THE OVERALL ILLUMINATION, UNLESS THE INCREASE IN ILLUMINATION IS NECESSARY TO CONFORM TO STATE OR LOCAL LAW; OR

(VII) AN ENERGY RECOVERY SYSTEM;

(VIII) A COGENERATION SYSTEM;

(IX) MACHINERY, EQUIPMENT, OR A FACILITY THAT USES GROUNDWATER AS A HEAT SOURCE FOR A HEATING SYSTEM OR AS A HEAT SINK FOR AN AIR CONDITIONING SYSTEM;

(X) A MODIFICATION OF A FURNACE OR UTILITY PLANT AND DISTRIBUTION SYSTEM INCLUDING:

1. A REPLACEMENT BURNER, FURNACE, OR BOILER OR ANY COMBINATION OF THEM THAT INCREASES THE ENERGY EFFICIENCY OF THE HEATING SYSTEM;

2. A DEVICE FOR MODIFYING A FLUE OPENING THAT INCREASES THE ENERGY EFFICIENCY OF THE HEATING SYSTEM; AND

3. AN ELECTRICAL OR MECHANICAL FURNACE IGNITION SYSTEM THAT REPLACES A STANDING GAS PILOT LIGHT; OR

(XI) ANY OTHER ENERGY CONSERVATION IMPROVEMENT THAT THE ADMINISTRATION DETERMINES BY REGULATION TO BE APPROPRIATE AND CONSISTENT WITH THIS SUBTITLE; OR

(2) A PLANNING OR TECHNICAL SERVICE OR A COMMERCIAL ENERGY AUDIT, IF THE SERVICE OR AUDIT IS RELATED TO OR UNDERTAKEN WITH THE INSTALLATION, OR THE MODIFICATION OF AN INSTALLATION OF AN ITEM SPECIFIED IN ITEM (1) OF THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-203(k).

It is revised as a list of qualification standards for an energy conservation project, rather than as part of a definition, for emphasis.

Defined terms: "Administration" § 4-101

"Commercial building" § 4-201

"Commercial energy audit" § 4-201

"Energy conservation project" § 4-207

"Residential building" § 4-201

"Residential energy audit" § 4-201

4-219. HOME IMPROVEMENT PROJECT.

(A) IN GENERAL.

A PROJECT OR UNDERTAKING QUALIFIES AS A HOME IMPROVEMENT PROJECT IF, BY IMPROVEMENT, ALTERATION, ADDITION, OR REPAIR, IT SUBSTANTIALLY PROTECTS OR IMPROVES THE BASIC LIVEABILITY OF A RESIDENTIAL BUILDING THAT WILL BE OCCUPIED IN SUBSTANTIAL PART BY FAMILIES OF LIMITED INCOME.

(B) MORE THAN FOUR DWELLING UNITS.

A HOME IMPROVEMENT PROJECT FOR A RESIDENTIAL BUILDING THAT CONTAINS MORE THAN FOUR DWELLING UNITS IS SUBJECT TO THE PROVISIONS OF THIS SUBTITLE THAT APPLY TO A COMMUNITY DEVELOPMENT PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 83B, § 2-203(n).

It is revised as a list of qualification standards for a home improvement project, rather than as a definition, for emphasis.

Defined terms: "Community development project" § 4-201

"Family of limited income" § 4-201

"Home improvement project" § 4-201

"Residential building" § 4-201

4-220. INFRASTRUCTURE PROJECT.

(A) SCOPE.

THIS SECTION DOES NOT APPLY TO A FACILITY IF A LOCAL OBLIGATION THAT FINANCES THE FACILITY IS A PRIVATE ACTIVITY BOND UNDER § 141 OF THE INTERNAL REVENUE CODE, FOR WHICH AN ALLOCATION UNDER § 146 OF THE INTERNAL REVENUE CODE IS REQUIRED.

(B) APPLICATION.

(1) A PROJECT, UNDERTAKING, OR FACILITY QUALIFIES AS AN INFRASTRUCTURE PROJECT IF IT IS PLANNED, ACQUIRED, OWNED, DEVELOPED, CONSTRUCTED, RECONSTRUCTED, REHABILITATED, OR IMPROVED BY OR ON BEHALF OF A POLITICAL SUBDIVISION TO PROVIDE THE ESSENTIAL PHYSICAL ELEMENTS THAT ARE THE BASIS OF THE PUBLIC SERVICE SYSTEM.

(2) INFRASTRUCTURE PROJECTS INCLUDE STREETS, SIDEWALKS, CURBS, SEWER AND WATER SYSTEMS, BRIDGES, AND PUBLIC BUILDINGS THAT ARE OWNED BY A POLITICAL SUBDIVISION OR A GOVERNMENTAL UNIT OF A POLITICAL SUBDIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-203(o).

It is revised as a list of qualification standards for an infrastructure project, rather than as part of a definition, for emphasis.

In subsection (b)(1) of this section, the defined term "political subdivision" is substituted for the former reference to "county or municipality" to conform to the terminology used throughout this article.

Defined terms: "Governmental unit" § 1-101

"Infrastructure project" § 4-201

"Local obligation" § 4-201

"Political subdivision" § 1-101

4-221. PUBLIC PURPOSE PROJECT.

(A) IN GENERAL.

A PROJECT OR UNDERTAKING, INCLUDING THE REAL, PERSONAL, AND MIXED PROPERTY INVOLVED, QUALIFIES AS A PUBLIC PURPOSE PROJECT IF IT IS PLANNED, ACQUIRED, OWNED, DEVELOPED, CONSTRUCTED, RECONSTRUCTED, REHABILITATED, REPAIRED, RENOVATED, OR IMPROVED WITH THE FINANCIAL ASSISTANCE OF THE ADMINISTRATION OR THE ASSISTANCE OF FEDERAL LOW-INCOME HOUSING CREDITS AUTHORIZED BY THE INTERNAL REVENUE CODE, AND IT IS:

(1) ELIGIBLE WHOLLY OR PARTLY FOR FEDERAL LOW-INCOME HOUSING CREDITS; OR

(2) LOCATED IN A DISTRESSED AREA DESIGNATED UNDER SUBSECTION (E) OF THIS SECTION.

(B) CHARACTERISTICS.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A PUBLIC PURPOSE PROJECT:

(1) SHALL PROVIDE IN SUBSTANTIAL PART FOR EXISTING OR NEW HOUSING; AND

(2) MAY INCLUDE:

(I) ANY IMPROVEMENTS, SUCH AS STREETS, ROADS, SEWER LINES, AND WATER LINES; AND

(II) PUBLIC OR PRIVATE COMMERCIAL, EDUCATIONAL, CULTURAL, RECREATIONAL, COMMUNITY, OR CIVIC FACILITIES.

(C) PUBLIC OR PRIVATE FACILITIES.

A PUBLIC PURPOSE PROJECT MAY INCLUDE A GREATER PROPORTION OF PUBLIC OR PRIVATE FACILITIES IF THE SECRETARY DETERMINES THAT TO DO SO WOULD PROMOTE SOUND COMMUNITY DEVELOPMENT.

(D) LIMITED INCOME FAMILIES.

ALL OR PART OF THE HOUSING PORTION OF A PUBLIC PURPOSE PROJECT SHALL BE OCCUPIED BY FAMILIES OF LIMITED INCOME.

(E) DESIGNATION OF DISTRESSED AREA.

AT THE REQUEST OF A POLITICAL SUBDIVISION, THE SECRETARY MAY DESIGNATE A DISTRESSED AREA OF THE POLITICAL SUBDIVISION AFTER CONSIDERING FACTORS INCLUDING:

(1) THE AVAILABILITY, COST, AND CONDITION OF HOUSING AND NEIGHBORHOOD FACILITIES, INCLUDING THE AGE AND NUMBER OF ABANDONED AND SUBSTANDARD STRUCTURES;

(2) THE INCOMES OF RESIDENTS RELATIVE TO STATE OR AREA-WIDE REGIONAL MEDIAN INCOMES, INCLUDING THE NUMBER OF INDIVIDUALS WHO ARE WELFARE RECIPIENTS, UNEMPLOYED, OR LIVING IN POVERTY;

(3) THE NEED TO FINANCE HOUSING OR PUBLIC OR PRIVATE FACILITIES TO UPGRADE THE SOCIAL AND ECONOMIC CONDITIONS OF THE DISTRESSED AREA;

(4) THE PLANS AND FINANCIAL COMMITMENT OF THE POLITICAL SUBDIVISION TO UNDERTAKE IMPROVEMENTS IN THE DISTRESSED AREA; AND

(5) OTHER STANDARDS AND CRITERIA THAT THE SECRETARY CONSIDERS RELEVANT, INCLUDING STANDARDS ESTABLISHED FOR OTHER STATE OR FEDERAL PROGRAMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-203(i) and (x).

Subsection (e) of this section is revised as a list of factors for designating an area as a distressed area, rather than as part of a definition, for emphasis.

In the introductory language of subsection (e) of this section, the former reference to "a geographically defined area or areas of any municipality or county" is deleted as implicit in the reference to a "distressed area".

Defined terms: "Family of limited income" § 4-201

"Financial assistance" § 1-101

"Political subdivision" § 1-101

"Public purpose project" § 4-201

"Secretary" § 1-101

4-222. SOLAR ENERGY PROJECT.

(A) IN GENERAL.

A PROJECT QUALIFIES AS A SOLAR ENERGY PROJECT IF IT:

(1) IS AN ADDITION, ALTERATION, OR IMPROVEMENT TO A RESIDENTIAL BUILDING OR A COMMERCIAL BUILDING; AND

(2) IS DESIGNED TO REDUCE THE ENERGY REQUIREMENTS OF THE BUILDING BY USING:

(I) WIND ENERGY;

(II) ENERGY FROM A WOOD-BURNING APPLIANCE; OR

(III) SOLAR ENERGY OF:

1. THE ACTIVE TYPE BASED ON MECHANICALLY FORCED ENERGY TRANSFER;

2. THE PASSIVE TYPE BASED ON CONVECTIVE, CONDUCTIVE, OR RADIANT ENERGY TRANSFER; OR

3. A COMBINATION OF THESE TYPES.

(B) EXAMPLES.

A SOLAR ENERGY PROJECT MAY INCLUDE:

- (1) A SOLAR PROCESS HEAT DEVICE;
 - (2) A SOLAR ELECTRIC DEVICE; AND
 - (3) AN EARTH SHELTERED BUILDING IN WHICH THE SHELTERING SUBSTANTIALLY REDUCES THE CONSUMPTION OF ENERGY BY THE BUILDING.
- (C) EXCLUSION.

A SOLAR ENERGY PROJECT MAY NOT INCLUDE A FIREPLACE, UNLESS THE FIREPLACE IS AN INTEGRAL PART OF A SYSTEM DESIGNED TO USE PASSIVE SOLAR ENERGY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-203(bb).

It is revised as a list of qualification standards and examples of a solar energy project, rather than as part of a definition, for emphasis.

In subsection (c) of this section, the reference to "a fireplace" is substituted for the former reference to "[o]nly those fireplaces" for brevity.

Defined terms: "Commercial building" § 4-201

"Residential building" § 4-201

"Solar energy project" § 4-201

4-223. RESERVED.

4-224. RESERVED.

PART IV. FINANCING.

4-225. FINANCING PROCEDURES -- IN GENERAL.

- (A) RECIPIENTS OF FINANCIAL ASSISTANCE.

THE ADMINISTRATION SHALL ADMINISTER A PROGRAM OF FINANCIAL ASSISTANCE FOR:

- (1) COMMUNITY DEVELOPMENT PROJECTS;
- (2) ENERGY CONSERVATION PROJECTS;
- (3) HOME IMPROVEMENT PROJECTS;
- (4) PUBLIC PURPOSE PROJECTS;
- (5) SOLAR ENERGY PROJECTS; AND

(6) SPECIAL HOUSING FACILITIES.

(B) SOURCES OF MONEY.

THE ADMINISTRATION SHALL PROVIDE FINANCIAL ASSISTANCE FOR PROJECTS AND FACILITIES UNDER THIS SECTION WITH MONEY THAT THE ADMINISTRATION CAN GET FOR THEM FROM ANY SOURCE, INCLUDING:

- (1) PAYMENTS UNDER FEDERAL LAW;
- (2) BONDS OR NOTES ISSUED BY THE ADMINISTRATION;
- (3) BONDS OR NOTES ISSUED BY THE STATE; AND
- (4) MORTGAGE-BACKED SECURITIES AND PROCEEDS OF INVESTMENTS

IN THEM.

(C) MORTGAGE REQUIRED.

A LOAN FOR A HOME IMPROVEMENT PROJECT HAVING A PRINCIPAL BALANCE EXCEEDING \$5,000 SHALL BE SECURED BY A MORTGAGE.

(D) CONSENT TO MODIFY AGREEMENTS -- AUTHORITY OF ADMINISTRATION.

SUBJECT TO AN AGREEMENT WITH NOTEHOLDERS OR BONDHOLDERS, THE ADMINISTRATION MAY CONSENT THAT A LOAN, LOAN COMMITMENT, OR AGREEMENT TO WHICH THE ADMINISTRATION IS A PARTY BE MODIFIED AS TO:

- (1) THE INTEREST RATE;
- (2) THE TIME OF PAYMENTS OF AN INSTALLMENT OF PRINCIPAL OR INTEREST;
- (3) SECURITY; OR
- (4) ANY OTHER TERM.

REVISOR'S NOTE: This section is new language derived without substantive change from the first through fourth sentences of former Art. 83B, § 2-204(15)(i).

In the introductory language of subsection (b) of this section, the former phrase "but not limited to" is deleted as implicit in the word "including". See Art. 1, § 30.

In subsection (b)(1) of this section, the former reference to "Title V of the Energy Security Act (P.L. 96-294)" is deleted as obsolete. Title V of the Energy Security Act (P.L. 96-294) was repealed by P.L. 102-550 (1992).

In the introductory language of subsection (d) of this section, the former references to a "contract" are deleted in light of the references to an

"agreement".

Also in the introductory language of subsection (d) of this section, the former reference to an agreement "of any kind" is deleted as surplusage.

Defined terms: "Administration" § 4-101

"Community development project" § 4-201

"Energy conservation project" § 4-201

"Financial assistance" § 1-101

"Home improvement project" § 4-201

"Public purpose project" § 4-201

"Solar energy project" § 4-201

"Special housing facility" § 4-201

4-226. SAME -- POWERS OF ADMINISTRATION.

(A) AUTHORITY TO FORECLOSE OR TAKE SIMILAR ACTION.

(1) IN CONNECTION WITH PROPERTY ON WHICH IT HOLDS A MORTGAGE, THE ADMINISTRATION MAY:

(I) FORECLOSE ON THE PROPERTY;

(II) BEGIN AN ACTION TO PROTECT OR ENFORCE A RIGHT CONFERRED ON THE ADMINISTRATION BY LAW, OR ANY AGREEMENT;

(III) BID FOR AND PURCHASE THE PROPERTY AT A FORECLOSURE OR OTHER SALE; AND

(IV) ACQUIRE AND TAKE POSSESSION OF THE PROPERTY.

(2) IN AN ACTION UNDER THIS SUBSECTION, THE ADMINISTRATION MAY:

(I) COMPLETE, ADMINISTER, AND PAY THE PRINCIPAL OF AND INTEREST ON AN OBLIGATION INCURRED IN CONNECTION WITH THE PROPERTY; AND

(II) DISPOSE OF AND OTHERWISE DEAL WITH THE PROPERTY, SO AS TO PROTECT THE INTERESTS OF THE ADMINISTRATION.

(B) LIENS.

(1) THIS SUBSECTION DOES NOT APPLY TO A LIEN HELD IN CONNECTION WITH A PUBLIC PURPOSE PROJECT.

(2) THE ADMINISTRATION MAY NOT LEND MONEY ON THE SECURITY OF PROPERTY UNLESS THE LIEN ON THE PROPERTY IS SUPERIOR TO ALL OTHER LIENS, EXCEPT FOR:

(I) A LIEN FOR TAXES OWED TO THE STATE OR A POLITICAL
SUBDIVISION; OR

(II) AN EARLIER MORTGAGE LIEN.

(C) SALES OF MORTGAGES.

AT PUBLIC OR PRIVATE SALE AND WITH OR WITHOUT PUBLIC BIDDING, THE
ADMINISTRATION MAY SELL A MORTGAGE OR OTHER OBLIGATION THAT THE
ADMINISTRATION HOLDS.

REVISOR'S NOTE: This section is new language derived without substantive
change from the fifth through seventh sentences of former Art. 83B, §
2-204(15)(i).

In subsection (a)(2)(ii) of this section, the phrase "so as to" is substituted
for the former phrase "in a manner as may be necessary or desirable to" for
brevity.

In subsection (c) of this section, the former reference to "Title V of the
Energy Security Act, P.L. 96-294" is deleted as obsolete. Title V of the
Energy Security Act, P.L. 96-294, was repealed by P.L. 102-550 (1992).

Defined terms: "Administration" § 4-101

"Political subdivision" § 1-101

"Public purpose project" § 4-201

4-227. ENERGY CONSERVATION AND SOLAR ENERGY FINANCING.

(A) COORDINATION WITH MARYLAND ENERGY OFFICE.

THE ADMINISTRATION SHALL COORDINATE THE PROMOTION OF ITS PROGRAMS
OF FINANCIAL ASSISTANCE FOR ENERGY CONSERVATION PROJECTS WITH THE
ENERGY CONSERVATION PROMOTION PROGRAMS OF THE MARYLAND ENERGY
OFFICE.

(B) REGULATIONS ON ASSISTANCE FOR PROJECTS.

(1) THE ADMINISTRATION SHALL ADOPT REGULATIONS TO ESTABLISH
AND IMPLEMENT PROGRAMS OF FINANCIAL ASSISTANCE FOR ENERGY
CONSERVATION PROJECTS AND SOLAR ENERGY PROJECTS.

(2) THESE REGULATIONS SHALL BE CONSISTENT WITH THE PROVISIONS
OF THIS SUBTITLE THAT GENERALLY CONCERN THE POWERS OF THE
ADMINISTRATION TO AWARD FINANCIAL ASSISTANCE FOR ENERGY CONSERVATION
PROJECTS AND SOLAR ENERGY PROJECTS.

(C) CONTENTS OF REGULATIONS.

THE REGULATIONS SHALL INCLUDE PROVISIONS ABOUT:

- LOANS;
- (1) ELIGIBILITY AND APPLICATION REQUIREMENTS;
 - (2) INTEREST RATES, MAXIMUM LOAN AMOUNTS, AND THE TERMS OF
 - (3) ALLOCATIONS OF MONEY AMONG CLASSES OF ELIGIBLE BUILDINGS;
 - (4) CREDIT AND UNDERWRITING REQUIREMENTS; AND
 - (5) WARRANTIES, REPRESENTATIONS, FORMS OF SECURITY, CERTIFICATIONS, INSPECTIONS, AUDITS, AND ANY OTHER MEANS OF ENSURING COMPLIANCE WITH AND ENFORCING THE TERMS OF FINANCIAL ASSISTANCE AWARDED UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-204(15)(ii) and (v).

Former Art. 83B, § 2-204(15)(iii), which required the Administration to coordinate certain programs with the activities of certain organizations involved in implementing the residential conservation service program under Titles II and VII of the National Energy Conservation Policy Act, is deleted as obsolete. The residential conservation service program under Title II terminated on June 30, 1989. Title VII was repealed by P.L. 99-412 (1986).

Former Art. 83B, § 2-204(15)(iv), which required the Administration to participate in programs of financial assistance for energy conservation projects and solar energy projects under Title V, Subtitle A of the Energy Security Act, P.L. 96-294, is deleted as obsolete. Title V, Subtitle A of the Energy Security Act was repealed by P.L. 99-412 (1986).

Defined terms: "Administration" § 4-101

"Energy conservation project" § 4-201

"Financial assistance" § 1-101

"Solar energy project" § 4-201

4-228. INFRASTRUCTURE FINANCING.

(A) FINANCING OPTIONS.

TO FINANCE INFRASTRUCTURE PROJECTS, THE ADMINISTRATION MAY:

- (1) MAKE, PURCHASE, AND PARTICIPATE IN MAKING LOANS;
- (2) PURCHASE LOCAL OBLIGATIONS ISSUED TO FINANCE SUCH PROJECTS; AND
- (3) PROVIDE ANY OTHER FORM OF FINANCIAL ASSISTANCE OTHER THAN GRANTS.

(B) REQUIRED DOCUMENTATION.

ALL TRANSACTIONS UNDER SUBSECTION (A) OF THIS SECTION SHALL BE EVIDENCED BY INSTRUMENTS CONTAINING THE TERMS AND CONDITIONS NECESSARY TO SECURE PAYMENT OF ALL OBLIGATIONS AND CHARGES DUE TO THE ADMINISTRATION.

(C) CONSENT TO MODIFY AGREEMENTS -- AUTHORITY OF ADMINISTRATION.

SUBJECT TO AN AGREEMENT WITH HOLDERS OF ITS BONDS, NOTES, OR OTHER OBLIGATIONS, THE ADMINISTRATION MAY CONSENT THAT A LOAN, LOCAL OBLIGATION, COMMITMENT, INSTRUMENT, OR AGREEMENT THAT THE ADMINISTRATION HOLDS OR TO WHICH IT IS A PARTY MAY BE MODIFIED AS TO:

- (1) INTEREST RATE;
- (2) TIME OF PAYMENT OF ANY INSTALLMENT OF PRINCIPAL OR INTEREST;
- (3) SECURITY; OR
- (4) ANY OTHER TERM.

(D) SECURITY -- AUTHORITY OF ADMINISTRATION.

(1) IN CONNECTION WITH ANY SECURITY THAT IT RECEIVES OR OWNS, INCLUDING A LOCAL OBLIGATION, THE ADMINISTRATION MAY:

- (I) SUE TO PROTECT OR ENFORCE ITS RIGHTS UNDER ANY LAW OR AGREEMENT; OR
- (II) ACQUIRE OR TAKE POSSESSION OF THE SECURITY.
- (2) IF THE ADMINISTRATION BEGINS SUCH AN ACTION, IT MAY:
 - (I) ADMINISTER THE SECURITY;
 - (II) PAY THE PRINCIPAL AND INTEREST ON ANY OBLIGATION INCURRED IN CONNECTION WITH THE SECURITY;
 - (III) DISPOSE OF THE SECURITY; AND
 - (IV) OTHERWISE DEAL WITH THE SECURITY SO AS TO PROTECT THE ADMINISTRATION'S INTERESTS.

(E) SALE.

THE ADMINISTRATION MAY SELL A LOAN, AGREEMENT, LOCAL OBLIGATION, OR OTHER OBLIGATION THAT IT HOLDS AT PUBLIC OR PRIVATE SALE WITH OR WITHOUT PUBLIC BIDDING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-204(16)(i).

In subsection (a)(3) of this section, the former reference to the authority of the Administration to provide financial assistance "that the Administration may deem appropriate" is deleted as surplusage.

In subsection (b) of this section, the reference to "[a]ll transactions under subsection (a) of this section" is substituted for the former reference to "[t]he making, purchasing, or participating in making loans, the purchase of any local obligations, or the providing of any other financial assistance" for brevity.

Also in subsection (b) of this section, the reference to "all obligations and charges due to the Administration" is substituted for the former reference to "any moneys provided by the Administration, any interest charged by the Administration, and any other charges in connection with such financial assistance" for brevity.

Defined terms: "Administration" § 4-101

"Financial assistance" § 1-101

"Infrastructure project" § 4-201

"Local obligation" § 4-201

4-229. SAME -- LOCAL OBLIGATIONS.

(A) RIGHTS OF ISSUERS.

(1) IF THE ADMINISTRATION PURCHASES A LOCAL OBLIGATION, THE PROCEDURES AND REQUIREMENTS FOR THE ISSUANCE OR SALE OF THE LOCAL OBLIGATION SHALL BE AS PROVIDED IN §§ 4-230 THROUGH 4-233 OF THIS SUBTITLE.

(2) NOTWITHSTANDING ANY OTHER PUBLIC GENERAL LAW OR PUBLIC LOCAL LAW, CHARTER, OR ORDINANCE, AN ISSUER OF A LOCAL OBLIGATION MAY SELL A LOCAL OBLIGATION TO THE ADMINISTRATION TO FINANCE AN INFRASTRUCTURE PROJECT:

(I) AT PRIVATE OR PUBLIC SALE, WITH OR WITHOUT PUBLIC BIDDING;

(II) WITHOUT LIMITATION ON THE DENOMINATION OF THE LOCAL OBLIGATION; AND

(III) AT ANY INTEREST RATE, COST, OR PRICE THAT THE ISSUER CONSIDERS NECESSARY OR DESIRABLE.

(3) THE ISSUER OF A LOCAL OBLIGATION MAY PAY ANY FEE OR CHARGE NECESSARY FOR THE ADMINISTRATION TO:

(I) SELL BONDS, NOTES, OR OTHER OBLIGATIONS OF THE ADMINISTRATION;

(II) PROVIDE THE FINANCIAL ASSISTANCE AUTHORIZED BY § 4-228 OF THIS SUBTITLE;

(III) PROVIDE ANY OTHER GUARANTEE, CREDIT ENHANCEMENT, OR ADDITIONAL SECURITY FOR A NOTE, BOND, OR OBLIGATION OF THE ADMINISTRATION; OR

(IV) INSURE OBLIGATIONS OF THE ISSUER OR OF THE ADMINISTRATION.

(B) PLEDGE OF LOCAL MONEY.

(1) NOTWITHSTANDING ANY OTHER PUBLIC GENERAL LAW, PUBLIC LOCAL LAW, CHARTER, OR ORDINANCE, TO ENHANCE THE SECURITY OR THE MARKETABILITY OF THE BONDS, NOTES, OR OBLIGATIONS OF THE ADMINISTRATION THAT ARE SOLD TO FINANCE AN INFRASTRUCTURE PROJECT, A POLITICAL SUBDIVISION MAY AGREE WITH THE ADMINISTRATION TO PLEDGE ANY MONEY, INCLUDING A SHARE OF INCOME TAX, THAT THE POLITICAL SUBDIVISION IS ENTITLED TO RECEIVE FROM THE STATE.

(2) IN ACCORDANCE WITH A PLEDGE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMPTROLLER AND THE STATE TREASURER SHALL CAUSE THE MONEY PLEDGED TO BE PAID TO THE ADMINISTRATION OR A TRUSTEE THAT THE ADMINISTRATION DESIGNATES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-204(16)(ii) and (iii).

In subsection (a)(3)(ii) of this section, the reference to "§ 4-228 of this subtitle" is substituted for the former reference to "this subsection" to reflect the organization of this revision.

In subsection (b)(1) of this section, the defined term "political subdivision" is substituted for the former reference to a "county or municipality" to conform to the terminology used throughout this article.

Defined terms: "Administration" § 4-101

"Infrastructure project" § 4-201

"Local obligation" § 4-201

"Political subdivision" § 1-101

4-230. ISSUING PROCEDURES OF LOCAL OBLIGATIONS.

(A) IN GENERAL.

(1) NOTWITHSTANDING ANY OTHER PUBLIC GENERAL LAW, OR PUBLIC LOCAL LAW, CHARTER, OR ORDINANCE, A POLITICAL SUBDIVISION OR A GOVERNMENTAL UNIT OF A POLITICAL SUBDIVISION MAY ISSUE A LOCAL OBLIGATION TO BE PURCHASED BY THE ADMINISTRATION FOR INFRASTRUCTURE PROJECTS.

(2) A LOCAL OBLIGATION SHALL BE ISSUED IN ACCORDANCE WITH THIS SECTION.

(3) EACH LOCAL OBLIGATION MUST BE AUTHORIZED BY RESOLUTION OR ORDINANCE OF THE GOVERNING BODY OF THE ISSUER.

(B) NOTICE AND PUBLIC HEARING.

(1) BEFORE A LOCAL OBLIGATION IS ISSUED UNDER THIS SECTION:

(I) THE ISSUER SHALL PUBLISH A NOTICE OF THE PROPOSED ISSUANCE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE JURISDICTION OF THE ISSUER; AND

(II) THE GOVERNING BODY OF THE ISSUER SHALL HOLD A PUBLIC HEARING ON THE PROPOSED ISSUANCE.

(2) THE NOTICE SHALL INCLUDE THE PROPOSED AMOUNT OF THE ISSUE, THE NATURE OF THE INFRASTRUCTURE PROJECT TO BE FINANCED, THE TIME AND PLACE OF THE PUBLIC HEARING, AND THE NAME AND ADDRESS OF THE GOVERNING BODY WHERE WRITTEN COMMENTS MAY BE SENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-204(16)(iv)2 and the first and second sentences and the first clause of the third sentence of 1.

In subsection (a)(1) of this section, the defined term "political subdivision" is substituted for the former reference to a "county or municipality" to conform to the terminology used throughout this division.

Also in subsection (a)(1) of this section, the phrase "for infrastructural projects" is substituted for the former phrase "under this paragraph" for clarity.

Defined terms: "Administration" § 4-101

"Governmental unit" § 1-101

"Infrastructural project" § 4-201

"Local obligation" § 4-201

"Political subdivision" § 1-101

4-231. CONTENTS OF ENABLING RESOLUTION OR ORDINANCE.

(A) IN GENERAL.

A RESOLUTION OR ORDINANCE THAT AUTHORIZES A LOCAL OBLIGATION SHALL CONTAIN:

(1) A STATEMENT OF THE PUBLIC PURPOSE FOR WHICH THE PROCEEDS OF THE LOCAL OBLIGATION ARE TO BE SPENT;

(2) THE FORM OF THE LOCAL OBLIGATION, INCLUDING:

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- (I) EACH PLACE AND TIME OF PAYMENT;
- (II) EACH INTEREST RATE OR MAXIMUM INTEREST RATE;
- (III) THE TITLES OF THE OFFICIALS WHOSE SIGNATURES SHALL BE ON IT;
- (IV) A REFERENCE TO THIS PART AS THE AUTHORITY FOR ISSUING IT; AND
- (V) THE TAXES OR SPECIAL REVENUES FROM WHICH THE PRINCIPAL AND INTEREST WILL BE PAYABLE;
- (3) A PROVISION FOR THE DISPOSITION OF THE PROCEEDS OF SALE OF THE LOCAL OBLIGATION;
- (4) A PROVISION THAT THE PRINCIPAL AND INTEREST SHALL BE PAYABLE TO THE ADMINISTRATION OR ITS DESIGNEE;
- (5) A PROVISION FOR PAYMENT OF THE PRINCIPAL AND INTEREST THAT SPECIFIES EACH SOURCE OF PAYMENT;
- (6) A PROVISION THAT THE LOCAL OBLIGATION IS A VALID AND BINDING OBLIGATION OF THE ISSUER IN ACCORDANCE WITH ITS TERMS EVEN IF AN OFFICIAL WHOSE SIGNATURE APPEARS ON THE LOCAL OBLIGATION:
- (I) CEASES TO BE AN OFFICIAL BEFORE THE LOCAL OBLIGATION IS DELIVERED; OR
- (II) BECOMES AN OFFICIAL AFTER THE DATE OF THE ISSUE; AND
- (7) ANY OTHER PROVISION THAT IS NOT INCONSISTENT WITH THIS SUBSECTION AND THAT THE GOVERNING BODY OF THE ISSUER CONSIDERS APPROPRIATE, INCLUDING A PROVISION THAT:
- (I) THE CHIEF ELECTED OFFICIAL OF THE ISSUER MAY MODIFY THE FORMS ADOPTED BY THE RESOLUTION OR ORDINANCE WITHOUT ALTERING THE SUBSTANCE OF THE FORMS;
- (II) THE OFFICIAL SIGNATURES AND SEALS TO BE AFFIXED TO A LOCAL OBLIGATION MAY BE IMPRINTED IN FACSIMILE, EXCEPT FOR THE SIGNATURE OF THE CLERK OR SECRETARY OF THE ISSUER, WHICH SHALL BE AFFIXED MANUALLY;
- (III) SUBJECT TO TERMS THAT THE ADMINISTRATION SPECIFIES, IF THE LOCAL OBLIGATION CONTAINS A STATEMENT OF REDEMPTION PROVISIONS THAT IS ACCEPTABLE TO THE ADMINISTRATION ALL OR A PORTION OF A LOCAL OBLIGATION IS REDEEMABLE AT THE OPTION OF THE ISSUER AT ANY TIME BEFORE MATURITY AT THE PRICE, AT OR ABOVE THE PAR VALUE OF THE LOCAL OBLIGATION,

THAT IS ACCEPTABLE TO THE ADMINISTRATION AND SET IN THE ENABLING RESOLUTION OR ORDINANCE; AND

(IV) A LOCAL OBLIGATION MAY BE IN ANY DENOMINATION THAT IS ACCEPTABLE TO THE ADMINISTRATION AND SHALL BE IN FULLY REGISTERED FORM.

(B) DISPOSITION PROVISION AS BINDING COVENANT.

A PROVISION UNDER SUBSECTION (A)(5) OF THIS SECTION IS A COVENANT BINDING THE ISSUER TO PROVIDE THE MONEY FROM THE SPECIFIED SOURCE OR SOURCES WHEN PRINCIPAL AND INTEREST BECOME DUE AND PAYABLE.

(C) ATTRIBUTES AND TAX-EXEMPT STATUS.

(1) A LOCAL OBLIGATION THAT AN ISSUER ISSUES UNDER THIS PART SHALL HAVE ALL THE ATTRIBUTES OF A NEGOTIABLE INSTRUMENT UNDER ARTICLE 31, § 8 OF THE CODE.

(2) THE PRINCIPAL OF AND INTEREST ON A LOCAL OBLIGATION IN THE HANDS OF ITS OWNER ARE EXEMPT FROM TAXATION BY THE STATE OR A POLITICAL SUBDIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-204(16)(vi), (iv)1A through F, and the second clause of the third sentence of the introductory language of 1.

In subsection (a)(2)(iv) of this section, the reference to this "part" is substituted for the former reference to this "paragraph" to reflect the organization of this revision. Similarly, in subsection (c)(1) of this section, the reference to this "part" is substituted for the former reference to this "paragraph".

In subsection (c)(1) of this section, the former statement that a local obligation shall "possess" all the attributes of negotiable instruments is deleted in light of the statement that a local obligation "shall have" those attributes.

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

Also in subsection (c)(2) of this section, the former reference to taxation "of any kind or nature whatsoever" is deleted as surplusage.

Defined terms: "Administration" § 4-101

"Local obligation" § 4-201

"Political subdivision" § 1-101

4-232. AUTHORIZATION OF RESOLUTION OR ORDINANCE.

(A) IN GENERAL.

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(1) EACH ORDINANCE OR RESOLUTION ENACTED UNDER THIS SECTION:

(I) SHALL BE ADOPTED BY THE GOVERNING BODY OF THE ISSUER;

(II) SHALL BE APPROVED BY THE CHIEF EXECUTIVE OFFICER, IF ANY, OF THE ISSUER; AND

(III) SHALL HAVE THE FORCE OF LAW.

(2) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN ORDINANCE, A RESOLUTION, OR THE QUESTION OF THE ISSUANCE OF LOCAL OBLIGATIONS AUTHORIZED BY AN ORDINANCE OR RESOLUTION NEED NOT BE SUBMITTED TO A REFERENDUM OF THE QUALIFIED VOTERS OF THE ISSUER.

(B) ADOPTION BY REFERENDUM.

THE QUALIFIED VOTERS OF A POLITICAL SUBDIVISION MAY PETITION TO REFERENDUM AN ORDINANCE OR RESOLUTION THAT AUTHORIZES THE ISSUANCE OF LOCAL OBLIGATIONS, IF:

(1) THE CHARTER OF THE POLITICAL SUBDIVISION AUTHORIZES THE VOTERS TO DO SO; AND

(2) THE PETITION IS FILED NOT LATER THAN 20 DAYS AFTER THE ORDINANCE OR RESOLUTION IS ADOPTED BY THE GOVERNING BODY OF THE POLITICAL SUBDIVISION.

(C) ADOPTION AT PUBLIC HEARING.

AN ORDINANCE OR RESOLUTION AUTHORIZING THE ISSUANCE OF LOCAL OBLIGATIONS:

(1) MAY BE ADOPTED AT THE PUBLIC HEARING REQUIRED UNDER § 4-230(B) OF THIS SUBTITLE OR AT ANOTHER REGULAR OR SPECIAL SESSION OF THE GOVERNING BODY; AND

(2) SHALL BE EFFECTIVE ON THE DATE ADOPTED AND APPROVED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-204(16)(iv)3.

In subsection (b) of this section, the defined term "political subdivision" is substituted for the former reference to a "county or municipality" to conform to the terminology used throughout this article.

Defined terms: "Local obligation" § 4-201

"Political subdivision" § 1-101

4-233. PLEDGES SECURING LOCAL OBLIGATIONS.

(A) IN GENERAL.

EACH ISSUANCE OF A LOCAL OBLIGATION UNDER § 4-230 OF THIS SUBTITLE SHALL BE SECURED BY, AT THE DISCRETION OF THE ADMINISTRATION, A PLEDGE OF THE FAITH AND CREDIT OF THE ISSUER OR A PLEDGE OF SPECIFIC REVENUE OF THE ISSUER OR THE FACILITY BEING FINANCED AS DESIGNATED AND DESCRIBED IN THE AUTHORIZING ORDINANCE OR RESOLUTION.

(B) OBLIGATIONS SECURED BY PLEDGE OF FAITH AND CREDIT.

IF A LOCAL OBLIGATION IS SECURED BY A PLEDGE OF THE FAITH AND CREDIT OF THE ISSUER TO MAKE PROMPT PAYMENT FROM THE TAX AND OTHER REVENUES DESCRIBED IN THE ENABLING RESOLUTION OR ORDINANCE:

(1) THE PLEDGE IS A COVENANT TO LEVY TAXES SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON THE LOCAL OBLIGATION WHEN DUE:

(I) ON ALL REAL AND TANGIBLE PERSONAL PROPERTY THAT IS WITHIN THE ISSUER'S CORPORATE LIMITS AND SUBJECT TO ASSESSMENT FOR UNLIMITED AD VALOREM TAXATION; AND

(II) IN EACH YEAR IN WHICH THE LOCAL OBLIGATION IS OUTSTANDING;

(2) IF AT THE TIME OF ISSUANCE OF A LOCAL OBLIGATION THERE IS A CHARTER OR STATUTORY LIMIT ON THE POWER OF THE ISSUER TO LEVY PROPERTY TAXES, THE PLEDGE IS A COVENANT TO LEVY AD VALOREM TAXES, WITHIN THAT LIMIT, SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON THE LOCAL OBLIGATION:

(I) ON ALL REAL AND TANGIBLE PERSONAL PROPERTY THAT IS WITHIN THE ISSUER'S CORPORATE LIMITS AND SUBJECT TO ASSESSMENT FOR AD VALOREM TAXATION; AND

(II) IN EACH YEAR IN WHICH THE LOCAL OBLIGATION IS OUTSTANDING;

(3) A LOCAL OBLIGATION MAY NOT BE ISSUED IF THE ISSUANCE WOULD CAUSE THE ISSUER TO EXCEED ANY LIMIT SET BY THE CHARTER OF THE ISSUER OR BY STATUTE ON THE POWER OF THE ISSUER TO INCUR INDEBTEDNESS; AND

(4) NOTWITHSTANDING ITEM (3) OF THIS SUBSECTION:

(I) A LIMIT ON THE POWER TO INCUR INDEBTEDNESS IMPOSED AFTER THE ISSUANCE OF A LOCAL OBLIGATION DOES NOT AFFECT THAT OBLIGATION; AND

(II) OUTSTANDING LOCAL OBLIGATIONS OF AN ISSUER ARE NOT AFFECTED BY THE ISSUANCE OF A NEW LOCAL OBLIGATION IF THE NEW OBLIGATION IS CONSISTENT WITH AN INCREASE IN OR THE ELIMINATION OF A LIMIT ON THE POWER TO INCUR INDEBTEDNESS.

(C) REVENUE OBLIGATIONS.

(1) AN ISSUER OF A LOCAL OBLIGATION UNDER § 4-230 OF THIS SUBTITLE MAY SECURE PAYMENT BY THE PLEDGE OF SPECIFIC REVENUES OF THE ISSUER.

(2) IF A LOCAL OBLIGATION ISSUED UNDER § 4-230 OF THIS SUBTITLE IS SECURED BY THE PLEDGE OF SPECIFIC REVENUE, THE SPECIFIC REVENUE MAY INCLUDE:

(I) PAYMENTS TO THE ISSUER FROM THE STATE OR FEDERAL GOVERNMENT;

(II) SPECIAL BENEFIT ASSESSMENTS, TAXES, FEES, OR SERVICE CHARGES THAT THE ISSUER HAS AUTHORITY TO IMPOSE, LEVY, OR CHARGE; OR

(III) REVENUE EXPECTED TO BE GENERATED BY THE FACILITY TO BE FINANCED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-204(16)(v).

In subsection (a) of this section, the reference to a local obligation issued "under § 4-230 of this subtitle" is substituted for the former reference to local obligations issued "under this paragraph" to reflect the organization of this revision and to more precisely refer to the provisions that allow the issuance of local obligations. Similarly, in subsection (c)(1) and (2) of this section, the reference to a local obligation "under § 4-230 of this subtitle" is added.

The Housing Article Review Committee notes, for consideration by the General Assembly, that under subsection (b)(4)(ii) of this section, an outstanding local obligation is not affected by the issuance of a new local obligation if the new obligation is consistent with an increase in or the elimination of a limit on the power to incur indebtedness. This provision may raise the unintentional implication that an outstanding obligation might be affected if the new local obligation is not consistent with an increase in or the elimination of the debt limit.

Defined terms: "Administration" § 4-101

"Local obligation" § 4-201

4-234. MORTGAGE LOANS GUARANTEED BY GNMA.

(A) IN GENERAL.

FOR A COMMUNITY DEVELOPMENT PROJECT, THE ADMINISTRATION MAY ISSUE SECURITIES BACKED BY MORTGAGE LOANS GUARANTEED BY THE GOVERNMENT NATIONAL MORTGAGE ASSOCIATION.

(B) ISSUANCE, TERMS, AND CONDITIONS.

(1) NOTWITHSTANDING INCONSISTENT PROVISIONS OF THIS SUBTITLE RELATING TO BONDS OR NOTES THAT THE ADMINISTRATION ISSUES, THE ISSUANCE, TERMS, AND CONDITIONS OF A SECURITY THAT THE ADMINISTRATION ISSUES UNDER THIS SECTION MAY BE AS THE ADMINISTRATION FINDS NECESSARY OR DESIRABLE FOR GUARANTY BY THE GOVERNMENT NATIONAL MORTGAGE ASSOCIATION.

(2) EXCEPT AS PROVIDED BY PARAGRAPH (1) OF THIS SUBSECTION, THE PROVISIONS OF THIS SUBTITLE THAT RELATE TO BONDS OR NOTES ISSUED BY THE ADMINISTRATION APPLY TO SECURITIES ISSUED UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-204(14).

Defined terms: "Administration" § 4-101

"Community development project" § 4-201

4-235. MORTGAGE LOANS AND REVERSE EQUITY MORTGAGE LOANS.

(A) DEFINITIONS.

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

(2) "MORTGAGE LOAN" INCLUDES A LOAN TO:

(I) FINANCE OR REFINANCE THE PURCHASE OF STOCK OR MEMBERSHIP IN A COOPERATIVE OWNERSHIP HOUSING CORPORATION; OR

(II) REHABILITATE UNITS IN A COOPERATIVE OWNERSHIP HOUSING CORPORATION.

(3) "REVERSE EQUITY MORTGAGE LOAN" INCLUDES A LOAN THAT USES THE EQUITY IN A HOME AS COLLATERAL.

(B) AUTHORITY TO MAKE OR PURCHASE.

(1) IN ACCORDANCE WITH § 4-213 OF THIS SUBTITLE, THE ADMINISTRATION MAY MAKE, PARTICIPATE IN MAKING, PURCHASE, AND UNDERTAKE A COMMITMENT FOR:

(I) A MORTGAGE LOAN OR OTHER FINANCIAL ASSISTANCE SECURED BY A MORTGAGE LIEN FOR A COMMUNITY DEVELOPMENT PROJECT OR PUBLIC PURPOSE PROJECT; AND

(II) A REVERSE EQUITY MORTGAGE LOAN SECURED BY A MORTGAGE LIEN THAT IS FOR HOUSING RELATED EXPENSES OF AN ELDERLY FAMILY OF LIMITED INCOME.

(2) FINANCIAL ASSISTANCE TO PURCHASE A DWELLING UNIT IN A COMMUNITY DEVELOPMENT PROJECT OR PUBLIC PURPOSE PROJECT UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION MAY INCLUDE A TEMPORARY LOAN OR ADVANCE AND A PERMANENT DIRECT MORTGAGE LOAN TO A FAMILY OF LIMITED INCOME, IF OTHERWISE REQUIRED BY LAW.

(3) HOUSING RELATED EXPENSES UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION INCLUDE PERSONAL EXPENSES THAT ENABLE THE OWNER TO CONTINUE TO OCCUPY THE OWNER'S HOME.

(C) TERMS AND CONDITIONS.

(1) A COMMITMENT, MORTGAGE, BOND, OR SECURED NOTE SHALL CONTAIN TERMS AND CONDITIONS NECESSARY TO SECURE REPAYMENT OF ITS LOAN, THE INTEREST ON IT, AND OTHER CHARGES IN CONNECTION WITH THE LOAN.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A MORTGAGE LOAN FOR A COMMUNITY DEVELOPMENT PROJECT OR A PUBLIC PURPOSE PROJECT AND A REVERSE EQUITY MORTGAGE LOAN MAY BEAR INTEREST AT A RATE OR RATES THAT THE ADMINISTRATION FINDS WILL MAKE THE PROJECT ECONOMICALLY FEASIBLE.

(II) THE ADMINISTRATION MAY NOT INCREASE THE INTEREST RATE ORIGINALLY CHARGED ON A PERMANENT DIRECT MORTGAGE LOAN TO A FAMILY FOR THE PURCHASE OF A DWELLING UNIT IN A COMMUNITY DEVELOPMENT PROJECT OR A PUBLIC PURPOSE PROJECT.

(3) SUBJECT TO ANY AGREEMENT WITH NOTEHOLDERS OR BONDHOLDERS, THE ADMINISTRATION MAY CONSENT TO THE MODIFICATION OF THE INTEREST RATE, TIME OF PAYMENT OF ANY INSTALLMENT OF PRINCIPAL OR INTEREST, SECURITY, OR ANY OTHER TERM, OF A MORTGAGE, MORTGAGE LOAN, REVERSE EQUITY MORTGAGE LOAN, MORTGAGE LOAN COMMITMENT, OR REVERSE EQUITY MORTGAGE LOAN COMMITMENT, CONTRACT, OR AGREEMENT TO WHICH THE ADMINISTRATION IS A PARTY.

(D) DISPOSAL OF PROPERTY.

IN CONNECTION WITH PROPERTY ON WHICH IT HOLDS A MORTGAGE LOAN OR REVERSE EQUITY MORTGAGE LOAN:

(1) THE ADMINISTRATION MAY:

(I) FORECLOSE ON THE PROPERTY OR BEGIN AN ACTION TO PROTECT OR ENFORCE A RIGHT THAT IS CONFERRED ON THE ADMINISTRATION BY LAW, A MORTGAGE CONTRACT, OR OTHER AGREEMENT;

(II) BID FOR AND PURCHASE THE PROPERTY AT A FORECLOSURE OR OTHER SALE; OR

(III) ACQUIRE OR TAKE POSSESSION OF THE PROPERTY; AND

(2) IN A MANNER TO PROTECT THE INTERESTS OF THE ADMINISTRATION, THE ADMINISTRATION MAY:

(I) COMPLETE, ADMINISTER, AND PAY THE PRINCIPAL OF AND INTEREST ON AN OBLIGATION INCURRED IN CONNECTION WITH THE PROPERTY;

(II) DISPOSE OF THE PROPERTY; AND

(III) OTHERWISE DEAL WITH THE PROPERTY.

(E) LIENS.

(1) THIS SUBSECTION DOES NOT APPLY TO A LIEN HELD IN CONNECTION WITH A PUBLIC PURPOSE PROJECT.

(2) THE ADMINISTRATION MAY NOT HOLD MONEY ON THE SECURITY OF PROPERTY UNLESS THE LIEN ON THE PROPERTY IS SUPERIOR TO ALL OTHER LIENS, EXCEPT FOR:

(I) LIENS FOR TAXES OWED TO THE STATE OR A POLITICAL SUBDIVISION; OR

(II) EARLIER MORTGAGE LIENS.

(F) SALE OF MORTGAGE.

THE ADMINISTRATION MAY SELL ANY MORTGAGE OR OTHER OBLIGATION THAT IT HOLDS, AT PUBLIC OR PRIVATE SALE, WITH OR WITHOUT PUBLIC BIDDING.

(G) PURCHASE OF SECURITIES.

THE ADMINISTRATION MAY PURCHASE SECURITIES BACKED BY MORTGAGES TO PROVIDE FINANCIAL ASSISTANCE TO COMMUNITY DEVELOPMENT PROJECTS AND PUBLIC PURPOSE PROJECTS WITH THE PROCEEDS OF THE SECURITIES OR WITH INVESTMENT EARNINGS ON THE SECURITIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-204(13).

In subsection (c)(3) of this section, the reference to any "agreement" with noteholders and bondholders is substituted for the former reference to any "contract" to conform to the terminology used throughout this subtitle.

Also in subsection (c)(3) of this section, the phrase "the Administration may consent to the modification of the interest rate" is added to state explicitly what was implied in the former law - that the Administration has the power to consent to certain modifications.

In subsection (d)(2) of this section, the former reference to a manner that is "necessary or desirable" is deleted as surplusage.

In subsection (g) of this section, the reference to securities backed by "mortgages" is substituted for the former reference to "mortgage loans" for accuracy.

Defined terms: "Administration" § 4-101

"Community development project" § 4-201

"Family of limited income" § 4-201

"Financial assistance" § 1-101

"Political subdivision" § 1-101

"Public purpose project" § 4-201

4-236. MORTGAGE LENDERS.

IN CARRYING OUT THIS SUBTITLE, THE ADMINISTRATION MAY NOT MAKE A LOAN TO A MORTGAGE LENDER OR PURCHASE A MORTGAGE LOAN FROM A MORTGAGE LENDER UNLESS THE MORTGAGE LENDER IS:

(1) A BANK, TRUST COMPANY, SAVINGS INSTITUTION, SAVINGS AND LOAN ASSOCIATION, NATIONAL BANK ASSOCIATION, MORTGAGE BANKER, OR OTHER FINANCIAL INSTITUTION THAT:

(I) HAS AN OFFICE IN THE STATE; AND

(II) MAKES OR ORIGINATES RESIDENTIAL MORTGAGE LOANS;

(2) AN INSURANCE COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE; OR

(3) THE MARYLAND HOME FINANCING PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-203(t).

It is revised as a list of qualifications for a mortgage lender to whom the Administration may make a loan or from whom the Administration may purchase a mortgage loan, for emphasis.

Defined terms: "Administration" § 4-201

"Residential mortgage loan" § 4-201

4-237. MORTGAGE PURCHASES AND LOANS.

(A) POWERS OF ADMINISTRATION.

THE ADMINISTRATION MAY:

(1) PURCHASE OR COMMIT TO PURCHASE, FROM A MORTGAGE LENDER THAT IS ELIGIBLE UNDER § 4-236 OF THIS SUBTITLE, A NOTE, MORTGAGE, OR PARTIAL INTEREST IN A NOTE OR MORTGAGE THAT EVIDENCES:

(I) A RESIDENTIAL MORTGAGE LOAN TO A FAMILY OF LIMITED INCOME; OR

(II) A MORTGAGE LOAN TO A SPONSOR OF A COMMUNITY DEVELOPMENT PROJECT OR A PUBLIC PURPOSE PROJECT;

(2) MAKE A LOAN TO AN ELIGIBLE MORTGAGE LENDER IN ACCORDANCE WITH THIS SUBTITLE;

(3) FINANCE, WITH PROCEEDS OF ITS REVENUE BONDS OR NOTES, ALL OR PART OF A MORTGAGE PURCHASE PROGRAM OR A LOAN TO A MORTGAGE LENDERS PROGRAM; AND

(4) TAKE ANY ACTION NECESSARY OR CONVENIENT TO CARRY OUT THIS SUBSECTION, INCLUDING:

(I) SETTling OR COMPROMISING AN OBLIGATION OR DEBT TO THE ADMINISTRATION, SUBJECT TO ANY AGREEMENT WITH BONDHOLDERS;

(II) ACQUIRING AN INTEREST IN REAL OR PERSONAL PROPERTY BY GIFT, PURCHASE, FORECLOSURE, OR OTHERWISE, AND SELLING OR OTHERWISE DISPOSING OF THE PROPERTY;

(III) OBTAINING INSURANCE AGAINST LOSS IN CONNECTION WITH ITS PROPERTY AND OTHER ASSETS, INCLUDING MORTGAGE LOANS, IN THE AMOUNT AND FROM THE INSURER THAT THE ADMINISTRATION CONSIDERS DESIRABLE;

(IV) CONTRACTING FOR SERVICING OF A MORTGAGE LOAN OR AN INTEREST IN A MORTGAGE LOAN THAT THE ADMINISTRATION HOLDS OR TAKES AS COLLATERAL; AND

(V) MAKING A CONTRACT OR COMMITMENT THAT RELATES TO THE EXERCISE OF ANY OF THE POWERS LISTED IN THIS SUBSECTION.

(B) REGULATIONS.

THE ADMINISTRATION MAY ADOPT REGULATIONS OR PROGRAM DIRECTIVES, AS APPROPRIATE, TO CARRY OUT THIS SECTION, INCLUDING:

(1) PROCEDURES TO SUBMIT REQUESTS FOR THE PURCHASE OR SALE OF MORTGAGE LOANS OR FOR LOANS TO THE ELIGIBLE MORTGAGE LENDERS;

(2) RESTRICTIONS AS TO THE NUMBER OF FAMILY UNITS, LOCATIONS, OR OTHER QUALIFICATIONS OR CHARACTERISTICS OF DWELLINGS TO BE FINANCED BY RESIDENTIAL MORTGAGE LOANS;

(3) RESTRICTIONS AS TO:

(I) THE INTEREST RATES ON LOANS MADE FROM THE PROCEEDS OF PURCHASES OF MORTGAGE LOANS OR FROM THE PROCEEDS OF LOANS TO ELIGIBLE MORTGAGE LENDERS; OR

(II) RETURNS REALIZED BY ELIGIBLE MORTGAGE LENDERS;

(4) RESTRICTIONS ON MATURITIES AND OTHER TERMS OF LOANS MADE FROM THE PROCEEDS OF PURCHASES OF MORTGAGE LOANS OR FROM THE PROCEEDS OF LOANS TO ELIGIBLE MORTGAGE LENDERS;

(5) REQUIREMENTS AS TO THE APPLICATION BY ELIGIBLE MORTGAGE LENDERS OF THE PROCEEDS OF THE PURCHASES OR LOANS;

(6) SCHEDULES OF FEES AND CHARGES NECESSARY TO PROVIDE FOR EXPENSES AND RESERVES OF THE ADMINISTRATION;

(7) STANDARDS FOR ALLOCATING MONEY AMONG AREAS OF THE STATE AND AMONG ELIGIBLE MORTGAGE LENDERS; AND

(8) PROVISIONS ON WARRANTIES, REPRESENTATIONS, CERTIFICATIONS, RIGHTS OF INSPECTION AND AUDIT, PROGRAM SANCTIONS, AND OTHER METHODS OF ENSURING COMPLIANCE WITH THE TERMS OF PURCHASE COMMITMENTS AND LOANS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-208(a) and (b).

In subsection (a)(4)(v) of this section, the reference to powers "listed in this subsection" is substituted for the former reference to "these" powers for clarity.

In the introductory language of subsection (b) of this section, the former reference to "rules" is deleted in light of the reference to "regulations". *See* General Revisor's Note to article.

In subsection (b) of this section, the former reference to "[a]ny other matters related to exercise of the powers of the Administration under this section" is deleted as surplusage.

Defined terms: "Administration" § 4-201

"Community development project" § 4-201

"Family of limited income" § 4-201

"Public purpose project" § 4-201

4-238. COMMITMENT TO PURCHASE MORTGAGE LOANS.

(A) NEW MORTGAGE LOANS.

(1) NEW MORTGAGE LOANS THAT THE ADMINISTRATION PURCHASES SHALL BE LOANS TO FAMILIES OF LIMITED INCOME OR TO SPONSORS OF COMMUNITY DEVELOPMENT PROJECTS.

(2) A COMMITMENT THAT THE ADMINISTRATION MAKES TO PURCHASE NEW MORTGAGE LOANS SHALL SPECIFY:

(I) THE INTEREST RATE ON LOANS ELIGIBLE FOR PURCHASE, WHICH MAY NOT EXCEED THE PREVAILING INTEREST RATE ON COMPARABLE MORTGAGE LOANS AVAILABLE IN THE STATE, INDEPENDENT OF PUBLIC ASSISTANCE OR PURCHASE; AND

(II) THE NUMBERS OR VOLUMES OF LOANS UNDER THE COMMITMENT TO BE MADE IN SPECIFIC GEOGRAPHIC AREAS.

(3) FOR ANY RESIDENTIAL MORTGAGE LOANS TO BE USED TO ACQUIRE HOMES FOR FAMILIES OF LIMITED INCOME, THE COMMITMENT SHALL BE LIMITED TO LOANS OF A SPECIFIED AMOUNT PER DWELLING UNIT, BASED ON THE CURRENT AVERAGE SALE PRICE OF NEW HOMES IN THE AREA, AS DETERMINED BY THE ADMINISTRATION.

(B) EXISTING MORTGAGES.

A COMMITMENT THAT THE ADMINISTRATION MAKES TO PURCHASE EXISTING MORTGAGES SHALL REQUIRE THAT THE PROCEEDS OF THE PURCHASE BE:

(1) REINVESTED, WITHIN SPECIFIED TIME LIMITS, IN NEW MORTGAGE LOANS TO:

(I) FAMILIES OF LIMITED INCOME; OR

(II) SPONSORS OF COMMUNITY DEVELOPMENT PROJECTS; OR

(2) INVESTED IN SHORT-TERM OBLIGATIONS PENDING THE PURCHASE OR MAKING OF THE MORTGAGES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-208(c) and (d).

Defined terms: "Administration" § 4-101

"Community development project" § 4-201

"Family of limited income" § 4-201

4-239. LOANS TO ELIGIBLE MORTGAGE LENDERS.

(A) LOAN REQUIREMENT.

(1) A LOAN FROM THE ADMINISTRATION TO AN ELIGIBLE MORTGAGE LENDER SHALL REQUIRE THE ELIGIBLE MORTGAGE LENDER TO MAKE MORTGAGE LOANS IN PRINCIPAL AMOUNTS THAT ADD UP TO AT LEAST THE AMOUNT OF THE LOAN FROM THE ADMINISTRATION TO:

(I) FAMILIES OF LIMITED INCOME; OR

(II) SPONSORS OF COMMUNITY DEVELOPMENT PROJECTS.

(2) AFTER RECEIVING THE LOAN FROM THE ADMINISTRATION, THE ELIGIBLE MORTGAGE LENDER SHALL COMMIT THE AMOUNT OF THE MORTGAGE

LOANS REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION WITHIN THE TIME THE ADMINISTRATION SETS.

(B) REPAYMENT.

(1) A LOAN FROM THE ADMINISTRATION TO A MORTGAGE LENDER IS A GENERAL OBLIGATION OF THE MORTGAGE LENDER AS TO REPAYMENT OF PRINCIPAL AND INTEREST.

(2) REPAYMENT OF PRINCIPAL AND INTEREST SHALL BE SECURED BY A PLEDGE OF AND LIEN ON COLLATERAL SECURITY IN AN AMOUNT THAT THE ADMINISTRATION BY REGULATION DETERMINES TO BE NECESSARY TO SECURE THE LOAN.

(C) COLLATERAL SECURITY.

(1) THE COLLATERAL SECURITY SHALL CONSIST OF:

(I) OBLIGATIONS OF OR GUARANTEED BY THE UNITED STATES, THE STATE, OR A POLITICAL SUBDIVISION;

(II) OBLIGATIONS ISSUED BY A UNIT OF THE FEDERAL GOVERNMENT THAT ARE SATISFACTORY TO THE ADMINISTRATION;

(III) CERTIFICATES OF DEPOSIT, TIME DEPOSITS, OR SIMILAR BANKING ARRANGEMENTS SECURED BY OBLIGATIONS OF OR GUARANTEED BY THE UNITED STATES OR THE STATE;

(IV) MORTGAGES INSURED OR GUARANTEED ENTIRELY OR PARTLY BY THE MARYLAND HOUSING FUND, A UNIT OF THE FEDERAL GOVERNMENT, OR A PRIVATE INSURER THAT THE ADMINISTRATION APPROVES; OR

(V) OTHER MORTGAGES THAT THE ADMINISTRATION FINDS TO BE OF REASONABLY COMPARABLE SECURITY.

(2) THE ADMINISTRATION SHALL REQUIRE THAT:

(I) THE COLLATERAL BE HELD BY A BANK OR TRUST COMPANY AS INDEPENDENT CUSTODIAN; OR

(II) THE MORTGAGE LENDER ENTER INTO A SECURITY AGREEMENT CONTAINING PROVISIONS THAT THE ADMINISTRATION CONSIDERS NECESSARY TO IDENTIFY, MAINTAIN, AND SERVICE THE COLLATERAL.

(D) SECURITY AGREEMENT.

(1) THE SECURITY AGREEMENT SHALL:

(I) PROVIDE THAT THE MORTGAGE LENDER:

1. HOLDS THE COLLATERAL AS AN AGENT FOR THE ADMINISTRATION; AND

2. IS ACCOUNTABLE AS THE TRUSTEE OF AN EXPRESS TRUST FOR THE APPLICATION AND DISPOSITION OF THE COLLATERAL; AND

(II) REQUIRE THAT THE INCOME FROM THE COLLATERAL BE APPLIED ONLY IN ACCORDANCE WITH THE AGREEMENT.

(2) A COPY OF EACH SECURITY AGREEMENT SHALL BE FILED WITH THE SECRETARY OF STATE.

(3) FURTHER FILING OR OTHER ACTION UNDER THE COMMERCIAL LAW ARTICLE OR ANY OTHER LAW OF THE STATE IS NOT REQUIRED TO PERFECT THE SECURITY INTEREST OF THE ADMINISTRATION IN THE COLLATERAL OR ITS PROCEEDS OR IN ANY ADDITION TO OR SUBSTITUTION FOR THE COLLATERAL OR ITS PROCEEDS.

(4) ONCE FILED, LIENS AND TRUSTS CREATED FOR THE BENEFIT OF THE ADMINISTRATION UNDER THIS SUBSECTION ARE BINDING AGAINST EACH PERSON WITH A CLAIM AGAINST THE MORTGAGE LENDER.

(5) THE ADMINISTRATION MAY ESTABLISH ADDITIONAL REQUIREMENTS FOR PLEDGING, ASSIGNING, SETTING ASIDE, OR HOLDING THE COLLATERAL, AND MAKING SUBSTITUTIONS FOR OR ADDITIONS TO IT, AND DISPOSING OF INTEREST AND INCOME FROM IT.

(6) NOTWITHSTANDING ANY OTHER LAW, A LOAN TO A MORTGAGE LENDER AND THE COLLATERAL FOR IT ARE NOT SUBJECT TO ARTICLE 95, § 22 OF THE CODE OR TO § 6-202, § 6-205, § 6-206, § 6-209, OR § 6-210 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-208(e) and (f).

In subsection (d)(4) of this section, the statement that a lien and trust is binding "[o]nce filed" is substituted for the former reference to the binding effect of a lien and trust "from and after the time of such filing" for brevity.

Defined terms: "Administration" § 4-101

"Community development project" § 4-201

"Family of limited income" § 4-201

"Political subdivision" § 1-101

4-240. CERTIFICATE OF MORTGAGE LENDER.

(A) CERTIFICATE REQUIRED.

A MORTGAGE LENDER SHALL MAKE A CERTIFICATE UNDER THIS SECTION FOR EVERY RESIDENTIAL MORTGAGE LOAN THAT THE LENDER MAKES UNDER A PURCHASE COMMITMENT BY THE ADMINISTRATION WITH:

- (1) THE PROCEEDS OF PURCHASE OF A MORTGAGE LOAN BY THE ADMINISTRATION; OR
 - (2) THE PROCEEDS OF A LOAN FROM THE ADMINISTRATION.
- (B) CONTENTS OF CERTIFICATE.

THE CERTIFICATE SHALL STATE THAT IN THE MORTGAGE LENDER'S OPINION, BASED ON INFORMATION GIVEN BY THE MORTGAGOR AND ON THE LENDER'S KNOWLEDGE OF THE PREVAILING TERMS AND STANDARDS OF MORTGAGE LENDING IN THE AREA, THE MORTGAGOR COULD NOT GET A MORTGAGE LOAN ON THE PROPERTY IN THE UNASSISTED PRIVATE LENDING MARKET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-208(g).

Defined terms: "Administration" § 4-101

"Residential mortgage loan" § 4-201

4-241. ASSIGNMENT AND ASSUMPTION OF RESIDENTIAL MORTGAGE LOANS.

EXCEPT AS REQUIRED TO QUALIFY FOR INSURANCE OR GUARANTY BY THE FEDERAL GOVERNMENT, A RESIDENTIAL MORTGAGE LOAN MAY NOT BE ASSIGNED TO OR ASSUMED BY A PERSON NOT QUALIFIED UNDER THE APPROPRIATE ADMINISTRATION PROGRAM IF THE RESIDENTIAL MORTGAGE LOAN IS:

- (1) A NEW LOAN THAT THE ADMINISTRATION PURCHASES OR IN WHICH THE ADMINISTRATION PURCHASES AN INTEREST;
- (2) A LOAN MADE WITH THE PROCEEDS OF PURCHASE BY THE ADMINISTRATION OF A RESIDENTIAL MORTGAGE; OR
- (3) A LOAN MADE WITH THE PROCEEDS OF A LOAN FROM THE ADMINISTRATION TO A MORTGAGE LENDER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-208(h).

Defined terms: "Administration" § 4-101

"Mortgage lender" § 4-201

"Person" §§ 1-101, 4-201

"Residential mortgage loan" § 4-201

4-242. RESERVED.

4-243. RESERVED.

PART V. DEVELOPMENT EXPENDITURES; ADMINISTRATION BONDS AND NOTES.

4-244. POWERS OF ADMINISTRATION.

(A) IN GENERAL.

THE ADMINISTRATION MAY PROVIDE FINANCIAL ASSISTANCE, MEET ANY DEVELOPMENT COST, OR CARRY OUT ANY OTHER OF ITS PURPOSES BY SPENDING:

- (1) MONEY APPROPRIATED BY THE GENERAL ASSEMBLY;
- (2) THE PROCEEDS OF A STATE LOAN TO THE EXTENT PROVIDED BY THE GENERAL ASSEMBLY OR A GOVERNMENTAL UNIT AUTHORIZED TO ISSUE BONDS;
- (3) THE PROCEEDS OF THE BONDS, NOTES, OR OTHER EVIDENCES OF INDEBTEDNESS THAT THE ADMINISTRATION ISSUES, PAYABLE SOLELY FROM REVENUES OF THE ADMINISTRATION AS PROVIDED IN THIS PART; OR
- (4) ANY OTHER MONEY AVAILABLE TO THE ADMINISTRATION FOR COMMUNITY DEVELOPMENT UNDER THIS SUBTITLE:
 - (I) FROM ITS OWN OPERATIONS;
 - (II) FROM INVESTMENT OF THE PROCEEDS OF ITS BONDS, NOTES, OR OTHER INDEBTEDNESS; OR
 - (III) FROM ANY OTHER PUBLIC OR PRIVATE SOURCE.

(B) SURPLUS MONEY.

(1) EXCEPT AS OTHERWISE PROVIDED IN A DETERMINATION MADE UNDER THIS SECTION, THE ADMINISTRATION SHALL DEPOSIT WITH THE STATE TREASURER ANY MONEY THAT IT DOES NOT NEED TO MEET CURRENT EXPENSES AND OBLIGATIONS.

- (2) THE STATE TREASURER SHALL:
- (I) CREDIT THE MONEY TO THE ADMINISTRATION;
 - (II) INVEST THE MONEY AS PROVIDED BY STATUTE; AND
 - (III) CREDIT EARNINGS FROM THE MONEY TO THE ADMINISTRATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-206(a) and (b).

In subsection (a)(1) of this section, the reference to money appropriated by the "General Assembly" is substituted for the former reference to the "legislature" for clarity.

In subsection (a)(3) of this section, the conjunction "or" is substituted for the former conjunction "and" to clarify that the Administration need not use all listed methods to act under this subsection.

In subsection (a)(4)(iii) of this section, the former reference to "sources" is deleted as included in the reference to "source". *See* Art. 1, § 8, which provides that the singular includes the plural unless the construction would be unreasonable.

In subsection (b)(1) of this section, the requirement that "the Administration" shall deposit certain money is added to clarify who must act under this subsection.

Defined terms: "Administration" § 4-101

"Financial assistance" § 1-101

"Governmental unit" § 1-101

4-245. AUTHORITY TO BORROW MONEY AND ISSUE BONDS OR NOTES.

(A) IN GENERAL.

(1) THE ADMINISTRATION MAY:

(I) BORROW MONEY AND ISSUE BONDS OR NOTES; AND

(II) USE THE PROCEEDS OR THE EARNINGS FROM THE INVESTMENT OF THE PROCEEDS TO PROVIDE MONEY TO:

1. MAKE, PURCHASE, OR PARTICIPATE IN MAKING MORTGAGE LOANS OR OTHER LOANS;

2. PURCHASE SECURITIES BACKED BY MORTGAGE LOANS OR OTHER LOANS;

3. PURCHASE LOCAL OBLIGATIONS;

4. MEET ANY DEVELOPMENT COST; OR

5. ACHIEVE ANY OTHER PURPOSE OF THE ADMINISTRATION.

(2) BONDS OR NOTES MAY BE ISSUED ONLY IF:

(I) THE DIRECTOR, OR A PERSON THAT THE SECRETARY DESIGNATES, DETERMINES THAT THE ISSUANCE IS NECESSARY TO ACHIEVE ONE OR MORE PURPOSES OF THE ADMINISTRATION; AND

(II) THE SECRETARY APPROVES THE DETERMINATION.

(3) WITHOUT ANY OTHER PROCEEDING, ACTION, OR APPROVAL, THE DETERMINATION IS EFFECTIVE WHEN APPROVED BY THE SECRETARY AND IS CONCLUSIVE.

(B) TERMS AND CONDITIONS.

FOR BONDS OR NOTES OF ANY ISSUE, THE ADMINISTRATION HAS ABSOLUTE DISCRETION TO DETERMINE:

(1) THE DATE, AMOUNT, AND MANNER OF ISSUE, INCLUDING PRIVATE SALE;

(2) THE DATE OF MATURITY, WHICH:

(I) FOR A BOND, MAY NOT BE MORE THAN 50 YEARS AFTER THE BOND IS ISSUED; AND

(II) FOR A NOTE, INCLUDING RENEWALS, MAY NOT BE MORE THAN 5 YEARS AFTER THE NOTE IS ORIGINALLY ISSUED;

(3) THE PRICE TO BE PAID, WHETHER ABOVE, AT, OR BELOW PAR, THE INTEREST RATE TO BE PAID, AND THE DATES OF PAYMENT;

(4) THE FORM, DENOMINATION, AND MANNER OF EXECUTION, WHICH MAY BE BY FACSIMILE;

(5) THE PLACE OF PAYMENT, WHICH MAY BE ANY BANK OR TRUST COMPANY IN OR OUT OF THE STATE;

(6) WHETHER THEY ARE REDEEMABLE BEFORE MATURITY AND, IF SO, THE TERMS, CONDITIONS, AND PRICES OF THE REDEMPTION; AND

(7) ANY OTHER MATTER RELATING TO THE FORM, TERMS, CONDITIONS, SECURITY, ISSUANCE, SALE, DELIVERY, REPLACEMENT, AND INDEMNIFICATION IN CONNECTION WITH REPLACEMENT OR PAYMENT.

(C) NEGOTIABILITY.

A BOND OR NOTE ISSUED UNDER THIS SECTION IS A NEGOTIABLE INSTRUMENT UNDER STATE LAW NOTWITHSTANDING ANY OTHER PROVISION OF THE CODE OR ANY RECITAL IN THE BOND OR NOTE.

(D) VALIDITY OF SIGNATURES.

THE MANUAL OR FACSIMILE SIGNATURE OF AN OFFICER OR EMPLOYEE OF THE ADMINISTRATION THAT APPEARS ON A BOND, NOTE, OR COUPON IS VALID EVEN IF THE INDIVIDUAL LEAVES OFFICE OR EMPLOYMENT BEFORE DELIVERY OF THE BOND, NOTE, OR COUPON.

(E) FORM OF BONDS OR NOTES.

THE ADMINISTRATION MAY:

- BOTH; AND
- (1) ISSUE ITS BONDS OR NOTES IN COUPON OR REGISTERED FORM OR
 - (2) PROVIDE FOR:
 - (I) REGISTRATION OF COUPON BONDS OR NOTES AS TO PRINCIPAL ONLY OR AS TO BOTH PRINCIPAL AND INTEREST;
 - (II) RECONVERSION INTO COUPON FORM OF BONDS OR NOTES REGISTERED AS TO BOTH PRINCIPAL AND INTEREST; AND
 - (III) INTERCHANGE OF COUPON AND REGISTERED BONDS OR NOTES.
 - (F) APPLICABILITY OF STATE FINANCE AND PROCUREMENT ARTICLE.

A BOND OR NOTE ISSUED UNDER THIS SECTION IS EXEMPT FROM §§ 8-206, 8-208, AND 8-213 THROUGH 8-221 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

- (G) AUTHORITY OF OTHER STATE UNITS.

THE ADMINISTRATION MAY ISSUE A BOND OR NOTE WITHOUT:

- OR
- (1) THE CONSENT OF ANOTHER GOVERNMENTAL UNIT OF THE STATE;
 - (2) A PROCEEDING, OR THE OCCURRENCE OF A CONDITION, OTHER THAN THOSE THAT THIS SECTION EXPRESSLY REQUIRES.
 - (H) PERSONAL LIABILITY.

THE SECRETARY AND ANY OTHER PERSON EXECUTING A BOND OR NOTE UNDER THIS SECTION ARE NOT PERSONALLY LIABLE OR ACCOUNTABLE BECAUSE THE BOND OR NOTE IS ISSUED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-208(c) through (j).

In subsection (a)(1)(ii) of this section, the reference to "proceeds" is substituted for the former word "thereof" for clarity.

In subsection (b) of this section, the former reference to "amount of maturity" is deleted as included in the reference to "any other matter" in subsection (b)(7) of this section.

In subsection (d) of this section, the former phrase "sufficient for all purposes" is deleted in light of the word "valid".

Also in subsection (d) of this section, the former reference to a signature of a person who leaves office or employment before delivery of the bond, note, or coupon "as if the person had remained in the office or employment until delivery" is deleted as surplusage.

Defined terms: "Administration" § 4-101

"Director" § 4-201

"Secretary" § 1-101

4-246. RENEWAL AND REFUNDING.

(A) IN GENERAL.

BY WRITTEN DETERMINATION, THE ADMINISTRATION MAY PROVIDE FOR THE ISSUANCE OF NOTES TO RENEW ITS NOTES, AND BONDS TO PAY ITS NOTES OR TO FUND OR REFUND ITS BONDS, WHETHER OR NOT THE BONDS TO BE REFUNDED HAVE MATURED, INCLUDING THE PAYMENT OF ANY REDEMPTION PREMIUM AND ANY INTEREST ACCRUED OR TO ACCRUE ON THE NOTES OR BONDS TO BE RENEWED, PAID, OR REFUNDED.

(B) GOVERNING LAW.

THE ISSUANCE AND INCIDENTS OF RENEWAL NOTES AND REFUNDING BONDS ARE GOVERNED BY APPLICABLE PROVISIONS OF THIS PART.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-206(k).

In subsection (a) of this section, the reference to a "written" determination is added to conform to the regulations and practice of the Administration.

Defined term: "Administration" § 4-101

4-247. TRUST AGREEMENT.

(A) IN GENERAL.

(1) BONDS OR NOTES THAT THE ADMINISTRATION ISSUES MAY BE SECURED BY A TRUST AGREEMENT BETWEEN THE ADMINISTRATION AND A TRUSTEE THAT IS IN OR OUT OF THE STATE.

(2) A TRUSTEE SHALL BE A TRUST COMPANY OR A BANK WITH TRUST POWERS.

(B) CONTENTS.

A TRUST AGREEMENT OR A DETERMINATION AUTHORIZING THE ISSUANCE OF BONDS OR NOTES MAY CONTAIN:

(1) SUBJECT TO THEN-EXISTING AGREEMENTS WITH BONDHOLDERS OR NOTEHOLDERS, PROVISIONS TO SECURE PAYMENT OF BONDS OR NOTES BY PLEDGING OR ASSIGNING:

(I) ANY OF THE REVENUES OF THE ADMINISTRATION;

(II) A MORTGAGE THAT THE ADMINISTRATION HOLDS, A LOAN THAT THE ADMINISTRATION HAS MADE, OR SECURITY FOR THE MORTGAGE OR LOAN;

(III) THE PROCEEDS OF A BOND OR NOTE OF THE ADMINISTRATION;
OR

(IV) ANY COMBINATION OF THESE AND OTHER ASSETS OF THE ADMINISTRATION;

(2) PROVISIONS TO PROTECT AND ENFORCE RIGHTS AND REMEDIES OF BONDHOLDERS OR NOTEHOLDERS, AND COVENANTS STATING THE DUTIES OF OR RESTRICTIONS ON THE ADMINISTRATION;

(3) PROVISIONS RESTRICTING THE RIGHTS OF BONDHOLDERS OR NOTEHOLDERS;

(4) PROVISIONS THAT APPOINT ONE OR MORE TRUST COMPANIES OR BANKS WITH TRUST POWERS TO ACT AS DEPOSITARIES OF THE PROCEEDS OF BONDS OR NOTES OR OF ANY REVENUES OR MONEY OF THE ADMINISTRATION, WITH ANY INDEMNIFYING BONDS OR SECURITIES REQUIRED BY THE ADMINISTRATION ALLOWED TO BE GIVEN OR PLEDGED BY ANY DEPOSITARY BANK OR TRUST COMPANY INCORPORATED IN THE STATE;

(5) PROVISIONS ON THE CUSTODY, SAFEGUARDING, AND APPLICATION OF MONEY OF THE ADMINISTRATION;

(6) PROVISIONS ON INVESTMENTS OF MONEY OF THE ADMINISTRATION AS THE ADMINISTRATION PROVIDES, NOTWITHSTANDING ARTICLE 95, § 22 OF THE CODE AND §§ 6-202, 6-205, 6-206, 6-209, AND 6-210 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(7) PROVISIONS THAT ESTABLISH AND CONTROL ALL ASPECTS OF RESERVES, INCLUDING DEBT SERVICE RESERVES;

(8) PROVISIONS FOR FUNDING OR REFUNDING BONDS OR NOTES, INCLUDING REDEMPTION PREMIUMS AND INTEREST; AND

(9) ANY OTHER PROVISIONS THAT ARE REASONABLE AND PROPER FOR THE SECURITY OF BONDHOLDERS OR NOTEHOLDERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-208(l).

In subsection (b)(1)(i) of this section, the reference to "any" of the revenues

is substituted for the former reference to "all or any part" of the revenues for brevity.

The Housing Article Review Committee notes, for consideration by the General Assembly, that in subsection (b)(4) of this section, the reference to any depository bank or trust company "incorporated in the State" may constitute an unconstitutional restraint of trade. Also, limiting depository banks and trust companies to those "incorporated in the State" might prove difficult to enforce.

Defined term: "Administration" § 4-101

4-248. REPAYMENT; LIEN.

(A) REVENUES TO ENSURE REPAYMENT.

(1) THE INTEREST RATE OR RATES ON AND THE TERMS OF ANY LOANS AND THE REVENUES FROM THE TERMS OF ANY OTHER ASSETS THAT ARE FINANCED FROM THE PROCEEDS OF BONDS OR NOTES OF THE ADMINISTRATION, ANY FEES THAT THE ADMINISTRATION CHARGES, AND ANY OTHER AVAILABLE REVENUES SHALL BE AT LEAST SUFFICIENT TO ENSURE REPAYMENT IN FULL OF THE PRINCIPAL OF AND INTEREST ON THE BONDS OR NOTES AS AND WHEN DUE.

(2) ANY PLEDGE THAT THE ADMINISTRATION MAKES IS VALID AND BINDING FROM THE TIME THE PLEDGE IS MADE.

(B) LIEN OF PLEDGE.

THE LIEN OF THE PLEDGE:

(1) IMMEDIATELY ATTACHES, WITHOUT ANY PHYSICAL DELIVERY OR FURTHER ACT, TO REVENUES OR PROPERTY SO PLEDGED AND LATER RECEIVED BY THE ADMINISTRATION; AND

(2) IS VALID AND BINDING AGAINST EACH PERSON HAVING A CLAIM AGAINST THE ADMINISTRATION WHETHER OR NOT:

(I) THE PERSON HAS NOTICE OF THE LIEN OF THE PLEDGE; OR

(II) THE DETERMINATION OR ANY OTHER INSTRUMENT HAS BEEN RECORDED OR FILED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-206(m).

In subsection (b)(2) of this section, the reference to "the lien of" the pledge is added for clarity.

Defined terms: "Administration" § 4-101

"Person" §§ 1-101, 4-201

4-249. REPURCHASE; REDEMPTION.

(A) IN GENERAL.

SUBJECT TO AGREEMENTS WITH NOTEHOLDERS OR BONDHOLDERS, THE ADMINISTRATION MAY PURCHASE ITS NOTES OR BONDS WITH ANY MONEY AVAILABLE FOR THE PURCHASE.

(B) PURCHASE PRICE.

THE PURCHASE PRICE MAY NOT EXCEED:

(1) THE REDEMPTION PRICE AT THE TIME OF THE PURCHASE, PLUS ACCRUED INTEREST TO THE NEXT INTEREST PAYMENT DATE, IF THE NOTE OR BOND IS REDEEMABLE, AT THE TIME OF THE PURCHASE; OR

(2) THE REDEMPTION PRICE ON THE FIRST DATE AFTER THE PURCHASE ON WHICH THE NOTE OR BOND BECOMES REDEEMABLE, PLUS ACCRUED INTEREST TO THAT DATE, IF THE NOTE OR BOND IS NOT REDEEMABLE AT THE TIME OF THE PURCHASE.

(C) CANCELLATION.

WHEN THE ADMINISTRATION PURCHASES ITS NOTE OR BOND, THE NOTE OR BOND SHALL BE CANCELED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-206(n).

Defined term: "Administration" § 4-101

4-250. BOND OR NOTE OF ADMINISTRATION -- LEGAL STATUS.

(A) BOND OR NOTE AS LEGAL INVESTMENT.

A BOND OR NOTE ISSUED BY THE ADMINISTRATION UNDER THIS PART IS A LEGAL AND PROPER INVESTMENT FOR:

(1) A PUBLIC OFFICER, A POLITICAL SUBDIVISION, OR A GOVERNMENTAL UNIT;

(2) A BANK, TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION, INVESTMENT COMPANY, OR OTHER PERSON DOING A BANKING BUSINESS;

(3) AN INSURANCE COMPANY, INSURANCE ASSOCIATION, OR OTHER PERSON DOING AN INSURANCE BUSINESS;

(4) A PERSONAL REPRESENTATIVE, GUARDIAN, TRUSTEE, OR OTHER FIDUCIARY; OR

(5) ANY OTHER PERSON.

(B) BOND AS LEGAL DEPOSIT SECURITY.

FOR ANY PURPOSE FOR WHICH THE DEPOSIT OF A BOND OR OTHER OBLIGATION OF THE STATE IS AUTHORIZED BY LAW, A BOND ISSUED BY THE ADMINISTRATION UNDER THIS PART IS A SECURITY THAT MAY LEGALLY AND PROPERLY BE DEPOSITED WITH AND RECEIVED BY A PUBLIC OFFICER, A POLITICAL SUBDIVISION, OR A GOVERNMENTAL UNIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-206(o).

In the introductory language of subsection (a) of this section, the reference to this "part" is substituted for the former reference to this "section" to reflect the organization of this revision.

Also in the introductory language of subsection (a) of this section, the reference to a "legal and proper investment" is substituted for the former reference to "securities in which ... all other persons may legally and properly invest funds, including capital in their control or belonging to them" for accuracy.

Defined terms: "Administration" § 4-101

"Governmental unit" § 1-101

"Person" §§ 1-101, 4-201

"Political subdivision" § 1-101

4-251. BONDS AND NOTES NOT STATE DEBTS.

(A) IN GENERAL.

A BOND OR NOTE ISSUED UNDER THIS PART:

(1) IS NOT A DEBT OF AND DOES NOT PLEDGE THE FAITH, CREDIT, OR TAXING POWER OF THE STATE, THE ADMINISTRATION, OR A POLITICAL SUBDIVISION; BUT

(2) IS PAYABLE ONLY FROM THE REVENUES AND PROPERTY PROVIDED FOR IN THIS SUBTITLE.

(B) REQUIRED STATEMENT.

EACH BOND OR NOTE SHALL STATE ON ITS FACE THE PROVISIONS OF SUBSECTION (A) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-206(p).

Defined terms: "Administration" § 4-101

"Political subdivision" § 1-101

4-252. TAX-EXEMPT STATUS.

THE FOLLOWING ARE EXEMPT AT ALL TIMES FROM TAXATION OF EVERY KIND AND NATURE WHATSOEVER BY THE STATE, A POLITICAL SUBDIVISION, OR A GOVERNMENTAL UNIT OF ANY KIND:

(1) A BOND OR NOTE THAT THE ADMINISTRATION ISSUES UNDER THIS PART;

(2) THE TRANSFER OF, INTEREST PAYABLE ON, OR INCOME DERIVED FROM THE BOND OR NOTE; AND

(3) PROFIT REALIZED BY THE SALE OR EXCHANGE OF THE BOND OR NOTE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-206(q).

In the introductory language of this section, the former reference to "municipal corporations" is deleted as included in the defined term "political subdivision".

Defined terms: "Administration" § 4-101

"Governmental unit" § 1-101

"Political subdivision" § 1-101

4-253. RESERVED.

4-254. RESERVED.

PART VI. PROHIBITED ACTS; PENALTIES.

4-255. FALSE STATEMENTS OR REPORTS.

(A) FALSE STATEMENT OR REPORT -- LOAN AGREEMENT.

A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT OR REPORT IN A DOCUMENT REQUIRED TO BE SUBMITTED TO THE ADMINISTRATION BY AN AGREEMENT RELATING TO A LOAN.

(B) SAME -- LOAN APPLICATION OR LOAN.

A PERSON APPLYING FOR A LOAN MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT OR REPORT TO INFLUENCE THE ACTION OF THE ADMINISTRATION ON A LOAN APPLICATION OR TO INFLUENCE AN ACTION OF THE ADMINISTRATION AFFECTING A LOAN ALREADY MADE.

(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 \$50,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-207.

Defined terms: "Administration" § 4-101

"Person" §§ 1-101, 4-201

SUBTITLE 3. DOWN PAYMENT AND SETTLEMENT EXPENSE LOAN PROGRAM.

4-301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-1001(a).

No changes are made.

(B) ELIGIBLE HOMEBUYER.

"ELIGIBLE HOMEBUYER" MEANS AN INDIVIDUAL WHO MEETS THE QUALIFICATIONS UNDER § 4-305 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to the term "eligible homebuyer".

(C) FUND.

"FUND" MEANS THE HOMEOWNERSHIP PROGRAMS FUND.

REVISOR'S NOTE: This subsection is new language added to provide a concise reference to "Homeownership Programs Fund".

(D) HOMEBUYER EDUCATION.

(1) "HOMEBUYER EDUCATION" MEANS INSTRUCTION IN PREPARING FOR HOMEOWNERSHIP, SHOPPING FOR A HOME, GETTING A MORTGAGE LOAN, LOAN CLOSING, AND LIFE AS A HOMEOWNER.

(2) "HOMEBUYER EDUCATION" INCLUDES HOUSING COUNSELING.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-1001(d).

In paragraph (1) of this subsection, the reference to a mortgage "loan" is added for clarity.

The only other changes are in style.

(E) PROGRAM.

"PROGRAM" MEANS THE DOWN PAYMENT AND SETTLEMENT EXPENSE LOAN PROGRAM.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-1001(g).

As to the title of the Program, *see* § 4-302 of this subtitle.

(F) PROGRAM LOAN.

"PROGRAM LOAN" MEANS A LOAN THAT THE DEPARTMENT MAKES UNDER THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-1001(e).

Defined term: "Department" § 1-101

(G) SETTLEMENT EXPENSES.

(1) "SETTLEMENT EXPENSES" MEANS MONEY THAT MUST BE PAID AT THE TIME OF THE PURCHASE OF REAL ESTATE.

(2) "SETTLEMENT EXPENSES" INCLUDES:

(I) FEES AND PREMIUMS FOR TITLE EXAMINATION, TITLE INSURANCE, AND SIMILAR EXPENSES;

(II) FEES FOR PREPARING DEEDS, SETTLEMENT STATEMENTS, AND OTHER DOCUMENTS;

(III) PAYMENTS OWED AT SETTLEMENT FOR PROPERTY TAXES AND HAZARD INSURANCE COVERAGE;

(IV) ESCROWS FOR FUTURE PAYMENTS OF TAXES AND HAZARD INSURANCE;

(V) FEES FOR NOTARIZING DEEDS AND OTHER DOCUMENTS;

(VI) APPRAISAL FEES;

(VII) FEES FOR CREDIT REPORTS;

(VIII) TRANSFER AND RECORDATION TAXES AND FEES;

(IX) FEES AND PREMIUMS FOR MORTGAGE INSURANCE; AND

(X) LOAN DISCOUNT POINTS AND ORIGINATION FEES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-1001(b).

In paragraph (2)(i) through (iii) of this subsection, the conjunction "and" is substituted for the former conjunction "or" as the standard conjunction used in an inclusive definition.

In paragraph (2) of this subsection, the former reference to "[d]own payments" is deleted from the definition of the term "settlement expenses" for consistency with the name of the "Down Payment and Settlement Expense Loan Program". Accordingly, the term "down payment" is added each time the term "settlement expenses" is used in this subtitle.

REVISOR'S NOTE TO SECTION:

Former Art. 83B, § 2-1001(f), which defined "personal circumstances" to mean the "separation or divorce of the joint tenants" or the "death of one of the joint tenants", is deleted as unnecessary because the phrase "personal circumstances" is not used in this subtitle.

4-302. ESTABLISHED.

THERE IS A DOWN PAYMENT AND SETTLEMENT EXPENSE LOAN PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1002.

The former reference to the Program being "in the Department" is deleted in light of § 4-103 of this title.

The reference to the "Down Payment and Settlement Expense Loan Program" is substituted for the former name "Settlement Expense Loan Program" to conform to the new and more descriptive name that the Department has given to the Program.

4-303. PURPOSE OF PROGRAM.

THE PURPOSE OF THE PROGRAM IS TO PROVIDE FINANCING FOR DOWN PAYMENT AND SETTLEMENT EXPENSES TO ENABLE ELIGIBLE HOMEBUYERS TO PURCHASE HOMES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1003.

The reference to a "down payment" is added to conform to the terminology used throughout this subtitle.

Defined terms: "Eligible homebuyer" § 4-301

"Program" § 4-301

"Settlement expenses" § 4-301

4-304. POWERS AND DUTIES OF THE DEPARTMENT.

(A) POWERS.

THE DEPARTMENT MAY:

- (1) CHARGE AN APPLICATION FEE OR OTHER FEE TO A PROGRAM LOAN APPLICANT OR LENDER;
- (2) PURCHASE OR MAKE COMMITMENTS TO PURCHASE PROGRAM LOANS MADE BY MORTGAGE LENDERS;
- (3) MAKE CONTRACTS WITH THIRD PARTIES TO MAKE OR SERVICE MORTGAGE PROGRAM LOANS MADE FOR THE DEPARTMENT;
- (4) ACQUIRE ANY PROPERTY THAT SECURES A PROGRAM LOAN UNDER THIS SUBTITLE BY GIFT, PURCHASE, FORECLOSURE, OR OTHERWISE, AND SELL OR OTHERWISE DISPOSE OF THE PROPERTY OR AN INTEREST IN THE PROPERTY;
- (5) DELEGATE TO A POLITICAL SUBDIVISION ANY ADMINISTRATIVE OR OPERATIONAL ELEMENT OF THE PROGRAM NOT ASSIGNED TO THE DEPARTMENT UNDER SUBSECTION (B) OF THIS SECTION;
- (6) TAKE ANY OTHER ACTION NECESSARY OR CONVENIENT TO OPERATE THE PROGRAM; AND
- (7) REQUIRE A POLITICAL SUBDIVISION THAT ADMINISTERS ITS OWN DOWN PAYMENT AND SETTLEMENT EXPENSE LOAN PROGRAM TO INFORM THE DEPARTMENT OF THE POLITICAL SUBDIVISION'S HOMEBUYER EDUCATION REQUIREMENTS.

(B) DUTIES.

THE DEPARTMENT SHALL:

- (1) ADMINISTER THE PROGRAM;
- (2) ATTACH TO A PROGRAM LOAN THE TERMS NEEDED TO CARRY OUT THE PROGRAM;
- (3) ESTABLISH ELIGIBILITY STANDARDS FOR PROGRAM LOANS, CONSIDERING STATE, REGIONAL, AND COUNTY HOUSING COSTS, MEDIAN INCOMES, AND HOUSEHOLD SIZES;
- (4) ESTABLISH GUIDELINES TO DETERMINE WHAT PARTS OF THE DOWN PAYMENT AND SETTLEMENT EXPENSES MAY BE COVERED BY THE PROGRAM LOAN; AND
- (5) ADOPT REGULATIONS TO CARRY OUT THE PROGRAM.

(C) ACTION BY BOARD OF PUBLIC WORKS OR DEPARTMENT OF GENERAL SERVICES.

THE SALE OR PURCHASE OF PROPERTY THAT THE DEPARTMENT ACQUIRES OR DISPOSES OF UNDER THIS SECTION NEED NOT BE APPROVED OR EXECUTED BY THE BOARD OF PUBLIC WORKS OR THE DEPARTMENT OF GENERAL SERVICES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1005.

In subsection (a)(2) of this section, the former reference to the power of the Department to purchase or commit to purchase a Program loan made by a mortgage lender "in conformity with this subtitle and with any regulations or directives issued by the Department" is deleted as implicit. Similarly, in subsection (a)(3) of this section, the former reference to the power of the Department to enter into contracts with third parties who would make or service mortgage Program loans made, on behalf of the Department, "in accordance with this subtitle" is deleted.

In subsection (a)(4) of this section, the former phrase "[s]ubject to subsection (c) of this section" is deleted because subsection (c) does not affect subsection (a)(4).

In subsection (a)(5) of this section, the reference to an element "not assigned to the Department under subsection (b) of this section" is substituted for the former reference to "[s]ubject to subsection (a) of this section" for clarity.

Also in subsection (a)(5) of this section, the defined term "political subdivision[s]" is substituted for the former reference to "local jurisdictions" to conform to the terminology used throughout this article. Similarly, in subsection (a)(7) of this section, the references to "political subdivision" are substituted for the former references to "local jurisdiction".

In subsection (a)(6) of this section, the former reference to the "effective" operation of the Program is deleted as surplusage.

In subsections (a)(7) and (b)(4) of this section, the references to "down payment" are added to conform to the terminology used throughout this subtitle.

In subsection (a)(7) of this section, the reference to "the political subdivision's" requirements is added for clarity.

Also in subsection (a)(7) of this section, the reference to a political subdivision administering "its own" down payment and settlement expense loan program is added for clarity.

Also in subsection (a)(7) of this section, the former reference to "housing

counseling" is deleted as included in the defined term "homebuyer education".

In subsection (b)(1) of this section, the former requirements to "supervise" and "[m]anage" are deleted as included in the requirement to "administer" the Program.

In subsection (b)(2) of this section, the reference to the word "needed" is substituted for the former reference to the phrase "as may be necessary" for clarity.

Also in subsection (b)(2) of this section, the former reference to "specific" terms is deleted as surplusage.

In subsection (b)(5) of this section, the former requirement that the Department adopt regulations "in conformity with statutory requirements" is deleted as unnecessary. *See* Title 2, Subtitle 10 of the State Government Article.

Defined terms: "County" § 1-101

"Department" § 1-101

"Homebuyer education" § 4-301

"Political subdivision" § 1-101

"Program" § 4-301

"Program loan" § 4-301

"Settlement expenses" § 4-301

4-305. ELIGIBLE HOMEBUYER.

AN INDIVIDUAL QUALIFIES AS AN ELIGIBLE HOMEBUYER IF THE INDIVIDUAL:

(1) WILL PURCHASE AND OCCUPY A SINGLE-UNIT PRINCIPAL RESIDENCE AND HAS HOUSEHOLD INCOME NOT EXCEEDING UPPER LIMITS THAT THE SECRETARY ESTABLISHES; OR

(2) WILL PURCHASE AND OCCUPY A RESIDENTIAL BUILDING WITH NO MORE THAN FOUR UNITS AND AGREES TO RENT ALL UNITS OTHER THAN THE OWNER'S UNIT TO HOUSEHOLDS WITH INCOME NOT EXCEEDING UPPER LIMITS THAT THE SECRETARY ESTABLISHES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1001(c).

It is revised as a substantive provision for clarity.

In the introductory language of this section, the reference to an "individual" is substituted for the former reference to a "person or persons" because an eligible homebuyer can be only a human being and not the other entities included in the defined term "person".

In item (1) of this section, the reference to a "principal" residence is substituted for the former reference to a "primary" residence to conform to the terminology used throughout this subtitle.

Defined terms: "Eligible homebuyer" § 4-301

"Secretary" § 1-101

4-306. OPERATION OF PROGRAM.

THE PROGRAM SHALL BE OPERATED WITH MONEY IN THE FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from the first clause of former Art. 83B, § 2-1006(a).

Defined terms: "Fund" § 4-301

"Program" § 4-301

4-307. PROGRAM LOANS.

(A) USES.

PROCEEDS OF A PROGRAM LOAN SHALL BE USED ONLY TO MAKE A DOWN PAYMENT OR PAY SETTLEMENT EXPENSES FOR AN ELIGIBLE HOMEBUYER TO PURCHASE A PERSONAL RESIDENCE.

(B) SECURITY BY MORTGAGE LIEN.

A PROGRAM LOAN SHALL BE SECURED BY A MORTGAGE LIEN THAT:

(1) MAY BE SUBORDINATE TO OTHER MORTGAGE LIENS; AND

(2) MAY INCLUDE TERMS, INCLUDING DEFERRED PAYMENT OF PRINCIPAL AND INTEREST, THAT THE DEPARTMENT CONSIDERS NECESSARY TO MAKE HOUSING PURCHASES AFFORDABLE TO ELIGIBLE HOMEBUYERS.

(C) REVIEW PROCESS OF LOAN APPLICATION.

IN REVIEWING AN APPLICATION FOR A PROGRAM LOAN, THE DEPARTMENT SHALL:

(1) CONSIDER THE ELIGIBLE HOMEBUYER'S FINANCIAL RESOURCES, INCLUDING SAVINGS AVAILABLE TO MAKE A DOWN PAYMENT OR PAY SETTLEMENT EXPENSES, IN RELATION TO:

(I) THE PURCHASE PRICE OF THE HOME; AND

(II) THE DOWN PAYMENT REQUIREMENTS OF THE LENDER; AND

(2) GIVE HIGH PRIORITY TO ELIGIBLE HOMEBUYERS OF LOW INCOME WITHIN THE INCOME LIMITS ESTABLISHED UNDER § 4-304(B)(3) OF THIS SUBTITLE.

(D) DUE AND PAYABLE ON SALE OR TRANSFER.

NOTWITHSTANDING ANY OTHER LAW, THE DEPARTMENT MAY REQUIRE THAT PROGRAM LOANS BECOME DUE AND PAYABLE ON THE LATER SALE OR TRANSFER OF THE PROPERTY, BUT THE DEPARTMENT MAY ALLOW AN ELIGIBLE HOMEBUYER WHO PURCHASES THE PROPERTY TO ASSUME THE PROGRAM LOAN.

(E) DEFAULT.

IF A BORROWER DEFAULTS, THE DEPARTMENT MAY MODIFY THE INTEREST RATE, THE TIME OR AMOUNT OF PAYMENT, OR ANY OTHER TERM OF A PROGRAM LOAN TO FACILITATE REPAYMENT OF THE PROGRAM LOAN AND TO ACHIEVE THE PURPOSE OF THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1004.

In subsections (a) and (c)(1) of this section, the references to "down payment" are added to conform to the terminology used throughout this subtitle.

In subsection (a) of this section, the reference to "[p]roceeds" of a Program loan is added for clarity.

In the introductory language of subsection (c) of this section, the phrase "[i]n reviewing an application" for a Program loan is substituted for the former phrase "[i]n approving" loans to avoid the erroneous implication that all applications for Program loans must be approved.

In subsection (c) of this section, the references to the defined term "eligible homebuyer" are substituted for the former references to a "homebuyer" to conform to the terminology used in this subtitle.

In subsection (d) of this section, the former phrase "[e]xcept as provided in paragraph (2) of this subsection" is deleted because paragraph (2) of the former law did not contain an exception.

Also in subsection (d) of this section, the former reference to "any provision of this subtitle or ... regulation" is deleted as included in the reference to any "law".

Also in subsection (d) of this section, the reference to the "later" sale or transfer is added for clarity.

Defined terms: "Department" § 1-101

"Eligible homebuyer" § 4-301

"Program" § 4-301

"Program loan" § 4-301

"Settlement expenses" § 4-301

4-308. HOMEBUYER EDUCATION.

(A) DUTY OF PROGRAM LOAN RECIPIENT.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A RECIPIENT OF A PROGRAM LOAN SHALL COMPLETE HOMEBUYER EDUCATION THAT MEETS THE REQUIREMENTS OF THE DEPARTMENT.

(B) EXCEPTION.

IF THE POLITICAL SUBDIVISION IN WHICH A PROGRAM LOAN RECIPIENT WILL USE A PROGRAM LOAN ADMINISTERS A DOWN PAYMENT OR SETTLEMENT EXPENSE LOAN PROGRAM THAT REQUIRES HOMEBUYER EDUCATION, THE HOMEBUYER EDUCATION TO BE COMPLETED BY THE PROGRAM LOAN RECIPIENT MUST MEET THE MORE STRINGENT OF THE REQUIREMENTS OF THE DEPARTMENT AND THE REQUIREMENTS OF THE POLITICAL SUBDIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1008.

The former references to "housing counseling" are deleted as included in the defined term "homebuyer education".

In subsection (b) of this section, the defined term "political subdivision" is substituted for the former reference to "local jurisdiction" to conform to the terminology used throughout this division.

Defined terms: "Department" § 1-101

"Eligible homebuyer" § 4-301

"Homebuyer education" § 4-301

"Political subdivision" § 1-101

"Program loan" § 4-301

"Settlement expenses" § 4-301

4-309. FALSE STATEMENTS OR REPORTS.

(A) PROHIBITED.

(1) A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT OR REPORT IN A DOCUMENT REQUIRED TO BE SUBMITTED TO THE DEPARTMENT UNDER AN AGREEMENT RELATING TO A PROGRAM LOAN.

(2) A LOAN APPLICANT MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE ANY FALSE STATEMENT OR REPORT TO INFLUENCE AN ACTION OF THE DEPARTMENT ON A PROGRAM LOAN APPLICATION OR A PROGRAM LOAN ALREADY MADE.

(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 \$50,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1007.

Defined terms: "Department" § 1-101

"Person" § 1-101

"Program loan" § 4-301

SUBTITLE 4. ELDERLY RENTAL HOUSING PROGRAM.

4-401. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-801(a).

No changes are made.

(B) ELDERLY HOUSEHOLD.

"ELDERLY HOUSEHOLD" MEANS ONE OR MORE INDIVIDUALS WHO OCCUPY A RESIDENTIAL DWELLING UNIT, AT LEAST ONE OF WHOM IS:

(1) AT LEAST 62 YEARS OLD; OR

(2) PHYSICALLY HANDICAPPED AND WOULD QUALIFY AS AN ELDERLY PERSON UNDER A FEDERAL HOUSING PROGRAM.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-801(d).

Defined term: "Person" § 1-101

(C) FUND.

"FUND" MEANS THE RENTAL HOUSING PROGRAM FUND.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to the Rental Housing Program Fund.

(D) PROGRAM.

"PROGRAM" MEANS THE ELDERLY RENTAL HOUSING PROGRAM.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-801(h).

No changes are made.

4-402. ESTABLISHED.

THERE IS AN ELDERLY RENTAL HOUSING PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-803.

The former phrase "of the Administration" is deleted in light of § 4-103 of this title.

Defined term: "Administration" § 4-101

4-403. PURPOSES OF PROGRAM.

THE PURPOSES OF THE PROGRAM ARE TO:

(1) STIMULATE THE PRODUCTION OF RENTAL HOUSING, INCLUDING CONVERSION OF EXISTING RENTAL HOUSING, FOR OCCUPANCY BY ELDERLY HOUSEHOLDS;

(2) INCREASE THE SUPPLY OF DECENT, SAFE, AND SANITARY RENTAL HOUSING AT COSTS THAT ARE AFFORDABLE TO LOW-INCOME ELDERLY HOUSEHOLDS;

(3) USE AVAILABLE RESOURCES TO SERVE THE ELDERLY HOUSEHOLDS THAT ARE MOST IN NEED; AND

(4) RELIEVE UNEMPLOYMENT BY STIMULATING THE CONSTRUCTION OR SUBSTANTIAL REHABILITATION OF ELDERLY RENTAL HOUSING PROJECTS OR THE CONVERSION OF EXISTING RENTAL HOUSING PROJECTS FOR OCCUPANCY BY ELDERLY HOUSEHOLDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-802.

In item (3) of this section, the word "elderly" is added to conform to the defined term "elderly household". Similarly, in item (4) of this section, the term "elderly rental housing project[s]" is substituted for the former reference to "elderly rental housing" to conform to the defined term "elderly rental housing project". See § 4-101 of this subtitle.

In items (1), (2), and (4) of this section, the former references to "in this State" are deleted as surplusage.

In item (4) of this section, the former reference to "conditions" of unemployment is deleted as surplusage.

Defined terms: "Elderly household" § 4-401

"Elderly rental housing project" § 4-101

"Program" § 4-401

4-404. POWERS AND DUTIES OF ADMINISTRATION -- IN GENERAL.

(A) DUTIES OF ADMINISTRATION.

THE ADMINISTRATION SHALL:

- (1) ADMINISTER THE PROGRAM;
- (2) ADOPT POLICIES TO ENSURE THAT RENTAL PROPERTY IS MADE AVAILABLE TO LOW-INCOME ELDERLY HOUSEHOLDS; AND
- (3) USE FEDERAL AND STATE PROGRAMS TO HELP CARRY OUT THE PROGRAM.

(B) GUIDELINES.

THE ADMINISTRATION SHALL SET INCOME GUIDELINES BY CONSIDERING:

- (1) THE MEDIAN INCOME FOR THE AREA;
- (2) THE MINIMUM INCOME NEEDED TO AFFORD AVAILABLE STANDARD RENTAL UNITS IN THE AREA; AND
- (3) ANY OTHER FACTOR THE ADMINISTRATION CONSIDERS RELEVANT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-804(c) and (b)(1), (2), and (4), and, as it related to the Program, 2-806.

In subsection (a)(1) of this section, the former references to "[m]anag[ing]" and "supervis[ing]" the Program are deleted as included in the reference to "administer[ing]" it.

Former Art. 83B, § 2-804(a), which stated that, in addition to specific powers granted and duties imposed elsewhere, the Administration has the powers and duties set forth in this section, is deleted as surplusage.

The Housing Article Review Committee notes, for consideration by the General Assembly, that under subsection (a) of this section, the Community Development Administration and not the Department of Housing and Community Development is required to administer the Program. This requirement was enacted when the Administration was in the Department of Economic and Community Development. By contrast, all other programs in this title are required to be administered by the Department of Housing and Community Development, which now includes the Administration. *See, e.g.*, § 4-304(b)(1) (Down Payment and Settlement Expense Loan Program) and § 4-605(1) (Group Home Financing Program). For consistency, the General Assembly may wish to assign administration of the Program to the Department of Housing and Community

Development.

Defined terms: "Administration" § 4-101

"Elderly household" § 4-401

"Program" § 4-401

4-405. SAME -- ADDITIONAL OR REPLACED MONEY.

TO ACHIEVE THE PURPOSES OF THE FUND, THE ADMINISTRATION SHALL, FROM TIME TO TIME, ASK THE STATE TO INCREASE OR REPLACE AMOUNTS DEPOSITED WITH THE STATE TREASURER IN THE FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-810.

Defined terms: "Administration" § 4-101

"Fund" § 4-401

4-406. REGULATIONS.

(A) IN GENERAL.

THE ADMINISTRATION SHALL ADOPT REGULATIONS TO CARRY OUT THE PROGRAM.

(B) CONTENTS.

THE REGULATIONS SHALL PROVIDE FOR:

- (1) APPLICATIONS FOR MONEY FROM THE FUND;
- (2) STANDARDS OF ELIGIBILITY, TERMS, AND FEES;
- (3) CHARGES THAT SHALL BE IMPOSED ON DEFERRED PAYMENT, SUBORDINATED LOANS; AND
- (4) THE RECAPTURE OF MONEY OF THE FUND FROM A BORROWER THAT DOES NOT USE THE MONEY IN A TIMELY MANNER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-809 and 2-804(d) and (b)(3).

In subsection (a) of this section, the former requirement that the Administration "[d]evelop" regulations is deleted as implicit in the requirement that the Administration "adopt" regulations.

Also in subsection (a) 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) of this section, the former phrase "in conformance

with statutory requirements" is deleted as implicit in the reference to adopting "regulations".

In subsection (b)(4) of this section, the reference to a "borrower" is substituted for the former reference to the "local governments or developer" for brevity.

Defined terms: "Administration" § 4-101

"Fund" § 4-401

"Program" § 4-401

4-407. ELDERLY RENTAL HOUSING PROJECT.

(A) IN GENERAL.

A PROJECT QUALIFIES AS AN ELDERLY RENTAL HOUSING PROJECT, IF:

(1) ITS PURPOSE IS TO ACQUIRE, CONSTRUCT, OR REHABILITATE ALL OR PART OF A BUILDING OR IMPROVEMENT THAT WILL BE OCCUPIED BY LOW-INCOME ELDERLY HOUSEHOLDS AS PROVIDED IN THIS SUBSECTION;

(2) SOME DWELLING UNITS IN THE PROJECT ARE SET ASIDE FOR LOW-INCOME ELDERLY HOUSEHOLDS FOR AT LEAST THE GREATER OF 15 YEARS OR THE NUMBER OF YEARS REQUIRED BY FEDERAL LAW; AND

(3) THE NUMBER OF DWELLING UNITS SO SET ASIDE IS AT LEAST THE GREATEST OF:

(I) THE NUMBER THAT BEARS THE SAME RATIO TO THE WHOLE NUMBER OF DWELLING UNITS IN THE PROJECT AS THE AMOUNT OF THE PROGRAM LOAN BEARS TO THE WHOLE FINANCING OF THE UNDERTAKING;

(II) THE NUMBER OF DWELLING UNITS CHOSEN BY THE SPONSOR TO SATISFY FEDERAL OCCUPANCY REQUIREMENTS, IF THE PROJECT RECEIVES FEDERAL LOW-INCOME HOUSING TAX CREDITS; AND

(III) THE NUMBER OF DWELLING UNITS REQUIRED FOR COMMUNITY DEVELOPMENT PROJECTS UNDER § 4-217(B)(1)(II) OF THIS TITLE OR THE NUMBER OF DWELLING UNITS THAT THE ISSUER OF THE BONDS CHOOSES, WHICHEVER IS GREATER, IF PART OF THE COSTS OF THE PROJECT IS FINANCED WITH GOVERNMENT-ISSUED FEDERALLY TAX-EXEMPT REVENUE BONDS.

(B) DWELLING UNITS COUNTED TOWARD MINIMUM REQUIREMENT.

DWELLING UNITS THAT MAY BE COUNTED TOWARD THE MINIMUM NUMBER REQUIRED UNDER SUBSECTION (A) OF THIS SECTION INCLUDE:

(1) A DWELLING UNIT SET ASIDE FOR OCCUPANCY TO MEET ANOTHER FEDERAL OR STATE OCCUPANCY REQUIREMENT; AND

(2) A DWELLING UNIT THAT IS FOR SINGLE ROOM OCCUPANCY OR IS FOR SHARED LIVING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-801(e).

In subsection (a)(3)(i) of this section, the phrase "bears the same ratio" is substituted for the former phrase "is equal to the proportion of" the amount of the program loan for accuracy.

Defined terms: "Elderly household" § 4-401

"Elderly rental housing project" § 4-101

4-408. APPLICATION FOR LOAN.

(A) REQUIRED REVIEW.

THE ADMINISTRATION SHALL REVIEW APPLICATIONS FOR LOANS SUBMITTED BY PRIVATE OR NONPROFIT SPONSORS, POLITICAL SUBDIVISIONS, OR LOCAL HOUSING AUTHORITIES ESTABLISHED UNDER ARTICLE 44A OF THE CODE ON BEHALF OF SPONSORS OF PROPOSED ELDERLY RENTAL HOUSING PROJECTS.

(B) REVIEW PROCESS.

IN REVIEWING AN APPLICATION FOR A DEFERRED PAYMENT LOAN UNDER § 4-409 OF THIS SUBTITLE, THE ADMINISTRATION SHALL CONSIDER:

(1) THE DEGREE OF LOCAL GOVERNMENT INCENTIVE AND SUPPORT PROVIDED TO THE PROPOSED RESIDENTIAL RENTAL FACILITY SUPPORTED BY MONEY FROM THE FUND, INCLUDING CONTRIBUTION OF LAND, ABATEMENT OF TAXES OR FEES, DIRECT OR INDIRECT RENTAL SUBSIDIES, AND GRANTS;

(2) THE EXTENT TO WHICH LOW-INCOME ELDERLY HOUSEHOLDS WILL BE ASSISTED BY GRANTING THE APPLICATION;

(3) THE NUMBER AND PERCENTAGE OF LOW-INCOME ELDERLY HOUSEHOLDS IN THE POLITICAL SUBDIVISION; AND

(4) THE QUANTITY AND CONDITION OF RESIDENTIAL PROPERTY IN THE POLITICAL SUBDIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-808.

In subsections (a) and (b)(3) and (4) of this section, the defined term "political subdivision[s]" is substituted for the former references to "count[ies]" and "municipalit[ies]" for brevity.

In subsection (a) of this section, the reference to "authorities" established under Article 44A is substituted for the former reference to "agencies" to conform to the terminology used in Article 44A.

Also in subsection (a) of this section, the former phrase "acquisition, construction, or rehabilitation of, or conversion to" elderly rental housing projects is deleted as surplusage.

In the introductory language of subsection (b) of this section, the reference to "reviewing" an application is substituted for the former reference to "approving" an application to avoid the erroneous implication that all applications must be approved.

Defined terms: "Administration" § 4-101

"County" § 1-101

"Elderly household" § 4-401

"Elderly rental housing project" § 4-101

"Fund" § 4-401

"Political subdivision" § 1-101

4-409. DEFERRED PAYMENT LOANS.

(A) USE OF LOANS.

MONEY IN THE FUND MAY BE USED TO MAKE A DEFERRED PAYMENT LOAN TO AN APPROVED APPLICANT TO:

(1) ACQUIRE, CONSTRUCT, OR REHABILITATE AN ELDERLY RENTAL HOUSING PROJECT; OR

(2) CONVERT EXISTING RENTAL HOUSING TO AN ELDERLY RENTAL HOUSING PROJECT.

(B) LOANS SUBORDINATE TO OTHER FINANCING.

A DEFERRED PAYMENT LOAN UNDER THIS SECTION MAY BE SUBORDINATE TO OTHER FINANCING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-807.

In subsection (a)(2) of this section, the former reference to elderly rental housing projects "for occupancy by elderly households" is deleted as surplusage.

Former Art. 83B, § 2-801(c), which defined "applicant" to mean "private or nonprofit sponsors, counties, municipalities, or local housing agencies established under Article 44A of the Code" is deleted as unnecessary.

Defined terms: "Elderly household" § 4-401

"Elderly rental housing project" § 4-101

"Fund" § 4-401

"Political subdivision" § 4-101

SUBTITLE 5. FUNDS.

4-501. IN GENERAL.

(A) STATUS OF FUND.

(1) EACH FUND ESTABLISHED UNDER THIS SUBTITLE IS A CONTINUING, NONLAPSING SPECIAL FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD AND THE COMPTROLLER SHALL ACCOUNT FOR EACH FUND ESTABLISHED UNDER THIS SUBTITLE.

(B) INVESTMENT OF FUNDS.

MONEY IN A FUND ESTABLISHED UNDER THIS SUBTITLE SHALL BE INVESTED IN THE SAME WAY AS OTHER STATE MONEY.

(C) APPROPRIATIONS TO RENTAL HOUSING PROGRAMS FUND AND SPECIAL LOAN PROGRAMS FUND.

(1) IN THE STATE BUDGET, THE STATE MAY APPROPRIATE TO THE RENTAL HOUSING PROGRAMS FUND AND THE SPECIAL LOAN PROGRAMS FUND ALL OR PART OF THE MONEY RECEIVED AS REPAYMENT OF PRINCIPAL OR PAYMENT OF INTEREST ON A LOAN MADE BY THE MARYLAND HOUSING REHABILITATION PROGRAM.

(2) THE APPROPRIATION MAY BE INCREASED BY BUDGET AMENDMENT.

(3) THE AMOUNT OF REPAYMENTS APPROPRIATED TO MAKE LOANS UNDER THE MARYLAND HOUSING REHABILITATION PROGRAM MAY NOT EXCEED \$12,000,000 ANNUALLY.

(4) THE STATE MAY NOT APPROPRIATE REPAYMENT OF PRINCIPAL AND PAYMENT OF INTEREST TO THE MARYLAND HOUSING REHABILITATION PROGRAM TO THE EXTENT THAT LOANS EXPECTED TO BE MADE WITH THE MONEY APPROPRIATED WOULD CAUSE THE PRINCIPAL AMOUNT OF LOANS OUTSTANDING TO EXCEED \$100,000,000.

REVISOR'S NOTE: Subsection (a) of this section is new language derived without substantive change from the second clause of former Art. 83B, § 2-613(b)(1) and the second clause of (a), § 2-708(c)(1) and the second clause of (a), § 2-805(c) and the first sentence of (a), § 2-1006(c)(1) and the second clause of (a), the first sentence of § 2-1109(b) and the first clause of (a), and the second clause of § 2-1409(a).

Subsection (b) of this section is new language derived without substantive change from the second sentence of former Art. 83B, § 2-313(d), the second sentence of § 2-505(c), the first sentence of § 2-613(b)(2), § 2-708(c)(2), the second sentence of § 2-805(c), and the second sentence of § 2-1109(b).

Subsection (c) of this section is new language derived without substantive change from former Art. 83B, § 2-313(e).

In subsection (a)(1) of this section, the statement that the Fund "is not subject to § 7-302 of the State Finance and Procurement Article" is standard language added to special fund sections to ensure that unspent balances of appropriations made from the Fund do not revert to the General Fund.

In subsection (b) of this section, the former reference to money being "reinvested" is deleted as implicit in the reference to money being "invested".

In subsection (c) of this section, the reference to "the Rental Housing Programs Fund and the Special Loan Programs Fund" is substituted for the former reference to the "Funds", for clarity.

4-502. HOMEOWNERSHIP PROGRAMS FUND.

(A) "FUND" DEFINED.

IN THIS SECTION, "FUND" MEANS THE HOMEOWNERSHIP PROGRAMS FUND.

(B) ESTABLISHED.

THERE IS A HOMEOWNERSHIP PROGRAMS FUND.

(C) PURPOSES OF FUND.

AS PROVIDED IN THE STATE BUDGET, THE DEPARTMENT SHALL USE THE FUND TO:

(1) PAY EXPENSES OF THE MARYLAND HOME FINANCING PROGRAM, INCLUDING RESERVES FOR ANTICIPATED FUTURE LOSSES DIRECTLY RELATED TO THE MARYLAND HOME FINANCING PROGRAM;

(2) MAKE LOANS UNDER THE MARYLAND HOME FINANCING PROGRAM;
AND

(3) MAKE LOANS AND PAY EXPENSES OF THE DOWN PAYMENT AND SETTLEMENT EXPENSE LOAN PROGRAM.

(D) COMPOSITION.

THE FUND CONSISTS OF:

(1) MONEY APPROPRIATED BY THE STATE FOR HOMEOWNERSHIP PROGRAMS, INCLUDING THE MARYLAND HOME FINANCING PROGRAM UNDER SUBTITLE 8 OF THIS TITLE AND THE DOWN PAYMENT AND SETTLEMENT EXPENSE LOAN PROGRAM UNDER SUBTITLE 3 OF THIS TITLE;

(2) MONEY FROM THE SALE OF THE STATE'S GENERAL OBLIGATION BONDS;

(3) REPAYMENTS OR PREPAYMENTS OF PRINCIPAL AND PAYMENTS OF INTEREST ON LOANS MADE UNDER THE MARYLAND HOME FINANCING PROGRAM, THE HOMEOWNERS' EMERGENCY MORTGAGE ASSISTANCE PROGRAM, THE REVERSE EQUITY PROGRAM, OR THE DOWN PAYMENT AND SETTLEMENT EXPENSE LOAN PROGRAM, FORMERLY THE SETTLEMENT EXPENSE LOAN PROGRAM;

(4) MONEY TRANSFERRED TO THE FUND IN ACCORDANCE WITH §§ 4-503(D), 4-504(F), AND 4-505(H) OF THIS SUBTITLE AND § 6-310(G) OF THIS ARTICLE; AND

(5) INVESTMENT EARNINGS OF THE FUND.

(E) TRANSFERS.

SUBJECT TO § 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE AND EXCEPT AS OTHERWISE PROVIDED IN THE STATE BUDGET, AFTER THE FIRST 8 MONTHS OF A FISCAL YEAR, THE DEPARTMENT MAY TRANSFER UNENCUMBERED MONEY IN THE FUND TO ANY OTHER FUND ESTABLISHED UNDER THIS TITLE.

(F) CREDITS TO ANNUITY BOND FUND.

MONEY RECEIVED AS REPAYMENT OF PRINCIPAL OR PAYMENT OF INTEREST ON A LOAN MADE UNDER THE MARYLAND HOME FINANCING PROGRAM THAT IS NOT APPROPRIATED IN THE STATE BUDGET MAY BE CREDITED TO THE ANNUITY BOND FUND AND USED TO PAY THE PRINCIPAL OF OR INTEREST ON MONEY BORROWED BY THE STATE AND APPROPRIATED TO THE MARYLAND HOME FINANCING PROGRAM.

REVISOR'S NOTE: Subsection (a) of this section is new language added to provide a convenient reference to the Homeownership Programs Fund.

Subsection (b) of this section is standard language added to state explicitly that the Homeownership Programs Fund exists.

Subsections (c) through (f) of this section are new language derived without substantive change from former Art. 83B, § 2-613(b) through (e) and, as they referred to the composition of the Maryland Home Financing Program, §§ 2-613(a), and 2-1006(a), (b), (d), and (c)(2).

In the introductory language of subsection (c) of this section, the former reference to the "annual" budget of the State is deleted as implicit in the reference to the "State budget".

Also in the introductory language of subsection (c) of this section, the former reference to "other act appropriating moneys" is deleted in light of the comprehensive reference to the "State budget".

In subsection (c)(1) of this section, the reference to the Maryland Home

Financing Program is substituted for the former reference to "Program" for clarity.

In subsection (d)(3) of this section, the reference to the "Down Payment and Settlement Expense Loan Program, formerly the Settlement Expense Loan Program" is substituted for the former reference to the "Settlement Expense Loan Program" to clarify that repayments or prepayments of principal and payments of interest on loans made under the Program are part of the Fund, regardless of the name of the Program at the time they were made.

Also in subsection (d)(3) of this section, the former limited reference to the Maryland Home Financing Program "prior to July 1, 1989" is deleted in light of the comprehensive reference to "the Maryland Home Financing Program". Similarly, the former reference to the Down Payment and Settlement Expense Loan Program "prior to or after July 1, 1989" is deleted.

In subsection (d)(4) of this section, the former reference to money credited "to the Reverse Equity Program or the Homeowners' Emergency Mortgage Assistance Program [being transferred] ... to the Homeownership Programs Fund as of July 1, 1989" is deleted as obsolete.

Former Art. 83B, § 2-1006(a)(4) which stated "[a]ll other moneys referred to in § 2-613(a) of this title which are not otherwise set forth in this subsection" is deleted as surplusage, because all of former § 2-613(a) is revised in this subsection.

Defined term: "Department" § 1-101

4-503. PARTNERSHIP RENTAL HOUSING FUND.

(A) "FUND" DEFINED.

IN THIS SECTION, "FUND" MEANS THE PARTNERSHIP RENTAL HOUSING FUND.

(B) ESTABLISHED.

THERE IS A PARTNERSHIP RENTAL HOUSING FUND.

(C) COMPOSITION.

THE FUND CONSISTS OF:

(1) MONEY APPROPRIATED BY THE STATE TO THE PARTNERSHIP RENTAL HOUSING PROGRAM;

(2) MONEY MADE AVAILABLE TO THE PARTNERSHIP RENTAL HOUSING PROGRAM FROM THE SALE OF GENERAL OBLIGATION OR OTHER BONDS INCLUDING THE PROCEEDS OF THE SALE OF BONDS AUTHORIZED BY CHAPTER 625 OF THE ACTS

OF THE GENERAL ASSEMBLY OF 1988 AND CHAPTER 97 OF THE ACTS OF THE GENERAL ASSEMBLY OF 1989;

(3) INVESTMENT EARNINGS OF THE FUND; AND

(4) REPAYMENT OF LOANS FROM THE FUND EXCEPT TO THE EXTENT ANY STATE OR FEDERAL LAW GOVERNING THE PROCEEDS OF BONDS PROHIBITS THE RECYCLING OF MONEY.

(D) TRANSFERS.

SUBJECT TO THE APPROVAL OF THE LEGISLATIVE POLICY COMMITTEE AND § 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, AFTER THE FIRST 8 MONTHS OF A FISCAL YEAR, THE DEPARTMENT MAY TRANSFER UNENCUMBERED MONEY IN THE FUND AMONG THE PARTNERSHIP RENTAL HOUSING FUND, THE RENTAL HOUSING PROGRAMS FUND, THE HOMEOWNERSHIP PROGRAMS FUND, AND THE SPECIAL LOAN PROGRAMS FUND, IF THE SECRETARY DETERMINES THAT DEMAND IS:

(1) LESS THAN ANTICIPATED FOR THE FUND FROM WHICH MONEY IS BEING TRANSFERRED; AND

(2) GREATER THAN ANTICIPATED FOR THE FUND TO WHICH MONEY IS BEING TRANSFERRED.

REVISOR'S NOTE: Subsection (a) of this section is new language added to provide a convenient reference to the Partnership Rental Housing Fund.

Subsection (b) of this section is standard language added to state explicitly that the Partnership Rental Housing Fund exists.

Subsections (c) and (d) of this section are new language derived without substantive change from former Art. 83B, § 2-1109(c), the third and fourth sentences of (b), and as it referred to the composition of the Partnership Rental Housing Fund, (a).

The Housing Article Review Committee notes, for consideration by the General Assembly, that this section does not expressly state any uses for the money in the Partnership Rental Housing Fund.

Defined terms: "Department" § 1-101

"Secretary" § 1-101

4-504. RENTAL HOUSING PROGRAMS FUND.

(A) "FUND" DEFINED.

IN THIS SECTION, "FUND" MEANS THE RENTAL HOUSING PROGRAMS FUND.

(B) ESTABLISHED.

THERE IS A RENTAL HOUSING PROGRAMS FUND.

(C) PURPOSES OF FUND.

(1) THE DEPARTMENT SHALL USE THE FUND TO:

(I) OPERATE, MAKE LOANS, AND PAY EXPENSES OF THE MARYLAND HOUSING REHABILITATION PROGRAM, INCLUDING RESERVES FOR ANTICIPATED FUTURE LOSSES DIRECTLY RELATED TO THE MARYLAND HOUSING REHABILITATION PROGRAM, AS PROVIDED IN THE STATE BUDGET; AND

(II) OPERATE, MAKE LOANS, AND PAY EXPENSES OF THE RENTAL HOUSING PRODUCTION PROGRAM.

(2) THE ADMINISTRATION SHALL USE THE FUND TO OPERATE, MAKE LOANS, AND PAY EXPENSES OF THE ELDERLY RENTAL HOUSING PROGRAM.

(3) (I) THE ADMINISTRATION MAY USE THE FUND TO MAKE DEFERRED PAYMENT LOANS TO APPROVED APPLICANTS TO ENABLE THE APPLICANTS TO ACQUIRE, CONSTRUCT, OR REHABILITATE ELDERLY RENTAL HOUSING PROJECTS OR TO CONVERT EXISTING RENTAL HOUSING TO ELDERLY RENTAL HOUSING PROJECTS.

(II) DEFERRED PAYMENT LOANS MAY BE SUBORDINATE TO OTHER FINANCING.

(D) ADMINISTRATION.

THE ADMINISTRATION SHALL ADMINISTER THE FUND.

(E) COMPOSITION.

(1) THE FUND CONSISTS OF:

(I) MONEY APPROPRIATED BY THE STATE FOR RENTAL HOUSING PROGRAMS, INCLUDING THE ELDERLY RENTAL HOUSING PROGRAM UNDER § 4-402 OF THIS TITLE, THE MULTIFAMILY REHABILITATION PROGRAM UNDER § 4-906(B) OF THIS TITLE, THE NONPROFIT REHABILITATION PROGRAM UNDER § 4-929 OF THIS TITLE, AND THE RENTAL HOUSING PRODUCTION PROGRAM UNDER § 4-1502 OF THIS TITLE;

(II) REPAYMENTS AND PREPAYMENTS OF LOANS MADE UNDER THE PROGRAMS SET FORTH IN ITEM (I) OF THIS PARAGRAPH;

(III) MONEY APPROPRIATED UNDER § 4-501(C) OF THIS SUBTITLE;

(IV) MONEY TRANSFERRED TO THE FUND IN ACCORDANCE WITH §§ 4-502(E), 4-503(D), AND 4-505(H) OF THIS SUBTITLE AND § 6-310(G) OF THIS ARTICLE; AND

(V) INVESTMENT EARNINGS OF THE FUND.

(2) THE STATE, UNDER § 4-501(C) OF THIS SUBTITLE, MAY APPROPRIATE TO THE FUND MONEY RECEIVED AS REPAYMENT OF PRINCIPAL OR PAYMENT OF INTEREST ON A LOAN MADE BY THE MARYLAND HOUSING REHABILITATION PROGRAM.

(F) TRANSFERS.

(1) WHEN THE DEPARTMENT ISSUES A BINDING COMMITMENT TO MAKE A LOAN, THE DEPARTMENT SHALL WITHDRAW FROM THE FUND AN AMOUNT EQUAL TO THE COMMITMENT.

(2) SUBJECT TO § 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE AND EXCEPT AS OTHERWISE PROVIDED IN THE STATE BUDGET, AFTER THE FIRST 8 MONTHS OF A FISCAL YEAR THE DEPARTMENT MAY TRANSFER UNENCUMBERED MONEY IN THE FUND TO ANY OTHER FUND ESTABLISHED UNDER THIS TITLE.

REVISOR'S NOTE: Subsection (a) of this section is new language added to provide a convenient reference to the Rental Housing Programs Fund.

Subsection (b) of this section is standard language added to state explicitly that the Rental Housing Programs Fund exists.

Subsection (c) of this section is new language derived without substantive change from former Art. 83B, § 2-807, § 2-313(c), the first sentence of § 2-505(b), § 2-505(a) as it related to the Rental Housing Programs Fund, the first sentence of § 2-805(b), and § 2-805(a) as it related to the Rental Housing Programs Fund.

Subsection (d) of this section is new language derived without substantive change from former Art. 83B, § 2-806 as it related to the Rental Housing Programs Fund.

Subsection (e)(1) of this section is new language derived without substantive change from former Art. 83B, § 2-313(a) as it related to the composition of the Rental Housing Programs Fund, the third sentence of § 2-313(d), the third sentence of § 2-505(c), § 2-505(a) as it related to the composition of the Rental Housing Programs Fund, the third sentence of § 2-805(c), and § 2-805(a) as it related to the composition of the Rental Housing Programs Fund.

Subsection (e)(2) of this section is new language added as a convenient cross-reference to provisions about money received as repayment of principal or payment of interest on a loan made by the Maryland Housing Rehabilitation Program.

Subsection (f) of this section is new language derived without substantive change from former Art. 83B, § 2-313(i), § 2-505(d) and the second sentence of (b), and § 2-805(d).

In subsection (c)(1)(i) of this section, the former reference to the "annual" budget of the State is deleted as implicit in the reference to the "State budget".

Also in subsection (c)(1)(i) of this section, the former reference to "other act appropriating moneys" is deleted in light of the comprehensive reference to the "State budget".

In subsection (e)(1)(ii) of this section, the former reference to repayments and prepayments of loans "both prior to and after July 1, 1989" is deleted as surplusage.

In subsection (f)(2) of this section, the former phrase "[a]t any time" is deleted as surplusage.

The Housing Article Review Committee notes, for consideration by the General Assembly, that under subsection (c)(2) of this section, the Community Development Administration, and not the Department of Housing and Community Development, must use the Rental Housing Programs Fund to operate, make loans, and pay expenses of the Elderly Rental Housing Program. This requirement may be obsolete, as it pre-dates the transfer of the Administration to the Department of Housing and Community Development. By contrast, under subsection (c)(1) of this section, the Department of Housing and Community Development, and not the Administration, must use the Fund to operate, make loans, and pay expenses of the Maryland Housing Rehabilitation Program and the Rental Housing Production Program.

Defined terms: "Administration" § 4-101

"Department" § 1-101

4-505. SPECIAL LOAN PROGRAMS FUND.

(A) "FUND" DEFINED.

IN THIS SECTION, "FUND" MEANS THE SPECIAL LOAN PROGRAMS FUND.

(B) ESTABLISHED.

THERE IS A SPECIAL LOAN PROGRAMS FUND.

(C) PURPOSES OF FUND.

AS PROVIDED IN THE STATE BUDGET AND SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE DEPARTMENT SHALL USE THE FUND TO:

(1) OPERATE, PAY EXPENSES OF, AND MAKE LOANS UNDER THE GROUP HOME FINANCING PROGRAM;

(2) OPERATE, PAY EXPENSES OF, AND MAKE GRANTS AND LOANS UNDER THE LEAD HAZARD REDUCTION GRANT PROGRAM AND THE LEAD HAZARD REDUCTION LOAN PROGRAM;

(3) OPERATE, PAY EXPENSES OF, AND MAKE LOANS UNDER THE MARYLAND HOUSING REHABILITATION PROGRAM, INCLUDING RESERVES FOR ANTICIPATED FUTURE LOSSES DIRECTLY RELATED TO THE MARYLAND HOUSING REHABILITATION PROGRAM;

(4) MAKE LOANS UNDER THE REGULAR REHABILITATION PROGRAM;
AND

(5) MAKE LOANS UNDER THE SPECIAL LOAN PROGRAMS.

(D) RESERVE APPROPRIATION.

DURING THE FIRST 6 MONTHS OF EACH FISCAL YEAR THE DEPARTMENT SHALL RESERVE AT LEAST 25% OF THE APPROPRIATION FOR THE FUND TO MAKE LOANS TO REHABILITATE BUILDINGS WITH FOUR OR FEWER DWELLING UNITS.

(E) ANNUAL ALLOCATION TO LEAD HAZARD PROGRAMS.

(1) THE DEPARTMENT ANNUALLY SHALL ALLOCATE MONEY IN THE FUND TO THE LEAD HAZARD REDUCTION GRANT PROGRAM AND THE LEAD HAZARD REDUCTION LOAN PROGRAM.

(2) IF THE NUMBER OF ELIGIBLE APPLICATIONS UNDER THE LEAD HAZARD REDUCTION GRANT PROGRAM OR THE LEAD HAZARD REDUCTION LOAN PROGRAM IS INSUFFICIENT TO COMMIT ALL MONEY ALLOCATED TO THAT PROGRAM WITHIN 6 MONTHS AFTER THE ALLOCATION, THE DEPARTMENT MAY REALLOCATE THE UNCOMMITTED MONEY TO OTHER PROGRAMS OF THE FUND.

(F) ADMINISTRATION.

THE FUND SHALL BE ADMINISTERED IN ACCORDANCE WITH THIS SECTION.

(G) COMPOSITION.

(1) THE FUND CONSISTS OF:

(I) MONEY APPROPRIATED BY THE STATE FOR SPECIAL LOAN PROGRAMS, INCLUDING:

1. THE SPECIAL REHABILITATION PROGRAM UNDER § 4-906(B) OF THIS TITLE;

2. THE REGULAR REHABILITATION PROGRAM UNDER § 4-906(B) OF THIS TITLE;

3. THE GROUP HOME FINANCING PROGRAM UNDER § 4-602 OF THIS TITLE; AND

4. THE LEAD HAZARD REDUCTION GRANT PROGRAM UNDER § 4-708 OF THIS TITLE AND THE LEAD HAZARD REDUCTION LOAN PROGRAM UNDER § 4-709 OF THIS TITLE;

(II) REPAYMENTS OF PRINCIPAL AND PAYMENTS OF INTEREST ON LOANS MADE UNDER THESE PROGRAMS;

(III) REPAYMENTS OF GRANTS FROM THE FUND;

(IV) REPAYMENTS OF PRINCIPAL AND PAYMENTS OF INTEREST ON LOANS FROM THE FUND;

(V) MONEY TRANSFERRED TO THE FUND IN ACCORDANCE WITH §§ 4-502(E), 4-503(D), AND 4-504(F) OF THIS SUBTITLE AND § 6-310(G) OF THIS ARTICLE; AND

(VI) INVESTMENT EARNINGS OF THE FUND.

(2) THE STATE, UNDER § 4-501(C) OF THIS SUBTITLE, MAY APPROPRIATE TO THE FUND MONEY RECEIVED AS REPAYMENT OF PRINCIPAL OR PAYMENT OF INTEREST ON A LOAN MADE BY THE MARYLAND HOUSING REHABILITATION PROGRAM.

(H) TRANSFERS.

SUBJECT TO § 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE AND EXCEPT AS OTHERWISE PROVIDED IN THE STATE BUDGET, AFTER THE FIRST 8 MONTHS OF A FISCAL YEAR, THE DEPARTMENT MAY TRANSFER UNENCUMBERED MONEY IN THE FUND TO ANY OTHER FUND ESTABLISHED UNDER THIS TITLE.

REVISOR'S NOTE: Subsection (a) of this section is new language added to provide a convenient reference to the Special Loan Programs Fund.

Subsection (b) of this section is standard language added to state explicitly that the Special Loan Programs Fund exists.

Subsection (c) of this section is new language derived without substantive change from former Art. 83B, § 2-313(c) and the first clause of (b), § 2-708(b), and § 2-1409(c) and the first clause of (a).

Subsection (d) of this section is new language derived without substantive change from former Art. 83B, § 2-313(h).

Subsection (e) of this section is new language derived without substantive change from former Art. 83B, § 2-1409(d).

Subsection (f) of this section is new language derived without substantive change from the second clause of former Art. 83B, § 2-1409(a).

Subsection (g)(1) of this section is new language derived without substantive change from the second clause of the introductory language of

former Art. 83B, § 2-313(b)(1), (2), and (3) and the third sentence of (d), § 2-708(a) as it related to the Special Loan Programs Fund, and (c)(3), and § 2-1409(b).

Subsection (g)(2) of this section is new language added as a convenient cross-reference to provisions about money received as repayment of principal or payment of interest on a loan made by the Maryland Housing Rehabilitation Program.

In the introductory language of subsection (c) of this section, the former reference to the "annual" budget of the State is deleted as implicit in the reference to the "State budget".

Also in the introductory language of subsection (c) of this section, the former reference to "other act appropriating moneys" is deleted as surplusage.

In subsection (c)(2) of this section, the former reference to "cover[ing] administrative costs related to" the Lead Hazard Reduction Grant Program and the Lead Hazard Reduction Loan Program is deleted in light of the reference to "operat[ing]" those programs.

In subsection (f) of this section, the former requirement that the Fund be "identified" in accordance with this section is deleted in light of the requirement that the Fund be "administered" in accordance with this section.

In subsection (g)(1) of this section, the former phrase "[i]n addition to moneys deposited in the Special Loan Programs Fund in accordance with §§ 2-313 and 2-708 of this title" is deleted as redundant of subsection (g)(1)(i)1, 2, and 3 of this section.

In subsection (g)(1)(ii) of this section, the former references to repayments and prepayments of loans made under programs "both prior to and after July 1, 1989" are deleted as surplusage.

In subsection (g)(1)(v) and (vi) of this section, former requirements that investment earnings and repayment of principal or interest "be paid into" the Fund are deleted in light of the introductory language of this subsection, which states that "the Fund consists of" certain items, including investment earnings and repayment of principal or payment of interest.

Defined term: "Department" § 1-101

SUBTITLE 6. GROUP HOME FINANCING PROGRAM.

4-601. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-701(a).

No changes are made.

(B) GROUP HOME.

(1) "GROUP HOME" MEANS A HOUSING FACILITY THAT OFFERS:

(I) SUPPORTIVE SERVICES OR SUPERVISORY PERSONNEL TO INDIVIDUALS WITH SPECIAL HOUSING NEEDS WHO ARE NOT RELATED TO THE GROUP HOME SPONSOR; AND

(II) COMMON, SHARED, OR INDEPENDENT LIVING, DINING, KITCHEN, SANITARY, AND SLEEPING FACILITIES.

(2) "GROUP HOME" NEED NOT INCLUDE ALL OF THE FACILITIES LISTED IN PARAGRAPH (1)(II) OF THIS SUBSECTION IF IT PROVIDES EMERGENCY AND TEMPORARY HOUSING FOR HOMELESS INDIVIDUALS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-701(c).

In paragraph (2) of this subsection, the reference to homeless "individuals" is substituted for the former reference to homeless "persons" because this subsection applies only to human beings and not the other kinds of entities included in the defined term "person". *See* § 1-101 of this article.

(C) GROUP HOME SPONSOR.

"GROUP HOME SPONSOR" MEANS A PERSON WHO QUALIFIES FOR A PROGRAM LOAN UNDER § 4-607 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to "group home sponsor".

Defined term: "Person" § 1-101

(D) PERSON OF LOWER INCOME.

"PERSON OF LOWER INCOME" MEANS AN INDIVIDUAL OR FAMILY WHOSE INCOME DOES NOT EXCEED THE UPPER INCOME LIMIT THAT THE SECRETARY SETS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-701(b).

Defined terms: "Person" § 1-101

"Secretary" § 1-101

(E) PROGRAM.

"PROGRAM" MEANS THE GROUP HOME FINANCING PROGRAM.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-701(h).

No changes are made.

(F) PROGRAM LOAN.

"PROGRAM LOAN" MEANS A LOAN THAT THE DEPARTMENT MAKES UNDER THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-701(e).

The defined term "Program loan" is substituted for the former defined term "loan" for clarity.

The former reference to a loan "of money" is deleted as implicit in the reference to "loan".

Defined term: "Department" § 1-101

4-602. ESTABLISHED.

THERE IS A GROUP HOME FINANCING PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-702.

The former phrase "in the Department" is deleted in light of § 4-103 of this title.

4-603. PURPOSE OF PROGRAM.

THE PURPOSE OF THE PROGRAM IS TO PROVIDE LOANS TO GROUP HOME SPONSORS TO FINANCE THE COSTS OF ACQUIRING, CONSTRUCTING, AND MODIFYING BUILDINGS AS GROUP HOMES FOR PERSONS OF LOWER INCOME, THE ELDERLY, INDIVIDUALS WITH DISABILITIES, AND OTHER RESIDENTS OF THE STATE WITH SPECIAL HOUSING NEEDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-703(a).

The reference to "residents" of the State is substituted for the former reference to "citizens" of the State because the meaning of the word "citizens" is unclear and to conform to the terminology used throughout this article.

The defined term "person[s] of lower income" is substituted for the former reference to "low income ... citizens" to conform to the terminology used throughout this subtitle.

The reference to "individuals with disabilities" is substituted for the former reference to "handicapped, disabled, ... citizens" to conform to the terminology used throughout this article.

Defined terms: "Group home" § 4-601

"Group home sponsor" § 4-601

"Person of lower income" § 1-101

"Program" § 4-601

4-604. POWERS OF DEPARTMENT.

THE DEPARTMENT MAY ESTABLISH:

- (1) ELIGIBILITY STANDARDS FOR GROUP HOME SPONSORS;
- (2) PROGRAM LOAN FEES AND CHARGES;
- (3) MAXIMUM PROGRAM LOANS FOR GROUP HOMES BASED ON THEIR SIZE, USE, AND LOCATION; AND
- (4) A PROCESS FOR SELECTING GROUP HOMES TO BE FINANCED UNDER THE PROGRAM THAT PROMOTES STATEWIDE DISTRIBUTION OF MONEY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-707.

In item (3) of this section, the former reference to "geographic" location is deleted as redundant.

Defined terms: "Department" § 1-101

"Group home" § 4-601

"Group home sponsor" § 4-601

"Program" § 4-601

"Program loan" § 4-601

4-605. DUTIES OF DEPARTMENT.

THE DEPARTMENT SHALL:

- (1) ADMINISTER THE PROGRAM;
- (2) ADOPT POLICIES THAT ENCOURAGE THE ESTABLISHMENT OF GROUP HOMES FOR PERSONS OF LOWER INCOME THROUGHOUT THE STATE;
- (3) ATTACH TO A PURCHASE, SALE, OR LEASE OF A GROUP HOME OR LAND FOR A GROUP HOME THE TERMS NEEDED TO CARRY OUT THE PROGRAM;
- (4) ESTABLISH GUIDELINES FOR MONITORING THE GROUP HOMES TO ENSURE THAT, ASIDE FROM DWELLING ROOM FOR SUPERVISORY INDIVIDUALS AND THEIR FAMILIES, GROUP HOMES RECEIVING FINANCING UNDER THE PROGRAM ARE OCCUPIED IN SUBSTANTIAL PART BY PERSONS OF LOWER INCOME; AND

(5) ESTABLISH GUIDELINES TO DETERMINE THE ABILITY OF A GROUP HOME SPONSOR TO MANAGE A GROUP HOME, PROVIDE NECESSARY SERVICES, AND REPAY THE PROGRAM LOAN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-704(1) through (5).

In item (1) of this section, the former requirement that the Department "[m]anage" and "supervise" the Program is deleted in light of the requirement that the Department "administer" it.

In item (3) of this section, the reference to the terms "needed" is substituted for the former reference to the "specific" terms "as may be necessary" for brevity and clarity.

Also in item (3) of this section, the former reference to terms necessary to carry out "the purposes of" the Program is deleted as implicit in the reference to carrying out "the Program".

In item (4) of this section, the former reference to group homes "financed under the Program" is deleted as implicit in the use of the defined term "group home[s]".

Defined terms: "Department" § 1-101

"Group home" § 4-601

"Person of lower income" § 4-601

"Program" § 4-601

"Program loan" § 4-601

4-606. REGULATIONS.

THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-704(6).

The former reference to "rules" is deleted in light of the reference to "regulations". *See* General Revisor's Note to article.

The former phrase "in conformance with statutory requirements" is deleted as implicit in the requirement to "adopt regulations". *See* Title 10, Subtitle 11 of the State Government Article.

Defined terms: "Department" § 1-101

"Program" § 4-601

4-607. GROUP HOME SPONSOR.

TO QUALIFY FOR A PROGRAM LOAN, A GROUP HOME SPONSOR SHALL OWN AND OPERATE A GROUP HOME AND BE:

- (1) A NONPROFIT ORGANIZATION;
- (2) AN INDIVIDUAL; OR
- (3) A LIMITED PARTNERSHIP IF:

(I) 1. EACH GENERAL PARTNER QUALIFIES AS A NONPROFIT ORGANIZATION; OR

2. EACH GENERAL PARTNER IS A WHOLLY OWNED SUBSIDIARY OF A NONPROFIT ORGANIZATION;

(II) THE LIMITED PARTNERSHIP IS FORMED TO UNDERTAKE A GROUP HOME PROJECT THAT IS TOTALLY OR PARTLY ELIGIBLE FOR A FEDERAL LOW INCOME HOUSING TAX CREDIT PROGRAM OR ANY OTHER FEDERAL PROGRAM OR INCENTIVE; AND

(III) A NONPROFIT ORGANIZATION MANAGES THE PROJECT OR RECEIVES THE NET CASH FLOW FROM OR THE RESIDUAL SALE PROCEEDS ON SALE OF THE GROUP HOME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-701(d).

It is revised as a substantive provision rather than a definition for clarity.

The Housing Article Review Committee notes, for consideration by the General Assembly, that in item (3)(i)2 of this section, the reference to "each general partner" is substituted for the former reference to the "limited partnership" to avoid the erroneous implication that a limited partnership may be a wholly owned subsidiary.

Defined terms: "Group home" § 4-601

"Nonprofit organization" § 1-101

"Program" § 4-601

4-608. OPERATION OF PROGRAM.

THE PROGRAM SHALL BE OPERATED WITH MONEY IN THE SPECIAL LOAN PROGRAMS FUND UNDER § 4-505 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the first clause of former Art. 83B, § 2-708(a).

Defined term: "Program" § 4-601

4-609. REVIEW PROCESS OF LOAN APPLICATIONS.

IN REVIEWING AN APPLICATION FOR A PROGRAM LOAN, THE DEPARTMENT SHALL CONSIDER:

- (1) THE ECONOMIC FEASIBILITY OF THE GROUP HOME; AND
- (2) THE ABILITY OF THE GROUP HOME SPONSOR TO MANAGE THE GROUP HOME, PROVIDE NECESSARY SERVICES, AND REPAY THE PROGRAM LOAN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-706.

In the introductory language of this section, the reference to "reviewing" an application is substituted for the former reference to "approving" an application to avoid the erroneous implication that all applications for Program loans must be approved.

Defined terms: "Department" § 1-101

"Group home" § 4-601

"Group home sponsor" § 4-601

"Program loan" § 4-601

4-610. PROGRAM LOANS.

(A) IN GENERAL.

(1) A PROGRAM LOAN SHALL BE SECURED BY A MORTGAGE LIEN AND MAY INCLUDE THE TERMS THAT THE DEPARTMENT CONSIDERS NECESSARY TO MAKE THE GROUP HOME AFFORDABLE TO PERSONS OF LOWER INCOME.

(2) IN EXCEPTIONAL CIRCUMSTANCES, THE TERMS MAY INCLUDE:

- (I) DEFERRED PAYMENT OF PRINCIPAL AND INTEREST; AND
- (II) INTEREST RATES AS LOW AS 0%.

(B) REPAYMENT DATE.

EACH LOAN SHALL REQUIRE THAT ALL UNPAID PRINCIPAL AND ACCRUED INTEREST, INCLUDING PRINCIPAL OR INTEREST THAT WAS DEFERRED, BE PAID AT THE EARLIEST OF:

- (1) A STATED DATE, WHICH MAY BE THE MATURITY DATE OF THE PROGRAM LOAN;
- (2) THE DATE OF THE SALE OR OTHER TRANSFER OF THE GROUP HOME OR A CONTROLLING INTEREST IN THE GROUP HOME; AND
- (3) THE DATE WHEN THE PROJECT CEASES TO BE USED AS A GROUP HOME.

(C) PROGRAM LOAN TERMS.

- (1) EACH PROGRAM LOAN SHALL PROVIDE FOR:

- HOME SPONSOR;
- (I) A LIMIT ON THE RETURN ON EQUITY ALLOWED TO A GROUP
- GROUP HOME SPONSOR; OR
- (II) EQUITY PARTICIPATION BETWEEN THE DEPARTMENT AND THE
- DEPARTMENT FINDS CAN REASONABLY BE EXPECTED TO BE PAID FROM PROFIT
- RESULTING FROM THE SALE OF THE GROUP HOME.
- (2) THE DEPARTMENT MAY FORGIVE ANY ACCRUED AND DEFERRED
- INTEREST DESCRIBED IN PARAGRAPH (1)(III) OF THIS SUBSECTION THAT EXCEEDS
- THE PROFIT FROM THE SALE OF THE GROUP HOME.
- (3) THE DEPARTMENT MAY ALLOW THE GROUP HOME SPONSOR TO
- EARN A REASONABLE RETURN BEFORE THE GROUP HOME SPONSOR PAYS ACCRUED
- AND DEFERRED INTEREST.
- (D) MODIFICATION OF PROGRAM LOAN TERMS.

IF A PROGRAM LOAN IS IN DEFAULT, THE DEPARTMENT MAY MODIFY THE

INTEREST RATE, THE TIME OR AMOUNT OF PAYMENT, OR ANY OTHER TERM TO

FACILITATE REPAYMENT AND ACHIEVE THE PURPOSES OF THE PROGRAM.

- (E) USES.

A PROGRAM LOAN MAY FINANCE:

- (1) THE SITE ACQUISITION, CONSTRUCTION COSTS, AND PERMANENT
- MORTGAGE FOR A GROUP HOME;
- (2) THE PURCHASE OF AN EXISTING BUILDING TO PROVIDE A GROUP
- HOME;
- (3) A MODIFICATION TO A BUILDING PURCHASED WITH A PROGRAM
- LOAN, IF THE MODIFICATION IMPROVES, REPAIRS, RENOVATES, OR REHABILITATES
- THE BUILDING TO:
- (I) MAKE IT SUITABLE AS A GROUP HOME; OR
- (II) ELIMINATE HOUSING, BUILDING, FIRE, SAFETY, HEALTH, OR
- OTHER CODE VIOLATIONS;
- (4) CLOSING COSTS ASSOCIATED WITH THE CONSTRUCTION OR
- PURCHASE OF A GROUP HOME;
- (5) ENGINEERING, LEGAL, TITLE, SURVEY, OR ARCHITECTURAL FEES
- ASSOCIATED WITH FINANCING REAL PROPERTY DEVELOPMENT; AND
- (6) OTHER DEVELOPMENT COSTS THAT THE DEPARTMENT CONSIDERS
- REASONABLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-705 and 2-701(f).

In the introductory language of subsection (b) of this section, the phrase "shall require" is substituted for the former phrase "shall contain terms requiring" for brevity.

In subsection (b)(3) of this section, the phrase "the date when the project ceases to be used" is substituted for the former phrase "[d]iscontinuance of use" for clarity.

In subsection (c)(1)(ii) of this section, the former reference to "some form of" equity participation is deleted as surplusage.

The Housing Article Review Committee notes, for consideration by the General Assembly, that the introductory language of subsection (b) of this section resolves an ambiguity in former Art. 83B, § 2-705(b). The former provision applied certain requirements to "all unpaid principal and accrued interest, which may have been deferred". The language did not make clear whether the requirements applied to all unpaid principal and interest or only the part that was deferred. Subsection (b) of this section resolves the ambiguity by applying the requirements of the subsection to all unpaid principal and accrued interest.

Defined terms: "Department" § 1-101

"Group home" § 4-601

"Group home sponsor" § 4-601

"Person of lower income" § 4-601

"Program" § 4-601

"Program loan" § 4-601

4-611. NONRESIDENTIAL USES OF GROUP HOME.

SUBJECT TO THE APPROVAL AND PERMITTING PROCEDURES OF THE LOCAL ZONING AUTHORITY, A GROUP HOME THAT HOUSES FOUR OR MORE INDIVIDUALS MAY PROVIDE FOR NONRESIDENTIAL USES THAT:

- (1) ARE IN A MINOR PART OF THE BUILDING;
- (2) CONFORM WITH LOCAL ZONING REQUIREMENTS; AND
- (3) ALTHOUGH NOT DIRECTLY RELATED TO THE HOUSING FACILITY, OFFER GOODS OR SERVICES FOR PERSONS OF LOWER INCOME OR OTHER DISADVANTAGED INDIVIDUALS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-703(b).

In item (3) of this section, the former phrase for "the benefit of" persons is deleted as surplusage.

Defined terms: "Group home" § 4-601

"Person" § 1-101

"Person of lower income" § 4-601

4-612. FALSE STATEMENTS OR REPORTS.

(A) PROHIBITED.

(1) A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT OR REPORT IN A DOCUMENT REQUIRED TO BE SUBMITTED TO THE DEPARTMENT UNDER AN AGREEMENT RELATING TO A PROGRAM LOAN.

(2) A LOAN APPLICANT MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE ANY FALSE STATEMENT OR REPORT TO INFLUENCE THE DEPARTMENT'S ACTION ON A PROGRAM LOAN APPLICATION OR A PROGRAM LOAN ALREADY MADE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 2 YEARS OR A FINE NOT EXCEEDING \$50,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-709.

Defined terms: "Department" § 1-101

"Person" § 1-101

"Program loan" § 4-601

SUBTITLE 7. LEAD HAZARD REDUCTION GRANT PROGRAM AND LEAD HAZARD REDUCTION LOAN PROGRAM.

4-701. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-1402(a).

No changes are made.

(B) CHILD CARE CENTER.

"CHILD CARE CENTER" HAS THE MEANING STATED IN § 5-570(C) OF THE FAMILY LAW ARTICLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-1402(b).

(C) FAMILY OF LIMITED INCOME.

"FAMILY OF LIMITED INCOME" MEANS A FAMILY THAT MEETS THE QUALIFICATIONS UNDER § 4-707 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first clause of former Art. 83B, § 2-1402(e).
See § 4-707 of this subtitle.

(D) FUND.

"FUND" MEANS THE SPECIAL LOAN PROGRAMS FUND UNDER SUBTITLE 5 OF THIS TITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-1402(f).

(E) GRANT PROGRAM.

"GRANT PROGRAM" MEANS THE LEAD HAZARD REDUCTION GRANT PROGRAM.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-1402(g).

The former phrase "created under § 2-1406(a) of this subtitle" is deleted as surplusage.

(F) LEAD HAZARD REDUCTION ACTIVITY.

(1) "LEAD HAZARD REDUCTION ACTIVITY" MEANS MEASURES TO REDUCE OR ELIMINATE LEAD-BASED PAINT HAZARDS IN ACCORDANCE WITH STATE OR FEDERAL STANDARDS.

(2) "LEAD HAZARD REDUCTION ACTIVITY" INCLUDES:

(I) REMOVING LEAD-BASED PAINT AND LEAD-CONTAMINATED DUST, CONTAINING OR ENCAPSULATING LEAD-BASED PAINT, AND REPLACING OR REMOVING SURFACES OR FIXTURES PAINTED WITH LEAD-BASED PAINT;

(II) MEETING THE RISK REDUCTION STANDARDS UNDER § 6-815 OF THE ENVIRONMENT ARTICLE OR THE MODIFIED RISK REDUCTION STANDARDS UNDER § 6-817 OF THE ENVIRONMENT ARTICLE;

(III) TEMPORARILY REDUCING HUMAN EXPOSURE OR PROBABLE EXPOSURE TO LEAD-BASED PAINT HAZARDS, INCLUDING SPECIALIZED CLEANING, REPAIRING, MAINTAINING, PAINTING, TEMPORARILY CONTAINING, AND ONGOING MONITORING OF LEAD-BASED PAINT HAZARDS OR POTENTIAL HAZARDS;

(IV) ASSOCIATED TESTING, PREPARING, CLEANING, PROTECTING WORKERS, DISPOSING, AND POST-LEAD HAZARD REDUCTION CLEARANCE TESTING;
AND

(V) TESTING AN INNOVATIVE OR UNPROVEN METHOD OF LEAD HAZARD REDUCTION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-1402(h).

In paragraph (1) of this subsection, the reference to "State or federal standards" is substituted for the former reference to "standards established by appropriate State or federal agencies" for brevity.

In paragraph (2)(iv) of this subsection, the phrase "associated testing" is substituted for the former phrase "testing ... associated with lead hazard reduction activities" for brevity.

In paragraph (2)(v) of this subsection, the former reference to "[p]rograms designed to test" is deleted in light of the reference to "testing".

(G) LOAN PROGRAM.

"LOAN PROGRAM" MEANS THE LEAD HAZARD REDUCTION LOAN PROGRAM.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-1402(i).

The former phrase "created under § 2-1407(a) of this subtitle" is deleted as surplusage.

4-702. FINDINGS.

THE GENERAL ASSEMBLY FINDS THAT:

(1) LEAD PAINT IS PRESENT IN A LARGE PERCENTAGE OF RESIDENTIAL PROPERTIES IN THE STATE, PARTICULARLY RESIDENTIAL RENTAL PROPERTIES CONSTRUCTED BEFORE 1950;

(2) LEAD PAINT ON THE FRICTION SURFACES OF WINDOWS IS A LEADING CAUSE OF LEAD POISONING;

(3) LEAD POISONING HARMS THE HEALTH AND WELL-BEING OF CHILDREN AND PREGNANT WOMEN AND CAUSES SUBSTANTIAL LONG-TERM PUBLIC COSTS FOR MEDICAL EXPENSES AND ADDITIONAL EDUCATION; AND

(4) REDUCTION OR ELIMINATION OF LEAD IN THE ENVIRONMENT WILL REDUCE:

(I) THE RISK OF LEAD POISONING OF CHILDREN AND PREGNANT WOMEN;

(II) THE INCIDENCE OF LEARNING DISABILITIES AND BEHAVIORAL PROBLEMS IN CHILDREN WHO LIVE IN OLDER HOUSING; AND

(III) THE COST OF PUBLICLY FINANCED MEDICAL CARE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1401.

In the introductory language of this section, the former reference to "declares" is deleted as redundant of the reference to "finds" and for consistency with similar provisions in other revised articles of the Code. *See, e.g.*, CS § 8-102 and BR § 3-102.

In item (3) of this section, the reference to lead poisoning that "harms" is substituted for the former reference to lead poisoning that "can adversely affect", for brevity.

4-703. PURPOSE OF GRANT PROGRAM AND LOAN PROGRAM -- IN GENERAL.

THE PURPOSE OF THE GRANT PROGRAM AND THE LOAN PROGRAM IS TO MAKE GRANTS AND LOANS TO OWNERS OF RESIDENTIAL PROPERTY OR CHILD CARE CENTERS FOR FINANCING LEAD HAZARD REDUCTION ACTIVITIES, ESPECIALLY REPLACING WINDOWS CONTAINING LEAD-BASED PAINT ON FRICTION SURFACES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1403.

The phrase "especially replacing windows" is substituted for the former phrase "with an emphasis on activities which include the replacement of windows" for brevity.

Defined terms: "Child care center" § 4-701

"Grant Program" § 4-701

"Lead hazard reduction activity" § 4-701

"Loan Program" § 4-701

4-704. POWERS OF DEPARTMENT.

(A) IN GENERAL.

THE DEPARTMENT MAY ESTABLISH:

(1) LOAN FEES AND CHARGES;

(2) MAXIMUM LOAN OR GRANT AMOUNTS FOR LEAD HAZARD REDUCTION ACTIVITIES; AND

(3) GUIDELINES THAT GIVE FINANCING PRIORITY TO LEAD HAZARD REDUCTION ACTIVITIES THAT INCLUDE REPLACING WINDOWS CONTAINING LEAD-BASED PAINT ON FRICTION SURFACES.

(B) GRANTS OR LOANS.

(1) ON APPLICATION OF A POLITICAL SUBDIVISION, THE DEPARTMENT MAY PROVIDE MONEY FROM THE FUND ALLOCATED TO THE GRANT PROGRAM OR THE LOAN PROGRAM TO THE POLITICAL SUBDIVISION TO MAKE A GRANT OR LOAN, ON BEHALF OF THE DEPARTMENT, TO AN ELIGIBLE OWNER OF RESIDENTIAL PROPERTY OR A CHILD CARE CENTER IN THE POLITICAL SUBDIVISION.

(2) THE DEPARTMENT MAY LIMIT THE AMOUNT OF MONEY THAT A POLITICAL SUBDIVISION MAY REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1405(a) and (b)(1) and (2).

In subsection (b)(1) of this section, the former reference to "the geographic boundaries" of the political subdivision is deleted as surplusage.

Defined terms: "Child care center" § 4-701

"Department" § 1-101

"Fund" § 4-701

"Grant Program" § 4-701

"Lead hazard reduction activity" § 4-701

"Loan Program" § 4-701

"Political subdivision" § 4-101

4-705. DUTIES OF DEPARTMENT.

THE DEPARTMENT SHALL:

- (1) ADMINISTER THE GRANT PROGRAM AND THE LOAN PROGRAM; AND
- (2) ESTABLISH ELIGIBILITY GUIDELINES FOR GRANTS AND LOANS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1404(1) and (2).

In item (1) of this section, the reference to the "Grant Program and the Loan Program" is substituted for the former reference to the "Program" for clarity.

In item (2) of this section, the word "and" is substituted for the former word "or" to avoid the implication that the Department would be obligated to establish guidelines for either grants or loans and not the other.

Defined terms: "Department" § 1-101

"Grant Program" § 4-701

"Loan Program" § 4-701

4-706. REGULATIONS.

THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE GRANT PROGRAM AND THE LOAN PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-1404(3) and 2-1405(b)(3).

The former references to "rules" are deleted in light of the reference to "regulations". *See* General Revisor's Note to article.

The former phrase "to implement this subsection" is deleted as included in the phrase "to carry out the Grant Program and the Loan Program".

Defined terms: "Department" § 1-101

"Grant Program" § 4-701

"Loan Program" § 4-701

4-707. FAMILY OF LIMITED INCOME.

(A) QUALIFICATION.

AN INDIVIDUAL OR FAMILY, INCLUDING ONE DEFINED AS "ELDERLY" IN FEDERAL HOUSING LAW, QUALIFIES AS A FAMILY OF LIMITED INCOME IF THE INCOME OF THE INDIVIDUAL OR FAMILY DOES NOT EXCEED THE LIMITS THAT THE SECRETARY SETS.

(B) FACTORS FOR SETTING LIMITS.

THE FACTORS THAT THE SECRETARY SHALL CONSIDER IN SETTING LIMITS UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

- (1) THE FAMILY INCOME DEEMED AVAILABLE FOR HOUSING;
- (2) THE SIZE OF THE FAMILY;
- (3) THE ABILITY OF THE FAMILY TO COMPETE SUCCESSFULLY IN THE PRIVATE HOUSING MARKET;
- (4) THE COST AND CONDITION OF AVAILABLE HOUSING; AND
- (5) RELEVANT STANDARDS AND DEFINITIONS UNDER FEDERAL AND STATE HOUSING PROGRAMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1402(e).

In subsection (b)(1) of this section, the phrase "family income" is substituted for the former phrase "[t]he amount of the total income of the family" for brevity.

Defined terms: "Family of limited income" § 4-701

"Secretary" § 1-101

4-708. LEAD HAZARD REDUCTION GRANT PROGRAM.

(A) ESTABLISHED.

THERE IS A LEAD HAZARD REDUCTION GRANT PROGRAM.

(B) PURPOSE OF GRANTS.

THE DEPARTMENT MAY MAKE A GRANT SOLELY TO FINANCE A LEAD HAZARD REDUCTION ACTIVITY THAT:

(1) IS A PROGRAM THAT TESTS INNOVATIVE OR UNPROVEN METHODS OF LEAD HAZARD REDUCTION; OR

(2) IS IN A RESIDENTIAL PROPERTY IN AN AREA DESIGNATED BY THE DEPARTMENT TO HAVE A CONCENTRATION OF:

(I) FAMILIES OF LIMITED INCOME; AND

(II) 1. RESIDENTIAL PROPERTY CONSTRUCTED BEFORE 1950; OR

2. CHILDREN DIAGNOSED WITH ELEVATED BLOOD LEAD, WHICH IS A QUANTITY OF LEAD IN THEIR WHOLE VENOUS BLOOD, EXPRESSED IN MICROGRAMS PER DECILITER (UG/DL), THAT EXCEEDS A SPECIFIED THRESHOLD LEVEL.

(C) ELIGIBILITY STANDARDS -- DETERMINED BY DEPARTMENT.

(1) THE DEPARTMENT MAY ESTABLISH STANDARDS TO DETERMINE THE ELIGIBILITY OF A LEAD HAZARD REDUCTION ACTIVITY FOR A GRANT UNDER THE GRANT PROGRAM.

(2) THE STANDARDS MAY CALL FOR CONSIDERATION OF:

(I) THE EXTENT TO WHICH THE LEAD HAZARD REDUCTION ACTIVITY BENEFITS FAMILIES OF LIMITED INCOME;

(II) THE NEED AND CIRCUMSTANCES OF THE OWNER-OCCUPANTS OR TENANTS OF THE RESIDENTIAL PROPERTY IN WHICH THE PROPOSED LEAD HAZARD REDUCTION ACTIVITY WILL BE UNDERTAKEN; AND

(III) WHETHER THE GRANT FINANCES RESEARCH INTO INNOVATIVE OR UNPROVEN METHODS FOR LEAD HAZARD REDUCTION.

(D) SAME -- REQUIRED EVIDENCE.

IN DETERMINING WHETHER TO MAKE A GRANT UNDER THE GRANT PROGRAM, THE DEPARTMENT SHALL REQUIRE THAT THE OWNER OF THE RESIDENTIAL

PROPERTY OR CHILD CARE CENTER SUBMIT EVIDENCE THAT THE OWNER CANNOT UNDERTAKE LEAD HAZARD REDUCTION ACTIVITY WITHOUT A GRANT.

(E) REPAYMENT OF GRANT.

THE DEPARTMENT MAY REQUIRE THAT ALL OR PART OF A GRANT UNDER THE GRANT PROGRAM BE REPAYED WHEN CONDITIONS SPECIFIED BY THE DEPARTMENT OCCUR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-1406 and 2-1402(d).

In the introductory language of subsection (b) of this section, the reference to "the Department" is substituted for the former reference to "the Lead Hazard Reduction Grant Program" for accuracy.

In subsection (b)(2) of this section, the former reference to "areas of the State" is deleted in light of the reference to "an area designated by the Department".

Defined terms: "Child care center" § 4-701

"Department" § 1-101

"Family of limited income" § 4-701

"Grant Program" § 4-701

"Lead hazard reduction activity" § 4-701

4-709. LEAD HAZARD REDUCTION LOAN PROGRAM.

(A) ESTABLISHED.

THERE IS A LEAD HAZARD REDUCTION LOAN PROGRAM.

(B) PURPOSE OF PROGRAM.

THE DEPARTMENT MAY MAKE A LOAN TO FINANCE LEAD HAZARD REDUCTION ACTIVITY.

(C) PROGRAM SECURITY.

A LOAN UNDER THE LOAN PROGRAM:

(1) MAY BE SECURED BY A MORTGAGE LIEN OR OTHER SECURITY INTEREST ACCEPTABLE TO THE DEPARTMENT; AND

(2) MAY INCLUDE TERMS THAT THE DEPARTMENT CONSIDERS APPROPRIATE.

(D) TERMS.

FOR A LOAN MADE UNDER THE LOAN PROGRAM, THE DEPARTMENT MAY:

- (1) DEFER PAYMENT OF PRINCIPAL AND INTEREST; AND
- (2) ESTABLISH INTEREST RATES AS LOW AS 0%.

(E) REPAYMENT.

EACH LOAN SHALL REQUIRE REPAYMENT OF ALL UNPAID PRINCIPAL AND PAYMENT OF ACCRUED INTEREST, INCLUDING DEFERRED INTEREST, BUT THE LOAN TERMS MAY ALLOW THE DEPARTMENT TO FORGIVE ALL OR PART OF THE PRINCIPAL AND INTEREST.

(F) DEFAULT.

IF A LOAN IS IN DEFAULT, THE DEPARTMENT MAY MODIFY THE INTEREST RATE, THE TIME OR AMOUNT OF PAYMENT, OR ANY OTHER TERM TO FACILITATE REPAYMENT AND ACHIEVE THE PURPOSES OF THE LOAN PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1407.

In subsection (b) of this section, the reference to "the Department" is substituted for the former reference to "the Lead Hazard Reduction Loan Program" for accuracy.

In subsection (f) of this section, the reference to the Department's power to "facilitate" repayment is substituted for the former reference to the Department's power to "ensure" repayment to avoid the erroneous implication that the Department seeks nothing less than that the loan be repaid in full.

Defined terms: "Department" § 1-101

"Lead hazard reduction activity" § 4-701

"Loan Program" § 4-701

4-710. FACTORS IN REVIEWING APPLICATIONS.

IN REVIEWING AN APPLICATION FOR A LOAN OR GRANT, THE DEPARTMENT SHALL CONSIDER:

- (1) THE NEEDS OF THE BENEFICIARIES OF THE PROPOSED LEAD HAZARD REDUCTION ACTIVITY;
- (2) THE CAPACITY OF THE APPLICANT TO REPAY A LOAN;
- (3) THE OVERALL PUBLIC BENEFIT;
- (4) THE IMPACT ON THE SURROUNDING NEIGHBORHOOD OR COMMUNITY; AND
- (5) ANY OTHER FACTOR THAT THE DEPARTMENT FINDS RELEVANT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1408.

In the introductory language of this section, the reference to "reviewing" an application is substituted for the former reference to "approving" an application to avoid the erroneous implication that all applications for a loan or grant must be approved.

Defined terms: "Department" § 1-101

"Lead hazard reduction activity" § 4-701

4-711. LEAD HAZARD ADVISORY COMMITTEE.

(A) "COMMITTEE" DEFINED.

IN THIS SECTION, "COMMITTEE" MEANS THE LEAD HAZARD ADVISORY COMMITTEE.

(B) ESTABLISHED.

THERE IS A LEAD HAZARD ADVISORY COMMITTEE.

(C) MEMBERSHIP; APPOINTMENT.

THE COMMITTEE CONSISTS OF THE FOLLOWING SEVEN MEMBERS:

(1) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;

(2) THE SECRETARY OF THE ENVIRONMENT, OR THE SECRETARY'S DESIGNEE;

(3) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE; AND

(4) FOUR MEMBERS APPOINTED BY THE GOVERNOR:

(I) A MEMBER OF THE LEAD POISONING PREVENTION COMMISSION;

(II) A REPRESENTATIVE OF OWNERS OF RESIDENTIAL RENTAL PROPERTY BUILT BEFORE 1950;

(III) A REPRESENTATIVE OF A CHILD, YOUTH, OR HEALTH ADVOCACY GROUP; AND

(IV) A MEMBER OF THE PUBLIC WHO HAS AN INTEREST IN LEAD IN THE ENVIRONMENT.

(D) TENURE; VACANCIES.

(1) THE TERM OF AN APPOINTED MEMBER OF THE COMMITTEE IS 4 YEARS.

(2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMITTEE ON OCTOBER 1, 2005.

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

(4) AN APPOINTED 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) CHAIR.

THE SECRETARY OR THE SECRETARY'S DESIGNEE IS THE CHAIR OF THE COMMITTEE.

(F) REIMBURSEMENT FOR EXPENSES.

EACH MEMBER OF THE COMMITTEE IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(G) DUTIES.

IN CONSULTATION WITH THE COMMITTEE, THE DEPARTMENT SHALL DEVELOP REGULATIONS, POLICIES, AND GUIDELINES TO CARRY OUT THE GRANT PROGRAM AND THE LOAN PROGRAM.

REVISOR'S NOTE: Subsection (a) of this section is new language added to provide a convenient term for "Lead Hazard Advisory Committee".

Subsections (b) through (d)(1) and (d)(3) through (e) and (g) of this section are new language derived without substantive change from former Art. 83B, § 2-1410.

Subsection (d)(2) of this section is standard language added to indicate the termination dates of the terms of the members of the Committee. This addition is not intended to alter the term of any member of the Committee. The terms of the appointed members serving on October 1, 2005, end as follows: (1) two in 2005; (2) two in 2006; and (3) three in 2007.

Subsection (f) of this section is added as standard language, allowing members of the Committee to be reimbursed for expenses.

In subsection (b) of this section, the former phrase "in the Department" is deleted in light of § 2-201 of this article.

In subsection (d) of this section, references to an "appointed" member are

added to clarify that this subsection does not apply to the ex officio members.

In subsection (e) of this section, the reference to the "chair" is substituted for the former reference to a "chairperson" to conform to the terminology used throughout this article.

Former Art. 83B, § 2-1410(e)(2), which contained the expiration dates of the initial terms of the members of the Committee, is deleted as obsolete.

Defined terms: "Department" § 1-101

"Grant Program" § 4-701

"Loan Program" § 4-701

"Secretary" § 1-101

4-712. FALSE STATEMENTS OR REPORTS.

(A) PROHIBITED.

(1) A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT OR REPORT IN A DOCUMENT REQUIRED TO BE SUBMITTED TO THE DEPARTMENT RELATING TO A GRANT OR LOAN.

(2) A GRANT OR LOAN APPLICANT MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE ANY FALSE STATEMENT OR REPORT TO INFLUENCE THE ACTION OF THE DEPARTMENT ON A GRANT OR LOAN APPLICATION OR A GRANT OR LOAN ALREADY MADE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 2 YEARS OR A FINE NOT EXCEEDING \$50,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1411.

Defined terms: "Department" § 1-101

"Person" § 1-101

SUBTITLE 8. MARYLAND HOME FINANCING PROGRAM.

4-801. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-601(a).

No changes are made.

(B) ADJUSTED ANNUAL INCOME.

(1) "ADJUSTED ANNUAL INCOME" MEANS GROSS INCOME FROM ALL SOURCES WITH ADJUSTMENTS, AS DETERMINED BY THE DEPARTMENT, MADE FOR UNUSUAL OR TEMPORARY INCOME ITEMS AND LONG-TERM UNUSUAL EXPENSES SUCH AS MEDICAL, REHABILITATION, OR SPECIAL EDUCATION EXPENSES.

(2) "ADJUSTED ANNUAL INCOME" INCLUDES:

- (I) WAGES;
- (II) INVESTMENT INCOME;
- (III) SOCIAL SECURITY PAYMENTS;
- (IV) RETIREMENT PAYMENTS;
- (V) DISABILITY PAYMENTS; AND
- (VI) UNEMPLOYMENT INSURANCE PAYMENTS.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-601(b).

The only changes are in style.

Defined term: "Department" § 1-101

(C) FUND.

"FUND" MEANS THE HOMEOWNERSHIP PROGRAMS FUND UNDER SUBTITLE 5 OF THIS TITLE.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to the Homeownership Programs Fund.

(D) HOUSEHOLD OF LIMITED INCOME.

"HOUSEHOLD OF LIMITED INCOME" MEANS ONE OR MORE INDIVIDUALS WHOSE AGGREGATE ADJUSTED ANNUAL INCOME DOES NOT EXCEED THE UPPER INCOME LIMITS THAT THE SECRETARY SETS UNDER § 4-807 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-601(c).

The reference to "aggregate" adjusted annual income is added for clarity.

Defined terms: "Adjusted annual income" § 4-801

"Secretary" § 1-101

(E) LOT CONSOLIDATION.

"LOT CONSOLIDATION" MEANS THE ACQUISITION OF REAL PROPERTY ADJACENT TO AND IN CONNECTION WITH A RESIDENCE FINANCED BY THE PROGRAM TO INCLUDE THE REAL PROPERTY AS PART OF THE RESIDENCE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-601(e).

Defined term: "Program" § 4-801

(F) MEDIAN ANNUAL FAMILY INCOME.

"MEDIAN ANNUAL FAMILY INCOME" MEANS THE MEDIAN ANNUAL FAMILY INCOME FOR THE STATE, COUNTY, OR AREA, WHICHEVER IS GREATEST, AS SHOWN IN THE LATEST CENSUS BUREAU REPORT OF THE UNITED STATES DEPARTMENT OF COMMERCE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-601(f).

The reference to an "area" is substituted for the former reference to a "region" to avoid confusion with the defined term "region". *See* subsection (i) of this section. The former reference to "region" in this subsection was other than as defined.

Defined term: "County" § 1-101

(G) PREFERRED INTEREST RATE.

"PREFERRED INTEREST RATE" MEANS AN INTEREST RATE THAT THE DEPARTMENT SETS UNDER § 4-806(C) OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-601(h).

The former reference to the rate that the Department sets "periodically" is deleted in light of the reference to "§ 4-806(c) of this subtitle".

Defined term: "Department" § 1-101

(H) PROGRAM.

"PROGRAM" MEANS THE MARYLAND HOME FINANCING PROGRAM.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-601(i).

No changes are made.

(I) REGION.

"REGION" MEANS AN AREA OF THE STATE THAT THE DEPARTMENT ESTABLISHES COMPRISING ONE OR MORE COUNTIES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-601(j).

Defined term: "Department" § 1-101

(J) SHORT-TERM LOAN.

"SHORT-TERM LOAN" MEANS A LOAN THAT, UNDER THE LOAN DOCUMENTS, IS EXPECTED TO BE TAKEN OUT BY OTHER FINANCING WITHIN 7 YEARS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-601(k).

4-802. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES ONLY TO LOANS THAT THE DEPARTMENT MAKES UNDER THIS SUBTITLE OR THAT WERE MADE BEFORE JULY 1, 1989, UNDER THE MARYLAND HOME FINANCING PROGRAM, THE REVERSE EQUITY LOAN PROGRAM, OR THE HOMEOWNERS' EMERGENCY MORTGAGE ASSISTANCE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-601(d).

It is revised as a scope section for clarity.

Defined term: "Department" § 1-101

4-803. ESTABLISHED.

THERE IS A MARYLAND HOME FINANCING PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-603.

The former phrase "of the Department" is deleted in light of § 4-103 of this title.

4-804. PURPOSES OF PROGRAM.

THE PURPOSES OF THE PROGRAM ARE TO MAKE, PARTICIPATE IN MAKING, AND PURCHASE:

(1) PREFERRED INTEREST RATE LOANS TO ACQUIRE, ACQUIRE AND REHABILITATE WITH OR WITHOUT DEMOLITION OR LOT CONSOLIDATION, OR REFINANCE A PRIMARY RESIDENCE BY:

(I) HOUSEHOLDS OF LIMITED INCOME THAT WILL OCCUPY SINGLE-UNIT PRIMARY RESIDENCES; OR

(II) OWNER-OCCUPANTS OF RESIDENTIAL BUILDINGS WITH NOT MORE THAN FOUR UNITS, IF EACH UNIT OTHER THAN THE OWNER'S WILL BE OCCUPIED BY A HOUSEHOLD OF LIMITED INCOME;

(2) SHORT-TERM CONSTRUCTION LOANS TO DEVELOPERS OR NONPROFIT SPONSORS TO CONSTRUCT OR REHABILITATE DWELLING UNITS THAT HOUSEHOLDS OF LIMITED INCOME CAN AFFORD;

(3) SHORT-TERM LOANS TO NONPROFIT SPONSORS, AS DEFINED IN DEPARTMENTAL REGULATIONS, TO ACQUIRE AND CONSTRUCT OR ACQUIRE AND REHABILITATE, WITH OR WITHOUT DEMOLITION OR LOT CONSOLIDATION, DWELLING UNITS THAT HOUSEHOLDS OF LIMITED INCOME CAN AFFORD TO BUY UNDER A PURCHASE OR LEASE-PURCHASE CONTRACT;

(4) EMERGENCY ASSISTANCE LOANS TO HOUSEHOLDS OF LIMITED INCOME WHO, BECAUSE OF UNEMPLOYMENT OR OTHER EXTRAORDINARY HARDSHIP, CANNOT MAKE CURRENT MORTGAGE PAYMENTS ON THEIR HOMES AND RISK FORFEITING THE TITLE TO THEIR HOMES; AND

(5) REVERSE EQUITY LOANS TO ELDERLY HOUSEHOLDS OF LIMITED INCOME FOR HOUSING RELATED EXPENSES OR PERSONAL EXPENSES THAT ENABLE THE OWNER TO CONTINUE TO OCCUPY THE HOME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-602.

In item (1) of this section, the references to "acquir[ing]" are substituted for the former references to "purchas[ing]" for consistency with item (3) of this section.

In item (2) of this section, the reference to "nonprofit sponsor" is added in light of § 4-813(a) of this subtitle, which lists qualifications for a short-term construction loan under this section for a developer "or nonprofit sponsor".

Defined terms: "Household of limited income" § 4-801

"Lot consolidation" § 4-801

"Nonprofit sponsor" § 4-101

"Preferred interest rate" § 4-801

"Program" § 4-801

"Short-term loan" § 4-801

4-805. POWERS OF DEPARTMENT.

THE DEPARTMENT MAY:

(1) CONTRACT FOR SERVICES RELATED TO THE PROGRAM;

(2) CONTRACT WITH PRIVATE MORTGAGE SERVICERS TO PERFORM ON BEHALF OF THE DEPARTMENT FUNCTIONS THE SERVICERS ORDINARILY PERFORM, INCLUDING FORECLOSURE AND EMPLOYMENT OF COUNSEL;

(3) REQUIRE PAYMENT OF A NONREFUNDABLE APPLICATION FEE;

(4) PURCHASE OR COMMIT TO PURCHASE FROM MORTGAGE LENDERS NOTES OR MORTGAGES THAT MEET THE REQUIREMENTS OF THIS SUBTITLE, ANY REGULATIONS ADOPTED UNDER IT, AND APPROPRIATE PROGRAM DIRECTIVES; AND

(5) WITHOUT APPROVAL OR EXECUTION BY THE BOARD OF PUBLIC WORKS:

(I) ASSIGN A MORTGAGE FOR VALUE;

(II) RELEASE A MORTGAGE;

(III) FORECLOSE A MORTGAGE;

(IV) ACQUIRE PROPERTY THAT SECURES A LOAN IN DEFAULT;

(V) ENCUMBER, SELL, OR OTHERWISE DISPOSE OF PROPERTY ACQUIRED IN CONNECTION WITH A LOAN IN DEFAULT;

(VI) SELL A LOAN AT A DISCOUNT OR ON OTHER TERMS ACCEPTABLE TO THE DEPARTMENT;

(VII) TRANSFER TO THE FUND MONEY RECEIVED ON THE SALE OF A LOAN UNDER ITEM (VI) OF THIS ITEM; AND

(VIII) REPURCHASE OR PAY THE COST OF SERVICING A LOAN THAT HAS BEEN SOLD UNDER ITEM (VI) OF THIS ITEM WITH MONEY IN THE FUND AND ON TERMS ACCEPTABLE TO THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-612.

In item (4) of this section, the former phrase "that evidence residential mortgage loans" is deleted as surplusage.

Defined terms: "Department" § 1-101

"Fund" § 4-801

"Program" § 4-801

4-806. DUTIES OF DEPARTMENT.

(A) IN GENERAL.

THE DEPARTMENT SHALL:

(1) MANAGE THE PROGRAM IN A MANNER THAT:

(I) SERVES ALL AREAS OF THE STATE; AND

(II) DOES NOT CREATE OR AGGRAVATE LOW-INCOME CONCENTRATIONS THAT ADVERSELY AFFECT COMMUNITIES;

(2) PERIODICALLY SET UPPER LIMITS ON ADJUSTED ANNUAL INCOME;

(3) USE FEDERAL OR STATE PROGRAMS THAT COMPLEMENT OR FACILITATE CARRYING OUT THE PROGRAM; AND

(4) ADOPT REGULATIONS TO CARRY OUT THE PROGRAM.

(B) POLICIES.

THE DEPARTMENT SHALL ADOPT POLICIES TO ENSURE THAT EACH LOAN MADE UNDER THE PROGRAM IS MADE ONLY TO:

(1) A HOUSEHOLD THAT:

(I) WHEN THE LOAN IS MADE, HAS AN ADJUSTED ANNUAL INCOME AT OR BELOW THE APPLICABLE UPPER LIMIT THAT THE SECRETARY SETS UNDER § 4-807 OF THIS SUBTITLE; AND

(II) CANNOT QUALIFY FOR CONVENTIONAL OR OTHER AVAILABLE DEPARTMENTAL FINANCING TO ENABLE THE OWNER TO CONTINUE TO OCCUPY THE HOME, OR TO ACQUIRE, ACQUIRE AND REHABILITATE WITH OR WITHOUT DEMOLITION OR LOT CONSOLIDATION, OR REFINANCE A HOME;

(2) A DEVELOPER THAT THE DEPARTMENT REASONABLY BELIEVES CAN BUILD OR REHABILITATE HOUSING THAT A HOUSEHOLD OF LIMITED INCOME CAN AFFORD; AND

(3) AN OWNER-OCCUPANT OF A RESIDENTIAL BUILDING WITH NOT MORE THAN FOUR UNITS IF EACH UNIT OTHER THAN THE OWNER'S WILL BE OCCUPIED BY A HOUSEHOLD OF LIMITED INCOME.

(C) TERMS AND INTEREST RATES.

(1) FOR EACH TYPE OF LOAN DESCRIBED IN § 4-804 OF THIS SUBTITLE, THE DEPARTMENT PERIODICALLY SHALL SET:

(I) APPROPRIATE TERMS; AND

(II) A PREFERRED INTEREST RATE THAT MAY BE AS LOW AS 0.0% OR AS HIGH AS IS REASONABLE IN LIGHT OF THE INCOMES OF THE PROPOSED OCCUPANTS.

(2) IN SETTING THESE TERMS AND INTEREST RATES, THE DEPARTMENT SHALL TAKE INTO ACCOUNT RATES AVAILABLE IN THE CONVENTIONAL PRIVATE HOUSING MARKET AND THE ADJUSTED ANNUAL INCOME AND ASSETS OF PROSPECTIVE BORROWERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-604(a)(1) through (4), (6), and (7), and the introductory language of (5).

In subsection (a)(1) of this section, the former references to the Department's "supervis[ing]" the Program and "carry[ing] out" the Program are deleted in light of the reference to the Program's "manag[ing]" the Program.

In subsection (a)(4) of this section, as to the deletion of the former reference to "rules", *see* General Revisor's Note to article.

Also in subsection (a)(4) of this section, the former phrase "in conformance with statutory requirements" is deleted as implicit in the phrase "adopt regulations". *See* SG § 10-106.

In subsection (b)(1)(ii) of this section, the references to "acquir[ing]" and "acquir[ing] and rehabilitat[ing]" are substituted for the former references to "purchas[ing]" and "purchas[ing] and rehabilitation" to conform to the terminology used in § 4-804(1) and (3) of this subtitle.

In subsection (b)(3) of this section, the phrase "if each unit other than the owner's will be occupied by a household of limited income" is substituted for the former phrase "who agree to rent to households of limited income" to conform to the terminology used in § 4-804(1)(ii) of this subtitle.

In subsection (c)(1)(ii) of this section, the reference to a "preferred" interest rate is added to conform to the defined term "preferred interest rate".

Defined terms: "Adjusted annual income" § 4-801

"Department" § 1-101

"Household of limited income" § 4-801

"Lot consolidation" § 4-801

"Preferred interest rate" § 4-801

"Program" § 4-801

4-807. ADJUSTED ANNUAL INCOME.

(A) FACTORS TO CONSIDER.

IN SETTING UPPER LIMITS ON ADJUSTED ANNUAL INCOME, THE DEPARTMENT SHALL CONSIDER FACTORS INCLUDING:

(1) THE TOTAL INCOME OF EACH INDIVIDUAL EXPECTED TO LIVE IN THE HOME;

(2) THE SIZE OF THE HOUSEHOLD;

(3) THE COST OF AVAILABLE HOUSING FACILITIES;

(4) THE ABILITY OF THE HOUSEHOLD TO COMPETE SUCCESSFULLY IN THE CONVENTIONAL PRIVATE HOUSING MARKET; AND

(5) PERTINENT STANDARDS AND DEFINITIONS ESTABLISHED FOR FEDERAL HOUSING PROGRAMS.

(B) DIFFERENCES IN UPPER LIMITS ON ADJUSTED ANNUAL INCOME.

UPPER LIMITS ON ADJUSTED ANNUAL INCOME MAY VARY FOR DIFFERENT:

- (1) TYPES OF HOUSING;
- (2) TYPES OF FINANCING OFFERED BY THE PROGRAM; AND
- (3) REGIONS.

(C) LOWER INCOME LIMIT RANGES; LOWER INTEREST RATES.

WITHIN THE UPPER LIMITS ON ADJUSTED ANNUAL INCOME, LOWER INCOME LIMIT RANGES AND LOWER INTEREST RATES MAY BE ESTABLISHED FOR LOANS TO HOUSEHOLDS WITH ADJUSTED ANNUAL INCOMES IN THE LOWER RANGES.

(D) LIMIT ON ADJUSTED ANNUAL INCOME.

EXCEPT FOR LOANS MADE UNDER § 4-804(4) OF THIS SUBTITLE, THE UPPER LIMITS ON ADJUSTED ANNUAL INCOME ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION MAY NOT EXCEED THE MEDIAN ANNUAL FAMILY INCOME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-604(a)(5) and (b).

In subsection (a)(4) of this section, the reference to "the household" is substituted for the former reference to "such individuals" for clarity.

In subsection (d) of this section, the former reference to adjusted annual income that may not exceed "but may be less than" the median annual family income is deleted as surplusage.

Defined terms: "Adjusted annual income" § 4-801

"Department" § 1-101

"Median annual family income" § 4-801

"Program" § 4-801

"Region" § 4-801

4-808. OPERATION OF PROGRAM.

THE PROGRAM SHALL BE OPERATED WITH THE MONEY IN THE FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from the first clause of the introductory language of former Art. 83B, § 2-613(a).

Defined terms: "Fund" § 4-801

"Program" § 4-801

4-809. APPLICATION FOR LOAN.

TO APPLY FOR A LOAN UNDER THIS SUBTITLE, AN APPLICANT SHALL SUBMIT:

- (1) A COMPLETED APPLICATION IN A FORM THAT THE DEPARTMENT REQUIRES;
- (2) A COPY OF THE APPLICANT'S LATEST STATE INCOME TAX RETURN OR OTHER AVAILABLE VERIFICATION OF INCOME, UNLESS THE APPLICATION IS FOR A LOAN UNDER § 4-804(1)(I) OR (2) OF THIS SUBTITLE; AND
- (3) ANY OTHER INFORMATION OR DOCUMENTATION THAT THE DEPARTMENT CONSIDERS NECESSARY TO MAKE A DETERMINATION ON THE LOAN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-610.

Defined term: "Department" § 1-101

4-810. ELIGIBILITY FOR LOAN -- IN GENERAL.

(A) QUALIFICATIONS FOR LOAN FOR PRIMARY RESIDENCE.

TO QUALIFY FOR A LOAN UNDER § 4-804(1)(I), (4), OR (5) OF THIS SUBTITLE, AN APPLICANT:

- (1) SHALL BE A MEMBER OF A HOUSEHOLD OF LIMITED INCOME;
- (2) ON CLOSING OF THE LOAN, SHALL INTEND TO RESIDE IN THE HOME TO BE FINANCED;
- (3) MAY NOT OWN OTHER PROPERTY USED AS THE APPLICANT'S PERSONAL RESIDENCE; AND
- (4) IN THE ESTIMATION OF THE DEPARTMENT, SHALL LACK THE FINANCIAL RESOURCES TO OBTAIN A PRIVATE CONVENTIONAL MORTGAGE OR TO QUALIFY FOR OTHER DEPARTMENTAL LOAN PROGRAMS.

(B) QUALIFICATIONS FOR LOAN AS OWNER-OCCUPANT LANDLORD.

TO QUALIFY FOR A LOAN UNDER § 4-804(1)(II) OF THIS SUBTITLE, AN APPLICANT:

- (1) SHALL AGREE IN WRITING TO LIVE AS AN OWNER-OCCUPANT IN ONE OF THE UNITS OF A RESIDENTIAL BUILDING WITH NO MORE THAN FOUR UNITS;
- (2) SHALL AGREE IN WRITING TO RENT EACH UNIT OTHER THAN THE APPLICANT'S UNIT TO A HOUSEHOLD OF LIMITED INCOME; AND

(3) IN THE ESTIMATION OF THE DEPARTMENT, SHALL LACK THE FINANCIAL RESOURCES TO OBTAIN A PRIVATE CONVENTIONAL MORTGAGE OR QUALIFY FOR OTHER DEPARTMENTAL LOAN PROGRAMS.

(C) QUALIFICATIONS FOR LOAN TO DEVELOPER.

TO QUALIFY FOR A LOAN UNDER § 4-804(2) OF THIS SUBTITLE, AN APPLICANT SHALL AGREE TO SELL OR RENT EACH DWELLING UNIT CONSTRUCTED OR REHABILITATED WITH THE PROCEEDS OF THE LOAN TO A HOUSEHOLD OF LIMITED INCOME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-605.

In the introductory language of subsection (a) of this section, the references to "§ 4-804(1)(i), (4), or (5)" of this subtitle is substituted for the former references to "§ 2-602(1)(i), (3), or (4)" of this subtitle to reflect the organization of this revision and to correct a cross-reference that occurred in Chapter 412, Acts of 1994, which enacted § 4-804(3) of this subtitle.

In subsections (a)(4) and (b)(3) of this section, the references to the "Department" are substituted for the former reference to the "Program" for clarity.

Defined terms: "Department" § 1-101

"Household of limited income" § 4-801

"Program" § 4-801

4-811. SAME -- EMERGENCY ASSISTANCE LOANS.

(A) QUALIFICATIONS.

TO QUALIFY FOR AN EMERGENCY ASSISTANCE LOAN MADE UNDER § 4-804(4) OF THIS SUBTITLE, AN APPLICANT:

(1) SHALL BE UNABLE TO KEEP PAYMENTS CURRENT ON THE APPLICANT'S HOME MORTGAGE BECAUSE OF UNFORESEEABLE ADVERSE PERSONAL OR ECONOMIC CIRCUMSTANCES;

(2) SHALL BE AT RISK OF FORFEITING TITLE TO THE APPLICANT'S HOME; AND

(3) REASONABLY MAY BE EXPECTED TO RESUME REGULAR MORTGAGE PAYMENTS WITHIN 24 MONTHS AFTER THE FIRST MORTGAGE ASSISTANCE PAYMENT IS PROVIDED.

(B) EQUITY IN PROPERTY; AMOUNT OF LIEN.

FOR AN EMERGENCY ASSISTANCE LOAN UNDER § 4-804(4) OF THIS SUBTITLE:

(1) THE DEPARTMENT SHALL CONSIDER THE AMOUNT OF EQUITY IN THE PROPERTY; AND

(2) THE LOAN MAY NOT EXCEED AN AMOUNT EQUAL TO 36 PAYMENTS OF PRINCIPAL AND INTEREST ON ALL SUPERIOR LIENS, PLUS:

(I) LATE FEES;

(II) TAXES;

(III) INSURANCE PAYMENTS; AND

(IV) OTHER PAYMENTS NEEDED FOR THE LOAN TO BE CURRENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-606.

Defined term: "Department" § 1-101

4-812. SAME -- REVERSE EQUITY LOANS.

TO QUALIFY FOR A REVERSE EQUITY LOAN UNDER § 4-804(5) OF THIS SUBTITLE, AN APPLICANT SHALL:

(1) BE AT LEAST 62 YEARS OLD WHEN THE LOAN CLOSES; AND

(2) NEED FINANCIAL ASSISTANCE WITH HOUSING-RELATED EXPENSES OR PERSONAL EXPENSES THAT ENABLE THE OWNER TO CONTINUE TO OCCUPY THE HOME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-607.

4-813. SAME -- SHORT-TERM CONSTRUCTION LOANS.

(A) DEVELOPER OR NONPROFIT SPONSOR.

TO QUALIFY FOR A SHORT-TERM CONSTRUCTION LOAN UNDER § 4-804(2) OF THIS SUBTITLE, A DEVELOPER OR NONPROFIT SPONSOR SHALL:

(1) PROVIDE CONSTRUCTION COSTS, MARKETING DATA, AND OTHER INFORMATION THE DEPARTMENT REQUIRES; AND

(2) HAVE A COMMITMENT FROM THE DEPARTMENT UNDER § 4-815(J) OF THIS SUBTITLE FOR PERMANENT FINANCING FOR THE SALE OF EACH RESIDENCE TO BE BUILT OR REHABILITATED WITH THE SHORT-TERM CONSTRUCTION LOAN.

(B) NONPROFIT SPONSOR.

TO QUALIFY FOR A SHORT-TERM LOAN UNDER § 4-804(3) OF THIS SUBTITLE, A NONPROFIT SPONSOR:

(1) SHALL PROVIDE:

UNDERTAKING;

(I) INFORMATION ON THE COSTS OF THE PROPOSED

(II) MARKETING DATA; AND

(III) OTHER INFORMATION THE DEPARTMENT REQUIRES; AND

(2) SHALL HAVE:

(I) A COMMITMENT FROM THE DEPARTMENT FOR PERMANENT FINANCING FOR THE SALE OF EACH RESIDENCE BUILT OR REHABILITATED WITH THE SHORT-TERM LOAN; OR

(II) APPROVAL FROM THE DEPARTMENT TO RENT THE RESIDENCE SUBJECT TO A LEASE PURCHASE AGREEMENT ACCEPTABLE TO THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-609.

In subsection (b)(1)(i) of this section, the phrase "information on the costs of the proposed undertaking" is substituted for the former reference to "costs for acquisition, construction, rehabilitation, demolition, or lot consolidation" for clarity.

In subsection (b)(2)(i) of this section, the reference to "each residence built or rehabilitated" is substituted for the former reference to "residences acquired and constructed or rehabilitated" for consistency with subsection (a)(2) of this section.

Defined terms: "Department" § 1-101

"Nonprofit sponsor" § 4-101

"Short-term loan" § 4-801

4-814. PREFERRED INTEREST RATE MORTGAGE.

TO QUALIFY FOR A PREFERRED INTEREST RATE LOAN TO REFINANCE AN EXISTING HOME UNDER § 4-804(1) OF THIS SUBTITLE, AN APPLICANT SHALL:

(1) BE UNABLE TO KEEP PAYMENTS CURRENT ON THE APPLICANT'S HOME MORTGAGE BECAUSE OF EXCEPTIONAL ADVERSE PERSONAL OR ECONOMIC CIRCUMSTANCES; AND

(2) RISK FORFEITING TITLE TO THE APPLICANT'S HOME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-608.

In item (1) of this section, the reference to keeping "payments current on the applicant's home mortgage" is substituted for the former reference to

keeping "current the existing mortgage on the applicant's home" to conform to the language used in § 4-811(a)(1) and (2) of this subtitle.

Defined term: "Preferred interest rate" § 6-101

4-815. LOAN OPERATION.

(A) IN GENERAL.

AS TO EACH LOAN, THE DEPARTMENT MAY SET:

(1) THE PRINCIPAL AMOUNT, SUBJECT TO SUBSECTION (F) OF THIS SECTION;

(2) THE TERM OF THE LOAN, NOT TO EXCEED 40 YEARS EXCEPT IN THE CASE OF A REVERSE EQUITY LOAN MADE UNDER SUBSECTION (B)(3) OF THIS SECTION;

(3) THE INTEREST RATE, WHICH MAY BE ADJUSTABLE UNDER SUBSECTION (G) OF THIS SECTION;

(4) THE PRINCIPAL REPAYMENT TERMS, SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION; AND

(5) OTHER TERMS THAT THE DEPARTMENT CONSIDERS NECESSARY TO ACHIEVE THE PURPOSES OF THE PROGRAM.

(B) ACCELERATION; DEFERRAL.

(1) A LOAN MAY PROVIDE FOR IMMEDIATE ACCELERATION IF THE BORROWER VIOLATES § 4-816 OF THIS SUBTITLE OR IF THE LOAN IS IN DEFAULT.

(2) IN THE CASE OF A PREFERRED INTEREST RATE LOAN UNDER § 4-804(1) OF THIS SUBTITLE, A LOAN MAY PROVIDE FOR FULL ACCELERATION OF PRINCIPAL AFTER 5 YEARS IF THE BORROWER:

(I) NO LONGER QUALIFIES AS A HOUSEHOLD OF LIMITED INCOME;
AND

(II) CAN QUALIFY FOR CONVENTIONAL MORTGAGE FINANCING.

(3) IN THE CASE OF A REVERSE EQUITY LOAN MADE UNDER § 4-804(5) OF THIS SUBTITLE, A LOAN MAY PROVIDE FOR:

(I) FULL OR PARTIAL DEFERRAL ON PAYMENT OF INTEREST AND PRINCIPAL UNTIL SALE, CONVEYANCE IN ACCORDANCE WITH A WILL OR TRUST INSTRUMENT, OR OTHER TRANSFER OF THE MORTGAGED PROPERTY OR A BENEFICIAL INTEREST IN THE PROPERTY; AND

(II) FORGIVENESS OF ACCRUED INTEREST IN EXCESS OF THE AVAILABLE EQUITY IN THE MORTGAGED PROPERTY WHEN THE CONVEYANCE OCCURS.

(4) IN THE CASE OF AN EMERGENCY ASSISTANCE LOAN UNDER § 4-804(4) OF THIS SUBTITLE, A LOAN MAY PROVIDE FOR FULL OR PARTIAL DEFERRAL OF PAYMENT OF INTEREST AND PRINCIPAL UNTIL A STATED DATE WHEN THE DEPARTMENT REASONABLY ANTICIPATES THAT THE BORROWER WILL BE ABLE TO MAKE FULL OR PARTIAL PAYMENTS.

(C) RIGHTS OF DEPARTMENT.

A MORTGAGE SHALL INCLUDE THE RIGHT OF THE DEPARTMENT TO:

(1) FORECLOSE THE MORTGAGE AND TAKE TITLE TO THE FORECLOSED PROPERTY OR CONVEY TITLE TO A BUYER; AND

(2) OBTAIN A DEFICIENCY JUDGMENT.

(D) SECURITY.

(1) REPAYMENT OF A LOAN SHALL BE SECURED BY A RECORDED LIEN ON THE REAL PROPERTY.

(2) THE LIEN MAY BE A SUBORDINATE LIEN.

(3) A LIEN SECURING AN EMERGENCY ASSISTANCE LOAN MAY BE RELEASED IF THE RELEASE IS IN THE INTEREST OF THE DEPARTMENT.

(E) INSURANCE.

THE DEPARTMENT MAY REQUIRE A MORTGAGE TO BE INSURED AT THE BORROWER'S EXPENSE BY A FEDERAL, STATE, OR PRIVATE INSTRUMENTALITY.

(F) AMOUNT OF LOAN.

(1) FOR A PREFERRED INTEREST LOAN UNDER § 4-804(1) OF THIS SUBTITLE, THE AMOUNT OF THE LOAN AND ANY PRIOR RECORDED LIENS OUTSTANDING MAY NOT EXCEED THE VALUE OF THE SECURED PROPERTY, AS DETERMINED BY THE DEPARTMENT WHEN THE LOAN IS CLOSED, PLUS SETTLEMENT EXPENSES.

(2) FOR A REVERSE EQUITY LOAN UNDER § 4-804(5) OF THIS SUBTITLE, THE PRINCIPAL AMOUNT OF THE LOAN AND ANY PRIOR LIENS OUTSTANDING MAY NOT EXCEED THE VALUE OF THE SECURED PROPERTY AS DETERMINED BY THE DEPARTMENT FROM TIME TO TIME.

(3) FOR A SHORT-TERM LOAN UNDER § 4-804(2) OF THIS SUBTITLE, THE AMOUNT OF THE LOAN MAY NOT EXCEED THE TOTAL COMMITMENTS FOR PERMANENT FINANCING FOR BUYERS, INCLUDING ANY COMMITMENTS OF

FEDERAL, STATE, OR LOCAL MONEY TO SUBSIDIZE THE COST OF THE DWELLING UNITS.

(G) ADJUSTABLE INTEREST RATE.

AFTER FULL DISCLOSURE TO THE BORROWER WHEN THE LOAN IS MADE, THE DEPARTMENT MAY TAKE AS SECURITY AN ADJUSTABLE INTEREST RATE MORTGAGE UNDER WHICH ANY RATE ADJUSTMENT MUST:

- (1) FOLLOW WRITTEN NOTICE TO THE BORROWER; AND
- (2) BE BASED ON AN INCREASE OR DECREASE IN HOUSEHOLD INCOME.

(H) DEFAULT.

ON DEFAULT, THE DEPARTMENT MAY MODIFY THE INTEREST RATE, THE TIME OR AMOUNT OF PAYMENT, OR ANY OTHER TERM OF THE LOAN TO FACILITATE REPAYMENT OF THE LOAN AND ACHIEVE THE PURPOSES OF THE PROGRAM.

(I) TRANSFER OF MORTGAGED PROPERTY; ASSUMPTION OF MORTGAGE.

FOR A MORTGAGE SECURING A LOAN UNDER THIS SUBTITLE, THE DEPARTMENT MAY ALLOW:

(1) THE TRANSFER OF THE MORTGAGED PROPERTY OR AN INTEREST IN THE PROPERTY WITHOUT MONETARY CONSIDERATION:

(I) TO A SPOUSE, CHILD, OR OTHER IMMEDIATE FAMILY MEMBER;
OR

(II) IN CONNECTION WITH THE DEATH OF A BORROWER, A DIVORCE DECREE, OR A LEGAL SEPARATION AGREEMENT; AND

(2) ASSUMPTION OF THE MORTGAGE BY A TRANSFEREE DESCRIBED IN ITEM (1)(I) OF THIS SUBSECTION FOR MONETARY CONSIDERATION AND BY ANY OTHER TRANSFEREE WITH OR WITHOUT CONSIDERATION IF THE TRANSFEREE QUALIFIES AS A HOUSEHOLD OF LIMITED INCOME AND SATISFIES ALL OTHER PROGRAM REQUIREMENTS.

(J) RESERVATION OF MONEY.

FOR THE DEVELOPER OF HOUSING THAT WILL BE PRICED SO AS TO BE AFFORDABLE TO HOUSEHOLDS OF LIMITED INCOME, THE DEPARTMENT MAY COMMIT TO RESERVE FOR A FIXED PERIOD A FIXED AMOUNT OF PROGRAM MONEY TO BE AVAILABLE TO FINANCE PREFERRED INTEREST RATE MORTGAGE LOANS FOR HOUSEHOLDS OF LIMITED INCOME WHO SEEK TO PURCHASE FROM THE DEVELOPER FULLY CONSTRUCTED OR REHABILITATED HOMES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-611.

In subsection (c) of this section, the former reference to "seek enforcement of" a deficiency judgment is deleted as implicit in the reference to "[o]btain" a deficiency judgment.

The Housing Article Review Committee notes, for consideration by the General Assembly, that in subsection (d)(3) of this section, the former reference that allows a lien securing an emergency assistance loan to be released if the release is in the "best financial" interest of the Department is deleted to allow the Department to weigh other policy considerations that may be of greater concern to the Department.

In subsection (f)(1) and (2) of this section, the references to the "Department" are substituted for the former references to the "Program" for clarity.

In the introductory language of subsection (g) of this section, the reference to the Department "tak[ing] as security" an adjustable interest rate mortgage is added for clarity.

The Housing Article Review Committee also notes, for consideration by the General Assembly, that in subsection (h) of this section, the reference authorizing the Department to modify terms of the loan to "facilitate" repayment of the loan is substituted for the former reference to "ensure" repayment of the loan, to reflect that the Department seeks only a good faith effort by the borrower to repay the loan.

In subsection (j) of this section, the former reference to a period "of time" is deleted as surplusage.

Also in subsection (j) of this section, the former reference to "qualifying" households of limited income is deleted as implicit in the defined term "household of limited income".

Defined terms: "Department" § 1-101

"Household of limited income" § 4-801

"Preferred interest rate" § 4-801

"Program" § 4-801

"Short-term loan" § 4-801

4-816. FALSE STATEMENTS OR REPORTS.

(A) PROHIBITED.

A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE ANY MATERIAL MISSTATEMENT OF FACT, INCLUDING AN UNDERSTATEMENT OR OVERSTATEMENT OF FINANCIAL CONDITION, IN A STATEMENT OR REPORT THAT:

(1) IS IN OR RELATES TO A LOAN APPLICATION UNDER THIS SUBTITLE;

OR

(2) AFFECTS A LOAN ALREADY MADE UNDER THIS SUBTITLE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 2 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. 83B, § 2-614.

Defined term: "Person" § 1-101

SUBTITLE 9. MARYLAND HOUSING REHABILITATION PROGRAM.

PART I. IN GENERAL.

4-901. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-302(a).

The only changes are in style.

(B) FAMILY OF LIMITED INCOME.

"FAMILY OF LIMITED INCOME" MEANS A FAMILY OR INDIVIDUAL WHOSE INCOME DOES NOT EXCEED THE LIMITS THAT THE SECRETARY ESTABLISHES UNDER § 4-915 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first sentence of former Art. 83B, § 2-302(e), as it defined "famil[ies] of limited income".

The former reference to "those defined as `elderly' in federal housing legislation" is deleted as surplusage.

As for the balance of former Art. 83B, § 2-302(e), *see* § 4-915 of this subtitle.

Defined term: "Secretary" § 1-101

(C) LOCAL REHABILITATION PROGRAM.

"LOCAL REHABILITATION PROGRAM" MEANS A REHABILITATION PROGRAM THAT USES PROGRAM LOANS AND IS ADMINISTERED BY A POLITICAL SUBDIVISION.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to a rehabilitation program using Program loans that a political subdivision administers.

Defined terms: "Political subdivision" § 1-101

"Program loan" § 4-901

(D) MINIMUM LIVABILITY CODE.

"MINIMUM LIVABILITY CODE" MEANS A REGULATION, STATUTE, OR ORDINANCE THAT ESTABLISHES MINIMUM PROPERTY MAINTENANCE STANDARDS THAT THE STATE OR A POLITICAL SUBDIVISION ADOPTS UNDER § 12-203 OF THE PUBLIC SAFETY ARTICLE.

REVISOR'S NOTE: This subsection formerly appeared as Art. 83B, § 2-302(j).

The only changes are in style.

Defined term: "Political subdivision" § 1-101

(E) NONPROFIT SPONSOR.

"NONPROFIT SPONSOR" MEANS:

(1) A NONPROFIT ORGANIZATION;

(2) A POLITICAL SUBDIVISION; OR

(3) A LIMITED PARTNERSHIP FORMED TO UNDERTAKE A REHABILITATION PROJECT THAT IS ELIGIBLE WHOLLY OR PARTLY FOR FEDERAL PROGRAMS OR INCENTIVES, INCLUDING LOW-INCOME HOUSING TAX CREDITS, IF:

(I) EACH GENERAL PARTNER IS A NONPROFIT ORGANIZATION OR A POLITICAL SUBDIVISION; OR

(II) 1. EACH GENERAL PARTNER IS A WHOLLY OWNED SUBSIDIARY OF A NONPROFIT ORGANIZATION OR POLITICAL SUBDIVISION; AND

2. A NONPROFIT ORGANIZATION OR POLITICAL SUBDIVISION MANAGES THE REHABILITATION PROJECT OR WILL RECEIVE NET CASH FLOW OR THE RESIDUAL SALE PROCEEDS ON THE SALE OF THE REHABILITATION PROJECT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-302(k) and (l).

The defined terms "political subdivision" and "nonprofit organization" are substituted for former Art. 83B, § 2-302(k), which defined "nonprofit organization" to the same effect, for brevity. *See* § 1-101 of this division.

The Housing Article Review Committee notes, for consideration of the

General Assembly, that in item (3)(i)1 of this subsection, the reference to "each general partner" is substituted for the former reference to a "limited partnership" to avoid the erroneous implication that a limited partnership may be a wholly owned subsidiary.

Defined terms: "Nonprofit organization" § 1-101

"Nonprofit sponsor" § 4-101

"Political subdivision" § 1-101

"Rehabilitation project" § 4-901

(F) PROGRAM.

"PROGRAM" MEANS THE MARYLAND HOUSING REHABILITATION PROGRAM.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to the Maryland Housing Rehabilitation Program.

(G) PROGRAM LOAN.

"PROGRAM LOAN" MEANS A LOAN UNDER THE MARYLAND HOUSING REHABILITATION PROGRAM OR A SPECIAL LOAN PROGRAM.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-302(f).

The reference to a "Program" loan is added for clarity.

Defined term: "Program" § 4-901

(H) REHABILITATION PROJECT.

(1) "REHABILITATION PROJECT" MEANS A PROJECT TO REPAIR, RECONSTRUCT, RENOVATE, REDEVELOP, IMPROVE, MODIFY, OR ADD TO A BUILDING FOR A PURPOSE LISTED IN § 4-923 OF THIS SUBTITLE.

(2) "REHABILITATION PROJECT" INCLUDES PROVIDING UTILITY SUBMETERING FOR DWELLINGS IN A RESIDENTIAL RENTAL BUILDING.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-302(o)(3) and the introductory language of (1).

As for the balance of former Art. 83B, § 2-302(o), *see* § 4-923 of this subtitle.

(I) SPECIAL LOAN PROGRAM.

"SPECIAL LOAN PROGRAM" MEANS:

(1) THE ACCESSORY, SHARED, AND SHELTERED HOUSING PROGRAM;

- (2) THE INDOOR PLUMBING PROGRAM;
- (3) THE LEAD PAINT ABATEMENT PROGRAM;
- (4) THE MIGRATORY WORKER HOUSING PROGRAM; OR
- (5) THE RADON AND ASBESTOS ABATEMENT PILOT PROGRAM.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-302(s).

In item (4) of this subsection, the reference to the "Migratory Worker Housing Program" is substituted for the former reference to the "Migratory Worker Housing Facilities Program" for brevity.

In item (5) of this subsection, the former reference to Radon "Gas" is deleted as surplusage.

(J) SPONSOR.

"SPONSOR" MEANS AN OWNER WHO RECEIVES A LOAN TO REHABILITATE A BUILDING FOR RESIDENTIAL RENTAL PURPOSES OR NONRESIDENTIAL PURPOSES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-302(u).

The former phrase "or for both" is deleted as implicit in the use of the conjunction "or".

4-902. SCOPE OF SUBTITLE.

(A) BUILDINGS.

THIS SUBTITLE APPLIES TO BUILDINGS THAT, AFTER REHABILITATION, PROVIDE:

- (1) TRADITIONAL DWELLINGS;
- (2) SINGLE ROOM OCCUPANCY;
- (3) SHARED LIVING DWELLINGS IN WHICH TWO OR MORE HOUSEHOLDS CAN LIVE AND SHARE SOME OR ALL OF THE LIVING, DINING, KITCHEN, OR SANITARY FACILITIES; OR
- (4) CONGREGATE OR GROUP HOUSING AND RELATED SERVICES OR TEMPORARY SHELTERS AND RELATED SERVICES THAT SERVE:
 - (I) INDIVIDUALS WITH DISABILITIES OR LOW-INCOME, ELDERLY, HOMELESS, OR OTHER DISADVANTAGED INDIVIDUALS; OR

(II) THE NONRESIDENTIAL COMMERCIAL, BUSINESS, OR SOCIAL NEEDS OF THE COMMUNITY WHERE THE BUILDING IS LOCATED, SO AS TO ENHANCE THE ECONOMIC FEASIBILITY OF HOUSING REHABILITATION IN THAT COMMUNITY.

(B) GROUP HOUSING BY OWNER-OCCUPANT OR NONPROFIT SPONSOR.

THIS SUBTITLE DOES NOT APPLY TO A BUILDING THAT PROVIDES GROUP HOUSING UNLESS THE GROUP HOUSING IS PROVIDED BY AN OWNER-OCCUPANT OR A NONPROFIT SPONSOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-302(c) and (q).

This section is revised as the scope of this subtitle rather than as part of the definitions of "building" and "shared living unit facility" to avoid giving "building" a meaning that is narrower than the normal meaning of that word and for clarity.

In the introductory language of subsection (a) of this section, the former reference to a "structure" is deleted as surplusage.

In subsection (a)(4)(ii) of this section, the former reference to "complement" is deleted as included in the reference to "enhance".

Defined term: "Nonprofit sponsor" § 4-901

4-903. FINDINGS.

THE GENERAL ASSEMBLY FINDS THAT:

(1) (I) MANY RESIDENTS OF THE STATE LIVE IN DWELLINGS THAT DO NOT CONFORM TO BUILDING, HEALTH, SAFETY, FIRE, OCCUPANCY, OR OTHER CODES AND STANDARDS APPLICABLE TO HOUSING;

(II) MANY COMMUNITIES OR POLITICAL SUBDIVISIONS IN THE STATE DO NOT HAVE A MINIMUM LIVABILITY CODE; AND

(III) THESE CONDITIONS IMPEDE THE DEVELOPMENT AND MAINTENANCE OF HEALTHY, SAFE, AND VIABLE COMMUNITIES;

(2) PRIVATE SECTOR FINANCING IS OFTEN UNAVAILABLE FOR REHABILITATION BECAUSE:

(I) OWNER-OCCUPANTS OF HOUSING IN NEED OF REHABILITATION OFTEN HAVE LOW INCOMES; AND

(II) NONOCCUPANT OWNERS OFTEN INCUR HIGH RISKS IN OWNING AND MANAGING THE HOUSING;

(3) REHABILITATING SUITABLE HOUSING:

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(I) INCREASES THE ECONOMIC LIFE OF THE HOUSING;

(II) IS OFTEN MORE ECONOMICAL AND LESS DISRUPTIVE THAN REPLACING THE HOUSING AND RELOCATING ITS OCCUPANTS;

(III) CAN BETTER PROMOTE COMMUNITY DEVELOPMENT WHEN IT IS DONE THROUGH ORGANIZED HOUSING REHABILITATION PROGRAMS;

(IV) IS ESSENTIAL FOR SOUND COMMUNITY DEVELOPMENT; AND

(V) CAN BE HELPED BY REHABILITATING COMMERCIAL BUILDINGS SERVING COMMUNITIES WHERE HOUSING REHABILITATION IS DESIRABLE;

(4) IT IS A PROPER PUBLIC PURPOSE FOR WHICH PUBLIC MONEY MAY BE SPENT AND PROPERTY ACQUIRED TO:

(I) REHABILITATE HOUSING;

(II) DEVELOP HEALTHFUL, SAFE, AND VIABLE COMMUNITIES;

(III) REHABILITATE COMMERCIAL BUILDINGS TO HELP REHABILITATE AND DEVELOP HOUSING; AND

(IV) PROVIDE HEALTHFUL AND SAFE HOUSING FOR MIGRATORY WORKERS TO MAINTAIN AND EXPAND THE AGRICULTURAL ACTIVITIES THAT ARE DEPENDENT ON THE LABOR OF THESE WORKERS;

(5) IT IS A PROPER PUBLIC PURPOSE FOR WHICH PUBLIC MONEY MAY BE SPENT TO:

(I) IMPROVE, MODIFY, AND ADD TO HOUSING TO INCREASE THE SUPPLY OF SPECIAL HOUSING FOR SPECIAL POPULATIONS, SUCH AS THE ELDERLY, INDIVIDUALS WITH DISABILITIES, AND OTHER DISADVANTAGED RESIDENTS OF THE STATE;

(II) PREVENT LEAD POISONING BY MODIFYING OLDER HOUSING TO PROVIDE A LEAD-SAFE ENVIRONMENT, AS LEAD PAINT IN OLDER HOUSING IS A MAJOR SOURCE OF LEAD POISONING IN CHILDREN;

(III) PROVIDE ADEQUATE INDOOR PLUMBING, WATER SUPPLY, AND SEWAGE DISPOSAL SYSTEMS FOR DWELLINGS;

(IV) REHABILITATE LARGE RENTAL HOUSING FACILITIES FOR LOW- AND MODERATE-INCOME INDIVIDUALS AND KEEP THOSE FACILITIES IN A DECENT, SAFE, AND SANITARY CONDITION; AND

(V) REDUCE OR ELIMINATE RADON AND ASBESTOS, WHICH ARE MAJOR DETRIMENTS TO THE HEALTH AND SAFETY OF RESIDENTS, ON A PILOT PROGRAM BASIS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-301.

In items (1)(ii) and (iii), (3)(iv), (4)(ii), and (5) of this section, the former phrase "in the State" is deleted as surplusage.

In the introductory language of this section, the former reference to "declar[ing]" is deleted as surplusage.

In the introductory language of item (2) of this section, the former reference to "necessary and desirable" rehabilitation is deleted as surplusage.

In the introductory language of item (4) of this section, the former reference that housing rehabilitation is "desirable" is deleted as surplusage.

In item (5)(i) of this section, the reference to "residents" of the State is substituted for the former reference to "citizens" of the State because the meaning of the word "citizens" is unclear in this context and to conform to the terminology used throughout this article.

Also in item (5)(i) of this section, the former clause "the supply of housing adapted for use by special populations ... is inadequate" is deleted as implicit in the phrase "to increase the supply of special housing".

Also in item (5)(i) of this section, the former reference to "existing" housing is deleted as surplusage.

In item (5)(iii) of this section, the reference to "dwellings" is added for clarity.

Also in item (5)(iii) of this section, the former statement "[t]hat a significant number of housing units in the State lack complete or functional indoor water supply and sewage disposal plumbing systems" is deleted as implicit in the statement to "provide adequate indoor plumbing, water supply, and sewage disposal systems".

In item (5)(v) of this section, the former phrase "by modifying buildings to provide a healthier and safer environment" is deleted as surplusage.

Also in item (5)(v) of this section, the former reference to radon "gas" is deleted as surplusage.

Defined terms: "Minimum livability code" § 4-901

"Political subdivision" § 1-101

4-904. ESTABLISHED.

THERE IS A MARYLAND HOUSING REHABILITATION PROGRAM.

REVISOR'S NOTE: This section formerly was the first sentence of former Art. 83B, § 2-303(a).

No changes are made.

4-905. UNITS IN PROGRAM.

THE MARYLAND HOUSING REHABILITATION PROGRAM INCLUDES:

- (1) THE ACCESSORY, SHARED, AND SHELTERED HOUSING PROGRAM;
- (2) THE INDOOR PLUMBING PROGRAM;
- (3) THE MIGRATORY WORKER HOUSING PROGRAM;
- (4) THE NONPROFIT REHABILITATION PROGRAM; AND
- (5) THE RADON AND ASBESTOS ABATEMENT PILOT PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-304(a), 2-305(a), 2-306(a), 2-307(a), and 2-308(a).

In item (3) of this section, the reference to the "Migratory Worker Housing Program" is substituted for the former reference to the "Migratory Worker Housing Facilities Program" for brevity.

In item (5) of this section, the former reference to radon "[g]as" is deleted as surplusage.

4-906. OPERATION OF PROGRAM; TYPES OF PROGRAM LOANS.

(A) OPERATION.

- (1) THE DEPARTMENT SHALL OPERATE THE PROGRAM AND MAKE PROGRAM LOANS.
- (2) AS MUCH AS POSSIBLE, THE PROGRAM SHALL BE ADMINISTERED:
 - (I) IN CONJUNCTION WITH FEDERAL PROGRAMS ASSISTING REHABILITATION OF HOUSING, TO ENSURE MAXIMUM USE OF AVAILABLE FEDERAL MONEY; AND
 - (II) CONSISTENTLY WITH LOCALLY APPROVED PLANS OR PROGRAMS OF CONCENTRATED NEIGHBORHOOD REVITALIZATION.

(B) MULTIFAMILY AND SPECIAL PROGRAMS.

- (1) THE MULTIFAMILY REHABILITATION PROGRAM CONSISTS OF:

(I) PROGRAM LOANS MADE TO REHABILITATE BUILDINGS PROVIDING MORE THAN FOUR DWELLINGS OR SERVING NONRESIDENTIAL NEEDS; AND

(II) PROGRAM LOANS TO NONPROFIT SPONSORS UNDER § 4-929 OF THIS SUBTITLE.

(2) EXCEPT FOR PROGRAM LOANS MADE UNDER A SPECIAL LOAN PROGRAM, THE REGULAR REHABILITATION PROGRAM CONSISTS OF PROGRAM LOANS TO REHABILITATE RESIDENTIAL BUILDINGS PROVIDING FOUR OR FEWER DWELLINGS.

(3) THE SPECIAL REHABILITATION PROGRAM CONSISTS OF PROGRAM LOANS MADE UNDER A SPECIAL LOAN PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-302(t) and 2-303(b), (k), (l), and the second through fourth sentences of (a).

Defined terms: "Department" § 1-101

"Nonprofit sponsor" § 4-901

"Program" § 4-901

"Program loan" § 4-901

"Special loan program" § 4-901

4-907. MONEY FOR OPERATIONS; REALLOCATIONS.

(A) MONEY FOR OPERATIONS.

THE REGULAR REHABILITATION PROGRAM AND THE SPECIAL REHABILITATION PROGRAM SHALL OPERATE WITH MONEY IN THE SPECIAL LOAN PROGRAMS FUND AND OTHER MONEY AVAILABLE TO THE DEPARTMENT FOR THESE PROGRAMS.

(B) REALLOCATION.

(1) IF THE APPLICATIONS THAT QUALIFY FOR A PROGRAM LOAN UNDER THE REGULAR REHABILITATION PROGRAM OR A SPECIAL LOAN PROGRAM DO NOT COMMIT ALL MONEY APPROPRIATED TO THAT LOAN PROGRAM WITHIN 6 MONTHS AFTER THE APPROPRIATION, THE DEPARTMENT MAY REALLOCATE THE REMAINING APPROPRIATED MONEY TO ANY OTHER PROGRAM FINANCED BY THE SPECIAL LOAN PROGRAMS FUND.

(2) IN LIKE CIRCUMSTANCES, THE DEPARTMENT MAY REALLOCATE MONEY APPROPRIATED TO THE NONPROFIT REHABILITATION PROGRAM OR THE MULTIFAMILY REHABILITATION PROGRAM TO ANY OTHER PROGRAM FINANCED BY THE RENTAL HOUSING PROGRAMS FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-313(g).

In subsection (a) of this section, the former reference to "grant funds" is deleted as included in the reference to "money".

Defined terms: "Department" § 1-101

"Program loan" § 4-901

"Special loan program" § 4-901

4-908. POWERS OF DEPARTMENT -- PROGRAM LOANS IN GENERAL.

THE DEPARTMENT MAY:

(1) LIMIT THE RETURN ON EQUITY ALLOWED TO, OR ENTER INTO EQUITY PARTICIPATION AGREEMENTS WITH, SPONSORS AND NONPROFIT SPONSORS;

(2) REQUIRE AND OBTAIN APPRAISALS, CREDIT AND TITLE INFORMATION, AND OTHER INFORMATION RELATED TO MAKING PROGRAM LOANS;

(3) CONTRACT FOR SERVICES RELATING TO ANY ASPECT OF THE OPERATION OF THE PROGRAM UNDER THE PROCEDURES REQUIRED BY LAW FOR STATE CONTRACTS; AND

(4) CHARGE AND COLLECT:

(I) REASONABLE APPLICATION AND PROCESSING FEES; AND

(II) OTHER CHARGES, FEES, OR REIMBURSEMENTS INCIDENTAL TO PROGRAM LOANS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-311(2) through (5).

The Housing Article Review Committee notes, for consideration by the General Assembly, that in item (2) of this section, the reference to "title" information is added because title information is essential to the Department making Program loans.

Defined terms: "Department" § 1-101

"Program loan" § 4-901

"Nonprofit sponsor" § 4-901

"Sponsor" § 4-901

4-909. SAME -- PROGRAM LOANS SECURED BY MORTGAGES.

(A) IN GENERAL.

IF PROGRAM LOANS ARE SECURED BY FIRST OR JUNIOR MORTGAGES, THE DEPARTMENT MAY:

(1) ENFORCE THE MORTGAGES;

- (2) FORECLOSE ON THE MORTGAGES AND TAKE TITLE TO THE MORTGAGED PROPERTIES, OR TAKE DEEDS IN LIEU OF FORECLOSURE;
 - (3) CONVEY TITLE TO PURCHASERS;
 - (4) OBTAIN AND ENFORCE DEFICIENCY JUDGMENTS;
 - (5) ALLOW ASSUMPTION OF MORTGAGES; AND
 - (6) CONTRACT WITH PRIVATE MORTGAGE SERVICERS TO PERFORM ON BEHALF OF THE DEPARTMENT ANY FUNCTIONS THE SERVICERS ORDINARILY PERFORM.
- (B) PUBLIC WORKS APPROVAL OR EXECUTION NOT REQUIRED.

WITHOUT APPROVAL OR EXECUTION BY THE BOARD OF PUBLIC WORKS, THE DEPARTMENT MAY:

- (1) ASSIGN MORTGAGES FOR VALUE;
- (2) RELEASE MORTGAGES WHEN PAID;
- (3) FORECLOSE ON MORTGAGES;
- (4) TAKE DEEDS IN LIEU OF FORECLOSURE; OR
- (5) CONVEY PROPERTY AFTER ACQUISITION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-311(1).

In subsection (a)(6) of this section, the former reference to "foreclosures and the employment of counsel" is deleted as surplusage.

Defined terms: "Department" § 1-101

"Program loan" § 4-901

4-910. REGULATIONS.

THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-311(6).

The former reference to "amend[ing] [regulations] from time to time, in accordance with statutory requirements" is deleted as implicit in the authority of the Department to "adopt" regulations.

The reference to adopting regulations "to carry out" the Program is substituted for the former reference to adopting regulations "governing all aspects of the operation of" the Program for brevity.

Defined term: "Department" § 1-101

4-911. ALLOCATION OF MONEY FOR PROGRAM LOANS UNDER REGULAR REHABILITATION PROGRAM.

(A) IN GENERAL.

TO ENSURE THAT ALL AREAS OF THE STATE ARE SERVED, THE DEPARTMENT SHALL ALLOCATE AT LEAST ANNUALLY AMONG THE COUNTIES THE MONEY APPROPRIATED FOR MAKING PROGRAM LOANS UNDER THE REGULAR REHABILITATION PROGRAM.

(B) FACTORS.

WHEN ALLOCATING MONEY TO A COUNTY, THE DEPARTMENT SHALL CONSIDER:

- (1) THE NUMBER OF FAMILIES OF LIMITED INCOME IN THE COUNTY;
- (2) THE NEED TO REHABILITATE BUILDINGS IN THE COUNTY;
- (3) THE CAPABILITY OF THE COUNTY TO ADMINISTER A LOCAL REHABILITATION PROGRAM; AND
- (4) OTHER STANDARDS THAT THE DEPARTMENT CONSIDERS RELEVANT TO ENSURE FAIR AND EQUITABLE DISTRIBUTION OF MONEY AMONG COUNTIES.

(C) METHODS.

THE DEPARTMENT MAY:

- (1) ALLOCATE ON A COUNTYWIDE BASIS FIRST AND THEN MAKE SUBALLOCATIONS AMONG PARTICIPATING MUNICIPAL CORPORATIONS WITHIN COUNTIES;
- (2) ALLOCATE UP TO 25% OF THE TOTAL MONEY AVAILABLE IN THE SPECIAL LOAN PROGRAMS FUND TO A RESERVE; AND
- (3) FROM TIME TO TIME, REALLOCATE THE MONEY HELD IN THE RESERVE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-303(c).

In subsection (a) of this section, the former requirement that the Department "at least annually reallocate" money is deleted in light of the requirement to "allocate annually" money.

In subsection (b)(3) of this section, the reference to "a local" rehabilitation program is added for clarity.

In subsection (c)(1) of this section, the reference to "municipal corporations" is substituted for the former reference to "political subdivision" to clarify that municipal corporations are the only kind of political subdivisions that exist within counties. *See* Md. Constitution, Art. XI-E.

In subsection (c)(2) of this section, the reference to the "Special Loan Programs" Fund is added for clarity.

Defined terms: "County" § 1-101

"Department" § 1-101

"Program loan" § 4-901

4-912. MONEY TO ANNUITY BOND FUND.

MONEY THAT IS RECEIVED AS REPAYMENT OF PRINCIPAL OR PAYMENT OF INTEREST ON LOANS UNDER THE PROGRAM AND THAT IS NOT APPROPRIATED IN THE STATE BUDGET MAY BE CREDITED TO THE ANNUITY BOND FUND, TO BE USED TO PAY THE PRINCIPAL OF OR INTEREST ON MONEY BORROWED BY THE STATE AND APPROPRIATED TO THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-313(f).

Defined term: "Program" § 4-901

4-913. INFORMATION ON PROGRAM LOANS REQUIRED IN APPROPRIATION REQUEST.

THE DEPARTMENT SHALL INCLUDE IN ITS REQUEST FOR APPROPRIATIONS FOR THE PROGRAM:

(1) AN ESTIMATE OF THE INTEREST RATES AT WHICH PROGRAM LOANS MAY BE MADE IN THE NEXT FISCAL YEAR;

(2) THE TOTAL PRINCIPAL AMOUNT OF PROGRAM LOANS EXPECTED TO BE MADE AT THOSE INTEREST RATES IN THE NEXT FISCAL YEAR; AND

(3) ANY OTHER INFORMATION THAT THE SECRETARY OF BUDGET AND MANAGEMENT REQUESTS ABOUT PROGRAM LOANS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-303(i).

The former references to "lower" interest rates are deleted as surplusage.

In the introductory language of this section, the former phrase "at a minimum" is deleted as included in the phrase "shall include".

In item (1) of this section, the defined term "Program loans" is substituted for the former reference to "eligible loans" for clarity.

Defined terms: "Department" § 1-101

"Program loan" § 4-901

4-914. ADMINISTRATION OF COUNTY REHABILITATION PROGRAMS.

(A) IN GENERAL.

IF THE DEPARTMENT CERTIFIES A POLITICAL SUBDIVISION AS CAPABLE OF ADMINISTERING A LOCAL REHABILITATION PROGRAM, THE POLITICAL SUBDIVISION MAY ORIGINATE AND ADMINISTER PROGRAM LOANS UNDER REGULATIONS OF THE DEPARTMENT.

(B) STANDARDS TO DETERMINE CAPABILITY OF STAFF.

(1) BY REGULATION, THE DEPARTMENT SHALL ESTABLISH STANDARDS FOR DETERMINING THE CAPABILITY OF A POLITICAL SUBDIVISION TO ADMINISTER A REHABILITATION PROGRAM.

(2) THE STANDARDS SHALL INCLUDE PROVISIONS ON:

(I) THE SIZE, TRAINING, AND EXPERIENCE OF THE PROFESSIONAL STAFF THAT WOULD ADMINISTER THE PROGRAM; AND

(II) THE CAPABILITY OF THE PROFESSIONAL STAFF TO:

1. DETERMINE REHABILITATION NEEDS;
2. ESTABLISH REHABILITATION PROGRAMS;
3. EVALUATE APPLICATIONS FOR PROGRAM LOANS; AND
4. MONITOR PROGRAM LOANS AND THE REHABILITATION

WORK DONE WITH THEM.

(C) PROGRAM LOAN ORIGINATION AND ADMINISTRATION BY DEPARTMENT.

IF THE DEPARTMENT DETERMINES THAT A POLITICAL SUBDIVISION CANNOT OR DOES NOT WANT TO ADMINISTER A LOCAL REHABILITATION PROGRAM, THE DEPARTMENT MAY ORIGINATE AND ADMINISTER PROGRAM LOANS FROM THE ALLOCATION OR SUBALLOCATION TO THAT POLITICAL SUBDIVISION.

(D) TRAINING AND SUPPORT.

THE DEPARTMENT MAY:

(1) HELP TRAIN EMPLOYEES OF POLITICAL SUBDIVISIONS TO ADMINISTER LOCAL REHABILITATION PROGRAMS UNDER THE STANDARDS THAT THE DEPARTMENT SETS; AND

(2) PROVIDE POLITICAL SUBDIVISIONS ADVICE AND TECHNICAL ASSISTANCE ON THE ADMINISTRATION OF THEIR LOCAL REHABILITATION

PROGRAMS, INCLUDING LOAN PACKAGING, CONTRACTOR AND BID SELECTION, ZONING, MARKETING, ENGINEERING, AND RELATED SERVICES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-302(v) and 2-303(d) and (e).

Former Art. 83B, § 2-302(v) is revised as a substantive provision for clarity.

Defined terms: "Department" § 1-101

"Local rehabilitation program" § 1-101

"Political subdivision" § 1-101

"Program" § 4-901

"Program loan" § 4-901

4-915. FAMILY OF LIMITED INCOME.

(A) FACTORS FOR SETTING INCOME LIMITS.

(1) THE SECRETARY SHALL SET UPPER LIMITS ON THE INCOME THAT A FAMILY OR INDIVIDUAL MAY HAVE TO QUALIFY AS A FAMILY OF LIMITED INCOME.

(2) IN SETTING THE LIMITS, THE SECRETARY SHALL CONSIDER FACTORS THAT INCLUDE:

(I) THE PORTION OF THE TOTAL FAMILY INCOME AVAILABLE FOR HOUSING;

(II) THE SIZE OF THE FAMILY;

(III) THE COST AND CONDITION OF AVAILABLE HOUSING;

(IV) THE ABILITY OF THE FAMILY TO COMPETE SUCCESSFULLY IN THE PRIVATE HOUSING MARKET; AND

(V) RELEVANT STANDARDS AND DEFINITIONS ESTABLISHED FOR FEDERAL AND STATE HOUSING PROGRAMS.

(B) WAIVER.

THE SECRETARY MAY WAIVE INCOME LIMITS FOR A BORROWER OR OCCUPANT SEEKING A PROGRAM LOAN TO REHABILITATE A BUILDING THAT THE STATE HISTORICAL PRESERVATION OFFICER FINDS HISTORICALLY OR ARCHITECTURALLY SIGNIFICANT.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence and, as it specified factors for setting limits, the first sentence of former Art. 83B, § 2-302(e).

It is revised as a substantive provision for clarity.

For the balance of former Art. 83B, § 2-302(e), *see* § 4-901(b) of this subtitle.

Defined terms: "Family of limited income" § 4-901

"Program loan" § 4-901

"Secretary" § 1-101

4-916. PROGRAM LOANS FOR AFFORDABLE HOUSING -- IN GENERAL.

(A) TERMS.

(1) THE DEPARTMENT MAY MAKE PROGRAM LOANS FOR HOUSING ON TERMS THAT THE DEPARTMENT CONSIDERS NECESSARY TO MAKE THE HOUSING AFFORDABLE TO FAMILIES OF LIMITED INCOME.

(2) THE TERMS MAY INCLUDE:

(I) DEFERRED PAYMENT OF PRINCIPAL AND INTEREST UNTIL THE MATURITY DATE OR THE DATE OF ANY SALE OR OTHER TRANSFER OF THE BUILDING OR AN INTEREST IN THE BUILDING;

(II) AN INTEREST RATE AS LOW AS 0% OR AS HIGH AS IS REASONABLE, GIVEN THE INCOMES OF THE PROPOSED OCCUPANTS, IF THE INTEREST RATE DOES NOT VIOLATE ANY FEDERAL REGULATION GOVERNING THE BORROWING OF MONEY BY THE STATE;

(III) INCREASED INTEREST RATES OR ACCELERATED PAYMENTS OF PRINCIPAL AND INTEREST, IF THE BORROWER NO LONGER QUALIFIES FOR THE PROGRAM LOAN; AND

(IV) ADVANCE PAYMENTS TO A NONPROFIT SPONSOR FOR CERTAIN DEVELOPMENT COSTS, INCLUDING ARCHITECTURAL, ENGINEERING, AND ATTORNEYS' FEES.

(B) INCOME RANGES, INTEREST RATES, AND PREFERENCES.

WITHIN THE MAXIMUM INCOME LIMITS FOR FAMILIES OF LIMITED INCOME, THE SECRETARY MAY ESTABLISH:

(1) LOWER INCOME RANGES;

(2) INTEREST RATES TO BE AVAILABLE ON PROGRAM LOANS SERVING OCCUPANTS WITH INCOMES WITHIN THOSE LOWER RANGES; AND

(3) ANY PREFERENCE OR RESERVATION OF MONEY FOR APPLICATIONS FOR PROGRAM LOANS TO FINANCE HOUSING TO SERVE OCCUPANTS IN THOSE LOWER INCOME RANGES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-303(f) and (g).

Defined terms: "Department" § 1-101

"Family of limited income" § 4-901

"Program loan" § 4-901

"Secretary" § 1-101

4-917. SAME -- CONDITIONS.

(A) IN GENERAL.

A PROGRAM LOAN:

(1) MAY NOT BE MADE IF THE DEPARTMENT DETERMINES THAT COMPARABLE PRIVATE FINANCING IS AVAILABLE TO THE PROSPECTIVE BORROWER; AND

(2) MAY NOT EXCEED AN AMOUNT THE SECRETARY ESTABLISHES BY REGULATION.

(B) SECURITY.

(1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION, A PROGRAM LOAN OF MORE THAN \$5,000 SHALL BE SECURED WHOLLY OR PARTLY BY A RECORDED MORTGAGE OR DEED OF TRUST ON REAL PROPERTY.

(2) A PROGRAM LOAN TO A POLITICAL SUBDIVISION MAY BE SECURED BY A RECORDED MORTGAGE, DEED OF TRUST ON REAL PROPERTY, OR OTHER SECURITY DEVICE ACCEPTABLE TO THE DEPARTMENT.

(C) RECIPIENTS.

PROGRAM LOANS SHALL BE MADE TO:

(1) FAMILIES OF LIMITED INCOME OWNING AND OCCUPYING THE BUILDING TO BE REHABILITATED; OR

(2) SPONSORS OR NONPROFIT SPONSORS.

(D) INSURANCE.

THE DEPARTMENT MAY REQUIRE THAT PROGRAM LOANS BE INSURED.

(E) COVERAGE.

A PROGRAM LOAN MAY COVER:

(1) COSTS OF A REHABILITATION PROJECT, INCLUDING IMPLEMENTATION COSTS SUCH AS APPRAISAL, ARCHITECTURAL, AND ENGINEERING FEES; AND

(2) CLOSING COSTS OF THE PROGRAM LOAN.

(F) PROGRAM LOANS IN DEFAULT.

THE DEPARTMENT MAY MODIFY THE INTEREST RATE, THE TIME OR AMOUNT OF PAYMENT, OR ANY OTHER TERM OF A PROGRAM LOAN THAT IS IN DEFAULT TO FACILITATE REPAYMENT OF THE PROGRAM LOAN AND ACHIEVE THE PURPOSES OF THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-303(h)(1) through (6).

In subsection (c) of this section, the former phrase "from the Fund" is deleted as surplusage.

In subsection (d) of this section, the authority of the Department to "require that Program loans be insured" is substituted for the former phrase that loans may be insured or uninsured "as the Department requires", for clarity.

Defined terms: "Department" § 1-101

"Political subdivision" § 1-101

"Program" § 4-901

"Program loan" § 4-901

"Rehabilitation project" § 4-901

"Secretary" § 1-101

4-918. SAME -- DWELLINGS.

(A) REQUIRED FOR FAMILIES OF LIMITED INCOME.

(1) WHEN THE DEPARTMENT MAKES A PROGRAM LOAN TO FINANCE A RESIDENTIAL REHABILITATION PROJECT, THE SPONSOR OR NONPROFIT SPONSOR SHALL RESTRICT SOME DWELLINGS FOR OCCUPANCY BY FAMILIES OF LIMITED INCOME FOR AT LEAST THE GREATER OF 15 YEARS AND THE NUMBER OF YEARS REQUIRED BY FEDERAL LAW.

(2) THE NUMBER OF DWELLINGS RESTRICTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE AT LEAST THE GREATER OF:

(I) THE NUMBER THAT BEARS THE SAME RATIO TO THE TOTAL NUMBER OF DWELLINGS IN THE PROJECT AS THE AMOUNT THE PROGRAM LOAN BEARS TO THE TOTAL FINANCING OF THE UNDERTAKING;

(II) THE NUMBER OF DWELLINGS CHOSEN BY THE SPONSOR TO SATISFY FEDERAL OCCUPANCY REQUIREMENTS IF THE RESIDENTIAL REHABILITATION PROJECT RECEIVES AN ALLOCATION OF FEDERAL LOW-INCOME HOUSING TAX CREDITS; AND

(III) THE NUMBER OF DWELLINGS REQUIRED FOR A COMMUNITY DEVELOPMENT PROJECT UNDER § 4-217(B)(1)(II) OF THIS TITLE OR THE NUMBER OF DWELLINGS THAT THE ISSUER OF THE BONDS CHOOSES, WHICHEVER IS GREATER, IF

A PORTION OF THE COSTS OF THE RESIDENTIAL REHABILITATION PROJECT IS FINANCED BY GOVERNMENT-ISSUED, FEDERALLY TAX EXEMPT REVENUE BONDS.

(B) DWELLINGS COUNTED TOWARD MINIMUM REQUIREMENT.

DWELLINGS RESTRICTED FOR OCCUPANCY TO MEET OTHER FEDERAL OR STATE OCCUPANCY REQUIREMENTS MAY BE COUNTED TOWARD THE NUMBER REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.

(C) CONTRIBUTION TO REHABILITATION PROJECT.

AS A CONDITION TO CERTAIN TYPES OF PROGRAM LOANS, THE DEPARTMENT MAY REQUIRE THE POLITICAL SUBDIVISION WHERE A REHABILITATION PROJECT IS LOCATED TO MAKE A CONTRIBUTION TO THE PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-303(h)(7) and (8).

In subsection (a)(2)(i) of this section, the reference to "the same ratio" is substituted for the former reference to "proportion" for accuracy.

Defined terms: "Department" § 1-101

"Family of limited income" § 4-901

"Nonprofit sponsor" § 4-901

"Political subdivision" § 1-101

"Program loan" § 4-901

"Rehabilitation project" § 4-901

4-919. SAME -- PRIVATE FINANCING STANDARDS.

(A) SECRETARY TO SET STANDARDS.

THE SECRETARY SHALL ESTABLISH STANDARDS TO PROMOTE THE MAXIMUM USE OF PRIVATE FINANCING.

(B) RESTRICTIONS ON USE.

IF A PORTION OF A REHABILITATION PROJECT IS TO BE FINANCED BY A PRIVATE LENDING INSTITUTION, THE DEPARTMENT SHALL REQUIRE THAT THE SPONSOR USE ALL THE PRIVATE FINANCING THAT THE REHABILITATION PROJECT CAN SUPPORT WITHOUT IMPAIRING:

(1) THE REHABILITATION PROJECT; OR

(2) AFFORDABLE HOUSING FOR FAMILIES OF LIMITED INCOME, IF THE REHABILITATION PROJECT IS RESIDENTIAL.

(C) MINIMUM INTEREST RATE.

AS LONG AS THE STATE COMPLIES WITH ALL APPLICABLE FEDERAL TREASURY REGULATIONS GOVERNING BORROWING MONEY BY THE STATE, A PROGRAM LOAN SHALL BE AT AN INTEREST RATE THAT AT LEAST COVERS:

- AND
- (1) THE ADMINISTRATIVE AND OTHER EXPENSES OF THE PROGRAM;
 - (2) REASONABLY EXPECTED LOSSES FROM DEFAULTS ON PROGRAM LOANS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-303(h)(9) and (10).

In subsection (a) of this section, the former reference to "any available" private financing is deleted as implicit in the reference to "private financing".

In subsection (b)(2) of this section, the defined term "famil[ies] of limited income" is substituted for the former reference to "limited-income tenants" to conform to the terminology used throughout this subtitle.

Defined terms: "Department" § 1-101

"Family of limited income" § 4-901

"Program" § 4-901

"Program loan" § 4-901

"Rehabilitation project" § 4-901

"Secretary" § 1-101

4-920. LOAN CEILING FOR NONRESIDENTIAL REHABILITATION.

THE DEPARTMENT SHALL ESTABLISH A MAXIMUM PERCENTAGE OR AMOUNT OF PROGRAM LOANS FROM THE RENTAL HOUSING PROGRAMS FUND THAT MAY BE USED FOR NONRESIDENTIAL REHABILITATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-303(j).

Defined terms: "Department" § 1-101

"Program loan" § 4-901

4-921. FINANCING OF REHABILITATION LOANS.

(A) MULTIFAMILY REHABILITATION PROGRAM AND NONPROFIT REHABILITATION LOANS.

REHABILITATION LOANS UNDER THE MULTIFAMILY REHABILITATION PROGRAM AND NONPROFIT REHABILITATION LOANS SHALL BE FINANCED BY THE RENTAL HOUSING PROGRAMS FUND.

(B) REGULAR REHABILITATION PROGRAM AND SPECIAL LOANS.

REHABILITATION LOANS UNDER THE REGULAR REHABILITATION PROGRAM AND SPECIAL LOAN PROGRAMS SHALL BE FINANCED BY THE SPECIAL LOAN PROGRAMS FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from the first clauses of former Art. 83B, § 2-313(a) and (b).

Defined term: "Special loan program" § 4-901

4-922. FEDERAL PROGRAMS AND OTHER SOURCES FOR GRANTS AND LOANS.

(A) IN GENERAL.

IN ADDITION TO MAKING LOANS FOR REHABILITATION PROJECTS TO FAMILIES OF LIMITED INCOME FROM THE RENTAL HOUSING PROGRAMS FUND AND THE SPECIAL LOAN PROGRAMS FUND, THE DEPARTMENT MAY USE MONEY FROM ANY OTHER AUTHORIZED SOURCE, INCLUDING FEDERAL PROGRAMS OF ASSISTANCE FOR REHABILITATION, TO MAKE:

(1) GRANTS FOR REHABILITATION PROJECTS TO FAMILIES OF LIMITED INCOME OR NONPROFIT SPONSORS; AND

(2) LOANS FOR REHABILITATION PROJECTS TO SPONSORS, NONPROFIT SPONSORS, OR FAMILIES OF LIMITED INCOME.

(B) USE OF FEDERAL PROGRAMS.

(1) THE DEPARTMENT:

(I) SHALL USE FEDERAL PROGRAMS OF ASSISTANCE FOR REHABILITATION TO THE MAXIMUM EXTENT CONSISTENT WITH THE PURPOSES OF THIS SUBTITLE; AND

(II) MAY DO ALL THINGS NECESSARY TO QUALIFY FOR PARTICIPATION IN THOSE PROGRAMS.

(2) THE TERMS AND CONDITIONS OF LOANS AND GRANTS MADE UNDER THIS SECTION SHALL BE IN ACCORDANCE WITH THE LEGISLATION OR OTHER AUTHORITY BY WHICH THE MONEY IS MADE AVAILABLE TO THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-310.

In the introductory language of subsection (a) of this section, the reference to the "Rental Housing Programs Fund and the Special Loan Programs" Fund is substituted for the former reference to the "fund" to reflect the division of the former, single Fund by Ch. 274, Acts of 1989.

In subsection (a)(1) of this section, the former reference to nonprofit sponsors "for rehabilitation projects to families of limited income" is deleted as implicit in the defined term "nonprofit sponsor".

In subsection (b)(2) of this section, the reference to "money" is substituted for the former reference to "funds" to conform to the terminology used in subsection (a) of this section.

Defined terms: "Department" § 1-101

"Family of limited income" § 4-901

"Nonprofit sponsor" § 4-901

"Rehabilitation project" § 4-901

"Sponsor" § 4-901

4-923. REHABILITATION PROJECTS.

(A) PURPOSE.

THE PURPOSE OF A REHABILITATION PROJECT IS:

- (1) TO BRING A BUILDING TO A DECENT, SAFE, AND SANITARY CONDITION IN ACCORDANCE WITH APPLICABLE CODES AND STANDARDS, INCLUDING THOSE FOR CONSTRUCTION, HEALTH, SAFETY, FIRE, AND OCCUPANCY;
- (2) TO MAINTAIN THE BUILDING IN THAT CONDITION;
- (3) TO MAKE THE BUILDING MORE USEFUL AND ATTRACTIVE;
- (4) TO CONFORM THE BUILDING TO THE APPROPRIATE MINIMUM LIVABILITY CODE;
- (5) TO PROVIDE, UNDER APPLICABLE SPECIAL LOAN PROGRAMS:
 - (I) LEAD PAINT ABATEMENT;
 - (II) INDOOR PLUMBING; OR
 - (III) SHARED, ACCESSORY, OR SHELTERED HOUSING;
- (6) IN THE CASE OF A LOAN TO AN ELDERLY OR DISABLED HOMEOWNER, TO MODIFY OR IMPROVE A DWELLING TO MAKE IT MORE ACCESSIBLE OR FUNCTIONAL FOR THE OCCUPANTS, IF THE BUILDING IS, OR AFTER IMPROVEMENTS WILL BE, STRUCTURALLY SOUND AND FREE OF HEALTH AND SAFETY HAZARDS; OR
- (7) TO PROVIDE, UNDER APPLICABLE SPECIAL LOAN PILOT PROGRAMS, RADON ABATEMENT OR ASBESTOS ABATEMENT.

(B) APPLICABLE CODES AND STANDARDS.

(1) THE APPLICABLE CODES AND STANDARDS UNDER SUBSECTION (A)(1) OF THIS SECTION ARE:

- (I) THOSE IN FORCE IN THE POLITICAL SUBDIVISION WHERE THE BUILDING IS LOCATED; OR

(II) THOSE THAT THE DEPARTMENT SETS BY REGULATION FOR THAT POLITICAL SUBDIVISION SOLELY FOR PURPOSES OF THIS SUBTITLE, IF THE POLITICAL SUBDIVISION LACKS CODES AND STANDARDS THAT THE SECRETARY CONSIDERS SUFFICIENT TO PROMOTE THE OBJECTIVES OF THIS SUBTITLE.

(2) WITH THE APPROVAL OF THE LOCAL ENFORCEMENT AUTHORITY, THE SECRETARY MAY ALLOW EXCEPTIONS TO A CODE OR STANDARD TO PRESERVE THE HISTORIC OR ARCHITECTURAL VALUE OF A BUILDING UNDERGOING REHABILITATION UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-302(o)(2) and, except for the introductory language, (1).

This section is revised as a substantive provision for clarity.

In subsection (a)(7) of this section, the former reference to radon "gas" is deleted as surplusage.

In subsection (b)(1) of this section, the former exception from this subsection of "§§ 2-304, 2-307, and 2-308 of this subtitle" is deleted as misleading because those sections did not contain contrary provisions.

In subsection (b)(2) of this section, the former authority of the Secretary to allow exceptions "when necessary" is deleted as surplusage.

Defined terms: "Department" § 1-101

"Minimum livability code" § 4-901

"Political subdivision" § 1-101

"Rehabilitation project" § 4-901

"Secretary" § 1-101

4-924. RESERVED.

4-925. RESERVED.

PART II. PROGRAMS IN THE MARYLAND HOUSING REHABILITATION PROGRAM.

4-926. ACCESSORY, SHARED, AND SHELTERED HOUSING PROGRAM.

(A) DEFINED TERMS.

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

(2) "ACCESSORY HOUSING" MEANS A DWELLING WITH COMPLETE AND INDEPENDENT SLEEPING, COOKING, AND LIVING FACILITIES THAT IS:

(I) WITHIN, ATTACHED TO, OR ON THE SAME PARCEL AS A SINGLE-FAMILY, OWNER-OCCUPIED DWELLING; AND

(II) SUBORDINATE TO BUT UNDER THE SAME OWNERSHIP AS THE SINGLE-FAMILY, OWNER-OCCUPIED DWELLING.

(3) "SHARED HOUSING" MEANS A SINGLE-FAMILY, OWNER-OCCUPIED DWELLING ADAPTED FOR COMMON AND SHARED LIVING USE BY THE OWNER-OCCUPANT AND ANOTHER FAMILY OF LIMITED INCOME.

(4) "SHELTERED HOUSING" MEANS A SINGLE-FAMILY, OWNER-OCCUPIED DWELLING THAT:

(I) ACCOMMODATES THE OWNER-OCCUPANT; AND

(II) PROVIDES SLEEPING AND LIVING FACILITIES, MEALS, AND ASSISTANCE WITH DAILY ACTIVITIES FOR A RENTAL FEE TO NOT MORE THAN 15 ELDERLY INDIVIDUALS OR INDIVIDUALS WITH DISABILITIES.

(B) ESTABLISHED.

THERE IS AN ACCESSORY, SHARED, AND SHELTERED HOUSING PROGRAM.

(C) DUTIES OF DEPARTMENT.

THE DEPARTMENT SHALL OPERATE THE ACCESSORY, SHARED, AND SHELTERED HOUSING PROGRAM AND MAKE LOANS FOR REHABILITATION COSTS FOR ACCESSORY, SHARED, AND SHELTERED HOUSING FROM THE SPECIAL LOAN PROGRAMS FUND UNDER THIS SUBTITLE.

(D) TERMS OF LOANS.

THE TERMS FOR ACCESSORY, SHARED, AND SHELTERED HOUSING LOANS SHALL SATISFY THE REQUIREMENTS OF § 4-916(B) OF THIS SUBTITLE.

(E) QUALIFICATIONS FOR ACCESSORY HOUSING LOAN.

TO QUALIFY FOR AN ACCESSORY HOUSING LOAN, AN APPLICANT SHALL:

(1) OWN THE PROPERTY FOR WHICH THE LOAN IS MADE AND AGREE TO LIVE IN THE PROPERTY AFTER THE REHABILITATION IS COMPLETED; AND

(2) (I) AGREE TO USE THE LOAN PROCEEDS TO IMPLEMENT A REHABILITATION PROJECT TO PROVIDE AN ACCESSORY DWELLING FOR A FAMILY OF LIMITED INCOME FOR A FIXED MINIMUM TERM THAT THE DEPARTMENT DETERMINES; OR

(II) BE A FAMILY OF LIMITED INCOME WHEN THE LOAN IS MADE AND AGREE TO USE THE LOAN PROCEEDS TO PROVIDE AN ACCESSORY DWELLING FOR A FIXED MINIMUM TERM THAT THE DEPARTMENT DETERMINES.

(F) QUALIFICATIONS FOR SHARED HOUSING LOAN.

TO QUALIFY FOR A SHARED HOUSING LOAN, AN APPLICANT SHALL:

(1) BE A FAMILY OF LIMITED INCOME;

(2) OWN THE PROPERTY FOR WHICH THE LOAN IS MADE AND AGREE TO LIVE IN THE PROPERTY AFTER THE REHABILITATION IS COMPLETED; AND

(3) AGREE TO USE THE LOAN PROCEEDS TO IMPLEMENT A REHABILITATION PROJECT TO PROVIDE SHARED HOUSING OR AN ACCESSORY DWELLING FOR A FAMILY OF LIMITED INCOME.

(G) QUALIFICATIONS FOR SHELTERED HOUSING LOAN.

TO QUALIFY FOR A SHELTERED HOUSING LOAN, AN APPLICANT SHALL:

(1) OWN THE PROPERTY FOR WHICH THE LOAN IS MADE AND AGREE TO LIVE IN THE PROPERTY AFTER THE REHABILITATION IS COMPLETED;

(2) AGREE TO PROVIDE SHELTER, MEALS, AND ASSISTANCE WITH DAILY ACTIVITIES TO NOT MORE THAN 15 ELDERLY INDIVIDUALS OR INDIVIDUALS WITH DISABILITIES WHO QUALIFY AS FAMILIES OF LIMITED INCOME; AND

(3) DEMONSTRATE THAT THE PROPERTY WILL BE CERTIFIED BY THE APPROPRIATE GOVERNMENTAL UNIT TO PROVIDE SHELTERED CARE TO ELDERLY INDIVIDUALS OR INDIVIDUALS WITH DISABILITIES.

REVISOR'S NOTE: Subsection (a)(1) of this section is standard language added to introduce a definition subsection.

Subsections (a)(2) through (g) of this section are standard language derived without substantive change from former Art. 83B, §§ 2-302(b), (p), and (r), 2-306(b) through (f) and, as it created the Accessory, Shared, and Sheltered Housing Program, (a).

In subsection (a)(4)(ii) of this section, the former reference to "disabled persons" is deleted in light of the reference to "individuals with disabilities".

In subsection (c) of this section, the reference to the "Special Loan Programs" Fund is substituted for the former reference to the "fund" in light of § 4-921(b) of this subtitle. *See* Ch. 274, Acts of 1989.

In subsection (d) of this section, the reference to "§ 4-916(b) of this subtitle" - which revises former § 2-303(h)(1) through (6) - is substituted for the former erroneous reference to § 2-303(g). The former reference to § 2-303(g) was made obsolete as a result of Ch. 274, Acts of 1989.

Also in subsection (d) of this section, the former reference to "provisions for" accessory, shared and sheltered housing loans is deleted as surplusage.

In the introductory language of subsections (e), (f), and (g) of this section, the references to an "applicant" are substituted for the former references to

the "owner" of a "residential property" and a "single unit property" for brevity.

In subsections (e)(1) and (g)(1) of this section, the requirements that an owner seeking to qualify for an accessory housing loan shall "agree to" live in the property after the rehabilitation is completed are added for clarity. Similarly, in subsection (e)(2)(i) of this section, the requirement that an owner seeking to qualify for an accessory housing loan shall "agree to" use the proceeds of the loan to implement a rehabilitation project is added, and in subsection (f)(3) of this section, the requirement that an owner seeking to qualify for a shared housing loan shall "agree to" use the proceeds of the loan to implement a rehabilitation project is added for clarity.

Defined terms: "Department" § 1-101

"Family of limited income" § 4-901

"Governmental unit" § 1-101

"Rehabilitation project" § 4-901

"Program" § 4-901

4-927. INDOOR PLUMBING PROGRAM.

(A) ESTABLISHED.

THERE IS AN INDOOR PLUMBING PROGRAM.

(B) DUTIES OF DEPARTMENT.

THE DEPARTMENT SHALL:

(1) OPERATE THE INDOOR PLUMBING PROGRAM; AND

(2) MAKE LOANS FOR REHABILITATION PROJECTS THAT PROVIDE FOR ADEQUATE INDOOR PLUMBING FROM THE SPECIAL LOAN PROGRAMS FUND UNDER THIS SUBTITLE.

(C) TERMS OF LOAN.

(1) THE TERMS FOR INDOOR PLUMBING LOANS SHALL MEET THE REQUIREMENTS OF §§ 4-917 THROUGH 4-919 OF THIS SUBTITLE.

(2) THE DEPARTMENT MAY FORGIVE ALL OR PART OF A DEFERRED PAYMENT LOAN, IF:

(I) THE LOAN IS MADE TO A FAMILY OF LIMITED INCOME THAT OWNS AND OCCUPIES THE DWELLING AND WHOSE INCOME IS WITHIN A LOWER INCOME RANGE ESTABLISHED UNDER § 4-916(B) OF THIS SUBTITLE; AND

(II) THE SECRETARY DETERMINES THAT THE FAMILY OF LIMITED INCOME DOES NOT HAVE ENOUGH INCOME TO REPAY THE PRINCIPAL AMOUNT OF THE LOAN.

(D) QUALIFICATIONS FOR LOAN.

TO QUALIFY FOR AN INDOOR PLUMBING LOAN, AN APPLICANT SHALL:

(1) OWN A BUILDING THAT IS OTHERWISE STRUCTURALLY SOUND, OR FOR WHICH THE APPLICANT PROVIDES A COMMITMENT FROM A LENDER TO FINANCE IMPROVEMENTS NEEDED TO MAKE THE BUILDING STRUCTURALLY SOUND, AND THAT:

(I) HAS NO OR INCOMPLETE INDOOR PLUMBING OR A FAILING SEPTIC SYSTEM; AND

(II) NEEDS INDOOR PLUMBING PIPES, EQUIPMENT, WELLS, SEPTIC TANKS OR OTHER ON-SITE SEWER SYSTEM, OR A CONNECTION TO A COMMUNITY WATER OR SEWER SYSTEM;

(2) LIVE IN THE BUILDING AND BE A FAMILY OF LIMITED INCOME, OR RENT AT LEAST TWO-THIRDS OF THE DWELLINGS IN THE BUILDING TO FAMILIES OF LIMITED INCOME; AND

(3) SUBMIT TO THE DEPARTMENT A PROPOSAL FOR INSTALLING AN ADEQUATE INDOOR PLUMBING SYSTEM FOR WATER SUPPLY AND SEWAGE DISPOSAL, INCLUDING ANY NEEDED SEPTIC SYSTEM, WELL, OR CONNECTION TO A COMMUNITY SEWER OR WATER SYSTEM THAT MEETS THE REQUIREMENTS OF THE DEPARTMENT OF THE ENVIRONMENT AND EVERY OTHER GOVERNMENTAL UNIT THAT HAS JURISDICTION OVER THE SYSTEM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-308(b) through (d) and, as it created the Indoor Plumbing Program, (a).

In subsection (b)(2) of this section, the reference to the "Special Loan Programs" Fund is substituted for the "fund" in light of § 4-921(b) of this subtitle. *See* Ch. 274, Acts of 1989.

In subsection (d)(1)(i) of this section, the phrase "has no or incomplete indoor plumbing or a failing septic system" is substituted for the former phrase "have no or incomplete indoor plumbing or an existing failing septic system" for brevity.

Defined terms: "Department" § 1-101

"Family of limited income" § 4-901

"Governmental unit" § 1-101

"Program" § 4-901

"Rehabilitation project" § 4-901

"Secretary" § 1-101

4-928. MIGRATORY WORKER HOUSING PROGRAM.

(A) DEFINITIONS.

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

(2) (I) "MIGRATORY LABOR CAMP" MEANS ONE OR MORE STRUCTURES, BUILDINGS, TENTS, BARRACKS, TRAILERS, VEHICLES, MOBILE HOMES, CONVERTED BUILDINGS, OR UNCONVENTIONAL ENCLOSURES OF LIVING SPACE THAT ARE ESTABLISHED, OPERATED, OR USED AS LIVING QUARTERS FOR FOUR OR MORE MIGRATORY WORKERS ENGAGED IN AGRICULTURAL ACTIVITIES, INCLUDING RELATED FOOD PROCESSING.

(II) "MIGRATORY LABOR CAMP" INCLUDES APPURTENANT LAND.

(3) "MIGRATORY HOUSING PROGRAM" MEANS THE MIGRATORY WORKER HOUSING PROGRAM.

(4) "MIGRATORY WORKER" MEANS AN INDIVIDUAL FROM WITHIN OR OUTSIDE THE STATE WHO:

(I) IS NOT A YEAR-ROUND EMPLOYEE BUT MOVES SEASONALLY FROM ONE PLACE TO ANOTHER FOR WORK; AND

(II) DURING A PERIOD OF WORK, OCCUPIES LIVING QUARTERS THAT ARE NOT THE INDIVIDUAL'S PERMANENT HOME.

(B) ESTABLISHED.

THERE IS A MIGRATORY WORKER HOUSING PROGRAM.

(C) DUTIES OF DEPARTMENT.

THE DEPARTMENT SHALL:

(1) OPERATE THE MIGRATORY HOUSING PROGRAM;

(2) MAKE MIGRATORY WORKER HOUSING LOANS FROM THE SPECIAL LOAN PROGRAMS FUND UNDER THIS SUBTITLE TO A QUALIFIED OWNER OF A MIGRATORY LABOR CAMP TO MAKE MIGRATORY WORKER HOUSING SAFER AND MORE HEALTHFUL; AND

(3) TO THE EXTENT DETERMINED BY THE SECRETARY, ADMINISTER THE MIGRATORY HOUSING PROGRAM IN CONJUNCTION WITH ANY APPROPRIATE FEDERAL PROGRAM.

(D) LOAN REQUIREMENT.

TO THE EXTENT APPLICABLE, MIGRATORY WORKER HOUSING LOANS SHALL SATISFY THE REQUIREMENTS OF § 4-916(B) OF THIS SUBTITLE.

(E) QUALIFICATIONS OF LOAN RECIPIENTS.

TO QUALIFY FOR A MIGRATORY HOUSING LOAN, THE OWNER OF A MIGRATORY LABOR CAMP SHALL:

- (1) LIVE OR HAVE A PRINCIPAL PLACE OF BUSINESS IN THE STATE;
- (2) HAVE BEEN DENIED A LOAN BY A PRIVATE LENDING INSTITUTION OR HAVE RECEIVED A COMMITMENT FROM A PRIVATE LENDING INSTITUTION FOR LESS THAN THE AMOUNT OF MONEY REQUIRED TO FINANCE THE NECESSARY HEALTH AND SAFETY IMPROVEMENTS; AND
- (3) SUBMIT TO THE DEPARTMENT A PLAN FOR THE NECESSARY HEALTH AND SAFETY IMPROVEMENTS THAT HAS BEEN APPROVED BY THE DEPARTMENT OF THE ENVIRONMENT.

REVISOR'S NOTE: Subsection (a)(1) of this section is standard language added to introduce a definition section.

Subsection (a)(2) of this section is new language derived without substantive change from former Art. 83B, § 2-302(g).

Subsection (a)(3) of this section is new language added to provide a convenient reference to the Migratory Worker Housing Program.

Subsection (a)(4) of this section is new language derived without substantive change from former Art. 83B, § 2-302(h).

Subsection (b) of this section is new language derived without substantive change from former Art. 83B, § 2-304(a), as it created the Migratory Worker Housing Program.

Subsections (c) through (e) of this section are new language derived without substantive change from former Art. 83B, §§ 2-304(b) through (e) and 2-302(i).

In the introductory language of subsection (a)(4) 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 in the defined term "person", can be an employee. *See* § 1-101 of this article.

In subsection (a)(4)(i) of this section, the reference to "work" is substituted for the former reference to "employment" to conform to the terminology used throughout this section.

In subsection (a)(4)(ii) of this section, the reference to quarters "that are not" the individual's permanent home is substituted for the former reference to quarters "other than" the home to include those workers who lack permanent homes.

In subsection (b) of this section, the reference to the "Migratory Worker Housing Program" is substituted for the former references to the

"Migratory Worker Housing Facilities Program" for brevity. Similarly, in subsections (c)(2) and (d) of this section, the references to "migratory worker housing loans" are substituted for the former references to "migratory housing facilities loans".

In subsection (c)(2) of this section, the reference to the "Special Loan Programs" Fund is substituted for the former reference to the "fund" in light of § 4-921(b) of this subtitle. *See* Ch. 274, Acts of 1989.

In subsection (d) of this section, the reference to "§ 4-916(b) of this subtitle" - which revises former § 2-303(h)(1) through (6) - is substituted for the former erroneous reference to § 2-303(g). The former reference to § 2-303(g) was made obsolete as a result of Ch. 274, Acts of 1989.

Also in subsection (d) of this section, the former reference to "provisions for" migratory housing facilities loans is deleted as surplusage.

In subsection (e)(3) of this section, the former reference to "the Office of Environmental Programs" of the Department of the Environment is deleted as obsolete.

Former Art. 83B, § 2-302(m), which defined "owner of a migratory labor camp" to mean any individual, partnership, corporation, or other business entity which owns a migratory labor camp located in the State, is deleted as unnecessary because it simply restated the ordinary meaning of the term "owner of a migratory labor camp".

Defined terms: "Department" § 1-101

"Secretary" § 1-101

4-929. NONPROFIT REHABILITATION PROGRAM.

(A) ESTABLISHED.

THERE IS A NONPROFIT REHABILITATION PROGRAM.

(B) DUTIES OF DEPARTMENT.

THE DEPARTMENT SHALL:

(1) OPERATE THE NONPROFIT REHABILITATION PROGRAM; AND

(2) MAKE LOANS FOR REHABILITATION PROJECTS TO NONPROFIT SPONSORS UNDER THIS SUBTITLE.

(C) TERMS OF LOANS.

THE TERMS OF A NONPROFIT REHABILITATION LOAN SHALL MEET THE REQUIREMENTS OF § 4-916(B) OF THIS SUBTITLE.

(D) QUALIFICATIONS FOR LOAN.

TO QUALIFY FOR A NONPROFIT REHABILITATION LOAN, A NONPROFIT SPONSOR SHALL:

- (1) OWN THE BUILDING TO BE REHABILITATED OR ACT ON BEHALF OF THE OWNER;
 - (2) DEMONSTRATE THE CAPABILITY TO MANAGE THE REHABILITATED PROJECT AND PAY BACK THE LOAN; AND
 - (3) AGREE TO USE THE LOAN PROCEEDS FOR A REHABILITATION PROJECT THAT PROVIDES HOUSING FOR FAMILIES OF LIMITED INCOME IN ACCORDANCE WITH THE REQUIREMENTS OF § 4-918(A) AND (B) OF THIS SUBTITLE.
- (E) OPTIONAL BUILDING USES.

A NONPROFIT SPONSOR THAT QUALIFIES FOR A NONPROFIT REHABILITATION LOAN MAY PROVIDE FOR:

- (1) NONRESIDENTIAL USES THAT ARE NOT DIRECTLY RELATED TO THE RESIDENTIAL FACILITIES BUT OCCUPY A MINOR PART OF THE BUILDING AND OFFER GOODS OR SERVICES FOR FAMILIES OF LIMITED INCOME OR OTHER DISADVANTAGED INDIVIDUALS; OR
- (2) PERIODIC OR TEMPORARY LIMITED USE OF THE RESIDENTIAL OR NONRESIDENTIAL SPACE OF THE BUILDING FOR ACTIVITIES THAT MAKE THE PROJECT MORE FINANCIALLY VIABLE AND DO NOT HARM THE USE OF THE PROJECT AS HOUSING FOR FAMILIES OF LIMITED INCOME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-305(b) through (d) and, as it created the Nonprofit Rehabilitation Program, (a).

In subsection (c) of this section, the reference to "§ 4-916(b) of this subtitle" - which revises former § 2-303(h)(1) through (6) - is substituted for the former erroneous reference to § 2-303(g). The former reference to § 2-303(g) was made obsolete as a result of Ch. 274, Acts of 1989.

Also in subsection (c) of this section, the former reference to "provisions" of a nonprofit rehabilitation loan is deleted in light of the reference to "terms".

In subsection (d)(3) of this section, the requirement that a nonprofit sponsor seeking a nonprofit rehabilitation loan must "agree to" use the proceeds of the loan for a rehabilitation project is added for clarity.

Also in subsection (d)(3) of this section, the reference to "housing" is substituted for the former reference to "dwelling units or residential facilities" for brevity.

Defined terms: "Family of limited income" § 4-901

"Nonprofit sponsor" § 4-901

"Program" § 4-901

"Rehabilitation project" § 4-901

4-930. RADON AND ASBESTOS ABATEMENT PILOT PROGRAM.

(A) ESTABLISHED.

THERE IS A RADON AND ASBESTOS ABATEMENT PILOT PROGRAM.

(B) DUTIES OF DEPARTMENT.

THE DEPARTMENT SHALL:

(1) OPERATE THE RADON AND ASBESTOS ABATEMENT PILOT PROGRAM;

AND

(2) MAKE LOANS FOR REHABILITATION PROJECTS FOR RADON AND ASBESTOS ABATEMENT.

(C) TERMS OF LOANS.

THE TERMS OF LOANS SHALL MEET THE REQUIREMENTS UNDER §§ 4-917 THROUGH 4-919 OF THIS SUBTITLE.

(D) QUALIFICATIONS FOR LOAN.

(1) TO QUALIFY FOR A LOAN, AN APPLICANT SHALL:

(I) OWN A BUILDING IN NEED OF RADON OR ASBESTOS ABATEMENT:

1. THAT IS OTHERWISE STRUCTURALLY SOUND; OR

2. FOR WHICH THE APPLICANT PROVIDES A COMMITMENT FROM A LENDER TO FINANCE IMPROVEMENTS TO MAKE THE BUILDING STRUCTURALLY SOUND; AND

(II) MAKE A PROPOSAL TO THE DEPARTMENT FOR TREATMENT THAT COMPLIES WITH THE REQUIREMENTS AND PROCEDURES OF THE DEPARTMENT OF THE ENVIRONMENT FOR RADON OR ASBESTOS ABATEMENT.

(2) IN ADDITION TO THE REQUIREMENTS IN PARAGRAPH (1) OF THIS SUBSECTION, THE APPLICANT SHALL:

(I) LIVE IN THE BUILDING AND BE A FAMILY OF LIMITED INCOME;

(II) AGREE TO RENT AT LEAST TWO-THIRDS OF THE DWELLINGS IN THE BUILDING TO FAMILIES OF LIMITED INCOME; OR

(III) AGREE TO PROVIDE CONGREGATE OR GROUP HOUSING OR TEMPORARY SHELTERS TO FAMILIES OF LIMITED INCOME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-307(b) through (d) and, as it created the Radon and Asbestos Abatement Pilot Program, (a).

Throughout this section, the former references to radon "gas" are deleted as surplusage.

In subsection (d)(1)(ii) of this section, the former phrase "to provide a safe environment" is deleted as surplusage.

In the introductory language of subsection (d)(2) of this section, the reference to the "applicant" is substituted for the former reference to the "owner of a building" for brevity.

In subsection (d)(2)(ii) and (iii) of this section, the requirements that the owner of a building "agree to" rent at least two-thirds of dwellings and provide group housing or temporary shelters to families of limited income are added for clarity.

Defined terms: "Department" § 1-101

"Family of limited income" § 4-901

"Program" § 4-901

"Rehabilitation project" § 4-901

4-931. RESERVED.

4-932. RESERVED.

PART III. PROHIBITED ACTS; PENALTIES.

4-933. FALSE STATEMENTS OR REPORTS.

(A) PROHIBITED.

A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT OF MATERIAL FACT, INCLUDING AN OVERSTATEMENT OR UNDERSTATEMENT OF FINANCIAL CONDITION, TO INFLUENCE THE ACTION OF THE DEPARTMENT ON A GRANT OR LOAN OR AN APPLICATION FOR A GRANT OR LOAN UNDER THIS SUBTITLE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 2 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

(C) ACCELERATED PAYMENT.

IF A BORROWER VIOLATES THIS SECTION, THE DEPARTMENT MAY IMMEDIATELY ACCELERATE THE LOAN, WHETHER OR NOT A CRIMINAL PROSECUTION HAS BEGUN AND REGARDLESS OF THE STATUS OF THE PROSECUTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-312.

In subsection (a) of this section, the former reference to "any other fact material to the Department's actions" is deleted as surplusage.

In subsection (c) of this section, the clause "[i]f a borrower violates this section" is substituted for the former clause "[e]very borrower who knowingly makes or causes to be made such a false statement or report" for brevity.

Defined terms: "Department" § 1-101

"Person" § 1-101

SUBTITLE 10. NEIGHBORHOOD HOUSING SERVICES FUND.

4-1001. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-1301(a).

No changes are made.

(B) FUND.

"FUND" MEANS THE NEIGHBORHOOD HOUSING SERVICES FUND.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-1301(b).

No changes are made.

(C) NEIGHBORHOOD CORPORATION.

"NEIGHBORHOOD CORPORATION" MEANS A NEIGHBORHOOD HOUSING SERVICES CORPORATION ESTABLISHED IN CONNECTION WITH THE NEIGHBORHOOD REINVESTMENT CORPORATION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-1301(e).

The former reference to the "National" Neighborhood Reinvestment Corporation is deleted as erroneous.

(D) OPERATING BUDGET.

(1) "OPERATING BUDGET" MEANS THE MONEY NECESSARY TO OPERATE A NEIGHBORHOOD CORPORATION, INCLUDING MONEY TO PAY:

- AND
- (I) ADMINISTRATIVE, TECHNICAL, LEGAL, OR OTHER EXPENSES;
 - (II) EXPENSES INCURRED BY AN UMBRELLA CORPORATION IN OPERATING PROGRAMS.

(2) "OPERATING BUDGET" DOES NOT INCLUDE MONEY ALLOCATED TO REVOLVING OR OTHER LOAN FUNDS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-1301(c).

Defined terms: "Neighborhood corporation" § 4-1001

"Umbrella corporation" § 4-1001

(E) PROGRAM.

"PROGRAM" MEANS A PROGRAM THAT A NEIGHBORHOOD CORPORATION ESTABLISHES AND SUPERVISES TO ACHIEVE ITS GOALS AND TO PROVIDE SERVICES WITHIN A SPECIFIC NEIGHBORHOOD.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-1301(f).

Defined term: "Neighborhood corporation" § 4-1001

(F) UMBRELLA CORPORATION.

"UMBRELLA CORPORATION" MEANS A NEIGHBORHOOD CORPORATION THAT ESTABLISHES AND SUPERVISES AT LEAST TWO PROGRAMS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-1301(g).

Defined terms: "Neighborhood corporation" § 4-1001

"Program" § 4-1001

4-1002. NEIGHBORHOOD HOUSING SERVICES FUND.

(A) ESTABLISHED.

THERE IS A NEIGHBORHOOD HOUSING SERVICES FUND.

(B) ADMINISTRATION.

THE DEPARTMENT SHALL ADMINISTER THE FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1302.

Defined terms: "Department" § 1-101

"Fund" § 4-1001

4-1003. REGULATIONS.

THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1306.

The reference to adopting regulations to "carry out" this subtitle is substituted for the former reference to adopting regulations "necessary for the implementation of" this subtitle for brevity.

Defined term: "Department" § 1-101

4-1004. GRANTS.

(A) ELIGIBILITY.

TO BE ELIGIBLE FOR A GRANT UNDER THIS SUBTITLE, A NEIGHBORHOOD CORPORATION OR UMBRELLA CORPORATION SHALL:

- (1) SUBMIT A TIMELY APPLICATION IN THE FORM THAT THE SECRETARY PRESCRIBES;
- (2) CREATE A BOARD OF DIRECTORS COMPOSED OF:
 - (I) A MEMBER OF THE GENERAL ASSEMBLY;
 - (II) NEIGHBORHOOD RESIDENTS;
 - (III) REPRESENTATIVES OF LOCAL FINANCIAL INSTITUTIONS; AND
 - (IV) REPRESENTATIVES OF LOCAL POLITICAL SUBDIVISIONS, IF NOT INCONSISTENT WITH LOCAL LAW;
- (3) BE AUTHORIZED TO ESTABLISH AND ADMINISTER A REVOLVING LOAN FUND BY LENDING MONEY AT FLEXIBLE RATES AND TERMS TO NEIGHBORHOOD HOMEOWNERS WHO CANNOT OBTAIN MORTGAGE FINANCING ON REASONABLE TERMS THROUGH NORMAL LENDING CHANNELS TO PRESERVE OR REVITALIZE NEIGHBORHOODS AND ENCOURAGE HOMEOWNERSHIP; AND
- (4) BE AUTHORIZED TO ESTABLISH AND ADMINISTER, IN COOPERATION WITH APPROPRIATE OFFICIALS OF THE POLITICAL SUBDIVISION, A HOUSING PROGRAM TO BRING NEIGHBORHOOD DWELLINGS TO ACCEPTABLE LEVELS OF HEALTH AND SAFETY.

(B) VOTING MEMBER.

THE SECRETARY OR THE SECRETARY'S DESIGNEE SHALL BE A VOTING MEMBER OF EACH NEIGHBORHOOD CORPORATION RECEIVING GRANTS FROM THE DEPARTMENT.

(C) CONTENTS OF APPLICATION.

AN APPLICATION FOR A GRANT UNDER SUBSECTION (A)(1) OF THIS SECTION SHALL CONTAIN:

(1) A DESCRIPTION OF THE BOUNDARIES OF THE AREA THAT THE NEIGHBORHOOD CORPORATION OR PROGRAM SERVES;

(2) CERTIFICATION THAT THE APPLICANT IS REGISTERED WITH THE NEIGHBORHOOD REINVESTMENT CORPORATION;

(3) CERTIFICATION OF INCORPORATION UNDER STATE LAW;

(4) CERTIFICATION OF RECEIPT OF A RULING FROM THE INTERNAL REVENUE SERVICE THAT THE APPLICANT IS EXEMPT FROM FEDERAL INCOME TAXATION;

(5) CERTIFICATION THAT THE PORTION OF THE APPLICANT'S ANNUAL OPERATING BUDGET THAT WILL NOT BE COVERED BY THE GRANT SOUGHT HAS BEEN PROVIDED EXCLUSIVELY FROM POLITICAL SUBDIVISIONS OR PRIVATE SOURCES; AND

(6) ANY OTHER INFORMATION THAT THE SECRETARY REQUIRES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-1304 and 2-1305.

In subsection (b)(1) of this section, the former reference to an "ex officio" member is deleted as surplusage.

In subsection (c)(1) of this section, the former reference to "geographic" boundaries is deleted as surplusage.

In subsection (c)(5) of this section, the reference to the portion of the applicant's annual operating budget "that will not be covered by the grant sought" is substituted for the former reference to "the remaining two-thirds" portion of the budget, for clarity. For the limit on grants, *see* § 4-1005 of this subtitle.

In subsection (c)(6) of this section, the reference to "information" is substituted for the former reference to "requirements" for clarity.

The Housing Article Review Committee notes, for consideration by the General Assembly, that in subsection (a)(3) of this section, a neighborhood corporation or an umbrella corporation must be authorized, but the

provision does not state who may confer the authorization on the corporation.

Defined terms: "Department" § 1-101

"Neighborhood corporation" § 4-1001

"Operating budget" § 4-1001

"Political subdivision" § 1-101

"Program" § 4-1001

"Secretary" § 1-101

"Umbrella corporation" § 4-1001

4-1005. MAXIMUM GRANT AMOUNTS.

(A) ONE-THIRD OF BUDGET OR \$50,000.

(1) EACH ELIGIBLE NEIGHBORHOOD CORPORATION MAY APPLY FOR A GRANT IN AN AMOUNT UP TO \$50,000 THAT DOES NOT EXCEED ONE-THIRD OF ITS ANNUAL OPERATING BUDGET.

(2) EACH UMBRELLA CORPORATION MAY APPLY FOR A GRANT FOR EACH PROGRAM UNDER ITS SUPERVISION IN AN AMOUNT UP TO \$50,000 THAT DOES NOT EXCEED ONE-THIRD OF THE ANNUAL OPERATING BUDGET OF THE PROGRAM.

(B) PRO RATA REDUCTION REQUIRED.

IF THE AMOUNT REQUESTED BY ELIGIBLE APPLICANTS IN A FISCAL YEAR EXCEEDS THE AMOUNT OF THE FUND, THE SECRETARY SHALL REDUCE EACH GRANT PRO RATA SO THAT THE FUND AMOUNT APPROPRIATED FOR THAT FISCAL YEAR IS NOT EXCEEDED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1303(a)(2), (b), and (c).

In subsection (b) of this section, the reference to the "amount requested by eligible applicants" is substituted for the former reference to "the amount of grant applications" for clarity.

Also in subsection (b) of this section, the former reference to applications received "by the Department" is deleted as surplusage.

Former Art. 83B, § 2-1303(a)(1), which required the Department to make grants to eligible neighborhood corporations pursuant to subsections (b) and (c) of this section, is deleted as surplusage.

Defined terms: "Department" § 1-101

"Fund" § 4-1001

"Neighborhood corporation" § 4-1001

"Operating budget" § 4-1001

"Program" § 4-1001

"Secretary" § 1-101

"Umbrella corporation" § 4-1001

SUBTITLE 11. OPERATING ASSISTANCE GRANTS DEMONSTRATION PROJECTS.

4-1101. GRANTS TO INCREASE PARTICIPATION IN PROJECTS AND ACTIVITIES.

(A) PURPOSE.

THE DEPARTMENT SHALL AWARD OPERATING ASSISTANCE GRANTS TO NONPROFIT ORGANIZATIONS TO INCREASE THEIR CAPACITY TO PARTICIPATE IN HOUSING PROJECTS AND ACTIVITIES AUTHORIZED BY THE PROGRAMS THAT ARE FINANCED THROUGH THE HOMEOWNERSHIP PROGRAMS FUND UNDER § 4-502 OF THIS TITLE, THE RENTAL HOUSING PROGRAMS FUND UNDER § 4-504 OF THIS TITLE, THE SPECIAL LOAN PROGRAMS FUND UNDER § 4-505 OF THIS TITLE, OR OTHERWISE FINANCED TOTALLY OR PARTLY BY THE DEPARTMENT.

(B) ELIGIBILITY.

TO BE ELIGIBLE FOR AN OPERATING ASSISTANCE GRANT UNDER THIS SECTION, A NONPROFIT ORGANIZATION MUST HAVE LIMITED EXPERTISE OR NO RECENT EXPERIENCE PARTICIPATING IN PROJECTS OR ACTIVITIES FINANCED WHOLLY OR PARTLY BY THE DEPARTMENT.

(C) AREAS IN WHICH GRANTEE MAY RECEIVE GRANTS.

A NONPROFIT ORGANIZATION MAY RECEIVE A GRANT OR GRANTS UNDER THIS SECTION FOR UP TO 3 YEARS TO INCREASE ITS CAPACITY TO PARTICIPATE IN EACH OF THE HOUSING DEVELOPMENT AREAS OF RENTAL HOUSING PROGRAMS, HOMEOWNERSHIP PROGRAMS, AND SPECIAL LOAN PROGRAMS.

(D) TERM OF GRANT.

A GRANT UNDER THIS SECTION MAY BE FOR A TERM OF UP TO 3 YEARS IF THE DEPARTMENT FINDS THAT:

(1) THE PERFORMANCE OF THE NONPROFIT ORGANIZATION IN THE PRIOR YEAR WAS ACCEPTABLE; AND

(2) MONEY IS APPROPRIATED AND AVAILABLE TO PAY THE GRANT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-1202, 2-1201(b), (e), and (f), and 2-1204(b) and (c).

In subsection (a) of this section, the former reference to programs "established in this title" is deleted as implicit in the reference to programs that are financed through the Homeownership Programs Fund, the Rental Housing Programs Fund, the Special Loan Programs Fund, or otherwise financed totally or partly by the Department.

Defined terms: "Department" § 1-101

"Nonprofit organization" § 1-101

4-1102. GRANTS FOR LIMITED INCOME HOUSING.

(A) IN GENERAL.

THE DEPARTMENT SHALL AWARD OPERATING ASSISTANCE GRANTS TO NONPROFIT ORGANIZATIONS TO FURTHER THE PRODUCTION OR REHABILITATION OF LIMITED INCOME HOUSING BY THOSE ORGANIZATIONS OR BY INDIVIDUALS THEY HELP.

(B) ELIGIBILITY.

A NONPROFIT ORGANIZATION IS ELIGIBLE FOR A GRANT IF IT MEETS THE PERFORMANCE AND OTHER STANDARDS THAT THE DEPARTMENT SETS AND:

(1) MAKES AN APPLICATION THAT:

(I) DESCRIBES THE HOUSING PROJECT;

(II) INCLUDES EVIDENCE OF ACCEPTABLE PERFORMANCE IN THE PRIOR YEAR, IF THE NONPROFIT ORGANIZATION RECEIVED A GRANT IN THE PRIOR YEAR; AND

(III) IS ACCEPTABLE TO THE DEPARTMENT;

(2) HAS HELPED INDIVIDUALS TO APPLY FOR LOANS FROM THE DEPARTMENT; OR

(3) WAS RESPONSIBLE FOR ORIGINATING APPLICATIONS, AS CERTIFIED BY A POLITICAL SUBDIVISION APPROVED BY THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1203.

In subsection (b)(3) of this section, the defined term "political subdivision" is substituted for the former reference to "local government" to conform to the terminology used throughout this division.

Defined terms: "Department" § 1-101

"Nonprofit organization" § 1-101

"Political subdivision" § 1-101

4-1103. USE OF GRANT.

A NONPROFIT ORGANIZATION MAY USE AN OPERATING ASSISTANCE GRANT FOR PREDEVELOPMENT, OPERATING, AND OVERHEAD COSTS, INCLUDING:

(1) STAFF COSTS;

(2) ORGANIZATIONAL COSTS; AND

(3) FOR A GRANT UNDER § 4-1102 OF THIS SUBTITLE, COSTS RELATING TO APPLYING FOR LOANS OR HELPING INDIVIDUALS TO APPLY FOR LOANS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1201(d).

It is revised as a substantive provision rather than a definition for clarity.

Defined term: "Nonprofit organization" § 1-101

4-1104. AMOUNT AND SOURCE OF GRANTS.

(A) AMOUNT.

OPERATING ASSISTANCE GRANTS UNDER THIS SUBTITLE MAY NOT EXCEED THE AMOUNTS THAT THE DEPARTMENT SETS.

(B) SOURCE.

DURING A FISCAL YEAR, ALL OPERATING ASSISTANCE GRANTS UNDER THIS SUBTITLE SHALL BE MADE FROM:

(1) UP TO 1% OF THE TOTAL AMOUNT OF BUDGETED MONEY IN THE HOMEOWNERSHIP PROGRAMS FUND UNDER § 4-502 OF THIS TITLE, THE RENTAL HOUSING PROGRAMS FUND UNDER § 4-504 OF THIS TITLE, AND THE SPECIAL LOAN PROGRAMS FUND UNDER § 4-505 OF THIS TITLE; AND

(2) MONEY APPROPRIATED FROM ANY OTHER SOURCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-1201(b), (e), and (f) and 2-1204(a) and (d).

Defined terms: "Department" § 1-101

"Nonprofit organization" § 1-101

4-1105. REGULATIONS.

THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 83B, § 2-1205.

No changes are made.

Defined term: "Department" § 1-101

SUBTITLE 12. PARTNERSHIP RENTAL HOUSING PROGRAM.

4-1201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-1102(a).

No changes are made.

(B) FUND.

"FUND" MEANS THE PARTNERSHIP RENTAL HOUSING FUND.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-1102(c).

No changes are made.

(C) HOUSEHOLD OF LOWER INCOME.

"HOUSEHOLD OF LOWER INCOME" MEANS A HOUSEHOLD THAT QUALIFIES UNDER § 4-1206 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to a "household of lower income".

(D) HOUSING AUTHORITY.

"HOUSING AUTHORITY" MEANS A HOUSING AUTHORITY AUTHORIZED UNDER ARTICLE 44A OF THE CODE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-1102(e), as it referred to a housing authority authorized under Article 44A.

The defined term "housing authority" is substituted for the former defined term "local government" for clarity.

(E) PARTNERSHIP PROJECT.

"PARTNERSHIP PROJECT" MEANS AN UNDERTAKING THAT THE PROGRAM FINANCES TO ACQUIRE, CONSTRUCT, RECONSTRUCT, RENOVATE, OR REHABILITATE A BUILDING OR IMPROVEMENT, OR A PART OF A BUILDING OR IMPROVEMENT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-1102(f).

Defined term: "Program" § 4-1201

(F) PARTNERSHIP RENTAL HOUSING.

(1) "PARTNERSHIP RENTAL HOUSING" MEANS RENTAL HOUSING FINANCED UNDER THIS SUBTITLE.

(2) "PARTNERSHIP RENTAL HOUSING" INCLUDES APARTMENTS, CONDOMINIUM UNITS, COOPERATIVES, TOWN HOUSES, TOWN HOMES, SINGLE ROOM OCCUPANCY AND SHARED LIVING UNIT FACILITIES, AND SINGLE-FAMILY HOMES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-1102(g).

(G) PROGRAM.

"PROGRAM" MEANS THE PARTNERSHIP RENTAL HOUSING PROGRAM.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-1102(h).

No changes are made.

REVISOR'S NOTE TO SECTION: Former Art. 83B, § 2-1102(e), as it defined "local government" to mean any municipal corporation in Maryland subject to the provisions of Md. Constitution, Art. XI-E or a county, is deleted in light of the defined term "political subdivision". See § 1-101 of this article.

4-1202. FINDINGS.

THE GENERAL ASSEMBLY FINDS THAT:

(1) THERE IS A SHORTAGE OF DECENT, SAFE, AND SANITARY RENTAL HOUSING FOR HOUSEHOLDS OF LOWER INCOME;

(2) THE PRIVATE SECTOR OFTEN CANNOT DEVELOP, IMPROVE, OPERATE, AND MAINTAIN HOUSING FOR HOUSEHOLDS OF LOWER INCOME; AND

(3) TO ADDRESS THIS SHORTAGE, A PARTNERSHIP IS NEEDED AMONG THE STATE, POLITICAL SUBDIVISIONS, HOUSING AUTHORITIES, AND HOUSEHOLDS OF LOWER INCOME TO DEVELOP, OPERATE, AND MAINTAIN HOUSING FOR HOUSEHOLDS OF LOWER INCOME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1101.

In the introductory language of this section, the reference to the "General Assembly" is added for consistency with similar provisions in this article.

Also in the introductory language of this section, the former reference to a "declar[ation]" is deleted in light of the reference to a "find[ing]".

Defined terms: "Household of lower income" § 4-1201

"Housing authority" § 4-1201

"Political subdivision" § 1-101

4-1203. ESTABLISHED.

THERE IS A PARTNERSHIP RENTAL HOUSING PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1103(a).

The former phrase "in the Department" is deleted in light of § 4-103 of this title.

4-1204. PURPOSES OF PROGRAM.

THE PURPOSES OF THE PROGRAM ARE TO:

- (1) PROVIDE DECENT, SAFE, AND SANITARY RENTAL HOUSING FOR HOUSEHOLDS OF LOWER INCOME;
- (2) PROVIDE FINANCIAL ASSISTANCE TO POLITICAL SUBDIVISIONS OR HOUSING AUTHORITIES TO ACQUIRE, CONSTRUCT, RECONSTRUCT, RENOVATE, OR REHABILITATE RENTAL HOUSING AFFORDABLE TO HOUSEHOLDS OF LOWER INCOME;
- (3) STIMULATE THE DEVELOPMENT AND OWNERSHIP OF RENTAL HOUSING FOR HOUSEHOLDS OF LOWER INCOME BY POLITICAL SUBDIVISIONS, HOUSING AUTHORITIES, OR PARTNERSHIPS THAT INCLUDE POLITICAL SUBDIVISIONS OR HOUSING AUTHORITIES;
- (4) PROVIDE FINANCIAL ASSISTANCE TO PRIVATE DEVELOPERS TO ACQUIRE, CONSTRUCT, RECONSTRUCT, RENOVATE, OR REHABILITATE HOUSING UNITS FOR SALE TO POLITICAL SUBDIVISIONS, HOUSING AUTHORITIES, OR PARTNERSHIPS THAT INCLUDE POLITICAL SUBDIVISIONS OR HOUSING AUTHORITIES, AS AFFORDABLE RENTAL HOUSING FOR HOUSEHOLDS OF LOWER INCOME;
- (5) PROMOTE AFFORDABLE HOUSING PROGRAMS AND INCREASED CONTRIBUTIONS TO THE PRODUCTION OF AFFORDABLE RENTAL HOUSING BY POLITICAL SUBDIVISIONS OR HOUSING AUTHORITIES;
- (6) ENCOURAGE HOUSEHOLDS OF LOWER INCOME THAT LIVE IN PARTNERSHIP RENTAL HOUSING TO CONTRIBUTE ACTIVELY TO THE OPERATION OR MAINTENANCE OF THE HOUSING OR THE COMMUNITY; AND
- (7) FINANCE RENTAL HOUSING THAT IS:
 - (I) TO BE OCCUPIED BY HOUSEHOLDS OF LOWER INCOME;
 - (II) TO BE OWNED BY POLITICAL SUBDIVISIONS OR HOUSING AUTHORITIES OR PARTNERSHIPS THAT INCLUDE POLITICAL SUBDIVISIONS OR HOUSING AUTHORITIES; AND

(III) EXPECTED TO BE FINANCIALLY SELF-SUFFICIENT, WITHOUT FURTHER GOVERNMENTAL FINANCING FOR MAINTENANCE, RENOVATION, OR OPERATING SUBSIDIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-1104 and 2-1103(b).

In item (1) of this section, the former reference to "occupancy by" households of lower income is deleted as implicit in the reference to "housing for households of lower income".

In items (2) and (4) of this section, the former references to providing financial assistance for "the costs of" acquiring housing units are deleted as implicit in the references to "financial assistance".

Defined terms: "Financial assistance" § 1-101

"Household of lower income" § 4-1201

"Housing authority" § 4-1201

"Partnership rental housing" § 4-1201

"Political subdivision" § 1-101

"Program" § 4-1201

4-1205. DUTIES OF DEPARTMENT.

(A) IN GENERAL.

THE DEPARTMENT SHALL:

(1) ADMINISTER THE PROGRAM;

(2) ADOPT POLICIES AND PROCEDURES THAT ENCOURAGE PARTNERSHIP RENTAL HOUSING THROUGHOUT THE STATE; AND

(3) ADOPT REGULATIONS TO CARRY OUT THE PROGRAM, INCLUDING REGULATIONS THAT SET MINIMUM AND MAXIMUM LOCAL CONTRIBUTIONS TO THE COST OF EACH SUCCESSIVE PARTNERSHIP PROJECT UNDERTAKEN BY A POLITICAL SUBDIVISION OR HOUSING AUTHORITY BASED ON THE FISCAL CAPACITY OF THE POLITICAL SUBDIVISION OR HOUSING AUTHORITY, AS PROVIDED IN § 4-1207(A)(8) OF THIS SUBTITLE.

(B) GUIDELINES.

THE DEPARTMENT MAY ESTABLISH:

(1) MAXIMUM LIMITS FOR FINANCING THAT IT WILL PROVIDE TO:

(I) INDIVIDUAL PARTNERSHIP RENTAL HOUSING UNITS;

(II) ANY ONE PARTNERSHIP PROJECT; OR

(III) ANY POLITICAL SUBDIVISION OR HOUSING AUTHORITY;

(2) A PROCESS FOR APPROVING FINANCING FOR PARTNERSHIP PROJECTS THAT ENCOURAGES A BROAD GEOGRAPHIC DISTRIBUTION OF MONEY; AND

(3) THE TIME THAT A HOUSEHOLD MAY OCCUPY THE PARTNERSHIP RENTAL HOUSING AFTER THE ANNUAL INCOME OF THE HOUSEHOLD EXCEEDS THE CONTINUING OCCUPANCY INCOME LIMITS FOR HOUSEHOLDS OF LOWER INCOME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-1108 and 2-1105(1) through (3) and the first sentence of (4).

In subsection (a)(1) of this section, the former requirement that the Department "supervise" and "[m]anage" the Program is deleted in light of the requirement to "administer" it.

In subsection (a)(3) 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)(3) of this section, the former reference to the requirement that the Department adopt regulations "in conformance with statutory requirements" is deleted as implicit in the reference to "regulations". *See* Title 2, Subtitle 10 of the State Government Article.

In subsection (b)(3) of this section, the former reference to the "applicable" continuing occupancy income limits for households of lower income is deleted as surplusage.

In subsection (b)(3) of this section, the former reference to a "length of" time is deleted as surplusage.

Defined terms: "Department" § 1-101

"Household of lower income" § 4-1201

"Housing authority" § 4-1201

"Partnership project" § 4-1201

"Partnership rental housing" § 4-1201

"Political subdivision" § 1-101

"Program" § 4-1201

4-1206. HOUSEHOLD ELIGIBILITY.

A HOUSEHOLD QUALIFIES AS A HOUSEHOLD OF LOWER INCOME:

(1) FOR INITIAL OCCUPANCY, IF THE GROSS ANNUAL INCOME OF THE HOUSEHOLD DOES NOT EXCEED:

(I) 50% OF THE STATEWIDE MEDIAN INCOME FOR A HOUSEHOLD OF LIKE SIZE; OR

(II) A LOWER INCOME LEVEL THAT THE SECRETARY ESTABLISHES FOR A PARTICULAR PARTNERSHIP PROJECT; AND

(2) FOR CONTINUING OCCUPANCY, IF THE GROSS ANNUAL INCOME FOR THE HOUSEHOLD DOES NOT EXCEED THE GREATER OF:

(I) 140% OF INITIAL OCCUPANCY LIMITS FOR PARTNERSHIP PROJECTS FOR THE YEAR OF CONTINUING OCCUPANCY; AND

(II) AN APPLICABLE FEDERAL REQUIREMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1102(d).

It is revised as a substantive provision rather than as a definition for clarity.

Defined terms: "Household of lower income" § 4-1201

"Partnership project" § 4-1201

"Secretary" § 1-101

4-1207. APPLICATION FOR PROJECT.

(A) REQUIREMENTS FOR APPROVAL.

THE DEPARTMENT MAY APPROVE AN APPLICATION FOR A PROPOSED PARTNERSHIP PROJECT ONLY IF:

(1) THE APPLICATION IS AUTHORIZED BY THE CHIEF ELECTED OFFICIAL OF THE POLITICAL SUBDIVISION OR, IF THERE IS NO CHIEF ELECTED OFFICIAL, BY THE GOVERNING BODY OF THE POLITICAL SUBDIVISION IN WHICH THE PROJECT IS LOCATED;

(2) THE POLITICAL SUBDIVISION OR HOUSING AUTHORITY:

(I) CONTRIBUTES FROM NONSTATE SOURCES THE LAND FOR THE PARTNERSHIP RENTAL HOUSING; OR

(II) FUNDS THE PART OF THE ACQUISITION COST OF THE PROPERTY THAT IS ATTRIBUTABLE TO THE VALUE OF THE LAND;

(3) THE POLITICAL SUBDIVISION OR HOUSING AUTHORITY IS TO HAVE AN OWNERSHIP INTEREST IN THE PARTNERSHIP PROJECT OR IN THE RENTAL UNITS FINANCED BY THE PROGRAM AND SOLD TO THE POLITICAL SUBDIVISION OR HOUSING AUTHORITY OR TO A PARTNERSHIP THAT INCLUDES THE POLITICAL SUBDIVISION OR HOUSING AUTHORITY;

(4) THE POLITICAL SUBDIVISION OR HOUSING AUTHORITY DIRECTLY OR INDIRECTLY MANAGES THE PARTNERSHIP PROJECT;

(5) THE RENTAL UNITS FINANCED BY THE PROGRAM ARE TO BE OCCUPIED ON COMPLETION OF THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION, RENOVATION, OR REHABILITATION BY HOUSEHOLDS OF LOWER INCOME;

(6) THE HOUSEHOLDS OF LOWER INCOME OCCUPYING THE PARTNERSHIP PROJECT OR THE PART FINANCED BY THE PROGRAM ARE REQUIRED TO CONTRIBUTE SERVICES TO ENHANCE OR MAINTAIN THE PARTNERSHIP PROJECT OR THE COMMUNITY IN A WAY THAT THE POLITICAL SUBDIVISION OR HOUSING AUTHORITY ACCEPTS;

(7) IT IS REASONABLE TO ANTICIPATE THAT:

(I) MORE STATE SUBSIDIES WILL NOT BE NEEDED FOR LONG-TERM OCCUPANCY BY HOUSEHOLDS OF LOWER INCOME; AND

(II) RENTAL INCOME, INCLUDING ANY CONTRIBUTION TO ALLOW FOR MORE AFFORDABLE RENTS UNDER § 4-1208(D) OF THIS SUBTITLE, WILL BE ENOUGH TO PAY THE OPERATING COSTS OF THE PARTNERSHIP PROJECT AND TO BUILD AN ADEQUATE RESERVE FOR THE LONG-TERM MAINTENANCE AND RENOVATION OF THE PARTNERSHIP PROJECT; AND

(8) FOR THE SECOND AND EACH SUCCEEDING PARTNERSHIP PROJECT THAT A POLITICAL SUBDIVISION OR HOUSING AUTHORITY UNDERTAKES, THE PERCENTAGE OF THE LOCAL CONTRIBUTION TO THE PARTNERSHIP PROJECT EXCEEDS THE PERCENTAGE OF THE LOCAL CONTRIBUTION TO THE IMMEDIATELY PRECEDING PARTNERSHIP PROJECT, UNLESS THE SECRETARY DETERMINES THAT THE POLITICAL SUBDIVISION OR HOUSING AUTHORITY:

(I) CURRENTLY IS MAKING SUBSTANTIAL COMMITMENTS TO AFFORDABLE HOUSING; OR

(II) IS AT TAXING CAPACITY AND LACKS DISCRETIONARY SURPLUS MONEY.

(B) RENTAL UNITS FINANCED BY PROGRAM.

THE RENTAL UNITS FINANCED BY THE PROGRAM MAY INCLUDE, AS AMONG THOSE THAT MUST BE OCCUPIED BY HOUSEHOLDS OF LOWER INCOME, RENTAL UNITS RESTRICTED FOR OCCUPANCY TO MEET OTHER FEDERAL OR STATE OCCUPANCY REQUIREMENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1106.

In the introductory language of subsection (a)(1) of this section, the phrase "may approve" is substituted for the former phrase "shall approve" to use the standard language for stating conditions under which the Department grants approval.

In subsection (a)(1) of this section, the reference to the chief elected official of a "political subdivision" is substituted for the former broader reference to the "local government's" chief elected official, which was defined in part to mean a housing authority.

In subsection (a)(3) and (5) of this section, the references to "rental" units are added to conform to the terminology used throughout this section.

Defined terms: "Department" § 1-101

"Household of lower income" § 4-1201

"Housing authority" § 4-1201

"Partnership project" § 4-1201

"Political subdivision" § 1-101

"Program" § 4-1201

"Secretary" § 1-101

4-1208. PARTICIPATION BY POLITICAL SUBDIVISION OR HOUSING AUTHORITY.

(A) POWERS OF POLITICAL SUBDIVISION OR HOUSING AUTHORITY.

A POLITICAL SUBDIVISION OR HOUSING AUTHORITY MAY PARTICIPATE IN THE PROGRAM AND DO ALL THINGS NECESSARY OR CONVENIENT TO ITS PARTICIPATION, INCLUDING:

- (1) DEVELOPING, ACQUIRING, IMPROVING, OWNING, OPERATING, AND MANAGING RENTAL HOUSING;
- (2) BORROWING MONEY; AND
- (3) MORTGAGING, PLEDGING, AND GRANTING A SECURITY INTEREST IN REAL OR PERSONAL PROPERTY RELATED TO A PARTICULAR PARTNERSHIP PROJECT.

(B) REPAYMENT OF MONEY.

THE DEPARTMENT MAY NOT REQUIRE A POLITICAL SUBDIVISION OR HOUSING AUTHORITY TO REPAY MONEY MADE AVAILABLE UNDER THE PROGRAM, UNLESS THE POLITICAL SUBDIVISION OR HOUSING AUTHORITY:

- (1) SELLS THE PARTNERSHIP PROJECT; OR
- (2) FAILS TO OPERATE THE PARTNERSHIP PROJECT FOR THE BENEFIT OF HOUSEHOLDS OF LOWER INCOME IN ACCORDANCE WITH AGREEMENTS BETWEEN THE DEPARTMENT AND THE POLITICAL SUBDIVISION OR HOUSING AUTHORITY.

(C) SECURITY.

THE DEPARTMENT SHALL SECURE THE OBLIGATIONS OF THE POLITICAL SUBDIVISION OR HOUSING AUTHORITY BY USING A MORTGAGE, DEED OF TRUST, OR

OTHER SECURITY DEVICE THAT THE DEPARTMENT ACCEPTS ON THE PROPERTY OR ON REVENUES DERIVED FROM THE PROPERTY.

(D) CONTRIBUTION OF LOCAL MONEY.

(1) TO ALLOW FOR MORE AFFORDABLE RENTS, A POLITICAL SUBDIVISION OR HOUSING AUTHORITY MAY CONTRIBUTE LOCAL MONEY, INCLUDING LOCALLY ADMINISTERED FEDERAL MONEY OR FEDERAL RENTAL ASSISTANCE.

(2) POLITICAL SUBDIVISIONS OR HOUSING AUTHORITIES WITH GREATER FISCAL CAPACITY SHALL MAKE LARGER CONTRIBUTIONS TO ACQUIRE, CONSTRUCT, RECONSTRUCT, RENOVATE, OR REHABILITATE PARTNERSHIP RENTAL HOUSING, EXCLUDING THE COST OF THE LAND, BUT INCLUDING THE COSTS OF:

- SPECIFICATIONS;
- (I) NECESSARY STUDIES, SURVEYS, TESTS, PLANS, AND
- SERVICES;
- (II) ARCHITECTURAL, DESIGN, ENGINEERING, AND OTHER SPECIAL
- (III) SITE PREPARATION; AND
- (IV) INDEMNITY AND SURETY BONDS AND PREMIUMS ON TITLE AND HAZARD INSURANCE.

(E) FULL FAITH AND CREDIT.

TO PARTICIPATE IN THE PROGRAM AND TO RECEIVE LOANS, A POLITICAL SUBDIVISION OR HOUSING AUTHORITY MAY NOT BE REQUIRED TO PLEDGE ITS FULL FAITH AND CREDIT.

(F) PROVISIONS OF SUBTITLE CONTROLLING.

FOR RENTAL HOUSING FINANCED FROM THE FUND AND OWNED OR MANAGED BY A HOUSING AUTHORITY, THIS SUBTITLE SUPERSEDES:

- (1) ARTICLE 44A, §§ 1-401 THROUGH 1-403 OF THE CODE; AND
- (2) ALL OTHER RESTRICTIONS ON TENANT INCOME UNDER ARTICLE 44A OF THE CODE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-1107, 2-1102(b), and the second sentence of § 2-1105(4).

In the introductory language of subsection (f) of this section, the former phrase "authorized under Article 44A of the Code" is deleted as surplusage.

In subsection (f)(2) of this section, the former reference to "applicable" restrictions is deleted as surplusage.

Defined terms: "Department" § 1-101

"Fund" § 4-1201

"Household of lower income" § 4-1201

"Housing authority" § 4-1201

"Partnership project" § 4-1201

"Political subdivision" § 1-101

"Program" § 4-1201

4-1209. FALSE STATEMENTS OR REPORTS.

(A) STATEMENTS IN REQUIRED DOCUMENTS.

(1) A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT OR REPORT IN A DOCUMENT REQUIRED TO BE GIVEN TO THE DEPARTMENT IN CONNECTION WITH THE PROGRAM.

(2) A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT OR REPORT TO INFLUENCE THE ACTION OF THE DEPARTMENT IN CONNECTION WITH THE PROGRAM.

(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 \$50,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1110.

Defined terms: "Department" § 1-101

"Person" § 1-101

SUBTITLE 14. RENTAL ALLOWANCE PROGRAM.

4-1401. "PROGRAM" DEFINED.

IN THIS SUBTITLE, "PROGRAM" MEANS THE RENTAL ALLOWANCE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-901(a) and (c).

The former clause, "the following words have the meanings indicated", is deleted because only one word is defined in this subtitle.

4-1402. ESTABLISHED.

THERE IS A RENTAL ALLOWANCE PROGRAM.

REVISOR'S NOTE: This section is new language added as a standard provision to state explicitly that the Rental Allowance Program exists.

4-1403. PURPOSE OF PROGRAM.

THE DEPARTMENT SHALL ADMINISTER A PROGRAM OF FINANCIAL ASSISTANCE TO LOWER INCOME HOUSEHOLDS BY PROVIDING FIXED MONTHLY RENTAL ALLOWANCE PAYMENTS TO OR ON BEHALF OF ELIGIBLE LOWER INCOME HOUSEHOLDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-902.

The Housing Article Review Committee notes, for consideration by the General Assembly, that the reference to "monthly" rental payments may be unnecessarily restrictive, prohibiting payments made on a periodic basis other than monthly.

Defined term: "Program" § 4-1401

4-1404. ADMINISTRATION.

EXCEPT AS PROVIDED IN § 4-1408(B) OF THIS SUBTITLE, THE DEPARTMENT SHALL ADMINISTER THE PROGRAM:

- (1) IN CONJUNCTION WITH POLITICAL SUBDIVISIONS OR THROUGH THEIR LOCAL HOUSING AGENCIES OR DEPARTMENTS; AND
- (2) IN CONSULTATION WITH THE DEPARTMENT OF HUMAN RESOURCES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-906 and, except as it described the purpose of the Program, § 2-902.

Defined terms: "Department" § 1-101

"Political subdivision" § 1-101

"Program" § 4-1401

4-1405. DUTIES OF SECRETARY.

THE SECRETARY SHALL ESTABLISH:

- (1) INCOME LIMITS FOR ELIGIBILITY OF LOWER INCOME HOUSEHOLDS NOT EXCEEDING 30% OF THE STATE OR AREA MEDIAN INCOME, WHICHEVER IS HIGHER;
- (2) THE MAXIMUM TIME TO PROVIDE ALLOWANCES TO A SPECIFIC HOUSEHOLD NOT EXCEEDING 12 CONSECUTIVE MONTHS, EXCEPT WHEN THE SECRETARY DETERMINES THAT UNDUE HARDSHIP WILL RESULT IF ASSISTANCE IS ENDED;
- (3) BY HOUSEHOLD SIZE, THE MAXIMUM TOTAL RENT FOR AN ASSISTED UNIT, THE SIZE OF AN ASSISTED UNIT, AND THE AMOUNT OF THE MONTHLY RENTAL ALLOWANCE PAYMENTS, TAKING INTO ACCOUNT:

- HOUSEHOLD SIZE;
- (I) REGIONAL VARIATION IN THE STATE;
 - (II) EXPECTED AVERAGE ANNUAL RECIPIENT INCOME BY
 - (III) TYPICAL RENTAL COSTS; AND
 - (IV) ANY OTHER FACTOR RELATED TO INCOME OR RENTAL COSTS;
- (4) MINIMUM STANDARDS FOR ELIGIBLE DWELLING UNITS; AND
- (5) A METHOD OF SELECTING LOCATIONS TO IMPLEMENT THE PROGRAM THAT ENSURES THE DISTRIBUTION OF MONEY AMONG THE VARIOUS REGIONS OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-903.

Defined terms: "Program" § 4-1401

"Secretary" § 1-101

4-1406. ELIGIBILITY FOR PAYMENT.

RENTAL ALLOWANCE PAYMENTS MAY BE GIVEN ONLY TO OR ON BEHALF OF:

- (1) A HOMELESS INDIVIDUAL WHO:
 - (I) DOES NOT HAVE PERMANENT HOUSING;
 - (II) LACKS THE RESOURCES TO SECURE PERMANENT HOUSING;
 - (III) CANNOT BE SERVED BY A FEDERAL OR MORE COST EFFECTIVE STATE HOUSING ASSISTANCE PROGRAM; AND
 - (IV) CAN MAINTAIN INDEPENDENT LIVING QUARTERS; OR
- (2) AN ELIGIBLE HOUSEHOLD WITH CRITICAL AND EMERGENCY HOUSING NEEDS THAT CANNOT BE SERVED BY A FEDERAL OR MORE COST EFFECTIVE STATE HOUSING ASSISTANCE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-904.

4-1407. USE OF PAYMENT.

A RENTAL ALLOWANCE PAYMENT FOR AN ELIGIBLE DWELLING UNIT MAY BE APPLIED ONLY TO PAYMENT OF:

- (1) MONTHLY RENT; OR
- (2) A REQUIRED SECURITY DEPOSIT.

REVISOR'S NOTE: This section formerly was Art. 83B, § 2-905.

The only changes are in style.

4-1408. AWARD OF GRANT; PERCENTAGE RETAINED.

(A) AWARD OF GRANT.

IN AWARDING RENTAL ALLOWANCE GRANTS TO A POLITICAL SUBDIVISION, THE DEPARTMENT SHALL TAKE INTO ACCOUNT:

(1) THE NUMBER OF ELIGIBLE HOUSEHOLDS IN THE POLITICAL SUBDIVISION;

(2) THE AVAILABILITY OF SUITABLE HOUSING STOCK IN THE POLITICAL SUBDIVISION FOR THE POPULATION THAT THE POLITICAL SUBDIVISION PROPOSES TO SERVE;

(3) THE WILLINGNESS OF THE POLITICAL SUBDIVISION TO CONTRIBUTE ADMINISTRATIVE COSTS; AND

(4) OTHER FACTORS THAT THE DEPARTMENT CONSIDERS RELEVANT.

(B) PERCENTAGE RETAINED.

THE DEPARTMENT MAY KEEP UP TO 25% OF THE MONEY PROVIDED FOR THE PROGRAM TO BE USED FOR RENTAL ALLOWANCE PAYMENTS TO ELIGIBLE HOUSEHOLDS ON A STATEWIDE BASIS, INCLUDING PAYMENTS FOR CRITICAL EMERGENCY HOUSING NEEDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-907.

In subsection (a)(1) and (2) of this section, the references to a "political subdivision" are substituted for the former references to "jurisdiction" for consistency and to conform to similar provisions in this subtitle.

Defined terms: "Department" § 1-101

"Political subdivision" § 1-101

"Program" § 4-1401

SUBTITLE 15. RENTAL HOUSING PRODUCTION PROGRAM.

4-1501. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-501(a).

No changes are made.

(B) DEVELOPMENT COSTS.

(1) "DEVELOPMENT COSTS" MEANS COSTS INCURRED TO CONSTRUCT OR REHABILITATE A PROJECT.

(2) "DEVELOPMENT COSTS" INCLUDES THE COSTS OF:

- (I) NECESSARY STUDIES, SURVEYS, PLANS, OR SPECIFICATIONS;
- (II) ARCHITECTURAL, ENGINEERING, OR OTHER SPECIALIZED SERVICES;
- (III) THE ACQUISITION OF LAND OR IMPROVEMENTS;
- (IV) SITE PREPARATION OR DEVELOPMENT;
- (V) CONSTRUCTION, RECONSTRUCTION, REHABILITATION, ANCILLARY DEMOLITION, LOT CONSOLIDATION, OR IMPROVEMENT;
- (VI) ACQUISITION OF NECESSARY MACHINERY, EQUIPMENT, OR FURNISHINGS;
- (VII) THE INITIAL OCCUPANCY EXPENSES OF THE PROJECT;
- (VIII) INDEMNITY BONDS, SURETY BONDS, OR INSURANCE PREMIUMS; AND
- (IX) OTHER FEES OR RELOCATION EXPENSES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-501(b).

In items (2)(i), (iv), (v), (vi), (viii), and (ix) of this subsection, references to "or" are substituted for former references to "and" because there seemed no intent to require that all elements listed in an item be included in each development cost.

Defined term: "Project" § 4-1501

(C) FAMILY OF LOWER INCOME.

"FAMILY OF LOWER INCOME" MEANS A FAMILY OR INDIVIDUAL WHOSE INCOME:

- (1) DOES NOT EXCEED THE UPPER INCOME LIMITS THAT THE SECRETARY ESTABLISHES UNDER § 4-1505 OF THIS SUBTITLE; AND
- (2) IS LOWER THAN THE INCOME LIMITS ESTABLISHED FOR FAMILIES OF LIMITED INCOME AS PROVIDED IN § 4-212 OF THIS TITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the introductory language of former Art. 83B, § 2-501(c)(2) and, as it referred to the definition of "families of lower income", (1).

As for the balance of former Art. 83B, § 2-501(c), *see* § 4-1505 of this subtitle.

Defined terms: "Project" § 4-1501

"Secretary" § 1-101

(D) FUND.

"FUND" MEANS THE RENTAL HOUSING PROGRAMS FUND UNDER SUBTITLE 5 OF THIS TITLE.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-501(d).

The only changes are in style.

(E) OFFICE OR OTHER COMMERCIAL SPACE CONVERSION.

"OFFICE OR OTHER COMMERCIAL SPACE CONVERSION" MEANS THE CONVERSION TO RENTAL HOUSING OF A BUILDING THAT:

(1) IS IN A DESIGNATED NEIGHBORHOOD ESTABLISHED UNDER § 6-304 OF THIS ARTICLE;

(2) WAS BUILT MORE THAN 30 YEARS BEFORE AN APPLICATION IS SUBMITTED TO THE DEPARTMENT TO FINANCE THE CONVERSION;

(3) CONSISTS OF AT LEAST TWO FLOORS AT OR ABOVE GROUND LEVEL;
AND

(4) WAS LAST USED AS OFFICE OR OTHER COMMERCIAL SPACE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-501(h) and (i).

Defined term: "Department" § 1-101

(F) OPERATING COSTS.

(1) "OPERATING COSTS" MEANS A COST THAT A SPONSOR OF A COMPLETED PROJECT INCURS THAT IS NECESSARY TO MAINTAIN OR OPERATE A PROJECT.

(2) "OPERATING COSTS" INCLUDES PAYMENTS OF PRINCIPAL AND INTEREST ON A LOAN TO COVER DEVELOPMENT COSTS.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-501(j).

The only changes are in style.

Defined terms: "Development costs" § 4-1501

"Project" § 4-1501

"Sponsor" § 4-1501

(G) PROGRAM.

"PROGRAM" MEANS THE RENTAL HOUSING PRODUCTION PROGRAM.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-501(n).

No changes are made.

(H) PROGRAM LOAN.

"PROGRAM LOAN" MEANS A LOAN THAT THE DEPARTMENT MAKES UNDER THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-501(f).

The term "[p]rogram loan" is substituted for the former term "[l]oan" for clarity.

(I) PROJECT.

"PROJECT" MEANS A RENTAL HOUSING PRODUCTION PROJECT THAT MEETS THE QUALIFICATIONS UNDER § 4-1504 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to a rental housing production project.

(J) SPONSOR.

"SPONSOR" MEANS THE DEPARTMENT, A POLITICAL SUBDIVISION, OR A PERSON THAT APPLIES FOR A PROGRAM LOAN.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-501(p).

The former phrase "established under this subtitle" is deleted as implicit in the reference to the defined term "Program".

The former references to "partnership, joint venture, corporation, nonprofit organization, or other legal entity" are deleted as included in the defined term "person".

Defined terms: "Department" § 1-101

"Person" § 1-101

"Political subdivision" § 1-101

"Program loan" § 4-1501

4-1502. ESTABLISHED.

THERE IS A RENTAL HOUSING PRODUCTION PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-502.

The former phrase "of the Department" is deleted in light of § 4-103 of this title.

4-1503. PURPOSE OF PROGRAM.

(A) "LOT CONSOLIDATION" DEFINED.

IN THIS SECTION, "LOT CONSOLIDATION" MEANS ACQUISITION OF REAL PROPERTY ADJACENT TO, AND TO BE INCLUDED IN, A PROJECT.

(B) IN GENERAL.

THE PURPOSES OF THE PROGRAM ARE TO:

(1) INCREASE THE SUPPLY OF DECENT, SAFE, AND SANITARY RENTAL HOUSING FOR OCCUPANCY BY FAMILIES OF LOWER INCOME;

(2) PROVIDE FINANCIAL ASSISTANCE FOR ACQUISITION, CONSTRUCTION, OR REHABILITATION OF RENTAL HOUSING, INCLUDING DEMOLITION AND LOT CONSOLIDATION SO THAT FAMILIES OF LOWER INCOME CAN AFFORD THE RENTAL HOUSING;

(3) ENCOURAGE POLITICAL SUBDIVISIONS TO PROVIDE ASSISTANCE IN PRODUCING RENTAL HOUSING THAT FAMILIES OF LOWER INCOME CAN AFFORD;
AND

(4) REVITALIZE DESIGNATED NEIGHBORHOODS THROUGH OFFICE OR OTHER COMMERCIAL SPACE CONVERSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-503 and 2-501(g).

In subsection (b)(4) of this section, the reference to "office or other commercial space conversion" is substituted for the former reference to "office space conversion" to conform to the defined term used in this subtitle.

Defined terms: "Family of lower income" § 4-1501

"Office or other commercial space conversion" § 4-1501

"Political subdivision" § 1-101

"Program" § 4-1501

"Project" § 4-1501

4-1504. QUALIFICATION OF PROJECT.

(A) IN GENERAL.

TO QUALIFY UNDER THIS SUBTITLE, A PROJECT MUST BE:

- (1) AN OFFICE OR OTHER COMMERCIAL SPACE CONVERSION; OR
- (2) AN UNDERTAKING TO ACQUIRE, CONSTRUCT, OR REHABILITATE BUILDINGS AND IMPROVEMENTS OR PARTS OF THEM WITH AT LEAST A MINIMUM NUMBER OF DWELLING UNITS RESTRICTED FOR OCCUPANCY BY FAMILIES OF LOWER INCOME FOR AT LEAST THE GREATER OF 15 YEARS AND THE NUMBER OF YEARS REQUIRED BY APPLICABLE FEDERAL LAW.

(B) OPTIONAL ELEMENTS.

A PROJECT MAY INCLUDE:

- (1) A SINGLE ROOM OCCUPANCY FACILITY;
- (2) A SHARED LIVING UNIT FACILITY;
- (3) AN EMERGENCY OR TEMPORARY SHELTER; AND
- (4) LIMITED EQUITY COOPERATIVE HOUSING AS DEFINED IN § 143(K)(9)(C) OF THE INTERNAL REVENUE CODE AND REGULATIONS THAT THE INTERNAL REVENUE SERVICE ADOPTS UNDER § 143(K)(9)(C) OF THE INTERNAL REVENUE CODE IF, WHEN SHARES ARE SOLD OR TRANSFERRED, THE OCCUPANCY REQUIREMENTS UNDER THIS SECTION ARE SATISFIED.

(C) MINIMUM NUMBER OF DWELLING UNITS.

THE NUMBER OF DWELLING UNITS RESTRICTED UNDER SUBSECTION (A)(2) OF THIS SECTION SHALL BE AT LEAST THE GREATEST OF:

- (1) THE NUMBER THAT BEARS THE SAME RATIO TO THE WHOLE NUMBER OF DWELLING UNITS IN THE UNDERTAKING AS THE AMOUNT OF THE PROGRAM LOAN FOR THE PROJECT BEARS TO THE WHOLE FINANCING OF THE UNDERTAKING;
- (2) THE NUMBER OF DWELLING UNITS CHOSEN BY THE SPONSOR TO SATISFY FEDERAL OCCUPANCY REQUIREMENTS IF THE PROJECT RECEIVES FEDERAL LOW INCOME HOUSING TAX CREDITS; AND
- (3) THE NUMBER OF DWELLING UNITS REQUIRED FOR COMMUNITY DEVELOPMENT PROJECTS UNDER § 4-217(B)(1)(II) OF THIS TITLE OR THE NUMBER OF DWELLING UNITS THAT THE ISSUER OF THE BONDS CHOOSES, WHICHEVER IS GREATER, IF A PART OF THE COST OF THE PROJECT IS FINANCED WITH GOVERNMENT ISSUED FEDERALLY TAX-EXEMPT REVENUE BONDS.

(D) DWELLING UNITS COUNTED TOWARD MINIMUM REQUIREMENT.

DWELLING UNITS RESTRICTED FOR OCCUPANCY TO MEET OTHER FEDERAL OR STATE OCCUPANCY REQUIREMENTS MAY BE COUNTED TOWARD THE MINIMUM NUMBER REQUIRED UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-501(e) and (o).

In subsection (a)(1) of this section, the reference to "office or other commercial space conversion" is substituted for the former reference to "office and commercial space conversion" to conform to the defined term used in this subtitle.

Defined terms: "Family of lower income" § 4-1501

"Office or other commercial space conversion" § 4-1501

"Program loan" § 4-1501

"Project" § 4-1501

4-1505. QUALIFICATION OF FAMILY OF LOWER INCOME.

(A) INCOME LIMIT.

THE SECRETARY SHALL ESTABLISH INCOME LIMITS FOR A FAMILY OF LOWER INCOME BY CONSIDERING FACTORS THAT INCLUDE:

- (1) THE TOTAL AMOUNT OF FAMILY INCOME AVAILABLE FOR HOUSING;
- (2) THE SIZE OF THE FAMILY;
- (3) THE COST AND CONDITION OF AVAILABLE HOUSING;
- (4) THE ABILITY OF THE FAMILY TO COMPETE SUCCESSFULLY IN THE CONVENTIONAL PRIVATE HOUSING MARKET; AND
- (5) RELEVANT STANDARDS AND DEFINITIONS OF FEDERAL HOUSING PROGRAMS.

(B) VARIANCES.

- (1) THE LIMITS MAY VARY FOR DIFFERENT AREAS OR REGIONS OF THE STATE.
- (2) A LIMIT OF GENERAL APPLICABILITY MAY BE SUPPLEMENTED BY A LOWER LIMIT FOR A PARTICULAR PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-501(c).

Defined terms: "Family of lower income" § 4-1501

"Project" § 4-1501

"Secretary" § 1-101

4-1506. POWERS AND DUTIES OF DEPARTMENT.

(A) POWERS.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE OR ANY OTHER LAW, THE DEPARTMENT MAY:

(1) MAKE AND PARTICIPATE IN MAKING PROGRAM LOANS TO SPONSORS FOR:

(I) DEVELOPMENT COSTS RELATED TO THE CONSTRUCTION OR REHABILITATION OF A PROJECT; AND

(II) THE ACQUISITION OF COMPLETED PROJECTS;

(2) OWN OR LEASE A PROJECT OR THE LAND FOR A PROJECT DURING THE CONSTRUCTION OR REHABILITATION OF THE PROJECT AND SELL, ASSIGN, OR TRANSFER A COMPLETED PROJECT WITHOUT PUBLIC BIDDING OR PUBLIC SALE TO A SPONSOR ON TERMS AND CONDITIONS THAT MAKE ECONOMICALLY FEASIBLE RENTAL HOUSING AVAILABLE FOR FAMILIES OF LOWER INCOME OR FROM OFFICE OR OTHER COMMERCIAL SPACE CONVERSIONS;

(3) OWN, LEASE, CONSTRUCT, OR REHABILITATE A PROJECT OR THE LAND FOR A PROJECT AND MAY AT ANYTIME AFTER THE COMPLETION OF THE PROJECT TRANSFER THE PROJECT OR THE LAND TO AN ELIGIBLE SPONSOR;

(4) LIMIT THE RETURN ON EQUITY ALLOWED TO SPONSORS OR ENTER INTO EQUITY PARTICIPATION AGREEMENTS WITH SPONSORS; OR

(5) ESTABLISH INCOME RANGES AND PERCENTAGES OF EACH INCOME RANGE TO BE SERVED BY A PROJECT, EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION AND WITHIN THE LIMITS ESTABLISHED FOR FAMILIES OF LOWER INCOME.

(B) DUTIES.

THE DEPARTMENT SHALL:

(1) ADMINISTER THE PROGRAM;

(2) ADOPT POLICIES TO ENSURE THAT RENTAL HOUSING IS MADE AVAILABLE TO FAMILIES OF LOWER INCOME WITH THE ASSISTANCE OF POLITICAL SUBDIVISIONS, EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION;

(3) ATTACH SUCH SPECIFIC TERMS TO ANY PURCHASE, SALE, OR LEASE OF A PROJECT OR LAND FOR A PROJECT AS MAY BE NECESSARY TO CARRY OUT THE PURPOSES OF THE PROGRAM;

(4) DEVELOP PROCEDURES FOR MONITORING THE OCCUPANCY OF THE RENTAL UNITS PRODUCED UNDER THE PROGRAM BY FAMILIES OF LOWER INCOME TO ENSURE THAT THE RENTAL UNITS RECEIVING FINANCIAL ASSISTANCE UNDER

THE PROGRAM ARE OCCUPIED BY FAMILIES OF LOWER INCOME, EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION; AND

(5) COMPLY WITH THE REQUIREMENTS OF LOCAL LAWS APPLICABLE TO ANY PARTICULAR PROJECT.

(C) OFFICE OR OTHER COMMERCIAL SPACE CONVERSION.

SUBSECTIONS (A)(5) AND (B)(2) AND (4) DO NOT APPLY TO OFFICE OR OTHER COMMERCIAL SPACE CONVERSIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-504(b), (c), and (a)(1) through (5).

In the introductory language of subsection (a) of this section, the former reference to a "regulation" is deleted as surplusage. A regulation adopted under statutory authority has the force and effect of law. *Staly v. Board of Education*, 308 Md. 42 (1986); *Maryland Port Administration v. John W. Brawnes Contracting Co.*, 303 Md. 44 (1985).

In subsection (a)(1)(i) of this section, the former phrase "any rental housing production project" is deleted in light of the defined term "project".

In subsection (b)(1) of this section, the former references to "[m]anage" and "supervise" are deleted in light of the reference to "administer".

In subsection (b)(5) of this section, the former reference to "ordinances, codes, charters, or regulations" is deleted as included in the reference to "laws".

Defined terms: "Department" § 1-101

"Development costs" § 4-1501

"Family of lower income" § 4-1501

"Financial assistance" § 1-101

"Office or other commercial space conversion" § 4-1501

"Political subdivision" § 1-101

"Program" § 4-1501

"Program loan" § 4-1501

"Project" § 4-1501

"Sponsor" § 4-1501

4-1507. REGULATIONS.

(A) IN GENERAL.

THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE PROGRAM.

(B) SCOPE.

BY REGULATION, THE DEPARTMENT MAY ESTABLISH:

- (1) STANDARDS OF ELIGIBILITY FOR SPONSORS;
- (2) LIMITATIONS ON THE RETURN ON INVESTMENT ALLOWED TO SPONSORS;
- (3) REQUIREMENTS FOR THE NUMBER OF BEDROOMS IN A PROJECT FOR EACH INCOME RANGE;
- (4) TERMS, FEES, AND CHARGES OF PROGRAM LOANS;
- (5) A PROCESS TO SELECT PROJECTS THAT ENSURES A BROAD GEOGRAPHIC DISTRIBUTION OF MONEY; AND
- (6) INCENTIVES FOR NONPROFIT SPONSORS TO PARTICIPATE IN THE PROGRAM, INCLUDING:
- (I) RESERVING PART OF THE FUND FOR A PERIOD OF TIME FOR PROGRAM LOANS TO NONPROFIT SPONSORS; AND
- (II) ALLOWING ADVANCE PAYMENT TO NONPROFIT SPONSORS FOR DEVELOPMENT COSTS, INCLUDING ARCHITECTS', ENGINEERS', AND ATTORNEYS' FEES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-504(a)(6) and 2-508.

In subsection (a) of this section, the former reference to "rules" is deleted. *See* General Revisor's Note to article.

Also in subsection (a) of this section, the former phrase "in conformance with statutory requirements" is deleted as implicit in the phrase "to carry out the Program".

Defined terms: "Department" § 1-101

"Development costs" § 4-1501

"Fund" § 4-1501

"Program loan" § 4-1501

"Project" § 4-1501

"Sponsor" § 4-1501

4-1508. APPROVAL PROCESS FOR APPLICATIONS.

(A) IN GENERAL.

THE DEPARTMENT MAY APPROVE AN APPLICATION FOR A PROJECT ONLY IF THE POLITICAL SUBDIVISION IN WHICH THE PROJECT IS TO BE SITUATED HAS:

- (1) APPROVED THE PROJECT; AND
- (2) (I) CONTRIBUTED TO REDUCING THE DEVELOPMENT COSTS OR OPERATING COSTS; OR

(II) OTHERWISE SUPPORTED THE PROJECT.

(B) APPROVAL OF LOAN APPLICATIONS.

IN REVIEWING AN APPLICATION FOR A PROGRAM LOAN, THE DEPARTMENT SHALL CONSIDER:

(1) THE ECONOMIC FEASIBILITY OF THE PROJECT;

(2) THE CONTRIBUTION OF THE POLITICAL SUBDIVISION FOR THE PROJECT IN RELATION TO THE ABILITY OF THE POLITICAL SUBDIVISION TO CONTRIBUTE; AND

(3) OTHER RELEVANT FACTORS.

REVISOR'S NOTE: This section is new language derived from former Art. 83B, § 2-507.

In the introductory language of subsection (a) of this section, the reference stating that the Department "may" approve an application is substituted for the former reference stating that the Department "shall" approve an application in light of § 4-1506(a)(1) of this title, which states that the Department may make and participate in making Program loans to sponsors.

In the introductory language of subsection (b) of this section, the phrase "[i]n reviewing" an application for a Program loan is substituted for the former phrase "in approving" an application to avoid the erroneous implication that all applications for Program loans must be approved.

Defined terms: "Department" § 1-101

"Development costs" § 4-1501

"Operating costs" § 4-1501

"Political subdivision" § 1-101

"Program loan" § 4-1501

"Project" § 4-1501

4-1509. LOANS.

(A) SECURITY.

(1) A PROGRAM LOAN MAY BE SECURED BY A MORTGAGE LIEN.

(2) A LIEN UNDER THIS SUBSECTION MAY:

(I) BE SUBORDINATE TO OTHER MORTGAGE LIENS; AND

(II) INCLUDE TERMS THE DEPARTMENT CONSIDERS NECESSARY TO MAKE THE RENTAL HOUSING AFFORDABLE TO FAMILIES OF LOWER INCOME, INCLUDING:

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1. DEFERRED PAYMENT OF PRINCIPAL AND INTEREST; AND
2. INTEREST RATES AS LOW AS 0%.

(B) USE OF PROGRAM LOANS.

A PROGRAM LOAN MAY BE USED FOR:

- (1) CAPITAL ASSISTANCE TO FINANCE ALL OR PART OF THE DEVELOPMENT COSTS OF A PROJECT IF ALL OR PART OF THE PROGRAM LOAN IS SECURED BY A MORTGAGE LIEN; OR
- (2) OPERATING ASSISTANCE TO REDUCE THE OPERATING COSTS OF A PROJECT BY DEPOSITING THE PROCEEDS OF THE PROGRAM LOAN IN AN INTEREST BEARING ACCOUNT THAT IS UNDER THE CONTROL OF THE DEPARTMENT AND IS USED TO PAY THE OPERATING COSTS, INCLUDING THE PRINCIPAL AND INTEREST WHEN DUE ON ANY PRIOR MORTGAGE LOAN SECURING THE PROJECT.

(C) POWERS OF DEPARTMENT.

TO FACILITATE REPAYMENT OF THE PROGRAM LOAN AND ACHIEVE THE PURPOSES OF THE PROGRAM, THE DEPARTMENT MAY MODIFY:

- (1) THE INTEREST RATE;
- (2) THE TIME OR AMOUNT OF PAYMENT; OR
- (3) ANY OTHER TERM OF THE PROGRAM LOAN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-506.

In subsection (b)(2) of this section, the former reference to "some or all" of the operating costs is deleted as surplusage.

In the introductory language of subsection (c) of this section, the reference to "facilitate" repayment is substituted for the former reference to "ensure" repayment for clarity.

Defined terms: "Department" § 1-101

"Development costs" § 4-1501

"Family of lower income" § 4-1501

"Operating costs" § 4-1501

"Program loan" § 4-1501

"Project" § 4-1501

4-1510. EFFECT OF CONVERSION ON TENANTS.

IF A RENTAL HOUSING FACILITY IS CONVERTED TO LIMITED EQUITY COOPERATIVE HOUSING WITH THE HELP OF A PROGRAM LOAN, A TENANT MAY NOT BE REQUIRED TO VACATE THE PREMISES BECAUSE THE TENANT DOES NOT ELECT

TO BECOME A STOCKHOLDER IN THE CORPORATION OWNING THE LIMITED EQUITY COOPERATIVE HOUSING.

REVISOR'S NOTE: This section formerly was Art. 83B, § 2-510.

The only changes are in style.

Defined term: "Program loan" § 4-1501

4-1511. FALSE STATEMENTS OR REPORTS.

(A) PROHIBITED.

(1) A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT OR REPORT IN A DOCUMENT REQUIRED TO BE SUBMITTED TO THE DEPARTMENT UNDER AN AGREEMENT RELATING TO A PROGRAM LOAN.

(2) A LOAN APPLICANT MAY NOT KNOWINGLY MAKE OR CAUSE A FALSE STATEMENT OR REPORT TO BE MADE TO INFLUENCE THE ACTION OF THE DEPARTMENT ON A PROGRAM LOAN APPLICATION OR TO INFLUENCE ACTION OF THE DEPARTMENT AFFECTING A PROGRAM LOAN ALREADY MADE.

(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 \$50,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-509.

Defined terms: "Department" § 1-101

"Person" § 1-101

"Program loan" § 4-1501

SUBTITLE 16. RESIDENTIAL MORTGAGE PROGRAMS FOR CERTAIN COUNTIES.

4-1601. 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. 83B, § 2-403.

(B) COVERED COUNTY.

"COVERED COUNTY" MEANS:

(1) A COUNTY THAT HAS ADOPTED HOME RULE POWERS UNDER ARTICLE XI-F OF THE MARYLAND CONSTITUTION; OR

(2) ANNE ARUNDEL COUNTY, CALVERT COUNTY, FREDERICK COUNTY, HOWARD COUNTY, OR WASHINGTON COUNTY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-403(2).

The term "[c]overed county" is substituted for the former term "county" to provide a clear reference to the specific counties affected by this subtitle and to avoid confusion with the defined term "county". See § 1-101 of this article.

In paragraph (1) of this subtitle, the former reference to the "optional" home rule powers is deleted as surplusage.

(C) FAMILY OF LOW OR MODERATE INCOME.

"FAMILY OF LOW OR MODERATE INCOME" MEANS A FAMILY OR INDIVIDUAL THAT A COVERED COUNTY DETERMINES CANNOT AFFORD A PRICE OR RENT SUFFICIENT TO INDUCE PRIVATE ENTERPRISE IN THE COVERED COUNTY TO BUILD ENOUGH ADEQUATE, SAFE, AND SANITARY HOUSING WITHOUT THE ASSISTANCE OF A PROGRAM.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-403(1).

The reference to "housing" is substituted for the former reference to "dwellings" to conform to the terminology used throughout this subtitle.

The reference to "program" is substituted for the former reference to "this subtitle" for clarity.

Defined terms: "Covered county" § 4-1601

"Program" § 4-1601

(D) PROGRAM.

"PROGRAM" MEANS A RESIDENTIAL MORTGAGE PROGRAM UNDER THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to the Residential Mortgage Program.

4-1602. FINDINGS.

(A) IN GENERAL.

THE GENERAL ASSEMBLY FINDS THAT:

(1) IN MANY AREAS OF COVERED COUNTIES, INCLUDING AREAS THAT CONTAIN PRESENTLY STABLE NEIGHBORHOODS AND MIDDLE CLASS RESIDENTIAL HOUSING, FAMILIES OF LOW OR MODERATE INCOME CANNOT PURCHASE, REHABILITATE, OR MAINTAIN DECENT, SAFE, AND SANITARY HOUSING, AND SO DO NOT HAVE AN OPPORTUNITY FOR HOME OWNERSHIP DIRECTLY OR THROUGH A CONDOMINIUM OR COOPERATIVE;

(2) THE INABILITY OF FAMILIES OF LOW OR MODERATE INCOME UNDER ITEM (1) OF THIS SUBSECTION IS THE RESULT OF CONTINUING INCREASES IN:

- (I) THE COST OF CONSTRUCTION OR REHABILITATION;
- (II) COUNTY TAXES;
- (III) HEATING AND ELECTRICITY EXPENSES;
- (IV) MAINTENANCE AND REPAIR EXPENSES;
- (V) INFLATION;
- (VI) THE COST OF LAND;
- (VII) THE COST OF ENERGY CONSERVATION; AND
- (VIII) BORROWING COSTS, INCLUDING INTEREST;

(3) THE INABILITY OF FAMILIES OF LOW OR MODERATE INCOME TO PURCHASE AND HOLD HOUSING IN COVERED COUNTIES RESULTS IN THE DECLINE OF NEW HOUSING, THE DECAY OF EXISTING HOUSING AND NEIGHBORHOODS, AND INCREASED COSTS FOR WELFARE, POLICE, AND FIRE PROTECTION;

(4) THE DECLINE IN NEW HOUSING CONSTRUCTION AND THE DECAY OF EXISTING HOUSING HAVE PRODUCED A CRITICAL SHORTAGE OF ADEQUATE HOUSING, HARMING THE ECONOMY OF COVERED COUNTIES AND THE WELL-BEING OF RESIDENTS;

(5) PRIVATE ENTERPRISE CANNOT CONSTRUCT OR REHABILITATE ADEQUATE HOUSING FOR FAMILIES OF LOW OR MODERATE INCOME WITHOUT THE ASSISTANCE OF A PROGRAM; AND

(6) FORCING FAMILIES OF LOW OR MODERATE INCOME TO LIVE IN SUBSTANDARD HOUSING IS UNDESIRABLE BECAUSE IT DECREASES THE INTEREST OF THE FAMILIES IN THEIR COMMUNITIES AND THE MAINTENANCE OF THEIR PROPERTY AND THEIR NEIGHBORHOODS.

(B) ADEQUATE HOUSING.

THE GENERAL ASSEMBLY FINDS THAT:

(1) IT WILL BE HARD FOR MANY RESIDENTS IN COVERED COUNTIES TO FIND DECENT, SAFE, AND SANITARY HOUSING UNLESS HOUSING IS CONSTRUCTED OR REHABILITATED;

(2) UNLESS THE SUPPLY OF HOUSING AND THE ABILITY OF FAMILIES OF LOW OR MODERATE INCOME TO GET MORTGAGE FINANCING ARE INCREASED SIGNIFICANTLY AND EXPEDITIOUSLY, MANY RESIDENTS OF COVERED COUNTIES MAY HAVE TO LIVE IN UNSANITARY, OVERCROWDED, OR UNSAFE CONDITIONS TO THE DETRIMENT OF THE HEALTH, WELFARE, AND WELL-BEING OF THESE INDIVIDUALS AND OF THE WHOLE COMMUNITY OF WHICH THEY ARE A PART; AND

(3) INCREASING THE HOUSING SUPPLY IN COVERED COUNTIES AND THE ABILITY OF FAMILIES OF LOW OR MODERATE INCOME TO GET MORTGAGE FINANCING WILL:

(I) HELP IN THE CLEARANCE, REPLANNING, DEVELOPMENT OF, AND REDEVELOPMENT OF BLIGHTED AREAS;

(II) REDUCE THE CRITICAL SHORTAGE OF ADEQUATE HOUSING;
AND

(III) GREATLY ENHANCE THE MAINTENANCE AND USE OF EXISTING HOUSING AND NEIGHBORHOODS.

(C) HOUSING CRISIS.

THE GENERAL ASSEMBLY FINDS THAT:

(1) A MAJOR CAUSE OF THE HOUSING CRISIS IS A LACK OF:

(I) MONEY THAT CAN BE BORROWED AT A COST LOW ENOUGH TO ENABLE FAMILIES OF LOW OR MODERATE INCOME TO AFFORD TO OWN AND MAINTAIN DECENT, SAFE, AND SANITARY HOUSING; AND

(II) MONEY WITH WHICH PRIVATE MORTGAGE LENDERS CAN FINANCE HOUSING; AND

(2) THE LACK OF MONEY HAS FRUSTRATED THE MAINTENANCE, SALE, AND PURCHASE OF EXISTING HOUSING IN COVERED COUNTIES.

(D) PUBLIC INTEREST OF COVERED COUNTIES.

THE GENERAL ASSEMBLY FINDS THAT COVERED COUNTIES HAVE A BASIC PUBLIC INTEREST IN:

(1) PROVIDING A SUPPLEMENTAL SOURCE OF SINGLE-FAMILY RESIDENTIAL MORTGAGE MONEY FOR FAMILIES OF LOW OR MODERATE INCOME AT A COST LOWER THAN OTHERWISE PREVAILING FOR RESIDENTIAL MORTGAGES; AND

(2) STIMULATING A STEADY FLOW OF MONEY FOR RESIDENTIAL HOUSING FOR FAMILIES OF LOW OR MODERATE INCOME AND FOR LOW AND MIDDLE CLASS RESIDENTIAL HOUSING TO HELP MAINTAIN:

- (I) A WELL-BALANCED SOCIETY;
 - (II) EXISTING HOUSING;
 - (III) ESTABLISHED NEIGHBORHOODS; AND
 - (IV) A SOUND TAX BASE.
- (E) PROGRAMS.

THE GENERAL ASSEMBLY FINDS THAT THE POWER GIVEN BY THIS SUBTITLE AND THE SPENDING OF PUBLIC MONEY AS NEEDED TO CARRY OUT A PROGRAM SERVE A PUBLIC PURPOSE, AND THIS SUBTITLE IS IN THE PUBLIC INTEREST.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-401.

In subsection (b)(1) of this section, the former reference to the rehabilitation of existing housing "where appropriate" is deleted as implicit in the reference to "existing housing".

In subsection (b)(2) of this section, the former reference to a community "of which they [*i.e.*, low and moderate income persons] are a part" is deleted as implicit in the reference to "community".

In subsection (d)(1) of this section, the former reference to providing mortgage money at a cost lower "to the borrower" is deleted as implicit in the reference to "mortgage money".

In subsection (e) of this section, the defined term "program" is substituted for the former reference to "a residential mortgage program as contemplated in this section" for brevity.

Also in subsection (e) of this section, the former reference to a "valid" public purpose is deleted as included in the reference to a "public purpose".

Defined terms: "Covered county" § 4-1601

"Family of low or moderate income" § 4-1601

"Program" § 4-1601

4-1603. PURPOSES OF SUBTITLE.

THE PURPOSES OF THIS SUBTITLE ARE TO:

(1) HELP REMEDY THE CONDITIONS DESCRIBED IN § 4-1602 OF THIS SUBTITLE;

(2) MAKE RESIDENTIAL MORTGAGE LOANS AVAILABLE TO FAMILIES OF LOW OR MODERATE INCOME AT BORROWING COSTS LOWER THAN THOSE OTHERWISE PREVAILING FOR RESIDENTIAL MORTGAGES;

(3) HELP REDUCE THE SHORTAGE OF ADEQUATE HOUSING; AND

(4) HELP MAINTAIN HOUSING AND NEIGHBORHOODS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-402.

The introductory phrase of this section "[t]he purposes of this subtitle are" is substituted for the former phrase "[i]t is the declared legislative purpose" to conform to the terminology used throughout this title.

In item (2) of this section, the phrase "to make residential mortgage loans available" is substituted for the former phrase "to promote the expansion of the supply of funds" for brevity and clarity.

In item (4) of this section, the former reference to "existing" housing is deleted as implicit in the reference to "maintain[ing]" housing.

Defined term: "Family of low or moderate income" § 4-1601

4-1604. POWER OF COVERED COUNTY TO BORROW MONEY; AVAILABILITY OF MONEY.

(A) AUTHORIZATION.

TO ACCOMPLISH THE PURPOSE OF THIS SUBTITLE AND NOTWITHSTANDING ANY OTHER LAW, A COVERED COUNTY MAY BORROW MONEY BY ISSUING REVENUE BONDS, NOTES, OR OTHER EVIDENCES OF OBLIGATION.

(B) AVAILABILITY OF MONEY.

MONEY UNDER SUBSECTION (A) OF THIS SECTION SHALL BE MADE AVAILABLE FOR RESIDENTIAL MORTGAGE LOANS TO FAMILIES OF LOW OR MODERATE INCOME, ONLY THROUGH MORTGAGE LENDING INSTITUTIONS BY:

(1) FORWARD COMMITMENT MORTGAGE PURCHASE;

(2) EXISTING MORTGAGE PURCHASE;

(3) LOANS TO LENDERS;

(4) REVOLVING MORTGAGE FUND; OR

(5) ANY OTHER MEANS THAT THE LEGISLATIVE BODY OF THE COVERED COUNTY CONSIDERS APPROPRIATE.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 83B, § 2-404, and the second sentence as it related to ways in which money shall be made available for residential mortgage loans.

In subsection (a) of this section, the introductory language, "[t]o accomplish the purpose of this subtitle", is substituted for the former phrase "[i]n order to better accomplish the foregoing purposes" for clarity.

In subsection (b)(5) of this section, the reference to the legislative body "of the covered county" is added for clarity.

Defined terms: "Covered county" § 4-1601

"Family of low or moderate income" § 4-1601

"Program" § 4-1601

4-1605. COVERED COUNTY MAY COLLECT CHARGES FROM BORROWERS.

A COVERED COUNTY MAY COLLECT FROM BORROWERS IN A PROGRAM THE CHARGES THAT THE LEGISLATIVE BODY OF THE COVERED COUNTY CONSIDERS PROPER FOR:

- (1) LOAN PROCESSING;
- (2) LOAN ADMINISTRATION;
- (3) MORTGAGE INSURANCE; AND
- (4) OTHER COSTS AND EXPENSES OF THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 83B, § 2-404 as it related to the ability of a covered county to collect certain charges from borrowers in a program.

Defined terms: "Covered county" § 4-1601

"Program" § 4-1601

4-1606. ORDINANCE OR RESOLUTION TO ISSUE BONDS.

- (A) ADOPTION OF ORDINANCE OR RESOLUTION.

THE LEGISLATIVE BODY OF A COVERED COUNTY THAT UNDERTAKES A PROGRAM SHALL ADOPT AN ORDINANCE OR RESOLUTION THAT SPECIFIES:

- (1) THE PROPOSED PROGRAM;
- (2) THE AMOUNT OF BONDS TO BE ISSUED;
- (3) THE INTEREST RATE OR RATES THAT THE BONDS WILL BEAR OR THE METHOD TO DETERMINE THE RATE OR RATES; AND

(4) OTHER PROVISIONS CONSISTENT WITH THIS SUBTITLE THAT THE LEGISLATIVE BODY CONSIDERS APPROPRIATE TO FINANCE MORTGAGE LOANS.

(B) FINDINGS OF COVERED COUNTY.

AN ORDINANCE OR RESOLUTION THAT AUTHORIZES THE ISSUANCE OF BONDS SHALL INCLUDE FINDINGS ABOUT:

(1) THE APPROPRIATE RANGES OF INCOME OF FAMILIES OF LOW OR MODERATE INCOME;

(2) THE NEED FOR THE FINANCING THAT IS ALLOWED UNDER THIS SUBTITLE;

(3) THE TYPES OF HOUSING AVAILABLE AND NEEDED IN THE COVERED COUNTY; AND

(4) OTHER FACTORS THAT THE LEGISLATIVE BODY OF THE COVERED COUNTY FINDS APPROPRIATE TO ESTABLISH A PROGRAM.

(C) FINDING IS CONCLUSIVE.

A FINDING BY THE LEGISLATIVE BODY OF A COVERED COUNTY ABOUT THE QUALIFICATION OF AN INDIVIDUAL OR FAMILY AS A FAMILY OF LOW OR MODERATE INCOME, OR ABOUT ANY OTHER MATTER CONNECTED WITH A PROGRAM IS CONCLUSIVE IN A SUIT, ACTION, OR PROCEEDING THAT INVOLVES THE VALIDITY OR ENFORCEABILITY OF A BOND ISSUED UNDER THIS SUBTITLE OR THE SECURITY FOR THE BOND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-405 and 2-406(a).

In subsection (a)(4) of this section, the reference to "appropriate" is substituted for the former reference to "necessary or desirable" to conform to terminology used throughout this subtitle.

In subsection (b)(2) of this section, the reference to this "subtitle" is substituted for the former reference to this "section" to reflect the organization of this revision.

Defined terms: "Covered county" § 4-1601

"Family of low or moderate income" § 4-1601

"Program" § 4-1601

4-1607. CHARACTERISTICS OF BONDS.

(A) CONDITIONS OF ISSUANCE AND PAYMENT.

THE LEGISLATIVE BODY OF A COVERED COUNTY THAT ISSUES BONDS UNDER THIS SUBTITLE SHALL DETERMINE:

- (1) THE TIME OR TIMES WHEN INTEREST IS TO BE PAID ON THE BONDS;
 - (2) THE TIME OR TIMES WHEN THE BONDS ARE TO BE EXECUTED, ISSUED, AND DELIVERED;
 - (3) THE FORM, DENOMINATION, AND TENOR OF THE BONDS;
 - (4) THE TIME OR TIMES WHEN THE PRINCIPAL OF THE BONDS IS TO BE PAID, WHICH MAY NOT BE MORE THAN 40 YEARS AFTER THE BONDS ARE ISSUED; AND
 - (5) THE PLACE OR PLACES WHERE THE BONDS ARE TO BE PAID.
- (B) SECURITY.

THE BONDS MAY BE SECURED BY:

- (1) A PLEDGE OF MORTGAGES OR NOTES SECURED BY DEEDS OF TRUST ON ANY TYPE OF INTEREST IN REAL OR OTHER PROPERTY, INCLUDING THE REAL PROPERTY OR OTHER INTERESTS HELD BY STOCK COOPERATIVES OR CONDOMINIUMS AND THEIR UNIT OWNERS;
- (2) SERVICING AGREEMENTS;
- (3) CONDEMNATION PROCEEDS;
- (4) PRIVATE, GOVERNMENTAL, OR OTHER MORTGAGE INSURANCE PROCEEDS;
- (5) CASUALTY OR SPECIAL HAZARD INSURANCE PROCEEDS; OR
- (6) ANY OTHER SECURITY THAT THE LEGISLATIVE BODY OF THE COVERED COUNTY FINDS APPROPRIATE.

(C) REDEMPTION.

THE BONDS MAY PROVIDE THAT, AT THE OPTION OF THE COVERED COUNTY, THE BONDS OR ANY ONE OF THEM MAY BE CALLED FOR REDEMPTION BEFORE MATURITY, AT A PRICE AND UNDER THE TERMS AND CONDITIONS THAT THE LEGISLATIVE BODY OF THE COVERED COUNTY FIXED BEFORE ISSUING THE BONDS.

(D) TAX-EXEMPT STATUS.

THE FOLLOWING ARE EXEMPT AT ALL TIMES FROM TAXATION OF EVERY KIND AND NATURE WHATSOEVER BY THE STATE OR A COUNTY:

- (1) THE PRINCIPAL OF A BOND;
- (2) THE TRANSFER OF, INTEREST PAYABLE ON, OR INCOME DERIVED FROM A BOND; AND

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(3) PROFIT MADE BY THE SALE OR TRANSFER OF A BOND.

(E) NEGOTIABILITY.

A BOND ISSUED UNDER THIS SUBTITLE IS A NEGOTIABLE INSTRUMENT.

(F) FORM OF BONDS.

A COVERED COUNTY MAY:

(1) ISSUE ITS BONDS IN COUPON FORM; OR

(2) PROVIDE FOR REGISTRATION OF THE BONDS AS TO PRINCIPAL ALONE OR PRINCIPAL AND INTEREST.

(G) SIGNATURE AND SEAL.

(1) THE BONDS SHALL BE SIGNED BY A COMMISSIONER OR OTHER CHIEF EXECUTIVE OFFICER OF THE COVERED COUNTY.

(2) THE SEAL OF THE COVERED COUNTY SHALL BE AFFIXED TO THE BOND AND ATTESTED TO BY THE CLERK OR THE OFFICER EXERCISING THE FUNCTIONS OF A CLERK.

(3) AN OFFICER'S SIGNATURE OR COUNTERSIGNATURE THAT APPEARS ON BONDS OR COUPONS IS VALID EVEN IF THE OFFICER LEAVES OFFICE BEFORE DELIVERY OF THE BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-406(b) through (e) and 2-407(a) and (b).

In subsection (a)(1) of this section, the reference to "the time or times when" interest will be paid on the bonds is substituted for the former reference to bonds "payable either annually, semiannually or otherwise" for brevity. Similarly, in subsection (a)(2) of this section, the reference to the determination of "the time or times when" bonds will be executed, issued, and delivered is substituted for the former reference to bonds executed, issued, and delivered "at any time or from time to time" for brevity.

Defined terms: "Covered county" § 4-1601

"Family of low or moderate income" § 4-1601

4-1608. SALE AND PAYMENT OF BONDS.

(A) MANNER OF SALE.

(1) THE BONDS SHALL BE SOLD AT PUBLIC OR PRIVATE SALE ON THE TERMS THAT THE LEGISLATIVE BODY OF THE COVERED COUNTY SETS.

(2) THE BONDS ARE NOT SUBJECT TO ARTICLE 31, §§ 9, 10, AND 11 OF THE CODE.

(B) PAYMENT.

(1) THE BONDS AND THE INTEREST ON THEM SHALL BE LIMITED OBLIGATIONS OF THE COVERED COUNTY.

(2) THE PRINCIPAL AND INTEREST ON THE BONDS SHALL BE PAYABLE ONLY FROM:

(I) THE REVENUE DERIVED FROM:

1. INTEREST;
2. MORTGAGE INSURANCE;
3. CASUALTY OR SPECIAL HAZARD INSURANCE OR OTHER INSURANCE PROCEEDS; OR
4. CONDEMNATION PROCEEDS;

(II) OTHER REVENUE DERIVED FROM MORTGAGE LOANS OR PROPERTY SECURING THE LOANS; OR

(III) OTHER PAYMENTS OR REVENUES DERIVED FROM OR RELATING TO THE MAKING OF THE LOANS.

(3) THE BONDS OR COUPONS ISSUED UNDER THIS SUBTITLE:

(I) ARE NOT AN INDEBTEDNESS OR A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWERS OF THE ISSUING COUNTY WITHIN THE MEANING OF A CONSTITUTION, COUNTY CODE PROVISION, OR STATUTORY LIMIT; AND

(II) ARE NOT AND DO NOT GIVE RISE TO A MONETARY LIABILITY OF THE ISSUING COUNTY.

(4) ON THE ADVICE OF COUNSEL, THE FACE OF EACH BOND MAY PLAINLY STATE THAT THE BOND WAS ISSUED UNDER THIS SUBTITLE AND IS NOT AN INDEBTEDNESS TO WHICH THE FAITH AND CREDIT OF THE COUNTY IS PLEDGED.

(C) APPLICATION OF MONEY RECEIVED.

MONEY RECEIVED FROM BONDS ISSUED UNDER THIS SUBTITLE SHALL BE APPLIED SOLELY:

(1) TO MAKE MONEY AVAILABLE THROUGH MORTGAGE LENDING INSTITUTIONS ONLY FOR RESIDENTIAL MORTGAGE LOANS TO FAMILIES OF LOW OR MODERATE INCOME;

- (2) TO ESTABLISH RESERVES;
- (3) TO PAY THE NECESSARY EXPENSES OF FINANCING; OR
- (4) TO ADVANCE THE PAYMENT OF INTEREST ON THE BONDS DURING THE FIRST 3 YEARS AFTER THE DATE OF THE BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-407(c) through (e).

Defined terms: "County" § 1-101

"Covered county" § 4-1601

"Family of low or moderate income" § 4-1601

4-1609. NEW BONDS.

(A) AUTHORIZATION.

A COVERED COUNTY MAY ISSUE NEW BONDS TO PAY OUTSTANDING BONDS IN ACCORDANCE WITH PROCEDURES OF THIS SUBTITLE AND ARTICLE 31, § 24 OF THE CODE.

(B) SECURITY.

NEW BONDS SHALL BE SECURED TO THE SAME EXTENT AND SHALL HAVE THE SAME SOURCE OF PAYMENT AS THE BONDS REFUNDED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-408.

Defined term: "Covered county" § 4-1601

4-1610. NATURE OF PROGRAM.

(A) TYPES OF TRANSACTIONS.

A PROGRAM MAY PROVIDE FOR LOAN AGREEMENTS, SECURITY AGREEMENTS, LOAN SERVICING AGREEMENTS, FORMS OF MORTGAGES, NOTES AND DEEDS OF TRUST, AND OTHER SECURITY, DOCUMENTS, AGREEMENTS, PROVISIONS, AND OTHER MATTERS AS THE COVERED COUNTY MAY FIND APPROPRIATE TO IMPLEMENT THE FINANCING OF THE PROGRAM.

(B) NOT CAPITAL PROJECT.

A TRANSACTION UNDER THIS SUBTITLE IS NOT A CAPITAL PROJECT WITHIN THE MEANING OF A CHARTER OR STATUTORY PROVISION.

(C) TRANSACTION AUTHORIZED.

A TRANSACTION UNDER THIS SUBTITLE SHALL BE AUTHORIZED BY ORDINANCE OR RESOLUTION WITHOUT A REFERENDUM OR OTHER PROCEDURE NOT APPLICABLE TO ALL ORDINANCES OR RESOLUTIONS ENACTED IN THE COVERED COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-409.

In subsection (a) of this section, the former reference to a program "effecting the financing under this section" is deleted as surplusage.

Also in subsection (a) of this section, the former reference to "necessary" is deleted in light of the reference to "appropriate".

Defined terms: "Covered county" § 4-1601

"Program" § 4-1601

SUBTITLE 17. SELF-HELP HOMEOWNERSHIP TECHNICAL ASSISTANCE PROGRAM.

4-1701. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-1502(a).

No changes are made.

(B) FAMILY OF LIMITED INCOME.

"FAMILY OF LIMITED INCOME" MEANS A FAMILY OR INDIVIDUAL THAT QUALIFIES UNDER § 4-1706 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to "family of limited income".

(C) OWNER-BUILDER.

"OWNER-BUILDER" MEANS AN INDIVIDUAL OR FAMILY THAT PROVIDES ALL, OR A SUBSTANTIAL AMOUNT, AS THE DEPARTMENT DETERMINES, OF THE LABOR TO BUILD A DWELLING THAT WILL BE THE PRINCIPAL RESIDENCE OF THE INDIVIDUAL OR FAMILY.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-1502(e).

The former reference to labor "necessary" to build a housing unit is deleted as surplusage.

No other changes are made.

Defined term: "Department" § 1-101

(D) PROGRAM.

"PROGRAM" MEANS THE SELF-HELP HOMEOWNERSHIP TECHNICAL ASSISTANCE PROGRAM.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-1502(g).

No changes are made.

(E) PROJECT.

"PROJECT" MEANS SIX OR MORE DWELLINGS NEAR ONE ANOTHER THAT ARE BUILT OR REHABILITATED BY OWNER-BUILDERS OR SELF-HELP REHABILITATORS WHO USE SELF-HELP METHODS AND WORK AS A TEAM ON EACH OTHER'S DWELLINGS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 2-1502(h).

The former reference to the "construction or rehabilitation" of each other's dwellings is deleted as surplusage.

Defined terms: "Owner-builder" § 4-1701

"Self-help rehabilitator" § 4-1701

(F) SELF-HELP REHABILITATOR.

"SELF-HELP REHABILITATOR" MEANS AN INDIVIDUAL OR FAMILY THAT PROVIDES ALL, OR A SUBSTANTIAL AMOUNT, AS THE DEPARTMENT DETERMINES, OF THE LABOR TO REHABILITATE, RENOVATE, OR IMPROVE THE PRINCIPAL RESIDENCE OF THE INDIVIDUAL OR FAMILY.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 2-1502(i).

The former reference to labor "necessary" to rehabilitate, renovate, or improve the principal residence of the individual or family is deleted as surplusage.

No other changes are made.

Defined term: "Department" § 1-101

(G) TECHNICAL ASSISTANCE GRANT.

"TECHNICAL ASSISTANCE GRANT" MEANS A GRANT UNDER THE PROGRAM.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first clause of former Art. 83B, § 2-1502(k).

Defined term: "Program" § 4-1701

REVISOR'S NOTE TO SECTION: Former Art. 83B, § 2-1502(d), which defined "local jurisdiction" to mean a municipal corporation or county, is deleted in light of the defined term "political subdivision" to the same effect. *See* § 1-101 of this division.

4-1702. FINDINGS.

THE GENERAL ASSEMBLY FINDS THAT:

(1) HOMEOWNERSHIP IS A STABILIZING FACTOR FOR COMMUNITIES AND FAMILIES AND IS THE BEST WAY FOR FAMILIES OF LIMITED INCOME TO BUILD EQUITY AND MOVE OUT OF POVERTY;

(2) HOMEOWNERSHIP HAS BECOME LESS AFFORDABLE OVER TIME BECAUSE INCOMES HAVE NOT KEPT PACE WITH THE RISING COSTS OF HOMEOWNERSHIP;

(3) SELF-HELP HOUSING HELPS FAMILIES OF LIMITED INCOME TO BECOME HOMEOWNERS, INCREASING THEIR FINANCIAL STABILITY;

(4) FAMILIES WORKING TOGETHER IN GROUPS TO BUILD THEIR HOMES HELP TO CREATE STRONGER COMMUNITIES; AND

(5) THERE HAVE BEEN THREE SUCCESSFUL FEDERALLY FINANCED SELF-HELP PROGRAMS IN THE STATE, AND MODELING A STATE SELF-HELP OWNERSHIP PROGRAM ON A WELL-TESTED FEDERAL PROGRAM WILL INCREASE HOMEOWNERSHIP OPPORTUNITIES FOR FAMILIES OF LIMITED INCOME ACROSS THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1501.

In the introductory language of this section, the former reference to "declares" is deleted as surplusage.

In item (1) of this section, the defined term "family of limited income" is substituted for the former terms "low income families" to conform to the terminology used throughout this subtitle. Similarly, in items (3) and (5) of this section, the defined term "famil[ies] of limited income" is substituted for the former reference to "low income households".

In item (2) of this section, the reference to "over time" is substituted for the former reference to "over the last 20 years" for clarity.

Defined term: "Family of limited income" § 4-1701

4-1703. ESTABLISHED.

THERE IS A SELF-HELP HOMEOWNERSHIP TECHNICAL ASSISTANCE PROGRAM.

REVISOR'S NOTE: This section formerly was Art. 83B, § 2-1503(a).

The former reference to the Program being "in the Department" is deleted in light of § 4-103 of this title.

No other changes are made.

Defined term: "Department" § 1-101

4-1704. PURPOSE OF PROGRAM.

THE PURPOSE OF THE PROGRAM IS TO MAKE TECHNICAL ASSISTANCE GRANTS TO EXPAND:

(1) THE PRODUCTION OF DECENT AND AFFORDABLE HOUSING FOR FAMILIES OF LIMITED INCOME THROUGH SELF-HELP IN REHABILITATION AND CONSTRUCTION;

(2) HOMEOWNERSHIP OPPORTUNITIES FOR THOSE WHO WOULD NOT HAVE THESE OPPORTUNITIES WITHOUT THE COST SAVINGS ACHIEVED BY SELF-HELP; AND

(3) SELF-RELIANCE, PRIDE OF OWNERSHIP, AND SENSE OF COMMUNITY FOR PARTICIPANTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1503(b).

Defined terms: "Family of limited income" § 4-1701

"Program" § 4-1701

"Technical assistance grant" § 4-1701

4-1705. DUTIES OF DEPARTMENT.

THE DEPARTMENT SHALL:

(1) ADMINISTER THE PROGRAM;

(2) ESTABLISH GUIDELINES TO DETERMINE ELIGIBILITY OF APPLICANTS FOR TECHNICAL ASSISTANCE GRANTS; AND

(3) ADOPT REGULATIONS TO CARRY OUT THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-1504 and 2-1505(b).

Defined terms: "Department" § 1-101

"Program" § 4-1701

"Technical assistance grant" § 4-1701

4-1706. FAMILY ELIGIBILITY.

(A) QUALIFICATION.

A FAMILY OR INDIVIDUAL QUALIFIES AS A FAMILY OF LIMITED INCOME IF THE INCOME OF THE FAMILY OR INDIVIDUAL DOES NOT EXCEED THE UPPER INCOME LIMIT THAT THE SECRETARY ESTABLISHES.

(B) FACTORS FOR SETTING INCOME LIMITS.

FACTORS THAT THE SECRETARY SHALL CONSIDER IN SETTING THE UPPER INCOME LIMIT UNDER SUBSECTION (A) OF THIS SECTION INCLUDE:

- (1) THE TOTAL AMOUNT OF FAMILY OR INDIVIDUAL INCOME DEEMED AVAILABLE FOR HOUSING;
- (2) THE SIZE OF THE FAMILY;
- (3) THE ABILITY OF THE FAMILY OR INDIVIDUAL TO COMPETE SUCCESSFULLY IN THE PRIVATE HOUSING MARKET;
- (4) THE COST AND CONDITION OF AVAILABLE HOUSING; AND
- (5) STANDARDS AND DEFINITIONS UNDER RELATED FEDERAL AND STATE HOUSING PROGRAMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1502(c).

It is revised as a substantive provision for clarity.

In subsection (b)(1) and (3) of this section, the references to family "or individual" income are added to conform to subsection (a) of this section.

In subsection (b)(1) of this section, the reference to "deemed" available is added for clarity.

In subsection (b)(3) of this section, the former reference to the "normal" private housing market is deleted as surplusage.

Defined terms: "Family of limited income" § 4-1701

"Secretary" § 1-101

4-1707. ELIGIBILITY STANDARDS.

THE DEPARTMENT MAY ESTABLISH STANDARDS TO DETERMINE ELIGIBILITY FOR A TECHNICAL ASSISTANCE GRANT, WHICH MAY INCLUDE:

- (1) THE NUMBER OF FAMILIES OF LIMITED INCOME THAT THE REQUESTED GRANT WILL SERVE;
- (2) THE EXTENT TO WHICH THE APPLICANT WILL USE FEDERAL, STATE, AND LOCAL PROGRAMS AND RESOURCES IN THE PROJECT;

- THE PROJECT;
- (3) THE ORGANIZATIONAL ABILITY OF THE APPLICANT TO CARRY OUT
- (4) THE FEASIBILITY OF THE PROJECT;
- (5) THE COST IN SELF-HELP HOUSING FUND MONEY PER UNIT OF THE PROJECT; AND
- (6) THE EXTENT TO WHICH PROJECT PARTICIPANTS WILL USE SELF-HELP LABOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1505(a).

In the introductory language of this section, the former phrase "from the Program" is deleted as implied in the defined term "technical assistance grant".

In item (1) of this section, the former reference to "the largest proportion of" families of limited income is deleted as surplusage.

Also in item (1) of this section, the reference to the "requested grant" is substituted for the former reference to the "request for funds" for clarity.

In item (2) of this section, the former phrase "but not be limited to" is deleted in light of Art. 1, § 30 to the same effect.

Also in item (2) of this section, the former reference to "[f]actors for evaluation of applications" for technical assistance grants is deleted as surplusage.

Defined terms: "Department" § 1-101

"Family of limited income" § 4-1701

"Project" § 4-1701

"Technical assistance grant" § 4-1701

4-1708. TECHNICAL ASSISTANCE GRANTS -- FOR SELF-HELP CONSTRUCTION.

(A) AUTHORIZED.

THE DEPARTMENT MAY AWARD A TECHNICAL ASSISTANCE GRANT TO A POLITICAL SUBDIVISION OR NONPROFIT ORGANIZATION TO HELP FAMILIES OF LIMITED INCOME THAT ARE OWNER-BUILDERS OR SELF-HELP REHABILITATORS.

(B) PURPOSES OF GRANT.

A TECHNICAL ASSISTANCE GRANT UNDER THIS SECTION SHALL BE USED TO:

(1) HELP, TRAIN, AND SUPERVISE OWNER-BUILDERS AND SELF-HELP REHABILITATORS IN SELF-HELP CONSTRUCTION ACTIVITIES AND TECHNIQUES;

- (2) HELP IN PROJECT DEVELOPMENT, INCLUDING:
- (I) PREPARING PLANS FOR SELF-HELP HOUSING;
 - (II) PREPARING CONTRACTS FOR PROFESSIONAL SERVICES;
 - (III) APPLYING FOR FINANCING;
 - (IV) PACKAGING APPLICATIONS FOR ASSISTANCE;
 - (V) PREPARING SUBDIVISION MAPS;
 - (VI) REVIEWING ENGINEERING PLANS AND SPECIFICATIONS FOR CONSTRUCTION AND REHABILITATION PROJECTS; AND
 - (VII) COMPLYING WITH THE REQUIREMENTS OF POLITICAL SUBDIVISIONS AND FUNDING ENTITIES; AND
- (3) PAY THE ADMINISTRATIVE COSTS OF PROVIDING TECHNICAL ASSISTANCE FOR THE ACTIVITY THAT THE DEPARTMENT FINANCES.

(C) LIMITS ON USE.

A TECHNICAL ASSISTANCE GRANT MAY NOT BE:

- (1) USED TO PURCHASE LAND, MATERIALS, TOOLS, OR CONSTRUCTION EQUIPMENT OR TO PAY FOR CONSTRUCTION COSTS; OR
- (2) AWARDED FOR A PROJECT OF FEWER THAN SIX DWELLINGS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-1506, 1-1509(a)(2), and the second clause of 2-1502(k).

In subsections (a) and (b)(2)(vii) of this section, the defined term "political subdivision" is substituted for the former references to a "local jurisdiction" and "local government" to conform to the terminology used throughout this division.

In subsection (b)(1) of this section, the reference to "owner-builders and self-help rehabilitators" is added for clarity.

In subsection (b)(2)(iii) of this section, the former defined term "project" is deleted in light of the reference to a "project" in the introductory language of subsection (b)(2) of this section.

Defined terms: "Department" § 1-101

"Family of limited income" § 4-1701

"Nonprofit organization" § 1-101

"Owner-builder" § 4-1701

"Political subdivision" § 1-101

"Project" § 4-1701

"Self-help rehabilitator" § 4-1701

"Technical assistance grant" § 4-1701

4-1709. SAME -- FOR INFORMATION AND TECHNICAL ASSISTANCE.

THE DEPARTMENT MAY AWARD A TECHNICAL ASSISTANCE GRANT TO A POLITICAL SUBDIVISION, PUBLIC ENTITY, OR NONPROFIT ORGANIZATION TO PROVIDE OWNER-BUILDERS AND SELF-HELP REHABILITATORS WITH INFORMATION AND TECHNICAL ASSISTANCE ABOUT ANY TOPIC THAT THE DEPARTMENT FINDS WILL FURTHER THE PURPOSE OF THE PROGRAM, INCLUDING:

- (1) COST SAVINGS BY OWNER-BUILDERS IN CONSTRUCTING A PRINCIPAL RESIDENCE AND BY SELF-HELP REHABILITATORS IN REHABILITATING, RENOVATING, OR IMPROVING A PRINCIPAL RESIDENCE;
- (2) CONSTRUCTION MATERIALS AND METHODS;
- (3) LOCAL MATERIAL SOURCES;
- (4) LOCAL TECHNICAL RESOURCES;
- (5) FINANCING REQUIREMENTS AND OPPORTUNITIES;
- (6) SITE ACQUISITION;
- (7) INSURANCE AND LEGAL REQUIREMENTS;
- (8) BUILDING AND HOUSING CODES AND STANDARDS; AND
- (9) OTHER AVAILABLE HOUSING ALTERNATIVES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-1507 and 2-1502(b), (f), and (j).

In the introductory language of this section, the reference to "any topic" is added to clarify the list of topics.

Also in the introductory language of this section, the defined term "political subdivision" is substituted for the former reference to "local jurisdictions" to conform to the terminology used throughout this article.

In items (3) and (4) of this section, the former reference to "the identity of" local material sources and technical resources is deleted as surplusage.

The Housing Article Review Committee notes, for consideration by the General Assembly, that in the introductory language of this section, the Department is allowed to award a technical assistance grant to a "public entity" to reflect the use of that reference in the definition of the term "applicant" in former Art. 83B, § 2-1502(b).

Defined terms: "Department" § 1-101

"Nonprofit organization" § 1-101

"Owner-builder" § 4-1701

"Political subdivision" § 1-101

"Program" § 4-1701

"Self-help rehabilitator" § 4-1701

"Technical assistance grant" § 4-1701

4-1710. SAME -- TERMS AND CONDITIONS.

(A) IN GENERAL.

THE DEPARTMENT MAY AWARD A TECHNICAL ASSISTANCE GRANT ONLY IF THE APPLICANT AGREES TO:

(1) A BUDGET THAT STATES THE TYPES AND AMOUNTS OF EXPENDITURES THAT MAY BE MADE WITH THE GRANT;

(2) THE MANNER, TIMING, AND CONDITIONS FOR DISBURSEMENT OF MONEY TO THE GRANTEE;

(3) A TIMETABLE TO COMPLETE EACH STAGE OF THE PROJECT AND FOR FINAL PROJECT COMPLETION; AND

(4) TERMS TO ENSURE COMPLIANCE WITH REGULATIONS, SPECIAL CONDITIONS IMPOSED BY GRANT APPROVAL, AND ANY OTHER TERMS OR CONDITIONS THAT THE DEPARTMENT SPECIFIES.

(B) AMOUNT.

THE AMOUNT OF A TECHNICAL ASSISTANCE GRANT MAY NOT EXCEED 20% OF THE AVERAGE PURCHASE PRICE, OVER THE LAST 3 FISCAL YEARS FOR WHICH DATA ARE AVAILABLE, OF A HOME:

(1) FINANCED BY A MORTGAGE LOAN THAT THE ADMINISTRATION PURCHASED UNDER § 4-239 OF THIS TITLE; AND

(2) LOCATED IN THE REGION WHERE THE TECHNICAL ASSISTANCE GRANT IS TO BE AWARDED.

(C) PROJECT COMPLETION.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A TECHNICAL ASSISTANCE GRANT RECIPIENT SHALL COMPLETE THE PROJECT WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THE GRANT.

(2) THE DEPARTMENT MAY EXTEND THE TERM OF A TECHNICAL ASSISTANCE GRANT BECAUSE OF DELAYS BEYOND THE REASONABLE CONTROL OF THE RECIPIENT.

(D) REPAYMENT.

THE DEPARTMENT MAY REQUIRE THAT ALL OR PART OF A TECHNICAL ASSISTANCE GRANT BE REPAID WHEN CONDITIONS THAT THE DEPARTMENT SPECIFIES OCCUR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 2-1508 and 2-1509(a)(1) and (b).

In the introductory language of subsection (a) of this section, the reference to an "applicant" is substituted for the former reference to "local jurisdictions and nonprofit organizations" for brevity.

In subsection (c)(2) of this section, the term "may" is substituted for the former reference to the "discretion" of the Department for clarity and consistency.

Also in subsection (c)(2) of this section, the former reference to delays "in project implementation" is deleted as included in the reference to "delays".

Defined terms: "Administration" § 4-101

"Department" § 1-101

"Project" § 4-1701

"Technical assistance grant" § 4-1701

TITLE 5. DIVISION OF HISTORICAL AND CULTURAL PROGRAMS.

SUBTITLE 1. ESTABLISHED.

5-101. ESTABLISHED.

THERE IS A DIVISION OF HISTORICAL AND CULTURAL PROGRAMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-101(a).

The former reference to the Division of Historical and Cultural Programs "as an organizational unit within the Department of Housing and Community Development" is deleted in light of § 2-201 of this article.

5-102. GOVERNMENTAL UNITS IN DIVISION.

THE DIVISION OF HISTORICAL AND CULTURAL PROGRAMS INCLUDES:

- (1) THE COMMISSION ON AFRICAN AMERICAN HISTORY AND CULTURE;
- (2) THE COMMISSION ON INDIAN AFFAIRS;
- (3) THE MARYLAND HISTORICAL TRUST; AND
- (4) THE HISTORICAL AND CULTURAL MUSEUM ASSISTANCE PROGRAM.

REVISOR'S NOTE: This section formerly was Art. 83B, § 5-101(b).

No changes are made.

SUBTITLE 2. COMMISSION ON AFRICAN AMERICAN HISTORY AND CULTURE.

5-201. "COMMISSION" DEFINED.

IN THIS SUBTITLE, "COMMISSION" MEANS THE COMMISSION ON AFRICAN AMERICAN HISTORY AND CULTURE.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 83B, § 5-301.

5-202. ESTABLISHED.

THERE IS A COMMISSION ON AFRICAN AMERICAN HISTORY AND CULTURE.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 83B, § 5-301.

The former reference to the Commission on African American History and Culture being "a part of the Department" is deleted in light of § 2-201 of this article.

5-203. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT.

THE COMMISSION CONSISTS OF NINE MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

(B) QUALIFICATIONS.

THE MEMBERS SHALL:

- (1) REPRESENT THE ENTIRE COMMUNITY OF THE STATE;
- (2) KNOW ABOUT AFRICAN AMERICAN CULTURE AND HISTORY;
- (3) BE SENSITIVE TO THE PROBLEMS OF MINORITY COMMUNITIES; AND
- (4) BE CONNECTED WITH AGENCIES WORKING TO INTEGRATE

MINORITY HISTORY AND CULTURE INTO THE HISTORY OF THE STATE AND AMERICAN CULTURE.

(C) TENURE; VACANCIES.

- (1) THE TERM OF A MEMBER IS 4 YEARS.
- (2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY

THE TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON OCTOBER 1, 2005.

(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.

(D) REAPPOINTMENT.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A MEMBER MAY BE REAPPOINTED.

(2) A MEMBER WHO HAS SERVED TWO CONSECUTIVE FOUR-YEAR TERMS MAY NOT BE REAPPOINTED UNTIL AT LEAST ONE YEAR HAS ELAPSED AFTER THE END OF THE PREVIOUS TERM.

(E) REMOVAL.

THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR MISCONDUCT.

REVISOR'S NOTE: Subsections (a) through (c)(2) and (d) of this section are new language derived without substantive change from former Art. 83B, § 5-302(a), (b), and (d).

Subsection (c)(3) of this section is standard language substituted for former Art. 83B, § 5-302(c) to conform to similar provisions elsewhere in the revised articles of the Code.

Subsection (e) of this section is new language that repeats the provisions of Md. Constitution, Art. II, § 15. For other provisions on removal, *see* Md. Constitution, Art. XV, § 2, on suspension and removal for crimes, and SG § 8-501, on removal for failure to attend meetings.

Throughout this subtitle, the references to a "member" are substituted for the former references to "appointees" and a "Commissioner", for consistency.

In subsection (c)(2) of this section, the reference to "October 1, 2005" is substituted for the former obsolete reference to the initial terms of the members of the Commission. *See* § ___ of Ch. ___, Acts of 2005. This substitution is not intended to alter the term of any member of the Commission. The terms of members serving on October 1, 2005, end as follows: (1) two on June 30, 2007; (2) one on June 30, 2008; (3) three on June 30, 2009; and (4) two on June 30, 2010.

Defined term: "Commission" § 5-201

5-204. CHAIR; VICE CHAIR.

THE COMMISSION SHALL ELECT ANNUALLY A CHAIR AND VICE CHAIR FROM AMONG ITS MEMBERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-302(e).

The references to a "chair" and a "vice chair" are substituted for the former references to the "chairman" and "vice-chairman" because SG § 2-1238 requires the use of words that are neutral as to gender to the extent practicable. *See* General Revisor's Note to article.

Defined term: "Commission" § 5-201

5-205. MEETINGS; COMPENSATION.

(A) MEETINGS.

THE COMMISSION SHALL MEET AT THE CALL OF THE CHAIR, A MAJORITY OF THE MEMBERS, OR THE SECRETARY.

(B) COMPENSATION.

A MEMBER OF THE COMMISSION:

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

(2) IS ENTITLED TO RECEIVE 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. 83B, § 5-302(f) and (g).

In subsection (a) of this section, the reference to the "chair" is substituted for the former reference to the "chairman" because SG § 2-1238 requires the use of words that are neutral as to gender to the extent practicable. *See* General Revisor's Note to article.

In subsection (b)(1) of this section, the reference to compensation "as a member of the Commission" is substituted for the former reference to "their services" for clarity.

Subsection (b)(2) of this section is revised in standard language used to allow reimbursement for expenses.

Defined terms: "Commission" § 5-201

"Secretary" § 1-101

5-206. DIRECTOR.

(A) POSITION.

(1) WITH THE APPROVAL OF THE SECRETARY, THE COMMISSION SHALL APPOINT A DIRECTOR.

(2) THE DIRECTOR MAY NOT BE A MEMBER OF THE COMMISSION.

(3) THE DIRECTOR SERVES AT THE PLEASURE OF THE COMMISSION, SUBJECT TO THE CONCURRENCE OF THE SECRETARY.

(B) CLASSIFICATION OF SERVICE.

THE DIRECTOR IS A SPECIAL APPOINTMENT IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

(C) DUTIES.

SUBJECT TO THE RULES AND POLICIES ADOPTED BY THE COMMISSION AND THE ADMINISTRATIVE SUPERVISION OF THE SECRETARY IN ACCORDANCE WITH TITLE 2 OF THIS ARTICLE, THE DIRECTOR SHALL:

(1) ADMINISTER THE ACTIVITIES OF THE COMMISSION; AND

(2) SUPERVISE THE APPOINTMENT AND REMOVAL OF COMMISSION PERSONNEL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-306.

Subsection (a)(2) of this section is substituted for the former requirement that the director be appointed "from without their [Commission's] number" for clarity.

In subsection (c) of this section, the former phrase "[b]e the chief administrative officer of the Commission" is deleted as implicit in the duties of the administrator listed within this subsection.

In subsection (c)(1) of this section, the former references to "[d]irect" and "supervise" are deleted in light of the reference to "administer".

Defined terms: "Commission" § 5-201

"Secretary" § 1-101

5-207. POWERS AND DUTIES.

THE COMMISSION SHALL:

(1) INITIATE, DIRECT, AND COORDINATE PROJECTS THAT FURTHER THE UNDERSTANDING OF AFRICAN AMERICAN HISTORY AND CULTURE;

(2) SURVEY HISTORIC BUILDINGS, SITES, ARTIFACTS, ARCHIVES, AND REPOSITORIES, AND PUBLISH AND DISSEMINATE THE RESULTS;

(3) PLAN, COORDINATE, AND IMPLEMENT THE STATE'S ANNUAL OFFICIAL OBSERVANCE OF THE MARTIN LUTHER KING, JR., HOLIDAY;

(4) RECEIVE AND ADMINISTER ANY AVAILABLE FEDERAL OR PRIVATE MONEY TO PLAN AND EXECUTE COMMEMORATIVE AND EDUCATIONAL ACTIVITIES IN CONNECTION WITH THE OBSERVANCE OF THE MARTIN LUTHER KING, JR., HOLIDAY;

(5) OPERATE THE BANNEKER-DOUGLASS MUSEUM IN ANNAPOLIS TO HOUSE AND DISPLAY PHOTOGRAPHS, OBJECTS, ORAL HISTORY TAPES, ARTIFACTS, AND OTHER MATERIALS OF AFRICAN AMERICAN HISTORIC AND CULTURAL SIGNIFICANCE;

(6) LOCATE, PRESERVE, AND DISSEMINATE TO THE PUBLIC INFORMATION ABOUT SIGNIFICANT BUILDINGS AND SITES RELATING TO AFRICAN AMERICAN HISTORY AND CULTURE; AND

(7) PUBLISH AN ANNUAL REPORT AND ANY OTHER MATERIAL THAT THE COMMISSION CONSIDERS NECESSARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-303.

In item (2) of this section, the reference to "the results" is substituted for the former reference to "these findings and information" for brevity.

Defined term: "Commission" § 5-201

5-208. REVENUES.

(A) SOURCES; TYPES OF REVENUE.

(1) THE COMMISSION MAY SEEK MONEY FROM THE FEDERAL GOVERNMENT, FOUNDATIONS, AND PRIVATE SOURCES IN ADDITION TO STATE FINANCING.

(2) THE COMMISSION MAY ACCEPT GIFTS, GRANTS, DONATIONS, BEQUESTS, OR ENDOWMENTS FOR ANY OF ITS PURPOSES.

(B) NONREVERSION OF MONEY.

MONEY RECEIVED UNDER SUBSECTION (A) OF THIS SECTION, INCOME FROM THE OPERATION OF THE BANNEKER-DOUGLASS MUSEUM, AND MONEY FROM EDUCATIONAL MATERIALS AND ACTIVITIES OF THE COMMISSION ARE NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(C) AUDIT.

MONEY MAINTAINED UNDER THIS SECTION IS SUBJECT TO AUDIT BY THE STATE, INCLUDING THE LEGISLATIVE AUDITOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-305.

In subsection (b) of this section, the reference to money and income that

"are not subject to § 7-302 of the State Finance and Procurement Article" is standard language substituted for the former reference to the requirement that, if "funds ... are unexpended at the end of the fiscal year, the funds or income may not revert to the General Fund of the State, but instead, shall be maintained as special funds available to the Commission for carrying out the purposes of this subtitle".

Defined term: "Commission" § 5-201

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 83B, § 5-304, which declared that the records, materials, personal property, files, moneys, credits and other assets and liabilities and obligations of the Maryland Commission on Negro History and Culture are transferred to the Maryland Commission on African American History and Culture, is deleted as obsolete. Transfer of the materials has already occurred.

SUBTITLE 3. COMMISSION ON INDIAN AFFAIRS.

5-301. 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) COMMISSION.

"COMMISSION" MEANS THE COMMISSION ON INDIAN AFFAIRS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the second sentence of former Art. 83B, § 5-401.

(C) COMMUNITY.

"COMMUNITY" MEANS A TRIBE, BAND, GROUP, OR CLAN.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to a tribe, band, group, or clan.

(D) INDIAN.

(1) "INDIAN" MEANS AN INDIVIDUAL OR COMMUNITY THAT IS, OR WHOSE MEMBERS ARE, DESCENDED FROM A TRIBE THAT INHABITED NORTH AMERICA BEFORE EUROPEAN CONTACT.

(2) "INDIAN" INCLUDES A NATIVE AMERICAN INDIAN, A NORTH AMERICAN INDIAN, AN AMERICAN INDIAN, AND AN ABORIGINAL AMERICAN.

REVISOR'S NOTE: This subsection is new language patterned after COMAR 05.08.06.02.B.(15), which states, "'Native American', 'North American Indian', 'American Indian', 'Indian', or 'aboriginal' means an individual or tribe, band, group, community, or clan that is, or whose members are, descended from a tribe that inhabited North America before European contact."

5-302. ESTABLISHED.

THERE IS A COMMISSION ON INDIAN AFFAIRS.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 83B, § 5-401.

The former reference to the Commission being "an agency in the Department" is deleted in light of § 2-201 of this article.

5-303. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT.

(1) THE COMMISSION CONSISTS OF NINE MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

(2) OF THE NINE COMMISSION MEMBERS:

(I) A MAJORITY SHALL BE MEMBERS OF THE INDIAN COMMUNITIES OF THE STATE; AND

(II) AT LEAST THREE SHALL BE MEMBERS OF THE INDIAN COMMUNITIES THAT ARE INDIGENOUS TO THE STATE.

(B) QUALIFICATIONS.

EACH MEMBER SHALL:

(1) HAVE A DEMONSTRABLE KNOWLEDGE OF INDIAN CULTURE AND HISTORY; AND

(2) BE SENSITIVE TO THE PROBLEMS OF INDIAN COMMUNITIES.

(C) APPLICATIONS.

(1) AN APPLICANT FOR MEMBERSHIP ON THE COMMISSION SHALL SUBMIT UNDER OATH A LIST OF THE APPLICANT'S QUALIFICATIONS, INCLUDING:

(I) EDUCATIONAL HISTORY; AND

(II) EMPLOYMENT BACKGROUND OR OTHER RELEVANT EXPERIENCE.

(2) AN APPLICANT FOR MEMBERSHIP ON THE COMMISSION AS AN INDIAN MEMBER SHALL SUBMIT DOCUMENTATION OR PROOF OF INDIAN STATUS UNDER THE SWORN AND NOTARIZED SIGNATURE OF THE CUSTODIAN OF RECORDS OF THE MEMBERSHIP ROLLS OF THAT INDIAN'S COMMUNITY.

(3) THE GOVERNOR MAY REQUIRE THE PRODUCTION OF ANY OTHER DOCUMENTS TO PROVE:

(I) THE QUALIFICATIONS OF THE APPLICANT; OR

(II) THE STANDING OR HISTORY OF THE INDIAN COMMUNITY TO WHICH THE APPLICANT CLAIMS MEMBERSHIP.

(D) TENURE; VACANCIES.

(1) THE TERM OF A 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.

(4) A MEMBER MAY NOT SERVE MORE THAN 6 YEARS CONSECUTIVELY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-402(a)(1) and (2).

In this section and throughout this subtitle, the defined term "Indian" is substituted for the former references to "native American Indian", "American Indian", and "North American Indian" in light of the definition of "Indian" in § 5-301 of this subtitle. Correspondingly, in subsection (a)(2)(i) of this section, the former reference to "native" American Indian communities of this State is deleted.

In subsection (c)(1) of this section, the former reference to "or affirmation" is deleted in light of Art. 1, § 9, which provides that the word "oath" also means "affirmation".

Also in subsection (c)(1) of this section, the reference to an applicant "for membership on the Commission" is added to clarify that this paragraph refers to application for membership on the Commission and not to application for Maryland Indian status.

In subsection (c)(2) of this section, the reference to "Indian status" is substituted for the former reference to "Indian tribe, band, group, or clan membership" for brevity.

Also in subsection (c)(2) of this section, the former reference to the

"authorized" custodian of the records is deleted as unnecessary.

In subsection (d) of this section, the former statement that a "member may succeed himself" is deleted as implicit in the explicit authority to serve 6 years consecutively.

Defined terms: "Commission" § 5-301

"Community" § 5-301

"Indian" § 5-301

5-304. CHAIR; VICE CHAIR.

THE COMMISSION SHALL ELECT ANNUALLY A CHAIR AND A VICE CHAIR FROM AMONG ITS MEMBERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-402(c).

In this section, the references to a "chair" and a "vice chair" are substituted for the former references to a "chairman" and "vice-chairman" because SG § 2-1238 requires the use of words that are neutral as to gender to the extent practicable. *See* General Revisor's Note to article.

Defined term: "Commission" § 5-301

5-305. MEETINGS; COMPENSATION.

(A) MEETINGS.

THE COMMISSION SHALL MEET AT THE CALL OF THE CHAIR, A MAJORITY OF THE MEMBERS, OR THE SECRETARY.

(B) COMPENSATION.

A MEMBER OF THE COMMISSION:

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

(2) MAY RECEIVE 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. 83B, § 5-402(b) and (d).

In subsection (a) of this section, the reference to the "chair" is substituted for the former reference to the "chairman" because SG § 2-1238 requires the use of words that are neutral as to gender to the extent practicable. *See* General Revisor's Note to article.

In subsection (b)(1) of this section, the reference to compensation "as a

member of the Commission" is substituted for the former reference to "their services" for clarity.

Subsection (b)(2) of this section is revised in standard language used to allow for reimbursement for expenses.

Defined terms: "Commission" § 5-301

"Secretary" § 1-101

5-306. ADMINISTRATOR.

(A) APPOINTMENT.

(1) WITH THE APPROVAL OF THE SECRETARY, THE COMMISSION SHALL APPOINT AN ADMINISTRATOR.

(2) THE ADMINISTRATOR MAY NOT BE A MEMBER OF THE COMMISSION.

(3) THE ADMINISTRATOR SERVES AT THE PLEASURE OF THE COMMISSION, SUBJECT TO THE CONCURRENCE OF THE SECRETARY.

(B) CLASSIFICATION OF SERVICE.

THE ADMINISTRATOR IS A SPECIAL APPOINTMENT IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

(C) DUTIES.

SUBJECT TO THE RULES AND POLICIES OF THE COMMISSION AND THE ADMINISTRATIVE SUPERVISION OF THE SECRETARY IN ACCORDANCE WITH TITLE 2 OF THIS ARTICLE, THE ADMINISTRATOR SHALL:

(1) ADMINISTER THE ACTIVITIES OF THE COMMISSION; AND

(2) SUPERVISE THE APPOINTMENT AND REMOVAL OF PERSONNEL WHOM THE COMMISSION EMPLOYS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-405.

In subsection (a)(2) of this section, the clause "[t]he administrator may not be a member of the Commission" is substituted for the former requirement that the administrator be appointed "from without their [Commission's] number" for clarity.

In subsection (a) of this section, the former reference to the administrator "of the Commission" is deleted as surplusage.

In subsection (c) of this section, the former phrase "[b]e the chief administrative officer of the Commission" is deleted as implicit in the duties of the administrator listed within this subsection.

Also in subsection (c) of this section, the reference to "Title 2" is substituted for the former reference to "§§ 1-201, 1-202, and 1-205" to reflect the organization of this revision.

In subsection (c)(1) of this section, the former references to "[d]irect" and "supervise" are deleted as included in the reference to "administer".

Defined terms: "Commission" § 5-301

"Secretary" § 1-101

5-307. DUTIES OF COMMISSION.

THE COMMISSION SHALL:

(1) INITIATE, DIRECT, AND COORDINATE PROJECTS THAT FURTHER THE UNDERSTANDING OF INDIAN HISTORY AND CULTURE;

(2) SURVEY HISTORIC BUILDINGS, SITES, ARTIFACTS, ARCHIVES, AND REPOSITORIES AND PUBLISH AND DISSEMINATE THE RESULTS;

(3) MAKE A COMPREHENSIVE STUDY OF THE INFLUENCE OF INDIGENOUS INDIAN TRIBES AND THEIR INFLUENCE ON MARYLAND HISTORY AND CULTURE, INCLUDING AS SUBJECTS OF THE STUDY:

- (I) CHEROKEES;
- (II) CHIPPEWAS;
- (III) CHOPTANKS;
- (IV) CREEKS;
- (V) CREES;
- (VI) DELAWARES;
- (VII) HALIWAS;
- (VIII) LUMBEEES;
- (IX) NANTICOKES;
- (X) PISCATAWAYS;
- (XI) POTOMACS;
- (XII) RAPPAHANNOCKS;
- (XIII) SEMINOLES;
- (XIV) SUSQUEHANNAS; AND

(XV) WICOMICOS;

(4) STUDY THE STATUS OF ALL INDIAN COMMUNITIES IN THE STATE AND ASSIST THEM IN OBTAINING RECOGNITION FROM THE FEDERAL GOVERNMENT;

(5) STUDY THE ECONOMIC AND SOCIAL NEEDS OF INDIANS IN THE STATE AND MAKE RECOMMENDATIONS TO MEET THESE NEEDS;

(6) LOCATE, PRESERVE, AND DISSEMINATE TO THE PUBLIC INFORMATION ABOUT SIGNIFICANT BUILDINGS AND SITES RELATING TO INDIAN HISTORY AND CULTURE IN THE STATE; AND

(7) PUBLISH AN ANNUAL REPORT AND ANY OTHER MATERIAL THE COMMISSION CONSIDERS NECESSARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-403.

In the introductory language of item (3) of this section, the former phrase "but not limited to" is deleted in light of Art. 1, § 30, which provides that the word "including" means "by way of illustration" and not "by way of limitation".

Defined terms: "Commission" § 5-301

"Community" § 5-301

"Indian" § 5-301

5-308. REVENUES.

(A) SOURCES; TYPES OF REVENUE.

(1) THE COMMISSION MAY SEEK MONEY FROM THE FEDERAL GOVERNMENT, FOUNDATIONS, AND PRIVATE SOURCES IN ADDITION TO STATE FINANCING.

(2) THE COMMISSION MAY ACCEPT GIFTS, GRANTS, DONATIONS, BEQUESTS, OR ENDOWMENTS FOR ANY OF ITS PURPOSES.

(B) NONREVERSION OF MONEY.

MONEY RECEIVED UNDER SUBSECTION (A) OF THIS SECTION, AND INCOME AND FEES DERIVED FROM EDUCATIONAL MATERIALS AND ACTIVITIES OF THE COMMISSION ARE NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(C) AUDIT.

MONEY MAINTAINED UNDER THIS SECTION IS SUBJECT TO AUDIT BY THE STATE, INCLUDING THE LEGISLATIVE AUDITOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-404.

In subsection (b) of this section, the reference to money and income and fees that "are not subject to § 7-302 of the State Finance and Procurement Article" is standard language substituted for the former reference to the requirement that, if "funds ... are unexpended at the end of the fiscal year, the funds or income may not revert to the General Fund of the State, but instead, shall be maintained as special funds available to the Commission for carrying out the purposes of this subtitle".

Defined term: "Commission" § 5-301

5-309. MARYLAND INDIAN STATUS.

(A) ESTABLISHMENT OF RECOGNITION PROCESS.

SUBJECT TO THE APPROVAL OF THE SECRETARY, THE COMMISSION MAY BY REGULATION ESTABLISH A PROCESS FOR AN INDIAN COMMUNITY THAT IS INDIGENOUS TO THE STATE TO APPLY TO THE COMMISSION FOR RECOGNITION OF MARYLAND INDIAN STATUS.

(B) RECOMMENDATION TO GOVERNOR.

(1) IF THE COMMISSION FINDS THAT A PETITIONING GROUP MEETS THE REQUIREMENTS FOR RECOGNITION, THE COMMISSION MAY RECOMMEND TO THE GOVERNOR THAT IT BE GRANTED RECOGNITION OF MARYLAND INDIAN STATUS.

(2) A MEMBER OF THE COMMISSION MAY NOT VOTE OR PARTICIPATE IN DELIBERATIONS ON AN APPLICATION FOR RECOGNITION OF MARYLAND INDIAN STATUS MADE BY THE PETITIONING GROUP TO WHICH THE MEMBER BELONGS.

(C) EXECUTIVE ORDER.

(1) THE GOVERNOR MAY ISSUE AN EXECUTIVE ORDER PROVIDING RECOGNITION OF MARYLAND INDIAN STATUS TO THE PETITIONING GROUP.

(2) THE EXECUTIVE ORDER:

(I) SHALL BE SUBMITTED TO THE JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW; AND

(II) SHALL TAKE EFFECT 30 DAYS AFTER IT IS SUBMITTED.

(D) EFFECT OF SECTION.

(1) THIS SECTION DOES NOT:

(I) CREATE A RIGHT OF OWNERSHIP OR ANY OTHER RIGHT TO

LAND;

(II) CREATE A BENEFIT OR ENTITLEMENT OF ANY KIND;

(III) IMPAIR EXISTING RIGHTS, BENEFITS, OR ENTITLEMENTS BELONGING TO INDIANS LIVING IN THE STATE;

(IV) IMPAIR EXISTING JUDICIAL RULINGS OF THE STATE REGARDING INDIANS OF THE STATE; OR

(V) GIVE THE COMMISSION THE POWER TO ESTABLISH STANDARDS FOR MEMBERSHIP IN AN INDIAN COMMUNITY.

(2) THE POWER TO ESTABLISH STANDARDS FOR MEMBERSHIP IN AN INDIAN COMMUNITY IS RESERVED TO THE COMMUNITY.

(3) AN ACT OR FAILURE TO ACT BY THE COMMISSION UNDER THIS SECTION DOES NOT CREATE A PRIVATE CAUSE OF ACTION UNDER STATE LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-406(a), (c), (d), (e)(1) and (2), (f), and (h).

In subsections (a), (b), and (c) of this section, the former references to "formal" recognition of Maryland Indian status are deleted as included in the reference to "recognition".

In subsection (a) of this section, the statement that the Commission may "by regulation" establish an application process for recognition of Maryland Indian status is substituted for the former reference to the requirements for recognition set forth "in the regulations" for clarity.

In subsections (b) and (c)(1) of this section, the references to the "petitioning group" are substituted for the former references to an "Indian tribe, band, group, or clan" and a "particular tribe, band, group, or clan" for brevity.

In subsections (b)(1) and (c)(1) of this section, the references to recognition of "Maryland Indian status" are added for clarity.

In subsection (c)(1) of this section, the former phrase "[i]f the Governor concurs with the Commission's recommendation" is deleted as implicit in the discretion granted to the Governor.

In subsection (c)(2) of this section, the former reference to "review by the members of the Committee" is deleted as implicit in the requirement that the order be submitted to the Committee.

Defined terms: "Commission" § 5-301

"Community" § 5-301

"Indian" § 5-301

"Secretary" § 1-101

5-310. AFFIDAVIT.

BEFORE FORMAL RECOGNITION OF MARYLAND INDIAN STATUS, MEMBERS OF THE PETITIONING GROUP SHALL SUBMIT AN AFFIDAVIT RENOUNCING ALL TRIBAL RIGHTS OF OWNERSHIP OF LAND IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-406(e)(3).

The Housing Article Review Committee notes, for consideration by the General Assembly, that in a bill review letter regarding House Bill 126 and Senate Bill 421 on May 23, 1988, the Attorney General stated that the affidavit required under this section "would be of no force or effect". The affidavit would be invalid because it would terminate rights of ownership in land "by means other than a treaty or convention entered into pursuant to the [United States] Constitution." The Attorney General also stated that the issue "would appear to be completely academic, as the Department of Housing and Community Development has researched this issue and found that it is highly unlikely that an Indian group in Maryland could successfully assert a land claim."

5-311. REGULATIONS.

(A) IN GENERAL.

(1) IN ACCORDANCE WITH TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE, THE COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT §§ 5-309 AND 5-310 OF THIS SUBTITLE.

(2) THE REGULATIONS SHALL:

(I) CREATE THE APPLICATION PROCESS;

(II) SET GENEALOGICAL STANDARDS; AND

(III) SPECIFY THE STANDARDS TO BE SATISFIED BY AN INDIAN COMMUNITY APPLYING FOR FORMAL RECOGNITION OF MARYLAND INDIAN STATUS.

(B) STANDARDS.

(1) THE STANDARDS ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE GENERALLY CONSISTENT WITH THE STANDARDS OF THE UNITED STATES BUREAU OF INDIAN AFFAIRS FOR TRIBAL RECOGNITION BY THE UNITED STATES.

(2) THE STANDARDS SHALL TAKE INTO ACCOUNT THE SPECIAL CIRCUMSTANCES OF INDIANS INDIGENOUS TO THE STATE.

(3) THE STANDARDS SHALL REQUIRE:

(I) THAT THE PETITIONING GROUP BE IDENTIFIED FROM HISTORICAL TIMES UNTIL THE PRESENT AS INDIAN;

(II) THAT THE MEMBERS OF THE PETITIONING GROUP BE DESCENDANTS FROM AN INDIAN TRIBE THAT EXISTED HISTORICALLY AND IS INDIGENOUS TO THE STATE OR DERIVED FROM HISTORICAL TRIBES THAT WERE INDIGENOUS TO THE STATE BEFORE 1790;

(III) THAT THE MEMBERS OF THE PETITIONING GROUP BE DESCENDANTS OF AN INDIAN TRIBE THAT HISTORICALLY INHABITED A SPECIFIC AREA IN THE STATE BEFORE 1790; AND

(IV) THAT THE MEMBERSHIP OF THE PETITIONING GROUP BE COMPOSED PRINCIPALLY OF INDIVIDUALS WHO ARE NOT MEMBERS OF ANY OTHER INDIAN COMMUNITY.

(4) THE COMMISSION MAY ADOPT REGULATIONS TO ESTABLISH ANY OTHER STANDARDS THAT THE COMMISSION CONSIDERS NECESSARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-406(b).

In subsection (a)(1) of this section, the reference to "§§ 5-309 and 5-310 of this subtitle" is substituted for the former reference to "this section" to reflect the organization of this revision.

In subsection (a)(2)(iii) of this section, the reference to formal recognition "of Maryland Indian status" is added for clarity.

Defined terms: "Commission" § 5-301

"Community" § 5-301

"Indian" § 5-301

5-312. FALSE STATEMENTS OR REPRESENTATIONS.

(A) PROHIBITED.

IN A MATTER WITHIN THE SCOPE OF THIS SUBTITLE, A PERSON MAY NOT:

(1) KNOWINGLY AND WILLFULLY FALSIFY OR CONCEAL A MATERIAL FACT BY TRICK, SCHEME, OR DEVICE;

(2) MAKE A FALSE, FICTITIOUS, OR FRAUDULENT STATEMENT OR REPRESENTATION; OR

(3) MAKE OR USE A FALSE WRITING OR DOCUMENT KNOWING THE WRITING OR DOCUMENT CONTAINS A FALSE, FICTITIOUS, OR FRAUDULENT STATEMENT OR ENTRY.

(B) PENALTY.

EXCEPT AS OTHERWISE PROVIDED BY LAW, 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. 83B, §§ 5-402(a)(3) and 5-406(g).

This section is revised to apply throughout this subtitle for clarity, even though Art. 83B, § 5-402(a)(3) formerly only applied to those provisions now in § 5-303, and Art. 83B, § 5-406(g) formerly only applied to those provisions now in §§ 5-309 and 5-310. The other revised sections in this subtitle are unaffected by this change in scope. No substantive change is intended.

The Housing Article Review Committee notes, for consideration by the General Assembly, that in subsection (b) of this section, the meaning of the phrase "[e]xcept as otherwise provided by law" is unclear. The phrase seems to imply that other statutory provisions may provide other penalties for violations of this section, but no other statutory provisions have been found.

Defined term: "Person" § 1-101

SUBTITLE 4. MARYLAND HISTORICAL TRUST.

PART I. GENERAL PROVISIONS.

5-401. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 5-601(a).

No changes are made.

(B) DIRECTOR.

"DIRECTOR" MEANS THE DIRECTOR OF THE MARYLAND HISTORICAL TRUST.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 5-601(h).

No changes are made.

(C) FINANCIAL ASSISTANCE.

"FINANCIAL ASSISTANCE" MEANS ACTION BY THE STATE OR A STATE UNIT TO AWARD GRANTS, LOANS, LOAN GUARANTEES, OR INSURANCE TO A PUBLIC OR PRIVATE ENTITY TO FINANCE, WHOLLY OR PARTLY, AN UNDERTAKING.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 5-601(j).

The only changes are in style.

Defined terms: "State unit" § 5-401

"Undertaking" § 5-401

(D) HISTORIC PROPERTY.

(1) "HISTORIC PROPERTY" MEANS A DISTRICT, SITE, BUILDING, STRUCTURE, MONUMENT, OR OBJECT SIGNIFICANT TO:

(I) THE PREHISTORY OR HISTORY OF THE STATE; OR

(II) THE UPLAND AND UNDERWATER ARCHAEOLOGY, ARCHITECTURE, ENGINEERING, OR CULTURE OF THE STATE.

(2) "HISTORIC PROPERTY" INCLUDES RELATED ARTIFACTS, RECORDS, AND REMAINS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 5-601(l).

(E) PRESERVATION.

"PRESERVATION" MEANS THE IDENTIFICATION, EVALUATION, RECORDATION, DOCUMENTATION, CURATION, ACQUISITION, PROTECTION, MANAGEMENT, REHABILITATION, RESTORATION, STABILIZATION, MAINTENANCE, AND RECONSTRUCTION OF A HISTORIC PROPERTY.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 5-601(v).

No changes are made.

(F) STATE HISTORIC PRESERVATION OFFICER.

"STATE HISTORIC PRESERVATION OFFICER" MEANS THE INDIVIDUAL WHO ADMINISTERS THE STATE HISTORIC PRESERVATION PROGRAM UNDER THE NATIONAL HISTORIC PRESERVATION ACT OF 1966, 16 U.S.C. §§ 470-470MM.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 5-601(w).

(G) STATE UNIT.

"STATE UNIT" HAS THE MEANING STATED IN § 11-101 OF THE STATE GOVERNMENT ARTICLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 5-601(x).

(H) SUBMERGED.

"SUBMERGED" MEANS BENEATH OR SUBSTANTIALLY BENEATH WATER.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 5-601(y).

The former reference to "territorial" waters "of the State" is deleted in light of the context in which the defined term "submerged" is used in this subtitle.

(I) TERRESTRIAL.

"TERRESTRIAL" MEANS RELATING TO LAND ABOVE THE MEAN HIGH TIDE LINE AND ABOVE NONTIDAL WATERS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 5-601(aa).

(J) TRUST.

"TRUST" MEANS THE MARYLAND HISTORICAL TRUST.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, §§ 5-601(bb) and 5-702(g).

The former references to "MHT" are deleted as surplusage.

(K) UNDERTAKING.

"UNDERTAKING" MEANS A PROJECT THAT INVOLVES OR MAY RESULT IN BUILDING CONSTRUCTION, BUILDING ALTERATION, OR LAND DISTURBANCE.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 5-601(cc).

The only changes are in style.

REVISOR'S NOTE TO SECTION: Former Art. 83B, § 5-601(c), which defined "business entity" to mean "for purposes of [§§ 5-422 and 5-423] of this subtitle, a corporation, association, partnership, joint venture, or other legally organized entity" is deleted because the definition is the normal meaning of the term.

Former Art. 83B, § 5-601(n), which defined "local jurisdiction" to mean for purposes of [§§ 5-422 and 5-423] of this subtitle, any of the 23 counties of the State, the City of Baltimore, any municipal corporation in Maryland subject to Article XI-E of the Maryland Constitution and any duly authorized agency or instrumentality of the local jurisdiction, is deleted in

light of the defined terms "political subdivision" and "governmental unit".
See § 1-101 of this article and the General Revisor's Note to article.

5-402. FINDINGS.

THE GENERAL ASSEMBLY FINDS THAT:

(1) HISTORIC PROPERTIES SIGNIFICANT TO THE STATE'S HERITAGE ARE BEING LOST OR SUBSTANTIALLY ALTERED, OFTEN INADVERTENTLY, WITH INCREASING FREQUENCY;

(2) HISTORIC PROPERTIES ARE A VITAL PART OF OUR COMMUNITY LIFE AND DEVELOPMENT AND CANNOT BE REPLACED IF LOST OR DESTROYED;

(3) IT IS IN THE PUBLIC INTEREST TO PRESERVE THE STATE'S HERITAGE AND ENRICH PRESENT AND FUTURE GENERATIONS WITH THE CULTURAL, EDUCATIONAL, INSPIRATIONAL, SOCIAL, AND ECONOMIC BENEFITS OF THE PAST;

(4) INCREASING KNOWLEDGE OF OUR HISTORIC RESOURCES, ESTABLISHING BETTER MEANS OF IDENTIFYING AND ADMINISTERING THEM, AND ENCOURAGING THEIR PRESERVATION WILL ASSIST THE ECONOMIC AND CULTURAL GROWTH OF THE STATE; AND

(5) THE STATE'S HERITAGE HAS BEEN ENRICHED BY ACCOMPLISHMENTS AND CONTRIBUTIONS OF THE STATE'S PRIVATE PRESERVATION ORGANIZATIONS, AND THEIR CONTINUING ACTIVITIES ARE IN THE PUBLIC INTEREST.

REVISOR'S NOTE: This section formerly was Art. 83B, § 5-602.

The only changes are in style.

Defined term: "Historic property" § 5-401

5-403. REHABILITATION TAX CREDITS.

(A) DEFINITIONS.

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

(2) "BUSINESS ENTITY" MEANS:

(I) A PERSON CONDUCTING OR OPERATING A TRADE OR BUSINESS IN THE STATE; OR

(II) AN ORGANIZATION OPERATING IN MARYLAND THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE.

(3) "CERTIFIED HERITAGE AREA" HAS THE MEANING STATED IN § 13-1101 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(4) (I) "CERTIFIED HERITAGE STRUCTURE" MEANS A STRUCTURE THAT IS LOCATED IN THE STATE AND IS:

1. LISTED IN THE NATIONAL REGISTER OF HISTORIC PLACES;

2. DESIGNATED AS A HISTORIC PROPERTY UNDER LOCAL LAW AND DETERMINED BY THE DIRECTOR TO BE ELIGIBLE FOR LISTING ON THE NATIONAL REGISTER OF HISTORIC PLACES;

3. A. LOCATED IN A HISTORIC DISTRICT LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES OR IN A LOCAL HISTORIC DISTRICT THAT THE DIRECTOR DETERMINES IS ELIGIBLE FOR LISTING ON THE NATIONAL REGISTER OF HISTORIC PLACES; AND

B. CERTIFIED BY THE DIRECTOR AS CONTRIBUTING TO THE SIGNIFICANCE OF THE DISTRICT; OR

4. LOCATED IN A CERTIFIED HERITAGE AREA AND CERTIFIED BY THE MARYLAND HERITAGE AREAS AUTHORITY AS CONTRIBUTING TO THE SIGNIFICANCE OF THE CERTIFIED HERITAGE AREA.

(II) "CERTIFIED HERITAGE STRUCTURE" DOES NOT INCLUDE A STRUCTURE THAT IS OWNED BY THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR THE FEDERAL GOVERNMENT.

(5) "CERTIFIED REHABILITATION" MEANS A COMPLETED REHABILITATION OF A CERTIFIED HERITAGE STRUCTURE THAT THE DIRECTOR CERTIFIES IS A SUBSTANTIAL REHABILITATION IN CONFORMANCE WITH THE REHABILITATION STANDARDS OF THE UNITED STATES SECRETARY OF THE INTERIOR.

(6) "COMMERCIAL REHABILITATION" MEANS A REHABILITATION OF A STRUCTURE OTHER THAN A SINGLE-FAMILY, OWNER-OCCUPIED RESIDENCE.

(7) "DIRECTOR" MEANS THE DIRECTOR OF THE MARYLAND HISTORICAL TRUST.

(8) "LOCAL HISTORIC DISTRICT" MEANS A DISTRICT THAT THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION, OR THE MAYOR AND CITY COUNCIL OF BALTIMORE, HAS DESIGNATED UNDER LOCAL LAW AS HISTORIC.

(9) "QUALIFIED REHABILITATION EXPENDITURE" MEANS ANY AMOUNT THAT:

(I) IS PROPERLY CHARGEABLE TO A CAPITAL ACCOUNT;

(II) IS EXPENDED IN THE REHABILITATION OF A STRUCTURE THAT BY THE END OF THE CALENDAR YEAR IN WHICH THE CERTIFIED REHABILITATION IS COMPLETED IS A CERTIFIED HERITAGE STRUCTURE;

(III) IS EXPENDED IN COMPLIANCE WITH A PLAN OF PROPOSED REHABILITATION THAT HAS BEEN APPROVED BY THE DIRECTOR; AND

(IV) IS NOT FUNDED, FINANCED, OR OTHERWISE REIMBURSED BY ANY:

1. STATE OR LOCAL GRANT;

2. GRANT MADE FROM THE PROCEEDS OF TAX-EXEMPT BONDS ISSUED BY THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR AN INSTRUMENTALITY OF THE STATE OR OF A POLITICAL SUBDIVISION OF THE STATE;

3. STATE TAX CREDIT OTHER THAN THE TAX CREDIT UNDER THIS SECTION; OR

4. OTHER FINANCIAL ASSISTANCE FROM THE STATE OR A POLITICAL SUBDIVISION OF THE STATE, OTHER THAN A LOAN THAT MUST BE repaid AT AN INTEREST RATE THAT IS GREATER THAN THE INTEREST RATE ON GENERAL OBLIGATION BONDS ISSUED BY THE STATE AT THE MOST RECENT BOND SALE PRIOR TO THE TIME THE LOAN IS MADE.

(10) "SUBSTANTIAL REHABILITATION" MEANS REHABILITATION OF A STRUCTURE FOR WHICH THE QUALIFIED REHABILITATION EXPENDITURES, DURING THE 24-MONTH PERIOD SELECTED BY THE INDIVIDUAL OR BUSINESS ENTITY ENDING WITH OR WITHIN THE TAXABLE YEAR, EXCEED:

(I) FOR OWNER-OCCUPIED RESIDENTIAL PROPERTY, \$5,000; OR

(II) FOR ALL OTHER PROPERTY, THE GREATER OF:

1. THE ADJUSTED BASIS OF THE STRUCTURE; OR

2. \$5,000.

(B) DIRECTOR TO ESTABLISH CERTIFICATION PROCESS.

(1) THE DIRECTOR SHALL ADOPT REGULATIONS TO:

(I) ESTABLISH PROCEDURES AND STANDARDS FOR CERTIFYING HERITAGE STRUCTURES AND REHABILITATIONS UNDER THIS SECTION;

(II) FOR COMMERCIAL REHABILITATIONS, ESTABLISH AN APPLICATION PROCESS FOR THE AWARD OF INITIAL CREDIT CERTIFICATES FOR MARYLAND HERITAGE STRUCTURE REHABILITATION TAX CREDITS CONSISTENT WITH THE REQUIREMENTS OF THIS SUBSECTION; AND

(III) FOR COMMERCIAL REHABILITATIONS, ESTABLISH A COMPETITIVE AWARD PROCESS FOR THE AWARD OF INITIAL CREDIT CERTIFICATES FOR MARYLAND HERITAGE STRUCTURE REHABILITATION TAX CREDITS THAT:

1. ENSURES TAX CREDITS ARE AWARDED IN A MANNER THAT REFLECTS THE GEOGRAPHIC DIVERSITY OF THE STATE;

2. FAVORS THE AWARD OF TAX CREDITS FOR REHABILITATION PROJECTS THAT ARE CONSISTENT WITH AND PROMOTE CURRENT GROWTH AND DEVELOPMENT POLICIES AND PROGRAMS OF THE STATE; AND

3. A. FAVORS THE AWARD OF TAX CREDITS FOR STRUCTURES THAT ARE LISTED IN THE NATIONAL REGISTER OF HISTORIC PLACES OR ARE DESIGNATED AS HISTORIC PROPERTIES UNDER LOCAL LAW AND DETERMINED BY THE DIRECTOR TO BE ELIGIBLE FOR LISTING IN THE NATIONAL REGISTER OF HISTORIC PLACES; OR

B. FAVORS THE AWARD OF TAX CREDITS FOR STRUCTURES THAT ARE CONTRIBUTING BUILDINGS WITH HISTORIC SIGNIFICANCE AND ARE LOCATED IN HISTORIC DISTRICTS LISTED IN THE NATIONAL REGISTER OF HISTORIC PLACES.

(2) THE DIRECTOR MAY NOT CERTIFY THAT A REHABILITATION IS A CERTIFIED REHABILITATION ELIGIBLE FOR A TAX CREDIT PROVIDED UNDER THIS SECTION UNLESS THE INDIVIDUAL OR BUSINESS ENTITY SEEKING CERTIFICATION STATES UNDER OATH THE AMOUNT OF THE INDIVIDUAL'S OR BUSINESS ENTITY'S QUALIFIED REHABILITATION EXPENDITURES.

(3) BETWEEN JANUARY 1 AND MARCH 31 EACH YEAR, THE DIRECTOR MAY ACCEPT APPLICATIONS FOR APPROVAL OF PLANS OF PROPOSED COMMERCIAL REHABILITATIONS AND FOR THE AWARD OF INITIAL CREDIT CERTIFICATES FOR THE FISCAL YEAR THAT BEGINS JULY 1 OF THAT YEAR.

(4) FOR COMMERCIAL REHABILITATIONS, THE DIRECTOR MAY NOT ACCEPT AN APPLICATION FOR APPROVAL OF PLANS OF PROPOSED REHABILITATION IF:

(I) ANY SUBSTANTIAL PART OF THE PROPOSED REHABILITATION WORK HAS BEGUN; OR

(II) THE APPLICANT FOR A COMMERCIAL REHABILITATION HAS PREVIOUSLY SUBMITTED THREE OR MORE APPLICATIONS FOR COMMERCIAL REHABILITATIONS WITH TOTAL PROPOSED REHABILITATIONS EXCEEDING \$500,000 IN THAT YEAR.

(5) NOT MORE THAN 50% OF THE TOTAL CREDIT AMOUNTS UNDER INITIAL CREDIT CERTIFICATES ISSUED FOR ANY FISCAL YEAR MAY BE ISSUED FOR PROJECTS IN A SINGLE COUNTY OR BALTIMORE CITY.

(6) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT LEAST 10% OF THE TOTAL CREDIT AMOUNTS UNDER INITIAL CREDIT CERTIFICATES ISSUED FOR ANY FISCAL YEAR SHALL BE ISSUED FOR PROPOSED REHABILITATION PROJECTS SUBMITTED BY ORGANIZATIONS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE.

(II) FOR ANY FISCAL YEAR, SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT APPLY TO THE EXTENT THAT THE TOTAL CREDIT AMOUNTS APPLIED FOR BY ORGANIZATIONS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE FOR QUALIFYING PROJECTS IS LESS THAN 10% OF THE MAXIMUM AUTHORIZED AGGREGATE CREDIT AMOUNTS FOR THE FISCAL YEAR UNDER SUBSECTION (D) OF THIS SECTION.

(C) TAX CREDIT LIMITATIONS.

(1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, FOR THE TAXABLE YEAR IN WHICH A CERTIFIED REHABILITATION IS COMPLETED, AN INDIVIDUAL OR BUSINESS ENTITY MAY CLAIM A TAX CREDIT IN AN AMOUNT EQUAL TO 20% OF THE INDIVIDUAL'S OR BUSINESS ENTITY'S QUALIFIED REHABILITATION EXPENDITURES FOR THE REHABILITATION.

(2) (I) FOR ANY COMMERCIAL REHABILITATION, THE STATE TAX CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED THE LESSER OF:

1. \$3,000,000; OR

2. THE MAXIMUM AMOUNT SPECIFIED UNDER THE INITIAL CREDIT CERTIFICATE ISSUED FOR THE REHABILITATION.

(II) FOR A REHABILITATION OTHER THAN A COMMERCIAL REHABILITATION, THE STATE TAX CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED \$50,000.

(III) FOR THE PURPOSES OF THE LIMITATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE FOLLOWING SHALL BE TREATED AS A SINGLE COMMERCIAL REHABILITATION:

1. THE PHASED REHABILITATION OF THE SAME STRUCTURE OR PROPERTY;

2. THE SEPARATE REHABILITATION OF DIFFERENT COMPONENTS OF THE SAME STRUCTURE OR PROPERTY; OR

3. THE REHABILITATION OF MULTIPLE STRUCTURES THAT ARE FUNCTIONALLY RELATED TO SERVE AN OVERALL PURPOSE.

(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE INITIAL CREDIT CERTIFICATE FOR A PROPOSED COMMERCIAL REHABILITATION SHALL EXPIRE AND THE CREDIT UNDER THIS SECTION MAY NOT BE CLAIMED IF THE COMMERCIAL REHABILITATION IS NOT COMPLETED BY THE END OF THE FISCAL

YEAR FOLLOWING THE FISCAL YEAR FOR WHICH THE INITIAL CREDIT CERTIFICATE WAS ISSUED.

(II) FOR REASONABLE CAUSE, THE DIRECTOR MAY POSTPONE THE EXPIRATION DATE FOR AN INITIAL CREDIT CERTIFICATE FOR A COMMERCIAL REHABILITATION.

(4) IF THE TAX CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE BUSINESS ENTITY OR THE INDIVIDUAL FOR THAT TAXABLE YEAR, THE INDIVIDUAL OR BUSINESS ENTITY MAY CLAIM A REFUND IN THE AMOUNT OF THE EXCESS.

(D) HERITAGE STRUCTURE REHABILITATION TAX CREDIT RESERVE FUND.

(1) IN THIS SUBSECTION, "RESERVE FUND" MEANS THE HERITAGE STRUCTURE REHABILITATION TAX CREDIT RESERVE FUND ESTABLISHED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(2) (I) THERE IS A HERITAGE STRUCTURE REHABILITATION TAX CREDIT RESERVE FUND WHICH IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(II) THE MONEY IN THE FUND SHALL BE INVESTED AND REINVESTED BY THE TREASURER, AND INTEREST AND EARNINGS SHALL BE CREDITED TO THE GENERAL FUND.

(3) (I) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE DIRECTOR SHALL ISSUE AN INITIAL CREDIT CERTIFICATE FOR EACH COMMERCIAL REHABILITATION FOR WHICH A PLAN OF PROPOSED REHABILITATION IS APPROVED.

(II) AN INITIAL CREDIT CERTIFICATE ISSUED UNDER THIS SUBSECTION SHALL STATE THE MAXIMUM AMOUNT OF CREDIT UNDER THIS SECTION FOR WHICH THE COMMERCIAL REHABILITATION MAY QUALIFY.

(III) 1. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBPARAGRAPH, FOR ANY FISCAL YEAR, THE DIRECTOR MAY NOT ISSUE INITIAL CREDIT CERTIFICATES FOR CREDIT AMOUNTS IN THE AGGREGATE TOTALING MORE THAN THE AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR IN THE STATE BUDGET AS APPROVED BY THE GENERAL ASSEMBLY.

2. IF THE AGGREGATE CREDIT AMOUNTS UNDER INITIAL CREDIT CERTIFICATES ISSUED IN A FISCAL YEAR TOTAL LESS THAN THE AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR, ANY EXCESS AMOUNT SHALL REMAIN IN THE RESERVE FUND AND MAY BE ISSUED UNDER INITIAL CREDIT CERTIFICATES FOR THE NEXT FISCAL YEAR.

3. FOR ANY FISCAL YEAR, IF FUNDS ARE TRANSFERRED FROM THE RESERVE FUND UNDER THE AUTHORITY OF ANY PROVISION OF LAW OTHER THAN PARAGRAPH (4) OF THIS SUBSECTION, THE MAXIMUM CREDIT

AMOUNTS IN THE AGGREGATE FOR WHICH THE DIRECTOR MAY ISSUE INITIAL CREDIT CERTIFICATES SHALL BE REDUCED BY THE AMOUNT TRANSFERRED.

(IV) 1. FOR FISCAL YEAR 2006, THE GOVERNOR SHALL INCLUDE IN THE BUDGET BILL AN APPROPRIATION TO THE RESERVE FUND IN AN AMOUNT EQUAL TO AT LEAST \$20,000,000.

2. FOR EACH OF FISCAL YEARS 2007 AND 2008, THE GOVERNOR SHALL INCLUDE IN THE BUDGET BILL AN APPROPRIATION TO THE RESERVE FUND IN AN AMOUNT EQUAL TO AT LEAST \$30,000,000.

(V) NOTWITHSTANDING THE PROVISIONS OF § 7-213 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE GOVERNOR MAY NOT REDUCE AN APPROPRIATION TO THE RESERVE FUND IN THE STATE BUDGET AS APPROVED BY THE GENERAL ASSEMBLY.

(VI) THE DIRECTOR MAY NOT ISSUE AN INITIAL CREDIT CERTIFICATE FOR ANY FISCAL YEAR AFTER FISCAL YEAR 2008.

(4) (I) EXCEPT AS PROVIDED IN THIS PARAGRAPH, MONEY APPROPRIATED TO THE RESERVE FUND SHALL REMAIN IN THE FUND.

(II) 1. WITHIN 15 DAYS AFTER THE END OF EACH CALENDAR QUARTER, THE TRUST SHALL NOTIFY THE COMPTROLLER AS TO EACH COMMERCIAL REHABILITATION COMPLETED AND CERTIFIED DURING THE QUARTER:

A. THE MAXIMUM CREDIT AMOUNT STATED IN THE INITIAL CREDIT CERTIFICATE FOR THE PROJECT; AND

B. THE FINAL CERTIFIED CREDIT AMOUNT FOR THE PROJECT.

2. ON NOTIFICATION THAT A PROJECT HAS BEEN CERTIFIED, THE COMPTROLLER SHALL TRANSFER AN AMOUNT EQUAL TO THE MAXIMUM CREDIT AMOUNT STATED IN THE INITIAL CREDIT CERTIFICATE FOR THE PROJECT FROM THE RESERVE FUND TO THE GENERAL FUND.

(III) 1. ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE TRUST SHALL NOTIFY THE COMPTROLLER AS TO THE MAXIMUM CREDIT AMOUNT STATED IN THE INITIAL CREDIT CERTIFICATE FOR EACH COMMERCIAL REHABILITATION FOR WHICH THE INITIAL CREDIT CERTIFICATE HAS EXPIRED UNDER SUBSECTION (C)(3) OF THIS SECTION AS OF THE END OF THE PRIOR FISCAL YEAR.

2. ON NOTIFICATION THAT THE INITIAL CREDIT CERTIFICATE FOR A PROJECT HAS EXPIRED UNDER SUBSECTION (C)(3) OF THIS SECTION, THE COMPTROLLER SHALL TRANSFER AN AMOUNT EQUAL TO THE MAXIMUM CREDIT AMOUNT STATED IN THE INITIAL CREDIT CERTIFICATE FOR THE PROJECT FROM THE RESERVE FUND TO THE GENERAL FUND.

(E) DISQUALIFYING WORK.

(1) IN THIS SUBSECTION, "DISQUALIFYING WORK" MEANS WORK THAT:

(I) IS PERFORMED ON A CERTIFIED HERITAGE STRUCTURE FOR WHICH A REHABILITATION HAS BEEN CERTIFIED UNDER THIS SECTION; AND

(II) IF PERFORMED AS PART OF THE REHABILITATION CERTIFIED UNDER THIS SECTION, WOULD HAVE MADE THE REHABILITATION INELIGIBLE FOR CERTIFICATION.

(2) THE CREDIT ALLOWED UNDER THIS SECTION SHALL BE RECAPTURED AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION IF, DURING THE TAXABLE YEAR IN WHICH A CERTIFIED REHABILITATION IS COMPLETED OR ANY OF THE 4 TAXABLE YEARS SUCCEEDING THE TAXABLE YEAR IN WHICH THE CERTIFIED REHABILITATION IS COMPLETED, ANY DISQUALIFYING WORK IS PERFORMED ON THE CERTIFIED HERITAGE STRUCTURE FOR WHICH THE CERTIFIED REHABILITATION HAS BEEN COMPLETED.

(3) (I) 1. IF THE DISQUALIFYING WORK IS PERFORMED DURING THE TAXABLE YEAR IN WHICH THE CERTIFIED REHABILITATION WAS COMPLETED, 100% OF THE CREDIT SHALL BE RECAPTURED.

2. IF THE DISQUALIFYING WORK IS PERFORMED DURING THE FIRST FULL YEAR SUCCEEDING THE TAXABLE YEAR IN WHICH THE CERTIFIED REHABILITATION WAS COMPLETED, 80% OF THE CREDIT SHALL BE RECAPTURED.

3. IF THE DISQUALIFYING WORK IS PERFORMED DURING THE SECOND FULL YEAR SUCCEEDING THE TAXABLE YEAR IN WHICH THE CERTIFIED REHABILITATION WAS COMPLETED, 60% OF THE CREDIT SHALL BE RECAPTURED.

4. IF THE DISQUALIFYING WORK IS PERFORMED DURING THE THIRD FULL YEAR SUCCEEDING THE TAXABLE YEAR IN WHICH THE CERTIFIED REHABILITATION WAS COMPLETED, 40% OF THE CREDIT SHALL BE RECAPTURED.

5. IF THE DISQUALIFYING WORK IS PERFORMED DURING THE FOURTH FULL YEAR SUCCEEDING THE TAXABLE YEAR IN WHICH THE CERTIFIED REHABILITATION WAS COMPLETED, 20% OF THE CREDIT SHALL BE RECAPTURED.

(II) THE INDIVIDUAL OR BUSINESS ENTITY THAT CLAIMED THE TAX CREDIT SHALL PAY THE AMOUNT TO BE RECAPTURED AS DETERMINED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH AS TAXES PAYABLE TO THE STATE FOR THE TAXABLE YEAR IN WHICH THE DISQUALIFYING WORK IS PERFORMED.

(F) AUTHORITY OF COMPTROLLER.

(1) THE COMPTROLLER MAY DETERMINE, UNDER THE PROCESS FOR RETURN EXAMINATION AND AUDIT UNDER §§ 13-301 AND 13-302 OF THE TAX - GENERAL ARTICLE:

(I) THE AMOUNT OF REHABILITATION EXPENDITURES USED IN CALCULATING THE CREDIT;

(II) WHETHER SUCH EXPENDITURES ARE QUALIFIED REHABILITATION EXPENDITURES UNDER THIS SECTION; AND

(III) WHETHER THE CREDIT IS ALLOWABLE AS CLAIMED.

(2) THE AUTHORITY OF THE COMPTROLLER TO EXAMINE AND AUDIT A TAX RETURN DOES NOT LIMIT THE AUTHORITY OF THE DIRECTOR TO DETERMINE WHETHER A REHABILITATION QUALIFIES AS A CERTIFIED REHABILITATION OR WHETHER A CERTIFICATE OF CERTIFIED REHABILITATION HAS BEEN PROPERLY ISSUED.

(3) THE COMPTROLLER MAY ADOPT REGULATIONS TO REQUIRE THAT AN ENTITY OTHER THAN A CORPORATION CLAIM THE TAX CREDIT ON THE TAX RETURN FILED BY THAT ENTITY.

(4) (I) EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, THE CREDIT UNDER THIS SECTION MAY BE CLAIMED FOR THE YEAR A CERTIFIED REHABILITATION IS COMPLETED, ONLY IF THE DIRECTOR HAS, BY THE TIME THE RETURN IS FILED, ISSUED A CERTIFICATE OF COMPLETION FOR THE CERTIFIED REHABILITATION.

(II) A TAXPAYER CLAIMING THE CREDIT MAY AMEND A RETURN FOR THE YEAR THE CERTIFIED REHABILITATION WAS COMPLETED TO ACCOUNT FOR A CERTIFICATE ISSUED SUBSEQUENT TO THE FILING OF THE ORIGINAL RETURN.

(III) AN AMENDED RETURN SHALL BE FILED WITHIN THE PERIOD ALLOWED UNDER THE TAX - GENERAL ARTICLE FOR FILING REFUND CLAIMS.

(IV) THE PROVISIONS OF THIS PARAGRAPH DO NOT EXTEND THE PERIOD IN WHICH A CERTIFIED REHABILITATION MUST BE COMPLETED TO BE ELIGIBLE FOR A TAX CREDIT UNDER THIS SECTION.

(V) AN AMENDED RETURN MAY ACCOUNT FOR AN AMENDED CERTIFICATION ISSUED BY THE DIRECTOR FOR A CERTIFIED REHABILITATION.

(G) REFUNDS.

A REFUND PAYABLE UNDER SUBSECTION (C) OF THIS SECTION:

(1) OPERATES TO REDUCE THE INCOME TAX REVENUE FROM CORPORATIONS IF THE PERSON ENTITLED TO THE REFUND IS A CORPORATION SUBJECT TO THE INCOME TAX UNDER TITLE 10 OF THE TAX - GENERAL ARTICLE;

(2) OPERATES TO REDUCE INSURANCE PREMIUM TAX REVENUES IF THE PERSON ENTITLED TO THE REFUND IS SUBJECT TO TAXATION UNDER TITLE 6 OF THE INSURANCE ARTICLE; AND

(3) OPERATES TO REDUCE THE INCOME TAX REVENUE FROM INDIVIDUALS IF THE PERSON ENTITLED TO THE REFUND IS:

(I) AN INDIVIDUAL SUBJECT TO THE INCOME TAX UNDER TITLE 10 OF THE TAX - GENERAL ARTICLE; OR

(II) AN ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE.

(H) ANNUAL REPORT.

(1) ON OR BEFORE DECEMBER 15 OF EACH FISCAL YEAR, THE DIRECTOR SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY, ON:

(I) THE INITIAL CREDIT CERTIFICATES AWARDED FOR COMMERCIAL REHABILITATIONS UNDER THIS SECTION FOR THAT FISCAL YEAR; AND

(II) THE TAX CREDITS AWARDED FOR CERTIFIED REHABILITATIONS COMPLETED IN THE PRECEDING FISCAL YEAR.

(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE FOR EACH INITIAL CREDIT CERTIFICATE AWARDED FOR THE FISCAL YEAR FOR A COMMERCIAL REHABILITATION:

(I) THE NAME OF THE OWNER OR DEVELOPER OF THE COMMERCIAL REHABILITATION;

(II) THE NAME AND ADDRESS OF THE PROPOSED OR CERTIFIED REHABILITATION AND THE COUNTY WHERE THE PROJECT IS LOCATED;

(III) THE DATES OF RECEIPT AND APPROVAL BY THE DIRECTOR OF ALL APPLICATIONS REGARDING THE PROJECT, INCLUDING APPLICATIONS:

1. FOR CERTIFICATION THAT A STRUCTURE OR PROPERTY WILL QUALIFY AS A CERTIFIED HERITAGE STRUCTURE; AND

2. FOR APPROVAL OF THE PROPOSED REHABILITATION; AND

(IV) THE MAXIMUM AMOUNT OF THE CREDIT STATED IN THE INITIAL CREDIT CERTIFICATE FOR THE PROJECT AND THE ESTIMATED REHABILITATION EXPENDITURES STATED IN THE APPLICATION FOR APPROVAL OF THE PLAN OF PROPOSED REHABILITATION.

(3) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE FOR EACH CERTIFIED COMMERCIAL REHABILITATION COMPLETED DURING THE PRECEDING FISCAL YEAR:

(I) THE NAME OF THE OWNER OR DEVELOPER OF THE COMMERCIAL REHABILITATION;

(II) THE NAME AND ADDRESS OF THE CERTIFIED REHABILITATION AND THE COUNTY WHERE THE PROJECT IS LOCATED;

(III) THE DATES OF RECEIPT AND APPROVAL BY THE DIRECTOR OF ALL APPLICATIONS REGARDING THE PROJECT; AND

(IV) 1. THE MAXIMUM AMOUNT OF THE CREDIT STATED IN THE INITIAL CREDIT CERTIFICATE FOR THE PROJECT AND THE ESTIMATED REHABILITATION EXPENDITURES STATED IN THE APPLICATION FOR APPROVAL OF THE PLAN OF PROPOSED REHABILITATION; AND

2. THE ACTUAL QUALIFIED REHABILITATION EXPENDITURES AND THE FINAL AMOUNT OF THE CREDIT FOR WHICH THE PROJECT QUALIFIED.

(4) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL SUMMARIZE FOR EACH CATEGORY OF CERTIFIED REHABILITATIONS:

(I) THE TOTAL NUMBER OF APPLICANTS FOR:

1. CERTIFICATION THAT A STRUCTURE OR PROPERTY WILL QUALIFY AS A CERTIFIED HERITAGE STRUCTURE;

2. APPROVAL OF PLANS OF PROPOSED REHABILITATIONS;

OR

3. CERTIFICATION OF THE COMPLETED REHABILITATIONS;

(II) THE NUMBER OF PROPOSED PROJECTS FOR WHICH PLANS OF PROPOSED REHABILITATION WERE APPROVED; AND

(III) THE TOTAL ESTIMATED REHABILITATION EXPENDITURES STATED IN APPROVED APPLICATIONS FOR APPROVAL OF PLANS OF PROPOSED REHABILITATION AND THE TOTAL QUALIFIED REHABILITATION EXPENDITURES FOR COMPLETED REHABILITATIONS CERTIFIED.

(5) THE INFORMATION REQUIRED UNDER PARAGRAPH (4) OF THIS SUBSECTION SHALL BE PROVIDED IN THE AGGREGATE AND SEPARATELY FOR EACH OF THE FOLLOWING CATEGORIES OF CERTIFIED REHABILITATIONS:

(I) OWNER-OCCUPIED SINGLE FAMILY RESIDENTIAL STRUCTURES; AND

(II) COMMERCIAL REHABILITATIONS.

(I) TERMINATION; EFFECT.

(1) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE PROVISIONS OF THIS SECTION AND THE TAX CREDIT AUTHORIZED UNDER THIS SECTION SHALL TERMINATE AS OF JULY 1, 2008.

(2) ON AND AFTER JULY 1, 2008:

(I) THE TAX CREDIT AUTHORIZED UNDER THIS SECTION MAY BE CLAIMED FOR:

1. A REHABILITATION PROJECT, OTHER THAN A COMMERCIAL REHABILITATION, FOR WHICH AN APPLICATION FOR APPROVAL OF A PLAN OF PROPOSED REHABILITATION WAS RECEIVED BY THE DIRECTOR ON OR BEFORE JUNE 30, 2008; OR

2. A COMMERCIAL REHABILITATION FOR WHICH AN INITIAL CREDIT CERTIFICATE HAS BEEN AWARDED UNDER SUBSECTION (D) OF THIS SECTION; AND

(II) THE DIRECTOR SHALL CONTINUE TO REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY AS REQUIRED UNDER SUBSECTION (H) OF THIS SECTION FOR AS LONG AS ANY REHABILITATION PROJECT FOR WHICH THE TAX CREDIT MAY BE CLAIMED REMAINS INCOMPLETE.

REVISOR'S NOTE: This section formerly was Art. 83B, § 5-801.

No changes are made.

Defined terms: "County" § 1-101

"Financial assistance" § 1-101

"Person" § 1-101

"Political subdivision" § 1-101

"Trust" § 5-401

5-404. BOARD OF PUBLIC WORKS -- ACQUISITION OF HISTORIC LANDMARKS.

(A) IN GENERAL.

(1) ON REQUEST BY THE TRUST, THE BOARD OF PUBLIC WORKS MAY ACQUIRE PART OR ALL OF ANY PROPERTY THAT THE TRUST FINDS IS A HISTORIC LANDMARK WORTHY OF PUBLIC CARE AND PRESERVATION.

(2) THE PROPERTY MAY BE ACQUIRED BY GIFT OR BY PURCHASE WITH ANY AVAILABLE MONEY.

(B) TRUST TO CONTROL AND ADMINISTER PROPERTY.

(1) UNDER § 5-418 OF THIS SUBTITLE, THE BOARD OF PUBLIC WORKS MAY SELECT THE TRUST AS THE STATE UNIT TO CONTROL AND ADMINISTER ANY PROPERTY ACQUIRED.

(2) FOR THESE PURPOSES THE BOARD OF PUBLIC WORKS MAY TRANSFER TITLE TO OR AN INTEREST IN THE PROPERTY TO THE TRUST OR TO AN APPROPRIATE GOVERNMENTAL UNIT, PRIVATE AGENCY, OR CORPORATION, SUBJECT TO COVENANTS AND CONDITIONS THAT CALL FOR THE PROPERTY TO:

(I) BE PROPERLY MAINTAINED AND CONTROLLED; AND

(II) REVERT TO THE BOARD OF PUBLIC WORKS ON BREACH OF ANY OF THESE CONDITIONS OR COVENANTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 78A, § 14B.

Throughout this section, former references to "premises" are deleted in light of the references to "property".

Defined terms: "Governmental unit" § 1-101

"Preservation" § 5-401

"Trust" § 5-401

5-405. SAME -- ARCHITECTURAL EASEMENTS IN ANNAPOLIS.

(A) IN GENERAL.

(1) TO PRESERVE THE ARCHITECTURAL AND SCENIC INTEGRITY AND BEAUTY OF THE STATE HOUSE AND OTHER NEARBY REAL PROPERTIES OWNED OR USED BY THE STATE OR A STATE UNIT, THE BOARD OF PUBLIC WORKS MAY ACQUIRE ARCHITECTURAL EASEMENTS IN THE FOLLOWING AREAS IN THE CITY OF ANNAPOLIS:

(I) AROUND STATE CIRCLE;

(II) ON SCHOOL STREET OPPOSITE THE EXECUTIVE MANSION; AND

(III) ON THE EASTERLY SIDE OF NORTH STREET, BETWEEN STATE CIRCLE AND COLLEGE AVENUE.

(2) THE AREAS LISTED IN PARAGRAPH (1) OF THIS SUBSECTION INCLUDE:

(I) THE BED OF THE STREET AND OUTER SIDEWALK AREAS TO THE BUILDING LINE ON THE OUTER PERIMETER; AND

(II) AN AREA EXTENDING OUTWARD 50 FEET FROM THAT BUILDING LINE.

(B) METHODS OF ACQUISITION.

THE BOARD OF PUBLIC WORKS MAY ACQUIRE ARCHITECTURAL EASEMENTS BY PURCHASE, GIFT, EXCHANGE, OR CONDEMNATION UNDER TITLE 12 OF THE REAL PROPERTY ARTICLE, WITH ANY AVAILABLE MONEY.

(C) POWERS OF BOARD OF PUBLIC WORKS.

THE BOARD OF PUBLIC WORKS MAY:

(1) AGREE OR CONTRACT WITH THE OWNER OR USER OF REAL PROPERTY IN THE SPECIFIED AREA TO PROHIBIT THE OWNER OR USER FROM MAKING ANY STRUCTURAL OR OTHER PHYSICAL CHANGE IN THE PROPERTY THAT THE BOARD OF PUBLIC WORKS DETERMINES WOULD HARM THE ARCHITECTURAL AND SCENIC INTEGRITY AND BEAUTY OF THE PROPERTY AND THE SPECIFIED AREA; AND

(2) GIVE THE OWNER OR USER CASH OR OTHER CONSIDERATION, INCLUDING A PROMISE NOT TO ACQUIRE AN ARCHITECTURAL EASEMENT BY CONDEMNATION OVER PART OR ALL OF THE PROPERTY WHILE THE OWNER OR USER COMPLIES WITH THE AGREEMENT OR CONTRACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 78A, § 14C.

In subsection (a)(1)(i) of this section, the former phrase "surrounding the State House" is deleted in light of the phrase "[a]round State Circle".

Defined term: "State unit" § 5-401

5-406. EFFECT OF SUBTITLE.

THIS SUBTITLE DOES NOT ABROGATE OR SUPPLANT ANY POWER OF THE STATE HIGHWAY ADMINISTRATION.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 83B, § 5-620(b).

5-407. RESERVED.

5-408. RESERVED.

PART II. ESTABLISHMENT AND ORGANIZATION.

5-409. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART 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) BOARD.

"BOARD" MEANS THE BOARD OF TRUSTEES OF THE MARYLAND HISTORICAL TRUST.

REVISOR'S NOTE: This subsection is new language added to provide a concise reference to the Board of Trustees of the Maryland Historical Trust.

(C) TRUSTEE.

"TRUSTEE" MEANS A MEMBER OF THE BOARD.

REVISOR'S NOTE: This subsection is new language added to provide a concise reference to a trustee of the Board of Trustees of the Maryland Historical Trust.

5-410. MARYLAND HISTORICAL TRUST -- IN GENERAL.

(A) ESTABLISHED.

THERE IS A MARYLAND HISTORICAL TRUST.

(B) STATUS.

(1) THE TRUST IS AN INSTRUMENTALITY OF THE STATE, IS A BODY CORPORATE, AND HAS PERPETUAL EXISTENCE.

(2) THE GENERAL ASSEMBLY MAY TERMINATE THE TRUST IF THE PURPOSES OF THE TRUST END.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 83B, § 5-604, except as it referred to modification by the General Assembly, and, as it related to the establishment of the Trust, § 5-603.

In subsection (a) of this section, the former phrase "as part of the Department" is deleted in light of § 2-201 of this article.

Defined terms: "Department" § 1-101

"Trust" § 5-401

5-411. PURPOSES OF TRUST.

(A) IN GENERAL.

THE PURPOSES OF THE TRUST ARE TO:

(1) PRESERVE, PROTECT, AND ENHANCE DISTRICTS, SITES, BUILDINGS, STRUCTURES, AND OBJECTS OF SIGNIFICANCE IN THE PREHISTORY, HISTORY, UPLAND AND UNDERWATER ARCHEOLOGY, ARCHITECTURE, ENGINEERING, AND CULTURE OF THE STATE;

(2) ENCOURAGE OTHERS TO DO THE SAME; AND

(3) PROMOTE INTEREST IN AND STUDY OF THOSE THINGS LISTED IN ITEM (1) OF THIS SUBSECTION.

(B) NATURE OF TRUST.

THE TRUST IS CHARITABLE AND IS INTENDED TO BENEFIT THE RESIDENTS OF THE STATE.

(C) MODIFICATION OF TRUST.

THE GENERAL ASSEMBLY MAY MODIFY THE TRUST TO CARRY OUT THE PURPOSES OF THE TRUST.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 83B, § 5-604, the second sentence of former Art. 83B, § 5-604, as it related to modification by the General Assembly, and, as it related to the purpose of the Trust, § 5-603.

In subsection (b) of this section, the reference to "residents" of the State is substituted for the former reference to "citizens" of the State to conform to the terminology used throughout this article. *See* General Revisor's Note to article.

Defined term: "Trust" § 5-401

5-412. BOARD ESTABLISHED.

THERE IS A BOARD OF TRUSTEES OF THE TRUST.

REVISOR'S NOTE: This section is new language added to state expressly what was formerly only implied - that the Board of Trustees exists.

Defined term: "Trust" § 5-401

5-413. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT.

(1) THE BOARD CONSISTS OF 15 TRUSTEES.

(2) THE GOVERNOR, THE PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE HOUSE OF DELEGATES ARE EX OFFICIO TRUSTEES.

(3) WITH THE ADVICE AND CONSENT OF THE SENATE, THE GOVERNOR SHALL APPOINT THE OTHER 12 TRUSTEES.

(B) DELEGATION OF POWERS OR DUTIES.

(1) THE GOVERNOR MAY DELEGATE ANY OR ALL OF THE GOVERNOR'S POWERS OR DUTIES AS TRUSTEE TO A MEMBER OF THE EXECUTIVE DEPARTMENT OF THE STATE.

(2) THE PRESIDENT OF THE SENATE MAY DELEGATE ANY OR ALL OF THE PRESIDENT'S POWERS OR DUTIES AS TRUSTEE TO A MEMBER OF THE SENATE.

(3) THE SPEAKER OF THE HOUSE OF DELEGATES MAY DELEGATE ANY OR ALL OF THE SPEAKER'S POWERS OR DUTIES AS TRUSTEE TO A MEMBER OF THE HOUSE OF DELEGATES.

(C) QUALIFICATION.

(1) AT LEAST TWO OF THE TRUSTEES APPOINTED BY THE GOVERNOR SHALL HAVE:

(I) AN ADVANCED DEGREE IN ARCHAEOLOGY OR A CLOSELY RELATED FIELD; AND

(II) EXPERIENCE IN ARCHAEOLOGY.

(2) OF THE TRUSTEES WHO QUALIFY UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) AT LEAST ONE SHALL HAVE EXPERIENCE IN SUBMERGED ARCHAEOLOGY; AND

(II) AT LEAST ONE SHALL HAVE EXPERIENCE IN TERRESTRIAL ARCHAEOLOGY.

(3) THE SECRETARY SHALL ADVISE THE GOVERNOR ON THE APPOINTMENT OF TRUSTEES QUALIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION AFTER CONSULTING WITH THE ADVISORY COMMITTEE ON ARCHAEOLOGY ESTABLISHED UNDER § 5-436 OF THIS SUBTITLE.

(D) TENURE; VACANCIES.

(1) THE TERM OF AN APPOINTED TRUSTEE IS 4 YEARS.

(2) THE TERMS OF APPOINTED TRUSTEES ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR TRUSTEES ON OCTOBER 1, 2005.

(3) IF AN APPOINTED TRUSTEE FAILS TO SERVE OR TO COMPLETE A TERM, THE GOVERNOR SHALL APPOINT A SUCCESSOR FOR THE REST OF THE TERM.

(E) GEOGRAPHIC DISTRIBUTION OF TRUSTEES.

TO THE EXTENT PRACTICABLE AND CONSISTENT WITH THE PURPOSES OF THE TRUST, TRUSTEES SHALL BE CHOSEN, WHETHER BY DELEGATION OR APPOINTMENT, TO ACHIEVE A BROAD GEOGRAPHIC DISTRIBUTION OF TRUSTEES THROUGHOUT THE STATE.

REVISOR'S NOTE: Subsection (a)(1) of this section is new language added to state explicitly what was only implied in the former law - that the Board consists of 15 members.

Subsections (a)(2) through (e) of this section are new language derived without substantive change from former Art. 83B, §§ 5-624(e) and the

second through tenth sentences of 5-605.

In subsection (a)(1) of this section, the defined term "Board" is added for clarity.

In subsection (a) of this section, the former reference to the Governor, President, and Speaker having "the same powers and duties as the other trustees as hereafter set forth" is deleted as surplusage.

In subsection (b) of this section, the references to the "Governor," "President of the Senate," and "Speaker of the House of Delegates" are substituted for the former reference to "[t]he three ex officio trustees" for clarity.

In subsection (d)(2) of this section, the reference to terms being staggered as required by the terms provided for trustees on "October 1, 2005" is substituted for the former obsolete reference to terms being staggered as required by the terms provided on "July 1, 1985". This substitution is not intended to alter the terms of any trustee. *See* § ____ of Ch. ____, Acts of 2005. The terms of the trustees serving on October 1, 2005, end as follows: (1) three on June 30, 2006; (2) three on June 30, 2007; (3) three on June 30, 2008; and (4) three on June 30, 2009.

In subsection (d)(3) of this section, the former phrase "for any reason" is deleted as surplusage.

Also in subsection (d)(3) of this section, the former reference to a trustee being "elected" is deleted as obsolete in light of Ch. 500, Acts of 1985, which abolished the practice of electing trustees by majority vote of a quorum of sitting trustees.

In subsection (e) of this section, the former reference to "the advice and consent of the Senate" is deleted as unnecessary in light of subsection (a)(3) of this section to the same effect.

Also in subsection (e) of this section, the phrase "[t]o the extent" is substituted for the former phrase "insofar as is" for clarity.

Defined terms: "Board" § 5-409

"Secretary" § 1-101

"Submerged" § 5-401

"Terrestrial" § 5-401

"Trust" § 5-401

"Trustee" § 5-409

5-414. OFFICERS.

(A) IN GENERAL.

THE BOARD SHALL ELECT ANNUALLY A CHAIR, A VICE CHAIR, AND A TREASURER FROM AMONG ITS TRUSTEES.

(B) METHOD OF ELECTING OFFICERS.

THE BOARD SHALL DETERMINE HOW ITS OFFICERS ARE TO BE ELECTED.

REVISOR'S NOTE: This section is new language derived without substantive change from the first two sentences of former Art. 83B, § 5-608.

In subsection (a) of this section, the references to a "chair" and a "vice chair" are substituted for the former references to a "chairman" and a "vice chairman" because SG § 2-1238 requires the use of words that are neutral as to gender to the extent practicable. *See* General Revisor's Note to article.

Defined terms: "Board" § 5-409

"Trustee" § 5-409

5-415. QUORUM; MEETINGS; COMPENSATION.

(A) QUORUM.

EIGHT TRUSTEES ARE A QUORUM.

(B) MEETINGS.

(1) THE BOARD SHALL MEET AT LEAST TWICE A YEAR AT THE TIMES AND PLACES THAT IT SETS.

(2) THE DIRECTOR APPOINTED UNDER § 5-416 OF THIS SUBTITLE SHALL CALL A SPECIAL MEETING:

(I) ON ORDER OF THE CHAIR, ON THE CHAIR'S OWN INITIATIVE; OR

(II) AT THE REQUEST OF FOUR OR MORE TRUSTEES.

(3) (I) THE DIRECTOR SHALL NOTIFY EACH TRUSTEE IN WRITING OF THE TIME AND PLACE OF A MEETING AT LEAST 7 DAYS BEFORE THE MEETING.

(II) THE TRUSTEES MAY HOLD A MEETING ON LESS THAN 7 DAYS' NOTICE IF ALL TRUSTEES AGREE.

(C) COMPENSATION.

A TRUSTEE:

(1) MAY NOT RECEIVE COMPENSATION FOR DUTIES PERFORMED AS A TRUSTEE; 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. 83B, §§ 5-606 and, as it related to meetings, quorum, and compensation, 5-608.

In subsection (b)(2)(i) of this section, the references to the "chair" and the "chair's" initiative are substituted for the former references to the "chairman" and "chairman's" initiative because SG § 2-1238 requires the use of words that are neutral as to gender to the extent practicable. *See* General Revisor's Note to article.

In subsection (c)(2) of this section, the former reference to expenses "incurred while actually engaged in the performance of their [trustees'] duties" is deleted as implicit in the reference to expenses "under the Standard State Travel Regulations".

Defined terms: "Board" § 5-409

"Director" § 5-401

"Trustee" § 5-409

5-416. DIRECTOR.

(A) APPOINTMENT; OFFICE.

(1) THE TRUSTEES SHALL APPOINT A DIRECTOR, WITH THE APPROVAL OF THE GOVERNOR.

(2) THE DIRECTOR IS THE CHIEF ADMINISTRATIVE OFFICER OF THE TRUST.

(B) QUALIFICATIONS.

THE DIRECTOR SHALL HAVE:

(1) KNOWLEDGE IN ARCHITECTURE, HISTORY, ARCHEOLOGY, OR ANOTHER APPROPRIATE DISCIPLINE RELATING TO HISTORIC PRESERVATION; AND

(2) EXPERIENCE IN HISTORIC PRESERVATION OR RELATED FIELDS.

(C) TENURE.

THE DIRECTOR SERVES AT THE PLEASURE OF THE BOARD AND MAY BE REMOVED WITH THE CONCURRENCE OF THE GOVERNOR.

(D) SALARY; STAFF.

(1) THE DIRECTOR IS ENTITLED TO THE SALARY PROVIDED IN THE STATE BUDGET.

(2) THE DIRECTOR MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE BUDGET.

(E) CLASSIFICATION OF SERVICE.

EACH POSITION WITH THE TRUST IS A SPECIAL APPOINTMENT IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

(F) DUTIES AND FUNCTIONS.

UNDER THE DIRECTION OF THE BOARD, THE DIRECTOR SHALL PERFORM THE DUTIES AND FUNCTIONS THAT THE BOARD PRESCRIBES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-609.

Defined terms: "Board" § 5-409

"Director" § 5-401

"Trust" § 5-401

"Trustee" § 5-409

5-417. LEGAL COUNSEL.

ON REQUEST, THE BOARD SHALL RECEIVE LEGAL COUNSEL AND SERVICES FROM THE ATTORNEY GENERAL TO CARRY OUT THE PURPOSES OF THE TRUST.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-610.

Defined terms: "Board" § 5-409

"Trust" § 5-401

5-418. POWERS AND DUTIES.

(A) IN GENERAL.

THE BOARD SHALL EXERCISE THE POWERS AND DUTIES OF THE TRUST.

(B) POWERS.

THE TRUST MAY:

- (1) ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE;
- (2) TAKE LEGAL ACTION TO ENFORCE THIS SUBTITLE;
- (3) ADOPT AND USE AN OFFICIAL SEAL;
- (4) CONTRACT FOR CONSULTANT OR OTHER SERVICES;

(5) APPLY FOR AND ACCEPT MONEY, GRANTS, OR LOANS FROM FEDERAL, STATE, LOCAL, OR PRIVATE SOURCES;

(6) AGREE WITH A PROSPECTIVE MORTGAGOR OR GRANTEE TO PROVIDE FINANCIAL ASSISTANCE TO A HISTORIC PRESERVATION PROJECT;

(7) ACQUIRE AND HOLD REAL AND PERSONAL HISTORIC PROPERTY BY GIFT, PURCHASE, DEVISE, BEQUEST, OR ANY OTHER MEANS;

(8) ACQUIRE OR TAKE ASSIGNMENT OF A NOTE, MORTGAGE, OR OTHER SECURITY OR EVIDENCE OF INDEBTEDNESS;

(9) ACQUIRE, ATTACH, ACCEPT, OR TAKE TITLE TO AN HISTORIC PROPERTY BY CONVEYANCE OR, IF A MORTGAGE IS IN DEFAULT, BY FORECLOSURE;

(10) SELL, CONVEY, ASSIGN, LEASE, OR OTHERWISE TRANSFER OR DISPOSE OF ANY PROPERTY HELD BY THE TRUST;

(11) MAKE CONTRACTS, LEASES, OR OTHER AGREEMENTS NECESSARY OR INCIDENTAL TO THE PERFORMANCE OF THE DUTIES OF THE TRUST;

(12) PRESERVE, RESTORE, REHABILITATE, RECONSTRUCT, PROTECT, DOCUMENT, EXCAVATE, SALVAGE, EXHIBIT, AND INTERPRET HISTORIC PROPERTIES;

(13) ACCEPT A GIFT OR BEQUEST FOR ANY PURPOSE OF THE TRUST AND, UNLESS THE DONOR SPECIFIES OTHERWISE, USE THE PRINCIPAL AND INCOME OF THE GIFT OR BEQUEST BY:

(I) SPENDING ALL OR PART OF THEM TO FURTHER THE TRUST; OR

(II) INVESTING THEM, WITH THE CONSENT OF THE STATE TREASURER, IN GENERAL OBLIGATIONS OF THE STATE OR OTHER SECURITIES;

(14) APPLY TO TRUST PURPOSES ANY MONEY, ASSET, PROPERTY, OR OTHER THING OF VALUE THE TRUST RECEIVES INCIDENT TO ITS OPERATION; OR

(15) DELEGATE ANY OF THE POWERS OF THE TRUST TO ONE OR MORE TRUSTEES OR THE DIRECTOR.

(C) DUTIES.

THE TRUST SHALL:

(1) DIRECT AND CONDUCT A COMPREHENSIVE STATEWIDE SURVEY OF HISTORIC PROPERTIES IN COOPERATION WITH:

(I) UNITS OF THE FEDERAL GOVERNMENT;

(II) STATE UNITS, INCLUDING THE DEPARTMENT OF NATURAL RESOURCES;

- (III) POLITICAL SUBDIVISIONS;
 - (IV) PRIVATE ORGANIZATIONS; AND
 - (V) INDIVIDUALS;
- (2) MAINTAIN AN INVENTORY AND REGISTER OF HISTORIC PROPERTIES;
 - (3) DOCUMENT, RESEARCH, RECORD, AND EVALUATE THE SIGNIFICANCE OF HISTORIC PROPERTIES;
 - (4) PREPARE AND IMPLEMENT COMPREHENSIVE STATEWIDE AND REGIONAL HISTORIC PRESERVATION PLANS;
 - (5) HELP POLITICAL SUBDIVISIONS TO DEVELOP LOCAL HISTORIC PRESERVATION PLANS AND PROGRAMS;
 - (6) CARRY OUT PROGRAMS AND ACTIVITIES TO PROTECT, PRESERVE, AND ENCOURAGE THE PRESERVATION OF HISTORIC PROPERTIES;
 - (7) PRESERVE AND ADMINISTER HISTORIC PROPERTIES HELD BY THE TRUST;
 - (8) COOPERATE WITH UNITS OF FEDERAL GOVERNMENT, STATE UNITS, POLITICAL SUBDIVISIONS, AND PRIVATE ENTITIES TO ENSURE THAT HISTORIC PROPERTIES ARE CONSIDERED AT ALL LEVELS OF PLANNING AND DEVELOPMENT;
 - (9) REVIEW THE POLICIES AND PROGRAMS OF EACH STATE UNIT THAT AFFECT HISTORIC PROPERTIES, AND RECOMMEND WAYS TO IMPROVE THE EFFECTIVENESS AND COORDINATION OF THESE POLICIES AND PROGRAMS, CONSISTENT WITH THIS SUBTITLE;
 - (10) ADMINISTER PROGRAMS OF FINANCIAL AND TECHNICAL ASSISTANCE FOR HISTORIC PRESERVATION PROJECTS;
 - (11) MAKE RECOMMENDATIONS ON THE CERTIFICATION AND ELIGIBILITY OF HISTORIC PROPERTIES FOR TAX INCENTIVES AND OTHER PROGRAMS OF PUBLIC ASSISTANCE;
 - (12) PROVIDE PUBLIC INFORMATION, EDUCATION, AND TRAINING RELATING TO HISTORIC PRESERVATION;
 - (13) ENCOURAGE PUBLIC INTEREST AND PARTICIPATION IN HISTORIC PRESERVATION;
 - (14) ADVISE AND ASSIST THE STATE HISTORIC PRESERVATION OFFICER IN IMPLEMENTING THE STATE HISTORIC PRESERVATION OFFICER'S RESPONSIBILITIES;
 - (15) ADVISE THE GOVERNOR AND THE GENERAL ASSEMBLY ON HISTORIC PRESERVATION; AND

(16) SUBMIT ANNUALLY TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY A REPORT OF THE ACTIVITIES OF THE TRUST DURING THE PRECEDING YEAR AND ANY RECOMMENDATIONS FOR ACTIONS APPROPRIATE TO FURTHER ITS PURPOSES.

(D) NONREVERSION OF MONEY.

INCOME AND FEES RECEIVED BY THE TRUST, INCLUDING FEES AUTHORIZED UNDER THIS SUBTITLE AND INCOME FROM EDUCATIONAL AND OTHER PRESERVATION MATERIALS, ACTIVITIES, AND SERVICES OF THE TRUST, ARE NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(E) AUDIT.

MONEY MAINTAINED UNDER THIS SECTION IS SUBJECT TO AUDIT BY THE STATE, INCLUDING THE LEGISLATIVE AUDITOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-607 and the first sentence of § 5-605.

In the introductory language of subsections (b) and (c) of this section, the former phrase "[i]n addition to the powers set forth elsewhere in this subtitle" is deleted as surplusage.

In subsection (b)(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.

In the introductory language of subsection (b)(13) of this section, the word "or" is substituted for the former word "and" to clarify that the Trust may accept any of the listed items for the benefit of the Trust.

Also in the introductory language of subsection (b)(13) of this section, the former reference to "legacy" is deleted in light of the references to "bequest". Similarly, the former reference to "endowment" is deleted in light of the reference to "gift or bequest".

In subsection (b)(14) of this section, the former reference to the "general" purposes of the Trust is deleted as surplusage.

In subsection (c)(1)(ii) and (8) of this section, the defined term "State units" is substituted for the former phrase "State agencies" for consistency.

In subsection (c)(1)(iii) of this section, the defined term "political subdivision[s]" is substituted for the former reference to "local governments" to conform to the terminology used throughout this article.

In subsection (c)(6) of this section, the former reference to historic properties "in the State" is deleted as included in the defined term "historic property".

In subsection (c)(10) of this section, the former word "necessary" is deleted in light of the word "appropriate".

In subsection (d) of this section, the reference to income and fees that "are not subject to § 7-302 of the State Finance and Procurement Article" is standard language substituted for the former reference to the requirement that "any income and fees received by the Trust that are unexpended at the end of a fiscal year may not revert to the General Fund of the State, but instead, shall be maintained as special funds available to the Trust for carrying out the purposes of this subtitle".

Defined terms: "Director" § 5-401

"Financial assistance" § 5-401

"Historic property" § 5-401

"Political subdivision" § 1-101

"State Historic Preservation Officer" § 5-401

"State unit" § 5-401

"Trust" § 5-401

"Trustee" § 5-409

5-419. RESTRICTIONS ON PROPERTY TRANSFER, SALE, AND CONVEYANCE.

(A) TRANSFERS FROM THE STATE.

UNLESS THE BOARD OF PUBLIC WORKS APPROVES, THE TRUST MAY NOT DISPOSE OF ANY PROPERTY TRANSFERRED TO IT BY THE STATE OR PURCHASED WITH STATE MONEY.

(B) TRANSFER OF HISTORIC PROPERTY SOLELY FOR INVESTMENT PROHIBITED.

THE TRUST MAY NOT SELL, CONVEY, ASSIGN, OR LEASE OUT ANY HISTORIC PROPERTY SOLELY FOR INVESTMENT.

(C) TRANSACTIONS INVOLVING PROPERTIES ON OR ELIGIBLE FOR MARYLAND REGISTER OF HISTORIC PROPERTIES.

BEFORE SELLING OR CONVEYING REAL OR PERSONAL PROPERTY LISTED IN OR ELIGIBLE TO BE LISTED IN THE MARYLAND REGISTER OF HISTORIC PROPERTIES, THE TRUST SHALL:

(1) ENSURE THAT THE PROPOSED SALE OR CONVEYANCE PROVIDES FOR THE PRESERVATION OR ENHANCEMENT OF THE PROPERTY;

(2) GIVE PREFERENCE TO ACQUISITION PROPOSALS THAT:

(I) ARE MADE BY POLITICAL SUBDIVISIONS OR CAPABLE PRIVATE NONPROFIT ORGANIZATIONS QUALIFYING UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE;

(II) PROVIDE FOR USES MOST COMPATIBLE WITH THE HISTORIC OR ARCHITECTURAL VALUE OF THE PROPERTY; AND

(III) PROVIDE THE GREATEST OPPORTUNITY FOR PUBLIC INVOLVEMENT, PARTICIPATION, EDUCATION, AND ENJOYMENT; AND

(3) PROVIDE A 6-MONTH OPTION TO PURCHASE TO ENTITIES THAT:

(I) MEET THE REQUIREMENTS OF ITEM (2) OF THIS SUBSECTION;
AND

(II) PROPOSE TO PURCHASE AT THE STATE-ESTABLISHED APPRAISED FAIR MARKET VALUE.

(D) REDEMPTION BY TENANT.

THE REVERSION UNDER A LEASE MADE BY THE TRUST MAY NOT BE REDEEMED AT THE OPTION OF THE TENANT UNLESS THE LEASE EXPRESSLY PROVIDES THAT THE REVERSION MAY BE REDEEMED AT THE OPTION OF THE TENANT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-611.

In subsection (c)(1) of this section, the reference to a "sale or conveyance" is substituted for the former word "disposition" for consistency with the introductory language of subsection (c) of this section.

In subsection (c)(2) of this section, the defined term "political subdivision[s]" is substituted for the former reference to "local governments" to conform to the terminology used throughout this title.

In subsection (d) of this section, the reference to "the reversion under a lease made by the Trust may not be redeemed" is substituted for the former reference to "a lease made by the Trust may not be subject to redemption" to reflect the terminology of RP § 8-110, in which a reversion, not a lease, is redeemable.

The Housing Article Review Committee notes, for consideration by the General Assembly, that, in subsection (b) of this section, the prohibition against the Trust's selling, conveying, assigning, or leasing solely for investment is restricted to historic property in light of § 5-418(b)(13) of this subtitle.

Defined terms: "Historic property" § 5-401

"Nonprofit organization" § 1-101

"Political subdivision" § 1-101

"Trust" § 5-401

5-420. RESERVED.

5-421. RESERVED.

PART III. HISTORIC FUNDS AND CAPITAL PROJECTS.

5-422. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART 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) COUNCIL.

"COUNCIL" MEANS THE MARYLAND ADVISORY COUNCIL ON HISTORIC PRESERVATION.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 5-601(g).

No changes are made.

(C) HISTORIC REGISTER.

"HISTORIC REGISTER" MEANS THE MARYLAND REGISTER OF HISTORIC PROPERTIES.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to the Maryland Register of Historic Properties.

(D) PREPARATION COSTS.

"PREPARATION COSTS" MEANS THE COSTS OF STUDIES, SURVEYS, PLANS AND SPECIFICATIONS, OR ARCHITECTURAL, ENGINEERING, AND OTHER SPECIAL SERVICES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, §§ 5-612(d)(1)(ii) and (4) and 5-613(d)(2) and (5), as they related to the costs of studies, surveys, plans and specifications, and architectural, engineering, or other special services.

It is revised as a defined term for brevity.

5-423. IDENTIFICATION OF HISTORIC PROPERTIES.

(A) MARYLAND INVENTORY OF HISTORIC PROPERTIES.

THE TRUST SHALL COMPILE A MARYLAND INVENTORY OF HISTORIC PROPERTIES THAT CONSISTS OF DISTRICTS, SITES, BUILDINGS, STRUCTURES, AND OTHER OBJECTS OF KNOWN OR POTENTIAL VALUE TO THE PREHISTORY, HISTORY, UPLAND AND UNDERWATER ARCHEOLOGY, ARCHITECTURE, ENGINEERING, AND CULTURE OF THE STATE.

(B) MARYLAND REGISTER OF HISTORIC PROPERTIES.

(1) THE TRUST SHALL COMPILE A HISTORIC REGISTER TO INCLUDE ALL PROPERTIES IN THE STATE THAT ARE LISTED IN OR ELIGIBLE FOR LISTING IN THE NATIONAL REGISTER OF HISTORIC PLACES OF THE UNITED STATES DEPARTMENT OF THE INTERIOR.

(2) THE TRUST SHALL ADOPT REGULATIONS SPECIFYING PROCEDURES AND ELIGIBILITY STANDARDS FOR INCLUDING PROPERTIES IN THE HISTORIC REGISTER.

(3) THE DIRECTOR SHALL DETERMINE WHETHER A PROPERTY IS ELIGIBLE TO BE LISTED IN THE NATIONAL REGISTER OF HISTORIC PLACES.

(4) (I) THE DIRECTOR'S DETERMINATION MAY BE APPEALED TO THE GOVERNOR'S CONSULTING COMMITTEE ON THE NATIONAL REGISTER OF HISTORIC PLACES, WHICH REVIEWS NOMINATIONS TO THE NATIONAL REGISTER UNDER THE NATIONAL HISTORIC PRESERVATION ACT.

(II) THE DETERMINATION OF THE GOVERNOR'S CONSULTING COMMITTEE IS FINAL.

(C) CONFIDENTIALITY.

THE LOCATION AND CHARACTER OF A HISTORIC PROPERTY INCLUDED IN THE MARYLAND INVENTORY OF HISTORIC PROPERTIES OR THE HISTORIC REGISTER SHALL BE CONFIDENTIAL IF THE DIRECTOR DETERMINES THAT DISCLOSURE WOULD CREATE A SUBSTANTIAL RISK OF THEFT OF THE PROPERTY OR DAMAGE TO THE PROPERTY OR TO THE AREA WHERE THE PROPERTY IS LOCATED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 5-615 and 5-601(k).

In subsection (c) of this section, the reference to "damage" is substituted for the former references to "harm" and "destruction" for brevity.

Also in subsection (c) of this section, the former reference to a "place" is deleted as implicit in the reference to an area.

The Housing Article Review Committee notes, for consideration by the General Assembly, that in subsection (b)(4)(ii) of this section, it is unclear what, if any, right of appeal exists after the Governor's Consulting Committee renders a final determination.

Defined terms: "Director" § 5-401

"Historic property" § 5-401

"Historic Register" § 5-417

"Trust" § 5-401

5-424. ADVISORY COUNCIL ON HISTORIC PRESERVATION.

(A) ESTABLISHED.

THERE IS A MARYLAND ADVISORY COUNCIL ON HISTORIC PRESERVATION.

(B) MEMBERSHIP -- EX OFFICIO AND APPOINTED MEMBERS.

(1) THE COUNCIL CONSISTS OF SEVEN VOTING MEMBERS.

(2) THE EX OFFICIO MEMBERS ARE:

(I) THE SECRETARY OF GENERAL SERVICES;

(II) THE SECRETARY OF HOUSING AND COMMUNITY

DEVELOPMENT;

(III) THE SECRETARY OF PLANNING; AND

(IV) THE SECRETARY OF TRANSPORTATION.

(3) THE GOVERNOR SHALL APPOINT THE OTHER THREE MEMBERS, OF

WHOM:

(I) TWO SHALL BE INDIVIDUALS WITH EXPERTISE IN ARCHITECTURE, HISTORY, ARCHAEOLOGY, OR ANOTHER APPROPRIATE DISCIPLINE THAT RELATES TO HISTORIC PRESERVATION; AND

(II) ONE SHALL BE A MEMBER OF THE GENERAL PUBLIC.

(4) AN EX OFFICIO MEMBER MAY DESIGNATE A DEPUTY SECRETARY FROM THE MEMBER'S DEPARTMENT TO ACT IN THE MEMBER'S ABSENCE.

(C) CHAIR.

THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT SERVES AS CHAIR.

(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 COUNCIL ON OCTOBER 1, 2005.

(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) QUORUM; MEETINGS.

(1) A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE COUNCIL IS A QUORUM.

(2) THE COUNCIL SHALL SET THE TIMES AND PLACES OF ITS MEETINGS.

(F) COMPENSATION.

A MEMBER OF THE COUNCIL:

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

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

(G) STAFF.

THE DIRECTOR OF THE TRUST IS THE SECRETARY AND STAFF TO THE COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-616(a) through (f).

In subsection (b)(2)(iii) of this section, the reference to the "Secretary" of Planning is substituted for the former reference to the "Director" of Planning to reflect the current title of the official.

Also in subsection (b)(2)(iii) of this section, the statement that the Secretary of Planning is one of the "ex officio" members is added for clarity.

In subsection (b)(3) of this section, the former requirement that the Governor appoint all members of the Council is revised to apply only to members that do not serve ex officio, for clarity.

In subsection (b)(4) of this section, the reference to an "ex officio" member is substituted for the former reference to a "cabinet member on the Council" for clarity and consistency.

In subsection (c) of this section, the reference to "chair" is substituted for the former reference to "[c]hairman" because SG § 2-1238 requires the use of words that are neutral as to gender to the extent practicable. *See* General Revisor's Note to article.

Also in subsection (c) of this section, the former reference that the

Secretary is "ex officio" is deleted as surplusage.

In subsection (d)(2) of this section, the reference to "appointed" members is substituted for the former reference to "public" members to clarify that these members include individuals with expertise in historic preservation as well as the individual who is designated as the member of the public.

In subsection (e)(1) of this section, the former reference to the "full" authorized membership is deleted as surplusage.

Former Art. 83B, § 5-616(g) which required the Council to "review and comment on State undertakings as provided in [former Art. 83B] § 5-617 of this subtitle" is deleted as redundant in light of § 5-425(d)(4) of this subtitle.

Defined terms: "Council" § 5-422

"Director" § 5-401

"Trust" § 5-401

5-425. CAPITAL PROJECTS AFFECTING HISTORIC PROPERTIES.

(A) DUTY TO CONSULT WITH TRUST ON STATE-FINANCED CAPITAL PROJECTS.

(1) TO THE EXTENT FEASIBLE, A STATE UNIT THAT SUBMITS A REQUEST OR IS OTHERWISE RESPONSIBLE FOR A CAPITAL PROJECT SHALL CONSULT WITH THE TRUST TO DETERMINE WHETHER THE PROJECT WILL ADVERSELY AFFECT ANY PROPERTY LISTED IN OR ELIGIBLE FOR LISTING IN THE HISTORIC REGISTER.

(2) THE CONSULTATION SHALL OCCUR:

(I) BEFORE THE STATE UNIT SUBMITS A REQUEST FOR THE CAPITAL PROJECT TO THE DEPARTMENT OF BUDGET AND MANAGEMENT UNDER § 3-602 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(II) BEFORE OR AS PART OF THE FINAL PROJECT PLANNING PHASE FOR A MAJOR TRANSPORTATION CAPITAL PROJECT AS DEFINED IN § 2-103.1 OF THE TRANSPORTATION ARTICLE; OR

(III) AS EARLY IN THE PLANNING PROCESS AS POSSIBLE FOR A CAPITAL PROJECT THAT USES NONBUDGETED MONEY AND IS SUBJECT TO THE REPORTING REQUIREMENTS OF § 3-602 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(B) CAPITAL PROJECTS UNDER PLAN OR INTERAGENCY AGREEMENT.

(1) STATE UNITS THAT OWN OR CONTROL PROPERTIES MAY CONSULT WITH THE TRUST TO DEVELOP PLANS OR INTERAGENCY AGREEMENTS TO IDENTIFY, EVALUATE, AND MANAGE ANY OF THOSE PROPERTIES THAT ARE LISTED IN OR ELIGIBLE TO BE LISTED IN THE HISTORIC REGISTER.

(2) CAPITAL PROJECTS UNDERTAKEN IN ACCORDANCE WITH A PLAN APPROVED BY THE TRUST OR AN INTERAGENCY AGREEMENT ARE NOT SUBJECT TO FURTHER REVIEW UNDER THIS SECTION.

(C) NONSTATE CAPITAL PROJECTS FINANCED WITH GENERAL OBLIGATION BONDS.

(1) THIS SUBSECTION APPLIES TO A CAPITAL PROJECT THAT:

(I) IS NOT BEING CARRIED OUT BY A STATE UNIT;

(II) USES THE PROCEEDS OF STATE GENERAL OBLIGATION BONDS;

AND

(III) IS NOT OTHERWISE REVIEWED BY THE TRUST UNDER THIS

SECTION.

(2) BEFORE THE BOARD OF PUBLIC WORKS MAY APPROVE THE USE OF BOND PROCEEDS FOR THE PROJECT, THE DEPARTMENT OF BUDGET AND MANAGEMENT OR ANOTHER STATE UNIT RESPONSIBLE FOR THE PROJECT SHALL CONSULT WITH THE TRUST TO DETERMINE WHETHER THE PROJECT WILL ADVERSELY AFFECT ANY PROPERTY LISTED IN OR ELIGIBLE TO BE LISTED IN THE HISTORIC REGISTER.

(D) DETERMINATION OF ADVERSE EFFECT.

(1) WITHIN 30 DAYS AFTER A STATE UNIT NOTIFIES THE DIRECTOR OF A PROPOSED CAPITAL PROJECT UNDER THIS SECTION, THE DIRECTOR SHALL DETERMINE WHETHER THE PROJECT WOULD ADVERSELY AFFECT ANY PROPERTY LISTED IN OR ELIGIBLE TO BE LISTED IN THE HISTORIC REGISTER.

(2) IF THE DIRECTOR FINDS THAT THE PROPOSED CAPITAL PROJECT WOULD HAVE A SIGNIFICANT ADVERSE EFFECT ON A LISTED OR ELIGIBLE PROPERTY, THE DIRECTOR AND THE STATE UNIT SHALL CONSULT TO DETERMINE WHETHER A PRACTICABLE PLAN EXISTS TO AVOID, MITIGATE, OR SATISFACTORILY REDUCE THE ADVERSE EFFECT.

(3) IF THE DIRECTOR AND THE STATE UNIT CANNOT AGREE ON A PLAN, THE STATE UNIT SHALL SUBMIT TO THE COUNCIL A REPORT OF THE CONSULTATIONS AND THE FINDINGS AND RECOMMENDATIONS OF THE STATE UNIT.

(4) WITHIN 30 DAYS AFTER RECEIVING THE REPORT, THE COUNCIL SHALL SUBMIT TO THE STATE UNIT COMMENTS:

(I) ACCEPTING THE ADVERSE EFFECT; OR

(II) RECOMMENDING PRACTICABLE ALTERNATIVES TO AVOID, MITIGATE, OR SATISFACTORILY REDUCE THE ADVERSE EFFECT.

(5) THE STATE UNIT MAY:

(I) INCORPORATE IN THE PROJECT THE ALTERNATIVES RECOMMENDED BY THE COUNCIL; OR

(II) DISAGREE WITH THE COMMENTS OF THE COUNCIL.

(6) IF THE STATE UNIT DISAGREES WITH THE COMMENTS OF THE COUNCIL, THE STATE UNIT:

(I) SHALL RESPOND IN WRITING TO THE COUNCIL, EXPLAINING WHY THE STATE UNIT REFUSES TO ADOPT THE MEASURES INCLUDED IN THE COMMENTS OF THE COUNCIL; AND

(II) MAY NOT PROCEED WITH THE PROJECT FOR AT LEAST 10 WORKING DAYS AFTER RESPONDING.

(E) INCLUSION OF CAPITAL COSTS.

EXCEPT FOR THE COST OF STUDIES AND SURVEYS, A STATE UNIT MAY INCLUDE THE CAPITAL COSTS OF PRESERVATION ACTIVITIES REQUIRED UNDER THIS SUBTITLE AS ELIGIBLE PROJECT COSTS OF ANY PROJECT UNDERTAKEN OR FINANCED BY THE STATE UNIT.

(F) REGULATIONS.

THE TRUST SHALL ADOPT REGULATIONS THAT ESTABLISH PROCEDURES AND STANDARDS FOR:

(1) ADMINISTRATIVE REVIEW AND COMMENT UNDER THIS SECTION, INCLUDING TIME FRAMES FOR TRUST ACTION ON SPECIFIC CATEGORIES OF PROJECTS;

(2) EXEMPTING SPECIFIC PROJECTS, CATEGORIES OF PROJECTS, OR CATEGORIES OF PROGRAMS FROM ANY REQUIREMENT OF THIS SECTION, IF THE EXEMPTION IS FOUND TO BE CONSISTENT WITH THE PURPOSES OF THIS SUBTITLE AND THE BEST INTERESTS OF THE STATE, CONSIDERING THE MAGNITUDE OF THE EXEMPTION AND THE RISK OF IMPAIRING HISTORIC PROPERTIES; AND

(3) PARTICIPATION BY STATE UNITS, POLITICAL SUBDIVISIONS, PRIVATE ORGANIZATIONS, AND OTHER ENTITIES IN PROCEEDINGS UNDER THIS SECTION THAT MAY AFFECT THEIR INTERESTS.

(G) NATIONAL HISTORIC PRESERVATION ACT.

IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER SUBSECTION (F) OF THIS SECTION, THIS SECTION MAY BE APPLIED TO ANY UNDERTAKING THAT IS SUBJECT TO § 106 OF THE NATIONAL HISTORIC PRESERVATION ACT, 16 U.S.C. § 470F.

(H) FAILURE TO COMPLY.

FAILURE BY A STATE UNIT TO COMPLY WITH THIS SECTION DOES NOT CREATE A PRIVATE CAUSE OF ACTION UNDER STATE LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-617, § 5-618(e)(1), and, as it applied to former § 5-617, § 5-619(a).

In subsection (c)(1)(i) of this section, the reference to a capital project that "is not being carried out by a State unit" is substituted for the former reference to a "nonstate capital project" for clarity.

In subsection (d)(1) of this section, the phrase "[w]ithin 30 days after" is substituted for the former phrase "on or before 30 days from the date of notification" to conform to the terminology used in subsection (d)(4) of this section.

Also in subsection (d)(1) of this section, the phrase "of a proposed capital project" is added for clarity.

In subsection (d)(2) and (4)(ii) of this section, the former references to a "feasible" plan and "feasible" alternatives are deleted in light of the references to a "practicable" plan and "practicable" alternatives.

In subsection (d)(3) of this section, the former reference to a plan "to avoid, mitigate, or satisfactorily reduce the adverse effect" is deleted as surplusage.

In the introductory language of subsection (f) of this section, the former reference to "rules" is deleted in light of the reference to "regulation". *See* General Revisor's Note to article.

In subsection (f)(3) of this section, the references to "political subdivisions" are substituted for the former reference to "local governments" to conform to the terminology used throughout this article.

Defined terms: "Council" § 5-422

"Director" § 5-401

"Historic property" § 5-401

"Historic Register" § 5-422

"Political subdivision" § 1-101

"State unit" § 5-401

"Trust" § 5-401

5-426. PROTECTION AND USE OF HISTORIC PROPERTIES.

(A) IN GENERAL.

IN COOPERATION WITH THE TRUST AND SUBJECT TO AVAILABLE RESOURCES, EACH STATE UNIT SHALL:

(1) ESTABLISH A PROGRAM TO IDENTIFY, DOCUMENT, AND NOMINATE TO THE TRUST EACH PROPERTY OWNED OR CONTROLLED BY THE STATE UNIT THAT APPEARS TO QUALIFY FOR THE HISTORIC REGISTER;

(2) ENSURE THAT NO PROPERTY LISTED IN OR ELIGIBLE TO BE LISTED IN THE HISTORIC REGISTER IS INADVERTENTLY TRANSFERRED, SOLD, DEMOLISHED, DESTROYED, SUBSTANTIALLY ALTERED, OR ALLOWED TO DETERIORATE SIGNIFICANTLY; AND

(3) USE ANY AVAILABLE HISTORIC BUILDING UNDER ITS CONTROL TO THE EXTENT PRUDENT AND PRACTICABLE BEFORE ACQUIRING, CONSTRUCTING, OR LEASING A BUILDING TO CARRY OUT ITS RESPONSIBILITIES.

(B) TRANSFER OF HISTORIC PROPERTIES.

IF IT IS PRUDENT, PRACTICABLE, AND IN THE STATE'S BEST INTEREST TO DO SO, A STATE UNIT THAT TRANSFERS A SURPLUS PROPERTY LISTED IN OR ELIGIBLE TO BE LISTED IN THE HISTORIC REGISTER SHALL ENSURE THAT THE TRANSFER PROVIDES FOR THE PRESERVATION OR ENHANCEMENT OF THE PROPERTY.

(C) ALTERATION OR DESTRUCTION OF HISTORIC PROPERTIES.

IF A HISTORIC PROPERTY IS TO BE ALTERED SUBSTANTIALLY OR DESTROYED BY STATE ACTION OR WITH FINANCIAL ASSISTANCE FROM A STATE UNIT, THE STATE UNIT SHALL CAUSE TIMELY STEPS TO BE TAKEN TO:

(1) MAKE APPROPRIATE INVESTIGATIONS AND RECORDS;

(2) SALVAGE APPROPRIATE OBJECTS AND MATERIALS; AND

(3) DEPOSIT WITH THE TRUST THE RESULTS OF THE INVESTIGATIONS, THE RECORDS, AND THE RECOVERED OBJECTS AND MATERIALS.

(D) PERMITS, LICENSES, AND FINANCIAL ASSISTANCE -- APPLICATIONS.

A STATE UNIT THAT ISSUES PERMITS OR LICENSES OR PROVIDES FINANCIAL ASSISTANCE SHALL COOPERATE WITH THE TRUST BY:

(1) GIVING NOTICE TO THE TRUST, ON REQUEST, OF EACH APPLICATION FOR A PERMIT, A LICENSE, OR FINANCIAL ASSISTANCE; AND

(2) REQUIRING THAT, WHERE APPROPRIATE, AN APPLICANT FOR A PERMIT, A LICENSE, OR FINANCIAL ASSISTANCE CONSULT WITH THE TRUST BEFORE THE STATE UNIT TAKES FINAL ACTION ON THE APPLICATION.

(E) SAME -- CONDITIONS.

(1) AFTER CONSULTING WITH THE TRUST, AND TO AVOID, MITIGATE, OR SATISFACTORILY REDUCE ANY SIGNIFICANT ADVERSE EFFECT ON A PROPERTY LISTED IN OR ELIGIBLE TO BE LISTED IN THE HISTORIC REGISTER, A STATE UNIT MAY PUT REASONABLE CONDITIONS ON A LICENSE, PERMIT, OR AWARD OF FINANCIAL ASSISTANCE.

(2) A STATE UNIT MAY SEEK GUIDANCE FROM THE COUNCIL BEFORE IMPOSING CONDITIONS ON A LICENSE, PERMIT, OR AWARD OF FINANCIAL ASSISTANCE.

(3) A PERSON MAY APPEAL THE REASONABLENESS OF A CONDITION IMPOSED ON A LICENSE OR PERMIT IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

(F) REGULATIONS.

BY REGULATION, THE TRUST SHALL ESTABLISH PROFESSIONAL STANDARDS, GUIDELINES, AND PROCEDURES TO PRESERVE HISTORIC PROPERTIES OWNED, CONTROLLED, REGULATED, OR ASSISTED BY STATE UNITS, TO MINIMIZE THE NEED FOR TRUST REVIEW, AND TO AVOID DUPLICATION AND DELAYS.

(G) NATIONAL HISTORIC PRESERVATION ACT.

THIS SECTION MAY BE APPLIED TO ANY UNDERTAKING THAT IS SUBJECT TO § 106 OF THE NATIONAL HISTORIC PRESERVATION ACT, 16 U.S.C. § 470F.

(H) FAILURE TO COMPLY.

FAILURE BY A STATE UNIT TO COMPLY WITH THIS SECTION DOES NOT CREATE A PRIVATE CAUSE OF ACTION UNDER STATE LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 5-618, 5-619(b), and, as it applied to § 5-618, § 5-619(a).

In subsection (a)(2) of this section, the former reference to "exercise caution to" ensure is deleted as surplusage.

In the introductory language of subsection (e)(2) of this section, reference to a State unit's seeking guidance from the Council "before imposing conditions on a license, permit, or award of financial assistance" is substituted for the former phrase "under subsection (e)(2) of this section" for clarity.

In subsection (f) of this section, the former reference to "rules" is deleted in light of the reference to "regulation". *See* General Revisor's Note to article.

In subsection (g) of this section, the former phrase "[i]n accordance with the regulations to be adopted by the Trust under subsection (g) of this section" is deleted as surplusage.

Defined terms: "Council" § 5-422

"Financial assistance" § 1-101

"Historic property" § 5-401

"Historic Register" § 5-422

"Person" § 1-101

"State unit" § 5-401

"Trust" § 5-401

"Undertaking" § 5-401

5-427. MHT LOAN PROGRAM AND MHT LOAN FUND.

(A) DEFINITIONS.

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

(2) "MHT LOAN FUND" MEANS THE HISTORIC PRESERVATION LOAN FUND OF THE TRUST.

(3) "MHT LOAN PROGRAM" MEANS THE HISTORIC PRESERVATION LOAN PROGRAM OF THE TRUST.

(B) MHT LOAN PROGRAM.

(1) THERE IS A MHT LOAN PROGRAM IN THE TRUST.

(2) THE PURPOSE OF THE MHT LOAN PROGRAM IS TO IMPLEMENT AND ENCOURAGE THE PRESERVATION OF HISTORIC PROPERTIES.

(3) THE TRUST SHALL ADMINISTER THE MHT LOAN PROGRAM AND COORDINATE THE MHT LOAN PROGRAM WITH FEDERAL AND STATE PROGRAMS THAT COMPLEMENT OR FACILITATE CARRYING OUT THE MHT LOAN PROGRAM.

(C) FUND ESTABLISHED.

THERE IS AN MHT LOAN FUND IN THE TRUST.

(D) PURPOSE OF FUND.

THE MHT LOAN FUND MAY BE USED:

(1) TO PAY ADMINISTRATIVE COSTS DIRECTLY RELATED TO THE MHT LOAN PROGRAM;

(2) TO PAY FOR THE TRUST TO ACQUIRE HISTORIC PROPERTIES OR INTERESTS IN HISTORIC PROPERTIES FOR ITS AUTHORIZED PURPOSES OR FOR RESALE OR LEASE SUBJECT TO APPROPRIATE PRESERVATION COVENANTS;

(3) TO PAY COSTS, INCLUDING PREPARATION COSTS, TO RESTORE OR REHABILITATE HISTORIC PROPERTIES OWNED BY THE TRUST FOR:

(I) THE TRUST'S AUTHORIZED PURPOSES; OR

(II) RESALE OR LEASE SUBJECT TO APPROPRIATE PRESERVATION COVENANTS; OR

(4) TO MAKE LOANS TO NONPROFIT ORGANIZATIONS, POLITICAL SUBDIVISIONS, BUSINESS ENTITIES, AND INDIVIDUALS TO:

(I) ACQUIRE, REHABILITATE, RESTORE, OR REFINANCE HISTORIC PROPERTIES; OR

(II) PROVIDE SHORT-TERM FINANCING FOR COSTS, INCLUDING PREPARATION COSTS, DIRECTLY RELATED TO WORK THAT THE TRUST OR THE STATE HISTORIC PRESERVATION OFFICER REQUIRES OR RECOMMENDS TO BE UNDERTAKEN BEFORE A CONSTRUCTION PROJECT FINANCED WITH FEDERAL OR STATE MONEY IS BEGUN OR CONTINUED.

(E) STATUS.

(1) THE MHT LOAN FUND IS A CONTINUING, NONLAPSING SPECIAL FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD AND THE COMPTROLLER SHALL ACCOUNT FOR THE MHT LOAN FUND.

(F) COMPOSITION.

THE MHT LOAN FUND CONSISTS OF:

(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE MHT LOAN PROGRAM;

(2) MONEY RECEIVED AS INTEREST OR REPAYMENT OF PRINCIPAL ON LOANS MADE UNDER THE MHT LOAN PROGRAM OR THE CAPITAL REVOLVING FUND FOR HISTORIC PRESERVATION;

(3) THE PROCEEDS FROM THE RESALE OR LEASE OF PROPERTY ORIGINALLY ACQUIRED BY THE TRUST WITH MONEY FROM THE MHT LOAN FUND OR THE CAPITAL REVOLVING FUND FOR HISTORIC PRESERVATION;

(4) MONEY RECEIVED FROM OTHER PUBLIC OR PRIVATE SOURCES FOR THE BENEFIT OF THE MHT LOAN FUND; AND

(5) MONEY RECEIVED FROM THE SALE OF GENERAL OBLIGATION BONDS.

(G) INVESTMENTS.

MONEY IN THE MHT LOAN FUND SHALL BE INVESTED IN THE SAME MANNER AS OTHER STATE MONEY.

(H) REGULATIONS.

(1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE PURPOSES OF THE MHT LOAN PROGRAM.

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(2) THE REGULATIONS SHALL INCLUDE:

(I) APPLICATION PROCEDURES;

(II) PROCEDURES TO GIVE ADEQUATE NOTICE TO THE PUBLIC OF ASSISTANCE AVAILABLE UNDER THE MHT LOAN PROGRAM;

(III) PROVISIONS FOR THE REVIEW OF PLANS AND SPECIFICATIONS;

(IV) PROVISIONS FOR THE INSPECTION OF PROJECTS DURING CONSTRUCTION; AND

(V) SELECTION CRITERIA THE TRUST MUST CONSIDER IN EVALUATING LOAN APPLICATIONS, INCLUDING:

1. THE RELATIVE HISTORICAL OR CULTURAL SIGNIFICANCE OF, AND THE URGENCY OF NEED FOR, THE PROJECT TO BE FINANCED BY THE LOAN;

2. ANY PROPOSED CONTRIBUTION BY THE APPROPRIATE POLITICAL SUBDIVISION TO THE PROJECT;

3. THE GEOGRAPHIC DISTRIBUTION OF LOAN ASSISTANCE FROM THE MHT LOAN FUND; AND

4. OTHER RELEVANT FACTORS.

(I) LOANS FROM THE MHT LOAN FUND.

(1) WITH THE APPROVAL OF THE SECRETARY, FOR EACH LOAN THE TRUST MAY SET:

(I) THE PRINCIPAL AMOUNT;

(II) THE MATURITY;

(III) THE REPAYMENT TERMS; AND

(IV) AN INTEREST RATE THAT COMPLIES WITH APPLICABLE FEDERAL REGULATIONS GOVERNING STATE BORROWING.

(2) A LOAN FROM THE MHT LOAN FUND MAY BE GRANTED AT AN INTEREST RATE LOWER THAN RATES ON OTHER LOANS FROM THE MHT LOAN FUND IF:

(I) THE LOAN RECIPIENT IS A NONPROFIT ORGANIZATION OR A POLITICAL SUBDIVISION; OR

(II) THE SECRETARY DETERMINES UNDER § 4-212 OF THIS ARTICLE THAT AFTER RESTORATION OR REHABILITATION, THE HISTORIC PROPERTY WILL BE WHOLLY OR PARTLY OCCUPIED BY INDIVIDUALS OR FAMILIES OF LIMITED INCOME.

(3) A LOAN FROM THE MHT LOAN PROGRAM MAY BE SECURED BY:

MORTGAGE LIENS;

(I) A MORTGAGE LIEN, WHICH MAY BE SUBORDINATE TO OTHER

(II) A GUARANTEE OF REPAYMENT; OR

(III) ANOTHER FORM OF COLLATERAL ACCEPTABLE TO THE TRUST.

(4) WITHOUT APPROVAL OR EXECUTION BY THE BOARD OF PUBLIC WORKS, THE TRUST MAY TAKE TITLE TO A MORTGAGED PROPERTY BY FORECLOSURE OR BY DEED IN LIEU OF FORECLOSURE AND:

(I) CONVEY TITLE TO A BUYER; AND

(II) OBTAIN AND SEEK ENFORCEMENT OF A DEFICIENCY

JUDGMENT.

(5) AN INDIVIDUAL OR BUSINESS ENTITY MAY RECEIVE A LOAN ONLY IF THE RECIPIENT CAN DOCUMENT THAT PRIVATE FINANCING IS UNAVAILABLE.

(6) THE TRUST SHALL ENSURE THAT NO LOAN IS MADE UNDER THE MHT LOAN PROGRAM TO ACQUIRE, RESTORE, OR REHABILITATE A HISTORIC PROPERTY UNLESS THE HISTORIC PROPERTY IS LISTED IN OR ELIGIBLE TO BE LISTED IN THE HISTORIC REGISTER.

(J) AGREEMENTS TO PRESERVE AND MAINTAIN PROPERTY.

(1) THE TRUST SHALL REQUIRE THE RECIPIENT OF A LOAN FROM THE MHT LOAN PROGRAM TO ENTER INTO AN AGREEMENT TO PRESERVE AND MAINTAIN THE PROPERTY.

(2) IF THE PROPERTY IS REAL PROPERTY, THE AGREEMENT SHALL BE A RECORDABLE HISTORIC PRESERVATION EASEMENT.

(3) THE SECRETARY MAY WAIVE THE AGREEMENT REQUIREMENT IF THE SECRETARY FINDS THAT AN AGREEMENT IS IMPRACTICABLE.

(K) TRUSTEES TO MAKE RECOMMENDATIONS TO SECRETARY.

THE TRUSTEES SHALL REVIEW AND MAKE RECOMMENDATIONS TO THE SECRETARY ABOUT LOANS AND EXPENDITURES FROM THE MHT LOAN FUND, AND THE SECRETARY SHALL APPROVE EACH LOAN AND EXPENDITURE FROM THE MHT LOAN FUND.

(L) BOARD OF PUBLIC WORKS APPROVAL.

(1) TO THE EXTENT REQUIRED BY REGULATIONS ADOPTED BY THE SECRETARY AND APPROVED BY THE BOARD OF PUBLIC WORKS, THE SECRETARY SHALL SUBMIT TO THE BOARD OF PUBLIC WORKS FOR APPROVAL A PROPOSED LOAN

OR EXPENDITURE FROM THE MHT LOAN FUND THAT WILL BE FINANCED THROUGH THE SALE OF STATE GENERAL OBLIGATION BONDS.

(2) EXCEPT FOR AN EXPENDITURE UNDER SUBSECTION (D)(2) OR (3) OF THIS SECTION, A LOAN OR EXPENDITURE FROM THE MHT LOAN FUND IS NOT SUBJECT TO TITLES 4 AND 5 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(M) REPORT.

ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE TRUST SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE FINANCIAL STATUS AND THE ACTIVITIES OF THE MHT LOAN PROGRAM FOR THE PRECEDING FISCAL YEAR.

(N) FALSE STATEMENTS.

(1) A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A MATERIAL FALSE STATEMENT OF FACT, INCLUDING AN UNDERSTATEMENT OR OVERSTATEMENT OF FINANCIAL CONDITION, IN A STATEMENT OR REPORT IN OR REGARDING AN APPLICATION FOR A LOAN OR AFFECTING AN EXISTING LOAN.

(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 \$5,000 OR BOTH.

REVISOR'S NOTE: Subsection (a)(1) of this section is new language added as the standard introductory language to a definition section.

Subsections (a)(2) through (b) of this section are new language derived without substantive change from former Art. 83B, §§ 5-601(q) and (r) and 5-612(a) through (c), and as it related to the MHT Loan Fund, (j)(1).

Subsection (c) of this section is new language added to state expressly what was only implied in the former law -- that the MHT Loan Fund exists in the Trust.

Subsections (d) through (m) of this section are new language derived without substantive change from former Art. 83B, § 5-612(d) through (i), (j)(1)(i) through (iv) and (vi), (2), (3), and (4) and (k).

In subsection (b) of this section, the former reference to the MHT Loan Program "operat[ing] as a fund ... known as the MHT Loan Fund" is deleted as surplusage.

In subsection (b)(3) of this section, the former references to "[m]anag[ing]" and "supervis[ing]" are deleted as included in the reference to "administer[ing]".

In subsection (d)(4) of this section, the reference to "political subdivisions" is substituted for the former references to a "local jurisdiction" to conform

to the terminology used throughout this article. Similarly, in subsections (h)(2)(v)2 and (i)(2)(i) of this section, references to "political subdivision" are substituted for the former reference to "local jurisdiction".

In subsection (e)(1) of this section, the reference that the Fund is "not subject to § 7-302 of the State Finance and Procurement Article" is substituted for the former phrase "within the meaning of § 10-306 of the State Finance and Procurement Article of the Code" to conform to the terminology used throughout this article.

In subsection (f)(1) of this section, the reference to money appropriated "in the State budget" is substituted for the former reference to money appropriated "by the State" for clarity.

In subsection (f)(2) and (3) of this section, the former references to "July 1, 1989" are deleted as obsolete.

In subsection (f)(4) of this section, the reference to money received "for the benefit of the MHT Loan Fund" is added for clarity.

In subsection (g) of this section, the former reference to money being "reinvested" is deleted as included in the reference to money being "invested".

In the introductory language of subsection (h)(2) of this section, the former phrase "[i]n addition to provisions otherwise required by this section" is deleted as surplusage.

In subsection (i) of this section, the former reference to the authority of the Trust to set certain terms of each loan with the approval of the Secretary and "in accordance with the regulations" is deleted as surplusage.

In subsection (j)(1) of this section, the former phrase "under the circumstances in accordance with the regulations" is deleted as surplusage.

In subsection (j)(2) of this section, the former reference to "historic" real property is deleted as surplusage.

In subsection (j)(3) of this section, the former reference to "infeasible" is deleted in light of the reference to "impracticable".

Subsection (l)(1) of this section is revised to clarify that the Board of Public Works must approve loans and expenditures before they are made.

Former Art. 83B, § 5-612(j)(1)(v), which stated that "moneys contained in the Capital Revolving Fund for Historic Preservation which shall be transferred to the MHT Loan Fund as of June 30, 1989" is deleted as obsolete.

Defined terms: "Department" § 1-101

"Historic property" § 5-401

"Historic Register" § 5-422

"Nonprofit organization" § 1-101

"Person" § 1-101

"Political subdivision" § 1-101

"Preparation costs" § 5-422

"Secretary" § 1-101

"State Historic Preservation Officer" § 5-401

"Trust" § 5-401

5-428. MHT GRANT PROGRAM AND MHT GRANT FUND.

(A) DEFINITIONS.

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

(2) "MHT GRANT FUND" MEANS THE HISTORIC PRESERVATION AND HISTORICAL AND CULTURAL MUSEUM ASSISTANCE GRANT FUND OF THE TRUST.

(3) "MHT GRANT PROGRAM" MEANS THE HISTORIC PRESERVATION GRANT PROGRAM OF THE TRUST.

(B) MHT GRANT PROGRAM -- ESTABLISHED; PURPOSES OF PROGRAM.

(1) THERE IS A MHT GRANT PROGRAM IN THE TRUST.

(2) THE PURPOSES OF THE MHT GRANT PROGRAM ARE TO:

(I) IMPLEMENT AND ENCOURAGE THE PRESERVATION OF HISTORIC PROPERTIES; AND

(II) PROMOTE INTEREST IN AND STUDY OF HISTORIC PROPERTIES AND THEIR PRESERVATION.

(C) SAME -- DUTIES OF TRUST.

(1) THE TRUST SHALL ADMINISTER THE MHT GRANT PROGRAM AND COORDINATE THE MHT GRANT PROGRAM WITH FEDERAL AND STATE PROGRAMS THAT COMPLEMENT OR FACILITATE THE MHT GRANT PROGRAM.

(2) THE TRUST SHALL ENSURE THAT NO GRANT AWARDED UNDER THE MHT GRANT PROGRAM TO ACQUIRE, RESTORE, OR REHABILITATE A HISTORIC PROPERTY IS USED ONLY IF THE HISTORIC PROPERTY IS LISTED IN OR IS ELIGIBLE TO BE LISTED IN THE HISTORIC REGISTER.

(3) (I) THE TRUST SHALL REQUIRE A GRANTEE UNDER THE MHT GRANT PROGRAM TO ENTER INTO AN AGREEMENT TO PRESERVE AND MAINTAIN THE PROPERTY.

(II) IF THE PROPERTY IS REAL PROPERTY, THE AGREEMENT SHALL BE A RECORDABLE HISTORIC PRESERVATION EASEMENT.

(III) THE SECRETARY MAY WAIVE THE AGREEMENT REQUIREMENT IF THE SECRETARY DETERMINES THAT AN AGREEMENT IS IMPRACTICABLE.

(D) SAME -- REGULATIONS.

(1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE PURPOSES OF THE MHT GRANT PROGRAM.

(2) THE REGULATIONS SHALL INCLUDE:

(I) APPLICATION PROCEDURES;

(II) PROCEDURES TO GIVE ADEQUATE NOTICE TO THE PUBLIC OF ASSISTANCE AVAILABLE UNDER THE MHT GRANT PROGRAM;

(III) PROVISIONS FOR THE REVIEW OF PLANS AND SPECIFICATIONS;

(IV) PROVISIONS FOR THE INSPECTION OF PROJECTS DURING CONSTRUCTION; AND

(V) SELECTION CRITERIA THE TRUST MUST CONSIDER WHEN EVALUATING APPLICATIONS FOR GRANTS, INCLUDING:

1. THE RELATIVE HISTORICAL OR CULTURAL SIGNIFICANCE OF, AND THE URGENCY OF NEED FOR, THE PROJECT TO BE FINANCED BY THE GRANT;

2. ANY PROPOSED CONTRIBUTION BY THE APPROPRIATE POLITICAL SUBDIVISION TO THE PROJECT;

3. THE GEOGRAPHIC DISTRIBUTION OF GRANT ASSISTANCE FROM THE MHT GRANT FUND UNDER SUBSECTION (E) OF THIS SECTION; AND

4. OTHER RELEVANT FACTORS.

(E) MHT GRANT FUND -- ESTABLISHED; PURPOSES OF FUND.

(1) THERE IS A MHT GRANT FUND IN THE TRUST.

(2) THE MHT GRANT FUND MAY BE USED:

(I) FOR THE PURPOSES SET FORTH IN § 5-453 OF THIS SUBTITLE;

(II) TO MAKE GRANTS TO NONPROFIT ORGANIZATIONS, POLITICAL SUBDIVISIONS, BUSINESS ENTITIES, AND INDIVIDUALS TO ACQUIRE, REHABILITATE, OR RESTORE HISTORIC PROPERTIES;

(III) TO MAKE GRANTS TO NONPROFIT ORGANIZATIONS AND POLITICAL SUBDIVISIONS TO PAY COSTS, INCLUDING PREPARATION COSTS, THAT ARE DIRECTLY RELATED TO A REHABILITATION OR RESTORATION PROJECT;

(IV) TO MAKE GRANTS TO NONPROFIT ORGANIZATIONS AND POLITICAL SUBDIVISIONS FOR HISTORIC PRESERVATION EDUCATION AND PROMOTION, INCLUDING THE RESEARCH, SURVEY, AND EVALUATION OF HISTORIC PROPERTIES AND THE PREPARATION OF HISTORIC PRESERVATION PLANNING DOCUMENTS AND EDUCATIONAL MATERIALS;

(V) TO PURCHASE OR ACQUIRE HISTORIC PROPERTIES OR INTERESTS IN HISTORIC PROPERTIES FOR THE TRUST'S AUTHORIZED PURPOSES OR FOR RESALE OR LEASE WITH APPROPRIATE PRESERVATION COVENANTS;

(VI) TO PAY COSTS, INCLUDING PREPARATION COSTS, THAT ARE DIRECTLY RELATED TO RESTORING OR REHABILITATING HISTORIC PROPERTIES THAT THE TRUST OWNS FOR USE IN ACCORDANCE WITH THE TRUST'S AUTHORIZED PURPOSES OR FOR RESALE OR LEASE SUBJECT TO APPROPRIATE PRESERVATION COVENANTS; AND

(VII) TO PAY FOR HISTORIC PRESERVATION EDUCATION AND PROMOTION CONDUCTED BY THE TRUST, AND FOR THE RESEARCH, SURVEY, AND EVALUATION OF HISTORIC PROPERTIES AND THE PREPARATION OF HISTORIC PRESERVATION PLANNING DOCUMENTS AND EDUCATIONAL MATERIALS.

(F) SAME -- ADMINISTRATION.

THE TRUST SHALL ADMINISTER THE MHT GRANT FUND.

(G) SAME -- STATUS.

(1) THE MHT GRANT FUND IS A CONTINUING, NONLAPSING SPECIAL FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE TREASURER SHALL HOLD AND THE COMPTROLLER SHALL ACCOUNT FOR THE MHT GRANT FUND.

(H) SAME -- COMPOSITION.

THE MHT GRANT FUND CONSISTS OF:

(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE MHT GRANT PROGRAM OR THE HISTORICAL AND CULTURAL MUSEUM ASSISTANCE PROGRAM UNDER § 5-452 OF THIS SUBTITLE;

(2) THE PROCEEDS FROM THE RESALE OR LEASE OF ANY PROPERTIES ORIGINALLY ACQUIRED BY THE TRUST FROM THE MHT GRANT FUND OR THE CAPITAL GRANT FUND FOR HISTORIC PRESERVATION;

(3) MONEY RECEIVED FROM OTHER PUBLIC OR PRIVATE SOURCES FOR THE BENEFIT OF THE MHT GRANT FUND; AND

(4) MONEY RECEIVED FROM THE SALE OF STATE GENERAL OBLIGATION BONDS.

(I) SAME -- INVESTMENTS.

MONEY IN THE MHT GRANT FUND SHALL BE INVESTED IN THE SAME MANNER AS OTHER STATE MONEY.

(J) SAME -- DUTIES OF TRUSTEES.

(1) THE TRUSTEES SHALL REVIEW AND MAKE RECOMMENDATIONS TO THE SECRETARY ABOUT GRANT APPLICATIONS AND EXPENDITURE REQUESTS FROM THE MHT GRANT FUND.

(2) THE TRUSTEES SHALL BASE THEIR GRANT RECOMMENDATIONS ON A COMPETITIVE SELECTION PROCESS.

(3) IN ANY FISCAL YEAR, THE SECRETARY MAY HOLD UP TO 20% OF THE MONEY IN THE MHT GRANT FUND IN RESERVE FOR EMERGENCY USE IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION.

(4) GRANTS TO BUSINESS ENTITIES MAY NOT EXCEED 10% OF ALL GRANTS AWARDED FROM THE MHT GRANT FUND UNDER THIS SECTION.

(K) SAME -- BOARD OF PUBLIC WORKS APPROVAL.

(1) TO THE EXTENT REQUIRED BY REGULATIONS ADOPTED BY THE SECRETARY AND APPROVED BY THE BOARD OF PUBLIC WORKS, THE SECRETARY SHALL SUBMIT TO THE BOARD OF PUBLIC WORKS FOR APPROVAL GRANTS OR EXPENDITURES FROM THE MHT GRANT FUND TO BE FINANCED THROUGH THE SALE OF STATE GENERAL OBLIGATION BONDS.

(2) EXCEPT FOR AN EXPENDITURE UNDER SUBSECTION (E)(2)(V) AND (VI) OF THIS SECTION, GRANTS AND EXPENDITURES FROM THE MHT GRANT FUND ARE NOT SUBJECT TO TITLES 4 AND 5 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(L) REPORT.

ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE TRUST SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE FINANCIAL STATUS AND THE ACTIVITIES OF THE MHT GRANT PROGRAM AND THE MHT GRANT FUND FOR THE PRECEDING FISCAL YEAR.

(M) FALSE STATEMENTS PROHIBITED.

(1) A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A MATERIAL FALSE STATEMENT OF FACT, INCLUDING AN UNDERSTATEMENT OR OVERSTATEMENT OF FINANCIAL CONDITION, IN A STATEMENT OR REPORT IN OR REGARDING AN APPLICATION FOR A GRANT OR AFFECTING AN EXISTING GRANT.

(2) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 2 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

REVISOR'S NOTE: Subsection (a)(1) of this section is new language added as the standard introductory language to a definition section.

Subsections (a)(2) through (e) and (g) through (m) of this section are new language derived without substantive change from former Art. 83B, §§ 5-601(o) and (p) and 5-613(a) through (c), (f), (g), (j), and (i)(1)(i), (ii), (iii), and (v), (2), and as it applied to the MHT Grant Program, (3).

Subsection (f) of this section is new language added to clarify that the Trust administers the MHT Grant Fund.

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

In subsection (c)(1) of this section, the former references to "[m]anag[ing]" and "supervis[ing]" are deleted as included in the reference to "administer[ing] the MHT Grant Program".

In subsection (c)(3)(ii) of this section, the former reference to "historic" property is deleted as surplusage.

In subsection (c)(3)(iii) of this section, the former reference to "infeasible" is deleted in light of the reference to "impracticable".

Also in subsection (c)(3)(iii) of this section, the former phrase "under the circumstances in accordance with the regulations" is deleted as surplusage.

In subsection (d)(2)(v)3 of this section, the reference to the MHT Grant Fund "under subsection (e) of this section" is added for clarity.

In subsection (e)(2)(iii) of this section, the reference to "political subdivisions" is substituted for the former reference to "local jurisdictions" to conform to the terminology used throughout this title.

In subsection (g)(1) of this section, the phrase that the MHT Grant Fund is not subject to "§ 7-302 of the State Finance and Procurement Article" is substituted for the former phrase "within the meaning of § 10-306 of the State Finance and Procurement Article of the Code" to conform to the terminology used throughout this article.

In subsection (h)(1) of this section, the reference to money appropriated "in the State budget" is substituted for the reference to an appropriation "by the State" for clarity.

Also in subsection (h)(1) of this section, the reference to the MHT Grant Program "under § 5-452 of this subtitle" is added for clarity.

In subsection (h)(2) of this section, the former reference to "July 1, 1989" is deleted because the Capital Grant Fund for Historic Preservation ceased to exist on that date.

In subsection (h)(3) of this section, the phrase "for the benefit of the MHT Grant Fund" is added for clarity.

In subsection (i) of this section, the former reference to money being "reinvested" is deleted as included in the reference to money being "invested".

In subsection (j)(2) of this section, the former phrase "to nonprofit organizations, local jurisdictions, business entities, and individuals" is deleted as unnecessary because those entities are the only permissible grant recipients.

Former Art. 83B, § 5-613(i)(1)(iv), which referred to "moneys contained in the Capital Grant Fund for Historic Preservation which shall be transferred to the MHT Grant Fund as of June 30, 1989" is deleted as obsolete.

Defined terms: "Department" § 1-101

"Historic property" § 5-401

"Historic Register" § 5-422

"Nonprofit organization" § 1-101

"Person" § 1-101

"Political subdivision" § 1-101

"Preparation costs" § 5-422

"Secretary" § 1-101

"Trust" § 5-401

5-429. HISTORIC MARKER PROGRAM FUND.

(A) "FUND" DEFINED.

IN THIS SECTION, "FUND" MEANS THE HISTORIC MARKER PROGRAM FUND.

(B) ESTABLISHED.

THERE IS A HISTORIC MARKER PROGRAM FUND IN THE TRUST.

(C) PURPOSE OF FUND.

THE PURPOSE OF THE FUND IS TO PRODUCE AND INSTALL HISTORIC MARKERS AT SITES OF STATEWIDE HISTORICAL SIGNIFICANCE.

(D) ADMINISTRATION.

THE TRUST SHALL ADMINISTER THE FUND.

(E) STATUS.

(1) THE FUND IS A CONTINUING, NONLAPSING SPECIAL FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) COMPOSITION.

THE FUND CONSISTS OF:

(1) MONEY APPROPRIATED TO THE FUND IN THE STATE BUDGET;

(2) MONEY RECOVERED BY THE STATE TO REPLACE DAMAGED OR DESTROYED HISTORIC MARKERS; AND

(3) MONEY FROM ANY OTHER SOURCE RECEIVED FOR THE BENEFIT OF THE FUND.

(G) USE OF FUND.

THE TRUST MAY USE MONEY FROM THE FUND TO PRODUCE AND INSTALL A HISTORIC MARKER AT A SITE THAT THE TRUST DETERMINES TO HAVE STATEWIDE HISTORICAL SIGNIFICANCE:

(1) IF THE SITE IS ON STATE-OWNED LAND; OR

(2) IF THE SITE IS NOT ON STATE-OWNED LAND AND AT LEAST ONE-HALF OF THE COST OF PRODUCING AND INSTALLING THE HISTORIC MARKER IS PROVIDED FROM SOURCES OTHER THAN THE STATE.

(H) INVESTMENTS.

MONEY IN THE FUND SHALL BE INVESTED IN THE SAME MANNER AS OTHER STATE MONEY.

(I) APPROVALS.

(1) THE TRUST SHALL APPROVE THE FORM AND TEXT OF HISTORIC MARKERS PRODUCED AND INSTALLED UNDER THIS SECTION.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE TRUST SHALL APPROVE THE LOCATION OF A HISTORIC MARKER.

(3) IF A HISTORIC MARKER IS TO BE PLACED WITHIN THE RIGHT-OF-WAY OF A PUBLIC HIGHWAY OR STREET, THE UNIT OF THE STATE OR THE POLITICAL SUBDIVISION THAT MAINTAINS THE PUBLIC HIGHWAY OR STREET SHALL APPROVE THE LOCATION AND MANNER OF INSTALLATION OF THE HISTORIC MARKER.

(J) OWNERSHIP OF HISTORIC MARKERS.

THE STATE OWNS THE HISTORIC MARKERS PRODUCED AND INSTALLED UNDER THIS SECTION.

REVISOR'S NOTE: Subsections (a) through (d), (f), (g), and (j) of this section are new language derived without substantive change from former Art. 83B, § 5-614.

Subsection (e) of this section is standard language added to clarify that unspent money remains in the Fund and does not revert to the State General Fund at the end of the fiscal year.

Subsection (h) of this section is standard language added to ensure that the Fund investments are treated like investments of other State money.

In subsection (f)(1) of this section, the phrase "money appropriated to the Fund" is substituted for the former phrase "[f]unds authorized" for clarity.

In subsection (f)(3) of this section, the phrase "received for the benefit of the Fund" is added for clarity.

In subsection (g)(2) of this section, the reference to "at least" one-half of the cost is added for clarity.

In subsection (i)(1) of this section, the phrase "produced and installed" is substituted for the former word "established" for consistency with subsection (g) of this section.

In subsection (i)(3) of this section, the reference to the unit of "a political subdivision" is substituted for the former reference to the unit of a "local government" to conform to the terminology used throughout this title.

Defined terms: "Political subdivision" § 1-101

"Trust" § 5-401

5-430. LIGHTHOUSE PRESERVATION SPECIAL FUND.

(A) "FUND" DEFINED.

IN THIS SECTION, "FUND" MEANS THE LIGHTHOUSE PRESERVATION SPECIAL FUND.

(B) ESTABLISHED.

THERE IS A LIGHTHOUSE PRESERVATION SPECIAL FUND.

(C) PURPOSE OF FUND.

WITH THE ADVICE OF A LIGHTHOUSE PRESERVATION ADVISOR, THE TRUST MAY USE THE FUND ONLY:

(1) TO PRESERVE A LIGHTHOUSE IN THE STATE THAT IS PUBLICLY OWNED OR OWNED BY A NONPROFIT ENTITY;

(2) FOR EDUCATION ABOUT OR PRESERVATION OR PROMOTION OF LIGHTHOUSES IN THE STATE; AND

(3) TO COMPENSATE STAFF EMPLOYED BY THE TRUST TO ADMINISTER THE FUND.

(D) ADMINISTRATION.

THE TRUST MAY EMPLOY STAFF TO ADMINISTER THE FUND.

(E) STATUS.

(1) THE FUND IS A CONTINUING, NONLAPSING SPECIAL FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) COMPOSITION.

THE FUND CONSISTS OF:

(1) PROCEEDS FROM ITEMS THE TRUST SELLS THAT RELATE TO LIGHTHOUSE PRESERVATION;

(2) EARNINGS FROM THE INVESTMENT OF MONEY IN THE FUND;

(3) MONEY RECEIVED AS CONSIDERATION FOR THE DISPOSITION OF A CAPITAL ASSET PURCHASED WITH MONEY FROM THE FUND, AS PROVIDED IN § 10-306(C)(2) OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

(4) MONEY OR GRANTS ACCEPTED UNDER SUBSECTION (H)(1) OF THIS SECTION.

(G) INVESTMENTS.

MONEY IN THE FUND SHALL BE INVESTED IN THE SAME MANNER AS OTHER STATE MONEY.

(H) AUTHORITY OF TRUST.

THE TRUST MAY:

(1) APPLY FOR AND ACCEPT MONEY OR A GRANT FROM A FEDERAL, STATE, LOCAL, OR PRIVATE SOURCE TO HELP PRESERVE LIGHTHOUSES IN THE STATE THAT ARE PUBLICLY OWNED OR OWNED BY NONPROFIT ORGANIZATIONS;
AND

(2) CONTRACT FOR AND SELL BY ANY METHOD ANY ITEM RELATING TO LIGHTHOUSE PRESERVATION.

(I) LIGHTHOUSE PRESERVATION ADVISOR.

(1) THE SECRETARY SHALL APPOINT A LIGHTHOUSE PRESERVATION ADVISOR.

(2) THE LIGHTHOUSE PRESERVATION ADVISOR SHALL SERVE WITHOUT COMPENSATION.

(J) REPORT.

ON OR BEFORE JANUARY 30 OF EACH YEAR, THE TRUST SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE BUDGET AND TAXATION COMMITTEE AND THE HOUSE APPROPRIATIONS COMMITTEE OF THE GENERAL ASSEMBLY ON THE FINANCIAL STATUS OF THE FUND FOR THE PRECEDING FISCAL YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-614.1.

In subsection (e)(1) of this section, the statement that the Fund is exempt from "§ 7-302 of the State Finance and Procurement Article" is added as standard language to clarify that unexpended money remains in the Fund and does not revert to the General Fund at the end of the fiscal year.

Also in subsection (e)(1) of this section, reference to a "special" fund is substituted for the former reference to a "revolving" fund to conform to the terminology used throughout this article.

In subsection (f)(4) of this section, the reference to "money or grants accepted under subsection (h)(1) of this section" is added to state expressly what was only implied in the former law, that money and grants that the Fund accepts are part of the Fund.

In subsection (g) of this section, the former reference to money being "reinvested" is deleted as included in the reference to money being "invested".

In subsection (j) of this section, the phrase "Senate Budget and Taxation Committee and the House Appropriations Committee" is substituted for the former reference to "budget committees" for clarity.

Defined terms: "Department" § 1-101

"Nonprofit organization" § 1-101

"Secretary" § 1-101

"Trust" § 5-401

5-431. RESERVED.

5-432. RESERVED.

PART IV. ARCHAEOLOGICAL PROPERTY.

5-433. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: Subsection (a) of this section is new language added as the standard introductory language to a definition section.

(B) ARCHAEOLOGY OFFICE.

"ARCHAEOLOGY OFFICE" MEANS THE ARCHAEOLOGY OFFICE ESTABLISHED UNDER § 5-434 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language added to allow concise and consistent reference to the Archaeology Office.

(C) ASSOCIATED FUNERARY OBJECTS.

"ASSOCIATED FUNERARY OBJECTS" MEANS OBJECTS THAT ARE REASONABLY BELIEVED TO HAVE BEEN PLACED WITH INDIVIDUAL HUMAN REMAINS AS A PART OF THE DEATH RITE OR CEREMONY OF A CULTURE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 5-601(b).

The former reference to "at the time of death or later" is deleted as surplusage.

The Housing Article Review Committee notes, for consideration by the General Assembly, that the significance of the reference to "individual" human remains is unclear.

Defined term: "Human remains" § 5-433

(D) CAVE.

(1) "CAVE" HAS THE MEANING STATED IN § 5-1401 OF THE NATURAL RESOURCES ARTICLE.

(2) "CAVE" INCLUDES:

(I) ANY NATURALLY OCCURRING VOID, CAVITY, RECESS, CAVERN, SINKHOLE, GROTTO, ROCK SHELTER, OR SYSTEM OF INTERCONNECTING PASSAGES BENEATH THE SURFACE OF THE EARTH OR WITHIN A CLIFF OR LEDGE; AND

(II) NATURAL SUBSURFACE WATER AND DRAINAGE SYSTEMS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 5-601(d).

(E) COMMITTEE.

"COMMITTEE" MEANS THE ADVISORY COMMITTEE ON ARCHAEOLOGY.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 5-601(e).

No changes are made.

(F) HUMAN REMAINS.

"HUMAN REMAINS" MEANS ANY PART OF THE BODY OF A DECEASED HUMAN BEING IN ANY STATE OF DECOMPOSITION.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 5-601(m).

No changes are made.

(G) NATIVE AMERICAN.

"NATIVE AMERICAN" MEANS AN INDIVIDUAL OR A DESCENDANT OF AN INDIVIDUAL WHO INHABITED NORTH AMERICA BEFORE EUROPEAN CONTACT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 5-601(s).

(H) SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY.

"SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY" MEANS ANY UNDERWATER STRUCTURE, REMAINS, OR OBJECT THAT:

(1) YIELDS OR IS LIKELY TO YIELD INFORMATION SIGNIFICANT TO THE STUDY OF HUMAN PREHISTORY, HISTORY, OR CULTURE; AND

(2) (I) IS SO EMBEDDED IN UNDERWATER LAND THAT EXCAVATING TOOLS ARE NEEDED TO MOVE THE BOTTOM SEDIMENTS TO REACH ALL OR PART OF IT AND HAS REMAINED UNCLAIMED FOR AT LEAST 100 YEARS; OR

(II) IS INCLUDED OR IS ELIGIBLE TO BE INCLUDED IN THE NATIONAL REGISTER OF HISTORIC PLACES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 5-601(i) and (z).

In the introductory language of this subsection, the reference to any "underwater" structure is added for clarity.

In item (1) of this subsection, the former reference to the "scientific" study is deleted as surplusage.

REVISOR'S NOTE TO SECTION: Former Art. 83B, § 5-601(u), which defined "permittee" to mean any person or entity authorized and given the exclusive right by the Maryland Historical Trust to excavate or disturb a submerged archaeological historic property under the provisions of former Art. 83B, § 5-620, is deleted because it is not used in this revision.

5-434. ARCHAEOLOGY OFFICE -- IN GENERAL.

(A) ESTABLISHED.

THERE IS AN ARCHAEOLOGY OFFICE IN THE TRUST.

(B) RESEARCH UNIT.

(1) THE ARCHAEOLOGY OFFICE INCLUDES A RESEARCH UNIT.

(2) THE RESEARCH UNIT SHALL:

(I) ENGAGE IN AND DIRECT FUNDAMENTAL ARCHAEOLOGICAL

RESEARCH;

(II) SYNTHESIZE EXISTING RESEARCH INFORMATION; AND

(III) ENCOURAGE ARCHAEOLOGICAL RESEARCH AND INVESTIGATION BY MUSEUMS, INSTITUTIONS OF HIGHER EDUCATION, AND SCIENTIFIC AND HISTORICAL INSTITUTIONS AND ORGANIZATIONS IN THE STATE.

(C) CHIEF ARCHAEOLOGIST, STATE TERRESTRIAL ARCHAEOLOGIST, AND STATE UNDERWATER ARCHAEOLOGIST.

(1) THE DIRECTOR SHALL EMPLOY A CHIEF ARCHAEOLOGIST, A STATE TERRESTRIAL ARCHAEOLOGIST, AND A STATE UNDERWATER ARCHAEOLOGIST IN ACCORDANCE WITH § 5-416 OF THIS SUBTITLE.

(2) (I) EACH ARCHAEOLOGIST EMPLOYED UNDER THIS SUBSECTION SHALL HAVE AN ADVANCED DEGREE IN ARCHAEOLOGY OR A CLOSELY RELATED FIELD FROM AN ACCREDITED COLLEGE OR UNIVERSITY.

(II) THE CHIEF ARCHAEOLOGIST SHALL BE A PROFESSIONAL ARCHAEOLOGIST.

(3) THE CHIEF ARCHAEOLOGIST IS THE ADMINISTRATIVE HEAD OF THE ARCHAEOLOGY OFFICE.

(D) STAFF.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE ARCHAEOLOGY OFFICE INCLUDES ALL STAFF MEMBERS OF THE TRUST WHO ARE ARCHAEOLOGISTS OR HIRED TO PERFORM ARCHAEOLOGICAL WORK, INCLUDING THOSE WHO MAY BE ASSIGNED ARCHAEOLOGICAL-RELATED FUNCTIONS IN OTHER UNITS OF THE TRUST.

(2) THE ARCHAEOLOGY OFFICE DOES NOT INCLUDE INDIVIDUALS SPECIFICALLY ASSIGNED TO A PARK, MUSEUM, OR OTHER SITE-SPECIFIC FACILITY UNDER THE JURISDICTION OF THE TRUST.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 5-622 and 5-623(a)(1).

In subsection (d)(2) of this section, the reference to "individuals" is substituted for the former reference to "persons" because only human beings, and not the other entities included in the defined term "person", can be staff members of a park, museum, or other site-specific facility. *See* § 1-101 of this article.

Defined terms: "Archaeology Office" § 5-433

"Director" § 5-401

"Trust" § 5-401

5-435. SAME -- DUTIES.

(A) EXCAVATION AND PRESERVATION.

THE ARCHAEOLOGY OFFICE SHALL:

(1) COOPERATE IN EXCAVATING HISTORICALLY OR ARCHAEOLOGICALLY SIGNIFICANT SITES IN THE CUSTODY OR CONTROL OF ANY OTHER STATE UNIT;

(2) ENCOURAGE THE PRESERVATION OF PREHISTORIC OR HISTORIC SITES ON PRIVATELY OWNED LAND IN THE STATE;

(3) COORDINATE THE WORK OF RETRIEVING AND PRESERVING ARCHAEOLOGICALLY SIGNIFICANT OBJECTS AND MATERIALS FOUND DURING PUBLIC CONSTRUCTION IN THE STATE;

(4) COOPERATE WITH AND HELP MUSEUMS, INSTITUTIONS OF HIGHER EDUCATION, AND OTHER SCIENTIFIC OR HISTORICAL INSTITUTIONS AND ORGANIZATIONS IN PRESERVING AND PROTECTING OBJECTS AND MATERIALS OF ARCHAEOLOGICAL NATURE IN THEIR CUSTODY OR CONTROL;

(5) COOPERATE WITH SIMILAR UNITS OF OTHER STATES IN PRESERVING ARCHAEOLOGICALLY SIGNIFICANT SITES, OBJECTS, AND MATERIALS; AND

(6) KEEP INSTITUTIONS OR UNITS OF OTHER STATES FROM EXPLOITING ARCHAEOLOGICALLY SIGNIFICANT SITES, OBJECTS, AND MATERIALS IN THIS STATE.

(B) EDUCATION AND DISSEMINATION OF INFORMATION.

THE ARCHAEOLOGY OFFICE ALSO SHALL:

(1) MAKE AVAILABLE TO MUSEUMS, INSTITUTIONS OF HIGHER EDUCATION, AND OTHER SCIENTIFIC OR HISTORICAL INSTITUTIONS AND ORGANIZATIONS OBJECTS AND MATERIALS SUITABLE FOR DEMONSTRATING THE ARCHAEOLOGICAL HISTORY OF THE STATE;

(2) MAKE AVAILABLE TO PUBLIC AND PRIVATE SCHOOLS IN THE STATE EXHIBITS ON, AND HELP TO TEACH STUDENTS ABOUT, THE LIFE OF THE EARLY SETTLERS AND NATIVE AMERICANS OF THE STATE;

(3) DISSEMINATE ARCHAEOLOGICAL INFORMATION BY PUBLISHING REPORTS OF ARCHAEOLOGICAL RESEARCH AND INVESTIGATION; AND

(4) ESTABLISH AN EDUCATIONAL PROGRAM TO TRAIN INTERESTED MEMBERS OF THE PUBLIC TO IDENTIFY, INVESTIGATE, AND REGISTER TERRESTRIAL ARCHAEOLOGICAL HISTORIC PROPERTY.

(C) GOALS, OBJECTIVES, POLICY, AND REPORTING REQUIREMENTS.

THE ARCHAEOLOGY OFFICE ALSO SHALL:

(1) PREPARE A LIST OF PRIORITIZED RESEARCH GOALS AND OBJECTIVES TO GUIDE THE TRUST AND THE DEPARTMENT'S DIVISION OF HISTORICAL AND CULTURAL PROGRAMS IN CHOOSING ARCHAEOLOGICAL RESEARCH PROJECTS TO PERFORM;

(2) DEVELOP, IN CONSULTATION WITH THE COMMITTEE, A POLICY THAT SPECIFIES THE CIRCUMSTANCES UNDER WHICH THE TRUST MAY DIRECTLY PERFORM ARCHAEOLOGICAL INVESTIGATIONS TO COMPLY WITH STATE OR FEDERAL LAW THAT THE TRUST OR THE STATE HISTORIC PRESERVATION OFFICER ADMINISTERS; AND

(3) PROVIDE TO THE COMMITTEE EACH YEAR A COPY OF THE PART OF THE TRUST'S ANNUAL REPORT TO THE GOVERNOR, REQUIRED BY § 5-418(C)(16) OF THIS SUBTITLE, THAT RELATES TO THE TRUST'S ARCHAEOLOGICAL ACTIVITIES.

(D) ADHERENCE TO ARCHAEOLOGICAL GOALS OR OBJECTIVES.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN ARCHAEOLOGIST WHO IS NOT WORKING FOR THE TRUST NEED NOT ADHERE TO THE

ARCHAEOLOGICAL RESEARCH GOALS AND OBJECTIVES DEVELOPED BY THE
ARCHAEOLOGY OFFICE UNDER THIS SECTION.

(2) AN ARCHAEOLOGIST WHO PERFORMS A PROJECT GOVERNED BY ANY STATE OR FEDERAL LAW THAT THE TRUST OR THE STATE HISTORIC PRESERVATION OFFICER ADMINISTERS SHALL ADHERE TO THOSE GOALS AND OBJECTIVES TO THE EXTENT REQUIRED BY LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-623(b) and (a)(2) through (13).

In subsection (a)(3) of this section, the reference to objects "and materials" of archaeological significance is added for consistency with subsection (a)(4), (5), and (6) of this section.

Also in subsection (a)(3) of this section, the former reference to materials discovered during "the course of" public construction is deleted as surplusage.

In subsection (a)(5) and (6) of this section, the references to "units" of other states are substituted for the former references to "agencies" of other states for consistency throughout this article. *See* General Revisor's Note to article.

In subsection (b)(2) of this section, the defined term "Native American[s]" is substituted for the former reference to "natives" to conform to the terminology used throughout this part.

In subsection (c)(1) of this section, the reference to projects "to" perform is substituted for the former reference to projects "that they will" perform for brevity.

In subsection (c)(2) and (3) of this section, the former references to the Advisory Committee on Archaeology "established by § 5-624 of this subtitle" are deleted in light of the use of the defined term "Committee".

In subsection (c)(2) of this section, the reference to State or federal "law" is substituted for the former reference to State or federal "statutes or regulations" for brevity.

In subsection (d)(1) of this section, the provision that "an archaeologist who is not working for the Trust need not" adhere to the archaeological research goals and objectives is substituted for the former provision that "nothing in this subtitle shall be deemed to require that archaeologists, other than those employed or hired by the Trust" adhere to the goals or objectives, for brevity.

The Housing Article Review Committee notes, for consideration by the General Assembly, that the Archaeology Office has the duty to establish the educational program for terrestrial archaeological property under

subsection (b)(4) of this section, but the Trust has the duty to establish a similar program for submerged archaeological historic property under § 5-440(d) of this subtitle. Further, this program for terrestrial archaeological property does not have a certification component like that in § 5-440(d).

Defined terms: "Archaeology Office" § 5-433

"Committee" § 5-433

"Department" § 1-101

"Historic property" § 5-401

"Native American" § 5-433

"Preservation" § 5-401

"State Historic Preservation Officer" § 5-401

"State unit" § 5-401

"Terrestrial" § 5-401

"Trust" § 5-401

5-436. ADVISORY COMMITTEE ON ARCHAEOLOGY.

(A) ESTABLISHED.

THERE IS AN ADVISORY COMMITTEE ON ARCHAEOLOGY.

(B) COMPOSITION; APPOINTMENT OF MEMBERS.

(1) THE COMMITTEE CONSISTS OF SEVEN MEMBERS APPOINTED BY THE GOVERNOR ON RECOMMENDATION OF THE SECRETARY AND WITH THE ADVICE AND CONSENT OF THE SENATE.

(2) THE COMMITTEE SHALL INCLUDE REPRESENTATIVES OF REPUTABLE MUSEUMS, INSTITUTIONS OF HIGHER EDUCATION, OTHER RECOGNIZED SCIENTIFIC OR HISTORICAL INSTITUTIONS OR ORGANIZATIONS, AND QUALIFIED PRIVATE FIRMS THAT PROVIDE ARCHAEOLOGICAL SERVICES.

(C) QUALIFICATIONS OF MEMBERS.

EACH MEMBER OF THE COMMITTEE SHALL HAVE SKILL AND KNOWLEDGE IN ARCHAEOLOGICAL MATTERS.

(D) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER IS 3 YEARS AND BEGINS ON JULY 1.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMITTEE ON OCTOBER 1, 2005.

(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) CHAIR.

THE COMMITTEE SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

(F) MEETINGS.

(1) THE COMMITTEE SHALL MEET AT LEAST FOUR TIMES A YEAR AT THE TIMES AND PLACES THAT THE CHAIR SETS.

(2) AT EVERY MEETING AT LEAST ONE OF THE FOLLOWING OFFICERS SHALL ATTEND:

(I) THE CHIEF ARCHAEOLOGIST;

(II) THE STATE TERRESTRIAL ARCHAEOLOGIST; OR

(III) THE STATE UNDERWATER ARCHAEOLOGIST.

(G) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE COMMITTEE:

(1) MAY NOT RECEIVE COMPENSATION FOR DUTIES PERFORMED AS A MEMBER; BUT

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

(H) DUTIES.

THE COMMITTEE SHALL:

(1) ADVISE AND ASSIST THE ARCHAEOLOGY OFFICE ON ARCHAEOLOGICAL MATTERS; AND

(2) REVIEW POLICIES, PLANS, AND REGULATIONS RELATING TO ARCHAEOLOGICAL MATTERS.

REVISOR'S NOTE: Subsections (a), (b), (c), (d)(1), (2), (4), and (5), and (e) through (h) of this section are new language derived without substantive change from former Art. 83B, § 5-624(a), (c), (d), and (b)(1) through (3).

Subsection (d)(3) and the clause "and until a successor is appointed and qualifies" in subsection (d)(4) of this section are standard language added to avoid gaps in membership by indicating that a member serves until a successor takes office. These additions are supported by the cases of *Benson v. Mellor*, 152 Md. 481 (1927) and *Grooms v. LaVale Zoning Board*,

27 Md. App. (1975).

In subsection (b)(2) of this section, the reference to scientific or historical "organizations" is substituted for the former reference to scientific or historical "societies" to conform to the terminology used throughout this part.

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

In subsection (d)(2) of this section, the reference to terms being staggered as required by the terms provided for Committee members on "October 1, 2005" is substituted for the former obsolete reference to staggering as required by the terms provided for Committee members on "July 1, 1990". This substitution is not intended to alter the term of any member of the Committee. *See* § ___ of Ch. ___, Acts of 2005. The terms of the members serving on October 1, 2005, end as follows: (1) one on July 1, 2006; (2) three on July 1, 2007; and (3) three on July 1, 2008.

In subsection (d)(4) of this section, the reference to a member appointed "after a term has begun" is substituted for the former reference to a member appointed "to fill a vacancy in an unexpired term or to succeed a member who is holding over" for brevity and consistency with language used in other revised articles of the Code.

In subsection (e) of this section, the reference to "chair" is substituted for the former reference to "chairman" because SG § 2-1238 requires the use of words that are neutral as to gender to the extent practicable. *See* General Revisor's Note to article.

Also in subsection (e) of this section, the reference to the Committee electing a chair "from among its members" is added to state expressly what was only implied in the former law - that the chair must be a member of the Committee.

Also in subsection (e) of this section, the requirement that the Committee "elect" a chair is substituted for the former requirement that the Committee "choose" a chair for clarity.

Subsection (f)(1) of this section is revised in the active voice to clarify that it is a duty of the Committee to meet a minimum number of times a year.

In subsection (f)(1) of this section, the reference to meetings "at the times" that "the chair sets" is substituted for the former reference to meetings "at the call of the chairman" for clarity and consistency with similar provisions in other revised articles of the Code. *See, e.g.*, AG § 10-1205(b), EN §§ 2-205(a) and 3-204(a), and PS § 11-205(a). Correspondingly, the reference to meetings at the "places" the chair sets is added to clarify the authority of the chair to establish the location as well as the times of Committee

meetings.

In subsection (f)(2) of this section, the requirement that the Chief Archaeologist, "the State Terrestrial Archaeologist, or the State Underwater Archaeologist" attend every Committee meeting is substituted for the former requirement that the Chief Archaeologist "or at least one of the State Archaeologists referred to in [former Art. 83B,] § 5-622 of this subtitle" attend Committee meetings, for clarity.

In subsection (g)(2) of this section, the former reference to reimbursement for expenses "incurred while actually engaged in the performance of duties" is deleted because the Standard State Travel Regulations specify the types of expenses that are reimbursable. *See* COMAR 23.02.01.01 through .12.

In subsection (h)(2) of this section, the former reference to "rules" is deleted in light of the reference to "regulations". *See* General Revisor's Note to article.

Former Art. 83B, § 5-624(b)(4), which allows a member who is appointed to serve a term of less than 3 years for the purpose of implementing staggered terms, to be reappointed to serve a full 3-year term, is deleted as obsolete.

Defined terms: "Archaeology Office" § 5-433

"Committee" § 5-433

"Secretary" § 1-101

5-437. COMMUNICATION OF INFORMATION ABOUT ARCHAEOLOGICAL SITES.

A PERSON WHO KNOWS THE LOCATION OF AN ARCHAEOLOGICAL SITE IN THE STATE IS ENCOURAGED TO GIVE THE INFORMATION TO A REPUTABLE MUSEUM, AN INSTITUTION OF HIGHER EDUCATION, ANOTHER RECOGNIZED SCIENTIFIC OR HISTORICAL INSTITUTION OR ORGANIZATION, OR THE TRUST.

REVISOR'S NOTE: This section formerly was Art. 83B, § 5-621(c).

The only changes are in style.

Defined terms: "Person" § 1-101

"Trust" § 5-401

5-438. ARCHAEOLOGICAL COSTS INCURRED IN STATE PROJECTS.

THE COSTS OF ARCHAEOLOGICAL WORK INCURRED IN A STATE PROJECT ON A SITE OF ARCHAEOLOGICAL OR HISTORICAL SIGNIFICANCE SHALL BE AS STATED IN § 7-114.1 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

REVISOR'S NOTE: This section is new language added to provide a convenient cross-reference to SF § 7-114.1.

5-439. OBJECTS AND MATERIALS FOUND ON SUBMERGED OR TERRESTRIAL
ARCHAEOLOGICAL SITES.

(A) STATE PROPERTY IF FOUND ON STATE LAND.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION AND ELSEWHERE
IN THIS TITLE, AN OBJECT OR MATERIAL OF HISTORICAL OR ARCHAEOLOGICAL
VALUE OR INTEREST FOUND ON A SUBMERGED OR TERRESTRIAL ARCHAEOLOGICAL
SITE ON LAND THAT THE STATE OWNS OR CONTROLS:

(1) IS THE PROPERTY OF THE STATE; AND

(2) SHALL BE DEPOSITED FOR PERMANENT PRESERVATION WITH A
REPUTABLE MUSEUM, AN INSTITUTION OF HIGHER EDUCATION, OR ANOTHER
RECOGNIZED SCIENTIFIC OR HISTORICAL INSTITUTION OR ORGANIZATION.

(B) TRANSFER OF HUMAN REMAINS -- TO DESCENDANTS AND CULTURALLY
AFFILIATED GROUPS.

(1) SUBJECT TO APPLICABLE FEDERAL LAW AND PARAGRAPH (2) OF
THIS SUBSECTION, THE TRUST MAY TRANSFER NATIVE AMERICAN OR OTHER HUMAN
REMAINS IN ITS POSSESSION, CUSTODY, OR CONTROL TO AN APPROPRIATE PLACE OF
REPOSE.

(2) IF THE CULTURAL AFFILIATION OF HUMAN REMAINS AND
ASSOCIATED FUNERARY OBJECTS IN THE POSSESSION, CUSTODY, OR CONTROL OF
THE TRUST CAN BE ESTABLISHED, THE TRUST MAY TRANSFER THE HUMAN REMAINS
AND ASSOCIATED FUNERARY OBJECTS IN THE FOLLOWING ORDER OF PRIORITY TO:

(I) THE DESCENDANTS OF THE DECEASED; OR

(II) A GROUP ESTABLISHED AS CULTURALLY AFFILIATED WITH
THE DECEASED, INCLUDING A NATIVE AMERICAN TRIBE, BAND, GROUP, OR CLAN.

(C) SAME -- TO MUSEUMS, INSTITUTIONS, AND ORGANIZATIONS.

(1) EXCEPT FOR HUMAN REMAINS OF NATIVE AMERICANS AND
ASSOCIATED FUNERARY OBJECTS SUBJECT TO SUBSECTION (B)(2) OF THIS SECTION,
THE TRUST MAY TRANSFER ANY HUMAN REMAINS AND ASSOCIATED FUNERARY
OBJECTS IN ITS POSSESSION, CUSTODY, OR CONTROL TO A REPUTABLE MUSEUM, AN
INSTITUTION OF HIGHER EDUCATION, OR ANOTHER RECOGNIZED SCIENTIFIC OR
HISTORICAL INSTITUTION OR ORGANIZATION FOR STUDY, IF:

(I) THE STUDY IS AN ESSENTIAL PART OF SCIENTIFIC RESEARCH;

(II) THE OUTCOME OF THE SCIENTIFIC RESEARCH WILL BENEFIT
THE STATE; AND

(III) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE STUDY WILL BE COMPLETED AND THE ITEMS RETURNED TO THE TRUST WITHIN 1 YEAR AFTER THE DATE OF THE TRANSFER.

(2) (I) IF A TRANSFEREE UNDER THIS SUBSECTION MAKES A GOOD FAITH EFFORT BUT CANNOT COMPLETE A STUDY WITHIN 1 YEAR, THE TRANSFEREE MAY REQUEST AN EXTENSION FROM THE TRUST.

(II) THE TRUST MAY GRANT THE EXTENSION ONLY IN ACCORDANCE WITH ITS REGULATIONS.

(D) REGULATIONS.

(1) IN CONSULTATION WITH THE COMMISSION ON INDIAN AFFAIRS, THE TRUST SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

(2) THE REGULATIONS SHALL INCLUDE:

(I) PROCEDURES TO DETERMINE THE APPROPRIATE DISPOSITION OF HUMAN REMAINS FOR WHICH DESCENT OR CULTURAL AFFILIATION CANNOT BE ESTABLISHED;

(II) SPECIFIC TIME FRAMES AND PROCEDURES TO EXTEND A STUDY OF HUMAN REMAINS AND ASSOCIATED FUNERARY OBJECTS BEYOND 1 YEAR; AND

(III) PROCEDURES TO ACCOUNT FOR ANY HUMAN REMAINS AND ASSOCIATED FUNERARY OBJECTS THAT TEMPORARILY ARE TRANSFERRED FOR STUDY TO A REPUTABLE MUSEUM, AN INSTITUTION OF HIGHER EDUCATION, OR ANOTHER RECOGNIZED SCIENTIFIC OR HISTORICAL INSTITUTION OR ORGANIZATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-627.

In subsection (a) of this section, the reference to objects or materials found on certain sites "on" land under the ownership or control of the State is substituted for the former reference to objects or materials found on certain sites "or" land the State owns or controls for accuracy.

Also in subsection (a) of this section, the phrase "and elsewhere in this title" is added to reflect that alternatives to the deposit of certain objects and materials under subsection (a) are provided in subsections (b) and (c) of this section.

In the introductory language of subsection (b)(2) of this section, the former reference to the cultural affiliation of certain human remains and objects being established "with a particular cultural group" is deleted as implicit in the reference to "the cultural affiliation".

In the introductory language of subsection (c)(1) of this section, the reference to "any human remains and associated funerary objects in its possession, custody, or control" is substituted for the former reference to "the remains and objects" for clarity and consistency in this subsection.

In subsection (c)(1)(i) of this section, the former reference to the study "of human remains and objects" is deleted as unnecessary in light of the reference, in the introductory language of the subsection, to the transfer of human remains and associated funerary objects "for study".

In subsection (c)(2)(i) of this section, the reference to "a transferee under this subsection" is substituted for the former reference to "[a] museum, institution of higher education, or recognized scientific or historical institution or organization" for brevity.

In subsection (c)(2)(ii) of this section, the former reference to an extension "of time" is deleted as implicit in the word "extension".

Also in subsection (c)(2)(ii) of this section, the former phrase "[u]pon request" is deleted in light of the reference in subsection (c)(2)(i) of this section to "request" an extension from the Trust.

In subsection (d)(2) of this section, the former reference to the regulations "adopted in accordance with paragraph (1) of this subsection" is deleted as surplusage.

In subsection (d)(2)(iii) of this section, the reference to a "reputable" museum is added for consistency with subsection (c)(1) of this section.

Defined terms: "Associated funerary objects" § 5-433

"Human remains" § 5-433

"Native American" § 5-433

"Submerged" § 5-401

"Terrestrial" § 5-401

"Trust" § 5-401

5-440. SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY -- IN GENERAL.

(A) STATE PROPERTY IF ON OR RECOVERED FROM STATE-CONTROLLED LAND.

SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY ON OR TAKEN FROM UNDERWATER LAND OVER WHICH THE STATE HAS SOVEREIGN CONTROL IS THE PROPERTY OF THE STATE.

(B) CONVEYANCE OF TITLE.

THE STATE MAY CONVEY TITLE TO PART OR ALL OF SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY IT OWNS IN ACCORDANCE WITH A PERMIT,

IF THE BOARD OF PUBLIC WORKS APPROVES THE PERMIT IN ACCORDANCE WITH TITLE 10, SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(C) DISPOSITION.

(1) THE TRUST AND A HOLDER OF A PERMIT UNDER § 5-441 OF THIS SUBTITLE MAY ENTER INTO AN AGREEMENT TO DISPOSE OF SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY RECOVERED BY THE HOLDER.

(2) THE AGREEMENT MAY DIVIDE THE RECOVERED SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY BETWEEN THE STATE AND THE HOLDER.

(3) SUBJECT TO APPROVAL OF THE BOARD OF PUBLIC WORKS, THE DIVISION MAY BE IN VALUE OR IN KIND.

(4) THE TRUST SHALL BE THE ARBITER OF THE DIVISION, ACTING IN THE BEST INTEREST OF THE STATE AND GIVING CONSIDERATION TO THE FAIR TREATMENT OF THE PERMIT HOLDER.

(5) AN AGREEMENT UNDER THIS SUBSECTION SHALL PROVIDE REASONABLE COMPENSATION TO THE PERMIT HOLDER FOR ANY RECOVERED SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY CLAIMED AND TURNED OVER TO THE STATE.

(D) EDUCATIONAL PROGRAM.

THE TRUST SHALL:

(1) ESTABLISH AN EDUCATIONAL PROGRAM TO TRAIN INTERESTED MEMBERS OF THE PUBLIC TO IDENTIFY AND REGISTER SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY; AND

(2) CERTIFY MEMBERS OF THE PUBLIC WHO SUCCESSFULLY COMPLETE THE EDUCATIONAL PROGRAM.

(E) REGULATIONS.

(1) THE TRUST SHALL ADOPT REGULATIONS ON ISSUING PERMITS AND DISPOSING OF AND TRANSFERRING SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY UNDER THIS SUBTITLE.

(2) THE REGULATIONS SHALL BE ADOPTED:

(I) WITH THE APPROVAL OF THE SECRETARY; AND

(II) IN CONSULTATION WITH THE FEDERAL ADVISORY COUNCIL ON HISTORIC PRESERVATION AND APPROPRIATE PUBLIC AND PRIVATE SECTOR GROUPS IN THE STATE, INCLUDING SPORT DIVERS, PROFESSIONAL DIVE OPERATORS, DIVE CLUBS, SALVORS, ARCHAEOLOGISTS, COMMERCIAL FISHERMEN, AND HISTORIC PRESERVATIONISTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 5-611.1 and 5-620(i)(1) and the first sentence of (i)(2).

In subsection (b) of this section, the former reference to a permit "issued by the Trust under [former Art. 83B,] § 5-620 of this subtitle" is deleted as surplusage.

Also in subsection (b) of this section, the reference to property the State "owns" is substituted for the former reference to property "over which the State has sovereign control" for brevity.

Also in subsection (b) of this section, the former reference to approval in accordance with "the applicable provisions of" Title 10, Subtitle 3 of the State Finance and Procurement Article is deleted as surplusage.

In subsection (c)(1) of this section, the reference to submerged archaeological historic property "recovered by the holder" is substituted for the former reference to "recovered" submerged archaeological historic property for clarity.

In subsection (c)(2) of this section, the reference to the "agreement" is substituted for the former reference to the "disposition" for consistency with subsection (c)(1) of this section.

In subsection (c)(4) of this section, the requirement that the Trust "shall be" the arbiter of the division is substituted for the former reference to the Trust "acting as" arbiter for brevity.

In subsection (c)(5) of this section, the reference to an agreement "under this subsection" is substituted for the former reference to an agreement "entered into by the Trust" for brevity and clarity.

In subsection (d)(2) of this section, the reference to "the educational program" is substituted for the former reference to "such training" for clarity and consistency with subsection (d)(1) of this section.

In subsection (e)(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.

Defined terms: "Person" § 1-101

"Secretary" § 1-101

"Submerged" § 5-401

"Submerged archaeological historic property" § 5-433

"Trust" § 5-401

5-441. SAME -- PERMITS.

(A) REQUIRED.

WITHOUT A PERMIT, A PERSON MAY NOT EXCAVATE, REMOVE, DESTROY, INJURE, DEFACE, OR DISTURB A SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY ON LAND OVER WHICH THE STATE HAS SOVEREIGN CONTROL.

(B) EXCEPTION TO PERMIT REQUIREMENT -- IN GENERAL.

A PERSON DOES NOT NEED A PERMIT TO INSPECT, STUDY, EXPLORE, PHOTOGRAPH, MEASURE, RECORD, OR OTHERWISE USE AND ENJOY SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY ON LAND OVER WHICH THE STATE HAS SOVEREIGN CONTROL IF THE USE OR ACTIVITY DOES NOT:

(1) INVOLVE THE EXCAVATION, REMOVAL, DESTRUCTION, INJURY, OR DISTURBANCE OF THE SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY OR ITS IMMEDIATE ENVIRONMENT;

(2) ENDANGER OTHER PERSONS OR PROPERTY; OR

(3) VIOLATE ANY LAW.

(C) SAME -- ACTIVITIES PERMITTED BY REGULATION.

(1) REGULATIONS UNDER § 5-440(E) OF THIS SUBTITLE SHALL PROVIDE THAT AN INDIVIDUAL DOES NOT NEED A PERMIT TO COLLECT FROM SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY A LIMITED NUMBER OF OBJECTS OR MATERIALS RECOVERABLE BY HAND OR WITH THE USE OF SCREWDRIVERS, WRENCHES, OR PLIERS.

(2) THE STATE IS NOT LIABLE FOR INJURY OR LOSS SUSTAINED BY AN INDIVIDUAL ENGAGED IN ACTIVITY AUTHORIZED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.

(D) SAME -- ACTIVITIES OF TRUST.

THE TRUST DOES NOT NEED A PERMIT TO DO ANYTHING FOR WHICH A PERMIT IS REQUIRED UNDER THIS SECTION, BUT SHALL OBTAIN APPROVAL FOR THE UNDERTAKING FROM THE BOARD OF PUBLIC WORKS.

(E) PROGRAM TO ISSUE AND ADMINISTER PERMITS.

THE TRUST SHALL ESTABLISH A PROGRAM FOR ISSUING AND ADMINISTERING PERMITS FOR ACTIVITY THAT INVOLVES THE REMOVAL, EXCAVATION, DESTRUCTION, INJURY, OR DISTURBANCE OF SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY ON LAND OVER WHICH THE STATE HAS SOVEREIGN CONTROL.

(F) EXCLUSIVE PERMITS.

SUBJECT TO SUBSECTION (G) OF THIS SECTION, THE TRUST MAY ISSUE TO ANY PERSON A PERMIT GRANTING AN EXCLUSIVE RIGHT TO REMOVE, EXCAVATE, DESTROY, INJURE, OR DISTURB SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY

ON LAND OVER WHICH THE STATE HAS SOVEREIGN CONTROL FOR THE TERM AND UNDER THE CONDITIONS THAT THE TRUST CONSIDERS APPROPRIATE IF:

(1) THE TRUST AND THE APPLICANT FOR THE PERMIT HAVE ENTERED INTO AN AGREEMENT UNDER § 5-440(C) OF THIS SUBTITLE; AND

(2) THE TRUST DETERMINES THAT ISSUING THE PERMIT IS IN THE BEST INTEREST OF THE STATE AND THAT THE APPLICANT FOR THE PERMIT HAS SUBMITTED A RESEARCH PLAN THAT MEETS STANDARDS ESTABLISHED BY THE TRUST FOR:

(I) PROFESSIONAL QUALIFICATIONS OF THE APPLICANT AND PERSONS WORKING UNDER THE PERMIT;

(II) TECHNIQUES AND METHODOLOGY FOR THE RECOVERY AND DISSEMINATION OF DATA; AND

(III) PROPER CONSERVATION OF INFORMATION AND MATERIALS.

(G) LIMITATION ON ISSUANCE.

THE TRUST MAY NOT ISSUE A PERMIT TO A PERSON THAT SEEKS TITLE TO PART OR ALL OF SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY, OR TO A PERSON THAT SEEKS TO USE SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY FOR COMMERCIAL SALVAGE OR ANOTHER INCOME-PRODUCING PURPOSE, UNLESS:

(1) THE APPLICANT HAS PROVIDED THE TRUST WITH ASSURANCE ACCEPTABLE TO THE TRUST THAT THE PROJECT WILL BE CARRIED OUT AND COMPLETED IN ACCORDANCE WITH A RESEARCH PLAN UNDER SUBSECTION (F)(2) OF THIS SECTION; AND

(2) THE TRUST FINDS THAT:

(I) THE SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY IS THREATENED WITH IMMINENT DESTRUCTION OR SUBSTANTIAL DAMAGE BY NATURAL OR HUMAN FACTORS UNRELATED TO THE PROPOSED COMMERCIAL EXCAVATION OR DISTURBANCE;

(II) THE SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY IS NOT OF MAJOR SCIENTIFIC, ARCHAEOLOGICAL, ANTHROPOLOGICAL, HISTORICAL, RECREATIONAL, OR OTHER PUBLIC VALUE;

(III) THE PROPOSED EXCAVATION OR DISTURBANCE WILL BE MINOR AND WILL PRODUCE INFORMATION RELEVANT TO THE STATEWIDE COMPREHENSIVE HISTORIC PRESERVATION PLAN PREPARED BY THE TRUST UNDER § 5-418(C)(4) OF THIS SUBTITLE; OR

(IV) THE SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY WILL NOT BE EXCAVATED OR DISTURBED BY ANY OTHER PERSON IN THE

FORESEEABLE FUTURE AND WILL REMAIN SUBMERGED UNTIL IT IS EXCAVATED OR DISTURBED.

(H) FEE.

THE TRUST MAY CHARGE A REASONABLE FEE TO ISSUE A PERMIT AND MAY REQUIRE AN APPLICANT OR PERMIT HOLDER TO PAY FOR THE COST OF THE TRUST'S REVIEW, ADMINISTRATION, AND SUPERVISION OF THE PERMIT.

(I) ENFORCEMENT.

THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY ENFORCE THIS SECTION AND MAY:

(1) ISSUE A SUMMONS FOR A VIOLATION OF THIS SECTION OR OF A PERMIT ISSUED UNDER THIS SECTION;

(2) SEIZE OBJECTS OR MATERIALS REMOVED FROM A SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY, IF THE REMOVAL TOOK PLACE WITHOUT A PERMIT ON OR AFTER JULY 1, 1988, OR IF THE REMOVAL WAS CONTRARY TO THE TERMS OF A PERMIT; AND

(3) REVOKE A PERMIT ON A FINDING THAT THE PERMIT WAS ISSUED IMPROPERLY OR THE TERMS OF THE PERMIT HAVE BEEN VIOLATED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-620(a), (c) through (g)(1), (h), the first sentence of (b), and the second sentence of (i)(2).

In subsection (b)(3) of this section, the former reference to "regulations" is deleted as included in the reference to "law".

Also in subsection (b)(3) of this section, the former reference to an "existing" law is deleted as implicit in the reference to "law".

In subsection (c)(1) of this section, the reference to regulations "under § 5-440(e) of this subtitle" is substituted for the former reference to "[t]hese" regulations for clarity.

Also in subsection (c)(1) of this section, the former requirement that the regulations provide "specifically" for a certain exception to the permit requirement is deleted as surplusage.

Also in subsection (c)(1) of this section, the former reference to collecting "on a small scale" certain objects and materials is deleted in light of the reference to collecting a "limited number of" the objects and materials.

Also in subsection (c)(1) of this section, the former reference to objects and materials recoverable "from such properties" is deleted in light of the reference to collecting the objects and materials "from submerged

archaeological historic property".

In subsection (c)(2) of this section, the reference to "an individual engaged in activity authorized in accordance with paragraph (1) of this subsection" is substituted for the former reference to "such individuals" for clarity.

In subsection (d) of this section, the reference to a permit "to do anything for which a permit is required under" this section is substituted for the former reference to a permit "for any undertaking provided for by" this section for clarity.

In subsections (e) and (f) of this section, the references to the "removal" and the right to "remove" submerged archaeological historic property are added for consistency with the reference to "remove" in subsection (a) of this section.

In the introductory language of subsections (f) and (g) of this section, the former references to an "entity" are deleted as included in the defined term "person".

In subsection (f)(1) of this section, the reference to the "Trust and the applicant for the permit" entering into an agreement is added for clarity.

In subsection (f)(2)(i) of this section, the reference to the professional qualifications "of the applicant and persons working under the permit" is added for clarity.

In subsection (g)(1) of this section, the reference to the research plan "under subsection (f)(2) of this section" is substituted for the former reference to the plan "approved by the Trust" for clarity.

Also in subsection (g)(1) of this section, the former reference that issuance of a permit must be "consistent with the purposes of [former] subsection (d)(2) of this section" is deleted as surplusage.

In subsection (g)(2)(i) and (ii) of this section, the former phrase "in the opinion of the Trust" is deleted in light of the reference in the introductory language of subsection (g)(2) of this section to the Trust "find[ing]" that the conditions described in subsection (g)(2)(i) and (ii) are met.

In subsection (g)(2)(i) of this section, the reference to the "proposed" commercial excavation or disturbance is added for clarity.

Also in subsection (g)(2)(i) of this section, the former reference to the commercial excavation or disturbance "of the submerged archaeological historic property in question" is deleted as implicit in the reference to the "excavation or disturbance".

In subsection (g)(2)(iii) of this section, the reference to "excavation" is added for consistency with the reference to "excavat[ion]" in subsection

(g)(2)(iv) of this section.

In subsection (g)(2)(iv) of this section, the reference to the "submerged archaeological historic property" is substituted for the former reference to the "subject property of the permit" for clarity.

In subsection (i)(2) of this section, the reference to objects or materials "removed" from a submerged archaeological historic property is substituted for the former reference to objects or materials "taken, collected, or otherwise disturbed" from a submerged archaeological historic property for brevity.

Also in subsection (i)(2) of this section, the reference to an action that took place "on or after July 1, 1998" is substituted for the former reference to an action that took place "following the effective date of this section" for clarity. *See* Ch. 503, Acts of 1988.

The Housing Article Review Committee notes, for consideration by the General Assembly, that in subsection (a) of this section, the former reference to "substantively" injure is deleted because it is implied by the word "injure". Accordingly, in subsections (b), (e), and (f) of this section, former references to "substantive" injury are deleted.

Defined terms: "Department" § 1-101

"Director" § 5-401

"Person" § 1-101

"Submerged" § 5-401

"Submerged archaeological historic property" § 5-433

"Trust" § 5-401

"Undertaking" § 5-401

5-442. TERRESTRIAL ARCHAEOLOGICAL EXCAVATION.

(A) PERMIT -- REQUIRED.

WITHOUT A PERMIT, A PERSON MAY NOT EXCAVATE, REMOVE, DESTROY, INJURE, DEFACE, OR DISTURB A TERRESTRIAL ARCHAEOLOGICAL SITE ON LAND THAT THE STATE OWNS OR CONTROLS.

(B) SAME -- EXCEPTION.

THE TRUST DOES NOT NEED A PERMIT TO DO ANYTHING FOR WHICH A PERMIT IS REQUIRED UNDER THIS SECTION.

(C) SAME -- ISSUANCE.

THE TRUST MAY ISSUE A PERMIT TO EXCAVATE A TERRESTRIAL ARCHAEOLOGICAL SITE ON LAND THE STATE OWNS OR CONTROLS TO ANY PERSON THAT THE TRUST DETERMINES IS QUALIFIED TO CONDUCT AN EXCAVATION TO

COLLECT OBJECTS AND MATERIALS OF HISTORICAL OR ARCHAEOLOGICAL VALUE OR INTEREST.

(D) CONDUCT OF EXCAVATIONS.

A TERRESTRIAL ARCHAEOLOGICAL EXCAVATION MAY BE CONDUCTED ONLY TO BENEFIT A REPUTABLE MUSEUM, AN INSTITUTION OF HIGHER EDUCATION, OR ANOTHER RECOGNIZED SCIENTIFIC OR HISTORICAL INSTITUTION OR ORGANIZATION, SO AS TO INCREASE KNOWLEDGE AND APPRECIATION OF HISTORICAL AND ARCHAEOLOGICAL OBJECTS AND MATERIALS.

(E) REGULATIONS.

THE TRUST MAY ADOPT REGULATIONS TO ENSURE THAT OBJECTS AND MATERIALS COLLECTED IN A TERRESTRIAL ARCHAEOLOGICAL EXCAVATION ARE PROPERLY SAFEGUARDED AND PRESERVED.

(F) ENFORCEMENT.

THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY ENFORCE THE PROVISIONS OF THIS SUBTITLE RELATING TO TERRESTRIAL ARCHAEOLOGICAL HISTORIC PROPERTY IN THE SAME MANNER AS PROVIDED IN § 5-441(I) OF THIS SUBTITLE FOR SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 5-625, 5-626, and, except as it related to archaeological historic property found in caves, 5-629(a).

In subsection (a) of this section, the words "remove", "deface", and "disturb" are added to conform to § 5-441(a) of this subtitle. Similarly, the former reference to "appropriate" is deleted.

In subsection (b) of this section, the reference to a permit "to do anything for which a permit is required under" this section is substituted for the former reference to a permit for any "undertaking provided for by" this section for clarity.

Also in subsection (b) of this section, the former reference to "§ 5-626 of this subtitle" is deleted because former Art. 83B, § 5-626 is revised as part of this section.

In subsection (c) of this section, the reference to a person that "the Trust determines" is qualified is substituted for the former reference to a person that "in the Trust's judgment" is qualified, for clarity and consistency with similar language used in the introductory language of § 5-441(f)(2) of this subtitle.

Also in subsection (c) of this section, the reference to "collect[ing]" objects and materials is substituted for the former reference to "gather[ing]" objects and materials for consistency with similar language used in §

5-441(c)(1) of this subtitle.

Also in subsection (c) of this section, the former reference to a permit for an "archaeological" excavation is deleted in light of the reference to a permit to excavate a terrestrial "archaeological" site.

Also in subsection (c) of this section, the former reference to an "institution" is deleted as included in the defined term "person". *See* § 1-101 of this article.

In subsection (d) of this section, the reference to "historical and" archaeological objects and materials is added for consistency with subsection (c) of this section.

In subsection (e) of this section, the former references to "rules" are deleted in light of the references to "regulations". *See* General Revisor's Note to article.

Also in subsection (e) of this section, the reference to objects and materials "collected in a terrestrial archaeological excavation" is substituted for the former reference to "the" objects and materials for clarity.

Also in subsection (e) of this section, the former phrase "for the people of the State" is deleted as surplusage.

In subsection (f) of this section, the reference to "the Director's designee" is added to conform to the enforcement provisions for permits for submerged archaeological historic property under 5-441(i) of this subtitle.

Defined terms: "Director" § 5-401

"Person" § 1-101

"Preservation" § 5-401

"Submerged archaeological historic property" § 5-433

"Terrestrial" § 5-401

"Trust" § 5-401

5-443. CAVES.

(A) IN GENERAL.

(1) THIS SECTION APPLIES TO ALL ARCHAEOLOGICAL, PREHISTORIC, AND HISTORIC FEATURES FOUND IN ANY CAVE, INCLUDING:

(I) ALL OR ANY PART OF ANY BURIAL GROUNDS, HISTORIC OR PREHISTORIC RUINS, AND ARCHAEOLOGICAL SITES; AND

(II) RELICS, INSCRIPTIONS, SALTPETER WORKINGS, FOSSILS, BONES, AND REMAINS OF HISTORICAL HUMAN ACTIVITY.

(2) WITHOUT A PERMIT ISSUED UNDER THIS SECTION, A PERSON MAY NOT EXCAVATE, REMOVE, DESTROY, INJURE, DEFACE, OR DISTURB FEATURES FOUND IN A CAVE.

(B) PERMITS FOR CAVES ON STATE LAND.

IN ACCORDANCE WITH §§ 5-441 AND 5-442 OF THIS SUBTITLE, AN INDIVIDUAL TRAINED IN ARCHAEOLOGY MAY APPLY FOR AND BE ISSUED A PERMIT TO EXCAVATE OR REMOVE FEATURES DESCRIBED IN SUBSECTION (A) OF THIS SECTION FROM OR IN A CAVE ON LAND THAT THE STATE OWNS OR CONTROLS BY RIGHTS UNDER A LEASE, OPTION CONTRACT, OR PURCHASE CONTRACT.

(C) PERMITS FOR CAVES ON PRIVATELY OWNED LAND.

(1) AN INDIVIDUAL MAY APPLY FOR A PERMIT TO EXCAVATE OR REMOVE ARCHAEOLOGICAL, PREHISTORIC, AND HISTORIC FEATURES FROM A CAVE ON PRIVATELY OWNED LAND.

(2) AN APPLICANT FOR A PERMIT SHALL:

(I) BE TRAINED IN ARCHAEOLOGY;

(II) GIVE THE TRUST A DETAILED STATEMENT OF THE PURPOSES AND OBJECTIVES OF THE PROPOSED EXCAVATION OR REMOVAL;

(III) AGREE TO PROVIDE THE TRUST WITH INFORMATION FROM AND RESULTS OF ANY EXCAVATION, STUDY, OR COLLECTION IN ACCORDANCE WITH THE TERMS OF THE PERMIT;

(IV) OBTAIN THE PRIOR WRITTEN CONSENT OF THE OWNER OF THE LAND ON WHICH THE EXCAVATION OR REMOVAL WILL BE CONDUCTED; AND

(V) AGREE TO CARRY THE PERMIT WHILE CONDUCTING THE EXCAVATION OR REMOVAL AUTHORIZED BY THE PERMIT.

(3) A PERMIT MAY BE ISSUED FOR A MAXIMUM TERM OF 2 YEARS AND MAY BE RENEWED.

(4) A PERMIT IS NOT TRANSFERABLE, BUT A PERSON WORKING UNDER THE DIRECT SUPERVISION OF THE PERMIT HOLDER NEED NOT OBTAIN A SEPARATE PERMIT.

(D) OWNERSHIP OF OBJECTS OR MATERIALS FOUND IN CAVE ON PRIVATELY OWNED LAND.

ANY OBJECT OR MATERIAL OF ARCHAEOLOGICAL, PREHISTORIC, OR HISTORIC VALUE OR INTEREST FOUND IN A CAVE ON PRIVATELY OWNED LAND IS THE PROPERTY OF THE OWNER OF THE LAND.

(E) IMMUNITY OF OWNER.

IF A PERSON USES A CAVE FOR RECREATIONAL OR SCIENTIFIC PURPOSES WITH THE PRIOR CONSENT OF AND WITHOUT A CHARGE BY THE OWNER AND SUSTAINS AN INJURY, THE OWNER AND AN AUTHORIZED AGENT OF THE OWNER ACTING WITHIN THE SCOPE OF THE AGENT'S AUTHORITY ARE NOT LIABLE FOR THE INJURY.

(F) ENFORCEMENT.

THE DIRECTOR AND THE DIRECTOR'S DESIGNEE MAY ENFORCE THE PROVISIONS OF THIS PART RELATING TO ARCHAEOLOGICAL HISTORIC PROPERTY FOUND IN CAVES IN THE SAME MANNER AS PROVIDED IN § 5-441(I) OF THIS SUBTITLE FOR SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 5-628, 5-601(f), and, except as it related to terrestrial archaeological historic property, 5-629(a).

In subsection (a)(2) of this section, the reference to a person "[w]ithout a permit" is substituted for the former phrase "[e]xcept as provided in subsection (b) of this section" for brevity and to conform to the terminology of §§ 5-441(a) and 5-442(a) of this subtitle.

In subsections (b) and (c)(1) of this section, the references to "apply[ing]" for a permit are substituted for the former references to "request[ing]" a permit for consistency with the reference to "[a]n applicant" in the introductory language of subsection (c)(2) of this section.

Also in subsections (b) and (c)(1) of this section, the references to an "individual" applying for and being issued a permit are substituted for the former references to a "person" applying for and being issued a permit because only a human being trained in archaeology may apply for a permit. *See* § 1-101 of this article.

In subsection (b) of this section, the reference to an individual who may apply for "and be issued" a permit is added to make explicit what was formerly only implied - that the Trust may issue permits to excavate or remove features from caves.

Also in subsection (b) of this section, the reference to "§ 5-441" of this subtitle, which revises former Art. 83B, § 5-620(a), (c) through (h), the first sentence of (b), and the second sentence of (i)(2), is substituted for the former reference to Art. 83B, "§ 5-627" for accuracy, as former § 5-627 did not contain provisions on permits.

In subsection (c)(1) of this section, the former reference to an individual "trained in archaeology" applying for a permit is deleted as duplicative of the requirement in subsection (b) of this section.

In subsection (c)(2)(ii) of this section, the reference to "purposes" is substituted for the former reference to "reasons" for clarity and accuracy.

Also in subsection (c)(2)(ii) of this section, the former reference to "the benefits expected to be obtained from the contemplated work" is deleted as implicit in the reference to "purposes and objectives".

In subsection (c)(2)(iv) of this section, the reference to the prior written consent of the owner "of the land on which the excavation or removal will be conducted" is added for clarity.

Also in subsection (c)(2)(iv) of this section, the reference to the "consent" of the owner is substituted for the former reference to the "permission" of the owner for consistency with language used in subsection (e) of this section.

In subsection (c)(2)(v) of this section, the reference to carrying the permit while "conducting the excavation or removal authorized by the permit" is substituted for the former reference to carrying the permit while "exercising the privileges granted" for clarity and consistency with subsection (b) of this section.

In subsection (c)(3) of this section, the reference to a "maximum term" of 2 years is substituted for the former reference to a "period of up to" 2 years for clarity.

Also in subsection (c)(3) of this section, the former reference to renewing a permit "at expiration" is deleted as implicit in the reference to the possibility that a permit "may be renewed".

In subsection (c)(4) of this section, the statement that a person working under the direct supervision of the permit holder "need not obtain a separate permit" is substituted for the former reference to a permit "not preclud[ing]" a person from working under the direct supervision of the permit holder for clarity.

Defined terms: "Cave" § 5-433

"Director" § 5-401

"Person" § 1-101

"Submerged archaeological historic property" § 5-433

"Trust" § 5-401

5-444. HEARINGS.

(A) RIGHT TO HEARING.

IF THE DIRECTOR OR THE DIRECTOR'S DESIGNEE TAKES ANY ENFORCEMENT ACTION UNDER THIS SUBTITLE AGAINST A PERMIT HOLDER, THE PERMIT HOLDER SHALL BE GIVEN AN OPPORTUNITY FOR A HEARING BEFORE THE SECRETARY.

(B) APPLICATION OF CONTESTED CASE PROVISIONS.

SUBJECT TO SUBSECTION (C) OF THIS SECTION, NOTICE SHALL BE GIVEN AND THE HEARING SHALL BE HELD IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(C) SPECIFIC NOTICE REQUIREMENTS.

THE DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL PROVIDE NOTICE THAT A HEARING WILL BE HELD WITHIN 30 DAYS AFTER THE ENFORCEMENT ACTION, UNLESS A DIFFERENT PERIOD IS AGREED TO BY THE PARTIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 5-620(g)(2) and 5-629(b).

In subsection (b) of this section, the former qualification that a hearing shall be held "[i]f the Director's exercise of powers ... gives rise to a contested case" is deleted because the exercise of the referenced powers would always give rise to a "contested case". The Housing Article Review Committee calls this deletion to the attention of the General Assembly.

Also in subsection (b) of this section, the former reference to holding a hearing "in accordance with ... the Department's regulations" is deleted in light of SG § 10-206 to the same effect.

Defined terms: "Director" § 5-401

"Secretary" § 1-101

5-445. ARCHAEOLOGICAL HISTORIC PROPERTY ON PRIVATELY OWNED LAND.

(A) OPTIONAL STATE PROTECTION.

THE PROVISIONS OF THIS SUBTITLE THAT PROTECT PROPERTY ON LAND UNDER STATE CONTROL IF IT IS SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY, TERRESTRIAL ARCHAEOLOGICAL HISTORIC PROPERTY, OR ARCHAEOLOGICAL HISTORIC PROPERTY IN A CAVE MAY APPLY TO SIMILAR HISTORIC PROPERTY ON PRIVATELY OWNED LAND IF:

(1) THE OWNER ASKS THE TRUST IN WRITING TO APPLY THE PROVISIONS TO THE PROPERTY; AND

(2) THE TRUST DETERMINES THAT THE PROPERTY IS ELIGIBLE FOR THE MARYLAND REGISTER OF HISTORIC PROPERTIES AND DESERVES PROTECTION.

(B) USE OF PRIVATELY OWNED LAND.

UNLESS THE STATE CONTROLS PRIVATELY OWNED LAND BY RIGHTS UNDER A LEASE, OPTION CONTRACT, OR PURCHASE CONTRACT, THIS SUBTITLE DOES NOT:

(1) LIMIT THE USE OF THE LAND BY THE OWNER OR THE OWNER'S GUEST; OR

(2) REQUIRE THE OWNER OR GUEST TO HOLD A PERMIT BEFORE CONDUCTING ANY ACTIVITY ON THE LAND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 5-601(f) and 5-621(a) and (b).

In subsection (b)(1) of this section, the former reference to "prohibit" is deleted as included in the reference to "limit".

In subsection (b)(2) of this section, the former reference to "excavation" is deleted as included in the reference to "any activity".

Defined terms: "Submerged archaeological historic property" § 5-433

"Terrestrial" § 5-401

"Trust" § 5-401

5-446. PROHIBITED ACTS; PENALTIES.

(A) IN GENERAL.

(1) A PERSON WHO VIOLATES § 5-439, § 5-441, § 5-442, OR § 5-443 OF THIS SUBTITLE, OR A REGULATION ADOPTED UNDER ANY OF THOSE SECTIONS IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 30 DAYS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

(2) IF A PERSON IS FOUND GUILTY OF A VIOLATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COURT:

(I) MAY IMPOSE COSTS AGAINST THE PERSON; AND

(II) ON REQUEST BY THE TRUST, MAY REVOKE ANY PERMIT ISSUED TO THE PERSON UNDER § 5-440, § 5-441, § 5-442, OR § 5-443 OF THIS SUBTITLE.

(3) EACH DAY ON WHICH A VIOLATION OCCURS IS A SEPARATE VIOLATION.

(B) VIOLATIONS OF PERMITS.

(1) A PERSON WHO VIOLATES ANY TERM OF A PERMIT ISSUED UNDER § 5-441 OF THIS SUBTITLE FOR USE OF A SUBMERGED ARCHAEOLOGICAL HISTORIC PROPERTY FOR COMMERCIAL SALVAGE OR OTHER INCOME-PRODUCING PURPOSE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$10,000 OR BOTH.

(2) IF A PERSON IS FOUND GUILTY OF A VIOLATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COURT:

(I) MAY IMPOSE COSTS AGAINST THE PERSON; AND

(II) ON REQUEST BY THE TRUST, MAY REVOKE THE PERSON'S PERMIT.

(3) EACH DAY ON WHICH A VIOLATION OCCURS IS A SEPARATE VIOLATION.

(C) APPROPRIATION OF MATERIALS AND RECORDED INFORMATION.

MATERIALS AND RECORDED INFORMATION OBTAINED IN VIOLATION OF § 5-439, § 5-441, § 5-442, OR § 5-443 OF THIS SUBTITLE ARE SUBJECT TO APPROPRIATION BY THE STATE AND WILL BE MANAGED, CARED FOR, AND ADMINISTERED BY THE TRUST.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-630.

In subsections (a)(1) and (b)(1) of this section, the former references to an "entity" are deleted as included in the defined term "person". *See* § 1-101 of this article.

In subsections (a)(1) and (c) of this section, the references to violations of "§ 5-439, § 5-441, § 5-442, or § 5-443" of this subtitle are substituted for the former references to violations of "§§ 5-620 and 5-625 through 5-628" of this subtitle even though §§ 5-439, 5-441, 5-442, and 5-443 add material to, and omit material from, the former law. However, since the provisions added or omitted cannot be subject to "violation" as contemplated by subsections (a) and (c) of this section, no substantive change results.

In subsections (a)(2) and (b)(2) of this section, the introductory language, "[i]f a person is found guilty of a violation under paragraph (1) of this subsection" is added for clarity.

In subsections (a)(2)(i) and (b)(2)(i) of this section, the references to the court imposing costs "against the person" are added for clarity.

In subsection (a)(2)(ii) of this section, the former phrase "if the person or entity holds a permit" issued under certain sections is deleted as implicit in the reference to "revok[ing] any permit" issued "to the person" under those sections.

In subsections (a)(3) and (b)(3) of this section, the references to each day "on which a violation occurs [being] a separate violation" is substituted for the former references to "[a] separate offense ... exist[ing] for" each day "a violation continues" for consistency with standard language used in other revised articles of the Code.

Defined terms: "Person" § 1-101

"Submerged archaeological historic property" § 5-433

"Trust" § 5-401

5-447. RESERVED.

5-448. RESERVED.

PART V. HISTORICAL AND CULTURAL MUSEUM ASSISTANCE PROGRAM.

5-449. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 5-702(a).

The reference to this "part" is substituted for the former reference to this "subtitle" to reflect the organization of this revision.

(B) OPERATING SUPPORT.

"OPERATING SUPPORT" MEANS MONEY FOR NECESSARY ADMINISTRATIVE, TECHNICAL, OR PROFESSIONAL SERVICES, AND RELATED EXPENSES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 5-702(e).

The reference to "money for" certain expenses is added for clarity.

(C) PANEL.

"PANEL" MEANS THE MUSEUM ASSISTANCE REVIEW PANEL.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to the "Museum Assistance Review Panel".

(D) PROGRAM.

"PROGRAM" MEANS THE HISTORICAL AND CULTURAL MUSEUM ASSISTANCE PROGRAM.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 5-702(f).

No changes are made.

REVISOR'S NOTE TO SECTION: Former Art. 83B, § 5-702(b), which defined "local jurisdiction" to mean any county or any municipal corporation subject to Md. Constitution, Art. XI-E and any duly authorized agency or instrumentality of a local jurisdiction, is deleted in light of the defined term "political subdivision" and the word "unit". See § 1-101 of this article and the General Revisor's Note to article.

5-450. SCOPE.

THIS PART APPLIES TO A MUSEUM IN THE STATE THAT:

- (1) IS ORGANIZED ON A NONPROFIT BASIS FOR ESSENTIALLY EDUCATIONAL OR PRESERVATION PURPOSES;
- (2) CARES FOR TANGIBLE INANIMATE OBJECTS THAT THE MUSEUM OWNS OR USES;
- (3) EXHIBITS THOSE OBJECTS TO THE PUBLIC ON A REGULAR SCHEDULE; AND
- (4) INTERPRETS THE STATE'S CULTURAL HERITAGE, HISTORY, NATURAL HISTORY, OR HISTORY OF SCIENCE AND TECHNOLOGY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-702(c).

It is revised as a scope section for clarity.

5-451. FINDINGS.

(A) IN GENERAL.

THE GENERAL ASSEMBLY FINDS THAT:

- (1) MUSEUMS PRESENT, INTERPRET, AND PRESERVE UNUSUAL AND SIGNIFICANT OBJECTS OF THE STATE'S HERITAGE FOR THE BENEFIT, ENJOYMENT, AND EDUCATION OF THE RESIDENTS OF THE STATE;
- (2) MUSEUMS ARE UNIQUE AND BENEFICIAL RESOURCES THAT SUPPLEMENT THE STATE'S EDUCATIONAL SYSTEM;
- (3) MUSEUMS ARE REPOSITORIES AND CARETAKERS OF IRREPLACEABLE CULTURAL OBJECTS FOR THE BENEFIT OF TODAY'S GENERATION AND GENERATIONS YET TO COME;
- (4) MUSEUMS, INCLUDING THOSE LOCATED IN SMALL COMMUNITIES, PLAY AN IMPORTANT AND COST-EFFECTIVE ROLE IN THE STATE'S LEISURE TIME AND TOURISM INDUSTRY;
- (5) IT IS NOT FEASIBLE OR DESIRABLE TO DISPLAY THE ENTIRE HISTORY AND HERITAGE OF THE STATE IN A SINGLE FACILITY AT ONE LOCATION;
- (6) THE HISTORY AND HERITAGE OF THE STATE SHOULD BE DISPLAYED AND INTERPRETED TO THE PUBLIC WHERE THE HISTORY HAPPENED AND THE HERITAGE AROSE, SO THAT CENTERS OF COMMUNITY PRIDE MAY BE CREATED AND TOURIST ACTIVITY MAY BE DISPERSED THROUGHOUT THE STATE; AND

(7) THE PUBLIC INTEREST IS SERVED BY HELPING MUSEUMS TO BECOME MORE ACCESSIBLE AND BY HELPING RESIDENTS OF THE STATE AND VISITORS TO UNDERSTAND THE STATE'S DIVERSE HERITAGE.

(B) FINANCIAL ASSISTANCE IN PUBLIC INTEREST.

THE GENERAL ASSEMBLY FINDS THAT THE PUBLIC INTEREST IS SERVED BY ESTABLISHING A PROGRAM OF FINANCIAL ASSISTANCE TO SUPPORT THE UPGRADE, CARE, RESEARCH, INTERPRETATION, DOCUMENTATION, AND DISPLAY OF THE STATE'S IRREPLACEABLE MUSEUM COLLECTIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-701.

In subsections (a) and (b) of this section, the former references to a "declar[ation]" are deleted as surplusage.

In subsection (a) of this section, the former references to "[h]istorical and cultural heritage" museums are deleted in light of § 5-450(4) of this subtitle.

In subsection (a)(1) of this section, the reference to "the residents of the State" is substituted for the former reference to "the citizens from every community in the State" for consistency throughout this article. Similarly, in subsection (a)(7) of this section, references to "residents" are substituted for the former references to "citizens" and "citizenry". *See* General Revisor's Note to article.

In subsection (a)(7) of this section, the former reference to "cultural" heritage is deleted as surplusage.

Defined term: "Financial assistance" § 5-401

5-452. ESTABLISHED.

THERE IS A HISTORICAL AND CULTURAL MUSEUM ASSISTANCE PROGRAM OF THE TRUST.

REVISOR'S NOTE: This section formerly was Art. 83B, § 5-703(a).

It is set forth as a separate section for emphasis.

The only changes are in style.

Defined term: "Trust" § 5-401

5-453. PURPOSE OF PROGRAM.

(A) IN GENERAL.

THE PURPOSE OF THE PROGRAM IS TO PROVIDE POLITICAL SUBDIVISIONS AND NONPROFIT ORGANIZATIONS WITH FINANCIAL ASSISTANCE FOR MUSEUMS.

(B) GRANTS.

THE PROGRAM SHALL MAKE GRANTS FROM THE MHT GRANT FUND UNDER § 5-428 OF THIS SUBTITLE TO POLITICAL SUBDIVISIONS AND NONPROFIT ORGANIZATIONS FOR USE BY MUSEUMS FOR:

- (1) RESEARCH RELATED TO COLLECTIONS, EXHIBITS, OR OTHER EDUCATIONAL ACTIVITIES;
- (2) THE CARE, CONSERVATION, INTERPRETATION, AND DOCUMENTATION OF COLLECTIONS;
- (3) THE PLANNING, DESIGN, AND CONSTRUCTION OF EXHIBITS;
- (4) EDUCATIONAL PROGRAMS AND PROJECTS;
- (5) THE DEVELOPMENT OF MASTER PLANS FOR MUSEUMS, INCLUDING ACTIVITIES REQUIRED TO ACHIEVE ACCREDITATION BY THE AMERICAN ASSOCIATION OF MUSEUMS OR ANOTHER APPROPRIATE ENTITY;
- (6) MINOR STRUCTURAL MODIFICATIONS TO EXISTING MUSEUM FACILITIES;
- (7) THE DEVELOPMENT OF PLANS AND SPECIFICATIONS AND THE PROVISION OF ARCHITECTURAL, ENGINEERING, OR OTHER SPECIAL SERVICES DIRECTLY RELATED TO THE CONSTRUCTION OR REHABILITATION OF MUSEUM FACILITIES; OR
- (8) OPERATING SUPPORT FOR ANY MUSEUM-RELATED ACTIVITY, INCLUDING ACTIVITIES DESCRIBED IN ITEMS (1) THROUGH (7) OF THIS SUBSECTION.

(C) REPORT.

ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE TRUST SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE FINANCIAL STATUS AND THE ACTIVITIES OF THE PROGRAM FOR THE PRECEDING FISCAL YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 5-703(b), 5-705(b)(1), and, as it applied to the Historical and Cultural Museum Assistance Program, 5-613(i)(3).

In subsection (a) of this section, the former reference to "private" nonprofit organizations is deleted as surplusage.

Defined terms: "Nonprofit organization" § 1-101

"Operating support" § 5-449

"Political subdivision" § 1-101

"Program" § 5-449

"Trust" § 5-401

5-454. MUSEUM ASSISTANCE REVIEW PANEL.

(A) ESTABLISHED.

THERE IS A MUSEUM ASSISTANCE REVIEW PANEL IN THE PROGRAM.

(B) MEMBERSHIP.

(1) THE PANEL SHALL INCLUDE AS MEMBERS:

(I) THE PRESIDENT OF THE SENATE OR THE PRESIDENT'S
DESIGNEE; AND

(II) THE SPEAKER OF THE HOUSE OF DELEGATES OR THE
SPEAKER'S DESIGNEE.

(2) THE SECRETARY SHALL APPOINT THE OTHER MEMBERS OF THE
PANEL.

(3) OF THE MEMBERS THAT THE SECRETARY APPOINTS:

(I) ONE SHALL BE A REPRESENTATIVE OF THE EXECUTIVE
BRANCH WITH FUNCTIONS RELATED TO THE PURPOSES OF THE PROGRAM; AND

(II) THE OTHERS SHALL FAIRLY REPRESENT MUSEUMS ELIGIBLE
FOR ASSISTANCE UNDER THIS PART.

(C) DUTIES.

(1) THE PANEL SHALL:

(I) ADVISE THE SECRETARY AND THE STAFF OF THE TRUST
REGARDING PROGRAM POLICIES AND ACTIVITIES;

(II) REVIEW APPLICATIONS FOR GRANTS UNDER THE PROGRAM
AND RECOMMEND APPROVAL OR DISAPPROVAL TO THE SECRETARY; AND

(III) SEEK THE ADVICE AND RECOMMENDATIONS OF THE STATE
ARCHIVIST IN REVIEWING GRANT APPLICATIONS THAT RELATE IN ANY PART TO THE
CARE AND PRESERVATION OF, OR ACCESS TO, ARCHIVAL MATERIAL.

(2) THE PANEL SHALL RECOMMEND APPROVAL OF A GRANT ONLY
AFTER A COMPETITIVE SELECTION PROCESS.

REVISOR'S NOTE: This section is new language derived without substantive
change from former Art. 83B, § 5-704.

Subsection (b) of this section, which revises former Art. 83B, § 5-704(a)(2)

and (3), does not require a certain number of members on the Panel but does require the inclusion of certain State officials or their designees. The regulations governing this Program require the Secretary to appoint a panel with a membership of nine members, three of whom are the State officials or their designees and six of whom have museum-related experience and represent geographic diversity and the variety of museums eligible for grant assistance. The regulations grant the Secretary authority to add more members to the Panel as its responsibilities may require. *See* COMAR 05.08.04.07.

In subsection (b) of this section, the former reference to "ex officio" members is deleted as surplusage as it refers to the President of the Senate, the Speaker of the House, and the Secretary; and as erroneous as it refers to their designees.

In subsection (c)(1)(ii) of this section, the requirement that the Panel "recommend approval or disapproval" of grant applications is substituted for the former reference to the requirement that the Panel "make recommendations ... for approval" for clarity.

Defined terms: "Panel" § 5-449

"Program" § 5-449

"Secretary" § 1-101

"Trust" § 5-401

5-455. DUTIES OF TRUST.

(A) ADMINISTRATION OF PROGRAM.

THE TRUST SHALL ADMINISTER THE PROGRAM AND COORDINATE THE PROGRAM WITH FEDERAL, STATE, AND PRIVATE PROGRAMS THAT COMPLEMENT OR FACILITATE CARRYING OUT THE PROGRAM.

(B) SURVEY, ASSISTANCE, AND PLANNING.

THE TRUST SHALL:

(1) SURVEY THE LOCATIONS, RESOURCES, AND NEEDS OF MUSEUMS IN THE STATE;

(2) PROVIDE TECHNICAL AND GENERAL ADVISORY ASSISTANCE TO MUSEUMS THAT QUALIFY OR SEEK TO QUALIFY FOR GRANTS UNDER THE PROGRAM; AND

(3) ENCOURAGE MUSEUMS TO DEVELOP LONG-RANGE PLANS AND TO ACHIEVE ACCREDITATION BY THE AMERICAN ASSOCIATION OF MUSEUMS OR ANOTHER APPROPRIATE ENTITY THAT ACCREDITS MUSEUMS AND HELPS THEM TO MEET PROFESSIONAL STANDARDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-705(a) and (c).

In subsection (a)(1) of this section, the former references to "[m]anage" and "supervise" are deleted in light of the reference to "administer[ing]" the Program.

Defined terms: "Program" § 5-449

"Trust" § 5-401

5-456. MUSEUM INELIGIBILITY.

THE TRUST MAY NOT MAKE A GRANT TO A MUSEUM THAT:

- (1) CURRENTLY IS RECEIVING OPERATING SUPPORT FROM THE MARYLAND STATE ARTS COUNCIL;
- (2) IS OPERATED WHOLLY OR PARTLY BY THE STATE; OR
- (3) HAS NOT EXISTED AS A NONPROFIT ORGANIZATION FOR AT LEAST 3 YEARS BEFORE APPLYING FOR THE GRANT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-705(b)(2) and (5).

In item (3) of this section, the defined term "nonprofit organization" is substituted for the former reference to a "nonprofit institution" to conform to terminology used throughout this article.

Defined terms: "Nonprofit organization" § 1-101

"Operating support" § 5-449

"Trust" § 5-401

5-457. RESERVE MONEY.

IN ANY FISCAL YEAR, THE SECRETARY MAY RESERVE UP TO 20% OF THE MONEY AVAILABLE IN THE MHT GRANT FUND UNDER § 5-428 OF THIS SUBTITLE FOR UNANTICIPATED PROJECTS ELIGIBLE FOR ASSISTANCE UNDER § 5-453 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-705(b)(3).

The reference to the MHT Grant Fund "under § 5-428 of this subtitle" is added for clarity.

Defined term: "Secretary" § 1-101

5-458. REGULATIONS.

- (A) IN GENERAL.

THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE PROGRAM, INCLUDING:

- (1) APPLICATION AND REVIEW PROCEDURES;
 - (2) PROCEDURES FOR ADEQUATE PUBLIC NOTICE OF ASSISTANCE AVAILABLE UNDER THE PROGRAM; AND
 - (3) SELECTION STANDARDS THAT THE PANEL SHALL CONSIDER IN REVIEWING APPLICATIONS FOR GRANTS.
- (B) SELECTION STANDARDS.

SELECTION STANDARDS UNDER SUBSECTION (A)(3) OF THIS SECTION INCLUDE:

- (1) THE RELATIVE MERITS OF THE PROJECT OR ACTIVITIES WITHIN IDENTIFIED STATEWIDE NEEDS;
- (2) THE EXTENT TO WHICH THE APPROPRIATE POLITICAL SUBDIVISION CONTRIBUTES TO SUPPORT THE PROJECT;
- (3) THE POTENTIAL FOR THE PROJECT TO STIMULATE INCREASED TOURISM, MUSEUM ATTENDANCE, OR MUSEUM SELF-SUFFICIENCY; AND
- (4) OTHER RELEVANT FACTORS, SUCH AS THE EXTENT TO WHICH THE PROJECT HELPS ACHIEVE EQUAL GEOGRAPHIC DISTRIBUTION OF GRANT ASSISTANCE THROUGHOUT THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 5-705(d) and (b)(4).

In subsection (a)(3) of this section, the reference to "reviewing" applications for grants is substituted for the former reference to "recommending approval of" applications to avoid the erroneous implication that all applications for grants must be approved.

In the introductory language of subsection (b) of this section, the former reference to "[a] set of" selection standards is deleted as surplusage.

Defined terms: "Department" § 1-101

"Panel" § 5-449

"Political subdivision" § 1-101

"Program" § 5-449

5-459. FALSE STATEMENTS OR REPORTS.

- (A) PROHIBITED.

A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A MATERIAL MISSTATEMENT OF FACT IN A STATEMENT OR REPORT IN OR REGARDING AN APPLICATION FOR A GRANT OR AFFECTING A GRANT ALREADY MADE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 2 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. 83B, § 5-705(e).

Defined term: "Person" § 1-101

TITLE 6. DIVISION OF NEIGHBORHOOD REVITALIZATION.

SUBTITLE 1. DIVISION ESTABLISHED.

6-101. DIVISION ESTABLISHED.

(A) ESTABLISHED.

THERE IS A DIVISION OF NEIGHBORHOOD REVITALIZATION.

(B) NEIGHBORHOOD BUSINESS DEVELOPMENT PROGRAM.

THE DIVISION OF NEIGHBORHOOD REVITALIZATION INCLUDES THE NEIGHBORHOOD BUSINESS DEVELOPMENT PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 4-101(a) and (b).

In subsection (a) of this section, the former reference to the Division being "an organizational unit within the Department" is deleted in light of § 2-201 of this article.

6-102. DUTIES OF DIVISION.

(A) ADMINISTRATION OF REVITALIZATION PROGRAMS.

THE DIVISION OF NEIGHBORHOOD REVITALIZATION SHALL ADMINISTER COMMERCIAL AND MIXED-USE REVITALIZATION PROGRAMS TO ENCOURAGE PHYSICAL AND ORGANIZATIONAL IMPROVEMENTS TO BUSINESS AREAS.

(B) ADMINISTRATION OF FINANCIAL ASSISTANCE.

TO CARRY OUT COMMERCIAL AND MIXED-USE REVITALIZATION PROGRAMS, THE DIVISION OF NEIGHBORHOOD REVITALIZATION SHALL ADMINISTER STATE AND FEDERAL GRANTS AND LOANS AND OTHER FINANCIAL ASSISTANCE TO:

(1) POLITICAL SUBDIVISIONS, LOCAL PUBLIC AGENCIES, NONPROFIT ORGANIZATIONS, NEIGHBORHOOD OR COMMUNITY ORGANIZATIONS, OR PRIVATE PARTIES; OR

(2) CORPORATIONS OR FOUNDATIONS WHOSE NET EARNINGS ARE INVESTED TO FOSTER, ENCOURAGE, HELP, OR CARRY OUT COMMUNITY ASSISTANCE ACTIVITIES, PROJECTS, OR PROGRAMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 4-101(c) and (d)(3).

In the introductory language of subsection (b) of this section, the reference to "commercial and mixed-use revitalization programs" is substituted for the former reference to "commercial and mixed-use revitalization and rehabilitation programs" for consistency with § 6-101 of this subtitle.

In subsection (b)(2) of this section, former Art. 83B, § 4-101(d)(3), which defined "community reinvestment corporation", is revised as a substantive provision for clarity.

Also in subsection (b)(2) of this section, the former reference to earnings that are invested "in activities, projects or programs" to foster, encourage, or carry out community assistance activities, projects, or programs is deleted as surplusage.

Defined terms: "Financial assistance" § 1-101

"Nonprofit organization" § 1-101

"Political subdivision" § 1-101

6-103. COMMERCIAL AND MIXED-USE REVITALIZATION PROGRAMS.

(A) PURPOSE OF PROGRAMS.

A COMMERCIAL OR MIXED-USE REVITALIZATION PROGRAM PROVIDES ASSISTANCE FOR DOWNTOWN OR BUSINESS AREA COMMERCIAL MANAGEMENT, PROMOTION, AND REVITALIZATION.

(B) AREAS OF ASSISTANCE.

ASSISTANCE MAY BE IN AN AREA SUCH AS:

(1) MARKET SURVEYING, GRANTSMANSHIP, ORGANIZATION, ECONOMIC DEVELOPMENT, DESIGN, OR SIMILAR SERVICES; OR

(2) FACILITATING ESTABLISHMENT OF A COMMERCIAL DISTRICT MANAGEMENT AUTHORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 4-101(d)(2).

This section is revised as a substantive section rather than as a definition subsection for clarity.

Former Art. 83B, § 4-101(d)(1), which was the introduction to a definition section, is deleted because this title does not contain title-wide defined

terms.

SUBTITLE 2. COMMUNITY LEGACY PROGRAM.

6-201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 4-801(a).

No changes are made.

(B) APPLICATION.

"APPLICATION" MEANS AN APPLICATION TO THE BOARD THAT INCLUDES A REQUEST TO:

- (1) DESIGNATE AN AREA AS A COMMUNITY LEGACY AREA;
- (2) APPROVE A COMMUNITY LEGACY PLAN; OR
- (3) APPROVE A COMMUNITY LEGACY PROJECT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 4-801(b).

Defined terms: "Board" § 6-201

"Community legacy area" § 6-201

(C) BOARD.

"BOARD" MEANS THE COMMUNITY LEGACY BOARD.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 4-801(c).

No changes are made.

(D) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.

"COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION" HAS THE MEANING STATED IN 12 U.S.C. § 4702.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 4-801(d).

The former reference to 12 U.S.C. § 4702 "as amended" is deleted in light of Art. 1, § 21.

The only changes are in style.

(E) COMMUNITY DEVELOPMENT ORGANIZATION.

"COMMUNITY DEVELOPMENT ORGANIZATION" MEANS AN ENTITY THAT MEETS THE QUALIFICATIONS OF § 6-204 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to "community development organization".

(F) COMMUNITY LEGACY AREA.

"COMMUNITY LEGACY AREA" MEANS THE PART OF A PRIORITY FUNDING AREA THAT, AS DETERMINED BY THE BOARD, SATISFIES THE REQUIREMENTS OF § 6-206 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 4-801(g).

Defined terms: "Board" § 6-201

"Priority funding area" § 6-201

(G) COMMUNITY LEGACY AGREEMENT.

"COMMUNITY LEGACY AGREEMENT" MEANS AN AGREEMENT BETWEEN THE DEPARTMENT AND A SPONSOR TO DEVELOP A COMMUNITY LEGACY PLAN OR TO IMPLEMENT ONE OR MORE COMMUNITY LEGACY PROJECTS IN A DESIGNATED COMMUNITY LEGACY AREA.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 4-801(f).

The only changes are in style.

Defined terms: "Community legacy area" § 6-201

"Community legacy plan" § 6-201

"Department" § 1-101

(H) COMMUNITY LEGACY PLAN.

"COMMUNITY LEGACY PLAN" MEANS A PLAN CONSISTING OF ONE OR MORE COMMUNITY LEGACY PROJECTS TO PREVENT OR REVERSE THE DECLINE OF OR DISINVESTMENT IN A COMMUNITY LEGACY AREA THROUGH IMPROVEMENTS IN RESIDENTIAL, COMMERCIAL, OR OTHER PUBLIC OR PRIVATE PROPERTIES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 9-801(h), as it related to what community legacy projects may compose a community legacy plan.

Defined terms: "Community legacy area" § 6-201

"Community legacy project" § 6-201

(I) COMMUNITY LEGACY PROJECT.

"COMMUNITY LEGACY PROJECT" INCLUDES PROJECTS TO:

- (1) CREATE, IMPROVE, OR PRESERVE HOUSING OPPORTUNITIES BY ACQUIRING, CONSTRUCTING, REHABILITATING, OR IMPROVING NEW OR EXISTING RESIDENTIAL PROPERTIES;
- (2) DEMOLISH BUILDINGS OR IMPROVEMENTS STRATEGICALLY TO ENHANCE THE USE OF LAND;
- (3) CREATE, IMPROVE, OR PRESERVE COMMERCIAL OR MIXED-USE DEVELOPMENT, INCLUDING AN APPROPRIATE COMBINATION OF PROPERTIES RELATED TO BUSINESS, HOUSING, OPEN-SPACE, AND INSTITUTIONAL USES;
- (4) DEVELOP PUBLIC INFRASTRUCTURE THAT IS INCIDENTAL TO THE IMPLEMENTATION OF A COMMUNITY LEGACY PROJECT, SUCH AS STREETS, PARKING, PUBLIC UTILITIES, LANDSCAPING, LIGHTING, AND IMPROVEMENTS TO PEDESTRIAN AND BICYCLE CIRCULATION;
- (5) ENCOURAGE AND DEVELOP COOPERATIVE OWNERSHIP OR CONTROL OF OPEN SPACE;
- (6) DEVELOP OR CREATE STRATEGIES DESIGNED TO INCREASE INVESTMENT IN EXISTING COMMUNITIES, INCLUDING OUTREACH ACTIVITIES TO ATTRACT BUSINESS, CAPITAL, RESIDENTS, AND VISITORS AND THE DEVELOPMENT AND MAINTENANCE OF RESOURCES DIRECTLY RELATED TO THE DEVELOPMENT OF A COMMUNITY LEGACY PLAN OR THE IMPLEMENTATION OF A COMMUNITY LEGACY PROJECT;
- (7) ENGAGE IN LANDBANKING OR OTHERWISE ACQUIRE OR IMPROVE VACANT BUILDINGS OR UNIMPROVED LAND;
- (8) PROVIDE FINANCIAL ASSISTANCE FOR NEIGHBORHOOD INTERVENTION PROJECTS; OR
- (9) DEVELOP OTHER PLANS OR IMPLEMENT OTHER PROJECTS AS THE BOARD CONSIDERS NECESSARY TO FURTHER THE PURPOSES OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 4-801(i)(2).

In item (1) of this subsection, the reference to "residential" properties is substituted for the former reference to "homeownership or rental" properties for brevity.

In item (5) of this subsection, the reference to ownership "or" control is substituted for the former reference to ownership "and" control to clarify that "ownership" and "control" need not be inextricably linked.

Defined terms: "Board" § 6-201

"Community legacy plan" § 6-201

"Financial assistance" § 1-101

"Landbanking" § 6-201

"Neighborhood intervention project" § 6-201

(J) FINANCIAL ASSISTANCE.

"FINANCIAL ASSISTANCE" INCLUDES:

- (1) A GRANT;
- (2) A LOAN;
- (3) A REDUCTION IN THE PRINCIPAL OBLIGATION OF OR RATE OF INTEREST PAYABLE ON A LOAN OR PORTION OF A LOAN;
- (4) A PREPAYMENT OF INTEREST ON A SUBORDINATE OR SUPERIOR LOAN OR PORTION OF A LOAN;
- (5) AN ASSURANCE;
- (6) A GUARANTEE; OR
- (7) ANY OTHER FORM OF CREDIT ENHANCEMENT.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 4-801(j).

The only changes are in style.

(K) LANDBANKING.

"LANDBANKING" MEANS ACQUIRING OR HOLDING IMPROVED AND UNIMPROVED PROPERTY:

- (1) IN ANTICIPATION OF FUTURE DEVELOPMENT OF THE PROPERTY; OR
- (2) TO KEEP THE FUTURE USE OF THE PROPERTY AND IMPROVEMENTS AFFORDABLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 4-801(k).

(L) PRIORITY FUNDING AREA.

"PRIORITY FUNDING AREA" MEANS AN AREA DESIGNATED AS A PRIORITY FUNDING AREA UNDER § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 4-801(n).

No changes are made.

(M) PROGRAM.

"PROGRAM" MEANS THE COMMUNITY LEGACY PROGRAM ESTABLISHED BY THIS SUBTITLE.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 4-801(o).

No changes are made.

REVISOR'S NOTE TO SECTION: Former Art. 83B, § 4-801(l), which defined "local government" to mean any of the 23 counties of the State, the City of Baltimore, a municipal corporation of the State subject to Md. Constitution, Art. XI-E or any of their duly authorized agencies or instrumentalities, is deleted in light of the defined terms "political subdivision" and "governmental unit".

6-202. COMMUNITY LEGACY PROGRAM.

(A) ESTABLISHED.

THERE IS A COMMUNITY LEGACY PROGRAM.

(B) ADMINISTRATION.

THE DEPARTMENT AND THE BOARD SHALL ADMINISTER THE PROGRAM.

(C) PURPOSES OF PROGRAM.

THE PURPOSES OF THE PROGRAM ARE TO:

(1) PRESERVE EXISTING COMMUNITIES AS DESIRABLE PLACES TO LIVE AND CONDUCT BUSINESS TO REDUCE OUTWARD PRESSURE FOR SPRAWL DEVELOPMENT; AND

(2) PROVIDE FINANCIAL ASSISTANCE TO SPONSORS OR THEIR DESIGNEES TO DEVELOP COMMUNITY LEGACY PLANS OR COMMUNITY LEGACY PROJECTS.

(D) PARTNERSHIPS.

THE PROGRAM SHALL ENCOURAGE PARTNERSHIPS AMONG THE FEDERAL GOVERNMENT, THE STATE GOVERNMENT, POLITICAL SUBDIVISIONS, AND COMMUNITY DEVELOPMENT ORGANIZATIONS TO DEVELOP AND IMPLEMENT COMMUNITY LEGACY PLANS AND COMMUNITY LEGACY PROJECTS.

(E) SPONSORS.

A COMMUNITY LEGACY PLAN OR A COMMUNITY LEGACY PROJECT MAY BE SPONSORED BY A POLITICAL SUBDIVISION, A GROUP OF POLITICAL SUBDIVISIONS, A COMMUNITY DEVELOPMENT ORGANIZATION, OR A COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 4-802 and 4-801(q).

In subsection (a) of this section, the former statement that the Program is "within the Department" is deleted in light of § 2-201 of this article.

In subsections (d) and (e) of this section, the defined term "political subdivision" is substituted for the former reference to "local government" to conform to the terminology used throughout this article.

In subsection (e) of this section, the former defined term "sponsor" is revised as a substantive provision for clarity.

Defined terms: "Board" § 6-201

"Community development financial institution" § 6-201

"Community development organization" § 6-201

"Community legacy plan" § 6-201

"Community legacy project" § 6-201

"Department" § 1-101

"Financial assistance" § 6-201

"Political subdivision" § 1-101

"Program" § 6-201

6-203. COMMUNITY LEGACY BOARD.

(A) ESTABLISHED.

THERE IS A COMMUNITY LEGACY BOARD.

(B) MEMBERSHIP.

THE BOARD CONSISTS OF THE FOLLOWING FIVE MEMBERS:

- (1) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT;
- (2) THE SECRETARY OF NATURAL RESOURCES;
- (3) THE SECRETARY OF PLANNING;
- (4) THE SECRETARY OF TRANSPORTATION; AND
- (5) THE GOVERNOR'S SPECIAL SECRETARY FOR SMART GROWTH.

(C) CHAIR.

THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT IS THE CHAIR OF THE BOARD.

(D) STAFF.

THE DEPARTMENT SHALL PROVIDE STAFF TO THE BOARD.

(E) POWERS.

THE BOARD MAY:

- AND
- (1) EXERCISE ALL POWERS NECESSARY TO CARRY OUT THIS SUBTITLE;
 - (2) RECOMMEND TO THE SECRETARY THE ADOPTION OF REGULATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 4-803.

In subsection (a) of this section, the former reference that the Board is "in the Department" is deleted in light of § 2-201 of this article.

In subsection (c) of this section, the reference to the "chair" is substituted for the former reference to the "chairman" because SG § 2-1238 requires the use of words that are neutral as to gender to the extent practicable. *See* General Revisor's Note to article.

In subsection (e)(1) of this section, the former reference to the Board's "hav[ing]" powers is deleted as implicit in the reference to the Board's authority to exercise those powers.

The Housing Article Review Committee notes, for consideration by the General Assembly, that in subsection (b)(5) of this section, the position of the Governor's Special Secretary for Smart Growth is currently vacant, and no appointment is anticipated.

Defined terms: "Board" § 6-201

"Department" § 1-101

"Secretary" § 1-101

6-204. COMMUNITY DEVELOPMENT ORGANIZATION.

A CORPORATION, FOUNDATION, OR OTHER LEGAL ENTITY QUALIFIES AS A COMMUNITY DEVELOPMENT ORGANIZATION IF:

- (1) ITS PURPOSE IS TO IMPROVE THE PHYSICAL, ECONOMIC, OR SOCIAL ENVIRONMENT OF THE AREA WHERE IT OPERATES; AND
- (2) NO PART OF ITS NET EARNINGS INURES TO THE BENEFIT OF A PRIVATE SHAREHOLDER OR INDIVIDUAL HOLDING AN INTEREST IN THAT ENTITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 4-801(e).

It is revised as a substantive provision rather than as a definition subsection for clarity.

Defined term: "Community development organization" § 6-101

6-205. APPLICATIONS FOR COMMUNITY LEGACY PLANS OR PROJECTS.

(A) IN GENERAL.

A SPONSOR MAY FILE ONE OR MORE APPLICATIONS IN ACCORDANCE WITH THE SCHEDULES THAT THE BOARD ESTABLISHES.

(B) CONTENTS.

AN APPLICATION SHALL SET FORTH:

(1) A DESCRIPTION OF ONE OR MORE COMMUNITY LEGACY AREAS WHERE THE SPONSOR PROPOSES TO DEVELOP A COMMUNITY LEGACY PLAN OR TO CARRY OUT A COMMUNITY LEGACY PROJECT USING THE STANDARDS LISTED IN § 6-206 OF THIS SUBTITLE;

(2) A DETAILED DESCRIPTION OF THE PROPOSED COMMUNITY LEGACY PLAN OR PROPOSED COMMUNITY LEGACY PROJECT;

(3) THE AMOUNT AND TYPE OF FINANCIAL ASSISTANCE SOUGHT;

(4) THE ABILITY OF THE SPONSOR TO CARRY OUT THE PROPOSED COMMUNITY LEGACY PLAN OR COMMUNITY LEGACY PROJECT;

(5) THE STRENGTH AND QUALITY OF PARTNERSHIPS CREATED AMONG THE FEDERAL GOVERNMENT, THE STATE GOVERNMENT, POLITICAL SUBDIVISIONS, COMMUNITY DEVELOPMENT ORGANIZATIONS, AND OTHER PRIVATE ORGANIZATIONS TO DEVELOP THE COMMUNITY LEGACY PLAN OR CARRY OUT THE COMMUNITY LEGACY PROJECT, INCLUDING:

(I) FINANCIAL SUPPORT;

(II) DEDICATION OF STAFF AND RESOURCES; AND

(III) COMMITMENT TO AND DEVELOPMENT OF LOCAL SMART GROWTH POLICIES;

(6) PROPOSED BENCHMARKS FOR EVALUATING WHETHER THE PROPOSED COMMUNITY LEGACY PLAN OR COMMUNITY LEGACY PROJECT RESULTS IN A DESIRED OUTCOME FOR A PROPOSED COMMUNITY LEGACY AREA, SUCH AS:

(I) STABILIZING IT;

(II) REVERSING ITS SOCIAL, ECONOMIC, OR PHYSICAL DECLINE; OR

(III) ENCOURAGING GROWTH IN IT; AND

(7) THE PROCESS USED TO SEEK AND RECEIVE PUBLIC INPUT ON THE PROPOSED COMMUNITY LEGACY PLAN OR COMMUNITY LEGACY PROJECT, INCLUDING THE NATURE AND EXTENT OF PUBLIC SUPPORT OR OPPOSITION.

(C) BOARD APPROVAL REQUIRED.

A COMMUNITY LEGACY PLAN OR A COMMUNITY LEGACY PROJECT DOES NOT TAKE EFFECT UNTIL ITS SPONSOR HAS SUBMITTED TO THE BOARD AN APPLICATION FOR ITS APPROVAL AND THE BOARD HAS APPROVED IT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 4-804 and 4-801(i)(1) and, as it related to the submission of a community legacy plan by a sponsor to the Board, (h).

Subsection (c) of this section is revised as a substantive subsection rather than as a definition subsection for clarity.

In subsection (c) of this section, the phrase "take effect" is added to make explicit what was formerly only implied -- that a sponsor's submission of a community legacy plan or a community legacy project to the Board is a prerequisite for putting the plan or project into effect.

Defined terms: "Application" § 6-201

"Board" § 6-201

"Community development organization" § 6-201

"Community legacy area" § 6-201

"Community legacy plan" § 6-201

"Community legacy project" § 6-201

"Financial assistance" § 6-201

"Political subdivision" § 1-101

6-206. DESIGNATION OF COMMUNITY LEGACY AREA.

THE BOARD MAY DESIGNATE AN AREA AS A COMMUNITY LEGACY AREA IF THE SPONSOR DEMONSTRATES THAT PAST AND CURRENT TRENDS IN HOMEOWNERSHIP, PROPERTY VALUES, COMMERCIAL AND RESIDENTIAL VACANCY, AND BUSINESS OR HOUSING INVESTMENT SHOW A NEED FOR REINVESTMENT IN THE AREA AND IF:

(1) ENTITIES IN THE COMMUNITY, SUCH AS EMPLOYERS, EDUCATIONAL INSTITUTIONS, CIVIC ORGANIZATIONS, COMMUNITY ORGANIZATIONS, OR CULTURAL ORGANIZATIONS, SUPPORT THE PROPOSED COMMUNITY LEGACY PLAN OR COMMUNITY LEGACY PROJECT AND HAVE PLEDGED RESOURCES TO DEVELOP OR IMPLEMENT IT;

(2) THE PROPOSED COMMUNITY LEGACY PLAN OR COMMUNITY LEGACY PROJECT ADDRESSES THE NEED FOR REINVESTMENT IN THE AREA AND WILL ENHANCE THE AREA, AND GIVE INDIVIDUALS OF DIFFERENT INCOMES A RANGE OF HOUSING OPTIONS, EMPLOYMENT OPPORTUNITIES, AND OTHER AMENITIES;

(3) A COMMUNITY IN THE PROPOSED AREA IS CULTURALLY OR HISTORICALLY SIGNIFICANT;

(4) THE PROPOSED AREA IS NEAR A TOWN CENTER OR A TRANSPORTATION CENTER; OR

(5) THE PROPOSED COMMUNITY LEGACY PLAN OR COMMUNITY LEGACY PROJECT IS CONSISTENT WITH AND COMPLEMENTS OTHER EXISTING OR PROPOSED PROJECTS FOR HOUSING, COMMERCIAL OR COMMUNITY DEVELOPMENT, EDUCATION, HISTORIC PRESERVATION, NEIGHBORHOOD REVITALIZATION, TRANSPORTATION, OR OTHER THINGS SIGNIFICANT TO THE COMPREHENSIVE ENHANCEMENT OF THE COMMUNITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 4-805.

In item (2) of this section, the former reference to "amenities" is deleted as surplusage.

In item (3) of this section, the former reference to "communities" is deleted in light of the reference to a "community" and Art. 1, § 8, which provides that the singular generally includes the plural.

In item (4) of this section, the word "near" is substituted for the former phrase "in close proximity to" for brevity.

Defined terms: "Board" § 6-201

"Community legacy area" § 6-201

"Community legacy plan" § 6-201

"Community legacy project" § 6-201

6-207. ACTION ON APPLICATION.

(A) DUTIES OF BOARD.

THE BOARD SHALL:

(1) REVIEW EACH APPLICATION AND MAY REQUEST MORE INFORMATION FROM THE SPONSOR;

(2) ACCEPT PUBLIC INPUT ON EACH APPLICATION;

(3) SUBMIT EACH APPLICATION TO APPROPRIATE STATE UNITS AND CONSIDER ANY RECOMMENDATION A STATE UNIT MAKES;

(4) CONSIDER GEOGRAPHIC BALANCE WHEN REVIEWING APPLICATIONS;

(5) GIVE PRIORITY IN AWARDING FINANCIAL ASSISTANCE TO APPLICANTS THAT ARE LIKELY TO REPAY THE FINANCIAL ASSISTANCE TO A COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION OR TO THE COMMUNITY LEGACY FINANCIAL ASSISTANCE FUND; AND

(6) REFER TO THE SECRETARY EACH APPLICATION THAT IT APPROVES.

(B) APPROVAL OF POLITICAL SUBDIVISION.

(1) THE BOARD MAY NOT APPROVE AN APPLICATION UNLESS THE POLITICAL SUBDIVISION IN WHICH THE PROPOSED PROJECT IS LOCATED APPROVES THE APPLICATION BY RESOLUTION.

(2) IF AN APPLICATION AFFECTS A COMMUNITY LEGACY AREA ENTIRELY WITHIN A MUNICIPAL CORPORATION, THE APPROVAL MUST COME FROM THE MUNICIPAL CORPORATION RATHER THAN THE SURROUNDING COUNTY.

(3) IF AN APPLICATION AFFECTS A COMMUNITY LEGACY AREA WITHIN MORE THAN ONE POLITICAL SUBDIVISION, EACH POLITICAL SUBDIVISION MUST APPROVE IT BY RESOLUTION.

(C) DUTY OF SECRETARY.

THE SECRETARY SHALL AWARD FINANCIAL ASSISTANCE TO A SPONSOR OR A SPONSOR'S DESIGNEE:

- AND
- (1) IN THE AMOUNT AND OF THE TYPE THAT THE BOARD DETERMINES;
 - (2) UNDER THE TERMS OF A COMMUNITY LEGACY AGREEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 4-806.

In subsection (a)(1), (2), and (3) of this section, the references to "each application" are substituted for the former references to "applications" in light of Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (a)(4) of this section, the reference to "reviewing" is substituted for the former reference to "approving" to avoid the erroneous implication that all applications must be approved.

In subsection (b)(1) and (3) of this section, the references to a "political subdivision" are substituted for the former references to a "local government" to conform to the terminology used throughout this article.

Defined terms: "Application" § 6-201

"Board" § 6-201

"Community development financial institution" § 6-201

"Community legacy agreement" § 6-201

"Community legacy area" § 6-201

"County" § 1-101

"Financial assistance" § 6-201

"Political subdivision" § 1-101

"Secretary" § 1-101

6-208. COMMUNITY LEGACY AGREEMENT.

(A) IN GENERAL.

THE DEPARTMENT AND THE SPONSOR SHALL EXECUTE A COMMUNITY LEGACY AGREEMENT.

(B) COMPLIANCE.

THE SPONSOR SHALL COMPLY WITH THE TERMS OF THE COMMUNITY LEGACY AGREEMENT AND ANY REGULATIONS THE DEPARTMENT ADOPTS TO CARRY OUT THIS SUBTITLE.

(C) NONCAPITAL EXPENDITURES.

NOT MORE THAN 15% OF THE TOTAL FINANCIAL ASSISTANCE THAT THE PROGRAM PROVIDES MAY BE USED FOR NONCAPITAL EXPENDITURES.

(D) VIOLATION.

THE DEPARTMENT MAY EXERCISE ANY REMEDY PROVIDED UNDER THE COMMUNITY LEGACY AGREEMENT OR BY LAW IF A SPONSOR:

- (1) VIOLATES ANY PROVISION OF THE COMMUNITY LEGACY AGREEMENT; OR
- (2) CEASES TO MEET THE REQUIREMENTS OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 4-807.

Defined terms: "Community legacy agreement" § 6-201

"Department" § 1-101

"Financial assistance" § 6-201

"Program" § 6-201

6-209. POWERS OF DEPARTMENT TO IMPLEMENT PROGRAM.

(A) IN GENERAL.

SUBJECT TO THIS SECTION, THE DEPARTMENT HAS THE POWERS NECESSARY OR DESIRABLE TO IMPLEMENT THE PROGRAM.

(B) FINANCIAL ASSISTANCE.

(1) THE DEPARTMENT MAY DETERMINE THE TERMS AND CONDITIONS FOR FINANCIAL ASSISTANCE AWARDED UNDER § 6-207(C) OF THIS SUBTITLE.

(2) FINANCIAL ASSISTANCE MAY BE SECURED BY A MORTGAGE, LIEN, OR SECURITY INTEREST THAT IS SUPERIOR TO OR SUBORDINATE TO OTHER MORTGAGES, LIENS, OR SECURITY INTERESTS.

(3) THE DEPARTMENT MAY ESTABLISH TIME LIMITS FOR THE USE OF FINANCIAL ASSISTANCE.

(C) ENFORCEMENT.

(1) THE DEPARTMENT MAY ENFORCE THE TERMS AND CONDITIONS OF THE FINANCIAL ASSISTANCE GIVEN UNDER THIS SUBTITLE.

(2) NOTWITHSTANDING ANY OTHER LAW, IF A LOAN OR GRANT IS SECURED BY A FIRST OR SUBORDINATE MORTGAGE OR OTHER LIEN, THE DEPARTMENT MAY:

(I) BEGIN AN ACTION TO PROTECT OR ENFORCE ANY RIGHT GIVEN BY LAW, A CONTRACT, OR OTHER AGREEMENT;

(II) FORECLOSE ON PROPERTY;

(III) PURCHASE PROPERTY AT ANY FORECLOSURE OR OTHER SALE, OR ACQUIRE OR TAKE POSSESSION OF THE PROPERTY THROUGH CONVEYANCE IN LIEU OF FORECLOSURE OR OTHERWISE, AND CONVEY PROPERTY AFTER ACQUIRING IT;

(IV) SETTLE OR COMPROMISE ANY DEBT OR OBLIGATION OWED TO THE DEPARTMENT;

(V) PAY THE PRINCIPAL OF AND INTEREST ON ANY OBLIGATION INCURRED IN CONNECTION WITH THE PROPERTY, AND DISPOSE OF OR OTHERWISE DEAL WITH THE PROPERTY TO PROTECT THE INTERESTS OF THE PROGRAM; OR

(VI) RELEASE OR SELL ANY MORTGAGE, OBLIGATION, OR PROPERTY THAT THE DEPARTMENT HOLDS AT PUBLIC OR PRIVATE SALE, WITH OR WITHOUT PUBLIC BIDDING.

(D) AGREEMENTS.

(1) THE DEPARTMENT MAY CONTRACT WITH ANY PERSON, INCLUDING A PRIVATE PROPERTY MANAGER, MORTGAGE SERVICER, ARCHITECT, ENGINEER, OR OTHER PROPERTY CONSULTANT, OR WITH ANY GOVERNMENTAL UNIT, FOR PROPERTY OR SERVICES NECESSARY TO OPERATE THE PROGRAM OR TO IMPLEMENT COMMUNITY LEGACY PROJECTS.

(2) THE DEPARTMENT MAY MAKE AGREEMENTS WITH OTHER GOVERNMENTAL UNITS TO ESTABLISH PARTNERSHIPS TO CARRY OUT THE PROGRAM.

(3) THE DEPARTMENT MAY CONTRACT FOR AND ACCEPT ANY GRANT, CONTRIBUTION, OR LOAN OF MONEY, PROPERTY, OR OTHER AID FROM THE FEDERAL GOVERNMENT AND MAY DO ALL THINGS CONSISTENT WITH THIS SUBTITLE TO QUALIFY FOR THE AID OR PARTICIPATE IN OR ADMINISTER A FEDERAL PROGRAM.

(E) LOANS.

IN CONNECTION WITH LOANS THAT IT MAKES, THE DEPARTMENT MAY:

(1) REQUIRE AND OBTAIN APPRAISALS, CREDIT INFORMATION, AND OTHER PERTINENT INFORMATION; AND

(2) CHARGE INTEREST.

(F) MODIFICATIONS.

WHEN IT IS CONSISTENT WITH THE BEST INTERESTS OF THE STATE TO DO SO, THE DEPARTMENT MAY CONSENT TO THE MODIFICATION OF ANY PROVISION OF ANY LOAN OR OTHER FINANCIAL ASSISTANCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 4-808.

In subsection (b)(2) of this section, the former phrase "on the collateral" is deleted as implicit in the reference to "security interests".

In subsection (c)(1) of this section, the former references to the "grants, loans or other" financial assistance are deleted as included in the defined term "financial assistance".

In subsection (c)(2)(i) of this section, the former reference to "pursu[ing]" an action is deleted as implicit in the reference to "begin[ning]" the action.

In subsection (c)(2)(iii) of this section, the former reference to "[b]id for" is deleted in light of the reference to "purchase".

In subsection (c)(2)(iv) of this section, the reference to a debt or obligation "owed" to the Department is added for clarity.

In subsection (c)(2)(v) of this section, the former phrase "all in any manner and as necessary or desirable to protect the interests of the Program" is deleted as surplusage.

In subsection (d)(2) of this section, the reference to "other governmental units" is substituted for the former reference to "local, State, or federal agencies" for brevity.

Defined terms: "Community legacy project" § 6-201

"Department" § 1-101

"Financial assistance" § 6-201

"Governmental unit" § 1-101

"Person" § 1-101

"Program" § 6-201

6-210. NEIGHBORHOOD INTERVENTION PROJECTS.

(A) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION AS SPONSOR.

(1) A COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION MAY SPONSOR A NEIGHBORHOOD INTERVENTION PROJECT TO GIVE FINANCIAL ASSISTANCE TO INDIVIDUALS OR BUSINESS ENTITIES THAT ARE OWNER-OCCUPANTS, COMMUNITY DEVELOPMENT ORGANIZATIONS, OR POLITICAL SUBDIVISIONS TO:

(I) BUY PROPERTIES THAT NEED REHABILITATION AND ARE IN OTHERWISE STABLE NEIGHBORHOODS; AND

(II) REDEVELOP THE PROPERTIES THROUGH REHABILITATION, DEMOLITION, RECONSTRUCTION, OR RE-USE.

(2) TO RECEIVE FINANCIAL ASSISTANCE FOR A NEIGHBORHOOD INTERVENTION PROJECT, A COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION SHALL AGREE TO USE THE FINANCIAL ASSISTANCE, AND ANY REPAYMENTS AND PREPAYMENTS, PRIMARILY TO MAKE LOANS FOR THE PURPOSES LISTED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(B) POLITICAL SUBDIVISION AS SPONSOR.

(1) A POLITICAL SUBDIVISION OR ITS GOVERNMENTAL UNIT MAY SPONSOR A NEIGHBORHOOD INTERVENTION PROJECT TO DEMOLISH PROPERTY IMPROVEMENTS THAT ARE:

(I) DANGEROUS FOR USE OR OCCUPANCY;

(II) SO DETERIORATED THAT REHABILITATION IS NOT FEASIBLE;

AND

(III) LOCATED IN OTHERWISE STABLE NEIGHBORHOODS.

(2) A POLITICAL SUBDIVISION OR ITS GOVERNMENTAL UNIT MAY SPONSOR A NEIGHBORHOOD INTERVENTION PROJECT TO DEMOLISH IMPROVEMENTS ON PROPERTY TO PREPARE THE PROPERTY FOR REVITALIZATION, REDEVELOPMENT, OR RE-USE AS A PART OF A REDEVELOPMENT PLAN THAT THE BOARD APPROVES.

(3) TO RECEIVE FINANCIAL ASSISTANCE FOR A NEIGHBORHOOD INTERVENTION PROJECT UNDER PARAGRAPH (1)(I), (II), OR (III) OF THIS SUBSECTION, A POLITICAL SUBDIVISION SHALL AGREE TO REPAY THE FINANCIAL ASSISTANCE TO THE COMMUNITY LEGACY FINANCIAL ASSISTANCE FUND, UP TO THE AMOUNT THE POLITICAL SUBDIVISION RECEIVES FROM:

(I) THE NET PROCEEDS OF THE SALE OF THE PROPERTY ON WHICH THE DEMOLITION TOOK PLACE; OR

(II) ANY PAYMENT TO THE POLITICAL SUBDIVISION RELATING TO THE PROPERTY, INCLUDING ANY PAYMENT FOR THE COSTS OF DEMOLISHING THE IMPROVEMENTS ON THE PROPERTY.

(C) WAIVER OF REQUIREMENTS.

(1) FOR AN APPLICATION THAT REQUESTS FINANCIAL ASSISTANCE ONLY FOR A NEIGHBORHOOD INTERVENTION PROJECT, THE BOARD MAY WAIVE THE REQUIREMENTS OF §§ 6-205(B)(1) AND 6-206 OF THIS SUBTITLE REGARDING THE DESIGNATION OF A COMMUNITY LEGACY AREA AND A COMMUNITY LEGACY PLAN.

(2) ON REQUEST FROM A SPONSOR, THE BOARD MAY GRANT A FULL OR PARTIAL WAIVER OF THE REQUIREMENTS OF SUBSECTIONS (B)(2)(I) OR (II) OR (E)(4) OR (5) OF THIS SECTION.

(D) FINANCIAL ASSISTANCE -- IN GENERAL.

(1) THE BOARD ANNUALLY SHALL ALLOCATE AT LEAST 10% OF THE COMMUNITY LEGACY FINANCIAL ASSISTANCE FUND TO NEIGHBORHOOD INTERVENTION PROJECTS.

(2) THE BOARD MAY NOT AWARD MORE THAN \$500,000 FOR ANY NEIGHBORHOOD INTERVENTION PROJECT.

(E) SAME -- REQUIREMENTS FOR DEMOLITION AND REDEVELOPMENT PREPARATION.

TO RECEIVE FINANCIAL ASSISTANCE FOR A NEIGHBORHOOD INTERVENTION PROJECT TO DEMOLISH IMPROVEMENTS AND PREPARE PROPERTY FOR REVITALIZATION, REDEVELOPMENT, OR RE-USE AS A PART OF A REDEVELOPMENT PLAN, THE SPONSOR MUST PROVIDE EVIDENCE, AT THE TIME OF APPLICATION:

(1) OF A LEGAL INTEREST IN THE PROPERTY THROUGH:

(I) OWNERSHIP OF THE PROPERTY;

(II) A CONTRACT, OPTION, OR OTHER LEGAL RIGHT TO ACQUIRE THE PROPERTY; OR

(III) THE RIGHT TO DEMOLISH THE IMPROVEMENTS ON THE PROPERTY;

(2) OF AN INTENTION TO REVITALIZE, REDEVELOP, OR RE-USE THE PROPERTY AS PART OF A REDEVELOPMENT PLAN APPROVED BY THE BOARD;

(3) OF COMPLIANCE WITH THE REQUIREMENTS OF §§ 5-425 AND 5-426 OF THIS ARTICLE AND § 13-1112(B) OF THE FINANCIAL INSTITUTIONS ARTICLE;

(4) THAT THE SPONSOR WILL CONTRIBUTE AN AMOUNT AT LEAST EQUAL TO THE FINANCIAL ASSISTANCE FROM THE PROGRAM TOWARDS THE DEMOLITION OF THE IMPROVEMENTS ON THE PROPERTY;

(5) OF AN AGREEMENT TO REPAY THE FINANCIAL ASSISTANCE TO THE COMMUNITY LEGACY FINANCIAL ASSISTANCE FUND, UP TO THE AMOUNT RECEIVED BY THE SPONSOR FROM:

(I) THE NET PROCEEDS OF THE SALE OF THE PROPERTY; OR

(II) ANY PAYMENTS TO THE SPONSOR RELATING TO THE PROPERTY, INCLUDING ANY PAYMENT FOR THE COSTS INCURRED IN DEMOLISHING THE IMPROVEMENTS ON THE PROPERTY; AND

(6) THAT THE FINANCIAL ASSISTANCE FROM THE PROGRAM SHALL BE THE LEAST AMOUNT NECESSARY TO COMPLETE THE PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 4-812 and 4-801(m) and (p).

In subsections (a) and (b) of this section, the former defined term "neighborhood intervention project" is revised as substantive provisions for clarity. Similarly, in subsection (b) of this section, the former defined term "redevelopment plan" is revised as a substantive provision.

Also in subsections (a) and (b) of this section, the defined term "political subdivision" is substituted for the former references to a "local government" to conform to the terminology used throughout this article.

Defined terms: "Board" § 6-201

"Community development financial institution" § 6-201

"Community development organization" § 6-201

"Community legacy area" § 6-201

"Community legacy plan" § 6-201

"Financial assistance" § 6-201

"Governmental unit" § 1-101

"Political subdivision" § 1-101

"Program" § 6-201

6-211. REPORTS.

(A) BY SPONSOR.

THE SPONSOR SHALL SUBMIT TO THE BOARD QUARTERLY PROGRESS REPORTS ON THE DEVELOPMENT OF A COMMUNITY LEGACY PLAN OR THE IMPLEMENTATION OF A COMMUNITY LEGACY PROJECT.

(B) BY BOARD.

(1) THE BOARD SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON OR BEFORE EACH OCTOBER 31.

(2) THE REPORT SHALL INCLUDE:

(I) THE FINANCIAL STATUS OF THE PROGRAM FOR THE PRECEDING FISCAL YEAR, INCLUDING THE AMOUNT AND TYPE OF FINANCIAL ASSISTANCE ENCUMBERED AND DISBURSED;

(II) THE NUMBER OF APPLICATIONS RECEIVED;

(III) THE NUMBER AND LOCATION OF COMMUNITY LEGACY AREAS DESIGNATED; AND

(IV) A SUMMARY OF THE QUARTERLY REPORTS SUBMITTED BY SPONSORS UNDER SUBSECTION (A) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 4-809.

In subsection (b) of this section, the reference to "on or before each October 31" is substituted for the former reference to "before November 1 of each year" for clarity.

Defined terms: "Application" § 6-201

"Board" § 6-201

"Community legacy area" § 6-201

"Community legacy plan" § 6-201

"Community legacy project" § 6-201

"Financial assistance" § 6-201

"Program" § 6-201

6-212. ADVISORY COMMITTEE.

(A) ESTABLISHED.

THERE IS AN ADVISORY COMMITTEE TO THE BOARD.

(B) DUTIES.

THE COMMITTEE SHALL:

(1) MAKE RECOMMENDATIONS TO THE BOARD CONCERNING COMMUNITY LEGACY AREAS, COMMUNITY LEGACY PLANS, AND COMMUNITY LEGACY PROJECTS; AND

(2) CONSIDER THE MATTERS THAT THE BOARD REQUESTS.

(C) MEMBERSHIP.

(1) THE COMMITTEE CONSISTS OF THE FOLLOWING 11 MEMBERS APPOINTED BY THE GOVERNOR:

(I) ONE MEMBER TO REPRESENT THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT;

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(II) ONE MEMBER TO REPRESENT THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION;

(III) ONE MEMBER TO REPRESENT THE DEPARTMENT OF GENERAL SERVICES;

(IV) ONE MEMBER TO REPRESENT THE STATE ECONOMIC GROWTH, RESOURCE PROTECTION, AND PLANNING COMMISSION; AND

(V) SEVEN MEMBERS WITH EXPERIENCE AND EXPERTISE IN COMMUNITY DEVELOPMENT AND PRESERVATION.

(2) MEMBERS WITH EXPERIENCE AND EXPERTISE IN COMMUNITY DEVELOPMENT AND PRESERVATION MAY INCLUDE REPRESENTATIVES OF POLITICAL SUBDIVISIONS, ADVOCACY ORGANIZATIONS, THE BUSINESS COMMUNITY, AND THE PUBLIC.

(D) QUALIFICATION.

TO THE EXTENT POSSIBLE, THE MEMBERS SHALL REFLECT THE GEOGRAPHIC AND ETHNIC DIVERSITY OF THE STATE.

(E) TENURE.

(1) THE TERM OF A MEMBER IS 3 YEARS.

(2) A MEMBER MAY NOT SERVE MORE THAN TWO TERMS CONSECUTIVELY.

(3) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMITTEE ON OCTOBER 1, 2005.

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

(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.

(F) COMPENSATION.

A MEMBER:

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

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

(G) CHAIR.

THE GOVERNOR SHALL DESIGNATE A CHAIR FROM AMONG THE MEMBERS OF THE COMMITTEE.

(H) STAFF.

THE DEPARTMENT SHALL PROVIDE STAFF TO THE COMMITTEE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 4-810.

In subsection (a) of this section, the former statement that the Advisory Committee is "in the Department" is deleted as implicit in the statement that the Advisory Committee is "to the Board".

In subsection (d) of this section, the former reference to the members "appointed by the Governor" is deleted because all members are appointed by the Governor.

Also in subsection (d) of this section, the former reference to the "population" of the State is deleted in light of the reference to the "ethnic diversity" of the State.

In subsection (e)(3) of this section, the reference to terms being staggered as required by the terms provided for Committee members on "October 1, 2005", is substituted for the former obsolete reference to terms being staggered as required by the terms provided for Committee members on "July 1, 2001". This substitution is not intended to alter the term of any member of the Committee. *See* § ____ of Ch. ____, Acts of 2005. The terms of the members serving on October 1, 2005, end as follows: (1) 4 in 2007; (2) 4 in 2008; and (3) 3 in 2009.

In subsection (f)(1) of this section, the reference to not receiving compensation "as a member of the Committee" is added for clarity.

In subsection (g) of this section, the reference to "chair" is substituted for the former reference to "chairman" because SG § 2-1238 requires the use of words that are neutral as to gender to the extent practicable. *See* General Revisor's Note to article.

The Housing Article Review Committee notes, for consideration by the General Assembly, that the State Economic Growth, Resource Protection, and Planning Commission terminated in July 2003. No replacement member of the Advisory Committee has been appointed.

Defined terms: "Board" § 6-201

"Community legacy area" § 6-201

"Community legacy plan" § 6-201

"Community legacy project" § 6-201

"Political subdivision" § 1-101

6-213. COMMUNITY LEGACY FINANCIAL ASSISTANCE FUND.

(A) "FUND" DEFINED.

IN THIS SECTION, "FUND" MEANS THE COMMUNITY LEGACY FINANCIAL ASSISTANCE FUND.

(B) ESTABLISHED.

THERE IS A COMMUNITY LEGACY FINANCIAL ASSISTANCE FUND.

(C) PURPOSE OF FUND.

THE FUND SHALL BE USED TO CARRY OUT THIS SUBTITLE.

(D) ADMINISTRATION.

(1) THE SECRETARY SHALL ADMINISTER THE FUND IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE BOARD.

(2) THE STATE TREASURER SHALL HOLD AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(E) STATUS.

THE FUND IS A CONTINUING, NONLAPSING SPECIAL FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(F) COMPOSITION.

THE FUND CONSISTS OF:

(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(2) EARNINGS FROM THE INVESTMENT OF MONEY IN THE FUND;

(3) REPAYMENTS AND PREPAYMENTS OF FINANCIAL ASSISTANCE PROVIDED BY THE PROGRAM; AND

(4) ANY OTHER MONEY ACCEPTED FOR THE BENEFIT OF THE FUND FROM ANY GOVERNMENTAL OR PRIVATE SOURCE.

(G) INVESTMENTS.

NOTWITHSTANDING ANY OTHER LAW, THE STATE TREASURER MAY INVEST MONEY IN THE FUND IN THE SAME WAY AS MONEY IS INVESTED BY THE STATE RETIREMENT AND PENSION SYSTEM.

REVISOR'S NOTE: Subsection (a) of this section is new language added to provide a convenient reference to the Community Legacy Financial Assistance Fund.

Subsections (b) through (g) of this section are new language derived without substantive change from former Art. 83B, § 4-811.

In subsection (d) of this section, the former reference to the State Treasurer's "separately" holding the Fund is deleted as surplusage.

In subsection (e) of this section, the reference to a "special" fund is added as standard language used in a provision indicating that any unspent balance remaining at the end of a fiscal year does not revert to the General Fund.

Defined terms: "Board" § 6-201

"Financial assistance" § 6-201

"Program" § 6-201

"Secretary" § 1-101

SUBTITLE 3. NEIGHBORHOOD BUSINESS DEVELOPMENT PROGRAM.

6-301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 4-202(a).

No changes are made.

(B) DESIGNATED NEIGHBORHOOD.

"DESIGNATED NEIGHBORHOOD" MEANS AN AREA APPROVED AS A DESIGNATED NEIGHBORHOOD UNDER § 6-305 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 4-202(b).

The former reference to a "geographically defined" area is deleted as surplusage.

The former phrase "of a local jurisdiction" is deleted as implicit in the word "area".

The former phrase "as an eligible neighborhood" is deleted as surplusage.

Defined term: "Political subdivision" § 1-101

(C) DEVELOPMENT COSTS.

(1) "DEVELOPMENT COSTS" MEANS THE COSTS INCURRED TO CONSTRUCT OR REHABILITATE A NEIGHBORHOOD BUSINESS DEVELOPMENT PROJECT.

- (2) "DEVELOPMENT COSTS" INCLUDES THE COSTS OF:
- (I) NECESSARY STUDIES, SURVEYS, PLANS, AND SPECIFICATIONS;
 - (II) ARCHITECTURAL, ENGINEERING, OR OTHER SPECIAL SERVICES, INCLUDING FLOOD PLAIN STUDIES, ENVIRONMENTAL AUDITS, AND CRITICAL AREA OR WETLAND ASSESSMENTS;
 - (III) LAND AND IMPROVEMENTS;
 - (IV) SITE PREPARATION;
 - (V) CONSTRUCTION, RECONSTRUCTION, AND REHABILITATION;
 - (VI) MACHINERY, EQUIPMENT, AND FURNISHINGS;
 - (VII) ESSENTIAL START-UP OPERATING COSTS, INCLUDING WORKING CAPITAL AND INITIAL OCCUPANCY EXPENSES;
 - (VIII) INDEMNITY AND SURETY BONDS AND PREMIUMS ON INSURANCE;
 - (IX) TEMPORARY RELOCATION EXPENSES; AND
 - (X) OTHER NECESSARY FEES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 4-202(c).

In paragraph (2)(ii) of this subsection, the former phrase "related to construction or rehabilitation" is deleted as surplusage.

(D) FUND.

"FUND" MEANS THE NEIGHBORHOOD BUSINESS DEVELOPMENT FUND.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 4-202(d).

No changes are made.

(E) MICROENTERPRISE.

"MICROENTERPRISE" MEANS A BUSINESS WITH NOT MORE THAN FIVE EMPLOYEES THAT:

- (1) REQUIRES NOT MORE THAN \$35,000 IN TOTAL START-UP CAPITAL;
- AND
- (2) DOES NOT HAVE ACCESS TO THE TRADITIONAL COMMERCIAL BANKING SECTOR.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 4-202(f).

The only changes are in style.

(F) PROGRAM.

"PROGRAM" MEANS THE NEIGHBORHOOD BUSINESS DEVELOPMENT PROGRAM.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full name of the Neighborhood Business Development Program.

(G) PROJECT.

"PROJECT" MEANS A NEIGHBORHOOD BUSINESS DEVELOPMENT PROJECT THAT RECEIVES FINANCIAL ASSISTANCE FROM THE FUND.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 4-202(h).

The only changes are in style.

Defined term: "Fund" § 6-301

(H) SMALL BUSINESS.

"SMALL BUSINESS" MEANS A BUSINESS THAT QUALIFIES AS A SMALL BUSINESS UNDER § 6-302 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to "small business".

For the balance of former Art. 83B, § 4-202(i), *see* § 6-302 of this subtitle.

REVISOR'S NOTE TO SECTION: Former Art. 83B, § 4-202(e), which defined "local jurisdiction", is deleted in light of the definition of "political subdivision" in § 1-101 of this article to the same effect. Throughout this subtitle, references to a "political subdivision" are substituted for the former references to a "local jurisdiction" to conform to the terminology used throughout this article.

6-302. QUALIFYING AS A SMALL BUSINESS.

(A) LIMITS ON NUMBER OF EMPLOYEES AND ANNUAL RECEIPTS.

A BUSINESS QUALIFIES AS A SMALL BUSINESS IF THE NUMBER OF ITS EMPLOYEES AND THE AMOUNT OF ITS ANNUAL RECEIPTS DO NOT EXCEED LIMITS THAT THE DEPARTMENT SETS BY REGULATION.

(B) APPLICATION OF FEDERAL LIMITS.

THE LIMITS THAT THE DEPARTMENT SETS MAY NOT BE LESS RESTRICTIVE THAN THOSE THAT THE FEDERAL SMALL BUSINESS ADMINISTRATION SETS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 4-202(i).

It is revised as a substantive provision rather than as a definition for clarity.

Defined term: "Department" § 1-101

6-303. NEIGHBORHOOD BUSINESS DEVELOPMENT PROGRAM.

(A) ESTABLISHED.

THERE IS A NEIGHBORHOOD BUSINESS DEVELOPMENT PROGRAM.

(B) PURPOSES OF PROGRAM.

THE PURPOSES OF THE PROGRAM ARE, IN DESIGNATED NEIGHBORHOODS, TO:

(1) HELP DEVELOP, REDEVELOP, OR EXPAND SMALL BUSINESSES AND MICROENTERPRISES;

(2) STIMULATE INVESTMENT BY THE PRIVATE SECTOR;

(3) INVEST IN REVITALIZATION PROJECTS FOR SMALL BUSINESSES AND MICROENTERPRISES; AND

(4) STIMULATE POLITICAL SUBDIVISIONS TO PARTICIPATE DEVELOPING AND EXPANDING SMALL BUSINESSES AND MICROENTERPRISES.

(C) COMPONENTS.

THE PROGRAM INCLUDES:

(1) THE BUSINESS DEVELOPMENT PROGRAM; AND

(2) THE CAPITAL ACCESS PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 4-201.

In subsection (b)(1) and (4) of this section, the references to the defined term "small business" are substituted for the former references to "small business enterprises" to conform to the terminology used in this subtitle.

In subsection (b)(4) of this section, the reference to "political subdivisions" is substituted for the former reference to "local jurisdictions". *See* Revisor's Note to § 6-301 of this subtitle.

Defined terms: "Designated neighborhood" § 6-301

"Microenterprise" § 6-301

"Political subdivision" § 1-101

"Program" § 6-301

"Small business" § 6-301

6-304. BUSINESS DEVELOPMENT PROGRAM -- ESTABLISHED; PURPOSE.

(A) ESTABLISHED.

THERE IS A BUSINESS DEVELOPMENT PROGRAM IN THE NEIGHBORHOOD BUSINESS DEVELOPMENT PROGRAM.

(B) PURPOSE OF BUSINESS DEVELOPMENT PROGRAM.

THE BUSINESS DEVELOPMENT PROGRAM SHALL PROVIDE FINANCIAL ASSISTANCE TO PROJECTS IN DESIGNATED NEIGHBORHOODS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 4-203(a) and, as it concerned providing financial assistance to projects in designated neighborhoods, (b).

In subsection (b) of this section, the reference to the requirement that the Business Development Program "provide" financial assistance is added to state expressly what was only implicit in the former law, that financial assistance must be provided to projects by the Business Development Program.

Defined terms: "Designated neighborhood" § 6-301

"Financial assistance" § 1-101

"Project" § 6-301

6-305. SAME -- DESIGNATION OF NEIGHBORHOODS.

WITH THE CONCURRENCE OF THE SECRETARY, A POLITICAL SUBDIVISION MAY APPROVE A DESIGNATED NEIGHBORHOOD AFTER CONSIDERING:

- (1) THE AVAILABILITY, COST, AND CONDITION OF BUSINESS FACILITIES;
- (2) THE AGE AND NUMBER OF ABANDONED STRUCTURES;
- (3) THE AGE AND NUMBER OF SUBSTANDARD STRUCTURES;
- (4) THE INCOME OF RESIDENTS RELATIVE TO STATE OR REGIONAL MEDIAN INCOMES, INCLUDING THE NUMBER OF WELFARE RECIPIENTS;
- (5) THE EXTENT OF UNEMPLOYMENT AND THE AVAILABILITY OF JOBS FOR RESIDENTS;
- (6) THE NEED FOR FINANCING FOR SMALL BUSINESSES, NONPROFIT ORGANIZATIONS, OR MICROENTERPRISES TO UPGRADE SOCIAL AND ECONOMIC CONDITIONS;

(7) THE DEVELOPMENT OR REDEVELOPMENT STRATEGY OF THE POLITICAL SUBDIVISION FOR THE AREA AND ANY PLANS, OR FINANCIAL COMMITMENT TO UNDERTAKE IMPROVEMENTS THERE; AND

(8) OTHER STANDARDS THAT THE DEPARTMENT CONSIDERS RELEVANT AS SET FORTH IN REGULATIONS, INCLUDING STANDARDS ESTABLISHED FOR OTHER STATE OR FEDERAL PROGRAMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 4-203(c).

In the introductory language of this section and in item (7) of this section, the references to a "political subdivision" are substituted for the former reference to "local jurisdictions" to conform to the terminology used throughout this article. *See* Revisor's Note to § 6-301 of this subtitle.

In item (4) of this section, the former reference to the "unemployed" is deleted in light of the reference to "the extent of unemployment" in item (5) of this section.

In item (5) of this section, the former reference to the "designated neighborhood" is deleted as implicit given the reference to a "designated neighborhood" in the introductory language of this section.

In items (6) and (7) of this section, the former references to the "designated neighborhood" are deleted as misleading in that the standards apply before a neighborhood is designated.

In item (8) of this section, the former reference to "relevant" State or federal programs is deleted as surplusage.

Also in item (8) of this section, the former reference to "criteria" is deleted in light of the reference to "standards".

Defined terms: "Department" § 1-101

"Designated neighborhood" § 6-301

"Microenterprise" § 6-301

"Nonprofit organization" § 1-101

"Political subdivision" § 1-101

"Secretary" § 1-101

"Small business" § 6-301

6-306. SAME -- FINANCIAL ASSISTANCE FOR SMALL BUSINESSES.

(A) IN GENERAL.

(1) A SMALL BUSINESS, NONPROFIT ORGANIZATION, OR MICROENTERPRISE MAY APPLY FOR FINANCIAL ASSISTANCE UNDER THE BUSINESS DEVELOPMENT PROGRAM.

(2) THE DEPARTMENT SHALL REVIEW EACH APPLICATION.

(B) QUALIFICATIONS.

AN APPLICANT MAY QUALIFY FOR FINANCIAL ASSISTANCE FOR A PROJECT IN A DESIGNATED NEIGHBORHOOD IF THE APPLICATION DEMONSTRATES THAT:

(1) THE PROJECT HAS SIGNIFICANT COMMITMENTS FOR FINANCING FROM OTHER PRIVATE AND NONSTATE PUBLIC SOURCES THAT ARE SUFFICIENT TO COMPLETE THE PROJECT WITH THE MONEY FROM THE FUND;

(2) THE FINANCIAL ASSISTANCE FROM THE FUND IS THE MINIMUM AMOUNT NECESSARY TO MAKE THE PROJECT FINANCIALLY FEASIBLE;

(3) THE PROJECT IS READY TO PROCEED WHEN IT RECEIVES FINANCIAL ASSISTANCE FROM THE BUSINESS DEVELOPMENT PROGRAM; AND

(4) THE POLITICAL SUBDIVISION HAS ADOPTED A RESOLUTION, OR ITS AUTHORIZED DESIGNEE HAS DELIVERED A LETTER TO THE BUSINESS DEVELOPMENT PROGRAM, THAT EXPRESSES SUPPORT FOR THE PROJECT.

(C) FORMS OF FINANCIAL ASSISTANCE.

FINANCIAL ASSISTANCE UNDER THE BUSINESS DEVELOPMENT PROGRAM MAY BE PROVIDED TO A SMALL BUSINESS, NONPROFIT ORGANIZATION, OR MICROENTERPRISE AS:

(1) A GRANT;

(2) A LOAN;

(3) A REDUCTION IN THE PRINCIPAL OBLIGATION OF OR INTEREST RATE ON A LOAN OR PORTION OF A LOAN;

(4) A PREPAYMENT OF INTEREST ON A SUBORDINATE OR SUPERIOR LOAN OR PORTION OF A LOAN;

(5) AN ASSURANCE;

(6) A GUARANTEE; OR

(7) ANY OTHER FORM OF CREDIT ENHANCEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 4-204 and, as it concerned qualifying for financial assistance, § 4-203(b).

In subsection (a)(1) of this section, the reference to assistance "under the Business Development Program" is added for clarity.

In subsection (b)(4) of this section, the reference to a "political subdivision"

is substituted for the former reference to a "local jurisdiction" to conform to the terminology used throughout this article. *See* Revisor's Note to § 6-301 of this subtitle.

Also in subsection (b)(4) of this section, the former reference to a "local" resolution is deleted in light of the reference to a "political subdivision".

Defined terms: "Department" § 1-101

"Designated neighborhood" § 6-301

"Financial assistance" § 1-101

"Fund" § 6-301

"Microenterprise" § 6-301

"Nonprofit organization" § 1-101

"Political subdivision" § 1-101

"Program" § 6-301

"Project" § 6-301

"Small business" § 6-301

6-307. SAME -- FINANCIAL ASSISTANCE FOR PROJECT DEVELOPMENT COSTS.

(A) IN GENERAL.

FINANCIAL ASSISTANCE UNDER THE BUSINESS DEVELOPMENT PROGRAM SHALL BE ON THE TERMS THAT THE DEPARTMENT CONSIDERS NECESSARY TO MAKE THE PROJECT FINANCIALLY FEASIBLE.

(B) DEVELOPMENT COSTS.

FINANCIAL ASSISTANCE UNDER THE BUSINESS DEVELOPMENT PROGRAM MAY BE USED FOR A PART OF THE PROJECT DEVELOPMENT COSTS.

(C) SECURITY.

THE DEPARTMENT MAY REQUIRE THAT FINANCIAL ASSISTANCE UNDER THE BUSINESS DEVELOPMENT PROGRAM BE SECURED BY A MORTGAGE OR OTHER SECURITY INSTRUMENT, WHICH MAY BE SUBORDINATE TO OTHER SECURITY INTERESTS.

(D) MODIFICATIONS.

THE DEPARTMENT MAY MODIFY THE INTEREST RATE, THE TIME OR AMOUNT OF PAYMENT, OR ANY OTHER TERM OF A GRANT OR LOAN TO FACILITATE THE SUCCESSFUL COMPLETION OR OPERATION OF A PROJECT.

(E) CONTRACTS FOR SERVICES.

THE DEPARTMENT MAY CONTRACT FOR SERVICES RELATED TO THE BUSINESS DEVELOPMENT PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 4-206.

Defined terms: "Department" § 1-101

"Development costs" § 6-301

"Financial assistance" § 6-301

"Project" § 6-301

6-308. SAME -- ADMINISTRATION.

(A) IN GENERAL.

THE DEPARTMENT SHALL:

- (1) ADMINISTER THE BUSINESS DEVELOPMENT PROGRAM;
- (2) ADOPT REGULATIONS TO CARRY OUT THE BUSINESS DEVELOPMENT PROGRAM;
- (3) ESTABLISH, FOR EACH CATEGORY OF FINANCING DESCRIBED IN § 6-306(C) OF THIS SUBTITLE, MINIMUM PERCENTAGES OR AMOUNTS OF PRIVATE AND NONSTATE PUBLIC FINANCING THAT AN APPLICANT FOR THE BUSINESS DEVELOPMENT PROGRAM MUST SECURE; AND
- (4) MAKE A REASONABLE, GOOD FAITH EFFORT TO MAKE 25% OF THE BUSINESS DEVELOPMENT PROGRAM LOANS AND GRANTS TO MICROENTERPRISES.

(B) DISPOSITION OF PROGRAM LOANS AND REVENUES.

THE DEPARTMENT MAY:

- (1) SELL, ASSIGN, OR OTHERWISE DISPOSE OF A PROGRAM LOAN OR REVENUE FROM A LOAN ON TERMS AND CONDITIONS ACCEPTABLE TO THE DEPARTMENT, INCLUDING SELLING LOANS AT A DISCOUNT, IF THE MAXIMUM SALE PROCEEDS IN ANY FISCAL YEAR DO NOT EXCEED \$4,000,000; AND
- (2) APPLY THE PROCEEDS RECEIVED FROM A SALE, ASSIGNMENT, OR OTHER DISPOSITION UNDER ITEM (1) OF THIS SUBSECTION TO THE FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 4-205.

In subsection (a)(1) of this section, the former phrase "[m]anage, supervise" is deleted in light of the word "administer" for brevity.

In subsection (a)(2) 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)(2) of this section, the former phrase "in conformance with statutory requirements" is deleted as unnecessary. Regulations must

comply with statutory requirements whether or not stated here.

The Housing Article Review Committee notes, for consideration by the General Assembly, that in subsection (b)(1) of this section, the authorization of the Department to dispose of a Program loan or revenue from a loan "if the maximum sale proceeds in any fiscal year do not exceed \$4,000,000" may suggest erroneously that, if the maximum is exceeded, all sales are unauthorized and illegal, even those made before the maximum was exceeded.

Defined terms: "Department" § 1-101

"Fund" § 6-301

"Program" § 6-301

6-309. CAPITAL ACCESS PROGRAM.

(A) ESTABLISHED.

THERE IS A CAPITAL ACCESS PROGRAM IN THE NEIGHBORHOOD BUSINESS DEVELOPMENT PROGRAM.

(B) PURPOSES OF PROGRAM.

THE PURPOSES OF THE CAPITAL ACCESS PROGRAM ARE TO:

(1) STIMULATE PRIVATE SECTOR LENDING TO SMALL BUSINESSES THROUGHOUT THE STATE; AND

(2) ENCOURAGE PRIVATE LENDERS TO PROVIDE FOR A RESERVE OF MONEY AS ADDITIONAL SECURITY FOR PRIVATE SECTOR LOANS MADE UNDER THIS SECTION.

(C) PARTICIPATION AGREEMENTS.

THE DEPARTMENT MAY ENTER INTO A CAPITAL ACCESS PROGRAM PARTICIPATION AGREEMENT WITH EACH LENDER ELIGIBLE TO PARTICIPATE IN THE CAPITAL ACCESS PROGRAM.

(D) ELIGIBILITY -- LENDERS.

TO BE ELIGIBLE TO PARTICIPATE IN THE CAPITAL ACCESS PROGRAM, A LENDER:

(1) SHALL BE A FEDERALLY INSURED FINANCIAL INSTITUTION, AS DEFINED IN § 1-101 OF THE FINANCIAL INSTITUTIONS ARTICLE, OR ANOTHER INSTITUTION REGULATED BY THE COMMISSIONER OF FINANCIAL REGULATION; AND

(2) SHALL ENTER INTO A PARTICIPATION AGREEMENT WITH THE DEPARTMENT THAT:

(I) REQUIRES THE LENDER TO AGREE TO:

1. ENROLL IN THE CAPITAL ACCESS PROGRAM LOANS THAT THE LENDER MAKES TO AN ELIGIBLE SMALL BUSINESS;

2. ESTABLISH A LOAN RESERVE ACCOUNT WITH A FEDERALLY INSURED FINANCIAL INSTITUTION AS ADDITIONAL SECURITY TO COVER LOSSES OF THE LENDER ON LOANS THAT THE LENDER ENROLLS; AND

3. CONTRIBUTE MONEY TO THE LOAN RESERVE ACCOUNT FOR EACH LOAN THAT THE LENDER ENROLLS; AND

(II) ALLOWS THE LENDER TO COMMINGLE IN THE RESERVE ACCOUNT CONTRIBUTIONS MADE FOR LOANS THAT THE LENDER ENROLLS.

(E) SAME -- BORROWERS.

TO BE ELIGIBLE FOR A LOAN UNDER THE CAPITAL ACCESS PROGRAM, A BORROWER:

(1) SHALL BE A SMALL BUSINESS THAT MEETS THE ELIGIBILITY REQUIREMENTS SET OUT IN THE CAPITAL ACCESS PROGRAM PARTICIPATION AGREEMENT BETWEEN THE BORROWER'S LENDER AND THE DEPARTMENT; AND

(2) SHALL AGREE WITH THE LENDER TO CONTRIBUTE MONEY TO THE LOAN RESERVE ACCOUNT THAT THE LENDER ESTABLISHES.

(F) CONTRIBUTIONS.

(1) THE DEPARTMENT MAY USE THE FUND TO CONTRIBUTE UP TO \$1,000,000 PER FISCAL YEAR TO LOAN RESERVE ACCOUNTS ESTABLISHED UNDER SUBSECTION (D) OF THIS SECTION.

(2) THE CONTRIBUTIONS BY THE DEPARTMENT ARE EXEMPT FROM THE REQUIREMENTS OF TITLE 6, SUBTITLE 2, AND TITLES 11 THROUGH 17, OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(G) LIABILITY OF STATE.

(1) ENROLLING A LOAN IN THE CAPITAL ACCESS PROGRAM DOES NOT PLEDGE THE FAITH, CREDIT, OR TAXING POWER OF THE STATE, THE DEPARTMENT, THE NEIGHBORHOOD BUSINESS DEVELOPMENT PROGRAM, OR THE FUND.

(2) THE STATE, THE DEPARTMENT, THE NEIGHBORHOOD BUSINESS DEVELOPMENT PROGRAM, AND THE FUND ARE NOT LIABLE FOR LOSSES OF A LENDER ON AN ENROLLED LOAN, EXCEPT TO THE EXTENT OF THE LOAN RESERVE ACCOUNT THAT THE LENDER ESTABLISHES UNDER THE CAPITAL ACCESS PROGRAM.

(H) LOCATION OF PROJECT.

A PROJECT FINANCED BY A LOAN ENROLLED IN THE CAPITAL ACCESS PROGRAM SHALL BE IN A PRIORITY FUNDING AREA AS REQUIRED BY TITLE 5, SUBTITLE 7B OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(I) DEFAULT.

A LENDER SHALL TREAT A DEFAULT ON A LOAN ENROLLED IN THE CAPITAL ACCESS PROGRAM IN THE SAME WAY THAT THE LENDER TREATS DEFAULTS ON OTHER LOANS.

(J) WITHDRAWAL FROM RESERVE ACCOUNT.

THE DEPARTMENT MAY REQUIRE THAT, BEFORE A LENDER WITHDRAWS MONEY FROM A RESERVE ACCOUNT TO COVER LOSSES ON A DEFAULTED ENROLLED LOAN, THE LENDER AGREE THAT, IF THE RESERVE ACCOUNT FULLY COVERS THE LOSSES, THE LENDER WILL ASSIGN TO THE DEPARTMENT OR SUBROGATE THE DEPARTMENT TO THE RIGHT, TITLE, AND INTEREST OF THE LENDER IN AND TO:

- (1) THE LOAN;
- (2) COLLATERAL AND SECURITY FOR THE LOAN; AND
- (3) EVERY OTHER RIGHT OF RECOVERY IN CONNECTION WITH THE LOAN.

(K) AFTER DEFAULT.

(1) AFTER A DEFAULT ON A LOAN ENROLLED IN THE CAPITAL ACCESS PROGRAM, THE DEPARTMENT MAY ACQUIRE, HOLD, IMPROVE, OPERATE PENDING SALE OR OTHER DISPOSITION, SELL, ASSIGN, EXCHANGE, TRANSFER, CONVEY, LEASE, MORTGAGE, OR OTHERWISE DISPOSE OF OR ENCUMBER PROPERTY THAT SECURES OR IS COLLATERAL FOR ALL OR PART OF THE LOAN, INCLUDING:

- (I) REAL PROPERTY;
- (II) PERSONAL PROPERTY; AND
- (III) EVIDENCE OF INDEBTEDNESS.

(2) THE DEPARTMENT MAY ACT UNDER THIS SUBSECTION:

(I) IN ITS NAME OR IN THE NAME OF THE NEIGHBORHOOD BUSINESS DEVELOPMENT PROGRAM; AND

(II) NOTWITHSTANDING TITLES 10 THROUGH 17 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(L) REGULATIONS.

THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE CAPITAL ACCESS PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 4-207.

Defined terms: "Department" § 1-101

"Fund" § 6-301

"Small business" § 6-301

6-310. NEIGHBORHOOD BUSINESS DEVELOPMENT FUND.

(A) ESTABLISHED.

THERE IS A NEIGHBORHOOD BUSINESS DEVELOPMENT FUND.

(B) PURPOSES OF FUND.

THE DEPARTMENT SHALL USE THE FUND TO:

(1) OPERATE AND PAY EXPENSES OF THE PROGRAM; AND

(2) PROVIDE FINANCIAL ASSISTANCE TO SMALL BUSINESSES, NONPROFIT ORGANIZATIONS, AND MICROENTERPRISES.

(C) ADMINISTRATION.

(1) THE DEPARTMENT SHALL ADMINISTER THE FUND.

(2) THE STATE TREASURER SHALL HOLD AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(D) STATUS.

THE FUND IS A CONTINUING, NONLAPSING SPECIAL FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(E) COMPOSITION.

(1) THE FUND CONSISTS OF:

(I) MONEY APPROPRIATED IN THE STATE BUDGET FOR THE PROGRAM;

(II) ANY REPAYMENT OR PREPAYMENT OF FINANCIAL ASSISTANCE UNDER THIS SUBTITLE OR UNDER THE STATE ACTION LOANS FOR TARGETED AREAS PROGRAM UNDER FORMER ARTICLE 83B, TITLE 4, SUBTITLE 6, OF THE CODE;

(III) MONEY TRANSFERRED TO THE FUND FROM ANY OTHER FUND AS PROVIDED IN THIS ARTICLE;

(IV) MONEY RECEIVED FROM THE SALE, ASSIGNMENT, OR OTHER DISPOSITION OF PROGRAM LOANS;

(V) OTHER MONEY RECEIVED BY THE PROGRAM UNDER THIS SUBTITLE OR FROM THE COMMUNITY DEVELOPMENT ADMINISTRATION UNDER SUBTITLE 2 OF THIS TITLE; AND

(VI) INVESTMENT EARNINGS OF THE FUND.

(F) INVESTMENT.

THE FUND SHALL BE INVESTED IN THE SAME WAY AS OTHER STATE MONEY.

(G) TRANSFERS.

WITH THE APPROVAL OF THE LEGISLATIVE POLICY COMMITTEE AND, SUBJECT TO § 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, AFTER THE FIRST 8 MONTHS OF A FISCAL YEAR, THE DEPARTMENT MAY TRANSFER UNENCUMBERED MONEY IN THE FUND TO ANY OTHER FUND ESTABLISHED UNDER THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 4-208.

Subsections (d), (e), and (f) of this section are revised in standard language for consistency in this article.

Defined terms: "Department" § 1-101

"Fund" § 6-301

"Microenterprise" § 6-301

"Nonprofit organization" § 1-101

"Program" § 6-301

"Small business" § 6-301

6-311. FALSE STATEMENTS OR REPORTS.

(A) PROHIBITED.

(1) A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT OR REPORT IN A DOCUMENT REQUIRED TO BE SUBMITTED TO THE DEPARTMENT BY AN AGREEMENT RELATING TO FINANCIAL ASSISTANCE UNDER THE PROGRAM.

(2) AN APPLICANT FOR FINANCIAL ASSISTANCE UNDER THE PROGRAM MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE ANY FALSE STATEMENT OR REPORT TO INFLUENCE THE ACTION OF THE DEPARTMENT ON AN APPLICATION OR TO INFLUENCE ANY ACTION OF THE DEPARTMENT AFFECTING FINANCIAL ASSISTANCE ALREADY PROVIDED.

(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 \$50,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 4-209.

Defined terms: "Department" § 1-101

"Financial assistance" § 1-101

"Person" § 1-101

"Program" § 6-301

SUBTITLE 4. NEIGHBORHOOD AND COMMUNITY ASSISTANCE PROGRAM.

6-401. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 4-701(a).

No changes are made.

(B) APPROVED PROJECT.

"APPROVED PROJECT" MEANS A PROJECT THAT THE DEPARTMENT APPROVES UNDER § 6-405 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 4-701(b).

The only changes are in style.

Defined term: "Department" § 1-101

(C) BUSINESS ENTITY.

"BUSINESS ENTITY" MEANS A PERSON THAT CONDUCTS A TRADE OR BUSINESS IN THE STATE AND IS SUBJECT TO:

- (1) THE STATE INCOME TAX ON INDIVIDUALS OR CORPORATIONS;
- (2) THE PUBLIC SERVICE COMPANY FRANCHISE TAX; OR
- (3) THE INSURANCE PREMIUMS TAX.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 4-701(c).

The Housing Article Review Committee notes, for consideration by the General Assembly, that the former reference to the financial institution franchise tax is deleted as obsolete. Financial institutions are now subject to income tax.

Defined term: "Person" § 1-101

(D) NONPROFIT ORGANIZATION.

"NONPROFIT ORGANIZATION" MEANS A NOT FOR PROFIT CORPORATION, FOUNDATION, OR OTHER LEGAL ENTITY THAT IS EXEMPT FROM FEDERAL INCOME TAX UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 4-701(g).

No changes are made.

(E) PRIORITY FUNDING AREA.

"PRIORITY FUNDING AREA" MEANS A PRIORITY FUNDING AREA UNDER § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 4-701(h).

No changes are made.

(F) REDEVELOPMENT ASSISTANCE.

"REDEVELOPMENT ASSISTANCE" MEANS THE MONEY THAT NONPROFIT ORGANIZATIONS SPEND FOR LABOR AND MATERIALS USED DIRECTLY IN THE PHYSICAL IMPROVEMENT OF PART OR ALL OF A PRIORITY FUNDING AREA.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 4-701(i).

Defined terms: "Nonprofit organization" § 6-401

"Priority funding area" § 6-401

6-402. ESTABLISHED.

THERE IS A NEIGHBORHOOD AND COMMUNITY ASSISTANCE PROGRAM.

REVISOR'S NOTE: This section formerly was Art. 83B, § 4-702.

No changes are made.

6-403. PURPOSES OF PROGRAM.

THE PURPOSES OF THE NEIGHBORHOOD AND COMMUNITY ASSISTANCE PROGRAM ARE TO:

- (1) HELP NONPROFIT ORGANIZATIONS TO CARRY OUT APPROVED PROJECTS IN PRIORITY FUNDING AREAS;
- (2) ENCOURAGE BUSINESS ENTITIES TO INVEST IN PRIORITY FUNDING AREAS; AND
- (3) STRENGTHEN PARTNERSHIPS BETWEEN PUBLIC AND PRIVATE ENTITIES.

REVISOR'S NOTE: This section formerly was Art. 83B, § 4-703.

In item (2) of this section, the defined term "business entit[ies]" is substituted for the former reference to "businesses" to conform to the terminology used throughout this subtitle.

The only other changes are in style.

Defined terms: "Approved project" § 6-401

"Business entity" § 6-401

"Nonprofit organization" § 6-401

"Priority funding area" § 6-401

6-404. TAX CREDITS.

(A) IN GENERAL.

(1) FOR A CONTRIBUTION WORTH \$500 OR MORE IN GOODS, MONEY, OR BOTH TO AN APPROVED PROJECT, A BUSINESS ENTITY IS ENTITLED TO A TAX CREDIT IN THE AMOUNT DETERMINED UNDER SUBSECTION (B) OF THIS SECTION.

(2) NO PART OF A TAX CREDIT UNDER THIS SECTION MAY BE TAKEN MORE THAN ONCE.

(B) AMOUNT.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE CREDIT ALLOWED TO A BUSINESS ENTITY UNDER THIS SECTION EQUALS 50% OF THE AMOUNT OF CONTRIBUTIONS:

(I) THAT THE DEPARTMENT APPROVES UNDER SUBSECTION (C) OF THIS SECTION; AND

(II) THAT WERE MADE DURING THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED.

(2) THE CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAXABLE YEAR MAY NOT EXCEED THE LESSER OF:

(I) \$125,000; AND

(II) THE TOTAL AMOUNT OF TAX OTHERWISE PAYABLE BY THE BUSINESS ENTITY FOR THE TAXABLE YEAR.

(3) ANY EXCESS CREDIT THAT WOULD BE ALLOWED BUT FOR THE LIMITS OF PARAGRAPH (2) OF THIS SUBSECTION MAY BE CARRIED OVER AND APPLIED AS A CREDIT FOR UP TO 5 TAXABLE YEARS AFTER THE TAXABLE YEAR IN WHICH THE CONTRIBUTION WAS MADE, UNTIL THE FULL AMOUNT OF THE EXCESS IS USED.

(C) DEPARTMENTAL APPROVAL.

(1) TO QUALIFY FOR A CREDIT FOR A CONTRIBUTION UNDER THIS SECTION, BEFORE MAKING A CONTRIBUTION, A BUSINESS ENTITY SHALL APPLY FOR AND RECEIVE APPROVAL OF THE CONTRIBUTION FROM THE DEPARTMENT.

(2) EACH APPLICATION FOR APPROVAL OF A CONTRIBUTION SHALL CONTAIN:

(I) THE NAME OF THE APPROVED PROJECT TO WHICH THE CONTRIBUTION WILL BE MADE;

(II) THE AMOUNT OF THE CONTRIBUTION; AND

(III) A CERTIFICATION BY AN INDEPENDENT AND UNRELATED THIRD PARTY AS TO THE VALUE OF ANY NONMONETARY CONTRIBUTION INCLUDED OR, FOR NEW GOODS, AN INVOICE OR RECEIPT CERTIFYING THE CONTRIBUTION'S NET COST TO THE BUSINESS ENTITY.

(3) THE DEPARTMENT MAY NOT APPROVE AN APPLICATION IF IT DETERMINES THAT:

(I) THE MAXIMUM AMOUNT OF CONTRIBUTIONS ELIGIBLE FOR A TAX CREDIT FOR THE PROJECT FOR THE FISCAL YEAR WILL BE EXCEEDED BY THE SUM OF:

1. THE AMOUNT OF THE PROPOSED CONTRIBUTION; AND

2. THE TOTAL AMOUNT OF CONTRIBUTIONS PREVIOUSLY APPROVED FOR THAT PROJECT FOR THE FISCAL YEAR; OR

(II) THE APPLICANT HAS OVERSTATED THE VALUE OF A NONMONETARY CONTRIBUTION.

(4) ON OR BEFORE JANUARY 31 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE DEPARTMENT OF ASSESSMENTS AND TAXATION, THE COMPTROLLER, AND THE MARYLAND INSURANCE ADMINISTRATION THE CONTRIBUTIONS THAT THE DEPARTMENT HAS APPROVED UNDER THIS SECTION IN THE PRECEDING CALENDAR YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 4-704 and 4-701(d).

In subsection (a) of this section, the former introductory phrase "[e]xcept as otherwise provided in this section" is deleted because no exception appears in this section.

Defined terms: "Approved project" § 6-401

"Business entity" § 6-401

"Department" § 1-101

6-405. PROPOSALS FOR PROJECTS IN PRIORITY FUNDING AREAS.

(A) IN GENERAL.

(1) FOR EACH FISCAL YEAR, A NONPROFIT ORGANIZATION MAY SUBMIT TO THE DEPARTMENT, FOR APPROVAL UNDER THE NEIGHBORHOOD AND COMMUNITY ASSISTANCE PROGRAM, A PROPOSAL FOR A PROJECT TO PROVIDE SERVICES TO A PRIORITY FUNDING AREA.

(2) THE PROJECT MAY INCLUDE:

(I) COMMUNITY SERVICES, INCLUDING CHILD CARE AND RECREATIONAL SERVICES;

(II) REDEVELOPMENT ASSISTANCE;

(III) JOB TRAINING FOR INDIVIDUALS WHOSE INCOMES DO NOT EXCEED THE UPPER INCOME LIMITS THAT THE SECRETARY SETS UNDER § 4-212 OF THIS ARTICLE;

(IV) EDUCATION; AND

(V) CRIME PREVENTION.

(B) CONTENTS.

A PROPOSAL UNDER THIS SECTION SHALL INCLUDE:

(1) THE PROJECT TO BE CONDUCTED;

(2) THE PRIORITY FUNDING AREA THAT WILL BENEFIT FROM THE PROJECT;

(3) A DESCRIPTION OF THE APPLICANT'S EXPERIENCE AND CAPABILITIES;

(4) THE ESTIMATED COSTS OF THE PROJECT;

(5) A DESCRIPTION OF THE PLANS FOR IMPLEMENTING THE PROJECT; AND

(6) ANY OTHER INFORMATION THAT THE DEPARTMENT DETERMINES IS NECESSARY.

(C) APPROVAL PROCESS -- IN GENERAL.

(1) THE DEPARTMENT MAY NOT APPROVE A PROPOSAL SUBMITTED UNDER THIS SECTION UNLESS THE PROPOSAL IS APPROVED BY THE GOVERNING BODY OR AUTHORIZED DESIGNEE OF:

(I) EACH COUNTY THAT INCLUDES ANY OF THE PRIORITY FUNDING AREA THAT BENEFITS FROM THE PROJECT, IF THE PROJECT IS NOT IN A MUNICIPAL CORPORATION;

(II) EACH MUNICIPAL CORPORATION THAT INCLUDES ANY OF THE PRIORITY FUNDING AREA THAT BENEFITS FROM THE PROJECT; OR

(III) EACH POLITICAL SUBDIVISION THAT INCLUDES ANY OF THE PRIORITY FUNDING AREA THAT BENEFITS FROM THE PROJECT, IF THE PRIORITY FUNDING AREA IS PARTLY WITHIN AND PARTLY OUTSIDE OF ANY MUNICIPAL CORPORATION.

(2) AN APPROVAL SHALL:

(I) BE IN WRITING; AND

(II) STATE THE MAXIMUM AMOUNT OF CONTRIBUTIONS TO THE APPROVED PROJECT THAT ARE ELIGIBLE FOR A TAX CREDIT UNDER § 6-404 OF THIS SUBTITLE.

(3) THE SUM OF CONTRIBUTIONS ELIGIBLE FOR A TAX CREDIT UNDER § 6-404 OF THIS SUBTITLE FOR ALL APPROVED PROJECTS FOR A FISCAL YEAR MAY NOT EXCEED \$2,000,000.

(D) SAME -- STANDARDS.

IN APPROVING OR DISAPPROVING A PROPOSAL AND IN DETERMINING THE MAXIMUM AMOUNT OF CONTRIBUTIONS ELIGIBLE FOR TAX CREDITS UNDER § 6-404 OF THIS SUBTITLE, THE DEPARTMENT:

(1) SHALL CONSIDER:

(I) THE NEED FOR THE PROJECT IN RELATION TO THE NEED FOR OTHER PROPOSED PROJECTS;

(II) THE ANTICIPATED BENEFIT TO THE PRIORITY FUNDING AREA;

(III) THE CAPACITY OF THE APPLICANT TO RAISE MONEY FOR THE PROJECT;

(IV) THE READINESS OF THE APPLICANT TO PROCEED WITH THE PROJECT;

(V) THE ABILITY OF THE APPLICANT TO COMPLETE THE PROJECT AS PROPOSED;

(VI) THE GEOGRAPHIC DISTRIBUTION OF PROJECTS; AND

(VII) ANY OTHER RELEVANT FACTORS;

(2) MAY GIVE PREFERENCE TO A PROPOSAL THAT BENEFITS A DESIGNATED NEIGHBORHOOD UNDER § 6-305 OF THIS TITLE;

(3) MAY REQUEST DATA AND ASSISTANCE FROM OTHER UNITS OF THE STATE; AND

(4) SHALL APPORTION AMONG ALL APPROVED PROJECTS THE LIMIT IMPOSED BY SUBSECTION (C)(3) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 4-705 and 4-701(e) and (f).

The Housing Article Review Committee notes, for consideration by the General Assembly, that subsection (c)(1)(iii) of this section makes explicit what was only implied in the former law -- that approval of a proposal is needed by the governing body or authorized designee of each political subdivision that includes any part of a priority funding area that is partly inside and partly outside of a municipal corporation.

In subsection (d)(2) of this section, the reference to a "designated neighborhood under § 6-305 of this title" is substituted for the former defined term "designated revitalization area" to conform to the terminology used in this title.

In subsection (d)(4) of this section, the former reference to limits "on the sum of contributions eligible for tax credits for the fiscal year" is deleted as implicit in the cross-reference to "subsection (c)(3) of this section".

Defined terms: "Approved project" § 6-401

"County" § 1-101

"Department" § 1-101

"Nonprofit organization" § 6-401

"Political subdivision" § 1-101

"Priority funding area" § 6-401

6-406. REGULATIONS.

THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 83B, § 4-706.

The former reference to "necessary" regulations is deleted as surplusage.

No other changes are made.

TITLE 7. ASSISTED HOUSING PRESERVATION ACT.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

7-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 9-101(a).

No changes are made.

(B) ASSISTED HOUSEHOLD.

"ASSISTED HOUSEHOLD" MEANS ONE OR MORE INDIVIDUALS WHO OCCUPY A RENTAL UNIT IN AN ASSISTED PROJECT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first clause of former Art. 83B, § 9-101(b).

Defined term: "Assisted project" § 7-101

(C) ASSISTED PROJECT.

"ASSISTED PROJECT" MEANS A PROPERTY THAT QUALIFIES UNDER § 7-105 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is added to provide a convenient reference to "assisted project".

(D) ASSISTED UNIT.

"ASSISTED UNIT" MEANS A DWELLING UNIT THAT IS IN AN ASSISTED PROJECT AND IS SUBJECT TO REGULATORY REQUIREMENTS REGARDING:

- (1) THE RENT THE OWNER MAY CHARGE; OR
- (2) THE MAXIMUM ANNUAL INCOME OF THE HOUSEHOLD OCCUPYING THE UNIT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 9-101(d).

In item (2) of this subsection, the reference to "household" is substituted for the former reference to "tenant" to clarify that the maximum annual income is of all who live in the unit.

Also in item (2) of this subsection, the former clause "which may depend upon the income of the tenant for assisted projects where a given

percentage of the total number of units are required to be occupied by income qualifying tenants" is deleted as surplusage.

Defined term: "Assisted project" § 7-101

(E) DESIGNATED HOUSEHOLD.

"DESIGNATED HOUSEHOLD" MEANS A HOUSEHOLD THAT QUALIFIES UNDER § 7-213 OF THIS TITLE.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to "designated household".

(F) NOTICE OF INTENT.

"NOTICE OF INTENT" MEANS A NOTICE OF INTENT TO TAKE A PROTECTED ACTION IN ACCORDANCE WITH SUBTITLE 2 OF THIS TITLE.

REVISOR'S NOTE: This subsection is new language added to provide a convenient reference to a notice of intent to take protected action.

Defined term: "Protected action" § 7-101

(G) OWNER.

"OWNER" MEANS A PERSON WHO HOLDS LEGAL TITLE TO AN ASSISTED PROJECT OR ANY MORTGAGEE IN POSSESSION, RECEIVER, TRUSTEE, OR OTHER PERSON THAT MAY TAKE A PROTECTED ACTION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 9-101(g).

The former phrase "or combination of persons" is deleted as implicit in the reference to "person".

The former defined term "property owner" is deleted because that term is not used in this title.

The Housing Article Review Committee notes, for consideration by the General Assembly, that in this subsection the definition of the term "owner" does not expressly include a mortgagor, the person for whom the term "owner", as used in this title, is primarily intended. "Owner" is defined to mean in part a person who holds legal title to the assisted project, but it is the mortgagee who holds legal title to mortgaged property. A mortgagor holds only equitable title. This definition of "owner" may cover "mortgagor" only if it is concluded that the reference to "other person that may take a protected action" implicitly includes a mortgagor.

Defined terms: "Assisted project" § 7-101

"Person" § 1-101

"Protected action" § 7-101

(H) OWNER'S OFFER.

"OWNER'S OFFER" MEANS THE WRITTEN OFFER MADE BY THE OWNER TO PARTIES HAVING A RIGHT OF FIRST PURCHASE UNDER § 7-204 OF THIS TITLE.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 9-101(h).

The only changes are in style.

(I) PROJECT-BASED § 8 RENTAL ASSISTANCE.

(1) "PROJECT-BASED § 8 RENTAL ASSISTANCE" MEANS FEDERAL RENTAL ASSISTANCE UNDER § 8 OF THE UNITED STATES HOUSING ACT OF 1937, 42 U.S.C. § 1437F, TO THE OWNER OR LENDER OF A HOUSING PROJECT UNDER A NEW CONSTRUCTION PROGRAM, A SUBSTANTIAL REHABILITATION PROGRAM, A LOAN MANAGEMENT ASSISTANCE PROGRAM, OR A PROPERTY DISPOSITION PROGRAM.

(2) "PROJECT-BASED § 8 RENTAL ASSISTANCE" DOES NOT INCLUDE RENTAL ASSISTANCE MADE DIRECTLY TO A TENANT UNDER EXISTING CERTIFICATE OR VOUCHER PROGRAMS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 9-101(i).

(J) PROTECTED ACTION.

"PROTECTED ACTION" MEANS A SALE, CONVEYANCE, TRANSFER, PREPAYMENT, TERMINATION, FAILURE TO RENEW, OR EXPIRATION UNDER § 7-102(A) OF THIS TITLE.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 9-101(j).

The only changes are in style.

(K) RELOCATION EXPENSES.

"RELOCATION EXPENSES" MEANS COSTS INCURRED TO:

(1) HIRE CONTRACTORS, LABOR, VEHICLES, OR EQUIPMENT TO TRANSPORT PERSONAL PROPERTY;

(2) PACK AND UNPACK PERSONAL PROPERTY;

(3) DISCONNECT AND RECONNECT UTILITIES, SUCH AS WATER, TELEPHONE, GAS, OR ELECTRIC, AND TO PERFORM RELATED SERVICES;

(4) DISCONNECT AND INSTALL PERSONAL PROPERTY;

(5) INSURE PERSONAL PROPERTY TO BE MOVED;

(6) PAY RENTAL APPLICATION FEES AND MAKE SECURITY DEPOSITS;

AND

(7) PAY OTHER COSTS THAT THE SECRETARY DETERMINES ARE REASONABLE.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 9-101(k).

In item (3) of this subsection, the reference to "perform" related services is added for clarity.

The only other changes are in style.

Defined term: "Secretary" § 1-101

(L) TENANT PROTECTION ASSISTANCE.

"TENANT PROTECTION ASSISTANCE" MEANS PAYMENTS TO, AND EXTENSIONS OF LEASES FOR, THE OCCUPANT OR FORMER OCCUPANT OF AN ASSISTED UNIT IN CONNECTION WITH A PROTECTED ACTION AS REQUIRED UNDER § 7-212 OF THIS TITLE.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 9-101(n).

The only changes are in style.

Defined terms: "Assisted unit" § 7-101

"Protected action" § 7-101

REVISOR'S NOTE TO SECTION:

Former Art. 83B, § 9-101(f), which defined "local jurisdiction", is deleted in light of the defined term "political subdivision" in § 1-101 of this article to the same effect.

7-102. SCOPE OF TITLE.

(A) PROTECTED ACTIONS SUBJECT TO TITLE.

EACH OWNER OF AN ASSISTED PROJECT IS SUBJECT TO THIS TITLE IF THE OWNER TAKES OR INTENDS TO TAKE ANY OF THE FOLLOWING PROTECTED ACTIONS:

(1) THE PREPAYMENT IN FULL BEFORE THE MATURITY DATE OF MORTGAGE FINANCING THAT IS:

(I) INSURED UNDER § 221(D)(3) OF THE NATIONAL HOUSING ACT, 12 U.S.C. § 1715L(D)(3), AND ASSISTED UNDER § 101 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1965, 12 U.S.C. § 1701S, OR UNDER § 8 OF THE UNITED STATES HOUSING ACT OF 1937, 42 U.S.C. § 1437(F);

(II) INSURED UNDER § 221(D)(3) OF THE NATIONAL HOUSING ACT, 12 U.S.C. § 1715L(D)(3), AND BEARS INTEREST AT A RATE DETERMINED UNDER § 221(D)(5) OF THE NATIONAL HOUSING ACT;

(III) INSURED OR ASSISTED UNDER § 202 OR § 236(A) OR (B) OF THE NATIONAL HOUSING ACT, 12 U.S.C. § 1701Q OR 12 U.S.C. § 1715Z-1(A) OR (B);

(IV) INSURED OR ASSISTED UNDER § 515 OF THE HOUSING ACT OF 1949, 42 U.S.C. § 1485; OR

(V) HELD BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND INSURED OR ASSISTED, OR FORMERLY INSURED OR ASSISTED, UNDER A PROGRAM AUTHORIZED BY A STATUTE REFERRED TO IN ITEM (1) OF THIS SUBSECTION;

(2) THE TERMINATION BEFORE EXPIRATION OF OR FAILURE TO EXERCISE ANY STATED RENEWAL OPTION UNDER AN AGREEMENT PROVIDING FOR PROJECT-BASED § 8 RENTAL ASSISTANCE FOR ANY UNITS IN AN ASSISTED PROJECT;

(3) THE EXPIRATION, INCLUDING A FAILURE TO EXTEND AFTER THE EXPIRATION, OF AN AGREEMENT PROVIDING FOR PROJECT-BASED § 8 RENTAL ASSISTANCE TO ANY UNITS IN AN ASSISTED PROJECT; OR

(4) THE SALE OR CONVEYANCE OF AN ASSISTED PROJECT BY THE OWNER IN CONJUNCTION WITH, OR WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF, ANY OF THE EVENTS DESCRIBED IN ITEM (1), (2), OR (3) OF THIS SUBSECTION.

(B) ACTIVITIES SUBJECT TO TITLE.

ANY SALE, CONVEYANCE, OR OTHER TRANSFER OF AN ASSISTED PROJECT IS SUBJECT TO THIS TITLE, INCLUDING:

(1) THE SALE OR OTHER TRANSFER OF ANY GENERAL PARTNERSHIP INTERESTS OF THE OWNER;

(2) THE SALE OR OTHER TRANSFER, IN ANY 1 CALENDAR YEAR, OF:

(I) MORE THAN 10% OF THE LIMITED PARTNERSHIP INTERESTS OF AN OWNER; OR

(II) MORE THAN 10% OF AN OWNER'S STOCK;

(3) THE TRANSFER BY A BENEFICIARY OF BENEFICIAL OR EQUITABLE INTERESTS UNDER A TRUST IN WHICH THE TRUSTEE HOLDS TITLE TO THE ASSISTED PROJECT; AND

(4) OTHER TRANSFER DETERMINED BY THE SECRETARY.

(C) EXEMPTIONS FROM CERTAIN REQUIREMENTS.

BY REGULATION, THE SECRETARY SHALL ESTABLISH STANDARDS AND PROCEDURES FOR INTERESTED PERSONS TO BE EXEMPTED FROM ANY REQUIREMENT OF §§ 7-203 THROUGH 7-219 OF THIS TITLE:

(1) IF TITLE II OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987, 12 U.S.C. §§ 4101 THROUGH 4124, CONTINUES, IS AMENDED, OR IS EXTENDED, OR IF A SUCCESSOR FEDERAL LAW IS ENACTED; AND

(2) TO DIMINISH THE BURDENS OF DUAL REGULATION OR TO PREVENT INCONSISTENT OR INEQUITABLE APPLICATION OF FEDERAL AND STATE LAW.

(D) EXCLUSIONS.

THIS TITLE DOES NOT APPLY TO AN ASSISTED PROJECT IF:

(1) BEFORE ANY PROTECTED ACTION, THE OWNER OR PURCHASER RECORDS, IN A FORM SATISFACTORY TO THE SECRETARY, A COVENANT RUNNING WITH THE LAND ON WHICH THE ASSISTED PROJECT IS LOCATED THAT PRESERVES THE EXISTING LOW-INCOME RENTAL RESTRICTIONS OF THE FEDERAL HOUSING PROGRAM:

(I) FOR THE TERM REMAINING AS OF THE DATE OF PREPAYMENT OF ANY MORTGAGE DESCRIBED UNDER SUBSECTION (A)(1) OF THIS SECTION; AND

(II) FOR THE TERM REMAINING AS OF THE DATE OF TERMINATION, INCLUDING ALL STATED AND UNEXERCISED RENEWAL TERMS, OF ANY RENTAL ASSISTANCE AGREEMENT DESCRIBED UNDER SUBSECTION (A)(2) OF THIS SECTION OR, IF GREATER, FOR 5 YEARS; OR

(2) THE SALE OR CONVEYANCE OF THE ASSISTED PROJECT:

(I) IS SUBJECT TO CONTINUATION OF THE EXISTING MORTGAGE FINANCING DESCRIBED UNDER SUBSECTION (A)(1) OF THIS SECTION; AND

(II) OCCURS BEFORE THE DATE OF A TERMINATION, FAILURE TO RENEW, OR EXPIRATION OF PROJECT-BASED § 8 RENTAL ASSISTANCE DESCRIBED UNDER SUBSECTION (A)(2) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 9-102 and 9-101(l).

In the introductory language of subsection (c) of this section, the former reference to a "rule" is deleted. *See* General Revisor's Note to article.

In subsection (d)(1) of this section, the former reference to preserving restrictions "for the project" is deleted as implicit.

The Housing Article Review Committee notes, for consideration by the General Assembly, that the power given to the Secretary to determine unilaterally what transfers fall within this title may go beyond the constitutional limits of the Secretary's authority.

Also the Housing Article Review Committee notes, for consideration by the General Assembly, that many of the protected actions listed in subsection

(a)(1) of this section may be preempted by the Low-Income Housing Preservation and Resident Homeownership Act, 12 U.S.C. §§ 4101 - 4147.

Defined terms: "Assisted project" § 7-101

"Owner" § 7-101

"Person" § 1-101

"Project-based § 8 rental assistance" § 7-101

"Protected action" § 7-101

"Secretary" § 1-101

7-103. REGULATIONS.

THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-112.

The former reference to "standards and requirements" is deleted as surplusage.

Defined term: "Secretary" § 1-101

7-104. LIMITS ON GROSS ANNUAL INCOME OF ASSISTED HOUSEHOLDS.

A HOUSEHOLD QUALIFIES AS AN ASSISTED HOUSEHOLD IF ITS GROSS ANNUAL INCOME DOES NOT EXCEED:

(1) UPPER INCOME LIMITS IMPOSED BY ANY FEDERAL, STATE, OR LOCAL GOVERNMENT PROGRAM PROVIDING FINANCIAL ASSISTANCE TO THE ASSISTED PROJECT; OR

(2) UPPER INCOME LIMITS THAT THE SECRETARY ESTABLISHES, WHICH MAY VARY FOR A PARTICULAR PROJECT OR A PARTICULAR AREA OF THE STATE TO THE EXTENT NECESSARY TO ACHIEVE THE PURPOSES OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from, except for the first clause, former Art. 83B, § 9-101(b).

It is revised as a substantive provision for clarity.

In item (2) of this section, the former phrase "from time to time" is deleted as unnecessary.

The Housing Article Review Committee notes, for consideration by the General Assembly, that the meaning of the reference to the "gross annual income" of a household is unclear.

Defined terms: "Assisted household" § 7-101

"Assisted project" § 7-101

"Secretary" § 1-101

7-105. ASSISTED PROJECT.

A PROPERTY QUALIFIES AS AN ASSISTED PROJECT IF:

(1) IT IS A BUILDING OR BUILDINGS UNDER COMMON OWNERSHIP CONTAINING 10 OR MORE DWELLING UNITS INTENDED TO BE LEASED TO ASSISTED HOUSEHOLDS FOR OCCUPANCY AS THEIR PRIMARY RESIDENCES; AND

(2) (I) A LOAN FINANCING THE PROPERTY IS INSURED OR ASSISTED UNDER § 221(D)(3), § 202, OR § 236(A) OR (B) OF THE NATIONAL HOUSING ACT, 12 U.S.C. § 1701Q, § 1715L(D)(3), OR § 1715Z-1, OR § 515 OF THE HOUSING ACT OF 1949, 42 U.S.C. § 1485; OR

(II) THE PROJECT, THE OWNER OF THE PROJECT, OR A LENDER TO THE PROJECT RECEIVES PROJECT-BASED § 8 RENTAL ASSISTANCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-101(c).

Defined terms: "Assisted household" § 7-101

"Assisted project" § 7-101

"Owner" § 7-101

"Project-based § 8 rental assistance" § 7-101

7-106. EFFECT OF TITLE.

THIS TITLE DOES NOT REDUCE ANY OBLIGATION OR RIGHT OF A TENANT, POLITICAL SUBDIVISION, OR OWNER UNDER TITLE 11 OF THE REAL PROPERTY ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-113.

The defined term "political subdivision" is substituted for the former reference to "local government" to conform to the terminology used throughout this article.

Defined terms: "Owner" § 7-101

"Political subdivision" § 1-101

SUBTITLE 2. PROTECTED ACTIONS.

7-201. NOTICE OF INTENT -- REQUIRED.

(A) IN GENERAL.

THE OWNER OF AN ASSISTED PROJECT SHALL GIVE WRITTEN NOTICE OF INTENT NOT LESS THAN 1 YEAR AND NOT MORE THAN 2 YEARS BEFORE THE EFFECTIVE DATE OF THE PROTECTED ACTION.

(B) PERSONS TO RECEIVE NOTICE OF INTENT.

THE OWNER SHALL GIVE THE NOTICE OF INTENT TO:

- (1) THE CHIEF EXECUTIVE OFFICER OF EACH POLITICAL SUBDIVISION IN WHICH THE ASSISTED PROJECT IS LOCATED;
- (2) EACH PUBLIC HOUSING AUTHORITY IN A POLITICAL SUBDIVISION IN WHICH THE ASSISTED PROJECT IS LOCATED;
- (3) EACH TENANT ASSOCIATION THAT REPRESENTS A RENTAL UNIT IN THE ASSISTED PROJECT, IF THE TENANT ASSOCIATION HAS GIVEN THE OWNER THE TITLE AND MAILING ADDRESS OF A REPRESENTATIVE TO RECEIVE THE NOTICE OF INTENT;
- (4) EACH ASSISTED HOUSEHOLD OF THE ASSISTED PROJECT; AND
- (5) THE SECRETARY, WHO SHALL NOTIFY EVERY OTHER PERSON WHO HAS REQUESTED THE NOTICE OF INTENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-103(a)(1) and (b).

In subsection (a) of this section, the former reference to the giving of a written notice of intent "in accordance with the provisions of this section" is deleted as surplusage.

In subsection (b)(1) and (2) of this section, the defined term "political subdivision" is substituted for the former reference to a "local jurisdiction" to conform to the terminology used throughout this article. *See* § 1-101 of this article.

Former Art. 83B, § 9-103(a)(2), which prohibited, with an exception, a notice of intent from being given before January 1, 1990, is deleted as obsolete.

Defined terms: "Assisted project" § 7-101

"Notice of intent" § 7-101

"Owner" § 7-101

"Person" § 1-101

"Political subdivision" § 1-101

"Protected action" § 7-101

"Secretary" § 1-101

7-202. SAME -- CONTENTS.

(A) IN GENERAL.

A NOTICE OF INTENT, OTHER THAN ONE SENT TO AN ASSISTED HOUSEHOLD, SHALL:

- (1) STATE THAT THE OWNER INTENDS TO BEGIN OR ALLOW A PROTECTED ACTION;
 - (2) GIVE ENOUGH INFORMATION SO THAT THE DEPARTMENT CAN DECIDE WHETHER THE PROPOSED PROTECTED ACTION WILL BE LAWFUL ON ITS EFFECTIVE DATE;
 - (3) STATE THE EXPECTED IMPACT OF THE PROTECTED ACTION DURING THE 3 YEARS AFTER THE PROPOSED ACTION ON:
 - (I) RENTS IN THE ASSISTED PROJECT; AND
 - (II) CONTINUED OCCUPANCY IN THE ASSISTED PROJECT BY EXISTING ASSISTED HOUSEHOLDS;
 - (4) GIVE THE INFORMATION ABOUT THE ASSISTED PROJECT FROM THE MOST RECENT TENANT RECERTIFICATION DOCUMENTS REQUIRED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, THE UNITED STATES DEPARTMENT OF AGRICULTURE, OR THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT ON:
 - (I) THE NUMBER OF ASSISTED HOUSEHOLDS;
 - (II) THE NUMBER OF ASSISTED UNITS BY NUMBER OF BEDROOMS;
 - (III) THE DISTRIBUTION OF ASSISTED HOUSEHOLDS BY RACE, GENDER, INCOME, AND FAMILY SIZE;
 - (IV) THE NUMBER OF HOUSEHOLDS WITH ELDERLY INDIVIDUALS OR INDIVIDUALS WITH DISABILITIES; AND
 - (V) THE NUMBER OF HOUSEHOLDS WITH MINORS;
 - (5) GIVE FINANCIAL INFORMATION ON THE ASSISTED PROJECT FOR THE 3 YEARS BEFORE THE NOTICE OF INTENT THAT IS:
 - (I) REQUIRED BY THE DEPARTMENT; AND
 - (II) BASED ON FINANCIAL INFORMATION KEPT BY THE OWNER;
- AND
- (6) INCLUDE A LIST, BASED ON INFORMATION THAT IS REASONABLY AVAILABLE, OF ALL HOUSEHOLDS IN THE ASSISTED PROJECT WHOSE LEASES WERE TERMINATED IN THE 180 DAYS BEFORE THE NOTICE OF INTENT.

(B) NOTICE OF INTENT TO ASSISTED HOUSEHOLDS.

A NOTICE OF INTENT SENT TO AN ASSISTED HOUSEHOLD SHALL CONTAIN:

- (1) A BRIEF SUMMARY OF THE PROTECTED ACTION;

(2) A BRIEF STATEMENT OF THE EXPECTED IMPACT OF THE PROTECTED ACTION ON RENTS AND ON THE EXISTING ASSISTED HOUSEHOLD'S CONTINUED OCCUPANCY DURING THE 5 YEARS AFTER THE PROTECTED ACTION;

(3) A BRIEF SUMMARY STATEMENT OF THE ASSISTED HOUSEHOLD'S RIGHTS AND OBLIGATIONS UNDER THIS TITLE;

(4) A STATEMENT THAT EACH POLITICAL SUBDIVISION IN WHICH THE ASSISTED PROJECT IS LOCATED, A LOCAL PUBLIC HOUSING AUTHORITY, AND THE DEPARTMENT MAY HAVE ADDITIONAL INFORMATION ABOUT THE PROTECTED ACTION AND SOURCES OF TECHNICAL ASSISTANCE AND FINANCING FOR THE EXERCISE OF A RIGHT OF FIRST PURCHASE UNDER THIS TITLE;

(5) THE NAME, ADDRESS, AND PHONE NUMBER OF THE OWNER'S AGENT TO WHOM THE ASSISTED HOUSEHOLD MAY APPLY FOR TENANT PROTECTION ASSISTANCE UNDER THIS TITLE; AND

(6) ANY OTHER INFORMATION THE SECRETARY CONSIDERS NECESSARY TO FURTHER THE PURPOSES OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-103(c) and (d).

In subsection (a)(1) of this section, the former phrase "of an assisted project" is deleted as implicit in the defined term "owner".

In subsection (a)(4)(iv) of this section, the reference to "individuals with disabilities" is substituted for the former reference to "handicapped" to conform to the terminology used throughout this article.

In subsection (b)(4) of this section, the reference to a "local" housing authority is added to the reference to a "public" housing authority to conform to the terminology used in § 7-204(a)(1)(ii) of this subtitle.

Also in subsection (b)(4) of this section, the reference to "each political subdivision in which the assisted project is located" is substituted for the former reference to "the local jurisdictions" to conform to the terminology used in § 7-204(a)(1)(i) of this subtitle.

Defined terms: "Assisted household" § 7-101

"Assisted project" § 7-101

"Assisted unit" § 7-101

"Department" § 1-101

"Notice of intent" § 7-101

"Owner" § 7-101

"Political subdivision" § 1-101

"Protected action" § 7-101

"Secretary" § 1-101

7-203. PREREQUISITES FOR TAKING PROTECTED ACTION.

(A) IN GENERAL.

AN OWNER MAY NOT TAKE A PROTECTED ACTION UNLESS THE OWNER HAS PROVIDED ALL TENANT PROTECTION ASSISTANCE REQUIRED BY THIS TITLE.

(B) SALE OR CONVEYANCE.

BEFORE A SALE OR CONVEYANCE OF AN ASSISTED PROJECT THAT IS A PROTECTED ACTION, THE OWNER SHALL OFFER THE RIGHT OF FIRST PURCHASE IN ACCORDANCE WITH THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-104(a).

In subsection (a) of this section, the former reference to an owner "of an assisted project" is deleted as implicit in the defined term "owner".

Defined terms: "Assisted project" § 7-101

"Owner" § 7-101

"Protected action" § 7-101

"Sale or conveyance of an assisted project" § 7-101

"Tenant protection assistance" § 7-101

7-204. RIGHT OF FIRST PURCHASE -- OFFER.

(A) IN GENERAL.

(1) THE OWNER SHALL OFFER THE RIGHT OF FIRST PURCHASE BY WRITTEN NOTICE TO:

(I) EACH POLITICAL SUBDIVISION IN WHICH THE ASSISTED PROJECT IS LOCATED;

(II) EACH LOCAL PUBLIC HOUSING AUTHORITY;

(III) EACH GROUP THAT REPRESENTS TENANTS AT THE ASSISTED PROJECT AND HAS REGISTERED WITH THE SECRETARY;

(IV) EACH LOW-INCOME HOUSING DEVELOPER THAT HAS REGISTERED WITH THE SECRETARY AND IS EXEMPT FROM TAXATION UNDER § 501(A) OF THE INTERNAL REVENUE CODE; AND

(V) ANY OTHER PERSON THAT HAS EXPERIENCE IN THE OWNERSHIP OR OPERATION OF LOW-INCOME HOUSING PROJECTS, IS UNRELATED TO THE OWNER, AND HAS REGISTERED WITH THE SECRETARY.

(2) THE OWNER SHALL DELIVER THE OFFER:

(I) WITH OR AFTER THE NOTICE OF INTENT; AND

(II) TO A PERSON REGISTERED WITH THE SECRETARY WITHIN 10 DAYS AFTER THE SECRETARY GIVES THE OWNER THE TITLE AND MAILING ADDRESS OF THE PERSON.

(3) THE OWNER SHALL DELIVER A COPY OF THE OFFER TO THE DEPARTMENT.

(B) CONTENTS.

THE OWNER'S OFFER SHALL INCLUDE:

(1) THE TERMS OF THE OFFER, INCLUDING:

(I) THE DATE OF THE OFFER;

(II) THE PURCHASE PRICE, AS DETERMINED UNDER § 7-205(B) OF THIS SUBTITLE;

(III) A DATE FOR SETTLEMENT, WHICH MUST BE 1 YEAR OR MORE AFTER THE LATER OF:

1. THE DATE OF THE OWNER'S OFFER; AND

2. THE DATE OF THE NOTICE OF INTENT;

(IV) A PROVISION STATING THAT:

1. THE BUYER'S OBLIGATION IS CONTINGENT ON THE BUYER'S OBTAINING FINANCING; AND

2. THE CONTINGENCY WILL NOT EXPIRE BEFORE THE SETTLEMENT;

(V) A REQUIREMENT THAT THE FIRST \$10,000 OF ANY DEPOSIT BY THE PURCHASER BE NONREFUNDABLE, EXCEPT AS PROVIDED IN § 7-205(C)(1)(III) OF THIS SUBTITLE; AND

(VI) OTHER TERMS DETERMINED UNDER § 7-205(B) OF THIS SUBTITLE; AND

(2) A SUMMARY OF THE PROCEDURES AND TIMING TO EXERCISE THE RIGHT OF FIRST PURCHASE, AS SPECIFIED IN THIS SUBTITLE AND IN ANY DEPARTMENTAL REGULATIONS.

(C) DATE OF OWNER'S OFFER.

THE DATE OF THE OWNER'S OFFER IS THE DATE ON WHICH IT IS DELIVERED TO THE LAST POLITICAL SUBDIVISION TO WHICH IT MUST BE DELIVERED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-104(b) and (c).

In subsection (a)(1)(i) of this section, the reference to the "political subdivision in which the assisted project is located" is substituted for the former reference to an applicable "local jurisdiction" for clarity.

In subsection (a)(1)(iv) of this section, the former phrase "of 1986, as amended, or the corresponding provision of any succeeding internal revenue law", is deleted in light of rule of statutory construction in Art. 1, § 21.

In subsection (a)(2)(ii) of this section, the reference to a "person" is substituted for the former reference "individual, partnership, or corporation" for consistency within this article. *See* § 1-101 of this article.

Defined terms: "Assisted project" § 7-101

"Department" § 1-101

"Notice of intent" § 7-101

"Owner" § 7-101

"Owner's offer" § 7-101

"Person" § 1-101

"Political subdivision" § 1-101

"Secretary" § 1-101

7-205. SAME -- TERMS; APPRAISAL; PRICE ADJUSTMENT.

(A) "FAIR MARKET VALUE" DEFINED.

IN THIS SECTION, "FAIR MARKET VALUE" MEANS THE PRICE THAT A WILLING BUYER WOULD PAY A WILLING SELLER, NEITHER UNDER ANY COMPULSION TO BUY OR TO SELL, FOR A RESIDENTIAL RENTAL PROJECT, ASSUMING:

(1) THE HIGHEST AND BEST USE UNDER CURRENT ZONING; AND

(2) NO REQUIREMENTS TO RENT TO LOW-INCOME TENANTS OTHER THAN THE REQUIREMENTS OF ANY FEDERAL LAW, § 7-214 OF THIS SUBTITLE, OR OTHER STATE LAW, LOCAL LAW, GOVERNMENTAL PROGRAM, AGREEMENT, COVENANT, OR RESTRICTION THAT WILL CONTINUE TO AFFECT THE PROJECT AFTER SALE OR CONVEYANCE.

(B) TERMS; APPRAISAL.

(1) EXCEPT AS REQUIRED UNDER § 7-204(B) OF THIS SUBTITLE, IF THE OWNER RECEIVES AN OFFER TO PURCHASE THE ASSISTED PROJECT IN THE FORM OF A BINDING PURCHASE CONTRACT FROM AN UNRELATED BONA FIDE PURCHASER, THE TERMS OF THE OWNER'S OFFER SHALL BE SUBSTANTIALLY THE SAME AS THOSE OFFERED BY THE BONA FIDE PURCHASER, INCLUDING PURCHASE PRICE, TERMS OF PAYMENT, FINANCING CONTINGENCIES, AND ASSUMABLE OR PURCHASE MONEY FINANCING.

(2) IF THE OWNER HAS NOT RECEIVED AN OFFER THAT QUALIFIES UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) THE PURCHASE PRICE OF THE OWNER'S OFFER SHALL BE THE LESSER OF:

1. THE PURCHASE PRICE OF ANY OFFER THAT DOES NOT QUALIFY UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND

2. THE FAIR MARKET VALUE OF THE PROPERTY AS DETERMINED UNDER SUBSECTION (D) OF THIS SECTION;

(II) THE OWNER'S OFFER SHALL BE ACCOMPANIED BY A WRITTEN APPRAISAL OF THE FAIR MARKET VALUE OF THE ASSISTED PROJECT PREPARED IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION; AND

(III) THE REMAINING TERMS OF THE PURCHASE CONTRACT:

1. SHALL BE AS REQUIRED UNDER § 7-204(B) OF THIS SUBTITLE;

2. SHALL OTHERWISE CONFORM TO TERMS THAT ARE ACCEPTED AS REASONABLE IN THAT MARKET; AND

3. ARE SUBJECT TO FINAL REVIEW BY THE DEPARTMENT.

(C) ACCEPTANCE.

(1) (I) ANY PARTY IDENTIFIED IN § 7-204(A) OF THIS SUBTITLE MAY ACCEPT THE OWNER'S OFFER WITHIN 120 DAYS AFTER THE DATE OF THE OWNER'S OFFER.

(II) IF MORE THAN ONE PARTY SUBMITS A TIMELY ACCEPTANCE OF THE OWNER'S OFFER, THE SECRETARY SHALL SELECT AS PURCHASER THE PARTY THAT, IN THE SECRETARY'S DISCRETION, THE SECRETARY DETERMINES WILL MOST BENEFIT THE ASSISTED HOUSEHOLDS.

(III) THE OWNER SHALL RETURN THE ENTIRE DEPOSIT MADE BY EACH PARTY WHOSE OFFER WAS NOT ACCEPTED.

(2) IF A PARTY THAT HAS ACCEPTED THE OWNER'S OFFER WITHDRAWS THE ACCEPTANCE, ANY REMAINING PARTY IDENTIFIED IN § 7-204(A) OF THIS SUBTITLE MAY ACCEPT THE OWNER'S OFFER IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION WITHIN:

(I) 120 DAYS AFTER THE DATE OF THE OFFER; OR

(II) 60 DAYS AFTER THE ACCEPTANCE IS WITHDRAWN.

(3) THE ACCEPTANCE SHALL BE FOLLOWED BY SETTLEMENT OF THE PURCHASE OF THE ASSISTED PROJECT BY THE OWNER'S STATED CLOSING DATE OR ANY EXTENSION AGREED TO BY THE OWNER.

(D) PRICE ADJUSTMENT.

(1) (I) IF THE OWNER IS REQUIRED BY SUBSECTION (B)(2) OF THIS SECTION TO SUBMIT AN APPRAISAL, ACCEPTANCE OF THE OWNER'S OFFER MADE UNDER THIS SUBTITLE MAY STATE AN ADJUSTED PURCHASE PRICE BASED ON AN ALTERNATE FAIR MARKET VALUE.

(II) THE ALTERNATE FAIR MARKET VALUE SHALL BE SUPPORTED BY A WRITTEN APPRAISAL PREPARED BY AN APPRAISER SELECTED BY THE PURCHASER AND DELIVERED TO THE OWNER.

(2) IF THE OWNER OBJECTS TO THE ADJUSTED PURCHASE PRICE, THE OWNER AND THE PURCHASER MAY:

(I) SET THE PURCHASE PRICE AT THE AVERAGE OF THE FAIR MARKET VALUES EACH PARTY HAS OBTAINED BY APPRAISAL; OR

(II) HAVE THE TWO APPRAISERS SELECT A THIRD APPRAISER, WHOSE FEE SHALL BE SHARED EQUALLY, AND WHOSE FAIR MARKET VALUE SHALL BE BINDING.

(3) EACH APPRAISER WHO SUBMITS AN APPRAISAL UNDER THIS SUBTITLE MUST BE A MEMBER IN GOOD STANDING OF THE AMERICAN INSTITUTE OF REAL ESTATE APPRAISERS OR THE SOCIETY OF REAL ESTATE APPRAISERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 9-101(b) and 9-104(d), (e), and (f).

In subsection (a)(2) of this section, the former reference to a "regulation" is deleted as implicit in the reference to a "federal law, § 7-214 of this subtitle, or other State law, [or] local law".

In subsection (b)(2)(i) of this section, the former phrase "deemed to be" is deleted as unnecessary.

In subsection (c)(1)(i) and (2) of this section, the references to "§ 7-204(a) of this subtitle" are substituted for the former erroneous references to "subsection (a) of this section" for clarity.

In subsection (c)(1) of this section, the former phrase "whichever [period] is longer" is deleted as surplusage.

In subsection (c)(1)(ii) of this section, the phrase "the Secretary shall select as purchaser the party that, in the Secretary's discretion, the Secretary determines" is substituted for the former phrase "the Secretary shall determine which party shall have the right to accept the owner's offer based upon which parties acceptance in the Secretary's sole discretion" for clarity.

Also in subsection (c)(1)(ii) of this section, the reference to a "timely" acceptance is substituted for the former reference to "the original 120-day period" for brevity.

In subsection (c)(1)(iii) of this section, the reference to a "party" is substituted for the former reference to a "person" for consistency throughout this section.

In subsection (d)(1)(ii) of this section, the reference to the "purchaser" is substituted for the former reference to the "party exercising the right of first purchase" for brevity.

In subsection (d)(2)(ii) of this section, the former reference that the fair market valuation shall be binding "on the owner and the party exercising the right of first purchase" is deleted as implied in the reference to "binding".

Defined terms: "Assisted household" § 7-101

"Assisted project" § 7-101

"Department" § 1-101

"Fair market value" § 7-101

"Owner" § 7-101

"Owner's offer" § 7-101

"Secretary" § 1-101

7-206. SALE OR CONVEYANCE IF OWNER'S OFFER IS NOT ACCEPTED.

(A) SCOPE.

THIS SECTION APPLIES IF THE OWNER'S OFFER IS NOT ACCEPTED AND THE ACCEPTANCE PERIOD UNDER § 7-205(C) OF THIS SUBTITLE HAS EXPIRED.

(B) TERMS AND CONDITIONS NOT MORE FAVORABLE.

THE OWNER MAY SELL OR CONVEY THE ASSISTED PROJECT TO ANY PERSON ON TERMS AND CONDITIONS NOT MORE FAVORABLE TO THE PURCHASER THAN THOSE OF THE OWNER'S OFFER.

(C) TERMS AND CONDITIONS MORE FAVORABLE.

THE OWNER MAY SELL OR CONVEY THE ASSISTED PROJECT ON TERMS AND CONDITIONS MORE FAVORABLE TO THE PURCHASER THAN THOSE OF THE ORIGINAL OFFER UNDER THIS SUBTITLE ONLY AFTER THE OWNER AGAIN OFFERS THE RIGHT OF FIRST PURCHASE AS REQUIRED BY THIS SUBTITLE BASED ON THE NEW TERMS AND CONDITIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-104(i).

Defined terms: "Assisted project" § 7-101

"Owner" § 7-101

"Owner's offer" § 7-101

"Person" § 1-101

7-207. ADDITIONAL REQUIRED NOTICES.

(A) SCOPE.

THIS SECTION APPLIES IF:

(1) NONE OF THE PARTIES IDENTIFIED IN § 7-204(A) OF THIS SUBTITLE EXERCISES THE RIGHT OF FIRST PURCHASE;

(2) THE ASSISTED PROJECT HAS NOT BEEN CONVEYED IN ACCORDANCE WITH § 7-206 OF THIS SUBTITLE; AND

(3) THE OWNER HAS NOT TAKEN A PROTECTED ACTION WITHIN 2 YEARS AFTER THE ORIGINAL NOTICE OF INTENT.

(B) REQUIRED NOTICES.

(1) BEFORE TAKING A PROTECTED ACTION, THE OWNER SHALL SERVE ANOTHER NOTICE OF INTENT ON EACH PARTY IDENTIFIED IN § 7-201(B) OF THIS SUBTITLE.

(2) BEFORE TAKING A PROTECTED ACTION UNDER § 7-102(A)(4) OF THIS TITLE, THE OWNER SHALL SERVE NOTICE OF A RIGHT OF FIRST PURCHASE AS REQUIRED BY THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-104(h).

Defined terms: "Assisted project" § 7-101

"Owner" § 7-101

"Protected action" § 7-101

7-208. COVENANTS AS TO USE OF PROPERTY.

(A) REQUIRED FOR ASSISTED PROJECT UNDER RIGHT OF FIRST PURCHASE.

AT THE SETTLEMENT FOR AN ASSISTED PROJECT UNDER A RIGHT OF FIRST PURCHASE, THE PURCHASER SHALL EXECUTE AND RECORD, IN A FORM THAT THE SECRETARY APPROVES, A COVENANT RUNNING WITH THE LAND.

(B) RESTRICTIONS.

THE COVENANT SHALL RESTRICT THE USE OF ALL ASSISTED UNITS TO RESIDENTIAL RENTAL PROPERTY FOR ASSISTED HOUSEHOLDS, OR TO SOME OTHER PURPOSE APPROVED BY THE SECRETARY, FOR AT LEAST THE GREATEST OF:

(1) THE REMAINING TERM OF THE MORTGAGE AS OF THE DATE OF ITS PREPAYMENT;

(2) THE REMAINING TERM OF THE RENTAL ASSISTANCE AGREEMENT, INCLUDING ALL STATED RENEWAL TERMS, AS OF THE DATE OF ITS TERMINATION; AND

(3) 20 YEARS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-104(g).

In subsection (b)(1) of this section, the former reference to "under § 9-102(b)(1) of this title" is deleted as surplusage. Similarly, in subsection (b)(2) of this section, the former reference to "under § 9-102(b)(2) of this title" is deleted.

Defined terms: "Assisted household" § 7-101

"Assisted project" § 7-101

"Assisted unit" § 7-101

"Secretary" § 1-101

7-209. RIGHT OF FIRST PURCHASE -- ASSIGNMENT.

A RIGHT OF FIRST PURCHASE UNDER THIS SUBTITLE MAY BE ASSIGNED ONLY TO ANOTHER PARTY HAVING THE RIGHT OF FIRST PURCHASE UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-104(j).

7-210. SAME -- POLITICAL SUBDIVISIONS AND HOUSING AUTHORITIES.

(A) IN GENERAL.

A POLITICAL SUBDIVISION OR A HOUSING AUTHORITY MAY EXERCISE A RIGHT OF FIRST PURCHASE UNDER THIS SUBTITLE AND MAY DEVELOP, ACQUIRE, IMPROVE, OWN, OPERATE, AND MANAGE A RENTAL HOUSING PROJECT ACQUIRED UNDER THE RIGHT OF FIRST PURCHASE AND DO ALL THINGS NECESSARY OR CONVENIENT TO EXERCISE THESE RIGHTS.

(B) EFFECT ON ARTICLE 44A RESTRICTIONS ON TENANT INCOME.

IN ANY RENTAL HOUSING PROJECT PURCHASED UNDER A RIGHT OF FIRST PURCHASE UNDER THIS SUBTITLE AND OWNED OR MANAGED BY A HOUSING AUTHORITY AUTHORIZED UNDER ARTICLE 44A OF THE CODE, THIS SUBTITLE SUPERSEDES ARTICLE 44A, §§ 1-401 THROUGH 1-403 AND ALL OTHERWISE APPLICABLE RESTRICTIONS ON TENANT INCOME UNDER ARTICLE 44A.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-104(k).

In subsection (a) of this section, the defined term "political subdivision" is

substituted for the former reference to a "local government" for consistency within this article. *See* § 1-101 of this article.

Defined term: "Political subdivision" § 1-101

7-211. SAME -- NO APPLICATION TO PLAN OF ACTION.

THE RIGHT OF FIRST PURCHASE UNDER THIS SUBTITLE DOES NOT APPLY TO THE PREPAYMENT OF A MORTGAGE AND SALE OF AN ASSISTED PROJECT IF THE PREPAYMENT AND SALE ARE DONE UNDER A PLAN OF ACTION APPROVED BY THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT UNDER § 225 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987, 12 U.S.C. § 4107.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-104(l).

The former phrase "otherwise constituting a protected action" is deleted as surplusage.

Defined term: "Assisted project" § 7-101

7-212. TENANT PROTECTION ASSISTANCE.

(A) IN GENERAL.

AN OWNER THAT GIVES NOTICE OF INTENT SHALL PROVIDE TENANT PROTECTION ASSISTANCE UNDER SUBSECTION (B) OF THIS SECTION UNLESS:

(1) THE OWNER HAS OFFERED THE RIGHT OF FIRST PURCHASE IN ACCORDANCE WITH THIS SUBTITLE; AND

(2) THE ASSISTED PROJECT IS PURCHASED BY A PARTY LISTED IN § 7-204(A) OF THIS SUBTITLE IN CONJUNCTION WITH A PROTECTED ACTION.

(B) AMOUNT OF TENANT PROTECTION ASSISTANCE.

TENANT PROTECTION ASSISTANCE CONSISTS OF:

(1) PAYING EACH ASSISTED HOUSEHOLD \$475 ON OR BEFORE THE DAY THAT THE ASSISTED HOUSEHOLD VACATES THE UNIT;

(2) REIMBURSING EACH ASSISTED HOUSEHOLD FOR RELOCATION EXPENSES EXCEEDING \$475 AND UP TO \$950, ACTUALLY AND REASONABLY INCURRED; AND

(3) OFFERING EACH ASSISTED HOUSEHOLD THAT IS CURRENT IN ITS RENT AND HAS NOT VIOLATED ANY OTHER MATERIAL TERM OF ITS LEASE, A LEASE EXTENSION FOR AT LEAST 1 YEAR FROM THE GIVING OF THE NOTICE OF INTENT.

(C) RENT UNDER LEASE EXTENSION.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE PERIODIC RENT DURING THE EXTENDED LEASE UNDER SUBSECTION (B)(3) OF THIS SECTION MAY NOT EXCEED THE AMOUNT THAT THE ASSISTED HOUSEHOLD MUST CONTRIBUTE FOR PERIODIC RENT UNDER THE ASSISTED HOUSEHOLD'S CURRENT LEASE.

(2) THE PERIODIC RENT MAY BE INCREASED ONLY ON THE ANNIVERSARY OF THE ASSISTED HOUSEHOLD'S CURRENT LEASE, AND THE INCREASE MAY NOT EXCEED THE LESSER OF:

(I) THE INCREASE ALLOWED BY APPLICABLE FEDERAL, STATE, OR LOCAL LAW; AND

(II) THE PRODUCT OF THE AMOUNT THE HOUSEHOLD MUST CONTRIBUTE FOR PERIODIC RENT FOR THE PRECEDING YEAR MULTIPLIED BY THE PERCENTAGE INCREASE FOR THE U.S. CONSUMER PRICE INDEX THAT THE SECRETARY SELECTS FOR THE MOST RECENT 12-MONTH PERIOD.

(3) EXCEPT AS ALLOWED OR REQUIRED BY THE SECRETARY, ALL OTHER TERMS AND CONDITIONS GOVERNING THE EXTENDED LEASE SHALL BE THE SAME AS THOSE OF THE LEASE IN EFFECT ON THE DAY PRECEDING THE GIVING OF THE NOTICE OF INTENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-105.

In subsection (b) of this section, the former phrase "an amount equal to the sum of" is deleted as surplusage.

In subsection (c)(1) and (2) of this section, the references to "periodic rent" are substituted for the former reference to the "rate of rent" for clarity.

In subsection (c)(3) of this section, the former reference to "procedures" is deleted as included in the reference to "terms and conditions".

Defined terms: "Assisted household" § 7-101

"Assisted project" § 7-101

"Designated household" § 7-101

"Notice of intent" § 7-101

"Owner" § 7-101

"Protected action" § 7-101

"Relocation expenses" § 7-101

"Secretary" § 1-101

"Tenant protection assistance" § 7-101

7-213. DESIGNATED HOUSEHOLD.

AN ASSISTED HOUSEHOLD IS A DESIGNATED HOUSEHOLD IF IT INCLUDES:

(1) AN INDIVIDUAL WHO HAS BEEN A MEMBER OF THE HOUSEHOLD FOR AT LEAST 12 MONTHS BEFORE THE NOTICE OF INTENT IS GIVEN AND WHO:

(I) IS AT LEAST 62 YEARS OLD ON THE DAY THAT THE NOTICE OF INTENT IS GIVEN; OR

(II) QUALIFIES AS A PERSON WITH DISABILITIES UNDER § 3(B)(3) OF THE UNITED STATES HOUSING ACT OF 1937, 42 U.S.C. § 1437(F); OR

(2) A MINOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-106(a).

It is revised as a substantive provision for clarity.

Defined terms: "Assisted household" § 7-101

"Designated household" § 7-101

"Notice of intent" § 7-101

"Person" § 1-101

7-214. EXTENDED LEASES FOR DESIGNATED HOUSEHOLDS -- IN GENERAL.

(A) OFFER REQUIRED.

(1) THIS SUBSECTION APPLIES IF A PROTECTED ACTION AFFECTS A UNIT OCCUPIED BY A DESIGNATED HOUSEHOLD THAT:

(I) IS CURRENT IN ITS RENT AND HAS NOT VIOLATED ANY OTHER MATERIAL TERM OF THE LEASE;

(II) WITHIN 60 DAYS AFTER THE GIVING OF THE NOTICE OF INTENT, PROVIDES THE OWNER WITH WRITTEN NOTICE SHOWING THAT THE HOUSEHOLD QUALIFIES AS A DESIGNATED HOUSEHOLD AND STATING THAT THE HOUSEHOLD IS APPLYING FOR AN EXTENDED LEASE UNDER THIS SECTION; AND

(III) EXECUTES THE EXTENDED LEASE FORM DELIVERED IN ACCORDANCE WITH § 7-216(A)(2) OF THIS SUBTITLE AND RETURNS IT TO THE OWNER WITHIN 60 DAYS AFTER THE GIVING OF THE NOTICE OF INTENT.

(2) EXCEPT FOR A PROTECTED ACTION UNDER § 7-102(A)(3) OF THIS TITLE, AN OWNER MAY NOT TAKE A PROTECTED ACTION THAT AFFECTS A UNIT IN AN ASSISTED PROJECT OCCUPIED BY A DESIGNATED HOUSEHOLD WITHOUT OFFERING TO THE DESIGNATED HOUSEHOLD AN EXTENDED LEASE FOR AT LEAST 3 YEARS BEGINNING ON THE DAY OF THE GIVING OF THE NOTICE OF INTENT.

(B) SET ASIDE REQUIREMENT.

(1) THE OWNER SHALL SET ASIDE AT LEAST 20% OF THE ASSISTED UNITS IN AN ASSISTED PROJECT FOR DESIGNATED HOUSEHOLDS TO RECEIVE EXTENDED LEASES UNDER THIS SUBTITLE.

(2) IF THE NUMBER OF ASSISTED UNITS OCCUPIED BY DESIGNATED HOUSEHOLDS THAT MEET THE STANDARDS OF SUBSECTION (A) OF THIS SECTION EXCEEDS 20% OF THE ASSISTED UNITS, THE OWNER SHALL ALLOCATE THE AVAILABLE UNITS:

(I) FIRST TO DESIGNATED HOUSEHOLDS WITH AN INDIVIDUAL DESCRIBED UNDER § 7-213(1) OF THIS SUBTITLE WITH PRIORITY BASED ON LENGTH OF CONTINUOUS RESIDENCE; AND

(II) THEN TO DESIGNATED HOUSEHOLDS THAT DO NOT CONTAIN SUCH AN INDIVIDUAL BUT INCLUDE A MINOR, BASED ON LENGTH OF CONTINUOUS RESIDENCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-106(b) and (j).

In subsection (a)(1)(ii) of this section, the reference to "the household qualifies as a designated household" is substituted for the former reference to a member of the household being "a handicapped citizen or a senior citizen who has been a member of the household for at least 12 months preceding the giving of the notice of intent" or "a minor" for brevity.

Defined terms: "Assisted project" § 7-101

"Assisted unit" § 7-101

"Designated household" § 7-101

"Notice of intent" § 7-101

"Owner" § 7-101

"Protected action" § 7-101

7-215. SAME -- SALE OR CONVEYANCE OF ASSISTED PROJECT.

IF AN ASSISTED PROJECT INCLUDES A UNIT OCCUPIED BY A DESIGNATED HOUSEHOLD AND THE ASSISTED PROJECT IS SOLD OR CONVEYED AFTER A PROTECTED ACTION:

(1) THE PROVISIONS OF THIS SUBTITLE CONCERNING EXTENDED LEASES CONTINUE TO APPLY DESPITE THE SALE OR CONVEYANCE;

(2) THE NEW LANDLORD SHALL PROVIDE EACH DESIGNATED HOUSEHOLD WITH WRITTEN NOTICE OF THE SALE OR CONVEYANCE; AND

(3) ON OR BEFORE THE EXECUTION OF A CONTRACT OF SALE, THE SELLER SHALL PROVIDE THE PURCHASER WITH WRITTEN DISCLOSURE OF EACH UNIT OCCUPIED BY A DESIGNATED HOUSEHOLD SUBJECT TO THE PROVISIONS CONCERNING EXTENDED LEASES FOR DESIGNATED HOUSEHOLDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-106(h).

In the introductory language of this section, the reference to "a unit occupied by a designated household" is substituted for the former reference to "this section" for clarity.

Defined terms: "Assisted project" § 7-101

"Designated household" § 7-101

"Protected action" § 7-101

7-216. SAME -- APPLICATION.

(A) APPLICATION; LEASE.

ALONG WITH THE NOTICE OF INTENT, THE OWNER SHALL DELIVER TO EACH ASSISTED HOUSEHOLD:

(1) AN APPLICATION FORM ON WHICH THE ASSISTED HOUSEHOLD MAY INCLUDE THE INFORMATION REQUIRED BY § 7-214(A) OF THIS SUBTITLE;

(2) AN EXTENDED LEASE FORM FOR A DESIGNATED HOUSEHOLD THAT CONTAINS THE TERMS REQUIRED BY THIS SUBTITLE AND CLEARLY INDICATES THAT THE LEASE WILL BE EFFECTIVE ONLY IF:

(I) THE ASSISTED HOUSEHOLD EXECUTES AND RETURNS THE LEASE FORM WITHIN 60 DAYS AFTER THE GIVING OF THE NOTICE OF INTENT; AND

(II) THE ASSISTED HOUSEHOLD IS ALLOCATED ONE OF THE UNITS MADE AVAILABLE TO DESIGNATED HOUSEHOLDS, BASED ON ITS RANKING UNDER § 7-214(B) OF THIS SUBTITLE AND THE NUMBER OF ASSISTED HOUSEHOLDS EXECUTING AND RETURNING LEASES; AND

(3) A NOTICE THAT SETS FORTH THE RIGHTS AND OBLIGATIONS OF THE ASSISTED HOUSEHOLD UNDER THE PROVISIONS OF THIS SUBTITLE CONCERNING EXTENDED LEASES FOR DESIGNATED HOUSEHOLDS.

(B) NOTICE OF QUALIFICATIONS AND LEASE EFFECTIVENESS.

WITHIN 75 DAYS AFTER THE GIVING OF THE NOTICE OF INTENT, THE OWNER SHALL NOTIFY EACH ASSISTED HOUSEHOLD THAT SUBMITS THE DOCUMENTATION REQUIRED BY § 7-214 OF THIS SUBTITLE:

(1) WHETHER THE HOUSEHOLD MEETS THE STANDARDS OF § 7-214 OF THIS SUBTITLE, OR, IF NOT, AN EXPLANATION OF WHICH STANDARDS HAVE NOT BEEN MET; AND

(2) WHETHER THE EXTENDED LEASE HAS BECOME EFFECTIVE.

(C) TERMS AND CONDITIONS.

(1) (I) AN EXTENDED LEASE FOR A DESIGNATED HOUSEHOLD SHALL BE FOR A TERM BEGINNING ON ACCEPTANCE AND ENDING AT LEAST 3 YEARS AFTER THE GIVING OF THE NOTICE OF INTENT.

(II) THE INITIAL PERIODIC RENT FOR THE EXTENDED LEASE MAY NOT EXCEED THE AMOUNT THE HOUSEHOLD IS REQUIRED TO CONTRIBUTE FOR RENT UNDER THE HOUSEHOLD'S CURRENT LEASE.

(2) THE PERIODIC RENT MAY BE INCREASED ONLY ON THE ANNIVERSARY OF THE ASSISTED HOUSEHOLD'S EXTENDED LEASE, AND THE INCREASE MAY NOT EXCEED THE PRODUCT OF THE AMOUNT THE HOUSEHOLD MUST CONTRIBUTE FOR PERIODIC RENT FOR THE PRECEDING YEAR MULTIPLIED BY THE PERCENTAGE INCREASE FOR THE U.S. CONSUMER PRICE INDEX THAT THE SECRETARY SELECTS FOR THE MOST RECENT 12-MONTH PERIOD.

(3) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE EXTENDED LEASE SHALL CONTAIN THE SAME TERMS AND CONDITIONS AS THE LEASE IN EFFECT ON THE DAY BEFORE THE GIVING OF THE NOTICE OF INTENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-106(c), (d), and (f).

In subsection (a) of this section, the former reference to a household "entitled to receive the notice of intent" is deleted as surplusage.

In subsection (a)(2) of this section, the references to a lease "form" are added because a lease does not exist before the parties agree to it.

In subsection (c)(2) of this section, the reference to a rental fee increase allowed "only" on the anniversary of the assisted household's current lease is substituted for the former reference to "annually" to conform to § 7-212(c)(2) of this subtitle.

The Housing Article Review Committee notes, for consideration by the General Assembly, that subsection (c)(1)(ii) of this section prohibits the initial periodic rent for an extended lease from exceeding the amount of the household's rental contribution under the household's current lease. The General Assembly may wish to clarify that this provision prohibits a household's rental contribution from increasing in the first year of an extended lease.

Defined terms: "Assisted household" § 7-101

"Designated household" § 7-101

"Notice of intent" § 7-101

"Owner" § 7-101

"Secretary" § 1-101

7-217. SAME -- ADDITIONAL NOTICE.

WITHIN 75 DAYS AFTER GIVING THE NOTICE OF INTENT, THE OWNER SHALL PROVIDE TO EACH PARTY REQUIRED TO RECEIVE THE NOTICE OF INTENT:

(1) A NOTICE INDICATING THE NUMBER OF UNITS IN THE ASSISTED PROJECT BEING MADE AVAILABLE TO DESIGNATED HOUSEHOLDS UNDER § 7-214(B) OF THIS SUBTITLE;

(2) A LIST OF THE HOUSEHOLDS MEETING THE STANDARDS OF § 7-214(A) OF THIS SUBTITLE, INDICATING THE RANKING OF EACH UNDER § 7-214(B) OF THIS SUBTITLE;

(3) A LIST OF THE HOUSEHOLDS RETURNING THE DOCUMENTS REQUIRED BY § 7-214(A) OF THIS SUBTITLE THAT DO NOT MEET ALL OF THE STANDARDS OF THAT SUBSECTION AND COPIES OF THE NOTICES SENT TO THOSE HOUSEHOLDS UNDER § 7-216(B) OF THIS SUBTITLE; AND

(4) A LIST OF THE HOUSEHOLDS WITH EFFECTIVE EXTENDED LEASES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-106(e).

In item (4) of this section, the reference to effective "extended" leases is added for clarity.

Defined terms: "Assisted project" § 7-101

"Designated household" § 7-101

"Notice of intent" § 7-101

"Owner" § 7-101

7-218. TERMINATION BY DESIGNATED HOUSEHOLD.

(A) IN GENERAL.

(1) A DESIGNATED HOUSEHOLD MAY TERMINATE AN EXTENDED LEASE AT ANY TIME BY GIVING WRITTEN NOTICE TO THE LANDLORD:

(I) AT LEAST 1 MONTH IN ADVANCE, IF LESS THAN 12 MONTHS REMAIN ON THE LEASE; OR

(II) AT LEAST 3 MONTHS IN ADVANCE, IF 12 MONTHS OR MORE REMAIN ON THE LEASE.

(2) AN EXTENDED LEASE FOR A DESIGNATED HOUSEHOLD UNDER THIS SUBTITLE SHALL INCLUDE THE TERMINATION PROVISIONS OF THIS SECTION.

(B) ENDING OF EXTENDED TENANCY.

THE EXTENDED TENANCY OF A DESIGNATED HOUSEHOLD ENDS:

(1) 90 DAYS AFTER THE LAST MEMBER OF THE ASSISTED HOUSEHOLD WHO LIVED IN THE UNIT ON THE DATE OF THE NOTICE OF INTENT DIES OR MOVES FROM THE UNIT;

(2) ON EVICTION FOR FAILURE TO PAY RENT OR FOR VIOLATION OF ANOTHER MATERIAL TERM OF THE EXTENDED LEASE; OR

(3) ON VOLUNTARY TERMINATION BY THE DESIGNATED HOUSEHOLD UNDER SUBSECTION (A) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-106(g) and (i).

In subsection (a)(1) of this section, the reference to "the landlord" is substituted for the former reference to "the owner or any subsequent titleholder" for clarity and brevity.

The Housing Article Review Committee notes, for consideration by the General Assembly, that subsection (b) of this section allows members of an assisted household to continue living as a designated household after the death or departure of the individual whose age or infirmity qualified the household to be a designated household.

Defined terms: "Assisted household" § 7-101

"Designated household" § 7-101

"Notice of intent" § 7-101

7-219. RELOCATION DURING REHABILITATION.

(A) IN GENERAL.

THIS SECTION APPLIES IF A PROTECTED ACTION INVOLVES SUBSTANTIAL REHABILITATION OR RECONSTRUCTION THAT DOES NOT ALLOW CONTINUED OCCUPANCY OF A UNIT BECAUSE OF DANGER TO THE HEALTH AND SAFETY OF THE HOUSEHOLD.

(B) NOTICE TO VACATE REQUIRED.

(1) THE OWNER SHALL GIVE NOTICE OF THE RECONSTRUCTION OR REHABILITATION AT LEAST 1 YEAR BEFORE THE DATE WHEN THE UNIT MUST BE VACATED.

(2) THE NOTICE SHALL EXPLAIN THE HOUSEHOLD'S RIGHTS UNDER THIS SECTION.

(C) RELOCATION.

(1) TO ALLOW WORK TO BE PERFORMED IN A UNIT, A DESIGNATED HOUSEHOLD WITH AN EXTENDED LEASE UNDER § 7-216 OF THIS SUBTITLE MAY BE REQUIRED TO:

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(I) VACATE THE UNIT NOT EARLIER THAN 1 YEAR AFTER THE GIVING OF THE NOTICE OF INTENT; AND

(II) RELOCATE AT THE EXPENSE OF THE OWNER TO A COMPARABLE UNIT IN THE ASSISTED PROJECT.

(2) (I) IF A COMPARABLE UNIT IS NOT AVAILABLE, THE DESIGNATED HOUSEHOLD MAY BE REQUIRED TO VACATE THE ASSISTED PROJECT UNTIL THE WORK IS COMPLETED.

(II) WHEN THE WORK IS COMPLETED, THE OWNER SHALL NOTIFY THE DESIGNATED HOUSEHOLD OF THE COMPLETION OF THE WORK.

(III) THE DESIGNATED HOUSEHOLD HAS 30 DAYS TO RETURN TO THE ORIGINAL OR A COMPARABLE RENTAL UNIT AFTER THE OWNER NOTIFIES THE DESIGNATED HOUSEHOLD THAT THE WORK IS COMPLETED.

(IV) THE TERM OF THE EXTENDED LEASE BEGINS WHEN THE DESIGNATED HOUSEHOLD RETURNS TO THE ASSISTED PROJECT.

(3) THE OWNER SHALL PAY ALL REASONABLE RELOCATION EXPENSES OF A DESIGNATED HOUSEHOLD REQUIRED AS A RESULT OF SUBSECTION (D) OF THIS SECTION.

(D) RELOCATION EXPENSES.

(1) THE OWNER SHALL PAY RELOCATION EXPENSES IN ACCORDANCE WITH § 7-212(B)(2) OF THIS SUBTITLE ON OR BEFORE THE DATE WHEN THE DESIGNATED HOUSEHOLD VACATES THE UNIT.

(2) THE OWNER SHALL ALSO REIMBURSE A DESIGNATED HOUSEHOLD THAT RETURNS TO ITS UNIT UNDER SUBSECTION (C)(2) OF THIS SECTION FOR ITS RELOCATION EXPENSES IN ACCORDANCE WITH § 7-212(B) OF THIS SUBTITLE.

(E) COMPENSATION.

(1) IN ACCORDANCE WITH THE SCHEDULE OF FAIR MARKET RENTS OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT IN EFFECT ON THE MOVING DATE, WITHIN 15 DAYS AFTER THAT DATE, THE OWNER SHALL PAY COMPENSATION EQUIVALENT TO 3 MONTHS' RENT FOR A UNIT OF COMPARABLE SIZE AND QUALITY TO EACH DESIGNATED HOUSEHOLD ELIGIBLE UNDER THIS SUBSECTION.

(2) A DESIGNATED HOUSEHOLD IS ELIGIBLE FOR COMPENSATION UNDER THIS SUBSECTION IF IT:

(I) IS CURRENT IN ITS RENT PAYMENTS AND HAS NOT VIOLATED ANY OTHER MATERIAL TERM OF ITS LEASE;

(II) INCLUDES AN INDIVIDUAL DESCRIBED UNDER § 7-213(1) OF THIS SUBTITLE AND:

1. DOES NOT HAVE AN EXTENDED LEASE; OR

2. CANNOT HAVE AN EXTENDED LEASE BECAUSE THE NUMBER OF ASSISTED UNITS SET ASIDE UNDER § 7-214(B) OF THIS SUBTITLE IS LESS THAN THE NUMBER OF QUALIFIED HOUSEHOLDS; OR

(III) OTHERWISE QUALIFIES FOR AN EXTENDED LEASE BUT IS REQUIRED TO VACATE ITS UNIT UNDER SUBSECTION (C)(2) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-106(k) and (l).

In subsection (d)(2) of this section, the former reference to a "rental unit" is deleted as surplusage.

Defined terms: "Assisted project" § 7-101

"Designated household" § 7-101

"Notice of intent" § 7-101

"Owner" § 7-101

"Protected action" § 7-101

"Relocation expenses" § 7-101

7-220. RENTAL HOUSING EMERGENCY.

(A) LEGISLATIVE FINDINGS.

(1) AFTER NOTICE AND PUBLIC HEARING, A POLITICAL SUBDIVISION MAY FIND THAT, BECAUSE OF A PROTECTED ACTION, A LOW-INCOME AND MODERATE-INCOME RENTAL HOUSING EMERGENCY EXISTS IN ALL OR PART OF ITS JURISDICTION.

(2) THE POLITICAL SUBDIVISION SHALL MAKE FINDINGS AS TO:

(I) THE NATURE AND INCIDENCE OF PROTECTED ACTIONS;

(II) THE RESULTING HARDSHIP TO AND DISPLACEMENT OF TENANTS; AND

(III) THE SCARCITY OF LOW-INCOME AND MODERATE-INCOME RENTAL HOUSING.

(B) AUTHORIZED ACTIONS.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ON FINDING THAT THERE IS AN EMERGENCY UNDER THIS SECTION, A POLITICAL SUBDIVISION MAY ENACT A LAW, ORDINANCE, OR REGULATION TO:

(I) GRANT TO A DESIGNATED HOUSEHOLD A RIGHT TO AN EXTENDED LEASE FOR A PERIOD IN ADDITION TO THAT GRANTED UNDER § 7-214 OF THIS SUBTITLE; OR

(II) EXTEND ANY OTHER PROVISION OF THIS SUBTITLE CONCERNING EXTENDED LEASES.

(2) A POLITICAL SUBDIVISION MAY NOT REQUIRE THAT:

(I) MORE THAN 20% OF ASSISTED UNITS IN AN ASSISTED PROJECT BE SET ASIDE FOR EXTENDED LEASES FOR DESIGNATED HOUSEHOLDS; OR

(II) THE TERM OF AN EXTENDED LEASE FOR ANY HOUSEHOLD MADE A DESIGNATED HOUSEHOLD BY THE POLITICAL SUBDIVISION EXCEED 3 YEARS.

(3) THE POLITICAL SUBDIVISION MAY REQUIRE THAT THE NOTICE REQUIRED UNDER § 7-216(A)(3) OF THIS SUBTITLE BE MODIFIED TO DISCLOSE THE EFFECTS OF ANY ACTIONS TAKEN UNDER THIS SECTION.

(C) COPIES OF LAW.

WITHIN 10 DAYS AFTER ENACTING A LAW, ORDINANCE, OR REGULATION IN ACCORDANCE WITH THIS SECTION, A POLITICAL SUBDIVISION SHALL SEND A COPY TO THE SECRETARY OF STATE AND THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-107.

Throughout this section, the defined term "political subdivision" is substituted for the former reference to a "local government" for consistency within this article. *See* § 1-101 of this article.

In subsection (a) of this section, the former reference to a political subdivision's ability to "recognize and declare" is deleted as included in the reference to "find".

Defined terms: "Assisted project" § 7-101

"Assisted unit" § 7-101

"Designated household" § 7-101

"Political subdivision" § 1-101

"Protected action" § 7-101

SUBTITLE 3. RIGHTS AND DUTIES.

7-301. DUTIES OF TENANTS.

IN CONNECTION WITH A PROTECTED ACTION, EACH TENANT SHALL COOPERATE WITH THE OWNER IN PROVIDING INFORMATION NECESSARY TO

CERTIFY ELIGIBILITY FOR HOUSING SUBSIDY PAYMENTS AND IN EXECUTING ALL NECESSARY DOCUMENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-109(2).

Defined terms: "Owner" § 7-101

"Protected action" § 7-101

7-302. RELINQUISHMENT OF RIGHTS BY TENANT PROHIBITED.

(A) IN GENERAL.

A TENANT MAY NOT:

- (1) WAIVE OR ASSIGN THE TENANT'S RIGHTS UNDER THIS TITLE; OR
- (2) RECEIVE CONSIDERATION TO RELINQUISH RIGHTS UNDER THIS

TITLE.

(B) EFFECT.

A WAIVER OR RELINQUISHMENT MADE IN VIOLATION OF THIS SECTION IS VOID.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-108(a).

In subsection (a) of this section, the former phrase "by written contract or otherwise" is deleted as surplusage.

In subsection (b) of this section, the former reference to void "ab initio" is deleted as surplusage.

7-303. OWNER'S NOTICE TO NEW TENANT AFTER NOTICE OF INTENT.

IF A NEW TENANT MOVES INTO AN ASSISTED UNIT AFTER A NOTICE OF INTENT IS GIVEN, THE OWNER SHALL GIVE THE NEW TENANT WRITTEN NOTICE THAT:

- (1) SETS FORTH ANY RENT INCREASE THAT THE OWNER PLANS AFTER THE PROTECTED ACTION; AND
- (2) STATES THAT THE NEW TENANT WILL NOT BE ENTITLED TO TENANT PROTECTION ASSISTANCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-108(d).

The Housing Article Review Committee notes, for consideration by the General Assembly, that this section explicitly states what was only implied in the former law -- that the duty of an owner under this question is to notify only new tenants who move into an assisted unit after a notice of

intent has been given.

Defined terms: "Assisted unit" § 7-101

"Notice of intent" § 7-101

"Owner" § 7-101

"Protected action" § 7-101

"Tenant protection assistance" § 7-101

7-304. TERMINATION OF LEASE BY OWNER WITHOUT CAUSE PROHIBITED.

BEFORE TAKING A PROTECTED ACTION, AN OWNER MAY NOT TERMINATE WITHOUT CAUSE THE LEASEHOLD INTEREST OF A TENANT OCCUPYING AN ASSISTED UNIT TO AVOID THE OWNER'S OBLIGATIONS UNDER THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-108(b).

Defined terms: "Assisted unit" § 7-101

"Owner" § 7-101

"Protected action" § 7-101

7-305. EXCESS RENT AS GROUNDS FOR LEASE TERMINATION AND POSSESSION OF PREMISES.

(A) "EXCESS RENT" DEFINED.

IN THIS SECTION, "EXCESS RENT" MEANS RENT THAT EXCEEDS THE RENT PAYABLE BY A TENANT UNDER THE TENANT'S LEASE AS OF THE DATE OF THE NOTICE OF INTENT, ADJUSTED AS ALLOWED UNDER § 7-212(C) OF THIS TITLE.

(B) NONPAYMENT OF EXCESS RENT.

UNTIL 1 YEAR HAS PASSED SINCE THE OWNER GAVE NOTICE OF INTENT, AND THE OWNER COMPLIES WITH THE REQUIREMENTS OF THIS TITLE, NONPAYMENT OF EXCESS RENT IS NOT GROUNDS FOR AN OWNER TO:

- (1) TERMINATE A LEASE OF AN ASSISTED UNIT; OR
- (2) SUE FOR POSSESSION OF THE LEASED PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-108(c).

In the introductory language of subsection (b) of this section, the reference to "the owner" giving notice of intent is added for clarity.

Also in the introductory language of subsection (b) of this section, the former reference to the "last to occur" is deleted in light of the conjunction "and", which indicates that both factors must exist.

Also in the introductory language of subsection (b) of this section, the

former reference to the nonpayment of rent not allowed to be "considered legally sufficient" grounds is deleted as surplusage.

Defined terms: "Assisted unit" § 7-101

"Notice of intent" § 7-101

"Owner" § 7-101

7-306. DUTIES OF OWNER IN CONNECTION WITH PROTECTED ACTION.

(A) IN GENERAL.

IN CONNECTION WITH A PROTECTED ACTION, AN OWNER:

(1) MAY NOT TERMINATE OR ALTER THE TERMS AND CONDITIONS OF A LEASE ENTERED INTO BEFORE THE EFFECTIVE DATE OF THE PROTECTED ACTION;

(2) MAY NOT INTERFERE WITH THE EFFORTS OF INDIVIDUAL TENANTS TO OBTAIN HOUSING SUBSIDIES OR OTHER PUBLIC ASSISTANCE;

(3) MAY NOT DISCRIMINATE BASED ON SOURCE OF INCOME OR RECEIPT OF A HOUSING SUBSIDY;

(4) MAY NOT INTERFERE WITH THE RIGHTS OF A TENANT TO OCCUPY AN ASSISTED UNIT UNDER AN EXISTING LEASE OR APPLICABLE FEDERAL, STATE, OR LOCAL LAW; AND

(5) SHALL COOPERATE WITH A TENANT TO EXECUTE ALL NECESSARY DOCUMENTS TO ENABLE THE PAYMENT OF HOUSING SUBSIDIES TO OR FOR THE TENANT.

(B) INTERFERENCE WITH APPLICATION FOR PUBLIC ASSISTANCE.

IF THE OWNER HAS INTERFERED WITH A TENANT'S APPLICATION FOR A HOUSING SUBSIDY OR OTHER PUBLIC ASSISTANCE, THE NONPAYMENT OF ANY AMOUNT OF RENT FOR AN ASSISTED UNIT IN EXCESS OF 30% OF THE TENANT'S INCOME IS NOT GROUNDS FOR THE OWNER TO TERMINATE THE LEASE OR SUE FOR POSSESSION OF THE LEASED PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-109(1) and (3).

In subsection (a)(4) of this section, the former reference to "any existing" rights of tenants is deleted as surplusage.

Defined terms: "Assisted project" § 7-101

"Owner" § 7-101

"Protected action" § 7-101

7-307. OWNER'S SWORN STATEMENT OF COMPLIANCE.

THE PERSON RESPONSIBLE FOR THE CLOSING OF A REAL ESTATE TRANSACTION SHALL FILE WITH THE DEPARTMENT A WRITTEN STATEMENT, MADE AND SIGNED BY THE OWNER UNDER THE PENALTIES OF PERJURY, THAT THE TRANSACTION COMPLIES WITH THIS TITLE, IF THE TRANSACTION INCLUDES:

(1) A SALE OR CONVEYANCE OF AN ASSISTED PROJECT OR THE REAL PROPERTY ASSOCIATED WITH IT, AND:

(I) IS A PROTECTED ACTION; OR

(II) OCCURRED WITHIN 10 YEARS AFTER A PROTECTED ACTION FOR WHICH THE OWNER FAILED TO COMPLY WITH THIS TITLE; OR

(2) A RELEASE OF:

(I) A MORTGAGE SECURED BY AN ASSISTED PROJECT; OR

(II) A REGULATORY AGREEMENT OR OTHER DOCUMENT EXECUTED IN CONNECTION WITH THE MORTGAGE THAT RESTRICTS THE INCOME LEVELS OF THE TENANTS OR THE RENTAL RATES OF THE ASSISTED PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 9-101(m) and 9-110(a).

In the introductory language of this section, the defined word "person" is substituted for the former defined term "settlement agent" for clarity.

Defined terms: "Assisted project" § 7-101

"Department" § 1-101

"Owner" § 7-101

"Person" § 1-101

"Protected action" § 7-101

SUBTITLE 4. ENFORCEMENT.

7-401. AUTHORIZED ENFORCEMENT ENTITIES.

THIS TITLE MAY BE ENFORCED AT LAW OR EQUITY BY:

(1) THE DEPARTMENT;

(2) AN ASSISTED HOUSEHOLD IN OCCUPANCY WHEN THE OWNER DELIVERED OR SHOULD HAVE DELIVERED A NOTICE OF INTENT;

(3) A POLITICAL SUBDIVISION WHERE THE ASSISTED PROJECT IS LOCATED; OR

(4) THE PUBLIC HOUSING AUTHORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-110(b).

In item (3) of this section, the defined term "political subdivision" is substituted for the former reference to a "local government" to conform to the terminology used throughout this article. *See* § 1-101 of this article.

Defined terms: "Assisted household" § 7-101

"Assisted project" § 7-101

"Department" § 1-101

"Notice of intent" § 7-101

"Owner" § 7-101

"Political subdivision" § 1-101

7-402. ENFORCEMENT BY INJUNCTION.

TO ENFORCE THIS TITLE, A COURT MAY ENJOIN AN ACTION:

(1) PROHIBITED BY THIS TITLE; OR

(2) TAKEN BEFORE PRELIMINARY ACTIONS REQUIRED BY THIS TITLE HAVE BEEN COMPLETED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-110(c).

7-403. CONSUMER PROTECTION DIVISION.

A VIOLATION OF THIS TITLE IS WITHIN THE SCOPE OF THE ENFORCEMENT DUTIES AND POWERS OF THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE, IF THE VIOLATION RESULTS IN:

(1) DISPLACEMENT OF A TENANT OR FORMER TENANT FROM AN ASSISTED UNIT;

(2) INCREASED RENTS FOR A TENANT OR FORMER TENANT OF AN ASSISTED UNIT; OR

(3) ANOTHER VIOLATION OF THE RIGHTS OF A TENANT OR FORMER TENANT OF AN ASSISTED UNIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-110(d).

Defined term: "Assisted unit" § 7-101

7-404. FALSE STATEMENTS OR REPORTS.

(A) PROHIBITED.

(1) A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT OR REPORT IN A DOCUMENT THAT IS REQUIRED TO BE SUBMITTED UNDER THIS TITLE.

(2) A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT OR REPORT TO INFLUENCE THE ACTION OF THE DEPARTMENT IN CONNECTION WITH THIS TITLE.

(B) PENALTY.

A PERSON WHO VIOLATES THIS TITLE IS SUBJECT TO CIVIL LIABILITY AND TO A CIVIL PENALTY NOT EXCEEDING \$1,000,000.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 9-111.

In subsection (a) of this section, the former reference to a document that is required to be submitted to "the Secretary, the Department, or any other person or entity" under this title is deleted as surplusage.

The former reference to a civil "monetary" penalty is deleted as implicit in setting a maximum penalty.

Defined terms: "Department" § 1-101

"Person" § 1-101

SUBTITLE 5. SHORT TITLE.

7-501. SHORT TITLE.

THIS TITLE IS THE ASSISTED HOUSING PRESERVATION ACT.

REVISOR'S NOTE: This section formerly was Art. 83B, § 9-114.

The only changes are in style.

TITLE 8. COMMUNITY ACTION AGENCIES.

8-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was the first sentence of Art. 83B, § 12-101(a).

The only changes are in style.

(B) COMMUNITY ACTION AGENCY.

"COMMUNITY ACTION AGENCY" MEANS:

- (1) A GOVERNMENTAL UNIT IN A POLITICAL SUBDIVISION;
- (2) A GOVERNMENTAL UNIT CREATED BY A COMBINATION OF POLITICAL SUBDIVISIONS;
- (3) AN AGENCY DESIGNATED AS A COMMUNITY ACTION AGENCY UNDER THE ECONOMIC OPPORTUNITY ACT OF 1964 AS AMENDED BY THE COMMUNITY SERVICES BLOCK GRANT PROGRAM, 42 U.S.C. §§ 9901 THROUGH 9926; OR
- (4) A PRIVATE, NONPROFIT ORGANIZATION THAT MEETS THE REQUIREMENTS FOR DESIGNATION AS A COMMUNITY ACTION AGENCY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 12-101(a)(1).

In item (1) of this subsection, the former phrase "of the State" is deleted as included in the defined term "political subdivision".

In item (3) of this subsection, the former reference to "relevant provisions" is deleted as surplusage.

In item (4) of this subsection, the defined term "nonprofit organization" is substituted for the former reference to "nonprofit community organization" to conform to the terminology used throughout this article.

The Housing Article Review Committee notes, for consideration by the General Assembly, that this subsection, which defines "community action agency" in part to mean a governmental unit in a political subdivision or a governmental unit created by a combination of political subdivisions, may be overbroad. The definition seems to apply to any governmental unit, even one that has nothing to do with helping to fight poverty in the State.

Defined terms: "Designation" § 8-101

"Governmental unit" § 1-101

"Nonprofit organization" § 1-101

"Political subdivision" § 1-101

(C) DESIGNATION.

"DESIGNATION" MEANS THE SELECTION OF A PROPOSED COMMUNITY ACTION AGENCY BY A GOVERNING BODY.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 12-101(a)(2).

The former phrase "of a political subdivision" is deleted as unnecessary in light of the definition of "governing body".

The only other changes are in style.

Defined terms: "Community action agency" § 8-101

"Governing body" § 8-101

(D) GOVERNING BODY.

"GOVERNING BODY" MEANS:

(1) THE COUNTY COUNCIL, BOARD OF COMMISSIONERS, OR OTHER LEGISLATIVE BODY OF A POLITICAL SUBDIVISION THAT COLLECTIVELY POSSESSES THE POWER TO ADOPT AND CARRY OUT LOCAL LAWS AND ORDINANCES; OR

(2) IN BALTIMORE CITY, THE BOARD OF ESTIMATES.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 12-101(a)(3).

The only changes are in style.

Defined term: "Political subdivision" § 4-101

REVISOR'S NOTE TO SECTION: Former Art. 83B, § 12-101(a)(5), which defined "[l]ocal initiative" to be the amount of federal funds received by a community action agency for conduct, administration, and general community programming, is deleted because the phrase "local initiative" is not used in this title.

8-102. LEGISLATIVE FINDING.

THE GENERAL ASSEMBLY FINDS THAT THE ECONOMIC AND SOCIAL WELL-BEING OF STATE RESIDENTS IS INTRINSIC TO THE STRENGTH AND VIABILITY OF THE STATE AS A WHOLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 12-101(b)(1).

The reference to "finds" is substituted for the former reference to "recognizes" for consistency with similar provisions in other revised articles of the Code. *See, e.g.*, CS § 8-102 and BR § 3-102.

The reference to "residents" is substituted for the former reference to "citizens" because the meaning of the word "citizen" is unclear in this context and to conform to the terminology used throughout this title.

8-103. PURPOSES OF TITLE.

THE PURPOSES OF THIS TITLE ARE TO:

(1) STRENGTHEN THE ABILITY OF COMMUNITIES TO PLAN AND COORDINATE AVAILABLE FEDERAL, STATE, LOCAL, AND PRIVATE RESOURCES BY MAKING THE RESOURCES MORE RESPONSIVE TO LOCAL NEEDS AND CONDITIONS; AND

(2) STRENGTHEN, SUPPLEMENT, AND COORDINATE EFFORTS TO COMBAT THE CAUSES AND PROBLEMS OF POVERTY IN THE STATE BY:

(I) MOBILIZING RESOURCES OF PRIVATE AND PUBLIC ECONOMIC ENTITIES TO INCREASE OPPORTUNITIES FOR LOW-INCOME STATE RESIDENTS TO DEVELOP SKILLS, KNOWLEDGE, AND CAPABILITIES;

(II) DEVELOPING THE FULL POTENTIAL OF LOW-INCOME STATE RESIDENTS SO THAT EVERYONE CAN LIVE IN DECENCY AND DIGNITY AND ACHIEVE INDIVIDUAL AND FAMILY SELF-SUFFICIENCY; AND

(III) PROMOTING THE DEVELOPMENT, EVALUATION, AND USE OF NEW APPROACHES TO ATTACK THE CAUSES AND PROBLEMS OF POVERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 12-101(b)(2) and (c).

In item (2)(i) and (ii) of this section, the references to "State residents" are substituted for the former reference to "citizens" because the meaning of the word "citizen" is unclear in this context and to conform to the terminology used throughout this title.

Also in item (2)(i) and (ii) of this section, the former reference to "poor" residents is deleted as included in the reference to "low-income" residents.

In item (2)(iii) of this section, the phrase "causes and problems" is substituted for the former phrase "origins and issues" to conform to the terminology of item (2) of this section and § 8-107(a) of this title.

Also in item (2)(iii) of this section, the former reference to "innovative" is deleted in light of the reference to "new".

8-104. MAKING, CHANGING, OR REVOKING DESIGNATION.

(A) IN GENERAL.

A POLITICAL SUBDIVISION MAY DESIGNATE A COMMUNITY ACTION AGENCY TO SERVE A COMMUNITY WITHIN THE POLITICAL SUBDIVISION OR MAY CHANGE OR REVOKE A DESIGNATION BY:

(1) AN ACT, ORDINANCE, OR RESOLUTION OF ITS GOVERNING BODY; OR

(2) AN ORDER OF ITS CHIEF EXECUTIVE, IF THE CHIEF LEGAL OFFICER CERTIFIES IN WRITING THAT THE CHIEF EXECUTIVE HAS POWER TO MAKE THE DESIGNATION.

(B) NOTICE AND HEARING.

(1) THE GOVERNING BODY SHALL NOTIFY THE PUBLIC AND HOLD A PUBLIC HEARING BEFORE A DESIGNATION IS MADE, CHANGED, OR REVOKED.

(2) A TRANSITION OR CLOSE-DOWN PLAN SHALL ACCOMPANY THE NOTIFICATION OF A PROPOSED CHANGE OR REVOCATION OF A DESIGNATION.

(C) EFFECTIVE DATE FOR CHANGE OR REVOCATION.

A CHANGE IN OR REVOCATION OF A DESIGNATION TAKES EFFECT AT THE START OF THE STATE FISCAL YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 12-101(d).

In subsection (a) of this section, the defined term "political subdivision" is substituted for the former reference to a "governing body" for clarity.

Defined terms: "Community action agency" § 8-101

"Designation" § 8-101

"Governing body" § 8-101

"Political subdivision" § 1-101

8-105. COMMUNITY ACTION BOARD.

(A) IN GENERAL.

(1) A COMMUNITY ACTION AGENCY SHALL ADMINISTER ITS PROGRAMS THROUGH A COMMUNITY ACTION BOARD.

(2) A COMMUNITY ACTION BOARD CONSISTS OF AT LEAST 15 MEMBERS, OF WHOM:

(I) ONE-THIRD ARE ELECTED PUBLIC OFFICIALS CURRENTLY HOLDING OFFICE, OR THEIR DESIGNEES;

(II) AT LEAST ONE-THIRD ARE CHOSEN BY A DEMOCRATIC SELECTION METHOD DESIGNED TO ASSURE THAT THEY WILL REPRESENT LOW-INCOME PERSONS IN THE COMMUNITY; AND

(III) THE OTHERS ARE OFFICIALS OR MEMBERS OF BUSINESS, INDUSTRY, LABOR, RELIGIOUS, WELFARE, EDUCATION, OR OTHER MAJOR GROUPS AND INTERESTS IN THE COMMUNITY.

(3) A MEMBER CHOSEN TO REPRESENT A GEOGRAPHIC AREA SHALL RESIDE IN THE AREA.

(4) A PERSON SELECTED UNDER PARAGRAPH (2)(II) OR (III) OF THIS SUBSECTION MAY NOT SERVE FOR MORE THAN 5 YEARS CONSECUTIVELY OR FOR MORE THAN A TOTAL OF 10 YEARS.

(B) GOVERNMENTAL UNIT AS COMMUNITY ACTION AGENCY.

IF A COMMUNITY ACTION AGENCY IS A GOVERNMENTAL UNIT:

(1) ITS COMMUNITY ACTION BOARD MAY SERVE AS AN ADVISORY BODY;
AND

(2) WITH THE APPROVAL OF THE GOVERNING BODY, THE GOVERNMENTAL UNIT MAY DELEGATE TO THE COMMUNITY ACTION BOARD ANY OF ITS POWERS OR RESPONSIBILITIES UNDER THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 12-101(e)(1) and (2)(iii).

In subsection (a)(2)(ii) of this section, the reference to "low-income" persons is substituted for the former reference to "poor" to conform to the terminology used in § 8-103(2)(i) and (ii) of this title.

Also in subsection (a)(2)(ii) of this section, the reference to the "community" is substituted for the former reference to the "area served" to conform to the terminology used in subsection (a)(2)(iii) of this section.

In subsection (b)(1) of this section, the reference to the "community action board" is substituted for the former reference to the board of directors to conform to the terminology used throughout this subtitle.

The Housing Article Review Committee notes, for consideration by the General Assembly, that although subsection (a) of this section specifies that a community action board consists of at least 15 members, the subsection does not specify the person who has the power to appoint those members to the board.

The Housing Article Review Committee also notes, for consideration by the General Assembly, that in subsection (b)(2) of this section, the reference to the ability of a governmental unit to delegate to the community action board any of its powers or responsibilities "under this title" is added to avoid the misleading implication that this subsection allows a governmental unit to delegate any of its powers or responsibilities without limit.

Defined terms: "Community action agency" § 8-101

"Governing body" § 8-101

"Governmental unit" § 1-101

8-106. POWERS OF COMMUNITY ACTION AGENCY.

(A) POWERS.

(1) A COMMUNITY ACTION AGENCY MAY ACCEPT AND ADMINISTER:

(I) FINANCIAL ASSISTANCE RECEIVED UNDER THIS TITLE;

(II) MONEY AND CONTRIBUTIONS FROM PRIVATE OR LOCAL PUBLIC SOURCES FOR COMMUNITY ACTION PROGRAMS;

(III) MONEY FROM STATE OR FEDERAL ASSISTANCE PROGRAMS UNDER WHICH A PUBLIC OR PRIVATE NONPROFIT ORGANIZATION MAY ACT AS A GRANTEE, CONTRACTOR, OR SPONSOR OF PROJECTS SUITABLE FOR COMMUNITY ACTION PROGRAMS; AND

(IV) FEDERAL MONEY FROM FEDERAL BLOCK GRANTS PREVIOUSLY DESIGNATED AS ANTIPOVERTY MONEY, SUBJECT TO APPLICABLE FEDERAL LAW.

(2) A COMMUNITY ACTION AGENCY MAY TRANSFER MONEY AND DELEGATE RESPONSIBILITY TO A SUBSIDIARY BOARD, COUNCIL, OR SIMILAR AGENCY FOR PROJECTS DESIGNED TO FURTHER COMMUNITY ACTION PROGRAM OBJECTIVES.

(B) POLICY FINDINGS.

RESPONSIBILITY FOR MAKING POLICY DETERMINATIONS, INCLUDING THE CHARACTERS, FUNDING, EXTENT, AND ADMINISTRATION OF AND BUDGETING FOR PROGRAMS OR PROJECTS AFFECTING A PARTICULAR GEOGRAPHIC AREA IN A COMMUNITY MAY BE DELEGATED BY A COMMUNITY ACTION AGENCY TO A SUBSIDIARY BOARD, COUNCIL, OR SIMILAR AGENCY IF THE SUBSIDIARY BODY IS BROADLY REPRESENTATIVE OF THE AREA.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 12-101(g) and (e)(2)(i) and (ii).

In the introductory language of subsection (a)(1) of this section, the former phrase "[i]n addition to the powers set forth elsewhere in this section" is deleted as surplusage.

In subsection (a)(1)(iii) of this section, the defined term "nonprofit organization" is substituted for the former reference to a "nonprofit agency" to conform to the terminology used throughout this article.

In subsection (a)(1)(iv) of this section, the former reference to a federal "regulation" is deleted as included in the broad reference to a federal "law".

In subsection (a)(2) of this section, the reference to a "community action" program is added to clarify the type of program.

Defined terms: "Community action agency" § 8-101

"Financial assistance" § 1-101

"Nonprofit organization" § 1-101

8-107. DUTIES OF COMMUNITY ACTION AGENCY.

(A) PROGRAM PLAN.

A COMMUNITY ACTION AGENCY SHALL PLAN SYSTEMATICALLY FOR AN EFFECTIVE COMMUNITY ACTION PROGRAM, AND IN DOING SO SHALL:

- (1) EVALUATE INFORMATION ON THE CAUSES AND PROBLEMS OF POVERTY IN THE COMMUNITY;
 - (2) ASSESS THE USE AND IMPACT OF CURRENT FINANCIAL ASSISTANCE;
- AND
- (3) ESTABLISH PRIORITIES AMONG PROJECTS, ACTIVITIES, AND TARGET AREAS TO ACHIEVE THE BEST AND MOST EFFICIENT USE OF RESOURCES.
- (B) ENCOURAGING AND ASSISTING SUBSIDIARY BODIES.

A COMMUNITY ACTION AGENCY SHALL:

- (1) ENCOURAGE SUBSIDIARY BOARDS, COUNCILS, AND AGENCIES ENGAGED IN PROJECTS RELATED TO A COMMUNITY ACTION PROGRAM TO PLAN FOR, SECURE, AND ADMINISTER AVAILABLE FINANCIAL ASSISTANCE ON A COOPERATIVE BASIS; AND
 - (2) PROVIDE TECHNICAL AND ORGANIZATIONAL ASSISTANCE TO THE SUBSIDIARY BOARDS, COUNCILS, AND AGENCIES.
- (C) SUPPLEMENTING LOCAL ANTI-POVERTY EFFORTS.

A COMMUNITY ACTION AGENCY SHALL ACTIVELY SUPPLEMENT LOCAL EFFORTS TO COMBAT POVERTY BY:

- (1) FOCUSING RESOURCES ON THE MOST NEEDY;
 - (2) PROVIDING EMPLOYMENT OPPORTUNITIES FOR LOW-INCOME PERSONS;
 - (3) CLOSING SERVICE GAPS; AND
 - (4) ENABLING LOW-INCOME PERSONS TO PARTICIPATE IN COMMUNITY ACTION PROGRAMS AND PROJECTS.
- (D) COMMUNITY PROJECTS.

A COMMUNITY ACTION AGENCY SHALL INITIATE AND SPONSOR COMMUNITY PROJECTS TO HELP MEET THE NEEDS OF LOW-INCOME PERSONS WITH PARTICULAR EMPHASIS ON:

- (1) ESTABLISHING A POOL OF RESOURCES TO SERVE A VARIETY OF COMMUNITY ACTION PROGRAMS;
 - (2) DEVELOPING VERSATILE APPROACHES AND SERVICES; AND
 - (3) IMPLEMENTING STOPGAP MEASURES PENDING THE EXPANSION OR MODIFICATION OF COMMUNITY ACTION PROGRAMS.
- (E) ENCOURAGING RESIDENT PARTICIPATION.

A COMMUNITY ACTION AGENCY SHALL:

- (1) ESTABLISH PROCEDURES FOR COMMUNITY RESIDENTS TO:
 - (I) INFLUENCE THE CHARACTER OF THEIR COMMUNITY ACTION PROGRAMS; AND
 - (II) PARTICIPATE REGULARLY IN IMPLEMENTING THOSE PROGRAMS;
- (2) PROVIDE THE NECESSARY TECHNICAL AND ADVISORY SUPPORT TO ENABLE LOW-INCOME PERSONS AND COMMUNITY GROUPS TO SECURE PUBLIC AND PRIVATE FINANCIAL ASSISTANCE FOR THEMSELVES.
- (F) SUPPORTING COMMUNITY ACTION PROGRAMS.

A COMMUNITY ACTION AGENCY SHALL JOIN WITH AND ENCOURAGE BUSINESS, LABOR, AND OTHER PRIVATE OR PUBLIC OFFICIALS AND ORGANIZATIONS TO SUPPORT COMMUNITY ACTION PROGRAMS THAT:

- (1) USE PRIVATE RESOURCES AND CAPABILITIES FOR NEW EMPLOYMENT OPPORTUNITIES;
- (2) STIMULATE INVESTMENTS THAT MEASURABLY REDUCE POVERTY IN AREAS OF CONCENTRATED POVERTY; AND
- (3) PROVIDE RESIDENTS IN THOSE AREAS WITH METHODS TO WORK WITH PRIVATE ORGANIZATIONS, FIRMS, AND INSTITUTIONS TO SEEK SOLUTIONS TO PROBLEMS OF COMMON CONCERN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 12-101(h).

In the introductory language of subsection (a) of this section, the former phrase "[i]n addition to the duties set forth elsewhere in this section" is deleted as implicit in the requirement that a community action agency fulfill the enumerated items in this title.

In subsection (a)(1) of this section, the former reference to a "target" community is deleted as surplusage.

In the introductory language of subsection (c) of this section, the former reference to "affirmative" action is deleted as surplusage.

In the introductory language of subsection (d) of this section, and in subsection (e)(2) of this section, the references to "low-income" persons are substituted for the former references to "poor" to conform to the terminology used throughout this subtitle.

In subsection (e)(2) of this section, the reference to "community" groups is substituted for the former reference to "neighborhood" groups to conform to

the terminology used throughout this subtitle.

Defined terms: "Community action agency" § 8-101

"Financial assistance" § 1-101

8-108. FINANCIAL ASSISTANCE.

THE SECRETARY MAY PROVIDE FINANCIAL ASSISTANCE TO DESIGNATED COMMUNITY ACTION AGENCIES IN ACCORDANCE WITH DISTRIBUTION STANDARDS SET BY REGULATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 12-101(f)(1).

Defined terms: "Community action agency" § 8-101

"Financial assistance" § 1-101

"Secretary" § 1-101

8-109. REGULATIONS.

(A) SECRETARY TO ADOPT REGULATIONS.

THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS TITLE.

(B) FEDERAL MONEY ALLOCATION.

THE REGULATIONS SHALL INCLUDE PROVISIONS THAT:

(1) ENSURE THAT EACH DESIGNATED COMMUNITY ACTION AGENCY RECEIVES AT LEAST AS MUCH FEDERAL MONEY AS THE COMMUNITY ACTION AGENCY RECEIVED IN FEDERAL FISCAL YEAR 1994, UNLESS THE FEDERAL FUNDING IS REDUCED; AND

(2) ALLOCATE REMAINING FEDERAL MONEY TO THOSE COMMUNITY ACTION AGENCIES THAT RECEIVED A LESSER SHARE OF PROGRAM FEDERAL MONEY IN FEDERAL FISCAL YEAR 1994 THAN THEY WOULD HAVE RECEIVED BASED ON THE NUMBER OF PERSONS IN THE LOCAL JURISDICTION WITH HOUSEHOLD INCOME BELOW THE POVERTY LINE SET BY THE FEDERAL OFFICE OF MANAGEMENT AND BUDGET AS A PERCENTAGE OF THE NUMBER OF PERSONS IN THE STATE WITH HOUSEHOLD INCOME BELOW THAT LINE.

(C) DISTRIBUTION STANDARDS.

(1) BY REGULATION, THE SECRETARY SHALL ADOPT STANDARDS FOR DISTRIBUTING FINANCIAL ASSISTANCE UNDER § 8-108 OF THIS SUBTITLE.

(2) THE DISTRIBUTION STANDARDS SHALL INCLUDE THE PERCENTAGE OF PERSONS IN POVERTY, BASED ON THE MOST CURRENT CENSUS POPULATION INFORMATION.

(3) THE DISTRIBUTION STANDARDS MAY ADDRESS SPECIFIC PROBLEMS IN RURAL COMMUNITIES, MINIMUM FINANCING NECESSARY TO MAINTAIN PROGRAM OPERATIONS, AND THE POTENTIAL FOR ADDITIONAL LOCAL AND PRIVATE FINANCING.

REVISOR'S NOTE: This section formerly was Art. 83B, § 12-101(f), (i), and (a)(4).

In subsection (a) of this section, the reference to "this title" is substituted for the former reference to "the purposes of the community services program" for clarification that there is not one specific community services program, rather several community action agencies that implement programs based upon the purpose of this title.

In subsection (b)(1) of this section, the former phrase "with respect to the allocation of federal funds" is deleted as surplusage.

In subsection (b)(2) of this section, the former definition of "[p]overty level population" is revised as a part of the substantive provision and the former term "poverty level population" is deleted as surplusage.

Defined terms: "Financial assistance" § 1-101

"Person" § 1-101

"Secretary" § 1-101

TITLE 9. COMMUNITY REINVESTMENT FUND.

SUBTITLE 1. DEFINITIONS; FINDINGS.

9-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 10-102(a).

No changes are made.

(B) BOARD.

"BOARD" MEANS THE COMMUNITY REINVESTMENT BOARD.

REVISOR'S NOTE: This subsection formerly was the first clause of Art. 83B, § 10-102(b).

The only changes are in style.

(C) COMMUNITY REINVESTMENT ASSISTANCE.

"COMMUNITY REINVESTMENT ASSISTANCE" MEANS A LOAN, ASSURANCE, GUARANTEE, GRANT, PAYMENT, CREDIT ENHANCEMENT, OR OTHER ASSISTANCE PROVIDED BY THE FUND AS SET FORTH IN § 9-404 OF THIS TITLE, OR A COMMITMENT TO PROVIDE THE ASSISTANCE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 10-102(c).

Defined term: "Fund" § 9-101

(D) COMMUNITY REINVESTMENT PROJECT.

"COMMUNITY REINVESTMENT PROJECT" MEANS A PROJECT OR PROGRAM ELIGIBLE UNDER § 9-402 OF THIS TITLE TO RECEIVE COMMUNITY REINVESTMENT ASSISTANCE FROM THE FUND.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 10-102(d).

Defined term: "Fund" § 9-101

(E) FUND.

"FUND" MEANS THE COMMUNITY REINVESTMENT FUND.

REVISOR'S NOTE: This subsection formerly was the first clause of Art. 83B, § 10-102(e).

The only changes are in style.

(F) LIMITED INCOME HOUSEHOLD.

"LIMITED INCOME HOUSEHOLD" MEANS A HOUSEHOLD OR INDIVIDUAL WHOSE INCOME DOES NOT EXCEED THE UPPER INCOME LIMITS THAT THE SECRETARY ESTABLISHES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 10-102(f).

Defined terms: "Person" § 1-101

"Secretary" § 1-101

(G) MEMBER.

"MEMBER" MEANS A MEMBER OF THE BOARD.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first clause of former Art. 83B, § 10-102(h).

The defined term "member" is substituted for the former term "[t]rustees" for clarity.

9-102. FINDINGS.

(A) IN GENERAL.

THE GENERAL ASSEMBLY FINDS THAT:

(1) SOME COMMUNITIES AND NEIGHBORHOODS IN THE STATE ARE IN ECONOMIC AND SOCIAL DISTRESS BECAUSE OF A SHORTAGE OF SIGNIFICANT PRIVATE INVESTMENT;

(2) FINANCIAL INSTITUTIONS IN THE STATE ARE RECOGNIZING A HEIGHTENED RESPONSIBILITY TO PROVIDE FINANCIAL ASSISTANCE TO THESE COMMUNITIES AND NEIGHBORHOODS; AND

(3) FEDERAL AND STATE REGULATORS ARE REQUIRING MORE COMMUNITY REINVESTMENT BY THESE FINANCIAL INSTITUTIONS.

(B) PROMOTING FINANCIAL VEHICLE TO FACILITATE REINVESTMENT.

THE GENERAL ASSEMBLY THEREFORE FINDS THAT THE PUBLIC INTEREST IS SERVED BY PROMOTING THE DEVELOPMENT OF A FINANCIAL VEHICLE TO BE OPERATED BY PRIVATE FINANCIAL INSTITUTIONS TO:

(1) INCREASE COMMUNITY REINVESTMENT TO NEIGHBORHOODS AND COMMUNITIES IN THE STATE THAT HAVE URGENT NEED FOR REINVESTMENT;

(2) MAKE COMMUNITY REINVESTMENT BY FINANCIAL INSTITUTIONS EASIER AND MORE DESIRABLE BY SPREADING THE FINANCIAL RISK AND OFFERING THE EXPERIENCE OF THE STATE IN PROVIDING COMMUNITY REINVESTMENT LENDING; AND

(3) FORGE PARTNERSHIPS AMONG FINANCIAL INSTITUTIONS AND THE STATE IN MEETING COMMUNITY REINVESTMENT GOALS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 10-101.

In the introductory language of subsection (a) of this section, the former reference to a "declar[ation]" is deleted in light of the reference to a "find[ing]" for brevity.

In subsection (a)(3) of this section, the reference to "regulators" is substituted for the former reference to "regulatory agencies" for brevity.

Also in subsection (a)(3) of this section, the former reference to reinvestment "activity" is deleted as surplusage.

In the introductory language of subsection (b) of this section, the former reference to "the State's" promoting the development of a financial vehicle is deleted as implicit in the reference to "the public interest".

Defined term: "Financial assistance" § 1-101

SUBTITLE 2. COMMUNITY REINVESTMENT BOARD.

9-201. ESTABLISHED.

THERE IS A COMMUNITY REINVESTMENT BOARD.

REVISOR'S NOTE: This section is new language added to state expressly what formerly was only implied - that the Community Reinvestment Board exists.

9-202. MEMBERSHIP.

(A) COMPOSITION.

(1) THE BOARD CONSISTS OF AT LEAST 17 MEMBERS.

(2) THE SECRETARY OF THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT OR THEIR DESIGNEES ARE NONVOTING MEMBERS.

(3) THE GOVERNOR SHALL APPOINT AT LEAST 15 VOTING MEMBERS.

(B) VOTING MEMBERS.

(1) SUBJECT TO THE REQUIREMENTS OF THIS SUBSECTION, THE VOTING MEMBERS SHALL BE APPOINTED AND REMOVED IN ACCORDANCE WITH THE ORGANIZATIONAL DOCUMENTS OF THE FUND.

(2) AT LEAST TWO-THIRDS OF THE VOTING MEMBERS SHALL REPRESENT:

(I) THE COMMERCIAL BANKING OR SAVINGS INSTITUTION INDUSTRY IN THE STATE OR OTHER PARTICIPANTS THAT HAVE PLEDGED OR CONTRIBUTED MONEY OR OTHER SUBSTANTIAL ASSISTANCE TO THE FUND; OR

(II) TRADE ORGANIZATIONS CONSISTING OF OR OTHERWISE REPRESENTING TWO OR MORE MEMBERS OF THE COMMERCIAL BANKING OR SAVINGS INSTITUTION INDUSTRY IN THE STATE OR OTHER PARTICIPANTS THAT HAVE CONTRIBUTED MONEY OR OTHER SUBSTANTIAL ASSISTANCE TO THE FUND.

(3) AT LEAST 20% OF THE VOTING MEMBERS SHALL REPRESENT COMMUNITY GROUPS OR OTHER ENTITIES THAT MAY BE ELIGIBLE TO RECEIVE COMMUNITY REINVESTMENT ASSISTANCE.

(4) THE MAJORITY OF VOTING MEMBERS SHALL REPRESENT THE GROUPS DESCRIBED IN PARAGRAPH (2)(I) OF THIS SUBSECTION.

(C) QUALIFICATION.

A MEMBER OF THE BOARD MAY BE A DIRECTOR OR MEMBER OR MAY HAVE SOME OTHER LEGAL STATUS REQUIRED BY OR APPROPRIATE TO THE TYPE OF ENTITY CONSTITUTING THE FUND.

(D) TENURE.

(1) THE TERM OF A VOTING MEMBER MAY NOT EXCEED 3 YEARS.

(2) A VOTING MEMBER MAY BE REAPPOINTED.

REVISOR'S NOTE: This section is new language derived without substantive change from the second clause of former Art. 83B, §§ 10-102(h) and 10-105(b), (c), and, as it related to the appointment and removal of voting trustees, (e).

In subsection (a)(2) of this section, the former references to nonvoting "ex officio" members are deleted as surplusage.

In subsection (b)(1) of this section, the former reference to the voting members "following the initial appointments" is deleted as obsolete.

In subsection (b)(3) of this section, the former reference to "organizations" is deleted as included in the reference to "other entities".

The Housing Article Review Committee notes, for consideration by the General Assembly, that in subsection (c) of this section, the defined term "member" is substituted for the former reference to "[t]rustee[s]" for clarity. Former Art. 83B, § 10-102(h) which defined "trustees" to mean "the members of the Board, which persons may be directors or trustees or have such other legal status requisite or appropriate to the type of entity constituting the Fund", seemed to imply that the Fund could be an entity other than a trust.

Defined terms: "Board" § 9-101

"Community reinvestment assistance" § 9-101

"Fund" § 9-101

"Member" § 9-101

9-203. MEETINGS.

THE BOARD SHALL SET THE TIMES AND PLACES OF ITS MEETINGS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 10-105(d).

Defined term: "Board" § 9-101

9-204. OPERATION, POWERS, AND DUTIES.

(A) OPERATION OF BOARD.

SUBJECT TO THE REQUIREMENTS OF THIS TITLE, THE ORGANIZATIONAL DOCUMENTS OF THE FUND SHALL GOVERN THE OPERATION OF THE BOARD, INCLUDING QUORUM AND VOTING REQUIREMENTS.

(B) POWERS.

THE BOARD HAS ALL POWERS ARISING FROM THE DOCUMENTS AND PROCEDURES CREATING AND ORGANIZING THE FUND AS AN INDEPENDENT LEGAL ENTITY.

(C) DUTIES -- IN GENERAL.

THE BOARD SHALL:

- (1) OPERATE THE FUND;
- (2) KEEP PROPER RECORDS OF THE BOARD'S ACCOUNTS;
- (3) ESTABLISH STANDARDS AND GUIDELINES FOR:
 - (I) THE TERMS AND CONDITIONS OF COMMUNITY REINVESTMENT ASSISTANCE AND OTHER FUND REINVESTMENTS; AND
 - (II) ALLOCATING COMMUNITY REINVESTMENT ASSISTANCE AND OTHER FUND INVESTMENTS;
- (4) APPORTION AMONG FUND TRANSACTIONS THE OPERATING COSTS OF THE FUND; AND
- (5) WITHIN THE FIRST 90 DAYS OF EACH FISCAL YEAR, MAKE AN ANNUAL REPORT OF FUND ACTIVITIES TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

(D) SAME -- LOAN COMMITTEE.

- (1) THE BOARD SHALL APPOINT A LOAN COMMITTEE TO REVIEW AND MAKE DETERMINATIONS ON SPECIFIC REQUESTS OR CATEGORIES OF REQUESTS FOR COMMUNITY REINVESTMENT ASSISTANCE TO COMMUNITY REINVESTMENT PROJECTS.
- (2) THE LOAN COMMITTEE MAY REVIEW AND MAKE RECOMMENDATIONS TO THE BOARD ON OTHER MATTERS AS THE BOARD DETERMINES, INCLUDING ELIGIBILITY GUIDELINES AND FINANCING POLICIES FOR COMMUNITY REINVESTMENT PROJECTS.
- (3) THE LOAN COMMITTEE CONSISTS OF:
 - (I) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT AND THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT OR THEIR DESIGNEES AS NONVOTING MEMBERS; AND

(II) THE VOTING MEMBERS THAT THE BOARD APPOINTS OR THEIR DESIGNEEES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 10-106 and 10-105(a), (f), and, as it related to quorum and voting requirements, (e).

In subsection (b) of this section, the former phrase "[i]n addition to any other powers set forth in this title" is deleted as surplusage.

In subsection (c)(1) of this section, the former reference to the vesting in the Community Reinvestment Board of the "general administration" of the Community Reinvestment Fund is deleted as implicit in the reference to requirement that the Board "operate" the Fund.

In subsection (d)(3)(i) of this section, the former reference to "ex officio" nonvoting members is deleted as surplusage.

The Housing Article Review Committee notes, for consideration by the General Assembly, that in subsection (d)(3)(ii) of this section, the phrase "the voting members that the Board appoints or their designees" is substituted for the former phrase "members of the Board or their designees as determined and appointed by the Board" to clarify that only voting members may be appointed by the Board and not designees of voting members, who are each designated by their voting members.

Defined terms: "Board" § 9-101

"Community reinvestment assistance" § 9-101

"Community reinvestment project" § 9-101

"Fund" § 9-101

"Secretary" § 1-101

SUBTITLE 3. COMMUNITY REINVESTMENT FUND.

9-301. ESTABLISHED; PURPOSE OF FUND.

(A) ESTABLISHED.

THERE IS A COMMUNITY REINVESTMENT FUND.

(B) PURPOSE OF FUND.

THE PURPOSE OF THE FUND IS TO ADMINISTER THE USE AND REINVESTMENT OF MONEY THAT MAY BE CREDITED, PAID, OR OTHERWISE TRANSFERRED TO THE FUND FROM ANY ENTITY APPROVED BY THE BOARD TO PARTICIPATE IN THE FUND, INCLUDING A BANK, SAVINGS INSTITUTION, OR OTHER FINANCIAL INSTITUTION.

REVISOR'S NOTE: Subsection (a) of this section is new language added to state expressly what formerly was only implied - that the Community Reinvestment Fund exists.

Subsection (b) of this section is new language derived without substantive change from former Art. 83B, § 10-104(a)(1).

Defined terms: "Board" § 9-101

"Fund" § 9-101

9-302. STATUS; EXEMPTIONS.

(A) IN GENERAL.

(1) THE FUND IS A PRIVATE, INDEPENDENT LEGAL ENTITY TO BE ASSISTED BY THE DEPARTMENT UNDER THIS TITLE AND IS NOT A GOVERNMENTAL UNIT OF THE STATE.

(2) ANY DIVIDENDS, ROYALTIES, OR OTHER EARNINGS RECEIVED FROM COMMUNITY REINVESTMENT ASSISTANCE, OR FROM ANY OTHER INVESTMENT MADE BY THE BOARD UNDER THIS TITLE, IS MONEY OF THE FUND, AND IS NOT MONEY OF THE STATE.

(B) EXEMPTION FROM BOARD OF PUBLIC WORKS OR STATE APPROVAL.

EXCEPT AS SPECIFIED IN THIS TITLE, THE ORGANIZATION AND OPERATION OF THE BOARD AND THE FUND ARE NOT SUBJECT TO APPROVAL BY THE BOARD OF PUBLIC WORKS OR BY ANY STATE OFFICIAL OR UNIT.

(C) BOARD AND FUND PERSONNEL.

A MEMBER, EMPLOYEE, OR AGENT OF THE BOARD OR THE FUND IS NOT A STATE OFFICIAL BY VIRTUE OF ANY STATUS WITH OR ACTION FOR THE FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 10-102(e), 10-104(a)(3), and 10-110(a) and (b)(2) and (3)(i).

In subsection (a)(2) of this section, the former phrase "for any ... purpose" is deleted as surplusage.

In subsection (c) of this section, the reference to "status" is added to state expressly what was formerly implied - that neither the status nor an action of an individual who is a member, employee, or agent of the Board makes the individual a State official.

Defined terms: "Board" § 9-101

"Department" § 1-101

"Fund" § 9-101

"Governmental unit" § 1-101

"Member" § 9-101

9-303. ORGANIZATION.

(A) FORM OF ENTITY.

THE BOARD SHALL DETERMINE THE FORM OF THE INDEPENDENT LEGAL ENTITY CONSTITUTING THE FUND IN ACCORDANCE WITH THE ORGANIZATIONAL DOCUMENTS OF THE FUND.

(B) CONTRIBUTOR'S INVESTMENT RETURN.

IN ACCORDANCE WITH THE ORGANIZATIONAL DOCUMENTS OF THE FUND, AN ENTITY CONTRIBUTING MONEY TO THE FUND MAY BE ENTITLED TO RECEIVE:

(1) INTERESTS IN THE FUND IN PROPORTION TO THE ENTITY'S CONTRIBUTION, IN AN AMOUNT AND IN A FORM THAT THE BOARD DETERMINES; AND

(2) A RETURN ON ITS CONTRIBUTION TO THE FUND BASED ON:

(I) THE ENTITY'S SHARE; AND

(II) A FIXED RATE OF RETURN OR THE AMOUNT OF ANY DIVIDENDS, ROYALTIES, OR OTHER EARNINGS OF THE FUND, OR ON ANOTHER FORMULA AND IN A FORM THAT THE BOARD DETERMINES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 10-104(b).

In subsection (b)(1) of this section, the reference to "interests" is substituted for the former reference to "[a] share or portion of the interests" for brevity.

Defined terms: "Board" § 9-101

"Fund" § 9-101

9-304. APPLICATION OF OTHER LAWS.

(A) STATE FINANCE AND PROCUREMENT ARTICLE.

TITLES 11 THROUGH 17 OF THE STATE FINANCE AND PROCUREMENT ARTICLE DO NOT APPLY TO THE OPERATION OF OR ANY TRANSACTIONS MADE BY THE FUND.

(B) STATE GOVERNMENT ARTICLE.

MEETINGS OF THE BOARD OR ITS MEMBERS OR OF EMPLOYEES OR AGENTS OF THE FUND ARE NOT SUBJECT TO STATE REQUIREMENTS FOR OPEN OR PUBLIC MEETINGS, INCLUDING ANY REQUIREMENTS FOR OPEN SESSIONS UNDER TITLE 10, SUBTITLE 5 OF THE STATE GOVERNMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 10-110(b)(1) and (3)(ii).

Defined terms: "Board" § 9-101

"Fund" § 9-101

"Governmental unit" § 1-101

"Member" § 9-101

9-305. USE OF FUND MONEY.

(A) REQUIRED USE.

THE BOARD SHALL USE THE MONEY ADMINISTERED BY THE FUND TO PROVIDE COMMUNITY REINVESTMENT ASSISTANCE IN ACCORDANCE WITH THIS TITLE, ANY OTHER APPLICABLE LAW, AND THE ORGANIZATIONAL DOCUMENTS OF THE FUND.

(B) OPTIONAL USES.

THE BOARD MAY USE THE MONEY THAT THE FUND ADMINISTERS TO:

(1) ASSURE A REASONABLE RETURN ON MONEY HELD BY THE FUND BEFORE DISBURSING MONEY FOR COMMUNITY REINVESTMENT ASSISTANCE;

(2) PAY EXPENSES INCURRED IN ITS FORMATION AND OPERATION, INCLUDING EXPENSES FOR ADMINISTRATIVE, LEGAL, ACTUARIAL, AND OTHER SERVICES; AND

(3) REDEEM INTERESTS IN THE FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 10-107 and 10-104(a)(2).

In subsection (b)(3) of this section, the reference to "interests" is substituted for the former reference to "shares or portions of the interests" for brevity.

Defined terms: "Board" § 9-101

"Community reinvestment assistance" § 9-101

"Community reinvestment project" § 9-101

"Fund" § 9-101

9-306. DUTIES OF DEPARTMENT.

THE DEPARTMENT SHALL TAKE ANY NECESSARY ACTION, INCLUDING PROVIDING TECHNICAL ASSISTANCE, TO ENCOURAGE AND FACILITATE THE CREATION OF THE FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 10-103(a)(1) and (2).

The former reference requiring the Department to "encourage" action is deleted in light of the requirement that the Department "take" action.

Also the former reference to any "proper" action is deleted in light of the reference to any "necessary" action.

Defined terms: "Department" § 1-101

"Fund" § 9-101

9-307. POWERS OF DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT.

(A) PAYING EXPENSES OF ORGANIZING FUND.

THE DEPARTMENT MAY PROVIDE MONEY FOR ADMINISTRATIVE, LEGAL, AND OTHER ORGANIZATIONAL EXPENSES OF THE FUND.

(B) PROVIDING AND CHARGING FOR TECHNICAL ASSISTANCE.

THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT MAY:

(1) PROVIDE TECHNICAL ASSISTANCE FOR:

(I) OPERATING AND ADMINISTERING THE FUND; AND

(II) UNDERWRITING PROPOSED COMMUNITY REINVESTMENT PROJECTS; AND

(2) CHARGE REASONABLE AND CUSTOMARY FEES FOR THE TECHNICAL ASSISTANCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 10-103(a)(3) and (b).

In subsection (a) of this section, the former reference to expenses "incurred in forming the private and independent legal entity constituting the Fund" is deleted as surplusage.

Defined terms: "Community reinvestment project" § 9-101

"Department" § 1-101

"Fund" § 9-101

SUBTITLE 4. REINVESTMENT ASSISTANCE.

9-401. HOUSEHOLD INCOME LIMITS.

THE SECRETARY SHALL ESTABLISH UPPER INCOME LIMITS FOR LIMITED INCOME HOUSEHOLDS, TAKING INTO CONSIDERATION FACTORS THAT INCLUDE:

(1) THE TOTAL INCOME OF THE HOUSEHOLD AVAILABLE FOR HOUSING NEEDS;

(2) THE SIZE OF THE HOUSEHOLD;

(3) THE COST AND CONDITION OF HOUSING FACILITIES;

(4) THE ABILITY OF THE HOUSEHOLD TO COMPETE SUCCESSFULLY IN THE CONVENTIONAL PRIVATE HOUSING MARKET; AND

(5) RELEVANT STANDARDS AND DEFINITIONS ESTABLISHED FOR FEDERAL HOUSING PROGRAMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 10-108(a).

Defined terms: "Limited income household" § 9-101

"Secretary" § 1-101

9-402. REQUIREMENTS FOR COMMUNITY REINVESTMENT PROJECTS.

(A) MEETING SPECIFIED NEEDS.

A PROJECT QUALIFIES AS A COMMUNITY REINVESTMENT PROJECT IF THE SECRETARY DETERMINES IN WRITING THAT THE COMMUNITY REINVESTMENT PROJECT MEETS:

(1) AFFORDABLE HOUSING NEEDS OF LIMITED INCOME HOUSEHOLDS IN THE STATE;

(2) CAPITAL, OPERATING, AND OTHER CREDIT NEEDS OF SMALL BUSINESSES IN THE STATE, INCLUDING FARM BUSINESSES, IF THE ASSETS, INCOME, AND NUMBER OF EMPLOYEES OF THE BUSINESS DO NOT EXCEED LIMITS THAT THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT ESTABLISHES; OR

(3) CAPITAL, OPERATING, AND OTHER CREDIT NEEDS OF INDIVIDUALS, COMMUNITY ORGANIZATIONS, AND BUSINESSES LOCATED IN OR SERVING COMMUNITIES OR NEIGHBORHOODS IN THE STATE THAT HAVE URGENT NEEDS FOR REINVESTMENT DUE TO DETERIORATING SOCIAL OR ECONOMIC CONDITIONS.

(B) CONFORMITY TO GUIDELINES AND POLICIES; APPROVAL BY LOAN COMMITTEE.

A COMMUNITY REINVESTMENT PROJECT SHALL:

(1) CONFORM TO ELIGIBILITY GUIDELINES AND FINANCING POLICIES CONSISTENT WITH THIS SUBTITLE THAT THE BOARD DEVELOPS AND THE SECRETARY APPROVES; AND

(2) BE SUBMITTED TO AND APPROVED BY THE LOAN COMMITTEE APPOINTED BY THE BOARD UNDER § 9-204(D) OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 10-102(g) and 10-108(b).

In subsection (b)(2) of this section, the reference to "§ 9-204(d) of this title" is added for clarity.

Defined terms: "Board" § 9-101

"Community reinvestment project" § 9-101

"Limited income household" § 9-101

"Secretary" § 1-101

9-403. APPLICATIONS FOR ASSISTANCE.

(A) IN GENERAL.

AN APPLICATION FOR COMMUNITY REINVESTMENT ASSISTANCE SHALL BE MADE TO THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, TO THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT, TO AN ENTITY CONTRIBUTING TO THE FUND, OR, IF THE BOARD ALLOWS, DIRECTLY TO THE FUND.

(B) TECHNICAL ASSISTANCE.

THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT MAY PROVIDE TECHNICAL ASSISTANCE IN THE UNDERWRITING OR REVIEW OF A LOAN FOR WHICH AN APPLICATION HAS BEEN SUBMITTED.

(C) LOAN COMMITTEE ACTION.

THE LOAN COMMITTEE SHALL BASE ITS ACTION ON AN APPLICATION ON THE REVIEW OF THE APPLICATION AND RECOMMENDATIONS MADE BY ONE OR MORE PARTIES LISTED IN SUBSECTION (A) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 10-108(c).

Defined terms: "Board" § 9-101

"Community reinvestment assistance" § 9-101

"Fund" § 9-101

9-404. METHODS OF PROVIDING ASSISTANCE.

TO PROVIDE COMMUNITY REINVESTMENT ASSISTANCE, THE BOARD MAY:

(1) INVEST IN, PURCHASE, MAKE COMMITMENTS TO PURCHASE, OR TAKE ASSIGNMENTS FROM MORTGAGE LENDERS OF NOTES AND MORTGAGES EVIDENCING MORTGAGE LOANS;

(2) ACT AS A GUARANTOR OR CONDUIT FOR MORTGAGE BACKED SECURITIES;

(3) MAKE LOANS TO RECIPIENTS OF COMMUNITY REINVESTMENT ASSISTANCE OR TO MORTGAGE LENDERS;

(4) SELL AT PUBLIC OR PRIVATE SALE MORTGAGES, LOANS, OR OTHER OBLIGATIONS HELD BY THE FUND;

(5) PURCHASE, MAKE, PARTICIPATE IN MAKING, OR ENTER INTO COMMITMENTS TO PURCHASE LOANS;

(6) PACKAGE AND SELL LOANS; AND

(7) DO ANYTHING ELSE AUTHORIZED BY THE ORGANIZATIONAL DOCUMENTS OF THE FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 10-109.

Defined terms: "Board" § 9-101

"Community reinvestment assistance" § 9-101

"Fund" § 9-101

SUBTITLE 5. SHORT TITLE.

9-501. SHORT TITLE.

THIS TITLE IS THE COMMUNITY REINVESTMENT FUND ACT.

REVISOR'S NOTE: This section formerly was Art. 83B, § 10-111.

The only changes are in style.

TITLE 10. MARYLAND AFFORDABLE HOUSING TRUST.

SUBTITLE 1. GENERAL PROVISIONS.

10-101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 11-101(a).

No changes are made.

(B) AWARD.

"AWARD" MEANS A GRANT, LOAN, DEFERRED PAYMENT LOAN, LOAN GUARANTEE, OR OTHER FINANCIAL ASSISTANCE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83B, § 11-101(b).

The former reference to an award being "money from the Trust" is deleted as surplusage.

The former reference to guarantees of loans "from other sources" is deleted as surplusage.

Defined term: "Financial assistance" § 1-101

(C) BOARD.

"BOARD" MEANS THE BOARD OF TRUSTEES OF THE TRUST.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 11-101(c).

No changes are made.

Defined term: "Trust" § 10-101

(D) FUND.

"FUND" MEANS THE MARYLAND AFFORDABLE HOUSING TRUST FUND.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 11-101(d).

No changes are made.

(E) TRUST.

"TRUST" MEANS THE MARYLAND AFFORDABLE HOUSING TRUST.

REVISOR'S NOTE: This subsection formerly was Art. 83B, § 11-101(e).

No changes are made.

(F) TRUSTEE.

"TRUSTEE" MEANS A MEMBER OF THE BOARD.

REVISOR'S NOTE: This subsection is new language added to provide a concise reference to a trustee of the Board of Trustees of the Trust.

Defined term: "Board" § 10-101

10-102. TRUST ESTABLISHED.

(A) IN GENERAL.

THERE IS A MARYLAND AFFORDABLE HOUSING TRUST.

(B) STATUS.

(1) THE TRUST IS AN INSTRUMENTALITY OF THE STATE AND IS A BODY CORPORATE AND POLITIC.

(2) THE EXERCISE BY THE TRUST OF ITS POWERS UNDER THIS TITLE IS AN ESSENTIAL PUBLIC FUNCTION.

(C) PURPOSE OF TRUST.

THE PURPOSE OF THE TRUST IS TO MAKE AFFORDABLE HOUSING MORE AVAILABLE THROUGHOUT THE STATE.

(D) STAFF.

THE DEPARTMENT SHALL PROVIDE STAFF FOR THE TRUST.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, §§ 11-102(a) and (b) and 11-105(b).

In subsection (b) of this section, the former phrase "to be known as `The Maryland Affordable Housing Trust'" is deleted in light of the defined term "Trust".

Also in subsection (b) of this section, the former reference to a "public" instrumentality of the State is deleted as surplusage.

Defined terms: "Department" § 1-101

"Trust" § 10-101

10-103. BOARD ESTABLISHED.

(A) IN GENERAL.

THERE IS A BOARD OF TRUSTEES OF THE TRUST.

(B) FUNCTION.

THE BOARD SHALL CONTROL THE TRUST AND EXERCISE ALL OF THE CORPORATE POWERS OF THE TRUST.

REVISOR'S NOTE: Subsection (a) of this section is new language added to state explicitly what was formerly only implied -- that a Board of Trustees of the Trust exists.

Subsection (b) of this section is new language derived without substantive change from former Art. 83B, § 11-103(a), as it described the function of the Board.

Defined term: "Trust" § 10-101

10-104. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT.

(1) THE BOARD CONSISTS OF 14 TRUSTEES.

(2) THE NONVOTING TRUSTEES ARE:

(I) THE SECRETARY;

UNOFFICIAL COPY OF HOUSE BILL 11

(II) A MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE; AND

(III) A MEMBER OF THE SENATE, APPOINTED BY THE PRESIDENT OF THE SENATE.

(3) WITH THE ADVICE AND CONSENT OF THE SENATE, THE GOVERNOR SHALL APPOINT 11 VOTING TRUSTEES, CONSISTING OF:

(I) THREE REPRESENTATIVES OF THE PUBLIC; AND

(II) ONE REPRESENTATIVE OF EACH OF THE FOLLOWING:

1. TITLE COMPANIES DOING BUSINESS IN THE STATE;
2. THE MARYLAND CENTER FOR COMMUNITY DEVELOPMENT;
3. FINANCIAL INSTITUTIONS DOING BUSINESS IN THE STATE;
4. POLITICAL SUBDIVISIONS;
5. NONPROFIT HOUSING DEVELOPERS;
6. FOR PROFIT HOUSING DEVELOPERS;
7. PUBLIC HOUSING AUTHORITIES; AND
8. SOCIAL SERVICES PROVIDERS.

(B) APPOINTMENT -- GEOGRAPHIC DISTRIBUTION.

IN APPOINTING TRUSTEES, THE GOVERNOR SHALL CONSIDER GEOGRAPHIC REPRESENTATION.

(C) SERVICE AS TRUSTEE.

SERVICE AS A TRUSTEE IS NOT A STATE OFFICE OR STATE EMPLOYMENT FOR PURPOSES OF ANY PROHIBITION AGAINST HOLDING TWO PUBLIC POSITIONS.

(D) TENURE; VACANCIES.

(1) THE TERM OF A VOTING TRUSTEE IS 4 YEARS.

(2) THE TERMS OF VOTING TRUSTEES ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR VOTING TRUSTEES ON OCTOBER 1, 2005.

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

(4) A VOTING TRUSTEE 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. 83B, § 11-103(b), (c), (d)(1), and (f).

In the introductory language of subsection (a)(2) of this section, the former reference to "ex officio" nonvoting trustees is deleted as surplusage.

In subsection (a)(3)(ii)4 of this section, the defined term "political subdivision" is substituted for the former reference to "local governments" to conform to the terminology used throughout this article.

In subsection (b) of this section, the former reference to geographic representation "of the State" is deleted as surplusage.

In subsection (c) of this section, the former narrow reference to a "statutory" prohibition is deleted as potentially misleading. Holding more than one office of profit is prohibited by the State Constitution. *See* Md. Constitution, Decl. of Rights, Article 35.

In subsection (d) of this section, the references to "voting" are added to distinguish between voting and nonvoting trustees.

In subsection (d)(2) of this section, the reference to terms being staggered as required by the terms provided for trustees on "October 1, 2005" is substituted for the former obsolete reference to terms being staggered as required by the terms provided on "October 1, 1992". This substitution is not intended to alter the terms of any trustee. *See* § ____ of Ch. ____, Acts of 2005. The terms of the trustees serving on October 1, 2005, end as follows: (1) 5 on September 30, 2006, (2) 3 on September 30, 2007, and (3) 3 on September 30, 2008.

In subsection (d)(4) of this section, the reference to a successor who "qualifies" is added as standard language.

Defined terms: "Board" § 10-101

"Political subdivision" § 1-101

"Secretary" § 1-101

"Trustee" § 10-101

10-105. CHAIR.

THE GOVERNOR SHALL APPOINT ONE OF THE TRUSTEES TO SERVE AS CHAIR OF THE BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 11-103(d)(2).

The reference to a "chair" is substituted for the former reference to a "chairperson" to conform to the terminology used throughout this article.
See General Revisor's Note to article.

Defined term: "Trustee" § 10-101

10-106. QUORUM.

(A) MAJORITY OF VOTING TRUSTEES.

A QUORUM IS A MAJORITY OF THE VOTING TRUSTEES THEN SERVING ON THE BOARD.

(B) BOARD ACTION.

THE BOARD MAY ACT WITH A MAJORITY VOTE OF A QUORUM OF THE BOARD.

REVISOR'S NOTE: This section formerly was Art. 83B, § 11-103(e).

The only changes are in style.

Defined terms: "Board" § 10-101

"Trustee" § 10-101

10-107. DEBTS, OBLIGATIONS, LIABILITIES, CORPORATE EARNINGS, AND ASSETS.

(A) NATURE OF DEBTS, OBLIGATIONS, AND LIABILITIES OF TRUST.

THE DEBTS, OBLIGATIONS, AND LIABILITIES OF THE TRUST ARE THOSE OF THE TRUST ONLY AND ARE NOT:

(1) A PLEDGE OF THE STATE'S CREDIT; OR

(2) THOSE OF THE STATE OR ITS OFFICERS, EMPLOYEES, OR GOVERNMENTAL UNITS.

(B) NET EARNINGS AND CORPORATE ASSETS OF TRUST.

(1) THE NET EARNINGS OF THE TRUST MAY NOT INURE TO THE BENEFIT OF A TRUSTEE, OFFICER, OR PRIVATE PERSON.

(2) A TRUSTEE, OFFICER, OR PRIVATE PERSON IS NOT ENTITLED TO SHARE IN THE DISTRIBUTION OF THE CORPORATE ASSETS OF THE TRUST.

(3) IF THE TRUST IS DISSOLVED OR ABOLISHED, BY ACT OF THE GENERAL ASSEMBLY OR OTHERWISE, ITS ASSETS SHALL BE DISTRIBUTED TO THE STATE OR A GOVERNMENTAL UNIT OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 11-107.

In subsection (a) of this section, the former reference to "claims" is deleted as included in the reference to "debts, obligations, and liabilities".

Defined terms: "Governmental unit" § 10-101

"Person" § 1-101

"Trust" § 10-101

"Trustee" § 10-101

10-108. AWARDS.

THE BOARD SHALL:

- (1) RECEIVE APPLICATIONS FOR AWARDS FROM THE TRUST;
- (2) MAKE THE FINAL DECISIONS ABOUT AWARDS; AND
- (3) DEVELOP A PROCESS FOR MAKING AWARDS THAT ENCOURAGES A BROAD GEOGRAPHIC DISTRIBUTION OF MONEY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 11-105(c).

In item (1) of this section, the phrase "from the Trust" is added for clarity.

Defined terms: "Award" § 10-101

"Board" § 10-101

10-109. EFFECT OF OTHER LAWS.

(A) ETHICS LAW.

THE BOARD SHALL COMPLY WITH THE MARYLAND PUBLIC ETHICS LAW.

(B) EXEMPTIONS.

THE BOARD IS EXEMPT FROM:

- (1) TAXATION BY THE STATE OR ITS POLITICAL SUBDIVISIONS;
- (2) THE GENERAL PROCUREMENT LAW PROVISIONS OF DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND
- (3) THE ADMINISTRATIVE PROCEDURE ACT, TITLE 10, SUBTITLES 1 THROUGH 4, OF THE STATE GOVERNMENT ARTICLE.

REVISOR'S NOTE: This section formerly was Art. 83B, § 11-106(a) and (b).

The only changes are in style.

Defined terms: "Board" § 10-101

"Political subdivision" § 1-101

10-110. AUDIT; REPORTS.

(A) AUDIT.

THE BOOKS AND RECORDS OF THE TRUST ARE SUBJECT TO AUDIT:

(1) BY THE STATE, AT THE STATE'S DISCRETION; AND

(2) ANNUALLY BY AN INDEPENDENT AUDITOR APPROVED AND PAID BY THE TRUST.

(B) REPORTS.

(1) WITHIN THE FIRST 90 DAYS OF EACH FISCAL YEAR, THE BOARD SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

(2) THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND FINANCIAL STATEMENT OF THE OPERATIONS OF THE TRUST AND A SUMMARY OF THE ACTIVITIES OF THE TRUST DURING THE PRECEDING FISCAL YEAR.

REVISOR'S NOTE: This section formerly was Art. 83B, § 11-106(c) and (d).

The only changes are in style.

Defined terms: "Board" § 10-101

"Trust" § 10-101

SUBTITLE 2. MARYLAND AFFORDABLE HOUSING TRUST FUND.

10-201. ESTABLISHED.

THERE IS A MARYLAND AFFORDABLE HOUSING TRUST FUND.

REVISOR'S NOTE: This section is new language added to state explicitly what was implied in the former law -- that a Maryland Affordable Housing Trust Fund exists.

10-202. PURPOSES OF FUND.

(A) AWARDS.

THE BOARD SHALL USE THE FUND TO MAKE AWARDS TO:

(1) HELP ACQUIRE, BUILD, REHABILITATE, OR PRESERVE AFFORDABLE HOUSING;

(2) HELP NONPROFIT ORGANIZATIONS DEVELOP AFFORDABLE HOUSING; AND

(3) HELP PROMOTE AFFORDABLE HOUSING BY CONTRIBUTING TO PAY THE OPERATING EXPENSES OF HOUSING DEVELOPMENTS.

(B) OPERATING AND STAFFING EXPENSES.

IN ANY FISCAL YEAR, THE BOARD MAY USE UP TO 5% OF THE FUND TO PAY ACTUAL OPERATING AND STAFFING EXPENSES DIRECTLY RELATED TO THE ACTIVITIES OF THE TRUST.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 11-105(a).

Defined terms: "Board" § 10-101

"Fund" § 10-101

"Nonprofit organization" § 1-101

"Trust" § 10-101

10-203. STATUS.

THE STATE TREASURER SHALL HOLD AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

REVISOR'S NOTE: This section formerly was Art. 83B, § 11-104(c)(1).

The only changes are in style.

Defined term: "Fund" § 10-101

10-204. COMPOSITION.

THE FUND CONSISTS OF:

(1) MONEY THAT THE BOARD RECEIVES FROM ANY PUBLIC OR PRIVATE SOURCE, INCLUDING A GIFT, GRANT, OR LEGACY;

(2) INTEREST EARNED ON TRUST ACCOUNTS HELD BY TITLE INSURERS AND THEIR AGENTS UNDER § 22-103 OF THE INSURANCE ARTICLE;

(3) INVESTMENT EARNINGS OF THE FUND; AND

(4) REPAYMENTS OF PRINCIPAL OR PAYMENTS OF INTEREST ON LOANS FROM THE FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 11-104(b), (c)(3) and (4), and, except as it concerned the solicitation of money, (a).

In item (2) of this section, the former reference to "attorneys" approved under IN § 22-103 is deleted as obsolete. *See* Ch. 635, Acts of 1995.

Defined terms: "Board" § 10-101

"Fund" § 10-101

"Trust" § 10-101

10-205. SOLICITATION OF MONEY.

THE BOARD MAY SOLICIT MONEY FOR THE FUND FROM ANY SOURCE.

REVISOR'S NOTE: This section is new language derived without substantive change from the first clause of former Art. 83B, § 11-104(a), as it concerned the solicitation of money.

It is revised as a separate section for emphasis.

Defined terms: "Board" § 10-101

"Fund" § 10-101

10-206. INVESTMENT OF FUND.

MONEY IN THE FUND SHALL BE INVESTED IN THE SAME WAY AS OTHER STATE MONEY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 11-104(c)(2).

The former reference to money "reinvested" is deleted as implicit in the reference to money "invested".

The reference to investing the money in the Fund in the same way "as other State money" is added as standard language when referring to investments of the Fund.

Defined term: "Fund" § 10-101

SUBTITLE 3. CONSTRUCTION OF TITLE.

10-301. LIBERAL CONSTRUCTION.

THIS TITLE SHALL BE LIBERALLY CONSTRUED TO ACCOMPLISH ITS PURPOSES.

REVISOR'S NOTE: This section formerly was Art. 83B, § 11-102(c).

The only change is in style.

TITLE 11. MARYLAND STATE APPALACHIAN HOUSING FUND.

11-101. "FUND" DEFINED.

IN THIS TITLE, "FUND" MEANS THE MARYLAND STATE APPALACHIAN HOUSING FUND.

REVISOR'S NOTE: This section is new language added to provide a convenient reference to the "Maryland State Appalachian Housing Fund".

11-102. ESTABLISHED.

THERE IS A MARYLAND STATE APPALACHIAN HOUSING FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from part of the introductory language of former Art. 83B, § 13-101.

11-103. PURPOSE OF FUND.

THE DEPARTMENT SHALL USE THE FUND TO FULFILL ITS OBLIGATIONS UNDER ANY CONTRACT OR AGREEMENT WITH THE APPALACHIAN REGIONAL COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 13-102.

As to the Appalachian Regional Commission, *see* 40 U.S.C. § 14301.

Defined terms: "Department" § 1-101

"Fund" § 11-101

11-104. STATUS.

THE FUND IS A CONTINUING, NONLAPSING SPECIAL FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from part of the introductory language of former Art. 83B, § 13-101.

The reference to a "continuing" special fund is substituted for the former reference to a "revolving" special fund to conform to the terminology of § 4-501(a) of this article.

The reference "not [being] subject to § 7-302 of the State Finance and Procurement Article" is standard language added to special fund sections to ensure that unspent balances in the Fund do not revert to the General Fund of the State.

Defined term: "Fund" § 11-101

11-105. COMPOSITION.

THE FUND CONSISTS OF:

(1) RECEIPTS OF THE DEPARTMENT FROM THE APPALACHIAN REGIONAL COMMISSION;

(2) INVESTMENT EARNINGS OF THE FUND; AND

(3) REPAYMENTS OF SITE DEVELOPMENT ADVANCES OR LOAN PRINCIPAL OR PAYMENTS OF LOAN INTEREST MADE UNDER THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 13-101(1), (2), (3), and part of the introductory language of the section.

In item (2) of this section, the reference to "investment earnings" is substituted for the former reference to "[i]ncome from investments that the State Treasurer makes under § 13-103 of this title" for brevity.

In item (3) of this section, the former reference to repayments of principal or interest made "by the Department" under this title is deleted as surplusage.

As to the reference to the Appalachian Regional Commission in item (1) of this section, *see* 40 U.S.C. § 14301.

Defined terms: "Department" § 1-101

"Fund" § 11-101

11-106. INVESTMENTS.

THE STATE TREASURER SHALL INVEST MONEY IN THE FUND IN THE SAME WAY AS OTHER STATE MONEY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 13-103.

The reference to "in the same way as other State money" is substituted for the former reference to "in the manner provided by law with all interest earned or gains realized from such investments to be credited to the Maryland State Appalachian Housing Fund" to conform to the terminology used in § 4-501(b) of this article.

Defined term: "Fund" § 11-101

GENERAL REVISOR'S NOTE TO ARTICLE

This revision contains the first of two divisions that will constitute the Housing and Community Development Article. Division I of the article revises the laws governing the housing, community, and heritage programs of the Department of Housing and Community Development. Division II of the article will contain the revision provisions relating to local housing authorities.

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 code revision has been that, once something is said, it should be said in the

same way every time. To that end, the Housing and Community Development Article Review Committee conformed the language and organization of this Division I to that of previously enacted revised articles to the extent possible.

It is the manifest intent both of the General Assembly and the Housing and Community Development Article Review Committee that this bulk revision of the substantive housing and community development law of the State render no substantive change. The guiding principle of the preparation of this Division I 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 Division I in no way is intended to make any change to the substantive law of Maryland relating to housing, community, and heritage programs.

Throughout this Division I, as in other revised articles, the word "regulations" generally is substituted for the 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 are retained to reflect that the agency has adopted rules to govern the internal management of the agency.

Also throughout this Division I, for consistency, the word "money" is usually substituted for the former references to "moneys" and "funds". In this Division I, 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.

In many provisions in this Division I, as in other revised articles, the term "unit" is substituted for former references to governmental entities such as an "agency", an "office", or a "commission". In revised articles of the Code, the term "unit" is used as the general term for an organization in government because it is broad enough to include all such entities.

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.

Also throughout this Division I, references to the "chair" of a committee or other unit are substituted for former references to "chairman" in accordance with the style manual of the Office of Policy Analysis of the Department of Legislative Services. SG § 2-1238(11) requires the Office of Policy Analysis to include in the style manual "a

drafting rule that requires, to the extent practicable, the use of words that are neutral as to gender except for a subject matter that specifically applies only to one gender and except for a name or organizational title".

Also throughout this Division I, for clarity and consistency, references to the "residents of the State" are substituted for former references to "citizens of the State" and "citizens of this State" because the meaning of the word "citizen" is unclear and the attribute of State residency seems the most relevant in the context of this Division I.

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 2005 Session on some provisions of this Division I.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Housing and Community Development

SUBTITLE 13. RADIUM PILOT GRANT PROGRAM.

4-1301. "PROGRAM" DEFINED.

IN THIS SUBTITLE, "PROGRAM" MEANS THE RADIUM PILOT GRANT PROGRAM.

REVISOR'S NOTE: This section is new language added to provide a convenient reference to the Radium Pilot Grant Program.

4-1302. ESTABLISHED.

THERE IS A RADIUM PILOT GRANT PROGRAM.

REVISOR'S NOTE: This section formerly was Art. 83B, § 2-1601(a).

The former reference to the Program being "within the Department" is deleted in light of § 4-103 of this title.

No other changes are made.

4-1303. PURPOSE.

THE PURPOSE OF THE PROGRAM IS TO PROVIDE FINANCIAL ASSISTANCE TO RESIDENTIAL WELL OWNERS WHO INCUR THE COST OF ADDING A WATER TREATMENT SYSTEM TO REMOVE RADIUM OR GROSS ALPHA FROM WELL WATER.

REVISOR'S NOTE: This section formerly was Art. 83B, § 2-1601(b).

No changes are made.

Defined term: "Program" § 4-1301

4-1304. PARTICIPATION BY COUNTIES.

A COUNTY MAY PARTICIPATE IN THE PROGRAM.

REVISOR'S NOTE: This section formerly was Art. 83B, § 2-1601(c)(1).

The only changes are in style.

Defined terms: "County" § 1-101

"Program" § 4-1301

4-1305. GRANTS.

(A) AWARDED BY COUNTY.

A COUNTY THAT PARTICIPATES IN THE PROGRAM SHALL PROCESS GRANT APPLICATIONS AND AWARD GRANTS TO RESIDENTIAL WELL OWNERS IN ACCORDANCE WITH THIS SUBTITLE.

(B) AWARDED BY DEPARTMENT.

(1) THE DEPARTMENT MAY AWARD A GRANT UNDER THE PROGRAM ONLY TO A RESIDENTIAL WELL OWNER WHO RESIDES IN A COUNTY THAT PARTICIPATES IN THE PROGRAM.

(2) THE DEPARTMENT SHALL AWARD A GRANT EQUAL TO THE GRANT AWARDED BY THE COUNTY.

REVISOR'S NOTE: This section formerly was Art. 83B, § 2-1601(d), (e), and (c)(2).

The only changes are in style.

Defined terms: "County" § 1-101

"Department" § 1-101

"Program" § 4-1301

4-1306. ELIGIBILITY.

A RESIDENTIAL WELL OWNER IS ELIGIBLE FOR A GRANT UNDER THIS SUBTITLE IF THE RESIDENTIAL WELL OWNER:

(1) TESTS A WELL AND FINDS THAT IT CONTAINS RADIUM OR GROSS ALPHA LEVELS ABOVE THE LEVELS RECOMMENDED BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY;

(2) INSTALLS A WATER TREATMENT SYSTEM TO REMOVE EXCESS LEVELS OF RADIUM OR GROSS ALPHA FROM WELL WATER; AND

(3) DOES NOT EARN MORE THAN 110% OF THE STATEWIDE OR WASHINGTON, D.C. METROPOLITAN STATISTICAL AREA MEDIAN INCOME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1601(f).

In the introductory language of this section, references to a "residential" well owner are added to conform to § 4-1303 of this subtitle.

4-1307. GRANT FORMULA.

(A) IN GENERAL.

THE DEPARTMENT SHALL ESTABLISH FOR PARTICIPATING COUNTIES A SLIDING SCALE FORMULA, BASED ON INCOME, UNDER WHICH RESIDENTIAL WELL OWNERS WITH LOWER INCOMES ARE ELIGIBLE FOR LARGER GRANTS AND THOSE WITH HIGHER INCOMES ARE ELIGIBLE FOR SMALLER GRANTS.

(B) GRANT CAP.

THE COMBINED COUNTY AND STATE GRANTS SHALL EQUAL AT LEAST 10% BUT NOT MORE THAN 25% OF THE COST OF THE WATER TREATMENT SYSTEM THAT THE RESIDENTIAL WELL OWNER INSTALLS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83B, § 2-1601(g) and (h).

References to "residential" well owners are added to conform to § 4-1303 of this subtitle.

Defined terms: "County" § 1-101

"Department" § 1-101

4-1308. REGULATIONS.

THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 83B, § 2-1601(i).

The only changes are in style.

Defined term: "Department" § 1-101

SECTION 4. 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 5. 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 6. 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 7. 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 2005 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 8. AND BE IT FURTHER ENACTED, That the Revisor's Notes, Special Revisor's Notes, General Revisor's Notes, captions, and catchlines contained in this Act are not law and may not be considered to have been enacted as a part of this Act.

SECTION 9. 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 10. AND BE IT FURTHER ENACTED, That Section 3 of this Act is subject to the implementation and termination provisions of Section 2 and Section 3 of Chapter 116 of the Acts of the General Assembly of 2003. It shall take effect on the implementation of Chapter 116 as provided in Section 2 of Chapter 116. Upon the implementation of Chapter 116, Section 3 of this Act shall remain effective until the taking effect of the termination provision specified in Section 3 of Chapter 116. If that termination provision takes effect, Section 3 of this Act shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION 11. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2005.