

HOUSE BILL 1050

C8

8lr0698

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

Introduced and read first time: February 7, 2008

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Economic Development**

3 FOR the purpose of adding a new article to the Annotated Code of Maryland, to be
4 designated and known as the “Economic Development Article”, to revise, restate,
5 and recodify the laws of the State relating to the Department of Business and
6 Economic Development and its component parts and programs, including the
7 Maryland Economic Development Commission, the Office of International
8 Trade, the Partnership for Workforce Quality, the Maryland Advisory
9 Commission on Manufacturing Competitiveness, the Division of Tourism, Film,
10 and the Arts, the Maryland Tourism Development Board, the Maryland Film
11 Office, the Maryland State Arts Council, the Maryland Public Art Initiative
12 Program, the Maryland Life Sciences Advisory Board, the Enterprise Fund and
13 enterprise zones, Foreign Trade Zones, the Maryland Economic Adjustment
14 Fund, the Maryland Economic Development Assistance Authority and Fund, the
15 Maryland Industrial Development Financing Authority, the Maryland Small
16 Business Development Financing Authority, the Film Production Rebate Fund,
17 the Rural Broadband Assistance Fund, the Dredged Material Disposal
18 Alternatives Program, the Military Reservists and Service-Related No-Interest
19 Loan Program, tax incentives for film production activities, job creation tax
20 credits, and One Maryland start-up and project tax credits; revising, restating,
21 and recodifying the laws of the State relating to certain independent economic
22 development units and programs, including the Maryland Economic
23 Development Corporation, the Maryland Food Center Authority, the Maryland
24 Health and Higher Educational Facilities Authority, the Maryland Technology
25 Development Corporation, the Maryland Stem Cell Research Program, the
26 Maryland Agricultural and Resource-Based Industry Development Corporation,
27 the Maryland Stadium Authority, the Maryland Venture Capital Trust, the Base
28 Realignment and Closure Subcabinet, the Maryland Military Installation
29 Council, the PenMar Development Corporation, the Bainbridge Development
30 Corporation, local redevelopment authorities for military installations, the
31 Appalachian Regional Development Program, the Southern States Energy
32 Board, the Baltimore Metropolitan Council, the Rural Maryland Council, the
33 Tri-County Council for Southern Maryland, the Tri-County Council for Western
34 Maryland, the Tri-County Council for the Lower Eastern Shore of Maryland,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 the Mid–Shore Regional Council, the Upper Shore Regional Council, the Rural
2 Broadband Coordination Program; revising, restating, and recodifying the laws
3 of the State relating to certain economic development financing programs,
4 including economic development revenue bonds, tax increment financing,
5 redevelopment bonds, and industrial development bonds; repealing certain
6 obsolete provisions; transferring certain obsolete provisions to the Session Laws;
7 defining certain terms; providing for the construction and application of this Act;
8 providing for the continuity of certain units and the terms of certain officials;
9 providing for the continuity of the status of certain transactions, employees,
10 rights, duties, titles, interests, licenses, registrations, certifications, and
11 permits; providing for the effective date of certain provisions of this Act;
12 providing for the termination of certain provisions of this Act; and generally
13 relating to the laws of the State concerning economic development.

14 BY repealing

15 Article 20 – Tri–County Council for Southern Maryland
16 In its entirety
17 Annotated Code of Maryland
18 (2005 Replacement Volume and 2007 Supplement)

19 BY repealing

20 Article 20A – Tri–County Council for Western Maryland
21 In its entirety
22 Annotated Code of Maryland
23 (2005 Replacement Volume and 2007 Supplement)

24 BY repealing

25 Article 20B – Tri–County Council for the Lower Eastern Shore of Maryland
26 In its entirety
27 Annotated Code of Maryland
28 (2005 Replacement Volume and 2007 Supplement)

29 BY repealing

30 Article 20C – Mid–Shore Regional Council
31 In its entirety
32 Annotated Code of Maryland
33 (2005 Replacement Volume and 2007 Supplement)

34 BY repealing

35 Article 20D – Upper Shore Regional Council
36 In its entirety
37 Annotated Code of Maryland
38 (2005 Replacement Volume and 2007 Supplement)

1 BY repealing

2 Article 23 – Miscellaneous Companies

3 Section 466 through 469, inclusive, and the subheading “Foreign Trade Zones”

4 Annotated Code of Maryland

5 (2005 Replacement Volume and 2007 Supplement)

6 BY repealing

7 Article 41 – Governor – Executive and Administrative Departments

8 Section 13–101 through 13–120, inclusive, and 13–123 and the subtitle “Subtitle

9 1. Maryland Food Center Authority”; 13–501 through 13–515, inclusive,

10 and the subtitle “Subtitle 5. Maryland Agricultural and Resource–Based

11 Industry Development Corporation”; 14–101 through 14–109, inclusive,

12 and the subtitle “Subtitle 1. Maryland Economic Development Revenue

13 Bond Act”; 14–201 through 14–214, inclusive, and the subtitle “Subtitle 2.

14 Tax Increment Financing Act”; 14–801 through 14–812, inclusive, and the

15 subtitle “Subtitle 8. Redevelopment Bond Act”; 15–101 through 15–110,

16 inclusive, and the title “Title 15. Rural Maryland Council”; 16–101 through

17 16–114, inclusive, and the title “Title 16. Southern States Energy

18 Compact” and the subtitle “Subtitle 1. Compact Provisions”; and 21–101

19 through 21–103, inclusive, and the title “Title 21. Rural Broadband

20 Coordination”

21 Annotated Code of Maryland

22 (2003 Replacement Volume and 2007 Supplement)

23 BY repealing

24 Article 43C – Maryland Health and Higher Educational Facilities Authority

25 In its entirety

26 Annotated Code of Maryland

27 (2003 Replacement Volume and 2007 Supplement)

28 BY repealing

29 Article 45A – Industrial Bonds

30 In its entirety

31 Annotated Code of Maryland

32 (2003 Replacement Volume and 2007 Supplement)

33 BY repealing

34 Article 78D – Baltimore Metropolitan Council

35 Section 1 through 6, inclusive

36 Annotated Code of Maryland

37 (2003 Replacement Volume and 2007 Supplement)

38 BY repealing

39 Article 83A – Department of Business and Economic Development

1 Section 1–101 and the title “Title 1. Maryland Economic Development
2 Commission” and the subtitle “Subtitle 1. Definitions”; 1–201 through
3 1–204 and the subtitle “Subtitle 2. Creation and Duties”; 2–101 through
4 2–106 and the title “Title 2. Department Established and Organized”;
5 3–101 and the title “Title 3. Business Development and Resources” and the
6 subtitle “Subtitle 1. Objectives”; 3–201 through 3–203 and the subtitle
7 “Subtitle 2. General Duties”; 3–301 and 3–302 and the subtitle “Subtitle 3.
8 Office of International Trade”; 3–601 and the subtitle “Subtitle 6.
9 Coordination of Programs”; 3–701 through 3–704 and the subtitle “Subtitle
10 7. Partnership for Workforce Quality”; 3–801 through 3–804 and the
11 subtitle “Subtitle 8. Maryland Advisory Commission on Manufacturing
12 Competitiveness”; 4–101 through 4–105 and the title “Title 4. Division of
13 Tourism, Film, and the Arts” and the subtitle “Subtitle 1. Division
14 Established”; 4–201 through 4–208 and the subtitle “Subtitle 2. Maryland
15 Tourism Development Board”; 4–301 and the subtitle “Subtitle 3.
16 Maryland Lower Eastern Shore Tourism Center”; 4–401 through 4–404
17 and the subtitle “Subtitle 4. Maryland Film Office”; 4–501 and the subtitle
18 “Subtitle 5. Film Production Activity Tax Exemptions”; 4–601 through
19 4–605, 4–606(a)(2) through (7) and (b) through (d), 4–607(a)(2) through
20 (11) and (b), 4–608, and 4–609 and the subtitle “Subtitle 6. Maryland State
21 Arts Council”; 4–6A–01 through 4–6A–04 and the subtitle “Subtitle 6A.
22 Maryland Public Art Initiative Program”; 4–701 through 4–703 and the
23 subtitle “Subtitle 7. Arts and Entertainment Districts”; 5–101 through
24 5–106 and the title “Title 5. Economic Development and Financial
25 Assistance Programs” and the subtitle “Subtitle 1. General Provisions”;
26 5–201 through 5–217 and the subtitle “Subtitle 2. Maryland Economic
27 Development Corporation”; 5–2A–01 through 5–2A–09 and the subtitle
28 “Subtitle 2A. Maryland Technology Development Corporation”; 5–2B–01
29 through 5–2B–13 and the subtitle “Subtitle 2B. Maryland Stem Cell
30 Research Program”; 5–2C–01 through 5–2C–03 and the subtitle “Subtitle
31 2C. Maryland Life Sciences Advisory Board”; 5–301 through 5–309 and the
32 subtitle “Subtitle 3. Maryland Venture Capital Trust”; 5–401 through
33 5–405 and the subtitle “Subtitle 4. Enterprise Zones”; 5–501 through
34 5–503 and the subtitle “Subtitle 5. Enterprise Fund”; 5–901 through
35 5–913, 5–914(b) through (f), and 5–915 through 5–933 and the subtitle
36 “Subtitle 9. Maryland Industrial Development Financing Authority”;
37 5–1001 through 5–1049 and the subtitle “Subtitle 10. Maryland Small
38 Business Development Financing Authority”; 5–1101 through 5–1103 and
39 the subtitle “Subtitle 11. Job Creation Tax Credit”; 5–1201 through 5–1210
40 and the subtitle “Subtitle 12. PenMar Development Corporation”; 5–1401
41 through 5–1412 and the subtitle “Subtitle 14. Maryland Economic
42 Development Assistance Authority and Fund”; 5–1501(a) through (d),
43 (e)(1), (3), and (4), and (f) through (h) and the subtitle “Subtitle 15. One
44 Maryland Economic Development Tax Credits”; 5–1601 through 5–1609
45 and the subtitle “Subtitle 16. Bainbridge Development Corporation”;
46 5–1701 through 5–1711 and the subtitle “Subtitle 17. Local Redevelopment
47 Authorities”; 5–1801 through 5–1807 and the subtitle “Subtitle 18. Film
48 Production Rebate Fund”; 5–1901 and 5–1902 and the subtitle “Subtitle

1 19. Rural Broadband Assistance Fund”; 6–501 through 6–512 and the title
2 “Title 6. Miscellaneous Statewide Development and Assistance Programs”
3 and the subtitle “Subtitle 5. Maryland Economic Adjustment Fund”; 6–701
4 and 6–702 and the subtitle “Subtitle 7. Appalachian Regional Development
5 Program”; 6–801 and 6–802 and the subtitle “Subtitle 8. Dredged Material
6 Disposal Alternatives Program”; and 6–901 and the subtitle “Subtitle 9.
7 Military Reservists and Service–Related No–Interest Loan Program”

8 Annotated Code of Maryland

9 (2003 Replacement Volume and 2007 Supplement)

10 BY repealing

11 Article – Financial Institutions

12 Section 13–701 through 13–724, inclusive, and the subtitle “Subtitle 7.
13 Maryland Stadium Authority”

14 Annotated Code of Maryland

15 (2003 Replacement Volume and 2007 Supplement)

16 BY repealing

17 Article – State Government

18 Section 9–802

19 Annotated Code of Maryland

20 (2004 Replacement Volume and 2007 Supplement)

21 BY repealing

22 Chapter 138 of the Acts of the General Assembly of 1998, as amended by
23 Chapter 204 of the Acts of the General Assembly of 2003 and Chapter 445
24 of the Acts of the General Assembly of 2005

25 Section 12

26 BY adding

27 New Article – Economic Development

28 Section 1–101 through 14–103, inclusive, and the various titles

29 Annotated Code of Maryland

30 BY repealing and reenacting, with amendments,

31 Article – Economic Development

32 Section 5–568(a), 5–569(b)(2), and 11–302(a)(4)(iii)

33 Annotated Code of Maryland

34 (As enacted by Section 2 of this Act)

35 BY repealing and reenacting, with amendments, and transferring to the Session
36 Laws

37 Article 41 – Governor – Executive and Administrative Departments

1 Section 13–121 and 13–122
2 Annotated Code of Maryland
3 (2003 Replacement Volume and 2007 Supplement)

4 BY repealing and reenacting, with amendments, and transferring to the Session
5 Laws

6 Article 78D – Baltimore Metropolitan Council
7 Section 7
8 Annotated Code of Maryland
9 (2003 Replacement Volume and 2007 Supplement)

10 BY repealing and reenacting, with amendments, and transferring to the Session
11 Laws

12 Article 83A – Department of Business and Economic Development
13 Section 4–606(a)(1), 4–607(a)(1), 5–914(a), and 5–1501(e)(2)
14 Annotated Code of Maryland
15 (2003 Replacement Volume and 2007 Supplement)

16 BY repealing

17 Article – Economic Development
18 Title 4, Subtitle 6, and the subtitle “Subtitle 6. Maryland Public Art Initiative
19 Program”; Title 5, Subtitle 11 and the subtitle “Subtitle 11. Rural
20 Broadband Assistance Fund”; Title 11, Subtitle 1 and the subtitle “Subtitle
21 1. Base Realignment and Closure Subcabinet”; Title 11, Subtitle 2 and the
22 subtitle “Subtitle 2. Maryland Military Installation Council”; and Title 13,
23 Subtitle 5 and the subtitle “Subtitle 5. Rural Broadband Coordination
24 Board”
25 Annotated Code of Maryland
26 (As enacted by Section 2 of this Act)

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

30 Article 20 – Tri–County Council for Southern Maryland
31 In its entirety

32 Article 20A – Tri–County Council for Western Maryland
33 In its entirety

34 Article 20B – Tri–County Council for the Lower Eastern Shore of Maryland
35 In its entirety

36 Article 20C – Mid–Shore Regional Council
37 In its entirety

38 Article 20D – Upper Shore Regional Council

1 In its entirety

2 Article 23 – Miscellaneous Companies

3 Section 466 through 469, inclusive, and the subheading “Foreign Trade Zones”

4 Article 41 – Governor – Executive and Administrative Departments

5 Section 13–101 through 13–120, inclusive, and 13–123 and the subtitle “Subtitle

6 1. Maryland Food Center Authority”; 13–501 through 13–515, inclusive,
7 and the subtitle “Subtitle 5. Maryland Agricultural and Resource–Based
8 Industry Development Corporation”; 14–101 through 14–109, inclusive,
9 and the subtitle “Subtitle 1. Maryland Economic Development Revenue
10 Bond Act”; 14–201 through 14–214, inclusive, and the subtitle “Subtitle 2.
11 Tax Increment Financing Act”; 14–801 through 14–812, inclusive, and the
12 subtitle “Subtitle 8. Redevelopment Bond Act”; 15–101 through 15–110,
13 inclusive, and the title “Title 15. Rural Maryland Council”; 16–101 through
14 16–114, inclusive, and the title “Title 16. Southern States Energy
15 Compact” and the subtitle “Subtitle 1. Compact Provisions”; and 21–101
16 through 21–103, inclusive, and the title “Title 21. Rural Broadband
17 Coordination”

18 Article 43C – Maryland Health and Higher Educational Facilities Authority

19 In its entirety

20 Article 45A – Industrial Bonds

21 In its entirety

22 Article 78D – Baltimore Metropolitan Council

23 Sections 1 through 6, inclusive

24 Article 83A – Department of Business and Economic Development

25 Section 1–101 and the title “Title 1. Maryland Economic Development
26 Commission” and the subtitle “Subtitle 1. Definitions”; 1–201 through
27 1–204 and the subtitle “Subtitle 2. Creation and Duties”; 2–101 through
28 2–106 and the title “Title 2. Department Established and Organized”;
29 3–101 and the title “Title 3. Business Development and Resources” and the
30 subtitle “Subtitle 1. Objectives”; 3–201 through 3–203 and the subtitle
31 “Subtitle 2. General Duties”; 3–301 and 3–302 and the subtitle “Subtitle 3.
32 Office of International Trade”; 3–601 and the subtitle “Subtitle 6.
33 Coordination of Programs”; 3–701 through 3–704 and the subtitle “Subtitle
34 7. Partnership for Workforce Quality”; 3–801 through 3–804 and the
35 subtitle “Subtitle 8. Maryland Advisory Commission on Manufacturing
36 Competitiveness”; 4–101 through 4–105 and the title “Title 4. Division of
37 Tourism, Film, and the Arts” and the subtitle “Subtitle 1. Division
38 Established”; 4–201 through 4–208 and the subtitle “Subtitle 2. Maryland
39 Tourism Development Board”; 4–301 and the subtitle “Subtitle 3.
40 Maryland Lower Eastern Shore Tourism Center”; 4–401 through 4–404
41 and the subtitle “Subtitle 4. Maryland Film Office”; 4–501 and the subtitle
42 “Subtitle 5. Film Production Activity Tax Exemptions”; 4–601 through
43 4–605, 4–606(a)(2) through (7) and (b) through (d), 4–607(a)(2) through
44 (11) and (b), 4–608, and 4–609 and the subtitle “Subtitle 6. Maryland State
45 Arts Council”; 4–6A–01 through 4–6A–04 and the subtitle “Subtitle 6A.

Maryland Public Art Initiative Program”; 4–701 through 4–703 and the subtitle “Subtitle 7. Arts and Entertainment Districts”; 5–101 through 5–106 and the title “Title 5. Economic Development and Financial Assistance Programs” and the subtitle “Subtitle 1. General Provisions”; 5–201 through 5–217 and the subtitle “Subtitle 2. Maryland Economic Development Corporation”; 5–2A–01 through 5–2A–09 and the subtitle “Subtitle 2A. Maryland Technology Development Corporation”; 5–2B–01 through 5–2B–13 and the subtitle “Subtitle 2B. Maryland Stem Cell Research Program”; 5–2C–01 through 5–2C–03 and the subtitle “Subtitle 2C. Maryland Life Sciences Advisory Board”; 5–301 through 5–309 and the subtitle “Subtitle 3. Maryland Venture Capital Trust”; 5–401 through 5–405 and the subtitle “Subtitle 4. Enterprise Zones”; 5–501 through 5–503 and the subtitle “Subtitle 5. Enterprise Fund”; 5–901 through 5–913, 5–914(b) through (f), and 5–915 through 5–933 and the subtitle “Subtitle 9. Maryland Industrial Development Financing Authority”; 5–1001 through 5–1049 and the subtitle “Subtitle 10. Maryland Small Business Development Financing Authority”; 5–1101 through 5–1103 and the subtitle “Subtitle 11. Job Creation Tax Credit”; 5–1201 through 5–1210 and the subtitle “Subtitle 12. PenMar Development Corporation”; 5–1401 through 5–1412 and the subtitle “Subtitle 14. Maryland Economic Development Assistance Authority and Fund”; 5–1501(a) through (d), (e)(1), (3), and (4), and (f) through (h) and the subtitle “Subtitle 15. One Maryland Economic Development Tax Credits”; 5–1601 through 5–1609 and the subtitle “Subtitle 16. Bainbridge Development Corporation”; 5–1701 through 5–1711 and the subtitle “Subtitle 17. Local Redevelopment Authorities”; 5–1801 through 5–1807 and the subtitle “Subtitle 18. Film Production Rebate Fund”; 5–1901 and 5–1902 and the subtitle “Subtitle 19. Rural Broadband Assistance Fund”; 6–501 through 6–512 and the title “Title 6. Miscellaneous Statewide Development and Assistance Programs” and the subtitle “Subtitle 5. Maryland Economic Adjustment Fund”; 6–701 and 6–702 and the subtitle “Subtitle 7. Appalachian Regional Development Program”; 6–801 and 6–802 and the subtitle “Subtitle 8. Dredged Material Disposal Alternatives Program”; and 6–901 and the subtitle “Subtitle 9. Military Reservists and Service–Related No–Interest Loan Program”

Article – Financial Institutions

Section 13–701 through 13–724, inclusive, and the subtitle “Subtitle 7. Maryland Stadium Authority”

Article – State Government

Section 9–802

Chapter 138 of the Acts of the General Assembly of 1998, as amended by Chapter 204 of the Acts of the General Assembly of 2003 and Chapter 445 of the Acts of the General Assembly of 2005

Section 12

The article designation “Article 78D – Baltimore Metropolitan Council”

1 The article designation “Article 83A – Department of Business and Economic
2 Development”

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

5 **ARTICLE – ECONOMIC DEVELOPMENT**

6 **DIVISION I. DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT.**

7 **TITLE 1. DEFINITIONS.**

8 **SUBTITLE 1. DEFINITIONS.**

9 **1–101. DEFINITIONS.**

10 **(A) IN GENERAL.**

11 **IN THIS DIVISION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

12 **REVISOR’S NOTE:** This subsection formerly was Art. 83A, § 1–101(a).

13 The reference to this “division” is substituted for the former reference to
14 this “article” to reflect the reorganization of material derived from former
15 Article 83A that is under the jurisdiction of the Department of Business
16 and Economic Development in this division, in contrast to material from
17 that former article concerning independent units and other miscellaneous
18 matters that are revised in Division II of this article.

19 No other changes are made.

20 **(B) COUNTY.**

21 **“COUNTY” MEANS A COUNTY OF THE STATE OR BALTIMORE CITY.**

22 **REVISOR’S NOTE:** This subsection is new language derived without
23 substantive change from former Art. 83A, §§ 5–401(d), 5–901(h), and
24 5–1401(m).

25 It is restated in standard language for consistency with other revised
26 articles. *See, e.g.,* IN § 1–101(l), PUC § 1–101(g), CP § 1–101(d), CR §
27 1–101(d), and PS § 1–101(b).

28 Former Art. 83A, §§ 5–401(d), 5–901(h), and 5–1401(m) applied only to
29 specific programs within the Department: enterprise zones, the Maryland
30 Industrial Development Financing Authority, and the Maryland Economic
31 Development Assistance Authority and Fund. The remainder of the source
32 material for this article was subject to Art. 1, § 14(a), which provides that
33 “county” includes Baltimore City “unless such construction would be
34 unreasonable”. Because the word “unreasonable” in that section has been

1 interpreted in various ways, the Economic Development Article Review
2 Committee decided that an explicit definition of “county” should be
3 included that applies in each division of this article. *See, also*, § 9–101 of
4 this article.

5 Defined term: “State” § 1–101

6 (C) DEPARTMENT.

7 “DEPARTMENT” MEANS THE DEPARTMENT OF BUSINESS AND ECONOMIC
8 DEVELOPMENT.

9 REVISOR’S NOTE: This subsection formerly was Art. 83A, §§ 5–401(e),
10 5–901(i), and 5–1001(c).

11 The former phrase “of the State” is deleted as implicit.

12 No other changes are made.

13 (D) PERSON.

14 “PERSON” MEANS AN INDIVIDUAL, RECEIVER, TRUSTEE, GUARDIAN, PERSONAL
15 REPRESENTATIVE, FIDUCIARY, REPRESENTATIVE OF ANY KIND, PARTNERSHIP, FIRM,
16 ASSOCIATION, CORPORATION, OR OTHER ENTITY.

17 REVISOR’S NOTE: This subsection is new language added to provide an
18 express definition of the term “person”.

19 The term conforms to the same term defined in many recently revised
20 articles. *See, e.g.*, IN § 1–101(dd), PUC § 1–101(t), CS § 1–101(l), CP §
21 1–101(l), and PS § 1–101(c). No substantive change is intended. *See, also*, §
22 9–101 of this article.

23 The definition of “person” in this subsection does not include a
24 governmental entity or unit. The Court of Appeals of Maryland has held
25 consistently that the word “person” in a statute does not include the State,
26 its agencies, or subdivisions unless an intention to include these entities is
27 made manifest by the legislature. *See, e.g., Unnamed Physicians v.*
28 *Commission on Medical Discipline*, 285 Md. 1, 12–14 (1979). This rule does
29 not apply when there is no impairment of sovereign powers and the
30 provision that uses the term enhances a proprietary interest of the
31 governmental unit. *See* 89 Op. Att’y Gen. 53, 58 (2004).

32 *See, also*, § 9–101 of this article.

33 As to the term “personal representative”, *see* Art. 1, § 5.

34 (E) QUALIFIED DISTRESSED COUNTY.

35 “QUALIFIED DISTRESSED COUNTY” MEANS A COUNTY WITH:

1 (1) AN AVERAGE RATE OF UNEMPLOYMENT FOR THE MOST RECENT
 2 18–MONTH PERIOD FOR WHICH DATA ARE AVAILABLE THAT EXCEEDS 150% OF THE
 3 AVERAGE RATE OF UNEMPLOYMENT FOR THE STATE DURING THAT PERIOD; OR

4 (2) AN AVERAGE PER CAPITA PERSONAL INCOME FOR THE MOST RECENT
 5 24–MONTH PERIOD FOR WHICH DATA ARE AVAILABLE THAT IS EQUAL TO OR LESS THAN
 6 67% OF THE AVERAGE PER CAPITA PERSONAL INCOME FOR THE STATE DURING THAT
 7 PERIOD.

8 REVISOR’S NOTE: This subsection is new language derived without
 9 substantive change from former Art. 83A, § 5–1501(a)(8).

10 Defined terms: “County” § 1–101

11 “State” § 1–101

12 (F) SECRETARY.

13 “SECRETARY” MEANS THE SECRETARY OF BUSINESS AND ECONOMIC
 14 DEVELOPMENT.

15 REVISOR’S NOTE: This subsection formerly was Art. 83A, §§ 5–401(i),
 16 5–901(bb), 5–1001(h), and 5–1501(a)(11).

17 No changes are made.

18 (G) STATE.

19 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, “STATE”
 20 MEANS:

21 (i) A STATE, POSSESSION, TERRITORY, OR COMMONWEALTH OF THE
 22 UNITED STATES; OR

23 (ii) THE DISTRICT OF COLUMBIA.

24 (2) WHEN CAPITALIZED, “STATE” MEANS MARYLAND.

25 REVISOR’S NOTE: Paragraph (1) of this subsection is standard language
 26 added to provide an express definition of the term “state” in this division
 27 that is consistent with the term defined in other revised articles of the
 28 Code. *See, e.g.*, IN § 1–101(mm), PUC § 1–101(ff), CS § 1–101(n), CP §
 29 1–101(n), CR § 1–101(i), and PS § 1–101(d).

30 Paragraph (2) of this subsection formerly was Art. 83A, § 1–101(e).

31 In paragraph (1) of this subsection, the phrase “[e]xcept as provided in
 32 paragraph (2) of this subsection,” is added for clarity.

33 In paragraph (2) of this subsection, the phrase “[w]hen capitalized,” is
 34 added for clarity and to prescribe explicitly the drafting convention used in
 35 recently revised articles, by which the term “State” when capitalized refers

1 only to Maryland, whereas the defined term “state” in miniscule refers to
2 any state or other territory of the United States.

3 The only other change is in style.

4 *See, also*, § 9–101 of this article.

5 REVISOR’S NOTE TO SECTION:

6 Former Art. 83A, § 1–101(c), which defined “Commission” to mean the
7 Maryland Economic Development Commission, is revised in § 2–201 of this
8 article.

9 TITLE 2. DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT.

10 SUBTITLE 1. ORGANIZATION AND GENERAL AUTHORITY OF DEPARTMENT.

11 2–101. ESTABLISHED.

12 THERE IS A DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT, WHICH IS
13 A PRINCIPAL DEPARTMENT OF THE STATE GOVERNMENT.

14 REVISOR’S NOTE: This section is new language derived without substantive
15 change from former Art. 83A, § 2–201(a)(1) and (2).

16 It is set forth as a separate section for emphasis.

17 Defined term: “State” § 1–101

18 2–102. SECRETARY.

19 (A) POSITION AND APPOINTMENT.

20 (1) THE GOVERNOR SHALL APPOINT THE SECRETARY OF BUSINESS AND
21 ECONOMIC DEVELOPMENT WITH THE ADVICE AND CONSENT OF THE SENATE.

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

23 (B) OATH.

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

26 (C) TENURE; RESPONSIBILITIES.

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

29 (2) THE SECRETARY SHALL ADVISE THE GOVERNOR ON ALL MATTERS
30 ASSIGNED TO THE DEPARTMENT AND IS RESPONSIBLE FOR CARRYING OUT THE
31 GOVERNOR’S POLICIES ON MATTERS ASSIGNED TO THE DEPARTMENT.

1 (D) COMPENSATION.

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

4 REVISOR'S NOTE: Subsections (a), (c), and (d) of this section are new language
5 derived without substantive change from former Art. 83A, § 2–101(b) and
6 (a)(3).

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

11 In subsection (c)(2) of this section, the former reference to “counsell[ing]”
12 the Governor is deleted as surplusage in light of the reference to
13 “advis[ing]” the Governor.

14 In subsection (d) of this section, the reference to the Secretary's
15 “compensation” is substituted for the former reference to the Secretary's
16 “salary” for accuracy and consistency throughout this article. *See* General
17 Revisor's Note to article.

18 Defined terms: “Department” § 1–101

19 “Secretary” § 1–101

20 “State” § 1–101

21 2–103. ADMINISTRATION OF DEPARTMENT.

22 (A) ADMINISTRATION.

23 THE SECRETARY:

24 (1) IS RESPONSIBLE FOR THE OPERATION OF THE DEPARTMENT; AND

25 (2) SHALL ESTABLISH GUIDELINES AND PROCEDURES TO PROMOTE THE
26 ORDERLY AND EFFICIENT ADMINISTRATION OF THE DEPARTMENT.

27 (B) AREAS OF RESPONSIBILITY.

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

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 83A, § 2–101(c).

33 In subsection (a) of this section and throughout this subtitle, the former
34 vague phrase “[s]ubject to the provisions of Title 1 of this article”, which
35 referred to the Maryland Economic Development Commission, is deleted in
36 light of § 2–206 of this title, which specifically describes the role of the

1 Commission in relation to the operation of the Department.

2 Defined terms: “Department” § 1–101

3 “Secretary” § 1–101

4 2–104. SEAL.

5 THE SECRETARY SHALL HAVE A SEAL.

6 REVISOR’S NOTE: This section is new language derived without substantive
7 change from former Art. 83A, § 2–105(c).

8 The former reference to using the seal “for purposes of authentication of
9 copies of records or papers in his office” is deleted as implicit in the
10 reference to a “seal” and for consistency with similar provisions in other
11 revised articles of the Code. *See, e.g.*, BR § 2–104(b), CS § 2–104, HG §
12 2–104(e), and SF §§ 3–204(d) and 4–204(d).

13 Defined term: “Secretary” § 1–101

14 2–105. DEPUTY SECRETARY.

15 (A) APPOINTMENT.

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

18 (B) TENURE; COMPENSATION.

19 THE DEPUTY SECRETARY:

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

21 (2) IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE BUDGET.

22 (C) DUTIES.

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

25 REVISOR’S NOTE: This section is new language derived without substantive
26 change from former Art. 83A, § 2–102(a).

27 Defined terms: “Department” § 1–101

28 “Secretary” § 1–101

29 “State” § 1–101

30 2–106. STAFF — SECRETARY’S OFFICE.

31 (A) IN GENERAL.

1 IN ACCORDANCE WITH THE STATE BUDGET, THE SECRETARY MAY EMPLOY A STAFF
2 AND RETAIN PROFESSIONAL CONSULTANTS IN THE OFFICE OF THE SECRETARY.

3 (B) AREAS OF RESPONSIBILITY.

4 THE SECRETARY MAY DESIGNATE A STAFF ASSISTANT TO BE IN CHARGE OF A
5 PARTICULAR AREA OF RESPONSIBILITY IN THE OFFICE OF THE SECRETARY.

6 (C) EMPLOYMENT STATUS AND REMOVAL.

7 (1) EACH STAFF ASSISTANT IN THE OFFICE OF THE SECRETARY IN CHARGE
8 OF A PARTICULAR AREA OF RESPONSIBILITY AND EACH PROFESSIONAL CONSULTANT IS
9 APPOINTED BY AND SERVES AT THE PLEASURE OF THE SECRETARY.

10 (2) UNLESS OTHERWISE PROVIDED BY LAW, THE SECRETARY SHALL
11 APPOINT AND REMOVE ALL OTHER EMPLOYEES IN THE OFFICE OF THE SECRETARY IN
12 ACCORDANCE WITH THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS
13 ARTICLE THAT GOVERN SKILLED SERVICE OR PROFESSIONAL SERVICE EMPLOYEES WITH
14 THE EXCEPTION OF SPECIAL APPOINTMENTS.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 83A, § 2–102(b).

17 In subsection (a) of this section, the word “may” is substituted for the
18 former reference to the word “shall” for consistency with similar provisions
19 in other revised articles of the Code. *See, e.g.*, BOP §§ 5–204(e)(1) and
20 14–204(d), BR § 2–103(b)(1), CS § 2–106(a), EN § 1–403(b)(1), FI § 2–104,
21 HG § 2–103(b)(1), HO § 17–204(d), SF §§ 3–203(c)(1), 4–203(b)(1), and
22 5–203(a), and SG §§ 2–1606(b), 5–105(a), 6–105(a)(1), and 9–108(e)(1).

23 Also in subsection (a) of this section, the reference to “a staff” is
24 substituted for the former reference to “assistants, ... and employees” for
25 brevity and consistency with similar provisions in other revised articles of
26 the Code. *See, e.g.*, BOP §§ 5–204(e)(1) and 14–204(d), BR § 2–103(b)(1), CS
27 § 2–106(a), EN § 1–403(b)(1), FI § 2–104, HG § 2–103(b)(1), HO §
28 17–204(d), SF §§ 3–203(c)(1), 4–203(b)(1), and 5–203(a), and SG §§
29 2–1606(b), 5–105(a), 6–105(a)(1), and 9–108(e)(1).

30 In subsection (b) of this section, the term “staff assistant” is substituted for
31 the former reference to “assistants” for consistency with subsection (c) of
32 this section.

33 In subsection (c)(1) of this section, the reference to staff assistants and
34 consultants being “appointed” is added to state expressly that which was
35 only implied in the former law and for consistency with subsection (c)(2) of
36 this section.

37 Defined term: “Secretary” § 1–101

1 2–107. STAFF — OTHER UNITS.

2 (A) APPROVAL BY SECRETARY.

3 THE APPOINTMENT OR REMOVAL OF PERSONNEL BY A UNIT UNDER THE
4 JURISDICTION OF THE DEPARTMENT IS SUBJECT TO THE APPROVAL OF THE SECRETARY.

5 (B) AUTHORITY TO DELEGATE.

6 THE SECRETARY MAY DELEGATE THE APPROVAL AUTHORITY UNDER SUBSECTION
7 (A) OF THIS SECTION TO THE HEAD OR GOVERNING BODY OF THE UNIT.

8 REVISOR’S NOTE: This section is new language derived without substantive
9 change from former Art. 83A, § 2–102(c).

10 In this section and throughout this subtitle, the references to a “unit” are
11 substituted for the former list of unit types, *i.e.*, boards, commissions,
12 divisions, and agencies, for brevity. The term “unit” is broad enough to
13 include all these types of entities. *See* General Revisor’s Note to article.

14 In subsection (a) of this section, the former vague phrase “[s]ubject to the
15 provisions of Title 1 of this article”, which referred to the Maryland
16 Economic Development Commission, is deleted in light of § 2–206 of this
17 title, which specifically describes the role of the Commission in relation to
18 the operation of the Department.

19 Defined terms: “Department” § 1–101
20 “Secretary” § 1–101

21 2–108. REGULATIONS.

22 (A) OFFICE OF SECRETARY.

23 THE SECRETARY SHALL ADOPT REGULATIONS FOR THE OFFICE OF THE SECRETARY.

24 (B) REVIEW OF REGULATIONS OF UNITS.

25 (1) SUBJECT TO § 2–206 OF THIS TITLE, THE SECRETARY SHALL REVIEW
26 REGULATIONS OF A UNIT UNDER THE JURISDICTION OF THE DEPARTMENT.

27 (2) THE SECRETARY MAY APPROVE, DISAPPROVE, OR REVISE REGULATIONS
28 OF A UNIT.

29 REVISOR’S NOTE: This section is new language derived without substantive
30 change from former Art. 83A, § 2–105(b).

31 In subsection (a) and (b) of this section, the former references to “rules” are
32 deleted for consistency throughout this article. *See* General Revisor’s Note
33 to article.

34 In subsection (a) of this section, the former vague phrase “[s]ubject to the

1 provisions of Title 1 of this article”, which referred to the Maryland
2 Economic Development Commission, is deleted in light of § 2–206 of this
3 title, which specifically describes the role of the Commission in relation to
4 the operation of the Department. Correspondingly, in subsection (b) of this
5 section, the qualification “[s]ubject to § 2–206 of this title” is added to
6 indicate that the Secretary’s authority to review regulations is subject to
7 oversight by the Commission.

8 In subsection (a) of this section, the former reference to the Secretary
9 “be[ing] responsible” for promulgating regulations is deleted as implicit in
10 the requirement that the Secretary “shall” adopt regulations.

11 In subsection (b) of this section, the former reference to “boards, offices,
12 agencies, [and] commissions” is deleted as included in the comprehensive
13 reference to a “unit”. The term “unit” is broad enough to include all these
14 types of entities. *See* General Revisor’s Note to article.

15 Defined terms: “Department” § 1–101
16 “Secretary” § 1–101

17 **2–109. SECRETARY’S DUTIES — BUDGET.**

18 **THE SECRETARY IS RESPONSIBLE FOR THE BUDGET OF THE OFFICE OF THE**
19 **SECRETARY AND FOR THE BUDGET OF EACH UNIT UNDER THE JURISDICTION OF THE**
20 **DEPARTMENT.**

21 **REVISOR’S NOTE:** This section is new language derived without substantive
22 change from former Art. 83A, § 2–105(a).

23 The reference to a “unit” is substituted for the former list of unit types, *i.e.*,
24 boards, offices, and agencies, for brevity. The term “unit” is broad enough
25 to include all these types of entities. *See* General Revisor’s Note to article.

26 Defined terms: “Department” § 1–101
27 “Secretary” § 1–101

28 **2–110. SECRETARY’S DUTIES — PLANS AND ACTIVITIES.**

29 **(A) IN GENERAL.**

30 **THE SECRETARY IS RESPONSIBLE FOR THE COORDINATION AND DIRECTION OF ALL**
31 **PLANNING ACTIVITIES THAT THE OFFICE OF THE SECRETARY INITIATES.**

32 **(B) AUTHORITY TO REVIEW.**

33 **THE SECRETARY SHALL KEEP FULLY APPRISED OF AND MAY APPROVE,**
34 **DISAPPROVE, OR MODIFY THE PLANS, PROPOSALS, AND PROJECTS OF UNITS UNDER THE**
35 **JURISDICTION OF THE DEPARTMENT.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83A, § 2–105(d).

3 In subsection (a) of this section, the reference to “activities” is substituted
4 for the former reference to “facilities” for accuracy and consistency with
5 other revised articles of the Code. *See, e.g.*, CS § 2–111.

6 In subsection (b) of this section, the former reference to “departments and
7 other agencies” is deleted as included in the comprehensive reference to
8 “units”. The term “unit” is broad enough to include all these types of
9 entities. *See* General Revisor's Note to article.

10 Defined terms: “Department” § 1–101
11 “Secretary” § 1–101

12 2–111. SECRETARY'S DUTIES — REMOVAL OF APPOINTEE.

13 THE SECRETARY MAY NOT REMOVE AN APPOINTEE TO A PARTICULAR OFFICE IN
14 THE DEPARTMENT WITHOUT FIRST OBTAINING THE GOVERNOR'S APPROVAL IF THE LAW
15 PROVIDES THAT:

16 (1) THE SECRETARY IS REQUIRED TO MAKE THE APPOINTMENT WITH THE
17 CONSENT OF THE GOVERNOR; AND

18 (2) THE APPOINTEE:

19 (I) SERVES AT THE PLEASURE OF THE SECRETARY; OR

20 (II) MAY BE REMOVED BY THE SECRETARY WITH OR WITHOUT CAUSE.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 83A, § 2–105(e).

23 In item (2)(ii) of this section, the reference to “remov[al] ... with or
24 without cause” is added for clarity and consistency within this article. *See*
25 General Revisor's Note to article.

26 Defined terms: “Department” § 1–101
27 “Secretary” § 1–101

28 2–112. SECRETARY'S DUTIES — MEETINGS.

29 THE SECRETARY MAY CALL A MEETING OF ANY UNIT UNDER THE JURISDICTION OF
30 THE DEPARTMENT TO CONSIDER ANY SUBJECT.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 83A, § 2–105(f).

33 The reference to “unit” is substituted for the former list of unit types, *i.e.*,
34 boards and commissions, for brevity. The term “unit” is broad enough to
35 include all these types of entities. *See* General Revisor's Note to article.

1 The reference to a unit “under the jurisdiction of” the Department is
2 substituted for the former reference to a unit “within” the Department for
3 consistency within this subtitle.

4 The former reference to “meetings ... which are provided for by law or are
5 called by the chairman” is deleted as unnecessary.

6 The former references to calling a meeting “whenever the Secretary deems
7 it appropriate” for the consideration of any subject “which the Secretary
8 considers necessary and proper” are deleted as implicit in the Secretary’s
9 authority to call a meeting.

10 Defined terms: “Department” § 1–101

11 “Secretary” § 1–101

12 **2–113. SECRETARY’S POWERS — ASSUMPTION OF FUNCTIONS.**

13 (A) SCOPE OF SECTION.

14 THIS SECTION DOES NOT APPLY TO A POWER, DUTY, RESPONSIBILITY, OR FUNCTION
15 THAT IS GRANTED TO THE MARYLAND ECONOMIC DEVELOPMENT COMMISSION UNDER
16 SUBTITLE 2 OF THIS TITLE.

17 (B) IN GENERAL.

18 THE SECRETARY MAY EXERCISE ANY POWER, DUTY, RESPONSIBILITY, OR FUNCTION
19 OF ANY UNIT UNDER THE JURISDICTION OF THE DEPARTMENT.

20 REVISOR’S NOTE: This section is new language derived without substantive
21 change from former Art. 83A, § 2–105(g).

22 In subsection (b) of this section, the reference to a “unit” is substituted for
23 the former list of unit types, *i.e.*, administrations, boards, commissions,
24 offices, authorities, divisions, and agencies, for brevity. The term “unit” is
25 broad enough to include all these types of entities. *See* General Revisor’s
26 Note to article.

27 Defined terms: “Department” § 1–101

28 “Secretary” § 1–101

29 **2–114. UNITS TO REPORT TO SECRETARY.**

30 EXCEPT AS OTHERWISE PROVIDED BY LAW, EACH UNIT UNDER THE JURISDICTION
31 OF THE DEPARTMENT SHALL REPORT TO THE SECRETARY OR TO THE SECRETARY’S
32 DESIGNEE AS PROVIDED IN THE REGULATIONS OR WRITTEN DIRECTIVES OF THE
33 SECRETARY.

34 REVISOR’S NOTE: This section is new language derived without substantive
35 change from former Art. 83A, § 2–105(h).

36 The reference to a “unit” is substituted for the former list of unit types, *i.e.*,

1 divisions, commissions, boards, offices, authorities, and agencies, for
2 brevity. The term “unit” is broad enough to include all these types of
3 entities. *See* General Revisor’s Note to article.

4 Defined terms: “Department” § 1–101
5 “Secretary” § 1–101

6 2–115. CLASSIFICATION OF EMPLOYEES.

7 (A) EMPLOYEES IN EXECUTIVE SERVICE OR MANAGEMENT SERVICE; SPECIAL
8 APPOINTEES.

9 AN EMPLOYEE OF THE DEPARTMENT WHO IS HIRED ON OR AFTER JULY 1, 1995,
10 IS IN THE EXECUTIVE SERVICE OR MANAGEMENT SERVICE IN THE STATE PERSONNEL
11 MANAGEMENT SYSTEM, OR IS A SPECIAL APPOINTMENT.

12 (B) CLASSIFIED SERVICE EMPLOYEE.

13 A POSITION HELD BY A CLASSIFIED SERVICE EMPLOYEE ON JUNE 30, 1995,
14 REMAINS A CLASSIFIED SERVICE POSITION OR ITS EQUIVALENT IN THE STATE
15 PERSONNEL MANAGEMENT SYSTEM UNTIL THE POSITION BECOMES VACANT.

16 (C) COMPENSATION.

17 IN ACCORDANCE WITH THE STATE BUDGET, THE SECRETARY SHALL SET THE
18 COMPENSATION OF DEPARTMENT EMPLOYEES.

19 REVISOR’S NOTE: This section is new language derived without substantive
20 change from former Art. 83A, § 2–105(i).

21 Defined terms: “Department” § 1–101
22 “Secretary” § 1–101
23 “State” § 1–101

24 2–116. LEGAL COUNSEL.

25 (A) SCOPE OF SECTION.

26 THIS SECTION DOES NOT APPLY TO A UNIT UNDER THE JURISDICTION OF THE
27 DEPARTMENT TO THE EXTENT THAT THE UNIT IS AUTHORIZED BY LAW TO EMPLOY ITS
28 OWN LEGAL COUNSEL.

29 (B) ATTORNEY GENERAL AS LEGAL ADVISER.

30 THE ATTORNEY GENERAL IS THE LEGAL ADVISER TO THE DEPARTMENT.

31 (C) ASSIGNMENT OF ASSISTANTS.

32 THE ATTORNEY GENERAL SHALL ASSIGN TO THE DEPARTMENT THE NUMBER OF
33 ASSISTANT ATTORNEYS GENERAL THAT ARE AUTHORIZED BY LAW FOR THE DEPARTMENT
34 AND ITS UNITS.

1 (D) COUNSEL.

2 (1) THE ATTORNEY GENERAL SHALL DESIGNATE ONE OF THE ASSISTANT
3 ATTORNEYS GENERAL ASSIGNED TO THE DEPARTMENT AS COUNSEL TO THE
4 DEPARTMENT AND MAY NOT REASSIGN THAT INDIVIDUAL WITHOUT CONSULTING WITH
5 THE SECRETARY.

6 (2) THE COUNSEL MAY ONLY:

7 (I) ADVISE THE SECRETARY, THE MARYLAND ECONOMIC
8 DEVELOPMENT COMMISSION, AND ANY OTHER OFFICIAL OF THE DEPARTMENT AS THEY
9 REQUIRE;

10 (II) SUPERVISE THE OTHER ASSISTANT ATTORNEYS GENERAL
11 ASSIGNED TO THE DEPARTMENT; AND

12 (III) PERFORM FOR THE DEPARTMENT THE OTHER DUTIES THAT THE
13 ATTORNEY GENERAL ASSIGNS.

14 (3) THE OTHER ASSISTANT ATTORNEYS GENERAL SHALL PERFORM FOR THE
15 DEPARTMENT THE OTHER DUTIES THAT THE ATTORNEY GENERAL ASSIGNS.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 83A, § 2-103(a), (c), and the first, second, third,
18 and fourth sentences of (b), and the part of the fifth sentence that requires
19 the counsel to perform assigned duties.

20 In subsection (a) of this section, the reference to a unit "under the
21 jurisdiction of" the Department is substituted for the former reference to a
22 unit "within" the Department for consistency within this subtitle.

23 Also in subsection (a) of this section, the references to "units" are
24 substituted for the former list of unit types, divisions, commissions, boards,
25 authorities, and agencies, for brevity. The term "unit" is broad enough to
26 include all these types of entities. Correspondingly, in subsection (c) of this
27 section, the former reference to "various departments, agencies, boards,
28 commissions, [and] councils" is deleted as included in the comprehensive
29 reference to "units". *See* General Revisor's Note to article.

30 In subsection (c) of this section, the former reference to units "which are, or
31 may be hereafter by law deemed to be part of the Department" is deleted
32 as implicit in the reference to "the Department and its units".

33 In subsection (d)(1) of this section, the reference to "that individual" is
34 substituted for the former reference to "said counsel" for clarity because
35 the restriction on reassignment applies to the individual designated as
36 counsel, not to the title "counsel".

37 In subsection (d)(3) of this section, the reference to duties performed under
38 the "supervision" of the Attorney General is substituted for the former

1 reference to duties performed “subject to ... [the] discretion and control” of
2 the Attorney General for clarity and brevity.

3 The part of the fifth sentence and the sixth sentence of former Art. 83A, §
4 2–103(b), which enabled the Attorney General to assign work to assistant
5 Attorneys General, required them to do the assigned work, required them
6 to be lawyers, and provided for their compensation, is deleted as
7 unnecessary in light of SG § 6–105.

8 Defined terms: “Department” § 1–101
9 “Secretary” § 1–101

10 2–117. UNITS IN DEPARTMENT.

11 (A) IN GENERAL.

12 EXCEPT AS OTHERWISE PROVIDED BY LAW, THE SECRETARY:

13 (1) SHALL DETERMINE THE ORGANIZATIONAL STRUCTURE OF THE
14 DEPARTMENT; AND

15 (2) MAY CREATE OR ABOLISH UNITS IN THE DEPARTMENT.

16 (B) ADVISORY UNITS.

17 (1) THE GOVERNOR OR THE SECRETARY MAY ESTABLISH ADVISORY OR
18 DECISION–MAKING UNITS FOR THE DEPARTMENT.

19 (2) THE UNITS SHALL ADVISE AND ASSIST THE SECRETARY ON THE
20 POLICIES, PROGRAMS, AND ACTIVITIES OF THE DEPARTMENT.

21 (3) THE GOVERNOR OR THE SECRETARY SHALL DETERMINE THE SIZE,
22 QUALIFICATIONS, METHOD OF APPOINTMENT, TERMS, COMPENSATION, MANNER OF
23 REMOVAL, AND METHOD OF FILLING VACANCIES OF THE UNITS.

24 REVISOR’S NOTE: This section is new language derived without substantive
25 change from former Art. 83A, § 2–104.

26 Subsection (a) of this section is restated in standard language for clarity
27 and consistency with other revised articles.

28 In subsections (a) and (b) of this section, the references to “units” are
29 substituted for the former list of unit types, *i.e.*, divisions, agencies, offices,
30 commissions, boards, committees, councils, and bodies, for brevity. The
31 term “unit” is broad enough to include all these types of entities. *See*
32 General Revisor’s Note to article.

33 In subsection (b)(3) of this section, the phrase “of the units” is added for
34 clarity.

1 Defined terms: “Department” § 1–101

2 “Secretary” § 1–101

3 2–118. OBJECTIVES OF DEPARTMENT.

4 TO ATTRACT AND ENCOURAGE BUSINESS DEVELOPMENT AND SERVE THE NEEDS OF
5 BUSINESS, THE DEPARTMENT SHALL:

6 (1) ADVANCE THE ECONOMIC WELFARE OF THE PUBLIC THROUGH
7 PROGRAMS AND ACTIVITIES THAT DEVELOP IN A PROPER MANNER THE NATURAL
8 RESOURCES AND ECONOMIC OPPORTUNITIES OF THE STATE;

9 (2) PROMOTE AND ENCOURAGE THE LOCATION AND CREATION OF NEW
10 INDUSTRIES AND BUSINESSES IN THE STATE AND ENCOURAGE THE RETENTION AND
11 EXPANSION OF EXISTING INDUSTRIES;

12 (3) SUPPORT THE CREATION OF NEW BUSINESSES AND THE GROWTH OF
13 EXISTING BUSINESSES IN THE STATE BY IMPROVING THEIR QUALITY, PRODUCTIVITY, AND
14 COMPETITIVE POSITION IN THE GLOBAL MARKETPLACE;

15 (4) ASSIST THE GROWTH AND REVITALIZATION OF SMALL BUSINESSES;

16 (5) SUPPORT THE GROWTH OF THE STATE AND REGIONAL ECONOMIES BY
17 PROVIDING CONSULTING, TECHNICAL ASSISTANCE, AND LIAISON ACTIVITIES ON BUSINESS
18 AND ECONOMIC DEVELOPMENT ISSUES;

19 (6) PROMOTE THE DEVELOPMENT OF INTERNATIONAL TRADE ACTIVITIES;

20 (7) ASSIST BUSINESSES AND EMPLOYEES THROUGH TRAINING AND OTHER
21 EMPLOYMENT SERVICES;

22 (8) PROMOTE REGULATORY REFORM AND COORDINATE EFFORTS WITH
23 OTHER STATE AND LOCAL UNITS; AND

24 (9) FOSTER AND DEVELOP EMPLOYMENT OPPORTUNITIES FOR RESIDENTS OF
25 THE STATE.

26 REVISOR’S NOTE: This section is new language derived without substantive
27 change from former Art. 83A, § 3–101.

28 In item (8) of this section, the reference to “units” is substituted for the
29 former reference to “agencies” for consistency within this article. *See*
30 General Revisor’s Note to article.

31 Defined terms: “Department” § 1–101

32 “State” § 1–101

1 2–119. DUTIES OF DEPARTMENT.

2 THE DEPARTMENT SHALL:

3 (1) INVESTIGATE AND ASSEMBLE INFORMATION ABOUT THE ECONOMIC
4 DEVELOPMENT, INDUSTRIAL OPPORTUNITIES, AND ECONOMIC RESOURCES OF THE STATE,
5 INCLUDING RAW MATERIALS, POWER AND WATER RESOURCES, TRANSPORTATION
6 FACILITIES, MARKETS, LABOR, BANKING AND FINANCING FACILITIES, INDUSTRIAL SITES,
7 AND OTHER FIELDS OF RESEARCH;

8 (2) ENCOURAGE LOCATION AND DEVELOPMENT OF NEW BUSINESSES IN THE
9 STATE AND THE RETENTION AND EXPANSION OF PRESENT ENTERPRISES IN
10 COORDINATION WITH LOCAL GOVERNMENTS AND LOCAL ECONOMIC DEVELOPMENT UNITS;

11 (3) ENCOURAGE FORMATION OF LOCAL AND SECTIONAL DEVELOPMENT
12 COMMITTEES AND COOPERATE WITH LOCAL CIVIC GROUPS AND OTHER LOCAL, STATE,
13 AND FEDERAL DEVELOPMENT UNITS;

14 (4) DISSEMINATE INFORMATION IN THE INTEREST OF INDUSTRIAL
15 DEVELOPMENT IN THE STATE, BY PUBLICATION, ADVERTISING, AND OTHER MEANS;

16 (5) ASSIST BUSINESSES IN THE AREAS OF TECHNOLOGY DEVELOPMENT AND
17 COMMERCIALIZATION, SMALL BUSINESS DEVELOPMENT, WORKFORCE DEVELOPMENT AND
18 PRODUCTIVITY, MANUFACTURING MODERNIZATION, AND DEFENSE CONVERSION;

19 (6) SERVE AS AN OMBUDSMAN FOR BUSINESSES AFFECTED BY STATE
20 POLICIES AND PROGRAMS;

21 (7) COORDINATE BUSINESS ASSISTANCE SERVICE DELIVERY TO INDIVIDUAL
22 COMPANIES;

23 (8) LINK GROUPS OF BUSINESSES TO ADDRESS REGIONAL AND INDUSTRY
24 SPECIFIC NEEDS;

25 (9) BROKER INFORMATION EXCHANGE AND ENTREPRENEURIAL SERVICES
26 THAT ENHANCE ECONOMIC DEVELOPMENT THROUGH PARTNERSHIPS WITH BUSINESSES,
27 NOT-FOR-PROFIT ORGANIZATIONS, PROFESSIONAL GROUPS, LOCAL ECONOMIC
28 DEVELOPMENT ENTITIES, AND LOCAL GOVERNMENTS;

29 (10) ASSIST IN DEVELOPING AND CONDUCTING REGIONAL STRATEGIC
30 PLANNING AND COORDINATING STATE INVESTMENTS WITH REGIONAL ECONOMIC
31 DEVELOPMENT ENTITIES;

32 (11) COLLECT AND ASSEMBLE INFORMATION AND DATA AVAILABLE FROM
33 OTHER STATE UNITS;

34 (12) MONITOR ECONOMIC CONDITIONS, RELEASE REPORTS, AND MAINTAIN
35 INTERINDUSTRY MODELS OF STATE REGULATIONS AND LOCAL ECONOMIES;

36 (13) USE COMMUNITY COLLEGES IN THE STATE TO HELP DELIVER SERVICES;

1 (14) ADMINISTER THE PROGRAMS IN THE DEPARTMENT; AND

2 (15) COORDINATE ITS EFFORTS AND ACTIVITIES WITH THE APPRENTICESHIP
3 AND TRAINING COUNCIL AND APPRENTICESHIP AND TRAINING PROGRAM IN THE
4 DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 83A, §§ 3–201 and 3–601.

7 In items (3) and (11) of this section, the references to “units” are
8 substituted for the former reference to “agencies” and “departments” for
9 consistency within this article. *See* General Revisor’s Note to article.

10 In item (14) of this section, the reference to programs “in the Department”
11 is substituted for the former reference to programs “assigned to the
12 Department by law or designated by the Secretary” for brevity.

13 Defined terms: “Department” § 1–101

14 “State” § 1–101

15 2–120. SUPPORT FOR REGIONAL TECHNOLOGY COUNCILS.

16 (A) IN GENERAL.

17 THE DEPARTMENT SHALL SUPPORT INDUSTRY–LED REGIONAL TECHNOLOGY
18 COUNCILS THAT HELP PRIVATE ENTERPRISES ATTEMPTING TO ESTABLISH OR EXPAND
19 MANUFACTURING AND TECHNOLOGY–BASED BUSINESSES.

20 (B) SELECTION OF ENTITY AND REGION.

21 THE DEPARTMENT MAY:

22 (1) SELECT AN ENTITY AS THE REGIONAL TECHNOLOGY COUNCIL FOR A
23 PARTICULAR REGION; AND

24 (2) DETERMINE THE GEOGRAPHIC AREAS THAT CONSTITUTE A REGION FOR
25 PURPOSES OF THIS SECTION.

26 (C) TYPE OF SUPPORT.

27 THE DEPARTMENT MAY SUPPORT A REGIONAL TECHNOLOGY COUNCIL THROUGH
28 GRANTS, LOANS, IN–KIND ASSISTANCE, ADVICE, OR OTHER ASSISTANCE.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 83A, § 3–202.

31 In subsection (c) of this section, the former reference to providing
32 assistance “the Department considers appropriate” is deleted as implicit in
33 the Department’s authority to support a regional technology council.

34 Defined term: “Department” § 1–101

1 2–121. DEPARTMENT TO USE DATA FROM OTHER STATE AGENCIES.

2 (A) IN GENERAL.

3 TO THE EXTENT PRACTICABLE, THE DEPARTMENT SHALL USE PERTINENT DATA
4 OBTAINED FROM UNITS OF THE STATE WHEN COLLECTING AND ASSEMBLING
5 INFORMATION.

6 (B) LIMITATION.

7 EXCEPT TO THE EXTENT THAT DISCLOSURE IS PROHIBITED BY LAW, THE
8 DEPARTMENT HAS ACCESS TO ALL RECORDS, DATA, INFORMATION, AND STATISTICS OF
9 OTHER UNITS OF THE STATE.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 83A, § 3–203.

12 In this section, the reference to “units” is substituted for the former list of
13 unit types, *i.e.*, boards, commissions, agencies, and institutions, for brevity.
14 The term “unit” is broad enough to include all these types of entities. *See*
15 General Revisor’s Note to article.

16 In subsection (b) of this section, the qualification “[e]xcept to the extent
17 that disclosure is prohibited by law” is substituted for the former phrase
18 “except records or information required by law to be confidential and
19 secret” for clarity and accuracy.

20 Defined terms: “Department” § 1–101
21 “State” § 1–101

22 2–122. CONSOLIDATED PUBLICATIONS ACCOUNT.

23 (A) AUTHORIZED.

24 THE DEPARTMENT MAY ESTABLISH A CONSOLIDATED PUBLICATIONS ACCOUNT.

25 (B) COMPOSITION.

26 THE DEPARTMENT MAY PLACE IN THE ACCOUNT EXCESS REVENUES THAT REMAIN
27 AT THE END OF THE FISCAL YEAR THAT ARE DERIVED FROM PUBLICATIONS OF THE
28 DEPARTMENT OR ITS UNITS.

29 (C) USE.

30 THE DEPARTMENT MAY ONLY USE THE ACCOUNT TO PRODUCE, DISTRIBUTE, AND
31 PROMOTE PUBLICATIONS, INCLUDING FREE PUBLICATIONS, OF THE DEPARTMENT AND
32 ITS UNITS.

33 (D) UNEXPENDED MONEYS.

1 (1) ANY UNEXPENDED MONEY IN THE ACCOUNT AT THE END OF A FISCAL
2 YEAR NOT EXCEEDING \$40,000:

3 (I) DOES NOT REVERT TO THE GENERAL FUND OF THE STATE; BUT

4 (II) SHALL BE MAINTAINED AS A SPECIAL FUND.

5 (2) ANY UNEXPENDED MONEY IN THE ACCOUNT AT THE END OF A FISCAL
6 YEAR EXCEEDING \$40,000 REVERTS TO THE GENERAL FUND UNDER § 7–302 OF THE
7 STATE FINANCE AND PROCUREMENT ARTICLE.

8 REVISOR’S NOTE: This section is new language derived without substantive
9 change from former Art. 83A, § 4–105.

10 In subsections (b) and (c) of this section, the references to “units” are
11 substituted for the former references to “agenc[ies]” for consistency within
12 this article. *See* General Revisor’s Note to article.

13 In subsection (d)(2) of this section, the reference to reversion “under §
14 7–302 of the State Finance and Procurement Article” is added for clarity
15 and consistency within this article.

16 Defined terms: “Department” § 1–101
17 “State” § 1–101

18 SUBTITLE 2. MARYLAND ECONOMIC DEVELOPMENT COMMISSION.

19 2–201. “COMMISSION” DEFINED.

20 IN THIS SUBTITLE, “COMMISSION” MEANS THE MARYLAND ECONOMIC
21 DEVELOPMENT COMMISSION.

22 REVISOR’S NOTE: This section is new language derived without substantive
23 change from former Art. 83A, § 1–101(c).

24 The phrase “[i]n this subtitle” is substituted for the former phrase “[e]xcept
25 as otherwise provided in this article,” for clarity and to reflect the
26 reorganization of material related to the Maryland Economic Development
27 Commission in this article. Although the defined term “Commission”
28 formerly applied throughout Article 83A, it is revised to apply only to
29 material derived from former Art. 83A, §§ 1–201 through 1–204 because
30 the same term is defined and used elsewhere in this article to refer to other
31 units.

32 2–202. ESTABLISHED; PURPOSE.

33 (A) ESTABLISHED.

34 THERE IS A MARYLAND ECONOMIC DEVELOPMENT COMMISSION IN THE
35 DEPARTMENT.

1 (B) PURPOSE.

2 THE PURPOSE OF THE COMMISSION IS TO ESTABLISH ECONOMIC DEVELOPMENT
3 POLICY IN THE STATE AND OVERSEE THE DEPARTMENT'S EFFORTS TO SUPPORT THE
4 CREATION OF, ATTRACT, AND RETAIN BUSINESSES AND JOBS.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 83A, §§ 1–201 and 1–202(a).

7 Defined terms: "Commission" § 2–201
8 "Department" § 1–101
9 "State" § 1–101

10 2–203. MEMBERSHIP.

11 (A) COMPOSITION; APPOINTMENT OF MEMBERS.

12 (1) (I) THE COMMISSION CONSISTS OF NOT MORE THAN 25 VOTING
13 MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE
14 SENATE.

15 (II) THE SECRETARY IS A NONVOTING EX OFFICIO MEMBER OF THE
16 COMMISSION.

17 (2) THE GEOGRAPHIC REPRESENTATION OF THE COMMISSION SHALL COVER
18 THE ENTIRE STATE AND SHALL INCLUDE AT LEAST ONE REPRESENTATIVE FROM:

19 (I) THE UPPER EASTERN SHORE;

20 (II) THE LOWER EASTERN SHORE;

21 (III) CALVERT COUNTY, CHARLES COUNTY, OR ST. MARY'S COUNTY;

22 (IV) ALLEGANY COUNTY OR GARRETT COUNTY; AND

23 (V) CARROLL COUNTY, FREDERICK COUNTY, OR WASHINGTON
24 COUNTY.

25 (3) WHEN APPOINTING COMMISSION MEMBERS, THE GOVERNOR SHALL
26 CONSIDER GEOGRAPHIC AND INDUSTRY REPRESENTATION.

27 (4) THE MEMBERS APPOINTED SHALL REFLECT THE RACIAL AND GENDER
28 DIVERSITY OF THE POPULATION OF THE STATE.

29 (B) QUALIFICATIONS.

30 THE APPOINTED MEMBERS OF THE COMMISSION SHALL HAVE SUBSTANTIAL
31 INTEREST OR EXPERIENCE IN BUSINESS OR KNOWLEDGE OF BUSINESS AND ECONOMIC
32 DEVELOPMENT.

33 (C) APPLICABILITY OF MARYLAND PUBLIC ETHICS LAW.

1 THE COMMISSION AND ITS MEMBERS ARE SUBJECT TO THE MARYLAND PUBLIC
2 ETHICS LAW.

3 (D) TENURE.

4 (1) THE TERM OF AN APPOINTED MEMBER IS 3 YEARS.

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

7 (3) A MEMBER APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR
8 THE REMAINDER OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

9 (4) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY THE
10 TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON OCTOBER 1, 2008.

11 (5) A MEMBER MAY BE REMOVED BY THE GOVERNOR WITH OR WITHOUT
12 CAUSE.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 83A, § 1–203(a)(1) through (5), (b), and (d).

15 In subsection (a)(2)(iii) of this section, the former reference to “[t]he
16 tri–county area of Southern Maryland” is deleted in light of the specific
17 designation of Charles County, Calvert County, or St. Mary’s County.

18 In subsection (a)(4) of this section, the reference to members “reflect[ing]
19 the racial and gender diversity of the population of the State” is
20 substituted for the former reference to “the gender and racial makeup” of
21 the State for clarity and consistency within this article. No substantive
22 change is intended. *Cf.* § 3–203(b) of this article; *see* General Revisor’s Note
23 to article.

24 In subsection (d)(4) of this section, the reference to terms being staggered
25 as required by the terms provided for appointed Commission members on
26 “October 1, 2008” is substituted for the former obsolete reference to terms
27 being staggered as required by the terms provided on “July 1, 1995”. This
28 substitution is not intended to alter the term of any appointed member of
29 the Commission. *See* § 13 of Ch. _____, Acts of 2008. The terms of the
30 appointed members serving on October 1, 2008, end as follows: (1) five on
31 July 1, 2009; (2) six on July 1, 2010; and (3) six on July 1, 2011.

32 In subsection (d)(5) of this section, the reference to “remov[al of a member]
33 ... with or without cause” is substituted for the former reference to a
34 member serving a specified term “at the pleasure” of the Governor for
35 clarity and consistency within this article. *See* General Revisor’s Note to
36 article.

37 Defined terms: “Commission” § 2–201

38 “Secretary” § 1–101

1 “State” § 1–101

2 2–204. OFFICERS; EXECUTIVE COMMITTEE.

3 (A) CHAIR.

4 THE GOVERNOR SHALL DESIGNATE A CHAIR OR CO–CHAIRS FROM THE VOTING
5 MEMBERS OF THE COMMISSION.

6 (B) EXECUTIVE COMMITTEE.

7 THE COMMISSION MAY ELECT AN EXECUTIVE COMMITTEE FROM ITS MEMBERS TO
8 EXERCISE THE POWERS AND FUNCTIONS OF THE COMMISSION BETWEEN MEETINGS OF
9 THE COMMISSION.

10 REVISOR’S NOTE: This section is new language derived without substantive
11 change from former Art. 83A, §§ 1–202(e) and 1–203(a)(6).

12 In subsection (a) of this section, the reference to a “chair or co–chairs” is
13 substituted for the former reference to a “chairman or co–chairmen”
14 because SG § 2–1238 requires the use of words that are neutral as to
15 gender to the extent practicable.

16 Defined term: “Commission” § 2–201

17 2–205. MEETINGS; QUORUM; COMPENSATION; STAFF.

18 (A) MEETINGS.

19 (1) THE COMMISSION SHALL MEET AS OFTEN AS ITS DUTIES REQUIRE, BUT
20 NOT LESS THAN QUARTERLY.

21 (2) THE CHAIR OR CO–CHAIRS SHALL DESIGNATE A TIME AND PLACE FOR
22 MEETINGS OF THE COMMISSION.

23 (B) QUORUM.

24 A MAJORITY OF THE VOTING MEMBERS OF THE COMMISSION IS A QUORUM.

25 (C) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

26 A VOTING MEMBER OF THE COMMISSION:

27 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION;
28 BUT

29 (2) IS ENTITLED TO REIMBURSEMENT IN ACCORDANCE WITH THE STANDARD
30 STATE TRAVEL REGULATIONS AS PROVIDED IN THE STATE BUDGET.

31 (D) STAFF.

1 THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT TO THE COMMISSION.

2 REVISOR'S NOTE: This section is new language derived without substantive
3 change from former Art. 83A, §§ 1–202(d) and 1–203(c) and (e).

4 In subsection (a)(2) of this section, the reference to the “chair or co–chairs”
5 is substituted for the former reference to the “chairman or co–chairmen”
6 because SG § 2–1238 requires the use of words that are neutral as to
7 gender to the extent practicable.

8 Subsection (c) of this section is restated in standard language to reflect
9 that, under SF § 10–203, the Board of Public Works has adopted
10 regulations for reimbursement of expenses. See COMAR 23.01.01.01
11 through .12.

12 In subsection (c) of this section, the reference to a “voting” member is
13 substituted for the former reference to members “appointed by the
14 Governor” for clarity and consistency within this subtitle.

15 Defined terms: “Commission” § 2–201
16 “Department” § 1–101
17 “State” § 1–101

18 2–206. MISCELLANEOUS POWERS AND DUTIES.

19 (A) POWERS.

20 THE COMMISSION MAY:

21 (1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;

22 (2) HIRE CONSULTANTS; AND

23 (3) DO ANYTHING NECESSARY OR CONVENIENT TO CARRY OUT ITS POWERS
24 AND THE PURPOSES OF THIS SUBTITLE.

25 (B) DUTIES.

26 THE COMMISSION SHALL:

27 (1) DEVELOP AND UPDATE AN ECONOMIC DEVELOPMENT STRATEGIC PLAN
28 FOR THE STATE;

29 (2) SEEK IDEAS AND ADVICE FROM EACH REGION OF THE STATE TO
30 DEVELOP THE ECONOMIC DEVELOPMENT STRATEGIC PLAN;

31 (3) INCORPORATE INTO THE ECONOMIC DEVELOPMENT STRATEGIC PLAN THE
32 MARYLAND PORT ADMINISTRATION STRATEGIC PLAN DEVELOPED FOR THE HELEN
33 DELICH BENTLEY PORT OF BALTIMORE;

1 (4) RECOMMEND TO THE GOVERNOR THE PROGRAM AND SPENDING
2 PRIORITIES NEEDED TO IMPLEMENT THE ECONOMIC DEVELOPMENT STRATEGIC PLAN;

3 (5) REVIEW THE ALLOCATION OF FINANCING INCENTIVES;

4 (6) PARTICIPATE IN MARKETING THE STATE AND ENCOURAGING NEW
5 BUSINESSES TO LOCATE IN THE STATE;

6 (7) SEEK CONTRIBUTIONS FROM THE PRIVATE SECTOR TO SUPPLEMENT
7 ECONOMIC DEVELOPMENT PROGRAMS AND FINANCIAL INCENTIVES TO BUSINESS; AND

8 (8) CARRY OUT OTHER ECONOMIC DEVELOPMENT ACTIVITIES THAT THE
9 GOVERNOR REQUESTS.

10 (c) APPROVED BUDGET AMENDMENT REQUIRED.

11 THE COMMISSION MAY SPEND MONEY RAISED UNDER SUBSECTION (B) OF THIS
12 SECTION ONLY IN ACCORDANCE WITH THE STATE BUDGET.

13 (d) APPROVAL OF REGULATIONS.

14 DEPARTMENTAL REGULATIONS THAT PERTAIN TO FINANCING PROGRAMS SHALL BE
15 APPROVED BY THE COMMISSION BEFORE ADOPTION.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 83A, § 1–202(b), (c), (f), and (g).

18 In subsection (c) of this section, the reference to spending money only “in
19 accordance with the State budget” is substituted for the former reference
20 to spending only “through an approved budget amendment” to reflect the
21 requirement of Md. Constitution, Art. III, § 32, that money may only be
22 drawn from the State Treasury in accordance with an appropriation,
23 whether it is included in the budget bill under SF § 7–108 or in a budget
24 amendment under SF § 7–209.

25 Defined terms: “Commission” § 2–201

26 “Department” § 1–101

27 “State” § 1–101

28 2–207. ANNUAL REPORT.

29 (A) ACTIVITIES.

30 ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE COMMISSION SHALL REPORT TO
31 THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE
32 GOVERNMENT ARTICLE, ON ITS ACTIVITIES DURING THE PREVIOUS YEAR.

33 (B) STRATEGIC PLAN INITIATIVES.

1 THE REPORT SHALL INCLUDE A REVIEW OF INITIATIVES TAKEN BY THE
2 COMMISSION AND THE DEPARTMENT TO IMPLEMENT THE ECONOMIC DEVELOPMENT
3 STRATEGIC PLAN.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 83A, § 1-204.

6 The Economic Development Article Review Committee notes, for the
7 consideration of the General Assembly, that the reporting date for
8 Commission activities in subsection (a) of this section makes little sense.
9 Former Art. 83A, § 1-204(a) was originally enacted as a requirement to
10 report by "January 15 of each year ... on the activities of the Commission
11 during the previous year", *i.e.*, a report submitted on January 15, 1996 was
12 meant to include the Commission's activities in calendar year 1995.
13 However, subsequent legislation that consolidated many reporting
14 requirements throughout State government substituted the reference to
15 "December 31" for the former reference to "January 15". *See* Ch. 5 of 1997.
16 It appears that subsection (a) of this section requires the report submitted
17 on December 31, 2006 to include information on the Commission's
18 activities in calendar year 2005, although it could also refer to the
19 activities in fiscal year 2006.

20 Recent Commission practice has been to submit the report on activities for
21 a given calendar year as soon as possible after the end of the calendar year.
22 The Committee recommends that the required date be clarified through
23 substantive legislation. Options include a reporting deadline of: (1)
24 January 31 for activities in the previous calendar year; (2) December 31 for
25 activities in the previous fiscal year; and (3) December 31 for activities in
26 that calendar year.

27 Defined terms: "Commission" § 2-201
28 "Department" § 1-101

29 TITLE 3. ECONOMIC DEVELOPMENT AND BUSINESS RESOURCES.

30 SUBTITLE 1. MARYLAND ADVISORY COMMISSION ON MANUFACTURING 31 COMPETITIVENESS.

32 3-101. "COMMISSION" DEFINED.

33 IN THIS SUBTITLE, "COMMISSION" MEANS THE MARYLAND ADVISORY
34 COMMISSION ON MANUFACTURING COMPETITIVENESS.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 83A, § 3-801.

37 3-102. LEGISLATIVE POLICY.

38 TO SUPPORT MANUFACTURING IN MARYLAND, IT IS THE POLICY OF THE STATE TO
39 FOLLOW THESE SEVEN PRINCIPLES:

1 (1) THE STATE MUST MAKE A LONG-TERM INSTITUTIONAL COMMITMENT TO
2 IMPROVING THE COMPETITIVENESS OF EXISTING AND EMERGING MANUFACTURERS;

3 (2) THE STATE'S SUPPORT FOR MANUFACTURING MUST BE
4 INDUSTRY-DRIVEN, WITH GOVERNMENTAL AND EDUCATIONAL EFFORTS FOCUSED ON
5 PRIORITIES SET BY BUSINESSES;

6 (3) TO HAVE A NOTICEABLE IMPACT ON THE STATE AND REGIONAL
7 ECONOMIES, THE STATE'S EFFORTS TO SUPPORT MANUFACTURING MUST BE ORGANIZED
8 IN WAYS THAT ADDRESS THE LEVEL OF NEED;

9 (4) THE STATE'S SUPPORT OF MANUFACTURING MUST BE HELD
10 ACCOUNTABLE TO MEASURABLE OUTCOMES THAT RESULT FROM THE STATE'S BUSINESS
11 ASSISTANCE ACTIVITIES;

12 (5) TO BE COMPETITIVE, ALL MANUFACTURERS MUST DEPLOY THE LATEST
13 ADVANCES IN TECHNOLOGY;

14 (6) TO DEVELOP A COMPETITIVE MANUFACTURING BASE, THE STATE
15 SHOULD TARGET ITS LIMITED RESOURCES TO THOSE KEY MANUFACTURING INDUSTRIES
16 THAT HAVE A STRONG PRESENCE OR HEALTHY GROWTH PROSPECTS; AND

17 (7) THE STATE'S BUSINESS ASSISTANCE SERVICES FOR EXISTING AND
18 EMERGING MANUFACTURERS MUST BE:

19 (I) COMPREHENSIVE, RANGING ACROSS MARKETING, TECHNOLOGY,
20 FINANCING, JOB TRAINING, AND OTHER NEEDS OF MANUFACTURING; AND

21 (II) READILY AVAILABLE ACROSS ALL REGIONS OF THE STATE.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 83A, § 3-802.

24 In the introductory language of this section, the former phrase "[t]he
25 General Assembly declares it to be" is deleted as surplusage.

26 Defined term: "State" § 1-101

27 3-103. ESTABLISHED.

28 THERE IS A MARYLAND ADVISORY COMMISSION ON MANUFACTURING
29 COMPETITIVENESS IN THE DEPARTMENT.

30 REVISOR'S NOTE: This section formerly was Art. 83A, § 3-803(a).

31 No changes are made.

32 Defined term: "Department" § 1-101

1 3–104. MEMBERSHIP.

2 (A) IN GENERAL.

3 (1) THE COMMISSION CONSISTS OF:

4 (I) TWO MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE OF
5 MARYLAND;

6 (II) TWO MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF
7 DELEGATES;

8 (III) THE SECRETARY OR THE DESIGNEE OF THE SECRETARY;

9 (IV) FOUR OTHER EX OFFICIO MEMBERS REPRESENTING UNITS OF
10 STATE GOVERNMENT:

11 1. THE SECRETARY OF THE ENVIRONMENT OR THE DESIGNEE
12 OF THE SECRETARY OF THE ENVIRONMENT;

13 2. THE SECRETARY OF LABOR, LICENSING, AND REGULATION
14 OR THE DESIGNEE OF THE SECRETARY OF LABOR, LICENSING, AND REGULATION;

15 3. THE STATE SUPERINTENDENT OF SCHOOLS OR THE
16 SUPERINTENDENT'S DESIGNEE; AND

17 4. A REPRESENTATIVE OF THE MARYLAND HIGHER
18 EDUCATION COMMISSION; AND

19 (V) THE FOLLOWING 16 MEMBERS APPOINTED BY THE SECRETARY
20 WITH THE APPROVAL OF THE GOVERNOR:

21 1. ONE REPRESENTATIVE OF AN EDUCATIONAL INSTITUTION IN
22 THE STATE;

23 2. TWO REPRESENTATIVES OF ORGANIZED LABOR;

24 3. 12 REPRESENTATIVES OF MANUFACTURING ENTERPRISES;

25 AND

26 4. ONE REPRESENTATIVE OF BUSINESS ORGANIZATIONS.

27 (2) THE MEMBERS APPOINTED UNDER PARAGRAPH (1)(IV) AND (V) OF THIS
28 SUBSECTION SHALL REFLECT THE RACIAL AND GENDER DIVERSITY OF THE POPULATION
29 OF THE STATE.

30 (3) THE MEMBERS APPOINTED UNDER PARAGRAPH (1)(V)3 OF THIS
31 SUBSECTION SHOULD GENERALLY REFLECT REPRESENTATION FROM:

32 (I) VARIED GEOGRAPHIC REGIONS OF THE STATE;

1 (II) VARIED SECTORS OF MANUFACTURING, BALANCING
2 TECHNOLOGY–RELATED AND TRADITIONAL MANUFACTURING INDUSTRIES; AND

3 (III) THE MIX OF MANUFACTURING ENTERPRISES IN THE STATE,
4 INCLUDING THOSE THAT EMPLOY 500 OR MORE EMPLOYEES AND THOSE THAT EMPLOY
5 FEWER THAN 500 EMPLOYEES.

6 (B) TENURE; VACANCIES.

7 (1) THE TERM OF A MEMBER APPOINTED UNDER SUBSECTION (A)(1)(V) OF
8 THIS SECTION IS 3 YEARS AND BEGINS ON JULY 1.

9 (2) THE TERMS OF THE MEMBERS APPOINTED UNDER SUBSECTION (A)(1)(V)
10 ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR THE MEMBERS OF THE
11 COMMISSION ON OCTOBER 1, 2008.

12 (3) A MEMBER MAY BE REAPPOINTED, BUT AFTER SERVING TWO
13 CONSECUTIVE 3–YEAR TERMS, A MEMBER MAY NOT BE REAPPOINTED UNTIL AT LEAST 1
14 YEAR AFTER THE END OF THE MEMBER’S PREVIOUS TENURE.

15 (4) (I) A VACANCY SHALL BE FILLED IMMEDIATELY FOR THE REMAINDER
16 OF THE UNEXPIRED PORTION OF A TERM.

17 (II) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL
18 A SUCCESSOR HAS BEEN APPOINTED.

19 (5) (I) A MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE OR
20 THE SPEAKER OF THE HOUSE SERVES AT THE PLEASURE OF THE APPOINTING OFFICER.

21 (II) A MEMBER APPOINTED UNDER SUBSECTION (A)(1)(V) OF THIS
22 SECTION MAY BE REMOVED AT ANY TIME BY THE SECRETARY, WITH OR WITHOUT CAUSE.

23 REVISOR’S NOTE: This section is new language derived without substantive
24 change from former Art. 83A, § 3–803(b), (d), and (e).

25 In subsection (a)(1)(iv)1 of this section, the reference to the “designee of the
26 Secretary of the Environment” is substituted for the former reference to
27 the “Secretary’s designee” for clarity and to avoid confusion with the term
28 “Secretary” defined in § 1–101 of this article, referring to the Secretary of
29 Business and Economic Development. Similarly, in subsection (a)(1)(iv)2 of
30 this section, the reference to the “designee of the Secretary of Labor,
31 Licensing, and Regulation” is substituted for the former reference to the
32 “Secretary’s designee”.

33 In subsection (a)(2) of this section, the reference to “diversity” is
34 substituted for the former reference to “makeup” for clarity and
35 consistency within this article. *See* General Revisor’s Note to article.

36 In subsection (a)(3)(iii) of this section, the reference to manufacturing
37 enterprises “that employ 500 or more employees and those that employ

1 fewer than 500 employees” is substituted for the former reference to
2 manufacturing enterprises “which employ above and below 500 employees”
3 for clarity.

4 In subsection (b)(1) and (2) of this section, the references to members
5 “appointed under subsection (a)(1)(v) of this section” are added for clarity.

6 In subsection (b)(2) of this section, the reference to the terms staggered “on
7 October 1, 2008” is substituted for the former reference to terms staggered
8 as required by the terms provided for the “initial” members to reflect the
9 effective date of this article. This substitution is not intended to alter the
10 term of any appointed member of the Commission. *See* § 13 of Ch. __, Acts
11 of 2008. The terms of the appointed members serving on October 1, 2008,
12 end as follows: (1) six on September 30, 2009; (2) five on September 30,
13 2010; and (3) five on September 30, 2011.

14 In subsection (b)(5)(ii) of this section, the references to “remov[al] at any
15 time by the Secretary, with or without cause” are substituted for the
16 former references to “serv[ing] at the pleasure of the Secretary” to clarify
17 the apparent intent of the former law; *i.e.*, that members serve a 3–year
18 term, but may be replaced at any time by the Secretary. *See* General
19 Revisor’s Note to article.

20 As to the power of the Governor to review and approve a dismissal under
21 subsection (b)(5)(ii) of this section, *see* § 2–111 of this article.

22 Defined terms: “Commission” § 3–101

23 “Secretary” § 1–101

24 “State” § 1–101

25 3–105. CHAIR.

26 THE SECRETARY SHALL DESIGNATE A CHAIR FROM AMONG THE PRIVATE SECTOR
27 MEMBERS OF THE COMMISSION.

28 REVISOR’S NOTE: This section is new language derived without substantive
29 change from former Art. 83A, § 3–803(f).

30 The reference to a “chair” is substituted for the former reference to a
31 “chairperson” for consistency within this article.

32 Defined terms: “Commission” § 3–101

33 “Secretary” § 1–101

34 3–106. MEETINGS.

35 THE COMMISSION SHALL MEET AT LEAST 4 TIMES EACH YEAR.

36 REVISOR’S NOTE: This section is new language derived without substantive
37 change from former Art. 83A, § 3–803(g).

1 Defined term: “Commission” § 3–101

2 **3–107. RESTRICTION ON LEGISLATOR MEMBERS.**

3 A MEMBER OF THE COMMISSION WHO IS A MEMBER OF THE GENERAL ASSEMBLY
4 MAY NOT VOTE ON A MATTER BEFORE THE COMMISSION THAT RELATES TO THE EXERCISE
5 OF A SOVEREIGN POWER OF THE STATE.

6 REVISOR’S NOTE: This section is new language derived without substantive
7 change from former Art. 83A, § 3–803(c).

8 Defined terms: “Commission” § 3–101
9 “State” § 1–101

10 **3–108. DUTIES.**

11 THE COMMISSION SHALL ADVISE THE SECRETARY ON THE BEST METHODS TO
12 IMPLEMENT THE POLICY DIRECTIVES OF THE ACTION PLAN FOR MANUFACTURING
13 COMPETITIVENESS IN THE STATE, INCLUDING:

14 (1) ENCOURAGING THE DEVELOPMENT OF NEW MANUFACTURING
15 ENTERPRISES AND THE EXPANSION AND RETENTION OF EXISTING MANUFACTURING
16 ENTERPRISES;

17 (2) ENCOURAGING AND FACILITATING TRAINING AND EDUCATION OF
18 INDIVIDUALS FOR MANUFACTURING JOBS;

19 (3) PRODUCING A CLIMATE CONDUCIVE TO THE GROWTH AND VIABILITY OF
20 MANUFACTURING ENTERPRISES;

21 (4) SUPPORTING RESEARCH NECESSARY TO EVALUATE, PLAN, AND EXECUTE
22 EFFECTIVE PROMOTION OF MANUFACTURING ENTERPRISES; AND

23 (5) ENCOURAGING, ASSISTING, AND COORDINATING THE ACTIVITIES OF
24 LOCAL, REGIONAL, AND NATIONAL PUBLIC OR PRIVATE ORGANIZATIONS THAT PROMOTE
25 MANUFACTURING.

26 REVISOR’S NOTE: This section formerly was Art. 83A, § 3–804.

27 In the introductory language of this section, the phrase “but not limited
28 to”, which formerly modified “including”, is deleted in light of Art. 1, § 30,
29 which provides that the term “including” is used “by way of illustration
30 and not by way of limitation”.

31 In item (4) of this section, the former reference to “the carrying out of”
32 research is deleted as surplusage.

33 No other changes are made.

34 Defined terms: “Commission” § 3–101
35 “Secretary” § 1–101

1 “State” § 1–101

2 3–109. ANNUAL REPORT.

3 THE COMMISSION SHALL SUBMIT A REPORT EACH YEAR TO THE GOVERNOR AND,
4 IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE
5 GENERAL ASSEMBLY ON THE PROGRESS OF THE COMMISSION IN IMPLEMENTING
6 POLICIES TO ASSIST MANUFACTURING IN THE STATE.

7 REVISOR’S NOTE: This section is new language derived without substantive
8 change from former Art. 83A, § 3–803(h).

9 Defined terms: “Commission” § 3–101
10 “State” § 1–101

11 SUBTITLE 2. MARYLAND LIFE SCIENCES ADVISORY BOARD.

12 3–201. DEFINITIONS.

13 (A) IN GENERAL.

14 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

15 (B) ADVISORY BOARD.

16 “ADVISORY BOARD” MEANS THE MARYLAND LIFE SCIENCES ADVISORY BOARD.

17 (C) LIFE SCIENCES.

18 “LIFE SCIENCES” INCLUDES THE FIELDS OF BIOTECHNOLOGY, PHARMACEUTICALS,
19 BIOMEDICAL TECHNOLOGIES, LIFE SYSTEMS TECHNOLOGIES, FOOD SCIENCES,
20 ENVIRONMENTAL SCIENCES, AND BIOMEDICAL DEVICES.

21 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–2C–01.

22 No changes are made.

23 3–202. ESTABLISHED.

24 THERE IS A MARYLAND LIFE SCIENCES ADVISORY BOARD IN THE DEPARTMENT.

25 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–2C–02(a).

26 No changes are made.

27 Defined term: “Department” § 1–101

28 3–203. MEMBERSHIP.

29 (A) COMPOSITION; APPOINTMENT OF MEMBERS.

1 THE ADVISORY BOARD CONSISTS OF THE FOLLOWING 15 MEMBERS:

2 (1) THE SECRETARY;

3 (2) A REPRESENTATIVE OF THE MARYLAND TECHNOLOGY DEVELOPMENT
4 CORPORATION, DESIGNATED BY THE MARYLAND TECHNOLOGY DEVELOPMENT
5 CORPORATION; AND

6 (3) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

7 (I) THREE REPRESENTING FEDERAL AGENCIES LOCATED IN THE
8 STATE WITH LIFE SCIENCES MISSIONS;

9 (II) FOUR WITH EXECUTIVE EXPERIENCE IN LIFE SCIENCES
10 BUSINESSES LOCATED IN THE STATE;

11 (III) FOUR REPRESENTING INSTITUTIONS OF HIGHER EDUCATION
12 LOCATED IN THE STATE, ONE OF WHOM SHALL REPRESENT A COMMUNITY COLLEGE;

13 (IV) ONE WITH GENERAL BUSINESS MARKETING EXPERIENCE IN A LIFE
14 SCIENCES BUSINESS LOCATED IN THE STATE; AND

15 (V) ONE MEMBER OF THE GENERAL PUBLIC.

16 (B) DIVERSITY.

17 THE COMPOSITION OF THE ADVISORY BOARD SHALL REFLECT THE RACIAL AND
18 GENDER DIVERSITY OF THE POPULATION OF THE STATE.

19 (C) TENURE; VACANCIES.

20 (1) EXCEPT FOR THE SECRETARY, THE TERM OF AN ADVISORY BOARD
21 MEMBER IS 2 YEARS.

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

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

26 (D) REMOVAL.

27 THE GOVERNOR MAY REMOVE A MEMBER OF THE ADVISORY BOARD FOR
28 INCOMPETENCE, MISCONDUCT, OR FAILURE TO PERFORM THE DUTIES OF THE POSITION.

29 (E) CHAIR.

30 THE GOVERNOR SHALL SELECT A CHAIR FROM AMONG THE MEMBERS OF THE
31 ADVISORY BOARD.

32 (F) VOTING.

1 THE ADVISORY BOARD MAY ACT WITH AN AFFIRMATIVE VOTE OF EIGHT MEMBERS.

2 (G) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

3 A MEMBER OF THE ADVISORY BOARD:

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

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

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 83A, § 5–2C–02(b) through (i).

10 Defined terms: “Advisory Board” § 3–201

11 “Life sciences” § 3–201

12 “Secretary” § 1–101

13 “State” § 1–101

14 3–204. DUTIES.

15 (A) IN GENERAL.

16 THE ADVISORY BOARD SHALL ASSIST THE DEPARTMENT IN:

17 (1) DEVELOPING A COMPREHENSIVE STATE STRATEGIC PLAN FOR LIFE
18 SCIENCES;

19 (2) PROMOTING LIFE SCIENCES RESEARCH, DEVELOPMENT,
20 COMMERCIALIZATION, AND MANUFACTURING IN THE STATE;

21 (3) PROMOTING COLLABORATION AND COORDINATION AMONG LIFE
22 SCIENCES ORGANIZATIONS IN THE STATE;

23 (4) PROMOTING COLLABORATION AND COORDINATION AMONG RESEARCH
24 INSTITUTIONS OF HIGHER EDUCATION IN THE STATE;

25 (5) DEVELOPING A STRATEGY TO COORDINATE STATE AND FEDERAL
26 RESOURCES TO ATTRACT PRIVATE SECTOR INVESTMENT AND JOB CREATION IN THE LIFE
27 SCIENCES;

28 (6) DEVELOPING A STRATEGY TO SUPPORT FEDERAL LIFE SCIENCES
29 FACILITIES LOCATED IN THE STATE, INCLUDING SUPPORT FOR EDUCATION,
30 TRANSPORTATION, HOUSING, AND CAPITAL INVESTMENT NEEDS; AND

31 (7) MAKING RECOMMENDATIONS TO ADDRESS CRITICAL NEEDS IN THE LIFE
32 SCIENCES, INCLUDING ACCESS TO VENTURE CAPITAL AND CAPITAL CONSTRUCTION
33 FUNDING.

34 (B) REQUIRED CONSIDERATION.

1 IN PERFORMING ITS DUTIES, THE ADVISORY BOARD SHALL GIVE DUE
2 CONSIDERATION TO THE BUSINESS, SCIENTIFIC, MEDICAL, AND ETHICAL ASPECTS OF THE
3 LIFE SCIENCES INDUSTRY.

4 REVISOR'S NOTE: This section formerly was Art. 83A, § 5–2C–02(j) and (k).

5 No changes are made.

6 Defined terms: “Advisory Board” § 3–201

7 “Department” § 1–101

8 “Life sciences” § 3–201

9 “State” § 1–101

10 3–205. ANNUAL REPORT.

11 (A) REQUIRED.

12 THE ADVISORY BOARD SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE
13 WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY
14 ON OR BEFORE DECEMBER 15 OF EACH YEAR.

15 (B) CONTENTS.

16 THE REPORT SHALL INCLUDE ANY RECOMMENDATIONS FROM THE ADVISORY
17 BOARD AND A SUMMARY OF THE ACTIVITIES OF THE ADVISORY BOARD DURING THE
18 PRECEDING YEAR.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 83A, § 5–2C–03.

21 Defined term: “Advisory Board” § 3–201

22 SUBTITLE 3. OFFICE OF INTERNATIONAL TRADE.

23 3–301. “OFFICE” DEFINED.

24 IN THIS SUBTITLE, “OFFICE” MEANS THE OFFICE OF INTERNATIONAL TRADE.

25 REVISOR'S NOTE: This section is new language added to avoid repetition of
26 the full name “Office of International Trade”.

27 3–302. ESTABLISHED; PURPOSE.

28 (A) ESTABLISHED.

29 THERE IS AN OFFICE OF INTERNATIONAL TRADE IN THE DEPARTMENT.

30 (B) PURPOSE.

31 THE PURPOSE OF THE OFFICE IS TO PROMOTE THE DEVELOPMENT OF
32 INTERNATIONAL BUSINESS ACTIVITIES AND OPPORTUNITIES IN THE STATE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83A, § 3–301(a).

3 In subsection (b) of this section, the phrase “[t]he purpose of the Office is”
4 is added for clarity.

5 Also in subsection (b) of this section, the reference to activities and
6 opportunities “in the State” is substituted for the former reference to
7 activities and opportunities “for the citizens of this State” for consistency
8 within this article and because the meaning of the word “citizen” in this
9 context is unclear.

10 Defined terms: “Department” § 1–101

11 “Office” § 3–301

12 “State” § 1–101

13 **3–303. CONTRACT AND GRANT AUTHORITY.**

14 (A) **AUTHORITY SUBJECT TO APPROVAL.**

15 **THE OFFICE MAY ENTER INTO CONTRACTS OR MAKE GRANTS:**

16 (1) **CONSISTENT WITH THIS SUBTITLE; AND**

17 (2) **SUBJECT TO THE APPROVAL OF THE SECRETARY OR THE SECRETARY'S**
18 **DESIGNEE.**

19 (B) **PROCUREMENT.**

20 **PROCUREMENT BY THE OFFICE FOR SERVICES TO BE PERFORMED OR SUPPLIES TO**
21 **BE DELIVERED OUTSIDE THE STATE SHALL BE CONSISTENT WITH, BUT NOT SUBJECT TO,**
22 **DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 83A, § 3–301(c).

25 In subsection (a)(1) of this section, the reference to this “subtitle” is
26 substituted for the former reference to this “section” to reflect the
27 reorganization of material derived from former Art. 83A, § 3–301 in this
28 subtitle.

29 In subsection (b) of this section, the reference to “Division II of” the State
30 Finance and Procurement Article is added for clarity.

31 Also in subsection (b) of this section, the former reference to “the purposes
32 or requirements of” the State Finance and Procurement Article is deleted
33 as surplusage.

34 Defined terms: “Office” § 3–301

35 “Secretary” § 1–101

36 “State” § 1–101

1 3–304. INTERNATIONAL TRADE ACTIVITY.

2 WITH SPECIAL EMPHASIS ON EXPORTS, THE OFFICE SHALL ENCOURAGE
3 BUSINESSES IN THE STATE TO INCREASE INTERNATIONAL TRADE ACTIVITIES BY:

4 (1) CHANNELING TRADE LEADS AND PROVIDING A LIST OF PRESCREENED
5 FOREIGN INTERMEDIARIES;

6 (2) PROVIDING INFORMATIONAL AND CONSULTATIVE SERVICES ON THE
7 INTERNATIONAL TRADE PROCESS, INCLUDING:

8 (I) MARKET RESEARCH AND SELECTION;

9 (II) MARKETING TECHNIQUES AND RISKS;

10 (III) FOREIGN TRADE LAWS; AND

11 (IV) THE AVAILABILITY OF PRIVATE OR PUBLIC FINANCING;

12 (3) DEVELOPING PUBLICATIONS TO FACILITATE THE EXCHANGE OF
13 INFORMATION ON PRODUCTS AND SERVICES BETWEEN BUSINESSES IN THE STATE AND
14 FOREIGN BUSINESSES;

15 (4) INITIATING AND ORGANIZING FOREIGN TRADE MISSIONS TO AND FROM
16 FOREIGN COUNTRIES AND PARTICIPATING IN TRADE FAIRS, IN COOPERATION WITH LOCAL
17 GOVERNMENTS AND THE PRIVATE SECTOR;

18 (5) ESTABLISHING AN OUTREACH PROGRAM FOR SMALL–SIZED AND
19 MEDIUM–SIZED BUSINESSES THAT HAVE EXPORT POTENTIAL TO PROVIDE COUNSELING
20 AND TO USE EXPERIENCED PRIVATE–SECTOR EXPORTERS AND OTHER QUALIFIED
21 PERSONS; AND

22 (6) ASSISTING, AS APPROPRIATE, WITH ACQUISITION OF EXPORT–RELATED
23 FINANCING THROUGH THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING
24 AUTHORITY AND FEDERAL, LOCAL, OR PRIVATE PROGRAMS.

25 REVISOR’S NOTE: This section is new language derived without substantive
26 change from former Art. 83A, § 3–301(b)(1).

27 In this section and throughout this subtitle, the former phrase “[i]n
28 furtherance of the purpose set forth in subsection (a) of this section,” is
29 deleted as surplusage.

30 In item (2)(iii) of this section, the former reference to foreign trade
31 “regulations” is deleted in light of the comprehensive reference to foreign
32 trade “laws” for brevity.

33 As to the Maryland Industrial Development Financing Authority, *see* Title
34 5, Subtitle 4 of this article.

1 Defined terms: “Office” § 3–301

2 “Person” § 1–101

3 “State” § 1–101

4 **3–305. TRADE AND VENTURE TRANSACTIONS.**

5 **THE OFFICE SHALL ENCOURAGE AND FACILITATE PARTICIPATION BY BUSINESSES**
6 **IN THE STATE IN BARTER, COUNTER TRADE, AND JOINT VENTURE TRANSACTIONS, AS**
7 **APPROPRIATE, BY:**

8 (1) PROVIDING INFORMATIONAL AND CONSULTATIVE SERVICES, INCLUDING
9 THE NECESSARY COMPONENTS AND LAWS INVOLVED IN THESE TRANSACTIONS;

10 (2) FACILITATING THE COMMERCIAL RELATIONSHIP BETWEEN MARYLAND
11 BUSINESSES IN THE STATE AND COUNTERPART FOREIGN BUSINESSES INVOLVED IN THESE
12 TRANSACTIONS; AND

13 (3) PROVIDING, IN COOPERATION WITH THE PRIVATE SECTOR, A LISTING OF
14 POTENTIAL BARTER AND JOINT VENTURE OPPORTUNITIES.

15 **REVISOR’S NOTE:** This section is new language derived without substantive
16 change from former Art. 83A, § 3–301(b)(2).

17 In item (1) of this section, the reference to services “including” certain
18 matters is substituted for the former references to services “on, but not
19 limited to,” certain matters for clarity and consistency with other revised
20 articles of the Code. *Cf.* Art. 1, § 30.

21 Also in item (1) of this section, the former reference to “regulations” is
22 deleted in light of the comprehensive reference to “laws” for brevity. *See*
23 General Revisor’s Note to article.

24 Defined terms: “Office” § 3–301

25 “State” § 1–101

26 **3–306. AGENCY COORDINATION.**

27 (A) **PUBLIC AND PRIVATE ENTITIES.**

28 **THE OFFICE SHALL COORDINATE ITS PROGRAMS WITH THE STATE DEPARTMENT**
29 **OF AGRICULTURE, THE DEPARTMENT OF THE ENVIRONMENT, THE STATE DEPARTMENT**
30 **OF TRANSPORTATION, THE UNIVERSITY SYSTEM OF MARYLAND, OTHER APPROPRIATE**
31 **FEDERAL, STATE, AND LOCAL UNITS, AND PRIVATE ORGANIZATIONS.**

32 (B) **INFORMATIONAL AND MARKETING SERVICES.**

33 **IN OVERSEAS OFFICES OF THE STATE, AND WITH OTHER STATE UNITS, THE**
34 **OFFICE SHALL PARTICIPATE, AS APPROPRIATE, IN PROVIDING INFORMATIONAL AND**
35 **MARKETING SERVICES TO SUPPORT INTERNATIONAL TRADE EFFORTS OF THE OFFICE.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83A, § 3–301(b)(3) and (5).

3 In subsection (b) of this section, the former reference to “other units of the
4 Department, the Department of Transportation” is deleted in light of the
5 comprehensive reference to “other State units” which includes the
6 Department and the State Department of Transportation.

7 Defined terms: “Office” § 3–301
8 “State” § 1–101

9 **3–307. REGIONAL AND LOCAL INITIATIVES.**

10 (A) PROGRAM DEVELOPMENT.

11 THE OFFICE SHALL ENCOURAGE AND FACILITATE REGIONAL EFFORTS TO DEVELOP
12 LOCAL AND REGIONAL INTERNATIONAL TRADE PROGRAMS AND EXPERTISE, CONSISTENT
13 WITH OTHER STATE EFFORTS, THROUGH:

14 (1) TECHNICAL ASSISTANCE; AND

15 (2) MATCHING GRANTS TO PUBLIC OR PRIVATE REGIONAL ENTITIES.

16 (B) NEW ENTERPRISES.

17 THE OFFICE SHALL ENCOURAGE THE LOCATION OF NEW INTERNATIONAL
18 INDUSTRIAL OR COMMERCIAL ENTERPRISES IN THE STATE, IN COOPERATION WITH LOCAL
19 GOVERNMENTS AND OTHER ENTITIES.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 83A, § 3–301(b)(4) and (6).

22 Defined terms: “Office” § 3–301
23 “State” § 1–101

24 **3–308. OTHER ACTIVITIES.**

25 THE OFFICE SHALL ENGAGE IN ANY OTHER ACTIVITY REASONABLY NECESSARY TO
26 ACHIEVE THE PURPOSES OF THIS SUBTITLE.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 83A, § 3–301(b)(7).

29 Defined term: “Office” § 3–301

30 **3–309. REPORT.**

31 THE OFFICE SHALL REPORT AT LEAST TWICE EACH YEAR TO THE MARYLAND
32 ECONOMIC DEVELOPMENT COMMISSION ON THE STATUS OF THE STATE'S
33 INTERNATIONAL ACTIVITIES.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83A, § 3–302.

3 As to the Maryland Economic Development Commission, *see* Title 2,
4 Subtitle 2 of this article.

5 Defined terms: “Office” § 3–301
6 “State” § 1–101

7 SUBTITLE 4. PARTNERSHIP FOR WORKFORCE QUALITY.

8 3–401. DEFINITIONS.

9 (A) IN GENERAL.

10 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

11 REVISOR'S NOTE: This subsection formerly was Art. 83A, § 3–701(a)(1).

12 No changes are made.

13 (B) BOARD.

14 “BOARD” MEANS THE PARTNERSHIP FOR WORKFORCE QUALITY ADVISORY
15 BOARD.

16 REVISOR'S NOTE: This subsection formerly was Art. 83A, § 3–701(a)(2).

17 No changes are made.

18 (C) FUND.

19 “FUND” MEANS THE PARTNERSHIP FOR WORKFORCE QUALITY FUND.

20 REVISOR'S NOTE: This subsection formerly was Art. 83A, § 3–701(a)(3).

21 No changes are made.

22 (D) PROGRAM.

23 “PROGRAM” MEANS THE PARTNERSHIP FOR WORKFORCE QUALITY PROGRAM.

24 REVISOR'S NOTE: This subsection formerly was Art. 83A, § 3–701(a)(4).

25 The former reference to the Program “in the Department” is deleted as
26 redundant of § 3–402 of this subtitle.

27 No other changes are made.

1 3–402. PROGRAM ESTABLISHED.

2 THERE IS A PARTNERSHIP FOR WORKFORCE QUALITY PROGRAM IN THE
3 DEPARTMENT.

4 REVISOR’S NOTE: This section is new language derived without substantive
5 change from former Art. 83A, § 3–701(b).

6 Defined term: “Department” § 1–101

7 3–403. PURPOSE.

8 THE PURPOSE OF THE PROGRAM IS TO PROVIDE TRAINING SERVICES TO:

9 (1) IMPROVE THE COMPETITIVENESS AND PRODUCTIVITY OF THE STATE’S
10 WORKFORCE AND BUSINESS COMMUNITY;

11 (2) UPGRADE EMPLOYEE SKILLS FOR NEW TECHNOLOGIES OR PRODUCTION
12 PROCESSES; AND

13 (3) ASSIST EMPLOYERS LOCATED IN THE STATE IN PROMOTING
14 EMPLOYMENT STABILITY.

15 REVISOR’S NOTE: This section is new language derived without substantive
16 change from former Art. 83A, § 3–701(c).

17 The reference to the “purpose of” the Program is added for clarity.

18 Defined terms: “Program” § 3–401
19 “State” § 1–101

20 3–404. DUTIES OF SECRETARY.

21 (A) PROGRAM DIRECTION.

22 THE SECRETARY OR THE SECRETARY’S DESIGNEE SHALL DIRECT THE PROGRAM.

23 (B) PROVIDING TRAINING ASSISTANCE.

24 THE SECRETARY MAY NOT PROVIDE TRAINING ASSISTANCE UNDER THE PROGRAM
25 EXCEPT AT THE SPECIFIC REQUEST OF AN EMPLOYER OR GROUP OF EMPLOYERS.

26 (C) DETERMINING EMPLOYER NEEDS.

27 TO IDENTIFY EMPLOYERS THAT NEED ASSISTANCE, THE SECRETARY SHALL USE
28 LOCAL ADVISORY GROUPS, INCLUDING PRIVATE INDUSTRY COUNCILS AND JOINT
29 APPRENTICESHIP COMMITTEES.

30 (D) PRIORITIES AND ELIGIBILITY CRITERIA.

1 SUBJECT TO §§ 3–405 AND 3–412(C) AND (D)(1) OF THIS SUBTITLE, THE
2 SECRETARY SHALL ESTABLISH ELIGIBILITY CRITERIA AND PRIORITIES FOR ASSISTANCE
3 UNDER THE PROGRAM.

4 (E) ANNUAL REPORT.

5 THE SECRETARY SHALL SUBMIT A REPORT EACH YEAR ON THE OPERATION AND
6 PERFORMANCE OF THE PROGRAM TO THE GOVERNOR, THE MARYLAND ECONOMIC
7 DEVELOPMENT COMMISSION, THE GOVERNOR’S WORKFORCE INVESTMENT BOARD,
8 AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE
9 GENERAL ASSEMBLY.

10 REVISOR’S NOTE: This section is new language derived without substantive
11 change from former Art. 83A, §§ 3–704 and 3–703(a), (b), (c)(1), and (d)(1).

12 Subsection (b) of this section is revised as a prohibition with an exception,
13 rather than as a requirement subject to a condition, for clarity and
14 accuracy.

15 In subsection (d) of this section, the phrase “[s]ubject to” §§ 3–405 and
16 3–412(b) of this subtitle is substituted for the former phrase “[e]xcept as
17 provided in” the corresponding provisions of former laws for accuracy.
18 Sections 3–405 and 3–412(c) and (d)(1) of this subtitle establish
19 substantive qualifications and limitations on assistance available through
20 the Program, rather than exceptions to the establishment of criteria and
21 priorities under subsection (d) of this section. No substantive change is
22 intended.

23 In subsection (e) of this section, the reference to the “Maryland Economic
24 Development Commission” is substituted for the former term
25 “Commission”, which was defined in former Art. 83A, § 1–101, for clarity.

26 Also in subsection (e) of this section, the reference to the “Governor’s
27 Workforce Investment Board” is substituted for the former obsolete
28 reference to the “Work Force Investment Board”. See LE § 11–505; Ch. 315,
29 Acts of 2001.

30 Defined terms: “Program” § 3–401
31 “Secretary” § 1–101

32 3–405. ELIGIBILITY.

33 (A) IN GENERAL.

34 (1) AN EMPLOYER RECEIVING ASSISTANCE UNDER THE PROGRAM SHALL BE
35 LOCATED IN THE STATE.

36 (2) IN ORDER TO RECEIVE ASSISTANCE UNDER THE PROGRAM, AN
37 EMPLOYER SHALL REQUEST TRAINING ASSISTANCE IN JOB–SPECIFIC SKILLS TO UPGRADE

1 OR RETAIN EXISTING MARYLAND–BASED EMPLOYEES COVERED UNDER TITLE 8 OF THE
2 LABOR AND EMPLOYMENT ARTICLE.

3 (B) PRIORITY.

4 THE SECRETARY SHALL GIVE PRIORITY TO EMPLOYERS THAT ARE:

5 (1) MANUFACTURERS; OR

6 (2) THREATENED BY THE PRESSURE OF INCREASED FOREIGN OR DOMESTIC
7 COMPETITION.

8 REVISOR’S NOTE: This section is new language derived without substantive
9 change from former Art. 83A, § 3–703(c)(2) and (5).

10 In subsection (a)(1) of this section, the former phrase “[n]otwithstanding
11 the provisions of paragraph (1) of this subsection”, which referred to
12 material revised in § 3–404(d) of this subtitle, is deleted because nothing in
13 subsection (a) of this section conflicts with or contradicts that provision.

14 Also in subsection (a)(1) of this section, the former reference to an
15 employer “that operates under the provisions of Title 8 of the Labor and
16 Employment Article” is deleted as redundant of subsection (a)(2) of this
17 section.

18 In subsection (b) of this section, the reference to “[t]he Secretary giv[ing]”
19 priority is added for clarity.

20 Also in subsection (b) of this section, the former reference to priority for
21 “Maryland” employers is deleted as unnecessary in light of the
22 comprehensive requirement in subsection (a)(1) of this section that *all*
23 Program recipients be employers that are “located in the State”.

24 Defined terms: “Program” § 3–401

25 “Secretary” § 1–101

26 “State” § 1–101

27 3–406. BUSINESS ASSISTANCE SERVICES.

28 THE PROGRAM SHALL PROVIDE BUSINESS ASSISTANCE SERVICES THAT:

29 (1) DETERMINE WHETHER THE EMPLOYER’S SPECIFIC NEEDS ARE BEST MET
30 BY TRAINING, OTHER TYPES OF ASSISTANCE, OR A COMBINATION OF SERVICES;

31 (2) IDENTIFY THE AVAILABILITY OF EXISTING TRAINING PROGRAMS THAT
32 MAY BE ADAPTED TO MEET THE EMPLOYER’S NEEDS;

33 (3) IDENTIFY THE RESOURCES THE EMPLOYER MAY PROVIDE TO SUPPORT
34 THE TRAINING, INCLUDING:

35 (I) EQUIPMENT;

1 (II) FACILITIES; AND

2 (III) MATERIALS;

3 (4) IDENTIFY OR DEVELOP APPROPRIATE CURRICULA; AND

4 (5) DETERMINE THE MOST COST-EFFECTIVE APPROACH TO MEETING
5 TRAINING NEEDS.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 83A, § 3-703(d)(2).

8 Defined term: "Program" § 3-401

9 3-407. TRAINING.

10 (A) GRANTS FOR SPECIFIC TRAINING ASSISTANCE.

11 THE SECRETARY MAY AWARD A GRANT FOR JOB-SPECIFIC TRAINING ASSISTANCE
12 TO AN ELIGIBLE:

13 (1) BUSINESS;

14 (2) COMMUNITY COLLEGE;

15 (3) PRIVATE CAREER SCHOOL;

16 (4) STATE-ACCREDITED TRAINING AGENCY;

17 (5) TRADE ASSOCIATION; OR

18 (6) UNION-SPONSORED TRAINING PROGRAM.

19 (B) APPROVAL FOR TRAINING.

20 TRAINING SHALL BE APPROVED BY THE EMPLOYER OF THOSE BEING TRAINED.

21 (C) DURATION OF TRAINING.

22 UNDER THE PROGRAM, JOB-SPECIFIC TRAINING MAY NOT EXCEED 1 YEAR.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 83A, § 3-703(e), (f), and (g).

25 In subsection (a) of this section, the word "eligible" is substituted for the
26 word "qualified" for consistency with § 3-405 of this subtitle.

27 Defined terms: "Program" § 3-401

28 "Secretary" § 1-101

29 "State" § 1-101

1 3–408. ADVISORY BOARD — IN GENERAL.

2 (A) ESTABLISHED.

3 THERE IS A PARTNERSHIP FOR WORKFORCE QUALITY ADVISORY BOARD IN THE
4 DEPARTMENT.

5 (B) PURPOSE.

6 THE BOARD SHALL ADVISE THE SECRETARY.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 83A, § 3–702(a)(1) and, as it related to the
9 advisory function of the Board, the introductory language of (d).

10 Defined terms: “Board” § 3–401

11 “Department” § 1–101

12 “Secretary” § 1–101

13 3–409. ADVISORY BOARD — MEMBERSHIP.

14 (A) COMPOSITION.

15 THE BOARD CONSISTS OF THE FOLLOWING 15 MEMBERS:

16 (1) ONE MEMBER OF THE SENATE OF MARYLAND APPOINTED BY THE
17 PRESIDENT OF THE SENATE;18 (2) ONE MEMBER OF THE HOUSE OF DELEGATES APPOINTED BY THE
19 SPEAKER OF THE HOUSE; AND20 (3) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR WITH THE
21 ADVICE OF THE SECRETARY AND THE CHAIR OF THE GOVERNOR'S WORKFORCE
22 INVESTMENT BOARD:23 (I) FIVE REPRESENTATIVES OF BUSINESS, OF WHICH THREE SHALL
24 REPRESENT EMPLOYERS WITH FEWER THAN 100 EMPLOYEES;

25 (II) THREE REPRESENTATIVES OF ORGANIZED LABOR;

26 (III) ONE REPRESENTATIVE FROM THE MARYLAND HIGHER
27 EDUCATION COMMISSION;28 (IV) ONE REPRESENTATIVE FROM THE STATE DEPARTMENT OF
29 EDUCATION;30 (V) ONE REPRESENTATIVE FROM THE GOVERNOR'S WORKFORCE
31 INVESTMENT BOARD; AND

32 (VI) TWO REPRESENTATIVES OF THE GENERAL PUBLIC.

1 (B) TENURE.

2 (1) THE TERM OF A MEMBER APPOINTED UNDER SUBSECTION (A)(3) OF
3 THIS SECTION IS 3 YEARS.

4 (2) THE TERMS OF THE MEMBERS APPOINTED UNDER SUBSECTION (A)(3)
5 OF THIS SECTION ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS
6 OF THE BOARD ON OCTOBER 1, 2008.

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

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

11 (C) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

12 A MEMBER OF THE BOARD:

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

14 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD
15 STATE TRAVEL REGULATIONS.

16 (D) CHAIR.

17 THE GOVERNOR SHALL DESIGNATE THE CHAIR OF THE BOARD.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 83A, § 3–702(a)(3) and (4), (b), and (c).

20 In subsections (a)(3) and (d) of this section, the references to the “chair” are
21 substituted for the former references to the “Chairman” because SG §
22 2–1238 requires the use of words that are neutral as to gender to the
23 extent practicable.

24 In subsection (a)(3) of this section, the references to the “Governor’s
25 Workforce Investment Board” are substituted for the former obsolete
26 references to the “Work Force Investment Board”. See LE § 11–505; Ch.
27 315, Acts of 2001.

28 In subsection (b)(1) and (2) of this section, the references to a member
29 “appointed under subsection (a)(3) of this section” are substituted for the
30 former phrase “[e]xcept those who serve ex officio” because the members of
31 the Board appointed by the President of the Senate and the Speaker of the
32 House under subsection (a)(1) and (2), respectively, are considered to be ex
33 officio and not appointed to a definite term. See § 2 of Ch. 292, Acts of 1989.

34 In subsection (b)(2) of this section, the reference to terms being staggered
35 as required by the terms provided for Board members on “October 1, 2008”
36 is substituted for the former obsolete reference to terms being staggered as

1 required by the terms provided on “July 1, 1989”. This substitution reflects
 2 the date that this revision becomes effective and is not intended to alter
 3 the term of any member of the Board. *See* § 13 of Ch. _____, Acts of 2008.
 4 The terms of the members serving on October 1, 2008 end as follows: (1)
 5 five on June 30, 2009; (2) three on June 30, 2010; and (3) three on June 30,
 6 2011.

7 Defined terms: “Board” § 3–401

8 “Secretary” § 1–101

9 “State” § 1–101

10 **3–410. ADVISORY BOARD — DUTIES.**

11 (A) IN GENERAL.

12 THE BOARD SHALL:

13 (1) SUBMIT RECOMMENDATIONS TO THE SECRETARY CONCERNING OVERALL
 14 POLICY FOR THE PROGRAM;

15 (2) RECOMMEND A SYSTEM TO EVALUATE REQUESTS FOR ASSISTANCE
 16 UNDER THE PROGRAM, INCLUDING ELIGIBILITY CRITERIA AND PRIORITIES FOR
 17 ASSISTANCE;

18 (3) DEVELOP CRITERIA TO ASSESS AND EVALUATE PROGRAM PERFORMANCE
 19 AND ADVISE THE SECRETARY OF THE CRITERIA;

20 (4) CONSULT REGULARLY WITH THE GOVERNOR’S WORKFORCE
 21 INVESTMENT BOARD AND THE MARYLAND ECONOMIC DEVELOPMENT COMMISSION
 22 CONCERNING THE ACTIVITIES OF THE PROGRAM;

23 (5) SUBMIT A QUARTERLY REPORT ON THE PROGRAM TO THE GOVERNOR’S
 24 WORKFORCE INVESTMENT BOARD; AND

25 (6) ADVISE THE SECRETARY ON COORDINATION OF COOPERATIVE
 26 ACTIVITIES AT THE STATE AND LOCAL LEVEL BETWEEN THE DEPARTMENT, EMPLOYERS,
 27 LABOR, AND OTHER PUBLIC AND PRIVATE ENTITIES INVOLVED WITH WORKFORCE
 28 QUALITY.

29 (B) DISTRIBUTION OF ASSISTANCE.

30 IN RECOMMENDING A SYSTEM FOR EVALUATING REQUESTS FOR ASSISTANCE, THE
 31 BOARD SHALL CONSIDER THE EQUAL DISTRIBUTION OF ASSISTANCE TO ALL
 32 SUBDIVISIONS OF THE STATE.

33 REVISOR’S NOTE: This section is new language derived without substantive
 34 change from former Art. 83A, § 3–702(a)(2), (e), (d)(1) through (4), and, as
 35 it related to the duties of the Board, the introductory language of (d).

36 In subsection (a)(5) and (6) of this section, the references to the “Governor’s

1 Workforce Investment Board” are substituted for the former obsolete
2 references to the “Work Force Investment Board”. *See* LE § 11–505; Ch.
3 315, Acts of 2001.

4 In subsection (a)(5) of this section, the reference to the “Maryland
5 Economic Development Commission” is substituted for the former term
6 “Commission”, which was defined in former Art. 83A, § 1–101, for clarity.

7 Defined terms: “Board” § 3–401

8 “Department” § 1–101

9 “Program” § 3–401

10 “Secretary” § 1–101

11 “State” § 1–101

12 **3–411. PARTNERSHIP FOR WORKFORCE QUALITY FUND.**

13 (A) **ESTABLISHED.**

14 **THERE IS A PARTNERSHIP FOR WORKFORCE QUALITY FUND IN THE**
15 **DEPARTMENT.**

16 (B) **MANAGEMENT.**

17 **THE SECRETARY SHALL MANAGE AND SUPERVISE THE FUND.**

18 (C) **ADMINISTRATION.**

19 (1) **THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO**
20 **REVERSION UNDER § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

21 (2) **THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE**
22 **COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

23 (D) **COMPOSITION.**

24 **THE FUND CONSISTS OF:**

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

26 (2) **MONEY MADE AVAILABLE TO THE FUND THROUGH FEDERAL PROGRAMS;**

27 (3) **PRIVATE CONTRIBUTIONS TO THE FUND;**

28 (4) **AN APPLICATION OR OTHER FEE PAID TO THE PROGRAM IN CONNECTION**
29 **WITH PROCESSING A REQUEST FOR FINANCIAL ASSISTANCE; AND**

30 (5) **ANY OTHER MONEY MADE AVAILABLE TO THE FUND.**

31 (E) **USE OF FUND.**

32 **THE DEPARTMENT MAY USE MONEY IN THE FUND FOR:**

1 (1) GRANTS TO DEFRAY THE COST OF WORKFORCE TRAINING; AND

2 (2) ADMINISTRATIVE, ACTUARIAL, LEGAL, AND TECHNICAL SERVICES FOR
3 THE PROGRAM.

4 (F) INVESTMENT EARNINGS.

5 ANY INVESTMENT EARNINGS SHALL BE CREDITED TO THE FUND.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 83A, § 3–702.1.

8 Subsection (c)(1) of this section is restated in standard language for
9 consistency within this article.

10 Defined terms: “Department” § 1–101

11 “Fund” § 3–401

12 “Program” § 3–401

13 “Secretary” § 1–101

14 “State” § 1–101

15 3–412. USE OF PROGRAM MONEY.

16 (A) IN GENERAL.

17 THE PROGRAM MAY PROVIDE BUSINESS ASSISTANCE SERVICES UNDER § 3–406 OF
18 THIS SUBTITLE AT NO COST TO THE EMPLOYER.

19 (B) ALLOWABLE COSTS.

20 PROGRAM MONEY MAY BE USED FOR COSTS ASSOCIATED WITH THE DIRECT
21 DELIVERY OF INSTRUCTION, INCLUDING:

22 (1) CURRICULUM DEVELOPMENT;

23 (2) COURSE MATERIALS; AND

24 (3) INSTRUCTORS' SALARIES AND EXPENSES FOR TRAINING.

25 (C) FUNDING CRITERIA.

26 (1) AT LEAST 60% OF THE MONEY AVAILABLE TO THE PROGRAM SHALL BE
27 RESERVED FOR EMPLOYERS WITH 150 OR FEWER EMPLOYEES BASED IN THE STATE.

28 (2) UP TO 20% OF THE MONEY AVAILABLE TO THE PROGRAM MAY BE
29 PROVIDED TO AN EMPLOYER WITH MORE THAN 500 EMPLOYEES BASED IN THE STATE, IF
30 THE EMPLOYER:

31 (I) IS PRIMARILY ENGAGED IN MANUFACTURING OR IN A
32 TECHNOLOGY–BASED BUSINESS;

1 (II) AGREES TO INCREASE PURCHASES OF GOODS PRODUCED IN THE
2 STATE AND SERVICES FROM SUPPLIERS BASED IN THE STATE; AND

3 (III) AGREES TO PROVIDE THE WORKFORCE TRAINING TO THE NUMBER
4 OF EMPLOYEES BASED IN THE STATE, AS DETERMINED BY THE PROGRAM, OF SMALLER
5 EMPLOYERS LOCATED IN THE STATE THAT SUPPLY GOODS OR SERVICES TO THE
6 EMPLOYER RECEIVING THE MONEY.

7 (D) LIMITATIONS.

8 (1) AN EMPLOYER MAY NOT RECEIVE MORE THAN \$200,000 A YEAR FROM
9 THE PROGRAM.

10 (2) THE PROGRAM MAY NOT CONTRIBUTE MORE THAN 50% OF DIRECT
11 TRAINING COSTS FOR JOB-SPECIFIC TRAINING ASSISTANCE.

12 (3) PROGRAM MONEY MAY NOT BE USED FOR:

13 (I) CAPITAL EQUIPMENT FOR AN EMPLOYER; OR

14 (II) TRAINEE WAGES.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 83A, § 3-703(c)(3) and (4), (h), and (i).

17 In the introductory language to subsection (c) of this section and in
18 subsection (d)(1) of this section, the former references to a "Maryland"
19 employer are deleted as unnecessary in light of the comprehensive
20 requirement in § 3-405(a) of this subtitle that *all* Program recipients be
21 employers that are "located in the State".

22 In subsection (c)(2)(iii) of this section, the reference to employees "based in
23 the State" is added for clarity and consistency within this subtitle.

24 Also in subsection (c)(2)(iii) of this section, the reference to employers
25 "located in the State" is added for clarity and consistency within this
26 subtitle.

27 Defined terms: "Program" § 3-401
28 "State" § 1-101

29 TITLE 4. TOURISM, FILM, AND THE ARTS.

30 SUBTITLE 1. DIVISION OF TOURISM, FILM, AND THE ARTS.

31 4-101. "DIVISION" DEFINED.

32 IN THIS SUBTITLE, "DIVISION" MEANS THE DIVISION OF TOURISM, FILM, AND THE
33 ARTS.

1 REVISOR'S NOTE: This section is new language added to avoid repetition of
2 the full title "Division of Tourism, Film, and the Arts".

3 4–102. ESTABLISHED.

4 THERE IS A DIVISION OF TOURISM, FILM, AND THE ARTS IN THE DEPARTMENT.

5 REVISOR'S NOTE: This section formerly was Art. 83A, § 4–101.

6 The only changes are in style.

7 Defined term: "Department" § 1–101

8 4–103. DIRECTOR — IN GENERAL.

9 (A) APPOINTMENT; REMOVAL.

10 (1) WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL
11 APPOINT A DIRECTOR OF THE DIVISION.

12 (2) THE DIRECTOR SERVES AT THE PLEASURE OF THE SECRETARY.

13 (3) REMOVAL OF THE DIRECTOR BY THE SECRETARY IS FINAL.

14 (B) QUALIFICATIONS.

15 THE DIRECTOR SHALL HAVE DEMONSTRATED INTEREST AND EXPERIENCE IN
16 TOURISM, FILM, AND THE ARTS.

17 (C) DUTIES.

18 THE DIRECTOR SHALL OPERATE THE DIVISION UNDER THE DIRECTION OF THE
19 SECRETARY.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 83A, § 4–102.

22 In subsection (a)(2) of this section, the word "serves" is substituted for the
23 former phrase "shall hold office" for consistency with similar provisions in
24 other revised articles of the Code.

25 In subsection (b) of this section, the phrase "shall have demonstrated" is
26 substituted for the former phrase "shall be selected because of known" for
27 clarity.

28 Former Art. 83A, § 4–102(a)(3), which authorized the Secretary to remove
29 the director with the approval of the Governor, is deleted as redundant of §
30 2–111 of this article.

31 The Economic Development Article Review Committee notes, for the
32 consideration of the General Assembly, that the Secretary has reorganized

1 the Department so that the individual who serves as director of the
2 Division has the title of “Assistant Secretary”, not “director”.

3 Defined terms: “Division” § 4–101
4 “Secretary” § 1–101

5 4–104. DIRECTOR — COMPENSATION.

6 THE DIRECTOR OF THE DIVISION IS ENTITLED TO THE COMPENSATION PROVIDED IN
7 THE STATE BUDGET.

8 REVISOR’S NOTE: This section is new language derived without substantive
9 change from former Art. 83A, § 4–104, as it related to the compensation of
10 the director of the Division.

11 Defined terms: “Division” § 4–101
12 “State” § 1–101

13 4–105. STAFF.

14 IN ACCORDANCE WITH THE STATE BUDGET, THE DIRECTOR OF THE DIVISION MAY
15 EMPLOY A STAFF AND RETAIN PROFESSIONAL CONSULTANTS.

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 83A, § 4–104, as it related to the director’s staff
18 appointments.

19 Defined terms: “Division” § 4–101
20 “State” § 1–101

21 4–106. GENERAL POWERS AND DUTIES.

22 THE DIVISION SHALL:

23 (1) STIMULATE DEVELOPMENT OF TOURISM BUSINESS IN THE STATE;

24 (2) PROMOTE BUSINESS AND JOB OPPORTUNITIES IN THE STATE;

25 (3) ENCOURAGE DEVELOPMENT OF RECREATIONAL AREAS AND FACILITIES;

26 (4) MAKE THE PUBLIC AWARE OF THE STATE’S HERITAGE AND HISTORICAL
27 DEVELOPMENT;

28 (5) ADVERTISE AND DISSEMINATE INFORMATION ABOUT THE STATE;

29 (6) ENCOURAGE THE PROMOTION AND DEVELOPMENT OF AMATEUR AND
30 PROFESSIONAL SPORTS IN THE STATE;

31 (7) ENCOURAGE THE ADVANCEMENT OF AND PARTICIPATION IN THE
32 PERFORMING, VISUAL, AND CREATIVE ARTS; AND

1 (8) ADMINISTER THOSE PROGRAMS ASSIGNED TO THE DIVISION BY LAW OR
2 DESIGNATED BY THE SECRETARY.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 83A, § 4–103.

5 Defined terms: "Division" § 4–101

6 "Secretary" § 1–101

7 "State" § 1–101

8 SUBTITLE 2. MARYLAND TOURISM DEVELOPMENT BOARD.

9 4–201. DEFINITIONS.

10 (A) IN GENERAL.

11 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

14 (B) BOARD.

15 "BOARD" MEANS THE MARYLAND TOURISM DEVELOPMENT BOARD.

16 REVISOR'S NOTE: This subsection formerly was Art. 83A, § 4–201.

17 The former phrase "[i]n this subtitle," is deleted in light of subsection (a) of
18 this section.

19 No other changes are made.

20 (C) FUND.

21 "FUND" MEANS THE MARYLAND TOURISM DEVELOPMENT BOARD FUND.

22 REVISOR'S NOTE: This subsection is new language added to avoid repetition
23 of the full title of the "Maryland Tourism Development Board Fund".

24 (D) OFFICE.

25 "OFFICE" MEANS THE OFFICE OF TOURISM DEVELOPMENT.

26 REVISOR'S NOTE: This subsection is new language added to avoid repetition
27 of the full title of the "Office of Tourism Development".

28 4–202. LEGISLATIVE POLICY.

29 IT IS THE POLICY OF THE STATE TO GUIDE, STIMULATE, AND PROMOTE THE
30 COORDINATED, EFFICIENT, AND BENEFICIAL DEVELOPMENT OF TRAVEL AND TOURISM IN

1 THE STATE SO THAT THE STATE CAN DERIVE THE ECONOMIC, SOCIAL, AND CULTURAL
2 BENEFITS OF TRAVEL AND TOURISM TO THE FULLEST EXTENT POSSIBLE.

3 REVISOR’S NOTE: This section is new language derived without substantive
4 change from former Art. 83A, § 4–202.

5 Defined term: “State” § 1–101

6 4–203. ESTABLISHED.

7 THERE IS A MARYLAND TOURISM DEVELOPMENT BOARD IN THE DEPARTMENT.

8 REVISOR’S NOTE: This section formerly was Art. 83A, § 4–203(a).

9 It is set forth as a separate section for emphasis.

10 No changes are made.

11 Defined term: “Department” § 1–101

12 4–204. MEMBERSHIP.

13 (A) COMPOSITION.

14 THE BOARD CONSISTS OF THE FOLLOWING 24 MEMBERS:

15 (1) 11 MEMBERS APPOINTED BY THE GOVERNOR IN CONSULTATION WITH
16 THE SECRETARY AND WITH THE ADVICE AND CONSENT OF THE SENATE;

17 (2) THREE NONVOTING MEMBERS APPOINTED BY THE GOVERNOR WHO ARE
18 DIRECTORS OR CHIEF EXECUTIVE OFFICERS FROM AMONG THE DESTINATION MARKETING
19 ORGANIZATIONS OFFICIALLY RECOGNIZED BY THE OFFICE;

20 (3) FIVE MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE OF
21 MARYLAND AS FOLLOWS:

22 (I) AT LEAST TWO MEMBERS OF THE SENATE; AND

23 (II) AT LEAST TWO MEMBERS FROM THE PRIVATE BUSINESS
24 COMMUNITY; AND

25 (4) FIVE MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF
26 DELEGATES AS FOLLOWS:

27 (I) AT LEAST TWO MEMBERS OF THE HOUSE OF DELEGATES; AND

28 (II) AT LEAST TWO MEMBERS FROM THE PRIVATE BUSINESS
29 COMMUNITY.

30 (B) CONSIDERATIONS.

1 IN APPOINTING MEMBERS TO THE BOARD, THE GOVERNOR AND, WITH RESPECT TO
 2 PRIVATE BUSINESS COMMUNITY MEMBERS, THE PRESIDENT OF THE SENATE AND THE
 3 SPEAKER OF THE HOUSE SHALL:

4 (1) ENSURE THAT EACH GEOGRAPHIC REGION OF THE STATE IS
 5 REPRESENTED EQUITABLY;

6 (2) GIVE DUE CONSIDERATION TO THE RECOMMENDATIONS OF
 7 REPRESENTATIVES OF THE TOURISM INDUSTRY; AND

8 (3) PROVIDE BALANCED REPRESENTATION OF THE LODGING, FOOD SERVICE,
 9 TRANSPORTATION, RETAIL, AND AMUSEMENTS AND ATTRACTIONS SECTORS OF THE
 10 TOURISM INDUSTRY.

11 (C) VOTING LIMITATION — SOVEREIGNTY.

12 A MEMBER OF THE BOARD WHO IS A MEMBER OF THE GENERAL ASSEMBLY MAY
 13 NOT VOTE ON A MATTER BEFORE THE BOARD THAT RELATES TO THE EXERCISE OF THE
 14 SOVEREIGN POWERS OF THE STATE.

15 (D) TENURE; VACANCIES.

16 (1) (I) THE TERM OF A MEMBER IS 3 YEARS AND BEGINS ON JULY 1.

17 (II) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE
 18 TERMS PROVIDED FOR THE MEMBERS ON OCTOBER 1, 2008.

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

21 (IV) A MEMBER MAY BE REAPPOINTED, BUT AFTER SERVING FOR TWO
 22 CONSECUTIVE 3-YEAR TERMS, A MEMBER MAY NOT BE REAPPOINTED UNTIL AT LEAST 1
 23 YEAR AFTER THE END OF THE MEMBER'S PREVIOUS TENURE.

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

27 (2) A MEMBER OF THE GENERAL ASSEMBLY APPOINTED BY THE
 28 PRESIDENT OF THE SENATE OR THE SPEAKER OF THE HOUSE SERVES UNTIL A
 29 SUCCESSOR IS APPOINTED.

30 (3) A MEMBER APPOINTED BY THE GOVERNOR MAY BE REMOVED BY THE
 31 GOVERNOR WITH OR WITHOUT CAUSE.

32 REVISOR'S NOTE: This section is new language derived without substantive
 33 change from former Art. 83A, § 4-203(b), (c)(1) through (3), and the first
 34 sentence of (d).

35 In subsection (a)(1) of this section, the phrase "with the advice of" is
 36 substituted for the former phrase "in consultation with" for consistency

1 with other revised articles.

2 In subsection (a)(3)(i) and (ii) and (4)(i) and (ii) of this section, the
3 references to “at least” a specified number of members are added for
4 clarity.

5 In subsection (d)(1)(ii) of this section, the terms being staggered as
6 required by the terms provided for Board members on “October 1, 2008” is
7 substituted for the former obsolete reference to terms being staggered as
8 required by the terms provided on “July 1, 1993”. This substitution is not
9 intended to alter the term of any member of the Board. *See* § 13 of Ch. ____,
10 Acts of 2008. The terms of the members serving on October 1, 2008 end as
11 follows: (1) three on June 30, 2009; (2) three on June 30, 2010; and (3) five
12 on June 30, 2011.

13 In subsection (d)(1)(iii) of this section, the reference to serving until a
14 successor is appointed “and qualifies” is standard language added to avoid
15 gaps in membership by indicating that a member serves until a successor
16 takes office. This addition is supported by the holdings in *Benson v. Mellor*,
17 152 Md. 481 (1927) and *Grooms v. LaVale Zoning Bd.*, 27 Md. App. 266
18 (1975).

19 Subsection (d)(1)(v) of this section is restated in standard language on the
20 term of a member filling a vacancy for consistency in style. *See* General
21 Revisor’s Note to article; *cf.* *Benson v. Mellor*, 152 Md. 481 (1927); *Grooms*
22 *v. LaVale Zoning Bd.*, 27 Md. App. 266 (1975).

23 In subsection (d)(3) of this section, the reference to “remov[al] by the
24 Governor with or without cause” of a member with a definite term of office
25 is substituted for the former reference to a member appointed by the
26 Governor “serv[ing] at the pleasure of the Governor” for clarity and
27 consistency within this article. *See* General Revisor’s Note to article.

28 The Economic Development Article Review Committee notes, for the
29 consideration of the General Assembly, that unlike the members appointed
30 by the Governor who are removable with or without cause under this
31 section, there is no explicit provision governing removal of a legislator or a
32 private business community member appointed by the President or the
33 Speaker.

34 Defined terms: “Board” § 4–201

35 “Secretary” § 1–101

36 “State” § 1–101

37 4–205. OFFICERS.

38 (1) EACH YEAR THE BOARD SHALL ELECT A CHAIR, FIVE VICE CHAIRS, AND
39 A SECRETARY–TREASURER FROM AMONG ITS MEMBERS.

1 (2) OF THE FIVE VICE CHAIRS, THERE SHALL BE ONE REPRESENTATIVE
 2 EACH FROM THE LODGING, FOOD SERVICE, TRANSPORTATION, RETAIL, AND AMUSEMENTS
 3 AND ATTRACTIONS SECTORS.

4 REVISOR'S NOTE: This section is new language derived without substantive
 5 change from the third sentence of former Art. 83A, § 4–203(d).

6 Defined term: “Board” § 4–201

7 4–206. EXECUTIVE DIRECTOR.

8 (1) THE DIRECTOR OF THE OFFICE IS THE EXECUTIVE DIRECTOR OF THE
 9 BOARD AS PART OF THE REGULAR DUTIES OF THE DIRECTOR OF THE OFFICE.

10 (2) THE DIRECTOR MAY NOT RECEIVE ADDITIONAL COMPENSATION FOR
 11 SERVING AS EXECUTIVE DIRECTOR OF THE BOARD.

12 REVISOR'S NOTE: This section is new language derived without substantive
 13 change from former Art. 83A, § 4–205(c).

14 Defined terms: “Board” § 4–201

15 “Department” § 1–101

16 “Office” § 4–201

17 4–207. MEETINGS; COMPENSATION.

18 (A) MEETINGS.

19 THE BOARD SHALL MEET AT LEAST 4 TIMES A YEAR, AT TIMES AND PLACES THE
 20 CHAIR DETERMINES.

21 (B) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

22 A MEMBER OF THE BOARD:

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

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

26 REVISOR'S NOTE: This section is new language derived without substantive
 27 change from the second sentence of former Art. 83A, §§ 4–204 and
 28 4–203(d).

29 It is revised in standard language for consistency with other revised
 30 articles.

31 In subsection (a) of this section, the reference to the “chair” is substituted
 32 for the former reference to the “chairman” because SG § 2–1238 requires
 33 the use of words neutral as to gender to the extent practicable.

1 Defined terms: “Board” § 4–201

2 “State” § 1–101

3 4–208. STAFF, FACILITIES, AND EQUIPMENT.

4 (A) STAFF.

5 THE OFFICE SHALL PROVIDE STAFF FOR THE BOARD.

6 (B) FACILITIES, EQUIPMENT, AND SUPPLIES.

7 THE BOARD SHALL USE THE FACILITIES, EQUIPMENT, AND SUPPLIES OF THE
8 OFFICE TO CONDUCT ITS BUSINESS.

9 REVISOR’S NOTE: This section formerly was Art. 83A, § 4–205(a) and (b).

10 The only changes are in style.

11 Defined terms: “Board” § 4–201

12 “Office” § 4–201

13 4–209. GENERAL POWERS AND DUTIES.

14 (A) IN GENERAL.

15 THE EXERCISE OF THE POWERS AND DUTIES OF THE BOARD UNDER THIS SUBTITLE
16 IS SUBJECT TO THE APPROVAL OF THE SECRETARY.

17 (B) POWERS.

18 THE BOARD MAY:

19 (1) ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE;

20 (2) ENTER INTO CONTRACTS AND AGREEMENTS;

21 (3) OBTAIN SERVICES;

22 (4) ASK ANY OTHER UNIT OF THE STATE FOR ASSISTANCE AND DATA THAT
23 ENABLE THE BOARD TO CARRY OUT ITS POWERS AND DUTIES;

24 (5) ACCEPT FEDERAL MONEY FOR ANY PURPOSE OF THIS SUBTITLE; AND

25 (6) ACCEPT GIFTS, DONATIONS, OR BEQUESTS FOR ANY PURPOSE OF THIS
26 SUBTITLE.

27 REVISOR’S NOTE: This section is new language derived without substantive
28 change from the introductory language of former Art. 83A, § 4–206 and (1)
29 through (6) and the introductory language of § 4–207, as it related to the
30 approval of the Secretary.

1 In subsection (a) of this section, the reference to “[t]he exercise of the
2 powers and duties of the Board under this subtitle” is added for clarity and
3 consistency with § 4–508(a) of this title.

4 In subsection (b)(1) of this section, the word “reasonable” which formerly
5 modified “regulations” is deleted as unnecessary in light of the procedures
6 for adoption of regulations under the Administrative Procedure Act.

7 In subsection (b)(5) of this section, the former reference to federal money
8 “granted by an act of Congress or by executive order” is deleted as
9 surplusage.

10 Defined terms: “Board” § 4–201

11 “Secretary” § 1–101

12 “State” § 1–101

13 4–210. DUTIES — IN GENERAL.

14 THE BOARD SHALL:

15 (1) PROTECT, PRESERVE, PROMOTE, AND RESTORE THE NATURAL,
16 HISTORICAL, SCENIC, AND CULTURAL RESOURCES IN THE STATE;

17 (2) GENERATE REVENUE THROUGH THE SALE OF GOODS AND SERVICES
18 RELATED TO TOURISM IN ACCORDANCE WITH § 4–215 OF THIS SUBTITLE; AND

19 (3) PUBLISH AND SUBMIT TO THE MARYLAND ECONOMIC DEVELOPMENT
20 COMMISSION AND THE SECRETARY AN ANNUAL REPORT AND OTHER MATERIAL THAT THE
21 BOARD CONSIDERS APPROPRIATE.

22 REVISOR’S NOTE: This section is new language derived without substantive
23 change from the introductory language of former Art. 83A, § 4–206, as it
24 related to Board duties and (7) and the introductory language of § 4–207,
25 as it related to Board duties, and (4) and (15).

26 In item (3) of this section, the reference to the “Maryland Economic
27 Development” Commission is substituted for the former defined term
28 “Commission” for clarity.

29 Defined terms: “Board” § 4–201

30 “Secretary” § 1–101

31 “State” § 1–101

32 4–211. DUTIES — STRATEGIC PLAN.

33 THE BOARD SHALL:

34 (1) DRAFT AND IMPLEMENT A 5–YEAR STRATEGIC PLAN FOR THE
35 PROMOTION AND DEVELOPMENT OF TOURISM IN THE STATE; AND

1 (2) SUBMIT THE STRATEGIC PLAN TO THE MARYLAND ECONOMIC
2 DEVELOPMENT COMMISSION FOR ITS REVIEW.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from the introductory language of former Art. 83A, § 4–207, as it
5 related to Board duties, and (1)(i) and, as it related to the 5–year strategic
6 plan, (2).

7 Defined terms: “Board” § 4–201
8 “State” § 1–101

9 4–212. DUTIES — MARKETING PLAN.

10 (A) DRAFTING AND SUBMISSION.

11 THE BOARD SHALL:

12 (1) DRAFT AND IMPLEMENT AN ANNUAL MARKETING PLAN CONSISTENT
13 WITH THE STRATEGIC PLAN DEVELOPED UNDER § 4–211 OF THIS SUBTITLE; AND

14 (2) SUBMIT THE MARKETING PLAN TO THE MARYLAND ECONOMIC
15 DEVELOPMENT COMMISSION FOR ITS REVIEW.

16 (B) BUDGET DEVELOPMENT.

17 THE BOARD SHALL ESTABLISH AN ANNUAL OPERATING BUDGET CONSISTENT WITH
18 THE MARKETING PLAN.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from the introductory language of former Art. 83A, § 4–207, as it
21 related to Board duties, and (3), (1)(ii), and, as it related to reviewing the
22 annual marketing plan, (2).

23 In subsection (a)(1) of this section, the reference to the strategic plan
24 developed “under § 4–211 of this subtitle” is added for clarity.

25 Defined term: “Board” § 4–201

26 4–213. DUTIES — TOURISM.

27 THE BOARD SHALL:

28 (1) ENCOURAGE THE DEVELOPMENT OF NEW TOURISM RESOURCES,
29 PRODUCTS, BUSINESSES, AND ATTRACTIONS IN THE STATE;

30 (2) FACILITATE THE MOVEMENT AND ACTIVITIES OF TOURISTS TO, FROM,
31 AND WITHIN THE STATE THROUGH SIGNS, INFORMATION AIDS, AND OTHER SERVICES;

32 (3) IMPROVE THE SAFETY AND SECURITY OF TOURISTS IN THE STATE;

1 (4) ENCOURAGE AND FACILITATE TRAINING AND EDUCATION OF
2 INDIVIDUALS FOR JOBS IN THE TOURISM INDUSTRY;

3 (5) PROVIDE A HEALTHY ENVIRONMENT FOR THE DEVELOPMENT OF HUMAN
4 RESOURCES IN TOURISM BUSINESSES;

5 (6) ENCOURAGE RESIDENTS TO PURSUE CAREERS IN TOURISM BUSINESSES;

6 (7) PRODUCE A CLIMATE CONDUCIVE TO SMALL TOURISM BUSINESS GROWTH
7 AND VIABILITY;

8 (8) REVIEW EXISTING AND PROPOSED TAXES, FEES, LICENSES,
9 REGULATIONS, AND REGULATORY PROCEDURES AFFECTING TOURISM AND THE TOURISM
10 INDUSTRY IN THE STATE AND EVALUATE THEIR IMPACT ON THE ABILITY OF THE TOURISM
11 INDUSTRY TO CREATE EMPLOYMENT AND GENERATE INCOME;

12 (9) SUPPORT RESEARCH NECESSARY TO EVALUATE, PLAN, AND EXECUTE
13 EFFECTIVE TOURISM PROGRAMS;

14 (10) COOPERATE WITH OTHER PUBLIC UNITS AND PRIVATE ORGANIZATIONS
15 TO DEVELOP AND PROMOTE THE STATE'S TOURISM AND TRAVEL INDUSTRIES; AND

16 (11) ENCOURAGE, ASSIST, AND COORDINATE THE TOURISM ACTIVITIES OF
17 LOCAL AND REGIONAL PROMOTIONAL ORGANIZATIONS.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from the introductory language of former Art. 83A, § 4–207, as it
20 related to Board duties, and (5) through (14).

21 In item (10) of this section, the reference to public “units” is substituted for
22 the former reference to public “agencies and organizations” for consistency
23 within this article. *See* General Revisor's Note to article.

24 Defined terms: “Board” § 4–201

25 “State” § 1–101

26 4–214. DUTIES — FINANCES.

27 THE BOARD SHALL:

28 (1) SET POLICIES FOR SPENDING MONEY ON TOURISM ADVERTISING,
29 WRITTEN AND GRAPHIC MATERIALS, COOPERATIVE AND MATCHING PROMOTIONAL
30 PROGRAMS, AND OTHER TOURISM AND TRAVEL DEVELOPMENTAL AND PROMOTIONAL
31 ACTIVITIES FOR THE STATE; AND

32 (2) SPEND MONEY OF THE FUND TO PLAN, ADVERTISE, PROMOTE, ASSIST,
33 AND DEVELOP THE TOURISM AND TRAVEL INDUSTRIES IN THE STATE.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from the introductory language of former Art. 83A, § 4–207, as it
36 related to Board duties, and (16) and (17).

1 Defined terms: “Board” § 4–201

2 “Fund” § 4–201

3 “State” § 1–101

4 4–215. MARYLAND TOURISM DEVELOPMENT BOARD FUND.

5 (A) ESTABLISHED.

6 THERE IS A MARYLAND TOURISM DEVELOPMENT BOARD FUND IN THE
7 DEPARTMENT.

8 (B) PURPOSE.

9 THE PURPOSE OF THE FUND IS TO FINANCE PROGRAMS RELATING TO THE
10 PLANNING, ADVERTISING, PROMOTION, ASSISTANCE, AND DEVELOPMENT OF THE
11 TOURISM INDUSTRY IN THE STATE.

12 (C) SPECIAL FUND.

13 THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO REVERSION
14 UNDER § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

15 (D) COMPOSITION.

16 THE FUND CONSISTS OF:

17 (1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND; AND

18 (2) MONEY THAT THE BOARD ACCEPTS UNDER § 4–209 OF THIS SUBTITLE.

19 (E) EXPENDITURES.

20 EXPENDITURES FROM THE FUND MAY BE MADE ONLY BY THE BOARD IN
21 ACCORDANCE WITH AN APPROPRIATION.

22 (F) INVESTMENT; EARNINGS.

23 (1) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE
24 SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

25 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE
26 GENERAL FUND OF THE STATE.

27 REVISOR’S NOTE: This section is new language derived without substantive
28 change from former Art. 83A, § 4–208(a) through (f).

29 In subsection (f)(1) of this section, the former reference to “reinvest[ing]” is
30 deleted as implicit in the reference to “invest[ing]” in the same manner as
31 other State funds.

1 Defined terms: “Board” § 4–201

2 “Department” § 1–101

3 “Fund” § 4–201

4 “State” § 1–101

5 4–216. ANNUAL APPROPRIATION.

6 THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL A PROPOSED
7 GENERAL FUND APPROPRIATION TO THE FUND IN AN AMOUNT NOT LESS THAN
8 \$6,000,000 FOR EACH FISCAL YEAR.

9 REVISOR’S NOTE: This section is new language derived without substantive
10 change from former Art. 83A, § 4–208(g)(2).

11 Former Art. 83A, § 4–208(g)(1), which defined “Governor’s proposed
12 General Fund appropriation”, is deleted because the term is not used in
13 the revision. The reference to the “annual budget bill” in this section
14 includes the annual budget bill, and any supplemental appropriation,
15 before amendment by the General Assembly. No substantive change is
16 intended.

17 Defined term: “Fund” § 4–201

18 SUBTITLE 3. MARYLAND FILM OFFICE.

19 4–301. “OFFICE” DEFINED.

20 IN THIS SUBTITLE, “OFFICE” MEANS THE MARYLAND FILM OFFICE.

21 REVISOR’S NOTE: This section is new language added to avoid repetition of
22 the full title “Maryland Film Office”.

23 4–302. ESTABLISHED.

24 THERE IS A MARYLAND FILM OFFICE IN THE DEPARTMENT.

25 REVISOR’S NOTE: This section formerly was Art. 83A, § 4–401.

26 The only changes are in style.

27 Defined term: “Department” § 1–101

28 4–303. POWERS.

29 THE OFFICE MAY:

30 (1) ASK ANY STATE OR LOCAL GOVERNMENTAL UNIT FOR ASSISTANCE AND
31 INFORMATION TO CARRY OUT THIS SUBTITLE;

32 (2) ACCEPT A GIFT, BEQUEST, OR GRANT FROM A PUBLIC OR PRIVATE
33 SOURCE FOR ANY OF THE PURPOSES OF THIS SUBTITLE;

1 (3) SPEND MONEY MADE AVAILABLE IN ACCORDANCE WITH THE STATE
2 BUDGET FOR ANY OF THE PURPOSES OF THIS SUBTITLE; AND

3 (4) DO ANY OTHER ACT NECESSARY TO CARRY OUT THIS SUBTITLE.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 83A, § 4–402.

6 In item (3) of this section, the former reference to “expend[ing] any gifts,
7 bequests, or grants from public or private sources” is deleted as included in
8 the reference to “spend[ing] money made available in accordance with the
9 State budget” because all expenditures of the Office are made in
10 accordance with the State budget.

11 Defined terms: “Office” § 4–301

12 “State” § 1–101

13 4–304. DUTIES.

14 (A) IN GENERAL.

15 THE OFFICE SHALL IMPLEMENT A PROGRAM TO PROMOTE THE PRODUCTION OF
16 MOTION PICTURES AND TELEVISION PROGRAMS IN THE STATE.

17 (B) RESPONSIBILITIES.

18 THE OFFICE SHALL:

19 (1) PREPARE AND DISTRIBUTE PROMOTIONAL AND INFORMATIONAL
20 MATERIALS THAT ADDRESS:

21 (i) DESIRABLE LOCATIONS IN THE STATE TO PRODUCE MOTION
22 PICTURES AND TELEVISION PROGRAMS;

23 (ii) THE BENEFITS AND ADVANTAGES OF PRODUCING MOTION
24 PICTURES AND TELEVISION PROGRAMS IN THE STATE; AND

25 (iii) THE SERVICES AND ASSISTANCE AVAILABLE FROM STATE
26 GOVERNMENT, LOCAL GOVERNMENT, AND THE MOTION PICTURE AND TELEVISION
27 INDUSTRY;

28 (2) ASSIST MOTION PICTURE AND TELEVISION COMPANIES TO SECURE
29 LOCATION PERMITS AND OTHER SERVICES IN CONNECTION WITH MOTION PICTURE AND
30 TELEVISION PRODUCTION; AND

31 (3) FACILITATE COOPERATION FROM FEDERAL, STATE, AND LOCAL
32 GOVERNMENTAL UNITS AND THE PRIVATE SECTOR IN LOCATING AND PRODUCING MOTION
33 PICTURES AND TELEVISION PROGRAMS.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 83A, § 4–403.

1 In subsection (b)(1) of this section, the comprehensive reference to
2 “address[ing]” is substituted for the former reference to “pointing out” for
3 consistency in style. Similarly, in subsection (b)(1)(ii) and (iii) of this
4 section, the former references to “explaining” and “detailing”, respectively,
5 are deleted as included in the comprehensive reference to “address[ing]”.

6 In subsection (b)(1)(iii) of this section, the reference to the “motion picture
7 and television” industry is added for clarity.

8 Defined terms: “Office” § 4–301
9 “State” § 1–101

10 **4–305. COORDINATION WITH LOCAL GOVERNMENT AGENCIES.**

11 **THE OFFICE SHALL COORDINATE ITS ACTIVITIES WITH ACTIVITIES OF SIMILAR**
12 **LOCAL GOVERNMENTAL UNITS IN THE STATE FOR ANY OF THE PURPOSES OF THIS**
13 **SUBTITLE.**

14 **REVISOR’S NOTE:** This section is new language derived without substantive
15 change from former Art. 83A, § 4–404.

16 Defined terms: “Office” § 4–301
17 “State” § 1–101

18 **SUBTITLE 4. FILM PRODUCTION REBATE FUND.**

19 **4–401. DEFINITIONS.**

20 (A) **IN GENERAL.**

21 **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

22 **REVISOR’S NOTE:** This subsection formerly was Art. 83A, § 5–1801(a).

23 No changes are made.

24 (B) **FILM PRODUCTION ACTIVITY.**

25 (1) **“FILM PRODUCTION ACTIVITY” MEANS THE PRODUCTION OF A FILM OR**
26 **VIDEO PROJECT THAT IS INTENDED FOR NATIONWIDE COMMERCIAL DISTRIBUTION.**

27 (2) **“FILM PRODUCTION ACTIVITY” INCLUDES THE PRODUCTION OF:**

28 (I) **A FEATURE FILM;**

29 (II) **A TELEVISION PROJECT;**

30 (III) **A COMMERCIAL;**

31 (IV) **A CORPORATE FILM;**

- 1 (V) AN INFOMERCIAL;
- 2 (VI) A MUSIC VIDEO;
- 3 (VII) A DIGITAL PROJECT;
- 4 (VIII) AN ANIMATION PROJECT; AND
- 5 (IX) A MULTIMEDIA PROJECT.

6 (3) “FILM PRODUCTION ACTIVITY” DOES NOT INCLUDE:

- 7 (I) PRODUCTION OF A:
 - 8 1. STUDENT FILM;
 - 9 2. NONCOMMERCIAL PERSONAL VIDEO;
 - 10 3. SPORTS BROADCAST;
 - 11 4. BROADCAST OF A LIVE EVENT; OR
 - 12 5. TALK SHOW; OR

13 (II) ANY ACTIVITY NOT NECESSARY TO AND UNDERTAKEN DIRECTLY
 14 AND EXCLUSIVELY FOR THE MAKING OF A MASTER FILM, TAPE, OR IMAGE.

15 REVISOR’S NOTE: This subsection is new language derived without
 16 substantive change from former Art. 83A, § 5–1801(b)(2), (3), and, as it
 17 related to the nature of the film production activity, (1).

18 (C) FUND.

19 “FUND” MEANS THE FILM PRODUCTION REBATE FUND ESTABLISHED UNDER §
 20 4–405 OF THIS SUBTITLE.

21 REVISOR’S NOTE: This subsection is new language derived without
 22 substantive change from former Art. 83A, § 5–1801(c).

23 (D) QUALIFIED FILM PRODUCTION ENTITY.

24 “QUALIFIED FILM PRODUCTION ENTITY” MEANS AN ENTITY THAT:

- 25 (1) IS CARRYING OUT A FILM PRODUCTION ACTIVITY; AND
- 26 (2) THE SECRETARY DETERMINES TO BE ELIGIBLE FOR THE REBATE
 27 PROVIDED UNDER THIS SUBTITLE IN ACCORDANCE WITH § 4–403 OF THIS SUBTITLE.

28 REVISOR’S NOTE: This subsection is new language derived without
 29 substantive change from former Art. 83A, § 5–1801(d).

1 Defined terms: “Film production activity” § 4–401

2 “Secretary” § 1–101

3 (E) TOTAL DIRECT COSTS.

4 (1) “TOTAL DIRECT COSTS”, WITH RESPECT TO A FILM PRODUCTION
5 ACTIVITY, MEANS THE TOTAL COSTS INCURRED IN THE STATE THAT ARE NECESSARY TO
6 CARRY OUT THE FILM PRODUCTION ACTIVITY.

7 (2) “TOTAL DIRECT COSTS” INCLUDES COSTS INCURRED FOR:

8 (I) EMPLOYEE WAGES AND BENEFITS;

9 (II) FEES FOR SERVICES;

10 (III) ACQUIRING OR LEASING PROPERTY; AND

11 (IV) ANY OTHER EXPENSE NECESSARY TO CARRY OUT A FILM
12 PRODUCTION ACTIVITY.

13 REVISOR’S NOTE: This subsection is new language derived without
14 substantive change from former Art. 83A, § 5–1801(e).

15 In paragraph (2)(iii) of this subsection, the former reference to “real
16 property or tangible or intangible personal” property is deleted as included
17 in the comprehensive reference to “property”.

18 Defined terms: “Film production activity” § 4–401

19 “State” § 1–101

20 4–402. LEGISLATIVE INTENT.

21 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE REBATE PROVIDED
22 UNDER THIS SUBTITLE IS FOR THE PURPOSE OF:

23 (1) INCREASING FILM PRODUCTION ACTIVITY IN THE STATE;

24 (2) BRINGING ECONOMIC BENEFITS TO THE RESIDENTS OF THE STATE; AND

25 (3) GENERATING INCREASED EMPLOYMENT OPPORTUNITIES FOR THE
26 RESIDENTS OF THE STATE.

27 REVISOR’S NOTE: This section is new language derived without substantive
28 change from former Art. 83A, § 5–1802.

29 In items (2) and (3) of this section, the references to the “residents” of the
30 State are substituted for the former references to the “citizens” of the State
31 because the meaning of the term “citizens” in this context is unclear.

32 Defined terms: “Film production activity” § 4–401

33 “State” § 1–101

1 4–403. QUALIFICATION.

2 (A) SPENDING THRESHOLD.

3 TO BE ELIGIBLE FOR A REBATE UNDER THIS SUBTITLE, A QUALIFIED FILM
4 PRODUCTION ENTITY SHALL INCUR TOTAL DIRECT COSTS OF AT LEAST \$500,000 IN THE
5 STATE FOR A SINGLE FILM PRODUCTION ACTIVITY.

6 (B) NOTIFICATION.

7 TO QUALIFY FOR THE REBATE PROVIDED UNDER THIS SUBTITLE, A FILM
8 PRODUCTION ENTITY SHALL NOTIFY THE DEPARTMENT OF THE INTENT OF THE ENTITY
9 TO SEEK THE REBATE BEFORE BEGINNING THE FILM PRODUCTION ACTIVITY.

10 (C) APPLICATION.

11 TO APPLY FOR THE REBATE, THE FILM PRODUCTION ENTITY SHALL SUBMIT TO THE
12 SECRETARY:

13 (1) A DESCRIPTION OF THE ANTICIPATED FILM PRODUCTION ACTIVITY,
14 INCLUDING ITS PROJECTED TOTAL BUDGET WITH ESTIMATED NUMBER OF EMPLOYEES
15 AND TOTAL WAGES, AND ANTICIPATED DATES FOR CARRYING OUT THE MAJOR ELEMENTS
16 OF THE FILM PRODUCTION ACTIVITY; AND

17 (2) ANY OTHER INFORMATION THAT THE SECRETARY REQUIRES RELATED TO
18 THE FILM PRODUCTION ACTIVITY AND THE ENTITY SEEKING THE REBATE.

19 (D) VERIFICATION BY AUDITOR.

20 THE SECRETARY MAY REQUIRE ANY INFORMATION REQUIRED UNDER THIS SECTION
21 TO BE VERIFIED BY AN INDEPENDENT AUDITOR THAT:

22 (1) THE FILM PRODUCTION ENTITY SEEKING THE REBATE CERTIFICATION
23 SELECTS AND PAYS FOR; AND

24 (2) THE SECRETARY APPROVES.

25 (E) AGREEMENT.

26 AS A CONDITION OF APPLYING FOR AND RECEIVING THE REBATE, THE QUALIFIED
27 FILM PRODUCTION ENTITY SHALL ENTER INTO A GRANT AGREEMENT WITH THE
28 DEPARTMENT THAT IS SATISFACTORY TO THE DEPARTMENT.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 83A, § 5–1804, and as it related to specific
31 limitations on total direct costs, § 5–1801(b)(1).

32 Defined terms: “Department” § 1–101
33 “Film production activity” § 4–401
34 “Qualified film production entity” § 4–401
35 “Secretary” § 1–101

1 “State” § 1–101
2 “Total direct costs” § 4–401

3 4–404. AMOUNT.

4 THE DEPARTMENT MAY GRANT TO A QUALIFIED FILM PRODUCTION ENTITY, FROM
5 THE FUND, A REBATE NOT TO EXCEED 25% OF THE TOTAL DIRECT COSTS THAT THE
6 QUALIFIED FILM PRODUCTION ENTITY HAS PAID FOR A PARTICULAR FILM PRODUCTION
7 ACTIVITY.

8 REVISOR’S NOTE: This section is new language derived without substantive
9 change from former Art. 83A, §§ 5–1803 and 5–1805(b)(1).

10 Defined terms: “Department” § 1–101
11 “Film production activity” § 4–401
12 “Fund” § 4–401
13 “Qualified film production entity” § 4–401
14 “Total direct costs” § 4–401

15 4–405. FILM PRODUCTION REBATE FUND.

16 (A) ESTABLISHED.

17 THERE IS A FILM PRODUCTION REBATE FUND IN THE DEPARTMENT.

18 (B) ADMINISTRATION.

19 THE DEPARTMENT SHALL ADMINISTER THE FUND.

20 (C) NATURE.

21 (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO
22 REVERSION UNDER § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

23 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE
24 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

25 (D) CONTENTS.

26 THE FUND CONSISTS OF:

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

28 (2) REPAYMENTS OF ANY DEFAULTED GRANT FROM THE FUND; AND

29 (3) ANY OTHER MONEY MADE AVAILABLE TO THE DEPARTMENT FOR THE
30 FUND.

31 (E) USES.

32 THE DEPARTMENT MAY USE THE FUND TO:

1 (1) MAKE GRANTS TO QUALIFIED FILM PRODUCTION ENTITIES AS REBATES
2 IN ACCORDANCE WITH THIS SUBTITLE; AND

3 (2) PAY THE ADMINISTRATIVE, LEGAL, AND ACTUARIAL EXPENSES OF THE
4 FUND.

5 (F) INVESTMENT EARNINGS.

6 (1) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE
7 SAME MANNER AS OTHER MONEY OF THE STATE MAY BE INVESTED.

8 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE
9 FUND.

10 REVISOR'S NOTE: Subsections (a) and (c) through (e) and (f)(2) of this section
11 are new language derived without substantive change from former Art.
12 83A, § 5–1805.

13 Subsection (b) of this section is new language added to state explicitly that
14 which was only implied by the former law: *i.e.*, that the Department
15 administers the Fund.

16 Subsection (f)(1) of this section is standard language added for clarity.

17 In subsection (c)(2) of this section, the reference to the “Comptroller”
18 accounting for the Fund is substituted for the former incorrect reference to
19 the “State Treasurer” accounting for it for accuracy.

20 In subsection (e)(1) of this section, the reference to grants “in accordance
21 with this subtitle” is substituted for the former reference to granting as a
22 rebate “a percentage of the total direct costs of a film production activity
23 paid by the qualified film production entity for a film production activity,
24 as provided in § 5–1803 of this subtitle” for brevity.

25 Defined terms: “Department” § 1–101

26 “Fund” § 4–401

27 “Qualified film production entity” § 4–401

28 “State” § 1–101

29 4–406. REGULATIONS.

30 THE SECRETARY SHALL ADOPT REGULATIONS TO SPECIFY ELIGIBILITY CRITERIA
31 AND APPLICATION PROCEDURES FOR THE REBATE UNDER THIS SUBTITLE.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 83A, § 5–1806.

34 Defined term: “Secretary” § 1–101

1 4–407. ANNUAL REPORT.

2 (A) REQUIRED.

3 ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE DEPARTMENT SHALL REPORT
4 TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT
5 ARTICLE, TO THE GENERAL ASSEMBLY ON THE GRANTS PROVIDED AS REBATES FOR FILM
6 PRODUCTION ACTIVITY IN THE PRECEDING FISCAL YEAR.

7 (B) CONTENTS.

8 THE REPORT SHALL INCLUDE:

9 (1) THE NUMBER OF LOCAL TECHNICIANS, ACTORS, AND EXTRAS HIRED FOR
10 FILM PRODUCTION ACTIVITY DURING THE REPORTING PERIOD;

11 (2) A LIST OF COMPANIES DOING BUSINESS IN THE STATE, INCLUDING
12 HOTELS, THAT DIRECTLY PROVIDED GOODS OR SERVICES FOR FILM PRODUCTION ACTIVITY
13 DURING THE REPORTING PERIOD; AND

14 (3) ANY OTHER INFORMATION THAT INDICATES THE ECONOMIC BENEFITS TO
15 THE STATE RESULTING FROM FILM PRODUCTION ACTIVITY DURING THE REPORTING
16 PERIOD.

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from former Art. 83A, § 5–1807.

19 Defined terms: “Department” § 1–101
20 “Film production activity” § 4–401
21 “State” § 1–101

22 SUBTITLE 5. MARYLAND STATE ARTS COUNCIL.

23 4–501. DEFINITIONS.

24 (A) IN GENERAL.

25 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

26 REVISOR’S NOTE: This subsection is new language derived without
27 substantive change from the first clause of former Art. 83A, § 4–608.

28 It is restated as the standard introductory language to a definition section.

29 (B) ARTS.

30 “ARTS” INCLUDES DANCE, DRAMA, MUSIC DRAMA, ARCHITECTURE, PAINTING,
31 SCULPTURE, GRAPHICS, CRAFTS, PHOTOGRAPHY, DESIGN, FILM, TELEVISION, AND
32 CREATIVE WRITING.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from the second clause of former Art. 83A, § 4–608.

3 The former phrase “but not be limited to” is deleted as unnecessary in light
4 of Art. 1, § 30, which provides that the term “includes” is used “by way of
5 illustration and not by way of limitation”.

6 (c) COUNCIL.

7 “COUNCIL” MEANS THE MARYLAND STATE ARTS COUNCIL.

8 REVISOR'S NOTE: This subsection is new language added to avoid repetition
9 of the full title of the “Maryland State Arts Council”.

10 4–502. LEGISLATIVE FINDINGS; POLICY; INTENT.

11 (A) FINDINGS.

12 THE GENERAL ASSEMBLY FINDS THAT:

13 (1) MANY OF THE RESIDENTS OF THE STATE LACK THE OPPORTUNITY TO
14 ENJOY OR PARTICIPATE IN AND DEVELOP A GREATER APPRECIATION OF THE ARTS,
15 INCLUDING THEATRICAL PERFORMANCES, CONCERTS, OPERA, DANCE AND BALLET
16 PERFORMANCES AND RECITALS, ART AND ART EXHIBITIONS, FINE EXAMPLES OF
17 ARCHITECTURE, AND CREATIVE WRITING;

18 (2) WITH INCREASING LEISURE TIME, THE PRACTICE AND ENJOYMENT OF
19 THE ARTS ARE OF INCREASING IMPORTANCE;

20 (3) MANY OF THE RESIDENTS OF THE STATE POSSESS ARTISTIC AND
21 CREATIVE TALENTS THAT CANNOT BE UTILIZED FULLY UNDER EXISTING CONDITIONS;

22 (4) THE GENERAL WELFARE OF THE RESIDENTS OF THE STATE WILL BE
23 PROMOTED BY RECOGNIZING THAT THE ARTS ARE A VITAL PART OF THE CULTURE AND
24 HERITAGE OF THE STATE AND ARE AN IMPORTANT MEANS TO EXPAND THE SCOPE OF THE
25 STATE'S EDUCATIONAL PROGRAM FOR CHILDREN AND ADULTS;

26 (5) INTEREST IN THE ARTS WILL PROVIDE EMPLOYMENT FOR ARTISTS IN ALL
27 FIELDS AND ENCOURAGE RESIDENTS TO PARTICIPATE IN THE ARTS;

28 (6) INCREASED ACTIVITIES IN THE ARTS WILL INCREASE EMPLOYMENT IN
29 THE STATE BY ENCOURAGING THE PRODUCTION OF ARTISTIC EVENTS IN VARIOUS
30 COMMUNITIES OF THE STATE, THUS UTILIZING THE TALENTS AND SERVICES OF MANY
31 RESIDENTS;

32 (7) THE STANDARDS OF PERFORMANCE OF THE ARTS WILL IMPROVE
33 BECAUSE OF THE ENCOURAGEMENT OF INCREASED RESIDENT PARTICIPATION AND A
34 DEMAND FOR HIGHER STANDARDS FOR MORE RESIDENTS; AND

1 (8) IMPLEMENTING AND EXHIBITING ARTISTIC PROGRAMS, CONSTRUCTING
 2 PERFORMANCE FACILITIES, AND INCREASING TOURISM FROM THESE PROGRAMS WILL
 3 INCREASE EMPLOYMENT AND HELP THE ECONOMY OF THE STATE.

4 (B) POLICY.

5 IT IS THE POLICY OF THE STATE TO:

6 (1) STRIVE TO CREATE A NURTURING CLIMATE FOR THE ARTS IN THE STATE
 7 AND JOIN WITH PRIVATE PATRONS, INSTITUTIONS, AND PROFESSIONAL ORGANIZATIONS
 8 CONCERNED WITH THE ARTS;

9 (2) PROMOTE THE ROLE OF THE ARTS IN THE LIFE OF THE RESIDENTS OF
 10 THE STATE; AND

11 (3) ENSURE THAT THE ARTS PLAY AN EVER MORE SIGNIFICANT PART IN THE
 12 RESIDENTS' WELFARE AND EDUCATIONAL EXPERIENCE.

13 (C) INTENT.

14 THE GENERAL ASSEMBLY INTENDS THAT THE ACTIVITIES OF THE STATE TO CARRY
 15 OUT THE POLICY SET FORTH IN SUBSECTION (B) OF THIS SECTION:

16 (1) ENCOURAGE AND ASSIST ARTISTIC EXPRESSION; AND

17 (2) NOT LIMIT FREEDOM OF ARTISTIC EXPRESSION, WHICH IS ESSENTIAL
 18 FOR THE WELL-BEING OF THE ARTS.

19 REVISOR'S NOTE: This section is new language derived without substantive
 20 change from former Art. 83A, §§ 4-601, 4-602, and 4-603.

21 Throughout this section, the term "residents" is substituted for the former
 22 terms "citizens" and "people" because the meaning of the term "citizen" in
 23 this context is unclear and for consistency within this article.

24 In subsection (a) of this section, the phrase "[t]he General Assembly finds
 25 that" is added for clarity.

26 In subsection (a)(1) of this section, the defined term "arts" is substituted
 27 for the former reference to the "performing, visual and creative arts in
 28 general" for brevity.

29 In the introductory language of subsection (b) of this section, the former
 30 phrase "[t]he General Assembly declares" is deleted as surplusage.

31 Defined terms: "Arts" § 4-501

32 "State" § 1-101

33 4-503. ESTABLISHED.

34 THERE IS A MARYLAND STATE ARTS COUNCIL IN THE DEPARTMENT.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83A, § 4–604(a).

3 The reference to being “in the Department” is substituted for the former
4 reference to being “part of the Department” for consistency throughout this
5 article.

6 Defined term: “Department” § 1–101

7 4–504. MEMBERSHIP.

8 (A) COMPOSITION; APPOINTMENT OF MEMBERS.

9 THE COUNCIL CONSISTS OF THE FOLLOWING 17 MEMBERS:

10 (1) 13 MEMBERS APPOINTED BY THE GOVERNOR IN CONSULTATION WITH
11 THE SECRETARY AND WITH THE ADVICE AND CONSENT OF THE SENATE;

12 (2) TWO MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE OF
13 MARYLAND, AT LEAST ONE OF WHOM SHALL BE A MEMBER OF THE SENATE; AND

14 (3) TWO MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF
15 DELEGATES, AT LEAST ONE OF WHOM SHALL BE A MEMBER OF THE HOUSE OF
16 DELEGATES.

17 (B) TENURE; LIMITATIONS; VACANCIES.

18 (1) (i) THE TERM OF A MEMBER WHO IS NOT A MEMBER OF THE
19 GENERAL ASSEMBLY IS 3 YEARS AND BEGINS ON JULY 1.

20 (ii) A MEMBER OF THE GENERAL ASSEMBLY APPOINTED TO THE
21 COUNCIL SERVES UNTIL A SUCCESSOR IS APPOINTED.

22 (2) A MEMBER MAY BE REAPPOINTED, BUT AFTER SERVING FOR TWO
23 CONSECUTIVE 3–YEAR TERMS, A MEMBER MAY NOT BE REAPPOINTED UNTIL AT LEAST 1
24 YEAR AFTER THE END OF THE MEMBER'S PREVIOUS TENURE.

25 (3) THE TERMS OF MEMBERS APPOINTED UNDER SUBSECTION (A)(1) OF
26 THIS SECTION ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF
27 THE COUNCIL ON OCTOBER 1, 2008.

28 (4) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
29 SUCCESSOR HAS BEEN APPOINTED AND QUALIFIES.

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

32 (C) CONSIDERATIONS.

33 IN APPOINTING MEMBERS, THE GOVERNOR SHALL:

1 (1) CONSIDER RECOMMENDATIONS OF CIVIC, EDUCATIONAL, AND
 2 PROFESSIONAL ORGANIZATIONS CONCERNED WITH OR ENGAGED IN THE PRODUCTION OR
 3 PRESENTATION OF THE ARTS; AND

4 (2) PROVIDE BALANCED GEOGRAPHIC REPRESENTATION.

5 REVISOR’S NOTE: This section is new language derived without substantive
 6 change from former Art. 83A, § 4–604(b) and (c).

7 In subsection (a)(2) and (3) of this section, the phrase “at least” is added for
 8 clarity.

9 In subsection (b)(1) of this section, the reference to a term “begin[ning] on
 10 July 1” is added for clarity.

11 In subsection (b)(3) of this section, the reference to terms being staggered
 12 as required by the terms provided for Council members on “October 1,
 13 2008” is substituted for the former obsolete reference to terms being
 14 staggered as required by the terms provided on “July 1, 1985”. This
 15 substitution is not intended to alter the term of any member of the Council.
 16 See § 13 of Ch. _____, Acts of 2008. The terms of the members serving on
 17 October 1, 2008, end as follows: (1) four on June 30, 2009; (2) five on June
 18 30, 2010; and (3) four on June 30, 2011.

19 In subsection (b)(5) of this section, the sentence “[a] member who is
 20 appointed after a term has begun serves only for the rest of the term and
 21 until a successor is appointed and qualifies” is substituted for the former
 22 sentence “[v]acancies shall be filled immediately for the remainder of the
 23 unexpired portion of the term” for consistency in style. See General
 24 Revisor’s Note to article; cf. *Benson v. Mellor*, 152 Md. 481 (1927); *Grooms*
 25 *v. LaVale Zoning Bd.*, 27 Md. App. 266 (1975).

26 In subsection (c)(1) of this section, the defined term “arts” is substituted for
 27 the former phrase “performing, visual or creative arts” for brevity.

28 Defined terms: “Arts” § 4–501

29 “Council” § 4–501

30 “Secretary” § 1–101

31 4–505. OFFICERS.

32 EACH YEAR THE COUNCIL SHALL SELECT A CHAIR, A VICE CHAIR, AND A
 33 SECRETARY–TREASURER FROM ITS MEMBERSHIP.

34 REVISOR’S NOTE: This section is new language derived without substantive
 35 change from former Art. 83A, § 4–604(e).

36 The references to a “chair” and “vice chair” are substituted for the former
 37 references to a “chairman” and “vice–chairman”, respectively, because SG §
 38 2–1238 requires the use of words neutral as to gender to the extent

1 practicable.

2 Defined term: “Council” § 4–501

3 4–506. COMPENSATION; REIMBURSEMENT FOR EXPENSES.

4 A MEMBER OF THE COUNCIL:

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

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

8 REVISOR’S NOTE: This section is new language derived without substantive
9 change from former Art. 83A, § 4–604(d).

10 It is revised in standard language for consistency with other revised
11 articles.

12 In item (1) of this section, the phrase “as a member of the Council” is added
13 for clarity and consistency within this article.

14 Defined terms: “Council” § 4–501

15 “State” § 1–101

16 4–507. MEETINGS.

17 (A) IN GENERAL.

18 THE COUNCIL SHALL MEET AT LEAST FOUR TIMES A YEAR.

19 (B) CALLING OF MEETINGS.

20 THE CHAIR OR THE SECRETARY SHALL CALL THE MEETINGS.

21 REVISOR’S NOTE: This section is new language derived without substantive
22 change from former Art. 83A, § 4–605.

23 In subsection (b) of this section, the reference to the “chair” is substituted
24 for the former reference to the “chairman” because SG § 2–1238 requires
25 the use of words neutral as to gender to the extent practicable.

26 Defined terms: “Council” § 4–501

27 “Secretary” § 1–101

28 4–508. GENERAL POWERS.

29 (A) IN GENERAL.

30 THE EXERCISE OF THE POWERS AND PERFORMANCE OF DUTIES OF THE COUNCIL
31 UNDER THIS SUBTITLE IS SUBJECT TO THE APPROVAL OF THE SECRETARY.

1 (B) POWERS.

2 THE COUNCIL MAY:

3 (1) ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE;

4 (2) ENTER INTO CONTRACTS AND AGREEMENTS;

5 (3) OBTAIN SERVICES;

6 (4) ASK ANY OTHER UNIT OF THE STATE FOR ASSISTANCE AND DATA THAT
7 ENABLE THE COUNCIL TO CARRY OUT ITS POWERS AND DUTIES;

8 (5) ACCEPT FEDERAL MONEY FOR ANY PURPOSE OF THIS SUBTITLE;

9 (6) ACCEPT GIFTS, DONATIONS, OR BEQUESTS FOR ANY PURPOSE OF THIS
10 SUBTITLE; AND

11 (7) CARRY OUT THIS SUBTITLE.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 83A, § 4–606(a)(2) through (7).

14 Subsection (a) of this section is revised as a qualification of the Council's
15 exercise of its powers and duties for clarity.

16 In subsection (b)(1) of this section, the former word “reasonable” is deleted
17 as implicit in the phrase “adopt regulations”.

18 Also in subsection (b)(1) of this section, the former reference to “rules” is
19 deleted as implicit in the reference to “regulations”. *See* General Revisor's
20 Note to article.

21 In subsection (b)(4) of this section, the reference to any other “unit” is
22 substituted for the former reference to any “department, division, board,
23 bureau, commission or other agency”. The term “unit” is used as the
24 general term for an entity in the State government because it is inclusive
25 enough to include all those entities. *See* General Revisor's Note to article.

26 In subsection (b)(5) of this section, the former reference to federal money
27 “granted by act of Congress or by executive order” is deleted as surplusage.

28 In subsection (b)(7) of this section, the phrase “carry out this subtitle” is
29 substituted for the former phrase “including but not limited to the
30 following” for clarity.

31 Former Art. 83A, § 4–606(a)(1), concerning activities and obligations of the
32 former Governor's Council on the Arts in Maryland, is transferred to the
33 Session Laws. *See* General Revisor's Note to this subtitle.

1 Defined terms: “Council” § 4–501

2 “Secretary” § 1–101

3 “State” § 1–101

4 4–509. EXECUTIVE DIRECTOR.

5 (A) APPOINTMENT.

6 (1) WITH THE APPROVAL OF THE SECRETARY, THE COUNCIL SHALL
7 APPOINT AN EXECUTIVE DIRECTOR OF THE COUNCIL.

8 (2) THE EXECUTIVE DIRECTOR MAY NOT BE A MEMBER OF THE COUNCIL.

9 (B) TENURE; SPECIAL APPOINTMENT.

10 (1) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE
11 COUNCIL, SUBJECT TO THE CONCURRENCE OF THE SECRETARY.

12 (2) THE EXECUTIVE DIRECTOR IS A SPECIAL APPOINTMENT IN THE STATE
13 PERSONNEL MANAGEMENT SYSTEM.

14 (C) ADMINISTRATIVE OFFICER; DUTIES TO STAFF.

15 SUBJECT TO THE POLICIES OF THE COUNCIL AND THE ADMINISTRATIVE
16 SUPERVISION OF THE SECRETARY, THE EXECUTIVE DIRECTOR:

17 (1) IS THE ADMINISTRATIVE OFFICER OF THE COUNCIL STAFF;

18 (2) SHALL APPOINT AND REMOVE EMPLOYEES OF THE COUNCIL; AND

19 (3) SHALL DIRECT, ADMINISTER, AND SUPERVISE THE ACTIVITIES OF THE
20 COUNCIL STAFF.

21 REVISOR’S NOTE: This section is new language derived without substantive
22 change from former Art. 83A, § 4–606(b), (c), and (d).

23 In subsection (a)(2) of this section, the phrase “[t]he Executive Director
24 may not be a member of the Council” is substituted for the former phrase
25 “from without its members” for clarity.

26 In subsection (c) of this section, the former reference to “rules” of the
27 Council is deleted as included in the reference to “policies” of the Council.
28 The term “rule” refers to the general term for a general directive adopted
29 by the courts of the State, as opposed to a “regulation” adopted in
30 accordance with the Administrative Procedure Act or an internal “policy”
31 adopted by a unit for its own administration. *See* General Revisor’s Note to
32 article.

33 Defined terms: “Council” § 4–501

34 “Secretary” § 1–101

35 “State” § 1–101

1 4–510. AUTHORITY; ANNUAL REPORT.

2 (A) AUTHORITY.

3 THE COUNCIL MAY:

4 (1) CONDUCT A STATEWIDE SURVEY OF RESOURCES AND NEEDS IN THE
5 ARTS;

6 (2) DETERMINE THE EXTENT TO WHICH EXISTING RESOURCES CAN FILL THE
7 NEEDS;

8 (3) DESIGN NEW OR EXPANDED PROGRAMS IN THE ARTS ON ITS OWN OR
9 WITH ARTS ORGANIZATIONS;

10 (4) ENCOURAGE AND ASSIST IN THE FORMATION AND ACTIVITIES OF
11 COMMUNITY ARTS COUNCILS;

12 (5) PROVIDE TECHNICAL AND CONSULTATIVE ASSISTANCE TO ARTS
13 ORGANIZATIONS THROUGHOUT THE STATE;

14 (6) PROVIDE LOGISTICAL AND FINANCIAL ASSISTANCE TO ENCOURAGE THE
15 TOURING OF OUTSTANDING PROFESSIONAL PERFORMANCES AND EXHIBITIONS OF ART,
16 FROM INSIDE AND OUTSIDE THE STATE, TO COMMUNITIES THROUGHOUT THE STATE;

17 (7) MAKE AWARDS FOR EXCELLENCE IN THE ARTS;

18 (8) MAKE GRANTS TO ARTS ORGANIZATIONS AND INDIVIDUAL ARTISTS;

19 (9) COOPERATE WITH EDUCATIONAL INSTITUTIONS AND ORGANIZATIONS TO
20 ESTABLISH A HIGHER LEVEL OF EDUCATION IN AND APPRECIATION OF THE ARTS BY
21 STUDENTS THROUGHOUT THE STATE;

22 (10) EXPLORE THE FEASIBILITY OF REGIONAL ARTS PROGRAMMING IN
23 NEIGHBORING STATES AND PROGRAM EXCHANGE WITH OTHER STATES, AND IMPLEMENT
24 THE PROGRAMS THE COUNCIL CONSIDERS ADVISABLE;

25 (11) MAKE RECOMMENDATIONS TO THE BOARD OF PUBLIC WORKS
26 CONCERNING APPROPRIATE AESTHETIC DECORATIONS, EMBELLISHMENTS, ACCESSORIES,
27 AND ORNAMENTATION TO STATE PROJECTS, BUILDINGS, AND PROPERTY; AND

28 (12) CONDUCT OTHER PROGRAMS CONSISTENT WITH THIS SUBTITLE.

29 (B) ANNUAL REPORT; PUBLICATIONS.

30 THE COUNCIL:

31 (1) SHALL PUBLISH AN ANNUAL REPORT; AND

32 (2) MAY PUBLISH OTHER MATERIAL.

1 REVISOR'S NOTE: Subsection (a)(1) of this section is new language patterned
2 after former Art. 83A, § 4–607(a)(1), as it related to a statewide survey of
3 resources and needs in the arts.

4 Subsections (a)(2) through (12) and (b) of this section are new language
5 derived without substantive change from former Art. 83A, § 4–607(b) and
6 (a)(2) through (11).

7 In the introductory language of subsection (a) of this section, the former
8 phrase “subject to approval of the Secretary” is deleted as redundant of
9 § 4–508(a) of this subtitle.

10 In subsection (a)(3) of this section, the former phrase “or arts organizations
11 which may subsequently come into existence hereafter” is deleted as
12 surplusage.

13 In subsection (a)(12) of this section, the phrase “conduct other programs
14 consistent with this subtitle” is substituted for the former reference to
15 programs “including, but not limited to the following” for clarity.

16 In subsection (b) of this section, the former reference to publishing
17 material “as [the Council] deems appropriate” is deleted as implicit in the
18 Council's decision to publish it.

19 Former Art. 83A, § 4–607(a)(1), concerning programs of the former
20 Governor's Council on the Arts in Maryland, is transferred to the Session
21 Laws. *See* General Revisor's Note to this subtitle.

22 Defined terms: “Arts” § 4–501

23 “Council” § 4–501

24 “Secretary” § 1–101

25 “State” § 1–101

26 **4–511. INTERFERENCE PROHIBITED.**

27 IN EXERCISING ITS POWERS AND PERFORMING ITS DUTIES UNDER THIS SUBTITLE,
28 THE COUNCIL MAY NOT INTERFERE WITH:

29 (1) FREEDOM OF ARTISTIC EXPRESSION; OR

30 (2) ESTABLISHED OR CONTEMPLATED ARTS PROGRAMS IN ANY COMMUNITY.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 83A, § 4–609(a).

33 Defined terms: “Arts” § 4–501

34 “Council” § 4–501

35 **4–512. FUNDING.**

36 (A) STATE FUNDS.

1 THE COUNCIL IS ENTITLED TO FUNDING IN ACCORDANCE WITH THE STATE
2 BUDGET.

3 (B) SPECIAL FUND.

4 THE COUNCIL MAY TREAT NONSTATE, NONFEDERAL CONTRIBUTIONS FOR
5 PROGRAMS OF ASSISTANCE TO THE ARTS AS A SPECIAL FUND THAT IS NOT SUBJECT TO
6 REVERSION UNDER § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

7 REVISOR’S NOTE: This section is new language derived without substantive
8 change from former Art. 83A, § 4–609(b).

9 In subsection (b) of this section, the reference to “[t]he Council” is added for
10 clarity.

11 Also in subsection (b) of this section, the phrase “that is not subject to
12 reversion under § 7–302 of the State Finance and Procurement Article” is
13 substituted for the former phrase “which do not revert to the General Fund
14 at the end of a fiscal year” for clarity and consistency within this article.

15 Defined terms: “Arts” § 4–501

16 “Council” § 4–501

17 “State” § 1–101

18 GENERAL REVISOR’S NOTE TO SUBTITLE:

19 Former Art. 83A, §§ 4–606(a)(1) and 4–607(a)(1), which authorized the Council
20 to continue activities, obligations, and programs of the former Governor’s Council on
21 the Arts in Maryland, are apparently obsolete. *Cf.* Ch. 644, Acts of 1967. However, to
22 avoid any inadvertent substantive effect their repeal might have, they are transferred
23 to the Session Laws. *See* § 8 of Ch. ____, Acts of 2008.

24 SUBTITLE 6. MARYLAND PUBLIC ART INITIATIVE PROGRAM.

25 4–601. DEFINITIONS.

26 (A) IN GENERAL.

27 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

28 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 4–6A–02(a)(1).

29 No changes are made.

30 (B) COMMISSION.

31 “COMMISSION” MEANS THE MARYLAND COMMISSION ON PUBLIC ART.

32 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 4–6A–02(a)(2).

33 No changes are made.

1 (C) FUND.

2 “FUND” MEANS THE MARYLAND PUBLIC ART FUND.

3 REVISOR’S NOTE: This subsection is new language added to avoid repetition
4 of the full title of the “Maryland Public Art Fund”.

5 (D) PROGRAM.

6 “PROGRAM” MEANS THE MARYLAND PUBLIC ART INITIATIVE PROGRAM.

7 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 4–6A–02(a)(3).

8 No changes are made.

9 4–602. MARYLAND PUBLIC ART INITIATIVE PROGRAM.

10 (A) ESTABLISHED.

11 THERE IS A MARYLAND PUBLIC ART INITIATIVE PROGRAM.

12 (B) PURPOSE.

13 THE PURPOSE OF THE PROGRAM IS TO PROMOTE THE INSTALLATION OF ARTWORK
14 IN PUBLIC FACILITIES FOR THE ENRICHMENT OF THE PUBLIC.

15 (C) PROGRAM MONEY.

16 PROGRAM MONEY SHALL BE USED TO:

17 (1) ACQUIRE PUBLIC ART TO BE OWNED BY THE STATE;

18 (2) PRESERVE PUBLIC ART ASSETS, INCLUDING ASSETS OF THE
19 COMMISSION; AND

20 (3) MAKE GRANTS TO LOCAL GOVERNMENTS.

21 REVISOR’S NOTE: This section is new language derived without substantive
22 change from former Art. 83A, § 4–6A–01(a) and (c) and § 4–6A–04(a)(1), as
23 it related to the purpose of the Program.

24 In subsection (b) of this section, the former reference to public facilities “in
25 the State” is deleted as surplusage.

26 In subsection (c) of this section and throughout this subtitle, the references
27 to “money” are substituted for the former references to “funds” for
28 consistency within this article.

29 Defined terms: “Commission” § 4–601

30 “Program” § 4–601

31 “State” § 1–101

1 4–603. MARYLAND COMMISSION ON PUBLIC ART.

2 (A) ESTABLISHED.

3 THERE IS A MARYLAND COMMISSION ON PUBLIC ART.

4 (B) MEMBERSHIP; APPOINTMENT; TENURE.

5 (1) THE COMMISSION CONSISTS OF THE FOLLOWING 11 MEMBERS:

6 (I) THE EXECUTIVE DIRECTOR OR A MEMBER OF THE MARYLAND
7 STATE ARTS COUNCIL ESTABLISHED UNDER SUBTITLE 5 OF THIS TITLE;

8 (II) THE DIRECTOR OR A MEMBER OF THE MARYLAND HISTORICAL
9 TRUST ESTABLISHED UNDER TITLE 5A, SUBTITLE 3 OF THE STATE FINANCE AND
10 PROCUREMENT ARTICLE;

11 (III) THE STATE ARCHIVIST OR A MEMBER OF THE COMMISSION ON
12 ARTISTIC PROPERTY ESTABLISHED UNDER TITLE 9, SUBTITLE 10 OF THE STATE
13 GOVERNMENT ARTICLE;

14 (IV) THE COMPTROLLER OR THE COMPTROLLER'S DESIGNEE; AND

15 (V) SEVEN PUBLIC MEMBERS APPOINTED BY THE SECRETARY WITH
16 THE APPROVAL OF THE GOVERNOR.

17 (2) (I) THE SECRETARY SHALL INCLUDE AS PUBLIC MEMBERS
18 REPRESENTATIVES OF THE ARTISTIC COMMUNITY WHO HAVE PROFESSIONAL EXPERTISE
19 AS ARTISTS, CURATORS, ART HISTORIANS, ART EDUCATORS, OR ARCHITECTS.

20 (II) A PUBLIC MEMBER SERVES AT THE PLEASURE OF THE SECRETARY.

21 (C) CHAIR.

22 WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL DESIGNATE A
23 CHAIR FROM AMONG THE PUBLIC MEMBERS OF THE COMMISSION.

24 (D) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

25 A MEMBER OF THE COMMISSION:

26 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION;
27 BUT

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

30 (E) STAFF.

31 THE MARYLAND STATE ARTS COUNCIL SHALL PROVIDE STAFF TO THE
32 COMMISSION.

1 REVISOR’S NOTE: This section is new language derived without substantive
2 change from former Art. 83A, § 4–6A–02(b) through (e).

3 In subsection (b) of this section, the former reference to certain members as
4 “institutional” members is deleted as surplusage.

5 Also in subsection (b) of this section, the statutory cross–references for the
6 Maryland State Arts Council, the Maryland Historical Trust, and the
7 Commission on Artistic Property are added for clarity.

8 In subsection (c) of this section, the former reference to designating a
9 chairman “[f]rom time to time” is deleted as surplusage.

10 Also in subsection (c) of this section, the reference to a “chair” is
11 substituted for the former reference to a “chairman” because SG § 2–1238
12 requires the use of words that are neutral as to gender to the extent
13 practicable. *See* General Revisor’s Note to article.

14 In subsection (d) of this section, the reference to not receiving
15 compensation “as a member of the Commission” is added for clarity.

16 The Economic Development Article Review Committee notes, for the
17 consideration of the General Assembly, that in subsection (b)(1)(i), (ii), and
18 (iii) of this section, it is not clear who appoints the representatives to serve
19 on the Commission. The General Assembly may wish to address this
20 matter in substantive legislation.

21 Defined terms: “Commission” § 4–601

22 “Secretary” § 1–101

23 “State” § 1–101

24 4–604. DUTIES.

25 THE COMMISSION SHALL:

26 (1) WORK WITH THE DEPARTMENT OF GENERAL SERVICES, THE STATE
27 DEPARTMENT OF TRANSPORTATION, AND THE UNIVERSITY SYSTEM OF MARYLAND TO
28 ENSURE THAT NEW PUBLIC FACILITIES CONSTRUCTED BY STATE UNITS INCLUDE THE
29 INSTALLATION OF ARTWORK;

30 (2) ALLOCATE MONEY FROM THE FUND TO COMMISSION ARTWORK FOR
31 INSTALLATION AT PUBLIC FACILITIES AROUND THE STATE;

32 (3) ESTABLISH SELECTION PANELS TO RECOMMEND ARTISTS AND ARTWORK
33 TO BE FUNDED BY THE FUND; AND

34 (4) MAKE FINAL RECOMMENDATIONS CONCERNING THE DISBURSEMENT OF
35 MONEY ALLOCATED TO THE PROGRAM.

1 REVISOR'S NOTE: This section is new language derived without substantive
 2 change from former Art. 83A, § 4–6A–04(a)(2) through (4) and, as it related
 3 to the Commission's role in ensuring installation of artwork, (1).

4 In item (1) of this section, the reference to State "units" is substituted for
 5 the former reference to State "agencies" for consistency with other
 6 provisions of this article. *See* General Revisor's Note to article.

7 Also in item (1) of this section, the former reference to artwork "for the
 8 enrichment of the public" is deleted in light of § 4–602(b) of this subtitle.

9 In item (2) of this section, the reference to "artwork" is substituted for the
 10 former reference to "works of art" for consistency with other provisions in
 11 this section and in § 4–608 of this subtitle.

12 In item (3) of this section, the reference to the authority to "recommend" is
 13 substituted for the former reference to "make recommendations for the
 14 selection of" for brevity and clarity.

15 Defined terms: "Commission" § 4–601

16 "Fund" § 4–601

17 "Program" § 4–601

18 "State" § 1–101

19 4–605. MARYLAND PUBLIC ART FUND.

20 (A) ESTABLISHED.

21 THERE IS A MARYLAND PUBLIC ART FUND.

22 (B) PURPOSE.

23 THE PURPOSE OF THE FUND IS TO PROVIDE MONEY TO CARRY OUT THE PROGRAM.

24 (C) ADMINISTRATION.

25 THE COMMISSION SHALL ADMINISTER THE FUND.

26 (D) STATUS.

27 (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO
 28 REVERSION UNDER § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

29 (2) THE TREASURER SHALL HOLD THE FUND AND THE COMPTROLLER
 30 SHALL ACCOUNT FOR THE FUND.

31 (E) COMPOSITION.

32 (1) THE FUND CONSISTS OF:

- 1 (I) MONEY APPROPRIATED IN THE STATE BUDGET FOR THE PROGRAM;
- 2 AND
- 3 (II) ANY OTHER MONEY ACCEPTED FOR THE BENEFIT OF THE FUND
- 4 FROM ANY OTHER SOURCE.

5 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE

6 FUND.

7 (F) MANDATORY APPROPRIATION.

8 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT FOR EACH FISCAL YEAR, THE

9 GOVERNOR SHALL INCLUDE IN THE OPERATING OR CAPITAL BUDGET AN APPROPRIATION

10 NOT TO EXCEED \$1,000,000 FOR THE PROGRAM.

11 (G) INVESTMENT.

12 THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER

13 AS OTHER STATE MONEY MAY BE INVESTED.

14 (H) EXPENDITURES.

15 MONEY IN THE FUND MAY ONLY BE SPENT:

- 16 (1) TO CARRY OUT THE PURPOSES OF THIS SUBTITLE; AND
- 17 (2) IN ACCORDANCE WITH THE STATE BUDGET PROCESS.

18 REVISOR’S NOTE: This section is new language derived without substantive

19 change from former Art. 83A, § 4–6A–01(b) and § 4–6A–03(a) through (j).

20 In subsection (d) of this section, the reference to “reversion under” SF §

21 7–302 is added to state explicitly that which is only implied by the term

22 “nonlapsing”.

23 In subsection (f) of this section, the obsolete reference to “fiscal year 2007”

24 is deleted.

25 Subsection (g) of this section is restated in standard language for clarity.

- 26 Defined terms: “Commission” § 4–601
- 27 “Fund” § 4–601
- 28 “Program” § 4–601
- 29 “State” § 1–101

30 4–606. GRANTS TO LOCAL GOVERNMENT.

31 (A) IN GENERAL.

32 BEFORE A GRANT IS AWARDED TO A LOCAL GOVERNMENT UNDER THIS SUBTITLE,

33 THE LOCAL GOVERNMENT SHALL PROVIDE AND SPEND A MATCHING FUND.

1 (B) PROHIBITION.

2 A MATCHING FUND OF A LOCAL GOVERNMENT MAY NOT CONSIST OF:

3 (1) MONEY PROVIDED, DIRECTLY OR INDIRECTLY, FROM APPROPRIATED OR
4 UNAPPROPRIATED STATE MONEY;

5 (2) REAL PROPERTY;

6 (3) IN KIND CONTRIBUTIONS; OR

7 (4) MONEY SPENT BEFORE JUNE 1, 2005.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 83A, § 4-6A-03(k).

10 In subsection (b) of this section, the former reference to the “grantee’s”
11 matching fund is deleted as surplusage.

12 Defined terms: “Program” § 4-601

13 “State” § 1-101

14 4-607. REGULATIONS.

15 (A) REQUIRED.

16 THE MARYLAND STATE ARTS COUNCIL SHALL ADOPT REGULATIONS TO CARRY
17 OUT THE PROGRAM.

18 (B) CONTENTS.

19 THE REGULATIONS SHALL ADDRESS:

20 (1) PROCEDURES FOR ARTIST AND ART SELECTION;

21 (2) COMPOSITION OF SELECTION PANELS;

22 (3) BUDGET ALLOCATIONS FOR EACH PROJECT;

23 (4) LOCAL COMMUNITY INVOLVEMENT; AND

24 (5) CONSERVATION AND MAINTENANCE CONCERNS.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 83A, § 4-6A-01(d).

27 In subsection (a) of this section, the reference to the requirement that the
28 Maryland State Arts Council “adopt” regulations is substituted for the
29 former reference to “develop” regulations for consistency with other
30 provisions of this article. *See* General Revisor’s Note to article.

1 Defined term: “Program” § 4–601

2 4–608. MARYLAND HISTORICAL TRUST.

3 (A) OWNERSHIP OF ARTWORK.

4 ALL ARTWORK FUNDED BY THE PROGRAM IS THE PROPERTY OF THE MARYLAND
5 HISTORICAL TRUST.

6 (B) DUTIES.

7 IN COOPERATION WITH THE DEPARTMENT OF GENERAL SERVICES, THE
8 MARYLAND HISTORICAL TRUST IS RESPONSIBLE FOR THE INVENTORY, MAINTENANCE,
9 AND PRESERVATION OF ALL ARTWORK ACQUIRED THROUGH THE PROGRAM.

10 REVISOR’S NOTE: This section is new language derived without substantive
11 change from former Art. 83A, § 4–6A–04(b).

12 Defined term: “Program” § 4–601

13 GENERAL REVISOR’S NOTE TO SUBTITLE:

14 Former Art. 83A, §§ 4–6A–01 through 4–6A–04, which established the Maryland
15 Public Art Initiative Program, were subject to termination on May 31, 2010. *See* § 2 of
16 Ch. 393, Acts of 2005. Accordingly, the legislation that enacts this article provides for
17 the termination of this subtitle if and when that termination provision takes effect.
18 *See* § 21 of Ch. ___, Acts of 2008.

19 SUBTITLE 7. ARTS AND ENTERTAINMENT DISTRICTS.

20 4–701. DEFINITIONS.

21 (A) IN GENERAL.

22 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

23 REVISOR’S NOTE: This subsection is new language derived without
24 substantive change from former Art. 83A, § 4–701(a).

25 The reference to this “subtitle” is substituted for the former reference to
26 this “section”. Although this subtitle contains provisions derived from
27 provisions outside of former Art. 83A, § 4–701, the terms defined here do
28 not alter the meanings of terms used in provisions derived from former
29 Art. 83A, §§ 4–702 and 4–703. No substantive change is intended.

30 (B) ARTISTIC WORK.

31 “ARTISTIC WORK” MEANS AN ORIGINAL AND CREATIVE WORK THAT:

32 (1) IS WRITTEN, COMPOSED, OR EXECUTED; AND

(2) FALLS INTO ONE OF THE FOLLOWING CATEGORIES:

(I) A BOOK OR OTHER WRITING;

(II) A PLAY OR PERFORMANCE OF A PLAY;

(III) A MUSICAL COMPOSITION OR THE PERFORMANCE OF A MUSICAL COMPOSITION;

(IV) A PAINTING OR OTHER PICTURE;

(V) A SCULPTURE;

(VI) TRADITIONAL OR FINE CRAFTS;

(VII) THE CREATION OF A FILM OR THE ACTING WITHIN A FILM;

(VIII) THE CREATION OF A DANCE OR THE PERFORMANCE OF A DANCE;

OR

(IX) ANY OTHER PRODUCT GENERATED AS A RESULT OF A WORK LISTED IN ITEMS (I) THROUGH (VIII) OF THIS PARAGRAPH.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 4-701(a)(2)(i) and (ii).

(C) ARTS AND ENTERTAINMENT DISTRICT.

"ARTS AND ENTERTAINMENT DISTRICT" MEANS A DEVELOPED DISTRICT OF PUBLIC AND PRIVATE USES THAT:

(1) IS DISTINGUISHED BY PHYSICAL AND CULTURAL RESOURCES THAT PLAY A VITAL ROLE IN THE LIFE AND DEVELOPMENT OF THE COMMUNITY AND CONTRIBUTE TO THE PUBLIC THROUGH INTERPRETIVE, EDUCATIONAL, AND RECREATIONAL USES; AND

(2) RANGES IN SIZE FROM A PORTION OF A POLITICAL SUBDIVISION TO A REGIONAL DISTRICT WITH A SPECIAL COHERENCE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 4-701(a)(3).

Defined term: "Political subdivision" § 4-701

(D) ARTS AND ENTERTAINMENT ENTERPRISE.

"ARTS AND ENTERTAINMENT ENTERPRISE" MEANS A FOR-PROFIT OR NOT-FOR-PROFIT ENTITY DEDICATED TO VISUAL OR PERFORMING ARTS.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 4-701(a)(4).

The only changes are in style.

1 This subsection is retained even though the term defined here is not used
 2 in this subtitle. Other provisions of the Code, enacted at the same time as
 3 the source material for this subtitle, refer to the definition of “arts and
 4 entertainment enterprise”. *See* Ch. 608, Acts of 2001; TG § 4–104(e); TP §
 5 9–240.

6 (E) POLITICAL SUBDIVISION.

7 “POLITICAL SUBDIVISION” MEANS A COUNTY OR MUNICIPAL CORPORATION.

8 REVISOR’S NOTE: This subsection is new language added to provide a single
 9 consistent term that substitutes for the terms “county or municipal
 10 corporation” and “political subdivision” that were used identically in
 11 former Art. 83A, §§ 4–701 and 4–702.

12 Defined term: “County” § 1–101

13 (F) QUALIFYING RESIDING ARTIST.

14 “QUALIFYING RESIDING ARTIST” MEANS AN INDIVIDUAL WHO:

15 (1) OWNS OR RENTS RESIDENTIAL REAL PROPERTY IN THE COUNTY WHERE
 16 THE ARTS AND ENTERTAINMENT DISTRICT IS LOCATED;

17 (2) CONDUCTS A BUSINESS IN THE ARTS AND ENTERTAINMENT DISTRICT;
 18 AND

19 (3) DERIVES INCOME FROM THE SALE OR PERFORMANCE WITHIN THE ARTS
 20 AND ENTERTAINMENT DISTRICT OF AN ARTISTIC WORK THAT THE INDIVIDUAL WROTE,
 21 COMPOSED, OR EXECUTED, EITHER ALONE OR WITH OTHERS, IN THE ARTS AND
 22 ENTERTAINMENT DISTRICT.

23 REVISOR’S NOTE: This subsection is new language derived without
 24 substantive change from former Art. 83A, § 4–701(a)(5).

25 Defined terms: “Artistic work” § 4–701

26 “Arts and entertainment district” § 4–701

27 “County” § 1–101

28 4–702. SCOPE OF SUBTITLE.

29 THIS SUBTITLE DOES NOT APPLY TO THE CREATION OR EXECUTION OF ARTISTIC
 30 WORK FOR INDUSTRY–ORIENTED OR INDUSTRY–RELATED PRODUCTION.

31 REVISOR’S NOTE: This section is new language derived without substantive
 32 change from former Art. 83A, § 4–701(a)(2)(iii).

33 It is revised as a scope provision rather than as an exception to a definition
 34 for clarity.

1 4–703. APPLICATION.

2 (A) IN GENERAL.

3 THE FOLLOWING POLITICAL SUBDIVISIONS MAY APPLY TO THE SECRETARY TO
4 DESIGNATE AN ARTS AND ENTERTAINMENT DISTRICT:

5 (1) A POLITICAL SUBDIVISION FOR AN AREA WITHIN THAT POLITICAL
6 SUBDIVISION;

7 (2) WITH THE PRIOR CONSENT OF THE MUNICIPAL CORPORATION, A COUNTY,
8 ON ITS OWN BEHALF OR ON BEHALF OF A MUNICIPAL CORPORATION, FOR AN AREA IN THE
9 MUNICIPAL CORPORATION; OR

10 (3) TWO OR MORE POLITICAL SUBDIVISIONS JOINTLY FOR AN AREA ASTRIDE
11 THEIR COMMON BOUNDARIES.

12 (B) FORM AND CONTENT.

13 THE APPLICATION SHALL:

14 (1) BE IN THE FORM AND MANNER AND CONTAIN THE INFORMATION THAT
15 THE SECRETARY REQUIRES BY REGULATION;

16 (2) CONTAIN SUFFICIENT INFORMATION TO ALLOW THE SECRETARY TO
17 DETERMINE IF THE PROPOSED DISTRICT QUALIFIES UNDER §§ 4–701(C) AND 4–704(A)
18 OF THIS SUBTITLE; AND

19 (3) BE SUBMITTED FOR A POLITICAL SUBDIVISION BY ITS CHIEF ELECTED
20 OFFICER OR, IF NONE, ITS GOVERNING BODY.

21 REVISOR’S NOTE: This section is new language derived without substantive
22 change from former Art. 83A, § 4–702(a) through (d) and the introductory
23 language of § 4–701(b), as it related to application for designation.

24 In subsection (b) of this section, the reference to determining if a “proposed
25 district qualify[ing] under §§ 4–701(c) and 4–704(a) of this subtitle” is
26 substituted for the former reference to determining if “criteria established
27 in [former Art. 83A,] § 4–701(a)(3) and (c) ... have been met” for clarity and
28 because former § 4–701(a)(3) did not contain criteria.

29 Defined terms: “Arts and entertainment district” § 4–701

30 “County” § 1–101

31 “Political subdivision” § 4–701

32 “Secretary” § 1–101

33 4–704. DESIGNATION.

34 (A) IN GENERAL.

1 THE SECRETARY MAY DESIGNATE AN AREA AS AN ARTS AND ENTERTAINMENT
2 DISTRICT ONLY IF THE AREA IS A CONTIGUOUS GEOGRAPHIC AREA THAT IS WHOLLY
3 WITHIN A PRIORITY FUNDING AREA AS PROVIDED UNDER § 5-7B-02 OF THE STATE
4 FINANCE AND PROCUREMENT ARTICLE.

5 (B) PROCEDURE; LIMITATION.

6 (1) WITHIN 60 DAYS AFTER A SUBMISSION DATE, THE SECRETARY MAY
7 DESIGNATE ONE OR MORE ARTS AND ENTERTAINMENT DISTRICTS FROM AMONG THE
8 AREAS IN THE APPLICATIONS TIMELY SUBMITTED.

9 (2) A COUNTY MAY NOT RECEIVE MORE THAN ONE ARTS AND
10 ENTERTAINMENT DISTRICT DESIGNATION IN A CALENDAR YEAR.

11 (C) FINALITY.

12 THE DESIGNATION OF THE SECRETARY IS FINAL.

13 (D) REAPPLICATION.

14 AT ANY TIME, A POLITICAL SUBDIVISION MAY REAPPLY TO THE SECRETARY TO
15 DESIGNATE AS AN ARTS AND ENTERTAINMENT DISTRICT AN AREA THAT IS NOT SO
16 DESIGNATED.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 83A, §§ 4-701(c) and 4-702(e).

19 In subsection (a) of this section, the limitation that “[t]he Secretary may
20 designate” as an arts and entertainment district an area with certain
21 characteristics is substituted for the former requirement that an arts and
22 entertainment district “shall be” an area with those characteristics for
23 clarity and to conform to a corresponding provision concerning eligibility
24 for enterprise zones. *Cf.* § 5-704(a)(1) of this article.

25 Also in subsection (a) of this section, the former reference to an arts and
26 entertainment district being in a “county” is deleted in light of the
27 authority to establish a district either entirely within a municipal
28 corporation or in more than one county under § 4-703 of this subtitle.

29 Also in subsection (a) of this section, the former requirement that an arts
30 and entertainment district be wholly within a “designated neighborhood as
31 defined under § 6-301 of the Housing and Community Development
32 Article” is deleted as redundant of the requirement that the district be
33 wholly within a “priority funding area as provided under § 5-7B-02 of the
34 State Finance and Procurement Article”. Any designated neighborhood
35 under HS § 6-301 must be located wholly within a priority funding area
36 under SF § 5-7B-02. No substantive change is intended.

37 Although subsection (b) of this section refers only to “a” submission date,
38 the Secretary has established April 1 and October 1 of each year as

1 submission dates by which each political subdivision that wishes to
 2 establish an arts and entertainment district must submit an application
 3 for the designation cycle.

4 Defined terms: “Arts and entertainment district” § 4–701
 5 “County” § 1–101
 6 “Political subdivision” § 4–701
 7 “Secretary” § 1–101

8 4–705. EXPANSION.

9 A POLITICAL SUBDIVISION MAY APPLY TO THE SECRETARY TO EXPAND AN EXISTING
 10 ARTS AND ENTERTAINMENT DISTRICT IN THE SAME MANNER AS THE POLITICAL
 11 SUBDIVISION WOULD APPLY TO DESIGNATE A NEW ARTS AND ENTERTAINMENT DISTRICT.

12 REVISOR’S NOTE: This section is new language derived without substantive
 13 change from former Art. 83A, § 4–702(f).

14 Defined terms: “Arts and entertainment district” § 4–701
 15 “Political subdivision” § 4–701
 16 “Secretary” § 1–101

17 4–706. TAX STATUS.

18 (A) IN GENERAL.

19 IN AN ARTS AND ENTERTAINMENT DISTRICT:

20 (1) EACH QUALIFYING RESIDING ARTIST IS ELIGIBLE FOR THE INCOME TAX
 21 SUBTRACTION MODIFICATION UNDER § 10–207(v) OF THE TAX – GENERAL ARTICLE;

22 (2) THE PROPERTY TAX CREDIT UNDER § 9–240 OF THE TAX – PROPERTY
 23 ARTICLE APPLIES; AND

24 (3) THE EXEMPTION FROM THE ADMISSIONS AND AMUSEMENT TAX UNDER §
 25 4–104 OF THE TAX – GENERAL ARTICLE APPLIES.

26 (B) NOTIFICATION TO COMPTROLLER; EFFECTIVE DATE.

27 (1) ON OR BEFORE JULY 1 PRECEDING THE EFFECTIVE DATE OF ITS
 28 ESTABLISHMENT, THE SECRETARY SHALL NOTIFY THE COMPTROLLER THAT AN ARTS AND
 29 ENTERTAINMENT DISTRICT IS ESTABLISHED.

30 (2) THE SUBTRACTION MODIFICATION UNDER § 10–207(v) OF THE TAX –
 31 GENERAL ARTICLE APPLIES TO EACH TAXABLE YEAR BEGINNING AFTER DECEMBER 31
 32 OF THE YEAR IN WHICH THE SECRETARY PROVIDES THE NOTICE REQUIRED BY
 33 PARAGRAPH (1) OF THIS SUBSECTION.

34 REVISOR’S NOTE: This section is new language derived without substantive
 35 change from former Art. 83A, § 4–701(d) and, as it related to available tax
 36 benefits, (b).

1 Defined terms: “Arts and entertainment district” § 4–701

2 “Qualifying residing artist” § 4–701

3 “Secretary” § 1–101

4 4–707. REGULATIONS.

5 THE SECRETARY SHALL ADOPT REGULATIONS ON APPLICATION PROCEDURES AND
6 CRITERIA TO DESIGNATE ARTS AND ENTERTAINMENT DISTRICTS.

7 REVISOR’S NOTE: This section is new language derived without substantive
8 change from former Art. 83A, § 4–703.

9 Defined terms: “Arts and entertainment district” § 4–701

10 “Secretary” § 1–101

11 TITLE 5. ECONOMIC DEVELOPMENT AND FINANCIAL ASSISTANCE PROGRAMS.

12 SUBTITLE 1. GENERAL PROVISIONS.

13 5–101. DUTY OF DEPARTMENT; LOCAL STRATEGIC PLANS.

14 (A) DUTY OF DEPARTMENT.

15 THE DEPARTMENT SHALL ADMINISTER THE STATE’S ECONOMIC DEVELOPMENT
16 AND GROWTH FUNDS TO FACILITATE THE ATTRACTION, CREATION, EXPANSION, AND
17 RETENTION OF BUSINESSES AND JOBS IN THE STATE.

18 (B) LOCAL STRATEGIC PLANS.

19 THE DEPARTMENT SHALL ENCOURAGE LOCAL GOVERNMENTS TO DEVELOP, AND
20 ASSIST LOCAL GOVERNMENTS IN DEVELOPING, STRATEGIC PLANS FOR ECONOMIC
21 DEVELOPMENT.

22 REVISOR’S NOTE: This section is new language derived without substantive
23 change from former Art. 83A, § 5–101.

24 Defined terms: “Department” § 1–101

25 “State” § 1–101

26 5–102. PROGRAMS AND FUNDS ADMINISTERED BY DEPARTMENT.

27 THE DEPARTMENT SHALL ADMINISTER THE STATE’S ECONOMIC DEVELOPMENT
28 AND FINANCIAL ASSISTANCE PROGRAMS AND FUNDS INCLUDING:

29 (1) THE ENTERPRISE FUND, UNDER SUBTITLE 6 OF THIS TITLE;

30 (2) THE ENTERPRISE ZONES PROGRAM, UNDER SUBTITLE 7 OF THIS TITLE;

31 (3) THE MARYLAND ECONOMIC ADJUSTMENT FUND, UNDER SUBTITLE 2
32 OF THIS TITLE;

1 (4) THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY
2 AND FUND, UNDER SUBTITLE 3 OF THIS TITLE;

3 (5) THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY,
4 UNDER SUBTITLE 4 OF THIS TITLE;

5 (6) THE MARYLAND SMALL BUSINESS DEVELOPMENT FINANCING
6 AUTHORITY, UNDER SUBTITLE 5 OF THIS TITLE;

7 (7) THE APPALACHIAN REGIONAL DEVELOPMENT PROGRAM, UNDER TITLE
8 13, SUBTITLE 1 OF THIS ARTICLE;

9 (8) JOINTLY WITH THE DEPARTMENT OF HOUSING AND COMMUNITY
10 DEVELOPMENT, THE COMMUNITY DEVELOPMENT BLOCK GRANT FOR ECONOMIC
11 DEVELOPMENT; AND

12 (9) ANY OTHER PROGRAMS OR FUNDS DESIGNATED BY STATUTE, THE
13 GOVERNOR, OR THE SECRETARY.

14 REVISOR'S NOTE: Items (1), (3) through (6), (8), and (9) of this section are new
15 language derived without substantive change from former Art. 83A, §
16 5–102(1) through (6) and (9).

17 Items (2) and (7) of this section are new language added to reflect the
18 Department's responsibility for administering these programs, as provided
19 under Subtitle 7 of this title (Enterprise Zones Program) and Title 13,
20 Subtitle 1 of this article (Appalachian Regional Development Program).

21 Former Art. 83A, § 5–102(7) and (8), which included the Maryland
22 Competitive Advantage Financing Fund and the Smart Growth Economic
23 Development Infrastructure Fund in the programs administered by the
24 Department, are deleted as obsolete. *See* § 3 of Ch. 304, Acts of 1999; § 19
25 of Ch. 203, Acts of 2003; Ch. 216, Acts of 2004.

26 Defined terms: "Department" § 1–101

27 "Secretary" § 1–101

28 "State" § 1–101

29 5–103. TRANSFER OF FUNDS.

30 (A) SCOPE OF SECTION.

31 THIS SECTION APPLIES NOTWITHSTANDING ANY OTHER LAW.

32 (B) IN GENERAL.

33 SUBJECT TO SUBSECTIONS (D) AND (E) OF THIS SECTION, THE SECRETARY MAY
34 TRANSFER MONEY AMONG ANY OF THE ACCOUNTS THAT ARE:

35 (1) IN THE DEPARTMENT OR SUBJECT TO ITS CONTROL; AND

1 (2) USED TO PROVIDE FINANCIAL SUPPORT OF ANY KIND.

2 (C) TRANSFERS TO ECONOMIC DEVELOPMENT OPPORTUNITIES PROGRAM FUND.

3 SUBJECT TO SUBSECTIONS (D) AND (E) OF THIS SECTION, THE SECRETARY MAY
4 TRANSFER MONEY TO THE ECONOMIC DEVELOPMENT OPPORTUNITIES PROGRAM FUND
5 ESTABLISHED UNDER § 7–314 OF THE STATE FINANCE AND PROCUREMENT ARTICLE
6 FROM ANY OF THE ACCOUNTS THAT ARE:

7 (1) IN THE DEPARTMENT OR SUBJECT TO ITS CONTROL; AND

8 (2) USED TO PROVIDE FINANCIAL SUPPORT OF ANY KIND.

9 (D) TRANSFERS FROM INDUSTRIAL DEVELOPMENT FUND.

10 A TRANSFER UNDER THIS SECTION FROM THE INDUSTRIAL DEVELOPMENT FUND
11 SHALL COMPLY WITH § 5–432 OF THIS TITLE.

12 (E) AMENDMENT PROCESS.

13 A TRANSFER UNDER THIS SECTION SHALL COMPLY WITH THE AMENDMENT PROCESS
14 FOR APPROPRIATIONS ESTABLISHED BY § 7–209 OF THE STATE FINANCE AND
15 PROCUREMENT ARTICLE.

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 83A, § 5–103.

18 In subsections (b) and (c) of this section, the word “money” is substituted
19 for the former references to “funds” for consistency throughout this article.

20 In subsection (b) of this section, the word “various” which formerly
21 modified “accounts” is deleted as surplusage.

22 In subsection (c) of this section, the reference to accounts “in the
23 Department or subject to its control” and those “used to provide financial
24 support of any kind” is substituted for the former reference to accounts
25 “described in subsection (a) of this section” for clarity.

26 In subsection (d) of this section, the reference to transfers “from the
27 Industrial Development Fund” is substituted for the former phrase
28 “[w]here applicable” for clarity.

29 Defined terms: “Department” § 1–101

30 “Secretary” § 1–101

31 5–104. SPECIALIZED SMALL BUSINESS INVESTMENT COMPANIES.

32 (A) AUTHORITY OF SECRETARY.

33 THE SECRETARY MAY:

1 (1) INVEST IN A SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY
2 CREATED IN ACCORDANCE WITH THE FEDERAL SMALL BUSINESS INVESTMENT ACT OF
3 1958; AND

4 (2) TO THE EXTENT ALLOWED BY FEDERAL LAW, DO ANYTHING NECESSARY
5 OR CONVENIENT TO FULLY PARTICIPATE IN THE FORMATION AND OPERATION OF A
6 SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY.

7 (B) FINANCING.

8 NOTWITHSTANDING ANY OTHER LAW, THE SECRETARY MAY USE MONEY TO
9 FINANCE A SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY FROM ACCOUNTS
10 WITHIN:

11 (1) THE ENTERPRISE FUND ESTABLISHED UNDER SUBTITLE 6 OF THIS
12 TITLE; AND

13 (2) THE MARYLAND SMALL BUSINESS DEVELOPMENT FINANCING
14 AUTHORITY ESTABLISHED UNDER SUBTITLE 5 OF THIS TITLE.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 83A, § 5–104.

17 In subsection (b) of this section, the word “money” is substituted for the
18 former reference to “funds” for consistency throughout this article.

19 Also in subsection (b) of this section, the former reference to accounts
20 “within the Department” is deleted as implicit.

21 Defined term: “Secretary” § 1–101

22 5–105. FOCUS AREAS AND ENTERPRISE ZONES.

23 WHEN DECIDING WHETHER TO PROVIDE FINANCIAL ASSISTANCE FOR A BUSINESS
24 PROJECT, THE DEPARTMENT SHALL CONSIDER WHETHER THE PROJECT WILL BE LOCATED
25 IN AN ENTERPRISE ZONE OR A FOCUS AREA AS DESIGNATED UNDER SUBTITLE 7 OF THIS
26 TITLE.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 83A, § 5–105.

29 Defined term: “Department” § 1–101

30 5–106. CONTACT FOR MILITARY INSTALLATION REALIGNMENT AND CLOSURE.

31 THE SECRETARY SHALL DESIGNATE A UNIT IN THE DEPARTMENT TO BE THE
32 SINGLE CONTACT FOR ISSUES RELATING TO REALIGNMENT AND CLOSURE OF MILITARY
33 INSTALLATIONS IN THE STATE.

34 REVISOR'S NOTE: This section formerly was Art. 83A, § 5–106.

1 The reference to a “unit” is substituted for the former reference to a
2 “division, agency, office, or other entity”. The term “unit” is used as the
3 general term for an entity in State government because it is inclusive
4 enough to include all those entities. *See* General Revisor’s Note to article.

5 Defined terms: “Department” § 1–101

6 “Secretary” § 1–101

7 “State” § 1–101

8 SUBTITLE 2. MARYLAND ECONOMIC ADJUSTMENT FUND.

9 5–201. DEFINITIONS.

10 (A) IN GENERAL.

11 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

12 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 6–501(a).

13 No changes are made.

14 (B) COMMITTEE.

15 “COMMITTEE” MEANS THE MARYLAND ECONOMIC ADJUSTMENT FINANCING
16 COMMITTEE.

17 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 6–501(b).

18 No changes are made.

19 (C) DEFENSE CONTRACTOR.

20 “DEFENSE CONTRACTOR” MEANS A COMPANY THAT, IN THE 5 YEARS PRECEDING
21 THE LOAN APPLICATION UNDER THIS SUBTITLE, DERIVED A SUBSTANTIAL AMOUNT OF ITS
22 REVENUE FROM DEFENSE CONTRACTS.

23 REVISOR’S NOTE: This subsection is new language derived without
24 substantive change from former Art. 83A, § 6–501(c).

25 (D) FUND.

26 “FUND” MEANS THE MARYLAND ECONOMIC ADJUSTMENT FUND.

27 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 6–501(d).

28 No changes are made.

29 (E) WORKING CAPITAL.

30 (1) “WORKING CAPITAL” MEANS MONEY FOR CURRENT OPERATIONS OF A
31 BUSINESS.

1 (2) “WORKING CAPITAL” INCLUDES MONEY FOR SUPPLIES, MATERIALS,
2 LABOR, EQUIPMENT, RENT, SOFTWARE, MARKETING, INSURANCE, AND FEES FOR
3 PROFESSIONAL SERVICES.

4 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 6–501(e).

5 In this subsection and throughout this subtitle, the references to “money”
6 are substituted for the former references to “funds” for consistency within
7 this article.

8 In paragraph (1) of this subsection, the former phrase “to be used” is
9 deleted as surplusage.

10 No other changes are made.

11 5–202. MARYLAND ECONOMIC ADJUSTMENT FINANCING COMMITTEE.

12 (A) ESTABLISHED.

13 THERE IS A MARYLAND ECONOMIC ADJUSTMENT FINANCING COMMITTEE.

14 (B) MEMBERSHIP.

15 (1) THE COMMITTEE CONSISTS OF AT LEAST SEVEN MEMBERS APPOINTED
16 BY THE SECRETARY.

17 (2) THE SECRETARY SHALL:

18 (i) ENSURE THAT THE MEMBERSHIP OF THE COMMITTEE REFLECTS
19 THE GEOGRAPHIC, RACIAL, ETHNIC, AND GENDER MAKEUP OF THE STATE; AND

20 (ii) CONSIDER APPOINTING TO THE COMMITTEE AT LEAST ONE
21 CURRENT OR FORMER DEFENSE WORKER OR OTHER REPRESENTATIVE OF LABOR.

22 (C) TENURE.

23 (1) THE TERM OF A MEMBER IS 2 YEARS.

24 (2) THE SECRETARY SHALL STAGGER THE TERMS OF MEMBERS.

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

27 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY
28 FOR THE REMAINDER OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED.

29 (5) A MEMBER MAY BE REMOVED BY THE SECRETARY WITH OR WITHOUT
30 CAUSE.

31 (D) OFFICERS.

1 THE COMMITTEE MAY ELECT A CHAIR AND VICE CHAIR FROM AMONG ITS
2 MEMBERS.

3 (E) MEETINGS; REIMBURSEMENT FOR COMPENSATION.

4 (1) THE COMMITTEE SHALL SET THE TIMES AND PLACES OF ITS MEETINGS.

5 (2) A MEMBER OF THE COMMITTEE IS ENTITLED TO REIMBURSEMENT FOR
6 EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE
7 STATE BUDGET.

8 (F) SCOPE OF AUTHORITY.

9 THE COMMITTEE SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES SUBJECT
10 TO THE AUTHORITY OF THE SECRETARY.

11 (G) POWERS.

12 THE COMMITTEE MAY:

13 (1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;

14 (2) RETAIN CONSULTANTS; AND

15 (3) DO ANYTHING NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS
16 OF THE COMMITTEE AND THE PURPOSES OF THIS SUBTITLE.

17 (H) PUBLIC ETHICS; RULES OF CONSTRUCTION.

18 EVEN THOUGH A DETERMINATION BY THE COMMITTEE ABOUT FINANCIAL
19 ASSISTANCE IS SUBJECT TO THE MARYLAND PUBLIC ETHICS LAW, THE EXISTENCE OF A
20 CONFLICT OF INTEREST OR A VIOLATION OF THE MARYLAND PUBLIC ETHICS LAW DOES
21 NOT AFFECT:

22 (1) THE VALIDITY OF A FINDING OR DETERMINATION MADE UNDER THIS
23 SUBTITLE; OR

24 (2) THE ENFORCEABILITY OF AN AGREEMENT MADE UNDER THIS SUBTITLE.

25 (I) ESSENTIAL GOVERNMENTAL FUNCTION.

26 THE EXERCISE BY THE COMMITTEE OF THE POWERS GRANTED UNDER THIS
27 SUBTITLE IS THE PERFORMANCE OF AN ESSENTIAL GOVERNMENTAL FUNCTION.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 83A, § 6–504(a) through (d) and (f) through (k).

30 In subsection (c)(1) of this section and throughout this section, the former
31 redundant references to an “appointed” member are deleted because all
32 members of the Committee are appointed.

1 In subsection (c)(1) of this section, the former reference to a term of “at
2 least” 2 years is deleted in light of the requirement to stagger terms in
3 subsection (c)(2) of this section and the provision for the continuity of
4 service until a successor is appointed under subsection (c)(3) of this section.

5 In subsection (c)(5) of this section, the reference to “remov[al] by the
6 Secretary with or without cause” is substituted for the former reference to
7 “serv[ing] at the pleasure of the Secretary” to clarify the apparent intent of
8 the former law; *i.e.*, that members serve a term of 2 years, but may be
9 replaced at any time by the Secretary.

10 In subsection (d) of this section, the references to a “chair” and “vice chair”
11 are substituted for the former references to a “chairperson” and “vice
12 chairperson” for consistency within this article.

13 In subsection (g) of this section, the former phrase “[i]n addition to any
14 other powers set forth in this subtitle” is deleted as implicit in the
15 authority granted under this paragraph.

16 Subsection (h) of this section is restated as a rule of construction for a
17 determination of the Committee subject to the Maryland Public Ethics
18 Law for clarity. As to the Maryland Public Ethics Law, *see* SG Title 15.

19 Defined terms: “Committee” § 5–201

20 “Secretary” § 1–101

21 “State” § 1–101

22 **5–203. MARYLAND ECONOMIC ADJUSTMENT FUND.**

23 (A) **ESTABLISHED.**

24 **THERE IS A MARYLAND ECONOMIC ADJUSTMENT FUND IN THE DEPARTMENT.**

25 (B) **ADMINISTRATION.**

26 (1) **THE DEPARTMENT SHALL ADMINISTER THE FUND.**

27 (2) **THE SECRETARY MAY:**

28 (I) **DELEGATE TO ANY UNIT IN THE DEPARTMENT THE**
29 **UNDERWRITING, CLOSING, MONITORING, AND WORKOUT FUNCTIONS FOR FUND LOANS;**
30 **OR**

31 (II) **CONTRACT WITH ANOTHER ENTITY TO PERFORM THESE**
32 **FUNCTIONS.**

33 (C) **STATUS.**

34 **THE MARYLAND ECONOMIC ADJUSTMENT FUND IS A SPECIAL, NONLAPSING**
35 **REVOLVING FUND THAT IS NOT SUBJECT TO REVERSION UNDER § 7–302 OF THE STATE**
36 **FINANCE AND PROCUREMENT ARTICLE.**

1 (D) FUNDING.

2 (1) THE FUND CONSISTS OF:

3 (I) FEDERAL MONEY ALLOCATED OR GRANTED TO THE FUND,
4 INCLUDING ADJUSTMENT IMPLEMENTATION GRANT MONEY DESIGNATED FOR THE FUND
5 UNDER THE DEFENSE CONVERSION AND DEFENSE ECONOMIC ADJUSTMENT PROGRAM
6 OF THE ECONOMIC DEVELOPMENT ADMINISTRATION OF THE UNITED STATES
7 DEPARTMENT OF COMMERCE;

8 (II) PRIVATE MONEY DONATED OR GRANTED TO THE FUND;

9 (III) MONEY APPROPRIATED BY THE STATE TO THE FUND;

10 (IV) PREMIUMS, FEES, INTEREST PAYMENTS, AND PRINCIPAL PAYMENTS
11 ON LOANS MADE UNDER THIS SUBTITLE, INCLUDING A LOAN FINANCED BY THE
12 ECONOMIC DEVELOPMENT OPPORTUNITIES PROGRAM FUND UNDER § 7-314(F) OF
13 THE STATE FINANCE AND PROCUREMENT ARTICLE;

14 (V) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL OF
15 COLLATERAL RELATING TO LOANS UNDER THIS SUBTITLE; AND

16 (VI) ANY OTHER MONEY MADE AVAILABLE TO THE FUND.

17 (2) THIS SUBTITLE DOES NOT REQUIRE AN APPROPRIATION TO THE FUND
18 FROM THE GENERAL FUND OF THE STATE, REGARDLESS OF THE AVAILABILITY OF
19 OTHER FUNDING SOURCES FOR THE FUND.

20 (E) USES.

21 (1) THE FUND SHALL BE USED TO:

22 (I) MAKE LOANS TO NEW OR EXISTING COMPANIES IN COMMUNITIES
23 THAT SUFFER DISLOCATION DUE TO DEFENSE ADJUSTMENTS, ENABLING THE COMPANIES
24 TO:

25 1. MODERNIZE MANUFACTURING OPERATIONS;

26 2. DEVELOP COMMERCIAL APPLICATIONS FOR TECHNOLOGY; OR

27 3. COMPETE IN NEW ECONOMIC MARKETS;

28 (II) MAKE GRANTS TO LOCAL OR REGIONAL GOVERNMENTAL OR
29 NOT-FOR-PROFIT ECONOMIC DEVELOPMENT REVOLVING LOAN FUNDS IN THE STATE;
30 AND

31 (III) PAY ALL EXPENSES AND DISBURSEMENTS AUTHORIZED BY THE
32 DEPARTMENT FOR ADMINISTERING THE FUND.

33 (2) A LOAN TO AN ELIGIBLE COMPANY UNDER THIS SUBTITLE MAY
34 INCLUDE:

1 (I) ADVANCES OF LOAN PROCEEDS FOR LOANS; AND

2 (II) TO THE EXTENT ALLOWED BY THE REGULATIONS OF THE FEDERAL
3 ECONOMIC DEVELOPMENT ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF
4 COMMERCE, MONEY FOR EXPENSES FOR ADMINISTRATIVE, LEGAL, ACTUARIAL,
5 TECHNICAL, AND OTHER SERVICES.

6 (3) IN MAKING LOANS UNDER THIS SUBTITLE, THE DEPARTMENT SHALL
7 GIVE PRIORITY TO:

8 (I) DEFENSE CONTRACTORS; AND

9 (II) COMPANIES STARTED BY FORMER DEFENSE WORKERS WHO LOST
10 EMPLOYMENT WITH DEFENSE CONTRACTORS.

11 (4) SUBJECT TO THE RESTRICTIONS OF THIS SUBTITLE, THE DEPARTMENT
12 MAY MAKE A LOAN FROM THE FUND TO AN APPLICANT ONLY IF:

13 (I) THE APPLICANT MEETS THE QUALIFICATIONS UNDER THIS
14 SUBTITLE; AND

15 (II) THE APPLICANT MEETS ANY ADDITIONAL REQUIREMENTS IMPOSED
16 BY THE SOURCE OF THE MONEY TO BE LOANED.

17 (F) INVESTMENTS; ANNUAL REPORT.

18 (1) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE
19 SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

20 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE
21 FUND.

22 (3) THE TREASURER SHALL SUBMIT A REPORT EACH YEAR TO THE
23 DEPARTMENT ON:

24 (I) THE STATUS OF THE MONEY INVESTED UNDER THIS SUBTITLE;

25 (II) THE MARKET VALUE OF THE ASSETS IN THE FUND ON THE DATE
26 OF THE REPORT; AND

27 (III) THE INTEREST RECEIVED FROM INVESTMENTS FOR THE FUND
28 DURING THE REPORTING PERIOD.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 83A, §§ 6–502, 6–503, 6–505, 6–506, and 6–507.

31 In subsection (b)(1) of this section, the reference to “the Fund” is
32 substituted for the former reference to “[a]ll moneys received and
33 designated for the Maryland Economic Adjustment Fund” for clarity and
34 brevity. Correspondingly, in the introductory language of subsection (d)(1)
35 of this section, the phrase “[t]he Fund consists of” certain money is

1 substituted for the former reference to the Fund “including” certain money
2 for clarity and consistency within this article.

3 In subsection (b)(2)(i) of this section, the reference to any “unit” is
4 substituted for the former reference to any “division” because the word
5 “unit” is the proper term to describe a portion of a State department. *See*
6 General Revisor’s Note to article.

7 In subsection (c) of this section, the phrase “that is not subject to reversion
8 under § 7–302 of the State Finance and Procurement Article” is standard
9 language added to state explicitly that which is only implied by the term
10 “nonlapsing”.

11 In subsection (d)(1)(i) of this section and throughout this subtitle,
12 references to the “federal” Economic Development Administration are
13 added for clarity.

14 Also in subsection (d)(1)(i) of this section, the reference to the Defense
15 Conversion “and Defense Economic Adjustment Program of the Economic
16 Development Administration of the United States Department of
17 Commerce” is substituted for the former obsolete reference to the
18 “Economic Development Administration Defense Conversion Act” for
19 accuracy.

20 In subsection (d)(1)(iv) of this section, the reference to “loans made under
21 this subtitle” is substituted for the former reference to a “Maryland
22 Economic Adjustment Loan” for clarity and consistency within this
23 subtitle.

24 In subsection (d)(1)(vii) of this section, the former reference to “moneys
25 received and designated for” the Fund is deleted as included in the
26 reference to “any other money made available to the Fund”.

27 In the introductory language of subsection (e) of this section, the former
28 word “may”, authorizing the Fund to be used for grants to local revolving
29 loan funds, is deleted in light of the contradictory requirement that the
30 Fund “shall” be used for these grants.

31 In the introductory language of subsection (e)(1)(i) of this section, the
32 former reference to loans to “eligible” companies is deleted in light of the
33 comprehensive reference to loans to “new or existing companies in
34 communities that suffer dislocation due to defense adjustments”.

35 In the introductory language of subsection (e)(2) of this section, the former
36 phrase “by way of example” is deleted as unnecessary in light of Art. 1, §
37 30, which provides that the term “include” is used by way of illustration
38 and not by way of limitation.

39 Subsection (f)(1) and (2) of this section is standard language substituted for
40 the former reference to “investments that the State Treasurer, on

1 instruction of the Department, makes for the Department under this
 2 subtitle” for accuracy and to reflect current practice. The money in the
 3 Fund is handled in the same manner as other money in special funds
 4 invested by the Treasurer. The Economic Development Article Review
 5 Committee brings this substitution to the attention of the General
 6 Assembly. No substantive change is intended.

7 In the introductory language of subsection (f)(3) of this section, the
 8 reference to the Treasurer “submit[ting] a” report is added for consistency
 9 within the Code. *See, e.g.*, CP §§ 11–805(a)(8), 11–914(1), and 11–915(b)(5).

10 Defined terms: “Defense contractor” § 5–201

11 “Department” § 1–101

12 “Fund” § 5–201

13 “Secretary” § 1–101

14 “State” § 1–101

15 5–204. REGULATIONS.

16 THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

17 REVISOR’S NOTE: This section formerly was Art. 83A, § 6–512.

18 The only changes are in style.

19 Defined term: “Department” § 1–101

20 5–205. LOAN — APPLICATION.

21 (A) FORM.

22 AN APPLICANT FOR A LOAN UNDER THIS SUBTITLE SHALL SUBMIT TO THE
 23 DEPARTMENT AN APPLICATION ON THE FORM THAT THE DEPARTMENT REQUIRES.

24 (B) REQUIRED INFORMATION.

25 THE APPLICATION SHALL INCLUDE:

26 (1) A DETAILED STRATEGIC BUSINESS PLAN FOR ACHIEVING A GOAL OF
 27 COMMERCIALIZATION OF TECHNOLOGY OR MODERNIZATION OF MANUFACTURING FOR
 28 LONG–TERM GROWTH;

29 (2) THE AMOUNT OF MONEY REQUIRED FOR THE ACTIVITIES DESCRIBED IN
 30 THE STRATEGIC BUSINESS PLAN;

31 (3) THE MONEY AVAILABLE TO THE APPLICANT WITHOUT FINANCIAL
 32 ASSISTANCE FROM THE DEPARTMENT;

33 (4) THE AMOUNT OF FINANCIAL ASSISTANCE REQUESTED FROM THE
 34 DEPARTMENT;

1 (5) EACH LOCATION IN THE STATE OF A FINANCED ACTIVITY;

2 (6) THE ECONOMIC IMPACT THAT IS EXPECTED ON EACH LOCATION BECAUSE
3 OF THE ACTIVITIES;

4 (7) EVIDENCE THAT THE APPLICANT WAS UNABLE TO OBTAIN THE
5 FINANCING NECESSARY FOR THE ACTIVITIES ON AFFORDABLE TERMS THROUGH NORMAL
6 LENDING CHANNELS;

7 (8) INFORMATION RELATING TO THE FINANCIAL STATUS OF THE APPLICANT,
8 INCLUDING, IF APPLICABLE:

9 (I) A CURRENT BALANCE SHEET;

10 (II) A PROFIT AND LOSS STATEMENT; AND

11 (III) CREDIT REFERENCES; AND

12 (9) ANY OTHER RELEVANT INFORMATION THAT THE DEPARTMENT
13 REQUESTS.

14 REVISOR’S NOTE: This section is new language derived without substantive
15 change from former Art. 83A, § 6–508.

16 In subsection (a) of this section, the reference to a loan “under this subtitle”
17 is added for clarity.

18 Defined terms: “Department” § 1–101
19 “Person” § 1–101
20 “State” § 1–101

21 5–206. LOAN — TERMS AND CONDITIONS.

22 (A) AUTHORITY OF DEPARTMENT.

23 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE DEPARTMENT MAY SET
24 THE TERMS AND CONDITIONS FOR LOANS AND GRANTS MADE UNDER THIS SUBTITLE.

25 (B) AUTHORITY OF COMMITTEE.

26 THE COMMITTEE SHALL:

27 (1) DETERMINE WHETHER TO APPROVE LOAN REQUESTS FROM QUALIFIED
28 APPLICANTS FOR LOANS UNDER THIS SUBTITLE; AND

29 (2) SET THE TERMS AND CONDITIONS FOR LOANS MADE UNDER THIS
30 SUBTITLE.

31 (C) LOAN FROM FEDERAL SOURCE; MAXIMUM.

1 THE MAXIMUM AMOUNT OF A LOAN MADE WITH MONEY FROM THE ECONOMIC
 2 DEVELOPMENT ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF COMMERCE
 3 MAY NOT EXCEED THE LIMIT IT SETS BY REGULATION.

4 (D) MINIMUM INTEREST RATE.

5 THE MINIMUM INTEREST RATE FOR A LOAN UNDER THIS SUBTITLE IS AN ANNUAL
 6 FIXED RATE OF 4%.

7 (E) USE OF PROCEEDS.

8 THE PROCEEDS OF A LOAN MAY BE USED FOR WORKING CAPITAL, EQUIPMENT,
 9 FURNISHINGS, FIXTURES, OR THE CONSTRUCTION, REHABILITATION, OR PURCHASE OF
 10 REAL PROPERTY FOR THE ACTIVITIES THAT THE COMMITTEE APPROVES.

11 (F) REPAYMENT PROVISIONS.

12 THE COMMITTEE MAY AUTHORIZE A FLEXIBLE REPAYMENT SCHEDULE FOR A LOAN
 13 UNDER THIS SUBTITLE.

14 REVISOR'S NOTE: This section is new language derived without substantive
 15 change from former Art. 83A, §§ 6–504(e) and 6–509(a) and (e) through (g)
 16 and, as it related to authorizing flexible loan repayment schedules, (c)(3).

17 In subsection (a) of this section, the reference to loans and grants “made
 18 under this subtitle” is added for clarity. Similarly, in subsections (d) and (f)
 19 of this section, the references to a loan “under this subtitle” are added.

20 Defined terms: “Committee” § 5–201

21 “Department” § 1–101

22 “Working capital” § 5–201

23 5–207. LOAN — DOCUMENTS.

24 (A) PREPARATION BY DEPARTMENT.

25 THE DEPARTMENT SHALL PREPARE THE LOAN DOCUMENTS FOR LOANS UNDER THIS
 26 SUBTITLE.

27 (B) CONTENTS.

28 THE LOAN DOCUMENTS SHALL INCLUDE:

29 (1) THE INTEREST RATE ON THE LOAN;

30 (2) THE AMOUNT OF THE LOAN;

31 (3) REPAYMENT PROVISIONS FOR THE LOAN; AND

1 (4) ANY OTHER PROVISION THAT THE DEPARTMENT DETERMINES IS
2 NECESSARY, INCLUDING A PROVISION ON TAKING LIENS AND SECURITY INTERESTS IN
3 REAL OR PERSONAL PROPERTY.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 83A, § 6–509(b) and (c)(1), (2), and (4) and, as it
6 related to required repayment provisions in loan documents, (3).

7 In subsection (a) of this section, the reference to loan documents “for loans”
8 is substituted for the former reference to loan documents “[i]f the
9 Department decides to lend money” for clarity and brevity.

10 Defined term: “Department” § 1–101

11 5–208. REMEDIES.

12 (A) IN GENERAL.

13 IF A RECIPIENT OF A LOAN UNDER THIS SUBTITLE VIOLATES ANY PROVISION OF THE
14 LOAN DOCUMENTS OR CEASES TO MEET THE REQUIREMENTS OF THIS SUBTITLE, THE
15 DEPARTMENT MAY, ON REASONABLE NOTICE TO THE LOAN RECIPIENT:

16 (1) WITHHOLD FURTHER ADVANCES OF LOAN PROCEEDS UNTIL THE LOAN
17 RECIPIENT COMPLIES WITH THE AGREEMENT OR REQUIREMENTS; OR

18 (2) EXERCISE ANY OTHER REMEDY PROVIDED IN THE LOAN DOCUMENTS.

19 (B) FORECLOSURE OF SECURITY.

20 (1) IF A LOAN MADE UNDER THIS SUBTITLE IS IN DEFAULT, THE
21 DEPARTMENT MAY FORECLOSE ON A MORTGAGE OR DEED OF TRUST HELD AS SECURITY
22 FOR THE LOAN IN THE MANNER PROVIDED UNDER THE MARYLAND RULES FOR
23 FORECLOSURES IN PRIVATE TRANSACTIONS.

24 (2) THE DEPARTMENT MAY TAKE TITLE IN THE DEPARTMENT'S NAME TO
25 ANY PROPERTY FORECLOSED AND CONVEY TITLE TO A BONA FIDE PURCHASER.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 83A, §§ 6–510 and 6–509(d).

28 Throughout subsection (a) of this section, references to a “recipient” are
29 substituted for the former inaccurate references to an “applicant” for
30 clarity.

31 In subsection (a)(2) of this section, the reference to a remedy provided “in”
32 the loan documents is substituted for the former reference to a remedy “for
33 which” the loan documents provide for clarity.

34 Defined term: “Department” § 1–101

1 5–209. FALSE STATEMENT OR REPORT.

2 (A) PROHIBITED.

3 A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT
4 OR REPORT:

5 (1) IN AN APPLICATION OR DOCUMENT PROVIDED TO THE DEPARTMENT; OR

6 (2) TO INFLUENCE DEPARTMENT ACTION AFFECTING FINANCIAL
7 ASSISTANCE, WHETHER OR NOT THE ASSISTANCE ALREADY HAS BEEN EXTENDED.

8 (B) PENALTY.

9 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON
10 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT
11 EXCEEDING \$50,000 OR BOTH.

12 REVISOR’S NOTE: This section is new language derived without substantive
13 change from former Art. 83A, § 6–511.

14 In subsection (b) of this section, the reference to this “section” is
15 substituted for the former erroneous reference to this “subtitle” because
16 this section contains the only prohibited act in the entire subtitle.

17 Also in subsection (b) of this section, the former reference to a person who
18 “aids or abets another person in the violation of this subtitle” is deleted as
19 obsolete. The common-law distinction between charging a principal of a
20 crime and an accessory before the fact to the crime has been abolished for
21 most purposes by statute, in response to the holding of the Court of
22 Appeals in *State v. Sowell*, 353 Md. 713 (1999). See CP § 4–204.

23 Defined term: “Department” § 1–101

24 SUBTITLE 3. MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY AND
25 FUND.

26 PART I. GENERAL PROVISIONS.

27 5–301. DEFINITIONS.

28 (A) IN GENERAL.

29 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

30 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(a).

31 No changes are made.

32 (B) ANIMAL WASTE TECHNOLOGY PROJECT.

1 “ANIMAL WASTE TECHNOLOGY PROJECT” MEANS A PROJECT THAT INVOLVES THE
2 RESEARCH, DEVELOPMENT, IMPLEMENTATION, OR MARKET DEVELOPMENT OF
3 TECHNOLOGY THAT IS INTENDED TO:

- 4 (1) REDUCE THE AMOUNT OF NUTRIENTS IN ANIMAL WASTE;
- 5 (2) ALTER THE COMPOSITION OF ANIMAL WASTE;
- 6 (3) DEVELOP ALTERNATIVE ANIMAL WASTE MANAGEMENT STRATEGIES; OR
- 7 (4) USE ANIMAL WASTE IN A PRODUCTION PROCESS.

8 REVISOR’S NOTE: This subsection is new language derived without
9 substantive change from former Art. 83A, § 5–1401(b).

10 In the introductory language of this subsection, the reference to “a project
11 that involves” the research, development, implementation, or market
12 development of technology is added for conformity with subsections (c) and
13 (f) of this section.

14 In item (3) of this subsection, the reference to “animal” waste is added for
15 consistency within this subsection.

16 (C) AQUACULTURE PROJECT.

17 “AQUACULTURE PROJECT” MEANS A PROJECT THAT ENCOURAGES INNOVATION,
18 EXPANSION, AND MODERNIZATION OF THE SEAFOOD PROCESSING INDUSTRY OR
19 AQUACULTURE INDUSTRY.

20 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(c).

21 The only change is in style.

22 (D) ARTS AND ENTERTAINMENT DISTRICT.

23 “ARTS AND ENTERTAINMENT DISTRICT” MEANS AN AREA DESIGNATED BY THE
24 SECRETARY AS AN ARTS AND ENTERTAINMENT DISTRICT UNDER TITLE 4, SUBTITLE 7 OF
25 THIS ARTICLE.

26 REVISOR’S NOTE: This subsection is new language derived without
27 substantive change from former Art. 83A, § 5–1401(d).

28 The reference to “the Secretary” is added to clarify that the Secretary is the
29 authority that designates arts and entertainment districts.

30 Defined term: “Secretary” § 1–101

31 (E) ARTS AND ENTERTAINMENT ENTERPRISE.

32 “ARTS AND ENTERTAINMENT ENTERPRISE” MEANS A FOR–PROFIT OR
33 NOT–FOR–PROFIT ENTITY THAT IS:

1 (1) LOCATED IN AN ARTS AND ENTERTAINMENT DISTRICT; AND

2 (2) DEDICATED TO THE VISUAL OR PERFORMING ARTS.

3 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(e).

4 The only changes are in style.

5 Defined term: “Arts and entertainment district” § 5–301

6 (F) ARTS AND ENTERTAINMENT PROJECT.

7 “ARTS AND ENTERTAINMENT PROJECT” MEANS A PROJECT THAT PROMOTES OR
8 ENHANCES THE DEVELOPMENT OF AN ARTS AND ENTERTAINMENT DISTRICT.

9 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(f).

10 No changes are made.

11 Defined term: “Arts and entertainment district” § 5–301

12 (G) ASSOCIATED DEVELOPMENT AND CARRYING COSTS.

13 (1) “ASSOCIATED DEVELOPMENT AND CARRYING COSTS” MEANS COSTS
14 THAT ARE ASSOCIATED WITH THE ACQUISITION AND MAINTENANCE OF AN ASSET.

15 (2) “ASSOCIATED DEVELOPMENT AND CARRYING COSTS” INCLUDES:

16 (I) SETTLEMENT COSTS;

17 (II) INSURANCE;

18 (III) INTEREST;

19 (IV) TAXES;

20 (V) GOVERNMENT FEES;

21 (VI) UTILITIES; AND

22 (VII) THE COSTS OF MANAGING AND SECURING THE ASSET.

23 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(g).

24 The only changes are in style.

25 (H) AUTHORITY.

26 “AUTHORITY” MEANS THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE
27 AUTHORITY.

28 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(h).

1 No changes are made.

2 (I) BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM.

3 “BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM” MEANS THE PROGRAM IN
4 THE DEPARTMENT THAT PROVIDES FINANCIAL ASSISTANCE FROM THE FUND FOR THE
5 REDEVELOPMENT OF QUALIFIED BROWNFIELDS SITES, AS PROVIDED IN PART VI OF THIS
6 SUBTITLE.

7 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(i).

8 In this subsection and throughout this subtitle, the reference to “Part VI”
9 of this subtitle is substituted for the former reference to “§ 5–1408” of this
10 subtitle to reflect the revision of former Art. 83A, § 5–1408 in Part VI of
11 this subtitle.

12 The only changes are in style.

13 Defined terms: “Financial assistance” § 5–301

14 “Fund” § 5–301

15 “Qualified brownfields site” § 5–301

16 (J) BROWNFIELDS SITE.

17 (1) “BROWNFIELDS SITE” MEANS A PROPERTY THAT:

18 (I) IS LOCATED IN A COUNTY OR MUNICIPAL CORPORATION THAT
19 ELECTS TO PARTICIPATE IN THE BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM
20 IN ACCORDANCE WITH § 5–336 OF THIS SUBTITLE; AND

21 (II) IS:

22 1. AN ELIGIBLE PROPERTY, AS DEFINED IN § 7–501 OF THE
23 ENVIRONMENT ARTICLE, THAT IS OWNED OR OPERATED BY AN INCULPABLE PERSON, AS
24 DEFINED IN § 7–501 OF THE ENVIRONMENT ARTICLE; OR

25 2. A PROPERTY WHERE THERE IS A RELEASE, DISCHARGE, OR
26 THREATENED RELEASE OF OIL, AS DEFINED IN § 4–401 OF THE ENVIRONMENT
27 ARTICLE, THAT IS SUBJECT TO TITLE 4 OF THE ENVIRONMENT ARTICLE.

28 (2) “BROWNFIELDS SITE” DOES NOT INCLUDE PROPERTY THAT IS OWNED
29 OR OPERATED BY:

30 (I) A RESPONSIBLE PERSON AS DEFINED IN § 7–201 OF THE
31 ENVIRONMENT ARTICLE; OR

32 (II) A PERSON RESPONSIBLE FOR THE DISCHARGE, AS DEFINED IN §
33 4–401 OF THE ENVIRONMENT ARTICLE.

34 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(j) and (s).

1 In paragraph (2)(i) of this subsection, the phrase “as defined in § 7–201 of
2 the Environment Article” is added for clarity.

3 The only other changes are in style.

4 Defined terms: “Brownfields Revitalization Incentive Program” § 5–301

5 “County” § 1–101

6 “Person” § 1–101

7 “Responsible person” § 5–301

8 (K) CHILD CARE FACILITY.

9 “CHILD CARE FACILITY” MEANS A FACILITY THAT IS REQUIRED TO BE LICENSED AS
10 A CHILD CARE CENTER UNDER TITLE 5, SUBTITLE 5, PART VII OF THE FAMILY LAW
11 ARTICLE.

12 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(k).

13 The general reference to “Title 5, Subtitle 5, Part VII” of the Family Law
14 Article is substituted for the former specific reference to “§§ 5–570 through
15 5–585” of the Family Law Article to accommodate the potential future
16 addition of new provisions to the referenced part of the subtitle.

17 No other changes are made.

18 (L) CHILD CARE SPECIAL LOAN.

19 “CHILD CARE SPECIAL LOAN” MEANS A DIRECT LOAN TO EXPAND OR IMPROVE
20 CHILD CARE SERVICES AT A CHILD CARE FACILITY, AS PROVIDED IN PART VII OF THIS
21 SUBTITLE.

22 REVISOR’S NOTE: This subsection is new language derived without
23 substantive change from former Art. 83A, § 5–1401(l).

24 The former phrase “in the State”, which modified “child care facilities”, is
25 deleted as unnecessary because only child care facilities in the State are
26 required, as specified in subsection (k) of this section, to be licensed under
27 the Family Law Article.

28 Defined term: “Child care facility” § 5–301

29 (M) CORPORATION.

30 “CORPORATION” MEANS THE MARYLAND ECONOMIC DEVELOPMENT
31 CORPORATION.

32 REVISOR’S NOTE: This subsection is new language added to provide a
33 shorthand reference to the “Maryland Economic Development
34 Corporation”.

35 (N) FINANCIAL ASSISTANCE.

1 “FINANCIAL ASSISTANCE” MEANS A GRANT, LOAN, OR INVESTMENT PROVIDED
2 UNDER THIS SUBTITLE.

3 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(o).

4 No changes are made.

5 (O) FUND.

6 “FUND” MEANS THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE FUND.

7 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(n).

8 No changes are made.

9 (P) LOCAL ECONOMIC DEVELOPMENT FUND.

10 “LOCAL ECONOMIC DEVELOPMENT FUND” MEANS A REVOLVING, NONLAPSING FUND
11 THAT ONE OR MORE LOCAL GOVERNMENTS ESTABLISH FOR ECONOMIC DEVELOPMENT IN
12 THE AREAS UNDER THEIR JURISDICTION.

13 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(p).

14 The only changes are in style.

15 Defined term: “Local government” § 5–301

16 (Q) LOCAL ECONOMIC DEVELOPMENT OPPORTUNITY.

17 “LOCAL ECONOMIC DEVELOPMENT OPPORTUNITY” MEANS A PROJECT THAT:

18 (1) IS DETERMINED BY THE DEPARTMENT OR AUTHORITY TO PROVIDE A
19 VALUABLE ECONOMIC DEVELOPMENT OPPORTUNITY TO THE JURISDICTION IN WHICH THE
20 PROJECT IS LOCATED; AND

21 (2) IS A PRIORITY FOR AND ENDORSED BY THE GOVERNING BODY OF THAT
22 JURISDICTION.

23 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(q).

24 The only changes are in style.

25 Defined terms: “Authority” § 5–301

26 “Department” § 1–101

27 (R) LOCAL GOVERNMENT.

28 “LOCAL GOVERNMENT” MEANS:

29 (1) A COUNTY;

30 (2) A MUNICIPAL CORPORATION;

1 (3) A DESIGNATED AGENCY OR INSTRUMENTALITY OF A COUNTY; OR

2 (4) A DESIGNATED AGENCY OR INSTRUMENTALITY OF A MUNICIPAL
3 CORPORATION.

4 REVISOR’S NOTE: This subsection is new language derived without
5 substantive change from former Art. 83A, § 5–1401(r).

6 In items (2) and (4) of this subsection, the references to a “municipal
7 corporation” are substituted for the former reference to a “municipality” to
8 conform to Md. Constitution, Art. XI–E.

9 The former reference to the “Maryland Economic Development
10 Corporation” is deleted for clarity. The Corporation is not a local
11 government or a unit of a local government; rather, it is an independent
12 instrumentality of the State. Some provisions of the former law intended
13 the term “local government” to include the Corporation; others did not. In
14 each instance where the former law used the defined term “local
15 government” with the intention to include the Corporation, it is specifically
16 named in the revision. *See, e.g.*, §§ 5–311(3), 5–319(c), and 5–320(a) and (b)
17 of this subtitle. Where the Corporation would not logically be included, the
18 revision does not do so. *See, e.g.*, §§ 5–329, 5–330, and 5–332(a) of this
19 subtitle. No substantive change is intended.

20 For provisions relating to the Maryland Economic Development
21 Corporation, *see* Title 10, Subtitle 1 of this article.

22 Defined terms: “Corporation” § 5–301
23 “County” § 1–101

24 (S) QUALIFIED BROWNFIELDS SITE.

25 “QUALIFIED BROWNFIELDS SITE” MEANS A BROWNFIELDS SITE THAT IS
26 DETERMINED BY THE DEPARTMENT TO BE ELIGIBLE FOR FINANCIAL ASSISTANCE UNDER
27 THIS SUBTITLE.

28 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(t).

29 The defined term “financial assistance” is substituted for the former
30 reference to “financial incentives” for clarity and consistency within this
31 subtitle.

32 The only other changes are in style.

33 Defined terms: “Brownfields site” § 5–301
34 “Department” § 1–101
35 “Financial assistance” § 5–301

36 (T) QUALIFIED DISTRESSED COUNTY PROJECT.

1 “QUALIFIED DISTRESSED COUNTY PROJECT” MEANS A PROJECT THAT A LOCAL
2 GOVERNMENT OR THE CORPORATION CARRIES OUT IN A QUALIFIED DISTRESSED COUNTY.

3 REVISOR’S NOTE: This subsection is new language derived without
4 substantive change from former Art. 83A, § 5–1401(v).

5 The reference to the “Corporation” is added for clarity. *See* Revisor’s Note
6 to subsection (r) of this section.

7 Defined terms: “Corporation” § 5–301

8 “Local government” § 5–301

9 “Qualified distressed county” § 1–101

10 (U) RESPONSIBLE PERSON.

11 “RESPONSIBLE PERSON” HAS THE MEANING STATED IN § 7–201 OF THE
12 ENVIRONMENT ARTICLE.

13 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(w).

14 No changes are made.

15 (V) SIGNIFICANT STRATEGIC ECONOMIC DEVELOPMENT OPPORTUNITY.

16 “SIGNIFICANT STRATEGIC ECONOMIC DEVELOPMENT OPPORTUNITY” MEANS A
17 PROJECT THAT IS DETERMINED BY THE DEPARTMENT OR AUTHORITY TO PROVIDE A
18 VALUABLE ECONOMIC DEVELOPMENT OPPORTUNITY OF STATEWIDE, REGIONAL, OR
19 STRATEGIC INDUSTRY IMPACT.

20 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(x).

21 The only changes are in style.

22 Defined terms: “Authority” § 5–301

23 “Department” § 1–101

24 (W) SPECIALIZED ECONOMIC DEVELOPMENT OPPORTUNITY.

25 “SPECIALIZED ECONOMIC DEVELOPMENT OPPORTUNITY” MEANS:

26 (1) AN ANIMAL WASTE TECHNOLOGY PROJECT;

27 (2) AN AQUACULTURE PROJECT;

28 (3) AN ARTS AND ENTERTAINMENT ENTERPRISE;

29 (4) AN ARTS AND ENTERTAINMENT PROJECT;

30 (5) THE REDEVELOPMENT OF A QUALIFIED BROWNFIELDS SITE; OR

31 (6) A PROJECT TO CREATE OR EXPAND A CHILD CARE FACILITY.

1 REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–1401(y).

2 The only changes are in style.

3 Defined terms: “Animal waste technology project” § 5–301

4 “Aquaculture project” § 5–301

5 “Arts and entertainment enterprise” § 5–301

6 “Arts and entertainment project” § 5–301

7 “Child care facility” § 5–301

8 “Qualified brownfields site” § 5–301

9 (x) WORKING CAPITAL.

10 “WORKING CAPITAL” MEANS MONEY TO BE USED FOR CURRENT OPERATIONS OF A
11 BUSINESS.

12 REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–1401(z).

13 The reference to “money” is substituted for the former reference to “funds”
14 for consistency with terminology used throughout this subtitle and this
15 article.

16 No other changes are made.

17 REVISOR'S NOTE TO SECTION: Former Art. 83A, § 5–1401(m), which
18 defined “county”, is revised in § 1–101 of this article.

19 5–302. SCOPE OF SUBTITLE.

20 ASSISTANCE FOR A QUALIFIED DISTRESSED COUNTY PROJECT IS AVAILABLE TO A
21 QUALIFIED DISTRESSED COUNTY UNDER THIS SUBTITLE ONLY IF:

22 (1) THE COUNTY HAS DEVELOPED A LOCAL STRATEGIC PLAN FOR ECONOMIC
23 DEVELOPMENT IN CONSULTATION WITH THE MUNICIPAL CORPORATIONS LOCATED IN THE
24 COUNTY, IF ANY;

25 (2) THE COUNTY HAS SUBMITTED THE PLAN TO THE SECRETARY FOR
26 APPROVAL; AND

27 (3) THE SECRETARY HAS APPROVED THE PLAN.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 83A, § 5–1401(u).

30 It is revised as a scope provision for accuracy.

31 The former specific employment and income criteria for a qualified
32 distressed county are deleted as included in the defined term “qualified
33 distressed county” revised in § 1–101 of this article.

34 In item (1) of this section, the reference to municipal corporations located

1 in the county “if any” is added for accuracy.

2 Defined terms: “County” § 1–101

3 “Qualified distressed county” § 1–101

4 “Qualified distressed county project” § 5–301

5 “Secretary” § 1–101

6 5–303. RESERVED.

7 5–304. RESERVED.

8 PART II. MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY.

9 5–305. ESTABLISHED.

10 THERE IS A MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY IN
11 THE DEPARTMENT.

12 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–1403(a).

13 It is set forth as a separate section for emphasis.

14 No changes are made.

15 Defined term: “Department” § 1–101

16 5–306. MEMBERSHIP.

17 (A) COMPOSITION.

18 THE AUTHORITY CONSISTS OF THE INDIVIDUALS SERVING AS MEMBERS OF THE
19 MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY UNDER § 5–406 OF
20 THIS TITLE.

21 (B) APPOINTMENT.

22 THE MEMBERS OF THE AUTHORITY SHALL BE APPOINTED IN ACCORDANCE WITH §
23 5–407 OF THIS TITLE.

24 REVISOR’S NOTE: This section is new language derived without substantive
25 change from former Art. 83A, § 5–1403(c).

26 Defined term: “Authority” § 5–301

27 5–307. ACTIONS.

28 (A) IN GENERAL.

29 THE MEMBERS OF THE AUTHORITY MAY ACT CONCURRENTLY IN THEIR CAPACITIES
30 AS MEMBERS OF THE AUTHORITY AND OF THE MARYLAND INDUSTRIAL DEVELOPMENT
31 FINANCING AUTHORITY.

1 (B) POWERS AND DUTIES.

2 THE MEMBERS OF THE AUTHORITY SHALL CARRY OUT THE POWERS AND DUTIES OF
3 THE AUTHORITY UNDER THIS SUBTITLE WHETHER ACTING:

4 (1) CONCURRENTLY AS MEMBERS OF THE AUTHORITY AND THE MARYLAND
5 INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY; OR

6 (2) AS MEMBERS OF EITHER AUTHORITY ALONE.

7 (C) MANNER.

8 THE MEMBERS OF THE AUTHORITY SHALL CONDUCT THE BUSINESS OF THE
9 AUTHORITY AND OF THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING
10 AUTHORITY UNDER SUBTITLE 4 OF THIS TITLE.

11 REVISOR'S NOTE: This section formerly was Art. 83A, § 5–1403(d) through (f).

12 No changes are made.

13 Defined term: “Authority” § 5–301

14 5–308. RESERVED.

15 5–309. RESERVED.

16 PART III. MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE FUND.

17 5–310. ESTABLISHED.

18 THERE IS A MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE FUND IN THE
19 DEPARTMENT.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 83A, § 5–1404(a), as it established the Fund.

22 Defined term: “Department” § 1–101

23 5–311. PURPOSES.

24 THE PURPOSES OF THE FUND ARE TO:

25 (1) EXPAND EMPLOYMENT OPPORTUNITIES IN THE STATE BY PROVIDING
26 FINANCIAL ASSISTANCE TO BUSINESSES THAT ARE ENGAGED IN ELIGIBLE INDUSTRY
27 SECTORS, INCLUDING FINANCIAL ASSISTANCE FOR:

28 (I) ANIMAL WASTE TECHNOLOGY PROJECTS;

29 (II) AQUACULTURE PROJECTS;

30 (III) ARTS AND ENTERTAINMENT ENTERPRISES;

(IV) ARTS AND ENTERTAINMENT PROJECTS; AND

(V) CREATION AND EXPANSION OF CHILD CARE FACILITIES;

(2) PROVIDE FINANCIAL ASSISTANCE FOR THE REDEVELOPMENT OF QUALIFIED BROWNFIELDS SITES;

(3) PROVIDE FINANCIAL ASSISTANCE TO LOCAL GOVERNMENTS AND THE CORPORATION FOR ECONOMIC DEVELOPMENT PROJECTS; AND

(4) PROVIDE GRANTS TO LOCAL ECONOMIC DEVELOPMENT FUNDS.

REVISOR’S NOTE: This section formerly was Art. 83A, § 5–1402.

In item (2) of this section, the defined term “financial assistance” is substituted for the former reference to “financial incentives” for clarity and consistency within this subtitle.

The only other changes are in style.

Defined terms: “Animal waste technology project” § 5–301

“Aquaculture project” § 5–301

“Arts and entertainment enterprise” § 5–301

“Arts and entertainment project” § 5–301

“Child care facility” § 5–301

“Financial assistance” § 5–301

“Fund” § 5–301

“Local economic development fund” § 5–301

“Local government” § 5–301

“Qualified brownfields site” § 5–301

“State” § 1–101

5–312. ADMINISTRATION.

(A) IN GENERAL.

THE SECRETARY SHALL ADMINISTER THE FUND.

(B) NATURE OF FUND; ACCOUNTING.

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

(2) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(C) INVESTMENT EARNINGS.

ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83A, § 5–1404(a) and (b).

3 In subsection (a) of this section, the reference to “administer[ing]” is
4 substituted for the former reference to “manag[ing]” and “supervis[ing]” for
5 clarity and consistency within this article.

6 In subsection (b) of this section, the reference to a “special, nonlapsing”
7 fund is substituted for the former reference to a “continuing, nonlapsing”
8 fund for accuracy and consistency within this article.

9 Also in subsection (b) of this section, the reference to “reversion under” SF
10 § 7–302 is added for clarity and consistency within this article.

11 Defined terms: “Fund” § 5–301
12 “Secretary” § 1–101

13 5–313. COMPOSITION.

14 THE FUND CONSISTS OF:

15 (1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

16 (2) MONEY MADE AVAILABLE TO THE FUND THROUGH FEDERAL PROGRAMS
17 OR PRIVATE CONTRIBUTIONS;

18 (3) REPAYMENTS OF PRINCIPAL AND INTEREST FROM LOANS MADE FROM
19 THE FUND;

20 (4) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL OF
21 COLLATERAL RELATED TO FINANCIAL ASSISTANCE PROVIDED BY THE DEPARTMENT
22 UNDER THIS SUBTITLE;

23 (5) APPLICATION OR OTHER FEES PAID TO THE FUND TO PROCESS
24 REQUESTS FOR FINANCIAL ASSISTANCE;

25 (6) RECOVERY OF AN INVESTMENT MADE BY THE DEPARTMENT IN A
26 BUSINESS, INCLUDING AN ARRANGEMENT UNDER WHICH PART OF THE INVESTMENT IS
27 RECOVERED THROUGH:

28 (I) A REQUIREMENT THAT THE DEPARTMENT RECEIVE A PROPORTION
29 OF CASH FLOW, COMMISSIONS, ROYALTIES, OR LICENSE FEES;

30 (II) THE REPURCHASE FROM THE DEPARTMENT OF ANY OF ITS
31 INVESTMENT INTEREST; OR

32 (III) THE SALE OF AN APPRECIATED ASSET;

33 (7) REPAYMENTS RECEIVED FROM RECIPIENTS OF CONDITIONAL GRANTS
34 FROM THE DEPARTMENT;

1 (8) MONEY COLLECTED UNDER § 9–229 OF THE TAX – PROPERTY
2 ARTICLE;

3 (9) REPAYMENTS ON OR RECOVERIES FROM FINANCIAL ASSISTANCE
4 PROVIDED FROM THE FORMER:

5 (I) ANIMAL WASTE TECHNOLOGY FUND;

6 (II) BROWNFIELDS REVITALIZATION INCENTIVE FUND;

7 (III) CHILD CARE FACILITIES DIRECT LOAN FUND;

8 (IV) CHILD CARE SPECIAL LOAN FUND;

9 (V) MARYLAND INDUSTRIAL AND COMMERCIAL REDEVELOPMENT
10 FUND;

11 (VI) MARYLAND INDUSTRIAL LAND FUND;

12 (VII) MARYLAND SEAFOOD AND AQUACULTURE LOAN FUND; AND

13 (VIII) SMART GROWTH ECONOMIC DEVELOPMENT INFRASTRUCTURE
14 FUND; AND

15 (10) ANY OTHER MONEY MADE AVAILABLE TO THE FUND.

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 83A, § 5–1404(c).

18 In item (1) of this section, the reference to money appropriated “in the
19 State budget” is substituted for the former reference to moneys
20 appropriated “by the State” for consistency within this article and because
21 all money appropriated by the State is included in the State budget.

22 In item (9) of this section, the former reference to repayments “on loans”
23 from certain funds is deleted as included in the reference to repayments on
24 or recoveries from “financial assistance”.

25 Also in item (9) of this section, the former phrase “within the Department”
26 is deleted as surplusage because these former loan funds are no longer in
27 the Department of Business and Economic Development.

28 The former reference to “[i]ncome from investments that the State
29 Treasurer makes from moneys in the Fund” is deleted as redundant of the
30 crediting of investment earnings to the Fund under § 5–312 of this subtitle.

31 Defined terms: “Department” § 1–101

32 “Financial assistance” § 5–301

33 “Fund” § 5–301

34 “State” § 1–101

1 5–314. USE OF FUND.

2 (A) IN GENERAL.

3 THE DEPARTMENT MAY USE MONEY IN THE FUND TO:

4 (1) PROVIDE FINANCIAL ASSISTANCE TO ELIGIBLE APPLICANTS; AND

5 (2) PAY EXPENSES FOR ADMINISTRATIVE, ACTUARIAL, LEGAL, AND
6 TECHNICAL SERVICES FOR THE FUND.

7 (B) REVIEW OF PORTFOLIO.

8 THE DEPARTMENT PERIODICALLY SHALL REVIEW ITS PORTFOLIO IN AN EFFORT TO
9 ENSURE:10 (1) THE EQUITABLE DISTRIBUTION AMONG THE COUNTIES OF MONEY FROM
11 THE FUND;12 (2) ADEQUATE FUNDING FOR QUALIFIED DISTRESSED COUNTY PROJECTS;
13 AND14 (3) THAT NO PARTICULAR QUALIFIED DISTRESSED COUNTY BENEFITS
15 DISPROPORTIONATELY FROM FINANCIAL ASSISTANCE TO QUALIFIED DISTRESSED
16 COUNTIES UNDER THIS SUBTITLE.17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 83A, § 5–1405(a) and (i).

19 Defined terms: "County" § 1–101

20 "Department" § 1–101

21 "Financial assistance" § 5–301

22 "Fund" § 5–301

23 "Qualified distressed county" § 1–101

24 "Qualified distressed county project" § 5–301

25 5–315. REPORTING REQUIREMENTS.

26 BEFORE JANUARY 1 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE
27 GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT
28 ARTICLE, TO THE GENERAL ASSEMBLY ON THE NUMBER, AMOUNT, USE, AND ECONOMIC
29 BENEFITS OF FINANCIAL ASSISTANCE PROVIDED UNDER THIS SUBTITLE.

30 REVISOR'S NOTE: This section formerly was Art. 83A, § 5–1405(j).

31 The only changes are in style.

32 Defined terms: "Department" § 1–101

33 "Financial assistance" § 5–301

1 5–316. CONTINUED AUTHORIZATION FOR INCORPORATED FUNDS.

2 FINANCIAL ASSISTANCE IS DEEMED AUTHORIZED UNDER THIS SUBTITLE IF IT WAS
3 PROVIDED, OR APPROVED TO BE PROVIDED, FROM THE FOLLOWING PROGRAMS THAT
4 HAVE BEEN INCORPORATED INTO THE FUND:

- 5 (1) THE ANIMAL WASTE TECHNOLOGY FUND;
- 6 (2) THE BROWNFIELDS REVITALIZATION INCENTIVE FUND;
- 7 (3) THE CHILD CARE FACILITIES DIRECT LOAN FUND;
- 8 (4) THE CHILD CARE SPECIAL LOAN FUND;
- 9 (5) THE MARYLAND INDUSTRIAL AND COMMERCIAL REDEVELOPMENT
10 FUND;
- 11 (6) THE MARYLAND INDUSTRIAL LAND ACT;
- 12 (7) THE MARYLAND SEAFOOD AND AQUACULTURE LOAN FUND; AND
- 13 (8) THE SMART GROWTH ECONOMIC DEVELOPMENT INFRASTRUCTURE
14 FUND.

15 REVISOR’S NOTE: This section is new language derived without subsequent
16 change from former Art. 83A, § 5–1412(a).

17 In the introductory language of this section, the phrase “that have been
18 incorporated into the Fund” is added for clarity.

19 Former Art. 83A, § 5–1412(b) and (c) are deleted as obsolete. *See* General
20 Revisor’s Note to this subtitle.

21 Defined terms: “Financial assistance” § 5–301
22 “Fund” § 5–301

23 5–317. RESERVED.

24 5–318. RESERVED.

25 PART IV. FINANCIAL ASSISTANCE FROM FUND.

26 5–319. EVALUATION AND APPROVAL OF REQUESTS FOR FINANCIAL ASSISTANCE.

27 (A) APPROVAL BY SECRETARY OR AUTHORITY.

28 (1) FINANCIAL ASSISTANCE FROM THE FUND NOT EXCEEDING \$2,500,000
29 MAY BE APPROVED BY THE SECRETARY.

1 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,
2 FINANCIAL ASSISTANCE FROM THE FUND EXCEEDING \$2,500,000 REQUIRES APPROVAL
3 BY THE AUTHORITY.

4 (3) FOR A QUALIFIED DISTRESSED COUNTY PROJECT, THE SECRETARY MAY
5 APPROVE FINANCIAL ASSISTANCE EXCEEDING \$2,500,000.

6 (B) REQUESTS EXCEEDING \$2,500,000.

7 EXCEPT AS PROVIDED IN SUBSECTION (A)(3) OF THIS SECTION, WITH RESPECT TO
8 REQUESTS FOR FINANCIAL ASSISTANCE EXCEEDING \$2,500,000:

9 (1) THE DEPARTMENT SHALL EVALUATE THE REQUESTS; AND

10 (2) THE AUTHORITY SHALL:

11 (I) EVALUATE THE REQUESTS THAT HAVE FIRST BEEN EVALUATED BY
12 THE DEPARTMENT;

13 (II) DETERMINE WHETHER TO APPROVE THE REQUESTS; AND

14 (III) SET THE TERMS AND CONDITIONS OF THE FINANCIAL ASSISTANCE.

15 (C) APPROVAL OF FINANCIAL ASSISTANCE TO LOCAL GOVERNMENT OR
16 CORPORATION.

17 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
18 FINANCIAL ASSISTANCE PROVIDED TO A LOCAL GOVERNMENT OR THE CORPORATION FOR
19 A PROJECT SHALL BE APPROVED BY A FORMAL RESOLUTION OF:

20 (I) THE GOVERNING BODY OF THE JURISDICTION IN WHICH THE
21 PROJECT IS LOCATED; OR

22 (II) IF THE RECIPIENT OF THE FINANCIAL ASSISTANCE IS THE
23 CORPORATION, ITS BOARD OF DIRECTORS.

24 (2) IF THE RECIPIENT OF THE FINANCIAL ASSISTANCE IS THE CORPORATION
25 FOR A QUALIFIED DISTRESSED COUNTY PROJECT, THE FINANCIAL ASSISTANCE SHALL BE
26 APPROVED BY FORMAL RESOLUTIONS OF BOTH THE BOARD OF DIRECTORS OF THE
27 CORPORATION AND THE GOVERNING BODY OF THE JURISDICTION IN WHICH THE PROJECT
28 IS LOCATED.

29 (3) A PROJECT THAT IS FUNDED BY A GRANT FROM THE FUND TO A LOCAL
30 GOVERNMENT OR THE CORPORATION, AND CARRIED OUT BY THE LOCAL GOVERNMENT OR
31 THE CORPORATION, SHALL BE CONSISTENT WITH THE STRATEGY OR PLAN FOR ECONOMIC
32 DEVELOPMENT OF THE COUNTY OR MUNICIPAL CORPORATION IN WHICH THE PROJECT IS
33 LOCATED.

34 (D) ENDORSEMENT AND SUPPORT FOR LOCAL ECONOMIC DEVELOPMENT
35 OPPORTUNITIES.

1 FOR A LOCAL ECONOMIC DEVELOPMENT OPPORTUNITY, THE LOCAL GOVERNMENT
2 OF THE JURISDICTION IN WHICH THE PROJECT IS LOCATED SHALL PROVIDE:

3 (1) A FORMAL RESOLUTION OF THE GOVERNING BODY OF THE JURISDICTION
4 IN WHICH THE PROJECT IS LOCATED THAT ENDORSES THE FINANCIAL ASSISTANCE TO BE
5 PROVIDED FROM THE FUND; AND

6 (2) AS DETERMINED BY THE DEPARTMENT OR AUTHORITY TO EVIDENCE
7 THE SUPPORT OF THE LOCAL GOVERNMENT FOR THE PROJECT:

8 (I) A GUARANTEE, SECURED BY THE FULL FAITH AND CREDIT OF THE
9 COUNTY OR MUNICIPAL CORPORATION IN WHICH THE PROJECT IS LOCATED, OF ALL OR
10 PART OF THE FINANCIAL ASSISTANCE TO BE PROVIDED BY THE FUND;

11 (II) THE FINANCING OF PART OF THE COSTS OF THE PROJECT EQUAL
12 TO AT LEAST 10% OF THE FINANCIAL ASSISTANCE TO BE PROVIDED FROM THE FUND; OR

13 (III) BOTH.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 83A, §§ 5–1403(b) and 5–1405(f), (g), and (h).

16 In subsection (a)(2) of this section, the reference to “requir[ing] approval”
17 by the Authority is substituted for the former phrase “shall be approved”
18 by the Authority for clarity.

19 In subsection (b)(2)(i) of this section, the former reference to “staff” is
20 deleted as included in the reference to the “Department”.

21 In subsection (d)(2)(i) of this section, the reference to financial assistance
22 “to be provided by the Fund” is added for consistency within the
23 subsection.

24 Also in subsection (d)(2)(i) of this section, the former reference to the
25 “amount of” the financial assistance is deleted as surplusage.

26 The Economic Development Article Review Committee notes, for the
27 consideration of the General Assembly, that under subsection (c)(1)(i) or (3)
28 of this section, it is unclear whether the governing body of a county may
29 approve financial assistance for a project located in a municipal
30 corporation in that county, or only the governing body of the municipal
31 corporation itself.

32 Defined terms: “Authority” § 5–301

33 “Corporation” § 5–301

34 “County” § 1–101

35 “Department” § 1–101

36 “Financial assistance” § 5–301

37 “Fund” § 5–301

38 “Local economic development fund” § 5–301

1 “Local economic development opportunity” § 5–301

2 “Local government” § 5–301

3 5–320. ELIGIBILITY OF APPLICANTS; APPLICATIONS FOR FINANCIAL ASSISTANCE.

4 (A) ELIGIBILITY OF APPLICANTS.

5 TO BE ELIGIBLE FOR FINANCIAL ASSISTANCE FROM THE FUND, AN APPLICANT
6 SHALL BE:

7 (1) A LOCAL ECONOMIC DEVELOPMENT FUND THAT MEETS THE CRITERIA
8 SET FORTH IN PART V OF THIS SUBTITLE; OR

9 (2) AN INDIVIDUAL, PRIVATE BUSINESS, NOT-FOR-PROFIT ENTITY, OR
10 LOCAL GOVERNMENT, OR THE CORPORATION THAT INTENDS TO USE THE REQUESTED
11 FINANCIAL ASSISTANCE FOR A PROJECT THAT:

12 (I) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IS IN
13 AN ELIGIBLE INDUSTRY SECTOR UNDER § 5–321 OF THIS SUBTITLE; AND

14 (II) HAS A STRONG POTENTIAL FOR EXPANDING OR RETAINING
15 EMPLOYMENT OPPORTUNITIES IN THE STATE.

16 (B) EXCEPTION.

17 A PROJECT NEED NOT BE IN AN ELIGIBLE INDUSTRY SECTOR IF THE APPLICANT:

18 (1) IS LOCATED IN A QUALIFIED DISTRESSED COUNTY; OR

19 (2) (I) IS A LOCAL GOVERNMENT OR THE CORPORATION; AND

20 (II) DOES NOT INTEND TO USE THE FINANCIAL ASSISTANCE TO CARRY
21 OUT A PROJECT THAT BENEFITS A PARTICULAR PRIVATE SECTOR ENTITY.

22 (C) APPLICATIONS FOR FINANCIAL ASSISTANCE.

23 IN FORM AND CONTENT ACCEPTABLE TO THE DEPARTMENT, AN APPLICANT FOR
24 FINANCIAL ASSISTANCE FROM THE FUND SHALL SUBMIT TO THE DEPARTMENT AN
25 APPLICATION THAT CONTAINS:

26 (1) THE INFORMATION THAT THE DEPARTMENT OR AUTHORITY CONSIDERS
27 NECESSARY TO EVALUATE THE REQUEST FOR FINANCIAL ASSISTANCE; AND

28 (2) FOR A QUALIFIED DISTRESSED COUNTY PROJECT:

29 (I) A MARKETING PLAN DESIGNED TO MARKET THE PROJECT TO
30 PROSPECTIVE BUSINESSES;

31 (II) A STATEMENT OF PLANNED MARKETING EXPENDITURES AS A
32 PERCENT OF THE TOTAL FINANCIAL ASSISTANCE AMOUNT REQUESTED; AND

1 (III) A PLAN FOR THE PROJECT THAT IS CONSISTENT WITH THE
2 COUNTY'S LOCAL STRATEGIC ECONOMIC DEVELOPMENT PLAN AS TO THE LOCATION AND
3 TYPE OF PROJECT.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 83A, § 5-1405(d).

6 In subsection (a)(1) of this section and throughout this subtitle, the
7 reference to "Part V" of this subtitle is substituted for the former reference
8 to "§ 5-1407" of this subtitle to reflect the revision of former Art. 83A, §
9 5-1407 in Part V of this subtitle.

10 Subsection (c) of this section is revised to apply to all applicants for
11 financial assistance from the Fund even though the former law was
12 structured in such a way that an applicant that was a local economic
13 development fund did not have to submit an application for financial
14 assistance. No substantive change is intended.

15 Defined terms: "Authority" § 5-301

16 "County" § 1-101

17 "Department" § 1-101

18 "Financial assistance" § 5-301

19 "Fund" § 5-301

20 "Local government" § 5-301

21 "Qualified distressed county project" § 5-301

22 "State" § 1-101

23 5-321. ELIGIBLE INDUSTRY SECTORS.

24 (A) IN GENERAL.

25 (1) AFTER CONSULTING WITH THE DEPARTMENT AND THE DEPARTMENT
26 OF LABOR, LICENSING, AND REGULATION, EACH YEAR THE MARYLAND ECONOMIC
27 DEVELOPMENT COMMISSION SHALL:

28 (I) EVALUATE THE POTENTIAL EMPLOYMENT AND ECONOMIC GROWTH
29 OF MARYLAND'S INDUSTRY SECTORS; AND

30 (II) RECOMMEND ELIGIBLE INDUSTRY SECTORS TO THE AUTHORITY.

31 (2) EACH YEAR THE AUTHORITY SHALL:

32 (I) CONSIDER THE RECOMMENDATION OF THE MARYLAND ECONOMIC
33 DEVELOPMENT COMMISSION; AND

34 (II) ESTABLISH A LIST OF INDUSTRY SECTORS THAT WILL BE ELIGIBLE
35 FOR FINANCIAL ASSISTANCE FROM THE FUND.

1 (3) IN DETERMINING WHETHER AN APPLICANT IS ENGAGED IN AN ELIGIBLE
2 INDUSTRY SECTOR, THE DEPARTMENT SHALL CONSIDER THE DEFINITIONS SET FORTH IN
3 THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM.

4 (B) DEEMED ELIGIBLE INDUSTRY SECTORS.

5 (1) FOR THE PURPOSE OF PROVIDING FINANCIAL ASSISTANCE UNDER THIS
6 SUBTITLE, THE FOLLOWING ARE DEEMED TO BE IN ELIGIBLE INDUSTRY SECTORS:

7 (I) ANIMAL WASTE TECHNOLOGY PROJECTS;

8 (II) AQUACULTURE PROJECTS;

9 (III) ARTS AND ENTERTAINMENT ENTERPRISES;

10 (IV) ARTS AND ENTERTAINMENT PROJECTS;

11 (V) REDEVELOPMENT OF QUALIFIED BROWNFIELDS SITES;

12 (VI) CREATION OR EXPANSION OF CHILD CARE FACILITIES;

13 (VII) PROJECTS IN AREAS THAT ARE DECLARED TO BE FEDERAL
14 DISASTER AREAS WITHIN 1 YEAR BEFORE THE DEPARTMENT RECEIVES AN APPLICATION
15 FOR FINANCIAL ASSISTANCE UNDER THIS SUBTITLE; AND

16 (VIII) FEASIBILITY STUDIES.

17 (2) THE REQUIREMENTS SPECIFICALLY IMPOSED ON SIGNIFICANT
18 STRATEGIC ECONOMIC DEVELOPMENT OPPORTUNITIES AND LOCAL ECONOMIC
19 DEVELOPMENT OPPORTUNITIES UNDER THIS SUBTITLE DO NOT APPLY TO THE ITEMS
20 LISTED IN PARAGRAPH (1) OF THIS SUBSECTION.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 83A, § 5–1410(a), (b), (c), and (e).

23 In subsection (a)(3) of this section, the reference to the “North American
24 Industry Classification System” is substituted for the former obsolete
25 reference to the “Standard Industrial Classification Manual” for accuracy.

26 In subsection (b)(1)(vii) of this section, the defined term “financial
27 assistance” is substituted for the former reference to “loans” for clarity and
28 consistency within this subtitle.

29 Former Art. 83A, § 5–1410(d), which excepted certain financial assistance
30 to local governments from this section, is deleted as redundant of §
31 5–320(b)(2) of this subtitle.

32 Defined terms: “Animal waste technology project” § 5–301

33 “Aquaculture project” § 5–301

34 “Arts and entertainment enterprise” § 5–301

35 “Arts and entertainment project” § 5–301

- 1 “Authority” § 5–301
2 “Child care facility” § 5–301
3 “County” § 1–101
4 “Department” § 1–101
5 “Financial assistance” § 5–301
6 “Fund” § 5–301
7 “Local economic development opportunity” § 5–301
8 “Local government” § 5–301
9 “Qualified brownfields site” § 5–301
10 “Significant strategic development opportunity” § 5–301

11 5–322. AUTHORIZED USES.

12 (A) IN GENERAL.

13 FINANCIAL ASSISTANCE FROM THE FUND MAY BE USED ONLY TO FINANCE COSTS
14 INCURRED FOR:

15 (1) CONSTRUCTION OR ACQUISITION OF A BUILDING OR REAL PROPERTY,
16 AND ASSOCIATED DEVELOPMENT AND CARRYING COSTS;

17 (2) CONSTRUCTION, ACQUISITION, OR INSTALLATION OF EQUIPMENT,
18 FURNISHINGS, FIXTURES, LEASEHOLD IMPROVEMENTS, SITE IMPROVEMENTS, OR
19 INFRASTRUCTURE IMPROVEMENTS, INCLUDING RAIL LINE ENHANCEMENTS ON OR TO THE
20 SITE OF AN ECONOMIC DEVELOPMENT PROJECT, AND ASSOCIATED DEVELOPMENT AND
21 CARRYING COSTS;

22 (3) WORKING CAPITAL FOR SIGNIFICANT STRATEGIC ECONOMIC
23 DEVELOPMENT OPPORTUNITIES, ARTS AND ENTERTAINMENT ENTERPRISES, OR ARTS AND
24 ENTERTAINMENT PROJECTS;

25 (4) REDEVELOPMENT OF QUALIFIED BROWNFIELDS SITES;

26 (5) SUBJECT TO § 5–325(B)(3) OF THIS SUBTITLE, CONSTRUCTION,
27 PURCHASE, OR RENOVATION OF REAL PROPERTY, FIXTURES, OR EQUIPMENT RELATED TO
28 A CHILD CARE FACILITY;

29 (6) IF SUPPORTED BY A RESOLUTION ADOPTED BY THE GOVERNING BODY OF
30 THE JURISDICTION IN WHICH A PROJECT MAY BE LOCATED, FEASIBILITY STUDIES;

31 (7) SUBJECT TO § 5–325(B)(4) OF THIS SUBTITLE, PREPARATION OF A
32 COUNTY’S OR MUNICIPAL CORPORATION’S STRATEGY OR PLAN FOR ECONOMIC
33 DEVELOPMENT; AND

34 (8) A PROJECT INTENDED TO ASSIST BUSINESSES IN AREAS THAT ARE
35 DECLARED TO BE FEDERAL DISASTER AREAS, BUT ONLY IF THE DEPARTMENT RECEIVES
36 AN APPLICATION FOR FINANCIAL ASSISTANCE WITHIN 1 YEAR AFTER THE DECLARATION
37 OF THE FEDERAL DISASTER AREA.

38 (B) REFINANCING EXISTING DEBT PROHIBITED.

1 FINANCIAL ASSISTANCE FROM THE FUND MAY NOT BE USED TO REFINANCE
2 EXISTING DEBT.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 83A, § 5–1405(c)(4) and (1)(viii) and (b)(1) through
5 (4), (6), (8), and, as they related to eligible costs, (5)(i) and (7).

6 In the introductory language of subsection (a) of this section, the former
7 requirement that investment proceeds of the Fund “may be expended only
8 on costs described in [this subsection]” is deleted as redundant, and in light
9 of the fact that proceeds of the Fund are included in the Fund under §
10 5–313 of this subtitle.

11 In subsection (a)(2) of this section, the former reference to “machinery” is
12 deleted as redundant of the reference to “equipment”.

13 In subsection (a)(8) of this section, the reference to the “Department”
14 receiving an application is substituted for the former reference to the
15 “Fund” receiving an application because applications are submitted to the
16 Department.

17 Defined terms: “Arts and entertainment enterprise” § 5–301

18 “Arts and entertainment project” § 5–301

19 “Associated development and carrying costs” § 5–301

20 “Child care facility” § 5–301

21 “County” § 1–101

22 “Department” § 1–101

23 “Financial assistance” § 5–301

24 “Fund” § 5–301

25 “Qualified brownfields site” § 5–301

26 “Significant strategic economic development opportunity” § 5–301

27 “Working capital” § 5–301

28 5–323. LIMITATION ON FINANCIAL ASSISTANCE.

29 FINANCIAL ASSISTANCE FROM THE FUND MAY NOT EXCEED THE LESSER OF:

30 (1) \$10,000,000; OR

31 (2) 20% OF THE FUND BALANCE.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 83A, § 5–1405(c)(1)(i).

34 Defined terms: “Financial assistance” § 5–301

35 “Fund” § 5–301

36 5–324. QUALIFICATIONS AND LIMITATIONS.

37 (A) IN GENERAL.

1 EACH SUBSECTION OF THIS SECTION IS SUBJECT TO § 5–323 OF THIS SUBTITLE.

2 (B) SIGNIFICANT STRATEGIC ECONOMIC DEVELOPMENT OPPORTUNITY.

3 IF THE DEPARTMENT OR AUTHORITY DETERMINES A PROJECT TO BE A
4 SIGNIFICANT STRATEGIC ECONOMIC DEVELOPMENT OPPORTUNITY, THE DEPARTMENT OR
5 AUTHORITY MAY PROVIDE A LOAN FROM THE FUND FOR THE PROJECT TO AN
6 INDIVIDUAL, PRIVATE BUSINESS, NOT–FOR–PROFIT ENTITY, OR THE CORPORATION IN AN
7 AMOUNT NOT EXCEEDING \$10,000,000.

8 (C) LOCAL ECONOMIC DEVELOPMENT OPPORTUNITY.

9 IF THE DEPARTMENT OR AUTHORITY DETERMINES A PROJECT TO BE A LOCAL
10 ECONOMIC DEVELOPMENT OPPORTUNITY, THE DEPARTMENT OR AUTHORITY MAY
11 PROVIDE FINANCIAL ASSISTANCE FROM THE FUND FOR THE PROJECT TO AN INDIVIDUAL,
12 PRIVATE BUSINESS, NOT–FOR–PROFIT ENTITY, OR THE CORPORATION IN AN AMOUNT
13 NOT EXCEEDING:

14 (1) \$5,000,000 FOR A LOAN OR INVESTMENT; AND

15 (2) \$2,000,000 FOR A GRANT.

16 (D) FINANCIAL ASSISTANCE TO LOCAL GOVERNMENT.

17 (1) FINANCIAL ASSISTANCE PROVIDED TO A LOCAL GOVERNMENT OR THE
18 CORPORATION TO FINANCE A PROJECT MAY BE:

19 (I) IN THE FORM OF A GRANT, LOAN, OR INVESTMENT; AND

20 (II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IN
21 AN AMOUNT NOT EXCEEDING \$3,000,000.

22 (2) FINANCIAL ASSISTANCE FOR A QUALIFIED DISTRESSED COUNTY PROJECT
23 MAY BE IN AN AMOUNT DETERMINED BY THE DEPARTMENT.

24 (3) A GRANT TO A LOCAL ECONOMIC DEVELOPMENT FUND IS SUBJECT TO
25 THE REQUIREMENTS OF PART V OF THIS SUBTITLE.

26 (E) SPECIALIZED ECONOMIC DEVELOPMENT OPPORTUNITY.

27 FINANCIAL ASSISTANCE FOR A SPECIALIZED ECONOMIC DEVELOPMENT
28 OPPORTUNITY MAY BE:

29 (1) PROVIDED TO AN INDIVIDUAL, PRIVATE BUSINESS, NOT–FOR–PROFIT
30 ENTITY, OR LOCAL GOVERNMENT, OR THE CORPORATION;

31 (2) IN THE FORM OF A GRANT, LOAN, OR INVESTMENT; AND

32 (3) IN AN AMOUNT DETERMINED BY THE DEPARTMENT OR AUTHORITY.

1 REVISOR'S NOTE: Subsection (a) of this section is new language added to
 2 state explicitly that which was only implied in the former law, *i.e.*, that
 3 each form of assistance from the Fund is subject to § 5–323 of this subtitle,
 4 even if different forms of assistance may be aggregated for a particular
 5 project and exceed the limits on each individual type of assistance in this
 6 section. No substantive change is intended.

7 Subsection (b) through (e) of this section is new language derived without
 8 substantive change from former Art. 83A, § 5–1406.

9 In subsection (d)(2) of this section, the former phrase “[s]ubject to §
 10 5–1405(c)(1)(i) of this subtitle” is deleted as redundant of subsection (a) of
 11 this section to the same effect.

12 Defined terms: “Authority” § 5–301

13 “Corporation” § 5–301

14 “Department” § 1–101

15 “Financial assistance” § 5–301

16 “Fund” § 5–301

17 “Local economic development fund” § 5–301

18 “Local economic development opportunity” § 5–301

19 “Local government” § 5–301

20 “Significant strategic economic development opportunity” § 5–301

21 “Specialized economic development opportunity” § 5–301

22 **5–325. TERMS AND CONDITIONS OF FINANCIAL ASSISTANCE.**

23 (A) **IN GENERAL.**

24 **SUBJECT TO THE RESTRICTIONS OF THIS SUBTITLE, THE DEPARTMENT OR**
 25 **AUTHORITY MAY IMPOSE THE TERMS AND CONDITIONS ON FINANCIAL ASSISTANCE FROM**
 26 **THE FUND AS EITHER CONSIDERS APPROPRIATE.**

27 (B) **TOTAL COSTS OF PROJECT.**

28 (1) **EXCEPT AS PROVIDED IN PARAGRAPH (2), (3), OR (4) OF THIS**
 29 **SUBSECTION, FINANCIAL ASSISTANCE FROM THE FUND MAY NOT EXCEED 70% OF THE**
 30 **TOTAL COSTS OF THE PROJECT BEING FINANCED.**

31 (2) **FINANCIAL ASSISTANCE FROM THE FUND MAY CONSTITUTE 100% OF**
 32 **THE TOTAL COSTS OF THE PROJECT BEING FINANCED IF:**

33 (I) **THE RECIPIENT IS THE CORPORATION; OR**

34 (II) **THE FINANCIAL ASSISTANCE IS FOR:**

35 1. **AN ARTS AND ENTERTAINMENT ENTERPRISE;**

36 2. **AN ARTS AND ENTERTAINMENT PROJECT; OR**

3. A QUALIFIED DISTRESSED COUNTY PROJECT.

(3) (i) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, FINANCIAL ASSISTANCE FROM THE FUND:

1. MAY BE USED TO FINANCE UP TO 50% OF THE COSTS OF CONSTRUCTION, PURCHASE, OR RENOVATION OF REAL PROPERTY, FIXTURES, OR EQUIPMENT RELATED TO A CHILD CARE FACILITY; BUT

2. MAY NOT BE USED FOR WORKING CAPITAL, SUPPLIES, OR INVENTORY RELATED TO A CHILD CARE FACILITY.

(ii) FINANCIAL ASSISTANCE FROM THE FUND MAY BE USED TO FINANCE UP TO 20% OF THE COSTS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH INCURRED BY A BUSINESS THAT HAS RECEIVED OR WILL RECEIVE A DAY CARE LOAN INSURED BY THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY.

(4) FINANCIAL ASSISTANCE FOR PREPARATION OF A STRATEGY OR PLAN FOR ECONOMIC DEVELOPMENT OF A COUNTY OR MUNICIPAL CORPORATION MAY NOT EXCEED:

(i) 50% OF THE COSTS OF PREPARATION; OR

(ii) \$50,000 IN A 3-YEAR PERIOD.

(c) INTEREST RATES.

(1) A LOAN FROM THE FUND SHALL BEAR AN INTEREST RATE BELOW THE MARKET RATE OF INTEREST, AS DETERMINED BY THE DEPARTMENT, IF THE LOAN IS FOR:

(i) A SIGNIFICANT STRATEGIC ECONOMIC DEVELOPMENT OPPORTUNITY; OR

(ii) A SPECIALIZED ECONOMIC DEVELOPMENT OPPORTUNITY.

(2) A LOAN FROM THE FUND FOR A QUALIFIED DISTRESSED COUNTY PROJECT SHALL BEAR AN INTEREST RATE DETERMINED BY THE DEPARTMENT OR THE AUTHORITY.

(3) A LOAN FROM THE FUND SHALL BEAR AN INTEREST RATE NOT EXCEEDING ONE-EIGHTH OF 1% PLUS THE NET INTEREST COST OF THE MOST RECENT STATE GENERAL OBLIGATION BOND ISSUE PRECEDING THE APPROVAL OF THE LOAN IF THE LOAN IS:

(i) FOR A LOCAL ECONOMIC DEVELOPMENT OPPORTUNITY; OR

(ii) TO A LOCAL GOVERNMENT.

(4) A LOAN FROM THE FUND MAY NOT BEAR AN INTEREST RATE OF LESS THAN 3% UNLESS:

1 (I) THE PROJECT FUNDED BY THE LOAN IS LOCATED IN AN AREA OF
2 HIGH UNEMPLOYMENT; OR

3 (II) THE DEPARTMENT DETERMINES THAT THE BORROWER IS
4 CARRYING OUT A COMPELLING ECONOMIC DEVELOPMENT INITIATIVE.

5 (D) WAIVER OF INTEREST.

6 (1) THE DEPARTMENT MAY WAIVE INTEREST DURING THE FIRST 2 YEARS
7 OF THE TERM OF A LOAN FROM THE FUND.

8 (2) IF A BORROWER DEFAULTS ON A LOAN FROM THE FUND, THE
9 DEPARTMENT MAY IMPOSE AN INTEREST RATE THAT EXCEEDS THE LIMITS SET FORTH IN
10 SUBSECTION (C)(1) OR (3) OF THIS SECTION.

11 (E) TERMS OF LOANS.

12 THE TERM OF A LOAN FROM THE FUND MAY NOT EXCEED:

13 (1) FOR WORKING CAPITAL, 3 YEARS;

14 (2) FOR FINANCING EQUIPMENT, FURNISHINGS, OR FIXTURES, THE LESSER
15 OF 15 YEARS OR THE USEFUL LIFE OF THE ASSET, AS DETERMINED BY THE
16 DEPARTMENT;

17 (3) FOR FINANCING THE CONSTRUCTION OR ACQUISITION OF BUILDINGS
18 AND REAL PROPERTY, 25 YEARS; AND

19 (4) FOR FINANCING THE REDEVELOPMENT OF A QUALIFIED BROWNFIELDS
20 SITE OR A QUALIFIED DISTRESSED COUNTY PROJECT, A TERM APPROVED BY THE
21 DEPARTMENT OR AUTHORITY.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 83A, § 5-1405(b)(5)(ii), (c)(1)(ii) through (vii), (2),
24 (3), and (e) and, as they related to limitations on costs, (b)(5)(i) and (7).

25 In subsection (b)(3)(i)2 of this section, the former prohibition against
26 "refinancing existing loans" for a child care facility using financial
27 assistance from the Fund is deleted as redundant of § 5-322(b), which
28 prohibits financial assistance from the Fund for refinancing *any* existing
29 debt.

30 In subsection (e)(2) of this section, the former reference to "machinery" is
31 deleted as redundant of the reference to "equipment".

32 Defined terms: "Arts and entertainment enterprise" § 5-301

33 "Arts and entertainment project" § 5-301

34 "Authority" § 5-301

35 "Corporation" § 5-301

36 "Department" § 1-101

- 1 “Financial assistance” § 5–301
2 “Fund” § 5–301
3 “Local economic development opportunity” § 5–301
4 “Local government” § 5–301
5 “Qualified brownfields site” § 5–301
6 “Qualified distressed county” § 1–101
7 “Qualified distressed county project” § 5–301
8 “Significant strategic economic development opportunity” § 5–301
9 “Specialized economic development opportunity” § 5–301
10 “State” § 1–101
11 “Working capital” § 5–301

12 5–326. MINORITY BUSINESS ENTERPRISE REQUIREMENT.

13 (A) “MINORITY BUSINESS ENTERPRISE” DEFINED.

14 IN THIS SECTION, “MINORITY BUSINESS ENTERPRISE” HAS THE MEANING STATED IN
15 § 14–301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

16 (B) SCOPE OF SECTION.

17 (1) THIS SECTION APPLIES TO FINANCIAL ASSISTANCE THAT EXCEEDS
18 \$100,000.

19 (2) THIS SECTION DOES NOT APPLY TO FINANCIAL ASSISTANCE THAT IS
20 USED SOLELY TO ACQUIRE REAL PROPERTY OR STRUCTURES ON REAL PROPERTY.

21 (C) APPLICATION OF LOCAL PROGRAM.

22 (1) IF A LOCAL GOVERNMENT THAT RECEIVES FINANCIAL ASSISTANCE HAS A
23 PROGRAM FOR PROMOTING PROCUREMENT OPPORTUNITIES AMONG MINORITY BUSINESSES
24 THAT IS ACCEPTABLE TO THE DEPARTMENT, THE LOCAL GOVERNMENT SHALL APPLY THE
25 REQUIREMENTS OF THAT PROGRAM TO PROCUREMENT MADE WITH THE PROCEEDS OF
26 FINANCIAL ASSISTANCE.

27 (2) IF THE LOCAL GOVERNMENT DOES NOT HAVE A PROGRAM THAT IS
28 ACCEPTABLE TO THE DEPARTMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE
29 LOCAL GOVERNMENT IS SUBJECT TO SUBSECTION (D) OF THIS SECTION.

30 (D) COMPLIANCE AGREEMENT.

31 (1) AN ENTITY OTHER THAN A LOCAL GOVERNMENT, OR A LOCAL
32 GOVERNMENT IN ACCORDANCE WITH SUBSECTION (C)(2) OF THIS SECTION, THAT
33 RECEIVES FINANCIAL ASSISTANCE SHALL AGREE TO INCLUDE IN THE AGREEMENT
34 PROVIDING THE FINANCIAL ASSISTANCE A PROVISION ACCEPTABLE TO THE DEPARTMENT
35 THAT WOULD ENCOURAGE THE PROCUREMENT FROM MINORITY BUSINESS ENTERPRISES
36 OF GOODS OR SERVICES PURCHASED WITH THE PROCEEDS FROM THE FINANCIAL
37 ASSISTANCE.

1 (2) IN NEGOTIATING THE PROVISION REQUIRED UNDER PARAGRAPH (1) OF
2 THIS SUBSECTION, THE DEPARTMENT SHALL TAKE INTO ACCOUNT RELEVANT FACTORS,
3 INCLUDING:

4 (I) THE INTENDED USE OF THE PROCEEDS FROM THE FINANCIAL
5 ASSISTANCE; AND

6 (II) THE FEASIBILITY OF OBTAINING THE REQUIRED GOODS OR
7 SERVICES FROM MINORITY BUSINESS ENTERPRISES.

8 (E) REPORTING.

9 THE DEPARTMENT MAY REQUIRE A RECIPIENT OF FINANCIAL ASSISTANCE TO
10 SUBMIT TO THE DEPARTMENT A LIST, OR AN UPDATED LIST, OF THE MINORITY BUSINESS
11 ENTERPRISES FROM WHICH GOODS OR SERVICES WERE PROCURED AND THE NATURE AND
12 COST OF THE GOODS OR SERVICES.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 83A, § 5–1411.

15 In subsection (a) of this section, the reference to this “section” is
16 substituted for the former reference to this “subsection” for clarity.

17 In subsections (b)(1) and (e) of this section, the former references to
18 financial assistance “under this subtitle” are deleted as included in the
19 defined term “financial assistance”.

20 Defined terms: “Department” § 1–101
21 “Financial assistance” § 5–301
22 “Local government” § 5–301

23 5–327. RESERVED.

24 5–328. RESERVED.

25 PART V. GRANTS TO LOCAL ECONOMIC DEVELOPMENT FUNDS.

26 5–329. AUTHORIZED.

27 (A) IN GENERAL.

28 A LOCAL GOVERNMENT MAY APPLY TO THE DEPARTMENT FOR A GRANT FROM THE
29 FUND TO A LOCAL ECONOMIC DEVELOPMENT FUND.

30 (B) CONSIDERATIONS.

31 IN DETERMINING WHETHER TO APPROVE A GRANT TO A LOCAL ECONOMIC
32 DEVELOPMENT FUND, THE DEPARTMENT OR AUTHORITY SHALL CONSIDER AND
33 DETERMINE:

1 (1) THE AVERAGE RATE OF UNEMPLOYMENT FOR THE LOCAL JURISDICTION
 2 IN COMPARISON TO THE AVERAGE RATE OF UNEMPLOYMENT FOR THE STATE;

3 (2) WHETHER THE LOCAL GOVERNMENT CURRENTLY ADMINISTERS A LOCAL
 4 ECONOMIC DEVELOPMENT FUND;

5 (3) THE ABILITY OF THE LOCAL GOVERNMENT TO LEVERAGE PRIVATE
 6 MONEY;

7 (4) THE LEVEL OF FINANCIAL COMMITMENT PROVIDED BY THE LOCAL
 8 GOVERNMENT; AND

9 (5) ANY OTHER FACTORS THAT THE DEPARTMENT OR AUTHORITY
 10 CONSIDERS RELEVANT.

11 REVISOR’S NOTE: This section is new language derived without substantive
 12 change from former Art. 83A, § 5–1407(a).

- 13 Defined terms: “Authority” § 5–301
- 14 “Department” § 1–101
- 15 “Local economic development fund” § 5–301
- 16 “Local government” § 5–301
- 17 “State” § 1–101

18 5–330. MATCHING FUNDS REQUIRED.

19 (A) IN GENERAL.

20 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, TO QUALIFY FOR A
 21 GRANT FROM THE FUND, A LOCAL GOVERNMENT SHALL PROVIDE AT LEAST AN EQUAL
 22 AND MATCHING GRANT OF MONEY TO THE LOCAL ECONOMIC DEVELOPMENT FUND.

23 (B) EXCEPTION.

24 A LOCAL GOVERNMENT THAT IS, OR IS LOCATED IN, A QUALIFIED DISTRESSED
 25 COUNTY MAY QUALIFY FOR A GRANT FROM THE FUND BY PROVIDING A GRANT TO THE
 26 LOCAL ECONOMIC DEVELOPMENT FUND IN AN AMOUNT EQUAL TO AT LEAST 50% OF THE
 27 GRANT FROM THE FUND.

28 REVISOR’S NOTE: This section is new language derived without substantive
 29 change from former Art. 83A, § 5–1407(b).

30 In subsection (a) of this section, the phrase “from the Fund” is added to
 31 modify “grant” for clarity. Similarly, the references to a grant “from the
 32 Fund” are substituted for the former references to a grant “under this
 33 section” and the grant “made under this section” for clarity and specificity.

- 34 Defined terms: “Local economic development fund” § 5–301
- 35 “Local government” § 5–301
- 36 “Qualified distressed county” § 1–101

1 5–331. LIMITATIONS.

2 (A) IN GENERAL.

3 DURING EACH FISCAL YEAR THE DEPARTMENT MAY NOT GRANT MORE THAN
4 \$2,000,000 UNDER THIS PART.

5 (B) ON COUNTIES.

6 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, DURING EACH
7 FISCAL YEAR A COUNTY MAY NOT RECEIVE MORE THAN \$250,000 UNDER THIS PART.

8 (2) FOR PURPOSES OF THE LIMITATION UNDER PARAGRAPH (1) OF THIS
9 SUBSECTION:

10 (I) ANY MONEY RECEIVED UNDER THIS PART BY A MUNICIPAL
11 CORPORATION OR DESIGNATED AGENCY OR INSTRUMENTALITY IS DEEMED TO BE MONEY
12 GRANTED TO THE COUNTY WITHIN WHICH THE MUNICIPAL CORPORATION, AGENCY, OR
13 INSTRUMENTALITY IS LOCATED; AND

14 (II) IF MORE THAN ONE COUNTY ADMINISTERS OR CAPITALIZES A
15 LOCAL ECONOMIC DEVELOPMENT FUND, EACH COUNTY MAY RECEIVE THE MAXIMUM
16 AUTHORIZED FOR A COUNTY.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 83A, § 5–1407(c)(1) and (3).

19 Former Art. 83A, § 5–1407(c)(2), which limited money available to a county
20 between October 1, 1998 and June 30, 2003, is deleted as obsolete.

21 Defined terms: “County” § 1–101

22 “Department” § 1–101

23 “Local economic development fund” § 5–301

24 5–332. USE OF GRANTS; REVERSION TO DEPARTMENT.

25 (A) USE OF GRANTS.

26 A LOCAL GOVERNMENT SHALL USE A GRANT UNDER THIS PART:

27 (1) TO PROVIDE LOANS OR LOAN GUARANTEES, OR TO SUBSIDIZE THE
28 INTEREST RATE ON LOANS, FOR FINANCING ECONOMIC DEVELOPMENT PROJECTS; OR

29 (2) TO PROVIDE LOANS TO SMALL BUSINESSES.

30 (B) REVERSION TO DEPARTMENT.

31 THE DEPARTMENT MAY REQUIRE THAT MONEY FROM A GRANT UNDER THIS PART
32 BE RETURNED TO THE DEPARTMENT IF THE LOCAL ECONOMIC DEVELOPMENT FUND IS
33 INACTIVE FOR MORE THAN 2 YEARS AFTER THE GRANT IS MADE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83A, § 5–1407(d).

3 Defined terms: “Department” § 1–101
4 “Local economic development fund” § 5–301

5 GENERAL REVISOR'S NOTE TO PART:

6 Former Art. 83A, § 5–1407(e), which required the Department to submit an
7 annual report on grants to local development funds, is deleted as duplicative of §
8 5–315 of this subtitle, which requires the Department to submit an annual report on
9 financial assistance under this subtitle.

10 5–333. RESERVED.

11 5–334. RESERVED.

12 PART VI. BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM.

13 5–335. ESTABLISHED.

14 (A) IN GENERAL.

15 THERE IS A BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM IN THE
16 DEPARTMENT.

17 (B) PROGRAM OF FINANCIAL INCENTIVES.

18 THE DEPARTMENT SHALL DEVELOP A PROGRAM OF FINANCIAL ASSISTANCE,
19 INCLUDING LOW-INTEREST LOANS AND GRANTS, TO ASSIST PERSONS WHO PARTICIPATE
20 IN THE BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 83A, § 5–1408(e) and, as it referred to the
23 Program in the Department, § 5–1401(i).

24 In subsection (b) of this section, the defined term “financial assistance” is
25 substituted for the former reference to “financial incentives” for clarity and
26 consistency within this subtitle.

27 Defined terms: “Brownfields Revitalization Incentive Program” § 5–301
28 “Department” § 1–101
29 “Financial assistance” § 5–301
30 “Person” § 1–101

31 5–336. ELECTION BY COUNTY OR MUNICIPAL CORPORATION TO PARTICIPATE.

32 A COUNTY OR MUNICIPAL CORPORATION MAY ELECT TO PARTICIPATE IN THE
33 BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM BY:

1 (1) (I) SUBMITTING TO THE DEPARTMENT A LIST OF POTENTIAL
 2 BROWNFIELDS SITES IN THE COUNTY OR MUNICIPAL CORPORATION, RANKED IN THE
 3 ORDER OF PRIORITY FOR REDEVELOPMENT THAT THE COUNTY OR MUNICIPAL
 4 CORPORATION RECOMMENDS; AND

5 (II) UPDATING EACH YEAR THE LIST SUBMITTED UNDER ITEM (I) OF
 6 THIS ITEM; OR

7 (2) (I) ENACTING LEGISLATION GRANTING PROPERTY TAX CREDITS IN
 8 ACCORDANCE WITH § 9–229 OF THE TAX – PROPERTY ARTICLE; AND

9 (II) NOTIFYING THE DEPARTMENT OF THE LEGISLATION.

10 REVISOR’S NOTE: This section is new language derived without substantive
 11 change from former Art. 83A, § 5–1408(a).

12 Defined terms: “Brownfields Revitalization Incentive Program” § 5–301

13 “Brownfields site” § 5–301

14 “County” § 1–101

15 5–337. FINANCIAL ASSISTANCE FOR ENVIRONMENTAL SITE ASSESSMENTS.

16 (A) IN GENERAL.

17 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT MAY
 18 PROVIDE TO A PERSON, INCLUDING A RESPONSIBLE PERSON, A LOW–INTEREST LOAN OR
 19 GRANT TO CONDUCT THE ENVIRONMENTAL SITE ASSESSMENT OF A POTENTIAL
 20 BROWNFIELDS SITE THAT IS REQUIRED TO PARTICIPATE IN THE VOLUNTARY CLEANUP
 21 PROGRAM UNDER TITLE 7, SUBTITLE 5 OF THE ENVIRONMENT ARTICLE, IF THE
 22 PERSON:

23 (1) HAS NOT ALREADY APPLIED TO PARTICIPATE IN THE PROGRAM;

24 (2) IS OTHERWISE ELIGIBLE TO PARTICIPATE IN THE PROGRAM; AND

25 (3) MEETS THE ELIGIBILITY REQUIREMENTS THAT THE DEPARTMENT SETS.

26 (B) OWNER OF INFORMATION IN ENVIRONMENTAL SITE ASSESSMENT.

27 THE INFORMATION CONTAINED IN AN ENVIRONMENTAL SITE ASSESSMENT IS:

28 (1) THE PROPERTY OF THE STATE, IF THE ASSESSMENT IS FINANCED
 29 WHOLLY OR PARTLY BY:

30 (I) A GRANT FROM THE DEPARTMENT; OR

31 (II) A LOAN THAT IS IN PAYMENT DEFAULT; OR

32 (2) THE PROPERTY OF THE PERSON WHO CONTRACTED FOR THE
 33 ASSESSMENT, IF THE ASSESSMENT IS FINANCED BY:

1 (I) A LOAN FROM THE DEPARTMENT; OR

2 (II) A GRANT THAT IS REPAID.

3 (C) EFFECT OF ELIGIBILITY FOR FINANCIAL ASSISTANCE.

4 ELIGIBILITY FOR A LOAN OR GRANT FOR AN ENVIRONMENTAL SITE ASSESSMENT
5 UNDER THIS SECTION DOES NOT CONSTITUTE ELIGIBILITY FOR:

6 (1) ANY OTHER FINANCIAL ASSISTANCE UNDER THIS SUBTITLE; OR

7 (2) THE TAX CREDITS PROVIDED UNDER § 9–229 OF THE TAX – PROPERTY
8 ARTICLE.

9 (D) GRANT RECIPIENT TO REPAY GRANT.

10 THE RECIPIENT OF A GRANT UNDER THIS SECTION SHALL REPAY THE GRANT IF,
11 WITHIN 12 MONTHS AFTER RECEIVING THE GRANT, THE RECIPIENT DOES NOT RECEIVE
12 APPROVAL FROM THE DEPARTMENT OF THE ENVIRONMENT TO:

13 (1) PARTICIPATE IN THE VOLUNTARY CLEANUP PROGRAM; OR

14 (2) IMPLEMENT A CORRECTIVE ACTION PLAN UNDER TITLE 4 OF THE
15 ENVIRONMENT ARTICLE.

16 (E) CONVERSION OF LOW–INTEREST LOAN TO MARKET RATE LOAN.

17 A LOW–INTEREST LOAN PROVIDED UNDER THIS SECTION SHALL CONVERT TO A
18 MARKET RATE LOAN IF, WITHIN 12 MONTHS AFTER RECEIVING THE LOAN, THE
19 RECIPIENT DOES NOT RECEIVE APPROVAL FROM THE DEPARTMENT OF THE
20 ENVIRONMENT TO:

21 (1) PARTICIPATE IN THE VOLUNTARY CLEANUP PROGRAM; OR

22 (2) IMPLEMENT A CORRECTIVE ACTION PLAN UNDER TITLE 4 OF THE
23 ENVIRONMENT ARTICLE.

24 (F) PROCEDURES AND ELIGIBILITY REQUIREMENTS.

25 THE DEPARTMENT MAY ESTABLISH PROCEDURES AND ELIGIBILITY REQUIREMENTS
26 FOR THE APPROVAL OF REQUESTS FOR LOANS AND GRANTS UNDER THIS SECTION.

27 REVISOR’S NOTE: This section is new language derived without substantive
28 change from former Art. 83A, § 5–1408(b).

29 In the introductory language of subsections (b) and (c) of this section, the
30 references to an environmental “site” assessment are added for consistency
31 throughout this section.

32 In the introductory language of subsection (c) of this section, the reference
33 to “a loan or grant” is substituted for the former reference to “financial

1 assistance” because the defined term “financial assistance” is broader than
2 a loan or grant.

3 In subsection (c)(1) of this section, the defined term “financial assistance”
4 is substituted for the former reference to “financial incentives” for clarity
5 and consistency within this subtitle.

6 In the introductory language of subsections (d) and (e) of this section, the
7 former references to the recipient “not apply[ing] to” the Department of the
8 Environment are deleted as implicit in the recipient receiving approval.

9 Defined terms: “Brownfields site” § 5–301
10 “Department” § 1–101
11 “Person” § 1–101
12 “Responsible person” § 5–301
13 “State” § 1–101

14 **5–338. FINANCIAL ASSISTANCE FOR REDEVELOPMENT OF BROWNFIELDS SITE.**

15 (A) **DETERMINATION OF ELIGIBILITY.**

16 **THE DEPARTMENT SHALL DETERMINE WHETHER A BROWNFIELDS SITE IS A**
17 **QUALIFIED BROWNFIELDS SITE BASED ON WHETHER THE PROPERTY:**

18 (1) **IS LOCATED IN A DENSELY POPULATED URBAN CENTER AND IS**
19 **SUBSTANTIALLY UNDERUTILIZED; OR**

20 (2) **IS AN EXISTING OR FORMER INDUSTRIAL OR COMMERCIAL SITE THAT**
21 **POSES A THREAT TO PUBLIC HEALTH OR THE ENVIRONMENT.**

22 (B) **CONSIDERATIONS.**

23 **WHEN REVIEWING QUALIFIED BROWNFIELDS SITES FOR FINANCIAL ASSISTANCE**
24 **UNDER THIS PART, THE DEPARTMENT MAY CONSIDER:**

25 (1) **THE FEASIBILITY OF REDEVELOPMENT;**

26 (2) **THE PUBLIC BENEFIT TO THE COMMUNITY AND THE STATE THROUGH**
27 **THE REDEVELOPMENT OF THE PROPERTY;**

28 (3) **THE EXTENT OF RELEASES OR THREATENED RELEASES AT THE**
29 **BROWNFIELDS SITE AND THE DEGREE TO WHICH THE CLEANUP AND REDEVELOPMENT OF**
30 **THE BROWNFIELDS SITE WILL PROTECT PUBLIC HEALTH OR THE ENVIRONMENT;**

31 (4) **THE POTENTIAL TO ATTRACT OR RETAIN MANUFACTURING OR OTHER**
32 **ECONOMICALLY SIGNIFICANT EMPLOYERS;**

33 (5) **THE ABSENCE OF IDENTIFIABLE AND FINANCIALLY SOLVENT**
34 **RESPONSIBLE PERSONS; OR**

1 (6) ANY OTHER FACTOR RELEVANT AND APPROPRIATE TO ECONOMIC
2 DEVELOPMENT.

3 (C) REQUEST FOR DETERMINATION OF QUALIFICATION.

4 A PERSON MAY SUBMIT A REQUEST TO THE DEPARTMENT TO DETERMINE WHETHER
5 THE PERSON QUALIFIES FOR FINANCIAL ASSISTANCE FOR THE POTENTIAL
6 REDEVELOPMENT OF A BROWNFIELDS SITE WHEN THE PERSON:

7 (1) APPLIES TO PARTICIPATE IN THE VOLUNTARY CLEANUP PROGRAM
8 UNDER TITLE 7, SUBTITLE 5 OF THE ENVIRONMENT ARTICLE; OR

9 (2) RECEIVES APPROVAL FROM THE DEPARTMENT OF THE ENVIRONMENT
10 TO IMPLEMENT A CORRECTIVE ACTION PLAN UNDER TITLE 4 OF THE ENVIRONMENT
11 ARTICLE.

12 (D) NOTICE OF QUALIFICATION.

13 (1) THE DEPARTMENT SHALL NOTIFY THE PERSON WHETHER THE PERSON
14 QUALIFIES FOR FINANCIAL ASSISTANCE FOR THE REDEVELOPMENT OF A BROWNFIELDS
15 SITE WITHIN 30 DAYS AFTER THE DEPARTMENT RECEIVES A REQUEST UNDER
16 SUBSECTION (C) OF THIS SECTION IF:

17 (I) THE DEPARTMENT OF THE ENVIRONMENT APPROVES THE
18 PARTICIPATION IN THE VOLUNTARY CLEANUP PLAN OR A CORRECTIVE ACTION PLAN;
19 AND

20 (II) THE DEPARTMENT OR AUTHORITY APPROVES THE FINANCIAL
21 ASSISTANCE.

22 (2) THE NOTICE SHALL SPECIFY WHICH OF THE CRITERIA IN SUBSECTION
23 (B) OF THIS SECTION THAT THE PERSON MEETS.

24 (E) CONSULTATION.

25 WHEN EVALUATING POTENTIAL QUALIFIED BROWNFIELDS SITES, THE
26 DEPARTMENT SHALL CONSULT WITH:

27 (1) THE DEPARTMENT OF THE ENVIRONMENT, THE DEPARTMENT OF
28 PLANNING, AND RELEVANT LOCAL OFFICIALS;

29 (2) THE NEIGHBORING COMMUNITY AND ANY CITIZENS GROUPS LOCATED IN
30 THE COMMUNITY;

31 (3) REPRESENTATIVES OF STATE AND LOCAL ENVIRONMENTAL
32 ORGANIZATIONS;

33 (4) PUBLIC HEALTH EXPERTS; AND

34 (5) ANY OTHER PERSON THE DEPARTMENT CONSIDERS APPROPRIATE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83A, § 5–1408(c) and (d).

3 In subsections (a) and (b)(3) of this section, the references to a
4 “brownfields” site are added for clarity and to use the defined term.

5 In subsection (d)(1) and (2) of this section, the references to a “person” are
6 substituted for the former references to an “applicant” to conform to
7 subsection (c) of this section.

8 The Economic Development Article Review Committee notes, for the
9 consideration of the General Assembly, that in subsection (b)(4) of this
10 section, the reference to “economically significant” employers is
11 substituted for the former reference to “economic base” employers for
12 clarity.

13 Defined terms: “Brownfields site” § 5–301

14 “Department” § 1–101

15 “Financial assistance” § 5–301

16 “Person” § 1–101

17 “Qualified brownfields site” § 5–301

18 “Responsible person” § 5–301

19 “State” § 1–101

20 5–339. EFFECT OF PART.

21 THIS PART DOES NOT AFFECT:

22 (1) THE PLANNING AND ZONING AUTHORITY OF A COUNTY OR MUNICIPAL
23 CORPORATION; OR

24 (2) ANY PROVISION OF THE ENVIRONMENT ARTICLE.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 83A, § 5–1408(f).

27 The former phrase “and may not be construed as affecting” is deleted as
28 implicit in the reference to this part “not affect[ing]”.

29 Defined term: “County” § 1–101

30 5–340. RESERVED.

31 5–341. RESERVED.

32 PART VII. CHILD CARE SPECIAL LOANS.

33 5–342. AUTHORIZED; PURPOSE; SEPARATE ACCOUNTING.

34 (A) AUTHORIZED.

1 IN ADDITION TO PROVIDING MONEY FROM THE FUND TO ASSIST IN CREATING AND
2 EXPANDING CHILD CARE FACILITIES IN THE STATE UNDER OTHER PROVISIONS OF THIS
3 SUBTITLE, THE DEPARTMENT MAY USE FEDERAL OR OTHER MONEY PROVIDED FOR THE
4 PURPOSE TO MAKE CHILD CARE SPECIAL LOANS.

5 (B) PURPOSE.

6 CHILD CARE SPECIAL LOANS MAY BE MADE TO FINANCE THE EXPANSION OR
7 IMPROVEMENT OF CHILD CARE SERVICES AT CHILD CARE FACILITIES IN THE STATE, IN
8 ACCORDANCE WITH THIS PART.

9 (C) SEPARATE ACCOUNTING REQUIRED.

10 ALL MONEY RECEIVED BY THE FUND FOR MAKING CHILD CARE SPECIAL LOANS
11 SHALL BE ACCOUNTED FOR SEPARATELY, INCLUDING:

12 (1) FEDERAL MONEY ALLOCATED OR GRANTED FOR CHILD CARE SPECIAL
13 LOANS, INCLUDING CHILD CARE AND DEVELOPMENT BLOCK GRANT MONEY;

14 (2) PRIVATE MONEY DONATED OR GRANTED TO THE FUND FOR CHILD CARE
15 SPECIAL LOANS;

16 (3) PREMIUMS, FEES, INTEREST PAYMENTS, AND PRINCIPAL PAYMENTS ON
17 CHILD CARE SPECIAL LOANS MADE WITH FEDERAL MONEY;

18 (4) PROCEEDS FROM THE SALE, DISPOSITION, OR LEASE OF COLLATERAL
19 THAT RELATES TO CHILD CARE SPECIAL LOANS;

20 (5) ANY OTHER MONEY MADE AVAILABLE FOR CHILD CARE SPECIAL LOANS;
21 AND

22 (6) ANY FEDERAL MONEY FOR CHILD CARE SPECIAL LOANS THAT ARE USED
23 BY THE DEPARTMENT TO PAY COSTS OF ADMINISTERING THE CHILD CARE SPECIAL
24 LOANS.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 83A, § 5-1409(a), (b), and (c).

27 In subsection (c)(4) of this section, the former reference to "rental" is
28 deleted as redundant of the reference to a "lease".

29 In subsection (c)(6) of this section, the reference to "child care special"
30 loans is added for specificity and to use the defined term.

31 Defined terms: "Child care facility" § 5-301

32 "Child care special loan" § 5-301

33 "Department" § 1-101

34 "Fund" § 5-301

35 "State" § 1-101

1 5–343. CONSIDERATIONS IN MAKING LOANS.

2 IN MAKING CHILD CARE SPECIAL LOANS, THE DEPARTMENT SHALL CONSIDER:

- 3 (1) COMMUNITY NEED;
- 4 (2) COMMUNITY INCOME, WITH PRIORITY GIVEN TO THOSE COMMUNITIES
5 WITH THE LOWEST MEDIAN FAMILY INCOME;
- 6 (3) CARE FOR CHILDREN WITH TEENAGE PARENTS IN SCHOOL OR TRAINING;
- 7 (4) CARE FOR CHILDREN WITH SPECIAL NEEDS; AND
- 8 (5) INFANT CARE.

9 REVISOR’S NOTE: This section is new language derived without substantive
10 change from former Art. 83A, § 5–1409(d).

11 In the introductory language of this section, the reference to “the
12 Department” is added for clarity.

13 Defined term: “Child care special loan” § 5–301

14 5–344. APPLICATION REQUIRED.

15 (A) IN GENERAL.

16 AN APPLICANT FOR A CHILD CARE SPECIAL LOAN SHALL SUBMIT TO THE
17 DEPARTMENT AN APPLICATION THAT CONTAINS THE INFORMATION THAT THE
18 DEPARTMENT REQUIRES.

19 (B) CONTENTS.

20 THE APPLICATION SHALL INCLUDE:

- 21 (1) A DETAILED DESCRIPTION OF THE PROPOSED OR EXISTING CHILD CARE
22 FACILITY;
- 23 (2) AN ITEMIZATION OF KNOWN AND ESTIMATED COSTS;
- 24 (3) THE TOTAL AMOUNT OF MONEY REQUIRED TO EXPAND OR IMPROVE
25 CHILD CARE SERVICES AT THE CHILD CARE FACILITY;
- 26 (4) THE MONEY AVAILABLE TO THE APPLICANT WITHOUT A CHILD CARE
27 SPECIAL LOAN FROM THE DEPARTMENT;
- 28 (5) THE AMOUNT OF MONEY SOUGHT FROM THE DEPARTMENT;
- 29 (6) EVIDENCE OF THE INABILITY OF THE APPLICANT TO OBTAIN THE
30 FINANCING NECESSARY FOR THE CHILD CARE FACILITY ON AFFORDABLE TERMS THROUGH
31 NORMAL LENDING CHANNELS;

1 (7) INFORMATION THAT RELATES TO THE FINANCIAL STATUS OF THE
2 APPLICANT, INCLUDING, IF APPLICABLE:

3 (I) A CURRENT BALANCE SHEET;

4 (II) A PROFIT AND LOSS STATEMENT; AND

5 (III) CREDIT REFERENCES; AND

6 (8) A LEASE, OPTION TO BUY, DEED, OR EVIDENCE THAT THE APPLICANT IS
7 LEGALLY ENTITLED TO REMAIN AT THE CHILD CARE FACILITY FOR AT LEAST THE TERM OF
8 THE LOAN.

9 (c) AGREEMENT TO OPERATE FACILITY FOR TERM OF LOAN.

10 THE APPLICANT FOR A CHILD CARE SPECIAL LOAN SHALL AGREE TO:

11 (1) OPERATE THE CHILD CARE FACILITY FOR AT LEAST THE TERM OF THE
12 CHILD CARE SPECIAL LOAN; AND

13 (2) REPAY THE OUTSTANDING CHILD CARE SPECIAL LOAN IN FULL ON THE
14 LOSS OF LICENSE, TERMINATION OF LEASE, OR TRANSFER, SALE, OR REFINANCING OF
15 THE CHILD CARE FACILITY, AS APPLICABLE, BEFORE THE END OF THE TERM OF THE
16 CHILD CARE SPECIAL LOAN.

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from former Art. 83A, § 5–1409(f) and (k)(1).

19 In subsections (a) and (b)(4) of this section, the specific reference to “a child
20 care special loan” is substituted for the former general reference to
21 “financial assistance”.

22 In subsection (b)(5) of this section, the specific reference to “money” is
23 substituted for the former general reference to “financial assistance”.

24 In subsection (b)(6) of this section, the reference to the “child care” facility
25 is added for specificity and to use the defined term.

26 Defined terms: “Child care facility” § 5–301

27 “Child care special loan” § 5–301

28 “Department” § 1–101

29 5–345. STANDARDS FOR MAKING LOANS.

30 THE DEPARTMENT MAY MAKE A CHILD CARE SPECIAL LOAN TO AN APPLICANT IF:

31 (1) THE APPLICANT MEETS THE QUALIFICATIONS REQUIRED BY THIS PART;

32 (2) THE APPLICANT MEETS ANY ADDITIONAL REQUIREMENTS IMPOSED BY
33 THE SOURCE OF THE MONEY TO BE LOANED; AND

1 (3) THE CHILD CARE SPECIAL LOAN WILL BE USED FOR AN AUTHORIZED USE
2 UNDER § 5–348 OF THIS SUBTITLE.

3 REVISOR’S NOTE: This section is new language derived without substantive
4 change from former Art. 83A, § 5–1409(e).

5 In item (3) of this section, the phrase “for an authorized use under § 5–348
6 of this subtitle” is substituted for the former phrase “to assist applicants in
7 meeting applicable State and local child care standards” for clarity and
8 consistency within this part.

9 Defined terms: “Child care special loan” § 5–301
10 “Department” § 1–101

11 5–346. TERMS AND CONDITIONS.

12 (A) IN GENERAL.

13 EXCEPT AS PROVIDED IN THIS PART, THE DEPARTMENT MAY SET THE TERMS AND
14 CONDITIONS FOR CHILD CARE SPECIAL LOANS.

15 (B) MAXIMUM TERM.

16 THE TERM OF A CHILD CARE SPECIAL LOAN MAY NOT EXCEED 10 YEARS.

17 (C) MINIMUM AND MAXIMUM AMOUNTS.

18 (1) THE MINIMUM AMOUNT OF A CHILD CARE SPECIAL LOAN IS \$1,000.

19 (2) THE MAXIMUM AMOUNT OF A CHILD CARE SPECIAL LOAN IS \$10,000.

20 REVISOR’S NOTE: This section is new language derived without substantive
21 change from former Art. 83A, § 5–1409(g), (j), and (l).

22 Defined terms: “Child care facility” § 5–301
23 “Child care special loan” § 5–301
24 “Department” § 1–101

25 5–347. LOAN DOCUMENTS.

26 (A) IN GENERAL.

27 IF THE DEPARTMENT MAKES A CHILD CARE SPECIAL LOAN TO AN APPLICANT, THE
28 DEPARTMENT SHALL PREPARE LOAN DOCUMENTS.

29 (B) CONTENTS.

30 THE LOAN DOCUMENTS SHALL INCLUDE:

31 (1) THE RATE OF INTEREST ON THE CHILD CARE SPECIAL LOAN;

1 (2) THE AMOUNT OF THE CHILD CARE SPECIAL LOAN;

2 (3) A REQUIREMENT THAT BEFORE EACH DISBURSEMENT OF LOAN
3 PROCEEDS IS RELEASED TO THE APPLICANT, THE APPLICANT AND THE DEPARTMENT
4 COSIGN THE REQUEST FOR THE MONEY;

5 (4) PROVISIONS FOR REPAYMENT OF THE CHILD CARE SPECIAL LOAN; AND

6 (5) ANY OTHER PROVISIONS THAT THE DEPARTMENT DETERMINES ARE
7 NECESSARY, INCLUDING PROVISIONS TO TAKE LIENS AND SECURITY INTERESTS IN REAL
8 AND PERSONAL PROPERTY.

9 (c) PENALTIES FOR FAILURE TO OPERATE CHILD CARE FACILITY.

10 THE CHILD CARE SPECIAL LOAN DOCUMENTS MAY PROVIDE FOR PENALTIES FOR AN
11 APPLICANT WHO FAILS TO OPERATE THE CHILD CARE FACILITY FOR THE ENTIRE TERM OF
12 THE CHILD CARE SPECIAL LOAN.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 83A, § 5–1409(h) and (k)(2).

15 In subsection (a) of this section, the reference to the Department “mak[ing]
16 a child care special loan” to an applicant is substituted for the former
17 reference to the Department “decid[ing] to lend money” to an applicant for
18 specificity and consistency with terminology used throughout this part.

19 In subsections (b)(1), (2), and (4) and (c) of this section, the references to
20 the “child care special” loan are added for specificity and to use the defined
21 term.

22 Defined terms: “Child care special loan” § 5–301
23 “Department” § 1–101

24 5–348. USE OF PROCEEDS.

25 (A) AUTHORIZED USES.

26 THE PROCEEDS OF A CHILD CARE SPECIAL LOAN MAY BE USED:

27 (1) TO ASSIST THE APPLICANT IN MEETING APPLICABLE STATE AND LOCAL
28 CHILD CARE STANDARDS;

29 (2) TO PAY FOR MINOR RENOVATIONS, AND TO UPGRADE CHILD CARE
30 FACILITIES, TO ENSURE THAT APPLICANTS MEET STATE AND LOCAL CHILD CARE
31 STANDARDS; OR

32 (3) TO PURCHASE AND INSTALL EQUIPMENT AND FURNITURE, INCLUDING
33 EQUIPMENT NEEDED TO ACCOMMODATE CHILDREN WITH SPECIAL NEEDS.

34 (B) PROHIBITED USES.

1 EXCEPT AS PROVIDED IN SUBSECTION (A) OF THIS SECTION, THE PROCEEDS OF A
2 CHILD CARE SPECIAL LOAN MAY NOT BE USED:

3 (1) TO PURCHASE OR IMPROVE LAND; OR

4 (2) TO PURCHASE, CONSTRUCT, OR IMPROVE A BUILDING OR FACILITY.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 83A, § 5–1409(m).

7 In subsection (a)(2) of this section, the former reference to “machinery” is
8 deleted as redundant of the reference to “equipment”.

9 Defined terms: “Child care facility” § 5–301

10 “Child care special loan” § 5–301

11 “State” § 1–101

12 5–349. FORECLOSURE ON MORTGAGES OR DEEDS OF TRUST.

13 (A) IN GENERAL.

14 A MORTGAGE OR DEED OF TRUST HELD AS SECURITY FOR A CHILD CARE SPECIAL
15 LOAN MADE UNDER THIS PART THAT IS IN DEFAULT MAY BE FORECLOSED BY THE
16 DEPARTMENT IN THE SAME MANNER AS THE MARYLAND RULES PROVIDE FOR
17 FORECLOSURES IN PRIVATE TRANSACTIONS.

18 (B) DEPARTMENT TO TAKE TITLE.

19 THE DEPARTMENT MAY TAKE TITLE IN ITS NAME TO ANY PROPERTY FORECLOSED
20 UNDER THIS SECTION AS WELL AS TO CONVEY TITLE TO THAT PROPERTY TO A BONA FIDE
21 PURCHASER OF THE PROPERTY.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 83A, § 5–1409(i).

24 In subsection (a) of this section, the reference to a “child care special” loan
25 is added for specificity and to use the defined term.

26 Defined terms: “Child care special loan” § 5–301

27 “Department” § 1–101

28 GENERAL REVISOR'S NOTE TO SUBTITLE:

29 Former Art. 83A, § 5–1412(b) and (c), which provided that moneys on deposit in
30 various former funds were transferred to the Fund on July 1, 2000, and July 1, 2004,
31 respectively, is deleted as obsolete. The contemplated transfers have already occurred.

1 SUBTITLE 4. MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY.

2 PART I. GENERAL PROVISIONS.

3 5–401. DEFINITIONS.

4 (A) IN GENERAL.

5 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

6 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–901(a).

7 The only changes are in style.

8 (B) AUTHORITY.

9 “AUTHORITY” MEANS THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING
10 AUTHORITY.

11 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–901(c).

12 No changes are made.

13 (C) AUTHORIZED PURPOSE OBLIGATION.

14 (1) “AUTHORIZED PURPOSE OBLIGATION” MEANS AN EVIDENCE OF
15 OBLIGATION ISSUED, OFFERED FOR SALE, OR DELIVERED BY ANY PERSON OR PUBLIC
16 BODY FOR ANY PURPOSE THAT THE AUTHORITY DETERMINES WILL ACCOMPLISH THE
17 PURPOSES OF THIS SUBTITLE.

18 (2) “AUTHORIZED PURPOSE OBLIGATION” INCLUDES:

19 (I) A BOND;

20 (II) A NOTE;

21 (III) A CERTIFICATE; AND

22 (IV) ANY OTHER EVIDENCE OF OBLIGATION.

23 REVISOR’S NOTE: This subsection is new language derived without
24 substantive change from former Art. 83A, § 5–901(d).25 In paragraph (1) of this subsection, the phrase “for any purpose that the
26 Authority determines” is substituted for the former phrase “for any
27 purpose found and determined by the Authority” for brevity.

28 Defined terms: “Authority” § 5–401

29 “Bond” § 5–401

30 “Person” § 1–101

31 “Public body” § 5–401

1 (D) BOND.

2 (1) “BOND” MEANS A BOND OR NOTE THAT IS ISSUED AND SOLD BY A
3 PUBLIC BODY, UNIT, OR INSTRUMENTALITY OF THE STATE TO FINANCE A FACILITY OR
4 REFUND AN OUTSTANDING BOND.

5 (2) “BOND” INCLUDES:

6 (I) A BOND ANTICIPATION NOTE;

7 (II) A NOTE IN THE NATURE OF COMMERCIAL PAPER OR OTHER
8 INSTRUMENT;

9 (III) A CERTIFICATE;

10 (IV) A BOND ISSUED UNDER THIS SUBTITLE OR TITLE 12, SUBTITLE 1
11 OF THIS ARTICLE (MARYLAND ECONOMIC DEVELOPMENT REVENUE BOND ACT); AND

12 (V) ANY OTHER EVIDENCE OF OBLIGATION.

13 REVISOR’S NOTE: This subsection is new language derived without
14 substantive change from former Art. 83A, § 5–901(e).

15 Defined terms: “Facility” § 5–401

16 “Finance” § 5–401

17 “Public body” § 5–401

18 “State” § 1–101

19 (E) COGENERATION.

20 “COGENERATION” MEANS THE COMBINED GENERATION BY A FACILITY OF:

21 (1) ELECTRICAL OR MECHANICAL POWER; AND

22 (2) ENERGY USED FOR INDUSTRIAL, COMMERCIAL, HEATING OR COOLING
23 PURPOSES, INCLUDING:

24 (I) STEAM;

25 (II) HEAT; AND

26 (III) OTHER FORMS OF ENERGY.

27 REVISOR’S NOTE: This subsection is new language derived without
28 substantive change from former Art. 83A, § 5–901(f).

29 In paragraph (2)(iii) of this subsection, the former reference to “useful”
30 energy is deleted as surplusage.

31 Defined term: “Facility” § 5–401

(F) COMMERCIAL BUILDING.

“COMMERCIAL BUILDING” MEANS A BUILDING THAT:

(1) IS USED PRIMARILY TO CARRY ON A FOR–PROFIT OR NOT–FOR–PROFIT BUSINESS;

(2) IS NOT RESIDENTIAL; 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. 83A, § 5–901(g).

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.

(G) ENERGY AUDIT.

“ENERGY AUDIT” MEANS:

(1) AN ENERGY AUDIT PERFORMED FOR THE PURPOSES OF TITLE VII OF THE ENERGY POLICY AND CONSERVATION ACT, 42 U.S.C. §§ 6201 THROUGH 6422; OR

(2) AN ONSITE INSPECTION OF A COMMERCIAL BUILDING, AN INDUSTRIAL BUILDING, OR AN INDUSTRIAL PROCESS TO DETERMINE AND PROVIDE INFORMATION ON:

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

(II) MAINTENANCE AND OPERATION PROCEDURES THAT MIGHT REDUCE THE ENERGY CONSUMPTION OF THE BUILDING OR PROCESS; 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. 83A, § 5–901(j).

Defined terms: “Commercial building” § 5–401

“Energy conservation project” § 5–401

“Industrial building” § 5–401

“Industrial process” § 5–401

“Solar energy project” § 5–401

(H) ENERGY CONSERVATION PROJECT.

1 “ENERGY CONSERVATION PROJECT” MEANS A PROJECT THAT QUALIFIES UNDER §
2 5–447 OF THIS SUBTITLE.

3 REVISOR’S NOTE: This subsection is new language added to provide a
4 convenient reference to an “energy conservation project”.

5 (I) ENERGY PROJECT.

6 (1) “ENERGY PROJECT” MEANS A PROJECT THAT QUALIFIES UNDER §
7 5–445 OF THIS SUBTITLE.

8 (2) “ENERGY PROJECT” INCLUDES:

9 (I) AN ENERGY CONSERVATION PROJECT; AND

10 (II) A SOLAR ENERGY PROJECT.

11 REVISOR’S NOTE: This subsection is new language added to provide a
12 convenient reference to an “energy project”.

13 Defined terms: “Energy conservation project” § 5–401
14 “Solar energy project” § 5–401

15 (J) EXPORT–RELATED FINANCING TRANSACTION.

16 “EXPORT–RELATED FINANCING TRANSACTION” MEANS FINANCING PROVIDED TO A
17 MANUFACTURER OF GOODS IN THE STATE, OR A SELLER OF GOODS OR SERVICES IN THE
18 STATE, IF THE GOODS OR SERVICES ARE INTENDED FOR SALE TO A FOREIGN ENTITY.

19 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–901(m).

20 The only changes are in style.

21 Defined term: “State” § 1–101

22 (K) FACILITY.

23 (1) “FACILITY” HAS THE MEANING STATED IN § 12–101 OF THIS ARTICLE.

24 (2) “FACILITY” INCLUDES AN ENERGY PROJECT.

25 REVISOR’S NOTE: This subsection is new language derived without
26 substantive change from former Art. 83A, § 5–901(n).

27 Defined term: “Energy project” § 5–401

28 (L) FACILITY APPLICANT.

29 “FACILITY APPLICANT” HAS THE MEANING STATED IN § 12–101 OF THIS ARTICLE.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 83A, § 5–901(o).

3 (M) FACILITY USER.

4 “FACILITY USER” HAS THE MEANING STATED IN § 12–101 OF THIS ARTICLE.

5 REVISOR'S NOTE: This subsection is new language derived without
6 substantive change from former Art. 83A, § 5–901(p).

7 (N) FINANCE.

8 “FINANCE” INCLUDES REFINANCE.

9 REVISOR'S NOTE: This subsection is new language added to avoid repetition
10 of the phrase “finance or refinance”.

11 (O) FOREIGN ENTITY.

12 “FOREIGN ENTITY” MEANS:

13 (1) A PERSON LOCATED OUTSIDE THE UNITED STATES; OR

14 (2) A GOVERNMENTAL UNIT OF A COUNTRY OTHER THAN THE UNITED
15 STATES.

16 REVISOR'S NOTE: This subsection is new language derived without
17 substantive change from former Art. 83A, § 5–901(r).

18 In this subsection, the former phrase “business association, or corporation”
19 is deleted as implicit in the defined term “person”.

20 Defined terms: “Authority” § 5–401

21 “Person” § 1–101

22 (P) FUND.

23 “FUND” MEANS THE INDUSTRIAL DEVELOPMENT FUND ESTABLISHED UNDER §
24 5–423 OF THIS SUBTITLE.

25 REVISOR'S NOTE: This subsection is new language derived without
26 substantive change from former Art. 83A, § 5–901(t).

27 (Q) IMPROVE.

28 “IMPROVE” MEANS TO CONSTRUCT, RECONSTRUCT, EQUIP, EXPAND, EXTEND,
29 IMPROVE, INSTALL, REHABILITATE, OR REMODEL.

30 REVISOR'S NOTE: This subsection is new language added for brevity and
31 clarity.

1 Defined term: “Facility” § 5–401

2 (R) IMPROVEMENT.

3 “IMPROVEMENT” MEANS CONSTRUCTION, ADDITION, ALTERATION, EQUIPPING,
4 EXPANSION, EXTENSION, IMPROVEMENT, INSTALLATION, RECONSTRUCTION,
5 REHABILITATION, REMODELING, OR REPAIR.

6 REVISOR’S NOTE: This subsection is new language derived without
7 substantive change from former Art. 83A, § 5–901(b).

8 The defined term “[i]mprovement” is substituted for the former defined
9 term “[a]cquisition” for clarity since all of the items listed in the former
10 defined term, except “acquisition” itself, are a type of improvement.
11 Correspondingly, the former term “acquisition” is deleted from the defined
12 term “improvement” and is stated separately where appropriate in the
13 revision.

14 The references to “addition”, “alteration”, “installation”, and “repair” are
15 added for completeness and consistency with the definition of
16 “improvement” in § 10–101 of this article.

17 The former phrase “1 or more facilities or energy projects” is deleted as
18 unnecessary since a reference to a facility or energy project is repeated as
19 appropriate whenever the defined term “improvement” is used in this
20 subtitle.

21 Defined term: “Facility” § 5–401

22 (S) INDUSTRIAL BUILDING.

23 (1) “INDUSTRIAL BUILDING” MEANS A BUILDING THAT:

24 (I) IS USED PRIMARILY TO CARRY ON A FOR–PROFIT OR
25 NOT–FOR–PROFIT BUSINESS;

26 (II) IS USED PRIMARILY FOR AN INDUSTRIAL PROCESS; AND

27 (III) CONTROLS ENERGY USAGE WITHIN ITS EXTERIOR ENVELOPE BUT
28 DOES NOT HAVE A PEAK DESIGN RATE OF ENERGY USAGE OF LESS THAN:

29 1. 3.5 B.T.U. PER HOUR PER SQUARE FOOT; OR

30 2. 1 WATT PER SQUARE FOOT OF FLOOR AREA.

31 (2) “INDUSTRIAL BUILDING” DOES NOT INCLUDE A COMMERCIAL BUILDING
32 OR A RESIDENTIAL BUILDING.

33 REVISOR’S NOTE: This subsection is new language derived without
34 substantive change from former Art. 83A, § 5–901(s).

1 In item (1)(iii) of this subsection, the former phrase “as designed”, which
2 pertained to the peak design rate of energy usage, is deleted as surplusage.

3 Defined terms: “Commercial building” § 5–401
4 “Industrial process” § 5–401

5 (T) INDUSTRIAL PROCESS.

6 “INDUSTRIAL PROCESS” MEANS:

7 (1) A PROCESS USED TO PRODUCE OR MANUFACTURE GOODS OR PRODUCTS;

8 OR

9 (2) THE STORAGE OR SHIPMENT OF MATERIALS, GOODS, OR PRODUCTS.

10 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–901(u).

11 No changes are made.

12 (U) PUBLIC BODY.

13 “PUBLIC BODY” HAS THE MEANING STATED IN § 12–101 OF THIS ARTICLE.

14 REVISOR’S NOTE: This subsection is new language derived without
15 substantive change from former Art. 83A, § 5–901(y).

16 (V) PUBLIC PORT.

17 “PUBLIC PORT” HAS THE MEANING STATED IN § 12–101 OF THIS ARTICLE.

18 REVISOR’S NOTE: This subsection is new language derived without
19 substantive change from former Art. 83A, § 5–901(z).

20 (W) RETAIL ESTABLISHMENT.

21 “RETAIL ESTABLISHMENT” MEANS AN ESTABLISHMENT THAT SELLS GOODS OR
22 SERVICES TO THE ULTIMATE USER OR CONSUMER FOR PERSONAL USE RATHER THAN
23 BUSINESS USE.

24 REVISOR’S NOTE: This subsection is new language derived without
25 substantive change from former Art. 83A, § 5–901(aa).

26 (X) SOLAR ENERGY PROJECT.

27 “SOLAR ENERGY PROJECT” MEANS A PROJECT THAT QUALIFIES UNDER § 5–448 OF
28 THIS SUBTITLE.

29 REVISOR’S NOTE: This subsection is new language added to provide a
30 convenient reference to “solar energy project”.

1 REVISOR'S NOTE TO SECTION: Former Art. 83A, § 5–901(q), which defined
2 “financial assistance”, is deleted as unnecessary and to avoid confusion
3 between references to financial assistance provided under this subtitle and
4 financial assistance provided under other laws. Instead, throughout this
5 subtitle, references to financial assistance “under this subtitle” are added
6 as appropriate for clarity.

7 Former Art. 83A, § 5–901(x), which defined “property”, is deleted as
8 unnecessary, because it only reflected the common meaning of the term.

9 Former Art. 83A, § 5–901(w), which defined “municipality”, is deleted as
10 unnecessary. Throughout this subtitle, the term “municipal corporation” is
11 substituted for the former defined term “municipality” to conform to Md.
12 Constitution, Art. XI–E. *See* General Revisor's Note to article.

13 5–402. CONSTRUCTION OF SUBTITLE.

14 THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO ACCOMPLISH ITS PURPOSES.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 83A, § 5–902(c).

17 5–403. LEGISLATIVE FINDINGS; PURPOSES.

18 (A) FINDINGS.

19 THE GENERAL ASSEMBLY FINDS THAT:

20 (1) UNEMPLOYMENT CONDITIONS EXIST IN MANY AREAS OF THE STATE;

21 (2) THE ACQUISITION AND IMPROVEMENT OF FACILITIES ARE ESSENTIAL TO
22 RELIEVE THIS UNEMPLOYMENT AND ESTABLISH A BALANCED ECONOMY IN THE STATE;

23 (3) THE HEALTH, SAFETY, WELFARE, AND RIGHT OF GAINFUL EMPLOYMENT
24 OF RESIDENTS THROUGHOUT THE STATE WILL BE PROMOTED BY THE ACQUISITION AND
25 IMPROVEMENT OF FACILITIES;

26 (4) THE CONTROL OR ABATEMENT OF ENVIRONMENTAL POLLUTION IN THE
27 STATE, INCLUDING NOISE POLLUTION, IS NECESSARY TO:

28 (I) PROTECT THE HEALTH, SAFETY, AND WELFARE OF THE RESIDENTS
29 OF THE STATE;

30 (II) PROTECT NATURAL RESOURCES;

31 (III) RETAIN AND ATTRACT INDUSTRY AND COMMERCIAL ENTERPRISES;
32 AND

33 (IV) PROMOTE ECONOMIC DEVELOPMENT;

1 (5) PUBLIC PORTS IN THE STATE ARE VALUABLE ASSETS AND ANY
2 IMPROVEMENTS TO THESE PORTS THAT INCREASE THE IMPORT AND EXPORT OF
3 WATERBORNE COMMERCE WILL DIRECTLY BENEFIT RESIDENTS THROUGHOUT THE STATE;

4 (6) BUSINESSES NEED GREATER ACCESS TO CAPITAL MARKETS; AND

5 (7) THE AVAILABILITY OF FINANCIAL ASSISTANCE UNDER THIS SUBTITLE
6 WILL PROMOTE THE ECONOMIC DEVELOPMENT OF THE STATE.

7 (B) PURPOSES.

8 THE PURPOSES OF THIS SUBTITLE ARE TO:

9 (1) RELIEVE UNEMPLOYMENT IN THE STATE;

10 (2) ENCOURAGE THE INCREASE OF INDUSTRY AND COMMERCE AND A
11 BALANCED ECONOMY IN THE STATE;

12 (3) HELP RETAIN AND ATTRACT INDUSTRY AND COMMERCE THROUGH
13 MEASURES INCLUDING:

14 (I) PORT DEVELOPMENT;

15 (II) THE CONTROL, REDUCTION, OR ABATEMENT OF ENVIRONMENTAL
16 POLLUTION; AND

17 (III) THE UTILIZATION AND DISPOSAL OF WASTES;

18 (4) PROMOTE ECONOMIC DEVELOPMENT;

19 (5) PROTECT NATURAL RESOURCES AND ENCOURAGE RESOURCE RECOVERY;

20 (6) ENCOURAGE THE CREATION AND EXPANSION OF DAY CARE FACILITIES IN
21 THE STATE; AND

22 (7) PROMOTE THE HEALTH, SAFETY, AND WELFARE OF RESIDENTS
23 THROUGHOUT THE STATE.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 83A, § 5–902(a) and (b) and § 5–901(z).

26 In subsections (a)(3) and (b)(7) of this section, the phrase “throughout the
27 State” is substituted for the former phrase “of each of the counties and
28 municipalities of the State” for clarity.

29 In subsection (a)(3) and (4) of this section, the term “residents” is
30 substituted for the former term “citizens” because the meaning of the term
31 “citizens” in this context is unclear.

32 In subsection (a)(3) of this section, the former word “happiness” is deleted
33 for consistency with similar language referring to the “health, safety, and

1 welfare of residents” in subsection (b)(7) of this section.

2 In subsection (a)(5) of this section, the former phrase “that they attract and
3 service” is deleted as surplusage.

4 Defined terms: “Authority” § 5–401

5 “Facility” § 5–401

6 “State” § 1–101

7 5–404. RESERVED.

8 5–405. RESERVED.

9 PART II. MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY.

10 5–406. ESTABLISHED.

11 (A) IN GENERAL.

12 THERE IS A MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY IN
13 THE DEPARTMENT.

14 (B) STATUS.

15 THE AUTHORITY IS A BODY POLITIC AND CORPORATE AND IS AN INSTRUMENTALITY
16 OF THE STATE.

17 (C) ESSENTIAL GOVERNMENTAL FUNCTION.

18 THE EXERCISE BY THE AUTHORITY OF POWER UNDER THIS SUBTITLE IS THE
19 PERFORMANCE OF AN ESSENTIAL GOVERNMENTAL FUNCTION.

20 REVISOR’S NOTE: This section is new language derived without substantive
21 change from former Art. 83A, §§ 5–904 and 5–910(b).

22 In subsection (b) of this section, the former reference to a “public”
23 instrumentality of the State is deleted as implicit in the reference to a
24 “body politic and corporate”.

25 Defined terms: “Authority” § 5–401

26 “Department” § 1–101

27 “State” § 1–101

28 5–407. MEMBERSHIP.

29 (A) COMPOSITION; APPOINTMENT OF MEMBERS.

30 (1) THE AUTHORITY CONSISTS OF THE FOLLOWING NINE MEMBERS:

31 (i) SEVEN MEMBERS APPOINTED BY THE GOVERNOR WITH THE
32 ADVICE AND CONSENT OF THE SENATE; AND

1 (II) AS EX OFFICIO MEMBERS:

2 1. THE SECRETARY; AND

3 2. THE TREASURER OR THE COMPTROLLER, AS THE GOVERNOR
4 DESIGNATES.

5 (2) AN EX OFFICIO MEMBER MAY DESIGNATE A REPRESENTATIVE TO SERVE
6 ON THE AUTHORITY.

7 (B) CONSIDERATIONS.

8 THE APPOINTED MEMBERS SHALL:

9 (1) HAVE SUBSTANTIAL EXPERIENCE IN BUSINESS OR ECONOMIC
10 DEVELOPMENT; AND

11 (2) REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, AND GENDER MAKEUP OF
12 THE STATE.

13 (C) APPOINTED MEMBERS — TENURE AND VACANCIES.

14 (1) THE TERM OF AN APPOINTED MEMBER IS 5 YEARS.

15 (2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS
16 REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE AUTHORITY ON OCTOBER 1,
17 2008.

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

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

22 (D) APPOINTED MEMBERS — REMOVAL.

23 THE GOVERNOR MAY REMOVE AN APPOINTED MEMBER WITH OR WITHOUT CAUSE.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 83A, § 5–905(a) through (d).

26 In subsection (a)(2) of this section, the reference to terms being staggered
27 as required by the terms provided for members on “October 1, 2008” is
28 substituted for the former obsolete reference to terms being staggered as
29 required by the terms provided on “July 1, 2005”. See § 13 of Ch. _____,
30 Acts of 2008. This substitution is not intended to alter the term of any
31 member of the Authority. The terms of the members serving on October 1,
32 2008, end as follows: (1) two on June 30, 2009; (2) one on June 30, 2010; (3)
33 one on June 30, 2011; (4) two on June 30, 2012; and (5) one on June 30,
34 2013.

1 In subsection (d) of this section, the reference to the “remov[al]” of an
2 appointed member “with or without cause” is substituted for the former
3 reference to a member serving a specified term “at the Governor’s
4 pleasure” for clarity and consistency within this article. *See* General
5 Revisor’s Note to article.

6 Defined terms: “Authority” § 5–401
7 “Secretary” § 1–101
8 “State” § 1–101

9 5–408. JOINT MEMBERSHIP WITH MARYLAND ECONOMIC DEVELOPMENT
10 ASSISTANCE AUTHORITY; ACTIONS.

11 (A) JOINT MEMBERSHIP.

12 THE MEMBERS OF THE AUTHORITY ARE ALSO THE MEMBERS OF THE MARYLAND
13 ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY UNDER § 5–306 OF THIS TITLE.

14 (B) ACTIONS — IN GENERAL.

15 THE MEMBERS OF THE AUTHORITY MAY ACT CONCURRENTLY IN THEIR CAPACITIES
16 AS MEMBERS OF THE AUTHORITY AND OF THE MARYLAND ECONOMIC DEVELOPMENT
17 ASSISTANCE AUTHORITY.

18 (C) ACTIONS — POWERS AND DUTIES.

19 THE MEMBERS OF THE AUTHORITY SHALL CARRY OUT THE POWERS AND DUTIES OF
20 THE AUTHORITY UNDER THIS SUBTITLE WHETHER ACTING:

21 (1) CONCURRENTLY AS MEMBERS OF THE AUTHORITY AND THE MARYLAND
22 ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY; OR

23 (2) AS MEMBERS OF EITHER AUTHORITY ALONE.

24 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–905(e) through (g).

25 The only changes are in style.

26 Defined term: “Authority” § 5–401

27 5–409. OFFICERS.

28 (A) IN GENERAL.

29 (1) FROM AMONG ITS MEMBERS, THE AUTHORITY SHALL ELECT A CHAIR
30 AND A VICE CHAIR.

31 (2) THE EXECUTIVE DIRECTOR SERVES AS SECRETARY OF THE AUTHORITY.

32 (B) ELECTION AND TERMS OF OFFICE.

1 THE AUTHORITY SHALL DETERMINE THE MANNER OF ELECTION OF OFFICERS AND
2 THEIR TERMS OF OFFICE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 83A, § 5–906 and, as it related to the executive
5 director's service as secretary, § 5–907(a).

6 In subsection (a)(1) of this section, the references to a "chair" and "vice
7 chair" are substituted for the former references to a "chairman" and "vice
8 chairman" because SG § 2–1238 requires the use of words that are neutral
9 as to gender to the extent practicable. See General Revisor's Note to
10 article.

11 Defined term: "Authority" § 5–401

12 5–410. QUORUM; MEETINGS; COMPENSATION.

13 (A) QUORUM; VOTING.

14 (1) FIVE MEMBERS OF THE AUTHORITY ARE A QUORUM.

15 (2) AN AFFIRMATIVE VOTE OF AT LEAST FOUR MEMBERS IS NEEDED FOR
16 THE AUTHORITY TO ACT.

17 (B) MEETINGS.

18 THE AUTHORITY SHALL DETERMINE THE TIMES AND PLACES OF ITS MEETINGS.

19 (C) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

20 A MEMBER OF THE AUTHORITY:

21 (1) IS NOT ENTITLED TO COMPENSATION AS A MEMBER OF THE AUTHORITY;
22 BUT

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

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 83A, § 5–908(a), (b), and (c). It is restated in
27 standard language for clarity and consistency.

28 Defined terms: "Authority" § 5–401

29 "State" § 1–101

30 5–411. EXECUTIVE DIRECTOR.

31 (A) POSITION; TENURE.

32 (1) WITH THE APPROVAL OF THE SECRETARY, THE AUTHORITY SHALL
33 APPOINT AN EXECUTIVE DIRECTOR.

1 (2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE
2 AUTHORITY, WITH THE CONCURRENCE OF THE SECRETARY.

3 (3) THE POSITION OF EXECUTIVE DIRECTOR IS A SPECIAL APPOINTMENT
4 UNDER THE STATE PERSONNEL AND MANAGEMENT SYSTEM.

5 (B) ADMINISTRATIVE OFFICER.

6 THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE OFFICER OF THE
7 AUTHORITY.

8 (C) DUTIES.

9 THE EXECUTIVE DIRECTOR SHALL:

10 (1) DIRECT AND SUPERVISE THE ADMINISTRATIVE AFFAIRS AND TECHNICAL
11 ACTIVITIES OF THE AUTHORITY;

12 (2) ATTEND THE MEETINGS OF THE AUTHORITY;

13 (3) RECORD THE MINUTES OF THE PROCEEDINGS OF THE AUTHORITY;

14 (4) APPROVE ALL ACCOUNTS FOR SALARIES, PER DIEM PAYMENTS, AND
15 ALLOWABLE EXPENSES OF THE AUTHORITY, ITS EMPLOYEES, AND ITS CONSULTANTS;

16 (5) APPROVE ALL EXPENSES INCIDENTAL TO THE OPERATION OF THE
17 AUTHORITY;

18 (6) IN COOPERATION WITH THE DEPARTMENT, SUBMIT TO THE AUTHORITY
19 REPORTS AND RECOMMENDATIONS RELATED TO PROPOSED FINANCIAL ASSISTANCE
20 UNDER THIS SUBTITLE; AND

21 (7) PERFORM THE OTHER DUTIES THAT THE SECRETARY OR THE
22 AUTHORITY REQUIRES TO CARRY OUT THIS SUBTITLE.

23 (D) RESIDENT AGENT.

24 THE EXECUTIVE DIRECTOR IS THE RESIDENT AGENT OF THE AUTHORITY FOR THE
25 RECEIPT OF SERVICE MADE IN ACCORDANCE WITH THE MARYLAND RULES.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 83A, §§ 5–913, 5–908(d)(2)(ii), and 5–907(b) and
28 (c), and, as it related to the appointment and administrative responsibility
29 of the Executive Director, (a).

30 In subsection (d) of this section, the phrase “resident agent of the Authority
31 for the receipt of service made in accordance with the Maryland Rules” is
32 substituted for former Art. 83A, § 5–913, which specified that “service of
33 process on the Authority shall be made by service on the executive director
34 of the Authority, either in person or by leaving a copy of the process at the
35 office of the executive director with the individual in charge of the office”

1 and to conform to the requirements for service of process under CA §
2 1–401, CJ § 6–301, and Md. Rules 2–124(d) and (k) and 3–124(d) and (k).

3 Defined terms: “Authority” § 5–401
4 “Department” § 1–101
5 “Secretary” § 1–101
6 “State” § 1–101

7 5–412. STAFF.

8 (A) IN GENERAL.

9 THE AUTHORITY MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE BUDGET.

10 (B) APPOINTMENT.

11 THE AUTHORITY SHALL APPOINT AND REMOVE ALL PERSONNEL IN ACCORDANCE
12 WITH THE STATE PERSONNEL AND PENSIONS ARTICLE.

13 REVISOR’S NOTE: This section is new language derived without substantive
14 change from former Art. 83A, § 5–908(d)(1) and (2)(i).

15 Defined terms: “Authority” § 5–401
16 “State” § 1–101

17 5–413. POWERS AND DUTIES.

18 (A) POWERS.

19 THE AUTHORITY MAY:

20 (1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;

21 (2) ADOPT A SEAL;

22 (3) MAINTAIN OFFICES IN THE STATE;

23 (4) SUE AND BE SUED IN ITS OWN NAME;

24 (5) RETAIN CONSULTANTS;

25 (6) USE THE SERVICES OF OTHER GOVERNMENTAL AGENCIES;

26 (7) IN ACCORDANCE WITH THE PURPOSES OF THIS SUBTITLE, CONTRACT FOR
27 AND ACCEPT A LOAN OR GRANT FROM THE FEDERAL GOVERNMENT OR THE STATE, A
28 LOCAL GOVERNMENT, OR ANY OF THEIR UNITS OR INSTRUMENTALITIES;

29 (8) ACQUIRE, IMPROVE, MANAGE, OPERATE, DISPOSE OF, OR OTHERWISE
30 DEAL WITH PROPERTY, TAKE ASSIGNMENTS OF RENTALS AND LEASES, AND MAKE
31 CONTRACTS, LEASES, AGREEMENTS, AND ARRANGEMENTS THAT ARE NECESSARY OR

1 INCIDENTAL TO THE PERFORMANCE OF THE AUTHORITY'S DUTIES, ON THE TERMS AND
2 CONDITIONS THAT IT MAY CONSIDER ADVISABLE;

3 (9) ACQUIRE OR RECEIVE ASSIGNMENT OF A DOCUMENT EXECUTED,
4 OBTAINED, OR DELIVERED IN CONNECTION WITH FINANCIAL ASSISTANCE UNDER THIS
5 SUBTITLE;

6 (10) SUBJECT TO ANY OUTSTANDING AGREEMENT THE AUTHORITY MAKES
7 UNDER THIS SUBTITLE, MAKE A COVENANT OR OTHER AGREEMENT REGARDING THE
8 AUTHORITY'S INSURANCE FUNDS, ESTABLISH WITHIN THEM ACCOUNTS TO CARRY OUT
9 THIS SUBTITLE, AND ALLOCATE REVENUE AND RECEIPTS AMONG THE ACCOUNTS;

10 (11) FIX, CHARGE, AND COLLECT A PREMIUM, FEE, COST, OR OTHER EXPENSE
11 RELATED TO FINANCIAL ASSISTANCE UNDER THIS SUBTITLE, INCLUDING AN APPLICATION
12 FEE, COMMITMENT FEE, PROGRAM FEE, FINANCE CHARGE, AND PUBLICATION FEE;

13 (12) AUTHORIZE THE CHAIR, VICE CHAIR, OR EXECUTIVE DIRECTOR TO
14 PERFORM, ON BEHALF OF THE AUTHORITY, A DUTY OR PRESCRIBE, SPECIFY, DETERMINE,
15 OR APPROVE A DETAIL, DOCUMENT, PROCEDURE, OR A MATTER THAT THE AUTHORITY, IN
16 ITS SOLE DISCRETION, DETERMINES APPROPRIATE TO CARRY OUT THIS SUBTITLE; AND

17 (13) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE
18 POWERS GRANTED BY THIS SUBTITLE.

19 (B) DUTIES.

20 THE AUTHORITY SHALL:

21 (1) KEEP RECORDS OF ITS FUNDS AND ACCOUNTS; AND

22 (2) ENSURE THAT ITS FUNDS AND ACCOUNTS ARE AUDITED ANNUALLY.

23 (C) PURCHASING.

24 IN ITS INTERNAL FUNCTIONS, THE AUTHORITY SHALL PURCHASE OFFICE SPACE,
25 SUPPLIES, FACILITIES, MATERIALS, EQUIPMENT, AND PROFESSIONAL SERVICES IN
26 ACCORDANCE WITH THE STATE FINANCE AND PROCUREMENT ARTICLE.

27 (D) AUTHORITY OF SECRETARY.

28 THE AUTHORITY EXERCISES ITS POWERS AND PERFORMS ITS DUTIES SUBJECT TO
29 THE AUTHORITY OF THE SECRETARY.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 83A, §§ 5-908(e), 5-910(a), 5-911, and 5-912(1)
32 and (3).

33 In subsection (c) of this section, the phrase "the State Finance and
34 Procurement Article" is substituted for the former phrase "procedures of
35 the State that govern the purchase of" for consistency throughout this
36 article and with other articles of the Code.

1 Defined terms: “Authority” § 5–401

2 “Secretary” § 1–101

3 “State” § 1–101

4 5–414. REGULATIONS.

5 THE AUTHORITY MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

6 REVISOR’S NOTE: This section is new language derived without substantive
7 change from former Art. 83A, §§ 5–911(12) and 5–929.

8 It is set forth as a separate section for emphasis.

9 As to the deletion of the former reference to “rules”, see General Revisor’s
10 Note to article.

11 Defined term: “Authority” § 5–401

12 5–415. AGREEMENTS.

13 (A) APPROVAL.

14 THE AUTHORITY MAY APPROVE, OR MAY AUTHORIZE THE EXECUTIVE DIRECTOR TO
15 APPROVE, THE FORM OF AN AGREEMENT BY THE AUTHORITY UNDER THIS SUBTITLE.

16 (B) PAYMENT.

17 ANY MONEY THAT THE AUTHORITY PAYS UNDER AN AGREEMENT THE AUTHORITY
18 MAKES UNDER THIS SUBTITLE SHALL BE PAYABLE AS AND WHEN THE AUTHORITY
19 DETERMINES IN ITS SOLE DISCRETION.

20 REVISOR’S NOTE: This section is new language derived without substantive
21 change from former Art. 83A, § 5–922.

22 Defined term: “Authority” § 5–401

23 5–416. EFFECT OF FINDING.

24 A FINDING BY THE AUTHORITY, INCLUDING A FINDING AS TO THE PUBLIC PURPOSE
25 OF AN ACTION TAKEN UNDER THIS SUBTITLE, AND THE APPROPRIATENESS OF THAT
26 ACTION TO SERVE THE PUBLIC PURPOSE, IS CONCLUSIVE IN A PROCEEDING INVOLVING
27 THE VALIDITY OR ENFORCEABILITY OF:

28 (1) AN AGREEMENT THE AUTHORITY ENTERS INTO UNDER THIS SUBTITLE;

29 (2) A BOND; OR

30 (3) ANY SECURITY RELATING TO ITEM (1) OR (2) OF THIS SECTION.

31 REVISOR’S NOTE: This section is new language derived without substantive
32 change from former Art. 83A, § 5–903.

1 The former references to a “suit” and an “action” are deleted as included in
2 the comprehensive reference to a “proceeding”.

3 Defined terms: “Authority” § 5–401
4 “Bond” § 5–401

5 5–417. PUBLIC ETHICS; RULES OF CONSTRUCTION.

6 EVEN THOUGH A DETERMINATION OF THE AUTHORITY ABOUT FINANCIAL
7 ASSISTANCE IS SUBJECT TO THE MARYLAND PUBLIC ETHICS LAW, THE EXISTENCE OF A
8 CONFLICT OF INTEREST OR A VIOLATION OF THE MARYLAND PUBLIC ETHICS LAW DOES
9 NOT AFFECT:

10 (1) THE VALIDITY OF A FINDING OR DETERMINATION MADE UNDER THIS
11 SUBTITLE;

12 (2) THE ENFORCEABILITY OF AN AGREEMENT THAT THE AUTHORITY MAKES
13 UNDER THIS SUBTITLE; OR

14 (3) THE VALIDITY OR ENFORCEABILITY OF A BOND THAT THE AUTHORITY
15 ISSUES.

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 83A, § 5–909.

18 This section is restated as a rule of construction for a determination of the
19 Authority subject to the Maryland Public Ethics Law for clarity. As to the
20 Maryland Public Ethics Law, *see* SG Title 15.

21 Defined term: “Authority” § 5–401

22 5–418. IMMUNITY FROM PERSONAL LIABILITY.

23 A MEMBER OF THE AUTHORITY, A PERSON EXECUTING A BOND OR AGREEMENT OF
24 THE AUTHORITY UNDER THIS SUBTITLE, OR AN EMPLOYEE OF THE AUTHORITY, THE
25 DEPARTMENT, OR THE STATE IS NOT:

26 (1) PERSONALLY LIABLE ON A BOND OR AGREEMENT OF THE AUTHORITY;
27 OR

28 (2) SUBJECT TO PERSONAL LIABILITY OR ACCOUNTABILITY ARISING FROM
29 THE ISSUANCE, EXECUTION, OR DELIVERY OF A BOND OR AGREEMENT OF THE
30 AUTHORITY.

31 REVISOR’S NOTE: This section is new language derived without substantive
32 change from former Art. 83A, § 5–910(c).

33 Defined terms: “Authority” § 5–401
34 “Bond” § 5–401
35 “Department” § 1–101
36 “Person” § 1–101

1 “State” § 1–101

2 5–419. ANNUAL REPORT.

3 ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE AUTHORITY SHALL SUBMIT A
4 REPORT ON ITS CONDITIONS AND OPERATIONS TO THE GOVERNOR AND, IN ACCORDANCE
5 WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY
6 AND THE CHAIR OF THE JOINT AUDIT COMMITTEE.

7 REVISOR’S NOTE: This section is new language derived without substantive
8 change from former Art. 83A, § 5–912(2).

9 It is set forth as a separate section for emphasis.

10 In subsection (a) of this section, the reference to the “chair” is substituted
11 for the former reference to the “chairman” because SG § 2–1238 requires
12 the use of words neutral as to gender to the extent practicable.

13 Defined term: “Authority” § 5–401

14 5–420. DISSOLUTION.

15 IF THE AUTHORITY DISSOLVES, TITLE TO ITS PROPERTY VESTS IN THE STATE.

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 83A, § 5–930.

18 Defined terms: “Authority” § 5–401
19 “State” § 1–101

20 5–421. RESERVED.

21 5–422. RESERVED.

22 PART III. INDUSTRIAL DEVELOPMENT FUND.

23 5–423. ESTABLISHED.

24 THERE IS AN INDUSTRIAL DEVELOPMENT FUND.

25 REVISOR’S NOTE: This section is new language derived without substantive
26 change from the first sentence of former Art. 83A, § 5–914(a), as it related
27 to establishment of the Fund.

28 5–424. PURPOSE.

29 THE FUND SHALL BE USED:

30 (1) FOR THE PURPOSES DESCRIBED IN PART VI AND §§ 5–430, 5–431,
31 AND 5–438 OF THIS SUBTITLE; AND

- 1 (2) TO PAY EXPENSES OF THE AUTHORITY, INCLUDING EXPENSES:
- 2 (I) FOR ADMINISTRATIVE, LEGAL, ACTUARIAL, AND OTHER SERVICES;
- 3 (II) RELATED TO:
- 4 1. ISSUANCE OR INSURANCE OF BONDS AND AUTHORIZED
- 5 PURPOSE OBLIGATIONS; AND
- 6 2. FUNDING OF RESERVES; OR
- 7 (III) OF PROVIDING OTHER FINANCIAL ASSISTANCE UNDER THIS
- 8 SUBTITLE.

9 REVISOR'S NOTE: This section is new language derived without substantive

10 change from former Art. 83A, § 5–914(c).

11 In item (2)(ii) of this section, the former reference to “costs, charges, [and]

12 fees” is deleted as implicit in the comprehensive reference to “expenses”.

13 Also in item (2)(ii) of this section, the former reference to “authorizing,

14 preparing, printing, [and] selling” bonds and authorized purpose

15 obligations is deleted as implicit in the reference to expenses “related to

16 issuance of” bonds and authorized purpose obligations.

17 Also in item (2)(ii) of this section, the former parenthetical phrase

18 “including, by way of example, bonds or authorized purpose obligations,

19 the proceeds of which are used to refinance or refund outstanding bonds or

20 authorized purpose obligations” is deleted as included in the defined terms

21 “bond” and “authorized purpose obligation”.

22 Defined terms: “Authority” § 5–401

23 “Authorized purpose obligation” § 5–401

24 “Bond” § 5–401

25 5–425. COMPOSITION.

26 (A) IN GENERAL.

27 THE FUND IS A CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO

28 REVERSION UNDER § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

29 (B) CONTENTS.

30 THE FUND CONSISTS OF:

- 31 (1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;
- 32 (2) PREMIUMS, FEES, AND ANY OTHER MONEY RECEIVED BY THE
- 33 AUTHORITY WITH RESPECT TO FINANCIAL ASSISTANCE PROVIDED BY THE AUTHORITY
- 34 FROM THE FUND;

1 (3) PROCEEDS FROM THE SALE, LEASE, OR OTHER DISPOSITION OF
2 PROPERTY OF THE AUTHORITY;

3 (4) INTEREST RECEIVED FROM LINKED DEPOSITS MADE FROM THE LINKED
4 DEPOSIT PROGRAM UNDER PART VI OF THIS SUBTITLE; AND

5 (5) ANY OTHER MONEY MADE AVAILABLE UNDER THIS SUBTITLE.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 83A, § 5–914(b).

8 In subsection (a) of this section, the phrase “that is not subject to reversion
9 under § 7–302 of the State Finance and Procurement Article” is
10 substituted for the former word “revolving” for consistency within this
11 article.

12 In subsection (b) of this section, the former reference to “investments that
13 the State Treasurer, on instruction of the Authority, makes from moneys in
14 the Industrial Development Fund” is deleted as redundant of § 5–426(a)(2)
15 of this subtitle.

16 In subsection (b)(1) of this section, the phrase “in the State budget” is
17 substituted for the former phrase “by the State” for clarity.

18 Defined terms: “Authority” § 5–401

19 “Fund” § 5–401

20 “State” § 1–101

21 5–426. INVESTMENTS.

22 (A) IN GENERAL.

23 THE TREASURER SHALL:

24 (1) INVEST THE MONEY IN THE FUND IN THE SAME MANNER AS OTHER
25 STATE MONEY MAY BE INVESTED; AND

26 (2) CREDIT ANY INVESTMENT EARNINGS TO THE FUND.

27 (B) BENEFIT OF EARNINGS.

28 ANY NET INVESTMENT EARNINGS OF THE FUND, BEYOND THOSE NECESSARY TO
29 FURTHER THE PURPOSES OF THIS SUBTITLE, MAY NOT BENEFIT A PERSON OTHER THAN
30 THE STATE.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 83A, § 5–914(d).

33 In subsection (a) of this section, the former obsolete reference to moneys
34 “exceed[ing] the amount that the Authority considers necessary to meet its
35 current expenses and obligations” being invested by the Treasurer is

1 deleted. In general, the Treasurer holds all special fund moneys and
2 invests them and credits them in accordance with applicable law.

3 Defined terms: “Authority” § 5–401
4 “Fund” § 5–401
5 “State” § 1–101

6 5–427. ADDITIONAL MONEY.

7 (A) IN GENERAL.

8 THE AUTHORITY SHALL SEND A WRITTEN REQUEST TO THE BOARD OF PUBLIC
9 WORKS FOR ADDITIONAL MONEY IF:

10 (1) THE AUTHORITY AND THE SECRETARY FIND THAT MORE MONEY IS
11 NEEDED TO KEEP THE RESERVES OF THE FUND AT AN ADEQUATE LEVEL; AND

12 (2) THE SECRETARY CONSENTS TO THE REQUEST.

13 (B) BOARD OF PUBLIC WORKS.

14 THE BOARD OF PUBLIC WORKS MAY DISBURSE THE REQUESTED AMOUNT FROM
15 THE GENERAL EMERGENCY FUND.

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 83A, § 5–914(e).

18 In subsection (b) of this section, the reference to the “General” Emergency
19 Fund is added for consistency within the Code. *See, e.g.*, ED § 13–308(b)
20 and SF § 10–501(a)(2).

21 Defined terms: “Authority” § 5–401
22 “Fund” § 5–401
23 “Secretary” § 1–101

24 5–428. SURPLUS MONEY.

25 WITH THE CONSENT OF THE SECRETARY, THE AUTHORITY MAY PAY TO THE
26 TREASURER, TO THE CREDIT OF THE GENERAL FUND, MONEY THAT THE AUTHORITY
27 DETERMINES EXCEEDS THE AMOUNT NECESSARY TO MEET:

28 (1) THE OBLIGATIONS OF THE AUTHORITY UNDER THIS SUBTITLE; AND

29 (2) THE REQUIREMENTS OF THIS SUBTITLE.

30 REVISOR’S NOTE: This section is new language derived without substantive
31 change from former Art. 83A, § 5–914(f).

32 Defined terms: “Authority” § 5–401
33 “Fund” § 5–401
34 “Secretary” § 1–101

1 5–429. REPORT OF TREASURER.

2 EACH YEAR THE TREASURER SHALL REPORT TO THE AUTHORITY ON THE:

3 (1) STATUS OF THE FUND;

4 (2) MARKET VALUE OF THE ASSETS IN THE FUND AS OF THE DATE OF THE
5 REPORT; AND

6 (3) EARNINGS FROM INVESTMENTS OF THE FUND DURING THE PERIOD
7 COVERED BY THE REPORT.

8 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–915.

9 The only changes are in style.

10 Defined terms: “Authority” § 5–401

11 “Fund” § 5–401

12 5–430. BOND–RELATED INSURANCE.

13 (A) IN GENERAL.

14 IF THE REQUIREMENTS OF THIS SECTION ARE SATISFIED, AND SUBJECT TO §
15 5–432 OF THIS SUBTITLE, THE AUTHORITY MAY USE THE FUND TO:

16 (1) INSURE THE PAYMENT OF ANY OF THE PRINCIPAL OF, REDEMPTION OR
17 PREPAYMENT PREMIUMS OR PENALTIES ON, AND INTEREST ON:

18 (I) BONDS; AND

19 (II) ANY INSTRUMENT EXECUTED, OBTAINED, OR DELIVERED IN
20 CONNECTION WITH THE ISSUANCE AND SALE OF BONDS; AND

21 (2) PAY OR INSURE THE PAYMENT OF FEES OR PREMIUMS FOR INSURANCE,
22 GUARANTEES, OR OTHER CREDIT SUPPORT IN CONNECTION WITH FINANCIAL ASSISTANCE
23 UNDER THIS SUBTITLE.

24 (B) ECONOMIC IMPACT.

25 BASED ON FACTORS IT CONSIDERS RELEVANT, THE AUTHORITY SHALL DETERMINE,
26 IN ITS SOLE DISCRETION, THAT THE ECONOMIC IMPACT OF THE TRANSACTION WILL BE
27 SUBSTANTIAL.

28 (C) REMOVAL OR ABANDONMENT OF FACILITIES.

29 THE AUTHORITY SHALL FIND:

30 (1) THAT THE ACQUISITION OR IMPROVEMENT OF A FACILITY WILL NOT
31 RESULT IN:

1 (I) THE REMOVAL FROM ONE COUNTY TO ANOTHER COUNTY OF THE
2 BUSINESS OPERATIONS OF THE FACILITY USER; OR

3 (II) THE ABANDONMENT OF A FACILITY IN THE STATE; OR

4 (2) IF THE ACQUISITION OR IMPROVEMENT WILL RESULT IN REMOVAL OR
5 ABANDONMENT, THAT THE ACQUISITION OR IMPROVEMENT WILL:

6 (I) DISCOURAGE THE FACILITY USER FROM LEAVING THE STATE; OR

7 (II) PRESERVE THE COMPETITIVE POSITION OF THE FACILITY USER IN
8 ITS INDUSTRY.

9 (D) OPERATION BY AUTHORITY.

10 THE AUTHORITY SHALL FIND THAT THE AUTHORITY WILL NOT BE REQUIRED,
11 EXCEPT ON DEFAULT, TO OPERATE, SERVICE, OR MAINTAIN THE FACILITY.

12 (E) SECURITY.

13 THE BONDS OR INSTRUMENTS SHALL BE SECURED IN A MANNER THAT THE
14 AUTHORITY APPROVES.

15 (F) AMOUNT OF FINANCIAL ASSISTANCE.

16 FINANCIAL ASSISTANCE FROM THE FUND PROVIDED UNDER THIS SECTION MAY NOT
17 EXCEED AN AGGREGATE AMOUNT OF \$7,500,000 FOR A SINGLE FACILITY.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 83A, §§ 5–916 and 5–917(a) through (f).

20 Defined terms: "Authority" § 5–401

21 "Bond" § 5–401

22 "Facility" § 5–401

23 "Facility user" § 5–401

24 "Fund" § 5–401

25 "Improvement" § 5–401

26 "State" § 1–101

27 5–431. AUTHORIZED PURPOSE OBLIGATION INSURANCE.

28 (A) IN GENERAL.

29 IF THE REQUIREMENTS OF THIS SECTION ARE SATISFIED, AND SUBJECT TO §
30 5–432 OF THIS SUBTITLE, THE AUTHORITY MAY USE THE FUND TO:

31 (1) INSURE THE PAYMENT OF ANY OF THE PRINCIPAL OF, REDEMPTION OR
32 PREPAYMENT PREMIUMS OR PENALTIES ON, AND INTEREST ON AUTHORIZED PURPOSE
33 OBLIGATIONS; AND

1 (2) PAY OR INSURE THE PAYMENT OF FEES OR PREMIUMS FOR INSURANCE,
2 GUARANTEES, OR OTHER CREDIT SUPPORT IN CONNECTION WITH FINANCIAL ASSISTANCE
3 UNDER THIS SUBTITLE.

4 (B) ECONOMIC IMPACT.

5 BASED ON FACTORS IT CONSIDERS RELEVANT, THE AUTHORITY SHALL DETERMINE,
6 IN ITS SOLE DISCRETION, THAT THE ECONOMIC IMPACT OF THE TRANSACTION WILL BE
7 SUBSTANTIAL.

8 (C) REMOVAL OR ABANDONMENT OF FACILITIES.

9 THE AUTHORITY SHALL FIND:

10 (1) THAT THE TRANSACTION WILL NOT RESULT IN:

11 (I) THE REMOVAL FROM ONE COUNTY TO ANOTHER COUNTY OF THE
12 BUSINESS OPERATIONS OF ANY PERSON WHO BENEFITS FROM THE TRANSACTION; OR

13 (II) THE ABANDONMENT OF THE BUSINESS OPERATIONS IN THE STATE
14 OF ANY PERSON WHO BENEFITS FROM THE TRANSACTION; OR

15 (2) IF THE TRANSACTION WILL RESULT IN REMOVAL OR ABANDONMENT,
16 THAT THE TRANSACTION WILL:

17 (I) DISCOURAGE THE BUSINESS FROM LEAVING THE STATE; OR

18 (II) PRESERVE THE COMPETITIVE POSITION OF THE BUSINESS IN ITS
19 INDUSTRY.

20 (D) RETAIL ESTABLISHMENT.

21 FINANCIAL ASSISTANCE UNDER THIS SECTION MAY ONLY BE USED IN CONNECTION
22 WITH A RETAIL ESTABLISHMENT IF THE AUTHORITY DETERMINES, IN ITS SOLE
23 DISCRETION, THAT THE FINANCIAL ASSISTANCE WILL ACCOMPLISH THE PURPOSES OF
24 THIS SUBTITLE.

25 (E) OPERATION BY AUTHORITY.

26 THE AUTHORITY SHALL FIND THAT THE AUTHORITY WILL NOT BE REQUIRED,
27 EXCEPT ON DEFAULT, TO OPERATE, SERVICE, OR MAINTAIN ANY BUSINESS.

28 (F) SECURITY.

29 THE AUTHORIZED PURPOSE OBLIGATIONS SHALL BE SECURED IN A MANNER THAT
30 THE AUTHORITY APPROVES.

31 (G) AMOUNT OF FINANCIAL ASSISTANCE.

32 FINANCIAL ASSISTANCE FROM THE FUND PROVIDED UNDER THIS SECTION MAY NOT
33 EXCEED AN AGGREGATE AMOUNT OF \$2,500,000 FOR A SINGLE TRANSACTION.

1 (H) INSURANCE OF AUTHORIZED PURPOSE OBLIGATIONS.

2 THE AGGREGATE AMOUNT OF INSURANCE PROVIDED UNDER THIS SECTION FOR A
3 SINGLE AUTHORIZED PURPOSE OBLIGATION MAY NOT EXCEED:

4 (1) FOR AN EXPORT–RELATED FINANCING TRANSACTION, 90% OF THE
5 TOTAL OF THE PRINCIPAL OF, REDEMPTION OR PREPAYMENT PREMIUMS OR PENALTIES
6 ON, AND INTEREST ON, THE AUTHORIZED PURPOSE OBLIGATION; OR

7 (2) FOR A TRANSACTION OTHER THAN AN EXPORT–RELATED FINANCING
8 TRANSACTION, 80% OF THE TOTAL OF THE PRINCIPAL OF, REDEMPTION OR PREPAYMENT
9 PREMIUMS OR PENALTIES ON, AND INTEREST ON, THE AUTHORIZED PURPOSE
10 OBLIGATION.

11 REVISOR’S NOTE: This section is new language derived without substantive
12 change from former Art. 83A, §§ 5–901(dd) and 5–919(a) through (g) and
13 (i).

14 In subsection (d) of this section, the reference to financial assistance
15 “under this section” is added for clarity.

16 Defined terms: “Authority” § 5–401
17 “Authorized purpose obligation” § 5–401
18 “Export–related financing transaction” § 5–401
19 “Fund” § 5–401
20 “Retail establishment” § 5–401
21 “State” § 1–101

22 5–432. LEVERAGE LIMITATIONS.

23 (A) BOND–RELATED INSURANCE.

24 THE PORTION OF THE AGGREGATE PRINCIPAL AMOUNT OF BONDS AND AUTHORIZED
25 PURPOSE OBLIGATIONS THAT THE FUND INSURES AT ANY TIME MAY NOT EXCEED 5
26 TIMES THE FUND BALANCE.

27 REVISOR’S NOTE: This section is new language derived without substantive
28 change from former Art. 83A, §§ 5–917(g) and 5–919(h).

29 Defined terms: “Authorized purpose obligation” § 5–401
30 “Bond” § 5–401
31 “Fund” § 5–401

1 5-433. RESERVED.

2 5-434. RESERVED.

3 PART IV. FINANCIAL ASSISTANCE.

4 5-435. APPLICATION OF OTHER LAWS.

5 FINANCIAL ASSISTANCE UNDER THIS SUBTITLE IS:

6 (1) SUBJECT TO THE PROVISIONS OF ARTICLE 49B OF THE CODE
7 CONCERNING DISCRIMINATION AND UNLAWFUL PRACTICES; AND

8 (2) NOT SUBJECT TO TITLE 17, SUBTITLE 1 OF THE STATE FINANCE AND
9 PROCUREMENT ARTICLE (SECURITY FOR CONSTRUCTION PROJECTS).

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 83A, § 5-923.

12 Defined term: "Authority" § 5-401

13 5-436. BONDS.

14 (A) IN GENERAL.

15 THE AUTHORITY MAY ISSUE AND SELL BONDS IN ACCORDANCE WITH TITLE 12,
16 SUBTITLE 1 OF THIS ARTICLE (MARYLAND ECONOMIC DEVELOPMENT REVENUE BOND
17 ACT) AND THIS SUBTITLE TO ACCOMPLISH THE PURPOSES OF THIS SUBTITLE.

18 (B) ISSUANCE OF BONDS.

19 (1) THE AUTHORITY MAY ISSUE ITS BONDS WITHOUT THE CONSENT OF ANY
20 OTHER UNIT OF STATE GOVERNMENT, ANY PROCEEDINGS, OR THE OCCURRENCE OF ANY
21 CONDITIONS, OTHER THAN THOSE EXPRESSLY REQUIRED BY THIS SUBTITLE.

22 (2) (i) BEFORE THE AUTHORITY ISSUES BONDS, THE AUTHORITY SHALL
23 NOTIFY THE BOARD OF PUBLIC WORKS OF ITS INTENTION TO ISSUE THE BONDS UP TO
24 A STATED AMOUNT.

25 (ii) THE BOARD OF PUBLIC WORKS MAY COORDINATE THE ISSUANCE
26 OF THE BONDS WITH ANY ISSUANCE OF BONDS OF THE STATE OR ITS UNITS OR
27 INSTRUMENTALITIES.

28 (3) THE FAILURE OF THE AUTHORITY TO NOTIFY THE BOARD OF PUBLIC
29 WORKS UNDER PARAGRAPH (2)(i) OF THIS SUBSECTION DOES NOT AFFECT THE VALIDITY
30 OR ENFORCEABILITY OF BONDS, FINDINGS OR DETERMINATIONS, OR AGREEMENTS OF THE
31 AUTHORITY.

32 (C) PARTICIPATION BY MINORITY BUSINESS ENTERPRISE.

1 (1) WHEN THE AUTHORITY ISSUES BONDS, IT IS IN THE PUBLIC INTEREST
2 THAT THE AUTHORITY TRY TO ACHIEVE A GOAL THAT 10% OF THE FACILITY USERS ARE
3 MINORITY BUSINESS ENTERPRISES AS DEFINED IN § 14-301 OF THE STATE FINANCE
4 AND PROCUREMENT ARTICLE.

5 (2) THE FAILURE OF THE AUTHORITY TO ACHIEVE THE GOAL SET OUT
6 UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT AFFECT IN ANY WAY THE
7 VALIDITY OR ENFORCEABILITY OF BONDS, FINDINGS OR DETERMINATIONS, OR
8 AGREEMENTS OF THE AUTHORITY.

9 (D) LIMITED OBLIGATIONS OF AUTHORITY.

10 (1) THIS SUBSECTION DOES NOT APPLY TO INSURANCE THAT THE
11 AUTHORITY PROVIDES.

12 (2) A BOND THE AUTHORITY ISSUES AND THE INTEREST ON THE BOND ARE
13 LIMITED OBLIGATIONS OF THE AUTHORITY.

14 (3) EXCEPT FOR BOND ANTICIPATION NOTES AND NOTES IN THE NATURE OF
15 COMMERCIAL PAPER, THE PRINCIPAL OF, PREMIUM, AND INTEREST ON A BOND ARE
16 PAYABLE SOLELY FROM:

17 (I) MONEY FROM THE FINANCING OF A FACILITY; AND

18 (II) OTHER MONEY MADE AVAILABLE TO THE AUTHORITY.

19 (4) BONDS AND THE INTEREST ON THEM:

20 (I) ARE NOT DEBTS OR CHARGES AGAINST THE GENERAL CREDIT OR
21 TAXING POWERS OF THE STATE, THE DEPARTMENT, THE AUTHORITY, OR ANY OTHER
22 PUBLIC BODY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR CHARTER PROVISION OR
23 STATUTORY LIMITATION; AND

24 (II) MAY NOT GIVE RISE TO ANY PECUNIARY LIABILITY OF THE STATE,
25 THE DEPARTMENT, THE AUTHORITY, OR ANY OTHER PUBLIC BODY.

26 (5) A BOND MAY STATE ON ITS FACE THAT THE BOND:

27 (I) IS ISSUED UNDER TITLE 12, SUBTITLE 1 OF THIS ARTICLE
28 (MARYLAND ECONOMIC DEVELOPMENT REVENUE BOND ACT) AND THIS SUBTITLE; AND

29 (II) IS NOT A DEBT TO WHICH THE FAITH AND CREDIT OF THE STATE,
30 THE DEPARTMENT, THE AUTHORITY, OR ANY OTHER PUBLIC BODY IS PLEDGED.

31 (E) TAX STATUS.

32 BONDS THAT THE AUTHORITY ISSUES ARE EXEMPT FROM STATE AND LOCAL TAXES
33 AS PROVIDED IN § 12-116 OF THIS ARTICLE.

34 (F) COMPETITIVE BIDDING.

1 FACILITIES FINANCED WITH THE PROCEEDS OF BONDS THAT THE AUTHORITY
2 ISSUES ARE NOT SUBJECT TO THE REQUIREMENTS OF ANY LAW REGARDING COMPETITIVE
3 BIDDING.

4 REVISOR’S NOTE: This section is new language derived without substantive
5 change from former Art. 83A, § 5–926(a) and (c) through (g).

6 In subsection (a) of this section, the former phrase “in addition to any other
7 powers it may have” is deleted as implicit in the statement that the
8 Authority “may issue and sell bonds”.

9 In subsection (b)(2)(ii) of this section, the reference to “units” is substituted
10 for the former reference to “its agencies” because the term “units” is broad
11 enough to include these entities. *See* General Revisor’s Note to article.

12 In subsection (c)(1) of this section, the phrase “public interest” is
13 substituted for the former phrase “of the public welfare and purpose” for
14 brevity.

15 In subsection (d)(1) of this section, the sentence “[t]his subsection does not
16 apply to insurance that the Authority provides” is substituted for the
17 former phrase “[e]xcept for the Authority’s insurance (if any)” for clarity.

18 In subsection (d)(3)(ii) of this section, the phrase “to pay for the principal,
19 interest, and premiums” is substituted for the former phrase “for such
20 purpose” for clarity.

21 In subsection (d)(5) of this section, the introductory phrase “[t]he Authority
22 may include on a bond that it issues a statement that the bond” is
23 substituted for the former phrase “[e]ach bond issued by the Authority, on
24 its face, may plainly state” for clarity.

25 In subsection (e) of this section, the reference to “State and local taxes” is
26 substituted for the former reference to “taxation by the State and by its
27 several counties and municipalities” for brevity.

28 Also in subsection (e) of this section, the specific reference to “§ 12–116 of
29 this article” is substituted for the former general reference to the
30 “Maryland Economic Development Revenue Bond Act” for clarity and
31 precision.

32 Former Art. 83A, § 5–926(b), which authorized the Authority to acquire
33 facilities through bond sales under the Maryland Economic Development
34 Revenue Bond Act, is deleted as redundant of the authorization for the
35 Authority as a “public body” to issue bonds for such an acquisition. *See* §§
36 12–101(l), 12–110, and 12–111 of this article.

37 Defined terms: “Authority” § 5–401

38 “Bond” § 5–401

39 “Department” § 1–101

- 1 “Facility” § 5–401
 2 “Facility user” § 5–401
 3 “Finance” § 5–401
 4 “Public body” § 5–401
 5 “State” § 1–101

6 5–437. AUTHORIZED PURPOSE OBLIGATION NOT EXCEEDING \$250,000.

7 (A) IN GENERAL.

8 (1) THE AUTHORITY MAY AUTHORIZE THE EXECUTIVE DIRECTOR OF THE
 9 AUTHORITY TO APPROVE, ON BEHALF OF THE AUTHORITY, FINANCIAL ASSISTANCE
 10 UNDER § 5–431 OF THIS SUBTITLE NOT EXCEEDING THE AGGREGATE AMOUNT OF
 11 \$250,000 FOR A SINGLE TRANSACTION.

12 (B) APPROVAL.

13 AN APPROVAL BY THE EXECUTIVE DIRECTOR UNDER THIS SECTION:

14 (1) IS SUBJECT TO CONCURRENCE OF THE SECRETARY, THE SECRETARY’S
 15 DESIGNEE, OR THE CHAIR OF THE AUTHORITY;

16 (2) SHALL COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE; AND

17 (3) IS BINDING ON THE AUTHORITY.

18 REVISOR’S NOTE: This section is new language derived without substantive
 19 change from former Art. 83A, § 5–921.

20 In subsection (a)(2) of this section, the reference to the “executive director”
 21 is added for clarity.

22 In subsection (b)(1) of this section, the reference to the “chair” is
 23 substituted for the former reference to the “chairman” because SG §
 24 2–1238 requires the use of words that are neutral as to gender to the
 25 extent practicable. *See* General Revisor’s Note to article.

26 Defined terms: “Authority” § 5–401

27 “Fund” § 5–401

28 “Secretary” § 1–101

29 5–438. EQUITY INTEREST.

30 IN CONJUNCTION WITH FINANCIAL ASSISTANCE UNDER THIS SUBTITLE, THE
 31 AUTHORITY MAY:

32 (1) ACCEPT AN OPTION TO ACQUIRE AN EQUITY INTEREST IN A BUSINESS
 33 ENTERPRISE; AND

34 (2) EXERCISE, IN ITS SOLE DISCRETION, THE OPTION USING MONEY FROM
 35 THE FUND.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83A, § 5–928.

3 Defined terms: “Authority” § 5–401
4 “Fund” § 5–401

5 5–439. PREMIUMS AND FEES.

6 (A) IN GENERAL.

7 THE AUTHORITY MAY SET PREMIUMS AND FEES FOR FINANCIAL ASSISTANCE
8 UNDER THIS SUBTITLE IN ITS SOLE DISCRETION.

9 (B) PAYMENT.

10 THE PREMIUMS AND FEES SHALL BE PAYABLE IN THE AMOUNTS, AT THE TIME, AND
11 IN THE MANNER THAT THE AUTHORITY REQUIRES IN ITS SOLE DISCRETION.

12 (C) VARIABILITY.

13 THE PREMIUMS AND FEES MAY VARY IN AMOUNT AMONG APPROVALS FOR
14 FINANCIAL ASSISTANCE UNDER THIS SUBTITLE AND AT DIFFERENT STAGES OF THE
15 FINANCIAL ASSISTANCE.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 83A, § 5–924(a) through (c).

18 Defined term: “Authority” § 5–401

19 5–440. WAIVER OF INSURANCE PREMIUMS.

20 (A) IN GENERAL.

21 THE AUTHORITY MAY NOT CHARGE A PREMIUM FOR INSURANCE IF THE AUTHORITY
22 DETERMINES THAT, AT THE TIME THE INSURANCE IS APPROVED, THE FACILITY OR
23 BUSINESS FOR WHICH THE AUTHORITY PROVIDES INSURANCE IS LOCATED IN A
24 QUALIFIED DISTRESSED COUNTY.

25 (B) APPLICATION OF DETERMINATION.

26 A DETERMINATION BY THE AUTHORITY UNDER SUBSECTION (A) OF THIS SECTION
27 FOR A FACILITY OR BUSINESS IS EFFECTIVE FOR AS LONG AS THE FINANCIAL ASSISTANCE
28 IS IN EFFECT.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 83A, §§ 5–925, 5–901(z–1), and 5–924(d).

31 Defined terms: “Authority” § 5–401
32 “Qualified distressed county” § 1–101

1 5–441. CONTINUITY OF EXISTING AUTHORIZED PURPOSE OBLIGATIONS.

2 (A) CONTINUING INSURANCE OBLIGATIONS.

3 INSURANCE ON BONDS OR AUTHORIZED PURPOSE OBLIGATIONS PROVIDED BEFORE
4 JULY 1, 2000, SHALL CONTINUE AS OBLIGATIONS OF THE AUTHORITY AND ARE
5 AUTHORIZED UNDER THIS SUBTITLE.

6 (B) ASSISTANCE COMMITMENTS.

7 FINANCIAL ASSISTANCE THAT THE AUTHORITY APPROVES, BUT THAT IS NOT
8 CLOSED BEFORE JULY 1, 2000, IS AUTHORIZED UNDER THIS SUBTITLE.

9 (C) CONTINUING BOND OBLIGATIONS.

10 BONDS ISSUED BY THE MARYLAND ENERGY FINANCING ADMINISTRATION SHALL
11 CONTINUE AFTER DECEMBER 31, 2001, AS OBLIGATIONS OF THE AUTHORITY AND ARE
12 AUTHORIZED UNDER THIS SUBTITLE.

13 (D) CONTINUING LOAN GUARANTEES.

14 LOAN GUARANTEES THAT THE DEPARTMENT PROVIDED FROM THE FORMER DAY
15 CARE LOAN GUARANTEE FUND SHALL CONTINUE AS OBLIGATIONS OF THE AUTHORITY
16 AND ARE AUTHORIZED UNDER THIS SUBTITLE.

17 (E) CONTINUING DEPOSIT AGREEMENTS.

18 DEPOSIT AGREEMENTS BETWEEN THE DEPARTMENT AND A LENDER UNDER THE
19 FORMER MARYLAND ENTERPRISE INCENTIVE DEPOSIT FUND PROGRAM SHALL
20 CONTINUE AS OBLIGATIONS OF THE AUTHORITY AND ARE AUTHORIZED UNDER THIS
21 SUBTITLE.

22 REVISOR’S NOTE: This section is new language derived without substantive
23 change from former Art. 83A, § 5–932.

24 Defined terms: “Authority” § 5–401
25 “Authorized purpose obligation” § 5–401
26 “Bond” § 5–401
27 “Department” § 1–101

28 5–442. RESERVED.

29 5–443. RESERVED.

30 PART V. PROJECTS.

31 5–444. STATUS OF AUTHORITY.

32 (A) ENERGY PROJECTS.

1 (1) THE AUTHORITY SHALL PARTICIPATE IN FINANCIAL ASSISTANCE
2 PROGRAMS FOR ENERGY PROJECTS PROVIDED BY THE FEDERAL ENERGY SECURITY ACT,
3 P.L. 96–294.

4 (2) FOR PURPOSES OF THAT ACT, THE AUTHORITY IS A “PERSON” AS
5 DEFINED IN:

6 (I) 42 U.S.C. § 8802, CONCERNING THE FINANCING OF BIOMASS
7 ENERGY, MUNICIPAL SOLID WASTE, AND ALCOHOL FUELS PROJECTS; AND

8 (II) 30 U.S.C. § 1511, CONCERNING THE FINANCING OF
9 GEOTHERMAL ENERGY PROJECTS.

10 (B) HYDROPOWER PROJECTS.

11 FOR PURPOSES OF THE FEDERAL PUBLIC UTILITY REGULATORY POLICIES ACT OF
12 1978, THE AUTHORITY IS A “NONPROFIT ORGANIZATION” AS DEFINED IN 16 U.S.C. §
13 2708 AND USED IN 16 U.S.C. §§ 2702 AND 2703, CONCERNING SMALL–SCALE
14 HYDROPOWER PROJECTS.

15 REVISOR’S NOTE: This section is new language derived without substantive
16 change from former Art. 83A, § 5–920(c) and (d).

17 In subsection (b) of this section, the reference to a nonprofit organization
18 “as defined in 16 U.S.C. § 2708” is added for clarity.

19 Former Art. 83A, § 5–920(c)(2), which provided that the Authority was a
20 “government corporation”, as used in Title II, Subtitle C, § 252 of the
21 federal Energy Security Act, 7 U.S.C. § 3154, concerning the financing of
22 other biomass energy projects”, is repealed as obsolete. Federal financial
23 assistance to government corporations under 7 U.S.C. § 3154 was repealed
24 by the federal Food, Agriculture, Conservation, and Trade Act of 1990, P.L.
25 101–624.

26 Defined term: “Authority” § 5–401

27 5–445. ENERGY PROJECT — IN GENERAL.

28 (A) DEFINITIONS.

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

31 (2) (I) “RENEWABLE FUEL” MEANS GASEOUS, LIQUID, OR SOLID FUEL
32 FROM ANY ORGANIC MATTER AND ITS BY–PRODUCTS.

33 (II) “RENEWABLE FUEL” INCLUDES FUEL FROM:

34 1. AN AGRICULTURAL CROP, AGRICULTURAL WASTE, OR
35 AGRICULTURAL RESIDUE;

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1 2. WOOD, WOOD WASTE, OR WOOD RESIDUE;

2 3. ANIMAL WASTE;

3 4. AQUATIC PLANTS;

4 5. SEWAGE OR SEWAGE SLUDGE;

5 6. MUNICIPAL, INDUSTRIAL, OR COMMERCIAL WASTE;

6 7. ANY MIXTURE OF ANY OF THESE SUBSTANCES WITH
7 INORGANIC REFUSE FROM A PUBLIC OR PRIVATE MUNICIPAL WASTE COLLECTION SYSTEM
8 OR SIMILAR DISPOSAL SYSTEM; OR

9 8. ANY COMBINATION OF ITEMS 1 THROUGH 7 OF THIS ITEM.

10 (III) “RENEWABLE FUEL” DOES NOT INCLUDE FOSSIL FUEL.

11 (3) “TRANSPORTATION FACILITY” MEANS A TRANSPORTATION FACILITY
12 THAT IS USED EXCLUSIVELY TO TRANSPORT FUEL PRODUCED BY A FUEL PRODUCTION
13 FACILITY TO:

14 (I) A STORAGE FACILITY;

15 (II) A PIPELINE CONNECTION TO AN EXISTING PIPELINE OR
16 PROCESSING FACILITY; OR

17 (III) AN AREA NEAR THE FUEL PRODUCTION FACILITY.

18 (B) QUALIFICATIONS.

19 A PROJECT QUALIFIES AS AN ENERGY PROJECT IF IT CONSISTS OF:

20 (1) AN ENERGY CONSERVATION PROJECT;

21 (2) A SOLAR ENERGY PROJECT;

22 (3) THE CONSTRUCTION OF A FACILITY TO PRODUCE SOLAR ENERGY
23 EQUIPMENT;

24 (4) THE CONSTRUCTION OF A FACILITY OR PORTION OF A FACILITY TO:

25 (I) PRODUCE RENEWABLE FUEL; AND

26 (II) BURN RENEWABLE FUEL OR A MIXTURE OF RENEWABLE FUEL WITH
27 OTHER MATERIALS, TO GENERATE:

28 1. HEAT;

29 2. MECHANICAL POWER;

30 3. ELECTRICITY, INCLUDING BY COGENERATION; OR

1 4. OTHER USEFUL FORMS OF ENERGY;

2 (5) THE CONVERSION OF ANY FACILITY TO USE RENEWABLE FUEL;

3 (6) THE EXPANSION OR IMPROVEMENT OF A FACILITY THAT INCREASES ITS
4 CAPACITY OR EFFICIENCY TO USE RENEWABLE FUEL;5 (7) THE ACQUISITION AND IMPROVEMENT OF EQUIPMENT FOR USE IN A
6 FACILITY SPECIFIED IN ITEMS (4) THROUGH (6) OF THIS SUBSECTION;7 (8) THE ACQUISITION OR IMPROVEMENT OF LAND FOR A FACILITY SPECIFIED
8 IN ITEMS (4) THROUGH (6) OF THIS SUBSECTION;9 (9) THE PURCHASE, CONSTRUCTION, OR INSTALLATION OF A FACILITY OR
10 EQUIPMENT TO USE GROUNDWATER AS A HEAT SOURCE FOR A HEATING SYSTEM OR AS A
11 HEAT SINK FOR AN AIR CONDITIONING SYSTEM;12 (10) THE PURCHASE, CONSTRUCTION, OR INSTALLATION OF A FACILITY OR
13 EQUIPMENT TO DEVELOP AND USE THE NATURAL HEAT OF THE EARTH FOR DIRECT USE
14 OR TO GENERATE ELECTRICITY;15 (11) THE PURCHASE, CONSTRUCTION, AND INSTALLATION OF A
16 HYDROELECTRIC FACILITY AT AN EXISTING DAM THAT:

17 (I) USES THE WATER POWER POTENTIAL OF THE DAM; AND

18 (II) HAS NO MORE THAN 30 MEGAWATTS OF INSTALLED CAPACITY;

19 (12) THE CONSTRUCTION OF A FUEL PRODUCTION FACILITY FOR COMMERCIAL
20 PRODUCTION OF A GASEOUS, LIQUID, OR SOLID FUEL, OR OF A COMBINATION OF THEM,
21 THAT:22 (I) IS PRODUCED BY CHEMICAL OR PHYSICAL TRANSFORMATION OF
23 COAL OR MIXTURES OF COAL AND OTHER MATERIALS;24 (II) CAN BE USED AS A SUBSTITUTE FOR PETROLEUM OR NATURAL GAS,
25 OR ANY OF THEIR DERIVATIVES, INCLUDING CHEMICAL FEEDSTOCKS; AND

26 (III) INCLUDES ONLY:

27 1. THE FUEL PRODUCTION FACILITY, INCLUDING THE
28 EQUIPMENT, PLANT, SUPPLIES, AND OTHER MATERIALS ASSOCIATED WITH THE FUEL
29 PRODUCTION FACILITY;30 2. THE LAND AND MINERAL RIGHTS REQUIRED DIRECTLY FOR
31 USE IN CONNECTION WITH THE FUEL PRODUCTION FACILITY; AND32 3. ANY OTHER FACILITY OR EQUIPMENT TO BE USED IN THE
33 EXTRACTION OF A MINERAL FOR USE DIRECTLY AND EXCLUSIVELY IN THE FUEL
34 PRODUCTION FACILITY THAT IS NECESSARY TO THE PROJECT AND IS:

1 A. COLOCATED WITH OR LOCATED IN THE IMMEDIATE VICINITY
2 OF THE FUEL PRODUCTION FACILITY; OR

3 B. IF NOT COLOCATED OR LOCATED IN ACCORDANCE WITH ITEM
4 A OF THIS ITEM:

5 I. A COAL MINE IN THE CASE THAT NO OTHER REASONABLE
6 SOURCE OF COAL IS AVAILABLE TO THE PROJECT; OR

7 II. INCIDENTAL TO THE PROJECT; AND

8 4. ANY TRANSPORTATION FACILITY, ELECTRIC POWER PLANT,
9 ELECTRIC TRANSMISSION LINE, OR OTHER FACILITY THAT IS:

10 A. FOR THE EXCLUSIVE USE OF THE PROJECT;

11 B. INCIDENTAL TO THE PROJECT; AND

12 C. NECESSARY TO THE PROJECT;

13 (13) THE CONVERSION OF A FACILITY FROM USING PETROLEUM-BASED FUEL
14 TO COAL OR TO A MIXTURE OF COAL AND OTHER MATERIALS AS A FUEL; OR

15 (14) THE CONSTRUCTION OF A FACILITY TO BURN COAL USING INNOVATIVE
16 TECHNOLOGY THAT INCREASES THE EFFICIENCY OF THE COMBUSTION PROCESS.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 83A, § 5-901(1).

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

21 In subsection (b)(10) of this section, the former phrase “, or the energy in
22 whatever form below the surface of the earth present in, resulting from, or
23 created by or which may be extracted from this natural heat to provide
24 useful energy in the form of heat” is deleted as surplusage.

25 Defined terms: “Cogeneration” § 5-401
26 “Energy conservation project” § 5-401
27 “Facility” § 5-401
28 “Improvement” § 5-401
29 “Renewable fuel” § 5-445
30 “Solar energy project” § 5-401
31 “Transportation facility” § 5-445

32 5-446. ENERGY PROJECT — CONSIDERATIONS; PROMOTION.

33 (A) FACTORS CONSIDERED.

34 IN AWARDING FINANCIAL ASSISTANCE UNDER THIS SUBTITLE FOR AN ENERGY
35 PROJECT, THE AUTHORITY SHALL CONSIDER WHETHER THE ENERGY PROJECT WOULD:

- 1 (1) REDUCE THE CONSUMPTION OF PETROLEUM AND OTHER ENERGY
2 SOURCES;
- 3 (2) INCREASE THE ENERGY SUPPLY AVAILABLE IN THE STATE;
- 4 (3) INCREASE EMPLOYMENT AND ECONOMIC ACTIVITY IN THE STATE;
- 5 (4) USE SOUND TECHNOLOGY AND BE ECONOMICALLY FEASIBLE;
- 6 (5) MINIMIZE HARM TO THE ENVIRONMENT; AND
- 7 (6) MAKE THE MOST USE OF FEDERAL FINANCIAL ASSISTANCE PROGRAMS
8 FOR ENERGY PROJECTS.

9 (B) ACTIVE PROMOTION.

10 THE AUTHORITY SHALL:

- 11 (1) PROMOTE PROGRAMS OF FINANCIAL ASSISTANCE FOR ENERGY PROJECTS
12 ESTABLISHED UNDER THIS SUBTITLE;
- 13 (2) INFORM CONSUMERS, THE PRIVATE SECTOR, AND FINANCIAL
14 INSTITUTIONS ABOUT THESE PROGRAMS AND ACTIVELY SEEK THEIR PARTICIPATION;
- 15 (3) DEVELOP AND DISSEMINATE DESCRIPTIONS OF ITS PROGRAMS OF
16 FINANCIAL ASSISTANCE FOR ENERGY PROJECTS; AND
- 17 (4) SERVE AS A CLEARINGHOUSE FOR INFORMATION ON FEDERAL AND
18 STATE PROGRAMS OF FINANCIAL ASSISTANCE FOR ENERGY PROJECTS.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 83A, § 5–920(a) and (b).

21 In subsection (a)(1) of this section, the former reference to “citizens” of the
22 State is deleted because the meaning of the term “citizen” in this context is
23 unclear.

24 Defined terms: “Authority” § 5–401

25 “Energy project” § 5–401

26 “State” § 1–101

27 5–447. ENERGY CONSERVATION PROJECT.

28 A PROJECT INVOLVING A COMMERCIAL BUILDING, AN INDUSTRIAL BUILDING, OR AN
29 INDUSTRIAL PROCESS QUALIFIES AS AN ENERGY CONSERVATION PROJECT IF IT CONSISTS
30 OF:

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

33 (I) CAULKING OR WEATHER STRIPPING;

- 1 (II) INSULATING THE BUILDING STRUCTURE OR A SYSTEM IN THE
2 BUILDING;
- 3 (III) A STORM WINDOW OR DOOR, A MULTIGLAZED WINDOW OR DOOR, A
4 HEAT—ABSORBING OR HEAT—REFLECTING WINDOW OR DOOR SYSTEM, GLAZING, A
5 REDUCTION IN GLASS AREA, OR ANOTHER WINDOW OR DOOR SYSTEM MODIFICATION;
- 6 (IV) AN AUTOMATIC ENERGY CONTROL SYSTEM;
- 7 (V) EQUIPMENT THAT IS ASSOCIATED WITH AN AUTOMATIC ENERGY
8 CONTROL SYSTEM AND THAT IS REQUIRED TO OPERATE A VARIABLE STEAM, HYDRAULIC,
9 OR VENTILATION SYSTEM;
- 10 (VI) THE REPLACEMENT OR MODIFICATION OF A LIGHTING SYSTEM TO
11 INCREASE ENERGY EFFICIENCY;
- 12 (VII) AN ENERGY RECOVERY SYSTEM;
- 13 (VIII) A COGENERATION SYSTEM;
- 14 (IX) A SYSTEM FOR PROCESSING OR CONVERTING THE WASTE
15 PRODUCTS OF THE INDUSTRIAL PROCESS TO STEAM, ELECTRICITY, HEAT, OR OTHER
16 USEFUL FORM OF ENERGY;
- 17 (X) AN IMPROVEMENT TO THE INDUSTRIAL PROCESS THAT REDUCES
18 THE ENERGY REQUIREMENTS FOR EACH UNIT OF OUTPUT;
- 19 (XI) A MODIFICATION OF A FURNACE OR UTILITY PLANT AND
20 DISTRIBUTION SYSTEM INCLUDING:
- 21 1. A REPLACEMENT BURNER, FURNACE, OR BOILER OR ANY
22 COMBINATION OF THEM THAT INCREASES THE ENERGY EFFICIENCY OF THE HEATING
23 SYSTEM;
- 24 2. A DEVICE FOR MODIFYING A FLUE OPENING THAT INCREASES
25 THE ENERGY EFFICIENCY OF THE HEATING SYSTEM; AND
- 26 3. AN ELECTRICAL OR MECHANICAL FURNACE IGNITION SYSTEM
27 THAT REPLACES A STANDING GAS PILOT LIGHT; OR
- 28 (XII) ANY OTHER ENERGY CONSERVATION IMPROVEMENT THAT THE
29 AUTHORITY DETERMINES BY REGULATION TO BE APPROPRIATE AND CONSISTENT WITH
30 THIS SUBTITLE; OR
- 31 (2) A PLANNING OR TECHNICAL SERVICE OR AN ENERGY AUDIT, IF THE
32 SERVICE OR AUDIT IS RELATED TO OR UNDERTAKEN WITH THE INSTALLATION, OR THE
33 MODIFICATION OF AN INSTALLATION OF AN ITEM SPECIFIED IN ITEM (1) OF THIS
34 SECTION.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 83A, § 5–901(k).

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

3 Defined terms: “Authority” § 5–401
4 “Commercial building” § 5–401
5 “Energy audit” § 5–401
6 “Improvement” § 5–401

7 5–448. SOLAR ENERGY PROJECT.

8 (A) IN GENERAL.

9 A PROJECT QUALIFIES AS A SOLAR ENERGY PROJECT IF IT:

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

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

14 (I) WIND ENERGY;

15 (II) ENERGY FROM A WOOD–BURNING APPLIANCE; OR

16 (III) SOLAR ENERGY OF:

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

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

21 3. A COMBINATION OF THESE TYPES.

22 (B) EXAMPLES.

23 A SOLAR ENERGY PROJECT MAY INCLUDE:

24 (1) A SOLAR PROCESS HEAT DEVICE;

25 (2) A SOLAR ELECTRIC DEVICE; AND

26 (3) AN EARTH–SHELTERED BUILDING IN WHICH THE SHELTERING
27 SUBSTANTIALLY REDUCES THE CONSUMPTION OF ENERGY BY THE BUILDING.

28 REVISOR’S NOTE: This section is new language derived without substantive
29 change from former Art. 83A, § 5–901(cc).

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

1 Defined terms: “Commercial building” § 5–401

2 “Industrial building” § 5–401

3 5–449. RESERVED.

4 5–450. RESERVED.

5 PART VI. LINKED DEPOSIT PROGRAM.

6 5–451. DEFINITIONS.

7 (A) IN GENERAL.

8 IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

9 REVISOR’S NOTE: This subsection is new language derived without
10 substantive change from former Art. 83A, § 5–927(a)(1).

11 (B) APPLICANT.

12 “APPLICANT” MEANS THE ELIGIBLE BUSINESS APPLYING FOR FIXED ASSET
13 FINANCING ASSISTED BY A LINKED DEPOSIT.

14 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–927(a)(2).

15 No changes are made.

16 (C) ELIGIBLE BUSINESS.

17 “ELIGIBLE BUSINESS” MEANS A FOR–PROFIT BUSINESS THAT:

18 (1) IS LOCATED IN A QUALIFIED DISTRESSED COUNTY;

19 (2) IS IN GOOD STANDING WITH EACH STATE REGULATORY AUTHORITY WITH
20 JURISDICTION OVER THE BUSINESS OF THE APPLICANT, INCLUDING THE STATE
21 WORKERS’ COMPENSATION COMMISSION, THE DEPARTMENT OF ASSESSMENTS AND
22 TAXATION, AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION; AND

23 (3) EMPLOYS 500 OR FEWER EMPLOYEES.

24 REVISOR’S NOTE: This subsection is new language derived without
25 substantive change from former Art. 83A, § 5–927(a)(3).

26 Defined terms: “Qualified distressed county” § 1–101

27 “State” § 1–101

28 (D) FIXED ASSET FINANCING.

29 (1) “FIXED ASSET FINANCING” MEANS A COMMERCIAL LOAN TO FINANCE:

1 (I) THE ACQUISITION OR IMPROVEMENT OF ALL OR PART OF A
2 BUILDING;

3 (II) THE ACQUISITION OR IMPROVEMENT OF THE LAND FOR THE
4 BUILDING IF NOT ALREADY OWNED BY THE APPLICANT; OR

5 (III) THE ACQUISITION OR IMPROVEMENT OF EQUIPMENT.

6 (2) “FIXED ASSET FINANCING” DOES NOT INCLUDE REFINANCING AN
7 EXISTING DEBT.

8 REVISOR’S NOTE: This subsection is new language derived without
9 substantive change from former Art. 83A, § 5–927(a)(4).

10 In paragraph (1)(ii) of this subsection, the former reference on which the
11 building “is located or is to be located” is deleted as surplusage.

12 In paragraph (1)(iii) of this subsection, the former reference to “machinery”
13 is deleted as redundant of the reference to “equipment”.

14 (E) LENDER.

15 “LENDER” MEANS A FINANCIAL INSTITUTION THAT:

- 16 (1) IS ELIGIBLE TO MAKE COMMERCIAL LOANS;
- 17 (2) IS A PUBLIC DEPOSITORY OF STATE FUNDS;
- 18 (3) AGREES TO RECEIVE LINKED DEPOSITS UNDER THIS PART; AND
- 19 (4) IS INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION.

20 REVISOR’S NOTE: This subsection is new language derived without
21 substantive change from former Art. 83A, § 5–927(a)(5).

22 In item (3) of this subsection, the reference to this “part” is substituted for
23 the former reference to this “subtitle” for accuracy.

24 Defined term: “State” § 1–101

25 (F) LINKED DEPOSIT.

26 “LINKED DEPOSIT” MEANS A DEPOSIT THAT THE AUTHORITY PLACES WITH A
27 LENDER THAT EARNS INTEREST BELOW THE PREVAILING MARKET RATE FOR EQUIVALENT
28 DEPOSITS MADE WITH THE LENDER AT THE TIME OF THE DEPOSIT.

29 REVISOR’S NOTE: This subsection is new language derived without
30 substantive change from former Art. 83A, § 5–927(a)(6).

31 Defined terms: “Authority” § 5–401

32 “Lender” § 5–451

1 (G) PROGRAM.

2 “PROGRAM” MEANS THE LINKED DEPOSIT PROGRAM ESTABLISHED UNDER §
3 5–452 OF THIS SUBTITLE.

4 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–901(v).

5 The only changes are in style.

6 5–452. ESTABLISHED.

7 THERE IS A LINKED DEPOSIT PROGRAM IN THE DEPARTMENT.

8 REVISOR’S NOTE: This section is new language derived without substantive
9 change from former Art. 83A, § 5–927(b)(1).

10 In this subsection, the former reference to the Program replacing “the
11 Department’s Maryland Enterprise Incentive Deposit Fund Program” is
12 deleted as obsolete.

13 Defined terms: “Department” § 1–101
14 “Program” § 5–451

15 5–453. PURPOSE.

16 (A) IN GENERAL.

17 THE PURPOSE OF THE PROGRAM IS TO STIMULATE ECONOMIC AND EMPLOYMENT
18 GROWTH IN RURAL AREAS OF THE STATE WITH HIGH UNEMPLOYMENT.

19 (B) ASSISTANCE TO ELIGIBLE BUSINESSES.

20 (1) THE PROGRAM SHALL ASSIST ELIGIBLE BUSINESSES TO OBTAIN A LOAN
21 AT BELOW MARKET RATES.

22 (2) AN ELIGIBLE BUSINESS MAY USE A PROGRAM LOAN TO ACQUIRE LAND,
23 BUILDINGS, AND EQUIPMENT.

24 (3) AN ACQUISITION MADE BY AN ELIGIBLE BUSINESS WITH A PROGRAM
25 LOAN SHALL BE USED TO CREATE OR RETAIN EMPLOYMENT OPPORTUNITIES IN A RURAL
26 AREA.

27 REVISOR’S NOTE: This section is new language derived without substantive
28 change from former Art. 83A, § 5–927(b)(2), (3), (4), and (5).

29 In subsection (b)(2) of this section, the reference to a “Program” loan is
30 added for clarity.

31 Also in subsection (b)(2) of this section, the phrase “with a Program loan” is
32 added for clarity.

1 Also in subsection (b)(2) of this section, the former reference to
2 “machinery” is deleted as redundant of the reference to “equipment”.

3 Defined terms: “Acquisition” § 5–401
4 “Eligible business” § 5–401
5 “Program” § 5–451
6 “State” § 1–101

7 5–454. PLACEMENT.

8 THE AUTHORITY MAY PLACE A LINKED DEPOSIT WITH A LENDER IN ACCORDANCE
9 WITH THIS PART.

10 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–927(c).

11 The reference to this “part” is substituted for the former reference to the
12 “subtitle” for accuracy.

13 The only other changes are in style.

14 Defined terms: “Authority” § 5–401
15 “Lender” § 5–451
16 “Linked deposit” § 5–451

17 5–455. APPLICATION.

18 (A) IN GENERAL.

19 TO OBTAIN FIXED ASSET FINANCING UNDER THIS PART, AN ELIGIBLE BUSINESS
20 SHALL APPLY TO A LENDER FOR FIXED ASSET FINANCING.

21 (B) LIMITATION.

22 FIXED ASSET FINANCING UNDER THIS PART MAY NOT EXCEED \$500,000 FOR AN
23 ELIGIBLE BUSINESS.

24 (C) REQUIREMENTS.

25 IN ADDITION TO THE INFORMATION THAT THE LENDER REQUIRES IN ITS STANDARD
26 LOAN APPLICATION, THE APPLICANT SHALL PROVIDE TO THE LENDER, IN A FORM THAT
27 THE AUTHORITY PRESCRIBES:

28 (1) A CERTIFICATION, WITH SUPPORTING DOCUMENTATION, THAT THE
29 APPLICANT IS AN ELIGIBLE BUSINESS; AND

30 (2) A DESCRIPTION OF THE NUMBER AND KINDS OF JOBS TO BE CREATED OR
31 RETAINED AS A RESULT OF PROVIDING THE LINKED DEPOSIT.

32 REVISOR’S NOTE: This section is new language derived without substantive
33 change from former Art. 83A, § 5–927(d).

1 Defined terms: “Applicant” § 5–451

2 “Authority” § 5–401

3 “Eligible business” § 5–401

4 “Lender” § 5–451

5 5–456. CONDITIONAL APPROVAL.

6 (A) IN GENERAL.

7 ON CONDITIONAL APPROVAL OF A FIXED ASSET FINANCING LOAN APPLICATION
8 UNDER THIS PART, THE LENDER SHALL FORWARD THE LOAN PACKAGE TO THE
9 AUTHORITY.

10 (B) ADDITIONAL INFORMATION.

11 IN ADDITION TO ANY OTHER INFORMATION THE AUTHORITY REASONABLY REQUIRES
12 TO CARRY OUT THE PURPOSES OF THIS PART, THE LINKED DEPOSIT LOAN PACKAGE SHALL
13 INCLUDE THE INFORMATION REQUIRED OF THE APPLICANT UNDER § 5–455(C) OF THIS
14 SUBTITLE.

15 (C) LIMITED LIABILITY.

16 BY FORWARDING THE LOAN PACKAGE TO THE AUTHORITY, THE LENDER IS NOT
17 REPRESENTING TO THE AUTHORITY THAT INFORMATION IN THE LOAN PACKAGE THAT
18 RELATES TO THE APPLICANT IS ACCURATE OR VALID.

19 REVISOR’S NOTE: This section is new language derived without substantive
20 change from former Art. 83A, § 5–927(e).

21 Defined terms: “Applicant” § 5–451

22 “Authority” § 5–401

23 “Lender” § 5–451

24 “Linked deposit” § 5–451

25 5–457. REVIEW.

26 IN DETERMINING WHETHER TO ACCEPT A LINKED DEPOSIT LOAN PACKAGE, THE
27 AUTHORITY SHALL CONFIRM THE ELIGIBILITY OF THE APPLICANT AND CONSIDER:

28 (1) THE NUMBER AND KINDS OF JOBS TO BE CREATED OR RETAINED AS A
29 RESULT OF PROVIDING THE LINKED DEPOSIT;

30 (2) THE AMOUNT OF THE LOAN;

31 (3) THE AMOUNT OF MONEY IN THE FUND AND THE AMOUNT COMMITTED
32 TO LINKED DEPOSITS;

33 (4) WHETHER THE AVAILABILITY OF LINKED DEPOSIT FINANCING IS
34 ESSENTIAL FOR THE ECONOMIC FEASIBILITY OF THE ACQUISITION;

1 (5) THE ECONOMIC NEEDS OF THE AREA IN WHICH THE ELIGIBLE BUSINESS
2 IS LOCATED;

3 (6) THE FINANCIAL FEASIBILITY OF THE LOAN; AND

4 (7) OTHER FACTORS THAT THE AUTHORITY CONSIDERS RELEVANT.

5 REVISOR’S NOTE: This section is new language derived without substantive
6 change from former Art. 83A, § 5–927(f).

7 Defined terms: “Acquisition” § 5–401

8 “Applicant” § 5–451

9 “Authority” § 5–401

10 “Eligible business” § 5–401

11 “Fund” § 5–401

12 “Linked deposit” § 5–451

13 5–458. PAYMENT SCHEDULE.

14 IF THE AUTHORITY ACCEPTS A LINKED DEPOSIT LOAN PACKAGE FORWARDED FROM
15 A LENDER, THE AUTHORITY AND THE LENDER SHALL MAKE AN AGREEMENT THAT SETS
16 THE AMOUNT OF, THE TERM OF, AND THE SCHEDULE FOR PAYMENT OF THE PRINCIPAL OF
17 AND INTEREST ON THE LINKED DEPOSIT.

18 REVISOR’S NOTE: This section is new language derived without substantive
19 change from former Art. 83A, § 5–927(g).

20 Defined terms: “Authority” § 5–401

21 “Lender” § 5–451

22 “Linked deposit” § 5–451

23 5–459. LOAN COMMITMENT.

24 ON RECEIVING LINKED DEPOSIT APPROVAL FROM THE AUTHORITY, THE LENDER
25 SHALL ISSUE A LOAN COMMITMENT TO THE APPLICANT THAT PROVIDES THAT THE
26 INTEREST RATE ON THE FINANCING WILL BE BELOW THE PREVAILING MARKET RATE TO
27 THE SAME EXTENT AND FOR AS LONG AS INTEREST EARNED ON THE LINKED DEPOSIT IS
28 BELOW INTEREST EARNED ON OTHER EQUIVALENT DEPOSITS WITH THE LENDER AT THE
29 TIME OF THE DEPOSIT.

30 REVISOR’S NOTE: This section is new language derived without substantive
31 change from former Art. 83A, § 5–927(h).

32 The reference to linked deposit “approval” is added for clarity.

33 Defined terms: “Applicant” § 5–451

34 “Authority” § 5–401

35 “Lender” § 5–451

36 “Linked deposit” § 5–451

1 5–460. STATE NOT LIABLE.

2 (A) IN GENERAL.

3 A FIXED ASSET FINANCING LOAN ASSISTED BY A LINKED DEPOSIT IS NOT A DEBT OF
4 THE STATE OR A PLEDGE OF THE CREDIT OF THE STATE.

5 (B) LIABILITY.

6 THE AUTHORITY AND, IN ACCORDANCE WITH § 5–521 OF THE COURTS ARTICLE,
7 THE DEPARTMENT AND THE STATE ARE NOT LIABLE TO A LENDER FOR PAYMENT OF THE
8 PRINCIPAL OR INTEREST ON A FIXED ASSET FINANCING LOAN ASSISTED BY A LINKED
9 DEPOSIT UNDER THIS PART.

10 REVISOR’S NOTE: This section is new language derived without substantive
11 change from former Art. 83A, § 5–927(i).

12 Defined terms: “Authority” § 5–401

13 “Department” § 1–101

14 “Lender” § 5–451

15 “Linked deposit” § 5–451

16 “State” § 1–101

17 5–461. RESERVED.

18 5–462. RESERVED.

19 PART VII. PROHIBITED ACTS; PENALTIES.

20 5–463. FALSE STATEMENT OR REPORT.

21 (A) FALSE STATEMENT OR REPORT — APPLICATION OR DOCUMENT.

22 A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE A FALSE STATEMENT OR REPORT
23 TO BE MADE IN AN APPLICATION OR DOCUMENT SUBMITTED TO THE AUTHORITY.

24 (B) FALSE STATEMENT OR REPORT — TO INFLUENCE AUTHORITY.

25 A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE A FALSE STATEMENT OR REPORT
26 TO BE MADE TO INFLUENCE AN ACTION OF THE AUTHORITY:

27 (1) ON AN APPLICATION FOR FINANCIAL ASSISTANCE UNDER THIS SUBTITLE;

28 OR

29 (2) AFFECTING FINANCIAL ASSISTANCE SOUGHT OR AWARDED UNDER THIS
30 SUBTITLE.

31 (C) PENALTY.

1 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON
2 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT
3 EXCEEDING \$50,000 OR BOTH.

4 (D) STATUTE OF LIMITATIONS AND IN BANC REVIEW.

5 A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO § 5–106(B) OF THE
6 COURTS ARTICLE.

7 REVISOR’S NOTE: This section is new language derived without substantive
8 change from former Art. 83A, § 5–931.

9 In subsection (b)(1) and (2) of this section, the references to financial
10 assistance “under this subtitle” are added for clarity.

11 In subsection (c) of this section, the former reference to an “aider and
12 abetter” is deleted as obsolete. The common-law distinction between
13 charging a principal of a crime and an accessory before the fact to the
14 crime has been abolished for most purposes by statute, in response to the
15 holding of the Court of Appeals in *State v. Sowell*, 353 Md. 713 (1999). See
16 CP § 4–204.

17 In subsection (d) of this section, the reference to a violator being “subject to
18 § 5–106(b) of the Courts Article” is substituted for the former reference to
19 the violation subjecting the defendant to imprisonment “in the
20 penitentiary” for clarity and consistency with the Criminal Law Article and
21 the Criminal Procedure Article.

22 Defined terms: “Authority” § 5–401
23 “Person” § 1–101

24 5–464. RESERVED.

25 5–465. RESERVED.

26 PART VIII. SHORT TITLE.

27 5–466. SHORT TITLE.

28 THIS SUBTITLE MAY BE REFERRED TO AS THE MARYLAND INDUSTRIAL
29 DEVELOPMENT FINANCING AUTHORITY ACT.

30 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–933.

31 No changes are made.

32 GENERAL REVISOR’S NOTE TO SUBTITLE:

33 Former Art. 83A, § 5–914(a), as it related to the replacement of certain funds by
34 the Industrial Development Fund, is apparently obsolete. However, to avoid any

1 inadvertent substantive effect its repeal might have, it is transferred to the Session
2 Laws. *See* § 9 of Ch. ___, Acts of 2008.

3 SUBTITLE 5. MARYLAND SMALL BUSINESS DEVELOPMENT FINANCING AUTHORITY.

4 PART I. GENERAL PROVISIONS.

5 5–501. DEFINITIONS.

6 (A) IN GENERAL.

7 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

8 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1001(a).

9 No changes are made.

10 (B) AUTHORITY.

11 “AUTHORITY” MEANS THE MARYLAND SMALL BUSINESS DEVELOPMENT
12 FINANCING AUTHORITY.

13 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1001(b).

14 No changes are made.

15 (C) FINANCIAL INSTITUTION.

16 “FINANCIAL INSTITUTION” MEANS:

17 (1) A FINANCIAL INSTITUTION, AS DEFINED IN § 1–101 OF THE FINANCIAL
18 INSTITUTIONS ARTICLE; AND

19 (2) ANY OTHER LENDER THAT THE AUTHORITY APPROVES.

20 REVISOR’S NOTE: This subsection is new language derived without
21 substantive change from former Art. 83A, § 5–1001(e).

22 The term “and” is substituted for the former phrase “as well as” for brevity.

23 (D) LOAN DOCUMENT.

24 (1) “LOAN DOCUMENT” MEANS AN INSTRUMENT OR AGREEMENT THAT
25 EVIDENCES, SECURES, OR GUARANTEES A LOAN.

26 (2) “LOAN DOCUMENT” INCLUDES A NOTE, FINANCING STATEMENT,
27 MORTGAGE, PLEDGE, ASSIGNMENT, LOAN AND SECURITY AGREEMENT, OR GUARANTY.

28 REVISOR’S NOTE: This subsection is new language derived without
29 substantive change from former Art. 83A, § 5–1001(g).

1 In paragraph (2) of this subsection, the word “guaranty” is substituted for
2 the former word “guarantee” for consistency within this subtitle.

3 The former phrase “by way of example” is deleted as surplusage.

4 (E) WORKING CAPITAL.

5 (1) “WORKING CAPITAL” MEANS MONEY USED TO MEET THE CASH NEEDS
6 OF AN OPERATING BUSINESS ENTITY.

7 (2) “WORKING CAPITAL” DOES NOT INCLUDE MONEY USED FOR A CAPITAL
8 PURCHASE.

9 REVISOR’S NOTE: This subsection is new language derived without
10 substantive change from former Art. 83A, § 5–1001(j).

11 The term “money” is substituted for the former term “funds” for clarity and
12 consistency.

13 REVISOR’S NOTE TO SECTION: Former Art. 83A, § 5–1001(c) and (h), which
14 defined “Department” and “Secretary”, respectively, are revised in § 1–101
15 of this article.

16 5–502. LEGISLATIVE FINDINGS; PURPOSES.

17 (A) FINDINGS.

18 THE GENERAL ASSEMBLY FINDS THAT:

19 (1) THE INABILITY OF SOCIALLY OR ECONOMICALLY DISADVANTAGED
20 INDIVIDUALS TO OBTAIN WORKING CAPITAL IS A MAJOR LIMITATION ON THEIR
21 OPPORTUNITY TO WIN AND PERFORM GOVERNMENT AND OTHER CONTRACTS;

22 (2) BECAUSE SOCIALLY OR ECONOMICALLY DISADVANTAGED INDIVIDUALS
23 FREQUENTLY HAVE BEEN AWARDED GOVERNMENT OR OTHER CONTRACTS BUT HAVE
24 LACKED THE WORKING CAPITAL TO POST A BOND, BUY SUPPLIES NEEDED TO BEGIN THE
25 WORK, OR PAY EMPLOYEES, THESE INDIVIDUALS HAVE BEEN UNABLE TO ACCEPT THE
26 CONTRACTS;

27 (3) SOME INDIVIDUALS ARE UNABLE TO OBTAIN GOVERNMENT AND OTHER
28 CONTRACTS FOR REASONS OTHER THAN THE COST TO THE OWNER OR THE ABILITY TO
29 PERFORM THE CONTRACT WORK COMPETENTLY;

30 (4) SOCIALLY OR ECONOMICALLY DISADVANTAGED INDIVIDUALS
31 FREQUENTLY LACK ADEQUATE CAPITAL TO SUSTAIN AND EXPAND THEIR BUSINESSES AND
32 TO HIRE AND TRAIN EMPLOYEES;

33 (5) BECAUSE HIGH RISK, PROBLEM, OR UNCOLLECTIBLE LOANS ARE NOT IN
34 THE INTEREST OF FINANCIAL INSTITUTIONS, FINANCIAL INSTITUTIONS GENERALLY ARE
35 RELUCTANT TO LEND MONEY TO SOCIALLY OR ECONOMICALLY DISADVANTAGED
36 INDIVIDUALS WITH INSUFFICIENT RECORDS OF PERFORMANCE;

1 (6) THE INABILITY OF BUSINESSES OWNED BY SOCIALLY OR ECONOMICALLY
2 DISADVANTAGED INDIVIDUALS TO OBTAIN LONG-TERM FINANCING IS A MAJOR
3 LIMITATION ON THEIR OPPORTUNITY TO SURVIVE AND EXPAND; AND

4 (7) THE PUBLIC WELFARE IS SERVED BY PROMOTING THE VIABILITY AND
5 EXPANSION OF BUSINESSES OWNED BY ECONOMICALLY OR SOCIALLY DISADVANTAGED
6 INDIVIDUALS, RETAINING OR INCREASING THE EMPLOYMENT OF THESE INDIVIDUALS, AND
7 EXPANDING THE TAXABLE BASE OF THE ECONOMY OF THE STATE.

8 (B) PURPOSES.

9 THE PURPOSES OF THE AUTHORITY ARE:

10 (1) TO ASSIST SOCIALLY OR ECONOMICALLY DISADVANTAGED INDIVIDUALS
11 TO OBTAIN ADEQUATE WORKING CAPITAL TO BEGIN, CONTINUE, AND COMPLETE
12 PROJECTS, THE MAJORITY OF FUNDING FOR WHICH IS PROVIDED BY GOVERNMENT
13 ENTITIES OR UTILITIES;

14 (2) TO ENCOURAGE SOCIALLY OR ECONOMICALLY DISADVANTAGED
15 INDIVIDUALS TO SEEK GOVERNMENT AND OTHER CONTRACTS;

16 (3) TO ENCOURAGE FINANCIAL INSTITUTIONS TO MAKE LOANS TO THESE
17 INDIVIDUALS; AND

18 (4) TO ASSIST SMALL BUSINESSES THAT ARE UNABLE TO OBTAIN ADEQUATE
19 BUSINESS FINANCING ON REASONABLE TERMS THROUGH NORMAL FINANCING CHANNELS
20 BECAUSE THE BUSINESSES DO NOT MEET THE ESTABLISHED CREDIT CRITERIA OF
21 FINANCIAL INSTITUTIONS.

22 REVISOR'S NOTE: This section formerly was Art. 83A, § 5-1002.

23 The only changes are in style.

24 Defined terms: "Authority" § 5-501

25 "Financial institution" § 5-501

26 "State" § 1-101

27 "Working capital" § 5-501

28 5-503. RESERVED.

29 5-504. RESERVED.

30 PART II. MARYLAND SMALL BUSINESS DEVELOPMENT FINANCING AUTHORITY.

31 5-505. ESTABLISHED.

32 THERE IS A MARYLAND SMALL BUSINESS DEVELOPMENT FINANCING AUTHORITY
33 IN THE DEPARTMENT.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83A, § 5–1003.

3 Defined term: “Department” § 1–101

4 5–506. MEMBERSHIP.

5 (A) COMPOSITION.

6 THE AUTHORITY CONSISTS OF THE FOLLOWING NINE MEMBERS:

7 (1) SEVEN MEMBERS APPOINTED BY THE GOVERNOR;

8 (2) THE SECRETARY OR THE SECRETARY'S DESIGNEE; AND

9 (3) (I) THE COMPTROLLER OR THE TREASURER AS DESIGNATED BY THE
10 GOVERNOR; OR

11 (II) THE DESIGNEE OF THE GOVERNOR'S DESIGNEE.

12 (B) TENURE; VACANCIES.

13 (1) THE TERM OF AN APPOINTED MEMBER IS 5 YEARS.

14 (2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED AS REQUIRED
15 FOR APPOINTMENTS TO THE AUTHORITY ON OCTOBER 1, 2008.

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

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

20 (C) REMOVAL.

21 THE GOVERNOR MAY REMOVE AN APPOINTED MEMBER FOR CAUSE.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 83A, § 5–1004.

24 In subsection (b)(2) of this section, the reference to terms being staggered
25 as required by the terms provided for appointed members on “October 1,
26 2008” is substituted for the former obsolete reference to terms being
27 staggered as required by the terms for “original appointments to the
28 Authority”. See § 13 of Ch. ____, Acts of 2008. The terms of members
29 serving on October 1, 2008 end as follows: (1) two expiring on June 30,
30 2009; (2) one expiring on June 30, 2010; (3) three expiring on June 30,
31 2012; and (4) one expiring on June 30, 2013.

32 Defined term: “Authority” § 5–501

1 5–507. OFFICERS.

2 (A) IN GENERAL.

3 THE AUTHORITY SHALL ELECT A CHAIR, VICE CHAIR, AND TREASURER FROM
4 AMONG ITS MEMBERS.

5 (B) ELECTION AND TERMS OF OFFICE.

6 THE AUTHORITY SHALL DETERMINE THE MANNER OF ELECTION OF OFFICERS AND
7 THEIR TERMS.

8 REVISOR’S NOTE: This section is new language derived without substantive
9 change from former Art. 83A, § 5–1005.

10 In subsection (a) of this section, the references to a “chair” and “vice chair”
11 are substituted for the former references to a “chairman” and “vice-
12 chairman”, respectively, because SG § 2–1238 requires the use of terms
13 that are neutral as to gender to the extent practicable.

14 Defined term: “Authority” § 5–501

15 5–508. QUORUM; MEETINGS; REIMBURSEMENT FOR EXPENSES; STAFF.

16 (A) QUORUM.

17 (1) FOUR MEMBERS OF THE AUTHORITY ARE A QUORUM.

18 (2) THE AUTHORITY MAY NOT ACT ON ANY MATTER UNLESS AT LEAST FOUR
19 MEMBERS IN ATTENDANCE CONCUR.

20 (B) MEETINGS.

21 THE AUTHORITY SHALL DETERMINE THE TIMES AND PLACES OF ITS MEETINGS.

22 (C) REIMBURSEMENT FOR EXPENSES.

23 A MEMBER OF THE AUTHORITY IS ENTITLED TO REIMBURSEMENT FOR EXPENSES
24 UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE
25 BUDGET.

26 (D) STAFF.

27 THE AUTHORITY MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE BUDGET.

28 REVISOR’S NOTE: This section is new language derived without substantive
29 change from former Art. 83A, § 5–1007(a), (b), (c), and (d).

30 Defined terms: “Authority” § 5–501

31 “State” § 1–101

1 5–509. EXECUTIVE DIRECTOR.

2 (A) POSITION AND APPOINTMENT.

3 (1) THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE OFFICER OF
4 THE AUTHORITY.

5 (2) WITH THE APPROVAL OF THE SECRETARY, THE AUTHORITY MAY:

6 (I) APPOINT THE EXECUTIVE DIRECTOR; OR

7 (II) CONTRACT WITH A PRIVATE ENTITY TO PERFORM THE DUTIES OF
8 THE EXECUTIVE DIRECTOR.

9 (B) TENURE; REMOVAL.

10 THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE AUTHORITY, WITH
11 THE CONCURRENCE OF THE SECRETARY.

12 (C) DUTIES.

13 IN ADDITION TO ANY OTHER DUTIES SET FORTH IN THIS SUBTITLE, THE EXECUTIVE
14 DIRECTOR SHALL:

15 (1) SUPERVISE THE ADMINISTRATIVE AFFAIRS AND TECHNICAL ACTIVITIES
16 OF THE AUTHORITY IN ACCORDANCE WITH ITS REGULATIONS AND POLICIES;

17 (2) ATTEND ALL MEETINGS OF THE AUTHORITY;

18 (3) KEEP MINUTES OF ALL PROCEEDINGS OF THE AUTHORITY;

19 (4) APPROVE ALL ACCOUNTS FOR SALARIES, PER DIEM PAYMENTS, AND
20 ALLOWABLE EXPENSES OF THE AUTHORITY, ITS EMPLOYEES, AND ITS CONSULTANTS;

21 (5) APPROVE ALL EXPENSES INCIDENTAL TO THE OPERATION OF THE
22 AUTHORITY; AND

23 (6) PERFORM ANY OTHER DUTY THAT THE AUTHORITY OR THE SECRETARY
24 REQUIRES TO CARRY OUT THIS SUBTITLE.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 83A, § 5–1006.

27 In subsection (c)(1) of this section, the former reference to “rules” of the
28 Authority is deleted as included in the reference to “regulations”. See
29 General Revisor’s Note to article.

30 Defined terms: “Authority” § 5–501

31 “Secretary” § 1–101

1 5–510. CONFLICTS OF INTEREST.

2 A MEMBER OF THE AUTHORITY MAY NOT PARTICIPATE IN ANY DECISION RELATED
3 TO THE APPROVAL OF FINANCIAL ASSISTANCE IF THE MEMBER HAS ANY INTEREST IN:

4 (1) THE APPLICANT FOR THE ASSISTANCE; OR

5 (2) THE FINANCIAL INSTITUTION SEEKING A GUARANTY OR AN INTEREST
6 SUBSIDY OR BOTH.

7 REVISOR’S NOTE: This section is new language derived without substantive
8 change from former Art. 83A, § 5–1008.

9 The Economic Development Article Review Committee notes, for the
10 consideration of the General Assembly, that the relationship between
11 disqualifications under this section and the prohibitions regarding
12 members of State units under the State Ethics Law is unclear. The
13 General Assembly may wish to compare this section with the relevant
14 provisions of the State Ethics Law and either amend this provision to
15 harmonize it with the State Ethics Law or repeal this section.

16 Defined term: “Authority” § 5–501

17 5–511. ADMINISTRATION OF PROGRAMS; CONTRACTS; PRIVATE CORPORATION.

18 (A) “AUTHORITY STAFF” DEFINED.

19 “AUTHORITY STAFF” MEANS ANY OF THE INDIVIDUALS WHO ARE EMPLOYED BY
20 THE DEPARTMENT TO OPERATE THE PROGRAMS OF THE AUTHORITY IMMEDIATELY PRIOR
21 TO THE EXECUTION BY THE DEPARTMENT OF A CONTRACT UNDER THIS SECTION WITH
22 THE PRIVATE CORPORATION ORGANIZED BY ANY OF THOSE INDIVIDUALS.

23 (B) CONTRACT WITH PRIVATE CORPORATION.

24 (1) THE DEPARTMENT MAY CONTRACT FOR AND ENGAGE THE SERVICES OF
25 SOME OR ALL OF THE AUTHORITY STAFF TO ADMINISTER THE PROGRAMS OF THE
26 AUTHORITY, FOR A PERIOD OF 3 YEARS, IF THE AUTHORITY STAFF HAS ORGANIZED
27 ITSELF AS A PRIVATE MARYLAND CORPORATION.

28 (2) THE DEPARTMENT MAY:

29 (I) EXTEND THE TERMINATION DATE OF THE CONTRACT IN EFFECT AS
30 OF SEPTEMBER 30, 2008 TO JUNE 30, 2012, AND MODIFY THAT EXTENDED CONTRACT
31 AS NEEDED; AND

32 (II) RENEW THE EXTENDED CONTRACT FOR UP TO TWO ADDITIONAL
33 5–YEAR TERMS, AND MODIFY THAT RENEWED AND EXTENDED CONTRACT AS NEEDED.

34 (3) AN EXTENSION OR RENEWAL CONTRACT SHALL INCLUDE STANDARDS TO
35 EVALUATE THE PERFORMANCE OF THE PRIVATE CONTRACTOR IN RENDERING SERVICES
36 UNDER THE CONTRACT.

1 (c) CORPORATE NAME.

2 IN ITS NAME THE CORPORATION MAY USE “MARYLAND SMALL BUSINESS
3 DEVELOPMENT FINANCING AGENCY”, “MSBDFA, INC.”, OR ANY CLOSE
4 APPROXIMATION OF THOSE TERMS.

5 REVISOR’S NOTE: This section is new language derived without substantive
6 change from former Art. 83A, §§ 5–1001(d) and 5–1009(b).

7 In subsection (b)(2) of this section, the former obsolete references to an
8 initial contract extended to June 30, 2002 and its renewal once for five
9 years are deleted.

10 Defined terms: “Authority” § 5–501

11 “Department” § 1–101

12 5–512. POWERS AND DUTIES.

13 (A) IN GENERAL.

14 THE AUTHORITY EXERCISES ITS POWERS AND PERFORMS ITS DUTIES SUBJECT TO
15 THE AUTHORITY OF THE SECRETARY.

16 (B) POWERS.

17 THE AUTHORITY MAY:

18 (1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;

19 (2) ADOPT A SEAL;

20 (3) MAINTAIN OFFICES IN THE STATE;

21 (4) SUE AND BE SUED IN ITS OWN NAME;

22 (5) RETAIN CONSULTANTS;

23 (6) USE THE SERVICES OF GOVERNMENTAL UNITS;

24 (7) CONTRACT FOR AND ACCEPT, TO CARRY OUT THIS SUBTITLE, A LOAN OR
25 GRANT FROM THE FEDERAL GOVERNMENT, A POLITICAL SUBDIVISION OF THE STATE, OR
26 ANY OTHER SOURCE;

27 (8) PURCHASE, RECEIVE, LEASE AS LESSEE, OR OTHERWISE ACQUIRE, SELL,
28 MORTGAGE, LEASE AS LESSOR, PLEDGE, ADMINISTER, DISPOSE OF, OR OTHERWISE DEAL
29 WITH PROPERTY GIVEN AS COLLATERAL UNDER A LOAN AGREEMENT ON THE TERMS AND
30 CONDITIONS IT CONSIDERS ADVISABLE;

31 (9) ADOPT REGULATIONS NECESSARY TO CARRY OUT ITS POWERS;

32 (10) ACQUIRE OR TAKE ASSIGNMENTS OF LOAN DOCUMENTS; AND

1 (11) DO ANYTHING NECESSARY OR CONVENIENT TO CARRY OUT ITS POWERS.

2 (c) DUTIES.

3 THE AUTHORITY SHALL:

4 (1) IN ITS INTERNAL FUNCTIONS, FOLLOW THE PROCEDURES OF THE STATE
5 THAT GOVERN THE PURCHASE OF OFFICE SPACE, SUPPLIES, FACILITIES, MATERIALS,
6 EQUIPMENT, AND PROFESSIONAL SERVICES;

7 (2) KEEP PROPER RECORDS OF ITS ACCOUNTS;

8 (3) KEEP SEPARATE RECORDS FOR:

9 (i) THE SMALL BUSINESS DEVELOPMENT CONTRACT FINANCING
10 FUND UNDER PART III OF THIS SUBTITLE;

11 (ii) THE SMALL BUSINESS DEVELOPMENT GUARANTY FUND UNDER
12 PART IV OF THIS SUBTITLE;

13 (iii) THE EQUITY PARTICIPATION INVESTMENT PROGRAM FUND
14 UNDER PART V OF THIS SUBTITLE; AND

15 (iv) THE SMALL BUSINESS SURETY BOND FUND UNDER PART VI OF
16 THIS SUBTITLE; AND

17 (4) ON OR BEFORE DECEMBER 31 OF EACH YEAR, SUBMIT A REPORT ON ITS
18 CONDITION AND OPERATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246
19 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

20 REVISOR’S NOTE: This section is new language derived without substantive
21 change from former Art. 83A, §§ 5–1010, 5–1011, 5–1007(e), and 5–1009(a).

22 In subsection (b)(7) of this section, the former reference to “comply[ing]
23 with the terms and conditions thereof” is deleted as implicit in contracting
24 for and acceptance of the loans and grants.

25 In subsection (b)(8) of this section, the references to “lease as lessee” and
26 “lease as lessor”, respectively, are substituted for the former references to
27 “lease” for clarity.

28 In subsection (c)(3) of this section, the references to specific parts of this
29 subtitle associated with particular funds are added for clarity.

30 Defined terms: “Authority” § 5–501

31 “Secretary” § 1–101

32 “State” § 1–101

33 5–513. SERVICE OF PROCESS.

34 (A) SERVICE ON EXECUTIVE DIRECTOR.

1 IN ANY ACTION, SERVICE OF PROCESS ON THE AUTHORITY SHALL BE MADE BY
2 SERVICE ON THE EXECUTIVE DIRECTOR OF THE AUTHORITY.

3 (B) MANNER OF SERVICE.

4 SERVICE MAY BE MADE IN PERSON OR BY LEAVING A COPY OF THE PROCESS AT THE
5 OFFICE OF THE EXECUTIVE DIRECTOR WITH THE INDIVIDUAL IN CHARGE OF THE
6 OFFICE.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 83A, § 5–1012.

9 Defined term: “Authority” § 5–501

10 5–514. CERTAIN RECEIPTS PAYABLE.

11 (A) IN GENERAL.

12 NOTWITHSTANDING § 5–602(G) AND (H) OF THIS TITLE OR ANY OTHER LAW, THE
13 FOLLOWING MONEY SHALL BE PAYABLE INTO THE FUNDS UNDER THIS SUBTITLE:

14 (1) ANY RECOVERY OF INVESTMENTS MADE UNDER § 5–602 OF THIS TITLE
15 THAT WERE FUNDED BY A TRANSFER OF MONEY FROM THE FUNDS UNDER THIS SUBTITLE
16 TO THE ENTERPRISE FUND, INCLUDING AN INVESTMENT IN MMG VENTURES LLP;
17 AND

18 (2) ANY REPAYMENT OF A GRANT MADE UNDER § 5–602 OF THIS TITLE
19 THAT WAS FUNDED BY A TRANSFER OF MONEY FROM THE FUNDS UNDER THIS SUBTITLE
20 TO THE ENTERPRISE FUND.

21 (B) ALLOCATION.

22 THE AUTHORITY SHALL DETERMINE THE PROPORTION OF THE RECOVERY OR
23 REPAYMENT PAYABLE UNDER SUBSECTION (A) OF THIS SECTION THAT SHALL BE
24 DEPOSITED INTO EACH OF THE FUNDS UNDER THIS SUBTITLE.

25 REVISOR'S NOTE: This section formerly was Art. 83A, § 5–1049.

26 The only changes are in style.

27 Defined term: “Authority” § 5–501

1 5–515. RESERVED.

2 5–516. RESERVED.

3 PART III. SMALL BUSINESS DEVELOPMENT CONTRACT FINANCING FUND.

4 5–517. “FUND” DEFINED.

5 IN THIS PART, “FUND” MEANS THE SMALL BUSINESS DEVELOPMENT CONTRACT
6 FINANCING FUND.

7 REVISOR’S NOTE: This section is new language derived without substantive
8 change from former Art. 83A, § 5–1001(f).

9 5–518. ESTABLISHED.

10 THERE IS A SMALL BUSINESS DEVELOPMENT CONTRACT FINANCING FUND.

11 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–1013.

12 No changes are made.

13 5–519. PURPOSE.

14 THE AUTHORITY SHALL USE THE FUND TO IMPLEMENT THIS PART.

15 REVISOR’S NOTE: This section is new language derived without substantive
16 change from former Art. 83A, § 5–1014, as it related to the purpose of the
17 Fund.

18 In this section and throughout this part and Part IV of this subtitle, the
19 former references to the use of the Fund “to implement” specified purposes
20 is substituted for the former references to the use of the Fund “for carrying
21 out” specified purposes for clarity and consistency.

22 Defined terms: “Authority” § 5–501

23 “Fund” § 5–517

24 5–520. ADMINISTRATION.

25 THE AUTHORITY SHALL ADMINISTER THE FUND.

26 REVISOR’S NOTE: This section is new language added to state expressly what
27 was only implied under former Art. 83A, §§ 5–1014 and 5–1021(a), that the
28 Authority administers the Fund.

29 Defined terms: “Authority” § 5–501

30 “Fund” § 5–517

1 5–521. STATUS; INVESTMENT; PAYMENT.

2 (A) STATUS.

3 THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO REVERSION
4 UNDER § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

5 (B) INVESTMENT.

6 THE TREASURER SHALL:

7 (1) INVEST THE MONEY IN THE FUND IN THE SAME MANNER AS OTHER
8 STATE MONEY MAY BE INVESTED; AND

9 (2) CREDIT ANY INVESTMENT EARNINGS TO THE FUND.

10 (C) PAYMENT.

11 IF THE AUTHORITY DETERMINES BY RESOLUTION THAT ANY MONEY IN THE FUND
12 IS NO LONGER NEEDED TO MEET ITS OBLIGATIONS, THE AUTHORITY MAY AUTHORIZE THE
13 COMPTROLLER TO FIRST EMPLOY THAT MONEY TO PAY THE PRINCIPAL OF AND INTEREST
14 ON OUTSTANDING BONDS ISSUED UNDER ANY ACT AUTHORIZING THE ISSUE OF STATE
15 GENERAL OBLIGATION BONDS ISSUED TO IMPLEMENT THIS SUBTITLE.

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 83A, §§ 5–1014 and 5–1019, as they related to
18 money in the Contract Financing Fund.

19 In subsection (a) of this section, the reference to “reversion under § 7–302
20 of the State Finance and Procurement Article” is added for clarity and
21 consistency within this article. *See* General Revisor’s Note to article.

22 Also in subsection (a) of this section, the reference to a “special” fund is
23 substituted for the former reference to a “revolving” fund for consistency
24 with similar provisions throughout this article that relate to the status of
25 funds.

26 Subsection (b) of this section is restated in standard language for clarity
27 and consistency within this article.

28 Defined terms: “Authority” § 5–501

29 “Fund” § 5–517

30 “State” § 1–101

31 5–522. COMPOSITION.

32 THE FUND CONSISTS OF:

33 (1) PREMIUMS FOR GUARANTEEING LOANS UNDER § 5–525(A) OF THIS
34 SUBTITLE;

1 (2) PREMIUMS FOR GUARANTEEING EQUITY INVESTMENTS UNDER §
2 5–525(B) OF THIS SUBTITLE;

3 (3) REPAYMENTS OF PRINCIPAL OF AND INTEREST ON DIRECT LOANS MADE
4 UNDER § 5–525(C) OF THIS SUBTITLE;

5 (4) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL OF
6 COLLATERAL FOR DIRECT LOANS OR LOAN GUARANTIES MADE UNDER § 5–525 OF THIS
7 SUBTITLE; AND

8 (5) ALL OTHER RECEIPTS OF THE AUTHORITY UNDER THIS PART.

9 REVISOR’S NOTE: This section is new language derived without substantive
10 change from former Art. 83A, § 5–1015(a).

11 The former reference to “[i]ncome from investments allocable to the
12 Contract Financing Fund [made by] the State Treasurer ...” is deleted as
13 redundant of the crediting of investment earnings to the Fund under §
14 5–521 of this subtitle.

15 Defined terms: “Authority” § 5–501
16 “Fund” § 5–517

17 5–523. ADDITIONAL MONEY.

18 (A) IN GENERAL.

19 IF THE AUTHORITY AND THE SECRETARY DETERMINE THAT MORE MONEY IS
20 NEEDED TO KEEP THE FUND AT AN ADEQUATE LEVEL, THE AUTHORITY SHALL SEND A
21 WRITTEN REQUEST FOR THE ADDITIONAL MONEY TO THE BOARD OF PUBLIC WORKS.

22 (B) BOARD OF PUBLIC WORKS.

23 THE BOARD OF PUBLIC WORKS MAY PAY THE AMOUNT REQUESTED FROM THE
24 GENERAL EMERGENCY FUND.

25 REVISOR’S NOTE: This section is new language derived without substantive
26 change from former Art. 83A, § 5–1016.

27 In subsection (a) of this section, the former reference to the “reserves” of
28 the Fund is deleted as included in the reference to the Fund.

29 In subsection (b) of this section, the reference to the “General” Emergency
30 Fund is added for consistency within the Code. *See, e.g.*, ED § 13–308(b)
31 and SF § 10–501(a)(2).

32 Defined terms: “Authority” § 5–501
33 “Fund” § 5–517

1 5–524. USES.

2 THE AUTHORITY MAY USE THE FUND FOR:

- 3 (1) LOAN GUARANTIES MADE UNDER § 5–525(A) OF THIS SUBTITLE;
- 4 (2) EQUITY INVESTMENT GUARANTIES MADE UNDER § 5–525(B) OF THIS
5 SUBTITLE;
- 6 (3) DIRECT LOANS MADE UNDER § 5–525(C) OF THIS SUBTITLE; AND
- 7 (4) EXPENSES FOR ADMINISTRATIVE, LEGAL, ACTUARIAL, AND OTHER
8 SERVICES.

9 REVISOR’S NOTE: This section is new language derived without substantive
10 change from former Art. 83A, § 5–1015(b) and, as that section related to
11 types of authorized financial assistance from the Fund, § 5–1021(a).

12 In the introductory language of this section, the former redundant
13 reference that the Authority may use the Fund “to pay all of the following
14 expenses and disbursements of the Authority” is deleted for clarity, brevity,
15 and as unnecessary in light of the list of authorized expenses and
16 disbursements.

17 Former Art. 83A, § 5–1021(a) which authorized specified financial
18 assistance is deleted as included under revised § 5–525 of this article.

19 Defined terms: “Authority” § 5–501
20 “Fund” § 5–517

21 5–525. FINANCIAL ASSISTANCE — CONDITIONS.

22 (A) LOAN GUARANTIES.

23 (1) THE AUTHORITY MAY USE THE FUND TO GUARANTEE A LOAN MADE TO
24 AN APPLICANT ONLY IF:

- 25 (I) THE APPLICANT MEETS THE REQUIREMENTS OF THIS PART;
- 26 (II) THE LOAN IS TO BE USED TO PERFORM A CONTRACT FOR WHICH
27 THE MAJORITY OF THE FUNDING IS PROVIDED BY THE FEDERAL GOVERNMENT, A STATE
28 GOVERNMENT, A LOCAL GOVERNMENT, OR A UTILITY REGULATED BY THE PUBLIC
29 SERVICE COMMISSION;
- 30 (III) THE MAXIMUM AMOUNT PAYABLE BY THE AUTHORITY UNDER THE
31 GUARANTEE DOES NOT EXCEED \$2,000,000; AND
- 32 (IV) THE GUARANTEED LOAN IS TO BE USED FOR:
- 33 1. WORKING CAPITAL; OR

1 2. EQUIPMENT NEEDED TO PERFORM THE CONTRACT, THE COST
2 OF WHICH CAN BE REPAID FROM CONTRACT PROCEEDS, IF THE AUTHORITY HAS ENTERED
3 INTO AN AGREEMENT WITH THE APPLICANT TO SECURE THE LOAN OR GUARANTY.

4 (2) A GUARANTY MADE BY THE AUTHORITY MAY NOT EXCEED THE TERM OF
5 THE CONTRACT, UNLESS THE AUTHORITY DETERMINES THAT A LONGER TERM BETTER
6 SERVES THE PURPOSES OF THIS SUBTITLE.

7 (B) EQUITY INVESTMENT GUARANTIES.

8 (1) THE AUTHORITY MAY USE THE FUND TO GUARANTEE A PERSON'S
9 PROPOSED EQUITY INVESTMENT IN THE APPLICANT ONLY IF:

10 (I) THE APPLICANT MEETS THE REQUIREMENTS OF THIS PART;

11 (II) THE AMOUNT OF THE EQUITY INVESTMENT TO BE GUARANTEED
12 DOES NOT EXCEED THE LESSER OF:

13 1. 10% OF THE PERSON'S EQUITY INVESTMENT IN THE
14 APPLICANT; OR

15 2. \$250,000;

16 (III) THE EQUITY INVESTMENT TO BE GUARANTEED IS TO BE USED TO
17 PERFORM A CONTRACT FOR WHICH THE MAJORITY OF FUNDING IS PROVIDED BY THE
18 FEDERAL GOVERNMENT, A STATE GOVERNMENT, A LOCAL GOVERNMENT, OR A UTILITY
19 REGULATED BY THE PUBLIC SERVICE COMMISSION; AND

20 (IV) THE EQUITY INVESTMENT TO BE GUARANTEED IS TO BE USED FOR:

21 1. WORKING CAPITAL; OR

22 2. EQUIPMENT NEEDED TO PERFORM THE CONTRACT, THE COST
23 OF WHICH CAN BE REPAID FROM CONTRACT PROCEEDS, IF THE AUTHORITY HAS ENTERED
24 INTO AN AGREEMENT WITH THE APPLICANT TO SECURE THE GUARANTY.

25 (2) THE AUTHORITY MAY NOT GUARANTEE THE EQUITY INVESTMENT OF A
26 PERSON WHO:

27 (I) PREVIOUSLY HELD AN EQUITY INVESTMENT IN THE APPLICANT;

28 (II) PREVIOUSLY PARTICIPATED IN THE MANAGEMENT OF THE
29 APPLICANT; OR

30 (III) IN ANY OTHER MANNER IS RELATED TO:

31 1. THE APPLICANT; OR

32 2. ANY OF THE CURRENT STOCKHOLDERS, OFFICERS, OR
33 MANAGEMENT PERSONNEL OF THE APPLICANT.

1 (c) LOANS.

2 (1) THE AUTHORITY MAY USE THE FUND TO LEND MONEY TO AN
3 APPLICANT ONLY IF:

4 (I) THE APPLICANT MEETS THE REQUIREMENTS OF THIS PART;

5 (II) THE APPLICANT IS UNABLE TO OBTAIN MONEY ON REASONABLE
6 TERMS THROUGH NORMAL LENDING CHANNELS FROM ANOTHER SOURCE;

7 (III) THE LOAN DOES NOT EXCEED \$2,000,000;

8 (IV) THE LOAN IS TO BE USED TO PERFORM A CONTRACT FOR WHICH
9 THE MAJORITY OF FUNDING IS PROVIDED BY THE FEDERAL GOVERNMENT, A STATE
10 GOVERNMENT, A LOCAL GOVERNMENT, OR A UTILITY REGULATED BY THE PUBLIC
11 SERVICE COMMISSION; AND

12 (V) THE LOAN IS TO BE USED FOR:

13 1. WORKING CAPITAL; OR

14 2. EQUIPMENT NEEDED TO PERFORM THE CONTRACT, IF THE
15 CONTRACT PROCEEDS CAN REPAY THE COST OF THE EQUIPMENT AND IF THE AUTHORITY
16 HAS ENTERED INTO AN AGREEMENT WITH THE APPLICANT TO SECURE THE LOAN.

17 (2) A LOAN THAT THE AUTHORITY MAKES SHALL MATURE NOT LATER THAN
18 THE TERM OF THE CONTRACT, UNLESS THE AUTHORITY FINDS THAT A LONGER TERM
19 BETTER SERVES THE PURPOSES OF THIS PART.

20 (d) GEOGRAPHIC DIVERSITY.

21 IN PROVIDING FINANCIAL ASSISTANCE UNDER THIS SECTION, THE AUTHORITY
22 SHALL RECOGNIZE THE NEED TO SERVE APPLICANTS FROM ALL POLITICAL SUBDIVISIONS
23 IN THE STATE.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 83A, § 5–1021(a), as it related to eligibility
26 criteria for a direct loan from the Fund, and (b), and §§ 5–1022 through
27 5–1024.

28 In subsection (a)(1)(iv)2 of this section and throughout this part, the
29 former reference to an agreement “necessary” to secure a loan or guaranty
30 is deleted for clarity and as unnecessary.

31 In subsection (a)(2) of this section and throughout this part, the reference
32 to whether a longer term loan better “serves” the purposes of this part is
33 substituted for the former reference to whether a longer term loan better
34 “carries out” the purposes of this part for clarity.

35 In subsection (b)(1)(iv)2 of this section, the former incorrect reference to
36 security on a “loan” is deleted as that subsection only addresses the

1 guaranty of an equity investment.

2 The Economic Development Article Review Committee notes, for the
3 consideration of the General Assembly, that in subsection (c)(1)(ii) of this
4 section, the phrase “on reasonable terms through normal lending
5 channels” is added for clarity and consistency within this part. *See* §§
6 5–526(b) and 5–527(b) of this subtitle.

7 Defined terms: “Authority” § 5–501

8 “Fund” § 5–517

9 “State” § 1–101

10 “Working capital” § 5–501

11 5–526. FINANCIAL ASSISTANCE — APPLICANTS.

12 (A) SOLE PROPRIETOR.

13 IF THE APPLICANT IS AN INDIVIDUAL, TO QUALIFY FOR FINANCIAL ASSISTANCE
14 UNDER THIS PART THE APPLICANT SHALL SATISFY THE AUTHORITY THAT:

15 (1) THE APPLICANT IS OF GOOD MORAL CHARACTER;

16 (2) THE APPLICANT HAS A REPUTATION FOR FINANCIAL RESPONSIBILITY, AS
17 DETERMINED FROM CREDITORS, EMPLOYERS, AND OTHER INDIVIDUALS WHO HAVE
18 PERSONAL KNOWLEDGE OF THE APPLICANT;

19 (3) THE APPLICANT IS A RESIDENT OF THE STATE OR THE PRINCIPAL PLACE
20 OF BUSINESS OF THE APPLICANT IS IN THE STATE; AND

21 (4) THE APPLICANT IS UNABLE TO OBTAIN ADEQUATE BUSINESS FINANCING
22 ON REASONABLE TERMS THROUGH NORMAL LENDING CHANNELS BECAUSE THE
23 APPLICANT:

24 (I) BELONGS TO A GROUP THAT HISTORICALLY HAS BEEN DEPRIVED
25 OF ACCESS TO NORMAL ECONOMIC OR FINANCIAL RESOURCES BECAUSE OF RACE, COLOR,
26 CREED, SEX, RELIGION, OR NATIONAL ORIGIN;

27 (II) HAS AN IDENTIFIABLE PHYSICAL HANDICAP THAT SEVERELY
28 LIMITS THE ABILITY OF THE APPLICANT TO OBTAIN FINANCIAL ASSISTANCE, BUT THAT
29 DOES NOT LIMIT THE ABILITY OF THE APPLICANT TO PERFORM THE CONTRACT OR OTHER
30 ACTIVITY FOR WHICH THE APPLICANT WOULD BE RECEIVING FINANCIAL ASSISTANCE;

31 (III) HAS ANY OTHER SOCIAL OR ECONOMIC IMPEDIMENT THAT IS
32 BEYOND THE CONTROL OF THE APPLICANT BUT THAT DOES NOT LIMIT THE ABILITY OF
33 THE APPLICANT TO PERFORM THE CONTRACT OR OTHER ACTIVITY FOR WHICH THE
34 APPLICANT WOULD BE RECEIVING FINANCIAL ASSISTANCE, INCLUDING:

35 1. THE LACK OF FORMAL EDUCATION OR FINANCIAL CAPACITY;

36 OR

2. GEOGRAPHICAL OR REGIONAL ECONOMIC DISTRESS; OR

(IV) DOES NOT MEET THE ESTABLISHED CREDIT CRITERIA OF AT LEAST ONE FINANCIAL INSTITUTION.

(B) BUSINESS ENTERPRISE.

IF THE APPLICANT IS A BUSINESS ENTERPRISE THAT IS NOT A SOLE PROPRIETORSHIP, TO QUALIFY FOR FINANCIAL ASSISTANCE UNDER THIS PART AT LEAST 70% OF THE BUSINESS ENTERPRISE SHALL BE OWNED BY INDIVIDUALS WHO MEET THE QUALIFICATIONS FOR AN INDIVIDUAL APPLICANT UNDER SUBSECTION (A) OF THIS SECTION.

(C) LOAN GUARANTY — PRIOR LOAN DENIAL REQUIRED.

AN APPLICANT FOR A LOAN GUARANTY SHALL HAVE APPLIED FOR AND BEEN DENIED A LOAN BY A FINANCIAL INSTITUTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1025.

In subsection (c) of this section, the former reference to the requirement that an applicant has been denied a loan “[i]n addition to the other requirements of this section” is deleted as unnecessary.

Former Art. 83A, § 5–1025(a), which stated a requirement to meet certain requirements, is deleted as implicit in the reorganization of material in this part.

Defined terms: “Authority” § 5–501

“Financial institution” § 5–501

“State” § 1–101

5–527. FINANCIAL ASSISTANCE — APPLICATION PROCEDURES.

(A) IN GENERAL.

TO APPLY FOR FINANCIAL ASSISTANCE FROM THE FUND UNDER § 5–525 OF THIS SUBTITLE, AN APPLICANT SHALL SUBMIT TO THE AUTHORITY AN APPLICATION ON THE FORM THAT THE AUTHORITY PROVIDES.

(B) CONTENTS.

THE APPLICATION SHALL:

(1) DESCRIBE THE PROJECT IN DETAIL;

(2) ITEMIZE KNOWN AND ESTIMATED COSTS;

(3) SPECIFY THE TOTAL AMOUNT OF INVESTMENT REQUIRED TO PERFORM THE CONTRACT;

1 (4) SPECIFY THE AMOUNT OF FUNDS AVAILABLE TO THE APPLICANT
2 WITHOUT FINANCIAL ASSISTANCE FROM THE AUTHORITY;

3 (5) SPECIFY THE AMOUNT OF FINANCIAL ASSISTANCE REQUESTED FROM
4 THE AUTHORITY;

5 (6) PROVIDE INFORMATION THAT DEMONSTRATES THE INABILITY OF THE
6 APPLICANT TO OBTAIN ADEQUATE FINANCING ON REASONABLE TERMS THROUGH NORMAL
7 LENDING CHANNELS;

8 (7) PROVIDE INFORMATION THAT DEMONSTRATES THE FINANCIAL STATUS
9 OF THE APPLICANT, INCLUDING:

10 (I) A CURRENT BALANCE SHEET;

11 (II) A PROFIT AND LOSS STATEMENT; AND

12 (III) CREDIT REFERENCES; AND

13 (8) CONTAIN ANY OTHER RELEVANT INFORMATION THAT THE AUTHORITY
14 REQUIRES.

15 (c) BALANCE SHEET.

16 THE AUTHORITY MAY REQUIRE AN APPLICANT TO PROVIDE AN AUDITED BALANCE
17 SHEET BEFORE THE AUTHORITY APPROVES OR DENIES THE APPLICATION.

18 (d) DELEGATION.

19 THE AUTHORITY MAY DELEGATE THE REVIEW AND APPROVAL OF THE APPLICATION
20 INFORMATION REQUIRED UNDER SUBSECTION (b)(1), (2), AND (3) OF THIS SECTION TO
21 THE EXECUTIVE DIRECTOR IF AN APPLICANT MEETS ALL OTHER REQUIREMENTS OF THIS
22 SECTION.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 83A, § 5–1026.

25 In subsection (b)(6) and (7) of this section, the references to information
26 that “demonstrates” the existence of specified conditions is substituted for
27 the former references to information that “relates to” the existence of
28 specified conditions for clarity and accuracy.

29 In subsection (c) of this section, the former reference to requiring an
30 audited balance sheet “[a]fter receipt of an application for assistance” is
31 deleted as implicit in the Authority approving or denying a loan.

32 Defined terms: “Authority” § 5–501
33 “Fund” § 5–517

1 5-528. FINANCIAL ASSISTANCE — TERMS.

2 (A) LOAN GUARANTIES.

3 THE AUTHORITY MAY SET THE TERMS AND CONDITIONS FOR A LOAN GUARANTY
4 MADE UNDER § 5-525(A) OF THIS SUBTITLE.

5 (B) LOANS.

6 (1) IF THE AUTHORITY DECIDES TO LEND MONEY FROM THE FUND TO AN
7 APPLICANT UNDER § 5-525(C) OF THIS SUBTITLE, THE AUTHORITY SHALL PREPARE
8 LOAN DOCUMENTS THAT INCLUDE:

9 (I) THE INTEREST RATE ON THE LOAN THAT EQUALS THE MARKET
10 RATE FOR A CONVENTIONAL LOAN OF COMPARABLE RISK UNLESS THE AUTHORITY
11 DETERMINES THAT A LOWER RATE BETTER SERVES THE PURPOSES OF THIS SUBTITLE;

12 (II) A DISBURSEMENT SCHEDULE THAT PROVIDES ENOUGH MONEY TO
13 THE APPLICANT WHEN THE APPLICANT NEEDS IT TO PERFORM THE CONTRACT;

14 (III) A REQUIREMENT THAT THE APPLICANT AND THE AUTHORITY
15 CO-SIGN EACH REQUEST FOR AN ADVANCE OF MONEY BEFORE RELEASE OF THE MONEY;
16 AND

17 (IV) PROVISIONS FOR REPAYMENT OF THE LOAN.

18 (2) THE LOAN DOCUMENTS MAY INCLUDE ANY OTHER PROVISION THAT THE
19 AUTHORITY DETERMINES IS NECESSARY TO SECURE THE LOAN, INCLUDING AN
20 ASSIGNMENT OF OR A LIEN ON PAYMENT UNDER THE CONTRACT.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 83A, § 5-1027.

23 In subsection (b)(1) of this section, the reference to a loan “under § 5-525(c)
24 of this subtitle” is added for clarity.

25 Defined terms: “Authority” § 5-501

26 “Fund” § 5-517

27 “Loan document” § 5-501

28 5-529. ANNUAL REPORT.

29 THE TREASURER SHALL REPORT EACH YEAR TO THE AUTHORITY ON:

30 (1) THE STATUS OF THE MONEY INVESTED UNDER § 5-521 OF THIS
31 SUBTITLE;

32 (2) THE MARKET VALUE OF THE ASSETS IN THE FUND AS OF THE DATE OF
33 THE REPORT; AND

1 (3) THE INTEREST RECEIVED FROM INVESTMENTS DURING THE PERIOD
2 COVERED BY THE REPORT.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 83A, § 5–1020, as it related to the annual report
5 for the Contract Financing Fund.

6 Defined terms: "Authority" § 5–501
7 "Fund" § 5–517

8 5–530. PROHIBITED ACTS; PENALTY.

9 (A) FALSE STATEMENT — APPLICATION OR DOCUMENT.

10 A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT
11 OR REPORT IN AN APPLICATION OR DOCUMENT SUBMITTED TO THE AUTHORITY UNDER
12 THIS PART.

13 (B) FALSE STATEMENT — TO INFLUENCE AUTHORITY.

14 A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT
15 OR REPORT TO INFLUENCE AN ACTION OF THE AUTHORITY UNDER THIS PART:

16 (1) ON AN APPLICATION FOR FINANCIAL ASSISTANCE; OR

17 (2) AFFECTING FINANCIAL ASSISTANCE WHETHER OR NOT THE ASSISTANCE
18 HAS ALREADY BEEN EXTENDED.

19 (C) PENALTY.

20 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON
21 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT
22 EXCEEDING \$50,000 OR BOTH.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 83A, § 5–1031.

25 In subsection (c) of this section, the former reference to a person's "aiders
26 and abettors" is deleted as obsolete. The common-law distinction between
27 charging a principal of a crime and an accessory before the fact to the
28 crime has been abolished for most purposes by statute, in response to the
29 holding of the Court of Appeals in *State v. Sowell*, 353 Md. 713 (1999). *See*
30 CP § 4–204.

31 Also in subsection (c) of this section, the former reference to a penalty for
32 an attempt to violate this section is deleted in light of CR § 1–201, which
33 states that "[t]he punishment of a person who is convicted of an attempt to
34 commit a crime may not exceed the maximum punishment for the crime
35 attempted". The Economic Development Article Review Committee brings
36 this deletion to the attention of the General Assembly. No substantive

1 change is intended.

2 Defined term: “Authority” § 5–501

3 5–531. RESERVED.

4 5–532. RESERVED.

5 PART IV. SMALL BUSINESS DEVELOPMENT GUARANTY FUND.

6 5–533. “FUND” DEFINED.

7 IN THIS PART, “FUND” MEANS THE SMALL BUSINESS DEVELOPMENT GUARANTY
8 FUND.

9 REVISOR’S NOTE: This section is new language derived without substantive
10 change from former Art. 83A, § 5–1001(i).

11 5–534. ESTABLISHED.

12 THERE IS A SMALL BUSINESS DEVELOPMENT GUARANTY FUND.

13 REVISOR’S NOTE: This section is new language derived without substantive
14 change from former Art. 83A, § 5–1017, as it established the Fund.

15 5–535. PURPOSE.

16 THE AUTHORITY SHALL USE THE FUND TO IMPLEMENT THIS PART.

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from former Art. 83A, § 5–1017, as it related to the purpose of the
19 Fund.

20 In this section and throughout this part, the former references to “Small
21 Business Development Guaranty” Fund are deleted for clarity, brevity, and
22 consistency within this subtitle.

23 Defined terms: “Authority” § 5–501

24 “Fund” § 5–533

25 5–536. ADMINISTRATION.

26 THE AUTHORITY SHALL ADMINISTER THE FUND.

27 REVISOR’S NOTE: This section is new language added to state expressly what
28 was only implied under former Art. 83A, §§ 5–1018 and 5–1028, that the
29 Authority administers the Fund.

30 Defined terms: “Authority” § 5–501

31 “Fund” § 5–533

1 5–537. STATUS; INVESTMENT; PAYMENT.

2 (A) STATUS.

3 THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO REVERSION
4 UNDER § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

5 (B) INVESTMENT.

6 THE TREASURER SHALL:

7 (1) INVEST THE MONEY IN THE FUND IN THE SAME MANNER AS OTHER
8 STATE MONEY MAY BE INVESTED; AND

9 (2) CREDIT ANY INVESTMENT EARNINGS TO THE FUND.

10 (C) PAYMENT.

11 IF THE AUTHORITY DETERMINES BY RESOLUTION THAT ANY MONEY IN THE FUND
12 IS NO LONGER NEEDED TO MEET ITS OBLIGATIONS, THE AUTHORITY MAY AUTHORIZE THE
13 COMPTROLLER TO FIRST APPLY THAT MONEY TO PAY THE PRINCIPAL OF AND INTEREST
14 ON OUTSTANDING BONDS ISSUED UNDER ANY ACT AUTHORIZING THE ISSUE OF STATE
15 GENERAL OBLIGATION BONDS ISSUED TO IMPLEMENT THIS SUBTITLE.

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 83A, §§ 5–1017 and 5–1019, as they related to
18 money in the Guaranty Fund.

19 In subsection (a) of this section, the reference to “reversion under § 7–302
20 of the State Finance and Procurement Article” to the Fund is added for
21 clarity and consistency within this article. *See* General Revisor’s Note to
22 article.

23 Also in subsection (a) of this section, the reference to a “special” fund is
24 substituted for the former reference to a “revolving” fund for consistency
25 with similar provisions throughout this article that relate to the status of
26 funds.

27 Subsection (b) of this section is restated in standard language for clarity
28 and consistency within this article.

29 Defined terms: “Authority” § 5–501

30 “Fund” § 5–533

31 “State” § 1–101

32 5–538. COMPOSITION.

33 THE FUND CONSISTS OF:

34 (1) LOANS AND GRANTS FROM THE FEDERAL GOVERNMENT OR A UNIT OR
35 INSTRUMENTALITY OF THE FEDERAL GOVERNMENT;

1 (2) GRANTS AND CONTRIBUTIONS OF FUNDS FROM THE STATE, A POLITICAL
2 SUBDIVISION, OR ANY OTHER SOURCE;

3 (3) PREMIUMS FOR GUARANTEEING LONG-TERM LOANS UNDER § 5-540 OF
4 THIS SUBTITLE;

5 (4) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL OF
6 COLLATERAL BY THE AUTHORITY RELATING TO LOANS GUARANTEED UNDER § 5-540 OF
7 THIS SUBTITLE; AND

8 (5) ALL OTHER RECEIPTS OF THE AUTHORITY UNDER THIS PART.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 83A, § 5-1018(a).

11 The former reference to “[i]ncome from investments allocable to the
12 Guaranty Fund [made by] the State Treasurer ...” is deleted as redundant
13 of the crediting of investment earnings to the Fund under § 5-537 of this
14 subtitle.

15 Defined terms: “Authority” § 5-501

16 “Fund” § 5-533

17 “State” § 1-101

18 5-539. USES.

19 THE AUTHORITY MAY USE THE FUND FOR:

20 (1) GUARANTY PAYMENTS MADE UNDER § 5-540(A) OF THIS SUBTITLE;

21 (2) INTEREST SUBSIDY PAYMENTS UNDER § 5-540(B) OF THIS SUBTITLE;
22 AND

23 (3) EXPENSES FOR ADMINISTRATIVE, LEGAL, ACTUARIAL, AND OTHER
24 SERVICES.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 83A, §§ 5-1018(b) and 5-1028(a).

27 In the introductory language of this section, the former redundant
28 reference that the Authority may use the Fund “to pay the following
29 expenses and disbursements of the Authority” is deleted for clarity, brevity,
30 and as unnecessary in light of the list of authorized expenses and
31 disbursements.

32 Former Art. 83A, § 5-1028(a) which authorized specified financial
33 assistance is deleted as included under revised § 5-540 of this article.

34 Defined terms: “Authority” § 5-501

35 “Fund” § 5-533

1 5–540. FINANCIAL ASSISTANCE — CONDITIONS.

2 (A) LOAN GUARANTIES.

3 (1) THE AUTHORITY MAY USE THE FUND TO GUARANTEE UP TO 80% OF
4 THE PRINCIPAL OF AND INTEREST ON A LONG-TERM LOAN MADE BY A FINANCIAL
5 INSTITUTION TO AN APPLICANT ONLY IF:

6 (I) THE APPLICANT MEETS THE REQUIREMENTS UNDER § 5–541 OF
7 THIS SUBTITLE AND HAS NOT VIOLATED § 5–545 OF THIS SUBTITLE;

8 (II) THE LOAN AMOUNT IS \$5,000 OR MORE AND THE MAXIMUM
9 AMOUNT PAYABLE BY THE AUTHORITY UNDER THE GUARANTY DOES NOT EXCEED
10 \$2,000,000;

11 (III) THE LOAN IS USED FOR:

12 1. WORKING CAPITAL;

13 2. REFINANCING THE APPLICANT'S EXISTING DEBT;

14 3. ACQUISITION AND INSTALLATION OF EQUIPMENT;

15 4. MAKING NECESSARY IMPROVEMENTS TO REAL PROPERTY
16 THAT THE APPLICANT LEASES OR OWNS IN FEE SIMPLE; OR

17 5. ACQUIRING REAL PROPERTY THAT THE APPLICANT WILL OWN
18 IN FEE SIMPLE IF THE PROPERTY IS TO BE USED IN THE APPLICANT'S TRADE OR BUSINESS
19 FOR WHICH THE GUARANTY IS SOUGHT AND THE FINANCIAL INSTITUTION OR THE
20 AUTHORITY PLACES A LIEN ON THE PROPERTY;

21 (IV) THE LOAN MATURES WITHIN 10 YEARS AFTER THE CLOSING DATE
22 OF THE LOAN; AND

23 (V) THE INTEREST RATE DOES NOT EXCEED THE MONTHLY WEIGHTED
24 AVERAGE OF THE PRIME LENDING RATE PREVAILING IN BALTIMORE CITY ON UNSECURED
25 COMMERCIAL LOANS, PLUS 2%, AS DETERMINED BY THE AUTHORITY.

26 (2) (I) THE AUTHORITY MAY ONLY APPROVE A GUARANTY UNDER THIS
27 SECTION IF THE AUTHORITY DETERMINES THAT THE LOAN TO BE GUARANTEED WILL
28 HAVE A SUBSTANTIAL ECONOMIC IMPACT.

29 (II) TO DETERMINE THE ECONOMIC IMPACT OF A LOAN, THE
30 AUTHORITY MAY CONSIDER:

31 1. THE AMOUNT OF THE GUARANTY OBLIGATION;

32 2. THE TERMS OF THE LOAN TO BE GUARANTEED;

33 3. THE NUMBER OF NEW JOBS THAT THE LOAN WILL CREATE;

34 AND

1 4. ANY OTHER FACTOR THAT THE AUTHORITY CONSIDERS
2 RELEVANT.

3 (B) INTEREST SUBSIDY.

4 (1) IN ADDITION TO A LOAN GUARANTY, THE AUTHORITY MAY PROVIDE AN
5 INTEREST SUBSIDY FOR THE BENEFIT OF THE APPLICANT.

6 (2) THE SUBSIDY:

7 (I) MAY BE FOR THE LIFE OF THE LOAN;

8 (II) MAY NOT EXCEED 4%;

9 (III) SHALL BE PAYABLE QUARTERLY; AND

10 (IV) SHALL BE MADE TO THE FINANCIAL INSTITUTION THAT MAKES THE
11 LOAN THAT THE AUTHORITY GUARANTEES.

12 (3) (I) THE SUBSIDY MAY NOT EXCEED THE DIFFERENCE BETWEEN:

13 1. THE INTEREST RATE ON THE GUARANTEED LOAN; AND

14 2. THE DISCOUNT INTEREST RATE THAT THE FEDERAL
15 RESERVE BANK USES.

16 (II) THE INTEREST RATE MAY NOT EXCEED THE MONTHLY WEIGHTED
17 AVERAGE OF THE PRIME LENDING RATE THAT PREVAILS IN BALTIMORE CITY ON
18 UNSECURED COMMERCIAL LOANS, AS THE AUTHORITY DETERMINES AS OF THE DATE OF
19 CLOSING, PLUS 2%.

20 (4) THE SUBSIDY MAY NOT BE PAID DURING ANY PERIOD IN WHICH THE
21 LOAN IS IN DEFAULT.

22 (C) GEOGRAPHIC DIVERSITY.

23 IN PROVIDING FINANCIAL ASSISTANCE UNDER THIS SECTION, THE AUTHORITY
24 SHALL RECOGNIZE THE NEED TO SERVE APPLICANTS FROM ALL POLITICAL SUBDIVISIONS
25 IN THE STATE.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 83A, §§ 5-1028(b) and 5-1029(a), (c), and (d).

28 In subsection (a)(1)(iii)3 of this section, the former reference to
29 "machinery" is deleted as redundant of the reference to "equipment".

30 In the introductory language of subsection (b) of this section, the former
31 reference to "the granting of" a loan guaranty is deleted as surplusage.

32 Defined terms: "Authority" § 5-501

33 "Financial institution" § 5-501

1 “Fund” § 5–533
2 “State” § 1–101
3 “Working capital” § 5–501

4 5–541. FINANCIAL ASSISTANCE — QUALIFICATIONS OF APPLICANTS.

5 (A) SOLE PROPRIETOR.

6 IF THE APPLICANT IS A SOLE PROPRIETOR, TO QUALIFY FOR FINANCIAL ASSISTANCE
7 UNDER THIS PART THE APPLICANT SHALL SATISFY THE AUTHORITY THAT:

8 (1) THE APPLICANT IS OF GOOD MORAL CHARACTER;

9 (2) THE APPLICANT HAS A REPUTATION FOR FINANCIAL RESPONSIBILITY, AS
10 DETERMINED FROM CREDITORS, EMPLOYERS, AND OTHER INDIVIDUALS WHO HAVE
11 PERSONAL KNOWLEDGE OF THE APPLICANT;

12 (3) THE APPLICANT IS A RESIDENT OF THE STATE OR THE PRINCIPAL PLACE
13 OF BUSINESS OF THE APPLICANT IS IN THE STATE; AND

14 (4) THE APPLICANT IS UNABLE TO OBTAIN ADEQUATE BUSINESS FINANCING
15 ON REASONABLE TERMS THROUGH NORMAL LENDING CHANNELS BECAUSE THE
16 APPLICANT:

17 (I) BELONGS TO A GROUP THAT HISTORICALLY HAS BEEN DEPRIVED
18 OF ACCESS TO NORMAL ECONOMIC OR FINANCIAL RESOURCES BECAUSE OF RACE, COLOR,
19 CREED, SEX, RELIGION, OR NATIONAL ORIGIN;

20 (II) HAS AN IDENTIFIABLE PHYSICAL HANDICAP THAT SEVERELY
21 LIMITS THE ABILITY OF THE APPLICANT TO OBTAIN FINANCIAL ASSISTANCE, BUT THAT
22 DOES NOT LIMIT THE ABILITY OF THE APPLICANT TO PERFORM THE CONTRACT OR OTHER
23 ACTIVITY FOR WHICH THE APPLICANT WOULD BE RECEIVING FINANCIAL ASSISTANCE;

24 (III) HAS ANY OTHER SOCIAL OR ECONOMIC IMPEDIMENT THAT IS
25 BEYOND THE CONTROL OF THE APPLICANT, BUT THAT DOES NOT LIMIT THE ABILITY OF
26 THE APPLICANT TO PERFORM THE CONTRACT OR OTHER ACTIVITY FOR WHICH THE
27 APPLICANT WOULD BE RECEIVING FINANCIAL ASSISTANCE, INCLUDING:

28 1. THE LACK OF FORMAL EDUCATION OR FINANCIAL CAPACITY;

29 OR

30 2. GEOGRAPHICAL OR REGIONAL ECONOMIC DISTRESS; OR

31 (IV) DOES NOT MEET THE ESTABLISHED CREDIT CRITERIA OF AT LEAST
32 ONE FINANCIAL INSTITUTION.

33 (B) BUSINESS ENTERPRISE.

34 IF THE APPLICANT IS NOT A SOLE PROPRIETORSHIP, TO QUALIFY FOR FINANCIAL
35 ASSISTANCE UNDER THIS PART AT LEAST 70% OF THE BUSINESS ENTERPRISE SHALL BE

1 OWNED BY INDIVIDUALS WHO MEET THE QUALIFICATIONS FOR AN INDIVIDUAL APPLICANT
2 UNDER SUBSECTION (A) OF THIS SECTION.

3 (C) LOAN GUARANTY — PRIOR LOAN DENIAL REQUIRED.

4 AN APPLICANT FOR A LOAN GUARANTY SHALL HAVE APPLIED FOR AND BEEN
5 DENIED A LOAN BY A FINANCIAL INSTITUTION.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 83A, § 5–1025(b), (c), and (d).

8 This section is revised to state more explicitly what was only
9 cross-referenced in the source law.

10 In subsection (c) of this section, the former reference to the requirement
11 that an applicant has been denied a loan “[i]n addition to the other
12 requirements of this section” is deleted as unnecessary.

13 Former Art. 83A, § 5–1025(a), which stated a requirement to meet certain
14 requirements, is deleted as implicit in the reorganization of material in
15 this part.

16 Defined terms: “Authority” § 5–501

17 “Financial institution” § 5–501

18 “State” § 1–101

19 5–542. FINANCIAL ASSISTANCE — APPLICATION PROCEDURES.

20 (A) IN GENERAL.

21 TO APPLY FOR FINANCIAL ASSISTANCE FROM THE FUND, A FINANCIAL INSTITUTION
22 SHALL SUBMIT TO THE AUTHORITY AN APPLICATION ON THE FORM THAT THE AUTHORITY
23 PROVIDES.

24 (B) CONTENTS.

25 THE APPLICATION SHALL INCLUDE:

26 (1) A DETAILED DESCRIPTION OF THE PROPOSED USE OF THE LOAN
27 PROCEEDS, INCLUDING PROJECTED CASH FLOW ANALYSES, MARKETING PLANS, AND
28 APPRAISALS;

29 (2) A DETAILED DESCRIPTION OF THE FUNDS AVAILABLE TO THE APPLICANT;

30 (3) A DETAILED DESCRIPTION OF THE PROPOSED LOAN DOCUMENTS TO BE
31 EXECUTED BY THE FINANCIAL INSTITUTION AND THE APPLICANT;

32 (4) A DETAILED DESCRIPTION OF THE PROPERTY PROPOSED AS COLLATERAL
33 FOR THE LOAN AND THE FINANCIAL INSTITUTION'S CERTIFICATION OF THE PROPERTY'S
34 VALUE;

1 (5) INFORMATION THAT DEMONSTRATES THE INABILITY OF THE APPLICANT
 2 TO OBTAIN ADEQUATE FINANCING ON REASONABLE TERMS THROUGH NORMAL LENDING
 3 CHANNELS;

4 (6) INFORMATION THAT DEMONSTRATES THE FINANCIAL STATUS OF THE
 5 APPLICANT, INCLUDING:

6 (I) A CURRENT BALANCE SHEET;

7 (II) A PROFIT AND LOSS STATEMENT; AND

8 (III) CREDIT REFERENCES;

9 (7) A PROPOSED DISBURSEMENT SCHEDULE;

10 (8) A PROPOSED AMORTIZATION SCHEDULE;

11 (9) A DETAILED DESCRIPTION OF THE APPLICANT'S EXPERIENCE IN THE
 12 TRADE OR BUSINESS FOR WHICH THE LOAN AND GUARANTEE ARE REQUESTED;

13 (10) INFORMATION THAT SHOWS THAT THE APPLICANT SATISFIES THE
 14 REQUIREMENTS OF § 5–541 OF THIS SUBTITLE; AND

15 (11) ANY OTHER RELEVANT INFORMATION THAT THE AUTHORITY REQUESTS.

16 (c) REPORTS.

17 THE AUTHORITY MAY REQUIRE AN APPLICANT TO PROVIDE AN AUDIT REPORT AND
 18 BALANCE SHEET CERTIFIED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT IN
 19 ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES BEFORE THE
 20 AUTHORITY APPROVES OR DENIES THE APPLICATION.

21 REVISOR'S NOTE: This section is new language derived without substantive
 22 change from former Art. 83A, § 5–1030.

23 In subsection (b)(1) of this section, the former reference to marketing
 24 “descriptions” is deleted as included in the reference to marketing “plans”.

25 In subsection (b)(5) and (6) of this section, the references to information
 26 that “demonstrates” the existence of specified conditions are substituted
 27 for the former references to information that “relates to” the existence of
 28 specified conditions for clarity and accuracy.

29 In subsection (c) of this section, the reference authorizing the Authority to
 30 “require” an audited balance sheet is substituted for the former statement
 31 that the Authority “may determine ... that an applicant shall provide” an
 32 audited balance sheet for clarity and brevity.

33 Also in subsection (c) of this section, the former reference to requiring an
 34 audited balance sheet “[a]fter receipt of an application for financial
 35 assistance” is deleted as implicit in the Authority approving or denying a

1 loan.

2 Defined terms: “Authority” § 5–501

3 “Financial institution” § 5–501

4 “Fund” § 5–533

5 “Loan document” § 5–501

6 5–543. FINANCIAL ASSISTANCE — TERMS.

7 A GUARANTY SHALL CONTAIN TERMS AND CONDITIONS THAT THE AUTHORITY
8 DETERMINES TO BE APPROPRIATE.

9 REVISOR’S NOTE: This section is new language derived without substantive
10 change from former Art. 83A, § 5–1029(b).

11 Defined term: “Authority” § 5–501

12 5–544. ANNUAL REPORT.

13 THE TREASURER SHALL REPORT EACH YEAR TO THE AUTHORITY ON:

14 (1) THE STATUS OF THE MONEY INVESTED UNDER § 5–537 OF THIS
15 SUBTITLE;

16 (2) THE MARKET VALUE OF THE ASSETS IN THE FUND AS OF THE DATE OF
17 THE REPORT; AND

18 (3) THE INTEREST RECEIVED FROM INVESTMENTS DURING THE PERIOD
19 COVERED BY THE REPORT.

20 REVISOR’S NOTE: This section is new language derived without substantive
21 change from former Art. 83A, § 5–1020, as it related to the annual report
22 for the Guaranty Fund.

23 Defined terms: “Authority” § 5–501

24 “Fund” § 5–533

25 5–545. PROHIBITED ACTS; PENALTY.

26 (A) FALSE STATEMENT — APPLICATION OR DOCUMENT.

27 A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT
28 OR REPORT IN AN APPLICATION OR DOCUMENT SUBMITTED TO THE AUTHORITY UNDER
29 THIS PART.

30 (B) FALSE STATEMENT — TO INFLUENCE AUTHORITY.

31 A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT
32 OR REPORT TO INFLUENCE AN ACTION OF THE AUTHORITY UNDER THIS PART:

33 (1) ON AN APPLICATION FOR FINANCIAL ASSISTANCE; OR

1 (2) AFFECTING FINANCIAL ASSISTANCE WHETHER OR NOT THE ASSISTANCE
2 HAS ALREADY BEEN EXTENDED.

3 (c) PENALTY.

4 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON
5 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT
6 EXCEEDING \$50,000 OR BOTH.

7 REVISOR’S NOTE: This section is new language derived without substantive
8 change from former Art. 83A, § 5–1031.

9 In subsection (c) of this section, the former reference to a person’s “aiders
10 and abettors” is deleted as obsolete. The common-law distinction between
11 charging a principal of a crime and an accessory before the fact to the
12 crime has been abolished for most purposes by statute, in response to the
13 holding of the Court of Appeals in *State v. Sowell*, 353 Md. 713 (1999). See
14 CP § 4–204.

15 Also in subsection (c) of this section, the former reference to a penalty for
16 an attempt to violate this section is deleted in light of CR § 1–201, which
17 states that “[t]he punishment of a person who is convicted of an attempt to
18 commit a crime may not exceed the maximum punishment for the crime
19 attempted”. The Economic Development Article Review Committee brings
20 this deletion to the attention of the General Assembly. No substantive
21 change is intended.

22 Defined term: “Authority” § 5–501

23 5–546. VIOLATION OF LOAN DOCUMENTS; NONCOMPLIANCE WITH PART.

24 IF AN APPLICANT OR FINANCIAL INSTITUTION VIOLATES ANY PROVISION OF THE
25 LOAN DOCUMENTS OR CEASES TO MEET THE REQUIREMENTS OF THIS PART, ON
26 REASONABLE NOTICE TO THE APPLICANT OR FINANCIAL INSTITUTION, THE AUTHORITY
27 MAY:

28 (1) WITHHOLD FROM THE APPLICANT FURTHER LOAN PAYMENTS UNTIL THE
29 APPLICANT COMPLIES WITH THE DOCUMENTS OR REQUIREMENTS;

30 (2) WITHHOLD FROM THE FINANCIAL INSTITUTION FURTHER INTEREST
31 SUBSIDY PAYMENTS UNTIL THE FINANCIAL INSTITUTION COMPLIES WITH THE LOAN
32 DOCUMENTS OR REQUIREMENTS; AND

33 (3) EXERCISE ANY OTHER REMEDY FOR WHICH THE LOAN DOCUMENTS
34 PROVIDE.

35 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–1048.

36 The only changes are in style.

1 The Economic Development Article Review Committee notes, for the
2 consideration of the General Assembly, that while former Art. 83A, §
3 5–1048, which is revised as this section, seemed to apply to all violations of
4 this subtitle concerning loans, it was interpreted to apply only to loans
5 guaranteed through the Guaranty Fund revised in this part. No
6 substantive change is intended.

7 Defined terms: “Authority” § 5–501
8 “Financial institution” § 5–501
9 “Loan document” § 5–501

10 5–547. RESERVED.

11 5–548. RESERVED.

12 PART V. EQUITY PARTICIPATION INVESTMENT PROGRAM.

13 5–549. DEFINITIONS.

14 (A) IN GENERAL.

15 IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

16 REVISOR’S NOTE: This subsection is new language derived without
17 substantive change from former Art. 83A, § 5–1041(a).

18 (B) ENTERPRISE.

19 (1) “ENTERPRISE” MEANS A BUSINESS ENTITY PROPOSING TO CARRY ON A
20 BUSINESS IN THE STATE THAT MEETS THE REQUIREMENTS OF § 5–526 OF THIS
21 SUBTITLE.

22 (2) “ENTERPRISE” INCLUDES:

23 (I) A SOLE PROPRIETORSHIP;

24 (II) A PARTNERSHIP;

25 (III) A LIMITED PARTNERSHIP;

26 (IV) A CORPORATION; OR

27 (V) A JOINT VENTURE.

28 REVISOR’S NOTE: This subsection is new language derived without
29 substantive change from former Art. 83A, § 5–1041(b).

30 Defined term: “State” § 1–101

31 (C) EQUITY PARTICIPATION FINANCING.

1 “EQUITY PARTICIPATION FINANCING” INCLUDES INVESTMENT OR GUARANTY OF
2 INVESTMENT IN AN ENTERPRISE.

3 REVISOR’S NOTE: This subsection is new language derived without
4 substantive change from former Art. 83A, § 5–1041(c).

5 Defined term: “Enterprise” § 5–549

6 (D) EXISTING BUSINESS.

7 “EXISTING BUSINESS” MEANS A BUSINESS WHOSE BOARD OF DIRECTORS OR
8 OWNERS APPROVE THE SALE OF THE BUSINESS TO AN ENTERPRISE RECEIVING EQUITY
9 PARTICIPATION FINANCING.

10 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1041(d).

11 No changes are made.

12 Defined terms: “Enterprise” § 5–549
13 “Equity participation financing” § 5–549

14 (E) FRANCHISE.

15 (1) “FRANCHISE” HAS THE MEANING STATED IN § 14–201 OF THE
16 BUSINESS REGULATION ARTICLE.

17 (2) “FRANCHISE” INCLUDES ONLY FRANCHISE OFFERINGS THAT ARE
18 REGISTERED OR EXEMPT UNDER THE MARYLAND FRANCHISE REGISTRATION AND
19 DISCLOSURE LAW.

20 REVISOR’S NOTE: This subsection is new language derived without
21 substantive change from former Art. 83A, § 5–1041(e).

22 In paragraph (1) of this subsection, the former reference to “a contract or
23 agreement and” is deleted as redundant in light of the reference to the
24 meaning stated in BR § 14–201.

25 As to the Maryland Franchise Registration and Disclosure Law, *see* BR
26 Title 14, Subtitle 2.

27 (F) FUND.

28 “FUND” MEANS THE EQUITY PARTICIPATION INVESTMENT PROGRAM FUND.

29 REVISOR’S NOTE: This subsection is new language added for consistency
30 within this subtitle.

31 (G) PROGRAM.

32 “PROGRAM” MEANS THE EQUITY PARTICIPATION INVESTMENT PROGRAM.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 83A, § 5–1041(f).

3 (H) QUALIFIED SECURITY.

4 “QUALIFIED SECURITY” MEANS:

5 (1) A NOTE, BOND, DEBENTURE, OR OTHER EVIDENCE OF INDEBTEDNESS;

6 (2) STOCK OR OTHER FORM OF EQUITY PARTICIPATION;

7 (3) A CERTIFICATE OF INTEREST OR PARTICIPATION IN A PROFIT–SHARING
8 AGREEMENT;

9 (4) AN INVESTMENT CONTRACT;

10 (5) A CERTIFICATE OF DEPOSIT FOR A SECURITY;

11 (6) A CERTIFICATE OF INTEREST OR PARTICIPATION IN A PATENT OR PATENT
12 APPLICATION OR IN ROYALTY OR OTHER PAYMENTS UNDER A PATENT OR PATENT
13 APPLICATION; OR

14 (7) AN INTEREST OR INSTRUMENT COMMONLY KNOWN AS A “SECURITY” OR
15 A CERTIFICATE FOR, RECEIPT FOR, GUARANTY OF, OR OPTION, WARRANT, OR RIGHT TO
16 SUBSCRIBE TO OR PURCHASE A QUALIFIED SECURITY.

17 REVISOR'S NOTE: This subsection is new language derived without
18 substantive change from former Art. 83A, § 5–1041(g).

19 (I) TECHNOLOGY–BASED BUSINESS.

20 “TECHNOLOGY–BASED BUSINESS” MEANS A COMMERCIAL OR INDUSTRIAL
21 ENTERPRISE ENGAGED IN THE APPLICATION OF SCIENTIFIC KNOWLEDGE TO PRACTICAL
22 PURPOSES IN A PARTICULAR FIELD FOR A PROFIT.

23 REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–1041(h).

24 No changes are made.

25 Defined term: “Enterprise” § 5–549

26 5–550. LEGISLATIVE FINDINGS; PURPOSES.

27 (A) FINDINGS.

28 THE GENERAL ASSEMBLY FINDS THAT:

29 (1) FRANCHISES AND TECHNOLOGY–BASED BUSINESSES HAVE PROVEN TO
30 BE A FAST GROWING AND RELIABLE FORM OF SUCCESSFUL BUSINESS EXPANSION AND
31 SUCCESSFUL NEW BUSINESS CREATION;

1 (2) FRANCHISES AND TECHNOLOGY–BASED BUSINESSES PLAY A MAJOR
2 ROLE IN THE ECONOMY OF THE STATE AND HAVE BEEN A CONTINUING SOURCE OF
3 INCREASING TAX REVENUES AND JOB OPPORTUNITIES;

4 (3) THE GROWTH OF FRANCHISES, TECHNOLOGY–BASED BUSINESSES, AND
5 OTHER BUSINESSES SHOULD BE ENCOURAGED AND SHOULD BE AN INTEGRAL PART OF
6 THE STATE’S ECONOMIC DEVELOPMENT EFFORT;

7 (4) SOCIALLY OR ECONOMICALLY DISADVANTAGED INDIVIDUALS OFTEN
8 LACK ADEQUATE CAPITAL AND ARE UNABLE TO OBTAIN FINANCING FROM FINANCIAL
9 INSTITUTIONS OR VENTURE CAPITAL FIRMS TO BEGIN AND DEVELOP A FRANCHISE, A
10 TECHNOLOGY–BASED BUSINESS, OR OTHER TYPE OF BUSINESS, OR TO PURCHASE AN
11 EXISTING BUSINESS; AND

12 (5) PROMOTING THE CREATION AND VIABILITY OF FRANCHISES AND
13 TECHNOLOGY–BASED BUSINESSES, THE DEVELOPMENT OF OTHER BUSINESSES, AND THE
14 PURCHASE OF EXISTING BUSINESSES BY SOCIALLY OR ECONOMICALLY DISADVANTAGED
15 INDIVIDUALS IS IN THE PUBLIC INTEREST.

16 (B) PURPOSES.

17 THE PURPOSES OF THE EQUITY PARTICIPATION INVESTMENT PROGRAM ARE TO:

18 (1) ENCOURAGE AND HELP SOCIALLY OR ECONOMICALLY DISADVANTAGED
19 INDIVIDUALS TO CREATE AND DEVELOP FRANCHISES, TECHNOLOGY–BASED BUSINESSES,
20 AND OTHER BUSINESSES AND ACQUIRE EXISTING BUSINESSES IN THE STATE; AND

21 (2) ASSIST SMALL BUSINESSES THAT, BECAUSE THEY DO NOT MEET THE
22 ESTABLISHED CREDIT CRITERIA OF FINANCIAL INSTITUTIONS, CANNOT OBTAIN ADEQUATE
23 BUSINESS FINANCING ON REASONABLE TERMS THROUGH NORMAL FINANCING CHANNELS.

24 REVISOR’S NOTE: This section is new language derived without substantive
25 change from former Art. 83A, §§ 5–1042 and 5–1043.

26 In subsection (a) of this section, the former words “of Maryland” are
27 deleted as unnecessary.

28 Defined terms: “Existing business” § 5–549

29 “Franchise” § 5–549

30 “State” § 1–101

31 “Technology–based business” § 5–549

32 5–551. ESTABLISHED.

33 THERE IS AN EQUITY PARTICIPATION INVESTMENT PROGRAM IN THE
34 DEPARTMENT.

35 REVISOR’S NOTE: This section is new language derived without substantive
36 change from former Art. 83A, § 5–1044(a).

1 Defined term: “Department” § 1–101

2 5–552. ADMINISTRATION.

3 THE AUTHORITY SHALL ADMINISTER THE PROGRAM.

4 REVISOR’S NOTE: This section is new language derived without substantive
5 change from former Art. 83A, § 5–1044(b).

6 Defined terms: “Authority” § 5–501
7 “Program” § 5–549

8 5–553. POWERS.

9 THE AUTHORITY MAY:

10 (1) PROVIDE EQUITY PARTICIPATION FINANCING TO HELP SOCIALLY OR
11 ECONOMICALLY DISADVANTAGED INDIVIDUALS IN THE STATE CREATE AND DEVELOP
12 FRANCHISES, TECHNOLOGY–BASED BUSINESSES, AND OTHER BUSINESSES AND ACQUIRE
13 EXISTING BUSINESSES;

14 (2) BUY, HOLD, AND SELL QUALIFIED SECURITIES;

15 (3) PREPARE, PUBLISH, AND DISTRIBUTE TECHNICAL STUDIES, REPORTS,
16 AND OTHER MATERIALS WITH OR WITHOUT CHARGE; AND

17 (4) PROVIDE AND PAY FOR ADVISORY SERVICES AND TECHNICAL ASSISTANCE
18 THAT ARE NECESSARY OR DESIRABLE TO CARRY OUT THE PROGRAM.

19 REVISOR’S NOTE: This section is new language derived without substantive
20 change from former Art. 83A, § 5–1045.

21 In the introductory language of this section, the former words “[f]or the
22 purposes of administering the Program” are deleted as surplusage.

23 Defined terms: “Authority” § 5–501
24 “Equity participation financing” § 5–549
25 “Franchise” § 5–549
26 “Program” § 5–549
27 “Qualified security” § 5–549
28 “State” § 1–101
29 “Technology–based business” § 5–549

30 5–554. EQUITY PARTICIPATION INVESTMENT PROGRAM FUND — ESTABLISHED.

31 THERE IS AN EQUITY PARTICIPATION INVESTMENT PROGRAM FUND.

32 REVISOR’S NOTE: This section is new language derived without substantive
33 change from the first clause of former Art. 83A, § 5–1047(a).

1 5–555. FUND — IN GENERAL.

2 (A) ADMINISTRATION.

3 THE AUTHORITY SHALL ADMINISTER THE FUND.

4 (B) STATUS.

5 (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO
6 REVERSION UNDER § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

7 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE
8 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

9 (C) COMPOSITION.

10 THE FUND CONSISTS OF:

11 (1) MONEY DRAWN FROM THE SMALL BUSINESS DEVELOPMENT
12 GUARANTY FUND ESTABLISHED UNDER PART IV OF THIS SUBTITLE;

13 (2) MONEY THE STATE APPROPRIATES TO THE FUND;

14 (3) MONEY MADE AVAILABLE TO THE FUND THROUGH FEDERAL PROGRAMS
15 OR PRIVATE CONTRIBUTIONS;

16 (4) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL BY THE
17 AUTHORITY OF COLLATERAL RELATED TO EQUITY PARTICIPATION FINANCING;

18 (5) PREMIUMS, FEES, ROYALTIES, AND REPAYMENTS OF PRINCIPAL,
19 INTEREST, AND INVESTMENTS PAID BY AND ON BEHALF OF ENTERPRISES TO THE
20 AUTHORITY UNDER THE TERMS OF EQUITY PARTICIPATION FINANCING; AND

21 (6) ANY OTHER MONEY MADE AVAILABLE UNDER THE PROGRAM.

22 (D) USES.

23 THE AUTHORITY SHALL USE THE FUND TO:

24 (1) PURCHASE QUALIFIED SECURITIES THAT AN ENTERPRISE ISSUES TO
25 PROVIDE EQUITY PARTICIPATION FINANCING AS THE PROGRAM ALLOWS;

26 (2) PROVIDE GUARANTIES OF INVESTMENTS TO EXPAND THE CAPITAL
27 RESOURCES OF ENTERPRISES;

28 (3) PURCHASE ADVISORY SERVICES AND TECHNICAL ASSISTANCE
29 CONSISTENT WITH THE PROGRAM;

30 (4) PURCHASE SECURITIES IN WHICH A FIDUCIARY OF THE STATE MAY
31 LAWFULLY INVEST;

1 (5) PROVIDE EQUITY PARTICIPATION FINANCING AS THE PROGRAM ALLOWS;
2 AND

3 (6) PAY FOR ADMINISTRATIVE, LEGAL, AND ACTUARIAL SERVICES THAT
4 RELATE TO THE PROGRAM.

5 (E) RETURNS.

6 THE FUND SHALL BE SELF-SUSTAINING AND SHALL ACHIEVE INVESTMENT
7 RETURNS ON ITS PORTFOLIO IN THE FORM OF:

8 (1) ROYALTIES FROM ENTERPRISES IN AMOUNTS TO BE DETERMINED BY THE
9 AUTHORITY; AND

10 (2) INTEREST PAYMENTS FROM ANY DEBT SECURITIES.

11 (F) WITHDRAWALS.

12 AS NEEDED FOR THE PROGRAM, THE AUTHORITY MAY WITHDRAW FROM TIME TO
13 TIME UP TO A TOTAL OF \$2,000,000 FROM THE SMALL BUSINESS DEVELOPMENT
14 GUARANTY FUND AND DEPOSIT THE WITHDRAWAL INTO THE FUND.

15 (G) INVESTMENT EARNINGS.

16 (1) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE
17 SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

18 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE
19 FUND.

20 (H) ANNUAL REPORT.

21 ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE AUTHORITY SHALL SUBMIT A
22 REPORT ON THE PROGRAM TO THE GENERAL ASSEMBLY IN ACCORDANCE WITH §
23 2-1246 OF THE STATE GOVERNMENT ARTICLE.

24 REVISOR'S NOTE: Subsection (a) of this section is new language added to
25 state explicitly that the Authority shall administer the Fund.

26 Subsections (b) through (h) of this section are new language derived
27 without substantive change from former Art. 83A, § 5-1047(b) through (g)
28 and the second clause of (a).

29 In subsection (b)(1) of this section, the reference to a "special" Fund is
30 substituted for the former reference to a "revolving" Fund as standard
31 language regarding special funds.

32 Also in subsection (b)(1) of this section, the phrase "that is not subject to
33 reversion under § 7-302 of the State Finance and Procurement Article" is
34 new language added for consistency within this article. See General
35 Revisor's Note to article.

1 In subsection (c)(1) of this section, the phrase “established under Part IV of
2 this subtitle” is added for clarity.

3 In subsection (c)(5) and (6) of this section, the former phrase “provided by
4 the Authority” is deleted as implicit in the definition of equity participation
5 financing.

6 Defined terms: “Authority” § 5–501

7 “Enterprise” § 5–549

8 “Equity participation financing” § 5–549

9 “Fund” § 5–549

10 “Program” § 5–549

11 “Qualified security” § 5–549

12 “State” § 1–101

13 5–556. APPLICATION FOR FINANCING.

14 (A) BUSINESS PLAN.

15 THE AUTHORITY MAY PROVIDE EQUITY PARTICIPATION FINANCING UNDER THE
16 PROGRAM ONLY AFTER THE ENTERPRISE SUBMITS AN APPLICATION THAT CONTAINS A
17 BUSINESS PLAN THAT MEETS THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.

18 (B) CONTENTS.

19 THE BUSINESS PLAN OF AN ENTERPRISE SHALL INCLUDE:

20 (1) A DESCRIPTION OF THE FRANCHISE, TECHNOLOGY–BASED BUSINESS,
21 OTHER BUSINESS, OR EXISTING BUSINESS AND ITS MANAGEMENT, PRODUCT, AND
22 MARKET;

23 (2) A STATEMENT OF THE AMOUNT, IMMEDIACY OF NEED, AND PROJECTED
24 USE OF THE CAPITAL REQUIRED;

25 (3) A STATEMENT OF THE POTENTIAL ECONOMIC IMPACT OF THE PURCHASE;

26 (4) INFORMATION THAT RELATES TO THE SATISFACTION OF THE
27 APPLICANT’S REQUIREMENTS OF § 5–557(D) AND (E) OF THIS SUBTITLE; AND

28 (5) ANY OTHER INFORMATION THE AUTHORITY REQUIRES.

29 REVISOR’S NOTE: This section is new language derived without substantive
30 change from former Art. 83A, § 5–1046(a).

31 In subsection (b)(1) of this section, the word “franchise” is substituted for
32 the former word “franchiser” for clarity.

33 In subsection (b)(4) of this section, the reference to “§ 5–557(d) and (e) of
34 this subtitle” is substituted for the former reference to subsections “(f) and
35 (g) of this section” for accuracy.

1 Defined terms: “Enterprise” § 5–549
2 “Equity participation financing” § 5–549
3 “Existing business” § 5–549
4 “Franchise” § 5–549
5 “Program” § 5–549
6 “Qualified security” § 5–549
7 “Technology–based business” § 5–549

8 **5–557. REQUIREMENTS FOR FINANCING.**

9 (A) **LIMITATIONS.**

10 (1) **UNDER THE PROGRAM THE AUTHORITY MAY NOT:**

11 (i) **OWN SECURITIES REPRESENTING MORE THAN 49% OF THE VOTING**
12 **STOCK OF A FRANCHISE, TECHNOLOGY–BASED BUSINESS, OR OTHER BUSINESS OR OWN**
13 **AN INTEREST GREATER THAN 49% IN A FRANCHISE, TECHNOLOGY–BASED BUSINESS, OR**
14 **OTHER BUSINESS; OR**

15 (ii) **OWN SECURITIES REPRESENTING MORE THAN 49% OF THE VOTING**
16 **STOCK OF AN ENTERPRISE ACQUIRING AN EXISTING BUSINESS OR OWN AN INTEREST**
17 **GREATER THAN 49% IN AN ENTERPRISE ACQUIRING AN EXISTING BUSINESS.**

18 (2) **THE AMOUNT OF THE AUTHORITY’S EQUITY PARTICIPATION FINANCING**
19 **IN AN ENTERPRISE MAY NOT EXCEED:**

20 (i) **THE LESSER OF:**

21 1. **\$2,000,000 FOR A FRANCHISE; OR**
22 2. **49% OF THE TOTAL INITIAL INVESTMENT IN THE**
23 **FRANCHISE;**

24 (ii) **THE LESSER OF:**

25 1. **\$2,000,000 FOR AN ENTERPRISE ACQUIRING AN EXISTING**
26 **BUSINESS; OR**
27 2. **49% OF THE TOTAL INVESTMENT IN THE ENTERPRISE**
28 **ACQUIRING AN EXISTING BUSINESS; OR**

29 (iii) **\$2,000,000 FOR A TECHNOLOGY–BASED BUSINESS.**

30 (3) **BEFORE PROVIDING EQUITY PARTICIPATION FINANCING, THE**
31 **AUTHORITY SHALL FIND THAT THERE IS A REASONABLE PROBABILITY THAT THE**
32 **AUTHORITY WILL RECOVER ITS INITIAL INVESTMENT AND AN ADEQUATE RETURN ON**
33 **INVESTMENT FROM THE EQUITY PARTICIPATION FINANCING.**

34 (4) **THE AUTHORITY’S INVESTMENT SHALL BE RECOVERABLE WITHIN:**

1 (I) 7 YEARS AFTER THE EQUITY PARTICIPATION FINANCING IN A
2 FRANCHISE, AN ENTERPRISE ACQUIRING AN EXISTING BUSINESS, OR ANY OTHER TYPE OF
3 BUSINESS; OR

4 (II) 10 YEARS AFTER THE EQUITY PARTICIPATION FINANCING IN A
5 TECHNOLOGY–BASED BUSINESS.

6 (5) THE AUTHORITY’S RECOVERY SHALL BE THE GREATER OF:

7 (I) THE CURRENT VALUE OF THE PERCENTAGE OF THE EQUITY
8 INVESTMENT IN THE ENTERPRISE; OR

9 (II) THE AMOUNT OF THE INITIAL INVESTMENT IN THE ENTERPRISE.

10 (6) THE VALUE OF THE BUSINESS ENTITY AT THE TIME OF RECOVERY SHALL
11 BE DETERMINED AFTER OBTAINING AT LEAST ONE INDEPENDENT APPRAISAL OF THE
12 VALUE FROM AN APPRAISER SELECTED FROM A LIST OF AT LEAST THREE APPRAISERS
13 SUPPLIED BY THE AUTHORITY.

14 (B) MINIMUM QUALIFICATIONS — ACQUISITION OF BUSINESS.

15 WHEN AN ENTERPRISE APPLIES TO THE AUTHORITY FOR EQUITY PARTICIPATION
16 FINANCING TO ACQUIRE AN EXISTING BUSINESS, AN ENTERPRISE OR ITS PRINCIPALS
17 SHALL HAVE:

18 (1) AN EQUITY INVESTMENT EQUAL TO AT LEAST 5% OF THE TOTAL COST
19 OF ACQUISITION; AND

20 (2) AT LEAST 3 YEARS OF SUCCESSFUL EXPERIENCE WITH DEMONSTRATED
21 ACHIEVEMENTS AND MANAGEMENT RESPONSIBILITIES.

22 (C) MINIMUM QUALIFICATIONS — BUSINESS BEING ACQUIRED.

23 THE AUTHORITY MAY PROVIDE EQUITY PARTICIPATION FINANCING FOR THE
24 ACQUISITION OF AN EXISTING BUSINESS IF THE EXISTING BUSINESS:

25 (1) HAS BEEN IN EXISTENCE FOR AT LEAST 5 YEARS;

26 (2) HAS BEEN PROFITABLE FOR AT LEAST 2 OF THE PREVIOUS 3 YEARS;

27 (3) HAS SUFFICIENT CASH FLOW TO SERVICE THE DEBT AND ENSURE
28 ADEQUATE RETURN OF THE AUTHORITY’S INVESTMENT;

29 (4) HAS THE CAPACITY FOR GROWTH AND JOB CREATION;

30 (5) HAS ITS PRINCIPAL PLACE OF BUSINESS IN THE STATE; AND

31 (6) HAS A STRONG CUSTOMER BASE.

32 (D) SOLE PROPRIETORSHIP.

1 IF THE APPLICANT ENTERPRISE IS A SOLE PROPRIETORSHIP, TO QUALIFY FOR
2 FINANCIAL ASSISTANCE UNDER THIS PART, THE APPLICANT SHALL SATISFY THE
3 AUTHORITY THAT:

4 (1) THE APPLICANT IS OF GOOD MORAL CHARACTER;

5 (2) THE APPLICANT HAS A REPUTATION FOR FINANCIAL RESPONSIBILITY, AS
6 DETERMINED FROM CREDITORS, EMPLOYERS, AND OTHER INDIVIDUALS WHO HAVE
7 PERSONAL KNOWLEDGE OF THE APPLICANT;

8 (3) THE APPLICANT IS A RESIDENT OF THE STATE OR THE PRINCIPAL PLACE
9 OF BUSINESS OF THE APPLICANT IS IN THE STATE; AND

10 (4) THE APPLICANT IS UNABLE TO OBTAIN ADEQUATE BUSINESS FINANCING
11 ON REASONABLE TERMS THROUGH NORMAL LENDING CHANNELS BECAUSE THE
12 APPLICANT:

13 (I) BELONGS TO A GROUP THAT HISTORICALLY HAS BEEN DEPRIVED
14 OF ACCESS TO NORMAL ECONOMIC OR FINANCIAL RESOURCES BECAUSE OF RACE, COLOR,
15 CREED, SEX, RELIGION, OR NATIONAL ORIGIN;

16 (II) HAS AN IDENTIFIABLE PHYSICAL HANDICAP THAT SEVERELY
17 LIMITS THE ABILITY OF THE APPLICANT TO OBTAIN FINANCIAL ASSISTANCE, BUT THAT
18 DOES NOT LIMIT THE ABILITY OF THE APPLICANT TO PERFORM THE CONTRACT OR OTHER
19 ACTIVITY FOR WHICH THE APPLICANT WOULD BE RECEIVING FINANCIAL ASSISTANCE;

20 (III) HAS ANY OTHER SOCIAL OR ECONOMIC IMPEDIMENT THAT IS
21 BEYOND THE CONTROL OF THE APPLICANT, BUT THAT DOES NOT LIMIT THE ABILITY OF
22 THE APPLICANT TO PERFORM THE CONTRACT OR OTHER ACTIVITY FOR WHICH THE
23 APPLICANT WOULD BE RECEIVING FINANCIAL ASSISTANCE, INCLUDING:

24 1. THE LACK OF FORMAL EDUCATION OR FINANCIAL CAPACITY;
25 OR

26 2. GEOGRAPHICAL OR REGIONAL ECONOMIC DISTRESS; OR

27 (IV) DOES NOT MEET THE ESTABLISHED CREDIT OR INVESTMENT
28 CRITERIA OF AT LEAST ONE FINANCIAL INSTITUTION.

29 (E) BUSINESS ENTERPRISE.

30 IF THE APPLICANT ENTERPRISE IS NOT A SOLE PROPRIETORSHIP, TO QUALIFY FOR
31 FINANCIAL ASSISTANCE UNDER THIS PART, AT LEAST 51% OF THE ENTERPRISE SHALL BE
32 OWNED BY INDIVIDUALS WHO MEET THE QUALIFICATIONS FOR APPLICANTS UNDER
33 SUBSECTION (D) OF THIS SECTION.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 83A, § 5–1046(b) and (d) through (g).

36 In the introductory language of subsection (a)(1) of this section, the former

1 reference to “any equity participation financing shall satisfy the following
2 requirements” is deleted as implicit in the phrase “[u]nder the Program”.

3 In subsection (a)(3) of this section, the words “[b]efore providing equity
4 participation financing” are added for clarity.

5 Also in subsection (a)(3) of this section, the words “from the equity
6 participation financing” are added for clarity.

7 In the introductory language of subsection (c) of this section, the phrase
8 “[t]he Authority may provide equity participation financing for” is added
9 for clarity.

10 Defined terms: “Authority” § 5–501
11 “Enterprise” § 5–549
12 “Equity participation financing” § 5–549
13 “Existing business” § 5–549
14 “Franchise” § 5–549
15 “Program” § 5–549
16 “State” § 1–101
17 “Technology–based business” § 5–549

18 5–558. LIMITATION ON LIABILITY OF STATE.

19 THE LIABILITY OF THE STATE AND OF THE AUTHORITY IN PROVIDING EQUITY
20 PARTICIPATION FINANCING IS LIMITED TO INVESTMENTS UNDER THE PROGRAM.

21 REVISOR’S NOTE: This section is new language derived without substantive
22 change from former Art. 83A, § 5–1046(c).

23 Defined terms: “Authority” § 5–501
24 “Equity participation financing” § 5–549
25 “Program” § 5–549
26 “State” § 1–101

27 5–559. RESERVED.

28 5–560. RESERVED.

29 PART VI. SMALL BUSINESS SURETY BOND PROGRAM.

30 5–561. DEFINITIONS.

31 (A) IN GENERAL.

32 IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

33 REVISOR’S NOTE: This subsection is new language derived without
34 substantive change from former Art. 83A, § 5–1032(a).

1 (B) FUND.

2 “FUND” MEANS THE SMALL BUSINESS SURETY BOND FUND.

3 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1032(d).

4 No changes are made.

5 (C) PRINCIPAL.

6 “PRINCIPAL” MEANS A SMALL BUSINESS ENTITY THAT HAS ASSETS, INCOME, OR
7 EMPLOYEES THAT DO NOT EXCEED LIMITS THAT THE AUTHORITY SETS BY REGULATION.

8 REVISOR’S NOTE: This subsection is new language derived without
9 substantive change from former Art. 83A, § 5–1032(e).

10 The former reference to limits set by “administrative determination” is
11 deleted in light of administrative practice that sets all such limits by
12 regulation.

13 Defined term: “Authority” § 5–501

14 (D) PROGRAM.

15 “PROGRAM” MEANS THE SMALL BUSINESS SURETY BOND PROGRAM.

16 REVISOR’S NOTE: This subsection is new language derived without
17 substantive change from former Art. 83A, § 5–1032(f).

18 The former phrase “created by this Part VI of this subtitle” is deleted as
19 surplusage.

20 REVISOR’S NOTE TO SECTION:

21 Former Art. 83A, § 5–1032(b), which defined the term “Authority” as “the
22 Maryland Small Business Development Financing Authority”, is deleted in light of
23 the same term defined in § 5–501 of this subtitle.

24 5–562. ESTABLISHED.

25 THERE IS A SMALL BUSINESS SURETY BOND FUND.

26 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–1034(a).

27 It is set forth as a separate section for emphasis.

28 No changes are made.

29 5–563. STATUS; INVESTMENTS.

30 (A) STATUS.

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

3 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE
4 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

5 (B) INVESTMENTS.

6 (1) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE
7 SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

8 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE
9 FUND.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 83A, § 5–1034(d) and, as it related to the status of
12 the Fund, (b).

13 In subsection (a)(1) of this section, the reference to the “Fund” as a “special,
14 nonlapsing fund” is substituted for the former reference as a “continuing,
15 nonlapsing, revolving fund” for consistency.

16 Also in subsection (a)(1) of this section, the reference to “reversion under §
17 7–302 of the State Finance and Procurement Article” is added for clarity
18 and consistency within this article. *See* General Revisor's Note to article.

19 In subsection (a)(2) of this section, the reference to the Treasurer “hold[ing]
20 the Fund separately and the Comptroller ... account[ing] for the Fund” is
21 new language added for clarity and consistency within this article.

22 In subsection (b)(1) of this section, the former requirement that money in
23 the Fund be “deposited with” the Treasurer is deleted as unnecessary in
24 light of subsection (a)(2).

25 Also in subsection (b)(1) of this section, the former reference that the
26 Treasurer “reinvest” the money in the Fund is deleted as implicit in the
27 Treasurer's duty to invest money in the Fund.

28 Defined terms: “Fund” § 5–561
29 “State” § 1–101

30 5–564. COMPOSITION.

31 THE FUND CONSISTS OF:

32 (1) MONEY THE STATE APPROPRIATES TO THE FUND;

33 (2) PREMIUMS, FEES, AND ANY OTHER AMOUNTS THE AUTHORITY RECEIVES
34 WITH RESPECT TO BONDING ASSISTANCE IT PROVIDES;

1 (3) PROCEEDS THE AUTHORITY DESIGNATES FROM THE SALE, LEASE, OR
2 OTHER DISPOSITION OF PROPERTY OR CONTRACTS THE AUTHORITY HOLDS OR ACQUIRES;
3 AND

4 (4) ANY OTHER MONEY AVAILABLE UNDER THE PROGRAM.

5 REVISOR’S NOTE: This section is new language derived without substantive
6 change from former Art. 83A, § 5–1034(b), as that provision of law applied
7 to the composition of the Fund.

8 The former reference to “[i]ncome from investments that the State
9 Treasurer makes from moneys in the Fund” is deleted as redundant of the
10 crediting of investment earnings to the Fund under § 5–563 of this subtitle.

11 Defined terms: “Authority” § 5–501
12 “Fund” § 5–561
13 “Program” § 5–561
14 “State” § 1–101

15 5–565. USES.

16 THE FUND SHALL BE USED:

17 (1) FOR THE PURPOSES DESCRIBED IN THE PROGRAM; AND

18 (2) TO PAY EXPENSES OF THE AUTHORITY IN ADMINISTERING THE
19 PROGRAM.

20 REVISOR’S NOTE: This section is new language derived without substantive
21 change from former Art. 83A, § 5–1034(c).

22 In item (2) of this section, the former reference that the Fund be used to
23 pay “any and all” expenses is deleted as implicit in the reference that the
24 expenses of the Authority in administering the Program be paid.

25 Defined terms: “Authority” § 5–501
26 “Fund” § 5–561
27 “Program” § 5–561

28 5–566. POWERS OF AUTHORITY — IN GENERAL.

29 IN ADMINISTERING THE PROGRAM, THE AUTHORITY MAY:

30 (1) USE THE SERVICES OF OTHER GOVERNMENTAL UNITS;

31 (2) CONTRACT FOR AND ACCEPT LOANS AND GRANTS FROM THE FEDERAL
32 GOVERNMENT, THE STATE GOVERNMENT, OR A LOCAL GOVERNMENT AND THEIR UNITS;
33 AND

34 (3) ON THE TERMS AND CONDITIONS IT CONSIDERS ADVISABLE:

1 (I) ACQUIRE, MANAGE, OPERATE, DISPOSE OF, OR OTHERWISE DEAL
2 WITH PROPERTY;

3 (II) TAKE ASSIGNMENTS OF RENTALS AND LEASES; AND

4 (III) MAKE CONTRACTS, LEASES, AGREEMENTS, AND ARRANGEMENTS
5 THAT ARE NECESSARY OR INCIDENTAL TO THE PERFORMANCE OF ITS DUTIES.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from the introductory language and items (1), (2), and (3) of Art.
8 83A, § 5-1033.

9 Defined terms: "Authority" § 5-501

10 "Program" § 5-561

11 "State" § 1-101

12 5-567. POWERS OF AUTHORITY — PROGRAM.

13 THE AUTHORITY MAY:

14 (1) PRESCRIBE OR APPROVE THE FORM OF AND TERMS AND CONDITIONS IN
15 APPLICATIONS, GUARANTY AGREEMENTS, OR ANY OTHER DOCUMENTS ENTERED INTO BY
16 THE AUTHORITY, PRINCIPALS, OR SURETIES UNDER THE PROGRAM;

17 (2) ACQUIRE OR TAKE ASSIGNMENTS OF DOCUMENTS EXECUTED, OBTAINED,
18 OR DELIVERED IN CONNECTION WITH ANY ASSISTANCE THE AUTHORITY PROVIDES UNDER
19 THE PROGRAM;

20 (3) SET AND COLLECT PREMIUMS, FEES, CHARGES, COSTS, AND EXPENSES
21 IN CONNECTION WITH ANY ASSISTANCE THE AUTHORITY PROVIDES UNDER THE
22 PROGRAM;

23 (4) ADOPT REGULATIONS TO CARRY OUT THE PROGRAM; AND

24 (5) DO ANYTHING NECESSARY OR CONVENIENT TO CARRY OUT ITS POWERS
25 AND THE PURPOSES OF THE PROGRAM.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 83A, § 5-1033(4) through (8).

28 Defined terms: "Authority" § 5-501

29 "Principal" § 5-561

30 "Program" § 5-561

31 5-568. SURETY — AUTHORITY AS GUARANTOR.

32 (A) AUTHORIZED.

33 THE AUTHORITY MAY GUARANTEE A SURETY UP TO THE LESSER OF 90% OR
34 \$5,000,000 OF ITS LOSS UNDER A BID BOND, PAYMENT BOND, OR PERFORMANCE BOND
35 ON A CONTRACT FINANCED BY THE FEDERAL GOVERNMENT, A STATE GOVERNMENT, A

1 LOCAL GOVERNMENT, A PRIVATE ENTITY, OR A UTILITY THAT THE PUBLIC SERVICE
2 COMMISSION REGULATES.

3 (B) LIMITATION.

4 THE TERM OF A GUARANTY UNDER THIS PART MAY NOT EXCEED THE CONTRACT
5 TERM, INCLUDING:

6 (1) THE MAINTENANCE OR WARRANTY PERIOD REQUIRED BY THE CONTRACT;
7 AND

8 (2) THE PERIOD DURING WHICH THE SURETY MAY BE LIABLE FOR LATENT
9 DEFECTS.

10 (C) TERMS AND CONDITIONS.

11 THE AUTHORITY MAY VARY THE TERMS AND CONDITIONS OF A GUARANTY BASED
12 ON:

13 (1) THE AUTHORITY'S HISTORY OF EXPERIENCE WITH A SURETY; AND

14 (2) ANY OTHER FACTOR THE AUTHORITY CONSIDERS RELEVANT.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 83A, §§ 5–1032(c) and 5–1035(a), (b), and (c).

17 Former Art. 83A, § 5–1035(a), which established the maximum level of
18 certain guaranties for sureties by the Authority, was subject to a
19 contingency on the taking effect of a certain termination provision. *See* §§
20 2 and 3 of Ch. 635, Acts of 2007, and § 4 of Ch. 299, Acts of 2006.
21 Accordingly, the maximum level of those guarantees stated in subsection
22 (a) of this section is subject to the same contingency. *See* § 4 of Ch. ____,
23 Acts of 2008. No effect on the contingency or termination provision is
24 intended.

25 Defined terms: "Authority" § 5–501

26 "State" § 1–101

27 5–569. SURETY — AUTHORITY AS SURETY.

28 (A) AUTHORIZED.

29 THE AUTHORITY MAY EXECUTE AND PERFORM A BID BOND, PERFORMANCE BOND,
30 AND PAYMENT BOND AS A SURETY FOR THE BENEFIT OF A PRINCIPAL IN CONNECTION
31 WITH A CONTRACT FINANCED BY THE FEDERAL GOVERNMENT OR A STATE GOVERNMENT,
32 A LOCAL GOVERNMENT, A PRIVATE ENTITY, OR A UTILITY REGULATED BY THE PUBLIC
33 SERVICE COMMISSION.

34 (B) LIMITATION.

1 (1) THIS SUBSECTION DOES NOT APPLY IF THE SOURCES OF FUNDING FOR
2 THE BONDS ARE GRANTS.

3 (2) THE BONDS MAY NOT EXCEED \$5,000,000 EACH.

4 (C) APPROVAL REQUIRED.

5 BONDS ARE SUBJECT TO THE APPROVAL OF THE AUTHORITY BASED ON THE BOND
6 WORTHINESS OF THE PRINCIPAL.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 83A, § 5–1035(d).

9 In subsection (c) of this section, the former phrase “as determined by the
10 Authority on review of an application” is deleted as implicit in the nature
11 of the bond worthiness that the Authority must base its approval on.

12 Former Art. 83A, § 5–1035(d)(2)(i), which established the maximum level
13 of certain surety bonds, was subject to a contingency on the taking effect of
14 a certain termination provision. *See* § 4 of Ch. 299, Acts of 2006.
15 Accordingly, the maximum level of those surety bonds stated in subsection
16 (b)(2) of this section is subject to the same contingency. *See* § 4 of Ch.____,
17 Acts of 2008. No effect on the contingency or termination provision is
18 intended.

19 Defined terms: “Authority” § 5–501

20 “Principal” § 5–561

21 “State” § 1–101

22 5–570. ECONOMIC IMPACT OF CONTRACT.

23 (A) CONSIDERATION.

24 THE AUTHORITY MAY ONLY APPROVE A GUARANTY OR A BOND UNDER THIS PART IF
25 THE AUTHORITY DETERMINES THAT THE CONTRACT, FOR WHICH A BOND IS SOUGHT TO
26 BE GUARANTEED OR ISSUED, WILL HAVE A SUBSTANTIAL ECONOMIC IMPACT.

27 (B) DETERMINATION OF ECONOMIC IMPACT.

28 TO DETERMINE THE ECONOMIC IMPACT OF A CONTRACT, THE AUTHORITY MAY
29 CONSIDER:

30 (1) THE AMOUNT OF THE GUARANTY OBLIGATION;

31 (2) THE TERMS OF THE BOND TO BE GUARANTEED;

32 (3) THE NUMBER OF NEW JOBS THAT THE CONTRACT TO BE BONDED WILL
33 CREATE; AND

34 (4) ANY OTHER FACTOR THAT THE AUTHORITY CONSIDERS RELEVANT.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83A, § 5–1035(e).

3 Defined term: “Authority” § 5–501

4 5–571. SURETY BONDING LINE AUTHORIZED.

5 THE AUTHORITY MAY ESTABLISH A SURETY BONDING LINE TO ISSUE OR
6 GUARANTEE MULTIPLE BONDS TO A PRINCIPAL WITHIN PREAPPROVED TERMS,
7 CONDITIONS, AND LIMITATIONS.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 83A, § 5–1036.

10 The former phrase “[i]n addition to its authority under this Program” is
11 deleted as surplusage.

12 Defined terms: “Authority” § 5–501

13 “Principal” § 5–561

14 5–572. QUALIFICATIONS OF PRINCIPAL; BOND REQUIREMENTS.

15 (A) QUALIFICATIONS OF PRINCIPAL.

16 TO QUALIFY FOR FINANCIAL ASSISTANCE UNDER THIS PART THE PRINCIPAL SHALL
17 SATISFY THE AUTHORITY THAT THE PRINCIPAL:

18 (1) IS OF GOOD MORAL CHARACTER OR IS OWNED BY INDIVIDUALS OF GOOD
19 MORAL CHARACTER;

20 (2) AS DETERMINED FROM CREDITORS, EMPLOYERS, AND OTHER
21 INDIVIDUALS WHO HAVE PERSONAL KNOWLEDGE, IS AN INDIVIDUAL WITH A REPUTATION
22 FOR FINANCIAL RESPONSIBILITY OR IS OWNED BY INDIVIDUALS, A MAJORITY OF WHOM
23 HAVE A REPUTATION FOR FINANCIAL RESPONSIBILITY;

24 (3) IS A RESIDENT OF THE STATE OR THE PRINCIPAL PLACE OF BUSINESS OF
25 THE APPLICANT IS IN THE STATE; AND

26 (4) IS UNABLE TO OBTAIN ADEQUATE BONDING ON REASONABLE TERMS
27 THROUGH NORMAL CHANNELS.

28 (B) BOND REQUIREMENTS.

29 TO QUALIFY FOR FINANCIAL ASSISTANCE UNDER THIS PART THE PRINCIPAL SHALL
30 CERTIFY TO THE AUTHORITY, AND THE AUTHORITY SHALL BE SATISFIED, THAT:

31 (1) A BOND IS REQUIRED TO BID ON A CONTRACT OR TO SERVE AS PRIME
32 CONTRACTOR OR SUBCONTRACTOR;

33 (2) A BOND CANNOT BE OBTAINED ON REASONABLE TERMS AND CONDITIONS
34 WITHOUT ASSISTANCE FROM THE PROGRAM; AND

1 (3) THE PRINCIPAL WILL NOT SUBCONTRACT MORE THAN 75% OF THE
2 MONETARY VALUE OF THE CONTRACT.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 83A, § 5-1037.

5 Defined terms: "Authority" § 5-501

6 "Principal" § 5-561

7 "Program" § 5-561

8 5-573. APPLICATION.

9 (A) IN GENERAL.

10 TO APPLY FOR FINANCIAL ASSISTANCE FROM THE PROGRAM UNDER THIS PART, A
11 PRINCIPAL AND, IF APPLICABLE, A SURETY SHALL SUBMIT TO THE AUTHORITY AN
12 APPLICATION ON THE FORM THAT THE AUTHORITY PROVIDES.

13 (B) CONTENTS.

14 THE APPLICATION SHALL INCLUDE:

15 (1) A DETAILED DESCRIPTION OF THE PROJECT;

16 (2) AN ITEMIZATION OF KNOWN AND ESTIMATED COSTS;

17 (3) THE TOTAL INVESTMENT REQUIRED TO PERFORM THE CONTRACT;

18 (4) THE WORKING CAPITAL AVAILABLE TO THE PRINCIPAL;

19 (5) THE BONDING ASSISTANCE SOUGHT;

20 (6) INFORMATION THAT DEMONSTRATES THE INABILITY OF THE PRINCIPAL
21 TO OBTAIN ADEQUATE BONDING ON REASONABLE TERMS AND CONDITIONS THROUGH
22 NORMAL CHANNELS WITHOUT ASSISTANCE FROM THE PROGRAM;

23 (7) A CURRENT BALANCE SHEET, A PROFIT AND LOSS STATEMENT, AND
24 CREDIT REFERENCES ABOUT THE FINANCIAL STATUS OF THE PRINCIPAL;

25 (8) A SCHEDULE OF THE STATUS OF EXISTING AND PENDING CONTRACTS;

26 AND

27 (9) ANY OTHER RELEVANT INFORMATION THE AUTHORITY REQUESTS.

28 (C) AUDITED BALANCE SHEET.

29 THE AUTHORITY MAY REQUIRE AN APPLICANT TO PROVIDE AN AUDITED BALANCE
30 SHEET BEFORE THE AUTHORITY APPROVES OR DENIES THE APPLICATION.

31 (D) EFFECT OF PREVIOUS DEFAULT.

1 THE AUTHORITY MAY NOT APPROVE A GUARANTY OR BOND UNDER THIS PART FOR
2 A PRINCIPAL THAT HAS DEFAULTED ON A LOAN OR GUARANTY FROM THE AUTHORITY
3 UNLESS:

4 (1) 2 YEARS HAVE PASSED SINCE THE TIME OF THE DEFAULT; AND

5 (2) THE PRINCIPAL HAS CURED ANY DEFAULT IN ANY FINANCING PROGRAM
6 ADMINISTERED BY THE DEPARTMENT.

7 REVISOR’S NOTE: This section is new language derived without substantive
8 change from former Art. 83A, § 5–1038.

9 Defined terms: “Authority” § 5–501

10 “Department” § 1–101

11 “Principal” § 5–561

12 “Program” § 5–561

13 5–574. PREMIUMS AND FEES.

14 (A) IN GENERAL.

15 IN ITS SOLE DISCRETION, THE AUTHORITY MAY SET:

16 (1) THE PREMIUMS AND FEES FOR PROVIDING BONDING ASSISTANCE UNDER
17 THE PROGRAM; AND

18 (2) THE TERMS AND CONDITIONS WHEN THE PREMIUMS AND FEES ARE
19 PAYABLE.

20 (B) VARIABILITY.

21 THE PREMIUMS AND FEES MAY VARY IN AMOUNT AMONG TRANSACTIONS AND AT
22 DIFFERENT STAGES OF A TRANSACTION.

23 (C) PERIOD OF EFFECTIVENESS.

24 A DETERMINATION BY THE AUTHORITY ON PREMIUMS AND FEES REMAINS
25 EFFECTIVE FOR AS LONG AS THE BONDING ASSISTANCE PROVIDED BY THE AUTHORITY IS
26 IN EFFECT.

27 REVISOR’S NOTE: This section is new language derived without substantive
28 change from former Art. 83A, § 5–1039.

29 Defined terms: “Authority” § 5–501

30 “Program” § 5–561

31 5–575. PROHIBITED ACTS; PENALTY.

32 (A) FALSE STATEMENT — APPLICATION OR DOCUMENT.

1 A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT
2 OR REPORT IN AN APPLICATION OR DOCUMENT SUBMITTED TO THE AUTHORITY UNDER
3 THIS PART.

4 (B) FALSE STATEMENT — TO INFLUENCE AUTHORITY.

5 A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT
6 OR REPORT TO INFLUENCE AN ACTION OF THE AUTHORITY UNDER THIS PART:

7 (1) ON AN APPLICATION FOR ASSISTANCE; OR

8 (2) AFFECTING BONDING ASSISTANCE WHETHER OR NOT THE ASSISTANCE
9 HAS BEEN EXTENDED.

10 (C) PENALTY.

11 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON
12 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT
13 EXCEEDING \$1,000 OR BOTH.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 83A, § 5–1040.

16 Defined term: "Authority" § 5–501

17 SUBTITLE 6. ENTERPRISE FUND.

18 5–601. "FUND" DEFINED.

19 IN THIS SUBTITLE, "FUND" MEANS THE ENTERPRISE FUND ESTABLISHED UNDER §
20 5–602 OF THIS SUBTITLE.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 83A, § 5–501(a).

23 The reference to § 5–602 of this subtitle is added for clarity.

24 5–602. ENTERPRISE FUND.

25 (A) ESTABLISHED.

26 THERE IS AN ENTERPRISE FUND IN THE DEPARTMENT.

27 (B) PURPOSE.

28 THE DEPARTMENT MAY USE THE FUND TO:

29 (1) MAKE A GRANT OR LOAN, AT THE RATE OF INTEREST SET BY THE
30 DEPARTMENT;

31 (2) PROVIDE EQUITY INVESTMENT FINANCING FOR A BUSINESS ENTERPRISE;

1 (3) GUARANTEE A LOAN, EQUITY, INVESTMENT, OR OTHER PRIVATE
2 FINANCING TO EXPAND THE CAPITAL RESOURCES OF A BUSINESS ENTERPRISE;

3 (4) PURCHASE ADVISORY SERVICES AND TECHNICAL ASSISTANCE TO BETTER
4 SUPPORT ECONOMIC DEVELOPMENT; AND

5 (5) PAY THE ADMINISTRATIVE, LEGAL, AND ACTUARIAL EXPENSES OF THE
6 DEPARTMENT.

7 (C) ADMINISTRATION.

8 THE SECRETARY SHALL MANAGE AND SUPERVISE THE FUND.

9 (D) STATUS.

10 (1) THE FUND IS A SPECIAL, NONLAPSING REVOLVING FUND THAT IS NOT
11 SUBJECT TO REVERSION UNDER § 7–302 OF THE STATE FINANCE AND PROCUREMENT
12 ARTICLE.

13 (2) THE TREASURER SHALL HOLD THE FUND AND THE COMPTROLLER
14 SHALL ACCOUNT FOR IT.

15 (E) PURCHASE OF SERVICES.

16 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
17 DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE DOES NOT APPLY TO
18 A SERVICE THAT THE DEPARTMENT OBTAINS THAT IS RELATED TO THE INVESTMENT,
19 MANAGEMENT, ANALYSIS, PURCHASE, OR SALE OF AN ASSET OF THE DEPARTMENT IN A
20 TRANSACTION AUTHORIZED UNDER THIS SUBTITLE, INCLUDING A COMMISSION RELATED
21 TO THE TRANSFER OF A SHARE OF STOCK IN A BUSINESS ENTITY.

22 (2) THE DEPARTMENT IS SUBJECT TO TITLE 12, SUBTITLE 4 OF THE
23 STATE FINANCE AND PROCUREMENT ARTICLE FOR SERVICES RELATED TO THE
24 INVESTMENT, MANAGEMENT, ANALYSIS, PURCHASE, OR SALE OF ASSETS OF THE
25 DEPARTMENT IN ANY TRANSACTION AUTHORIZED UNDER THIS SUBTITLE, INCLUDING
26 COMMISSIONS RELATED TO THE TRANSFER OF SHARES OF STOCK IN A BUSINESS ENTITY.

27 (F) DISPOSITION OF PROPERTY.

28 (1) SECTION 10–305 OF THE STATE FINANCE AND PROCUREMENT
29 ARTICLE DOES NOT APPLY TO THE SALE, LEASE, TRANSFER, EXCHANGE, OR OTHER
30 DISPOSITION OF REAL OR PERSONAL PROPERTY, INCLUDING A SHARE OF STOCK IN A
31 BUSINESS ENTITY, THAT THE DEPARTMENT ACQUIRES IN A TRANSACTION AUTHORIZED
32 UNDER THIS SUBTITLE.

33 (2) THE DEPARTMENT SHALL CONSULT WITH THE TREASURER IN
34 CONNECTION WITH THE PROPOSED DISPOSITION OF PROPERTY THAT THE DEPARTMENT
35 ACQUIRES UNDER THIS SUBTITLE.

36 (G) COMPOSITION.

1 THE FUND CONSISTS OF:

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

3 (2) MONEY MADE AVAILABLE TO THE FUND THROUGH FEDERAL PROGRAMS
4 OR PRIVATE CONTRIBUTIONS;

5 (3) REPAYMENT OF PRINCIPAL OF A LOAN MADE FROM THE FUND;

6 (4) PAYMENT OF INTEREST ON A LOAN MADE FROM THE FUND;

7 (5) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL BY THE
8 DEPARTMENT OF COLLATERAL RELATED TO FINANCING THAT THE DEPARTMENT
9 PROVIDES UNDER THIS SUBTITLE;10 (6) PREMIUMS, FEES, ROYALTIES, INTEREST, REPAYMENTS OF PRINCIPAL,
11 AND RETURNS ON INVESTMENTS PAID TO THE DEPARTMENT BY OR ON BEHALF OF:12 (i) A BUSINESS ENTERPRISE IN WHICH THE DEPARTMENT HAS MADE
13 AN INVESTMENT UNDER THIS SUBTITLE; OR14 (ii) AN INVESTOR PROVIDING AN INVESTMENT GUARANTEED BY THE
15 DEPARTMENT UNDER THIS SUBTITLE;16 (7) RECOVERY OF AN INVESTMENT MADE BY THE DEPARTMENT IN A
17 BUSINESS ENTERPRISE UNDER THIS SUBTITLE, INCLUDING AN ARRANGEMENT UNDER
18 WHICH THE DEPARTMENT'S INVESTMENT IN THE BUSINESS ENTERPRISE IS RECOVERED
19 THROUGH:20 (i) A REQUIREMENT THAT THE DEPARTMENT RECEIVE A PROPORTION
21 OF CASH FLOW, COMMISSION, ROYALTY, OR PAYMENT ON A PATENT; OR22 (ii) THE REPURCHASE FROM THE DEPARTMENT OF ANY EVIDENCE OF
23 FINANCIAL PARTICIPATION, INCLUDING A NOTE, STOCK, BOND, OR DEBENTURE;24 (8) REPAYMENT OF A CONDITIONAL GRANT EXTENDED BY THE
25 DEPARTMENT; AND26 (9) ANY OTHER MONEY MADE AVAILABLE TO THE DEPARTMENT FOR THE
27 FUND.

28 (H) INVESTMENT EARNINGS.

29 (1) THE TREASURER SHALL INVEST MONEY IN THE FUND IN THE SAME
30 MANNER AS OTHER STATE MONEY.31 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE
32 FUND.

33 (i) MONEY GENERATED BY PARTICULAR UNIT.

1 UNLESS THE SECRETARY DETERMINES OTHERWISE, MONEY IN THE FUND THAT
2 WAS GENERATED BY A PARTICULAR UNIT IN THE DEPARTMENT SHALL BE ALLOCATED FOR
3 THE USE OF THAT UNIT.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 83A, §§ 5–502 and 5–503.

6 In subsection (d)(1) of this section, the phrase “that is not subject to
7 reversion under § 7–302 of the State Finance and Procurement Article” is
8 standard language added to reflect that as a revolving fund, the Fund does
9 not revert to the General Fund at the end of a fiscal year.

10 In subsection (g)(4) of this section, the reference to “payment” of interest
11 from loans made from the Fund is added for clarity.

12 Subsection (h) of this section is revised to state explicitly that which was
13 only implied by the former law; *i.e.*, that the Treasurer must invest money
14 in the Fund in the same manner that the Treasurer invests other money of
15 the State, and return the investment income to the Fund.

16 In subsection (i) of this section, the references to a “unit” are substituted
17 for the former references to a “division” for consistency within this article.
18 *See* General Revisor’s Note to article.

19 Defined terms: “Department” § 1–101

20 “Fund” § 5–601

21 “Secretary” § 1–101

22 “State” § 1–101

23 5–603. ADMINISTRATION OF GRANTS.

24 (A) REPAYMENT OF GRANTS.

25 THE DEPARTMENT MAY REQUIRE THAT ALL OR PART OF A GRANT BE REPAYED, WITH
26 INTEREST AT A RATE THE DEPARTMENT SETS, WHEN CONDITIONS SPECIFIED BY THE
27 DEPARTMENT OCCUR.

28 (B) EQUITY INVESTMENT FINANCING.

29 (1) WHENEVER THE DEPARTMENT IS AUTHORIZED BY LAW TO MAKE A
30 GRANT, INCLUDING A GRANT AUTHORIZED UNDER § 7–314 OF THE STATE FINANCE AND
31 PROCUREMENT ARTICLE, THE DEPARTMENT MAY USE MONEY APPROPRIATED FOR THE
32 GRANT TO MAKE AN EQUITY INVESTMENT IN A BUSINESS ENTERPRISE.

33 (2) IN MAKING AN EQUITY INVESTMENT UNDER THIS SUBTITLE, THE
34 DEPARTMENT MAY NOT ACQUIRE AN OWNERSHIP INTEREST IN AN ENTERPRISE THAT
35 EXCEEDS 25%.

36 (3) WITHIN 15 YEARS AFTER MAKING AN EQUITY INVESTMENT UNDER THIS
37 SUBTITLE, THE DEPARTMENT SHALL DIVEST ITSELF OF THAT INVESTMENT.

1 (4) THE LIABILITY OF THE STATE AND THE DEPARTMENT IN MAKING AN
 2 EQUITY INVESTMENT UNDER THIS SUBTITLE IS LIMITED TO THE AMOUNT OF THAT
 3 INVESTMENT.

4 (5) THE DEPARTMENT SHALL ADOPT REGULATIONS GOVERNING EQUITY
 5 INVESTMENTS UNDER THIS SUBSECTION THAT SPECIFY:

6 (I) THE TYPES OF BUSINESS ENTERPRISES IN WHICH AN INVESTMENT
 7 MAY BE MADE;

8 (II) THE BASIC STANDARDS AN ENTERPRISE SHALL MEET TO QUALIFY
 9 FOR AN INVESTMENT;

10 (III) THE AMOUNT OF MONEY AVAILABLE FOR INVESTMENT; AND

11 (IV) THE CRITERIA THAT THE DEPARTMENT USES TO MAKE
 12 INVESTMENT DECISIONS.

13 REVISOR'S NOTE: This section is new language derived without substantive
 14 change from former Art. 83A, § 5–501(b) and (c).

15 In subsection (b)(4) of this section, the reference to liability being limited to
 16 investments “made by the Department” is added for clarity.

17 In subsection (b)(5) of this section, the reference to investments under this
 18 “subsection” is substituted for the former reference to investments under
 19 this “subtitle” for accuracy. *See* Ch. 623, Acts of 1993, Ch. 120, Acts of 1995.

20 Defined terms: “Department” § 1–101
 21 “State” § 1–101

22 SUBTITLE 7. ENTERPRISE ZONES.

23 5–701. DEFINITIONS.

24 (A) IN GENERAL.

25 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

26 REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–401(a).

27 No changes are made.

28 (B) AREA.

29 “AREA” MEANS A GEOGRAPHIC AREA IN ONE OR MORE POLITICAL SUBDIVISIONS IN
 30 THE STATE DESCRIBED BY A CLOSED PERIMETER BOUNDARY.

31 REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–401(b).

32 The only changes are in style.

1 Defined terms: “Political subdivision” § 5–701

2 “State” § 1–101

3 (C) BUSINESS ENTITY.

4 “BUSINESS ENTITY” MEANS A PERSON THAT OPERATES OR CONDUCTS A TRADE OR
5 BUSINESS.

6 REVISOR’S NOTE: This subsection is new language derived without
7 substantive change from former Art. 83A, § 5–401(c)(1).

8 (D) ENTERPRISE ZONE.

9 “ENTERPRISE ZONE” MEANS AN AREA:

10 (1) THAT MEETS THE REQUIREMENTS OF § 5–704(A) OF THIS SUBTITLE
11 AND IS DESIGNATED AS AN ENTERPRISE ZONE BY THE SECRETARY UNDER § 5–704(B) OF
12 THIS SUBTITLE;

13 (2) DESIGNATED AS AN ENTERPRISE ZONE BY THE UNITED STATES
14 GOVERNMENT UNDER 42 U.S.C. §§ 11501 THROUGH 11505; OR

15 (3) DESIGNATED AS AN EMPOWERMENT ZONE OR ENTERPRISE COMMUNITY
16 BY THE UNITED STATES GOVERNMENT UNDER 26 U.S.C. §§ 1391 THROUGH 1397F.

17 REVISOR’S NOTE: This subsection is new language derived without
18 substantive change from former Art. 83A, § 5–401(f).

19 In item (2) of this subsection, the specific reference to designation “under
20 42 U.S.C. §§ 11501 through 11505” is added for clarity and accuracy.

21 In item (3) of this subsection, the reference to an “enterprise community” is
22 added for clarity and accuracy.

23 Also in item (3) of this subsection, the specific reference to §§ 1391
24 “through 1397F” is substituted for the former phrase “et seq.” for clarity
25 and accuracy.

26 Defined terms: “Area” § 5–701

27 “Secretary” § 1–101

28 (E) FOCUS AREA.

29 “FOCUS AREA” MEANS AN AREA THAT MEETS THE REQUIREMENTS OF § 5–706 OF
30 THIS SUBTITLE AND IS DESIGNATED AS A FOCUS AREA BY THE SECRETARY UNDER §
31 5–706 OF THIS SUBTITLE.

32 REVISOR’S NOTE: This subsection is new language derived without
33 substantive change from former Art. 83A, § 5–401(g).

1 Defined terms: “Area” § 5–701

2 “Secretary” § 1–101

3 (F) POLITICAL SUBDIVISION.

4 “POLITICAL SUBDIVISION” MEANS A COUNTY OR MUNICIPAL CORPORATION.

5 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–401(h).

6 The only changes are in style.

7 Defined term: “County” § 1–101

8 (G) SUBMISSION DATE.

9 “SUBMISSION DATE” MEANS APRIL 15 OR OCTOBER 15.

10 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–401(j).

11 The former reference to “any calendar year” is deleted as surplusage.

12 REVISOR’S NOTE TO SECTION: Former Art. 83A, § 5–401(e), which defined
13 “Department” to mean the Department of Business and Economic
14 Development, is revised in § 1–101 of this article.

15 Former Art. 83A, § 5–401(i), which defined “Secretary” to mean the
16 Secretary of the Department, is revised in § 1–101 of this article.

17 5–702. SCOPE OF SUBTITLE.

18 SUBJECT TO § 9–103 OF THE TAX – PROPERTY ARTICLE, A BUSINESS ENTITY
19 THAT OWNS, OPERATES, DEVELOPS, CONSTRUCTS, OR REHABILITATES PROPERTY
20 INTENDED FOR USE PRIMARILY AS SINGLE OR MULTIFAMILY RESIDENTIAL PROPERTY
21 LOCATED IN AN ENTERPRISE ZONE MAY NOT BENEFIT FROM AN INCENTIVE OR INITIATIVE
22 UNDER THIS SUBTITLE.

23 REVISOR’S NOTE: This section is new language derived without substantive
24 change from former Art. 83A, § 5–401(c)(2).

25 This section is restated as a scope provision rather than as an exclusion
26 from the definition of the term “business entity” for clarity.

27 Defined terms: “Business entity” § 5–701

28 “Enterprise zone” § 5–701

29 5–703. ENTERPRISE ZONES — APPLICATION.

30 (A) IN GENERAL.

31 THE FOLLOWING POLITICAL SUBDIVISIONS MAY APPLY TO THE SECRETARY TO
32 DESIGNATE AN ENTERPRISE ZONE:

1 (1) A POLITICAL SUBDIVISION FOR AN AREA WITHIN THAT POLITICAL
2 SUBDIVISION;

3 (2) WITH THE PRIOR CONSENT OF THE MUNICIPAL CORPORATION, A COUNTY
4 ON BEHALF OF A MUNICIPAL CORPORATION FOR AN AREA IN THE MUNICIPAL
5 CORPORATION; OR

6 (3) TWO OR MORE POLITICAL SUBDIVISIONS JOINTLY FOR AN AREA ASTRIDE
7 THEIR COMMON BOUNDARIES.

8 (B) FORM AND CONTENT.

9 THE APPLICATION SHALL:

10 (1) BE IN THE FORM AND MANNER AND CONTAIN THE INFORMATION THAT
11 THE SECRETARY REQUIRES BY REGULATION;

12 (2) CONTAIN SUFFICIENT INFORMATION TO ALLOW THE SECRETARY TO
13 DETERMINE IF THE PROPOSED ENTERPRISE ZONE MEETS THE CRITERIA IN § 5–704 OF
14 THIS SUBTITLE;

15 (3) BE SUBMITTED FOR A POLITICAL SUBDIVISION BY ITS CHIEF ELECTED
16 OFFICER, OR IF NONE, ITS GOVERNING BODY;

17 (4) STATE WHETHER THE POLITICAL SUBDIVISION HAS EXAMINED THE
18 FEASIBILITY OF CREATING EDUCATIONAL OR TRAINING OPPORTUNITIES FOR EMPLOYERS
19 AND EMPLOYEES OF BUSINESS ENTITIES LOCATED OR TO BE LOCATED IN THE PROPOSED
20 ENTERPRISE ZONE; AND

21 (5) STATE THE STANDARDS ESTABLISHED BY THE POLITICAL SUBDIVISION
22 THAT A BUSINESS ENTITY SHALL MEET BEFORE RECEIVING THE INCENTIVES AND
23 INITIATIVES UNDER § 5–707 OF THIS SUBTITLE.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 83A, § 5–402(a) through (d).

26 In subsection (a)(2) of this section, the former phrase “but if a county seeks
27 to designate an area within a municipal corporation as an enterprise zone,
28 then the governing body of the municipal corporation must first consent” is
29 deleted as redundant of the authorization of a county “with the prior
30 consent of the municipal corporation” to apply for designation “on behalf of
31 a municipal corporation”.

32 In subsection (b)(5) of this section, the phrase “established by the political
33 subdivision” is added to clarify that a political subdivision must include in
34 an application for an enterprise zone any standards developed by the
35 political subdivision that apply to a business entity.

36 Also in subsection (b)(5) of this section, the reference to “§ 5–707 of” this
37 subtitle is added for clarity.

1 Defined terms: “Area” § 5–701

2 “Business entity” § 5–701

3 “County” § 1–101

4 “Enterprise zone” § 5–701

5 “Political subdivision” § 5–701

6 “Secretary” § 1–101

7 5–704. ENTERPRISE ZONES — DESIGNATION.

8 (A) IN GENERAL.

9 (1) THE SECRETARY MAY ONLY DESIGNATE AN AREA AS AN ENTERPRISE
10 ZONE IF THE AREA:

11 (I) IS IN A PRIORITY FUNDING AREA OR MEETS AN EXCEPTION UNDER
12 TITLE 5, SUBTITLE 7B OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

13 (II) SATISFIES AT LEAST ONE OF THE REQUIREMENTS SPECIFIED IN
14 PARAGRAPH (2) OF THIS SUBSECTION.

15 (2) AN AREA MAY BE DESIGNATED AS AN ENTERPRISE ZONE IF:

16 (I) THE AVERAGE RATE OF UNEMPLOYMENT IN THE AREA, OR WITHIN
17 A REASONABLE PROXIMITY TO THE AREA BUT IN THE SAME COUNTY, FOR THE MOST
18 RECENT 18–MONTH PERIOD FOR WHICH DATA ARE AVAILABLE IS AT LEAST 150% OF
19 THE GREATER OF THE AVERAGE RATE OF UNEMPLOYMENT IN EITHER THE STATE OR THE
20 UNITED STATES DURING THAT PERIOD;

21 (II) THE POPULATION IN THE AREA, OR WITHIN A REASONABLE
22 PROXIMITY TO THE AREA BUT IN THE SAME COUNTY, QUALIFIES THE AREA AS A
23 LOW–INCOME POVERTY AREA;

24 (III) AT LEAST 70% OF THE FAMILIES IN THE AREA, OR WITHIN A
25 REASONABLE PROXIMITY TO THE AREA BUT IN THE SAME COUNTY, HAVE INCOMES THAT
26 ARE LESS THAN 80% OF THE MEDIAN FAMILY INCOME IN THE POLITICAL SUBDIVISION
27 THAT CONTAINS THE AREA; OR

28 (IV) THE POPULATION IN THE AREA, OR WITHIN A REASONABLE
29 PROXIMITY TO THE AREA BUT IN THE SAME COUNTY, DECREASED BY 10% BETWEEN THE
30 MOST RECENT TWO CENSUSES, AND THE POLITICAL SUBDIVISION CAN DEMONSTRATE TO
31 THE SECRETARY’S SATISFACTION THAT:

32 1. CHRONIC ABANDONMENT OR DEMOLITION OF PROPERTY IS
33 OCCURRING IN THE AREA; OR

34 2. SUBSTANTIAL PROPERTY TAX ARREARAGES EXIST IN THE
35 AREA.

36 (3) (I) IN DETERMINING IF AN AREA MEETS THE REQUIREMENTS OF THIS
37 SUBSECTION, THE SECRETARY MAY CONSIDER THE MOST RECENT CENSUS DATA

1 PROVIDED BY THE UNITED STATES BUREAU OF THE CENSUS OR ANY OTHER RELIABLE
2 DATA THAT IS ACCEPTABLE TO THE SECRETARY.

3 (II) BEFORE CONSIDERING DATA OTHER THAN THE MOST RECENT
4 CENSUS IN MAKING A DETERMINATION UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION,
5 THE SECRETARY SHALL ADOPT REGULATIONS SPECIFYING ALTERNATIVE DATA THAT ARE
6 SATISFACTORY TO THE SECRETARY.

7 (4) THE SECRETARY MAY ESTABLISH BY REGULATION ANY OTHER
8 REQUIREMENTS NECESSARY AND APPROPRIATE TO CARRY OUT THIS SUBTITLE.

9 (5) BEFORE DESIGNATING AN ENTERPRISE ZONE, THE SECRETARY SHALL
10 CONSULT WITH THE APPROPRIATE ADVISORS.

11 (B) PROCEDURE; LIMITATIONS.

12 (1) WITHIN 60 DAYS AFTER A SUBMISSION DATE, THE SECRETARY MAY
13 DESIGNATE ONE OR MORE ENTERPRISE ZONES FROM AMONG THE AREAS DESCRIBED IN
14 THE APPLICATIONS TIMELY SUBMITTED.

15 (2) THE DESIGNATION OF AN AREA AS AN ENTERPRISE ZONE IS EFFECTIVE
16 FOR 10 YEARS.

17 (3) THE SECRETARY MAY NOT DESIGNATE MORE THAN SIX ENTERPRISE
18 ZONES IN A CALENDAR YEAR.

19 (4) A COUNTY MAY NOT RECEIVE MORE THAN ONE ENTERPRISE ZONE IN A
20 CALENDAR YEAR.

21 (C) FINALITY.

22 THE DESIGNATION OF THE SECRETARY IS FINAL.

23 (D) REAPPLICATION AFTER DENIAL.

24 AT ANY TIME, A POLITICAL SUBDIVISION MAY REAPPLY TO THE SECRETARY TO
25 DESIGNATE AS AN ENTERPRISE ZONE AN AREA THAT IS NOT DESIGNATED.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 83A, §§ 5–403(a) and (c) and 5–402(e), (h), and, as
28 it related to the duration of a zone, (k)(1)(ii).

29 In subsection (a)(1)(i) of this section, the reference to SF “Title 5,” Subtitle
30 7B is added for clarity.

31 In subsection (a)(3)(i) of this section, the former reference to data that the
32 Secretary determines to be acceptable “for the purposes for which such
33 data are used” is deleted as surplusage.

34 In subsection (b)(1) of this section, the reference to “the areas described in”
35 the applications is added for clarity.

1 Also in subsection (b)(1) of this section, the reference to applications
2 “timely” submitted is substituted for the former reference to applications
3 submitted “to the Secretary on or before that submission date” for brevity.

4 Defined terms: “Area” § 5–701

5 “Business entity” § 5–701

6 “County” § 1–101

7 “Enterprise zone” § 5–701

8 “Political subdivision” § 5–701

9 “Secretary” § 1–101

10 “State” § 1–101

11 “Submission date” § 5–701

12 **5–705. ENTERPRISE ZONES — EXPANSION.**

13 (A) **IN GENERAL.**

14 (1) **A POLITICAL SUBDIVISION MAY APPLY TO THE SECRETARY TO EXPAND**
15 **AN EXISTING ENTERPRISE ZONE IN THE SAME MANNER AS THE POLITICAL SUBDIVISION**
16 **WOULD APPLY TO DESIGNATE A NEW ENTERPRISE ZONE.**

17 (2) **THE SECRETARY MAY GRANT AN EXPANSION OF AN ENTERPRISE ZONE**
18 **INTO AN AREA THAT MEETS THE REQUIREMENTS OF § 5–704 OF THIS SUBTITLE.**

19 (3) **FOR PURPOSES OF § 5–704(B) OF THIS SUBTITLE, AN EXPANSION OF**
20 **AN ENTERPRISE ZONE THAT DOES NOT EXCEED 50% OF THE EXISTING GEOGRAPHIC AREA**
21 **OF THE ENTERPRISE ZONE DOES NOT COUNT TOWARDS THE LIMIT ON THE NUMBER OF**
22 **ENTERPRISE ZONES THAT:**

23 (I) **THE SECRETARY MAY DESIGNATE IN A CALENDAR YEAR; OR**

24 (II) **A COUNTY MAY RECEIVE IN A CALENDAR YEAR.**

25 (B) **EXTRAORDINARY EXPANSION.**

26 (1) **THE SECRETARY MAY GRANT ONE EXTRAORDINARY EXPANSION OF AN**
27 **ENTERPRISE ZONE IN THE STATE EACH CALENDAR YEAR FOR AN AREA THAT:**

28 (I) **MEETS THE REQUIREMENTS OF § 5–704 OF THIS SUBTITLE; AND**

29 (II) **IN THE DETERMINATION OF THE SECRETARY, HAS SUFFERED A**
30 **SIGNIFICANT LOSS OF ECONOMIC BASE.**

31 (2) **FOR PURPOSES OF § 5–704(B) OF THIS SUBTITLE, AN EXTRAORDINARY**
32 **EXPANSION OF AN ENTERPRISE ZONE DOES NOT COUNT TOWARDS THE LIMIT ON THE**
33 **NUMBER OF ENTERPRISE ZONES THAT:**

34 (I) **THE SECRETARY MAY DESIGNATE IN A CALENDAR YEAR; OR**

35 (II) **A COUNTY MAY RECEIVE IN A CALENDAR YEAR.**

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83A, § 5–402(i) and (j).

3 Defined terms: “Area” § 5–701
4 “County” § 1–101
5 “Enterprise zone” § 5–701
6 “Political subdivision” § 5–701
7 “Secretary” § 1–101
8 “State” § 1–101

9 5–706. FOCUS AREA.

10 (A) IN GENERAL.

11 A POLITICAL SUBDIVISION MAY REQUEST THE SECRETARY TO DESIGNATE ALL OR
12 PART OF AN ENTERPRISE ZONE AS A FOCUS AREA FOR THE LESSER OF:

13 (1) 5 YEARS; OR

14 (2) THE REMAINDER OF THE 10–YEAR TERM OF THE APPLICABLE
15 ENTERPRISE ZONE.

16 (B) TIME FOR REQUEST.

17 THE REQUEST MAY BE MADE ON OR BEFORE A SUBMISSION DATE WHEN THE
18 POLITICAL SUBDIVISION APPLIES FOR THE DESIGNATION OF A NEW ENTERPRISE ZONE OR
19 AFTER THE SECRETARY HAS DESIGNATED AN ENTERPRISE ZONE.

20 (C) ELIGIBILITY CRITERIA.

21 THE SECRETARY MAY GRANT THE REQUEST IF THE AREA IS LOCATED IN AN
22 ENTERPRISE ZONE AND MEETS AT LEAST THREE OF THE FOLLOWING CRITERIA:

23 (1) THE AVERAGE UNEMPLOYMENT RATE IN THE AREA, OR WITHIN A
24 REASONABLE PROXIMITY TO THE AREA BUT IN THE SAME COUNTY, FOR THE MOST RECENT
25 18–MONTH PERIOD FOR WHICH DATA ARE AVAILABLE IS AT LEAST 150% OF THE
26 GREATER OF THE AVERAGE RATE OF UNEMPLOYMENT IN EITHER THE STATE OR THE
27 UNITED STATES DURING THAT SAME PERIOD;

28 (2) THE POPULATION IN THE AREA, OR WITHIN A REASONABLE PROXIMITY
29 TO THE AREA BUT IN THE SAME COUNTY, HAS AN INCIDENCE OF POVERTY THAT IS AT
30 LEAST 150% OF THE NATIONAL AVERAGE;

31 (3) THE CRIME RATE IN THE AREA, OR WITHIN A REASONABLE PROXIMITY TO
32 THE AREA BUT IN THE SAME COUNTY, IS AT LEAST 150% OF THE CRIME RATE IN THE
33 POLITICAL SUBDIVISION WHERE THE AREA IS LOCATED;

34 (4) THE PERCENTAGE OF SUBSTANDARD HOUSING IN THE AREA, OR WITHIN
35 A REASONABLE PROXIMITY TO THE AREA BUT IN THE SAME COUNTY, IS AT LEAST 200%
36 OF THE PERCENTAGE OF HOUSING UNITS IN THE STATE THAT ARE SUBSTANDARD,

1 ACCORDING TO DATA FROM THE UNITED STATES BUREAU OF THE CENSUS OR OTHER
2 STATE OR FEDERAL GOVERNMENT DATA THE SECRETARY CONSIDERS APPROPRIATE; OR

3 (5) AT LEAST 20% OF THE SQUARE FOOTAGE OF COMMERCIAL PROPERTY IN
4 THE AREA, OR WITHIN A REASONABLE PROXIMITY TO THE AREA BUT WITHIN THE SAME
5 COUNTY, IS VACANT, ACCORDING TO DATA FROM THE UNITED STATES BUREAU OF THE
6 CENSUS OR OTHER STATE OR FEDERAL GOVERNMENT DATA THE SECRETARY CONSIDERS
7 APPROPRIATE.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 83A, § 5-402.

10 For tax credits available to a business entity in a focus area, *see* TG §
11 10-702 and TP § 9-103.

12 Defined terms: "Area" § 5-701
13 "County" § 1-101
14 "Enterprise zone" § 5-701
15 "Focus area" § 5-701
16 "Political subdivision" § 5-701
17 "Secretary" § 1-101
18 "State" § 1-101
19 "Submission date" § 5-701

20 5-707. BUSINESS ENTITY INCENTIVES AND INITIATIVES.

21 (A) IN GENERAL.

22 TO THE EXTENT PROVIDED FOR IN THIS SECTION, A BUSINESS ENTITY IS ENTITLED
23 TO:

24 (1) THE SPECIAL PROPERTY TAX CREDIT IN § 9-103 OF THE TAX –
25 PROPERTY ARTICLE;

26 (2) THE INCOME TAX CREDITS IN § 10-702 OF THE TAX – GENERAL
27 ARTICLE; AND

28 (3) CONSIDERATION FOR FINANCIAL ASSISTANCE FROM PROGRAMS IN
29 SUBTITLE 1 OF THIS TITLE.

30 (B) ELIGIBILITY.

31 A BUSINESS ENTITY THAT MOVES INTO OR LOCATES IN AN ENTERPRISE ZONE ON OR
32 AFTER THE DATE THAT THE ENTERPRISE ZONE IS DESIGNATED UNDER § 5-704 OF THIS
33 SUBTITLE MAY BENEFIT FROM THE INCENTIVES AND INITIATIVES IN THIS SECTION IF:

34 (1) THE BUSINESS ENTITY MEETS THE REQUIREMENTS AND CONDITIONS OF
35 THE CODE SECTION APPLICABLE TO EACH INCENTIVE OR INITIATIVE;

1 (2) THE RESPECTIVE POLITICAL SUBDIVISION CERTIFIES THAT THE
2 BUSINESS ENTITY HAS COMPLIED WITH THE STANDARDS THAT THE SUBDIVISION
3 SUBMITTED UNDER § 5–703(B)(5) OF THIS SUBTITLE;

4 (3) THE BUSINESS ENTITY CREATES NEW OR ADDITIONAL JOBS OR MAKES A
5 CAPITAL INVESTMENT TO QUALIFY FOR THE PROPERTY TAX CREDIT UNDER § 9–103 OF
6 THE TAX – PROPERTY ARTICLE AND THE INCOME TAX CREDITS UNDER § 10–702 OF
7 THE TAX – GENERAL ARTICLE; AND

8 (4) IN CONSIDERING WHETHER THE BUSINESS ENTITY QUALIFIES FOR
9 FINANCIAL ASSISTANCE FROM THE PROGRAMS IN SUBTITLE 1 OF THIS TITLE, THE
10 SECRETARY DETERMINES THAT THE BUSINESS ENTITY WILL CREATE NEW OR ADDITIONAL
11 JOBS.

12 (c) LIMITATION.

13 THE INCENTIVES AND INITIATIVES PROVIDED FOR IN THIS SECTION ARE NOT
14 AVAILABLE TO A BUSINESS ENTITY THAT:

15 (1) WAS IN AN ENTERPRISE ZONE BEFORE THE DATE THAT THE ENTERPRISE
16 ZONE IS DESIGNATED, EXCEPT FOR A CAPITAL INVESTMENT OR EXPANSION OF ITS LABOR
17 FORCE THAT OCCURS ON OR AFTER THE ENTERPRISE ZONE IS DESIGNATED; OR

18 (2) IS LOCATED IN AN ENTERPRISE ZONE THAT WAS DESIGNATED UNDER
19 FEDERAL LAW UNLESS THE SECRETARY AND THE BOARD OF PUBLIC WORKS CONSENT
20 TO THE DESIGNATION.

21 (d) PERIOD OF AVAILABILITY.

22 (1) EXCEPT AS PROVIDED IN § 10–702 OF THE TAX – GENERAL ARTICLE
23 AND § 9–103 OF THE TAX – PROPERTY ARTICLE, THE INCENTIVES AND INITIATIVES SET
24 FORTH IN THIS SECTION ARE AVAILABLE FOR 10 YEARS AFTER THE DATE THAT AN AREA
25 IS DESIGNATED AN ENTERPRISE ZONE.

26 (2) A LAW ENACTED AFTER THE ENACTMENT OF THIS SECTION THAT
27 ELIMINATES OR REDUCES THE BENEFITS AVAILABLE TO A BUSINESS ENTITY UNDER THIS
28 SECTION DOES NOT APPLY TO A BUSINESS ENTITY THAT WAS IN AN ENTERPRISE ZONE
29 BEFORE THE EFFECTIVE DATE OF THE LAW.

30 REVISOR’S NOTE: This section is new language derived without substantive
31 change from former Art. 83A, § 5–404, as it related to incentives and
32 initiatives under federal law, and the second sentence of § 5–402(f).

33 In subsection (a)(2) of this section, the word “and” is added to indicate that
34 the list is inclusive.

35 In the introductory language to subsection (c) of this section, the reference
36 to incentives and initiatives under this section is substituted for the former
37 reference “to those provided under this subtitle” in light of the revised
38 structure of this section.

1 The Economic Development Article Review Committee notes, for the
 2 consideration of the General Assembly, that the Department interprets
 3 subsection (d)(1) of this section as authorizing the availability of the tax
 4 credits under this section for 10 years after the date that the business
 5 entity qualifies for the tax credits, rather than the date on which the
 6 Secretary designates the enterprise zone.

7 The Economic Development Article Review Committee also notes, for the
 8 consideration of the General Assembly, that subsection (d)(1) of this
 9 section, which establishes a general 10-year period for the availability of
 10 benefits under this section is both contradictory and confusing as it relates
 11 to other, more specific provisions. Controlling time limitations for the tax
 12 benefits to which this section refers are included in TG § 10–702 and TP §
 13 9–103, more specific than and not entirely consistent with this section. TG
 14 § 10–702(c) through (f); TP § 9–103(d) and (e). The nontax benefits under
 15 Subtitle 1 of this title, to consideration of which a business entity is
 16 entitled under subsection (a)(3) of this subtitle, are not limited to a
 17 designated enterprise zone or focus area. Under § 5–105 of this title, the
 18 enterprise zone designation is only a possible enhancement to
 19 consideration of benefits under Subtitle 1 of this title, not an eligibility
 20 criterion. Thus, reading subsection (d)(1) of this section to impose a
 21 10-year limit on the availability of nontax benefits to a business entity is
 22 both incorrect and confusing. Accordingly, the General Assembly may wish
 23 to consider repealing subsection (d)(1) of this section as contradictory, with
 24 respect to tax benefits governed by other articles, and confusing, with
 25 respect to nontax benefits under Subtitle 1 of this title.

26 Defined terms: “Area” § 5–701

27 “Business entity” § 5–701

28 “Enterprise zone” § 5–701

29 “Secretary” § 1–101

30 **5–708. EFFECT OF FEDERAL LAW.**

31 (A) **IN GENERAL.**

32 AN AREA THAT IS DESIGNATED AN ENTERPRIZE ZONE, EMPOWERMENT ZONE, OR
 33 ENTERPRISE COMMUNITY UNDER FEDERAL LAW SHALL AUTOMATICALLY BE DESIGNATED
 34 AS AN ENTERPRISE ZONE NOTWITHSTANDING THE LIMIT ON THE NUMBER OF ENTERPRISE
 35 ZONES THAT THE SECRETARY MAY DESIGNATE UNDER § 5–704(B) OF THIS SUBTITLE.

36 (B) **STATE APPROVAL FOR DESIGNATION UNDER FEDERAL LAW.**

37 AN APPLICATION BY A POLITICAL SUBDIVISION AND THE DESIGNATION BY THE
 38 SECRETARY OF AN AREA AS AN ENTERPRISE ZONE CONSTITUTES THE STATE APPROVAL
 39 THAT MAY BE REQUIRED TO DESIGNATE AN AREA AS AN ENTERPRISE ZONE UNDER
 40 FEDERAL LAW.

41 **REVISOR’S NOTE:** This section is new language derived without substantive
 42 change from former Art. 83A, § 5–402(g) and the first sentence of (f).

1 In subsection (a) of this section, the reference to an “enterprise community”
2 is added for clarity and conformity with § 5–701(d)(3) of this subtitle.

3 Also in subsection (a) of this section, the reference to enterprise zones that
4 the Secretary may designate “under § 5–704(b) of this subtitle” is added for
5 clarity.

6 Also in subsection (a) of this section, the former phrase “and without any
7 additional action by the political subdivision or the Secretary be” is deleted
8 for brevity.

9 Defined terms: “Area” § 5–701

10 “Enterprise zone” § 5–701

11 “Political subdivision” § 5–701

12 “Secretary” § 1–101

13 “State” § 1–101

14 **5–709. ASSESSMENT; REPORT.**

15 (A) **JOINT ASSESSMENT BY DEPARTMENT AND COMPTROLLER.**

16 THE DEPARTMENT AND THE COMPTROLLER JOINTLY SHALL ASSESS EACH YEAR
17 THE EFFECTIVENESS OF THE TAX CREDITS PROVIDED TO BUSINESS ENTITIES IN
18 ENTERPRISE ZONES AND FOCUS AREAS IN ENTERPRISE ZONES, INCLUDING:

19 (1) THE NUMBER AND AMOUNTS OF CREDITS GRANTED EACH YEAR; AND

20 (2) THE SUCCESS OF THE TAX CREDITS IN ATTRACTING AND RETAINING
21 BUSINESS ENTITIES IN ENTERPRISE ZONES AND FOCUS AREAS.

22 (B) **ANNUAL REPORT.**

23 ON OR BEFORE DECEMBER 15 OF EACH YEAR, THE DEPARTMENT AND THE
24 COMPTROLLER SHALL SUBMIT TO THE GOVERNOR AND, IN ACCORDANCE WITH §
25 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY A REPORT
26 OUTLINING THE FINDINGS OF THE DEPARTMENT AND THE COMPTROLLER AND ANY
27 OTHER INFORMATION OF VALUE IN DETERMINING THE EFFECTIVENESS OF THE TAX
28 CREDITS PROVIDED UNDER § 5–707(B) OF THIS SUBTITLE.

29 REVISOR’S NOTE: This section is new language derived without substantive
30 change from former Art. 83A, § 5–405.

31 In subsection (b) of this section, the former phrase “[o]n or before
32 December 15, 2002” is deleted as obsolete.

33 Defined terms: “Department” § 1–101

34 “Enterprise zone” § 5–701

35 “Focus area” § 5–701

SUBTITLE 8. FOREIGN TRADE ZONES.

5–801. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection formerly was Art. 23, § 466(a).

No changes are made.

(B) PRIVATE CORPORATION.

(1) “PRIVATE CORPORATION” MEANS A MARYLAND CORPORATION ORGANIZED TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN TRADE ZONE UNDER THE FEDERAL FOREIGN TRADE ZONES ACT.

(2) “PRIVATE CORPORATION” DOES NOT INCLUDE A PUBLIC CORPORATION.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 23, § 466(b).

The reference to a “Maryland” corporation is substituted for the former reference to a corporation “organized pursuant to this article” for brevity and accuracy.

(C) PUBLIC CORPORATION.

“PUBLIC CORPORATION” MEANS:

(1) THE STATE;

(2) A SUBDIVISION OF THE STATE; OR

(3) AN INCORPORATED PUBLIC AUTHORITY, COMMISSION, AGENCY, OR OTHER CORPORATE INSTRUMENTALITY OF:

(I) THE STATE;

(II) A SUBDIVISION OR MUNICIPAL CORPORATION OF THE STATE; OR

(III) THE STATE AND ANOTHER STATE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 23, § 466(c).

In item (3)(ii) of this subsection, the reference to a “municipal corporation of the State” is substituted for the former reference to an “incorporated municipality” for consistency with the provisions of the Md. Constitution, Art. XI–E.

1 In item (3)(i) and (iii) of this subsection, the former reference to the “State
2 of Maryland” is deleted as implicit in the reference to the “State”.

3 Defined term: “State” § 1–101

4 5–802. ESTABLISHMENT.

5 (A) APPLICATION.

6 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PUBLIC
7 CORPORATION OR A PRIVATE CORPORATION MAY APPLY TO ESTABLISH, OPERATE, AND
8 MAINTAIN A FOREIGN TRADE ZONE IN ACCORDANCE WITH THE FEDERAL FOREIGN TRADE
9 ZONES ACT.

10 (B) PRIOR APPROVAL.

11 A PRIVATE CORPORATION MAY NOT APPLY TO ESTABLISH, OPERATE, AND MAINTAIN
12 A FOREIGN TRADE ZONE WITHOUT PRIOR APPROVAL FROM THE GOVERNOR AND THE
13 MARYLAND PORT ADMINISTRATION.

14 REVISOR’S NOTE: This section is new language derived without substantive
15 change from former Art. 23, § 467.

16 In subsection (a) of this section, the former reference to “Public Law 397,
17 73rd Congress, Ch. 590, approved June 18, 1934 (48 Stat. 998–1003, 19
18 U.S.C. § 81a through u), as amended” is deleted in light of the reference to
19 the official short title.

20 In subsection (b) of this section, the former reference to “the privilege of
21 establishing, ... a foreign trade zone” is deleted as surplusage.

22 Defined terms: “Private corporation” § 5–801
23 “Public corporation” § 5–801

24 5–803. OPERATION.

25 A PUBLIC CORPORATION OR A PRIVATE CORPORATION THAT ESTABLISHES,
26 OPERATES, AND MAINTAINS A FOREIGN TRADE ZONE UNDER THIS SUBTITLE IS SUBJECT
27 TO THE CONDITIONS OF THE FEDERAL FOREIGN TRADE ZONES ACT.

28 REVISOR’S NOTE: This section is new language derived without substantive
29 change from former Art. 23, § 468.

30 The reference to establishing a foreign trade zone “under this subtitle” is
31 substituted for the former reference to one “whose application to establish
32 ... a foreign trade zone is granted pursuant to the Foreign Trade Zones Act”
33 in light of § 5–802(a) of this subtitle, which expressly requires that a
34 corporation apply for a foreign trade zone in accordance with the Foreign
35 Trade Zones Act.

36 Also, the former reference to the “rules and regulations, and ... the period

1 of time prescribed by the Foreign Trade Zone Board established pursuant
2 to the Foreign Trade Zones Act” is deleted as implicit in the requirement
3 that a foreign trade zone may only be established, operated, and
4 maintained “subject to the conditions of the Foreign Trade Zones Act”.

5 Former Art. 23, § 469, which stated that this subtitle supplements the
6 powers of the Maryland Port Administration, is deleted as surplusage.

7 Defined terms: “Private corporation” § 5–801
8 “Public corporation” § 5–801

9 SUBTITLE 9. DREDGED MATERIAL DISPOSAL ALTERNATIVES PROGRAM.

10 5–901. DEFINITIONS.

11 (A) IN GENERAL.

12 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

13 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 6–801(a).

14 No changes are made.

15 (B) DREDGED MATERIAL.

16 (1) “DREDGED MATERIAL” MEANS MATERIAL THAT IS DREDGED FROM THE
17 CHESAPEAKE BAY OR ITS TRIBUTARIES.

18 (2) “DREDGED MATERIAL” INCLUDES SAND, SILT, SEDIMENT, SHELL, ROCK,
19 SOIL, AND WASTE MATTER.

20 REVISOR’S NOTE: This subsection is new language derived without
21 substantive change from former Art. 83A, § 6–801(b).

22 The former reference to “excavated” material is deleted in light of the
23 reference to “dredged” material for brevity.

24 (C) DREDGED MATERIAL REUSE FACILITY.

25 “DREDGED MATERIAL REUSE FACILITY” MEANS A FACILITY THAT DEWATERS,
26 ANALYZES FOR CONTAMINANTS, DRIES, AND PROCESSES DREDGED MATERIAL FOR REUSE.

27 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 6–801(c), as it
28 defined a “dredged material reuse facility” through its processes.

29 The former reference to reuse “in an economically beneficial manner” is
30 revised in § 5–905(2) of this subtitle, in the substantive provision relating
31 to dredged material reuse facilities.

32 No other changes are made.

1 Defined term: “Dredged material” § 5–901

2 (D) PROGRAM.

3 “PROGRAM” MEANS THE DREDGED MATERIAL DISPOSAL ALTERNATIVES
4 PROGRAM UNDER THIS SUBTITLE.

5 REVISOR’S NOTE: This subsection is new language added to avoid repetition
6 of the full title of the “Dredged Material Disposal Alternatives Program”.

7 (E) REUSE.

8 “REUSE” MEANS THE RECYCLING OF DREDGED MATERIAL FOR USE IN ANOTHER
9 PRODUCT, INCLUDING COMMERCIAL AND INDUSTRIAL USES.

10 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 6–801(d).

11 The former phrase “but not limited to” is deleted in light of Art. 1, § 30,
12 which provides that the term “including” is used “by way of illustration
13 and not by way of limitation”.

14 The only other changes are in style.

15 Defined term: “Dredged material” § 5–901

16 5–902. ESTABLISHED.

17 THERE IS A DREDGED MATERIAL DISPOSAL ALTERNATIVES PROGRAM IN THE
18 DEPARTMENT.

19 REVISOR’S NOTE: This section formerly was Art. 83A, § 6–802(a).

20 No changes are made.

21 Defined term: “Department” § 1–101

22 5–903. PURPOSES; GOALS.

23 (A) PURPOSES.

24 THE PURPOSES OF THE PROGRAM ARE TO:

25 (1) DESIGNATE INNOVATIVE REUSES OF DREDGED MATERIAL AS A
26 SUSTAINABLE ALTERNATIVE IN THE MANAGEMENT OF DREDGED MATERIAL DISPOSAL;
27 AND

28 (2) PROVIDE FINANCIAL ASSISTANCE FOR THE PRODUCTION AND
29 MARKETING OF TECHNOLOGIES THAT DEWATER, ANALYZE FOR CONTAMINANTS, DRY, AND
30 PROCESS DREDGED MATERIAL FOR REUSE IN AN ECONOMICALLY BENEFICIAL MANNER.

31 (B) GOALS.

1 THE GOALS OF THE PROGRAM ARE TO:

2 (1) IMPLEMENT THE BENEFICIAL REUSE OF DREDGED MATERIALS AS A
3 SUSTAINABLE DREDGED MATERIAL MANAGEMENT METHOD;

4 (2) FOSTER MARKETS FOR END-USE PRODUCTS THAT USE DREDGED
5 MATERIAL AS A RESOURCE;

6 (3) INCREASE PUBLIC AWARENESS OF THE MANY VALUABLE COMMERCIAL
7 AND INDUSTRIAL USES OF DREDGED MATERIAL AND PRODUCTS MADE USING DREDGED
8 MATERIAL; AND

9 (4) FACILITATE THE REUSE OF AT LEAST 500,000 CUBIC YARDS OF
10 DREDGED MATERIAL EACH YEAR.

11 REVISOR'S NOTE: This section formerly was Art. 83A, § 6-802(b).

12 In subsection (a)(2) of this section, the former reference to "individuals and
13 business enterprises" is deleted as unnecessary.

14 The only other changes are in style.

15 Defined terms: "Dredged material" § 5-901

16 "Program" § 5-901

17 "Reuse" § 5-901

18 5-904. REGULATIONS.

19 THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

20 REVISOR'S NOTE: This section formerly was Art. 83A, § 6-802(e).

21 No changes are made.

22 Defined term: "Department" § 1-101

23 5-905. DUTIES.

24 THE PROGRAM SHALL:

25 (1) SEEK MONEY FROM FEDERAL PROGRAMS TO ADMINISTER THE
26 PROGRAM;

27 (2) ENGAGE IN PUBLIC-PRIVATE PARTNERSHIPS AND PROVIDE FINANCIAL
28 ASSISTANCE TO FOSTER THE DEVELOPMENT, CONSTRUCTION, AND OPERATION OF
29 DREDGED MATERIAL REUSE FACILITIES IN THE STATE IN AN ECONOMICALLY BENEFICIAL
30 MANNER;

31 (3) PROVIDE FINANCIAL ASSISTANCE TO DEVELOP END-USE MARKETS FOR
32 DREDGED MATERIAL; AND

1 (4) PROMOTE THE REUSE OF DREDGED MATERIAL AND MARKET RESULTING
2 PRODUCTS.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 83A, § 6–802(c) and, as it established a goal for
5 dredged material reuse facilities, § 6–801(c).

6 Defined terms: “Dredged material” § 5–901
7 “Dredged material reuse facility” § 5–901
8 “Program” § 5–901
9 “Reuse” § 5–901
10 “State” § 1–101

11 5–906. FORM OF ASSISTANCE.

12 FINANCIAL ASSISTANCE FROM THE PROGRAM MAY BE IN THE FORM OF A LOAN OR
13 GRANT, AS PROVIDED IN REGULATIONS OF THE DEPARTMENT.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 83A, § 6–802(d).

16 Defined terms: “Department” § 1–101
17 “Program” § 5–901

18 5–907. PROGRAM CONTINGENT ON ALLOCATION.

19 (A) IN GENERAL.

20 THE PROGRAM IS CONTINGENT ON THE ALLOCATION OF MONEY IN THE STATE
21 BUDGET TO THE MARYLAND DEPARTMENT OF TRANSPORTATION.

22 (B) TRANSPORTATION TRUST FUND.

23 IN ACCORDANCE WITH THE STATE BUDGET, THE MARYLAND DEPARTMENT OF
24 TRANSPORTATION SHALL ALLOCATE MONEY FOR THE PROGRAM FROM THE
25 TRANSPORTATION TRUST FUND AFTER ELEMENTS OF A LONG-TERM PLAN FOR
26 MANAGING DREDGED MATERIAL, IN ACCORDANCE WITH §§ 5–1102(D)(2)(II) AND
27 5–1104.2(D) OF THE ENVIRONMENT ARTICLE:

28 (1) ARE OPERATIONAL; AND

29 (2) PROVIDE 20 YEARS OF PLACEMENT CAPACITY.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 83A, § 6–802(f).

32 In subsection (a) of this section, the former reference to the “annual” State
33 budget is deleted as implicit.

34 In subsection (b) of this section, the former requirement to allocate money
35 “each year” is deleted as implicit in the reference to the “State budget”.

1 Also in subsection (b) of this section, the reference to plan elements that
2 are operational and provide capacity “in accordance with” EN §§
3 5–1102(d)(2)(ii) and 5–1104.2(d) is substituted for the former reference to
4 capacity provided “as defined in” those provisions for accuracy and clarity.

5 Defined terms: “Dredged material” § 5–901
6 “Program” § 5–901
7 “State” § 1–101

8 SUBTITLE 10. MILITARY SERVICE–RELATED LOAN PROGRAM.

9 5–1001. DEFINITIONS.

10 (A) IN GENERAL.

11 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

12 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 6–901(a)(1).

13 The only change is in style.

14 (B) SERVICE–DISABLED VETERAN.

15 “SERVICE–DISABLED VETERAN” MEANS A VETERAN WITH A DISABILITY THAT IS
16 SERVICE–CONNECTED, AS DEFINED IN 38 U.S.C. § 101(16), WHO WAS DOMICILED IN
17 THE STATE WHEN THE SERVICE–CONNECTED DISABILITY WAS INCURRED.

18 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 6–901(a)(2).

19 The only changes are in style.

20 The Economic Development Article Review Committee notes, for the
21 consideration of the General Assembly, that the Attorney General has
22 advised that restricting the availability of benefits to a service–disabled
23 veteran domiciled in the State “when the service–connected disability was
24 incurred” may violate the U.S. Constitution. Distinguishing between those
25 veterans who have established residency in the State at the time of
26 disability and those who do so thereafter may implicate the right to travel,
27 equal protection, or both. *See* Bill Review Letter (HB 1280) from J. Joseph
28 Curran, Jr., Attorney General, to Robert L. Ehrlich, Jr., Governor (May 1,
29 2006).

30 Defined term: “State” § 1–101

31 (C) SMALL BUSINESS EMPLOYER.

32 (1) “SMALL BUSINESS EMPLOYER” MEANS AN EMPLOYER WHO EMPLOYED
33 AN AVERAGE OF 50 OR FEWER EMPLOYEES ON BUSINESS DAYS DURING THE CALENDAR
34 YEAR PRECEDING THE DETERMINATION OF ELIGIBILITY FOR A LOAN UNDER THIS
35 SUBTITLE.

1 (2) FOR PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION, ALL PERSONS
2 TREATED AS A SINGLE EMPLOYER UNDER § 414(B), (C), (M), OR (O) OF THE INTERNAL
3 REVENUE CODE SHALL BE TREATED AS A SINGLE EMPLOYER UNDER THIS SUBTITLE.

4 REVISOR'S NOTE: This subsection formerly was Art. 83A, § 6–901(a)(3).

5 The only changes are in style.

6 5–1002. ESTABLISHED.

7 SUBJECT TO THE AVAILABILITY OF FUNDS, THE DEPARTMENT, IN CONSULTATION
8 WITH THE DEPARTMENT OF VETERANS AFFAIRS, SHALL ESTABLISH A PROGRAM TO
9 PROVIDE NO–INTEREST LOANS UNDER THIS SUBTITLE TO:

10 (1) SMALL BUSINESS EMPLOYERS OF MILITARY RESERVISTS AND NATIONAL
11 GUARD PERSONNEL WHO ARE CALLED TO ACTIVE DUTY;

12 (2) BUSINESSES OWNED BY MILITARY RESERVISTS AND NATIONAL GUARD
13 PERSONNEL WHO ARE CALLED TO ACTIVE DUTY; AND

14 (3) SERVICE–DISABLED VETERANS.

15 REVISOR'S NOTE: This section formerly was Art. 83A, § 6–901(b).

16 The only changes are in style.

17 Defined terms: “Department” § 1–101

18 “Service–disabled veteran” § 5–1001

19 “Small business employer” § 5–1001

20 5–1003. PURPOSES.

21 LOANS SHALL BE MADE UNDER THIS SUBTITLE FOR THE PURPOSES OF:

22 (1) PROVIDING FINANCIAL SUPPORT TO:

23 (I) A BUSINESS OWNED BY A MILITARY RESERVIST OR NATIONAL
24 GUARD MEMBER WHO IS CALLED TO ACTIVE DUTY; OR

25 (II) A SMALL BUSINESS EMPLOYER OF A MILITARY RESERVIST OR
26 NATIONAL GUARD MEMBER WHO IS CALLED TO ACTIVE DUTY;

27 (2) MAKING THE HOME, MOTOR VEHICLE, OR PLACE OF EMPLOYMENT OF A
28 SERVICE–DISABLED VETERAN ACCESSIBLE TO INDIVIDUALS WITH DISABILITIES,
29 INCLUDING PURCHASING EQUIPMENT NECESSARY TO ENABLE A BUSINESS TO EMPLOY A
30 SERVICE–DISABLED VETERAN; AND

31 (3) DEFRAYING OTHER NECESSARY EXPENSES, AS DETERMINED BY THE
32 DEPARTMENT OF VETERANS AFFAIRS, INCURRED BY A SERVICE–DISABLED VETERAN OR
33 A BUSINESS EMPLOYING A SERVICE–DISABLED VETERAN AS A RESULT OF THE VETERAN'S
34 DISABILITY.

1 REVISOR'S NOTE: This section formerly was Art. 83A, § 6–901(c).

2 In item (2) of this section, the reference to a “motor vehicle” is substituted
3 for the former reference to an “automobile” for consistency with
4 terminology used in the Transportation Article and throughout the Code.

5 The only other changes are in style.

6 Defined terms: “Service–disabled veteran” § 5–1001

7 “Small business employer” § 5–1001

8 5–1004. AVAILABILITY.

9 (A) ACTIVE DUTY SUPPORT.

10 A LOAN MADE UNDER THIS SUBTITLE FOR THE PURPOSE OF PROVIDING FINANCIAL
11 SUPPORT TO A BUSINESS OWNED BY AN INDIVIDUAL WHO IS CALLED TO ACTIVE DUTY OR
12 TO A SMALL BUSINESS EMPLOYER OF AN INDIVIDUAL WHO IS CALLED TO ACTIVE DUTY:

13 (1) MAY BE MADE AT ANY TIME FROM THE INDIVIDUAL'S RECEIPT OF
14 ORDERS TO REPORT TO 6 MONTHS AFTER THE END OF THE INDIVIDUAL'S ACTIVE DUTY;
15 AND

16 (2) SHALL BE SUBJECT TO CRITERIA FOR ELIGIBILITY AND PRIORITY
17 ESTABLISHED BY THE DEPARTMENT OF VETERANS AFFAIRS, INCLUDING THE EXTENT TO
18 WHICH THE INDIVIDUAL WHO IS CALLED TO ACTIVE DUTY IS AN ESSENTIAL EMPLOYEE OF
19 THE BUSINESS.

20 (B) SERVICE–DISABLED VETERAN SUPPORT.

21 A LOAN MADE UNDER THIS SUBTITLE FOR THE PURPOSE OF MAKING ACCESSIBLE TO
22 INDIVIDUALS WITH DISABILITIES THE HOME, MOTOR VEHICLE, OR PLACE OF
23 EMPLOYMENT OF A SERVICE–DISABLED VETERAN MAY BE MADE AT ANY TIME.

24 REVISOR'S NOTE: This section formerly was Art. 83A, § 6–901(e).

25 In subsection (b) of this section, the reference to a “motor vehicle” is added
26 for consistency with § 5–1003(2) of this subtitle.

27 The only other changes are in style.

28 Defined terms: “Service–disabled veteran” § 5–1001

29 “Small business employer” § 5–1001

30 5–1005. ADMINISTRATION.

31 (A) IN GENERAL.

32 THE DEPARTMENT SHALL ADMINISTER THE LOAN PROGRAM AUTHORIZED UNDER
33 THIS SUBTITLE.

1 (B) ELIGIBILITY CRITERIA.

2 THE DEPARTMENT OF VETERANS AFFAIRS SHALL ESTABLISH ELIGIBILITY CRITERIA
3 FOR LOANS UNDER THIS SUBTITLE.

4 REVISOR'S NOTE: This section formerly was Art. 83A, § 6–901(d).

5 The former phrase “[s]ubject to the provisions of this subtitle” is deleted as
6 implicit.

7 The only other changes are in style.

8 Defined term: “Department” § 1–101

9 5–1006. REGULATIONS.

10 (A) REQUIRED.

11 THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

12 (B) ELIGIBILITY CRITERIA.

13 THE DEPARTMENT OF VETERANS AFFAIRS MAY ADOPT REGULATIONS CONCERNING
14 ELIGIBILITY CRITERIA FOR LOANS UNDER THIS SUBTITLE.

15 REVISOR'S NOTE: This section formerly was Art. 83A, § 6–901(f).

16 No changes are made.

17 Defined term: “Department” § 1–101

18 SUBTITLE 11. RURAL BROADBAND ASSISTANCE FUND.

19 5–1101. DEFINITIONS.

20 (A) IN GENERAL.

21 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

22 REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–1901(a).

23 No changes are made.

24 (B) BOARD.

25 “BOARD” MEANS THE MARYLAND RURAL BROADBAND COORDINATION BOARD
26 ESTABLISHED UNDER TITLE 13, SUBTITLE 5 OF THIS ARTICLE.

27 REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–1901(b).

28 The only changes are in style.

1 (C) FUND.

2 “FUND” MEANS THE RURAL BROADBAND ASSISTANCE FUND ESTABLISHED UNDER
3 § 5–1102 OF THIS SUBTITLE.

4 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1901(c).

5 The only changes are in style.

6 5–1102. ESTABLISHED.

7 (A) IN GENERAL.

8 THERE IS A RURAL BROADBAND ASSISTANCE FUND IN THE DEPARTMENT.

9 (B) PURPOSE.

10 THE PURPOSE OF THE FUND IS TO ASSIST IN THE ESTABLISHMENT OF BROADBAND
11 COMMUNICATION SERVICES IN RURAL AND UNDERSERVED AREAS OF THE STATE.

12 (C) ADMINISTRATION.

13 THE DEPARTMENT SHALL ADMINISTER THE FUND.

14 (D) NATURE.

15 (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO
16 REVERSION UNDER § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

17 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE
18 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

19 (E) CONTENTS.

20 THE FUND CONSISTS OF:

21 (1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

22 (2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE MARYLAND
23 ECONOMIC DEVELOPMENT ASSISTANCE FUND UNDER SUBTITLE 3 OF THIS TITLE FOR
24 THE PURPOSE OF ASSISTING IN THE ESTABLISHMENT OF BROADBAND COMMUNICATION
25 SERVICES IN RURAL AND UNDERSERVED AREAS OF THE STATE;

26 (3) FEDERAL MONEY ALLOCATED OR GRANTED TO THE FUND; AND

27 (4) ANY OTHER MONEY FROM ANY SOURCE ACCEPTED FOR THE BENEFIT OF
28 THE FUND.

29 (F) USES.

1 THE FUND MAY BE USED ONLY FOR PLANNING, CONSTRUCTION, AND
2 MAINTENANCE OF BROADBAND COMMUNICATION SERVICES AND EQUIPMENT IN RURAL
3 AND UNDERSERVED AREAS AND RELATED ACTIVITIES.

4 (G) INVESTMENT AND EARNINGS.

5 (1) THE TREASURER SHALL INVEST THE MONEY IN THE FUND IN THE SAME
6 MANNER AS OTHER STATE MONEY MAY BE INVESTED.

7 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE
8 GENERAL FUND OF THE STATE.

9 (H) PAYMENTS.

10 THE DEPARTMENT SHALL MAKE PAYMENTS FROM THE FUND WITHIN 30 DAYS
11 AFTER NOTICE OF A DECISION OF THE BOARD UNDER § 13–504(3) OF THIS ARTICLE.

12 REVISOR’S NOTE: This section is new language derived without substantive
13 change from former Art. 83A, § 5–1902.

14 In subsection (e)(1) of this section, the reference to the Maryland Economic
15 Development Assistance Fund “under Subtitle 3 of this title” is added for
16 clarity.

17 Defined terms: “Board” § 5–1101

18 “Department” § 1–101

19 “Fund” § 5–1101

20 “State” § 1–101

21 GENERAL REVISOR’S NOTE TO SUBTITLE:

22 Former Art. 83A, §§ 5–1901 and 5–1902, which established the Rural
23 Broadband Assistance Fund, were subject to termination on June 30, 2020. *See* § 3 of
24 Ch. 269, Acts of 2006. Accordingly, the legislation that enacts this article provides for
25 the termination of this subtitle if and when that termination provision takes effect.
26 *See* § 22 of Ch. ___, Acts of 2008.

27 TITLE 6. ECONOMIC DEVELOPMENT TAX INCENTIVES.

28 SUBTITLE 1. DEFINITIONS.

29 6–101. DEFINITIONS.

30 (A) IN GENERAL.

31 IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

1 (B) CENTRAL SERVICES.

2 (1) “CENTRAL SERVICES” MEANS THE PERFORMANCE OF CENTRAL
3 MANAGEMENT OR ADMINISTRATIVE FUNCTIONS.

4 (2) “CENTRAL SERVICES” INCLUDES:

5 (I) GENERAL MANAGEMENT;

6 (II) ACCOUNTING;

7 (III) COMPUTER TABULATING;

8 (IV) DATA PROCESSING;

9 (V) PURCHASING;

10 (VI) TRANSPORTATION OR SHIPPING;

11 (VII) ADVERTISING;

12 (VIII) LEGAL SERVICES;

13 (IX) FINANCIAL SERVICES; AND

14 (X) RESEARCH AND DEVELOPMENT.

15 REVISOR’S NOTE: This subsection is new language derived without
16 substantive change from former Art. 83A, §§ 5–1101(b) and 5–1501(a)(2) as
17 they related to the central services for certain industries that qualified for
18 tax credits revised in Subtitles 3 and 4 of this title.

19 (C) COMPANY HEADQUARTERS.

20 “COMPANY HEADQUARTERS” MEANS A FACILITY WHERE THE MAJORITY OF A
21 BUSINESS ENTITY’S FINANCIAL, PERSONNEL, LEGAL, AND PLANNING FUNCTIONS ARE
22 HANDLED ON A REGIONAL OR NATIONAL BASIS.

23 REVISOR’S NOTE: This subsection formerly was Art. 83A, §§ 5–1101(c)(1) and
24 5–1501(a)(3)(i).

25 The former word “either” is deleted as surplusage.

26 No other changes are made.

27 Former Art. 83A, §§ 5–1101(c)(2) and 5–1501(a)(3)(ii), which excluded
28 professional sports organization headquarters from the defined term
29 “company headquarters”, are revised in the substantive provisions to
30 which they applied. *See* §§ 6–303(b) and 6–402(b) of this title.

31 (D) FULL–TIME POSITION.

1 “FULL–TIME POSITION” MEANS A POSITION REQUIRING AN EMPLOYEE TO WORK AT
2 LEAST 840 HOURS DURING AT LEAST 24 WEEKS IN A 6–MONTH PERIOD.

3 REVISOR’S NOTE: This subsection is new language derived without
4 substantive change from former Art. 83A, §§ 5–1101(e) and 5–1501(a)(5).

5 (E) QUALIFIED EMPLOYEE.

6 “QUALIFIED EMPLOYEE” MEANS AN EMPLOYEE FILLING A QUALIFIED POSITION.

7 REVISOR’S NOTE: This subsection formerly was Art. 83A, §§ 5–1101(g) and
8 5–1501(a)(9).

9 No changes are made.

10 SUBTITLE 2. FILM PRODUCTION ACTIVITY TAX EXEMPTION.

11 6–201. LEGISLATIVE INTENT.

12 THE GENERAL ASSEMBLY INTENDS THAT THE TAX EXEMPTION UNDER § 11–227
13 OF THE TAX – GENERAL ARTICLE:

14 (1) INCREASE THE FILM PRODUCTION ACTIVITY IN THE STATE;

15 (2) BRING ECONOMIC BENEFITS TO THE STATE; AND

16 (3) GENERATE INCREASED EMPLOYMENT OPPORTUNITIES IN THE STATE.

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from former Art. 83A, § 4–501(a).

19 In item (1) of this section, the former phrase “carried out” is deleted as
20 surplusage.

21 In item (2) of this section, the former reference to benefits to “citizens of”
22 the State is deleted as surplusage.

23 For additional State assistance available to film production activities, *see*
24 the Film Production Rebate Fund, Title 4, Subtitle 4 of this article.

25 Defined term: “State” § 1–101

26 6–202. ELIGIBILITY AND CERTIFICATION.

27 TO RECEIVE THE TAX EXEMPTION PROVIDED UNDER § 11–227 OF THE TAX –
28 GENERAL ARTICLE FOR A FILM PRODUCTION ACTIVITY, A FILM PRODUCER OR A FILM
29 PRODUCTION COMPANY SHALL FIRST HAVE A CERTIFICATION OF ELIGIBILITY FOR THE
30 TAX EXEMPTION FROM THE DEPARTMENT.

31 REVISOR’S NOTE: This section is new language derived without substantive
32 change from former Art. 83A, § 4–501(b).

1 The reference to the tax exemption “provided under § 11–227 of the Tax –
2 General Article” is added for clarity.

3 The former reference to “ensur[ing]” that a tax exemption is granted is
4 deleted as implicit in the requirement that the film producer or film
5 production company “shall first have” a certificate of eligibility.

6 Defined term: “Department” § 1–101

7 **6–203. REGULATIONS.**

8 **THE DEPARTMENT AND THE COMPTROLLER JOINTLY SHALL ADOPT REGULATIONS**
9 **DEFINING A FILM PRODUCTION ACTIVITY, TANGIBLE PERSONAL PROPERTY, AND TAXABLE**
10 **SERVICES USED DIRECTLY IN CONNECTION WITH A FILM PRODUCTION ACTIVITY UNDER §**
11 **11–227 OF THE TAX – GENERAL ARTICLE.**

12 **REVISOR’S NOTE:** This section is new language derived without substantive
13 change from former Art. 83A, § 4–501(c).

14 In this section, the former phrase “with greater specificity for purposes of
15 the sales and use tax exemption” is deleted as surplusage.

16 Also in this section, in each instance, the former phrase “what constitutes”
17 is deleted as surplusage.

18 Defined term: “Department” § 1–101

19 **SUBTITLE 3. JOB CREATION TAX CREDIT.**

20 **6–301. DEFINITIONS.**

21 **(A) IN GENERAL.**

22 **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

23 **REVISOR’S NOTE:** This subsection formerly was Art. 83A, § 5–1101(a).

24 No changes are made.

25 **(B) CREDIT YEAR.**

26 **“CREDIT YEAR” MEANS THE TAXABLE YEAR IN WHICH A QUALIFIED BUSINESS**
27 **ENTITY CLAIMS THE CREDIT ALLOWED IN ACCORDANCE WITH § 6–304(A) OF THIS**
28 **SUBTITLE.**

29 **REVISOR’S NOTE:** This subsection formerly was Art. 83A, § 5–1101(d).

30 The phrase “in accordance with § 6–304(a) of” this subtitle is substituted
31 for the former word “under” this subtitle for clarity.

32 No other changes are made.

1 Defined term: “Qualified business entity” § 6–301

2 (C) QUALIFIED BUSINESS ENTITY.

3 (1) “QUALIFIED BUSINESS ENTITY” MEANS A PERSON CONDUCTING OR
4 OPERATING A TRADE OR BUSINESS IN THE STATE THAT IS CERTIFIED IN ACCORDANCE
5 WITH § 6–303 OF THIS SUBTITLE AS QUALIFYING FOR THE TAX CREDIT UNDER THIS
6 SUBTITLE.

7 (2) FOR A PERSON ENGAGED IN A BUSINESS ACTIVITY DESCRIBED IN §
8 6–303(B)(2)(XIII) OF THIS SUBTITLE, “QUALIFIED BUSINESS ENTITY”:

9 (I) INCLUDES A PERSON OWNING OR OPERATING THE MULTI–USE
10 FACILITY IN WHICH THE ENTERTAINMENT, RECREATION, CULTURAL, OR
11 TOURISM–RELATED ACTIVITIES ARE OPERATED; AND

12 (II) DOES NOT INCLUDE ANY SEPARATE ENTITY THAT LEASES RETAIL
13 SPACE AT THE FACILITY.

14 REVISOR’S NOTE: This subsection is new language derived without
15 substantive change from former Art. 83A, § 5–1101(f)(1)(iii) and (2).

16 In paragraph (1) of this subsection, the former reference to certification “by
17 the Secretary” is deleted as implicit in the reference to “§ 6–303 of this
18 subtitle”.

19 Defined terms: “Person” § 1–101

20 “State” § 1–101

21 (D) QUALIFIED POSITION.

22 (1) “QUALIFIED POSITION” MEANS A POSITION THAT:

23 (I) IS FULL–TIME AND OF INDEFINITE DURATION;

24 (II) PAYS AT LEAST 150% OF THE FEDERAL MINIMUM WAGE;

25 (III) IS LOCATED IN THE STATE;

26 (IV) IS NEWLY CREATED AS A RESULT OF THE ESTABLISHMENT OR
27 EXPANSION OF A BUSINESS FACILITY IN A SINGLE LOCATION IN THE STATE; AND

28 (V) IS FILLED.

29 (2) “QUALIFIED POSITION” DOES NOT INCLUDE A POSITION THAT IS:

30 (I) CREATED WHEN AN EMPLOYMENT FUNCTION IS SHIFTED FROM AN
31 EXISTING BUSINESS FACILITY OF A BUSINESS ENTITY IN THE STATE TO ANOTHER
32 BUSINESS FACILITY OF THE SAME BUSINESS ENTITY IF THE POSITION IS NOT A NET NEW
33 JOB IN THE STATE;

1 (II) CREATED THROUGH A CHANGE IN OWNERSHIP OF A TRADE OR
2 BUSINESS;

3 (III) CREATED THROUGH A CONSOLIDATION, MERGER, OR
4 RESTRUCTURING OF A BUSINESS ENTITY IF THE POSITION IS NOT A NET NEW JOB IN THE
5 STATE;

6 (IV) CREATED WHEN AN EMPLOYMENT FUNCTION IS CONTRACTUALLY
7 SHIFTED FROM AN EXISTING BUSINESS ENTITY TO ANOTHER BUSINESS ENTITY IN THE
8 STATE IF THE POSITION IS NOT A NET NEW JOB IN THE STATE; OR

9 (V) FILLED FOR A PERIOD OF LESS THAN 12 MONTHS.

10 (3) FOR A PERSON ENGAGED IN A BUSINESS ACTIVITY DESCRIBED IN §
11 6–303(B)(2)(XIII) OF THIS SUBTITLE, “QUALIFIED POSITION” DOES NOT INCLUDE ANY
12 POSITION OTHER THAN A POSITION ENGAGED IN:

13 (I) THE OPERATION OF ENTERTAINMENT, RECREATION, CULTURAL, OR
14 TOURISM–RELATED ACTIVITIES WITHIN THE MULTI–USE FACILITY; OR

15 (II) MANAGEMENT, MARKETING, BUILDING MAINTENANCE, HOTEL
16 SERVICES, OR SECURITY FOR THE MULTI–USE FACILITY.

17 REVISOR’S NOTE: This subsection is new language derived without
18 substantive change from former Art. 83A, § 5–1101(h).

19 In the introductory language of paragraph (3) of this subsection, the
20 defined term “person” is substituted for the former phrase “business
21 entity” for accuracy and consistency within this subtitle.

22 In paragraph (3)(i) of this subsection, the phrase “the operation of
23 entertainment, recreation, cultural, or tourism–related activities within
24 the multi–use facility” is substituted for the former phrase “[t]he operation
25 of entertainment, recreation, cultural, or tourism–related activities for the
26 multiuse facility in which the entertainment, recreation, cultural, or
27 tourism–related activities are operated” for brevity.

28 Defined term: “State” § 1–101

29 (E) REVITALIZATION AREA.

30 “REVITALIZATION AREA” MEANS:

31 (1) AN ENTERPRISE ZONE DESIGNATED BY THE SECRETARY UNDER §
32 5–704 OF THIS ARTICLE;

33 (2) AN ENTERPRISE ZONE DESIGNATED BY THE UNITED STATES
34 GOVERNMENT UNDER 42 U.S.C. §§ 11501 THROUGH 11505;

35 (3) AN EMPOWERMENT ZONE OR ENTERPRISE COMMUNITY DESIGNATED BY
36 THE UNITED STATES GOVERNMENT UNDER 26 U.S.C. §§ 1391 THROUGH 1397F; OR

1 (4) A DESIGNATED NEIGHBORHOOD, AS DEFINED IN § 6–301 OF THE
2 HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.

3 REVISOR’S NOTE: This subsection is new language derived without
4 substantive change from former Art. 83A, § 5–1101(i).

5 In item (2) of this subsection, the phrase “under 42 U.S.C. §§ 11501
6 through 11505” is added for clarity and consistency within this article.

7 In item (3) of this subsection, the reference to an “enterprise community” is
8 added for clarity, accuracy, and consistency with Title 5 of this article.

9 Also in item (3) of this subsection, the specific reference to §§ 1391
10 “through 1397F” is substituted for the former phrase “et seq.” for clarity
11 and accuracy.

12 In item (4) of this subsection, the cross–reference to HS § 6–301, which
13 defines “designated neighborhood”, is substituted for the former
14 cross–reference to HS § 6–305. The definition of “designated neighborhood”
15 contains the provisions of § 6–305. The substitution also makes item (4) of
16 this subsection consistent with the provisions of former Art. 83A, §
17 5–1101(k)(2), revised in subsection (f) of this section.

18 Defined term: “Secretary” § 1–101

19 (F) STATE PRIORITY FUNDING AREA.

20 “STATE PRIORITY FUNDING AREA” MEANS:

21 (1) A MUNICIPAL CORPORATION;

22 (2) BALTIMORE CITY;

23 (3) A DESIGNATED NEIGHBORHOOD, AS DEFINED IN § 6–301 OF THE
24 HOUSING AND COMMUNITY DEVELOPMENT ARTICLE;

25 (4) AN ENTERPRISE ZONE DESIGNATED BY THE SECRETARY UNDER §
26 5–704 OF THIS ARTICLE;

27 (5) AN ENTERPRISE ZONE DESIGNATED BY THE UNITED STATES
28 GOVERNMENT UNDER 42 U.S.C. §§ 11501 THROUGH 11505;

29 (6) THOSE AREAS OF THE STATE LOCATED BETWEEN INTERSTATE
30 HIGHWAY 495 AND THE DISTRICT OF COLUMBIA;

31 (7) THOSE AREAS OF THE STATE LOCATED BETWEEN INTERSTATE
32 HIGHWAY 695 AND BALTIMORE CITY;

33 (8) NO MORE THAN ONE AREA IN A COUNTY DESIGNATED BY THE COUNTY AS
34 A PRIORITY FUNDING AREA UNDER § 5–7B–03(C) OF THE STATE FINANCE AND
35 PROCUREMENT ARTICLE; AND

1 (9) THAT PORTION OF THE PORT LAND USE DEVELOPMENT ZONE, AS
 2 DEFINED IN § 6–501 OF THE TRANSPORTATION ARTICLE, THAT HAS BEEN DESIGNATED
 3 AS AN AREA APPROPRIATE FOR GROWTH IN A COUNTY COMPREHENSIVE MASTER PLAN.

4 REVISOR’S NOTE: This subsection is new language derived without
 5 substantive change from former Art. 83A, § 5–1101(k).

6 In item (2) of this subsection, the specific reference to “Baltimore City” is
 7 added for clarity. The reference to an “incorporated municipality” in former
 8 Art. 83A, § 5–1101(k)(1) included both Baltimore City, which is governed
 9 under Md. Constitution, Arts. XI and XI–A, and a “municipal corporation”
 10 which is governed under the general municipal home rule provisions.

11 In item (4) of this subsection, the reference to designation “under 42 U.S.C.
 12 §§ 11501 through 11505” is added for clarity and consistency within this
 13 article.

14 The Economic Development Article Review Committee notes, for the
 15 consideration of the General Assembly, that the areas included in the term
 16 “State priority funding area”, defined in this subsection and derived from
 17 former Art. 83A, § 5–1101(k), differ slightly from those areas listed as
 18 priority funding areas under SF § 5–7B–02. In particular, the term defined
 19 in this subsection specifically includes a portion of the Port Land Use
 20 Development Zone, and limits to one the number of areas designated by a
 21 county under SF § 5–7B–03(c). Also, SF § 5–7B–02 specifically includes
 22 certain heritage areas under FI §§ 13–1101 and 13–1111, and excludes
 23 certain areas annexed by municipal corporations unless they satisfy
 24 certain requirements. The General Assembly may wish to consider
 25 whether it is appropriate to conform the State priority funding areas in
 26 which tax credits are available under this subtitle with the priority
 27 funding provisions of SF Title 5, Subtitle 7B.

28 Defined terms: “County” § 1–101
 29 “Secretary” § 1–101
 30 “State” § 1–101

31 REVISOR’S NOTE TO SECTION: Former Art. 83A, § 5–1101(j), which defined
 32 “Secretary”, is deleted as redundant of the definition of the same term in §
 33 1–101 of this article. The former definition of “Secretary” also included “or
 34 the Secretary’s designee”. Throughout this subtitle, where appropriate, the
 35 phrase “or the Secretary’s designee” is added after references to the
 36 “Secretary”.

37 6–302. LEGISLATIVE INTENT.

38 THE GENERAL ASSEMBLY INTENDS THAT THE PURPOSE OF THE JOB CREATION TAX
 39 CREDIT AUTHORIZED UNDER THIS SUBTITLE IS TO INCREASE THE NUMBER OF NEW JOBS
 40 IN THE STATE BY ENCOURAGING:

41 (1) THE EXPANSION OF EXISTING PRIVATE SECTOR ENTERPRISES; AND

1 (2) THE ESTABLISHMENT OR ATTRACTION OF NEW PRIVATE SECTOR
2 ENTERPRISES.

3 REVISOR'S NOTE: This section formerly was Art. 83A, § 5–1102(a).

4 The only changes are in style.

5 Defined term: "State" § 1–101

6 6–303. QUALIFICATION; CERTIFICATION.

7 (A) IN GENERAL.

8 (1) THE SECRETARY OR THE SECRETARY'S DESIGNEE SHALL CERTIFY A
9 PERSON AS A QUALIFIED BUSINESS ENTITY IF THE PERSON MEETS THE REQUIREMENTS OF
10 THIS SECTION.

11 (2) A PERSON MAY NOT BE CERTIFIED AS A QUALIFIED BUSINESS ENTITY
12 UNLESS THE PERSON NOTIFIES THE DEPARTMENT OF ITS INTENT TO SEEK
13 CERTIFICATION BEFORE HIRING ANY QUALIFIED EMPLOYEES TO FILL THE QUALIFIED
14 POSITIONS NECESSARY TO MEET THE REQUIREMENTS OF SUBSECTION (B)(1) OF THIS
15 SECTION.

16 (B) ELIGIBILITY.

17 TO BE ELIGIBLE FOR A TAX CREDIT UNDER THIS SUBTITLE, A PERSON SHALL
18 ESTABLISH OR EXPAND A BUSINESS FACILITY IN THE STATE THAT:

19 (1) DURING ANY 24–MONTH PERIOD CREATES AT LEAST:

20 (I) 60 QUALIFIED POSITIONS;

21 (II) 30 QUALIFIED POSITIONS IF THE AGGREGATE PAYROLL FOR THE
22 QUALIFIED POSITIONS IS GREATER THAN A THRESHOLD AMOUNT EQUAL TO THE PRODUCT
23 OF MULTIPLYING 60 TIMES THE STATE'S AVERAGE ANNUAL SALARY, AS DETERMINED BY
24 THE DEPARTMENT; OR

25 (III) 25 QUALIFIED POSITIONS IF THE BUSINESS FACILITY ESTABLISHED
26 OR EXPANDED IS LOCATED IN A STATE PRIORITY FUNDING AREA; AND

27 (2) IS PRIMARILY ENGAGED IN:

28 (I) MANUFACTURING OR MINING;

29 (II) TRANSPORTATION OR COMMUNICATIONS;

30 (III) AGRICULTURE, FORESTRY, OR FISHING;

31 (IV) RESEARCH, DEVELOPMENT, OR TESTING;

32 (V) BIOTECHNOLOGY;

1 (VI) COMPUTER PROGRAMMING, INFORMATION TECHNOLOGY, OR OTHER
2 COMPUTER-RELATED SERVICES;

3 (VII) CENTRAL SERVICES FOR A BUSINESS ENTITY ENGAGED IN
4 FINANCIAL SERVICES, REAL ESTATE SERVICES, OR INSURANCE SERVICES;

5 (VIII) THE OPERATION OF CENTRAL ADMINISTRATIVE OFFICES;

6 (IX) THE OPERATION OF A COMPANY HEADQUARTERS OTHER THAN THE
7 HEADQUARTERS OF A PROFESSIONAL SPORTS ORGANIZATION;

8 (X) THE OPERATION OF A PUBLIC UTILITY;

9 (XI) WAREHOUSING;

10 (XII) BUSINESS SERVICES, IF THE BUSINESS FACILITY ESTABLISHED OR
11 EXPANDED IS LOCATED IN A STATE PRIORITY FUNDING AREA; OR

12 (XIII) ENTERTAINMENT, RECREATION, CULTURAL, OR TOURISM-RELATED
13 ACTIVITIES IN A MULTI-USE FACILITY LOCATED WITHIN A REVITALIZATION AREA IF THE
14 FACILITY:

15 1. GENERATES A MINIMUM OF 1,000 NEW FULL-TIME
16 EQUIVALENT FILLED POSITIONS IN A 24-MONTH PERIOD; AND

17 2. IS NOT PRIMARILY USED BY A PROFESSIONAL SPORTS
18 FRANCHISE OR FOR GAMING.

19 (C) CERTIFICATION.

20 TO BE CERTIFIED AS A QUALIFIED BUSINESS ENTITY FOR A TAX CREDIT UNDER THIS
21 SUBTITLE, A PERSON SHALL SUBMIT TO THE DEPARTMENT AN APPLICATION THAT
22 SPECIFIES:

23 (1) THE EFFECTIVE DATE OF THE START-UP OR EXPANSION;

24 (2) THE NUMBER OF FULL-TIME EMPLOYEES EXISTING BEFORE THE
25 START-UP OR EXPANSION AND THE PAYROLL OF THE EXISTING EMPLOYEES;

26 (3) THE NUMBER OF QUALIFIED POSITIONS CREATED AND QUALIFIED
27 EMPLOYEES HIRED AND THE PAYROLL OF THE NEW QUALIFIED EMPLOYEES; AND

28 (4) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES BY
29 REGULATION.

30 (D) DETERMINATION OF QUALIFYING ACTIVITY.

31 WHEN DETERMINING WHETHER A BUSINESS FACILITY IS ENGAGED IN A
32 QUALIFYING ACTIVITY DESCRIBED IN SUBSECTION (B)(2) OF THIS SECTION, THE
33 DEPARTMENT SHALL CONSIDER THE DEFINITIONS SET FORTH IN THE NORTH AMERICAN
34 INDUSTRY CLASSIFICATION SYSTEM.

1 (E) VERIFICATION.

2 THE DEPARTMENT MAY REQUIRE THAT ANY INFORMATION PROVIDED UNDER
3 SUBSECTION (C) OF THIS SECTION BE VERIFIED BY AN INDEPENDENT AUDITOR THAT THE
4 QUALIFIED BUSINESS ENTITY SELECTS.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 83A, § 5–1101(c)(2) and (f)(1)(i) and (ii) and §
7 5–1102(b) and (c)(6) and, as it described certain business entities for which
8 certain services qualify for a tax credit under this subtitle, § 5–1101(b).

9 In subsection (a)(1) of this section, the phrase “or the Secretary’s designee”
10 is added to clarify that under former Art. 83A, § 5–1102(b), the Secretary
11 could designate someone to issue certifications. *See* Revisor’s Note to §
12 6–301 of this subtitle.

13 Also in subsection (a)(1) of this section, the former phrase “eligible for the
14 tax credit under this subtitle” is deleted as surplusage.

15 In subsections (a)(2), (b), and (c) of this section, the defined term “person”
16 is substituted for the former term “business entity” for consistency within
17 this subtitle.

18 In subsection (a)(2) of this section, the phrase “certified as a qualified
19 business entity” is substituted for the former phrase “certified as
20 qualifying for the tax credit under this subtitle” for brevity and consistency
21 within this subtitle.

22 Also in subsection (a)(2) of this section, the former phrase “for establishing
23 or expanding the business facility on which the credit is based” is deleted
24 as surplusage.

25 In the introductory language of subsection (b) of this section, the phrase
26 “[t]o be certified as a qualified business entity” is substituted for the
27 former phrase “[t]o qualify for the tax credit provided under this subtitle”
28 for clarity and brevity.

29 Subsection (b)(1) of this section is revised to clarify that the “qualifying
30 positions” shall be created within a 24–month period.

31 In subsection (b)(2)(vi) of this section, the reference to “information
32 technology” is substituted for the former obsolete reference to “data
33 processing” for clarity and consistency within this title.

34 In the introductory language of subsection (c) of this section, the reference
35 to submitting “an application that specifies” certain information is added
36 for clarity.

37 Also in the introductory language of subsection (c) of this section, the
38 former phrase “in accordance with regulations adopted by the Department”

1 is deleted as redundant of § 6–308(a) of this subtitle.

2 In subsection (d) of this section, the reference to the “North American
3 Industry Classification System” is substituted for the former obsolete
4 reference to the “Standard Industrial Classification Manual” for accuracy.

5 In subsection (e) of this section, the defined term “qualified business
6 entity” is substituted for the former phrase “business entity” for clarity and
7 consistency within this title.

8 Defined terms: “Central services” § 6–101

9 “Company headquarters” § 6–101

10 “Department” § 1–101

11 “Qualified business entity” § 6–301

12 “Qualified employee” § 6–101

13 “Qualified position” § 6–301

14 “Revitalization area” § 6–301

15 “Secretary” § 1–101

16 “State” § 1–101

17 “State priority funding area” § 6–301

18 6–304. AMOUNT AND APPLICATION OF CREDIT.

19 (A) IN GENERAL.

20 (1) A QUALIFIED BUSINESS ENTITY MAY CLAIM A TAX CREDIT IN THE
21 AMOUNT DETERMINED UNDER THIS SECTION.

22 (2) A QUALIFIED BUSINESS ENTITY SHALL SUBMIT TO THE APPROPRIATE
23 STATE UNITS, WITH THE TAX RETURN ON WHICH THE CREDIT IS CLAIMED,
24 CERTIFICATION FROM THE DEPARTMENT THAT THE BUSINESS ENTITY HAS MET THE
25 REQUIREMENTS OF THIS SUBTITLE AND IS ELIGIBLE FOR THE CREDIT.

26 (B) AMOUNT OF CREDIT.

27 (1) EXCEPT AS PROVIDED IN THIS SECTION, THE CREDIT EARNED UNDER
28 THIS SECTION:

29 (I) FOR QUALIFIED EMPLOYEES WORKING IN A FACILITY NOT LOCATED
30 IN A REVITALIZATION AREA, IS THE LESSER OF:

31 1. \$1,000 MULTIPLIED BY THE NUMBER OF QUALIFIED
32 EMPLOYEES EMPLOYED BY THE QUALIFIED BUSINESS ENTITY DURING THE CREDIT YEAR;
33 AND

34 2. 2.5% OF THE WAGES PAID BY THE QUALIFIED BUSINESS
35 ENTITY DURING THE CREDIT YEAR TO THE QUALIFIED EMPLOYEES; AND

36 (II) FOR QUALIFIED EMPLOYEES WORKING IN A FACILITY LOCATED IN A
37 REVITALIZATION AREA, IS THE LESSER OF:

1 1. \$1,500 MULTIPLIED BY THE NUMBER OF QUALIFIED
2 EMPLOYEES EMPLOYED BY THE QUALIFIED BUSINESS ENTITY DURING THE CREDIT YEAR;
3 AND

4 2. 5% OF THE WAGES PAID BY THE QUALIFIED BUSINESS
5 ENTITY DURING THE CREDIT YEAR TO THE QUALIFIED EMPLOYEES.

6 (2) THE CREDIT EARNED BY A QUALIFIED BUSINESS ENTITY UNDER THIS
7 SUBTITLE MAY NOT EXCEED \$1,000,000 FOR ANY CREDIT YEAR.

8 (c) APPLICATION OF CREDIT.

9 (1) THE CREDIT EARNED UNDER SUBSECTION (B) OF THIS SECTION SHALL
10 BE TAKEN OVER A 2-YEAR PERIOD, WITH ONE-HALF OF THE CREDIT AMOUNT ALLOWED
11 EACH YEAR BEGINNING WITH THE CREDIT YEAR.

12 (2) THE SAME CREDIT CANNOT BE APPLIED MORE THAN ONCE AGAINST
13 DIFFERENT TAXES BY THE SAME TAXPAYER.

14 (3) IF THE CREDIT ALLOWED UNDER THIS SUBTITLE EXCEEDS THE TOTAL
15 TAX OTHERWISE DUE FROM A QUALIFIED BUSINESS ENTITY IN A TAXABLE YEAR, THE
16 QUALIFIED BUSINESS ENTITY MAY APPLY THE EXCESS AS A CREDIT FOR SUCCEEDING
17 TAXABLE YEARS UNTIL THE EARLIER OF:

18 (i) THE FULL AMOUNT OF THE EXCESS IS USED; OR

19 (ii) THE EXPIRATION OF THE 5TH TAXABLE YEAR FROM THE CREDIT
20 YEAR.

21 (4) THE CREDIT UNDER THIS SUBTITLE MAY NOT BE CARRIED BACK TO A
22 PRECEDING TAXABLE YEAR.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 83A, § 5-1102(c)(1) through (5) and (7) and (d).

25 The introductory language of subsection (b)(1)(i) of this section is added to
26 clarify the credit for facilities that are located outside of a revitalization
27 area.

28 The Economic Development Article Review Committee notes, for the
29 consideration of the General Assembly, that this section is unclear as to the
30 actual start of the "credit year" defined in § 6-301 of this subtitle and
31 applied in this section. Under § 6-303(b) of this subtitle, a qualified
32 business entity has 24 months in which to create the minimum number of
33 qualified positions for which the entity may claim the credit. Although
34 subsection (a)(2) of this section requires a qualified business entity to
35 submit certification of eligibility with the tax return on which the credit is
36 claimed, it does not specifically require submission in the *first* year in
37 which the entity is eligible for the credit. Once the credit is claimed, the
38 qualified business entity generally must use it within two consecutive

1 taxable years, but may roll over an unused portion of the credit through
2 the 5th taxable year following the credit year. Under one reading of this
3 section, it might be possible for a qualified business entity to hold off on
4 submitting initial proof of compliance until the entity has a large enough
5 tax liability to consume at least one-half of the credit. The General
6 Assembly may wish to clarify that the qualified business entity must file
7 certification as soon as the entity fulfils the eligibility requirements for the
8 tax credit, having created the required number of qualified positions
9 within 24 months after the opening or expansion of the business facility for
10 which the tax credit is to be claimed.

11 Defined terms: “Credit year” § 6–301

12 “Department” § 1–101

13 “Qualified business entity” § 6–301

14 “Qualified employee” § 6–101

15 “Revitalization area” § 6–301

16 “State” § 1–101

17 **6–305. RECAPTURE.**

18 (A) **DECREASE IN QUALIFIED POSITIONS GREATER THAN 5%.**

19 IF, DURING ANY OF THE 3 YEARS AFTER THE CREDIT YEAR, THE NUMBER OF
20 QUALIFIED POSITIONS OF THE QUALIFIED BUSINESS ENTITY FALLS MORE THAN 5%
21 BELOW THE AVERAGE NUMBER OF QUALIFIED POSITIONS THAT EXISTED DURING THE
22 CREDIT YEAR ON WHICH THE CREDIT WAS COMPUTED, THE CREDIT SHALL BE
23 RECAPTURED AS FOLLOWS:

24 (1) THE CREDIT SHALL BE RECOMPUTED AND REDUCED BY THE
25 PERCENTAGE REDUCTION OF THE NUMBER OF QUALIFIED EMPLOYEES;

26 (2) THE RECOMPUTED CREDIT SHALL BE SUBTRACTED FROM THE AMOUNT
27 OF CREDIT PREVIOUSLY ALLOWED; AND

28 (3) THE QUALIFIED BUSINESS ENTITY SHALL PAY THE DIFFERENCE AS
29 TAXES PAYABLE TO THE STATE FOR THE TAXABLE YEAR IN WHICH THE NUMBER OF
30 QUALIFIED POSITIONS FALLS MORE THAN 5% BELOW THE AVERAGE NUMBER OF
31 QUALIFIED POSITIONS DURING THE CREDIT YEAR.

32 (B) **REDUCTION OF QUALIFIED POSITIONS BELOW THRESHOLD.**

33 IF, DURING ANY OF THE 3 YEARS AFTER THE CREDIT YEAR, THE AVERAGE NUMBER
34 OF QUALIFIED POSITIONS FALLS BELOW THE APPLICABLE THRESHOLD NUMBER OF
35 POSITIONS REQUIRED UNDER § 6–303(B)(1) OF THIS SUBTITLE, ALL CREDITS EARNED
36 SHALL BE RECAPTURED.

37 (C) **REQUIRED INFORMATION; VERIFICATION.**

38 (1) DURING THE 3 TAXABLE YEARS AFTER THE CREDIT YEAR, A QUALIFIED
39 BUSINESS ENTITY SHALL PROVIDE ANY INFORMATION REQUIRED BY THE DEPARTMENT IN

1 REGULATION TO VERIFY THAT THE QUALIFIED BUSINESS ENTITY IS NOT SUBJECT TO
2 SUBSECTION (A) OR (B) OF THIS SECTION.

3 (2) THE DEPARTMENT MAY REQUIRE THAT ANY INFORMATION PROVIDED
4 UNDER THIS SUBSECTION BE VERIFIED BY AN INDEPENDENT AUDITOR THAT THE
5 QUALIFIED BUSINESS ENTITY SELECTS.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 83A, § 5–1102(e).

8 In subsection (a) of this section, the defined term “qualified business
9 entity” is substituted for the former references to a “qualifying business
10 entity” for consistency within this subtitle.

11 Defined terms: “Credit year” § 6–301
12 “Department” § 1–101
13 “Qualified business entity” § 6–301
14 “Qualified employee” § 6–101
15 “Qualified position” § 6–301
16 “State” § 1–101

17 6–306. INFORMATION SHARING; CONFIDENTIALITY.

18 (A) INFORMATION SHARING.

19 THE COMPTROLLER OR OTHER APPROPRIATE UNIT SHALL SHARE WITH THE
20 DEPARTMENT ANY INFORMATION RECEIVED FROM A QUALIFIED BUSINESS ENTITY ABOUT
21 ELIGIBILITY FOR A CREDIT ALLOWED UNDER THIS SUBTITLE.

22 (B) CONFIDENTIALITY.

23 INFORMATION THAT IS RECEIVED UNDER SUBSECTION (A) OF THIS SECTION IS
24 SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS ESTABLISHED BY STATUTE OR
25 REGULATION THAT APPLY TO THE COMPTROLLER OR UNIT THAT RECEIVES THE
26 INFORMATION.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 83A, § 5–1102(f).

29 In subsections (a) and (b) of this section, the references to a “unit” are
30 substituted for the former references to an “agency” for consistency within
31 this article. *See* General Revisor's Note to article.

32 Defined terms: “Department” § 1–101
33 “Qualified business entity” § 6–301

34 6–307. ANNUAL REPORT.

35 ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE DEPARTMENT SHALL REPORT
36 TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT

1 ARTICLE, TO THE GENERAL ASSEMBLY ON THE BUSINESS ENTITIES CERTIFIED AS
2 ELIGIBLE FOR JOB CREATION TAX CREDITS IN THE PRECEDING FISCAL YEAR.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 83A, § 5–1102(h).

5 The reference to “job creation” tax credits is added for clarity.

6 Defined term: “Department” § 1–101

7 6–308. REGULATIONS.

8 (A) IN GENERAL.

9 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE SECRETARY SHALL ADOPT
10 REGULATIONS TO CARRY OUT THIS SUBTITLE.

11 (B) INCOME TAXES.

12 THE COMPTROLLER SHALL ADOPT REGULATIONS TO PROVIDE FOR THE
13 COMPUTATION, CARRYOVER, AND RECAPTURE OF THE CREDIT UNDER § 10–704.4 OF
14 THE TAX – GENERAL ARTICLE.

15 (C) FRANCHISE TAXES.

16 THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION SHALL ADOPT
17 REGULATIONS TO PROVIDE FOR THE COMPUTATION, CARRYOVER, AND RECAPTURE OF THE
18 CREDIT UNDER §§ 8–214 AND 8–411 OF THE TAX – GENERAL ARTICLE.

19 (D) PREMIUM TAXES.

20 THE INSURANCE COMMISSIONER SHALL ADOPT REGULATIONS TO PROVIDE FOR THE
21 COMPUTATION, CARRYOVER, AND RECAPTURE OF THE CREDIT UNDER § 6–114 OF THE
22 INSURANCE ARTICLE.

23 REVISOR'S NOTE: This section formerly was Art. 83A, § 5–1102(g).

24 The only changes are in style.

25 Defined term: “Secretary” § 1–101

26 6–309. TERMINATION; LIMITATIONS.

27 (A) TERMINATION.

28 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THIS SUBTITLE AND
29 THE TAX CREDIT AUTHORIZED UNDER IT SHALL TERMINATE ON JANUARY 1, 2010.

30 (2) AS PROVIDED IN THIS SUBTITLE, FOR TAXABLE YEARS BEGINNING ON OR
31 AFTER JANUARY 1, 2010, TAX CREDITS EARNED IN CREDIT YEARS BEGINNING BEFORE
32 JANUARY 1, 2010 MAY BE ALLOWED RATABLY OVER A 2–YEAR PERIOD, MAY BE

1 CARRIED FORWARD, AND ARE SUBJECT TO RECAPTURE IN ACCORDANCE WITH § 6–305
2 OF THIS SUBTITLE.

3 (B) LIMITATIONS.

4 THE TAX CREDIT AUTHORIZED UNDER THIS SUBTITLE:

5 (1) MAY BE CLAIMED ONLY FOR QUALIFIED POSITIONS AT A NEWLY
6 ESTABLISHED OR EXPANDED BUSINESS FACILITY THAT COMMENCES OPERATIONS BEFORE
7 JANUARY 1, 2009; AND

8 (2) MAY NOT BE EARNED FOR A CREDIT YEAR BEGINNING ON OR AFTER
9 JANUARY 1, 2010.

10 REVISOR’S NOTE: This section is new language derived without substantive
11 change from former Art. 83A, § 5–1103.

12 In subsection (b) of this section, the phrase “business facility” is
13 substituted for the former reference to a “facility” for consistency within
14 this subtitle.

15 Defined terms: “Credit year” § 6–301
16 “Qualified position” § 6–301

17 SUBTITLE 4. ONE MARYLAND ECONOMIC DEVELOPMENT TAX CREDIT.

18 6–401. DEFINITIONS.

19 (A) IN GENERAL.

20 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

21 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1501(a)(1).

22 The only changes are in style.

23 (B) ELIGIBLE ECONOMIC DEVELOPMENT PROJECT.

24 “ELIGIBLE ECONOMIC DEVELOPMENT PROJECT” MEANS AN ECONOMIC
25 DEVELOPMENT PROJECT THAT:

26 (1) ESTABLISHES OR EXPANDS A BUSINESS FACILITY WITHIN A QUALIFIED
27 DISTRESSED COUNTY; AND

28 (2) IS APPROVED FOR A PROJECT TAX CREDIT OR A START–UP TAX CREDIT IN
29 ACCORDANCE WITH THIS SUBTITLE.

30 REVISOR’S NOTE: This subsection is new language derived without
31 substantive change from former Art. 83A, § 5–1501(a)(4).

32 In item (2) of this subsection, the reference to a “project tax credit or a

1 start-up tax credit” is substituted for the former reference to “tax credits”
2 for clarity and consistency within this subtitle.

3 Also in item (2) of this subsection, the former reference to approval “by the
4 Secretary” is deleted in light of § 6-402 of this subtitle.

5 Defined terms: “Project tax credit” § 6-401
6 “Qualified distressed county” § 1-101
7 “Secretary” § 1-101
8 “Start-up tax credit” § 6-401

9 (c) ELIGIBLE PROJECT COST.

10 (1) “ELIGIBLE PROJECT COST” MEANS THE COST AND EXPENSE A QUALIFIED
11 BUSINESS ENTITY INCURS TO ACQUIRE, CONSTRUCT, REHABILITATE, INSTALL, OR EQUIP
12 AN ELIGIBLE ECONOMIC DEVELOPMENT PROJECT.

13 (2) “ELIGIBLE PROJECT COST” INCLUDES:

14 (i) THE COST OF:

15 1. OBLIGATIONS FOR LABOR AND PAYMENTS MADE TO
16 CONTRACTORS, SUBCONTRACTORS, BUILDERS, AND SUPPLIERS;

17 2. ACQUIRING LAND, RIGHTS IN LAND, AND COSTS INCIDENTAL
18 TO ACQUIRING LAND OR RIGHTS IN LAND;

19 3. CONTRACT BONDS AND INSURANCE NEEDED DURING THE
20 ACQUISITION, CONSTRUCTION, OR INSTALLATION OF THE PROJECT;

21 4. TEST BORINGS, SURVEYS, ESTIMATES, PLANS,
22 SPECIFICATIONS, PRELIMINARY INVESTIGATIONS, ENVIRONMENTAL MITIGATION,
23 SUPERVISION OF CONSTRUCTION, AND OTHER ARCHITECTURAL AND ENGINEERING
24 SERVICES;

25 5. PERFORMING DUTIES REQUIRED BY OR CONSEQUENT TO THE
26 ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE PROJECT;

27 6. INSTALLING WATER, SEWER, SEWER TREATMENT, GAS,
28 ELECTRICITY, COMMUNICATIONS, RAILROADS, AND SIMILAR UTILITIES; AND

29 7. BOND INSURANCE, LETTERS OF CREDIT, OR OTHER FORMS OF
30 CREDIT ENHANCEMENT OR LIQUIDITY FACILITIES;

31 (ii) THE INTEREST COST BEFORE AND DURING THE ACQUISITION,
32 CONSTRUCTION, INSTALLATION, AND EQUIPPING OF THE PROJECT, AND FOR UP TO 2
33 YEARS AFTER PROJECT COMPLETION; AND

34 (iii) LEGAL, ACCOUNTING, FINANCIAL, PRINTING, RECORDING, FILING,
35 AND OTHER FEES AND EXPENSES INCURRED TO FINANCE THE PROJECT.

1 REVISOR'S NOTE: This subsection is new language derived without
 2 substantive change from former Art. 83A, § 5–1501(a)(6)(ii) and, except as
 3 it related to the maximum eligible cost, (i).

4 In paragraph (1) of this subsection, the defined term “qualified business
 5 entity” is substituted for the former reference to a “business entity” for
 6 clarity and consistency within this title.

7 In paragraph (2)(i)1 of this subsection, the phrase “payments made” is
 8 added for clarity.

9 In paragraph (2)(iii) of this subsection, the former reference to “costs,
 10 expenses, and fees” is deleted as surplusage.

11 Defined terms: “Eligible economic development project” § 6–401
 12 “Qualified business entity” § 6–401

13 (D) ELIGIBLE START–UP COST.

14 (1) “ELIGIBLE START–UP COST” MEANS A QUALIFIED BUSINESS ENTITY'S
 15 COST TO FURNISH AND EQUIP A NEW LOCATION FOR ORDINARY BUSINESS FUNCTIONS.

16 (2) “ELIGIBLE START–UP COST” INCLUDES:

17 (I) THE COST OF COMPUTERS, NONRECURRING COSTS OF FIXED
 18 TELECOMMUNICATIONS EQUIPMENT, FURNISHINGS, AND OFFICE EQUIPMENT; AND

19 (II) EXPENDITURES FOR MOVING COSTS, SEPARATION COSTS, AND
 20 OTHER COSTS DIRECTLY RELATED TO MOVING FROM OUTSIDE OF THE STATE TO A
 21 LOCATION IN A QUALIFIED DISTRESSED COUNTY.

22 REVISOR'S NOTE: This subsection is new language derived without
 23 substantive change from former Art. 83A, § 5–1501(a)(12)(i), except as it
 24 related to the maximum eligible cost.

25 In paragraph (1) of this subsection, the reference to a “qualified business
 26 entity's” costs is substituted for the former reference to a “company's” costs
 27 for clarity and consistency within this title.

28 Defined terms: “Qualified business entity” § 6–401
 29 “Qualified distressed county” § 1–101
 30 “State” § 1–101

31 (E) PROJECT TAX CREDIT.

32 “PROJECT TAX CREDIT” MEANS A TAX CREDIT FOR ELIGIBLE PROJECT COSTS
 33 ALLOWED UNDER § 6–403 OF THIS SUBTITLE.

34 REVISOR'S NOTE: This subsection is new language added for clarity.

35 Defined term: “Eligible project cost” § 6–401

1 (F) QUALIFIED BUSINESS ENTITY.

2 “QUALIFIED BUSINESS ENTITY” MEANS A PERSON THAT:

3 (1) (I) CONDUCTS OR OPERATES A TRADE OR BUSINESS IN THE STATE; OR

4 (II) OPERATES IN THE STATE AND IS EXEMPT FROM TAXATION UNDER
5 § 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE; AND

6 (2) IS CERTIFIED IN ACCORDANCE WITH § 6–402 OF THIS SUBTITLE AS
7 QUALIFYING FOR A PROJECT TAX CREDIT OR A START–UP TAX CREDIT UNDER THIS
8 SUBTITLE.

9 REVISOR’S NOTE: This subsection is new language derived without
10 substantive change from former Art. 83A, § 5–1501(a)(7)(i) and (v).

11 In item (2) of this subsection, the reference to a “project tax credit or a
12 start–up tax credit” is substituted for the former reference to “tax credits”
13 for clarity.

14 Former Art. 83A, § 5–1505(a)(7)(ii) through (v), the substantive provisions
15 relating to qualification and certification of a business entity for a tax
16 credit, are revised in § 6–402 of this subtitle.

17 Defined terms: “Project tax credit” § 6–401

18 “Start–up tax credit” § 6–401

19 “State” § 1–101

20 (G) QUALIFIED POSITION.

21 (1) “QUALIFIED POSITION” MEANS A POSITION THAT:

22 (I) IS A FULL–TIME POSITION AND IS OF INDEFINITE DURATION;

23 (II) PAYS AT LEAST 150% OF THE FEDERAL MINIMUM WAGE;

24 (III) IS IN A QUALIFIED DISTRESSED COUNTY;

25 (IV) IS NEWLY CREATED BECAUSE A BUSINESS FACILITY BEGINS OR
26 EXPANDS IN ONE LOCATION IN A QUALIFIED DISTRESSED COUNTY; AND

27 (V) IS FILLED.

28 (2) “QUALIFIED POSITION” DOES NOT INCLUDE A POSITION THAT IS:

29 (I) CREATED WHEN AN EMPLOYMENT FUNCTION IS SHIFTED FROM AN
30 EXISTING BUSINESS FACILITY OF A BUSINESS ENTITY IN THE STATE TO ANOTHER
31 BUSINESS FACILITY OF THE SAME BUSINESS ENTITY IF THE POSITION IS NOT A NET NEW
32 JOB IN THE STATE;

1 (II) CREATED THROUGH A CHANGE IN OWNERSHIP OF A TRADE OR
2 BUSINESS;

3 (III) CREATED THROUGH A CONSOLIDATION, MERGER, OR
4 RESTRUCTURING OF A BUSINESS ENTITY IF THE POSITION IS NOT A NET NEW JOB IN THE
5 STATE;

6 (IV) CREATED WHEN AN EMPLOYMENT FUNCTION IS CONTRACTUALLY
7 SHIFTED FROM AN EXISTING BUSINESS ENTITY IN THE STATE TO ANOTHER BUSINESS
8 ENTITY IF THE POSITION IS NOT A NET NEW JOB IN THE STATE; OR

9 (V) FILLED FOR A PERIOD OF LESS THAN 12 MONTHS.

10 REVISOR'S NOTE: This subsection is new language derived without
11 substantive change from former Art. 83A, § 5–1501(a)(10).

12 Defined terms: “Full-time position” § 6–101

13 “Qualified distressed county” § 1–101

14 “State” § 1–101

15 (H) START-UP TAX CREDIT.

16 “START-UP TAX CREDIT” MEANS A TAX CREDIT FOR ELIGIBLE START-UP COSTS
17 ALLOWED UNDER § 6–404 OF THIS SUBTITLE.

18 REVISOR'S NOTE: This subsection is new language added for clarity.

19 Defined term: “Eligible start-up cost” § 6–401

20 REVISOR'S NOTE TO SECTION: Former Art. 83A, § 5–1501(a)(2), (3), (5), and
21 (9), which defined “central financial, real estate, or insurance services”,
22 “company headquarters”, “full-time position”, and “qualified employee”,
23 respectively, are revised in § 6–101 of this title.

24 Former Art. 83A, § 5–1501(a)(8) and (11), which defined “qualified
25 distressed county” and “Secretary”, respectively, are revised in § 1–101 of
26 this article.

27 6–402. QUALIFICATION; CERTIFICATION.

28 (A) IN GENERAL.

29 (1) TO QUALIFY FOR A PROJECT TAX CREDIT OR A START-UP TAX CREDIT, A
30 PERSON SHALL BE CERTIFIED BY THE SECRETARY AS MEETING THE REQUIREMENTS OF
31 THIS SUBTITLE AND AS BEING ELIGIBLE FOR THE TAX CREDIT.

32 (2) THE SECRETARY MAY NOT CERTIFY A PERSON AS A QUALIFIED
33 BUSINESS ENTITY UNLESS THE PERSON NOTIFIES THE DEPARTMENT OF ITS INTENT TO
34 SEEK CERTIFICATION BEFORE HIRING ANY QUALIFIED EMPLOYEES TO FILL THE
35 QUALIFIED POSITIONS NECESSARY TO SATISFY THE EMPLOYMENT THRESHOLD UNDER
36 SUBSECTION (B)(2) OF THIS SECTION.

1 (B) ELIGIBILITY.

2 TO BE ELIGIBLE FOR A PROJECT TAX CREDIT OR A START-UP TAX CREDIT, A PERSON
3 SHALL:

4 (1) ESTABLISH OR EXPAND A BUSINESS FACILITY THAT:

5 (I) IS LOCATED IN A QUALIFIED DISTRESSED COUNTY; AND

6 (II) 1. IS LOCATED IN A PRIORITY FUNDING AREA UNDER §
7 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; OR

8 2. IS ELIGIBLE FOR FUNDING OUTSIDE OF A PRIORITY FUNDING
9 AREA UNDER § 5-7B-05 OR § 5-7B-06 OF THE STATE FINANCE AND PROCUREMENT
10 ARTICLE;

11 (2) DURING ANY 24-MONTH PERIOD, CREATE AT LEAST 25 QUALIFIED
12 POSITIONS AT THE NEW OR EXPANDED BUSINESS FACILITY; AND

13 (3) BE PRIMARILY ENGAGED AT THE NEW OR EXPANDED BUSINESS FACILITY
14 IN ANY COMBINATION OF:

15 (I) MANUFACTURING OR MINING;

16 (II) TRANSPORTATION OR COMMUNICATIONS;

17 (III) FILMMAKING, RESORT BUSINESS, OR RECREATIONAL BUSINESS;

18 (IV) AGRICULTURE, FORESTRY, OR FISHING;

19 (V) RESEARCH, DEVELOPMENT, OR TESTING;

20 (VI) BIOTECHNOLOGY;

21 (VII) COMPUTER PROGRAMMING, INFORMATION TECHNOLOGY, OR OTHER
22 COMPUTER-RELATED SERVICES;

23 (VIII) CENTRAL SERVICES FOR A BUSINESS ENTITY ENGAGED IN
24 FINANCIAL SERVICES, REAL ESTATE SERVICES, OR INSURANCE SERVICES;

25 (IX) THE OPERATION OF CENTRAL ADMINISTRATIVE OFFICES;

26 (X) THE OPERATION OF A COMPANY HEADQUARTERS OTHER THAN THE
27 HEADQUARTERS OF A PROFESSIONAL SPORTS ORGANIZATION;

28 (XI) THE OPERATION OF A PUBLIC UTILITY;

29 (XII) WAREHOUSING; OR

30 (XIII) OTHER BUSINESS SERVICES.

1 (C) CERTIFICATION.

2 TO BE CERTIFIED AS A QUALIFIED BUSINESS ENTITY FOR A PROJECT TAX CREDIT OR
3 A START–UP TAX CREDIT, A PERSON SHALL SUBMIT TO THE SECRETARY AN APPLICATION
4 THAT SPECIFIES:

5 (1) THE EFFECTIVE DATE OF THE START–UP OR EXPANSION;

6 (2) THE NUMBER OF FULL–TIME EMPLOYEES BEFORE THE START–UP OR
7 EXPANSION AND THE PAYROLL OF THE EXISTING EMPLOYEES;

8 (3) THE NUMBER OF QUALIFIED POSITIONS CREATED AND QUALIFIED
9 EMPLOYEES HIRED AND THE PAYROLL OF THE NEW QUALIFIED EMPLOYEES; AND

10 (4) ANY OTHER INFORMATION THAT THE SECRETARY REQUIRES BY
11 REGULATION.

12 (D) VERIFICATION.

13 THE SECRETARY MAY REQUIRE ANY INFORMATION REQUIRED UNDER THIS SECTION
14 TO BE VERIFIED BY AN INDEPENDENT AUDITOR THAT THE QUALIFIED BUSINESS ENTITY
15 SELECTS.

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 83A, § 5–1501(a)(3)(ii) and (7)(ii) through (v),
18 (e)(1), (3), and (4), and, as it related to certification by the Secretary, (f).

19 In subsection (a)(2) of this section and in the introductory language of
20 subsection (c) of this section, the references to a “person” are substituted
21 for the former references to a “business entity” for clarity and consistency
22 within this title.

23 Also in subsection (a)(2) of this section, the reference to “subsection (b)(2)
24 of this section” is substituted for the former inaccurate reference to
25 “subsection (a)(7)(ii) of this section” enacted by Ch. 729, Acts of 2001.

26 In subsection (b)(3)(vii) of this section, the reference to “information
27 technology” is substituted for the former obsolete reference to “data
28 processing” for clarity and consistency within this title.

29 In the introductory language of subsection (c) of this section, the reference
30 to submitting “an application that specifies” certain information is added
31 for clarity.

32 Also in the introductory language of subsection (c) of this section, the
33 former phrase “in accordance with regulations adopted by the Secretary” is
34 deleted as redundant of § 6–407 of this subtitle.

35 Former Art. 83A, § 5–1501(e)(2), which excluded projects announced before
36 April 10, 1999, is transferred to the Session Laws. *See* General Revisor’s

1 Note to Subtitle.

2 Defined terms: “Central services” § 6–101

3 “Company headquarters” § 6–101

4 “Department” § 1–101

5 “Qualified business entity” § 6–401

6 “Qualified distressed county” § 1–101

7 “Qualified employee” § 6–101

8 “Qualified position” § 6–401

9 “Secretary” § 1–101

10 6–403. PROJECT TAX CREDIT.

11 (A) IN GENERAL.

12 (1) A QUALIFIED BUSINESS ENTITY MAY CLAIM A PROJECT TAX CREDIT FOR
13 THE COST OF AN ELIGIBLE ECONOMIC DEVELOPMENT PROJECT IN A QUALIFIED
14 DISTRESSED COUNTY IF THE TOTAL ELIGIBLE PROJECT COST FOR THE ELIGIBLE
15 ECONOMIC DEVELOPMENT PROJECT COST IS AT LEAST \$500,000.

16 (2) A QUALIFIED BUSINESS ENTITY IS NOT ENTITLED TO A PROJECT TAX
17 CREDIT FOR A COST INCURRED BEFORE NOTIFYING THE DEPARTMENT OF ITS INTENT TO
18 SEEK CERTIFICATION AS QUALIFYING FOR THE PROJECT TAX CREDIT.

19 (B) AMOUNT OF CREDIT.

20 (1) SUBJECT TO THE LIMITATION IN PARAGRAPH (2) OF THIS SUBSECTION,
21 THE PROJECT TAX CREDIT ALLOWED UNDER THIS SECTION IS THE LESSER OF
22 \$5,000,000 AND THE TOTAL ELIGIBLE PROJECT COST FOR THE ELIGIBLE ECONOMIC
23 DEVELOPMENT PROJECT, LESS THE AMOUNT OF THE CREDIT PREVIOUSLY TAKEN FOR THE
24 PROJECT IN PRIOR TAXABLE YEARS.

25 (2) EXCEPT AS PROVIDED IN SUBSECTIONS (E) AND (F) OF THIS SECTION,
26 THE PROJECT TAX CREDIT ALLOWED IN A TAXABLE YEAR MAY NOT EXCEED THE STATE
27 TAX FOR THAT YEAR ON THE QUALIFIED BUSINESS ENTITY’S INCOME GENERATED BY OR
28 ARISING OUT OF THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT, AS DETERMINED
29 UNDER SUBSECTIONS (C) AND (D) OF THIS SECTION.

30 (C) AMOUNT OF TAX.

31 (1) THIS SUBSECTION DOES NOT APPLY TO A PERSON SUBJECT TO TAXATION
32 UNDER TITLE 6 OF THE INSURANCE ARTICLE.

33 (2) THE STATE TAX FOR THE TAXABLE YEAR ON A QUALIFIED BUSINESS
34 ENTITY’S INCOME GENERATED BY OR ARISING OUT OF AN ELIGIBLE ECONOMIC
35 DEVELOPMENT PROJECT EQUALS THE DIFFERENCE BETWEEN:

36 (i) THE STATE TAX WITHOUT REGARD TO THIS SUBTITLE; AND

1 (ii) THE STATE TAX ON THE QUALIFIED BUSINESS ENTITY'S
2 MARYLAND TAXABLE INCOME REDUCED BY THE AMOUNT OF ITS NET INCOME
3 ATTRIBUTABLE TO THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT.

4 (3) IF AN ELIGIBLE ECONOMIC DEVELOPMENT PROJECT IS A TOTALLY
5 SEPARATE FACILITY, NET INCOME ATTRIBUTABLE TO THE PROJECT SHALL BE
6 DETERMINED UNDER THE SEPARATE ACCOUNTING METHOD REFLECTING ONLY THE GROSS
7 INCOME, DEDUCTIONS, EXPENSES, GAINS, AND LOSSES THAT ARE DIRECTLY
8 ATTRIBUTABLE TO THE FACILITY AND THE OVERHEAD EXPENSES APPORTIONED TO THE
9 FACILITY.

10 (4) IF THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT IS AN EXPANSION
11 TO A PREVIOUSLY EXISTING FACILITY:

12 (i) NET INCOME ATTRIBUTABLE TO THE ENTIRE FACILITY SHALL BE
13 DETERMINED UNDER THE SEPARATE ACCOUNTING METHOD REFLECTING ONLY THE GROSS
14 INCOME, DEDUCTIONS, EXPENSES, GAINS, AND LOSSES THAT ARE DIRECTLY
15 ATTRIBUTABLE TO THE FACILITY AND THE OVERHEAD EXPENSES APPORTIONED TO THE
16 FACILITY; AND

17 (ii) NET INCOME ATTRIBUTABLE TO THE ELIGIBLE ECONOMIC
18 DEVELOPMENT PROJECT SHALL BE DETERMINED BY APPORTIONING THE NET INCOME OF
19 THE ENTIRE FACILITY, AS CALCULATED UNDER ITEM (I) OF THIS PARAGRAPH, TO THE
20 ELIGIBLE ECONOMIC DEVELOPMENT PROJECT BY A FORMULA APPROVED BY THE
21 COMPTROLLER OR THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

22 (5) IF THE COMPTROLLER OR THE STATE DEPARTMENT OF ASSESSMENTS
23 AND TAXATION IS SATISFIED THAT THE NATURE AND ACTIVITIES OF A QUALIFIED
24 BUSINESS ENTITY MAKE IT IMPRACTICAL TO USE THE SEPARATE ACCOUNTING METHOD,
25 THE QUALIFIED BUSINESS ENTITY SHALL DETERMINE NET INCOME FROM THE ELIGIBLE
26 ECONOMIC DEVELOPMENT PROJECT USING AN ALTERNATIVE METHOD APPROVED BY THE
27 COMPTROLLER OR THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

28 (D) EXCEPTION.

29 A QUALIFIED BUSINESS ENTITY THAT IS SUBJECT TO TAXATION UNDER TITLE 6 OF
30 THE INSURANCE ARTICLE MAY NOT CLAIM THE PROJECT TAX CREDIT FOR THE TAXABLE
31 YEAR IN WHICH THE PROJECT IS PLACED IN SERVICE OR FOR THE NEXT 4 TAXABLE
32 YEARS.

33 (E) CARRYOVER.

34 IF THE ELIGIBLE PROJECT COST FOR THE ELIGIBLE ECONOMIC DEVELOPMENT
35 PROJECT EXCEEDS THE STATE TAX ON THE QUALIFIED BUSINESS ENTITY'S INCOME
36 GENERATED BY OR ARISING OUT OF THE PROJECT FOR THE TAXABLE YEAR IN WHICH THE
37 PROJECT IS PLACED IN SERVICE, THE QUALIFIED BUSINESS ENTITY MAY APPLY ANY
38 EXCESS AS A PROJECT TAX CREDIT FOR SUCCEEDING TAXABLE YEARS AGAINST THE
39 STATE TAX ON THE QUALIFIED BUSINESS ENTITY'S INCOME GENERATED BY OR ARISING
40 OUT OF THE PROJECT UNTIL THE EARLIER OF:

1 (1) THE FULL AMOUNT OF THE EXCESS IS USED; OR

2 (2) THE EXPIRATION OF THE 14TH TAXABLE YEAR FOLLOWING THE TAXABLE
3 YEAR IN WHICH THE PROJECT IS PLACED IN SERVICE.

4 (F) APPLICATION; REFUND.

5 (1) SUBJECT TO THE LIMITATION IN PARAGRAPH (4) OF THIS SUBSECTION
6 AND SUBJECT TO § 6–405 OF THIS SUBTITLE, THIS SUBSECTION APPLIES TO ANY
7 TAXABLE YEAR AFTER THE 4TH BUT BEFORE THE 15TH TAXABLE YEAR FOLLOWING THE
8 TAXABLE YEAR IN WHICH THE PROJECT IS PLACED IN SERVICE.

9 (2) A QUALIFIED BUSINESS ENTITY OTHER THAN A PERSON SUBJECT TO
10 TAXATION UNDER TITLE 6 OF THE INSURANCE ARTICLE MAY:

11 (I) APPLY ANY EXCESS OF ELIGIBLE PROJECT COSTS FOR THE
12 ELIGIBLE ECONOMIC DEVELOPMENT PROJECT OVER THE CUMULATIVE AMOUNT USED AS A
13 PROJECT TAX CREDIT FOR THE TAXABLE YEAR AND ALL PRIOR TAXABLE YEARS AS A TAX
14 CREDIT AGAINST THE STATE TAX FOR THE TAXABLE YEAR ON THE QUALIFIED BUSINESS
15 ENTITY'S INCOME OTHER THAN INCOME GENERATED BY OR ARISING OUT OF THE
16 PROJECT; AND

17 (II) CLAIM A REFUND IN THE AMOUNT, IF ANY, BY WHICH THE UNUSED
18 EXCESS EXCEEDS THE STATE TAX FOR THE TAXABLE YEAR ON THE QUALIFIED BUSINESS
19 ENTITY'S INCOME OTHER THAN INCOME GENERATED BY OR ARISING OUT OF THE
20 PROJECT.

21 (3) A QUALIFIED BUSINESS ENTITY THAT IS SUBJECT TO TAXATION UNDER
22 TITLE 6 OF THE INSURANCE ARTICLE MAY:

23 (I) APPLY ANY EXCESS OF ELIGIBLE PROJECT COSTS FOR THE
24 ELIGIBLE ECONOMIC DEVELOPMENT PROJECT OVER THE CUMULATIVE AMOUNT USED AS A
25 PROJECT TAX CREDIT FOR THE TAXABLE YEAR AND ALL PRIOR TAXABLE YEARS AS A TAX
26 CREDIT AGAINST THE PREMIUM TAX IMPOSED FOR THE TAXABLE YEAR; AND

27 (II) CLAIM A REFUND IN THE AMOUNT, IF ANY, BY WHICH THE UNUSED
28 EXCESS EXCEEDS THE PREMIUM TAX FOR THE TAXABLE YEAR.

29 (4) FOR ANY TAXABLE YEAR, THE TOTAL AMOUNT USED AS A PROJECT TAX
30 CREDIT AND CLAIMED AS A REFUND UNDER THIS SUBSECTION MAY NOT EXCEED THE
31 AMOUNT OF TAX THAT THE QUALIFIED BUSINESS ENTITY IS REQUIRED TO WITHHOLD FOR
32 THE TAXABLE YEAR FROM THE WAGES OF QUALIFIED EMPLOYEES UNDER § 10–908 OF
33 THE TAX – GENERAL ARTICLE.

34 (G) DOCUMENTATION REQUIRED.

35 A QUALIFIED BUSINESS ENTITY SHALL ATTACH THE CERTIFICATION REQUIRED
36 UNDER § 6–402 OF THIS SUBTITLE TO THE TAX RETURN ON WHICH THE PROJECT TAX
37 CREDIT IS CLAIMED.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83A, § 5–1501(a)(6)(iii), (b), and, as it related to
3 required documentation, (f).

4 In subsection (a)(1) of this section, the former phrase “amount of the
5 qualified business entity’s” is deleted as surplusage.

6 In subsection (c)(2)(i) of this section, the reference to this “subtitle” is
7 substituted for the former reference to this “section” to reflect the
8 reorganization of material derived from former Art. 83A, § 5–1501 in this
9 subtitle.

10 In subsection (c)(5) of this section, the phrase “[i]f the Comptroller or the
11 State Department of Assessments and Taxation is satisfied” is substituted
12 for the former phrase “[i]f a qualified business entity can show to the
13 satisfaction of the Comptroller or the Department of Assessments and
14 Taxation” for brevity.

15 In subsection (d) of this section, the former phrase “following the taxable
16 year in which the project is placed in service” is deleted as surplusage.

17 In subsection (g) of this section, the reference to certification “required
18 under § 6–402 of this subtitle” is added for clarity.

19 Defined terms: “Eligible economic development project” § 6–401

20 “Eligible project cost” § 6–401

21 “Person” § 1–101

22 “Qualified business entity” § 6–401

23 “Qualified distressed county” § 1–101

24 “Qualified employee” § 6–101

25 **6–404. START–UP TAX CREDIT.**

26 (A) **IN GENERAL.**

27 (1) **A QUALIFIED BUSINESS ENTITY THAT LOCATES IN A QUALIFIED**
28 **DISTRESSED COUNTY MAY CLAIM A START–UP TAX CREDIT IN THE AMOUNT PROVIDED IN**
29 **SUBSECTION (B) OF THIS SECTION.**

30 (2) **A QUALIFIED BUSINESS ENTITY IS NOT ENTITLED TO A START–UP TAX**
31 **CREDIT FOR A COST INCURRED BEFORE NOTIFYING THE DEPARTMENT OF ITS INTENT TO**
32 **SEEK CERTIFICATION AS QUALIFYING FOR THE START–UP TAX CREDIT.**

33 (B) **AMOUNT.**

34 **THE START–UP TAX CREDIT ALLOWED UNDER THIS SECTION FOR EACH TAXABLE**
35 **YEAR EQUALS THE LEAST OF:**

36 (1) **THE QUALIFIED BUSINESS ENTITY’S TOTAL ELIGIBLE START–UP COST**
37 **ASSOCIATED WITH ESTABLISHING OR EXPANDING A BUSINESS FACILITY IN THE QUALIFIED**

1 DISTRESSED COUNTY, LESS THE AMOUNT OF THE CREDIT PREVIOUSLY TAKEN FOR THE
2 PROJECT;

3 (2) THE PRODUCT OF MULTIPLYING \$10,000 TIMES THE NUMBER OF
4 QUALIFIED EMPLOYEES EMPLOYED AT THE NEW OR EXPANDED BUSINESS FACILITY; OR

5 (3) \$500,000.

6 (c) CARRYOVER.

7 IF THE START–UP TAX CREDIT ALLOWED UNDER SUBSECTION (B) OF THIS SECTION
8 FOR THE TAXABLE YEAR IN WHICH A QUALIFIED BUSINESS ENTITY LOCATES IN A
9 QUALIFIED DISTRESSED COUNTY EXCEEDS THE TOTAL TAX OTHERWISE DUE FROM THE
10 QUALIFIED BUSINESS ENTITY FOR THAT TAXABLE YEAR, THE QUALIFIED BUSINESS ENTITY
11 MAY APPLY THE EXCESS AS A CREDIT FOR SUCCEEDING TAXABLE YEARS UNTIL THE
12 EARLIER OF:

13 (1) THE FULL AMOUNT OF THE EXCESS IS USED; OR

14 (2) THE EXPIRATION OF THE 14TH TAXABLE YEAR FOLLOWING THE TAXABLE
15 YEAR IN WHICH THE QUALIFIED BUSINESS ENTITY LOCATES IN A QUALIFIED DISTRESSED
16 COUNTY.

17 (d) REFUND.

18 (1) SUBJECT TO THE LIMITATION IN PARAGRAPH (3) OF THIS SUBSECTION
19 AND SUBJECT TO § 6–405 OF THIS SUBTITLE, THIS SUBSECTION APPLIES TO ANY
20 TAXABLE YEAR AFTER THE 4TH BUT BEFORE THE 15TH TAXABLE YEAR FOLLOWING THE
21 TAXABLE YEAR IN WHICH THE QUALIFIED BUSINESS ENTITY LOCATES IN A QUALIFIED
22 DISTRESSED COUNTY.

23 (2) A QUALIFIED BUSINESS ENTITY MAY CLAIM A REFUND IN THE AMOUNT,
24 IF ANY, BY WHICH THE QUALIFIED BUSINESS ENTITY'S ELIGIBLE START–UP COST EXCEEDS
25 THE CUMULATIVE AMOUNT USED AS A START–UP TAX CREDIT FOR THE TAXABLE YEAR
26 AND ALL PRIOR TAXABLE YEARS.

27 (3) FOR ANY TAXABLE YEAR, THE TOTAL AMOUNT CLAIMED AS A REFUND
28 UNDER THIS SUBSECTION MAY NOT EXCEED THE AMOUNT OF TAX THAT THE QUALIFIED
29 BUSINESS ENTITY IS REQUIRED TO WITHHOLD FOR THE TAXABLE YEAR FROM THE WAGES
30 OF QUALIFIED EMPLOYEES UNDER § 10–908 OF THE TAX – GENERAL ARTICLE.

31 (e) DOCUMENTATION REQUIRED.

32 A QUALIFIED BUSINESS ENTITY SHALL ATTACH THE CERTIFICATION REQUIRED
33 UNDER § 6–402(A) OF THIS SUBTITLE TO THE TAX RETURN ON WHICH THE START–UP
34 TAX CREDIT IS CLAIMED.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 83A, § 5–1501(c), (a)(12)(ii) and, as it related to
37 the maximum eligible credit, (i), and, as it related to certification

1 submission, (f).

2 In subsection (e) of this section, the phrase “required under § 6–402(a) of
3 this subtitle” is added for clarity.

4 Defined terms: “Department” § 1–101
5 “Eligible start–up cost” § 6–401
6 “Qualified business entity” § 6–401
7 “Qualified distressed county” § 1–101
8 “Qualified employee” § 6–101

9 **6–405. APPLICATION OF TAX CREDITS.**

10 IF THE PAY FOR THE MAJORITY OF THE QUALIFIED POSITIONS CREATED FROM THE
11 ESTABLISHMENT OR EXPANSION OF A BUSINESS FACILITY IS AT LEAST 250% OF THE
12 FEDERAL MINIMUM WAGE, §§ 6–403(F) AND 6–404(D) OF THIS SUBTITLE APPLY
13 BEGINNING WITH THE TAXABLE YEAR AFTER THE 2ND TAXABLE YEAR THAT FOLLOWS THE
14 TAXABLE YEAR WHEN THE QUALIFIED BUSINESS ENTITY LOCATES IN A QUALIFIED
15 DISTRESSED COUNTY.

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 83A, § 5–1501(h).

18 Defined terms: “Qualified business entity” § 6–401
19 “Qualified distressed county” § 1–101
20 “Qualified position” § 6–401

21 **6–406. REDUCTION OF TAX REVENUE.**

22 A REFUND PAYABLE TO A QUALIFIED BUSINESS ENTITY UNDER § 6–403(F) OR §
23 6–404(D) OF THIS SUBTITLE REDUCES:

24 (1) THE INCOME TAX REVENUE FROM CORPORATIONS IF THE QUALIFIED
25 BUSINESS ENTITY IS A CORPORATION SUBJECT TO THE INCOME TAX UNDER TITLE 10 OF
26 THE TAX – GENERAL ARTICLE;

27 (2) THE INCOME TAX REVENUE FROM INDIVIDUALS IF THE QUALIFIED
28 BUSINESS ENTITY IS:

29 (I) AN INDIVIDUAL SUBJECT TO THE INCOME TAX UNDER TITLE 10 OF
30 THE TAX – GENERAL ARTICLE; OR

31 (II) AN ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C)(3)
32 OR (4) OF THE INTERNAL REVENUE CODE; AND

33 (3) INSURANCE PREMIUM TAX REVENUES IF THE QUALIFIED BUSINESS
34 ENTITY IS SUBJECT TO TAXATION UNDER TITLE 6 OF THE INSURANCE ARTICLE.

35 REVISOR’S NOTE: This section is new language derived without substantive
36 change from former Art. 83A, § 5–1501(g).

1 Defined term: “Qualified business entity” § 6–401

2 6–407. REGULATIONS.

3 THE SECRETARY SHALL ADOPT REGULATIONS TO SPECIFY CRITERIA AND
4 PROCEDURES FOR APPLICATION AND APPROVAL OF PROJECTS FOR THE TAX CREDIT
5 UNDER THIS SUBTITLE.

6 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–1501(d).

7 The only changes are in style.

8 Defined term: “Secretary” § 1–101

9 GENERAL REVISOR’S NOTE TO SUBTITLE:

10 Former Art. 83A, § 5–1501(e)(2), which excluded projects announced before April
11 10, 1999 from eligibility for a tax credit under this subtitle, is apparently obsolete. *Cf.*
12 Ch. 303, Acts of 1999. However, to avoid any inadvertent substantive effect its repeal
13 might have, it is transferred to the Session Laws. *See* § 10 of Ch. ___, Acts of 2008.

14 TITLE 7. RESERVED.

15 TITLE 8. RESERVED.

16 DIVISION II. INDEPENDENT AND REGIONAL DEVELOPMENT UNITS AND RESOURCES.

17 TITLE 9. DEFINITIONS.

18 SUBTITLE 1. DEFINITIONS.

19 9–101. DEFINITIONS.

20 (A) IN GENERAL.

21 IN THIS DIVISION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

22 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 1–101(a).

23 The reference to this “division” is substituted for the former reference to
24 this “article” to reflect the reorganization of material derived from former
25 Article 83A that is not under the jurisdiction of the Department of
26 Business and Economic Development in this division, in contrast to
27 material from that former article under the Department’s jurisdiction that
28 is revised in Division I of this article.

29 No other changes are made.

30 (B) COUNTY.

1 “COUNTY” MEANS A COUNTY OF THE STATE OR BALTIMORE CITY.

2 REVISOR’S NOTE: This subsection is new language derived without
3 substantive change from former Art. 41, § 14–101(f).

4 It is restated in standard language for consistency with Division I of this
5 article and with other revised articles. *See, e.g.*, IN § 1–101(l), PUC §
6 1–101(g), CP § 1–101(d), CR § 1–101(d), and PS § 1–101(b).

7 Former Art. 41, § 14–101(f) applied only to the Economic Development
8 Revenue Bond Act revised in Title 11, Subtitle 1 of this article. The
9 remainder of the source material for this article was subject to Art. 1, §
10 14(a), which provides that “county” includes Baltimore City “unless such
11 construction would be unreasonable”. Because the word “unreasonable” in
12 that section has been interpreted in various ways, the Economic
13 Development Article Review Committee decided that an explicit definition
14 of “county” should be included that applies in each division of this article.
15 *See, also*, § 1–101 of this article.

16 Defined term: “State” § 9–101

17 (C) DEPARTMENT.

18 “DEPARTMENT” MEANS THE DEPARTMENT OF BUSINESS AND ECONOMIC
19 DEVELOPMENT.

20 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 1–101(b).

21 No changes are made.

22 (D) PERSON.

23 “PERSON” MEANS AN INDIVIDUAL, RECEIVER, TRUSTEE, GUARDIAN, PERSONAL
24 REPRESENTATIVE, FIDUCIARY, REPRESENTATIVE OF ANY KIND, PARTNERSHIP, FIRM,
25 ASSOCIATION, CORPORATION, OR OTHER ENTITY.

26 REVISOR’S NOTE: This subsection formerly was Art. 41, § 13–501(h)(1) and
27 Art. 83A, § 5–1701(i)(1).

28 No changes are made.

29 Although the term “person” defined in this subsection originally applied
30 only to the Maryland Agricultural and Resource–Based Industry
31 Development Corporation revised in Title 10, Subtitle 5 and the local
32 redevelopment authorities revised in Title 11, Subtitle 3 of this article, it is
33 revised to apply to all independent and regional development units and
34 resources in this division. The term conforms to the same term defined in
35 many recently revised articles. *See, e.g.*, IN § 1–101(dd), PUC § 1–101(t),
36 CS § 1–101(l), CP § 1–101(n), and PS § 1–101(c). No substantive change is
37 intended. *See, also*, § 1–101 of this article.

1 The definition of “person” in this subsection does not include a
 2 governmental entity or unit. The Court of Appeals of Maryland has held
 3 consistently that the word “person” in a statute does not include the State,
 4 its agencies, or subdivisions unless an intention to include these entities is
 5 made manifest by the legislature. *See, e.g., Unnamed Physicians v.*
 6 *Commission on Medical Discipline*, 285 Md. 1, 12–14 (1979). This rule does
 7 not apply when there is no impairment of sovereign powers and the
 8 provision that uses the term enhances a proprietary interest of the
 9 governmental unit. *See* 89 Op. Att’y Gen. 53, 58 (2004).

10 *See, also*, § 1–101 of this article.

11 As to the term “personal representative”, *see* Art. 1, § 5.

12 (E) SECRETARY.

13 “SECRETARY” MEANS THE SECRETARY OF BUSINESS AND ECONOMIC
 14 DEVELOPMENT.

15 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 1–101(d).

16 No changes are made.

17 (F) STATE.

18 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, “STATE”
 19 MEANS:

20 (I) A STATE, POSSESSION, TERRITORY, OR COMMONWEALTH OF THE
 21 UNITED STATES; OR

22 (II) THE DISTRICT OF COLUMBIA.

23 (2) WHEN CAPITALIZED, “STATE” MEANS MARYLAND.

24 REVISOR’S NOTE: Paragraph (1) of this subsection is standard language
 25 added to provide an express definition of the term “state” in this division
 26 that is consistent with the term defined in other revised articles of the
 27 Code. *See, e.g.,* IN § 1–101(mm), PUC § 1–101(ff), CS § 1–101(n), CP §
 28 1–101(n), CR § 1–101(i), and PS § 1–101(d).

29 Paragraph (2) of this subsection formerly was Art. 83A, § 1–101(e).

30 In paragraph (1) of this subsection, the phrase “[e]xcept as provided in
 31 paragraph (2) of this subsection,” is added for clarity.

32 In paragraph (2) of this subsection, the phrase “[w]hen capitalized,” is
 33 added for clarity and to prescribe explicitly the drafting convention used in
 34 recently revised articles, by which the term “State” when capitalized refers
 35 only to Maryland, whereas the defined term “state” in miniscule refers to
 36 any state or other territory of the United States.

1 The only other change is in style.

2 *See, also*, § 1–101 of this article.

3 TITLE 10. STATEWIDE DEVELOPMENT RESOURCES AND REVENUE AUTHORITIES.

4 SUBTITLE 1. MARYLAND ECONOMIC DEVELOPMENT CORPORATION.

5 10–101. DEFINITIONS.

6 (A) IN GENERAL.

7 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

8 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–201(a).

9 No changes are made.

10 (B) BOARD.

11 “BOARD” MEANS THE BOARD OF DIRECTORS OF THE CORPORATION.

12 REVISOR’S NOTE: This subsection is new language added to avoid repetition
13 of the full title of the “Board of Directors”.

14 Defined term: “Corporation” § 10–101

15 (C) BOND.

16 (1) “BOND” MEANS A BOND OR NOTE OF THE CORPORATION ISSUED UNDER
17 THIS SUBTITLE.

18 (2) “BOND” INCLUDES:

19 (I) A BOND ANTICIPATION NOTE;

20 (II) A REVENUE ANTICIPATION NOTE;

21 (III) A GRANT ANTICIPATION NOTE;

22 (IV) A REFUNDING BOND;

23 (V) A NOTE IN THE NATURE OF COMMERCIAL PAPER; AND

24 (VI) ANY OTHER EVIDENCE OF INDEBTEDNESS OF THE CORPORATION,
25 WHETHER A GENERAL OR LIMITED OBLIGATION.

26 REVISOR’S NOTE: This subsection is new language derived without
27 substantive change from former Art. 83A, § 5–201(b).

28 Defined term: “Corporation” § 10–101

1 (D) CORPORATION.

2 “CORPORATION” MEANS THE MARYLAND ECONOMIC DEVELOPMENT
3 CORPORATION.

4 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–201(c).

5 No changes are made.

6 (E) COST.

7 “COST” INCLUDES:

8 (1) THE PURCHASE PRICE OF A PROJECT;

9 (2) THE COST TO ACQUIRE ANY RIGHT, TITLE, OR INTEREST IN A PROJECT;

10 (3) THE COST OF ANY IMPROVEMENT;

11 (4) THE AMOUNT TO BE PAID TO DISCHARGE EACH OBLIGATION NECESSARY
12 OR DESIRABLE TO VEST TITLE TO ANY PART OF THE PROJECT IN THE CORPORATION OR
13 OTHER OWNER;

14 (5) THE COST OF ANY PROPERTY, RIGHT, EASEMENT, FRANCHISE, AND
15 PERMIT;

16 (6) THE COST OF LABOR AND EQUIPMENT;

17 (7) FINANCING CHARGES;

18 (8) INTEREST BEFORE AND DURING CONSTRUCTION AND, IF THE
19 CORPORATION DETERMINES, FOR A LIMITED PERIOD AFTER THE COMPLETION OF
20 CONSTRUCTION;

21 (9) RESERVES FOR PRINCIPAL AND INTEREST AND FOR IMPROVEMENTS;

22 (10) THE COST OF REVENUE AND COST ESTIMATES, ENGINEERING AND LEGAL
23 SERVICES, PLANS, SPECIFICATIONS, STUDIES, SURVEYS, DEMONSTRATIONS, AND OTHER
24 EXPENSES NECESSARY OR INCIDENT TO DETERMINING THE FEASIBILITY OF AN
25 ACQUISITION OR IMPROVEMENT;

26 (11) ADMINISTRATIVE EXPENSES; AND

27 (12) OTHER EXPENSES AS NECESSARY OR INCIDENT TO:

28 (I) FINANCING A PROJECT;

29 (II) ACQUIRING AND IMPROVING A PROJECT;

30 (III) PLACING A PROJECT IN OPERATION BY THE CORPORATION OR
31 OTHER OWNER, INCLUDING REASONABLE PROVISION FOR WORKING CAPITAL; AND

1 (IV) OPERATING AND MAINTAINING A PROJECT.

2 REVISOR'S NOTE: This subsection is new language derived without
3 substantive change from former Art. 83A, § 5–201(d).

4 In item (2) of this subsection, the former reference to a “portion of” an
5 interest in a project is deleted for brevity. Similarly, in item (4) of this
6 subsection, the former reference to “title to the project” is deleted as
7 included in the reference to “any part of the project”.

8 Also in item (2) of this subsection, the words “in a project” are added for
9 clarity.

10 In item (6) of this subsection, the former reference to “machinery” is
11 deleted as redundant of the reference to “equipment”.

12 Defined terms: “Corporation” § 10–101

13 “Finance” § 10–101

14 “Improve” § 10–101

15 “Improvement” § 10–101

16 “Project” § 10–101

17 (F) FINANCE.

18 “FINANCE” INCLUDES REFINANCE.

19 REVISOR'S NOTE: This subsection is new language added to avoid repetition
20 of the phrase “finance or refinance” and its variants and for consistency
21 within this title.

22 (G) GOVERNMENTAL UNIT.

23 “GOVERNMENTAL UNIT” MEANS A COUNTY, MUNICIPAL CORPORATION, UNIT OF
24 STATE OR LOCAL GOVERNMENT, OR OTHER PUBLIC BODY CREATED UNDER STATE OR
25 LOCAL LAW.

26 REVISOR'S NOTE: This subsection is new language derived without
27 substantive change from former Art. 83A, § 5–201(g), which defined
28 “[p]olitical subdivision”.

29 Defined terms: “County” § 9–101

30 “State” § 9–101

31 (H) IMPROVE.

32 “IMPROVE” MEANS TO ADD, ALTER, CONSTRUCT, EQUIP, EXPAND, EXTEND,
33 IMPROVE, INSTALL, RECONSTRUCT, REHABILITATE, REMODEL, OR REPAIR.

34 REVISOR'S NOTE: This subsection is new language added for brevity and
35 clarity.

1 (I) IMPROVEMENT.

2 “IMPROVEMENT” MEANS ADDITION, ALTERATION, CONSTRUCTION, EQUIPPING,
3 EXPANSION, EXTENSION, IMPROVEMENT, INSTALLATION, RECONSTRUCTION,
4 REHABILITATION, REMODELING, OR REPAIR.

5 REVISOR’S NOTE: This subsection is new language added for brevity and
6 clarity.

7 (J) PERSON.

8 (1) “PERSON” HAS THE MEANING STATED IN § 9–101 OF THIS ARTICLE.

9 (2) “PERSON” ALSO INCLUDES:

10 (I) A PERSON THAT IS CREATED, OWNED, OR CONTROLLED BY THE
11 CORPORATION OR OF WHICH THE CORPORATION IS A MEMBER;

12 (II) A FOR–PROFIT OR NOT–FOR–PROFIT ENTITY; AND

13 (III) A GOVERNMENTAL UNIT.

14 REVISOR’S NOTE: This subsection is new language derived without
15 substantive change from former Art. 83A, § 5–201(f).

16 Defined terms: “Corporation” § 10–101

17 “Person” § 9–101

18 (K) PROJECT.

19 (1) “PROJECT” MEANS ANY PROPERTY, THE ACQUISITION OR IMPROVEMENT
20 OF WHICH THE BOARD, IN ITS SOLE DISCRETION, DETERMINES BY RESOLUTION WILL
21 ACCOMPLISH AT LEAST ONE OF THE LEGISLATIVE PURPOSES LISTED IN § 10–104(B) OF
22 THIS SUBTITLE, WHETHER OR NOT THE PROPERTY:

23 (I) IS OR WILL BE USED OR OPERATED FOR PROFIT OR NOT FOR
24 PROFIT;

25 (II) IS OR WILL BE LOCATED ON A SINGLE SITE OR MULTIPLE SITES; OR

26 (III) MAY BE FINANCED BY BONDS, THE INTEREST ON WHICH IS EXEMPT
27 FROM INCOME TAXATION UNDER FEDERAL LAW.

28 (2) “PROJECT” INCLUDES:

29 (I) LAND OR AN INTEREST IN LAND;

30 (II) STRUCTURES, EQUIPMENT, FURNISHINGS, RAIL OR MOTOR
31 VEHICLES, BARGES, AND BOATS;

1 (III) PROPERTY AND RIGHTS RELATED TO THE PROPERTY,
2 APPURTENANCES, RIGHTS—OF—WAY, FRANCHISES, AND EASEMENTS;

3 (IV) PROPERTY THAT IS FUNCTIONALLY RELATED AND SUBORDINATE TO
4 PROPERTY DESCRIBED IN THIS SUBSECTION; AND

5 (V) PATENTS, LICENSES, AND OTHER RIGHTS NECESSARY OR USEFUL
6 IN THE IMPROVEMENT OR OPERATION OF A PROJECT.

7 REVISOR’S NOTE: This subsection is new language derived without
8 substantive change from former Art. 83A, § 5–201(h)(1) and (2).

9 In the introductory language of paragraph (1) of this subsection, the former
10 reference to a “find[ing]” is deleted in light of the reference to a
11 “determin[ation]”.

12 In paragraph (1)(iii) of this subsection, the former reference to “federal”
13 income taxation is deleted in light of the reference to “federal law”.

14 In paragraph (2)(ii) of this subsection, the former reference to “buildings” is
15 deleted as included in the reference to “structures”.

16 In paragraph (2)(iii) of this subsection, the former references to “real or
17 personal” property “or any combination of them” are deleted as included in
18 the comprehensive reference to “property”.

19 Also in paragraph (2)(iii) of this subsection, the former reference to “other
20 interests in land” is deleted as redundant to paragraph (2)(i) of this
21 subsection.

22 Former Art. 83A, § 5–201(h)(3), which defined an exception to the defined
23 term “project”, is revised as a scope provision. *See* § 10–103 of this subtitle.

24 Defined terms: “Board” § 10–101

25 “Bond” § 10–101

26 “Improvement” § 10–101

27 (L) REVENUES.

28 (1) “REVENUES” MEANS THE INCOME, REVENUE, AND OTHER MONEY THE
29 CORPORATION RECEIVES FROM OR IN CONNECTION WITH A PROJECT, AND ALL OTHER
30 INCOME OF THE CORPORATION, SUBJECT TO § 10–115(11) OF THIS SUBTITLE.

31 (2) “REVENUES” INCLUDES GRANTS, RENTALS, RATES, FEES, AND CHARGES
32 FOR THE USE OF THE SERVICES FURNISHED OR AVAILABLE.

33 REVISOR’S NOTE: This subsection is new language derived without
34 substantive change from former Art. 83A, § 5–201(i), as it defined
35 “revenues”.

36 In paragraph (1) of this subsection, the word “means” is substituted for the

1 former word “includes” to reflect that paragraph (1) of this subsection is
2 intended to be an exhaustive definition of the word “revenues”.

3 As to the power of the Corporation to further define or limit the term
4 “revenues”, *see* § 10–115(11) of this subtitle.

5 As to the inclusion of certain proceeds and investment income in project
6 “revenues”, *see* § 10–123(b)(2)(ii) of this subtitle.

7 Defined terms: “Corporation” § 10–101
8 “Project” § 10–101

9 REVISOR’S NOTE TO SECTION: Former Art. 83A, § 5–201(e), which defined
10 “includes or including”, is deleted as duplicative in light of Art. 1, § 30 to
11 the same effect.

12 10–102. CONSTRUCTION OF SUBTITLE.

13 THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO ACCOMPLISH ITS PURPOSES.

14 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–217.

15 The only change is in style.

16 10–103. SCOPE OF SUBTITLE.

17 A PROJECT FINANCED UNDER THIS SUBTITLE MAY NOT INCLUDE PROPERTY THAT IS
18 ELIGIBLE TO BE FINANCED UNDER SUBTITLE 3 OF THIS TITLE IF ANY BONDS ISSUED
19 UNDER THIS SUBTITLE TO FINANCE THE PROPERTY WOULD BE PAYABLE OR GUARANTEED,
20 DIRECTLY OR INDIRECTLY, BY AN “EDUCATIONAL INSTITUTION” OR A “HEALTH CARE
21 INSTITUTION” AS THOSE TERMS ARE DEFINED IN § 10–301 OF THIS TITLE.

22 REVISOR’S NOTE: This section is new language derived without substantive
23 change from former Art. 83A, § 5–201(h)(3).

24 It is revised as a scope provision rather than as an exception to a definition
25 for clarity and accuracy.

26 Defined terms: “Bond” § 10–101
27 “Finance” § 10–101
28 “Project” § 10–101

29 10–104. LEGISLATIVE FINDINGS; PURPOSES; INTENT.

30 (A) FINDINGS.

31 THE GENERAL ASSEMBLY FINDS THAT:

32 (1) THE STATE’S ECONOMY CONTINUES TO EXPERIENCE TECHNOLOGICAL
33 CHANGE AND RESTRUCTURING;

1 (2) TECHNOLOGICAL CHANGE MAY RESULT IN ECONOMIC CONTRACTION AND
2 DISLOCATION, BUT AFFORDS OPPORTUNITIES TO EXPAND PRODUCTIVE EMPLOYMENT AND
3 EXPAND THE STATE’S ECONOMY AND TAX BASE;

4 (3) THE ESTABLISHMENT OF A PUBLIC CORPORATION TO ACQUIRE OR
5 IMPROVE PROJECTS:

6 (i) SERVES THE PUBLIC INTEREST BY ACCOMPLISHING ONE OR MORE
7 OF THE CORPORATION’S LEGISLATIVE PURPOSES LISTED IN SUBSECTION (B) OF THIS
8 SECTION; AND

9 (ii) COMPLEMENTS EXISTING STATE MARKETING PROGRAMS
10 ADMINISTERED BY THE DEPARTMENT AND THROUGH THE DEPARTMENT’S FINANCIAL
11 ASSISTANCE PROGRAMS INCLUDING THE MARYLAND INDUSTRIAL DEVELOPMENT
12 FINANCING AUTHORITY AND THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE
13 AUTHORITY UNDER TITLE 5 OF THIS ARTICLE; AND

14 (4) THE STATE LACKS AND NEEDS DIRECT PROPERTY DEVELOPMENT
15 CAPABILITY FOR ECONOMIC DEVELOPMENT PURPOSES.

16 (b) PURPOSES.

17 THE LEGISLATIVE PURPOSES OF THE CORPORATION ARE TO:

18 (1) RELIEVE UNEMPLOYMENT IN THE STATE;

19 (2) ENCOURAGE THE INCREASE OF BUSINESS ACTIVITY AND COMMERCE AND
20 A BALANCED ECONOMY IN THE STATE;

21 (3) HELP RETAIN AND ATTRACT BUSINESS ACTIVITY AND COMMERCE IN THE
22 STATE;

23 (4) PROMOTE ECONOMIC DEVELOPMENT; AND

24 (5) PROMOTE THE HEALTH, SAFETY, RIGHT OF GAINFUL EMPLOYMENT, AND
25 WELFARE OF RESIDENTS OF THE STATE.

26 (c) INTENT.

27 THE GENERAL ASSEMBLY INTENDS THAT:

28 (1) THE CORPORATION OPERATE AND EXERCISE ITS CORPORATE POWERS IN
29 ALL AREAS OF THE STATE;

30 (2) WITHOUT LIMITING ITS AUTHORITY TO OTHERWISE EXERCISE ITS
31 CORPORATE POWERS, THE CORPORATION EXERCISE ITS CORPORATE POWERS TO ASSIST
32 GOVERNMENTAL UNITS AND STATE AND LOCAL ECONOMIC DEVELOPMENT AGENCIES TO
33 CONTRIBUTE TO THE EXPANSION, MODERNIZATION, AND RETENTION OF EXISTING
34 ENTERPRISES IN THE STATE AS WELL AS THE ATTRACTION OF NEW BUSINESS TO THE
35 STATE;

1 (3) THE CORPORATION COOPERATE WITH WORKFORCE INVESTMENT
 2 BOARDS, PRIVATE INDUSTRY COUNCILS, REPRESENTATIVES OF LABOR, AND
 3 GOVERNMENTAL UNITS IN MAXIMIZING NEW ECONOMIC OPPORTUNITIES FOR RESIDENTS
 4 OF THE STATE;

5 (4) THE CORPORATION ACCOMPLISH AT LEAST ONE OF THE PURPOSES
 6 LISTED IN SUBSECTION (B) OF THIS SECTION AND COMPLEMENT EXISTING STATE
 7 MARKETING AND FINANCIAL ASSISTANCE PROGRAMS BY:

8 (I) OWNING PROJECTS;

9 (II) LEASING PROJECTS TO OTHER PERSONS; OR

10 (III) LENDING THE PROCEEDS OF BONDS TO OTHER PERSONS TO
 11 FINANCE THE COSTS OF ACQUIRING OR IMPROVING PROJECTS THAT THE PERSONS OWN
 12 OR WILL OWN; AND

13 (5) THE CORPORATION NOT OWN AND OPERATE A PROJECT UNLESS:

14 (I) THE BOARD DETERMINES BY RESOLUTION THAT THE PRIVATE
 15 SECTOR HAS NOT DEMONSTRATED SERIOUS AND SIGNIFICANT INTEREST AND
 16 DEVELOPMENT CAPACITY TO OWN AND OPERATE THE PROJECT; OR

17 (II) A REPRESENTATIVE OF A GOVERNMENTAL UNIT REQUESTS IN
 18 WRITING THAT THE CORPORATION OWN AND OPERATE THE PROJECT.

19 REVISOR'S NOTE: This section is new language derived without substantive
 20 change from former Art. 83A, § 5–202.

21 In the introductory language of subsection (a) of this section, the former
 22 reference to “declar[ing]” is deleted as included in the reference to
 23 “find[ing]”.

24 In subsection (b)(5) of this section, the former reference to “each of the
 25 counties and municipalities” of the State is deleted as unnecessary.

26 In subsection (c)(3) of this section, the reference to “workforce investment
 27 boards” is added to supplement the archaic reference to “private industry
 28 councils” for accuracy.

29 In subsection (c)(4)(ii) of this section, the former reference to “owning” a
 30 project is deleted as redundant of subsection (c)(4)(i) of this section.

31 In subsection (c)(5)(ii) of this section, the former reference to a “designated
 32 agency or instrumentality” is deleted as included in the defined term
 33 “governmental unit”.

34 Defined terms: “Board” § 10–101

35 “Corporation” § 10–101

36 “Department” § 9–101

37 “Finance” § 10–101

- 1 “Governmental unit” § 10–101
2 “Improve” § 10–101
3 “Person” §§ 9–101, 10–101
4 “Project” § 10–101
5 “State” § 9–101

6 10–105. ESTABLISHED.

7 (A) IN GENERAL.

8 THERE IS A MARYLAND ECONOMIC DEVELOPMENT CORPORATION.

9 (B) STATUS.

10 THE CORPORATION IS A BODY POLITIC AND CORPORATE AND IS AN
11 INSTRUMENTALITY OF THE STATE.

12 (C) ESSENTIAL GOVERNMENTAL FUNCTION.

13 THE EXERCISE BY THE CORPORATION OF A POWER UNDER THIS SUBTITLE IS THE
14 PERFORMANCE OF AN ESSENTIAL GOVERNMENTAL FUNCTION.

15 REVISOR’S NOTE: This section is new language derived without substantive
16 change from former Art. 83A, § 5–203(a).

17 In subsection (b) of this section, the former reference to a “public”
18 instrumentality is deleted as implicit in the reference to a “body politic and
19 corporate”.

20 No substantive change is intended.

21 Defined terms: “Corporation” § 10–101
22 “State” § 9–101

23 10–106. BOARD OF DIRECTORS.

24 (A) IN GENERAL.

25 A BOARD OF DIRECTORS SHALL MANAGE THE CORPORATION AND EXERCISE ITS
26 POWERS.

27 (B) COMPOSITION; APPOINTMENT OF MEMBERS.

28 THE BOARD CONSISTS OF THE FOLLOWING 12 MEMBERS:

29 (1) AS EX OFFICIO VOTING MEMBERS:

30 (I) THE SECRETARY; AND

31 (II) THE SECRETARY OF TRANSPORTATION; AND

1 (2) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR WITH THE
2 ADVICE AND CONSENT OF THE SENATE:

3 (I) TWO REPRESENTATIVES OF LOCAL GOVERNMENT;

4 (II) THREE MEMBERS WHO ARE KNOWLEDGEABLE IN REAL ESTATE OR
5 COMMERCIAL FINANCING;

6 (III) THREE MEMBERS WHO ARE KNOWLEDGEABLE IN INDUSTRIAL
7 DEVELOPMENT OR INDUSTRIAL RELATIONS; AND

8 (IV) TWO MEMBERS OF THE GENERAL PUBLIC.

9 (C) QUALIFICATIONS.

10 EACH MEMBER OF THE BOARD SHALL BE A RESIDENT OF THE STATE.

11 (D) DIVERSITY.

12 IN APPOINTING BOARD MEMBERS, THE GOVERNOR SHALL CONSIDER GEOGRAPHIC
13 DIVERSITY AND MINORITY REPRESENTATION.

14 (E) TENURE; VACANCIES.

15 (1) THE TERM OF AN APPOINTED MEMBER IS 4 YEARS.

16 (2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS
17 REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1,
18 2008.

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

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

23 (F) OATH.

24 BEFORE TAKING OFFICE, EACH MEMBER APPOINTED TO THE BOARD SHALL TAKE
25 THE OATH REQUIRED BY ARTICLE 1, § 9 OF THE MARYLAND CONSTITUTION.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 83A, § 5–203(b).

28 In subsection (d) of this section, the reference to geographic “diversity” is
29 substituted for the former reference to geographic “balance” for consistency
30 within this article. No substantive change is intended.

31 In subsection (e)(1) and (2) of this section, the references to “appointed”
32 members are added for clarity to distinguish between appointed members
33 and ex officio members. Correspondingly, in subsection (e)(2) of this

1 section, the former phrase “excluding an ex officio member” is deleted.

2 In subsection (e)(2) of this section, the reference to terms being staggered
3 as required by the terms provided for appointed Board members on
4 “October 1, 2008” is substituted for the former obsolete reference to terms
5 being staggered as required by the terms provided on “July 1, 1984”. This
6 substitution is not intended to alter the term of any member of the Board.
7 *See* § 13 of Ch. _____, Acts of 2008. The terms of the members serving on
8 October 1, 2008 end as follows: (1) three on June 30, 2010; (2) three on
9 June 30, 2011; and (3) four on June 30, 2012.

10 Subsection (f) of this section is restated in standard language for clarity
11 and consistency with other revised articles of the Code.

12 Defined terms: “Board” § 10–101

13 “Corporation” § 10–101

14 “Secretary” § 9–101

15 “State” § 9–101

16 10–107. OFFICERS.

17 FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR, A VICE CHAIR,
18 AND A TREASURER.

19 REVISOR’S NOTE: This section is new language derived without substantive
20 change from the first sentence of former Art. 83A, § 5–203(c).

21 The references to a “chair” and “vice chair” are substituted for the former
22 references to a “chairman” and “vice chairman” because SG § 2–1238
23 requires the use of words that are neutral as to gender to the extent
24 practicable. *See* General Revisor’s Note to article.

25 The Economic Development Article Review Committee notes, for the
26 consideration of the General Assembly, that this section lacks a standard
27 provision authorizing the Board to determine the manner of election of
28 officers and their terms of office. The General Assembly may wish to
29 address this matter in substantive legislation.

30 Defined term: “Board” § 10–101

31 10–108. QUORUM.

32 (A) IN GENERAL.

33 SEVEN MEMBERS OF THE BOARD ARE A QUORUM.

34 (B) VOTING.

35 AN AFFIRMATIVE VOTE OF AT LEAST SEVEN MEMBERS IS NEEDED FOR THE BOARD
36 TO ACT.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from the second sentence of former Art. 83A, § 5–203(c).

3 The third sentence of former Art. 83A, § 5–203(c), which provided that a
4 vacancy on the Board did not impair the right of the Board to act, is deleted
5 as an unnecessary elaboration of subsection (a)(2) of this section.

6 The Economic Development Article Review Committee notes, for the
7 consideration of the General Assembly, that this section lacks a provision
8 authorizing the Board to determine the times and places of its meetings.
9 The General Assembly may wish to address this matter in substantive
10 legislation.

11 Defined term: “Board” § 10–101

12 10–109. EXECUTIVE DIRECTOR.

13 (A) POSITION; TENURE; SALARY.

14 (1) SUBJECT TO THE APPROVAL OF THE GOVERNOR, THE BOARD SHALL
15 APPOINT AN EXECUTIVE DIRECTOR.

16 (2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE BOARD.

17 (3) THE BOARD SHALL DETERMINE THE SALARY OF THE EXECUTIVE
18 DIRECTOR.

19 (B) ADMINISTRATIVE OFFICER.

20 (1) THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE OFFICER OF
21 THE CORPORATION.

22 (2) THE EXECUTIVE DIRECTOR SHALL MANAGE THE ADMINISTRATIVE
23 AFFAIRS AND TECHNICAL ACTIVITIES OF THE CORPORATION IN ACCORDANCE WITH
24 POLICIES AND PROCEDURES THAT THE BOARD ESTABLISHES.

25 (C) DUTIES.

26 THE EXECUTIVE DIRECTOR, OR THE EXECUTIVE DIRECTOR'S DESIGNEE, SHALL:

27 (1) ATTEND ALL MEETINGS OF THE BOARD;

28 (2) ACT AS SECRETARY OF THE BOARD;

29 (3) KEEP MINUTES OF ALL PROCEEDINGS OF THE BOARD;

30 (4) APPROVE ALL SALARIES, PER DIEM PAYMENTS, AND ALLOWABLE
31 EXPENSES OF THE CORPORATION, ITS EMPLOYEES AND ITS CONSULTANTS;

32 (5) APPROVE ANY EXPENSES INCIDENTAL TO THE OPERATION OF THE
33 CORPORATION; AND

1 (6) PERFORM THE OTHER DUTIES THAT THE BOARD DIRECTS IN CARRYING
2 OUT THIS SUBTITLE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 83A, § 5–204(a) and (b).

5 In subsection (b)(2) of this section, the reference to “manag[ing]” is
6 substituted for the former reference to “direct[ing] and supervis[ing]” for
7 brevity and consistency within this article.

8 Defined terms: “Board” § 10–101
9 “Corporation” § 10–101

10 10–110. STAFF; CONSULTANTS.

11 (A) STAFF.

12 THE BOARD SHALL EMPLOY ANY ADDITIONAL PROFESSIONAL AND CLERICAL STAFF
13 AS NECESSARY TO CARRY OUT THIS SUBTITLE.

14 (B) CONSULTANTS.

15 THE BOARD MAY RETAIN ACCOUNTANTS, ENGINEERS, LAWYERS, FINANCIAL
16 ADVISORS, OR OTHER CONSULTANTS AS NECESSARY.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 83A, § 5–204(d) and the first sentence of (c).

19 Defined term: “Board” § 10–101

20 10–111. APPLICABILITY OF LAWS.

21 (A) STATE LAWS — IN GENERAL.

22 (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IN EXERCISING ITS
23 POWERS, THE CORPORATION:

24 (I) MAY CARRY OUT ITS CORPORATE PURPOSES WITHOUT THE
25 CONSENT OF ANY STATE UNIT; AND

26 (II) IS NOT SUBJECT TO:

27 1. TITLE 12, SUBTITLES 1 THROUGH 3 OF THIS ARTICLE;

28 2. THE FOLLOWING PROVISIONS OF THE STATE FINANCE AND
29 PROCUREMENT ARTICLE:

30 A. TITLE 2, SUBTITLES 2 (GIFTS AND GRANTS), 4 (WATER
31 AND SEWERAGE SYSTEMS), AND 5 (FACILITIES FOR THE HANDICAPPED);

32 B. TITLE 3 (BUDGET AND MANAGEMENT);

1 C. TITLE 4 (DEPARTMENT OF GENERAL SERVICES);

2 D. TITLE 5A (DIVISION OF HISTORICAL AND CULTURAL
3 PROGRAMS);

4 E. TITLE 6, SUBTITLE 1 (STUDIES AND ESTIMATES);

5 F. TITLE 7, SUBTITLES 1 (STATE OPERATING BUDGET), 2
6 (DISBURSEMENTS AND EXPENDITURES), AND 3 (UNSPENT BALANCES);

7 G. §§ 8–127, 8–128, AND 8–129 (CERTAIN RESTRICTIONS
8 ON STATE GENERAL OBLIGATION BONDS);

9 H. TITLE 8, SUBTITLE 1, PART V (STATE REVENUE
10 ANTICIPATION NOTES);

11 I. TITLE 10 (BOARD OF PUBLIC WORKS – MISCELLANEOUS
12 PROVISIONS); AND

13 J. DIVISION II (GENERAL PROCUREMENT LAW);

14 3. THE FOLLOWING PROVISIONS OF THE STATE GOVERNMENT
15 ARTICLE:

16 A. TITLE 9, SUBTITLES 10 (STATE ARCHIVES AND ARTISTIC
17 PROPERTY) AND 17 (MARYLAND STATE EMPLOYEES SURETY BOND COMMITTEE);

18 B. §§ 10–505 AND 10–507 (CERTAIN OPEN MEETINGS
19 PROVISIONS); AND

20 C. TITLE 11 (CONSOLIDATED PROCEDURES FOR
21 DEVELOPMENT PERMITS); AND

22 4. ARTICLE 41 OF THE CODE.

23 (2) THE CORPORATION IS SUBJECT TO THE PUBLIC INFORMATION ACT.

24 (B) STATE LAWS — ETHICS; PERSONNEL; PENSIONS.

25 (1) THE CORPORATION, ITS OFFICERS, AND ITS EMPLOYEES ARE SUBJECT
26 TO THE PUBLIC ETHICS LAW.

27 (2) THE OFFICERS AND EMPLOYEES OF THE CORPORATION ARE NOT
28 SUBJECT TO:

29 (I) DIVISION II OF THE STATE PERSONNEL AND PENSIONS ARTICLE;
30 OR

31 (II) THE PROVISIONS OF DIVISION I OF THE STATE PERSONNEL AND
32 PENSIONS ARTICLE THAT GOVERN THE STATE PERSONNEL MANAGEMENT SYSTEM.

1 (C) PUBLIC BODY.

2 FOR PURPOSES OF MAKING AGREEMENTS IN CONNECTION WITH LOANS, GRANTS,
3 INSURANCE, OR OTHER FINANCIAL ASSISTANCE, THE CORPORATION IS A PUBLIC BODY
4 UNDER TITLE 5, SUBTITLE 4 OF THIS ARTICLE, THE MARYLAND INDUSTRIAL
5 DEVELOPMENT FINANCING AUTHORITY ACT.

6 (D) REGULATORY REQUIREMENTS.

7 THE CORPORATION IS SUBJECT TO THE SAME STATE AND LOCAL REGULATORY
8 REQUIREMENTS AS ANY PRIVATE CORPORATION.

9 (E) ZONING.

10 A PROJECT OF THE CORPORATION IS SUBJECT TO THE ZONING AND SUBDIVISION
11 REGULATIONS OF THE JURISDICTION WHERE IT IS LOCATED.

12 (F) PROCUREMENT.

13 THE CORPORATION, ITS OFFICERS, AND ITS EMPLOYEES ARE SUBJECT TO TITLE
14 12, SUBTITLE 4 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 83A, §§ 5–214 and 5–204 (c)(1), (2), and the second
17 sentence of the introductory language of (c).

18 In subsection (a)(1)(ii)1 of this section, the reference to “Title 12, Subtitles
19 1 through 3 of this article” is added to reflect the incorporation of pertinent
20 material derived from Article 41 into this article.

21 In subsection (a)(1)(ii)3B of this section, the reference to SG “§§ 10–505
22 and 10–507” is substituted for the former reference to SG “§ 10–507” to
23 reflect accurately the scope of exemption of the Compliance Board. *See* 4
24 Off. Op. Comp. Bd. 88, 93 (2004).

25 In subsection (a)(1)(ii) of this section, several provisions which appeared at
26 one time or another in Article 41 either when the Corporation was first
27 established or in subsequent years have not been included in the list of
28 provisions from which the Corporation is exempt because they were
29 considered not to be germane to the Corporation. *See, e.g.*, SFP §§ 5–310
30 and 5–311.

31 Also in subsection (a)(1)(ii) of this section, the former obsolete reference to
32 “Article 78A of the Code” is deleted for accuracy.

33 In subsection (d) of this section, the former phrase “[n]otwithstanding the
34 provisions of subsection (a)” is deleted as unnecessary and to avoid the
35 creation of interlocking exceptions.

36 Defined terms: “Corporation” § 10–101

37 “Project” § 10–101

38 “State” § 9–101

1 10–112. FINDINGS OF BOARD.

2 A FINDING BY THE BOARD CONCERNING THE PUBLIC PURPOSE OF AN ACTION, THE
3 LEGISLATIVE INTENT EXPRESSED UNDER THIS SUBTITLE, OR THE APPROPRIATENESS OF
4 THE ACTION IN SERVING THE PUBLIC PURPOSE AND SATISFYING THE LEGISLATIVE INTENT
5 IS CONCLUSIVE IN A PROCEEDING THAT INVOLVES THE VALIDITY OR ENFORCEABILITY OF:

6 (1) AN AGREEMENT ENTERED INTO BY THE CORPORATION UNDER THIS
7 SUBTITLE;

8 (2) A BOND; OR

9 (3) ANY SECURITY RELATING TO A BOND.

10 REVISOR’S NOTE: This section is new language derived without substantive
11 change from former Art. 83A, § 5–215.

12 In the introductory language of this section, the former references to a
13 “suit [or] action” is deleted as included in the comprehensive references to
14 a “proceeding”.

15 Defined terms: “Board” § 10–101

16 “Bond” § 10–101

17 “Corporation” § 10–101

18 10–113. ACCOUNTING; FISCAL YEAR.

19 (A) ACCOUNTING.

20 THE CORPORATION SHALL ESTABLISH A SYSTEM OF FINANCIAL ACCOUNTING,
21 CONTROLS, AUDITS, AND REPORTS.

22 (B) FISCAL YEAR.

23 THE FISCAL YEAR OF THE CORPORATION BEGINS ON JULY 1 AND ENDS ON THE
24 FOLLOWING JUNE 30.

25 REVISOR’S NOTE: This section is new language derived without substantive
26 change from former Art. 83A, § 5–212(c).

27 Defined term: “Corporation” § 10–101

28 10–114. MONEY OF CORPORATION.

29 (A) FUNDS.

30 THE CORPORATION MAY CREATE AND ADMINISTER THE ACCOUNTS THAT IT
31 REQUIRES.

32 (B) DEPOSIT OF MONEY.

1 THE CORPORATION SHALL DEPOSIT ITS MONEY INTO A STATE OR NATIONAL BANK
2 OR A FEDERALLY INSURED SAVINGS AND LOAN ASSOCIATION THAT HAS A TOTAL PAID-IN
3 CAPITAL OF AT LEAST \$1,000,000.

4 (C) DEPOSITORY DESIGNEES.

5 THE CORPORATION MAY DESIGNATE THE TRUST DEPARTMENT OF A STATE BANK,
6 NATIONAL BANK, OR SAVINGS AND LOAN ASSOCIATION AS A DEPOSITORY TO RECEIVE
7 SECURITIES THAT THE CORPORATION OWNS OR ACQUIRES.

8 (D) ALLOWED INVESTMENTS.

9 UNLESS AN AGREEMENT OR COVENANT BETWEEN THE CORPORATION AND THE
10 HOLDERS OF ITS OBLIGATIONS LIMITS CLASSES OF INVESTMENTS, THE CORPORATION
11 MAY INVEST ITS MONEY IN BONDS OR OTHER OBLIGATIONS OF, OR GUARANTEED AS TO
12 PRINCIPAL AND INTEREST BY, THE UNITED STATES, THE STATE, OR A GOVERNMENTAL
13 UNIT.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 83A, § 5–212(a) and (b).

16 In subsection (b) of this section, the former reference to a “State” insured
17 savings and loan association is deleted as obsolete.

18 Defined terms: “Corporation” § 10–101

19 “Governmental unit” § 10–101

20 “State” § 9–101

21 10–115. POWERS — IN GENERAL.

22 THE CORPORATION MAY:

23 (1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;

24 (2) ADOPT A SEAL;

25 (3) MAINTAIN OFFICES AT A PLACE IT DESIGNATES IN THE STATE;

26 (4) ACCEPT LOANS, GRANTS, OR ASSISTANCE OF ANY KIND FROM THE
27 FEDERAL GOVERNMENT, A GOVERNMENTAL UNIT, OR A PRIVATE SOURCE;

28 (5) ENTER INTO CONTRACTS AND OTHER LEGAL INSTRUMENTS;

29 (6) SUE AND BE SUED IN ITS OWN NAME;

30 (7) ACQUIRE, PURCHASE, HOLD, LEASE AS LESSEE, AND USE ANY
31 FRANCHISE, PATENT, OR LICENSE AND REAL, PERSONAL, MIXED, TANGIBLE, OR
32 INTANGIBLE PROPERTY, OR ANY INTEREST IN PROPERTY, NECESSARY OR CONVENIENT TO
33 CARRY OUT ITS PURPOSES;

1 (8) SELL, LEASE AS LESSOR, TRANSFER, AND DISPOSE OF ITS PROPERTY OR
2 INTEREST IN PROPERTY;

3 (9) FIX AND COLLECT RATES, RENTALS, FEES, AND CHARGES FOR SERVICES
4 AND FACILITIES IT PROVIDES OR MAKES AVAILABLE;

5 (10) WITH THE OWNER'S PERMISSION, ENTER LANDS, WATERS, OR PREMISES
6 TO MAKE A SURVEY, SOUNDING, BORING, OR EXAMINATION TO ACCOMPLISH A PURPOSE
7 AUTHORIZED BY THIS SUBTITLE;

8 (11) FURTHER DEFINE OR LIMIT THE TERM "REVENUES" DEFINED IN §
9 10–101 OF THIS SUBTITLE AS THE TERM APPLIES TO A PARTICULAR PROJECT,
10 FINANCING, OR OTHER MATTER;

11 (12) CREATE, OWN, CONTROL, OR BE A MEMBER OF A CORPORATION, LIMITED
12 LIABILITY COMPANY, PARTNERSHIP, OR OTHER PERSON, WHETHER FOR–PROFIT OR
13 NOT–FOR–PROFIT;

14 (13) EXERCISE A POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN
15 PERFORMING SIMILAR FUNCTIONS UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW;
16 AND

17 (14) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE
18 POWERS EXPRESSLY GRANTED BY THIS SUBTITLE.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 83A, §§ 5–205(1) through (6), (8), (9), (13), (14),
21 and (16) through (18) and, as it authorized the Corporation to define or
22 limit "revenues", 5–201(i).

23 In item (5) of this section, the reference to "enter[ing]" into a contract is
24 substituted for the former reference to "mak[ing], execut[ing], and
25 enter[ing]" into a contract for brevity.

26 In item (8) of this section, the former phrase "at any time acquired by it" is
27 deleted as unnecessary.

28 Defined terms: "Corporation" § 10–101

29 "Finance" § 10–101

30 "Governmental unit" § 10–101

31 "Person" §§ 9–101, 10–101

32 "Project" § 10–101

33 "Revenues" § 10–101

34 "State" § 9–101

35 10–116. POWERS — PROJECTS.

36 (A) IN GENERAL.

37 THE CORPORATION MAY:

1 (1) ACQUIRE, IMPROVE, DEVELOP, MANAGE, MARKET, MAINTAIN, LEASE AS
2 LESSOR OR AS LESSEE, AND OPERATE A PROJECT IN THE STATE;

3 (2) ACQUIRE, DIRECTLY OR THROUGH A PERSON OR GOVERNMENTAL UNIT,
4 BY PURCHASE, GIFT, OR DEVISE, PROPERTY, FRANCHISES, AND OTHER INTERESTS IN
5 LAND, INCLUDING LAND LYING UNDER WATER AND RIPARIAN RIGHTS, LOCATED IN OR
6 OUTSIDE THE STATE AS NECESSARY OR CONVENIENT TO IMPROVE OR OPERATE A
7 PROJECT, ON TERMS AND AT PRICES THAT THE CORPORATION CONSIDERS REASONABLE;

8 (3) IF APPROVED BY RESOLUTION BY AT LEAST A TWO–THIRDS MAJORITY OF
9 THE LEGISLATIVE BODY OF EACH GOVERNMENTAL UNIT IN WHICH THE PROPERTY IS
10 LOCATED, ACQUIRE REAL PROPERTY OR RIGHTS OR EASEMENTS IN REAL PROPERTY FOR A
11 PROJECT BY CONDEMNATION FOR PUBLIC USE IN ACCORDANCE WITH APPLICABLE LAW;
12 AND

13 (4) MAKE LOANS TO A PERSON TO:

14 (I) FINANCE ALL OR A PART OF THE ACQUISITION OR IMPROVEMENT
15 OF A PROJECT; AND

16 (II) REFUND OUTSTANDING BONDS, MORTGAGES, ADVANCES, LOANS,
17 OR OTHER OBLIGATIONS OF THE PERSON TO FINANCE ALL OR PART OF THE ACQUISITION
18 OR IMPROVEMENT OF A PROJECT.

19 (B) LIMITATION ON CONDEMNATION.

20 THE POWER OF CONDEMNATION OF THE CORPORATION UNDER SUBSECTION (A)(3)
21 OF THIS SECTION MAY NOT EXCEED THE POWER OF CONDEMNATION OF THE
22 GOVERNMENTAL UNIT IN WHICH THE PROPERTY IS LOCATED.

23 REVISOR’S NOTE: This section is new language derived without substantive
24 change from former Art. 83A, § 8–205(7), (10), (11), and (15).

25 In subsection (a)(2) of this section, the former reference to property
26 “whether real or personal, rights, rights–of–way, ... [and] easements,” is
27 deleted as included in the comprehensive reference to “property”.

28 Also in subsection (a)(2) of this section, the former reference to “structures”
29 is deleted as included in the comprehensive reference to “real or personal
30 property”.

31 In the introductory language of subsection (a)(4) of this section and in
32 subsection (a)(4)(ii) of this section, the former references to “persons” are
33 deleted in light of the reference to a “person” and Art. 1, § 8, which provides
34 that the singular generally includes the plural.

35 Defined terms: “Bond” § 10–101

36 “Corporation” § 10–101

37 “Finance” § 10–101

38 “Governmental unit” § 10–101

- 1 “Improve” § 10–101
 2 “Improvement” § 10–101
 3 “Person” §§ 9–101, 10–101
 4 “Project” § 10–101
 5 “State” § 9–101

6 10–117. POWERS — DEBT.

7 THE CORPORATION MAY:

- 8 (1) BORROW MONEY AND ISSUE BONDS TO FINANCE ANY PART OF THE COST
 9 OF A PROJECT OR FOR ANY OTHER CORPORATE PURPOSE OF THE CORPORATION;
- 10 (2) SECURE THE PAYMENT OF ANY PORTION OF THE BORROWING BY PLEDGE
 11 OF OR MORTGAGE OR DEED OF TRUST ON PROPERTY OR REVENUES OF THE
 12 CORPORATION;
- 13 (3) COMBINE PROJECTS FOR FINANCING, MAKE AGREEMENTS WITH OR FOR
 14 THE BENEFIT OF THE BONDHOLDERS OR WITH OTHERS IN CONNECTION WITH THE
 15 ISSUANCE OR FUTURE ISSUANCE OF BONDS, AS THE CORPORATION CONSIDERS
 16 ADVISABLE; AND
- 17 (4) OTHERWISE PROVIDE FOR THE SECURITY OF BONDS AND THE RIGHTS OF
 18 BONDHOLDERS.

19 REVISOR’S NOTE: This section is new language derived without substantive
 20 change from former Art. 83A, § 5–205(12).

21 In item (1) of this section, the reference to “a project” is substituted for the
 22 former reference to “any 1 or more projects” for brevity and in light of Art.
 23 1, § 8, which provides that the singular generally includes the plural.

24 Defined terms: “Bond” § 10–101
 25 “Corporation” § 10–101
 26 “Cost” § 10–101
 27 “Finance” § 10–101
 28 “Project” § 10–101

29 10–118. BONDS — IN GENERAL.

30 (A) RESOLUTION.

31 THE CORPORATION MAY AUTHORIZE THE ISSUANCE OF REVENUE BONDS BY
 32 RESOLUTION.

33 (B) TIMING.

34 THE CORPORATION MAY ISSUE THE BONDS AT ONE TIME OR IN ONE OR MORE
 35 SERIES FROM TIME TO TIME.

36 (C) TERMS AND CONDITIONS.

1 THE CORPORATION SHALL DETERMINE:

2 (1) THE DATE OF THE BONDS;

3 (2) THE MATURITY DATES OF THE BONDS, WHICH MAY NOT EXCEED 40
4 YEARS FROM THE DATE OF ISSUE;

5 (3) THE INTEREST RATES ON THE BONDS;

6 (4) THE MEDIUM OF PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE
7 BONDS;

8 (5) THE FORM OF THE BONDS;

9 (6) THE MANNER OF EXECUTING THE BONDS;

10 (7) THE DENOMINATIONS OF THE BONDS; AND

11 (8) THE PLACE AT WHICH THE PRINCIPAL OF AND INTEREST ON THE BONDS
12 WILL BE PAYABLE, INCLUDING AT A BANK OR TRUST COMPANY IN OR OUTSIDE THE
13 STATE.

14 (D) VALIDITY OF SIGNATURE.

15 AN OFFICER'S SIGNATURE OR FACSIMILE SIGNATURE ON A BOND REMAINS VALID
16 EVEN IF THE OFFICER LEAVES OFFICE BEFORE THE BOND IS DELIVERED.

17 (E) NEGOTIABILITY.

18 (1) BETWEEN SUCCESSIVE HOLDERS, BONDS ARE NEGOTIABLE
19 INSTRUMENTS UNDER TITLE 3 OF THE MARYLAND UNIFORM COMMERCIAL CODE.

20 (2) BONDS MAY BE REGISTRABLE.

21 (F) SALE.

22 (1) THE CORPORATION SHALL SELL THE BONDS BY COMPETITIVE OR
23 NEGOTIATED SALE IN A MANNER AND FOR A PRICE THE CORPORATION DETERMINES TO
24 BE IN ITS BEST INTERESTS.

25 (2) BONDS ARE EXEMPT FROM §§ 8–206 AND 8–208 OF THE STATE
26 FINANCE AND PROCUREMENT ARTICLE.

27 (G) ESCROW.

28 BOND PROCEEDS MAY BE PLACED IN ESCROW PENDING APPLICATION OF THE
29 PROCEEDS TO THE PURPOSES FOR WHICH THE BONDS ARE ISSUED.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 83A, § 5–206(a), (b), and (d) through (g).

1 In subsection (a) of this section, the former phrase “for the purpose of
2 financing or refinancing all or a part of the costs of a project, and for all
3 other lawful corporate purposes of the Corporation set out in the subtitle”
4 is deleted as redundant of § 10–117(1) of this subtitle.

5 In subsection (c)(3) of this section, the phrase “interest rates” is substituted
6 for the former reference to the “interest rate or rates” in light of Art. 1, § 8
7 which provides that the plural generally includes the singular. Similarly,
8 in subsection (c)(7) and (8) of this section, the former references to a
9 “denomination” and to “places” are deleted in light of the references to
10 “denominations” and a “place”.

11 In subsection (e) of this section, the statement that bonds “are negotiable
12 instruments” is substituted for the former statement that bonds “have and
13 are hereby declared to have ... all the qualities and incidents of negotiable
14 instruments” for brevity and clarity.

15 Also in subsection (e) of this section, the reference to “Title 3 of the
16 Maryland Uniform Commercial Code” is substituted for the former
17 reference to “the Negotiable Instruments Law of the Uniform Commercial
18 Code of this State” for clarity.

19 Defined terms: “Bond” § 10–101

20 “Corporation” § 10–101

21 “Cost” § 10–101

22 “Project” § 10–101

23 “State” § 9–101

24 10–119. BONDS — LEGAL INVESTMENTS.

25 BONDS ARE SECURITIES:

26 (1) IN WHICH ANY OF THE FOLLOWING PERSONS MAY LEGALLY AND
27 PROPERLY INVEST MONEY, INCLUDING CAPITAL THAT THE PERSON OWNS OR CONTROLS:

28 (I) AN OFFICER OF A GOVERNMENTAL UNIT;

29 (II) A BANK, TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION,
30 INVESTMENT COMPANY, OR OTHER PERSON OPERATING A BANKING BUSINESS;

31 (III) AN INSURANCE ASSOCIATION OR OTHER PERSON OPERATING AN
32 INSURANCE BUSINESS;

33 (IV) A PERSONAL REPRESENTATIVE, GUARDIAN, TRUSTEE, OR OTHER
34 FIDUCIARY; AND

35 (V) ANY OTHER PERSON; AND

36 (2) THAT MAY BE DEPOSITED WITH AND RECEIVED BY A GOVERNMENTAL
37 UNIT OR ANY OFFICER OF THE STATE OR A GOVERNMENTAL UNIT FOR ANY PURPOSE FOR

1 WHICH THE DEPOSIT OF BONDS OR OTHER OBLIGATIONS OF THE STATE IS AUTHORIZED
2 BY LAW.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 83A, § 5–209.

5 Defined terms: “Bond” § 10–101
6 “Corporation” § 10–101
7 “Governmental unit” § 10–101
8 “Person” §§ 9–101, 10–101
9 “State” § 9–101

10 10–120. BONDS — LIABILITY; FULL FAITH AND CREDIT.

11 (A) CONSTRUCTION OF SECTION.

12 (1) THIS SECTION DOES NOT PREVENT THE CORPORATION FROM PLEDGING
13 ITS FULL FAITH AND CREDIT TO THE PAYMENT OF A BOND.

14 (2) THIS SECTION DOES NOT LIMIT THE ABILITY OF THE STATE OR A
15 GOVERNMENTAL UNIT TO IMPOSE AND COLLECT AN ASSESSMENT, RATE, FEE, OR CHARGE
16 TO PAY TO THE CORPORATION ANY COST, INCLUDING THE PRINCIPAL OF AND INTEREST
17 ON A BOND, UNDER AN AGREEMENT BETWEEN THE CORPORATION AND THE STATE OR
18 GOVERNMENTAL UNIT.

19 (B) LIABILITY LIMITATIONS.

20 (1) A BOND:

21 (i) IS NOT A DEBT, LIABILITY, OR A PLEDGE OF THE FULL FAITH AND
22 CREDIT OF THE STATE OR A GOVERNMENTAL UNIT; AND

23 (ii) IS PAYABLE SOLELY FROM REVENUES PROVIDED UNDER THIS
24 SUBTITLE.

25 (2) THE ISSUANCE OF A BOND IS NOT DIRECTLY, INDIRECTLY, OR
26 CONTINGENTLY A MORAL OR OTHER OBLIGATION OF THE STATE OR A GOVERNMENTAL
27 UNIT TO LEVY OR PLEDGE ANY TAX OR TO MAKE AN APPROPRIATION TO PAY THE BOND.

28 (3) EACH BOND SHALL STATE ON ITS FACE THAT:

29 (i) NEITHER THE STATE NOR ANY GOVERNMENTAL UNIT IS OBLIGED
30 TO PAY THE PRINCIPAL OF OR INTEREST ON THE BOND, EXCEPT FROM REVENUES
31 PLEDGED TO PAYMENT OF THE BOND; AND

32 (ii) NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF
33 THE STATE OR A GOVERNMENTAL UNIT IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL
34 OF OR INTEREST ON THE BOND.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 83A, § 5–206(c).

1 In subsection (b)(1)(i) and (3) of this section, the former references to the
 2 liability of “the Corporation” are deleted as surplusage. The liability of the
 3 Corporation on a bond is governed by the particular bond issue and at the
 4 option of the Corporation. No substantive change is intended.

5 In subsection (b)(2) of this section, the former phrase “whatever therefor”
 6 is deleted as superfluous.

7 In subsection (b)(3) of this section, the references to “pay[ing] the principal
 8 of or interest on the bond” are substituted for the former reference to “the
 9 same or the interest on them” for clarity.

10 Defined terms: “Bond” § 10–101
 11 “Corporation” § 10–101
 12 “Governmental unit” § 10–101
 13 “Revenues” § 10–101
 14 “State” § 9–101

15 10–121. BONDS — TRUST AGREEMENT.

16 (A) CORPORATE TRUSTEE.

17 (1) THE CORPORATION MAY SECURE A BOND BY A TRUST AGREEMENT
 18 BETWEEN THE CORPORATION AND A CORPORATE TRUSTEE.

19 (2) A CORPORATE TRUSTEE MAY BE ANY TRUST COMPANY OR BANK THAT
 20 HAS THE POWERS OF A TRUST COMPANY IN OR OUTSIDE THE STATE.

21 (3) A CORPORATION OR TRUST COMPANY INCORPORATED IN THE STATE
 22 MAY:

23 (I) ACT AS DEPOSITORY OF BOND PROCEEDS OR REVENUES; AND

24 (II) FURNISH AN INDEMNITY BOND OR PLEDGE SECURITY THAT THE
 25 CORPORATION REQUIRES.

26 (B) CONTENTS.

27 THE TRUST AGREEMENT OR THE RESOLUTION THAT PROVIDES FOR THE ISSUANCE
 28 OF A BOND MAY:

29 (1) STATE THE RIGHTS AND REMEDIES OF BONDHOLDERS AND ANY
 30 TRUSTEE;

31 (2) CONTAIN PROVISIONS TO PROTECT AND ENFORCE THE RIGHTS AND
 32 REMEDIES OF BONDHOLDERS;

33 (3) CONTAIN COVENANTS STATING THE DUTIES OF THE CORPORATION AS TO
 34 THE CUSTODY, SAFEGUARDING, AND APPLICATION OF MONEY;

35 (4) RESTRICT THE INDIVIDUAL RIGHTS OF ACTION OF BONDHOLDERS;

1 (5) PROVIDE FOR THE PAYMENT OF THE BOND PROCEEDS AND REVENUES TO
2 AN OFFICER, BOARD, OR DEPOSITORY THAT THE CORPORATION DETERMINES WITH THE
3 SAFEGUARDS AND RESTRICTIONS THAT THE CORPORATION DETERMINES; AND

4 (6) PROVIDE FOR THE METHOD OF DISBURSEMENT OF THE BOND PROCEEDS
5 AND REVENUES, WITH THE SAFEGUARDS AND RESTRICTIONS THAT THE CORPORATION
6 DETERMINES.

7 (C) EXPENSES.

8 EXPENSES INCURRED IN CARRYING OUT A TRUST AGREEMENT MAY BE TREATED AS
9 PART OF THE COST OF OPERATION OF THE CORPORATION.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 83A, § 5–206(1).

12 Throughout this section, the references to a trust “agreement” are
13 substituted for the former obsolete references to a trust “indenture” for
14 consistency within this article. *See* General Revisor’s Note to article.

15 In subsection (b)(6) of this section, the reference to disbursement “of the
16 bond proceeds and revenues” is added for clarity.

17 Defined terms: “Bond” § 10–101

18 “Corporation” § 10–101

19 “Cost” § 10–101

20 “Revenues” § 10–101

21 “State” § 9–101

22 10–122. BONDS — INVESTMENT OF PROCEEDS.

23 (A) IN GENERAL.

24 THE PORTION OF THE PROCEEDS OF BONDS ISSUED TO PAY COSTS OF A PROJECT
25 MAY BE INVESTED IN INVESTMENTS OR OTHER OBLIGATIONS THAT MATURE NO LATER
26 THAN THE TIMES WHEN THE PROCEEDS WILL BE NEEDED.

27 (B) DECISION MAKING.

28 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
29 CORPORATION SHALL DETERMINE THE INVESTMENT OF BOND PROCEEDS.

30 (2) IF THE CORPORATION LOANS THE PROCEEDS OF THE BONDS TO A
31 PERSON AS PROVIDED IN § 10–125 OF THIS SUBTITLE, THE LOAN RECIPIENT SHALL
32 DETERMINE THE INVESTMENT OF BOND PROCEEDS.

33 (C) USE.

34 THE CORPORATION OR THE LOAN RECIPIENT MAY APPLY EARNINGS AND PROFITS
35 ON INVESTMENTS OR OTHER OBLIGATIONS:

1 (1) TO THE PAYMENT OF ANY COST; OR

2 (2) IN ANY OTHER LAWFUL MANNER.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 83A, § 5–206(i).

5 In subsections (b) and (c) of this section, the references to the “loan
6 recipient” are added for clarity.

7 In subsection (c) of this section, the phrase “earnings and profits on
8 investments or other obligations” is substituted for the former phrase
9 “interest, income, and profits, if any, earned or realized on the investments
10 or other obligations” for brevity.

11 Defined terms: “Bond” § 10–101

12 “Corporation” § 10–101

13 “Cost” § 10–101

14 “Person” §§ 9–101, 10–101

15 10–123. BONDS — REFUNDING BONDS.

16 (A) AUTHORIZATION.

17 (1) THE CORPORATION MAY ISSUE BONDS TO REFUND OUTSTANDING
18 BONDS, INCLUDING PAYING:

19 (I) ANY REDEMPTION PREMIUM;

20 (II) INTEREST ACCRUED OR TO ACCRUE TO THE DATE OF REDEMPTION,
21 PURCHASE, OR MATURITY OF THE BONDS; AND

22 (III) IF CONSIDERED ADVISABLE BY THE CORPORATION, ANY PART OF
23 THE COST OF A PROJECT.

24 (2) REFUNDING BONDS MAY BE ISSUED FOR ANY CORPORATE PURPOSE,
25 INCLUDING:

26 (I) REALIZING SAVINGS IN THE EFFECTIVE COSTS OF DEBT SERVICE,
27 DIRECTLY OR THROUGH A DEBT RESTRUCTURING;

28 (II) ALLEVIATING AN IMPENDING OR ACTUAL DEFAULT; OR

29 (III) RELIEVING THE CORPORATION OF A CONTRACTUAL AGREEMENT
30 THAT THE CORPORATION FINDS TO BE UNREASONABLY ONEROUS, IMPRACTICABLE, OR
31 IMPOSSIBLE TO PERFORM.

32 (B) ISSUANCE; PAYMENT.

33 (1) THE CORPORATION MAY ISSUE REFUNDING BONDS IN ONE OR MORE
34 SERIES IN AN AMOUNT GREATER THAN THE AMOUNT OF THE BONDS TO BE REFUNDED.

1 (2) (I) IN ADDITION TO OTHER SOURCES OF PAYMENT THAT THE
2 CORPORATION DETERMINES, REFUNDING BONDS MAY BE PAYABLE FROM ESCROWED
3 BOND PROCEEDS AND EARNINGS AND PROFITS ON INVESTMENTS.

4 (II) ESCROWED BOND PROCEEDS AND EARNINGS AND PROFITS ON
5 INVESTMENTS USED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH CONSTITUTE
6 REVENUES OF A PROJECT UNDER THIS SUBTITLE.

7 (C) PROCEEDS.

8 IN THE DISCRETION OF THE CORPORATION, THE PROCEEDS OF REFUNDING BONDS
9 MAY BE:

10 (1) APPLIED TO THE PURCHASE, RETIREMENT AT MATURITY, OR
11 REDEMPTION OF OUTSTANDING BONDS ON A DATE THE CORPORATION DETERMINES; AND

12 (2) PENDING APPLICATION UNDER ITEM (1) OF THIS SUBSECTION, PLACED
13 IN ESCROW.

14 (D) INVESTMENT OF PROCEEDS.

15 (1) THE CORPORATION MAY INVEST ESCROWED REFUNDING BOND
16 PROCEEDS IN INVESTMENTS AND OTHER OBLIGATIONS, MATURING ON APPROPRIATE
17 DATES TO ASSURE THE PROMPT PAYMENT OF THE PRINCIPAL OF, INTEREST ON, AND ANY
18 REDEMPTION PREMIUM ON THE BONDS TO BE REFUNDED.

19 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH,
20 THE CORPORATION SHALL DETERMINE THE INVESTMENT OF THE PROCEEDS OF
21 REFUNDING BONDS.

22 (II) IF THE CORPORATION LOANS THE PROCEEDS OF REFUNDING
23 BONDS TO A PERSON AS PROVIDED IN § 10–125 OF THIS SUBTITLE, THE LOAN
24 RECIPIENT SHALL DETERMINE THE INVESTMENT OF THE PROCEEDS OF REFUNDING
25 BONDS.

26 (3) THE EARNINGS AND PROFITS ON INVESTMENTS OR OTHER OBLIGATIONS
27 MAY BE APPLIED TO THE PAYMENT OF THE BONDS TO BE REFUNDED.

28 (4) AFTER THE TERMS OF THE ESCROW HAVE BEEN FULLY SATISFIED, THE
29 BALANCE OF THE PROCEEDS AND EARNINGS AND PROFITS ON INVESTMENTS OR OTHER
30 OBLIGATIONS MAY BE RETURNED TO THE CORPORATION OR THE LOAN RECIPIENT FOR
31 USE IN ANY LAWFUL MANNER.

32 REVISOR’S NOTE: This section is new language derived without substantive
33 change from former Art. 83A, § 5–206(h).

34 In subsection (b)(2) of this section, the phrase “[e]scrowed bond proceeds
35 and earnings and profits on investments used under subparagraph (i) of
36 this paragraph” is substituted for the former phrase “[s]uch sources” for
37 clarity.

1 In the introductory language to subsection (c) of this section, the phrase
2 “refunding bonds” is substituted for the former reference to “bonds issued
3 for the purpose of refunding outstanding bonds” for brevity.

4 In subsection (c)(2) of this section, the phrase “pending application under
5 item (1) of this subsection” is substituted for the former phrase “to be
6 applied to such purchase or retirement at maturity or redemption” for
7 clarity and brevity.

8 In subsection (d)(1) of this section, the former reference to “reinvest[ing]” is
9 deleted as included in the reference to “invest[ing]”.

10 In subsection (d)(2) of this section, the phrase “loan recipient” is
11 substituted for the former word “person” for clarity.

12 Defined terms: “Bond” § 10–101
13 “Corporation” § 10–101
14 “Cost” § 10–101
15 “Person” §§ 9–101, 10–101
16 “Project” § 10–101
17 “Revenues” § 10–101

18 **10–124. BONDS — ENFORCEMENT OF RIGHTS AND DUTIES.**

19 EXCEPT TO THE EXTENT RIGHTS GRANTED BY THIS SUBTITLE ARE RESTRICTED BY
20 RESOLUTION PASSED BEFORE THE ISSUANCE OF THE BONDS OR BY THE TRUST
21 AGREEMENT, A HOLDER OF A BOND ISSUED UNDER THIS SUBTITLE OR A TRUSTEE UNDER
22 A TRUST AGREEMENT MAY SUE TO:

23 (1) PROTECT AND ENFORCE RIGHTS UNDER THE LAWS OF THE STATE, THE
24 RESOLUTION, OR THE TRUST AGREEMENT; AND

25 (2) ENFORCE AND COMPEL PERFORMANCE OF DUTIES BY THE CORPORATION
26 OR ITS OFFICERS THAT THIS SUBTITLE, THE RESOLUTION, OR THE TRUST AGREEMENT
27 REQUIRES.

28 REVISOR’S NOTE: This section is new language derived without substantive
29 change from former Art. 83A, § 5–208.

30 In the introductory language of this section, the former obsolete phrase
31 “either at law or in equity” is deleted to reflect the merger of law and
32 equity effected by Md. Rule 2–301, which mandates “one form of action
33 known as the ‘civil action’”. Similarly, in the introductory language of this
34 section, the reference to “su[ing]” is substituted for the former phrase “by
35 suit, action, mandamus, or other proceeding” for brevity and clarity.

36 Defined terms: “Bond” § 10–101
37 “Corporation” § 10–101
38 “State” § 9–101

1 10–125. PROJECT FINANCING.

2 (A) LOANS.

3 THE CORPORATION MAY:

4 (1) LEND OR OTHERWISE MAKE AVAILABLE THE PROCEEDS OF BONDS TO A
5 PERSON TO FINANCE COSTS OF A PROJECT; AND

6 (2) ENTER INTO FINANCING AGREEMENTS, MORTGAGES, AND OTHER
7 INSTRUMENTS THAT IT DETERMINES ARE NECESSARY OR DESIRABLE TO EVIDENCE OR
8 SECURE THE LOAN.

9 (B) LEASES.

10 (1) THE LEASE FOR A PROJECT MAY REQUIRE OR AUTHORIZE THE LESSEE
11 OR ANOTHER PERSON TO PURCHASE OR OTHERWISE ACQUIRE THE PROPERTY FOR
12 CONSIDERATION THAT THE CORPORATION ESTABLISHES, WHEN:

13 (I) THE PRINCIPAL OF AND INTEREST ON THE BONDS THAT FINANCED
14 THE COST OF THE PROJECT ARE PAID; OR

15 (II) PROVISION SATISFACTORY TO THE CORPORATION IS MADE FOR
16 THEIR PAYMENT.

17 (2) CONSIDERATION REQUIRED UNDER PARAGRAPH (1) OF THIS
18 SUBSECTION MAY BE NOMINAL.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 83A, § 5–206(k).

21 Defined terms: “Bond” § 10–101

22 “Corporation” § 10–101

23 “Cost” § 10–101

24 “Finance” § 10–101

25 “Person” §§ 9–101, 10–101

26 “Project” § 10–101

27 10–126. RATES AND CHARGES.

28 (A) CHARGES FOR SERVICES.

29 THE CORPORATION MAY:

30 (1) FIX AND COLLECT RATES OR CHARGES FOR ITS SERVICES;

31 (2) ESTABLISH THE TERMS AND CONDITIONS FOR THE SERVICES; AND

32 (3) CONTRACT WITH A PERSON FOR THE USE OF THE CORPORATION'S
33 SERVICES.

1 (B) CHARGES NOT REGULATED.

2 THE RATES OR CHARGES OF THE CORPORATION ARE NOT SUBJECT TO SUPERVISION
3 OR REGULATION BY A GOVERNMENTAL UNIT.

4 (C) USE OF EARNINGS.

5 SUBJECT TO ANY AGREEMENT, THE CORPORATION MAY APPLY THE RATES,
6 CHARGES, AND OTHER REVENUES RECEIVED BY THE CORPORATION TO ANY LAWFUL
7 PURPOSE.

8 (D) BENEFIT OF EARNINGS.

9 EXCEPT AS NECESSARY TO PAY DEBT SERVICE OR IMPLEMENT PROGRAMS OF THE
10 CORPORATION, THE NET EARNINGS OF THE CORPORATION MAY NOT BENEFIT A PERSON
11 OTHER THAN THE STATE.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 83A, § 5–207.

14 In subsection (a)(2) of this section, the former reference to a “person,
15 partnership, association, or corporation” is deleted as included in the
16 defined term “person”.

17 In subsection (a)(3) of this section, the former reference to fixing “rates of
18 charges for such use” is deleted as included in subsection (a)(1) of this
19 section.

20 In subsection (c) of this section, the former references to a “resolution” and
21 a “trust indenture” are deleted as included in the comprehensive reference
22 to an “agreement”.

23 Defined terms: “Corporation” § 10–101

24 “Governmental unit” § 10–101

25 “Person” §§ 9–101, 10–101

26 “Revenues” § 10–101

27 “State” § 9–101

28 10–127. PLEDGE.

29 (A) ASSETS THAT MAY BE PLEDGED.

30 THE CORPORATION MAY PLEDGE OR ASSIGN:

31 (1) ANY OF ITS REVENUES;

32 (2) ANY OF ITS RIGHTS TO RECEIVE REVENUES;

33 (3) MONEY AND SECURITIES IN ACCOUNTS ESTABLISHED TO SECURE A
34 BOND; AND

1 (4) A LIEN OR SECURITY INTEREST GRANTED OR ASSIGNMENT MADE TO THE
2 CORPORATION.

3 (B) STATUS.

4 A PLEDGE OR ASSIGNMENT:

5 (1) IS VALID AND BINDING AGAINST ANY PERSON HAVING A CLAIM AGAINST
6 THE CORPORATION IN TORT, CONTRACT, OR OTHERWISE, REGARDLESS OF WHETHER THE
7 PERSON HAS NOTICE OF THE PLEDGE OR ASSIGNMENT; AND

8 (2) HAS PRIORITY OVER THE CLAIM.

9 (C) CREATION.

10 A RESOLUTION, TRUST AGREEMENT, ASSIGNMENT, FINANCING AGREEMENT OR
11 OTHER INSTRUMENT THAT CREATES A LIEN, SECURITY INTEREST, ASSIGNMENT, OR
12 PLEDGE UNDER SUBSECTION (A) OF THIS SECTION:

13 (1) SHALL BE FILED IN THE RECORDS OF THE CORPORATION; BUT

14 (2) NEED NOT BE FILED OR RECORDED ELSEWHERE.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 83A, § 5–206(j).

17 In subsection (a)(4) of this section, the word “to” is substituted for the
18 former incorrect word “by” for clarity and accuracy. No substantive change
19 is intended.

20 Defined terms: “Bond” § 10–101

21 “Corporation” § 10–101

22 “Person” §§ 9–101, 10–101

23 “Revenues” § 10–101

24 10–128. TRANSFER OF REAL PROPERTY.

25 (A) TRANSFERABLE PROPERTY.

26 WITH THE APPROVAL OF THE LEGISLATIVE BODY OF EACH GOVERNMENTAL UNIT IN
27 WHICH A PROJECT IS PROPOSED TO BE LOCATED, THE BOARD OF PUBLIC WORKS MAY
28 CONVEY TO THE CORPORATION, FOR ECONOMIC DEVELOPMENT PURPOSES, ANY REAL
29 PROPERTY, INCLUDING IMPROVEMENTS, THAT:

30 (1) WAS TRANSFERRED TO THE STATE, BY GIFT OR OTHERWISE FOR
31 SUBSTANTIALLY BELOW MARKET VALUE, AS A VACANT OR UNDERUTILIZED INDUSTRIAL
32 FACILITY OR SITE;

33 (2) HAS EXISTED FOR AT LEAST 10 YEARS; AND

34 (3) IS AT LEAST 10 ACRES.

1 (B) PURCHASE OPTION.

2 IF A PERSON WHO TRANSFERS PROPERTY DESCRIBED IN SUBSECTION (A)(1) OF THIS
3 SECTION TO THE STATE OWNS PROPERTY ADJOINING THE TRANSFERRED PROPERTY, THE
4 BOARD OF PUBLIC WORKS SHALL HAVE THE FIRST OPTION TO PURCHASE THE
5 ADJOINING PROPERTY AT A PRICE DETERMINED WHEN THE ORIGINAL PROPERTY WAS
6 TRANSFERRED.

7 (C) INSURANCE.

8 PROPERTY CONVEYED UNDER THIS SECTION MAY BE INSURED UNDER TITLE 9 OF
9 THE STATE FINANCE AND PROCUREMENT ARTICLE.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 83A, § 5–213(b) through (d).

12 In subsection (b) of this section, the phrase “when the original property
13 was transferred” is substituted for the former reference to “the time of the
14 transfer” for clarity.

15 Former Art. 83A, § 5–213(a), which required the Board of Public Works to
16 convey the “Fairchild Industries” property to the Corporation, is deleted as
17 obsolete, since the Board of Public Works has complied.

18 Defined terms: “Corporation” § 10–101

19 “Governmental unit” § 10–101

20 “Project” § 10–101

21 “State” § 9–101

22 10–129. TAX STATUS.

23 (A) EXEMPTION.

24 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE CORPORATION IS
25 EXEMPT FROM ANY REQUIREMENT TO PAY TAXES OR ASSESSMENTS ON ITS PROPERTIES
26 OR ACTIVITIES, OR ANY REVENUE FROM ITS PROPERTIES OR ACTIVITIES.

27 (B) PRIVATE ENTITIES.

28 PROPERTY THAT THE CORPORATION SELLS OR LEASES TO A PRIVATE ENTITY IS
29 SUBJECT TO STATE AND LOCAL REAL PROPERTY TAXES FROM THE TIME OF THE SALE OR
30 LEASE.

31 (C) BONDS.

32 THE BONDS OF THE CORPORATION, INCLUDING THE INTEREST ON THE BONDS, ARE
33 FOREVER EXEMPT FROM ALL STATE AND LOCAL TAXES.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 83A, § 5–210.

1 Defined terms: “Bond” § 10–101

2 “Corporation” § 10–101

3 “Revenues” § 10–101

4 “State” § 9–101

5 10–130. DORCHESTER COUNTY ECONOMIC DEVELOPMENT FUND.

6 (A) “FUND” DEFINED.

7 IN THIS SECTION, “FUND” MEANS THE DORCHESTER COUNTY ECONOMIC
8 DEVELOPMENT FUND.

9 (B) ESTABLISHED.

10 THERE IS A DORCHESTER COUNTY ECONOMIC DEVELOPMENT FUND IN THE
11 CORPORATION.

12 (C) NATURE OF FUND; ADMINISTRATION; INVESTMENT.

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

15 (2) THE CORPORATION SHALL MANAGE AND ADMINISTER THE FUND ON
16 TERMS AND CONDITIONS ACCEPTABLE TO THE CORPORATION AND THE DEPARTMENT.

17 (3) THE COMPTROLLER SHALL ACCOUNT AND COLLECT FOR THE FUND AND
18 DISBURSE THE REVENUES TO THE TRUSTEE MAINTAINING THE FUND FOR THE
19 CORPORATION.

20 (4) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE
21 FUND.

22 (D) COMPOSITION.

23 THE FUND CONSISTS OF REVENUES FROM THE HOTEL SURCHARGE IMPOSED UNDER
24 § 11–102(B) OF THE TAX – GENERAL ARTICLE.

25 (E) USE.

26 (1) THE FUND SHALL BE USED TO:

27 (I) COMPLETE THE CORPORATION PROJECT COMMONLY KNOWN AS
28 THE CHESAPEAKE BAY CONFERENCE CENTER; AND

29 (II) SATISFY THE FULL AND FINAL SETTLEMENT OF PENDING
30 CONSTRUCTION CLAIMS RELATED TO THE PROJECT AND ANY BONDS ISSUED IN
31 CONNECTION WITH THOSE CLAIMS.

32 (2) THE FUND MAY BE PLEDGED BY THE CORPORATION TO PAY BONDS
33 ISSUED TO SATISFY THE FULL AND FINAL SETTLEMENT OF PENDING CONSTRUCTION
34 CLAIMS ON THE PROJECT.

1 REVISOR'S NOTE: Subsection (a) of this section is new language added to
2 avoid repetition of the full title of the Dorchester County Economic
3 Development Fund.

4 Subsections (b) and (c) of this section are new language derived without
5 substantive changes from former Art. 83A, § 5–216.

6 In subsection (e)(2) of this section, the reference to claims “on the project”
7 is added for clarity.

8 Defined terms: “Bond” § 10–101

9 “Corporation” § 10–101

10 “Department” § 9–101

11 “Project” § 10–101

12 10–131. AUDIT.

13 (A) IN GENERAL.

14 (1) AS SOON AS PRACTICAL AFTER THE CLOSE OF THE FISCAL YEAR, AN
15 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT SHALL AUDIT THE FINANCIAL BOOKS,
16 RECORDS, AND ACCOUNTS OF THE CORPORATION.

17 (2) THE AUDIT SHALL INCLUDE REVENUE AND EXPENSE DETAIL FOR EACH
18 OF THE OPERATING FACILITIES OF THE CORPORATION.

19 (3) THE CORPORATION SHALL SELECT AN ACCOUNTANT TO CONDUCT THE
20 AUDIT WHO:

21 (i) IS LICENSED TO PRACTICE ACCOUNTANCY IN THE STATE;

22 (ii) IS EXPERIENCED AND QUALIFIED IN THE ACCOUNTING AND
23 AUDITING OF PUBLIC ENTITIES; AND

24 (iii) DOES NOT HAVE A DIRECT OR INDIRECT PERSONAL INTEREST IN
25 THE FISCAL AFFAIRS OF THE CORPORATION.

26 (4) (i) EXCEPT AS PROVIDED IN SUBPARAGRAPH (ii) OF THIS PARAGRAPH,
27 ON OR BEFORE NOVEMBER 1 AFTER EACH FISCAL YEAR, THE ACCOUNTANT SHALL
28 REPORT THE RESULTS OF THE AUDIT, INCLUDING THE ACCOUNTANT'S UNQUALIFIED
29 OPINION OF THE PRESENTATION OF THE FINANCIAL POSITION OF THE FUNDS OF THE
30 CORPORATION, INDIVIDUAL FINANCIAL DETAIL FOR EACH OF THE OPERATING FACILITIES
31 OF THE CORPORATION, AND THE RESULTS OF THE FINANCIAL OPERATIONS OF THE
32 CORPORATION.

33 (ii) IF THE ACCOUNTANT CANNOT EXPRESS AN UNQUALIFIED OPINION,
34 THE ACCOUNTANT SHALL EXPLAIN IN DETAIL THE REASONS FOR THE QUALIFICATIONS,
35 DISCLAIMERS, OR OPINIONS, INCLUDING RECOMMENDATIONS FOR CHANGES THAT COULD
36 MAKE FUTURE UNQUALIFIED OPINIONS POSSIBLE.

1 (B) AUDIT BY STATE.

2 THE STATE MAY AUDIT THE BOOKS, RECORDS, AND ACCOUNTS OF THE
3 CORPORATION.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 83A, § 5–212(d) and (e).

6 In subsection (a)(4)(i) of this section, the phrase “[e]xcept as provided in
7 subparagraph (ii) of this paragraph” is added for clarity.

8 Defined terms: “Corporation” § 10–101
9 “State” § 9–101

10 10–132. ANNUAL REPORT.

11 (A) REQUIRED.

12 ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE CORPORATION SHALL SUBMIT A
13 REPORT TO THE GOVERNOR, THE MARYLAND ECONOMIC DEVELOPMENT COMMISSION,
14 AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE
15 GENERAL ASSEMBLY.

16 (B) CONTENTS.

17 THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND FINANCIAL STATEMENT
18 AND SUMMARIZE THE ACTIVITIES OF THE CORPORATION DURING THE PRECEDING FISCAL
19 YEAR.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 83A, § 5–212(f).

22 In subsection (a) of this section, the phrase “[o]n or before October 1 of each
23 year” is substituted for the former phrase “[w]ithin the first 90 days of each
24 fiscal year” for clarity and consistency within this article.

25 Defined term: “Corporation” § 10–101

26 GENERAL REVISOR'S NOTE TO SUBTITLE:

27 Former Art. 83A, § 5–211, which authorized the Treasurer to advance money to
28 the Corporation and provided for its repayment, is deleted as obsolete because the
29 transfer and repayment have occurred.

30 SUBTITLE 2. MARYLAND FOOD CENTER AUTHORITY.

31 10–201. DEFINITIONS.

32 (A) IN GENERAL.

33 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from the first sentence of former Art. 41, § 13–104.

3 The former phrase “and terms listed in this section and used in their place”
4 is deleted as unnecessary.

5 The former phrase “unless the context shall indicate another or different
6 meaning or intent” is deleted as a standard rule of statutory construction
7 for defined terms.

8 (B) AUTHORITY.

9 “AUTHORITY” MEANS THE MARYLAND FOOD CENTER AUTHORITY.

10 REVISOR'S NOTE: This subsection is new language derived without
11 substantive change from former Art. 41, § 13–104(1).

12 (C) BOND.

13 “BOND” MEANS A BOND, NOTE, OR ANY OTHER OBLIGATION ISSUED UNDER THIS
14 SUBTITLE.

15 REVISOR'S NOTE: This subsection is new language added to avoid repetition
16 of the phrase “bond, note, or other obligation” and for consistency within
17 this title.

18 (D) CENTER.

19 “CENTER” MEANS THE MARYLAND FOOD CENTER.

20 REVISOR'S NOTE: This subsection formerly was Art. 41, § 13–104(2).

21 No changes are made.

22 (E) COSTS.

23 “COSTS”, WITH RESPECT TO A DEVELOPMENT OR PROJECT, MEANS:

24 (1) THE PURCHASE PRICE;

25 (2) THE COST OF ANY PROPERTY, RIGHT, EASEMENT, AND FRANCHISE
26 CONSIDERED NECESSARY TO CONSTRUCT AND ESTABLISH A DEVELOPMENT OR PROJECT;

27 (3) THE COST OF RELOCATION OF WHOLESALE FOOD DEALERS OR TENANTS
28 UNDER § 10–212 OF THIS SUBTITLE;

29 (4) THE COST OF LABOR, MATERIALS, AND EQUIPMENT, INCLUDING
30 EXPENSES OF RELOCATING PUBLIC UTILITY FACILITIES UNDER § 10–210 OF THIS
31 SUBTITLE;

32 (5) FINANCING CHARGES;

(6) INTEREST BEFORE AND DURING CONSTRUCTION;

(7) THE COST OF REVENUE AND COST ESTIMATES, ENGINEERING, ARCHITECTURAL, AND LEGAL SERVICES, PLANS, SPECIFICATIONS, SURVEYS, AND OTHER EXPENSES NECESSARY OR INCIDENT TO DETERMINING THE FEASIBILITY OR PRACTICABILITY OF THE CONSTRUCTION OF A DEVELOPMENT OR PROJECT;

(8) ADMINISTRATIVE EXPENSES; AND

(9) OTHER EXPENSES NECESSARY OR INCIDENT TO:

(I) THE FINANCING OF A DEVELOPMENT OR PROJECT;

(II) CONSTRUCTING AND ESTABLISHING A DEVELOPMENT OR PROJECT;

AND

(III) PLACING A DEVELOPMENT OR PROJECT INTO OPERATION.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 13–104(3).

In item (4) of this subsection, the former reference to “machinery” is deleted as redundant of the reference to “equipment”.

In item (7) of this subsection, the reference to the construction “of a development or project” is added for clarity.

Defined terms: “Development” § 10–201
“Project” § 10–201

(F) DEVELOPMENT.

“DEVELOPMENT” MEANS:

(1) THE CENTER;

(2) A COMMERCIAL SEAFOOD DEVELOPMENT; AND

(3) ANY OTHER MULTIPROJECT FOOD–RELATED OR AGRICULTURALLY RELATED REAL ESTATE DEVELOPMENT THAT THE AUTHORITY UNDERTAKES TO FURTHER THE PURPOSES OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 13–104(5).

Defined terms: “Authority” § 10–201
“Center” § 10–201
“Food” § 10–201
“Seafood” § 10–201

(G) FOOD.

1 (1) “FOOD” MEANS AGRICULTURAL AND OTHER EDIBLE FOOD PRODUCTS
2 AND FLORICULTURAL AND HORTICULTURAL PRODUCTS.

3 (2) “FOOD” INCLUDES THE FOLLOWING:

4 (I) BUTTER;

5 (II) CHEESE;

6 (III) EGGS;

7 (IV) FRUITS;

8 (V) MEATS;

9 (VI) MEAT PRODUCTS;

10 (VII) POULTRY;

11 (VIII) SEAFOOD; AND

12 (IX) VEGETABLES.

13 (3) “FOOD” MAY BE IN PACKAGED OR FRESH FORM.

14 (4) “FOOD” SHALL BE LIBERALLY CONSTRUED.

15 REVISOR’S NOTE: This subsection is new language derived without
16 substantive change from former Art. 41, § 13–104(6).

17 In the introductory language of paragraph (2) of this subsection, the former
18 phrase “but not limited to” is deleted as unnecessary in light of Art. 1, § 30,
19 which provides that the term “including” is used “by way of illustration,
20 and not by way of limitation”.

21 Defined term: “Seafood” § 10–201

22 (H) IMPROVE.

23 “IMPROVE” MEANS TO ADD, ALTER, CONSTRUCT, EQUIP, EXPAND, EXTEND,
24 IMPROVE, INSTALL, RECONSTRUCT, REHABILITATE, REMODEL, OR REPAIR.

25 REVISOR’S NOTE: This subsection is new language added for brevity and
26 clarity.

27 (I) IMPROVEMENT.

28 “IMPROVEMENT” MEANS ADDITION, ALTERATION, CONSTRUCTION, EQUIPPING,
29 EXPANSION, EXTENSION, IMPROVEMENT, INSTALLATION, RECONSTRUCTION,
30 REHABILITATION, REMODELING, OR REPAIR.

1 REVISOR'S NOTE: This subsection is new language added for brevity and
2 clarity.

3 (J) PROJECT.

4 (1) "PROJECT" MEANS A FACILITY, OPERATION, OR PORTION OF A
5 DEVELOPMENT THAT THE AUTHORITY UNDERTAKES TO FURTHER THE PURPOSES OF THIS
6 SUBTITLE.

7 (2) "PROJECT" INCLUDES:

8 (I) 1. A MARKET;

9 2. A FOOD HANDLING, PROCESSING, STORAGE, OR
10 DISTRIBUTION FACILITY; AND

11 3. A COMMERCIAL SEAFOOD FACILITY OR OPERATION;

12 (II) A FACILITY OR SERVICE ANCILLARY OR APPURTENANT TO A
13 DEVELOPMENT OR A PROJECT THAT THE AUTHORITY DETERMINES WILL ENHANCE THE
14 PUBLIC CONVENIENCE OR ATTRACTIVENESS OF THE DEVELOPMENT OR PROJECT,
15 INCLUDING:

16 1. A BANK;

17 2. A PARKING OR OTHER TRANSPORTATION FACILITY;

18 3. A RESTAURANT;

19 4. A STORE; AND

20 5. ANY OTHER COMMERCIAL ENTERPRISE;

21 (III) LAND, STRUCTURES, EQUIPMENT, FURNISHINGS, RAIL OR MOTOR
22 VEHICLES, BARGES, AND BOATS IN A DEVELOPMENT OR PROJECT;

23 (IV) PROPERTY AND RIGHTS IN A DEVELOPMENT OR PROJECT; AND

24 (V) LAND AND FACILITIES THAT ARE FUNCTIONALLY RELATED TO A
25 DEVELOPMENT OR PROJECT.

26 REVISOR'S NOTE: This subsection is new language derived without
27 substantive change from former Art. 41, § 13–104(7)(i) and (ii).

28 In the introductory language of paragraph (2) of this subsection, the former
29 phrase "without limitation" is deleted as unnecessary in light of Art. 1, §
30 30, which provides that the term "including" is used "by way of illustration,
31 and not by way of limitation".

32 In paragraph (2)(ii) of this subsection, the word "will" is substituted for the
33 former phrase "to be advisable" for brevity.

1 In paragraph (2)(iii) of this subsection, the former reference to “buildings”
2 is deleted as included in the comprehensive reference to “structures”.

3 Also in paragraph (2)(iii) of this subsection, the former reference to
4 “machinery” is deleted as redundant of the reference to “equipment”.

5 In paragraph (2)(iv) of this subsection, the former reference to “real or
6 personal” property is deleted as included in the comprehensive reference to
7 “property”.

8 Defined terms: “Authority” § 10–201

9 “Development” § 10–201

10 “Food” § 10–201

11 “Seafood” § 10–201

12 (K) SEAFOOD.

13 “SEAFOOD” INCLUDES EDIBLE AND INEDIBLE FISH AND SHELLFISH.

14 REVISOR’S NOTE: This subsection formerly was Art. 41, § 13–104(8).

15 No changes are made.

16 The Economic Development Article Review Committee notes, for the
17 consideration of the General Assembly, that the definition of “seafood” in
18 this subsection as including both “edible” and “inedible” seafood conflicts
19 with the defined term “food”, which only includes “edible” seafood. The
20 apparent intent of the inclusion of “inedible” seafood in this subsection is
21 not to describe unintended by-catch and handling of inedible species.
22 Rather, it is to recognize that a significant portion of the mass of processed
23 edible seafood goes to waste in the form of shells, bone, scales, and other
24 material that is not generally considered edible. No similar provision is
25 made for inedible portions of other foods, such as coconut husks or banana
26 peels. The General Assembly may wish to consider whether it is necessary
27 to assert affirmatively that “seafood” is “food” even when its inedible
28 supporting structures are discarded in food preparation.

29 REVISOR’S NOTE TO SECTION: Former Art. 41, § 13–104(4), which defined
30 “current expenses” to mean certain reasonable and necessary expenses of
31 the Authority, is deleted because the term is not used in this revision.

32 10–202. CONSTRUCTION AND PURPOSE OF SUBTITLE.

33 (A) CONSTRUCTION.

34 THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO ACCOMPLISH ITS PURPOSES.

35 (B) PURPOSE.

36 THE ESTABLISHMENT OF DEVELOPMENTS AND PROJECTS UNDER THIS SUBTITLE IS:

1 (1) FOR THE BENEFIT OF THE RESIDENTS OF THE STATE AND ITS POLITICAL
2 SUBDIVISIONS; AND

3 (2) A PUBLIC PURPOSE.

4 REVISOR’S NOTE: This section is new language derived without substantive
5 change from former Art. 41, § 13–119, as related to liberal construction,
6 and the first clause of § 13–115.

7 Defined terms: “Development” § 10–201
8 “Project” § 10–201
9 “State” § 9–101

10 10–203. SCOPE OF SUBTITLE.

11 A DEVELOPMENT OR PROJECT UNDER THIS SUBTITLE MAY NOT INCLUDE THE
12 DEVELOPMENT OF AN AQUACULTURE DEVELOPMENT OR PROJECT FOR THE COMMERCIAL
13 RAISING OF FINFISH, SHELLFISH, OR AQUATIC PLANTS.

14 REVISOR’S NOTE: This section is new language derived without substantive
15 change from former Art. 41, § 13–104(7)(iii).

16 It is revised as a scope section rather than as an exception to a definition
17 for clarity and accuracy.

18 Defined terms: “Development” § 10–201
19 “Project” § 10–201

20 10–204. LEGISLATIVE INTENT.

21 (A) MARKET DEVELOPMENT.

22 THE GENERAL ASSEMBLY FINDS THAT:

23 (1) (I) THE MARKETING OF FOOD IS A MATTER OF PUBLIC INTEREST AND
24 THE MAINTENANCE OF WHOLESALE MARKET PLACES IS AND HAS ALWAYS BEEN
25 RECOGNIZED AS A PUBLIC FUNCTION;

26 (II) PUBLIC HEALTH AND SAFETY ARE ADVERSELY AFFECTED BY THE
27 UNSAFE, OBSOLETE, AND UNSANITARY CONDITIONS OF EXISTING FOOD MARKETS;

28 (III) THE VAST QUANTITIES OF FOOD AND RELATED FOOD PRODUCTS
29 BROUGHT ANNUALLY FROM ALL PARTS OF THE UNITED STATES INTO THE WHOLESALE
30 MARKETS IN THE STATE MUST PASS THROUGH MARKET FACILITIES THAT ARE OBSOLETE
31 AND INADEQUATE TO MEET PRESENT NEEDS;

32 (IV) THE SCATTERED LOCATIONS OF AND DIFFICULTY OF ACCESS TO
33 WHOLESALE MARKETS CONSTITUTE AN ECONOMIC LOSS, AND THE OBSOLESCENCE OF
34 MARKETS IS RESPONSIBLE FOR MUCH OF THE HIGH COST OF FOOD HANDLING AND FOR
35 DETERIORATION THAT TAKES PLACE BOTH IN THE WHOLESALE MARKETS AND BETWEEN
36 THE MARKETS AND THE CONSUMER’S DOORSTEP;

1 (V) MODERN CONSOLIDATED FACILITIES WOULD RESULT IN AN
2 ANNUAL SAVING; AND

3 (VI) THERE IS A NEED FOR A CONSOLIDATED WHOLESALE FOOD
4 MARKET IN THE STATE, AND, IN SPITE OF THIS NEED, EFFORTS ON THE PART OF THE
5 STATE, THE CITY OF BALTIMORE, THE WHOLESALE FOOD TRADE, GROWERS, AND THE
6 TRANSPORTATION INDUSTRY HAVE FAILED TO EFFECT THE CONSOLIDATION OF
7 WHOLESALE MARKETS SATISFACTORILY;

8 (2) (I) CONSTRUCTING, OPERATING, AND MAINTAINING WHOLESALE
9 MARKETS, AND IN PARTICULAR A CONSOLIDATED MARKET FOR THE STATE, WOULD
10 REQUIRE THE EXPENDITURE OF A LARGE SUM OF MONEY; AND

11 (II) THE FINANCIAL SYSTEMS OF THE POLITICAL SUBDIVISIONS OF THE
12 STATE ARE NOT DESIGNED TO UNDERTAKE PROJECTS DESCRIBED UNDER ITEM (I) OF
13 THIS ITEM ON A NOT-FOR-PROFIT, SELF-LIQUIDATING BASIS, AND THE BEST METHOD OF
14 CREATING A MARKET IS TO ESTABLISH AND AUTHORIZE A MARKET AUTHORITY AS A
15 PUBLIC CORPORATION TO:

- 16 1. ACQUIRE LAND FOR A MARKET DEVELOPMENT;
- 17 2. CONSTRUCT AND OPERATE A MARKET DEVELOPMENT; AND
- 18 3. MAKE LOANS TO AND OTHERWISE ASSIST PERSONS ENGAGED
19 IN THE WHOLESALE FOOD INDUSTRY WHO WANT TO LOCATE IN A MARKET DEVELOPMENT;

20 (3) IT IS IN THE PUBLIC INTEREST TO:

21 (I) ELIMINATE OR CORRECT THE CONDITIONS DESCRIBED IN ITEM (1)
22 OF THIS SUBSECTION REGARDING THE MARKETING OF FOOD; AND

23 (II) ESTABLISH AN ECONOMICAL AND MODERN METHOD OF MARKETING
24 WHOLESALE FOOD IN THE STATE BY CONSTRUCTING A MODERN, SANITARY, AND
25 ACCESSIBLE MARKET DEVELOPMENT THAT MAY INCLUDE:

26 1. WAREHOUSE FACILITIES USED BY WHOLESALERS OR
27 RETAILERS PRINCIPALLY ENGAGED IN THE SALE OF FOOD AND USED FOR STORAGE OF
28 FOOD AND BEVERAGES AND NONFOOD PRODUCTS SOLD FROM TIME TO TIME IN
29 CONNECTION WITH THE SALE OF FOOD AT RETAIL; AND

30 2. ANY ANCILLARY OR APPURTENANT FACILITY THAT THE
31 AUTHORITY DETERMINES WILL ENHANCE THE PUBLIC CONVENIENCE OR
32 ATTRACTIVENESS OF THE MARKET DEVELOPMENT INCLUDING:

- 33 A. A BANK;
- 34 B. A PARKING OR OTHER TRANSPORTATION FACILITY;
- 35 C. A RESTAURANT;
- 36 D. A STORE; OR

1 E. ANY OTHER COMMERCIAL ENTERPRISE; AND

2 (4) (I) THERE EXISTS A NEED AND THE OPPORTUNITY TO CAPITALIZE ON
3 THE VAST RESOURCES OF FINFISH AND SHELLFISH THAT CAN BE FOUND IN THE STATE'S
4 COASTAL WATERS;

5 (II) DEVELOPMENT OF THE SEAFOOD INDUSTRY ON THE EASTERN
6 SHORE COULD:

7 1. PROVIDE AN OPPORTUNITY FOR THE STATE TO CAPITALIZE
8 ON THESE RESOURCES;

9 2. CREATE NEW JOBS; AND

10 3. PRODUCE OTHER ECONOMIC BENEFIT TO THE STATE;

11 (III) A CENTRALIZED SEAFOOD PROJECT IS NEEDED FOR THE
12 DEVELOPMENT OF THESE RESOURCES AND RESULTING ECONOMIC BENEFIT; AND

13 (IV) THE DEVELOPMENT OF THE PROJECT AND THESE RESOURCES
14 WOULD BE IN THE PUBLIC INTEREST AND CAN BEST BE ACCOMPLISHED THROUGH THE
15 AUTHORITY.

16 (B) ISSUANCE OF BONDS.

17 THE GENERAL ASSEMBLY FINDS THAT IT IS DESIRABLE THAT, WHEN SUFFICIENT
18 REVENUE WILL BE DERIVED FROM THE OPERATION OF A PROJECT OR DEVELOPMENT TO
19 AMORTIZE ITS COST WITHIN A REASONABLE PERIOD, THE COST BE DEFRAIDED IF
20 PRACTICABLE BY ISSUING BONDS OR OTHER DEBT INSTRUMENTS PAYABLE FROM THE
21 REVENUE DERIVED FROM PROJECT OPERATIONS.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 41, § 13–102.

24 Throughout this section, the phrase “finds that” is substituted for the
25 former phrase “makes the following declarations as a statement of its
26 legislative intent in the enactment of this subtitle” for brevity and to
27 conform to similar provisions in other revised articles of the Code.

28 In subsection (a)(1)(ii) of this section, the former reference to “citizens of
29 Maryland” is deleted as included in the reference to “public” health and
30 because the meaning of the term “citizens” in this context is unclear. *See*
31 General Revisor's Note to article.

32 In the introductory language of subsection (a)(2)(ii) of this section, the
33 former phrase “the function of which would be” is deleted as unnecessary.

34 In subsection (a)(2)(ii)3 of this section, the former reference to “aid[ing]” is
35 deleted as implicit in the reference to “assist[ing]”.

36 In subsection (a)(3)(i) of this section, the phrase “described in this section

1 regarding the marketing of food” is substituted for the former term “these”
2 for clarity.

3 Defined terms: “Authority” § 10–201

4 “Bonds” § 10–201

5 “Development” § 10–201

6 “Food” § 10–201

7 “Project” § 10–201

8 “Seafood” § 10–201

9 “State” § 9–101

10 10–205. ESTABLISHED.

11 (A) IN GENERAL.

12 THERE IS A MARYLAND FOOD CENTER AUTHORITY.

13 (B) STATUS.

14 THE AUTHORITY IS A BODY POLITIC AND CORPORATE AND AN INSTRUMENTALITY OF
15 THE STATE.

16 (C) ESSENTIAL GOVERNMENTAL FUNCTION.

17 THE EXERCISE BY THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR THE
18 AUTHORITY OF A POWER UNDER THIS SUBTITLE IS THE PERFORMANCE OF AN ESSENTIAL
19 GOVERNMENTAL FUNCTION.

20 (D) COMPOSITION; APPOINTMENT OF MEMBERS.

21 (1) THE AUTHORITY CONSISTS OF 12 MEMBERS.

22 (2) (I) EACH MEMBER SHALL BE A RESIDENT OF THE STATE.

23 (II) ONE MEMBER SHALL RESIDE IN HOWARD COUNTY.

24 (3) OF THE 12 MEMBERS:

25 (I) FOUR SHALL BE EX OFFICIO MEMBERS:

26 1. THE DIRECTOR OF AGRICULTURAL EXTENSION;

27 2. THE COMPTROLLER;

28 3. THE SECRETARY OF AGRICULTURE; AND

29 4. THE SECRETARY OF GENERAL SERVICES; AND

30 (II) EIGHT SHALL BE OUTSTANDING RESIDENTS APPOINTED BY THE
31 GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

1 (E) TENURE; VACANCIES.

2 (1) THE TERM OF AN APPOINTED MEMBER IS 5 YEARS.

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

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

7 (F) REMOVAL.

8 (1) THIRTY DAYS AFTER GIVING WRITTEN NOTICE TO THE MEMBER, THE
9 GOVERNOR MAY REMOVE AN APPOINTED MEMBER FOR INEFFICIENCY, NEGLIGENCE, OR
10 MISCONDUCT.

11 (2) THE MEMBER IS ENTITLED TO A HEARING BEFORE THE GOVERNOR, IF A
12 WRITTEN REQUEST FOR A HEARING IS MADE TO THE GOVERNOR NO LATER THAN 10
13 DAYS AFTER RECEIVING THE NOTICE.

14 (3) IF A MEMBER IS REMOVED, THE GOVERNOR SHALL PROMPTLY APPOINT
15 A SUCCESSOR.

16 (G) OFFICERS.

17 (1) FROM AMONG ITS MEMBERS, THE AUTHORITY SHALL ELECT A CHAIR
18 AND A VICE CHAIR.

19 (2) THE AUTHORITY SHALL ELECT A SECRETARY–TREASURER WHO NEED
20 NOT BE A MEMBER OF THE AUTHORITY.

21 (H) MEETINGS.

22 (1) THE AUTHORITY SHALL MEET AT LEAST QUARTERLY.

23 (2) AT LEAST 10 DAYS BEFORE EACH MEETING, WRITTEN NOTICE OF THE
24 MEETING SHALL BE GIVEN TO EACH MEMBER OF THE AUTHORITY.

25 (I) QUORUM.

26 SEVEN MEMBERS OF THE AUTHORITY ARE A QUORUM.

27 (J) VOTING.

28 (1) A MAJORITY VOTE OF THE MEMBERS PRESENT AT A MEETING HAVING A
29 QUORUM IS NEEDED FOR THE AUTHORITY TO ACT.

30 (2) AN EX OFFICIO VOTING MEMBER MAY DESIGNATE ANOTHER INDIVIDUAL
31 TO VOTE IN THAT MEMBER'S ABSENCE.

32 (K) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

1 (1) THE AUTHORITY MAY PAY AN APPOINTED MEMBER UP TO \$1,000 A
2 YEAR ON A PER DIEM BASIS FOR SERVICES.

3 (2) A MEMBER OF THE AUTHORITY IS ENTITLED TO REIMBURSEMENT FOR
4 EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS.

5 (3) REIMBURSEMENT AND COMPENSATION UNDER THIS SUBSECTION MAY
6 ONLY BE PAID FROM MONEY PROVIDED UNDER THIS SUBTITLE.

7 (L) RULES AND REGULATIONS.

8 THE AUTHORITY SHALL ADOPT RULES AND REGULATIONS NECESSARY FOR THE
9 CONDUCT OF ITS AFFAIRS.

10 REVISOR'S NOTE: Subsections (a), (b), (c), (d), (e)(1), (e)(3) through (5), and (f)
11 through (l) of this section are new language derived without substantive
12 change from former Art. 41, § 13–103, the introductory language of §
13 13–105, as it related to the perpetual existence of the Authority, and §
14 13–115, as it related to the exercise of powers conferred under this subtitle.

15 In subsection (a) of this section, the former phrase “[t]he Authority shall
16 have perpetual existence” is deleted as redundant of the establishment of
17 the Authority without a termination provision, and with § 10–208(a)(10) of
18 this subtitle, which provides that the Authority exercises any power that a
19 private corporation performing similar functions usually possesses,
20 construed in conjunction with CA § 2–103(1), which provides that a
21 corporation has perpetual existence unless its charter specifically provides
22 for its termination.

23 In subsection (b) of this section, the former reference to a “public
24 corporation” is deleted as implicit in the reference to a “body politic and
25 corporate”.

26 Subsection (g)(2) of this section is revised to clarify that the
27 secretary–treasurer “need not be” a member of the Authority.

28 In subsection (j) of this section, the reference to action being taken by the
29 Authority by majority vote of the members “present” is added for clarity
30 and consistency with the common law rule. *See* McQuillen, *Municipal*
31 *Corporations* §§ 13.27, 13.30 (3rd ed. rev'd).

32 Also in subsection (j) of this section, the former reference to each voting
33 member having “one vote” is deleted as an unnecessary restatement of the
34 common law rule. *See* McQuillen, *Municipal Corporations* §§ 13.27, 13.30
35 (3rd ed. rev'd). Similarly, the reference to “ex officio” members having a
36 vote is deleted. The method of appointing members and their right to vote
37 are not related. No substantive change is intended.

38 Subsection (k)(2) of this section is restated in standard language used to
39 describe the reimbursement for expenses of members of the Authority.

1 Subsection (l) of this section is restated in standard language for
2 consistency within this article.

3 The first sentence of former Art. 41, § 13–103(c), which required that
4 “[i]mmediately after appointment, the members ... shall enter upon their
5 duties” is deleted as implicit.

6 The fifth sentence of former Art. 41, § 13–103(c), which stated that “[n]o
7 vacancy ... impairs the right of a quorum” is deleted as an unnecessary
8 restatement of the common-law rule. *See* General Revisor’s Note to article.

9 Defined terms: “Authority” § 10–201
10 “State” § 9–101

11 **10–206. STAFF; AGENTS.**

12 THE AUTHORITY MAY EMPLOY OR RETAIN OFFICERS, STAFF, AND AGENTS,
13 INCLUDING ENGINEERING, ARCHITECTURAL, FISCAL, AND CONSTRUCTION EXPERTS AND
14 ATTORNEYS, AND SET THEIR COMPENSATION.

15 REVISOR’S NOTE: This section is new language derived without substantive
16 change from former Art. 41, § 13–105(9).

17 The former reference to “dismiss[ing]” officers, agents, and employees is
18 deleted as implicit in the authority to “employ” them.

19 The former phrase “but not limited to” is deleted as unnecessary in light of
20 Art. 1, § 30, which provides that the term “including” is used “by way of
21 illustration and not by way of limitation”.

22 Defined term: “Authority” § 10–201

23 **10–207. APPLICABILITY OF LAWS.**

24 (A) STATE FINANCE AND PROCUREMENT LAWS; CONSENTS, PROCEDURES, AND
25 CONDITIONS.

26 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE AUTHORITY:

27 (1) IS NOT SUBJECT TO THE FOLLOWING PROVISIONS OF THE STATE
28 FINANCE AND PROCUREMENT ARTICLE:

29 (I) TITLE 2, SUBTITLES 4 (WATER AND SEWERAGE SYSTEMS) AND 5
30 (FACILITIES FOR THE HANDICAPPED);

31 (II) TITLE 4, SUBTITLES 7 (STATE BOARD OF ARCHITECTURAL
32 REVIEW) AND 8 (ENERGY);

33 (III) §§ 5A–304 AND 5A–305 (HISTORIC LANDMARKS; CERTAIN
34 ARCHITECTURAL EASEMENTS);

1 (IV) § 7–114.1 (ARCHEOLOGICAL COSTS);

2 (V) §§ 8–127, 8–128, AND 8–129 (CERTAIN RESTRICTIONS ON
3 STATE GENERAL OBLIGATION DEBT);

4 (VI) PART V OF TITLE 8, SUBTITLE 1 (STATE REVENUE
5 ANTICIPATION NOTES);

6 (VII) TITLE 10 (BOARD OF PUBLIC WORKS – MISCELLANEOUS
7 PROVISIONS); AND

8 (VIII) DIVISION II OF THE STATE FINANCE AND PROCUREMENT
9 ARTICLE (GENERAL PROCUREMENT LAWS); AND

10 (2) MAY CONSTRUCT DEVELOPMENTS AND PROJECTS WITHOUT OBTAINING
11 THE CONSENT OF ANY OTHER UNIT OF STATE GOVERNMENT AND WITHOUT ANY
12 PROCEEDING, THE SATISFACTION OF ANY CONDITION, OR THE OCCURRENCE OF ANY
13 EVENT.

14 (B) MINORITY BUSINESS PARTICIPATION.

15 (1) IN CARRYING OUT ITS DUTIES RELATING TO DEVELOPMENTS AND
16 PROJECTS, THE AUTHORITY SHALL COMPLY WITH TITLE 14, SUBTITLE 3 OF THE STATE
17 FINANCE AND PROCUREMENT ARTICLE (MINORITY BUSINESS PARTICIPATION).

18 (2) THE AUTHORITY SHALL TAKE AFFIRMATIVE STEPS TO INCLUDE
19 MINORITY BUSINESSES IN ITS MARKETS TO AT LEAST THE SAME EXTENT AS APPLICABLE
20 TO A PROCUREMENT SUBJECT TO TITLE 14, SUBTITLE 3 OF THE STATE FINANCE AND
21 PROCUREMENT ARTICLE.

22 (C) STATE HEALTH LAWS.

23 A DEVELOPMENT OR PROJECT IS SUBJECT TO APPLICABLE STATE HEALTH LAWS
24 AND REGULATIONS OF THE SECRETARY OF HEALTH AND MENTAL HYGIENE.

25 (D) ZONING; LICENSES AND PERMITS.

26 (1) A DEVELOPMENT OR PROJECT IS SUBJECT TO ALL ZONING AND
27 SUBDIVISION REGULATIONS OF THE POLITICAL SUBDIVISION IN WHICH THE
28 DEVELOPMENT OR PROJECT IS LOCATED.

29 (2) IF REQUIRED BY THIS SUBTITLE, THE AUTHORITY SHALL:

30 (I) OBTAIN ANY APPLICABLE LICENSES AND PERMITS FROM THE
31 POLITICAL SUBDIVISION WHERE A DEVELOPMENT OR PROJECT IS LOCATED; AND

32 (II) FOLLOW ANY REQUIRED PROCEDURES.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from the second sentence of former Art. 41, § 13–105(3)(i), as it
35 related to exemption from certain State and local requirements and to the

1 applicability of certain licensing, procurement, health, and land–use
2 provisions to the Authority, and, except as it related to the perpetual
3 existence of the Authority, the introductory language of § 13–105.

4 In subsection (a)(2) of this section, the former phrase “[other] than those
5 proceedings, conditions, or things which are specifically required by this
6 subtitle” is deleted in light of the introductory language of this subsection.

7 In subsection (b)(1) of this section, the former reference to
8 “responsibilities” is deleted in light of the reference to “duties”.

9 Also in subsection (b)(1) of this section, the former requirement for the
10 Authority to comply with “the minimum minority business participation
11 requirements enumerated [in SF Title 14, Subtitle 3]” is deleted as
12 redundant of the requirement to comply with that entire subtitle and in
13 light of the fact that SF Title 14, Subtitle 3 requires certain minimum
14 percentages of procurement contracts to be made to specified minority
15 business enterprises rather than requiring their “participation” in a
16 market.

17 In subsection (c) of this section, the reference to applicable “provisions of
18 the State health laws and ... regulations of” the Secretary of Health and
19 Mental Hygiene is substituted for the former reference to applicable “laws
20 and regulations of” the Secretary of Health and Mental Hygiene for
21 accuracy. While the Secretary adopts regulations, statutory laws of the
22 State are enacted by the General Assembly.

23 The Economic Development Article Review Committee notes, for the
24 consideration of the General Assembly, that in subsection (c) of this section,
25 some provisions of the “State health laws” as they existed in 1967 when the
26 Authority was first enacted have since been transferred to the Department
27 of the Environment and the Department of Natural Resources. This is
28 especially true in the areas of toxic substances and water quality. The
29 General Assembly may wish to consider adding references to those
30 departments in subsection (c) of this section, as well as reviewing the scope
31 of State and local permitting and construction requirements with which
32 the Authority must comply under this section.

33 The Economic Development Article Review Committee notes, for the
34 consideration of the General Assembly, that subsection (d)(2) of this
35 section, which provides that “[i]f required by this subtitle, the Authority
36 shall ... obtain any applicable licenses and permits ... follow any required
37 procedures” is either redundant if it repeats a requirement that is stated
38 elsewhere in this subtitle, or is meaningless if the requirement is not
39 stated elsewhere in this subtitle. The remainder of the section states all
40 the other requirements for development approvals and other external
41 matters that apply to the Authority, particularly including State health
42 laws and local land use regulations. The General Assembly may wish to
43 consider repealing subsection (d)(2) of this section to eliminate this source

1 of confusion.

2 Defined terms: “Authority” § 10–201

3 “Development” § 10–201

4 “Project” § 10–201

5 “State” § 9–101

6 10–208. MONEY OF AUTHORITY.

7 (A) INVESTMENT AUTHORIZED.

8 THE MONEY OF THE AUTHORITY MAY BE INVESTED.

9 (B) INCOME FROM INVESTMENT.

10 ANY INCOME FROM THE INVESTMENT OF MONEY OF THE AUTHORITY SHALL BE
11 CREDITED TO THE AUTHORITY.

12 REVISOR’S NOTE: This section is new language derived without substantive
13 change from the second and third clauses of former Art. 41, § 13–105(10).

14 In subsection (a) of this section, the former reference to “funds” of the
15 Authority is deleted in light of the reference to “money” of the Authority.

16 In subsection (b) of this section, the reference to income from “the
17 investment of money of the Authority” is substituted for the former
18 reference to income from “any investments” for clarity.

19 Also in subsection (b) of this section, the former reference to any “interest
20 earned and all other” income is deleted as surplusage.

21 Defined term: “Authority” § 10–201

22 10–209. POWERS AND DUTIES — IN GENERAL.

23 (A) POWERS — IN GENERAL.

24 THE AUTHORITY MAY:

25 (1) SUE AND BE SUED;

26 (2) ADOPT A SEAL;

27 (3) ACQUIRE, HOLD, AND DISPOSE OF PROPERTY FOR ITS CORPORATE
28 PURPOSES;

29 (4) SELL, LEASE, OR OTHERWISE CONVEY, IN ANY MANNER THAT THE
30 AUTHORITY CONSIDERS APPROPRIATE, ANY PROPERTY IT OWNS TO ACCOMPLISH THE
31 PURPOSES OF THIS SUBTITLE;

1 (5) ENTER INTO CONTRACTS AND LEASES, INCLUDING CONTRACTS OR
2 LEASES RELATING TO THE CONSTRUCTION, OPERATION, MAINTENANCE, MANAGEMENT,
3 AND USE OF DEVELOPMENTS AND PROJECTS, CONCESSIONS, STALLS, AUCTION HOUSES,
4 DOCKING FACILITIES, AND OTHER FACILITIES, AND EXECUTE ANY INSTRUMENT
5 NECESSARY OR CONVENIENT, ON THE TERMS AND FOR ANY CORPORATE PURPOSE THAT
6 THE AUTHORITY CONSIDERS ADVISABLE;

7 (6) ISSUE BONDS IN ACCORDANCE WITH THIS SUBTITLE;

8 (7) USE THE PROCEEDS OF THE BONDS, OTHER MONEY AVAILABLE UNDER
9 THIS SUBTITLE, OR ANY GRANT OR MONEY FROM THE STATE OR FEDERAL GOVERNMENT
10 OR ANY OF THEIR UNITS OR INSTRUMENTALITIES TO ACCOMPLISH THE PURPOSES OF THIS
11 SUBTITLE;

12 (8) BORROW MONEY FOR A CORPORATE PURPOSE AND MORTGAGE OR
13 OTHERWISE ENCUMBER ITS PROPERTY AS SECURITY FOR THE LOAN;

14 (9) ACCEPT GIFTS, CONTRIBUTIONS, OR LOANS OF MONEY, SUPPLIES,
15 GOODS, AND SERVICES, AND ACCEPT APPROPRIATIONS, ALLOTMENTS, AND LOANS OF
16 MONEY FROM THE STATE OR FEDERAL GOVERNMENT, A FEDERAL CORPORATION, A UNIT
17 OR INSTRUMENTALITY OF THE FEDERAL GOVERNMENT, OR A POLITICAL SUBDIVISION OR
18 INSTRUMENTALITY OF THE STATE;

19 (10) EXERCISE A POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN
20 PERFORMING SIMILAR FUNCTIONS UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW;

21 (11) DREDGE APPROACHES AND ACQUIRE, CONSTRUCT, MAINTAIN, EQUIP,
22 AND OPERATE WHARVES, DOCKS, PIERS, AND OTHER STRUCTURES, AND ANY FACILITIES
23 NECESSARY FOR COMMERCE; AND

24 (12) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE
25 POWERS EXPRESSLY GRANTED BY THIS SUBTITLE.

26 (B) DELEGATION OF POWERS AND DUTIES.

27 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE AUTHORITY
28 MAY DELEGATE ANY POWER OR DUTY IT CONSIDERS APPROPRIATE TO A MEMBER, AN
29 OFFICER, AN AGENT, OR AN EMPLOYEE OF THE AUTHORITY.

30 (2) A CONTRACT IS NOT BINDING ON THE AUTHORITY UNLESS IT IS
31 APPROVED OR AUTHORIZED BY A MAJORITY OF THE MEMBERS OF THE AUTHORITY.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 41, § 13–105(1), (2), (6), (11), (12), (13), and (15),
34 the first clause of (4), the first clause of the first sentence of (7), the first
35 clause of (10), and the introductory language of § 13–105, the second
36 sentence of § 13–103(a) and the third sentence of (d), and, except as it
37 related to the construction of this subtitle, § 13–119.

38 In subsection (a)(1) of this section, the former phrase “implead and be

1 impleaded, and complain and defend in all courts” is deleted as included in
2 the comprehensive reference to the authority to “sue and be sued”.

3 In subsection (a)(2) of this section, the former reference to “alter[ing]” a
4 seal is deleted as implicit in the authority to “adopt” a seal.

5 Also in subsection (a)(2) of this section, the former phrase “at its pleasure”
6 is deleted as implicit in the general grant of authority given to the
7 Authority in that provision.

8 In subsection (a)(3) of this section, the former reference to “real or
9 personal” property is deleted as included in the comprehensive reference to
10 “property”. Similarly, in subsection (a)(4) of this section, the former
11 reference to “land” is deleted as included in the comprehensive reference to
12 “property”. *See* General Revisor’s Note to article.

13 In subsection (a)(4) of this section, the former reference to property “now or
14 hereafter” owned by the Authority is deleted as surplusage.

15 In subsection (a)(7) and (9) of this section, the references to “money” are
16 substituted for the former references to “funds” for consistency within this
17 article and with other revised articles. Similarly, in subsection (a)(7) of this
18 section, the reference to “money” is substituted for the former reference to
19 “proceeds”. *See* General Revisor’s Note to article.

20 Also in subsection (a)(7) and (9) of this section, the term “unit[s]” is
21 substituted for the former term “agency” for consistency within this article
22 and with other revised articles of the Code. *See* General Revisor’s Note to
23 article.

24 In subsection (b)(1) of this section, the reference to “a member” is
25 substituted for the former reference to “one or more ... members” for
26 consistency with the style used in this and other revised articles of the
27 Code. Art. 1, § 8 provides that the singular generally includes the plural.

28 Defined terms: “Authority” § 10–201

29 “Bond” § 10–201

30 “Development” § 10–201

31 “Project” § 10–201

32 “State” § 9–101

33 10–210. POWERS AND DUTIES — RULES AND REGULATIONS.

34 (A) ADOPTION.

35 SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE AUTHORITY MAY ADOPT RULES
36 AND REGULATIONS RELATING TO:

37 (1) THE USE OF STREETS, ALLEYS, DRIVEWAYS, AND DOCKING SLIPS ON THE
38 AUTHORITY’S PROPERTY;

1 (2) THE ESTABLISHMENT OF PARKING AREAS ON THE AUTHORITY'S
2 PROPERTY; AND

3 (3) THE SAFETY AND WELFARE OF PERSONS USING THE AUTHORITY'S
4 PROPERTY.

5 (B) LIMITATION.

6 THE RULES AND REGULATIONS THAT THE AUTHORITY ADOPTS MAY NOT BE
7 INCONSISTENT WITH THE LAWS GOVERNING THE POLITICAL SUBDIVISION IN WHICH A
8 DEVELOPMENT IS LOCATED.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 41, § 13–105(14) and, except as it related to the
11 perpetual existence of the Authority, the introductory language of §
12 13–105.

13 In subsection (a) of this section, the introductory language, “[s]ubject to
14 subsection (b) of this section”, is added to reflect the limitation on the
15 Authority's power to adopt rules and regulations.

16 In the introductory language of subsection (a) of this section, the former
17 reference to adopting “reasonable” regulations is deleted as unnecessary in
18 light of the comprehensive provisions governing the adoption of
19 regulations set forth in Title 10, Subtitle 1 of the State Government
20 Article.

21 In subsection (a)(1) of this section, the reference to streets, alleys,
22 driveways, and docking slips “on the Authority's property” is added to
23 clarify the scope of the Authority's authority to adopt rules and regulations
24 under subsection (a)(1) of this section, and for consistency with subsection
25 (a)(2) and (3) of this section.

26 In subsection (b) of this section, the requirement that rules and regulations
27 “not be inconsistent” with certain laws is substituted for the former
28 requirement that rules and regulations “[be] made in accordance” with
29 certain laws for accuracy.

30 Also in subsection (b) of this section, the phrase “political subdivision” is
31 substituted for the former phrase “local jurisdiction” for accuracy and
32 consistency within this subtitle.

33 Defined terms: “Authority” § 10–201
34 “Development” § 10–201
35 “Person” § 1–101

36 10–211. POWERS AND DUTIES — PROPERTY.

37 (A) ACQUISITION — IN GENERAL.

1 THE AUTHORITY MAY ACQUIRE IN ITS OWN NAME PROPERTY, FRANCHISES, AND
2 LICENSES BY:

3 (1) PURCHASE ON TERMS AND CONDITIONS AND IN THE MANNER THE
4 AUTHORITY CONSIDERS APPROPRIATE; OR

5 (2) CONDEMNATION FOR PUBLIC USE IN ACCORDANCE WITH APPLICABLE
6 LAW.

7 (B) ACQUISITION — PROPERTY OWNED BY POLITICAL SUBDIVISION.

8 (1) IF THE AUTHORITY CONSIDERS IT EXPEDIENT TO ESTABLISH OR
9 CONSTRUCT A DEVELOPMENT OR PROJECT ON ANY LAND, STREET, ALLEY, OR PUBLIC
10 PLACE THAT IS OWNED BY A POLITICAL SUBDIVISION, THE POLITICAL SUBDIVISION MAY:

11 (I) LEASE THE LAND, STREET, ALLEY, OR PUBLIC PLACE TO THE
12 AUTHORITY ON TERMS AGREED TO BY THE AUTHORITY AND THE POLITICAL SUBDIVISION;
13 OR

14 (II) CONVEY TITLE TO THE LAND, STREET, ALLEY, OR PUBLIC PLACE TO
15 THE AUTHORITY ON PAYMENT TO THE POLITICAL SUBDIVISION OF THE REASONABLE
16 VALUE OF THE PROPERTY, AS DETERMINED BY THE AUTHORITY AND THE POLITICAL
17 SUBDIVISION, IN CASH OR BONDS OF THE AUTHORITY AT PAR.

18 (2) (I) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, A
19 POLITICAL SUBDIVISION MAY LEASE OR CONVEY TO THE AUTHORITY WITHOUT
20 CONSIDERATION ANY PROPERTY THAT IS OWNED BY THE POLITICAL SUBDIVISION AND
21 SUITABLE FOR USE BY THE AUTHORITY FOR THE PURPOSES OF THIS SUBTITLE.

22 (II) A LEASE OR CONVEYANCE UNDER THIS PARAGRAPH REQUIRES
23 APPROVAL BY THE POLITICAL SUBDIVISION OR, FOR BALTIMORE CITY, BY THE BOARD OF
24 ESTIMATES.

25 (3) BEFORE AN ACQUISITION UNDER THIS SUBSECTION, THE AUTHORITY,
26 ON REQUEST OF A POLITICAL SUBDIVISION, SHALL REMOVE OR RELOCATE AT THE
27 EXPENSE OF THE AUTHORITY ANY PUBLIC UTILITY FACILITIES, WHETHER PUBLICLY OR
28 PRIVATELY OWNED OR OPERATED, LOCATED ON THE PROPERTY.

29 (C) LIMITATION — ON ACQUISITION OF SITE.

30 THE AUTHORITY MAY NOT ACQUIRE A SITE UNDER THIS SECTION FOR THE
31 ESTABLISHMENT OR CONSTRUCTION OF A DEVELOPMENT, OR ESTABLISH OR CONSTRUCT
32 A DEVELOPMENT ON A SITE, UNLESS THE SITE IS APPROVED:

33 (1) FOR BALTIMORE CITY, BY THE BOARD OF ESTIMATES; AND

34 (2) FOR ANY OTHER POLITICAL SUBDIVISION, BY THE COUNTY
35 COMMISSIONERS, COUNTY EXECUTIVE, OR IN A CHARTER COUNTY WITHOUT A COUNTY
36 EXECUTIVE, THE COUNTY COUNCIL.

1 (D) LIMITATION — ON ACCEPTANCE OF AND PAYMENT FOR PROPERTY.

2 THE AUTHORITY NEED NOT ACCEPT AND PAY FOR ANY PROPERTY OR RIGHTS IT
3 ACQUIRES EXCEPT FROM MONEY PROVIDED UNDER THIS SUBTITLE.

4 REVISOR’S NOTE: This section is new language derived without substantive
5 change from former Art. 41, § 13–105(5) and, except as it related to the
6 perpetual existence of the Authority, the introductory language of §
7 13–105.

8 In the introductory language to subsection (a) of this section, the former
9 reference to “real” property “or rights or easements therein” is deleted as
10 included in the comprehensive reference to “property”.

11 In subsection (a) of this section, the former references to “us[ing] ...
12 leas[ing] or mak[ing] contracts ... or dispos[ing]” of property are deleted as
13 redundant of the general powers of the Authority stated in § 10–209(a) of
14 this subtitle.

15 In subsection (a)(1) of this section, the word “appropriate” is substituted for
16 the former word “proper” for consistency with § 10–206(a)(5) of this
17 subtitle.

18 In subsection (a)(2) of this section, the former statement that “[i]n any
19 proceedings to condemn, such orders may be made by the court having
20 jurisdiction of the suit, action or proceedings as may be just to the
21 Authority and to the owners of the property to be condemned;” is deleted as
22 implicit in the requirement that condemnation for public use be “in
23 accordance with applicable law”. As to condemnation proceedings
24 generally, *see* RP Title 12 and Md. Rules Title 12, Chapter 200.

25 In the introductory language of subsection (b)(1) of this section, the
26 reference to any land or a street, alley, or other public place “that is owned
27 by” a political subdivision is substituted for the former reference to any
28 land or a street, alley, or other public place “the title to which shall then be
29 in” a political subdivision for brevity and clarity.

30 Also in the introductory language of subsection (b)(1) of this section, the
31 former reference to a political subdivision taking certain actions “through
32 its proper officials” is deleted as unnecessary since this is the only way in
33 which a political subdivision can act. Similarly, in subsection (b)(1)(i) of
34 this section, the former reference to the “proper officials of” the political
35 subdivision is deleted.

36 In subsection (b)(3) of this section, the requirement that the Authority, “on
37 request of a political subdivision”, remove or relocate certain public utility
38 facilities is added to reflect that the removal or relocation of the facilities is
39 at the option of the political subdivision since there may be circumstances
40 in which the removal or relocation is neither necessary nor desirable. The
41 Economic Development Article Review Committee calls this addition to the

1 attention of the General Assembly.

2 In the introductory language of subsection (c) of this section, the statement
3 that “[t]he Authority may not” take certain actions “under this section” is
4 substituted for the former statement that “the powers herein contained
5 and conferred in this paragraph shall not be exercised nor applicable to”
6 certain actions for brevity.

7 In subsection (c)(2) of this section, the phrase “or in a charter county
8 without a county executive, the county council” is added for accuracy.

9 The Economic Development Article Review Committee notes, for the
10 consideration of the General Assembly, that in subsection (c)(2) of this
11 section, the reference to the “county commissioners, county executive, or in
12 a charter county without a county executive, the county council” assumes
13 that the political subdivision in which the Authority is establishing a
14 development is a county, not a municipal corporation other than Baltimore
15 City. The General Assembly may wish to clarify what the approving
16 authority is for a development in another municipal corporation, or
17 substitute more general approval language.

18 In subsection (d) of this section, the reference to “money” is substituted for
19 the former reference to “funds” for consistency within this article and with
20 other revised articles of the Code. *See* General Revisor’s Note to article.

21 Also in subsection (d) of this section, the former reference to acquisition
22 “under this subtitle” is deleted as surplusage.

23 Defined terms: “Authority” § 10–201
24 “Development” § 10–201
25 “Project” § 10–201

26 10–212. DEVELOPMENTS AND PROJECTS — IN GENERAL.

27 (A) POWERS OF AUTHORITY.

28 THE AUTHORITY MAY:

29 (1) DEVELOP, ESTABLISH, ACQUIRE, IMPROVE, OWN, OPERATE, AND
30 MAINTAIN DEVELOPMENTS AND PROJECTS IN THE STATE; AND

31 (2) PAY THE COST OF DEVELOPMENTS OR PROJECTS, INCLUDING
32 IMPROVEMENTS TO ANY WATERWAYS AT A DEVELOPMENT OR PROJECT, FROM:

33 (I) THE PROCEEDS OF BONDS;

34 (II) OTHER MONEY AVAILABLE UNDER THIS SUBTITLE; OR

35 (III) MONEY FROM THE STATE OR FEDERAL GOVERNMENT OR ANY OF
36 THEIR UNITS OR INSTRUMENTALITIES.

1 (B) CONSTRUCTION OF DEVELOPMENT — REQUIRED STUDY.

2 CONSTRUCTION OF A DEVELOPMENT MAY NOT BEGIN UNLESS A COMPREHENSIVE
3 STUDY ESTABLISHES THAT THE CONSTRUCTION AND OPERATION OF THE DEVELOPMENT
4 WOULD BE ECONOMICALLY AND ENVIRONMENTALLY SOUND.

5 (C) CONSTRUCTION OF DEVELOPMENT — REQUIRED ANALYSIS.

6 EXCEPT FOR THE CENTER, CONSTRUCTION OF A DEVELOPMENT MAY NOT BEGIN
7 UNLESS:

8 (1) AN ANALYSIS OF THE ECONOMIC BENEFITS OF THE PROPOSED
9 DEVELOPMENT IS SUBMITTED TO THE LEGISLATIVE POLICY COMMITTEE, IN
10 ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE; AND

11 (2) THE LEGISLATIVE POLICY COMMITTEE IS GIVEN 45 DAYS AFTER
12 RECEIPT TO COMMENT ON THE PROPOSAL.

13 (D) CONSTRUCTION CONTRACTS BY SEALED BID.

14 (1) THIS SUBSECTION DOES NOT APPLY TO FACILITIES CONSTRUCTED ON
15 LAND LEASED OR SOLD BY THE AUTHORITY TO A PRIVATE ENTITY.

16 (2) BEFORE CONTRACTING TO CONSTRUCT A FACILITY AT A DEVELOPMENT
17 OR PROJECT, THE AUTHORITY SHALL SOLICIT SEALED BIDS.

18 (E) APPROVAL BY BOARD OF PUBLIC WORKS.

19 (1) ALL PLANS AND ANY ISSUE OF BONDS TO FINANCE A DEVELOPMENT OR
20 PROJECT REQUIRE APPROVAL BY THE BOARD OF PUBLIC WORKS BY RESOLUTION
21 BEFORE THE BONDS ARE SOLD.

22 (2) ALL LEASES OF REAL PROPERTY AND PLANS AND CONTRACTS FOR THE
23 ACQUISITION CONVEYANCE OF REAL PROPERTY REQUIRE APPROVAL BY THE BOARD OF
24 PUBLIC WORKS.

25 REVISOR’S NOTE: This section is new language derived without substantive
26 change from former Art. 41, § 13–105(3) and, except as it related to the
27 perpetual existence of the Authority, the introductory language of §
28 13–105, and the second clause of § 13–105(4).

29 In the introductory language of subsection (a)(2) of this section, the former
30 reference to “parking and other ancillary facilities appurtenant thereto” is
31 deleted as included in the defined term “project”.

32 In subsection (a)(2)(ii) of this section, the reference to “money” is
33 substituted for the former reference to “funds” for consistency within this
34 article and with other revised articles. Similarly, in subsection (a)(2)(iii) of
35 this section, the reference to “money” is substituted for the former
36 reference to “proceeds”. *See* General Revisor’s Note to article.

1 Also in subsection (a)(2)(ii) of this section, the former reference to money
2 “to become available” is deleted as surplusage.

3 In subsection (a)(2)(iii) of this section, the term “unit[s]” is substituted for
4 the former term “agency” for consistency within this article and with other
5 revised articles of the Code. *See* General Revisor’s Note to article.

6 Also in subsection (a)(2)(iii) of this section, the former reference to “grants”
7 is deleted in light of the reference to “money”.

8 In the introductory language of subsection (c) of this section, the former
9 reference to a development “undertaken by the Authority” is deleted as
10 included in the defined term “development”.

11 In subsection (c)(1) of this section, the former requirement to submit a
12 certain analysis “to the Department of Legislative Services” is deleted in
13 light of the reference to § 2–1246 of the State Government Article, which
14 requires copies of reports and publications submitted to a committee of the
15 General Assembly to be submitted to the Department.

16 Subsection (d)(2) of this section is revised as a condition precedent to a
17 contract rather than as a requirement of contract for clarity.

18 In subsection (e)(1) of this section, the former requirement that certain
19 plans and bond issues “be submitted to” the Board of Public Works is
20 deleted as implicit in the reference to the plans and bond issues
21 “requir[ing] approval” by the Board of Public Works.

22 Defined terms: “Authority” § 10–201

23 “Bond” § 10–201

24 “Center” § 10–201

25 “Cost” § 10–201

26 “Development” § 10–201

27 “Improve” § 10–201

28 “Improvement” § 10–201

29 “Project” § 10–201

30 “State” § 9–101

31 **10–213. DEVELOPMENTS AND PROJECTS — WHOLESALE FOOD DEALERS AND**
32 **TENANTS.**

33 (A) **POWER OF AUTHORITY TO ASSIST.**

34 **THE AUTHORITY MAY ASSIST WHOLESALE FOOD DEALERS AND TENANTS WHO WANT**
35 **TO LOCATE OR RELOCATE THEIR OPERATIONS IN A DEVELOPMENT OR PROJECT IF, IN THE**
36 **JUDGMENT OF THE AUTHORITY:**

37 (1) **THE WHOLESALE FOOD DEALERS AND TENANTS WILL PROVIDE THE**
38 **GREATEST OPPORTUNITY OF SUCCESS FOR A DEVELOPMENT OR PROJECT; AND**

(2) THE COST OF THE ASSISTANCE IS THE MOST LIKELY TO BE RECOUPED.

(B) ACQUISITION OF PROPERTY AND PAYMENT OF MOVING EXPENSES.

TO ASSIST A WHOLESALE FOOD DEALER OR TENANT, THE AUTHORITY MAY:

(1) ACQUIRE, BY NEGOTIATION AND PURCHASE, THE LAND, STRUCTURES, EQUIPMENT, OR LEASES, OR AN INTEREST IN THEM, OF THE WHOLESALE FOOD DEALER OR TENANT; AND

(2) PAY THE REASONABLE EXPENSES OF MOVING PERSONAL PROPERTY THAT MUST BE MOVED TO LOCATE OR RELOCATE THE OPERATIONS OF THE WHOLESALE FOOD DEALER OR TENANT IN A DEVELOPMENT OR PROJECT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, § 13–105(8) and, except as it related to the perpetual existence of the Authority, the introductory language of § 13–105.

In subsection (b)(2) of this section, the reference to personal property that must be moved to locate or relocate “the operations of the wholesale food dealer or tenant in a development or project” is added for clarity and consistency with subsection (a) of this section.

Defined terms: “Authority” § 10–201
“Development” § 10–201
“Project” § 10–201

10–214. DEVELOPMENTS AND PROJECTS — RATES AND CHARGES.

(A) POWER OF AUTHORITY.

THE AUTHORITY MAY:

(1) FIX AND COLLECT RATES AND CHARGES FOR THE USE OF THE FACILITIES OF A DEVELOPMENT OR PROJECT;

(2) ESTABLISH THE TERMS AND CONDITIONS FOR THE USE OF THE FACILITIES; AND

(3) CONTRACT WITH A PERSON FOR THE PERSON’S USE OF THE FACILITIES OF A DEVELOPMENT OR PROJECT.

(B) PROVISION OF APPROPRIATE REVENUES.

THE RATES AND CHARGES UNDER SUBSECTION (A) OF THIS SECTION SHALL BE FIXED AND REVISED TO PROVIDE APPROPRIATE REVENUES FROM A DEVELOPMENT OR PROJECT, AS THE AUTHORITY DETERMINES.

(C) CHARGES REGULATED.

1 THE RATES AND CHARGES UNDER SUBSECTION (A) OF THIS SECTION ARE NOT
 2 SUBJECT TO SUPERVISION OR REGULATION BY ANY OTHER UNIT OF THE STATE OR A
 3 POLITICAL SUBDIVISION.

4 REVISOR'S NOTE: This section is new language derived without substantive
 5 change from former Art. 41, § 13–112.

6 In subsections (a)(1) and (c) of this section, the references to rates “and”
 7 charges are substituted for the former references to rates “or” charges to
 8 clarify that the provisions of subsections (a)(1) and (c) apply to both “rates”
 9 and “charges”, and for consistency with subsection (b) of this section.

10 In subsection (a)(1) of this section, the former phrase “including any
 11 ancillary or other appurtenant facilities” is deleted as included in the
 12 defined term “project”.

13 Also in subsection (a)(1) of this section, the former phrase “from time to
 14 time” is deleted as surplusage.

15 In subsection (a)(3) of this section, the former reference to a “partnership,
 16 or association” is deleted as included in the defined term “person”. *See* §
 17 9–101 of this article.

18 In subsections (b) and (c) of this section, the references to rates and
 19 charges “under subsection (a) of this section” are added for clarity.

20 In subsection (c) of this section, the term “unit” is substituted for the
 21 former reference to a “commission, board, bureau, or agency” for
 22 consistency within this article and with other revised articles. *See* General
 23 Revisor's Note to article.

24 Defined terms: “Authority” § 10–201
 25 “Development” § 10–201
 26 “Person” § 9–101
 27 “Project” § 10–201
 28 “State” § 9–101

29 10–215. DEVELOPMENTS AND PROJECTS — POLITICAL SUBDIVISION MAY VACATE.

30 A POLITICAL SUBDIVISION IN WHICH A DEVELOPMENT OR PROJECT IS LOCATED
 31 MAY:

32 (1) VACATE ANY STREET, ALLEY, OR OTHER PUBLIC PLACE NECESSARY TO
 33 ENSURE THE PROPER OPERATION OF THE DEVELOPMENT OR PROJECT AND THE FULL USE
 34 OF ITS FACILITIES; AND

35 (2) GRANT TO THE AUTHORITY THE EXCLUSIVE RIGHT TO USE THE VACATED
 36 STREET, ALLEY, OR OTHER PUBLIC PLACE FOR THE PURPOSE OF THE DEVELOPMENT OR
 37 PROJECT ON TERMS AGREED TO BY THE AUTHORITY AND THE POLITICAL SUBDIVISION.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 41, § 13–108.

3 Defined terms: “Authority” § 10–201
4 “Development” § 10–201
5 “Project” § 10–201

6 10–216. DEVELOPMENTS AND PROJECTS — CLEANING AND REFUSE.

7 SUBJECT TO THE TERMS AND CONDITIONS AGREED TO BY THE AUTHORITY AND THE
8 STATE OR THE POLITICAL SUBDIVISION, THE STATE OR A POLITICAL SUBDIVISION IN
9 WHICH A DEVELOPMENT OR PROJECT IS LOCATED MAY PROVIDE FOR:

10 (1) CLEANING THE DEVELOPMENT OR PROJECT; AND

11 (2) REMOVING AND DISPOSING OF REFUSE FROM THE DEVELOPMENT OR
12 PROJECT.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 41, § 13–109.

15 In the introductory language of this section, the former phrase “and in
16 such manner as” agreed to is deleted as included in the reference to the
17 “terms and conditions” agreed to.

18 Also in the introductory language of this section, the former reference to
19 the State or a political subdivision of the State providing for certain
20 services subject to the terms and conditions “lawfully” agreed to is deleted
21 as implicit.

22 Defined terms: “Authority” § 10–201
23 “Development” § 10–201
24 “Project” § 10–201
25 “State” § 9–101

26 10–217. FINANCING ANOTHER.

27 (A) “PERSON” DEFINED.

28 (1) “PERSON” HAS THE MEANING STATED IN § 9–101 OF THIS ARTICLE.

29 (2) “PERSON” ALSO INCLUDES A PUBLIC OR QUASI–PUBLIC CORPORATION.

30 (B) POWER OF AUTHORITY TO FINANCE.

31 SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE AUTHORITY MAY PROVIDE
32 FINANCING TO A PERSON TO ACCOMPLISH THE PURPOSES OF THIS SUBTITLE:

33 (1) ON PROPERTY THAT IS OWNED OR OTHERWISE HELD OR CONTROLLED BY
34 THE AUTHORITY OR THE STATE; OR

1 (2) ON, UNDER, OR IN PROPERTY THAT IS OWNED OR OTHERWISE HELD OR
2 CONTROLLED BY ANY OTHER PERSON.

3 (c) LIMITATION.

4 (1) THIS SUBSECTION DOES NOT APPLY TO AN EXPENDITURE OF MONEY:

5 (i) IN CONNECTION WITH THE ACQUISITION OF PROPERTY OR THE
6 PREPARATION OF PLANS;

7 (ii) TO THE EMPLOYMENT OF STAFF OF THE AUTHORITY; OR

8 (iii) FOR OTHER MATTERS THAT CUSTOMARILY ARE PRELIMINARY TO
9 THE COMMENCEMENT OF CONSTRUCTION.

10 (2) IF THE AUTHORITY PROVIDES FINANCING TO A PERSON TO ACCOMPLISH
11 THE PURPOSES OF THIS SUBTITLE, THE AUTHORITY MAY NOT EXPEND ANY BOND
12 PROCEEDS TO ACQUIRE OR IMPROVE A FACILITY UNTIL THE AUTHORITY, WITH THE
13 APPROVAL OF THE BOARD OF PUBLIC WORKS, HAS ENTERED INTO A BINDING CONTRACT
14 WITH THE PERSON.

15 (3) THE CONTRACT SHALL:

16 (i) BE SECURED TO THE SATISFACTION OF THE BOARD OF PUBLIC
17 WORKS; AND

18 (ii) REQUIRE THE PERSON TO PAY TO THE AUTHORITY OR ITS
19 DESIGNEE:

20 1. THE PRINCIPAL OF AND INTEREST ON BONDS SOLD UNDER
21 THIS SUBTITLE AS THEY BECOME DUE;

22 2. ANY FISCAL AGENCY CHARGES FOR PAYING PRINCIPAL AND
23 INTEREST;

24 3. ANY CHARGES OR FEES SET BY THE AUTHORITY FOR ITS
25 ADMINISTRATIVE COSTS AND EXPENSES; AND

26 4. ANY PREMIUM ON BONDS RETIRED BY CALL OR PURCHASED
27 AS PROVIDED IN THIS SUBTITLE.

28 (d) ADMINISTRATIVE COSTS AND EXPENSES.

29 THE AUTHORITY MAY CHARGE TO AND EQUITABLY APPORTION BETWEEN PERSONS
30 FINANCED BY THE AUTHORITY UNDER THIS SECTION ALL OR PART OF THE AUTHORITY'S
31 ADMINISTRATIVE COSTS AND EXPENSES INCURRED IN EXERCISING ITS POWERS AND
32 PERFORMING ITS DUTIES UNDER THIS SUBTITLE.

33 (e) STATE AND LOCAL PROPERTY TAXES.

1 IF PROPERTY IS TRANSFERRED BY THE AUTHORITY TO A PERSON FINANCED UNDER
2 THIS SECTION, THE PERSON SHALL PAY ANY STATE AND LOCAL PROPERTY TAXES THAT
3 ACCRUE AFTER THE TRANSFER.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 41, § 13–105(7), as it related to the Authority's
6 financing of certain persons to carry out the purposes of this subtitle, and,
7 except as it related to the perpetual existence of the Authority, the
8 introductory language of § 13–105.

9 Subsection (a) of this section is revised as a definition to clarify that, for
10 purposes of this section, the article-wide definition of "person" includes a
11 public or quasi-public corporation, and to avoid repetition of the full
12 reference to the enumerated entities throughout this section.
13 Correspondingly, the defined term "person" is substituted throughout this
14 section for the former references to a "private, public, or quasi-public
15 corporation, partnership, association, ... or other legal entity", "the legal
16 entity", and "such legal entity".

17 In subsection (b) of this section, the introductory language, "[s]ubject to
18 subsection (c) of this section", is added to reflect that limitations exist on
19 the Authority's power to finance a person under this section.

20 In the introductory language of subsection (c)(1) of this section, the phrase
21 "[t]his subsection does not apply to an expenditure of money" is substituted
22 for the former phrase "as distinguished from funds which are necessary to
23 be expended" for clarity.

24 In subsection (c)(2)(ii)2 of this section, the former requirement to pay
25 "necessary" fiscal agency charges is deleted as implicit.

26 In subsection (d) of this section, the reference to persons "financed by the
27 Authority under this section" is substituted for the former reference to
28 "such" persons for clarity.

29 In subsection (e) of this section, the introductory language, "[i]f property is
30 transferred by the Authority to a person financed under this section", is
31 added to clarify the circumstances under which a person must pay State
32 and local property taxes.

33 Also in subsection (e) of this section, the former requirement that the
34 person pay "to the State of Maryland, or any of its political subdivisions"
35 State and local property taxes is deleted as implicit.

36 Defined terms: "Authority" § 10–201
37 "Improve" § 10–201
38 "Person" § 9–101
39 "State" § 9–101

1 10–218. BONDS — IN GENERAL.

2 (A) RESOLUTION; LIMITATION.

3 THE AUTHORITY MAY AUTHORIZE THE ISSUANCE OF FEDERALLY TAX–EXEMPT OR
4 FEDERALLY TAXABLE REVENUE BONDS BY RESOLUTION.

5 (B) PURPOSES.

6 THE AUTHORITY MAY ISSUE REVENUE BONDS:

7 (1) TO PAY ANY PART OF THE COST OF DEVELOPMENTS OR PROJECTS;

8 (2) TO FUND A DEFICIT IN ACCORDANCE WITH SUBSECTION (I) OF THIS
9 SECTION;

10 (3) TO PAY THE COST OF IMPROVEMENTS OF DEVELOPMENTS OR PROJECTS
11 IN ACCORDANCE WITH SUBSECTION (J) OF THIS SECTION;

12 (4) TO REFUND OUTSTANDING BONDS ISSUED UNDER THIS SUBTITLE; AND

13 (5) FOR ANY OTHER PURPOSE SET FORTH IN THIS SUBTITLE.

14 (C) TIMING.

15 THE AUTHORITY MAY ISSUE THE BONDS AT ONE TIME OR IN ONE OR MORE SERIES
16 FROM TIME TO TIME.

17 (D) TERMS AND CONDITIONS.

18 THE AUTHORITY SHALL DETERMINE:

19 (1) THE DATES OF THE BONDS;

20 (2) THE MATURITY DATES OF THE BONDS, WHICH MAY NOT EXCEED 40
21 YEARS FROM THE DATE OF THEIR ISSUE;

22 (3) THE INTEREST RATES ON THE BONDS;

23 (4) THE MEDIUM OF PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE
24 BONDS;

25 (5) INTEREST PAYMENT DATES ON THE BONDS, WHICH SHALL OCCUR TWICE
26 IN EVERY 12 MONTHS;

27 (6) THE FORM OF THE BONDS;

28 (7) THE MANNER OF EXECUTING THE BONDS;

29 (8) THE DENOMINATIONS OF THE BONDS; AND

1 (9) THE PLACES AT WHICH THE PRINCIPAL OF AND INTEREST ON THE BONDS
2 WILL BE PAYABLE, INCLUDING A BANK OR TRUST COMPANY IN OR OUTSIDE THE STATE.

3 (E) EARLY REDEMPTION.

4 THE BONDS MAY BE REDEEMED BEFORE MATURITY AT THE OPTION OF THE
5 AUTHORITY AT THE PRICES AND UNDER TERMS AND CONDITIONS THAT THE AUTHORITY
6 SETS BEFORE THE BONDS ARE ISSUED.

7 (F) VALIDITY OF SIGNATURE.

8 AN OFFICER'S SIGNATURE OR FACSIMILE ON A BOND REMAINS VALID EVEN IF THE
9 OFFICER LEAVES OFFICE BEFORE THE BOND IS DELIVERED.

10 (G) SALE.

11 (1) THE AUTHORITY SHALL SELL THE BONDS EITHER BY COMPETITIVE OR
12 NEGOTIATED SALE IN A MANNER AND FOR A PRICE THAT THE AUTHORITY DETERMINES
13 TO BE IN ITS BEST INTERESTS.

14 (2) THE BONDS ARE EXEMPT FROM §§ 8–206 AND 8–208 OF THE STATE
15 FINANCE AND PROCUREMENT ARTICLE.

16 (H) TEMPORARY REVENUE BONDS; REPLACEMENT BONDS.

17 (1) BEFORE IT PREPARES DEFINITIVE REVENUE BONDS, THE AUTHORITY
18 MAY ISSUE TEMPORARY REVENUE BONDS MEETING THE REQUIREMENTS OF THIS SECTION
19 THAT ARE EXCHANGEABLE FOR DEFINITIVE REVENUE BONDS WHEN ISSUED.

20 (2) THE AUTHORITY MAY REPLACE BONDS THAT ARE MUTILATED, LOST, OR
21 DESTROYED.

22 (3) THE AUTHORITY MAY ISSUE REPLACEMENT BONDS OR BONDS
23 EXCHANGED FOR TEMPORARY REVENUE BONDS WITHOUT:

24 (I) ANOTHER PROCEEDING; OR

25 (II) THE SATISFACTION OF ANY OTHER CONDITION.

26 (I) ADDITIONAL BONDS — TO FUND DEFICIT.

27 (1) IF THE PROCEEDS OF THE BONDS ARE LESS THAN THE AMOUNT
28 REQUIRED FOR THE PURPOSE FOR WHICH THE BONDS WERE AUTHORIZED, THE
29 AUTHORITY MAY ISSUE ADDITIONAL BONDS TO FUND THE AMOUNT OF THE DEFICIT.

30 (2) UNLESS OTHERWISE PROVIDED IN THE RESOLUTION AUTHORIZING THE
31 ISSUANCE OF BONDS OR IN THE TRUST AGREEMENT, THE ADDITIONAL BONDS ARE:

32 (I) CONSIDERED TO BE OF THE SAME ISSUE AS THE FIRST ISSUE; AND

1 (II) ENTITLED TO PAYMENT FROM THE SAME FUNDS AS THE FIRST
2 ISSUE, WITHOUT PREFERENCE OR PRIORITY OF THE BONDS OF THE FIRST ISSUE.

3 (J) ADDITIONAL BONDS — FOR EXTENSIONS, ADDITIONS, AND IMPROVEMENTS.

4 (1) THE RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS MAY PROVIDE
5 FOR THE ISSUANCE OF ADDITIONAL BONDS TO PAY THE COST OF ANY NECESSARY
6 IMPROVEMENTS.

7 (2) THE ADDITIONAL BONDS:

8 (I) MAY BE LIMITED IN AMOUNT BY THE RESOLUTION OR TRUST
9 AGREEMENT;

10 (II) SHALL BE CONSIDERED PART OF THE FIRST ISSUE AUTHORIZED BY
11 THE RESOLUTION; AND

12 (III) SHALL BE ISSUED UNDER THE RESTRICTIONS AND LIMITATIONS
13 PROVIDED BY THE RESOLUTION OR TRUST AGREEMENT.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 41, § 13–111(a), (b), (d) through (f), and (h)
16 through (k).

17 In subsection (b)(2) of this section, the phrase “in accordance with
18 subsection (i) of this section” is added for clarity. Similarly, in subsection
19 (b)(3) of this section, the phrase “in accordance with subsection (i) of this
20 section” is added for clarity.

21 In subsection (d)(2) of this section, the phrase “interest rates” is
22 substituted for the former reference to the “interest at such rate or rates”
23 in light of Art. 1, § 8 which provides that the plural generally includes the
24 singular.

25 In subsection (d)(5) of this section, the reference to interest payments on
26 bonds occurring “twice in every 12 months” is substituted for the former
27 reference to their being payable “semiannually” for clarity. The Economic
28 Development Article Review Committee calls this substitution to the
29 attention of the General Assembly.

30 In subsection (h)(1) of this section, the reference to temporary revenue
31 bonds “meeting the requirements of this section” is substituted for the
32 former reference to bonds “under the restrictions” for clarity.

33 In subsection (h)(3) of this section, the former reference to an “election” is
34 deleted as included in the comprehensive references to “another
35 proceeding” and satisfaction of “any other condition”.

36 In subsections (i) and (j) of this section, the references to a trust
37 “agreement” are substituted for the former obsolete references to a trust

1 “indenture” for consistency within this article. *See* General Revisor’s Note
2 to article.

3 The second sentence of former Art. 41, § 13–111(j), which provided that the
4 issuance, details, and rights of holders of revenue refunding bonds should,
5 to the extent applicable, be governed by former § 13–111, is deleted as
6 implicit in the reorganization of material in this subtitle. Revenue
7 refunding bonds authorized under subsection (b)(3) of this section are only
8 one of the several types of revenue bonds that the Authority may issue
9 under this section. The general requirements of this section apply to each
10 type of revenue bonds issued by the Authority, unless overridden by a more
11 specific provision of this section that deals only with that type of revenue
12 bond. No substantive change is intended.

13 Defined terms: “Authority” § 10–201

14 “Bond” § 10–201

15 “Cost” § 10–201

16 “Development” § 10–201

17 “Improvement” § 10–201

18 “Project” § 10–201

19 “State” § 9–101

20 **10–219. REVENUE BONDS — LEGAL INVESTMENTS.**

21 **BONDS ARE SECURITIES:**

22 (1) IN WHICH ANY OF THE FOLLOWING PERSONS MAY LEGALLY AND
23 PROPERLY INVEST MONEY, INCLUDING CAPITAL THAT THE PERSON OWNS OR CONTROLS:

24 (I) AN OFFICER OR UNIT OF THE STATE OR A POLITICAL SUBDIVISION;

25 (II) A BANK, TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION,
26 INVESTMENT COMPANY, OR OTHER PERSON CONDUCTING A BANKING BUSINESS;

27 (III) AN INSURANCE COMPANY, INSURANCE ASSOCIATION, OR OTHER
28 PERSON CONDUCTING AN INSURANCE BUSINESS;

29 (IV) A PERSONAL REPRESENTATIVE, GUARDIAN, TRUSTEE, OR OTHER
30 FIDUCIARY; AND

31 (V) ANY OTHER PERSON; AND

32 (2) THAT MAY BE DEPOSITED WITH AND RECEIVED BY A UNIT OF THE STATE
33 OR A POLITICAL SUBDIVISION FOR ANY PURPOSE FOR WHICH THE DEPOSIT OF BONDS OR
34 OTHER OBLIGATIONS OF THE STATE IS AUTHORIZED BY LAW.

35 REVISOR’S NOTE: This section is new language derived without substantive
36 change from former Art. 41, § 13–114.

37 In items (1)(i) and (2) of this section, the term “unit” is substituted for the

1 former term “agency” for consistency within this article and with other
2 revised articles of the Code. *See* General Revisor’s Note to article.

3 In item (1)(iv) of this section, the term “personal representative” is
4 substituted for the former phrase “administrators, executors” for
5 consistency with terminology used throughout the Estates and Trusts
6 Article and in light of Art. 1, § 5, which provides that the term “personal
7 representative” includes both an “administrator” and an “executor”.

8 Defined terms: “Bonds” § 10–201

9 “Person” § 9–101

10 “State” § 9–101

11 **10–220. BONDS — LIABILITY; FAITH AND CREDIT.**

12 (A) **LIABILITY LIMITATIONS.**

13 A BOND IS NOT A DEBT OR A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OR
14 A POLITICAL SUBDIVISION, AND IS PAYABLE SOLELY FROM DEVELOPMENT OR PROJECT
15 REVENUES AS PROVIDED IN ACCORDANCE WITH THIS SUBTITLE.

16 (B) **STATEMENT.**

17 EACH BOND SHALL STATE ON ITS FACE THAT THE AUTHORITY, THE STATE, AND A
18 POLITICAL SUBDIVISION OF THE STATE ARE NOT OBLIGED TO PAY THE PRINCIPAL OF OR
19 INTEREST ON THE BOND EXCEPT FROM THE DEVELOPMENT OR PROJECT REVENUES
20 PLEDGED TO THE PAYMENT OF THE BOND.

21 REVISOR’S NOTE: This section is new language derived without substantive
22 change from former Art. 41, § 13–111(c).

23 Defined terms: “Authority” § 10–201

24 “Bond” § 10–201

25 “Development” § 10–201

26 “Project” § 10–201

27 “State” § 9–101

28 **10–221. BONDS — TRUST AGREEMENT.**

29 (A) **CORPORATE TRUSTEE.**

30 (1) THE AUTHORITY MAY SECURE A BOND BY A TRUST AGREEMENT
31 BETWEEN THE AUTHORITY AND A CORPORATE TRUSTEE.

32 (2) A CORPORATE TRUSTEE MAY BE ANY TRUST COMPANY OR BANK THAT
33 HAS THE POWERS OF A TRUST COMPANY IN OR OUTSIDE THE STATE.

34 (B) **PROVISIONS.**

35 THE TRUST AGREEMENT OR THE RESOLUTION THAT PROVIDES FOR THE ISSUANCE
36 OF A BOND MAY:

1 (1) PROVIDE FOR THE PROTECTION AND ENFORCEMENT OF RIGHTS AND
2 REMEDIES OF BONDHOLDERS, INCLUDING COVENANTS SETTING FORTH THE DUTIES OF
3 THE AUTHORITY IN RELATION TO:

4 (I) ACQUISITION, IMPROVEMENT, MAINTENANCE, OPERATION, AND
5 INSURANCE OF THE DEVELOPMENT OR PROJECT; AND

6 (II) CUSTODY, SAFEGUARDING, AND APPLICATION OF MONEY;

7 (2) PROVIDE FOR THE RIGHTS AND REMEDIES OF BONDHOLDERS AND OF
8 THE TRUSTEE;

9 (3) RESTRICT THE INDIVIDUAL RIGHT OF ACTION BY BONDHOLDERS AS IS
10 CUSTOMARY IN TRUST AGREEMENTS SECURING BONDS OF CORPORATIONS;

11 (4) PROVIDE FOR THE DEPOSIT OF THE PROCEEDS OF THE SALE OF BONDS
12 AND THE REVENUE OF A DEVELOPMENT OR PROJECT WITH AN OFFICER, BOARD, OR
13 DEPOSITARY THAT THE AUTHORITY DESIGNATES AS CUSTODIAN; AND

14 (5) PROVIDE FOR THE METHOD OF DISBURSING THE PROCEEDS AND
15 REVENUES WITH SAFEGUARDS AND RESTRICTIONS THAT THE AUTHORITY DETERMINES.

16 (C) SECURITY FOR BONDS.

17 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND §
18 10–222 OF THIS SUBTITLE, A TRUST AGREEMENT MAY PLEDGE OR ASSIGN REVENUES TO
19 BE RECEIVED FROM THE DEVELOPMENT OR PROJECT.

20 (2) NO PORTION OF A DEVELOPMENT OR PROJECT MAY BE CONVEYED OR
21 MORTGAGED WITHOUT THE EXPRESS CONSENT OF THE BOARD OF PUBLIC WORKS.

22 (D) USE OF PROCEEDS.

23 THE TRUST AGREEMENT MAY AUTHORIZE THE USE OF MONEY REALIZED FROM THE
24 SALE OR DISPOSITION OF ANY OF THE PROPERTY OF A DEVELOPMENT OR PROJECT TO PAY
25 PRINCIPAL OF AND INTEREST ON THE BONDS.

26 (E) EXPENSES.

27 EXPENSES INCURRED IN CARRYING OUT A TRUST AGREEMENT MAY BE TREATED AS
28 PART OF THE COST OF MAINTENANCE, REPAIR, AND OPERATION OF A DEVELOPMENT OR
29 PROJECT.

30 (F) AUTHORITY OF BANK OR TRUST COMPANY.

31 A BANK OR TRUST COMPANY INCORPORATED IN THE STATE MAY ACT AS A
32 DEPOSITARY OF THE PROCEEDS OF THE BONDS OR THE REVENUES AND FURNISH
33 INDEMNITY BONDS OR PLEDGE SECURITIES AS REQUIRED BY THE AUTHORITY.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 41, § 13–111(m).

1 Throughout this section, the references to a trust “agreement” are
2 substituted for the former obsolete references to a trust “indenture” for
3 consistency within this article. *See* General Revisor’s Note to article.

4 In subsection (b)(4) of this section, the words “of the proceeds and
5 revenues” are substituted for the former word “thereof” for clarity.

6 In subsection (c)(1) of this section, the reference to “§ 10–222 of this
7 subtitle is added for clarity.

8 Defined terms: “Authority” § 10–201

9 “Bond” § 10–201

10 “Development” § 10–201

11 “Improvement” § 10–201

12 “Project” § 10–201

13 “State” § 9–101

14 **10–222. BONDS — PROCEEDS; SINKING FUND.**

15 (A) **USE.**

16 **THE AUTHORITY SHALL APPLY THE PROCEEDS OF THE BONDS FOR THE PURPOSES**
17 **FOR WHICH THE BONDS ARE AUTHORIZED.**

18 (B) **SINKING FUND.**

19 (1) **THE AUTHORITY SHALL SET ASIDE A SUFFICIENT AMOUNT OF THE**
20 **REVENUES DERIVED FROM A DEVELOPMENT OR PROJECT IN A SINKING FUND OR OTHER**
21 **SIMILAR FUND AT REGULAR INTERVALS TO THE EXTENT REQUIRED IN THE TRUST**
22 **AGREEMENT OR RESOLUTION.**

23 (2) **THE SINKING FUND IS PLEDGED TO PAYING:**

24 (I) **THE PRINCIPAL OF AND THE INTEREST ON THE BONDS AS THEY**
25 **BECOME DUE; AND**

26 (II) **THE REDEMPTION OR PURCHASE PRICE OF BONDS RETIRED BY**
27 **CALL OR PURCHASE AS SPECIFIED IN THE TRUST AGREEMENT OR RESOLUTION.**

28 (C) **OTHER USES.**

29 **TO THE EXTENT PROVIDED IN THE TRUST AGREEMENT OR RESOLUTION, THE**
30 **AUTHORITY MAY EXCLUDE FROM THE AMOUNT TO BE DEPOSITED IN THE SINKING FUND**
31 **THE REVENUES THAT MAY BE NECESSARY OR CONVENIENT:**

32 (1) **TO PAY FOR MAINTENANCE, REPAIR, AND OPERATION OF A**
33 **DEVELOPMENT OR PROJECT;**

34 (2) **FOR RESERVES; AND**

35 (3) **FOR IMPROVEMENTS TO A DEVELOPMENT OR PROJECT.**

1 (D) DURATION AND EFFECT OF PLEDGE.

2 (1) THE LIEN OF THE PLEDGE OF REVENUES UNDER SUBSECTION (B) OF
3 THIS SECTION IS VALID AND BINDING FROM THE TIME THE PLEDGE IS MADE.

4 (2) THE LIEN OF THE PLEDGE IS VALID AND BINDING AGAINST EACH PARTY
5 WITH A CLAIM AGAINST THE AUTHORITY IN TORT, CONTRACT, OR OTHERWISE,
6 REGARDLESS OF WHETHER THE PARTY HAS NOTICE OF THE LIEN.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 41, § 13–111(l).

9 In subsection (a) of this section, the word “proceeds” is substituted for the
10 former words “[a]ll moneys received” for accuracy and consistency within
11 this subtitle.

12 Also in subsection (a) of this section, the former reference to bonds “issued
13 and sold under the provisions of this section” is deleted as implicit in the
14 reorganization of material in this subtitle.

15 Defined terms: “Authority” § 10–201

16 “Bond” § 10–201

17 “Development” § 10–201

18 “Improvement” § 10–201

19 “Project” § 10–201

20 10–223. BONDS — COMBINED PURPOSES.

21 THE AUTHORITY MAY AUTHORIZE THE ISSUANCE OF A SINGLE ISSUE OF REVENUE
22 BONDS BY RESOLUTION FOR THE COMBINED PURPOSES OF:

23 (1) PAYING THE COST OF IMPROVEMENTS OF DEVELOPMENTS OR PROJECTS;
24 AND

25 (2) REFUNDING BONDS.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from the first sentence of former Art. 41, § 13–111(k).

28 In item (2) of this section, the former reference to bonds “theretofore issued
29 for such development or project and then outstanding and which shall then
30 have matured or be subject to redemption or can be acquired for
31 retirement” is deleted as surplusage.

32 Defined terms: “Authority” § 10–201

33 “Bonds” § 10–201

34 “Development” § 10–201

35 “Improvement” § 10–201

36 “Project” § 10–201

1 10–224. BONDS — ENFORCEMENT OF RIGHTS AND DUTIES.

2 EXCEPT TO THE EXTENT RIGHTS GRANTED BY THIS SUBTITLE ARE RESTRICTED BY
 3 RESOLUTION PASSED BEFORE THE ISSUANCE OF THE BONDS OR BY THE TRUST
 4 AGREEMENT, A HOLDER OF A BOND ISSUED UNDER THIS SUBTITLE, OR OF ANY ATTACHED
 5 COUPONS, OR A TRUSTEE UNDER A TRUST AGREEMENT MAY SUE TO:

6 (1) PROTECT AND ENFORCE A RIGHT UNDER THE LAWS OF THIS STATE, THE
 7 RESOLUTION, OR THE TRUST AGREEMENT; AND

8 (2) ENFORCE THE PERFORMANCE OF DUTIES BY THE AUTHORITY, THE
 9 STATE, OR A POLITICAL SUBDIVISION OR OFFICER OR ANY OF THEM THAT THIS SUBTITLE
 10 OR THE TRUST AGREEMENT REQUIRES, INCLUDING FIXING, CHARGING, AND COLLECTING
 11 OF RATES AND CHARGES TO USE FACILITIES THAT ARE SUBJECT TO THE RESOLUTION OR
 12 TRUST AGREEMENT.

13 REVISOR’S NOTE: This section is new language derived without substantive
 14 change from former Art. 41, § 13–113.

15 In the introductory language of this section, the former obsolete phrase
 16 “either at law or in equity” is deleted to reflect the merger of law and
 17 equity affected by Md. Rule 2–301, which mandates “one form of action
 18 known as the ‘civil action’”. Similarly, the reference to “su[ing]” is
 19 substituted for the former phrase “by suit, action, mandamus, or other
 20 proceedings” for brevity and clarity.

21 Defined terms: “Authority” § 10–201
 22 “Bond” § 10–201
 23 “State” §9–101

24 10–225. PLEDGE.

25 (A) IN GENERAL.

26 THE AUTHORITY MAY PLEDGE OR ASSIGN:

27 (1) ANY OF ITS REVENUES;

28 (2) ITS RIGHTS TO RECEIVE ITS REVENUES;

29 (3) MONEY OR SECURITIES IN ACCOUNTS ESTABLISHED TO SECURE A BOND;

30 OR

31 (4) A LIEN OR SECURITY INTEREST GRANTED OR ASSIGNMENT MADE TO THE
 32 AUTHORITY.

33 (B) VALIDITY OF PLEDGE OR ASSIGNMENT.

34 (1) A PLEDGE OR ASSIGNMENT UNDER SUBSECTION (A) OF THIS SECTION IS
 35 VALID AND BINDING FROM THE TIME THE PLEDGE OR ASSIGNMENT IS MADE.

1 (2) A LIEN, SECURITY INTEREST, OR ASSIGNMENT UNDER SUBSECTION (A)
2 OF THIS SECTION:

3 (i) ATTACHES IMMEDIATELY TO THE REVENUES OR PROPERTY
4 PLEDGED AND THEN RECEIVED BY THE AUTHORITY, WITHOUT ANY PHYSICAL DELIVERY
5 OR FURTHER ACT; AND

6 (ii) IS VALID AND BINDING AGAINST ANY PERSON HAVING A CLAIM
7 AGAINST THE AUTHORITY, REGARDLESS OF WHETHER THE PERSON HAS NOTICE OF THE
8 PLEDGE, AND WITHOUT THE RECORDING OR FILING OF AN INSTRUMENT.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 41, § 13–123.

11 In subsection (a)(4) of this section, the reference to an interest granted or
12 assignment made “to” the Authority is substituted for the former incorrect
13 reference to an interest grant or assignment made “by” the Authority for
14 clarity and accuracy.

15 In subsection (b)(2)(ii) of this section, the former words “of any kind” which
16 modified “claims” are deleted for brevity.

17 Defined terms: “Authority” § 10–201

18 “Bond” § 10–201

19 “Person” § 9–101

20 10–226. TAX STATUS.

21 (A) AUTHORITY — EXEMPTION FROM TAXATION.

22 SUBJECT TO § 10–217(E) OF THIS SUBTITLE, THE AUTHORITY IS EXEMPT FROM
23 TAXATION OR ASSESSMENTS ON ANY PART OF A DEVELOPMENT OR PROJECT, THE
24 AUTHORITY'S ACTIVITIES IN OPERATING AND MAINTAINING A DEVELOPMENT OR PROJECT,
25 AND REVENUES FROM A DEVELOPMENT OR PROJECT.

26 (B) BONDS.

27 THE BONDS OF THE AUTHORITY, INCLUDING THE INTEREST ON THE BONDS, ARE
28 FOREVER EXEMPT FROM STATE AND LOCAL TAXES.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from the third, fourth, fifth, sixth, seventh, and eighth clauses of
31 former Art. 41, § 13–115.

32 In subsection (b) of this section, the former word “municipal” is deleted as
33 included in the word “local”.

34 Defined terms: “Authority” § 10–201

35 “Bond” § 10–201

36 “Development” § 10–201

1 “Project” § 10–201

2 “State” §9–101

3 10–227. AUDITS.

4 (A) REQUIRED.

5 THE LEGISLATIVE AUDITOR:

6 (1) MAY CONDUCT A FISCAL AND COMPLIANCE AUDIT OF THE ACCOUNTS
7 AND TRANSACTIONS OF THE AUTHORITY YEARLY OR EVERY 2 YEARS; AND

8 (2) SHALL ADVISE OFFICIALS OF THE AUTHORITY WHETHER THE AUDIT
9 WILL BE YEARLY OR EVERY 2 YEARS.

10 (B) COST.

11 THE AUTHORITY SHALL PAY THE COST OF THE FISCAL PART OF THE POST AUDIT
12 EXAMINATION.

13 REVISOR’S NOTE: This section is new language derived without substantive
14 change from former Art. 41, § 13–118.

15 In subsection (a) of this section, the former words “[a]t his discretion”
16 which refer to the legislative auditor’s ability to choose to perform an
17 annual audit are deleted as implicit.

18 Defined term: “Authority” § 10–201

19 10–228. ANNUAL REPORT.

20 (A) REQUIRED.

21 EACH YEAR, THE AUTHORITY SHALL SUBMIT A REPORT TO THE GOVERNOR AND, IN
22 ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL
23 ASSEMBLY.

24 (B) CONTENTS.

25 THE REPORT SHALL INCLUDE A FINANCIAL STATEMENT COVERING THE OPERATIONS
26 OF DEVELOPMENTS DURING THE PRECEDING FISCAL YEAR.

27 REVISOR’S NOTE: This section is new language derived without substantive
28 change from former Art. 41, § 13–117.

29 In subsection (b) of this section, the phrase “during the preceding fiscal
30 year” is added for clarity and consistency with this article.

31 Defined terms: “Authority” § 10–201

32 “Development” § 10–201

1 10–229. SHORT TITLE.

2 THIS SUBTITLE MAY BE CITED AS “THE MARYLAND FOOD CENTER AUTHORITY
3 ACT”.

4 REVISOR’S NOTE: This section formerly was Art. 41, § 13–101.

5 No changes are made.

6 GENERAL REVISOR’S NOTE TO SUBTITLE:

7 Former Art. 41, § 13–120, which provided for the severability of provisions of
8 former Article 41, Subtitle 13, is deleted in light of Art. 1, § 23 which provides that all
9 legislation enacted after July 1, 1979 is presumed to be severable absent specific
10 language to the contrary, and in light of the standard rule of judicial construction
11 favoring severability even in the absence of a severability clause in the statute. *See*,
12 *e.g.*, *Turner v. State*, 299 Md. 565 (1984): “Perhaps the most important of these
13 principles [of statutory construction] is the presumption, even in the absence of an
14 express clause or declaration, that a legislative body generally intends its enactments
15 to be severed if possible. Moreover, when the dominant purpose of an enactment may
16 largely be carried out, notwithstanding the statute’s partial invalidity, courts will
17 generally hold the valid portions severable and enforce them.” 299 Md. 565, 576.

18 Former Art. 41, § 13–121, which provided that all laws of the State that were
19 inconsistent with the subtitle were repealed to the extent of such inconsistency is
20 apparently obsolete. However, to avoid any inadvertent substantive effect their repeal
21 might have, it is transferred to the Session Laws. *See* § 4 of Ch. ____, Acts of 2008.

22 Former Art. 41, § 13–122, which provided that the validity or enforceability of
23 any bonds issued by the Authority before June 1, 2001 may not be impaired by
24 subsequent amendments is not retained in the Code because it applies, if at all, only
25 to a small class of outstanding bonds. It is transferred to the Session Laws to avoid
26 any inadvertent substantive effect that its repeal might have. *See* § 4 of Ch. ____, Acts
27 of 2008.

28 SUBTITLE 3. MARYLAND HEALTH AND HIGHER EDUCATIONAL FACILITIES
29 AUTHORITY.

30 PART I. GENERAL PROVISIONS.

31 10–301. DEFINITIONS.

32 (A) IN GENERAL.

33 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

34 REVISOR’S NOTE: This subsection is new language derived without
35 substantive change from former Art. 43C, § 3.

36 In this subsection, the former qualification “unless the context indicates

1 another or different meaning or intent” is deleted as an unnecessary
 2 statement of a standard rule of statutory construction that applies to all
 3 definitions.

4 (B) AUTHORITY.

5 “AUTHORITY” MEANS THE MARYLAND HEALTH AND HIGHER EDUCATIONAL
 6 FACILITIES AUTHORITY.

7 REVISOR’S NOTE: This subsection formerly was Art. 43C, § 3(a).

8 In this subsection, the former phrase “created by § 4 of this article or any
 9 board, body, commission, department, or officer succeeding to the principal
 10 functions thereof” is deleted in light of § 10–306 of this subtitle.

11 The only other changes are in style.

12 (C) BOND.

13 (1) “BOND” MEANS A BOND ISSUED BY THE AUTHORITY UNDER THIS
 14 SUBTITLE.

15 (2) “BOND” INCLUDES A REVENUE BOND, A REVENUE REFUNDING BOND, A
 16 NOTE, AND ANY OTHER OBLIGATIONS.

17 REVISOR’S NOTE: This subsection is new language derived without
 18 substantive change from former Art. 43C, § 3(e).

19 The former qualification “notwithstanding that the same may be secured
 20 by mortgage or the full faith and credit of a participating institution for
 21 higher education or noncollegiate educational institution or a participating
 22 hospital or any other lawfully pledged security of a participating
 23 institution for higher education or noncollegiate educational institution or
 24 a participating hospital” is deleted as surplusage.

25 Defined term: “Authority” § 10–301

26 (D) COST.

27 “COST”, WITH RESPECT TO A PROJECT FINANCED UNDER THIS SUBTITLE,
 28 INCLUDES:

29 (1) THE PURCHASE PRICE OF A PROJECT;

30 (2) THE COST TO ACQUIRE ANY RIGHT, TITLE, OR INTEREST IN A PROJECT;

31 (3) THE COST OF ANY IMPROVEMENT;

32 (4) THE COST OF ANY PROPERTY, RIGHT, EASEMENT, AND FRANCHISE;

33 (5) THE COST OF DEMOLITION, REMOVAL, OR RELOCATION OF STRUCTURES;

1 (6) THE COST OF ACQUIRING LAND TO WHICH THE STRUCTURES MAY BE
 2 MOVED;

3 (7) THE COST OF EQUIPMENT;

4 (8) FINANCING CHARGES;

5 (9) INTEREST BEFORE AND DURING CONSTRUCTION AND, IF THE AUTHORITY
 6 DETERMINES, FOR A LIMITED PERIOD AFTER THE COMPLETION OF CONSTRUCTION;

7 (10) RESERVES FOR PRINCIPAL AND INTEREST AND FOR IMPROVEMENTS;

8 (11) THE COST OF REVENUE AND COST ESTIMATES, ARCHITECTURAL,
 9 ENGINEERING, FINANCIAL, AND LEGAL SERVICES, PLANS, SPECIFICATIONS, STUDIES,
 10 SURVEYS, AND OTHER EXPENSES NECESSARY OR INCIDENT TO DETERMINING THE
 11 FEASIBILITY OF IMPROVING A PROJECT; AND

12 (12) OTHER EXPENSES AS NECESSARY OR INCIDENT TO:

13 (I) FINANCING A PROJECT;

14 (II) ACQUIRING AND IMPROVING A PROJECT; AND

15 (III) PLACING A PROJECT IN OPERATION.

16 REVISOR’S NOTE: This subsection is new language derived without
 17 substantive change from former Art. 43C, § 3(c).

18 In item (6) of this subsection, the former reference to “machinery” is
 19 deleted as redundant of the references to “equipment”.

- 20 Defined terms: “Authority” § 10–301
 21 “Finance” § 10–301
 22 “Improve” § 10–301
 23 “Improvement” § 10–301
 24 “Participating institution” § 10–301
 25 “Project” § 10–301

26 (E) EDUCATIONAL INSTITUTION.

27 “EDUCATIONAL INSTITUTION” MEANS AN INSTITUTION OF HIGHER EDUCATION OR A
 28 NONCOLLEGIATE EDUCATIONAL INSTITUTION.

29 REVISOR’S NOTE: This subsection is new language added to avoid repetition
 30 of the phrase “institution of higher education or noncollegiate educational
 31 institution” and its variants.

- 32 Defined terms: “Institution of higher education” § 10–301
 33 “Noncollegiate educational institution” § 10–301

34 (F) FINANCE.

1 “FINANCE” INCLUDES REFINANCE.

2 REVISOR’S NOTE: This subsection is new language added to avoid repetition
3 of the phrase “finance or refinance” and its variants and for consistency
4 within this title.

5 (G) HEALTH CARE INSTITUTION.

6 (1) “HEALTH CARE INSTITUTION” MEANS AN INSTITUTION IN THE STATE
7 THAT IS OPERATED BY A PERSON, A LOCAL GOVERNMENT, OR, SUBJECT TO PARAGRAPH
8 (3) OF THIS SUBSECTION, THE STATE, IS AVAILABLE TO THE PUBLIC, AND IS:

9 (I) A NOT-FOR-PROFIT HOSPITAL AS DEFINED UNDER § 19-301 OF
10 THE HEALTH – GENERAL ARTICLE THAT:

11 1. IS LICENSED AS A HOSPITAL BY THE SECRETARY OF HEALTH
12 AND MENTAL HYGIENE UNDER § 19-318 OF THE HEALTH – GENERAL ARTICLE; OR

13 2. HAS OBTAINED A CERTIFICATE OF NEED ISSUED BY THE
14 MARYLAND HEALTH CARE COMMISSION UNDER § 19-120 OF THE HEALTH –
15 GENERAL ARTICLE, BUT IS NOT LICENSED AS A HOSPITAL BY THE SECRETARY OF
16 HEALTH AND MENTAL HYGIENE UNDER § 19-318 OF THE HEALTH – GENERAL
17 ARTICLE;

18 (II) A NOT-FOR-PROFIT RELATED INSTITUTION AS DEFINED UNDER §
19 19-301 OF THE HEALTH – GENERAL ARTICLE THAT IS LICENSED AS A RELATED
20 INSTITUTION BY THE SECRETARY OF HEALTH AND MENTAL HYGIENE UNDER § 19-318
21 OF THE HEALTH – GENERAL ARTICLE;

22 (III) A COMBINATION OF INSTITUTIONS LISTED IN ITEMS (I) AND (II) OF
23 THIS PARAGRAPH;

24 (IV) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION:

25 1. A NOT-FOR-PROFIT COMPREHENSIVE HEALTH CENTER THAT
26 PROVIDES OUTPATIENT PRIMARY HEALTH SERVICES AVAILABLE TO THE GENERAL PUBLIC;
27 OR

28 2. A NOT-FOR-PROFIT LIFE CARE OR CONTINUING CARE
29 COMMUNITY THAT PROVIDES SELF-CONTINUED RESIDENCE FACILITIES FOR THE RETIRED
30 OR ELDERLY;

31 (V) ANY COMBINATION OF HEALTH CARE ENTITIES LISTED IN ITEM (IV)
32 OF THIS PARAGRAPH;

33 (VI) AN ENTITY AFFILIATED OR ASSOCIATED WITH AN INSTITUTION
34 LISTED IN ITEMS (I) THROUGH (V) OF THIS PARAGRAPH, IF THE AUTHORITY DETERMINES
35 BY RESOLUTION THAT THE FINANCING OF A PROJECT FOR THE ENTITY SERVES THE
36 PUBLIC PURPOSE OF THAT INSTITUTION; OR

1 (VII) A NOT-FOR-PROFIT HEALTH SERVICE PLAN THAT HOLDS A
 2 CERTIFICATE OF AUTHORITY AND PROVIDES HEALTH INSURANCE POLICIES OR CONTRACTS
 3 IN THE STATE IN ACCORDANCE WITH THE INSURANCE ARTICLE.

4 (2) “HEALTH CARE INSTITUTION” INCLUDES A NOT-FOR-PROFIT
 5 CORPORATION ORGANIZED TO CONSTRUCT OR ACQUIRE AN INSTITUTION UNDER
 6 PARAGRAPH (1) OF THIS SUBSECTION.

7 (3) “HEALTH CARE INSTITUTION” DOES NOT INCLUDE A FACILITY
 8 DESCRIBED IN PARAGRAPH (1)(IV) OF THIS SUBSECTION THAT IS OWNED AND OPERATED
 9 BY THE STATE, EXCEPT FOR THE FOLLOWING FACILITIES IF APPROVED BY THE BOARD OF
 10 PUBLIC WORKS AND THE JOINT AUDIT COMMITTEE:

11 1. A NOT-FOR-PROFIT COMPREHENSIVE HEALTH CENTER THAT
 12 IS A MEDICAL OR HEALTH CARE FACILITY OF THE UNIVERSITY SYSTEM OF MARYLAND;
 13 OR

14 2. A NOT-FOR-PROFIT LIFE CARE OR CONTINUING CARE
 15 COMMUNITY THAT PROVIDES SELF-CONTAINED RESIDENCE FACILITIES FOR THE RETIRED
 16 OR ELDERLY.

17 (4) FOR PURPOSES OF THIS SUBSECTION THE FACILITIES OF THE
 18 UNIVERSITY OF MARYLAND MEDICAL SYSTEM CORPORATION ARE NOT CONSIDERED TO
 19 BE OWNED AND OPERATED BY THE STATE.

20 REVISOR’S NOTE: This subsection is new language derived without
 21 substantive change from former Art. 43C, § 3(h).

22 In paragraph (1)(i)2 of this subsection, the phrase “has obtained a
 23 certificate of need issued by the Maryland Health Care Commission under
 24 § 19–120 of the Health – General Article, but is not licensed as a hospital
 25 by the Secretary of Health and Mental Hygiene under § 19–318 of the
 26 Health – General Article” is substituted for the former phrase “in the case
 27 of a new institution, having a preclicensing certification or recertification
 28 from the State Health Planning and Development Agency and being or to
 29 be, in fact, a health care facility available to the general public maintained
 30 and operated as a not-for-profit institution by some person, association,
 31 municipal or other corporation, or other agency, or a not-for-profit
 32 corporation organized for the purpose of constructing or acquiring such a
 33 hospital, related institution or combination of a hospital and a related
 34 institution” for clarity and brevity.

35 Defined terms: “Person” § 9–101

36 “State” § 9–101

37 (H) IMPROVE.

38 “IMPROVE” MEANS TO ADD, ALTER, CONSTRUCT, EQUIP, EXPAND, EXTEND,
 39 IMPROVE, INSTALL, RECONSTRUCT, REHABILITATE, REMODEL, OR REPAIR.

1 REVISOR'S NOTE: This subsection is new language added for brevity and
2 clarity.

3 (I) IMPROVEMENT.

4 "IMPROVEMENT" MEANS ADDITION, ALTERATION, CONSTRUCTION, EQUIPPING,
5 EXPANSION, EXTENSION, IMPROVEMENT, INSTALLATION, RECONSTRUCTION,
6 REHABILITATION, REMODELING, OR REPAIR.

7 REVISOR'S NOTE: This subsection is new language derived in part without
8 substantive change from former Art. 43C, § 3(d) and patterned in part on
9 the term "improvement" defined in § 10–101 of this title.

10 (J) INSTITUTION OF HIGHER EDUCATION.

11 (1) "INSTITUTION OF HIGHER EDUCATION" MEANS AN EDUCATIONAL
12 INSTITUTION IN THE STATE THAT:

13 (I) BY LAW OR CHARTER:

14 1. IS A PUBLIC OR NOT-FOR-PROFIT EDUCATIONAL
15 INSTITUTION; AND

16 2. IS AUTHORIZED TO PROVIDE:

17 A. A PROGRAM OF EDUCATION BEYOND THE HIGH SCHOOL
18 LEVEL AND AWARD A BACHELOR'S OR ADVANCED DEGREE; OR

19 B. A PROGRAM OF 2 OR MORE YEARS' DURATION THAT IS
20 ACCEPTED FOR FULL CREDIT TOWARD A BACHELOR'S DEGREE; AND

21 (II) MEETS THE STANDARDS AND REGULATIONS THAT THE MARYLAND
22 HIGHER EDUCATION COMMISSION PRESCRIBES, AND IS AUTHORIZED TO ISSUE A
23 CERTIFICATE, DIPLOMA, OR DEGREE UNDER TITLE 12 OF THE EDUCATION ARTICLE.

24 (2) "INSTITUTION OF HIGHER EDUCATION" INCLUDES:

25 (I) A COMMUNITY COLLEGE FOR WHICH A BOARD OF COMMUNITY
26 COLLEGE TRUSTEES IS ESTABLISHED UNDER § 16–101 OF THE EDUCATION ARTICLE;

27 (II) A REGIONAL COMMUNITY COLLEGE ESTABLISHED UNDER §
28 16–202 OF THE EDUCATION ARTICLE;

29 (III) THE BALTIMORE CITY COMMUNITY COLLEGE ESTABLISHED
30 UNDER § 16–501 OF THE EDUCATION ARTICLE; AND

31 (IV) THE COLLEGE OF SOUTHERN MARYLAND ESTABLISHED UNDER §
32 16–603 OF THE EDUCATION ARTICLE.

1 (3) “INSTITUTION OF HIGHER EDUCATION” DOES NOT INCLUDE AN
2 INSTITUTION OWNED AND OPERATED BY THE STATE OTHER THAN AN INSTITUTION LISTED
3 IN PARAGRAPH (2) OF THIS SUBSECTION.

4 REVISOR’S NOTE: This subsection is new language derived without
5 substantive change from former Art. 43C, § 3(f)(1).

6 Defined term: “State” § 9–101

7 (K) NONCOLLEGIATE EDUCATIONAL INSTITUTION.

8 “NONCOLLEGIATE EDUCATIONAL INSTITUTION” MEANS A NONCOLLEGIATE
9 EDUCATIONAL INSTITUTION AS DEFINED IN § 2–206 OF THE EDUCATION ARTICLE
10 THAT:

11 (1) HAS RECEIVED A CERTIFICATE OF APPROVAL FROM THE STATE BOARD
12 OF EDUCATION; OR

13 (2) IS AN INSTITUTION OPERATED BY A BONA FIDE CHURCH ORGANIZATION.

14 REVISOR’S NOTE: This subsection is new language derived without
15 substantive change from former Art. 43C, § 3(f)(2).

16 (L) PARTICIPATING INSTITUTION.

17 “PARTICIPATING INSTITUTION” MEANS A PARTICIPATING EDUCATIONAL
18 INSTITUTION OR A PARTICIPATING HEALTH CARE INSTITUTION THAT RECEIVES
19 ASSISTANCE UNDER THIS SUBTITLE.

20 REVISOR’S NOTE: This subsection is new language added to avoid repetition
21 of the phrase “participating educational institution” or “participating
22 health care institution”.

23 Defined terms: “Participating educational institution” § 10–301
24 “Participating health care institution” § 10–301

25 (M) PROJECT.

26 (1) WITH RESPECT TO AN EDUCATIONAL INSTITUTION:

27 (I) “PROJECT” MEANS A STRUCTURE OR FACILITY THAT IS REQUIRED
28 OR USEFUL FOR AN EDUCATIONAL INSTITUTION;

29 (II) “PROJECT” INCLUDES:

30 1. A STRUCTURE SUITABLE FOR USE AS A DORMITORY OR OTHER
31 HOUSING FACILITY, DINING HALL, STUDENT UNION, ADMINISTRATION BUILDING,
32 ACADEMIC BUILDING, LIBRARY, LABORATORY, RESEARCH FACILITY, CLASSROOM, ATHLETIC
33 FACILITY, HEALTH CARE FACILITY, MAINTENANCE FACILITY, STORAGE FACILITY, UTILITY
34 FACILITY, OR PARKING FACILITY; AND

1 2. EQUIPMENT AND OTHER SIMILAR ITEMS; AND

2 (III) “PROJECT” DOES NOT INCLUDE BOOKS, FUEL, SUPPLIES, OR OTHER
3 ITEMS THAT CUSTOMARILY RESULT IN A CURRENT OPERATING CHARGE.

4 (2) WITH RESPECT TO A HEALTH CARE INSTITUTION:

5 (I) “PROJECT” MEANS A STRUCTURE OR FACILITY THAT IS REQUIRED
6 OR USEFUL FOR THE EFFECTIVE OPERATION OF A HEALTH CARE INSTITUTION;

7 (II) “PROJECT” INCLUDES:

8 1. A STRUCTURE SUITABLE FOR USE AS A HOSPITAL, CLINIC, OR
9 OTHER HEALTH CARE FACILITY, LABORATORY, TRAINING FACILITY FOR NURSING OR
10 ANOTHER HEALTH PROGRAM, LAUNDRY, A RESIDENCE FOR NURSES OR INTERNS, OR A
11 PARKING FACILITY; AND

12 2. EQUIPMENT AND OTHER SIMILAR ITEMS; AND

13 (III) “PROJECT” DOES NOT INCLUDE FUEL, SUPPLIES, OR OTHER ITEMS
14 THAT CUSTOMARILY RESULT IN A CURRENT OPERATING CHARGE.

15 REVISOR’S NOTE: This subsection is new language derived without
16 substantive change from former Art. 43C, § 3(b).

17 In paragraph (1)(ii) of this subsection, the former phrases “for the
18 instruction of students”, “the conducting of research”, and “the operation of
19 an institution for higher education or a noncollegiate educational
20 institution”, are deleted as implicit in the facilities and structures to which
21 this paragraph refers.

22 In paragraph (1)(ii)2 and (2)(ii)2 of this subsection, the former references to
23 “machinery” are deleted as redundant of the references to “equipment”.

24 In paragraph (2)(ii) of this subsection, the former phrase “and other
25 facilities or structures essential or convenient for the orderly operation of a
26 hospital, and shall also include” is deleted as superfluous.

27 Defined terms: “Health care institution” § 10–301

28 “Institution of higher education” § 10–301

29 “Noncollegiate educational institution” § 10–301

30 (N) SINKING FUND.

31 “SINKING FUND” MEANS A FUND ESTABLISHED UNDER § 10–328 OF THIS
32 SUBTITLE.

33 REVISOR’S NOTE: This section is new language added for clarity.

34 (O) TRUST AGREEMENT.

1 (1) “TRUST AGREEMENT” MEANS AN AGREEMENT ENTERED INTO BY THE
2 AUTHORITY TO SECURE A BOND.

3 (2) “TRUST AGREEMENT” MAY INCLUDE A BOND CONTRACT, BOND
4 RESOLUTION, OR OTHER CONTRACT WITH OR FOR THE BENEFIT OF A BONDHOLDER.

5 REVISOR’S NOTE: This subsection is new language added for clarity.

6 Defined terms: “Authority” § 10–301

7 “Bond” § 10–301

8 REVISOR’S NOTE TO SECTION:

9 Former Art. 43C, § 3(g), which defined “participating institution for higher
10 education or noncollegiate educational institution”, is deleted because the term is not
11 used in this revision.

12 Former Art. 43C, § 3(i), which defined “participating hospital”, is deleted
13 because the term is not used in this revision.

14 10–302. CONSTRUCTION OF SUBTITLE.

15 (A) LIBERAL CONSTRUCTION.

16 THIS SUBTITLE IS NECESSARY FOR THE WELFARE OF THE STATE AND ITS
17 RESIDENTS AND SHALL BE CONSTRUED LIBERALLY TO ACCOMPLISH ITS PURPOSES.

18 (B) SUBTITLE ADDITIONAL AND SUPPLEMENTAL.

19 THIS SUBTITLE:

20 (1) IS SUPPLEMENTAL AUTHORIZATION AND IS IN ADDITION TO THE POWERS
21 CONFERRED BY OTHER LAWS; AND

22 (2) DOES NOT DEROGATE ANY POWERS.

23 REVISOR’S NOTE: This section is new language derived without substantive
24 change from former Art. 43C, §§ 22 and 23.

25 Defined term: “State” § 9–101

26 10–303. LEGISLATIVE FINDINGS; PURPOSES.

27 (A) FINDINGS.

28 THE GENERAL ASSEMBLY FINDS THAT, FOR THE BENEFIT OF THE PEOPLE OF THE
29 STATE, THE INCREASE OF THEIR COMMERCE, WELFARE, AND PROSPERITY, AND THE
30 IMPROVEMENT OF THEIR HEALTH AND LIVING CONDITIONS, THAT:

31 (1) IT IS ESSENTIAL THAT:

1 (I) PEOPLE HAVE THE FULLEST OPPORTUNITY TO LEARN AND TO
2 DEVELOP INTELLECTUAL CAPACITIES;

3 (II) EDUCATIONAL INSTITUTIONS IN THE STATE HAVE THE
4 APPROPRIATE MEANS TO ASSIST PEOPLE IN ACHIEVING REQUIRED LEVELS OF LEARNING
5 AND DEVELOPMENT OF INTELLECTUAL CAPACITIES;

6 (III) HEALTH CARE INSTITUTIONS IN THE STATE HAVE APPROPRIATE
7 MEANS TO EXPAND AND ESTABLISH HOSPITALS AND OTHER RELATED HEALTH CARE
8 FACILITIES; AND

9 (IV) EDUCATIONAL INSTITUTIONS AND HEALTH CARE INSTITUTIONS IN
10 THE STATE ARE ABLE TO FINANCE PROJECTS AT THE LEAST COST TO THEIR USERS;

11 (2) EXISTING FACILITIES FOR EDUCATION AND HEALTH CARE AND EXISTING
12 FINANCING VEHICLES AVAILABLE TO THESE INSTITUTIONS ARE INSUFFICIENT TO MEET
13 THESE NEEDS; AND

14 (3) THESE INSTITUTIONS ARE NOT ABLE WITH PRESENT MEANS TO IMPROVE
15 AND ADEQUATELY FINANCE SUFFICIENT FACILITIES, IN ORDER TO PROVIDE THE
16 FACILITIES AT THE LEAST COST TO THEIR USERS.

17 (B) PURPOSES.

18 THE PURPOSES OF THE AUTHORITY ARE TO:

19 (1) ASSIST EDUCATIONAL INSTITUTIONS AND HEALTH CARE INSTITUTIONS IN
20 THE ACQUISITION, IMPROVEMENT, AND FINANCING OF PROJECTS; AND

21 (2) PROVIDE ASSISTANCE THAT ENABLES EDUCATIONAL INSTITUTIONS AND
22 HEALTH CARE INSTITUTIONS TO FINANCE, AT THE LEAST COST TO THEIR USERS, THE
23 FACILITIES AND STRUCTURES THAT ARE NEEDED TO ACCOMPLISH THE PURPOSES OF THIS
24 SUBTITLE.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from part of former Art. 43C, § 2, and the first sentence of former
27 Art. 43C, § 5(a), as it stated a purpose.

28 In the introductory language to subsection (a) of this section, the phrase,
29 "[t]he General Assembly finds" is substituted for the former phrase "[i]t is
30 hereby declared" for consistency in style.

31 In subsection (a)(1)(i) of this section, the reference to "people" is
32 substituted for the former reference to "children" for clarity. Education is
33 not limited to the young. No substantive change is intended.

34 Defined terms: "Authority" § 10–301

35 "Cost" § 10–301

36 "Educational institution" § 10–301

37 "Finance" § 10–301

1 “Health care institution” § 10–301
2 “Improve” § 10–301
3 “Improvement” § 10–301
4 “Project” § 10–301
5 “State” § 9–101

6 10–304. RESERVED.

7 10–305. RESERVED.

8 PART II. MARYLAND HEALTH AND HIGHER EDUCATIONAL FACILITIES AUTHORITY.

9 10–306. ESTABLISHED.

10 (A) IN GENERAL.

11 THERE IS A MARYLAND HEALTH AND HIGHER EDUCATIONAL FACILITIES
12 AUTHORITY.

13 (B) STATUS.

14 THE AUTHORITY IS A BODY POLITIC AND CORPORATE AND IS AN INSTRUMENTALITY
15 OF THE STATE.

16 (C) ESSENTIAL GOVERNMENTAL FUNCTION.

17 THE EXERCISE OF A POWER UNDER THIS SUBTITLE IS THE PERFORMANCE OF AN
18 ESSENTIAL GOVERNMENTAL FUNCTION.

19 (D) PUBLIC BENEFIT.

20 THE EXERCISE OF A POWER UNDER THIS ARTICLE IS:

21 (1) FOR THE BENEFIT OF THE PEOPLE OF THE STATE;

22 (2) TO INCREASE THEIR COMMERCE, WELFARE, AND PROSPERITY; AND

23 (3) TO IMPROVE THEIR HEALTH, EDUCATION, AND LIVING CONDITIONS.

24 REVISOR’S NOTE: This section is new language derived without substantive
25 change from former Art. 43C, § 4(a) and, as it related to the exercise of
26 powers under this subtitle, § 17.

27 Defined terms: “Authority” § 10–301

28 “State” § 9–101

29 10–307. MEMBERSHIP.

30 (A) COMPOSITION; APPOINTMENT OF MEMBERS.

31 THE AUTHORITY CONSISTS OF THE FOLLOWING NINE MEMBERS:

1 (1) EIGHT RESIDENTS OF THE STATE APPOINTED BY THE GOVERNOR; AND

2 (2) THE TREASURER OR A DEPUTY TREASURER DESIGNATED BY THE
3 TREASURER.

4 (B) OFFICERS.

5 EACH YEAR THE GOVERNOR SHALL DESIGNATE ONE MEMBER AS CHAIR AND ONE
6 AS VICE CHAIR.

7 (C) OATH.

8 BEFORE TAKING OFFICE, EACH MEMBER SHALL TAKE AN OATH TO ADMINISTER THE
9 DUTIES OF THE OFFICE FAITHFULLY AND IMPARTIALLY.

10 (D) TENURE; VACANCIES.

11 (1) THE TERM OF AN APPOINTED MEMBER IS 5 YEARS AND BEGINS ON JULY
12 1.

13 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS
14 IN EFFECT FOR MEMBERS OF THE AUTHORITY ON OCTOBER 1, 2008.

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

17 (4) THE GOVERNOR SHALL FILL ANY VACANCY FOR THE UNEXPIRED TERM.

18 (E) REMOVAL.

19 THE GOVERNOR MAY REMOVE AN APPOINTED MEMBER AT ANY TIME.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 43C, § 4(c) and the first through sixth, eighth, and
22 ninth sentences of (b).

23 In subsection (b) of this section, the references to a "chair" and "vice chair",
24 respectively, are substituted for the former references to a "chairman" and
25 "vice-chairman", respectively, because SG § 2–1246 requires the use of
26 terms that are neutral as to gender to the extent practicable.

27 Subsection (c) of this section is revised in standard language for clarity.

28 In subsection (c) of this section, the former reference to "filing the oath" is
29 deleted as redundant of SG § 16–105, which requires all oaths other than
30 those for certain specified offices to be taken and subscribed before the
31 clerk of a circuit court or the clerk's deputy, and SG § 16–108, which
32 requires the clerks to file with the Secretary of State monthly reports of
33 oaths taken.

34 In subsection (d)(2) of this section, the reference to terms of appointed

1 members being staggered as required by the terms provided for appointed
2 members on “October 1, 2008” is substituted for the former obsolete
3 reference to terms being staggered as required by the terms provided on
4 “July 1, 1970”. This substitution is not intended to alter the term of any
5 member of the Authority. *See* § 13 of Ch. ____ , Acts of 2008. The terms of
6 the appointed members serving on October 1, 2008 end as follows: (1) two
7 on June 30, 2009; (2) two on June 30, 2010; (3) one on June 30, 2011; (4)
8 one on June 30, 2012; and (5) two on June 30, 2013.

9 In subsection (e) of this section, the former requirement that the Governor
10 “reappoint a person to stand in the place of the member so removed to
11 serve for the balance of the term of the member who had been removed” is
12 deleted as redundant of subsection (d)(4) of this section.

13 The seventh sentence of former Art. 43C, § 4(b), which provided that a
14 member of the Authority is eligible for reappointment, is deleted because
15 there is no contrary provision and thus no reason to believe that this is not
16 the case.

17 Defined terms: “Authority” § 10–301
18 “State” § 9–101

19 10–308. QUORUM; COMPENSATION.

20 (A) QUORUM; VOTING.

21 (1) FIVE MEMBERS OF THE AUTHORITY ARE A QUORUM.

22 (2) THE AFFIRMATIVE VOTE OF A MAJORITY OF MEMBERS PRESENT AT A
23 MEETING HAVING A QUORUM IS REQUIRED FOR THE AUTHORITY TO TAKE ANY ACTION.

24 (3) THE AUTHORITY MAY TAKE ACTION UNDER THIS SUBTITLE BY PASSING
25 A RESOLUTION AT A REGULAR OR SPECIAL MEETING.

26 (4) A RESOLUTION SHALL TAKE EFFECT IMMEDIATELY AND WITHOUT BEING
27 PUBLISHED OR POSTED.

28 (B) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

29 A MEMBER OF THE AUTHORITY:

30 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE AUTHORITY;
31 BUT

32 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD
33 STATE TRAVEL REGULATIONS.

34 REVISOR’S NOTE: This section is new language derived without substantive
35 change from former Art. 43C, § 4(j) and the first and third sentences of (h).

36 The second sentence of former Art. 43C, § 4(h), which provided that “[n]o

1 vacancy ... shall impair the right of a quorum ..." is deleted as an
2 unnecessary restatement of the common-law rule. See General Revisor's
3 Note to article.

4 Defined terms: "Authority" § 10-301
5 "State" § 9-101

6 10-309. EXECUTIVE DIRECTOR.

7 (A) POSITION; TENURE; COMPENSATION.

8 (1) SUBJECT TO THE APPROVAL OF THE GOVERNOR, THE AUTHORITY
9 SHALL APPOINT AN EXECUTIVE DIRECTOR.

10 (2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE
11 AUTHORITY.

12 (3) THE AUTHORITY SHALL DETERMINE THE COMPENSATION OF THE
13 EXECUTIVE DIRECTOR.

14 (4) THE EXECUTIVE DIRECTOR MAY NOT BE A MEMBER OF THE
15 AUTHORITY.

16 (B) ADMINISTRATIVE OFFICER.

17 SUBJECT TO THE SUPERVISION OF THE AUTHORITY, THE EXECUTIVE DIRECTOR IS
18 THE CHIEF ADMINISTRATIVE OFFICER OF THE AUTHORITY.

19 (C) DUTIES.

20 THE EXECUTIVE DIRECTOR:

21 (1) SHALL KEEP A RECORD OF THE PROCEEDINGS OF THE AUTHORITY; AND

22 (2) IS THE CUSTODIAN OF ALL BOOKS AND DOCUMENTS FILED WITH THE
23 AUTHORITY, THE RECORDS OF THE AUTHORITY, AND THE SEAL OF THE AUTHORITY.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from the first and fourth sentences of former Art. 43C, § 4(e) and
26 the first sentence and, as they related to the Executive Director, the fourth
27 and fifth sentences of (d).

28 In subsection (b) of this section, the former phrase "and direction" is
29 deleted as implicit in the word "supervision".

30 In subsection (c) of this section, the former reference to "papers" is deleted
31 in light of the reference to "documents". Similarly, the reference to custody
32 of "records" is substituted for the former reference to custody of "the
33 minute book or journal of the Authority" for clarity and consistency within
34 this article.

1 Defined term: “Authority” § 10–301

2 10–310. GENERAL COUNSEL.

3 (A) POSITION; TENURE; COMPENSATION.

4 (1) SUBJECT TO THE APPROVAL OF THE GOVERNOR, THE AUTHORITY MAY
5 APPOINT A FULL–TIME OR PART–TIME GENERAL COUNSEL.

6 (2) THE GENERAL COUNSEL SERVES AT THE PLEASURE OF THE
7 AUTHORITY.

8 (3) THE AUTHORITY SHALL DETERMINE THE COMPENSATION OF THE
9 GENERAL COUNSEL.

10 (4) THE GENERAL COUNSEL MAY NOT BE A MEMBER OF THE AUTHORITY.

11 (B) DUTIES.

12 THE GENERAL COUNSEL, IF APPOINTED, IS THE LEGAL ADVISOR TO THE
13 AUTHORITY AND, AT THE DIRECTION OF THE AUTHORITY, SHALL REPRESENT THE
14 AUTHORITY IN JUDICIAL OR OTHER PROCEEDINGS.

15 REVISOR’S NOTE: This section is new language derived without substantive
16 change from former Art. 43C, § 4(f) and the second and, as they related to
17 the General Counsel, the fourth and fifth sentences of (d).

18 Defined term: “Authority” § 10–301

19 10–311. OFFICERS.

20 (A) DUTIES.

21 THE AUTHORITY MAY DETERMINE THE DUTIES OF ALL ITS OFFICERS.

22 (B) ADDITIONAL OFFICERS — APPOINTMENT.

23 THE AUTHORITY MAY APPOINT ADDITIONAL OFFICERS.

24 (C) TENURE; COMPENSATION.

25 (1) ADDITIONAL OFFICERS SERVE AT THE PLEASURE OF THE AUTHORITY.

26 (2) THE AUTHORITY SHALL DETERMINE THE COMPENSATION OF THE
27 ADDITIONAL OFFICERS.

28 REVISOR’S NOTE: This section is new language derived without substantive
29 change from the third sentence and, as it related to additional officers, the
30 fifth sentence of former Art. 43C, § 4(d).

31 In subsection (b) of this section, the former reference to “creat[ing]

1 additional offices” is deleted as implicit in the reference to “appoint[ing]
2 additional officers”.

3 In subsection (c) of this section, the former phrase “or officers” is deleted in
4 light of Art. 1, § 8.

5 Defined term: “Authority” § 10–301

6 10–312. STAFF.

7 THE AUTHORITY MAY EMPLOY PROFESSIONAL AND OTHER STAFF AND RETAIN
8 ENGINEERS, ARCHITECTS, ACCOUNTANTS, CONSTRUCTION AND FINANCIAL EXPERTS,
9 MANAGERS, AND OTHER PROFESSIONALS THAT IT CONSIDERS NECESSARY AND SET THEIR
10 COMPENSATION.

11 REVISOR’S NOTE: This section is new language derived without substantive
12 change from former Art. 43C, § 5(a)(9).

13 Defined term: “Authority” § 10–301

14 10–313. APPLICABILITY OF OTHER LAWS.

15 (A) ADMINISTRATIVE FUNCTION SUPPORT.

16 THE AUTHORITY SHALL FOLLOW STATE PROCEDURES TO OBTAIN, FOR INTERNAL
17 ADMINISTRATIVE FUNCTIONS, OFFICE SPACE, SUPPLIES, FACILITIES, MATERIALS,
18 EQUIPMENT, AND PROFESSIONAL SERVICES.

19 (B) SURETY BONDS.

20 EACH MEMBER, THE EXECUTIVE DIRECTOR, EACH OTHER OFFICER, AND EACH
21 EMPLOYEE OF THE AUTHORITY SHALL BE COVERED BY A SURETY BOND IN ACCORDANCE
22 WITH TITLE 9, SUBTITLE 17 OF THE STATE GOVERNMENT ARTICLE.

23 REVISOR’S NOTE: This section is new language derived without substantive
24 change from former Art. 43C, § 4(i) and, as it related to the applicability of
25 State procurement procedures, § 5(a)(16).

26 Subsection (b) of this section is revised in standard language for
27 consistency with other revised articles of the Code.

28 For State surety bond requirements and procedures, *see* SG Title 9,
29 Subtitle 17.

30 The Economic Development Article Review Committee notes, for the
31 consideration of the General Assembly, that the Authority is not
32 specifically listed in the Maryland Tort Claims Act. The General Assembly
33 may wish to address the potential liability of personnel of the Authority in
34 the same manner that it has already done with the Maryland Economic
35 Development Corporation and the Maryland Stadium Authority which are
36 specifically included in that statute. *See* SG § 12–101.

1 Defined terms: “Authority” § 10–301

2 “State” § 9–101

3 10–314. POWERS — IN GENERAL.

4 (A) IN GENERAL.

5 THE AUTHORITY MAY:

6 (1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;

7 (2) SUE AND BE SUED;

8 (3) ADOPT A SEAL;

9 (4) MAINTAIN AN OFFICE AT A PLACE IT DESIGNATES;

10 (5) ISSUE BONDS IN ACCORDANCE WITH THIS SUBTITLE;

11 (6) ACCEPT A GRANT, LOAN, OR OTHER ASSISTANCE IN ANY FORM FROM ANY
12 PUBLIC OR PRIVATE SOURCE, SUBJECT TO THE PROVISIONS OF THIS SUBTITLE;

13 (7) CHARGE TO AND EQUITABLY ALLOCATE AMONG PARTICIPATING
14 INSTITUTIONS THE ADMINISTRATIVE COSTS AND EXPENSES OF CARRYING OUT THIS
15 SUBTITLE; AND

16 (8) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE
17 POWERS EXPRESSLY GRANTED BY THIS SUBTITLE.

18 (B) LIMITATION.

19 (1) A HEALTH CARE INSTITUTION MAY NOT USE ANY MONEY RECEIVED
20 FROM A BOND ISSUED BY THE AUTHORITY TO MATCH ANY STATE LOAN OR GRANT THAT
21 IS AVAILABLE FOR IMPROVEMENT OF A HEALTH CARE INSTITUTION.

22 (2) THE AUTHORITY SHALL COMPLY WITH THE TERMS AND CONDITIONS OF
23 ASSISTANCE RECEIVED IN ACCORDANCE WITH SUBSECTION (A)(6) OF THIS SECTION.

24 (C) DELEGATION.

25 THE AUTHORITY MAY DELEGATE TO A MEMBER OR OFFICER A POWER GRANTED TO
26 THE AUTHORITY BY THIS SUBTITLE, INCLUDING THE POWER TO EXECUTE A BOND,
27 CERTIFICATE, DEED, LEASE, MORTGAGE, AGREEMENT, OR OTHER DOCUMENT OR
28 INSTRUMENT.

29 REVISOR’S NOTE: This section is new language derived without substantive
30 change from former Art. 43C, §§ 4(g) and 5(a)(1) through (4), (6), (10), (14),
31 (15), and, as it related to general authorization to carry out this subtitle,
32 (16).

33 In subsection (a)(6) of this section, the former specific references to

1 assistance from any “public agency” and from “the federal government or
2 any agency or instrumentality thereof or from the State or any agency or
3 instrumentality thereof or from any other source” are deleted as included
4 in the comprehensive reference to “any source”.

5 In subsection (c) of this section, the former reference “to the Authority or
6 any of its officers” is deleted as implicit in the authority of the Authority to
7 authorize its members or officers “to perform any act necessary” to carry
8 out the powers granted by this subtitle. Correspondingly, the former
9 phrase “without limitation” is deleted as superfluous.

10 Defined terms: “Authority” § 10–301

11 “Bond” § 10–301

12 “Cost” § 10–301

13 “Health care institution” § 10–301

14 “Improvement” § 10–301

15 “Participating institution” § 10–301

16 “State” § 9–101

17 **10–315. POWERS — PROJECTS.**

18 (A) **IN GENERAL.**

19 **THE AUTHORITY MAY:**

20 (1) (i) **ACQUIRE, DIRECTLY OR THROUGH A PARTICIPATING INSTITUTION**
21 **ACTING AS ITS AGENT, BY PURCHASE, GIFT, OR DEVISE, ANY PROPERTY, FRANCHISES,**
22 **AND OTHER INTERESTS IN LAND, INCLUDING SUBMERGED LAND AND RIPARIAN RIGHTS,**
23 **LOCATED IN OR OUTSIDE THE STATE, AS NECESSARY OR CONVENIENT TO CONSTRUCT,**
24 **ACQUIRE, OR OPERATE A PROJECT, ON TERMS AND AT PRICES THE AUTHORITY**
25 **CONSIDERS REASONABLE; AND**

26 (ii) **TAKE TITLE TO THE PROPERTY IN THE NAME OF THE AUTHORITY**
27 **OR THE PARTICIPATING INSTITUTION AS ITS DESIGNATED AGENT;**

28 (2) **DETERMINE THE LOCATION AND CHARACTER OF A PROJECT TO BE**
29 **FINANCED UNDER THIS SUBTITLE, OR DESIGNATE A PARTICIPATING INSTITUTION AS ITS**
30 **AGENT TO DO SO;**

31 (3) **DIRECTLY, OR THROUGH A PARTICIPATING INSTITUTION ACTING AS ITS**
32 **DESIGNATED AGENT, ACQUIRE, IMPROVE, MAINTAIN, OPERATE, LEASE AS LESSEE OR**
33 **LESSOR, AND REGULATE A PROJECT, AND ENTER INTO CONTRACTS FOR ANY OF THESE**
34 **PURPOSES AND FOR THE MANAGEMENT OF A PROJECT;**

35 (4) **FIX AND COLLECT RATES, RENTALS, FEES, AND CHARGES FOR SERVICES**
36 **AND FACILITIES THAT A PROJECT PROVIDES OR MAKES AVAILABLE;**

37 (5) **DIRECTLY, OR THROUGH A PARTICIPATING INSTITUTION ACTING AS ITS**
38 **DESIGNATED AGENT, ESTABLISH RULES AND REGULATIONS FOR THE USE OF A PROJECT;**

1 (6) MORTGAGE, PLEDGE, OR OTHERWISE ENCUMBER A PROJECT AND ITS
2 SITE OR HOLD A MORTGAGE OR OTHER ENCUMBRANCE ON A PROJECT AND ITS SITE FOR
3 THE BENEFIT OF THE HOLDERS OF BONDS ISSUED TO FINANCE THE PROJECT; AND

4 (7) MAKE A LOAN TO A PARTICIPATING INSTITUTION TO:

5 (I) IMPROVE OR ACQUIRE A PROJECT IN ACCORDANCE WITH AN
6 AGREEMENT BETWEEN THE AUTHORITY AND THE PARTICIPATING INSTITUTION;

7 (II) REFINANCE ANY PART OF A PROJECT; AND

8 (III) REFUND OR REPAY BONDS, MORTGAGES, ADVANCES, LOANS, OR
9 OTHER OBLIGATIONS OF THE PARTICIPATING INSTITUTION TO THE AUTHORITY, ANY
10 PERSON, OR ANY UNIT OF FEDERAL, STATE, OR LOCAL GOVERNMENT INCURRED TO
11 FINANCE ANY PART OF A PROJECT.

12 (B) JOINT PROJECT.

13 THE AUTHORITY MAY UNDERTAKE A JOINT PROJECT FOR TWO OR MORE
14 PARTICIPATING INSTITUTIONS.

15 (C) LIMITATION.

16 A LOAN FROM THE AUTHORITY TO A PARTICIPATING INSTITUTION UNDER
17 SUBSECTION (A)(7)(I) OF THIS SECTION MAY NOT EXCEED THE TOTAL COST OF THE
18 PROJECT AS DETERMINED BY THE PARTICIPATING INSTITUTION AND APPROVED BY THE
19 AUTHORITY.

20 REVISOR’S NOTE: This section is new language derived without substantive
21 change from former Art. 43C, §§ 5(a)(5), (7), (8), (11) through (13) and (b),
22 and, as it related to the power to acquire property for projects, 7.

23 In subsection (a)(1) of this section, the former references to “such lands,
24 structures, property, real or personal, rights, rights-of-way, ... [and]
25 easements” are deleted as included in the comprehensive reference to
26 “property”.

27 In subsection (b) of this section, the former reference to “carrying out the
28 purposes of this article” is deleted as implicit in the powers granted to the
29 Authority in subsection (a) of this section.

- 30 Defined terms: “Authority” § 10–301
- 31 “Finance” § 10–301
- 32 “Improve” § 10–301
- 33 “Participating institution” § 10–301
- 34 “Person” § 9–101
- 35 “Project” § 10–301
- 36 “State” § 9–101

1 10–316. EXPENSES; LIABILITY.

2 (A) EXPENSES.

3 EXPENSES INCURRED UNDER THIS SUBTITLE ARE PAYABLE ONLY FROM MONEY
4 OBTAINED UNDER THIS SUBTITLE.

5 (B) LIABILITY.

6 THE AUTHORITY MAY NOT INCUR A LIABILITY IN EXCESS OF MONEY OBTAINED
7 UNDER THIS SUBTITLE.

8 REVISOR’S NOTE: This section is new language derived without substantive
9 change from former Art. 43C, § 6.

10 Defined term: “Authority” § 10–301

11 10–317. INSPECTION OF PUBLIC RECORDS.

12 (A) COPIES.

13 (1) THE EXECUTIVE DIRECTOR AND EACH OTHER OFFICER AUTHORIZED BY
14 THE AUTHORITY MAY:

15 (i) ALLOW COPIES TO BE MADE OF THE MINUTES AND RECORDS OF
16 THE AUTHORITY; AND

17 (ii) CERTIFY RECORDS UNDER SEAL SHOWING THAT THE COPIES ARE
18 TRUE COPIES.

19 (2) A PERSON MAY RELY ON THE CERTIFIED RECORD.

20 (B) PUBLIC RECORDS.

21 THE RECORDS OF THE AUTHORITY ARE PUBLIC RECORDS SUBJECT TO REASONABLE
22 INSPECTION.

23 REVISOR’S NOTE: This section is new language derived without substantive
24 change from the second and third sentences of former Art. 43C, § 4(e).

25 Defined term: “Authority” § 10–301

26 10–318. AUDIT.

27 (A) REQUIRED.

28 AT LEAST ONCE EACH YEAR THE AUTHORITY SHALL HAVE ITS BOOKS AUDITED BY
29 A CERTIFIED PUBLIC ACCOUNTANT.

30 (B) COST.

1 THE AUTHORITY SHALL PAY FOR THE COST OF THE AUDIT FROM MONEY AVAILABLE
2 TO IT UNDER THIS SUBTITLE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from the third sentence of former Art. 43C, § 20.

5 Defined term: "Authority" § 10–301

6 10–319. ANNUAL REPORT.

7 (A) REQUIRED.

8 ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE AUTHORITY SHALL REPORT TO THE
9 GOVERNOR ON ITS ACTIVITIES FOR THE PRECEDING FISCAL YEAR.

10 (B) CONTENTS.

11 THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND FINANCIAL STATEMENT
12 COVERING THE OPERATIONS OF THE AUTHORITY DURING THE PRECEDING FISCAL YEAR.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from the first and second sentences of former Art. 43C, § 20.

15 Defined term: "Authority" § 10–301

16 10–320. TERMINATION.

17 (A) IN GENERAL.

18 A LAW TO TERMINATE THE AUTHORITY MAY NOT TAKE EFFECT UNTIL ADEQUATE
19 PROVISION IS MADE TO PAY EACH OUTSTANDING BOND AND OTHER OBLIGATION OF THE
20 AUTHORITY.

21 (B) TRANSFER OF ASSETS TO STATE.

22 ON TERMINATION OF THE AUTHORITY, ITS RIGHTS AND PROPERTY PASS TO THE
23 STATE.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 43C, § 21.

26 In subsection (a) of this section, the former phrase "[t]he Authority and its
27 corporate existence shall continue until terminated by law" is deleted as
28 redundant of the establishment of the Authority without a termination
29 provision and CA § 2–103(1), which provides that a corporation has a
30 perpetual existence unless its charter specifically provides for its
31 termination.

32 In subsection (b) of this section, the former reference to rights and property
33 "be[ing] vested in" the State is deleted as surplusage.

1 Defined terms: “Authority” § 10–301

2 “State” § 9–101

3 10–321. RESERVED.

4 10–322. RESERVED.

5 PART III. BONDS.

6 10–323. GENERAL AUTHORIZATION.

7 (A) ISSUANCE.

8 (1) THE AUTHORITY MAY PERIODICALLY:

9 (I) ISSUE BONDS FOR ANY CORPORATE PURPOSE, INCLUDING
10 OPERATING EXPENSES;

11 (II) REFUND THOSE BONDS;

12 (III) PURCHASE ITS BONDS WITH ANY FUNDS AVAILABLE; AND

13 (IV) HOLD, PLEDGE, CANCEL, OR RESELL BONDS.

14 (2) BY RESOLUTION, THE AUTHORITY MAY AUTHORIZE THE CHAIR, VICE
15 CHAIR, ONE OF ITS MEMBERS, OR A COMMITTEE OF ITS MEMBERS TO DETERMINE,
16 PROVIDE FOR, OR APPROVE ANY MATTERS RELATING TO BONDS THAT THE AUTHORITY
17 CONSIDERS APPROPRIATE INCLUDING:

18 (I) SPECIFYING, DETERMINING, PRESCRIBING, AND APPROVING
19 MATTERS, DOCUMENTS, AND PROCEDURES THAT RELATE TO THE AUTHORIZATION, SALE,
20 SECURITY, ISSUANCE, DELIVERY, AND PAYMENT OF AND FOR THE BONDS;

21 (II) CREATING SECURITY FOR THE BONDS;

22 (III) PROVIDING FOR THE ADMINISTRATION OF BOND ISSUES; AND

23 (IV) TAKING OTHER ACTIONS IT CONSIDERS APPROPRIATE CONCERNING
24 THE BONDS.

25 (3) THE POWER GRANTED IN PARAGRAPH (2) OF THIS SUBSECTION IS IN
26 ADDITION TO POWERS CONFERRED ON THE AUTHORITY BY THIS SUBTITLE AND DOES NOT
27 LIMIT ANY POWER OF THE AUTHORITY UNDER THIS SUBTITLE.

28 (4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE
29 AUTHORITY MAY AUTHORIZE THE EXECUTIVE DIRECTOR TO TAKE ANY OF THE ACTIONS
30 DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION.

31 (II) IF THE AUTHORITY AUTHORIZES THE EXECUTIVE DIRECTOR TO
32 TAKE ANY OF THE ACTIONS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION, THE

1 AUTHORITY SHALL PRESCRIBE LIMITS WITHIN WHICH THE EXECUTIVE DIRECTOR MAY
2 EXERCISE DISCRETION.

3 (B) NATURE OF OBLIGATION.

4 (1) EXCEPT AS OTHERWISE PROVIDED BY THE AUTHORITY, EACH ISSUE OF
5 ITS BONDS IS A GENERAL OBLIGATION OF THE AUTHORITY PAYABLE FROM ANY
6 REVENUES OR MONEYS OF THE AUTHORITY THAT ARE AVAILABLE AND NOT OTHERWISE
7 PLEDGED.

8 (2) THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION ARE SUBJECT
9 TO ANY AGREEMENTS WITH:

10 (I) HOLDERS OF PARTICULAR BONDS PLEDGING ANY PARTICULAR
11 REVENUES OR MONEYS; AND

12 (II) ANY PARTICIPATING INSTITUTION.

13 (C) REQUIRED RESOLUTION.

14 FOR EACH ISSUE OF ITS BONDS, THE AUTHORITY SHALL PASS A RESOLUTION THAT:

15 (1) SPECIFIES AND DESCRIBES THE PROJECT FOR WHICH THE PROCEEDS OF
16 THE BOND ISSUANCE ARE INTENDED;

17 (2) GENERALLY DESCRIBES THE PUBLIC PURPOSE AND THE FINANCING
18 TRANSACTION TO BE ACCOMPLISHED;

19 (3) SPECIFIES THE MAXIMUM PRINCIPAL AMOUNT OF THE BONDS THAT MAY
20 BE ISSUED BY THE AUTHORITY; AND

21 (4) IMPOSES ANY TERMS OR CONDITIONS ON THE ISSUANCE AND SALE OF
22 THE BONDS THAT THE AUTHORITY CONSIDERS APPROPRIATE.

23 (D) NEGOTIABILITY.

24 SUBJECT TO ANY PROVISION FOR THEIR REGISTRATION, BONDS ARE NEGOTIABLE
25 INSTRUMENTS FOR ALL PURPOSES REGARDLESS OF WHETHER THEY ARE PAYABLE FROM A
26 SPECIAL FUND.

27 (E) TERMS AND CONDITIONS.

28 (1) THE BONDS MAY BE:

29 (I) SERIAL BONDS;

30 (II) TERM BONDS; OR

31 (III) BOTH IN THE DISCRETION OF THE AUTHORITY.

1 (2) SUBJECT TO ANY DELEGATION UNDER SUBSECTION (A)(2) OF THIS
2 SECTION, THE RESOLUTION AUTHORIZING BONDS MAY PROVIDE:

3 (I) THE DATES OF THE BONDS;

4 (II) THE MATURITY DATES OF THE BONDS;

5 (III) THE INTEREST RATES ON THE BONDS;

6 (IV) THE TIME AT WHICH THE BONDS WILL BE PAYABLE;

7 (V) THE DENOMINATIONS OF THE BONDS;

8 (VI) WHETHER THE BONDS WILL BE IN A COUPON OR REGISTERED
9 FORM;

10 (VII) ANY REGISTRATION PRIVILEGES OF THE BONDS;

11 (VIII) THE MANNER OF EXECUTION OF THE BONDS;

12 (IX) THE PLACE AT WHICH THE BONDS WILL BE PAYABLE; AND

13 (X) ANY TERMS OF REDEMPTION OF THE BONDS.

14 (3) THE BONDS SHALL MATURE WITHIN A PERIOD NOT TO EXCEED 50
15 YEARS AFTER THEIR DATE.

16 (4) THE BONDS SHALL BE PAYABLE IN UNITED STATES CURRENCY.

17 (F) SALE.

18 THE BONDS MAY BE SOLD BY COMPETITIVE OR NEGOTIATED SALE AT A PRICE
19 DETERMINED BY THE AUTHORITY.

20 (G) TEMPORARY CERTIFICATES.

21 PENDING PREPARATION OF THE DEFINITIVE BONDS, THE AUTHORITY MAY ISSUE
22 INTERIM RECEIPTS OR CERTIFICATES THAT WILL BE EXCHANGED FOR DEFINITIVE BONDS.

23 (H) TRUST AGREEMENT; RIGHTS AND REMEDIES.

24 (1) A TRUST AGREEMENT AUTHORIZING BONDS MAY CONTAIN PROVISIONS
25 THAT ARE PART OF THE CONTRACT WITH THE BONDHOLDERS.

26 (2) THE PROVISIONS MAY INCLUDE:

27 (I) PLEDGING THE FOLLOWING TO SECURE PAYMENT OF BONDS,
28 SUBJECT TO ANY EXISTING AGREEMENTS WITH BONDHOLDERS:

29 1. THE FULL FAITH AND CREDIT OF THE AUTHORITY;

1 2. THE FULL FAITH AND CREDIT OF A PARTICIPATING
2 INSTITUTION;

3 3. REVENUES OF A PROJECT;

4 4. A REVENUE–PRODUCING CONTRACT THE AUTHORITY HAS
5 MADE WITH A PERSON OR PUBLIC ENTITY; OR

6 5. THE PROCEEDS OF THE SALE OF BONDS;

7 (ii) THE RENTALS, FEES, AND OTHER CHARGES, THE AMOUNTS TO BE
8 RAISED IN EACH YEAR, AND THE USE AND DISPOSITION OF THE REVENUES;

9 (iii) SETTING ASIDE OF RESERVES AND SINKING FUNDS AND THEIR
10 DISPOSITION;

11 (iv) LIMITS ON THE RIGHT OF THE AUTHORITY OR ITS AGENTS TO
12 RESTRICT AND REGULATE THE USE OF A PROJECT;

13 (v) LIMITS ON THE PURPOSE TO WHICH THE PROCEEDS OF SALE OF
14 BONDS MAY BE APPLIED;

15 (vi) LIMITS ON ISSUING ADDITIONAL BONDS, THE TERMS UNDER WHICH
16 ADDITIONAL BONDS MAY BE ISSUED AND SECURED, AND REFUNDING OUTSTANDING
17 BONDS;

18 (vii) THE PROCEDURE TO AMEND OR ABROGATE THE TERMS OF A
19 CONTRACT WITH BONDHOLDERS AND THE REQUIREMENTS FOR CONSENT;

20 (viii) LIMITS ON THE AMOUNT OF PROJECT REVENUES TO BE EXPENDED
21 FOR OPERATING, ADMINISTRATIVE, OR OTHER EXPENSES OF THE AUTHORITY;

22 (ix) THE ACTS OR OMISSIONS THAT CONSTITUTE DEFAULT BY THE
23 AUTHORITY AND THE RIGHTS AND REMEDIES OF THE BONDHOLDERS IN THE EVENT OF A
24 DEFAULT;

25 (x) THE CONVEYANCE OR MORTGAGING OF A PROJECT AND ITS SITE TO
26 SECURE THE BONDHOLDERS; AND

27 (xi) CREATION AND DISPOSITION OF A COLLATERAL FUND, INSTEAD OF
28 CONVEYANCE OR MORTGAGE, FOR THE PURPOSE OF SECURING THE BONDHOLDERS.

29 (i) IMMUNITY FROM PERSONAL LIABILITY.

30 THE MEMBERS OF THE AUTHORITY AND A PERSON EXECUTING THE BONDS MAY
31 NOT BE HELD LIABLE PERSONALLY ON THE BONDS.

32 REVISOR’S NOTE: This section is new language derived without substantive
33 change from former Art. 43C, §§ 11(b) through (g) and the first sentence of
34 (a) and 5(a)(6).

1 In subsection (a)(2)(i) of this section, the phrase “with any funds available”
2 is substituted for the former phrase “out of any funds available therefor”
3 for brevity.

4 In subsection (a)(3) of this section, the reference to powers “granted in
5 paragraph (2) of this subsection” is substituted for the former reference to
6 “specify[ing], prescrib[ing], determin[ing], ... or approv[ing]” certain
7 matters for clarity.

8 Also in subsection (a)(3) of this section, the reference to “[t]hese powers are
9 in addition to powers conferred on the Authority by this subtitle and do not
10 limit any power of the Authority under this subtitle” is substituted for the
11 former reference to “[t]he power granted to the Authority in subparagraph
12 (i) of this paragraph shall be deemed to provide additional, alternative, and
13 supplemental authority and shall be regarded as supplemental and
14 additional to powers conferred upon the Authority by this article and shall
15 not be regarded as in derogation of or as a limitation to any power of the
16 Authority now existing under this article” as standard language used to
17 state intended statutory construction for clarity.

18 In subsection (a)(4)(i) of this section, the reference to “tak[ing]” certain
19 actions is substituted for the former reference to “accomplish[ing] any of
20 the actions described” for clarity. Similarly, in subsection (a)(4)(ii) of this
21 section, the reference to “tak[ing]” certain actions is substituted for the
22 former reference to “accomplish[ing] such acts”.

23 Also in subsection (a)(4)(ii) of this section, the phrase “[i]f the Authority
24 authorizes the Executive Director” is substituted for the former phrase to
25 “[i]n authorizing the Executive Director to” clarify that the Authority must
26 establish limits to the Executive Director’s authority if it grants that
27 authority.

28 In subsection (h)(2)(i)4 of this section, the reference to a “person or public
29 entity” is substituted for the former reference to an “individual,
30 partnership, corporation or association or other bodies, public or private”
31 for brevity.

32 In subsection (h)(2)(v) of this section, the former phrase “issued at that
33 time or in the future” is deleted as surplusage.

34 Defined terms: “Authority” § 10–301
35 “Bond” § 10–301
36 “Finance” § 10–301
37 “Participating institution” § 10–301
38 “Project” § 10–301
39 “Sinking fund” § 10–301
40 “Trust agreement” § 10–301

1 10–324. TRUST AGREEMENT.

2 (A) APPLICABILITY.

3 THE AUTHORITY MAY SECURE BONDS BY A TRUST AGREEMENT.

4 (B) CORPORATE TRUSTEE.

5 THE CORPORATE TRUSTEE UNDER A TRUST AGREEMENT MAY BE A TRUST COMPANY
6 OR A BANK THAT HAS THE POWERS OF A TRUST COMPANY IN OR OUTSIDE THE STATE.

7 (C) CONTENTS.

8 IN ADDITION TO THE PROVISIONS DESCRIBED IN § 10–323(B) OF THIS SUBTITLE,
9 THE TRUST AGREEMENT MAY CONTAIN:

10 (1) EITHER:

11 (I) A PROVISION CONVEYING OR MORTGAGING ALL OR A PORTION OF
12 THE PROJECT; OR

13 (II) A PROVISION CREATING A COLLATERAL ACCOUNT;

14 (2) OTHER PROVISIONS THAT THE AUTHORITY CONSIDERS REASONABLE AND
15 PROPER FOR THE SECURITY OF BONDHOLDERS; AND

16 (3) A PROVISION THAT RESTRICTS THE INDIVIDUAL RIGHT OF ACTION BY
17 BONDHOLDERS.

18 (D) EXPENSES.

19 AN EXPENSE INCURRED IN CARRYING OUT THE TRUST AGREEMENT OR A
20 RESOLUTION MAY BE TREATED AS PART OF THE COST OF THE OPERATION OF A PROJECT.

21 REVISOR’S NOTE: This section is new language derived without substantive
22 change from former Art. 43C, § 12.

23 In the introductory language to subsection (c) of this section, the phrase
24 “[i]n addition to the provisions described in § 10–323(b) of this subtitle,” is
25 added for clarity.

26 In subsection (c) of this section, the former references to a “pledge or
27 assignment” of certain revenues and to certain provisions regarding “rights
28 and remedies of the bondholders” are deleted as redundant of similar
29 provisions revised in § 10–323(b) of this subtitle.

30 Defined terms: “Authority” § 10–301

31 “Bond” § 10–301

32 “Participating institution” § 10–301

33 “Project” § 10–301

34 “State” § 9–101

1 “Trust agreement” § 10–301

2 10–325. LEGAL INVESTMENTS.

3 BONDS ARE SECURITIES:

4 (1) IN WHICH ANY OF THE FOLLOWING PERSONS MAY LEGALLY AND
5 PROPERLY INVEST MONEY, INCLUDING CAPITAL THAT THE PERSON OWNS OR CONTROLS:

6 (I) AN OFFICER OR UNIT OF THE STATE OR A POLITICAL SUBDIVISION;

7 (II) A BANK, TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION,
8 INVESTMENT COMPANY, OR OTHER PERSON CONDUCTING A BANKING BUSINESS;

9 (III) AN INSURANCE COMPANY, INSURANCE ASSOCIATION, OR OTHER
10 PERSON CONDUCTING AN INSURANCE BUSINESS;

11 (IV) A PERSONAL REPRESENTATIVE, GUARDIAN, TRUSTEE, OR OTHER
12 FIDUCIARY; AND

13 (V) ANY OTHER PERSON; AND

14 (2) THAT MAY BE DEPOSITED WITH AND RECEIVED BY A UNIT OF THE STATE
15 OR A POLITICAL SUBDIVISION FOR ANY PURPOSE FOR WHICH THE DEPOSIT OF BONDS OR
16 OBLIGATIONS OF THE STATE IS AUTHORIZED BY LAW.

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from former Art. 43C, § 19.

19 In items (1)(i) and (2) of this section, the term “unit” is substituted for the
20 former reference to “agency” for consistency within this article and with
21 other revised articles of the Code. *See* General Revisor’s Note to article.

22 In item (1)(ii) and (iii) of this section, the references to certain “other
23 persons conducting” certain businesses are added for consistency within
24 their title. No substantive change is intended.

25 In item (1)(iv) of this section, the term “personal representative” is
26 substituted for the former phrase “executors, administrators” for
27 consistency with terminology used throughout the Estates and Trusts
28 Article and in light of Art. 1, § 5, which provides that the term “personal
29 representative” includes both an “administrator” and an “executor”.

30 Defined terms: “Authority” § 10–301

31 “Bond” § 10–301

32 “Person” § 9–101

33 “State” § 9–101

34 10–326. LIABILITY; FAITH AND CREDIT.

35 (A) IN GENERAL.

1 A BOND:

2 (1) IS NOT A DEBT, LIABILITY, OR A PLEDGE OF THE FAITH AND CREDIT OF
3 THE STATE OR A POLITICAL SUBDIVISION OF THE STATE; AND

4 (2) IS PAYABLE SOLELY FROM MONEY AVAILABLE IN ACCORDANCE WITH
5 THIS SUBTITLE.

6 (B) REQUIRED STATEMENT.

7 EACH BOND SHALL STATE ON ITS FACE THAT:

8 (1) THE STATE AND ITS POLITICAL SUBDIVISIONS ARE NOT OBLIGED TO PAY
9 THE BOND OR THE INTEREST ON THE BOND EXCEPT FROM REVENUES OF THE PROJECT OR
10 THE PORTION OF THE PROJECT FOR WHICH THE BOND IS ISSUED; AND

11 (2) THE FAITH, CREDIT, AND TAXING POWER OF THE STATE AND ITS
12 POLITICAL SUBDIVISIONS ARE NOT PLEDGED TO PAY THE PRINCIPAL OF OR THE INTEREST
13 ON THE BOND.

14 (C) STATE OR POLITICAL SUBDIVISION NOT OBLIGED TO PLEDGE OR LEVY TAX.

15 THE ISSUANCE OF BONDS DOES NOT DIRECTLY, INDIRECTLY, OR CONTINGENTLY
16 OBLIGATE THE STATE OR ITS POLITICAL SUBDIVISIONS:

17 (1) TO LEVY OR PLEDGE A TAX TO PAY THE BONDS; OR

18 (2) TO MAKE AN APPROPRIATION TO PAY THE BONDS.

19 (D) AUTHORITY OR PARTICIPATING INSTITUTION AUTHORIZED TO PLEDGE ITS
20 FULL FAITH AND CREDIT.

21 THIS SECTION DOES NOT PREVENT THE AUTHORITY OR A PARTICIPATING
22 INSTITUTION FROM PLEDGING ITS FULL FAITH AND CREDIT TO PAY BONDS.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 43C, § 13.

25 In subsection (a) of this section, the former references to the liability of
26 “the Authority” are deleted as surplusage. The liability of the Authority on
27 a bond is governed by the particular bond issue and at the option of the
28 Authority. No substantive change is intended.

29 In subsection (d) of this section, the former phrase “or be construed to
30 prevent” is deleted as surplusage.

1 Defined terms: “Authority” § 10–301

2 “Bond” § 10–301

3 “Participating institution” § 10–301

4 “State” § 9–101

5 10–327. RATES, RENTS, FEES, AND CHARGES.

6 (A) IN GENERAL.

7 THE AUTHORITY MAY:

8 (1) FIX AND COLLECT RATES, RENTS, FEES, AND CHARGES FOR THE USE OF
9 A PROJECT AND FOR THE SERVICES FURNISHED OR TO BE FURNISHED BY A PROJECT; AND

10 (2) CONTRACT WITH A PERSON OR GOVERNMENTAL ENTITY TO EXERCISE ITS
11 AUTHORITY UNDER THIS SECTION.

12 (B) AMOUNT.

13 THE RATES, RENTS, FEES, AND CHARGES ESTABLISHED BY THE AUTHORITY UNDER
14 THIS SECTION SHALL BE FIXED AND ADJUSTED SO THAT THE AGGREGATE AMOUNT OF THE
15 RATES, RENTS, FEES, AND CHARGES FROM THE PROJECT, WHEN ADDED TO OTHER
16 AVAILABLE MONEY, IS SUFFICIENT TO:

17 (1) PAY FOR MAINTAINING, REPAIRING, AND OPERATING THE PROJECT;

18 (2) PAY THE PRINCIPAL OF AND THE INTEREST ON THE BONDS THAT THE
19 AUTHORITY ISSUED FOR THE PROJECT AS THEY BECOME DUE AND PAYABLE; AND

20 (3) CREATE AND MAINTAIN RESERVES REQUIRED OR PROVIDED FOR IN A
21 TRUST AGREEMENT.

22 (C) ONLY AUTHORITY MAY REGULATE.

23 THE RATES, RENTS, FEES, AND CHARGES ESTABLISHED BY THE AUTHORITY UNDER
24 THIS SECTION ARE NOT SUBJECT TO SUPERVISION OR REGULATION BY ANY UNIT OF THE
25 STATE OTHER THAN THE AUTHORITY.

26 REVISOR’S NOTE: This section is new language derived without substantive
27 change from the first, second, and third sentences of former Art. 43C, § 14.

28 In subsection (c) of this section, the reference to any “unit” of the State is
29 substituted for the former reference to any “department, commission,
30 board, body, bureau or agency”. See General Revisor’s Note to article.

31 Defined terms: “Authority” § 10–301

32 “Bond” § 10–301

33 “Cost” § 10–301

34 “Project” § 10–301

35 “State” § 9–101

1 10–328. SINKING FUND — ESTABLISHED.

2 (A) SET-ASIDE REQUIRED.

3 (1) THE AUTHORITY SHALL SET ASIDE A SUFFICIENT AMOUNT OF THE
4 REVENUES DERIVED FROM A PROJECT IN A SINKING FUND OR OTHER SIMILAR FUND AT
5 REGULAR INTERVALS TO THE EXTENT REQUIRED IN THE TRUST AGREEMENT.

6 (2) THE SINKING FUND IS PLEDGED TO PAY:

7 (I) THE PRINCIPAL OF AND THE INTEREST ON THE BONDS AS THEY
8 BECOME DUE; AND

9 (II) THE REDEMPTION OR PURCHASE PRICE OF BONDS RETIRED BY
10 CALL OR PURCHASE AS SPECIFIED IN THE TRUST AGREEMENT.

11 (3) TO THE EXTENT PROVIDED IN THE TRUST AGREEMENT, THE AUTHORITY
12 MAY EXCLUDE FROM THE AMOUNT TO BE DEPOSITED IN THE SINKING FUND THE
13 REVENUES THAT MAY BE NECESSARY:

14 (I) TO PAY FOR PROJECT MAINTENANCE, REPAIR, AND OPERATION;

15 (II) FOR RESERVES; AND

16 (III) FOR IMPROVEMENTS TO THE PROJECT.

17 (B) DURATION AND EFFECT OF PLEDGE.

18 (1) THE PLEDGE OF REVENUES UNDER SUBSECTION (A) OF THIS SECTION IS
19 VALID AND BINDING FROM THE TIME THE PLEDGE IS MADE.

20 (2) (I) THE RATES, RENTS, CHARGES, FEES, AND OTHER REVENUE OR
21 MONEY THAT THE AUTHORITY PLEDGES AND RECEIVES ARE SUBJECT IMMEDIATELY TO
22 THE LIEN OF THE PLEDGE.

23 (II) NEITHER PHYSICAL DELIVERY OF THE RATES, RENTS, CHARGES,
24 FEES, AND OTHER REVENUE OR MONEY NOR ANY OTHER ACT IS REQUIRED TO VALIDATE
25 THE LIEN.

26 (3) THE LIEN OF THE PLEDGE IS VALID AND BINDING AGAINST EACH PARTY
27 WITH A CLAIM AGAINST THE AUTHORITY IN TORT, CONTRACT, OR OTHERWISE,
28 REGARDLESS OF WHETHER THE PARTY HAS NOTICE OF THE LIEN.

29 (C) RECORDATION OF PLEDGE.

30 THE TRUST AGREEMENT AND ANY OTHER AGREEMENT OR LEASE CREATING A
31 PLEDGE UNDER THIS SECTION NEED NOT BE FILED OR RECORDED, EXCEPT IN THE
32 RECORDS OF THE AUTHORITY.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from the fourth, fifth, and sixth sentences of former Art. 43C, § 14.

1 In subsection (a)(3)(i) of this section, the reference to the payment of the
 2 “project” maintenance, repair, and operation is added for clarity. Similarly,
 3 in subsection (a)(3)(iii) of this section, the reference to “project” renewal,
 4 replacement, extension, enlargement, and improvement is added.

5 Defined terms: “Authority” § 10–301

6 “Bond” § 10–301

7 “Improvement” § 10–301

8 “Project” § 10–301

9 “Sinking fund” § 10–301

10 “Trust agreement” § 10–301

11 **10–329. SINKING FUND — NATURE AND APPLICATION.**

12 **A SINKING FUND:**

13 **(1) MAY BE HELD:**

14 **(I) FOR ALL OF THE BONDS ISSUED TO FINANCE PROJECTS AT A**
 15 **PARTICULAR PARTICIPATING INSTITUTION WITHOUT DISTINCTION OR PRIORITY OF ONE**
 16 **BOND OVER ANOTHER BOND;**

17 **(II) FOR A PARTICULAR PROJECT AND FOR THE BONDS ISSUED FOR**
 18 **THAT PROJECT;**

19 **(III) FOR BONDS HAVING A LIEN SUBORDINATE TO THE LIEN SECURING**
 20 **OTHER BONDS; AND**

21 **(2) SHALL BE SUBJECT TO THE TRUST AGREEMENT.**

22 **REVISOR’S NOTE:** This section is new language derived without substantive
 23 change from the seventh and eighth sentences of former Art. 43C, § 14.

24 In item (1)(i) of this section, the references to one “bond” and to another
 25 “bond” are added for clarity.

26 Defined terms: “Authority” § 10–301

27 “Bond” § 10–301

28 “Finance” § 10–301

29 “Participating institution” § 10–301

30 “Project” § 10–301

31 “Sinking fund” § 10–301

32 “Trust agreement” § 10–301

33 **10–330. USE OF BOND PROCEEDS AND REVENUES.**

34 **(A) MONEY HELD IN TRUST.**

1 PROCEEDS FROM THE SALE OF BONDS AND OTHER REVENUES RECEIVED UNDER
2 THIS SUBTITLE ARE TRUST FUNDS TO BE HELD AND APPLIED SOLELY AS PROVIDED IN
3 THIS SUBTITLE.

4 (B) PERSON HOLDING MONEY TO ACT AS TRUSTEE.

5 (1) EACH OFFICER, BANK, OR TRUST COMPANY THAT RECEIVES MONEY
6 FROM THE AUTHORITY UNDER THIS SUBTITLE SHALL ACT AS TRUSTEE OF THE MONEY
7 AND SHALL HOLD AND APPLY THE MONEY FOR THE PURPOSES SPECIFIED UNDER THIS
8 SUBTITLE.

9 (2) THE OFFICER, BANK, OR TRUST COMPANY HOLDING MONEY IS SUBJECT
10 TO:

11 (I) ANY REGULATION ADOPTED UNDER THIS SUBTITLE; AND

12 (II) THE TRUST AGREEMENT SECURING THE BONDS.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 43C, § 15.

15 In subsection (b) of this section, the reference to persons with whom the
16 Authority deposits trust money is added for clarity.

17 Defined terms: "Authority" § 10–301

18 "Bond" § 10–301

19 "Trust agreement" § 10–301

20 10–331. REFUNDING BONDS — IN GENERAL.

21 (A) AUTHORIZATION.

22 (1) THE AUTHORITY MAY ISSUE BONDS TO REFUND OUTSTANDING BONDS
23 OF THE AUTHORITY, INCLUDING PAYING:

24 (I) ANY REDEMPTION PREMIUM;

25 (II) INTEREST ACCRUED OR TO ACCRUE TO THE DATE OF REDEMPTION,
26 PURCHASE, OR MATURITY OF THE BONDS; AND

27 (III) IF CONSIDERED ADVISABLE BY THE AUTHORITY, ANY PART OF THE
28 COST OF ACQUIRING OR IMPROVING A PROJECT.

29 (2) REFUNDING BONDS MAY BE ISSUED FOR ANY CORPORATE PURPOSE,
30 INCLUDING:

31 (I) REALIZING SAVINGS IN THE EFFECTIVE COSTS OF DEBT SERVICE,
32 DIRECTLY OR THROUGH A DEBT RESTRUCTURING; OR

33 (II) ALLEVIATING A POTENTIAL OR ACTUAL DEFAULT.

1 (B) MANNER AND TERM OF ISSUANCE.

2 A REFUNDING BOND THAT THE AUTHORITY ISSUES UNDER THIS SECTION SHALL BE
3 ISSUED IN THE SAME MANNER AND IS SUBJECT TO THIS SUBTITLE TO THE SAME EXTENT
4 AS ANY OTHER BOND.

5 (C) AMOUNT; PAYMENT.

6 (1) THE AUTHORITY MAY ISSUE REFUNDING BONDS IN ONE OR MORE
7 SERIES IN AN AMOUNT GREATER THAN THE AMOUNT OF THE BONDS TO BE REFUNDED.

8 (2) (I) IN ADDITION TO OTHER SOURCES OF PAYMENT THAT THE
9 AUTHORITY DETERMINES, REFUNDING BONDS MAY BE PAYABLE FROM ESCROWED BOND
10 PROCEEDS AND EARNINGS AND PROFITS ON INVESTMENTS.

11 (II) ESCROWED BOND PROCEEDS AND EARNINGS AND PROFITS ON
12 INVESTMENTS USED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH CONSTITUTE
13 REVENUES OF A PROJECT UNDER THIS SUBTITLE.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 43C, § 18(a) and (e).

16 In subsection (c)(1) of this section, the reference to the authority of the
17 Authority to issue refunding bonds in certain amounts is added for clarity.

18 Defined terms: "Authority" § 10–301

19 "Bond" § 10–301

20 "Improve" § 10–301

21 "Project" § 10–301

22 10–332. REFUNDING BONDS — APPLICATION OF BOND PROCEEDS.

23 (A) IN GENERAL.

24 THE AUTHORITY MAY APPLY THE PROCEEDS OF REFUNDING BONDS TO THE
25 PURCHASE, RETIREMENT AT MATURITY, OR REDEMPTION OF OUTSTANDING BONDS ON THE
26 EARLIEST OR A SUBSEQUENT REDEMPTION DATE FOR THOSE BONDS.

27 (B) ESCROW.

28 THE AUTHORITY MAY PLACE PROCEEDS OF REFUNDING BONDS IN ESCROW BEFORE
29 APPLYING THE PROCEEDS TO REFUND BONDS.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 43C, § 18(b).

32 Defined terms: "Authority" § 10–301

33 "Bond" § 10–301

1 10–333. REFUNDING BONDS — INVESTMENT OR REINVESTMENT IN UNITED STATES
2 OBLIGATIONS.

3 (A) IN GENERAL.

4 PENDING THEIR USE IN ACCORDANCE WITH THIS SUBTITLE, PROCEEDS OF BONDS
5 ISSUED UNDER § 10–331 OF THIS SUBTITLE MAY BE INVESTED IN:

6 (1) OBLIGATIONS OF OR GUARANTEED BY THE UNITED STATES; OR

7 (2) CERTIFICATES OF DEPOSIT OR TIME DEPOSITS SECURED BY OBLIGATIONS
8 OF OR GUARANTEED BY THE UNITED STATES.

9 (B) MATURITY.

10 (1) BOND PROCEEDS PLACED IN ESCROW UNDER SUBSECTION (A) OF THIS
11 SECTION SHALL MATURE AT SUCH TIME OR TIMES AS THE AUTHORITY CONSIDERS
12 APPROPRIATE TO ASSURE THE PROMPT PAYMENT OF PRINCIPAL, INTEREST, AND
13 REDEMPTION PREMIUM, IF ANY, ON THE BONDS THAT ARE TO BE REFUNDED.

14 (2) THE INSTRUMENTS IN WHICH THE AUTHORITY INVESTS PROCEEDS OF
15 BONDS ISSUED FOR ALL OR PART OF THE COST OF IMPROVEMENT OR ACQUISITION OF A
16 PROJECT SHALL MATURE SOON ENOUGH TO PAY THE COST OF THE IMPROVEMENT OR
17 ACQUISITION.

18 (C) APPLICATION OF INTEREST, INCOME, AND PROFITS.

19 (1) THE AUTHORITY MAY APPLY THE INTEREST, INCOME, AND PROFIT
20 FROM THE INVESTMENTS DESCRIBED IN SUBSECTION (A) OF THIS SECTION:

21 (i) TO PAY THE BONDS THAT ARE TO BE REFUNDED; OR

22 (ii) TO PAY THE COSTS OF ACQUIRING OR IMPROVING A PROJECT.

23 (2) AFTER THE TERMS OF ESCROW ARE SATISFIED, THE BALANCE OF THE
24 REFUNDING BOND PROCEEDS, INTEREST, INCOME, AND PROFIT, IF ANY, MAY BE
25 RETURNED TO THE AUTHORITY FOR USE BY IT IN ANY LAWFUL MANNER.

26 REVISOR’S NOTE: This section is new language derived without substantive
27 change from former Art. 43C, § 18(c) and (d).

28 In subsections (a) and (b) of this section, the former references to “of
29 America” are deleted as surplusage.

30 In subsection (b)(1) of this section, the former reference to bonds issued for
31 the “additional” purpose is deleted as surplusage.

32 Defined terms: “Authority” § 10–301

33 “Bond” § 10–301

34 “Cost” § 10–301

35 “Improvement” § 10–301

1 “Project” § 10–301

2 10–334. BOND ANTICIPATION NOTES.

3 (A) AUTHORITY TO ISSUE.

4 THE AUTHORITY MAY ISSUE NEGOTIABLE BOND ANTICIPATION NOTES IN
5 ANTICIPATION OF THE SALE OF BONDS FOR ANY CORPORATE PURPOSE.

6 (B) MANNER OF ISSUANCE.

7 BOND ANTICIPATION NOTES ISSUED UNDER THIS SECTION SHALL BE ISSUED IN THE
8 SAME MANNER AS BONDS.

9 (C) CONTENTS OF NOTES AND RESOLUTION.

10 BOND ANTICIPATION NOTES ISSUED UNDER THIS SECTION AND THE RESOLUTION
11 AUTHORIZING THEM MAY CONTAIN ANY PROVISIONS, CONDITIONS, OR LIMITATIONS THAT
12 MAY BE INCLUDED IN A TRUST AGREEMENT.

13 (D) PAYMENT OF OTHER NOTES.

14 THE AUTHORITY MAY ISSUE BOND ANTICIPATION NOTES TO PAY ANY OTHER BOND
15 ANTICIPATION NOTES.

16 (E) PAYMENT.

17 BOND ANTICIPATION NOTES SHALL BE PAID FROM:

18 (1) REVENUES OF THE AUTHORITY;

19 (2) MONEY AVAILABLE AND NOT OTHERWISE PLEDGED; OR

20 (3) THE PROCEEDS OF THE SALE OF THE BONDS IN ANTICIPATION OF WHICH
21 THE NOTES WERE ISSUED.

22 REVISOR’S NOTE: This section is new language derived without substantive
23 change from the second through fifth sentences of former Art. 43C, § 11(a).

24 In subsection (c) of this section, the defined term “trust agreement” is
25 substituted for the former reference to “bond resolutions” for clarity.

26 In subsection (d) of this section, the reference to “issu[ing] bond
27 anticipation notes to pay any other” bond anticipation notes is substituted
28 for the former reference to “renew[ing]” those notes for accuracy.

29 Defined terms: “Authority” § 10–301

30 “Bond” § 10–301

31 “Trust agreement” § 10–301

1 10–335. TITLE CONVEYANCE; RELEASE OF SECURITY.

2 (A) CONDITIONS FOR CONVEYANCE AND RELEASE.

3 THE AUTHORITY SHALL CONVEY TITLE TO A PROJECT AND RELEASE COLLATERAL
4 IN ACCORDANCE WITH THIS SECTION WHEN THE FOLLOWING CONDITIONS ARE MET:

5 (1) (I) THE PRINCIPAL OF AND INTEREST ON BONDS ISSUED TO FINANCE
6 THE PROJECT, INCLUDING ANY REFUNDING BONDS, HAVE BEEN FULLY PAID AND
7 RETIRED; OR

8 (II) ADEQUATE PROVISION HAS BEEN MADE TO FULLY PAY AND RETIRE
9 THE BONDS;

10 (2) ALL OTHER CONDITIONS OF THE TRUST AGREEMENT HAVE BEEN
11 SATISFIED; AND

12 (3) THE LIEN OF THE TRUST AGREEMENT HAS BEEN RELEASED.

13 (B) EXECUTION OF DOCUMENTS.

14 ON SATISFACTION OF THE CONDITIONS UNDER SUBSECTION (A) OF THIS SECTION,
15 THE AUTHORITY PROMPTLY SHALL EXECUTE ANY DEEDS, CONVEYANCES, RELEASES, AND
16 DOCUMENTS AND TAKE ANY OTHER ACTION NECESSARY TO CONVEY TITLE TO THE
17 PROJECT TO THE PARTICIPATING INSTITUTION AND RELEASE COLLATERAL FREE OF ALL
18 LIENS AND ENCUMBRANCES CREATED THROUGH THE AUTHORITY.

19 REVISOR’S NOTE: This section is new language derived without substantive
20 change from former Art. 43C, §§ 8 and 9.

21 In subsection (b) of this section, the reference to liens and encumbrances
22 “created through the Authority” is added for clarity.

23 Also in subsection (b) of this section, the former phrase “which institution
24 had, pursuant to the trust agreement, deposited and turned over such
25 securities to a trustee or trustees in order to assure the full payment and
26 retirement of said bonds” is deleted as implicit in the references to the
27 “conditions of the trust agreement” in subsection (a)(2) of this section.

28 Defined terms: “Authority” § 10–301

29 “Bond” § 10–301

30 “Participating institution” § 10–301

31 “Project” § 10–301

32 “Trust agreement” § 10–301

33 10–336. ENFORCEMENT AUTHORITY.

34 (A) IN GENERAL.

35 A BONDHOLDER, A HOLDER OF ANY COUPONS ATTACHED TO BONDS, OR A TRUSTEE
36 UNDER A TRUST AGREEMENT SECURING THE BONDS MAY SUE TO:

1 (1) PROTECT AND ENFORCE RIGHTS UNDER THE LAWS OF THE STATE OR A
2 TRUST AGREEMENT; AND

3 (2) ENFORCE AND COMPEL THE PERFORMANCE OF DUTIES BY THE
4 AUTHORITY OR ITS OFFICER, EMPLOYEE, OR AGENT THAT THIS SUBTITLE OR A TRUST
5 AGREEMENT REQUIRES, INCLUDING FIXING AND COLLECTING RATES, RENTS, FEES, AND
6 CHARGES THAT THE TRUST AGREEMENT REQUIRES TO BE FIXED AND COLLECTED.

7 (B) LIMITATION.

8 THE RIGHTS UNDER THIS SECTION ARE SUBJECT TO ANY TRUST AGREEMENT.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 43C, § 16.

11 In the introductory language to subsection (a) of this section, the former
12 phrase "at law or in equity, by ... action, mandamus or other proceedings" is
13 deleted as included in the reference to "su[ing]".

14 Defined terms: "Authority" § 10–301

15 "Bond" § 10–301

16 "State" § 9–101

17 "Trust agreement" § 10–301

18 10–337. TAX STATUS.

19 (A) PROJECTS AND PROPERTY.

20 THE AUTHORITY, ITS AGENT, OR ITS LESSEE IS NOT REQUIRED TO PAY A TAX OR
21 ASSESSMENT ON:

22 (1) A PROJECT OR PROPERTY THAT IT ACQUIRES OR USES UNDER THIS
23 SUBTITLE; OR

24 (2) THE INCOME FROM THAT PROJECT OR PROPERTY.

25 (B) BONDS.

26 THE PRINCIPAL OF AND INTEREST ON BONDS, THE TRANSFER OF BONDS, AND ANY
27 INCOME DERIVED FROM THE BONDS, INCLUDING PROFITS MADE IN THEIR SALE OR
28 TRANSFER, ARE FOREVER EXEMPT FROM ALL STATE AND LOCAL TAXES.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 43C, § 17, as it related to taxation.

31 Defined terms: "Authority" § 10–301

32 "Bond" § 10–301

33 "State" § 9–101

1 10–338. RESERVED.

2 10–339. RESERVED.

3 PART IV. MARYLAND HOSPITAL BOND PROGRAM.

4 10–340. DEFINITIONS.

5 (A) IN GENERAL.

6 IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

7 REVISOR’S NOTE: This subsection formerly was Art. 43C, § 16A(b)(1) and
8 (1)(1)(i).

9 The only changes are in style.

10 (B) AFFILIATE.

11 “AFFILIATE” MEANS A PERSON THAT DIRECTLY OR INDIRECTLY, THROUGH ONE OR
12 MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL
13 WITH ANOTHER PERSON.

14 REVISOR’S NOTE: This subsection is new language derived without
15 substantive change from former Art. 43C, § 16A(1)(1)(ii).

16 Defined term: “Control” § 10–340

17 (C) CLOSURE COST.

18 (1) “CLOSURE COST” MEANS COSTS INCURRED IN CONNECTION WITH THE
19 CLOSURE OR DELICENSING OF A HOSPITAL.

20 (2) “CLOSURE COST” INCLUDES EXPENSES OF OPERATING A HOSPITAL,
21 PAYMENTS TO EMPLOYEES, EMPLOYEE BENEFITS, FEES OF CONSULTANTS, INSURANCE,
22 SECURITY SERVICES, UTILITIES, LEGAL FEES, CAPITAL COSTS, COSTS OF TERMINATING
23 CONTRACTS WITH VENDORS, SUPPLIERS OF GOODS AND SERVICES AND OTHERS, DEBT
24 SERVICE, CONTINGENCIES, AND OTHER NECESSARY OR APPROPRIATE COSTS AND
25 EXPENSES.

26 REVISOR’S NOTE: This subsection is new language derived without
27 substantive change from former Art. 43C, § 16A(b)(2).

28 In paragraph (1) of this subsection, the former word “reasonable” is deleted
29 and included as a substantive provision under § 10–348 of this subtitle.

30 Defined term: “Hospital” § 10–340

31 (D) CONTROL.

1 “CONTROL” MEANS THE DIRECT OR INDIRECT POSSESSION OF THE POWER TO
2 DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT AND POLICIES OF A PERSON
3 THROUGH EQUITY INTEREST, MEMBERSHIP INTEREST, OR CONTRACT OTHER THAN A
4 COMMERCIAL CONTRACT FOR GOODS OR NONMANAGEMENT SERVICES, OR OTHERWISE,
5 WHETHER OR NOT THE POWER IS EXERCISED OR SOUGHT TO BE EXERCISED.

6 REVISOR’S NOTE: This subsection is new language derived without
7 substantive change from former Art. 43C, § 16A(1)(1)(iii).

8 The former phrases “controlling”, “controlled by”, and “under common
9 control with” are deleted as surplusage.

10 Defined term: “Person” § 9–101

11 (E) HOSPITAL.

12 “HOSPITAL” MEANS AN INSTITUTION DEFINED AS A HOSPITAL UNDER § 19–301
13 OF THE HEALTH – GENERAL ARTICLE AND THAT IS LICENSED AS A HOSPITAL BY THE
14 SECRETARY OF HEALTH AND MENTAL HYGIENE UNDER § 19–318 OF THE HEALTH –
15 GENERAL ARTICLE.

16 REVISOR’S NOTE: This subsection is new language derived without
17 substantive change from the second sentence of the introductory language
18 of former Art. 43C, § 16A(d) as it described the institutions which may
19 benefit from assistance under this part as contrasted with the other health
20 care institutions eligible for assistance under other parts of this subtitle.

21 (F) PROGRAM.

22 “PROGRAM” MEANS THE MARYLAND HOSPITAL BOND PROGRAM UNDER THIS
23 PART.

24 REVISOR’S NOTE: This subsection is new language added to avoid repetition
25 of the phrase “Maryland Hospital Bond Program”.

26 (G) PUBLIC OBLIGATION.

27 (1) “PUBLIC OBLIGATION” MEANS A BOND, NOTE, EVIDENCE OF
28 INDEBTEDNESS, OR OTHER OBLIGATION, TO REPAY BORROWED MONEY ISSUED BY THE
29 AUTHORITY, THE STATE, A UNIT, INSTRUMENTALITY, OR PUBLIC CORPORATION OF THE
30 STATE, A PUBLIC BODY AS DEFINED IN ARTICLE 31, § 9 OF THE CODE, A COUNTY, OR
31 A MUNICIPAL CORPORATION.

32 (2) “PUBLIC OBLIGATION” DOES NOT INCLUDE AN OBLIGATION, OR PORTION
33 OF AN OBLIGATION, IF:

34 (I) THE PRINCIPAL OF AND INTEREST ON THE OBLIGATION OR THE
35 PORTION OF THE OBLIGATION IS:

1 1. INSURED BY AN EFFECTIVE MUNICIPAL BOND INSURANCE
2 POLICY; AND

3 2. ISSUED ON BEHALF OF A HOSPITAL THAT VOLUNTARILY
4 CLOSED IN ACCORDANCE WITH § 19–120(L) OF THE HEALTH – GENERAL ARTICLE;
5 AND

6 (ii) THE PROCEEDS OF THE OBLIGATION OR THE PORTION OF THE
7 OBLIGATION ARE USED TO FINANCE WHOLLY OR PARTLY:

8 1. A FACILITY OR PART OF A FACILITY THAT IS USED PRIMARILY
9 TO PROVIDE OUTPATIENT SERVICES AT A LOCATION OTHER THAN THE HOSPITAL; OR

10 2. A FACILITY OR PART OF A FACILITY THAT IS USED PRIMARILY
11 BY PHYSICIANS WHO ARE NOT EMPLOYEES OF THE HOSPITAL TO PROVIDE SERVICES TO
12 NONHOSPITAL PATIENTS.

13 REVISOR’S NOTE: This subsection is new language derived without
14 substantive change from former Art. 43C, § 16A(b)(3).

15 In paragraph (1) of this subsection, the phrase “a unit” is substituted for
16 the former phrase “any agency” for consistency with similar provisions
17 elsewhere in the revised articles of the Code. *See* General Revisor’s Note to
18 article.

19 Also in paragraph (1) of this subsection, the defined term “county” is added
20 for clarity.

21 Defined terms: “Authority” § 10–301

22 “Bond” § 10–301

23 “County” § 9–101

24 “Finance” § 10–301

25 “Hospital” § 10–340

26 “State” § 9–101

27 GENERAL REVISOR’S NOTE TO SECTION

28 Former Art. 43C, § 16A(1)(1)(iv), which defined “value” as the fair market value
29 of property or services, is deleted as redundant of the common meaning of the term.
30 Throughout this part, the phrase “fair market value” is substituted for the former
31 defined term “value” for clarity.

32 10–341. SCOPE OF PART.

33 THIS PART APPLIES TO:

34 (1) THE CLOSURE OF A HOSPITAL UNDER § 19–120(L) OF THE HEALTH –
35 GENERAL ARTICLE; AND

1 (2) THE DELICENSURE OF A HOSPITAL UNDER § 19–325 OF THE HEALTH –
2 GENERAL ARTICLE.

3 REVISOR’S NOTE: This section is new language derived without substantive
4 change from former Art. 43C, § 16A(a).

5 In this section and throughout this part, the references to “this part” are
6 substituted for the former references to “this section” to reflect the
7 reorganization of material derived from former Art. 43C, § 16A in this part.

8 The Economic Development Article Review Committee notes, for the
9 consideration of the General Assembly, that hospital conversions have not
10 been eligible for support under the Program since October 1, 2002.
11 Accordingly, in this section and throughout this part, provisions of former
12 Art. 43C, § 16A concerning hospital conversions have been deleted as
13 obsolete. No substantive change is intended.

14 Former Art. 43C, § 16A (a)(3), which applied only to hospital conversions
15 occurring before October 1, 2002, is deleted as obsolete.

16 Defined term: “Hospital” § 10–340

17 10–342. LEGISLATIVE FINDING; PURPOSE; INTENT.

18 (A) LEGISLATIVE FINDING.

19 THE GENERAL ASSEMBLY FINDS THAT THE FAILURE TO PROVIDE FOR THE
20 PAYMENT OF PUBLIC OBLIGATIONS OF A CLOSED OR DELICENSED HOSPITAL COULD
21 SERIOUSLY IMPAIR THE ABILITY OF HEALTH CARE FACILITIES AND STATE AND LOCAL
22 GOVERNMENTS TO SECURE SUBSEQUENT FINANCING THROUGH THE ISSUANCE OF
23 TAX–EXEMPT BONDS.

24 (B) PURPOSE.

25 THE PURPOSE OF THIS PART IS TO PRESERVE THE ACCESS OF HEALTH CARE
26 FACILITIES IN THE STATE TO ADEQUATE FINANCING THROUGH A PROGRAM THAT
27 FACILITATES THE REFINANCING AND PAYMENT OF PUBLIC OBLIGATIONS OF A CLOSED OR
28 DELICENSED HOSPITAL.

29 (C) INTENT — INTERAGENCY COOPERATION.

30 IT IS THE INTENT OF THIS PART THAT THE HEALTH SERVICES COST REVIEW
31 COMMISSION, THE MARYLAND HEALTH CARE COMMISSION, AND THE AUTHORITY
32 SHALL CONSULT WITH AND CONSIDER EACH OTHERS’ RECOMMENDATIONS IN MAKING THE
33 DETERMINATIONS REQUIRED UNDER THIS PART.

34 REVISOR’S NOTE: This section is new language derived without substantive
35 change from former Art. 43C, § 16A(c) and (m).

36 In subsection (a) of this section, the phrase “seriously impair” is

1 substituted for the former phrase “have a serious adverse effect on” for
2 brevity.

3 Also in subsection (a) of this section, the former phrase “and potentially the
4 ability of the” is deleted as surplusage.

5 Defined terms: “Authority” § 10–301

6 “Hospital” § 10–340

7 “Finance” § 10–301

8 “Public obligation” § 10–340

9 “State” § 9–101

10 10–343. PROGRAM ESTABLISHED.

11 (A) CREATION.

12 THERE IS A MARYLAND HOSPITAL BOND PROGRAM IN THE AUTHORITY.

13 (B) IN GENERAL.

14 THE PROGRAM SHALL PROVIDE FOR THE PAYMENT AND REFINANCING OF PUBLIC
15 OBLIGATIONS OF A HOSPITAL, IF:

16 (1) (I) THE CLOSURE OF THE HOSPITAL IS IN ACCORDANCE WITH
17 § 19–120(L) OF THE HEALTH – GENERAL ARTICLE; OR

18 (II) THE DELICENSURE OF THE HOSPITAL IS IN ACCORDANCE WITH
19 § 19–325 OF THE HEALTH – GENERAL ARTICLE;

20 (2) A PUBLIC OBLIGATION ISSUED ON BEHALF OF THE HOSPITAL IS
21 OUTSTANDING; AND

22 (3) THE HOSPITAL PLAN FOR CLOSURE OR DELICENSURE AND THE RELATED
23 FINANCING PLAN IS ACCEPTABLE TO THE SECRETARY OF HEALTH AND MENTAL
24 HYGIENE AND THE AUTHORITY.

25 REVISOR’S NOTE: This section is new language derived without substantive
26 change from former Art. 43C, § 16A(d).

27 Defined terms: “Authority” § 10–301

28 “Bond” § 10–301

29 “Finance” § 10–301

30 “Hospital” § 10–340

31 “Public obligation” § 10–340

32 10–344. NOTICES OF CLOSURE AND DELICENSURE.

33 (A) NOTICE OF INTENT TO CLOSE OR PETITION FOR DELICENSURE.

34 (1) THE MARYLAND HEALTH CARE COMMISSION SHALL NOTIFY IN
35 WRITING:

1 (I) THE AUTHORITY AND THE HEALTH SERVICES COST REVIEW
 2 COMMISSION WHEN A HOSPITAL FILES A WRITTEN NOTICE OF INTENT TO CLOSE UNDER
 3 § 19–120(L) OF THE HEALTH – GENERAL ARTICLE; AND

4 (II) THE AUTHORITY WHEN A PETITION FOR DELICENSURE OF A
 5 HOSPITAL IS FILED WITH THE SECRETARY OF HEALTH AND MENTAL HYGIENE UNDER §
 6 19–325 OF THE HEALTH – GENERAL ARTICLE.

7 (2) THE COMMISSION SHALL GIVE THE NOTICE REQUIRED BY THIS
 8 SUBSECTION WITHIN 5 DAYS AFTER THE DATE OF THE FILING.

9 (B) NOTICE OF DELICENSURE DETERMINATION.

10 THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL NOTIFY THE
 11 AUTHORITY AND THE HEALTH SERVICES COST REVIEW COMMISSION IN WRITING OF
 12 EACH DETERMINATION TO DELICENSE A HOSPITAL UNDER § 19–325 OF THE HEALTH –
 13 GENERAL ARTICLE AT LEAST 150 DAYS BEFORE THE SCHEDULED DATE OF
 14 DELICENSURE.

15 (C) REQUIRED INFORMATION.

16 THE NOTIFICATIONS UNDER THIS SECTION SHALL INCLUDE THE NAME AND
 17 LOCATION OF THE HOSPITAL AND THE SCHEDULED DATE OF ITS CLOSURE OR
 18 DELICENSURE.

19 REVISOR’S NOTE: This section is new language derived without substantive
 20 change from former Art. 43C, § 16A(e) and (f)(1) and (5).

21 Subsection (c) of this section is revised to require certain information to be
 22 included in the initial notification made by the Maryland Health Care
 23 Commission to the Authority and the Health Services Cost Review
 24 Commission under former Art. 43C, § 16A(e)(1)(i) and (iii) (revised as
 25 subsection (a)(1) of this section), as well as in the notifications required
 26 under former Art. 43C, § 16A(f) (revised in subsection (b) of this section
 27 and in § 10–345 of this subtitle). No substantive change is intended.

28 Former Art. 43C(e)(1)(ii), which concerned notification of conversions, is
 29 deleted as obsolete.

30 Defined terms: “Authority” § 10–301
 31 “Hospital” § 10–340

32 10–345. ADDITIONAL REQUIRED INFORMATION.

33 (A) NOTICE OF HEARING OR FINDING.

34 AS TO EACH HOSPITAL THAT FILES A NOTICE OF INTENT TO CLOSE UNDER §
 35 10–344(A)(1)(I) OF THIS SUBTITLE, THE MARYLAND HEALTH CARE COMMISSION
 36 SHALL PROVIDE TO THE AUTHORITY AND THE HEALTH SERVICES COST REVIEW
 37 COMMISSION NOTICE THAT INCLUDES:

1 (1) FOR A HOSPITAL THAT IS LOCATED IN A COUNTY WITH THREE OR MORE
2 HOSPITALS, A STATEMENT THAT THE HOSPITAL, IN CONSULTATION WITH THE MARYLAND
3 HEALTH CARE COMMISSION, HELD A PUBLIC INFORMATION HEARING IN THE COUNTY
4 WHERE THE HOSPITAL IS LOCATED;

5 (2) FOR A HOSPITAL THAT IS LOCATED IN A COUNTY WITH FEWER THAN
6 THREE HOSPITALS, NOTIFICATION OF ITS FINDING ON WHETHER THE PROPOSED CLOSING
7 IS:

8 (I) IN THE PUBLIC INTEREST; AND

9 (II) NOT INCONSISTENT WITH THE STATE HEALTH PLAN OR AN
10 INSTITUTION-SPECIFIC PLAN THAT THE MARYLAND HEALTH CARE COMMISSION
11 DEVELOPED; AND

12 (3) THE NAME AND LOCATION OF THE HOSPITAL AND THE SCHEDULED DATE
13 OF THE CLOSURE.

14 (B) TIMING.

15 THE MARYLAND HEALTH CARE COMMISSION SHALL SUBMIT THE NOTIFICATIONS
16 REQUIRED UNDER THIS SECTION AT LEAST 150 DAYS BEFORE THE SCHEDULED DATE OF
17 THE CLOSURE.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 43C, § 16A(f)(2), (3), and, as it related to closures,
20 (5).

21 In the introductory language to subsection (a) of this section, the phrase
22 “[a]s to each hospital that files an intent to close under § 10-344(a)(1)(i) of
23 this subtitle,” is added for clarity.

24 Former Art. 43C, § 16A(f)(4), which concerned conversions, is deleted as
25 obsolete.

26 Defined terms: “Authority” § 10-301

27 “County” § 9-101

28 “Hospital” § 10-340

29 “State” § 9-101

30 10-346. STATEMENT OF OUTSTANDING OBLIGATIONS.

31 (A) REQUIRED STATEMENT OF PUBLIC OBLIGATIONS.

32 (1) A HOSPITAL THAT INTENDS TO CLOSE OR IS SCHEDULED TO BE
33 DELICENSED SHALL PROVIDE THE AUTHORITY AND THE HEALTH SERVICES COST
34 REVIEW COMMISSION WITH A WRITTEN STATEMENT OF ANY OUTSTANDING PUBLIC
35 OBLIGATIONS ISSUED ON ITS BEHALF.

36 (2) THE STATEMENT SHALL INCLUDE:

1 (I) THE NAME OF EACH ISSUER OF THE PUBLIC OBLIGATION;

2 (II) THE OUTSTANDING PRINCIPAL AMOUNT OF EACH PUBLIC
3 OBLIGATION;

4 (III) THE DUE DATES FOR PAYMENT OR ANY MANDATORY REDEMPTION
5 OR PURCHASE OF EACH PUBLIC OBLIGATION;

6 (IV) THE DUE DATES FOR THE PAYMENT OF INTEREST ON EACH PUBLIC
7 OBLIGATION AND THE INTEREST RATES; AND

8 (V) THE DOCUMENTS AND INFORMATION ABOUT THE PUBLIC
9 OBLIGATION THAT THE AUTHORITY OR THE HEALTH SERVICES COST REVIEW
10 COMMISSION REQUESTS.

11 (B) TIMING.

12 THE HOSPITAL SHALL FILE THE STATEMENT REQUIRED UNDER SUBSECTION (A) OF
13 THIS SECTION:

14 (1) WITHIN 10 DAYS AFTER THE DATE OF FILING THE WRITTEN NOTICE OF
15 INTENT TO CLOSE UNDER § 19–120(L) OF THE HEALTH – GENERAL ARTICLE WITH THE
16 MARYLAND HEALTH CARE COMMISSION; OR

17 (2) AT LEAST 150 DAYS BEFORE THE SCHEDULED DATE OF DELICENSURE
18 UNDER § 19–325 OF THE HEALTH – GENERAL ARTICLE.

19 REVISOR’S NOTE: This section is new language derived without substantive
20 change from former Art. 43C, § 16A(g).

21 Defined terms: “Authority” § 10–301

22 “Hospital” § 10–340

23 “Public obligation” § 10–340

24 10–347. CLOSURE COSTS — CONDITIONS FOR PAYMENT.

25 (A) IN GENERAL.

26 THE HEALTH SERVICES COST REVIEW COMMISSION MAY DETERMINE TO PROVIDE
27 FOR THE PAYMENT OF ALL OR PART OF THE REASONABLE CLOSURE COSTS OF A HOSPITAL
28 HAVING OUTSTANDING PUBLIC OBLIGATIONS IF THE HEALTH SERVICES COST REVIEW
29 COMMISSION DETERMINES THAT THE PAYMENT IS NECESSARY OR APPROPRIATE TO:

30 (1) ENCOURAGE AND ASSIST THE HOSPITAL TO CLOSE; OR

31 (2) IMPLEMENT THE PROGRAM CREATED BY THIS PART.

32 (B) CONSIDERATIONS.

33 IN MAKING THE DETERMINATIONS UNDER SUBSECTION (A) OF THIS SECTION, THE
34 HEALTH SERVICES COST REVIEW COMMISSION SHALL CONSIDER:

1 (1) THE SYSTEM-WIDE SAVINGS TO THE STATE HEALTH CARE SYSTEM
2 EXPECTED TO RESULT FROM THE CLOSURE OR DELICENSURE OF THE HOSPITAL DURING
3 THE LONGER OF:

4 (I) THE PERIOD WHEN THE FEE WILL BE ASSESSED TO PROVIDE FOR
5 THE PAYMENT OF THE CLOSURE COSTS OR ANY BOND ISSUED TO FINANCE THE CLOSURE
6 COSTS; OR

7 (II) 5 YEARS AFTER THE DATE OF CLOSURE OR DELICENSURE; AND

8 (2) THE RECOMMENDATIONS OF THE MARYLAND HEALTH CARE
9 COMMISSION AND THE AUTHORITY.

10 (C) DETERMINATION AND NOTIFICATION.

11 WITHIN 60 DAYS AFTER RECEIVING THE NOTICE OF CLOSURE OR DELICENSURE
12 REQUIRED BY § 10-344(A)(1)(I) OR (B) OF THIS SUBTITLE, THE HEALTH SERVICES
13 COST REVIEW COMMISSION SHALL:

14 (1) DETERMINE WHETHER TO PROVIDE FOR THE PAYMENT OF ALL OR A PART
15 OF THE CLOSURE COSTS OF THE HOSPITAL IN ACCORDANCE WITH THIS SECTION; AND

16 (2) GIVE WRITTEN NOTIFICATION OF ITS DETERMINATION TO THE
17 MARYLAND HEALTH CARE COMMISSION AND THE AUTHORITY.

18 (D) PAYMENT NOT REQUIRED.

19 THIS SECTION DOES NOT REQUIRE THE HEALTH SERVICES COST REVIEW
20 COMMISSION TO PROVIDE FOR THE PAYMENT OF ANY CLOSURE COSTS OF A CLOSED OR
21 DELICENSED HOSPITAL.

22 (E) DETERMINATION BINDING.

23 IN A PROCEEDING INVOLVING THE VALIDITY OR ENFORCEABILITY OF A BOND
24 ISSUED TO FINANCE CLOSURE COSTS OR ANY SECURITY FOR THE BOND, THE
25 DETERMINATIONS OF THE HEALTH SERVICES COST REVIEW COMMISSION UNDER THIS
26 SECTION IS CONCLUSIVE AND BINDING.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 43C, § 16A(h) and, as it related to the
29 reasonableness of closure costs, (b)(2).

30 In the introductory language of subsection (a) of this section, the word
31 "reasonable" is added to reflect a substantive provision formally contained
32 in the definition of closure cost under § 10-340 of this subtitle.

33 Also in the introductory language of subsection (a) of this section, the
34 former phrase "of the closing costs" is deleted as surplusage.

35 In subsection (b)(1) of this section, the former phrase "[t]he amount of" is
36 deleted as surplusage.

1 In the introductory language to subsection (c) of this section, the reference
2 to notice required by “§ 10–344(a)(1)(i) or (b) of this subtitle” is substituted
3 for the former incorrect reference to notice required by “subsection (f) of
4 this section” for accuracy, to reflect the triggering of review by the Health
5 Services Cost Review Commission based on the last necessary act before a
6 hospital shuts down due to closure or delicensure.

7 In subsection (e) of this section, the former phrase “any suit, action, or” is
8 deleted as surplusage.

9 Defined terms: “Authority” § 10–301

10 “Bond” § 10–301

11 “Closure cost” § 10–340

12 “Finance” § 10–301

13 “Hospital” § 10–340

14 “Public obligation” § 10–340

15 “State” § 9–101

16 10–348. PAYMENT SCHEDULE; PLAN.

17 (A) PUBLIC OBLIGATIONS — SCHEDULE OF PAYMENTS.

18 WITHIN 60 DAYS AFTER RECEIVING THE STATEMENT REQUIRED BY § 10–346 OF
19 THIS SUBTITLE, THE AUTHORITY SHALL PREPARE A SCHEDULE OF PAYMENTS NECESSARY
20 TO MEET THE PUBLIC OBLIGATIONS OF THE HOSPITAL.

21 (B) PUBLIC OBLIGATIONS — PROPOSED PLAN TO FINANCE OR PROVIDE FOR
22 PAYMENT.

23 (1) AS SOON AS PRACTICABLE AFTER RECEIVING A NOTICE OF CLOSURE OR
24 DELICENSURE, REQUIRED BY § 10–344(A)(1)(I) OR (B) OF THIS SUBTITLE, AND AFTER
25 CONSULTING WITH THE ISSUER OF EACH PUBLIC OBLIGATION AND THE HEALTH
26 SERVICES COST REVIEW COMMISSION, THE AUTHORITY SHALL PREPARE A PROPOSED
27 PLAN TO FINANCE OR OTHERWISE PROVIDE FOR THE PAYMENT OF PUBLIC OBLIGATIONS.

28 (2) THE PROPOSED PLAN MAY INCLUDE A TENDER, REDEMPTION, ADVANCE
29 REFUNDING, OR OTHER TECHNIQUE THAT THE AUTHORITY CONSIDERS APPROPRIATE.

30 (C) CLOSURE COSTS — PROPOSED PLAN TO FINANCE OR PROVIDE FOR PAYMENT.

31 AS SOON AS PRACTICABLE AFTER RECEIVING NOTIFICATION THAT THE HEALTH
32 SERVICES COST REVIEW COMMISSION HAS DETERMINED TO PROVIDE FOR THE PAYMENT
33 OF CLOSURE COSTS OF A HOSPITAL UNDER § 10–347 OF THIS SUBTITLE, THE
34 AUTHORITY SHALL PREPARE A PROPOSED PLAN TO FINANCE OR PROVIDE FOR THE
35 PAYMENT OF CLOSURE COSTS STATED IN THE NOTICE.

36 (D) ANTICIPATED DEVELOPMENT OF PLAN.

37 ON REQUEST OF THE HEALTH SERVICES COST REVIEW COMMISSION, THE
38 AUTHORITY MAY BEGIN PREPARING THE PLAN REQUIRED BY THIS SECTION BEFORE THE
39 AUTHORITY RECEIVES NOTICE UNDER § 10–344(A)(1)(I) OR (B) OF THIS SUBTITLE.

1 (E) SUBMISSION OF PLAN AND PAYMENT SCHEDULE.

2 THE AUTHORITY SHALL PROMPTLY SUBMIT THE SCHEDULE OF PAYMENTS AND THE
3 PROPOSED PLAN REQUIRED BY THIS SECTION TO THE HEALTH SERVICES COST REVIEW
4 COMMISSION.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 43C, § 16A(i).

7 In subsection (b)(1) of this section, the reference to the notice required by
8 “§ 10–344(a)(1)(i) or (b) of this subtitle” is substituted for the former
9 incorrect references to notice required by “subsection (f) of this section” for
10 accuracy, to reflect the triggering of review by the Health Services Cost
11 Review Commission based on the last necessary act before a hospital shuts
12 down due to closure or delicensure. Similarly, in subsection (d) of this
13 section, the reference to the notice required by “§ 10–344(a)(1)(i) or (b) of
14 this subtitle” is substituted for the former specific references to the dates
15 of certain determinations for clarity and consistency within this part.

16 Defined terms: “Authority” § 10–301

17 “Closure cost” § 10–340

18 “Finance” § 10–301

19 “Hospital” § 10–340

20 “Public obligation” § 10–340

21 10–349. BOND ISSUANCE.

22 (A) IN GENERAL.

23 THE AUTHORITY MAY ISSUE BONDS TO FINANCE OR OTHERWISE PROVIDE FOR THE
24 PAYMENT OF PUBLIC OBLIGATIONS OR CLOSURE COSTS OF A HOSPITAL IN ACCORDANCE
25 WITH A PLAN DEVELOPED UNDER § 10–348 OF THIS SUBTITLE.

26 (B) REQUIREMENTS.

27 THE BONDS ISSUED UNDER SUBSECTION (A) OF THIS SECTION SHALL:

28 (1) BE PAYABLE FROM THE FEES PROVIDED UNDER § 10–350 OF THIS
29 SUBTITLE OR FROM OTHER SOURCES PROVIDED IN THE PLAN;

30 (2) BE AUTHORIZED, SOLD, EXECUTED, AND DELIVERED IN ACCORDANCE
31 WITH THIS SUBTITLE; AND

32 (3) HAVE TERMS CONSISTENT WITH CONSTITUTIONAL AND OTHER LEGAL
33 REQUIREMENTS.

34 (C) ASSIGNMENT OF RIGHTS.

35 IN CONNECTION WITH THE ISSUANCE OF ANY BOND, THE AUTHORITY MAY ASSIGN
36 ITS RIGHTS UNDER A LOAN, LEASE, OR OTHER FINANCING AGREEMENT BETWEEN THE

1 AUTHORITY OR ANY OTHER ISSUER OF A PUBLIC OBLIGATION AND THE CLOSED OR
 2 DELICENSED HOSPITAL TO THE STATE OR A STATE UNIT IN CONSIDERATION FOR THE
 3 PAYMENT OF A PUBLIC OBLIGATION AS PROVIDED IN THIS PART.

4 REVISOR'S NOTE: This section is new language derived without substantive
 5 change from former Art. 43C, § 16A(j).

6 Defined terms: "Authority" § 10–301

7 "Bond" § 10–301

8 "Closure cost" § 10–340

9 "Finance" § 10–301

10 "Hospital" § 10–340

11 "Public obligation" § 10–340

12 "State" § 9–101

13 10–350. FEES.

14 (A) ASSESSMENT.

15 ON THE DATE OF CLOSURE OR DELICENSURE OF A HOSPITAL FOR WHICH A
 16 FINANCING PLAN IS DEVELOPED UNDER § 10–348 OF THIS SUBTITLE, THE HEALTH
 17 SERVICES COST REVIEW COMMISSION SHALL ASSESS A FEE ON ALL HOSPITALS, AS
 18 PROVIDED IN § 19–223 OF THE HEALTH – GENERAL ARTICLE, SUFFICIENT TO:

19 (1) PAY THE PRINCIPAL AND INTEREST ON ANY BONDS THAT THE
 20 AUTHORITY ISSUES UNDER § 10–349 OF THIS SUBTITLE TO FINANCE PUBLIC
 21 OBLIGATIONS;

22 (2) PAY THE CLOSURE COSTS OR THE PRINCIPAL AND INTEREST ON BONDS
 23 THAT THE AUTHORITY ISSUES UNDER § 10–349 OF THIS SUBTITLE TO FINANCE ANY
 24 CLOSURE COSTS;

25 (3) MAINTAIN A RESERVE REQUIRED BY THE TRUST AGREEMENT;

26 (4) PAY ANY REQUIRED FINANCING FEES OR CHARGES; AND

27 (5) MAINTAIN RESERVES THAT THE AUTHORITY CONSIDERS APPROPRIATE
 28 TO PROVIDE THE AMOUNTS DESCRIBED IN PARAGRAPHS (1) THROUGH (4) OF THIS
 29 SUBSECTION IF A HOSPITAL DEFAULTS IN PAYING THE FEES.

30 (B) AMOUNT.

31 THE FEE ASSESSED EACH HOSPITAL SHALL BE:

32 (1) THE PRODUCT OF THE TOTAL FEES REQUIRED TO BE ASSESSED
 33 MULTIPLIED BY THE RATIO OF THE ACTUAL GROSS PATIENT REVENUE OF THE HOSPITAL
 34 TO THE TOTAL GROSS PATIENT REVENUE OF ALL HOSPITALS; AND

35 (2) DETERMINED AS OF THE DATE THE AUTHORITY DETERMINES AFTER
 36 CONSULTING WITH THE HEALTH SERVICES COST REVIEW COMMISSION.

1 (C) PAYMENT.

2 (1) AS THE AUTHORITY DIRECTS, EACH HOSPITAL SHALL PAY THE FEE:

3 (I) DIRECTLY TO THE AUTHORITY;

4 (II) DIRECTLY TO A TRUSTEE FOR THE BONDHOLDERS; OR

5 (III) OTHERWISE AS THE AUTHORITY DIRECTS.

6 (2) THE FEE SHALL BE ASSESSED AT ANY TIME NECESSARY TO MEET THE
7 PAYMENT REQUIREMENTS OF THIS SECTION.

8 (D) NOT SUBJECT TO SUPERVISION OR REGULATION BY THE STATE.

9 THE FEE ASSESSED IS NOT SUBJECT TO SUPERVISION OR REGULATION BY A UNIT OF
10 THE STATE.

11 (E) PLEDGE.

12 (1) A PLEDGE OF THE FEE TO A BOND ISSUED UNDER THIS PART OR TO ANY
13 OTHER PUBLIC OBLIGATION IMMEDIATELY SUBJECTS THE FEE TO THE LIEN OF THE
14 PLEDGE WITHOUT A PHYSICAL DELIVERY OR FURTHER ACT.

15 (2) WHETHER OR NOT THE PARTIES HAVE NOTICE, THE LIEN OF THE
16 PLEDGE IS VALID AND BINDING AGAINST ALL PARTIES HAVING CLAIMS IN TORT,
17 CONTRACT, OR OTHERWISE AGAINST THE AUTHORITY OR A CLOSED OR DELICENSED
18 HOSPITAL.

19 (F) TERMINATION OF THE HEALTH SERVICES COST REVIEW COMMISSION.

20 IF THE HEALTH SERVICES COST REVIEW COMMISSION TERMINATES BY LAW, THE
21 SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL IMPOSE THE FEE UNDER THIS
22 SECTION.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 43C, § 16A(k).

25 In subsection (a)(3) of this section, the former phrase "securing public body
26 obligations, bonds, or notes" is deleted as surplusage.

27 In subsection (d) of this section, the phrase "a unit of the State" is
28 substituted for the former phrase "any department, commission, board,
29 body, or agency of this State" because the term "unit" is broad enough to
30 encompass all these bodies. See General Revisor's Note to article.

31 In subsection (e)(2) of this section, the former word "irrespective" is deleted
32 as surplusage.

33 In subsection (f) of this section, the former phrase "on all hospitals licensed
34 pursuant to § 19–318 of the Health – General Article" is deleted as

1 surplusage.

2 Defined terms: “Authority” § 10–301

3 “Bond” § 10–301

4 “Closure cost” § 10–340

5 “Finance” § 10–301

6 “Hospital” § 10–340

7 “Public obligation” § 10–340

8 “State” § 9–101

9 “Trust agreement” § 10–301

10 10–351. REDUCTION IN AMOUNTS QUALIFYING FOR PAYMENT UNDER PROGRAM.

11 (A) IN GENERAL.

12 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE AMOUNT OF A
13 PUBLIC OBLIGATION THAT MAY BE PAID UNDER THE PROGRAM SHALL BE REDUCED BY
14 THE SUM OF:

15 (1) ANY EXCESS OF THE TOTAL FAIR MARKET VALUE OF ALL PROPERTY
16 TRANSFERRED BY A CLOSED OR DELICENSED HOSPITAL TO AN AFFILIATE OR A PERSON
17 WITH AN INTEREST IN THE HOSPITAL AFTER IT IS CLOSED OR DELICENSED OVER THE
18 TOTAL FAIR MARKET VALUE OF THE PROPERTY TRANSFERRED AND SERVICES PROVIDED
19 TO THE HOSPITAL BY THE AFFILIATE OR PERSON; AND

20 (2) THE TOTAL FAIR MARKET VALUE OF THE PROPERTY RETAINED BY THE
21 HOSPITAL OR AFFILIATE AFTER THE CLOSURE OR DELICENSURE MINUS THE PROPERTY
22 THAT IS APPLIED TO PAYING CLOSURE COSTS APPROVED BY THE HEALTH SERVICES
23 COST REVIEW COMMISSION.

24 (B) DETERMINATION OF VALUE OF PROPERTY OR SERVICES.

25 (1) BY ANY METHOD IT CONSIDERS APPROPRIATE, THE AUTHORITY MAY
26 DETERMINE THE FAIR MARKET VALUE OF ANY PROPERTY OR SERVICES, INCLUDING BY:

27 (i) THE APPRAISAL OF AN INDEPENDENT PROFESSIONAL APPRAISER;
28 OR

29 (ii) THE REPORT OF AN INDEPENDENT CONSULTANT.

30 (2) THE CLOSED OR DELICENSED HOSPITAL SHALL PAY THE COST OF THE
31 APPRAISER OR CONSULTANT.

32 (C) RIGHT TO PROCEED AGAINST HOSPITALS.

33 (1) THE AUTHORITY MAY ACT UNDER THIS SUBSECTION IF THE AUTHORITY
34 DETERMINES THAT THE ACTION IS:

35 (i) NECESSARY TO PROTECT THE INTERESTS OF HOLDERS OF PUBLIC
36 OBLIGATIONS; OR

1 (II) CONSISTENT WITH THE PUBLIC PURPOSE OF ENCOURAGING AND
 2 ASSISTING THE HOSPITAL TO CLOSE OR DELICENSE.

3 (2) THE AUTHORITY MAY PROCEED AGAINST:

4 (I) A CLOSED OR DELICENSED HOSPITAL; OR

5 (II) A GUARANTY OR COLLATERAL SECURING THE PAYMENT OF A
 6 PUBLIC OBLIGATION OF A CLOSED OR DELICENSED HOSPITAL IF THE GUARANTY OR
 7 COLLATERAL WAS PROVIDED BY AN ENTITY ASSOCIATED WITH THE HOSPITAL.

8 (D) CONSIDERATIONS.

9 IN MAKING THE DETERMINATION REQUIRED UNDER SUBSECTION (C) OF THIS
 10 SECTION, THE AUTHORITY SHALL CONSIDER:

11 (1) THE CIRCUMSTANCES UNDER WHICH THE GUARANTY OR OTHER
 12 COLLATERAL WAS PROVIDED; AND

13 (2) THE RECOMMENDATIONS OF THE HEALTH SERVICES COST REVIEW
 14 COMMISSION AND THE MARYLAND HEALTH CARE COMMISSION.

15 (E) APPLICATION OF PROCEEDS OF ENFORCEMENT OF CLAIM.

16 (1) ANY MONEY THAT THE AUTHORITY OR ITS ASSIGNEE REALIZES FROM
 17 ENFORCING A CLAIM AGAINST A CLOSED OR DELICENSED HOSPITAL, OR A HOSPITAL WITH
 18 A PLAN UNDER § 10–348 OF THIS SUBTITLE, SHALL BE APPLIED TO OFFSET THE FEE
 19 THAT THE HEALTH SERVICES COST REVIEW COMMISSION IS REQUIRED TO ASSESS
 20 UNDER § 10–350 OF THIS SUBTITLE.

21 (2) THE COSTS AND EXPENSES OF ENFORCING THE CLAIM, INCLUDING THE
 22 COSTS FOR MAINTAINING THE PROPERTY BEFORE DISPOSITION, SHALL BE DEDUCTED
 23 FROM THE MONEY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

24 REVISOR’S NOTE: This section is new language derived without substantive
 25 change from former Art. 43C, § 16A(1)(2) through (6).

26 In subsection (c)(1) of this section, the phrase “act under this subsection” is
 27 added for clarity in light of the revised structure of this section.

28 In subsection (e)(2) of this section, the phrase “from the money realized
 29 under paragraph (1) of this subsection” is substituted for the former phrase
 30 “from this amount” for clarity.

- 31 Defined terms: “Affiliate” § 10–340
 32 “Authority” § 10–301
 33 “Bond” § 10–301
 34 “Closure cost” § 10–340
 35 “Cost” § 10–301
 36 “Hospital” § 10–340

1 “Program” § 10–340
2 “Public obligation” § 10–340

3 10–352. DETERMINATION BY AUTHORITY CONCLUSIVE AND BINDING.

4 NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART, IN A PROCEEDING
5 INVOLVING THE VALIDITY OR ENFORCEABILITY OF A BOND OR THE SECURITY FOR A BOND,
6 THE DETERMINATION OF THE AUTHORITY UNDER THIS PART IS CONCLUSIVE AND
7 BINDING.

8 REVISOR’S NOTE: This section is new language derived without substantive
9 change from former Art. 43C, § 16A(n).

10 Defined terms: “Authority” § 10–301
11 “Bond” § 10–301

12 10–353. WAIVER OF NOTICE.

13 THE HEALTH SERVICES COST REVIEW COMMISSION, THE MARYLAND HEALTH
14 CARE COMMISSION, OR THE AUTHORITY MAY WAIVE ANY NOTICE REQUIRED TO BE
15 GIVEN TO IT UNDER THIS PART.

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 43C, § 16A(o).

18 In this section, the reference to this “part” is substituted for the former
19 reference to this “section” in light of the revision of former Art. 43C, § 16A
20 in this part.

21 Defined term: “Authority” § 10–301

22 10–354. RESERVED.

23 10–355. RESERVED.

24 PART V. SHORT TITLE.

25 10–356. SHORT TITLE.

26 THIS SUBTITLE MAY BE CITED AS THE “MARYLAND HEALTH AND HIGHER
27 EDUCATIONAL FACILITIES AUTHORITY ACT”.

28 REVISOR’S NOTE: This section is new language derived without substantive
29 change from former Art. 43C, § 1.

30 GENERAL REVISOR’S NOTE TO SUBTITLE

31 Former Art. 43C, § 10, which authorized the Authority to issue negotiable notes
32 in the same manner as its revenue bonds, is deleted as duplicative of the provisions
33 relating to issuance of bonds and related forms of debt under Part III of this subtitle,

1 and in light of the inclusion of the term “note” in the comprehensive definition of
2 “bond” in § 10–301 of this subtitle. No substantive change is intended.

3 Former Art. 43C, § 24, which provided that the provisions of former Article 43C
4 were severable, is deleted as redundant of Art. 1, § 23.

5 SUBTITLE 4. MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION.

6 PART I. GENERAL PROVISIONS.

7 10–401. DEFINITIONS.

8 (A) IN GENERAL.

9 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

10 REVISOR’S NOTE: This subsection is new language derived without
11 substantive change from the introductory clause of former Art. 83A, §
12 5–2A–01.

13 (B) BOARD.

14 “BOARD” MEANS THE BOARD OF DIRECTORS OF THE CORPORATION.

15 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2A–04.1(a)(2).

16 The only changes are in style.

17 (C) CORPORATION.

18 “CORPORATION” MEANS THE MARYLAND TECHNOLOGY DEVELOPMENT
19 CORPORATION.

20 REVISOR’S NOTE: This subsection is new language derived without
21 substantive change from former Art. 83A, § 5–2A–01, as it defined
22 “Corporation”.

23 (D) IMPROVE.

24 “IMPROVE” MEANS TO ADD, ALTER, CONSTRUCT, EQUIP, EXPAND, EXTEND,
25 IMPROVE, INSTALL, RECONSTRUCT, REHABILITATE, REMODEL, OR REPAIR.

26 REVISOR’S NOTE: This subsection is new language added for brevity and
27 clarity.

28 (E) IMPROVEMENT.

29 “IMPROVEMENT” MEANS ADDITION, ALTERATION, CONSTRUCTION, EQUIPPING,
30 EXPANSION, EXTENSION, IMPROVEMENT, INSTALLATION, RECONSTRUCTION,
31 REHABILITATION, REMODELING, OR REPAIR.

1 REVISOR'S NOTE: This subsection is new language added for brevity and
2 clarity.

3 10–402. ESTABLISHED.

4 (A) IN GENERAL.

5 THERE IS A MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION.

6 (B) STATUS.

7 THE CORPORATION IS A BODY POLITIC AND CORPORATE AND IS AN
8 INSTRUMENTALITY OF THE STATE.

9 (C) PURPOSES.

10 THE PURPOSES OF THE CORPORATION ARE TO:

11 (1) ASSIST IN TRANSFERRING TO THE PRIVATE SECTOR THE RESULTS AND
12 PRODUCTS OF SCIENTIFIC RESEARCH AND DEVELOPMENT CONDUCTED BY COLLEGES AND
13 UNIVERSITIES;

14 (2) ASSIST IN COMMERCIALIZING THOSE RESULTS AND PRODUCTS;

15 (3) ASSIST IN COMMERCIALIZING TECHNOLOGY DEVELOPED IN THE PRIVATE
16 SECTOR; AND

17 (4) FOSTER THE COMMERCIALIZATION OF RESEARCH AND DEVELOPMENT
18 CONDUCTED BY COLLEGES, UNIVERSITIES, AND THE PRIVATE SECTOR TO CREATE AND
19 SUSTAIN BUSINESSES THROUGHOUT ALL REGIONS OF THE STATE.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 83A, § 5–2A–02.

22 Defined terms: “Corporation” § 10–401
23 “State” § 9–101

24 10–403. BOARD OF DIRECTORS.

25 (A) IN GENERAL.

26 A BOARD OF DIRECTORS SHALL MANAGE THE CORPORATION AND EXERCISE ITS
27 CORPORATE POWERS.

28 (B) APPOINTMENT; COMPOSITION.

29 THE BOARD CONSISTS OF THE FOLLOWING 15 MEMBERS:

30 (1) THE SECRETARY; AND

1 (2) FOURTEEN MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE
2 AND CONSENT OF THE SENATE:

3 (I) TWO REPRESENTING THE NOT-FOR-PROFIT RESEARCH SECTOR OF
4 THE STATE;

5 (II) TWO WITH EXPERTISE IN VENTURE CAPITAL FINANCING;

6 (III) FIVE WITH EXPERIENCE IN TECHNOLOGY-BASED BUSINESSES;

7 (IV) TWO REPRESENTING COLLEGES AND UNIVERSITIES; AND

8 (V) THREE MEMBERS OF THE GENERAL PUBLIC.

9 (C) QUALIFICATIONS.

10 A MEMBER OF THE BOARD SHALL RESIDE IN THE STATE.

11 (D) CONSIDERATIONS.

12 IN MAKING APPOINTMENTS TO THE BOARD, THE GOVERNOR SHALL CONSIDER:

13 (1) DIVERSITY; AND

14 (2) ALL GEOGRAPHIC REGIONS OF THE STATE.

15 (E) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

16 A MEMBER OF THE BOARD:

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

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

20 (F) TENURE; VACANCIES.

21 (1) THE TERM OF AN APPOINTED MEMBER IS 4 YEARS.

22 (2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS
23 REQUIRED BY THE TERMS PROVIDED FOR MEMBERS ON OCTOBER 1, 2008.

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

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

28 (G) REMOVAL.

29 THE GOVERNOR MAY REMOVE AN APPOINTED MEMBER FOR INCOMPETENCE,
30 MISCONDUCT, OR FAILURE TO PERFORM THE DUTIES OF THE POSITION.

1 (H) CHAIR.

2 THE BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

3 (I) ACTION.

4 THE BOARD MAY ACT WITH AN AFFIRMATIVE VOTE OF EIGHT BOARD MEMBERS.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 83A, § 5–2A–03(a) through (j).

7 In subsection (f) of this section, the reference to terms being staggered as
8 required by the terms provided for Board members “on October 1, 2008” is
9 substituted for the former obsolete reference to terms being staggered as
10 required by the terms provided “on July 1, 1998 and July 1, 2000”. This
11 substitution is not intended to alter the term of any member of the Board.
12 See § 13 of Ch. ___, Acts of 2008. The terms of the members serving on
13 October 1, 2007, end as follows: (1) three members on June 30, 2009; (2)
14 four members on June 30, 2010; (3) one member on June 30, 2011; and (4)
15 six members on June 30, 2012.

16 In subsection (h) of this section, the reference to a “chair” is substituted for
17 the former reference to a “chairman” because SG § 2–1238 requires the use
18 of terms that are neutral as to gender to the extent practicable.

19 Defined terms: “Board” § 10–401

20 “Secretary” § 9–101

21 “State” § 9–101

22 10–404. EXECUTIVE DIRECTOR.

23 (A) IN GENERAL.

24 THE CORPORATION SHALL EMPLOY AN EXECUTIVE DIRECTOR.

25 (B) QUALIFICATIONS.

26 THE EXECUTIVE DIRECTOR SHALL HAVE EXPERIENCE WITH AND POSSESS
27 QUALIFICATIONS RELEVANT TO THE ACTIVITIES AND PURPOSES OF THE CORPORATION.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 83A, § 5–2A–03(k).

30 Defined term: “Corporation” § 10–401

31 10–405. LEGAL ADVISOR.

32 (A) IN GENERAL.

33 THE ATTORNEY GENERAL IS THE LEGAL ADVISOR TO THE CORPORATION.

1 (B) OUTSIDE COUNSEL.

2 WITH THE APPROVAL OF THE ATTORNEY GENERAL, THE CORPORATION MAY
3 RETAIN ANY NECESSARY LAWYERS.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 83A, § 5–2A–04(a)(14).

6 In subsection (b) of this section, the word “retain” is substituted for the
7 former word “engage” for clarity and consistency within this article.

8 Defined term: “Corporation” § 10–401

9 10–406. STAFF.

10 THE CORPORATION MAY RETAIN ANY NECESSARY ACCOUNTANTS, ENGINEERS,
11 FINANCIAL ADVISORS, OR OTHER CONSULTANTS.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 83A, § 5–2A–04(a)(13).

14 The word “retain” is substituted for the former word “[e]ngage” for clarity
15 and consistency within this article.

16 Defined term: “Corporation” § 10–401

17 10–407. APPLICABILITY OF OTHER LAWS.

18 (A) IN GENERAL.

19 EXCEPT AS PROVIDED IN SUBSECTIONS (B), (C), AND (E) OF THIS SECTION, THE
20 CORPORATION IS EXEMPT FROM:

21 (1) TITLE 10 AND DIVISION II OF THE STATE FINANCE AND
22 PROCUREMENT ARTICLE; AND

23 (2) §§ 10–505 AND 10–507 OF THE STATE GOVERNMENT ARTICLE.

24 (B) PUBLIC INFORMATION ACT.

25 THE CORPORATION IS SUBJECT TO THE PUBLIC INFORMATION ACT.

26 (C) ETHICS.

27 THE BOARD AND THE OFFICERS AND EMPLOYEES OF THE CORPORATION ARE
28 SUBJECT TO THE PUBLIC ETHICS LAW.

29 (D) PERSONNEL.

1 THE OFFICERS AND EMPLOYEES OF THE CORPORATION ARE NOT SUBJECT TO THE
 2 PROVISIONS OF DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE THAT
 3 GOVERN THE STATE PERSONNEL MANAGEMENT SYSTEM.

4 (E) PROCUREMENT.

5 THE CORPORATION, ITS BOARD, AND EMPLOYEES ARE SUBJECT TO TITLE 12,
 6 SUBTITLE 4 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

7 REVISOR'S NOTE: This section is new language derived without substantive
 8 change from former Art. 83A, § 5–2A–08(b) and (a)(2) through (5).

9 In subsection (a) of this section, the former obsolete reference to exemption
 10 from “Article 41 of the Code” is deleted because no provision of Article 41
 11 that existed at the time of enactment of the Corporation applied to the
 12 Corporation. The Corporation does not issue its own debt, and so would not
 13 be subject to Title 12, Subtitle 1 or Subtitle 2 of this article, formerly Art.
 14 41, Titles 1 and 2, the Maryland Economic Development Revenue Bond Act
 15 and the Tax Incentive Financing Act, respectively; and no other provision
 16 of Article 41 may reasonably be construed to apply to the Corporation. No
 17 substantive change is intended.

18 In subsection (a)(2) of this section, the reference to SG “§§ 10–505 and
 19 10–507” is substituted for the former reference to SG “§ 10–507” to reflect
 20 accurately the scope of exemption of the Corporation from the Open
 21 Meetings Act as determined by the Open Meetings Compliance Board. *See*
 22 4 Off. Op. Comp. Bd. 88, 93 (2004).

23 Subsection (d) of this section is restated in standard language for clarity.

24 In subsection (d) of this section, the former phrase “[e]xcept as provided in
 25 subsection (b) of this section,” is deleted because it is intended to relate
 26 only to procurement and not to personnel matters. *See* Ch. 523, Acts of
 27 2005.

28 Defined terms: “Board” § 10–401

29 “Corporation” § 10–401

30 “State” § 9–101

31 10–408. POWERS — IN GENERAL.

32 THE CORPORATION MAY:

33 (1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;

34 (2) ADOPT A SEAL;

35 (3) MAINTAIN OFFICES AT A PLACE IT DESIGNATES IN THE STATE;

1 (4) ACCEPT LOANS, GRANTS, OR ASSISTANCE OF ANY KIND FROM THE
 2 FEDERAL OR STATE GOVERNMENT, A LOCAL GOVERNMENT, A COLLEGE OR UNIVERSITY,
 3 OR A PRIVATE SOURCE;

4 (5) ENTER INTO CONTRACTS AND OTHER LEGAL INSTRUMENTS;

5 (6) SUE OR BE SUED;

6 (7) ACQUIRE, PURCHASE, HOLD, LEASE AS LESSEE, AND USE:

7 (I) A FRANCHISE, PATENT, OR LICENSE;

8 (II) ANY REAL, PERSONAL, MIXED, TANGIBLE, OR INTANGIBLE
 9 PROPERTY; OR

10 (III) AN INTEREST IN THE PROPERTY LISTED IN THIS ITEM; AND

11 (8) SELL, LEASE AS LESSOR, TRANSFER, LICENSE, ASSIGN, OR DISPOSE OF
 12 PROPERTY OR A PROPERTY INTEREST THAT IT ACQUIRES;

13 (9) FIX AND COLLECT RATES, RENTALS, FEES, ROYALTIES, AND CHARGES
 14 FOR SERVICES AND RESOURCES IT PROVIDES OR MAKES AVAILABLE;

15 (10) CREATE, OWN, CONTROL, OR BE A MEMBER OF A CORPORATION, LIMITED
 16 LIABILITY COMPANY, PARTNERSHIP, OR OTHER ENTITY, WHETHER OPERATED FOR PROFIT
 17 OR NOT FOR PROFIT;

18 (11) EXERCISE POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN
 19 PERFORMING SIMILAR FUNCTIONS UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW;
 20 AND

21 (12) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE
 22 POWERS GRANTED BY THIS SUBTITLE.

23 REVISOR’S NOTE: This section is new language derived without substantive
 24 change from former Art. 83A, § 5–2A–04(a)(1) through (6), (8), (9), (11),
 25 (15), (17), and (18).

26 Defined terms: “Corporation” § 10–401
 27 “State” § 9–101

28 10–409. POWERS — GRANTS AND INVESTMENTS.

29 THE CORPORATION MAY MAKE GRANTS TO OR PROVIDE EQUITY INVESTMENT
 30 FINANCING FOR TECHNOLOGY–BASED BUSINESSES.

31 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–2A–04(a)(12).

32 It is set out as a separate section for emphasis.

33 The only changes are in style.

1 Defined term: “Corporation” § 10–401

2 10–410. POWERS — PROJECTS.

3 THE CORPORATION MAY:

4 (1) ACQUIRE, DEVELOP, IMPROVE, MANAGE, MARKET, LICENSE,
5 SUBLICENSE, MAINTAIN, LEASE AS LESSOR OR LESSEE, OR OPERATE A PROJECT IN THE
6 STATE TO CARRY OUT ITS PURPOSES;

7 (2) ACQUIRE, DIRECTLY OR INDIRECTLY, FROM A PERSON OR POLITICAL
8 SUBDIVISION, BY PURCHASE, GIFT, OR DEVISE ANY PROPERTY, RIGHTS—OF—WAY,
9 FRANCHISES, EASEMENTS, OR OTHER INTERESTS IN LAND, INCLUDING SUBMERGED LAND
10 AND RIPARIAN RIGHTS:

11 (I) AS NECESSARY OR CONVENIENT TO IMPROVE OR OPERATE A
12 PROJECT TO CARRY OUT ITS PURPOSES; AND

13 (II) ON THE TERMS AND AT THE PRICES THAT IT CONSIDERS
14 REASONABLE; AND

15 (3) ENTER INTO A PROJECT WITH A MANUFACTURER TO CARRY OUT ITS
16 PURPOSES.

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from former Art. 83A, § 5–2A–04(a)(7), (10), and (16).

19 In item (2) of this section, the former reference to “real or personal”
20 property is deleted as included in the comprehensive reference to
21 “property”.

22 Defined terms: “Corporation” § 10–401

23 “Improve” § 10–401

24 “State” § 9–101

25 10–411. LIABILITY; CREDIT.

26 A DEBT, CLAIM, OBLIGATION, OR LIABILITY OF THE CORPORATION OR ANY
27 SUBSIDIARY IS NOT:

28 (1) A DEBT, CLAIM, OBLIGATION, OR LIABILITY OF THE STATE, A UNIT OR
29 INSTRUMENTALITY OF THE STATE, OR OF A STATE OFFICER OR STATE EMPLOYEE; OR

30 (2) A PLEDGE OF THE CREDIT OF THE STATE.

31 REVISOR’S NOTE: This section is new language derived without substantive
32 change from former Art. 83A, § 5–2A–09.

33 Defined terms: “Corporation” § 10–401

34 “State” § 9–101

1 10–412. PARTICIPATION BY COLLEGES AND UNIVERSITIES.

2 COLLEGES AND UNIVERSITIES MAY:

3 (1) CONTRACT WITH THE CORPORATION OR ITS SUBSIDIARIES;

4 (2) ASSIGN TO THE CORPORATION OR ITS SUBSIDIARIES INTELLECTUAL
5 PROPERTY AND OTHER RESOURCES TO ASSIST IN ITS DEVELOPMENT AND ACTIVITIES; AND

6 (3) ASSIGN FACULTY AND STAFF TO THE CORPORATION.

7 REVISOR’S NOTE: This section is new language derived without substantive
8 change from former Art. 83A, § 5–2A–04(b).

9 Defined term: “Corporation” § 10–401

10 10–413. TAX STATUS.

11 THE CORPORATION IS EXEMPT FROM STATE AND LOCAL TAXES.

12 REVISOR’S NOTE: This section is new language derived without substantive
13 change from former Art. 83A, § 5–2A–08(a)(1).

14 The former phrase “[e]xcept as provided in subsection (b) of this section,” is
15 deleted because it is intended to relate only to procurement and not to
16 taxes. *See* Ch. 523, Acts of 2005.

17 Defined terms: “Corporation” § 10–401
18 “State” § 9–101

19 10–414. AUDIT.

20 THE BOOKS AND RECORDS OF THE CORPORATION ARE SUBJECT TO AUDIT:

21 (1) AT ANY TIME BY THE STATE; AND

22 (2) EACH YEAR BY AN INDEPENDENT AUDITOR THAT THE OFFICE OF
23 LEGISLATIVE AUDITS APPROVES.

24 REVISOR’S NOTE: This section is new language derived without substantive
25 change from former Art. 83A, § 5–2A–06.

26 Defined terms: “Corporation” § 10–401
27 “State” § 9–101

28 10–415. ANNUAL REPORT.

29 (A) REQUIRED.

30 ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE CORPORATION SHALL REPORT TO
31 THE GOVERNOR, THE MARYLAND ECONOMIC DEVELOPMENT COMMISSION, AND, IN

1 ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL
2 ASSEMBLY.

3 (B) CONTENTS.

4 THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND FINANCIAL STATEMENT
5 COVERING THE CORPORATION’S OPERATIONS AND A SUMMARY OF THE CORPORATION’S
6 ACTIVITIES DURING THE PRECEDING FISCAL YEAR.

7 REVISOR’S NOTE: This section is new language derived without substantive
8 change from former Art. 83A, § 5–2A–07.

9 As to the Maryland Economic Development Commission, *see* Title 2,
10 Subtitle 2 of this article.

11 Defined term: “Corporation” § 10–401

12 10–416. RESERVED.

13 10–417. RESERVED.

14 PART II. MARYLAND TECHNOLOGY INCUBATOR PROGRAM.

15 10–418. DEFINITIONS.

16 (A) IN GENERAL.

17 IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

18 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2A–04.1(a)(1).

19 The reference to this “part” is substituted for the former reference to this
20 “section” to reflect the reorganization of material derived from former Art.
21 83A, § 5–2A–04.1 in this part.

22 No other changes are made.

23 (B) FINANCIAL ASSISTANCE.

24 “FINANCIAL ASSISTANCE” MEANS A GRANT, LOAN, CREDIT ENHANCEMENT, OR
25 SIMILAR ASSISTANCE.

26 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2A–04.1(a)(3).

27 The only changes are in style.

28 (C) PROGRAM.

29 “PROGRAM” MEANS THE MARYLAND TECHNOLOGY INCUBATOR PROGRAM.

30 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2A–04.1(a)(4).

1 No changes are made.

2 10–419. ESTABLISHED.

3 (A) IN GENERAL.

4 THERE IS A MARYLAND TECHNOLOGY INCUBATOR PROGRAM.

5 (B) ADMINISTRATION.

6 THE CORPORATION SHALL ADMINISTER THE PROGRAM.

7 REVISOR’S NOTE: This section is new language derived without substantive
8 change from former Art. 83A, § 5–2A–04.1(b).

9 Defined terms: “Corporation” § 10–401
10 “Program” § 10–418

11 10–420. PURPOSE.

12 THE PURPOSE OF THE PROGRAM IS TO PROMOTE ENTREPRENEURSHIP AND THE
13 CREATION OF JOBS IN TECHNOLOGY–RELATED INDUSTRY BY ESTABLISHING AND
14 OPERATING EFFECTIVE INCUBATORS THROUGHOUT THE STATE THAT PROVIDE ADEQUATE
15 PHYSICAL SPACE DESIGNED, AND PROGRAMS INTENDED, TO INCREASE OR ACCELERATE
16 BUSINESS SUCCESS IN THE FIELD OF TECHNOLOGY.

17 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–2A–04.1(c).

18 No changes are made.

19 Defined terms: “Program” § 10–418
20 “State” § 9–101

21 10–421. AWARDS.

22 TO CARRY OUT THE PURPOSES OF THE PROGRAM, THE BOARD SHALL AWARD
23 FINANCIAL ASSISTANCE UNDER THIS PART.

24 REVISOR’S NOTE: This section is new language derived without substantive
25 change from former Art. 83A, § 5–2A–04.1(d)(1).

26 The reference to the purposes “of the Program” is substituted for the
27 former phrase “stated in subsection (c) of this section” for clarity.

28 Defined terms: “Board” § 10–401
29 “Financial assistance” § 10–418
30 “Program” § 10–418

1 10–422. SOURCES.

2 THE BOARD MAY AWARD FINANCIAL ASSISTANCE USING MONEY PROVIDED BY THE
3 STATE, THE FEDERAL GOVERNMENT, OR A NONGOVERNMENTAL ENTITY.

4 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–2A–04.1(d)(2).

5 The only changes are in style.

6 Defined terms: “Board” § 10–401

7 “Financial assistance” § 10–418

8 “State” § 9–101

9 10–423. ALLOWED PURPOSES.

10 (A) IN GENERAL.

11 AFTER CONSULTING WITH THE SECRETARY, THE BOARD SHALL ADOPT STANDARDS
12 TO AWARD FINANCIAL ASSISTANCE.

13 (B) STANDARDS.

14 THE STANDARDS SHALL AUTHORIZE THE AWARD OF FINANCIAL ASSISTANCE TO:

15 (1) SUPPORT THE DEVELOPMENT AND USE OF BEST PRACTICES IN THE
16 INCUBATION PROCESS;

17 (2) PROVIDE STRATEGIC PLANNING, NEEDS ASSESSMENTS, AND FEASIBILITY
18 STUDIES; OR

19 (3) HELP ACQUIRE OR IMPROVE NEW OR EXPANDED SPACE OR IMPROVE
20 EXISTING SPACE FOR AN INCUBATOR, INCLUDING PROVIDING OR HELPING ANOTHER WITH:

21 (i) ACQUISITION OF LAND;

22 (ii) ACQUISITION OF ARCHITECTURAL OR ENGINEERING SERVICES;

23 (iii) PAYMENT OF ADMINISTRATIVE COSTS;

24 (iv) DEVELOPMENT OR UPGRADING OF COMMUNICATIONS
25 INFRASTRUCTURE;

26 (v) ACQUISITION OF FURNISHINGS OR EQUIPMENT; OR

27 (vi) ACQUISITION OF OTHER ITEMS ASSOCIATED WITH TENANT
28 BUILD–OUT.

29 REVISOR’S NOTE: This section is new language derived without substantive
30 change from former Art. 83A, § 5–2A–04.1(d)(3).

31 In subsection (b) of this section, the reference to standards “authoriz[ing]

1 the award of financial assistance to” accomplish certain purposes is added
2 for clarity.

3 Defined terms: “Board” § 10–401
4 “Improve” § 10–401
5 “Secretary” § 9–101

6 10–424. ALLOWED RECIPIENTS.

7 THE BOARD MAY AWARD FINANCIAL ASSISTANCE TO:

8 (1) A LOCAL GOVERNMENT;

9 (2) AN AGENCY, INSTRUMENTALITY, OR NOT–FOR–PROFIT CORPORATION
10 THAT THE LOCAL GOVERNMENT DESIGNATES;

11 (3) A PUBLIC OR PRIVATE COLLEGE OR UNIVERSITY;

12 (4) THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION; OR

13 (5) A NOT–FOR–PROFIT ENTITY OPERATING AN INCUBATOR IN THE STATE.

14 REVISOR’S NOTE: This section is new language derived without substantive
15 change from former Art. 83A, § 5–2A–04.1(e).

16 As to the Maryland Economic Development Corporation, *see* Subtitle 1 of
17 this title.

18 Defined terms: “Board” § 10–401
19 “Financial assistance” § 10–418
20 “Secretary” § 9–101
21 “State” § 9–101

22 10–425. MATCHING FUNDS.

23 (A) IN GENERAL.

24 A RECIPIENT OF FINANCIAL ASSISTANCE UNDER § 10–423(B)(3) OF THIS
25 SUBTITLE SHALL PROVIDE MATCHING FUNDS OR IN–KIND CONTRIBUTIONS FOR THE
26 PROJECT AT LEAST EQUAL TO THE FINANCIAL ASSISTANCE AWARDED.

27 (B) WAIVER.

28 THE BOARD MAY WAIVE THE REQUIREMENT OF SUBSECTION (A) OF THIS SECTION
29 FOR GOOD CAUSE SHOWN.

30 REVISOR’S NOTE: This section is new language derived without substantive
31 change from former Art. 83A, § 5–2A–04.1(f)(1).

32 Defined terms: “Board” § 10–401
33 “Financial assistance” § 10–418

1 10–426. LIMITATION.

2 UNLESS TWO–THIRDS OF THE MEMBERSHIP OF THE BOARD APPROVE, THE BOARD
3 MAY NOT AWARD FINANCIAL ASSISTANCE WITHIN A SINGLE COUNTY UNDER §
4 10–423(B)(3) OF THIS SUBTITLE THAT EXCEEDS A TOTAL OF \$1,000,000 IN A SINGLE
5 FISCAL YEAR.

6 REVISOR’S NOTE: This section is new language derived without substantive
7 change from former Art. 83A, § 5–2A–04.1(f)(2).

8 The reference to “§ 10–423(3) of this subtitle” is substituted for the former
9 reference to “subsection (d)(3)(iii) of this section” for clarity.

10 The former phrase “within Baltimore City” is deleted as included in the
11 reference to “a single county” because the definition of “county” includes
12 Baltimore City.

13 Defined terms: “Board” § 10–401
14 “County” § 9–101
15 “Financial assistance” § 10–418

16 10–427. RESERVED.

17 10–428. RESERVED.

18 PART III. STEM CELL RESEARCH.

19 10–429. DEFINITIONS.

20 (A) IN GENERAL.

21 IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

22 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2B–01(a).

23 The reference to this “part” is substituted for the former reference to this
24 “subtitle” to reflect the reorganization of material derived from former Art.
25 83A, Title 5, Subtitle 2A in this part.

26 No other changes are made.

27 (B) ADULT STEM CELL.

28 “ADULT STEM CELL” MEANS A STEM CELL THAT IS:

29 (1) DERIVED FROM HUMAN TISSUE; AND

30 (2) OBTAINED AFTER BIRTH.

31 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2B–01(b).

1 The only changes are in style.

2 Defined term: “Stem cell” § 10–429

3 (C) COMMISSION.

4 “COMMISSION” MEANS THE STEM CELL RESEARCH COMMISSION.

5 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2B–01(c).

6 No changes are made.

7 Defined term: “Stem cell” § 10–429

8 (D) COMMITTEE.

9 “COMMITTEE” MEANS THE INDEPENDENT SCIENTIFIC PEER REVIEW COMMITTEE
10 THAT CONTRACTS WITH THE COMMISSION UNDER § 10–436 OF THIS SUBTITLE.

11 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2B–01(d).

12 The only changes are in style.

13 Defined term: “Commission” § 10–429

14 (E) FUND.

15 “FUND” MEANS THE MARYLAND STEM CELL RESEARCH FUND ESTABLISHED
16 UNDER § 10–434 OF THIS SUBTITLE.

17 REVISOR’S NOTE: This subsection is new language derived without
18 substantive change from former Art. 83A, § 5–2B–01(f).

19 Defined term: “Stem cell” § 10–429

20 (F) HUMAN CLONING.

21 “HUMAN CLONING” MEANS THE REPLICATION OF A HUMAN BEING THROUGH THE
22 PRODUCTION OF A PRECISE GENETIC COPY OF NUCLEAR HUMAN DNA OR ANY OTHER
23 HUMAN MOLECULE, CELL, OR TISSUE IN ORDER TO CREATE A NEW HUMAN BEING OR TO
24 ALLOW DEVELOPMENT BEYOND AN EMBRYO.

25 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2B–01(g).

26 The only change is in style.

27 (G) INSTITUTIONAL REVIEW BOARD.

28 “INSTITUTIONAL REVIEW BOARD” HAS THE MEANING STATED IN THE FEDERAL
29 REGULATIONS ON THE PROTECTION OF HUMAN SUBJECTS.

30 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2B–01(h).

1 No changes are made.

2 (H) OOCYTE.

3 “OOCYTE” MEANS A FEMALE GERM CELL OR EGG.

4 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2B–01(i).

5 No changes are made.

6 (I) STATE–FUNDED STEM CELL RESEARCH.

7 “STATE–FUNDED STEM CELL RESEARCH” MEANS STEM CELL RESEARCH
8 CONDUCTED WITH STATE MONEY AND USING:

9 (1) MATERIAL OBTAINED IN ACCORDANCE WITH § 10–438 OF THIS
10 SUBTITLE; OR

11 (2) ADULT STEM CELLS.

12 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2B–01(j).

13 In the introductory language to this subsection, the phrase “with State
14 money and” is added to state explicitly that which was only implied by the
15 former law; *i.e.*, that the only stem cell research regulated by this part *as*
16 *State–funded* is that which is conducted with State money, rather than all
17 stem cell research. The addition does not in any way limit the ambit of the
18 crimes revised in §§ 10–439 and 10–440 of this subtitle. The Economic
19 Development Article Review Committee brings this addition to the
20 attention of the General Assembly. No substantive change is intended.

21 The only other changes are in style.

22 Defined terms: “Adult stem cell” § 10–429

23 “State” § 9–101

24 “Stem cell” § 10–429

25 (J) STEM CELL.

26 “STEM CELL” MEANS A HUMAN CELL THAT HAS THE ABILITY TO:

27 (1) DIVIDE INDEFINITELY;

28 (2) GIVE RISE TO MANY OTHER TYPES OF SPECIALIZED CELLS; AND

29 (3) GIVE RISE TO NEW STEM CELLS WITH IDENTICAL POTENTIAL.

30 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2B–01(k).

31 No changes are made.

1 (K) VALUABLE CONSIDERATION.

2 “VALUABLE CONSIDERATION” MEANS FINANCIAL GAIN OR ADVANTAGE IN
3 CONNECTION WITH MATERIAL OBTAINED IN ACCORDANCE WITH § 10–438 OF THIS
4 SUBTITLE.

5 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2B–01(l).

6 The only changes are in style.

7 REVISOR’S NOTE TO SECTION:

8 Former Art. 83A, § 5–2B–01(e), which defined “Corporation” to mean the
9 Maryland Technology Development Corporation, is deleted as redundant of
10 the same term defined in § 10–401 of this subtitle.

11 10–430. CONSTRUCTION OF PART.

12 NOTHING IN THIS PART MAY BE CONSTRUED TO PROHIBIT THE CREATION OF STEM
13 CELL LINES TO BE USED FOR THERAPEUTIC RESEARCH PURPOSES.

14 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–2B–11.

15 The only change is in style.

16 Defined term: “Stem cell” § 10–429

17 10–431. STEM CELL RESEARCH COMMISSION.

18 (A) ESTABLISHED.

19 THERE IS A STEM CELL RESEARCH COMMISSION.

20 (B) STATUS.

21 THE COMMISSION IS AN INDEPENDENT COMMISSION THAT FUNCTIONS IN THE
22 CORPORATION.

23 (C) COMPOSITION; APPOINTMENT.

24 THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

25 (1) THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL’S DESIGNEE;

26 (2) THREE PATIENT ADVOCATES, ONE APPOINTED BY THE GOVERNOR, ONE
27 APPOINTED BY THE PRESIDENT OF THE SENATE, AND ONE APPOINTED BY THE SPEAKER
28 OF THE HOUSE OF DELEGATES;

29 (3) THREE INDIVIDUALS WITH EXPERIENCE IN BIOTECHNOLOGY, ONE
30 APPOINTED BY THE GOVERNOR, ONE APPOINTED BY THE PRESIDENT OF THE SENATE,
31 AND ONE APPOINTED BY THE SPEAKER OF THE HOUSE OF DELEGATES;

1 (4) TWO INDIVIDUALS WHO WORK AS SCIENTISTS FOR THE UNIVERSITY
2 SYSTEM OF MARYLAND AND DO NOT ENGAGE IN STEM CELL RESEARCH, APPOINTED BY
3 THE UNIVERSITY SYSTEM OF MARYLAND;

4 (5) TWO INDIVIDUALS WHO WORK AS SCIENTISTS FOR THE JOHNS HOPKINS
5 UNIVERSITY AND DO NOT ENGAGE IN STEM CELL RESEARCH, APPOINTED BY THE JOHNS
6 HOPKINS UNIVERSITY;

7 (6) TWO BIOETHICISTS, ONE APPOINTED BY THE UNIVERSITY SYSTEM OF
8 MARYLAND AND ONE APPOINTED BY THE JOHNS HOPKINS UNIVERSITY; AND

9 (7) TWO INDIVIDUALS WITH EXPERTISE IN THE FIELD OF BIOMEDICAL
10 ETHICS AS IT RELATES TO RELIGION, APPOINTED BY THE GOVERNOR.

11 (D) TENURE; VACANCIES; LIMITATION.

12 (1) THE TERM OF AN APPOINTED MEMBER IS 2 YEARS.

13 (2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS
14 REQUIRED BY THE TERMS PROVIDED FOR MEMBERS ON OCTOBER 1, 2008.

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

17 (4) AN APPOINTED MEMBER MAY NOT SERVE MORE THAN THREE
18 CONSECUTIVE FULL TERMS.

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

22 (E) ETHICS.

23 EACH MEMBER OF THE COMMISSION SHALL DISCLOSE TO THE STATE COMMISSION
24 ON ETHICS WHETHER THE MEMBER IS EMPLOYED BY OR HAS A FINANCIAL INTEREST IN
25 AN ENTITY THAT MAY APPLY TO CONDUCT STATE–FUNDED STEM CELL RESEARCH.

26 (F) CHAIR.

27 THE MEMBERS OF THE COMMISSION SHALL ELECT A CHAIR FROM AMONG THE
28 APPOINTED MEMBERS OF THE COMMISSION.

29 (G) QUORUM.

30 A MAJORITY OF THE FULL AUTHORIZED MEMBERSHIP OF THE COMMISSION IS A
31 QUORUM.

32 (H) MEETINGS.

33 THE COMMISSION SHALL MEET AT LEAST TWICE A YEAR.

1 (I) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

2 A MEMBER OF THE COMMISSION:

3 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION;

4 BUT

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

7 (J) STAFF.

8 THE COMMISSION MAY EMPLOY A STAFF, INCLUDING CONTRACTUAL STAFF, IN
9 ACCORDANCE WITH THE STATE BUDGET.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 83A, §§ 5-2B-04(a) through (h) and (j) and
12 5-2B-07(b).

13 In subsection (d)(2) of this section, the reference to terms being staggered
14 "as required by the terms provided for members on October 1, 2008" is
15 substituted for the former obsolete reference to terms being staggered "as
16 required by the terms provided for members on July 1, 2006". *See* § 13 of
17 Ch. ___, Acts of 2008. This substitution is not intended to alter the terms of
18 any member of the Commission. The terms of the members serving on
19 October 1, 2008, end as follows: (1) seven on June 30, 2009; and (2) seven
20 on June 30, 2010. *See* § 2 of Ch. 19, Acts of 2006; Bill Review Letter (SB
21 144) from J. Joseph Curran, Jr., Attorney General, to Robert L. Ehrlich,
22 Jr., Governor (April 5, 2006).

23 Defined terms: "Commission" § 10-429

24 "Corporation" § 10-401

25 "State" § 9-101

26 "State-funded stem cell research" § 10-429

27 "Stem cell" § 10-429

28 10-432. DUTIES.

29 (A) IN GENERAL.

30 THE COMMISSION SHALL:

31 (1) ADOPT REGULATIONS THAT ENSURE THAT ADULT STEM CELL AND STEM
32 CELL RESEARCH FINANCED BY THE FUND COMPLIES WITH STATE LAW;

33 (2) DEVELOP CRITERIA, STANDARDS, AND REQUIREMENTS FOR THE INITIAL
34 REVIEW OF GRANT AND LOAN APPLICATIONS BY THE COMMISSION;

35 (3) REVIEW GRANT AND LOAN APPLICATIONS TO ENSURE THAT EACH
36 APPLICATION IS COMPLETE AND SATISFIES THE CRITERIA, STANDARDS, AND

1 REQUIREMENTS DEVELOPED BY THE COMMISSION, INCLUDING APPROVAL BY AN
2 INSTITUTIONAL REVIEW BOARD;

3 (4) ESTABLISH PROCEDURES AND GUIDELINES TO BE USED BY THE
4 COMMITTEE FOR THE REVIEW, EVALUATION, RANKING, AND RATING OF RESEARCH
5 PROPOSALS FOR STATE–FUNDED STEM CELL RESEARCH;

6 (5) ENSURE THAT THE PROCEDURES AND GUIDELINES ESTABLISHED UNDER
7 ITEM (4) OF THIS SUBSECTION ARE BASED ON THE GUIDELINES OF THE NATIONAL
8 INSTITUTES OF HEALTH CENTER FOR SCIENTIFIC REVIEW;

9 (6) ESTABLISH CRITERIA, STANDARDS, AND REQUIREMENTS FOR
10 CONSIDERATION OF GRANT AND LOAN APPLICATIONS BASED ON THE RANKINGS AND
11 RATINGS OF THE COMMITTEE;

12 (7) MAKE RECOMMENDATIONS CONSISTENT WITH THE CRITERIA,
13 STANDARDS, AND REQUIREMENTS ESTABLISHED BY THE COMMISSION AND BASED ON THE
14 RANKINGS AND RATINGS OF THE COMMITTEE REGARDING THE AWARD OF GRANTS AND
15 LOANS FROM THE FUND;

16 (8) ESTABLISH STANDARDS FOR THE OVERSIGHT AND USE OF AWARDS;

17 (9) CONDUCT PROGRESS OVERSIGHT REVIEWS OF RECIPIENTS;

18 (10) NOTIFY THE CORPORATION REGARDING THE SUBMISSION BY A
19 RECIPIENT, OR FAILURE OF A RECIPIENT, TO SUBMIT INSTITUTIONAL REVIEW BOARD
20 APPROVAL FOR A GRANT OR LOAN AWARDED UNDER THIS SUBTITLE; AND

21 (11) DEVELOP GUIDELINES ON DISCLOSURE AND RECUSAL TO BE FOLLOWED
22 BY MEMBERS OF THE COMMISSION WHEN CONSIDERING GRANT AND LOAN APPLICATIONS.

23 (B) CONSULTATION.

24 THE COMMISSION MAY CONSULT WITH EXPERTS IN PERFORMING ITS DUTIES.

25 REVISOR’S NOTE: This section is new language derived without substantive
26 change from former Art. 83A, §§ 5–2B–04(i) and 5–2B–07(a).

27 In subsection (a)(9) and (10) of this section, the references to a “recipient”
28 are substituted for the former reference to a “grantee” for consistency
29 within this part.

30 In subsection (a)(10) of this section and throughout this subtitle, the
31 references to approval of a grant “or loan” are added for consistency with
32 the requirement that a “loan” as well as a “grant” be approved by an
33 institutional review board under subsection (a)(3) of this section.

34 Defined terms: “Adult stem cell” § 10–429

35 “Commission” § 10–429

36 “Corporation” § 10–401

1 “Fund” § 10–429
 2 “Institutional review board” § 10–429
 3 “State” § 9–101
 4 “State–funded stem cell research” § 10–429
 5 “Stem cell” § 10–429

6 10–433. LIMITATIONS ON AUTHORITY OF SECRETARY.

7 (A) DISAPPROVAL OR MODIFICATION OF DECISION OR DETERMINATION.

8 THE AUTHORITY OF THE SECRETARY OVER PLANS, PROPOSALS, AND PROJECTS OF
 9 UNITS IN THE DEPARTMENT DOES NOT INCLUDE THE AUTHORITY TO DISAPPROVE OR
 10 MODIFY ANY DECISION OR DETERMINATION THAT THE COMMISSION MAKES UNDER
 11 AUTHORITY SPECIFICALLY DELEGATED BY LAW TO THE COMMISSION.

12 (B) ORGANIZATION AND FUNDING.

13 THE AUTHORITY OF THE SECRETARY TO TRANSFER BY REGULATION OR WRITTEN
 14 DIRECTIVE ANY STAFF, FUNCTIONS, OR MONEY OF UNITS IN THE DEPARTMENT DOES NOT
 15 APPLY TO ANY STAFF, FUNCTIONS, OR MONEY OF THE COMMISSION.

16 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–2B–05.

17 In subsections (a) and (b) of this section, the references to the “authority” of
 18 the Secretary are substituted for the former references to the “power” of
 19 the Secretary for consistency within this article.

20 In subsection (b) of this section, the former reference to a “rule” is deleted
 21 as included in the reference to a “regulation”. *See* General Revisor’s Note to
 22 article.

23 The only other changes are in style.

24 The Economic Development Article Review Committee notes, for the
 25 consideration of the General Assembly, that this section appears to be
 26 unnecessary. Neither the Commission nor the Corporation is in the
 27 Department or is otherwise subject to the jurisdiction of the Secretary, and
 28 the authority of the Secretary over decisions, determinations, organization,
 29 and funding of units within the Department does not apply to either unit.

30 Defined terms: “Commission” § 10–429

31 “Department” § 9–101

32 “Secretary” § 9–101

33 10–434. MARYLAND STEM CELL RESEARCH FUND.

34 (A) ESTABLISHED.

35 THERE IS A MARYLAND STEM CELL RESEARCH FUND.

36 (B) PURPOSE.

1 THE PURPOSE OF THE FUND IS TO PROMOTE STATE–FUNDED STEM CELL
2 RESEARCH AND CURES THROUGH GRANTS AND LOANS TO PUBLIC AND PRIVATE ENTITIES
3 IN THE STATE.

4 (C) ADMINISTRATION.

5 THE CORPORATION SHALL ADMINISTER THE FUND.

6 (D) NATURE OF FUND; ACCOUNTING.

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

9 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE
10 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

11 (E) CONTENTS.

12 THE FUND CONSISTS OF:

13 (1) APPROPRIATIONS AS PROVIDED IN THE STATE BUDGET; AND

14 (2) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE
15 BENEFIT OF THE FUND.

16 (F) USES.

17 MONEY IN THE FUND MAY ONLY BE USED TO:

18 (1) AWARD GRANTS AND LOANS FOR STATE–FUNDED STEM CELL RESEARCH,
19 IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE COMMISSION;

20 (2) AWARD GRANTS AND LOANS FOR FACILITIES, CAPITAL LEASES, AND
21 CAPITAL EQUIPMENT WHERE STATE–FUNDED STEM CELL RESEARCH IS CONDUCTED, IN
22 ACCORDANCE WITH THE RECOMMENDATIONS OF THE COMMISSION; AND

23 (3) PAY THE COSTS NECESSARY TO ADMINISTER THE FUND.

24 (G) INVESTMENT; EARNINGS.

25 (1) THE TREASURER SHALL INVEST THE MONEY IN THE FUND IN THE SAME
26 MANNER AS OTHER STATE MONEY MAY BE INVESTED.

27 (2) ANY INVESTMENT EARNINGS SHALL BE PAID INTO THE FUND.

28 (H) APPROPRIATION; EXPENDITURES.

29 (1) THE GOVERNOR MAY INCLUDE IN THE STATE BUDGET BILL EACH
30 FISCAL YEAR AN APPROPRIATION TO THE FUND.

1 (2) EXPENDITURES FROM THE FUND MAY ONLY BE MADE IN ACCORDANCE
2 WITH AN APPROPRIATION APPROVED BY THE GENERAL ASSEMBLY IN THE STATE BUDGET
3 OR BY AN APPROVED BUDGET AMENDMENT.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 83A, § 5–2B–03(a) through (k).

6 In subsection (h)(1) of this section, the former obsolete phrase “[b]eginning
7 in fiscal year 2008” is deleted.

8 Defined terms: “Commission” § 10–429

9 “Corporation” § 10–401

10 “Fund” § 10–429

11 “State” § 9–101

12 “State–funded stem cell research” § 10–429

13 “Stem cell” § 10–429

14 10–435. GRANT AND LOAN CONDITIONS.

15 (A) IN GENERAL.

16 A GRANT OR LOAN AWARDED UNDER THIS PART IS CONTINGENT ON THE RECIPIENT:

17 (1) SUBMITTING TO THE COMMISSION APPROVAL FROM AN INSTITUTIONAL
18 REVIEW BOARD; AND

19 (2) ENTERING INTO A MEMORANDUM OF UNDERSTANDING WITH THE
20 CORPORATION THAT:

21 (i) ESTABLISHES THE SCOPE OF THE STATE'S OWNERSHIP OR OTHER
22 FINANCIAL INTEREST IN THE COMMERCIALIZATION AND OTHER BENEFITS OF THE
23 RESULTS, PRODUCTS, INVENTIONS, AND DISCOVERIES OF STATE–FUNDED STEM CELL
24 RESEARCH; AND

25 (ii) TO THE EXTENT CONSISTENT WITH FEDERAL AND STATE LAW,
26 REFLECTS THE INTELLECTUAL PROPERTY POLICIES OF THE INSTITUTION.

27 (B) LIMITATION.

28 A RECIPIENT SHALL SUBMIT THE APPROVAL REQUIRED UNDER SUBSECTION (A)(1)
29 OF THIS SECTION WITHIN 6 MONTHS AFTER THE AWARD OF THE GRANT OR LOAN.

30 (C) CONDITIONS PRECEDENT TO DISBURSEMENT.

31 THE CORPORATION MAY NOT DISBURSE GRANT OR LOAN MONEY TO A RECIPIENT
32 UNTIL:

33 (1) THE RECIPIENT HAS OBTAINED THE APPROVAL REQUIRED UNDER
34 SUBSECTION (A)(1) OF THIS SECTION; AND

1 (2) THE RECIPIENT AND THE CORPORATION HAVE ENTERED INTO THE
2 MEMORANDUM OF UNDERSTANDING REQUIRED UNDER SUBSECTION (A)(2) OF THIS
3 SECTION.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 83A, § 5–2B–08.

6 The Economic Development Article Review Committee notes, for the
7 consideration of the General Assembly, that throughout this section and
8 subtitle, the references to a “recipient” are substituted for the former
9 references to a “grantee” for clarity. Although the use of the term “grantee”
10 in former Art. 83A, § 5–2B–08 seemed to imply the recipient of a grant,
11 rather than a loan, the Fund may be used for loans as well as grants. See
12 §§ 10–432(a)(3) and 10–434(f) of this subtitle. Similarly, in the introductory
13 language to subsections (a) and (c) of this section, and in subsection (b) of
14 this section, the references to a “grant or loan” are substituted for the
15 former references to a “grant”. No substantive change is intended.

16 Defined terms: “Commission” § 10–429

17 “Corporation” § 10–401

18 “Institutional review board” § 10–429

19 “State” § 9–101

20 “State-funded stem cell research” § 10–429

21 “Stem cell” § 10–429

22 10–436. PEER REVIEW COMMITTEE.

23 (A) IN GENERAL.

24 THE COMMISSION SHALL CONTRACT WITH AN INDEPENDENT SCIENTIFIC PEER
25 REVIEW COMMITTEE COMPOSED OF SCIENTIFICALLY RECOGNIZED EXPERTS IN THE FIELD
26 OF STEM CELL RESEARCH.

27 (B) DUTIES.

28 THE COMMITTEE SHALL:

29 (1) REVIEW, EVALUATE, RANK, AND RATE RESEARCH PROPOSALS FOR
30 STATE-FUNDED STEM CELL RESEARCH:

31 (I) BASED ON THE PROCEDURES AND GUIDELINES ESTABLISHED BY
32 THE COMMISSION; AND

33 (II) IN A MANNER THAT GIVES DUE CONSIDERATION TO THE
34 SCIENTIFIC, MEDICAL, AND ETHICAL IMPLICATIONS OF THE RESEARCH; AND

35 (2) MAKE RECOMMENDATIONS TO THE COMMISSION, BASED ON THE
36 RANKINGS AND RATINGS AWARDED TO RESEARCH PROPOSALS BY THE COMMITTEE, FOR
37 THE AWARD AND DISBURSEMENT OF GRANTS AND LOANS UNDER THE FUND.

1 (C) LIMITATIONS; CONFLICT OF INTEREST.

2 A MEMBER OF THE COMMITTEE:

3 (1) IS NOT ELIGIBLE TO RECEIVE A GRANT OR LOAN FOR STATE–FUNDED
4 STEM CELL RESEARCH FROM THE FUND;

5 (2) MAY NOT RESIDE IN THE STATE; AND

6 (3) SHALL BE SUBJECT TO CONFLICT OF INTEREST STANDARDS THAT ARE AT
7 LEAST AS STRINGENT AS THE STANDARDS ON CONFLICT OF INTEREST ADOPTED BY THE
8 NATIONAL INSTITUTES OF HEALTH.

9 REVISOR’S NOTE: This section is new language derived without substantive
10 change from former Art. 83A, § 5–2B–06.

11 In subsection (b)(2) of this section, the reference to “loans” is added for
12 consistency within this part.

13 Defined terms: “Committee” § 10–429

14 “Fund” § 10–429

15 “State” § 9–101

16 “State–funded stem cell research” § 10–429

17 “Stem cell” § 10–429

18 10–437. MANNER OF CONDUCTING STATE–FUNDED STEM CELL RESEARCH.

19 (A) MANNER OF CONDUCT.

20 A PERSON WHO CONDUCTS STATE–FUNDED STEM CELL RESEARCH SHALL CONDUCT
21 THE RESEARCH IN A MANNER THAT CONSIDERS THE ETHICAL AND MEDICAL IMPLICATIONS
22 OF THE RESEARCH.

23 (B) PROHIBITION.

24 A PERSON WHO CONDUCTS STATE–FUNDED STEM CELL RESEARCH MAY NOT
25 ENGAGE IN ANY RESEARCH THAT INTENTIONALLY AND DIRECTLY LEADS TO HUMAN
26 CLONING.

27 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–2B–02.

28 No changes are made.

29 Defined terms: “Human cloning” § 10–429

30 “Person” § 9–101

31 “State–funded stem cell research” § 10–429

32 “Stem cell” § 10–429

33 10–438. UNUSED DONATED MATERIAL.

34 (A) REQUIRED INFORMATION; OPTIONS.

1 A HEALTH CARE PRACTITIONER LICENSED UNDER THE HEALTH OCCUPATIONS
2 ARTICLE WHO TREATS INDIVIDUALS FOR INFERTILITY SHALL:

3 (1) PROVIDE INDIVIDUALS WITH INFORMATION SUFFICIENT TO ENABLE
4 THEM TO MAKE AN INFORMED AND VOLUNTARY CHOICE REGARDING THE DISPOSITION OF
5 ANY UNUSED MATERIAL; AND

6 (2) PRESENT TO INDIVIDUALS THE OPTION OF:

7 (I) STORING OR DISCARDING ANY UNUSED MATERIAL;

8 (II) DONATING ANY UNUSED MATERIAL FOR CLINICAL PURPOSES IN
9 THE TREATMENT OF INFERTILITY;

10 (III) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,
11 DONATING ANY UNUSED MATERIAL FOR RESEARCH PURPOSES; AND

12 (IV) DONATING ANY UNUSED MATERIAL FOR ADOPTION PURPOSES.

13 (B) EXCEPTION.

14 ANY UNUSED MATERIAL DONATED FOR STATE–FUNDED STEM CELL RESEARCH MAY
15 NOT BE AN OOCYTE.

16 (C) WRITTEN CONSENT.

17 AN INDIVIDUAL WHO DONATES ANY UNUSED MATERIAL FOR RESEARCH PURPOSES
18 UNDER SUBSECTION (A)(2) OF THIS SECTION SHALL PROVIDE THE HEALTH CARE
19 PRACTITIONER WITH WRITTEN CONSENT FOR THE DONATION.

20 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–2B–10.

21 The only changes are in style.

22 Defined terms: “Oocyte” § 10–429

23 “State–funded stem cell research” § 10–429

24 “Stem cell” § 10–429

25 10–439. PROHIBITED ACTS — DONATED MATERIAL.

26 (A) TRANSFER OF DONATED MATERIAL.

27 A PERSON MAY NOT PURCHASE, SELL, TRANSFER, OR OBTAIN ANY MATERIAL
28 DONATED IN ACCORDANCE WITH § 10–438 OF THIS SUBTITLE FOR VALUABLE
29 CONSIDERATION.

30 (B) SOLICITATION FOR MEDICAL RESEARCH.

31 A PERSON MAY NOT GIVE VALUABLE CONSIDERATION TO ANOTHER TO ENCOURAGE
32 THE PRODUCTION OF MATERIAL DONATED IN ACCORDANCE WITH § 10–438 OF THIS
33 SUBTITLE FOR THE SOLE PURPOSE OF MEDICAL RESEARCH.

1 (C) PENALTY.

2 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON
3 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT
4 EXCEEDING \$50,000 OR BOTH.

5 REVISOR'S NOTE: This section formerly was Art. 83A, § 5–2B–12.

6 The only changes are in style.

7 Defined terms: "Person" § 9–101

8 "Valuable consideration" § 10–429

9 10–440. PROHIBITED ACTS — HUMAN CLONING.

10 (A) PROHIBITED.

11 A PERSON MAY NOT CONDUCT OR ATTEMPT TO CONDUCT HUMAN CLONING.

12 (B) PENALTY.

13 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON
14 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE NOT
15 EXCEEDING \$200,000 OR BOTH.

16 REVISOR'S NOTE: This section formerly was Art. 83A, § 5–2B–13.

17 No changes are made.

18 Defined terms: "Human cloning" § 10–429

19 "Person" § 9–101

20 10–441. REGULATIONS.

21 THE CORPORATION, IN CONSULTATION WITH THE COMMISSION, SHALL ADOPT
22 REGULATIONS TO ESTABLISH PROCEDURES FOR MAKING THE DISBURSEMENT OF A GRANT
23 OR LOAN CONTINGENT ON OBTAINING THE APPROVAL OF AN INSTITUTIONAL REVIEW
24 BOARD.

25 REVISOR'S NOTE: This section formerly was Art. 83A, § 5–2B–03(1).

26 The reference to making a "loan" contingent on obtaining approval of an
27 institutional review board is added for consistency with § 10–432(a)(3) of
28 this subtitle.

29 The only other changes are in style.

30 Defined terms: "Commission" § 10–429

31 "Corporation" § 10–401

32 "Institutional review board" § 10–429

1 10–442. ANNUAL REPORT.

2 (A) REQUIRED.

3 ON OR BEFORE JANUARY 1 OF EACH YEAR, THE CORPORATION AND THE
4 COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246
5 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE PROGRESS OF
6 STATE–FUNDED STEM CELL RESEARCH CONDUCTED IN ACCORDANCE WITH THIS PART.

7 (B) CONTENTS.

8 THE REPORT SHALL IDENTIFY:

9 (1) EACH RECIPIENT OF MONEY FROM THE FUND;

10 (2) THE AMOUNT OF MONEY AWARDED TO EACH RECIPIENT; AND

11 (3) A DESCRIPTION OF THE TYPE OF STEM CELL RESEARCH PERFORMED BY
12 THE RECIPIENT.

13 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–2B–09.

14 In subsection (a) of this section, the reference to this “part” is substituted
15 for the former reference to this “subtitle” to reflect the reorganization of
16 material derived from former Art. 83A, Title 5, Subtitle 2A in this part.

17 In subsection (b)(1) and (2) of this section, the references to “money” are
18 substituted for the former references to “funding” for consistency within
19 this article.

20 The Economic Development Article Review Committee notes, for the
21 consideration of the General Assembly, that in subsection (b) of this
22 section, the references to a “recipient” of money are substituted for the
23 former references to a “grantee” for clarity. Although the use of the term
24 “grantee” in former Art. 83A, § 5–2B–09(b) seemed to imply the recipient of
25 a grant, rather than a loan, the Fund may be used for loans as well as
26 grants. See §§ 10–432(a)(3) and 10–434(f) of this subtitle. No substantive
27 change is intended.

28 The only other changes are in style.

29 Defined terms: “Commission” § 10–429

30 “Corporation” § 10–401

31 “State–funded stem cell research” § 10–429

32 “Stem cell” § 10–429

33 GENERAL REVISOR’S NOTE TO SUBTITLE:

34 Former Art. 83A, § 5–2A–05, which authorized the Treasurer to advance certain
35 funds to the Corporation, is deleted as obsolete. The Treasurer has never provided
36 money for initial expenses of the Corporation, and is never expected to. Instead, the

1 Corporation received support for its initial expenses from the Department. *See* Ch.
2 661, Acts of 1998.

3 SUBTITLE 5. MARYLAND AGRICULTURAL AND RESOURCE–BASED INDUSTRY
4 DEVELOPMENT CORPORATION.

5 10–501. DEFINITIONS.

6 (A) IN GENERAL.

7 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

8 REVISOR’S NOTE: This subsection formerly was Art. 41, § 13–501(a).

9 The only changes are in style.

10 (B) AGRICULTURAL LOAN.

11 “AGRICULTURAL LOAN” MEANS A LOAN MADE TO A PERSON BY A LENDER TO
12 FINANCE:

13 (1) LAND ACQUISITION OR IMPROVEMENT;

14 (2) AGRICULTURAL, AQUACULTURAL, EQUINE, HORTICULTURAL, OR
15 SILVICULTURAL PRODUCTION;

16 (3) SOIL CONSERVATION;

17 (4) POND CONSTRUCTION;

18 (5) IRRIGATION;

19 (6) WATER WELL DRILLING;

20 (7) IMPROVEMENT OF A STRUCTURE OR FACILITY;

21 (8) PURCHASE OF A FARM FIXTURE, LIVESTOCK, OR POULTRY;

22 (9) FISH, CRUSTACEANS, OR MOLLUSKS OF ANY KIND;

23 (10) SEEDS, PLANTS, OR TREES;

24 (11) FERTILIZER;

25 (12) PESTICIDE;

26 (13) FEED;

27 (14) EQUIPMENT; OR

1 (15) CONTAINERS OR SUPPLIES EMPLOYED IN THE PRODUCTION,
 2 CULTIVATION, HARVESTING, PROCESSING, STORAGE, MARKETING, DISTRIBUTION, OR
 3 EXPORT OF AN AGRICULTURAL PRODUCT.

4 REVISOR'S NOTE: This subsection is new language derived without
 5 substantive change from former Art. 41, § 13–501(b).

6 The former reference to “machinery” is deleted as redundant of the
 7 reference to “equipment”.

8 Defined terms: “Agricultural” § 10–501

9 “Improvement” § 10–501

10 “Lender” § 10–501

11 “Person” §§ 9–101, 10–501

12 (c) AGRICULTURE.

13 “AGRICULTURE” MEANS THE COMMERCIAL PRODUCTION, STORAGE, PROCESSING,
 14 MARKETING, DISTRIBUTION, OR EXPORT OF AN AGRONOMIC, AQUACULTURAL, EQUINE,
 15 FLORICULTURAL, HORTICULTURAL, ORNAMENTAL, SILVICULTURAL, OR VITICULTURAL
 16 CROP, INCLUDING:

17 (1) A FARM PRODUCT;

18 (2) LIVESTOCK OR A LIVESTOCK PRODUCT;

19 (3) POULTRY OR A POULTRY PRODUCT;

20 (4) MILK OR A DAIRY PRODUCT;

21 (5) TIMBER OR A FOREST PRODUCT;

22 (6) FRUIT OR A HORTICULTURAL PRODUCT; AND

23 (7) SEAFOOD OR AN AQUACULTURAL PRODUCT.

24 REVISOR'S NOTE: This subsection is new language derived without
 25 substantive change from former Art. 41, § 13–501(c).

26 (d) BOARD.

27 “BOARD” MEANS THE BOARD OF DIRECTORS OF THE CORPORATION.

28 REVISOR'S NOTE: This subsection formerly was Art. 41, § 13–501(d).

29 The only changes are in style.

30 Defined term: “Corporation” § 10–501

31 (e) BOND.

1 (1) “BOND” MEANS A BOND OF THE CORPORATION ISSUED UNDER THIS
2 SUBTITLE.

3 (2) “BOND” INCLUDES:

4 (I) A RENEWAL NOTE;

5 (II) A REFUNDING BOND;

6 (III) AN INTERIM CERTIFICATE;

7 (IV) A CERTIFICATE OF INDEBTEDNESS;

8 (V) A DEBENTURE;

9 (VI) A WARRANT;

10 (VII) COMMERCIAL PAPER; AND

11 (VIII) ANY OTHER OBLIGATION.

12 REVISOR’S NOTE: This subsection is new language derived without
13 substantive change from former Art. 41, § 13–501(e).

14 Defined term: “Corporation” § 10–501

15 (F) CORPORATION.

16 “CORPORATION” MEANS THE MARYLAND AGRICULTURAL AND RESOURCE–BASED
17 INDUSTRY DEVELOPMENT CORPORATION.

18 REVISOR’S NOTE: This subsection formerly was Art. 41, § 13–501(f).

19 The former phrase “established under this subtitle” is deleted as
20 surplusage.

21 (G) FINANCE.

22 “FINANCE” INCLUDES REFINANCE.

23 REVISOR’S NOTE: This subsection is new language added to avoid repetition of
24 the phrase “finance or refinance” and its variants and for consistency
25 within this title.

26 (H) IMPROVE.

27 “IMPROVE” MEANS TO ADD, ALTER, CONSTRUCT, EQUIP, EXPAND, EXTEND,
28 RECONSTRUCT, REHABILITATE, REMODEL, OR REPAIR.

29 REVISOR’S NOTE: This subsection is new language added for brevity and
30 clarity.

1 (I) IMPROVEMENT.

2 “IMPROVEMENT” MEANS ADDITION, ALTERATION, CONSTRUCTION, EQUIPPING,
3 EXPANSION, EXTENSION, RECONSTRUCTION, REHABILITATION, REMODELING, OR REPAIR.

4 REVISOR’S NOTE: This subsection is new language added for brevity and
5 clarity.

6 (J) LENDER.

7 (1) “LENDER” MEANS A FINANCIAL INSTITUTION AUTHORIZED TO DO
8 BUSINESS IN THE STATE OR OPERATING UNDER THE SUPERVISION OF A FEDERAL UNIT.

9 (2) “LENDER” INCLUDES:

10 (I) A BANK;

11 (II) A TRUST COMPANY;

12 (III) A FEDERAL LAND BANK;

13 (IV) A FARM CREDIT ASSOCIATION;

14 (V) A BANK FOR COOPERATIVES;

15 (VI) INSURANCE COMPANY;

16 (VII) INVESTMENT BANKER;

17 (VIII) MORTGAGE BANKER OR COMPANY;

18 (IX) PENSION OR RETIREMENT FUND;

19 (X) SAVINGS AND LOAN ASSOCIATION;

20 (XI) SMALL BUSINESS INVESTMENT COMPANY; OR

21 (XII) CREDIT UNION.

22 REVISOR’S NOTE: This subsection is new language derived without
23 substantive change from former Art. 41, § 13–501(g).

24 In paragraph (2) of this subsection, the former references to a “building
25 and loan association”, a “homestead [association]”, and a “savings bank”
26 are deleted as included in the reference to a “savings and loan association”.
27 See Ch. 205, Acts of 1961.

28 Defined term: “State” § 9–101

29 (K) PERSON.

30 (1) “PERSON” HAS THE MEANING STATED IN § 9–101 OF THIS ARTICLE.

1 (2) “PERSON” ALSO INCLUDES A UNIT OF A STATE OR OF THE FEDERAL
2 GOVERNMENT.

3 REVISOR’S NOTE: This subsection is new language derived without
4 substantive change from former Art. 41, § 13–501(h).

5 In paragraph (1) of this subsection, the cross–reference to § 9–101 of this
6 article is substituted for the former definition of “person” now revised in
7 that provision.

8 Defined terms: “Person” § 9–101
9 “State” § 9–101

10 (L) PROJECT.

11 (1) “PROJECT” MEANS ANY PROPERTY, THE ACQUISITION OR IMPROVEMENT
12 OF WHICH THE BOARD, IN ITS SOLE DISCRETION, DETERMINES BY RESOLUTION WILL
13 ACCOMPLISH AT LEAST ONE OF THE PURPOSES LISTED IN § 10–502 OF THIS SUBTITLE,
14 WHETHER OR NOT THE PROPERTY, OR ANY INTEREST IN THE PROPERTY:

15 (I) IS OR WILL BE USED OR OPERATED FOR PROFIT OR NOT FOR
16 PROFIT;

17 (II) IS OR WILL BE LOCATED ON ONE OR MORE SITES; OR

18 (III) MAY BE FINANCED BY BONDS, THE INTEREST ON WHICH IS EXEMPT
19 FROM TAXATION UNDER FEDERAL LAW.

20 (2) “PROJECT” INCLUDES:

21 (I) PROPERTY AND RIGHTS RELATED TO THE PROPERTY,
22 APPURTENANCES, RIGHTS–OF–WAY, FRANCHISES, EASEMENTS, AND OTHER INTERESTS IN
23 PROPERTY;

24 (II) STRUCTURES, EQUIPMENT, FURNISHINGS, RAIL OR MOTOR
25 VEHICLES, BARGES, AND BOATS;

26 (III) PROPERTY THAT IS FUNCTIONALLY RELATED AND SUBORDINATE TO
27 A PROJECT; AND

28 (IV) PATENTS, LICENSES, AND OTHER RIGHTS NECESSARY OR USEFUL
29 IN THE IMPROVEMENT OR OPERATION OF A PROJECT.

30 REVISOR’S NOTE: This subsection is new language derived without
31 substantive change from former Art. 41, § 13–501(i).

32 In paragraph (2)(i) of this subsection, the former references to “[l]and or
33 any interest in land” and “real or personal property, or any combination of
34 them” are deleted as included in the comprehensive reference to
35 “property”.

1 Also in paragraph (2)(i) of this subsection, the reference to interests in
2 “property” is substituted for the former reference to interests in “land” for
3 consistency within this title.

4 In paragraph (2)(ii) of this subsection, the former reference to “[b]uildings”
5 is deleted as included in the comprehensive reference to “structures”.

6 In paragraph (2)(iii) of this subsection, the reference to “property” is
7 substituted for the former reference to “[l]and and facilities” for clarity and
8 consistency within this article.

9 In paragraph (2)(iv) of this subsection, the defined term “improvement” is
10 substituted for the former word “construction” for clarity and consistency
11 within this article.

12 Defined terms: “Board” § 10–501

13 “Bond” § 10–501

14 “Improvement” § 10–501

15 “Project” § 10–501

16 (M) REVENUE.

17 (1) “REVENUE” MEANS THE INCOME, REVENUE, AND OTHER MONEY
18 RECEIVED BY THE CORPORATION FROM OR IN CONNECTION WITH A PROJECT AND ALL
19 OTHER INCOME OF THE CORPORATION.

20 (2) “REVENUE” INCLUDES GRANTS, RENTALS, RATES, FEES, AND CHARGES
21 FOR THE USE OF THE SERVICES FURNISHED OR AVAILABLE.

22 REVISOR’S NOTE: This subsection is new language derived without
23 substantive change from former Art. 41, § 13–501(j)(1) and (2).

24 As to the power of the Corporation to define or limit the defined term
25 “revenue”, see § 10–509 of this subtitle.

26 Defined terms: “Corporation” § 10–501

27 “Project” § 10–501

28 10–502. LEGISLATIVE FINDINGS; PURPOSES.

29 (A) FINDINGS.

30 THE GENERAL ASSEMBLY FINDS THAT:

31 (1) THE STATE’S AGRICULTURAL AND RESOURCE–BASED INDUSTRIES
32 CONTINUE TO UNDERPIN THE LOCAL ECONOMIES OF RURAL COMMUNITIES, BUT ARE
33 INCREASINGLY UNDER THREAT FROM NATIONAL AND INTERNATIONAL MARKET
34 COMPETITION, URBAN ENCROACHMENT AND LAND DEVELOPMENT PRESSURE, AND
35 ENVIRONMENTAL AND REGULATORY INFLUENCES;

1 (2) THE CONSTRUCTION AND RENOVATION OF FOOD AND FIBER PROCESSING
2 AND SECONDARY MANUFACTURING FACILITIES OFTEN REQUIRE CREDIT AND CAPITAL IN
3 AMOUNTS THAT FAR EXCEED THE AVAILABLE RESOURCES OF INDIVIDUAL SMALL
4 PRODUCERS AND SMALL BUSINESSES;

5 (3) PRIVATE ENTERPRISE AND EXISTING FEDERAL AND STATE
6 GOVERNMENTAL PROGRAMS HAVE NOT ADEQUATELY ADDRESSED AGRICULTURAL
7 INDUSTRY SUPPORT OR DEVELOPMENTAL OPPORTUNITIES RELATING TO EMERGENT
8 VALUE-ADDED AGRICULTURAL PROCESSING ACTIVITIES, DEVELOPMENT OF NEW OR
9 ALTERNATIVE MARKETS, PRIMARY AND SECONDARY MANUFACTURING, ASSISTANCE FOR
10 BEGINNING FARMERS AND PRODUCERS, AND FINANCIAL SUPPORT FOR ENVIRONMENTAL
11 OR TECHNOLOGICAL ENHANCEMENTS;

12 (4) WHILE SOME TRADITIONAL AGRICULTURAL ENTERPRISES IN THE STATE
13 MAY HAVE ACCESS TO MARKETS, CAPITAL, AND CREDIT, OTHER EXISTING OR EMERGING
14 SEGMENTS OF THE AGRICULTURAL INDUSTRY LACK MARKET ACCESS, CAPITAL, AND
15 CREDIT AVAILABLE FOR INVESTMENT IN AGRICULTURE, FOR DOMESTIC AND EXPORT
16 PURPOSES, AND AT INTEREST RATES WITHIN THE FINANCIAL MEANS OF PERSONS
17 ENGAGED IN AGRICULTURAL PRODUCTION AND AGRICULTURAL EXPORTS;

18 (5) IN CONJUNCTION WITH THE FINANCIAL AND OTHER CHALLENGES
19 ASSOCIATED WITH TRADITIONAL AGRICULTURAL INDUSTRIES, THERE IS A NEED TO
20 PROVIDE ECONOMIC AND MARKET DEVELOPMENT ASSISTANCE TO THOSE INDIVIDUALS
21 WHO WISH TO START, CONVERT, OR DIVERSIFY THEIR AGRICULTURAL OPERATIONS, OR TO
22 MAKE IMPROVEMENTS ASSOCIATED WITH ENVIRONMENTAL REGULATIONS AND POTENTIAL
23 MARKET OPPORTUNITIES; AND

24 (6) IT IS A MATTER OF SIGNIFICANT IMPORTANCE TO RURAL ECONOMIC
25 DEVELOPMENT THAT THE CORPORATION BE CREATED AND AUTHORIZED TO:

26 (I) DEVELOP AGRICULTURAL INDUSTRIES AND MARKETS;

27 (II) SUPPORT APPROPRIATE COMMERCIALIZATION OF AGRICULTURAL
28 PROCESSES AND TECHNOLOGY; AND

29 (III) ALLEVIATE THE SHORTAGE OF NONTRADITIONAL CAPITAL AND
30 CREDIT AVAILABLE AT AFFORDABLE INTEREST RATES FOR:

31 1. INVESTMENT IN AGRICULTURE TO PROMOTE AND ASSIST
32 AGRICULTURE IN THE STATE;

33 2. THE SALE OF AGRICULTURAL PRODUCTS, COMMODITIES, AND
34 SERVICES; AND

35 3. CAPITAL INVESTMENT IN AGRICULTURAL PROJECTS BY
36 PROVIDING CAPITAL AND CREDIT WITHIN THE FINANCIAL MEANS OF PERSONS ENGAGED
37 IN AGRICULTURE IN THE STATE.

38 (B) PURPOSES.

1 THE PURPOSE OF THE CORPORATION IS TO:

2 (1) ASSIST THE VIABILITY OF THE STATE'S DIVERSE AGRICULTURAL
3 INDUSTRY THROUGH DEVELOPMENT OF NEW MARKETS, CAPITAL AND CREDIT
4 ENHANCEMENTS, AND TECHNICAL AND OTHER ASSISTANCE TO SUPPORT, CREATE, AND
5 SUSTAIN AGRICULTURAL BUSINESSES THROUGHOUT THE STATE;

6 (2) PROVIDE FINANCING AND OTHER ASSISTANCE FOR PRODUCT
7 DEVELOPMENT, START-UP AND SCALE-UP OF FOOD-RELATED AND FIBER-RELATED
8 GROWING AND PROCESSING OPERATIONS IN THE STATE, AND FOR TECHNOLOGICAL
9 ENHANCEMENTS THAT BENEFIT THE ENVIRONMENT AND WATER QUALITY;

10 (3) SEEK PARTNERSHIPS AND LEVERAGING OPPORTUNITIES WITH PUBLIC
11 AND PRIVATE FOR-PROFIT AND NOT-FOR-PROFIT ENTITIES IN MAKING CAPITAL AND
12 CREDIT ASSISTANCE AVAILABLE TO INDIVIDUAL PRODUCERS, PRODUCER COOPERATIVES,
13 AND OTHER AGRIBUSINESS CONCERNS OPERATING IN THE STATE;

14 (4) FACILITATE AND SUPPORT ACCESS TO HIGH QUALITY TECHNICAL
15 RESOURCES FOR AGRICULTURAL ENTREPRENEURS BY INCORPORATING EXISTING SUPPORT
16 INFRASTRUCTURE INCLUDING THE DEVELOPMENT OF STRATEGIC PARTNERING
17 OPPORTUNITIES AND BUSINESS INCUBATION;

18 (5) FOSTER CROSS-INDUSTRY COMMUNICATION AND ASSIST OTHER
19 ORGANIZATIONS IN TRANSFERRING TO THE PRIVATE SECTOR AND COMMERCIALIZING THE
20 RESULTS AND PRODUCTS OF SCIENTIFIC AGRICULTURAL RESEARCH AND DEVELOPMENT
21 CONDUCTED BY THE FEDERAL GOVERNMENT AND COLLEGES AND UNIVERSITIES; AND

22 (6) WORK WITH PUBLIC AND PRIVATE LENDING AND GRANT-MAKING
23 INSTITUTIONS TO:

24 (i) MAKE LOW-INTEREST AND NO-INTEREST LOANS AND LOAN
25 GUARANTEES AVAILABLE FOR AGRICULTURAL PRODUCT DEVELOPMENT, PRIMARY
26 PROCESSING, AND SECONDARY MANUFACTURING;

27 (ii) PROVIDE CREDIT AND CAPITAL TO BEGINNING FARMERS FOR LAND,
28 EQUIPMENT, AND WORKING CAPITAL ACQUISITION;

29 (iii) MAKE INCENTIVES AVAILABLE FOR ACTIVITIES RELATED TO SMALL
30 FARM OR SMALL LANDOWNER VIABILITY AND BEST MANAGEMENT PRACTICES; AND

31 (iv) MAKE TEMPORARY LAND AND EASEMENT PURCHASES IN
32 ACCORDANCE WITH STATE OR LOCAL CRITICAL FARM ACQUISITION PROGRAMS.

33 REVISOR'S NOTE: This section formerly was Art. 41, §§ 13-502 and 13-503(c).

34 The only other changes are in style.

35 Defined terms: "Agricultural" § 10-501

36 "Agriculture" § 10-501

37 "Corporation" § 10-501

1 “Lending institution” § 10–501
2 “Person” §§ 9–101, 10–501
3 “State” § 9–101

4 10–503. CONSTRUCTION OF SUBTITLE.

5 THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO CARRY OUT ITS PURPOSES.

6 REVISOR’S NOTE: This section formerly was Art. 41, § 13–515.

7 No changes are made.

8 10–504. ESTABLISHED.

9 (A) IN GENERAL.

10 THERE IS A MARYLAND AGRICULTURAL AND RESOURCE–BASED INDUSTRY
11 DEVELOPMENT CORPORATION.

12 (B) STATUS.

13 THE CORPORATION IS A BODY POLITIC AND CORPORATE AND IS AN
14 INSTRUMENTALITY OF THE STATE.

15 REVISOR’S NOTE: This section formerly was Art. 41, § 13–503(a) and (b).

16 In subsection (b) of this section, the reference to a “body politic and
17 corporate” is substituted for the former reference to a “public corporation”
18 for accuracy and consistency with similar provisions revised in this article.

19 The only other changes are in style.

20 Defined terms: “Corporation” § 10–501
21 “State” § 9–101

22 10–505. BOARD OF DIRECTORS.

23 (A) IN GENERAL.

24 (1) THERE IS A BOARD OF DIRECTORS OF THE CORPORATION.

25 (2) THE BOARD MANAGES THE CORPORATION AND EXERCISES ALL OF ITS
26 CORPORATE POWERS.

27 (B) COMPOSITION; APPOINTMENT OF MEMBERS.

28 THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:

29 (1) AS EX OFFICIO MEMBERS:

1 (I) THE SECRETARY OR A DESIGNEE OF THE SECRETARY WHO IS A
2 SENIOR–LEVEL DEPARTMENTAL OFFICIAL;

3 (II) THE SECRETARY OF AGRICULTURE OR A DESIGNEE OF THE
4 SECRETARY WHO IS A SENIOR–LEVEL DEPARTMENTAL OFFICIAL;

5 (III) THE SECRETARY OF NATURAL RESOURCES OR A DESIGNEE OF
6 THE SECRETARY WHO IS A SENIOR–LEVEL DEPARTMENTAL OFFICIAL;

7 (IV) THE EXECUTIVE DIRECTOR OF THE MARYLAND FOOD CENTER
8 AUTHORITY;

9 (V) THE EXECUTIVE DIRECTOR OF THE RURAL MARYLAND COUNCIL;
10 AND

11 (VI) THE DIRECTOR OF THE MARYLAND COOPERATIVE EXTENSION
12 SERVICE; AND

13 (2) ELEVEN INDIVIDUALS APPOINTED BY THE GOVERNOR WITH THE ADVICE
14 AND CONSENT OF THE SENATE AS FOLLOWS:

15 (I) TWO AGRICULTURAL PRODUCERS REPRESENTING AT LEAST TWO
16 DIFFERENT FARM COMMODITY INDUSTRIES IN THE STATE;

17 (II) TWO REPRESENTATIVES FROM COMMERCIAL LENDING
18 INSTITUTIONS SERVING RURAL REGIONS IN THE STATE, ONE OF WHOM SHALL REPRESENT
19 A MAJOR FARM CREDIT ORGANIZATION OPERATING IN THE STATE;

20 (III) ONE REPRESENTATIVE OF THE TIMBER AND FOREST PRODUCTS
21 INDUSTRY;

22 (IV) ONE REPRESENTATIVE OF THE AQUACULTURE INDUSTRY;

23 (V) ONE REPRESENTATIVE OF THE COMMERCIAL SEAFOOD HARVESTING
24 AND PROCESSING INDUSTRY;

25 (VI) ONE INDIVIDUAL WITH KNOWLEDGE AND EXPERIENCE IN THE AREA
26 OF OPERATING COMMERCIAL FOOD OR FIBER PROCESSING FACILITIES;

27 (VII) ONE INDIVIDUAL WITH KNOWLEDGE AND EXPERIENCE IN THE AREA
28 OF PUBLIC FINANCE;

29 (VIII) ONE INDIVIDUAL WITH KNOWLEDGE AND EXPERIENCE IN THE AREA
30 OF RURAL ECONOMIC DEVELOPMENT OR AGRICULTURAL MARKETING; AND

31 (IX) ONE INDIVIDUAL WITH KNOWLEDGE ABOUT THE AGRICULTURAL,
32 FORESTRY, OR SEAFOOD INDUSTRIES OR AGRITOURISM IN THE STATE OR WITH
33 SUBSTANTIAL AND RELEVANT ECONOMIC DEVELOPMENT EXPERIENCE.

34 (C) QUALIFICATIONS.

1 A MEMBER OF THE BOARD SHALL BE A RESIDENT OF THE STATE.

2 (D) GEOGRAPHIC DIVERSITY.

3 IN APPOINTING MEMBERS OF THE BOARD UNDER SUBSECTION (B)(2) OF THIS
4 SECTION, THE GOVERNOR SHALL CONSIDER ALL OF THE GEOGRAPHIC REGIONS OF THE
5 STATE.

6 (E) TENURE; VACANCIES.

7 (1) THE TERM OF A MEMBER APPOINTED UNDER SUBSECTION (B)(2) OF
8 THIS SECTION IS 4 YEARS.

9 (2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS
10 REQUIRED BY THE TERMS PROVIDED FOR THE MEMBERS ON OCTOBER 1, 2008.

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

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

15 (F) REMOVAL.

16 THE GOVERNOR MAY REMOVE A MEMBER OF THE BOARD FOR INCOMPETENCE,
17 MISCONDUCT, OR FAILURE TO PERFORM THE DUTIES OF THE POSITION.

18 (G) CHAIR.

19 THE BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

20 (H) VOTING.

21 THE BOARD MAY ACT WITH AN AFFIRMATIVE VOTE OF NINE MEMBERS.

22 (I) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

23 A MEMBER OF THE BOARD:

24 (1) SERVES WITHOUT COMPENSATION AS A MEMBER OF THE BOARD; BUT

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

27 REVISOR'S NOTE: This section formerly was Art. 41, § 13–504.

28 In subsection (e)(2) of this section, the reference to terms being staggered
29 as required for appointed Board members on “October 1, 2008” is
30 substituted for the former reference to terms being staggered as required
31 for the terms provided on “July 1, 2004”. This substitution is not intended
32 to alter the term of any member of the Board. *See* § 13 of Ch. ___, Acts of

1 2008. The terms of the members serving on October 1, 2008 end as follows:
2 (1) two on June 30, 2009; (2) three on June 30, 2010; (3) three on June 30,
3 2011; and (4) three on June 30, 2012.

4 In subsection (i) of this section, the reference to compensation “as a
5 member of the Board” is added for clarity and consistency within this
6 article.

7 The only other changes are in style.

8 Defined terms: “Agricultural” § 10–501
9 “Board” § 10–501
10 “Corporation” § 10–501
11 “Lending institution” § 10–501
12 “State” § 9–101

13 10–506. EXECUTIVE DIRECTOR.

14 THE CORPORATION SHALL EMPLOY AN EXECUTIVE DIRECTOR WITH EXPERIENCE
15 AND QUALIFICATIONS RELEVANT TO THE ACTIVITIES AND THE PURPOSES OF THE
16 CORPORATION.

17 REVISOR’S NOTE: This section formerly was Art. 41, § 13–505.

18 No changes are made.

19 Defined term: “Corporation” § 10–501

20 10–507. LEGAL ADVISOR.

21 THE ATTORNEY GENERAL SERVES AS LEGAL ADVISOR TO THE CORPORATION.

22 REVISOR’S NOTE: This section formerly was Art. 41, § 13–506.

23 The only changes are in style.

24 Defined term: “Corporation” § 10–501

25 10–508. APPLICABILITY OF OTHER LAWS.

26 (A) IN GENERAL.

27 THE CORPORATION IS EXEMPT FROM:

28 (1) TITLE 10 AND DIVISION II OF THE STATE FINANCE AND
29 PROCUREMENT ARTICLE;

30 (2) LAWS GOVERNING THE STATE PERSONNEL MANAGEMENT SYSTEM
31 UNDER DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE; AND

1 (3) ARTICLE 31, §§ 9, 10, AND 11 OF THE CODE (CONDITIONS UPON
2 SALE OF PUBLIC SECURITIES).

3 (B) PUBLIC INFORMATION; OPEN MEETINGS.

4 (1) THE CORPORATION IS SUBJECT TO THE PUBLIC INFORMATION ACT.

5 (2) THE CORPORATION IS EXEMPT FROM THE OPEN MEETINGS ACT.

6 (C) ETHICS.

7 THE BOARD AND EMPLOYEES OF THE CORPORATION ARE SUBJECT TO THE PUBLIC
8 ETHICS LAW.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 41, § 13–513(a)(2) through (5) and (b).

11 Defined terms: “Board” § 10–501

12 “Corporation” § 10–501

13 “State” § 9–101

14 10–509. POWERS — IN GENERAL.

15 THE CORPORATION MAY:

16 (1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;

17 (2) ADOPT A SEAL;

18 (3) MAINTAIN AN OFFICE AT A PLACE IT DESIGNATES IN THE STATE;

19 (4) ACCEPT LOANS, GRANTS, OR FINANCIAL AND TECHNICAL ASSISTANCE IN
20 ANY FORM FROM THE FEDERAL OR STATE GOVERNMENT, LOCAL GOVERNMENTS,
21 COLLEGES OR UNIVERSITIES, OR A PRIVATE SOURCE;

22 (5) ENTER INTO CONTRACTS AND OTHER LEGAL INSTRUMENTS;

23 (6) SUE OR BE SUED;

24 (7) ACQUIRE, PURCHASE, HOLD, LEASE AS A LESSEE, AND USE ANY
25 FRANCHISE, PATENT, OR LICENSE AND REAL, PERSONAL, MIXED, OR TANGIBLE OR
26 INTANGIBLE PROPERTY, OR ANY INTEREST IN PROPERTY;

27 (8) OWN, IMPROVE, SELL, LEASE AS A LESSOR, TRANSFER, LICENSE, ASSIGN,
28 ENCUMBER, AND DISPOSE OF ANY PROPERTY OR INTEREST IN PROPERTY, NECESSARY OR
29 CONVENIENT TO CARRY OUT ITS PURPOSES AT PUBLIC SALE, WITH OR WITHOUT PUBLIC
30 BIDDING;

31 (9) FIX AND COLLECT RATES, RENTALS, FEES, ROYALTIES, AND CHARGES
32 FOR THE USE OF OR FOR SERVICES AND RESOURCES IT PROVIDES OR MAKES AVAILABLE;

1 (10) RETAIN ANY NECESSARY ACCOUNTANTS, ENGINEERS, FINANCIAL
2 ADVISORS, AND OTHER CONSULTANTS;

3 (11) WITH THE APPROVAL OF THE ATTORNEY GENERAL, RETAIN ANY
4 NECESSARY LAWYERS;

5 (12) FURTHER DEFINE OR LIMIT THE TERM “REVENUE” DEFINED IN §
6 10–501 OF THIS SUBTITLE AS THE TERM APPLIES TO A PARTICULAR PROJECT,
7 FINANCING, OR OTHER MATTER;

8 (13) CREATE, OWN, CONTROL, OR BE A MEMBER OF A CORPORATION, LIMITED
9 LIABILITY COMPANY, PARTNERSHIP, OR OTHER PERSON, WHETHER OPERATED FOR PROFIT
10 OR NOT FOR PROFIT;

11 (14) EXERCISE A POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN
12 PERFORMING SIMILAR FUNCTIONS UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW;
13 AND

14 (15) DO ANYTHING NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS
15 GRANTED BY THIS SUBTITLE.

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 41, §§ 13–501(j)(3) and 13–507(1) through (6), (8),
18 (9), (11), (13) through (15), (17), and (18), and 13–508(5), (8), and (9).

19 Former Art. 41, § 13–508(5), which authorized the Corporation to receive
20 certain public and private financial and technical assistance, is deleted as
21 redundant of item (4) of this section.

22 Former Art. 41, § 13–508(8), which authorized the Corporation to acquire
23 property in certain manners, is deleted as redundant of item (7) of this
24 section.

25 Defined terms: “Corporation” § 10–501

26 “Finance” § 10–501

27 “Person” §§ 9–101, 10–501

28 “Project” § 10–501

29 “Revenue” § 10–501

30 “State” § 9–101

31 10–510. POWERS — GRANTS AND INVESTMENTS.

32 THE CORPORATION MAY MAKE GRANTS TO OR PROVIDE EQUITY INVESTMENT
33 FINANCING FOR AGRICULTURAL AND RESOURCE–BASED BUSINESSES.

34 REVISOR’S NOTE: This section formerly was Art. 41, § 13–507(12).

35 It is set forth as a separate section for emphasis.

36 No changes are made.

1 Defined terms: “Agricultural” § 10–501

2 “Corporation” § 10–501

3 10–511. POWERS — PROJECTS.

4 THE CORPORATION MAY:

5 (1) ACQUIRE, IMPROVE, DEVELOP, MANAGE, MARKET, MANUFACTURE,
6 LICENSE, MAINTAIN, LEASE AS LESSOR OR AS LESSEE, AND OPERATE A PROJECT IN THE
7 STATE TO CARRY OUT THE PURPOSES OF THE CORPORATION;

8 (2) ACQUIRE, DIRECTLY OR INDIRECTLY, BY PURCHASE, GIFT, OR DEVISE,
9 PROPERTY, RIGHTS, RIGHTS-OF-WAY, FRANCHISES, EASEMENTS, AND OTHER INTERESTS
10 IN LAND, INCLUDING LAND LYING UNDER WATER AND RIPARIAN RIGHTS, LOCATED IN OR
11 OUTSIDE THE STATE AS NECESSARY OR CONVENIENT TO IMPROVE OR OPERATE A
12 PROJECT, ON TERMS AND AT PRICES THE CORPORATION CONSIDERS REASONABLE; AND

13 (3) ENTER INTO A PROJECT WITH A MANUFACTURER TO CARRY OUT THE
14 PURPOSES OF THIS SUBTITLE.

15 REVISOR’S NOTE: This section is new language derived without substantive
16 change from former Art. 41, § 13–507(7), (10), and (16).

17 In item (2) of this section, the former references to “real or personal”
18 property are deleted as included in the comprehensive reference to
19 “property”.

20 Defined terms: “Corporation” § 10–501

21 “Improve” § 10–501

22 “Project” § 10–501

23 “State” § 9–101

24 10–512. POWERS — BORROWING AND LENDING AUTHORITY.

25 THE CORPORATION MAY:

26 (1) (I) BORROW MONEY AND ISSUE BONDS;

27 (II) PURCHASE, DISCOUNT, SELL, NEGOTIATE AND GUARANTEE,
28 INSURE, CO-INSURE, AND REINSURE NEGOTIABLE INSTRUMENTS, BILLS OF EXCHANGE,
29 ACCEPTANCES, BANKERS’ ACCEPTANCES, CABLE TRANSFERS, LETTERS OF CREDIT, AND
30 OTHER EVIDENCES OF INDEBTEDNESS; AND

31 (III) PROVIDE FOR THE RIGHTS OF LENDERS AND BONDHOLDERS;

32 (2) PROCURE INSURANCE OR REINSURANCE AGAINST:

33 (I) LOSS IN CONNECTION WITH ITS PROPERTY OR OPERATIONS,
34 INCLUDING INSURANCE, REINSURANCE, OR OTHER GUARANTEES FROM ANY FEDERAL OR
35 STATE UNIT OR PRIVATE INSURANCE COMPANY FOR THE PAYMENT OF BONDS ISSUED BY

1 THE CORPORATION, OR BONDS, NOTES, OR ANY OTHER OBLIGATIONS ISSUED OR MADE BY
2 ANY LENDER OR OTHER PERSON; OR

3 (II) LOSS WITH RESPECT TO AGRICULTURAL LOANS, MORTGAGES OR
4 MORTGAGE LOANS, OR ANY OTHER TYPE OF LOANS, INCLUDING THE POWER TO PAY
5 PREMIUMS ON THE INSURANCE OR REINSURANCE;

6 (3) (I) INSURE, CO-INSURE, OR REINSURE AGRICULTURAL LOANS,
7 MORTGAGE LOANS OR MORTGAGES, OR ANY OTHER TYPE OF LOANS;

8 (II) PAY OR RECEIVE PREMIUMS ON THE INSURANCE, CO-INSURANCE,
9 OR REINSURANCE;

10 (III) ESTABLISH RESERVES FOR LOSSES; AND

11 (IV) PARTICIPATE IN THE INSURANCE, CO-INSURANCE, OR
12 REINSURANCE OF AGRICULTURAL LOANS, MORTGAGE LOANS OR MORTGAGES, OR ANY
13 OTHER TYPE OF LOANS WITH THE FEDERAL OR STATE GOVERNMENT OR ANY PRIVATE
14 INSURANCE COMPANY;

15 (4) MAKE LOANS TO OR DEPOSITS WITH LENDERS;

16 (5) PURCHASE OR SELL AGRICULTURAL LOANS;

17 (6) FIX AND COLLECT FEES AND CHARGES IN CONNECTION WITH ITS LOANS,
18 DEPOSITS, INSURANCE COMMITMENTS, AND SERVICES, INCLUDING REIMBURSEMENT OF
19 COSTS OF ISSUING BONDS, ORIGINATION AND SERVICING FEES, AND INSURANCE
20 PREMIUMS; AND

21 (7) SUBJECT TO THE RIGHTS OF ITS BONDHOLDERS:

22 (I) RENEGOTIATE, REFINANCE, OR FORECLOSE ON A MORTGAGE,
23 SECURITY INTEREST, OR LIEN;

24 (II) COMMENCE AN ACTION TO PROTECT OR ENFORCE ANY RIGHT OR
25 BENEFIT CONFERRED ON THE CORPORATION BY ANY LAW OR AGREEMENT;

26 (III) CONSENT TO MODIFICATION OF AN INTEREST RATE, TIME,
27 PAYMENT, SECURITY, OR OTHER TERM OR CONDITION OF AN AGREEMENT TO WHICH THE
28 CORPORATION IS A PARTY OR BENEFICIARY;

29 (IV) BID FOR AND PURCHASE PROPERTY AT ANY FORECLOSURE OR AT
30 ANY OTHER SALE, OR OTHERWISE ACQUIRE OR TAKE POSSESSION OF ANY PROPERTY; AND

31 (V) IN CONNECTION WITH AN ACQUISITION UNDER ITEM (IV) OF THIS
32 PARAGRAPH, COMPLETE, ADMINISTER, PAY THE PRINCIPAL OF AND INTEREST ON ANY
33 OBLIGATION INCURRED IN CONNECTION WITH THE PROPERTY, DISPOSE OF, AND
34 OTHERWISE DEAL WITH THE PROPERTY IN ANY MANNER NECESSARY OR DESIRABLE TO
35 PROTECT THE INTEREST OF THE CORPORATION OR ITS BONDHOLDERS IN THE PROPERTY.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 41, § 13–508 (1) through (3), (6), (7), (10), and (11).

3 In item (1)(ii) of this section, the reference to “negotiable instruments” is
4 substituted for the former reference to “notes, drafts, [and] checks” for
5 brevity.

6 Defined terms: “Agricultural loan” § 10–501

7 “Bond” § 10–501

8 “Corporation” § 10–501

9 “Finance” § 10–501

10 “Lending institution” § 10–501

11 “Person” §§ 9–101, 10–501

12 “State” § 9–101

13 10–513. BONDS — IN GENERAL.

14 (A) RESOLUTION.

15 THE CORPORATION MAY AUTHORIZE THE ISSUANCE OF REVENUE BONDS BY
16 RESOLUTION.

17 (B) PURPOSES.

18 THE CORPORATION MAY ISSUE THE BONDS:

19 (1) TO FINANCE ALL OR PART OF THE COSTS OF A PROJECT; AND

20 (2) FOR ANY OTHER LAWFUL PURPOSE OF THE CORPORATION AUTHORIZED
21 IN THIS SUBTITLE.

22 (C) TIMING.

23 THE CORPORATION MAY ISSUE THE BONDS AT ONE TIME OR FROM TIME TO TIME.

24 (D) TERMS AND CONDITIONS.

25 THE CORPORATION SHALL DETERMINE:

26 (1) THE DATE OF THE BONDS;

27 (2) THE INTEREST RATES OF THE BONDS;

28 (3) THE MATURITY DATE OF THE BONDS, WHICH MAY NOT EXCEED 40
29 YEARS FROM THE DATE OF ISSUE;

30 (4) THE PRICES, TERMS, AND CONDITIONS OF SALE OF THE BONDS;

31 (5) THE FORM OF THE BONDS;

32 (6) THE MANNER OF EXECUTING THE BONDS;

1 (7) THE DENOMINATIONS OF THE BONDS; AND

2 (8) THE PLACES OF PAYMENT OF PRINCIPAL OF AND INTEREST ON THE
3 BONDS, AT A BANK OR TRUST COMPANY IN OR OUTSIDE THE STATE.

4 (E) VALIDITY OF SIGNATURE.

5 AN OFFICER'S SIGNATURE OR FACSIMILE SIGNATURE ON A BOND REMAINS VALID
6 EVEN IF THE OFFICER LEAVES OFFICE BEFORE THE BOND IS DELIVERED.

7 (F) NEGOTIABILITY.

8 (1) THE BONDS ARE NEGOTIABLE INSTRUMENTS UNDER THE LAWS OF THE
9 STATE.

10 (2) BONDS MAY BE REGISTRABLE.

11 (G) SALE.

12 (1) THE CORPORATION MAY SELL THE BONDS BY COMPETITIVE OR
13 NEGOTIATED SALE IN A MANNER AND FOR A PRICE THAT THE CORPORATION
14 DETERMINES.

15 (2) THE BONDS ARE EXEMPT FROM §§ 8–206 AND 8–208 OF THE STATE
16 FINANCE AND PROCUREMENT ARTICLE.

17 (H) ESCROW.

18 BOND PROCEEDS MAY BE PLACED IN ESCROW PENDING APPLICATION OF THE
19 PROCEEDS TO THE PURPOSES FOR WHICH THE BONDS ARE ISSUED.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 41, §§ 13–508(12) and 13–510(a), (b), and (d)
22 through (g).

23 Defined terms: "Bond" § 10–501

24 "Corporation" § 10–501

25 "Finance" § 10–501

26 "Project" § 10–501

27 "State" § 9–101

28 10–514. BONDS — LIABILITY; FULL FAITH AND CREDIT.

29 (A) CONSTRUCTION OF SECTION.

30 (1) THIS SECTION DOES NOT PREVENT THE CORPORATION FROM PLEDGING
31 ITS FULL FAITH AND CREDIT TO THE PAYMENT OF A BOND.

32 (2) THIS SECTION DOES NOT LIMIT THE ABILITY OF THE STATE OR A
33 POLITICAL SUBDIVISION TO IMPOSE AN ASSESSMENT, RATE, FEE, OR CHARGE TO PAY TO
34 THE CORPORATION ANY COST, INCLUDING THE PRINCIPAL OF AND INTEREST ON A BOND,

1 UNDER AN AGREEMENT BETWEEN THE CORPORATION AND THE STATE OR POLITICAL
2 SUBDIVISION.

3 (B) LIABILITY LIMITATIONS.

4 (1) A BOND:

5 (I) IS NOT A DEBT, LIABILITY, OR A PLEDGE OF THE FULL FAITH AND
6 CREDIT OF THE STATE OR OF ANY POLITICAL SUBDIVISION; AND

7 (II) IS PAYABLE SOLELY FROM REVENUES PROVIDED UNDER THIS
8 SUBTITLE.

9 (2) THE ISSUANCE OF A BOND IS NOT DIRECTLY, INDIRECTLY, OR
10 CONTINGENTLY A MORAL OR OTHER OBLIGATION OF THE STATE OR A POLITICAL
11 SUBDIVISION TO LEVY OR PLEDGE ANY TAX OR TO MAKE AN APPROPRIATION TO PAY THE
12 BOND.

13 (3) EACH BOND SHALL STATE ON ITS FACE THAT:

14 (I) NEITHER THE STATE NOR A POLITICAL SUBDIVISION, OTHER THAN
15 THE CORPORATION, IS OBLIGED TO PAY THE PRINCIPAL OF OR INTEREST ON THE BOND,
16 EXCEPT FROM REVENUES PLEDGED TO PAYMENT OF THE BOND; AND

17 (II) NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF
18 THE STATE OR A POLITICAL SUBDIVISION IS PLEDGED TO THE PAYMENT OF THE
19 PRINCIPAL OF OR INTEREST ON THE BOND.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 41, § 13–510(c).

22 In subsection (b)(1) and (3) of this section, the former references to the
23 liability of “the Corporation” are deleted as surplusage. The liability of the
24 Corporation on a bond is governed by the particular bond issue and at the
25 option of the Corporation. No substantive change is intended.

26 Defined terms: “Bond” § 10–501

27 “Corporation” § 10–501

28 “Project” § 10–501

29 “Revenue” § 10–501

30 “State” § 9–101

31 10–515. BONDS — TRUST AGREEMENT.

32 (A) CORPORATE TRUSTEE.

33 (1) THE CORPORATION MAY SECURE A BOND BY A TRUST AGREEMENT
34 BETWEEN THE CORPORATION AND A CORPORATE TRUSTEE.

35 (2) A CORPORATE TRUSTEE MAY BE ANY TRUST COMPANY OR BANK THAT
36 HAS THE POWERS OF A TRUST COMPANY IN OR OUTSIDE THE STATE.

1 (3) A CORPORATION OR TRUST COMPANY INCORPORATED IN THE STATE
2 MAY:

3 (I) ACT AS DEPOSITORY OF BOND PROCEEDS OR REVENUE; AND

4 (II) FURNISH ANY INDEMNITY BOND OR PLEDGE SECURITY THAT THE
5 CORPORATION REQUIRES.

6 (B) CONTENTS.

7 THE TRUST AGREEMENT OR THE RESOLUTION THAT PROVIDES FOR THE ISSUANCE
8 OF A BOND MAY:

9 (1) STATE THE RIGHTS AND REMEDIES OF BONDHOLDERS AND ANY
10 TRUSTEE;

11 (2) CONTAIN PROVISIONS TO PROTECT AND ENFORCE THE RIGHTS AND
12 REMEDIES OF BONDHOLDERS;

13 (3) CONTAIN COVENANTS STATING THE DUTIES OF THE CORPORATION AS TO
14 THE CUSTODY, SAFEGUARDING, AND APPLICATION OF MONEY;

15 (4) RESTRICT THE INDIVIDUAL RIGHT OF ACTION OF BONDHOLDERS;

16 (5) PROVIDE FOR THE PAYMENT OF THE BOND PROCEEDS AND REVENUES TO
17 AN OFFICER, BOARD, OR DEPOSITORY THAT THE CORPORATION DETERMINES WITH THE
18 SAFEGUARDS AND RESTRICTIONS THAT THE CORPORATION DETERMINES; AND

19 (6) PROVIDE FOR THE METHOD OF DISBURSEMENT OF THE BOND PROCEEDS
20 AND REVENUES, WITH THE SAFEGUARDS AND RESTRICTIONS THAT THE CORPORATION
21 DETERMINES.

22 (C) EXPENSES.

23 EXPENSES INCURRED IN CARRYING OUT A TRUST AGREEMENT MAY BE TREATED AS
24 A PART OF THE COST OF OPERATION OF THE CORPORATION.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 41, § 13–510(1).

27 Defined terms: “Bond” § 10–501

28 “Corporation” § 10–501

29 “Revenue” § 10–501

30 “State” § 9–101

31 10–516. BONDS — INVESTMENT OF PROCEEDS.

32 (A) IN GENERAL.

1 THE PORTION OF THE PROCEEDS OF BONDS ISSUED TO PAY COSTS OF A PROJECT
2 MAY BE INVESTED IN INVESTMENTS OR OTHER OBLIGATIONS THAT MATURE NO LATER
3 THAN THE TIMES WHEN THE PROCEEDS WILL BE NEEDED.

4 (B) DECISION MAKING.

5 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
6 CORPORATION SHALL DETERMINE THE INVESTMENT OF BOND PROCEEDS.

7 (2) IF THE CORPORATION LOANS THE PROCEEDS OF THE BONDS TO A
8 PERSON AS PROVIDED IN § 10–519 OF THIS SUBTITLE, THE LOAN RECIPIENT SHALL
9 DETERMINE THE INVESTMENT OF BOND PROCEEDS.

10 (C) USE.

11 THE CORPORATION OR THE LOAN RECIPIENT MAY APPLY EARNINGS AND PROFITS
12 ON INVESTMENTS OR OTHER OBLIGATIONS:

13 (1) TO THE PAYMENT OF ANY COST; OR

14 (2) IN ANY OTHER LAWFUL MANNER.

15 REVISOR’S NOTE: This section is new language derived without substantive
16 change from former Art. 41, § 13–510(i).

17 Defined terms: “Bond” § 10–501

18 “Corporation” § 10–501

19 “Person” §§ 9–101, 10–501

20 “Project” § 10–501

21 10–517. BONDS — REFUNDING BONDS.

22 (A) REASONS FOR ISSUANCE.

23 (1) THE CORPORATION MAY ISSUE BONDS TO REFUND ANY OUTSTANDING
24 BONDS, INCLUDING PAYING:

25 (I) ANY REDEMPTION PREMIUM;

26 (II) INTEREST ACCRUED OR TO ACCRUE TO THE DATE OF REDEMPTION,
27 PURCHASE, OR MATURITY OF THE BONDS; AND

28 (III) IF CONSIDERED ADVISABLE BY THE CORPORATION, ANY PART OF
29 THE COST OF A PROJECT.

30 (2) REFUNDING BONDS MAY BE ISSUED FOR ANY CORPORATE PURPOSE,
31 INCLUDING:

32 (I) REALIZING SAVINGS IN THE EFFECTIVE COSTS OF DEBT SERVICE,
33 DIRECTLY OR THROUGH A DEBT RESTRUCTURING;

1 (II) ALLEVIATING AN IMPENDING OR ACTUAL DEFAULT; OR

2 (III) RELIEVING THE CORPORATION OF A CONTRACTUAL AGREEMENT
3 THAT THE CORPORATION FINDS TO BE UNREASONABLY ONEROUS, IMPRACTICABLE, OR
4 IMPOSSIBLE TO PERFORM.

5 (B) ISSUANCE.

6 (1) THE CORPORATION MAY ISSUE REFUNDING BONDS IN ONE OR MORE
7 SERIES IN AN AMOUNT GREATER THAN THE AMOUNT OF THE BONDS TO BE REFUNDED.

8 (2) (I) REFUNDING BONDS MAY BE MADE PAYABLE FROM:

9 1. ESCROWED BOND PROCEEDS;

10 2. EARNINGS AND PROFITS, IF ANY, ON INVESTMENTS; OR

11 3. ANY OTHER SOURCE.

12 (II) THESE SOURCES:

13 1. MAY BE APPLIED TO OTHER USES; AND

14 2. CONSTITUTE REVENUES OF A PROJECT UNDER THIS
15 SUBTITLE.

16 (C) PROCEEDS.

17 IN THE DISCRETION OF THE CORPORATION, THE PROCEEDS OF REFUNDING BONDS
18 MAY BE:

19 (1) APPLIED TO THE PURCHASE, RETIREMENT AT MATURITY, OR
20 REDEMPTION OF OUTSTANDING BONDS ON A DATE THE CORPORATION DETERMINES; AND

21 (2) PENDING APPLICATION UNDER ITEM (1) OF THIS SUBSECTION, PLACED
22 IN ESCROW.

23 (D) INVESTMENT OF PROCEEDS.

24 (1) THE CORPORATION MAY INVEST ESCROWED REFUNDING BOND
25 PROCEEDS IN INVESTMENTS AND OTHER OBLIGATIONS, MATURING ON APPROPRIATE
26 DATES TO ASSURE THE PROMPT PAYMENT OF THE PRINCIPAL OF, INTEREST ON, AND ANY
27 REDEMPTION PREMIUM ON THE BONDS TO BE REFUNDED.

28 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH,
29 THE CORPORATION SHALL DETERMINE THE INVESTMENT OF THE PROCEEDS OF
30 REFUNDING BONDS.

31 (II) IF THE CORPORATION LOANS THE PROCEEDS OF REFUNDING
32 BONDS TO A PERSON AS PROVIDED IN § 10-519 OF THIS SUBTITLE, THE LOAN

1 RECIPIENT SHALL DETERMINE THE INVESTMENT OF THE PROCEEDS OF REFUNDING
2 BONDS.

3 (3) THE EARNINGS AND ANY PROFITS ON INVESTMENTS OR OTHER
4 OBLIGATIONS MAY BE APPLIED TO THE PAYMENT OF THE OUTSTANDING BONDS TO BE
5 REFUNDED.

6 (4) AFTER THE TERMS OF THE ESCROW HAVE BEEN FULLY SATISFIED, THE
7 BALANCE OF THE PROCEEDS AND EARNINGS AND PROFITS ON INVESTMENTS OR OTHER
8 OBLIGATIONS MAY BE RETURNED TO THE CORPORATION OR THE LOAN RECIPIENT FOR
9 USE IN ANY LAWFUL MANNER.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 41, § 13–510(h).

12 Defined terms: “Bond” § 10–501
13 “Corporation” § 10–501
14 “Person” §§ 9–101, 10–501
15 “Project” § 10–501
16 “Revenue” § 10–501

17 10–518. PLEDGE.

18 (A) ASSETS THAT MAY BE PLEDGED.

19 THE CORPORATION MAY PLEDGE OR ASSIGN:

20 (1) ANY OF ITS REVENUES;

21 (2) ANY OF ITS RIGHTS TO RECEIVE REVENUES;

22 (3) MONEY AND SECURITIES IN ACCOUNTS ESTABLISHED TO SECURE A
23 BOND; AND

24 (4) A LIEN OR SECURITY INTEREST GRANTED OR ASSIGNMENT MADE TO THE
25 CORPORATION.

26 (B) STATUS.

27 A PLEDGE OR ASSIGNMENT:

28 (1) IS VALID AND BINDING AGAINST ANY PERSON HAVING A CLAIM AGAINST
29 THE CORPORATION, IN CONTRACT, TORT, OR OTHERWISE, REGARDLESS OF WHETHER THE
30 PERSON HAS NOTICE OF THE PLEDGE OR ASSIGNMENT; AND

31 (2) HAS PRIORITY OVER THE CLAIM.

32 (C) CREATION.

1 A RESOLUTION, TRUST AGREEMENT, ASSIGNMENT, FINANCING AGREEMENT, OR
2 OTHER INSTRUMENT THAT CREATES A LIEN, SECURITY INTEREST, ASSIGNMENT, OR
3 PLEDGE UNDER SUBSECTION (A) OF THIS SECTION:

4 (1) SHALL BE FILED IN THE RECORDS OF THE CORPORATION; BUT

5 (2) NEED NOT BE FILED OR RECORDED ELSEWHERE.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 41, § 13–510(j).

8 In subsection (a)(4) of this section, the word “to” is substituted for the
9 former word “by” for clarity and accuracy. No substantive change is
10 intended.

11 Defined terms: “Bond” § 10–501
12 “Corporation” § 10–501
13 “Person” §§ 9–101, 10–501
14 “Revenue” § 10–501

15 10–519. PROJECT FINANCING.

16 (A) LOANS.

17 THE CORPORATION MAY:

18 (1) LEND OR OTHERWISE MAKE AVAILABLE THE PROCEEDS OF ITS BONDS TO
19 A PERSON TO FINANCE COSTS OF A PROJECT; AND

20 (2) ENTER INTO A FINANCING AGREEMENT, MORTGAGE, OR OTHER
21 INSTRUMENT THAT IT DETERMINES IS NECESSARY OR DESIRABLE TO EVIDENCE OR
22 SECURE THE LOAN.

23 (B) LEASES.

24 (1) A LEASE FOR A PROJECT MAY REQUIRE OR AUTHORIZE THE LESSEE OR
25 ANOTHER PERSON TO PURCHASE OR OTHERWISE ACQUIRE THE PROJECT FOR
26 CONSIDERATION, THAT THE CORPORATION ESTABLISHES, ON:

27 (I) PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS
28 THAT FINANCED THE COST OF THE PROJECT; OR

29 (II) OTHER PROVISION FOR PAYMENT SATISFACTORY TO THE
30 CORPORATION.

31 (2) CONSIDERATION REQUIRED UNDER PARAGRAPH (1) OF THIS
32 SUBSECTION MAY BE NOMINAL.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 41, § 13–510(k).

1 Defined terms: “Bond” § 10–501

2 “Corporation” § 10–501

3 “Person” §§ 9–101, 10–501

4 “Project” § 10–501

5 **10–520. AGRICULTURAL LOANS.**

6 (A) **IN GENERAL.**

7 (1) **THE CORPORATION MAY PURCHASE AND SELL AGRICULTURAL LOANS**
8 **MADE BY LENDERS, AT THE PRICES AND ON THE TERMS AND CONDITIONS THAT IT**
9 **DETERMINES.**

10 (2) **A LENDER MAY PURCHASE AND SELL AGRICULTURAL LOANS TO THE**
11 **CORPORATION IN ACCORDANCE WITH THIS SECTION.**

12 (B) **TERMS.**

13 (1) **THE CORPORATION MAY MAKE LOANS TO AND DEPOSITS WITH LENDERS**
14 **AT INTEREST RATES, TERMS, AND CONDITIONS THAT IT DETERMINES.**

15 (2) **A LENDER MAY BORROW FUNDS AND ACCEPT DEPOSITS FROM THE**
16 **CORPORATION IN ACCORDANCE WITH THIS SUBTITLE AND THE BYLAWS OF THE**
17 **CORPORATION.**

18 (3) **THE CORPORATION SHALL REQUIRE THAT ALL PROCEEDS OF ITS LOANS**
19 **TO OR DEPOSITS WITH LENDERS, OR AN EQUIVALENT AMOUNT, SHALL BE USED BY THE**
20 **LENDERS TO MAKE AGRICULTURAL LOANS, SUBJECT TO TERMS AND CONDITIONS THAT**
21 **THE CORPORATION DETERMINES.**

22 (C) **INSURANCE.**

23 (1) **THE CORPORATION MAY INSURE AND REINSURE AGRICULTURAL LOANS**
24 **MADE BY LENDERS, SUBJECT TO THE TERMS, SECURITY PROVISIONS, AND RESERVE**
25 **REQUIREMENTS DETERMINED BY THE CORPORATION IN ACCORDANCE WITH THE BYLAWS**
26 **OF THE CORPORATION.**

27 (2) **UNLESS OTHERWISE DETERMINED BY THE CORPORATION,**
28 **AGRICULTURAL LOANS SHALL BE INSURED TO THE AMOUNT OF 100% OF THE UNPAID**
29 **PRINCIPAL OF AND INTEREST ON EACH AGRICULTURAL LOAN.**

30 (D) **DEFAULT.**

31 **AN INSURED AGRICULTURAL LOAN IS IN DEFAULT WHEN THE HOLDER OF THE**
32 **AGRICULTURAL LOAN REQUESTS THE CORPORATION TO PAY INSURANCE ON THE LOAN IN**
33 **ACCORDANCE WITH ANY AGREEMENT WITH RESPECT TO THE INSURANCE EXECUTED IN**
34 **ACCORDANCE WITH THIS SECTION.**

35 (E) **ADMINISTRATION.**

1 THE CORPORATION MAY ENTER INTO AGREEMENTS WITH ANY PERSON, LENDER, OR
2 HOLDER OF AN INSURED AGRICULTURAL LOAN TO:

3 (1) PROVIDE FOR THE ADMINISTRATION, APPLICATION, AND REPAYMENT OF
4 THE AGRICULTURAL LOAN; AND

5 (2) ESTABLISH THE CONDITIONS FOR PAYMENT OF INSURANCE BY THE
6 CORPORATION, AND THE SERVICING, SUIT ON, OR FORECLOSURE OF THE AGRICULTURAL
7 LOAN.

8 (F) LIMITATION.

9 (1) THE AGGREGATE VALUE OF ALL AGRICULTURAL LOANS INSURED BY THE
10 CORPORATION AND OUTSTANDING AT ANY ONE TIME MAY NOT EXCEED 20 TIMES THE
11 TOTAL VALUE OF MONEY, INVESTMENTS, PROPERTIES, AND OTHER ASSETS OF THE
12 CORPORATION.

13 (2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE
14 AGGREGATE VALUE OF AGRICULTURAL LOANS INSURED AND OUTSTANDING MAY BE
15 FURTHER EXPANDED BY USE OF FEDERAL, STATE, OR PRIVATE LOAN INSURANCE,
16 REINSURANCE, OR GUARANTEES OF WHICH THE CORPORATION IS OR SHALL BECOME THE
17 BENEFICIARY.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 41, § 13–509.

20 Defined terms: “Agricultural loan” § 10–501

21 “Corporation” § 10–501

22 “Lending institution” § 10–501

23 “Person” §§ 9–101, 10–501

24 “State” § 9–101

25 10–521. AGRICULTURAL STUDIES.

26 THE CORPORATION MAY:

27 (1) STUDY AGRICULTURAL CONDITIONS AND NEEDS IN THE STATE, NEEDS
28 RELATING TO THE PROMOTION OF AGRICULTURAL INDUSTRIES, AND WAYS OF MEETING
29 THOSE NEEDS;

30 (2) MAKE THE STUDIES AVAILABLE TO THE PUBLIC AND TO AGRICULTURAL
31 INDUSTRIES; AND

32 (3) ENGAGE IN RESEARCH OR DISSEMINATE INFORMATION ON AGRICULTURE
33 AND AGRICULTURAL MARKETING AND PROMOTION.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 41, § 13–508(4).

1 Defined terms: “Agricultural” § 10–501

2 “Agriculture” § 10–501

3 “Corporation” § 10–501

4 “State” § 9–101

5 10–522. COOPERATION WITH OTHER UNITS.

6 (A) IN GENERAL.

7 (1) EACH UNIT IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT AND
8 EACH INSTITUTION OF HIGHER EDUCATION IN THE STATE MAY WORK WITH THE
9 CORPORATION ON MATTERS RELATING TO THE UNIT.

10 (2) EACH POLITICAL SUBDIVISION AND REGIONAL PLANNING AND
11 DEVELOPMENT COUNCIL IN THE STATE MAY WORK WITH THE CORPORATION ON MATTERS
12 RELATING TO THE POLITICAL SUBDIVISION OR ENTITY.

13 (B) TECHNICAL SUPPORT.

14 THE FOLLOWING UNITS MAY PROVIDE TECHNICAL AND OTHER SUPPORT TO THE
15 CORPORATION:

16 (1) THE DEPARTMENT;

17 (2) THE DEPARTMENT OF AGRICULTURE;

18 (3) THE DEPARTMENT OF NATURAL RESOURCES;

19 (4) THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION;

20 (5) THE MARYLAND FOOD CENTER AUTHORITY;

21 (6) THE MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION;

22 (7) THE RURAL MARYLAND COUNCIL; AND

23 (8) THE MARYLAND COOPERATIVE EXTENSION SERVICE.

24 REVISOR’S NOTE: This section is new language derived without substantive
25 change from former Art. 41, § 13–513(d) through (f).

26 Defined terms: “Corporation” § 10–501

27 “State” § 9–101

28 10–523. FUNDING.

29 (A) IN GENERAL.

30 (1) THE CORPORATION MAY RECEIVE ANNUAL FUNDING THROUGH AN
31 APPROPRIATION IN THE STATE BUDGET.

1 (2) THE CORPORATION MAY ALSO RECEIVE MONEY FOR PROJECTS
2 INCLUDED IN THE BUDGETS OF STATE UNITS.

3 (3) (i) TO ASSIST THE CORPORATION IN COMPLYING WITH SUBSECTION
4 (C) OF THIS SECTION, THE GOVERNOR SHALL INCLUDE EACH YEAR IN THE STATE
5 BUDGET BILL AN APPROPRIATION TO THE CORPORATION FOR RURAL BUSINESS
6 DEVELOPMENT AND ASSISTANCE FOR EACH OF FISCAL YEARS 2010 THROUGH 2020 IN
7 THE AMOUNT OF \$4,000,000.

8 (ii) IN ADDITION TO ANY MONEY PROVIDED UNDER SUBPARAGRAPH (I)
9 OF THIS PARAGRAPH, THE GOVERNOR MAY INCLUDE EACH YEAR IN THE STATE BUDGET
10 BILL AN APPROPRIATION TO THE CORPORATION IN AN AMOUNT NOT EXCEEDING
11 \$5,000,000 FOR RURAL LAND ACQUISITION AND EASEMENT PROGRAMS, INCLUDING
12 PROGRAMS TO ASSIST YOUNG AND BEGINNING FARMERS.

13 (B) RETENTION.

14 ALL UNEXPENDED AND UNENCUMBERED MONEY APPROPRIATED TO THE
15 CORPORATION SHALL REMAIN WITH THE CORPORATION FOR FUTURE USE.

16 (C) SELF-SUFFICIENCY.

17 THE CORPORATION SHALL CONDUCT ITS FINANCIAL AFFAIRS SO THAT, BY THE
18 YEAR 2020, IT IS SELF-SUFFICIENT AND IN NO FURTHER NEED OF GENERAL OPERATING
19 SUPPORT BY THE STATE.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 41, § 13-513(c).

22 In subsection (a)(3) of this section, the former obsolete references to
23 specific appropriations for fiscal years 2008 and 2009 are deleted.

24 Defined terms: "Corporation" § 10-501

25 "Project" § 10-501

26 "State" § 9-101

27 10-524. LIABILITY OF CORPORATION.

28 (A) STATE NOT LIABLE.

29 A DEBT, CLAIM, OBLIGATION, OR LIABILITY OF THE CORPORATION, WHENEVER
30 INCURRED, IS THE DEBT, CLAIM, OBLIGATION, OR LIABILITY OF THE CORPORATION ONLY
31 AND NOT OF THE STATE, A UNIT OR INSTRUMENTALITY OF THE STATE, OR A STATE
32 OFFICER OR EMPLOYEE.

33 (B) NOT A PLEDGE OF STATE CREDIT.

34 A DEBT, CLAIM, OBLIGATION, OR LIABILITY OF THE CORPORATION MAY NOT BE
35 CONSIDERED A DEBT OF THE STATE OR A PLEDGE OF ITS CREDIT.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 41, § 13–514.

3 Defined terms: "Corporation" § 10–501
4 "State" § 9–101

5 10–525. TAX STATUS.

6 THE CORPORATION IS EXEMPT FROM STATE AND LOCAL TAXES.

7 REVISOR'S NOTE: This section formerly was Art. 41, § 13–513(a)(1).

8 No changes are made.

9 Defined terms: "Corporation" § 10–501
10 "State" § 9–101

11 10–526. AUDIT.

12 THE BOOKS AND RECORDS OF THE CORPORATION ARE SUBJECT TO AUDIT:

13 (1) BY THE STATE AT ITS DISCRETION; AND

14 (2) EACH YEAR BY AN INDEPENDENT AUDITOR APPROVED BY THE OFFICE
15 OF LEGISLATIVE AUDITS.

16 REVISOR'S NOTE: This section formerly was Art. 41, § 13–511.

17 No changes are made.

18 Defined terms: "Corporation" § 10–501
19 "State" § 9–101

20 10–527. ANNUAL REPORT.

21 (A) REQUIRED.

22 ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE CORPORATION SHALL REPORT ON
23 ITS STATUS TO THE GOVERNOR, THE MARYLAND AGRICULTURAL COMMISSION, THE
24 MARYLAND ECONOMIC DEVELOPMENT COMMISSION, AND, IN ACCORDANCE WITH §
25 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

26 (B) CONTENTS.

27 THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND FINANCIAL STATEMENT
28 AND A SUMMARY OF THE CORPORATION'S ACTIVITIES DURING THE PRECEDING FISCAL
29 YEAR.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 41, § 13–512.

1 As to the Maryland Economic Development Commission, *see* Title 2,
2 Subtitle 2 of this article.

3 Defined term: “Corporation” § 10–501

4 SUBTITLE 6. MARYLAND STADIUM AUTHORITY.

5 PART I. DEFINITIONS.

6 10–601. DEFINITIONS.

7 (A) IN GENERAL.

8 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

9 REVISOR’S NOTE: This subsection formerly was FI § 13–701(a).

10 No changes are made.

11 (B) AUTHORITY.

12 “AUTHORITY” MEANS THE MARYLAND STADIUM AUTHORITY.

13 REVISOR’S NOTE: This subsection formerly was FI § 13–701(b).

14 No changes are made.

15 (C) AUTHORITY AFFILIATE.

16 “AUTHORITY AFFILIATE” MEANS A FOR–PROFIT OR NOT–FOR–PROFIT ENTITY IN
17 WHICH THE AUTHORITY DIRECTLY OR INDIRECTLY OWNS ANY MEMBERSHIP INTEREST OR
18 EQUITY INTEREST.

19 REVISOR’S NOTE: This subsection is new language derived without
20 substantive change from former FI § 13–701(t).

21 Defined term: “Person” § 9–101

22 (D) BALTIMORE CONVENTION FACILITY.

23 (1) “BALTIMORE CONVENTION FACILITY” MEANS:

24 (I) A CONVENTION CENTER, TRADE SHOW FACILITY, MEETING HALL,
25 OR OTHER STRUCTURE IN BALTIMORE CITY USED TO HOLD CONVENTIONS, TRADE
26 SHOWS, MEETINGS, DISPLAYS, OR SIMILAR EVENTS; AND

27 (II) OFFICES, PARKING LOTS OR GARAGES, ACCESS ROADS, HOTELS,
28 RESTAURANTS, RAILROAD SIDINGS, AND ANY OTHER STRUCTURES, IMPROVEMENTS,
29 EQUIPMENT, FURNISHINGS, OR OTHER PROPERTY FUNCTIONALLY RELATED TO THE
30 FACILITIES DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.

1 (2) “BALTIMORE CONVENTION FACILITY” INCLUDES THE FOLLOWING, IF
2 USED, USEFUL, OR USABLE IN THE FUTURE AS, OR IN CONNECTION WITH, A BALTIMORE
3 CONVENTION FACILITY:

4 (I) LAND, STRUCTURES, EQUIPMENT, PROPERTY, PROPERTY RIGHTS,
5 PROPERTY APPURTENANCES, RIGHTS—OF—WAY, FRANCHISES, EASEMENTS, AND OTHER
6 INTERESTS IN LAND;

7 (II) LAND AND FACILITIES THAT ARE FUNCTIONALLY RELATED TO A
8 BALTIMORE CONVENTION FACILITY; AND

9 (III) PATENTS, LICENSES, AND OTHER RIGHTS NECESSARY OR USEFUL
10 TO CONSTRUCT OR OPERATE A BALTIMORE CONVENTION FACILITY.

11 REVISOR’S NOTE: This subsection is new language derived without
12 substantive change from former FI § 13–701(d).

13 In paragraph (1)(i) of this subsection, the former reference to the
14 “Baltimore City Convention Center” as it existed when the Authority
15 assumed certain powers of the former Baltimore Convention Center
16 Authority is deleted as obsolete. *See*, Ch. 60, Acts of 1992.

17 In paragraph (1)(ii) of this subsection, the reference to “improvements” is
18 added for clarity and consistency within this title.

19 In paragraph (2)(i) of this subsection, the former reference to “machinery”
20 is deleted as included in the reference to “equipment”.

21 Defined term: “Improvement” § 10–601

22 (E) BALTIMORE CONVENTION FUND.

23 “BALTIMORE CONVENTION FUND” MEANS THE BALTIMORE CONVENTION
24 FINANCING FUND ESTABLISHED UNDER § 10–651 OF THIS SUBTITLE.

25 REVISOR’S NOTE: This subsection formerly was FI § 13–701(e).

26 The only changes are in style.

27 (F) BALTIMORE CONVENTION SITE.

28 “BALTIMORE CONVENTION SITE” MEANS THE SITE OF THE BALTIMORE
29 CONVENTION CENTER LOCATED IN BALTIMORE CITY AT THE ADDRESS GENERALLY
30 KNOWN AS 1 WEST PRATT STREET, IDENTIFIED IN THE STATE DEPARTMENT OF
31 ASSESSMENTS AND TAXATION REAL PROPERTY DATABASE AS TAX IDENTIFICATION
32 NUMBER WARD 22, SECTION 01, BLOCK 0682, LOTS 001 AND 001A.

33 REVISOR’S NOTE: This subsection is new language substituted for former FI §
34 13–701(f) for accuracy.

35 Defined term: “State” § 9–101

1 (G) BOND.

2 “BOND” INCLUDES A NOTE, AN INTERIM CERTIFICATE, REFUNDING BOND, AND ANY
3 OTHER EVIDENCE OF OBLIGATION ISSUED UNDER THIS SUBTITLE.

4 REVISOR’S NOTE: This subsection is new language derived without
5 substantive change from the first clause of former FI § 13–712(a)(1)(i).

6 In this subsection, the phrase “issued under this subtitle” is added for
7 accuracy.

8 (H) CAMDEN YARDS.

9 “CAMDEN YARDS” MEANS THE AREA COMPRISING APPROXIMATELY 85 ACRES IN
10 BALTIMORE CITY BOUNDED BY CAMDEN STREET ON THE NORTH, RUSSELL STREET ON
11 THE WEST, OSTEND STREET ON THE SOUTH, AND HOWARD STREET AND INTERSTATE
12 395 ON THE EAST.

13 REVISOR’S NOTE: This subsection formerly was FI § 13–701(g).

14 The only changes are in style.

15 (I) CAMDEN YARDS FUND.

16 “CAMDEN YARDS FUND” MEANS THE CAMDEN YARDS FINANCING FUND
17 ESTABLISHED UNDER § 10–652 OF THIS SUBTITLE.

18 REVISOR’S NOTE: This subsection is new language added to avoid repetition
19 of the full title of the “Camden Yards Financing Fund”.

20 (J) CONVENTION FACILITY.

21 “CONVENTION FACILITY” MEANS THE BALTIMORE CONVENTION FACILITY, THE
22 MONTGOMERY COUNTY CONFERENCE FACILITY, AND THE OCEAN CITY CONVENTION
23 FACILITY.

24 REVISOR’S NOTE: This subsection formerly was FI § 13–701(h).

25 The only changes are in style.

26 Defined terms: “Baltimore Convention facility” § 10–601

27 “Montgomery County Conference facility” § 10–601

28 “Ocean City Convention facility” § 10–601

29 (K) FACILITY.

30 “FACILITY” MEANS:

31 (1) A STRUCTURE OR OTHER IMPROVEMENT DEVELOPED AT CAMDEN
32 YARDS;

- 1 (2) A CONVENTION FACILITY;
- 2 (3) THE HIPPODROME PERFORMING ARTS FACILITY; OR
- 3 (4) A SPORTS FACILITY.

4 REVISOR’S NOTE: This subsection is new language derived without
 5 substantive change from former FI § 13–701(i).

6 In item (1) of this subsection, the reference to a “structure or other
 7 improvement” is substituted for the former reference to “other facilities”
 8 for clarity and consistency within this title.

9 Defined terms: “Camden Yards” § 10–601
 10 “Convention facility” § 10–601
 11 “Hippodrome Performing Arts facility” § 10–601
 12 “Improvement” § 10–601
 13 “Sports facility” § 10–601

14 (L) HIPPODROME PERFORMING ARTS FACILITY.

15 (1) “HIPPODROME PERFORMING ARTS FACILITY” MEANS THE PERFORMING
 16 ARTS CENTER FACILITY LOCATED AT THE HIPPODROME PERFORMING ARTS SITE.

17 (2) “HIPPODROME PERFORMING ARTS FACILITY” INCLUDES, AT THE
 18 HIPPODROME PERFORMING ARTS SITE:

- 19 (I) THE HIPPODROME THEATER AND OFFICES;
- 20 (II) FOOD SERVICE FACILITIES; AND

21 (III) ANY OTHER FUNCTIONALLY RELATED PROPERTY, STRUCTURES,
 22 IMPROVEMENTS, FURNISHINGS, OR EQUIPMENT.

23 REVISOR’S NOTE: This subsection is new language derived without
 24 substantive change from former FI § 13–701(q).

25 In paragraph (2)(iii) of this subsection, the reference to “improvements” is
 26 added for clarity and consistency within this title.

27 Defined terms: “Hippodrome Performing Arts site” § 10–601
 28 “Improvement” § 10–601

29 (M) HIPPODROME PERFORMING ARTS FUND.

30 “HIPPODROME PERFORMING ARTS FUND” MEANS THE HIPPODROME PERFORMING
 31 ARTS FINANCING FUND ESTABLISHED UNDER § 10–653 OF THIS SUBTITLE.

32 REVISOR’S NOTE: This subsection formerly was FI § 13–701(r).

33 The only changes are in style.

1 (N) HIPPODROME PERFORMING ARTS SITE.

2 “HIPPODROME PERFORMING ARTS SITE” MEANS THE SITE OF THE
3 FRANCE–MERRICK PERFORMING ARTS CENTER LOCATED IN BALTIMORE CITY AT THE
4 ADDRESS GENERALLY KNOWN AS:

5 (1) 12 NORTH EUTAW STREET BUILDING, IDENTIFIED IN THE STATE
6 DEPARTMENT OF ASSESSMENTS AND TAXATION REAL PROPERTY DATABASE AS TAX
7 IDENTIFICATION NUMBER WARD 04, SECTION 08, BLOCK 0631, LOT 001; AND

8 (2) 401 WEST FAYETTE STREET, IDENTIFIED IN THE STATE DEPARTMENT
9 OF ASSESSMENTS AND TAXATION REAL PROPERTY DATABASE AS TAX IDENTIFICATION
10 NUMBER WARD 04, SECTION 08, BLOCK 0631, LOT 013.

11 REVISOR’S NOTE: This subsection is new language substituted for former FI §
12 13–701(s) for accuracy.

13 Defined term: “State” § 9–101

14 (O) IMPROVE.

15 “IMPROVE” MEANS TO ADD, ALTER, CONSTRUCT, EQUIP, EXPAND, EXTEND,
16 IMPROVE, INSTALL, RECONSTRUCT, REHABILITATE, REMODEL, OR REPAIR.

17 REVISOR’S NOTE: This subsection is new language added for brevity and
18 clarity.

19 (P) IMPROVEMENT.

20 “IMPROVEMENT” MEANS ADDITION, ALTERATION, CONSTRUCTION, EQUIPPING,
21 EXPANSION, EXTENSION, IMPROVEMENT, INSTALLATION, RECONSTRUCTION,
22 REHABILITATION, REMODELING, OR REPAIR.

23 REVISOR’S NOTE: This subsection is new language added for brevity and
24 clarity.

25 (Q) MONTGOMERY COUNTY.

26 “MONTGOMERY COUNTY” INCLUDES THE MONTGOMERY COUNTY REVENUE
27 AUTHORITY.

28 REVISOR’S NOTE: This subsection is new language derived without
29 substantive change from former FI § 13–701(p).

30 (R) MONTGOMERY COUNTY CONFERENCE FACILITY.

31 (1) “MONTGOMERY COUNTY CONFERENCE FACILITY” MEANS THE
32 CONFERENCE CENTER FACILITY LOCATED AT THE MONTGOMERY COUNTY
33 CONFERENCE SITE USED FOR CONFERENCES, TRADE SHOWS, MEETINGS, DISPLAYS, OR
34 SIMILAR EVENTS.

1 (2) “MONTGOMERY COUNTY CONFERENCE FACILITY” INCLUDES, AT THE
2 MONTGOMERY COUNTY CONFERENCE SITE, OFFICES, PARKING LOTS AND GARAGES,
3 ACCESS ROADS, FOOD SERVICE FACILITIES, AND OTHER FUNCTIONALLY RELATED
4 PROPERTY, STRUCTURES, IMPROVEMENTS, FURNISHINGS, OR EQUIPMENT.

5 (3) “MONTGOMERY COUNTY CONFERENCE FACILITY” DOES NOT INCLUDE
6 THE PRIVATELY OWNED HOTEL ADJACENT TO THE MONTGOMERY COUNTY CONFERENCE
7 CENTER.

8 REVISOR’S NOTE: This subsection is new language derived without
9 substantive change from former FI § 13–701(m).

10 In paragraph (2) of this subsection, the reference to “improvements” is
11 added for clarity and consistency within this title.

12 Defined terms: “Improvement” § 10–601

13 “Montgomery County Conference site” § 10–601

14 (S) MONTGOMERY COUNTY CONFERENCE FUND.

15 “MONTGOMERY COUNTY CONFERENCE FUND” MEANS THE MONTGOMERY
16 COUNTY CONFERENCE FINANCING FUND ESTABLISHED UNDER § 10–654 OF THIS
17 SUBTITLE.

18 REVISOR’S NOTE: This subsection formerly was FI § 13–701(n).

19 The only changes are in style.

20 (T) MONTGOMERY COUNTY CONFERENCE SITE.

21 “MONTGOMERY COUNTY CONFERENCE SITE” MEANS THE SITE OF THE
22 MONTGOMERY COUNTY CONFERENCE CENTER LOCATED IN ROCKVILLE AT THE
23 ADDRESS GENERALLY KNOWN AS 5701 MARINELLI ROAD, IDENTIFIED IN THE STATE
24 DEPARTMENT OF ASSESSMENTS AND TAXATION REAL PROPERTY DATABASE AS TAX
25 IDENTIFICATION NUMBER DISTRICT 04, ACCOUNT NUMBER 03392987.

26 REVISOR’S NOTE: This subsection is new language substituted for former FI §
27 13–701(o) for accuracy.

28 The Economic Development Article Review Committee notes, for the
29 consideration of the General Assembly, that the substitution of specific
30 property information for the Montgomery County Conference site in this
31 subsection that the Authority and Montgomery County have already
32 selected and developed contracts with the former definition, which referred
33 to “a site in close proximity to the White Flint metro station in the north
34 Bethesda area of Montgomery County as determined by the Authority and
35 Montgomery County”. The former reference was enacted before the
36 Montgomery County Conference facility was designated and developed;
37 nevertheless, the substitution could be construed to limit the ability of the
38 Authority and Montgomery County to designate a different, alternate site

1 for that facility. No substantive change is intended.

2 Defined term: “State” § 9–101

3 (U) OCEAN CITY CONVENTION FACILITY.

4 (1) “OCEAN CITY CONVENTION FACILITY” MEANS:

5 (I) A CONVENTION CENTER, TRADE SHOW FACILITY, MEETING HALL,
6 OR OTHER STRUCTURE IN OCEAN CITY USED TO HOLD CONVENTIONS, TRADE SHOWS,
7 MEETINGS, DISPLAYS, OR SIMILAR EVENTS; AND

8 (II) OFFICES, PARKING LOTS OR GARAGES, ACCESS ROADS, FOOD
9 SERVICE FACILITIES, AND ANY OTHER STRUCTURES, IMPROVEMENTS, EQUIPMENT,
10 FURNISHINGS, OR OTHER PROPERTY FUNCTIONALLY RELATED TO THE FACILITIES
11 DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.

12 (2) “OCEAN CITY CONVENTION FACILITY” INCLUDES THE FOLLOWING, IF
13 USED, USEFUL, OR USABLE IN THE FUTURE AS, OR IN CONNECTION WITH, AN OCEAN
14 CITY CONVENTION FACILITY:

15 (I) LAND, STRUCTURES, EQUIPMENT, PROPERTY, PROPERTY RIGHTS,
16 PROPERTY APPURTENANCES, RIGHTS-OF-WAY, FRANCHISES, EASEMENTS, AND OTHER
17 INTERESTS IN LAND;

18 (II) LAND AND FACILITIES THAT ARE FUNCTIONALLY RELATED TO AN
19 OCEAN CITY CONVENTION FACILITY; AND

20 (III) PATENTS, LICENSES, AND OTHER RIGHTS NECESSARY OR USEFUL
21 TO CONSTRUCT OR OPERATE AN OCEAN CITY CONVENTION FACILITY.

22 REVISOR’S NOTE: This subsection is new language derived without
23 substantive change from former FI § 13–701(j).

24 In paragraph (1)(i) of this subsection, the former reference to the “Ocean
25 City Convention Center” as it existed when the Authority was first
26 authorized to renovate and expand the Ocean City Convention Center
27 facilities is deleted as obsolete. *See*, Ch. 603, Acts of 1995.

28 In paragraph (1)(ii) of this subsection, the reference to “improvements” is
29 added for clarity and consistency within this title.

30 Defined term: “Improvement” § 10–601

31 (V) OCEAN CITY CONVENTION FUND.

32 “OCEAN CITY CONVENTION FUND” MEANS THE OCEAN CITY CONVENTION
33 FINANCING FUND ESTABLISHED UNDER § 10–655 OF THIS SUBTITLE.

34 REVISOR’S NOTE: This subsection formerly was FI § 13–701(k).

1 The only changes are in style.

2 (w) OCEAN CITY CONVENTION SITE.

3 “OCEAN CITY CONVENTION SITE” MEANS THE SITE OF THE OCEAN CITY
4 CONVENTION CENTER LOCATED IN OCEAN CITY AT THE ADDRESS GENERALLY KNOWN
5 AS 4001 COASTAL HIGHWAY, IDENTIFIED IN THE STATE DEPARTMENT OF
6 ASSESSMENTS AND TAXATION REAL PROPERTY DATABASE AS TAX IDENTIFICATION
7 NUMBERS DISTRICT 10, ACCOUNT NUMBER 055237; DISTRICT 10, ACCOUNT
8 NUMBER 066301; DISTRICT 10, ACCOUNT NUMBER 247942; AND DISTRICT 10,
9 ACCOUNT NUMBER 280346.

10 REVISOR’S NOTE: This subsection is new language substituted for former FI §
11 13–701(l) for accuracy.

12 Defined term: “State” § 9–101

13 (x) SPORTS FACILITY.

14 (1) “SPORTS FACILITY” MEANS:

15 (i) A STADIUM PRIMARILY FOR PROFESSIONAL FOOTBALL, MAJOR
16 LEAGUE PROFESSIONAL BASEBALL, OR BOTH, IN THE BALTIMORE METROPOLITAN
17 REGION, AS DEFINED IN § 13–301 OF THIS ARTICLE;

18 (ii) PRACTICE FIELDS OR OTHER AREAS WHERE PROFESSIONAL
19 FOOTBALL OR MAJOR LEAGUE PROFESSIONAL BASEBALL TEAMS PRACTICE OR PERFORM;
20 AND

21 (iii) OFFICES FOR PROFESSIONAL FOOTBALL AND MAJOR LEAGUE
22 PROFESSIONAL BASEBALL TEAMS OR FRANCHISES.

23 (2) “SPORTS FACILITY” INCLUDES PARKING LOTS, GARAGES, AND ANY
24 OTHER PROPERTY ADJACENT AND DIRECTLY RELATED TO AN ITEM LISTED IN PARAGRAPH
25 (1) OF THIS SUBSECTION.

26 REVISOR’S NOTE: This subsection is new language derived without
27 substantive change from former FI § 13–701(c).

28 (y) TAX SUPPORTED DEBT.

29 “TAX SUPPORTED DEBT” HAS THE MEANING STATED IN § 8–104 OF THE STATE
30 FINANCE AND PROCUREMENT ARTICLE.

31 REVISOR’S NOTE: This subsection is new language derived without
32 substantive change from the second clause of the second sentence of former
33 FI § 13–712(a)(1)(i).

34 In this subsection, the former phrase “of the State” is deleted as
35 surplusage.

1 The only other changes are in style.

2 10–602. RESERVED.

3 10–603. RESERVED.

4 PART II. STADIUM AUTHORITY.

5 10–604. ESTABLISHED.

6 (A) IN GENERAL.

7 THERE IS A MARYLAND STADIUM AUTHORITY.

8 (B) STATUS.

9 (1) THE AUTHORITY IS A BODY POLITIC AND CORPORATE AND IS AN
10 INSTRUMENTALITY OF THE STATE.

11 (2) THE AUTHORITY IS AN INDEPENDENT UNIT IN THE EXECUTIVE
12 BRANCH OF STATE GOVERNMENT.

13 (3) THE EXERCISE BY THE AUTHORITY OF ITS POWERS UNDER THIS
14 SUBTITLE IS AN ESSENTIAL GOVERNMENTAL FUNCTION.

15 (C) PUBLIC BODY.

16 THE AUTHORITY IS A PUBLIC BODY UNDER TITLE 5, SUBTITLE 4 OF THIS ARTICLE,
17 THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY ACT, FOR
18 PURPOSES OF APPLYING FOR, RECEIVING, AND MAKING AGREEMENTS IN CONNECTION
19 WITH:

20 (1) A LOAN;

21 (2) A GRANT;

22 (3) INSURANCE; OR

23 (4) ANY OTHER FORM OF FINANCIAL ASSISTANCE.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former FI §§ 13–702 and 13–720.

26 In subsection (b)(1) of this section, the former phrase “by that name, style,
27 and title” is deleted as implicit in light of subsection (a) of this section.

28 Defined terms: “Authority” § 10–601

29 “State” § 9–101

1 10–605. MEMBERSHIP.

2 (A) COMPOSITION; APPOINTMENT.

3 (1) THE AUTHORITY CONSISTS OF THE FOLLOWING SEVEN MEMBERS:

4 (I) SIX MEMBERS APPOINTED BY THE GOVERNOR, WITH THE ADVICE
5 AND CONSENT OF THE SENATE; AND

6 (II) ONE MEMBER APPOINTED BY THE MAYOR OF BALTIMORE CITY,
7 WITH THE ADVICE AND CONSENT OF THE SENATE.

8 (2) IN MAKING APPOINTMENTS, THE GOVERNOR SHALL ENSURE THAT THE
9 GEOGRAPHIC AREAS OF THE STATE ARE REPRESENTED.

10 (B) TENURE; VACANCIES.

11 (1) THE TERM OF A MEMBER IS 4 YEARS.

12 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS
13 PROVIDED FOR MEMBERS ON OCTOBER 1, 2008.

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

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

18 (C) REMOVAL.

19 A MEMBER MAY BE REMOVED FOR INCOMPETENCE, MISCONDUCT, OR FAILURE TO
20 PERFORM THE DUTIES OF THE POSITION BY:

21 (1) THE GOVERNOR, IF APPOINTED BY THE GOVERNOR; OR

22 (2) THE MAYOR, IF APPOINTED BY THE MAYOR.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former FI § 13–703(a), (c)(1) through (4), and (d).

25 In subsection (b)(2) of this section, the reference to terms being staggered
26 as required by the terms provided for Authority members on “October 1,
27 2008” is substituted for the former obsolete reference to terms being
28 staggered as required by the terms provided on “June 1, 1993”. This
29 substitution is not intended to alter the term of any member of the
30 Authority. See § 13 of Ch. ____, Acts of 2008. The terms of the members
31 serving on October 1, 2008, end as follows: (1) two in 2009; (2) one in 2010;
32 (3) one in 2011; and (4) three in 2012.

33 Former FI § 13–703(c)(5), which required the Governor and Mayor as
34 appointing authorities to appoint new members on “the end of a term,

1 resignation, or removal of a member” is deleted in light of subsection (a) of
2 this section.

3 Defined terms: “Authority” § 10–601
4 “State” § 9–101

5 10–606. CHAIR.

6 THE GOVERNOR SHALL DESIGNATE A CHAIR FROM AMONG THE MEMBERS OF THE
7 AUTHORITY.

8 REVISOR’S NOTE: This section is new language derived without substantive
9 change from former FI § 13–703(b).

10 The reference to a “chair” is substituted for the former reference to a
11 “chairman” because SG § 2–1238 requires the use of terms that are neutral
12 as to gender to the extent practicable.

13 Defined term: “Authority” § 10–601

14 10–607. MEETINGS; QUORUM; COMPENSATION.

15 (A) MEETINGS.

16 THE AUTHORITY SHALL DETERMINE THE TIMES AND PLACES OF ITS MEETINGS.

17 (B) QUORUM; VOTING.

18 (1) FOUR MEMBERS OF THE AUTHORITY ARE A QUORUM.

19 (2) ACTION BY THE AUTHORITY REQUIRES THE AFFIRMATIVE VOTE OF AT
20 LEAST FOUR MEMBERS.

21 (C) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

22 A MEMBER OF THE AUTHORITY:

23 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE AUTHORITY;
24 BUT

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

27 REVISOR’S NOTE: This section is new language derived without substantive
28 change from former FI § 13–704.

29 In subsection (b)(1) of this section, the former phrase “for the purpose of
30 conducting business” is deleted as implicit in the reference to a “quorum”.

31 Defined terms: “Authority” § 10–601
32 “State” § 9–101

1 10–608. APPLICABILITY OF OTHER LAW.

2 THE AUTHORITY IS EXEMPT:

3 (1) FROM TAXATION BY THE STATE AND LOCAL GOVERNMENT;

4 (2) EXCEPT AS PROVIDED IN TITLE 12, SUBTITLE 4 AND TITLE 14,
5 SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, FROM DIVISION II
6 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

7 (3) FROM THE PROVISIONS OF DIVISION I OF THE STATE PERSONNEL AND
8 PENSIONS ARTICLE THAT GOVERN THE STATE PERSONNEL MANAGEMENT SYSTEM.

9 REVISOR’S NOTE: This section formerly was FI § 13–718.

10 The only changes are in style.

11 Defined terms: “Authority” § 10–601

12 “State” § 9–101

13 10–609. EXECUTIVE DIRECTOR.

14 (A) APPOINTMENT.

15 WITH THE APPROVAL OF THE GOVERNOR, THE AUTHORITY SHALL APPOINT AN
16 EXECUTIVE DIRECTOR.

17 (B) TENURE.

18 SUBJECT TO THE CONCURRENCE OF THE GOVERNOR, THE EXECUTIVE DIRECTOR
19 SERVES AT THE PLEASURE OF THE AUTHORITY.

20 (C) DUTIES.

21 THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE OFFICER AND
22 SECRETARY OF THE AUTHORITY AND SHALL:

23 (1) DIRECT AND SUPERVISE THE ADMINISTRATIVE AFFAIRS AND ACTIVITIES
24 OF THE AUTHORITY, IN ACCORDANCE WITH ITS REGULATIONS AND POLICIES;

25 (2) ATTEND THE MEETINGS OF THE AUTHORITY;

26 (3) KEEP MINUTES OF ALL PROCEEDINGS OF THE AUTHORITY;

27 (4) APPROVE ALL ACCOUNTS FOR SALARIES, PER DIEM PAYMENTS, AND ALL
28 ALLOWABLE EXPENSES OF THE AUTHORITY, ITS EMPLOYEES, AND ITS CONSULTANTS;

29 (5) APPROVE ALL EXPENSES INCIDENTAL TO THE OPERATION OF THE
30 AUTHORITY;

1 (6) REPORT AND MAKE RECOMMENDATIONS TO THE AUTHORITY ON THE
2 MERITS AND STATUS OF ANY PROPOSED FACILITY; AND

3 (7) PERFORM THE OTHER DUTIES THAT THE AUTHORITY REQUIRES TO
4 CARRY OUT THIS SUBTITLE.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former FI § 13–705.

7 In subsection (c)(1) of this section, the former reference to “rules” is deleted
8 in light of the reference to “regulations”. See General Revisor's Note to
9 article.

10 Defined term: “Authority” § 10–601

11 10–610. STAFF; INDEPENDENT CONTRACTORS.

12 THE AUTHORITY MAY EMPLOY OR RETAIN, EITHER AS EMPLOYEES OR AS
13 INDEPENDENT CONTRACTORS, CONSULTANTS, ENGINEERS, ARCHITECTS, ACCOUNTANTS,
14 ATTORNEYS, FINANCIAL EXPERTS, CONSTRUCTION EXPERTS AND PERSONNEL,
15 SUPERINTENDENTS, MANAGERS AND OTHER PROFESSIONAL PERSONNEL, PERSONNEL,
16 AND AGENTS AS THE AUTHORITY CONSIDERS NECESSARY, AND SET THEIR
17 COMPENSATION.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former FI § 13–708(a)(5).

20 Defined term: “Authority” § 10–601

21 10–611. RESERVED.

22 10–612. RESERVED.

23 PART III. POWERS.

24 10–613. MISCELLANEOUS POWERS.

25 (A) IN GENERAL.

26 THE AUTHORITY MAY:

27 (1) ADOPT A SEAL;

28 (2) SUE AND BE SUED;

29 (3) ADOPT BYLAWS AND POLICIES;

30 (4) ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE IN ACCORDANCE
31 WITH THE ADMINISTRATIVE PROCEDURE ACT;

32 (5) HAVE AN OFFICE AT THE PLACE THE AUTHORITY DESIGNATES;

1 (6) APPOINT ADVISORY COMMITTEES COMPOSED OF LOCAL OFFICIALS,
2 BUSINESS INTERESTS, REPRESENTATIVES OF THE CONVENTION, HOTEL, AND TOURISM
3 BUSINESS, AND OTHER EXPERTS AS APPROPRIATE;

4 (7) SUBJECT TO § 10–620 OF THIS SUBTITLE, ACQUIRE, LEASE AS
5 LANDLORD OR TENANT, HOLD, ENCUMBER, OR DISPOSE OF PROPERTY;

6 (8) ENTER INTO CONTRACTS AND EXECUTE THE INSTRUMENTS NECESSARY
7 OR CONVENIENT TO CARRY OUT THIS SUBTITLE TO ACCOMPLISH ITS PURPOSES;

8 (9) DETERMINE THE LOCATIONS OF, DEVELOP, ESTABLISH, ACQUIRE, OWN,
9 IMPROVE, OPERATE, MAINTAIN, AND CONTRIBUTE TO THE MAINTENANCE AND OPERATING
10 COSTS OF FACILITIES AS NECESSARY TO ACCOMPLISH ITS PURPOSES;

11 (10) REGULATE THE USE AND OPERATION OF FACILITIES DEVELOPED UNDER
12 THIS SUBTITLE;

13 (11) FIX AND COLLECT RENTS, FEES, AND OTHER CHARGES FOR THE USE OF
14 FACILITIES OR FOR SERVICES RENDERED IN CONNECTION WITH THE FACILITIES;

15 (12) SUBJECT TO PARTS IV AND V OF THIS SUBTITLE, ISSUE BONDS;

16 (13) EXERCISE THE CORPORATE POWERS OF MARYLAND CORPORATIONS
17 UNDER THE MARYLAND GENERAL CORPORATION LAW;

18 (14) WITH RESPECT TO SITE ACQUISITION, CONSTRUCTION, AND
19 DEVELOPMENT OF THE HIPPODROME PERFORMING ARTS FACILITY, ESTABLISH AND
20 PARTICIPATE IN AUTHORITY AFFILIATES;

21 (15) IMPOSE THE ADMISSIONS AND AMUSEMENT TAX AUTHORIZED UNDER §
22 4–102 OF THE TAX – GENERAL ARTICLE; AND

23 (16) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE
24 POWERS GRANTED BY THIS SUBTITLE.

25 (B) AUTHORITY — REVIEW AND RECOMMENDATIONS.

26 THE AUTHORITY MAY REVIEW AND MAKE RECOMMENDATIONS ON PROPOSED
27 CONVENTION CENTER FACILITIES AND THE HIPPODROME PERFORMING ARTS FACILITY,
28 INCLUDING THE EXPANSION AND ENHANCEMENT OF THE BALTIMORE CITY CONVENTION
29 CENTER AND THE OCEAN CITY CONVENTION CENTER AND THE DEVELOPMENT AND
30 CONSTRUCTION OF THE MONTGOMERY COUNTY CONFERENCE CENTER AND THE
31 HIPPODROME PERFORMING ARTS CENTER, WITH RESPECT TO LOCATION, PURPOSE,
32 DESIGN, FUNCTION, CAPACITY, PARKING, COSTS, FUNDING MECHANISMS, AND REVENUE
33 ALTERNATIVES, WITH SPECIFIC RECOMMENDATIONS ON:

34 (1) THE LEVEL OF SUPPORT FROM THE PRIVATE SECTOR;

35 (2) THE TYPE OF SUPPORT FROM THE PRIVATE SECTOR;

36 (3) SPECIAL TAXING SOURCES;

- 1 (4) PROJECTED REVENUES;
- 2 (5) BONDING AUTHORITY AND THE SOURCE OF DEBT SERVICE; AND
- 3 (6) THE FISCAL IMPACT ON THE STATE OF ANY REVENUE ALTERNATIVES.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former FI § 13-708(a)(1) through (4), (6) through (12), and
6 (14) through (19).

7 In subsection (a)(7) of this section, the former phrase “[d]etermine the
8 locations of, develop, establish, construct, erect, acquire, own, repair,
9 remodel, add to, extend, improve, equip, operate, regulate, maintain, and
10 contribute to the maintenance and operating costs of facilities” is revised in
11 standard language for brevity.

12 In the introductory language of subsection (a) of this section, the former
13 phrase “[i]n addition to the powers set forth elsewhere in this subtitle” is
14 deleted as implicit in the grant of powers to the Authority under subsection
15 (b) of this section.

16 In subsection (b)(6) of this section, the reference to “revenue” alternatives
17 is added for clarity.

18 Defined terms: “Authority” § 10-601

19 “Authority affiliate” § 10-601

20 “Bond” § 10-601

21 “Facility” § 10-601

22 “Hippodrome Performing Arts facility” § 10-601

23 “Improve” § 10-601

24 “State” § 9-101

25 10-614. MISCELLANEOUS POWERS — FINANCING.

26 SUBJECT TO THE APPROVAL OF THE BOARD OF PUBLIC WORKS, THE AUTHORITY
27 MAY:

28 (1) BORROW MONEY FROM ANY SOURCE FOR ANY CORPORATE PURPOSE,
29 INCLUDING WORKING CAPITAL FOR ITS OPERATIONS, RESERVE FUNDS, OR INTEREST;

30 (2) MORTGAGE, PLEDGE, OR OTHERWISE ENCUMBER THE PROPERTY OR
31 FUNDS OF THE AUTHORITY;

32 (3) CONTRACT FOR THE SERVICES OF ANY PERSON IN CONNECTION WITH
33 ANY FINANCING, INCLUDING FINANCIAL INSTITUTIONS, ISSUERS OF LETTERS OF CREDIT,
34 OR INSURERS; AND

35 (4) RECEIVE AND ACCEPT FROM ANY PUBLIC OR PRIVATE SOURCE
36 CONTRIBUTIONS, GIFTS, OR GRANTS OF MONEY OR PROPERTY AND INVEST THE MONEY OR
37 PROPERTY AS A WHOLE OR IN PART.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former FI § 13–708(a)(13) and (15).

3 Defined terms: “Authority” § 10–601
4 “Person” § 9–101

5 10–615. PROHIBITIONS.

6 (1) AN AUTHORITY SPORTS FACILITY MAY NOT BE USED TO CONDUCT
7 PROFESSIONAL BASKETBALL GAMES.

8 (2) THE AUTHORITY MAY NOT CONSTRUCT OR ENTER INTO A CONTRACT TO
9 CONSTRUCT A SPORTS FACILITY OTHER THAN AT CAMDEN YARDS UNLESS SPECIFICALLY
10 AUTHORIZED BY AN ENACTMENT OF THE GENERAL ASSEMBLY.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former FI § 13–708(b).

13 Defined terms: “Authority” § 10–601
14 “Sports facility” § 10–601

15 10–616. AUTHORITY TO DEVELOP CAMDEN YARDS.

16 (A) IN GENERAL.

17 SUBJECT TO THE APPROVAL OF THE BOARD OF PUBLIC WORKS AND THE
18 LEGISLATIVE POLICY COMMITTEE, THE AUTHORITY MAY DEVELOP ANY PORTION OF
19 CAMDEN YARDS TO GENERATE INCIDENTAL REVENUES FOR THE BENEFIT OF THE
20 AUTHORITY.

21 (B) SCOPE OF AUTHORIZATION.

22 THE AUTHORITY GRANTED UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE
23 POWER TO DEVELOP, ESTABLISH, ACQUIRE, OWN, LEASE, IMPROVE, OPERATE AS
24 LANDLORD, REGULATE, MAINTAIN, SELL, TRANSFER, OR OTHERWISE DISPOSE OF ANY
25 PORTION OF CAMDEN YARDS.

26 (C) LIMITATION — CONDEMNATION EXCLUDED.

27 EXCEPT FOR ITS CONDEMNATION POWER, THE AUTHORITY MAY EXERCISE ALL OF
28 ITS POWERS UNDER THIS SUBTITLE WITH RESPECT TO THE DEVELOPMENT OF PORTIONS
29 OF CAMDEN YARDS.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former FI § 13–708.1.

32 In subsection (a) of this section, the former phrase “and in addition to the
33 powers set forth elsewhere in this subtitle” is deleted as implicit in the
34 grant of powers to the Authority under subsection (a) of this section.

1 Defined terms: “Authority” § 10–601

2 “Camden Yards” § 10–601

3 “Improve” § 10–601

4 10–617. CAMDEN YARDS — SPECIFIC LIMITATIONS.

5 (A) DOME.

6 NOTWITHSTANDING ANY OTHER LAW, A DOME MAY BE BUILT OR ADDED ON A
7 STADIUM AT CAMDEN YARDS ONLY IF SPECIFICALLY AUTHORIZED BY AN ENACTMENT OF
8 THE GENERAL ASSEMBLY.

9 (B) BASEBALL RESTRICTION.

10 DURING ANY PERIOD IN WHICH MAJOR LEAGUE PROFESSIONAL BASEBALL GAMES
11 ARE PLAYED AT THE BASEBALL STADIUM AT CAMDEN YARDS, A MAJOR LEAGUE
12 PROFESSIONAL BASEBALL TEAM MAY NOT PLAY MAJOR LEAGUE PROFESSIONAL BASEBALL
13 GAMES ON A REGULAR BASIS AT ANOTHER PROFESSIONAL SPORTS STADIUM IN THE STATE
14 THAT:

15 (1) IS CONSTRUCTED IN PART WITH STATE FUNDS; OR

16 (2) BENEFITS FROM OR IS SUPPORTED BY STATE–FUNDED
17 TRANSPORTATION OR OTHER INFRASTRUCTURE PROJECTS DEVELOPED DUE TO THE
18 CONSTRUCTION OF THE STADIUM.

19 REVISOR’S NOTE: This section is new language derived without substantive
20 change from former FI § 13–715.3.

21 Defined terms: “Camden Yards” § 10–601

22 “State” § 9–101

23 10–618. AUTHORITY TO ACQUIRE SITES.

24 (A) APPROVAL OF CONTRACTS.

25 CONTRACTS TO ACQUIRE ANY FACILITY SITE, TO CONSTRUCT THE FACILITY, OR FOR
26 CONSTRUCTION ON THE FACILITY SITE REQUIRE THE PRIOR APPROVAL OF THE BOARD OF
27 PUBLIC WORKS.

28 (B) ACQUISITION OF SITE AT CAMDEN YARDS.

29 THE AUTHORITY MAY:

30 (1) ACQUIRE BY ANY OF THE MEANS SPECIFIED IN § 10–620(A) OF THIS
31 SUBTITLE:

32 (I) A SITE AT CAMDEN YARDS FOR A FACILITY;

33 (II) A BALTIMORE CONVENTION SITE OR AN INTEREST IN THE SITE;

(III) AN OCEAN CITY CONVENTION SITE OR AN INTEREST IN THE SITE;

(IV) A MONTGOMERY COUNTY CONFERENCE SITE OR AN INTEREST IN THE SITE; AND

(V) A HIPPODROME PERFORMING ARTS SITE OR AN INTEREST IN THE SITE; AND

(2) CONSTRUCT OR ENTER INTO A CONTRACT TO CONSTRUCT A FACILITY ON A SITE IT ACQUIRES UNDER THIS SUBSECTION.

REVISOR’S NOTE: This section formerly was FI § 13–709.

No changes are made.

- Defined terms: “Authority” § 10–601
- “Baltimore Convention site” § 10–601
- “Camden Yards” § 10–601
- “Facility” § 10–601
- “Hippodrome Performing Arts site” § 10–601
- “Montgomery County Conference site” § 10–601
- “Ocean City Convention site” § 10–601

10–619. AUTHORITY TO ACQUIRE OWNERSHIP INTEREST IN PROFESSIONAL TEAMS.

(A) GENERAL AUTHORITY.

SUBJECT TO THE PRIOR APPROVAL OF THE BOARD OF PUBLIC WORKS, THE AUTHORITY MAY:

(1) HOLD AN OWNERSHIP INTEREST IN OR OPERATE A PROFESSIONAL FOOTBALL OR MAJOR LEAGUE PROFESSIONAL BASEBALL TEAM OR TEAM FRANCHISE FOR UP TO 2 YEARS DURING A TRANSITION TO PRIVATE OWNERSHIP; AND

(2) CONTINUE TO HOLD, BUT NOT OPERATE, AN OWNERSHIP INTEREST IN A PROFESSIONAL FOOTBALL OR MAJOR LEAGUE PROFESSIONAL BASEBALL TEAM DURING A TRANSITION OF THE TEAM WITHOUT A TIME LIMITATION.

(B) BOARD OF PUBLIC WORKS — RENEWABLE APPROVAL.

IF NECESSARY, THE BOARD OF PUBLIC WORKS MAY RENEW ITS APPROVAL UNDER SUBSECTION (A) OF THIS SECTION EACH YEAR.

REVISOR’S NOTE: This section is new language derived without substantive change from former FI § 13–710.

Defined term: “Authority” § 10–601

10–620. AUTHORITY TO ACQUIRE PROPERTY GENERALLY.

(A) IN GENERAL.

1 (1) SUBJECT TO ANNUAL APPROPRIATIONS AND THIS SUBTITLE, THE
2 AUTHORITY MAY ACQUIRE IN ITS OWN NAME, BY GIFT, PURCHASE, OR CONDEMNATION,
3 ANY PROPERTY OR INTEREST IN PROPERTY NECESSARY OR CONVENIENT TO CONSTRUCT
4 OR OPERATE A FACILITY.

5 (2) WHEN ACQUIRING IN ITS OWN NAME ANY PROPERTY UNDER PARAGRAPH
6 (1) OF THIS SUBSECTION, THE AUTHORITY SHALL FIRST ATTEMPT TO ACQUIRE THE
7 PROPERTY BY NEGOTIATION AND PURCHASE.

8 (3) IF THE AUTHORITY IS NOT ABLE TO ACQUIRE PROPERTY BY
9 NEGOTIATION, THE AUTHORITY MAY CONDEMN PRIVATE PROPERTY UNDER SUBSECTION
10 (B) OF THIS SECTION.

11 (4) IF THE AUTHORITY DETERMINES THAT ACTING UNDER PARAGRAPHS (2)
12 AND (3) OF THIS SUBSECTION WOULD BE INAPPROPRIATE, THE AUTHORITY MAY
13 CONDEMN PRIVATE PROPERTY UNDER SUBSECTION (C) OF THIS SECTION.

14 (B) ORDINARY CONDEMNATION.

15 (1) THE EXERCISE OF AUTHORITY UNDER THIS SUBSECTION IS SUBJECT TO
16 SUBSECTION (A) OF THIS SECTION, THE PRIOR APPROVAL OF THE BOARD OF PUBLIC
17 WORKS, AND REVIEW BY THE LEGISLATIVE POLICY COMMITTEE.

18 (2) THE AUTHORITY MAY CONDEMN ANY PRIVATE PROPERTY FOR ANY
19 PURPOSE OF THE AUTHORITY:

20 (I) IN ACCORDANCE WITH TITLE 12 OF THE REAL PROPERTY
21 ARTICLE; AND

22 (II) ONLY IN CAMDEN YARDS AND AT THE HIPPODROME PERFORMING
23 ARTS SITE.

24 (C) QUICK TAKE CONDEMNATION IN BALTIMORE CITY.

25 (1) THE EXERCISE OF AUTHORITY UNDER THIS SUBSECTION IS SUBJECT TO
26 SUBSECTION (A) OF THIS SECTION, THE PRIOR APPROVAL OF THE BOARD OF PUBLIC
27 WORKS, AND REVIEW BY THE LEGISLATIVE POLICY COMMITTEE.

28 (2) THE AUTHORITY MAY EXERCISE QUICK TAKE CONDEMNATION UNDER
29 ARTICLE III, § 40A OF THE STATE CONSTITUTION TO ACQUIRE IN BALTIMORE CITY
30 FOR THE STATE PRIVATE PROPERTY FOR ANY PURPOSE OF THE AUTHORITY:

31 (I) IN ACCORDANCE WITH §§ 8-334 THROUGH 8-339 OF THE
32 TRANSPORTATION ARTICLE AND TITLE 12 OF THE REAL PROPERTY ARTICLE; AND

33 (II) ONLY IN CAMDEN YARDS AND AT THE HIPPODROME PERFORMING
34 ARTS SITE.

35 (D) CONVEYANCES FROM STATE.

1 (1) THE EXERCISE OF AUTHORITY UNDER THIS SUBSECTION IS SUBJECT TO
2 THE PRIOR APPROVAL OF THE BOARD OF PUBLIC WORKS.

3 (2) ON REQUEST OF THE AUTHORITY, THE STATE, A UNIT OF THE STATE,
4 OR A POLITICAL SUBDIVISION MAY LEASE, LEND, GRANT, OR OTHERWISE CONVEY TO THE
5 AUTHORITY, PROPERTY, INCLUDING PROPERTY DEVOTED TO PUBLIC USE, AS NECESSARY
6 OR CONVENIENT FOR THE PURPOSES OF THIS SUBTITLE.

7 (3) THE STATE MAY LEASE OR SUBLEASE A FACILITY, OR AN INTEREST IN A
8 FACILITY, FROM OR TO THE AUTHORITY, WHETHER OR NOT CONSTRUCTED OR USABLE.

9 (4) LEASE PAYMENTS TO THE AUTHORITY APPROPRIATED BY THE STATE
10 SHALL BE TRANSFERRED TO:

11 (i) THE BALTIMORE CONVENTION FUND IF APPROPRIATED FOR A
12 BALTIMORE CONVENTION FACILITY;

13 (ii) THE CAMDEN YARDS FUND IF APPROPRIATED FOR A SPORTS
14 FACILITY OR OTHER FACILITY AT CAMDEN YARDS;

15 (iii) THE HIPPODROME PERFORMING ARTS FUND IF APPROPRIATED
16 FOR A HIPPODROME PERFORMING ARTS FACILITY.

17 (iv) THE MONTGOMERY COUNTY CONFERENCE FUND IF
18 APPROPRIATED FOR A MONTGOMERY COUNTY CONFERENCE FACILITY; OR

19 (v) THE OCEAN CITY CONVENTION FUND IF APPROPRIATED FOR AN
20 OCEAN CITY CONVENTION FACILITY.

21 (E) COMPLIANCE WITH LOCAL PLANNING, ZONING, AND DEVELOPMENT
22 REGULATIONS; EXCEPTION.

23 (1) THIS SUBSECTION DOES NOT APPLY TO THE CAMDEN YARDS SITE,
24 BALTIMORE CONVENTION SITE, OCEAN CITY CONVENTION SITE, OR HIPPODROME
25 PERFORMING ARTS SITE.

26 (2) THE AUTHORITY AND ANY AUTHORITY AFFILIATE IS SUBJECT TO
27 APPLICABLE PLANNING, ZONING, AND DEVELOPMENT REGULATIONS TO THE SAME
28 EXTENT AS A PRIVATE COMMERCIAL OR INDUSTRIAL ENTERPRISE.

29 (F) COOPERATION WITH BALTIMORE CITY.

30 THE AUTHORITY SHALL:

31 (1) IN COOPERATION WITH BALTIMORE CITY, APPOINT A TASK FORCE THAT
32 INCLUDES RESIDENTS AND BUSINESS AND INSTITUTIONAL REPRESENTATIVES FROM THE
33 AREA ADJACENT TO CAMDEN YARDS TO REVIEW THE SCHEMATIC, PRELIMINARY, AND
34 FINAL PLANS FOR FACILITIES AT CAMDEN YARDS;

(2) SUBMIT SCHEMATIC PLANS FOR DEVELOPMENT OF CAMDEN YARDS AND THE BALTIMORE CONVENTION SITE TO BALTIMORE CITY FOR REVIEW AND COMMENT BEFORE ACQUIRING ANY PROPERTY;

(3) SUBMIT PRELIMINARY AND FINAL PLANS FOR BALTIMORE FACILITIES TO BALTIMORE CITY FOR REVIEW AND COMMENT; AND

(4) PARTICIPATE IN THE DESIGN REVIEW PROCESSES OF BALTIMORE CITY.

(G) EFFECT OF SECTION.

THIS SECTION DOES NOT AFFECT THE RIGHT OF THE AUTHORITY TO ACQUIRE AN OPTION OR INSTITUTE A CONDEMNATION PROCEEDING FOR LATER ACQUISITION OF THE PROPERTY ONCE THE APPROVAL REQUIRED BY THIS SECTION IS OBTAINED.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-711.

Defined terms: "Authority" § 10-601

"Authority affiliate" § 10-601

"Baltimore Convention Fund" § 10-601

"Baltimore Convention site" § 10-601

"Camden Yards" § 10-601

"Camden Yards Fund" § 10-601

"Facility" § 10-601

"Hippodrome Performing Arts facility" § 10-601

"Hippodrome Performing Arts Fund" § 10-601

"Hippodrome Performing Arts site" § 10-601

"Montgomery County Conference facility" § 10-601

"Montgomery County Conference Fund" § 10-601

"Montgomery County Conference site" § 10-601

"Ocean City Convention facility" § 10-601

"Ocean City Convention Fund" § 10-601

"Ocean City Convention site" § 10-601

"State" § 9-101

10-621. SALE OF SEAT LICENSES.

(A) USE OF PROCEEDS.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, PROCEEDS DERIVED FROM THE SALE OF PERMANENT SEAT LICENSES AT A PROFESSIONAL SPORTS STADIUM CONSTRUCTED IN THE STATE BY THE AUTHORITY FOR A PROFESSIONAL SPORTS TEAM THAT RELOCATES FROM ANOTHER JURISDICTION TO THE STATE MAY BE USED ONLY FOR:

(1) AMOUNTS THAT ARE OWED TO A NATIONAL SPORTS LEAGUE OR ASSOCIATION AS A RESULT OF THE COSTS OF THE RELOCATION OF A PROFESSIONAL SPORTS TEAM FROM ANOTHER JURISDICTION TO THE STATE;

1 (2) THE DESIGN AND CONSTRUCTION COSTS OF NECESSARY TRAINING
2 FACILITIES;

3 (3) THE REASONABLE COSTS OF MOVING AND RELOCATION, INCLUDING:

4 (I) THE PHYSICAL MOVEMENT OF PROPERTY;

5 (II) LAND AND AIR TRAVEL COSTS;

6 (III) EMPLOYEE SEVERANCE COSTS; AND

7 (IV) EMPLOYEE RELOCATION COSTS;

8 (4) AMOUNTS OWED TO THE OTHER JURISDICTION AND OTHER INTERESTED
9 PARTIES CLAIMING RIGHTS BECAUSE OF THE RELOCATION OF THE PROFESSIONAL SPORTS
10 TEAM TO THE STATE, INCLUDING ANY AMOUNTS PAID TO THE OTHER JURISDICTION OR
11 INTERESTED PARTIES TO RESOLVE THE CLAIMS;

12 (5) THE REPAYMENT OF BONDS OR OTHER INDEBTEDNESS INCURRED BY OR
13 FOR THE BENEFIT OF THE TEAM IN CONNECTION WITH FACILITIES THAT THE RELOCATED
14 PROFESSIONAL SPORTS TEAM USED OR OCCUPIED IN THE OTHER JURISDICTION;

15 (6) PAYMENTS TO THE AUTHORITY; OR

16 (7) OTHER REASONABLE COSTS AND EXPENSES INCURRED OR LOSSES
17 SUSTAINED BECAUSE OF THE RELOCATION.

18 (B) USE OF EXCESS PROCEEDS.

19 PROCEEDS DERIVED FROM THE SALE OF PERSONAL SEAT LICENSES THAT EXCEED
20 THE COSTS DESCRIBED IN SUBSECTION (A) OF THIS SECTION:

21 (1) MAY NOT ACCRUE DIRECTLY TO THE BENEFIT OF AN INDIVIDUAL OR
22 PRIVATE ENTITY; AND

23 (2) SHALL BE HELD BY THE AUTHORITY FOR STADIUM CONSTRUCTION AND
24 MAINTENANCE OF THE PROFESSIONAL SPORTS STADIUM IN THE STATE THE RELOCATED
25 PROFESSIONAL SPORTS TEAM USES.

26 REVISOR’S NOTE: This section is new language derived without substantive
27 change from former FI § 13–724.

28 In the introductory language to subsection (a) of this section, the phrase
29 “for a professional sports team that relocates from another jurisdiction to
30 the State” is added for clarity.

31 Former FI § 13–724(a) which defined “professional sports team”, is deleted
32 as unnecessary.

33 Defined terms: “Authority” § 10–601
34 “Bond” § 10–601

1 “State” § 9–101

2 10–622. PROJECTS FOR STATE UNITS AND LOCAL GOVERNMENTS.

3 (A) IN GENERAL.

4 (1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE AUTHORITY MAY
5 PREPARE STUDIES AND MAY DESIGN AND CONSTRUCT PROJECTS FOR UNITS OF THE
6 STATE, THE UNIVERSITY OF MARYLAND MEDICAL SYSTEM, AND POLITICAL
7 SUBDIVISIONS.

8 (2) THE STUDIES MAY INCLUDE SITE STUDIES, ARCHITECTURAL PROGRAMS,
9 BUDGET ESTIMATES, VALUE ENGINEERING, AND PROJECT SCHEDULES.

10 (B) PRIOR NOTIFICATION.

11 BEFORE BEGINNING WORK UNDER SUBSECTION (A) OF THIS SECTION ON BEHALF
12 OF A UNIT OF THE STATE, THE UNIVERSITY OF MARYLAND MEDICAL SYSTEM, OR A
13 POLITICAL SUBDIVISION, THE AUTHORITY SHALL:

14 (1) NOTIFY THE BUDGET COMMITTEES OF THE GENERAL ASSEMBLY IN
15 WRITING OF THE PROPOSED PROJECT AND ITS ESTIMATED COSTS AND FUNDING SOURCES;
16 AND

17 (2) ALLOW THE BUDGET COMMITTEES 30 DAYS TO REVIEW AND COMMENT
18 ON THE PROPOSED WORK.

19 (C) AUTHORIZED ANCILLARY ACTIVITIES.

20 THE AUTHORITY MAY ENTER INTO CONTRACTS, RETAIN CONSULTANTS, AND MAKE
21 RECOMMENDATIONS RELATING TO PROJECT ACTIVITIES UNDER THIS SECTION.

22 (D) FUNDING.

23 (1) FOR PROJECT ACTIVITIES UNDER THIS SECTION, THE AUTHORITY SHALL
24 USE MONEY THAT IS:

25 (I) PROVIDED BY THE UNIT OF THE STATE, THE UNIVERSITY OF
26 MARYLAND MEDICAL SYSTEM, OR LOCAL GOVERNMENT; OR

27 (II) OTHERWISE APPROPRIATED FOR THE PARTICULAR PURPOSE.

28 (2) IN EACH FISCAL YEAR THE AUTHORITY:

29 (I) MAY USE UP TO \$500,000 OF ITS AVAILABLE NON–BUDGETED
30 MONEY FOR FEASIBILITY STUDIES THAT ARE APPROVED BY THE BUDGET COMMITTEES;
31 BUT

32 (II) MAY NOT USE THIS MONEY FOR CONSTRUCTION.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former § 12 of Ch. 138, Acts of 1998, as amended by Ch. 204,
3 Acts of 2003, and Ch. 445, Acts of 2005.

4 In subsection (a) of this section, the reference to “projects” is substituted
5 for the former reference to “facilities” to avoid confusion with the latter
6 term defined in § 10–601 which includes only certain named undertakings.
7 *See* 85 Op. Att’y Gen. 190 (2000).

8 In subsections (a)(1) and (b) of this section, the references to “political
9 subdivision[s]” are substituted for the former references to “local
10 government[s]” for consistency within this article.

11 In the introductory language to subsection (b) of this section, the reference
12 to work “under subsection (a) of this section” is added to distinguish project
13 activities that the Authority undertakes under this section from those
14 other activities related to facilities specifically authorized and governed by
15 other provisions of this subtitle.

16 In subsection (b)(1) of this section, the word “its” is substituted for the
17 former word “the” for clarity.

18 In subsection (c) of this section, the reference to “project activities under
19 this section” is substituted for the former reference to “this purpose” for
20 clarity. Similarly, in subsection (d)(1) of this section, the phrase “[f]or
21 project activities under this section,” is added for clarity.

22 In subsection (d) of this section, the references to “money” are substituted
23 for the former references to “funds” for clarity and consistency within this
24 article. *See* General Revisor’s Note to article.

25 In subsection (d)(2) of this section, the reference to “its” funds is
26 substituted for the former reference to “Stadium Authority” funds for
27 brevity.

28 Also in subsection (d)(2) of this section, the former phrase “including funds
29 in the fiscal year 2005 operating budget” is deleted as obsolete.

30 The Economic Development Article Review Committee notes, for the
31 consideration of the General Assembly, that this section is codified at the
32 recommendation of the Attorney General. Although § 12 of Ch. 138, Acts of
33 1998, was enacted as an uncodified provision of a capital budget bill, the
34 Attorney General has opined that it has a continuing effect authorizing
35 certain activities of the Authority, and should be codified in accordance
36 with Md. Constitution, Art. III, § 29. The subsequent history of this
37 provision, twice amended in the 10 years since its original enactment,
38 supports its placement in the Code. This codification is called to the
39 attention of the General Assembly. *See* 85 Op. Att’y Gen. 190 (2000).

40 The Economic Development Article Review Committee also notes, for the

1 consideration of the General Assembly, that the Attorney General observed
2 that the legislature may wish to consider *how* local controls should interact
3 with the authority granted to the Authority under § 12, codified in this
4 section, without making any particular recommendation on the subject.
5 The Committee brings this matter to the attention of the General
6 Assembly. *See* 85 Op. Att’y Gen. 190 (2000).

7 The Economic Development Article Review Committee also notes, for the
8 consideration of the General Assembly, that the Attorney General observed
9 that the authority of the Board of Public Works to issue regulations
10 concerning the Authority’s contracts under this section is unclear. The
11 Attorney General recommended that the Board refrain from issuing
12 regulations on this matter until the General Assembly has had an
13 opportunity to clarify the issue. The Committee brings this matter to the
14 attention of the General Assembly. *See* 85 Op. Att’y Gen. 190 (2000).

15 Defined terms: “Authority” § 10–601
16 “State” § 9–101

17 10–623. DUTIES.

18 THE AUTHORITY SHALL:

19 (1) SUBMIT THE OPERATING AND CAPITAL PROGRAM BUDGET OF THE
20 AUTHORITY EACH YEAR TO THE DEPARTMENT OF BUDGET AND MANAGEMENT FOR
21 INCLUSION IN THE STATE BUDGET BOOK FOR INFORMATIONAL PURPOSES; AND

22 (2) KEEP RECORDS THAT ARE CONSISTENT WITH SOUND BUSINESS
23 PRACTICES AND ACCOUNTING RECORDS USING GENERALLY ACCEPTED ACCOUNTING
24 PRINCIPLES.

25 REVISOR’S NOTE: This section is new language derived without substantive
26 change from former FI § 13–719(1) and (5).

27 In item (1) of this section, the reference to “the operating and capital
28 program budget” is substituted for the former reference to “a budget
29 reflecting the operating and capital program” for brevity.

30 Defined terms: “Authority” § 10–601
31 “State” § 9–101

32 10–624. AUDIT.

33 THE AUTHORITY SHALL:

34 (1) HAVE AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT AUDIT THE
35 ACCOUNTS AND TRANSACTIONS OF THE AUTHORITY AT THE END OF EACH FISCAL YEAR;
36 AND

1 (2) BE SUBJECT, AT ANY REASONABLE TIME, TO AUDIT AND EXAMINATION
 2 OF THE ACCOUNTS AND TRANSACTIONS OF THE AUTHORITY BY THE OFFICE OF
 3 LEGISLATIVE AUDITS OF THE DEPARTMENT OF LEGISLATIVE SERVICES.

4 REVISOR'S NOTE: This section is new language derived without substantive
 5 change from former FI § 13–719(2) and (3).

6 Defined term: “Authority” § 10–601

7 10–625. ANNUAL REPORTS.

8 THE AUTHORITY SHALL SUBMIT:

9 (1) AN ANNUAL DETAILED REPORT OF THE ACTIVITIES AND FINANCIAL
 10 STATUS OF THE AUTHORITY TO THE GOVERNOR, AND, IN ACCORDANCE WITH § 2–1246
 11 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY; AND

12 (2) ANNUAL REPORTS ON THE ADDITIONAL TAX REVENUES GENERATED BY
 13 EACH OF THE FOLLOWING FACILITIES, PREPARED IN COOPERATION WITH THE OFFICE OF
 14 THE COMPTROLLER AND THE DEPARTMENT OF BUDGET AND MANAGEMENT:

15 (i) THE BALTIMORE CONVENTION FACILITY;

16 (ii) THE HIPPODROME PERFORMING ARTS FACILITY;

17 (iii) THE MONTGOMERY COUNTY CONFERENCE FACILITY; AND

18 (iv) THE OCEAN CITY CONVENTION FACILITY.

19 REVISOR'S NOTE: This section is new language derived without substantive
 20 change from former FI § 13–719(4) and (7) through (10).

21 Former FI § 13–719(6), which required a one–time report on the effect of
 22 sports lotteries conducted on behalf of the Authority on lottery revenues
 23 earned for the General Fund, is deleted as obsolete. The report was
 24 completed between 1988 and 1992.

25 Defined terms: “Authority” § 10–601

26 “Baltimore Convention facility” § 10–601

27 “Convention facility” § 10–601

28 “Facility” § 10–601

29 “Hippodrome Performing Arts facility” § 10–601

30 “Montgomery County” § 10–601

31 “Montgomery County Conference facility” § 10–601

32 “Ocean City Convention facility” § 10–601

1 10-626. RESERVED.

2 10-627. RESERVED.

3 PART IV. BONDS — IN GENERAL.

4 10-628. BONDING AUTHORITY.

5 (A) IN GENERAL.

6 EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION AND SUBJECT
7 TO THE PRIOR APPROVAL OF THE BOARD OF PUBLIC WORKS, THE AUTHORITY MAY
8 ISSUE BONDS AT ANY TIME FOR ANY CORPORATE PURPOSE OF THE AUTHORITY,
9 INCLUDING THE ESTABLISHMENT OF RESERVES AND THE PAYMENT OF INTEREST.

10 (B) BONDS FOR SPORTS FACILITIES AT CAMDEN YARDS.

11 (1) UNLESS AUTHORIZED BY THE GENERAL ASSEMBLY, THE BOARD OF
12 PUBLIC WORKS MAY NOT APPROVE AN ISSUANCE BY THE AUTHORITY OF BONDS FOR
13 SPORTS FACILITIES AT CAMDEN YARDS, WHETHER TAXABLE OR TAX EXEMPT, THAT
14 CONSTITUTE TAX SUPPORTED DEBT IF, AFTER THE ISSUANCE, THERE WOULD BE
15 OUTSTANDING AND UNPAID \$235,000,000 FACE AMOUNT OF BONDS FOR THE PURPOSE
16 OF FINANCING THE SITE ACQUISITION AND PREPARATION, RELOCATION, DEMOLITION AND
17 REMOVAL, CONSTRUCTION AND RELATED EXPENSES FOR CONSTRUCTION MANAGEMENT,
18 PROFESSIONAL FEES, AND CONTINGENCIES OF BASEBALL AND FOOTBALL STADIUMS OR A
19 MULTIUSE STADIUM.

20 (2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE LIMITS
21 ON THE ISSUANCE OF BONDS OF THE AUTHORITY, WHETHER TAXABLE OR TAX EXEMPT,
22 THAT CONSTITUTE TAX SUPPORTED DEBT FOR THE FOLLOWING PURPOSES WITH RESPECT
23 TO SPORTS FACILITIES AT CAMDEN YARDS ARE:

24 1. \$85,000,000 FOR SITE ACQUISITION AND PREPARATION,
25 RELOCATION, DEMOLITION AND REMOVAL, AND CONSTRUCTION AND RELATED EXPENSES
26 FOR CONSTRUCTION MANAGEMENT, PROFESSIONAL FEES, AND CONTINGENCIES FOR
27 CAMDEN YARDS;

28 2. \$70,000,000 FOR SITE WORK, CONSTRUCTION AND
29 RELATED EXPENSES FOR CONSTRUCTION MANAGEMENT, PROFESSIONAL FEES, AND
30 CONTINGENCIES OF A BASEBALL STADIUM;

31 3. \$80,000,000 FOR SITE WORK, CONSTRUCTION AND
32 RELATED EXPENSES FOR CONSTRUCTION MANAGEMENT, PROFESSIONAL FEES, AND
33 CONTINGENCIES OF A FOOTBALL STADIUM; AND

34 4. \$195,000,000 FOR SITE ACQUISITION AND PREPARATION,
35 RELOCATION, DEMOLITION AND REMOVAL, AND CONSTRUCTION AND RELATED EXPENSES
36 FOR CONSTRUCTION MANAGEMENT, PROFESSIONAL FEES, AND CONTINGENCIES OF A
37 MULTIUSE STADIUM.

1 (ii) THE AUTHORITY MAY EXCEED THE MONETARY LIMITS ON BOND
 2 ISSUANCES PROVIDED FOR IN SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THE
 3 AUTHORITY:

4 1. OBTAINS THE AUTHORIZATION OF THE BOARD OF PUBLIC
 5 WORKS; AND

6 2. NOTIFIES THE LEGISLATIVE POLICY COMMITTEE WITH
 7 ACCOMPANYING JUSTIFICATION.

8 (c) BONDS FOR OTHER AUTHORITY FACILITIES.

9 UNLESS AUTHORIZED BY THE GENERAL ASSEMBLY, THE BOARD OF PUBLIC
 10 WORKS MAY NOT APPROVE AN ISSUANCE BY THE AUTHORITY OF BONDS, WHETHER
 11 TAXABLE OR TAX EXEMPT, THAT CONSTITUTE TAX SUPPORTED DEBT IF, AFTER ISSUANCE,
 12 THERE WOULD BE OUTSTANDING AND UNPAID MORE THAN THE FOLLOWING FACE
 13 AMOUNTS OF THE BONDS FOR THE PURPOSE OF FINANCING ACQUISITION,
 14 CONSTRUCTION, RENOVATION, AND RELATED EXPENSES FOR CONSTRUCTION
 15 MANAGEMENT, PROFESSIONAL FEES, AND CONTINGENCIES IN CONNECTION WITH:

16 (1) THE BALTIMORE CONVENTION FACILITY – \$55,000,000;

17 (2) THE HIPPODROME PERFORMING ARTS FACILITY – \$20,250,000;

18 (3) THE MONTGOMERY COUNTY CONFERENCE FACILITY – \$23,185,000;

19 AND

20 (4) THE OCEAN CITY CONVENTION FACILITY – \$17,340,000.

21 REVISOR’S NOTE: This section is new language derived without substantive
 22 change from former FI § 13–712(a)(1).

23 In subsection (a) of this section, the former phrase “from time to time” is
 24 deleted for consistency with other bonding authority provisions elsewhere
 25 in the revised article.

26 Also in subsection (a) of this section, the phrase “of the Authority” is added
 27 for accuracy.

28 In subsection (b)(2)(i) of this section, the introductory clause is substituted
 29 for the introductory clause in the former source law to make it clear that
 30 the additional specific amounts of bonds for specific purposes related to
 31 sports facilities at Camden Yards can be exceeded if the Authority obtains
 32 “author[ization]” (as opposed to “approval”) and provides “accompanying
 33 justification” to the Legislative Policy Committee.

34 Defined terms: “Authority” § 10–601

35 “Baltimore Convention facility” § 10–601

36 “Bond” § 10–601

37 “Camden Yards” § 10–601

- 1 “Hippodrome Performing Arts facility” § 10–601
 2 “Montgomery County Conference facility” § 10–601
 3 “Ocean City Convention facility” § 10–601
 4 “Tax supported debt” § 10–601

5 **10–629. PAYMENT OF BONDS.**

6 (A) **PAYMENT OF BONDS.**

7 **THE AUTHORITY SHALL PAY THE BONDS ISSUED IN ACCORDANCE WITH THIS PART**
 8 **ONLY FROM THE PROPERTY OR RECEIPTS OF THE AUTHORITY.**

9 (B) **PROPERTY AND RECEIPTS OF AUTHORITY.**

10 **PROPERTY AND RECEIPTS OF THE AUTHORITY INCLUDE:**

11 (1) **TAXES, FEES, CHARGES, OR OTHER REVENUES PAYABLE TO THE**
 12 **AUTHORITY;**

13 (2) **PAYMENTS IN ACCORDANCE WITH LETTERS OF CREDIT, LINES OF**
 14 **CREDIT, INSURANCE POLICIES, OR PURCHASE AGREEMENTS;**

15 (3) **INVESTMENT EARNINGS FROM FUNDS OR ACCOUNTS MAINTAINED IN**
 16 **ACCORDANCE WITH A BOND RESOLUTION OR TRUST AGREEMENT;**

17 (4) **THE PROCEEDS OF REFUNDING BONDS; AND**

18 (5) **ANY OTHER SOURCE AUTHORIZED BY LAW.**

19 **REVISOR’S NOTE: This section is new language derived without substantive**
 20 **change from former FI § 13–712(a)(2).**

21 **In subsection (a) of this section, the former phrase “including without**
 22 **limitation” is deleted as surplusage.**

23 **In subsection (b)(2)(ii) of this section, the former phrase “by financial**
 24 **institutions, insurance companies, or others” is deleted because it may not**
 25 **cover the universe of entities that make payments to the Stadium**
 26 **Authority for the purpose of this subsection.**

27 **Defined terms: “Authority” § 10–601**

28 **“Bond” § 10–601**

29 **10–630. AUTHORIZATION OF BONDS BY RESOLUTION OR TRUST AGREEMENT.**

30 (A) **RESOLUTION.**

31 **THE AUTHORITY SHALL AUTHORIZE THE ISSUANCE OF BONDS BY RESOLUTION.**

32 (B) **TRUST AGREEMENT.**

1 (1) THE BONDS MAY BE SECURED BY A TRUST AGREEMENT BY AND
2 BETWEEN THE AUTHORITY AND A CORPORATE TRUSTEE.

3 (2) A CORPORATE TRUSTEE MAY BE ANY TRUST COMPANY OR BANK THAT
4 HAS THE POWERS OF A TRUST COMPANY IN OR OUTSIDE THE STATE.

5 (c) TERMS AND CONDITIONS.

6 THE BONDS SHALL:

7 (1) BE ISSUED AT, ABOVE, OR BELOW PAR VALUE, AND FOR CASH OR OTHER
8 VALUABLE CONSIDERATION;

9 (2) MATURE ON A DATE OR DATES NOT EXCEEDING 40 YEARS FROM THEIR
10 RESPECTIVE DATES OF ISSUE, WHETHER OR NOT THE BONDS ARE SERIAL OR TERM
11 BONDS;

12 (3) BEAR INTEREST AT THE FIXED RATE OR THE VARIABLE RATE PROVIDED
13 IN THE RESOLUTION OR TRUST AGREEMENT;

14 (4) BE PAYABLE AT A TIME OR TIMES AND BE IN THE DENOMINATIONS AND
15 FORM, EITHER COUPON OR REGISTERED, AS PROVIDED IN THE RESOLUTION OR TRUST
16 AGREEMENT;

17 (5) BE SUBJECT TO THE REGISTRATION PROVISIONS, HAVE THE PRIVILEGES
18 AS TO CONVERSION, AND BE SUBJECT TO THE PROVISIONS FOR THE REPLACEMENT OF
19 MUTILATED, LOST, OR DESTROYED BONDS AS PROVIDED IN THE RESOLUTION OR TRUST
20 AGREEMENT;

21 (6) BE A “SECURITY” WITHIN THE MEANING OF § 8–102 OF THE
22 COMMERCIAL LAW ARTICLE, WHETHER OR NOT EACH BOND IS ONE OF A CLASS OR
23 SERIES OR IS DIVISIBLE BY ITS TERMS INTO A CLASS OR SERIES OF INSTRUMENTS;

24 (7) BE NEGOTIABLE FOR ALL PURPOSES ALTHOUGH PAYABLE FROM A
25 LIMITED SOURCE, NOTWITHSTANDING ANY OTHER LAW;

26 (8) BE PAYABLE IN LAWFUL MONEY OF THE UNITED STATES AT A
27 DESIGNATED PLACE;

28 (9) BE SUBJECT TO THE TERMS OF PURCHASE, PAYMENT, REDEMPTION,
29 REFUNDING, OR REFINANCING AS PROVIDED IN THE RESOLUTION OR TRUST AGREEMENT;

30 (10) SUBJECT TO SUBSECTION (D) OF THIS SECTION, BE EXECUTED BY THE
31 MANUAL OR FACSIMILE SIGNATURES OF THE OFFICERS OF THE AUTHORITY DESIGNATED
32 BY THE AUTHORITY;

33 (11) BE SOLD IN THE MANNER AND ON THE TERMS DETERMINED BY THE
34 AUTHORITY, INCLUDING COMPETITIVE OR NEGOTIATED SALE; AND

35 (12) ARE EXEMPT FROM §§ 8–206 AND 8–208 OF THE STATE FINANCE
36 AND PROCUREMENT ARTICLE.

1 (D) VALIDITY OF OFFICERS' SIGNATURES.

2 AN OFFICER'S SIGNATURE OR FACSIMILE SIGNATURE ON A BOND OF THE
3 AUTHORITY REMAINS VALID AT DELIVERY EVEN IF THE OFFICER LEAVES OFFICE BEFORE
4 THE BOND IS DELIVERED.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former FI § 13-712(a)(3).

7 In subsection (c)(11) of this section, the reference to "competitive" sale is
8 added for clarity and consistency within this title.

9 Subsection (d) of this section is revised in standard language for
10 consistency within this article.

11 Defined terms: "Authority" § 10-601

12 "Bond" § 10-601

13 "State" § 9-101

14 10-631. RESOLUTIONS AND TRUST AGREEMENTS — ADDITIONAL PROVISIONS.

15 A RESOLUTION OF THE AUTHORITY OR A TRUST AGREEMENT BETWEEN THE
16 AUTHORITY AND A CORPORATE TRUSTEE MAY CONTAIN PROVISIONS THAT SHALL BE PART
17 OF THE CONTRACT BETWEEN THE AUTHORITY AND THE HOLDERS OF THE BONDS AS TO:

18 (1) (i) THE PLEDGING, ASSIGNING, OR DIRECTING THE USE, INVESTMENT,
19 OR DISPOSITION OF RECEIPTS OF THE AUTHORITY OR PROCEEDS OR BENEFITS OF ANY
20 CONTRACT; AND

21 (ii) THE CONVEYING OR OTHERWISE SECURING OF ANY PROPERTY OR
22 PROPERTY RIGHTS;

23 (2) DEBT SERVICE RESERVES, CAPITALIZED INTEREST ACCOUNTS, COST OF
24 ISSUANCE ACCOUNTS, SINKING FUNDS, AND THE SETTING ASIDE OF DEPOSITS, AND THE
25 REGULATION, INVESTMENT, AND DISPOSITION OF THE FUNDS SPECIFIED IN THIS ITEM;

26 (3) LIMITATIONS ON THE USE AND INVESTMENT OF BOND PROCEEDS;

27 (4) RESTRICTIONS ON THE INVESTMENT OF REVENUES OR BOND PROCEEDS
28 TO GOVERNMENT OBLIGATIONS THE PRINCIPAL AND INTEREST OF WHICH ARE
29 UNCONDITIONALLY GUARANTEED BY THE UNITED STATES OF AMERICA;

30 (5) LIMITATIONS AND CONDITIONS RELATING TO THE ISSUANCE OF
31 ADDITIONAL BONDS, WHICH MAY RANK ON A PARITY WITH, OR BE SUBORDINATE OR
32 SUPERIOR TO, OTHER BONDS;

33 (6) THE REFUNDING OR REFINANCING OF OUTSTANDING BONDS;

34 (7) (i) THE PROCEDURES BY WHICH THE TERMS OF A CONTRACT WITH
35 BONDHOLDERS MAY BE AMENDED; AND

1 (II) THE AMOUNT OF BONDS THE HOLDERS OF WHICH ARE NEEDED TO
2 CONSENT TO AN AMENDMENT UNDER ITEM (I) OF THIS ITEM AND THE MANNER OF THAT
3 CONSENT;

4 (8) DESCRIBING AUTHORITY DEFAULTS AND THE RIGHTS AND REMEDIES OF
5 BONDHOLDERS;

6 (9) PROVIDING FOR GUARANTEES, PLEDGES OF PROPERTY, LETTERS OF
7 CREDIT, OR OTHER SECURITY, OR INSURANCE FOR THE BENEFIT OF BONDHOLDERS; AND

8 (10) ANY OTHER MATTER RELATING TO THE BONDS THAT THE AUTHORITY
9 DETERMINES APPROPRIATE.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former FI § 13–712(b).

12 In the introductory language of this section, the phrases “of the Authority”
13 and “between the Authority and a corporate trustee” are added for clarity.

14 In item (2) of this section, the provisions of former FI § 13–113(b)(2) are
15 restructured for clarity.

16 Item (5) of this section simplifies the provisions of former FI §
17 13–712(b)(4).

18 Defined terms: “Authority” § 10–601

19 “Bond” § 10–601

20 **10–632. PERSONAL LIABILITY OF AUTHORITY MEMBER — EXEMPTION.**

21 NEITHER A MEMBER OF THE AUTHORITY NOR ANY OTHER PERSON EXECUTING THE
22 BONDS IS SUBJECT TO ANY PERSONAL LIABILITY BECAUSE OF THE ISSUANCE OF THE
23 BONDS.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former FI § 13–712(c).

26 In this section, the former phrase “shall be liable personally” is deleted as
27 surplusage.

28 Defined terms: “Authority” § 10–601

29 “Bond” § 10–601

30 **10–633. AGREEMENT FOR ENHANCING MARKETABILITY OF BONDS.**

31 THE AUTHORITY MAY ENTER INTO AGREEMENTS FOR THE PURPOSE OF ENHANCING
32 THE MARKETABILITY OF, OR TO PROVIDE SECURITY FOR, ITS BONDS.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former FI § 13–712(d).

1 The former phrase “with agents, banks, insurers, or others” is deleted
2 because it may not cover the universe of entities with which the Authority
3 may make agreements as to the marketability or security of its bonds.

4 Defined terms: “Authority” § 10–601
5 “Bond” § 10–601

6 10–634. PLEDGES OF REVENUES BY AUTHORITY.

7 (A) PLEDGES AS SECURITY.

8 A PLEDGE BY THE AUTHORITY OF REVENUES AS SECURITY FOR AN ISSUE OF BONDS
9 IS VALID AND BINDING FROM WHEN THE PLEDGE IS MADE.

10 (B) PLEDGED REVENUES SUBJECT TO LIEN OF PLEDGE.

11 (1) THE REVENUES PLEDGED ARE IMMEDIATELY SUBJECT TO THE LIEN OF
12 THE PLEDGE WITHOUT ANY PHYSICAL DELIVERY OR FURTHER ACT.

13 (2) THE LIEN OF ANY PLEDGE IS VALID AND BINDING AGAINST ANY PERSON
14 HAVING A CLAIM AGAINST THE AUTHORITY IN TORT, CONTRACT, OR OTHERWISE,
15 REGARDLESS OF WHETHER THE PERSON HAS NOTICE OF THE LIEN.

16 (C) PERFECTING LIEN OF PLEDGED REVENUES.

17 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN ORDER TO PERFECT A LIEN
18 ON PLEDGED REVENUES AGAINST A THIRD PERSON, IT IS NOT NECESSARY TO FILE OR
19 RECORD ANY DOCUMENT ADOPTED OR ENTERED INTO BY THE AUTHORITY IN ANY PUBLIC
20 RECORD OTHER THAN IN THE RECORDS OF THE AUTHORITY.

21 REVISOR’S NOTE: This section is new language derived without substantive
22 change from former FI § 13–712(e).

23 In subsection (c) of this section, the former specific reference to a
24 “resolution, trust agreement or financing statement, construction
25 statement, or other instrument adopted or entered into by the Authority” is
26 deleted in light of the reference to “any document”.

27 Defined term: “Authority” § 10–601

28 10–635. ENFORCEMENT OF RIGHTS BY BONDHOLDERS.

29 EXCEPT TO THE EXTENT RESTRICTED BY AN APPLICABLE RESOLUTION OR TRUST
30 AGREEMENT, A BONDHOLDER OR A TRUSTEE ACTING UNDER A TRUST AGREEMENT
31 ENTERED INTO UNDER THIS SUBTITLE, MAY, BY ANY SUITABLE FORM OF LEGAL
32 PROCEEDINGS, PROTECT AND ENFORCE ANY RIGHTS GRANTED UNDER THE LAWS OF THE
33 STATE OR BY ANY APPLICABLE RESOLUTION OR TRUST AGREEMENT.

34 REVISOR’S NOTE: This section is new language derived without substantive
35 change from former FI § 13–712(f).

1 Defined terms: “Bond” § 10–601

2 “State” § 9–101

3 10–636. REFUNDING BONDS.

4 (A) PURPOSE.

5 SUBJECT TO THE PRIOR APPROVAL OF THE BOARD OF PUBLIC WORKS, THE
6 AUTHORITY MAY ISSUE BONDS TO REFUND ANY OF ITS OUTSTANDING BONDS, INCLUDING
7 THE PAYMENT OF:

8 (1) ANY REDEMPTION PREMIUM; AND

9 (2) ANY INTEREST ACCRUED OR THAT WILL ACCRUE TO THE EARLIEST OR
10 ANY SUBSEQUENT DATE OF REDEMPTION, PURCHASE, OR MATURITY OF THE BONDS.

11 (B) METHODS OF ISSUANCE.

12 (1) FOR THE PUBLIC PURPOSE OF ACHIEVING A SAVINGS IN THE EFFECTIVE
13 COSTS OF DEBT SERVICE OR ALLEVIATING IMPENDING OR ACTUAL DEFAULT, THE
14 AUTHORITY MAY ISSUE REFUNDING BONDS DIRECTLY OR THROUGH A DEBT
15 RESTRUCTURING.

16 (2) THE BONDS AUTHORIZED BY THIS SUBSECTION MAY BE ISSUED IN ONE
17 OR MORE SERIES AND IN AN AMOUNT IN EXCESS OF THAT OF THE BONDS TO BE
18 REFUNDED.

19 REVISOR’S NOTE: This section is new language derived without substantive
20 change from former FI § 13–712(g).

21 Defined terms: “Authority” § 10–601

22 “Bond” § 10–601

23 10–637. RESERVED.

24 10–638. RESERVED.

25 PART V. RESTRICTIONS ON BONDS AND BORROWING.

26 10–639. GENERAL RESTRICTIONS ON BONDS AND BORROWING.

27 THE CLOSING ON THE SALE OF BONDS THAT CONSTITUTE TAX SUPPORTED DEBT,
28 AND OTHER BORROWING OF MONEY IN AMOUNTS EXCEEDING \$35,000 A YEAR, TO
29 FINANCE ANY SEGMENT OF A FACILITY BY THE AUTHORITY IS GOVERNED BY THIS PART.

30 REVISOR’S NOTE: This section is new language derived from the introductory
31 language of former FI § 13–712.1.

32 This section is revised as a scope provision with respect to the authority of
33 the Authority to issue bonds and otherwise borrow money in excess of
34 \$35,000 a year.

1 Defined terms: “Authority” § 10–601

2 “Bond” § 10–601

3 “Facility” § 10–601

4 “Tax supported debt” § 10–601

5 10–640. BALTIMORE CONVENTION FACILITY.

6 (A) SITE ACQUISITION AND CONSTRUCTION OF FACILITY.

7 EXCEPT AS ALLOWED BY § 10–639 OF THIS SUBTITLE, TO FINANCE SITE
8 ACQUISITION AND CONSTRUCTION, THE AUTHORITY SHALL COMPLY WITH THIS SECTION.

9 (B) FINANCING PLAN.

10 THE AUTHORITY SHALL PROVIDE TO THE FISCAL COMMITTEES OF THE GENERAL
11 ASSEMBLY, AT LEAST 30 DAYS BEFORE SEEKING APPROVAL OF THE BOARD OF PUBLIC
12 WORKS FOR EACH BOND ISSUE OR OTHER BORROWING, A COMPREHENSIVE FINANCING
13 PLAN FOR THE RELEVANT SEGMENT OF THE FACILITY, INCLUDING THE EFFECT OF THE
14 FINANCING PLAN ON FINANCING OPTIONS FOR OTHER SEGMENTS OF THE FACILITY.

15 (C) APPROVAL OF PLAN BY BOARD OF PUBLIC WORKS.

16 THE AUTHORITY SHALL OBTAIN THE APPROVAL OF THE BOARD OF PUBLIC WORKS
17 OF THE PROPOSED BOND ISSUE AND THE FINANCING PLAN.

18 (D) LEASE OR OTHER WRITTEN AGREEMENT — FINANCIAL RESPONSIBILITIES.

19 THE AUTHORITY SHALL SECURE A LEASE OR OTHER WRITTEN AGREEMENT WITH
20 BALTIMORE CITY, AS APPROVED BY THE BOARD OF PUBLIC WORKS, UNDER WHICH:

21 (1) BALTIMORE CITY AGREES TO PAY \$50,000,000 FOR THE CAPITAL
22 COSTS OF THE EXPANSION OF THE BALTIMORE CONVENTION CENTER NOT LATER THAN
23 THE DATE OF THE AUTHORITY’S BOND ISSUANCE AS AUTHORIZED UNDER § 10–628 OF
24 THIS SUBTITLE;

25 (2) BALTIMORE CITY AND THE AUTHORITY EACH OWN A 50% LEASEHOLD
26 INTEREST AS TENANTS IN COMMON IN THE IMPROVEMENTS COMPRISING THE EXISTING
27 BALTIMORE CONVENTION CENTER AND THE BALTIMORE CONVENTION CENTER
28 EXPANSION FOR THE DURATION OF ANY BONDS ISSUED AS AUTHORIZED UNDER §
29 10–628 OF THIS SUBTITLE; AND

30 (3) BALTIMORE CITY AND THE AUTHORITY AGREE NOT TO SELL, ASSIGN,
31 MORTGAGE, PLEDGE, OR ENCUMBER THE BALTIMORE CONVENTION FACILITY, OR ANY
32 LEASEHOLD INTEREST IN THE FACILITY, WITHOUT THE PRIOR CONSENT OF THE OTHER,
33 EXCEPT FOR LIENS IN FAVOR OF THEIR RESPECTIVE BONDHOLDERS.

34 (E) LEASE OR OTHER WRITTEN AGREEMENT — CONSTRUCTION.

1 THE AUTHORITY SHALL SECURE A DEED, LEASE, OR WRITTEN AGREEMENT WITH
2 BALTIMORE CITY, AS APPROVED BY THE BOARD OF PUBLIC WORKS, AUTHORIZING THE
3 AUTHORITY TO:

4 (1) DESIGN AND CONSTRUCT, OR CONTRACT FOR THE DESIGN AND
5 CONSTRUCTION OF, THE BALTIMORE CONVENTION FACILITY; AND

6 (2) PLEDGE THE BALTIMORE CONVENTION FACILITY AND THE BALTIMORE
7 CONVENTION SITE OR THE LEASEHOLD INTEREST IN THE FACILITY AS SECURITY FOR THE
8 AUTHORITY'S BONDS.

9 (F) WRITTEN AGREEMENT WITH BALTIMORE CITY.

10 THE AUTHORITY SHALL SECURE A WRITTEN AGREEMENT WITH BALTIMORE CITY,
11 AS APPROVED BY THE BOARD OF PUBLIC WORKS:

12 (1) IN WHICH BALTIMORE CITY AGREES TO:

13 (i) OPERATE THE BALTIMORE CONVENTION FACILITY IN A MANNER
14 THAT MAXIMIZES THE FACILITY'S ECONOMIC RETURN; AND

15 (ii) MAINTAIN AND REPAIR THE FACILITY SO AS TO KEEP IT IN FIRST
16 CLASS OPERATING CONDITION; AND

17 (2) THAT INCLUDES PROVISIONS THAT:

18 (i) PROTECT THE RESPECTIVE INVESTMENT OF THE AUTHORITY, THE
19 STATE, AND BALTIMORE CITY IN THE BALTIMORE CONVENTION FACILITY;

20 (ii) REQUIRE:

21 1. FOR THE PERIOD BEGINNING ON THE COMPLETION OF THE
22 EXPANDED AND RENOVATED BALTIMORE CONVENTION FACILITY AND ENDING ON JUNE
23 30, 2008:

24 A. THE AUTHORITY TO CONTRIBUTE TWO-THIRDS AND
25 BALTIMORE CITY TO CONTRIBUTE ONE-THIRD TO ANNUAL OPERATING DEFICITS; AND

26 B. THE AUTHORITY AND BALTIMORE CITY EACH TO
27 CONTRIBUTE \$200,000 EACH YEAR TO A CAPITAL IMPROVEMENT RESERVE FUND; AND

28 2. BALTIMORE CITY TO BE SOLELY RESPONSIBLE FOR ALL
29 OPERATING DEFICITS AND CAPITAL IMPROVEMENTS:

30 A. BEFORE THE COMPLETION OF THE EXPANDED AND
31 RENOVATED BALTIMORE CONVENTION FACILITY; AND

32 B. AFTER JUNE 30, 2008; AND

(III) PROVIDE FOR REMEDIES ON DEFAULT, INCLUDING THE RIGHT OF THE AUTHORITY OR THE STATE, IF A MATERIAL DEFAULT BY BALTIMORE CITY IS NOT CORRECTED AFTER A REASONABLE NOTICE AND CURE PERIOD, TO:

1. IMMEDIATELY ASSUME RESPONSIBILITY FOR MAINTENANCE AND REPAIRS OF THE BALTIMORE CONVENTION FACILITY; AND

2. OFFSET THE COSTS OF THE MAINTENANCE AND REPAIRS AGAINST OTHER AMOUNTS OWED BY THE AUTHORITY OR THE STATE TO BALTIMORE CITY, WHETHER UNDER THE OPERATING AGREEMENT WITH BALTIMORE CITY OR OTHERWISE.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-712.1(2), (3), and (5) and the introductory language to the section.

In subsection (a) of this section, the introductory clause is added for clarity.

In subsection (d) of this section, the prohibitions and exceptions as to the sale of the Baltimore Convention facility that are imposed in former FI § 13-712.1(5)(i) are set forth in paragraphs (2) and (3) of subsection (d) for clarity.

Defined terms: "Authority" § 10-601

"Baltimore Convention facility" § 10-601

"Bond" § 10-601

"Improvement" § 10-601

"State" § 9-101

10-641. HIPPODROME PERFORMING ARTS FACILITY.

(A) SITE ACQUISITION AND CONSTRUCTION OF FACILITY.

EXCEPT AS ALLOWED BY § 10-639 OF THIS SUBTITLE, TO FINANCE SITE ACQUISITION AND CONSTRUCTION OF ANY SEGMENT OF A HIPPODROME PERFORMING ARTS FACILITY, THE AUTHORITY SHALL COMPLY WITH THIS SECTION.

(B) CERTIFICATION.

THE AUTHORITY SHALL PROVIDE CERTIFICATION TO THE LEGISLATIVE POLICY COMMITTEE AND THE BOARD OF PUBLIC WORKS, SUPPORTED BY A DETAILED REPORT, THAT THE AUTHORITY HAS ATTEMPTED TO MAXIMIZE PRIVATE INVESTMENT IN THE HIPPODROME PERFORMING ARTS FACILITY PROPOSED TO BE FINANCED.

(C) FINANCING PLAN.

THE AUTHORITY SHALL PROVIDE TO THE FISCAL COMMITTEES OF THE GENERAL ASSEMBLY, AT LEAST 30 DAYS BEFORE SEEKING APPROVAL OF THE BOARD OF PUBLIC WORKS FOR EACH BOND ISSUE OR OTHER BORROWING, A COMPREHENSIVE FINANCING PLAN FOR THE RELEVANT SEGMENT OF THE FACILITY, INCLUDING THE EFFECT OF THE

1 FINANCING PLAN ON FINANCING OPTIONS FOR OTHER SEGMENTS OF THE FACILITY AND
2 ANTICIPATED REVENUES FROM PRIVATE INVESTMENT.

3 (D) APPROVAL OF PLAN BY BOARD OF PUBLIC WORKS.

4 THE AUTHORITY SHALL OBTAIN THE APPROVAL OF THE BOARD OF PUBLIC WORKS
5 OF THE PROPOSED BOND ISSUE AND THE FINANCING PLAN.

6 (E) WRITTEN AGREEMENT — FINANCIAL RESPONSIBILITIES.

7 THE AUTHORITY SHALL SECURE ONE OR MORE WRITTEN AGREEMENTS, AS
8 APPROVED BY THE BOARD OF PUBLIC WORKS:

9 (1) ESTABLISHING COMMITMENTS FOR PAYMENTS TO THE AUTHORITY OF
10 AMOUNTS THAT SHALL BE USED BY THE AUTHORITY TO FUND \$60,000,000 OF TOTAL
11 ACQUISITION AND CAPITAL COSTS OF CONSTRUCTION OF THE HIPPODROME PERFORMING
12 ARTS FACILITY; AND

13 (2) UNDER WHICH:

14 (I) BALTIMORE CITY AGREES TO PAY \$6,000,000:

15 1. \$2,000,000 OF WHICH SHALL BE DEPOSITED TO THE
16 HIPPODROME PERFORMING ARTS FUND BY JULY 1, 2000; AND

17 2. \$4,000,000 OF WHICH SHALL BE DEPOSITED TO THE
18 HIPPODROME PERFORMING ARTS FUND:

19 A. BY NOT LATER THAN THE DATE OF THE AUTHORITY'S BOND
20 ISSUANCE AS AUTHORIZED UNDER § 10-628 OF THIS SUBTITLE; OR

21 B. IN \$2,000,000 INCREMENTS, IN EACH OF THE NEXT 2
22 SUCCEEDING YEARS, FROM THE PROCEEDS OF BOND ISSUANCES THAT HAVE RECEIVED
23 VOTER APPROVAL BY NOT LATER THAN THE DATE OF THE AUTHORITY'S BOND ISSUANCE
24 AS AUTHORIZED UNDER § 10-628 OF THIS SUBTITLE;

25 (II) THE STATE HAS DEPOSITED TO THE HIPPODROME PERFORMING
26 ARTS FUND AN AGGREGATE AMOUNT OF \$16,500,000 OR A LESSER AMOUNT AS IS
27 AVAILABLE TO THE AUTHORITY AND NOT SUBJECT TO ANY BUDGET CONTINGENCIES;

28 (III) THE AUTHORITY AGREES TO:

29 1. ISSUE BONDS AS AUTHORIZED UNDER § 10-628 OF THIS
30 SUBTITLE; AND

31 2. USE \$17,400,000 OF THE PROCEEDS FROM THE SALE OF
32 THE BONDS IN THE MANNER AND FOR THE PURPOSES DESCRIBED IN THIS SECTION; AND

33 (IV) ONE OR MORE PRIVATE ENTITIES, WHICH MAY INCLUDE AN
34 AUTHORITY AFFILIATE, AS PRIVATE FUNDING SOURCES:

1 1. DEPOSIT TO THE HIPPODROME PERFORMING ARTS FUND,
2 NOT LATER THAN THE DATE OF THE AUTHORITY'S BOND ISSUANCE AS AUTHORIZED
3 UNDER § 10-628 OF THIS SUBTITLE, AT LEAST \$8,000,000;

4 2. AGREE, NOT LATER THAN THE DATE OF THE AUTHORITY'S
5 BOND ISSUANCE AS AUTHORIZED UNDER § 10-628 OF THIS SUBTITLE, TO PAY:

6 A. AN ADDITIONAL \$12,100,000; AND

7 B. ALL ACTUAL ACQUISITION AND CAPITAL COSTS OF
8 CONSTRUCTION OF THE HIPPODROME PERFORMING ARTS FACILITY TO THE EXTENT THE
9 COSTS EXCEEDED \$60,000,000; AND

10 3. AGREE THAT ANY SAVINGS FROM ACQUISITION OR CAPITAL
11 COSTS ON COMPLETION OF THE HIPPODROME PERFORMING ARTS FACILITY SHALL BE
12 PAID TO THE AUTHORITY.

13 (F) WRITTEN AGREEMENT BETWEEN AUTHORITY AND UNIVERSITY SYSTEM OF
14 MARYLAND.

15 THE AUTHORITY SHALL SECURE A WRITTEN AGREEMENT WITH THE UNIVERSITY
16 SYSTEM OF MARYLAND, AS APPROVED BY THE BOARD OF PUBLIC WORKS, UNDER
17 WHICH THE UNIVERSITY SYSTEM OF MARYLAND AGREES TO TRANSFER TO THE
18 AUTHORITY FEE TITLE TO THE PROPERTY KNOWN AS THE HIPPODROME THEATRE, 12
19 NORTH EUTAW STREET, DESCRIBED IN THE BALTIMORE CITY LAND RECORDS IN LIBER
20 S.E.B. 6259, FOLIO 38.

21 (G) WRITTEN AGREEMENT BETWEEN AUTHORITY AND AUTHORITY AFFILIATE.

22 THE AUTHORITY SHALL SECURE A WRITTEN AGREEMENT WITH AN AUTHORITY
23 AFFILIATE, AS APPROVED BY THE BOARD OF PUBLIC WORKS, BY WHICH THE AUTHORITY
24 AFFILIATE AGREES:

25 (1) TO MARKET, PROMOTE, AND OPERATE OR CONTRACT, SUBJECT TO THE
26 APPROVAL OF THE AUTHORITY, FOR THE MARKETING, PROMOTION, AND OPERATION OF
27 THE HIPPODROME PERFORMING ARTS FACILITY;

28 (2) TO MAINTAIN AND REPAIR OR CONTRACT, SUBJECT TO THE APPROVAL OF
29 THE AUTHORITY, FOR THE MAINTENANCE AND REPAIR OF THE HIPPODROME
30 PERFORMING ARTS FACILITY SO AS TO KEEP THE HIPPODROME PERFORMING ARTS
31 FACILITY IN FIRST CLASS OPERATING CONDITION;

32 (3) TO PAY TO THE AUTHORITY FOR THE DURATION OF ANY BONDS ISSUED
33 AS AUTHORIZED UNDER § 10-628 OF THIS SUBTITLE AN AMOUNT EQUAL TO \$2 PER
34 TICKET SOLD FOR ADMISSION TO THE HIPPODROME PERFORMING ARTS FACILITY; AND

35 (4) TO BE SOLELY RESPONSIBLE FOR ALL EXPENDITURES RELATING TO THE
36 OPERATION, MAINTENANCE, AND REPAIR OF THE HIPPODROME PERFORMING ARTS
37 FACILITY THAT MAY BE INCURRED, INCLUDING THE AMOUNT BY WHICH EXPENDITURES
38 EXCEED REVENUES.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former FI § 13-712.1(2), (3), (8), and its introductory
3 language, and, as it related to the Hippodrome Performing Arts Center, (1).

4 In subsection (a) of this section, the introductory clause is added for clarity.

5 In subsection (b) of this section, the language of former FI § 13-712.1(1)
6 relating to certification of efforts to maximize private investment in the
7 Hippodrome facility has been revised and incorporated into subsection (b).

8 Defined terms: "Authority" § 10-601

9 "Bond" § 10-601

10 "Hippodrome Performing Arts facility" § 10-601

11 "State" § 9-101

12 10-642. MONTGOMERY COUNTY CONFERENCE FACILITY.

13 (A) SITE ACQUISITION AND CONSTRUCTION OF FACILITY.

14 EXCEPT AS ALLOWED BY § 10-639 OF THIS SUBTITLE, TO FINANCE SITE
15 ACQUISITION AND CONSTRUCTION OF ANY SEGMENT OF A MONTGOMERY COUNTY
16 CONFERENCE FACILITY, THE AUTHORITY SHALL COMPLY WITH THIS SECTION.

17 (B) FINANCING PLAN.

18 THE AUTHORITY SHALL PROVIDE TO THE FISCAL COMMITTEES OF THE GENERAL
19 ASSEMBLY, AT LEAST 30 DAYS BEFORE SEEKING APPROVAL OF THE BOARD OF PUBLIC
20 WORKS FOR EACH BOND ISSUE OR OTHER BORROWING, A COMPREHENSIVE FINANCING
21 PLAN FOR THE RELEVANT SEGMENT OF THE FACILITY INCLUDING THE EFFECT OF THE
22 FINANCING PLAN ON FINANCING OPTIONS FOR OTHER SEGMENTS OF THE FACILITY.

23 (C) APPROVAL OF THE PLAN BY BOARD OF PUBLIC WORKS.

24 THE AUTHORITY SHALL OBTAIN THE APPROVAL OF THE BOARD OF PUBLIC WORKS
25 OF THE PROPOSED BOND ISSUE AND THE FINANCING PLAN.

26 (D) LEASE OR OTHER WRITTEN AGREEMENT — FINANCIAL RESPONSIBILITIES.

27 THE AUTHORITY SHALL SECURE A LEASE OR OTHER WRITTEN AGREEMENT WITH
28 MONTGOMERY COUNTY, AS APPROVED BY THE BOARD OF PUBLIC WORKS, UNDER
29 WHICH:

30 (1) MONTGOMERY COUNTY AGREES TO CONTRIBUTE \$13,196,000 FOR
31 THE CAPITAL COSTS OF CONSTRUCTION OF THE MONTGOMERY COUNTY CONFERENCE
32 CENTER NOT LATER THAN THE DATE OF THE AUTHORITY'S BOND ISSUANCE AS
33 AUTHORIZED UNDER § 10-628 OF THIS SUBTITLE;

34 (2) THE AUTHORITY AGREES TO:

35 (I) ISSUE BONDS AS AUTHORIZED UNDER § 10-628 OF THIS
36 SUBTITLE; AND

1 (II) CONTRIBUTE \$20,304,000 OF THE PROCEEDS FROM THE SALE OF
2 THE BONDS FOR THE CAPITAL COSTS OF THE CONSTRUCTION OF THE MONTGOMERY
3 COUNTY CONFERENCE CENTER;

4 (3) MONTGOMERY COUNTY AND THE AUTHORITY AGREE THAT IF THE
5 ACTUAL CAPITAL COSTS FOR THE CONSTRUCTION OF THE MONTGOMERY COUNTY
6 CONFERENCE CENTER ARE LESS THAN \$33,500,000, THE SAVINGS SHALL BE
7 ALLOCATED:

8 (I) ONE–HALF TO THE AUTHORITY; AND

9 (II) ONE–HALF TO MONTGOMERY COUNTY;

10 (4) MONTGOMERY COUNTY AND THE AUTHORITY AGREE THAT IF THE
11 ACTUAL CAPITAL COSTS FOR THE CONSTRUCTION OF THE MONTGOMERY COUNTY
12 CONFERENCE CENTER ARE MORE THAN \$33,500,000, THE EXCESS SHALL BE SHARED:

13 (I) ONE–HALF BY THE AUTHORITY; AND

14 (II) ONE–HALF BY MONTGOMERY COUNTY;

15 (5) MONTGOMERY COUNTY AGREES TO PURCHASE THE LAND FOR THE
16 MONTGOMERY COUNTY CONFERENCE SITE AS DEFINED IN § 10–601 OF THIS
17 SUBTITLE, ON WHICH THE MONTGOMERY COUNTY CONFERENCE CENTER WILL BE
18 CONSTRUCTED;

19 (6) MONTGOMERY COUNTY AND THE AUTHORITY EACH OWN A 50%
20 LEASEHOLD INTEREST AS TENANTS IN COMMON IN THE MONTGOMERY COUNTY
21 CONFERENCE FACILITY FOR THE DURATION OF ANY BONDS ISSUED AS AUTHORIZED
22 UNDER § 10–628 OF THIS SUBTITLE; AND

23 (7) MONTGOMERY COUNTY AND THE AUTHORITY AGREE NOT TO SELL,
24 ASSIGN, MORTGAGE, PLEDGE, OR ENCUMBER THE MONTGOMERY COUNTY CONFERENCE
25 FACILITY, OR ANY LEASEHOLD INTEREST IN THE FACILITY, WITHOUT THE PRIOR CONSENT
26 OF THE OTHER, EXCEPT FOR LIENS IN FAVOR OF THE AUTHORITY’S BONDHOLDERS.

27 (E) LEASE OR OTHER WRITTEN AGREEMENT — CONSTRUCTION.

28 THE AUTHORITY SHALL SECURE A DEED, LEASE, OR WRITTEN AGREEMENT WITH
29 MONTGOMERY COUNTY, AS APPROVED BY THE BOARD OF PUBLIC WORKS, AUTHORIZING
30 THE AUTHORITY TO:

31 (1) DESIGN, CONSTRUCT, AND EQUIP, OR CONTRACT FOR THE DESIGN,
32 CONSTRUCTION, AND EQUIPPING OF, THE MONTGOMERY COUNTY CONFERENCE
33 FACILITY; AND

34 (2) PLEDGE THE MONTGOMERY COUNTY CONFERENCE FACILITY AND THE
35 MONTGOMERY COUNTY CONFERENCE SITE OR THE LEASEHOLD INTEREST IN THE
36 FACILITY AS SECURITY FOR THE AUTHORITY’S BONDS.

1 (F) WRITTEN AGREEMENT WITH MONTGOMERY COUNTY — PURPOSES.

2 THE AUTHORITY SHALL SECURE A WRITTEN AGREEMENT WITH MONTGOMERY
3 COUNTY, AS APPROVED BY THE BOARD OF PUBLIC WORKS:

4 (1) IN WHICH MONTGOMERY COUNTY AGREES:

5 (I) TO MARKET, PROMOTE, AND OPERATE OR CONTRACT FOR THE
6 MARKETING, PROMOTION, AND OPERATION OF THE MONTGOMERY COUNTY
7 CONFERENCE FACILITY IN A MANNER THAT MAXIMIZES THE FACILITY'S ECONOMIC
8 RETURN TO THE COMMUNITY; AND

9 (II) TO MAINTAIN AND REPAIR OR CONTRACT FOR THE MAINTENANCE
10 AND REPAIR OF THE MONTGOMERY COUNTY CONFERENCE FACILITY SO AS TO KEEP THE
11 MONTGOMERY COUNTY CONFERENCE FACILITY IN FIRST CLASS OPERATING CONDITION;
12 AND

13 (2) THAT INCLUDES PROVISIONS THAT:

14 (I) PROTECT THE RESPECTIVE INVESTMENTS OF THE AUTHORITY AND
15 MONTGOMERY COUNTY IN THE MONTGOMERY COUNTY CONFERENCE FACILITY;

16 (II) REQUIRE MONTGOMERY COUNTY TO CONTRIBUTE TO A CAPITAL
17 IMPROVEMENT RESERVE FUND IN AN AMOUNT SUFFICIENT TO KEEP THE CONFERENCE
18 CENTER IN FIRST CLASS OPERATING CONDITION;

19 (III) REQUIRE MONTGOMERY COUNTY TO BE SOLELY RESPONSIBLE
20 FOR ALL EXPENDITURES RELATING TO THE OPERATION OF THE MONTGOMERY COUNTY
21 CONFERENCE FACILITIES THAT MAY BE INCURRED, INCLUDING THE AMOUNT BY WHICH
22 EXPENDITURES EXCEED REVENUES;

23 (IV) ALLOW MONTGOMERY COUNTY TO KEEP ALL OPERATING PROFITS
24 RESULTING FROM THE OPERATION OF THE MONTGOMERY COUNTY CONFERENCE
25 FACILITY EACH YEAR;

26 (V) PROVIDE FOR REMEDIES ON DEFAULT, INCLUDING THE RIGHT OF
27 THE AUTHORITY, IF A MATERIAL DEFAULT BY MONTGOMERY COUNTY IS NOT
28 CORRECTED AFTER A REASONABLE NOTICE AND CURE PERIOD, TO:

29 1. IMMEDIATELY ASSUME RESPONSIBILITY FOR MAINTENANCE
30 AND REPAIRS OF THE MONTGOMERY COUNTY CONFERENCE FACILITY; AND

31 2. OFFSET THE COSTS OF THE MAINTENANCE AND REPAIRS
32 AGAINST OTHER AMOUNTS OWED BY THE AUTHORITY TO MONTGOMERY COUNTY,
33 WHETHER UNDER THE OPERATING AGREEMENT WITH MONTGOMERY COUNTY OR
34 OTHERWISE;

35 (VI) AUTHORIZE THE AUTHORITY TO SELECT, THROUGH A
36 COOPERATIVE PROCUREMENT AGREEMENT, A CONTRACTOR TO DEVELOP, DESIGN,
37 CONSTRUCT, OPERATE, AND MANAGE THE MONTGOMERY COUNTY CONFERENCE

1 FACILITY DURING THE PERIOD THAT THE BONDS ISSUED BY THE AUTHORITY FOR THE
2 MONTGOMERY COUNTY CONFERENCE FACILITY ARE OUTSTANDING;

3 (VII) ALLOW FOR THE ESTABLISHMENT OF A BOARD OF DIRECTORS TO
4 MANAGE THE MONTGOMERY COUNTY CONFERENCE FACILITY;

5 (VIII) PROVIDE THAT THE BOARD OF DIRECTORS MAY INCLUDE
6 REPRESENTATIVES OF THE AUTHORITY, MONTGOMERY COUNTY, THE PRIVATE
7 DEVELOPER, AND THE COMMUNITY; AND

8 (IX) PROVIDE THAT, UNLESS ACTION IS TAKEN TO CREATE A LEGAL
9 ENTITY, THE BOARD OF DIRECTORS IS NOT A SEPARATE LEGAL ENTITY.

10 (G) AGREEMENT AMONG MONTGOMERY COUNTY, AUTHORITY, AND PRIVATE
11 DEVELOPER.

12 THE AUTHORITY SHALL SECURE AN AGREEMENT AMONG MONTGOMERY COUNTY,
13 THE AUTHORITY, AND A PRIVATE DEVELOPER, AS APPROVED BY THE BOARD OF PUBLIC
14 WORKS, THAT PROVIDES FOR:

15 (1) THE ACQUISITION, CONSTRUCTION, AND OPERATION OF A HOTEL
16 ADJACENT TO THE MONTGOMERY COUNTY CONFERENCE FACILITY; AND

17 (2) A CAPITAL COMMITMENT FROM THE DEVELOPER FOR THE HOTEL AND,
18 AS APPROPRIATE, SHARED FACILITIES.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former FI § 13–712.1(2), (3), and (7), and the introductory
21 language.

22 In subsection (a) of this section, the introductory clause is added for clarity.

23 Defined terms: “Authority” § 10–601

24 “Bond” § 10–601

25 “Montgomery County” § 10–601

26 “Montgomery County Conference facility” § 10–601

27 10–643. OCEAN CITY CONVENTION FACILITY.

28 (A) SITE ACQUISITION AND CONSTRUCTION OF FACILITY.

29 EXCEPT AS ALLOWED BY § 10–639 OF THIS SUBTITLE, TO FINANCE SITE
30 ACQUISITION AND CONSTRUCTION OF ANY SEGMENT OF AN OCEAN CITY CONVENTION
31 FACILITY, THE AUTHORITY SHALL COMPLY WITH THIS SECTION.

32 (B) FINANCING PLAN.

33 THE AUTHORITY SHALL PROVIDE TO THE FISCAL COMMITTEES OF THE GENERAL
34 ASSEMBLY, AT LEAST 30 DAYS BEFORE SEEKING APPROVAL OF THE BOARD OF PUBLIC
35 WORKS FOR EACH BOND ISSUE OR OTHER BORROWING, A COMPREHENSIVE FINANCING

1 PLAN FOR THE RELEVANT SEGMENT OF THE FACILITY, INCLUDING THE EFFECT OF THE
2 FINANCING PLAN ON FINANCING OPTIONS FOR OTHER SEGMENTS OF THE FACILITY.

3 (C) APPROVAL OF PLAN BY BOARD OF PUBLIC WORKS.

4 THE AUTHORITY SHALL OBTAIN THE APPROVAL OF THE BOARD OF PUBLIC WORKS
5 OF THE PROPOSED BOND ISSUE AND THE FINANCING PLAN.

6 (D) LEASE OR OTHER WRITTEN AGREEMENT — PURPOSES.

7 THE AUTHORITY SHALL SECURE A LEASE OR OTHER WRITTEN AGREEMENT WITH
8 OCEAN CITY, AS APPROVED BY THE BOARD OF PUBLIC WORKS, UNDER WHICH:

9 (1) OCEAN CITY AGREES TO:

10 (I) ISSUE BONDS NOT LATER THAN THE DATE OF THE AUTHORITY'S
11 BOND ISSUANCE AS AUTHORIZED UNDER § 10–628 OF THIS SUBTITLE; AND

12 (II) CONTRIBUTE \$14,700,000 OF THE PROCEEDS FROM THE SALE OF
13 THE BONDS FOR THE CAPITAL COSTS OF THE EXPANSION OF THE OCEAN CITY
14 CONVENTION CENTER;

15 (2) THE AUTHORITY AGREES TO:

16 (I) ISSUE BONDS AS AUTHORIZED UNDER § 10–628 OF THIS
17 SUBTITLE; AND

18 (II) CONTRIBUTE \$14,700,000 OF THE PROCEEDS FROM THE SALE OF
19 THE BONDS FOR THE CAPITAL COSTS OF THE EXPANSION OF THE OCEAN CITY
20 CONVENTION CENTER;

21 (3) OCEAN CITY AND THE AUTHORITY AGREE THAT IF THE ACTUAL
22 CAPITAL COSTS OF THE EXPANSION OF THE OCEAN CITY CONVENTION CENTER ARE
23 LESS THAN \$29,400,000, THE SAVINGS SHALL BE ALLOCATED:

24 (I) ONE–HALF TO THE AUTHORITY; AND

25 (II) ONE–HALF TO OCEAN CITY;

26 (4) OCEAN CITY AGREES TO PROVIDE THE OCEAN CITY CONVENTION SITE,
27 AS DEFINED IN § 10–601 OF THIS SUBTITLE, FOR THE EXPANSION AND RENOVATION OF
28 THE OCEAN CITY CONVENTION FACILITY;

29 (5) OCEAN CITY AND THE AUTHORITY SHALL EACH OWN A 50%
30 LEASEHOLD INTEREST AS TENANTS IN COMMON IN THE IMPROVEMENTS COMPRISING THE
31 EXISTING OCEAN CITY CONVENTION CENTER AND THE OCEAN CITY CONVENTION
32 CENTER EXPANSION FOR THE DURATION OF ANY BONDS ISSUED AS AUTHORIZED UNDER
33 § 10–628 OF THIS SUBTITLE; AND

34 (6) OCEAN CITY AND THE AUTHORITY AGREE NOT TO SELL, ASSIGN,
35 MORTGAGE, PLEDGE, OR ENCUMBER THE OCEAN CITY CONVENTION FACILITY, OR ANY

1 LEASEHOLD INTEREST IN THE FACILITY, WITHOUT THE PRIOR CONSENT OF THE OTHER,
2 EXCEPT FOR LIENS IN FAVOR OF THEIR RESPECTIVE BONDHOLDERS.

3 (E) DEED, LEASE, OR AGREEMENT WITH OCEAN CITY — IN GENERAL.

4 THE AUTHORITY SHALL SECURE A DEED, LEASE, OR WRITTEN AGREEMENT WITH
5 OCEAN CITY, AS APPROVED BY THE BOARD OF PUBLIC WORKS, AUTHORIZING THE
6 AUTHORITY TO:

7 (1) DESIGN, CONSTRUCT, AND EQUIP, OR CONTRACT FOR THE DESIGN,
8 CONSTRUCTION, AND EQUIPPING OF THE OCEAN CITY CONVENTION FACILITY
9 EXPANSION; AND

10 (2) PLEDGE THE OCEAN CITY CONVENTION FACILITY AND THE OCEAN
11 CITY CONVENTION SITE OR THE LEASEHOLD INTEREST IN THE FACILITY AS SECURITY
12 FOR THE AUTHORITY'S BONDS.

13 (F) FINANCIAL RESPONSIBILITIES UNDER AGREEMENT.

14 (1) THE AUTHORITY SHALL SECURE A WRITTEN AGREEMENT WITH OCEAN
15 CITY, AS APPROVED BY THE BOARD OF PUBLIC WORKS:

16 (I) IN WHICH OCEAN CITY AGREES TO:

17 1. SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, MARKET,
18 PROMOTE, AND OPERATE THE OCEAN CITY CONVENTION FACILITY IN A MANNER THAT
19 MAXIMIZES THE FACILITY'S ECONOMIC RETURN;

20 2. MAINTAIN AND REPAIR THE FACILITY SO AS TO KEEP IT IN
21 FIRST CLASS OPERATING CONDITION; AND

22 3. BE SOLELY RESPONSIBLE FOR ALL OPERATING DEFICITS AND
23 CAPITAL IMPROVEMENTS:

24 A. BEFORE THE COMPLETION OF THE EXPANDED AND
25 RENOVATED OCEAN CITY CONVENTION FACILITY; AND

26 B. AFTER THE REPAYMENT OF THE OCEAN CITY CONVENTION
27 FACILITY BONDS ISSUED BY THE AUTHORITY.

28 (II) THAT INCLUDES PROVISIONS THAT:

29 1. PROTECT THE RESPECTIVE INVESTMENT OF THE AUTHORITY
30 AND OCEAN CITY;

31 2. REQUIRE:

32 A. THE AUTHORITY TO CONTRIBUTE ONE—HALF AND OCEAN
33 CITY TO CONTRIBUTE ONE—HALF TO OPERATING DEFICITS; AND

1 B. THE AUTHORITY AND OCEAN CITY EACH TO CONTRIBUTE
2 \$50,000 EACH YEAR TO A CAPITAL IMPROVEMENT RESERVE FUND, FOR THE PERIOD
3 BEGINNING ON THE COMPLETION OF THE EXPANDED AND RENOVATED OCEAN CITY
4 CONVENTION FACILITY AND CONTINUING DURING THE PERIOD THAT THE OCEAN CITY
5 CONVENTION FACILITY BONDS ISSUED BY THE AUTHORITY ARE OUTSTANDING; AND

6 3. PROVIDE FOR REMEDIES ON DEFAULT, INCLUDING THE RIGHT
7 OF THE AUTHORITY, IF A MATERIAL DEFAULT BY OCEAN CITY IS NOT CORRECTED AFTER
8 A REASONABLE NOTICE AND CURE PERIOD, TO:

9 A. IMMEDIATELY ASSUME RESPONSIBILITY FOR MAINTENANCE
10 AND REPAIRS OF THE OCEAN CITY CONVENTION FACILITY; AND

11 B. OFFSET THE COSTS OF THE MAINTENANCE AND REPAIRS
12 AGAINST OTHER AMOUNTS OWED BY THE AUTHORITY TO OCEAN CITY, WHETHER UNDER
13 THE OPERATING AGREEMENT WITH OCEAN CITY OR OTHERWISE.

14 (2) PARAGRAPH (1)(I)1 OF THIS SUBSECTION MAY NOT BE CONSTRUED TO
15 REQUIRE GAMBLING ACTIVITIES IN THE OCEAN CITY CONVENTION FACILITY.

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former FI § 13–712.1(2), (3), and (6) and the introductory
18 language.

19 In subsection (a) of this section, the introductory clause is added for clarity.

- 20 Defined terms: “Authority” § 10–601
- 21 “Bond” § 10–601
- 22 “Improvement” § 10–601
- 23 “Ocean City Convention facility” § 10–601
- 24 “State” § 9–101

25 10–644. SPORTS FACILITIES.

26 (A) IN GENERAL.

27 EXCEPT AS ALLOWED BY § 10–639 OF THIS SUBTITLE, TO FINANCE ACQUISITION
28 AND CONSTRUCTION OF ANY SEGMENT OF A SPORTS FACILITY, THE AUTHORITY SHALL
29 COMPLY WITH THIS SECTION.

30 (B) CERTIFICATION.

31 THE AUTHORITY SHALL PROVIDE CERTIFICATION TO THE LEGISLATIVE POLICY
32 COMMITTEE AND THE BOARD OF PUBLIC WORKS, SUPPORTED BY A DETAILED REPORT,
33 THAT THE AUTHORITY HAS ATTEMPTED:

34 (1) TO MAXIMIZE PRIVATE INVESTMENT IN THE SPORTS FACILITY PROPOSED
35 TO BE FINANCED; AND

1 (2) WITH RESPECT TO A BASEBALL OR FOOTBALL STADIUM, TO MAXIMIZE
2 THE STATE'S ABILITY TO ENSURE THAT THE PROFESSIONAL BASEBALL AND FOOTBALL
3 FRANCHISES WILL REMAIN PERMANENTLY IN THE STATE.

4 (C) APPROVAL OF BOND ISSUE — REQUIREMENTS.

5 THE AUTHORITY SHALL PROVIDE TO THE FISCAL COMMITTEES OF THE GENERAL
6 ASSEMBLY, AT LEAST 30 DAYS BEFORE SEEKING APPROVAL OF THE BOARD OF PUBLIC
7 WORKS FOR EACH BOND ISSUE OR OTHER BORROWING, A COMPREHENSIVE FINANCING
8 PLAN FOR THE RELEVANT SEGMENT OF THE FACILITY, INCLUDING THE EFFECT OF THE
9 FINANCING PLAN ON FINANCING OPTIONS FOR OTHER SEGMENTS OF THE FACILITY AND
10 ANTICIPATED REVENUES FROM PRIVATE INVESTMENT.

11 (D) APPROVAL OF PLAN BY BOARD OF PUBLIC WORKS.

12 THE AUTHORITY SHALL OBTAIN THE APPROVAL OF THE BOARD OF PUBLIC WORKS
13 OF THE PROPOSED BOND ISSUE AND THE FINANCING PLAN.

14 (E) LONG-TERM LEASE — REQUIREMENTS.

15 THE AUTHORITY SHALL SECURE, AS APPROVED BY THE BOARD OF PUBLIC WORKS:

16 (1) WITH RESPECT TO SITE ACQUISITION AND THE CONSTRUCTION OF A
17 BASEBALL STADIUM, A LONG-TERM LEASE FOR A MAJOR LEAGUE PROFESSIONAL
18 BASEBALL TEAM; OR

19 (2) SUBJECT TO § 10-617 OF THIS SUBTITLE, WITH RESPECT TO SITE
20 ACQUISITION AND THE CONSTRUCTION OF A FOOTBALL STADIUM:

21 (i) A FRANCHISE FOR A NATIONAL FOOTBALL LEAGUE TEAM; AND

22 (ii) A LONG-TERM LEASE THAT INCLUDES A PROVISION REQUIRING
23 THE FOOTBALL TEAM THAT LEASES THE STADIUM TO AGREE TO REIMBURSE THE
24 AUTHORITY:

25 1. FOR \$24,000,000 IN STADIUM CONSTRUCTION COSTS,
26 INCLUDING THE CONSTRUCTION, FITTING OUT, AND FURNISHING OF THE PRIVATE SUITES
27 THAT ARE PART OF THE FOOTBALL STADIUM; AND

28 2. ON THE TERMS AND CONDITIONS DETERMINED BY THE
29 AUTHORITY.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former FI § 13-712.1(2), (3), (4)(i) and (ii), and its
32 introductory language, and, as it related to sports facilities, (1).

33 In subsection (b) of this section, the language of former FI § 13-712.1(1)
34 relating to certification of efforts to maximize private investment is
35 incorporated into the introductory language of subsection (b).

36 In subsection (c)(2) of this section, the phrase "a report on" is added to

1 clarify how the Authority is to present information on the effect of the
2 financing plan.

3 Defined terms: “Authority” § 10–601

4 “Bond” § 10–601

5 “Facility” § 10–601

6 “Sports facility” § 10–601

7 “State” § 9–101

8 “Tax supported debt” § 10–601

9 10–645. RESERVED.

10 10–646. RESERVED.

11 PART VI. MISCELLANEOUS BOND PROVISIONS.

12 10–647. LEGAL INVESTMENTS.

13 A FINANCIAL INSTITUTION, INVESTMENT COMPANY, INSURANCE COMPANY OR
14 ASSOCIATION, OR A PERSONAL REPRESENTATIVE, GUARDIAN, TRUSTEE, OR OTHER
15 FIDUCIARY, MAY LEGALLY INVEST ANY MONEY BELONGING TO IT OR WITHIN ITS CONTROL
16 IN ANY BONDS ISSUED BY THE AUTHORITY.

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from former FI § 13–713.

19 Defined terms: “Authority” § 10–601

20 “Bond” § 10–601

21 10–648. TAX STATUS.

22 (A) IN GENERAL.

23 THE AUTHORITY IS EXEMPT FROM ANY REQUIREMENT TO PAY TAXES OR
24 ASSESSMENTS OF ANY KIND.

25 (B) BONDS.

26 THE PRINCIPAL OF AND INTEREST ON BONDS, AND ANY INCOME DERIVED FROM
27 THE BONDS, INCLUDING PROFITS MADE IN THEIR SALE OR TRANSFER, ARE FOREVER
28 EXEMPT FROM ALL STATE AND LOCAL TAXES.

29 REVISOR’S NOTE: This section is new language derived without substantive
30 change from former FI § 13–714.

31 In subsection (b) of this section, the former phrase “from every kind of and
32 nature of taxation” is deleted as surplusage.

33 Defined terms: “Authority” § 10–601

34 “Bond” § 10–601

1 “State” § 9–101

2 10–649. RESERVED.

3 10–650. RESERVED.

4 PART VII. FUNDS.

5 10–651. BALTIMORE CONVENTION FINANCING FUND.

6 (A) ESTABLISHED.

7 THERE IS A BALTIMORE CONVENTION FINANCING FUND.

8 (B) PURPOSE.

9 (1) THE BALTIMORE CONVENTION FUND IS A CONTINUING, NONLAPSING
10 FUND THAT SHALL BE AVAILABLE IN PERPETUITY TO IMPLEMENT THIS SUBTITLE
11 CONCERNING BALTIMORE CONVENTION FACILITIES.

12 (2) THE AUTHORITY SHALL:

13 (I) USE THE BALTIMORE CONVENTION FUND AS A REVOLVING FUND
14 FOR CARRYING OUT THIS SUBTITLE CONCERNING BALTIMORE CONVENTION FACILITIES;
15 AND

16 (II) PAY ANY AND ALL EXPENSES FROM THE BALTIMORE CONVENTION
17 FUND THAT ARE INCURRED BY THE AUTHORITY RELATED TO THE BALTIMORE
18 CONVENTION FACILITY.

19 (C) FUND RECEIPTS PLEDGED.

20 (1) TO THE EXTENT CONSIDERED APPROPRIATE BY THE AUTHORITY, THE
21 RECEIPTS OF THE BALTIMORE CONVENTION FUND SHALL BE PLEDGED TO AND CHARGED
22 WITH THE FOLLOWING RELATING TO THE BALTIMORE CONVENTION FACILITY:

23 (I) THE PAYMENT OF DEBT SERVICE ON AUTHORITY BONDS;

24 (II) ALL REASONABLE CHARGES AND EXPENSES RELATED TO
25 AUTHORITY BORROWING; AND

26 (III) THE MANAGEMENT OF AUTHORITY OBLIGATIONS.

27 (2) THE PLEDGE SHALL BE EFFECTIVE AS PROVIDED IN § 10–634 OF THIS
28 SUBTITLE AND ANY APPLICABLE AUTHORITY RESOLUTION.

29 (D) COMPOSITION.

30 THE BALTIMORE CONVENTION FUND CONSISTS OF:

1 (1) FUNDS APPROPRIATED FOR DEPOSIT TO THE BALTIMORE CONVENTION
2 FUND;

3 (2) PROCEEDS FROM THE SALE OF BONDS CONCERNING THE BALTIMORE
4 CONVENTION FACILITY;

5 (3) REVENUES COLLECTED OR RECEIVED FROM ANY SOURCE UNDER THIS
6 SUBTITLE RELATED TO BALTIMORE CONVENTION FACILITIES; AND

7 (4) ANY ADDITIONAL MONEY MADE AVAILABLE FROM ANY PUBLIC OR
8 PRIVATE SOURCES FOR THE PURPOSES ESTABLISHED FOR THE BALTIMORE CONVENTION
9 FUND.

10 (E) INVESTMENTS; EARNINGS; REVERSION.

11 (1) THE TREASURER SHALL INVEST THE MONEY OF THE BALTIMORE
12 CONVENTION FUND IN THE SAME MANNER AS OTHER STATE FUNDS.

13 (2) ANY INVESTMENT EARNINGS SHALL BE CREDITED TO THE BALTIMORE
14 CONVENTION FUND.

15 (3) NO PART OF THE BALTIMORE CONVENTION FUND MAY REVERT OR BE
16 CREDITED TO THE GENERAL FUND OR ANY SPECIAL FUND OF THE STATE.

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from former FI § 13–716.

19 In subsection (d) of this section, the former reference to “[i]nterest or other
20 income earned on the investment of moneys in the ... Fund” is deleted as
21 redundant of the crediting of investment earnings to the Fund under
22 subsection (e)(2) of this section.

23 In subsection (d)(4) of this section, the reference to “any public or private
24 sources” is substituted for the former reference to “any sources, public or
25 private” for clarity.

26 In subsection (e)(3) of this section, the former erroneous reference to any
27 “other” special fund is deleted for clarity.

- 28 Defined terms: “Authority” § 10–601
- 29 “Baltimore Convention facility” § 10–601
- 30 “Baltimore Convention Fund” § 10–601
- 31 “Bond” § 10–601
- 32 “Convention facility” § 10–601
- 33 “Facility” § 10–601
- 34 “State” § 9–101

35 10–652. CAMDEN YARDS FINANCING FUND.

36 (A) ESTABLISHED.

1 THERE IS A CAMDEN YARDS FINANCING FUND.

2 (B) PURPOSE.

3 THE AUTHORITY SHALL:

4 (1) USE THE CAMDEN YARDS FUND AS A NONLAPSING, REVOLVING FUND
5 FOR IMPLEMENTING THIS SUBTITLE CONCERNING SPORTS FACILITIES AND OTHER
6 FACILITIES AT CAMDEN YARDS;

7 (2) PAY ALL EXPENSES AND MAKE ALL EXPENDITURES RELATED TO
8 CAMDEN YARDS FACILITIES FROM THE CAMDEN YARDS FUND; AND

9 (3) TRANSFER THE SUM OF \$24,000,000 TO THE PUBLIC SCHOOL
10 CONSTRUCTION FUND ESTABLISHED UNDER § 7-326 OF THE STATE FINANCE AND
11 PROCUREMENT ARTICLE BY MAKING AN ANNUAL PAYMENT OF \$2,400,000 BEGINNING
12 IN FISCAL YEAR 2001 AND ENDING IN FISCAL YEAR 2010.

13 (C) FUNDS RECEIPTS PLEDGED.

14 (1) TO THE EXTENT CONSIDERED APPROPRIATE BY THE AUTHORITY, THE
15 RECEIPTS OF THE CAMDEN YARDS FUND SHALL BE PLEDGED TO AND CHARGED WITH
16 THE FOLLOWING RELATING TO SPORTS FACILITIES:

17 (I) THE PAYMENT OF DEBT SERVICE ON AUTHORITY BONDS;

18 (II) ALL REASONABLE CHARGES AND EXPENSES RELATED TO
19 AUTHORITY BORROWING; AND

20 (III) THE MANAGEMENT OF AUTHORITY OBLIGATIONS.

21 (2) THE PLEDGE SHALL BE EFFECTIVE AS PROVIDED IN § 10-634 OF THIS
22 SUBTITLE AND ANY APPLICABLE AUTHORITY RESOLUTION.

23 (D) COMPOSITION.

24 THE CAMDEN YARDS FUND CONSISTS OF:

25 (1) PROCEEDS FROM THE SALE OF BONDS RELATED TO SPORTS FACILITIES;

26 (2) REVENUES COLLECTED OR RECEIVED FROM ANY SOURCE UNDER THIS
27 SUBTITLE RELATED TO CAMDEN YARDS FACILITIES;

28 (3) ANY OTHER REVENUES RELATED TO CAMDEN YARDS FACILITIES, UNDER
29 THE JURISDICTION OF THE AUTHORITY;

30 (4) ADMISSIONS AND AMUSEMENT TAX REVENUES DISTRIBUTED TO THE
31 AUTHORITY UNDER THE TAX – GENERAL ARTICLE;

32 (5) ANY ADDITIONAL REVENUE, GIFT, DONATION, OR OTHER FUNDING
33 SOURCE AUTHORIZED BY LAW RELATED TO CAMDEN YARDS FACILITIES; AND

1 (6) PAYMENTS BY BALTIMORE CITY UNDER SUBSECTION (F) OF THIS
2 SECTION.

3 (E) INVESTMENTS AND EARNINGS.

4 (1) THE TREASURER SHALL INVEST THE MONEY OF THE CAMDEN YARDS
5 FUND IN THE SAME MANNER AS STATE FUNDS.

6 (2) ANY INVESTMENT EARNINGS SHALL BE CREDITED TO THE CAMDEN
7 YARDS FUND.

8 (3) NO PART OF THE CAMDEN YARDS FUND MAY REVERT TO OR BE
9 CREDITED TO THE GENERAL FUND OR ANY SPECIAL FUND OF THE STATE.

10 (F) REQUIRED CONTRIBUTION.

11 BALTIMORE CITY SHALL PAY \$1,000,000 EACH YEAR INTO THE CAMDEN YARDS
12 FUND FOR THE PURPOSES OF DEBT SERVICE AND OTHER FORMS OF OBLIGATION BY THE
13 AUTHORITY.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former FI §§ 13–715, 13–715.1, and 13–715.2.

16 In subsection (a) of this section, the reference to the “Camden Yards”
17 Financing Fund is substituted for the former reference to the “Maryland
18 Stadium Authority” Financing Fund to reflect the fact that the Authority
19 may only use this fund for matters relating to “Camden Yards” and to a
20 “sports facility” as those terms are defined in § 10–601 of this subtitle, and
21 uses other funds established in this part for other projects authorized
22 under this subtitle. Although the Maryland Stadium Authority Financing
23 Fund was the only fund of the Authority when the Authority was first
24 established, as subsequent legislation has been enacted to authorize the
25 Authority to undertake additional projects, each of those enactments has
26 included the establishment of a new fund particular to the newly
27 authorized project and named for that project. *See*, Ch. 400 of 1993; Ch.
28 603 of 1995; Ch. 407 of 1996; Chs. 378 and 379 of 1999. No substantive
29 change is intended. Similarly, in subsections (b) through (f) of this section,
30 the defined term “Camden Yards Fund” is substituted for the former
31 references to the “Maryland Stadium Authority Financing Fund”.

32 Subsection (e)(3) of this section is new language added for consistency
33 within this part.

34 In subsection (f) of this section, the former obsolete phrase “beginning in
35 calendar year 1988” is deleted as surplusage.

36 Defined terms: “Authority” § 10–601

37 “Bond” § 10–601

38 “Camden Yards” § 10–601

39 “Camden Yards Fund” § 10–601

1 “Facility” § 10–601

2 “Sports facility” § 10–601

3 “State” § 9–101

4 10–653. HIPPODROME PERFORMING ARTS FINANCING FUND.

5 (A) ESTABLISHED.

6 THERE IS A HIPPODROME PERFORMING ARTS FINANCING FUND.

7 (B) PURPOSE.

8 (1) THE HIPPODROME PERFORMING ARTS FUND IS A CONTINUING,
9 NONLAPSING FUND THAT SHALL BE AVAILABLE IN PERPETUITY TO IMPLEMENT THIS
10 SUBTITLE CONCERNING THE HIPPODROME PERFORMING ARTS FACILITY.

11 (2) THE AUTHORITY SHALL:

12 (I) USE THE HIPPODROME PERFORMING ARTS FUND AS A
13 REVOLVING FUND FOR IMPLEMENTING THIS SUBTITLE CONCERNING THE HIPPODROME
14 PERFORMING ARTS FACILITY; AND

15 (II) PAY ANY AND ALL EXPENSES FROM THE HIPPODROME
16 PERFORMING ARTS FUND THAT ARE INCURRED BY THE AUTHORITY CONCERNING THE
17 HIPPODROME PERFORMING ARTS FACILITY.

18 (C) FUND RECEIPTS PLEDGED.

19 (1) TO THE EXTENT CONSIDERED APPROPRIATE BY THE AUTHORITY, THE
20 RECEIPTS OF THE HIPPODROME PERFORMING ARTS FUND SHALL BE PLEDGED TO AND
21 CHARGED WITH THE FOLLOWING RELATING TO THE HIPPODROME PERFORMING ARTS
22 FACILITY:

23 (I) THE PAYMENT OF DEBT SERVICE ON AUTHORITY BONDS;

24 (II) ALL REASONABLE CHARGES AND EXPENSES RELATED TO
25 AUTHORITY BORROWING; AND

26 (III) THE MANAGEMENT OF AUTHORITY OBLIGATIONS.

27 (2) THE PLEDGE SHALL BE EFFECTIVE AS PROVIDED IN § 10–634 OF THIS
28 SUBTITLE.

29 (D) COMPOSITION.

30 THE HIPPODROME PERFORMING ARTS FUND CONSISTS OF:

31 (1) FUNDS APPROPRIATED FOR DEPOSIT TO THE HIPPODROME PERFORMING
32 ARTS FUND;

1 (2) PROCEEDS FROM THE SALE OF BONDS CONCERNING THE HIPPODROME
2 PERFORMING ARTS FACILITY;

3 (3) REVENUES COLLECTED OR RECEIVED FROM ANY SOURCE UNDER THIS
4 SUBTITLE CONCERNING THE HIPPODROME PERFORMING ARTS FACILITY; AND

5 (4) ANY ADDITIONAL MONEY MADE AVAILABLE FROM ANY PUBLIC OR
6 PRIVATE SOURCE FOR THE PURPOSES ESTABLISHED FOR THE HIPPODROME PERFORMING
7 ARTS FUND.

8 (E) INVESTMENTS; EARNINGS; REVERSION.

9 (1) THE TREASURER SHALL INVEST THE MONEY OF THE HIPPODROME
10 PERFORMING ARTS FUND IN THE SAME MANNER AS STATE FUNDS.

11 (2) ANY INVESTMENT EARNINGS SHALL BE CREDITED TO THE HIPPODROME
12 PERFORMING ARTS FUND.

13 (3) NO PART OF THE HIPPODROME PERFORMING ARTS FUND MAY REVERT
14 OR BE CREDITED TO THE GENERAL FUND OR ANY SPECIAL FUND OF THE STATE.

15 REVISOR’S NOTE: This section is new language derived without substantive
16 change from former FI § 13–717.2.

17 In subsection (d) of this section, the former reference to “[i]nterest or other
18 income earned on the investment of moneys in the ... Fund” is deleted as
19 redundant of the crediting of investment earnings to the Fund under
20 subsection (e)(2) of this section.

21 In subsection (e)(3) of this section, the former erroneous reference to any
22 “other” special fund is deleted for clarity.

- 23 Defined terms: “Authority” § 10–601
- 24 “Bond” § 10–601
- 25 “Facility” § 10–601
- 26 “Hippodrome Performing Arts facility” § 10–601
- 27 “Hippodrome Performing Arts Fund” § 10–601
- 28 “State” § 9–101

29 10–654. MONTGOMERY COUNTY CONFERENCE FINANCING FUND.

30 (A) ESTABLISHED.

31 THERE IS A MONTGOMERY COUNTY CONFERENCE FINANCING FUND.

32 (B) PURPOSE.

33 (1) THE MONTGOMERY COUNTY CONFERENCE FUND IS A CONTINUING,
34 NONLAPSING FUND THAT SHALL BE AVAILABLE IN PERPETUITY TO IMPLEMENT THIS
35 SUBTITLE CONCERNING THE MONTGOMERY COUNTY CONFERENCE FACILITY.

1 (2) THE AUTHORITY SHALL:

2 (I) USE THE MONTGOMERY COUNTY CONFERENCE FUND AS A
3 REVOLVING FUND FOR IMPLEMENTING THIS SUBTITLE RELATING TO THE MONTGOMERY
4 COUNTY CONFERENCE FACILITY; AND

5 (II) PAY ANY AND ALL EXPENSES INCURRED BY THE AUTHORITY
6 CONCERNING THE MONTGOMERY COUNTY CONFERENCE FACILITY FROM THE
7 MONTGOMERY COUNTY CONFERENCE FUND.

8 (C) FUND RECEIPTS PLEDGED.

9 (1) TO THE EXTENT CONSIDERED APPROPRIATE BY THE AUTHORITY, THE
10 RECEIPTS OF THE MONTGOMERY COUNTY CONFERENCE FUND SHALL BE PLEDGED TO
11 AND CHARGED WITH THE FOLLOWING RELATING TO THE MONTGOMERY COUNTY
12 CONFERENCE FACILITY:

13 (I) THE PAYMENT OF DEBT SERVICE ON AUTHORITY BONDS;

14 (II) ALL REASONABLE CHARGES AND EXPENSES RELATED TO
15 AUTHORITY BORROWING; AND

16 (III) THE MANAGEMENT OF AUTHORITY OBLIGATIONS.

17 (2) THE PLEDGE SHALL BE EFFECTIVE AS PROVIDED IN § 10-634 OF THIS
18 SUBTITLE.

19 (D) COMPOSITION.

20 THE MONTGOMERY COUNTY CONFERENCE FUND CONSISTS OF:

21 (1) FUNDS APPROPRIATED FOR DEPOSIT TO THE MONTGOMERY COUNTY
22 CONFERENCE FUND;

23 (2) PROCEEDS FROM THE SALE OF BONDS CONCERNING THE MONTGOMERY
24 COUNTY CONFERENCE FACILITY;

25 (3) REVENUES COLLECTED OR RECEIVED FROM ANY SOURCE UNDER THIS
26 SUBTITLE CONCERNING THE MONTGOMERY COUNTY CONFERENCE FACILITY; AND

27 (4) ANY ADDITIONAL MONEY MADE AVAILABLE FROM ANY PUBLIC OR
28 PRIVATE SOURCES FOR THE PURPOSES ESTABLISHED FOR THE MONTGOMERY COUNTY
29 CONFERENCE FUND.

30 (E) INVESTMENTS; EARNINGS; REVERSION.

31 (1) THE TREASURER SHALL INVEST THE MONEY OF THE MONTGOMERY
32 COUNTY CONFERENCE FUND IN THE SAME MANNER AS STATE FUNDS.

33 (2) ANY INVESTMENT EARNINGS SHALL BE CREDITED TO THE
34 MONTGOMERY COUNTY CONFERENCE FUND.

1 (3) NO PART OF THE MONTGOMERY COUNTY CONFERENCE FUND MAY
2 REVERT OR BE CREDITED TO THE GENERAL FUND OR ANY SPECIAL FUND OF THE STATE.

3 REVISOR’S NOTE: This section is new language derived without substantive
4 change from former FI § 13–717.1.

5 In subsection (d) of this section, the former reference to “[i]nterest or other
6 income earned on the investment of moneys in the ... Fund” is deleted as
7 redundant of the crediting of investment earnings to the Fund under
8 subsection (e)(2) of this section.

9 In subsection (d)(4) of this section, the reference to “any public or private
10 sources” is substituted for the former reference to “any sources, public or
11 private” for clarity.

12 In subsection (e)(3) of this section, the former erroneous reference to any
13 “other” special fund is deleted for clarity.

- 14 Defined terms: “Authority” § 10–601
- 15 “Bond” § 10–601
- 16 “Convention facility” § 10–601
- 17 “Facility” § 10–601
- 18 “Montgomery County” § 10–601
- 19 “Montgomery County Conference facility” § 10–601
- 20 “Montgomery County Conference Fund” § 10–601
- 21 “State” § 9–101

22 10–655. OCEAN CITY CONVENTION FINANCING FUND.

23 (A) ESTABLISHED.

24 THERE IS AN OCEAN CITY CONVENTION FINANCING FUND.

25 (B) PURPOSE.

26 (1) THE OCEAN CITY CONVENTION FUND IS A CONTINUING, NONLAPSING
27 FUND THAT SHALL BE AVAILABLE IN PERPETUITY TO IMPLEMENT THIS SUBTITLE
28 RELATING TO THE OCEAN CITY CONVENTION FACILITY.

29 (2) THE AUTHORITY SHALL:

30 (i) USE THE OCEAN CITY CONVENTION FUND AS A REVOLVING FUND
31 FOR IMPLEMENTING THIS SUBTITLE RELATING TO THE OCEAN CITY CONVENTION
32 FACILITY; AND

33 (ii) PAY ANY AND ALL EXPENSES INCURRED BY THE AUTHORITY
34 CONCERNING THE OCEAN CITY CONVENTION FACILITY FROM THE OCEAN CITY
35 CONVENTION FUND.

36 (C) FUND RECEIPTS PLEDGED.

(1) TO THE EXTENT CONSIDERED APPROPRIATE BY THE AUTHORITY, THE RECEIPTS OF THE OCEAN CITY CONVENTION FUND SHALL BE PLEDGED TO AND CHARGED WITH THE FOLLOWING RELATING TO THE OCEAN CITY CONVENTION FACILITY:

(I) THE PAYMENT OF DEBT SERVICE ON AUTHORITY BONDS;

(II) ALL REASONABLE CHARGES AND EXPENSES RELATED TO AUTHORITY BORROWING; AND

(III) THE MANAGEMENT OF AUTHORITY OBLIGATIONS.

(2) THE PLEDGE SHALL BE EFFECTIVE AS PROVIDED IN § 10–634 OF THIS SUBTITLE AND ANY APPLICABLE AUTHORITY PROVISION.

(D) COMPOSITION.

THE OCEAN CITY CONVENTION FUND CONSISTS OF:

(1) FUNDS APPROPRIATED FOR DEPOSIT TO THE OCEAN CITY CONVENTION FUND;

(2) PROCEEDS FROM THE SALE OF BONDS CONCERNING THE OCEAN CITY CONVENTION FACILITY;

(3) REVENUES COLLECTED OR RECEIVED FROM ANY SOURCE UNDER THIS SUBTITLE CONCERNING OCEAN CITY CONVENTION FACILITIES; AND

(4) ANY ADDITIONAL MONEY MADE AVAILABLE FROM ANY PUBLIC OR PRIVATE SOURCES FOR THE PURPOSES ESTABLISHED FOR THE OCEAN CITY CONVENTION FUND.

(E) INVESTMENTS; EARNINGS; REVERSION.

(1) THE TREASURER SHALL INVEST THE MONEY OF THE OCEAN CITY CONVENTION FUND IN THE SAME MANNER AS STATE FUNDS.

(2) ANY INVESTMENT EARNINGS SHALL BE CREDITED TO THE OCEAN CITY CONVENTION FUND.

(3) NO PART OF THE OCEAN CITY CONVENTION FUND MAY REVERT OR BE CREDITED TO THE GENERAL FUND OR ANY SPECIAL FUND OF THE STATE.

REVISOR’S NOTE: This section is new language derived without substantive change from former FI § 13–717.

In subsection (d) of this section, the former reference to “[i]nterest or other income earned on the investment of moneys in the ... Fund” is deleted as redundant of the crediting of investment earnings to the Fund under subsection (e)(2) of this section.

In subsection (d)(4) of this section, the reference to “any public or private

1 sources” is substituted for the former reference to “any sources, public or
2 private” for clarity.

3 In subsection (e)(3) of this section, the former erroneous reference to any
4 “other” special fund is deleted for clarity.

5 Defined terms: “Authority” § 10–601

6 “Bond” § 10–601

7 “Convention facility” § 10–601

8 “Facility” § 10–601

9 “Ocean City Convention facility” § 10–601

10 “Ocean City Convention Fund” § 10–601

11 “State” § 9–101

12 10–656. RESERVED.

13 10–657. RESERVED.

14 PART VIII. SHORT TITLE.

15 10–658. SHORT TITLE.

16 THIS SUBTITLE MAY BE CITED AS THE MARYLAND STADIUM AUTHORITY ACT.

17 REVISOR’S NOTE: This section formerly was FI § 13–722.

18 No changes are made.

19 SUBTITLE 7. MARYLAND VENTURE CAPITAL TRUST.

20 10–701. DEFINITIONS.

21 (A) IN GENERAL.

22 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

23 REVISOR’S NOTE: This subsection is new language derived without
24 substantive change from former Art. 83A, § 5–301(a).

25 The word “subtitle” is substituted for the former word “section” for
26 accuracy.

27 (B) BOARD.

28 “BOARD” MEANS THE BOARD OF TRUSTEES OF THE MARYLAND VENTURE CAPITAL
29 TRUST.

30 REVISOR’S NOTE: This subsection is new language added to avoid repetition
31 of the full title of “the Board of Trustees of the Maryland Venture Capital
32 Trust”.

1 (C) INVESTOR.

2 “INVESTOR” MEANS A PERSON OR GOVERNMENTAL ENTITY THAT INVESTS MONEY IN
3 THE MARYLAND VENTURE CAPITAL TRUST.

4 REVISOR’S NOTE: This subsection is new language derived without
5 substantive change from former Art. 83A, § 5–301(b).

6 The reference to a “governmental” entity is substituted for the former
7 reference to a “legal” entity because a governmental entity is the only legal
8 entity not included in the defined term “person”. *See* § 9–101 of this article.

9 Defined term: “Person” § 9–101

10 (D) SEED CAPITAL FINANCING.

11 (1) “SEED CAPITAL FINANCING” MEANS FINANCING PROVIDED TO A
12 BUSINESS DURING THE INITIAL STAGES OF ITS DEVELOPMENT.

13 (2) “SEED CAPITAL FINANCING” INCLUDES FINANCING FOR A BUSINESS:

14 (I) TO FINISH RESEARCH AND DEVELOPMENT OF A PRODUCT;

15 (II) TO DEVELOP MARKETING PLANS; AND

16 (III) TO PROVIDE FOR INITIAL FACILITIES, INVENTORY, AND WORKING
17 CAPITAL.

18 REVISOR’S NOTE: This subsection is new language derived without
19 substantive change from former Art. 83A, § 5–301(c).

20 In paragraph (1) of this subsection and throughout this subtitle, the
21 references to a “business” are substituted for the former references to a
22 “business enterprise” for brevity.

23 (E) TRUST.

24 “TRUST” MEANS THE MARYLAND VENTURE CAPITAL TRUST.

25 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–301(d).

26 No changes are made.

27 (F) VENTURE CAPITAL FUND.

28 “VENTURE CAPITAL FUND” MEANS AN INVESTMENT FUND THAT PROVIDES CAPITAL
29 TO A BUSINESS AT ANY STAGE OF ITS DEVELOPMENT BEFORE THE BUSINESS MAKES A
30 PUBLIC OFFERING OF STOCK.

31 REVISOR’S NOTE: This subsection is new language derived without
32 substantive change from former Art. 83A, § 5–301(e).

1 10–702. LEGISLATIVE FINDINGS; INTENT.

2 (A) FINDINGS.

3 THE GENERAL ASSEMBLY FINDS THAT:

4 (1) SMALL BUSINESSES ARE A MAJOR SOURCE OF NEW JOBS AND
5 INNOVATIONS IN THE STATE;

6 (2) THE STATE’S RESEARCH CAPACITY COULD SPUR INNOVATION IN NEW
7 AND EXISTING BUSINESSES TO CREATE AND MAINTAIN JOBS IN THE STATE; AND

8 (3) AN INADEQUATE SUPPLY OF SEED CAPITAL FINANCING AND VENTURE
9 CAPITAL FUNDS HAS LIMITED THE COMMERCIALIZATION OF RESEARCH AND
10 DEVELOPMENT IN THE STATE.

11 (B) INTENT.

12 THE GENERAL ASSEMBLY INTENDS FOR THE TRUST TO:

13 (1) HELP FILL THE GAP IN THE STATE’S ECONOMY CAUSED BY THE
14 INADEQUATE SUPPLY OF SEED CAPITAL FINANCING AND VENTURE CAPITAL FUNDS; AND

15 (2) STIMULATE THE COMMERCIALIZATION OF RESEARCH AND DEVELOPMENT
16 TO CREATE AND SUSTAIN BUSINESSES THROUGHOUT THE STATE.

17 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–303.

18 In subsection (a)(3) of this section, the former reference to research and
19 development “activity” is deleted as surplusage.

20 In subsection (b)(1) of this section, the former reference to a “critical”
21 economic gap is deleted as surplusage.

22 Also in subsection (b)(1) of this section, the former phrase “in all regions of
23 the State” is deleted as surplusage.

24 Defined terms: “Seed capital financing” § 10–701

25 “State” § 9–101

26 “Trust” § 10–701

27 “Venture capital fund” § 10–701

28 10–703. CONSTRUCTION OF SUBTITLE.

29 THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO ACCOMPLISH ITS PURPOSES.

30 REVISOR’S NOTE: This section is new language derived without substantive
31 change from former Art. 83A, § 5–302.

1 10–704. ESTABLISHED.

2 (A) IN GENERAL.

3 THERE IS A MARYLAND VENTURE CAPITAL TRUST.

4 (B) STATUS.

5 THE TRUST IS A BODY POLITIC AND CORPORATE AND IS AN INSTRUMENTALITY OF
6 THE STATE.

7 REVISOR’S NOTE: This section is new language derived without substantive
8 change from former Art. 83A, § 5–304(a).

9 Subsection (a) of this section is revised in standard language for clarity
10 and consistency within this article.

11 Defined terms: “State” § 9–101

12 “Trust” § 10–701

13 10–705. BOARD OF TRUSTEES.

14 (A) ESTABLISHED.

15 THERE IS A BOARD OF TRUSTEES OF THE TRUST.

16 (B) COMPOSITION.

17 (1) THE BOARD CONSISTS OF SEVEN MEMBERS APPOINTED BY THE
18 GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

19 (2) OF THE SEVEN MEMBERS:

20 (I) FOUR SHALL REPRESENT THE INVESTORS AND HAVE BEEN
21 RECOMMENDED TO THE GOVERNOR BY THE INVESTORS;

22 (II) AT LEAST ONE SHALL HAVE EXPERTISE IN VENTURE CAPITAL
23 FINANCING; AND

24 (III) AT LEAST ONE SHALL HAVE EXPERIENCE AS A SMALL BUSINESS
25 OWNER.

26 (3) EACH MEMBER SHALL BE A RESIDENT OF THE STATE.

27 (4) THE GOVERNOR SHALL CONSIDER GEOGRAPHIC DIVERSITY OF THE
28 STATE WHEN APPOINTING MEMBERS OF THE BOARD.

29 (C) TENURE; VACANCIES; REMOVAL.

30 (1) THE TERM OF A MEMBER IS 4 YEARS.

1 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS
2 PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2008.

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

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

7 (5) THE GOVERNOR MAY REMOVE A MEMBER WITH OR WITHOUT CAUSE.

8 (D) CHAIR.

9 THE GOVERNOR SHALL APPOINT A CHAIR FROM AMONG THE BOARD MEMBERS.

10 (E) QUORUM; VOTING.

11 (1) A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD IS A
12 QUORUM.

13 (2) A MAJORITY VOTE OF THE MEMBERS PRESENT AT A MEETING HAVING A
14 QUORUM IS NEEDED FOR THE BOARD TO ACT.

15 (F) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

16 A MEMBER OF THE BOARD:

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

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

20 (G) DUTIES.

21 THE BOARD:

22 (1) SHALL MANAGE THE TRUST; AND

23 (2) EXERCISES ALL OF THE CORPORATE POWERS OF THE TRUST.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 83A, § 5–304(b), (c), and (d).

26 Throughout this section, the term “member” is substituted for the former
27 term “[t]rustee” for consistency within this subtitle and this article.

28 In subsection (b)(3) of this section, the reference to a “resident” is
29 substituted for the former reference to a “citizen” for clarity and
30 consistency within this article and because the meaning of “citizen” in this
31 context is unclear.

1 In subsection (b)(4) of this section, the reference to geographic “diversity” is
2 substituted for the former reference to geographic “representation” for
3 clarity and consistency with other revised articles. *See, e.g.*, BOP §
4 16–202(a). No substantive change is intended.

5 In subsection (c)(2) of this section, the reference to “October 1, 2008” is
6 substituted for the former obsolete reference to terms being staggered as
7 required by the terms provided on “July 1, 1990”. This substitution is not
8 intended to alter the term of any member of the Board. *See* § 13 of Ch. ____,
9 Acts of 2008. The terms of the members serving on October 1, 2008 end as
10 follows: (1) three on June 30, 2010; and (2) four on June 30, 2012.

11 Subsection (c)(4) of this section is revised in standard language for clarity
12 and consistency within this article.

13 In subsection (c)(5) of this section, the reference to “remov[al] ... with or
14 without cause” is substituted for the former reference to “serv[ing] at the
15 pleasure” of the Governor for clarity and consistency within this article.
16 *See* General Revisor’s Note to article.

17 Subsection (d) of this section is revised in standard language for clarity
18 and consistency within this article.

19 In subsection (f) of this section, the phrase “as a member of the Board” is
20 added for clarity and consistency within this article.

21 Defined terms: “Board” § 10–701
22 “Investor” § 10–701
23 “State” § 9–101
24 “Trust” § 10–701

25 10–706. APPLICABILITY OF OTHER LAWS.

26 (A) PROCUREMENT.

27 THE TRUST IS:

28 (1) EXEMPT FROM THE GENERAL PROCUREMENT LAW PROVISIONS OF
29 DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE; BUT

30 (2) SUBJECT TO TITLE 12, SUBTITLE 4 OF THE STATE FINANCE AND
31 PROCUREMENT ARTICLE.

32 (B) PERSONNEL.

33 THE TRUST IS EXEMPT FROM THE PROVISIONS OF DIVISION I OF THE STATE
34 PERSONNEL AND PENSIONS ARTICLE THAT GOVERN THE STATE PERSONNEL
35 MANAGEMENT SYSTEM.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83A, § 5–308(a)(2) and (3) and (b).

3 Defined terms: “State” § 9–101
4 “Trust” § 10–701

5 10–707. POWERS.

6 (A) IN GENERAL.

7 THE TRUST MAY:

8 (1) SOLICIT AND ACCEPT FOR INVESTMENT IN THE TRUST MONEY FROM ANY
9 SOURCE INCLUDING NOT MORE THAN \$2,000,000 IN APPROPRIATIONS FROM THE
10 STATE;

11 (2) ENTER INTO AGREEMENTS WITH THE INVESTORS THAT SET FORTH THE
12 TERMS GOVERNING THE INVESTMENT OF MONEY IN THE TRUST BY THE INVESTORS;

13 (3) BY PREPARING AND PUBLISHING REQUESTS FOR PROPOSALS, SOLICIT
14 OFFERINGS BY VENTURE CAPITALISTS AND VENTURE CAPITAL FUNDS THAT MEET THE
15 PURPOSES AND REQUIREMENTS OF THE TRUST, WHICH SHALL BE SET FORTH IN THE
16 REQUESTS FOR PROPOSALS;

17 (4) SUBJECT TO § 10–708 OF THIS SUBTITLE, SELECT THE VENTURE
18 CAPITAL FUNDS IN WHICH TO INVEST MONEY FROM THE TRUST;

19 (5) RETAIN INVESTMENT EARNINGS THAT EXCEED THE INVESTMENT
20 EARNINGS THAT THE TRUST MUST PAY TO INVESTORS; AND

21 (6) TAKE ANY ACTION NECESSARY TO CARRY OUT THE POWERS EXPRESSLY
22 GRANTED BY THIS SUBTITLE.

23 (B) LIMITATIONS.

24 (1) THE TRUST MAY NOT ACCEPT A CUMULATIVE INVESTMENT OF MORE
25 THAN \$15,000,000 FROM THE STATE RETIREMENT AND PENSION SYSTEM.

26 (2) THE TRUST MAY NOT ACCEPT A CUMULATIVE INVESTMENT OF MORE
27 THAN \$5,000,000 FROM ANY OTHER SINGLE INVESTOR.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 83A, § 5–305.

30 Former subsection (a)(5) which required the Trust to “[i]nvest in any
31 venture capital funds selected by the Trust in amounts deemed
32 appropriate by the Board of Trustees” is deleted as implicit in subsection
33 (a)(4) of this section.

34 In subsection (a)(6) of this section, the phrase “take any action necessary to
35 carry out the provisions of this subtitle” is substituted for the former

1 phrase “[d]o all things necessary and lawful to carry out the powers
2 expressly granted to the Trust by this subtitle” for brevity.

3 Defined terms: “Investor” § 10–701
4 “State” § 9–101
5 “Trust” § 10–701
6 “Venture capital fund” § 10–701

7 **10–708. PREFERRED PROPOSALS.**

8 **THE BOARD SHALL GIVE PREFERENCE TO VENTURE CAPITAL FUND PROPOSALS**
9 **THAT:**

10 (1) PROVIDE FINANCING PREDOMINATELY TO BUSINESSES THAT CONDUCT A
11 SUBSTANTIAL AMOUNT OF BUSINESS IN THE STATE;

12 (2) REQUIRE VENTURE CAPITAL FUNDS TO MATCH THE MONEY INVESTED BY
13 THE TRUST WITH MONEY INVESTED BY PRIVATE INVESTORS ON AT LEAST A 1 TO 3 RATIO;
14 AND

15 (3) ENSURE THAT A MAJORITY OF THE MONEY THAT THE TRUST INVESTS IS
16 FOR SEED CAPITAL FINANCING IN THE STATE.

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from former Art. 83A, § 5–306(a).

19 The reference to the “Board” is substituted for the former reference to
20 “Trustees” for consistency within this subtitle.

21 Defined terms: “Board” § 10–701
22 “Seed capital financing” § 10–701
23 “State” § 9–101
24 “Trust” § 10–701

25 **10–709. SEED CAPITAL INVESTMENTS.**

26 **SEED CAPITAL FINANCING MAY NOT EXCEED \$1,000,000 FOR A SINGLE BUSINESS.**

27 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–306(b).

28 The former words “more than” are deleted as surplusage.

29 The defined term “[s]eed capital financing” is substituted for the former
30 reference to “[s]eed capital investments” for clarity.

31 The only other changes are in style.

32 Defined term: “Seed capital financing” § 10–701

1 10–710. LIABILITY OF STATE.

2 A DEBT, CLAIM, OBLIGATION, OR LIABILITY OF THE TRUST IS NOT A DEBT, CLAIM,
3 OBLIGATION, OR LIABILITY OF THE STATE OR A UNIT OR INSTRUMENTALITY OF THE
4 STATE OR A PLEDGE OF THE STATE’S CREDIT.

5 REVISOR’S NOTE: This section is new language derived without substantive
6 change from former Art. 83A, § 5–309.

7 The former phrase “and its subsidiaries” is deleted because the Trust has
8 no subsidiaries and is not authorized to create any.

9 The former phrase “whenever incurred” is deleted as surplusage.

10 The reference to a debt, claim, “or” liability is substituted for the former
11 reference to a debt, claim, “and” liability for clarity.

12 The former phrase “its agencies, instrumentalities, officers, or employees”
13 is deleted as implicit in the reference to the “State”.

14 Defined terms: “State” § 9–101
15 “Trust” § 10–701

16 10–711. TAX STATUS.

17 THE TRUST IS EXEMPT FROM TAXATION BY THE STATE AND LOCAL GOVERNMENTS.

18 REVISOR’S NOTE: This section is new language derived without substantive
19 change from former Art. 83A, § 5–308(a)(1).

20 Defined terms: “State” § 9–101
21 “Trust” § 10–701

22 10–712. AUDITS.

23 (A) REQUIRED.

24 EACH YEAR, AN INDEPENDENT AUDITOR APPROVED BY THE STATE SHALL AUDIT
25 THE BOOKS AND RECORDS OF THE TRUST.

26 (B) OPTIONAL.

27 AT ITS DISCRETION, THE STATE MAY AUDIT THE BOOKS AND RECORDS OF THE
28 TRUST.

29 (C) EXPENSE.

30 THE TRUST SHALL PAY THE EXPENSE OF AN AUDIT CONDUCTED UNDER THIS
31 SECTION.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83A, § 5–307(a).

3 Defined terms: “State” § 9–101
4 “Trust” § 10–701

5 10–713. ANNUAL REPORT.

6 (A) REQUIRED.

7 ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE TRUST SHALL SUBMIT A REPORT
8 TO THE GOVERNOR, THE MARYLAND ECONOMIC DEVELOPMENT COMMISSION, AND,
9 SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL
10 ASSEMBLY.

11 (B) CONTENTS.

12 THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND FINANCIAL STATEMENT
13 COVERING THE OPERATIONS OF THE TRUST AND SUMMARIZE THE ACTIVITIES OF THE
14 TRUST FOR THE PRECEDING FISCAL YEAR.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 83A, § 5–307(b).

17 In subsection (a) of this section, the phrase “[o]n or before October 1” is
18 substituted for the former phrase “within the first 90 days of each fiscal
19 year” for clarity and consistency within this article.

20 Defined term: “Trust” § 10–701

21 TITLE 11. MILITARY INSTALLATION SUPPORT.

22 SUBTITLE 1. BASE REALIGNMENT AND CLOSURE SUBCABINET.

23 11–101. DEFINITIONS.

24 (A) IN GENERAL.

25 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

26 REVISOR'S NOTE: This subsection is new language derived without
27 substantive change from former SG § 9–802(a)(1), as it related to the scope
28 of definitions.

29 (B) BRAC.

30 (1) “BRAC” MEANS THE BASE REALIGNMENT AND CLOSURE PROCESS AS
31 ANNOUNCED BY THE UNITED STATES DEPARTMENT OF DEFENSE.

1 (2) “BRAC” INCLUDES THE DEFENSE CONVERSION AND DEFENSE
2 ECONOMIC ADJUSTMENT PROGRAM OF THE ECONOMIC DEVELOPMENT
3 ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF COMMERCE.

4 REVISOR’S NOTE: This subsection is new language derived without
5 substantive change from former SG § 9–802(a)(2) and, as it defined
6 “BRAC”, (1).

7 (C) SUBCABINET.

8 “SUBCABINET” MEANS THE BASE REALIGNMENT AND CLOSURE SUBCABINET
9 ESTABLISHED UNDER § 11–102 OF THIS SUBTITLE.

10 REVISOR’S NOTE: This subsection is new language added to provide a concise
11 reference to the “Base Realignment and Closure Subcabinet”.

12 11–102. ESTABLISHED.

13 THERE IS A BASE REALIGNMENT AND CLOSURE SUBCABINET.

14 REVISOR’S NOTE: This section formerly was SG § 9–802(b).

15 No changes are made.

16 11–103. COMPOSITION.

17 THE SUBCABINET CONSISTS OF:

18 (1) THE LIEUTENANT GOVERNOR;

19 (2) THE SECRETARY;

20 (3) THE SECRETARY OF BUDGET AND MANAGEMENT;

21 (4) THE SECRETARY OF THE ENVIRONMENT;

22 (5) THE SECRETARY OF HIGHER EDUCATION;

23 (6) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT;

24 (7) THE SECRETARY OF LABOR, LICENSING, AND REGULATION;

25 (8) THE SECRETARY OF PLANNING;

26 (9) THE SECRETARY OF TRANSPORTATION; AND

27 (10) THE STATE SUPERINTENDENT OF SCHOOLS.

28 REVISOR’S NOTE: This section is new language derived without substantive
29 change from former SG § 9–802(c).

1 Defined terms: “Secretary” § 9–101
2 “State” § 9–101
3 “Subcabinet” § 11–101

4 11–104. CHAIR.

5 (A) IN GENERAL.

6 THE LIEUTENANT GOVERNOR SERVES AS CHAIR OF THE SUBCABINET.

7 (B) DUTIES.

8 THE CHAIR IS RESPONSIBLE FOR THE OVERSIGHT, DIRECTION, AND
9 ACCOUNTABILITY OF THE WORK OF THE SUBCABINET.

10 REVISOR’S NOTE: This section is new language derived without substantive
11 change from former SG § 9–802(d).

12 Defined term: “Subcabinet” § 11–101

13 11–105. MEETINGS.

14 THE SUBCABINET SHALL MEET REGULARLY AT THE TIMES AND PLACES THAT IT
15 DETERMINES.

16 REVISOR’S NOTE: This section formerly was SG § 9–802(g).

17 The only changes are in style.

18 Defined term: “Subcabinet” § 11–101

19 11–106. SUBCOMMITTEES.

20 (A) IN GENERAL.

21 THE CHAIR MAY ESTABLISH SUBCOMMITTEES TO CARRY OUT THE WORK OF THE
22 SUBCABINET.

23 (B) MEMBERSHIP.

24 THE MEMBERSHIP OF A SUBCOMMITTEE MAY INCLUDE INDIVIDUALS WHO ARE NOT
25 MEMBERS OF THE SUBCABINET.

26 REVISOR’S NOTE: This section formerly was SG § 9–802(f).

27 The only changes are in style.

28 Defined term: “Subcabinet” § 11–101

29 11–107. STAFF.

30 (A) DEPARTMENT TO PROVIDE PRIMARY STAFF.

1 THE DEPARTMENT SHALL PROVIDE THE PRIMARY STAFF SUPPORT FOR THE
2 SUBCABINET.

3 (B) ADDITIONAL STAFF.

4 THE CHAIR MAY CALL ON ANY MEMBER OF THE SUBCABINET TO PROVIDE
5 ADDITIONAL STAFF ASSISTANCE AS NEEDED.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former SG § 9–802(e).

8 Defined terms: “Department” § 9–101
9 “Subcabinet” § 11–101

10 11–108. DUTIES.

11 THE SUBCABINET SHALL:

12 (1) COORDINATE AND OVERSEE THE IMPLEMENTATION OF ALL STATE
13 ACTION TO SUPPORT THE MISSIONS OF MILITARY INSTALLATIONS IN THE STATE THAT ARE
14 AFFECTED BY THE BRAC RECOMMENDATIONS;

15 (2) COORDINATE AND OVERSEE THE DEVELOPMENT OF BRAC–RELATED
16 INITIATIVES IN THE AREAS OF:

17 (I) WORKFORCE READINESS;

18 (II) GRADES K THROUGH 12 AND HIGHER EDUCATION;

19 (III) BUSINESS DEVELOPMENT;

20 (IV) HEALTH CARE FACILITIES AND SERVICES;

21 (V) COMMUNITY INFRASTRUCTURE AND GROWTH;

22 (VI) ENVIRONMENTAL STEWARDSHIP;

23 (VII) WORKFORCE HOUSING; AND

24 (VIII) TRANSPORTATION;

25 (3) PROVIDE A FORUM FOR DISCUSSION OF INTERDEPARTMENTAL ISSUES
26 AND COORDINATION RELATING TO ACTIVITIES THAT SUPPORT MILITARY INSTALLATIONS
27 IN THE STATE;

28 (4) COLLABORATE WITH AND REVIEW THE RECOMMENDATIONS OF THE
29 MARYLAND MILITARY INSTALLATION COUNCIL ESTABLISHED UNDER SUBTITLE 2 OF
30 THIS TITLE;

1 (5) WORK WITH LOCAL GOVERNMENTS THAT ARE AFFECTED BY THE BRAC
2 RECOMMENDATIONS TO ACHIEVE THE REQUISITE LEVELS OF PLANNING, COORDINATION,
3 AND COOPERATION AMONG THE STATE AND LOCAL GOVERNMENTS;

4 (6) WORK WITH MARYLAND'S CONGRESSIONAL DELEGATION TO OBTAIN
5 FEDERAL FUNDS TO SUPPORT THE MISSIONS OF MILITARY INSTALLATIONS IN THE STATE;

6 (7) MAKE POLICY AND BUDGET RECOMMENDATIONS TO THE GOVERNOR AND
7 GENERAL ASSEMBLY TO STRENGTHEN STATE SUPPORT OF MILITARY INSTALLATIONS IN
8 THE STATE; AND

9 (8) PERFORM OTHER DUTIES ASSIGNED TO IT BY THE GOVERNOR.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former SG § 9–802(h).

12 Defined terms: "BRAC" § 11–101

13 "State" § 9–101

14 "Subcabinet" § 11–101

15 11–109. ANNUAL REPORT.

16 IN COORDINATION WITH STATE AGENCIES, THE SUBCABINET SHALL EVALUATE AND
17 REPORT EACH YEAR TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE
18 STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON STATE ACTION TO
19 SUPPORT THE MISSION OF MILITARY INSTALLATIONS LOCATED IN THE STATE.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former SG § 9–802(i).

22 Defined terms: "State" § 9–101

23 "Subcabinet" § 11–101

24 GENERAL REVISOR'S NOTE TO SUBTITLE:

25 Former SG § 9–802, which established the Base Realignment and Closure
26 Subcabinet, was subject to termination on December 31, 2011. *See* § 2 of Ch. 6, Acts of
27 2007. Accordingly, the legislation that enacts this article provides for the termination
28 of this subtitle if and when that termination provision takes effect. *See* § 23 of Ch. ____,
29 Acts of 2008.

30 SUBTITLE 2. MARYLAND MILITARY INSTALLATION COUNCIL.

31 11–201. "COUNCIL" DEFINED.

32 IN THIS SUBTITLE, "COUNCIL" MEANS THE MARYLAND MILITARY INSTALLATION
33 COUNCIL.

34 REVISOR'S NOTE: This section formerly was Art. 83A, § 5–1710.1(a).

1 The only changes are in style.

2 11–202. ESTABLISHED.

3 THERE IS A MARYLAND MILITARY INSTALLATION COUNCIL.

4 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–1710.1(b).

5 No changes are made.

6 11–203. MEMBERSHIP; TENURE; COMPENSATION.

7 (A) IN GENERAL.

8 THE COUNCIL CONSISTS OF THE FOLLOWING MEMBERS:

9 (1) THREE MEMBERS SELECTED BY THE PRESIDENT OF THE SENATE OF
10 MARYLAND TO REPRESENT COMMUNITY INTERESTS, OF WHICH:

11 (I) ONE SHALL BE A MEMBER OF THE SENATE; AND

12 (II) TWO SHALL BE CITIZENS REPRESENTING COMMUNITIES ADJACENT
13 TO MILITARY INSTALLATIONS;

14 (2) THREE MEMBERS SELECTED BY THE SPEAKER OF THE HOUSE OF
15 DELEGATES TO REPRESENT COMMUNITY INTERESTS, OF WHICH:

16 (I) ONE SHALL BE A MEMBER OF THE HOUSE OF DELEGATES; AND

17 (II) TWO SHALL BE CITIZENS REPRESENTING COMMUNITIES ADJACENT
18 TO MILITARY INSTALLATIONS;

19 (3) THE SECRETARY, OR THE DESIGNEE OF THE SECRETARY;

20 (4) THE SECRETARY OF TRANSPORTATION, OR THE DESIGNEE OF THE
21 SECRETARY OF TRANSPORTATION;

22 (5) THE SECRETARY OF THE ENVIRONMENT, OR THE DESIGNEE OF THE
23 SECRETARY OF THE ENVIRONMENT;

24 (6) THE SECRETARY OF PLANNING, OR THE DESIGNEE OF THE SECRETARY
25 OF PLANNING;

26 (7) THE PRESIDENT OF THE SOUTHERN MARYLAND NAVY ALLIANCE;

27 (8) THE PRESIDENT OF THE ARMY ALLIANCE;

28 (9) THE PRESIDENT OF THE NAVAL ENERGETICS ALLIANCE;

29 (10) THE PRESIDENT OF THE MARITIME ALLIANCE;

30 (11) THE PRESIDENT OF THE FORT DETRICK ALLIANCE;

1 (12) THE PRESIDENT OF THE FORT MEADE ALLIANCE;

2 (13) THE PRESIDENT OF THE ANDREWS BUSINESS AND COMMUNITY
3 ALLIANCE; AND

4 (14) FIVE MEMBERS SELECTED BY THE GOVERNOR.

5 (B) ADDITIONAL APPOINTMENTS.

6 (1) THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
7 DELEGATES SHALL EACH APPOINT THREE NEW MEMBERS REPRESENTING COMMUNITY
8 INTERESTS TO SERVE AS MEMBERS OF THE COUNCIL FROM JULY 1, 2009, TO
9 DECEMBER 31, 2011.

10 (2) THE CHAIR MAY APPOINT:

11 (I) ADDITIONAL MEMBERS WHO ARE PRESIDENTS OF OTHER MILITARY
12 BASE ADVOCACY GROUPS THAT ARE NOT-FOR-PROFIT ORGANIZATIONS AND RECOGNIZED
13 BY THE DEPARTMENT; AND

14 (II) EX OFFICIO MEMBERS AS NECESSARY TO ADDRESS SPECIFIC
15 ISSUES, INCLUDING A REPRESENTATIVE OF THE MARYLAND NATIONAL GUARD.

16 (C) TENURE OF CERTAIN MEMBERS.

17 EXCEPT AS PROVIDED IN SUBSECTION (B)(1) OF THIS SECTION, THE TERM OF A
18 MEMBER OF THE COUNCIL APPOINTED BY THE PRESIDENT OF THE SENATE OR THE
19 SPEAKER OF THE HOUSE OF DELEGATES EXPIRES ON JUNE 30, 2009.

20 (D) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

21 A MEMBER OF THE COUNCIL:

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

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

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 83A, § 5-1710.1(c), (e), (g), and (d)(2).

27 Defined terms: "Council" § 11-201

28 "Department" § 9-101

29 "Secretary" § 9-101

30 "State" § 9-101

31 11-204. CHAIR.

32 THE GOVERNOR SHALL DESIGNATE THE CHAIR OF THE COUNCIL.

33 REVISOR'S NOTE: This section formerly was Art. 83A, § 5-1710.1(d)(1).

1 No changes are made.

2 Defined term: “Council” § 11–201

3 11–205. STAFF.

4 THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT TO THE COUNCIL.

5 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–1710.1(f).

6 The only changes are in style.

7 Defined terms: “Council” § 11–201

8 “Department” § 9–101

9 11–206. DUTIES.

10 THE COUNCIL SHALL MAKE REASONABLE EFFORTS TO:

11 (1) IDENTIFY THE PUBLIC INFRASTRUCTURE AND OTHER COMMUNITY
12 SUPPORT NECESSARY TO IMPROVE THE MISSION EFFICIENCIES AND FOR THE
13 DEVELOPMENT AND EXPANSION OF EXISTING MILITARY INSTALLATIONS IN THE STATE;

14 (2) IDENTIFY THE EXISTING AND POTENTIAL IMPACTS OF ENCROACHMENT
15 ON MILITARY INSTALLATIONS IN THE STATE;

16 (3) IDENTIFY POTENTIAL STATE AND COMMUNITY ACTIONS THAT MAY
17 MINIMIZE THE IMPACTS OF ENCROACHMENT AND ENHANCE THE LONG–TERM POTENTIAL
18 OF MILITARY INSTALLATIONS;

19 (4) IDENTIFY OPPORTUNITIES FOR COLLABORATION AMONG MILITARY
20 CONTRACTORS, LOCAL GOVERNMENTS, THE STATE, ACADEMIC INSTITUTIONS, AND
21 MILITARY DEPARTMENTS TO ENHANCE THE ECONOMIC POTENTIAL OF MILITARY
22 INSTALLATIONS AND THE ECONOMIC BENEFITS OF MILITARY INSTALLATIONS TO THE
23 STATE;

24 (5) REVIEW STATE POLICIES, INCLUDING FUNDING AND LEGISLATION, TO
25 IDENTIFY ACTIONS NECESSARY TO PROVIDE STATE AND LOCAL GOVERNMENT SUPPORT TO
26 THE MISSION OF EACH MILITARY INSTALLATION IN THE STATE; AND

27 (6) RESEARCH HOW OTHER JURISDICTIONS HAVE ADDRESSED THE ISSUES
28 REGARDING ENCROACHMENT AND PARTNERSHIP FORMATION, WITH AN EMPHASIS ON THE
29 MOST RECENT EDITION OF THE JOINT PUBLICATION OF THE NATIONAL GOVERNORS
30 ASSOCIATION CENTER FOR BEST PRACTICES AND THE UNITED STATES DEPARTMENT
31 OF DEFENSE ENTITLED “PRACTICAL GUIDE TO COMPATIBLE CIVILIAN DEVELOPMENT
32 NEAR MILITARY INSTALLATIONS”.

33 REVISOR’S NOTE: This section is new language derived without substantive
34 change from former Art. 83A, § 5–1710.1(h).

1 Defined terms: “Council” § 11–201
2 “State” § 9–101

3 11–207. REPORTS.

4 (A) ANNUAL REPORTS.

5 ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE COUNCIL SHALL REPORT ITS
6 FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH §
7 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

8 (B) FINAL REPORT.

9 ON OR BEFORE DECEMBER 1, 2011, THE COUNCIL SHALL ISSUE A FINAL REPORT
10 TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT
11 ARTICLE, THE GENERAL ASSEMBLY.

12 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–1710.1(i).

13 The only changes are in style.

14 Defined term: “Council” § 11–201

15 GENERAL REVISOR’S NOTE TO SUBTITLE:

16 Former Art. 83A, § 5–1710.1, which established the Maryland Military
17 Installation Council, was subject to termination on December 31, 2011. *See* § 3 of
18 Chapter 634, Acts of 2006. Accordingly, the legislation that enacts this article provides
19 for the termination of this subtitle if and when that termination provision takes
20 effect. *See* § 24 of Ch. ___, Acts of 2008.

21 SUBTITLE 3. LOCAL REDEVELOPMENT AUTHORITIES.

22 11–301. DEFINITIONS.

23 (A) IN GENERAL.

24 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

25 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1701(a).

26 No changes are made.

27 (B) AUTHORITY.

28 (1) “AUTHORITY” MEANS A CORPORATION INCORPORATED IN ACCORDANCE
29 WITH THIS SUBTITLE TO ACT AS A LOCAL REDEVELOPMENT AUTHORITY IN ACCORDANCE
30 WITH CRITERIA SET BY THE UNITED STATES DEPARTMENT OF DEFENSE OR ITS
31 MILITARY SERVICES UNDER THE FEDERAL DEFENSE BASE CLOSURE AND REALIGNMENT
32 ACT OF 1990.

1 (2) “AUTHORITY” DOES NOT INCLUDE:

2 (I) BAINBRIDGE DEVELOPMENT CORPORATION;

3 (II) HOLABIRD WORKING GROUP/BALTIMORE DEVELOPMENT
4 CORPORATION (BDC); OR

5 (III) PENMAR DEVELOPMENT CORPORATION.

6 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1701(g).

7 (C) BOARD.

8 “BOARD” MEANS THE BOARD OF DIRECTORS OF AN AUTHORITY.

9 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1701(b).

10 No changes are made.

11 Defined term: “Authority” § 11–301

12 (D) BOND.

13 (1) “BOND” MEANS A BOND OR NOTE ISSUED ON BEHALF OF AN AUTHORITY
14 UNDER THIS SUBTITLE.

15 (2) “BOND” INCLUDES:

16 (I) A BOND ANTICIPATION NOTE;

17 (II) A REVENUE ANTICIPATION NOTE;

18 (III) A GRANT ANTICIPATION NOTE;

19 (IV) A REFUNDING BOND;

20 (V) A NOTE IN THE NATURE OF COMMERCIAL PAPER; AND

21 (VI) ANY OTHER EVIDENCE OF INDEBTEDNESS ISSUED ON BEHALF OF
22 THE AUTHORITY, WHETHER A GENERAL OR LIMITED OBLIGATION OF THE AUTHORITY.

23 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1701(c).

24 In paragraph (1) of this subsection, the reference to a bond or note “issued
25 on behalf of” an authority is substituted for the former reference to a bond
26 or note “of” an authority for clarity and accuracy. An authority is not
27 authorized to issue its own bonds; rather, the Maryland Economic
28 Development Corporation is authorized to issue bonds on behalf of the
29 authority. *See* § 11–318 of this subtitle. Similarly, in paragraph (2)(vi) of
30 this subsection, the reference to evidence of indebtedness “issued on
31 behalf” of the authority is added for clarity.

1 No other changes are made.

2 Defined term: “Authority” § 11–301

3 (E) COST.

4 “COST” INCLUDES:

5 (1) THE PURCHASE PRICE OF A PROJECT;

6 (2) THE COST TO ACQUIRE ANY RIGHT, TITLE, OR INTEREST IN A PROJECT;

7 (3) THE AMOUNT TO BE PAID TO DISCHARGE EACH OBLIGATION NECESSARY
8 OR DESIRABLE TO VEST TITLE TO ANY PART OF A PROJECT IN THE AUTHORITY OR OTHER
9 OWNER;

10 (4) THE COST OF ANY IMPROVEMENT;

11 (5) THE COST OF ANY PROPERTY, RIGHT, EASEMENT, FRANCHISE, AND
12 PERMIT;

13 (6) THE COST OF LABOR AND EQUIPMENT;

14 (7) FINANCING CHARGES;

15 (8) INTEREST BEFORE AND DURING CONSTRUCTION AND, IF THE AUTHORITY
16 DETERMINES, FOR A LIMITED PERIOD AFTER THE COMPLETION OF CONSTRUCTION;

17 (9) RESERVES FOR PRINCIPAL AND INTEREST AND FOR IMPROVEMENTS;

18 (10) THE COST OF REVENUE ESTIMATES, ENGINEERING AND LEGAL SERVICES,
19 PLANS, DESIGNS, SPECIFICATIONS, SURVEYS, INVESTIGATIONS, DEMONSTRATIONS,
20 STUDIES, ESTIMATES OF COST, AND OTHER EXPENSES NECESSARY OR INCIDENT TO
21 DETERMINING THE FEASIBILITY OF AN ACQUISITION OR IMPROVEMENT;

22 (11) ADMINISTRATIVE EXPENSES; AND

23 (12) OTHER EXPENSES NECESSARY OR INCIDENT TO:

24 (I) FINANCING A PROJECT;

25 (II) ACQUIRING AND IMPROVING A PROJECT;

26 (III) PLACING A PROJECT IN OPERATION, INCLUDING REASONABLE
27 PROVISION FOR WORKING CAPITAL; AND

28 (IV) OPERATING AND MAINTAINING A PROJECT.

29 REVISOR’S NOTE: This subsection is new language derived without
30 substantive change from former Art. 83A, § 5–1701(d).

1 In item (5) of this subsection, the former reference to “lands” is deleted as
2 included in the comprehensive reference to “property”.

3 In item (10) of this subsection, the former reference to “practicability” of an
4 acquisition is deleted as included in the reference to “feasibility”.

5 In item (12)(iii) of this subsection, the former reference to placing a project
6 in operation “by an authority or other owner” is deleted as implicit.

7 Defined terms: “Authority” § 11–301

8 “Cost” § 11–301

9 “Finance” § 11–301

10 “Improve” § 11–301

11 “Improvement” § 11–301

12 “Project” § 11–301

13 (F) FINANCE.

14 “FINANCE” INCLUDES REFINANCE.

15 REVISOR’S NOTE: This subsection is new language added for clarity and
16 consistency within this article.

17 (G) IMPROVE.

18 “IMPROVE” MEANS TO ADD, ALTER, CONSTRUCT, EQUIP, EXPAND, EXTEND,
19 IMPROVE, INSTALL, RECONSTRUCT, REHABILITATE, REMODEL, OR REPAIR.

20 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1701(f).

21 No changes are made.

22 (H) IMPROVEMENT.

23 “IMPROVEMENT” MEANS ADDITION, ALTERATION, CONSTRUCTION, EQUIPPING,
24 EXPANSION, EXTENSION, IMPROVEMENT, INSTALLATION, RECONSTRUCTION,
25 REHABILITATION, REMODELING, OR REPAIR.

26 REVISOR’S NOTE: This subsection is new language added for brevity and
27 clarity.

28 No other changes are made.

29 (I) PERSON.

30 (1) “PERSON” HAS THE MEANING STATED IN § 9–101 OF THIS ARTICLE.

31 (2) “PERSON” ALSO INCLUDES A POLITICAL SUBDIVISION.

32 REVISOR’S NOTE: This subsection is new language derived without
33 substantive change from former Art. 83A, § 5–1701(i).

1 Defined term: “Person” § 9–101

2 (J) PROJECT.

3 (1) “PROJECT” MEANS AN UNDERTAKING TO ESTABLISH ECONOMIC
4 ACTIVITY UNDER THIS SUBTITLE ON PROPERTY TO BE CONVEYED TO AN AUTHORITY BY
5 THE UNITED STATES DEPARTMENT OF DEFENSE OR A MILITARY SERVICE, WHETHER OR
6 NOT A FACILITY OR PROPERTY USED OR USEFUL IN CONNECTION WITH THE
7 UNDERTAKING:

8 (I) IS OR WILL BE USED FOR PROFIT OR NOT FOR PROFIT;

9 (II) IS LOCATED ON A SINGLE SITE OR MULTIPLE SITES; OR

10 (III) MAY BE FINANCED BY BONDS, THE INTEREST ON WHICH IS EXEMPT
11 FROM TAXATION UNDER FEDERAL LAW.

12 (2) “PROJECT” INCLUDES:

13 (I) PROPERTY AND RIGHTS RELATED TO THE PROPERTY,
14 APPURTENANCES, RIGHTS-OF-WAY, FRANCHISES, AND EASEMENTS;

15 (II) STRUCTURES, EQUIPMENT, AND FURNISHINGS;

16 (III) PROPERTY THAT IS FUNCTIONALLY RELATED AND SUBORDINATE TO
17 THE PROJECT; AND

18 (IV) PATENTS, LICENSES, AND OTHER RIGHTS NECESSARY OR USEFUL
19 IN THE IMPROVEMENT OR OPERATION OF A PROJECT.

20 REVISOR’S NOTE: This subsection is new language derived without
21 substantive change from former Art. 83A, § 5–1701(j).

22 In paragraph (1) of this subsection, the reference to “the undertaking” is
23 substituted for the former reference to “any activity related to the economic
24 activity on the property” for clarity and consistency within this article.

25 In paragraph (1)(iii) of this subsection, the reference to interest “on” bonds
26 is substituted for the former incorrect reference to interest “of” bonds for
27 clarity and accuracy.

28 In paragraph (2)(i) of this subsection, the former reference to “land or an
29 interest in land” is deleted as included in the comprehensive reference to
30 “property”.

31 In paragraph (2)(iii) of this subsection, the reference to “property” is
32 substituted for the former reference to “land and facilities” for brevity and
33 clarity.

34 Defined terms: “Authority” § 11–301

35 “Finance” § 11–301

1 “Improvement” § 11–301

2 “Project” § 11–301

3 (K) REVENUES.

4 (1) “REVENUES” MEANS THE INCOME, REVENUE, AND OTHER MONEY AN
5 AUTHORITY RECEIVES FROM OR IN CONNECTION WITH A PROJECT.

6 (2) “REVENUES” INCLUDES GRANTS, RENTALS, RATES, FEES, AND CHARGES
7 FOR THE USE OF THE SERVICES FURNISHED OR AVAILABLE.

8 REVISOR’S NOTE: This subsection is new language derived without
9 substantive change from former Art. 83A, § 5–1701(k).

10 In paragraph (2) of this subsection, the former reference to “all other
11 income of the authority connected with a project” is deleted as redundant
12 of paragraph (1) of this subsection.

13 Defined terms: “Authority” § 11–301

14 “Project” § 11–301

15 REVISOR’S NOTE TO SECTION:

16 Former Art. 83A, § 5–1701(e), which defined “Council” as the Maryland
17 Military Installation Council, was used only once in the former law. It is
18 incorporated into the substance of the revision. *See* § 11–302(a) of this
19 subtitle.

20 Former Art. 83A, § 5–1701(h), which defined “MEDCO”, is deleted because
21 the term is not used in this revision.

22 Former Art. 83A, § 5–1701(i)(1), the general definition of “person” as a
23 private entity, is also revised in § 9–101 of this article.

24 11–302. LEGISLATIVE FINDINGS; INTENT.

25 (A) FINDINGS.

26 THE GENERAL ASSEMBLY FINDS THAT:

27 (1) THE ECONOMY OF THE STATE AND ITS LOCAL GOVERNMENTS WILL BE
28 GREATLY IMPACTED BY THE CLOSURE OR REALIGNMENT OF ANY MILITARY INSTALLATION
29 THROUGH ANY BASE REALIGNMENT OR CLOSING ACTION;

30 (2) ALTHOUGH A CLOSURE OR REALIGNMENT WILL RESULT IN ECONOMIC
31 CONTRACTION AND DISLOCATION, IT ALSO AFFORDS OPPORTUNITIES TO EXPAND
32 PRODUCTIVE EMPLOYMENT AND EXPAND THE STATE’S ECONOMY AND TAX BASE;

33 (3) FOR THIS REASON, THE GENERAL ASSEMBLY ENACTED THE MARYLAND
34 MILITARY INSTALLATION STRATEGIC PLANNING COUNCIL ACT; AND

1 (4) THE ESTABLISHMENT OF STATE—CHARTERED PUBLIC CORPORATIONS TO
 2 DEVELOP MILITARY INSTALLATIONS SLATED FOR CLOSURE OR REALIGNMENT IN THE
 3 STATE WOULD:

4 (I) SERVE THE PUBLIC INTEREST;

5 (II) COMPLEMENT EXISTING STATE MARKETING PROGRAMS
 6 ADMINISTERED BY THE DEPARTMENT THROUGH:

7 1. ITS DIVISION OF BUSINESS DEVELOPMENT; AND

8 2. FINANCIAL ASSISTANCE PROGRAMS SUCH AS THOSE OF THE
 9 MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY AND FUND AND THE
 10 MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY; AND

11 (III) SERVE AS AN ADDITIONAL MEANS TO ACHIEVE THE MISSION OF
 12 THE MARYLAND MILITARY INSTALLATION COUNCIL.

13 (B) INTENT.

14 THE GENERAL ASSEMBLY INTENDS THAT:

15 (1) AN AUTHORITY STRUCTURE ITS PROJECTS TO ACCELERATE THE
 16 TRANSFER OF FACILITIES AND SITES FROM THE FEDERAL GOVERNMENT INTO
 17 PRODUCTIVE REUSE OF THE FACILITIES AND SITES TO MAXIMIZE ECONOMIC
 18 OPPORTUNITIES FOR THE RESIDENTS OF THE STATE; AND

19 (2) THIS SUBTITLE BE A TEMPLATE FOR THE STRUCTURE, AUTHORIZATION,
 20 AND OPERATION OF EACH AUTHORITY ACCEPTED BY THE OFFICE OF ECONOMIC
 21 ADJUSTMENT OF THE UNITED STATES DEPARTMENT OF DEFENSE TO PERFORM THE
 22 TASKS REQUIRED WHEN LAND IS TRANSFERRED FROM THE FEDERAL GOVERNMENT TO AN
 23 AUTHORITY IN ACCORDANCE WITH THE FEDERAL DEFENSE BASE CLOSURE AND
 24 REALIGNMENT ACT OF 1990.

25 REVISOR'S NOTE: This section is new language derived without substantive
 26 change from former Art. 83A, §§ 5–1702 and 5–1701(e).

27 In subsection (a)(4)(ii)1 of this section, the reference to the “Division of
 28 Business Development” is substituted for the former obsolete reference to
 29 the “Office of Business Development and Resources” to reflect the current
 30 name of that unit.

31 In subsection (b)(1) of this section, the reference to the “residents” of this
 32 State is substituted for the former reference to “citizens” of this State
 33 because the meaning of the term “citizens” in this context is unclear. *See*
 34 *General Revisor’s Note to article.*

35 Former Art. 83A, § 5–1701(e), which defined “Council” to mean the
 36 “Maryland Military Installation Council”, was subject to a contingency on
 37 the taking effect of the termination provision of legislation that replaced

1 the former “Maryland Military Installation Strategic Planning Council”
2 with the current unit. *See* § 3 of Ch. 634, Acts of 2006. Accordingly,
3 subsection (a)(4)(iii) of this section, which incorporates the substance of the
4 former definition by referring to the Maryland Military Installation
5 “Council”, is subject to the same contingency. *See* § 5 of Ch. ____, Acts of
6 2008.

7 As to the Maryland Economic Development Assistance Authority and Fund
8 and the Maryland Industrial Development Financing Authority, *see* Title 5,
9 Subtitles 3 and 4 of this article, respectively.

10 Defined terms: “Authority” § 11–301

11 “Department” § 9–101

12 “State” § 9–101

13 **11–303. CONSTRUCTION OF SUBTITLE.**

14 **THIS SUBTITLE IS SELF–EXECUTING AND FULLY AUTHORIZES THE SECRETARY TO**
15 **CREATE A LOCAL REDEVELOPMENT AUTHORITY.**

16 **REVISOR’S NOTE:** This section formerly was Art. 83A, § 5–1703(a).

17 No changes are made.

18 Defined term: “Secretary” § 9–101

19 **11–304. INCORPORATION.**

20 **(A) FILING OF ARTICLES.**

21 **THE SECRETARY SHALL EXECUTE AND FILE PROPOSED ARTICLES OF**
22 **INCORPORATION OF AN AUTHORITY WITH THE STATE DEPARTMENT OF ASSESSMENTS**
23 **AND TAXATION.**

24 **(B) REQUIRED CONTENTS.**

25 **THE PROPOSED ARTICLES OF INCORPORATION SHALL STATE:**

26 **(1) THE NAME OF THE AUTHORITY;**

27 **(2) THAT THE AUTHORITY IS FORMED UNDER THIS SUBTITLE;**

28 **(3) THE NAMES, ADDRESSES, AND TERMS OF OFFICE OF THE FIRST**
29 **MEMBERS OF THE BOARD OF THE AUTHORITY;**

30 **(4) THE LOCATION OF THE PRINCIPAL OFFICE OF THE AUTHORITY;**

31 **(5) THE PURPOSES FOR WHICH THE AUTHORITY IS FORMED; AND**

32 **(6) THE POWERS OF THE AUTHORITY, SUBJECT TO THE RESTRICTIONS OR**
33 **LIMITATIONS ON THE POWERS OF THE AUTHORITY UNDER THIS SUBTITLE.**

1 (C) EFFECT OF FILING.

2 ACCEPTANCE OF THE ARTICLES FOR RECORD BY THE STATE DEPARTMENT OF
3 ASSESSMENTS AND TAXATION IS CONCLUSIVE EVIDENCE OF THE FORMATION OF THE
4 AUTHORITY.

5 (D) AMENDMENT OF ARTICLES.

6 (1) THE BOARD MAY AMEND THE ARTICLES OF INCORPORATION.

7 (2) ANY AMENDMENT TO THE ARTICLES OF INCORPORATION SHALL BE
8 FILED WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 83A, § 5–1703(d)(1)(ii) and (b)(1), (2), and, as it
11 related to conclusive evidence, (3).

12 In subsections (a), (c), and (d)(2) of this section, the references to the
13 “State” Department of Assessments and Taxation are added to reflect the
14 correct name of that unit. In subsection (c) of this section, the reference to
15 acceptance of the articles for record being “conclusive evidence of the
16 formation” of the authority is substituted for the former reference to the
17 authority being “conclusively considered to have been lawfully and
18 properly created and authorized to exercise its powers” for clarity and
19 consistency with the Maryland General Corporation Law. See CA §
20 2–102(b).

21 As to the general provisions on articles of incorporation and amendment,
22 see the Maryland General Corporation Law, CA Titles 1 through 3.

23 Defined terms: “Authority” § 11–301

24 “Board” § 11–301

25 “Secretary” § 9–101

26 “State” § 9–101

27 11–305. ESTABLISHED.

28 (A) STATUS.

29 AN AUTHORITY IS A BODY POLITIC AND CORPORATE AND IS AN INSTRUMENTALITY
30 OF THE STATE ONCE THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION
31 ACCEPTS THE ARTICLES OF INCORPORATION FOR RECORD.

32 (B) ESSENTIAL GOVERNMENTAL FUNCTION.

33 THE EXERCISE BY AN AUTHORITY OF A POWER UNDER THIS SUBTITLE IS THE
34 PERFORMANCE OF AN ESSENTIAL GOVERNMENTAL FUNCTION.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 83A, § 5–1703(c) and, as it related to the status of

1 an authority, (b)(3).

2 In subsection (a) of this section, the reference to “accept[ing] the articles of
3 incorporation for record” is substituted for the former reference to
4 “issu[ing] a certificate of approval” to reflect the current procedures of the
5 State Department of Assessments and Taxation under the Maryland
6 General Corporation Law. *See* CA § 1–202.

7 In subsection (b) of this section, the reference to an essential
8 “governmental” function is substituted for the former reference to an
9 essential “public” function for clarity and consistency within this article.

10 Defined terms: “Authority” § 11–301

11 “State” § 9–101

12 11–306. BOARD OF DIRECTORS.

13 (A) IN GENERAL.

14 A BOARD OF DIRECTORS SHALL MANAGE THE AFFAIRS OF THE AUTHORITY AND
15 EXERCISE ALL OF THE POWERS OF THE AUTHORITY.

16 (B) COMPOSITION; APPOINTMENT OF MEMBERS.

17 THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:

18 (1) AS EX OFFICIO MEMBERS:

19 (I) THE SECRETARY, OR THE DESIGNEE OF THE SECRETARY;

20 (II) THE SECRETARY OF GENERAL SERVICES, OR THE DESIGNEE OF
21 THE SECRETARY OF GENERAL SERVICES;

22 (III) THE SECRETARY OF PLANNING, OR THE DESIGNEE OF THE
23 SECRETARY OF PLANNING; AND

24 (IV) THE PRESIDENT OF THE MILITARY ALLIANCE OF EACH COUNTY IN
25 WHICH THE FACILITY IS LOCATED;

26 (2) (I) IF THE FACILITY IS LOCATED IN ONE COUNTY, THE EXECUTIVE
27 DIRECTOR, OR EQUIVALENT OFFICER, OF THE COUNTY ECONOMIC DEVELOPMENT UNIT
28 AND TWO OTHER MEMBERS APPOINTED BY THE GOVERNING BODY OF THE COUNTY IN
29 WHICH THE FACILITY IS LOCATED; OR

30 (II) IF THE FACILITY IS LOCATED IN MORE THAN ONE COUNTY, THE
31 EXECUTIVE DIRECTOR, OR EQUIVALENT OFFICER, OF THE ECONOMIC DEVELOPMENT UNIT
32 OF EACH COUNTY AND ONE OTHER MEMBER APPOINTED BY THE GOVERNING BODY OF
33 EACH COUNTY; AND

34 (3) AS NONVOTING, EX OFFICIO MEMBERS:

1 (I) THE EXECUTIVE DIRECTOR OF THE MARYLAND ECONOMIC
2 DEVELOPMENT CORPORATION;

3 (II) THE EXECUTIVE DIRECTOR OF THE AUTHORITY; AND

4 (III) THE DIRECTOR OF TRANSITIONAL SERVICES OF THE STATE
5 DEPARTMENT OF HUMAN RESOURCES.

6 (C) TENURE; VACANCIES.

7 (1) THE TERM OF A MEMBER OF THE BOARD APPOINTED UNDER
8 SUBSECTION (B)(2) OF THIS SECTION IS 4 YEARS.

9 (2) THE TERMS OF APPOINTED MEMBERS SHALL BE STAGGERED.

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

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

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 83A, § 5–1703(d)(1)(i), (2), and (3).

16 Defined terms: “Authority” § 11–301

17 “Board” § 11–301

18 “County” § 9–101

19 “Secretary” § 9–101

20 “State” § 9–101

21 11–307. OFFICERS.

22 (A) IN GENERAL.

23 FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR, A VICE CHAIR,
24 AND A TREASURER.

25 (B) TENURE.

26 THE CHAIR, VICE CHAIR, AND TREASURER SERVE AT THE PLEASURE OF THE
27 GOVERNOR.

28 REVISOR'S NOTE: This section formerly was Art. 83A, § 5–1703(e)(1).

29 No changes are made.

30 The Economic Development Article Review Committee notes, for the
31 consideration of the General Assembly, that the provisions for appointment
32 and tenure of officers under subsections (a) and (b) of this section appear to
33 be inconsistent in that the officers are elected by the Board but serve as
34 officers at the pleasure of the Governor. The General Assembly may wish

1 to address this inconsistency by having the officers serve terms, or be
2 appointed by and subject to the same appointing authority.

3 Defined term: “Board” § 11–301

4 11–308. QUORUM.

5 A MAJORITY OF THE VOTING BOARD MEMBERS SERVING AT THE TIME IS A QUORUM.

6 REVISOR’S NOTE: This section is new language derived without substantive
7 change from former Art. 83A, § 5–1703(e)(2).

8 Former Art. 83A, § 5–1703(e)(3), which provided that a vacancy on the
9 Board does not impair the right of a quorum to act, is deleted as an
10 unnecessary restatement of the common-law rule, and for consistency
11 within this article. *See* General Revisor’s Note to article.

12 Defined term: “Board” § 11–301

13 11–309. COMMITTEES.

14 (A) FINANCE COMMITTEE; CHAIR.

15 (1) THE BOARD SHALL ESTABLISH A FINANCE COMMITTEE.

16 (2) THE TREASURER OF THE BOARD CHAIRS THE FINANCE COMMITTEE AND
17 OVERSEES THE FINANCES OF THE AUTHORITY.

18 (B) OTHER COMMITTEES ALLOWED.

19 (1) THE BOARD MAY ESTABLISH OTHER COMMITTEES AS APPROPRIATE.

20 (2) THE MEMBERSHIP OF A COMMITTEE MAY INCLUDE INDIVIDUALS WHO
21 ARE NOT BOARD MEMBERS.

22 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–1703(e)(4).

23 The only changes are in style.

24 Defined terms: “Authority” § 11–301

25 “Board” § 11–301

26 11–310. EXECUTIVE DIRECTOR.

27 (A) POSITION; TENURE; SALARY.

28 (1) THE BOARD SHALL APPOINT THE EXECUTIVE DIRECTOR OF THE
29 AUTHORITY.

30 (2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE BOARD.

1 (3) THE BOARD SHALL DETERMINE THE SALARY OF THE EXECUTIVE
2 DIRECTOR.

3 (B) ADMINISTRATIVE OFFICER.

4 (1) THE EXECUTIVE DIRECTOR IS THE CHIEF OPERATING OFFICER OF THE
5 AUTHORITY.

6 (2) THE EXECUTIVE DIRECTOR SHALL MANAGE THE ADMINISTRATIVE
7 AFFAIRS AND TECHNICAL ACTIVITIES OF THE AUTHORITY IN ACCORDANCE WITH POLICIES
8 AND PROCEDURES THAT THE BOARD ESTABLISHES.

9 (C) DUTIES.

10 THE EXECUTIVE DIRECTOR SHALL:

11 (1) ATTEND ALL MEETINGS OF THE BOARD;

12 (2) ACT AS SECRETARY TO THE BOARD;

13 (3) KEEP MINUTES OF THE PROCEEDINGS OF THE BOARD;

14 (4) APPROVE SALARIES, PER DIEM PAYMENTS, ALLOWABLE EXPENSES OF
15 THE AUTHORITY AND ITS EMPLOYEES OR CONSULTANTS, AND ANY EXPENSES INCIDENTAL
16 TO THE OPERATION OF THE AUTHORITY; AND

17 (5) PERFORM THE OTHER DUTIES THAT THE BOARD DIRECTS IN CARRYING
18 OUT THIS SUBTITLE.

19 REVISOR'S NOTE: This section formerly was Art. 83A, § 5–1704(a) and (b).

20 In subsection (c)(4) of this section, the former reference to approval of
21 “accounts for” salaries, etc., is deleted for clarity. The Executive Director
22 approves salaries in accordance with the policies and procedures that the
23 Board establishes, including the budget.

24 The only other changes are in style.

25 Defined terms: “Authority” § 11–301

26 “Board” § 11–301

27 11–311. STAFF; CONSULTANTS.

28 (A) STAFF.

29 THE BOARD SHALL APPROVE ADDITIONAL PROFESSIONAL AND CLERICAL STAFF AS
30 NECESSARY TO CARRY OUT THIS SUBTITLE.

31 (B) CONSULTANTS.

1 THE BOARD MAY RETAIN ACCOUNTANTS, ENGINEERS, LAWYERS, FINANCIAL
2 ADVISORS, OR OTHER CONSULTANTS AS NECESSARY TO CARRY OUT THIS SUBTITLE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 83A, § 5–1704(c)(1) and (d).

5 In subsection (b) of this section, the reference to “retain[ing]” consultants is
6 substituted for the former reference to “engag[ing]” them for clarity and
7 consistency within this article.

8 Also in subsection (b) of this section, the phrase “to carry out this subtitle”
9 is added for clarity.

10 Defined term: “Board” § 11–301

11 11–312. APPLICABILITY OF OTHER LAWS.

12 (A) IN GENERAL.

13 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IN EXERCISING ITS CORPORATE
14 POWERS, THE AUTHORITY:

15 (1) MAY CARRY OUT ITS CORPORATE PURPOSES WITHOUT OBTAINING THE
16 CONSENT OF ANY STATE UNIT; AND

17 (2) IS NOT SUBJECT TO THE FOLLOWING PROVISIONS OF THE STATE
18 FINANCE AND PROCUREMENT ARTICLE:

19 (I) TITLE 2, SUBTITLES 2 (GIFTS AND GRANTS), 4 (FACSIMILE
20 SIGNATURES AND SEALS), AND 5 (FACILITIES FOR HANDICAPPED);

21 (II) TITLE 3 (BUDGET AND MANAGEMENT);

22 (III) TITLE 4 (DEPARTMENT OF GENERAL SERVICES);

23 (IV) TITLE 6, SUBTITLE 1 (REVENUES: STUDIES AND ESTIMATES);

24 (V) TITLE 7, SUBTITLES 1 (STATE OPERATING BUDGET), 2
25 (DISBURSEMENTS AND EXPENDITURES), AND 3 (UNSPENT BALANCES);

26 (VI) TITLE 8, SUBTITLE 1 (GENERAL OBLIGATION DEBT);

27 (VII) TITLE 10 (BOARD OF PUBLIC WORKS – MISCELLANEOUS
28 PROVISIONS); AND

29 (VIII) DIVISION II (GENERAL PROCUREMENT LAW).

30 (B) OPEN MEETINGS; PUBLIC INFORMATION.

31 (1) THE AUTHORITY AND ITS COMMITTEES ARE SUBJECT TO THE OPEN
32 MEETINGS ACT.

1 (2) THE AUTHORITY IS SUBJECT TO THE PUBLIC INFORMATION ACT.

2 (C) ETHICS.

3 THE OFFICERS AND EMPLOYEES OF THE AUTHORITY ARE SUBJECT TO THE
4 MARYLAND PUBLIC ETHICS LAW.

5 (D) PERSONNEL.

6 THE OFFICERS AND EMPLOYEES OF THE AUTHORITY ARE NOT SUBJECT TO:

7 (1) DIVISION II OF THE STATE PERSONNEL AND PENSIONS ARTICLE; OR

8 (2) THE PROVISIONS OF DIVISION I OF THE STATE PERSONNEL AND
9 PENSIONS ARTICLE THAT GOVERN THE STATE PERSONNEL MANAGEMENT SYSTEM.

10 (E) REGULATORY REQUIREMENTS.

11 THE AUTHORITY IS SUBJECT TO THE SAME STATE AND LOCAL REGULATIONS AND
12 REGULATORY REQUIREMENTS AS ANY PRIVATE CORPORATION.

13 (F) ZONING.

14 A PROJECT OF THE AUTHORITY IS SUBJECT TO THE ZONING AND SUBDIVISION
15 REGULATIONS OF THE POLITICAL SUBDIVISION WHERE THE PROJECT IS LOCATED.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 83A, §§ 5–1710 and 5–1704(c)(2).

18 In subsection (a)(2) of this section, the former obsolete reference to
19 exemption from “Article[s] 41 ... of the Code” is deleted because no
20 provision of Article 41 that existed at the time of enactment of the enabling
21 legislation for a local redevelopment authority applied to an authority. *See*
22 Ch. 275, Acts of 2005. An authority does not issue its own debt, and so
23 would not be subject to Title 12, Subtitle 1 or Subtitle 2 of this article,
24 formerly Art. 41, Titles 1 and 2, the Maryland Economic Development
25 Revenue Bond Act and the Tax Incentive Financing Act, respectively; and
26 no other provision of Article 41 may reasonably be construed to apply to an
27 authority. No substantive change is intended.

28 In subsection (b)(1) of this section, the reference to “committees” of the
29 authority is added for clarity.

30 In subsection (c) of this section, the reference to the “Maryland” Public
31 Ethics Law is added to reflect accurately the short title of SG Title 15.

32 In subsection (e) of this section, the former limitation “[n]otwithstanding
33 subsection (a) of this section” is deleted as unnecessary in light of the
34 introductory language of subsection (a) of this section.

35 The Economic Development Article Review Committee also notes, for the

1 consideration of the General Assembly, that a “local redevelopment
2 authority” is not specifically listed in the Maryland Tort Claims Act. The
3 General Assembly may wish to address the potential liability of personnel
4 of an authority, the Bainbridge Development Corporation, and the PenMar
5 Development Corporation in the same manner that it has already done
6 with the Maryland Economic Development Corporation and the Maryland
7 Stadium Authority which are specifically included in that statute. *See* SG
8 § 12–101.

9 Defined terms: “Authority” § 11–301

10 “Project” § 11–301

11 “State” § 9–101

12 11–313. ACCOUNTING; FISCAL YEAR.

13 (A) ACCOUNTING.

14 THE AUTHORITY SHALL ESTABLISH A SYSTEM OF FINANCIAL ACCOUNTING,
15 CONTROLS, AUDITS, AND REPORTS.

16 (B) FISCAL YEAR.

17 THE FISCAL YEAR OF THE AUTHORITY BEGINS ON JULY 1 AND ENDS ON THE
18 FOLLOWING JUNE 30.

19 REVISOR’S NOTE: This section is new language derived without substantive
20 change from former Art. 83A, § 5–1709(c).

21 Defined term: “Authority” § 11–301

22 11–314. MONEY OF AUTHORITY.

23 (A) FUNDS.

24 THE AUTHORITY MAY ESTABLISH ANY ACCOUNTS THAT IT REQUIRES.

25 (B) DEPOSIT OF MONEY.

26 THE AUTHORITY SHALL DEPOSIT ITS MONEY INTO A STATE OR NATIONAL BANK OR
27 A FEDERALLY INSURED SAVINGS AND LOAN ASSOCIATION IN THE STATE THAT HAS A
28 TOTAL PAID-IN CAPITAL OF AT LEAST \$1,000,000.

29 (C) DEPOSITORY DESIGNEES.

30 THE AUTHORITY MAY DESIGNATE THE TRUST DEPARTMENT OF A STATE OR
31 NATIONAL BANK OR OF A SAVINGS AND LOAN ASSOCIATION AS A DEPOSITORY TO RECEIVE
32 SECURITIES THAT THE AUTHORITY OWNS OR ACQUIRES.

33 (D) ALLOWED INVESTMENTS.

1 UNLESS AN AGREEMENT LIMITS CLASSES OF INVESTMENTS, THE AUTHORITY MAY
 2 INVEST ITS MONEY IN BONDS OR OTHER OBLIGATIONS OF, OR GUARANTEED AS TO
 3 PRINCIPAL AND INTEREST BY, THE UNITED STATES, A UNIT OF THE UNITED STATES,
 4 THE STATE, OR A POLITICAL SUBDIVISION OF THE STATE.

5 REVISOR'S NOTE: This section is new language derived without substantive
 6 change from former Art. 83A, § 5–1709(a) and (b).

7 In subsection (b) of this section, the reference to “its” money is substituted
 8 for the former references to money “in these funds and other money” for
 9 brevity and clarity.

10 Also in subsection (b) of this section, the former obsolete reference to a
 11 “State” insured savings and loan association is deleted because there is no
 12 longer any such State–insured institution.

13 In subsection (d) of this section, the former phrase “or covenant between
 14 the authority and the holders of any of its obligations” is deleted as
 15 unnecessary because the authority itself does not issue bonds or any other
 16 obligation, and any covenant between an authority, or the Maryland
 17 Economic Development Corporation on the authority's behalf and any
 18 other person, including a holder of an obligation, that limits classes of
 19 obligations would be an “agreement”. This could even include a bond,
 20 which is a form of an agreement.

21 Defined terms: “Authority” § 11–301
 22 “State” § 9–101

23 11–315. POWERS — IN GENERAL.

24 THE AUTHORITY MAY:

- 25 (1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;
- 26 (2) ADOPT A SEAL;
- 27 (3) MAINTAIN OFFICES IN THE STATE;
- 28 (4) ACCEPT LOANS, GRANTS, OR ASSISTANCE OF ANY KIND FROM THE
 29 FEDERAL OR STATE GOVERNMENT, A LOCAL GOVERNMENT, OR A PRIVATE SOURCE;
- 30 (5) ENTER INTO CONTRACTS AND OTHER LEGAL INSTRUMENTS;
- 31 (6) SUE AND BE SUED IN ITS OWN NAME;
- 32 (7) ACQUIRE, PURCHASE, HOLD, LEASE AS LESSEE, AND USE ANY
 33 FRANCHISE, PATENT, OR LICENSE AND REAL, PERSONAL, MIXED, TANGIBLE, OR
 34 INTANGIBLE PROPERTY, OR ANY INTEREST IN PROPERTY, NECESSARY OR CONVENIENT TO
 35 CARRY OUT ITS PURPOSES;

1 (8) SELL, LEASE AS LESSOR, TRANSFER, AND DISPOSE OF ITS PROPERTY OR
2 INTEREST IN PROPERTY;

3 (9) FIX AND COLLECT RATES, RENTALS, FEES, AND CHARGES FOR SERVICES
4 AND FACILITIES THE AUTHORITY PROVIDES OR MAKES AVAILABLE;

5 (10) WITH THE OWNER’S PERMISSION, ENTER LAND, WATERS, OR PREMISES
6 TO MAKE A SURVEY, SOUNDING, BORING, OR EXAMINATION TO ACCOMPLISH A PURPOSE
7 AUTHORIZED BY THIS SUBTITLE;

8 (11) EXERCISE A POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN
9 PERFORMING SIMILAR FUNCTIONS, UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW
10 OR UNLESS THE ACTION OR DECISION OF THE AUTHORITY WOULD IMPOSE LIABILITY ON
11 THE STATE OR ANY COUNTY; AND

12 (12) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE
13 POWERS EXPRESSLY GRANTED BY THIS SUBTITLE.

14 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–1705(1) through
15 (6), (8), (9), and (13) through (16).

16 In item (4) of this section, the former reference to “[a]pply[ing] for” loans is
17 deleted as implicit in the authority to “accept” loans.

18 The only other changes are in style.

19 Defined terms: “Authority” § 11–301

20 “County” § 9–101

21 “State” § 9–101

22 11–316. POWERS — PROJECTS.

23 THE AUTHORITY MAY:

24 (1) ACQUIRE, IMPROVE, DEVELOP, MANAGE, MARKET, LEASE AS LESSOR OR
25 LESSEE, OPERATE, AND MAINTAIN A PROJECT; AND

26 (2) ACQUIRE, EITHER DIRECTLY OR BY OR THROUGH AN AGREEMENT WITH
27 THE UNITED STATES DEPARTMENT OF DEFENSE OR A MILITARY SERVICE, BY PURCHASE
28 OR OTHERWISE, ANY PROPERTY, RIGHTS, RIGHTS–OF–WAY, FRANCHISES, EASEMENTS,
29 AND OTHER INTERESTS IN LAND, INCLUDING LAND LYING UNDER WATER AND RIPARIAN
30 RIGHTS LOCATED IN OR OUTSIDE THE STATE AS NECESSARY OR CONVENIENT TO IMPROVE
31 OR OPERATE A PROJECT ON TERMS AND AT PRICES THAT THE AUTHORITY CONSIDERS TO
32 BE REASONABLE.

33 REVISOR’S NOTE: This section is new language derived without substantive
34 change from former Art. 83A, § 5–1705(7) and (10).

35 In item (2) of this section, the reference to “real or personal property” is
36 substituted for the former reference to “land, structures, [and] property”

1 for clarity and consistency within this article.

2 Defined terms: “Authority” § 11–301

3 “Improve” § 11–301

4 “Project” § 11–301

5 “State” § 9–101

6 11–317. POWERS — BORROWING AUTHORITY.

7 THE AUTHORITY MAY:

8 (1) BORROW MONEY TO FINANCE COSTS OF A PROJECT OR FOR ANY OTHER
9 CORPORATE PURPOSE OF THE AUTHORITY;

10 (2) MORTGAGE OR OTHERWISE ENCUMBER ITS PROPERTY OR REVENUES FOR
11 THE LOAN; AND

12 (3) COMBINE PROJECTS FOR FINANCING.

13 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–1705(11) and (12).

14 The only changes are in style.

15 Defined terms: “Authority” § 11–301

16 “Cost” § 11–301

17 “Finance” § 9–101

18 “Project” § 11–301

19 “Revenues” § 11–301

20 11–318. BOND AUTHORIZATION.

21 TO CARRY OUT THIS SUBTITLE, THE MARYLAND ECONOMIC DEVELOPMENT
22 CORPORATION MAY ISSUE BONDS FROM TIME TO TIME ON BEHALF OF THE AUTHORITY TO
23 FINANCE COSTS OF A PROJECT.

24 REVISOR’S NOTE: This section is new language derived without substantive
25 change from former Art. 83A, § 5–1706(a).

26 The phrase “on behalf of the authority” is added for clarity.

27 The former phrase “at one time” is deleted as implicit.

28 As to the general authority and procedures of the Maryland Economic
29 Development Corporation to issue bonds, *see* § 10–118 of this article.

30 Defined terms: “Authority” § 11–301

31 “Bond” § 11–301

32 “Cost” § 11–301

33 “Finance” § 11–301

34 “Project” § 11–301

1 11–319. LIABILITY; FULL FAITH AND CREDIT.

2 AN OBLIGATION OF THE AUTHORITY IS NOT A DEBT, LIABILITY, OR PLEDGE OF THE
3 FULL FAITH AND CREDIT OF THE STATE OR ANY COUNTY.

4 REVISOR’S NOTE: This section is new language derived without substantive
5 change from former Art. 83A, § 5–1706(c).

6 The former prohibition that an obligation “may not be deemed to
7 constitute” a debt, liability, or pledge is deleted as included in the
8 statement that the obligation “is not” a debt, liability, or pledge.

9 Defined terms: “Authority” § 11–301

10 “County” § 9–101

11 “State” § 9–101

12 11–320. PROJECT FINANCING.

13 (A) LOANS.

14 THE AUTHORITY MAY:

15 (1) LEND OR OTHERWISE MAKE AVAILABLE ITS NET REVENUE TO FINANCE
16 COSTS OF A PROJECT; AND

17 (2) ENTER INTO A FINANCING AGREEMENT, MORTGAGE, OR OTHER
18 INSTRUMENT THAT IT DETERMINES IS NECESSARY OR DESIRABLE TO EVIDENCE OR
19 SECURE THE LOAN.

20 (B) LEASES.

21 A LEASE OF PROPERTY OF THE AUTHORITY MAY REQUIRE OR AUTHORIZE THE
22 LESSEE OR ANOTHER PERSON, ON CONVEYANCE OF THE PROPERTY TO THE AUTHORITY,
23 TO PURCHASE OR OTHERWISE ACQUIRE THE PROPERTY FOR CONSIDERATION THAT THE
24 AUTHORITY ESTABLISHES.

25 REVISOR’S NOTE: This section is new language derived without substantive
26 change from former Art. 83A, § 5–1706(b).

27 In subsection (a)(1) of this section, the reference to “net revenue” is
28 substituted for the former incorrect reference to “the proceeds of its net
29 earnings” for clarity. A local redevelopment authority does not issue its own
30 bonds, and so it has no “proceeds”. No substantive change is intended.

31 In subsection (b) of this section, the reference to conveyance “to the
32 authority” is added for clarity.

33 Defined terms: “Authority” § 11–301

34 “Cost” § 11–301

35 “Finance” § 9–101

36 “Person” §§ 9–101, 11–301

1 “Project” § 11–301
2 “Revenues” § 11–301

3 11–321. RATES AND CHARGES; REVENUES.

4 (A) CHARGES FOR SERVICES.

5 THE AUTHORITY MAY:

6 (1) FIX AND COLLECT RATES OR CHARGES FOR ITS SERVICES;

7 (2) ESTABLISH THE TERMS AND CONDITIONS FOR THE SERVICES; AND

8 (3) CONTRACT WITH A PERSON FOR THE PROVISION OF THE SERVICES OF
9 THE AUTHORITY.

10 (B) CHARGES NOT REGULATED.

11 THE RATES OR CHARGES OF THE AUTHORITY ARE NOT SUBJECT TO SUPERVISION OR
12 REGULATION BY ANY OTHER UNIT OF THE STATE OR BY A POLITICAL SUBDIVISION OF THE
13 STATE.

14 (C) USE OF REVENUES.

15 SUBJECT TO ANY AGREEMENT, THE AUTHORITY MAY APPLY ITS REVENUES TO ANY
16 LAWFUL PURPOSE.

17 (D) BENEFIT OF REVENUES.

18 EXCEPT AS NECESSARY TO PAY AN OBLIGATION OR TO IMPLEMENT PROGRAMS OF
19 THE AUTHORITY, THE NET REVENUE OF THE AUTHORITY MAY NOT BENEFIT A PERSON
20 OTHER THAN THE COUNTY OR COUNTIES IN WHICH THE FACILITY IS LOCATED.

21 REVISOR’S NOTE: This section is new language derived without substantive
22 change from former Art. 83A, § 5–1707.

23 In subsection (c) of this section, the former reference to an agreement
24 “relating to bonds of the authority” is deleted as surplusage.

25 In subsection (d) of this section, the reference to net “revenue” is
26 substituted for the former reference to net “earnings” for accuracy.

27 Defined terms: “Authority” § 11–301

28 “County” § 9–101

29 “Person” §§ 9–101, 11–301

30 “Revenues” § 11–301

31 “State” § 9–101

32 11–322. TAX STATUS.

33 (A) EXEMPTION.

1 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE AUTHORITY IS
2 EXEMPT FROM ANY REQUIREMENT TO PAY ANY TAXES OR ASSESSMENTS ON ITS
3 PROPERTIES, ACTIVITIES, OR ANY REVENUE FROM ITS PROPERTIES OR ACTIVITIES.

4 (B) PRIVATE ENTITIES.

5 PROPERTY THAT THE AUTHORITY SELLS OR LEASES TO A PRIVATE ENTITY IS
6 SUBJECT TO STATE AND LOCAL PROPERTY TAXES FROM THE TIME OF THE SALE OR
7 LEASE.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 83A, § 5–1708.

10 In subsection (b) of this section, the reference to “[p]roperty” is substituted
11 for the former reference to “[l]and or a facility” for consistency within this
12 subtitle.

13 Defined terms: “Authority” § 11–301

14 “State” § 9–101

15 11–323. AUDIT.

16 (A) IN GENERAL.

17 (1) AS SOON AS PRACTICAL AFTER THE CLOSE OF THE FISCAL YEAR, AN
18 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT SHALL AUDIT THE FINANCIAL BOOKS,
19 RECORDS, AND ACCOUNTS OF THE AUTHORITY.

20 (2) THE FINANCE COMMITTEE OF THE AUTHORITY SHALL SELECT AN
21 ACCOUNTANT TO CONDUCT THE AUDIT WHO:

22 (I) IS LICENSED TO PRACTICE ACCOUNTANCY IN THE STATE;

23 (II) IS EXPERIENCED AND QUALIFIED IN THE ACCOUNTING AND
24 AUDITING OF PUBLIC BODIES; AND

25 (III) DOES NOT HAVE A DIRECT OR INDIRECT INTEREST IN THE FISCAL
26 AFFAIRS OF THE AUTHORITY.

27 (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH,
28 THE ACCOUNTANT SHALL REPORT THE RESULTS OF THE AUDIT, INCLUDING THE
29 ACCOUNTANT'S UNQUALIFIED OPINION ON THE PRESENTATION OF THE FINANCIAL
30 POSITION AND THE RESULTS OF THE FINANCIAL OPERATIONS OF THE AUTHORITY.

31 (II) IF THE ACCOUNTANT CANNOT EXPRESS AN UNQUALIFIED OPINION,
32 THE ACCOUNTANT SHALL EXPLAIN IN DETAIL THE REASONS FOR THE QUALIFICATIONS,
33 DISCLAIMERS, OR OPINIONS, INCLUDING RECOMMENDATIONS OF CHANGES THAT COULD
34 MAKE FUTURE UNQUALIFIED OPINIONS POSSIBLE.

35 (B) AUDIT BY STATE.

1 THE STATE MAY AUDIT THE BOOKS, RECORDS, AND ACCOUNTS OF THE AUTHORITY.

2 REVISOR'S NOTE: This section formerly was Art. 83A, § 5–1709(d) and (e).

3 In subsection (a)(3)(i) of this section, the limitation “[e]xcept as provided in
4 subparagraph (ii) of this paragraph,” is added for clarity and consistency
5 within this article.

6 The only other changes are in style.

7 Defined terms: “Authority” § 11–301

8 “State” § 9–101

9 11–324. ANNUAL REPORT.

10 (A) REQUIRED.

11 ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE AUTHORITY SHALL SUBMIT A
12 REPORT TO:

13 (1) THE GOVERNOR;

14 (2) THE GOVERNING BODY OF EACH COUNTY IN WHICH THE FACILITY IS
15 LOCATED;

16 (3) THE DEPARTMENT; AND

17 (4) IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT
18 ARTICLE, THE GENERAL ASSEMBLY.

19 (B) CONTENTS.

20 THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND FINANCIAL STATEMENT
21 AND A SUMMARY OF THE ACTIVITIES OF THE AUTHORITY DURING THE PRECEDING FISCAL
22 YEAR.

23 REVISOR'S NOTE: This section formerly was Art. 83A, § 5–1709(f).

24 In the introductory language to subsection (a) of this section, the phrase
25 “[o]n or before October 1 of each year” is substituted for the former phrase
26 “[w]ithin 90 days after the start of each fiscal year” for clarity and
27 accuracy.

28 The only other changes are in style.

29 Defined terms: “Authority” § 11–301

30 “County” § 9–101

31 “Department” § 9–101

1 11–325. SHORT TITLE.

2 THIS SUBTITLE MAY BE CITED AS THE MARYLAND LOCAL MILITARY INSTALLATION
3 REDEVELOPMENT AUTHORITY ACT.

4 REVISOR’S NOTE: This section formerly was Art. 83A, § 5–1711.

5 No changes are made.

6 SUBTITLE 4. BAINBRIDGE DEVELOPMENT CORPORATION.

7 11–401. DEFINITIONS.

8 (A) IN GENERAL.

9 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

10 REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1601(a).

11 No changes are made.

12 (B) BOARD.

13 “BOARD” MEANS THE BOARD OF DIRECTORS OF THE CORPORATION.

14 REVISOR’S NOTE: This subsection is new language added to avoid repetition
15 of the full title of the “Board of Directors”.

16 Defined term: “Corporation” § 11–401

17 (C) BOND.

18 (1) “BOND” MEANS A BOND OR NOTE ISSUED ON BEHALF OF THE
19 CORPORATION.

20 (2) “BOND” INCLUDES:

21 (I) A BOND ANTICIPATION NOTE;

22 (II) A REVENUE ANTICIPATION NOTE;

23 (III) A GRANT ANTICIPATION NOTE;

24 (IV) A REFUNDING BOND;

25 (V) A NOTE IN THE NATURE OF COMMERCIAL PAPER; AND

26 (VI) ANY OTHER EVIDENCE OF INDEBTEDNESS ISSUED ON BEHALF OF
27 THE CORPORATION, WHETHER A GENERAL OR LIMITED OBLIGATION OF THE
28 CORPORATION.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 83A, § 5–1601(b).

3 Defined term: "Corporation" § 11–401

4 (D) CORPORATION.

5 "CORPORATION" MEANS THE BAINBRIDGE DEVELOPMENT CORPORATION.

6 REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–1601(c).

7 No changes are made.

8 (E) COST.

9 "COST" INCLUDES:

10 (1) THE PURCHASE PRICE OF A PROJECT;

11 (2) THE COST TO ACQUIRE ANY RIGHT, TITLE, OR INTEREST IN A PROJECT;

12 (3) THE AMOUNT TO BE PAID TO DISCHARGE EACH OBLIGATION NECESSARY
13 OR DESIRABLE TO VEST TITLE TO ANY PART OF A PROJECT IN THE CORPORATION OR
14 OTHER OWNER;

15 (4) THE COST OF ANY IMPROVEMENT;

16 (5) THE COST OF ANY PROPERTY, RIGHT, EASEMENT, FRANCHISE, AND
17 PERMIT;

18 (6) THE COST OF LABOR AND EQUIPMENT;

19 (7) FINANCING CHARGES;

20 (8) INTEREST BEFORE AND DURING CONSTRUCTION AND, IF THE
21 CORPORATION DETERMINES, FOR A LIMITED PERIOD AFTER THE COMPLETION OF
22 CONSTRUCTION;

23 (9) RESERVES FOR PRINCIPAL AND INTEREST AND FOR IMPROVEMENTS;

24 (10) THE COST OF REVENUE ESTIMATES, ENGINEERING AND LEGAL SERVICES,
25 PLANS, DESIGNS, SPECIFICATIONS, SURVEYS, INVESTIGATIONS, DEMONSTRATIONS,
26 STUDIES, ESTIMATES OF COST, AND OTHER EXPENSES NECESSARY OR INCIDENT TO
27 DETERMINING THE FEASIBILITY OF AN ACQUISITION OR IMPROVEMENT OF A PROJECT;

28 (11) ADMINISTRATIVE EXPENSES; AND

29 (12) OTHER EXPENSES NECESSARY OR INCIDENT TO:

30 (i) FINANCING A PROJECT;

(II) ACQUIRING, IMPROVING, AND MARKETING A PROJECT;

(III) PLACING A PROJECT IN OPERATION, INCLUDING REASONABLE PROVISION FOR WORKING CAPITAL; AND

(IV) OPERATING AND MAINTAINING A PROJECT.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–1601(d).

In item (2) of this subsection, the former reference to a “portion of” an interest in a project is deleted for brevity. Similarly, in item (3) of this subsection, the former reference to title to “the project” is deleted as included in the reference to “any part of the project”.

In item (5) of this subsection, the former reference to “lands” is deleted as included in the comprehensive reference to “property”.

In item (10) of this subsection, the former reference to “practicability” of an acquisition is deleted as included in the reference to “feasibility”.

In item (12)(iii) of this subsection, the former reference to placing a project in operation “by the Corporation or other owner” is deleted as implicit.

Defined terms: “Corporation” § 11–401

“Finance” § 9–101

“Improve” § 11–401

“Improvement” § 11–401

“Project” § 11–401

(F) COUNTY COMMISSIONERS.

“COUNTY COMMISSIONERS” MEANS THE BOARD OF COUNTY COMMISSIONERS OF CECIL COUNTY.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the full title of the “Board of County Commissioners of Cecil County”.

(G) FINANCE.

“FINANCE” INCLUDES REFINANCE.

REVISOR’S NOTE: This subsection is new language added for clarity and consistency within this article.

(H) IMPROVE.

“IMPROVE” MEANS TO ADD, ALTER, CONSTRUCT, EQUIP, EXPAND, EXTEND, IMPROVE, INSTALL, RECONSTRUCT, REHABILITATE, REMODEL, OR REPAIR.

1 REVISOR'S NOTE: This subsection is new language added for brevity and
2 clarity.

3 (I) IMPROVEMENT.

4 "IMPROVEMENT" MEANS ADDITION, ALTERATION, CONSTRUCTION, EQUIPPING,
5 EXPANSION, EXTENSION, IMPROVEMENT, INSTALLATION, RECONSTRUCTION,
6 REHABILITATION, REMODELING, OR REPAIR.

7 REVISOR'S NOTE: This subsection is new language added for brevity and
8 clarity.

9 (J) PERSON.

10 (1) "PERSON" HAS THE MEANING STATED IN § 9–101 OF THIS ARTICLE.

11 (2) "PERSON" ALSO INCLUDES A POLITICAL SUBDIVISION.

12 REVISOR'S NOTE: This subsection is new language derived without
13 substantive change from former Art. 83A, § 5–1601(f).

14 Defined term: "Person" § 9–101

15 (K) PROJECT.

16 (1) "PROJECT" MEANS AN UNDERTAKING TO ESTABLISH ECONOMIC
17 ACTIVITY ON PROPERTY CONVEYED TO THE CORPORATION KNOWN AS THE BAINBRIDGE
18 NAVAL TRAINING CENTER, INCLUDING THE HISTORIC TOME SCHOOL FOR BOYS, AT
19 PORT DEPOSIT, MARYLAND, WHETHER OR NOT A FACILITY OR PROPERTY USED OR
20 USEFUL IN CONNECTION WITH THE UNDERTAKING MAY BE FINANCED BY BONDS, THE
21 INTEREST ON WHICH IS EXEMPT FROM TAXATION UNDER FEDERAL LAW.

22 (2) "PROJECT" INCLUDES:

23 (I) PROPERTY AND RIGHTS RELATED TO THE PROPERTY,
24 APPURTENANCES, RIGHTS-OF-WAY, FRANCHISES, AND EASEMENTS;

25 (II) INFRASTRUCTURE, EQUIPMENT, AND FURNISHINGS;

26 (III) PROPERTY THAT IS FUNCTIONALLY RELATED AND SUBORDINATE TO
27 A PROJECT; AND

28 (IV) PATENTS, LICENSES, AND OTHER RIGHTS NECESSARY OR USEFUL
29 IN THE CONSTRUCTION OR OPERATION OF A PROJECT.

30 REVISOR'S NOTE: This subsection is new language derived without
31 substantive change from former Art. 83A, § 5–1601(g).

32 In paragraph (1) of this subsection, the reference to a facility or property
33 "used or useful in connection with the undertaking" is substituted for the
34 former reference to "these" facilities or properties for clarity and

1 consistency within this article.

2 In paragraph (2)(i) of this subsection, the former references to “lands” and
3 “other interests in land” are deleted as included in the comprehensive
4 reference to “property”.

5 In paragraph (2)(iii) of this subsection, the reference to “property” is
6 substituted for the former reference to “land and facilities” for brevity and
7 clarity.

8 Defined terms: “Bond” § 11–401

9 “Corporation” § 11–401

10 “Finance” § 11–401

11 “Project” § 11–401

12 (L) REVENUES.

13 (1) “REVENUES” MEANS:

14 (I) THE INCOME, REVENUE, AND OTHER MONEY THE CORPORATION
15 RECEIVES FROM OR IN CONNECTION WITH A PROJECT; AND

16 (II) ALL OTHER INCOME OF THE CORPORATION.

17 (2) “REVENUES” INCLUDES GRANTS, RENTALS, RATES, FEES, AND CHARGES
18 FOR THE USE OF SERVICES FURNISHED OR AVAILABLE.

19 REVISOR’S NOTE: This subsection is new language derived without
20 substantive change from former Art. 83A, § 5–1601(h).

21 Defined terms: “Corporation” § 11–401

22 “Project” § 11–401

23 REVISOR’S NOTE TO SECTION:

24 Former Art. 83A, § 5–1601(e), which defined “MEDCO”, is deleted because the term is
25 not used in this revision.

26 11–402. ESTABLISHED.

27 (A) IN GENERAL.

28 THERE IS A BAINBRIDGE DEVELOPMENT CORPORATION.

29 (B) STATUS.

30 THE CORPORATION IS A BODY POLITIC AND CORPORATE AND IS AN
31 INSTRUMENTALITY OF THE STATE.

32 (C) ESSENTIAL GOVERNMENTAL FUNCTION.

1 THE EXERCISE BY THE CORPORATION OF A POWER UNDER THIS SUBTITLE IS THE
2 PERFORMANCE OF AN ESSENTIAL GOVERNMENTAL FUNCTION.

3 REVISOR'S NOTE: Subsection (a) of this section is new language added to
4 state expressly that which was only implied in the former law, *i.e.*, the
5 Bainbridge Development Corporation is created by statute.

6 Subsections (b) and (c) of this section are new language derived without
7 substantive change from former Art. 83A, § 5–1602(a)(1) and (2).

8 In subsection (b) of this section, the former reference to a “public”
9 instrumentality is deleted as implicit in the reference to a “body politic and
10 corporate”.

11 In subsection (c) of this section, the reference to an essential
12 “governmental” function is substituted for the former reference to an
13 essential “public” function for clarity and consistency within this article.

14 Defined terms: “Corporation” § 11–401
15 “State” § 9–101

16 11–403. BOARD OF DIRECTORS.

17 (A) IN GENERAL.

18 A BOARD OF DIRECTORS SHALL MANAGE THE AFFAIRS OF THE CORPORATION AND
19 EXERCISE ALL OF THE POWERS OF THE CORPORATION.

20 (B) COMPOSITION; APPOINTMENT OF MEMBERS.

21 THE BOARD CONSISTS OF THE FOLLOWING 15 MEMBERS:

22 (1) EIGHT MEMBERS APPOINTED BY THE COUNTY COMMISSIONERS AS
23 FOLLOWS:

24 (I) TWO MEMBERS RECOMMENDED BY THE MAYOR AND TOWN
25 COUNCIL OF PORT DEPOSIT;

26 (II) TWO MEMBERS RECOMMENDED BY THE STATE LEGISLATIVE
27 DELEGATION OF CECIL COUNTY; AND

28 (III) FOUR MEMBERS AT LARGE;

29 (2) THE DIRECTOR OF THE CECIL COUNTY DEPARTMENT OF ECONOMIC
30 DEVELOPMENT; AND

31 (3) SIX NONVOTING EX OFFICIO MEMBERS AS FOLLOWS:

32 (I) THE SECRETARY, OR THE DESIGNEE OF THE SECRETARY;

1 (II) THE SECRETARY OF GENERAL SERVICES, OR THE DESIGNEE OF
2 THE SECRETARY OF GENERAL SERVICES;

3 (III) THE EXECUTIVE DIRECTOR OF THE MARYLAND ECONOMIC
4 DEVELOPMENT CORPORATION;

5 (IV) THE DIRECTOR OF THE MARYLAND HISTORICAL TRUST;

6 (V) THE PRESIDENT OF THE COUNTY COMMISSIONERS; AND

7 (VI) THE MAYOR OF PORT DEPOSIT.

8 (c) TENURE; VACANCIES.

9 (1) THE TERM OF A MEMBER OF THE BOARD APPOINTED UNDER
10 SUBSECTION (B)(1) OF THIS SECTION IS 4 YEARS.

11 (2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY
12 THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2008.

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

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

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 83A, § 5–1602(b).

19 In subsection (c)(2) of this section, the reference to terms of appointed
20 members being “staggered as required by the terms provided for members
21 of the Board on October 1, 2008” is substituted for the former obsolete
22 reference to terms simply being “staggered”. This substitution is not
23 intended to alter the term of any member of the Board. *See* § 13 of Ch. ____,
24 Acts of 2008. The terms of the appointed members serving on October 1,
25 2008 expire as follows: (1) three in 2010; and (2) five in 2011.

26 Also in subsection (c)(2) of this section, the former reference to terms being
27 staggered “to ensure long-term continuity in Board action” is deleted as
28 surplusage because the rationale for staggered boards is implicit in current
29 law.

30 Defined terms: “Board” § 11–401

31 “Corporation” § 11–401

32 “County Commissioners” § 11–401

33 “Secretary” § 9–101

34 “State” § 9–101

1 11–404. OFFICERS.

2 FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR, A VICE CHAIR,
3 AND A TREASURER.

4 REVISOR’S NOTE: This section is new language derived without substantive
5 change from former Art. 83A, § 5–1602(c)(1).

6 The references to a “chair” and a “vice chair” are substituted for the former
7 references to a “chairman” and a “vice chairman”, respectively, because SG
8 § 2–1238 requires the use of words that are neutral as to gender to the
9 extent practicable. *See* General Revisor’s Note to article.

10 Defined term: “Board” § 11–401

11 11–405. QUORUM.

12 (A) IN GENERAL.

13 FIVE MEMBERS OF THE BOARD ARE A QUORUM.

14 (B) VOTING.

15 AN AFFIRMATIVE VOTE OF AT LEAST FIVE MEMBERS IS NEEDED FOR THE BOARD TO
16 ACT.

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from former Art. 83A, § 5–1602(c)(2).

19 Former Art. 83A, § 5–1602(c)(3), which stated that “[a] vacancy ... does not
20 impair the right of a quorum” is deleted as inconsistent with the
21 requirements that a specified number of members constitute a quorum
22 under subsection (a) of this section, and a specified number of affirmative
23 votes is needed for the Board to act under subsection (b) of this section. *See*
24 *also* McQuillen, *Municipal Corporations*, §§ 13.30, 13.31 (3rd ed. rev’d).

25 Defined term: “Board” § 11–401

26 11–406. EXECUTIVE DIRECTOR.

27 (A) POSITION; TENURE; SALARY.

28 (1) SUBJECT TO THE APPROVAL OF THE COUNTY COMMISSIONERS, THE
29 BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR.

30 (2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE BOARD.

31 (3) THE BOARD SHALL DETERMINE THE SALARY OF THE EXECUTIVE
32 DIRECTOR.

33 (B) ADMINISTRATIVE OFFICER.

1 (1) THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE OFFICER OF
2 THE CORPORATION.

3 (2) THE EXECUTIVE DIRECTOR SHALL MANAGE THE ADMINISTRATIVE
4 AFFAIRS AND TECHNICAL ACTIVITIES OF THE CORPORATION IN ACCORDANCE WITH
5 POLICIES AND PROCEDURES THAT THE BOARD ESTABLISHES.

6 (c) DUTIES.

7 THE EXECUTIVE DIRECTOR, OR THE EXECUTIVE DIRECTOR'S DESIGNEE, SHALL:

8 (1) ATTEND ALL MEETINGS OF THE BOARD;

9 (2) ACT AS SECRETARY TO THE BOARD;

10 (3) KEEP MINUTES OF THE PROCEEDINGS OF THE BOARD;

11 (4) APPROVE SALARIES, PER DIEM PAYMENTS, ALLOWABLE EXPENSES OF
12 THE CORPORATION AND ITS EMPLOYEES OR CONSULTANTS, AND ANY EXPENSES
13 INCIDENTAL TO THE OPERATION OF THE CORPORATION; AND

14 (5) PERFORM THE OTHER DUTIES THAT THE BOARD DIRECTS IN CARRYING
15 OUT THIS SUBTITLE.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 83A, § 5–1603(a) and (b).

18 In subsection (c)(4) of this section, the former reference to approval of
19 "accounts for" salaries, etc. is deleted for clarity. The Executive Director
20 approves salaries in accordance with the policies and procedures that the
21 Board establishes, including the budget.

22 Defined terms: "Board" § 11–401

23 "Corporation" § 11–401

24 "County Commissioners" § 11–401

25 11–407. STAFF; CONSULTANTS.

26 (A) STAFF.

27 THE BOARD SHALL APPROVE ADDITIONAL PROFESSIONAL AND CLERICAL STAFF AS
28 NECESSARY TO CARRY OUT THIS SUBTITLE.

29 (B) CONSULTANTS.

30 THE BOARD MAY RETAIN ACCOUNTANTS, ENGINEERS, LAWYERS, FINANCIAL
31 ADVISORS, OR OTHER CONSULTANTS AS NECESSARY TO CARRY OUT THIS SUBTITLE.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 83A, § 5–1603(c)(1) and (d).

1 In subsection (b) of this section, the word “retain” is substituted for the
2 former word “engage” for clarity and consistency within this article.

3 Also in subsection (b) of this section, the phrase “to carry out this subtitle”
4 is added for clarity and consistency within this title.

5 Defined term: “Board” § 11–401

6 11–408. APPLICABILITY OF OTHER LAWS.

7 (A) IN GENERAL.

8 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IN EXERCISING ITS CORPORATE
9 POWERS, THE CORPORATION:

10 (1) MAY CARRY OUT ITS CORPORATE PURPOSES WITHOUT OBTAINING THE
11 CONSENT OF ANY OTHER STATE UNIT; AND

12 (2) IS NOT SUBJECT TO:

13 (I) THE FOLLOWING PROVISIONS OF THE STATE GOVERNMENT
14 ARTICLE:

15 1. §§ 10–505 AND 10–507 (OPEN MEETINGS); AND

16 2. TITLE 11 (CONSOLIDATED PROCEDURES FOR
17 DEVELOPMENT PERMITS) ; AND

18 (II) THE FOLLOWING PROVISIONS OF THE STATE FINANCE AND
19 PROCUREMENT ARTICLE:

20 1. TITLE 2, SUBTITLES 2 (GIFTS AND GRANTS), 4
21 (FACSIMILE SIGNATURES AND SEALS), AND 5 (FACILITIES FOR HANDICAPPED);

22 2. TITLE 3 (BUDGET AND MANAGEMENT);

23 3. TITLE 4 (DEPARTMENT OF GENERAL SERVICES);

24 4. § 5A–304 (MARYLAND HISTORICAL TRUST PROPERTY
25 ACQUISITION);

26 5. TITLE 6, SUBTITLE 1 (REVENUES: STUDIES AND
27 ESTIMATES);

28 6. TITLE 7, SUBTITLES 1 (STATE OPERATING BUDGET), 2
29 (DISBURSEMENTS AND EXPENDITURES), AND 3 (UNSPENT BALANCES);

30 7. TITLE 8, SUBTITLE 1 (GENERAL OBLIGATION DEBT);

31 8. TITLE 10 (BOARD OF PUBLIC WORKS – MISCELLANEOUS
32 PROVISIONS); AND

9. DIVISION II (GENERAL PROCUREMENT LAW).

(B) PUBLIC INFORMATION.

THE CORPORATION IS SUBJECT TO THE PUBLIC INFORMATION ACT.

(C) ETHICS.

THE OFFICERS AND EMPLOYEES OF THE CORPORATION ARE SUBJECT TO THE MARYLAND PUBLIC ETHICS LAW.

(D) PERSONNEL.

THE OFFICERS AND EMPLOYEES OF THE CORPORATION ARE NOT SUBJECT TO:

(1) DIVISION II OF THE STATE PERSONNEL AND PENSIONS ARTICLE; OR

(2) THE PROVISIONS OF DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE THAT GOVERN THE STATE PERSONNEL MANAGEMENT SYSTEM.

(E) REGULATORY REQUIREMENTS.

THE CORPORATION IS SUBJECT TO THE SAME STATE AND LOCAL REGULATORY REQUIREMENTS AS ANY PRIVATE CORPORATION.

(F) ZONING.

A PROJECT OF THE CORPORATION IS SUBJECT TO THE ZONING AND SUBDIVISION REGULATIONS OF THE POLITICAL SUBDIVISION WHERE THE PROJECT IS LOCATED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5–1609 and 5–1603(c)(2).

In subsection (a)(2) of this section, the former obsolete reference to exemption from “Article[s] 41 ... of the Code” is deleted because no provision of Article 41 that existed at the time of enactment of the Corporation applied to the Corporation. The Corporation does not issue its own debt, and so would not be subject to Title 12, Subtitle 1 or Subtitle 2 of this article, formerly Art. 41, Titles 1 and 2, the Maryland Economic Development Revenue Bond Act and the Tax Incentive Financing Act, respectively; and no other provision of Article 41 may reasonably be construed to apply to the Corporation. No substantive change is intended.

In subsection (a)(2)(i) of this section, the reference to SG “§§ 10–505 and 10–507” is substituted for the former reference to SG “§ 10–507” to reflect accurately the scope of exemption of the Corporation from the Open Meetings Act as determined by the Open Meetings Compliance Board. *See* 4 Off. Op. Comp. Bd. 88, 93 (2004).

In subsection (a)(2)(ii) of this section, the reference to SG “Title 11” is added because the General Assembly may have intended the Corporation

1 to be exempt from that provision, derived from former Art. 78A, §§ 56
 2 through 65, although at the time of enactment of the Corporation, that title
 3 was already codified in the State Government Article. The statutory
 4 charter of the Corporation was directly modeled on that of the PenMar
 5 Development Corporation enacted in 1997, which in turn was copied from
 6 that of the Maryland Economic Development Corporation enacted in 1984.
 7 *See* Ch. 737, Acts of 1997; Ch. 498, Acts of 1984.

8 In subsection (a)(2)(iii) of this section, the former obsolete reference to SF
 9 “§ 2–105” is deleted. SF § 2–105 was repealed by Ch. 5, Acts of 1997, and
 10 did not exist when the Bainbridge Development Corporation was created
 11 by Ch. 494 of the Acts of 1999.

12 In subsection (a)(2)(iii)4 of this section, the reference to SF “§ 5A–304” is
 13 substituted for the former reference to “Article[s] ... 78A” to reflect the
 14 current codification of the only provision remaining in Article 78A at the
 15 time of enactment of the Corporation that appears to apply to the
 16 Corporation, § 14B, concerning property acquisition by the Maryland
 17 Historical Trust. *See* Chs. 26 and 440, Acts of 2005. No substantive change
 18 is intended.

19 In subsection (a)(2)(iii)7 of this section, the former specific reference to SF
 20 “§§ 8–127, 8–128, and 8–129” is deleted as included in the comprehensive
 21 reference to SF “Title 8, Subtitle 1”. *Cf.* Revisor’s Note to § 11–509 of this
 22 title.

23 In subsection (c) of this section, the reference to the “Maryland Public
 24 Ethics Law” is added to reflect accurately the short title of SG Title 15.

25 In subsections (e) and (f) of this section, the former limitation
 26 “[n]otwithstanding subsection (a) of this section” is deleted in light of the
 27 introductory language to subsection (a) of this section.

28 The Economic Development Article Review Committee notes, for the
 29 consideration of the General Assembly, that the Corporation is not
 30 specifically listed in the Maryland Tort Claims Act. The General Assembly
 31 may wish to address the potential liability of personnel of this corporation,
 32 the PenMar Development Corporation, and any subsequently formed local
 33 redevelopment authority under Subtitle 3 of this title in the same manner
 34 that it has already done with the Maryland Economic Development
 35 Corporation and the Maryland Stadium Authority which are specifically
 36 included in that statute. *See* SG § 12–101.

37 Defined terms: “Corporation” § 11–401

38 “Project” § 11–401

39 “State” § 9–101

40 11–409. ACCOUNTING; FISCAL YEAR.

41 (A) ACCOUNTING.

1 THE CORPORATION SHALL ESTABLISH A SYSTEM OF FINANCIAL ACCOUNTING,
2 CONTROLS, AUDITS, AND REPORTS.

3 (B) FISCAL YEAR.

4 THE FISCAL YEAR OF THE CORPORATION BEGINS ON JULY 1 AND ENDS ON THE
5 FOLLOWING JUNE 30.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 83A, § 5–1608(c).

8 In subsection (a) of this section, the reference to “establish[ing]” a system
9 of financial accounting is substituted for the former reference to “mak[ing]
10 provision” for such a system for clarity and consistency within this article.

11 Defined term: “Corporation” § 11–401

12 11–410. MONEY OF CORPORATION.

13 (A) FUNDS.

14 THE CORPORATION MAY ESTABLISH ANY ACCOUNTS THAT IT REQUIRES.

15 (B) DEPOSIT OF MONEY.

16 THE CORPORATION SHALL DEPOSIT ITS MONEY INTO A STATE OR NATIONAL BANK
17 OR A FEDERALLY INSURED SAVINGS AND LOAN ASSOCIATION IN THE STATE THAT HAS A
18 TOTAL PAID–IN CAPITAL OF AT LEAST \$1,000,000.

19 (C) DEPOSITORY DESIGNEES.

20 THE CORPORATION MAY DESIGNATE THE TRUST DEPARTMENT OF A STATE OR
21 NATIONAL BANK OR OF A SAVINGS AND LOAN ASSOCIATION AS A DEPOSITORY TO RECEIVE
22 SECURITIES THAT THE CORPORATION OWNS OR ACQUIRES.

23 (D) ALLOWED INVESTMENTS.

24 UNLESS AN AGREEMENT LIMITS CLASSES OF INVESTMENTS, THE CORPORATION
25 MAY INVEST ITS MONEY IN BONDS OR OTHER OBLIGATIONS OF, OR GUARANTEED AS TO
26 PRINCIPAL AND INTEREST BY, THE UNITED STATES, THE STATE, OR A UNIT OR
27 POLITICAL SUBDIVISION OF THE STATE.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 83A, § 5–1608(a) and (b).

30 In subsection (a) of this section, the reference to “establish[ing] any
31 accounts” is substituted for the former obsolete reference to “provid[ing] for
32 the creation, continuation, and administration of any funds” and its
33 implicit reference to the system of “fund accounting” for clarity and
34 consistency within this article.

1 In subsection (d) of this section, the former phrase “or covenant between
2 the Corporation and the holders of any of its obligations” is deleted as
3 unnecessary because the Corporation itself does not issue bonds or any
4 other obligation, and any covenant between the Corporation, or the
5 Maryland Economic Development Corporation on the Corporation’s behalf
6 and any other person, including a holder of an obligation, that limits
7 classes of obligations would be an “agreement”. This could even include a
8 bond, which is a form of an agreement.

9 Defined terms: “Bond” § 11-401

10 “Corporation” § 11-401

11 “State” § 9-101

12 11-411. POWERS — IN GENERAL.

13 THE CORPORATION MAY:

14 (1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;

15 (2) ADOPT A SEAL;

16 (3) MAINTAIN AN OFFICE AT THE BAINBRIDGE NAVAL TRAINING CENTER;

17 (4) ACCEPT LOANS, GRANTS, OR ASSISTANCE OF ANY KIND FROM THE
18 FEDERAL OR STATE GOVERNMENT, A LOCAL GOVERNMENT, OR A PRIVATE SOURCE;

19 (5) ENTER INTO CONTRACTS AND OTHER LEGAL INSTRUMENTS;

20 (6) SUE AND BE SUED IN ITS OWN NAME;

21 (7) ACQUIRE, PURCHASE, HOLD, LEASE AS LESSEE, AND USE ANY
22 FRANCHISE, PATENT, OR LICENSE AND REAL, PERSONAL, MIXED, TANGIBLE, OR
23 INTANGIBLE PROPERTY, OR ANY INTEREST IN PROPERTY, NECESSARY OR CONVENIENT TO
24 CARRY OUT ITS PURPOSES;

25 (8) SELL, LEASE AS LESSOR, TRANSFER, AND DISPOSE OF ITS PROPERTY OR
26 INTEREST IN PROPERTY;

27 (9) FIX AND COLLECT RATES, RENTALS, FEES, AND CHARGES FOR SERVICES
28 AND FACILITIES IT PROVIDES OR MAKES AVAILABLE;

29 (10) WITH THE OWNER’S PERMISSION, ENTER LAND, WATERS, OR PREMISES
30 TO MAKE A SURVEY, SOUNDING, BORING, OR EXAMINATION TO ACCOMPLISH A PURPOSE
31 AUTHORIZED BY THIS SUBTITLE;

32 (11) EXERCISE A POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN
33 PERFORMING SIMILAR FUNCTIONS, UNLESS TO DO SO WOULD CONFLICT WITH STATE
34 LAW; AND

35 (12) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE
36 POWERS EXPRESSLY GRANTED BY THIS SUBTITLE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83A, § 5–1604(a)(1) through (6), (8), (9), and (13)
3 through (16).

4 In item (4) of this section, the former reference to “apply[ing] for” loans is
5 deleted as implicit in the authority to “accept” loans.

6 Defined terms: “Corporation” § 11–401

7 “State” § 9–101

8 11–412. POWERS — PROJECTS.

9 THE CORPORATION MAY:

10 (1) ACQUIRE, IMPROVE, DEVELOP, MANAGE, MARKET, LEASE AS LESSOR OR
11 LESSEE, OPERATE, AND MAINTAIN ANY PROJECT AT THE BAINBRIDGE NAVAL TRAINING
12 CENTER; AND

13 (2) ACQUIRE, EITHER DIRECTLY OR BY OR THROUGH AN AGREEMENT WITH
14 THE UNITED STATES NAVY, BY PURCHASE, GIFT, OR DEVISE, ANY PROPERTY, RIGHTS,
15 RIGHTS–OF–WAY, FRANCHISES, EASEMENTS, AND OTHER INTERESTS IN LAND, INCLUDING
16 LAND LYING UNDER WATER AND RIPARIAN RIGHTS LOCATED IN OR OUTSIDE THE STATE
17 AS NECESSARY OR CONVENIENT TO IMPROVE OR OPERATE A PROJECT ON TERMS AND AT
18 PRICES THAT THE CORPORATION CONSIDERS REASONABLE.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 83A, § 5–1604(7) and (10).

21 In item (2) of this section, the former references to “lands” and “structures”
22 are deleted as included in the comprehensive reference to “property”.

23 Defined terms: “Corporation” § 11–401

24 “Improve” § 11–401

25 “Project” § 11–401

26 “State” § 9–101

27 11–413. POWERS — BORROWING AUTHORITY.

28 THE CORPORATION MAY:

29 (1) BORROW MONEY TO FINANCE COSTS OF A PROJECT OR FOR ANY OTHER
30 CORPORATE PURPOSE OF THE CORPORATION;

31 (2) SECURE THE PAYMENT OF THE BORROWING BY PLEDGE OF OR
32 MORTGAGE OR DEED OF TRUST ON PROPERTY OR REVENUES OF THE CORPORATION; AND

33 (3) COMBINE PROJECTS FOR FINANCING.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 83A, § 5–1604(11) and (12).

1 Defined terms: “Corporation” § 11–401
 2 “Cost” § 11–401
 3 “Finance” § 11–401
 4 “Project” § 11–401
 5 “Revenues” § 11–401

6 11–414. BOND AUTHORIZATION.

7 TO CARRY OUT THIS SUBTITLE, THE MARYLAND ECONOMIC DEVELOPMENT
 8 CORPORATION MAY ISSUE BONDS FROM TIME TO TIME ON BEHALF OF THE BAINBRIDGE
 9 DEVELOPMENT CORPORATION TO FINANCE COSTS OF A PROJECT.

10 REVISOR’S NOTE: This section is new language derived without substantive
 11 change from former Art. 83A, § 5–1606(a).

12 The reference to issuing bonds “on behalf of the Bainbridge Development
 13 Corporation” is added for clarity.

14 Also the reference to issuing bonds “from time to time” is substituted for
 15 the former reference to issuing bonds “periodically” for clarity and
 16 consistency within this article.

17 As to the general authority and procedures of the Maryland Economic
 18 Development Corporation to issue bonds, *see* § 10–118 of this article.

19 Defined terms: “Bond” § 11–401
 20 “Corporation” § 11–401
 21 “Cost” § 11–401
 22 “Finance” § 11–401
 23 “Project” § 11–401

24 11–415. LIABILITY; FULL FAITH AND CREDIT.

25 AN OBLIGATION OF THE CORPORATION IS NOT A DEBT, LIABILITY, OR PLEDGE OF
 26 THE FULL FAITH AND CREDIT OF THE STATE.

27 REVISOR’S NOTE: This section is new language derived without substantive
 28 change from former Art. 83A, § 5–1602(a)(3).

29 The former prohibition that an obligation “may not be deemed to
 30 constitute” a debt, liability, or pledge is deleted as included in the
 31 statement that the obligation “is not” a debt, liability, or pledge.

32 Defined terms: “Corporation” § 11–401
 33 “State” § 9–101

1 11–416. PROJECT FINANCING.

2 THE CORPORATION MAY:

3 (1) LEND OR OTHERWISE MAKE AVAILABLE ITS NET REVENUE TO FINANCE
4 COSTS OF A PROJECT; AND5 (2) ENTER INTO A FINANCING AGREEMENT, MORTGAGE, OR OTHER
6 INSTRUMENT THAT IT DETERMINES IS NECESSARY OR DESIRABLE TO EVIDENCE OR
7 SECURE THE LOAN.8 REVISOR’S NOTE: This section is new language derived without substantive
9 change from former Art. 83A, § 5–1605(b)(1).10 In item (1) of this section, the reference to “net revenue” is substituted for
11 the former incorrect reference to “the proceeds of its net earnings” for
12 clarity. The Corporation does not issue its own bonds, and so it has no
13 “proceeds”. No substantive change is intended.14 Former Art. 83A, § 5–1605(b)(2), which authorized the Corporation to
15 require a lessee or other person to purchase or otherwise acquire property
16 of the Corporation “on conveyance of the property” is repealed as obsolete.
17 The conveyance of property to the Corporation contemplated at the time of
18 enactment has already occurred.

19 Defined terms: “Corporation” § 11–401

20 “Cost” § 11–401

21 “Finance” § 11–401

22 “Person” §§ 9–101, 11–401

23 “Project” § 11–401

24 11–417. RATES AND CHARGES; REVENUES.

25 (A) CHARGES FOR SERVICES.

26 THE CORPORATION MAY:

27 (1) FIX AND COLLECT RATES OR CHARGES FOR ITS SERVICES;

28 (2) ESTABLISH THE TERMS AND CONDITIONS FOR THE SERVICES; AND

29 (3) CONTRACT WITH A PERSON FOR THE PROVISION OF THE SERVICES OF
30 THE CORPORATION.

31 (B) CHARGES NOT REGULATED.

32 THE RATES OR CHARGES OF THE CORPORATION ARE NOT SUBJECT TO SUPERVISION
33 OR REGULATION BY ANY OTHER UNIT OF THE STATE OR BY A POLITICAL SUBDIVISION OF
34 THE STATE.

35 (C) USE OF REVENUES.

1 SUBJECT TO ANY AGREEMENT, THE CORPORATION MAY APPLY ITS REVENUES TO
2 ANY LAWFUL PURPOSE.

3 (D) BENEFIT OF REVENUES.

4 EXCEPT AS NECESSARY TO PAY AN OBLIGATION OR TO IMPLEMENT PROGRAMS OF
5 THE CORPORATION, THE NET REVENUE OF THE CORPORATION MAY NOT BENEFIT A
6 PERSON OTHER THAN CECIL COUNTY.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 83A, § 5–1606.

9 In subsection (a)(3) of this section, the former reference to a “partnership,
10 association, or corporation” is deleted as included in the defined term
11 “person”. See § 9–101 of this article.

12 In subsection (c) of this section, the reference to “its revenues” is
13 substituted for the former reference to “rates, charges, and all other
14 revenues” for brevity.

15 In subsection (d) of this section, the reference to net “revenue” is
16 substituted for the former reference to net “earnings” for accuracy.

17 Defined terms: “Corporation” § 11–401

18 “Person” §§ 9–101, 11–401

19 “Revenues” § 11–401

20 “State” § 9–101

21 11–418. TAX STATUS.

22 (A) EXEMPTION.

23 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE CORPORATION IS
24 EXEMPT FROM ANY REQUIREMENT TO PAY ANY TAXES OR ASSESSMENTS ON ITS
25 PROPERTIES, ACTIVITIES, OR ANY REVENUE FROM ITS PROPERTIES OR ACTIVITIES.

26 (B) PRIVATE ENTITIES.

27 PROPERTY THAT THE CORPORATION SELLS OR LEASES TO A PRIVATE ENTITY IS
28 SUBJECT TO STATE AND LOCAL PROPERTY TAXES FROM THE TIME OF THE SALE OR
29 LEASE.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 83A, § 5–1607.

32 In subsection (b) of this section, the reference to “[p]roperty” is substituted
33 for the former reference to “land or facilities” for consistency within this
34 subtitle.

35 Defined terms: “Corporation” § 11–401

36 “State” § 9–101

1 11–419. ADVISORY BOARD.

2 (A) ESTABLISHED.

3 THE BOARD SHALL ESTABLISH A BAINBRIDGE DEVELOPMENT ADVISORY BOARD.

4 (B) MEMBERSHIP.

5 THE ADVISORY BOARD CONSISTS OF:

6 (1) A REPRESENTATIVE OF THE COUNTY COMMISSIONERS;

7 (2) THE STATE LEGISLATIVE DELEGATION OF CECIL COUNTY;

8 (3) A REPRESENTATIVE OF THE MAYOR OF PORT DEPOSIT;

9 (4) A REPRESENTATIVE OF THE TOWN COUNCIL OF PORT DEPOSIT;

10 (5) THE PRESIDENT OF CECIL COMMUNITY COLLEGE;

11 (6) THE SUPERINTENDENT OF THE CECIL COUNTY PUBLIC SCHOOLS;

12 (7) THE COORDINATOR OF THE LOWER SUSQUEHANNA HERITAGE
13 GREENWAY; AND

14 (8) OTHER INDIVIDUALS THE BOARD OF DIRECTORS SELECTS.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 83A, § 5–1602(d).17 In subsection (b)(8) of this section, the word “individuals” is substituted for
18 the former word “persons” because only a natural person, and not the other
19 legal entities included in the defined term “person”, may serve on an
20 advisory board. *See* §§ 9–101 and 11–401 of this article.

21 Defined terms: “Board” § 11–401

22 “County Commissioners” § 11–401

23 “State” § 9–101

24 11–420. AUDIT.

25 (A) IN GENERAL.

26 (1) AS SOON AS PRACTICAL AFTER THE CLOSE OF THE FISCAL YEAR, AN
27 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT SHALL AUDIT THE FINANCIAL BOOKS,
28 RECORDS, AND ACCOUNTS OF THE CORPORATION.29 (2) THE CORPORATION SHALL SELECT AN ACCOUNTANT TO CONDUCT THE
30 AUDIT WHO:

31 (I) IS LICENSED TO PRACTICE ACCOUNTANCY IN THE STATE;

1 (II) IS EXPERIENCED AND QUALIFIED IN THE ACCOUNTING AND
2 AUDITING OF PUBLIC BODIES; AND

3 (III) DOES NOT HAVE A DIRECT OR INDIRECT PERSONAL INTEREST IN
4 THE FISCAL AFFAIRS OF THE CORPORATION.

5 (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH,
6 THE ACCOUNTANT SHALL REPORT THE RESULTS OF THE AUDIT, INCLUDING THE
7 ACCOUNTANT'S UNQUALIFIED OPINION ON THE PRESENTATION OF THE FINANCIAL
8 POSITION AND THE RESULTS OF THE FINANCIAL OPERATIONS OF THE CORPORATION.

9 (II) IF THE ACCOUNTANT CANNOT EXPRESS AN UNQUALIFIED OPINION,
10 THE ACCOUNTANT SHALL EXPLAIN IN DETAIL THE REASONS FOR THE QUALIFICATIONS,
11 DISCLAIMERS, OR OPINIONS, INCLUDING RECOMMENDATIONS OF CHANGES THAT COULD
12 MAKE FUTURE UNQUALIFIED OPINIONS POSSIBLE.

13 (B) AUDIT BY STATE.

14 THE STATE MAY AUDIT THE BOOKS, RECORDS, AND ACCOUNTS OF THE
15 CORPORATION.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 83A, § 5–1608(d) and (e).

18 In subsection (a)(3)(i) of this section, the limitation “[e]xcept as provided in
19 subparagraph (ii) of this paragraph,” is added for clarity and consistency
20 within this article.

21 Also in subsection (a)(3)(i) of this section, the word “audit” is substituted
22 for the former word “examination” for clarity and consistency within this
23 article.

24 Defined terms: “Corporation” § 11–401
25 “State” § 9–101

26 11–421. ANNUAL REPORT.

27 (A) REQUIRED.

28 ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE CORPORATION SHALL SUBMIT A
29 REPORT TO:

30 (1) THE GOVERNOR;

31 (2) THE COUNTY COMMISSIONERS;

32 (3) THE DEPARTMENT; AND

33 (4) IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT
34 ARTICLE, THE GENERAL ASSEMBLY.

1 (B) CONTENTS.

2 THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND FINANCIAL STATEMENT
3 COVERING THE OPERATIONS OF THE CORPORATION DURING THE PRECEDING FISCAL YEAR
4 AND A SUMMARY OF THE ACTIVITIES OF THE CORPORATION DURING THE PRECEDING
5 FISCAL YEAR.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 83A, § 5–1608(f).

8 In the introductory language to subsection (a) of this section, the phrase
9 “[o]n or before October 1 of each year” is substituted for the former phrase
10 “[w]ithin the first 90 days of each fiscal year” for clarity and accuracy.

11 In subsection (b) of this section, the reference to activities of the
12 Corporation “during the preceding fiscal year” is added for clarity and
13 consistency within this article.

14 Defined terms: “Corporation” § 11–401
15 “County Commissioners” § 11–401
16 “Department” § 9–101

17 SUBTITLE 5. PENMAR DEVELOPMENT CORPORATION.

18 11–501. DEFINITIONS.

19 (A) IN GENERAL.

20 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

21 REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–1201(a).

22 No changes are made.

23 (B) BOARD.

24 “BOARD” MEANS THE BOARD OF DIRECTORS OF THE CORPORATION.

25 REVISOR'S NOTE: This subsection is new language added to avoid repetition
26 of the full title of the “Board of Directors” of the Corporation.

27 Defined term: “Corporation” § 11–501

28 (C) BOND.

29 (1) “BOND” MEANS A BOND OR NOTE ISSUED ON BEHALF OF THE
30 CORPORATION.

31 (2) “BOND” INCLUDES:

32 (i) A BOND ANTICIPATION NOTE;

1 (II) A REVENUE ANTICIPATION NOTE;

2 (III) A GRANT ANTICIPATION NOTE;

3 (IV) A REFUNDING BOND;

4 (V) A NOTE IN THE NATURE OF COMMERCIAL PAPER; AND

5 (VI) ANY OTHER EVIDENCE OF INDEBTEDNESS ISSUED ON BEHALF OF
6 THE CORPORATION, WHETHER A GENERAL OR LIMITED OBLIGATION OF THE
7 CORPORATION.

8 REVISOR'S NOTE: This subsection is new language derived without
9 substantive change from former Art. 83A, § 5–1201(b).

10 Defined term: "Corporation" § 11–501

11 (D) CORPORATION.

12 "CORPORATION" MEANS THE PENMAR DEVELOPMENT CORPORATION.

13 REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–1201(c).

14 No changes are made.

15 (E) COST.

16 "COST" INCLUDES:

17 (1) THE PURCHASE PRICE OF A PROJECT;

18 (2) THE COST TO ACQUIRE ANY RIGHT, TITLE, OR INTEREST IN A PROJECT;

19 (3) THE AMOUNT TO BE PAID TO DISCHARGE EACH OBLIGATION NECESSARY
20 OR DESIRABLE TO VEST TITLE TO ANY PART OF A PROJECT IN THE CORPORATION OR
21 OTHER OWNER;

22 (4) THE COST OF ANY IMPROVEMENT;

23 (5) THE COST OF ANY PROPERTY, RIGHT, EASEMENT, FRANCHISE, AND
24 PERMIT;

25 (6) THE COST OF LABOR AND EQUIPMENT;

26 (7) FINANCING CHARGES;

27 (8) INTEREST BEFORE AND DURING CONSTRUCTION AND, IF THE
28 CORPORATION DETERMINES, FOR A LIMITED PERIOD AFTER THE COMPLETION OF
29 CONSTRUCTION;

30 (9) RESERVES FOR PRINCIPAL AND INTEREST AND FOR IMPROVEMENTS;

1 (10) THE COST OF REVENUE ESTIMATES, ENGINEERING AND LEGAL SERVICES,
 2 PLANS, DESIGNS, SPECIFICATIONS, SURVEYS, INVESTIGATIONS, DEMONSTRATIONS,
 3 STUDIES, ESTIMATES OF COST, AND OTHER EXPENSES NECESSARY OR INCIDENT TO
 4 DETERMINING THE FEASIBILITY OF AN ACQUISITION OR IMPROVEMENT;

5 (11) ADMINISTRATIVE EXPENSES; AND

6 (12) OTHER EXPENSES NECESSARY OR INCIDENT TO:

7 (I) FINANCING A PROJECT;

8 (II) ACQUIRING, IMPROVING, AND MARKETING A PROJECT;

9 (III) PLACING A PROJECT IN OPERATION, INCLUDING REASONABLE
 10 PROVISION FOR WORKING CAPITAL; AND

11 (IV) OPERATING AND MAINTAINING A PROJECT.

12 REVISOR’S NOTE: This subsection is new language derived without
 13 substantive change from former Art. 83A, § 5–1201(d).

14 In item (2) of this subsection, the former reference to a “portion of” an
 15 interest in a project is deleted for brevity. Similarly, in item (3) of this
 16 subsection, the former reference to title to “the project” is deleted as
 17 included in the reference to “any part of the project”.

18 In item (5) of this subsection, the former reference to “lands” is deleted as
 19 included in the comprehensive reference to “property”.

20 In item (10) of this subsection, the former reference to “practicability” of an
 21 acquisition is deleted as included in the reference to “feasibility”.

22 In item (12)(iii) of this subsection, the former reference to placing a project
 23 in operation “by the Corporation or other owner” is deleted as implicit.

24 Defined terms: “Corporation” § 11–501

25 “Finance” § 11–501

26 “Improve” § 11–501

27 “Improvement” § 11–501

28 “Project” § 11–501

29 (F) COUNTY COMMISSIONERS.

30 “COUNTY COMMISSIONERS” MEANS THE BOARD OF COUNTY COMMISSIONERS OF
 31 WASHINGTON COUNTY.

32 REVISOR’S NOTE: This subsection is new language added to avoid repetition
 33 of the full title of the “Board of County Commissioners of Washington
 34 County”.

35 (G) FINANCE.

1 “FINANCE” INCLUDES REFINANCE.

2 REVISOR’S NOTE: This subsection is new language added for clarity and
3 consistency within this article.

4 (H) IMPROVE.

5 “IMPROVE” MEANS TO ADD, ALTER, CONSTRUCT, EQUIP, EXPAND, EXTEND,
6 IMPROVE, INSTALL, RECONSTRUCT, REHABILITATE, REMODEL, OR REPAIR.

7 REVISOR’S NOTE: This subsection is new language added for brevity and
8 clarity.

9 (I) IMPROVEMENT.

10 “IMPROVEMENT” MEANS ADDITION, ALTERATION, CONSTRUCTION, EQUIPPING,
11 EXPANSION, EXTENSION, IMPROVEMENT, INSTALLATION, RECONSTRUCTION,
12 REHABILITATION, REMODELING, OR REPAIR.

13 REVISOR’S NOTE: This subsection is new language added for brevity and
14 clarity.

15 (J) PERSON.

16 (1) “PERSON” HAS THE MEANING STATED IN § 9–101 OF THIS ARTICLE.

17 (2) “PERSON” ALSO INCLUDES A POLITICAL SUBDIVISION.

18 REVISOR’S NOTE: This subsection is new language derived without
19 substantive change from former Art. 83A, § 5–1201(g).

20 Defined term: “Person” § 9–101

21 (K) PROJECT.

22 (1) “PROJECT” MEANS AN UNDERTAKING TO ESTABLISH ECONOMIC
23 ACTIVITY ON PROPERTY TO BE CONVEYED TO THE CORPORATION FROM THE UNITED
24 STATES ARMY AT FORT RITCHIE, MARYLAND:

25 (I) FOR ANY INDUSTRIAL, COMMERCIAL, OR BUSINESS PURPOSE; AND

26 (II) WHETHER OR NOT A FACILITY OR PROPERTY USED OR USEFUL IN
27 CONNECTION WITH THE UNDERTAKING:

28 1. IS OR WILL BE USED FOR PROFIT OR NOT FOR PROFIT;

29 2. IS LOCATED ON A SINGLE SITE OR MULTIPLE SITES; OR

30 3. MAY BE FINANCED BY BONDS, THE INTEREST ON WHICH IS
31 EXEMPT FROM TAXATION UNDER FEDERAL LAW.

1 (2) “PROJECT” INCLUDES:

2 (I) PROPERTY AND RIGHTS RELATED TO THE PROPERTY,
3 APPURTENANCES, RIGHTS-OF-WAY, FRANCHISES, AND EASEMENTS;

4 (II) STRUCTURES, EQUIPMENT, AND FURNISHINGS;

5 (III) PROPERTY THAT IS FUNCTIONALLY RELATED AND SUBORDINATE TO
6 A PROJECT; AND

7 (IV) PATENTS, LICENSES, AND OTHER RIGHTS NECESSARY OR USEFUL
8 IN THE CONSTRUCTION OR OPERATION OF A PROJECT.

9 REVISOR’S NOTE: This subsection is new language derived without
10 substantive change from former Art. 83A, § 5–1201(h).

11 In paragraph (1)(i) of this subsection, the former specific reference to
12 “manufacturing, retail, trade, service industries, supply, wholesaling, [or]
13 warehousing” is deleted as included in the comprehensive reference to “any
14 industrial, commercial, or business purpose”. Similarly, also in paragraph
15 (1)(i) of this subsection, the former phrase “including any combination of
16 these activities” is deleted as implicit in the phrase “any industrial,
17 commercial, or business purposes”.

18 In paragraph (1)(ii) of this subsection, the reference to a facility or property
19 used or useful “in connection with the undertaking” is substituted for the
20 former reference to facilities or properties used or useful for certain
21 activities for clarity and consistency within this article.

22 In paragraph (2)(i) of this subsection, the former references to “land” and
23 “other interests in land” are deleted as included in the comprehensive
24 reference to “property”.

25 In paragraph (2)(ii) of this subsection, the former reference to “buildings” is
26 deleted as included in the reference to “structures”.

27 In paragraph (2)(iii) of this subsection, the reference to “property” is
28 substituted for the former reference to “land and facilities” for brevity and
29 clarity.

30 Defined terms: “Bond” § 11–501

31 “Corporation” § 11–501

32 “Finance” § 11–501

33 “Project” § 11–501

34 (L) REVENUES.

35 (1) “REVENUES” MEANS:

1 (I) THE INCOME, REVENUE, AND OTHER MONEY THE CORPORATION
2 RECEIVES FROM OR IN CONNECTION WITH A PROJECT; AND

3 (II) ALL OTHER INCOME OF THE CORPORATION.

4 (2) “REVENUES” INCLUDES GRANTS, RENTALS, RATES, FEES, AND CHARGES
5 FOR THE USE OF SERVICES FURNISHED OR AVAILABLE.

6 REVISOR’S NOTE: This subsection is new language derived without
7 substantive change from former Art. 83A, § 5–1201(i).

8 Defined terms: “Corporation” § 11–501

9 “Project” § 11–501

10 REVISOR’S NOTE TO SECTION: Former Art. 83A, § 5–1201(e), which defined
11 “includes or including”, is deleted as unnecessary in light of Art. 1, § 30.

12 Former Art. 83A, § 5–1201(f), which defined “MEDCO”, is deleted because
13 the term “MEDCO” is not used in this revision.

14 11–502. LEGISLATIVE FINDINGS; INTENT.

15 (A) FINDINGS.

16 (1) THE GENERAL ASSEMBLY FINDS THAT THE ECONOMY OF WASHINGTON
17 COUNTY WILL BE GREATLY AFFECTED BY THE CLOSURE OF FORT RITCHIE.

18 (2) THE GENERAL ASSEMBLY RECOGNIZES THAT THE CLOSURE WILL CAUSE
19 ECONOMIC CONTRACTION AND DISLOCATION BUT WILL AFFORD OPPORTUNITIES TO
20 EXPAND PRODUCTIVE EMPLOYMENT AND THE STATE’S ECONOMY AND TAX BASE.

21 (B) PUBLIC INTEREST.

22 THE GENERAL ASSEMBLY FINDS THAT ESTABLISHING A STATE PUBLIC
23 CORPORATION TO DEVELOP FORT RITCHIE WOULD:

24 (1) SERVE THE PUBLIC INTEREST; AND

25 (2) COMPLEMENT EXISTING STATE MARKETING PROGRAMS ADMINISTERED
26 BY THE DEPARTMENT THROUGH:

27 (I) ITS DIVISION OF BUSINESS DEVELOPMENT; AND

28 (II) FINANCIAL ASSISTANCE PROGRAMS SUCH AS THOSE OF THE
29 MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY AND FUND AND THE
30 MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY.

31 (C) INTENT.

32 TO FURTHER THE PURPOSES OF THIS SUBTITLE, THE GENERAL ASSEMBLY INTENDS
33 THAT THE CORPORATION:

1 (1) STRUCTURE ITS PROJECTS IN A MANNER THAT ACCELERATES THE
2 TRANSFER OF FACILITIES AND SITES INTO PRODUCTIVE USE IN THE PRIVATE SECTOR; AND

3 (2) COOPERATE WITH THE COUNTY COMMISSIONERS IN MAXIMIZING NEW
4 ECONOMIC OPPORTUNITIES FOR THE RESIDENTS OF THE STATE.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 83A, § 5–1202.

7 In subsection (b)(2)(i) of this section, the reference to the “Division of
8 Business Development” is substituted for the former obsolete reference to
9 the “Division of Business Development and Resources” to reflect the
10 current name of that unit.

11 In subsection (c)(2) of this section, the reference to “residents” of the State
12 is substituted for the former reference to “citizens” of the State because the
13 meaning of the term “citizens” in this context is unclear.

14 As to the Maryland Economic Development Assistance Authority and Fund
15 and the Maryland Industrial Development Financing Authority, *see* Title 5,
16 Subtitles 3 and 4 of this article, respectively.

17 Defined terms: “Corporation” § 11–501
18 “County Commissioners” § 11–501
19 “Department” § 9–101
20 “Project” § 11–501
21 “State” § 9–101

22 11–503. ESTABLISHED.

23 (A) IN GENERAL.

24 THERE IS A PENMAR DEVELOPMENT CORPORATION.

25 (B) STATUS.

26 THE CORPORATION IS A BODY POLITIC AND CORPORATE AND IS AN
27 INSTRUMENTALITY OF THE STATE.

28 (C) ESSENTIAL GOVERNMENTAL FUNCTION.

29 THE EXERCISE BY THE CORPORATION OF A POWER UNDER THIS SUBTITLE IS THE
30 PERFORMANCE OF AN ESSENTIAL GOVERNMENTAL FUNCTION.

31 REVISOR'S NOTE: Subsection (a) of this section is new language added to
32 state expressly that which was only implied in the former law, *i.e.*, the
33 PenMar Development Corporation is created by statute.

34 Subsections (b) and (c) of this section are new language derived without
35 substantive change from former Art. 83A, § 5–1203(a).

1 In subsection (b) of this section, the former reference to a “public”
2 instrumentality is deleted as implicit in the reference to a “body politic and
3 corporate”.

4 In subsection (c) of this section, the reference to an essential
5 “governmental” function is substituted for the former reference to an
6 essential “public” function for clarity and consistency within this article.

7 Defined terms: “Corporation” § 11–501
8 “State” § 9–101

9 **11–504. BOARD OF DIRECTORS.**

10 (A) **IN GENERAL.**

11 **A BOARD OF DIRECTORS SHALL MANAGE THE AFFAIRS OF THE CORPORATION AND**
12 **EXERCISE ALL OF THE POWERS OF THE CORPORATION.**

13 (B) **COMPOSITION; APPOINTMENT OF MEMBERS.**

14 **THE BOARD CONSISTS OF THE FOLLOWING 18 MEMBERS:**

15 (1) **AS EX OFFICIO VOTING MEMBERS:**

16 (I) **THE SECRETARY;**

17 (II) **THE EXECUTIVE DIRECTOR OF THE MARYLAND ECONOMIC**
18 **DEVELOPMENT CORPORATION; AND**

19 (III) **THE EXECUTIVE DIRECTOR OF THE WASHINGTON COUNTY**
20 **ECONOMIC DEVELOPMENT COMMISSION; AND**

21 (2) **FIFTEEN MEMBERS APPOINTED BY THE COUNTY COMMISSIONERS.**

22 (C) **TENURE; VACANCIES.**

23 (1) **THE TERM OF AN APPOINTED MEMBER OF THE BOARD IS 4 YEARS.**

24 (2) **THE TERMS OF APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY**
25 **THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2008.**

26 (3) **AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A**
27 **SUCCESSOR IS APPOINTED.**

28 (4) **A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY**
29 **FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED.**

30 **REVISOR’S NOTE:** This section is new language derived without substantive
31 change from former Art. 83A, § 5–1203(b).

32 In subsection (c)(2) of this section, the reference to terms of appointed

1 members being “staggered as required by the terms provided for members
2 of the Board on October 1, 2008” is substituted for the former obsolete
3 reference to terms simply being “staggered”. This substitution is not
4 intended to alter the term of any member of the Board. *See* § ___ of Ch. ___,
5 Acts of 2008. The terms of the members serving on October 1, 2008 expire
6 as follows: (1) four in 2009; (2) six in 2011; and (3) five in 2012.

7 Also in subsection (c)(2) of this section, the former explanation for terms
8 being staggered “to ensure long-term continuity” is deleted as surplusage
9 because the explanation for staggered boards is implicit in current law.

10 Defined terms: “Board” § 11–501
11 “Corporation” § 11–501
12 “County Commissioners” § 11–501
13 “Secretary” § 9–101

14 11–505. OFFICERS.

15 FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR, A VICE CHAIR,
16 AND A TREASURER.

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from former Art. 83A, § 5–1203(c)(1).

19 The references to a “chair” and a “vice chair” are substituted for the former
20 references to a “chairman” and a “vice chairman”, respectively, because SG
21 § 2–1238 requires the use of words that are neutral as to gender to the
22 extent practicable. *See* General Revisor’s Note to article.

23 Defined term: “Board” § 11–501

24 11–506. QUORUM.

25 (A) IN GENERAL.

26 EIGHT MEMBERS OF THE BOARD ARE A QUORUM.

27 (B) VOTING.

28 AN AFFIRMATIVE VOTE OF AT LEAST EIGHT MEMBERS IS NEEDED FOR THE BOARD
29 TO ACT.

30 REVISOR’S NOTE: This section is new language derived without substantive
31 change from former Art. 83A, § 5–1203(c)(2).

32 Former Art. 83A, § 5–1203(c)(3), which stated that “[a] vacancy ... does not
33 impair the right of a quorum” is deleted as inconsistent with the
34 requirements that a specified number of members constitute a quorum
35 under subsection (a) of this section, and a specified number of affirmative
36 votes is needed for the Board to act under subsection (b) of this section. *See*

1 *also* McQuillen, *Municipal Corporations*, §§ 13.30, 13.31 (3rd ed. rev'd).

2 Defined term: “Board” § 11–501

3 11–507. EXECUTIVE DIRECTOR.

4 (A) POSITION; TENURE; SALARY.

5 (1) SUBJECT TO THE APPROVAL OF THE COUNTY COMMISSIONERS, THE
6 BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR.

7 (2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE BOARD.

8 (3) THE BOARD SHALL DETERMINE THE SALARY OF THE EXECUTIVE
9 DIRECTOR.

10 (B) ADMINISTRATIVE OFFICER.

11 (1) THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE OFFICER OF
12 THE CORPORATION.

13 (2) THE EXECUTIVE DIRECTOR SHALL MANAGE THE ADMINISTRATIVE
14 AFFAIRS AND TECHNICAL ACTIVITIES OF THE CORPORATION IN ACCORDANCE WITH
15 POLICIES AND PROCEDURES THAT THE BOARD ESTABLISHES.

16 (C) DUTIES.

17 THE EXECUTIVE DIRECTOR, OR THE EXECUTIVE DIRECTOR’S DESIGNEE, SHALL:

18 (1) ATTEND ALL MEETINGS OF THE BOARD;

19 (2) ACT AS SECRETARY OF THE BOARD;

20 (3) KEEP MINUTES OF THE PROCEEDINGS OF THE BOARD;

21 (4) APPROVE SALARIES, PER DIEM PAYMENTS, ALLOWABLE EXPENSES OF
22 THE CORPORATION AND ITS EMPLOYEES OR CONSULTANTS, AND ANY EXPENSES
23 INCIDENTAL TO THE OPERATION OF THE CORPORATION; AND

24 (5) PERFORM THE OTHER DUTIES THAT THE BOARD DIRECTS IN CARRYING
25 OUT THIS SUBTITLE.

26 REVISOR’S NOTE: This section is new language derived without substantive
27 change from former Art. 83A, § 5–1204(a) and (b).

28 In subsection (c)(4) of this section, the former reference to approval of
29 “accounts for” salaries, etc. is deleted for clarity. The Executive Director
30 approves salaries in accordance with the policies and procedures that the
31 Board establishes, including the budget.

1 Defined terms: “Board” § 11–501
 2 “Corporation” § 11–501
 3 “County Commissioners” § 11–501

4 11–508. STAFF; CONSULTANTS.

5 (A) STAFF.

6 THE BOARD SHALL APPROVE ADDITIONAL PROFESSIONAL AND CLERICAL STAFF AS
 7 NECESSARY TO CARRY OUT THIS SUBTITLE.

8 (B) CONSULTANTS.

9 THE BOARD MAY RETAIN ACCOUNTANTS, ENGINEERS, LAWYERS, FINANCIAL
 10 ADVISORS, OR OTHER CONSULTANTS AS NECESSARY TO CARRY OUT THIS SUBTITLE.

11 REVISOR’S NOTE: This section is new language derived without substantive
 12 change from former Art. 83A, § 5–1204(c)(1) and (d).

13 In subsection (b) of this section, the word “retain” is substituted for the
 14 former word “engage” for clarity and consistency within this article.

15 Also in subsection (b) of this section, the phrase “to carry out this subtitle”
 16 is added for clarity and consistency within this title.

17 Defined term: “Board” § 11–501

18 11–509. APPLICABILITY OF OTHER LAWS.

19 (A) IN GENERAL.

20 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IN EXERCISING ITS CORPORATE
 21 POWERS, THE CORPORATION:

22 (1) MAY CARRY OUT ITS CORPORATE PURPOSES WITHOUT OBTAINING THE
 23 CONSENT OF ANY OTHER STATE UNIT; AND

24 (2) IS NOT SUBJECT TO:

25 (I) THE FOLLOWING PROVISIONS OF THE STATE GOVERNMENT
 26 ARTICLE:

27 1. §§ 10–505 AND 10–507 (OPEN MEETINGS); AND

28 2. TITLE 11 (CONSOLIDATED PROCEDURES FOR
 29 DEVELOPMENT PERMITS) ; AND

30 (II) THE FOLLOWING PROVISIONS OF THE STATE FINANCE AND
 31 PROCUREMENT ARTICLE:

1 1. TITLE 2, SUBTITLES 2 (GIFTS AND GRANTS), 4
2 (FACSIMILE SIGNATURES AND SEALS), AND 5 (FACILITIES FOR HANDICAPPED);

3 2. TITLE 3 (BUDGET AND MANAGEMENT);

4 3. TITLE 4 (DEPARTMENT OF GENERAL SERVICES);

5 4. § 5A-304 (MARYLAND HISTORICAL TRUST PROPERTY
6 ACQUISITION);

7 5. TITLE 6, SUBTITLE 1 (REVENUES: STUDIES AND
8 ESTIMATES);

9 6. TITLE 7, SUBTITLES 1 (STATE OPERATING BUDGET), 2
10 (DISBURSEMENTS AND EXPENDITURES), AND 3 (UNSPENT BALANCES);

11 7. TITLE 8, SUBTITLE 1 (GENERAL OBLIGATION DEBT);

12 8. TITLE 10 (BOARD OF PUBLIC WORKS – MISCELLANEOUS
13 PROVISIONS); AND

14 9. DIVISION II (GENERAL PROCUREMENT LAW).

15 (B) PUBLIC INFORMATION.

16 THE CORPORATION IS SUBJECT TO THE PUBLIC INFORMATION ACT.

17 (C) ETHICS.

18 THE OFFICERS AND EMPLOYEES OF THE CORPORATION ARE SUBJECT TO THE
19 MARYLAND PUBLIC ETHICS LAW.

20 (D) PERSONNEL.

21 THE OFFICERS AND EMPLOYEES OF THE CORPORATION ARE NOT SUBJECT TO:

22 (1) DIVISION II OF THE STATE PERSONNEL AND PENSIONS ARTICLE; OR

23 (2) THE PROVISIONS OF DIVISION I OF THE STATE PERSONNEL AND
24 PENSIONS ARTICLE THAT GOVERN THE STATE PERSONNEL MANAGEMENT SYSTEM.

25 (E) REGULATORY REQUIREMENTS.

26 THE CORPORATION IS SUBJECT TO THE SAME STATE AND LOCAL REGULATORY
27 REQUIREMENTS AS ANY PRIVATE CORPORATION.

28 (F) ZONING.

29 A PROJECT OF THE CORPORATION IS SUBJECT TO THE ZONING AND SUBDIVISION
30 REGULATIONS OF THE POLITICAL SUBDIVISION WHERE THE PROJECT IS LOCATED.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 83A, §§ 5–1210 and 5–1204(c)(2).

3 In subsection (a)(2) of this section, the former obsolete reference to
4 exemption from “Article[s] 41 ... of the Code” is deleted because no
5 provision of Article 41 that existed at the time of enactment of the
6 Corporation applied to the Corporation. The Corporation does not issue its
7 own debt, and so would not be subject to Title 12, Subtitle 1 or Subtitle 2 of
8 this article, formerly Art. 41, Titles 1 and 2, the Maryland Economic
9 Development Revenue Bond Act and the Tax Incentive Financing Act,
10 respectively; and no other provision of Article 41 may reasonably be
11 construed to apply to the Corporation. No substantive change is intended.

12 In subsection (a)(2)(i) of this section, the reference to SG “§§ 10–505 and
13 10–507” is substituted for the former reference to SG “§ 10–507” to reflect
14 accurately the scope of exemption of the Corporation from the Open
15 Meetings Act as determined by the Open Meetings Compliance Board. *See*
16 4 Off. Op. Comp. Bd. 88, 93 (2004).

17 In subsection (a)(2)(ii) of this section, the reference to SG “Title 11” is
18 added because the General Assembly may have intended the Corporation
19 to be exempt from that provision, derived from former Art. 78A, §§ 56
20 through 65, although at the time of enactment of the Corporation, that title
21 was already codified in the State Government Article. The statutory
22 charter of the Corporation was directly modeled on that of the Maryland
23 Economic Development Corporation enacted in 1984. *See* Ch. 498, Acts of
24 1984.

25 In subsection (a)(2)(iii)4 of this section, the reference to SF “§ 5A–304” is
26 substituted for the former reference to “Article[s] ... 78A” to reflect the
27 current codification of the only provision remaining in Article 78A at the
28 time of enactment of the Corporation that appears to apply to the
29 Corporation, § 14B, concerning property acquisition by the Maryland
30 Historical Trust. *See* Chs. 26 and 440, Acts of 2005. No substantive change
31 is intended.

32 In subsection (a)(2)(iii)7 of this section, the former specific reference to SF
33 “§§ 8–127, 8–128, and 8–129” is deleted as included in the comprehensive
34 reference to SF “Title 8, Subtitle 1”. *Cf.* Revisor's Note to § 11–408 of this
35 title.

36 In subsection (c) of this section, the reference to the “Maryland” Public
37 Ethics Law is added to reflect accurately the short title of SG Title 15.

38 In subsection (e) of this section, the former limitation
39 “[n]otwithstanding ... subsection (a) of this section” is deleted in light of
40 the introductory language of subsection (a)(1) of this section.

41 The Economic Development Article Review Committee notes, for the
42 consideration of the General Assembly, that the Corporation is not

1 specifically listed in the Maryland Tort Claims Act. The General Assembly
 2 may wish to address the potential liability of personnel of this corporation,
 3 the Bainbridge Development Corporation, and any subsequently formed
 4 local redevelopment authority under Subtitle 3 of this title in the same
 5 manner that it has already done with the Maryland Economic
 6 Development Corporation and the Maryland Stadium Authority which are
 7 specifically included in that statute. *See* SG § 12–101.

8 Defined terms: “Corporation” § 11–501

9 “Project” § 11–501

10 “State” § 9–101

11 **11–510. ACCOUNTING; FISCAL YEAR.**

12 (A) **ACCOUNTING.**

13 **THE CORPORATION SHALL ESTABLISH A SYSTEM OF FINANCIAL ACCOUNTING,**
 14 **CONTROLS, AUDITS, AND REPORTS.**

15 (B) **FISCAL YEAR.**

16 **THE FISCAL YEAR OF THE CORPORATION BEGINS ON JULY 1 AND ENDS ON THE**
 17 **FOLLOWING JUNE 30.**

18 **REVISOR’S NOTE:** This section is new language derived without substantive
 19 change from former Art. 83A, § 5–1209(c).

20 In subsection (a) of this section, the reference to “establish[ing]” a system
 21 of financial accounting is substituted for the former reference to “mak[ing]
 22 provision” for such a system for clarity and consistency within this article.

23 Defined term: “Corporation” § 11–501

24 **11–511. MONEY OF CORPORATION.**

25 (A) **FUNDS.**

26 **THE CORPORATION MAY ESTABLISH ANY ACCOUNTS THAT IT REQUIRES.**

27 (B) **DEPOSIT OF MONEY.**

28 **THE CORPORATION SHALL DEPOSIT ITS MONEY INTO A STATE OR NATIONAL BANK**
 29 **OR A FEDERALLY INSURED SAVINGS AND LOAN ASSOCIATION IN THE STATE THAT HAS A**
 30 **TOTAL PAID–IN CAPITAL OF AT LEAST \$1,000,000.**

31 (C) **DEPOSITORY DESIGNEES.**

32 **THE CORPORATION MAY DESIGNATE THE TRUST DEPARTMENT OF A STATE OR**
 33 **NATIONAL BANK OR OF A SAVINGS AND LOAN ASSOCIATION AS A DEPOSITORY TO RECEIVE**
 34 **SECURITIES THAT THE CORPORATION OWNS OR ACQUIRES.**

1 (D) ALLOWED INVESTMENTS.

2 UNLESS AN AGREEMENT LIMITS CLASSES OF INVESTMENTS, THE CORPORATION
3 MAY INVEST ITS MONEY IN BONDS OR OTHER OBLIGATIONS OF, OR GUARANTEED AS TO
4 PRINCIPAL AND INTEREST BY, THE UNITED STATES, THE STATE, OR A UNIT OR
5 POLITICAL SUBDIVISION OF THE STATE.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 83A, § 5–1209(a) and (b).

8 In subsection (a) of this section, the reference to “establish[ing] any
9 accounts” is substituted for the former reference to “provid[ing] for the
10 creation, continuation, and administration of any funds” and its implicit
11 reference to the system of “fund accounting” for clarity and consistency
12 within this article.

13 In subsection (d) of this section, the former phrase “or covenant between
14 the Corporation and the holders of any of its obligations” is deleted as
15 unnecessary because the Corporation itself does not issue bonds or any
16 other obligation, and any covenant between the Corporation, or the
17 Maryland Economic Development Corporation on the Corporation's behalf
18 and any other person, including a holder of an obligation, that limits
19 classes of obligations would be an “agreement”. This could even include a
20 bond, which is a form of an agreement.

21 Defined terms: “Bonds” § 11–501

22 “Corporation” § 11–501

23 “State” § 9–101

24 11–512. POWERS — IN GENERAL.

25 THE CORPORATION MAY:

26 (1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;

27 (2) ADOPT A SEAL;

28 (3) MAINTAIN AN OFFICE AT FORT RITCHIE;

29 (4) ACCEPT LOANS, GRANTS, OR ASSISTANCE OF ANY KIND FROM THE
30 FEDERAL OR STATE GOVERNMENT, A LOCAL GOVERNMENT, OR A PRIVATE SOURCE;

31 (5) ENTER INTO CONTRACTS AND OTHER LEGAL INSTRUMENTS;

32 (6) SUE AND BE SUED IN ITS OWN NAME;

33 (7) ACQUIRE, PURCHASE, HOLD, LEASE AS A LESSEE, AND USE ANY
34 FRANCHISE, PATENT, OR LICENSE AND REAL, PERSONAL, MIXED, TANGIBLE, OR
35 INTANGIBLE PROPERTY, OR ANY INTEREST IN PROPERTY, NECESSARY OR CONVENIENT TO
36 CARRY OUT ITS PURPOSES;

1 (8) SELL, LEASE AS LESSOR, TRANSFER, AND DISPOSE OF ITS PROPERTY OR
2 INTEREST IN PROPERTY;

3 (9) FIX AND COLLECT RATES, RENTALS, FEES, AND CHARGES FOR SERVICES
4 AND FACILITIES IT PROVIDES OR MAKES AVAILABLE;

5 (10) WITH THE OWNER’S PERMISSION, ENTER LAND, WATERS, OR PREMISES
6 TO MAKE A SURVEY, SOUNDING, BORING, OR EXAMINATION TO ACCOMPLISH A PURPOSE
7 AUTHORIZED BY THIS SUBTITLE;

8 (11) EXERCISE A POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN
9 PERFORMING SIMILAR FUNCTIONS UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW;
10 AND

11 (12) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE
12 POWERS EXPRESSLY GRANTED BY THIS SUBTITLE.

13 REVISOR’S NOTE: This section is new language derived without substantive
14 change from former Art. 83A, § 5–1205(1) through (6), (8), (9), and (12)
15 through (15).

16 In item (4) of this section, the former reference to “apply[ing] for” loans is
17 deleted as implicit in the authority to “accept” loans.

18 Defined terms: “Corporation” § 11–501

19 “State” § 9–101

20 11–513. POWERS — PROJECTS.

21 THE CORPORATION MAY:

22 (1) ACQUIRE, IMPROVE, DEVELOP, MANAGE, MARKET, LEASE AS LESSOR OR
23 LESSEE, OPERATE, AND MAINTAIN ANY PROJECT AT FORT RITCHIE; AND

24 (2) ACQUIRE, DIRECTLY OR THROUGH AN AGREEMENT WITH THE UNITED
25 STATES ARMY, BY PURCHASE, GIFT, OR DEVISE, ANY PROPERTY, RIGHTS,
26 RIGHTS–OF–WAY, FRANCHISES, EASEMENTS, AND OTHER INTERESTS IN LAND, INCLUDING
27 LAND LYING UNDER WATER AND RIPARIAN RIGHTS LOCATED IN OR OUTSIDE THE STATE
28 AS NECESSARY OR CONVENIENT TO IMPROVE OR OPERATE A PROJECT ON TERMS AND AT
29 PRICES THAT THE CORPORATION CONSIDERS REASONABLE.

30 REVISOR’S NOTE: This section is new language derived without substantive
31 change from former Art. 83A, § 5–1205(7) and (10).

32 In item (2) of this section, the former references to “lands” and “structures”
33 are deleted as included in the comprehensive reference to “property”.

34 Defined terms: “Corporation” § 11–501

35 “Improve” § 11–501

36 “Project” § 11–501

1 “State” § 9–101

2 11–514. POWERS — BORROWING AUTHORITY.

3 THE CORPORATION MAY:

4 (1) BORROW MONEY TO FINANCE COSTS OF A PROJECT OR FOR ANY OTHER
5 CORPORATE PURPOSE OF THE CORPORATION;

6 (2) SECURE THE PAYMENT OF THE BORROWING BY PLEDGE OF OR
7 MORTGAGE OR DEED OF TRUST ON PROPERTY OR REVENUES OF THE CORPORATION; AND

8 (3) COMBINE PROJECTS FOR FINANCING.

9 REVISOR’S NOTE: This section is new language derived without substantive
10 change from former Art. 83A, § 5–1205(11).

11 Defined terms: “Corporation” § 11–501

12 “Cost” § 11–501

13 “Finance” § 11–501

14 “Project” § 11–501

15 “Revenues” § 11–501

16 11–515. BOND AUTHORIZATION.

17 TO CARRY OUT THIS SUBTITLE, THE MARYLAND ECONOMIC DEVELOPMENT
18 CORPORATION MAY ISSUE BONDS FROM TIME TO TIME ON BEHALF OF THE PENMAR
19 DEVELOPMENT CORPORATION TO FINANCE COSTS OF A PROJECT.

20 REVISOR’S NOTE: This section is new language derived without substantive
21 change from former Art. 83A, § 5–1206(a).

22 The reference to issuing bonds “on behalf of the PenMar Development
23 Corporation” is added for clarity.

24 As to the general authority and procedures of the Maryland Economic
25 Development Corporation to issue bonds, *see* § 10–118 of this article.

26 Defined terms: “Bond” § 11–501

27 “Cost” § 11–501

28 “Finance” § 11–501

29 “Project” § 11–501

30 11–516. PROJECT FINANCING.

31 (A) LOANS.

32 THE CORPORATION MAY:

33 (1) LEND OR OTHERWISE MAKE AVAILABLE ITS NET REVENUE TO FINANCE
34 COSTS OF A PROJECT; AND

1 (2) ENTER INTO A FINANCING AGREEMENT, MORTGAGE, OR OTHER
2 INSTRUMENT THAT IT DETERMINES IS NECESSARY OR DESIRABLE TO EVIDENCE OR
3 SECURE THE LOAN.

4 (B) LEASES.

5 A LEASE OF PROPERTY OF THE CORPORATION MAY REQUIRE OR AUTHORIZE THE
6 LESSEE OR ANOTHER PERSON, ON CONVEYANCE OF THE PROPERTY TO THE
7 CORPORATION, TO PURCHASE OR OTHERWISE ACQUIRE THE PROPERTY FOR
8 CONSIDERATION THAT THE CORPORATION ESTABLISHES.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 83A, § 5–1206(b).

11 In subsection (a)(1) of this section, the reference to “net revenue” is
12 substituted for the former reference to “the proceeds of its net earnings” for
13 clarity. The Corporation does not issue its own bonds, and so it has no
14 “proceeds”. No substantive change is intended.

15 In subsection (b) of this section, the reference to conveyance “to the
16 Corporation” is added for clarity.

17 Defined terms: “Corporation” § 11–501

18 “Cost” § 11–501

19 “Finance” § 11–501

20 “Person” §§ 9–101, 11–501

21 “Project” § 11–501

22 11–517. RATES AND CHARGES; REVENUES.

23 (A) CHARGES FOR SERVICES.

24 THE CORPORATION MAY:

25 (1) FIX AND COLLECT RATES OR CHARGES FOR ITS SERVICES;

26 (2) ESTABLISH THE TERMS AND CONDITIONS FOR THE SERVICES; AND

27 (3) CONTRACT WITH A PERSON FOR THE PROVISION OF THE SERVICES OF
28 THE CORPORATION.

29 (B) CHARGES NOT REGULATED.

30 THE RATES OR CHARGES OF THE CORPORATION ARE NOT SUBJECT TO SUPERVISION
31 OR REGULATION BY ANY OTHER UNIT OF THE STATE OR A POLITICAL SUBDIVISION OF THE
32 STATE.

33 (C) USE OF REVENUES.

34 SUBJECT TO ANY AGREEMENT, THE CORPORATION MAY APPLY ITS REVENUES TO
35 ANY LAWFUL PURPOSE.

1 (D) BENEFIT OF REVENUES.

2 EXCEPT AS NECESSARY TO PAY AN OBLIGATION OR TO IMPLEMENT PROGRAMS OF
3 THE CORPORATION, THE NET REVENUE OF THE CORPORATION MAY NOT BENEFIT A
4 PERSON OTHER THAN WASHINGTON COUNTY.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 83A, § 5–1207.

7 In subsection (a)(3) of this section, the former reference to a “partnership,
8 association, or corporation” is deleted as included in the reference to a
9 “person”. See § 9–101 of this article.

10 In subsection (c) of this section, the reference to “its revenues” is
11 substituted for the former reference to “rates, charges, and all other
12 revenues” for brevity.

13 In subsection (d) of this section, the reference to net “revenue” is
14 substituted for the former reference to net “earnings” for accuracy.

15 Defined terms: “Corporation” § 11–501

16 “Person” §§ 9–101, 11–501

17 “Revenues” § 11–501

18 “State” § 9–101

19 11–518. TAX STATUS.

20 (A) EXEMPTION.

21 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE CORPORATION IS
22 EXEMPT FROM ANY REQUIREMENT TO PAY ANY TAXES OR ASSESSMENTS ON ITS
23 PROPERTIES, ACTIVITIES, OR ANY REVENUE FROM ITS PROPERTIES OR ACTIVITIES.

24 (B) PRIVATE ENTITIES.

25 PROPERTY THAT THE CORPORATION SELLS OR LEASES TO A PRIVATE ENTITY IS
26 SUBJECT TO STATE AND LOCAL PROPERTY TAXES FROM THE TIME OF THE SALE OR
27 LEASE.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 83A, § 5–1208.

30 In subsection (b) of this section, the reference to “[p]roperty” is substituted
31 for the former reference to “land or facilities” for consistency within this
32 subtitle.

33 Defined terms: “Corporation” § 11–501

34 “State” § 9–101

1 11–519. AUDIT.

2 (A) IN GENERAL.

3 (1) AS SOON AS PRACTICAL AFTER THE CLOSE OF THE FISCAL YEAR, AN
4 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT SHALL AUDIT THE FINANCIAL BOOKS,
5 RECORDS, AND ACCOUNTS OF THE CORPORATION.

6 (2) THE CORPORATION SHALL SELECT AN ACCOUNTANT TO CONDUCT THE
7 AUDIT WHO:

8 (I) IS LICENSED TO PRACTICE ACCOUNTANCY IN THE STATE;

9 (II) IS EXPERIENCED AND QUALIFIED IN THE ACCOUNTING AND
10 AUDITING OF PUBLIC BODIES; AND

11 (III) DOES NOT HAVE A DIRECT OR INDIRECT PERSONAL INTEREST IN
12 THE FISCAL AFFAIRS OF THE CORPORATION.

13 (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH,
14 THE ACCOUNTANT SHALL REPORT THE RESULTS OF THE AUDIT, INCLUDING THE
15 ACCOUNTANT’S UNQUALIFIED OPINION ON THE PRESENTATION OF THE FINANCIAL
16 POSITION AND THE RESULTS OF THE FINANCIAL OPERATIONS OF THE CORPORATION.

17 (II) IF THE ACCOUNTANT CANNOT EXPRESS AN UNQUALIFIED OPINION,
18 THE ACCOUNTANT SHALL EXPLAIN IN DETAIL THE REASONS FOR THE QUALIFICATIONS,
19 DISCLAIMERS, OR OPINIONS, INCLUDING RECOMMENDATIONS OF CHANGES THAT COULD
20 MAKE FUTURE UNQUALIFIED OPINIONS POSSIBLE.

21 (B) AUDIT BY STATE.

22 THE STATE MAY AUDIT THE BOOKS, RECORDS, AND ACCOUNTS OF THE
23 CORPORATION.

24 REVISOR’S NOTE: This section is new language derived without substantive
25 change from former Art. 83A, § 5–1209(d) and (e).

26 In subsection (a)(3)(i) of this section, the limitation “[e]xcept as provided in
27 subparagraph (ii) of this paragraph,” is added for clarity and consistency
28 within this article.

29 Also in subsection (a)(3)(i) of this section, the word “audit” is substituted
30 for the former word “examination” for clarity and consistency within this
31 article.

32 Defined terms: “Corporation” § 11–501

33 “State” § 9–101

34 11–520. ANNUAL REPORT.

35 (A) REQUIRED.

1 ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE CORPORATION SHALL SUBMIT A
2 REPORT TO:

3 (1) THE GOVERNOR;

4 (2) THE COUNTY COMMISSIONERS;

5 (3) THE DEPARTMENT; AND

6 (4) IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT
7 ARTICLE, THE GENERAL ASSEMBLY.

8 (B) CONTENTS.

9 THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND FINANCIAL STATEMENT
10 COVERING THE OPERATIONS OF THE CORPORATION DURING THE PRECEDING FISCAL YEAR
11 AND A SUMMARY OF THE ACTIVITIES OF THE CORPORATION DURING THE PRECEDING
12 FISCAL YEAR.

13 REVISOR’S NOTE: This section is new language derived without substantive
14 change from former Art. 83A, § 5–1209(f).

15 In the introductory language to subsection (a) of this section, the phrase
16 “[o]n or before October 1 of each year” is substituted for the former phrase
17 “[w]ithin the first 90 days of each fiscal year” for clarity and accuracy.

18 In subsection (b) of this section, the reference to activities of the
19 Corporation “during the preceding fiscal year” is added for clarity and
20 consistency within this article.

21 Defined terms: “Corporation” § 11–501
22 “County Commissioners” § 11–501
23 “Department” § 9–101

24 TITLE 12. LOCAL DEVELOPMENT AUTHORITIES AND RESOURCES.

25 SUBTITLE 1. ECONOMIC DEVELOPMENT REVENUE BOND ACT.

26 12–101. DEFINITIONS.

27 (A) IN GENERAL.

28 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

29 REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–101(a).

30 The only change is in style.

31 (B) AUTHORITY.

1 “AUTHORITY” MEANS AN INDUSTRIAL DEVELOPMENT AUTHORITY ESTABLISHED IN
2 ACCORDANCE WITH § 12–105 OF THIS SUBTITLE.

3 REVISOR’S NOTE: This subsection is new language derived without
4 substantive change from the first sentence of former Art. 41, § 14–101(c).

5 (c) BOND.

6 (1) “BOND” MEANS A REVENUE BOND, NOTE, OR OTHER INSTRUMENT,
7 CERTIFICATE, OR EVIDENCE OF OBLIGATION THAT IS ISSUED AND SOLD BY A PUBLIC
8 BODY UNDER THIS SUBTITLE TO FINANCE A FACILITY OR TO REFUND AN OUTSTANDING
9 BOND.

10 (2) “BOND” INCLUDES:

11 (i) A BOND ANTICIPATION NOTE; AND

12 (ii) A NOTE IN THE NATURE OF COMMERCIAL PAPER.

13 REVISOR’S NOTE: This subsection is new language derived without
14 substantive change from former Art. 41, § 14–101(d).

15 In paragraph (1) of this subsection, the reference to “a facility” is
16 substituted for the former reference to “1 or more facilities” for brevity and
17 in light of Art. 1, § 8, which provides that the singular generally includes
18 the plural.

19 In the introductory language of paragraph (2) of this subsection, the former
20 phrase “without limitation” is deleted as unnecessary in light of Art. 1, §
21 30, which provides that the term “including” is used “by way of illustration
22 and not by way of limitation”.

23 Defined terms: “Facility” § 12–101

24 “Finance” § 12–101

25 “Public body” § 12–101

26 (d) CHIEF EXECUTIVE.

27 “CHIEF EXECUTIVE” MEANS THE PRESIDENT, CHAIR, MAYOR, COUNTY EXECUTIVE,
28 OR ANY OTHER CHIEF EXECUTIVE OFFICER OF A PUBLIC BODY.

29 REVISOR’S NOTE: This subsection is new language derived without
30 substantive change from former Art. 41, § 14–101(e).

31 The reference to the “chair” is substituted for the former reference to the
32 “chairman” because SG § 2–1238 requires the use of words that are neutral
33 as to gender to the extent practicable. *See* General Revisor’s note to article.

34 The former phrase “if any” is deleted as surplusage.

35 The former phrase “however designated” is deleted in light of the reference

1 to “any other chief executive officer”.

2 The former phrase “whether elected to the office or acting as such under
3 law” is deleted as unnecessary.

4 Defined term: “Public body” § 12–101

5 (E) FACILITY.

6 “FACILITY” MEANS ANY LAND OR AN INTEREST IN LAND, STRUCTURE, WORKING
7 CAPITAL, EQUIPMENT, OR OTHER PROPERTY, OR ANY COMBINATION OF THEM, THE
8 ACQUISITION OR IMPROVEMENT OF WHICH THE LEGISLATIVE BODY OF A COUNTY OR
9 MUNICIPAL CORPORATION, THE BOARD OF DIRECTORS OF AN AUTHORITY, OR THE
10 MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY, IN ITS SOLE
11 DISCRETION, DETERMINES BY RESOLUTION WILL ACCOMPLISH ONE OR MORE OF THE
12 LEGISLATIVE PURPOSES LISTED IN § 12–103(B) OF THIS SUBTITLE.

13 REVISOR’S NOTE: This subsection is new language derived without
14 substantive change from the first sentence of former Art. 41, § 14–101(g),
15 except as it related to limitations on financing the acquisition of working
16 capital by the issuance of bonds.

17 In this subsection and throughout this subtitle, the references to a
18 “municipal corporation” are substituted for the former references to a
19 “municipality” to conform to Md. Constitution, Art. XI–E. *See* General
20 Revisor’s Note to article.

21 The former reference to “facilities” is deleted in light of the reference to a
22 “facility” and Art. 1, § 8, which provides that the singular generally
23 includes the plural.

24 The former reference to “buildings” is deleted as included in the reference
25 to “structures”.

26 The former reference to “machinery” is deleted as included in the reference
27 to “equipment”.

28 The former references to “furnishings” and to other “real or personal”
29 property “or interest in them” are deleted as included in the comprehensive
30 reference to “property”.

31 The former reference to “absolute” discretion is deleted in light of the
32 reference to “sole” discretion.

33 The former reference to a “find[ing]” is deleted in light of the reference to a
34 “determin[ation]”.

35 The former reference to purposes “that or those which may be financed
36 from the proceeds of the issuance and sale of bonds the interest on which is
37 exempt from federal income taxation under the provisions of § 103 of the

1 federal Internal Revenue Code or any other federal statute hereafter
2 enacted” is deleted as surplusage.

3 As to working capital, *see* § 12–110(b) of this subtitle.

4 Defined terms: “Authority” § 12–101

5 “Bond” § 12–101

6 “County” § 9–101

7 “Improvement” § 12–101

8 (F) FACILITY APPLICANT.

9 “FACILITY APPLICANT” MEANS A PERSON, PUBLIC OR PRIVATE CORPORATION, OR
10 OTHER ENTITY, WHETHER FOR–PROFIT OR NOT–FOR–PROFIT, THAT, BY LETTER OF
11 INTENT OR SIMILAR AGREEMENT WITH A PUBLIC BODY, REQUESTS THE PUBLIC BODY TO
12 PARTICIPATE IN FINANCING A FACILITY UNDER THIS SUBTITLE FOR USE BY A FACILITY
13 USER.

14 REVISOR’S NOTE: This subsection is new language derived without
15 substantive change from former Art. 41, § 14–101(h).

16 The reference to “a facility” is substituted for the former reference to “1 or
17 more facilities” for brevity and in light of Art. 1, § 8, which provides that
18 the singular generally includes the plural. Similarly, the reference to “a
19 facility user” is substituted for the former reference to “1 or more facility
20 users”.

21 Defined terms: “Facility” § 12–101

22 “Facility user” § 12–101

23 “Finance” § 12–101

24 “Person” § 9–101

25 “Public body” § 12–101

26 (G) FACILITY USER.

27 (1) “FACILITY USER” MEANS A PERSON, PUBLIC OR PRIVATE CORPORATION,
28 OR OTHER ENTITY, WHETHER FOR–PROFIT OR NOT–FOR–PROFIT, THAT OWNS, LEASES,
29 OR USES ALL OR PART OF A FACILITY.

30 (2) “FACILITY USER” MAY INCLUDE A FACILITY APPLICANT.

31 REVISOR’S NOTE: This subsection is new language derived without
32 substantive change from former Art. 41, § 14–101(i).

33 Defined terms: “Facility” § 12–101

34 “Facility applicant” § 12–101

35 “Person” § 9–101

36 (H) FINANCE.

1 “FINANCE” INCLUDES REFINANCE.

2 REVISOR’S NOTE: This subsection is new language added to avoid repetition
3 of the phrase “finance or refinance”.

4 (I) FINANCE BOARD.

5 (1) “FINANCE BOARD” MEANS A UNIT OR INSTRUMENTALITY OF A COUNTY
6 OR MUNICIPAL CORPORATION THAT IS AUTHORIZED BY STATUTE OR CHARTER TO ISSUE
7 AND SELL BONDS OF THE COUNTY OR MUNICIPAL CORPORATION.

8 (2) “FINANCE BOARD” DOES NOT INCLUDE THE LEGISLATIVE BODY OF A
9 COUNTY OR MUNICIPAL CORPORATION.

10 REVISOR’S NOTE: This subsection is new language derived without
11 substantive change from former Art. 41, § 14–101(j).

12 In paragraph (1) of this subsection, the term “unit” is substituted for the
13 former terms “board” and “agency” for consistency within this article and
14 with other articles of the Code. *See* General Revisor’s Note to article.

15 Also in paragraph (1) of this subsection, the former reference to being “now
16 or hereafter” authorized to issue and sell bonds is deleted as surplusage.

17 Defined terms: “Bond” § 12–101
18 “County” § 9–101

19 (J) IMPROVE.

20 “IMPROVE” MEANS TO ADD, ALTER, CONSTRUCT, EQUIP, EXPAND, EXTEND,
21 IMPROVE, INSTALL, RECONSTRUCT, REHABILITATE, REMODEL, OR REPAIR.

22 REVISOR’S NOTE: This subsection is new language added for brevity and
23 clarity.

24 (K) IMPROVEMENT.

25 “IMPROVEMENT” MEANS ADDITION, ALTERATION, CONSTRUCTION, EQUIPPING,
26 EXPANSION, EXTENSION, IMPROVEMENT, INSTALLATION, RECONSTRUCTION,
27 REHABILITATION, REMODELING, OR REPAIR.

28 REVISOR’S NOTE: This subsection is new language derived without
29 substantive change from former Art. 41, § 14–101(b).

30 The defined term “[i]mprovement” is substituted for the former defined
31 term “[a]cquisition” for clarity since all of the items listed in the former
32 defined term, except “acquisition”, are a type of improvement.
33 Correspondingly, the former term “acquisition” is deleted from the defined
34 term “improvement” and is stated separately where appropriate in the
35 revision.

1 The references to “addition”, “alteration”, “installation”, and “repair” are
 2 added for completeness and consistency with the definition of
 3 “improvement” in § 10–101(h) of this article.

4 The former phrase “of 1 or more facilities” is deleted as unnecessary since
 5 a reference to a facility is repeated as appropriate whenever the defined
 6 term “improvement” is used in this subtitle.

7 (L) PUBLIC BODY.

8 “PUBLIC BODY” MEANS:

9 (1) A COUNTY;

10 (2) A MUNICIPAL CORPORATION;

11 (3) AN AUTHORITY; OR

12 (4) THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY.

13 REVISOR’S NOTE: This subsection is new language derived without
 14 substantive change from former Art. 41, § 14–101(n).

15 Defined terms: “Authority” § 12–101

16 “County” § 9–101

17 (M) PUBLIC PORT.

18 (1) “PUBLIC PORT” MEANS THE PUBLIC PORTS AND HARBORS ON THE
 19 CHESAPEAKE BAY OR THE ISLE OF WIGHT BAY AND THEIR TRIBUTARIES IN THE STATE.

20 (2) “PUBLIC PORT” INCLUDES:

21 (I) THE BALTIMORE HARBOR (THE PATAPSCO RIVER AND ITS
 22 TRIBUTARIES NORTH AND WEST OF NORTH POINT AND BODKIN POINT);

23 (II) THE PORT OF CAMBRIDGE (THE SOUTH SIDE OF THE CHOPTANK
 24 RIVER BETWEEN HAMBROOK’S BAR AND THE EMERSON C. HARRINGTON BRIDGE); AND

25 (III) THE PORT OF CRISFIELD (THE LITTLE ANNEMESSEX RIVER EAST
 26 OF JAMES ISLAND).

27 REVISOR’S NOTE: This subsection is new language derived without
 28 substantive change from former Art. 41, § 14–101(o).

29 In the introductory language of paragraph (2) of this subsection, the former
 30 phrase “without limitation” is deleted as unnecessary in light of Art. 1, §
 31 30, which provides that the term “including” is used “by way of illustration
 32 and not by way of limitation”.

33 Defined term: “State” § 9–101

1 REVISOR'S NOTE TO SECTION: The second sentence of former Art. 41, §
2 14–101(c), which excluded the Maryland Industrial Development
3 Financing Authority from the definition of “authority”, is deleted as
4 unnecessary. The term “authority” is defined in subsection (b) of this
5 section to mean “an industrial development authority established in
6 accordance with § 12–105 of this subtitle”, and the Maryland Industrial
7 Development Financing Authority is established under § 5–406 of this
8 article.

9 Former Art. 41, § 14–101(f), which defined “county” to mean “any of the 23
10 counties of Maryland, and the Mayor and City Council of Baltimore”, is
11 revised in § 9–101 of this article.

12 Former Art. 41, § 14–101(k), which defined “lease”, is deleted because the
13 definition added nothing to the common understanding of the term in the
14 context of purposes for which bonds may be issued under this subtitle.
15 Similarly, former Art. 41, § 14–101(l), which defined “loan agreement”, is
16 deleted. Also similarly, former Art. 41, § 14–101(p), which defined “sale
17 agreement”, is deleted.

18 Former Art. 41, § 14–101(m), which defined “municipality” to mean “a
19 municipal corporation subject to the provisions of Article XI–E of the
20 Constitution”, is deleted as unnecessary since all municipal corporations in
21 the State other than Baltimore City are subject to those provisions.

22 **12–102. CONSTRUCTION AND EFFECT OF SUBTITLE.**

23 (A) **CONSTRUCTION — OF SUBTITLE.**

24 **THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO ACCOMPLISH ITS PURPOSES.**

25 (B) **CONSTRUCTION — OF DEFINED TERM “FACILITY”.**

26 **A FACILITY IS NOT A CAPITAL PROJECT OF A PUBLIC BODY WITHIN THE MEANING OF**
27 **ANY STATUTORY OR CHARTER PROVISION.**

28 (C) **EFFECT OF SUBTITLE.**

29 **THIS SUBTITLE DOES NOT AUTHORIZE A COUNTY OR MUNICIPAL CORPORATION TO**
30 **ACQUIRE A FACILITY BY EMINENT DOMAIN.**

31 **REVISOR'S NOTE:** This section is new language derived without substantive
32 change from former Art. 41, §§ 14–102(c), 14–104(g), and the second
33 sentence of 14–101(g).

34 **Defined terms: “County” § 9–101**
35 **“Facility” § 12–101**
36 **“Public body” § 12–101**

1 12–103. LEGISLATIVE FINDINGS; PURPOSES OF SUBTITLE.

2 (A) FINDINGS.

3 THE GENERAL ASSEMBLY FINDS THAT:

4 (1) CONDITIONS OF UNEMPLOYMENT EXIST IN MANY AREAS OF THE STATE;

5 (2) THE ACQUISITION AND IMPROVEMENT OF FACILITIES IS ESSENTIAL TO
6 RELIEVE THIS UNEMPLOYMENT AND TO ESTABLISH A BALANCED ECONOMY IN THE STATE;

7 (3) THE PRESENT AND PROSPECTIVE HEALTH, HAPPINESS, SAFETY, RIGHT OF
8 GAINFUL EMPLOYMENT, AND GENERAL WELFARE OF THE RESIDENTS OF THE STATE WILL
9 BE PROMOTED BY THE ACQUISITION AND IMPROVEMENT OF FACILITIES;

10 (4) THE CONTROL OR ABATEMENT OF POLLUTION OF THE ENVIRONMENT OF
11 THE STATE, INCLUDING NOISE POLLUTION, IS NECESSARY TO:

12 (I) RETAIN EXISTING INDUSTRY AND COMMERCE IN AND ATTRACT NEW
13 INDUSTRY AND COMMERCE TO THE STATE;

14 (II) PROTECT THE HEALTH, WELFARE, AND SAFETY OF THE RESIDENTS
15 OF THE STATE;

16 (III) PROTECT THE NATURAL RESOURCES OF THE STATE; AND

17 (IV) ENCOURAGE THE ECONOMIC DEVELOPMENT OF THE STATE; AND

18 (5) (I) THE PUBLIC PORTS OF THE STATE ARE ASSETS OF VALUE TO THE
19 ENTIRE STATE;

20 (II) THE RESIDENTS OF THE ENTIRE STATE BENEFIT DIRECTLY FROM
21 THE WATERBORNE COMMERCE THAT THE PUBLIC PORTS ATTRACT AND SERVICE; AND

22 (III) ANY IMPROVEMENT OF PUBLIC PORTS THAT INCREASES THEIR
23 EXPORT AND IMPORT COMMERCE WILL BENEFIT THE RESIDENTS OF THE ENTIRE STATE.

24 (B) PURPOSES.

25 THE LEGISLATIVE PURPOSES OF THIS SUBTITLE ARE TO:

26 (1) RELIEVE CONDITIONS OF UNEMPLOYMENT IN THE STATE;

27 (2) ENCOURAGE THE INCREASE OF INDUSTRY AND COMMERCE AND A
28 BALANCED ECONOMY IN THE STATE;

29 (3) ASSIST IN THE RETENTION OF EXISTING INDUSTRY AND COMMERCE IN,
30 AND THE ATTRACTION OF NEW INDUSTRY AND COMMERCE TO, THE STATE THROUGH,
31 AMONG OTHER THINGS, THE DEVELOPMENT OF PORTS, THE CONTROL OR ABATEMENT OF
32 ENVIRONMENTAL POLLUTION, AND THE USE AND DISPOSAL OF WASTE;

- 1 (4) PROMOTE ECONOMIC DEVELOPMENT;
- 2 (5) PROTECT NATURAL RESOURCES AND ENCOURAGE RESOURCE RECOVERY;
- 3 AND
- 4 (6) PROMOTE THE HEALTH, WELFARE, AND SAFETY OF THE RESIDENTS OF
- 5 THE STATE.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 41, § 14–102(a) and (b).

8 In subsections (a)(3) and (b)(6) of this section, the former references to
9 residents of “each of the counties and municipalities of” the State are
10 deleted as unnecessary.

11 In subsection (a)(3) and (4)(ii) of this section, the references to “residents”
12 are substituted for the former references to “citizens” because the meaning
13 of the term “citizen” in this context is unclear and for consistency with
14 subsections (a)(5)(ii) and (b)(6) of this section and similar provisions in
15 other revised articles of the Code. Correspondingly, in subsection (a)(5)(iii)
16 of this section, the reference to “residents” is substituted for the former
17 reference to “people”. *See* General Revisor’s Note to article.

18 In subsection (a)(4)(i) of this section, the references to “commerce” are
19 substituted for the former references to “commercial enterprises” for
20 brevity and consistency with subsection (b)(2) and (3) of this section.

21 In subsection (a)(5)(ii) of this section, the reference to the “entire” State is
22 substituted for the former reference to “all parts of” the State for
23 consistency within subsection (a)(5).

24 In subsection (a)(5)(iii) of this section, the reference to any “development
25 of” public ports is substituted for the former reference to any
26 “improvement to” public ports for consistency with subsection (b)(3) of this
27 section.

28 In subsection (b)(3) of this section, the former reference to the “reduction”
29 of pollution is deleted in light of the reference to the “abatement” of
30 pollution and for consistency with the introductory language of subsection
31 (a)(4) of this section.

32 Defined terms: “Facility” § 12–101

33 “Improvement” § 12–101

34 “Public port” § 12–101

35 “State” § 9–101

1 12–104. STATE POLICY.

2 IT IS THE POLICY OF THE STATE TO ALLOW THE EXERCISE OF THE POWERS
3 GRANTED BY THIS SUBTITLE EVEN THOUGH THE ACTIVITIES AUTHORIZED MAY DISPLACE
4 OR LIMIT FREE ECONOMIC COMPETITION.

5 REVISOR’S NOTE: This section is new language derived without substantive
6 change from former Art. 41, § 14–102(d).

7 Defined term: “State” § 9–101

8 12–105. INDUSTRIAL DEVELOPMENT AUTHORITIES — IN GENERAL.

9 (A) AUTHORITY TO ESTABLISH.

10 TO ACCOMPLISH ONE OR MORE OF THE LEGISLATIVE PURPOSES LISTED IN §
11 12–103(B) OF THIS SUBTITLE, THE LEGISLATIVE BODY OF A COUNTY OR MUNICIPAL
12 CORPORATION MAY ADOPT A RESOLUTION TO CREATE AN INDUSTRIAL DEVELOPMENT
13 AUTHORITY IN ACCORDANCE WITH THIS SUBTITLE.

14 (B) NATURE OF RESOLUTION; APPROVAL.

15 A RESOLUTION ADOPTED UNDER SUBSECTION (A), (F), OR (G) OF THIS SECTION:

16 (1) IS ADMINISTRATIVE IN NATURE;

17 (2) IS NOT SUBJECT TO REFERENDUM; AND

18 (3) IN A COUNTY OR MUNICIPAL CORPORATION THAT HAS A PUBLICLY
19 ELECTED CHIEF EXECUTIVE, IS SUBJECT TO APPROVAL BY THE CHIEF EXECUTIVE.

20 (C) ADDITIONAL ACTION.

21 SUBSECTION (A) OF THIS SECTION IS SELF–EXECUTING AND FULLY AUTHORIZES A
22 COUNTY OR MUNICIPAL CORPORATION TO ESTABLISH AN AUTHORITY, NOTWITHSTANDING
23 ANY OTHER STATUTORY OR CHARTER PROVISION.

24 (D) CONTENTS OF RESOLUTION.

25 A RESOLUTION ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE
26 PROPOSED ARTICLES OF INCORPORATION OF THE AUTHORITY THAT STATE:

27 (1) THE NAME OF THE AUTHORITY, WHICH SHALL BE “INDUSTRIAL
28 DEVELOPMENT AUTHORITY OF (NAME OF THE INCORPORATING COUNTY OR MUNICIPAL
29 CORPORATION)”;

30 (2) THAT THE AUTHORITY IS FORMED UNDER THIS SUBTITLE;

31 (3) THE NAMES, ADDRESSES, AND TERMS OF OFFICE OF THE INITIAL
32 MEMBERS OF THE BOARD OF DIRECTORS OF THE AUTHORITY;

1 (4) THE ADDRESS OF THE PRINCIPAL OFFICE OF THE AUTHORITY;

2 (5) THE PURPOSES FOR WHICH THE AUTHORITY IS FORMED; AND

3 (6) THE POWERS OF THE AUTHORITY SUBJECT TO THE LIMITATIONS ON THE
4 POWERS OF AN AUTHORITY UNDER THIS SUBTITLE.

5 (E) ARTICLES OF INCORPORATION — FILING.

6 (1) THE CHIEF EXECUTIVE OF THE INCORPORATING COUNTY OR MUNICIPAL
7 CORPORATION, OR ANY OTHER OFFICIAL DESIGNATED IN THE RESOLUTION ESTABLISHING
8 THE AUTHORITY, SHALL EXECUTE AND FILE THE ARTICLES OF INCORPORATION OF THE
9 AUTHORITY FOR RECORD WITH THE STATE DEPARTMENT OF ASSESSMENTS AND
10 TAXATION.

11 (2) WHEN THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION
12 ACCEPTS THE ARTICLES OF INCORPORATION FOR RECORD, THE AUTHORITY BECOMES A
13 BODY POLITIC AND CORPORATE AND AN INSTRUMENTALITY OF THE INCORPORATING
14 COUNTY OR MUNICIPAL CORPORATION.

15 (3) ACCEPTANCE OF THE ARTICLES OF INCORPORATION FOR RECORD BY
16 THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION IS CONCLUSIVE EVIDENCE
17 OF THE FORMATION OF THE AUTHORITY.

18 (F) ARTICLES OF INCORPORATION — AMENDMENT.

19 (1) BY RESOLUTION, THE LEGISLATIVE BODY OF THE INCORPORATING
20 COUNTY OR MUNICIPAL CORPORATION MAY ADOPT AN AMENDMENT TO THE ARTICLES OF
21 INCORPORATION OF THE AUTHORITY.

22 (2) ARTICLES OF AMENDMENT MAY CONTAIN ANY PROVISION THAT
23 LAWFULLY COULD BE CONTAINED IN ARTICLES OF INCORPORATION AT THE TIME OF THE
24 AMENDMENT.

25 (3) THE ARTICLES OF AMENDMENT SHALL BE FILED FOR RECORD WITH THE
26 STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

27 (4) THE ARTICLES OF AMENDMENT ARE EFFECTIVE AS OF THE TIME THE
28 STATE DEPARTMENT OF ASSESSMENTS AND TAXATION ACCEPTS THE ARTICLES FOR
29 RECORD.

30 (5) ACCEPTANCE OF THE ARTICLES OF AMENDMENT FOR RECORD BY THE
31 STATE DEPARTMENT OF ASSESSMENTS AND TAXATION IS CONCLUSIVE EVIDENCE THAT
32 THE ARTICLES HAVE BEEN LAWFULLY AND PROPERLY ADOPTED.

33 (G) CHANGES IN OR TERMINATION OF AUTHORITY.

34 (1) SUBJECT TO THE PROVISIONS OF THIS SECTION AND ANY LIMITATIONS
35 IMPOSED BY LAW ON THE IMPAIRMENT OF CONTRACTS, THE INCORPORATING COUNTY OR
36 MUNICIPAL CORPORATION, IN ITS SOLE DISCRETION, BY RESOLUTION MAY:

1 (I) SET OR CHANGE THE STRUCTURE, ORGANIZATION, PROCEDURES,
2 PROGRAMS, OR ACTIVITIES OF THE AUTHORITY; OR

3 (II) TERMINATE THE AUTHORITY.

4 (2) ON TERMINATION OF AN AUTHORITY:

5 (I) TITLE TO ALL PROPERTY OF THE AUTHORITY SHALL BE
6 TRANSFERRED TO AND VEST IN THE INCORPORATING COUNTY OR MUNICIPAL
7 CORPORATION; AND

8 (II) ALL OBLIGATIONS OF THE AUTHORITY SHALL BE TRANSFERRED TO
9 AND ASSUMED BY THE INCORPORATING COUNTY OR MUNICIPAL CORPORATION.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 41, § 14–103(a), (b), and (c)(1) and (4), the first,
12 second, and fourth sentences of (d), the first and third sentences of (k),
13 and, as it related to the establishment of an authority, (f)(1)(i).

14 In subsection (c)(1) of this section, the reference to “[s]ubsection (a) of this
15 section” is substituted for the former reference to “[t]his provision” for
16 clarity. Similarly, in subsection (c)(2) of this section, the reference to the
17 authority granted under “subsection (a) of this section” is substituted for
18 the former reference to the authority granted “hereby”.

19 In subsections (e)(1) and (f)(1) of this section, the former references to an
20 “administrative” resolution are deleted as unnecessary in light of
21 subsection (b)(1) of this section, which provides that a resolution adopted
22 under subsection (a), (f), or (g) of this section is “administrative in nature”.

23 In subsection (d)(3) of this section, the reference to the “initial members of
24 the board of” directors is substituted for the former reference to the “first”
25 directors for clarity.

26 In subsections (e)(1) and (f)(1) of this section, the references to the articles
27 of incorporation “of the authority” are added for clarity.

28 In subsection (e)(1) of this section, the reference to filing articles of
29 incorporation “for record” is added for consistency with CA § 2–102(a)(2).
30 Similarly, in subsection (f)(3) of this section, the reference to filing articles
31 of amendment “for record” is added for consistency with CA § 2–610.

32 Also in subsection (e)(1) of this section, the reference to the resolution
33 “establishing the authority” is substituted for the former reference to the
34 resolution “referred to in subsection (a)” for clarity.

35 In subsection (e)(3) of this section, the reference to “accept[ing] the articles
36 of incorporation for record” is substituted for the former reference to
37 “issu[ing] the certificate of approval” to reflect the current procedures of
38 the State Department of Assessments and Taxation under Maryland

1 General Corporation Law. *See* CA § 1–202. Similarly, in subsection (f)(4) of
2 this section, the reference to “accept[ing] the articles [of amendment] for
3 record” is substituted for the former obsolete reference to “issu[ing] the
4 certificate of approval”. *See* CA § 2–610.1(1).

5 In subsection (e)(3) of this section, the reference to acceptance of the
6 articles of incorporation for record being “conclusive evidence of the
7 formation” of the authority is substituted for the former reference to the
8 authority being “conclusively considered to have been lawfully and
9 properly created and authorized to exercise its powers” for clarity and
10 consistency with the Maryland General Corporation Law. *See* CA §
11 2–102(b).

12 Former Art. 41, § 14–103(c)(2), which required the State Department of
13 Assessments and Taxation to stamp articles of incorporation it received
14 with the time and date of receipt, does not conform to current
15 departmental practice and is deleted as obsolete. Similarly, former Art. 41,
16 § 14–103(c)(3), which required the State Department of Assessments and
17 Taxation to endorse articles of incorporation “approved” and issue a
18 certificate of approval attached to the endorsed articles, does not conform
19 to current departmental practice and is deleted as obsolete. Also similarly,
20 the third sentence of former Art. 41, § 14–103(d), which required the State
21 Department of Assessments and Taxation to endorse articles of
22 amendment “approved” and issue a certificate of approval of the
23 amendments, does not conform to current departmental practice and is
24 deleted as obsolete.

25 Former Art. 41, § 14–103(e), which required the State Department of
26 Assessments and Taxation to record articles and amendments, is deleted
27 as redundant of CA § 1–202(2), which requires the Department promptly to
28 record all charter documents.

29 The second sentence of former Art. 41, § 14–103(k), which provided that in
30 a county or municipal corporation that has a publicly elected chief
31 executive officer, a resolution to make changes in or terminate an
32 authority is subject to approval by the chief executive officer, is deleted in
33 light of subsection (b)(3) of this section, which contains the same
34 requirement.

35 As to the current procedures that the State Department of Assessments
36 and Taxation must follow on acceptance of a charter document, *see* CA
37 § 1–102.

38 Defined terms: “Authority” § 12–101

39 “Chief executive” § 12–101

40 “County” § 9–101

41 “State” § 9–101

1 **12–106. INDUSTRIAL DEVELOPMENT AUTHORITIES — BOARD OF DIRECTORS.**

2 (A) **COMPOSITION; APPOINTMENT OF MEMBERS.**

3 (1) **SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, THE BOARD OF**
4 **DIRECTORS OF AN AUTHORITY CONSISTS OF FIVE MEMBERS APPOINTED BY THE**
5 **LEGISLATIVE BODY OF THE INCORPORATING COUNTY OR MUNICIPAL CORPORATION.**

6 (2) **APPOINTMENT PROCEDURES SHALL BE PROVIDED IN THE RESOLUTION**
7 **ESTABLISHING THE AUTHORITY.**

8 (3) (I) **IN A COUNTY OR MUNICIPAL CORPORATION THAT HAS A PUBLICLY**
9 **ELECTED CHIEF EXECUTIVE, THE CHIEF EXECUTIVE SHALL SUBMIT NOMINATIONS FOR**
10 **THE INITIAL BOARD MEMBERS.**

11 (II) **THE CHIEF EXECUTIVE MAY NOMINATE MORE THAN ONE**
12 **INDIVIDUAL FOR AN INITIAL BOARD MEMBER POSITION.**

13 (4) **AN OFFICER OR EMPLOYEE OF THE INCORPORATING COUNTY OR**
14 **MUNICIPAL CORPORATION MAY NOT BE APPOINTED TO THE BOARD BUT, IF PROVIDED BY**
15 **RESOLUTION, MAY SERVE AS AN EX OFFICIO, NONVOTING MEMBER OF THE BOARD.**

16 (B) **TENURE; VACANCIES.**

17 (1) (I) **THE INITIAL FIVE MEMBERS OF THE BOARD OF DIRECTORS OF AN**
18 **AUTHORITY SHALL BE APPOINTED FOR STAGGERED TERMS, RANGING FROM 1 TO 5**
19 **YEARS, RESPECTIVELY, BEGINNING ON THE DATE THE STATE DEPARTMENT OF**
20 **ASSESSMENTS AND TAXATION ACCEPTS THE ARTICLES OF INCORPORATION OF THE**
21 **AUTHORITY FOR RECORD.**

22 (II) **EXCEPT AS PROVIDED FOR INITIAL BOARD MEMBERS, THE TERM**
23 **OF AN APPOINTED MEMBER IS 5 YEARS.**

24 (2) **AT THE END OF A TERM, AN APPOINTED MEMBER CONTINUES TO SERVE**
25 **UNTIL A SUCCESSOR IS APPOINTED.**

26 (3) **A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY**
27 **FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED.**

28 (4) (I) **IN A COUNTY OR MUNICIPAL CORPORATION THAT HAS A PUBLICLY**
29 **ELECTED CHIEF EXECUTIVE, THE CHIEF EXECUTIVE SHALL SUBMIT NOMINATIONS FOR**
30 **VACANCIES ON THE BOARD.**

31 (II) **THE CHIEF EXECUTIVE MAY NOMINATE MORE THAN ONE**
32 **INDIVIDUAL FOR A VACANCY.**

33 (C) **REMOVAL.**

34 (1) **A MEMBER MAY BE REMOVED AT ANY TIME WITH OR WITHOUT CAUSE.**

1 (2) PROCEDURES FOR REMOVAL SHALL BE THOSE PROVIDED IN THE
2 RESOLUTION ESTABLISHING THE AUTHORITY OR A SUBSEQUENT RESOLUTION.

3 (D) OFFICERS.

4 (1) FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR AND
5 OTHER OFFICERS.

6 (2) AN EX OFFICIO MEMBER MAY HOLD ANY OFFICE OTHER THAN CHAIR.

7 (E) QUORUM; VOTING.

8 (1) THREE VOTING MEMBERS OF THE BOARD ARE A QUORUM.

9 (2) THE BOARD MAY ACT ON A RESOLUTION ONLY BY THE AFFIRMATIVE
10 VOTE OF AT LEAST THREE VOTING MEMBERS.

11 (F) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

12 A MEMBER OF THE BOARD:

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

14 (2) SHALL BE REIMBURSED FOR EXPENSES INCURRED IN PERFORMING THE
15 MEMBER'S DUTIES.

16 (G) EXERCISE OF POWERS.

17 THE BOARD SHALL EXERCISE ITS POWERS BY RESOLUTION.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 41, § 14–103(g)(3) and, as it related to the exercise
20 of the powers of the board of directors of an authority, (2), and (h)(1), (2),
21 and (4) through (7), and the first, second, and third sentences of (3).

22 In subsection (a)(1) of the section, the introductory language, “[s]ubject to
23 paragraph (4) of this subsection”, is added to reflect that in addition to the
24 five appointed members, the board of directors of an authority may include
25 ex officio members.

26 In subsection (a)(3)(i) of this section, the reference to nominations “for the
27 initial board members” is added for clarity. Similarly, in subsection (b)(4)(i)
28 of this section, the reference to nominations “for vacancies on the board” is
29 added.

30 In subsections (a)(3)(ii) and (b)(4)(ii) of this section, the former phrase “but
31 is not required to nominate more than 1 individual for any vacancy” is
32 deleted as implicit.

33 In subsection (a)(3)(ii) of this section, the reference to nominating more
34 than one individual for “an initial board member position” is added for

1 clarity.

2 In subsection (a)(4) of this section, the prohibition against an officer or
3 employee “[being] appointed to the board” is substituted for the former
4 prohibition against an officer or employee “[being] a director”, and the
5 reference to these individuals serving as ex officio members of the “board”
6 is substituted for the former reference to them serving as ex officio
7 members of the “authority”, for accuracy and consistency with subsection
8 (d) of this section. Subsection (d) requires the board, from “among its
9 members” to elect officers, and authorizes an ex officio member to hold any
10 office other than chair.

11 In subsection (b)(1)(i) and (ii) of this section, the references to “initial”
12 board members is substituted for the former reference to “original” board
13 members for clarity and consistency with § 12–105(d)(3) of this subtitle.

14 In subsection (b)(1)(i) of this section, the reference to the date “the State
15 Department of Assessments and Taxation accepts the articles of
16 incorporation of the authority for record” is substituted for the former
17 reference to the date “of creation of the authority” for accuracy and
18 consistency with the process for establishing new authority under §
19 12–105(e) of this subtitle. The Economic Development Article Review
20 Committee calls this substitution to the attention of the General Assembly.
21 No substantive change is intended.

22 In subsection (b)(4)(ii) of this section, the former reference to nominating
23 more than one individual for a vacancy “including the original 5 members”
24 is deleted in light of the reference to “a” vacancy.

25 In subsection (c)(1) of this section, the reference to a “member” is
26 substituted for the former reference to a “director” for consistency within
27 this article and with other revised articles of the Code. Similarly, in
28 subsection (e) of this section, the references to “members” are substituted
29 for the former references to “directors”, and in the introductory language of
30 subsection (f) of this section, the reference to a “member of the board” is
31 substituted for the former reference to a “director”.

32 In subsection (d)(1) and (2) of this section, the references to a “chair” are
33 substituted for the former references to a “chairman” because SG § 2–1238
34 requires the use of words that are neutral as to gender to the extent
35 practicable. *See* General Revisor’s Note to article.

36 In subsection (f)(1) of this section, the phrase “as a member of the board” is
37 added to clarify that the prohibition on receipt of compensation is only
38 applicable to a member of the board in the capacity of that individual as a
39 member. *See* General Revisor’s Note to article.

40 In subsection (f)(2) of this section, the former reference to “actual”
41 expenses is deleted as surplusage.

1 The fourth sentence of former Art. 41, § 14–103(h)(3), which authorized a
2 member of the board of directors of an authority to “succeed himself”, is
3 deleted since there is no contrary provision and thus no reason to believe
4 this is not the case.

5 Defined terms: “Authority” § 12–101

6 “Chief executive” § 12–101

7 “County” § 9–101

8 **12–107. ADMINISTRATION.**

9 (A) GOVERNANCE BY BOARD OF DIRECTORS.

10 THE BOARD OF DIRECTORS OF AN AUTHORITY SHALL GOVERN THE AUTHORITY.

11 (B) PROCEDURES FOR INTERNAL ADMINISTRATION.

12 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE OR THE RESOLUTION
13 ESTABLISHING THE AUTHORITY, THE PROCEDURES OF THE INCORPORATING COUNTY OR
14 MUNICIPAL CORPORATION CONTROL ANY MATTER RELATING TO THE INTERNAL
15 ADMINISTRATION OF THE AUTHORITY.

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 41, § 14–103(g)(4) and, as it related to governance
18 of an authority, (2).

19 In subsection (a) of this section, the reference to the board of directors “of
20 an authority” is added for clarity.

21 In subsection (b) of this section, the word “otherwise” is added for clarity.

22 Defined terms: “Authority” § 12–101

23 “County” § 9–101

24 **12–108. BENEFIT OF NET EARNINGS.**

25 EXCEPT AS NECESSARY TO PAY DEBT SERVICE OR IMPLEMENT THE PUBLIC
26 PURPOSES OR PROGRAMS OF THE INCORPORATING COUNTY OR MUNICIPAL CORPORATION,
27 THE NET EARNINGS OF AN AUTHORITY MAY BENEFIT ONLY THE INCORPORATING COUNTY
28 OR MUNICIPAL CORPORATION AND MAY NOT BENEFIT ANY PERSON.

29 REVISOR’S NOTE: This section is new language derived without substantive
30 change from former Art. 41, § 14–103(j).

31 Defined terms: “Authority” § 12–101

32 “County” § 9–101

33 “Person” § 9–101

34 **12–109. POWERS OF AUTHORITY, COUNTY, AND MUNICIPAL CORPORATION.**

35 (A) POWERS OF AUTHORITY.

1 (1) EXCEPT AS LIMITED BY ITS ARTICLES OF INCORPORATION, AN
2 AUTHORITY HAS ALL THE POWERS SET FORTH IN THIS SUBTITLE.

3 (2) AN AUTHORITY MAY:

4 (I) RECEIVE MONEY FROM ITS INCORPORATING COUNTY OR
5 MUNICIPAL CORPORATION, THE STATE, OTHER GOVERNMENTAL UNITS, OR NOT FOR
6 PROFIT ORGANIZATIONS;

7 (II) CHARGE FEES FOR ITS SERVICES;

8 (III) HAVE EMPLOYEES AND CONSULTANTS AS IT CONSIDERS
9 NECESSARY; AND

10 (IV) USE THE SERVICES OF OTHER GOVERNMENTAL UNITS.

11 (B) POWERS OF COUNTY AND MUNICIPAL CORPORATION.

12 FOR THE PURPOSES OF THIS SUBTITLE, EACH COUNTY AND MUNICIPAL
13 CORPORATION HAS ALL THE POWERS GRANTED IN THIS SUBTITLE TO AN AUTHORITY,
14 INCLUDING THE POWER TO MAKE LOANS TO PRIVATE ENTERPRISES COMPETING WITH
15 ENTERPRISES NOT RECEIVING THE LOANS.

16 (C) EXERCISE OF POWERS.

17 (1) (I) AN AUTHORITY SHALL OPERATE AND EXERCISE ITS POWERS
18 SOLELY TO ACCOMPLISH ONE OR MORE OF THE LEGISLATIVE PURPOSES OF THIS
19 SUBTITLE.

20 (II) THE INCORPORATING COUNTY OR MUNICIPAL CORPORATION MAY
21 USE THE AUTHORITY'S EXERCISE OF ITS POWERS TO ACCOMPLISH ONE OR MORE OF THE
22 LEGISLATIVE PURPOSES.

23 (2) AN AUTHORITY OR AN INCORPORATING COUNTY OR MUNICIPAL
24 CORPORATION MAY EXERCISE ITS POWERS REGARDLESS OF ANY EFFECT ON ECONOMIC
25 COMPETITION.

26 (3) THE POWERS GRANTED TO A COUNTY OR MUNICIPAL CORPORATION
27 UNDER PARAGRAPH (2) OF THIS SUBSECTION DO NOT:

28 (I) GRANT TO THE COUNTY OR MUNICIPAL CORPORATION POWERS IN
29 ANY SUBSTANTIVE AREA NOT OTHERWISE GRANTED TO THE COUNTY OR MUNICIPAL
30 CORPORATION UNDER OTHER PUBLIC GENERAL OR PUBLIC LOCAL LAW;

31 (II) RESTRICT THE COUNTY OR MUNICIPAL CORPORATION FROM
32 EXERCISING ANY POWER GRANTED TO THE COUNTY OR MUNICIPAL CORPORATION UNDER
33 OTHER PUBLIC GENERAL OR PUBLIC LOCAL LAW OR OTHERWISE;

34 (III) AUTHORIZE THE COUNTY OR MUNICIPAL CORPORATION, OR THE
35 OFFICERS OF THE COUNTY OR MUNICIPAL CORPORATION, TO ENGAGE IN AN ACTIVITY

1 THAT IS BEYOND THE POWER GRANTED UNDER OTHER PUBLIC GENERAL OR PUBLIC
2 LOCAL LAW OR OTHERWISE; OR

3 (IV) PREEMPT OR SUPERSEDE THE REGULATORY AUTHORITY OF A UNIT
4 OF STATE GOVERNMENT UNDER A PUBLIC GENERAL LAW.

5 (4) THE INCORPORATING COUNTY OR MUNICIPAL CORPORATION IS NOT
6 PRECLUDED FROM DIRECTLY EXERCISING THE POWERS GRANTED TO AN AUTHORITY
7 UNDER THIS SUBTITLE AFTER THE ESTABLISHMENT OF THE AUTHORITY.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 41, § 14–103(i), (l), (g)(1), and (f)(2) and (1)(ii),
10 and, as it related to the operation of an authority and the exercise of its
11 powers, (1)(i).

12 In subsection (a)(1) of this section, the former word “restricted” is deleted
13 as unnecessary in light of the word “limited”.

14 In subsection (a)(2)(i) of this section, the reference to “money” is
15 substituted for the former reference to “funds” for consistency within this
16 article and with other revised articles of the Code. *See* General Revisor's
17 Note to article.

18 In subsection (a)(2)(ii) of this section, the former reference to charging fees
19 “or other charges” is deleted as unnecessary.

20 In subsection (c)(2)(ii)4 of this section, the term “unit” is substituted for the
21 former terms “department” and “agency” for consistency within this article
22 and with other revised articles of the Code. *See* General Revisor's Note to
23 article.

24 Defined terms: “Authority” § 12–101

25 “County” § 9–101

26 “State” § 9–101

27 12–110. BONDS.

28 (A) AUTHORIZED.

29 NOTWITHSTANDING ANY LIMITATION OF LAW, A PUBLIC BODY MAY ISSUE AND SELL
30 BONDS PERIODICALLY TO ACCOMPLISH THE LEGISLATIVE PURPOSES OF THIS SUBTITLE.

31 (B) ISSUANCE AND USE.

32 (1) A PUBLIC BODY MAY ISSUE AND SELL BONDS TO:

33 (I) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FINANCE THE
34 COSTS OF THE ACQUISITION OR IMPROVEMENT OF A FACILITY FOR A FACILITY USER,
35 INCLUDING WORKING CAPITAL;

36 (II) REFUND OUTSTANDING BONDS;

1 (III) PAY THE COSTS OF PREPARING, PRINTING, SELLING, AND ISSUING
2 THE BONDS;

3 (IV) FUND RESERVES; AND

4 (V) PAY THE INTEREST ON THE BONDS IN THE AMOUNT AND FOR THE
5 PERIOD THE PUBLIC BODY CONSIDERS REASONABLE.

6 (2) (I) A PUBLIC BODY MAY NOT ISSUE BONDS TO ACQUIRE WORKING
7 CAPITAL UNLESS THE BONDS ARE SECURED BY A LETTER OF CREDIT OR AN INTEREST IN
8 PROPERTY.

9 (II) WORKING CAPITAL ACQUIRED BY ISSUING BONDS MAY NOT
10 EXCEED 25% OF THE PRINCIPAL AMOUNT OF THE BONDS.

11 (C) NATURE OF BONDS ISSUED.

12 (1) BONDS ARE LIMITED OBLIGATIONS AND ARE NOT A PLEDGE OF THE
13 FAITH AND CREDIT OR TAXING POWER OF THE PUBLIC BODY.

14 (2) BONDS ISSUED BY AN AUTHORITY ARE ISSUED ON BEHALF OF THE
15 PUBLIC BODY THAT ESTABLISHED THE AUTHORITY.

16 (3) BONDS ISSUED BY THE MARYLAND INDUSTRIAL DEVELOPMENT
17 FINANCING AUTHORITY:

18 (I) ARE ISSUED ON BEHALF OF THE STATE; AND

19 (II) SHALL BE ISSUED IN ACCORDANCE WITH THE MARYLAND
20 INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY ACT, TITLE 5, SUBTITLE 7 OF
21 THIS ARTICLE.

22 (D) FORM; EXECUTION; MATURITY.

23 (1) A BOND:

24 (I) MAY BE IN BEARER FORM;

25 (II) MAY BE REGISTRABLE AS TO PRINCIPAL ALONE OR AS TO BOTH
26 PRINCIPAL AND INTEREST; AND

27 (III) IS A “SECURITY” AS DEFINED BY § 8–102 OF THE COMMERCIAL
28 LAW ARTICLE, WHETHER OR NOT THE BOND IS ONE OF A CLASS OR SERIES OR IS
29 DIVISIBLE INTO A CLASS OR SERIES OF INSTRUMENTS.

30 (2) (I) A BOND SHALL BE SIGNED BY THE CHIEF EXECUTIVE OR BY AN
31 OFFICER DESIGNATED BY RESOLUTION OF THE PUBLIC BODY.

32 (II) A BOND MAY BE EXECUTED BY FACSIMILE SIGNATURE IN
33 ACCORDANCE WITH § 2–303 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

1 (III) THE SEAL OF THE PUBLIC BODY SHALL BE AFFIXED TO THE BOND
2 AND ATTESTED BY THE CLERK OR SIMILAR ADMINISTRATIVE OFFICER OF THE PUBLIC
3 BODY DESIGNATED BY RESOLUTION.

4 (IV) AN OFFICER'S SIGNATURE OR COUNTERSIGNATURE ON A BOND OR
5 COUPON REMAINS VALID EVEN IF THE OFFICER LEAVES OFFICE BEFORE THE BOND IS
6 DELIVERED.

7 (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH,
8 A BOND SHALL MATURE NOT LATER THAN 30 YEARS AFTER ITS DATE OF ISSUE.

9 (II) IF A BOND IS SECURED BY A MORTGAGE INSURED BY A UNIT OF
10 THE FEDERAL GOVERNMENT, THE BOND SHALL HAVE A TERM OF MATURITY THAT DOES
11 NOT EXCEED THE TERM OF THE INSURANCE.

12 (E) ACQUISITION AND IMPROVEMENT OF FACILITIES.

13 (1) A PUBLIC BODY MAY ACQUIRE OR IMPROVE A FACILITY WITH BOND
14 PROCEEDS:

15 (I) BY LEASING THE FACILITY TO A FACILITY USER;

16 (II) BY SELLING THE FACILITY TO A FACILITY USER UNDER AN
17 INSTALLMENT SALE AGREEMENT;

18 (III) BY LENDING BOND PROCEEDS TO A FACILITY USER TO BE USED TO
19 FINANCE A FACILITY; OR

20 (IV) IN ANY OTHER MANNER THAT THE PUBLIC BODY CONSIDERS
21 APPROPRIATE TO ACCOMPLISH THE LEGISLATIVE PURPOSES OF THIS SUBTITLE.

22 (2) (I) THE LEASE OF A FACILITY UNDER THIS SUBTITLE MAY AUTHORIZE
23 OR REQUIRE THE FACILITY USER TO ACQUIRE THE FACILITY ON PAYMENT OF THE
24 PRINCIPAL OF AND INTEREST ON THE BONDS APPLICABLE TO THE FACILITY USER.

25 (II) THE CONSIDERATION FOR THE ACQUISITION OF THE FACILITY MAY
26 BE NOMINAL.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 41, §§ 14–101(g), 14–104(a), (b), and (c), and
29 14–106(a), (b), and (c).

30 In subsection (a) of this section, the reference to the legislative “purposes”
31 of this subtitle is substituted for the former reference to the legislative
32 “policy” of this subtitle for clarity and consistency within this subtitle.
33 Similarly, in subsection (e)(1)(iv) of this section, the reference to
34 “legislative” purposes of this subtitle is added.

35 Also in subsection (a) of this section, the word “periodically” is substituted
36 for the former phrase “from time to time” for clarity and consistency within

1 this article.

2 Also in subsection (a) of this section, the former phrase “in addition to
3 whatever other powers it may have” is deleted as redundant.

4 In subsection (b)(1)(i), the introductory language of subsection (e)(1), and
5 subsection (e)(1)(iii) of this section, the references to “a facility” are
6 substituted for the former references to “1 or more facilities” for brevity
7 and in light of Art. 1, § 30, which provides that the singular generally
8 includes the plural. Similarly, in subsections (b)(1)(i) and (e)(1)(i), (ii), and
9 (iii) of this section, the references to “a facility user” are substituted for the
10 former references to “1 or more facility users”.

11 In subsection (d)(1)(ii) of this section, the former phrase “or by its terms is
12 divisible into a class or series of instruments” is deleted as unnecessary.

13 In subsection (d)(2)(ii) of this section, the word “executed”, which refers to
14 the facsimile signature, is added for consistency within this article and
15 with other revised articles of the Code.

16 Defined terms: “Authority” § 12–101

17 “Bond” § 12–101

18 “Chief executive” § 12–101

19 “Facility” § 12–101

20 “Facility user” § 12–101

21 “Finance” § 12–101

22 “Improve” § 12–101

23 “Improvement” § 12–101

24 “Public body” § 12–101

25 “State” § 9–101

26 12–111. AUTHORIZING RESOLUTION.

27 (A) ADOPTION OF RESOLUTION TO ISSUE BONDS.

28 FOR EACH ISSUE OF ITS BONDS, THE LEGISLATIVE BODY OF A COUNTY OR
29 MUNICIPAL CORPORATION, THE BOARD OF DIRECTORS OF AN AUTHORITY, OR THE
30 MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY, SHALL ADOPT A
31 RESOLUTION THAT:

32 (1) SPECIFIES AND DESCRIBES THE FACILITY;

33 (2) GENERALLY DESCRIBES THE PUBLIC PURPOSE TO BE SERVED AND THE
34 FINANCING TRANSACTION;

35 (3) SPECIFIES THE MAXIMUM PRINCIPAL AMOUNT OF THE BONDS THAT MAY
36 BE ISSUED; AND

37 (4) IMPOSES TERMS OR CONDITIONS ON THE ISSUANCE AND SALE OF BONDS
38 IT CONSIDERS APPROPRIATE.

(B) POWERS OF FINANCE BOARD AND OTHER OFFICERS.

(1) THE LEGISLATIVE BODY OF A COUNTY OR MUNICIPAL CORPORATION, THE BOARD OF DIRECTORS OF AN AUTHORITY, OR THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY, BY RESOLUTION, MAY:

(I) SPECIFY, DETERMINE, PRESCRIBE, AND APPROVE MATTERS, DOCUMENTS, AND PROCEDURES THAT RELATE TO THE AUTHORIZATION, SALE, SECURITY, ISSUANCE, DELIVERY, AND PAYMENT OF AND FOR THE BONDS;

(II) CREATE SECURITY FOR THE BONDS;

(III) PROVIDE FOR THE ADMINISTRATION OF BOND ISSUES THROUGH TRUST OR OTHER AGREEMENTS WITH A BANK OR TRUST COMPANY THAT COVER A COUNTERSIGNATURE ON A BOND, THE DELIVERY OF A BOND, OR THE SECURITY FOR A BOND; AND

(IV) TAKE OTHER ACTION IT CONSIDERS APPROPRIATE CONCERNING THE BONDS.

(2) THE LEGISLATIVE BODY OF A COUNTY OR MUNICIPAL CORPORATION, THE BOARD OF DIRECTORS OF AN AUTHORITY, OR THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY MAY AUTHORIZE A DESIGNEE TO EXERCISE THE POWERS PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) A DESIGNEE MAY BE:

(I) A FINANCE BOARD, WHICH SHALL ACT BY RESOLUTION;

(II) THE CHIEF EXECUTIVE, WHO SHALL ACT BY EXECUTIVE ORDER OR OTHERWISE; OR

(III) ANY OTHER APPROPRIATE ADMINISTRATIVE OFFICER, WHO SHALL ACT BY ORDER OR OTHERWISE WITH THE APPROVAL OF THE CHIEF EXECUTIVE.

(4) SUBJECT TO THE LIMITATIONS OF THIS SUBTITLE AND THE LIMITATIONS THE LEGISLATIVE BODY PRESCRIBES BY RESOLUTION, A CHIEF EXECUTIVE OR AN ADMINISTRATIVE OFFICER ACTING UNDER A RESOLUTION OF A LEGISLATIVE BODY SHALL EXERCISE THE AUTHORITY GRANTED:

(I) TO ACCOMPLISH THE LEGISLATIVE PURPOSES OF THIS SUBTITLE; AND

(II) TO ACCOMPLISH THE PUBLIC PURPOSES OF THE RESOLUTION THAT THE LEGISLATIVE BODY ADOPTS.

(C) PLEDGE OR ASSIGNMENT OF REVENUES.

(1) A RESOLUTION OR TRUST AGREEMENT MAY CONTAIN A PLEDGE OR ASSIGNMENT OF REVENUES RECEIVED FROM THE FINANCING OF A FACILITY.

1 (2) THE LIEN OF THE PLEDGE OR ASSIGNMENT MADE IS VALID AND BINDING
2 AGAINST A PERSON WITH A CLAIM AGAINST THE PUBLIC BODY, WHETHER OR NOT THE
3 PERSON HAS NOTICE OF THE LIEN.

4 (D) FILING OR RECORDATION.

5 NOTWITHSTANDING ANY OTHER PUBLIC GENERAL OR PUBLIC LOCAL LAW, A PUBLIC
6 BODY NEED NOT FILE OR RECORD A RESOLUTION, TRUST AGREEMENT, LEASE,
7 INSTALLMENT SALE AGREEMENT, LOAN AGREEMENT, OR OTHER INSTRUMENT THAT IT
8 ADOPTS OR MAKES UNDER THIS SUBTITLE, EXCEPT IN THE RECORDS OF THE PUBLIC
9 BODY.

10 (E) NATURE OF RESOLUTION; APPROVAL.

11 A RESOLUTION ADOPTED UNDER THIS SECTION:

12 (1) IS ADMINISTRATIVE IN NATURE;

13 (2) IS NOT SUBJECT TO PROCEDURES REQUIRED FOR LEGISLATIVE ACTS;

14 (3) IS NOT SUBJECT TO REFERENDUM; AND

15 (4) IN A COUNTY OR MUNICIPAL CORPORATION THAT HAS A PUBLICLY
16 ELECTED CHIEF EXECUTIVE, IS SUBJECT TO APPROVAL BY THE CHIEF EXECUTIVE.

17 (F) ADDITIONAL ACTION.

18 THIS AUTHORIZATION IS SELF-EXECUTING, AND FULLY AUTHORIZES A PUBLIC
19 BODY TO ISSUE AND SELL BONDS, NOTWITHSTANDING ANY OTHER STATUTORY OR
20 CHARTER PROVISION.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 41, § 14–104(d), (e), and (f).

23 In subsection (a)(1) of this section, the former reference to “facilities” is
24 deleted in light of the reference to a “facility” and Art. 1, § 8, which
25 provides that the singular generally includes the plural.

26 In subsection (b)(1)(iii) of this section, the reference to a “countersignature
27 on a bond” is added for clarity and consistency.

28 In subsection (b)(1)(iv) of this section, the reference to “tak[ing] other
29 action it considers appropriate concerning the bonds” is substituted for the
30 former references to certain actions “including, without limitation” the
31 actions listed in subsection (b)(1)(i) through (iii) of this section for clarity.

32 In subsection (b)(2) of this section, the phrase “exercise the powers
33 provided under paragraph (1) of this subsection” is added for clarity.

34 In subsection (b)(4)(i) of this section, the reference to the legislative
35 “purposes” of this subtitle is substituted for the former reference to the

1 legislative “policy” of this subtitle for clarity and consistency within this
2 subtitle.

3 In subsection (c)(2) of this section, the words “of the lien” are added to
4 modify the word “notice” for clarity.

5 Also in subsection (c)(2) of this section, the former reference to a claim “of
6 any kind” is deleted as surplusage.

7 Defined terms: “Bond” § 12–101

8 “Chief executive” § 12–101

9 “County” § 9–101

10 “Facility” § 12–101

11 “Finance board” § 12–101

12 “Lease” § 12–101

13 “Loan agreement” § 12–101

14 “Person” § 9–101

15 “Public body” § 12–101

16 “Sale agreement” § 12–101

17 **12–112. MANNER AND PRICE OF SALE OF BONDS; APPLICABILITY OF ARTICLE 31.**

18 (A) **BOND SALES.**

19 (1) **BONDS SHALL BE SOLD IN THE MANNER, AT COMPETITIVE OR**
20 **NEGOTIATED SALE, AND ON THE TERMS AT, ABOVE, OR BELOW PAR, THAT THE PUBLIC**
21 **BODY CONSIDERS BEST.**

22 (2) **A CONTRACT TO ACQUIRE OR IMPROVE A FACILITY MAY PROVIDE THAT**
23 **PAYMENT SHALL BE MADE IN BONDS.**

24 (B) **APPLICABILITY.**

25 **A BOND IS NOT SUBJECT TO THE LIMITATIONS OF ARTICLE 31, §§ 9, 10, AND 11**
26 **OF THE CODE.**

27 **REVISOR’S NOTE:** This section is new language derived without substantive
28 change from former Art. 41, § 14–106(d).

29 In subsection (a)(1) of this section, the reference to a “competitive or
30 negotiated” sale is substituted for the former reference to a “public or
31 private (negotiated)” sale for clarity and consistency within this article.

32 Defined terms: “Bond” § 12–101

33 “Improvement” § 12–101

34 “Public body” § 12–101

35 **12–113. PAYMENT OF BONDS.**

36 (A) **BONDS PAYABLE FROM REVENUE.**

1 (1) A BOND AND THE INTEREST ON A BOND ARE LIMITED OBLIGATIONS OF
2 THE PUBLIC BODY.

3 (2) EXCEPT FOR BOND ANTICIPATION NOTES AND NOTES IN THE NATURE OF
4 COMMERCIAL PAPER, THE PRINCIPAL OF, PREMIUM, AND INTEREST ON A BOND ARE
5 PAYABLE SOLELY FROM:

6 (I) MONEY FROM THE FINANCING OF A FACILITY; OR

7 (II) OTHER MONEY MADE AVAILABLE TO THE PUBLIC BODY.

8 (3) BONDS AND THE INTEREST ON THEM:

9 (I) ARE NOT DEBTS OR CHARGES AGAINST THE GENERAL CREDIT OR
10 TAXING POWERS OF A PUBLIC BODY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR
11 CHARTER PROVISION OR STATUTORY LIMITATION; AND

12 (II) MAY NOT GIVE RISE TO ANY PECUNIARY LIABILITY OF AN ISSUING
13 PUBLIC BODY.

14 (4) A BOND MAY STATE ON ITS FACE THAT THE BOND:

15 (I) IS ISSUED UNDER THIS SUBTITLE; AND

16 (II) IS NOT A DEBT TO WHICH THE PUBLIC BODY'S FAITH AND CREDIT
17 IS PLEDGED.

18 (B) APPOINTMENT OF RECEIVER.

19 ON DEFAULT IN THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON A BOND, A
20 COURT WITH JURISDICTION:

21 (1) MAY APPOINT A RECEIVER OR TAKE OTHER APPROPRIATE ACTION TO
22 PROVIDE FOR THE PAYMENT OF THE BOND; AND

23 (2) SHALL APPLY ANY AVAILABLE REVENUE AS THIS SUBTITLE OR A
24 RESOLUTION ADOPTED UNDER THIS SUBTITLE PROVIDES.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 41, § 14–106(e) and (f).

27 In subsection (a)(2)(ii) of this section, the phrase "financing a facility" is
28 substituted for the former ambiguous reference to "such purpose" for
29 clarity.

30 In subsection (a)(3)(ii) of this section, the former word "constitute" is
31 deleted as implicit in the phrase "give rise to".

32 In the introductory language of subsection (b) of this section, the former
33 words "of the action" are deleted as implicit in the reference to a court's
34 "jurisdiction".

1 Defined terms: “Bond” § 12–101

2 “Finance” § 12–101

3 “Public body” § 12–101

4 12–114. CONCLUSIVE PRESUMPTION OF FINDING BY PUBLIC BODY.

5 A FINDING BY THE LEGISLATIVE BODY OF A COUNTY OR MUNICIPAL CORPORATION,
6 THE BOARD OF DIRECTORS OF AN AUTHORITY, OR THE MARYLAND INDUSTRIAL
7 DEVELOPMENT FINANCING AUTHORITY AS TO THE PUBLIC PURPOSE OF AN ACTION
8 TAKEN UNDER THIS SUBTITLE, AND THE APPROPRIATENESS OF THAT ACTION TO SERVE
9 THE PUBLIC PURPOSE, IS CONCLUSIVE IN A PROCEEDING INVOLVING THE VALIDITY OR
10 ENFORCEABILITY OF A BOND, OR SECURITY FOR A BOND, ISSUED UNDER THIS SUBTITLE.

11 REVISOR’S NOTE: This section is new language derived without substantive
12 change from former Art. 41, § 14–104(h).

13 The former reference to a “suit [or] action” is deleted as included in the
14 comprehensive reference to a “proceeding”.

15 Defined terms: “Authority” § 12–101

16 “Bond” § 12–101

17 “County” § 9–101

18 12–115. ALTERNATIVE PROCEDURES FOR BOND ISSUANCE.

19 INSTEAD OF THE PROCEDURES UNDER THIS SUBTITLE, A MUNICIPAL CORPORATION,
20 BY CHARTER AMENDMENT ADOPTED UNDER ARTICLE 23A OF THE CODE, OR A CHARTER
21 COUNTY, BY CHARTER AMENDMENT ADOPTED UNDER ARTICLE XI–A OF THE MARYLAND
22 CONSTITUTION, MAY PROVIDE FOR THE ISSUANCE OF REVENUE BONDS UNDER THE
23 TERMS AND CONDITIONS THAT THE MUNICIPAL CORPORATION OR CHARTER COUNTY
24 CONSIDERS APPROPRIATE TO ACHIEVE THE LEGISLATIVE PURPOSES OF THIS SUBTITLE.

25 REVISOR’S NOTE: This section is new language derived without substantive
26 change from former Art. 41, § 14–104(i).

27 The reference to the legislative “purposes” of this subtitle is substituted for
28 the former reference to the legislative “policy” of this subtitle for clarity
29 and consistency within this subtitle.

30 Defined terms: “Bond” § 12–101

31 “County” § 9–101

32 12–116. TAX STATUS.

33 THE PRINCIPAL OF AND INTEREST ON BONDS, THE TRANSFER OF BONDS, AND ANY
34 INCOME DERIVED FROM THE BONDS, INCLUDING PROFITS MADE IN THEIR SALE OR
35 TRANSFER, ARE FOREVER EXEMPT FROM STATE AND LOCAL TAXES.

36 REVISOR’S NOTE: This section is new language derived without substantive
37 change from former Art. 41, § 14–105.

1 The former words “and shall remain”, which state that certain costs
 2 associated with bonds will remain exempt from taxation, are deleted as
 3 unnecessary.

4 Defined terms: “Bond” § 12–101
 5 “State” § 9–101

6 12–117. LEASE OR CONTRACT AS SECURITY FOR BOND.

7 (A) APPLICABILITY.

8 THIS SECTION APPLIES TO A LEASE OR CONTRACT UNDER WHICH:

9 (1) THE STATE OR A UNIT OF THE STATE WILL BE AN INITIAL USER OR
 10 OCCUPANT OF A FACILITY FINANCED BY BONDS ISSUED UNDER THIS SUBTITLE; OR

11 (2) A FACILITY FINANCED BY BONDS ISSUED UNDER THIS SUBTITLE WILL BE
 12 BUILT ON PROPERTY OWNED BY THE STATE.

13 (B) REQUIRED APPROVALS.

14 THE STATE OR A UNIT OF THE STATE MAY NOT ENTER INTO A LEASE OR CONTRACT
 15 THAT IS SUBJECT TO THIS SECTION AND THAT FORMS A PART OF THE SECURITY FOR
 16 BONDS ISSUED UNDER THIS SUBTITLE UNLESS:

17 (1) THE LEGISLATIVE POLICY COMMITTEE HAS AUTHORIZED THE FACILITY
 18 AS BEING CONSISTENT WITH THE CAPITAL BUDGET; AND

19 (2) THE BOARD OF PUBLIC WORKS SPECIFICALLY HAS APPROVED THE
 20 BOND ISSUE FOR THAT FACILITY.

21 REVISOR’S NOTE: This section is new language derived without substantive
 22 change from former Art. 41, § 14–108.

23 In subsection (a)(1) and the introductory language of subsection (b)(1) of
 24 this section, the term “unit” is substituted for the former term “agency” for
 25 consistency within this article and with other revised articles of the Code.
 26 See General Revisor’s Note to article.

27 In the introductory language of subsection (b), the word “section” is
 28 substituted for the former word “subsection” for accuracy.

29 In subsection (b)(1) of this section, the former phrase “of the General
 30 Assembly”, which describes the Legislative Policy Committee, is deleted as
 31 implicit.

32 Defined terms: “Bond” § 12–101
 33 “Facility” § 12–101
 34 “Finance” § 12–101
 35 “Lease” § 12–101
 36 “State” § 9–101

1 12–118. SHORT TITLE.

2 THIS SUBTITLE MAY BE CITED AS THE MARYLAND ECONOMIC DEVELOPMENT
3 REVENUE BOND ACT.

4 REVISOR’S NOTE: This section is new language derived without substantive
5 change from former Art. 41, § 14–109.

6 SUBTITLE 2. TAX INCREMENT FINANCING ACT.

7 12–201. DEFINITIONS.

8 (A) IN GENERAL.

9 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

10 REVISOR’S NOTE: This subsection is new language derived without
11 substantive change from former Art. 41, § 14–202(a).

12 In this subsection, the former phrase “unless the context clearly indicates
13 another or different meaning or intent” is deleted as implicit in the normal
14 rules of statutory construction.

15 (B) ADJUSTED ASSESSABLE BASE.

16 “ADJUSTED ASSESSABLE BASE” MEANS THE FAIR MARKET VALUE OF REAL
17 PROPERTY THAT QUALIFIES FOR A FARM OR AGRICULTURAL USE UNDER § 8–209 OF THE
18 TAX – PROPERTY ARTICLE, WITHOUT REGARD TO THE AGRICULTURAL USE ASSESSMENT
19 FOR THE PROPERTY AS OF JANUARY 1 OF THE YEAR PRECEDING THE EFFECTIVE DATE OF
20 THE RESOLUTION CREATING THE DEVELOPMENT DISTRICT UNDER § 12–203 OF THIS
21 SUBTITLE.

22 REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–202(c).

23 The only changes are in style.

24 Defined term: “Development district” § 12–201

25 (C) ASSESSABLE BASE.

26 “ASSESSABLE BASE” MEANS THE TOTAL ASSESSABLE BASE, AS DETERMINED BY THE
27 SUPERVISOR OF ASSESSMENTS, OF ALL REAL PROPERTY SUBJECT TO TAXATION IN A
28 DEVELOPMENT DISTRICT.

29 REVISOR’S NOTE: This subsection is new language derived without
30 substantive change from former Art. 41, § 14–202(d).

31 Defined term: “Development district” § 12–201

32 (D) ASSESSMENT RATIO.

1 (1) “ASSESSMENT RATIO” MEANS A REAL PROPERTY TAX ASSESSMENT
 2 RATIO, HOWEVER DESIGNATED OR CALCULATED, THAT IS USED UNDER APPLICABLE
 3 GENERAL LAW TO DETERMINE THE ASSESSABLE BASE.

4 (2) “ASSESSMENT RATIO” INCLUDES THE ASSESSMENT PERCENTAGE
 5 SPECIFIED UNDER § 8–103(c) OF THE TAX – PROPERTY ARTICLE.

6 REVISOR’S NOTE: This subsection is new language derived without
 7 substantive change from former Art. 41, § 14–202(e).

8 Defined term: “Assessable base” § 12–201

9 (E) BOND.

10 “BOND” MEANS A REVENUE BOND, NOTE, OR OTHER SIMILAR INSTRUMENT ISSUED
 11 IN ACCORDANCE WITH THIS SUBTITLE BY:

12 (1) A POLITICAL SUBDIVISION; OR

13 (2) THE REVENUE AUTHORITY OF PRINCE GEORGE’S COUNTY.

14 REVISOR’S NOTE: This subsection is new language derived without
 15 substantive change from former Art. 41, § 14–202(f).

16 Defined term: “Political subdivision” § 12–201

17 (F) CHIEF EXECUTIVE.

18 “CHIEF EXECUTIVE” MEANS THE PRESIDENT, CHAIR, MAYOR, OR OTHER CHIEF
 19 EXECUTIVE OFFICER OF A POLITICAL SUBDIVISION OR THE REVENUE AUTHORITY OF
 20 PRINCE GEORGE’S COUNTY.

21 REVISOR’S NOTE: This subsection is new language derived without
 22 substantive change from former Art. 41, § 14–202(g).

23 In this subsection and throughout this subtitle, the references to
 24 “municipal corporation” are substituted for the former references to a
 25 “municipality” for consistency with the Md. Constitution, Art. XI–E.

26 In this subsection, the references to the “chair” is substituted for the
 27 former reference to the “chairman” because SG § 2–1238 requires the use
 28 of terms that are neutral as to gender to the extent practicable.

29 Defined term: “Political subdivision” § 12–201

30 (G) DEVELOPMENT.

31 “DEVELOPMENT” INCLUDES NEW DEVELOPMENT, REDEVELOPMENT,
 32 REVITALIZATION, AND RENOVATION.

33 REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–202(i).

1 No changes are made.

2 (H) DEVELOPMENT DISTRICT.

3 “DEVELOPMENT DISTRICT” MEANS A CONTIGUOUS AREA DESIGNATED BY A
4 RESOLUTION.

5 REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–202(j).

6 No changes are made.

7 (I) ISSUER.

8 “ISSUER” MEANS A POLITICAL SUBDIVISION OR THE REVENUE AUTHORITY OF
9 PRINCE GEORGE’S COUNTY THAT ISSUES A BOND UNDER THIS SUBTITLE.

10 REVISOR’S NOTE: This subsection is new language added for clarity.

11 Defined terms: “Bond” § 12–201

12 “Political subdivision” § 12–201

13 (J) ORIGINAL ASSESSABLE BASE.

14 “ORIGINAL ASSESSABLE BASE” MEANS THE ASSESSABLE BASE AS OF JANUARY 1 OF
15 THE YEAR PRECEDING THE EFFECTIVE DATE OF THE RESOLUTION CREATING THE
16 DEVELOPMENT DISTRICT UNDER § 12–203 OF THIS SUBTITLE.

17 REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–202(k).

18 The only changes are in style.

19 Defined terms: “Assessable base” § 12–201

20 “Development district” § 12–201

21 (K) ORIGINAL FULL CASH VALUE.

22 “ORIGINAL FULL CASH VALUE” MEANS THE DOLLAR AMOUNT THAT IS DETERMINED
23 BY DIVIDING THE ORIGINAL ASSESSABLE BASE BY THE ASSESSMENT RATIO USED TO
24 DETERMINE THE ORIGINAL ASSESSABLE BASE.

25 REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–202(l).

26 The only changes are in style.

27 Defined terms: “Assessable base” § 12–201

28 “Assessment ratio” § 12–201

29 “Original assessable base” § 12–201

30 (L) ORIGINAL TAXABLE VALUE.

1 “ORIGINAL TAXABLE VALUE” MEANS FOR ANY TAX YEAR THE DOLLAR AMOUNT
2 THAT IS:

3 (1) THE ADJUSTED ASSESSABLE BASE, IF AN ADJUSTED ASSESSABLE BASE
4 APPLIES; OR

5 (2) IN ALL OTHER CASES, THE LESSER OF:

6 (I) THE PRODUCT OF MULTIPLYING THE ORIGINAL FULL CASH VALUE
7 BY THE ASSESSMENT RATIO APPLICABLE TO THAT TAX YEAR; AND

8 (II) THE ORIGINAL ASSESSABLE BASE.

9 REVISOR’S NOTE: This subsection is new language derived without
10 substantive change from former Art. 41, § 14–202(m).

11 The legislative history of this subsection makes clear that the “adjusted
12 assessable base” must be used if it applies; otherwise, the “original taxable
13 value” is the lesser of the “original assessable base” and the product of the
14 “original full cash value” and the applicable “assessment ratio”. Bill File,
15 SB 298, 1992, floor report of Senate Budget and Taxation Committee,
16 March 19, 1992.

17 Defined terms: “Adjusted assessable base” § 12–201

18 “Assessable base” § 12–201

19 “Assessment ratio” § 12–201

20 “Original assessable base” § 12–201

21 “Original full cash value” § 12–201

22 “Tax year” § 12–201

23 (M) POLITICAL SUBDIVISION.

24 “POLITICAL SUBDIVISION” MEANS A COUNTY OR A MUNICIPAL CORPORATION.

25 REVISOR’S NOTE: This subsection is new language added to avoid repetition
26 of the phrase “county or municipal corporation”.

27 Defined term: “County” § 9–101

28 (N) TAX INCREMENT.

29 “TAX INCREMENT” MEANS FOR ANY TAX YEAR THE AMOUNT BY WHICH THE
30 ASSESSABLE BASE AS OF JANUARY 1 OF THE PRECEDING TAX YEAR EXCEEDS THE
31 ORIGINAL TAXABLE VALUE DIVIDED BY THE ASSESSMENT RATIO USED TO DETERMINE THE
32 ORIGINAL TAXABLE VALUE.

33 REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–202(n).

34 The only changes are in style.

1 Defined terms: “Assessable base” § 12–201

2 “Assessment ratio” § 12–201

3 “Original taxable value” § 12–201

4 “Tax year” § 12–201

5 (o) TAX YEAR.

6 “TAX YEAR” MEANS THE PERIOD FROM JULY 1 OF A CALENDAR YEAR THROUGH
7 JUNE 30 OF THE NEXT CALENDAR YEAR.

8 REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–202(o).

9 No changes are made.

10 REVISOR’S NOTE TO SECTION

11 Former Art. 41, § 14–202(b), which defined “Act”, is deleted because the
12 word is not used as defined in this subtitle.

13 Former Art. 41, § 14–202(h), which defined “county”, is deleted in light of §
14 9–101 of this article to the same effect.

15 12–202. CONSTRUCTION AND APPLICATION OF SUBTITLE.

16 (A) SELF–EXECUTING.

17 (1) THIS SUBTITLE IS SELF–EXECUTING.

18 (2) A POLITICAL SUBDIVISION NEED NOT AMEND ITS CHARTER TO EXERCISE
19 THE POWERS GRANTED BY THIS SUBTITLE.

20 (B) BALTIMORE CITY.

21 THIS SUBTITLE DOES NOT APPLY IN BALTIMORE CITY.

22 REVISOR’S NOTE: This section is new language derived without substantive
23 change from the second and third sentences of former Art. 41, § 14–203.

24 As to tax increment financing in Baltimore City, *see* Baltimore City
25 Charter, Art. II, § 62.

26 Defined term: “Political subdivision” § 12–201

27 12–203. DEVELOPMENT DISTRICT DESIGNATION.

28 (A) IN GENERAL.

29 BEFORE ISSUING BONDS, THE GOVERNING BODY OF THE POLITICAL SUBDIVISION
30 SHALL:

1 (1) DESIGNATE BY RESOLUTION A CONTIGUOUS AREA WITHIN ITS
2 JURISDICTION AS A DEVELOPMENT DISTRICT;

3 (2) RECEIVE FROM THE SUPERVISOR OF ASSESSMENTS A CERTIFICATION OF
4 THE AMOUNT OF THE ORIGINAL ASSESSABLE BASE, OR IF APPLICABLE, THE ADJUSTED
5 ASSESSABLE BASE; AND

6 (3) PLEDGE THAT UNTIL THE BONDS ARE FULLY PAID, OR A LONGER
7 PERIOD, THE REAL PROPERTY TAXES IN THE DEVELOPMENT DISTRICT SHALL BE DIVIDED
8 AS FOLLOWS:

9 (i) THE PORTION OF THE TAXES THAT WOULD BE PRODUCED AT THE
10 CURRENT TAX RATE ON THE ORIGINAL TAXABLE VALUE SHALL BE PAID TO THE
11 RESPECTIVE TAXING AUTHORITIES IN THE SAME MANNER AS TAXES ON OTHER PROPERTY
12 ARE PAID; AND

13 (ii) THE PORTION OF THE TAXES ON THE TAX INCREMENT THAT
14 NORMALLY WOULD BE PAID INTO THE GENERAL FUND OF THE POLITICAL SUBDIVISION
15 SHALL BE PAID INTO THE SPECIAL FUND ESTABLISHED UNDER § 12–208 OF THIS
16 SUBTITLE AND APPLIED IN ACCORDANCE WITH § 12–209 OF THIS SUBTITLE.

17 (b) COUNTY DEVELOPMENT DISTRICT OVERLAPPING MUNICIPAL CORPORATION.

18 THE ESTABLISHMENT BY A COUNTY OF A DEVELOPMENT DISTRICT THAT IS WHOLLY
19 OR PARTLY IN A MUNICIPAL CORPORATION SHALL ALSO REQUIRE A RESOLUTION
20 APPROVING THE DEVELOPMENT DISTRICT BY THE GOVERNING BODY OF THE MUNICIPAL
21 CORPORATION.

22 REVISOR’S NOTE: This section is new language derived without substantive
23 change from former Art. 41, § 14–206(1), (2), and (3)(i) and the first
24 sentence of (ii).

25 In the introductory language of subsection (a) and (a)(3)(ii) of this section,
26 the phrase “county or municipal corporation” is substituted for the former
27 references to “issuer” and to “issuing body” for clarity and consistency
28 throughout this subtitle.

29 In subsection (a)(3)(i) of this section, the reference to the “general fund” of
30 the respective taxing bodies is substituted for the former reference to the
31 “funds” for clarity.

32 Defined terms: “Adjusted assessable base” § 12–201

33 “Assessable base” § 12–201

34 “Bond” § 12–201

35 “Development district” § 12–201

36 “Original taxable value” § 12–201

37 “Political subdivision” § 12–201

38 “Tax increment” § 12–201

1 12-204. BONDS — AUTHORIZED.

2 (A) IN GENERAL.

3 NOTWITHSTANDING ANY LIMITATION OF LAW, AN ISSUER MAY ISSUE BONDS FROM
4 TIME TO TIME TO FINANCE THE DEVELOPMENT OF AN INDUSTRIAL, COMMERCIAL, OR
5 RESIDENTIAL AREA.

6 (B) ORDINANCE — REQUIRED CONTENTS.

7 TO ISSUE BONDS UNDER THIS SUBTITLE, THE GOVERNING BODY OF A POLITICAL
8 SUBDIVISION SHALL ADOPT AN ORDINANCE THAT:

9 (1) DESCRIBES THE PROPOSED UNDERTAKING; AND

10 (2) STATES:

11 (I) THAT THE GOVERNING BODY HAS COMPLIED WITH §§ 12-203
12 AND 12-208(c) AND (D) OF THIS SUBTITLE;

13 (II) THE MAXIMUM PRINCIPAL AMOUNT OF THE BONDS; AND

14 (III) THE MAXIMUM RATE OF INTEREST ON THE BONDS.

15 (C) OPTIONAL CONTENTS.

16 THE ORDINANCE MAY SPECIFY THE FOLLOWING FOR BONDS ISSUED TO CARRY OUT
17 THE FINANCING OF THE PROPOSED UNDERTAKING:

18 (1) THE PRINCIPAL AMOUNT;

19 (2) THE RATE OF INTEREST;

20 (3) THE MANNER AND TERMS OF SALE;

21 (4) THE TIME OF EXECUTION, ISSUANCE, AND DELIVERY;

22 (5) THE FORM AND DENOMINATION;

23 (6) THE MANNER IN WHICH, AND THE TIMES AND PLACES AT WHICH
24 PRINCIPAL AND INTEREST SHALL BE PAID;

25 (7) CONDITIONS FOR REDEMPTION BEFORE MATURITY; OR

26 (8) OTHER PROVISIONS CONSISTENT WITH THIS SUBTITLE THAT THE
27 GOVERNING BODY OF THE POLITICAL SUBDIVISION DETERMINES ARE NECESSARY OR
28 DESIRABLE.

29 (D) PRINCE GEORGE'S COUNTY.

1 THE REVENUE AUTHORITY OF PRINCE GEORGE’S COUNTY MAY ISSUE BONDS IN
 2 ACCORDANCE WITH AN ORDINANCE ADOPTED BY THE GOVERNING BODY OF PRINCE
 3 GEORGE’S COUNTY.

4 (E) ALTERNATIVE AUTHORIZATION.

5 THE ORDINANCE MAY SPECIFY THE ITEMS LISTED IN SUBSECTION (C) OF THIS
 6 SECTION OR MAY AUTHORIZE:

7 (1) THE FINANCE BOARD TO SPECIFY THOSE ITEMS BY RESOLUTION OR
 8 ORDINANCE; OR

9 (2) THE CHIEF EXECUTIVE TO SPECIFY THOSE ITEMS BY EXECUTIVE ORDER.

10 (F) REFERENDUM.

11 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
 12 NEITHER AN ORDINANCE AUTHORIZING THE BONDS NOR AN ORDINANCE, RESOLUTION, OR
 13 EXECUTIVE ORDER ISSUED, PASSED, OR ADOPTED UNDER THIS SECTION MAY BE SUBJECT
 14 TO REFERENDUM BECAUSE OF ANY OTHER STATE OR LOCAL LAW.

15 (2) AN ORDINANCE THAT AUTHORIZES THE PLEDGE OF THE FULL FAITH
 16 AND CREDIT OF A POLITICAL SUBDIVISION TO THE PAYMENT OF PRINCIPAL AND INTEREST
 17 ON A BOND IS SUBJECT TO ANY APPLICABLE RIGHT TO REFERENDUM.

18 REVISOR’S NOTE: Subsections (a) through (c), and (e) and (f) of this section
 19 are new language derived without substantive change from former Art. 41,
 20 § 14–210 and the first sentence of § 14–203.

21 Subsection (d) of this section is new language added to state explicitly that
 22 which was only implied by the former law: *i.e.* that the revenue authority
 23 of Prince George’s County is authorized to act as an issuer under this
 24 subtitle in the same manner as a county or municipal corporation to the
 25 extent authorized by applicable law, although the authority is not itself a
 26 municipal corporation under Md. Constitution, Art. XI–E. *See* § 21A–106 of
 27 the Prince George’s County Code (2003); *cf.* §§ 12–201(e) and 12–208(c) of
 28 this subtitle and Art. 24 of 2002.

29 In subsection (c)(8) of this section, the reference to the “governing body” of
 30 a political subdivision is substituted for the former reference to “legislative
 31 body” for consistency in this subtitle and to reflect the authority granted to
 32 the governing body under § 12–208 of this subtitle.

33 Defined terms: “Bond” § 12–201

34 “Chief executive” § 12–201

35 “Development” § 12–201

36 “Issuer” § 12–201

37 “Political subdivision” § 12–201

38 “State” § 9–101

1 12–205. CONDITIONS OF ISSUANCE.

2 (A) IN GENERAL.

3 A BOND:

4 (1) MAY BE IN BEARER FORM;

5 (2) MAY BE REGISTRABLE AS TO PRINCIPAL ALONE OR AS TO BOTH
6 PRINCIPAL AND INTEREST; AND

7 (3) IS A “SECURITY” UNDER § 8–102 OF THE COMMERCIAL LAW ARTICLE,
8 WHETHER OR NOT THE BOND IS ONE OF A CLASS OR SERIES OR IS DIVISIBLE INTO A CLASS
9 OR SERIES OF INSTRUMENTS.

10 (B) EXECUTION.

11 (1) A BOND SHALL BE SIGNED MANUALLY OR IN FACSIMILE BY THE CHIEF
12 EXECUTIVE OF THE ISSUER.

13 (2) AN OFFICER’S SIGNATURE OR FACSIMILE SIGNATURE ON A BOND
14 REMAINS VALID EVEN IF THE OFFICER LEAVES OFFICE BEFORE THE BOND IS DELIVERED.

15 (3) THE CLERK OR OTHER SIMILAR ADMINISTRATIVE OFFICER OF THE
16 ISSUER SHALL ATTEST TO AND AFFIX TO EACH BOND THE SEAL OF THE ISSUER.

17 (C) MATURITY.

18 A BOND SHALL MATURE NOT LATER THAN 40 YEARS AFTER THE DATE OF ISSUE.

19 (D) TERMS OF SALE.

20 (1) THE ISSUER MAY SELL BONDS AT COMPETITIVE OR NEGOTIATED SALE IN
21 ANY MANNER AND ON ANY TERMS THAT IT CONSIDERS BEST.

22 (2) A CONTRACT TO ACQUIRE PROPERTY MAY PROVIDE THAT PAYMENT
23 SHALL BE MADE IN BONDS.

24 (3) BONDS ARE EXEMPT FROM ARTICLE 31, §§ 9, 10, AND 11 OF THE
25 CODE.

26 REVISOR’S NOTE: This section is new language derived without substantive
27 change from former Art. 41, § 14–212.

28 Defined terms: “Bond” § 12–201

29 “Chief executive” § 12–201

30 “Issuer” § 12–201

31 12–206. PAYMENT OF BONDS.

32 (A) IN GENERAL.

1 BONDS SHALL BE PAYABLE FROM THE SPECIAL FUND ESTABLISHED UNDER §
2 12–208 OF THIS SUBTITLE.

3 (B) FULL FAITH AND CREDIT; SINKING FUND.

4 THE GOVERNING BODY OF THE POLITICAL SUBDIVISION OR THE ISSUER MAY:

5 (1) PLEDGE ITS FULL FAITH AND CREDIT OR OTHER ASSETS AND REVENUES
6 TO PAY THE BONDS; AND

7 (2) ESTABLISH A SINKING FUND OR A DEBT SERVICE RESERVE FUND FOR
8 THE BONDS.

9 REVISOR’S NOTE: This section is new language derived without substantive
10 change from former Art. 41, § 14–204.

11 In subsection (b) of this section, the reference to the governing body of “the
12 political subdivision” or “the issuer” is added for clarity in light of the role
13 of the Prince George’s County Council in issuances of the county revenue
14 authority.

15 Defined terms: “Bond” § 12–201
16 “Issuer” § 12–201

17 12–207. APPLICATION OF PROCEEDS.

18 (A) IN GENERAL.

19 BOND PROCEEDS MAY BE USED ONLY:

20 (1) TO BUY, LEASE, CONDEMN, OR OTHERWISE ACQUIRE PROPERTY, OR AN
21 INTEREST IN PROPERTY:

22 (I) IN THE DEVELOPMENT DISTRICT; OR

23 (II) NEEDED FOR A RIGHT–OF–WAY OR OTHER EASEMENT TO OR FROM
24 THE DEVELOPMENT DISTRICT;

25 (2) FOR SITE REMOVAL;

26 (3) FOR SURVEYS AND STUDIES;

27 (4) TO RELOCATE BUSINESSES OR RESIDENTS;

28 (5) TO INSTALL UTILITIES, CONSTRUCT PARKS AND PLAYGROUNDS, AND FOR
29 OTHER NEEDED IMPROVEMENTS INCLUDING:

30 (I) ROADS TO, FROM, OR IN THE DEVELOPMENT DISTRICT;

31 (II) PARKING; AND

1 (III) LIGHTING;

2 (6) TO CONSTRUCT OR REHABILITATE BUILDINGS FOR A GOVERNMENTAL
3 PURPOSE OR USE;

4 (7) FOR RESERVES OR CAPITALIZED INTEREST;

5 (8) FOR NECESSARY COSTS TO ISSUE BONDS; AND

6 (9) TO PAY THE PRINCIPAL OF AND INTEREST ON LOANS, ADVANCES, OR
7 INDEBTEDNESS THAT A POLITICAL SUBDIVISION INCURS FOR A PURPOSE SPECIFIED IN
8 THIS SECTION.

9 (B) PRINCE GEORGE'S COUNTY.

10 IN ADDITION TO THE PURPOSES LISTED IN SUBSECTION (A) OF THIS SECTION, THE
11 PROCEEDS FROM BONDS THAT PRINCE GEORGE'S COUNTY OR THE REVENUE AUTHORITY
12 OF PRINCE GEORGE'S COUNTY ISSUES MAY BE USED:

13 (1) FOR CONVENTION, CONFERENCE, OR VISITORS' CENTERS;

14 (2) TO MAINTAIN INFRASTRUCTURE IMPROVEMENTS AND CONVENTION,
15 CONFERENCE, OR VISITORS' CENTERS; AND

16 (3) TO MARKET DEVELOPMENT DISTRICT FACILITIES AND OTHER
17 IMPROVEMENTS.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 41, § 14–205.

20 In the introductory language of subsection (a) of this section, the phrase
21 “[s]ubject to subsection (b) of this section” is substituted for the former
22 phrase “[e]xcept as provided in subsection (b) of this section” for clarity.

23 In the introductory language of subsection (a)(1) of this section, the former
24 reference to “land or other” property is deleted as surplusage in light of the
25 comprehensive reference to “property”.

26 In subsection (a)(1) of this section, the former reference to a development
27 district “area” is deleted in light of the definition of “development district”.
28 See § 12–201 of this subtitle.

29 In subsection (a)(5) of this section, the former reference to “other facilities”
30 is deleted in light of the reference to “including”.

31 Defined terms: “Bond” § 12–201

32 “Development district” § 12–201

33 “Political subdivision” § 12–201

1 12–208. SPECIAL FUND — IN GENERAL.

2 (A) IN GENERAL.

3 THE GOVERNING BODY OF A POLITICAL SUBDIVISION MAY ADOPT A RESOLUTION
4 CREATING A SPECIAL FUND FOR A DEVELOPMENT DISTRICT EVEN THOUGH NO BONDS:

5 (1) HAVE BEEN ISSUED FOR THE DEVELOPMENT DISTRICT; OR

6 (2) ARE OUTSTANDING AT THE TIME OF ADOPTION.

7 (B) PAYMENT OF TAXES INTO FUND.

8 THE TAXES ALLOCATED TO THE SPECIAL FUND IN ACCORDANCE WITH §
9 12–203(A)(3)(II) OF THIS SUBTITLE SHALL BE DEPOSITED IN THE SPECIAL FUND WHILE
10 THE RESOLUTION THAT CREATED THE SPECIAL FUND REMAINS IN EFFECT.

11 (C) YIELD NOT A LOCAL TAX; EXCEPTION.

12 OTHER THAN TAX REVENUES RECEIVED FROM RESIDENTIAL PROPERTIES IN PRINCE
13 GEORGE’S COUNTY, THE TAX COLLECTED UNDER § 12–203(A)(3)(II) OF THIS SUBTITLE
14 IS NOT CONSIDERED A TAX OF THE POLITICAL SUBDIVISION FOR THE PURPOSES OF ANY
15 CONSTANT YIELD LIMITATION OR STATE OR LOCAL RESTRICTION.

16 (D) STATE PROPERTY TAX NOT ALLOWED IN SPECIAL FUND.

17 STATE REAL PROPERTY TAXES MAY NOT BE PAID INTO THE SPECIAL FUND.

18 REVISOR’S NOTE: This section is new language derived without substantive
19 change from former Art. 41, § 14–207 and the second and third sentences
20 of § 14–206(3)(ii).

21 In subsection (b) of this section, the former reference to a special fund
22 created “under § 14–206(3)(ii) of this subtitle”, revised as § 12–203(a)(3)(ii)
23 of this subtitle, is deleted as misleading because the only statutory
24 authority for the governing body of a political subdivision to create a
25 special fund under this subtitle is § 12–208(a).

26 Defined terms: “Bond” § 12–201

27 “Development district” § 12–201

28 “Political subdivision” § 12–201

29 “State” § 9–101

30 12–209. SPECIAL FUND — USES.

31 (A) NO BOND OBLIGATIONS OUTSTANDING.

32 SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE SPECIAL FUND FOR THE
33 DEVELOPMENT DISTRICT MAY BE USED FOR ANY OF THE FOLLOWING PURPOSES AS
34 DETERMINED BY THE GOVERNING BODY OF THE POLITICAL SUBDIVISION:

1 (1) A PURPOSE SPECIFIED IN § 12–207 OF THIS SUBTITLE;

2 (2) ACCUMULATED TO PAY DEBT SERVICE ON BONDS TO BE ISSUED LATER;

3 (3) PAYMENT OR REIMBURSEMENT OF DEBT SERVICE THAT THE POLITICAL
4 SUBDIVISION IS OBLIGED UNDER A GENERAL OR LIMITED OBLIGATION TO PAY, OR HAS
5 PAID, ON BONDS ISSUED BY THE STATE, A POLITICAL SUBDIVISION, OR THE REVENUE
6 AUTHORITY OF PRINCE GEORGE’S COUNTY IF THE PROCEEDS WERE USED FOR A
7 PURPOSE SPECIFIED IN § 12–207 OF THIS SUBTITLE; OR

8 (4) PAYMENT TO THE POLITICAL SUBDIVISION FOR ANY OTHER LEGAL
9 PURPOSE.

10 (B) BOND OBLIGATIONS OUTSTANDING.

11 IF BONDS ARE OUTSTANDING WITH RESPECT TO A DEVELOPMENT DISTRICT, THE
12 SPECIAL FUND MAY BE USED AS DESCRIBED IN SUBSECTION (A) OF THIS SECTION IN ANY
13 FISCAL YEAR ONLY IF:

14 (1) THE BALANCE OF THE SPECIAL FUND EXCEEDS THE UNPAID DEBT
15 SERVICE PAYABLE ON THE BONDS IN THE FISCAL YEAR; AND

16 (2) THE SPECIAL FUND IS NOT RESTRICTED SO TO PROHIBIT THE USE.

17 (C) ISSUANCE OF GENERAL OBLIGATION BONDS.

18 THE ISSUANCE OF BONDS PLEDGING THE FULL FAITH AND CREDIT OF THE
19 POLITICAL SUBDIVISION SHALL COMPLY WITH APPROPRIATE COUNTY OR MUNICIPAL
20 CHARTER REQUIREMENTS.

21 REVISOR’S NOTE: This section is new language derived without substantive
22 change from former Art. 41, § 14–208.

23 Defined terms: “Bond” § 12–201

24 “Development district” § 12–201

25 “Political subdivision” § 12–201

26 “State” § 9–101

27 12–210. SPECIAL FUND — PLEDGE OF OTHER TAX REVENUE.

28 (A) IN GENERAL.

29 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE GOVERNING
30 BODY OF A POLITICAL SUBDIVISION THAT IS NOT THE ISSUER MAY PLEDGE UNDER AN
31 AGREEMENT THAT ITS PROPERTY TAXES LEVIED ON THE TAX INCREMENT SHALL BE PAID
32 INTO THE SPECIAL FUND FOR THE DEVELOPMENT DISTRICT.

33 (2) THE AGREEMENT SHALL:

34 (I) BE IN WRITING;

1 (II) BE EXECUTED BY THE GOVERNING BODIES OF THE ISSUER AND
2 THE POLITICAL SUBDIVISION MAKING THE PLEDGE; AND

3 (III) RUN TO THE BENEFIT OF AND BE ENFORCEABLE ON BEHALF OF
4 ANY BONDHOLDER.

5 (B) PRINCE GEORGE'S COUNTY.

6 THE GOVERNING BODY OF PRINCE GEORGE'S COUNTY MAY ALSO PLEDGE HOTEL
7 RENTAL TAX REVENUES TO THE SPECIAL FUND.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 41, § 14–209.

10 In subsection (a)(1) of this section, the reference to “the governing body of”
11 a political subdivision is added for clarity and consistency throughout this
12 subtitle. Correspondingly, in subsection (b) of this section, the reference to
13 “[t]he governing body of” Prince George's County is added.

14 In subsection (a)(2)(ii) of this section, the reference to a written agreement
15 being “executed” between the governing bodies of a political subdivision
16 and an issuer is added for clarity.

17 The Economic Development Article Review Committee notes, for the
18 consideration of the General Assembly, that it is unclear whether the
19 discretion afforded to the nonissuing political subdivision under subsection
20 (a) of this section affects the general requirement to pay proceeds of the tax
21 increment into the special fund for the development district under §
22 12–203 of this subtitle. The General Assembly may wish to add clarifying
23 language to this section.

24 Defined terms: “Development district” § 12–201

25 “Political subdivision” § 12–201

26 “Tax increment” § 12–201

27 12–211. TAX STATUS.

28 (A) BONDS.

29 THE PRINCIPAL AMOUNT OF BONDS, INTEREST PAYABLE ON BONDS, THE TRANSFER
30 OF BONDS, AND INCOME FROM BONDS, INCLUDING PROFIT MADE IN THE SALE OR
31 TRANSFER OF BONDS IS EXEMPT FROM STATE AND LOCAL TAXES.

32 (B) LEASED PROPERTY.

33 IF A POLITICAL SUBDIVISION LEASES AS A LESSOR ITS PROPERTY WITHIN A
34 DEVELOPMENT DISTRICT:

35 (1) THE PROPERTY SHALL BE ASSESSED AND TAXED IN THE SAME MANNER
36 AS PRIVATELY OWNED PROPERTY; AND

1 (2) THE LEASE SHALL REQUIRE THE LESSEE TO PAY TAXES OR PAYMENTS IN
2 LIEU OF TAXES ON THE ASSESSED VALUE OF THE ENTIRE PROPERTY AND NOT ONLY ON
3 THE ASSESSED VALUE OF THE LEASEHOLD INTEREST.

4 REVISOR’S NOTE: This section is new language derived without substantive
5 change from former Art. 41, §§ 14–211 and 14–214.

6 In subsection (a) of this section, the former reference to counties and
7 municipalities “of this State” is deleted as surplusage.

8 Also in subsection (a) of this section, the former phrase “but shall be
9 included, to the extent required under Title 8, Subtitle 2 of the Tax –
10 General Article, in computing the net earnings of financial institutions” is
11 deleted as obsolete.

- 12 Defined terms: “Bond” § 12–201
- 13 “Development district” § 12–201
- 14 “Political subdivision” § 12–201
- 15 “State” § 9–101

16 12–212. EMINENT DOMAIN.

17 THIS SUBTITLE DOES NOT AUTHORIZE A COUNTY OR A MUNICIPAL CORPORATION TO
18 ACQUIRE PROPERTY BY EMINENT DOMAIN.

19 REVISOR’S NOTE: This section is new language derived without substantive
20 change from former Art. 41, § 14–213.

21 Defined term: “County” § 9–101

22 12–213. SHORT TITLE.

23 THIS SUBTITLE MAY BE CITED AS THE TAX INCREMENT FINANCING ACT.

24 REVISOR’S NOTE: This section is new language derived without substantive
25 change from former Art. 41, § 14–201.

26 SUBTITLE 3. REDEVELOPMENT BONDS.

27 12–301. DEFINITIONS.

28 (A) IN GENERAL.

29 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

30 REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–501(a).

31 No changes are made.

32 (B) BOND.

1 “**BOND**” MEANS A BOND, NOTE, OR OTHER SIMILAR INSTRUMENT THAT A POLITICAL
2 SUBDIVISION ISSUES UNDER THIS SUBTITLE.

3 **REVISOR’S NOTE:** This subsection is new language derived without
4 substantive change from former Art. 41, § 14–801(c).

5 The former reference to “[b]onds” is deleted in light of the reference to a
6 “bond” and Art. 1, § 8, which provides that the singular generally includes
7 the plural. Correspondingly, the former reference to “instruments” is
8 deleted.

9 Defined term: “Political subdivision” § 12–301

10 (c) **CHIEF EXECUTIVE.**

11 “**CHIEF EXECUTIVE**” MEANS THE PRESIDENT, CHAIR, MAYOR, COUNTY EXECUTIVE,
12 OR ANY OTHER CHIEF EXECUTIVE OFFICER OF A POLITICAL SUBDIVISION.

13 **REVISOR’S NOTE:** This subsection is new language derived without
14 substantive change from former Art. 41, § 14–801(d).

15 The term “chief executive” is substituted for the former term “chief
16 executive officer” for brevity.

17 The former phrase “however designated” is deleted in light of the reference
18 to each “other” chief executive.

19 The former phrase “whether elected to the office or acting as such under
20 law” is deleted as unnecessary.

21 Defined terms: “County” § 9–101
22 “Political subdivision” § 12–301

23 (d) **DESIGNATED BLIGHTED AREA.**

24 “**DESIGNATED BLIGHTED AREA**” MEANS AN AREA DESIGNATED UNDER § 12–303
25 OF THIS SUBTITLE.

26 **REVISOR’S NOTE:** This subsection is new language derived without
27 substantive change from former Art. 41, § 14–801(f).

28 The former reference to designation “by a local governing body by
29 ordinance or administrative resolution” is deleted in light of the
30 cross-reference to § 12–303 of this subtitle.

31 (e) **FINANCED AREA.**

32 “**FINANCED AREA**” MEANS THE GEOGRAPHIC PORTION OF A DESIGNATED BLIGHTED
33 AREA FOR WHICH THE PROCEEDS OF A BOND ARE TO BE USED UNDER § 12–303 OF THIS
34 SUBTITLE.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 41, § 14–801(g).

3 The former reference to designation “by a local governing body by
4 ordinance or administrative resolution” is deleted in light of the
5 cross-reference to § 12–303 of this subtitle.

6 The former references to an “issue of bonds” are deleted in light of the
7 definition of “bond” in this section.

8 Defined terms: “Bond” § 12–301

9 “Designated blighted area” § 12–301

10 (F) POLITICAL SUBDIVISION.

11 “POLITICAL SUBDIVISION” MEANS A COUNTY OR MUNICIPAL CORPORATION.

12 REVISOR'S NOTE: This subsection is new language derived without
13 substantive change from former Art. 41, § 14–801(h).

14 The defined term “political subdivision” is substituted for the former
15 defined term “local governing body” for consistency within this title and
16 article.

17 The former references to a county “of Maryland” and “the Mayor and City
18 Council of Baltimore” are deleted in light of the definition of “county” in §
19 9–101 of this article.

20 In this subsection and throughout this subtitle, the references to a
21 “municipal corporation” are substituted for the former references to a
22 “municipality” to conform to Md. Constitution, Art. XI–E. Correspondingly,
23 former Art. 41, § 14–801(i), which defined “municipality” as a “municipal
24 corporation”, is deleted.

25 Defined term: “County” § 9–101

26 REVISOR'S NOTE TO SECTION: Former Art. 41, § 14–801(k), which defined
27 “ordinance or resolution” as an enactment of a local jurisdiction, is deleted
28 because it did not add to the meaning of the term as ordinarily understood.

29 12–302. ORDINANCE OR RESOLUTION.

30 (A) IN GENERAL.

31 TO ISSUE A BOND, A POLITICAL SUBDIVISION SHALL ADOPT AN ORDINANCE OR
32 RESOLUTION THAT:

33 (1) DESCRIBES THE PROPOSED UNDERTAKING TO BE FINANCED BY THE
34 BOND PROCEEDS;

1 (2) REQUIRES COMPLIANCE WITH § 12–303 OF THIS SUBTITLE BEFORE THE
2 BOND IS ISSUED; AND

3 (3) SPECIFIES THE MAXIMUM PRINCIPAL AMOUNT OF THE BOND.

4 (b) SPECIFICATIONS — AUTHORITY TO PRESCRIBE.

5 AS THE POLITICAL SUBDIVISION CONSIDERS APPROPRIATE TO EFFECT THE
6 FINANCING OF THE PROPOSED UNDERTAKING, THE ORDINANCE OR RESOLUTION MAY:

7 (1) SPECIFY THE ITEMS LISTED IN SUBSECTION (C) OF THIS SECTION;

8 (2) AUTHORIZE THE FINANCE BOARD OF THE POLITICAL SUBDIVISION TO
9 SPECIFY THOSE ITEMS BY RESOLUTION OR ORDINANCE; OR

10 (3) AUTHORIZE THE CHIEF EXECUTIVE OF THE POLITICAL SUBDIVISION TO
11 SPECIFY THOSE ITEMS BY EXECUTIVE ORDER.

12 (c) SPECIFICATIONS — CONTENTS.

13 FOR EACH ISSUANCE OF A BOND, THE POLITICAL SUBDIVISION MAY SPECIFY:

14 (1) THE PRINCIPAL AMOUNT;

15 (2) THE INTEREST RATE OR, FOR FLOATING OR VARIABLE RATES OF
16 INTEREST, THE METHOD TO DETERMINE THE INTEREST RATE;

17 (3) THE MANNER AND TERMS OF SALE, INCLUDING WHETHER BY
18 COMPETITIVE OR NEGOTIATED SALE;

19 (4) THE TIME OF EXECUTION, ISSUANCE, AND DELIVERY;

20 (5) THE FORM AND DENOMINATION;

21 (6) THE SOURCE, MANNER, TIMES, AND PLACES TO PAY PRINCIPAL OR
22 INTEREST;

23 (7) CONDITIONS FOR REDEMPTION BEFORE MATURITY;

24 (8) THE ACTIONS TAKEN TO COMPLY WITH § 12–307 OF THIS SUBTITLE;

25 (9) THE PURPOSES FOR WHICH PROCEEDS MAY BE SPENT;

26 (10) THE SOURCE OF SECURITY; AND

27 (11) OTHER PROVISIONS THAT THE GOVERNING BODY OF THE POLITICAL
28 SUBDIVISION DETERMINES ARE NECESSARY OR DESIRABLE TO EFFECT THE FINANCING OF
29 THE PROPOSED UNDERTAKING.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 41, §§ 14–807, and, as they related to

1 specifications, 14–803(b) and 14–804(b).

2 In subsection (a) of this section, the former reference to the “governing
3 body” of a political subdivision is deleted as implicit in the reference to
4 adopting an ordinance or resolution by the political subdivision.

5 Defined terms: “Bond” § 12–301

6 “Chief executive” § 12–301

7 “Political subdivision” § 12–301

8 **12–303. DESIGNATION OF BLIGHTED AREA.**

9 (A) IN GENERAL.

10 BEFORE A POLITICAL SUBDIVISION ISSUES A BOND, THE POLITICAL SUBDIVISION
11 SHALL PASS AN ORDINANCE OR ADMINISTRATIVE RESOLUTION THAT:

12 (1) DESIGNATES AN AREA IN THE POLITICAL SUBDIVISION AS A DESIGNATED
13 BLIGHTED AREA BASED ON THE SUBSTANTIAL PRESENCE OF:

14 (I) EXCESSIVE VACANT LAND ON WHICH STRUCTURES WERE
15 PREVIOUSLY LOCATED;

16 (II) ABANDONED OR VACANT BUILDINGS;

17 (III) SUBSTANDARD STRUCTURES;

18 (IV) DELINQUENCIES IN REAL PROPERTY TAX PAYMENTS; OR

19 (V) SIMILAR FACTORS THAT THE POLITICAL SUBDIVISION DETERMINES
20 INDICATE BLIGHT;

21 (2) DESIGNATES THE FINANCED AREA FOR WHICH THE PROCEEDS OF THE
22 BOND ARE TO BE USED; AND

23 (3) ADOPTS A REDEVELOPMENT PLAN FOR THE DESIGNATED BLIGHTED
24 AREA.

25 (B) COOPERATION WITH MUNICIPAL CORPORATIONS.

26 (1) BEFORE A COUNTY MAY DESIGNATE A BLIGHTED AREA OR FINANCED
27 AREA THAT LIES WHOLLY OR PARTLY IN A MUNICIPAL CORPORATION, THE MUNICIPAL
28 CORPORATION SHALL CONSENT TO THE DESIGNATION OF THE PART OF THE AREA THAT IS
29 WITHIN THE MUNICIPAL CORPORATION.

30 (2) BEFORE A MUNICIPAL CORPORATION MAY DESIGNATE A BLIGHTED AREA
31 OR FINANCED AREA, THE COUNTY THAT CONTAINS THE AREA SHALL CONSENT TO THE
32 DESIGNATION.

33 (3) CONSENT UNDER THIS SUBSECTION SHALL BE MADE BY ORDINANCE OR
34 ADMINISTRATIVE RESOLUTION.

1 (c) APPLICATION OF FEDERAL LAW.

2 A POLITICAL SUBDIVISION THAT ISSUES A BOND AS A QUALIFIED REDEVELOPMENT
3 BOND UNDER THE INTERNAL REVENUE CODE SHALL COMPLY WITH FEDERAL LAW IN
4 DETERMINING:

5 (1) THE DESIGNATED BLIGHTED AREA AND THE FINANCED AREA TO WHICH
6 THE BOND RELATES; AND

7 (2) ANY OTHER DESIGNATED BLIGHTED AREAS IN THE POLITICAL
8 SUBDIVISION.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 41, § 14–805.

11 In the introductory language of subsection (a) of this section and
12 throughout this subtitle, the former reference to a bond issued “under this
13 subtitle” is deleted in light of the definition of “bond” in § 12–301 of this
14 subtitle. Correspondingly, in subsection (a)(1) of this section, the former
15 phrase “for which the bond is to be issued” is deleted.

16 In subsection (c) of this section, the former reference to the Internal
17 Revenue Code “of 1986, as amended” is deleted in light of Art. 1, § 21.

18 Also in subsection (c) of this section, the former reference to complying
19 with “the applicable restrictions set forth” in federal law is deleted in light
20 of the requirement to comply with “federal law”.

21 Defined terms: “Bond” § 12–301
22 “County” § 1–101
23 “Designated blighted area” § 12–301
24 “Financed area” § 12–301
25 “Political subdivision” § 12–301

26 12–304. AUTHORITY TO ISSUE BONDS.

27 (A) GENERAL OBLIGATION DEBT.

28 THE GENERAL ASSEMBLY INTENDS THAT GENERAL OBLIGATION DEBT MAY BE
29 INCURRED BY ISSUING BONDS IF THE PURPOSES FOR THE DEBT INCLUDE THE PURPOSES
30 FOR ISSUING BONDS UNDER THIS SUBTITLE.

31 (B) BONDS.

32 SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, A POLITICAL SUBDIVISION
33 MAY ISSUE BONDS TO FINANCE THE REDEVELOPMENT OF A DESIGNATED BLIGHTED AREA
34 IN ACCORDANCE WITH THE PROCEDURES OF THE POLITICAL SUBDIVISION FOR
35 AUTHORIZATION TO SELL AND ISSUE BONDS.

36 (c) APPLICATION OF OTHER LAW.

1 A BOND ISSUED IN ACCORDANCE WITH AN ORDINANCE OR RESOLUTION THAT
2 PLEDGES THE FULL FAITH AND CREDIT OF A POLITICAL SUBDIVISION IS SUBJECT TO:

3 (1) ANY APPLICABLE REQUIREMENTS OF THE CONSTITUTION AND THE
4 POLITICAL SUBDIVISION'S CHARTER AND LAWS ON REFERENDUM FOR THE ISSUANCE OF
5 GENERAL OBLIGATION DEBT; AND

6 (2) EACH LIMITATION IMPOSED BY PUBLIC GENERAL LAW, PUBLIC LOCAL
7 LAW, OR CHARTER ON GENERAL OBLIGATION DEBT OF THE POLITICAL SUBDIVISION.

8 (D) COMMISSIONER COUNTIES.

9 (1) THIS SUBSECTION DOES NOT APPLY TO A COUNTY THAT IS SUBJECT TO
10 ARTICLE 25A OR ARTICLE 25B OF THE CODE.

11 (2) A COUNTY MAY NOT ISSUE BONDS THAT ARE SECURED BY THE FULL
12 FAITH AND CREDIT OF THE COUNTY UNLESS THE AMOUNT OF BONDS TO BE ISSUED BY
13 THE COUNTY UNDER THIS SUBTITLE IS FIRST AUTHORIZED BY THE GENERAL ASSEMBLY.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 41, §§ 14–802 and 14–801(e).

16 In subsection (a) of this section, the former phrase “heretofore or hereafter
17 approved by referendum or otherwise” is deleted as surplusage.

18 In subsection (c) of this section, the former reference to a bond “secured by”
19 a pledge of the full faith and credit of the local jurisdiction is deleted in
20 light of the reference to a bond issued “in accordance with an ordinance or
21 resolution that” pledges the full faith and credit of the local jurisdiction, for
22 brevity.

23 Defined terms: “Bond” § 12–301

24 “County” § 9–101

25 “Designated blighted area” § 12–301

26 “Political subdivision” § 12–301

27 12–305. SECURITY FOR BONDS.

28 (A) IN GENERAL.

29 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE ORDINANCE OR
30 RESOLUTION DESCRIBED IN § 12–303 OF THIS SUBTITLE MAY PROVIDE THAT A BOND
31 MAY BE SECURED AND MADE PAYABLE FROM ANY COMBINATION OF:

32 (1) A PLEDGE OF THE FULL FAITH AND CREDIT OF THE POLITICAL
33 SUBDIVISION AND PAYABLE BY TAXES OF GENERAL APPLICABILITY;

34 (2) AN INCREASE IN REAL PROPERTY TAX REVENUES THAT IS ATTRIBUTABLE
35 TO INCREASES IN ASSESSED VALUE IN DESIGNATED BLIGHTED AREAS RESULTING FROM
36 CARRYING OUT THE PURPOSES FOR WHICH THE BOND IS ISSUED;

1 (3) REVENUES OF THE PROJECT OR UNDERTAKING FOR WHICH THE BOND IS
2 ISSUED;

3 (4) PROCEEDS OF BONDS; OR

4 (5) OTHER MONEY THAT MAY BE LEGALLY MADE AVAILABLE TO PAY THE
5 BOND.

6 (B) BALTIMORE CITY.

7 A BOND ISSUED BY BALTIMORE CITY MAY NOT BE SECURED UNDER SUBSECTION
8 (A)(2) OF THIS SECTION.

9 REVISOR’S NOTE: This section is new language derived without substantive
10 change from former Art. 41, § 14–803(a), (c), and, as it authorized a local
11 jurisdiction to adopt a resolution or ordinance, (b).

12 In subsection (a)(5) of this section, the former reference to money “that
13 may be legally made” available is deleted as implicit in the reference to
14 money available to pay the bond.

15 As to tax-supported financing in Baltimore City, *see* Baltimore City
16 Charter, Art. II, § 62 (tax increment financing).

17 Defined terms: “Bond” § 12–301

18 “Political subdivision” § 12–301

19 12–306. ALLOWABLE EXPENDITURES.

20 (A) IN GENERAL.

21 THE ORDINANCE OR RESOLUTION DESCRIBED IN § 12–308 OF THIS SUBTITLE MAY
22 PROVIDE THAT BOND PROCEEDS MAY BE SPENT ON ANY COMBINATION OF:

23 (1) THE FOLLOWING REDEVELOPMENT PURPOSES IN A DESIGNATED
24 BLIGHTED AREA:

25 (I) ACQUISITION OF REAL PROPERTY BY THE POLITICAL SUBDIVISION;

26 (II) CLEARING AND PREPARING THE REAL PROPERTY;

27 (III) REHABILITATING THE REAL PROPERTY; AND

28 (IV) RELOCATING OCCUPANTS OF THE REAL PROPERTY;

29 (2) OTHER PURPOSES THAT THE LOCAL JURISDICTION DETERMINES TO BE
30 INCIDENTAL, NECESSARY, OR APPROPRIATE TO THE REDEVELOPMENT OF THE
31 DESIGNATED BLIGHTED AREA, INCLUDING CONSTRUCTION OF NEW STRUCTURES OR THE
32 ENLARGEMENT OF EXISTING STRUCTURES; AND

1 (3) EXPENSES OF PREPARING, PRINTING, SELLING, AND ISSUING BONDS,
 2 AND FUNDING RESERVES AND INTEREST ON THE BONDS, IN THE AMOUNTS AND FOR THE
 3 TIME THAT THE POLITICAL SUBDIVISION CONSIDERS REASONABLE.

4 (B) SOURCE OF MONEY.

5 SUBJECT TO SUBSECTION (C) OF THIS SECTION, MONEY FROM THE FEDERAL
 6 GOVERNMENT, THE STATE, OR OTHERWISE LEGALLY AVAILABLE FOR THE PURPOSES
 7 DESCRIBED IN SUBSECTION (A) OF THIS SECTION MAY BE SPENT FOR ANY OF THOSE
 8 PURPOSES.

9 (C) PROCEDURES.

10 EXPENDITURES UNDER THIS SECTION SHALL FIRST BE AUTHORIZED IN
 11 ACCORDANCE WITH APPLICABLE LAWS.

12 REVISOR’S NOTE: This section is new language derived without substantive
 13 change from former Art. 41, §§ 14–801(j) and 14–804(a), (c), and, as it
 14 authorized a local jurisdiction to adopt a resolution or ordinance, (b).

15 In subsection (a)(1) of this section, the references to “real property” are
 16 substituted for the former references to “land” for consistency within this
 17 section.

18 In subsection (a)(1)(iv), (2), and (3) of this section, the former references to
 19 “such area” are deleted in light of the introductory language of this section.

20 In subsection (a)(3) of this section, the former reference to “necessary”
 21 expenses is deleted as implicit in the reference to allowing proceeds to be
 22 “spent on” the listed items.

- 23 Defined terms: “Bond” § 12–301
 24 “Designated blighted area” § 12–301
 25 “Political subdivision” § 12–301
 26 “State” § 9–101

27 12–307. AGREEMENTS BETWEEN POLITICAL SUBDIVISIONS.

28 (A) IN GENERAL.

29 BY WRITTEN AGREEMENT WITH THE ISSUER OF A BOND, A POLITICAL SUBDIVISION
 30 THAT IS NOT THE ISSUER MAY:

31 (1) PLEDGE TO THE PAYMENT OF THE BOND ANY REAL PROPERTY TAX
 32 REVENUES ATTRIBUTABLE TO INCREASES IN ASSESSED VALUE INCREASE OF PROPERTY IN
 33 DESIGNATED BLIGHTED AREAS RESULTING FROM CARRYING OUT THE PURPOSES FOR
 34 WHICH THE BOND IS ISSUED; AND

35 (2) MAKE COVENANTS ABOUT REAL PROPERTY TAXES AND OTHER CHARGES
 36 IN A DESIGNATED BLIGHTED AREA AS IT CONSIDERS APPROPRIATE.

1 (B) BENEFICIARY; ENFORCEMENT.

2 AN AGREEMENT MADE UNDER THIS SECTION MAY BE FOR THE BENEFIT AND BE
3 ENFORCEABLE ON BEHALF OF ANY BONDHOLDER.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 41, § 14–806.

6 Defined terms: “Bond” § 12–301
7 “Designated blighted area” § 12–301
8 “Political subdivision” § 12–301

9 12–308. CONDITIONS OF ISSUANCE.

10 (A) IN GENERAL.

11 A BOND:

12 (1) MAY BE IN BEARER FORM;

13 (2) MAY BE REGISTRABLE AS TO PRINCIPAL ALONE OR AS TO BOTH
14 PRINCIPAL AND INTEREST; AND

15 (3) IS A “SECURITY” UNDER § 8–102 OF THE COMMERCIAL LAW ARTICLE,
16 WHETHER OR NOT THE BOND IS ONE OF A CLASS OR SERIES OR IS DIVISIBLE INTO A CLASS
17 OR SERIES OF INSTRUMENTS.

18 (B) EXECUTION.

19 (1) A BOND SHALL BE SIGNED MANUALLY OR IN FACSIMILE BY THE CHIEF
20 EXECUTIVE OF THE POLITICAL SUBDIVISION.

21 (2) THE SIGNATURE OF AN OFFICER WHO LEAVES OFFICE BEFORE
22 DELIVERY OF THE BOND IS VALID AND SUFFICIENT FOR ALL PURPOSES AS IF THE OFFICER
23 HAD REMAINED IN OFFICE UNTIL DELIVERY.

24 (3) THE SEAL OF THE POLITICAL SUBDIVISION SHALL BE AFFIXED TO THE
25 BOND AND ATTESTED BY THE CLERK OR OTHER SIMILAR ADMINISTRATIVE OFFICER OF
26 THE POLITICAL SUBDIVISION.

27 (C) MATURITY.

28 (1) A BOND SHALL MATURE NOT LATER THAN 40 YEARS AFTER THE DATE
29 OF ISSUE.

30 (2) BONDS MAY BE ISSUED AS SERIAL BONDS OR TERM BONDS WITH
31 PROVISIONS FOR A MANDATORY SINKING FUND OR OTHER ANNUAL PRINCIPAL
32 REDEMPTION BEGINNING NOT LATER THAN 3 YEARS AFTER THE DATE OF ISSUE.

33 (D) TERMS OF SALE.

1 (1) A BOND SHALL BE SOLD IN THE MANNER, AT PUBLIC OR PRIVATE
2 (NEGOTIATED) SALE, AND ON THE TERMS AT, ABOVE, OR BELOW PAR, AS THE POLITICAL
3 SUBDIVISION CONSIDERS BEST.

4 (2) A CONTRACT TO ACQUIRE PROPERTY MAY PROVIDE THAT PAYMENTS
5 SHALL BE MADE IN BONDS.

6 (3) A BOND IS NOT SUBJECT TO ARTICLE 31, §§ 9, 10, AND 11 OF THE
7 CODE.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 41, § 14–808.

10 In subsection (d)(1) of this section, the former reference to the “governing
11 body” of a political subdivision is deleted as implicit in the reference to
12 adopting an ordinance or resolution by the political subdivision.

13 Defined terms: “Bond” § 12–301

14 “Chief executive” § 12–301

15 “Political subdivision” § 12–301

16 12–309. TAX STATUS.

17 (A) STATE AND LOCAL.

18 A BOND, THE TRANSFER OF A BOND, THE INTEREST PAYABLE ON A BOND, THE
19 INCOME DERIVED FROM A BOND, AND THE PROFIT REALIZED ON SALE OR EXCHANGE OF
20 A BOND ARE EXEMPT FROM STATE AND LOCAL TAXES.

21 (B) FEDERAL.

22 A POLITICAL SUBDIVISION MAY ISSUE BONDS UNDER THIS SUBTITLE WITHOUT
23 REGARD TO THEIR FEDERAL TAX STATUS.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 41, § 14–809.

26 Defined terms: “Bond” § 12–301

27 “Political subdivision” § 12–301

28 “State” § 9–101

29 12–310. FINDINGS CONCLUSIVE.

30 FOR PURPOSES OF AN ACTION INVOLVING THE VALIDITY OR ENFORCEABILITY OF A
31 BOND OR SECURITY FOR A BOND, A FINDING BY A POLITICAL SUBDIVISION IS CONCLUSIVE
32 AS TO:

33 (1) THE PUBLIC PURPOSE OF AN ACTION TAKEN UNDER THIS SUBTITLE; AND

34 (2) ANY OTHER MATTER RELATING TO THE ISSUANCE OF A BOND.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 41, § 14–810.

3 Defined terms: “Bond” § 12–301
4 “Political subdivision” § 12–301

5 12–311. EMINENT DOMAIN.

6 THIS SUBTITLE DOES NOT AUTHORIZE A POLITICAL SUBDIVISION TO ACQUIRE
7 PROPERTY BY EMINENT DOMAIN.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 41, § 14–811.

10 Defined term: “Political subdivision” § 12–301

11 12–312. SHORT TITLE.

12 THIS SUBTITLE MAY BE CITED AS THE REDEVELOPMENT BOND ACT.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 41, §§ 14–801(b) and 14–812.

15 Defined term: “Bond” § 12–301

16 SUBTITLE 4. INDUSTRIAL DEVELOPMENT BONDS.

17 12–401. DEFINITIONS.

18 (A) IN GENERAL.

19 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

20 REVISOR'S NOTE: This subsection is new language derived without
21 substantive change from the introductory language of former Art. 45A, § 3.

22 (B) ACUTE UNEMPLOYMENT.

23 “ACUTE UNEMPLOYMENT” MEANS AN UNEMPLOYMENT LEVEL OF AT LEAST 6% OF
24 THE LABOR FORCE IN A COUNTY.

25 REVISOR'S NOTE: This subsection is new language derived without
26 substantive change from former Art. 45A, § 3(b), as it defined a threshold
27 level of “acute unemployment”.

28 Defined term: “County” § 9–101

29 (C) BOND.

30 “BOND” MEANS A BOND OR NOTE ISSUED OR SOLD UNDER §§ 12–403, 12–404,
31 AND 12–405 OF THIS SUBTITLE.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from the first sentence of former Art. 45A, § 2(b), as it
3 defined "industrial development bonds".

4 (D) INDUSTRIAL DEVELOPMENT CORPORATION.

5 "INDUSTRIAL DEVELOPMENT CORPORATION" MEANS A NOT-FOR-PROFIT,
6 NONSTOCK CORPORATION FORMED UNDER TITLE 5, SUBTITLE 2 OF THE CORPORATIONS
7 AND ASSOCIATIONS ARTICLE WITH A CHARTER THAT RESTRICTS ITS ACTIVITIES TO THE
8 PURPOSES STATED IN § 12-402(B) OF THIS SUBTITLE.

9 REVISOR'S NOTE: This subsection is new language derived without
10 substantive change from former Art. 45A, § 3(c).

11 REVISOR'S NOTE TO SECTION:

12 Former Art. 45A, § 3(a), which defined "county", is deleted as unnecessary
13 in light of § 9-101 of this article.

14 The term "acute unemployment" formerly defined in Art. 45A, § 3(b) is
15 revised as a substantive provision in § 12-402(a) of this subtitle.

16 12-402. UNEMPLOYMENT DETERMINATION.

17 (A) REQUIRED.

18 (1) IF THE GOVERNING BODY OF A COUNTY DETERMINES BY ORDINANCE OR
19 RESOLUTION THAT A STATE OF ACUTE UNEMPLOYMENT EXISTS, THE GOVERNING BODY
20 MAY GRANT MONEY TO AN INDUSTRIAL DEVELOPMENT CORPORATION OPERATING IN THE
21 COUNTY IN AN AMOUNT THAT THE GOVERNING BODY CONSIDERS APPROPRIATE.

22 (2) THE GOVERNING BODY OF THE COUNTY SHALL BASE ITS
23 UNEMPLOYMENT DETERMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION ON DATA
24 FROM AN OFFICIAL FEDERAL, STATE, OR COUNTY GOVERNMENT PUBLICATION THAT THE
25 GOVERNING BODY SELECTS.

26 (B) PURPOSES.

27 AN INDUSTRIAL DEVELOPMENT CORPORATION MAY USE MONEY PROVIDED UNDER
28 SUBSECTION (A) OF THIS SECTION ONLY TO:

29 (1) ASSIST AND, THROUGH COOPERATIVE EFFORTS OF THE INSTITUTIONS
30 AND CORPORATIONS THAT OFFER ASSISTANCE, ADVANCE THE BUSINESS PROSPERITY AND
31 ECONOMIC WELFARE OF THE COUNTY;

32 (2) PROMOTE AND ASSIST IN LOCATING NEW BUSINESSES AND INDUSTRIES
33 IN THE COUNTY;

34 (3) REHABILITATE EXISTING BUSINESSES AND INDUSTRIES IN THE COUNTY;

1 (4) STIMULATE AND ASSIST IN THE EXPANSION OF BUSINESS ACTIVITY THAT
 2 PROMOTES BUSINESS DEVELOPMENT AND MAINTAINS ECONOMIC STABILITY IN THE
 3 COUNTY;

4 (5) MAXIMIZE EMPLOYMENT OPPORTUNITIES IN THE COUNTY;

5 (6) COOPERATE AND ACT WITH PUBLIC OR PRIVATE ORGANIZATIONS THAT
 6 PROMOTE AND ADVANCE INDUSTRIAL DEVELOPMENT IN THE COUNTY; OR

7 (7) PROVIDE MONEY AND EXTEND CREDIT TO RECIPIENTS FOR THE
 8 PROMOTION, DEVELOPMENT, OR CONDUCT OF BUSINESS AND INDUSTRIAL ACTIVITY IN
 9 THE COUNTY TO THE EXTENT THAT MONEY AND CREDIT FOR THOSE PURPOSES IS NOT
 10 OTHERWISE READILY AVAILABLE.

11 REVISOR'S NOTE: This section is new language derived without substantive
 12 change from former Art. 45A, §§ 1 and, as it related to computation of
 13 "acute unemployment", 3(b).

14 In subsection (a)(1) of this section, the reference to "grant[ing]" money is
 15 substituted for the former reference to "contribut[ing] and deliver[ing]"
 16 money for clarity, brevity, and consistency within this subtitle.

17 Also in subsection (a)(1) of this section, the former reference to a certain
 18 law applying "at any time after the passage of this article" is deleted as
 19 unnecessary.

20 In subsection (b)(1) of this section, the former reference to an entity
 21 providing assistance "from time to time" is deleted as unnecessary.

22 Also in subsection (b)(1) of this section, the former reference to money to
 23 "develop" economic welfare is deleted as implicit in the reference to money
 24 to "advance" economic welfare.

25 In subsection (b)(2) of this section, the limitation that an industrial
 26 development corporation "promote" new business is substituted for the
 27 former limitation that the industrial development corporation "encourage"
 28 new business for clarity and consistency within this subtitle.

29 In subsection (b)(5) of this section, the reference to an industrial
 30 development corporation "maximiz[ing]" employment opportunities is
 31 substituted for the former reference to it "provid[ing] maximum
 32 opportunities for employment" for clarity and brevity.

33 In subsection (b)(7) of this section, the reference to providing money and
 34 credit to "recipients" is substituted for the former reference to providing
 35 money and credit to "approved and deserving applicants" for clarity.

36 Defined terms: "County" § 9–101

37 "Industrial development corporation" § 12–401

38 "State" § 9–101

1 12–403. BOND AUTHORIZATION.

2 (A) IN GENERAL.

3 IF THE GOVERNING BODY OF A COUNTY DETERMINES UNDER § 12–402(A) OF THIS
4 SUBTITLE THAT ACUTE UNEMPLOYMENT EXISTS IN THE COUNTY, THE GOVERNING BODY
5 MAY ISSUE AND SELL BONDS FROM TIME TO TIME TO FINANCE GRANTS TO INDUSTRIAL
6 DEVELOPMENT CORPORATIONS UNDER § 12–402 OF THIS SUBTITLE.

7 (B) AMOUNT.

8 THE TOTAL AMOUNT OF BONDS ISSUED AND OUTSTANDING AT ONE TIME UNDER
9 SUBSECTION (A) OF THIS SECTION MAY NOT EXCEED THE SUM OF:

10 (1) 0.08% OF THE TOTAL ASSESSED VALUE OF ALL REAL PROPERTY IN THE
11 COUNTY THAT IS SUBJECT TO TAXATION AT THE FULL COUNTY TAX RATE; AND

12 (2) 0.2% OF THE TOTAL ASSESSED VALUE OF ALL PERSONAL PROPERTY AND
13 OPERATING REAL PROPERTY DESCRIBED IN § 8–109(C) OF THE TAX – PROPERTY
14 ARTICLE IN THE COUNTY THAT IS SUBJECT TO TAXATION AT THE FULL COUNTY TAX
15 RATE.

16 (C) FORM.

17 THE GOVERNING BODY OF THE COUNTY THAT ISSUES THE BONDS SHALL
18 DETERMINE THE FORM OF THE BONDS.

19 (D) GENERAL OBLIGATION OF COUNTY.

20 A COUNTY THAT ISSUES AND SELLS BONDS UNDER THIS SECTION SHALL PLEDGE ITS
21 FULL FAITH AND CREDIT TO THE BONDS, WHICH SHALL BE A GENERAL OBLIGATION OF
22 THE COUNTY.

23 REVISOR’S NOTE: This section is new language derived without substantive
24 change from former Art. 45A, § 2(a), the third sentence of (d), and, as they
25 related to full faith and credit, the second and fifth sentences of (b).

26 In subsection (a) of this section, the reference to “determin[ing]” the
27 existence of acute unemployment is substituted for the former reference to
28 the requirement that a county “shall so provide” for clarity.

29 Also in subsection (a) of this section, the reference to issuing bonds to
30 “finance” grants is substituted for the former reference to issuing bonds to
31 “make” grants for accuracy.

32 Also in subsection (a) of this section, the former redundant reference to the
33 issuance and sale of bonds by a county “in connection with the borrowing
34 by it ... of the sums necessary” to finance grants is deleted as surplusage.

35 Defined terms: “Bond” § 12–401

36 “County” § 9–101

1 12-404. TERMS — BONDS.

2 (A) INTEREST RATE; PAYMENT.

3 THE INTEREST RATE ON BONDS:

4 (1) MAY NOT EXCEED 5.5%; AND

5 (2) SHALL BE PAYABLE AT LEAST TWICE EVERY 12 MONTHS.

6 (B) MATURITY.

7 (1) THE BONDS SHALL MATURE SERIALLY OVER A PERIOD OF 30 YEARS.

8 (2) THE GOVERNING BODY OF THE COUNTY SHALL DETERMINE THE
9 MATURITY DATES AND AMOUNTS OF THE BONDS.

10 (C) SALE; NOTICE.

11 THE GOVERNING BODY OF A COUNTY THAT ISSUES BONDS UNDER THIS SUBTITLE
12 SHALL:13 (1) OFFER THE BONDS FOR SALE TO THE HIGHEST BIDDER BY SEALED BIDS
14 DELIVERED AT A TIME AND PLACE SELECTED BY THE GOVERNING BODY; AND

15 (2) ADVERTISE THE TIME AND PLACE SELECTED IN:

16 (I) TWO OR MORE NEWSPAPERS OF GENERAL CIRCULATION IN THE
17 COUNTY; AND18 (II) ANY ADDITIONAL NEWSPAPERS THAT THE GOVERNING BODY
19 SELECTS.20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from the first sentence of former Art. 45A, § 2(d) and, as it related
22 to interest rates and maturities on industrial development bonds, (b).23 In subsection (a) of this section, the reference to interest payable “at least
24 twice every 12 months” is substituted for the former reference to interest
25 payable “semiannually” for clarity.26 In subsection (c)(1) of this section, the reference to a time and place
27 “selected by the governing body” is added for clarity and to make explicit
28 what was only implied by the former law.29 The Economic Development Article Review Committee notes, for the
30 consideration of the General Assembly, that in subsection (c)(2) of this
31 section, the reference to two or more newspapers “of general circulation in
32 the county” is substituted for the former obsolete reference to two or more
33 newspapers “published in said county” for clarity. The committee wishes to
34 bring this substitution to the attention of the General Assembly.

1 Defined terms: “Bond” § 12–401

2 “County” § 9–101

3 12–405. TERMS — NOTES.

4 (A) INTEREST RATE.

5 THE GOVERNING BODY OF A COUNTY THAT ISSUES NOTES OTHER THAN BONDS
6 ISSUED UNDER § 12–405 OF THIS SUBTITLE SHALL ESTABLISH THE INTEREST RATES ON
7 THE NOTES.

8 (B) MATURITY.

9 THE GOVERNING BODY OF A COUNTY THAT ISSUES NOTES SHALL ESTABLISH THEIR
10 MATURITIES, NOT TO EXCEED 5 YEARS.

11 REVISOR’S NOTE: This section is new language derived without substantive
12 change from the fourth sentence of former Art. 45A, § 2(b).

13 Defined term: “County” § 9–101

14 12–406. TAX STATUS.

15 PRINCIPAL OF AND INTEREST ON BONDS ISSUED UNDER THIS SUBTITLE ARE NOT
16 SUBJECT TO STATE OR LOCAL TAXATION.

17 REVISOR’S NOTE: This section is new language derived without substantive
18 change from the second and fifth sentences of former Art. 45A, § 2(b), as
19 they related to the tax–exempt status of debt instruments.

20 Defined terms: “Bond” § 12–401

21 “State” § 9–101

22 12–407. PAYMENT OF DEBT INSTRUMENTS.

23 (A) TAX LEVY.

24 IF BONDS ISSUED UNDER THIS SUBTITLE ARE OUTSTANDING AT THE TIME TAXES
25 ARE LEVIED FOR GENERAL COUNTY PURPOSES, THE GOVERNING BODY OF THE ISSUING
26 COUNTY EACH YEAR SHALL LEVY TAXES ON ALL ASSESSABLE PROPERTY IN THE COUNTY
27 IN AN AMOUNT SUFFICIENT TO PROVIDE FOR THE PAYMENT OF THE PRINCIPAL OF AND
28 INTEREST ON THE BONDS.

29 (B) SALE PROCEEDS.

30 IF THE INTEREST BECOMES DUE ON A BOND BEFORE A SUFFICIENT AMOUNT OF
31 TAXES IS COLLECTED UNDER SUBSECTION (A) OF THIS SECTION, THE COUNTY MAY PAY
32 THE INTEREST FROM THE PROCEEDS OF THE SALE OF DEBT INSTRUMENTS.

33 REVISOR’S NOTE: This section is new language derived without substantive
34 change from former Art. 45A, § 2(c).

1 In subsection (b) of this section, the former reference to “an annual [tax]
2 levy” is deleted as implicit in the reference to taxes “collected”.

3 Defined terms: “Bond” § 12–401
4 “County” § 9–101

5 12–408. PROHIBITED DEFENSES.

6 IT IS NOT A DEFENSE TO AN ACTION FOR THE COLLECTION OF PRINCIPAL OF OR
7 INTEREST ON A BOND THAT:

8 (1) A STATE OF ACUTE UNEMPLOYMENT DID NOT EXIST AS DETERMINED IN
9 THE ORDINANCE OR RESOLUTION ADOPTED BY THE GOVERNING BODY OF THE COUNTY;
10 OR

11 (2) THE TOTAL AMOUNT OF OUTSTANDING BONDS EXCEEDS THE LIMITS
12 ESTABLISHED IN § 12–403(B) OF THIS SUBTITLE.

13 REVISOR’S NOTE: This section is new language derived without substantive
14 change from the sixth sentence of former Art. 45A, § 2(b).

15 Defined terms: “Bond” § 12–401
16 “County” § 9–101

17 12–409. REGULATIONS.

18 THE GOVERNING BODY OF A COUNTY THAT ISSUES BONDS UNDER THIS SUBTITLE
19 MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.

20 REVISOR’S NOTE: This section is new language derived without substantive
21 change from the second sentence of former Art. 45A, § 2(d).

22 The former reference to a county adopting regulations “as it may deem
23 advisable” is deleted as implicit in the regulatory authority granted to
24 counties under this section.

25 Defined terms: “Bond” § 12–401
26 “County” § 9–101

27 GENERAL REVISOR’S NOTE TO SUBTITLE:

28 The Economic Development Article Review Committee notes, for the
29 consideration of the General Assembly, that this subtitle appears to be obsolete. The
30 use of a specific percentage in the definition of “acute unemployment” in § 12–401(b)
31 of this subtitle, the specific requirement for a 30–year maturity for bonds in §
32 12–404(b) of this subtitle, the limitation on defenses in § 12–408 of this subtitle, and
33 the exclusion of municipal corporations as potential issuers all limit the
34 attractiveness of bonds authorized by this subtitle. The committee is unaware of any
35 jurisdiction that has issued debt under this subtitle. The General Assembly may wish

1 to consider updating the bonding authority under this subtitle, or in the alternative,
2 repealing this subtitle as obsolete.

3 TITLE 13. REGIONAL DEVELOPMENT RESOURCES.

4 SUBTITLE 1. APPALACHIAN REGIONAL DEVELOPMENT PROGRAM.

5 13–101. DEFINITIONS.

6 (A) IN GENERAL.

7 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

8 REVISOR’S NOTE: This subsection is new language used as the standard
9 introductory language to a definition section.

10 (B) ACT.

11 “ACT” MEANS THE FEDERAL APPALACHIAN REGIONAL DEVELOPMENT ACT OF
12 1965.

13 REVISOR’S NOTE: This subsection is new language added to avoid repetition
14 of the full reference to the “federal Appalachian Regional Development Act
15 of 1965”.

16 (C) COMMISSION.

17 “COMMISSION” MEANS THE FEDERAL APPALACHIAN REGIONAL COMMISSION.

18 REVISOR’S NOTE: This subsection is new language added to avoid repetition
19 of the full reference to the “federal Appalachian Regional Commission”.

20 (D) PROGRAM.

21 “PROGRAM” MEANS THE FEDERAL APPALACHIAN REGIONAL DEVELOPMENT
22 PROGRAM.

23 REVISOR’S NOTE: This subsection is new language added to avoid repetition
24 of the full reference to the “federal Appalachian Regional Development
25 Program”.

26 13–102. AUTHORITY OF DEPARTMENT.

27 (A) IMPLEMENTATION OF ACT.

28 THE DEPARTMENT MAY:

29 (1) COORDINATE AND COOPERATE WITH ANY UNIT OF THE FEDERAL
30 GOVERNMENT TO IMPLEMENT THE ACT IN THE STATE;

31 (2) ENTER INTO CONTRACTS AND AGREEMENTS UNDER THE ACT;

1 (3) SPEND MONEY FOR ANY PURPOSE RELATED TO THE ACT, INCLUDING
2 FOR HIGHWAYS, NATURAL RESOURCES, AGRICULTURE, EDUCATION, TRAINING, HEALTH,
3 AND WELFARE; AND

4 (4) DO ALL THINGS NECESSARY AND PROPER TO CARRY OUT THE ACT.

5 (B) ACCEPTANCE OF FEDERAL ASSISTANCE.

6 (1) IF ANY UNIT OF THE FEDERAL GOVERNMENT OFFERS TO THE STATE
7 SERVICES, EQUIPMENT, SUPPLIES, MATERIALS, OR MONEY AS A GIFT OR GRANT TO
8 IMPLEMENT THE PROGRAM, THE STATE, ACTING THROUGH THE GOVERNOR AND
9 DEPARTMENT, MAY ACCEPT THE OFFER.

10 (2) IF THE GOVERNOR AND DEPARTMENT ACCEPT THE OFFER OF A GIFT OR
11 GRANT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE GOVERNOR AND DEPARTMENT
12 MAY AUTHORIZE A UNIT OF THE STATE OR A POLITICAL SUBDIVISION TO RECEIVE AND
13 USE THE GIFT OR GRANT.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 83A, § 6–701.

16 In subsections (a)(1) and (b)(1) and (2) of this section, the former references
17 to an “agency” and “officer” of a governmental unit are deleted as implicit
18 in the references to the “unit”. Correspondingly, in subsections (a)(1) and
19 (b)(1) of this section, the references to a “unit” are substituted for the
20 former references to the “federal government or any agency or officer
21 thereof”. And, in subsection (b)(2) of this section, the reference to the
22 authority of the Governor and Department to authorize a “unit” of the
23 State or a political subdivision to receive assistance is added. The term
24 “unit” is used as a general term for an entity of government. *See* General
25 Revisor’s Note to article.

26 Also in subsection (a)(1) of this section, the former reference to the
27 Appalachian Regional Development Act of 1965 “as amended from time to
28 time” is deleted as unnecessary in light of Art. 1, § 21.

29 In subsections (a)(3) and (b)(1) of this section, the word “money” is
30 substituted for the former references to “funds” for consistency throughout
31 this article.

32 In subsection (a)(3) of this section, the former references to the expenditure
33 of funds in certain “fields” are deleted as surplusage.

34 In subsection (b)(1) of this section, the reference to “implement[ing]” the
35 Program is added for clarity.

36 Defined terms: “Act” § 13–101

37 “Department” § 9–101

38 “Program” § 13–101

39 “Secretary” § 9–101

1 “State” § 9–101

2 13–103. COMMISSION.

3 (A) MEMBERSHIP.

4 SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE GOVERNOR SHALL BE A
5 MEMBER OF THE COMMISSION.

6 (B) DESIGNEE.

7 (1) THE GOVERNOR MAY DESIGNATE AN INDIVIDUAL WHO IS A MEMBER OF
8 THE GOVERNOR’S CABINET OR PERSONAL STAFF TO SERVE AS A MEMBER OF THE
9 COMMISSION ON THE GOVERNOR’S BEHALF.

10 (2) THE GOVERNOR’S DESIGNEE SERVES AT THE PLEASURE OF THE
11 GOVERNOR.

12 (3) THE GOVERNOR’S DESIGNEE SHALL RECEIVE COMPENSATION AS
13 PROVIDED IN THE STATE BUDGET.

14 (4) THE GOVERNOR’S DESIGNEE IS ENTITLED TO REIMBURSEMENT FOR
15 EXPENSES AS PROVIDED UNDER THE STANDARD STATE TRAVEL REGULATIONS.

16 (C) AUTHORITY OF GOVERNOR OR DESIGNEE.

17 THE GOVERNOR OR THE GOVERNOR’S DESIGNEE MAY:

18 (1) CERTIFY A LOCAL DEVELOPMENT COMMISSION TO THE COMMISSION;
19 AND

20 (2) PERFORM ANY ACT NECESSARY TO CARRY OUT THE PROVISIONS OF THIS
21 SUBTITLE OR THE ACT.

22 REVISOR’S NOTE: This section is new language derived without substantive
23 change from former Art. 83A, § 6–702.

24 In subsection (b)(1) of this section, the reference to the Governor’s
25 authority to “designate” an individual to serve on the Commission is
26 substituted for the former reference to the Governor’s authority to
27 “appoint” an individual for consistency throughout this article with regard
28 to references to the process that is used to identify an individual who
29 serves on behalf of another individual on a board, task force, or
30 commission.

31 In subsection (b)(2), (3), and (4) of this section, the references to the
32 “Governor’s designee” are substituted for the former references to
33 “alternate member” for consistency with subsection (b)(1) of this section.

34 In subsection (b)(2) of this section, the reference to the Governor’s designee
35 “serv[ing] at the pleasure of the Governor” is substituted for the former

1 reference to the authority of “[t]he Governor [to] remove the individual
2 designated as the alternate and appoint another member of the Governor’s
3 cabinet or the Governor’s personal staff to serve as the alternate” for
4 consistency throughout this article with regard to references to an
5 individual who serves at the pleasure of another individual on a board,
6 task force, or commission, without a definite term of appointment.

7 In subsection (b)(3) of this section, the former reference to “salary” is
8 deleted as implicit in the reference to “compensation”.

9 Also in subsection (b)(3) of this section, the reference to the “State” budget
10 is added for consistency throughout this article with regard to references to
11 the State budget.

12 In subsection (b)(4) of this section, the former reference to reimbursement
13 for “expenses incurred while engaged in the performance of duties” is
14 deleted as implicit in the reference to reimbursement “as provided under
15 the Standard State Travel Regulations”.

16 In subsection (c)(2) of this section, the former reference to the authority to
17 perform any act “required” to carry out this subtitle or the Act is deleted as
18 implicit in the reference to the authority to perform any act that is
19 “necessary”.

20 Also in subsection (c)(2) of this section, the former reference to the
21 Appalachian Regional Development Act of 1965 “as amended from time to
22 time” is deleted as unnecessary in light of Art. 1, § 21.

23 Defined terms: “Act” § 13–101

24 “Commission” § 13–101

25 “Department” § 9–101

26 “State” § 9–101

27 SUBTITLE 2. SOUTHERN STATES ENERGY COMPACT.

28 13–201. DEFINITIONS.

29 (A) IN GENERAL.

30 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

33 (B) BOARD.

34 “BOARD” MEANS THE SOUTHERN STATES ENERGY BOARD.

35 REVISOR’S NOTE: This subsection is new language derived without
36 substantive change from the first sentence of former Art. 41, § 16–103(a),

1 as it defined “board”.

2 (c) COMPACT.

3 “COMPACT” MEANS THE SOUTHERN STATES ENERGY COMPACT.

4 REVISOR’S NOTE: This subsection is new language added to avoid repetition
5 of the full title of the Southern States Energy Compact.

6 13–202. SOUTHERN STATES ENERGY COMPACT.

7 THE SOUTHERN STATES ENERGY COMPACT IS ENTERED INTO BY THIS STATE
8 WITH OTHER STATES LEGALLY JOINING THE COMPACT IN ACCORDANCE WITH ITS TERMS,
9 IN THE FORM SUBSTANTIALLY AS FOLLOWS:

10 (1) *ARTICLE I. POLICY AND PURPOSE.*

11 THE PARTY STATES RECOGNIZE THAT THE PROPER EMPLOYMENT AND
12 CONSERVATION OF ENERGY AND EMPLOYMENT OF ENERGY–RELATED FACILITIES,
13 MATERIALS, AND PRODUCTS, WITHIN THE CONTEXT OF A RESPONSIBLE REGARD FOR THE
14 ENVIRONMENT, CAN ASSIST SUBSTANTIALLY IN THE INDUSTRIALIZATION OF THE SOUTH
15 AND THE DEVELOPMENT OF A BALANCED ECONOMY FOR THE REGION. THEY ALSO
16 RECOGNIZE THAT OPTIMUM BENEFIT FROM AND ACQUISITION OF ENERGY RESOURCES
17 AND FACILITIES REQUIRE SYSTEMATIC ENCOURAGEMENT, GUIDANCE, AND ASSISTANCE
18 FROM THE PARTY STATES ON A COOPERATIVE BASIS. IT IS THE POLICY OF THE PARTY
19 STATES TO UNDERTAKE SUCH COOPERATION ON A CONTINUING BASIS; IT IS THE PURPOSE
20 OF THIS COMPACT TO PROVIDE THE INSTRUMENTS AND FRAMEWORK FOR SUCH A
21 COOPERATIVE EFFORT TO IMPROVE THE ECONOMY OF THE SOUTH AND CONTRIBUTE TO
22 THE INDIVIDUAL AND COMMUNITY WELL–BEING OF THE REGION’S PEOPLE.

23 (2) *ARTICLE II. THE BOARD.*

24 (A) THERE IS HEREBY CREATED AN AGENCY OF THE PARTY STATES TO BE KNOWN
25 AS THE “SOUTHERN STATES ENERGY BOARD” (HEREINAFTER CALLED THE BOARD). THE
26 BOARD SHALL BE COMPOSED OF THREE MEMBERS FROM EACH PARTY STATE, ONE OF
27 WHOM SHALL BE APPOINTED OR DESIGNATED IN EACH STATE TO REPRESENT THE
28 GOVERNOR, THE STATE SENATE, AND THE STATE HOUSE OF DELEGATES, RESPECTIVELY.
29 EACH MEMBER SHALL BE DESIGNATED OR APPOINTED IN ACCORDANCE WITH THE LAW OF
30 THE STATE WHICH THE MEMBER REPRESENTS AND SERVING AND SUBJECT TO REMOVAL
31 IN ACCORDANCE WITH SUCH LAW. ANY MEMBER OF THE BOARD MAY PROVIDE FOR THE
32 DISCHARGE OF THE MEMBER’S DUTIES AND THE PERFORMANCE OF THE MEMBER’S
33 FUNCTIONS THEREON (EITHER FOR THE DURATION OF THE MEMBERSHIP OR FOR ANY
34 LESSER PERIOD OF TIME) BY A DEPUTY OR ASSISTANT, IF THE LAW OF THE MEMBER’S
35 STATE MAKES SPECIFIC PROVISION THEREFOR. THE FEDERAL GOVERNMENT MAY BE

1 REPRESENTED WITHOUT VOTE IF PROVISION IS MADE BY FEDERAL LAW FOR SUCH
2 REPRESENTATION.

3 (B) EACH PARTY STATE SHALL BE ENTITLED TO ONE VOTE ON THE BOARD, TO BE
4 DETERMINED BY MAJORITY VOTE OF EACH MEMBER OR MEMBER'S REPRESENTATIVE
5 FROM THE PARTY STATE PRESENT AND VOTING ON ANY QUESTION. NO ACTION OF THE
6 BOARD SHALL BE BINDING UNLESS TAKEN AT A MEETING AT WHICH A MAJORITY OF ALL
7 PARTY STATES ARE REPRESENTED AND UNLESS A MAJORITY OF THE TOTAL NUMBER OF
8 VOTES ON THE BOARD ARE CAST IN FAVOR THEREOF.

9 (C) THE BOARD SHALL HAVE A SEAL.

10 (D) THE BOARD SHALL ELECT ANNUALLY, FROM AMONG ITS MEMBERS, A
11 CHAIRMAN, VICE-CHAIRMAN, AND A TREASURER. THE BOARD SHALL APPOINT AN
12 EXECUTIVE DIRECTOR WHO SHALL SERVE AT ITS PLEASURE AND WHO SHALL ALSO ACT AS
13 SECRETARY, AND WHO, TOGETHER WITH THE TREASURER, SHALL BE BONDED IN SUCH
14 AMOUNTS AS THE BOARD MAY REQUIRE.

15 (E) THE EXECUTIVE DIRECTOR, WITH THE APPROVAL OF THE BOARD, SHALL
16 APPOINT AND REMOVE OR DISCHARGE SUCH PERSONNEL AS MAY BE NECESSARY FOR THE
17 PERFORMANCE OF THE BOARD'S FUNCTIONS IRRESPECTIVE OF THE CIVIL SERVICE,
18 PERSONNEL OR OTHER MERIT SYSTEM LAWS OF ANY OF THE PARTY STATES.

19 (F) THE BOARD MAY ESTABLISH AND MAINTAIN, INDEPENDENTLY OR IN
20 CONJUNCTION WITH ANY ONE OR MORE OF THE PARTY STATES, A SUITABLE RETIREMENT
21 SYSTEM FOR ITS FULL-TIME EMPLOYEES. EMPLOYEES OF THE BOARD SHALL BE ELIGIBLE
22 FOR SOCIAL SECURITY COVERAGE IN RESPECT OF OLD-AGE AND SURVIVORS INSURANCE
23 PROVIDED THAT THE BOARD TAKES SUCH STEPS AS MAY BE NECESSARY PURSUANT TO
24 FEDERAL LAW TO PARTICIPATE IN SUCH PROGRAM OF INSURANCE AS A GOVERNMENTAL
25 AGENCY OR UNIT. THE BOARD MAY ESTABLISH AND MAINTAIN OR PARTICIPATE IN SUCH
26 ADDITIONAL PROGRAMS OF EMPLOYEE BENEFITS AS MAY BE APPROPRIATE.

27 (G) THE BOARD MAY BORROW, ACCEPT, OR CONTRACT FOR THE SERVICES OF
28 PERSONNEL FROM ANY STATE OF THE UNITED STATES OR ANY SUBDIVISION OR AGENCY
29 THEREOF, FROM ANY INTERSTATE AGENCY, OR FROM ANY INSTITUTION, PERSON, FIRM
30 OR CORPORATION.

31 (H) THE BOARD MAY ACCEPT FOR ANY OF ITS PURPOSES AND FUNCTIONS UNDER
32 THIS COMPACT ANY AND ALL DONATIONS, AND GRANTS OF MONEY, EQUIPMENT,
33 SUPPLIES, MATERIALS, AND SERVICES (CONDITIONAL OR OTHERWISE) FROM ANY STATE
34 OR THE UNITED STATES OR ANY SUBDIVISION OR AGENCY THEREOF, OR INTERSTATE
35 AGENCY, OR FROM ANY INSTITUTION, PERSON, FIRM, OR CORPORATION, AND MAY
36 RECEIVE, UTILIZE AND DISPOSE OF THE SAME.

37 (I) THE BOARD MAY ESTABLISH AND MAINTAIN SUCH FACILITIES AS MAY BE
38 NECESSARY FOR THE TRANSACTING OF ITS BUSINESS. THE BOARD MAY ACQUIRE, HOLD,
39 AND CONVEY REAL AND PERSONAL PROPERTY AND ANY INTEREST THEREIN.

40 (J) THE BOARD SHALL ADOPT BYLAWS, RULES, AND REGULATIONS FOR THE
41 CONDUCT OF ITS BUSINESS, AND SHALL HAVE THE POWER TO AMEND AND RESCIND

1 THESE BYLAWS, RULES, AND REGULATIONS. THE BOARD SHALL PUBLISH ITS BYLAWS,
2 RULES, AND REGULATIONS IN CONVENIENT FORM AND SHALL FILE A COPY THEREOF, AND
3 SHALL ALSO FILE A COPY OF ANY AMENDMENT THERETO, WITH THE APPROPRIATE
4 AGENCY OR OFFICER IN EACH OF THE PARTY STATES.

5 (K) THE BOARD ANNUALLY SHALL MAKE TO THE GOVERNOR OF EACH PARTY
6 STATE, A REPORT COVERING THE ACTIVITIES OF THE BOARD FOR THE PRECEDING YEAR,
7 AND EMBODYING SUCH RECOMMENDATIONS AS MAY HAVE BEEN ADOPTED BY THE BOARD,
8 WHICH REPORT SHALL BE TRANSMITTED TO THE LEGISLATURE OF SAID STATE. THE
9 BOARD MAY ISSUE SUCH ADDITIONAL REPORTS AS IT MAY DEEM DESIRABLE.

10 (3) *ARTICLE III. FINANCES.*

11 (A) THE BOARD SHALL SUBMIT TO THE EXECUTIVE HEAD OR DESIGNATED
12 OFFICER OR OFFICERS OF EACH PARTY STATE A BUDGET OF ITS ESTIMATED
13 EXPENDITURES FOR SUCH PERIOD AS MAY BE REQUIRED BY THE LAWS OF THAT
14 JURISDICTION FOR PRESENTATION TO THE LEGISLATURE THEREOF.

15 (B) EACH OF THE BOARD'S BUDGETS OF ESTIMATED EXPENDITURES SHALL
16 CONTAIN SPECIFIC RECOMMENDATIONS OF THE AMOUNT OR AMOUNTS TO BE
17 APPROPRIATED BY EACH OF THE PARTY STATES. ONE HALF OF THE TOTAL AMOUNT OF
18 EACH BUDGET OF ESTIMATED EXPENDITURES SHALL BE APPORTIONED AMONG THE PARTY
19 STATES IN EQUAL SHARES; ONE QUARTER OF EACH SUCH BUDGET SHALL BE
20 APPORTIONED AMONG THE PARTY STATES IN ACCORDANCE WITH THE RATIO OF THEIR
21 POPULATIONS TO THE TOTAL POPULATION OF THE ENTIRE GROUP OF PARTY STATES
22 BASED ON THE LAST DECENNIAL FEDERAL CENSUS; AND ONE QUARTER OF EACH SUCH
23 BUDGET SHALL BE APPORTIONED AMONG THE PARTY STATES ON THE BASIS OF THE
24 RELATIVE AVERAGE PER-CAPITA INCOME OF THE INHABITANTS IN EACH OF THE PARTY
25 STATES BASED ON THE LATEST COMPUTATIONS PUBLISHED BY THE FEDERAL
26 CENSUS-TAKING AGENCY. SUBJECT TO APPROPRIATION BY THEIR RESPECTIVE
27 LEGISLATURES, THE BOARD SHALL BE PROVIDED WITH SUCH FUNDS BY EACH OF THE
28 PARTY STATES AS ARE NECESSARY TO PROVIDE THE MEANS OF ESTABLISHING AND
29 MAINTAINING FACILITIES, A STAFF OF PERSONNEL, AND SUCH ACTIVITIES AS MAY BE
30 NECESSARY TO FULFILL THE POWERS AND DUTIES IMPOSED UPON AND ENTRUSTED TO
31 THE BOARD.

32 (C) THE BOARD MAY MEET ANY OF ITS OBLIGATIONS IN WHOLE OR IN PART WITH
33 FUNDS AVAILABLE TO IT UNDER ARTICLE II (H) OF THIS COMPACT PROVIDED THAT THE
34 BOARD TAKES SPECIFIC ACTION SETTING ASIDE SUCH FUNDS PRIOR TO THE INCURRING
35 OF ANY OBLIGATION TO BE MET IN WHOLE OR IN PART IN THIS MANNER. EXCEPT WHERE
36 THE BOARD MAKES USE OF FUNDS AVAILABLE TO IT UNDER ARTICLE II (H) HEREOF, THE
37 BOARD SHALL NOT INCUR ANY OBLIGATION PRIOR TO THE ALLOTMENT OF FUNDS BY THE
38 PARTY JURISDICTIONS ADEQUATE TO MEET THE SAME.

39 (D) THE BOARD SHALL KEEP ACCURATE ACCOUNTS OF ALL RECEIPTS AND
40 DISBURSEMENTS. THE RECEIPTS AND DISBURSEMENTS OF THE BOARD SHALL BE SUBJECT
41 TO THE AUDIT AND ACCOUNTING PROCEDURES ESTABLISHED UNDER ITS BYLAWS.
42 HOWEVER, ALL RECEIPTS AND DISBURSEMENTS OF FUNDS HANDLED BY THE BOARD
43 SHALL BE AUDITED YEARLY BY A QUALIFIED PUBLIC ACCOUNTANT AND THE REPORT OF

1 THE AUDIT SHALL BE INCLUDED IN AND BECOME PART OF THE ANNUAL REPORT OF THE
2 BOARD.

3 (E) THE ACCOUNTS OF THE BOARD SHALL BE OPEN AT ANY REASONABLE TIME
4 FOR INSPECTION.

5 (4) *ARTICLE IV. ADVISORY COMMITTEES.*

6 THE BOARD MAY ESTABLISH SUCH ADVISORY AND TECHNICAL COMMITTEES AS IT
7 MAY DEEM NECESSARY, MEMBERSHIP ON WHICH TO INCLUDE BUT NOT BE LIMITED TO
8 PRIVATE CITIZENS, EXPERT AND LAY PERSONNEL, REPRESENTATIVES OF INDUSTRY,
9 LABOR, COMMERCE, AGRICULTURE, CIVIC ASSOCIATIONS, MEDICINE, EDUCATION,
10 VOLUNTARY HEALTH AGENCIES, AND OFFICIALS OF LOCAL, STATE AND FEDERAL
11 GOVERNMENT, AND MAY COOPERATE WITH AND USE THE SERVICES OF ANY SUCH
12 COMMITTEES AND THE ORGANIZATIONS WHICH THEY REPRESENT IN FURTHERING ANY OF
13 ITS ACTIVITIES UNDER THIS COMPACT.

14 (5) *ARTICLE V. POWERS.*

15 THE BOARD SHALL HAVE THE POWER TO:

16 (A) ASCERTAIN AND ANALYZE ON A CONTINUING BASIS THE POSITION OF THE
17 SOUTH WITH RESPECT TO ENERGY, ENERGY-RELATED INDUSTRIES, AND
18 ENVIRONMENTAL CONCERNS.

19 (B) ENCOURAGE THE DEVELOPMENT, CONSERVATION, AND RESPONSIBLE USE OF
20 ENERGY AND ENERGY-RELATED FACILITIES, INSTALLATIONS, AND PRODUCTS AS PART OF
21 A BALANCED ECONOMY AND HEALTHY ENVIRONMENT.

22 (C) COLLECT, CORRELATE, AND DISSEMINATE INFORMATION RELATING TO
23 CIVILIAN USE OF ENERGY AND ENERGY-RELATED MATERIALS AND PRODUCTS.

24 (D) CONDUCT, OR COOPERATE IN CONDUCTING, PROGRAMS OF TRAINING FOR
25 STATE AND LOCAL PERSONNEL ENGAGED IN ANY ASPECT OF:

26 (1) ENERGY, ENVIRONMENT, AND APPLICATION OF ENERGY,
27 ENVIRONMENTAL, AND RELATED CONCERNS TO INDUSTRY, MEDICINE, OR EDUCATION OR
28 THE PROMOTION OR REGULATION THEREOF.

29 (2) THE FORMULATION OR ADMINISTRATION OF MEASURES DESIGNED TO
30 PROMOTE SAFETY IN ANY MATTER RELATED TO THE DEVELOPMENT, USE, OR DISPOSAL OF
31 ENERGY AND ENERGY-RELATED MATERIALS, PRODUCTS, INSTALLATIONS, OR WASTES.

32 (E) ORGANIZE AND CONDUCT, OR ASSIST AND COOPERATE IN ORGANIZING AND
33 CONDUCTING, DEMONSTRATIONS OF ENERGY PRODUCT, MATERIAL, OR EQUIPMENT USE
34 AND DISPOSAL AND OF PROPER TECHNIQUES OR PROCESSES FOR THE APPLICATION OF
35 ENERGY RESOURCES TO THE CIVILIAN ECONOMY OR GENERAL WELFARE.

1 (F) UNDERTAKE SUCH NONREGULATORY FUNCTIONS WITH RESPECT TO SOURCES
2 OF RADIATION AS MAY PROMOTE THE ECONOMIC DEVELOPMENT AND GENERAL WELFARE
3 OF THE REGION.

4 (G) STUDY INDUSTRIAL, HEALTH, SAFETY, AND OTHER STANDARDS, LAWS, CODES,
5 RULES, REGULATIONS, AND ADMINISTRATIVE PRACTICES IN OR RELATED TO ENERGY AND
6 ENVIRONMENTAL FIELDS.

7 (H) RECOMMEND SUCH CHANGES IN, OR AMENDMENTS OR ADDITIONS TO THE
8 LAWS, CODES, RULES, REGULATIONS, ADMINISTRATIVE PROCEDURES AND PRACTICES OR
9 ORDINANCES OF THE PARTY STATES IN ANY OF THE FIELDS OF ITS INTEREST AND
10 COMPETENCE AS IN ITS JUDGMENT MAY BE APPROPRIATE. ANY SUCH RECOMMENDATION
11 SHALL BE MADE THROUGH THE APPROPRIATE STATE AGENCY WITH DUE CONSIDERATION
12 OF THE DESIRABILITY OF UNIFORMITY BUT SHALL ALSO GIVE APPROPRIATE WEIGHT TO
13 ANY SPECIAL CIRCUMSTANCE WHICH MAY JUSTIFY VARIATIONS TO MEET LOCAL
14 CONDITIONS.

15 (I) PREPARE, PUBLISH AND DISTRIBUTE (WITH OR WITHOUT CHARGE) SUCH
16 REPORTS, BULLETINS, NEWSLETTERS OR OTHER MATERIALS AS IT DEEMS APPROPRIATE.

17 (J) COOPERATE WITH THE UNITED STATES DEPARTMENT OF ENERGY OR ANY
18 AGENCY SUCCESSOR THERETO, ANY OTHER OFFICER OR AGENCY OF THE UNITED
19 STATES, AND ANY OTHER GOVERNMENTAL UNIT OR AGENCY OR OFFICER THEREOF, AND
20 WITH ANY PRIVATE PERSONS OR AGENCIES IN ANY OF THE FIELDS OF ITS INTEREST.

21 (K) ACT AS LICENSEE OF THE UNITED STATES GOVERNMENT OR ANY PARTY
22 STATE WITH RESPECT TO THE CONDUCT OF ANY RESEARCH ACTIVITY REQUIRING SUCH
23 LICENSE AND OPERATE SUCH RESEARCH FACILITY OR UNDERTAKE ANY PROGRAM
24 PURSUANT THERETO.

25 (L) ASCERTAIN FROM TIME TO TIME SUCH METHODS, PRACTICES,
26 CIRCUMSTANCES, AND CONDITIONS AS MAY BRING ABOUT THE PREVENTION AND
27 CONTROL OF ENERGY AND ENVIRONMENTAL INCIDENTS IN THE AREA COMPRISING THE
28 PARTY STATES, TO COORDINATE THE NUCLEAR, ENVIRONMENTAL, AND OTHER
29 ENERGY-RELATED INCIDENT PREVENTION AND CONTROL PLANS AND THE WORK
30 RELATING THERETO OF THE APPROPRIATE AGENCIES OF THE PARTY STATES AND TO
31 FACILITATE THE RENDERING OF AID BY THE PARTY STATES TO EACH OTHER IN COPING
32 WITH ENERGY AND ENVIRONMENTAL INCIDENTS. THE BOARD MAY FORMULATE AND, IN
33 ACCORDANCE WITH NEED FROM TIME TO TIME, REVISE A REGIONAL PLAN OR REGIONAL
34 PLANS FOR COPING WITH ENERGY AND ENVIRONMENTAL INCIDENTS WITHIN THE
35 TERRITORY OF THE PARTY STATES AS A WHOLE OR WITHIN ANY SUBREGION OR
36 SUBREGIONS OF THE GEOGRAPHIC AREA COVERED BY THIS COMPACT.

37 (6) *ARTICLE VI. SUPPLEMENTARY AGREEMENTS.*

38 (A) TO THE EXTENT THAT THE BOARD HAS NOT UNDERTAKEN AN ACTIVITY OR
39 PROJECT WHICH WOULD BE WITHIN ITS POWER UNDER THE PROVISIONS OF ARTICLE V
40 OF THIS COMPACT, ANY TWO OR MORE OF THE PARTY STATES (ACTING BY THEIR DULY
41 CONSTITUTED ADMINISTRATIVE OFFICIALS) MAY ENTER INTO SUPPLEMENTARY
42 AGREEMENTS FOR THE UNDERTAKING AND CONTINUANCE OF SUCH AN ACTIVITY OR

1 PROJECT. ANY SUCH AGREEMENT SHALL SPECIFY ITS PURPOSE OR PURPOSES; ITS
2 DURATION AND THE PROCEDURE FOR TERMINATION THEREOF OR WITHDRAWAL
3 THEREFROM; THE METHOD OF FINANCING AND ALLOCATING THE COSTS OF THE ACTIVITY
4 OR PROJECT; AND SUCH OTHER MATTERS AS MAY BE NECESSARY OR APPROPRIATE. NO
5 SUCH SUPPLEMENTARY AGREEMENT ENTERED INTO PURSUANT TO THIS ARTICLE SHALL
6 BECOME EFFECTIVE PRIOR TO ITS SUBMISSION TO AND APPROVAL BY THE BOARD. THE
7 BOARD SHALL GIVE SUCH APPROVAL UNLESS IT FINDS THAT THE SUPPLEMENTARY
8 AGREEMENT OR THE ACTIVITY OR PROJECT CONTEMPLATED THEREBY IS INCONSISTENT
9 WITH THE PROVISIONS OF THIS COMPACT OR A PROGRAM OR ACTIVITY CONDUCTED BY OR
10 PARTICIPATED IN BY THE BOARD.

11 (B) UNLESS ALL OF THE PARTY STATES PARTICIPATE IN A SUPPLEMENTARY
12 AGREEMENT, ANY COST OR COSTS THEREOF SHALL BE BORNE SEPARATELY BY THE
13 STATES PARTY THERETO. HOWEVER, THE BOARD MAY ADMINISTER OR OTHERWISE ASSIST
14 IN THE OPERATION OF ANY SUPPLEMENTARY AGREEMENT.

15 (C) NO PARTY TO A SUPPLEMENTARY AGREEMENT ENTERED INTO PURSUANT TO
16 THIS ARTICLE SHALL BE RELIEVED THEREBY OF ANY OBLIGATION OR DUTY ASSUMED BY
17 SAID PARTY STATE UNDER OR PURSUANT TO THIS COMPACT, EXCEPT THAT TIMELY AND
18 PROPER PERFORMANCE OF SUCH OBLIGATION OR DUTY BY MEANS OF THE
19 SUPPLEMENTARY AGREEMENT MAY BE OFFERED AS PERFORMANCE PURSUANT TO THE
20 COMPACT.

21 (7) *ARTICLE VII. OTHER LAWS AND RELATIONSHIPS.*

22 NOTHING IN THIS COMPACT SHALL BE CONSTRUED TO:

23 (A) PERMIT OR REQUIRE ANY PERSON OR OTHER ENTITY TO AVOID OR REFUSE
24 COMPLIANCE WITH ANY LAW, RULE, REGULATION, ORDER OR ORDINANCE OF A PARTY
25 STATE OR SUBDIVISION THEREOF NOW OR HEREAFTER MADE, ENACTED OR IN FORCE.

26 (B) LIMIT, DIMINISH, OR IMPAIR JURISDICTION EXERCISED BY THE UNITED
27 STATES DEPARTMENT OF ENERGY, ANY AGENCY SUCCESSOR THERETO, OR ANY OTHER
28 FEDERAL DEPARTMENT, AGENCY OR OFFICER PURSUANT TO AND IN CONFORMITY WITH
29 ANY VALID AND OPERATIVE ACT OF CONGRESS.

30 (C) ALTER THE RELATIONS BETWEEN AND RESPECTIVE INTERNAL
31 RESPONSIBILITIES OF THE GOVERNMENT OF A PARTY STATE AND ITS SUBDIVISIONS.

32 (D) PERMIT OR AUTHORIZE THE BOARD TO EXERCISE ANY REGULATORY
33 AUTHORITY OR TO OWN OR OPERATE ANY NUCLEAR REACTOR FOR THE GENERATION OF
34 ELECTRIC ENERGY; NOR SHALL THE BOARD OWN OR OPERATE ANY FACILITY OR
35 INSTALLATION FOR INDUSTRIAL OR COMMERCIAL PURPOSES.

36 (8) *ARTICLE VIII. ELIGIBLE PARTIES, ENTRY INTO FORCE AND*
37 *WITHDRAWAL.*

38 (A) ANY OR ALL OF THE STATES OF ALABAMA, ARKANSAS, DELAWARE, FLORIDA,
39 GEORGIA, KENTUCKY, LOUISIANA, MARYLAND, MISSISSIPPI, MISSOURI, NORTH
40 CAROLINA, OKLAHOMA, SOUTH CAROLINA, TENNESSEE, TEXAS, VIRGINIA, WEST

1 VIRGINIA, THE COMMONWEALTH OF PUERTO RICO, AND THE UNITED STATES VIRGIN
2 ISLANDS SHALL BE ELIGIBLE TO BECOME PARTY TO THIS COMPACT.

3 (B) AS TO ANY ELIGIBLE PARTY STATE, THIS COMPACT SHALL BECOME EFFECTIVE
4 WHEN ITS LEGISLATURE HAS ENACTED THE SAME INTO LAW: PROVIDED THAT IT SHALL
5 NOT BECOME INITIALLY EFFECTIVE UNTIL ENACTED INTO LAW BY SEVEN STATES.

6 (C) ANY PARTY STATE MAY WITHDRAW FROM THIS COMPACT BY ENACTING A
7 STATUTE REPEALING THE SAME, BUT NO SUCH WITHDRAWAL SHALL BECOME EFFECTIVE
8 UNTIL THE GOVERNOR OF THE WITHDRAWING STATE SHALL HAVE SENT FORMAL NOTICE
9 IN WRITING TO THE GOVERNOR OF EACH OTHER PARTY STATE INFORMING SAID
10 GOVERNORS OF THE ACTION OF THE LEGISLATURE IN REPEALING THE COMPACT AND
11 DECLARING AN INTENTION TO WITHDRAW.

12 (9) *ARTICLE IX. SEVERABILITY AND CONSTRUCTION.*

13 THE PROVISIONS OF THIS COMPACT AND OF ANY SUPPLEMENTARY AGREEMENT
14 ENTERED INTO HEREUNDER SHALL BE SEVERABLE AND IF ANY PHRASE, CLAUSE,
15 SENTENCE OR PROVISION OF THIS COMPACT OR SUCH SUPPLEMENTARY AGREEMENT IS
16 DECLARED TO BE CONTRARY TO THE CONSTITUTION OF ANY PARTICIPATING STATE OR OF
17 THE UNITED STATES OR THE APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY,
18 PERSON, OR CIRCUMSTANCE IS HELD INVALID, THE VALIDITY OF THE REMAINDER OF THIS
19 COMPACT OR SUCH SUPPLEMENTARY AGREEMENT AND THE APPLICABILITY THEREOF TO
20 ANY GOVERNMENT, AGENCY, PERSON OR CIRCUMSTANCE SHALL NOT BE AFFECTED
21 THEREBY. IF THIS COMPACT OR ANY SUPPLEMENTARY AGREEMENT ENTERED INTO
22 HEREUNDER SHALL BE HELD CONTRARY TO THE CONSTITUTION OF ANY STATE
23 PARTICIPATING THEREIN, THE COMPACT OR SUCH SUPPLEMENTARY AGREEMENT SHALL
24 REMAIN IN FULL FORCE AND EFFECT AS TO THE REMAINING STATES AND IN FULL FORCE
25 AND EFFECT AS TO THE STATE AFFECTED AS TO ALL SEVERABLE MATTERS. THE
26 PROVISIONS OF THIS COMPACT AND OF ANY SUPPLEMENTARY AGREEMENT ENTERED INTO
27 PURSUANT HERETO SHALL BE LIBERALLY CONSTRUED TO EFFECTUATE THE PURPOSES
28 THEREOF.

29 REVISOR'S NOTE: The introductory language of this section is new language
30 substituted for former Art. 41, § 16–101. It reflects the fact that the
31 compact is in force in accordance with Article VIII(b) of the compact. It is
32 patterned after similar language used in the compact as enacted by several
33 other party states. *See, e.g.,* FLA. STAT. ANN. § 377.711; KY. REV. STAT.
34 ANN. § 152.210; LA. REV. STAT. ANN. § 51:1001; OKLA. STAT. ANN. TIT.
35 32, § 1051; *cf.* TENN. CODE ANN. § 68–202–601.

36 Items (1) through (9) of this section formerly were Art. 41, §§ 16–102
37 through 16–110.

38 The only changes are in style of capitalization in tabulated text and
39 revision of gender-specific pronouns relating to a member of the board.

40 No other changes are made.

1 Defined terms: “Board” § 13–201

2 “Compact” § 13–201

3 “Person” § 9–101

4 “State” § 9–101

5 13–203. MARYLAND MEMBERS.

6 (A) APPOINTMENT.

7 THE THREE MEMBERS OF THE BOARD FROM THE STATE ARE AS FOLLOWS:

8 (1) ONE MEMBER APPOINTED BY THE DIRECTOR OF THE MARYLAND
9 ENERGY ADMINISTRATION, WITH THE APPROVAL OF THE GOVERNOR;

10 (2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE
11 SPEAKER OF THE HOUSE; AND

12 (3) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE
13 PRESIDENT OF THE SENATE.

14 (B) TENURE.

15 (1) THE TERM OF THE MEMBER APPOINTED UNDER SUBSECTION (A)(1) OF
16 THIS SECTION EXPIRES AT THE END OF THE TERM OF THE APPOINTING GOVERNOR.

17 (2) THE TERM OF A MEMBER APPOINTED UNDER SUBSECTION (A)(2) OR (3)
18 OF THIS SECTION EXPIRES AT THE END OF THE TERM OF THAT GENERAL ASSEMBLY.

19 REVISOR’S NOTE: This section is new language derived without substantive
20 change from former Art. 41, § 16–111.

21 The Economic Development Article Review Committee notes, for the
22 consideration of the General Assembly, that subsection (a)(2) and (3) of this
23 section have been revised to conform to practice, under which the
24 legislative members of the board are appointed by their respective
25 presiding officers rather than by the chambers as a whole. No substantive
26 change is intended.

27 Defined terms: “Board” § 13–201

28 “State” § 9–101

29 13–204. SUBMISSION OF BUDGETS TO GOVERNOR.

30 IN ACCORDANCE WITH ARTICLE III(A) OF THE COMPACT, THE BOARD SHALL
31 SUBMIT ITS BUDGETS OF ESTIMATED EXPENDITURES TO THE GOVERNOR FOR
32 PRESENTATION TO THE GENERAL ASSEMBLY.

33 REVISOR’S NOTE: This section is new language derived without substantive
34 change from former Art. 41, § 16–112.

1 Defined terms: “Board” § 13–201

2 “Compact” § 13–201

3 13–205. APPROPRIATION NEEDED.

4 ANY SUPPLEMENTARY AGREEMENT ENTERED IN ACCORDANCE WITH ARTICLE VI
5 OF THE COMPACT THAT REQUIRES THE EXPENDITURE OF MONEY OR THE ASSUMPTION OF
6 AN OBLIGATION TO EXPEND MONEY MAY NOT BECOME EFFECTIVE AS TO THE STATE
7 BEFORE THE GENERAL ASSEMBLY MAKES AN APPROPRIATION FOR IT.

8 REVISOR’S NOTE: This section is new language derived without substantive
9 change from former Art. 41, § 16–113.

10 Defined terms: “Compact” § 13–201

11 “State” § 9–101

12 13–206. COOPERATION BY STATE AND LOCAL UNITS AND OFFICERS.

13 THE UNITS AND OFFICERS OF THE STATE AND ITS POLITICAL SUBDIVISIONS MAY
14 COOPERATE WITH THE BOARD IN THE FURTHERANCE OF ANY OF ITS ACTIVITIES UNDER
15 THE COMPACT.

16 REVISOR’S NOTE: This section is new language derived without substantive
17 change from former Art. 41, § 16–114.

18 The word “units” is substituted for the former reference to “departments
19 [and] agencies” for consistency within this article. The term “unit” is broad
20 enough to include both these entities. *See* General Revisor’s Note to article.

21 Defined terms: “Board” § 13–201

22 “Compact” § 13–201

23 “State” § 9–101

24 GENERAL REVISOR’S NOTE TO SUBTITLE:

25 In revising the various articles of the Annotated Code, it was the usual practice
26 of the former Commission to Revise the Annotated Code and article review
27 committees to make very few, if any, changes to compacts. The Economic Development
28 Article Review Committee has made very few changes to the text of the Southern
29 States Energy Compact, which comprises § 13–202(1) through (9) of this subtitle. To
30 conform to current code revision drafting conventions, the articles of the compact
31 have been tabulated as separate items, some capitalization has been altered, and
32 certain pronouns have been replaced with gender–neutral terms. These changes do
33 not affect the substance of the compact.

34 SUBTITLE 3. BALTIMORE METROPOLITAN COUNCIL.

35 13–301. DEFINITIONS.

36 (A) IN GENERAL.

1 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

4 (B) COUNCIL.

5 "COUNCIL" MEANS THE BALTIMORE METROPOLITAN COUNCIL.

6 REVISOR'S NOTE: This subsection is new language derived without
7 substantive change from former Art. 78D, § 1.

8 (C) REGION.

9 "REGION" MEANS THE AREA THAT INCLUDES ALL OF ANNE ARUNDEL COUNTY,
10 BALTIMORE CITY, BALTIMORE COUNTY, CARROLL COUNTY, HARFORD COUNTY, AND
11 HOWARD COUNTY.

12 REVISOR'S NOTE: This subsection is new language added to provide an
13 explicit definition of the Baltimore Metropolitan Region consistent with
14 the membership area of the Council and with similar provisions in this
15 title.

16 13–302. ESTABLISHED; PURPOSES.

17 (A) ESTABLISHED.

18 THERE IS A BALTIMORE METROPOLITAN COUNCIL.

19 (B) STATUS.

20 THE COUNCIL:

21 (1) IS A BODY POLITIC AND CORPORATE; AND

22 (2) IS NOT A UNIT OF STATE GOVERNMENT.

23 (C) PURPOSES.

24 THE PURPOSES OF THE COUNCIL ARE TO:

25 (1) SERVE AS A FORUM FOR LOCAL OFFICIALS AND THEIR REPRESENTATIVES
26 TO IDENTIFY AND ADDRESS PROBLEMS IN THE REGION;

27 (2) PROVIDE A CENTRAL SOURCE OF INFORMATION AND COORDINATION FOR
28 FASHIONING RESPONSES TO NEEDS IN THE REGION; AND

29 (3) ASSIST LOCAL JURISDICTIONS IN DEVELOPING REGIONAL POLICIES,
30 PRIORITIZING REGIONAL INFRASTRUCTURE NEEDS, AND DEVELOPING REGIONAL
31 STRATEGIES.

1 REVISOR’S NOTE: This section is new language derived without substantive
2 change from former Art. 78D, § 2.

3 In subsection (b)(1) of this section, the reference to a “body politic and
4 corporate” is substituted for the former reference to a “body corporate and
5 politic” for consistency within this article.

6 In subsection (b)(2) of this section, the reference to a “unit” is substituted
7 for the former reference to an “agency” for consistency. *See* General
8 Revisor’s Note to article.

9 Subsection (c) of this section is revised as a list of purposes rather than
10 duties for clarity and consistency with similar provisions in other subtitles
11 of this title.

12 In subsection (c)(3) of this section, the former phrase “in the Baltimore
13 Metropolitan Region” is deleted in light of the reference to “regional”
14 policies, needs, and strategies.

15 Defined terms: “Council” § 13–301
16 “Region” § 13–301
17 “State” § 9–101

18 **13–303. MEMBERSHIP.**

19 (A) **COMPOSITION; APPOINTMENT.**

20 **THE COUNCIL CONSISTS OF:**

21 (1) ONE MEMBER APPOINTED BY THE COUNTY EXECUTIVE OF ANNE
22 ARUNDEL COUNTY;

23 (2) ONE MEMBER APPOINTED BY THE MAYOR OF BALTIMORE CITY;

24 (3) ONE MEMBER APPOINTED BY THE COUNTY EXECUTIVE OF BALTIMORE
25 COUNTY;

26 (4) ONE MEMBER APPOINTED BY THE COUNTY COMMISSIONERS OF
27 CARROLL COUNTY;

28 (5) ONE MEMBER APPOINTED BY THE COUNTY EXECUTIVE OF HARFORD
29 COUNTY;

30 (6) ONE MEMBER APPOINTED BY THE COUNTY EXECUTIVE OF HOWARD
31 COUNTY; AND

32 (7) OTHER MEMBERS AS THE COUNCIL CHARTER PROVIDES.

33 (B) **TENURE.**

1 (1) A MEMBER APPOINTED UNDER SUBSECTION (A)(1) THROUGH (6) OF
2 THIS SECTION SERVES AT THE PLEASURE OF THE APPOINTING AUTHORITY.

3 (2) A MEMBER APPOINTED UNDER SUBSECTION (A)(7) OF THIS SECTION
4 SERVES AS THE COUNCIL CHARTER PROVIDES.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 78D, § 3(a), (b), and (c).

7 In subsection (b) of this section, the former statement that a member's
8 term is "indefinite" is deleted in light of the statement that a member
9 serves either "at the pleasure of the appointing authority" or "as the
10 Council Charter provides".

11 Defined term: "Council" § 13–301

12 13–304. CHAIR.

13 AS PROVIDED IN THE COUNCIL CHARTER, THE COUNCIL SHALL ELECT A CHAIR
14 FROM AMONG ITS MEMBERS.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 78D, § 3(d).

17 The reference to a "chair" is substituted for the former reference to a
18 "chairman" because SG § 2–1238 requires the use of words that are neutral
19 as to gender to the extent practicable. See General Revisor's Note to
20 article.

21 Defined term: "Council" § 13–301

22 13–305. MEETINGS; COMPENSATION.

23 (A) MEETINGS.

24 (1) THE COUNCIL SHALL MEET AT LEAST QUARTERLY AT THE TIMES AND
25 PLACES THAT IT DETERMINES.

26 (2) A MAJORITY OF THE MEMBERS OF THE COUNCIL IS A QUORUM.

27 (3) AN ACTION OF THE COUNCIL IS NOT EFFECTIVE UNLESS APPROVED BY
28 MAJORITY VOTE OF ALL MEMBERS OF THE COUNCIL.

29 (B) COMPENSATION.

30 A MEMBER OF THE COUNCIL:

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

32 (2) IS ENTITLED TO REIMBURSEMENT FOR REASONABLE EXPENSES.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 78D, §§ 4 and 3(e).

3 In subsection (a)(1) of this section, the reference to meeting “at the times
4 and places” that the Council determines is added for clarity.

5 In subsection (a)(2) of this section, the reference to members “then serving
6 on” the Council is substituted for the former reference to members “of” the
7 Council for clarity and consistency with the practice of the Council.

8 Also in subsection (a)(2) of this section, the former phrase “for the purpose
9 of conducting business” is deleted as implicit in the reference to a
10 “quorum”.

11 In subsection (a)(3) of this section, the reference to “members then serving
12 on” the Council is added for clarity and consistency with subsection (a)(2)
13 of this section.

14 Defined term: “Council” § 13–301

15 13–306. STAFF.

16 THE COUNCIL MAY EMPLOY A STAFF.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 78D, § 5(a)(6).

19 The reference to “employ[ing]” a staff is substituted for the former
20 authority to “[h]ire and fire” for brevity and consistency with similar
21 provisions elsewhere in this article.

22 Defined term: “Council” § 13–301

23 13–307. MISCELLANEOUS POWERS AND DUTIES.

24 (A) POWERS.

25 THE COUNCIL MAY:

26 (1) ADOPT A SEAL;

27 (2) SUE OR BE SUED, SUBJECT TO THE LIMITATIONS OF TITLE 5, SUBTITLE
28 3 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE;

29 (3) ADOPT A CHARTER, BYLAWS, RULES, AND GUIDELINES TO CARRY OUT ITS
30 PURPOSES;

31 (4) ACQUIRE, HOLD, LEASE, USE, ENCUMBER, TRANSFER, OR DISPOSE OF
32 PROPERTY;

1 (5) ENTER INTO A CONTRACT AND EXECUTE ANY INSTRUMENT NECESSARY
2 OR CONVENIENT TO CARRY OUT ITS PURPOSES;

3 (6) EXERCISE ANY CORPORATE POWER GRANTED TO A CORPORATION UNDER
4 THE CORPORATIONS AND ASSOCIATIONS ARTICLE;

5 (7) SERVE, WITH THE STATE DEPARTMENT OF TRANSPORTATION, AS A
6 METROPOLITAN PLANNING ORGANIZATION FOR FEDERAL FUNDING AND CERTIFICATION;
7 AND

8 (8) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE
9 POWERS GRANTED BY THIS SUBTITLE.

10 (B) DUTIES.

11 THE COUNCIL CHARTER SHALL INCLUDE PROVISIONS FOR THE ADMISSION AND
12 WITHDRAWAL OF COUNCIL MEMBERS UNDER § 13–303(A)(7) OF THIS SUBTITLE.

13 REVISOR’S NOTE: This section is new language derived without substantive
14 change from former Art. 78D, § 5(b) and (a)(1), (2), (3), (4), (5), (8), (9), and
15 (10).

16 In subsection (a)(1) of this section, the former reference to “alter[ing]” a
17 seal is deleted as implicit in the authority to “adopt” a seal. Similarly, the
18 former reference to an “official” seal is deleted.

19 In subsection (a)(2) of this section, the former references to “plead[ing]”
20 and being “impleaded” are deleted in light of the references to “suing” and
21 being “sued”.

22 In subsection (a)(3) of this section, the former phrase “[s]ubject to the
23 provisions of subsection (b) of this section” is deleted as unnecessary. The
24 requirements of that provision apply whether or not referenced here.

25 Also in subsection (a)(3) of this section, the reference to “rules” is
26 substituted for the former reference to “regulations” to avoid confusion
27 with the regulations adopted by governmental units under Title 10,
28 Subtitle 1 of the State Government Article. *See* General Revisor’s Note to
29 article.

30 In subsection (a)(4) of this section, the former reference to “real, personal,
31 or other” property is deleted as unnecessary in light of the comprehensive
32 reference to “property”. *See* General Revisor’s Note to article.

33 In subsection (a)(5) of this section, the reference to “carry[ing] out its
34 purposes” is substituted for the former reference to “carry[ing] out its
35 powers to accomplish the [its] purposes” for brevity.

36 Also in subsection (a)(5) of this section, the former reference to a “lease” is
37 deleted in light of the comprehensive reference to a “contract”.

1 Defined terms: “Council” § 13–301

2 “State” § 9–101

3 13–308. CONTRIBUTIONS AND GIFTS.

4 THE COUNCIL MAY ACCEPT FROM ANY PRIVATE OR PUBLIC SOURCE A
5 CONTRIBUTION OR GRANT OF MONEY OR PROPERTY.

6 REVISOR’S NOTE: This section is new language derived without substantive
7 change from former Art. 78D, § 5(a)(7).

8 The former reference to “receiv[ing]” contributions or grants is deleted as
9 implicit in the authority to “accept” them.

10 The former reference to a “gift” is deleted as included in the comprehensive
11 reference to a “contribution or grant” for brevity.

12 The former reference to an “interest in property” is deleted as included in
13 the comprehensive reference to “property”.

14 Defined term: “Council” § 13–301

15 13–309. ADVISORY BOARD.

16 (A) ESTABLISHED.

17 THERE IS A BALTIMORE METROPOLITAN COUNCIL ADVISORY BOARD.

18 (B) MEMBERSHIP.

19 THE ADVISORY BOARD CONSISTS OF:

20 (1) THE ANNE ARUNDEL COUNTY EXECUTIVE AND THE CHAIR OF THE
21 ANNE ARUNDEL COUNTY COUNCIL OR THE CHAIR’S DESIGNEE;

22 (2) THE MAYOR OF BALTIMORE AND THE PRESIDENT OF THE BALTIMORE
23 CITY COUNCIL OR THE PRESIDENT’S DESIGNEE;

24 (3) THE BALTIMORE COUNTY EXECUTIVE AND THE CHAIR OF THE
25 BALTIMORE COUNTY COUNCIL OR THE CHAIR’S DESIGNEE;

26 (4) TWO MEMBERS OF THE BOARD OF COUNTY COMMISSIONERS OF
27 CARROLL COUNTY;

28 (5) THE HARFORD COUNTY EXECUTIVE AND THE PRESIDENT OF THE
29 HARFORD COUNTY COUNCIL OR THE PRESIDENT’S DESIGNEE;

30 (6) THE HOWARD COUNTY EXECUTIVE AND THE CHAIR OF THE HOWARD
31 COUNTY COUNCIL OR THE CHAIR’S DESIGNEE; AND

32 (7) OTHER MEMBERS AS THE COUNCIL CHARTER PROVIDES.

1 (c) CHAIR.

2 AS PROVIDED IN THE COUNCIL CHARTER, THE ADVISORY BOARD SHALL ELECT A
3 CHAIR FROM AMONG ITS MEMBERS.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 78D, § 6.

6 In subsection (b) of this section, the references to the "Chairs" of the county
7 councils of Anne Arundel, Baltimore, and Howard counties are substituted
8 for the former obsolete references to the "Presidents" of those councils. The
9 gender-neutral term "chair" is used in place of the terms "chairman" and
10 "chairperson" in the official titles of these officers because SG § 2-1238
11 requires the use of words that are neutral as to gender to the extent
12 practicable and for consistency within this article. Similarly, in subsection
13 (c) of this section, the reference to a "chair" is substituted for the former
14 reference to a "chairman". *See* General Revisor's Note to article.

15 Defined term: "Council" § 13-301

16 GENERAL REVISOR'S NOTE TO SUBTITLE:

17 Former Art. 78D, § 7, which provided that the Baltimore Metropolitan Council is
18 not liable for a liability, contract, or obligation of the Baltimore Regional Council of
19 Governments unless expressly assumed, is not retained in the Code because it applies
20 retroactively, if at all, to a small class of obligations after the repeal of the Baltimore
21 Regional Council of Governments in 1992. *See* § 3 of Ch. 201, Acts of 1992; § 3 of Ch.
22 624, Acts of 1995. It is transferred to the Session Laws to avoid any inadvertent
23 substantive effect that its repeal might have. *See* § 7 of Ch. ____, Acts of 2008.

24 SUBTITLE 4. RURAL MARYLAND COUNCIL.

25 13-401. "COUNCIL" DEFINED.

26 IN THIS SUBTITLE, "COUNCIL" MEANS THE RURAL MARYLAND COUNCIL.

27 REVISOR'S NOTE: This section formerly was Art. 41, § 15-101.

28 The only changes are in style.

29 13-402. ESTABLISHED.

30 THERE IS A RURAL MARYLAND COUNCIL.

31 REVISOR'S NOTE: This section formerly was Art. 41, § 15-101.1.

32 No changes are made.

1 13–403. DESIGNATION.

2 THE COUNCIL IS A STATE RURAL DEVELOPMENT COUNCIL THAT BRINGS TOGETHER
3 MEMBERS OF THE PUBLIC AND REPRESENTATIVES OF PUBLIC SECTOR ENTITIES AND
4 PRIVATE SECTOR ORGANIZATIONS TO ADDRESS COLLABORATIVELY PROBLEMS AND
5 CHALLENGES FACING RURAL COMMUNITIES IN THE STATE.

6 REVISOR’S NOTE: This section formerly was Art. 41, § 15–102(a).

7 The reference to “members of the public” is substituted for the former
8 reference to “citizens” for clarity because the meaning of the term “citizen”
9 in this context is unclear and for consistency with similar provisions in
10 other revised articles of the Code. *See* General Revisor’s Note to article.

11 The former reference to the Council being “designated as” a State rural
12 development council is deleted as surplusage.

13 The only other changes are in style.

14 Defined terms: “Council” § 13–401
15 “State” § 9–101

16 13–404. STATUS.

17 THE COUNCIL IS AN INDEPENDENT UNIT IN THE EXECUTIVE BRANCH OF STATE
18 GOVERNMENT THAT IS PLACED UNDER THE STATE DEPARTMENT OF AGRICULTURE FOR
19 ADMINISTRATIVE AND BUDGETARY PURPOSES.

20 REVISOR’S NOTE: This section formerly was Art. 41, § 15–107(a).

21 The only changes are in style.

22 Defined terms: “Council” § 13–401
23 “State” § 9–101

24 13–405. MEMBERSHIP.

25 (A) OPEN MEMBERSHIP.

26 THE MEMBERSHIP OF THE COUNCIL IS OPEN TO ANY RESIDENT OF THE STATE WHO
27 HAS AN INTEREST IN IMPROVING THE QUALITY OF LIFE IN RURAL AREAS OF THE STATE
28 AND CHOOSES TO JOIN THE COUNCIL.

29 (B) SPECIFIED MEMBERS.

30 THE COUNCIL SHALL INCLUDE:

31 (1) THE GOVERNOR OR THE GOVERNOR’S DESIGNEE;

32 (2) AS DETERMINED UNDER THE BYLAWS OF THE COUNCIL:

1 (I) REPRESENTATIVES FROM LOCAL, STATE, AND FEDERAL AGENCIES
2 THAT SERVE RURAL INTERESTS; AND

3 (II) REPRESENTATIVES FROM PRIVATE SECTOR ORGANIZATIONS,
4 INCLUDING RURAL-BASED FOR-PROFIT AND NOT-FOR-PROFIT ORGANIZATIONS AND
5 RURAL CLIENT GROUPS; AND

6 (3) AS NONVOTING MEMBERS:

7 (I) ONE MEMBER OF THE SENATE OF MARYLAND FROM EACH OF THE
8 THREE RURAL REGIONS OF THE STATE, APPOINTED BY THE PRESIDENT OF THE SENATE;

9 (II) ONE MEMBER OF THE HOUSE OF DELEGATES FROM EACH OF THE
10 THREE RURAL REGIONS OF THE STATE, APPOINTED BY THE SPEAKER OF THE HOUSE;
11 AND

12 (III) ONE MEMBER OF THE SENATE OF MARYLAND OR THE HOUSE OF
13 DELEGATES REPRESENTING HARFORD COUNTY, APPOINTED JOINTLY BY THE PRESIDENT
14 OF THE SENATE AND THE SPEAKER OF THE HOUSE.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 41, § 15-103.

17 In subsection (a) of this section, the reference to any "resident of the State"
18 is substituted for the former reference to any "citizen of Maryland" to
19 reflect accurately the practice of the Council.

20 In subsection (b) of this section, former item (b)(6) is deleted as surplusage
21 since subsection (a) of this section provides that membership is open to any
22 resident of the State and subsection (b) is not an exhaustive listing of the
23 members.

24 In subsection (b)(3)(iii) of this section, the term "appointed" is substituted
25 for the former term "selected" for consistency with the language in
26 subsection (b)(3)(i) and (ii) of this section.

27 The only other changes are in style.

28 Defined terms: "Council" § 13-401
29 "State" § 9-101

30 13-406. CHAIR; BYLAWS.

31 (A) CHAIR.

32 FROM AMONG ITS MEMBERS, THE COUNCIL SHALL ELECT EACH YEAR A CHAIR AND
33 ONE OR MORE VICE CHAIRS.

34 (B) BYLAWS.

35 THE COUNCIL SHALL ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS.

1 REVISOR'S NOTE: This section formerly was Art. 41, § 15–104(a) and (b).

2 In subsection (a) of this section, the terms “chair” and “vice chairs” are
3 substituted for the former references to a “Chairman” and “vice chairmen”
4 because SG § 2–1238 requires the use of words that are neutral as to
5 gender to the extent practicable.

6 No other changes are made.

7 Defined term: “Council” § 13–401

8 **13–407. EXECUTIVE BOARD — ESTABLISHED.**

9 **THE COUNCIL SHALL ESTABLISH AN EXECUTIVE BOARD.**

10 REVISOR'S NOTE: This section formerly was Art. 41, § 15–104(c)(1).

11 No changes are made.

12 Defined term: “Council” § 13–401

13 **13–408. EXECUTIVE BOARD — MEMBERSHIP; CHAIR.**

14 **(A) SPECIFIED MEMBERS.**

15 **THE EXECUTIVE BOARD SHALL INCLUDE:**

16 **(1) THE CHAIR OF THE COUNCIL;**

17 **(2) THE GOVERNOR OR THE GOVERNOR'S DESIGNEE;**

18 **(3) THE SECRETARY OR THE SECRETARY'S DESIGNEE;**

19 **(4) THE SECRETARY OF AGRICULTURE OR THE DESIGNEE OF THE**
20 **SECRETARY OF AGRICULTURE;**

21 **(5) THE SECRETARY OF HEALTH AND MENTAL HYGIENE OR THE DESIGNEE**
22 **OF THE SECRETARY OF HEALTH AND MENTAL HYGIENE;**

23 **(6) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT OR**
24 **THE DESIGNEE OF THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT;**

25 **(7) THE SECRETARY OF NATURAL RESOURCES OR THE DESIGNEE OF THE**
26 **SECRETARY OF NATURAL RESOURCES;**

27 **(8) THE DIRECTOR OF THE UNIVERSITY OF MARYLAND COOPERATIVE**
28 **EXTENSION SERVICE OR THE DIRECTOR'S DESIGNEE;**

29 **(9) TWO REPRESENTATIVES OF THE MARYLAND MUNICIPAL LEAGUE,**
30 **SELECTED FROM RURAL REGIONS OF THE STATE;**

1 (10) TWO REPRESENTATIVES OF THE MARYLAND ASSOCIATION OF
2 COUNTIES, SELECTED FROM RURAL REGIONS OF THE STATE;

3 (11) ONE REPRESENTATIVE OF EACH OF THE RURAL REGIONAL PLANNING
4 AND DEVELOPMENT COUNCILS IN THE STATE;

5 (12) ONE REPRESENTATIVE OF EACH OF THE RESOURCE, CONSERVATION,
6 AND DEVELOPMENT COUNCILS IN THE STATE;

7 (13) ONE OR MORE REPRESENTATIVES OF UNITS OF THE FEDERAL
8 GOVERNMENT;

9 (14) ONE REPRESENTATIVE FROM GARRETT COUNTY, ALLEGANY COUNTY,
10 OR WASHINGTON COUNTY;

11 (15) ONE REPRESENTATIVE FROM CARROLL COUNTY OR FREDERICK
12 COUNTY;

13 (16) ONE REPRESENTATIVE FROM CALVERT COUNTY, CHARLES COUNTY, OR
14 ST. MARY'S COUNTY;

15 (17) ONE REPRESENTATIVE FROM CECIL COUNTY OR HARFORD COUNTY;

16 (18) ONE REPRESENTATIVE FROM DORCHESTER COUNTY, SOMERSET
17 COUNTY, WICOMICO COUNTY, OR WORCESTER COUNTY;

18 (19) ONE REPRESENTATIVE OF THE PRIVATE FOR–PROFIT SECTOR;

19 (20) ONE REPRESENTATIVE OF THE NOT–FOR–PROFIT SECTOR;

20 (21) NO MORE THAN SIX REPRESENTATIVES OF STATEWIDE NOT–FOR–PROFIT
21 ORGANIZATIONS WITH A RURAL FOCUS;

22 (22) TWO AT–LARGE MEMBERS, SELECTED BY THE MEMBERSHIP OF THE
23 COUNCIL; AND

24 (23) AS NONVOTING MEMBERS, THE SENATORS AND DELEGATES APPOINTED
25 TO THE COUNCIL UNDER § 13–405(B)(3) OF THIS SUBTITLE.

26 (B) SELECTION AND SERVICE OF MEMBERS.

27 MEMBERS OF THE EXECUTIVE BOARD SHALL BE SELECTED AND SERVE IN
28 ACCORDANCE WITH THE BYLAWS OF THE COUNCIL.

29 (C) EXPANSION OF MEMBERSHIP.

30 THE COUNCIL MAY EXPAND THE MEMBERSHIP OF THE EXECUTIVE BOARD
31 THROUGH THE BYLAWS OF THE COUNCIL.

32 (D) CHAIR.

1 THE CHAIR OF THE COUNCIL IS THE CHAIR OF THE EXECUTIVE BOARD.

2 REVISOR'S NOTE: This section is new language derived without substantive
3 change from former Art. 41, § 15–104(c)(2) and (3) and (d).

4 In subsections (a)(1) and (d) of this section, the references to the “chair” are
5 substituted for the former references to a “Chairman” because SG § 2–1238
6 requires the use of words that are neutral as to gender to the extent
7 practicable.

8 In subsection (a)(8) of this section, the reference to the “University of
9 Maryland Cooperative Extension Service” is substituted for the former
10 incomplete reference to “Maryland Cooperative Extension” for accuracy.

11 In subsection (a)(13) through (21), inclusive, of this section, the former
12 phrase “selected in accordance with the bylaws of the Council” is deleted as
13 surplusage in light of the requirements in subsection (b) of this section.

14 Defined terms: “Council” § 13–401

15 “Secretary” § 9–101

16 “State” § 9–101

17 13–409. EXECUTIVE BOARD — DUTIES.

18 AFTER A CONSENSUS OF OPINION HAS EMERGED, THE EXECUTIVE BOARD SHALL
19 MAKE RECOMMENDATIONS ON PROGRAMMATIC OR REGULATORY MATTERS OF CONCERN
20 TO RURAL COMMUNITIES.

21 REVISOR'S NOTE: This section formerly was Art. 41, § 15–105(a).

22 The only changes are in style.

23 13–410. EXECUTIVE BOARD — SUBCOMMITTEES.

24 WITH THE CONSENT OF THE EXECUTIVE BOARD, THE CHAIR MAY ESTABLISH
25 SUBCOMMITTEES OR WORKING COMMITTEES CONSISTING OF MEMBERS OF THE COUNCIL
26 AND INTERESTED PARTIES TO ADDRESS OR STUDY SPECIFIC ISSUES.

27 REVISOR'S NOTE: This section formerly was Art. 41, § 15–105(b).

28 The term “chair” is substituted for the former reference to a “Chairman”
29 because SG § 2–1238 requires the use of words that are neutral as to
30 gender to the extent practicable.

31 No other changes are made.

32 Defined term: “Council” § 13–401

33 13–411. EXECUTIVE DIRECTOR.

34 (A) APPOINTMENT.

1 THE COUNCIL SHALL EMPLOY AN EXECUTIVE DIRECTOR.

2 (B) DUTIES.

3 THE EXECUTIVE DIRECTOR:

4 (1) IS RESPONSIBLE FOR THE DAILY OPERATIONS OF THE COUNCIL; AND

5 (2) SHALL HELP DEVELOP POLICY RECOMMENDATIONS FOR CONSIDERATION
6 BY THE COUNCIL OR THE EXECUTIVE BOARD.

7 (C) TENURE.

8 THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE EXECUTIVE
9 BOARD.

10 REVISOR'S NOTE: This section formerly was Art. 41, § 15–106.

11 The only changes are in style.

12 Defined term: “Council” § 13–401

13 13–412. STAFF AND RESOURCES; PARTICIPATION FROM OTHER UNITS; LEGAL ADVISOR.

14 (A) STAFF AND RESOURCES.

15 THE STATE DEPARTMENT OF AGRICULTURE SHALL PROVIDE THE COUNCIL WITH
16 NECESSARY STAFF SUPPORT AND RESOURCES, INCLUDING OFFICE SPACE.

17 (B) PARTICIPATION BY OTHER UNITS.

18 EACH UNIT IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT SHALL
19 PARTICIPATE IN THE DELIBERATIONS OF THE COUNCIL AND WORK WITH THE COUNCIL
20 ON MATTERS RELATING TO THE UNIT.

21 (C) LEGAL ADVISOR.

22 THE ATTORNEY GENERAL IS THE LEGAL ADVISOR TO THE COUNCIL.

23 REVISOR'S NOTE: This section formerly was Art. 41, § 15–107(d), (e), and (f).

24 In subsection (a) of this section, the reference to staff “support” is added for
25 consistency within this article.

26 The only other changes are in style.

27 Defined terms: “Council” § 13–401

28 “State” § 9–101

1 13–413. APPLICABILITY OF OTHER LAWS.

2 THE COUNCIL IS EXEMPT FROM:

3 (1) DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE;

4 (2) DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE,
5 EXCEPT AS OTHERWISE PROVIDED IN § 11–203(B) OF THE STATE FINANCE AND
6 PROCUREMENT ARTICLE; AND

7 (3) TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE.

8 REVISOR’S NOTE: This section formerly was Art. 41, § 15–107(b).

9 The only changes are in style.

10 Defined term: “Council” § 13–401

11 13–414. FUNDING; BUDGET REQUESTS.

12 (A) FUNDING.

13 THE GOVERNOR SHALL INCLUDE IN THE BUDGET OF THE STATE DEPARTMENT OF
14 AGRICULTURE FUNDING FOR THE COUNCIL.

15 (B) BUDGET REQUESTS.

16 THE SECRETARY OF AGRICULTURE SHALL INCLUDE WITHOUT REVISION THE
17 BUDGET REQUEST OF THE COUNCIL IN THE BUDGET REQUEST OF THE STATE
18 DEPARTMENT OF AGRICULTURE THAT IS PROVIDED TO THE DEPARTMENT OF BUDGET
19 AND MANAGEMENT.

20 REVISOR’S NOTE: This section is new language derived without substantive
21 change from former Art. 41, § 15–107(c).

22 Defined terms: “Council” § 13–401

23 “State” § 9–101

24 13–415. PERMISSIBLE ACTIVITIES.

25 (A) IN GENERAL.

26 THE COUNCIL MAY UNDERTAKE ANY ACTIVITY THAT ADDRESSES ISSUES AND
27 CONCERNS OF RURAL AREAS OF THE STATE AS LONG AS THE ACTIVITY IS NOT
28 INCONSISTENT WITH PROVISIONS OF THE FARM SECURITY AND RURAL INVESTMENT ACT
29 OF 2002 REGARDING THE NATIONAL RURAL DEVELOPMENT PARTNERSHIP AND STATE
30 RURAL DEVELOPMENT COUNCILS, 7 U.S.C. § 2008M.

31 (B) SPECIFIED ACTIVITIES.

32 THE COUNCIL MAY:

1 (1) MAINTAIN A PRINCIPAL OFFICE AT A LOCATION IN THE CENTRAL REGION
2 OF THE STATE THAT IS ACCESSIBLE TO THE RURAL PUBLIC;

3 (2) EMPLOY, AS REGULAR EMPLOYEES OR AS INDEPENDENT CONTRACTORS,
4 STAFF THAT THE COUNCIL CONSIDERS NECESSARY IN ACCORDANCE WITH THE COUNCIL
5 BUDGET;

6 (3) ENTER INTO CONTRACTS;

7 (4) ACCEPT GRANTS AND OTHER ASSISTANCE FROM THE FEDERAL
8 GOVERNMENT, OTHER UNITS OF STATE GOVERNMENT, LOCAL GOVERNMENTS, OR A
9 PRIVATE SOURCE; AND

10 (5) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT ITS
11 PURPOSE.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 41, §§ 15–108 and 15–102(b).

14 In subsection (a) of this section, the reference to “7 U.S.C. § 2008m” is
15 substituted for the former reference to “P.L. 107–171, Section 6021” for
16 clarity.

17 Also in subsection (a) of this section, the reference to “state” rural
18 development councils is substituted for the former reference to “State”
19 councils for clarity.

20 Also in subsection (a) of this section, the former reference to “citizens of”
21 rural Maryland is deleted for clarity because the meaning of the term
22 “citizen” in this context is unclear and for consistency with similar
23 provisions in other revised articles of the Code. Similarly, in subsection
24 (b)(1) of this section, the reference to “the rural public” is substituted for
25 the former reference to “rural citizens”. See General Revisor's Note to
26 article.

27 Defined terms: “Council” § 13–401
28 “State” § 9–101

29 13–416. ANNUAL REPORT.

30 THE COUNCIL SHALL PUBLISH AND SUBMIT AN ANNUAL REPORT OF ITS ACTIVITIES
31 TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT
32 ARTICLE, TO THE GENERAL ASSEMBLY.

33 REVISOR'S NOTE: This section formerly was Art. 41, § 15–109.

34 The only changes are in style.

35 Defined term: “Council” § 13–401

1 13–417. DISSOLUTION.

2 (A) SCOPE OF SECTION.

3 (1) THIS SECTION APPLIES ONLY IF THE COUNCIL IS DISSOLVED.

4 (2) THIS SECTION DOES NOT APPLY TO THE DISPOSITION OF MONEY OR
5 OTHER ASSETS OF THE STATE.

6 (B) DISPOSAL OF ASSETS BY COUNCIL.

7 AFTER PROVIDING FOR THE PAYMENT OF ITS LIABILITIES, THE COUNCIL SHALL
8 DISPOSE OF ITS ASSETS IN A MANNER CONSISTENT WITH THE PURPOSES OF THE COUNCIL
9 BY TRANSFERRING THE ASSETS TO AN ORGANIZATION THAT:

10 (1) IS ORGANIZED AND OPERATED EXCLUSIVELY FOR CHARITABLE,
11 EDUCATIONAL, RELIGIOUS, OR SCIENTIFIC PURPOSES; AND

12 (2) QUALIFIES AS A TAX EXEMPT ORGANIZATION UNDER § 501(c)(3) OF
13 THE INTERNAL REVENUE CODE.

14 (C) DISPOSAL OF REMAINDER BY CIRCUIT COURT.

15 IN A MANNER CONSISTENT WITH SUBSECTION (B) OF THIS SECTION, THE CIRCUIT
16 COURT FOR THE COUNTY WHERE THE COUNCIL HAS ITS PRINCIPAL OFFICE SHALL
17 DISPOSE OF ANY ASSETS THAT THE COUNCIL FAILS TO DISPOSE OF BY INTERPLEADER OR
18 OTHER APPROPRIATE ACTION.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 41, § 15–110.

21 In subsection (a) of this section, the reference to “money” is substituted for
22 the former reference to “funds” for clarity and consistency within this
23 article.

24 In subsection (b)(2) of this section, the reference to “a tax exempt
25 organization” is substituted for the former reference to “an exempt
26 organization” for clarity.

27 In subsection (c) of this section, the reference to disposal of remaining
28 property “by interpleader or other appropriate action” is added to avoid the
29 implication that the court could dispose of the property on its own
30 initiative without a case before it, in violation of Md. Decl. of Rights, Art. 8.
31 See 89 Op. Att’y Gen. 222 (2004).

32 The Economic Development Article Review Committee notes, for
33 consideration of the General Assembly, that as a legislatively chartered
34 corporation, the Council may only be dissolved by action of the General
35 Assembly. Accordingly, any legislation to dissolve the Council could specify
36 a different disposition of assets than that specified in this section. Also,

1 conditions specified for grants of property other than State and local
2 moneys to the Council, such as federal funds, may require that those
3 assets be dealt with differently than this section appears to require. *See* 89
4 Op. Att’y Gen. 222 (2004).

5 Defined terms: “Council” § 13–401
6 “State” § 9–101

7 SUBTITLE 5. RURAL BROADBAND COORDINATION BOARD.

8 13–501. “BOARD” DEFINED.

9 IN THIS SUBTITLE, “BOARD” MEANS THE MARYLAND RURAL BROADBAND
10 COORDINATION BOARD.

11 REVISOR’S NOTE: This section formerly was Art. 41, § 21–101.

12 The only changes are in style.

13 13–502. ESTABLISHED.

14 THERE IS A MARYLAND RURAL BROADBAND COORDINATION BOARD.

15 REVISOR’S NOTE: This section formerly was Art. 41, § 21–102(a).

16 No changes are made.

17 13–503. MEMBERSHIP; CHAIR; BYLAWS.

18 (A) MEMBERSHIP.

19 THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:

20 (1) THE SECRETARY, OR THE SECRETARY’S DESIGNEE;

21 (2) THE SECRETARY OF TRANSPORTATION, OR THE DESIGNEE OF THE
22 SECRETARY OF TRANSPORTATION;

23 (3) AS SELECTED BY THE SECRETARY OF BUDGET AND MANAGEMENT,
24 EITHER THE CHIEF OF THE STATE OFFICE OF INFORMATION TECHNOLOGY OR THE
25 DIRECTOR OF NETWORK MARYLAND;

26 (4) THE CHAIR OF THE RURAL MARYLAND COUNCIL, OR THE CHAIR’S
27 DESIGNEE;

28 (5) THE CHAIR OF THE TRI-COUNTY COUNCIL FOR SOUTHERN
29 MARYLAND, OR THE CHAIR’S DESIGNEE;

30 (6) THE CHAIR OF THE TRI-COUNTY COUNCIL FOR WESTERN MARYLAND,
31 OR THE CHAIR’S DESIGNEE;

1 (7) THE CHAIR OF THE MID–SHORE REGIONAL COUNCIL, OR THE CHAIR’S
2 DESIGNEE;

3 (8) THE CHAIR OF THE TRI–COUNTY COUNCIL FOR THE LOWER EASTERN
4 SHORE OF MARYLAND, OR THE CHAIR’S DESIGNEE; AND

5 (9) THE CHAIR OF THE UPPER SHORE REGIONAL COUNCIL, OR THE
6 CHAIR’S DESIGNEE.

7 (B) CHAIR.

8 THE BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

9 (C) BYLAWS.

10 THE BOARD SHALL ADOPT BYLAWS TO CARRY OUT THIS SUBTITLE.

11 REVISOR’S NOTE: This section is new language derived without substantive
12 change from former Art. 41, § 21–103(a) and (b).

13 In subsection (a) of this section, the references to a “chair” are substituted
14 for the former references to a “chairman” because SG § 2–1238 requires the
15 use of terms that are neutral as to gender to the extent practicable.

16 The Economic Development Article Review Committee notes, for the
17 consideration of the General Assembly, that in subsection (c) of this section,
18 the reference to “bylaws” is substituted for the former reference to “rules”
19 as it does not appear that the General Assembly contemplated that the
20 Board would be subject to the Administrative Procedure Act. No
21 substantive change is intended.

22 Defined terms: “Board” § 13–501

23 “Secretary” § 9–101

24 “State” § 9–101

25 13–504. DUTIES.

26 THE BOARD SHALL:

27 (1) ASSIST IN THE DEPLOYMENT OF BROADBAND COMMUNICATION
28 INFRASTRUCTURE IN RURAL AND UNDERSERVED AREAS OF THE STATE;

29 (2) COOPERATE WITH PUBLIC, PRIVATE, AND NOT–FOR–PROFIT ENTITIES TO
30 OBTAIN, COORDINATE, AND DISSEMINATE RESOURCES FOR THE ESTABLISHMENT OF
31 BROADBAND COMMUNICATION SERVICES IN RURAL AND UNDERSERVED AREAS OF THE
32 STATE;

33 (3) REVIEW AND APPROVE THE DISBURSEMENT OF FUNDS UNDER THE
34 RURAL BROADBAND ASSISTANCE FUND UNDER § 5–1102 OF THIS ARTICLE AND ANY
35 OTHER FEDERAL, STATE, AND PRIVATE FINANCIAL RESOURCES THAT MAY BE PROVIDED

1 TO ASSIST THE ESTABLISHMENT OF BROADBAND COMMUNICATION SERVICES IN RURAL
2 AND UNDERSERVED AREAS OF THE STATE; AND

3 (4) PERFORM OTHER FUNCTIONS THAT ARE CONSISTENT WITH THE INTENT
4 OF THIS SUBTITLE.

5 REVISOR'S NOTE: This section formerly was Art. 41, § 21–102(b).

6 The only changes are in style.

7 Defined terms: “Board” § 13–501

8 “State” § 9–101

9 13–505. INTERAGENCY COOPERATION.

10 THE BOARD AND AFFECTED UNITS OF STATE GOVERNMENT SHALL COOPERATE
11 FULLY IN CARRYING OUT THE INTENT OF THIS SUBTITLE.

12 REVISOR'S NOTE: This section formerly was Art. 41, § 21–103(c).

13 The only changes are in style.

14 Defined terms: “Board” § 13–501

15 “State” § 9–101

16 13–506. DUTIES OF RURAL MARYLAND COUNCIL.

17 THE RURAL MARYLAND COUNCIL SHALL:

18 (1) PROVIDE STAFF SUPPORT TO THE BOARD; AND

19 (2) REPORT ON THE ACTIVITIES OF THE BOARD IN THE PRECEDING FISCAL
20 YEAR IN THE COUNCIL'S ANNUAL REPORT UNDER § 13–416 OF THIS TITLE.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 41, § 21–103(d).

23 Defined term: “Board” § 13–501

24 GENERAL REVISOR'S NOTE TO SUBTITLE:

25 Former Art. 41, §§ 21–101 through 21–103, which established the Rural
26 Broadband Coordination Board, were subject to termination on June 30, 2020. *See* § 3
27 of Ch. 269, Acts of 2006. Accordingly, the legislation that enacts this article provides
28 for the termination of this subtitle if and when that termination provision takes
29 effect. *See* § 22 of Ch. ___, Acts of 2008.

1 SUBTITLE 6. TRI-COUNTY COUNCIL FOR SOUTHERN MARYLAND.

2 PART I. GENERAL PROVISIONS.

3 13-601. DEFINITIONS.

4 (A) IN GENERAL.

5 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

6 REVISOR’S NOTE: This subsection formerly was Art. 20, § 1-102(a).

7 The reference to this “subtitle” is substituted for the former reference to
8 this “article” to reflect the reorganization of material derived from former
9 Article 20 in this subtitle.

10 No other changes are made.

11 (B) COMMISSIONERS.

12 “COMMISSIONERS” MEANS THE BOARD OF COUNTY COMMISSIONERS OF CALVERT
13 COUNTY, CHARLES COUNTY, OR ST. MARY’S COUNTY, RESPECTIVELY.

14 REVISOR’S NOTE: This subsection is new language derived without
15 substantive change from former Art. 20, § 1-102(c).

16 Defined term: “County” § 9-101

17 (C) COUNCIL.

18 “COUNCIL” MEANS THE TRI-COUNTY COUNCIL FOR SOUTHERN MARYLAND.

19 REVISOR’S NOTE: This subsection formerly was Art. 20, § 1-102(f).

20 No changes are made.

21 (D) EXECUTIVE DIRECTOR.

22 “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF THE COUNCIL.

23 REVISOR’S NOTE: This subsection is new language added to avoid repetition of
24 the phrase “Executive Director of the Council”.

25 Defined term: “Council” § 13-601

26 (E) PLAN.

27 “PLAN” MEANS A REGIONAL PLAN THAT THE COUNCIL PREPARES FOR THE REGION.

28 REVISOR’S NOTE: This subsection is new language derived without
29 substantive change from former Art. 20, § 1-102(g).

1 Defined terms: “Council” § 13–601

2 “Region” § 13–601

3 (F) REGION.

4 “REGION” MEANS CALVERT, CHARLES, AND ST. MARY’S COUNTIES.

5 REVISOR’S NOTE: This subsection is new language derived without
6 substantive change from former Art. 20, § 1–102(h) and the second
7 sentence of § 1–101.

8 Defined term: “County” § 9–101

9 REVISOR’S NOTE TO SECTION: Former Art. 20, § 1–102(b), which defined
10 “area”, is deleted as redundant of the defined term “region” and for clarity.
11 The two terms were used interchangeably in former Article 20 with no
12 clear distinction between the “region” as a whole and the planning “area”.
13 Also, the term “area” was used in a manner not consistent with the former
14 definition in the description of the “area of operation” of the Council,
15 revised in § 13–612 of this subtitle, in cooperation with “regional area
16 planning”, revised in § 13–614(b)(2) of this subtitle, and elsewhere.

17 13–602. ESTABLISHED.

18 (A) IN GENERAL.

19 THERE IS A TRI-COUNTY COUNCIL FOR SOUTHERN MARYLAND.

20 (B) STATUS.

21 (1) THE COUNCIL IS A TAX-EXEMPT BODY POLITIC AND CORPORATE.

22 (2) THE COUNCIL IS AN INDEPENDENT UNIT THAT THE GOVERNOR MAY
23 NOT PLACE IN A PRINCIPAL DEPARTMENT.

24 (C) PURPOSES.

25 (1) THE COUNCIL IS A COOPERATIVE PLANNING AND DEVELOPMENT UNIT
26 FOR THE REGION.

27 (2) THE PURPOSES OF THE COUNCIL ARE TO:

28 (I) FOSTER THE PHYSICAL, ECONOMIC, AND SOCIAL DEVELOPMENT OF
29 THE REGION; AND

30 (II) USE EFFECTIVELY THE ASSISTANCE PROVIDED TO THE REGION BY
31 THE STATE.

32 (3) THE COUNCIL INITIATES AND COORDINATES PLANS AND PROJECTS FOR
33 THE DEVELOPMENT OF HUMAN AND ECONOMIC RESOURCES OF THE REGION AS A
34 SOUTHERN MARYLAND PLANNING AND DEVELOPMENT UNIT.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 20, §§ 1–106 and 1–103(a), and the first sentence
3 of § 1–101.

4 In subsection (b)(1) of this section, the former word “public” is deleted as
5 implicit in the reference to a “body politic and corporate”.

6 In subsection (c)(1) and (2) of this section, the defined term “region” is
7 substituted for the former references to the “tri–county area” and “area” for
8 clarity.

9 In subsection (c)(1) and (3) of this section, the term “unit” is substituted for
10 the former term “agency” for consistency within this article. *See* General
11 Revisor's Note to article.

12 Defined terms: “Council” § 13–601

13 “Region” § 13–601

14 “State” § 9–101

15 **13–603. MEMBERSHIP.**

16 (A) **COMPOSITION; APPOINTMENT.**

17 **THE COUNCIL CONSISTS OF:**

18 (1) **THE MEMBERS OF THE GENERAL ASSEMBLY REPRESENTING THE**
19 **REGION, AS VOTING MEMBERS;**

20 (2) **THE COMMISSIONERS OF CALVERT, CHARLES, AND ST. MARY'S**
21 **COUNTIES, AS VOTING MEMBERS;**

22 (3) **ONE VOTING MEMBER APPOINTED BY THE PRESIDENT OF THE**
23 **SOUTHERN MARYLAND MUNICIPAL ASSOCIATION;**

24 (4) **ONE VOTING MEMBER AT LARGE FROM EACH COUNTY, APPOINTED BY**
25 **THE COMMISSIONERS OF THE COUNTY WITH THE CONCURRENCE OF THE MEMBERS OF**
26 **THE GENERAL ASSEMBLY REPRESENTING THE COUNTY;**

27 (5) **ONE NONVOTING MEMBER FROM EACH COUNTY, APPOINTED JOINTLY BY**
28 **THE ECONOMIC DEVELOPMENT COMMISSION AND THE PLANNING AND ZONING**
29 **COMMISSION OF THE COUNTY; AND**

30 (6) **ONE NONVOTING MEMBER APPOINTED BY THE DEPARTMENT AND THE**
31 **DEPARTMENT OF PLANNING.**

32 (B) **TENURE; VACANCIES.**

33 (1) **AN EX OFFICIO MEMBER IS A MEMBER ONLY DURING THE MEMBER'S**
34 **TERM OF OFFICE.**

1 (2) A MEMBER AT LARGE SERVES AT THE PLEASURE OF THE ELECTED
2 MEMBERS WHO REPRESENT THE SAME COUNTY.

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

5 (4) EXCEPT FOR AN EX OFFICIO MEMBER, A MEMBER WHO IS APPOINTED
6 AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A
7 SUCCESSOR IS APPOINTED.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 20, §§ 2–101, 2–102, 2–103, and 2–104.

10 In subsection (a)(4) of this section, the former reference to State Senators
11 and Delegates elected “from” a particular county is deleted as included in
12 the comprehensive reference to members of the General Assembly
13 “representing” the county.

14 In subsection (a)(5) of this section, the reference to three nonvoting
15 members appointed by the appropriate bodies of each county,
16 “respectively”, is added for clarity.

17 In subsection (b)(1) of this section, the former reference to an “appointed”
18 member serving during a term of office is deleted for clarity.

19 The Economic Development Article Review Committee notes, for the
20 consideration of the General Assembly, that in subsection (b)(3) and (4) of
21 this section, the references to a “term” for an appointed member are
22 confusing. Although the Council could adopt a term for appointed members
23 through its bylaws, it has not yet done so, and the statute is otherwise
24 silent. In practice, appointed members of the Council, like members at
25 large, serve at the pleasure of the appointing authority.

26 Defined terms: “Commissioners” § 13–601

27 “Council” § 13–601

28 “Department” § 9–101

29 13–604. CHAIR.

30 THE COUNCIL SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

31 REVISOR'S NOTE: This section formerly was the first sentence of Art. 20, §
32 2–401, as it related to the selection of a chairman.

33 The reference to a “chair” is substituted for the former reference to a
34 “chairman” because SG § 2–1238 requires the use of terms that are neutral
35 as to gender to the extent practicable.

36 No other changes are made.

1 Defined term: “Council” § 13–601

2 13–605. COMMITTEES.

3 (A) IN GENERAL.

4 THE COUNCIL SHALL ESTABLISH COMMITTEES TO CONDUCT ITS WORK.

5 (B) MEMBERSHIP.

6 THE MEMBERSHIP OF A COMMITTEE MAY INCLUDE INDIVIDUALS WHO ARE NOT
7 COUNCIL MEMBERS OR ELECTED OFFICIALS.

8 REVISOR’S NOTE: This section is new language derived without substantive
9 change from the second sentence of former Art. 20, § 2–401 and the first
10 sentence, as it related to the establishment of committees.

11 Defined term: “Council” § 13–601

12 13–606. COMPENSATION.

13 A MEMBER OF THE COUNCIL IS NOT ENTITLED TO COMPENSATION AS A MEMBER OF
14 THE COUNCIL.

15 REVISOR’S NOTE: This section is new language derived without substantive
16 change from former Art. 20, § 2–105.

17 Defined term: “Council” § 13–601

18 13–607. EXECUTIVE DIRECTOR.

19 (A) POSITION AND APPOINTMENT.

20 (1) THE COUNCIL SHALL APPOINT AN EXECUTIVE DIRECTOR QUALIFIED BY
21 TRAINING AND EXPERIENCE.

22 (2) THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE AND
23 PLANNING OFFICER AND TECHNICAL ADVISOR OF THE COUNCIL.

24 (B) TENURE.

25 THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE COUNCIL.

26 (C) RESPONSIBILITIES.

27 THE COUNCIL SHALL ESTABLISH THE POWERS AND DUTIES OF THE EXECUTIVE
28 DIRECTOR.

29 (D) COMPENSATION.

1 THE EXECUTIVE DIRECTOR IS ENTITLED TO THE COMPENSATION THAT THE
2 COUNCIL SETS.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from the first sentence of former Art. 20, § 2–402 and, as they
5 related to the employment and duties of a director, § 2–301(i) and the
6 second sentence of § 2–402.

7 Throughout this section, the defined term “Executive Director” is
8 substituted for the former obsolete references to a “director”.

9 In subsections (a), (c)(1), and (d) of this section, the former phrase
10 “[w]ithout limiting or restricting the general powers conferred by this
11 article” is deleted as surplusage.

12 Defined terms: “Council” § 13–601
13 “Executive Director” § 13–601

14 13–608. LEGAL ADVISOR.

15 THE ATTORNEY GENERAL IS THE LEGAL ADVISOR TO THE COUNCIL.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 20, § 1–105.

18 The former reference to the Attorney General “of Maryland” is deleted as
19 surplusage.

20 The former phrase “in all matters pertaining to the Council’s activities” is
21 deleted as implicit in the capacity of a legal advisor.

22 Defined term: “Council” § 13–601

23 13–609. STAFF.

24 (A) IN GENERAL.

25 THE COUNCIL MAY EMPLOY A STAFF AND RETAIN PROFESSIONAL CONSULTANTS.

26 (B) POWERS AND DUTIES.

27 THE COUNCIL SHALL:

28 (1) DETERMINE THE POWERS AND DUTIES OF THE STAFF; AND

29 (2) SET THE COMPENSATION OF THE STAFF.

30 (C) APPOINTMENT.

31 (1) THE EXECUTIVE DIRECTOR SHALL APPOINT AND REMOVE THE STAFF
32 OF THE COUNCIL.

1 (2) THE EXECUTIVE DIRECTOR MAY CONTRACT FOR PROFESSIONAL OR
2 CONSULTANT SERVICES.

3 (D) COOPERATIVE AGREEMENTS.

4 THE EXECUTIVE DIRECTOR MAY MAKE AGREEMENTS WITH LOCAL PLANNING UNITS
5 IN THE REGION FOR TEMPORARY TRANSFER OR JOINT USE OF STAFF.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from the third sentence of former Art. 20, § 2–402 and, as they
8 related to employment of staff, § 2–301(i) and the second sentence of §
9 2–402.

10 In subsections (a) and (b) of this section, the former phrase “[w]ithout
11 limiting or restricting the general powers conferred by this article” is
12 deleted as surplusage.

13 In subsection (d) of this section, the defined term “region” is substituted for
14 the former phrase “jurisdiction of the Council of public officials” for clarity.

15 Defined terms: “Council” § 13–601
16 “Executive Director” § 13–601
17 “Region” § 13–601

18 13–610. IMMUNITY.

19 THE COUNCIL HAS THE IMMUNITY FROM SUIT PROVIDED IN § 5–505 OF THE
20 COURTS ARTICLE.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from the second sentence of former Art. 20, § 2–301(b).

23 As to immunity of the Council from suit, *see* CJ § 5–505.

24 Defined term: “Council” § 13–601

25 13–611. FINANCIAL SUPPORT.

26 (A) IN GENERAL.

27 THE STATE AND CALVERT, CHARLES, AND ST. MARY'S COUNTIES MAY JOINTLY
28 FINANCE THE COUNCIL AND ITS ACTIVITIES.

29 (B) STATE SUPPORT.

30 (1) THE STATE MAY PROVIDE FINANCIAL SUPPORT TO THE COUNCIL TO
31 ASSIST IN CARRYING OUT THE ACTIVITIES OF THE COUNCIL.

32 (2) (I) ON OR BEFORE AUGUST 1 OF EACH YEAR, THE COUNCIL SHALL
33 SUBMIT ITS PROPOSED WORK PROGRAMS AND OPERATING BUDGET FOR THE FOLLOWING
34 FISCAL YEAR TO THE DEPARTMENT.

1 (II) THE SUBMISSION SHALL INCLUDE SUPPORTING SCHEDULES TO
2 SHOW HOW THE BUDGET IS FINANCED, AND TO PROVIDE FOR REVIEW AND
3 RECOMMENDATIONS.

4 (III) AFTER REVIEW, THE DEPARTMENT SHALL FORWARD THE
5 SUBMISSION AND ANY RECOMMENDATIONS TO THE DEPARTMENT OF BUDGET AND
6 MANAGEMENT FOR CONSIDERATION.

7 (3) THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET FOR THE
8 FOLLOWING FISCAL YEAR AN APPROPRIATION TO PARTIALLY SUPPORT THE COUNCIL.

9 (C) LOCAL SUPPORT.

10 (1) THE COUNTY COMMISSIONERS OF CALVERT, CHARLES, AND ST.
11 MARY'S COUNTIES SHALL APPROPRIATE MONEY EACH YEAR FOR THE COUNCIL TO
12 FOSTER COOPERATIVE PLANNING AND DEVELOPMENT IN THE REGION AS FOLLOWS:

13 (I) CALVERT COUNTY – \$7,000;

14 (II) CHARLES COUNTY – \$9,000; AND

15 (III) ST. MARY'S COUNTY – \$9,000.

16 (2) CALVERT, CHARLES, AND ST. MARY'S COUNTIES MAY APPROPRIATE
17 ANY OTHER MONEY FOR THE COUNCIL AS THEY CONSIDER NECESSARY AND
18 APPROPRIATE.

19 (D) OTHER MONEY.

20 THE COUNCIL MAY ACCEPT ADDITIONAL MONEY FROM ANY OTHER PUBLIC OR
21 PRIVATE SOURCE.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 20, § 2–403.

24 In subsection (b)(2)(ii) of this section, the word “how” is substituted for the
25 former word “that” for consistency within this title.

26 In subsection (b)(2)(iii) of this section, the reference to “the Department”
27 forwarding the annual submission is added for clarity.

28 In subsection (b)(3) of this section, the reference to “[t]he Governor ...
29 includ[ing] ... an appropriation to partially support the Council” is
30 substituted for the former reference to “the State's contribution” for
31 accuracy and consistency with the constitutional State budget process.

32 Also in subsection (b)(3) of this section, the former reference to “annual
33 review by the General Assembly” is deleted as an unnecessary restatement
34 of the ability of the legislature to reduce an appropriation for which a
35 specified amount is not set by statute. *See* Md. Constitution, Art. III, § 52.

1 In subsection (c)(2) of this section, the reference to appropriating funds
 2 that “they consider” necessary and appropriate is substituted for the
 3 former reference to appropriating money “as is” necessary and appropriate
 4 for accuracy.

5 Defined terms: “Commissioners” § 13–601

6 “Council” § 13–601

7 “Department” § 9–101

8 “Region” § 13–601

9 “State” § 9–101

10 **13–612. JURISDICTION, POWERS, AND DUTIES.**

11 (A) **JURISDICTION.**

12 **THE COUNCIL MAY OPERATE IN THE REGION.**

13 (B) **POWERS AND DUTIES.**

14 **THE COUNCIL MAY:**

15 (1) **ADOPT A SEAL;**

16 (2) **SUE;**

17 (3) **ADOPT BYLAWS AND RULES FOR THE CONDUCT OF ITS BUSINESS;**

18 (4) **ENTER INTO CONTRACTS AND AGREEMENTS;**

19 (5) **BORROW MONEY AND ACCEPT ADVANCES, LOANS, GRANTS,**
 20 **CONTRIBUTIONS, AND ANY OTHER FORM OF ASSISTANCE FROM THE FEDERAL**
 21 **GOVERNMENT, THE STATE, OR OTHER PUBLIC OR PRIVATE SOURCE;**

22 (6) **GIVE ANY REQUIRED SECURITY;**

23 (7) **INCLUDE IN ANY CONTRACT FOR FINANCIAL ASSISTANCE WITH THE**
 24 **FEDERAL GOVERNMENT ANY REASONABLE AND APPROPRIATE CONDITION IMPOSED UNDER**
 25 **FEDERAL LAW THAT IS NOT INCONSISTENT WITH THE PURPOSES OF THIS SUBTITLE; AND**

26 (8) **EXECUTE ANY INSTRUMENT AND ACT AS NECESSARY, CONVENIENT, OR**
 27 **DESIRABLE TO CARRY OUT ITS POWERS AND THE PURPOSES OF THIS SUBTITLE.**

28 (C) **RULES.**

29 **THE COUNCIL SHALL PUBLISH ITS RULES.**

30 **REVISOR’S NOTE:** This section is new language derived without substantive
 31 change from former Art. 20, §§ 2–201, 2–301(a), (c) through (e), (o), and the
 32 first sentence of (b), and 2–401, as it related to Council rules.

33 In the introductory language of subsection (b) of this section, the former

1 phrase “[w]ithout limiting or restricting the general powers conferred by
2 this article” is deleted as surplusage.

3 In subsection (b)(1) of this section, the former references to “hav[ing]” and
4 “alter[ing] ... at pleasure” a common seal are deleted as implicit in the
5 reference to “adopt[ing]” a seal.

6 In subsection (b)(3) of this section, the former reference to “mak[ing]
7 regulations” is deleted as included in the reference to “adopt[ing] bylaws
8 and rules” and for consistency within this article.

9 In subsection (b)(5) of this section, the former phrase “[f]or the purposes of
10 this article” is deleted as surplusage.

11 In subsection (b)(6) of this section, the former reference to “enter[ing] into
12 and carry[ing] out contracts or agreements” is deleted as duplicative of
13 subsection (b)(4) of this section.

14 In subsection (b)(8) of this section, the phrase “to carry out its powers and
15 the purposes of this subtitle” is substituted for the former phrase “for its
16 purposes or to carry out the powers expressly given in this article” for
17 clarity and consistency within this article.

18 For the immunity of the Council from suit provided in former Art. 20, §
19 2–301(b), *see* § 13–610 of this subtitle.

20 Defined terms: “Council” § 13–601

21 “State” § 9–101

22 **13–613. RESEARCH AND INFORMATIONAL ACTIVITIES.**

23 **THE COUNCIL MAY:**

24 (1) PREPARE STUDIES OF THE REGION’S RESOURCES WITH RESPECT TO
25 EXISTING AND EMERGING PROBLEMS OF INDUSTRY, COMMERCE, TRANSPORTATION,
26 POPULATION, HOUSING, AGRICULTURE, PUBLIC SERVICES, LOCAL GOVERNMENTS, AND
27 ANY OTHER MATTERS RELEVANT TO REGIONAL PLANNING;

28 (2) (I) COLLECT, PROCESS, AND ANALYZE AT REGULAR INTERVALS THE
29 SOCIAL AND ECONOMIC STATISTICS FOR THE REGION THAT ARE NECESSARY TO PLANNING
30 STUDIES; AND

31 (II) MAKE THE RESULTS AVAILABLE TO THE PUBLIC;

32 (3) PARTICIPATE WITH OTHER GOVERNMENTAL UNITS, EDUCATIONAL
33 INSTITUTIONS, AND PRIVATE ORGANIZATIONS IN THE COORDINATION OF THE RESEARCH
34 ACTIVITIES; AND

35 (4) PROVIDE INFORMATION TO:

1 (I) UNITS AND INSTRUMENTALITIES OF THE FEDERAL, STATE, AND
2 LOCAL GOVERNMENTS; AND

3 (II) THE PUBLIC, IN ORDER TO:

4 1. FOSTER PUBLIC AWARENESS AND UNDERSTANDING OF THE
5 OBJECTIVES OF THE PLAN AND THE FUNCTIONS OF REGIONAL AND LOCAL PLANNING; AND

6 2. STIMULATE PUBLIC INTEREST AND PARTICIPATION IN THE
7 ORDERLY, INTEGRATED DEVELOPMENT OF THE REGION.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 20, § 2–301(j), (k), (l), and (n).

10 In the introductory language of this section, the former phrase “[w]ithout
11 limiting or restricting the general powers conferred by this article” is
12 deleted as surplusage.

13 In item (3) of this section, the term “units” is substituted for the former
14 references to “departments” and “agencies”. The term “unit” is used as the
15 general term for an entity in the State government because it is inclusive
16 enough to include all those entities. *See* General Revisor's Note to article.

17 Defined terms: “Council” § 13–601

18 “Plan” § 13–601

19 “Region” § 13–601

20 “State” § 9–101

21 13–614. COOPERATION WITH OTHER UNITS.

22 (A) STATE UNITS WITH STATUTORY FUNCTION OR RESPONSIBILITY.

23 (1) THE COUNCIL SHALL COOPERATE WITH OTHER UNITS OF STATE
24 GOVERNMENT.

25 (2) THE COUNCIL SHALL SUBMIT FOR APPROVAL EACH PLAN OR PROJECT
26 OF THE COUNCIL IN WHICH THE STATE UNITS HAVE A STATUTORY FUNCTION OR
27 RESPONSIBILITY.

28 (B) GOVERNMENTAL UNITS GENERALLY.

29 THE COUNCIL MAY:

30 (1) COOPERATE WITH AND PROVIDE PLANNING ASSISTANCE TO LOCAL
31 GOVERNMENTS, INSTRUMENTALITIES, AND PLANNING UNITS IN THE REGION; AND

32 (2) COORDINATE REGIONAL AREA PLANNING WITH:

33 (I) PLANNING ACTIVITIES OF THE STATE AND OF THE LOCAL
34 GOVERNMENTAL UNITS, INCLUDING SPECIAL DISTRICTS, IN THE REGION AND
35 NEIGHBORING AREAS; AND

(II) PROGRAMS OF THE FEDERAL GOVERNMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20, §§ 1–104 and 2–301(m).

In subsections (a) and (b) of this section, the references to “units” are substituted for the former references to “departments” and “agencies”. The term “unit” is used as the general term for an entity in the government because it is inclusive enough to include all those entities. *See* General Revisor's Note to article.

In the introductory language of subsection (b) of this section, the former phrase “[w]ithout limiting or restricting the general powers conferred by this article” is deleted as surplusage.

Defined terms: “Council” § 13–601

“Region” § 13–601

“State” § 9–101

13–615. DISSOLUTION.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO THE DISSOLUTION OF THE COUNCIL.

(B) DISPOSAL OF ASSETS BY COUNCIL.

AFTER PROVIDING FOR THE PAYMENT OF EACH LIABILITY OF THE COUNCIL, THE COUNCIL, AS IT DETERMINES, SHALL DISPOSE OF ITS ASSETS EXCLUSIVELY:

(1) FOR THE PURPOSES OF THE COUNCIL; OR

(2) TO ANY ORGANIZATION THAT QUALIFIES UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE.

(C) DISPOSAL OF REMAINDER BY CIRCUIT COURT.

THE CIRCUIT COURT OF THE COUNTY IN WHICH THE PRINCIPAL OFFICE OF THE COUNCIL IS LOCATED, BY JUDICIAL ACTION, SHALL DISPOSE OF ANY PROPERTY REMAINING AFTER DISPOSAL UNDER SUBSECTION (B) OF THIS SECTION EXCLUSIVELY FOR THE PURPOSES OF THE COUNCIL OR TO ANY ORGANIZATION THAT QUALIFIES UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20, § 1–103(b).

In subsection (b) of this section, the former phrase “(or the corresponding provision of any future United States internal revenue law)” is deleted as unnecessary in light of Art. 1, § 21.

In subsection (c) of this section, the reference to disposal of remaining

1 property “by judicial action” is added to avoid the implication that the
2 court could dispose of the property on its own initiative without a case
3 before it, in violation of Md. Decl. of Rights, Art. 8. *See* 89 Op. Att’y Gen.
4 222 (2004).

5 The Economic Development Article Review Committee notes, for the
6 consideration of the General Assembly, that as a legislatively chartered
7 corporation, the Council may only be dissolved by action of the General
8 Assembly. Accordingly, any legislation to dissolve the Council could specify
9 a different disposition of assets than that specified in this section. Also,
10 conditions specified for grants of property other than State and local
11 moneys to the Council, such as federal funds, may require that those
12 assets be dealt with differently than this section appears to require. *See* 89
13 Op. Att’y Gen. 222 (2004).

14 Defined terms: “Council” § 13–601
15 “County” § 9–101

16 13–616. RESERVED.

17 13–617. RESERVED.

18 PART II. GENERAL DEVELOPMENT PLAN.

19 13–618. PLAN REQUIRED.

20 THE COUNCIL SHALL PREPARE, ADOPT, AND PERIODICALLY REVISE A GENERAL
21 DEVELOPMENT PLAN FOR THE REGION THAT EMBODIES THE POLICY RECOMMENDATIONS
22 OF THE COUNCIL.

23 REVISOR’S NOTE: This section is new language derived without substantive
24 change from former Art. 20, § 3–101(a) and (b), as they related to the
25 general requirement to adopt a plan.

26 Defined terms: “Council” § 13–601
27 “Region” § 13–601

28 13–619. OBJECTIVES.

29 THE OBJECTIVES OF THE PLAN ARE TO:

30 (1) GUIDE A COORDINATED, ADJUSTED, EFFICIENT, AND ECONOMIC
31 DEVELOPMENT OF THE REGION IN A MANNER THAT WILL BEST PROMOTE THE HEALTH,
32 SAFETY, ORDER, CONVENIENCE, PROSPERITY, AND WELFARE OF THE RESIDENTS OF THE
33 REGION IN ACCORDANCE WITH PRESENT AND FUTURE NEEDS AND RESOURCES;

34 (2) PROVIDE FOR PATTERNS OF URBANIZATION AND THE USES OF LAND AND
35 RESOURCES FOR TRADE, INDUSTRY, RECREATION, FORESTRY, AGRICULTURE, AND
36 TOURISM;

1 (3) CREATE CONDITIONS FAVORABLE TO THE DEVELOPMENT OF HUMAN
2 RESOURCES;

3 (4) IDENTIFY THE PUBLIC INTEREST AND THE NECESSITY FOR PUBLIC
4 ACTION AND INTERGOVERNMENTAL COOPERATION AND COORDINATION IN THE REGION;
5 AND

6 (5) COORDINATE WITH EFFORTS OF THE PRIVATE SECTOR IN THE REGION.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 20, § 3–101(a), as it related to the objectives of the
9 plan.

10 In item (1) of this section, the references to “residents of the region” are
11 substituted for the former references to “citizens” for clarity because the
12 meaning of the term “citizen” in this context is unclear and for consistency
13 with similar provisions in other revised articles of the Code. *See* General
14 Revisor’s Note to article.

15 Defined terms: “Plan” § 13–601
16 “Region” § 13–601

17 13–620. REQUIRED CONTENTS.

18 THE PLAN SHALL INCLUDE:

19 (1) A STATEMENT OF THE OBJECTIVES, STANDARDS, AND PRINCIPLES
20 SOUGHT TO BE EXPRESSED IN THE PLAN;

21 (2) RECOMMENDATIONS FOR THE MOST DESIRABLE PATTERN AND INTENSITY
22 OF GENERAL LAND USE IN THE REGION IN THE LIGHT OF THE BEST AVAILABLE
23 INFORMATION CONCERNING NATURAL ENVIRONMENTAL FACTORS, THE PRESENT AND
24 PROSPECTIVE ECONOMIC AND DEMOGRAPHIC BASIS OF THE REGION, AND THE RELATION
25 OF LAND USE IN THE REGION TO LAND USE IN ADJOINING AREAS;

26 (3) RECOMMENDATIONS FOR THE GENERAL CIRCULATION PATTERN FOR THE
27 REGION INCLUDING LAND, WATER, AND AIR TRANSPORTATION AND COMMUNICATION
28 FACILITIES, USED FOR MOVEMENT WITHIN THE REGION OR TO AND FROM ADJOINING
29 AREAS;

30 (4) RECOMMENDATIONS ON THE NEED FOR AND PROPOSED GENERAL
31 LOCATION OF PUBLIC AND PRIVATE WORKS AND FACILITIES THAT, BECAUSE OF THEIR
32 FUNCTION, SIZE, EXTENT, OR FOR ANY OTHER REASON, ARE OF A REGIONAL RATHER
33 THAN A PURELY LOCAL CONCERN;

34 (5) RECOMMENDATIONS FOR THE LONG–RANGE PROGRAMMING AND
35 FINANCING OF CAPITAL PROJECTS AND FACILITIES;

36 (6) RECOMMENDATIONS FOR MEETING HOUSING NEEDS OF EXISTING AND
37 PROSPECTIVE IMMIGRANT POPULATION OF THE REGION;

1 (7) RECOMMENDATIONS FOR THE DEVELOPMENT OF PROGRAMS AND
2 IMPROVEMENTS IN THE REGION FOR HEALTH SERVICES, MANPOWER PLANNING,
3 EMPLOYMENT OPPORTUNITY, EDUCATION, ELIMINATION OF POVERTY, AND LAW
4 ENFORCEMENT; AND

5 (8) ANY OTHER APPROPRIATE RECOMMENDATIONS ON CURRENT AND
6 IMPENDING PROBLEMS THAT MAY AFFECT THE REGION.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 20, § 3-101(b), as it related to the minimum
9 required contents of the plan.

10 Throughout this section, the defined term "region" is substituted for the
11 former defined term "area" for consistency within this section.

12 Defined terms: "Plan" § 13-601

13 "Region" § 13-601

14 13-621. ADOPTION AND MAINTENANCE.

15 (A) ADOPTION.

16 (1) THE COUNCIL SHALL HOLD A PUBLIC HEARING BEFORE ADOPTING ALL
17 OR PART OF THE PLAN.

18 (2) AT LEAST 60 DAYS BEFORE THE PUBLIC HEARING, THE COUNCIL SHALL
19 SUBMIT THE PLAN TO THE DEPARTMENT OF PLANNING AND TO THE LOCAL PLANNING
20 COMMISSIONS AND GOVERNING BODIES OF EACH POLITICAL SUBDIVISION IN THE REGION.

21 (3) THE COUNCIL SHALL PUBLISH NOTICE OF THE HEARING IN
22 NEWSPAPERS OF GENERAL CIRCULATION IN EACH COUNTY IN THE REGION, AT LEAST
23 ONCE EACH WEEK FOR 3 WEEKS BEFORE THE HEARING.

24 (B) RECOMMENDATIONS.

25 ON OR BEFORE THE DATE OF THE HEARING:

26 (1) THE DEPARTMENT OF PLANNING MAY RECOMMEND TO THE COUNCIL
27 CHANGES NEEDED IN THE PLAN TO CONFORM IT TO STATE PLANS AND POLICIES; AND

28 (2) EACH LOCAL PLANNING COMMISSION AND GOVERNING BODY OF EACH
29 POLITICAL SUBDIVISION IN THE REGION MAY MAKE RECOMMENDATIONS TO THE COUNCIL
30 ON THE EFFECT OF THE PLAN IN THE POLITICAL SUBDIVISION.

31 (C) MAINTENANCE.

32 THE COUNCIL SHALL REEVALUATE THE PLAN FOR THE DEVELOPMENT OF THE
33 REGION AT LEAST EVERY 4 YEARS, AFTER THE ELECTION OF STATE AND LOCAL
34 OFFICIALS.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 20, §§ 2–301(f) and 3–102(a), (b), (c), and, as it
3 related to a required public hearing, (d).

4 Subsection (a)(1) of this section is revised to state explicitly that which was
5 only implied by the former law: *i.e.* the Council must hold a public hearing
6 before adopting the plan.

7 In subsection (a)(2) of this section, the reference to “the Council”
8 submitting a proposed plan to the various governmental units is added for
9 clarity, to specify which entity is responsible for submitting the plan.
10 Similarly, in subsection (a)(3) of this section, the reference to “the Council”
11 publishing notice of a public hearing is added for clarity.

12 In subsection (a)(3) of this section, the reference to the three counties “in
13 the region” is substituted for the former reference to the three counties
14 “comprising the Council” for clarity.

15 In subsection (c) of this section, the word “shall” is substituted for the
16 former word “may” to reflect the mandatory nature of the Council's
17 periodic reevaluation of the plan.

18 Also in subsection (c) of this section, the former phrase “[w]ithout limiting
19 or restricting the general powers conferred by this article” is deleted as
20 surplusage.

21 Defined terms: “Council” § 13–601

22 “Plan” § 13–601

23 “Region” § 13–601

24 “State” § 9–101

25 13–622. AMENDMENT.

26 THE COUNCIL MAY AMEND THE PLAN IN THE SAME MANNER THAT IT ADOPTS THE
27 ORIGINAL PLAN.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 20, § 3–102(e).

30 The reference to “[t]he Council” amending the plan is added for clarity.

31 Defined terms: “Council” § 13–601

32 “Plan” § 13–601

33 13–623. CONFORMITY.

34 AFTER THE COUNCIL ADOPTS THE PLAN, THE COUNCIL MAY NOT ESTABLISH A
35 POLICY OR TAKE AN ACTION THAT DOES NOT CONFORM TO THE PLAN.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 20, § 3–102(d), as it related to the prohibition
3 against nonconforming action.

4 Defined terms: “Council” § 13–601
5 “Plan” § 13–601

6 13–624. PROJECT AND PLAN REFERRALS.

7 (A) REVIEW AUTHORITY.

8 THE COUNCIL MAY REVIEW:

9 (1) ANY APPLICATION THAT A POLITICAL SUBDIVISION IN THE REGION
10 MAKES TO A UNIT OF THE STATE OR FEDERAL GOVERNMENT FOR A LOAN OR GRANT FOR
11 A PROJECT; AND

12 (2) A LOCAL PLAN, PROPOSAL FOR A PROJECT, OR ORDINANCE THAT MAY
13 HAVE AN IMPACT OUTSIDE THE BOUNDARY OF THE POLITICAL SUBDIVISION OR IN THE
14 REGION.

15 (B) REQUIRED REFERRAL.

16 BEFORE APPLYING TO A UNIT OF THE STATE OR FEDERAL GOVERNMENT FOR A
17 LOAN OR GRANT FOR A PROJECT, A POLITICAL SUBDIVISION IN THE REGION SHALL
18 SUBMIT THE APPLICATION TO THE COUNCIL FOR ITS REVIEW.

19 (C) FINDINGS AND DETERMINATIONS.

20 THE COUNCIL SHALL FORWARD ITS FINDINGS AND DETERMINATIONS TO THE
21 REFERRING POLITICAL SUBDIVISION AND TO THE APPROPRIATE STATE OR FEDERAL UNIT.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 20, §§ 2–301(g) and (h) and 3–103(a) and (b).

24 Throughout this section, the references to a “unit” of the State or federal
25 government are substituted for the former references to “agencies” for
26 consistency within this article. *See* General Revisor's Note to article.

27 In subsections (a) and (b) of this section, the references to a “grant” are
28 substituted for the former references to “grants-in-aid” for clarity and
29 brevity.

30 In the introductory language of subsection (a) of this section, the former
31 phrase “[w]ithout limiting or restricting the general powers conferred by
32 this article” is deleted as surplusage.

33 In subsection (c) of this section, the reference to the “referring” political
34 subdivision is substituted for the former reference to the subdivision
35 “responsible for that referral” for brevity.

1 Defined terms: “Council” § 13–601
 2 “Region” § 13–601
 3 “State” § 9–101

4 13–625. LIMITATIONS.

5 IF THE COUNCIL HAS ADOPTED A PLAN FOR THE REGION:

6 (1) A GOVERNMENTAL UNIT IN THE REGION MAY NOT ADOPT A PLAN, OR
 7 AMENDMENT TO A PLAN, HAVING A REGIONAL IMPACT UNTIL THE PLAN IS REFERRED TO
 8 THE COUNCIL FOR ITS CONSIDERATION, REVIEW, AND RECOMMENDATIONS; AND

9 (2) A ROAD, PARK, PUBLIC WAY, PUBLIC BUILDING, OR OTHER
 10 DEVELOPMENT THAT IS REGIONAL IN NATURE OR AFFECTS AN AREA GREATER THAN A
 11 SINGLE UNIT OF GOVERNMENT MAY NOT BE CONSTRUCTED OR AUTHORIZED IN THE
 12 REGION UNTIL THE PROPOSED LOCATION AND ITS EXTENT ARE REFERRED TO THE
 13 COUNCIL FOR CONSIDERATION, REVIEW, AND RECOMMENDATIONS.

14 REVISOR’S NOTE: This section is new language derived without substantive
 15 change from former Art. 20, § 3–103(c).

16 In the introductory language of this section, the former phrase “there shall
 17 be the following restrictions” is deleted as implicit.

18 Defined terms: “Council” § 13–601
 19 “Plan” § 13–601
 20 “Region” § 13–601

21 13–626. RESERVED.

22 13–627. RESERVED.

23 PART III. CONSUMER AFFAIRS.

24 13–628. DEFINITIONS.

25 (A) IN GENERAL.

26 IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

29 (B) AGREEMENT.

30 “AGREEMENT” MEANS A WRITTEN SETTLEMENT AGREEMENT OR ASSURANCE OF
 31 DISCONTINUANCE.

32 REVISOR’S NOTE: This subsection is new language added to provide a uniform
 33 term that includes the former references to a “written assurance of
 34 discontinuance or settlement agreement”, “written assurance or agreement

1 of discontinuance or settlement agreement”, and similar phrases.

2 (C) BOARD.

3 “BOARD” MEANS THE ADVISORY BOARD ON CONSUMER AFFAIRS.

4 REVISOR’S NOTE: This subsection is new language added to avoid repetition of
5 the full title of the Advisory Board on Consumer Affairs.

6 (D) CONSUMER.

7 “CONSUMER” MEANS A PURCHASER, LESSEE, OR RECIPIENT OR A PROSPECTIVE
8 PURCHASER, LESSEE, OR RECIPIENT OF CONSUMER GOODS OR SERVICES OR CONSUMER
9 CREDIT.

10 REVISOR’S NOTE: This subsection is new language derived without
11 substantive change from former Art. 20, § 1–102(d).

12 The term “consumer” defined in this subsection formerly applied
13 throughout former Article 20, which corresponds to this entire subtitle.
14 However, the term was used only in material revised in this part.

15 13–629. SCOPE OF PART.

16 THIS PART APPLIES TO A GOOD, SERVICE, DEBT, OR OBLIGATION OF A CONSUMER,
17 OR AN EXTENSION OF CREDIT TO A CONSUMER, THAT IS PRIMARILY FOR A PERSONAL,
18 HOUSEHOLD, FAMILY, OR AGRICULTURAL PURPOSE.

19 REVISOR’S NOTE: This section is new language derived without substantive
20 change from former Art. 20, § 1–102(e).

21 It is revised as a scope provision rather than as a definition for clarity, and
22 because the former defined term “[c]onsumer goods, services, credit and
23 debts” was not specifically used in the former law.

24 Defined term: “Consumer” § 13–628

25 13–630. IMPLEMENTING RESOLUTION REQUIRED.

26 BEFORE THIS PART MAY BE IMPLEMENTED, THE COUNCIL SHALL ADOPT A
27 RESOLUTION SPECIFICALLY DIRECTING THE IMPLEMENTATION.

28 REVISOR’S NOTE: This section is new language derived without substantive
29 change from former Art. 20, § 4–108.

30 The reference to this “part” is substituted for the former reference to this
31 “title” to reflect the reorganization of former Art. 20, Title 4 in this part.

32 The former reference to implementation of this part “in any manner” is
33 deleted as surplusage.

1 The Economic Development Article Revised Committee notes, for the
2 consideration of the General Assembly, that this part has never been
3 implemented. The General Assembly may wish to consider whether this
4 part should be repealed as obsolete.

5 Defined term: “Council” § 13–601

6 13–631. ADVISORY BOARD ON CONSUMER AFFAIRS.

7 (A) ESTABLISHED.

8 THERE IS AN ADVISORY BOARD ON CONSUMER AFFAIRS UNDER THE COUNCIL.

9 (B) MEMBERSHIP.

10 THE BOARD CONSISTS OF THREE MEMBERS APPOINTED BY THE EXECUTIVE
11 DIRECTOR AND CHOSEN FROM THE STAFF MEMBERS OF THE COUNCIL.

12 (C) TENURE.

13 A MEMBER OF THE BOARD SERVES AT THE PLEASURE OF THE EXECUTIVE
14 DIRECTOR.

15 REVISOR’S NOTE: This section is new language derived without substantive
16 change from former Art. 20, § 4–102, the first and second sentences of §
17 4–103, and § 4–101, as it related to the establishment of the Board.

18 Defined terms: “Board” § 13–628

19 “Council” § 13–601

20 “Executive Director” § 13–601

21 13–632. DIRECTOR.

22 THE EXECUTIVE DIRECTOR IS THE DIRECTOR OF THE BOARD.

23 REVISOR’S NOTE: This section is new language derived without substantive
24 change from the third sentence of former Art. 20, § 4–103.

25 Defined terms: “Board” § 13–628

26 “Council” § 13–601

27 “Executive Director” § 13–601

28 13–633. MEETINGS; COMPENSATION.

29 (A) MEETINGS.

30 THE BOARD SHALL MEET AT LEAST ONCE A MONTH, AT THE TIMES AND PLACES
31 THAT IT DETERMINES.

32 (B) COMPENSATION.

1 A MEMBER OF THE BOARD IS NOT ENTITLED TO COMPENSATION AS A MEMBER OF
2 THE BOARD.

3 REVISOR’S NOTE: This section is new language derived without substantive
4 change from former Art. 20, § 4–104 and the fourth sentence of § 4–103.

5 In subsection (a) of this section, the reference to the Board meeting “at the
6 times and places that it determines” is added for clarity.

7 Also in subsection (a) of this section, the former reference to the Board
8 meeting “as frequently as required to perform its duties” is deleted as
9 surplusage.

10 Defined term: “Board” § 13–628

11 13–634. PURPOSE, POWERS, AND DUTIES.

12 (A) PURPOSE.

13 THE PURPOSE OF THE BOARD IS TO PROMOTE AND PROTECT THE INTERESTS OF
14 CONSUMERS IN THE REGION.

15 (B) POWERS AND DUTIES.

16 THE BOARD MAY:

17 (1) REPRESENT THE INTEREST OF CONSUMERS BEFORE ADMINISTRATIVE,
18 REGULATORY, AND LEGISLATIVE UNITS;

19 (2) ASSIST, ADVISE, AND COOPERATE WITH THE BETTER BUSINESS BUREAUS
20 OF THE REGION AND LOCAL, STATE, AND FEDERAL UNITS TO PROTECT AND PROMOTE
21 THE INTEREST OF CONSUMERS;

22 (3) ASSIST, DEVELOP, AND CONDUCT PROGRAMS OF CONSUMER EDUCATION
23 AND INFORMATION THROUGH PUBLIC HEARINGS, MEETINGS, PUBLICATIONS, OR OTHER
24 MATERIALS PREPARED FOR DISTRIBUTION TO CONSUMERS IN THE REGION;

25 (4) ENCOURAGE LOCAL BUSINESS AND INDUSTRY TO MAINTAIN HIGH
26 STANDARDS OF HONESTY, FAIR BUSINESS PRACTICES, AND PUBLIC RESPONSIBILITY IN
27 THE PRODUCTION, PROMOTION, AND SALE OF CONSUMER GOODS AND SERVICES AND IN
28 THE EXTENSION OF CREDIT; AND

29 (5) EXERCISE AND PERFORM ANY OTHER FUNCTIONS AND DUTIES
30 CONSISTENT WITH THIS PART THAT ARE NECESSARY OR APPROPRIATE TO PROTECT AND
31 PROMOTE THE WELFARE OF CONSUMERS IN THE REGION.

32 REVISOR’S NOTE: This section is new language derived without substantive
33 change from former Art. 20, § 4–105(c) through (g) and, as it related to the
34 purpose of the Board, § 4–101.

35 In subsection (b)(3) of this section, the reference to “consumers in the

1 region” is substituted for the former reference to the “consumer public of
2 the area” for consistency within this subtitle.

3 In subsection (b)(4) of this section, the former reference to “undertak[ing]
4 activities” to encourage businesses is deleted as surplusage.

5 In subsection (b)(5) of this section, the reference to consumers “in the
6 region” is substituted for the former reference to “county” consumers for
7 clarity and consistency within this subtitle.

8 Defined terms: “Board” § 13–628

9 “Consumer” § 13–628

10 “Region” § 13–601

11 “State” § 9–101

12 13–635. CONSUMER COMPLAINT.

13 (A) IN GENERAL.

14 A CONSUMER WHO IS SUBJECTED TO AN UNLAWFUL, UNFAIR, OR DECEPTIVE TRADE
15 PRACTICE MAY FILE A WRITTEN COMPLAINT WITH THE BOARD.

16 (B) CONTENTS.

17 THE COMPLAINT SHALL CONTAIN:

18 (1) THE NAME AND ADDRESS OF THE PERSON ALLEGED TO HAVE
19 COMMITTED THE PARTICULAR TRADE PRACTICE; AND

20 (2) THE OTHER INFORMATION THAT THE BOARD REQUIRES.

21 REVISOR’S NOTE: This section is new language derived without substantive
22 change from former Art. 20, § 4–106.

23 Defined terms: “Board” § 13–628

24 “Consumer” § 13–628

25 “Person” § 9–101

26 13–636. INVESTIGATION.

27 (A) AUTHORITY.

28 THE BOARD MAY INVESTIGATE DECEPTIVE OR UNFAIR TRADE PRACTICES:

29 (1) BASED ON A CONSUMER COMPLAINT; OR

30 (2) ON ITS OWN INITIATIVE.

31 (B) COMPLAINT.

1 THE BOARD SHALL INVESTIGATE EACH COMPLAINT TO ASCERTAIN FACTS AND
2 ISSUES.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 20, § 4–105(a) and the first sentence of § 4–107(a).

5 Defined terms: "Board" § 13–628

6 "Consumer" § 13–628

7 13–637. CONCILIATION; CIVIL PENALTY.

8 (A) CONFERENCE.

9 (1) IF THE BOARD DETERMINES THERE ARE REASONABLE GROUNDS TO
10 BELIEVE AN UNLAWFUL, UNFAIR, OR DECEPTIVE TRADE PRACTICE HAS OCCURRED, THE
11 BOARD SHALL ATTEMPT TO CONCILIATE THE MATTER BY INITIAL CONFERENCE AND
12 PERSUASION WITH ALL INTERESTED PARTIES AND ANY REPRESENTATIVES OF THE
13 PARTIES.

14 (2) A CONCILIATION CONFERENCE IS INFORMAL AND IS NOT PUBLIC.

15 (B) WRITTEN AGREEMENT.

16 (1) THE TERMS OF CONCILIATION AGREED TO BY THE PARTIES MAY BE
17 REDUCED TO WRITING AND INCORPORATED INTO AN AGREEMENT TO BE SIGNED BY THE
18 PARTIES.

19 (2) THE AGREEMENT IS FOR CONCILIATION PURPOSES ONLY AND DOES NOT
20 CONSTITUTE AN ADMISSION BY A PARTY THAT THE LAW HAS BEEN VIOLATED.

21 (3) THE DIRECTOR OF THE BOARD SHALL SIGN AN AGREEMENT ON BEHALF
22 OF THE BOARD.

23 (C) VIOLATION.

24 A PERSON MAY NOT VIOLATE OR FAIL TO ADHERE TO A PROVISION CONTAINED IN
25 AN AGREEMENT.

26 (D) CIVIL PENALTY.

27 (1) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL
28 PENALTY PAYABLE TO THE APPROPRIATE COUNTY IN AN AMOUNT NOT EXCEEDING \$500
29 FOR EACH VIOLATION.

30 (2) THE COUNTY MAY RECOVER THE CIVIL PENALTY IN A CIVIL ACTION.

31 (E) FAILURE TO ENFORCE WAIVER.

32 THE BOARD DOES NOT WAIVE ANY RIGHT OF THE BOARD OR PROVISION OF AN
33 AGREEMENT IF THE BOARD FAILS TO ENFORCE A VIOLATION OF A PROVISION OF THE
34 AGREEMENT.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 20, § 4–107(b) and (c).

3 In subsection (b)(3) of this section, the former reference to the “executive”
4 director of the Board is deleted to avoid confusion between the office of
5 director of the Board and the office of the Executive Director of the
6 Council, although they are carried out by the same individual under §
7 13–631 of this subtitle, which provides that the Executive Director of the
8 Council is the director of the Board.

9 In subsection (d) of this section, the reference to a violation of this “section”
10 is retained, although this section revises only a portion of former Art. 20, §
11 4–107. Subsection (c) of this section contains the only prohibited act
12 derived from former § 4–107. Thus only a violation of this section exposes
13 the violator to a civil penalty under subsection (d) of this section. No
14 substantive change is intended.

15 Defined terms: “Agreement” § 13–628

16 “Board” § 13–628

17 “County” § 9–101

18 “Person” § 9–101

19 13–638. REFERRAL TO OTHER UNITS.

20 (A) AUTHORITY.

21 AS APPROPRIATE, THE BOARD MAY REPORT INFORMATION CONCERNING VIOLATION
22 OF A CONSUMER PROTECTION LAW TO:

23 (1) THE CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE
24 ATTORNEY GENERAL;

25 (2) THE FEDERAL TRADE COMMISSION; OR

26 (3) ANY OTHER UNIT THAT HAS JURISDICTION OVER CONSUMER
27 PROTECTION.

28 (B) COUNTY ATTORNEY.

29 THE BOARD SHALL FORWARD A COMPLAINT TO THE APPROPRIATE COUNTY
30 ATTORNEY FOR APPROPRIATE LEGAL ACTION IF THE BOARD:

31 (1) FAILS TO CONCILIATE THE COMPLAINT AFTER THE PARTIES HAVE
32 ATTEMPTED A CONCILIATION IN GOOD FAITH;

33 (2) FAILS TO ACHIEVE AN AGREEMENT; OR

34 (3) DETERMINES THAT THE COMPLAINT IS NOT SUITABLE FOR
35 CONCILIATION.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 20, §§ 4–105(b), 4–107(d), and the second sentence
3 of § 4–107(a).

4 In subsection (a)(3) of this section, the reference to an appropriate “unit” is
5 substituted for the former reference to appropriate “governmental
6 agencies” for consistency within this article. *See* General Revisor’s Note to
7 article.

8 In subsection (b)(3) of this section, the phrase “suitable for conciliation” is
9 substituted for the former phrase “susceptible of conciliation” for clarity.

10 Defined terms: “Agreement” § 13–628

11 “Board” § 13–628

12 “County” § 9–101

13 13–639. REMEDY NOT EXCLUSIVE.

14 THIS PART DOES NOT PREVENT A PERSON FROM:

15 (1) EXERCISING A RIGHT OR SEEKING A REMEDY TO WHICH THE PERSON
16 MIGHT BE ENTITLED; OR

17 (2) FILING A COMPLAINT WITH ANOTHER UNIT OR A COURT.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 20, § 4–107(e).

20 The reference to this “part” is substituted for the former reference to this
21 “title” to reflect the reorganization of material derived from former Art. 20,
22 Title 4 in this part.

23 In item (2) of this section, the former obsolete reference to a court “of law or
24 equity” is deleted in light of the merger of law and equity effected by Md.
25 Rule 2–301, which mandates “one form of action known as the ‘civil
26 action”’.

27 Defined term: “Person” § 9–101

28 13–640. ANNUAL REPORT.

29 THE BOARD SHALL REPORT EACH YEAR TO THE COUNCIL ON THE NUMBER OF
30 COMPLAINTS FILED, THE NATURE AND DISPOSITION OF THE COMPLAINTS, AND OTHER
31 RELEVANT ACTIVITIES OF THE BOARD DURING THE PREVIOUS YEAR.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 20, § 4–105(h).

34 Defined terms: “Board” § 13–628

35 “Council” § 13–601

SUBTITLE 7. TRI-COUNTY COUNCIL FOR WESTERN MARYLAND.

PART I. GENERAL PROVISIONS.

13-701. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 20A, § 1-102(a).

The reference to this "subtitle" is substituted for the former reference to this "article" to reflect the reorganization of material derived from former Article 20A in this subtitle.

No other changes are made.

(B) COMMISSIONERS.

"COMMISSIONERS" MEANS THE BOARD OF COUNTY COMMISSIONERS OF ALLEGANY COUNTY, GARRETT COUNTY, OR WASHINGTON COUNTY, RESPECTIVELY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 20A, § 1-102(c).

Defined term: "County" § 9-101

(C) COUNCIL.

"COUNCIL" MEANS THE TRI-COUNTY COUNCIL FOR WESTERN MARYLAND.

REVISOR'S NOTE: This subsection formerly was Art. 20A, § 1-102(d).

No changes are made.

(D) EXECUTIVE DIRECTOR.

"EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE COUNCIL.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the phrase "Executive Director of the Council".

Defined term: "Council" § 13-701

(E) PLAN.

"PLAN" MEANS A REGIONAL PLAN THAT THE COUNCIL PREPARES FOR THE REGION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 20A, § 1-102(e).

1 Defined terms: “Council” § 13–701

2 “Region” § 13–701

3 (F) REGION.

4 “REGION” MEANS ALLEGANY, GARRETT, AND WASHINGTON COUNTIES.

5 REVISOR’S NOTE: This subsection is new language derived without
6 substantive change from former Art. 20A, §§ 1–101(c), 1–102(f), and
7 4–101(c).

8 REVISOR’S NOTE TO SECTION: Former Art. 20A, § 1–102(b), which defined
9 “area”, is deleted as redundant of the defined term “region” and for clarity.
10 The two terms were used interchangeably in former Article 20A with no
11 clear distinction between the “region” as a whole and the planning “area”.

12 13–702. ESTABLISHED.

13 (A) IN GENERAL.

14 THERE IS A TRI-COUNTY COUNCIL FOR WESTERN MARYLAND.

15 (B) STATUS.

16 (1) THE COUNCIL IS A TAX-EXEMPT BODY POLITIC AND CORPORATE.

17 (2) THE COUNCIL IS AN INDEPENDENT UNIT THAT THE GOVERNOR MAY
18 NOT PLACE IN A PRINCIPAL DEPARTMENT.

19 (C) PURPOSES.

20 (1) THE COUNCIL IS A COOPERATIVE REGIONAL PLANNING AND
21 DEVELOPMENT UNIT FOR THE REGION.

22 (2) THE PURPOSES OF THE COUNCIL ARE TO:

23 (I) FOSTER THE PHYSICAL, ECONOMIC, AND SOCIAL DEVELOPMENT OF
24 THE REGION; AND

25 (II) USE EFFECTIVELY THE ASSISTANCE PROVIDED TO THE REGION BY
26 THE STATE.

27 (3) THE COUNCIL INITIATES AND COORDINATES PLANS AND PROJECTS FOR
28 THE DEVELOPMENT OF HUMAN AND ECONOMIC RESOURCES OF THE REGION AS A
29 WESTERN MARYLAND PLANNING AND DEVELOPMENT UNIT.

30 REVISOR’S NOTE: This section is new language derived without substantive
31 change from former Art. 20A, §§ 1–106, 1–101(a) and (b), and 1–103(a).

32 In subsection (b)(1) of this section, the former word “public” is deleted as
33 implicit in the reference to a “body politic and corporate”.

1 In subsection (c)(1) and (2) of this section, the defined term “region” is
2 substituted for the former references to an “area” for clarity and
3 consistency.

4 In subsection (c)(1) and (3) of this section, the term “unit” is substituted for
5 the former term “agency” for consistency within this article. *See* General
6 Revisor’s Note to article.

7 Defined terms: “Council” § 13–701

8 “Region” § 13–701

9 “State” § 9–101

10 13–703. MEMBERSHIP.

11 (A) COMPOSITION; APPOINTMENT.

12 THE COUNCIL CONSISTS OF THE FOLLOWING 23 MEMBERS:

13 (1) FROM ALLEGANY, GARRETT, AND WASHINGTON COUNTIES:

14 (I) NINE REPRESENTATIVES OF THE COUNTY GOVERNMENTS, THREE
15 FROM EACH COUNTY, APPOINTED BY THEIR RESPECTIVE COMMISSIONERS; AND

16 (II) THREE MUNICIPAL ELECTED OFFICIALS, ONE FROM EACH COUNTY,
17 APPOINTED BY THEIR RESPECTIVE COMMISSIONERS;

18 (2) FROM THE MEMBERS OF THE HOUSE OF DELEGATES, THE CHAIR, OR
19 THE DESIGNEE OF THE CHAIR, OF THE ALLEGANY COUNTY DELEGATION, THE GARRETT
20 COUNTY DELEGATION, AND THE WASHINGTON COUNTY DELEGATION, EACH OF WHOM
21 SHALL RESIDE, RESPECTIVELY, IN ALLEGANY COUNTY, GARRETT COUNTY, AND
22 WASHINGTON COUNTY;

23 (3) THE TWO MEMBERS OF THE SENATE OF MARYLAND REPRESENTING THE
24 REGION AND RESIDING IN ALLEGANY COUNTY, GARRETT COUNTY, OR WASHINGTON
25 COUNTY; AND

26 (4) SIX PRIVATE CITIZENS, TWO EACH FROM ALLEGANY COUNTY, GARRETT
27 COUNTY, AND WASHINGTON COUNTY, RESPECTIVELY, THAT ARE:

28 (I) APPOINTED BY THEIR RESPECTIVE COMMISSIONERS;

29 (II) NOT LISTED UNDER PARAGRAPHS (1), (2), AND (3) OF THIS
30 SUBSECTION; AND

31 (III) NEITHER ELECTED OFFICIALS NOR EMPLOYEES OF A UNIT OF
32 LOCAL GOVERNMENT.

33 (B) TENURE; VACANCIES.

1 (1) A MEMBER WHO QUALIFIES BECAUSE OF THE MEMBER'S ELECTED OR
 2 APPOINTED POSITION IS A MEMBER OF THE COUNCIL ONLY DURING THE MEMBER'S TERM
 3 OF OFFICE IN THE ELECTED OR APPOINTED POSITION.

4 (2) A MEMBER APPOINTED UNDER SUBSECTION (A)(4) OF THIS SECTION:

5 (I) SERVES AT THE PLEASURE OF THE COMMISSIONERS WHO
 6 APPOINTED THE MEMBER; AND

7 (II) HAS THE SAME TERM AS THE COMMISSIONERS WHO APPOINTED
 8 THE MEMBER.

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

11 (4) EXCEPT FOR AN EX OFFICIO MEMBER, A MEMBER WHO IS APPOINTED
 12 AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A
 13 SUCCESSOR IS APPOINTED AND QUALIFIES.

14 REVISOR'S NOTE: This section is new language derived without substantive
 15 change from former Art. 20A, §§ 2–102, 2–103, and 2–101(b), (c), and (d).

16 In subsection (b)(2) of this section, the reference to a “member appointed
 17 under subsection (a)(4) of this section” is substituted for the former
 18 reference to “members–at–large” for clarity.

19 Defined terms: “Commissioners” § 13–701

20 “Council” § 13–701

21 “County” § 9–101

22 13–704. CHAIR.

23 THE COUNCIL SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

24 REVISOR'S NOTE: This section is new language derived without substantive
 25 change from former Art. 20A, § 2–203(a), as it related to the selection of a
 26 chair.

27 The reference to a “chair” is substituted for the former reference to a
 28 “chairman” because SG § 2–1238 requires the use of terms that are neutral
 29 as to gender to the extent practicable.

30 Defined term: “Council” § 13–701

31 13–705. COMMITTEES.

32 (A) IN GENERAL.

33 THE COUNCIL SHALL ESTABLISH COMMITTEES TO CONDUCT ITS WORK.

34 (B) MEMBERSHIP.

1 THE MEMBERSHIP OF A COMMITTEE MAY INCLUDE INDIVIDUALS WHO ARE NOT
2 COUNCIL MEMBERS OR ELECTED OFFICIALS.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 20A, §§ 2–203(b) and, as it related to the
5 establishment of committees, (a).

6 Defined term: “Council” § 13–701

7 13–706. COMPENSATION.

8 A MEMBER OF THE COUNCIL IS NOT ENTITLED TO COMPENSATION AS A MEMBER OF
9 THE COUNCIL.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 20A, § 2–104.

12 Defined term: “Council” § 13–701

13 13–707. EXECUTIVE DIRECTOR.

14 (A) POSITION AND APPOINTMENT.

15 (1) THE COUNCIL SHALL APPOINT AN EXECUTIVE DIRECTOR QUALIFIED BY
16 TRAINING AND EXPERIENCE.

17 (2) THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE AND
18 PLANNING OFFICER AND REGULAR TECHNICAL ADVISOR OF THE COUNCIL.

19 (B) TENURE.

20 THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE COUNCIL.

21 (C) RESPONSIBILITIES.

22 (1) THE COUNCIL SHALL ESTABLISH THE POWERS AND DUTIES OF THE
23 EXECUTIVE DIRECTOR.

24 (2) THE EXECUTIVE DIRECTOR APPOINTS AND REMOVES THE STAFF OF THE
25 COUNCIL.

26 (D) COMPENSATION.

27 THE EXECUTIVE DIRECTOR IS ENTITLED TO THE COMPENSATION THAT THE
28 COUNCIL SETS.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 20A, § 2–204(a)(1) and, as they related to the
31 executive director, (2) and § 2–202(11).

32 Throughout this section, the defined term “Executive Director” is

1 substituted for the former obsolete references to a “director”.

2 In subsections (a), (c), and (d) of this section, the former phrase “[w]ithout
3 limiting or restricting the general powers conferred by this article” is
4 deleted as surplusage.

5 Defined terms: “Council” § 13–701
6 “Executive Director” § 13–701

7 13–708. LEGAL ADVISOR.

8 WITH THE CONSENT OF THE ATTORNEY GENERAL, THE COUNCIL MAY:

- 9 (1) SELECT AND RETAIN ITS OWN COUNSEL; OR
10 (2) USE THE ATTORNEY GENERAL AS ITS LEGAL COUNSEL.

11 REVISOR’S NOTE: This section is new language derived without substantive
12 change from former Art. 20A, § 1–105.

13 The phrase “[w]ith the consent of the Attorney General,” is added to reflect
14 the general requirement of the Attorney General to provide representation
15 to State units. *See* Md. Constitution, Art. V, § 3. However, the General
16 Assembly may designate other representation for a State unit with a
17 distinctly local orientation. *See* 67 Op. Att’y Gen. 3 (1982).

18 Defined term: “Council” § 13–701

19 13–709. STAFF.

20 (A) IN GENERAL.

21 THE COUNCIL MAY EMPLOY A STAFF AND RETAIN PROFESSIONAL CONSULTANTS.

22 (B) POWERS AND DUTIES.

23 THE COUNCIL SHALL:

- 24 (1) DETERMINE THE POWERS AND DUTIES OF THE STAFF; AND
25 (2) SET THE COMPENSATION OF THE STAFF.

26 (C) CONSULTANTS.

27 THE EXECUTIVE DIRECTOR MAY CONTRACT FOR PROFESSIONAL OR CONSULTANT
28 SERVICES.

29 (D) COOPERATIVE AGREEMENTS.

1 THE EXECUTIVE DIRECTOR MAY MAKE AGREEMENTS WITH LOCAL PLANNING OR
2 ECONOMIC DEVELOPMENT UNITS IN THE REGION FOR TEMPORARY TRANSFER OR JOINT
3 USE OF STAFF.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 20A, §§ 2–204(b) and, as it related to staff,
6 2–202(11).

7 In subsections (a) and (b) of this section, the former phrase “[w]ithout
8 limiting or restricting the general powers conferred by this article” is
9 deleted as surplusage.

10 In subsection (d) of this section, the defined term “region” is substituted for
11 the former phrase “jurisdiction of the Council” for clarity.

12 Also in subsection (d) of this section, the former reference to agreements
13 “with the concurrence of the appropriate public officials” is deleted as
14 implicit in the nature of an agreement made by a unit of local government.
15 The local unit is accountable to its jurisdiction.

16 Defined terms: “Council” § 13–701
17 “Executive Director” § 13–701
18 “Region” § 13–701

19 13–710. IMMUNITY.

20 THE COUNCIL HAS THE IMMUNITY FROM SUIT PROVIDED IN § 5–506 OF THE
21 COURTS ARTICLE.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 20A, § 2–202(2), as it related to providing
24 immunity.

25 Defined term: “Council” § 13–701

26 13–711. FINANCIAL SUPPORT.

27 (A) STATE SUPPORT.

28 (1) EACH YEAR THE STATE SHALL APPROPRIATE MONEY TO THE COUNCIL
29 IN THE STATE BUDGET.

30 (2) THE STATE ALLOCATION IS CONTINGENT ON THE COMMITMENT OF THE
31 PARTICIPATING COUNTIES TO CONTRIBUTE MATCHING AMOUNTS EQUAL TO THE AMOUNT
32 DISBURSED BY THE STATE.

33 (3) (i) ON OR BEFORE AUGUST 1 OF EACH YEAR, THE COUNCIL SHALL
34 SUBMIT ITS PROPOSED WORK PROGRAMS AND OPERATING BUDGET FOR THE FOLLOWING
35 FISCAL YEAR TO THE DEPARTMENT.

1 (II) THE SUBMISSION SHALL INCLUDE SUPPORTING SCHEDULES TO
2 SHOW THAT THE BUDGET IS FINANCED AND TO PROVIDE FOR REVIEW AND
3 RECOMMENDATIONS.

4 (III) AFTER REVIEW, THE DEPARTMENT SHALL FORWARD THE
5 SUBMISSION AND ANY RECOMMENDATIONS TO THE DEPARTMENT OF BUDGET AND
6 MANAGEMENT FOR CONSIDERATION.

7 (4) THE DEPARTMENT SHALL:

8 (I) REVIEW, APPROVE, AND CONFIRM THE COUNTIES' COMMITMENTS;
9 AND

10 (II) INCLUDE WITH ITS BUDGET REQUEST THE BUDGET REQUEST FOR
11 THE COUNCIL.

12 (5) THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET FOR THE
13 FOLLOWING FISCAL YEAR AN APPROPRIATION TO PARTIALLY SUPPORT THE COUNCIL.

14 (B) LOCAL SUPPORT.

15 (1) THE STATE AND ALLEGANY, GARRETT, AND WASHINGTON COUNTIES
16 MAY JOINTLY FINANCE THE COUNCIL AND ITS ACTIVITIES.

17 (2) THE COMMISSIONERS OF ALLEGANY, GARRETT, AND WASHINGTON
18 COUNTIES SHALL APPROPRIATE MONEY EACH YEAR TO THE COUNCIL TO FOSTER
19 COOPERATIVE PLANNING AND DEVELOPMENT IN THE REGION.

20 (3) ALLEGANY, GARRETT, AND WASHINGTON COUNTIES MAY APPROPRIATE
21 ANY OTHER MONEY FOR THE COUNCIL AS THEY CONSIDER NECESSARY AND
22 APPROPRIATE.

23 (4) OTHER POLITICAL SUBDIVISIONS, INCLUDING SPECIAL DISTRICTS, MAY
24 APPROPRIATE MONEY TO THE COUNCIL AS THEY CONSIDER NECESSARY AND
25 APPROPRIATE.

26 (C) OTHER MONEY.

27 THE COUNCIL MAY USE ADDITIONAL MONEY FROM ANY OTHER PUBLIC OR PRIVATE
28 SOURCE.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 20A, § 2–205.

31 In subsection (a)(5) of this section, the reference to “[t]he Governor ...
32 includ[ing] an appropriation to partially support the Council” is
33 substituted for the former reference to “the State’s contribution under this
34 section” for accuracy and consistency with the constitutional State budget
35 process.

36 Also in subsection (a)(5) of this section, the former reference to “annual

1 review by the General Assembly” is deleted as an unnecessary restatement
2 of the ability of the legislature to reduce an appropriation for which a
3 specified amount is not set by statute. *See* Md. Constitution, Art. III, § 52.

4 In subsection (b)(3) and (4) of this section, the references to appropriating
5 funds that “they consider” necessary and appropriate are substituted for
6 the former reference to appropriating money “as is” necessary and
7 appropriate for accuracy.

8 Defined terms: “Commissioners” § 13–701

9 “Council” § 13–701

10 “County” § 9–101

11 “Department” § 9–101

12 “Region” § 13–701

13 “State” § 9–101

14 **13–712. JURISDICTION, ASSOCIATION, POWERS, AND DUTIES.**

15 (A) **JURISDICTION; ASSOCIATION.**

16 (1) **THE COUNCIL MAY OPERATE IN THE REGION.**

17 (2) **ASSOCIATION WITH THE COUNCIL IS OPEN TO ALL COUNTIES,**
18 **MUNICIPAL CORPORATIONS, AND SPECIAL DISTRICTS IN THE REGION.**

19 (B) **POWERS AND DUTIES.**

20 **THE COUNCIL MAY:**

21 (1) **ADOPT A SEAL;**

22 (2) **SUE;**

23 (3) **ADOPT BYLAWS AND RULES FOR THE CONDUCT OF ITS BUSINESS;**

24 (4) **ENTER INTO CONTRACTS OR AGREEMENTS;**

25 (5) **BORROW MONEY AND ACCEPT ADVANCES, LOANS, GRANTS,**
26 **CONTRIBUTIONS, AND ANY OTHER FORM OF ASSISTANCE FROM THE FEDERAL**
27 **GOVERNMENT, THE STATE, OR OTHER PUBLIC OR PRIVATE SOURCE;**

28 (6) **GIVE ANY REQUIRED SECURITY;**

29 (7) **INCLUDE IN ANY CONTRACT FOR FINANCIAL ASSISTANCE WITH THE**
30 **FEDERAL GOVERNMENT ANY REASONABLE AND APPROPRIATE CONDITION IMPOSED UNDER**
31 **FEDERAL LAWS THAT IS NOT INCONSISTENT WITH THE PURPOSES OF THIS SUBTITLE;**

32 (8) **EXECUTE ANY INSTRUMENT AND ACT AS NECESSARY, CONVENIENT, OR**
33 **DESIRABLE TO CARRY OUT ITS POWERS AND THE PURPOSES OF THIS SUBTITLE; AND**

1 (9) MONITOR, COORDINATE, AND FACILITATE THE ACTIVITIES AND POLICIES
2 OF ANY ADDITIONAL PROGRAMS SERVING THE REGION, EXCEPT THOSE SUBJECT TO STATE
3 OR FEDERAL DESIGNATION.

4 (c) BYLAWS AND RULES.

5 THE COUNCIL SHALL:

6 (1) ADOPT BYLAWS GOVERNING THE PROCEDURES AND POLICIES OF ITS
7 MEMBERSHIP; AND

8 (2) PUBLISH ITS RULES.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 20A, § 2–201, § 2–202(1), (3) through (7), (14),
11 (18), and, as it allowed the Council to sue, (2), the first sentence of §
12 2–101(a), and § 2–203(a), as it related to Council rules.

13 In the introductory language of subsection (b) of this section, the former
14 phrase “[w]ithout limiting or restricting the general powers conferred by
15 this article” is deleted as surplusage.

16 In subsection (b)(1) of this section, the former references to “hav[ing]” and
17 “alter[ing] ... at pleasure” a common seal are deleted as implicit in the
18 reference to “adopt[ing]” a seal.

19 In subsection (b)(3) of this section, the former reference to “mak[ing] rules”
20 is deleted as included in the reference to “adopt[ing] bylaws and rules” and
21 for consistency within this article.

22 For the immunity of the Council from suit provided in former Art. 20A, §
23 2–202(2), *see* § 13–710 of this subtitle.

24 Defined terms: “Council” § 13–701

25 “County” § 9–101

26 “Region” § 13–701

27 “State” § 9–101

28 13–713. RESEARCH AND INFORMATIONAL ACTIVITIES.

29 THE COUNCIL MAY:

30 (1) PREPARE STUDIES OF THE REGION’S RESOURCES WITH RESPECT TO
31 EXISTING AND EMERGING PROBLEMS OF INDUSTRY, COMMERCE, TRANSPORTATION,
32 POPULATION, HOUSING, AGRICULTURE, PUBLIC SERVICES, LOCAL GOVERNMENTS, AND
33 ANY OTHER MATTER RELEVANT TO REGIONAL PLANNING;

34 (2) (i) COLLECT, PROCESS, AND ANALYZE AT REGULAR INTERVALS THE
35 SOCIAL AND ECONOMIC STATISTICS FOR THE REGION THAT ARE NECESSARY TO PLANNING
36 STUDIES; AND

(II) MAKE THE RESULTS AVAILABLE TO THE PUBLIC;

(3) PARTICIPATE WITH OTHER GOVERNMENTAL UNITS, EDUCATIONAL INSTITUTIONS, AND PRIVATE ORGANIZATIONS IN THE COORDINATION OF THE RESEARCH ACTIVITIES;

(4) PROVIDE INFORMATION TO:

(I) UNITS AND INSTRUMENTALITIES OF THE FEDERAL, STATE, AND LOCAL GOVERNMENTS; AND

(II) THE PUBLIC, IN ORDER TO:

1. FOSTER PUBLIC AWARENESS AND UNDERSTANDING OF THE OBJECTIVES OF THE PLAN AND THE FUNCTIONS OF REGIONAL AND LOCAL PLANNING; AND

2. STIMULATE PUBLIC INTEREST AND PARTICIPATION IN THE ORDERLY, INTEGRATED DEVELOPMENT OF THE REGION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20A, § 2–202(12), (13), (15), and (17).

In the introductory language of this section, the former phrase “[w]ithout limiting or restricting the general powers conferred by this article” is deleted as surplusage.

In items (3) and (4)(i) of this section, the term “units” is substituted for the former references to “departments” and “agencies”. The term “unit” is used as the general term for an entity in the State government because it is inclusive enough to include all those entities. *See* General Revisor’s Note to article.

Defined terms: “Council” § 13–701

“Plan” § 13–701

“Region” § 13–701

“State” § 9–101

13–714. COOPERATION WITH OTHER UNITS.

(A) STATE UNITS WITH STATUTORY FUNCTION OR RESPONSIBILITY.

(1) THE COUNCIL SHALL COOPERATE WITH OTHER UNITS OF STATE GOVERNMENT.

(2) THE COUNCIL SHALL SUBMIT FOR APPROVAL EACH PLAN OR PROJECT OF THE COUNCIL IN WHICH THE STATE UNITS HAVE A STATUTORY FUNCTION OR RESPONSIBILITY.

(B) GOVERNMENTAL UNITS GENERALLY.

THE COUNCIL MAY:

1 (1) COOPERATE WITH AND PROVIDE PLANNING ASSISTANCE TO LOCAL
2 GOVERNMENTS, INSTRUMENTALITIES, AND PLANNING UNITS IN THE REGION; AND

3 (2) COORDINATE REGIONAL AREA PLANNING WITH:

4 (I) PLANNING ACTIVITIES OF THE STATE AND OF THE LOCAL
5 GOVERNMENTAL UNITS, INCLUDING SPECIAL DISTRICTS, IN THE REGION AND
6 NEIGHBORING AREAS; AND

7 (II) PROGRAMS OF THE FEDERAL GOVERNMENT.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 20A, §§ 1–104 and 2–202(16).

10 In subsections (a) and (b) of this section, the references to “units” are
11 substituted for the former references to “departments” and “agencies”. The
12 term “unit” is used as the general term for an entity in the government
13 because it is inclusive enough to include all those entities. *See* General
14 Revisor's Note to article.

15 In the introductory language of subsection (b) of this section, the former
16 phrase “[w]ithout limiting or restricting the general powers conferred by
17 this article” is deleted as surplusage.

18 Defined terms: “Council” § 13–701

19 “County” § 9–101

20 “Plan” § 13–701

21 “Region” § 13–701

22 “State” § 9–101

23 13–715. DISSOLUTION.

24 (A) SCOPE OF SECTION.

25 THIS SECTION APPLIES TO THE DISSOLUTION OF THE COUNCIL.

26 (B) DISPOSAL OF ASSETS BY COUNCIL.

27 AFTER PROVIDING FOR THE PAYMENT OF EACH LIABILITY OF THE COUNCIL, THE
28 COUNCIL, AS IT DETERMINES, SHALL DISPOSE OF ITS ASSETS EXCLUSIVELY:

29 (1) FOR THE PURPOSES OF THE COUNCIL; OR

30 (2) TO ANY ORGANIZATION THAT QUALIFIES UNDER § 501(c)(3) OF THE
31 INTERNAL REVENUE CODE.

32 (C) DISPOSAL OF REMAINDER BY CIRCUIT COURT.

33 THE CIRCUIT COURT OF THE COUNTY IN WHICH THE PRINCIPAL OFFICE OF THE
34 COUNCIL IS LOCATED, BY JUDICIAL ACTION, SHALL DISPOSE OF ANY PROPERTY
35 REMAINING AFTER DISPOSAL UNDER SUBSECTION (B) OF THIS SECTION EXCLUSIVELY FOR

1 THE PURPOSES OF THE COUNCIL OR TO ANY ORGANIZATION THAT QUALIFIES UNDER §
2 501(C)(3) OF THE INTERNAL REVENUE CODE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 20A, § 1–103(b).

5 In subsection (b) of this section, the former phrase “(or the corresponding
6 provision of any future United States internal revenue law)” is deleted as
7 unnecessary in light of Art. 1, § 21.

8 In subsection (c) of this section, the reference to disposal of remaining
9 property “by judicial action” is added to avoid the implication that the
10 court could dispose of the property on its own initiative without a case
11 before it, in violation of Md. Decl. of Rights, Art. 8. *See* 89 Op. Att’y Gen.
12 222 (2004).

13 The Economic Development Article Review Committee notes, for the
14 consideration of the General Assembly, that as a legislatively chartered
15 corporation, the Council may only be dissolved by action of the General
16 Assembly. Accordingly, any legislation to dissolve the Council could specify
17 a different disposition of assets than that specified in this section. Also,
18 conditions specified for grants of property other than State and local
19 moneys to the Council, such as federal funds, may require that those
20 assets be dealt with differently than this section appears to require. *See* 89
21 Op. Att’y Gen. 222 (2004).

22 Defined terms: “Council” § 13–701
23 “County” § 9–101

24 13–716. RESERVED.

25 13–717. RESERVED.

26 PART II. GENERAL DEVELOPMENT PLAN.

27 13–718. PLAN REQUIRED.

28 THE COUNCIL SHALL PREPARE, ADOPT, AND PERIODICALLY REVISE A GENERAL
29 DEVELOPMENT PLAN FOR THE REGION THAT EMBODIES THE POLICY RECOMMENDATIONS
30 OF THE COUNCIL.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from the introductory clauses of former Art. 20A, § 3–101(a) and
33 (b), as they related to the general requirement to adopt a plan.

34 Defined terms: “Council” § 13–701
35 “Plan” § 13–701

1 13–719. OBJECTIVES.

2 THE OBJECTIVES OF THE PLAN ARE TO:

3 (1) GUIDE A COORDINATED, ADJUSTED, EFFICIENT, AND ECONOMIC
4 DEVELOPMENT OF THE REGION IN A MANNER THAT WILL BEST PROMOTE THE HEALTH,
5 SAFETY, ORDER, CONVENIENCE, PROSPERITY, AND WELFARE OF THE RESIDENTS OF THE
6 REGION IN ACCORDANCE WITH PRESENT AND FUTURE NEEDS AND RESOURCES;7 (2) PROVIDE FOR PATTERNS OF URBANIZATION AND THE USES OF LAND AND
8 RESOURCES FOR TRADE, INDUSTRY, RECREATION, FORESTRY, AGRICULTURE, AND
9 TOURISM;10 (3) CREATE CONDITIONS FAVORABLE TO THE DEVELOPMENT OF HUMAN
11 RESOURCES;12 (4) IDENTIFY THE PUBLIC INTEREST AND THE NECESSITY FOR PUBLIC
13 ACTION AND INTERGOVERNMENTAL COOPERATION AND COORDINATION IN THE REGION;14 (5) COORDINATE WITH THE EFFORTS OF THE PRIVATE SECTOR IN THE
15 REGION;16 (6) RECOGNIZE ANY STATE COMPREHENSIVE PLANNING AND DEVELOPMENT
17 ACTIVITIES;18 (7) REFLECT THE PLANS AND PROGRAMS OF THE PARTICIPATING
19 GOVERNMENTAL UNITS; AND20 (8) TAKE INTO ACCOUNT ECONOMIC AND DEMOGRAPHIC FACTORS,
21 CONDITIONS, AND TRENDS THAT ARE RELEVANT TO THE FUTURE DEVELOPMENT OF THE
22 REGION.23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 20A, § 3–101(a)(1) through (5).25 In item (1) of this section, the references to “residents of the region” are
26 substituted for the former references to “citizens” for clarity because the
27 meaning of the term “citizens” in this context is unclear and for consistency
28 with similar provisions in other revised articles of the Code. *See* General
29 Revisor’s Note to article.

30 Defined terms: “Plan” § 13–701

31 “Region” § 13–701

32 “State” § 9–101

33 13–720. REQUIRED CONTENTS.

34 THE PLAN SHALL INCLUDE:

35 (1) A STATEMENT OF THE OBJECTIVES, STANDARDS, AND PRINCIPLES
36 SOUGHT TO BE EXPRESSED IN THE PLAN;

1 (2) RECOMMENDATIONS FOR THE GENERAL CIRCULATION PATTERN FOR THE
 2 REGION INCLUDING LAND, WATER, AND AIR TRANSPORTATION AND COMMUNICATION
 3 FACILITIES USED FOR MOVEMENT WITHIN THE REGION OR TO AND FROM ADJOINING
 4 AREAS;

5 (3) RECOMMENDATIONS ON THE NEED FOR AND PROPOSED GENERAL
 6 LOCATION OF PUBLIC AND PRIVATE WORKS AND FACILITIES THAT BECAUSE OF THEIR
 7 FUNCTION, SIZE, EXTENT, OR FOR ANY OTHER REASON ARE OF A REGIONAL RATHER THAN
 8 A PURELY LOCAL CONCERN;

9 (4) RECOMMENDATIONS FOR THE LONG-RANGE PROGRAMMING AND
 10 FINANCING OF CAPITAL PROJECTS AND FACILITIES;

11 (5) RECOMMENDATIONS FOR MEETING HOUSING NEEDS OF EXISTING AND
 12 PROSPECTIVE IMMIGRANT POPULATION OF THE REGION;

13 (6) RECOMMENDATIONS FOR THE DEVELOPMENT OF PROGRAMS AND
 14 IMPROVEMENTS IN THE REGION FOR HEALTH SERVICES, MANPOWER PLANNING,
 15 EMPLOYMENT OPPORTUNITY, EDUCATION, ELIMINATION OF POVERTY, AND LAW
 16 ENFORCEMENT;

17 (7) THE IDENTIFICATION OF ISSUES THAT NEED TO BE RESOLVED BETWEEN
 18 LOCAL GOVERNMENTS AND MAKE APPROPRIATE RECOMMENDATIONS CONCERNING THESE
 19 ISSUES;

20 (8) THE PROMOTION OF REGIONAL CONCERNS; AND

21 (9) ANY OTHER APPROPRIATE RECOMMENDATIONS ON CURRENT AND
 22 IMPENDING PROBLEMS THAT MAY AFFECT THE REGION.

23 REVISOR'S NOTE: This section is new language derived without substantive
 24 change from former Art. 20A, § 3-101(b)(1) through (8) and the
 25 introductory language of (b), as it related to the minimum required
 26 contents of the plan.

27 Throughout this section, the defined term "region" is substituted for the
 28 former defined term "area" for consistency within this section.

29 Defined terms: "Plan" § 13-701

30 "Region" § 13-701

31 13-721. ADOPTION AND MAINTENANCE.

32 (A) ADOPTION.

33 (1) THE COUNCIL SHALL HOLD A PUBLIC HEARING BEFORE ADOPTING ALL
 34 OR PART OF THE PLAN.

35 (2) AT LEAST 60 DAYS BEFORE THE PUBLIC HEARING, THE COUNCIL SHALL
 36 SUBMIT THE PLAN TO THE DEPARTMENT OF PLANNING AND TO THE LOCAL PLANNING

1 COMMISSIONS, AND THE GOVERNING BODY OF EACH POLITICAL SUBDIVISION IN THE
2 REGION.

3 (3) THE COUNCIL SHALL PUBLISH NOTICE OF THE HEARING IN
4 NEWSPAPERS OF GENERAL CIRCULATION IN EACH COUNTY IN THE REGION, AT LEAST
5 ONCE EACH WEEK FOR 3 WEEKS BEFORE THE HEARING.

6 (B) RECOMMENDATIONS.

7 ON OR BEFORE THE DATE OF THE HEARING:

8 (1) THE DEPARTMENT OF PLANNING MAY RECOMMEND TO THE COUNCIL
9 CHANGES NEEDED IN THE PLAN TO CONFORM IT TO STATE PLANS AND POLICIES; AND

10 (2) EACH LOCAL PLANNING COMMISSION AND GOVERNING BODY OF EACH
11 POLITICAL SUBDIVISION IN THE REGION MAY MAKE RECOMMENDATIONS TO THE COUNCIL
12 ON THE EFFECT OF THE PLAN IN THE POLITICAL SUBDIVISION.

13 (C) MAINTENANCE.

14 THE COUNCIL SHALL REEVALUATE THE PLAN FOR THE DEVELOPMENT OF THE
15 REGION AT LEAST EVERY 4 YEARS.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 20A, §§ 2–202(8) and 3–102(a), (b), (c), and, as it
18 required a hearing, (d).

19 Subsection (a)(1) of this section is revised to state explicitly that which was
20 only implied by the former law: *i.e.* the Council must hold a public hearing
21 before adopting the plan.

22 In subsection (a)(2) of this section, the reference to “the Council”
23 submitting a proposed plan to the various governmental units is added for
24 clarity, to specify which entity is responsible for submitting the plan.
25 Similarly, in subsection (a)(3) of this section, the reference to “the Council”
26 publishing notice of a public hearing is added for clarity.

27 In subsection (a)(3) of this section, the reference to the three counties “in
28 the region” is substituted for the former reference to the three counties
29 “comprising the Council” for clarity.

30 In subsection (c) of this section, the former phrase “[w]ithout limiting or
31 restricting the general powers conferred by this article” is deleted as
32 surplusage.

33 In subsection (c)(1) of this section, the word “shall” is substituted for the
34 former word “may” to reflect the mandatory nature of the Council’s
35 periodic reevaluation of the plan.

1 Defined terms: “Council” § 13–701
2 “County” § 9–101
3 “Plan” § 13–701
4 “Region” § 13–701
5 “State” § 9–101

6 13–722. AMENDMENT.

7 (A) IN GENERAL.

8 THE COUNCIL MAY AMEND THE PLAN IN THE SAME MANNER THAT IT ADOPTS THE
9 ORIGINAL PLAN.

10 (B) STATISTICAL AND INFORMATIONAL UPDATE.

11 THE COUNCIL NEED NOT FOLLOW THE PROCEDURE USED TO ADOPT THE ORIGINAL
12 PLAN IN ORDER TO REVISE THE PLAN AS NECESSARY AND APPROPRIATE FOR A
13 STATISTICAL AND INFORMATIONAL UPDATE.

14 REVISOR’S NOTE: This section is new language derived without substantive
15 change from former Art. 20A, § 3–102(e).

16 In subsection (a) of this section, the reference to “[t]he Council” amending
17 the plan is added for clarity.

18 Defined terms: “Council” § 13–701
19 “Plan” § 13–701

20 13–723. CONFORMITY.

21 AFTER THE COUNCIL ADOPTS THE PLAN, THE COUNCIL MAY NOT ESTABLISH ANY
22 POLICY OR TAKE AN ACTION THAT DOES NOT CONFORM TO THE PLAN.

23 REVISOR’S NOTE: This section is new language derived without substantive
24 change from former Art. 20A, § 3–102(d), as it related to the prohibition
25 against nonconforming action.

26 Defined terms: “Council” § 13–701
27 “Plan” § 13–701

28 13–724. PROJECT AND PLAN REFERRALS.

29 THE COUNCIL MAY REVIEW:

30 (1) ANY APPLICATION THAT A POLITICAL SUBDIVISION IN THE REGION
31 MAKES:

32 (I) TO A UNIT OF THE STATE OR FEDERAL GOVERNMENT FOR A LOAN
33 OR GRANT FOR PROJECTS; OR

1 (II) THROUGH THE STATE CLEARINGHOUSE FOR
2 INTERGOVERNMENTAL ASSISTANCE IN THE DEPARTMENT OF PLANNING; AND

3 (2) A LOCAL PLAN, PROPOSAL FOR A PROJECT, OR ORDINANCE THAT MAY
4 HAVE AN IMPACT OUTSIDE THE BOUNDARY OF THE POLITICAL SUBDIVISION OR IN THE
5 REGION.

6 REVISOR’S NOTE: This section is new language derived without substantive
7 change from former Art. 20A, § 2–202(9) and (10).

8 In the introductory language of this section, the former phrase “[w]ithout
9 limiting or restricting the general powers conferred by this article” is
10 deleted as surplusage.

11 In item (1)(i) of this section, the reference to a “unit” of the State or federal
12 government is substituted for the former reference to “agencies” for
13 consistency within this article. *See* General Revisor’s Note to article.

14 Also in item (1)(i) of this section, the reference to a “grant” is substituted
15 for the former reference to “grants-in-aid” for clarity and brevity.

16 Defined terms: “Council” § 13–701
17 “Region” § 13–701
18 “State” § 9–101

19 13–725. RESERVED.

20 13–726. RESERVED.

21 PART III. TOURISM BUREAU.

22 13–727. “BUREAU” DEFINED.

23 IN THIS PART, “BUREAU” MEANS THE WESTERN MARYLAND REGIONAL TOURISM
24 BUREAU.

25 REVISOR’S NOTE: This section is new language derived without substantive
26 change from former Art. 20A, § 4–101(a) and (b).

27 The reference to “this part” is substituted for the former reference to “this
28 title” in light of the reorganization of this subtitle.

29 13–728. ESTABLISHED; PURPOSES.

30 (A) ESTABLISHED.

31 THERE IS A WESTERN MARYLAND REGIONAL TOURISM BUREAU IN THE COUNCIL.

32 (B) PURPOSES.

33 THE PURPOSES OF THE BUREAU ARE TO:

1 (1) DEVELOP ADVERTISING AND MARKETING PROGRAMS TO DISSEMINATE
2 INFORMATION ABOUT THE REGION;

3 (2) STIMULATE TOURISM IN THE REGION;

4 (3) ENCOURAGE THE DEVELOPMENT OF THE REGION'S RECREATIONAL
5 AREAS AND FACILITIES;

6 (4) PROMOTE BUSINESS AND JOB OPPORTUNITIES IN THE REGION THROUGH
7 TOURISM;

8 (5) DEVELOP PUBLIC AWARENESS OF THE HERITAGE AND HISTORY OF THE
9 REGION;

10 (6) COORDINATE AND FACILITATE SPECIAL EVENTS PROGRAMMING FOR THE
11 REGION;

12 (7) SERVE AS A LIAISON BETWEEN THE REGION'S TOURISM INDUSTRY, THE
13 GOVERNOR, THE DEPARTMENT, OTHER UNITS OF STATE GOVERNMENT, PRIVATE
14 ORGANIZATIONS, AND THE GENERAL ASSEMBLY; AND

15 (8) ADVISE THE GOVERNOR, THE DEPARTMENT, AND THE GENERAL
16 ASSEMBLY ON PROGRAMS AFFECTING THE TOURISM INDUSTRY.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 20A, §§ 4–102 and 4–103(a).

19 In subsection (b)(7) of this section, the reference to “units” is substituted
20 for the former reference to “agencies” for consistency. *See* General Revisor's
21 Note to article.

22 Defined terms: “Bureau” § 13–727

23 “Council” § 13–701

24 “Department” § 9–101

25 “Region” § 13–701

26 “State” § 9–101

27 13–729. MEMBERSHIP.

28 (A) COMPOSITION; APPOINTMENT.

29 THE EXECUTIVE BOARD OF THE BUREAU CONSISTS OF THE FOLLOWING 15
30 MEMBERS:

31 (1) FROM ALLEGANY COUNTY:

32 (I) TWO MEMBERS APPOINTED BY THE COMMISSIONERS;

33 (II) TWO MEMBERS APPOINTED BY THE COUNTY CHAMBER OF
34 COMMERCE; AND

1 (III) ONE MEMBER APPOINTED BY THE MEMBERS OF THE ALLEGANY
2 COUNTY DELEGATION TO THE GENERAL ASSEMBLY FROM THE MEMBERS OF THE
3 COUNCIL WHO ARE IN THE DELEGATION;

4 (2) FROM GARRETT COUNTY:

5 (I) TWO MEMBERS APPOINTED BY THE COMMISSIONERS;

6 (II) TWO MEMBERS APPOINTED FROM THE DEEP CREEK LAKE
7 GARRETT COUNTY PROMOTIONAL COUNCIL BY THE COMMISSIONERS; AND

8 (III) ONE MEMBER APPOINTED BY THE MEMBERS OF THE GARRETT
9 COUNTY DELEGATION TO THE GENERAL ASSEMBLY FROM THE MEMBERS OF THE
10 COUNCIL WHO ARE IN THE DELEGATION; AND

11 (3) FROM WASHINGTON COUNTY:

12 (I) TWO MEMBERS APPOINTED BY THE COMMISSIONERS;

13 (II) TWO MEMBERS APPOINTED BY THE COUNTY CHAMBER OF
14 COMMERCE; AND

15 (III) ONE MEMBER APPOINTED BY THE MEMBERS OF THE WASHINGTON
16 COUNTY DELEGATION TO THE GENERAL ASSEMBLY FROM THE MEMBERS OF THE
17 COUNCIL WHO ARE IN THE DELEGATION.

18 (B) TENURE; VACANCIES.

19 (1) THE MEMBERS OF THE EXECUTIVE BOARD SERVE THE TERMS SET IN
20 THE BYLAWS OF THE BUREAU.

21 (2) AFTER THE INITIAL APPOINTMENT OF THE EXECUTIVE BOARD, THE
22 QUALIFICATIONS AND APPOINTMENT OF MEMBERS ARE SUBJECT TO THE BYLAWS OF THE
23 BUREAU.

24 REVISOR’S NOTE: This section is new language derived without substantive
25 change from former Art. 20A, § 4–103(b) through (e).

26 Defined terms: “Bureau” § 13–727

27 “Commissioner” § 13–701

28 “Council” § 13–701

29 “County” § 9–101

30 13–730. COMPENSATION; REIMBURSEMENT FOR EXPENSES.

31 A MEMBER OF THE EXECUTIVE BOARD OF THE BUREAU:

32 (1) IS NOT ENTITLED TO COMPENSATION AS A MEMBER OF THE EXECUTIVE
33 BOARD; BUT

1 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD
2 STATE TRAVEL REGULATIONS.

3 REVISOR'S NOTE: This section formerly was Art. 20A, § 4–103(f).

4 The only changes are in style.

5 Defined terms: "Bureau" § 13–727

6 "State" § 9–101

7 13–731. OFFICERS; PROCEDURES; STAFF.

8 (A) IN GENERAL.

9 THE BUREAU MAY ESTABLISH OFFICERS, PROCEDURES, AND VOTING
10 REQUIREMENTS.

11 (B) STAFF.

12 THE BUREAU MAY EMPLOY A STAFF IN ACCORDANCE WITH ITS BYLAWS.

13 REVISOR'S NOTE: This section formerly was Art. 20A, § 4–103(g) and (h)(1).

14 The only changes are in style.

15 Defined term: "Bureau" § 13–727

16 13–732. BUDGET.

17 AS THE EXECUTIVE BOARD DECIDES, THE BUDGET OF THE BUREAU MAY CONSIST
18 OF PRIVATE MEMBERSHIPS AND PUBLIC CONTRIBUTIONS.

19 REVISOR'S NOTE: This section formerly was Art. 20A, § 4–103(h)(2).

20 The phrase "consist of" is substituted for the former phrase "funded by" for
21 consistency with similar provisions elsewhere in this article.

22 The only other changes are in style.

23 Defined term: "Bureau" § 13–727

24 13–733. CORPORATION.

25 (A) IN GENERAL.

26 THE BUREAU MAY ESTABLISH A PRIVATE, NOT-FOR-PROFIT CORPORATION TO
27 ASSIST THE BUREAU.

28 (B) POWERS AND DUTIES.

29 SUBJECT TO THE CORPORATIONS AND ASSOCIATIONS ARTICLE, THE BUREAU
30 SHALL DETERMINE THE POWERS AND DUTIES OF THE CORPORATION.

1 (C) BOARD OF DIRECTORS.

2 THE BUREAU MAY:

3 (1) SET THE NUMBER OF MEMBERS OF THE BOARD OF DIRECTORS OF THE
4 CORPORATION;

5 (2) SET A PROCEDURE TO ELECT AND REMOVE DIRECTORS;

6 (3) SET THE COMPENSATION OF A DIRECTOR; AND

7 (4) REQUIRE THE CORPORATION TO REPORT PERIODICALLY TO THE BUREAU
8 ON ITS ACTIVITIES.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 20A, § 4–103(i).

11 Defined term: “Bureau” § 13–727

12 SUBTITLE 8. TRI–COUNTY COUNCIL FOR THE LOWER EASTERN SHORE OF
13 MARYLAND.

14 13–801. DEFINITIONS.

15 (A) IN GENERAL.

16 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

17 REVISOR'S NOTE: This subsection formerly was Art. 20B, § 1–101(a).

18 The reference to this “subtitle” is substituted for the former reference to
19 this “article” to reflect the reorganization of material derived from former
20 Article 20B in this subtitle.

21 No other changes are made.

22 (B) COMMISSIONER.

23 “COMMISSIONER” MEANS A MEMBER OF THE BOARD OF COUNTY COMMISSIONERS
24 OF SOMERSET COUNTY OR WORCESTER COUNTY OR A MEMBER OF THE COUNTY
25 COUNCIL OF WICOMICO COUNTY.

26 REVISOR'S NOTE: This subsection is new language derived without
27 substantive change from former Art. 20B, § 1–101(c).

28 (C) COUNCIL.

29 “COUNCIL” MEANS THE TRI–COUNTY COUNCIL FOR THE LOWER EASTERN SHORE
30 OF MARYLAND.

31 REVISOR'S NOTE: This subsection formerly was Art. 20B, § 1–101(d).

1 No changes are made.

2 (D) EXECUTIVE DIRECTOR.

3 “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF THE COUNCIL.

4 REVISOR’S NOTE: This subsection is new language added to avoid repetition
5 of the phrase “Executive Director of the Council”.

6 (E) REGION.

7 “REGION” MEANS SOMERSET, WICOMICO, AND WORCESTER COUNTIES.

8 REVISOR’S NOTE: This subsection is new language derived without
9 substantive change from former Art. 20B, §§ 1–101(e) and 1–102(b).

10 REVISOR’S NOTE TO SECTION: Former Art. 20B, § 1–101(b), which defined
11 “area”, is deleted as redundant of the defined term “region” and for clarity.
12 The two terms were used interchangeably in former Article 20B with no
13 clear distinction between the “region” as a whole and the planning “area”.

14 13–802. ESTABLISHED.

15 (A) IN GENERAL.

16 THERE IS A TRI-COUNTY COUNCIL FOR THE LOWER EASTERN SHORE OF
17 MARYLAND.

18 (B) STATUS.

19 (1) THE COUNCIL IS A TAX-EXEMPT BODY POLITIC AND CORPORATE.

20 (2) THE COUNCIL IS AN INDEPENDENT UNIT THAT THE GOVERNOR MAY
21 NOT PLACE IN A PRINCIPAL DEPARTMENT.

22 (C) PURPOSES.

23 (1) THE COUNCIL IS A COOPERATIVE PLANNING AND DEVELOPMENT UNIT
24 FOR THE REGION.

25 (2) THE PURPOSES OF THE COUNCIL ARE TO:

26 (I) FOSTER THE PHYSICAL, ECONOMIC, AND SOCIAL DEVELOPMENT OF
27 THE REGION; AND

28 (II) USE EFFECTIVELY THE ASSISTANCE PROVIDED TO THE REGION BY
29 THE STATE.

30 (3) THE COUNCIL INITIATES AND COORDINATES PLANS AND PROJECTS FOR
31 THE DEVELOPMENT OF HUMAN AND ECONOMIC RESOURCES OF THE REGION AS A
32 PLANNING AND DEVELOPMENT UNIT FOR THE LOWER EASTERN SHORE.

1 REVISOR'S NOTE: Subsection (a) of this section is new language added for
2 clarity.

3 Subsections (b) and (c) of this section are new language derived without
4 substantive change from former Art. 20B, §§ 1–102(a), 1–103(a), and
5 1–107.

6 In subsection (b)(1) of this section, the former word “public” is deleted as
7 implicit in the reference to a “body politic and corporate”.

8 In subsection (c)(1) of this section, the defined term “region” is substituted
9 for the former reference to an “area” for clarity.

10 In subsection (c)(1) and (3) of this section, the term “unit” is substituted for
11 the former term “agency” for consistency within this article. *See* General
12 Revisor's Note to article.

13 Defined terms: “Council” § 13–801

14 “Region” § 13–801

15 “State” § 9–101

16 13–803. MEMBERSHIP.

17 (A) COMPOSITION; APPOINTMENT.

18 (1) THE COUNCIL CONSISTS OF THE MEMBERS DESCRIBED IN THIS
19 SUBSECTION.

20 (2) THE VOTING MEMBERS OF THE COUNCIL ARE:

21 (I) FROM SOMERSET COUNTY, THE FIVE COMMISSIONERS;

22 (II) FROM WICOMICO COUNTY:

23 1. THE COUNTY EXECUTIVE; AND

24 2. FOUR MEMBERS OF THE COUNTY COUNCIL, APPOINTED BY
25 THE COUNTY COUNCIL;

26 (III) FROM WORCESTER COUNTY, FIVE COMMISSIONERS, APPOINTED
27 BY THE BOARD OF COUNTY COMMISSIONERS;

28 (IV) THREE MUNICIPAL ELECTED OFFICIALS, ONE FROM EACH COUNTY,
29 APPOINTED BY:

30 1. THEIR RESPECTIVE MUNICIPAL CORPORATIONS; OR

31 2. THE EASTERN SHORE MUNICIPAL ASSOCIATION IF THE
32 MUNICIPAL CORPORATIONS ARE UNABLE TO APPOINT A MEMBER WITHIN A REASONABLE
33 TIME; AND

1 (V) IF THE MAJORITY OF THE MEMBER'S LEGISLATIVE DISTRICT IS IN
2 THE REGION, EACH MEMBER OF THE GENERAL ASSEMBLY REPRESENTING THE REGION.

3 (3) THE NONVOTING MEMBERS OF THE COUNCIL ARE:

4 (I) EACH COMMISSIONER IN THE REGION WHO IS NOT APPOINTED
5 UNDER PARAGRAPH (2) OF THIS SUBSECTION; AND

6 (II) EACH OTHER MEMBER OF THE GENERAL ASSEMBLY
7 REPRESENTING THE REGION IF THE MAJORITY OF THE MEMBER'S LEGISLATIVE DISTRICT
8 IS NOT IN THE REGION.

9 (4) THE BYLAWS OF THE COUNCIL MAY PROVIDE FOR ADDITIONAL
10 MEMBERS WHO ARE PRIVATE INDIVIDUALS.

11 (B) PROXY VOTING.

12 (1) A MEMBER APPOINTED UNDER SUBSECTION (A)(2)(I), (II), OR (III) OF
13 THIS SECTION MAY DESIGNATE ANOTHER COMMISSIONER OR A COUNTY ADMINISTRATOR
14 REPRESENTING THE SAME COUNTY TO VOTE BY PROXY FOR THE MEMBER WHEN THE
15 MEMBER IS ABSENT FROM A MEETING.

16 (2) A MEMBER WHO DESIGNATES A PROXY SHALL INFORM THE EXECUTIVE
17 DIRECTOR IN ADVANCE OF THE MEETING.

18 (C) TENURE; VACANCIES.

19 (1) A MEMBER WHO QUALIFIES BECAUSE OF THE MEMBER'S ELECTED
20 POSITION IS A MEMBER OF THE COUNCIL ONLY DURING THE MEMBER'S TERM OF OFFICE
21 IN THE ELECTED POSITION.

22 (2) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
23 SUCCESSOR IS APPOINTED.

24 (D) STATUS.

25 COUNCIL MEMBERSHIP IS NOT AN OFFICE OF PROFIT.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 20B, §§ 2-101, 2-102, and 2-103.

28 Defined terms: "Commissioner" § 13-801

29 "Council" § 13-801

30 "County" § 9-101

31 "Executive Director" § 13-801

32 "Region" § 13-801

33 13-804. CHAIR.

34 THE COUNCIL SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

1 REVISOR’S NOTE: This section is new language derived without substantive
2 change from former Art. 20B, § 2–105.

3 The reference to a “chair” is substituted for the former reference to a
4 “chairperson” for consistency with similar provisions throughout this
5 article.

6 Defined term: “Council” § 13–801

7 13–805. COMPENSATION.

8 A MEMBER OF THE COUNCIL IS NOT ENTITLED TO COMPENSATION AS A MEMBER OF
9 THE COUNCIL.

10 REVISOR’S NOTE: This section is new language derived without substantive
11 change from former Art. 20B, § 2–104.

12 Defined term: “Council” § 13–801

13 13–806. EXECUTIVE DIRECTOR.

14 (A) POSITION.

15 THE COUNCIL MAY EMPLOY AN EXECUTIVE DIRECTOR.

16 (B) TENURE.

17 THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE COUNCIL.

18 REVISOR’S NOTE: This section is new language derived without substantive
19 change from former Art. 20B, § 1–105.

20 Defined terms: “Council” § 13–801
21 “Executive Director” § 13–801

22 13–807. LEGAL ADVISOR.

23 THE COUNCIL MAY:

- 24 (1) SELECT AND RETAIN ITS OWN LEGAL COUNSEL; OR
- 25 (2) USE THE ATTORNEY GENERAL AS ITS LEGAL COUNSEL.

26 REVISOR’S NOTE: This section is new language derived without substantive
27 change from former Art. 20B, § 1–106.

28 In item (2) of this section, the former phrase “in all matters pertaining to
29 the Council’s activities” is deleted as implicit in the capacity of a legal
30 advisor.

31 Defined term: “Council” § 13–801

1 13–808. FINANCIAL SUPPORT.

2 (A) IN GENERAL.

3 THE STATE AND SOMERSET, WICOMICO, AND WORCESTER COUNTIES MAY
4 JOINTLY FINANCE THE COUNCIL AND ITS ACTIVITIES.

5 (B) STATE SUPPORT.

6 (1) THE STATE MAY PROVIDE FINANCIAL SUPPORT TO THE COUNCIL TO
7 ASSIST IN CARRYING OUT THE ACTIVITIES OF THE COUNCIL.

8 (2) (I) ON OR BEFORE AUGUST 1 OF EACH YEAR, THE COUNCIL SHALL
9 SUBMIT ITS PROPOSED WORK PROGRAMS AND OPERATING BUDGET FOR THE FOLLOWING
10 FISCAL YEAR TO THE DEPARTMENT.

11 (II) THE SUBMISSION SHALL INCLUDE SUPPORTING SCHEDULES TO
12 SHOW HOW THE BUDGET IS FINANCED, AND TO PROVIDE FOR REVIEW AND
13 RECOMMENDATIONS.

14 (III) AFTER REVIEW, THE DEPARTMENT SHALL FORWARD THE
15 SUBMISSION AND ANY RECOMMENDATIONS TO THE DEPARTMENT OF BUDGET AND
16 MANAGEMENT FOR CONSIDERATION.

17 (3) THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET FOR THE
18 FOLLOWING FISCAL YEAR AN APPROPRIATION OF AT LEAST \$200,000 TO PARTIALLY
19 SUPPORT THE COUNCIL.

20 (C) LOCAL SUPPORT.

21 (1) THE GOVERNING BODIES OF SOMERSET, WICOMICO, AND WORCESTER
22 COUNTIES EACH YEAR SHALL APPROPRIATE TO THE COUNCIL AT LEAST \$10,000 EACH
23 TO FOSTER COOPERATIVE PLANNING AND DEVELOPMENT IN THE REGION.

24 (2) OTHER POLITICAL SUBDIVISIONS, INCLUDING SPECIAL DISTRICTS, MAY
25 APPROPRIATE MONEY FOR THE COUNCIL AS THEY CONSIDER NECESSARY AND
26 APPROPRIATE.

27 (D) OTHER MONEY.

28 THE COUNCIL MAY ACCEPT ADDITIONAL MONEY FROM ANY OTHER PUBLIC OR
29 PRIVATE SOURCE.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 20B, § 2–301.

32 In subsection (b)(3) of this section, the reference to “[t]he Governor ...
33 includ[ing] in the State budget ... an appropriation” is substituted for the
34 former phrase “[t]he State budget ... shall provide an appropriation” for
35 accuracy and consistency with the constitutional State budget process.

1 Also in subsection (b)(3) of this section, the former reference to “annual
2 review by the General Assembly” is deleted as an unnecessary restatement
3 of the ability of the legislature to reduce an appropriation for which only a
4 minimum amount is specified by statute. *See* Md. Constitution, Art. III, §
5 52.

6 In subsection (c)(2) of this section, the reference to appropriating funds
7 that “they consider” necessary and appropriate is substituted for the
8 former reference to appropriating money “that is” necessary and
9 appropriate for accuracy.

10 Defined terms: “Council” § 13–801

11 “Department” § 9–101

12 “Region” § 13–801

13 “State” § 9–101

14 **13–809. BYLAWS AND RULES.**

15 **THE COUNCIL MAY ADOPT BYLAWS AND RULES FOR THE CONDUCT OF ITS BUSINESS**
16 **AND TO CARRY OUT ITS MISSION.**

17 **REVISOR’S NOTE:** This section is new language derived without substantive
18 change from former Art. 20B, § 2–201.

19 Defined term: “Council” § 13–801

20 **13–810. COOPERATION.**

21 **THE COUNCIL SHALL COOPERATE WITH STATE AND LOCAL UNITS THAT HAVE**
22 **RELEVANT STATUTORY FUNCTIONS AND DUTIES.**

23 **REVISOR’S NOTE:** This section is new language derived without substantive
24 change from former Art. 20B, § 1–104.

25 The reference to “units” is substituted for the former reference to
26 “departments and agencies” for consistency within this article. *See* General
27 Revisor’s Note to article.

28 The reference to “duties” is substituted for the former reference to
29 “responsibilities” for consistency within this article.

30 Defined terms: “Council” § 13–801

31 “State” § 9–101

32 **13–811. DISSOLUTION.**

33 (A) **SCOPE OF SECTION.**

34 **THIS SECTION APPLIES TO THE DISSOLUTION OF THE COUNCIL.**

35 (B) **DISPOSAL OF ASSETS BY COUNCIL.**

1 AFTER PROVIDING FOR THE PAYMENT OF EACH LIABILITY OF THE COUNCIL, THE
2 COUNCIL, AS IT DETERMINES, SHALL DISPOSE OF ITS ASSETS EXCLUSIVELY:

3 (1) FOR THE PURPOSES OF THE COUNCIL; OR

4 (2) TO ANY ORGANIZATION THAT QUALIFIES UNDER § 501(C)(3) OF THE
5 INTERNAL REVENUE CODE.

6 (C) DISPOSAL OF REMAINDER BY CIRCUIT COURT.

7 THE CIRCUIT COURT OF THE COUNTY IN WHICH THE PRINCIPAL OFFICE OF THE
8 COUNCIL IS LOCATED, BY JUDICIAL ACTION, SHALL DISPOSE OF ANY PROPERTY
9 REMAINING AFTER DISPOSAL UNDER SUBSECTION (B) OF THIS SECTION EXCLUSIVELY FOR
10 THE PURPOSES OF THE COUNCIL OR TO THE COUNTIES IN THE REGION.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 20B, § 1–103(b).

13 In subsection (c) of this section, the reference to disposal of remaining
14 property “by judicial action” is added to avoid the implication that the
15 court could dispose of the property on its own initiative without a case
16 before it, in violation of Md. Decl. of Rights, Art. 8. *See* 89 Op. Att’y Gen.
17 222 (2004).

18 The Economic Development Article Review Committee notes, for the
19 consideration of the General Assembly, that as a legislatively chartered
20 corporation, the Council may only be dissolved by action of the General
21 Assembly. Accordingly, any legislation to dissolve the Council could specify
22 a different disposition of assets than that specified in this section. Also,
23 conditions specified for grants of property other than State and local
24 moneys to the Council, such as federal funds, may require that those
25 assets be dealt with differently than this section appears to require. *See* 89
26 Op. Att’y Gen. 222 (2004).

27 Defined terms: “Council” § 13–801

28 “County” § 9–101

29 “Region” § 13–801

30 SUBTITLE 9. MID–SHORE REGIONAL COUNCIL.

31 13–901. DEFINITIONS.

32 (A) IN GENERAL.

33 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

34 REVISOR'S NOTE: This subsection formerly was Art. 20C, § 1–101(a).

35 The reference to this “subtitle” is substituted for the former reference to
36 this “article” to reflect the reorganization of material derived from former

1 Article 20C in this subtitle.

2 No other changes are made.

3 (B) COMMISSIONER.

4 “COMMISSIONER” MEANS A MEMBER OF THE BOARD OF COUNTY COMMISSIONERS
5 OF CAROLINE COUNTY OR A MEMBER OF THE COUNTY COUNCIL OF DORCHESTER
6 COUNTY OR TALBOT COUNTY.

7 REVISOR’S NOTE: This subsection is new language derived without
8 substantive change from former Art. 20C, § 1–101(c).

9 (C) COUNCIL.

10 “COUNCIL” MEANS THE MID–SHORE REGIONAL COUNCIL.

11 REVISOR’S NOTE: This subsection formerly was Art. 20C, § 1–101(d).

12 No changes are made.

13 (D) EXECUTIVE DIRECTOR.

14 “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF THE COUNCIL.

15 REVISOR’S NOTE: This subsection is new language added to avoid repetition
16 of the phrase “Executive Director of the Council”.

17 (E) REGION.

18 “REGION” MEANS CAROLINE, DORCHESTER, AND TALBOT COUNTIES.

19 REVISOR’S NOTE: This subsection is new language derived without
20 substantive change from former Art. 20C, §§ 1–101(e) and 1–102(b).

21 REVISOR’S NOTE TO SECTION: Former Art. 20C, § 1–102(b), which defined
22 “area”, is deleted as redundant of the defined term “region” and for clarity.
23 The two terms were used interchangeably in former Article 20C with no
24 clear distinction between the “region” as a whole and the planning “area”.

25 13–902. ESTABLISHED.

26 (A) IN GENERAL.

27 THERE IS A MID–SHORE REGIONAL COUNCIL.

28 (B) STATUS.

29 (1) THE COUNCIL IS A TAX–EXEMPT BODY POLITIC AND CORPORATE.

1 (2) THE COUNCIL IS AN INDEPENDENT UNIT THAT THE GOVERNOR MAY
2 NOT PLACE IN A PRINCIPAL DEPARTMENT.

3 (c) PURPOSES.

4 (1) THE COUNCIL IS A COOPERATIVE REGIONAL PLANNING AND
5 DEVELOPMENT UNIT FOR THE REGION.

6 (2) THE PURPOSES OF THE COUNCIL ARE TO:

7 (i) FOSTER THE PHYSICAL, ECONOMIC, AND SOCIAL DEVELOPMENT OF
8 THE REGION; AND

9 (ii) USE EFFECTIVELY THE ASSISTANCE PROVIDED TO THE REGION BY
10 THE STATE.

11 (3) THE COUNCIL INITIATES AND COORDINATES PLANS AND PROJECTS FOR
12 THE DEVELOPMENT OF HUMAN AND ECONOMIC RESOURCES OF THE REGION AS A
13 PLANNING AND DEVELOPMENT UNIT FOR THE MIDDLE EASTERN SHORE.

14 REVISOR'S NOTE: Subsection (a) of this section is new language added for
15 clarity.

16 Subsections (b) and (c) of this section are new language derived without
17 substantive change from former Art. 20C, §§ 1–102(a), 1–103(a), and
18 1–107.

19 In subsection (b)(1) of this section, the former word “public” is deleted as
20 implicit in the reference to a “body politic and corporate” for clarity.

21 In subsection (c)(1) of this section, the defined term “region” is substituted
22 for the former reference to an “area” for clarity and consistency.

23 In subsection (c)(1) and (3) of this section, the term “unit” is substituted for
24 the former term “agency” for consistency within this article. *See* General
25 Revisor's Note to article.

26 Defined terms: “Council” § 13–901

27 “Region” § 13–901

28 “State” § 9–101

29 13–903. MEMBERSHIP.

30 (A) COMPOSITION; APPOINTMENT.

31 (1) THE COUNCIL CONSISTS OF THE MEMBERS DESCRIBED IN THIS
32 SUBSECTION.

33 (2) THE VOTING MEMBERS OF THE COUNCIL ARE:

1 (I) FROM CAROLINE COUNTY, TWO COMMISSIONERS, APPOINTED BY
2 THE BOARD OF COUNTY COMMISSIONERS;

3 (II) FROM DORCHESTER COUNTY, TWO MEMBERS OF THE COUNTY
4 COUNCIL, APPOINTED BY THE COUNTY COUNCIL;

5 (III) FROM TALBOT COUNTY, TWO MEMBERS OF THE COUNTY COUNCIL,
6 APPOINTED BY THE COUNTY COUNCIL;

7 (IV) THREE MUNICIPAL ELECTED OFFICIALS, ONE FROM EACH COUNTY,
8 APPOINTED BY:

- 9 1. THEIR RESPECTIVE MUNICIPAL CORPORATIONS; OR
10 2. THE EASTERN SHORE MUNICIPAL ASSOCIATION IF THE
11 MUNICIPAL CORPORATIONS ARE UNABLE TO APPOINT A MEMBER WITHIN A REASONABLE
12 TIME; AND

13 (V) IF THE MAJORITY OF THE MEMBER’S LEGISLATIVE DISTRICT IS IN
14 THE REGION, EACH MEMBER OF THE GENERAL ASSEMBLY REPRESENTING THE REGION.

15 (3) THE NONVOTING MEMBERS OF THE COUNCIL ARE:

16 (I) EACH COMMISSIONER IN THE REGION WHO IS NOT APPOINTED
17 UNDER PARAGRAPH (2) OF THIS SUBSECTION;

18 (II) EACH OTHER MEMBER OF THE GENERAL ASSEMBLY
19 REPRESENTING THE REGION IF THE MAJORITY OF THE MEMBER’S LEGISLATIVE DISTRICT
20 IS NOT IN THE REGION; AND

21 (III) THREE COUNTY ADMINISTRATORS, ONE FROM EACH COUNTY.

22 (4) THE BYLAWS OF THE COUNCIL MAY PROVIDE FOR ADDITIONAL
23 MEMBERS WHO ARE PUBLIC OFFICIALS OR EMPLOYEES OR PRIVATE INDIVIDUALS.

24 (B) PROXY VOTING.

25 (1) A MEMBER APPOINTED UNDER SUBSECTION (A)(2)(I), (II), OR (III) OF
26 THIS SECTION MAY DESIGNATE ANOTHER COMMISSIONER OR A COUNTY ADMINISTRATOR
27 REPRESENTING THE SAME COUNTY TO VOTE BY PROXY FOR THE MEMBER WHEN THE
28 MEMBER IS ABSENT FROM A MEETING.

29 (2) A MEMBER WHO DESIGNATES A PROXY SHALL INFORM THE EXECUTIVE
30 DIRECTOR IN ADVANCE OF THE MEETING.

31 (C) TENURE; VACANCIES.

32 (1) A MEMBER WHO QUALIFIES BECAUSE OF THE MEMBER’S ELECTED OR
33 APPOINTED POSITION IS A MEMBER OF THE COUNCIL ONLY DURING THE MEMBER’S TERM
34 OF OFFICE IN THE ELECTED OR APPOINTED POSITION.

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

3 (D) STATUS.

4 COUNCIL MEMBERSHIP IS NOT AN OFFICE OF PROFIT.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 20C, §§ 2–101, 2–102, and 2–103.

7 Subsection (a)(2)(i) through (iii) of this section is revised to list separately
8 the voting members from the governing bodies of each county for clarity
9 and consistency within this title.

10 In subsections (a)(3)(i) and (b)(1) of this section, the defined term
11 “Commissioner” is substituted for the former references to a
12 “councilmember or commissioner” for clarity and consistency within this
13 title.

14 In subsection (a)(4) of this section, the reference to additional “members
15 who are public officials or employees or private individuals” is substituted
16 for the former reference to additional “private citizen or public
17 membership” for clarity.

18 Defined terms: “Commissioner” § 13–901

19 “Council” § 13–901

20 “County” § 9–101

21 “Executive Director” § 13–901

22 “Region” § 13–901

23 13–904. CHAIR.

24 THE COUNCIL SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 20C, § 2–105.

27 The reference to a “chair” is substituted for the former reference to a
28 “chairperson” for consistency with similar provisions throughout this
29 article.

30 Defined term: “Council” § 13–901

31 13–905. COMPENSATION.

32 A MEMBER OF THE COUNCIL IS NOT ENTITLED TO COMPENSATION AS A MEMBER OF
33 THE COUNCIL.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 20C, § 2–104.

1 Defined term: “Council” § 13–901

2 13–906. EXECUTIVE DIRECTOR.

3 (A) POSITION.

4 THE COUNCIL MAY EMPLOY AN EXECUTIVE DIRECTOR.

5 (B) TENURE.

6 THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE COUNCIL.

7 REVISOR’S NOTE: This section is new language derived without substantive
8 change from former Art. 20C, § 1–105.

9 Defined terms: “Council” § 13–901

10 “Executive Director” § 13–901

11 13–907. LEGAL ADVISOR.

12 THE COUNCIL MAY:

13 (1) SELECT AND RETAIN ITS OWN COUNSEL; OR

14 (2) USE THE ATTORNEY GENERAL AS ITS LEGAL COUNSEL.

15 REVISOR’S NOTE: This section is new language derived without substantive
16 change from former Art. 20C, § 1–106.

17 In item (2) of this section, the former phrase “in all matters pertaining to
18 the Council’s activities” is deleted as implicit in the capacity of a legal
19 advisor.

20 Defined term: “Council” § 13–901

21 13–908. FINANCIAL SUPPORT.

22 (A) IN GENERAL.

23 THE STATE AND CAROLINE, DORCHESTER, AND TALBOT COUNTIES MAY JOINTLY
24 FINANCE THE COUNCIL AND ITS ACTIVITIES.

25 (B) STATE SUPPORT.

26 (1) THE STATE MAY PROVIDE FINANCIAL SUPPORT TO THE COUNCIL TO
27 ASSIST IN CARRYING OUT THE ACTIVITIES OF THE COUNCIL.

28 (2) (I) ON OR BEFORE AUGUST 1 OF EACH YEAR, THE COUNCIL SHALL
29 SUBMIT ITS PROPOSED WORK PROGRAMS AND OPERATING BUDGET FOR THE FOLLOWING
30 FISCAL YEAR TO THE DEPARTMENT.

1 (II) THE SUBMISSION SHALL INCLUDE SUPPORTING SCHEDULES TO
2 SHOW HOW THE BUDGET IS FINANCED, AND TO PROVIDE FOR REVIEW AND
3 RECOMMENDATIONS.

4 (III) AFTER REVIEW, THE DEPARTMENT SHALL FORWARD THE
5 SUBMISSION AND ANY RECOMMENDATIONS TO THE DEPARTMENT OF BUDGET AND
6 MANAGEMENT FOR CONSIDERATION.

7 (3) THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET AN
8 APPROPRIATION FOR THE FOLLOWING FISCAL YEAR OF AT LEAST \$200,000 TO SUPPORT
9 THE COUNCIL.

10 (C) LOCAL SUPPORT.

11 (1) THE GOVERNING BODIES OF CAROLINE, DORCHESTER, AND TALBOT
12 COUNTIES EACH YEAR SHALL APPROPRIATE TO THE COUNCIL AT LEAST \$10,000 EACH
13 TO FOSTER COOPERATIVE PLANNING AND DEVELOPMENT IN THE REGION.

14 (2) CAROLINE, DORCHESTER, AND TALBOT COUNTIES MAY APPROPRIATE
15 ANY OTHER MONEY FOR THE COUNCIL AS THEY CONSIDER NECESSARY AND
16 APPROPRIATE.

17 (3) OTHER POLITICAL SUBDIVISIONS, INCLUDING SPECIAL DISTRICTS, MAY
18 APPROPRIATE MONEY TO THE COUNCIL AS THEY CONSIDER NECESSARY AND
19 APPROPRIATE.

20 (D) OTHER MONEY.

21 THE COUNCIL MAY ACCEPT ADDITIONAL MONEY FROM ANY OTHER PUBLIC OR
22 PRIVATE SOURCE.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 20C, § 2–301.

25 In subsection (b)(3) of this section, the reference to “[t]he Governor ...
26 includ[ing] in the State budget an appropriation” is substituted for the
27 former phrase “[t]he State budget ... shall provide an appropriation” for
28 accuracy and consistency with the constitutional State budget process.

29 Also in subsection (b)(3) of this section, the former reference to “annual
30 review by the General Assembly” is deleted as an unnecessary restatement
31 of the ability of the legislature to reduce an appropriation for which only a
32 minimum amount is specified by statute. *See* Md. Constitution, Art. III, §
33 52.

34 In subsection (c)(2) and (3) of this section, the references to appropriating
35 funds that “they consider” necessary and appropriate is substituted for the
36 former reference to appropriating money “that is” necessary and
37 appropriate for accuracy.

1 Defined terms: “Council” § 13–901

2 “Department” § 9–101

3 “Region” § 13–901

4 “State” § 9–101

5 13–909. BYLAWS AND RULES.

6 THE COUNCIL MAY ADOPT BYLAWS AND RULES FOR THE CONDUCT OF ITS BUSINESS
7 AND TO CARRY OUT ITS MISSION.

8 REVISOR’S NOTE: This section is new language derived without substantive
9 change from former Art. 20C, § 2–201.

10 Defined term: “Council” § 13–901

11 13–910. COOPERATION.

12 THE COUNCIL SHALL COOPERATE WITH STATE AND LOCAL UNITS THAT HAVE
13 RELEVANT STATUTORY FUNCTIONS AND DUTIES.

14 REVISOR’S NOTE: This section is new language derived without substantive
15 change from former Art. 20C, § 1–104.

16 The reference to “units” is substituted for the former reference to
17 “departments and agencies” for consistency within this article. *See* General
18 Revisor’s Note to article.

19 The reference to “duties” is substituted for the former reference to
20 “responsibilities” for consistency within this article.

21 Defined terms: “Council” § 13–901

22 “State” § 9–101

23 13–911. DISSOLUTION.

24 (A) SCOPE OF SECTION.

25 THIS SECTION APPLIES TO THE DISSOLUTION OF THE COUNCIL.

26 (B) DISPOSAL OF ASSETS BY COUNCIL.

27 AFTER PROVIDING FOR THE PAYMENT OF EACH LIABILITY OF THE COUNCIL, THE
28 COUNCIL, AS THE COUNCIL DETERMINES, SHALL DISPOSE OF ITS ASSETS EXCLUSIVELY:

29 (1) FOR THE PURPOSES OF THE COUNCIL; OR

30 (2) TO AN ORGANIZATION THAT QUALIFIES UNDER § 501(c)(3) OF THE
31 INTERNAL REVENUE CODE.

32 (C) DISPOSAL OF REMAINDER BY CIRCUIT COURT.

1 THE CIRCUIT COURT OF THE COUNTY IN WHICH THE PRINCIPAL OFFICE OF THE
 2 COUNCIL IS LOCATED, BY JUDICIAL ACTION, SHALL DISPOSE OF ANY PROPERTY
 3 REMAINING AFTER DISPOSAL UNDER SUBSECTION (B) OF THIS SECTION EXCLUSIVELY FOR
 4 THE PURPOSES OF THE COUNCIL OR TO THE COUNTIES IN THE REGION.

5 REVISOR'S NOTE: This section is new language derived without substantive
 6 change from former Art. 20C, § 1–103.

7 In subsection (c) of this section, the reference to disposal of remaining
 8 property “by judicial action” is added to avoid the implication that the
 9 court could dispose of the property on its own initiative without a case
 10 before it, in violation of Md. Decl. of Rights, Art. 8. *See* 89 Op. Att’y Gen.
 11 222 (2004).

12 The Economic Development Article Review Committee notes, for the
 13 consideration of the General Assembly, that as a legislatively chartered
 14 corporation, the Council may only be dissolved by action of the General
 15 Assembly. Accordingly, any legislation to dissolve the Council could specify
 16 a different disposition of assets than that specified in this section. Also,
 17 conditions specified for grants of property other than State and local
 18 moneys to the Council, such as federal funds, may require that those
 19 assets be dealt with differently than this section appears to require. *See* 89
 20 Op. Att’y Gen. 222 (2004).

21 Defined terms: “Council” § 13–901
 22 “County” § 9–101
 23 “Region” § 13–901

24 SUBTITLE 10. UPPER SHORE REGIONAL COUNCIL.

25 13–1001. DEFINITIONS.

26 (A) IN GENERAL.

27 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

28 REVISOR'S NOTE: This subsection formerly was Art. 20D, § 1–101(a).

29 The reference to this “subtitle” is substituted for the former reference to
 30 this “article” to reflect the reorganization of material derived from former
 31 Article 20D in this subtitle.

32 No other changes are made.

33 (B) COMMISSIONER.

34 “COMMISSIONER” MEANS A MEMBER OF THE BOARD OF COUNTY COMMISSIONERS
 35 OF CECIL COUNTY, KENT COUNTY, OR QUEEN ANNE’S COUNTY.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 20D, § 1–101(c).

(C) COUNCIL.

“COUNCIL” MEANS THE UPPER SHORE REGIONAL COUNCIL.

REVISOR’S NOTE: This subsection formerly was Art. 20D, § 1–101(d).

No changes are made.

(D) EXECUTIVE DIRECTOR.

“EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF THE COUNCIL.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the phrase “Executive Director of the Council”.

(E) REGION.

“REGION” MEANS CECIL, KENT, AND QUEEN ANNE’S COUNTIES.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 20D, §§ 1–101(e) and 1–102(b).

REVISOR’S NOTE TO SECTION: Former Art. 20D, § 1–102(b), which defined “area”, is deleted as redundant of the defined term “region” and for clarity. The two terms were used interchangeably in former Article 20D with no clear distinction between the “region” as a whole and the planning “area”.

13–1002. ESTABLISHED.

(A) IN GENERAL.

THERE IS AN UPPER SHORE REGIONAL COUNCIL.

(B) STATUS.

(1) THE COUNCIL IS A TAX–EXEMPT BODY POLITIC AND CORPORATE.

(2) THE COUNCIL IS AN INDEPENDENT UNIT THAT THE GOVERNOR MAY NOT PLACE IN A PRINCIPAL DEPARTMENT.

(C) PURPOSES.

(1) THE COUNCIL IS A COOPERATIVE REGIONAL PLANNING AND DEVELOPMENT UNIT FOR THE REGION.

(2) THE PURPOSES OF THE COUNCIL ARE TO:

1 (I) FOSTER THE PHYSICAL, ECONOMIC, AND SOCIAL DEVELOPMENT OF
2 THE REGION; AND

3 (II) USE EFFECTIVELY THE ASSISTANCE PROVIDED TO THE REGION BY
4 THE STATE.

5 (3) THE COUNCIL INITIATES AND COORDINATES PLANS AND PROJECTS FOR
6 THE DEVELOPMENT OF HUMAN AND ECONOMIC RESOURCES OF THE REGION AS A
7 PLANNING AND DEVELOPMENT UNIT FOR THE UPPER EASTERN SHORE.

8 REVISOR'S NOTE: Subsection (a) of this section is new language added for
9 clarity.

10 Subsections (b) and (c) of this section are new language derived without
11 substantive change from former Art. 20D, §§ 1–107, 1–102(a), and
12 1–103(a).

13 In subsection (b)(1) of this section, the former word “public” is deleted as
14 implicit in the reference to a “body politic and corporate”.

15 In subsection (c)(1) of this section, the defined term “region” is substituted
16 for the former reference to an “area” for clarity and consistency.

17 In subsection (c)(1) and (3) of this section, the term “unit” is substituted for
18 the former term “agency” for consistency within this article. *See* General
19 Revisor's Note to article.

20 Defined terms: “Council” § 13–1001

21 “Region” § 13–1001

22 “State” § 9–101

23 13–1003. MEMBERSHIP.

24 (A) COMPOSITION; APPOINTMENT.

25 (1) THE COUNCIL CONSISTS OF THE MEMBERS DESCRIBED IN THIS
26 SUBSECTION.

27 (2) THE VOTING MEMBERS OF THE COUNCIL ARE:

28 (I) FROM CECIL COUNTY, THREE COMMISSIONERS, APPOINTED BY
29 THE BOARD OF COUNTY COMMISSIONERS;

30 (II) FROM KENT COUNTY, THE THREE COMMISSIONERS;

31 (III) FROM QUEEN ANNE'S COUNTY, THREE COMMISSIONERS,
32 APPOINTED BY THE BOARD OF COUNTY COMMISSIONERS;

33 (IV) THREE MUNICIPAL ELECTED OFFICIALS, ONE FROM EACH COUNTY,
34 APPOINTED BY:

1 1. THEIR RESPECTIVE MUNICIPAL CORPORATIONS; OR

2 2. THE EASTERN SHORE MUNICIPAL ASSOCIATION IF THE
3 MUNICIPAL CORPORATIONS ARE UNABLE TO APPOINT A MEMBER WITHIN A REASONABLE
4 TIME; AND

5 (v) IF THE MAJORITY OF THE MEMBER’S LEGISLATIVE DISTRICT IS IN
6 THE REGION, EACH MEMBER OF THE GENERAL ASSEMBLY REPRESENTING THE REGION.

7 (3) THE NONVOTING MEMBERS OF THE COUNCIL ARE:

8 (i) EACH COMMISSIONER IN THE REGION WHO IS NOT APPOINTED
9 UNDER PARAGRAPH (2) OF THIS SUBSECTION;

10 (ii) EACH OTHER MEMBER OF THE GENERAL ASSEMBLY
11 REPRESENTING THE REGION IF THE MAJORITY OF THE MEMBER’S LEGISLATIVE DISTRICT
12 IS NOT IN THE REGION; AND

13 (iii) THREE COUNTY ADMINISTRATORS, ONE FROM EACH COUNTY.

14 (4) THE BYLAWS OF THE COUNCIL MAY PROVIDE FOR ADDITIONAL
15 MEMBERS WHO ARE PRIVATE INDIVIDUALS.

16 (b) PROXY VOTING.

17 (1) A MEMBER APPOINTED UNDER SUBSECTION (A)(2)(I), (II), OR (III) OF
18 THIS SECTION MAY DESIGNATE ANOTHER COMMISSIONER OR A COUNTY ADMINISTRATOR
19 REPRESENTING THE SAME COUNTY TO VOTE BY PROXY FOR THE MEMBER WHEN THE
20 MEMBER IS ABSENT FROM A MEETING.

21 (2) A MEMBER WHO DESIGNATES A PROXY SHALL INFORM THE EXECUTIVE
22 DIRECTOR IN ADVANCE OF THE MEETING.

23 (c) TENURE; VACANCIES.

24 (1) A MEMBER WHO QUALIFIES BECAUSE OF THE MEMBER’S ELECTED OR
25 APPOINTED POSITION IS A MEMBER OF THE COUNCIL ONLY DURING THE MEMBER’S TERM
26 OF OFFICE IN THE ELECTED OR APPOINTED POSITION.

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

29 (d) STATUS.

30 COUNCIL MEMBERSHIP IS NOT AN OFFICE OF PROFIT.

31 REVISOR’S NOTE: This section is new language derived without substantive
32 change from former Art. 20D, §§ 2–101, 2–102, and 2–103.

33 Subsection (a)(2)(i) through (iii) of this section is revised to list separately
34 the voting members from the governing bodies of each county for clarity

1 and consistency within this title.

2 Defined terms: “Commissioner” § 13–1001

3 “Council” § 13–1001

4 “County” § 9–101

5 “Executive Director” § 13–1001

6 “Region” § 13–1001

7 13–1004. CHAIR.

8 THE COUNCIL SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

9 REVISOR’S NOTE: This section is new language derived without substantive
10 change from former Art. 20D, § 2–105.

11 The reference to a “chair” is substituted for the former reference to a
12 “chairperson” for consistency with similar provisions elsewhere in this
13 article.

14 Defined term: “Council” § 13–1001

15 13–1005. COMPENSATION.

16 A MEMBER OF THE COUNCIL IS NOT ENTITLED TO COMPENSATION AS A MEMBER OF
17 THE COUNCIL.

18 REVISOR’S NOTE: This section is new language derived without substantive
19 change from former Art. 20D, § 2–104.

20 Defined term: “Council” § 13–1001

21 13–1006. EXECUTIVE DIRECTOR.

22 (A) POSITION.

23 THE COUNCIL MAY EMPLOY AN EXECUTIVE DIRECTOR.

24 (B) TENURE.

25 THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE COUNCIL.

26 REVISOR’S NOTE: This section is new language derived without substantive
27 change from former Art. 20D, § 1–105.

28 Defined terms: “Council” § 13–1001

29 “Executive Director” § 13–1001

1 13–1007. LEGAL ADVISOR.

2 THE COUNCIL MAY:

3 (1) SELECT AND RETAIN ITS OWN LEGAL COUNSEL; OR

4 (2) USE THE ATTORNEY GENERAL AS ITS LEGAL COUNSEL.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 20D, § 1–106.

7 In item (2) of this section, the former phrase “in all matters pertaining to
8 the Council’s activities” is deleted as implicit in the capacity of a legal
9 advisor.

10 Defined term: “Council” § 13–1001

11 13–1008. FINANCIAL SUPPORT.

12 (A) IN GENERAL.

13 THE STATE AND CECIL, KENT, AND QUEEN ANNE’S COUNTIES MAY JOINTLY
14 FINANCE THE COUNCIL AND ITS ACTIVITIES.

15 (B) STATE SUPPORT.

16 (1) THE STATE MAY PROVIDE FINANCIAL SUPPORT TO THE COUNCIL TO
17 ASSIST IN CARRYING OUT THE ACTIVITIES OF THE COUNCIL.

18 (2) (i) ON OR BEFORE AUGUST 1 OF EACH YEAR, THE COUNCIL SHALL
19 SUBMIT ITS PROPOSED WORK PROGRAMS AND OPERATING BUDGET FOR THE FOLLOWING
20 FISCAL YEAR TO THE DEPARTMENT.

21 (ii) THE SUBMISSION SHALL INCLUDE SUPPORTING SCHEDULES TO
22 SHOW HOW THE BUDGET IS FINANCED, AND TO PROVIDE FOR REVIEW AND
23 RECOMMENDATIONS.

24 (iii) AFTER REVIEW, THE DEPARTMENT SHALL FORWARD THE
25 SUBMISSION AND ANY RECOMMENDATIONS TO THE DEPARTMENT OF BUDGET AND
26 MANAGEMENT FOR CONSIDERATION.

27 (C) LOCAL SUPPORT.

28 (1) THE GOVERNING BODIES OF CECIL, KENT, AND QUEEN ANNE’S
29 COUNTIES EACH YEAR SHALL APPROPRIATE TO THE COUNCIL AT LEAST \$10,000 EACH
30 TO FOSTER COOPERATIVE PLANNING AND DEVELOPMENT IN THE REGION.

31 (2) CECIL, KENT, AND QUEEN ANNE’S COUNTIES MAY APPROPRIATE ANY
32 OTHER MONEY FOR THE COUNCIL AS THEY CONSIDER NECESSARY AND APPROPRIATE.

1 (3) OTHER POLITICAL SUBDIVISIONS, INCLUDING SPECIAL DISTRICTS, MAY
2 APPROPRIATE MONEY FOR THE COUNCIL AS THEY CONSIDER NECESSARY AND
3 APPROPRIATE.

4 (D) OTHER MONEY.

5 THE COUNCIL MAY ACCEPT ADDITIONAL MONEY FROM ANY OTHER PUBLIC OR
6 PRIVATE SOURCE.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 20D, § 2–301.

9 In subsection (c)(2) and (3) of this section, the references to appropriating
10 funds that “they consider” necessary and appropriate are substituted for
11 the former reference to appropriating money “that is” necessary and
12 appropriate for accuracy.

13 Defined terms: “Council” § 13–1001
14 “Department” § 9–101
15 “Region” § 13–1001
16 “State” § 9–101

17 13–1009. BYLAWS AND RULES.

18 THE COUNCIL MAY ADOPT BYLAWS AND RULES FOR THE CONDUCT OF ITS BUSINESS
19 AND TO CARRY OUT ITS MISSION.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 20D, § 2–201.

22 Defined term: “Council” § 13–1001

23 13–1010. COOPERATION.

24 THE COUNCIL SHALL COOPERATE WITH STATE AND LOCAL UNITS THAT HAVE
25 RELEVANT STATUTORY FUNCTIONS AND DUTIES.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 20D, § 1–104.

28 The reference to “units” is substituted for the former reference to
29 “departments and agencies” for consistency within this article. *See* General
30 Revisor's Note to article.

31 The reference to “duties” is substituted for the former reference to
32 “responsibilities” for consistency within this article.

33 Defined terms: “Council” § 13–1001
34 “State” § 9–101

1 13–1011. DISSOLUTION.

2 (A) SCOPE OF SECTION.

3 THIS SECTION APPLIES TO THE DISSOLUTION OF THE COUNCIL.

4 (B) DISPOSAL OF ASSETS BY COUNCIL.

5 AFTER PROVIDING FOR THE PAYMENT OF EACH LIABILITY OF THE COUNCIL, THE
6 COUNCIL, AS THE COUNCIL DETERMINES, SHALL DISPOSE OF ITS ASSETS EXCLUSIVELY:

7 (1) FOR THE PURPOSES OF THE COUNCIL; OR

8 (2) TO ANY ORGANIZATION THAT QUALIFIES UNDER § 501(C)(3) OF THE
9 INTERNAL REVENUE CODE.

10 (C) DISPOSAL OF REMAINDER BY CIRCUIT COURT.

11 THE CIRCUIT COURT OF THE COUNTY IN WHICH THE PRINCIPAL OFFICE OF THE
12 COUNCIL IS LOCATED, BY JUDICIAL ACTION, SHALL DISPOSE OF ANY PROPERTY
13 REMAINING AFTER DISPOSAL UNDER SUBSECTION (B) OF THIS SECTION EXCLUSIVELY FOR
14 A PURPOSE OF THE COUNCIL OR TO THE COUNTIES IN THE REGION.

15 REVISOR’S NOTE: This section is new language derived without substantive
16 change from former Art. 20D, § 1–103(b).

17 The reference to disposal of remaining property “by judicial action” is
18 added to avoid the implication that the court could dispose of the property
19 on its own initiative without a case before it, in violation of Md. Decl. of
20 Rights, Art. 8. *See* 89 Op. Att’y Gen. 222 (2004).

21 The Economic Development Article Review Committee notes, for the
22 consideration of the General Assembly, that as a legislatively chartered
23 corporation, the Council may only be dissolved by action of the General
24 Assembly. Accordingly, any legislation to dissolve the Council could specify
25 a different disposition of assets than that specified in this section. Also,
26 conditions specified for grants of property other than State and local
27 moneys to the Council, such as federal funds, may require that those
28 assets be dealt with differently than this section appears to require. *See* 89
29 Op. Att’y Gen. 222 (2004).

30 Defined terms: “Council” § 13–1001

31 “County” § 9–101

32 “Region” § 13–1001

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

3 (D) REMOVAL.

4 THE GOVERNING BODY THAT APPOINTED A MEMBER MAY REMOVE THE MEMBER
5 FOR INCOMPETENCE OR MISCONDUCT.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 83A, § 4–301(b) through (e).

8 In subsection (c)(2) of this section, the reference to terms being staggered
9 as required by the terms provided for members of the Advisory Committee
10 on “October 1, 2008” is substituted for the former obsolete reference to
11 terms being staggered as required by the terms provided on “July 1, 1984”.
12 This substitution is not intended to alter the term of any member of the
13 Advisory Committee. See § 13 of Ch. ____, Acts of 2008. The terms of the
14 members serving on October 1, 2006 end as follows: (1) three on June 30,
15 2009; (2) three on June 30, 2010; and (3) three on June 30, 2012.

16 In subsection (d) of this section, the reference to the “governing body that
17 appointed a member” is substituted for the former reference to the “Board
18 of County Commissioners in Somerset and Worcester County and the
19 County Council in Wicomico County” for brevity and consistency within
20 this section.

21 Defined term: “Advisory Committee” § 13–1101

22 13–1104. DUTY.

23 THE ADVISORY COMMITTEE SHALL ADVISE AND COUNSEL THE DEPARTMENT ON
24 THE DEVELOPMENT AND OPERATION OF THE MARYLAND LOWER EASTERN SHORE
25 TOURISM CENTER.

26 REVISOR'S NOTE: This section formerly was Art. 83A, § 4–301(f).

27 No changes are made.

28 Defined terms: “Advisory Committee” § 13–1101
29 “Department” § 9–101

30 TITLE 14. MISCELLANEOUS PROVISIONS.

31 SUBTITLE 1. BROADENED OWNERSHIP ACT.

32 14–101. STATEMENT OF POLICY.

33 (1) THE STATE:

1 (I) RECOGNIZES THE DECLARATION OF THE JOINT ECONOMIC
 2 COMMITTEE OF THE CONGRESS OF THE UNITED STATES THAT BROADENING THE
 3 OWNERSHIP OF CAPITAL AND ACHIEVING FULL EMPLOYMENT SHOULD BE THE TWIN
 4 PILLARS OF ECONOMIC POLICY; AND

5 (II) ENCOURAGES THE BROADENING OF THE BASE OF CAPITAL
 6 OWNERSHIP AMONG GREATER NUMBERS OF THE RESIDENTS OF THE STATE THROUGH, AS
 7 ONE MEANS, THE USE OF EMPLOYEE STOCK OWNERSHIP PLANS.

8 (2) THE GENERAL ASSEMBLY FINDS THAT EMPLOYEE STOCK OWNERSHIP
 9 PLANS, AS DEFINED IN THE INTERNAL REVENUE CODE, MAKE AN IMPORTANT
 10 CONTRIBUTION TOWARD THE BROADENING OF CAPITAL OWNERSHIP, INCREASE THE
 11 INCOME AND FINANCIAL SECURITY OF THE RESIDENTS OF THE STATE, ASSURE THE
 12 RESIDENTS OF THE STATE GREATER CONTROL OF THEIR ECONOMIC FUTURES, IMPROVE
 13 PRODUCTIVITY AND LABOR–MANAGEMENT RELATIONS, CONTRIBUTE TO THE NATIONAL
 14 EFFORT TO COMBAT INFLATION, STRENGTHEN THE FREE ENTERPRISE SYSTEM, AND PUT
 15 MARYLAND IN THE FOREFRONT OF CONTEMPORARY ECONOMIC TRENDS.

16 REVISOR’S NOTE: This section is new language derived without substantive
 17 change from former Art. 83A, § 2–106(a).

18 In items (1)(ii) and (2) of this section, the references to the “residents of the
 19 State” are substituted for the former references to “Maryland citizens”,
 20 “citizens of this State”, and “citizens” for consistency within this article and
 21 because the meaning of the word “citizen” in these contexts is unclear.

22 In item (2) of this section, the reference to “Maryland” is substituted for the
 23 former reference to “the State” for emphasis.

24 Also in item (2) of this section, the former reference to the “United States”
 25 Internal Revenue Code is deleted as implicit in the reference to the
 26 “Internal Revenue Code”.

27 Defined term: “State” § 9–101

28 14–102. REPORT OF EFFORTS REQUIRED.

29 THE DEPARTMENT, THE MARYLAND STATE OFFICE OF MINORITY BUSINESS
 30 ENTERPRISE, THE DIVISION OF LABOR AND INDUSTRY OF THE DEPARTMENT OF LABOR,
 31 LICENSING, AND REGULATION, AND THE PUBLIC SERVICE COMMISSION SHALL
 32 SUMMARIZE THEIR EFFORTS TO PROMOTE THE POLICIES RELATED TO BROADENING THE
 33 OWNERSHIP OF CAPITAL IN THEIR RESPECTIVE ANNUAL REPORTS AS REQUIRED BY LAW.

34 REVISOR’S NOTE: This section is new language derived without substantive
 35 change from former Art. 83A, § 2–106(b).

36 The word “summarize” is substituted for the former phrase “include a
 37 discussion of” for clarity and brevity.

38 Also, the reference to policies “related to broadening the ownership of

1 capital” is substituted for the former reference to “these” policies for clarity.

2 Defined term: “Department” § 9–101

3 14–103. SHORT TITLE.

4 THIS SUBTITLE MAY BE CITED AS THE BROADENED OWNERSHIP ACT.

5 REVISOR’S NOTE: This section formerly was Art. 83A, § 2–106(c).

6 The reference to this “subtitle” is substituted for the former reference to
7 this “section” to reflect the reorganization of material from former Art.
8 83A, § 2–106 in this subtitle.

9 No other changes are made.

10 GENERAL REVISOR’S NOTE TO ARTICLE

11 The Department of Legislative Services is charged with revising the law in a
12 clear, concise, and organized manner, without changing the effect of the law. One
13 precept of revision has been that, once something is said, it should be said in the same
14 way every time. To that end, the Economic Development Article Review Committee
15 conformed the language and organization of this article to that of previously enacted
16 revised articles to the extent possible.

17 It is the manifest intent both of the General Assembly and the Economic
18 Development Article Review Committee that this bulk revision of the substantive
19 economic development law of the State render no substantive change. The guiding
20 principle of the preparation of this article is that stated in *Welch v. Humphrey*, 200
21 Md. 410, 417 (1952):

22 [T]he principal function of a Code is to reorganize the statutes and state them in
23 simpler form. Consequently any changes made in them by a Code are presumed
24 to be for the purpose of clarity rather than change of meaning. Therefore, even a
25 change in the phraseology of a statute by a codification thereof will not
26 ordinarily modify the law, unless the change is so radical and material that the
27 intention of the Legislature to modify the law appears unmistakably from the
28 language of the Code. (citations omitted)

29 Accordingly, except to the extent that changes, which are noted in Revisor’s
30 Notes, clarify the former law, the enactment of this article in no way is intended to
31 make any change to the substantive law of Maryland. This intent is further stated in
32 uncodified language included in the enactment of this article. *See* § 11 of Ch. ___, Acts
33 of 2008.

34 Throughout this article, as in other revised articles, the word “regulations”
35 generally is substituted for former references to “rules and regulations” to
36 distinguish, to the extent possible, between regulations of executive units and rules of
37 judicial or legislative units and to establish consistency in the use of the words. This
38 substitution conforms to the practice of the Division of State Documents.

1 Also throughout this article, for consistency and to avoid unnecessary confusion,
2 the singular verb “adopt” is used in relation to rules or regulations, and verbs such as
3 “prescribe” and “promulgate” are deleted. The procedures to be followed in adopting
4 regulations are set forth in Title 10, Subtitle 1 of the State Government Article.

5 Also throughout this article, for consistency, the word “law” is substituted for
6 former phrases such as “law or regulation” because the broad reference to a “law”
7 includes a “regulation” adopted under the authority of a law. *See, e.g., Maryland Port*
8 *Administration v. Brawner Contracting Co.*, 303 Md. 44, 60 (1985).

9 Also throughout this article, for accuracy, references to “compensation” are
10 substituted for former references to “salary” when referring to remuneration that is
11 provided to an individual in the State budget. The term “compensation” is substituted
12 for the term “salary” to include nonsalary benefits that are provided in the State
13 budget (*e.g.*, retirement and health care benefits). These substitutions do not make
14 substantive changes in law because references to “compensation” in these contexts
15 are always restricted by the phrase “as provided in the State budget”. Similarly, the
16 phrase “as a member of the board” is added to provisions restricting compensation of
17 members of boards, commissions, and similar units to clarify that the prohibition on
18 receipt of compensation only applies to a member of the unit in the capacity of that
19 individual as a member.

20 Also throughout this article, for accuracy, references to “money” are substituted
21 for the former references to “funds” to avoid confusion between an account, referred to
22 as a “fund”, and the monetary resources included within or allocated to that account,
23 sometimes referred to as “funds” in the former law.

24 Also throughout this article, in provisions that establish an office for an officer
25 or member of a unit with a defined, specific length of term, references to removal of
26 the officer or member “with or without cause” are substituted for the former
27 references to service “at the pleasure” of the appointing authority. The concept of
28 service “at the pleasure” implies service for an indefinite term. For an office with a
29 definite term, the concept of service “at the pleasure” implies the ability to remove the
30 officer or member at will, regardless of the term of office specified in law. This
31 distinguishes the particular office from the offices without a stated service or removal
32 provision, under which the common standards for removal include conviction of a
33 crime, failure to attend meetings, incompetence, or misconduct. *See* Md. Constitution,
34 Art. XV, § 2; SG § 8–501; *cf.* former Art. 41, § 8–102(c) through (e); BR § 8–202(g). The
35 substitution is not intended to affect the authority of the appointing body to adopt
36 certain or different conditions concerning removal with cause and removal without
37 cause.

38 Also throughout this article, for clarity and consistency with other recently
39 revised articles, references to “the public”, “members of the public”, and “residents”
40 are substituted for former phrases such as “the citizens of this State” and “the citizens
41 of Maryland” because the meaning of the word “citizen” in this context is unclear.

42 Also throughout this article, for consistency with other recently revised articles,
43 the term “municipal corporation” is substituted for former references such as

1 “municipality”, “incorporated city”, “incorporated town”, and “incorporated
2 municipality” to conform to Article XI–E of the Maryland Constitution.

3 Also throughout this article, for consistency, the former phrase “real or
4 personal”, which formerly modified the comprehensive term “property”, is deleted to
5 avoid the implication that there is any other form of property which is neither real nor
6 personal. Similarly, the phrases “tangible or intangible” and “tangible, intangible, or
7 mixed”, which formerly modified the comprehensive term “property” are deleted to
8 avoid the implication that there is any other form of property that is not tangible,
9 intangible, or that has a mixture of attributes other than tangible and intangible
10 attributes. Also similarly, former references to “interests in” property, in conjunction
11 with references to “property”, are deleted as implicit in the comprehensive references
12 to “property”. Unless otherwise qualified by specific terms such as “real” or
13 “personal”, any reference to “property” in this article means property of any sort, real
14 or personal, tangible or intangible, or with any permissible mixture of those
15 attributes, even in conjunction with a phrase such as an “interest in land”. *See, e.g.*, §§
16 10–116(a)(2), 10–315(a)(1)(i), 10–410(2), 10–511(2), 10–601(d)(2)(i), and other similar
17 provisions of this article.

18 For the first time, the statutory definitions applicable to an entire article
19 distinguish between the term “state” when not capitalized, meaning any state or
20 territory of the United States, and the term “State” when capitalized, meaning
21 Maryland alone. This codifies the drafting convention used by the Department of
22 Legislative Services in preparing revised articles and all recently enacted legislation.
23 *See* §§ 1–101 and 9–101 of this article.

24 In some provisions in this article, as in other revised articles, the term “unit” is
25 substituted for former references to State entities such as an “agency”, “department”,
26 “division”, “office”, “commission”, “board”, “committee”, and “council”. In revised
27 articles of the Code, the term “unit” is used as the general term for an organization in
28 the State government because it is broad enough to include all such entities.

29 References to current units and positions are substituted for obsolete references
30 to entities and positions that have been abolished or have otherwise ceased to exist.

31 References to the “chair” and “vice–chair”, respectively, are substituted for
32 former references to the “chairman” and “vice–chairman”, respectively, because §
33 2–1238 of the State Government Article requires, to the extent practicable, the use of
34 words that are neutral as to gender. Similar substitutions are made to other former
35 gender–specific terms.

36 In provisions establishing special funds, references to these funds not being
37 subject to “reversion under” § 7–302 of the State Finance and Procurement Article are
38 added to give users of the article a sense of the subject of the latter provision, *i.e.*
39 reversion to the General Fund, without requiring them to look it up independently.

40 In some “Membership” provisions in this article, there is a subsection captioned
41 “Tenure; vacancies”. A standard paragraph included in those subsections provides
42 that a “member who is appointed after a term has begun serves only for the rest of the

1 term and until a successor is appointed and qualifies”. This paragraph applies: (1)
2 when a successor is appointed to replace a member who has died, resigned, or failed
3 for any other reason to complete a term; (2) when a member is appointed to succeed a
4 member who has “held over” into the next term, pending the delayed appointment
5 and qualification of the successor; or (3) when, in any other situation, a member takes
6 office after a term has begun, *e.g.*, when, at the completion of a term, there is a delay
7 in the appointment of a successor but the member who served the prior term does not
8 “hold over”. Similarly, several former provisions which provided that a vacancy on a
9 board, commission, or similar unit does not impair the right of a quorum to act, are
10 deleted as an unnecessary restatement of the common-law rule. *See* McQuillen,
11 MUNICIPAL CORPORATIONS, § 13.30 at 878 (3rd ed. rev’d 2002).

12 In provisions governing bonding authorities, principally in Title 10 of this
13 article, references to a trust “agreement” are substituted for the former references to
14 a trust “indenture” to reflect current terminology in bond practice. *Cf.* § 10–301(o) of
15 this article, which defines “trust agreement”. Similarly, references to a “competitive or
16 negotiated” sale of bonds are substituted for references to a “public or private” sale to
17 reflect current terminology.

18 Some apparently obsolete provisions allocated to the Economic Development
19 Article are transferred to the Session Laws for historical purposes or to avoid any
20 inadvertent substantive effect their repeal might have.

21 In some instances, the staff of the Department of Legislative Services may
22 create “Special Revisor’s Notes” to reflect the substantive effect of legislation enacted
23 during the 2008 Session on some provisions of this article.

24 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
25 read as follows:

26 **Article 1 – Rules of Interpretation**

27 25.

28 (a) Unnumbered revised articles of the Annotated Code of Maryland may be
29 cited as stated in this section.

30 (b) A section of the Agriculture Article may be cited as: “§__ of the Agriculture
31 Article”.

32 (c) A section of the Business Occupations and Professions Article may be cited
33 as: “§__ of the Business Occupations and Professions Article”.

34 (d) A section of the Business Regulation Article may be cited as: “§__ of the
35 Business Regulation Article”.

36 (e) A section of the Commercial Law Article may be cited as: “§__ of the
37 Commercial Law Article”.

1 (f) A section of the Corporations and Associations Article may be cited as:
2 “§__ of the Corporations and Associations Article”.

3 (g) A section of the Correctional Services Article may be cited as: “§__ of the
4 Correctional Services Article”.

5 (h) A section of the Courts and Judicial Proceedings Article may be cited as:
6 “§__ of the Courts Article”.

7 (i) A section of the Criminal Law Article may be cited as: “§__ of the Criminal
8 Law Article”.

9 (j) A section of the Criminal Procedure Article may be cited as: “§__ of the
10 Criminal Procedure Article”.

11 (K) A SECTION OF THE ECONOMIC DEVELOPMENT ARTICLE MAY BE CITED AS:
12 “§ __ OF THE ECONOMIC DEVELOPMENT ARTICLE”.

13 [(k)](L) A section of the Education Article may be cited as: “§__ of the
14 Education Article”.

15 [(l)](M) A section of the Election Law Article may be cited as: “§__ of the
16 Election Law Article”.

17 [(m)](N) A section of the Environment Article may be cited as: “§__ of the
18 Environment Article”.

19 [(n)](O) A section of the Estates and Trusts Article may be cited as: “§__ of
20 the Estates and Trusts Article”.

21 [(o)](P) A section of the Family Law Article may be cited as: “§__ of the
22 Family Law Article”.

23 [(p)](Q) A section of the Financial Institutions Article may be cited as: “§__ of
24 the Financial Institutions Article”.

25 [(q)](R) A section of the Health – General Article may be cited as: “§__ of the
26 Health – General Article”.

27 [(r)](S) A section of the Health Occupations Article may be cited as: “§__ of
28 the Health Occupations Article”.

29 [(s)](T) A section of the Housing and Community Development Article may be
30 cited as: “§__ of the Housing and Community Development Article”.

31 [(t)](U) A section of the Human Services Article may be cited as: “§__ of the
32 Human Services Article”.

33 [(u)](V) A section of the Insurance Article may be cited as: “§__ of the
34 Insurance Article”.

1 [(v)] (w) A section of the Labor and Employment Article may be cited as: “§__
2 of the Labor and Employment Article”.

3 [(w)] (x) A section of the Natural Resources Article may be cited as: “§__ of
4 the Natural Resources Article”.

5 [(x)] (y) A section of the Public Safety Article may be cited as: “§__ of the
6 Public Safety Article”.

7 [(y)] (z) A section of the Public Utility Companies Article may be cited as:
8 “§__ of the Public Utility Companies Article”.

9 [(z)] (AA) A section of the Real Property Article may be cited as: “§__ of the
10 Real Property Article”.

11 [(aa)] (BB) A section of the State Finance and Procurement Article may be
12 cited as: “§__ of the State Finance and Procurement Article”.

13 [(bb)] (CC) A section of the State Government Article may be cited as: “§__ of
14 the State Government Article”.

15 [(cc)] (DD) A section of the State Personnel and Pensions Article may be cited
16 as: “§__ of the State Personnel and Pensions Article”.

17 [(dd)] (EE) A section of the Tax – General Article may be cited as: “§__ of the
18 Tax – General Article”.

19 [(ee)] (FF) A section of the Tax – Property Article may be cited as: “§__ of the
20 Tax – Property Article”.

21 [(ff)] (GG) A section of the Transportation Article may be cited as: “§__ of the
22 Transportation Article”.

23 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland
24 read as follows:

25 **Article – Economic Development**

26 5–568.

27 (a) The Authority may guarantee a surety up to the lesser of 90% or
28 **[\$5,000,000] \$1,350,000** of its loss under a bid bond, payment bond, or performance
29 bond on a contract financed by the federal government, a state government, a local
30 government, a private entity, or a utility that the Public Service Commission
31 regulates.

32 5–569.

33 (b) (2) The bonds may not exceed **[\$5,000,000] \$1,000,000** each.

1 SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article – Economic Development**

4 11–302.

5 (a) The General Assembly finds that:

6 (4) the establishment of State-chartered public corporations to develop
7 military installations slated for closure or realignment in the State would:

8 (iii) serve as an additional means to achieve the mission of the
9 Maryland Military Installation STRATEGIC PLANNING Council.

10 SECTION 6. AND BE IT FURTHER ENACTED, That Section(s) 13–121 and
11 13–122 of Article 41 – Governor – Executive and Administrative Departments of the
12 Annotated Code of Maryland be repealed and reenacted, with amendments, and
13 transferred to the Session Laws, to read as follows:

14 [13–121.] 1.

15 All laws or parts of laws of the State [of Maryland], general and local, THAT ARE
16 inconsistent with [the provisions of this Subtitle] TITLE 10, SUBTITLE 2 OF THE
17 ECONOMIC DEVELOPMENT ARTICLE, are repealed to the extent of [such] THE
18 inconsistency.

19 [13–122.] 2.

20 The validity or enforceability of any bonds issued by the MARYLAND FOOD
21 CENTER Authority under [the provisions of this Subtitle] FORMER ART. 41, TITLE 13,
22 SUBTITLE 1 OF THE CODE prior to June 1, 2001 or any obligation of the Authority to
23 provide for the payment of principal and interest on those bonds may not in any way
24 be impaired by any amendments to [this] THAT subtitle OR TO TITLE 10, SUBTITLE 2
25 OF THE ECONOMIC DEVELOPMENT ARTICLE enacted on or after June 1, 2001.

26 REVISOR’S NOTE: This section is new language derived without substantive
27 change from former Art. 41, §§ 13–121 and 13–122.

28 Former Art. 41, § 13–121 is not retained in the Code because it is
29 apparently obsolete. It is transferred to the Session Laws to avoid any
30 inadvertent substantive effect that its repeal might have.

31 Former Art. 41, § 13–122 is not retained in the Code because it applies, if
32 at all, only to a small class of outstanding bonds issued by the Maryland
33 Food Center Authority before June 1, 2001. It is transferred to the Session
34 Laws to avoid any inadvertent substantive effect that its repeal might
35 have.

1 SECTION 7. AND BE IT FURTHER ENACTED, That Section 7 of Article 78D –
 2 Baltimore Metropolitan Council of the Annotated Code of Maryland be repealed and
 3 reenacted, with amendments, and transferred to the Session Laws, to read as follows:

4 **BALTIMORE METROPOLITAN COUNCIL**

5 **[7.] 1.**

6 (a) A liability, contract, or obligation of the Baltimore Regional Council of
 7 Governments [may] IS not [be] a liability, contract, or obligation of the Baltimore
 8 Metropolitan Council unless the liability, contract, or obligation is expressly assumed
 9 by action of the Baltimore Metropolitan Council.

10 (b) Without limiting the effect of subsection (a) of this section, the Baltimore
 11 Metropolitan Council:

12 (1) Is not liable for any liabilities to the State Retirement and Pension
 13 System resulting from the service before July 1, 1992, of the employees of the
 14 Baltimore Metropolitan Council who were in the State Retirement and Pension
 15 System prior to July 1, 1992 and who are eligible to participate in the State
 16 Retirement and Pension System under § 31–104 of the State Personnel and Pensions
 17 Article; and

18 (2) Is not liable for the special accrued liability contribution required
 19 under § 21–305.3 of the State Personnel and Pensions Article.

20 REVISOR’S NOTE: This section formerly was Art. 78D, § 7.

21 It is not retained in the Code because the Baltimore Regional Council of
 22 Governments was repealed in 1992 and the events contemplated by these
 23 provisions have long since occurred. It is transferred to the Session Laws
 24 to avoid any inadvertent substantive effect that its repeal might have. *See*
 25 § 3 of Ch. 201, Acts of 1992; § 3 of Ch. 624, Acts of 1995.

26 The only changes are in style.

27 SECTION 8. AND BE IT FURTHER ENACTED, That Section(s) 4–606(a)(1)
 28 and 4–607(a)(1) of Article 83A – Department of Business and Economic Development
 29 of the Annotated Code of Maryland be repealed and reenacted, with amendments, and
 30 transferred to the Session Laws, to read as follows:

31 **Governor’s Council on the Arts in Maryland**

32 1. The MARYLAND STATE ARTS Council [shall have the power and authority
 33 necessary to carry out the duties imposed upon it by this subtitle and subject to the
 34 approval of the Secretary, including but not limited to the following:

35 (1) Continuing] MAY CONTINUE all programs and activities and
 36 [assuming] ASSUME all assets, liabilities, contracts, leases and other such obligations
 37 of the body formerly known as the Governor’s Council on the Arts in Maryland.

1 2. The MARYLAND STATE ARTS Council [is authorized to conduct programs
2 subject to approval of the Secretary, including, but not limited to the following:

3 (1) Continuation of] MAY CONTINUE the program of the body formerly
4 known as the Governor’s Council on the Arts in Maryland [including its statewide
5 survey of resources and needs in the arts].

6 REVISOR’S NOTE: This section is new language derived without substantive
7 change from former Art. 83A, §§ 4–606(a)(1) and 4–607(a)(1).

8 Former § 4–606(a)(1) is not retained in the Code because it applies, if at
9 all, to a small class of activities and obligations undertaken before July 1,
10 1967. It is transferred to the Session Laws to avoid any inadvertent
11 substantive effect that its repeal might have. *See* Ch. 644, Acts of 1967.

12 Former § 4–607(a)(1) is not retained in the Code because it applies, if at
13 all, to a small class of programs undertaken before July 1, 1967. It is
14 transferred to the Session Laws to avoid any inadvertent substantive effect
15 that its repeal might have. *See* Ch. 644, Acts of 1967.

16 For the statewide survey of resources and needs in the arts formerly
17 conducted by the Governor’s Council on the Arts in Maryland, *see* EC §
18 4–510(a)(1).

19 SECTION 9. AND BE IT FURTHER ENACTED, That Section(s) 5–914(a) of
20 Article 83A – Department of Business and Economic Development of the Annotated
21 Code of Maryland be repealed and reenacted, with amendments, and transferred to
22 the Session Laws, to read as follows:

23 **Maryland Industrial Development Financing Authority**

24 [5–914.] 1.

25 [(a)] There is an Industrial Development Fund which replaces the MARYLAND
26 INDUSTRIAL DEVELOPMENT FINANCING Authority’s Bond Insurance Fund, the
27 MARYLAND INDUSTRIAL DEVELOPMENT FINANCING Authority’s Authorized Purpose
28 Insurance Fund, the [Department’s] Day Care Facilities Loan Guarantee Fund OF
29 THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT, and the Maryland
30 Enterprise Incentive Deposit Fund. [Moneys on deposit in the Authority’s Bond
31 Insurance Fund, the Authority’s Authorized Purpose Insurance Fund, the
32 Department’s Day Care Facilities Loan Guarantee Fund, and the Maryland
33 Enterprise Incentive Deposit Fund shall be transferred to the Industrial Development
34 Fund on July 1, 2000.]

35 REVISOR’S NOTE: This section is new language derived without substantive
36 change from the first sentence of former Art. 83A, § 5–914(a), as it related
37 to the replacement of certain funds by the Industrial Development Fund.

38 The first sentence of former Art. 83A, § 5–914(a) is not retained in the
39 Code because it applies, if at all, to a diminishing class of funds invested or

1 otherwise encumbered as of July 1, 2000. It is transferred to the Session
 2 Laws to avoid any inadvertent substantive effect that its repeal might
 3 have. *See* Ch. 305, Acts of 2000; § ___ of Ch. ___, Acts of 2008.

4 The second sentence of former Art. 83A, § 5–914(a), which provided that
 5 moneys on deposit in various former funds be transferred to the Industrial
 6 Development Fund on July 1, 2000, is deleted as obsolete. The
 7 contemplated transfers have already occurred.

8 SECTION 10. AND BE IT FURTHER ENACTED, That Section(s) 5–1501(e)(2)
 9 of Article 83A – Department of Business and Economic Development of the Annotated
 10 Code of Maryland be repealed and reenacted, with amendments, and transferred to
 11 the Session Laws, to read as follows:

12 **One Maryland Tax Credits**

13 **[(2)] 1.**

14 **[(i)] (A)** A business entity may not be certified as qualifying for the tax
 15 credit under **[this section] TITLE 6, SUBTITLE 4 OF THE ECONOMIC DEVELOPMENT**
 16 **ARTICLE** if an announcement of intent to establish or expand the business facility was
 17 made on or before April 10, 1999.

18 **[(ii)] (B)** For purposes of this **[paragraph] SECTION**, an announcement of
 19 intent to establish or expand a business facility includes a press conference or press
 20 coverage regarding the project.

21 REVISOR’S NOTE: This section is new language derived without substantive
 22 change from former Art. 83A, § 5–1501(e)(2).

23 Former Art. 83A, § 5–1501(e)(2), which excluded projects announced before
 24 April 10, 1999 from eligibility for a tax credit under this subtitle, is
 25 apparently obsolete. *Cf.* Ch. 303, Acts of 1999. However, to avoid any
 26 inadvertent substantive effect its repeal might have, it is transferred to the
 27 Session Laws. *See* § ___ of Ch. ___, Acts of 2008.

28 SECTION 11. AND BE IT FURTHER ENACTED, That it is the intention of the
 29 General Assembly that, except as expressly provided in this Act, this Act shall be
 30 construed as a nonsubstantive revision, and may not otherwise be construed to render
 31 any substantive change in the law of the State.

32 SECTION 12. AND BE IT FURTHER ENACTED, That the catchlines, captions,
 33 Revisor’s Notes, Special Revisor’s Notes, and General Revisor’s Notes contained in
 34 this Act are not law and may not be considered to have been enacted as a part of this
 35 Act.

36 SECTION 13. AND BE IT FURTHER ENACTED, That nothing in this Act
 37 affects the term of office of an appointed or elected member of any commission, office,
 38 department, agency, or other unit. An individual who is a member of a unit on the
 39 effective date of this Act shall remain a member for the balance of the term to which

1 appointed or elected, unless the member sooner dies, resigns, or is removed under
2 provisions of law.

3 SECTION 14. AND BE IT FURTHER ENACTED, That, except as expressly
4 provided to the contrary in this Act, any transaction or employment status affected by
5 or flowing from any change of nomenclature or any statute amended, repealed, or
6 transferred by this Act and validly entered into or existing before the effective date of
7 this Act and every right, duty, or interest flowing from a statute amended, repealed,
8 or transferred by this Act remains valid after the effective date of this Act and may be
9 terminated, completed, consummated, or enforced as required or allowed by any
10 statute amended, repealed, or transferred by this Act as though the repeal,
11 amendment, or transfer had not occurred. If a change in nomenclature involves a
12 change in name or designation of any State unit, the successor unit shall be
13 considered in all respects as having the powers and obligations granted the former
14 unit.

15 SECTION 15. AND BE IT FURTHER ENACTED, That the continuity of every
16 commission, office, department, agency, or other unit is retained. The personnel,
17 records, files, furniture, fixtures, and other properties and all appropriations, credits,
18 assets, liabilities, and obligations of each retained unit are continued as the
19 personnel, records, files, furniture, fixtures, properties, appropriations, credits,
20 assets, liabilities, and obligations of the unit under the laws enacted by this Act.

21 SECTION 16. AND BE IT FURTHER ENACTED, That, except as expressly
22 provided to the contrary in this Act, any person licensed, registered, certified, or
23 issued a permit or certificate by any commission, office, department, agency, or other
24 unit established or continued by any statute amended, repealed, or transferred by
25 this Act is considered for all purposes to be licensed, registered, certified, or issued a
26 permit or certificate by the appropriate unit continued under this Act for the duration
27 of the term for which the license, registration, certification, or permit was issued, and
28 may renew that authorization in accordance with the appropriate renewal provisions
29 of this Act.

30 SECTION 17. AND BE IT FURTHER ENACTED, That this Act does not
31 rescind, supersede, change, or modify any rule adopted by the Court of Appeals that is
32 or was in effect on the effective date of this Act concerning the practice and procedure
33 in and the administration of the appellate courts and the other courts of this State.

34 SECTION 18. AND BE IT FURTHER ENACTED, That the publisher of the
35 Annotated Code of Maryland, in consultation with and subject to the approval of the
36 Department of Legislative Services, shall correct, with no further action required by
37 the General Assembly, cross-references and terminology rendered incorrect by this
38 Act or by any other Act of the General Assembly of 2008 that affects provisions
39 enacted by this Act. The publisher shall adequately describe any such correction in an
40 editor's note following the section affected.

41 SECTION 19. AND BE IT FURTHER ENACTED, That Section 4 of this Act
42 shall take effect on the taking effect of the termination provision specified in Section
43 4 of Chapter 299 of the Acts of the General Assembly of 2006, as amended by Section

1 2 of Chapter 635 of the Acts of the General Assembly of 2007. This Act may not be
2 interpreted to have any effect on that termination provision.

3 SECTION 20. AND BE IT FURTHER ENACTED, That Section 5 of this Act
4 shall take effect on the taking effect of the termination provision specified in Section
5 3 of Chapter 634 of the Acts of the General Assembly of 2006. This Act may not be
6 interpreted to have any effect on that termination provision.

7 SECTION 21. AND BE IT FURTHER ENACTED, That Title 4, Subtitle 6, of the
8 Economic Development Article and the subtitle “Subtitle 6. Maryland Public Art
9 Initiative Program” as enacted by Section 2 of this Act, shall remain effective until the
10 taking effect of the termination provision specified in Section 2 of Chapter 393 of the
11 Acts of the General Assembly of 2005. If that termination provision takes effect, Title
12 4, Subtitle 6 of the Economic Development Article and the subtitle “Subtitle 6.
13 Maryland Public Art Initiative Program”, as enacted by Section 2 of this Act, shall be
14 abrogated and of no further force and effect. This Act may not be interpreted to have
15 any effect on that termination provision.

16 SECTION 22. AND BE IT FURTHER ENACTED, That Title 5, Subtitle 11 of
17 the Economic Development Article, the subtitle “Subtitle 11. Rural Broadband
18 Assistance Fund”, Title 13, Subtitle 5 of the Economic Development Article, and the
19 subtitle “Subtitle 5. Rural Broadband Coordination Board”, as enacted by Section 2 of
20 this Act, shall remain effective until the taking effect of the termination provision
21 specified in Section 3 of Chapter 269 of the Acts of the General Assembly of 2006. If
22 that termination provision takes effect, Title 5, Subtitle 11 of the Economic
23 Development Article, the subtitle “Subtitle 11. Rural Broadband Assistance Fund”,
24 Title 13, Subtitle 5 of the Economic Development Article, and the subtitle “Subtitle 5.
25 Rural Broadband Coordination Board”, as enacted by Section 2 of this Act, shall be
26 abrogated and of no further force and effect. This Act may not be interpreted to have
27 any effect on that termination provision.

28 SECTION 23. AND BE IT FURTHER ENACTED, That Title 11, Subtitle 1 of
29 the Economic Development Article and the subtitle “Subtitle 1. Base Realignment and
30 Closure Subcabinet”, as enacted by Section 2 of this Act, shall remain effective until
31 the taking effect of the termination provision specified in Section 2 of Chapter 6 of the
32 Acts of the General Assembly of 2007. If that termination provision takes effect, Title
33 11, Subtitle 1 of the Economic Development Article and the subtitle “Subtitle 1. Base
34 Realignment and Closure Subcabinet”, as enacted by Section 2 of this Act, shall be
35 abrogated and of no further force and effect. This Act may not be interpreted to have
36 any effect on that termination provision.

37 SECTION 24. AND BE IT FURTHER ENACTED, That Title 11, Subtitle 2 of
38 the Economic Development Article and the subtitle “Subtitle 2. Maryland Military
39 Installation Council”, as enacted by Section 2 of this Act, shall remain effective until
40 the taking effect of the termination provision specified in Section 3 of Chapter 634 of
41 the Acts of the General Assembly of 2006. If that termination provision takes effect,
42 Title 11, Subtitle 2 of the Economic Development Article and the subtitle “Subtitle 2.
43 Maryland Military Installation Council”, as enacted by Section 2 of this Act, shall be

1 abrogated and of no further force and effect. This Act may not be interpreted to have
2 any effect on that termination provision.

3 SECTION 25. AND BE IT FURTHER ENACTED, That, subject to the
4 provisions of Sections 19 through 24 of this Act, this Act shall take effect October 1,
5 2008.