

CHAPTER 306

(House Bill 1050)

AN ACT concerning

Economic Development

FOR the purpose of adding a new article to the Annotated Code of Maryland, to be designated and known as the “Economic Development Article”, to revise, restate, and recodify the laws of the State relating to the Department of Business and Economic Development and its component parts and programs, including the Maryland Economic Development Commission, the Office of International Trade, the Partnership for Workforce Quality, the Maryland Advisory Commission on Manufacturing Competitiveness, the Division of Tourism, Film, and the Arts, the Maryland Tourism Development Board, the Maryland Film Office, the Maryland State Arts Council, the Maryland Public Art Initiative Program, the Maryland Life Sciences Advisory Board, the Enterprise Fund and enterprise zones, Foreign Trade Zones, the Maryland Economic Adjustment Fund, the Maryland Economic Development Assistance Authority and Fund, the Maryland Industrial Development Financing Authority, the Maryland Small Business Development Financing Authority, the Film Production Rebate Fund, the Rural Broadband Assistance Fund, the Dredged Material Disposal Alternatives Program, the Military Reservists and Service-Related No-Interest Loan Program, tax incentives for film production activities, job creation tax credits, and One Maryland start-up and project tax credits; revising, restating, and recodifying the laws of the State relating to certain independent economic development units and programs, including the Maryland Economic Development Corporation, the Maryland Food Center Authority, the Maryland Health and Higher Educational Facilities Authority, the Maryland Technology Development Corporation, the Maryland Stem Cell Research Program, the Maryland Agricultural and Resource-Based Industry Development Corporation, the Maryland Stadium Authority, the Maryland Venture Capital Trust, the Base Realignment and Closure Subcabinet, the Maryland Military Installation Council, the PenMar Development Corporation, the Bainbridge Development Corporation, local redevelopment authorities for military installations, the Appalachian Regional Development Program, the Southern States Energy Board, the Baltimore Metropolitan Council, the Rural Maryland Council, the Tri-County Council for Southern Maryland, the Tri-County Council for Western Maryland, the Tri-County Council for the Lower Eastern Shore of Maryland, the Mid-Shore Regional Council, the Upper Shore Regional Council, the Rural Broadband Coordination Program; revising, restating, and recodifying the laws of the State relating to certain economic development financing programs, including economic development revenue bonds, tax increment financing, redevelopment bonds, and industrial development bonds; repealing certain obsolete provisions; transferring certain obsolete provisions to the Session Laws; defining certain terms; providing for the construction and application of this Act; providing for the continuity of certain units and the terms of certain officials; providing for the continuity of the status of certain transactions, employees,

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rights, duties, titles, interests, licenses, registrations, certifications, and permits; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to the laws of the State concerning economic development.

BY repealing

Article 20 – Tri–County Council for Southern Maryland

In its entirety

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY repealing

Article 20A – Tri–County Council for Western Maryland

In its entirety

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY repealing

Article 20B – Tri–County Council for the Lower Eastern Shore of Maryland

In its entirety

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY repealing

Article 20C – Mid–Shore Regional Council

In its entirety

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY repealing

Article 20D – Upper Shore Regional Council

In its entirety

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY repealing

Article 23 – Miscellaneous Companies

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

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY repealing

Article 41 – Governor – Executive and Administrative Departments

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

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

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

Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing

Article 43C – Maryland Health and Higher Educational Facilities Authority
In its entirety
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing

Article 45A – Industrial Bonds
In its entirety
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing

Article 78D – Baltimore Metropolitan Council
Section 1 through 6, inclusive
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing

Article 83A – Department of Business and Economic Development
Section 1–101 and the title “Title 1. Maryland Economic Development Commission” and the subtitle “Subtitle 1. Definitions”; 1–201 through 1–204 and the subtitle “Subtitle 2. Creation and Duties”; 2–101 through 2–106 and the title “Title 2. Department Established and Organized”; 3–101 and the title “Title 3. Business Development and Resources” and the subtitle “Subtitle 1. Objectives”; 3–201 through 3–203 and the subtitle “Subtitle 2. General Duties”; 3–301 and 3–302 and the subtitle “Subtitle 3. Office of International Trade”; 3–601 and the subtitle “Subtitle 6. Coordination of Programs”; 3–701 through 3–704 and the subtitle “Subtitle 7. Partnership for Workforce Quality”; 3–801 through 3–804 and the subtitle “Subtitle 8. Maryland Advisory Commission on Manufacturing Competitiveness”; 4–101 through 4–105 and the title “Title 4. Division of

Tourism, Film, and the Arts” and the subtitle “Subtitle 1. Division Established”; 4–201 through 4–208 and the subtitle “Subtitle 2. Maryland Tourism Development Board”; 4–301 and the subtitle “Subtitle 3. Maryland Lower Eastern Shore Tourism Center”; 4–401 through 4–404 and the subtitle “Subtitle 4. Maryland Film Office”; 4–501 and the subtitle “Subtitle 5. Film Production Activity Tax Exemptions”; 4–601 through 4–605, 4–606(a)(2) through (7) and (b) through (d), 4–607(a)(2) through (11) and (b), 4–608, and 4–609 and the subtitle “Subtitle 6. Maryland State 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”

Annotated Code of Maryland

(2003 Replacement Volume and 2007 Supplement)

BY repealing

Article – Financial Institutions

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

Annotated Code of Maryland

(2003 Replacement Volume and 2007 Supplement)

BY repealing

Article – State Government

Section 9–802

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

BY repealing

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

BY adding

New Article – Economic Development

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

Annotated Code of Maryland

BY repealing and reenacting, with amendments,

Article – Economic Development

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

Annotated Code of Maryland

(As enacted by Section 2 of this Act)

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

Article 41 – Governor – Executive and Administrative Departments

Section 13–121 and 13–122

Annotated Code of Maryland

(2003 Replacement Volume and 2007 Supplement)

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

Article 78D – Baltimore Metropolitan Council

Section 7

Annotated Code of Maryland

(2003 Replacement Volume and 2007 Supplement)

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

Article 83A – Department of Business and Economic Development

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Section 4–606(a)(1), 4–607(a)(1), 5–914(a), and 5–1501(e)(2)

Annotated Code of Maryland

(2003 Replacement Volume and 2007 Supplement)

BY repealing

Article – Economic Development

Title 4, Subtitle 6, and the subtitle “Subtitle 6. Maryland Public Art Initiative Program”; Title 5, Subtitle 11 and the subtitle “Subtitle 11. Rural Broadband Assistance Fund”; Title 11, Subtitle 1 and the subtitle “Subtitle 1. Base Realignment and Closure Subcabinet”; Title 11, Subtitle 2 and the subtitle “Subtitle 2. Maryland Military Installation Council”; and Title 13, Subtitle 5 and the subtitle “Subtitle 5. Rural Broadband Coordination Board”

Annotated Code of Maryland

(As enacted by Section 2 of this Act)

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

Article 20 – Tri–County Council for Southern Maryland

In its entirety

Article 20A – Tri–County Council for Western Maryland

In its entirety

Article 20B – Tri–County Council for the Lower Eastern Shore of Maryland

In its entirety

Article 20C – Mid–Shore Regional Council

In its entirety

Article 20D – Upper Shore Regional Council

In its entirety

Article 23 – Miscellaneous Companies

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

Article 41 – Governor – Executive and Administrative Departments

Section 13–101 through 13–120, inclusive, and 13–123 and the subtitle “Subtitle 1. Maryland Food Center Authority”; 13–501 through 13–515, inclusive, and the subtitle “Subtitle 5. Maryland Agricultural and Resource–Based Industry Development Corporation”; 14–101 through 14–109, inclusive, and the subtitle “Subtitle 1. Maryland Economic Development Revenue Bond Act”; 14–201 through 14–214, inclusive, and the subtitle “Subtitle 2. Tax Increment Financing Act”; 14–801 through 14–812, inclusive, and the subtitle “Subtitle 8. Redevelopment Bond Act”; 15–101 through 15–110, inclusive, and the title “Title 15. Rural Maryland Council”; 16–101 through 16–114, inclusive, and the title “Title 16. Southern States Energy Compact” and the subtitle “Subtitle 1. Compact Provisions”; and 21–101

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

Article 43C – Maryland Health and Higher Educational Facilities Authority

In its entirety

Article 45A – Industrial Bonds

In its entirety

Article 78D – Baltimore Metropolitan Council

Sections 1 through 6, inclusive

Article 83A – Department of Business and Economic Development

Section 1–101 and the title “Title 1. Maryland Economic Development Commission” and the subtitle “Subtitle 1. Definitions”; 1–201 through 1–204 and the subtitle “Subtitle 2. Creation and Duties”; 2–101 through 2–106 and the title “Title 2. Department Established and Organized”; 3–101 and the title “Title 3. Business Development and Resources” and the subtitle “Subtitle 1. Objectives”; 3–201 through 3–203 and the subtitle “Subtitle 2. General Duties”; 3–301 and 3–302 and the subtitle “Subtitle 3. Office of International Trade”; 3–601 and the subtitle “Subtitle 6. Coordination of Programs”; 3–701 through 3–704 and the subtitle “Subtitle 7. Partnership for Workforce Quality”; 3–801 through 3–804 and the subtitle “Subtitle 8. Maryland Advisory Commission on Manufacturing Competitiveness”; 4–101 through 4–105 and the title “Title 4. Division of Tourism, Film, and the Arts” and the subtitle “Subtitle 1. Division Established”; 4–201 through 4–208 and the subtitle “Subtitle 2. Maryland Tourism Development Board”; 4–301 and the subtitle “Subtitle 3. Maryland Lower Eastern Shore Tourism Center”; 4–401 through 4–404 and the subtitle “Subtitle 4. Maryland Film Office”; 4–501 and the subtitle “Subtitle 5. Film Production Activity Tax Exemptions”; 4–601 through 4–605, 4–606(a)(2) through (7) and (b) through (d), 4–607(a)(2) through (11) and (b), 4–608, and 4–609 and the subtitle “Subtitle 6. Maryland State 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”

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

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

ARTICLE – ECONOMIC DEVELOPMENT

DIVISION I. DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT.

TITLE 1. DEFINITIONS.

SUBTITLE 1. DEFINITIONS.

1–101. DEFINITIONS.

(A) **IN GENERAL.**

IN THIS DIVISION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

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

No other changes are made.

(B) COUNTY.

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

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

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

Former Art. 83A, §§ 5–401(d), 5–901(h), and 5–1401(m) applied only to specific programs within the Department: enterprise zones, the Maryland Industrial Development Financing Authority, and the Maryland Economic Development Assistance Authority and Fund. The remainder of the source material for this article was subject to Art. 1, § 14(a), which provides that “county” includes Baltimore City “unless such construction would be unreasonable”. Because the word “unreasonable” in that section has been interpreted in various ways, the Economic Development Article Review Committee decided that an explicit definition of “county” should be included that applies in each division of this article. *See, also*, § 9–101 of this article.

Defined term: “State” § 1–101

(C) DEPARTMENT.

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

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

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

No other changes are made.

(D) PERSON.

“PERSON” MEANS AN INDIVIDUAL, RECEIVER, TRUSTEE, GUARDIAN, PERSONAL

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REPRESENTATIVE, FIDUCIARY, REPRESENTATIVE OF ANY KIND, PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY.

REVISOR'S NOTE: This subsection is new language added to provide an express definition of the term "person".

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

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

See, also, § 9-101 of this article.

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

(E) QUALIFIED DISTRESSED COUNTY.

"QUALIFIED DISTRESSED COUNTY" MEANS A COUNTY WITH:

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

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

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

Defined terms: "County" § 1-101

"State" § 1-101

(F) SECRETARY.

"SECRETARY" MEANS THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT.

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

No changes are made.

(G) STATE.

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

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

(II) THE DISTRICT OF COLUMBIA.

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

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

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

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

In paragraph (2) of this subsection, the phrase “[w]hen capitalized,” is added for clarity and to prescribe explicitly the drafting convention used in recently revised articles, by which the term “State” when capitalized refers only to Maryland, whereas the defined term “state” in miniscule refers to any state or other territory of the United States.

The only other change is in style.

See, also, § 9–101 of this article.

REVISOR’S NOTE TO SECTION:

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

TITLE 2. DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT.

SUBTITLE 1. ORGANIZATION AND GENERAL AUTHORITY OF DEPARTMENT.

2–101. ESTABLISHED.

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

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

It is set forth as a separate section for emphasis.

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Defined term: "State" § 1-101

2-102. SECRETARY.

(A) POSITION AND APPOINTMENT.

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

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

(B) OATH.

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

(C) TENURE; RESPONSIBILITIES.

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

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

(D) COMPENSATION.

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

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

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

In subsection (c)(2) of this section, the former reference to "counsel[ing]" the Governor is deleted as surplusage in light of the reference to "advis[ing]" the Governor.

In subsection (d) of this section, the reference to the Secretary's "compensation" is substituted for the former reference to the Secretary's "salary" for accuracy and consistency throughout this article. See General Revisor's Note to article.

Defined terms: "Department" § 1-101

"Secretary" § 1-101

"State" § 1-101

2-103. ADMINISTRATION OF DEPARTMENT.

(A) ADMINISTRATION.

THE SECRETARY:

- (1) IS RESPONSIBLE FOR THE OPERATION OF THE DEPARTMENT; AND
- (2) SHALL ESTABLISH GUIDELINES AND PROCEDURES TO PROMOTE THE ORDERLY AND EFFICIENT ADMINISTRATION OF THE DEPARTMENT.

(B) AREAS OF RESPONSIBILITY.

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

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

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

Defined terms: “Department” § 1-101
“Secretary” § 1-101

2-104. SEAL.

THE SECRETARY SHALL HAVE A SEAL.

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

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

Defined term: “Secretary” § 1-101

2-105. DEPUTY SECRETARY.

(A) APPOINTMENT.

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

(B) TENURE; COMPENSATION.

THE DEPUTY SECRETARY:

- (1) SERVES AT THE PLEASURE OF THE SECRETARY; AND
- (2) IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE BUDGET.

(c) DUTIES.

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

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

Defined terms: "Department" § 1-101

"Secretary" § 1-101

"State" § 1-101

2-106. STAFF — SECRETARY'S OFFICE.

(A) IN GENERAL.

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

(B) AREAS OF RESPONSIBILITY.

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

(C) EMPLOYMENT STATUS AND REMOVAL.

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

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

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

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

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

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

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

Defined term: “Secretary” § 1–101

2–107. STAFF — OTHER UNITS.

(A) APPROVAL BY SECRETARY.

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

(B) AUTHORITY TO DELEGATE.

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

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

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

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

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

2–108. REGULATIONS.

(A) OFFICE OF SECRETARY.

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

(B) REVIEW OF REGULATIONS OF UNITS.

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

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

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

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

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

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

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

Defined terms: “Department” § 1-101
“Secretary” § 1-101

2-109. SECRETARY’S DUTIES — BUDGET.

THE SECRETARY IS RESPONSIBLE FOR THE BUDGET OF THE OFFICE OF THE SECRETARY AND FOR THE BUDGET OF EACH UNIT UNDER THE JURISDICTION OF THE DEPARTMENT.

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

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

Defined terms: “Department” § 1-101
“Secretary” § 1-101

2-110. SECRETARY’S DUTIES — PLANS AND ACTIVITIES.

(A) IN GENERAL.

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

(B) AUTHORITY TO REVIEW.

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

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

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

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

Defined terms: "Department" § 1-101
"Secretary" § 1-101

2-111. SECRETARY'S DUTIES — REMOVAL OF APPOINTEE.

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

- (1) THE SECRETARY IS REQUIRED TO MAKE THE APPOINTMENT WITH THE CONSENT OF THE GOVERNOR; AND
- (2) THE APPOINTEE:
 - (I) SERVES AT THE PLEASURE OF THE SECRETARY; OR
 - (II) MAY BE REMOVED BY THE SECRETARY WITH OR WITHOUT CAUSE.

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

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

Defined terms: "Department" § 1-101
"Secretary" § 1-101

2-112. SECRETARY'S DUTIES — MEETINGS.

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

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

The reference to "unit" is substituted for the former list of unit types, *i.e.*, boards and commissions, for brevity. The term "unit" is broad enough to

include all these types of entities. *See* General Revisor’s Note to article.

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

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

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

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

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

(A) SCOPE OF SECTION.

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

(B) IN GENERAL.

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

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

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

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

2–114. UNITS TO REPORT TO SECRETARY.

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

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

The reference to a “unit” is substituted for the former list of unit types, *i.e.*, divisions, commissions, boards, offices, authorities, and agencies, for

brevery. The term “unit” is broad enough to include all these types of entities. *See* General Revisor’s Note to article.

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

2–115. CLASSIFICATION OF EMPLOYEES.

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

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

(B) CLASSIFIED SERVICE EMPLOYEE.

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

(C) COMPENSATION.

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

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

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

2–116. LEGAL COUNSEL.

(A) SCOPE OF SECTION.

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

(B) ATTORNEY GENERAL AS LEGAL ADVISER.

THE ATTORNEY GENERAL IS THE LEGAL ADVISER TO THE DEPARTMENT.

(C) ASSIGNMENT OF ASSISTANTS.

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

(D) COUNSEL.

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

(2) THE COUNSEL MAY ONLY:

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

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

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

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

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

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

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

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

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

In subsection (d)(3) of this section, the reference to duties performed under the "supervision" of the Attorney General is substituted for the former reference to duties performed "subject to ... [the] discretion and control" of the Attorney General for clarity and brevity.

The part of the fifth sentence and the sixth sentence of former Art. 83A, §

2–103(b), which enabled the Attorney General to assign work to assistant Attorneys General, required them to do the assigned work, required them to be lawyers, and provided for their compensation, is deleted as unnecessary in light of SG § 6–105.

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

2–117. UNITS IN DEPARTMENT.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED BY LAW, THE SECRETARY:

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

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

(B) ADVISORY UNITS.

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

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

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

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

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

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

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

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

2–118. OBJECTIVES OF DEPARTMENT.

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

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

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

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

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

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

(6) PROMOTE THE DEVELOPMENT OF INTERNATIONAL TRADE ACTIVITIES;

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

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

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

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

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

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

2–119. DUTIES OF DEPARTMENT.

THE DEPARTMENT SHALL:

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

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

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

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

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

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

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

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

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

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

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

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

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

(14) ADMINISTER THE PROGRAMS IN THE DEPARTMENT; AND

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

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

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

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

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Defined terms: “Department” § 1–101

“State” § 1–101

2–120. SUPPORT FOR REGIONAL TECHNOLOGY COUNCILS.

(A) IN GENERAL.

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

(B) SELECTION OF ENTITY AND REGION.

THE DEPARTMENT MAY:

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

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

(C) TYPE OF SUPPORT.

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

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

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

Defined term: “Department” § 1–101

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

(A) IN GENERAL.

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

(B) LIMITATION.

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

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

In this section, the reference to “units” is substituted for the former list of unit types, *i.e.*, boards, commissions, agencies, and institutions, for brevity.

The term “unit” is broad enough to include all these types of entities. *See* General Revisor’s Note to article.

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

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

2–122. CONSOLIDATED PUBLICATIONS ACCOUNT.

(A) AUTHORIZED.

THE DEPARTMENT MAY ESTABLISH A CONSOLIDATED PUBLICATIONS ACCOUNT.

(B) COMPOSITION.

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

(C) USE.

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

(D) UNEXPENDED MONEYS.

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

- (I) DOES NOT REVERT TO THE GENERAL FUND OF THE STATE; BUT
- (II) SHALL BE MAINTAINED AS A SPECIAL FUND.

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

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

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

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

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Defined terms: "Department" § 1-101
"State" § 1-101

SUBTITLE 2. MARYLAND ECONOMIC DEVELOPMENT COMMISSION.

2-201. "COMMISSION" DEFINED.

IN THIS SUBTITLE, "COMMISSION" MEANS THE MARYLAND ECONOMIC DEVELOPMENT COMMISSION.

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

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

2-202. ESTABLISHED; PURPOSE.

(A) ESTABLISHED.

THERE IS A MARYLAND ECONOMIC DEVELOPMENT COMMISSION IN THE DEPARTMENT.

(B) PURPOSE.

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

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

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

2-203. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

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

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

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

- (I) THE UPPER EASTERN SHORE;
- (II) THE LOWER EASTERN SHORE;
- (III) CALVERT COUNTY, CHARLES COUNTY, OR ST. MARY'S COUNTY;
- (IV) ALLEGANY COUNTY OR GARRETT COUNTY; AND
- (V) CARROLL COUNTY, FREDERICK COUNTY, OR WASHINGTON COUNTY.

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

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

(B) QUALIFICATIONS.

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

(C) APPLICABILITY OF MARYLAND PUBLIC ETHICS LAW.

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

(D) TENURE.

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

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

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

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

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

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

In subsection (a)(2)(iii) of this section, the former reference to "[t]he tri-county area of Southern Maryland" is deleted in light of the specific designation of Charles County, Calvert County, or St. Mary's County.

In subsection (a)(4) of this section, the reference to members "reflect[ing]"

the racial and gender diversity of the population of the State” is substituted for the former reference to “the gender and racial makeup” of the State for clarity and consistency within this article. No substantive change is intended. *Cf.* § 3–203(b) of this article; *see* General Revisor’s Note to article.

In subsection (d)(4) of this section, the reference to terms being staggered as required by the terms provided for appointed Commission members on “October 1, 2008” is substituted for the former obsolete reference to terms being staggered as required by the terms provided on “July 1, 1995”. This substitution is not intended to alter the term of any appointed member of the Commission. *See* § 13 of Ch. 306, Acts of 2008. The terms of the appointed members serving on October 1, 2008, end as follows: (1) five on July 1, 2009; (2) six on July 1, 2010; and (3) six on July 1, 2011.

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

Defined terms: “Commission” § 2–201
“Secretary” § 1–101
“State” § 1–101

2–204. OFFICERS; EXECUTIVE COMMITTEE.

(A) CHAIR.

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

(B) EXECUTIVE COMMITTEE.

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

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

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

Defined term: “Commission” § 2–201

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

(A) MEETINGS.

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

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

(B) QUORUM.

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

(C) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

A VOTING MEMBER OF THE COMMISSION:

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

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

(D) STAFF.

THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT TO THE COMMISSION.

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

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

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

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

Defined terms: "Commission" § 2-201

"Department" § 1-101

"State" § 1-101

2-206. MISCELLANEOUS POWERS AND DUTIES.

(A) POWERS.

THE COMMISSION MAY:

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

(2) HIRE CONSULTANTS; AND

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

(B) DUTIES.

THE COMMISSION SHALL:

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

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

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

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

(5) REVIEW THE ALLOCATION OF FINANCING INCENTIVES;

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

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

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

(C) APPROVED BUDGET AMENDMENT REQUIRED.

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

(D) APPROVAL OF REGULATIONS.

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

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

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

Defined terms: “Commission” § 2–201

“Department” § 1–101

“State” § 1–101

2–207. ANNUAL REPORT.

(A) ACTIVITIES.

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

(B) STRATEGIC PLAN INITIATIVES.

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

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 1–204.

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

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

Defined terms: “Commission” § 2–201

“Department” § 1–101

TITLE 3. ECONOMIC DEVELOPMENT AND BUSINESS RESOURCES.

SUBTITLE 1. MARYLAND ADVISORY COMMISSION ON MANUFACTURING
COMPETITIVENESS.

3-101. "COMMISSION" DEFINED.

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

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

3-102. LEGISLATIVE POLICY.

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

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

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

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

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

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

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

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

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

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

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

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

Defined term: "State" § 1-101

3-103. ESTABLISHED.

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

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

No changes are made.

Defined term: "Department" § 1-101

3-104. MEMBERSHIP.

(A) IN GENERAL.

(1) THE COMMISSION CONSISTS OF:

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

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

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

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

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

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

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

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

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

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

2. TWO REPRESENTATIVES OF ORGANIZED LABOR;

3. 12 REPRESENTATIVES OF MANUFACTURING ENTERPRISES;

AND

4. ONE REPRESENTATIVE OF BUSINESS ORGANIZATIONS.

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

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

(I) VARIED GEOGRAPHIC REGIONS OF THE STATE;

(II) VARIED SECTORS OF MANUFACTURING, BALANCING TECHNOLOGY-RELATED AND TRADITIONAL MANUFACTURING INDUSTRIES; AND

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

(B) TENURE; VACANCIES.

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

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

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

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

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

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

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

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

In subsection (a)(1)(iv)1 of this section, the reference to the "designee of the Secretary of the Environment" is substituted for the former reference to the "Secretary's designee" for clarity and to avoid confusion with the term "Secretary" defined in § 1-101 of this article, referring to the Secretary of Business and Economic Development. Similarly, in subsection (a)(1)(iv)2 of this section, the reference to the "designee of the Secretary of Labor, Licensing, and Regulation" is substituted for the former reference to the "Secretary's designee".

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

In subsection (a)(3)(iii) of this section, the reference to manufacturing enterprises “that employ 500 or more employees and those that employ fewer than 500 employees” is substituted for the former reference to manufacturing enterprises “which employ above and below 500 employees” for clarity.

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

In subsection (b)(2) of this section, the reference to the terms staggered “on October 1, 2008” is substituted for the former reference to terms staggered as required by the terms provided for the “initial” members to reflect the effective date of this article. This substitution is not intended to alter the term of any appointed member of the Commission. *See* § 13 of Ch. 306, Acts of 2008. The terms of the appointed members serving on October 1, 2008, end as follows: (1) six on September 30, 2009; (2) five on September 30, 2010; and (3) five on September 30, 2011.

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

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

Defined terms: “Commission” § 3–101

“Secretary” § 1–101

“State” § 1–101

3–105. CHAIR.

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

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

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

Defined terms: “Commission” § 3–101

“Secretary” § 1–101

3–106. MEETINGS.

THE COMMISSION SHALL MEET AT LEAST 4 TIMES EACH YEAR.

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

Defined term: “Commission” § 3–101

3–107. RESTRICTION ON LEGISLATOR MEMBERS.

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

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

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

3–108. DUTIES.

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

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

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

(3) PRODUCING A CLIMATE CONDUCTIVE TO THE GROWTH AND VIABILITY OF MANUFACTURING ENTERPRISES;

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

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

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

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

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

No other changes are made.

Defined terms: "Commission" § 3-101

"Secretary" § 1-101

"State" § 1-101

3-109. ANNUAL REPORT.

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

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

Defined terms: "Commission" § 3-101

"State" § 1-101

SUBTITLE 2. MARYLAND LIFE SCIENCES ADVISORY BOARD.

3-201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) ADVISORY BOARD.

"ADVISORY BOARD" MEANS THE MARYLAND LIFE SCIENCES ADVISORY BOARD.

(C) LIFE SCIENCES.

"LIFE SCIENCES" INCLUDES THE FIELDS OF BIOTECHNOLOGY, PHARMACEUTICALS, BIOMEDICAL TECHNOLOGIES, LIFE SYSTEMS TECHNOLOGIES, FOOD SCIENCES, ENVIRONMENTAL SCIENCES, AND BIOMEDICAL DEVICES.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-2C-01.

No changes are made.

3-202. ESTABLISHED.

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

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

No changes are made.

Defined term: "Department" § 1-101

3-203. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

THE ADVISORY BOARD CONSISTS OF THE FOLLOWING 15 MEMBERS:

(1) THE SECRETARY;

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

(3) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

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

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

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

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

(V) ONE MEMBER OF THE GENERAL PUBLIC.

(B) DIVERSITY.

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

(C) TENURE; VACANCIES.

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

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

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

(D) REMOVAL.

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

(E) CHAIR.

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

(F) VOTING.

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

(G) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE ADVISORY BOARD:

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

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

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

Defined terms: "Advisory Board" § 3-201

"Life sciences" § 3-201

"Secretary" § 1-101

"State" § 1-101

3-204. DUTIES.

(A) IN GENERAL.

THE ADVISORY BOARD SHALL ASSIST THE DEPARTMENT IN:

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

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

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

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

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

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

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

(B) REQUIRED CONSIDERATION.

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

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

No changes are made.

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Defined terms: “Advisory Board” § 3–201

“Department” § 1–101

“Life sciences” § 3–201

“State” § 1–101

3–205. ANNUAL REPORT.

(A) REQUIRED.

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

(B) CONTENTS.

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

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

Defined term: “Advisory Board” § 3–201

SUBTITLE 3. OFFICE OF INTERNATIONAL TRADE.

3–301. “OFFICE” DEFINED.

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

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

3–302. ESTABLISHED; PURPOSE.

(A) ESTABLISHED.

THERE IS AN OFFICE OF INTERNATIONAL TRADE IN THE DEPARTMENT.

(B) PURPOSE.

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

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

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

Also in subsection (b) of this section, the reference to activities and opportunities “in the State” is substituted for the former reference to activities and opportunities “for the citizens of this State” for consistency

within this article and because the meaning of the word “citizen” in this context is unclear.

Defined terms: “Department” § 1–101

“Office” § 3–301

“State” § 1–101

3–303. CONTRACT AND GRANT AUTHORITY.

(A) AUTHORITY SUBJECT TO APPROVAL.

THE OFFICE MAY ENTER INTO CONTRACTS OR MAKE GRANTS:

(1) CONSISTENT WITH THIS SUBTITLE; AND

(2) SUBJECT TO THE APPROVAL OF THE SECRETARY OR THE SECRETARY’S DESIGNEE.

(B) PROCUREMENT.

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

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

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

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

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

Defined terms: “Office” § 3–301

“Secretary” § 1–101

“State” § 1–101

3–304. INTERNATIONAL TRADE ACTIVITY.

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

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

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

(i) MARKET RESEARCH AND SELECTION;

- (II) MARKETING TECHNIQUES AND RISKS;
- (III) FOREIGN TRADE LAWS; AND
- (IV) THE AVAILABILITY OF PRIVATE OR PUBLIC FINANCING;

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

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

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

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

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

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

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

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

Defined terms: “Office” § 3-301

“Person” § 1-101

“State” § 1-101

3-305. TRADE AND VENTURE TRANSACTIONS.

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

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

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

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

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

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

Also in item (1) of this section, the former reference to "regulations" is deleted in light of the comprehensive reference to "laws" for brevity. *See* General Revisor's Note to article.

Defined terms: "Office" § 3-301
"State" § 1-101

3-306. AGENCY COORDINATION.

(A) PUBLIC AND PRIVATE ENTITIES.

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

(B) INFORMATIONAL AND MARKETING SERVICES.

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

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

In subsection (b) of this section, the former reference to "other units of the Department, the Department of Transportation" is deleted in light of the comprehensive reference to "other State units" which includes the Department and the State Department of Transportation.

Defined terms: "Office" § 3-301
"State" § 1-101

3-307. REGIONAL AND LOCAL INITIATIVES.

(A) PROGRAM DEVELOPMENT.

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

(1) TECHNICAL ASSISTANCE; AND

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

(B) NEW ENTERPRISES.

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

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

Defined terms: "Office" § 3-301

"State" § 1-101

3-308. OTHER ACTIVITIES.

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

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

Defined term: "Office" § 3-301

3-309. REPORT.

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

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

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

Defined terms: "Office" § 3-301

"State" § 1-101

SUBTITLE 4. PARTNERSHIP FOR WORKFORCE QUALITY.

3-401. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

No changes are made.

(B) BOARD.

"BOARD" MEANS THE PARTNERSHIP FOR WORKFORCE QUALITY ADVISORY BOARD.

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

No changes are made.

(C) FUND.

"FUND" MEANS THE PARTNERSHIP FOR WORKFORCE QUALITY FUND.

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

No changes are made.

(D) PROGRAM.

"PROGRAM" MEANS THE PARTNERSHIP FOR WORKFORCE QUALITY PROGRAM.

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

The former reference to the Program "in the Department" is deleted as redundant of § 3-402 of this subtitle.

No other changes are made.

3-402. PROGRAM ESTABLISHED.

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

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

Defined term: "Department" § 1-101

3-403. PURPOSE.

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

(1) IMPROVE THE COMPETITIVENESS AND PRODUCTIVITY OF THE STATE'S WORKFORCE AND BUSINESS COMMUNITY;

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

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

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

The reference to the "purpose of" the Program is added for clarity.

Defined terms: "Program" § 3-401

"State" § 1-101

3-404. DUTIES OF SECRETARY.

(A) PROGRAM DIRECTION.

THE SECRETARY OR THE SECRETARY'S DESIGNEE SHALL DIRECT THE PROGRAM.

(B) PROVIDING TRAINING ASSISTANCE.

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

(C) DETERMINING EMPLOYER NEEDS.

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

(D) PRIORITIES AND ELIGIBILITY CRITERIA.

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

(E) ANNUAL REPORT.

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

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

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

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

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

Also in subsection (e) of this section, the reference to the "Governor's Workforce Investment Board" is substituted for the former obsolete reference to the "Work Force Investment Board". See LE § 11-505; Ch. 315, Acts of 2001.

Defined terms: “Program” § 3–401

“Secretary” § 1–101

3–405. ELIGIBILITY.

(A) IN GENERAL.

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

(2) IN ORDER TO RECEIVE ASSISTANCE UNDER THE PROGRAM, AN EMPLOYER SHALL REQUEST TRAINING ASSISTANCE IN JOB–SPECIFIC SKILLS TO UPGRADE OR RETAIN EXISTING MARYLAND–BASED EMPLOYEES COVERED UNDER TITLE 8 OF THE LABOR AND EMPLOYMENT ARTICLE.

(B) PRIORITY.

THE SECRETARY SHALL GIVE PRIORITY TO EMPLOYERS THAT ARE:

(1) MANUFACTURERS; OR

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

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

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

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

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

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

Defined terms: “Program” § 3–401

“Secretary” § 1–101

“State” § 1–101

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3-406. BUSINESS ASSISTANCE SERVICES.

THE PROGRAM SHALL PROVIDE BUSINESS ASSISTANCE SERVICES THAT:

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

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

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

(I) EQUIPMENT;

(II) FACILITIES; AND

(III) MATERIALS;

(4) IDENTIFY OR DEVELOP APPROPRIATE CURRICULA; AND

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

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

Defined term: "Program" § 3-401

3-407. TRAINING.

(A) GRANTS FOR SPECIFIC TRAINING ASSISTANCE.

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

(1) BUSINESS;

(2) COMMUNITY COLLEGE;

(3) PRIVATE CAREER SCHOOL;

(4) STATE-ACCREDITED TRAINING AGENCY;

(5) TRADE ASSOCIATION; OR

(6) UNION-SPONSORED TRAINING PROGRAM.

(B) APPROVAL FOR TRAINING.

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

(C) DURATION OF TRAINING.

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

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

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

Defined terms: "Program" § 3-401

"Secretary" § 1-101

"State" § 1-101

3-408. ADVISORY BOARD — IN GENERAL.

(A) ESTABLISHED.

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

(B) PURPOSE.

THE BOARD SHALL ADVISE THE SECRETARY.

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

Defined terms: "Board" § 3-401

"Department" § 1-101

"Secretary" § 1-101

3-409. ADVISORY BOARD — MEMBERSHIP.

(A) COMPOSITION.

THE BOARD CONSISTS OF THE FOLLOWING 15 MEMBERS:

(1) ONE MEMBER OF THE SENATE OF MARYLAND APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) ONE MEMBER OF THE HOUSE OF DELEGATES APPOINTED BY THE SPEAKER OF THE HOUSE; AND

(3) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE OF THE SECRETARY AND THE CHAIR OF THE GOVERNOR'S WORKFORCE INVESTMENT BOARD:

(I) FIVE REPRESENTATIVES OF BUSINESS, OF WHICH THREE SHALL REPRESENT EMPLOYERS WITH FEWER THAN 100 EMPLOYEES;

(II) THREE REPRESENTATIVES OF ORGANIZED LABOR;

(III) ONE REPRESENTATIVE FROM THE MARYLAND HIGHER EDUCATION COMMISSION;

(IV) ONE REPRESENTATIVE FROM THE STATE DEPARTMENT OF EDUCATION;

(V) ONE REPRESENTATIVE FROM THE GOVERNOR'S WORKFORCE INVESTMENT BOARD; AND

(VI) TWO REPRESENTATIVES OF THE GENERAL PUBLIC.

(B) TENURE.

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

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

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

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

(C) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE BOARD:

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

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

(D) CHAIR.

THE GOVERNOR SHALL DESIGNATE THE CHAIR OF THE BOARD.

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

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

In subsection (a)(3) of this section, the references to the "Governor's Workforce Investment Board" are substituted for the former obsolete references to the "Work Force Investment Board". See LE § 11-505; Ch. 315, Acts of 2001.

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

In subsection (b)(2) of this section, the reference to terms being staggered

as required by the terms provided for Board members on “October 1, 2008” is substituted for the former obsolete reference to terms being staggered as required by the terms provided on “July 1, 1989”. This substitution reflects the date that this revision becomes effective and is not intended to alter the term of any member of the Board. See § 13 of Ch. 306, Acts of 2008. The terms of the members serving on October 1, 2008 end as follows: (1) five on June 30, 2009; (2) three on June 30, 2010; and (3) three on June 30, 2011.

Defined terms: “Board” § 3–401

“Secretary” § 1–101

“State” § 1–101

3–410. ADVISORY BOARD — DUTIES.

(A) IN GENERAL.

THE BOARD SHALL:

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

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

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

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

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

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

(B) DISTRIBUTION OF ASSISTANCE.

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

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

In subsection (a)(5) and (6) of this section, the references to the “Governor’s Workforce Investment Board” are substituted for the former obsolete

references to the “Work Force Investment Board”. See LE § 11–505; Ch. 315, Acts of 2001.

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

Defined terms: “Board” § 3–401

“Department” § 1–101

“Program” § 3–401

“Secretary” § 1–101

“State” § 1–101

3–411. PARTNERSHIP FOR WORKFORCE QUALITY FUND.

(A) ESTABLISHED.

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

(B) MANAGEMENT.

THE SECRETARY SHALL MANAGE AND SUPERVISE THE FUND.

(C) ADMINISTRATION.

(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.

(D) COMPOSITION.

THE FUND CONSISTS OF:

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

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

(3) PRIVATE CONTRIBUTIONS TO THE FUND;

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

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

(E) USE OF FUND.

THE DEPARTMENT MAY USE MONEY IN THE FUND FOR:

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

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

(F) INVESTMENT EARNINGS.

ANY INVESTMENT EARNINGS SHALL BE CREDITED TO THE FUND.

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

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

Defined terms: "Department" § 1-101

"Fund" § 3-401

"Program" § 3-401

"Secretary" § 1-101

"State" § 1-101

3-412. USE OF PROGRAM MONEY.

(A) IN GENERAL.

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

(B) ALLOWABLE COSTS.

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

- (1) CURRICULUM DEVELOPMENT;
- (2) COURSE MATERIALS; AND
- (3) INSTRUCTORS' SALARIES AND EXPENSES FOR TRAINING.

(C) FUNDING CRITERIA.

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

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

(I) IS PRIMARILY ENGAGED IN MANUFACTURING OR IN A TECHNOLOGY-BASED BUSINESS;

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

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

(D) LIMITATIONS.

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

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

(3) PROGRAM MONEY MAY NOT BE USED FOR:

(i) CAPITAL EQUIPMENT FOR AN EMPLOYER; OR

(ii) TRAINEE WAGES.

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

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

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

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

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

TITLE 4. TOURISM, FILM, AND THE ARTS.

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

4-101. "DIVISION" DEFINED.

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

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

4-102. ESTABLISHED.

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

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

The only changes are in style.

Defined term: "Department" § 1-101

4-103. DIRECTOR — IN GENERAL.

(A) APPOINTMENT; REMOVAL.

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

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

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

(B) QUALIFICATIONS.

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

(C) DUTIES.

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

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

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

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

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

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that the Secretary has reorganized the Department so that the individual who serves as director of the Division has the title of “Assistant Secretary”, not “director”.

Defined terms: “Division” § 4-101
“Secretary” § 1-101

4-104. DIRECTOR — COMPENSATION.

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

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

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Defined terms: "Division" § 4-101

"State" § 1-101

4-105. STAFF.

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

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

Defined terms: "Division" § 4-101

"State" § 1-101

4-106. GENERAL POWERS AND DUTIES.

THE DIVISION SHALL:

- (1) STIMULATE DEVELOPMENT OF TOURISM BUSINESS IN THE STATE;
- (2) PROMOTE BUSINESS AND JOB OPPORTUNITIES IN THE STATE;
- (3) ENCOURAGE DEVELOPMENT OF RECREATIONAL AREAS AND FACILITIES;
- (4) MAKE THE PUBLIC AWARE OF THE STATE'S HERITAGE AND HISTORICAL DEVELOPMENT;
- (5) ADVERTISE AND DISSEMINATE INFORMATION ABOUT THE STATE;
- (6) ENCOURAGE THE PROMOTION AND DEVELOPMENT OF AMATEUR AND PROFESSIONAL SPORTS IN THE STATE;
- (7) ENCOURAGE THE ADVANCEMENT OF AND PARTICIPATION IN THE PERFORMING, VISUAL, AND CREATIVE ARTS; AND
- (8) ADMINISTER THOSE PROGRAMS ASSIGNED TO THE DIVISION BY LAW OR DESIGNATED BY THE SECRETARY.

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

Defined terms: "Division" § 4-101

"Secretary" § 1-101

"State" § 1-101

SUBTITLE 2. MARYLAND TOURISM DEVELOPMENT BOARD.

4-201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

(B) BOARD.

“BOARD” MEANS THE MARYLAND TOURISM DEVELOPMENT BOARD.

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

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

No other changes are made.

(C) FUND.

“FUND” MEANS THE MARYLAND TOURISM DEVELOPMENT BOARD FUND.

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

(D) OFFICE.

“OFFICE” MEANS THE OFFICE OF TOURISM DEVELOPMENT.

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

4–202. LEGISLATIVE POLICY.

IT IS THE POLICY OF THE STATE TO GUIDE, STIMULATE, AND PROMOTE THE COORDINATED, EFFICIENT, AND BENEFICIAL DEVELOPMENT OF TRAVEL AND TOURISM IN THE STATE SO THAT THE STATE CAN DERIVE THE ECONOMIC, SOCIAL, AND CULTURAL BENEFITS OF TRAVEL AND TOURISM TO THE FULLEST EXTENT POSSIBLE.

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

Defined term: “State” § 1–101

4–203. ESTABLISHED.

THERE IS A MARYLAND TOURISM DEVELOPMENT BOARD IN THE DEPARTMENT.

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

It is set forth as a separate section for emphasis.

No changes are made.

Defined term: “Department” § 1–101

4–204. MEMBERSHIP.

(A) COMPOSITION.

THE BOARD CONSISTS OF THE FOLLOWING 24 MEMBERS:

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

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

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

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

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

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

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

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

(B) CONSIDERATIONS.

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

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

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

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

(C) VOTING LIMITATION — SOVEREIGNTY.

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

(D) TENURE; VACANCIES.

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

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

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

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

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

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

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

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

In subsection (a)(1) of this section, the phrase "with the advice of" is substituted for the former phrase "in consultation with" for consistency with other revised articles.

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

In subsection (d)(1)(ii) of this section, the terms being staggered as required by the terms provided for Board members on "October 1, 2008" is substituted for the former obsolete reference to terms being staggered as required by the terms provided on "July 1, 1993". This substitution is not intended to alter the term of any member of the Board. *See* § 13 of Ch. 306, Acts of 2008. The terms of the members serving on October 1, 2008 end as follows: (1) three on June 30, 2009; (2) three on June 30, 2010; and (3) five on June 30, 2011.

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

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

In subsection (d)(3) of this section, the reference to "remov[al] by the Governor with or without cause" of a member with a definite term of office is substituted for the former reference to a member appointed by the

Governor “serv[ing] at the pleasure of the Governor” for clarity and consistency within this article. *See* General Revisor’s Note to article.

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

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

4–205. OFFICERS.

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

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

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

Defined term: “Board” § 4–201

4–206. EXECUTIVE DIRECTOR.

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

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

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

Defined terms: “Board” § 4–201
“Department” § 1–101
“Office” § 4–201

4–207. MEETINGS; COMPENSATION.

(A) MEETINGS.

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

(B) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE BOARD:

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

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

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

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

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

Defined terms: "Board" § 4-201
"State" § 1-101

4-208. STAFF, FACILITIES, AND EQUIPMENT.

(A) STAFF.

THE OFFICE SHALL PROVIDE STAFF FOR THE BOARD.

(B) FACILITIES, EQUIPMENT, AND SUPPLIES.

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

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

The only changes are in style.

Defined terms: "Board" § 4-201
"Office" § 4-201

4-209. GENERAL POWERS AND DUTIES.

(A) IN GENERAL.

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

(B) POWERS.

THE BOARD MAY:

- (1) ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE;
- (2) ENTER INTO CONTRACTS AND AGREEMENTS;
- (3) OBTAIN SERVICES;
- (4) ASK ANY OTHER UNIT OF THE STATE FOR ASSISTANCE AND DATA THAT ENABLE THE BOARD TO CARRY OUT ITS POWERS AND DUTIES;
- (5) ACCEPT FEDERAL MONEY FOR ANY PURPOSE OF THIS SUBTITLE; AND

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

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

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

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

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

Defined terms: “Board” § 4-201

“Secretary” § 1-101

“State” § 1-101

4-210. DUTIES — IN GENERAL.

THE BOARD SHALL:

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

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

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

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

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

Defined terms: “Board” § 4-201

“Secretary” § 1-101

“State” § 1-101

4-211. DUTIES — STRATEGIC PLAN.

THE BOARD SHALL:

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

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

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

Defined terms: "Board" § 4-201
"State" § 1-101

4-212. DUTIES — MARKETING PLAN.

(A) DRAFTING AND SUBMISSION.

THE BOARD SHALL:

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

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

(B) BUDGET DEVELOPMENT.

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

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

In subsection (a)(1) of this section, the reference to the strategic plan developed "under § 4-211 of this subtitle" is added for clarity.

Defined term: "Board" § 4-201

4-213. DUTIES — TOURISM.

THE BOARD SHALL:

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

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

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- (3) IMPROVE THE SAFETY AND SECURITY OF TOURISTS IN THE STATE;
- (4) ENCOURAGE AND FACILITATE TRAINING AND EDUCATION OF INDIVIDUALS FOR JOBS IN THE TOURISM INDUSTRY;
- (5) PROVIDE A HEALTHY ENVIRONMENT FOR THE DEVELOPMENT OF HUMAN RESOURCES IN TOURISM BUSINESSES;
- (6) ENCOURAGE RESIDENTS TO PURSUE CAREERS IN TOURISM BUSINESSES;
- (7) PRODUCE A CLIMATE CONDUCTIVE TO SMALL TOURISM BUSINESS GROWTH AND VIABILITY;
- (8) REVIEW EXISTING AND PROPOSED TAXES, FEES, LICENSES, REGULATIONS, AND REGULATORY PROCEDURES AFFECTING TOURISM AND THE TOURISM INDUSTRY IN THE STATE AND EVALUATE THEIR IMPACT ON THE ABILITY OF THE TOURISM INDUSTRY TO CREATE EMPLOYMENT AND GENERATE INCOME;
- (9) SUPPORT RESEARCH NECESSARY TO EVALUATE, PLAN, AND EXECUTE EFFECTIVE TOURISM PROGRAMS;
- (10) COOPERATE WITH OTHER PUBLIC UNITS AND PRIVATE ORGANIZATIONS TO DEVELOP AND PROMOTE THE STATE'S TOURISM AND TRAVEL INDUSTRIES; AND
- (11) ENCOURAGE, ASSIST, AND COORDINATE THE TOURISM ACTIVITIES OF LOCAL AND REGIONAL PROMOTIONAL ORGANIZATIONS.

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

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

Defined terms: "Board" § 4-201
"State" § 1-101

4-214. DUTIES — FINANCES.

THE BOARD SHALL:

- (1) SET POLICIES FOR SPENDING MONEY ON TOURISM ADVERTISING, WRITTEN AND GRAPHIC MATERIALS, COOPERATIVE AND MATCHING PROMOTIONAL PROGRAMS, AND OTHER TOURISM AND TRAVEL DEVELOPMENTAL AND PROMOTIONAL ACTIVITIES FOR THE STATE; AND
- (2) SPEND MONEY OF THE FUND TO PLAN, ADVERTISE, PROMOTE, ASSIST, AND DEVELOP THE TOURISM AND TRAVEL INDUSTRIES IN THE STATE.

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

Defined terms: “Board” § 4–201

“Fund” § 4–201

“State” § 1–101

4–215. MARYLAND TOURISM DEVELOPMENT BOARD FUND.

(A) ESTABLISHED.

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

(B) PURPOSE.

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

(C) SPECIAL FUND.

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

(D) COMPOSITION.

THE FUND CONSISTS OF:

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

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

(E) EXPENDITURES.

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

(F) INVESTMENT; EARNINGS.

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

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

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

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

Defined terms: “Board” § 4–201

“Department” § 1–101

“Fund” § 4–201

“State” § 1–101

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4-216. ANNUAL APPROPRIATION.

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

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

Former Art. 83A, § 4-208(g)(1), which defined "Governor's proposed General Fund appropriation", is deleted because the term is not used in the revision. The reference to the "annual budget bill" in this section includes the annual budget bill, and any supplemental appropriation, before amendment by the General Assembly. No substantive change is intended.

Defined term: "Fund" § 4-201

SUBTITLE 3. MARYLAND FILM OFFICE.

4-301. "OFFICE" DEFINED.

IN THIS SUBTITLE, "OFFICE" MEANS THE MARYLAND FILM OFFICE.

REVISOR'S NOTE: This section is new language added to avoid repetition of the full title "Maryland Film Office".

4-302. ESTABLISHED.

THERE IS A MARYLAND FILM OFFICE IN THE DEPARTMENT.

REVISOR'S NOTE: This section formerly was Art. 83A, § 4-401.

The only changes are in style.

Defined term: "Department" § 1-101

4-303. POWERS.

THE OFFICE MAY:

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

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

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

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

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

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

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

4–304. DUTIES.

(A) IN GENERAL.

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

(B) RESPONSIBILITIES.

THE OFFICE SHALL:

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

(I) DESIRABLE LOCATIONS IN THE STATE TO PRODUCE MOTION PICTURES AND TELEVISION PROGRAMS;

(II) THE BENEFITS AND ADVANTAGES OF PRODUCING MOTION PICTURES AND TELEVISION PROGRAMS IN THE STATE; AND

(III) THE SERVICES AND ASSISTANCE AVAILABLE FROM STATE GOVERNMENT, LOCAL GOVERNMENT, AND THE MOTION PICTURE AND TELEVISION INDUSTRY;

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

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

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

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

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

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Defined terms: "Office" § 4-301

"State" § 1-101

4-305. COORDINATION WITH LOCAL GOVERNMENT AGENCIES.

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

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4-404.

Defined terms: "Office" § 4-301

"State" § 1-101

SUBTITLE 4. FILM PRODUCTION REBATE FUND.

4-401. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5-1801(a).

No changes are made.

(B) FILM PRODUCTION ACTIVITY.

(1) "FILM PRODUCTION ACTIVITY" MEANS THE PRODUCTION OF A FILM OR VIDEO PROJECT THAT IS INTENDED FOR NATIONWIDE COMMERCIAL DISTRIBUTION.

(2) "FILM PRODUCTION ACTIVITY" INCLUDES THE PRODUCTION OF:

(I) A FEATURE FILM;

(II) A TELEVISION PROJECT;

(III) A COMMERCIAL;

(IV) A CORPORATE FILM;

(V) AN INFOMERCIAL;

(VI) A MUSIC VIDEO;

(VII) A DIGITAL PROJECT;

(VIII) AN ANIMATION PROJECT; AND

(IX) A MULTIMEDIA PROJECT.

(3) "FILM PRODUCTION ACTIVITY" DOES NOT INCLUDE:

(I) PRODUCTION OF A:

1. STUDENT FILM;
2. NONCOMMERCIAL PERSONAL VIDEO;
3. SPORTS BROADCAST;
4. BROADCAST OF A LIVE EVENT; OR
5. TALK SHOW; OR

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

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

(C) FUND.

"FUND" MEANS THE FILM PRODUCTION REBATE FUND ESTABLISHED UNDER § 4-405 OF THIS SUBTITLE.

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

(D) QUALIFIED FILM PRODUCTION ENTITY.

"QUALIFIED FILM PRODUCTION ENTITY" MEANS AN ENTITY THAT:

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

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

Defined terms: "Film production activity" § 4-401
"Secretary" § 1-101

(E) TOTAL DIRECT COSTS.

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

(2) "TOTAL DIRECT COSTS" INCLUDES COSTS INCURRED FOR:

- (I) EMPLOYEE WAGES AND BENEFITS;
- (II) FEES FOR SERVICES;
- (III) ACQUIRING OR LEASING PROPERTY; AND
- (IV) ANY OTHER EXPENSE NECESSARY TO CARRY OUT A FILM PRODUCTION ACTIVITY.

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

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

Defined terms: “Film production activity” § 4–401
“State” § 1–101

4–402. LEGISLATIVE INTENT.

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

- (1) INCREASING FILM PRODUCTION ACTIVITY IN THE STATE;
- (2) BRINGING ECONOMIC BENEFITS TO THE RESIDENTS OF THE STATE; AND
- (3) GENERATING INCREASED EMPLOYMENT OPPORTUNITIES FOR THE RESIDENTS OF THE STATE.

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

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

Defined terms: “Film production activity” § 4–401
“State” § 1–101

4–403. QUALIFICATION.

- (A) SPENDING THRESHOLD.

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

- (B) NOTIFICATION.

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

- (C) APPLICATION.

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

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

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

(D) VERIFICATION BY AUDITOR.

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

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

(2) THE SECRETARY APPROVES.

(E) AGREEMENT.

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

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

Defined terms: "Department" § 1-101
"Film production activity" § 4-401
"Qualified film production entity" § 4-401
"Secretary" § 1-101
"State" § 1-101
"Total direct costs" § 4-401

4-404. AMOUNT.

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

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

Defined terms: "Department" § 1-101
"Film production activity" § 4-401
"Fund" § 4-401
"Qualified film production entity" § 4-401
"Total direct costs" § 4-401

4-405. FILM PRODUCTION REBATE FUND.

(A) ESTABLISHED.

THERE IS A FILM PRODUCTION REBATE FUND IN THE DEPARTMENT.

(B) ADMINISTRATION.

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THE DEPARTMENT SHALL ADMINISTER THE FUND.

(C) NATURE.

(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.

(D) CONTENTS.

THE FUND CONSISTS OF:

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

(2) REPAYMENTS OF ANY DEFAULTED GRANT FROM THE FUND; AND

(3) ANY OTHER MONEY MADE AVAILABLE TO THE DEPARTMENT FOR THE FUND.

(E) USES.

THE DEPARTMENT MAY USE THE FUND TO:

(1) MAKE GRANTS TO QUALIFIED FILM PRODUCTION ENTITIES AS REBATES IN ACCORDANCE WITH THIS SUBTITLE; AND

(2) PAY THE ADMINISTRATIVE, LEGAL, AND ACTUARIAL EXPENSES OF THE FUND.

(F) INVESTMENT EARNINGS.

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

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.

REVISOR'S NOTE: Subsections (a) and (c) through (e) and (f)(2) of this section are new language derived without substantive change from former Art. 83A, § 5-1805.

Subsection (b) of this section is new language added to state explicitly that which was only implied by the former law: *i.e.*, that the Department administers the Fund.

Subsection (f)(1) of this section is standard language added for clarity.

In subsection (c)(2) of this section, the reference to the "Comptroller" accounting for the Fund is substituted for the former incorrect reference to the "State Treasurer" accounting for it for accuracy.

In subsection (e)(1) of this section, the reference to grants "in accordance with this subtitle" is substituted for the former reference to granting as a

rebate “a percentage of the total direct costs of a film production activity paid by the qualified film production entity for a film production activity, as provided in § 5–1803 of this subtitle” for brevity.

Defined terms: “Department” § 1–101

“Fund” § 4–401

“Qualified film production entity” § 4–401

“State” § 1–101

4–406. REGULATIONS.

THE SECRETARY SHALL ADOPT REGULATIONS TO SPECIFY ELIGIBILITY CRITERIA AND APPLICATION PROCEDURES FOR THE REBATE UNDER THIS SUBTITLE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1806.

Defined term: “Secretary” § 1–101

4–407. ANNUAL REPORT.

(A) REQUIRED.

ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE GRANTS PROVIDED AS REBATES FOR FILM PRODUCTION ACTIVITY IN THE PRECEDING FISCAL YEAR.

(B) CONTENTS.

THE REPORT SHALL INCLUDE:

(1) THE NUMBER OF LOCAL TECHNICIANS, ACTORS, AND EXTRAS HIRED FOR FILM PRODUCTION ACTIVITY DURING THE REPORTING PERIOD;

(2) A LIST OF COMPANIES DOING BUSINESS IN THE STATE, INCLUDING HOTELS, THAT DIRECTLY PROVIDED GOODS OR SERVICES FOR FILM PRODUCTION ACTIVITY DURING THE REPORTING PERIOD; AND

(3) ANY OTHER INFORMATION THAT INDICATES THE ECONOMIC BENEFITS TO THE STATE RESULTING FROM FILM PRODUCTION ACTIVITY DURING THE REPORTING PERIOD.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1807.

Defined terms: “Department” § 1–101

“Film production activity” § 4–401

“State” § 1–101

SUBTITLE 5. MARYLAND STATE ARTS COUNCIL.

4-501. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first clause of former Art. 83A, § 4-608.

It is restated as the standard introductory language to a definition section.

(B) ARTS.

"ARTS" INCLUDES DANCE, DRAMA, MUSIC DRAMA, ARCHITECTURE, PAINTING, SCULPTURE, GRAPHICS, CRAFTS, PHOTOGRAPHY, DESIGN, FILM, TELEVISION, AND CREATIVE WRITING.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the second clause of former Art. 83A, § 4-608.

The former phrase "but not be limited to" is deleted as unnecessary in light of Art. 1, § 30, which provides that the term "includes" is used "by way of illustration and not by way of limitation".

(C) COUNCIL.

"COUNCIL" MEANS THE MARYLAND STATE ARTS COUNCIL.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title of the "Maryland State Arts Council".

4-502. LEGISLATIVE FINDINGS; POLICY; INTENT.

(A) FINDINGS.

THE GENERAL ASSEMBLY FINDS THAT:

(1) MANY OF THE RESIDENTS OF THE STATE LACK THE OPPORTUNITY TO ENJOY OR PARTICIPATE IN AND DEVELOP A GREATER APPRECIATION OF THE ARTS, INCLUDING THEATRICAL PERFORMANCES, CONCERTS, OPERA, DANCE AND BALLET PERFORMANCES AND RECITALS, ART AND ART EXHIBITIONS, FINE EXAMPLES OF ARCHITECTURE, AND CREATIVE WRITING;

(2) WITH INCREASING LEISURE TIME, THE PRACTICE AND ENJOYMENT OF THE ARTS ARE OF INCREASING IMPORTANCE;

(3) MANY OF THE RESIDENTS OF THE STATE POSSESS ARTISTIC AND CREATIVE TALENTS THAT CANNOT BE UTILIZED FULLY UNDER EXISTING CONDITIONS;

(4) THE GENERAL WELFARE OF THE RESIDENTS OF THE STATE WILL BE PROMOTED BY RECOGNIZING THAT THE ARTS ARE A VITAL PART OF THE CULTURE AND HERITAGE OF THE STATE AND ARE AN IMPORTANT MEANS TO EXPAND THE SCOPE OF THE STATE'S EDUCATIONAL PROGRAM FOR CHILDREN AND ADULTS;

(5) INTEREST IN THE ARTS WILL PROVIDE EMPLOYMENT FOR ARTISTS IN ALL FIELDS AND ENCOURAGE RESIDENTS TO PARTICIPATE IN THE ARTS;

(6) INCREASED ACTIVITIES IN THE ARTS WILL INCREASE EMPLOYMENT IN THE STATE BY ENCOURAGING THE PRODUCTION OF ARTISTIC EVENTS IN VARIOUS COMMUNITIES OF THE STATE, THUS UTILIZING THE TALENTS AND SERVICES OF MANY RESIDENTS;

(7) THE STANDARDS OF PERFORMANCE OF THE ARTS WILL IMPROVE BECAUSE OF THE ENCOURAGEMENT OF INCREASED RESIDENT PARTICIPATION AND A DEMAND FOR HIGHER STANDARDS FOR MORE RESIDENTS; AND

(8) IMPLEMENTING AND EXHIBITING ARTISTIC PROGRAMS, CONSTRUCTING PERFORMANCE FACILITIES, AND INCREASING TOURISM FROM THESE PROGRAMS WILL INCREASE EMPLOYMENT AND HELP THE ECONOMY OF THE STATE.

(B) POLICY.

IT IS THE POLICY OF THE STATE TO:

(1) STRIVE TO CREATE A NURTURING CLIMATE FOR THE ARTS IN THE STATE AND JOIN WITH PRIVATE PATRONS, INSTITUTIONS, AND PROFESSIONAL ORGANIZATIONS CONCERNED WITH THE ARTS;

(2) PROMOTE THE ROLE OF THE ARTS IN THE LIFE OF THE RESIDENTS OF THE STATE; AND

(3) ENSURE THAT THE ARTS PLAY AN EVER MORE SIGNIFICANT PART IN THE RESIDENTS' WELFARE AND EDUCATIONAL EXPERIENCE.

(C) INTENT.

THE GENERAL ASSEMBLY INTENDS THAT THE ACTIVITIES OF THE STATE TO CARRY OUT THE POLICY SET FORTH IN SUBSECTION (B) OF THIS SECTION:

(1) ENCOURAGE AND ASSIST ARTISTIC EXPRESSION; AND

(2) NOT LIMIT FREEDOM OF ARTISTIC EXPRESSION, WHICH IS ESSENTIAL FOR THE WELL-BEING OF THE ARTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 4-601, 4-602, and 4-603.

Throughout this section, the term "residents" is substituted for the former terms "citizens" and "people" because the meaning of the term "citizen" in this context is unclear and for consistency within this article.

In subsection (a) of this section, the phrase "[t]he General Assembly finds that" is added for clarity.

In subsection (a)(1) of this section, the defined term "arts" is substituted for the former reference to the "performing, visual and creative arts in general" for brevity.

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In the introductory language of subsection (b) of this section, the former phrase “[t]he General Assembly declares” is deleted as surplusage.

Defined terms: “Arts” § 4–501
“State” § 1–101

4–503. ESTABLISHED.

THERE IS A MARYLAND STATE ARTS COUNCIL IN THE DEPARTMENT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4–604(a).

The reference to being “in the Department” is substituted for the former reference to being “part of the Department” for consistency throughout this article.

Defined term: “Department” § 1–101

4–504. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

THE COUNCIL CONSISTS OF THE FOLLOWING 17 MEMBERS:

(1) 13 MEMBERS APPOINTED BY THE GOVERNOR IN CONSULTATION WITH THE SECRETARY AND WITH THE ADVICE AND CONSENT OF THE SENATE;

(2) TWO MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE OF MARYLAND, AT LEAST ONE OF WHOM SHALL BE A MEMBER OF THE SENATE; AND

(3) TWO MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF DELEGATES, AT LEAST ONE OF WHOM SHALL BE A MEMBER OF THE HOUSE OF DELEGATES.

(B) TENURE; LIMITATIONS; VACANCIES.

(1) (I) THE TERM OF A MEMBER WHO IS NOT A MEMBER OF THE GENERAL ASSEMBLY IS 3 YEARS AND BEGINS ON JULY 1.

(II) A MEMBER OF THE GENERAL ASSEMBLY APPOINTED TO THE COUNCIL SERVES UNTIL A SUCCESSOR IS APPOINTED.

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

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

(4) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR HAS BEEN APPOINTED AND QUALIFIES.

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

(c) CONSIDERATIONS.

IN APPOINTING MEMBERS, THE GOVERNOR SHALL:

(1) CONSIDER RECOMMENDATIONS OF CIVIC, EDUCATIONAL, AND PROFESSIONAL ORGANIZATIONS CONCERNED WITH OR ENGAGED IN THE PRODUCTION OR PRESENTATION OF THE ARTS; AND

(2) PROVIDE BALANCED GEOGRAPHIC REPRESENTATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4-604(b) and (c).

In subsection (a)(2) and (3) of this section, the phrase "at least" is added for clarity.

In subsection (b)(1) of this section, the reference to a term "begin[ning] on July 1" is added for clarity.

In subsection (b)(3) of this section, the reference to terms being staggered as required by the terms provided for Council members on "October 1, 2008" is substituted for the former obsolete reference to terms being staggered as required by the terms provided on "July 1, 1985". This substitution is not intended to alter the term of any member of the Council. See § 13 of Ch. 306, Acts of 2008. The terms of the members serving on October 1, 2008, end as follows: (1) four on June 30, 2009; (2) five on June 30, 2010; and (3) four on June 30, 2011.

In subsection (b)(5) of this section, the sentence "[a] member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies" is substituted for the former sentence "[v]acancies shall be filled immediately for the remainder of the unexpired portion of the term" for consistency in style. See General Revisor's Note to article; cf. *Benson v. Mellor*, 152 Md. 481 (1927); *Grooms v. LaVale Zoning Bd.*, 27 Md. App. 266 (1975).

In subsection (c)(1) of this section, the defined term "arts" is substituted for the former phrase "performing, visual or creative arts" for brevity.

Defined terms: "Arts" § 4-501

"Council" § 4-501

"Secretary" § 1-101

4-505. OFFICERS.

EACH YEAR THE COUNCIL SHALL SELECT A CHAIR, A VICE CHAIR, AND A SECRETARY-TREASURER FROM ITS MEMBERSHIP.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4-604(e).

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The references to a “chair” and “vice chair” are substituted for the former references to a “chairman” and “vice-chairman”, respectively, because SG § 2–1238 requires the use of words neutral as to gender to the extent practicable.

Defined term: “Council” § 4–501

4–506. COMPENSATION; REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE COUNCIL:

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

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

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4–604(d).

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

In item (1) of this section, the phrase “as a member of the Council” is added for clarity and consistency within this article.

Defined terms: “Council” § 4–501

“State” § 1–101

4–507. MEETINGS.

(A) IN GENERAL.

THE COUNCIL SHALL MEET AT LEAST FOUR TIMES A YEAR.

(B) CALLING OF MEETINGS.

THE CHAIR OR THE SECRETARY SHALL CALL THE MEETINGS.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4–605.

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

Defined terms: “Council” § 4–501

“Secretary” § 1–101

4–508. GENERAL POWERS.

(A) IN GENERAL.

THE EXERCISE OF THE POWERS AND PERFORMANCE OF DUTIES OF THE COUNCIL UNDER THIS SUBTITLE IS SUBJECT TO THE APPROVAL OF THE SECRETARY.

(B) POWERS.

THE COUNCIL MAY:

- (1) ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE;
- (2) ENTER INTO CONTRACTS AND AGREEMENTS;
- (3) OBTAIN SERVICES;
- (4) ASK ANY OTHER UNIT OF THE STATE FOR ASSISTANCE AND DATA THAT
ENABLE THE COUNCIL TO CARRY OUT ITS POWERS AND DUTIES;
- (5) ACCEPT FEDERAL MONEY FOR ANY PURPOSE OF THIS SUBTITLE;
- (6) ACCEPT GIFTS, DONATIONS, OR REQUESTS FOR ANY PURPOSE OF THIS
SUBTITLE; AND
- (7) CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4-606(a)(2) through (7).

Subsection (a) of this section is revised as a qualification of the Council's exercise of its powers and duties for clarity.

In subsection (b)(1) of this section, the former word "reasonable" is deleted as implicit in the phrase "adopt regulations".

Also in subsection (b)(1) of this section, the former reference to "rules" is deleted as implicit in the reference to "regulations". *See* General Revisor's Note to article.

In subsection (b)(4) of this section, the reference to any other "unit" is substituted for the former reference to any "department, division, board, bureau, commission or other agency". The term "unit" is used as the general term for an entity in the State government because it is inclusive enough to include all those entities. *See* General Revisor's Note to article.

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

In subsection (b)(7) of this section, the phrase "carry out this subtitle" is substituted for the former phrase "including but not limited to the following" for clarity.

Former Art. 83A, § 4-606(a)(1), concerning activities and obligations of the former Governor's Council on the Arts in Maryland, is transferred to the Session Laws. *See* General Revisor's Note to this subtitle.

Defined terms: "Council" § 4-501

"Secretary" § 1-101

"State" § 1-101

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4–509. EXECUTIVE DIRECTOR.

(A) APPOINTMENT.

(1) WITH THE APPROVAL OF THE SECRETARY, THE COUNCIL SHALL APPOINT AN EXECUTIVE DIRECTOR OF THE COUNCIL.

(2) THE EXECUTIVE DIRECTOR MAY NOT BE A MEMBER OF THE COUNCIL.

(B) TENURE; SPECIAL APPOINTMENT.

(1) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE COUNCIL, SUBJECT TO THE CONCURRENCE OF THE SECRETARY.

(2) THE EXECUTIVE DIRECTOR IS A SPECIAL APPOINTMENT IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

(C) ADMINISTRATIVE OFFICER; DUTIES TO STAFF.

SUBJECT TO THE POLICIES OF THE COUNCIL AND THE ADMINISTRATIVE SUPERVISION OF THE SECRETARY, THE EXECUTIVE DIRECTOR:

(1) IS THE ADMINISTRATIVE OFFICER OF THE COUNCIL STAFF;

(2) SHALL APPOINT AND REMOVE EMPLOYEES OF THE COUNCIL; AND

(3) SHALL DIRECT, ADMINISTER, AND SUPERVISE THE ACTIVITIES OF THE COUNCIL STAFF.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4–606(b), (c), and (d).

In subsection (a)(2) of this section, the phrase “[t]he Executive Director may not be a member of the Council” is substituted for the former phrase “from without its members” for clarity.

In subsection (c) of this section, the former reference to “rules” of the Council is deleted as included in the reference to “policies” of the Council. The term “rule” refers to the general term for a general directive adopted by the courts of the State, as opposed to a “regulation” adopted in accordance with the Administrative Procedure Act or an internal “policy” adopted by a unit for its own administration. *See* General Revisor’s Note to article.

Defined terms: “Council” § 4–501

“Secretary” § 1–101

“State” § 1–101

4–510. AUTHORITY; ANNUAL REPORT.

(A) AUTHORITY.

THE COUNCIL MAY:

- (1) CONDUCT A STATEWIDE SURVEY OF RESOURCES AND NEEDS IN THE ARTS;
- (2) DETERMINE THE EXTENT TO WHICH EXISTING RESOURCES CAN FILL THE NEEDS;
- (3) DESIGN NEW OR EXPANDED PROGRAMS IN THE ARTS ON ITS OWN OR WITH ARTS ORGANIZATIONS;
- (4) ENCOURAGE AND ASSIST IN THE FORMATION AND ACTIVITIES OF COMMUNITY ARTS COUNCILS;
- (5) PROVIDE TECHNICAL AND CONSULTATIVE ASSISTANCE TO ARTS ORGANIZATIONS THROUGHOUT THE STATE;
- (6) PROVIDE LOGISTICAL AND FINANCIAL ASSISTANCE TO ENCOURAGE THE TOURING OF OUTSTANDING PROFESSIONAL PERFORMANCES AND EXHIBITIONS OF ART, FROM INSIDE AND OUTSIDE THE STATE, TO COMMUNITIES THROUGHOUT THE STATE;
- (7) MAKE AWARDS FOR EXCELLENCE IN THE ARTS;
- (8) MAKE GRANTS TO ARTS ORGANIZATIONS AND INDIVIDUAL ARTISTS;
- (9) COOPERATE WITH EDUCATIONAL INSTITUTIONS AND ORGANIZATIONS TO ESTABLISH A HIGHER LEVEL OF EDUCATION IN AND APPRECIATION OF THE ARTS BY STUDENTS THROUGHOUT THE STATE;
- (10) EXPLORE THE FEASIBILITY OF REGIONAL ARTS PROGRAMMING IN NEIGHBORING STATES AND PROGRAM EXCHANGE WITH OTHER STATES, AND IMPLEMENT THE PROGRAMS THE COUNCIL CONSIDERS ADVISABLE;
- (11) MAKE RECOMMENDATIONS TO THE BOARD OF PUBLIC WORKS CONCERNING APPROPRIATE AESTHETIC DECORATIONS, EMBELLISHMENTS, ACCESSORIES, AND ORNAMENTATION TO STATE PROJECTS, BUILDINGS, AND PROPERTY; AND
- (12) CONDUCT OTHER PROGRAMS CONSISTENT WITH THIS SUBTITLE.

(B) ANNUAL REPORT; PUBLICATIONS.

THE COUNCIL:

- (1) SHALL PUBLISH AN ANNUAL REPORT; AND
- (2) MAY PUBLISH OTHER MATERIAL.

REVISOR'S NOTE: Subsection (a)(1) of this section is new language patterned after former Art. 83A, § 4-607(a)(1), as it related to a statewide survey of resources and needs in the arts.

Subsections (a)(2) through (12) and (b) of this section are new language derived without substantive change from former Art. 83A, § 4-607(b) and (a)(2) through (11).

In the introductory language of subsection (a) of this section, the former

phrase “subject to approval of the Secretary” is deleted as redundant of § 4–508(a) of this subtitle.

In subsection (a)(3) of this section, the former phrase “or arts organizations which may subsequently come into existence hereafter” is deleted as surplusage.

In subsection (a)(12) of this section, the phrase “conduct other programs consistent with this subtitle” is substituted for the former reference to programs “including, but not limited to the following” for clarity.

In subsection (b) of this section, the former reference to publishing material “as [the Council] deems appropriate” is deleted as implicit in the Council’s decision to publish it.

Former Art. 83A, § 4–607(a)(1), concerning programs of the former Governor’s Council on the Arts in Maryland, is transferred to the Session Laws. *See* General Revisor’s Note to this subtitle.

Defined terms: “Arts” § 4–501

“Council” § 4–501

“Secretary” § 1–101

“State” § 1–101

4–511. INTERFERENCE PROHIBITED.

IN EXERCISING ITS POWERS AND PERFORMING ITS DUTIES UNDER THIS SUBTITLE, THE COUNCIL MAY NOT INTERFERE WITH:

(1) FREEDOM OF ARTISTIC EXPRESSION; OR

(2) ESTABLISHED OR CONTEMPLATED ARTS PROGRAMS IN ANY COMMUNITY.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4–609(a).

Defined terms: “Arts” § 4–501

“Council” § 4–501

4–512. FUNDING.

(A) STATE FUNDS.

THE COUNCIL IS ENTITLED TO FUNDING IN ACCORDANCE WITH THE STATE BUDGET.

(B) SPECIAL FUND.

THE COUNCIL MAY TREAT NONSTATE, NONFEDERAL CONTRIBUTIONS FOR PROGRAMS OF ASSISTANCE TO THE ARTS AS A SPECIAL FUND THAT IS NOT SUBJECT TO REVERSION UNDER § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4–609(b).

In subsection (b) of this section, the reference to “[t]he Council” is added for clarity.

Also in subsection (b) of this section, the phrase “that is not subject to reversion under § 7–302 of the State Finance and Procurement Article” is substituted for the former phrase “which do not revert to the General Fund at the end of a fiscal year” for clarity and consistency within this article.

Defined terms: “Arts” § 4–501

“Council” § 4–501

“State” § 1–101

GENERAL REVISOR’S NOTE TO SUBTITLE:

Former Art. 83A, §§ 4–606(a)(1) and 4–607(a)(1), which authorized the Council to continue activities, obligations, and programs of the former Governor’s Council on the Arts in Maryland, are apparently obsolete. *Cf.* Ch. 644, Acts of 1967. However, to avoid any inadvertent substantive effect their repeal might have, they are transferred to the Session Laws. *See* § 8 of Ch. 306, Acts of 2008.

SUBTITLE 6. MARYLAND PUBLIC ART INITIATIVE PROGRAM.

4–601. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 4–6A–02(a)(1).

No changes are made.

(B) COMMISSION.

“COMMISSION” MEANS THE MARYLAND COMMISSION ON PUBLIC ART.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 4–6A–02(a)(2).

No changes are made.

(C) FUND.

“FUND” MEANS THE MARYLAND PUBLIC ART FUND.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the full title of the “Maryland Public Art Fund”.

(D) PROGRAM.

“PROGRAM” MEANS THE MARYLAND PUBLIC ART INITIATIVE PROGRAM.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 4–6A–02(a)(3).

No changes are made.

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4-602. MARYLAND PUBLIC ART INITIATIVE PROGRAM.

(A) **ESTABLISHED.**

THERE IS A MARYLAND PUBLIC ART INITIATIVE PROGRAM.

(B) **PURPOSE.**

THE PURPOSE OF THE PROGRAM IS TO PROMOTE THE INSTALLATION OF ARTWORK IN PUBLIC FACILITIES FOR THE ENRICHMENT OF THE PUBLIC.

(C) **PROGRAM MONEY.**

PROGRAM MONEY SHALL BE USED TO:

- (1) **ACQUIRE PUBLIC ART TO BE OWNED BY THE STATE;**
- (2) **PRESERVE PUBLIC ART ASSETS, INCLUDING ASSETS OF THE COMMISSION; AND**
- (3) **MAKE GRANTS TO LOCAL GOVERNMENTS.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4-6A-01(a) and (c) and § 4-6A-04(a)(1), as it related to the purpose of the Program.

In subsection (b) of this section, the former reference to public facilities "in the State" is deleted as surplusage.

In subsection (c) of this section and throughout this subtitle, the references to "money" are substituted for the former references to "funds" for consistency within this article.

Defined terms: "Commission" § 4-601

"Program" § 4-601

"State" § 1-101

4-603. MARYLAND COMMISSION ON PUBLIC ART.

(A) **ESTABLISHED.**

THERE IS A MARYLAND COMMISSION ON PUBLIC ART.

(B) **MEMBERSHIP; APPOINTMENT; TENURE.**

(1) **THE COMMISSION CONSISTS OF THE FOLLOWING 11 MEMBERS:**

(i) **THE EXECUTIVE DIRECTOR OR A MEMBER OF THE MARYLAND STATE ARTS COUNCIL ESTABLISHED UNDER SUBTITLE 5 OF THIS TITLE;**

(ii) **THE DIRECTOR OR A MEMBER OF THE MARYLAND HISTORICAL TRUST ESTABLISHED UNDER TITLE 5A, SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;**

(III) THE STATE ARCHIVIST OR A MEMBER OF THE COMMISSION ON ARTISTIC PROPERTY ESTABLISHED UNDER TITLE 9, SUBTITLE 10 OF THE STATE GOVERNMENT ARTICLE;

(IV) THE COMPTROLLER OR THE COMPTROLLER'S DESIGNEE; AND

(V) SEVEN PUBLIC MEMBERS APPOINTED BY THE SECRETARY WITH THE APPROVAL OF THE GOVERNOR.

(2) (I) THE SECRETARY SHALL INCLUDE AS PUBLIC MEMBERS REPRESENTATIVES OF THE ARTISTIC COMMUNITY WHO HAVE PROFESSIONAL EXPERTISE AS ARTISTS, CURATORS, ART HISTORIANS, ART EDUCATORS, OR ARCHITECTS.

(II) A PUBLIC MEMBER SERVES AT THE PLEASURE OF THE SECRETARY.

(C) CHAIR.

WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL DESIGNATE A CHAIR FROM AMONG THE PUBLIC MEMBERS OF THE COMMISSION.

(D) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE COMMISSION:

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

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

(E) STAFF.

THE MARYLAND STATE ARTS COUNCIL SHALL PROVIDE STAFF TO THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4-6A-02(b) through (e).

In subsection (b) of this section, the former reference to certain members as "institutional" members is deleted as surplusage.

Also in subsection (b) of this section, the statutory cross-references for the Maryland State Arts Council, the Maryland Historical Trust, and the Commission on Artistic Property are added for clarity.

In subsection (c) of this section, the former reference to designating a chairman "[f]rom time to time" is deleted as surplusage.

Also in subsection (c) of this section, the reference to a "chair" is substituted for the former reference to a "chairman" because SG § 2-1238 requires the use of words that are neutral as to gender to the extent practicable. *See* General Revisor's Note to article.

In subsection (d) of this section, the reference to not receiving

compensation “as a member of the Commission” is added for clarity.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that in subsection (b)(1)(i), (ii), and (iii) of this section, it is not clear who appoints the representatives to serve on the Commission. The General Assembly may wish to address this matter in substantive legislation.

Defined terms: “Commission” § 4–601
“Secretary” § 1–101
“State” § 1–101

4–604. DUTIES.

THE COMMISSION SHALL:

(1) WORK WITH THE DEPARTMENT OF GENERAL SERVICES, THE STATE DEPARTMENT OF TRANSPORTATION, AND THE UNIVERSITY SYSTEM OF MARYLAND TO ENSURE THAT NEW PUBLIC FACILITIES CONSTRUCTED BY STATE UNITS INCLUDE THE INSTALLATION OF ARTWORK;

(2) ALLOCATE MONEY FROM THE FUND TO COMMISSION ARTWORK FOR INSTALLATION AT PUBLIC FACILITIES AROUND THE STATE;

(3) ESTABLISH SELECTION PANELS TO RECOMMEND ARTISTS AND ARTWORK TO BE FUNDED BY THE FUND; AND

(4) MAKE FINAL RECOMMENDATIONS CONCERNING THE DISBURSEMENT OF MONEY ALLOCATED TO THE PROGRAM.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4–6A–04(a)(2) through (4) and, as it related to the Commission’s role in ensuring installation of artwork, (1).

In item (1) of this section, the reference to State “units” is substituted for the former reference to State “agencies” for consistency with other provisions of this article. *See* General Revisor’s Note to article.

Also in item (1) of this section, the former reference to artwork “for the enrichment of the public” is deleted in light of § 4–602(b) of this subtitle.

In item (2) of this section, the reference to “artwork” is substituted for the former reference to “works of art” for consistency with other provisions in this section and in § 4–608 of this subtitle.

In item (3) of this section, the reference to the authority to “recommend” is substituted for the former reference to “make recommendations for the selection of” for brevity and clarity.

Defined terms: “Commission” § 4–601
“Fund” § 4–601
“Program” § 4–601
“State” § 1–101

4-605. MARYLAND PUBLIC ART FUND.

(A) ESTABLISHED.

THERE IS A MARYLAND PUBLIC ART FUND.

(B) PURPOSE.

THE PURPOSE OF THE FUND IS TO PROVIDE MONEY TO CARRY OUT THE PROGRAM.

(C) ADMINISTRATION.

THE COMMISSION SHALL ADMINISTER THE FUND.

(D) STATUS.

(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 AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(E) COMPOSITION.

(1) THE FUND CONSISTS OF:

(i) MONEY APPROPRIATED IN THE STATE BUDGET FOR THE PROGRAM;

AND

(ii) ANY OTHER MONEY ACCEPTED FOR THE BENEFIT OF THE FUND FROM ANY OTHER SOURCE.

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

(F) MANDATORY APPROPRIATION.

IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT FOR EACH FISCAL YEAR, THE GOVERNOR SHALL INCLUDE IN THE OPERATING OR CAPITAL BUDGET AN APPROPRIATION NOT TO EXCEED \$1,000,000 FOR THE PROGRAM.

(G) INVESTMENT.

THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(H) EXPENDITURES.

MONEY IN THE FUND MAY ONLY BE SPENT:

(1) TO CARRY OUT THE PURPOSES OF THIS SUBTITLE; AND

(2) IN ACCORDANCE WITH THE STATE BUDGET PROCESS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4-6A-01(b) and § 4-6A-03(a) through (j).

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In subsection (d) of this section, the reference to “reversion under” SF § 7–302 is added to state explicitly that which is only implied by the term “nonlapsing”.

In subsection (f) of this section, the obsolete reference to “fiscal year 2007” is deleted.

Subsection (g) of this section is restated in standard language for clarity.

Defined terms: “Commission” § 4–601

“Fund” § 4–601

“Program” § 4–601

“State” § 1–101

4–606. GRANTS TO LOCAL GOVERNMENT.

(A) IN GENERAL.

BEFORE A GRANT IS AWARDED TO A LOCAL GOVERNMENT UNDER THIS SUBTITLE, THE LOCAL GOVERNMENT SHALL PROVIDE AND SPEND A MATCHING FUND.

(B) PROHIBITION.

A MATCHING FUND OF A LOCAL GOVERNMENT MAY NOT CONSIST OF:

(1) MONEY PROVIDED, DIRECTLY OR INDIRECTLY, FROM APPROPRIATED OR UNAPPROPRIATED STATE MONEY;

(2) REAL PROPERTY;

(3) IN KIND CONTRIBUTIONS; OR

(4) MONEY SPENT BEFORE JUNE 1, 2005.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4–6A–03(k).

In subsection (b) of this section, the former reference to the “grantee’s” matching fund is deleted as surplusage.

Defined terms: “Program” § 4–601

“State” § 1–101

4–607. REGULATIONS.

(A) REQUIRED.

THE MARYLAND STATE ARTS COUNCIL SHALL ADOPT REGULATIONS TO CARRY OUT THE PROGRAM.

(B) CONTENTS.

THE REGULATIONS SHALL ADDRESS:

(1) PROCEDURES FOR ARTIST AND ART SELECTION;

- (2) COMPOSITION OF SELECTION PANELS;
- (3) BUDGET ALLOCATIONS FOR EACH PROJECT;
- (4) LOCAL COMMUNITY INVOLVEMENT; AND
- (5) CONSERVATION AND MAINTENANCE CONCERNS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4-6A-01(d).

In subsection (a) of this section, the reference to the requirement that the Maryland State Arts Council "adopt" regulations is substituted for the former reference to "develop" regulations for consistency with other provisions of this article. *See* General Revisor's Note to article.

Defined term: "Program" § 4-601

4-608. MARYLAND HISTORICAL TRUST.

- (A) OWNERSHIP OF ARTWORK.

ALL ARTWORK FUNDED BY THE PROGRAM IS THE PROPERTY OF THE MARYLAND HISTORICAL TRUST.

- (B) DUTIES.

IN COOPERATION WITH THE DEPARTMENT OF GENERAL SERVICES, THE MARYLAND HISTORICAL TRUST IS RESPONSIBLE FOR THE INVENTORY, MAINTENANCE, AND PRESERVATION OF ALL ARTWORK ACQUIRED THROUGH THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4-6A-04(b).

Defined term: "Program" § 4-601

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 83A, §§ 4-6A-01 through 4-6A-04, which established the Maryland Public Art Initiative Program, were subject to termination on May 31, 2010. *See* § 2 of Ch. 393, Acts of 2005. Accordingly, the legislation that enacts this article provides for the termination of this subtitle if and when that termination provision takes effect. *See* § 21 of Ch. 306, Acts of 2008.

SUBTITLE 7. ARTS AND ENTERTAINMENT DISTRICTS.

4-701. DEFINITIONS.

- (A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 4-701(a).

The reference to this “subtitle” is substituted for the former reference to this “section”. Although this subtitle contains provisions derived from provisions outside of former Art. 83A, § 4–701, the terms defined here do not alter the meanings of terms used in provisions derived from former Art. 83A, §§ 4–702 and 4–703. No substantive change is intended.

(B) ARTISTIC WORK.

“ARTISTIC WORK” MEANS AN ORIGINAL AND CREATIVE WORK THAT:

(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.

This subsection is retained even though the term defined here is not used in this subtitle. Other provisions of the Code, enacted at the same time as the source material for this subtitle, refer to the definition of “arts and entertainment enterprise”. See Ch. 608, Acts of 2001; TG § 4–104(e); TP § 9–240.

(E) POLITICAL SUBDIVISION.

“POLITICAL SUBDIVISION” MEANS A COUNTY OR MUNICIPAL CORPORATION.

REVISOR’S NOTE: This subsection is new language added to provide a single consistent term that substitutes for the terms “county or municipal corporation” and “political subdivision” that were used identically in former Art. 83A, §§ 4–701 and 4–702.

Defined term: “County” § 1–101

(F) QUALIFYING RESIDING ARTIST.

“QUALIFYING RESIDING ARTIST” MEANS AN INDIVIDUAL WHO:

(1) OWNS OR RENTS RESIDENTIAL REAL PROPERTY IN THE COUNTY WHERE THE ARTS AND ENTERTAINMENT DISTRICT IS LOCATED;

(2) CONDUCTS A BUSINESS IN THE ARTS AND ENTERTAINMENT DISTRICT;
AND

(3) DERIVES INCOME FROM THE SALE OR PERFORMANCE WITHIN THE ARTS AND ENTERTAINMENT DISTRICT OF AN ARTISTIC WORK THAT THE INDIVIDUAL WROTE, COMPOSED, OR EXECUTED, EITHER ALONE OR WITH OTHERS, IN THE ARTS AND ENTERTAINMENT DISTRICT.

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

Defined terms: “Artistic work” § 4–701

“Arts and entertainment district” § 4–701

“County” § 1–101

4–702. SCOPE OF SUBTITLE.

THIS SUBTITLE DOES NOT APPLY TO THE CREATION OR EXECUTION OF ARTISTIC WORK FOR INDUSTRY–ORIENTED OR INDUSTRY–RELATED PRODUCTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4-701(a)(2)(iii).

It is revised as a scope provision rather than as an exception to a definition for clarity.

4-703. APPLICATION.

(A) IN GENERAL.

THE FOLLOWING POLITICAL SUBDIVISIONS MAY APPLY TO THE SECRETARY TO DESIGNATE AN ARTS AND ENTERTAINMENT DISTRICT:

(1) A POLITICAL SUBDIVISION FOR AN AREA WITHIN THAT POLITICAL SUBDIVISION;

(2) WITH THE PRIOR CONSENT OF THE MUNICIPAL CORPORATION, A COUNTY, ON ITS OWN BEHALF OR ON BEHALF OF A MUNICIPAL CORPORATION, FOR AN AREA IN THE MUNICIPAL CORPORATION; OR

(3) TWO OR MORE POLITICAL SUBDIVISIONS JOINTLY FOR AN AREA ASTRIDE THEIR COMMON BOUNDARIES.

(B) FORM AND CONTENT.

THE APPLICATION SHALL:

(1) BE IN THE FORM AND MANNER AND CONTAIN THE INFORMATION THAT THE SECRETARY REQUIRES BY REGULATION;

(2) CONTAIN SUFFICIENT INFORMATION TO ALLOW THE SECRETARY TO DETERMINE IF THE PROPOSED DISTRICT QUALIFIES UNDER §§ 4-701(c) AND 4-704(A) OF THIS SUBTITLE; AND

(3) BE SUBMITTED FOR A POLITICAL SUBDIVISION BY ITS CHIEF ELECTED OFFICER OR, IF NONE, ITS GOVERNING BODY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4-702(a) through (d) and the introductory language of § 4-701(b), as it related to application for designation.

In subsection (b) of this section, the reference to determining if a "proposed district qualify[ing] under §§ 4-701(c) and 4-704(a) of this subtitle" is substituted for the former reference to determining if "criteria established in [former Art. 83A,] § 4-701(a)(3) and (c) ... have been met" for clarity and because former § 4-701(a)(3) did not contain criteria.

Defined terms: "Arts and entertainment district" § 4-701

"County" § 1-101

"Political subdivision" § 4-701

"Secretary" § 1-101

4-704. DESIGNATION.

(A) IN GENERAL.

THE SECRETARY MAY DESIGNATE AN AREA AS AN ARTS AND ENTERTAINMENT DISTRICT ONLY IF THE AREA IS A CONTIGUOUS GEOGRAPHIC AREA THAT IS WHOLLY WITHIN A PRIORITY FUNDING AREA AS PROVIDED UNDER § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(B) PROCEDURE; LIMITATION.

(1) WITHIN 60 DAYS AFTER A SUBMISSION DATE, THE SECRETARY MAY DESIGNATE ONE OR MORE ARTS AND ENTERTAINMENT DISTRICTS FROM AMONG THE AREAS IN THE APPLICATIONS TIMELY SUBMITTED.

(2) A COUNTY MAY NOT RECEIVE MORE THAN ONE ARTS AND ENTERTAINMENT DISTRICT DESIGNATION IN A CALENDAR YEAR.

(C) FINALITY.

THE DESIGNATION OF THE SECRETARY IS FINAL.

(D) REAPPLICATION.

AT ANY TIME, A POLITICAL SUBDIVISION MAY REAPPLY TO THE SECRETARY TO DESIGNATE AS AN ARTS AND ENTERTAINMENT DISTRICT AN AREA THAT IS NOT SO DESIGNATED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 4-701(c) and 4-702(e).

In subsection (a) of this section, the limitation that “[t]he Secretary may designate” as an arts and entertainment district an area with certain characteristics is substituted for the former requirement that an arts and entertainment district “shall be” an area with those characteristics for clarity and to conform to a corresponding provision concerning eligibility for enterprise zones. *Cf.* § 5-704(a)(1) of this article.

Also in subsection (a) of this section, the former reference to an arts and entertainment district being in a “county” is deleted in light of the authority to establish a district either entirely within a municipal corporation or in more than one county under § 4-703 of this subtitle.

Also in subsection (a) of this section, the former requirement that an arts and entertainment district be wholly within a “designated neighborhood as defined under § 6-301 of the Housing and Community Development Article” is deleted as redundant of the requirement that the district be wholly within a “priority funding area as provided under § 5-7B-02 of the State Finance and Procurement Article”. Any designated neighborhood under HS § 6-301 must be located wholly within a priority funding area under SF § 5-7B-02. No substantive change is intended.

Although subsection (b) of this section refers only to “a” submission date,

the Secretary has established April 1 and October 1 of each year as submission dates by which each political subdivision that wishes to establish an arts and entertainment district must submit an application for the designation cycle.

Defined terms: "Arts and entertainment district" § 4-701

"County" § 1-101

"Political subdivision" § 4-701

"Secretary" § 1-101

4-705. EXPANSION.

A POLITICAL SUBDIVISION MAY APPLY TO THE SECRETARY TO EXPAND AN EXISTING ARTS AND ENTERTAINMENT DISTRICT IN THE SAME MANNER AS THE POLITICAL SUBDIVISION WOULD APPLY TO DESIGNATE A NEW ARTS AND ENTERTAINMENT DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4-702(f).

Defined terms: "Arts and entertainment district" § 4-701

"Political subdivision" § 4-701

"Secretary" § 1-101

4-706. TAX STATUS.

(A) IN GENERAL.

IN AN ARTS AND ENTERTAINMENT DISTRICT:

(1) EACH QUALIFYING RESIDING ARTIST IS ELIGIBLE FOR THE INCOME TAX SUBTRACTION MODIFICATION UNDER § 10-207(v) OF THE TAX – GENERAL ARTICLE;

(2) THE PROPERTY TAX CREDIT UNDER § 9-240 OF THE TAX – PROPERTY ARTICLE APPLIES; AND

(3) THE EXEMPTION FROM THE ADMISSIONS AND AMUSEMENT TAX UNDER § 4-104 OF THE TAX – GENERAL ARTICLE APPLIES.

(B) NOTIFICATION TO COMPTROLLER; EFFECTIVE DATE.

(1) ON OR BEFORE JULY 1 PRECEDING THE EFFECTIVE DATE OF ITS ESTABLISHMENT, THE SECRETARY SHALL NOTIFY THE COMPTROLLER THAT AN ARTS AND ENTERTAINMENT DISTRICT IS ESTABLISHED.

(2) THE SUBTRACTION MODIFICATION UNDER § 10-207(v) OF THE TAX – GENERAL ARTICLE APPLIES TO EACH TAXABLE YEAR BEGINNING AFTER DECEMBER 31 OF THE YEAR IN WHICH THE SECRETARY PROVIDES THE NOTICE REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4-701(d) and, as it related to available tax benefits, (b).

Defined terms: “Arts and entertainment district” § 4–701

“Qualifying residing artist” § 4–701

“Secretary” § 1–101

4–707. REGULATIONS.

THE SECRETARY SHALL ADOPT REGULATIONS ON APPLICATION PROCEDURES AND CRITERIA TO DESIGNATE ARTS AND ENTERTAINMENT DISTRICTS.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4–703.

Defined terms: “Arts and entertainment district” § 4–701

“Secretary” § 1–101

TITLE 5. ECONOMIC DEVELOPMENT AND FINANCIAL ASSISTANCE PROGRAMS.

SUBTITLE 1. GENERAL PROVISIONS.

5–101. DUTY OF DEPARTMENT; LOCAL STRATEGIC PLANS.

(A) DUTY OF DEPARTMENT.

THE DEPARTMENT SHALL ADMINISTER THE STATE’S ECONOMIC DEVELOPMENT AND GROWTH FUNDS TO FACILITATE THE ATTRACTION, CREATION, EXPANSION, AND RETENTION OF BUSINESSES AND JOBS IN THE STATE.

(B) LOCAL STRATEGIC PLANS.

THE DEPARTMENT SHALL ENCOURAGE LOCAL GOVERNMENTS TO DEVELOP, AND ASSIST LOCAL GOVERNMENTS IN DEVELOPING, STRATEGIC PLANS FOR ECONOMIC DEVELOPMENT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–101.

Defined terms: “Department” § 1–101

“State” § 1–101

5–102. PROGRAMS AND FUNDS ADMINISTERED BY DEPARTMENT.

THE DEPARTMENT SHALL ADMINISTER THE STATE’S ECONOMIC DEVELOPMENT AND FINANCIAL ASSISTANCE PROGRAMS AND FUNDS INCLUDING:

- (1) THE ENTERPRISE FUND, UNDER SUBTITLE 6 OF THIS TITLE;
- (2) THE ENTERPRISE ZONES PROGRAM, UNDER SUBTITLE 7 OF THIS TITLE;
- (3) THE MARYLAND ECONOMIC ADJUSTMENT FUND, UNDER SUBTITLE 2 OF THIS TITLE;
- (4) THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY AND FUND, UNDER SUBTITLE 3 OF THIS TITLE;

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(5) THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY, UNDER SUBTITLE 4 OF THIS TITLE;

(6) THE MARYLAND SMALL BUSINESS DEVELOPMENT FINANCING AUTHORITY, UNDER SUBTITLE 5 OF THIS TITLE;

(7) THE APPALACHIAN REGIONAL DEVELOPMENT PROGRAM, UNDER TITLE 13, SUBTITLE 1 OF THIS ARTICLE;

(8) JOINTLY WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, THE COMMUNITY DEVELOPMENT BLOCK GRANT FOR ECONOMIC DEVELOPMENT; AND

(9) ANY OTHER PROGRAMS OR FUNDS DESIGNATED BY STATUTE, THE GOVERNOR, OR THE SECRETARY.

REVISOR'S NOTE: Items (1), (3) through (6), (8), and (9) of this section are new language derived without substantive change from former Art. 83A, § 5-102(1) through (6) and (9).

Items (2) and (7) of this section are new language added to reflect the Department's responsibility for administering these programs, as provided under Subtitle 7 of this title (Enterprise Zones Program) and Title 13, Subtitle 1 of this article (Appalachian Regional Development Program).

Former Art. 83A, § 5-102(7) and (8), which included the Maryland Competitive Advantage Financing Fund and the Smart Growth Economic Development Infrastructure Fund in the programs administered by the Department, are deleted as obsolete. *See* § 3 of Ch. 304, Acts of 1999; § 19 of Ch. 203, Acts of 2003; Ch. 216, Acts of 2004.

Defined terms: "Department" § 1-101

"Secretary" § 1-101

"State" § 1-101

5-103. TRANSFER OF FUNDS.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES NOTWITHSTANDING ANY OTHER LAW.

(B) IN GENERAL.

SUBJECT TO SUBSECTIONS (D) AND (E) OF THIS SECTION, THE SECRETARY MAY TRANSFER MONEY AMONG ANY OF THE ACCOUNTS THAT ARE:

(1) IN THE DEPARTMENT OR SUBJECT TO ITS CONTROL; AND

(2) USED TO PROVIDE FINANCIAL SUPPORT OF ANY KIND.

(C) TRANSFERS TO ECONOMIC DEVELOPMENT OPPORTUNITIES PROGRAM FUND.

SUBJECT TO SUBSECTIONS (D) AND (E) OF THIS SECTION, THE SECRETARY MAY TRANSFER MONEY TO THE ECONOMIC DEVELOPMENT OPPORTUNITIES PROGRAM FUND ESTABLISHED UNDER § 7-314 OF THE STATE FINANCE AND PROCUREMENT ARTICLE FROM ANY OF THE ACCOUNTS THAT ARE:

- (1) IN THE DEPARTMENT OR SUBJECT TO ITS CONTROL; AND
- (2) USED TO PROVIDE FINANCIAL SUPPORT OF ANY KIND.

(D) TRANSFERS FROM INDUSTRIAL DEVELOPMENT FUND.

A TRANSFER UNDER THIS SECTION FROM THE INDUSTRIAL DEVELOPMENT FUND SHALL COMPLY WITH § 5-432 OF THIS TITLE.

(E) AMENDMENT PROCESS.

A TRANSFER UNDER THIS SECTION SHALL COMPLY WITH THE AMENDMENT PROCESS FOR APPROPRIATIONS ESTABLISHED BY § 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-103.

In subsections (b) and (c) of this section, the word "money" is substituted for the former references to "funds" for consistency throughout this article.

In subsection (b) of this section, the word "various" which formerly modified "accounts" is deleted as surplusage.

In subsection (c) of this section, the reference to accounts "in the Department or subject to its control" and those "used to provide financial support of any kind" is substituted for the former reference to accounts "described in subsection (a) of this section" for clarity.

In subsection (d) of this section, the reference to transfers "from the Industrial Development Fund" is substituted for the former phrase "[w]here applicable" for clarity.

Defined terms: "Department" § 1-101
"Secretary" § 1-101

5-104. SPECIALIZED SMALL BUSINESS INVESTMENT COMPANIES.

(A) AUTHORITY OF SECRETARY.

THE SECRETARY MAY:

(1) INVEST IN A SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY CREATED IN ACCORDANCE WITH THE FEDERAL SMALL BUSINESS INVESTMENT ACT OF 1958; AND

(2) TO THE EXTENT ALLOWED BY FEDERAL LAW, DO ANYTHING NECESSARY OR CONVENIENT TO FULLY PARTICIPATE IN THE FORMATION AND OPERATION OF A SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY.

(B) FINANCING.

NOTWITHSTANDING ANY OTHER LAW, THE SECRETARY MAY USE MONEY TO FINANCE A SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY FROM ACCOUNTS WITHIN:

(1) THE ENTERPRISE FUND ESTABLISHED UNDER SUBTITLE 6 OF THIS TITLE; AND

(2) THE MARYLAND SMALL BUSINESS DEVELOPMENT FINANCING AUTHORITY ESTABLISHED UNDER SUBTITLE 5 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–104.

In subsection (b) of this section, the word “money” is substituted for the former reference to “funds” for consistency throughout this article.

Also in subsection (b) of this section, the former reference to accounts “within the Department” is deleted as implicit.

Defined term: “Secretary” § 1–101

5–105. FOCUS AREAS AND ENTERPRISE ZONES.

WHEN DECIDING WHETHER TO PROVIDE FINANCIAL ASSISTANCE FOR A BUSINESS PROJECT, THE DEPARTMENT SHALL CONSIDER WHETHER THE PROJECT WILL BE LOCATED IN AN ENTERPRISE ZONE OR A FOCUS AREA AS DESIGNATED UNDER SUBTITLE 7 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–105.

Defined term: “Department” § 1–101

5–106. CONTACT FOR MILITARY INSTALLATION REALIGNMENT AND CLOSURE.

THE SECRETARY SHALL DESIGNATE A UNIT IN THE DEPARTMENT TO BE THE SINGLE CONTACT FOR ISSUES RELATING TO REALIGNMENT AND CLOSURE OF MILITARY INSTALLATIONS IN THE STATE.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5–106.

The reference to a “unit” is substituted for the former reference to a “division, agency, office, or other entity”. The term “unit” is used as the general term for an entity in State government because it is inclusive enough to include all those entities. *See* General Revisor's Note to article.

Defined terms: “Department” § 1–101

“Secretary” § 1–101

“State” § 1–101

SUBTITLE 2. MARYLAND ECONOMIC ADJUSTMENT FUND.

5-201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 6-501(a).

No changes are made.

(B) COMMITTEE.

“COMMITTEE” MEANS THE MARYLAND ECONOMIC ADJUSTMENT FINANCING COMMITTEE.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 6-501(b).

No changes are made.

(C) DEFENSE CONTRACTOR.

“DEFENSE CONTRACTOR” MEANS A COMPANY THAT, IN THE 5 YEARS PRECEDING THE LOAN APPLICATION UNDER THIS SUBTITLE, DERIVED A SUBSTANTIAL AMOUNT OF ITS REVENUE FROM DEFENSE CONTRACTS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 6-501(c).

(D) FUND.

“FUND” MEANS THE MARYLAND ECONOMIC ADJUSTMENT FUND.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 6-501(d).

No changes are made.

(E) WORKING CAPITAL.

(1) “WORKING CAPITAL” MEANS MONEY FOR CURRENT OPERATIONS OF A BUSINESS.

(2) “WORKING CAPITAL” INCLUDES MONEY FOR SUPPLIES, MATERIALS, LABOR, EQUIPMENT, RENT, SOFTWARE, MARKETING, INSURANCE, AND FEES FOR PROFESSIONAL SERVICES.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 6-501(e).

In this subsection and throughout this subtitle, the references to “money” are substituted for the former references to “funds” for consistency within this article.

In paragraph (1) of this subsection, the former phrase “to be used” is deleted as surplusage.

No other changes are made.

5-202. MARYLAND ECONOMIC ADJUSTMENT FINANCING COMMITTEE.

(A) ESTABLISHED.

THERE IS A MARYLAND ECONOMIC ADJUSTMENT FINANCING COMMITTEE.

(B) MEMBERSHIP.

(1) THE COMMITTEE CONSISTS OF AT LEAST SEVEN MEMBERS APPOINTED BY THE SECRETARY.

(2) THE SECRETARY SHALL:

(I) ENSURE THAT THE MEMBERSHIP OF THE COMMITTEE REFLECTS THE GEOGRAPHIC, RACIAL, ETHNIC, AND GENDER MAKEUP OF THE STATE; AND

(II) CONSIDER APPOINTING TO THE COMMITTEE AT LEAST ONE CURRENT OR FORMER DEFENSE WORKER OR OTHER REPRESENTATIVE OF LABOR.

(C) TENURE.

(1) THE TERM OF A MEMBER IS 2 YEARS.

(2) THE SECRETARY SHALL STAGGER THE TERMS OF MEMBERS.

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

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

(5) A MEMBER MAY BE REMOVED BY THE SECRETARY WITH OR WITHOUT CAUSE.

(D) OFFICERS.

THE COMMITTEE MAY ELECT A CHAIR AND VICE CHAIR FROM AMONG ITS MEMBERS.

(E) MEETINGS; REIMBURSEMENT FOR COMPENSATION.

(1) THE COMMITTEE SHALL SET THE TIMES AND PLACES OF ITS MEETINGS.

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

(F) SCOPE OF AUTHORITY.

THE COMMITTEE SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES SUBJECT TO THE AUTHORITY OF THE SECRETARY.

(G) POWERS.

THE COMMITTEE MAY:

- (1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;
 - (2) RETAIN CONSULTANTS; AND
 - (3) DO ANYTHING NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS OF THE COMMITTEE AND THE PURPOSES OF THIS SUBTITLE.
- (H) PUBLIC ETHICS; RULES OF CONSTRUCTION.

EVEN THOUGH A DETERMINATION BY THE COMMITTEE ABOUT FINANCIAL ASSISTANCE IS SUBJECT TO THE MARYLAND PUBLIC ETHICS LAW, THE EXISTENCE OF A CONFLICT OF INTEREST OR A VIOLATION OF THE MARYLAND PUBLIC ETHICS LAW DOES NOT AFFECT:

- (1) THE VALIDITY OF A FINDING OR DETERMINATION MADE UNDER THIS SUBTITLE; OR
 - (2) THE ENFORCEABILITY OF AN AGREEMENT MADE UNDER THIS SUBTITLE.
- (I) ESSENTIAL GOVERNMENTAL FUNCTION.

THE EXERCISE BY THE COMMITTEE OF THE POWERS GRANTED UNDER THIS SUBTITLE IS THE PERFORMANCE OF AN ESSENTIAL GOVERNMENTAL FUNCTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 6–504(a) through (d) and (f) through (k).

In subsection (c)(1) of this section and throughout this section, the former redundant references to an “appointed” member are deleted because all members of the Committee are appointed.

In subsection (c)(1) of this section, the former reference to a term of “at least” 2 years is deleted in light of the requirement to stagger terms in subsection (c)(2) of this section and the provision for the continuity of service until a successor is appointed under subsection (c)(3) of this section.

In subsection (c)(5) of this section, the reference to “remov[al] by the Secretary with or without cause” is substituted for the former reference to “serv[ing] at the pleasure of the Secretary” to clarify the apparent intent of the former law; *i.e.*, that members serve a term of 2 years, but may be replaced at any time by the Secretary.

In subsection (d) of this section, the references to a “chair” and “vice chair” are substituted for the former references to a “chairperson” and “vice chairperson” for consistency within this article.

In subsection (g) of this section, the former phrase “[i]n addition to any other powers set forth in this subtitle” is deleted as implicit in the authority granted under this paragraph.

Subsection (h) of this section is restated as a rule of construction for a determination of the Committee subject to the Maryland Public Ethics

Law for clarity. As to the Maryland Public Ethics Law, *see* SG Title 15.

Defined terms: “Committee” § 5–201

“Secretary” § 1–101

“State” § 1–101

5–203. MARYLAND ECONOMIC ADJUSTMENT FUND.

(A) ESTABLISHED.

THERE IS A MARYLAND ECONOMIC ADJUSTMENT FUND IN THE DEPARTMENT.

(B) ADMINISTRATION.

(1) THE DEPARTMENT SHALL ADMINISTER THE FUND.

(2) THE SECRETARY MAY:

(I) DELEGATE TO ANY UNIT IN THE DEPARTMENT THE UNDERWRITING, CLOSING, MONITORING, AND WORKOUT FUNCTIONS FOR FUND LOANS; OR

(II) CONTRACT WITH ANOTHER ENTITY TO PERFORM THESE FUNCTIONS.

(C) STATUS.

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

(D) FUNDING.

(1) THE FUND CONSISTS OF:

(I) FEDERAL MONEY ALLOCATED OR GRANTED TO THE FUND, INCLUDING ADJUSTMENT IMPLEMENTATION GRANT MONEY DESIGNATED FOR THE FUND UNDER THE DEFENSE CONVERSION AND DEFENSE ECONOMIC ADJUSTMENT PROGRAM OF THE ECONOMIC DEVELOPMENT ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF COMMERCE;

(II) PRIVATE MONEY DONATED OR GRANTED TO THE FUND;

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

(IV) PREMIUMS, FEES, INTEREST PAYMENTS, AND PRINCIPAL PAYMENTS ON LOANS MADE UNDER THIS SUBTITLE, INCLUDING A LOAN FINANCED BY THE ECONOMIC DEVELOPMENT OPPORTUNITIES PROGRAM FUND UNDER § 7–314(F) OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(V) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL OF COLLATERAL RELATING TO LOANS UNDER THIS SUBTITLE; AND

(VI) ANY OTHER MONEY MADE AVAILABLE TO THE FUND.

(2) THIS SUBTITLE DOES NOT REQUIRE AN APPROPRIATION TO THE FUND FROM THE GENERAL FUND OF THE STATE, REGARDLESS OF THE AVAILABILITY OF OTHER FUNDING SOURCES FOR THE FUND.

(E) USES.

(1) THE FUND SHALL BE USED TO:

(I) MAKE LOANS TO NEW OR EXISTING COMPANIES IN COMMUNITIES THAT SUFFER DISLOCATION DUE TO DEFENSE ADJUSTMENTS, ENABLING THE COMPANIES TO:

1. MODERNIZE MANUFACTURING OPERATIONS;
2. DEVELOP COMMERCIAL APPLICATIONS FOR TECHNOLOGY; OR
3. COMPETE IN NEW ECONOMIC MARKETS;

(II) MAKE GRANTS TO LOCAL OR REGIONAL GOVERNMENTAL OR NOT-FOR-PROFIT ECONOMIC DEVELOPMENT REVOLVING LOAN FUNDS IN THE STATE; AND

(III) PAY ALL EXPENSES AND DISBURSEMENTS AUTHORIZED BY THE DEPARTMENT FOR ADMINISTERING THE FUND.

(2) A LOAN TO AN ELIGIBLE COMPANY UNDER THIS SUBTITLE MAY INCLUDE:

(I) ADVANCES OF LOAN PROCEEDS FOR LOANS; AND

(II) TO THE EXTENT ALLOWED BY THE REGULATIONS OF THE FEDERAL ECONOMIC DEVELOPMENT ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF COMMERCE, MONEY FOR EXPENSES FOR ADMINISTRATIVE, LEGAL, ACTUARIAL, TECHNICAL, AND OTHER SERVICES.

(3) IN MAKING LOANS UNDER THIS SUBTITLE, THE DEPARTMENT SHALL GIVE PRIORITY TO:

(I) DEFENSE CONTRACTORS; AND

(II) COMPANIES STARTED BY FORMER DEFENSE WORKERS WHO LOST EMPLOYMENT WITH DEFENSE CONTRACTORS.

(4) SUBJECT TO THE RESTRICTIONS OF THIS SUBTITLE, THE DEPARTMENT MAY MAKE A LOAN FROM THE FUND TO AN APPLICANT ONLY IF:

(I) THE APPLICANT MEETS THE QUALIFICATIONS UNDER THIS SUBTITLE; AND

(II) THE APPLICANT MEETS ANY ADDITIONAL REQUIREMENTS IMPOSED BY THE SOURCE OF THE MONEY TO BE LOANED.

(F) INVESTMENTS; ANNUAL REPORT.

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

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.

(3) THE TREASURER SHALL SUBMIT A REPORT EACH YEAR TO THE DEPARTMENT ON:

(I) THE STATUS OF THE MONEY INVESTED UNDER THIS SUBTITLE;

(II) THE MARKET VALUE OF THE ASSETS IN THE FUND ON THE DATE OF THE REPORT; AND

(III) THE INTEREST RECEIVED FROM INVESTMENTS FOR THE FUND DURING THE REPORTING PERIOD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 6-502, 6-503, 6-505, 6-506, and 6-507.

In subsection (b)(1) of this section, the reference to "the Fund" is substituted for the former reference to "[a]ll moneys received and designated for the Maryland Economic Adjustment Fund" for clarity and brevity. Correspondingly, in the introductory language of subsection (d)(1) of this section, the phrase "[t]he Fund consists of" certain money is substituted for the former reference to the Fund "including" certain money for clarity and consistency within this article.

In subsection (b)(2)(i) of this section, the reference to any "unit" is substituted for the former reference to any "division" because the word "unit" is the proper term to describe a portion of a State department. *See* General Revisor's Note to article.

In subsection (c) of this section, the phrase "that is not subject to reversion under § 7-302 of the State Finance and Procurement Article" is standard language added to state explicitly that which is only implied by the term "nonlapsing".

In subsection (d)(1)(i) of this section and throughout this subtitle, references to the "federal" Economic Development Administration are added for clarity.

Also in subsection (d)(1)(i) of this section, the reference to the Defense Conversion "and Defense Economic Adjustment Program of the Economic Development Administration of the United States Department of Commerce" is substituted for the former obsolete reference to the "Economic Development Administration Defense Conversion Act" for accuracy.

In subsection (d)(1)(iv) of this section, the reference to "loans made under this subtitle" is substituted for the former reference to a "Maryland

Economic Adjustment Loan” for clarity and consistency within this subtitle.

In subsection (d)(1)(vii) of this section, the former reference to “moneys received and designated for” the Fund is deleted as included in the reference to “any other money made available to the Fund”.

In the introductory language of subsection (e) of this section, the former word “may”, authorizing the Fund to be used for grants to local revolving loan funds, is deleted in light of the contradictory requirement that the Fund “shall” be used for these grants.

In the introductory language of subsection (e)(1)(i) of this section, the former reference to loans to “eligible” companies is deleted in light of the comprehensive reference to loans to “new or existing companies in communities that suffer dislocation due to defense adjustments”.

In the introductory language of subsection (e)(2) of this section, the former phrase “by way of example” is deleted as unnecessary in light of Art. 1, § 30, which provides that the term “include” is used by way of illustration and not by way of limitation.

Subsection (f)(1) and (2) of this section is standard language substituted for the former reference to “investments that the State Treasurer, on instruction of the Department, makes for the Department under this subtitle” for accuracy and to reflect current practice. The money in the Fund is handled in the same manner as other money in special funds invested by the Treasurer. The Economic Development Article Review Committee brings this substitution to the attention of the General Assembly. No substantive change is intended.

In the introductory language of subsection (f)(3) of this section, the reference to the Treasurer “submit[ting] a” report is added for consistency within the Code. *See, e.g.*, CP §§ 11–805(a)(8), 11–914(1), and 11–915(b)(5).

Defined terms: “Defense contractor” § 5–201

“Department” § 1–101

“Fund” § 5–201

“Secretary” § 1–101

“State” § 1–101

5–204. REGULATIONS.

THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

REVISOR’S NOTE: This section formerly was Art. 83A, § 6–512.

The only changes are in style.

Defined term: “Department” § 1–101

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5-205. LOAN — APPLICATION.

(A) FORM.

AN APPLICANT FOR A LOAN UNDER THIS SUBTITLE SHALL SUBMIT TO THE DEPARTMENT AN APPLICATION ON THE FORM THAT THE DEPARTMENT REQUIRES.

(B) REQUIRED INFORMATION.

THE APPLICATION SHALL INCLUDE:

(1) A DETAILED STRATEGIC BUSINESS PLAN FOR ACHIEVING A GOAL OF COMMERCIALIZATION OF TECHNOLOGY OR MODERNIZATION OF MANUFACTURING FOR LONG-TERM GROWTH;

(2) THE AMOUNT OF MONEY REQUIRED FOR THE ACTIVITIES DESCRIBED IN THE STRATEGIC BUSINESS PLAN;

(3) THE MONEY AVAILABLE TO THE APPLICANT WITHOUT FINANCIAL ASSISTANCE FROM THE DEPARTMENT;

(4) THE AMOUNT OF FINANCIAL ASSISTANCE REQUESTED FROM THE DEPARTMENT;

(5) EACH LOCATION IN THE STATE OF A FINANCED ACTIVITY;

(6) THE ECONOMIC IMPACT THAT IS EXPECTED ON EACH LOCATION BECAUSE OF THE ACTIVITIES;

(7) EVIDENCE THAT THE APPLICANT WAS UNABLE TO OBTAIN THE FINANCING NECESSARY FOR THE ACTIVITIES ON AFFORDABLE TERMS THROUGH NORMAL LENDING CHANNELS;

(8) INFORMATION RELATING TO THE FINANCIAL STATUS OF THE APPLICANT, INCLUDING, IF APPLICABLE:

(I) A CURRENT BALANCE SHEET;

(II) A PROFIT AND LOSS STATEMENT; AND

(III) CREDIT REFERENCES; AND

(9) ANY OTHER RELEVANT INFORMATION THAT THE DEPARTMENT REQUESTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 6-508.

In subsection (a) of this section, the reference to a loan "under this subtitle" is added for clarity.

Defined terms: "Department" § 1-101

"Person" § 1-101

"State" § 1-101

5-206. LOAN — TERMS AND CONDITIONS.

(A) AUTHORITY OF DEPARTMENT.

EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE DEPARTMENT MAY SET THE TERMS AND CONDITIONS FOR LOANS AND GRANTS MADE UNDER THIS SUBTITLE.

(B) AUTHORITY OF COMMITTEE.

THE COMMITTEE SHALL:

(1) DETERMINE WHETHER TO APPROVE LOAN REQUESTS FROM QUALIFIED APPLICANTS FOR LOANS UNDER THIS SUBTITLE; AND

(2) SET THE TERMS AND CONDITIONS FOR LOANS MADE UNDER THIS SUBTITLE.

(C) LOAN FROM FEDERAL SOURCE; MAXIMUM.

THE MAXIMUM AMOUNT OF A LOAN MADE WITH MONEY FROM THE ECONOMIC DEVELOPMENT ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF COMMERCE MAY NOT EXCEED THE LIMIT IT SETS BY REGULATION.

(D) MINIMUM INTEREST RATE.

THE MINIMUM INTEREST RATE FOR A LOAN UNDER THIS SUBTITLE IS AN ANNUAL FIXED RATE OF 4%.

(E) USE OF PROCEEDS.

THE PROCEEDS OF A LOAN MAY BE USED FOR WORKING CAPITAL, EQUIPMENT, FURNISHINGS, FIXTURES, OR THE CONSTRUCTION, REHABILITATION, OR PURCHASE OF REAL PROPERTY FOR THE ACTIVITIES THAT THE COMMITTEE APPROVES.

(F) REPAYMENT PROVISIONS.

THE COMMITTEE MAY AUTHORIZE A FLEXIBLE REPAYMENT SCHEDULE FOR A LOAN UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 6-504(e) and 6-509(a) and (e) through (g) and, as it related to authorizing flexible loan repayment schedules, (c)(3).

In subsection (a) of this section, the reference to loans and grants "made under this subtitle" is added for clarity. Similarly, in subsections (d) and (f) of this section, the references to a loan "under this subtitle" are added.

Defined terms: "Committee" § 5-201

"Department" § 1-101

"Working capital" § 5-201

5-207. LOAN — DOCUMENTS.

(A) PREPARATION BY DEPARTMENT.

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THE DEPARTMENT SHALL PREPARE THE LOAN DOCUMENTS FOR LOANS UNDER THIS SUBTITLE.

(B) CONTENTS.

THE LOAN DOCUMENTS SHALL INCLUDE:

- (1) THE INTEREST RATE ON THE LOAN;
- (2) THE AMOUNT OF THE LOAN;
- (3) REPAYMENT PROVISIONS FOR THE LOAN; AND
- (4) ANY OTHER PROVISION THAT THE DEPARTMENT DETERMINES IS NECESSARY, INCLUDING A PROVISION ON TAKING LIENS AND SECURITY INTERESTS IN REAL OR PERSONAL PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 6-509(b) and (c)(1), (2), and (4) and, as it related to required repayment provisions in loan documents, (3).

In subsection (a) of this section, the reference to loan documents "for loans" is substituted for the former reference to loan documents "[i]f the Department decides to lend money" for clarity and brevity.

Defined term: "Department" § 1-101

5-208. REMEDIES.

(A) IN GENERAL.

IF A RECIPIENT OF A LOAN UNDER THIS SUBTITLE VIOLATES ANY PROVISION OF THE LOAN DOCUMENTS OR CEASES TO MEET THE REQUIREMENTS OF THIS SUBTITLE, THE DEPARTMENT MAY, ON REASONABLE NOTICE TO THE LOAN RECIPIENT:

- (1) WITHHOLD FURTHER ADVANCES OF LOAN PROCEEDS UNTIL THE LOAN RECIPIENT COMPLIES WITH THE AGREEMENT OR REQUIREMENTS; OR
- (2) EXERCISE ANY OTHER REMEDY PROVIDED IN THE LOAN DOCUMENTS.

(B) FORECLOSURE OF SECURITY.

(1) IF A LOAN MADE UNDER THIS SUBTITLE IS IN DEFAULT, THE DEPARTMENT MAY FORECLOSE ON A MORTGAGE OR DEED OF TRUST HELD AS SECURITY FOR THE LOAN IN THE MANNER PROVIDED UNDER THE MARYLAND RULES FOR FORECLOSURES IN PRIVATE TRANSACTIONS.

(2) THE DEPARTMENT MAY TAKE TITLE IN THE DEPARTMENT'S NAME TO ANY PROPERTY FORECLOSED AND CONVEY TITLE TO A BONA FIDE PURCHASER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 6-510 and 6-509(d).

Throughout subsection (a) of this section, references to a "recipient" are

substituted for the former inaccurate references to an “applicant” for clarity.

In subsection (a)(2) of this section, the reference to a remedy provided “in” the loan documents is substituted for the former reference to a remedy “for which” the loan documents provide for clarity.

Defined term: “Department” § 1–101

5–209. FALSE STATEMENT OR REPORT.

(A) PROHIBITED.

A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT OR REPORT:

(1) IN AN APPLICATION OR DOCUMENT PROVIDED TO THE DEPARTMENT; OR

(2) TO INFLUENCE DEPARTMENT ACTION AFFECTING FINANCIAL ASSISTANCE, WHETHER OR NOT THE ASSISTANCE ALREADY HAS BEEN EXTENDED.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$50,000 OR BOTH.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 6–511.

In subsection (b) of this section, the reference to this “section” is substituted for the former erroneous reference to this “subtitle” because this section contains the only prohibited act in the entire subtitle.

Also in subsection (b) of this section, the former reference to a person who “aids or abets another person in the violation of this subtitle” is deleted as obsolete. The common-law distinction between charging a principal of a crime and an accessory before the fact to the crime has been abolished for most purposes by statute, in response to the holding of the Court of Appeals in *State v. Sowell*, 353 Md. 713 (1999). See CP § 4–204.

Defined term: “Department” § 1–101

SUBTITLE 3. MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY AND FUND.

PART I. GENERAL PROVISIONS.

5–301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–1401(a).

No changes are made.

(B) ANIMAL WASTE TECHNOLOGY PROJECT.

“ANIMAL WASTE TECHNOLOGY PROJECT” MEANS A PROJECT THAT INVOLVES THE RESEARCH, DEVELOPMENT, IMPLEMENTATION, OR MARKET DEVELOPMENT OF TECHNOLOGY THAT IS INTENDED TO:

- (1) REDUCE THE AMOUNT OF NUTRIENTS IN ANIMAL WASTE;
- (2) ALTER THE COMPOSITION OF ANIMAL WASTE;
- (3) DEVELOP ALTERNATIVE ANIMAL WASTE MANAGEMENT STRATEGIES; OR
- (4) USE ANIMAL WASTE IN A PRODUCTION PROCESS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–1401(b).

In the introductory language of this subsection, the reference to “a project that involves” the research, development, implementation, or market development of technology is added for conformity with subsections (c) and (f) of this section.

In item (3) of this subsection, the reference to “animal” waste is added for consistency within this subsection.

(C) AQUACULTURE PROJECT.

“AQUACULTURE PROJECT” MEANS A PROJECT THAT ENCOURAGES INNOVATION, EXPANSION, AND MODERNIZATION OF THE SEAFOOD PROCESSING INDUSTRY OR AQUACULTURE INDUSTRY.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–1401(c).

The only change is in style.

(D) ARTS AND ENTERTAINMENT DISTRICT.

“ARTS AND ENTERTAINMENT DISTRICT” MEANS AN AREA DESIGNATED BY THE SECRETARY AS AN ARTS AND ENTERTAINMENT DISTRICT UNDER TITLE 4, SUBTITLE 7 OF THIS ARTICLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–1401(d).

The reference to “the Secretary” is added to clarify that the Secretary is the authority that designates arts and entertainment districts.

Defined term: “Secretary” § 1–101

(E) ARTS AND ENTERTAINMENT ENTERPRISE.

“ARTS AND ENTERTAINMENT ENTERPRISE” MEANS A FOR-PROFIT OR NOT-FOR-PROFIT ENTITY THAT IS:

- (1) LOCATED IN AN ARTS AND ENTERTAINMENT DISTRICT; AND
- (2) DEDICATED TO THE VISUAL OR PERFORMING ARTS.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5-1401(e).

The only changes are in style.

Defined term: “Arts and entertainment district” § 5-301

(F) ARTS AND ENTERTAINMENT PROJECT.

“ARTS AND ENTERTAINMENT PROJECT” MEANS A PROJECT THAT PROMOTES OR ENHANCES THE DEVELOPMENT OF AN ARTS AND ENTERTAINMENT DISTRICT.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5-1401(f).

No changes are made.

Defined term: “Arts and entertainment district” § 5-301

(G) ASSOCIATED DEVELOPMENT AND CARRYING COSTS.

(1) “ASSOCIATED DEVELOPMENT AND CARRYING COSTS” MEANS COSTS THAT ARE ASSOCIATED WITH THE ACQUISITION AND MAINTENANCE OF AN ASSET.

(2) “ASSOCIATED DEVELOPMENT AND CARRYING COSTS” INCLUDES:

- (I) SETTLEMENT COSTS;
- (II) INSURANCE;
- (III) INTEREST;
- (IV) TAXES;
- (V) GOVERNMENT FEES;
- (VI) UTILITIES; AND
- (VII) THE COSTS OF MANAGING AND SECURING THE ASSET.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5-1401(g).

The only changes are in style.

(H) AUTHORITY.

“AUTHORITY” MEANS THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5-1401(h).

No changes are made.

(I) **BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM.**

“**BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM**” MEANS THE PROGRAM IN THE DEPARTMENT THAT PROVIDES FINANCIAL ASSISTANCE FROM THE FUND FOR THE REDEVELOPMENT OF QUALIFIED BROWNFIELDS SITES, AS PROVIDED IN PART VI OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(i).

In this subsection and throughout this subtitle, the reference to “Part VI” of this subtitle is substituted for the former reference to “§ 5–1408” of this subtitle to reflect the revision of former Art. 83A, § 5–1408 in Part VI of this subtitle.

The only changes are in style.

Defined terms: “Financial assistance” § 5–301

“Fund” § 5–301

“Qualified brownfields site” § 5–301

(J) **BROWNFIELDS SITE.**

(1) “**BROWNFIELDS SITE**” MEANS A PROPERTY THAT:

(I) IS LOCATED IN A COUNTY OR MUNICIPAL CORPORATION THAT ELECTS TO PARTICIPATE IN THE **BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM** IN ACCORDANCE WITH § 5–336 OF THIS SUBTITLE; AND

(II) IS:

1. AN ELIGIBLE PROPERTY, AS DEFINED IN § 7–501 OF THE ENVIRONMENT ARTICLE, THAT IS OWNED OR OPERATED BY AN INCULPABLE PERSON, AS DEFINED IN § 7–501 OF THE ENVIRONMENT ARTICLE; OR

2. A PROPERTY WHERE THERE IS A RELEASE, DISCHARGE, OR THREATENED RELEASE OF OIL, AS DEFINED IN § 4–401 OF THE ENVIRONMENT ARTICLE, THAT IS SUBJECT TO TITLE 4 OF THE ENVIRONMENT ARTICLE.

(2) “**BROWNFIELDS SITE**” DOES NOT INCLUDE PROPERTY THAT IS OWNED OR OPERATED BY:

(I) A RESPONSIBLE PERSON AS DEFINED IN § 7–201 OF THE ENVIRONMENT ARTICLE; OR

(II) A PERSON RESPONSIBLE FOR THE DISCHARGE, AS DEFINED IN § 4–401 OF THE ENVIRONMENT ARTICLE.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(j) and (s).

In paragraph (2)(i) of this subsection, the phrase “as defined in § 7–201 of the Environment Article” is added for clarity.

The only other changes are in style.

Defined terms: “Brownfields Revitalization Incentive Program” § 5–301

“County” § 1–101

“Person” § 1–101

“Responsible person” § 5–301

(K) CHILD CARE FACILITY.

“CHILD CARE FACILITY” MEANS A FACILITY THAT IS REQUIRED TO BE LICENSED AS A CHILD CARE CENTER UNDER TITLE 5, SUBTITLE 5, PART VII OF THE FAMILY LAW ARTICLE.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(k).

The general reference to “Title 5, Subtitle 5, Part VII” of the Family Law Article is substituted for the former specific reference to “§§ 5–570 through 5–585” of the Family Law Article to accommodate the potential future addition of new provisions to the referenced part of the subtitle.

No other changes are made.

(L) CHILD CARE SPECIAL LOAN.

“CHILD CARE SPECIAL LOAN” MEANS A DIRECT LOAN TO EXPAND OR IMPROVE CHILD CARE SERVICES AT A CHILD CARE FACILITY, AS PROVIDED IN PART VII OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–1401(l).

The former phrase “in the State”, which modified “child care facilities”, is deleted as unnecessary because only child care facilities in the State are required, as specified in subsection (k) of this section, to be licensed under the Family Law Article.

Defined term: “Child care facility” § 5–301

(M) CORPORATION.

“CORPORATION” MEANS THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION.

REVISOR’S NOTE: This subsection is new language added to provide a shorthand reference to the “Maryland Economic Development Corporation”.

(N) FINANCIAL ASSISTANCE.

“FINANCIAL ASSISTANCE” MEANS A GRANT, LOAN, OR INVESTMENT PROVIDED UNDER THIS SUBTITLE.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(o).

No changes are made.

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(o) **FUND.**

“FUND” MEANS THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE FUND.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(n).

No changes are made.

(p) **LOCAL ECONOMIC DEVELOPMENT FUND.**

“LOCAL ECONOMIC DEVELOPMENT FUND” MEANS A REVOLVING, NONLAPSING FUND THAT ONE OR MORE LOCAL GOVERNMENTS ESTABLISH FOR ECONOMIC DEVELOPMENT IN THE AREAS UNDER THEIR JURISDICTION.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(p).

The only changes are in style.

Defined term: “Local government” § 5–301

(q) **LOCAL ECONOMIC DEVELOPMENT OPPORTUNITY.**

“LOCAL ECONOMIC DEVELOPMENT OPPORTUNITY” MEANS A PROJECT THAT:

(1) IS DETERMINED BY THE DEPARTMENT OR AUTHORITY TO PROVIDE A VALUABLE ECONOMIC DEVELOPMENT OPPORTUNITY TO THE JURISDICTION IN WHICH THE PROJECT IS LOCATED; AND

(2) IS A PRIORITY FOR AND ENDORSED BY THE GOVERNING BODY OF THAT JURISDICTION.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(q).

The only changes are in style.

Defined terms: “Authority” § 5–301

“Department” § 1–101

(r) **LOCAL GOVERNMENT.**

“LOCAL GOVERNMENT” MEANS:

(1) A COUNTY;

(2) A MUNICIPAL CORPORATION;

(3) A DESIGNATED AGENCY OR INSTRUMENTALITY OF A COUNTY; OR

(4) A DESIGNATED AGENCY OR INSTRUMENTALITY OF A MUNICIPAL CORPORATION.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–1401(r).

In items (2) and (4) of this subsection, the references to a “municipal corporation” are substituted for the former reference to a “municipality” to

conform to Md. Constitution, Art. XI–E.

The former reference to the “Maryland Economic Development Corporation” is deleted for clarity. The Corporation is not a local government or a unit of a local government; rather, it is an independent instrumentality of the State. Some provisions of the former law intended the term “local government” to include the Corporation; others did not. In each instance where the former law used the defined term “local government” with the intention to include the Corporation, it is specifically named in the revision. *See, e.g.*, §§ 5–311(3), 5–319(c), and 5–320(a) and (b) of this subtitle. Where the Corporation would not logically be included, the revision does not do so. *See, e.g.*, §§ 5–329, 5–330, and 5–332(a) of this subtitle. No substantive change is intended.

For provisions relating to the Maryland Economic Development Corporation, *see* Title 10, Subtitle 1 of this article.

Defined terms: “Corporation” § 5–301
“County” § 1–101

(S) QUALIFIED BROWNFIELDS SITE.

“QUALIFIED BROWNFIELDS SITE” MEANS A BROWNFIELDS SITE THAT IS DETERMINED BY THE DEPARTMENT TO BE ELIGIBLE FOR FINANCIAL ASSISTANCE UNDER THIS SUBTITLE.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(t).

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: “Brownfields site” § 5–301
“Department” § 1–101
“Financial assistance” § 5–301

(T) QUALIFIED DISTRESSED COUNTY PROJECT.

“QUALIFIED DISTRESSED COUNTY PROJECT” MEANS A PROJECT THAT A LOCAL GOVERNMENT OR THE CORPORATION CARRIES OUT IN A QUALIFIED DISTRESSED COUNTY.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–1401(v).

The reference to the “Corporation” is added for clarity. *See* Revisor’s Note to subsection (r) of this section.

Defined terms: “Corporation” § 5–301
“Local government” § 5–301
“Qualified distressed county” § 1–101

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(U) **RESPONSIBLE PERSON.**

“RESPONSIBLE PERSON” HAS THE MEANING STATED IN § 7–201 OF THE ENVIRONMENT ARTICLE.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(w).

No changes are made.

(V) **SIGNIFICANT STRATEGIC ECONOMIC DEVELOPMENT OPPORTUNITY.**

“SIGNIFICANT STRATEGIC ECONOMIC DEVELOPMENT OPPORTUNITY” MEANS A PROJECT THAT IS DETERMINED BY THE DEPARTMENT OR AUTHORITY TO PROVIDE A VALUABLE ECONOMIC DEVELOPMENT OPPORTUNITY OF STATEWIDE, REGIONAL, OR STRATEGIC INDUSTRY IMPACT.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(x).

The only changes are in style.

Defined terms: “Authority” § 5–301

“Department” § 1–101

(W) **SPECIALIZED ECONOMIC DEVELOPMENT OPPORTUNITY.**

“SPECIALIZED ECONOMIC DEVELOPMENT OPPORTUNITY” MEANS:

- (1) AN ANIMAL WASTE TECHNOLOGY PROJECT;
- (2) AN AQUACULTURE PROJECT;
- (3) AN ARTS AND ENTERTAINMENT ENTERPRISE;
- (4) AN ARTS AND ENTERTAINMENT PROJECT;
- (5) THE REDEVELOPMENT OF A QUALIFIED BROWNFIELDS SITE; OR
- (6) A PROJECT TO CREATE OR EXPAND A CHILD CARE FACILITY.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(y).

The only 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

“Qualified brownfields site” § 5–301

(X) **WORKING CAPITAL.**

“WORKING CAPITAL” MEANS MONEY TO BE USED FOR CURRENT OPERATIONS OF A BUSINESS.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1401(z).

The reference to “money” is substituted for the former reference to “funds” for consistency with terminology used throughout this subtitle and this article.

No other changes are made.

REVISOR’S NOTE TO SECTION: Former Art. 83A, § 5–1401(m), which defined “county”, is revised in § 1–101 of this article.

5–302. SCOPE OF SUBTITLE.

ASSISTANCE FOR A QUALIFIED DISTRESSED COUNTY PROJECT IS AVAILABLE TO A QUALIFIED DISTRESSED COUNTY UNDER THIS SUBTITLE ONLY IF:

(1) THE COUNTY HAS DEVELOPED A LOCAL STRATEGIC PLAN FOR ECONOMIC DEVELOPMENT IN CONSULTATION WITH THE MUNICIPAL CORPORATIONS LOCATED IN THE COUNTY, IF ANY;

(2) THE COUNTY HAS SUBMITTED THE PLAN TO THE SECRETARY FOR APPROVAL; AND

(3) THE SECRETARY HAS APPROVED THE PLAN.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1401(u).

It is revised as a scope provision for accuracy.

The former specific employment and income criteria for a qualified distressed county are deleted as included in the defined term “qualified distressed county” revised in § 1–101 of this article.

In item (1) of this section, the reference to municipal corporations located in the county “if any” is added for accuracy.

Defined terms: “County” § 1–101

“Qualified distressed county” § 1–101

“Qualified distressed county project” § 5–301

“Secretary” § 1–101

5–303. RESERVED.

5–304. RESERVED.

PART II. MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY.

5–305. ESTABLISHED.

THERE IS A MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY IN THE DEPARTMENT.

REVISOR’S NOTE: This section formerly was Art. 83A, § 5–1403(a).

It is set forth as a separate section for emphasis.

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No changes are made.

Defined term: "Department" § 1–101

5–306. MEMBERSHIP.

(A) COMPOSITION.

THE AUTHORITY CONSISTS OF THE INDIVIDUALS SERVING AS MEMBERS OF THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY UNDER § 5–406 OF THIS TITLE.

(B) APPOINTMENT.

THE MEMBERS OF THE AUTHORITY SHALL BE APPOINTED IN ACCORDANCE WITH § 5–407 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1403(c).

Defined term: "Authority" § 5–301

5–307. ACTIONS.

(A) IN GENERAL.

THE MEMBERS OF THE AUTHORITY MAY ACT CONCURRENTLY IN THEIR CAPACITIES AS MEMBERS OF THE AUTHORITY AND OF THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY.

(B) POWERS AND DUTIES.

THE MEMBERS OF THE AUTHORITY SHALL CARRY OUT THE POWERS AND DUTIES OF THE AUTHORITY UNDER THIS SUBTITLE WHETHER ACTING:

(1) CONCURRENTLY AS MEMBERS OF THE AUTHORITY AND THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY; OR

(2) AS MEMBERS OF EITHER AUTHORITY ALONE.

(C) MANNER.

THE MEMBERS OF THE AUTHORITY SHALL CONDUCT THE BUSINESS OF THE AUTHORITY AND OF THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY UNDER SUBTITLE 4 OF THIS TITLE.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5–1403(d) through (f).

No changes are made.

Defined term: "Authority" § 5–301

5-308. RESERVED.

5-309. RESERVED.

PART III. MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE FUND.

5-310. ESTABLISHED.

THERE IS A MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE FUND IN THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1404(a), as it established the Fund.

Defined term: "Department" § 1-101

5-311. PURPOSES.

THE PURPOSES OF THE FUND ARE TO:

(1) EXPAND EMPLOYMENT OPPORTUNITIES IN THE STATE BY PROVIDING FINANCIAL ASSISTANCE TO BUSINESSES THAT ARE ENGAGED IN ELIGIBLE INDUSTRY SECTORS, INCLUDING FINANCIAL ASSISTANCE FOR:

- (I) ANIMAL WASTE TECHNOLOGY PROJECTS;
- (II) AQUACULTURE PROJECTS;
- (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

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“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.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1404(a) and (b).

In subsection (a) of this section, the reference to “administer[ing]” is substituted for the former reference to “manag[ing]” and “supervis[ing]” for clarity and consistency within this article.

In subsection (b) of this section, the reference to a “special, nonlapsing” fund is substituted for the former reference to a “continuing, nonlapsing” fund for accuracy and consistency within this article.

Also in subsection (b) of this section, the reference to “reversion under” SF § 7–302 is added for clarity and consistency within this article.

Defined terms: “Fund” § 5–301

“Secretary” § 1–101

5–313. COMPOSITION.

THE FUND CONSISTS OF:

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

(2) MONEY MADE AVAILABLE TO THE FUND THROUGH FEDERAL PROGRAMS OR PRIVATE CONTRIBUTIONS;

(3) REPAYMENTS OF PRINCIPAL AND INTEREST FROM LOANS MADE FROM THE FUND;

(4) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL OF COLLATERAL RELATED TO FINANCIAL ASSISTANCE PROVIDED BY THE DEPARTMENT UNDER THIS SUBTITLE;

(5) APPLICATION OR OTHER FEES PAID TO THE FUND TO PROCESS REQUESTS FOR FINANCIAL ASSISTANCE;

(6) RECOVERY OF AN INVESTMENT MADE BY THE DEPARTMENT IN A BUSINESS, INCLUDING AN ARRANGEMENT UNDER WHICH PART OF THE INVESTMENT IS RECOVERED THROUGH:

(I) A REQUIREMENT THAT THE DEPARTMENT RECEIVE A PROPORTION OF CASH FLOW, COMMISSIONS, ROYALTIES, OR LICENSE FEES;

(II) THE REPURCHASE FROM THE DEPARTMENT OF ANY OF ITS INVESTMENT INTEREST; OR

(III) THE SALE OF AN APPRECIATED ASSET;

(7) REPAYMENTS RECEIVED FROM RECIPIENTS OF CONDITIONAL GRANTS FROM THE DEPARTMENT;

(8) MONEY COLLECTED UNDER § 9-229 OF THE TAX – PROPERTY ARTICLE;

(9) REPAYMENTS ON OR RECOVERIES FROM FINANCIAL ASSISTANCE PROVIDED FROM THE FORMER:

(I) ANIMAL WASTE TECHNOLOGY FUND;

(II) BROWNFIELDS REVITALIZATION INCENTIVE FUND;

(III) CHILD CARE FACILITIES DIRECT LOAN FUND;

(IV) CHILD CARE SPECIAL LOAN FUND;

(V) MARYLAND INDUSTRIAL AND COMMERCIAL REDEVELOPMENT FUND;

(VI) MARYLAND INDUSTRIAL LAND FUND;

(VII) MARYLAND SEAFOOD AND AQUACULTURE LOAN FUND; AND

(VIII) SMART GROWTH ECONOMIC DEVELOPMENT INFRASTRUCTURE FUND; AND

(10) ANY OTHER MONEY MADE AVAILABLE TO THE FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1404(c).

In item (1) of this section, the reference to money appropriated "in the State budget" is substituted for the former reference to moneys appropriated "by the State" for consistency within this article and because all money appropriated by the State is included in the State budget.

In item (9) of this section, the former reference to repayments “on loans” from certain funds is deleted as included in the reference to repayments on or recoveries from “financial assistance”.

Also in item (9) of this section, the former phrase “within the Department” is deleted as surplusage because these former loan funds are no longer in the Department of Business and Economic Development.

The former reference to “[i]ncome from investments that the State Treasurer makes from moneys in the Fund” is deleted as redundant of the crediting of investment earnings to the Fund under § 5–312 of this subtitle.

Defined terms: “Department” § 1–101

“Financial assistance” § 5–301

“Fund” § 5–301

“State” § 1–101

5–314. USE OF FUND.

(A) IN GENERAL.

THE DEPARTMENT MAY USE MONEY IN THE FUND TO:

(1) PROVIDE FINANCIAL ASSISTANCE TO ELIGIBLE APPLICANTS; AND

(2) PAY EXPENSES FOR ADMINISTRATIVE, ACTUARIAL, LEGAL, AND TECHNICAL SERVICES FOR THE FUND.

(B) REVIEW OF PORTFOLIO.

THE DEPARTMENT PERIODICALLY SHALL REVIEW ITS PORTFOLIO IN AN EFFORT TO ENSURE:

(1) THE EQUITABLE DISTRIBUTION AMONG THE COUNTIES OF MONEY FROM THE FUND;

(2) ADEQUATE FUNDING FOR QUALIFIED DISTRESSED COUNTY PROJECTS; AND

(3) THAT NO PARTICULAR QUALIFIED DISTRESSED COUNTY BENEFITS DISPROPORTIONATELY FROM FINANCIAL ASSISTANCE TO QUALIFIED DISTRESSED COUNTIES UNDER THIS SUBTITLE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1405(a) and (i).

Defined terms: “County” § 1–101

“Department” § 1–101

“Financial assistance” § 5–301

“Fund” § 5–301

“Qualified distressed county” § 1–101

“Qualified distressed county project” § 5–301

5-315. REPORTING REQUIREMENTS.

BEFORE JANUARY 1 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE NUMBER, AMOUNT, USE, AND ECONOMIC BENEFITS OF FINANCIAL ASSISTANCE PROVIDED UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-1405(j).

The only changes are in style.

Defined terms: "Department" § 1-101

"Financial assistance" § 5-301

5-316. CONTINUED AUTHORIZATION FOR INCORPORATED FUNDS.

FINANCIAL ASSISTANCE IS DEEMED AUTHORIZED UNDER THIS SUBTITLE IF IT WAS PROVIDED, OR APPROVED TO BE PROVIDED, FROM THE FOLLOWING PROGRAMS THAT HAVE BEEN INCORPORATED INTO THE FUND:

- (1) THE ANIMAL WASTE TECHNOLOGY FUND;
- (2) THE BROWNFIELDS REVITALIZATION INCENTIVE FUND;
- (3) THE CHILD CARE FACILITIES DIRECT LOAN FUND;
- (4) THE CHILD CARE SPECIAL LOAN FUND;
- (5) THE MARYLAND INDUSTRIAL AND COMMERCIAL REDEVELOPMENT FUND;
- (6) THE MARYLAND INDUSTRIAL LAND ACT;
- (7) THE MARYLAND SEAFOOD AND AQUACULTURE LOAN FUND; AND
- (8) THE SMART GROWTH ECONOMIC DEVELOPMENT INFRASTRUCTURE FUND.

REVISOR'S NOTE: This section is new language derived without subsequent change from former Art. 83A, § 5-1412(a).

In the introductory language of this section, the phrase "that have been incorporated into the Fund" is added for clarity.

Former Art. 83A, § 5-1412(b) and (c) are deleted as obsolete. *See* General Revisor's Note to this subtitle.

Defined terms: "Financial assistance" § 5-301

"Fund" § 5-301

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5-317. RESERVED.

5-318. RESERVED.

PART IV. FINANCIAL ASSISTANCE FROM FUND.

5-319. EVALUATION AND APPROVAL OF REQUESTS FOR FINANCIAL ASSISTANCE.

(A) APPROVAL BY SECRETARY OR AUTHORITY.

(1) FINANCIAL ASSISTANCE FROM THE FUND NOT EXCEEDING \$2,500,000 MAY BE APPROVED BY THE SECRETARY.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, FINANCIAL ASSISTANCE FROM THE FUND EXCEEDING \$2,500,000 REQUIRES APPROVAL BY THE AUTHORITY.

(3) FOR A QUALIFIED DISTRESSED COUNTY PROJECT, THE SECRETARY MAY APPROVE FINANCIAL ASSISTANCE EXCEEDING \$2,500,000.

(B) REQUESTS EXCEEDING \$2,500,000.

EXCEPT AS PROVIDED IN SUBSECTION (A)(3) OF THIS SECTION, WITH RESPECT TO REQUESTS FOR FINANCIAL ASSISTANCE EXCEEDING \$2,500,000:

(1) THE DEPARTMENT SHALL EVALUATE THE REQUESTS; AND

(2) THE AUTHORITY SHALL:

(I) EVALUATE THE REQUESTS THAT HAVE FIRST BEEN EVALUATED BY THE DEPARTMENT;

(II) DETERMINE WHETHER TO APPROVE THE REQUESTS; AND

(III) SET THE TERMS AND CONDITIONS OF THE FINANCIAL ASSISTANCE.

(C) APPROVAL OF FINANCIAL ASSISTANCE TO LOCAL GOVERNMENT OR CORPORATION.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, FINANCIAL ASSISTANCE PROVIDED TO A LOCAL GOVERNMENT OR THE CORPORATION FOR A PROJECT SHALL BE APPROVED BY A FORMAL RESOLUTION OF:

(I) THE GOVERNING BODY OF THE JURISDICTION IN WHICH THE PROJECT IS LOCATED; OR

(II) IF THE RECIPIENT OF THE FINANCIAL ASSISTANCE IS THE CORPORATION, ITS BOARD OF DIRECTORS.

(2) IF THE RECIPIENT OF THE FINANCIAL ASSISTANCE IS THE CORPORATION FOR A QUALIFIED DISTRESSED COUNTY PROJECT, THE FINANCIAL ASSISTANCE SHALL BE APPROVED BY FORMAL RESOLUTIONS OF BOTH THE BOARD OF DIRECTORS OF THE CORPORATION AND THE GOVERNING BODY OF THE JURISDICTION IN WHICH THE PROJECT IS LOCATED.

(3) A PROJECT THAT IS FUNDED BY A GRANT FROM THE FUND TO A LOCAL GOVERNMENT OR THE CORPORATION, AND CARRIED OUT BY THE LOCAL GOVERNMENT OR THE CORPORATION, SHALL BE CONSISTENT WITH THE STRATEGY OR PLAN FOR ECONOMIC DEVELOPMENT OF THE COUNTY OR MUNICIPAL CORPORATION IN WHICH THE PROJECT IS LOCATED.

(D) ENDORSEMENT AND SUPPORT FOR LOCAL ECONOMIC DEVELOPMENT OPPORTUNITIES.

FOR A LOCAL ECONOMIC DEVELOPMENT OPPORTUNITY, THE LOCAL GOVERNMENT OF THE JURISDICTION IN WHICH THE PROJECT IS LOCATED SHALL PROVIDE:

(1) A FORMAL RESOLUTION OF THE GOVERNING BODY OF THE JURISDICTION IN WHICH THE PROJECT IS LOCATED THAT ENDORSES THE FINANCIAL ASSISTANCE TO BE PROVIDED FROM THE FUND; AND

(2) AS DETERMINED BY THE DEPARTMENT OR AUTHORITY TO EVIDENCE THE SUPPORT OF THE LOCAL GOVERNMENT FOR THE PROJECT:

(I) A GUARANTEE, SECURED BY THE FULL FAITH AND CREDIT OF THE COUNTY OR MUNICIPAL CORPORATION IN WHICH THE PROJECT IS LOCATED, OF ALL OR PART OF THE FINANCIAL ASSISTANCE TO BE PROVIDED BY THE FUND;

(II) THE FINANCING OF PART OF THE COSTS OF THE PROJECT EQUAL TO AT LEAST 10% OF THE FINANCIAL ASSISTANCE TO BE PROVIDED FROM THE FUND; OR

(III) BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5–1403(b) and 5–1405(f), (g), and (h).

In subsection (a)(2) of this section, the reference to “requir[ing] approval” by the Authority is substituted for the former phrase “shall be approved” by the Authority for clarity.

In subsection (b)(2)(i) of this section, the former reference to “staff” is deleted as included in the reference to the “Department”.

In subsection (d)(2)(i) of this section, the reference to financial assistance “to be provided by the Fund” is added for consistency within the subsection.

Also in subsection (d)(2)(i) of this section, the former reference to the “amount of” the financial assistance is deleted as surplusage.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that under subsection (c)(1)(i) or (3) of this section, it is unclear whether the governing body of a county may approve financial assistance for a project located in a municipal corporation in that county, or only the governing body of the municipal corporation itself.

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Defined terms: “Authority” § 5–301

“Corporation” § 5–301

“County” § 1–101

“Department” § 1–101

“Financial assistance” § 5–301

“Fund” § 5–301

“Local economic development fund” § 5–301

“Local economic development opportunity” § 5–301

“Local government” § 5–301

5–320. ELIGIBILITY OF APPLICANTS; APPLICATIONS FOR FINANCIAL ASSISTANCE.

(A) ELIGIBILITY OF APPLICANTS.

TO BE ELIGIBLE FOR FINANCIAL ASSISTANCE FROM THE FUND, AN APPLICANT SHALL BE:

(1) A LOCAL ECONOMIC DEVELOPMENT FUND THAT MEETS THE CRITERIA SET FORTH IN PART V OF THIS SUBTITLE; OR

(2) AN INDIVIDUAL, PRIVATE BUSINESS, NOT-FOR-PROFIT ENTITY, OR LOCAL GOVERNMENT, OR THE CORPORATION THAT INTENDS TO USE THE REQUESTED FINANCIAL ASSISTANCE FOR A PROJECT THAT:

(i) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IS IN AN ELIGIBLE INDUSTRY SECTOR UNDER § 5–321 OF THIS SUBTITLE; AND

(ii) HAS A STRONG POTENTIAL FOR EXPANDING OR RETAINING EMPLOYMENT OPPORTUNITIES IN THE STATE.

(B) EXCEPTION.

A PROJECT NEED NOT BE IN AN ELIGIBLE INDUSTRY SECTOR IF THE APPLICANT:

(1) IS LOCATED IN A QUALIFIED DISTRESSED COUNTY; OR

(2) (i) IS A LOCAL GOVERNMENT OR THE CORPORATION; AND

(ii) DOES NOT INTEND TO USE THE FINANCIAL ASSISTANCE TO CARRY OUT A PROJECT THAT BENEFITS A PARTICULAR PRIVATE SECTOR ENTITY.

(C) APPLICATIONS FOR FINANCIAL ASSISTANCE.

IN FORM AND CONTENT ACCEPTABLE TO THE DEPARTMENT, AN APPLICANT FOR FINANCIAL ASSISTANCE FROM THE FUND SHALL SUBMIT TO THE DEPARTMENT AN APPLICATION THAT CONTAINS:

(1) THE INFORMATION THAT THE DEPARTMENT OR AUTHORITY CONSIDERS NECESSARY TO EVALUATE THE REQUEST FOR FINANCIAL ASSISTANCE; AND

(2) FOR A QUALIFIED DISTRESSED COUNTY PROJECT:

(i) A MARKETING PLAN DESIGNED TO MARKET THE PROJECT TO PROSPECTIVE BUSINESSES;

(II) A STATEMENT OF PLANNED MARKETING EXPENDITURES AS A PERCENT OF THE TOTAL FINANCIAL ASSISTANCE AMOUNT REQUESTED; AND

(III) A PLAN FOR THE PROJECT THAT IS CONSISTENT WITH THE COUNTY'S LOCAL STRATEGIC ECONOMIC DEVELOPMENT PLAN AS TO THE LOCATION AND TYPE OF PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1405(d).

In subsection (a)(1) of this section and throughout this subtitle, the reference to "Part V" of this subtitle is substituted for the former reference to "§ 5-1407" of this subtitle to reflect the revision of former Art. 83A, § 5-1407 in Part V of this subtitle.

Subsection (c) of this section is revised to apply to all applicants for financial assistance from the Fund even though the former law was structured in such a way that an applicant that was a local economic development fund did not have to submit an application for financial assistance. No substantive change is intended.

Defined terms: "Authority" § 5-301

"County" § 1-101

"Department" § 1-101

"Financial assistance" § 5-301

"Fund" § 5-301

"Local government" § 5-301

"Qualified distressed county project" § 5-301

"State" § 1-101

5-321. ELIGIBLE INDUSTRY SECTORS.

(A) IN GENERAL.

(1) AFTER CONSULTING WITH THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, EACH YEAR THE MARYLAND ECONOMIC DEVELOPMENT COMMISSION SHALL:

(I) EVALUATE THE POTENTIAL EMPLOYMENT AND ECONOMIC GROWTH OF MARYLAND'S INDUSTRY SECTORS; AND

(II) RECOMMEND ELIGIBLE INDUSTRY SECTORS TO THE AUTHORITY.

(2) EACH YEAR THE AUTHORITY SHALL:

(I) CONSIDER THE RECOMMENDATION OF THE MARYLAND ECONOMIC DEVELOPMENT COMMISSION; AND

(II) ESTABLISH A LIST OF INDUSTRY SECTORS THAT WILL BE ELIGIBLE FOR FINANCIAL ASSISTANCE FROM THE FUND.

(3) IN DETERMINING WHETHER AN APPLICANT IS ENGAGED IN AN ELIGIBLE INDUSTRY SECTOR, THE DEPARTMENT SHALL CONSIDER THE DEFINITIONS SET FORTH IN THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM.

(B) DEEMED ELIGIBLE INDUSTRY SECTORS.

(1) FOR THE PURPOSE OF PROVIDING FINANCIAL ASSISTANCE UNDER THIS SUBTITLE, THE FOLLOWING ARE DEEMED TO BE IN ELIGIBLE INDUSTRY SECTORS:

(I) ANIMAL WASTE TECHNOLOGY PROJECTS;

(II) AQUACULTURE PROJECTS;

(III) ARTS AND ENTERTAINMENT ENTERPRISES;

(IV) ARTS AND ENTERTAINMENT PROJECTS;

(V) REDEVELOPMENT OF QUALIFIED BROWNFIELDS SITES;

(VI) CREATION OR EXPANSION OF CHILD CARE FACILITIES;

(VII) PROJECTS IN AREAS THAT ARE DECLARED TO BE FEDERAL DISASTER AREAS WITHIN 1 YEAR BEFORE THE DEPARTMENT RECEIVES AN APPLICATION FOR FINANCIAL ASSISTANCE UNDER THIS SUBTITLE; AND

(VIII) FEASIBILITY STUDIES.

(2) THE REQUIREMENTS SPECIFICALLY IMPOSED ON SIGNIFICANT STRATEGIC ECONOMIC DEVELOPMENT OPPORTUNITIES AND LOCAL ECONOMIC DEVELOPMENT OPPORTUNITIES UNDER THIS SUBTITLE DO NOT APPLY TO THE ITEMS LISTED IN PARAGRAPH (1) OF THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1410(a), (b), (c), and (e).

In subsection (a)(3) of this section, the reference to the "North American Industry Classification System" is substituted for the former obsolete reference to the "Standard Industrial Classification Manual" for accuracy.

In subsection (b)(1)(vii) of this section, the defined term "financial assistance" is substituted for the former reference to "loans" for clarity and consistency within this subtitle.

Former Art. 83A, § 5-1410(d), which excepted certain financial assistance to local governments from this section, is deleted as redundant of § 5-320(b)(2) of this subtitle.

Defined terms: "Animal waste technology project" § 5-301

"Aquaculture project" § 5-301

"Arts and entertainment enterprise" § 5-301

"Arts and entertainment project" § 5-301

"Authority" § 5-301

"Child care facility" § 5-301

"County" § 1-101

“Department” § 1–101

“Financial assistance” § 5–301

“Fund” § 5–301

“Local economic development opportunity” § 5–301

“Local government” § 5–301

“Qualified brownfields site” § 5–301

“Significant strategic development opportunity” § 5–301

5–322. AUTHORIZED USES.

(A) IN GENERAL.

FINANCIAL ASSISTANCE FROM THE FUND MAY BE USED ONLY TO FINANCE COSTS INCURRED FOR:

(1) CONSTRUCTION OR ACQUISITION OF A BUILDING OR REAL PROPERTY, AND ASSOCIATED DEVELOPMENT AND CARRYING COSTS;

(2) CONSTRUCTION, ACQUISITION, OR INSTALLATION OF EQUIPMENT, FURNISHINGS, FIXTURES, LEASEHOLD IMPROVEMENTS, SITE IMPROVEMENTS, OR INFRASTRUCTURE IMPROVEMENTS, INCLUDING RAIL LINE ENHANCEMENTS ON OR TO THE SITE OF AN ECONOMIC DEVELOPMENT PROJECT, AND ASSOCIATED DEVELOPMENT AND CARRYING COSTS;

(3) WORKING CAPITAL FOR SIGNIFICANT STRATEGIC ECONOMIC DEVELOPMENT OPPORTUNITIES, ARTS AND ENTERTAINMENT ENTERPRISES, OR ARTS AND ENTERTAINMENT PROJECTS;

(4) REDEVELOPMENT OF QUALIFIED BROWNFIELDS SITES;

(5) SUBJECT TO § 5–325(B)(3) OF THIS SUBTITLE, CONSTRUCTION, PURCHASE, OR RENOVATION OF REAL PROPERTY, FIXTURES, OR EQUIPMENT RELATED TO A CHILD CARE FACILITY;

(6) IF SUPPORTED BY A RESOLUTION ADOPTED BY THE GOVERNING BODY OF THE JURISDICTION IN WHICH A PROJECT MAY BE LOCATED, FEASIBILITY STUDIES;

(7) SUBJECT TO § 5–325(B)(4) OF THIS SUBTITLE, PREPARATION OF A COUNTY’S OR MUNICIPAL CORPORATION’S STRATEGY OR PLAN FOR ECONOMIC DEVELOPMENT; AND

(8) A PROJECT INTENDED TO ASSIST BUSINESSES IN AREAS THAT ARE DECLARED TO BE FEDERAL DISASTER AREAS, BUT ONLY IF THE DEPARTMENT RECEIVES AN APPLICATION FOR FINANCIAL ASSISTANCE WITHIN 1 YEAR AFTER THE DECLARATION OF THE FEDERAL DISASTER AREA.

(B) REFINANCING EXISTING DEBT PROHIBITED.

FINANCIAL ASSISTANCE FROM THE FUND MAY NOT BE USED TO REFINANCE EXISTING DEBT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1405(c)(4) and (1)(viii) and (b)(1) through (4), (6), (8), and, as they related to eligible costs, (5)(i) and (7).

In the introductory language of subsection (a) of this section, the former requirement that investment proceeds of the Fund "may be expended only on costs described in [this subsection]" is deleted as redundant, and in light of the fact that proceeds of the Fund are included in the Fund under § 5-313 of this subtitle.

In subsection (a)(2) of this section, the former reference to "machinery" is deleted as redundant of the reference to "equipment".

In subsection (a)(8) of this section, the reference to the "Department" receiving an application is substituted for the former reference to the "Fund" receiving an application because applications are submitted to the Department.

Defined terms: "Arts and entertainment enterprise" § 5-301

"Arts and entertainment project" § 5-301

"Associated development and carrying costs" § 5-301

"Child care facility" § 5-301

"County" § 1-101

"Department" § 1-101

"Financial assistance" § 5-301

"Fund" § 5-301

"Qualified brownfields site" § 5-301

"Significant strategic economic development opportunity" § 5-301

"Working capital" § 5-301

5-323. LIMITATION ON FINANCIAL ASSISTANCE.

FINANCIAL ASSISTANCE FROM THE FUND MAY NOT EXCEED THE LESSER OF:

- (1) \$10,000,000; OR
- (2) 20% OF THE FUND BALANCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1405(c)(1)(i).

Defined terms: "Financial assistance" § 5-301

"Fund" § 5-301

5-324. QUALIFICATIONS AND LIMITATIONS.

(A) IN GENERAL.

EACH SUBSECTION OF THIS SECTION IS SUBJECT TO § 5-323 OF THIS SUBTITLE.

(B) SIGNIFICANT STRATEGIC ECONOMIC DEVELOPMENT OPPORTUNITY.

IF THE DEPARTMENT OR AUTHORITY DETERMINES A PROJECT TO BE A SIGNIFICANT STRATEGIC ECONOMIC DEVELOPMENT OPPORTUNITY, THE DEPARTMENT OR

AUTHORITY MAY PROVIDE A LOAN FROM THE FUND FOR THE PROJECT TO AN INDIVIDUAL, PRIVATE BUSINESS, NOT-FOR-PROFIT ENTITY, OR THE CORPORATION IN AN AMOUNT NOT EXCEEDING \$10,000,000.

(C) LOCAL ECONOMIC DEVELOPMENT OPPORTUNITY.

IF THE DEPARTMENT OR AUTHORITY DETERMINES A PROJECT TO BE A LOCAL ECONOMIC DEVELOPMENT OPPORTUNITY, THE DEPARTMENT OR AUTHORITY MAY PROVIDE FINANCIAL ASSISTANCE FROM THE FUND FOR THE PROJECT TO AN INDIVIDUAL, PRIVATE BUSINESS, NOT-FOR-PROFIT ENTITY, OR THE CORPORATION IN AN AMOUNT NOT EXCEEDING:

- (1) \$5,000,000 FOR A LOAN OR INVESTMENT; AND
- (2) \$2,000,000 FOR A GRANT.

(D) FINANCIAL ASSISTANCE TO LOCAL GOVERNMENT.

(1) FINANCIAL ASSISTANCE PROVIDED TO A LOCAL GOVERNMENT OR THE CORPORATION TO FINANCE A PROJECT MAY BE:

- (I) IN THE FORM OF A GRANT, LOAN, OR INVESTMENT; AND
- (II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IN AN AMOUNT NOT EXCEEDING \$3,000,000.

(2) FINANCIAL ASSISTANCE FOR A QUALIFIED DISTRESSED COUNTY PROJECT MAY BE IN AN AMOUNT DETERMINED BY THE DEPARTMENT.

(3) A GRANT TO A LOCAL ECONOMIC DEVELOPMENT FUND IS SUBJECT TO THE REQUIREMENTS OF PART V OF THIS SUBTITLE.

(E) SPECIALIZED ECONOMIC DEVELOPMENT OPPORTUNITY.

FINANCIAL ASSISTANCE FOR A SPECIALIZED ECONOMIC DEVELOPMENT OPPORTUNITY MAY BE:

- (1) PROVIDED TO AN INDIVIDUAL, PRIVATE BUSINESS, NOT-FOR-PROFIT ENTITY, OR LOCAL GOVERNMENT, OR THE CORPORATION;
- (2) IN THE FORM OF A GRANT, LOAN, OR INVESTMENT; AND
- (3) IN AN AMOUNT DETERMINED BY THE DEPARTMENT OR AUTHORITY.

REVISOR'S NOTE: Subsection (a) of this section is new language added to state explicitly that which was only implied in the former law, *i.e.*, that each form of assistance from the Fund is subject to § 5-323 of this subtitle, even if different forms of assistance may be aggregated for a particular project and exceed the limits on each individual type of assistance in this section. No substantive change is intended.

Subsection (b) through (e) of this section is new language derived without substantive change from former Art. 83A, § 5-1406.

In subsection (d)(2) of this section, the former phrase “[s]ubject to § 5–1405(c)(1)(i) of this subtitle” is deleted as redundant of subsection (a) of this section to the same effect.

Defined terms: “Authority” § 5–301

“Corporation” § 5–301

“Department” § 1–101

“Financial assistance” § 5–301

“Fund” § 5–301

“Local economic development fund” § 5–301

“Local economic development opportunity” § 5–301

“Local government” § 5–301

“Significant strategic economic development opportunity” § 5–301

“Specialized economic development opportunity” § 5–301

5–325. TERMS AND CONDITIONS OF FINANCIAL ASSISTANCE.

(A) IN GENERAL.

SUBJECT TO THE RESTRICTIONS OF THIS SUBTITLE, THE DEPARTMENT OR AUTHORITY MAY IMPOSE THE TERMS AND CONDITIONS ON FINANCIAL ASSISTANCE FROM THE FUND AS EITHER CONSIDERS APPROPRIATE.

(B) TOTAL COSTS OF PROJECT.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2), (3), OR (4) OF THIS SUBSECTION, FINANCIAL ASSISTANCE FROM THE FUND MAY NOT EXCEED 70% OF THE TOTAL COSTS OF THE PROJECT BEING FINANCED.

(2) FINANCIAL ASSISTANCE FROM THE FUND MAY CONSTITUTE 100% OF THE TOTAL COSTS OF THE PROJECT BEING FINANCED IF:

(I) THE RECIPIENT IS THE CORPORATION; OR

(II) THE FINANCIAL ASSISTANCE IS FOR:

1. AN ARTS AND ENTERTAINMENT ENTERPRISE;
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:

- (I) THE PROJECT FUNDED BY THE LOAN IS LOCATED IN AN AREA OF HIGH UNEMPLOYMENT; OR
- (II) THE DEPARTMENT DETERMINES THAT THE BORROWER IS CARRYING OUT A COMPELLING ECONOMIC DEVELOPMENT INITIATIVE.

(D) WAIVER OF INTEREST.

(1) THE DEPARTMENT MAY WAIVE INTEREST DURING THE FIRST 2 YEARS OF THE TERM OF A LOAN FROM THE FUND.

(2) IF A BORROWER DEFAULTS ON A LOAN FROM THE FUND, THE DEPARTMENT MAY IMPOSE AN INTEREST RATE THAT EXCEEDS THE LIMITS SET FORTH IN SUBSECTION (C)(1) OR (3) OF THIS SECTION.

(E) TERMS OF LOANS.

THE TERM OF A LOAN FROM THE FUND MAY NOT EXCEED:

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- (1) FOR WORKING CAPITAL, 3 YEARS;
- (2) FOR FINANCING EQUIPMENT, FURNISHINGS, OR FIXTURES, THE LESSER OF 15 YEARS OR THE USEFUL LIFE OF THE ASSET, AS DETERMINED BY THE DEPARTMENT;
- (3) FOR FINANCING THE CONSTRUCTION OR ACQUISITION OF BUILDINGS AND REAL PROPERTY, 25 YEARS; AND
- (4) FOR FINANCING THE REDEVELOPMENT OF A QUALIFIED BROWNFIELDS SITE OR A QUALIFIED DISTRESSED COUNTY PROJECT, A TERM APPROVED BY THE DEPARTMENT OR AUTHORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1405(b)(5)(ii), (c)(1)(ii) through (vii), (2), (3), and (e) and, as they related to limitations on costs, (b)(5)(i) and (7).

In subsection (b)(3)(i)2 of this section, the former prohibition against "refinancing existing loans" for a child care facility using financial assistance from the Fund is deleted as redundant of § 5-322(b), which prohibits financial assistance from the Fund for refinancing *any* existing debt.

In subsection (e)(2) of this section, the former reference to "machinery" is deleted as redundant of the reference to "equipment".

Defined terms: "Arts and entertainment enterprise" § 5-301

"Arts and entertainment project" § 5-301

"Authority" § 5-301

"Corporation" § 5-301

"Department" § 1-101

"Financial assistance" § 5-301

"Fund" § 5-301

"Local economic development opportunity" § 5-301

"Local government" § 5-301

"Qualified brownfields site" § 5-301

"Qualified distressed county" § 1-101

"Qualified distressed county project" § 5-301

"Significant strategic economic development opportunity" § 5-301

"Specialized economic development opportunity" § 5-301

"State" § 1-101

"Working capital" § 5-301

5-326. MINORITY BUSINESS ENTERPRISE REQUIREMENT.

- (A) "MINORITY BUSINESS ENTERPRISE" DEFINED.

IN THIS SECTION, "MINORITY BUSINESS ENTERPRISE" HAS THE MEANING STATED IN § 14-301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

- (B) SCOPE OF SECTION.

(1) THIS SECTION APPLIES TO FINANCIAL ASSISTANCE THAT EXCEEDS \$100,000.

(2) THIS SECTION DOES NOT APPLY TO FINANCIAL ASSISTANCE THAT IS USED SOLELY TO ACQUIRE REAL PROPERTY OR STRUCTURES ON REAL PROPERTY.

(c) APPLICATION OF LOCAL PROGRAM.

(1) IF A LOCAL GOVERNMENT THAT RECEIVES FINANCIAL ASSISTANCE HAS A PROGRAM FOR PROMOTING PROCUREMENT OPPORTUNITIES AMONG MINORITY BUSINESSES THAT IS ACCEPTABLE TO THE DEPARTMENT, THE LOCAL GOVERNMENT SHALL APPLY THE REQUIREMENTS OF THAT PROGRAM TO PROCUREMENT MADE WITH THE PROCEEDS OF FINANCIAL ASSISTANCE.

(2) IF THE LOCAL GOVERNMENT DOES NOT HAVE A PROGRAM THAT IS ACCEPTABLE TO THE DEPARTMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE LOCAL GOVERNMENT IS SUBJECT TO SUBSECTION (d) OF THIS SECTION.

(d) COMPLIANCE AGREEMENT.

(1) AN ENTITY OTHER THAN A LOCAL GOVERNMENT, OR A LOCAL GOVERNMENT IN ACCORDANCE WITH SUBSECTION (c)(2) OF THIS SECTION, THAT RECEIVES FINANCIAL ASSISTANCE SHALL AGREE TO INCLUDE IN THE AGREEMENT PROVIDING THE FINANCIAL ASSISTANCE A PROVISION ACCEPTABLE TO THE DEPARTMENT THAT WOULD ENCOURAGE THE PROCUREMENT FROM MINORITY BUSINESS ENTERPRISES OF GOODS OR SERVICES PURCHASED WITH THE PROCEEDS FROM THE FINANCIAL ASSISTANCE.

(2) IN NEGOTIATING THE PROVISION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL TAKE INTO ACCOUNT RELEVANT FACTORS, INCLUDING:

(i) THE INTENDED USE OF THE PROCEEDS FROM THE FINANCIAL ASSISTANCE; AND

(ii) THE FEASIBILITY OF OBTAINING THE REQUIRED GOODS OR SERVICES FROM MINORITY BUSINESS ENTERPRISES.

(e) REPORTING.

THE DEPARTMENT MAY REQUIRE A RECIPIENT OF FINANCIAL ASSISTANCE TO SUBMIT TO THE DEPARTMENT A LIST, OR AN UPDATED LIST, OF THE MINORITY BUSINESS ENTERPRISES FROM WHICH GOODS OR SERVICES WERE PROCURED AND THE NATURE AND COST OF THE GOODS OR SERVICES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1411.

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

In subsections (b)(1) and (e) of this section, the former references to

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financial assistance “under this subtitle” are deleted as included in the defined term “financial assistance”.

Defined terms: “Department” § 1–101

“Financial assistance” § 5–301

“Local government” § 5–301

5–327. RESERVED.

5–328. RESERVED.

PART V. GRANTS TO LOCAL ECONOMIC DEVELOPMENT FUNDS.

5–329. AUTHORIZED.

(A) IN GENERAL.

A LOCAL GOVERNMENT MAY APPLY TO THE DEPARTMENT FOR A GRANT FROM THE FUND TO A LOCAL ECONOMIC DEVELOPMENT FUND.

(B) CONSIDERATIONS.

IN DETERMINING WHETHER TO APPROVE A GRANT TO A LOCAL ECONOMIC DEVELOPMENT FUND, THE DEPARTMENT OR AUTHORITY SHALL CONSIDER AND DETERMINE:

(1) THE AVERAGE RATE OF UNEMPLOYMENT FOR THE LOCAL JURISDICTION IN COMPARISON TO THE AVERAGE RATE OF UNEMPLOYMENT FOR THE STATE;

(2) WHETHER THE LOCAL GOVERNMENT CURRENTLY ADMINISTERS A LOCAL ECONOMIC DEVELOPMENT FUND;

(3) THE ABILITY OF THE LOCAL GOVERNMENT TO LEVERAGE PRIVATE MONEY;

(4) THE LEVEL OF FINANCIAL COMMITMENT PROVIDED BY THE LOCAL GOVERNMENT; AND

(5) ANY OTHER FACTORS THAT THE DEPARTMENT OR AUTHORITY CONSIDERS RELEVANT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1407(a).

Defined terms: “Authority” § 5–301

“Department” § 1–101

“Local economic development fund” § 5–301

“Local government” § 5–301

“State” § 1–101

5–330. MATCHING FUNDS REQUIRED.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, TO QUALIFY FOR A GRANT FROM THE FUND, A LOCAL GOVERNMENT SHALL PROVIDE AT LEAST AN EQUAL AND MATCHING GRANT OF MONEY TO THE LOCAL ECONOMIC DEVELOPMENT FUND.

(B) EXCEPTION.

A LOCAL GOVERNMENT THAT IS, OR IS LOCATED IN, A QUALIFIED DISTRESSED COUNTY MAY QUALIFY FOR A GRANT FROM THE FUND BY PROVIDING A GRANT TO THE LOCAL ECONOMIC DEVELOPMENT FUND IN AN AMOUNT EQUAL TO AT LEAST 50% OF THE GRANT FROM THE FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1407(b).

In subsection (a) of this section, the phrase "from the Fund" is added to modify "grant" for clarity. Similarly, the references to a grant "from the Fund" are substituted for the former references to a grant "under this section" and the grant "made under this section" for clarity and specificity.

Defined terms: "Local economic development fund" § 5-301

"Local government" § 5-301

"Qualified distressed county" § 1-101

5-331. LIMITATIONS.

(A) IN GENERAL.

DURING EACH FISCAL YEAR THE DEPARTMENT MAY NOT GRANT MORE THAN \$2,000,000 UNDER THIS PART.

(B) ON COUNTIES.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, DURING EACH FISCAL YEAR A COUNTY MAY NOT RECEIVE MORE THAN \$250,000 UNDER THIS PART.

(2) FOR PURPOSES OF THE LIMITATION UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) ANY MONEY RECEIVED UNDER THIS PART BY A MUNICIPAL CORPORATION OR DESIGNATED AGENCY OR INSTRUMENTALITY IS DEEMED TO BE MONEY GRANTED TO THE COUNTY WITHIN WHICH THE MUNICIPAL CORPORATION, AGENCY, OR INSTRUMENTALITY IS LOCATED; AND

(II) IF MORE THAN ONE COUNTY ADMINISTERS OR CAPITALIZES A LOCAL ECONOMIC DEVELOPMENT FUND, EACH COUNTY MAY RECEIVE THE MAXIMUM AUTHORIZED FOR A COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1407(c)(1) and (3).

Former Art. 83A, § 5-1407(c)(2), which limited money available to a county between October 1, 1998 and June 30, 2003, is deleted as obsolete.

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Defined terms: “County” § 1–101

“Department” § 1–101

“Local economic development fund” § 5–301

5–332. USE OF GRANTS; REVERSION TO DEPARTMENT.

(A) **USE OF GRANTS.**

A LOCAL GOVERNMENT SHALL USE A GRANT UNDER THIS PART:

(1) TO PROVIDE LOANS OR LOAN GUARANTEES, OR TO SUBSIDIZE THE INTEREST RATE ON LOANS, FOR FINANCING ECONOMIC DEVELOPMENT PROJECTS; OR

(2) TO PROVIDE LOANS TO SMALL BUSINESSES.

(B) **REVERSION TO DEPARTMENT.**

THE DEPARTMENT MAY REQUIRE THAT MONEY FROM A GRANT UNDER THIS PART BE RETURNED TO THE DEPARTMENT IF THE LOCAL ECONOMIC DEVELOPMENT FUND IS INACTIVE FOR MORE THAN 2 YEARS AFTER THE GRANT IS MADE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1407(d).

Defined terms: “Department” § 1–101

“Local economic development fund” § 5–301

GENERAL REVISOR’S NOTE TO PART:

Former Art. 83A, § 5–1407(e), which required the Department to submit an annual report on grants to local development funds, is deleted as duplicative of § 5–315 of this subtitle, which requires the Department to submit an annual report on financial assistance under this subtitle.

5–333. RESERVED.

5–334. RESERVED.

PART VI. BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM.

5–335. ESTABLISHED.

(A) **IN GENERAL.**

THERE IS A BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM IN THE DEPARTMENT.

(B) **PROGRAM OF FINANCIAL INCENTIVES.**

THE DEPARTMENT SHALL DEVELOP A PROGRAM OF FINANCIAL ASSISTANCE, INCLUDING LOW–INTEREST LOANS AND GRANTS, TO ASSIST PERSONS WHO PARTICIPATE IN THE BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1408(e) and, as it referred to the Program in the Department, § 5-1401(i).

In subsection (b) of this section, the defined term "financial assistance" is substituted for the former reference to "financial incentives" for clarity and consistency within this subtitle.

Defined terms: "Brownfields Revitalization Incentive Program" § 5-301
"Department" § 1-101
"Financial assistance" § 5-301
"Person" § 1-101

5-336. ELECTION BY COUNTY OR MUNICIPAL CORPORATION TO PARTICIPATE.

A COUNTY OR MUNICIPAL CORPORATION MAY ELECT TO PARTICIPATE IN THE BROWNFIELDS REVITALIZATION INCENTIVE PROGRAM BY:

(1) (I) SUBMITTING TO THE DEPARTMENT A LIST OF POTENTIAL BROWNFIELDS SITES IN THE COUNTY OR MUNICIPAL CORPORATION, RANKED IN THE ORDER OF PRIORITY FOR REDEVELOPMENT THAT THE COUNTY OR MUNICIPAL CORPORATION RECOMMENDS; AND

(II) UPDATING EACH YEAR THE LIST SUBMITTED UNDER ITEM (I) OF THIS ITEM; OR

(2) (I) ENACTING LEGISLATION GRANTING PROPERTY TAX CREDITS IN ACCORDANCE WITH § 9-229 OF THE TAX – PROPERTY ARTICLE; AND

(II) NOTIFYING THE DEPARTMENT OF THE LEGISLATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1408(a).

Defined terms: "Brownfields Revitalization Incentive Program" § 5-301
"Brownfields site" § 5-301
"County" § 1-101

5-337. FINANCIAL ASSISTANCE FOR ENVIRONMENTAL SITE ASSESSMENTS.

(A) IN GENERAL.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT MAY PROVIDE TO A PERSON, INCLUDING A RESPONSIBLE PERSON, A LOW-INTEREST LOAN OR GRANT TO CONDUCT THE ENVIRONMENTAL SITE ASSESSMENT OF A POTENTIAL BROWNFIELDS SITE THAT IS REQUIRED TO PARTICIPATE IN THE VOLUNTARY CLEANUP PROGRAM UNDER TITLE 7, SUBTITLE 5 OF THE ENVIRONMENT ARTICLE, IF THE PERSON:

- (1) HAS NOT ALREADY APPLIED TO PARTICIPATE IN THE PROGRAM;
- (2) IS OTHERWISE ELIGIBLE TO PARTICIPATE IN THE PROGRAM; AND
- (3) MEETS THE ELIGIBILITY REQUIREMENTS THAT THE DEPARTMENT SETS.

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(B) **OWNER OF INFORMATION IN ENVIRONMENTAL SITE ASSESSMENT.**

THE INFORMATION CONTAINED IN AN ENVIRONMENTAL SITE ASSESSMENT IS:

(1) THE PROPERTY OF THE STATE, IF THE ASSESSMENT IS FINANCED WHOLLY OR PARTLY BY:

- (I) A GRANT FROM THE DEPARTMENT; OR
- (II) A LOAN THAT IS IN PAYMENT DEFAULT; OR

(2) THE PROPERTY OF THE PERSON WHO CONTRACTED FOR THE ASSESSMENT, IF THE ASSESSMENT IS FINANCED BY:

- (I) A LOAN FROM THE DEPARTMENT; OR
- (II) A GRANT THAT IS REPAID.

(C) **EFFECT OF ELIGIBILITY FOR FINANCIAL ASSISTANCE.**

ELIGIBILITY FOR A LOAN OR GRANT FOR AN ENVIRONMENTAL SITE ASSESSMENT UNDER THIS SECTION DOES NOT CONSTITUTE ELIGIBILITY FOR:

- (1) ANY OTHER FINANCIAL ASSISTANCE UNDER THIS SUBTITLE; OR
- (2) THE TAX CREDITS PROVIDED UNDER § 9-229 OF THE TAX – PROPERTY ARTICLE.

(D) **GRANT RECIPIENT TO REPAY GRANT.**

THE RECIPIENT OF A GRANT UNDER THIS SECTION SHALL REPAY THE GRANT IF, WITHIN 12 MONTHS AFTER RECEIVING THE GRANT, THE RECIPIENT DOES NOT RECEIVE APPROVAL FROM THE DEPARTMENT OF THE ENVIRONMENT TO:

- (1) PARTICIPATE IN THE VOLUNTARY CLEANUP PROGRAM; OR
- (2) IMPLEMENT A CORRECTIVE ACTION PLAN UNDER TITLE 4 OF THE ENVIRONMENT ARTICLE.

(E) **CONVERSION OF LOW-INTEREST LOAN TO MARKET RATE LOAN.**

A LOW-INTEREST LOAN PROVIDED UNDER THIS SECTION SHALL CONVERT TO A MARKET RATE LOAN IF, WITHIN 12 MONTHS AFTER RECEIVING THE LOAN, THE RECIPIENT DOES NOT RECEIVE APPROVAL FROM THE DEPARTMENT OF THE ENVIRONMENT TO:

- (1) PARTICIPATE IN THE VOLUNTARY CLEANUP PROGRAM; OR
- (2) IMPLEMENT A CORRECTIVE ACTION PLAN UNDER TITLE 4 OF THE ENVIRONMENT ARTICLE.

(F) **PROCEDURES AND ELIGIBILITY REQUIREMENTS.**

THE DEPARTMENT MAY ESTABLISH PROCEDURES AND ELIGIBILITY REQUIREMENTS FOR THE APPROVAL OF REQUESTS FOR LOANS AND GRANTS UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1408(b).

In the introductory language of subsections (b) and (c) of this section, the references to an environmental "site" assessment are added for consistency throughout this section.

In the introductory language of subsection (c) of this section, the reference to "a loan or grant" is substituted for the former reference to "financial assistance" because the defined term "financial assistance" is broader than a loan or grant.

In subsection (c)(1) of this section, the defined term "financial assistance" is substituted for the former reference to "financial incentives" for clarity and consistency within this subtitle.

In the introductory language of subsections (d) and (e) of this section, the former references to the recipient "not apply[ing] to" the Department of the Environment are deleted as implicit in the recipient receiving approval.

Defined terms: "Brownfields site" § 5-301

"Department" § 1-101

"Person" § 1-101

"Responsible person" § 5-301

"State" § 1-101

5-338. FINANCIAL ASSISTANCE FOR REDEVELOPMENT OF BROWNFIELDS SITE.

(A) DETERMINATION OF ELIGIBILITY.

THE DEPARTMENT SHALL DETERMINE WHETHER A BROWNFIELDS SITE IS A QUALIFIED BROWNFIELDS SITE BASED ON WHETHER THE PROPERTY:

(1) IS LOCATED IN A DENSELY POPULATED URBAN CENTER AND IS SUBSTANTIALLY UNDERUTILIZED; OR

(2) IS AN EXISTING OR FORMER INDUSTRIAL OR COMMERCIAL SITE THAT POSES A THREAT TO PUBLIC HEALTH OR THE ENVIRONMENT.

(B) CONSIDERATIONS.

WHEN REVIEWING QUALIFIED BROWNFIELDS SITES FOR FINANCIAL ASSISTANCE UNDER THIS PART, THE DEPARTMENT MAY CONSIDER:

(1) THE FEASIBILITY OF REDEVELOPMENT;

(2) THE PUBLIC BENEFIT TO THE COMMUNITY AND THE STATE THROUGH THE REDEVELOPMENT OF THE PROPERTY;

(3) THE EXTENT OF RELEASES OR THREATENED RELEASES AT THE BROWNFIELDS SITE AND THE DEGREE TO WHICH THE CLEANUP AND REDEVELOPMENT OF THE BROWNFIELDS SITE WILL PROTECT PUBLIC HEALTH OR THE ENVIRONMENT;

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(4) THE POTENTIAL TO ATTRACT OR RETAIN MANUFACTURING OR OTHER ECONOMICALLY SIGNIFICANT EMPLOYERS;

(5) THE ABSENCE OF IDENTIFIABLE AND FINANCIALLY SOLVENT RESPONSIBLE PERSONS; OR

(6) ANY OTHER FACTOR RELEVANT AND APPROPRIATE TO ECONOMIC DEVELOPMENT.

(C) REQUEST FOR DETERMINATION OF QUALIFICATION.

A PERSON MAY SUBMIT A REQUEST TO THE DEPARTMENT TO DETERMINE WHETHER THE PERSON QUALIFIES FOR FINANCIAL ASSISTANCE FOR THE POTENTIAL REDEVELOPMENT OF A BROWNFIELDS SITE WHEN THE PERSON:

(1) APPLIES TO PARTICIPATE IN THE VOLUNTARY CLEANUP PROGRAM UNDER TITLE 7, SUBTITLE 5 OF THE ENVIRONMENT ARTICLE; OR

(2) RECEIVES APPROVAL FROM THE DEPARTMENT OF THE ENVIRONMENT TO IMPLEMENT A CORRECTIVE ACTION PLAN UNDER TITLE 4 OF THE ENVIRONMENT ARTICLE.

(D) NOTICE OF QUALIFICATION.

(1) THE DEPARTMENT SHALL NOTIFY THE PERSON WHETHER THE PERSON QUALIFIES FOR FINANCIAL ASSISTANCE FOR THE REDEVELOPMENT OF A BROWNFIELDS SITE WITHIN 30 DAYS AFTER THE DEPARTMENT RECEIVES A REQUEST UNDER SUBSECTION (C) OF THIS SECTION IF:

(I) THE DEPARTMENT OF THE ENVIRONMENT APPROVES THE PARTICIPATION IN THE VOLUNTARY CLEANUP PLAN OR A CORRECTIVE ACTION PLAN; AND

(II) THE DEPARTMENT OR AUTHORITY APPROVES THE FINANCIAL ASSISTANCE.

(2) THE NOTICE SHALL SPECIFY WHICH OF THE CRITERIA IN SUBSECTION (B) OF THIS SECTION THAT THE PERSON MEETS.

(E) CONSULTATION.

WHEN EVALUATING POTENTIAL QUALIFIED BROWNFIELDS SITES, THE DEPARTMENT SHALL CONSULT WITH:

(1) THE DEPARTMENT OF THE ENVIRONMENT, THE DEPARTMENT OF PLANNING, AND RELEVANT LOCAL OFFICIALS;

(2) THE NEIGHBORING COMMUNITY AND ANY CITIZENS GROUPS LOCATED IN THE COMMUNITY;

(3) REPRESENTATIVES OF STATE AND LOCAL ENVIRONMENTAL ORGANIZATIONS;

(4) PUBLIC HEALTH EXPERTS; AND

(5) ANY OTHER PERSON THE DEPARTMENT CONSIDERS APPROPRIATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1408(c) and (d).

In subsections (a) and (b)(3) of this section, the references to a "brownfields" site are added for clarity and to use the defined term.

In subsection (d)(1) and (2) of this section, the references to a "person" are substituted for the former references to an "applicant" to conform to subsection (c) of this section.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that in subsection (b)(4) of this section, the reference to "economically significant" employers is substituted for the former reference to "economic base" employers for clarity.

Defined terms: "Brownfields site" § 5-301

"Department" § 1-101

"Financial assistance" § 5-301

"Person" § 1-101

"Qualified brownfields site" § 5-301

"Responsible person" § 5-301

"State" § 1-101

5-339. EFFECT OF PART.

THIS PART DOES NOT AFFECT:

(1) THE PLANNING AND ZONING AUTHORITY OF A COUNTY OR MUNICIPAL CORPORATION; OR

(2) ANY PROVISION OF THE ENVIRONMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1408(f).

The former phrase "and may not be construed as affecting" is deleted as implicit in the reference to this part "not affect[ing]".

Defined term: "County" § 1-101

5-340. RESERVED.

5-341. RESERVED.

PART VII. CHILD CARE SPECIAL LOANS.

5-342. AUTHORIZED; PURPOSE; SEPARATE ACCOUNTING.

(A) AUTHORIZED.

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IN ADDITION TO PROVIDING MONEY FROM THE FUND TO ASSIST IN CREATING AND EXPANDING CHILD CARE FACILITIES IN THE STATE UNDER OTHER PROVISIONS OF THIS SUBTITLE, THE DEPARTMENT MAY USE FEDERAL OR OTHER MONEY PROVIDED FOR THE PURPOSE TO MAKE CHILD CARE SPECIAL LOANS.

(B) PURPOSE.

CHILD CARE SPECIAL LOANS MAY BE MADE TO FINANCE THE EXPANSION OR IMPROVEMENT OF CHILD CARE SERVICES AT CHILD CARE FACILITIES IN THE STATE, IN ACCORDANCE WITH THIS PART.

(C) SEPARATE ACCOUNTING REQUIRED.

ALL MONEY RECEIVED BY THE FUND FOR MAKING CHILD CARE SPECIAL LOANS SHALL BE ACCOUNTED FOR SEPARATELY, INCLUDING:

(1) FEDERAL MONEY ALLOCATED OR GRANTED FOR CHILD CARE SPECIAL LOANS, INCLUDING CHILD CARE AND DEVELOPMENT BLOCK GRANT MONEY;

(2) PRIVATE MONEY DONATED OR GRANTED TO THE FUND FOR CHILD CARE SPECIAL LOANS;

(3) PREMIUMS, FEES, INTEREST PAYMENTS, AND PRINCIPAL PAYMENTS ON CHILD CARE SPECIAL LOANS MADE WITH FEDERAL MONEY;

(4) PROCEEDS FROM THE SALE, DISPOSITION, OR LEASE OF COLLATERAL THAT RELATES TO CHILD CARE SPECIAL LOANS;

(5) ANY OTHER MONEY MADE AVAILABLE FOR CHILD CARE SPECIAL LOANS;
AND

(6) ANY FEDERAL MONEY FOR CHILD CARE SPECIAL LOANS THAT ARE USED BY THE DEPARTMENT TO PAY COSTS OF ADMINISTERING THE CHILD CARE SPECIAL LOANS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1409(a), (b), and (c).

In subsection (c)(4) of this section, the former reference to "rental" is deleted as redundant of the reference to a "lease".

In subsection (c)(6) of this section, the reference to "child care special" loans is added for specificity and to use the defined term.

Defined terms: "Child care facility" § 5-301

"Child care special loan" § 5-301

"Department" § 1-101

"Fund" § 5-301

"State" § 1-101

5-343. CONSIDERATIONS IN MAKING LOANS.

IN MAKING CHILD CARE SPECIAL LOANS, THE DEPARTMENT SHALL CONSIDER:

- (1) COMMUNITY NEED;
- (2) COMMUNITY INCOME, WITH PRIORITY GIVEN TO THOSE COMMUNITIES WITH THE LOWEST MEDIAN FAMILY INCOME;
- (3) CARE FOR CHILDREN WITH TEENAGE PARENTS IN SCHOOL OR TRAINING;
- (4) CARE FOR CHILDREN WITH SPECIAL NEEDS; AND
- (5) INFANT CARE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1409(d).

In the introductory language of this section, the reference to "the Department" is added for clarity.

Defined term: "Child care special loan" § 5-301

5-344. APPLICATION REQUIRED.

(A) IN GENERAL.

AN APPLICANT FOR A CHILD CARE SPECIAL LOAN SHALL SUBMIT TO THE DEPARTMENT AN APPLICATION THAT CONTAINS THE INFORMATION THAT THE DEPARTMENT REQUIRES.

(B) CONTENTS.

THE APPLICATION SHALL INCLUDE:

- (1) A DETAILED DESCRIPTION OF THE PROPOSED OR EXISTING CHILD CARE FACILITY;
- (2) AN ITEMIZATION OF KNOWN AND ESTIMATED COSTS;
- (3) THE TOTAL AMOUNT OF MONEY REQUIRED TO EXPAND OR IMPROVE CHILD CARE SERVICES AT THE CHILD CARE FACILITY;
- (4) THE MONEY AVAILABLE TO THE APPLICANT WITHOUT A CHILD CARE SPECIAL LOAN FROM THE DEPARTMENT;
- (5) THE AMOUNT OF MONEY SOUGHT FROM THE DEPARTMENT;
- (6) EVIDENCE OF THE INABILITY OF THE APPLICANT TO OBTAIN THE FINANCING NECESSARY FOR THE CHILD CARE FACILITY ON AFFORDABLE TERMS THROUGH NORMAL LENDING CHANNELS;
- (7) INFORMATION THAT RELATES TO THE FINANCIAL STATUS OF THE APPLICANT, INCLUDING, IF APPLICABLE:
 - (i) A CURRENT BALANCE SHEET;

(II) A PROFIT AND LOSS STATEMENT; AND

(III) CREDIT REFERENCES; AND

(8) A LEASE, OPTION TO BUY, DEED, OR EVIDENCE THAT THE APPLICANT IS LEGALLY ENTITLED TO REMAIN AT THE CHILD CARE FACILITY FOR AT LEAST THE TERM OF THE LOAN.

(c) AGREEMENT TO OPERATE FACILITY FOR TERM OF LOAN.

THE APPLICANT FOR A CHILD CARE SPECIAL LOAN SHALL AGREE TO:

(1) OPERATE THE CHILD CARE FACILITY FOR AT LEAST THE TERM OF THE CHILD CARE SPECIAL LOAN; AND

(2) REPAY THE OUTSTANDING CHILD CARE SPECIAL LOAN IN FULL ON THE LOSS OF LICENSE, TERMINATION OF LEASE, OR TRANSFER, SALE, OR REFINANCING OF THE CHILD CARE FACILITY, AS APPLICABLE, BEFORE THE END OF THE TERM OF THE CHILD CARE SPECIAL LOAN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1409(f) and (k)(1).

In subsections (a) and (b)(4) of this section, the specific reference to "a child care special loan" is substituted for the former general reference to "financial assistance".

In subsection (b)(5) of this section, the specific reference to "money" is substituted for the former general reference to "financial assistance".

In subsection (b)(6) of this section, the reference to the "child care" facility is added for specificity and to use the defined term.

Defined terms: "Child care facility" § 5-301

"Child care special loan" § 5-301

"Department" § 1-101

5-345. STANDARDS FOR MAKING LOANS.

THE DEPARTMENT MAY MAKE A CHILD CARE SPECIAL LOAN TO AN APPLICANT IF:

(1) THE APPLICANT MEETS THE QUALIFICATIONS REQUIRED BY THIS PART;

(2) THE APPLICANT MEETS ANY ADDITIONAL REQUIREMENTS IMPOSED BY THE SOURCE OF THE MONEY TO BE LOANED; AND

(3) THE CHILD CARE SPECIAL LOAN WILL BE USED FOR AN AUTHORIZED USE UNDER § 5-348 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1409(e).

In item (3) of this section, the phrase "for an authorized use under § 5-348 of this subtitle" is substituted for the former phrase "to assist applicants in

meeting applicable State and local child care standards” for clarity and consistency within this part.

Defined terms: “Child care special loan” § 5–301
“Department” § 1–101

5–346. TERMS AND CONDITIONS.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN THIS PART, THE DEPARTMENT MAY SET THE TERMS AND CONDITIONS FOR CHILD CARE SPECIAL LOANS.

(B) MAXIMUM TERM.

THE TERM OF A CHILD CARE SPECIAL LOAN MAY NOT EXCEED 10 YEARS.

(C) MINIMUM AND MAXIMUM AMOUNTS.

(1) THE MINIMUM AMOUNT OF A CHILD CARE SPECIAL LOAN IS \$1,000.

(2) THE MAXIMUM AMOUNT OF A CHILD CARE SPECIAL LOAN IS \$10,000.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1409(g), (j), and (l).

Defined terms: “Child care facility” § 5–301
“Child care special loan” § 5–301
“Department” § 1–101

5–347. LOAN DOCUMENTS.

(A) IN GENERAL.

IF THE DEPARTMENT MAKES A CHILD CARE SPECIAL LOAN TO AN APPLICANT, THE DEPARTMENT SHALL PREPARE LOAN DOCUMENTS.

(B) CONTENTS.

THE LOAN DOCUMENTS SHALL INCLUDE:

(1) THE RATE OF INTEREST ON THE CHILD CARE SPECIAL LOAN;

(2) THE AMOUNT OF THE CHILD CARE SPECIAL LOAN;

(3) A REQUIREMENT THAT BEFORE EACH DISBURSEMENT OF LOAN PROCEEDS IS RELEASED TO THE APPLICANT, THE APPLICANT AND THE DEPARTMENT COSIGN THE REQUEST FOR THE MONEY;

(4) PROVISIONS FOR REPAYMENT OF THE CHILD CARE SPECIAL LOAN; AND

(5) ANY OTHER PROVISIONS THAT THE DEPARTMENT DETERMINES ARE NECESSARY, INCLUDING PROVISIONS TO TAKE LIENS AND SECURITY INTERESTS IN REAL AND PERSONAL PROPERTY.

(C) PENALTIES FOR FAILURE TO OPERATE CHILD CARE FACILITY.

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THE CHILD CARE SPECIAL LOAN DOCUMENTS MAY PROVIDE FOR PENALTIES FOR AN APPLICANT WHO FAILS TO OPERATE THE CHILD CARE FACILITY FOR THE ENTIRE TERM OF THE CHILD CARE SPECIAL LOAN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1409(h) and (k)(2).

In subsection (a) of this section, the reference to the Department "mak[ing] a child care special loan" to an applicant is substituted for the former reference to the Department "decid[ing] to lend money" to an applicant for specificity and consistency with terminology used throughout this part.

In subsections (b)(1), (2), and (4) and (c) of this section, the references to the "child care special" loan are added for specificity and to use the defined term.

Defined terms: "Child care special loan" § 5-301
"Department" § 1-101

5-348. USE OF PROCEEDS.

(A) AUTHORIZED USES.

THE PROCEEDS OF A CHILD CARE SPECIAL LOAN MAY BE USED:

(1) TO ASSIST THE APPLICANT IN MEETING APPLICABLE STATE AND LOCAL CHILD CARE STANDARDS;

(2) TO PAY FOR MINOR RENOVATIONS, AND TO UPGRADE CHILD CARE FACILITIES, TO ENSURE THAT APPLICANTS MEET STATE AND LOCAL CHILD CARE STANDARDS; OR

(3) TO PURCHASE AND INSTALL EQUIPMENT AND FURNITURE, INCLUDING EQUIPMENT NEEDED TO ACCOMMODATE CHILDREN WITH SPECIAL NEEDS.

(B) PROHIBITED USES.

EXCEPT AS PROVIDED IN SUBSECTION (A) OF THIS SECTION, THE PROCEEDS OF A CHILD CARE SPECIAL LOAN MAY NOT BE USED:

(1) TO PURCHASE OR IMPROVE LAND; OR

(2) TO PURCHASE, CONSTRUCT, OR IMPROVE A BUILDING OR FACILITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1409(m).

In subsection (a)(2) of this section, the former reference to "machinery" is deleted as redundant of the reference to "equipment".

Defined terms: "Child care facility" § 5-301
"Child care special loan" § 5-301
"State" § 1-101

5-349. FORECLOSURE ON MORTGAGES OR DEEDS OF TRUST.

(A) IN GENERAL.

A MORTGAGE OR DEED OF TRUST HELD AS SECURITY FOR A CHILD CARE SPECIAL LOAN MADE UNDER THIS PART THAT IS IN DEFAULT MAY BE FORECLOSED BY THE DEPARTMENT IN THE SAME MANNER AS THE MARYLAND RULES PROVIDE FOR FORECLOSURES IN PRIVATE TRANSACTIONS.

(B) DEPARTMENT TO TAKE TITLE.

THE DEPARTMENT MAY TAKE TITLE IN ITS NAME TO ANY PROPERTY FORECLOSED UNDER THIS SECTION AS WELL AS TO CONVEY TITLE TO THAT PROPERTY TO A BONA FIDE PURCHASER OF THE PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1409(i).

In subsection (a) of this section, the reference to a "child care special" loan is added for specificity and to use the defined term.

Defined terms: "Child care special loan" § 5-301
"Department" § 1-101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 83A, § 5-1412(b) and (c), which provided that moneys on deposit in various former funds were transferred to the Fund on July 1, 2000, and July 1, 2004, respectively, is deleted as obsolete. The contemplated transfers have already occurred.

SUBTITLE 4. MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY.

PART I. GENERAL PROVISIONS.

5-401. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5-901(a).

The only changes are in style.

(B) AUTHORITY.

"AUTHORITY" MEANS THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5-901(c).

No changes are made.

(C) AUTHORIZED PURPOSE OBLIGATION.

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(1) “AUTHORIZED PURPOSE OBLIGATION” MEANS AN EVIDENCE OF OBLIGATION ISSUED, OFFERED FOR SALE, OR DELIVERED BY ANY PERSON OR PUBLIC BODY FOR ANY PURPOSE THAT THE AUTHORITY DETERMINES WILL ACCOMPLISH THE PURPOSES OF THIS SUBTITLE.

(2) “AUTHORIZED PURPOSE OBLIGATION” INCLUDES:

- (I) A BOND;
- (II) A NOTE;
- (III) A CERTIFICATE; AND
- (IV) ANY OTHER EVIDENCE OF OBLIGATION.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–901(d).

In paragraph (1) of this subsection, the phrase “for any purpose that the Authority determines” is substituted for the former phrase “for any purpose found and determined by the Authority” for brevity.

Defined terms: “Authority” § 5–401

“Bond” § 5–401

“Person” § 1–101

“Public body” § 5–401

(D) BOND.

(1) “BOND” MEANS A BOND OR NOTE THAT IS ISSUED AND SOLD BY A PUBLIC BODY, UNIT, OR INSTRUMENTALITY OF THE STATE TO FINANCE A FACILITY OR REFUND AN OUTSTANDING BOND.

(2) “BOND” INCLUDES:

- (I) A BOND ANTICIPATION NOTE;
- (II) A NOTE IN THE NATURE OF COMMERCIAL PAPER OR OTHER INSTRUMENT;
- (III) A CERTIFICATE;
- (IV) A BOND ISSUED UNDER THIS SUBTITLE OR TITLE 12, SUBTITLE 1 OF THIS ARTICLE (MARYLAND ECONOMIC DEVELOPMENT REVENUE BOND ACT); AND
- (V) ANY OTHER EVIDENCE OF OBLIGATION.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–901(e).

Defined terms: “Facility” § 5–401

“Finance” § 5–401

“Public body” § 5–401

“State” § 1–101

(E) COGENERATION.

“COGENERATION” MEANS THE COMBINED GENERATION BY A FACILITY OF:

- (1) ELECTRICAL OR MECHANICAL POWER; AND
- (2) ENERGY USED FOR INDUSTRIAL, COMMERCIAL, HEATING OR COOLING PURPOSES, INCLUDING:
 - (I) STEAM;
 - (II) HEAT; AND
 - (III) OTHER FORMS OF ENERGY.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–901(f).

In paragraph (2)(iii) of this subsection, the former reference to “useful” energy is deleted as surplusage.

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.

"ENERGY CONSERVATION PROJECT" MEANS A PROJECT THAT QUALIFIES UNDER § 5-447 OF THIS SUBTITLE.

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

(I) ENERGY PROJECT.

(1) "ENERGY PROJECT" MEANS A PROJECT THAT QUALIFIES UNDER § 5-445 OF THIS SUBTITLE.

(2) "ENERGY PROJECT" INCLUDES:

(I) AN ENERGY CONSERVATION PROJECT; AND

(II) A SOLAR ENERGY PROJECT.

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

Defined terms: "Energy conservation project" § 5-401

"Solar energy project" § 5-401

(J) EXPORT-RELATED FINANCING TRANSACTION.

"EXPORT-RELATED FINANCING TRANSACTION" MEANS FINANCING PROVIDED TO A MANUFACTURER OF GOODS IN THE STATE, OR A SELLER OF GOODS OR SERVICES IN THE STATE, IF THE GOODS OR SERVICES ARE INTENDED FOR SALE TO A FOREIGN ENTITY.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5-901(m).

The only changes are in style.

Defined term: "State" § 1-101

(K) FACILITY.

(1) “FACILITY” HAS THE MEANING STATED IN § 12–101 OF THIS ARTICLE.

(2) “FACILITY” INCLUDES AN ENERGY PROJECT.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–901(n).

Defined term: “Energy project” § 5–401

(L) FACILITY APPLICANT.

“FACILITY APPLICANT” HAS THE MEANING STATED IN § 12–101 OF THIS ARTICLE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–901(o).

(M) FACILITY USER.

“FACILITY USER” HAS THE MEANING STATED IN § 12–101 OF THIS ARTICLE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–901(p).

(N) FINANCE.

“FINANCE” INCLUDES REFINANCE.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the phrase “finance or refinance”.

(O) FOREIGN ENTITY.

“FOREIGN ENTITY” MEANS:

(1) A PERSON LOCATED OUTSIDE THE UNITED STATES; OR

(2) A GOVERNMENTAL UNIT OF A COUNTRY OTHER THAN THE UNITED STATES.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–901(r).

In this subsection, the former phrase “business association, or corporation” is deleted as implicit in the defined term “person”.

Defined terms: “Authority” § 5–401

“Person” § 1–101

(P) FUND.

“FUND” MEANS THE INDUSTRIAL DEVELOPMENT FUND ESTABLISHED UNDER § 5–423 OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–901(t).

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(Q) IMPROVE.

“IMPROVE” MEANS TO CONSTRUCT, RECONSTRUCT, EQUIP, EXPAND, EXTEND, IMPROVE, INSTALL, REHABILITATE, OR REMODEL.

REVISOR’S NOTE: This subsection is new language added for brevity and clarity.

Defined term: “Facility” § 5–401

(R) IMPROVEMENT.

“IMPROVEMENT” MEANS CONSTRUCTION, ADDITION, ALTERATION, EQUIPPING, EXPANSION, EXTENSION, IMPROVEMENT, INSTALLATION, RECONSTRUCTION, REHABILITATION, REMODELING, OR REPAIR.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–901(b).

The defined term “[i]mprovement” is substituted for the former defined term “[a]cquisition” for clarity since all of the items listed in the former defined term, except “acquisition” itself, are a type of improvement. Correspondingly, the former term “acquisition” is deleted from the defined term “improvement” and is stated separately where appropriate in the revision.

The references to “addition”, “alteration”, “installation”, and “repair” are added for completeness and consistency with the definition of “improvement” in § 10–101 of this article.

The former phrase “1 or more facilities or energy projects” is deleted as unnecessary since a reference to a facility or energy project is repeated as appropriate whenever the defined term “improvement” is used in this subtitle.

Defined term: “Facility” § 5–401

(S) INDUSTRIAL BUILDING.

(1) “INDUSTRIAL BUILDING” MEANS A BUILDING THAT:

(I) IS USED PRIMARILY TO CARRY ON A FOR–PROFIT OR NOT–FOR–PROFIT BUSINESS;

(II) IS USED PRIMARILY FOR AN INDUSTRIAL PROCESS; AND

(III) CONTROLS ENERGY USAGE WITHIN ITS EXTERIOR ENVELOPE BUT DOES NOT HAVE A PEAK DESIGN RATE OF ENERGY USAGE OF LESS THAN:

1. 3.5 B.T.U. PER HOUR PER SQUARE FOOT; OR
2. 1 WATT PER SQUARE FOOT OF FLOOR AREA.

(2) “INDUSTRIAL BUILDING” DOES NOT INCLUDE A COMMERCIAL BUILDING OR A RESIDENTIAL BUILDING.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–901(s).

In item (1)(iii) of this subsection, the former phrase “as designed”, which pertained to the peak design rate of energy usage, is deleted as surplusage.

Defined terms: “Commercial building” § 5–401
“Industrial process” § 5–401

(T) INDUSTRIAL PROCESS.

“INDUSTRIAL PROCESS” MEANS:

- OR
- (1) A PROCESS USED TO PRODUCE OR MANUFACTURE GOODS OR PRODUCTS;
 - (2) THE STORAGE OR SHIPMENT OF MATERIALS, GOODS, OR PRODUCTS.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–901(u).

No changes are made.

(U) PUBLIC BODY.

“PUBLIC BODY” HAS THE MEANING STATED IN § 12–101 OF THIS ARTICLE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–901(y).

(V) PUBLIC PORT.

“PUBLIC PORT” HAS THE MEANING STATED IN § 12–101 OF THIS ARTICLE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–901(z).

(W) RETAIL ESTABLISHMENT.

“RETAIL ESTABLISHMENT” MEANS AN ESTABLISHMENT THAT SELLS GOODS OR SERVICES TO THE ULTIMATE USER OR CONSUMER FOR PERSONAL USE RATHER THAN BUSINESS USE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–901(aa).

(X) SOLAR ENERGY PROJECT.

“SOLAR ENERGY PROJECT” MEANS A PROJECT THAT QUALIFIES UNDER § 5–448 OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection is new language added to provide a convenient reference to “solar energy project”.

REVISOR'S NOTE TO SECTION: Former Art. 83A, § 5-901(q), which defined "financial assistance", is deleted as unnecessary and to avoid confusion between references to financial assistance provided under this subtitle and financial assistance provided under other laws. Instead, throughout this subtitle, references to financial assistance "under this subtitle" are added as appropriate for clarity.

Former Art. 83A, § 5-901(x), which defined "property", is deleted as unnecessary, because it only reflected the common meaning of the term.

Former Art. 83A, § 5-901(w), which defined "municipality", is deleted as unnecessary. Throughout this subtitle, the term "municipal corporation" is substituted for the former defined term "municipality" to conform to Md. Constitution, Art. XI-E. See General Revisor's Note to article.

5-402. CONSTRUCTION OF SUBTITLE.

THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO ACCOMPLISH ITS PURPOSES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-902(c).

5-403. LEGISLATIVE FINDINGS; PURPOSES.

(A) FINDINGS.

THE GENERAL ASSEMBLY FINDS THAT:

- (1) UNEMPLOYMENT CONDITIONS EXIST IN MANY AREAS OF THE STATE;
 - (2) THE ACQUISITION AND IMPROVEMENT OF FACILITIES ARE ESSENTIAL TO RELIEVE THIS UNEMPLOYMENT AND ESTABLISH A BALANCED ECONOMY IN THE STATE;
 - (3) THE HEALTH, SAFETY, WELFARE, AND RIGHT OF GAINFUL EMPLOYMENT OF RESIDENTS THROUGHOUT THE STATE WILL BE PROMOTED BY THE ACQUISITION AND IMPROVEMENT OF FACILITIES;
 - (4) THE CONTROL OR ABATEMENT OF ENVIRONMENTAL POLLUTION IN THE STATE, INCLUDING NOISE POLLUTION, IS NECESSARY TO:
 - (I) PROTECT THE HEALTH, SAFETY, AND WELFARE OF THE RESIDENTS OF THE STATE;
 - (II) PROTECT NATURAL RESOURCES;
 - (III) RETAIN AND ATTRACT INDUSTRY AND COMMERCIAL ENTERPRISES;
- AND
- (IV) PROMOTE ECONOMIC DEVELOPMENT;
 - (5) PUBLIC PORTS IN THE STATE ARE VALUABLE ASSETS AND ANY IMPROVEMENTS TO THESE PORTS THAT INCREASE THE IMPORT AND EXPORT OF WATERBORNE COMMERCE WILL DIRECTLY BENEFIT RESIDENTS THROUGHOUT THE STATE;
 - (6) BUSINESSES NEED GREATER ACCESS TO CAPITAL MARKETS; AND

(7) THE AVAILABILITY OF FINANCIAL ASSISTANCE UNDER THIS SUBTITLE WILL PROMOTE THE ECONOMIC DEVELOPMENT OF THE STATE.

(B) PURPOSES.

THE PURPOSES OF THIS SUBTITLE ARE TO:

- (1) RELIEVE UNEMPLOYMENT IN THE STATE;
- (2) ENCOURAGE THE INCREASE OF INDUSTRY AND COMMERCE AND A BALANCED ECONOMY IN THE STATE;
- (3) HELP RETAIN AND ATTRACT INDUSTRY AND COMMERCE THROUGH MEASURES INCLUDING:
 - (I) PORT DEVELOPMENT;
 - (II) THE CONTROL, REDUCTION, OR ABATEMENT OF ENVIRONMENTAL POLLUTION; AND
 - (III) THE UTILIZATION AND DISPOSAL OF WASTES;
- (4) PROMOTE ECONOMIC DEVELOPMENT;
- (5) PROTECT NATURAL RESOURCES AND ENCOURAGE RESOURCE RECOVERY;
- (6) ENCOURAGE THE CREATION AND EXPANSION OF DAY CARE FACILITIES IN THE STATE; AND
- (7) PROMOTE THE HEALTH, SAFETY, AND WELFARE OF RESIDENTS THROUGHOUT THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-902(a) and (b) and § 5-901(z).

In subsections (a)(3) and (b)(7) of this section, the phrase "throughout the State" is substituted for the former phrase "of each of the counties and municipalities of the State" for clarity.

In subsection (a)(3) and (4) of this section, the term "residents" is substituted for the former term "citizens" because the meaning of the term "citizens" in this context is unclear.

In subsection (a)(3) of this section, the former word "happiness" is deleted for consistency with similar language referring to the "health, safety, and welfare of residents" in subsection (b)(7) of this section.

In subsection (a)(5) of this section, the former phrase "that they attract and service" is deleted as surplusage.

Defined terms: "Authority" § 5-401

"Facility" § 5-401

"State" § 1-101

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5-404. RESERVED.

5-405. RESERVED.

PART II. MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY.

5-406. ESTABLISHED.

(A) IN GENERAL.

THERE IS A MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY IN THE DEPARTMENT.

(B) STATUS.

THE AUTHORITY IS A BODY POLITIC AND CORPORATE AND IS AN INSTRUMENTALITY OF THE STATE.

(C) ESSENTIAL GOVERNMENTAL FUNCTION.

THE EXERCISE BY THE AUTHORITY OF POWER UNDER THIS SUBTITLE IS THE PERFORMANCE OF AN ESSENTIAL GOVERNMENTAL FUNCTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5-904 and 5-910(b).

In subsection (b) of this section, the former reference to a "public" instrumentality of the State is deleted as implicit in the reference to a "body politic and corporate".

Defined terms: "Authority" § 5-401

"Department" § 1-101

"State" § 1-101

5-407. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

(1) THE AUTHORITY CONSISTS OF THE FOLLOWING NINE MEMBERS:

(I) SEVEN MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE; AND

(II) AS EX OFFICIO MEMBERS:

1. THE SECRETARY; AND

2. THE TREASURER OR THE COMPTROLLER, AS THE GOVERNOR DESIGNATES.

(2) AN EX OFFICIO MEMBER MAY DESIGNATE A REPRESENTATIVE TO SERVE ON THE AUTHORITY.

(B) CONSIDERATIONS.

THE APPOINTED MEMBERS SHALL:

(1) HAVE SUBSTANTIAL EXPERIENCE IN BUSINESS OR ECONOMIC DEVELOPMENT; AND

(2) REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, AND GENDER MAKEUP OF THE STATE.

(c) APPOINTED MEMBERS — TENURE AND VACANCIES.

(1) THE TERM OF AN APPOINTED MEMBER IS 5 YEARS.

(2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE AUTHORITY ON OCTOBER 1, 2008.

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

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

(d) APPOINTED MEMBERS — REMOVAL.

THE GOVERNOR MAY REMOVE AN APPOINTED MEMBER WITH OR WITHOUT CAUSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-905(a) through (d).

In subsection (a)(2) of this section, the reference to terms being staggered as required by the terms provided for members on "October 1, 2008" is substituted for the former obsolete reference to terms being staggered as required by the terms provided on "July 1, 2005". See § 13 of Ch. 306, Acts of 2008. This substitution is not intended to alter the term of any member of the Authority. The terms of the members serving on October 1, 2008, end as follows: (1) two on June 30, 2009; (2) one on June 30, 2010; (3) one on June 30, 2011; (4) two on June 30, 2012; and (5) one on June 30, 2013.

In subsection (d) of this section, the reference to the "remov[al]" of an appointed member "with or without cause" is substituted for the former reference to a member serving a specified term "at the Governor's pleasure" for clarity and consistency within this article. See General Revisor's Note to article.

Defined terms: "Authority" § 5-401

"Secretary" § 1-101

"State" § 1-101

5-408. JOINT MEMBERSHIP WITH MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY; ACTIONS.

(A) JOINT MEMBERSHIP.

THE MEMBERS OF THE AUTHORITY ARE ALSO THE MEMBERS OF THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY UNDER § 5-306 OF THIS TITLE.

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(B) **ACTIONS — IN GENERAL.**

THE MEMBERS OF THE AUTHORITY MAY ACT CONCURRENTLY IN THEIR CAPACITIES AS MEMBERS OF THE AUTHORITY AND OF THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY.

(C) **ACTIONS — POWERS AND DUTIES.**

THE MEMBERS OF THE AUTHORITY SHALL CARRY OUT THE POWERS AND DUTIES OF THE AUTHORITY UNDER THIS SUBTITLE WHETHER ACTING:

(1) CONCURRENTLY AS MEMBERS OF THE AUTHORITY AND THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY; OR

(2) AS MEMBERS OF EITHER AUTHORITY ALONE.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-905(e) through (g).

The only changes are in style.

Defined term: "Authority" § 5-401

5-409. OFFICERS.

(A) **IN GENERAL.**

(1) FROM AMONG ITS MEMBERS, THE AUTHORITY SHALL ELECT A CHAIR AND A VICE CHAIR.

(2) THE EXECUTIVE DIRECTOR SERVES AS SECRETARY OF THE AUTHORITY.

(B) **ELECTION AND TERMS OF OFFICE.**

THE AUTHORITY SHALL DETERMINE THE MANNER OF ELECTION OF OFFICERS AND THEIR TERMS OF OFFICE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-906 and, as it related to the executive director's service as secretary, § 5-907(a).

In subsection (a)(1) of this section, the references to a "chair" and "vice chair" are substituted for the former references to a "chairman" and "vice chairman" because SG § 2-1238 requires the use of words that are neutral as to gender to the extent practicable. See General Revisor's Note to article.

Defined term: "Authority" § 5-401

5-410. QUORUM; MEETINGS; COMPENSATION.

(A) **QUORUM; VOTING.**

(1) FIVE MEMBERS OF THE AUTHORITY ARE A QUORUM.

(2) AN AFFIRMATIVE VOTE OF AT LEAST FOUR MEMBERS IS NEEDED FOR THE AUTHORITY TO ACT.

(B) MEETINGS.

THE AUTHORITY SHALL DETERMINE THE TIMES AND PLACES OF ITS MEETINGS.

(C) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE AUTHORITY:

(1) IS NOT ENTITLED TO COMPENSATION AS A MEMBER OF THE AUTHORITY;
BUT

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

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-908(a), (b), and (c). It is restated in standard language for clarity and consistency.

Defined terms: "Authority" § 5-401
"State" § 1-101

5-411. EXECUTIVE DIRECTOR.

(A) POSITION; TENURE.

(1) WITH THE APPROVAL OF THE SECRETARY, THE AUTHORITY SHALL APPOINT AN EXECUTIVE DIRECTOR.

(2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE AUTHORITY, WITH THE CONCURRENCE OF THE SECRETARY.

(3) THE POSITION OF EXECUTIVE DIRECTOR IS A SPECIAL APPOINTMENT UNDER THE STATE PERSONNEL AND MANAGEMENT SYSTEM.

(B) ADMINISTRATIVE OFFICER.

THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE OFFICER OF THE AUTHORITY.

(C) DUTIES.

THE EXECUTIVE DIRECTOR SHALL:

(1) DIRECT AND SUPERVISE THE ADMINISTRATIVE AFFAIRS AND TECHNICAL ACTIVITIES OF THE AUTHORITY;

(2) ATTEND THE MEETINGS OF THE AUTHORITY;

(3) RECORD THE MINUTES OF THE PROCEEDINGS OF THE AUTHORITY;

(4) APPROVE ALL ACCOUNTS FOR SALARIES, PER DIEM PAYMENTS, AND ALLOWABLE EXPENSES OF THE AUTHORITY, ITS EMPLOYEES, AND ITS CONSULTANTS;

(5) APPROVE ALL EXPENSES INCIDENTAL TO THE OPERATION OF THE AUTHORITY;

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(6) IN COOPERATION WITH THE DEPARTMENT, SUBMIT TO THE AUTHORITY REPORTS AND RECOMMENDATIONS RELATED TO PROPOSED FINANCIAL ASSISTANCE UNDER THIS SUBTITLE; AND

(7) PERFORM THE OTHER DUTIES THAT THE SECRETARY OR THE AUTHORITY REQUIRES TO CARRY OUT THIS SUBTITLE.

(D) RESIDENT AGENT.

THE EXECUTIVE DIRECTOR IS THE RESIDENT AGENT OF THE AUTHORITY FOR THE RECEIPT OF SERVICE MADE IN ACCORDANCE WITH THE MARYLAND RULES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5-913, 5-908(d)(2)(ii), and 5-907(b) and (c), and, as it related to the appointment and administrative responsibility of the Executive Director, (a).

In subsection (d) of this section, the phrase "resident agent of the Authority for the receipt of service made in accordance with the Maryland Rules" is substituted for former Art. 83A, § 5-913, which specified that "service of process on the Authority shall be made by service on the executive director of the Authority, either in person or by leaving a copy of the process at the office of the executive director with the individual in charge of the office" and to conform to the requirements for service of process under CA § 1-401, CJ § 6-301, and Md. Rules 2-124(d) and (k) and 3-124(d) and (k).

Defined terms: "Authority" § 5-401

"Department" § 1-101

"Secretary" § 1-101

"State" § 1-101

5-412. STAFF.

(A) IN GENERAL.

THE AUTHORITY MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE BUDGET.

(B) APPOINTMENT.

THE AUTHORITY SHALL APPOINT AND REMOVE ALL PERSONNEL IN ACCORDANCE WITH THE STATE PERSONNEL AND PENSIONS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-908(d)(1) and (2)(i).

Defined terms: "Authority" § 5-401

"State" § 1-101

5-413. POWERS AND DUTIES.

(A) POWERS.

THE AUTHORITY MAY:

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

(2) ADOPT A SEAL;

(3) MAINTAIN OFFICES IN THE STATE;

(4) SUE AND BE SUED IN ITS OWN NAME;

(5) RETAIN CONSULTANTS;

(6) USE THE SERVICES OF OTHER GOVERNMENTAL AGENCIES;

(7) IN ACCORDANCE WITH THE PURPOSES OF THIS SUBTITLE, CONTRACT FOR AND ACCEPT A LOAN OR GRANT FROM THE FEDERAL GOVERNMENT OR THE STATE, A LOCAL GOVERNMENT, OR ANY OF THEIR UNITS OR INSTRUMENTALITIES;

(8) ACQUIRE, IMPROVE, MANAGE, OPERATE, DISPOSE OF, OR OTHERWISE DEAL WITH PROPERTY, TAKE ASSIGNMENTS OF RENTALS AND LEASES, AND MAKE CONTRACTS, LEASES, AGREEMENTS, AND ARRANGEMENTS THAT ARE NECESSARY OR INCIDENTAL TO THE PERFORMANCE OF THE AUTHORITY'S DUTIES, ON THE TERMS AND CONDITIONS THAT IT MAY CONSIDER ADVISABLE;

(9) ACQUIRE OR RECEIVE ASSIGNMENT OF A DOCUMENT EXECUTED, OBTAINED, OR DELIVERED IN CONNECTION WITH FINANCIAL ASSISTANCE UNDER THIS SUBTITLE;

(10) SUBJECT TO ANY OUTSTANDING AGREEMENT THE AUTHORITY MAKES UNDER THIS SUBTITLE, MAKE A COVENANT OR OTHER AGREEMENT REGARDING THE AUTHORITY'S INSURANCE FUNDS, ESTABLISH WITHIN THEM ACCOUNTS TO CARRY OUT THIS SUBTITLE, AND ALLOCATE REVENUE AND RECEIPTS AMONG THE ACCOUNTS;

(11) FIX, CHARGE, AND COLLECT A PREMIUM, FEE, COST, OR OTHER EXPENSE RELATED TO FINANCIAL ASSISTANCE UNDER THIS SUBTITLE, INCLUDING AN APPLICATION FEE, COMMITMENT FEE, PROGRAM FEE, FINANCE CHARGE, AND PUBLICATION FEE;

(12) AUTHORIZE THE CHAIR, VICE CHAIR, OR EXECUTIVE DIRECTOR TO PERFORM, ON BEHALF OF THE AUTHORITY, A DUTY OR PRESCRIBE, SPECIFY, DETERMINE, OR APPROVE A DETAIL, DOCUMENT, PROCEDURE, OR A MATTER THAT THE AUTHORITY, IN ITS SOLE DISCRETION, DETERMINES APPROPRIATE TO CARRY OUT THIS SUBTITLE; AND

(13) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS GRANTED BY THIS SUBTITLE.

(B) DUTIES.

THE AUTHORITY SHALL:

(1) KEEP RECORDS OF ITS FUNDS AND ACCOUNTS; AND

(2) ENSURE THAT ITS FUNDS AND ACCOUNTS ARE AUDITED ANNUALLY.

(C) PURCHASING.

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IN ITS INTERNAL FUNCTIONS, THE AUTHORITY SHALL PURCHASE OFFICE SPACE, SUPPLIES, FACILITIES, MATERIALS, EQUIPMENT, AND PROFESSIONAL SERVICES IN ACCORDANCE WITH THE STATE FINANCE AND PROCUREMENT ARTICLE.

(D) AUTHORITY OF SECRETARY.

THE AUTHORITY EXERCISES ITS POWERS AND PERFORMS ITS DUTIES SUBJECT TO THE AUTHORITY OF THE SECRETARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5-908(e), 5-910(a), 5-911, and 5-912(1) and (3).

In subsection (c) of this section, the phrase "the State Finance and Procurement Article" is substituted for the former phrase "procedures of the State that govern the purchase of" for consistency throughout this article and with other articles of the Code.

Defined terms: "Authority" § 5-401

"Secretary" § 1-101

"State" § 1-101

5-414. REGULATIONS.

THE AUTHORITY MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5-911(12) and 5-929.

It is set forth as a separate section for emphasis.

As to the deletion of the former reference to "rules", see General Revisor's Note to article.

Defined term: "Authority" § 5-401

5-415. AGREEMENTS.

(A) APPROVAL.

THE AUTHORITY MAY APPROVE, OR MAY AUTHORIZE THE EXECUTIVE DIRECTOR TO APPROVE, THE FORM OF AN AGREEMENT BY THE AUTHORITY UNDER THIS SUBTITLE.

(B) PAYMENT.

ANY MONEY THAT THE AUTHORITY PAYS UNDER AN AGREEMENT THE AUTHORITY MAKES UNDER THIS SUBTITLE SHALL BE PAYABLE AS AND WHEN THE AUTHORITY DETERMINES IN ITS SOLE DISCRETION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-922.

Defined term: "Authority" § 5-401

5-416. EFFECT OF FINDING.

A FINDING BY THE AUTHORITY, INCLUDING A FINDING AS TO THE PUBLIC PURPOSE OF AN ACTION TAKEN UNDER THIS SUBTITLE, AND THE APPROPRIATENESS OF THAT ACTION TO SERVE THE PUBLIC PURPOSE, IS CONCLUSIVE IN A PROCEEDING INVOLVING THE VALIDITY OR ENFORCEABILITY OF:

- (1) AN AGREEMENT THE AUTHORITY ENTERS INTO UNDER THIS SUBTITLE;
- (2) A BOND; OR
- (3) ANY SECURITY RELATING TO ITEM (1) OR (2) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-903.

The former references to a "suit" and an "action" are deleted as included in the comprehensive reference to a "proceeding".

Defined terms: "Authority" § 5-401

"Bond" § 5-401

5-417. PUBLIC ETHICS; RULES OF CONSTRUCTION.

EVEN THOUGH A DETERMINATION OF THE AUTHORITY ABOUT FINANCIAL ASSISTANCE IS SUBJECT TO THE MARYLAND PUBLIC ETHICS LAW, THE EXISTENCE OF A CONFLICT OF INTEREST OR A VIOLATION OF THE MARYLAND PUBLIC ETHICS LAW DOES NOT AFFECT:

- (1) THE VALIDITY OF A FINDING OR DETERMINATION MADE UNDER THIS SUBTITLE;
- (2) THE ENFORCEABILITY OF AN AGREEMENT THAT THE AUTHORITY MAKES UNDER THIS SUBTITLE; OR
- (3) THE VALIDITY OR ENFORCEABILITY OF A BOND THAT THE AUTHORITY ISSUES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-909.

This section is restated as a rule of construction for a determination of the Authority subject to the Maryland Public Ethics Law for clarity. As to the Maryland Public Ethics Law, *see* SG Title 15.

Defined term: "Authority" § 5-401

5-418. IMMUNITY FROM PERSONAL LIABILITY.

A MEMBER OF THE AUTHORITY, A PERSON EXECUTING A BOND OR AGREEMENT OF THE AUTHORITY UNDER THIS SUBTITLE, OR AN EMPLOYEE OF THE AUTHORITY, THE DEPARTMENT, OR THE STATE IS NOT:

- (1) PERSONALLY LIABLE ON A BOND OR AGREEMENT OF THE AUTHORITY;
- OR

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(2) SUBJECT TO PERSONAL LIABILITY OR ACCOUNTABILITY ARISING FROM THE ISSUANCE, EXECUTION, OR DELIVERY OF A BOND OR AGREEMENT OF THE AUTHORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-910(c).

Defined terms: "Authority" § 5-401

"Bond" § 5-401

"Department" § 1-101

"Person" § 1-101

"State" § 1-101

5-419. ANNUAL REPORT.

ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE AUTHORITY SHALL SUBMIT A REPORT ON ITS CONDITIONS AND OPERATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY AND THE CHAIR OF THE JOINT AUDIT COMMITTEE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-912(2).

It is set forth as a separate section for emphasis.

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

Defined term: "Authority" § 5-401

5-420. DISSOLUTION.

IF THE AUTHORITY DISSOLVES, TITLE TO ITS PROPERTY VESTS IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-930.

Defined terms: "Authority" § 5-401

"State" § 1-101

5-421. RESERVED.

5-422. RESERVED.

PART III. INDUSTRIAL DEVELOPMENT FUND.

5-423. ESTABLISHED.

THERE IS AN INDUSTRIAL DEVELOPMENT FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 83A, § 5-914(a), as it related to establishment of the Fund.

5-424. PURPOSE.

THE FUND SHALL BE USED:

(1) FOR THE PURPOSES DESCRIBED IN PART VI AND §§ 5-430, 5-431, AND 5-438 OF THIS SUBTITLE; AND

(2) TO PAY EXPENSES OF THE AUTHORITY, INCLUDING EXPENSES:

(I) FOR ADMINISTRATIVE, LEGAL, ACTUARIAL, AND OTHER SERVICES;

(II) RELATED TO:

1. ISSUANCE OR INSURANCE OF BONDS AND AUTHORIZED PURPOSE OBLIGATIONS; AND

2. FUNDING OF RESERVES; OR

(III) OF PROVIDING OTHER FINANCIAL ASSISTANCE UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-914(c).

In item (2)(ii) of this section, the former reference to "costs, charges, [and] fees" is deleted as implicit in the comprehensive reference to "expenses".

Also in item (2)(ii) of this section, the former reference to "authorizing, preparing, printing, [and] selling" bonds and authorized purpose obligations is deleted as implicit in the reference to expenses "related to issuance of" bonds and authorized purpose obligations.

Also in item (2)(ii) of this section, the former parenthetical phrase "including, by way of example, bonds or authorized purpose obligations, the proceeds of which are used to refinance or refund outstanding bonds or authorized purpose obligations" is deleted as included in the defined terms "bond" and "authorized purpose obligation".

Defined terms: "Authority" § 5-401

"Authorized purpose obligation" § 5-401

"Bond" § 5-401

5-425. COMPOSITION.

(A) IN GENERAL.

THE FUND IS A CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO REVERSION UNDER § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(B) CONTENTS.

THE FUND CONSISTS OF:

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

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(2) PREMIUMS, FEES, AND ANY OTHER MONEY RECEIVED BY THE AUTHORITY WITH RESPECT TO FINANCIAL ASSISTANCE PROVIDED BY THE AUTHORITY FROM THE FUND;

(3) PROCEEDS FROM THE SALE, LEASE, OR OTHER DISPOSITION OF PROPERTY OF THE AUTHORITY;

(4) INTEREST RECEIVED FROM LINKED DEPOSITS MADE FROM THE LINKED DEPOSIT PROGRAM UNDER PART VI OF THIS SUBTITLE; AND

(5) ANY OTHER MONEY MADE AVAILABLE UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-914(b).

In subsection (a) of this section, the phrase "that is not subject to reversion under § 7-302 of the State Finance and Procurement Article" is substituted for the former word "revolving" for consistency within this article.

In subsection (b) of this section, the former reference to "investments that the State Treasurer, on instruction of the Authority, makes from moneys in the Industrial Development Fund" is deleted as redundant of § 5-426(a)(2) of this subtitle.

In subsection (b)(1) of this section, the phrase "in the State budget" is substituted for the former phrase "by the State" for clarity.

Defined terms: "Authority" § 5-401

"Fund" § 5-401

"State" § 1-101

5-426. INVESTMENTS.

(A) IN GENERAL.

THE TREASURER SHALL:

(1) INVEST THE MONEY IN THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED; AND

(2) CREDIT ANY INVESTMENT EARNINGS TO THE FUND.

(B) BENEFIT OF EARNINGS.

ANY NET INVESTMENT EARNINGS OF THE FUND, BEYOND THOSE NECESSARY TO FURTHER THE PURPOSES OF THIS SUBTITLE, MAY NOT BENEFIT A PERSON OTHER THAN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-914(d).

In subsection (a) of this section, the former obsolete reference to moneys "exceed[ing] the amount that the Authority considers necessary to meet its

current expenses and obligations” being invested by the Treasurer is deleted. In general, the Treasurer holds all special fund moneys and invests them and credits them in accordance with applicable law.

Defined terms: “Authority” § 5–401

“Fund” § 5–401

“State” § 1–101

5–427. ADDITIONAL MONEY.

(A) IN GENERAL.

THE AUTHORITY SHALL SEND A WRITTEN REQUEST TO THE BOARD OF PUBLIC WORKS FOR ADDITIONAL MONEY IF:

(1) THE AUTHORITY AND THE SECRETARY FIND THAT MORE MONEY IS NEEDED TO KEEP THE RESERVES OF THE FUND AT AN ADEQUATE LEVEL; AND

(2) THE SECRETARY CONSENTS TO THE REQUEST.

(B) BOARD OF PUBLIC WORKS.

THE BOARD OF PUBLIC WORKS MAY DISBURSE THE REQUESTED AMOUNT FROM THE GENERAL EMERGENCY FUND.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–914(e).

In subsection (b) of this section, the reference to the “General” Emergency Fund is added for consistency within the Code. *See, e.g.*, ED § 13–308(b) and SF § 10–501(a)(2).

Defined terms: “Authority” § 5–401

“Fund” § 5–401

“Secretary” § 1–101

5–428. SURPLUS MONEY.

WITH THE CONSENT OF THE SECRETARY, THE AUTHORITY MAY PAY TO THE TREASURER, TO THE CREDIT OF THE GENERAL FUND, MONEY THAT THE AUTHORITY DETERMINES EXCEEDS THE AMOUNT NECESSARY TO MEET:

(1) THE OBLIGATIONS OF THE AUTHORITY UNDER THIS SUBTITLE; AND

(2) THE REQUIREMENTS OF THIS SUBTITLE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–914(f).

Defined terms: “Authority” § 5–401

“Fund” § 5–401

“Secretary” § 1–101

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5-429. REPORT OF TREASURER.

EACH YEAR THE TREASURER SHALL REPORT TO THE AUTHORITY ON THE:

- (1) STATUS OF THE FUND;
- (2) MARKET VALUE OF THE ASSETS IN THE FUND AS OF THE DATE OF THE REPORT; AND
- (3) EARNINGS FROM INVESTMENTS OF THE FUND DURING THE PERIOD COVERED BY THE REPORT.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-915.

The only changes are in style.

Defined terms: "Authority" § 5-401
"Fund" § 5-401

5-430. BOND-RELATED INSURANCE.

(A) IN GENERAL.

IF THE REQUIREMENTS OF THIS SECTION ARE SATISFIED, AND SUBJECT TO § 5-432 OF THIS SUBTITLE, THE AUTHORITY MAY USE THE FUND TO:

(1) INSURE THE PAYMENT OF ANY OF THE PRINCIPAL OF, REDEMPTION OR PREPAYMENT PREMIUMS OR PENALTIES ON, AND INTEREST ON:

- (I) BONDS; AND
- (II) ANY INSTRUMENT EXECUTED, OBTAINED, OR DELIVERED IN CONNECTION WITH THE ISSUANCE AND SALE OF BONDS; AND

(2) PAY OR INSURE THE PAYMENT OF FEES OR PREMIUMS FOR INSURANCE, GUARANTEES, OR OTHER CREDIT SUPPORT IN CONNECTION WITH FINANCIAL ASSISTANCE UNDER THIS SUBTITLE.

(B) ECONOMIC IMPACT.

BASED ON FACTORS IT CONSIDERS RELEVANT, THE AUTHORITY SHALL DETERMINE, IN ITS SOLE DISCRETION, THAT THE ECONOMIC IMPACT OF THE TRANSACTION WILL BE SUBSTANTIAL.

(C) REMOVAL OR ABANDONMENT OF FACILITIES.

THE AUTHORITY SHALL FIND:

(1) THAT THE ACQUISITION OR IMPROVEMENT OF A FACILITY WILL NOT RESULT IN:

- (I) THE REMOVAL FROM ONE COUNTY TO ANOTHER COUNTY OF THE BUSINESS OPERATIONS OF THE FACILITY USER; OR
- (II) THE ABANDONMENT OF A FACILITY IN THE STATE; OR

(2) IF THE ACQUISITION OR IMPROVEMENT WILL RESULT IN REMOVAL OR ABANDONMENT, THAT THE ACQUISITION OR IMPROVEMENT WILL:

- (I) DISCOURAGE THE FACILITY USER FROM LEAVING THE STATE; OR
- (II) PRESERVE THE COMPETITIVE POSITION OF THE FACILITY USER IN ITS INDUSTRY.

(D) OPERATION BY AUTHORITY.

THE AUTHORITY SHALL FIND THAT THE AUTHORITY WILL NOT BE REQUIRED, EXCEPT ON DEFAULT, TO OPERATE, SERVICE, OR MAINTAIN THE FACILITY.

(E) SECURITY.

THE BONDS OR INSTRUMENTS SHALL BE SECURED IN A MANNER THAT THE AUTHORITY APPROVES.

(F) AMOUNT OF FINANCIAL ASSISTANCE.

FINANCIAL ASSISTANCE FROM THE FUND PROVIDED UNDER THIS SECTION MAY NOT EXCEED AN AGGREGATE AMOUNT OF \$7,500,000 FOR A SINGLE FACILITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5-916 and 5-917(a) through (f).

Defined terms: "Authority" § 5-401

"Bond" § 5-401

"Facility" § 5-401

"Facility user" § 5-401

"Fund" § 5-401

"Improvement" § 5-401

"State" § 1-101

5-431. AUTHORIZED PURPOSE OBLIGATION INSURANCE.

(A) IN GENERAL.

IF THE REQUIREMENTS OF THIS SECTION ARE SATISFIED, AND SUBJECT TO § 5-432 OF THIS SUBTITLE, THE AUTHORITY MAY USE THE FUND TO:

(1) INSURE THE PAYMENT OF ANY OF THE PRINCIPAL OF, REDEMPTION OR PREPAYMENT PREMIUMS OR PENALTIES ON, AND INTEREST ON AUTHORIZED PURPOSE OBLIGATIONS; AND

(2) PAY OR INSURE THE PAYMENT OF FEES OR PREMIUMS FOR INSURANCE, GUARANTEES, OR OTHER CREDIT SUPPORT IN CONNECTION WITH FINANCIAL ASSISTANCE UNDER THIS SUBTITLE.

(B) ECONOMIC IMPACT.

BASED ON FACTORS IT CONSIDERS RELEVANT, THE AUTHORITY SHALL DETERMINE, IN ITS SOLE DISCRETION, THAT THE ECONOMIC IMPACT OF THE TRANSACTION WILL BE SUBSTANTIAL.

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(C) **REMOVAL OR ABANDONMENT OF FACILITIES.**

THE AUTHORITY SHALL FIND:

(1) **THAT THE TRANSACTION WILL NOT RESULT IN:**

(I) **THE REMOVAL FROM ONE COUNTY TO ANOTHER COUNTY OF THE BUSINESS OPERATIONS OF ANY PERSON WHO BENEFITS FROM THE TRANSACTION; OR**

(II) **THE ABANDONMENT OF THE BUSINESS OPERATIONS IN THE STATE OF ANY PERSON WHO BENEFITS FROM THE TRANSACTION; OR**

(2) **IF THE TRANSACTION WILL RESULT IN REMOVAL OR ABANDONMENT, THAT THE TRANSACTION WILL:**

(I) **DISCOURAGE THE BUSINESS FROM LEAVING THE STATE; OR**

(II) **PRESERVE THE COMPETITIVE POSITION OF THE BUSINESS IN ITS INDUSTRY.**

(D) **RETAIL ESTABLISHMENT.**

FINANCIAL ASSISTANCE UNDER THIS SECTION MAY ONLY BE USED IN CONNECTION WITH A RETAIL ESTABLISHMENT IF THE AUTHORITY DETERMINES, IN ITS SOLE DISCRETION, THAT THE FINANCIAL ASSISTANCE WILL ACCOMPLISH THE PURPOSES OF THIS SUBTITLE.

(E) **OPERATION BY AUTHORITY.**

THE AUTHORITY SHALL FIND THAT THE AUTHORITY WILL NOT BE REQUIRED, EXCEPT ON DEFAULT, TO OPERATE, SERVICE, OR MAINTAIN ANY BUSINESS.

(F) **SECURITY.**

THE AUTHORIZED PURPOSE OBLIGATIONS SHALL BE SECURED IN A MANNER THAT THE AUTHORITY APPROVES.

(G) **AMOUNT OF FINANCIAL ASSISTANCE.**

FINANCIAL ASSISTANCE FROM THE FUND PROVIDED UNDER THIS SECTION MAY NOT EXCEED AN AGGREGATE AMOUNT OF \$2,500,000 FOR A SINGLE TRANSACTION.

(H) **INSURANCE OF AUTHORIZED PURPOSE OBLIGATIONS.**

THE AGGREGATE AMOUNT OF INSURANCE PROVIDED UNDER THIS SECTION FOR A SINGLE AUTHORIZED PURPOSE OBLIGATION MAY NOT EXCEED:

(1) **FOR AN EXPORT-RELATED FINANCING TRANSACTION, 90% OF THE TOTAL OF THE PRINCIPAL OF, REDEMPTION OR PREPAYMENT PREMIUMS OR PENALTIES ON, AND INTEREST ON, THE AUTHORIZED PURPOSE OBLIGATION; OR**

(2) **FOR A TRANSACTION OTHER THAN AN EXPORT-RELATED FINANCING TRANSACTION, 80% OF THE TOTAL OF THE PRINCIPAL OF, REDEMPTION OR PREPAYMENT PREMIUMS OR PENALTIES ON, AND INTEREST ON, THE AUTHORIZED PURPOSE OBLIGATION.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5-901(dd) and 5-919(a) through (g) and (i).

In subsection (d) of this section, the reference to financial assistance "under this section" is added for clarity.

Defined terms: "Authority" § 5-401

"Authorized purpose obligation" § 5-401

"Export-related financing transaction" § 5-401

"Fund" § 5-401

"Retail establishment" § 5-401

"State" § 1-101

5-432. LEVERAGE LIMITATIONS.

(A) BOND-RELATED INSURANCE.

THE PORTION OF THE AGGREGATE PRINCIPAL AMOUNT OF BONDS AND AUTHORIZED PURPOSE OBLIGATIONS THAT THE FUND INSURES AT ANY TIME MAY NOT EXCEED 5 TIMES THE FUND BALANCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5-917(g) and 5-919(h).

Defined terms: "Authorized purpose obligation" § 5-401

"Bond" § 5-401

"Fund" § 5-401

5-433. RESERVED.

5-434. RESERVED.

PART IV. FINANCIAL ASSISTANCE.

5-435. APPLICATION OF OTHER LAWS.

FINANCIAL ASSISTANCE UNDER THIS SUBTITLE IS:

(1) SUBJECT TO THE PROVISIONS OF ARTICLE 49B OF THE CODE CONCERNING DISCRIMINATION AND UNLAWFUL PRACTICES; AND

(2) NOT SUBJECT TO TITLE 17, SUBTITLE 1 OF THE STATE FINANCE AND PROCUREMENT ARTICLE (SECURITY FOR CONSTRUCTION PROJECTS).

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-923.

Defined term: "Authority" § 5-401

5-436. BONDS.

(A) IN GENERAL.

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THE AUTHORITY MAY ISSUE AND SELL BONDS IN ACCORDANCE WITH TITLE 12, SUBTITLE 1 OF THIS ARTICLE (MARYLAND ECONOMIC DEVELOPMENT REVENUE BOND ACT) AND THIS SUBTITLE TO ACCOMPLISH THE PURPOSES OF THIS SUBTITLE.

(B) ISSUANCE OF BONDS.

(1) THE AUTHORITY MAY ISSUE ITS BONDS WITHOUT THE CONSENT OF ANY OTHER UNIT OF STATE GOVERNMENT, ANY PROCEEDINGS, OR THE OCCURRENCE OF ANY CONDITIONS, OTHER THAN THOSE EXPRESSLY REQUIRED BY THIS SUBTITLE.

(2) (i) BEFORE THE AUTHORITY ISSUES BONDS, THE AUTHORITY SHALL NOTIFY THE BOARD OF PUBLIC WORKS OF ITS INTENTION TO ISSUE THE BONDS UP TO A STATED AMOUNT.

(ii) THE BOARD OF PUBLIC WORKS MAY COORDINATE THE ISSUANCE OF THE BONDS WITH ANY ISSUANCE OF BONDS OF THE STATE OR ITS UNITS OR INSTRUMENTALITIES.

(3) THE FAILURE OF THE AUTHORITY TO NOTIFY THE BOARD OF PUBLIC WORKS UNDER PARAGRAPH (2)(i) OF THIS SUBSECTION DOES NOT AFFECT THE VALIDITY OR ENFORCEABILITY OF BONDS, FINDINGS OR DETERMINATIONS, OR AGREEMENTS OF THE AUTHORITY.

(C) PARTICIPATION BY MINORITY BUSINESS ENTERPRISE.

(1) WHEN THE AUTHORITY ISSUES BONDS, IT IS IN THE PUBLIC INTEREST THAT THE AUTHORITY TRY TO ACHIEVE A GOAL THAT 10% OF THE FACILITY USERS ARE MINORITY BUSINESS ENTERPRISES AS DEFINED IN § 14-301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE FAILURE OF THE AUTHORITY TO ACHIEVE THE GOAL SET OUT UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT AFFECT IN ANY WAY THE VALIDITY OR ENFORCEABILITY OF BONDS, FINDINGS OR DETERMINATIONS, OR AGREEMENTS OF THE AUTHORITY.

(D) LIMITED OBLIGATIONS OF AUTHORITY.

(1) THIS SUBSECTION DOES NOT APPLY TO INSURANCE THAT THE AUTHORITY PROVIDES.

(2) A BOND THE AUTHORITY ISSUES AND THE INTEREST ON THE BOND ARE LIMITED OBLIGATIONS OF THE AUTHORITY.

(3) EXCEPT FOR BOND ANTICIPATION NOTES AND NOTES IN THE NATURE OF COMMERCIAL PAPER, THE PRINCIPAL OF, PREMIUM, AND INTEREST ON A BOND ARE PAYABLE SOLELY FROM:

(i) MONEY FROM THE FINANCING OF A FACILITY; AND

(ii) OTHER MONEY MADE AVAILABLE TO THE AUTHORITY.

(4) BONDS AND THE INTEREST ON THEM:

(I) ARE NOT DEBTS OR CHARGES AGAINST THE GENERAL CREDIT OR TAXING POWERS OF THE STATE, THE DEPARTMENT, THE AUTHORITY, OR ANY OTHER PUBLIC BODY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR CHARTER PROVISION OR STATUTORY LIMITATION; AND

(II) MAY NOT GIVE RISE TO ANY PECUNIARY LIABILITY OF THE STATE, THE DEPARTMENT, THE AUTHORITY, OR ANY OTHER PUBLIC BODY.

(5) A BOND MAY STATE ON ITS FACE THAT THE BOND:

(I) IS ISSUED UNDER TITLE 12, SUBTITLE 1 OF THIS ARTICLE (MARYLAND ECONOMIC DEVELOPMENT REVENUE BOND ACT) AND THIS SUBTITLE; AND

(II) IS NOT A DEBT TO WHICH THE FAITH AND CREDIT OF THE STATE, THE DEPARTMENT, THE AUTHORITY, OR ANY OTHER PUBLIC BODY IS PLEDGED.

(E) TAX STATUS.

BONDS THAT THE AUTHORITY ISSUES ARE EXEMPT FROM STATE AND LOCAL TAXES AS PROVIDED IN § 12–116 OF THIS ARTICLE.

(F) COMPETITIVE BIDDING.

FACILITIES FINANCED WITH THE PROCEEDS OF BONDS THAT THE AUTHORITY ISSUES ARE NOT SUBJECT TO THE REQUIREMENTS OF ANY LAW REGARDING COMPETITIVE BIDDING.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–926(a) and (c) through (g).

In subsection (a) of this section, the former phrase “in addition to any other powers it may have” is deleted as implicit in the statement that the Authority “may issue and sell bonds”.

In subsection (b)(2)(ii) of this section, the reference to “units” is substituted for the former reference to “its agencies” because the term “units” is broad enough to include these entities. *See* General Revisor’s Note to article.

In subsection (c)(1) of this section, the phrase “public interest” is substituted for the former phrase “of the public welfare and purpose” for brevity.

In subsection (d)(1) of this section, the sentence “[t]his subsection does not apply to insurance that the Authority provides” is substituted for the former phrase “[e]xcept for the Authority’s insurance (if any)” for clarity.

In subsection (d)(3)(ii) of this section, the phrase “to pay for the principal, interest, and premiums” is substituted for the former phrase “for such purpose” for clarity.

In subsection (d)(5) of this section, the introductory phrase “[t]he Authority may include on a bond that it issues a statement that the bond” is substituted for the former phrase “[e]ach bond issued by the Authority, on

its face, may plainly state” for clarity.

In subsection (e) of this section, the reference to “State and local taxes” is substituted for the former reference to “taxation by the State and by its several counties and municipalities” for brevity.

Also in subsection (e) of this section, the specific reference to “§ 12–116 of this article” is substituted for the former general reference to the “Maryland Economic Development Revenue Bond Act” for clarity and precision.

Former Art. 83A, § 5–926(b), which authorized the Authority to acquire facilities through bond sales under the Maryland Economic Development Revenue Bond Act, is deleted as redundant of the authorization for the Authority as a “public body” to issue bonds for such an acquisition. *See* §§ 12–101(l), 12–110, and 12–111 of this article.

Defined terms: “Authority” § 5–401

“Bond” § 5–401

“Department” § 1–101

“Facility” § 5–401

“Facility user” § 5–401

“Finance” § 5–401

“Public body” § 5–401

“State” § 1–101

5–437. AUTHORIZED PURPOSE OBLIGATION NOT EXCEEDING \$250,000.

(A) IN GENERAL.

(1) THE AUTHORITY MAY AUTHORIZE THE EXECUTIVE DIRECTOR OF THE AUTHORITY TO APPROVE, ON BEHALF OF THE AUTHORITY, FINANCIAL ASSISTANCE UNDER § 5–431 OF THIS SUBTITLE NOT EXCEEDING THE AGGREGATE AMOUNT OF \$250,000 FOR A SINGLE TRANSACTION.

(B) APPROVAL.

AN APPROVAL BY THE EXECUTIVE DIRECTOR UNDER THIS SECTION:

(1) IS SUBJECT TO CONCURRENCE OF THE SECRETARY, THE SECRETARY’S DESIGNEE, OR THE CHAIR OF THE AUTHORITY;

(2) SHALL COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE; AND

(3) IS BINDING ON THE AUTHORITY.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–921.

In subsection (a)(2) of this section, the reference to the “executive director” is added for clarity.

In subsection (b)(1) of this section, the reference to the “chair” is

substituted for the former reference to the “chairman” because SG § 2–1238 requires the use of words that are neutral as to gender to the extent practicable. *See* General Revisor’s Note to article.

Defined terms: “Authority” § 5–401

“Fund” § 5–401

“Secretary” § 1–101

5–438. EQUITY INTEREST.

IN CONJUNCTION WITH FINANCIAL ASSISTANCE UNDER THIS SUBTITLE, THE AUTHORITY MAY:

(1) ACCEPT AN OPTION TO ACQUIRE AN EQUITY INTEREST IN A BUSINESS ENTERPRISE; AND

(2) EXERCISE, IN ITS SOLE DISCRETION, THE OPTION USING MONEY FROM THE FUND.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–928.

Defined terms: “Authority” § 5–401

“Fund” § 5–401

5–439. PREMIUMS AND FEES.

(A) IN GENERAL.

THE AUTHORITY MAY SET PREMIUMS AND FEES FOR FINANCIAL ASSISTANCE UNDER THIS SUBTITLE IN ITS SOLE DISCRETION.

(B) PAYMENT.

THE PREMIUMS AND FEES SHALL BE PAYABLE IN THE AMOUNTS, AT THE TIME, AND IN THE MANNER THAT THE AUTHORITY REQUIRES IN ITS SOLE DISCRETION.

(C) VARIABILITY.

THE PREMIUMS AND FEES MAY VARY IN AMOUNT AMONG APPROVALS FOR FINANCIAL ASSISTANCE UNDER THIS SUBTITLE AND AT DIFFERENT STAGES OF THE FINANCIAL ASSISTANCE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–924(a) through (c).

Defined term: “Authority” § 5–401

5–440. WAIVER OF INSURANCE PREMIUMS.

(A) IN GENERAL.

THE AUTHORITY MAY NOT CHARGE A PREMIUM FOR INSURANCE IF THE AUTHORITY DETERMINES THAT, AT THE TIME THE INSURANCE IS APPROVED, THE FACILITY OR BUSINESS FOR WHICH THE AUTHORITY PROVIDES INSURANCE IS LOCATED IN A QUALIFIED DISTRESSED COUNTY.

(B) APPLICATION OF DETERMINATION.

A DETERMINATION BY THE AUTHORITY UNDER SUBSECTION (A) OF THIS SECTION FOR A FACILITY OR BUSINESS IS EFFECTIVE FOR AS LONG AS THE FINANCIAL ASSISTANCE IS IN EFFECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5-925, 5-901(z-1), and 5-924(d).

Defined terms: "Authority" § 5-401
"Qualified distressed county" § 1-101

5-441. CONTINUITY OF EXISTING AUTHORIZED PURPOSE OBLIGATIONS.

(A) CONTINUING INSURANCE OBLIGATIONS.

INSURANCE ON BONDS OR AUTHORIZED PURPOSE OBLIGATIONS PROVIDED BEFORE JULY 1, 2000, SHALL CONTINUE AS OBLIGATIONS OF THE AUTHORITY AND ARE AUTHORIZED UNDER THIS SUBTITLE.

(B) ASSISTANCE COMMITMENTS.

FINANCIAL ASSISTANCE THAT THE AUTHORITY APPROVES, BUT THAT IS NOT CLOSED BEFORE JULY 1, 2000, IS AUTHORIZED UNDER THIS SUBTITLE.

(C) CONTINUING BOND OBLIGATIONS.

BONDS ISSUED BY THE MARYLAND ENERGY FINANCING ADMINISTRATION SHALL CONTINUE AFTER DECEMBER 31, 2001, AS OBLIGATIONS OF THE AUTHORITY AND ARE AUTHORIZED UNDER THIS SUBTITLE.

(D) CONTINUING LOAN GUARANTEES.

LOAN GUARANTEES THAT THE DEPARTMENT PROVIDED FROM THE FORMER DAY CARE LOAN GUARANTEE FUND SHALL CONTINUE AS OBLIGATIONS OF THE AUTHORITY AND ARE AUTHORIZED UNDER THIS SUBTITLE.

(E) CONTINUING DEPOSIT AGREEMENTS.

DEPOSIT AGREEMENTS BETWEEN THE DEPARTMENT AND A LENDER UNDER THE FORMER MARYLAND ENTERPRISE INCENTIVE DEPOSIT FUND PROGRAM SHALL CONTINUE AS OBLIGATIONS OF THE AUTHORITY AND ARE AUTHORIZED UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-932.

Defined terms: “Authority” § 5–401

“Authorized purpose obligation” § 5–401

“Bond” § 5–401

“Department” § 1–101

5–442. RESERVED.

5–443. RESERVED.

PART V. PROJECTS.

5–444. STATUS OF AUTHORITY.

(A) ENERGY PROJECTS.

(1) THE AUTHORITY SHALL PARTICIPATE IN FINANCIAL ASSISTANCE PROGRAMS FOR ENERGY PROJECTS PROVIDED BY THE FEDERAL ENERGY SECURITY ACT, P.L. 96–294.

(2) FOR PURPOSES OF THAT ACT, THE AUTHORITY IS A “PERSON” AS DEFINED IN:

(I) 42 U.S.C. § 8802, CONCERNING THE FINANCING OF BIOMASS ENERGY, MUNICIPAL SOLID WASTE, AND ALCOHOL FUELS PROJECTS; AND

(II) 30 U.S.C. § 1511, CONCERNING THE FINANCING OF GEOTHERMAL ENERGY PROJECTS.

(B) HYDROPOWER PROJECTS.

FOR PURPOSES OF THE FEDERAL PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978, THE AUTHORITY IS A “NONPROFIT ORGANIZATION” AS DEFINED IN 16 U.S.C. § 2708 AND USED IN 16 U.S.C. §§ 2702 AND 2703, CONCERNING SMALL–SCALE HYDROPOWER PROJECTS.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–920(c) and (d).

In subsection (b) of this section, the reference to a nonprofit organization “as defined in 16 U.S.C. § 2708” is added for clarity.

Former Art. 83A, § 5–920(c)(2), which provided that the Authority was a “government corporation”, as used in Title II, Subtitle C, § 252 of the federal Energy Security Act, 7 U.S.C. § 3154, concerning the financing of other biomass energy projects”, is repealed as obsolete. Federal financial assistance to government corporations under 7 U.S.C. § 3154 was repealed by the federal Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101–624.

Defined term: “Authority” § 5–401

5–445. ENERGY PROJECT — IN GENERAL.

(A) DEFINITIONS.

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

(2) (I) “RENEWABLE FUEL” MEANS GASEOUS, LIQUID, OR SOLID FUEL FROM ANY ORGANIC MATTER AND ITS BY-PRODUCTS.

(II) “RENEWABLE FUEL” INCLUDES FUEL FROM:

1. AN AGRICULTURAL CROP, AGRICULTURAL WASTE, OR AGRICULTURAL RESIDUE;
2. WOOD, WOOD WASTE, OR WOOD RESIDUE;
3. ANIMAL WASTE;
4. AQUATIC PLANTS;
5. SEWAGE OR SEWAGE SLUDGE;
6. MUNICIPAL, INDUSTRIAL, OR COMMERCIAL WASTE;
7. ANY MIXTURE OF ANY OF THESE SUBSTANCES WITH INORGANIC REFUSE FROM A PUBLIC OR PRIVATE MUNICIPAL WASTE COLLECTION SYSTEM OR SIMILAR DISPOSAL SYSTEM; OR
8. ANY COMBINATION OF ITEMS 1 THROUGH 7 OF THIS ITEM.

(III) “RENEWABLE FUEL” DOES NOT INCLUDE FOSSIL FUEL.

(3) “TRANSPORTATION FACILITY” MEANS A TRANSPORTATION FACILITY THAT IS USED EXCLUSIVELY TO TRANSPORT FUEL PRODUCED BY A FUEL PRODUCTION FACILITY TO:

- (I) A STORAGE FACILITY;
- (II) A PIPELINE CONNECTION TO AN EXISTING PIPELINE OR PROCESSING FACILITY; OR
- (III) AN AREA NEAR THE FUEL PRODUCTION FACILITY.

(B) QUALIFICATIONS.

A PROJECT QUALIFIES AS AN ENERGY PROJECT IF IT CONSISTS OF:

- (1) AN ENERGY CONSERVATION PROJECT;
- (2) A SOLAR ENERGY PROJECT;
- (3) THE CONSTRUCTION OF A FACILITY TO PRODUCE SOLAR ENERGY EQUIPMENT;
- (4) THE CONSTRUCTION OF A FACILITY OR PORTION OF A FACILITY TO:
 - (I) PRODUCE RENEWABLE FUEL; AND

(II) BURN RENEWABLE FUEL OR A MIXTURE OF RENEWABLE FUEL WITH OTHER MATERIALS, TO GENERATE:

1. HEAT;
2. MECHANICAL POWER;
3. ELECTRICITY, INCLUDING BY COGENERATION; OR
4. OTHER USEFUL FORMS OF ENERGY;

(5) THE CONVERSION OF ANY FACILITY TO USE RENEWABLE FUEL;

(6) THE EXPANSION OR IMPROVEMENT OF A FACILITY THAT INCREASES ITS CAPACITY OR EFFICIENCY TO USE RENEWABLE FUEL;

(7) THE ACQUISITION AND IMPROVEMENT OF EQUIPMENT FOR USE IN A FACILITY SPECIFIED IN ITEMS (4) THROUGH (6) OF THIS SUBSECTION;

(8) THE ACQUISITION OR IMPROVEMENT OF LAND FOR A FACILITY SPECIFIED IN ITEMS (4) THROUGH (6) OF THIS SUBSECTION;

(9) THE PURCHASE, CONSTRUCTION, OR INSTALLATION OF A FACILITY OR EQUIPMENT TO USE GROUNDWATER AS A HEAT SOURCE FOR A HEATING SYSTEM OR AS A HEAT SINK FOR AN AIR CONDITIONING SYSTEM;

(10) THE PURCHASE, CONSTRUCTION, OR INSTALLATION OF A FACILITY OR EQUIPMENT TO DEVELOP AND USE THE NATURAL HEAT OF THE EARTH FOR DIRECT USE OR TO GENERATE ELECTRICITY;

(11) THE PURCHASE, CONSTRUCTION, AND INSTALLATION OF A HYDROELECTRIC FACILITY AT AN EXISTING DAM THAT:

(I) USES THE WATER POWER POTENTIAL OF THE DAM; AND

(II) HAS NO MORE THAN 30 MEGAWATTS OF INSTALLED CAPACITY;

(12) THE CONSTRUCTION OF A FUEL PRODUCTION FACILITY FOR COMMERCIAL PRODUCTION OF A GASEOUS, LIQUID, OR SOLID FUEL, OR OF A COMBINATION OF THEM, THAT:

(I) IS PRODUCED BY CHEMICAL OR PHYSICAL TRANSFORMATION OF COAL OR MIXTURES OF COAL AND OTHER MATERIALS;

(II) CAN BE USED AS A SUBSTITUTE FOR PETROLEUM OR NATURAL GAS, OR ANY OF THEIR DERIVATIVES, INCLUDING CHEMICAL FEEDSTOCKS; AND

(III) INCLUDES ONLY:

1. THE FUEL PRODUCTION FACILITY, INCLUDING THE EQUIPMENT, PLANT, SUPPLIES, AND OTHER MATERIALS ASSOCIATED WITH THE FUEL PRODUCTION FACILITY;

2. THE LAND AND MINERAL RIGHTS REQUIRED DIRECTLY FOR USE IN CONNECTION WITH THE FUEL PRODUCTION FACILITY; AND

3. ANY OTHER FACILITY OR EQUIPMENT TO BE USED IN THE EXTRACTION OF A MINERAL FOR USE DIRECTLY AND EXCLUSIVELY IN THE FUEL PRODUCTION FACILITY THAT IS NECESSARY TO THE PROJECT AND IS:

A. COLOCATED WITH OR LOCATED IN THE IMMEDIATE VICINITY OF THE FUEL PRODUCTION FACILITY; OR

B. IF NOT COLOCATED OR LOCATED IN ACCORDANCE WITH ITEM A OF THIS ITEM:

I. A COAL MINE IN THE CASE THAT NO OTHER REASONABLE SOURCE OF COAL IS AVAILABLE TO THE PROJECT; OR

II. INCIDENTAL TO THE PROJECT; AND

4. ANY TRANSPORTATION FACILITY, ELECTRIC POWER PLANT, ELECTRIC TRANSMISSION LINE, OR OTHER FACILITY THAT IS:

A. FOR THE EXCLUSIVE USE OF THE PROJECT;

B. INCIDENTAL TO THE PROJECT; AND

C. NECESSARY TO THE PROJECT;

(13) THE CONVERSION OF A FACILITY FROM USING PETROLEUM-BASED FUEL TO COAL OR TO A MIXTURE OF COAL AND OTHER MATERIALS AS A FUEL; OR

(14) THE CONSTRUCTION OF A FACILITY TO BURN COAL USING INNOVATIVE TECHNOLOGY THAT INCREASES THE EFFICIENCY OF THE COMBUSTION PROCESS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-901(1).

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

In subsection (b)(10) of this section, the former phrase “, or the energy in whatever form below the surface of the earth present in, resulting from, or created by or which may be extracted from this natural heat to provide useful energy in the form of heat” is deleted as surplusage.

Defined terms: “Cogeneration” § 5-401

“Energy conservation project” § 5-401

“Facility” § 5-401

“Improvement” § 5-401

“Renewable fuel” § 5-445

“Solar energy project” § 5-401

“Transportation facility” § 5-445

5-446. ENERGY PROJECT — CONSIDERATIONS; PROMOTION.

(A) FACTORS CONSIDERED.

IN AWARDING FINANCIAL ASSISTANCE UNDER THIS SUBTITLE FOR AN ENERGY PROJECT, THE AUTHORITY SHALL CONSIDER WHETHER THE ENERGY PROJECT WOULD:

- (1) REDUCE THE CONSUMPTION OF PETROLEUM AND OTHER ENERGY SOURCES;
- (2) INCREASE THE ENERGY SUPPLY AVAILABLE IN THE STATE;
- (3) INCREASE EMPLOYMENT AND ECONOMIC ACTIVITY IN THE STATE;
- (4) USE SOUND TECHNOLOGY AND BE ECONOMICALLY FEASIBLE;
- (5) MINIMIZE HARM TO THE ENVIRONMENT; AND
- (6) MAKE THE MOST USE OF FEDERAL FINANCIAL ASSISTANCE PROGRAMS FOR ENERGY PROJECTS.

(B) ACTIVE PROMOTION.

THE AUTHORITY SHALL:

- (1) PROMOTE PROGRAMS OF FINANCIAL ASSISTANCE FOR ENERGY PROJECTS ESTABLISHED UNDER THIS SUBTITLE;
- (2) INFORM CONSUMERS, THE PRIVATE SECTOR, AND FINANCIAL INSTITUTIONS ABOUT THESE PROGRAMS AND ACTIVELY SEEK THEIR PARTICIPATION;
- (3) DEVELOP AND DISSEMINATE DESCRIPTIONS OF ITS PROGRAMS OF FINANCIAL ASSISTANCE FOR ENERGY PROJECTS; AND
- (4) SERVE AS A CLEARINGHOUSE FOR INFORMATION ON FEDERAL AND STATE PROGRAMS OF FINANCIAL ASSISTANCE FOR ENERGY PROJECTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-920(a) and (b).

In subsection (a)(1) of this section, the former reference to "citizens" of the State is deleted because the meaning of the term "citizen" in this context is unclear.

Defined terms: "Authority" § 5-401

"Energy project" § 5-401

"State" § 1-101

5-447. ENERGY CONSERVATION PROJECT.

A PROJECT INVOLVING A COMMERCIAL BUILDING, AN INDUSTRIAL BUILDING, OR AN INDUSTRIAL PROCESS QUALIFIES AS AN ENERGY CONSERVATION PROJECT IF IT CONSISTS OF:

- (1) THE PURCHASE, INSTALLATION, OR MODIFICATION OF AN INSTALLATION THAT IS DESIGNED PRIMARILY TO REDUCE THE CONSUMPTION OF ENERGY, INCLUDING:
 - (i) CAULKING OR WEATHER STRIPPING;

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

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

(IV) AN AUTOMATIC ENERGY CONTROL SYSTEM;

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

(VI) THE REPLACEMENT OR MODIFICATION OF A LIGHTING SYSTEM TO INCREASE ENERGY EFFICIENCY;

(VII) AN ENERGY RECOVERY SYSTEM;

(VIII) A COGENERATION SYSTEM;

(IX) A SYSTEM FOR PROCESSING OR CONVERTING THE WASTE PRODUCTS OF THE INDUSTRIAL PROCESS TO STEAM, ELECTRICITY, HEAT, OR OTHER USEFUL FORM OF ENERGY;

(X) AN IMPROVEMENT TO THE INDUSTRIAL PROCESS THAT REDUCES THE ENERGY REQUIREMENTS FOR EACH UNIT OF OUTPUT;

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

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

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

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

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

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

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–901(k).

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

Defined terms: “Authority” § 5–401
“Commercial building” § 5–401
“Energy audit” § 5–401
“Improvement” § 5–401

5–448. SOLAR ENERGY PROJECT.

(A) IN GENERAL.

A PROJECT QUALIFIES AS A SOLAR ENERGY PROJECT IF IT:

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

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

(I) WIND ENERGY;

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

(III) SOLAR ENERGY OF:

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

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

3. A COMBINATION OF THESE TYPES.

(B) EXAMPLES.

A SOLAR ENERGY PROJECT MAY INCLUDE:

(1) A SOLAR PROCESS HEAT DEVICE;

(2) A SOLAR ELECTRIC DEVICE; AND

(3) AN EARTH–SHELTERED BUILDING IN WHICH THE SHELTERING SUBSTANTIALLY REDUCES THE CONSUMPTION OF ENERGY BY THE BUILDING.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–901(cc).

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

Defined terms: “Commercial building” § 5–401
“Industrial building” § 5–401

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5-449. RESERVED.

5-450. RESERVED.

PART VI. LINKED DEPOSIT PROGRAM.

5-451. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-927(a)(1).

(B) APPLICANT.

"APPLICANT" MEANS THE ELIGIBLE BUSINESS APPLYING FOR FIXED ASSET FINANCING ASSISTED BY A LINKED DEPOSIT.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5-927(a)(2).

No changes are made.

(C) ELIGIBLE BUSINESS.

"ELIGIBLE BUSINESS" MEANS A FOR-PROFIT BUSINESS THAT:

(1) IS LOCATED IN A QUALIFIED DISTRESSED COUNTY;

(2) IS IN GOOD STANDING WITH EACH STATE REGULATORY AUTHORITY WITH JURISDICTION OVER THE BUSINESS OF THE APPLICANT, INCLUDING THE STATE WORKERS' COMPENSATION COMMISSION, THE DEPARTMENT OF ASSESSMENTS AND TAXATION, AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION; AND

(3) EMPLOYS 500 OR FEWER EMPLOYEES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-927(a)(3).

Defined terms: "Qualified distressed county" § 1-101

"State" § 1-101

(D) FIXED ASSET FINANCING.

(1) "FIXED ASSET FINANCING" MEANS A COMMERCIAL LOAN TO FINANCE:

(I) THE ACQUISITION OR IMPROVEMENT OF ALL OR PART OF A BUILDING;

(II) THE ACQUISITION OR IMPROVEMENT OF THE LAND FOR THE BUILDING IF NOT ALREADY OWNED BY THE APPLICANT; OR

(III) THE ACQUISITION OR IMPROVEMENT OF EQUIPMENT.

(2) “FIXED ASSET FINANCING” DOES NOT INCLUDE REFINANCING AN EXISTING DEBT.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–927(a)(4).

In paragraph (1)(ii) of this subsection, the former reference on which the building “is located or is to be located” is deleted as surplusage.

In paragraph (1)(iii) of this subsection, the former reference to “machinery” is deleted as redundant of the reference to “equipment”.

(E) LENDER.

“LENDER” MEANS A FINANCIAL INSTITUTION THAT:

- (1) IS ELIGIBLE TO MAKE COMMERCIAL LOANS;
- (2) IS A PUBLIC DEPOSITORY OF STATE FUNDS;
- (3) AGREES TO RECEIVE LINKED DEPOSITS UNDER THIS PART; AND
- (4) IS INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–927(a)(5).

In item (3) of this subsection, the reference to this “part” is substituted for the former reference to this “subtitle” for accuracy.

Defined term: “State” § 1–101

(F) LINKED DEPOSIT.

“LINKED DEPOSIT” MEANS A DEPOSIT THAT THE AUTHORITY PLACES WITH A LENDER THAT EARNS INTEREST BELOW THE PREVAILING MARKET RATE FOR EQUIVALENT DEPOSITS MADE WITH THE LENDER AT THE TIME OF THE DEPOSIT.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–927(a)(6).

Defined terms: “Authority” § 5–401

“Lender” § 5–451

(G) PROGRAM.

“PROGRAM” MEANS THE LINKED DEPOSIT PROGRAM ESTABLISHED UNDER § 5–452 OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–901(v).

The only changes are in style.

5–452. ESTABLISHED.

THERE IS A LINKED DEPOSIT PROGRAM IN THE DEPARTMENT.

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REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-927(b)(1).

In this subsection, the former reference to the Program replacing "the Department's Maryland Enterprise Incentive Deposit Fund Program" is deleted as obsolete.

Defined terms: "Department" § 1-101
"Program" § 5-451

5-453. PURPOSE.

(A) IN GENERAL.

THE PURPOSE OF THE PROGRAM IS TO STIMULATE ECONOMIC AND EMPLOYMENT GROWTH IN RURAL AREAS OF THE STATE WITH HIGH UNEMPLOYMENT.

(B) ASSISTANCE TO ELIGIBLE BUSINESSES.

(1) THE PROGRAM SHALL ASSIST ELIGIBLE BUSINESSES TO OBTAIN A LOAN AT BELOW MARKET RATES.

(2) AN ELIGIBLE BUSINESS MAY USE A PROGRAM LOAN TO ACQUIRE LAND, BUILDINGS, AND EQUIPMENT.

(3) AN ACQUISITION MADE BY AN ELIGIBLE BUSINESS WITH A PROGRAM LOAN SHALL BE USED TO CREATE OR RETAIN EMPLOYMENT OPPORTUNITIES IN A RURAL AREA.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-927(b)(2), (3), (4), and (5).

In subsection (b)(2) of this section, the reference to a "Program" loan is added for clarity.

Also in subsection (b)(2) of this section, the phrase "with a Program loan" is added for clarity.

Also in subsection (b)(2) of this section, the former reference to "machinery" is deleted as redundant of the reference to "equipment".

Defined terms: "Acquisition" § 5-401
"Eligible business" § 5-401
"Program" § 5-451
"State" § 1-101

5-454. PLACEMENT.

THE AUTHORITY MAY PLACE A LINKED DEPOSIT WITH A LENDER IN ACCORDANCE WITH THIS PART.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-927(c).

The reference to this "part" is substituted for the former reference to the "subtitle" for accuracy.

The only other changes are in style.

Defined terms: “Authority” § 5–401

“Lender” § 5–451

“Linked deposit” § 5–451

5–455. APPLICATION.

(A) IN GENERAL.

TO OBTAIN FIXED ASSET FINANCING UNDER THIS PART, AN ELIGIBLE BUSINESS SHALL APPLY TO A LENDER FOR FIXED ASSET FINANCING.

(B) LIMITATION.

FIXED ASSET FINANCING UNDER THIS PART MAY NOT EXCEED \$500,000 FOR AN ELIGIBLE BUSINESS.

(C) REQUIREMENTS.

IN ADDITION TO THE INFORMATION THAT THE LENDER REQUIRES IN ITS STANDARD LOAN APPLICATION, THE APPLICANT SHALL PROVIDE TO THE LENDER, IN A FORM THAT THE AUTHORITY PRESCRIBES:

(1) A CERTIFICATION, WITH SUPPORTING DOCUMENTATION, THAT THE APPLICANT IS AN ELIGIBLE BUSINESS; AND

(2) A DESCRIPTION OF THE NUMBER AND KINDS OF JOBS TO BE CREATED OR RETAINED AS A RESULT OF PROVIDING THE LINKED DEPOSIT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–927(d).

Defined terms: “Applicant” § 5–451

“Authority” § 5–401

“Eligible business” § 5–401

“Lender” § 5–451

5–456. CONDITIONAL APPROVAL.

(A) IN GENERAL.

ON CONDITIONAL APPROVAL OF A FIXED ASSET FINANCING LOAN APPLICATION UNDER THIS PART, THE LENDER SHALL FORWARD THE LOAN PACKAGE TO THE AUTHORITY.

(B) ADDITIONAL INFORMATION.

IN ADDITION TO ANY OTHER INFORMATION THE AUTHORITY REASONABLY REQUIRES TO CARRY OUT THE PURPOSES OF THIS PART, THE LINKED DEPOSIT LOAN PACKAGE SHALL INCLUDE THE INFORMATION REQUIRED OF THE APPLICANT UNDER § 5–455(c) OF THIS SUBTITLE.

(C) LIMITED LIABILITY.

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BY FORWARDING THE LOAN PACKAGE TO THE AUTHORITY, THE LENDER IS NOT REPRESENTING TO THE AUTHORITY THAT INFORMATION IN THE LOAN PACKAGE THAT RELATES TO THE APPLICANT IS ACCURATE OR VALID.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-927(e).

Defined terms: "Applicant" § 5-451

"Authority" § 5-401

"Lender" § 5-451

"Linked deposit" § 5-451

5-457. REVIEW.

IN DETERMINING WHETHER TO ACCEPT A LINKED DEPOSIT LOAN PACKAGE, THE AUTHORITY SHALL CONFIRM THE ELIGIBILITY OF THE APPLICANT AND CONSIDER:

(1) THE NUMBER AND KINDS OF JOBS TO BE CREATED OR RETAINED AS A RESULT OF PROVIDING THE LINKED DEPOSIT;

(2) THE AMOUNT OF THE LOAN;

(3) THE AMOUNT OF MONEY IN THE FUND AND THE AMOUNT COMMITTED TO LINKED DEPOSITS;

(4) WHETHER THE AVAILABILITY OF LINKED DEPOSIT FINANCING IS ESSENTIAL FOR THE ECONOMIC FEASIBILITY OF THE ACQUISITION;

(5) THE ECONOMIC NEEDS OF THE AREA IN WHICH THE ELIGIBLE BUSINESS IS LOCATED;

(6) THE FINANCIAL FEASIBILITY OF THE LOAN; AND

(7) OTHER FACTORS THAT THE AUTHORITY CONSIDERS RELEVANT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-927(f).

Defined terms: "Acquisition" § 5-401

"Applicant" § 5-451

"Authority" § 5-401

"Eligible business" § 5-401

"Fund" § 5-401

"Linked deposit" § 5-451

5-458. PAYMENT SCHEDULE.

IF THE AUTHORITY ACCEPTS A LINKED DEPOSIT LOAN PACKAGE FORWARDED FROM A LENDER, THE AUTHORITY AND THE LENDER SHALL MAKE AN AGREEMENT THAT SETS THE AMOUNT OF, THE TERM OF, AND THE SCHEDULE FOR PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE LINKED DEPOSIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-927(g).

Defined terms: “Authority” § 5–401

“Lender” § 5–451

“Linked deposit” § 5–451

5–459. LOAN COMMITMENT.

ON RECEIVING LINKED DEPOSIT APPROVAL FROM THE AUTHORITY, THE LENDER SHALL ISSUE A LOAN COMMITMENT TO THE APPLICANT THAT PROVIDES THAT THE INTEREST RATE ON THE FINANCING WILL BE BELOW THE PREVAILING MARKET RATE TO THE SAME EXTENT AND FOR AS LONG AS INTEREST EARNED ON THE LINKED DEPOSIT IS BELOW INTEREST EARNED ON OTHER EQUIVALENT DEPOSITS WITH THE LENDER AT THE TIME OF THE DEPOSIT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–927(h).

The reference to linked deposit “approval” is added for clarity.

Defined terms: “Applicant” § 5–451

“Authority” § 5–401

“Lender” § 5–451

“Linked deposit” § 5–451

5–460. STATE NOT LIABLE.

(A) IN GENERAL.

A FIXED ASSET FINANCING LOAN ASSISTED BY A LINKED DEPOSIT IS NOT A DEBT OF THE STATE OR A PLEDGE OF THE CREDIT OF THE STATE.

(B) LIABILITY.

THE AUTHORITY AND, IN ACCORDANCE WITH § 5–521 OF THE COURTS ARTICLE, THE DEPARTMENT AND THE STATE ARE NOT LIABLE TO A LENDER FOR PAYMENT OF THE PRINCIPAL OR INTEREST ON A FIXED ASSET FINANCING LOAN ASSISTED BY A LINKED DEPOSIT UNDER THIS PART.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–927(i).

Defined terms: “Authority” § 5–401

“Department” § 1–101

“Lender” § 5–451

“Linked deposit” § 5–451

“State” § 1–101

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5-461. RESERVED.

5-462. RESERVED.

PART VII. PROHIBITED ACTS; PENALTIES.

5-463. FALSE STATEMENT OR REPORT.

(A) FALSE STATEMENT OR REPORT — APPLICATION OR DOCUMENT.

A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE A FALSE STATEMENT OR REPORT TO BE MADE IN AN APPLICATION OR DOCUMENT SUBMITTED TO THE AUTHORITY.

(B) FALSE STATEMENT OR REPORT — TO INFLUENCE AUTHORITY.

A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE A FALSE STATEMENT OR REPORT TO BE MADE TO INFLUENCE AN ACTION OF THE AUTHORITY:

(1) ON AN APPLICATION FOR FINANCIAL ASSISTANCE UNDER THIS SUBTITLE;
OR

(2) AFFECTING FINANCIAL ASSISTANCE SOUGHT OR AWARDED UNDER THIS SUBTITLE.

(C) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$50,000 OR BOTH.

(D) STATUTE OF LIMITATIONS AND IN BANC REVIEW.

A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO § 5-106(B) OF THE COURTS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-931.

In subsection (b)(1) and (2) of this section, the references to financial assistance “under this subtitle” are added for clarity.

In subsection (c) of this section, the former reference to an “aider and abetter” is deleted as obsolete. The common-law distinction between charging a principal of a crime and an accessory before the fact to the crime has been abolished for most purposes by statute, in response to the holding of the Court of Appeals in *State v. Sowell*, 353 Md. 713 (1999). See CP § 4-204.

In subsection (d) of this section, the reference to a violator being “subject to § 5-106(b) of the Courts Article” is substituted for the former reference to the violation subjecting the defendant to imprisonment “in the penitentiary” for clarity and consistency with the Criminal Law Article and the Criminal Procedure Article.

Defined terms: "Authority" § 5-401

"Person" § 1-101

5-464. RESERVED.

5-465. RESERVED.

PART VIII. SHORT TITLE.

5-466. SHORT TITLE.

THIS SUBTITLE MAY BE REFERRED TO AS THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY ACT.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-933.

No changes are made.

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 83A, § 5-914(a), as it related to the replacement of certain funds by the Industrial Development Fund, is apparently obsolete. However, to avoid any inadvertent substantive effect its repeal might have, it is transferred to the Session Laws. See § 9 of Ch. 306, Acts of 2008.

SUBTITLE 5. MARYLAND SMALL BUSINESS DEVELOPMENT FINANCING AUTHORITY.

PART I. GENERAL PROVISIONS.

5-501. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5-1001(a).

No changes are made.

(B) AUTHORITY.

"AUTHORITY" MEANS THE MARYLAND SMALL BUSINESS DEVELOPMENT FINANCING AUTHORITY.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5-1001(b).

No changes are made.

(C) FINANCIAL INSTITUTION.

"FINANCIAL INSTITUTION" MEANS:

(1) A FINANCIAL INSTITUTION, AS DEFINED IN § 1-101 OF THE FINANCIAL INSTITUTIONS ARTICLE; AND

(2) ANY OTHER LENDER THAT THE AUTHORITY APPROVES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-1001(e).

The term "and" is substituted for the former phrase "as well as" for brevity.

(D) LOAN DOCUMENT.

(1) "LOAN DOCUMENT" MEANS AN INSTRUMENT OR AGREEMENT THAT EVIDENCES, SECURES, OR GUARANTEES A LOAN.

(2) "LOAN DOCUMENT" INCLUDES A NOTE, FINANCING STATEMENT, MORTGAGE, PLEDGE, ASSIGNMENT, LOAN AND SECURITY AGREEMENT, OR GUARANTY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-1001(g).

In paragraph (2) of this subsection, the word "guaranty" is substituted for the former word "guarantee" for consistency within this subtitle.

The former phrase "by way of example" is deleted as surplusage.

(E) WORKING CAPITAL.

(1) "WORKING CAPITAL" MEANS MONEY USED TO MEET THE CASH NEEDS OF AN OPERATING BUSINESS ENTITY.

(2) "WORKING CAPITAL" DOES NOT INCLUDE MONEY USED FOR A CAPITAL PURCHASE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-1001(j).

The term "money" is substituted for the former term "funds" for clarity and consistency.

REVISOR'S NOTE TO SECTION: Former Art. 83A, § 5-1001(c) and (h), which defined "Department" and "Secretary", respectively, are revised in § 1-101 of this article.

5-502. LEGISLATIVE FINDINGS; PURPOSES.

(A) FINDINGS.

THE GENERAL ASSEMBLY FINDS THAT:

(1) THE INABILITY OF SOCIALLY OR ECONOMICALLY DISADVANTAGED INDIVIDUALS TO OBTAIN WORKING CAPITAL IS A MAJOR LIMITATION ON THEIR OPPORTUNITY TO WIN AND PERFORM GOVERNMENT AND OTHER CONTRACTS;

(2) BECAUSE SOCIALLY OR ECONOMICALLY DISADVANTAGED INDIVIDUALS FREQUENTLY HAVE BEEN AWARDED GOVERNMENT OR OTHER CONTRACTS BUT HAVE

LACKED THE WORKING CAPITAL TO POST A BOND, BUY SUPPLIES NEEDED TO BEGIN THE WORK, OR PAY EMPLOYEES, THESE INDIVIDUALS HAVE BEEN UNABLE TO ACCEPT THE CONTRACTS;

(3) SOME INDIVIDUALS ARE UNABLE TO OBTAIN GOVERNMENT AND OTHER CONTRACTS FOR REASONS OTHER THAN THE COST TO THE OWNER OR THE ABILITY TO PERFORM THE CONTRACT WORK COMPETENTLY;

(4) SOCIALLY OR ECONOMICALLY DISADVANTAGED INDIVIDUALS FREQUENTLY LACK ADEQUATE CAPITAL TO SUSTAIN AND EXPAND THEIR BUSINESSES AND TO HIRE AND TRAIN EMPLOYEES;

(5) BECAUSE HIGH RISK, PROBLEM, OR UNCOLLECTIBLE LOANS ARE NOT IN THE INTEREST OF FINANCIAL INSTITUTIONS, FINANCIAL INSTITUTIONS GENERALLY ARE RELUCTANT TO LEND MONEY TO SOCIALLY OR ECONOMICALLY DISADVANTAGED INDIVIDUALS WITH INSUFFICIENT RECORDS OF PERFORMANCE;

(6) THE INABILITY OF BUSINESSES OWNED BY SOCIALLY OR ECONOMICALLY DISADVANTAGED INDIVIDUALS TO OBTAIN LONG-TERM FINANCING IS A MAJOR LIMITATION ON THEIR OPPORTUNITY TO SURVIVE AND EXPAND; AND

(7) THE PUBLIC WELFARE IS SERVED BY PROMOTING THE VIABILITY AND EXPANSION OF BUSINESSES OWNED BY ECONOMICALLY OR SOCIALLY DISADVANTAGED INDIVIDUALS, RETAINING OR INCREASING THE EMPLOYMENT OF THESE INDIVIDUALS, AND EXPANDING THE TAXABLE BASE OF THE ECONOMY OF THE STATE.

(B) PURPOSES.

THE PURPOSES OF THE AUTHORITY ARE:

(1) TO ASSIST SOCIALLY OR ECONOMICALLY DISADVANTAGED INDIVIDUALS TO OBTAIN ADEQUATE WORKING CAPITAL TO BEGIN, CONTINUE, AND COMPLETE PROJECTS, THE MAJORITY OF FUNDING FOR WHICH IS PROVIDED BY GOVERNMENT ENTITIES OR UTILITIES;

(2) TO ENCOURAGE SOCIALLY OR ECONOMICALLY DISADVANTAGED INDIVIDUALS TO SEEK GOVERNMENT AND OTHER CONTRACTS;

(3) TO ENCOURAGE FINANCIAL INSTITUTIONS TO MAKE LOANS TO THESE INDIVIDUALS; AND

(4) TO ASSIST SMALL BUSINESSES THAT ARE UNABLE TO OBTAIN ADEQUATE BUSINESS FINANCING ON REASONABLE TERMS THROUGH NORMAL FINANCING CHANNELS BECAUSE THE BUSINESSES DO NOT MEET THE ESTABLISHED CREDIT CRITERIA OF FINANCIAL INSTITUTIONS.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-1002.

The only changes are in style.

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Defined terms: "Authority" § 5-501

"Financial institution" § 5-501

"State" § 1-101

"Working capital" § 5-501

5-503. RESERVED.

5-504. RESERVED.

PART II. MARYLAND SMALL BUSINESS DEVELOPMENT FINANCING AUTHORITY.

5-505. ESTABLISHED.

THERE IS A MARYLAND SMALL BUSINESS DEVELOPMENT FINANCING AUTHORITY IN THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1003.

Defined term: "Department" § 1-101

5-506. MEMBERSHIP.

(A) COMPOSITION.

THE AUTHORITY CONSISTS OF THE FOLLOWING NINE MEMBERS:

(1) SEVEN MEMBERS APPOINTED BY THE GOVERNOR;

(2) THE SECRETARY OR THE SECRETARY'S DESIGNEE; AND

(3) (I) THE COMPTROLLER OR THE TREASURER AS DESIGNATED BY THE GOVERNOR; OR

(II) THE DESIGNEE OF THE GOVERNOR'S DESIGNEE.

(B) TENURE; VACANCIES.

(1) THE TERM OF AN APPOINTED MEMBER IS 5 YEARS.

(2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED AS REQUIRED FOR APPOINTMENTS TO THE AUTHORITY ON OCTOBER 1, 2008.

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

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

(C) REMOVAL.

THE GOVERNOR MAY REMOVE AN APPOINTED MEMBER FOR CAUSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1004.

In subsection (b)(2) of this section, the reference to terms being staggered as required by the terms provided for appointed members on “October 1, 2008” is substituted for the former obsolete reference to terms being staggered as required by the terms for “original appointments to the Authority”. See § 13 of Ch. 306, Acts of 2008. The terms of members serving on October 1, 2008 end as follows: (1) two expiring on June 30, 2009; (2) one expiring on June 30, 2010; (3) three expiring on June 30, 2012; and (4) one expiring on June 30, 2013.

Defined term: “Authority” § 5–501

5–507. OFFICERS.

(A) IN GENERAL.

THE AUTHORITY SHALL ELECT A CHAIR, VICE CHAIR, AND TREASURER FROM AMONG ITS MEMBERS.

(B) ELECTION AND TERMS OF OFFICE.

THE AUTHORITY SHALL DETERMINE THE MANNER OF ELECTION OF OFFICERS AND THEIR TERMS.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1005.

In subsection (a) of this section, the references to a “chair” and “vice chair” are substituted for the former references to a “chairman” and “vice-chairman”, respectively, because SG § 2–1238 requires the use of terms that are neutral as to gender to the extent practicable.

Defined term: “Authority” § 5–501

5–508. QUORUM; MEETINGS; REIMBURSEMENT FOR EXPENSES; STAFF.

(A) QUORUM.

(1) FOUR MEMBERS OF THE AUTHORITY ARE A QUORUM.

(2) THE AUTHORITY MAY NOT ACT ON ANY MATTER UNLESS AT LEAST FOUR MEMBERS IN ATTENDANCE CONCUR.

(B) MEETINGS.

THE AUTHORITY SHALL DETERMINE THE TIMES AND PLACES OF ITS MEETINGS.

(C) REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE AUTHORITY IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(D) STAFF.

THE AUTHORITY MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE BUDGET.

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REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1007(a), (b), (c), and (d).

Defined terms: “Authority” § 5–501
“State” § 1–101

5–509. EXECUTIVE DIRECTOR.

(A) POSITION AND APPOINTMENT.

(1) THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE OFFICER OF THE AUTHORITY.

(2) WITH THE APPROVAL OF THE SECRETARY, THE AUTHORITY MAY:

(i) APPOINT THE EXECUTIVE DIRECTOR; OR

(ii) CONTRACT WITH A PRIVATE ENTITY TO PERFORM THE DUTIES OF THE EXECUTIVE DIRECTOR.

(B) TENURE; REMOVAL.

THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE AUTHORITY, WITH THE CONCURRENCE OF THE SECRETARY.

(C) DUTIES.

IN ADDITION TO ANY OTHER DUTIES SET FORTH IN THIS SUBTITLE, THE EXECUTIVE DIRECTOR SHALL:

(1) SUPERVISE THE ADMINISTRATIVE AFFAIRS AND TECHNICAL ACTIVITIES OF THE AUTHORITY IN ACCORDANCE WITH ITS REGULATIONS AND POLICIES;

(2) ATTEND ALL MEETINGS OF THE AUTHORITY;

(3) KEEP MINUTES OF ALL PROCEEDINGS OF THE AUTHORITY;

(4) APPROVE ALL ACCOUNTS FOR SALARIES, PER DIEM PAYMENTS, AND ALLOWABLE EXPENSES OF THE AUTHORITY, ITS EMPLOYEES, AND ITS CONSULTANTS;

(5) APPROVE ALL EXPENSES INCIDENTAL TO THE OPERATION OF THE AUTHORITY; AND

(6) PERFORM ANY OTHER DUTY THAT THE AUTHORITY OR THE SECRETARY REQUIRES TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1006.

In subsection (c)(1) of this section, the former reference to “rules” of the Authority is deleted as included in the reference to “regulations”. See General Revisor’s Note to article.

Defined terms: “Authority” § 5–501
“Secretary” § 1–101

5-510. CONFLICTS OF INTEREST.

A MEMBER OF THE AUTHORITY MAY NOT PARTICIPATE IN ANY DECISION RELATED TO THE APPROVAL OF FINANCIAL ASSISTANCE IF THE MEMBER HAS ANY INTEREST IN:

- (1) THE APPLICANT FOR THE ASSISTANCE; OR
- (2) THE FINANCIAL INSTITUTION SEEKING A GUARANTY OR AN INTEREST SUBSIDY OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1008.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that the relationship between disqualifications under this section and the prohibitions regarding members of State units under the State Ethics Law is unclear. The General Assembly may wish to compare this section with the relevant provisions of the State Ethics Law and either amend this provision to harmonize it with the State Ethics Law or repeal this section.

Defined term: "Authority" § 5-501

5-511. ADMINISTRATION OF PROGRAMS; CONTRACTS; PRIVATE CORPORATION.

- (A) "AUTHORITY STAFF" DEFINED.

"AUTHORITY STAFF" MEANS ANY OF THE INDIVIDUALS WHO ARE EMPLOYED BY THE DEPARTMENT TO OPERATE THE PROGRAMS OF THE AUTHORITY IMMEDIATELY PRIOR TO THE EXECUTION BY THE DEPARTMENT OF A CONTRACT UNDER THIS SECTION WITH THE PRIVATE CORPORATION ORGANIZED BY ANY OF THOSE INDIVIDUALS.

- (B) CONTRACT WITH PRIVATE CORPORATION.

- (1) THE DEPARTMENT MAY CONTRACT FOR AND ENGAGE THE SERVICES OF SOME OR ALL OF THE AUTHORITY STAFF TO ADMINISTER THE PROGRAMS OF THE AUTHORITY, FOR A PERIOD OF 3 YEARS, IF THE AUTHORITY STAFF HAS ORGANIZED ITSELF AS A PRIVATE MARYLAND CORPORATION.

- (2) THE DEPARTMENT MAY:

- (I) EXTEND THE TERMINATION DATE OF THE CONTRACT IN EFFECT AS OF SEPTEMBER 30, 2008 TO JUNE 30, 2012, AND MODIFY THAT EXTENDED CONTRACT AS NEEDED; AND

- (II) RENEW THE EXTENDED CONTRACT FOR UP TO TWO ADDITIONAL 5-YEAR TERMS, AND MODIFY THAT RENEWED AND EXTENDED CONTRACT AS NEEDED.

- (3) AN EXTENSION OR RENEWAL CONTRACT SHALL INCLUDE STANDARDS TO EVALUATE THE PERFORMANCE OF THE PRIVATE CONTRACTOR IN RENDERING SERVICES UNDER THE CONTRACT.

- (C) CORPORATE NAME.

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IN ITS NAME THE CORPORATION MAY USE “MARYLAND SMALL BUSINESS DEVELOPMENT FINANCING AGENCY”, “MSBDFA, INC.”, OR ANY CLOSE APPROXIMATION OF THOSE TERMS.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5–1001(d) and 5–1009(b).

In subsection (b)(2) of this section, the former obsolete references to an initial contract extended to June 30, 2002 and its renewal once for five years are deleted.

Defined terms: “Authority” § 5–501
“Department” § 1–101

5–512. POWERS AND DUTIES.

(A) IN GENERAL.

THE AUTHORITY EXERCISES ITS POWERS AND PERFORMS ITS DUTIES SUBJECT TO THE AUTHORITY OF THE SECRETARY.

(B) POWERS.

THE AUTHORITY MAY:

- (1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;
- (2) ADOPT A SEAL;
- (3) MAINTAIN OFFICES IN THE STATE;
- (4) SUE AND BE SUED IN ITS OWN NAME;
- (5) RETAIN CONSULTANTS;
- (6) USE THE SERVICES OF GOVERNMENTAL UNITS;
- (7) CONTRACT FOR AND ACCEPT, TO CARRY OUT THIS SUBTITLE, A LOAN OR GRANT FROM THE FEDERAL GOVERNMENT, A POLITICAL SUBDIVISION OF THE STATE, OR ANY OTHER SOURCE;
- (8) PURCHASE, RECEIVE, LEASE AS LESSEE, OR OTHERWISE ACQUIRE, SELL, MORTGAGE, LEASE AS LESSOR, PLEDGE, ADMINISTER, DISPOSE OF, OR OTHERWISE DEAL WITH PROPERTY GIVEN AS COLLATERAL UNDER A LOAN AGREEMENT ON THE TERMS AND CONDITIONS IT CONSIDERS ADVISABLE;
- (9) ADOPT REGULATIONS NECESSARY TO CARRY OUT ITS POWERS;
- (10) ACQUIRE OR TAKE ASSIGNMENTS OF LOAN DOCUMENTS; AND
- (11) DO ANYTHING NECESSARY OR CONVENIENT TO CARRY OUT ITS POWERS.

(C) DUTIES.

THE AUTHORITY SHALL:

(1) IN ITS INTERNAL FUNCTIONS, FOLLOW THE PROCEDURES OF THE STATE THAT GOVERN THE PURCHASE OF OFFICE SPACE, SUPPLIES, FACILITIES, MATERIALS, EQUIPMENT, AND PROFESSIONAL SERVICES;

(2) KEEP PROPER RECORDS OF ITS ACCOUNTS;

(3) KEEP SEPARATE RECORDS FOR:

(i) THE SMALL BUSINESS DEVELOPMENT CONTRACT FINANCING FUND UNDER PART III OF THIS SUBTITLE;

(ii) THE SMALL BUSINESS DEVELOPMENT GUARANTY FUND UNDER PART IV OF THIS SUBTITLE;

(iii) THE EQUITY PARTICIPATION INVESTMENT PROGRAM FUND UNDER PART V OF THIS SUBTITLE; AND

(iv) THE SMALL BUSINESS SURETY BOND FUND UNDER PART VI OF THIS SUBTITLE; AND

(4) ON OR BEFORE DECEMBER 31 OF EACH YEAR, SUBMIT A REPORT ON ITS CONDITION AND OPERATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5-1010, 5-1011, 5-1007(e), and 5-1009(a).

In subsection (b)(7) of this section, the former reference to "comply[ing] with the terms and conditions thereof" is deleted as implicit in contracting for and acceptance of the loans and grants.

In subsection (b)(8) of this section, the references to "lease as lessee" and "lease as lessor", respectively, are substituted for the former references to "lease" for clarity.

In subsection (c)(3) of this section, the references to specific parts of this subtitle associated with particular funds are added for clarity.

Defined terms: "Authority" § 5-501

"Secretary" § 1-101

"State" § 1-101

5-513. SERVICE OF PROCESS.

(A) SERVICE ON EXECUTIVE DIRECTOR.

IN ANY ACTION, SERVICE OF PROCESS ON THE AUTHORITY SHALL BE MADE BY SERVICE ON THE EXECUTIVE DIRECTOR OF THE AUTHORITY.

(B) MANNER OF SERVICE.

SERVICE MAY BE MADE IN PERSON OR BY LEAVING A COPY OF THE PROCESS AT THE OFFICE OF THE EXECUTIVE DIRECTOR WITH THE INDIVIDUAL IN CHARGE OF THE OFFICE.

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REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1012.

Defined term: "Authority" § 5-501

5-514. CERTAIN RECEIPTS PAYABLE.

(A) IN GENERAL.

NOTWITHSTANDING § 5-602(G) AND (H) OF THIS TITLE OR ANY OTHER LAW, THE FOLLOWING MONEY SHALL BE PAYABLE INTO THE FUNDS UNDER THIS SUBTITLE:

(1) ANY RECOVERY OF INVESTMENTS MADE UNDER § 5-602 OF THIS TITLE THAT WERE FUNDED BY A TRANSFER OF MONEY FROM THE FUNDS UNDER THIS SUBTITLE TO THE ENTERPRISE FUND, INCLUDING AN INVESTMENT IN MMG VENTURES LLP; AND

(2) ANY REPAYMENT OF A GRANT MADE UNDER § 5-602 OF THIS TITLE THAT WAS FUNDED BY A TRANSFER OF MONEY FROM THE FUNDS UNDER THIS SUBTITLE TO THE ENTERPRISE FUND.

(B) ALLOCATION.

THE AUTHORITY SHALL DETERMINE THE PROPORTION OF THE RECOVERY OR REPAYMENT PAYABLE UNDER SUBSECTION (A) OF THIS SECTION THAT SHALL BE DEPOSITED INTO EACH OF THE FUNDS UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-1049.

The only changes are in style.

Defined term: "Authority" § 5-501

5-515. RESERVED.

5-516. RESERVED.

PART III. SMALL BUSINESS DEVELOPMENT CONTRACT FINANCING FUND.

5-517. "FUND" DEFINED.

IN THIS PART, "FUND" MEANS THE SMALL BUSINESS DEVELOPMENT CONTRACT FINANCING FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1001(f).

5-518. ESTABLISHED.

THERE IS A SMALL BUSINESS DEVELOPMENT CONTRACT FINANCING FUND.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-1013.

No changes are made.

5-519. PURPOSE.

THE AUTHORITY SHALL USE THE FUND TO IMPLEMENT THIS PART.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1014, as it related to the purpose of the Fund.

In this section and throughout this part and Part IV of this subtitle, the former references to the use of the Fund "to implement" specified purposes is substituted for the former references to the use of the Fund "for carrying out" specified purposes for clarity and consistency.

Defined terms: "Authority" § 5-501
"Fund" § 5-517

5-520. ADMINISTRATION.

THE AUTHORITY SHALL ADMINISTER THE FUND.

REVISOR'S NOTE: This section is new language added to state expressly what was only implied under former Art. 83A, §§ 5-1014 and 5-1021(a), that the Authority administers the Fund.

Defined terms: "Authority" § 5-501
"Fund" § 5-517

5-521. STATUS; INVESTMENT; PAYMENT.

(A) STATUS.

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

(B) INVESTMENT.

THE TREASURER SHALL:

(1) INVEST THE MONEY IN THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED; AND

(2) CREDIT ANY INVESTMENT EARNINGS TO THE FUND.

(C) PAYMENT.

IF THE AUTHORITY DETERMINES BY RESOLUTION THAT ANY MONEY IN THE FUND IS NO LONGER NEEDED TO MEET ITS OBLIGATIONS, THE AUTHORITY MAY AUTHORIZE THE COMPTROLLER TO FIRST EMPLOY THAT MONEY TO PAY THE PRINCIPAL OF AND INTEREST ON OUTSTANDING BONDS ISSUED UNDER ANY ACT AUTHORIZING THE ISSUE OF STATE GENERAL OBLIGATION BONDS ISSUED TO IMPLEMENT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5-1014 and 5-1019, as they related to money in the Contract Financing Fund.

In subsection (a) of this section, the reference to “reversion under § 7–302 of the State Finance and Procurement Article” is added for clarity and consistency within this article. *See* General Revisor’s Note to article.

Also in subsection (a) of this section, the reference to a “special” fund is substituted for the former reference to a “revolving” fund for consistency with similar provisions throughout this article that relate to the status of funds.

Subsection (b) of this section is restated in standard language for clarity and consistency within this article.

Defined terms: “Authority” § 5–501

“Fund” § 5–517

“State” § 1–101

5–522. COMPOSITION.

THE FUND CONSISTS OF:

(1) PREMIUMS FOR GUARANTEEING LOANS UNDER § 5–525(A) OF THIS SUBTITLE;

(2) PREMIUMS FOR GUARANTEEING EQUITY INVESTMENTS UNDER § 5–525(B) OF THIS SUBTITLE;

(3) REPAYMENTS OF PRINCIPAL OF AND INTEREST ON DIRECT LOANS MADE UNDER § 5–525(C) OF THIS SUBTITLE;

(4) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL OF COLLATERAL FOR DIRECT LOANS OR LOAN GUARANTIES MADE UNDER § 5–525 OF THIS SUBTITLE; AND

(5) ALL OTHER RECEIPTS OF THE AUTHORITY UNDER THIS PART.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1015(a).

The former reference to “[i]ncome from investments allocable to the Contract Financing Fund [made by] the State Treasurer ...” is deleted as redundant of the crediting of investment earnings to the Fund under § 5–521 of this subtitle.

Defined terms: “Authority” § 5–501

“Fund” § 5–517

5–523. ADDITIONAL MONEY.

(A) IN GENERAL.

IF THE AUTHORITY AND THE SECRETARY DETERMINE THAT MORE MONEY IS NEEDED TO KEEP THE FUND AT AN ADEQUATE LEVEL, THE AUTHORITY SHALL SEND A WRITTEN REQUEST FOR THE ADDITIONAL MONEY TO THE BOARD OF PUBLIC WORKS.

(B) BOARD OF PUBLIC WORKS.

THE BOARD OF PUBLIC WORKS MAY PAY THE AMOUNT REQUESTED FROM THE GENERAL EMERGENCY FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1016.

In subsection (a) of this section, the former reference to the “reserves” of the Fund is deleted as included in the reference to the Fund.

In subsection (b) of this section, the reference to the “General” Emergency Fund is added for consistency within the Code. *See, e.g.*, ED § 13–308(b) and SF § 10–501(a)(2).

Defined terms: “Authority” § 5–501
“Fund” § 5–517

5–524. USES.

THE AUTHORITY MAY USE THE FUND FOR:

- (1) LOAN GUARANTIES MADE UNDER § 5–525(A) OF THIS SUBTITLE;
- (2) EQUITY INVESTMENT GUARANTIES MADE UNDER § 5–525(B) OF THIS SUBTITLE;
- (3) DIRECT LOANS MADE UNDER § 5–525(C) OF THIS SUBTITLE; AND
- (4) EXPENSES FOR ADMINISTRATIVE, LEGAL, ACTUARIAL, AND OTHER SERVICES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1015(b) and, as that section related to types of authorized financial assistance from the Fund, § 5–1021(a).

In the introductory language of this section, the former redundant reference that the Authority may use the Fund “to pay all of the following expenses and disbursements of the Authority” is deleted for clarity, brevity, and as unnecessary in light of the list of authorized expenses and disbursements.

Former Art. 83A, § 5–1021(a) which authorized specified financial assistance is deleted as included under revised § 5–525 of this article.

Defined terms: “Authority” § 5–501
“Fund” § 5–517

5–525. FINANCIAL ASSISTANCE — CONDITIONS.

(A) LOAN GUARANTIES.

(1) THE AUTHORITY MAY USE THE FUND TO GUARANTEE A LOAN MADE TO AN APPLICANT ONLY IF:

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(I) THE APPLICANT MEETS THE REQUIREMENTS OF THIS PART;

(II) THE LOAN IS TO BE USED TO PERFORM A CONTRACT FOR WHICH THE MAJORITY OF THE FUNDING IS PROVIDED BY THE FEDERAL GOVERNMENT, A STATE GOVERNMENT, A LOCAL GOVERNMENT, OR A UTILITY REGULATED BY THE PUBLIC SERVICE COMMISSION;

(III) THE MAXIMUM AMOUNT PAYABLE BY THE AUTHORITY UNDER THE GUARANTEE DOES NOT EXCEED \$2,000,000; AND

(IV) THE GUARANTEED LOAN IS TO BE USED FOR:

1. WORKING CAPITAL; OR

2. EQUIPMENT NEEDED TO PERFORM THE CONTRACT, THE COST OF WHICH CAN BE REPAID FROM CONTRACT PROCEEDS, IF THE AUTHORITY HAS ENTERED INTO AN AGREEMENT WITH THE APPLICANT TO SECURE THE LOAN OR GUARANTY.

(2) A GUARANTY MADE BY THE AUTHORITY MAY NOT EXCEED THE TERM OF THE CONTRACT, UNLESS THE AUTHORITY DETERMINES THAT A LONGER TERM BETTER SERVES THE PURPOSES OF THIS SUBTITLE.

(B) EQUITY INVESTMENT GUARANTIES.

(1) THE AUTHORITY MAY USE THE FUND TO GUARANTEE A PERSON'S PROPOSED EQUITY INVESTMENT IN THE APPLICANT ONLY IF:

(I) THE APPLICANT MEETS THE REQUIREMENTS OF THIS PART;

(II) THE AMOUNT OF THE EQUITY INVESTMENT TO BE GUARANTEED DOES NOT EXCEED THE LESSER OF:

1. 10% OF THE PERSON'S EQUITY INVESTMENT IN THE APPLICANT; OR

2. \$250,000;

(III) THE EQUITY INVESTMENT TO BE GUARANTEED IS TO BE USED TO PERFORM A CONTRACT FOR WHICH THE MAJORITY OF FUNDING IS PROVIDED BY THE FEDERAL GOVERNMENT, A STATE GOVERNMENT, A LOCAL GOVERNMENT, OR A UTILITY REGULATED BY THE PUBLIC SERVICE COMMISSION; AND

(IV) THE EQUITY INVESTMENT TO BE GUARANTEED IS TO BE USED FOR:

1. WORKING CAPITAL; OR

2. EQUIPMENT NEEDED TO PERFORM THE CONTRACT, THE COST OF WHICH CAN BE REPAID FROM CONTRACT PROCEEDS, IF THE AUTHORITY HAS ENTERED INTO AN AGREEMENT WITH THE APPLICANT TO SECURE THE GUARANTY.

(2) THE AUTHORITY MAY NOT GUARANTEE THE EQUITY INVESTMENT OF A PERSON WHO:

(I) PREVIOUSLY HELD AN EQUITY INVESTMENT IN THE APPLICANT;

(II) PREVIOUSLY PARTICIPATED IN THE MANAGEMENT OF THE APPLICANT; OR

(III) IN ANY OTHER MANNER IS RELATED TO:

1. THE APPLICANT; OR

2. ANY OF THE CURRENT STOCKHOLDERS, OFFICERS, OR MANAGEMENT PERSONNEL OF THE APPLICANT.

(c) LOANS.

(1) THE AUTHORITY MAY USE THE FUND TO LEND MONEY TO AN APPLICANT ONLY IF:

(I) THE APPLICANT MEETS THE REQUIREMENTS OF THIS PART;

(II) THE APPLICANT IS UNABLE TO OBTAIN MONEY ON REASONABLE TERMS THROUGH NORMAL LENDING CHANNELS FROM ANOTHER SOURCE;

(III) THE LOAN DOES NOT EXCEED \$2,000,000;

(IV) THE LOAN IS TO BE USED TO PERFORM A CONTRACT FOR WHICH THE MAJORITY OF FUNDING IS PROVIDED BY THE FEDERAL GOVERNMENT, A STATE GOVERNMENT, A LOCAL GOVERNMENT, OR A UTILITY REGULATED BY THE PUBLIC SERVICE COMMISSION; AND

(V) THE LOAN IS TO BE USED FOR:

1. WORKING CAPITAL; OR

2. EQUIPMENT NEEDED TO PERFORM THE CONTRACT, IF THE CONTRACT PROCEEDS CAN REPAY THE COST OF THE EQUIPMENT AND IF THE AUTHORITY HAS ENTERED INTO AN AGREEMENT WITH THE APPLICANT TO SECURE THE LOAN.

(2) A LOAN THAT THE AUTHORITY MAKES SHALL MATURE NOT LATER THAN THE TERM OF THE CONTRACT, UNLESS THE AUTHORITY FINDS THAT A LONGER TERM BETTER SERVES THE PURPOSES OF THIS PART.

(d) GEOGRAPHIC DIVERSITY.

IN PROVIDING FINANCIAL ASSISTANCE UNDER THIS SECTION, THE AUTHORITY SHALL RECOGNIZE THE NEED TO SERVE APPLICANTS FROM ALL POLITICAL SUBDIVISIONS IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1021(a), as it related to eligibility criteria for a direct loan from the Fund, and (b), and §§ 5-1022 through 5-1024.

In subsection (a)(1)(iv)2 of this section and throughout this part, the former reference to an agreement "necessary" to secure a loan or guaranty is deleted for clarity and as unnecessary.

In subsection (a)(2) of this section and throughout this part, the reference to whether a longer term loan better “serves” the purposes of this part is substituted for the former reference to whether a longer term loan better “carries out” the purposes of this part for clarity.

In subsection (b)(1)(iv)2 of this section, the former incorrect reference to security on a “loan” is deleted as that subsection only addresses the guaranty of an equity investment.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that in subsection (c)(1)(ii) of this section, the phrase “on reasonable terms through normal lending channels” is added for clarity and consistency within this part. *See* §§ 5-526(b) and 5-527(b) of this subtitle.

Defined terms: “Authority” § 5-501

“Fund” § 5-517

“State” § 1-101

“Working capital” § 5-501

5-526. FINANCIAL ASSISTANCE — APPLICANTS.

(A) SOLE PROPRIETOR.

IF THE APPLICANT IS AN INDIVIDUAL, TO QUALIFY FOR FINANCIAL ASSISTANCE UNDER THIS PART THE APPLICANT SHALL SATISFY THE AUTHORITY THAT:

- (1) THE APPLICANT IS OF GOOD MORAL CHARACTER;
- (2) THE APPLICANT HAS A REPUTATION FOR FINANCIAL RESPONSIBILITY, AS DETERMINED FROM CREDITORS, EMPLOYERS, AND OTHER INDIVIDUALS WHO HAVE PERSONAL KNOWLEDGE OF THE APPLICANT;
- (3) THE APPLICANT IS A RESIDENT OF THE STATE OR THE PRINCIPAL PLACE OF BUSINESS OF THE APPLICANT IS IN THE STATE; AND
- (4) THE APPLICANT IS UNABLE TO OBTAIN ADEQUATE BUSINESS FINANCING ON REASONABLE TERMS THROUGH NORMAL LENDING CHANNELS BECAUSE THE APPLICANT:
 - (I) BELONGS TO A GROUP THAT HISTORICALLY HAS BEEN DEPRIVED OF ACCESS TO NORMAL ECONOMIC OR FINANCIAL RESOURCES BECAUSE OF RACE, COLOR, CREED, SEX, RELIGION, OR NATIONAL ORIGIN;
 - (II) HAS AN IDENTIFIABLE PHYSICAL HANDICAP THAT SEVERELY LIMITS THE ABILITY OF THE APPLICANT TO OBTAIN FINANCIAL ASSISTANCE, BUT THAT DOES NOT LIMIT THE ABILITY OF THE APPLICANT TO PERFORM THE CONTRACT OR OTHER ACTIVITY FOR WHICH THE APPLICANT WOULD BE RECEIVING FINANCIAL ASSISTANCE;
 - (III) HAS ANY OTHER SOCIAL OR ECONOMIC IMPEDIMENT THAT IS BEYOND THE CONTROL OF THE APPLICANT BUT THAT DOES NOT LIMIT THE ABILITY OF THE APPLICANT TO PERFORM THE CONTRACT OR OTHER ACTIVITY FOR WHICH THE APPLICANT WOULD BE RECEIVING FINANCIAL ASSISTANCE, INCLUDING:

- OR
1. THE LACK OF FORMAL EDUCATION OR FINANCIAL CAPACITY;
 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;

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(4) SPECIFY THE AMOUNT OF FUNDS AVAILABLE TO THE APPLICANT WITHOUT FINANCIAL ASSISTANCE FROM THE AUTHORITY;

(5) SPECIFY THE AMOUNT OF FINANCIAL ASSISTANCE REQUESTED FROM THE AUTHORITY;

(6) PROVIDE INFORMATION THAT DEMONSTRATES THE INABILITY OF THE APPLICANT TO OBTAIN ADEQUATE FINANCING ON REASONABLE TERMS THROUGH NORMAL LENDING CHANNELS;

(7) PROVIDE INFORMATION THAT DEMONSTRATES THE FINANCIAL STATUS OF THE APPLICANT, INCLUDING:

(I) A CURRENT BALANCE SHEET;

(II) A PROFIT AND LOSS STATEMENT; AND

(III) CREDIT REFERENCES; AND

(8) CONTAIN ANY OTHER RELEVANT INFORMATION THAT THE AUTHORITY REQUIRES.

(C) BALANCE SHEET.

THE AUTHORITY MAY REQUIRE AN APPLICANT TO PROVIDE AN AUDITED BALANCE SHEET BEFORE THE AUTHORITY APPROVES OR DENIES THE APPLICATION.

(D) DELEGATION.

THE AUTHORITY MAY DELEGATE THE REVIEW AND APPROVAL OF THE APPLICATION INFORMATION REQUIRED UNDER SUBSECTION (B)(1), (2), AND (3) OF THIS SECTION TO THE EXECUTIVE DIRECTOR IF AN APPLICANT MEETS ALL OTHER REQUIREMENTS OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1026.

In subsection (b)(6) and (7) of this section, the references to information that "demonstrates" the existence of specified conditions is substituted for the former references to information that "relates to" the existence of specified conditions for clarity and accuracy.

In subsection (c) of this section, the former reference to requiring an audited balance sheet "[a]fter receipt of an application for assistance" is deleted as implicit in the Authority approving or denying a loan.

Defined terms: "Authority" § 5-501

"Fund" § 5-517

5-528. FINANCIAL ASSISTANCE — TERMS.

(A) LOAN GUARANTIES.

THE AUTHORITY MAY SET THE TERMS AND CONDITIONS FOR A LOAN GUARANTY MADE UNDER § 5-525(A) OF THIS SUBTITLE.

(B) LOANS.

(1) IF THE AUTHORITY DECIDES TO LEND MONEY FROM THE FUND TO AN APPLICANT UNDER § 5-525(C) OF THIS SUBTITLE, THE AUTHORITY SHALL PREPARE LOAN DOCUMENTS THAT INCLUDE:

(I) THE INTEREST RATE ON THE LOAN THAT EQUALS THE MARKET RATE FOR A CONVENTIONAL LOAN OF COMPARABLE RISK UNLESS THE AUTHORITY DETERMINES THAT A LOWER RATE BETTER SERVES THE PURPOSES OF THIS SUBTITLE;

(II) A DISBURSEMENT SCHEDULE THAT PROVIDES ENOUGH MONEY TO THE APPLICANT WHEN THE APPLICANT NEEDS IT TO PERFORM THE CONTRACT;

(III) A REQUIREMENT THAT THE APPLICANT AND THE AUTHORITY CO-SIGN EACH REQUEST FOR AN ADVANCE OF MONEY BEFORE RELEASE OF THE MONEY; AND

(IV) PROVISIONS FOR REPAYMENT OF THE LOAN.

(2) THE LOAN DOCUMENTS MAY INCLUDE ANY OTHER PROVISION THAT THE AUTHORITY DETERMINES IS NECESSARY TO SECURE THE LOAN, INCLUDING AN ASSIGNMENT OF OR A LIEN ON PAYMENT UNDER THE CONTRACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1027.

In subsection (b)(1) of this section, the reference to a loan "under § 5-525(c) of this subtitle" is added for clarity.

Defined terms: "Authority" § 5-501

"Fund" § 5-517

"Loan document" § 5-501

5-529. ANNUAL REPORT.

THE TREASURER SHALL REPORT EACH YEAR TO THE AUTHORITY ON:

(1) THE STATUS OF THE MONEY INVESTED UNDER § 5-521 OF THIS SUBTITLE;

(2) THE MARKET VALUE OF THE ASSETS IN THE FUND AS OF THE DATE OF THE REPORT; AND

(3) THE INTEREST RECEIVED FROM INVESTMENTS DURING THE PERIOD COVERED BY THE REPORT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1020, as it related to the annual report for the Contract Financing Fund.

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Defined terms: “Authority” § 5–501

“Fund” § 5–517

5–530. PROHIBITED ACTS; PENALTY.

(A) **FALSE STATEMENT — APPLICATION OR DOCUMENT.**

A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT OR REPORT IN AN APPLICATION OR DOCUMENT SUBMITTED TO THE AUTHORITY UNDER THIS PART.

(B) **FALSE STATEMENT — TO INFLUENCE AUTHORITY.**

A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT OR REPORT TO INFLUENCE AN ACTION OF THE AUTHORITY UNDER THIS PART:

(1) ON AN APPLICATION FOR FINANCIAL ASSISTANCE; OR

(2) AFFECTING FINANCIAL ASSISTANCE WHETHER OR NOT THE ASSISTANCE HAS ALREADY BEEN EXTENDED.

(C) **PENALTY.**

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$50,000 OR BOTH.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1031.

In subsection (c) of this section, the former reference to a person’s “aiders and abettors” is deleted as obsolete. The common-law distinction between charging a principal of a crime and an accessory before the fact to the crime has been abolished for most purposes by statute, in response to the holding of the Court of Appeals in *State v. Sowell*, 353 Md. 713 (1999). See CP § 4–204.

Also in subsection (c) of this section, the former reference to a penalty for an attempt to violate this section is deleted in light of CR § 1–201, which states that “[t]he punishment of a person who is convicted of an attempt to commit a crime may not exceed the maximum punishment for the crime attempted”. The Economic Development Article Review Committee brings this deletion to the attention of the General Assembly. No substantive change is intended.

Defined term: “Authority” § 5–501

5-531. RESERVED.

5-532. RESERVED.

PART IV. SMALL BUSINESS DEVELOPMENT GUARANTY FUND.

5-533. "FUND" DEFINED.

IN THIS PART, "FUND" MEANS THE SMALL BUSINESS DEVELOPMENT GUARANTY FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1001(i).

5-534. ESTABLISHED.

THERE IS A SMALL BUSINESS DEVELOPMENT GUARANTY FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1017, as it established the Fund.

5-535. PURPOSE.

THE AUTHORITY SHALL USE THE FUND TO IMPLEMENT THIS PART.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1017, as it related to the purpose of the Fund.

In this section and throughout this part, the former references to "Small Business Development Guaranty" Fund are deleted for clarity, brevity, and consistency within this subtitle.

Defined terms: "Authority" § 5-501
"Fund" § 5-533

5-536. ADMINISTRATION.

THE AUTHORITY SHALL ADMINISTER THE FUND.

REVISOR'S NOTE: This section is new language added to state expressly what was only implied under former Art. 83A, §§ 5-1018 and 5-1028, that the Authority administers the Fund.

Defined terms: "Authority" § 5-501
"Fund" § 5-533

5-537. STATUS; INVESTMENT; PAYMENT.

(A) STATUS.

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

(B) INVESTMENT.

THE TREASURER SHALL:

(1) INVEST THE MONEY IN THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED; AND

(2) CREDIT ANY INVESTMENT EARNINGS TO THE FUND.

(c) PAYMENT.

IF THE AUTHORITY DETERMINES BY RESOLUTION THAT ANY MONEY IN THE FUND IS NO LONGER NEEDED TO MEET ITS OBLIGATIONS, THE AUTHORITY MAY AUTHORIZE THE COMPTROLLER TO FIRST APPLY THAT MONEY TO PAY THE PRINCIPAL OF AND INTEREST ON OUTSTANDING BONDS ISSUED UNDER ANY ACT AUTHORIZING THE ISSUE OF STATE GENERAL OBLIGATION BONDS ISSUED TO IMPLEMENT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5-1017 and 5-1019, as they related to money in the Guaranty Fund.

In subsection (a) of this section, the reference to "reversion under § 7-302 of the State Finance and Procurement Article" to the Fund is added for clarity and consistency within this article. *See* General Revisor's Note to article.

Also in subsection (a) of this section, the reference to a "special" fund is substituted for the former reference to a "revolving" fund for consistency with similar provisions throughout this article that relate to the status of funds.

Subsection (b) of this section is restated in standard language for clarity and consistency within this article.

Defined terms: "Authority" § 5-501

"Fund" § 5-533

"State" § 1-101

5-538. COMPOSITION.

THE FUND CONSISTS OF:

(1) LOANS AND GRANTS FROM THE FEDERAL GOVERNMENT OR A UNIT OR INSTRUMENTALITY OF THE FEDERAL GOVERNMENT;

(2) GRANTS AND CONTRIBUTIONS OF FUNDS FROM THE STATE, A POLITICAL SUBDIVISION, OR ANY OTHER SOURCE;

(3) PREMIUMS FOR GUARANTEEING LONG-TERM LOANS UNDER § 5-540 OF THIS SUBTITLE;

(4) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL OF COLLATERAL BY THE AUTHORITY RELATING TO LOANS GUARANTEED UNDER § 5-540 OF THIS SUBTITLE; AND

(5) ALL OTHER RECEIPTS OF THE AUTHORITY UNDER THIS PART.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1018(a).

The former reference to “[i]ncome from investments allocable to the Guaranty Fund [made by] the State Treasurer ...” is deleted as redundant of the crediting of investment earnings to the Fund under § 5-537 of this subtitle.

Defined terms: “Authority” § 5-501

“Fund” § 5-533

“State” § 1-101

5-539. USES.

THE AUTHORITY MAY USE THE FUND FOR:

(1) GUARANTY PAYMENTS MADE UNDER § 5-540(A) OF THIS SUBTITLE;

(2) INTEREST SUBSIDY PAYMENTS UNDER § 5-540(B) OF THIS SUBTITLE;

AND

(3) EXPENSES FOR ADMINISTRATIVE, LEGAL, ACTUARIAL, AND OTHER SERVICES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5-1018(b) and 5-1028(a).

In the introductory language of this section, the former redundant reference that the Authority may use the Fund “to pay the following expenses and disbursements of the Authority” is deleted for clarity, brevity, and as unnecessary in light of the list of authorized expenses and disbursements.

Former Art. 83A, § 5-1028(a) which authorized specified financial assistance is deleted as included under revised § 5-540 of this article.

Defined terms: “Authority” § 5-501

“Fund” § 5-533

5-540. FINANCIAL ASSISTANCE — CONDITIONS.

(A) LOAN GUARANTIES.

(1) THE AUTHORITY MAY USE THE FUND TO GUARANTEE UP TO 80% OF THE PRINCIPAL OF AND INTEREST ON A LONG-TERM LOAN MADE BY A FINANCIAL INSTITUTION TO AN APPLICANT ONLY IF:

(I) THE APPLICANT MEETS THE REQUIREMENTS UNDER § 5-541 OF THIS SUBTITLE AND HAS NOT VIOLATED § 5-545 OF THIS SUBTITLE;

(II) THE LOAN AMOUNT IS \$5,000 OR MORE AND THE MAXIMUM AMOUNT PAYABLE BY THE AUTHORITY UNDER THE GUARANTY DOES NOT EXCEED \$2,000,000;

(III) THE LOAN IS USED FOR:

1. WORKING CAPITAL;
2. REFINANCING THE APPLICANT'S EXISTING DEBT;
3. ACQUISITION AND INSTALLATION OF EQUIPMENT;
4. MAKING NECESSARY IMPROVEMENTS TO REAL PROPERTY THAT THE APPLICANT LEASES OR OWNS IN FEE SIMPLE; OR
5. ACQUIRING REAL PROPERTY THAT THE APPLICANT WILL OWN IN FEE SIMPLE IF THE PROPERTY IS TO BE USED IN THE APPLICANT'S TRADE OR BUSINESS FOR WHICH THE GUARANTY IS SOUGHT AND THE FINANCIAL INSTITUTION OR THE AUTHORITY PLACES A LIEN ON THE PROPERTY;

(IV) THE LOAN MATURES WITHIN 10 YEARS AFTER THE CLOSING DATE OF THE LOAN; AND

(V) THE INTEREST RATE DOES NOT EXCEED THE MONTHLY WEIGHTED AVERAGE OF THE PRIME LENDING RATE PREVAILING IN BALTIMORE CITY ON UNSECURED COMMERCIAL LOANS, PLUS 2%, AS DETERMINED BY THE AUTHORITY.

(2) (I) THE AUTHORITY MAY ONLY APPROVE A GUARANTY UNDER THIS SECTION IF THE AUTHORITY DETERMINES THAT THE LOAN TO BE GUARANTEED WILL HAVE A SUBSTANTIAL ECONOMIC IMPACT.

(II) TO DETERMINE THE ECONOMIC IMPACT OF A LOAN, THE AUTHORITY MAY CONSIDER:

1. THE AMOUNT OF THE GUARANTY OBLIGATION;
2. THE TERMS OF THE LOAN TO BE GUARANTEED;
3. THE NUMBER OF NEW JOBS THAT THE LOAN WILL CREATE;

AND

4. ANY OTHER FACTOR THAT THE AUTHORITY CONSIDERS RELEVANT.

(B) INTEREST SUBSIDY.

(1) IN ADDITION TO A LOAN GUARANTY, THE AUTHORITY MAY PROVIDE AN INTEREST SUBSIDY FOR THE BENEFIT OF THE APPLICANT.

(2) THE SUBSIDY:

- (I) MAY BE FOR THE LIFE OF THE LOAN;
- (II) MAY NOT EXCEED 4%;
- (III) SHALL BE PAYABLE QUARTERLY; AND

(IV) SHALL BE MADE TO THE FINANCIAL INSTITUTION THAT MAKES THE LOAN THAT THE AUTHORITY GUARANTEES.

(3) (I) THE SUBSIDY MAY NOT EXCEED THE DIFFERENCE BETWEEN:

- 1. THE INTEREST RATE ON THE GUARANTEED LOAN; AND
- 2. THE DISCOUNT INTEREST RATE THAT THE FEDERAL

RESERVE BANK USES.

(II) THE INTEREST RATE MAY NOT EXCEED THE MONTHLY WEIGHTED AVERAGE OF THE PRIME LENDING RATE THAT PREVAILS IN BALTIMORE CITY ON UNSECURED COMMERCIAL LOANS, AS THE AUTHORITY DETERMINES AS OF THE DATE OF CLOSING, PLUS 2%.

(4) THE SUBSIDY MAY NOT BE PAID DURING ANY PERIOD IN WHICH THE LOAN IS IN DEFAULT.

(C) GEOGRAPHIC DIVERSITY.

IN PROVIDING FINANCIAL ASSISTANCE UNDER THIS SECTION, THE AUTHORITY SHALL RECOGNIZE THE NEED TO SERVE APPLICANTS FROM ALL POLITICAL SUBDIVISIONS IN THE STATE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5–1028(b) and 5–1029(a), (c), and (d).

In subsection (a)(1)(iii)3 of this section, the former reference to “machinery” is deleted as redundant of the reference to “equipment”.

In the introductory language of subsection (b) of this section, the former reference to “the granting of” a loan guaranty is deleted as surplusage.

- Defined terms: “Authority” § 5–501
- “Financial institution” § 5–501
- “Fund” § 5–533
- “State” § 1–101
- “Working capital” § 5–501

5–541. FINANCIAL ASSISTANCE — QUALIFICATIONS OF APPLICANTS.

(A) SOLE PROPRIETOR.

IF THE APPLICANT IS A SOLE PROPRIETOR, TO QUALIFY FOR FINANCIAL ASSISTANCE UNDER THIS PART THE APPLICANT SHALL SATISFY THE AUTHORITY THAT:

- (1) THE APPLICANT IS OF GOOD MORAL CHARACTER;
- (2) THE APPLICANT HAS A REPUTATION FOR FINANCIAL RESPONSIBILITY, AS DETERMINED FROM CREDITORS, EMPLOYERS, AND OTHER INDIVIDUALS WHO HAVE PERSONAL KNOWLEDGE OF THE APPLICANT;
- (3) THE APPLICANT IS A RESIDENT OF THE STATE OR THE PRINCIPAL PLACE OF BUSINESS OF THE APPLICANT IS IN THE STATE; AND

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(4) THE APPLICANT IS UNABLE TO OBTAIN ADEQUATE BUSINESS FINANCING ON REASONABLE TERMS THROUGH NORMAL LENDING CHANNELS BECAUSE THE APPLICANT:

(I) BELONGS TO A GROUP THAT HISTORICALLY HAS BEEN DEPRIVED OF ACCESS TO NORMAL ECONOMIC OR FINANCIAL RESOURCES BECAUSE OF RACE, COLOR, CREED, SEX, RELIGION, OR NATIONAL ORIGIN;

(II) HAS AN IDENTIFIABLE PHYSICAL HANDICAP THAT SEVERELY LIMITS THE ABILITY OF THE APPLICANT TO OBTAIN FINANCIAL ASSISTANCE, BUT THAT DOES NOT LIMIT THE ABILITY OF THE APPLICANT TO PERFORM THE CONTRACT OR OTHER ACTIVITY FOR WHICH THE APPLICANT WOULD BE RECEIVING FINANCIAL ASSISTANCE;

(III) HAS ANY OTHER SOCIAL OR ECONOMIC IMPEDIMENT THAT IS BEYOND THE CONTROL OF THE APPLICANT, BUT THAT DOES NOT LIMIT THE ABILITY OF THE APPLICANT TO PERFORM THE CONTRACT OR OTHER ACTIVITY FOR WHICH THE APPLICANT WOULD BE RECEIVING FINANCIAL ASSISTANCE, INCLUDING:

1. THE LACK OF FORMAL EDUCATION OR FINANCIAL CAPACITY;

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 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(b), (c), and (d).

This section is revised to state more explicitly what was only cross-referenced in the source law.

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

5-542. FINANCIAL ASSISTANCE —APPLICATION PROCEDURES.

(A) IN GENERAL.

TO APPLY FOR FINANCIAL ASSISTANCE FROM THE FUND, A FINANCIAL INSTITUTION SHALL SUBMIT TO THE AUTHORITY AN APPLICATION ON THE FORM THAT THE AUTHORITY PROVIDES.

(B) CONTENTS.

THE APPLICATION SHALL INCLUDE:

(1) A DETAILED DESCRIPTION OF THE PROPOSED USE OF THE LOAN PROCEEDS, INCLUDING PROJECTED CASH FLOW ANALYSES, MARKETING PLANS, AND APPRAISALS;

(2) A DETAILED DESCRIPTION OF THE FUNDS AVAILABLE TO THE APPLICANT;

(3) A DETAILED DESCRIPTION OF THE PROPOSED LOAN DOCUMENTS TO BE EXECUTED BY THE FINANCIAL INSTITUTION AND THE APPLICANT;

(4) A DETAILED DESCRIPTION OF THE PROPERTY PROPOSED AS COLLATERAL FOR THE LOAN AND THE FINANCIAL INSTITUTION'S CERTIFICATION OF THE PROPERTY'S VALUE;

(5) INFORMATION THAT DEMONSTRATES THE INABILITY OF THE APPLICANT TO OBTAIN ADEQUATE FINANCING ON REASONABLE TERMS THROUGH NORMAL LENDING CHANNELS;

(6) INFORMATION THAT DEMONSTRATES THE FINANCIAL STATUS OF THE APPLICANT, INCLUDING:

(I) A CURRENT BALANCE SHEET;

(II) A PROFIT AND LOSS STATEMENT; AND

(III) CREDIT REFERENCES;

(7) A PROPOSED DISBURSEMENT SCHEDULE;

(8) A PROPOSED AMORTIZATION SCHEDULE;

(9) A DETAILED DESCRIPTION OF THE APPLICANT'S EXPERIENCE IN THE TRADE OR BUSINESS FOR WHICH THE LOAN AND GUARANTEE ARE REQUESTED;

(10) INFORMATION THAT SHOWS THAT THE APPLICANT SATISFIES THE REQUIREMENTS OF § 5-541 OF THIS SUBTITLE; AND

(11) ANY OTHER RELEVANT INFORMATION THAT THE AUTHORITY REQUESTS.

(C) REPORTS.

THE AUTHORITY MAY REQUIRE AN APPLICANT TO PROVIDE AN AUDIT REPORT AND BALANCE SHEET CERTIFIED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES BEFORE THE AUTHORITY APPROVES OR DENIES THE APPLICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1030.

In subsection (b)(1) of this section, the former reference to marketing "descriptions" is deleted as included in the reference to marketing "plans".

In subsection (b)(5) and (6) of this section, the references to information that "demonstrates" the existence of specified conditions are substituted for the former references to information that "relates to" the existence of specified conditions for clarity and accuracy.

In subsection (c) of this section, the reference authorizing the Authority to "require" an audited balance sheet is substituted for the former statement that the Authority "may determine ... that an applicant shall provide" an audited balance sheet for clarity and brevity.

Also in subsection (c) of this section, the former reference to requiring an audited balance sheet "[a]fter receipt of an application for financial assistance" is deleted as implicit in the Authority approving or denying a loan.

Defined terms: "Authority" § 5-501
"Financial institution" § 5-501
"Fund" § 5-533
"Loan document" § 5-501

5-543. FINANCIAL ASSISTANCE — TERMS.

A GUARANTY SHALL CONTAIN TERMS AND CONDITIONS THAT THE AUTHORITY DETERMINES TO BE APPROPRIATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1029(b).

Defined term: "Authority" § 5-501

5-544. ANNUAL REPORT.

THE TREASURER SHALL REPORT EACH YEAR TO THE AUTHORITY ON:

(1) THE STATUS OF THE MONEY INVESTED UNDER § 5-537 OF THIS SUBTITLE;

(2) THE MARKET VALUE OF THE ASSETS IN THE FUND AS OF THE DATE OF THE REPORT; AND

(3) THE INTEREST RECEIVED FROM INVESTMENTS DURING THE PERIOD COVERED BY THE REPORT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1020, as it related to the annual report for the Guaranty Fund.

Defined terms: “Authority” § 5–501
“Fund” § 5–533

5–545. PROHIBITED ACTS; PENALTY.

(A) FALSE STATEMENT — APPLICATION OR DOCUMENT.

A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT OR REPORT IN AN APPLICATION OR DOCUMENT SUBMITTED TO THE AUTHORITY UNDER THIS PART.

(B) FALSE STATEMENT — TO INFLUENCE AUTHORITY.

A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT OR REPORT TO INFLUENCE AN ACTION OF THE AUTHORITY UNDER THIS PART:

(1) ON AN APPLICATION FOR FINANCIAL ASSISTANCE; OR

(2) AFFECTING FINANCIAL ASSISTANCE WHETHER OR NOT THE ASSISTANCE HAS ALREADY BEEN EXTENDED.

(C) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$50,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1031.

In subsection (c) of this section, the former reference to a person's “aiders and abettors” is deleted as obsolete. The common-law distinction between charging a principal of a crime and an accessory before the fact to the crime has been abolished for most purposes by statute, in response to the holding of the Court of Appeals in *State v. Sowell*, 353 Md. 713 (1999). See CP § 4–204.

Also in subsection (c) of this section, the former reference to a penalty for an attempt to violate this section is deleted in light of CR § 1–201, which states that “[t]he punishment of a person who is convicted of an attempt to commit a crime may not exceed the maximum punishment for the crime attempted”. The Economic Development Article Review Committee brings this deletion to the attention of the General Assembly. No substantive change is intended.

Defined term: “Authority” § 5–501

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5-546. VIOLATION OF LOAN DOCUMENTS; NONCOMPLIANCE WITH PART.

IF AN APPLICANT OR FINANCIAL INSTITUTION VIOLATES ANY PROVISION OF THE LOAN DOCUMENTS OR CEASES TO MEET THE REQUIREMENTS OF THIS PART, ON REASONABLE NOTICE TO THE APPLICANT OR FINANCIAL INSTITUTION, THE AUTHORITY MAY:

(1) WITHHOLD FROM THE APPLICANT FURTHER LOAN PAYMENTS UNTIL THE APPLICANT COMPLIES WITH THE DOCUMENTS OR REQUIREMENTS;

(2) WITHHOLD FROM THE FINANCIAL INSTITUTION FURTHER INTEREST SUBSIDY PAYMENTS UNTIL THE FINANCIAL INSTITUTION COMPLIES WITH THE LOAN DOCUMENTS OR REQUIREMENTS; AND

(3) EXERCISE ANY OTHER REMEDY FOR WHICH THE LOAN DOCUMENTS PROVIDE.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-1048.

The only changes are in style.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that while former Art. 83A, § 5-1048, which is revised as this section, seemed to apply to all violations of this subtitle concerning loans, it was interpreted to apply only to loans guaranteed through the Guaranty Fund revised in this part. No substantive change is intended.

Defined terms: "Authority" § 5-501
"Financial institution" § 5-501
"Loan document" § 5-501

5-547. RESERVED.

5-548. RESERVED.

PART V. EQUITY PARTICIPATION INVESTMENT PROGRAM.

5-549. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-1041(a).

(B) ENTERPRISE.

(1) "ENTERPRISE" MEANS A BUSINESS ENTITY PROPOSING TO CARRY ON A BUSINESS IN THE STATE THAT MEETS THE REQUIREMENTS OF § 5-526 OF THIS SUBTITLE.

(2) "ENTERPRISE" INCLUDES:

- (I) A SOLE PROPRIETORSHIP;
- (II) A PARTNERSHIP;
- (III) A LIMITED PARTNERSHIP;
- (IV) A CORPORATION; OR
- (V) A JOINT VENTURE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-1041(b).

Defined term: "State" § 1-101

- (C) EQUITY PARTICIPATION FINANCING.

"EQUITY PARTICIPATION FINANCING" INCLUDES INVESTMENT OR GUARANTY OF INVESTMENT IN AN ENTERPRISE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-1041(c).

Defined term: "Enterprise" § 5-549

- (D) EXISTING BUSINESS.

"EXISTING BUSINESS" MEANS A BUSINESS WHOSE BOARD OF DIRECTORS OR OWNERS APPROVE THE SALE OF THE BUSINESS TO AN ENTERPRISE RECEIVING EQUITY PARTICIPATION FINANCING.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5-1041(d).

No changes are made.

Defined terms: "Enterprise" § 5-549

"Equity participation financing" § 5-549

- (E) FRANCHISE.

(1) "FRANCHISE" HAS THE MEANING STATED IN § 14-201 OF THE BUSINESS REGULATION ARTICLE.

(2) "FRANCHISE" INCLUDES ONLY FRANCHISE OFFERINGS THAT ARE REGISTERED OR EXEMPT UNDER THE MARYLAND FRANCHISE REGISTRATION AND DISCLOSURE LAW.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-1041(e).

In paragraph (1) of this subsection, the former reference to "a contract or agreement and" is deleted as redundant in light of the reference to the meaning stated in BR § 14-201.

As to the Maryland Franchise Registration and Disclosure Law, *see* BR Title 14, Subtitle 2.

(F) FUND.

“FUND” MEANS THE EQUITY PARTICIPATION INVESTMENT PROGRAM FUND.

REVISOR’S NOTE: This subsection is new language added for consistency within this subtitle.

(G) PROGRAM.

“PROGRAM” MEANS THE EQUITY PARTICIPATION INVESTMENT PROGRAM.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–1041(f).

(H) QUALIFIED SECURITY.

“QUALIFIED SECURITY” MEANS:

- (1) A NOTE, BOND, DEBENTURE, OR OTHER EVIDENCE OF INDEBTEDNESS;
- (2) STOCK OR OTHER FORM OF EQUITY PARTICIPATION;
- (3) A CERTIFICATE OF INTEREST OR PARTICIPATION IN A PROFIT–SHARING AGREEMENT;
- (4) AN INVESTMENT CONTRACT;
- (5) A CERTIFICATE OF DEPOSIT FOR A SECURITY;
- (6) A CERTIFICATE OF INTEREST OR PARTICIPATION IN A PATENT OR PATENT APPLICATION OR IN ROYALTY OR OTHER PAYMENTS UNDER A PATENT OR PATENT APPLICATION; OR
- (7) AN INTEREST OR INSTRUMENT COMMONLY KNOWN AS A “SECURITY” OR A CERTIFICATE FOR, RECEIPT FOR, GUARANTY OF, OR OPTION, WARRANT, OR RIGHT TO SUBSCRIBE TO OR PURCHASE A QUALIFIED SECURITY.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–1041(g).

(I) TECHNOLOGY–BASED BUSINESS.

“TECHNOLOGY–BASED BUSINESS” MEANS A COMMERCIAL OR INDUSTRIAL ENTERPRISE ENGAGED IN THE APPLICATION OF SCIENTIFIC KNOWLEDGE TO PRACTICAL PURPOSES IN A PARTICULAR FIELD FOR A PROFIT.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1041(h).

No changes are made.

Defined term: “Enterprise” § 5–549

5-550. LEGISLATIVE FINDINGS; PURPOSES.

(A) FINDINGS.

THE GENERAL ASSEMBLY FINDS THAT:

(1) FRANCHISES AND TECHNOLOGY-BASED BUSINESSES HAVE PROVEN TO BE A FAST GROWING AND RELIABLE FORM OF SUCCESSFUL BUSINESS EXPANSION AND SUCCESSFUL NEW BUSINESS CREATION;

(2) FRANCHISES AND TECHNOLOGY-BASED BUSINESSES PLAY A MAJOR ROLE IN THE ECONOMY OF THE STATE AND HAVE BEEN A CONTINUING SOURCE OF INCREASING TAX REVENUES AND JOB OPPORTUNITIES;

(3) THE GROWTH OF FRANCHISES, TECHNOLOGY-BASED BUSINESSES, AND OTHER BUSINESSES SHOULD BE ENCOURAGED AND SHOULD BE AN INTEGRAL PART OF THE STATE'S ECONOMIC DEVELOPMENT EFFORT;

(4) SOCIALLY OR ECONOMICALLY DISADVANTAGED INDIVIDUALS OFTEN LACK ADEQUATE CAPITAL AND ARE UNABLE TO OBTAIN FINANCING FROM FINANCIAL INSTITUTIONS OR VENTURE CAPITAL FIRMS TO BEGIN AND DEVELOP A FRANCHISE, A TECHNOLOGY-BASED BUSINESS, OR OTHER TYPE OF BUSINESS, OR TO PURCHASE AN EXISTING BUSINESS; AND

(5) PROMOTING THE CREATION AND VIABILITY OF FRANCHISES AND TECHNOLOGY-BASED BUSINESSES, THE DEVELOPMENT OF OTHER BUSINESSES, AND THE PURCHASE OF EXISTING BUSINESSES BY SOCIALLY OR ECONOMICALLY DISADVANTAGED INDIVIDUALS IS IN THE PUBLIC INTEREST.

(B) PURPOSES.

THE PURPOSES OF THE EQUITY PARTICIPATION INVESTMENT PROGRAM ARE TO:

(1) ENCOURAGE AND HELP SOCIALLY OR ECONOMICALLY DISADVANTAGED INDIVIDUALS TO CREATE AND DEVELOP FRANCHISES, TECHNOLOGY-BASED BUSINESSES, AND OTHER BUSINESSES AND ACQUIRE EXISTING BUSINESSES IN THE STATE; AND

(2) ASSIST SMALL BUSINESSES THAT, BECAUSE THEY DO NOT MEET THE ESTABLISHED CREDIT CRITERIA OF FINANCIAL INSTITUTIONS, CANNOT OBTAIN ADEQUATE BUSINESS FINANCING ON REASONABLE TERMS THROUGH NORMAL FINANCING CHANNELS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5-1042 and 5-1043.

In subsection (a) of this section, the former words "of Maryland" are deleted as unnecessary.

Defined terms: "Existing business" § 5-549

"Franchise" § 5-549

"State" § 1-101

"Technology-based business" § 5-549

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5-551. ESTABLISHED.

THERE IS AN EQUITY PARTICIPATION INVESTMENT PROGRAM IN THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1044(a).

Defined term: "Department" § 1-101

5-552. ADMINISTRATION.

THE AUTHORITY SHALL ADMINISTER THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1044(b).

Defined terms: "Authority" § 5-501
"Program" § 5-549

5-553. POWERS.

THE AUTHORITY MAY:

(1) PROVIDE EQUITY PARTICIPATION FINANCING TO HELP SOCIALLY OR ECONOMICALLY DISADVANTAGED INDIVIDUALS IN THE STATE CREATE AND DEVELOP FRANCHISES, TECHNOLOGY-BASED BUSINESSES, AND OTHER BUSINESSES AND ACQUIRE EXISTING BUSINESSES;

(2) BUY, HOLD, AND SELL QUALIFIED SECURITIES;

(3) PREPARE, PUBLISH, AND DISTRIBUTE TECHNICAL STUDIES, REPORTS, AND OTHER MATERIALS WITH OR WITHOUT CHARGE; AND

(4) PROVIDE AND PAY FOR ADVISORY SERVICES AND TECHNICAL ASSISTANCE THAT ARE NECESSARY OR DESIRABLE TO CARRY OUT THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1045.

In the introductory language of this section, the former words "[f]or the purposes of administering the Program" are deleted as surplusage.

Defined terms: "Authority" § 5-501
"Equity participation financing" § 5-549
"Franchise" § 5-549
"Program" § 5-549
"Qualified security" § 5-549
"State" § 1-101
"Technology-based business" § 5-549

5-554. EQUITY PARTICIPATION INVESTMENT PROGRAM FUND — ESTABLISHED.

THERE IS AN EQUITY PARTICIPATION INVESTMENT PROGRAM FUND.

REVISOR'S NOTE: This section is new language derived without substantive change from the first clause of former Art. 83A, § 5-1047(a).

5-555. FUND — IN GENERAL.

(A) ADMINISTRATION.

THE AUTHORITY SHALL ADMINISTER THE FUND.

(B) STATUS.

(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) COMPOSITION.

THE FUND CONSISTS OF:

(1) MONEY DRAWN FROM THE SMALL BUSINESS DEVELOPMENT GUARANTY FUND ESTABLISHED UNDER PART IV OF THIS SUBTITLE;

(2) MONEY THE STATE APPROPRIATES TO THE FUND;

(3) MONEY MADE AVAILABLE TO THE FUND THROUGH FEDERAL PROGRAMS OR PRIVATE CONTRIBUTIONS;

(4) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL BY THE AUTHORITY OF COLLATERAL RELATED TO EQUITY PARTICIPATION FINANCING;

(5) PREMIUMS, FEES, ROYALTIES, AND REPAYMENTS OF PRINCIPAL, INTEREST, AND INVESTMENTS PAID BY AND ON BEHALF OF ENTERPRISES TO THE AUTHORITY UNDER THE TERMS OF EQUITY PARTICIPATION FINANCING; AND

(6) ANY OTHER MONEY MADE AVAILABLE UNDER THE PROGRAM.

(D) USES.

THE AUTHORITY SHALL USE THE FUND TO:

(1) PURCHASE QUALIFIED SECURITIES THAT AN ENTERPRISE ISSUES TO PROVIDE EQUITY PARTICIPATION FINANCING AS THE PROGRAM ALLOWS;

(2) PROVIDE GUARANTIES OF INVESTMENTS TO EXPAND THE CAPITAL RESOURCES OF ENTERPRISES;

(3) PURCHASE ADVISORY SERVICES AND TECHNICAL ASSISTANCE CONSISTENT WITH THE PROGRAM;

(4) PURCHASE SECURITIES IN WHICH A FIDUCIARY OF THE STATE MAY LAWFULLY INVEST;

(5) PROVIDE EQUITY PARTICIPATION FINANCING AS THE PROGRAM ALLOWS;
AND

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(6) PAY FOR ADMINISTRATIVE, LEGAL, AND ACTUARIAL SERVICES THAT RELATE TO THE PROGRAM.

(E) RETURNS.

THE FUND SHALL BE SELF-SUSTAINING AND SHALL ACHIEVE INVESTMENT RETURNS ON ITS PORTFOLIO IN THE FORM OF:

(1) ROYALTIES FROM ENTERPRISES IN AMOUNTS TO BE DETERMINED BY THE AUTHORITY; AND

(2) INTEREST PAYMENTS FROM ANY DEBT SECURITIES.

(F) WITHDRAWALS.

AS NEEDED FOR THE PROGRAM, THE AUTHORITY MAY WITHDRAW FROM TIME TO TIME UP TO A TOTAL OF \$2,000,000 FROM THE SMALL BUSINESS DEVELOPMENT GUARANTY FUND AND DEPOSIT THE WITHDRAWAL INTO THE FUND.

(G) INVESTMENT EARNINGS.

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

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

(H) ANNUAL REPORT.

ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE AUTHORITY SHALL SUBMIT A REPORT ON THE PROGRAM TO THE GENERAL ASSEMBLY IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE.

REVISOR'S NOTE: Subsection (a) of this section is new language added to state explicitly that the Authority shall administer the Fund.

Subsections (b) through (h) of this section are new language derived without substantive change from former Art. 83A, § 5-1047(b) through (g) and the second clause of (a).

In subsection (b)(1) of this section, the reference to a "special" Fund is substituted for the former reference to a "revolving" Fund as standard language regarding special funds.

Also in subsection (b)(1) of this section, the phrase "that is not subject to reversion under § 7-302 of the State Finance and Procurement Article" is new language added for consistency within this article. See General Revisor's Note to article.

In subsection (c)(1) of this section, the phrase "established under Part IV of this subtitle" is added for clarity.

In subsection (c)(5) and (6) of this section, the former phrase "provided by

the Authority” is deleted as implicit in the definition of equity participation financing.

Defined terms: “Authority” § 5–501
 “Enterprise” § 5–549
 “Equity participation financing” § 5–549
 “Fund” § 5–549
 “Program” § 5–549
 “Qualified security” § 5–549
 “State” § 1–101

5–556. APPLICATION FOR FINANCING.

(A) BUSINESS PLAN.

THE AUTHORITY MAY PROVIDE EQUITY PARTICIPATION FINANCING UNDER THE PROGRAM ONLY AFTER THE ENTERPRISE SUBMITS AN APPLICATION THAT CONTAINS A BUSINESS PLAN THAT MEETS THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.

(B) CONTENTS.

THE BUSINESS PLAN OF AN ENTERPRISE SHALL INCLUDE:

- (1) A DESCRIPTION OF THE FRANCHISE, TECHNOLOGY–BASED BUSINESS, OTHER BUSINESS, OR EXISTING BUSINESS AND ITS MANAGEMENT, PRODUCT, AND MARKET;
- (2) A STATEMENT OF THE AMOUNT, IMMEDIACY OF NEED, AND PROJECTED USE OF THE CAPITAL REQUIRED;
- (3) A STATEMENT OF THE POTENTIAL ECONOMIC IMPACT OF THE PURCHASE;
- (4) INFORMATION THAT RELATES TO THE SATISFACTION OF THE APPLICANT’S REQUIREMENTS OF § 5–557(D) AND (E) OF THIS SUBTITLE; AND
- (5) ANY OTHER INFORMATION THE AUTHORITY REQUIRES.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1046(a).

In subsection (b)(1) of this section, the word “franchise” is substituted for the former word “franchiser” for clarity.

In subsection (b)(4) of this section, the reference to “§ 5–557(d) and (e) of this subtitle” is substituted for the former reference to subsections “(f) and (g) of this section” for accuracy.

Defined terms: “Enterprise” § 5–549
 “Equity participation financing” § 5–549
 “Existing business” § 5–549
 “Franchise” § 5–549
 “Program” § 5–549

“Qualified security” § 5-549

“Technology-based business” § 5-549

5-557. REQUIREMENTS FOR FINANCING.

(A) LIMITATIONS.

(1) UNDER THE PROGRAM THE AUTHORITY MAY NOT:

(I) OWN SECURITIES REPRESENTING MORE THAN 49% OF THE VOTING STOCK OF A FRANCHISE, TECHNOLOGY-BASED BUSINESS, OR OTHER BUSINESS OR OWN AN INTEREST GREATER THAN 49% IN A FRANCHISE, TECHNOLOGY-BASED BUSINESS, OR OTHER BUSINESS; OR

(II) OWN SECURITIES REPRESENTING MORE THAN 49% OF THE VOTING STOCK OF AN ENTERPRISE ACQUIRING AN EXISTING BUSINESS OR OWN AN INTEREST GREATER THAN 49% IN AN ENTERPRISE ACQUIRING AN EXISTING BUSINESS.

(2) THE AMOUNT OF THE AUTHORITY’S EQUITY PARTICIPATION FINANCING IN AN ENTERPRISE MAY NOT EXCEED:

(I) THE LESSER OF:

1. \$2,000,000 FOR A FRANCHISE; OR

2. 49% OF THE TOTAL INITIAL INVESTMENT IN THE FRANCHISE;

(II) THE LESSER OF:

1. \$2,000,000 FOR AN ENTERPRISE ACQUIRING AN EXISTING BUSINESS; OR

2. 49% OF THE TOTAL INVESTMENT IN THE ENTERPRISE ACQUIRING AN EXISTING BUSINESS; OR

(III) \$2,000,000 FOR A TECHNOLOGY-BASED BUSINESS.

(3) BEFORE PROVIDING EQUITY PARTICIPATION FINANCING, THE AUTHORITY SHALL FIND THAT THERE IS A REASONABLE PROBABILITY THAT THE AUTHORITY WILL RECOVER ITS INITIAL INVESTMENT AND AN ADEQUATE RETURN ON INVESTMENT FROM THE EQUITY PARTICIPATION FINANCING.

(4) THE AUTHORITY’S INVESTMENT SHALL BE RECOVERABLE WITHIN:

(I) 7 YEARS AFTER THE EQUITY PARTICIPATION FINANCING IN A FRANCHISE, AN ENTERPRISE ACQUIRING AN EXISTING BUSINESS, OR ANY OTHER TYPE OF BUSINESS; OR

(II) 10 YEARS AFTER THE EQUITY PARTICIPATION FINANCING IN A TECHNOLOGY-BASED BUSINESS.

(5) THE AUTHORITY’S RECOVERY SHALL BE THE GREATER OF:

(I) THE CURRENT VALUE OF THE PERCENTAGE OF THE EQUITY INVESTMENT IN THE ENTERPRISE; OR

(II) THE AMOUNT OF THE INITIAL INVESTMENT IN THE ENTERPRISE.

(6) THE VALUE OF THE BUSINESS ENTITY AT THE TIME OF RECOVERY SHALL BE DETERMINED AFTER OBTAINING AT LEAST ONE INDEPENDENT APPRAISAL OF THE VALUE FROM AN APPRAISER SELECTED FROM A LIST OF AT LEAST THREE APPRAISERS SUPPLIED BY THE AUTHORITY.

(B) MINIMUM QUALIFICATIONS — ACQUISITION OF BUSINESS.

WHEN AN ENTERPRISE APPLIES TO THE AUTHORITY FOR EQUITY PARTICIPATION FINANCING TO ACQUIRE AN EXISTING BUSINESS, AN ENTERPRISE OR ITS PRINCIPALS SHALL HAVE:

(1) AN EQUITY INVESTMENT EQUAL TO AT LEAST 5% OF THE TOTAL COST OF ACQUISITION; AND

(2) AT LEAST 3 YEARS OF SUCCESSFUL EXPERIENCE WITH DEMONSTRATED ACHIEVEMENTS AND MANAGEMENT RESPONSIBILITIES.

(C) MINIMUM QUALIFICATIONS — BUSINESS BEING ACQUIRED.

THE AUTHORITY MAY PROVIDE EQUITY PARTICIPATION FINANCING FOR THE ACQUISITION OF AN EXISTING BUSINESS IF THE EXISTING BUSINESS:

(1) HAS BEEN IN EXISTENCE FOR AT LEAST 5 YEARS;

(2) HAS BEEN PROFITABLE FOR AT LEAST 2 OF THE PREVIOUS 3 YEARS;

(3) HAS SUFFICIENT CASH FLOW TO SERVICE THE DEBT AND ENSURE ADEQUATE RETURN OF THE AUTHORITY'S INVESTMENT;

(4) HAS THE CAPACITY FOR GROWTH AND JOB CREATION;

(5) HAS ITS PRINCIPAL PLACE OF BUSINESS IN THE STATE; AND

(6) HAS A STRONG CUSTOMER BASE.

(D) SOLE PROPRIETORSHIP.

IF THE APPLICANT ENTERPRISE IS A SOLE PROPRIETORSHIP, TO QUALIFY FOR FINANCIAL ASSISTANCE UNDER THIS PART, THE APPLICANT SHALL SATISFY THE AUTHORITY THAT:

(1) THE APPLICANT IS OF GOOD MORAL CHARACTER;

(2) THE APPLICANT HAS A REPUTATION FOR FINANCIAL RESPONSIBILITY, AS DETERMINED FROM CREDITORS, EMPLOYERS, AND OTHER INDIVIDUALS WHO HAVE PERSONAL KNOWLEDGE OF THE APPLICANT;

(3) THE APPLICANT IS A RESIDENT OF THE STATE OR THE PRINCIPAL PLACE OF BUSINESS OF THE APPLICANT IS IN THE STATE; AND

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(4) THE APPLICANT IS UNABLE TO OBTAIN ADEQUATE BUSINESS FINANCING ON REASONABLE TERMS THROUGH NORMAL LENDING CHANNELS BECAUSE THE APPLICANT:

(I) BELONGS TO A GROUP THAT HISTORICALLY HAS BEEN DEPRIVED OF ACCESS TO NORMAL ECONOMIC OR FINANCIAL RESOURCES BECAUSE OF RACE, COLOR, CREED, SEX, RELIGION, OR NATIONAL ORIGIN;

(II) HAS AN IDENTIFIABLE PHYSICAL HANDICAP THAT SEVERELY LIMITS THE ABILITY OF THE APPLICANT TO OBTAIN FINANCIAL ASSISTANCE, BUT THAT DOES NOT LIMIT THE ABILITY OF THE APPLICANT TO PERFORM THE CONTRACT OR OTHER ACTIVITY FOR WHICH THE APPLICANT WOULD BE RECEIVING FINANCIAL ASSISTANCE;

(III) HAS ANY OTHER SOCIAL OR ECONOMIC IMPEDIMENT THAT IS BEYOND THE CONTROL OF THE APPLICANT, BUT THAT DOES NOT LIMIT THE ABILITY OF THE APPLICANT TO PERFORM THE CONTRACT OR OTHER ACTIVITY FOR WHICH THE APPLICANT WOULD BE RECEIVING FINANCIAL ASSISTANCE, INCLUDING:

1. THE LACK OF FORMAL EDUCATION OR FINANCIAL CAPACITY;

OR

2. GEOGRAPHICAL OR REGIONAL ECONOMIC DISTRESS; OR

(IV) DOES NOT MEET THE ESTABLISHED CREDIT OR INVESTMENT CRITERIA OF AT LEAST ONE FINANCIAL INSTITUTION.

(E) BUSINESS ENTERPRISE.

IF THE APPLICANT ENTERPRISE IS NOT A SOLE PROPRIETORSHIP, TO QUALIFY FOR FINANCIAL ASSISTANCE UNDER THIS PART, AT LEAST 51% OF THE ENTERPRISE SHALL BE OWNED BY INDIVIDUALS WHO MEET THE QUALIFICATIONS FOR APPLICANTS UNDER SUBSECTION (D) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1046(b) and (d) through (g).

In the introductory language of subsection (a)(1) of this section, the former reference to "any equity participation financing shall satisfy the following requirements" is deleted as implicit in the phrase "[u]nder the Program".

In subsection (a)(3) of this section, the words "[b]efore providing equity participation financing" are added for clarity.

Also in subsection (a)(3) of this section, the words "from the equity participation financing" are added for clarity.

In the introductory language of subsection (c) of this section, the phrase "[t]he Authority may provide equity participation financing for" is added for clarity.

Defined terms: "Authority" § 5-501

"Enterprise" § 5-549

"Equity participation financing" § 5-549

- “Existing business” § 5-549
- “Franchise” § 5-549
- “Program” § 5-549
- “State” § 1-101
- “Technology-based business” § 5-549

5-558. LIMITATION ON LIABILITY OF STATE.

THE LIABILITY OF THE STATE AND OF THE AUTHORITY IN PROVIDING EQUITY PARTICIPATION FINANCING IS LIMITED TO INVESTMENTS UNDER THE PROGRAM.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1046(c).

- Defined terms: “Authority” § 5-501
- “Equity participation financing” § 5-549
 - “Program” § 5-549
 - “State” § 1-101

5-559. RESERVED.

5-560. RESERVED.

PART VI. SMALL BUSINESS SURETY BOND PROGRAM.

5-561. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-1032(a).

(B) FUND.

“FUND” MEANS THE SMALL BUSINESS SURETY BOND FUND.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5-1032(d).

No changes are made.

(C) PRINCIPAL.

“PRINCIPAL” MEANS A SMALL BUSINESS ENTITY THAT HAS ASSETS, INCOME, OR EMPLOYEES THAT DO NOT EXCEED LIMITS THAT THE AUTHORITY SETS BY REGULATION.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-1032(e).

The former reference to limits set by “administrative determination” is deleted in light of administrative practice that sets all such limits by regulation.

Defined term: “Authority” § 5-501

(D) PROGRAM.

“PROGRAM” MEANS THE SMALL BUSINESS SURETY BOND PROGRAM.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–1032(f).

The former phrase “created by this Part VI of this subtitle” is deleted as surplusage.

REVISOR’S NOTE TO SECTION:

Former Art. 83A, § 5–1032(b), which defined the term “Authority” as “the Maryland Small Business Development Financing Authority”, is deleted in light of the same term defined in § 5–501 of this subtitle.

5–562. ESTABLISHED.

THERE IS A SMALL BUSINESS SURETY BOND FUND.

REVISOR’S NOTE: This section formerly was Art. 83A, § 5–1034(a).

It is set forth as a separate section for emphasis.

No changes are made.

5–563. STATUS; INVESTMENTS.

(A) STATUS.

(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.

(B) INVESTMENTS.

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

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1034(d) and, as it related to the status of the Fund, (b).

In subsection (a)(1) of this section, the reference to the “Fund” as a “special, nonlapsing fund” is substituted for the former reference as a “continuing, nonlapsing, revolving fund” for consistency.

Also in subsection (a)(1) of this section, the reference to “reversion under § 7–302 of the State Finance and Procurement Article” is added for clarity and consistency within this article. *See* General Revisor’s Note to article.

In subsection (a)(2) of this section, the reference to the Treasurer “hold[ing] the Fund separately and the Comptroller ... account[ing] for the Fund” is new language added for clarity and consistency within this article.

In subsection (b)(1) of this section, the former requirement that money in the Fund be “deposited with” the Treasurer is deleted as unnecessary in light of subsection (a)(2).

Also in subsection (b)(1) of this section, the former reference that the Treasurer “reinvest” the money in the Fund is deleted as implicit in the Treasurer’s duty to invest money in the Fund.

Defined terms: “Fund” § 5-561
“State” § 1-101

5-564. COMPOSITION.

THE FUND CONSISTS OF:

- (1) MONEY THE STATE APPROPRIATES TO THE FUND;
- (2) PREMIUMS, FEES, AND ANY OTHER AMOUNTS THE AUTHORITY RECEIVES WITH RESPECT TO BONDING ASSISTANCE IT PROVIDES;
- (3) PROCEEDS THE AUTHORITY DESIGNATES FROM THE SALE, LEASE, OR OTHER DISPOSITION OF PROPERTY OR CONTRACTS THE AUTHORITY HOLDS OR ACQUIRES; AND
- (4) ANY OTHER MONEY AVAILABLE UNDER THE PROGRAM.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1034(b), as that provision of law applied to the composition of the Fund.

The former reference to “[i]ncome from investments that the State Treasurer makes from moneys in the Fund” is deleted as redundant of the crediting of investment earnings to the Fund under § 5-563 of this subtitle.

Defined terms: “Authority” § 5-501
“Fund” § 5-561
“Program” § 5-561
“State” § 1-101

5-565. USES.

THE FUND SHALL BE USED:

- (1) FOR THE PURPOSES DESCRIBED IN THE PROGRAM; AND
- (2) TO PAY EXPENSES OF THE AUTHORITY IN ADMINISTERING THE PROGRAM.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1034(c).

In item (2) of this section, the former reference that the Fund be used to pay “any and all” expenses is deleted as implicit in the reference that the expenses of the Authority in administering the Program be paid.

Defined terms: “Authority” § 5–501

“Fund” § 5–561

“Program” § 5–561

5–566. POWERS OF AUTHORITY — IN GENERAL.

IN ADMINISTERING THE PROGRAM, THE AUTHORITY MAY:

- (1) USE THE SERVICES OF OTHER GOVERNMENTAL UNITS;
- (2) CONTRACT FOR AND ACCEPT LOANS AND GRANTS FROM THE FEDERAL GOVERNMENT, THE STATE GOVERNMENT, OR A LOCAL GOVERNMENT AND THEIR UNITS; AND
- (3) ON THE TERMS AND CONDITIONS IT CONSIDERS ADVISABLE:
 - (I) ACQUIRE, MANAGE, OPERATE, DISPOSE OF, OR OTHERWISE DEAL WITH PROPERTY;
 - (II) TAKE ASSIGNMENTS OF RENTALS AND LEASES; AND
 - (III) MAKE CONTRACTS, LEASES, AGREEMENTS, AND ARRANGEMENTS THAT ARE NECESSARY OR INCIDENTAL TO THE PERFORMANCE OF ITS DUTIES.

REVISOR’S NOTE: This section is new language derived without substantive change from the introductory language and items (1), (2), and (3) of Art. 83A, § 5–1033.

Defined terms: “Authority” § 5–501

“Program” § 5–561

“State” § 1–101

5–567. POWERS OF AUTHORITY — PROGRAM.

THE AUTHORITY MAY:

- (1) PRESCRIBE OR APPROVE THE FORM OF AND TERMS AND CONDITIONS IN APPLICATIONS, GUARANTY AGREEMENTS, OR ANY OTHER DOCUMENTS ENTERED INTO BY THE AUTHORITY, PRINCIPALS, OR SURETIES UNDER THE PROGRAM;
- (2) ACQUIRE OR TAKE ASSIGNMENTS OF DOCUMENTS EXECUTED, OBTAINED, OR DELIVERED IN CONNECTION WITH ANY ASSISTANCE THE AUTHORITY PROVIDES UNDER THE PROGRAM;
- (3) SET AND COLLECT PREMIUMS, FEES, CHARGES, COSTS, AND EXPENSES IN CONNECTION WITH ANY ASSISTANCE THE AUTHORITY PROVIDES UNDER THE PROGRAM;
- (4) ADOPT REGULATIONS TO CARRY OUT THE PROGRAM; AND

(5) DO ANYTHING NECESSARY OR CONVENIENT TO CARRY OUT ITS POWERS AND THE PURPOSES OF THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1033(4) through (8).

Defined terms: "Authority" § 5-501

"Principal" § 5-561

"Program" § 5-561

5-568. SURETY — AUTHORITY AS GUARANTOR.

(A) AUTHORIZED.

THE AUTHORITY MAY GUARANTEE A SURETY UP TO THE LESSER OF 90% OR \$5,000,000 OF ITS LOSS UNDER A BID BOND, PAYMENT BOND, OR PERFORMANCE BOND ON A CONTRACT FINANCED BY THE FEDERAL GOVERNMENT, A STATE GOVERNMENT, A LOCAL GOVERNMENT, A PRIVATE ENTITY, OR A UTILITY THAT THE PUBLIC SERVICE COMMISSION REGULATES.

(B) LIMITATION.

THE TERM OF A GUARANTY UNDER THIS PART MAY NOT EXCEED THE CONTRACT TERM, INCLUDING:

(1) THE MAINTENANCE OR WARRANTY PERIOD REQUIRED BY THE CONTRACT;
AND

(2) THE PERIOD DURING WHICH THE SURETY MAY BE LIABLE FOR LATENT DEFECTS.

(C) TERMS AND CONDITIONS.

THE AUTHORITY MAY VARY THE TERMS AND CONDITIONS OF A GUARANTY BASED ON:

(1) THE AUTHORITY'S HISTORY OF EXPERIENCE WITH A SURETY; AND

(2) ANY OTHER FACTOR THE AUTHORITY CONSIDERS RELEVANT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5-1032(c) and 5-1035(a), (b), and (c).

Former Art. 83A, § 5-1035(a), which established the maximum level of certain guaranties for sureties by the Authority, was subject to a contingency on the taking effect of a certain termination provision. *See* §§ 2 and 3 of Ch. 635, Acts of 2007, and § 4 of Ch. 299, Acts of 2006. Accordingly, the maximum level of those guarantees stated in subsection (a) of this section is subject to the same contingency. *See* § 4 of Ch. 306, Acts of 2008. No effect on the contingency or termination provision is intended.

Defined terms: "Authority" § 5-501

"State" § 1-101

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5–569. SURETY — AUTHORITY AS SURETY.

(A) **AUTHORIZED.**

THE AUTHORITY MAY EXECUTE AND PERFORM A BID BOND, PERFORMANCE BOND, AND PAYMENT BOND AS A SURETY FOR THE BENEFIT OF A PRINCIPAL IN CONNECTION WITH A CONTRACT FINANCED BY THE FEDERAL GOVERNMENT OR A STATE GOVERNMENT, A LOCAL GOVERNMENT, A PRIVATE ENTITY, OR A UTILITY REGULATED BY THE PUBLIC SERVICE COMMISSION.

(B) **LIMITATION.**

(1) THIS SUBSECTION DOES NOT APPLY IF THE SOURCES OF FUNDING FOR THE BONDS ARE GRANTS.

(2) THE BONDS MAY NOT EXCEED \$5,000,000 EACH.

(C) **APPROVAL REQUIRED.**

BONDS ARE SUBJECT TO THE APPROVAL OF THE AUTHORITY BASED ON THE BOND WORTHINESS OF THE PRINCIPAL.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1035(d).

In subsection (c) of this section, the former phrase “as determined by the Authority on review of an application” is deleted as implicit in the nature of the bond worthiness that the Authority must base its approval on.

Former Art. 83A, § 5–1035(d)(2)(i), which established the maximum level of certain surety bonds, was subject to a contingency on the taking effect of a certain termination provision. *See* § 4 of Ch. 299, Acts of 2006. Accordingly, the maximum level of those surety bonds stated in subsection (b)(2) of this section is subject to the same contingency. *See* § 4 of Ch. 306, Acts of 2008. No effect on the contingency or termination provision is intended.

Defined terms: “Authority” § 5–501

“Principal” § 5–561

“State” § 1–101

5–570. ECONOMIC IMPACT OF CONTRACT.

(A) **CONSIDERATION.**

THE AUTHORITY MAY ONLY APPROVE A GUARANTY OR A BOND UNDER THIS PART IF THE AUTHORITY DETERMINES THAT THE CONTRACT, FOR WHICH A BOND IS SOUGHT TO BE GUARANTEED OR ISSUED, WILL HAVE A SUBSTANTIAL ECONOMIC IMPACT.

(B) **DETERMINATION OF ECONOMIC IMPACT.**

TO DETERMINE THE ECONOMIC IMPACT OF A CONTRACT, THE AUTHORITY MAY CONSIDER:

- (1) THE AMOUNT OF THE GUARANTY OBLIGATION;
- (2) THE TERMS OF THE BOND TO BE GUARANTEED;
- (3) THE NUMBER OF NEW JOBS THAT THE CONTRACT TO BE BONDED WILL CREATE; AND
- (4) ANY OTHER FACTOR THAT THE AUTHORITY CONSIDERS RELEVANT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1035(e).

Defined term: "Authority" § 5-501

5-571. SURETY BONDING LINE AUTHORIZED.

THE AUTHORITY MAY ESTABLISH A SURETY BONDING LINE TO ISSUE OR GUARANTEE MULTIPLE BONDS TO A PRINCIPAL WITHIN PREAPPROVED TERMS, CONDITIONS, AND LIMITATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1036.

The former phrase "[i]n addition to its authority under this Program" is deleted as surplusage.

Defined terms: "Authority" § 5-501

"Principal" § 5-561

5-572. QUALIFICATIONS OF PRINCIPAL; BOND REQUIREMENTS.

(A) QUALIFICATIONS OF PRINCIPAL.

TO QUALIFY FOR FINANCIAL ASSISTANCE UNDER THIS PART THE PRINCIPAL SHALL SATISFY THE AUTHORITY THAT THE PRINCIPAL:

(1) IS OF GOOD MORAL CHARACTER OR IS OWNED BY INDIVIDUALS OF GOOD MORAL CHARACTER;

(2) AS DETERMINED FROM CREDITORS, EMPLOYERS, AND OTHER INDIVIDUALS WHO HAVE PERSONAL KNOWLEDGE, IS AN INDIVIDUAL WITH A REPUTATION FOR FINANCIAL RESPONSIBILITY OR IS OWNED BY INDIVIDUALS, A MAJORITY OF WHOM HAVE A REPUTATION FOR FINANCIAL RESPONSIBILITY;

(3) IS A RESIDENT OF THE STATE OR THE PRINCIPAL PLACE OF BUSINESS OF THE APPLICANT IS IN THE STATE; AND

(4) IS UNABLE TO OBTAIN ADEQUATE BONDING ON REASONABLE TERMS THROUGH NORMAL CHANNELS.

(B) BOND REQUIREMENTS.

TO QUALIFY FOR FINANCIAL ASSISTANCE UNDER THIS PART THE PRINCIPAL SHALL CERTIFY TO THE AUTHORITY, AND THE AUTHORITY SHALL BE SATISFIED, THAT:

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(1) A BOND IS REQUIRED TO BID ON A CONTRACT OR TO SERVE AS PRIME CONTRACTOR OR SUBCONTRACTOR;

(2) A BOND CANNOT BE OBTAINED ON REASONABLE TERMS AND CONDITIONS WITHOUT ASSISTANCE FROM THE PROGRAM; AND

(3) THE PRINCIPAL WILL NOT SUBCONTRACT MORE THAN 75% OF THE MONETARY VALUE OF THE CONTRACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1037.

Defined terms: "Authority" § 5-501

"Principal" § 5-561

"Program" § 5-561

5-573. APPLICATION.

(A) IN GENERAL.

TO APPLY FOR FINANCIAL ASSISTANCE FROM THE PROGRAM UNDER THIS PART, A PRINCIPAL AND, IF APPLICABLE, A SURETY SHALL SUBMIT TO THE AUTHORITY AN APPLICATION ON THE FORM THAT THE AUTHORITY PROVIDES.

(B) CONTENTS.

THE APPLICATION SHALL INCLUDE:

(1) A DETAILED DESCRIPTION OF THE PROJECT;

(2) AN ITEMIZATION OF KNOWN AND ESTIMATED COSTS;

(3) THE TOTAL INVESTMENT REQUIRED TO PERFORM THE CONTRACT;

(4) THE WORKING CAPITAL AVAILABLE TO THE PRINCIPAL;

(5) THE BONDING ASSISTANCE SOUGHT;

(6) INFORMATION THAT DEMONSTRATES THE INABILITY OF THE PRINCIPAL TO OBTAIN ADEQUATE BONDING ON REASONABLE TERMS AND CONDITIONS THROUGH NORMAL CHANNELS WITHOUT ASSISTANCE FROM THE PROGRAM;

(7) A CURRENT BALANCE SHEET, A PROFIT AND LOSS STATEMENT, AND CREDIT REFERENCES ABOUT THE FINANCIAL STATUS OF THE PRINCIPAL;

(8) A SCHEDULE OF THE STATUS OF EXISTING AND PENDING CONTRACTS;
AND

(9) ANY OTHER RELEVANT INFORMATION THE AUTHORITY REQUESTS.

(C) AUDITED BALANCE SHEET.

THE AUTHORITY MAY REQUIRE AN APPLICANT TO PROVIDE AN AUDITED BALANCE SHEET BEFORE THE AUTHORITY APPROVES OR DENIES THE APPLICATION.

(D) EFFECT OF PREVIOUS DEFAULT.

THE AUTHORITY MAY NOT APPROVE A GUARANTY OR BOND UNDER THIS PART FOR A PRINCIPAL THAT HAS DEFAULTED ON A LOAN OR GUARANTY FROM THE AUTHORITY UNLESS:

(1) 2 YEARS HAVE PASSED SINCE THE TIME OF THE DEFAULT; AND

(2) THE PRINCIPAL HAS CURED ANY DEFAULT IN ANY FINANCING PROGRAM ADMINISTERED BY THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1038.

Defined terms: "Authority" § 5-501

"Department" § 1-101

"Principal" § 5-561

"Program" § 5-561

5-574. PREMIUMS AND FEES.

(A) IN GENERAL.

IN ITS SOLE DISCRETION, THE AUTHORITY MAY SET:

(1) THE PREMIUMS AND FEES FOR PROVIDING BONDING ASSISTANCE UNDER THE PROGRAM; AND

(2) THE TERMS AND CONDITIONS WHEN THE PREMIUMS AND FEES ARE PAYABLE.

(B) VARIABILITY.

THE PREMIUMS AND FEES MAY VARY IN AMOUNT AMONG TRANSACTIONS AND AT DIFFERENT STAGES OF A TRANSACTION.

(C) PERIOD OF EFFECTIVENESS.

A DETERMINATION BY THE AUTHORITY ON PREMIUMS AND FEES REMAINS EFFECTIVE FOR AS LONG AS THE BONDING ASSISTANCE PROVIDED BY THE AUTHORITY IS IN EFFECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1039.

Defined terms: "Authority" § 5-501

"Program" § 5-561

5-575. PROHIBITED ACTS; PENALTY.

(A) FALSE STATEMENT — APPLICATION OR DOCUMENT.

A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT OR REPORT IN AN APPLICATION OR DOCUMENT SUBMITTED TO THE AUTHORITY UNDER THIS PART.

(B) FALSE STATEMENT — TO INFLUENCE AUTHORITY.

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A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE A FALSE STATEMENT OR REPORT TO INFLUENCE AN ACTION OF THE AUTHORITY UNDER THIS PART:

- (1) ON AN APPLICATION FOR ASSISTANCE; OR
- (2) AFFECTING BONDING ASSISTANCE WHETHER OR NOT THE ASSISTANCE HAS BEEN EXTENDED.

(c) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1040.

Defined term: "Authority" § 5-501

SUBTITLE 6. ENTERPRISE FUND.

5-601. "FUND" DEFINED.

IN THIS SUBTITLE, "FUND" MEANS THE ENTERPRISE FUND ESTABLISHED UNDER § 5-602 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-501(a).

The reference to § 5-602 of this subtitle is added for clarity.

5-602. ENTERPRISE FUND.

(A) ESTABLISHED.

THERE IS AN ENTERPRISE FUND IN THE DEPARTMENT.

(B) PURPOSE.

THE DEPARTMENT MAY USE THE FUND TO:

- (1) MAKE A GRANT OR LOAN, AT THE RATE OF INTEREST SET BY THE DEPARTMENT;
- (2) PROVIDE EQUITY INVESTMENT FINANCING FOR A BUSINESS ENTERPRISE;
- (3) GUARANTEE A LOAN, EQUITY, INVESTMENT, OR OTHER PRIVATE FINANCING TO EXPAND THE CAPITAL RESOURCES OF A BUSINESS ENTERPRISE;
- (4) PURCHASE ADVISORY SERVICES AND TECHNICAL ASSISTANCE TO BETTER SUPPORT ECONOMIC DEVELOPMENT; AND
- (5) PAY THE ADMINISTRATIVE, LEGAL, AND ACTUARIAL EXPENSES OF THE DEPARTMENT.

(C) ADMINISTRATION.

THE SECRETARY SHALL MANAGE AND SUPERVISE THE FUND.

(D) STATUS.

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

(2) THE TREASURER SHALL HOLD THE FUND AND THE COMPTROLLER SHALL ACCOUNT FOR IT.

(E) PURCHASE OF SERVICES.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE DOES NOT APPLY TO A SERVICE THAT THE DEPARTMENT OBTAINS THAT IS RELATED TO THE INVESTMENT, MANAGEMENT, ANALYSIS, PURCHASE, OR SALE OF AN ASSET OF THE DEPARTMENT IN A TRANSACTION AUTHORIZED UNDER THIS SUBTITLE, INCLUDING A COMMISSION RELATED TO THE TRANSFER OF A SHARE OF STOCK IN A BUSINESS ENTITY.

(2) THE DEPARTMENT IS SUBJECT TO TITLE 12, SUBTITLE 4 OF THE STATE FINANCE AND PROCUREMENT ARTICLE FOR SERVICES RELATED TO THE INVESTMENT, MANAGEMENT, ANALYSIS, PURCHASE, OR SALE OF ASSETS OF THE DEPARTMENT IN ANY TRANSACTION AUTHORIZED UNDER THIS SUBTITLE, INCLUDING COMMISSIONS RELATED TO THE TRANSFER OF SHARES OF STOCK IN A BUSINESS ENTITY.

(F) DISPOSITION OF PROPERTY.

(1) SECTION 10-305 OF THE STATE FINANCE AND PROCUREMENT ARTICLE DOES NOT APPLY TO THE SALE, LEASE, TRANSFER, EXCHANGE, OR OTHER DISPOSITION OF REAL OR PERSONAL PROPERTY, INCLUDING A SHARE OF STOCK IN A BUSINESS ENTITY, THAT THE DEPARTMENT ACQUIRES IN A TRANSACTION AUTHORIZED UNDER THIS SUBTITLE.

(2) THE DEPARTMENT SHALL CONSULT WITH THE TREASURER IN CONNECTION WITH THE PROPOSED DISPOSITION OF PROPERTY THAT THE DEPARTMENT ACQUIRES UNDER THIS SUBTITLE.

(G) COMPOSITION.

THE FUND CONSISTS OF:

- (1) MONEY APPROPRIATED BY THE STATE TO THE FUND;
- (2) MONEY MADE AVAILABLE TO THE FUND THROUGH FEDERAL PROGRAMS OR PRIVATE CONTRIBUTIONS;
- (3) REPAYMENT OF PRINCIPAL OF A LOAN MADE FROM THE FUND;
- (4) PAYMENT OF INTEREST ON A LOAN MADE FROM THE FUND;

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(5) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL BY THE DEPARTMENT OF COLLATERAL RELATED TO FINANCING THAT THE DEPARTMENT PROVIDES UNDER THIS SUBTITLE;

(6) PREMIUMS, FEES, ROYALTIES, INTEREST, REPAYMENTS OF PRINCIPAL, AND RETURNS ON INVESTMENTS PAID TO THE DEPARTMENT BY OR ON BEHALF OF:

(I) A BUSINESS ENTERPRISE IN WHICH THE DEPARTMENT HAS MADE AN INVESTMENT UNDER THIS SUBTITLE; OR

(II) AN INVESTOR PROVIDING AN INVESTMENT GUARANTEED BY THE DEPARTMENT UNDER THIS SUBTITLE;

(7) RECOVERY OF AN INVESTMENT MADE BY THE DEPARTMENT IN A BUSINESS ENTERPRISE UNDER THIS SUBTITLE, INCLUDING AN ARRANGEMENT UNDER WHICH THE DEPARTMENT'S INVESTMENT IN THE BUSINESS ENTERPRISE IS RECOVERED THROUGH:

(I) A REQUIREMENT THAT THE DEPARTMENT RECEIVE A PROPORTION OF CASH FLOW, COMMISSION, ROYALTY, OR PAYMENT ON A PATENT; OR

(II) THE REPURCHASE FROM THE DEPARTMENT OF ANY EVIDENCE OF FINANCIAL PARTICIPATION, INCLUDING A NOTE, STOCK, BOND, OR DEBENTURE;

(8) REPAYMENT OF A CONDITIONAL GRANT EXTENDED BY THE DEPARTMENT; AND

(9) ANY OTHER MONEY MADE AVAILABLE TO THE DEPARTMENT FOR THE FUND.

(H) INVESTMENT EARNINGS.

(1) THE TREASURER SHALL INVEST MONEY IN THE FUND IN THE SAME MANNER AS OTHER STATE MONEY.

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.

(I) MONEY GENERATED BY PARTICULAR UNIT.

UNLESS THE SECRETARY DETERMINES OTHERWISE, MONEY IN THE FUND THAT WAS GENERATED BY A PARTICULAR UNIT IN THE DEPARTMENT SHALL BE ALLOCATED FOR THE USE OF THAT UNIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5-502 and 5-503.

In subsection (d)(1) of this section, the phrase "that is not subject to reversion under § 7-302 of the State Finance and Procurement Article" is standard language added to reflect that as a revolving fund, the Fund does not revert to the General Fund at the end of a fiscal year.

In subsection (g)(4) of this section, the reference to "payment" of interest from loans made from the Fund is added for clarity.

Subsection (h) of this section is revised to state explicitly that which was only implied by the former law; *i.e.*, that the Treasurer must invest money in the Fund in the same manner that the Treasurer invests other money of the State, and return the investment income to the Fund.

In subsection (i) of this section, the references to a “unit” are substituted for the former references to a “division” for consistency within this article. See General Revisor’s Note to article.

Defined terms: “Department” § 1–101

“Fund” § 5–601

“Secretary” § 1–101

“State” § 1–101

5–603. ADMINISTRATION OF GRANTS.

(A) REPAYMENT OF GRANTS.

THE DEPARTMENT MAY REQUIRE THAT ALL OR PART OF A GRANT BE REPAID, WITH INTEREST AT A RATE THE DEPARTMENT SETS, WHEN CONDITIONS SPECIFIED BY THE DEPARTMENT OCCUR.

(B) EQUITY INVESTMENT FINANCING.

(1) WHENEVER THE DEPARTMENT IS AUTHORIZED BY LAW TO MAKE A GRANT, INCLUDING A GRANT AUTHORIZED UNDER § 7–314 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE DEPARTMENT MAY USE MONEY APPROPRIATED FOR THE GRANT TO MAKE AN EQUITY INVESTMENT IN A BUSINESS ENTERPRISE.

(2) IN MAKING AN EQUITY INVESTMENT UNDER THIS SUBTITLE, THE DEPARTMENT MAY NOT ACQUIRE AN OWNERSHIP INTEREST IN AN ENTERPRISE THAT EXCEEDS 25%.

(3) WITHIN 15 YEARS AFTER MAKING AN EQUITY INVESTMENT UNDER THIS SUBTITLE, THE DEPARTMENT SHALL DIVEST ITSELF OF THAT INVESTMENT.

(4) THE LIABILITY OF THE STATE AND THE DEPARTMENT IN MAKING AN EQUITY INVESTMENT UNDER THIS SUBTITLE IS LIMITED TO THE AMOUNT OF THAT INVESTMENT.

(5) THE DEPARTMENT SHALL ADOPT REGULATIONS GOVERNING EQUITY INVESTMENTS UNDER THIS SUBSECTION THAT SPECIFY:

(I) THE TYPES OF BUSINESS ENTERPRISES IN WHICH AN INVESTMENT MAY BE MADE;

(II) THE BASIC STANDARDS AN ENTERPRISE SHALL MEET TO QUALIFY FOR AN INVESTMENT;

(III) THE AMOUNT OF MONEY AVAILABLE FOR INVESTMENT; AND

(IV) THE CRITERIA THAT THE DEPARTMENT USES TO MAKE INVESTMENT DECISIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–501(b) and (c).

In subsection (b)(4) of this section, the reference to liability being limited to investments “made by the Department” is added for clarity.

In subsection (b)(5) of this section, the reference to investments under this “subsection” is substituted for the former reference to investments under this “subtitle” for accuracy. *See* Ch. 623, Acts of 1993, Ch. 120, Acts of 1995.

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

SUBTITLE 7. ENTERPRISE ZONES.

5–701. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–401(a).

No changes are made.

(B) AREA.

“AREA” MEANS A GEOGRAPHIC AREA IN ONE OR MORE POLITICAL SUBDIVISIONS IN THE STATE DESCRIBED BY A CLOSED PERIMETER BOUNDARY.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–401(b).

The only changes are in style.

Defined terms: “Political subdivision” § 5–701
“State” § 1–101

(C) BUSINESS ENTITY.

“BUSINESS ENTITY” MEANS A PERSON THAT OPERATES OR CONDUCTS A TRADE OR BUSINESS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–401(c)(1).

(D) ENTERPRISE ZONE.

“ENTERPRISE ZONE” MEANS AN AREA:

(1) THAT MEETS THE REQUIREMENTS OF § 5–704(A) OF THIS SUBTITLE AND IS DESIGNATED AS AN ENTERPRISE ZONE BY THE SECRETARY UNDER § 5–704(B) OF THIS SUBTITLE;

(2) DESIGNATED AS AN ENTERPRISE ZONE BY THE UNITED STATES GOVERNMENT UNDER 42 U.S.C. §§ 11501 THROUGH 11505; OR

(3) DESIGNATED AS AN EMPOWERMENT ZONE OR ENTERPRISE COMMUNITY BY THE UNITED STATES GOVERNMENT UNDER 26 U.S.C. §§ 1391 THROUGH 1397F.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-401(f).

In item (2) of this subsection, the specific reference to designation "under 42 U.S.C. §§ 11501 through 11505" is added for clarity and accuracy.

In item (3) of this subsection, the reference to an "enterprise community" is added for clarity and accuracy.

Also in item (3) of this subsection, the specific reference to §§ 1391 "through 1397F" is substituted for the former phrase "et seq." for clarity and accuracy.

Defined terms: "Area" § 5-701
"Secretary" § 1-101

(E) FOCUS AREA.

"FOCUS AREA" MEANS AN AREA THAT MEETS THE REQUIREMENTS OF § 5-706 OF THIS SUBTITLE AND IS DESIGNATED AS A FOCUS AREA BY THE SECRETARY UNDER § 5-706 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-401(g).

Defined terms: "Area" § 5-701
"Secretary" § 1-101

(F) POLITICAL SUBDIVISION.

"POLITICAL SUBDIVISION" MEANS A COUNTY OR MUNICIPAL CORPORATION.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5-401(h).

The only changes are in style.

Defined term: "County" § 1-101

(G) SUBMISSION DATE.

"SUBMISSION DATE" MEANS APRIL 15 OR OCTOBER 15.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5-401(j).

The former reference to "any calendar year" is deleted as surplusage.

REVISOR'S NOTE TO SECTION: Former Art. 83A, § 5-401(e), which defined "Department" to mean the Department of Business and Economic Development, is revised in § 1-101 of this article.

Former Art. 83A, § 5-401(i), which defined "Secretary" to mean the Secretary of the Department, is revised in § 1-101 of this article.

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5-702. SCOPE OF SUBTITLE.

SUBJECT TO § 9-103 OF THE TAX – PROPERTY ARTICLE, A BUSINESS ENTITY THAT OWNS, OPERATES, DEVELOPS, CONSTRUCTS, OR REHABILITATES PROPERTY INTENDED FOR USE PRIMARILY AS SINGLE OR MULTIFAMILY RESIDENTIAL PROPERTY LOCATED IN AN ENTERPRISE ZONE MAY NOT BENEFIT FROM AN INCENTIVE OR INITIATIVE UNDER THIS SUBTITLE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-401(c)(2).

This section is restated as a scope provision rather than as an exclusion from the definition of the term “business entity” for clarity.

Defined terms: “Business entity” § 5-701

“Enterprise zone” § 5-701

5-703. ENTERPRISE ZONES — APPLICATION.

(A) IN GENERAL.

THE FOLLOWING POLITICAL SUBDIVISIONS MAY APPLY TO THE SECRETARY TO DESIGNATE AN ENTERPRISE ZONE:

(1) A POLITICAL SUBDIVISION FOR AN AREA WITHIN THAT POLITICAL SUBDIVISION;

(2) WITH THE PRIOR CONSENT OF THE MUNICIPAL CORPORATION, A COUNTY ON BEHALF OF A MUNICIPAL CORPORATION FOR AN AREA IN THE MUNICIPAL CORPORATION; OR

(3) TWO OR MORE POLITICAL SUBDIVISIONS JOINTLY FOR AN AREA ASTRIDE THEIR COMMON BOUNDARIES.

(B) FORM AND CONTENT.

THE APPLICATION SHALL:

(1) BE IN THE FORM AND MANNER AND CONTAIN THE INFORMATION THAT THE SECRETARY REQUIRES BY REGULATION;

(2) CONTAIN SUFFICIENT INFORMATION TO ALLOW THE SECRETARY TO DETERMINE IF THE PROPOSED ENTERPRISE ZONE MEETS THE CRITERIA IN § 5-704 OF THIS SUBTITLE;

(3) BE SUBMITTED FOR A POLITICAL SUBDIVISION BY ITS CHIEF ELECTED OFFICER, OR IF NONE, ITS GOVERNING BODY;

(4) STATE WHETHER THE POLITICAL SUBDIVISION HAS EXAMINED THE FEASIBILITY OF CREATING EDUCATIONAL OR TRAINING OPPORTUNITIES FOR EMPLOYERS AND EMPLOYEES OF BUSINESS ENTITIES LOCATED OR TO BE LOCATED IN THE PROPOSED ENTERPRISE ZONE; AND

(5) STATE THE STANDARDS ESTABLISHED BY THE POLITICAL SUBDIVISION THAT A BUSINESS ENTITY SHALL MEET BEFORE RECEIVING THE INCENTIVES AND INITIATIVES UNDER § 5-707 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-402(a) through (d).

In subsection (a)(2) of this section, the former phrase “but if a county seeks to designate an area within a municipal corporation as an enterprise zone, then the governing body of the municipal corporation must first consent” is deleted as redundant of the authorization of a county “with the prior consent of the municipal corporation” to apply for designation “on behalf of a municipal corporation”.

In subsection (b)(5) of this section, the phrase “established by the political subdivision” is added to clarify that a political subdivision must include in an application for an enterprise zone any standards developed by the political subdivision that apply to a business entity.

Also in subsection (b)(5) of this section, the reference to “§ 5-707 of” this subtitle is added for clarity.

Defined terms: “Area” § 5-701
 “Business entity” § 5-701
 “County” § 1-101
 “Enterprise zone” § 5-701
 “Political subdivision” § 5-701
 “Secretary” § 1-101

5-704. ENTERPRISE ZONES — DESIGNATION.

(A) IN GENERAL.

(1) THE SECRETARY MAY ONLY DESIGNATE AN AREA AS AN ENTERPRISE ZONE IF THE AREA:

(i) IS IN A PRIORITY FUNDING AREA OR MEETS AN EXCEPTION UNDER TITLE 5, SUBTITLE 7B OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

(ii) SATISFIES AT LEAST ONE OF THE REQUIREMENTS SPECIFIED IN PARAGRAPH (2) OF THIS SUBSECTION.

(2) AN AREA MAY BE DESIGNATED AS AN ENTERPRISE ZONE IF:

(i) THE AVERAGE RATE OF UNEMPLOYMENT IN THE AREA, OR WITHIN A REASONABLE PROXIMITY TO THE AREA BUT IN THE SAME COUNTY, FOR THE MOST RECENT 18-MONTH PERIOD FOR WHICH DATA ARE AVAILABLE IS AT LEAST 150% OF THE GREATER OF THE AVERAGE RATE OF UNEMPLOYMENT IN EITHER THE STATE OR THE UNITED STATES DURING THAT PERIOD;

(ii) THE POPULATION IN THE AREA, OR WITHIN A REASONABLE PROXIMITY TO THE AREA BUT IN THE SAME COUNTY, QUALIFIES THE AREA AS A LOW-INCOME POVERTY AREA;

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(III) AT LEAST 70% OF THE FAMILIES IN THE AREA, OR WITHIN A REASONABLE PROXIMITY TO THE AREA BUT IN THE SAME COUNTY, HAVE INCOMES THAT ARE LESS THAN 80% OF THE MEDIAN FAMILY INCOME IN THE POLITICAL SUBDIVISION THAT CONTAINS THE AREA; OR

(IV) THE POPULATION IN THE AREA, OR WITHIN A REASONABLE PROXIMITY TO THE AREA BUT IN THE SAME COUNTY, DECREASED BY 10% BETWEEN THE MOST RECENT TWO CENSUSES, AND THE POLITICAL SUBDIVISION CAN DEMONSTRATE TO THE SECRETARY'S SATISFACTION THAT:

1. CHRONIC ABANDONMENT OR DEMOLITION OF PROPERTY IS OCCURRING IN THE AREA; OR

2. SUBSTANTIAL PROPERTY TAX ARREARAGES EXIST IN THE AREA.

(3) (I) IN DETERMINING IF AN AREA MEETS THE REQUIREMENTS OF THIS SUBSECTION, THE SECRETARY MAY CONSIDER THE MOST RECENT CENSUS DATA PROVIDED BY THE UNITED STATES BUREAU OF THE CENSUS OR ANY OTHER RELIABLE DATA THAT IS ACCEPTABLE TO THE SECRETARY.

(II) BEFORE CONSIDERING DATA OTHER THAN THE MOST RECENT CENSUS IN MAKING A DETERMINATION UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION, THE SECRETARY SHALL ADOPT REGULATIONS SPECIFYING ALTERNATIVE DATA THAT ARE SATISFACTORY TO THE SECRETARY.

(4) THE SECRETARY MAY ESTABLISH BY REGULATION ANY OTHER REQUIREMENTS NECESSARY AND APPROPRIATE TO CARRY OUT THIS SUBTITLE.

(5) BEFORE DESIGNATING AN ENTERPRISE ZONE, THE SECRETARY SHALL CONSULT WITH THE APPROPRIATE ADVISORS.

(B) PROCEDURE; LIMITATIONS.

(1) WITHIN 60 DAYS AFTER A SUBMISSION DATE, THE SECRETARY MAY DESIGNATE ONE OR MORE ENTERPRISE ZONES FROM AMONG THE AREAS DESCRIBED IN THE APPLICATIONS TIMELY SUBMITTED.

(2) THE DESIGNATION OF AN AREA AS AN ENTERPRISE ZONE IS EFFECTIVE FOR 10 YEARS.

(3) THE SECRETARY MAY NOT DESIGNATE MORE THAN SIX ENTERPRISE ZONES IN A CALENDAR YEAR.

(4) A COUNTY MAY NOT RECEIVE MORE THAN ONE ENTERPRISE ZONE IN A CALENDAR YEAR.

(C) FINALITY.

THE DESIGNATION OF THE SECRETARY IS FINAL.

(D) REAPPLICATION AFTER DENIAL.

AT ANY TIME, A POLITICAL SUBDIVISION MAY REAPPLY TO THE SECRETARY TO DESIGNATE AS AN ENTERPRISE ZONE AN AREA THAT IS NOT DESIGNATED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5–403(a) and (c) and 5–402(e), (h), and, as it related to the duration of a zone, (k)(1)(ii).

In subsection (a)(1)(i) of this section, the reference to SF “Title 5,” Subtitle 7B is added for clarity.

In subsection (a)(3)(i) of this section, the former reference to data that the Secretary determines to be acceptable “for the purposes for which such data are used” is deleted as surplusage.

In subsection (b)(1) of this section, the reference to “the areas described in” the applications is added for clarity.

Also in subsection (b)(1) of this section, the reference to applications “timely” submitted is substituted for the former reference to applications submitted “to the Secretary on or before that submission date” for brevity.

Defined terms: “Area” § 5–701

“Business entity” § 5–701

“County” § 1–101

“Enterprise zone” § 5–701

“Political subdivision” § 5–701

“Secretary” § 1–101

“State” § 1–101

“Submission date” § 5–701

5–705. ENTERPRISE ZONES — EXPANSION.

(A) IN GENERAL.

(1) A POLITICAL SUBDIVISION MAY APPLY TO THE SECRETARY TO EXPAND AN EXISTING ENTERPRISE ZONE IN THE SAME MANNER AS THE POLITICAL SUBDIVISION WOULD APPLY TO DESIGNATE A NEW ENTERPRISE ZONE.

(2) THE SECRETARY MAY GRANT AN EXPANSION OF AN ENTERPRISE ZONE INTO AN AREA THAT MEETS THE REQUIREMENTS OF § 5–704 OF THIS SUBTITLE.

(3) FOR PURPOSES OF § 5–704(B) OF THIS SUBTITLE, AN EXPANSION OF AN ENTERPRISE ZONE THAT DOES NOT EXCEED 50% OF THE EXISTING GEOGRAPHIC AREA OF THE ENTERPRISE ZONE DOES NOT COUNT TOWARDS THE LIMIT ON THE NUMBER OF ENTERPRISE ZONES THAT:

(I) THE SECRETARY MAY DESIGNATE IN A CALENDAR YEAR; OR

(II) A COUNTY MAY RECEIVE IN A CALENDAR YEAR.

(B) EXTRAORDINARY EXPANSION.

(1) THE SECRETARY MAY GRANT ONE EXTRAORDINARY EXPANSION OF AN ENTERPRISE ZONE IN THE STATE EACH CALENDAR YEAR FOR AN AREA THAT:

(i) MEETS THE REQUIREMENTS OF § 5-704 OF THIS SUBTITLE; AND

(ii) IN THE DETERMINATION OF THE SECRETARY, HAS SUFFERED A SIGNIFICANT LOSS OF ECONOMIC BASE.

(2) FOR PURPOSES OF § 5-704(B) OF THIS SUBTITLE, AN EXTRAORDINARY EXPANSION OF AN ENTERPRISE ZONE DOES NOT COUNT TOWARDS THE LIMIT ON THE NUMBER OF ENTERPRISE ZONES THAT:

(i) THE SECRETARY MAY DESIGNATE IN A CALENDAR YEAR; OR

(ii) A COUNTY MAY RECEIVE IN A CALENDAR YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-402(i) and (j).

Defined terms: "Area" § 5-701

"County" § 1-101

"Enterprise zone" § 5-701

"Political subdivision" § 5-701

"Secretary" § 1-101

"State" § 1-101

5-706. FOCUS AREA.

(A) IN GENERAL.

A POLITICAL SUBDIVISION MAY REQUEST THE SECRETARY TO DESIGNATE ALL OR PART OF AN ENTERPRISE ZONE AS A FOCUS AREA FOR THE LESSER OF:

(1) 5 YEARS; OR

(2) THE REMAINDER OF THE 10-YEAR TERM OF THE APPLICABLE ENTERPRISE ZONE.

(B) TIME FOR REQUEST.

THE REQUEST MAY BE MADE ON OR BEFORE A SUBMISSION DATE WHEN THE POLITICAL SUBDIVISION APPLIES FOR THE DESIGNATION OF A NEW ENTERPRISE ZONE OR AFTER THE SECRETARY HAS DESIGNATED AN ENTERPRISE ZONE.

(C) ELIGIBILITY CRITERIA.

THE SECRETARY MAY GRANT THE REQUEST IF THE AREA IS LOCATED IN AN ENTERPRISE ZONE AND MEETS AT LEAST THREE OF THE FOLLOWING CRITERIA:

(1) THE AVERAGE UNEMPLOYMENT RATE IN THE AREA, OR WITHIN A REASONABLE PROXIMITY TO THE AREA BUT IN THE SAME COUNTY, FOR THE MOST RECENT 18-MONTH PERIOD FOR WHICH DATA ARE AVAILABLE IS AT LEAST 150% OF THE GREATER OF THE AVERAGE RATE OF UNEMPLOYMENT IN EITHER THE STATE OR THE UNITED STATES DURING THAT SAME PERIOD;

(2) THE POPULATION IN THE AREA, OR WITHIN A REASONABLE PROXIMITY TO THE AREA BUT IN THE SAME COUNTY, HAS AN INCIDENCE OF POVERTY THAT IS AT LEAST 150% OF THE NATIONAL AVERAGE;

(3) THE CRIME RATE IN THE AREA, OR WITHIN A REASONABLE PROXIMITY TO THE AREA BUT IN THE SAME COUNTY, IS AT LEAST 150% OF THE CRIME RATE IN THE POLITICAL SUBDIVISION WHERE THE AREA IS LOCATED;

(4) THE PERCENTAGE OF SUBSTANDARD HOUSING IN THE AREA, OR WITHIN A REASONABLE PROXIMITY TO THE AREA BUT IN THE SAME COUNTY, IS AT LEAST 200% OF THE PERCENTAGE OF HOUSING UNITS IN THE STATE THAT ARE SUBSTANDARD, ACCORDING TO DATA FROM THE UNITED STATES BUREAU OF THE CENSUS OR OTHER STATE OR FEDERAL GOVERNMENT DATA THE SECRETARY CONSIDERS APPROPRIATE; OR

(5) AT LEAST 20% OF THE SQUARE FOOTAGE OF COMMERCIAL PROPERTY IN THE AREA, OR WITHIN A REASONABLE PROXIMITY TO THE AREA BUT WITHIN THE SAME COUNTY, IS VACANT, ACCORDING TO DATA FROM THE UNITED STATES BUREAU OF THE CENSUS OR OTHER STATE OR FEDERAL GOVERNMENT DATA THE SECRETARY CONSIDERS APPROPRIATE.

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

For tax credits available to a business entity in a focus area, see TG § 10-702 and TP § 9-103.

Defined terms: "Area" § 5-701

"County" § 1-101

"Enterprise zone" § 5-701

"Focus area" § 5-701

"Political subdivision" § 5-701

"Secretary" § 1-101

"State" § 1-101

"Submission date" § 5-701

5-707. BUSINESS ENTITY INCENTIVES AND INITIATIVES.

(A) IN GENERAL.

TO THE EXTENT PROVIDED FOR IN THIS SECTION, A BUSINESS ENTITY IS ENTITLED TO:

(1) THE SPECIAL PROPERTY TAX CREDIT IN § 9-103 OF THE TAX - PROPERTY ARTICLE;

(2) THE INCOME TAX CREDITS IN § 10-702 OF THE TAX - GENERAL ARTICLE; AND

(3) CONSIDERATION FOR FINANCIAL ASSISTANCE FROM PROGRAMS IN SUBTITLE 1 OF THIS TITLE.

(B) ELIGIBILITY.

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A BUSINESS ENTITY THAT MOVES INTO OR LOCATES IN AN ENTERPRISE ZONE ON OR AFTER THE DATE THAT THE ENTERPRISE ZONE IS DESIGNATED UNDER § 5–704 OF THIS SUBTITLE MAY BENEFIT FROM THE INCENTIVES AND INITIATIVES IN THIS SECTION IF:

(1) THE BUSINESS ENTITY MEETS THE REQUIREMENTS AND CONDITIONS OF THE CODE SECTION APPLICABLE TO EACH INCENTIVE OR INITIATIVE;

(2) THE RESPECTIVE POLITICAL SUBDIVISION CERTIFIES THAT THE BUSINESS ENTITY HAS COMPLIED WITH THE STANDARDS THAT THE SUBDIVISION SUBMITTED UNDER § 5–703(B)(5) OF THIS SUBTITLE;

(3) THE BUSINESS ENTITY CREATES NEW OR ADDITIONAL JOBS OR MAKES A CAPITAL INVESTMENT TO QUALIFY FOR THE PROPERTY TAX CREDIT UNDER § 9–103 OF THE TAX – PROPERTY ARTICLE AND THE INCOME TAX CREDITS UNDER § 10–702 OF THE TAX – GENERAL ARTICLE; AND

(4) IN CONSIDERING WHETHER THE BUSINESS ENTITY QUALIFIES FOR FINANCIAL ASSISTANCE FROM THE PROGRAMS IN SUBTITLE 1 OF THIS TITLE, THE SECRETARY DETERMINES THAT THE BUSINESS ENTITY WILL CREATE NEW OR ADDITIONAL JOBS.

(C) LIMITATION.

THE INCENTIVES AND INITIATIVES PROVIDED FOR IN THIS SECTION ARE NOT AVAILABLE TO A BUSINESS ENTITY THAT:

(1) WAS IN AN ENTERPRISE ZONE BEFORE THE DATE THAT THE ENTERPRISE ZONE IS DESIGNATED, EXCEPT FOR A CAPITAL INVESTMENT OR EXPANSION OF ITS LABOR FORCE THAT OCCURS ON OR AFTER THE ENTERPRISE ZONE IS DESIGNATED; OR

(2) IS LOCATED IN AN ENTERPRISE ZONE THAT WAS DESIGNATED UNDER FEDERAL LAW UNLESS THE SECRETARY AND THE BOARD OF PUBLIC WORKS CONSENT TO THE DESIGNATION.

(D) PERIOD OF AVAILABILITY.

(1) EXCEPT AS PROVIDED IN § 10–702 OF THE TAX – GENERAL ARTICLE AND § 9–103 OF THE TAX – PROPERTY ARTICLE, THE INCENTIVES AND INITIATIVES SET FORTH IN THIS SECTION ARE AVAILABLE FOR 10 YEARS AFTER THE DATE THAT AN AREA IS DESIGNATED AN ENTERPRISE ZONE.

(2) A LAW ENACTED AFTER THE ENACTMENT OF THIS SECTION THAT ELIMINATES OR REDUCES THE BENEFITS AVAILABLE TO A BUSINESS ENTITY UNDER THIS SECTION DOES NOT APPLY TO A BUSINESS ENTITY THAT WAS IN AN ENTERPRISE ZONE BEFORE THE EFFECTIVE DATE OF THE LAW.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–404, as it related to incentives and initiatives under federal law, and the second sentence of § 5–402(f).

In subsection (a)(2) of this section, the word “and” is added to indicate that the list is inclusive.

In the introductory language to subsection (c) of this section, the reference to incentives and initiatives under this section is substituted for the former reference “to those provided under this subtitle” in light of the revised structure of this section.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that the Department interprets subsection (d)(1) of this section as authorizing the availability of the tax credits under this section for 10 years after the date that the business entity qualifies for the tax credits, rather than the date on which the Secretary designates the enterprise zone.

The Economic Development Article Review Committee also notes, for the consideration of the General Assembly, that subsection (d)(1) of this section, which establishes a general 10-year period for the availability of benefits under this section is both contradictory and confusing as it relates to other, more specific provisions. Controlling time limitations for the tax benefits to which this section refers are included in TG § 10-702 and TP § 9-103, more specific than and not entirely consistent with this section. TG § 10-702(c) through (f); TP § 9-103(d) and (e). The nontax benefits under Subtitle 1 of this title, to consideration of which a business entity is entitled under subsection (a)(3) of this subtitle, are not limited to a designated enterprise zone or focus area. Under § 5-105 of this title, the enterprise zone designation is only a possible enhancement to consideration of benefits under Subtitle 1 of this title, not an eligibility criterion. Thus, reading subsection (d)(1) of this section to impose a 10-year limit on the availability of nontax benefits to a business entity is both incorrect and confusing. Accordingly, the General Assembly may wish to consider repealing subsection (d)(1) of this section as contradictory, with respect to tax benefits governed by other articles, and confusing, with respect to nontax benefits under Subtitle 1 of this title.

Defined terms: “Area” § 5-701
 “Business entity” § 5-701
 “Enterprise zone” § 5-701
 “Secretary” § 1-101

5-708. EFFECT OF FEDERAL LAW.

(A) IN GENERAL.

AN AREA THAT IS DESIGNATED AN ENTERPRIZE ZONE, EMPOWERMENT ZONE, OR ENTERPRISE COMMUNITY UNDER FEDERAL LAW SHALL AUTOMATICALLY BE DESIGNATED AS AN ENTERPRISE ZONE NOTWITHSTANDING THE LIMIT ON THE NUMBER OF ENTERPRISE ZONES THAT THE SECRETARY MAY DESIGNATE UNDER § 5-704(B) OF THIS SUBTITLE.

(B) STATE APPROVAL FOR DESIGNATION UNDER FEDERAL LAW.

AN APPLICATION BY A POLITICAL SUBDIVISION AND THE DESIGNATION BY THE SECRETARY OF AN AREA AS AN ENTERPRISE ZONE CONSTITUTES THE STATE APPROVAL THAT MAY BE REQUIRED TO DESIGNATE AN AREA AS AN ENTERPRISE ZONE UNDER FEDERAL LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-402(g) and the first sentence of (f).

In subsection (a) of this section, the reference to an "enterprise community" is added for clarity and conformity with § 5-701(d)(3) of this subtitle.

Also in subsection (a) of this section, the reference to enterprise zones that the Secretary may designate "under § 5-704(b) of this subtitle" is added for clarity.

Also in subsection (a) of this section, the former phrase "and without any additional action by the political subdivision or the Secretary be" is deleted for brevity.

Defined terms: "Area" § 5-701

"Enterprise zone" § 5-701

"Political subdivision" § 5-701

"Secretary" § 1-101

"State" § 1-101

5-709. ASSESSMENT; REPORT.

(A) JOINT ASSESSMENT BY DEPARTMENT AND COMPTROLLER.

THE DEPARTMENT AND THE COMPTROLLER JOINTLY SHALL ASSESS EACH YEAR THE EFFECTIVENESS OF THE TAX CREDITS PROVIDED TO BUSINESS ENTITIES IN ENTERPRISE ZONES AND FOCUS AREAS IN ENTERPRISE ZONES, INCLUDING:

(1) THE NUMBER AND AMOUNTS OF CREDITS GRANTED EACH YEAR; AND

(2) THE SUCCESS OF THE TAX CREDITS IN ATTRACTING AND RETAINING BUSINESS ENTITIES IN ENTERPRISE ZONES AND FOCUS AREAS.

(B) ANNUAL REPORT.

ON OR BEFORE DECEMBER 15 OF EACH YEAR, THE DEPARTMENT AND THE COMPTROLLER SHALL SUBMIT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY A REPORT OUTLINING THE FINDINGS OF THE DEPARTMENT AND THE COMPTROLLER AND ANY OTHER INFORMATION OF VALUE IN DETERMINING THE EFFECTIVENESS OF THE TAX CREDITS PROVIDED UNDER § 5-707(B) OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-405.

In subsection (b) of this section, the former phrase "[o]n or before December 15, 2002" is deleted as obsolete.

Defined terms: “Department” § 1–101
 “Enterprise zone” § 5–701
 “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.

In item (3)(i) and (iii) of this subsection, the former reference to the “State of Maryland” is deleted as implicit in the reference to the “State”.

Defined term: “State” § 1–101

5–802. ESTABLISHMENT.

(A) APPLICATION.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PUBLIC CORPORATION OR A PRIVATE CORPORATION MAY APPLY TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN TRADE ZONE IN ACCORDANCE WITH THE FEDERAL FOREIGN TRADE ZONES ACT.

(B) PRIOR APPROVAL.

A PRIVATE CORPORATION MAY NOT APPLY TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN TRADE ZONE WITHOUT PRIOR APPROVAL FROM THE GOVERNOR AND THE MARYLAND PORT ADMINISTRATION.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 23, § 467.

In subsection (a) of this section, the former reference to “Public Law 397, 73rd Congress, Ch. 590, approved June 18, 1934 (48 Stat. 998–1003, 19 U.S.C. § 81a through u), as amended” is deleted in light of the reference to the official short title.

In subsection (b) of this section, the former reference to “the privilege of establishing, ... a foreign trade zone” is deleted as surplusage.

Defined terms: “Private corporation” § 5–801
“Public corporation” § 5–801

5–803. OPERATION.

A PUBLIC CORPORATION OR A PRIVATE CORPORATION THAT ESTABLISHES, OPERATES, AND MAINTAINS A FOREIGN TRADE ZONE UNDER THIS SUBTITLE IS SUBJECT TO THE CONDITIONS OF THE FEDERAL FOREIGN TRADE ZONES ACT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 23, § 468.

The reference to establishing a foreign trade zone “under this subtitle” is substituted for the former reference to one “whose application to establish ... a foreign trade zone is granted pursuant to the Foreign Trade Zones Act” in light of § 5–802(a) of this subtitle, which expressly requires that a corporation apply for a foreign trade zone in accordance with the Foreign Trade Zones Act.

Also, the former reference to the “rules and regulations, and ... the period of time prescribed by the Foreign Trade Zone Board established pursuant to the Foreign Trade Zones Act” is deleted as implicit in the requirement

that a foreign trade zone may only be established, operated, and maintained “subject to the conditions of the Foreign Trade Zones Act”.

Former Art. 23, § 469, which stated that this subtitle supplements the powers of the Maryland Port Administration, is deleted as surplusage.

Defined terms: “Private corporation” § 5–801

“Public corporation” § 5–801

SUBTITLE 9. DREDGED MATERIAL DISPOSAL ALTERNATIVES PROGRAM.

5–901. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 6–801(a).

No changes are made.

(B) DREDGED MATERIAL.

(1) “DREDGED MATERIAL” MEANS MATERIAL THAT IS DREDGED FROM THE CHESAPEAKE BAY OR ITS TRIBUTARIES.

(2) “DREDGED MATERIAL” INCLUDES SAND, SILT, SEDIMENT, SHELL, ROCK, SOIL, AND WASTE MATTER.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 6–801(b).

The former reference to “excavated” material is deleted in light of the reference to “dredged” material for brevity.

(C) DREDGED MATERIAL REUSE FACILITY.

“DREDGED MATERIAL REUSE FACILITY” MEANS A FACILITY THAT DEWATERS, ANALYZES FOR CONTAMINANTS, DRIES, AND PROCESSES DREDGED MATERIAL FOR REUSE.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 6–801(c), as it defined a “dredged material reuse facility” through its processes.

The former reference to reuse “in an economically beneficial manner” is revised in § 5–905(2) of this subtitle, in the substantive provision relating to dredged material reuse facilities.

No other changes are made.

Defined term: “Dredged material” § 5–901

(D) PROGRAM.

“PROGRAM” MEANS THE DREDGED MATERIAL DISPOSAL ALTERNATIVES PROGRAM UNDER THIS SUBTITLE.

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REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title of the "Dredged Material Disposal Alternatives Program".

(E) REUSE.

"REUSE" MEANS THE RECYCLING OF DREDGED MATERIAL FOR USE IN ANOTHER PRODUCT, INCLUDING COMMERCIAL AND INDUSTRIAL USES.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 6-801(d).

The former phrase "but not limited to" is deleted in light of Art. 1, § 30, which provides that the term "including" is used "by way of illustration and not by way of limitation".

The only other changes are in style.

Defined term: "Dredged material" § 5-901

5-902. ESTABLISHED.

THERE IS A DREDGED MATERIAL DISPOSAL ALTERNATIVES PROGRAM IN THE DEPARTMENT.

REVISOR'S NOTE: This section formerly was Art. 83A, § 6-802(a).

No changes are made.

Defined term: "Department" § 1-101

5-903. PURPOSES; GOALS.

(A) PURPOSES.

THE PURPOSES OF THE PROGRAM ARE TO:

(1) DESIGNATE INNOVATIVE REUSES OF DREDGED MATERIAL AS A SUSTAINABLE ALTERNATIVE IN THE MANAGEMENT OF DREDGED MATERIAL DISPOSAL; AND

(2) PROVIDE FINANCIAL ASSISTANCE FOR THE PRODUCTION AND MARKETING OF TECHNOLOGIES THAT DEWATER, ANALYZE FOR CONTAMINANTS, DRY, AND PROCESS DREDGED MATERIAL FOR REUSE IN AN ECONOMICALLY BENEFICIAL MANNER.

(B) GOALS.

THE GOALS OF THE PROGRAM ARE TO:

(1) IMPLEMENT THE BENEFICIAL REUSE OF DREDGED MATERIALS AS A SUSTAINABLE DREDGED MATERIAL MANAGEMENT METHOD;

(2) FOSTER MARKETS FOR END-USE PRODUCTS THAT USE DREDGED MATERIAL AS A RESOURCE;

(3) INCREASE PUBLIC AWARENESS OF THE MANY VALUABLE COMMERCIAL AND INDUSTRIAL USES OF DREDGED MATERIAL AND PRODUCTS MADE USING DREDGED MATERIAL; AND

(4) FACILITATE THE REUSE OF AT LEAST 500,000 CUBIC YARDS OF DREDGED MATERIAL EACH YEAR.

REVISOR'S NOTE: This section formerly was Art. 83A, § 6–802(b).

In subsection (a)(2) of this section, the former reference to “individuals and business enterprises” is deleted as unnecessary.

The only other changes are in style.

Defined terms: “Dredged material” § 5–901

“Program” § 5–901

“Reuse” § 5–901

5–904. REGULATIONS.

THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 83A, § 6–802(e).

No changes are made.

Defined term: “Department” § 1–101

5–905. DUTIES.

THE PROGRAM SHALL:

(1) SEEK MONEY FROM FEDERAL PROGRAMS TO ADMINISTER THE PROGRAM;

(2) ENGAGE IN PUBLIC–PRIVATE PARTNERSHIPS AND PROVIDE FINANCIAL ASSISTANCE TO FOSTER THE DEVELOPMENT, CONSTRUCTION, AND OPERATION OF DREDGED MATERIAL REUSE FACILITIES IN THE STATE IN AN ECONOMICALLY BENEFICIAL MANNER;

(3) PROVIDE FINANCIAL ASSISTANCE TO DEVELOP END–USE MARKETS FOR DREDGED MATERIAL; AND

(4) PROMOTE THE REUSE OF DREDGED MATERIAL AND MARKET RESULTING PRODUCTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 6–802(c) and, as it established a goal for dredged material reuse facilities, § 6–801(c).

Defined terms: “Dredged material” § 5–901

“Dredged material reuse facility” § 5–901

“Program” § 5–901

“Reuse” § 5–901

“State” § 1–101

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5-906. FORM OF ASSISTANCE.

FINANCIAL ASSISTANCE FROM THE PROGRAM MAY BE IN THE FORM OF A LOAN OR GRANT, AS PROVIDED IN REGULATIONS OF THE DEPARTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 6-802(d).

Defined terms: "Department" § 1-101
"Program" § 5-901

5-907. PROGRAM CONTINGENT ON ALLOCATION.

(A) IN GENERAL.

THE PROGRAM IS CONTINGENT ON THE ALLOCATION OF MONEY IN THE STATE BUDGET TO THE MARYLAND DEPARTMENT OF TRANSPORTATION.

(B) TRANSPORTATION TRUST FUND.

IN ACCORDANCE WITH THE STATE BUDGET, THE MARYLAND DEPARTMENT OF TRANSPORTATION SHALL ALLOCATE MONEY FOR THE PROGRAM FROM THE TRANSPORTATION TRUST FUND AFTER ELEMENTS OF A LONG-TERM PLAN FOR MANAGING DREDGED MATERIAL, IN ACCORDANCE WITH §§ 5-1102(D)(2)(II) AND 5-1104.2(D) OF THE ENVIRONMENT ARTICLE:

- (1) ARE OPERATIONAL; AND
- (2) PROVIDE 20 YEARS OF PLACEMENT CAPACITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 6-802(f).

In subsection (a) of this section, the former reference to the "annual" State budget is deleted as implicit.

In subsection (b) of this section, the former requirement to allocate money "each year" is deleted as implicit in the reference to the "State budget".

Also in subsection (b) of this section, the reference to plan elements that are operational and provide capacity "in accordance with" EN §§ 5-1102(d)(2)(ii) and 5-1104.2(d) is substituted for the former reference to capacity provided "as defined in" those provisions for accuracy and clarity.

Defined terms: "Dredged material" § 5-901
"Program" § 5-901
"State" § 1-101

SUBTITLE 10. MILITARY SERVICE-RELATED LOAN PROGRAM.

5-1001. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 6-901(a)(1).

The only change is in style.

(B) SERVICE-DISABLED VETERAN.

"SERVICE-DISABLED VETERAN" MEANS A VETERAN WITH A DISABILITY THAT IS SERVICE-CONNECTED, AS DEFINED IN 38 U.S.C. § 101(16), WHO WAS DOMICILED IN THE STATE WHEN THE SERVICE-CONNECTED DISABILITY WAS INCURRED.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 6-901(a)(2).

The only changes are in style.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that the Attorney General has advised that restricting the availability of benefits to a service-disabled veteran domiciled in the State "when the service-connected disability was incurred" may violate the U.S. Constitution. Distinguishing between those veterans who have established residency in the State at the time of disability and those who do so thereafter may implicate the right to travel, equal protection, or both. See Bill Review Letter (HB 1280) from J. Joseph Curran, Jr., Attorney General, to Robert L. Ehrlich, Jr., Governor (May 1, 2006).

Defined term: "State" § 1-101

(C) SMALL BUSINESS EMPLOYER.

(1) "SMALL BUSINESS EMPLOYER" MEANS AN EMPLOYER WHO EMPLOYED AN AVERAGE OF 50 OR FEWER EMPLOYEES ON BUSINESS DAYS DURING THE CALENDAR YEAR PRECEDING THE DETERMINATION OF ELIGIBILITY FOR A LOAN UNDER THIS SUBTITLE.

(2) FOR PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION, ALL PERSONS TREATED AS A SINGLE EMPLOYER UNDER § 414(B), (C), (M), OR (O) OF THE INTERNAL REVENUE CODE SHALL BE TREATED AS A SINGLE EMPLOYER UNDER THIS SUBTITLE.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 6-901(a)(3).

The only changes are in style.

5-1002. ESTABLISHED.

SUBJECT TO THE AVAILABILITY OF FUNDS, THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF VETERANS AFFAIRS, SHALL ESTABLISH A PROGRAM TO PROVIDE NO-INTEREST LOANS UNDER THIS SUBTITLE TO:

(1) SMALL BUSINESS EMPLOYERS OF MILITARY RESERVISTS AND NATIONAL GUARD PERSONNEL WHO ARE CALLED TO ACTIVE DUTY;

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(2) BUSINESSES OWNED BY MILITARY RESERVISTS AND NATIONAL GUARD PERSONNEL WHO ARE CALLED TO ACTIVE DUTY; AND

(3) SERVICE-DISABLED VETERANS.

REVISOR'S NOTE: This section formerly was Art. 83A, § 6-901(b).

The only changes are in style.

Defined terms: "Department" § 1-101

"Service-disabled veteran" § 5-1001

"Small business employer" § 5-1001

5-1003. PURPOSES.

LOANS SHALL BE MADE UNDER THIS SUBTITLE FOR THE PURPOSES OF:

(1) PROVIDING FINANCIAL SUPPORT TO:

(i) A BUSINESS OWNED BY A MILITARY RESERVIST OR NATIONAL GUARD MEMBER WHO IS CALLED TO ACTIVE DUTY; OR

(ii) A SMALL BUSINESS EMPLOYER OF A MILITARY RESERVIST OR NATIONAL GUARD MEMBER WHO IS CALLED TO ACTIVE DUTY;

(2) MAKING THE HOME, MOTOR VEHICLE, OR PLACE OF EMPLOYMENT OF A SERVICE-DISABLED VETERAN ACCESSIBLE TO INDIVIDUALS WITH DISABILITIES, INCLUDING PURCHASING EQUIPMENT NECESSARY TO ENABLE A BUSINESS TO EMPLOY A SERVICE-DISABLED VETERAN; AND

(3) DEFRAYING OTHER NECESSARY EXPENSES, AS DETERMINED BY THE DEPARTMENT OF VETERANS AFFAIRS, INCURRED BY A SERVICE-DISABLED VETERAN OR A BUSINESS EMPLOYING A SERVICE-DISABLED VETERAN AS A RESULT OF THE VETERAN'S DISABILITY.

REVISOR'S NOTE: This section formerly was Art. 83A, § 6-901(c).

In item (2) of this section, the reference to a "motor vehicle" is substituted for the former reference to an "automobile" for consistency with terminology used in the Transportation Article and throughout the Code.

The only other changes are in style.

Defined terms: "Service-disabled veteran" § 5-1001

"Small business employer" § 5-1001

5-1004. AVAILABILITY.

(A) ACTIVE DUTY SUPPORT.

A LOAN MADE UNDER THIS SUBTITLE FOR THE PURPOSE OF PROVIDING FINANCIAL SUPPORT TO A BUSINESS OWNED BY AN INDIVIDUAL WHO IS CALLED TO ACTIVE DUTY OR TO A SMALL BUSINESS EMPLOYER OF AN INDIVIDUAL WHO IS CALLED TO ACTIVE DUTY:

(1) MAY BE MADE AT ANY TIME FROM THE INDIVIDUAL'S RECEIPT OF ORDERS TO REPORT TO 6 MONTHS AFTER THE END OF THE INDIVIDUAL'S ACTIVE DUTY; AND

(2) SHALL BE SUBJECT TO CRITERIA FOR ELIGIBILITY AND PRIORITY ESTABLISHED BY THE DEPARTMENT OF VETERANS AFFAIRS, INCLUDING THE EXTENT TO WHICH THE INDIVIDUAL WHO IS CALLED TO ACTIVE DUTY IS AN ESSENTIAL EMPLOYEE OF THE BUSINESS.

(B) SERVICE-DISABLED VETERAN SUPPORT.

A LOAN MADE UNDER THIS SUBTITLE FOR THE PURPOSE OF MAKING ACCESSIBLE TO INDIVIDUALS WITH DISABILITIES THE HOME, MOTOR VEHICLE, OR PLACE OF EMPLOYMENT OF A SERVICE-DISABLED VETERAN MAY BE MADE AT ANY TIME.

REVISOR'S NOTE: This section formerly was Art. 83A, § 6-901(e).

In subsection (b) of this section, the reference to a "motor vehicle" is added for consistency with § 5-1003(2) of this subtitle.

The only other changes are in style.

Defined terms: "Service-disabled veteran" § 5-1001
"Small business employer" § 5-1001

5-1005. ADMINISTRATION.

(A) IN GENERAL.

THE DEPARTMENT SHALL ADMINISTER THE LOAN PROGRAM AUTHORIZED UNDER THIS SUBTITLE.

(B) ELIGIBILITY CRITERIA.

THE DEPARTMENT OF VETERANS AFFAIRS SHALL ESTABLISH ELIGIBILITY CRITERIA FOR LOANS UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 83A, § 6-901(d).

The former phrase "[s]ubject to the provisions of this subtitle" is deleted as implicit.

The only other changes are in style.

Defined term: "Department" § 1-101

5-1006. REGULATIONS.

(A) REQUIRED.

THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

(B) ELIGIBILITY CRITERIA.

THE DEPARTMENT OF VETERANS AFFAIRS MAY ADOPT REGULATIONS CONCERNING ELIGIBILITY CRITERIA FOR LOANS UNDER THIS SUBTITLE.

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REVISOR'S NOTE: This section formerly was Art. 83A, § 6–901(f).

No changes are made.

Defined term: “Department” § 1–101

SUBTITLE 11. RURAL BROADBAND ASSISTANCE FUND.

5–1101. DEFINITIONS.

(A) **IN GENERAL.**

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–1901(a).

No changes are made.

(B) **BOARD.**

“BOARD” MEANS THE MARYLAND RURAL BROADBAND COORDINATION BOARD ESTABLISHED UNDER TITLE 13, SUBTITLE 5 OF THIS ARTICLE.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–1901(b).

The only changes are in style.

(C) **FUND.**

“FUND” MEANS THE RURAL BROADBAND ASSISTANCE FUND ESTABLISHED UNDER § 5–1102 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–1901(c).

The only changes are in style.

5–1102. ESTABLISHED.

(A) **IN GENERAL.**

THERE IS A RURAL BROADBAND ASSISTANCE FUND IN THE DEPARTMENT.

(B) **PURPOSE.**

THE PURPOSE OF THE FUND IS TO ASSIST IN THE ESTABLISHMENT OF BROADBAND COMMUNICATION SERVICES IN RURAL AND UNDERSERVED AREAS OF THE STATE.

(C) **ADMINISTRATION.**

THE DEPARTMENT SHALL ADMINISTER THE FUND.

(D) **NATURE.**

(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.

(E) CONTENTS.

THE FUND CONSISTS OF:

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

(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE FUND UNDER SUBTITLE 3 OF THIS TITLE FOR THE PURPOSE OF ASSISTING IN THE ESTABLISHMENT OF BROADBAND COMMUNICATION SERVICES IN RURAL AND UNDERSERVED AREAS OF THE STATE;

(3) FEDERAL MONEY ALLOCATED OR GRANTED TO THE FUND; AND

(4) ANY OTHER MONEY FROM ANY SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(F) USES.

THE FUND MAY BE USED ONLY FOR PLANNING, CONSTRUCTION, AND MAINTENANCE OF BROADBAND COMMUNICATION SERVICES AND EQUIPMENT IN RURAL AND UNDERSERVED AREAS AND RELATED ACTIVITIES.

(G) INVESTMENT AND EARNINGS.

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

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

(H) PAYMENTS.

THE DEPARTMENT SHALL MAKE PAYMENTS FROM THE FUND WITHIN 30 DAYS AFTER NOTICE OF A DECISION OF THE BOARD UNDER § 13-504(3) OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1902.

In subsection (e)(1) of this section, the reference to the Maryland Economic Development Assistance Fund "under Subtitle 3 of this title" is added for clarity.

Defined terms: "Board" § 5-1101

"Department" § 1-101

"Fund" § 5-1101

"State" § 1-101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 83A, §§ 5-1901 and 5-1902, which established the Rural Broadband Assistance Fund, were subject to termination on June 30, 2020. See § 3 of

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Ch. 269, Acts of 2006. Accordingly, the legislation that enacts this article provides for the termination of this subtitle if and when that termination provision takes effect. See § 22 of Ch. 306, Acts of 2008.

TITLE 6. ECONOMIC DEVELOPMENT TAX INCENTIVES.

SUBTITLE 1. DEFINITIONS.

6–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

(B) CENTRAL SERVICES.

(1) "CENTRAL SERVICES" MEANS THE PERFORMANCE OF CENTRAL MANAGEMENT OR ADMINISTRATIVE FUNCTIONS.

(2) "CENTRAL SERVICES" INCLUDES:

- (I) GENERAL MANAGEMENT;
- (II) ACCOUNTING;
- (III) COMPUTER TABULATING;
- (IV) DATA PROCESSING;
- (V) PURCHASING;
- (VI) TRANSPORTATION OR SHIPPING;
- (VII) ADVERTISING;
- (VIII) LEGAL SERVICES;
- (IX) FINANCIAL SERVICES; AND
- (X) RESEARCH AND DEVELOPMENT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, §§ 5–1101(b) and 5–1501(a)(2) as they related to the central services for certain industries that qualified for tax credits revised in Subtitles 3 and 4 of this title.

(C) COMPANY HEADQUARTERS.

"COMPANY HEADQUARTERS" MEANS A FACILITY WHERE THE MAJORITY OF A BUSINESS ENTITY'S FINANCIAL, PERSONNEL, LEGAL, AND PLANNING FUNCTIONS ARE HANDLED ON A REGIONAL OR NATIONAL BASIS.

REVISOR'S NOTE: This subsection formerly was Art. 83A, §§ 5–1101(c)(1) and 5–1501(a)(3)(i).

The former word “either” is deleted as surplusage.

No other changes are made.

Former Art. 83A, §§ 5–1101(c)(2) and 5–1501(a)(3)(ii), which excluded professional sports organization headquarters from the defined term “company headquarters”, are revised in the substantive provisions to which they applied. *See* §§ 6–303(b) and 6–402(b) of this title.

(D) FULL–TIME POSITION.

“FULL–TIME POSITION” MEANS A POSITION REQUIRING AN EMPLOYEE TO WORK AT LEAST 840 HOURS DURING AT LEAST 24 WEEKS IN A 6–MONTH PERIOD.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, §§ 5–1101(e) and 5–1501(a)(5).

(E) QUALIFIED EMPLOYEE.

“QUALIFIED EMPLOYEE” MEANS AN EMPLOYEE FILLING A QUALIFIED POSITION.

REVISOR'S NOTE: This subsection formerly was Art. 83A, §§ 5–1101(g) and 5–1501(a)(9).

No changes are made.

SUBTITLE 2. FILM PRODUCTION ACTIVITY TAX EXEMPTION.

6–201. LEGISLATIVE INTENT.

THE GENERAL ASSEMBLY INTENDS THAT THE TAX EXEMPTION UNDER § 11–227 OF THE TAX – GENERAL ARTICLE:

- (1) INCREASE THE FILM PRODUCTION ACTIVITY IN THE STATE;
- (2) BRING ECONOMIC BENEFITS TO THE STATE; AND
- (3) GENERATE INCREASED EMPLOYMENT OPPORTUNITIES IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4–501(a).

In item (1) of this section, the former phrase “carried out” is deleted as surplusage.

In item (2) of this section, the former reference to benefits to “citizens of” the State is deleted as surplusage.

For additional State assistance available to film production activities, *see* the Film Production Rebate Fund, Title 4, Subtitle 4 of this article.

Defined term: “State” § 1–101

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6-202. ELIGIBILITY AND CERTIFICATION.

TO RECEIVE THE TAX EXEMPTION PROVIDED UNDER § 11-227 OF THE TAX – GENERAL ARTICLE FOR A FILM PRODUCTION ACTIVITY, A FILM PRODUCER OR A FILM PRODUCTION COMPANY SHALL FIRST HAVE A CERTIFICATION OF ELIGIBILITY FOR THE TAX EXEMPTION FROM THE DEPARTMENT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4-501(b).

The reference to the tax exemption “provided under § 11-227 of the Tax – General Article” is added for clarity.

The former reference to “ensur[ing]” that a tax exemption is granted is deleted as implicit in the requirement that the film producer or film production company “shall first have” a certificate of eligibility.

Defined term: “Department” § 1-101

6-203. REGULATIONS.

THE DEPARTMENT AND THE COMPTROLLER JOINTLY SHALL ADOPT REGULATIONS DEFINING A FILM PRODUCTION ACTIVITY, TANGIBLE PERSONAL PROPERTY, AND TAXABLE SERVICES USED DIRECTLY IN CONNECTION WITH A FILM PRODUCTION ACTIVITY UNDER § 11-227 OF THE TAX – GENERAL ARTICLE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4-501(c).

In this section, the former phrase “with greater specificity for purposes of the sales and use tax exemption” is deleted as surplusage.

Also in this section, in each instance, the former phrase “what constitutes” is deleted as surplusage.

Defined term: “Department” § 1-101

SUBTITLE 3. JOB CREATION TAX CREDIT.

6-301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5-1101(a).

No changes are made.

(B) CREDIT YEAR.

“CREDIT YEAR” MEANS THE TAXABLE YEAR IN WHICH A QUALIFIED BUSINESS ENTITY CLAIMS THE CREDIT ALLOWED IN ACCORDANCE WITH § 6-304(A) OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–1101(d).

The phrase “in accordance with § 6–304(a) of” this subtitle is substituted for the former word “under” this subtitle for clarity.

No other changes are made.

Defined term: “Qualified business entity” § 6–301

(C) QUALIFIED BUSINESS ENTITY.

(1) “QUALIFIED BUSINESS ENTITY” MEANS A PERSON CONDUCTING OR OPERATING A TRADE OR BUSINESS IN THE STATE THAT IS CERTIFIED IN ACCORDANCE WITH § 6–303 OF THIS SUBTITLE AS QUALIFYING FOR THE TAX CREDIT UNDER THIS SUBTITLE.

(2) FOR A PERSON ENGAGED IN A BUSINESS ACTIVITY DESCRIBED IN § 6–303(B)(2)(XIII) OF THIS SUBTITLE, “QUALIFIED BUSINESS ENTITY”:

(I) INCLUDES A PERSON OWNING OR OPERATING THE MULTI–USE FACILITY IN WHICH THE ENTERTAINMENT, RECREATION, CULTURAL, OR TOURISM–RELATED ACTIVITIES ARE OPERATED; AND

(II) DOES NOT INCLUDE ANY SEPARATE ENTITY THAT LEASES RETAIL SPACE AT THE FACILITY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–1101(f)(1)(iii) and (2).

In paragraph (1) of this subsection, the former reference to certification “by the Secretary” is deleted as implicit in the reference to “§ 6–303 of this subtitle”.

Defined terms: “Person” § 1–101

“State” § 1–101

(D) QUALIFIED POSITION.

(1) “QUALIFIED POSITION” MEANS A POSITION THAT:

(I) IS FULL–TIME AND OF INDEFINITE DURATION;

(II) PAYS AT LEAST 150% OF THE FEDERAL MINIMUM WAGE;

(III) IS LOCATED IN THE STATE;

(IV) IS NEWLY CREATED AS A RESULT OF THE ESTABLISHMENT OR EXPANSION OF A BUSINESS FACILITY IN A SINGLE LOCATION IN THE STATE; AND

(V) IS FILLED.

(2) “QUALIFIED POSITION” DOES NOT INCLUDE A POSITION THAT IS:

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(I) CREATED WHEN AN EMPLOYMENT FUNCTION IS SHIFTED FROM AN EXISTING BUSINESS FACILITY OF A BUSINESS ENTITY IN THE STATE TO ANOTHER BUSINESS FACILITY OF THE SAME BUSINESS ENTITY IF THE POSITION IS NOT A NET NEW JOB IN THE STATE;

(II) CREATED THROUGH A CHANGE IN OWNERSHIP OF A TRADE OR BUSINESS;

(III) CREATED THROUGH A CONSOLIDATION, MERGER, OR RESTRUCTURING OF A BUSINESS ENTITY IF THE POSITION IS NOT A NET NEW JOB IN THE STATE;

(IV) CREATED WHEN AN EMPLOYMENT FUNCTION IS CONTRACTUALLY SHIFTED FROM AN EXISTING BUSINESS ENTITY TO ANOTHER BUSINESS ENTITY IN THE STATE IF THE POSITION IS NOT A NET NEW JOB IN THE STATE; OR

(V) FILLED FOR A PERIOD OF LESS THAN 12 MONTHS.

(3) FOR A PERSON ENGAGED IN A BUSINESS ACTIVITY DESCRIBED IN § 6-303(B)(2)(XIII) OF THIS SUBTITLE, “QUALIFIED POSITION” DOES NOT INCLUDE ANY POSITION OTHER THAN A POSITION ENGAGED IN:

(I) THE OPERATION OF ENTERTAINMENT, RECREATION, CULTURAL, OR TOURISM-RELATED ACTIVITIES WITHIN THE MULTI-USE FACILITY; OR

(II) MANAGEMENT, MARKETING, BUILDING MAINTENANCE, HOTEL SERVICES, OR SECURITY FOR THE MULTI-USE FACILITY.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-1101(h).

In the introductory language of paragraph (3) of this subsection, the defined term “person” is substituted for the former phrase “business entity” for accuracy and consistency within this subtitle.

In paragraph (3)(i) of this subsection, the phrase “the operation of entertainment, recreation, cultural, or tourism-related activities within the multi-use facility” is substituted for the former phrase “[t]he operation of entertainment, recreation, cultural, or tourism-related activities for the multiuse facility in which the entertainment, recreation, cultural, or tourism-related activities are operated” for brevity.

Defined term: “State” § 1-101

(E) REVITALIZATION AREA.

“REVITALIZATION AREA” MEANS:

(1) AN ENTERPRISE ZONE DESIGNATED BY THE SECRETARY UNDER § 5-704 OF THIS ARTICLE;

(2) AN ENTERPRISE ZONE DESIGNATED BY THE UNITED STATES GOVERNMENT UNDER 42 U.S.C. §§ 11501 THROUGH 11505;

(3) AN EMPOWERMENT ZONE OR ENTERPRISE COMMUNITY DESIGNATED BY THE UNITED STATES GOVERNMENT UNDER 26 U.S.C. §§ 1391 THROUGH 1397F; OR

(4) A DESIGNATED NEIGHBORHOOD, AS DEFINED IN § 6-301 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-1101(i).

In item (2) of this subsection, the phrase "under 42 U.S.C. §§ 11501 through 11505" is added for clarity and consistency within this article.

In item (3) of this subsection, the reference to an "enterprise community" is added for clarity, accuracy, and consistency with Title 5 of this article.

Also in item (3) of this subsection, the specific reference to §§ 1391 "through 1397F" is substituted for the former phrase "et seq." for clarity and accuracy.

In item (4) of this subsection, the cross-reference to HS § 6-301, which defines "designated neighborhood", is substituted for the former cross-reference to HS § 6-305. The definition of "designated neighborhood" contains the provisions of § 6-305. The substitution also makes item (4) of this subsection consistent with the provisions of former Art. 83A, § 5-1101(k)(2), revised in subsection (f) of this section.

Defined term: "Secretary" § 1-101

(F) STATE PRIORITY FUNDING AREA.

"STATE PRIORITY FUNDING AREA" MEANS:

(1) A MUNICIPAL CORPORATION;

(2) BALTIMORE CITY;

(3) A DESIGNATED NEIGHBORHOOD, AS DEFINED IN § 6-301 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE;

(4) AN ENTERPRISE ZONE DESIGNATED BY THE SECRETARY UNDER § 5-704 OF THIS ARTICLE;

(5) AN ENTERPRISE ZONE DESIGNATED BY THE UNITED STATES GOVERNMENT UNDER 42 U.S.C. §§ 11501 THROUGH 11505;

(6) THOSE AREAS OF THE STATE LOCATED BETWEEN INTERSTATE HIGHWAY 495 AND THE DISTRICT OF COLUMBIA;

(7) THOSE AREAS OF THE STATE LOCATED BETWEEN INTERSTATE HIGHWAY 695 AND BALTIMORE CITY;

(8) NO MORE THAN ONE AREA IN A COUNTY DESIGNATED BY THE COUNTY AS A PRIORITY FUNDING AREA UNDER § 5-7B-03(C) OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

(9) THAT PORTION OF THE PORT LAND USE DEVELOPMENT ZONE, AS DEFINED IN § 6–501 OF THE TRANSPORTATION ARTICLE, THAT HAS BEEN DESIGNATED AS AN AREA APPROPRIATE FOR GROWTH IN A COUNTY COMPREHENSIVE MASTER PLAN.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–1101(k).

In item (2) of this subsection, the specific reference to “Baltimore City” is added for clarity. The reference to an “incorporated municipality” in former Art. 83A, § 5–1101(k)(1) included both Baltimore City, which is governed under Md. Constitution, Arts. XI and XI–A, and a “municipal corporation” which is governed under the general municipal home rule provisions.

In item (4) of this subsection, the reference to designation “under 42 U.S.C. §§ 11501 through 11505” is added for clarity and consistency within this article.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that the areas included in the term “State priority funding area”, defined in this subsection and derived from former Art. 83A, § 5–1101(k), differ slightly from those areas listed as priority funding areas under SF § 5–7B–02. In particular, the term defined in this subsection specifically includes a portion of the Port Land Use Development Zone, and limits to one the number of areas designated by a county under SF § 5–7B–03(c). Also, SF § 5–7B–02 specifically includes certain heritage areas under FI §§ 13–1101 and 13–1111, and excludes certain areas annexed by municipal corporations unless they satisfy certain requirements. The General Assembly may wish to consider whether it is appropriate to conform the State priority funding areas in which tax credits are available under this subtitle with the priority funding provisions of SF Title 5, Subtitle 7B.

Defined terms: “County” § 1–101

“Secretary” § 1–101

“State” § 1–101

REVISOR’S NOTE TO SECTION: Former Art. 83A, § 5–1101(j), which defined “Secretary”, is deleted as redundant of the definition of the same term in § 1–101 of this article. The former definition of “Secretary” also included “or the Secretary’s designee”. Throughout this subtitle, where appropriate, the phrase “or the Secretary’s designee” is added after references to the “Secretary”.

6–302. LEGISLATIVE INTENT.

THE GENERAL ASSEMBLY INTENDS THAT THE PURPOSE OF THE JOB CREATION TAX CREDIT AUTHORIZED UNDER THIS SUBTITLE IS TO INCREASE THE NUMBER OF NEW JOBS IN THE STATE BY ENCOURAGING:

- (1) THE EXPANSION OF EXISTING PRIVATE SECTOR ENTERPRISES; AND

(2) THE ESTABLISHMENT OR ATTRACTION OF NEW PRIVATE SECTOR ENTERPRISES.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-1102(a).

The only changes are in style.

Defined term: "State" § 1-101

6-303. QUALIFICATION; CERTIFICATION.

(A) IN GENERAL.

(1) THE SECRETARY OR THE SECRETARY'S DESIGNEE SHALL CERTIFY A PERSON AS A QUALIFIED BUSINESS ENTITY IF THE PERSON MEETS THE REQUIREMENTS OF THIS SECTION.

(2) A PERSON MAY NOT BE CERTIFIED AS A QUALIFIED BUSINESS ENTITY UNLESS THE PERSON NOTIFIES THE DEPARTMENT OF ITS INTENT TO SEEK CERTIFICATION BEFORE HIRING ANY QUALIFIED EMPLOYEES TO FILL THE QUALIFIED POSITIONS NECESSARY TO MEET THE REQUIREMENTS OF SUBSECTION (B)(1) OF THIS SECTION.

(B) ELIGIBILITY.

TO BE ELIGIBLE FOR A TAX CREDIT UNDER THIS SUBTITLE, A PERSON SHALL ESTABLISH OR EXPAND A BUSINESS FACILITY IN THE STATE THAT:

(1) DURING ANY 24-MONTH PERIOD CREATES AT LEAST:

(I) 60 QUALIFIED POSITIONS;

(II) 30 QUALIFIED POSITIONS IF THE AGGREGATE PAYROLL FOR THE QUALIFIED POSITIONS IS GREATER THAN A THRESHOLD AMOUNT EQUAL TO THE PRODUCT OF MULTIPLYING 60 TIMES THE STATE'S AVERAGE ANNUAL SALARY, AS DETERMINED BY THE DEPARTMENT; OR

(III) 25 QUALIFIED POSITIONS IF THE BUSINESS FACILITY ESTABLISHED OR EXPANDED IS LOCATED IN A STATE PRIORITY FUNDING AREA; AND

(2) IS PRIMARILY ENGAGED IN:

(I) MANUFACTURING OR MINING;

(II) TRANSPORTATION OR COMMUNICATIONS;

(III) AGRICULTURE, FORESTRY, OR FISHING;

(IV) RESEARCH, DEVELOPMENT, OR TESTING;

(V) BIOTECHNOLOGY;

(VI) COMPUTER PROGRAMMING, INFORMATION TECHNOLOGY, OR OTHER COMPUTER-RELATED SERVICES;

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(VII) CENTRAL SERVICES FOR A BUSINESS ENTITY ENGAGED IN FINANCIAL SERVICES, REAL ESTATE SERVICES, OR INSURANCE SERVICES;

(VIII) THE OPERATION OF CENTRAL ADMINISTRATIVE OFFICES;

(IX) THE OPERATION OF A COMPANY HEADQUARTERS OTHER THAN THE HEADQUARTERS OF A PROFESSIONAL SPORTS ORGANIZATION;

(X) THE OPERATION OF A PUBLIC UTILITY;

(XI) WAREHOUSING;

(XII) BUSINESS SERVICES, IF THE BUSINESS FACILITY ESTABLISHED OR EXPANDED IS LOCATED IN A STATE PRIORITY FUNDING AREA; OR

(XIII) ENTERTAINMENT, RECREATION, CULTURAL, OR TOURISM-RELATED ACTIVITIES IN A MULTI-USE FACILITY LOCATED WITHIN A REVITALIZATION AREA IF THE FACILITY:

1. GENERATES A MINIMUM OF 1,000 NEW FULL-TIME EQUIVALENT FILLED POSITIONS IN A 24-MONTH PERIOD; AND

2. IS NOT PRIMARILY USED BY A PROFESSIONAL SPORTS FRANCHISE OR FOR GAMING.

(C) CERTIFICATION.

TO BE CERTIFIED AS A QUALIFIED BUSINESS ENTITY FOR A TAX CREDIT UNDER THIS SUBTITLE, A PERSON SHALL SUBMIT TO THE DEPARTMENT AN APPLICATION THAT SPECIFIES:

(1) THE EFFECTIVE DATE OF THE START-UP OR EXPANSION;

(2) THE NUMBER OF FULL-TIME EMPLOYEES EXISTING BEFORE THE START-UP OR EXPANSION AND THE PAYROLL OF THE EXISTING EMPLOYEES;

(3) THE NUMBER OF QUALIFIED POSITIONS CREATED AND QUALIFIED EMPLOYEES HIRED AND THE PAYROLL OF THE NEW QUALIFIED EMPLOYEES; AND

(4) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES BY REGULATION.

(D) DETERMINATION OF QUALIFYING ACTIVITY.

WHEN DETERMINING WHETHER A BUSINESS FACILITY IS ENGAGED IN A QUALIFYING ACTIVITY DESCRIBED IN SUBSECTION (B)(2) OF THIS SECTION, THE DEPARTMENT SHALL CONSIDER THE DEFINITIONS SET FORTH IN THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM.

(E) VERIFICATION.

THE DEPARTMENT MAY REQUIRE THAT ANY INFORMATION PROVIDED UNDER SUBSECTION (C) OF THIS SECTION BE VERIFIED BY AN INDEPENDENT AUDITOR THAT THE QUALIFIED BUSINESS ENTITY SELECTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1101(c)(2) and (f)(1)(i) and (ii) and § 5–1102(b) and (c)(6) and, as it described certain business entities for which certain services qualify for a tax credit under this subtitle, § 5–1101(b).

In subsection (a)(1) of this section, the phrase “or the Secretary’s designee” is added to clarify that under former Art. 83A, § 5–1102(b), the Secretary could designate someone to issue certifications. *See* Revisor’s Note to § 6–301 of this subtitle.

Also in subsection (a)(1) of this section, the former phrase “eligible for the tax credit under this subtitle” is deleted as surplusage.

In subsections (a)(2), (b), and (c) of this section, the defined term “person” is substituted for the former term “business entity” for consistency within this subtitle.

In subsection (a)(2) of this section, the phrase “certified as a qualified business entity” is substituted for the former phrase “certified as qualifying for the tax credit under this subtitle” for brevity and consistency within this subtitle.

Also in subsection (a)(2) of this section, the former phrase “for establishing or expanding the business facility on which the credit is based” is deleted as surplusage.

In the introductory language of subsection (b) of this section, the phrase “[t]o be certified as a qualified business entity” is substituted for the former phrase “[t]o qualify for the tax credit provided under this subtitle” for clarity and brevity.

Subsection (b)(1) of this section is revised to clarify that the “qualifying positions” shall be created within a 24–month period.

In subsection (b)(2)(vi) of this section, the reference to “information technology” is substituted for the former obsolete reference to “data processing” for clarity and consistency within this title.

In the introductory language of subsection (c) of this section, the reference to submitting “an application that specifies” certain information is added for clarity.

Also in the introductory language of subsection (c) of this section, the former phrase “in accordance with regulations adopted by the Department” is deleted as redundant of § 6–308(a) of this subtitle.

In subsection (d) of this section, the reference to the “North American Industry Classification System” is substituted for the former obsolete reference to the “Standard Industrial Classification Manual” for accuracy.

In subsection (e) of this section, the defined term “qualified business

entity” is substituted for the former phrase “business entity” for clarity and consistency within this title.

Defined terms: “Central services” § 6–101

“Company headquarters” § 6–101

“Department” § 1–101

“Qualified business entity” § 6–301

“Qualified employee” § 6–101

“Qualified position” § 6–301

“Revitalization area” § 6–301

“Secretary” § 1–101

“State” § 1–101

“State priority funding area” § 6–301

6–304. AMOUNT AND APPLICATION OF CREDIT.

(A) IN GENERAL.

(1) A QUALIFIED BUSINESS ENTITY MAY CLAIM A TAX CREDIT IN THE AMOUNT DETERMINED UNDER THIS SECTION.

(2) A QUALIFIED BUSINESS ENTITY SHALL SUBMIT TO THE APPROPRIATE STATE UNITS, WITH THE TAX RETURN ON WHICH THE CREDIT IS CLAIMED, CERTIFICATION FROM THE DEPARTMENT THAT THE BUSINESS ENTITY HAS MET THE REQUIREMENTS OF THIS SUBTITLE AND IS ELIGIBLE FOR THE CREDIT.

(B) AMOUNT OF CREDIT.

(1) EXCEPT AS PROVIDED IN THIS SECTION, THE CREDIT EARNED UNDER THIS SECTION:

(i) FOR QUALIFIED EMPLOYEES WORKING IN A FACILITY NOT LOCATED IN A REVITALIZATION AREA, IS THE LESSER OF:

1. \$1,000 MULTIPLIED BY THE NUMBER OF QUALIFIED EMPLOYEES EMPLOYED BY THE QUALIFIED BUSINESS ENTITY DURING THE CREDIT YEAR; AND

2. 2.5% OF THE WAGES PAID BY THE QUALIFIED BUSINESS ENTITY DURING THE CREDIT YEAR TO THE QUALIFIED EMPLOYEES; AND

(ii) FOR QUALIFIED EMPLOYEES WORKING IN A FACILITY LOCATED IN A REVITALIZATION AREA, IS THE LESSER OF:

1. \$1,500 MULTIPLIED BY THE NUMBER OF QUALIFIED EMPLOYEES EMPLOYED BY THE QUALIFIED BUSINESS ENTITY DURING THE CREDIT YEAR; AND

2. 5% OF THE WAGES PAID BY THE QUALIFIED BUSINESS ENTITY DURING THE CREDIT YEAR TO THE QUALIFIED EMPLOYEES.

(2) THE CREDIT EARNED BY A QUALIFIED BUSINESS ENTITY UNDER THIS SUBTITLE MAY NOT EXCEED \$1,000,000 FOR ANY CREDIT YEAR.

(c) APPLICATION OF CREDIT.

(1) THE CREDIT EARNED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE TAKEN OVER A 2-YEAR PERIOD, WITH ONE-HALF OF THE CREDIT AMOUNT ALLOWED EACH YEAR BEGINNING WITH THE CREDIT YEAR.

(2) THE SAME CREDIT CANNOT BE APPLIED MORE THAN ONCE AGAINST DIFFERENT TAXES BY THE SAME TAXPAYER.

(3) IF THE CREDIT ALLOWED UNDER THIS SUBTITLE EXCEEDS THE TOTAL TAX OTHERWISE DUE FROM A QUALIFIED BUSINESS ENTITY IN A TAXABLE YEAR, THE QUALIFIED BUSINESS ENTITY MAY APPLY THE EXCESS AS A CREDIT FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

(I) THE FULL AMOUNT OF THE EXCESS IS USED; OR

(II) THE EXPIRATION OF THE 5TH TAXABLE YEAR FROM THE CREDIT YEAR.

(4) THE CREDIT UNDER THIS SUBTITLE MAY NOT BE CARRIED BACK TO A PRECEDING TAXABLE YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1102(c)(1) through (5) and (7) and (d).

The introductory language of subsection (b)(1)(i) of this section is added to clarify the credit for facilities that are located outside of a revitalization area.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that this section is unclear as to the actual start of the "credit year" defined in § 6-301 of this subtitle and applied in this section. Under § 6-303(b) of this subtitle, a qualified business entity has 24 months in which to create the minimum number of qualified positions for which the entity may claim the credit. Although subsection (a)(2) of this section requires a qualified business entity to submit certification of eligibility with the tax return on which the credit is claimed, it does not specifically require submission in the *first* year in which the entity is eligible for the credit. Once the credit is claimed, the qualified business entity generally must use it within two consecutive taxable years, but may roll over an unused portion of the credit through the 5th taxable year following the credit year. Under one reading of this section, it might be possible for a qualified business entity to hold off on submitting initial proof of compliance until the entity has a large enough tax liability to consume at least one-half of the credit. The General Assembly may wish to clarify that the qualified business entity must file certification as soon as the entity fulfils the eligibility requirements for the tax credit, having created the required number of qualified positions within 24 months after the opening or expansion of the business facility for which the tax credit is to be claimed.

Defined terms: “Credit year” § 6–301

“Department” § 1–101

“Qualified business entity” § 6–301

“Qualified employee” § 6–101

“Revitalization area” § 6–301

“State” § 1–101

6–305. RECAPTURE.

(A) DECREASE IN QUALIFIED POSITIONS GREATER THAN 5%.

IF, DURING ANY OF THE 3 YEARS AFTER THE CREDIT YEAR, THE NUMBER OF QUALIFIED POSITIONS OF THE QUALIFIED BUSINESS ENTITY FALLS MORE THAN 5% BELOW THE AVERAGE NUMBER OF QUALIFIED POSITIONS THAT EXISTED DURING THE CREDIT YEAR ON WHICH THE CREDIT WAS COMPUTED, THE CREDIT SHALL BE RECAPTURED AS FOLLOWS:

(1) THE CREDIT SHALL BE RECOMPUTED AND REDUCED BY THE PERCENTAGE REDUCTION OF THE NUMBER OF QUALIFIED EMPLOYEES;

(2) THE RECOMPUTED CREDIT SHALL BE SUBTRACTED FROM THE AMOUNT OF CREDIT PREVIOUSLY ALLOWED; AND

(3) THE QUALIFIED BUSINESS ENTITY SHALL PAY THE DIFFERENCE AS TAXES PAYABLE TO THE STATE FOR THE TAXABLE YEAR IN WHICH THE NUMBER OF QUALIFIED POSITIONS FALLS MORE THAN 5% BELOW THE AVERAGE NUMBER OF QUALIFIED POSITIONS DURING THE CREDIT YEAR.

(B) REDUCTION OF QUALIFIED POSITIONS BELOW THRESHOLD.

IF, DURING ANY OF THE 3 YEARS AFTER THE CREDIT YEAR, THE AVERAGE NUMBER OF QUALIFIED POSITIONS FALLS BELOW THE APPLICABLE THRESHOLD NUMBER OF POSITIONS REQUIRED UNDER § 6–303(B)(1) OF THIS SUBTITLE, ALL CREDITS EARNED SHALL BE RECAPTURED.

(C) REQUIRED INFORMATION; VERIFICATION.

(1) DURING THE 3 TAXABLE YEARS AFTER THE CREDIT YEAR, A QUALIFIED BUSINESS ENTITY SHALL PROVIDE ANY INFORMATION REQUIRED BY THE DEPARTMENT IN REGULATION TO VERIFY THAT THE QUALIFIED BUSINESS ENTITY IS NOT SUBJECT TO SUBSECTION (A) OR (B) OF THIS SECTION.

(2) THE DEPARTMENT MAY REQUIRE THAT ANY INFORMATION PROVIDED UNDER THIS SUBSECTION BE VERIFIED BY AN INDEPENDENT AUDITOR THAT THE QUALIFIED BUSINESS ENTITY SELECTS.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1102(e).

In subsection (a) of this section, the defined term “qualified business entity” is substituted for the former references to a “qualifying business entity” for consistency within this subtitle.

Defined terms: “Credit year” § 6–301
 “Department” § 1–101
 “Qualified business entity” § 6–301
 “Qualified employee” § 6–101
 “Qualified position” § 6–301
 “State” § 1–101

6–306. INFORMATION SHARING; CONFIDENTIALITY.

(A) INFORMATION SHARING.

THE COMPTROLLER OR OTHER APPROPRIATE UNIT SHALL SHARE WITH THE DEPARTMENT ANY INFORMATION RECEIVED FROM A QUALIFIED BUSINESS ENTITY ABOUT ELIGIBILITY FOR A CREDIT ALLOWED UNDER THIS SUBTITLE.

(B) CONFIDENTIALITY.

INFORMATION THAT IS RECEIVED UNDER SUBSECTION (A) OF THIS SECTION IS SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS ESTABLISHED BY STATUTE OR REGULATION THAT APPLY TO THE COMPTROLLER OR UNIT THAT RECEIVES THE INFORMATION.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1102(f).

In subsections (a) and (b) of this section, the references to a “unit” are substituted for the former references to an “agency” for consistency within this article. *See* General Revisor’s Note to article.

Defined terms: “Department” § 1–101
 “Qualified business entity” § 6–301

6–307. ANNUAL REPORT.

ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE BUSINESS ENTITIES CERTIFIED AS ELIGIBLE FOR JOB CREATION TAX CREDITS IN THE PRECEDING FISCAL YEAR.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1102(h).

The reference to “job creation” tax credits is added for clarity.

Defined term: “Department” § 1–101

6–308. REGULATIONS.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

(B) INCOME TAXES.

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THE COMPTROLLER SHALL ADOPT REGULATIONS TO PROVIDE FOR THE COMPUTATION, CARRYOVER, AND RECAPTURE OF THE CREDIT UNDER § 10-704.4 OF THE TAX – GENERAL ARTICLE.

(C) FRANCHISE TAXES.

THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION SHALL ADOPT REGULATIONS TO PROVIDE FOR THE COMPUTATION, CARRYOVER, AND RECAPTURE OF THE CREDIT UNDER §§ 8-214 AND 8-411 OF THE TAX – GENERAL ARTICLE.

(D) PREMIUM TAXES.

THE INSURANCE COMMISSIONER SHALL ADOPT REGULATIONS TO PROVIDE FOR THE COMPUTATION, CARRYOVER, AND RECAPTURE OF THE CREDIT UNDER § 6-114 OF THE INSURANCE ARTICLE.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-1102(g).

The only changes are in style.

Defined term: "Secretary" § 1-101

6-309. TERMINATION; LIMITATIONS.

(A) TERMINATION.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THIS SUBTITLE AND THE TAX CREDIT AUTHORIZED UNDER IT SHALL TERMINATE ON JANUARY 1, 2010.

(2) AS PROVIDED IN THIS SUBTITLE, FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 2010, TAX CREDITS EARNED IN CREDIT YEARS BEGINNING BEFORE JANUARY 1, 2010 MAY BE ALLOWED RATABLY OVER A 2-YEAR PERIOD, MAY BE CARRIED FORWARD, AND ARE SUBJECT TO RECAPTURE IN ACCORDANCE WITH § 6-305 OF THIS SUBTITLE.

(B) LIMITATIONS.

THE TAX CREDIT AUTHORIZED UNDER THIS SUBTITLE:

(1) MAY BE CLAIMED ONLY FOR QUALIFIED POSITIONS AT A NEWLY ESTABLISHED OR EXPANDED BUSINESS FACILITY THAT COMMENCES OPERATIONS BEFORE JANUARY 1, 2009; AND

(2) MAY NOT BE EARNED FOR A CREDIT YEAR BEGINNING ON OR AFTER JANUARY 1, 2010.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1103.

In subsection (b) of this section, the phrase "business facility" is substituted for the former reference to a "facility" for consistency within this subtitle.

Defined terms: “Credit year” § 6–301
“Qualified position” § 6–301

SUBTITLE 4. ONE MARYLAND ECONOMIC DEVELOPMENT TAX CREDIT.

6–401. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1501(a)(1).

The only changes are in style.

(B) ELIGIBLE ECONOMIC DEVELOPMENT PROJECT.

“ELIGIBLE ECONOMIC DEVELOPMENT PROJECT” MEANS AN ECONOMIC DEVELOPMENT PROJECT THAT:

(1) ESTABLISHES OR EXPANDS A BUSINESS FACILITY WITHIN A QUALIFIED DISTRESSED COUNTY; AND

(2) IS APPROVED FOR A PROJECT TAX CREDIT OR A START–UP TAX CREDIT IN ACCORDANCE WITH THIS SUBTITLE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–1501(a)(4).

In item (2) of this subsection, the reference to a “project tax credit or a start–up tax credit” is substituted for the former reference to “tax credits” for clarity and consistency within this subtitle.

Also in item (2) of this subsection, the former reference to approval “by the Secretary” is deleted in light of § 6–402 of this subtitle.

Defined terms: “Project tax credit” § 6–401

“Qualified distressed county” § 1–101

“Secretary” § 1–101

“Start–up tax credit” § 6–401

(C) ELIGIBLE PROJECT COST.

(1) “ELIGIBLE PROJECT COST” MEANS THE COST AND EXPENSE A QUALIFIED BUSINESS ENTITY INCURS TO ACQUIRE, CONSTRUCT, REHABILITATE, INSTALL, OR EQUIP AN ELIGIBLE ECONOMIC DEVELOPMENT PROJECT.

(2) “ELIGIBLE PROJECT COST” INCLUDES:

(I) THE COST OF:

1. OBLIGATIONS FOR LABOR AND PAYMENTS MADE TO CONTRACTORS, SUBCONTRACTORS, BUILDERS, AND SUPPLIERS;

2. ACQUIRING LAND, RIGHTS IN LAND, AND COSTS INCIDENTAL TO ACQUIRING LAND OR RIGHTS IN LAND;

3. CONTRACT BONDS AND INSURANCE NEEDED DURING THE ACQUISITION, CONSTRUCTION, OR INSTALLATION OF THE PROJECT;

4. TEST BORINGS, SURVEYS, ESTIMATES, PLANS, SPECIFICATIONS, PRELIMINARY INVESTIGATIONS, ENVIRONMENTAL MITIGATION, SUPERVISION OF CONSTRUCTION, AND OTHER ARCHITECTURAL AND ENGINEERING SERVICES;

5. PERFORMING DUTIES REQUIRED BY OR CONSEQUENT TO THE ACQUISITION, CONSTRUCTION, AND INSTALLATION OF THE PROJECT;

6. INSTALLING WATER, SEWER, SEWER TREATMENT, GAS, ELECTRICITY, COMMUNICATIONS, RAILROADS, AND SIMILAR UTILITIES; AND

7. BOND INSURANCE, LETTERS OF CREDIT, OR OTHER FORMS OF CREDIT ENHANCEMENT OR LIQUIDITY FACILITIES;

(II) THE INTEREST COST BEFORE AND DURING THE ACQUISITION, CONSTRUCTION, INSTALLATION, AND EQUIPPING OF THE PROJECT, AND FOR UP TO 2 YEARS AFTER PROJECT COMPLETION; AND

(III) LEGAL, ACCOUNTING, FINANCIAL, PRINTING, RECORDING, FILING, AND OTHER FEES AND EXPENSES INCURRED TO FINANCE THE PROJECT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–1501(a)(6)(ii) and, except as it related to the maximum eligible cost, (i).

In paragraph (1) of this subsection, the defined term “qualified business entity” is substituted for the former reference to a “business entity” for clarity and consistency within this title.

In paragraph (2)(i)1 of this subsection, the phrase “payments made” is added for clarity.

In paragraph (2)(iii) of this subsection, the former reference to “costs, expenses, and fees” is deleted as surplusage.

Defined terms: “Eligible economic development project” § 6–401

“Qualified business entity” § 6–401

(D) ELIGIBLE START–UP COST.

(1) “ELIGIBLE START–UP COST” MEANS A QUALIFIED BUSINESS ENTITY’S COST TO FURNISH AND EQUIP A NEW LOCATION FOR ORDINARY BUSINESS FUNCTIONS.

(2) “ELIGIBLE START–UP COST” INCLUDES:

(I) THE COST OF COMPUTERS, NONRECURRING COSTS OF FIXED TELECOMMUNICATIONS EQUIPMENT, FURNISHINGS, AND OFFICE EQUIPMENT; AND

(II) EXPENDITURES FOR MOVING COSTS, SEPARATION COSTS, AND OTHER COSTS DIRECTLY RELATED TO MOVING FROM OUTSIDE OF THE STATE TO A LOCATION IN A QUALIFIED DISTRESSED COUNTY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-1501(a)(12)(i), except as it related to the maximum eligible cost.

In paragraph (1) of this subsection, the reference to a "qualified business entity's" costs is substituted for the former reference to a "company's" costs for clarity and consistency within this title.

Defined terms: "Qualified business entity" § 6-401

"Qualified distressed county" § 1-101

"State" § 1-101

(E) PROJECT TAX CREDIT.

"PROJECT TAX CREDIT" MEANS A TAX CREDIT FOR ELIGIBLE PROJECT COSTS ALLOWED UNDER § 6-403 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language added for clarity.

Defined term: "Eligible project cost" § 6-401

(F) QUALIFIED BUSINESS ENTITY.

"QUALIFIED BUSINESS ENTITY" MEANS A PERSON THAT:

(1) (I) CONDUCTS OR OPERATES A TRADE OR BUSINESS IN THE STATE; OR

(II) OPERATES IN THE STATE AND IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE; AND

(2) IS CERTIFIED IN ACCORDANCE WITH § 6-402 OF THIS SUBTITLE AS QUALIFYING FOR A PROJECT TAX CREDIT OR A START-UP TAX CREDIT UNDER THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-1501(a)(7)(i) and (v).

In item (2) of this subsection, the reference to a "project tax credit or a start-up tax credit" is substituted for the former reference to "tax credits" for clarity.

Former Art. 83A, § 5-1505(a)(7)(ii) through (v), the substantive provisions relating to qualification and certification of a business entity for a tax credit, are revised in § 6-402 of this subtitle.

Defined terms: "Project tax credit" § 6-401

"Start-up tax credit" § 6-401

"State" § 1-101

(G) QUALIFIED POSITION.

(1) “QUALIFIED POSITION” MEANS A POSITION THAT:

- (I) IS A FULL-TIME POSITION AND IS OF INDEFINITE DURATION;
- (II) PAYS AT LEAST 150% OF THE FEDERAL MINIMUM WAGE;
- (III) IS IN A QUALIFIED DISTRESSED COUNTY;
- (IV) IS NEWLY CREATED BECAUSE A BUSINESS FACILITY BEGINS OR EXPANDS IN ONE LOCATION IN A QUALIFIED DISTRESSED COUNTY; AND
- (V) IS FILLED.

(2) “QUALIFIED POSITION” DOES NOT INCLUDE A POSITION THAT IS:

- (I) CREATED WHEN AN EMPLOYMENT FUNCTION IS SHIFTED FROM AN EXISTING BUSINESS FACILITY OF A BUSINESS ENTITY IN THE STATE TO ANOTHER BUSINESS FACILITY OF THE SAME BUSINESS ENTITY IF THE POSITION IS NOT A NET NEW JOB IN THE STATE;
- (II) CREATED THROUGH A CHANGE IN OWNERSHIP OF A TRADE OR BUSINESS;
- (III) CREATED THROUGH A CONSOLIDATION, MERGER, OR RESTRUCTURING OF A BUSINESS ENTITY IF THE POSITION IS NOT A NET NEW JOB IN THE STATE;
- (IV) CREATED WHEN AN EMPLOYMENT FUNCTION IS CONTRACTUALLY SHIFTED FROM AN EXISTING BUSINESS ENTITY IN THE STATE TO ANOTHER BUSINESS ENTITY IF THE POSITION IS NOT A NET NEW JOB IN THE STATE; OR
- (V) FILLED FOR A PERIOD OF LESS THAN 12 MONTHS.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-1501(a)(10).

Defined terms: “Full-time position” § 6-101
“Qualified distressed county” § 1-101
“State” § 1-101

(H) START-UP TAX CREDIT.

“START-UP TAX CREDIT” MEANS A TAX CREDIT FOR ELIGIBLE START-UP COSTS ALLOWED UNDER § 6-404 OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection is new language added for clarity.

Defined term: “Eligible start-up cost” § 6-401

REVISOR’S NOTE TO SECTION: Former Art. 83A, § 5-1501(a)(2), (3), (5), and (9), which defined “central financial, real estate, or insurance services”, “company headquarters”, “full-time position”, and “qualified employee”, respectively, are revised in § 6-101 of this title.

Former Art. 83A, § 5-1501(a)(8) and (11), which defined “qualified

distressed county” and “Secretary”, respectively, are revised in § 1–101 of this article.

6–402. QUALIFICATION; CERTIFICATION.

(A) IN GENERAL.

(1) TO QUALIFY FOR A PROJECT TAX CREDIT OR A START–UP TAX CREDIT, A PERSON SHALL BE CERTIFIED BY THE SECRETARY AS MEETING THE REQUIREMENTS OF THIS SUBTITLE AND AS BEING ELIGIBLE FOR THE TAX CREDIT.

(2) THE SECRETARY MAY NOT CERTIFY A PERSON AS A QUALIFIED BUSINESS ENTITY UNLESS THE PERSON NOTIFIES THE DEPARTMENT OF ITS INTENT TO SEEK CERTIFICATION BEFORE HIRING ANY QUALIFIED EMPLOYEES TO FILL THE QUALIFIED POSITIONS NECESSARY TO SATISFY THE EMPLOYMENT THRESHOLD UNDER SUBSECTION (B)(2) OF THIS SECTION.

(B) ELIGIBILITY.

TO BE ELIGIBLE FOR A PROJECT TAX CREDIT OR A START–UP TAX CREDIT, A PERSON SHALL:

(1) ESTABLISH OR EXPAND A BUSINESS FACILITY THAT:

(I) IS LOCATED IN A QUALIFIED DISTRESSED COUNTY; AND

(II) 1. IS LOCATED IN A PRIORITY FUNDING AREA UNDER § 5–7B–02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; OR

2. IS ELIGIBLE FOR FUNDING OUTSIDE OF A PRIORITY FUNDING AREA UNDER § 5–7B–05 OR § 5–7B–06 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(2) DURING ANY 24–MONTH PERIOD, CREATE AT LEAST 25 QUALIFIED POSITIONS AT THE NEW OR EXPANDED BUSINESS FACILITY; AND

(3) BE PRIMARILY ENGAGED AT THE NEW OR EXPANDED BUSINESS FACILITY IN ANY COMBINATION OF:

(I) MANUFACTURING OR MINING;

(II) TRANSPORTATION OR COMMUNICATIONS;

(III) FILMMAKING, RESORT BUSINESS, OR RECREATIONAL BUSINESS;

(IV) AGRICULTURE, FORESTRY, OR FISHING;

(V) RESEARCH, DEVELOPMENT, OR TESTING;

(VI) BIOTECHNOLOGY;

(VII) COMPUTER PROGRAMMING, INFORMATION TECHNOLOGY, OR OTHER COMPUTER–RELATED SERVICES;

(VIII) CENTRAL SERVICES FOR A BUSINESS ENTITY ENGAGED IN FINANCIAL SERVICES, REAL ESTATE SERVICES, OR INSURANCE SERVICES;

(IX) THE OPERATION OF CENTRAL ADMINISTRATIVE OFFICES;

(X) THE OPERATION OF A COMPANY HEADQUARTERS OTHER THAN THE HEADQUARTERS OF A PROFESSIONAL SPORTS ORGANIZATION;

(XI) THE OPERATION OF A PUBLIC UTILITY;

(XII) WAREHOUSING; OR

(XIII) OTHER BUSINESS SERVICES.

(c) CERTIFICATION.

TO BE CERTIFIED AS A QUALIFIED BUSINESS ENTITY FOR A PROJECT TAX CREDIT OR A START-UP TAX CREDIT, A PERSON SHALL SUBMIT TO THE SECRETARY AN APPLICATION THAT SPECIFIES:

(1) THE EFFECTIVE DATE OF THE START-UP OR EXPANSION;

(2) THE NUMBER OF FULL-TIME EMPLOYEES BEFORE THE START-UP OR EXPANSION AND THE PAYROLL OF THE EXISTING EMPLOYEES;

(3) THE NUMBER OF QUALIFIED POSITIONS CREATED AND QUALIFIED EMPLOYEES HIRED AND THE PAYROLL OF THE NEW QUALIFIED EMPLOYEES; AND

(4) ANY OTHER INFORMATION THAT THE SECRETARY REQUIRES BY REGULATION.

(d) VERIFICATION.

THE SECRETARY MAY REQUIRE ANY INFORMATION REQUIRED UNDER THIS SECTION TO BE VERIFIED BY AN INDEPENDENT AUDITOR THAT THE QUALIFIED BUSINESS ENTITY SELECTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1501(a)(3)(ii) and (7)(ii) through (v), (e)(1), (3), and (4), and, as it related to certification by the Secretary, (f).

In subsection (a)(2) of this section and in the introductory language of subsection (c) of this section, the references to a "person" are substituted for the former references to a "business entity" for clarity and consistency within this title.

Also in subsection (a)(2) of this section, the reference to "subsection (b)(2) of this section" is substituted for the former inaccurate reference to "subsection (a)(7)(ii) of this section" enacted by Ch. 729, Acts of 2001.

In subsection (b)(3)(vii) of this section, the reference to "information technology" is substituted for the former obsolete reference to "data processing" for clarity and consistency within this title.

In the introductory language of subsection (c) of this section, the reference to submitting “an application that specifies” certain information is added for clarity.

Also in the introductory language of subsection (c) of this section, the former phrase “in accordance with regulations adopted by the Secretary” is deleted as redundant of § 6–407 of this subtitle.

Former Art. 83A, § 5–1501(e)(2), which excluded projects announced before April 10, 1999, is transferred to the Session Laws. *See* General Revisor’s Note to Subtitle.

Defined terms: “Central services” § 6–101

“Company headquarters” § 6–101

“Department” § 1–101

“Qualified business entity” § 6–401

“Qualified distressed county” § 1–101

“Qualified employee” § 6–101

“Qualified position” § 6–401

“Secretary” § 1–101

6–403. PROJECT TAX CREDIT.

(A) IN GENERAL.

(1) A QUALIFIED BUSINESS ENTITY MAY CLAIM A PROJECT TAX CREDIT FOR THE COST OF AN ELIGIBLE ECONOMIC DEVELOPMENT PROJECT IN A QUALIFIED DISTRESSED COUNTY IF THE TOTAL ELIGIBLE PROJECT COST FOR THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT COST IS AT LEAST \$500,000.

(2) A QUALIFIED BUSINESS ENTITY IS NOT ENTITLED TO A PROJECT TAX CREDIT FOR A COST INCURRED BEFORE NOTIFYING THE DEPARTMENT OF ITS INTENT TO SEEK CERTIFICATION AS QUALIFYING FOR THE PROJECT TAX CREDIT.

(B) AMOUNT OF CREDIT.

(1) SUBJECT TO THE LIMITATION IN PARAGRAPH (2) OF THIS SUBSECTION, THE PROJECT TAX CREDIT ALLOWED UNDER THIS SECTION IS THE LESSER OF \$5,000,000 AND THE TOTAL ELIGIBLE PROJECT COST FOR THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT, LESS THE AMOUNT OF THE CREDIT PREVIOUSLY TAKEN FOR THE PROJECT IN PRIOR TAXABLE YEARS.

(2) EXCEPT AS PROVIDED IN SUBSECTIONS (E) AND (F) OF THIS SECTION, THE PROJECT TAX CREDIT ALLOWED IN A TAXABLE YEAR MAY NOT EXCEED THE STATE TAX FOR THAT YEAR ON THE QUALIFIED BUSINESS ENTITY’S INCOME GENERATED BY OR ARISING OUT OF THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT, AS DETERMINED UNDER SUBSECTIONS (C) AND (D) OF THIS SECTION.

(C) AMOUNT OF TAX.

(1) THIS SUBSECTION DOES NOT APPLY TO A PERSON SUBJECT TO TAXATION UNDER TITLE 6 OF THE INSURANCE ARTICLE.

(2) THE STATE TAX FOR THE TAXABLE YEAR ON A QUALIFIED BUSINESS ENTITY'S INCOME GENERATED BY OR ARISING OUT OF AN ELIGIBLE ECONOMIC DEVELOPMENT PROJECT EQUALS THE DIFFERENCE BETWEEN:

(I) THE STATE TAX WITHOUT REGARD TO THIS SUBTITLE; AND

(II) THE STATE TAX ON THE QUALIFIED BUSINESS ENTITY'S MARYLAND TAXABLE INCOME REDUCED BY THE AMOUNT OF ITS NET INCOME ATTRIBUTABLE TO THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT.

(3) IF AN ELIGIBLE ECONOMIC DEVELOPMENT PROJECT IS A TOTALLY SEPARATE FACILITY, NET INCOME ATTRIBUTABLE TO THE PROJECT SHALL BE DETERMINED UNDER THE SEPARATE ACCOUNTING METHOD REFLECTING ONLY THE GROSS INCOME, DEDUCTIONS, EXPENSES, GAINS, AND LOSSES THAT ARE DIRECTLY ATTRIBUTABLE TO THE FACILITY AND THE OVERHEAD EXPENSES APPORTIONED TO THE FACILITY.

(4) IF THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT IS AN EXPANSION TO A PREVIOUSLY EXISTING FACILITY:

(I) NET INCOME ATTRIBUTABLE TO THE ENTIRE FACILITY SHALL BE DETERMINED UNDER THE SEPARATE ACCOUNTING METHOD REFLECTING ONLY THE GROSS INCOME, DEDUCTIONS, EXPENSES, GAINS, AND LOSSES THAT ARE DIRECTLY ATTRIBUTABLE TO THE FACILITY AND THE OVERHEAD EXPENSES APPORTIONED TO THE FACILITY; AND

(II) NET INCOME ATTRIBUTABLE TO THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT SHALL BE DETERMINED BY APPORTIONING THE NET INCOME OF THE ENTIRE FACILITY, AS CALCULATED UNDER ITEM (I) OF THIS PARAGRAPH, TO THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT BY A FORMULA APPROVED BY THE COMPTROLLER OR THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(5) IF THE COMPTROLLER OR THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION IS SATISFIED THAT THE NATURE AND ACTIVITIES OF A QUALIFIED BUSINESS ENTITY MAKE IT IMPRACTICAL TO USE THE SEPARATE ACCOUNTING METHOD, THE QUALIFIED BUSINESS ENTITY SHALL DETERMINE NET INCOME FROM THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT USING AN ALTERNATIVE METHOD APPROVED BY THE COMPTROLLER OR THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(D) EXCEPTION.

A QUALIFIED BUSINESS ENTITY THAT IS SUBJECT TO TAXATION UNDER TITLE 6 OF THE INSURANCE ARTICLE MAY NOT CLAIM THE PROJECT TAX CREDIT FOR THE TAXABLE YEAR IN WHICH THE PROJECT IS PLACED IN SERVICE OR FOR THE NEXT 4 TAXABLE YEARS.

(E) CARRYOVER.

IF THE ELIGIBLE PROJECT COST FOR THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT EXCEEDS THE STATE TAX ON THE QUALIFIED BUSINESS ENTITY'S INCOME GENERATED BY OR ARISING OUT OF THE PROJECT FOR THE TAXABLE YEAR IN WHICH THE PROJECT IS PLACED IN SERVICE, THE QUALIFIED BUSINESS ENTITY MAY APPLY ANY

EXCESS AS A PROJECT TAX CREDIT FOR SUCCEEDING TAXABLE YEARS AGAINST THE STATE TAX ON THE QUALIFIED BUSINESS ENTITY'S INCOME GENERATED BY OR ARISING OUT OF THE PROJECT UNTIL THE EARLIER OF:

(1) THE FULL AMOUNT OF THE EXCESS IS USED; OR

(2) THE EXPIRATION OF THE 14TH TAXABLE YEAR FOLLOWING THE TAXABLE YEAR IN WHICH THE PROJECT IS PLACED IN SERVICE.

(F) APPLICATION; REFUND.

(1) SUBJECT TO THE LIMITATION IN PARAGRAPH (4) OF THIS SUBSECTION AND SUBJECT TO § 6-405 OF THIS SUBTITLE, THIS SUBSECTION APPLIES TO ANY TAXABLE YEAR AFTER THE 4TH BUT BEFORE THE 15TH TAXABLE YEAR FOLLOWING THE TAXABLE YEAR IN WHICH THE PROJECT IS PLACED IN SERVICE.

(2) A QUALIFIED BUSINESS ENTITY OTHER THAN A PERSON SUBJECT TO TAXATION UNDER TITLE 6 OF THE INSURANCE ARTICLE MAY:

(I) APPLY ANY EXCESS OF ELIGIBLE PROJECT COSTS FOR THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT OVER THE CUMULATIVE AMOUNT USED AS A PROJECT TAX CREDIT FOR THE TAXABLE YEAR AND ALL PRIOR TAXABLE YEARS AS A TAX CREDIT AGAINST THE STATE TAX FOR THE TAXABLE YEAR ON THE QUALIFIED BUSINESS ENTITY'S INCOME OTHER THAN INCOME GENERATED BY OR ARISING OUT OF THE PROJECT; AND

(II) CLAIM A REFUND IN THE AMOUNT, IF ANY, BY WHICH THE UNUSED EXCESS EXCEEDS THE STATE TAX FOR THE TAXABLE YEAR ON THE QUALIFIED BUSINESS ENTITY'S INCOME OTHER THAN INCOME GENERATED BY OR ARISING OUT OF THE PROJECT.

(3) A QUALIFIED BUSINESS ENTITY THAT IS SUBJECT TO TAXATION UNDER TITLE 6 OF THE INSURANCE ARTICLE MAY:

(I) APPLY ANY EXCESS OF ELIGIBLE PROJECT COSTS FOR THE ELIGIBLE ECONOMIC DEVELOPMENT PROJECT OVER THE CUMULATIVE AMOUNT USED AS A PROJECT TAX CREDIT FOR THE TAXABLE YEAR AND ALL PRIOR TAXABLE YEARS AS A TAX CREDIT AGAINST THE PREMIUM TAX IMPOSED FOR THE TAXABLE YEAR; AND

(II) CLAIM A REFUND IN THE AMOUNT, IF ANY, BY WHICH THE UNUSED EXCESS EXCEEDS THE PREMIUM TAX FOR THE TAXABLE YEAR.

(4) FOR ANY TAXABLE YEAR, THE TOTAL AMOUNT USED AS A PROJECT TAX CREDIT AND CLAIMED AS A REFUND UNDER THIS SUBSECTION MAY NOT EXCEED THE AMOUNT OF TAX THAT THE QUALIFIED BUSINESS ENTITY IS REQUIRED TO WITHHOLD FOR THE TAXABLE YEAR FROM THE WAGES OF QUALIFIED EMPLOYEES UNDER § 10-908 OF THE TAX - GENERAL ARTICLE.

(G) DOCUMENTATION REQUIRED.

A QUALIFIED BUSINESS ENTITY SHALL ATTACH THE CERTIFICATION REQUIRED UNDER § 6-402 OF THIS SUBTITLE TO THE TAX RETURN ON WHICH THE PROJECT TAX CREDIT IS CLAIMED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1501(a)(6)(iii), (b), and, as it related to required documentation, (f).

In subsection (a)(1) of this section, the former phrase "amount of the qualified business entity's" is deleted as surplusage.

In subsection (c)(2)(i) of this section, the reference to this "subtitle" is substituted for the former reference to this "section" to reflect the reorganization of material derived from former Art. 83A, § 5-1501 in this subtitle.

In subsection (c)(5) of this section, the phrase "[i]f the Comptroller or the State Department of Assessments and Taxation is satisfied" is substituted for the former phrase "[i]f a qualified business entity can show to the satisfaction of the Comptroller or the Department of Assessments and Taxation" for brevity.

In subsection (d) of this section, the former phrase "following the taxable year in which the project is placed in service" is deleted as surplusage.

In subsection (g) of this section, the reference to certification "required under § 6-402 of this subtitle" is added for clarity.

Defined terms: "Eligible economic development project" § 6-401

"Eligible project cost" § 6-401

"Person" § 1-101

"Qualified business entity" § 6-401

"Qualified distressed county" § 1-101

"Qualified employee" § 6-101

6-404. START-UP TAX CREDIT.

(A) IN GENERAL.

(1) A QUALIFIED BUSINESS ENTITY THAT LOCATES IN A QUALIFIED DISTRESSED COUNTY MAY CLAIM A START-UP TAX CREDIT IN THE AMOUNT PROVIDED IN SUBSECTION (B) OF THIS SECTION.

(2) A QUALIFIED BUSINESS ENTITY IS NOT ENTITLED TO A START-UP TAX CREDIT FOR A COST INCURRED BEFORE NOTIFYING THE DEPARTMENT OF ITS INTENT TO SEEK CERTIFICATION AS QUALIFYING FOR THE START-UP TAX CREDIT.

(B) AMOUNT.

THE START-UP TAX CREDIT ALLOWED UNDER THIS SECTION FOR EACH TAXABLE YEAR EQUALS THE LEAST OF:

(1) THE QUALIFIED BUSINESS ENTITY'S TOTAL ELIGIBLE START-UP COST ASSOCIATED WITH ESTABLISHING OR EXPANDING A BUSINESS FACILITY IN THE QUALIFIED DISTRESSED COUNTY, LESS THE AMOUNT OF THE CREDIT PREVIOUSLY TAKEN FOR THE PROJECT;

(2) THE PRODUCT OF MULTIPLYING \$10,000 TIMES THE NUMBER OF QUALIFIED EMPLOYEES EMPLOYED AT THE NEW OR EXPANDED BUSINESS FACILITY; OR

(3) \$500,000.

(c) CARRYOVER.

IF THE START-UP TAX CREDIT ALLOWED UNDER SUBSECTION (B) OF THIS SECTION FOR THE TAXABLE YEAR IN WHICH A QUALIFIED BUSINESS ENTITY LOCATES IN A QUALIFIED DISTRESSED COUNTY EXCEEDS THE TOTAL TAX OTHERWISE DUE FROM THE QUALIFIED BUSINESS ENTITY FOR THAT TAXABLE YEAR, THE QUALIFIED BUSINESS ENTITY MAY APPLY THE EXCESS AS A CREDIT FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

(1) THE FULL AMOUNT OF THE EXCESS IS USED; OR

(2) THE EXPIRATION OF THE 14TH TAXABLE YEAR FOLLOWING THE TAXABLE YEAR IN WHICH THE QUALIFIED BUSINESS ENTITY LOCATES IN A QUALIFIED DISTRESSED COUNTY.

(d) REFUND.

(1) SUBJECT TO THE LIMITATION IN PARAGRAPH (3) OF THIS SUBSECTION AND SUBJECT TO § 6-405 OF THIS SUBTITLE, THIS SUBSECTION APPLIES TO ANY TAXABLE YEAR AFTER THE 4TH BUT BEFORE THE 15TH TAXABLE YEAR FOLLOWING THE TAXABLE YEAR IN WHICH THE QUALIFIED BUSINESS ENTITY LOCATES IN A QUALIFIED DISTRESSED COUNTY.

(2) A QUALIFIED BUSINESS ENTITY MAY CLAIM A REFUND IN THE AMOUNT, IF ANY, BY WHICH THE QUALIFIED BUSINESS ENTITY'S ELIGIBLE START-UP COST EXCEEDS THE CUMULATIVE AMOUNT USED AS A START-UP TAX CREDIT FOR THE TAXABLE YEAR AND ALL PRIOR TAXABLE YEARS.

(3) FOR ANY TAXABLE YEAR, THE TOTAL AMOUNT CLAIMED AS A REFUND UNDER THIS SUBSECTION MAY NOT EXCEED THE AMOUNT OF TAX THAT THE QUALIFIED BUSINESS ENTITY IS REQUIRED TO WITHHOLD FOR THE TAXABLE YEAR FROM THE WAGES OF QUALIFIED EMPLOYEES UNDER § 10-908 OF THE TAX - GENERAL ARTICLE.

(e) DOCUMENTATION REQUIRED.

A QUALIFIED BUSINESS ENTITY SHALL ATTACH THE CERTIFICATION REQUIRED UNDER § 6-402(A) OF THIS SUBTITLE TO THE TAX RETURN ON WHICH THE START-UP TAX CREDIT IS CLAIMED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1501(c), (a)(12)(ii) and, as it related to the maximum eligible credit, (i), and, as it related to certification submission, (f).

In subsection (e) of this section, the phrase "required under § 6-402(a) of this subtitle" is added for clarity.

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Defined terms: “Department” § 1–101
“Eligible start–up cost” § 6–401
“Qualified business entity” § 6–401
“Qualified distressed county” § 1–101
“Qualified employee” § 6–101

6–405. APPLICATION OF TAX CREDITS.

IF THE PAY FOR THE MAJORITY OF THE QUALIFIED POSITIONS CREATED FROM THE ESTABLISHMENT OR EXPANSION OF A BUSINESS FACILITY IS AT LEAST 250% OF THE FEDERAL MINIMUM WAGE, §§ 6–403(F) AND 6–404(D) OF THIS SUBTITLE APPLY BEGINNING WITH THE TAXABLE YEAR AFTER THE 2ND TAXABLE YEAR THAT FOLLOWS THE TAXABLE YEAR WHEN THE QUALIFIED BUSINESS ENTITY LOCATES IN A QUALIFIED DISTRESSED COUNTY.

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

Defined terms: “Qualified business entity” § 6–401
“Qualified distressed county” § 1–101
“Qualified position” § 6–401

6–406. REDUCTION OF TAX REVENUE.

A REFUND PAYABLE TO A QUALIFIED BUSINESS ENTITY UNDER § 6–403(F) OR § 6–404(D) OF THIS SUBTITLE REDUCES:

(1) THE INCOME TAX REVENUE FROM CORPORATIONS IF THE QUALIFIED BUSINESS ENTITY IS A CORPORATION SUBJECT TO THE INCOME TAX UNDER TITLE 10 OF THE TAX – GENERAL ARTICLE;

(2) THE INCOME TAX REVENUE FROM INDIVIDUALS IF THE QUALIFIED BUSINESS ENTITY IS:

(I) AN INDIVIDUAL SUBJECT TO THE INCOME TAX UNDER TITLE 10 OF THE TAX – GENERAL ARTICLE; OR

(II) AN ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(c)(3) OR (4) OF THE INTERNAL REVENUE CODE; AND

(3) INSURANCE PREMIUM TAX REVENUES IF THE QUALIFIED BUSINESS ENTITY IS SUBJECT TO TAXATION UNDER TITLE 6 OF THE INSURANCE ARTICLE.

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

Defined term: “Qualified business entity” § 6–401

6–407. REGULATIONS.

THE SECRETARY SHALL ADOPT REGULATIONS TO SPECIFY CRITERIA AND PROCEDURES FOR APPLICATION AND APPROVAL OF PROJECTS FOR THE TAX CREDIT UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5–1501(d).

The only changes are in style.

Defined term: “Secretary” § 1–101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 83A, § 5–1501(e)(2), which excluded projects announced before April 10, 1999 from eligibility for a tax credit under this subtitle, is apparently obsolete. *Cf.* Ch. 303, Acts of 1999. However, to avoid any inadvertent substantive effect its repeal might have, it is transferred to the Session Laws. *See* § 10 of Ch. 306, Acts of 2008.

TITLE 7. RESERVED.

TITLE 8. RESERVED.

DIVISION II. INDEPENDENT AND REGIONAL DEVELOPMENT UNITS AND RESOURCES.

TITLE 9. DEFINITIONS.

SUBTITLE 1. DEFINITIONS.

9–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS DIVISION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

The reference to this “division” is substituted for the former reference to this “article” to reflect the reorganization of material derived from former Article 83A that is not under the jurisdiction of the Department of Business and Economic Development in this division, in contrast to material from that former article under the Department's jurisdiction that is revised in Division I of this article.

No other changes are made.

(B) COUNTY.

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

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

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

Former Art. 41, § 14–101(f) applied only to the Economic Development

Revenue Bond Act revised in Title 11, Subtitle 1 of this article. The remainder of the source material for this article was subject to Art. 1, § 14(a), which provides that “county” includes Baltimore City “unless such construction would be unreasonable”. Because the word “unreasonable” in that section has been interpreted in various ways, the Economic Development Article Review Committee decided that an explicit definition of “county” should be included that applies in each division of this article. *See, also*, § 1–101 of this article.

Defined term: “State” § 9–101

(C) DEPARTMENT.

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

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

No changes are made.

(D) PERSON.

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

REVISOR’S NOTE: This subsection formerly was Art. 41, § 13–501(h)(1) and Art. 83A, § 5–1701(i)(1).

No changes are made.

Although the term “person” defined in this subsection originally applied only to the Maryland Agricultural and Resource–Based Industry Development Corporation revised in Title 10, Subtitle 5 and the local redevelopment authorities revised in Title 11, Subtitle 3 of this article, it is revised to apply to all independent and regional development units and resources in this division. The term conforms to the same term defined in many recently revised articles. *See, e.g.*, IN § 1–101(dd), PUC § 1–101(t), CS § 1–101(l), CP § 1–101(n), and PS § 1–101(c). No substantive change is intended. *See, also*, § 1–101 of this article.

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

See, also, § 1–101 of this article.

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

(E) SECRETARY.

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

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

No changes are made.

(F) STATE.

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

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

(II) THE DISTRICT OF COLUMBIA.

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

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

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

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

In paragraph (2) of this subsection, the phrase “[w]hen capitalized,” is added for clarity and to prescribe explicitly the drafting convention used in recently revised articles, by which the term “State” when capitalized refers only to Maryland, whereas the defined term “state” in miniscule refers to any state or other territory of the United States.

The only other change is in style.

See, also, § 1–101 of this article.

TITLE 10. STATEWIDE DEVELOPMENT RESOURCES AND REVENUE AUTHORITIES.

SUBTITLE 1. MARYLAND ECONOMIC DEVELOPMENT CORPORATION.

10–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–201(a).

No changes are made.

(B) BOARD.

“BOARD” MEANS THE BOARD OF DIRECTORS OF THE CORPORATION.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title of the “Board of Directors”.

Defined term: “Corporation” § 10–101

(C) BOND.

(1) “BOND” MEANS A BOND OR NOTE OF THE CORPORATION ISSUED UNDER THIS SUBTITLE.

(2) “BOND” INCLUDES:

(I) A BOND ANTICIPATION NOTE;

(II) A REVENUE ANTICIPATION NOTE;

(III) A GRANT ANTICIPATION NOTE;

(IV) A REFUNDING BOND;

(V) A NOTE IN THE NATURE OF COMMERCIAL PAPER; AND

(VI) ANY OTHER EVIDENCE OF INDEBTEDNESS OF THE CORPORATION, WHETHER A GENERAL OR LIMITED OBLIGATION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–201(b).

Defined term: “Corporation” § 10–101

(D) CORPORATION.

“CORPORATION” MEANS THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–201(c).

No changes are made.

(E) COST.

“COST” INCLUDES:

(1) THE PURCHASE PRICE OF A PROJECT;

(2) THE COST TO ACQUIRE ANY RIGHT, TITLE, OR INTEREST IN A PROJECT;

(3) THE COST OF ANY IMPROVEMENT;

(4) THE AMOUNT TO BE PAID TO DISCHARGE EACH OBLIGATION NECESSARY OR DESIRABLE TO VEST TITLE TO ANY PART OF THE PROJECT IN THE CORPORATION OR OTHER OWNER;

(5) THE COST OF ANY PROPERTY, RIGHT, EASEMENT, FRANCHISE, AND PERMIT;

(6) THE COST OF LABOR AND EQUIPMENT;

(7) FINANCING CHARGES;

(8) INTEREST BEFORE AND DURING CONSTRUCTION AND, IF THE CORPORATION DETERMINES, FOR A LIMITED PERIOD AFTER THE COMPLETION OF CONSTRUCTION;

(9) RESERVES FOR PRINCIPAL AND INTEREST AND FOR IMPROVEMENTS;

(10) THE COST OF REVENUE AND COST ESTIMATES, ENGINEERING AND LEGAL SERVICES, PLANS, SPECIFICATIONS, STUDIES, SURVEYS, DEMONSTRATIONS, AND OTHER EXPENSES NECESSARY OR INCIDENT TO DETERMINING THE FEASIBILITY OF AN ACQUISITION OR IMPROVEMENT;

(11) ADMINISTRATIVE EXPENSES; AND

(12) OTHER EXPENSES AS NECESSARY OR INCIDENT TO:

(I) FINANCING A PROJECT;

(II) ACQUIRING AND IMPROVING A PROJECT;

(III) PLACING A PROJECT IN OPERATION BY THE CORPORATION OR OTHER OWNER, 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, § 5-201(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 (4) of this subsection, the former reference to "title to the project" is deleted as included in the reference to "any part of the project".

Also in item (2) of this subsection, the words "in a project" are added for clarity.

In item (6) of this subsection, the former reference to "machinery" is deleted as redundant of the reference to "equipment".

Defined terms: "Corporation" § 10-101

"Finance" § 10-101

"Improve" § 10-101

"Improvement" § 10-101

"Project" § 10-101

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(F) **FINANCE.**

“FINANCE” INCLUDES REFINANCE.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the phrase “finance or refinance” and its variants and for consistency within this title.

(G) **GOVERNMENTAL UNIT.**

“GOVERNMENTAL UNIT” MEANS A COUNTY, MUNICIPAL CORPORATION, UNIT OF STATE OR LOCAL GOVERNMENT, OR OTHER PUBLIC BODY CREATED UNDER STATE OR LOCAL LAW.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–201(g), which defined “[p]olitical subdivision”.

Defined terms: “County” § 9–101
“State” § 9–101

(H) **IMPROVE.**

“IMPROVE” MEANS TO ADD, ALTER, CONSTRUCT, EQUIP, EXPAND, EXTEND, IMPROVE, INSTALL, RECONSTRUCT, REHABILITATE, REMODEL, OR REPAIR.

REVISOR’S NOTE: This subsection is new language added for brevity and clarity.

(I) **IMPROVEMENT.**

“IMPROVEMENT” MEANS ADDITION, ALTERATION, CONSTRUCTION, EQUIPPING, EXPANSION, EXTENSION, IMPROVEMENT, INSTALLATION, RECONSTRUCTION, REHABILITATION, REMODELING, OR REPAIR.

REVISOR’S NOTE: This subsection is new language added for brevity and clarity.

(J) **PERSON.**

(1) “PERSON” HAS THE MEANING STATED IN § 9–101 OF THIS ARTICLE.

(2) “PERSON” ALSO INCLUDES:

(I) A PERSON THAT IS CREATED, OWNED, OR CONTROLLED BY THE CORPORATION OR OF WHICH THE CORPORATION IS A MEMBER;

(II) A FOR–PROFIT OR NOT–FOR–PROFIT ENTITY; AND

(III) A GOVERNMENTAL UNIT.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–201(f).

Defined terms: “Corporation” § 10–101

“Person” § 9–101

(K) PROJECT.

(1) “PROJECT” MEANS ANY PROPERTY, THE ACQUISITION OR IMPROVEMENT OF WHICH THE BOARD, IN ITS SOLE DISCRETION, DETERMINES BY RESOLUTION WILL ACCOMPLISH AT LEAST ONE OF THE LEGISLATIVE PURPOSES LISTED IN § 10–104(B) OF THIS SUBTITLE, WHETHER OR NOT THE PROPERTY:

(I) IS OR WILL BE USED OR OPERATED FOR PROFIT OR NOT FOR PROFIT;

(II) IS OR WILL BE LOCATED ON A SINGLE SITE OR MULTIPLE SITES; OR

(III) MAY BE FINANCED BY BONDS, THE INTEREST ON WHICH IS EXEMPT FROM INCOME TAXATION UNDER FEDERAL LAW.

(2) “PROJECT” INCLUDES:

(I) LAND OR AN INTEREST IN LAND;

(II) STRUCTURES, EQUIPMENT, FURNISHINGS, RAIL OR MOTOR VEHICLES, BARGES, AND BOATS;

(III) PROPERTY AND RIGHTS RELATED TO THE PROPERTY, APPURTENANCES, RIGHTS—OF—WAY, FRANCHISES, AND EASEMENTS;

(IV) PROPERTY THAT IS FUNCTIONALLY RELATED AND SUBORDINATE TO PROPERTY DESCRIBED IN THIS SUBSECTION; AND

(V) PATENTS, LICENSES, AND OTHER RIGHTS NECESSARY OR USEFUL IN THE IMPROVEMENT OR OPERATION OF A PROJECT.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–201(h)(1) and (2).

In the introductory language of paragraph (1) of this subsection, the former reference to a “find[ing]” is deleted in light of the reference to a “determin[ation]”.

In paragraph (1)(iii) of this subsection, the former reference to “federal” income taxation is deleted in light of the reference to “federal law”.

In paragraph (2)(ii) of this subsection, the former reference to “buildings” is deleted as included in the reference to “structures”.

In paragraph (2)(iii) of this subsection, the former references to “real or personal” property “or any combination of them” are deleted as included in the comprehensive reference to “property”.

Also in paragraph (2)(iii) of this subsection, the former reference to “other interests in land” is deleted as redundant to paragraph (2)(i) of this subsection.

Former Art. 83A, § 5–201(h)(3), which defined an exception to the defined term “project”, is revised as a scope provision. *See* § 10–103 of this subtitle.

Defined terms: “Board” § 10–101

“Bond” § 10–101

“Improvement” § 10–101

(L) REVENUES.

(1) “REVENUES” MEANS THE INCOME, REVENUE, AND OTHER MONEY THE CORPORATION RECEIVES FROM OR IN CONNECTION WITH A PROJECT, AND ALL OTHER INCOME OF THE CORPORATION, SUBJECT TO § 10–115(11) OF THIS SUBTITLE.

(2) “REVENUES” INCLUDES GRANTS, RENTALS, RATES, FEES, AND CHARGES FOR THE USE OF THE SERVICES FURNISHED OR AVAILABLE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–201(i), as it defined “revenues”.

In paragraph (1) of this subsection, the word “means” is substituted for the former word “includes” to reflect that paragraph (1) of this subsection is intended to be an exhaustive definition of the word “revenues”.

As to the power of the Corporation to further define or limit the term “revenues”, *see* § 10–115(11) of this subtitle.

As to the inclusion of certain proceeds and investment income in project “revenues”, *see* § 10–123(b)(2)(ii) of this subtitle.

Defined terms: “Corporation” § 10–101

“Project” § 10–101

REVISOR’S NOTE TO SECTION: Former Art. 83A, § 5–201(e), which defined “includes or including”, is deleted as duplicative in light of Art. 1, § 30 to the same effect.

10–102. CONSTRUCTION OF SUBTITLE.

THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO ACCOMPLISH ITS PURPOSES.

REVISOR’S NOTE: This section formerly was Art. 83A, § 5–217.

The only change is in style.

10–103. SCOPE OF SUBTITLE.

A PROJECT FINANCED UNDER THIS SUBTITLE MAY NOT INCLUDE PROPERTY THAT IS ELIGIBLE TO BE FINANCED UNDER SUBTITLE 3 OF THIS TITLE IF ANY BONDS ISSUED UNDER THIS SUBTITLE TO FINANCE THE PROPERTY WOULD BE PAYABLE OR GUARANTEED, DIRECTLY OR INDIRECTLY, BY AN “EDUCATIONAL INSTITUTION” OR A “HEALTH CARE INSTITUTION” AS THOSE TERMS ARE DEFINED IN § 10–301 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-201(h)(3).

It is revised as a scope provision rather than as an exception to a definition for clarity and accuracy.

Defined terms: "Bond" § 10-101

"Finance" § 10-101

"Project" § 10-101

10-104. LEGISLATIVE FINDINGS; PURPOSES; INTENT.

(A) FINDINGS.

THE GENERAL ASSEMBLY FINDS THAT:

(1) THE STATE'S ECONOMY CONTINUES TO EXPERIENCE TECHNOLOGICAL CHANGE AND RESTRUCTURING;

(2) TECHNOLOGICAL CHANGE MAY RESULT IN ECONOMIC CONTRACTION AND DISLOCATION, BUT AFFORDS OPPORTUNITIES TO EXPAND PRODUCTIVE EMPLOYMENT AND EXPAND THE STATE'S ECONOMY AND TAX BASE;

(3) THE ESTABLISHMENT OF A PUBLIC CORPORATION TO ACQUIRE OR IMPROVE PROJECTS:

(I) SERVES THE PUBLIC INTEREST BY ACCOMPLISHING ONE OR MORE OF THE CORPORATION'S LEGISLATIVE PURPOSES LISTED IN SUBSECTION (B) OF THIS SECTION; AND

(II) COMPLEMENTS EXISTING STATE MARKETING PROGRAMS ADMINISTERED BY THE DEPARTMENT AND THROUGH THE DEPARTMENT'S FINANCIAL ASSISTANCE PROGRAMS INCLUDING THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY AND THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY UNDER TITLE 5 OF THIS ARTICLE; AND

(4) THE STATE LACKS AND NEEDS DIRECT PROPERTY DEVELOPMENT CAPABILITY FOR ECONOMIC DEVELOPMENT PURPOSES.

(B) PURPOSES.

THE LEGISLATIVE PURPOSES OF THE CORPORATION ARE TO:

(1) RELIEVE UNEMPLOYMENT IN THE STATE;

(2) ENCOURAGE THE INCREASE OF BUSINESS ACTIVITY AND COMMERCE AND A BALANCED ECONOMY IN THE STATE;

(3) HELP RETAIN AND ATTRACT BUSINESS ACTIVITY AND COMMERCE IN THE STATE;

(4) PROMOTE ECONOMIC DEVELOPMENT; AND

(5) PROMOTE THE HEALTH, SAFETY, RIGHT OF GAINFUL EMPLOYMENT, AND WELFARE OF RESIDENTS OF THE STATE.

(c) INTENT.

THE GENERAL ASSEMBLY INTENDS THAT:

(1) THE CORPORATION OPERATE AND EXERCISE ITS CORPORATE POWERS IN ALL AREAS OF THE STATE;

(2) WITHOUT LIMITING ITS AUTHORITY TO OTHERWISE EXERCISE ITS CORPORATE POWERS, THE CORPORATION EXERCISE ITS CORPORATE POWERS TO ASSIST GOVERNMENTAL UNITS AND STATE AND LOCAL ECONOMIC DEVELOPMENT AGENCIES TO CONTRIBUTE TO THE EXPANSION, MODERNIZATION, AND RETENTION OF EXISTING ENTERPRISES IN THE STATE AS WELL AS THE ATTRACTION OF NEW BUSINESS TO THE STATE;

(3) THE CORPORATION COOPERATE WITH WORKFORCE INVESTMENT BOARDS, PRIVATE INDUSTRY COUNCILS, REPRESENTATIVES OF LABOR, AND GOVERNMENTAL UNITS IN MAXIMIZING NEW ECONOMIC OPPORTUNITIES FOR RESIDENTS OF THE STATE;

(4) THE CORPORATION ACCOMPLISH AT LEAST ONE OF THE PURPOSES LISTED IN SUBSECTION (B) OF THIS SECTION AND COMPLEMENT EXISTING STATE MARKETING AND FINANCIAL ASSISTANCE PROGRAMS BY:

(I) OWNING PROJECTS;

(II) LEASING PROJECTS TO OTHER PERSONS; OR

(III) LENDING THE PROCEEDS OF BONDS TO OTHER PERSONS TO FINANCE THE COSTS OF ACQUIRING OR IMPROVING PROJECTS THAT THE PERSONS OWN OR WILL OWN; AND

(5) THE CORPORATION NOT OWN AND OPERATE A PROJECT UNLESS:

(I) THE BOARD DETERMINES BY RESOLUTION THAT THE PRIVATE SECTOR HAS NOT DEMONSTRATED SERIOUS AND SIGNIFICANT INTEREST AND DEVELOPMENT CAPACITY TO OWN AND OPERATE THE PROJECT; OR

(II) A REPRESENTATIVE OF A GOVERNMENTAL UNIT REQUESTS IN WRITING THAT THE CORPORATION OWN AND OPERATE THE PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-202.

In the introductory language of subsection (a) of this section, the former reference to "declar[ing]" is deleted as included in the reference to "find[ing]".

In subsection (b)(5) of this section, the former reference to "each of the counties and municipalities" of the State is deleted as unnecessary.

In subsection (c)(3) of this section, the reference to "workforce investment boards" is added to supplement the archaic reference to "private industry councils" for accuracy.

In subsection (c)(4)(ii) of this section, the former reference to “owning” a project is deleted as redundant of subsection (c)(4)(i) of this section.

In subsection (c)(5)(ii) of this section, the former reference to a “designated agency or instrumentality” is deleted as included in the defined term “governmental unit”.

Defined terms: “Board” § 10–101
“Corporation” § 10–101
“Department” § 9–101
“Finance” § 10–101
“Governmental unit” § 10–101
“Improve” § 10–101
“Person” §§ 9–101, 10–101
“Project” § 10–101
“State” § 9–101

10–105. ESTABLISHED.

(A) IN GENERAL.

THERE IS A MARYLAND ECONOMIC DEVELOPMENT CORPORATION.

(B) STATUS.

THE CORPORATION IS A BODY POLITIC AND CORPORATE AND IS AN INSTRUMENTALITY OF THE STATE.

(C) ESSENTIAL GOVERNMENTAL FUNCTION.

THE EXERCISE BY THE CORPORATION OF A POWER UNDER THIS SUBTITLE IS THE PERFORMANCE OF AN ESSENTIAL GOVERNMENTAL FUNCTION.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–203(a).

In subsection (b) of this section, the former reference to a “public” instrumentality is deleted as implicit in the reference to a “body politic and corporate”.

No substantive change is intended.

Defined terms: “Corporation” § 10–101
“State” § 9–101

10–106. BOARD OF DIRECTORS.

(A) IN GENERAL.

A BOARD OF DIRECTORS SHALL MANAGE THE CORPORATION AND EXERCISE ITS POWERS.

(B) COMPOSITION; APPOINTMENT OF MEMBERS.

THE BOARD CONSISTS OF THE FOLLOWING 12 MEMBERS:

(1) AS EX OFFICIO VOTING MEMBERS:

(I) THE SECRETARY; AND

(II) THE SECRETARY OF TRANSPORTATION; AND

(2) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE:

(I) TWO REPRESENTATIVES OF LOCAL GOVERNMENT;

(II) THREE MEMBERS WHO ARE KNOWLEDGEABLE IN REAL ESTATE OR COMMERCIAL FINANCING;

(III) THREE MEMBERS WHO ARE KNOWLEDGEABLE IN INDUSTRIAL DEVELOPMENT OR INDUSTRIAL RELATIONS; AND

(IV) TWO MEMBERS OF THE GENERAL PUBLIC.

(C) QUALIFICATIONS.

EACH MEMBER OF THE BOARD SHALL BE A RESIDENT OF THE STATE.

(D) DIVERSITY.

IN APPOINTING BOARD MEMBERS, THE GOVERNOR SHALL CONSIDER GEOGRAPHIC DIVERSITY AND MINORITY REPRESENTATION.

(E) TENURE; VACANCIES.

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

(2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2008.

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

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

(F) OATH.

BEFORE TAKING OFFICE, EACH MEMBER APPOINTED TO THE BOARD SHALL TAKE THE OATH REQUIRED BY ARTICLE 1, § 9 OF THE MARYLAND CONSTITUTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-203(b).

In subsection (d) of this section, the reference to geographic "diversity" is substituted for the former reference to geographic "balance" for consistency within this article. No substantive change is intended.

In subsection (e)(1) and (2) of this section, the references to "appointed"

members are added for clarity to distinguish between appointed members and ex officio members. Correspondingly, in subsection (e)(2) of this section, the former phrase “excluding an ex officio member” is deleted.

In subsection (e)(2) of this section, the reference to terms being staggered as required by the terms provided for appointed Board members on “October 1, 2008” is substituted for the former obsolete reference to terms being staggered as required by the terms provided on “July 1, 1984”. This substitution is not intended to alter the term of any member of the Board. *See* § 13 of Ch. 306, Acts of 2008. The terms of the members serving on October 1, 2008 end as follows: (1) three on June 30, 2010; (2) three on June 30, 2011; and (3) four on June 30, 2012.

Subsection (f) of this section is restated in standard language for clarity and consistency with other revised articles of the Code.

Defined terms: “Board” § 10–101

“Corporation” § 10–101

“Secretary” § 9–101

“State” § 9–101

10–107. OFFICERS.

FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR, A VICE CHAIR, AND A TREASURER.

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

The references to a “chair” and “vice chair” are substituted for the former references to a “chairman” and “vice chairman” because SG § 2–1238 requires the use of words that are neutral as to gender to the extent practicable. *See* General Revisor’s Note to article.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that this section lacks a standard provision authorizing the Board to determine the manner of election of officers and their terms of office. The General Assembly may wish to address this matter in substantive legislation.

Defined term: “Board” § 10–101

10–108. QUORUM.

(A) IN GENERAL.

SEVEN MEMBERS OF THE BOARD ARE A QUORUM.

(B) VOTING.

AN AFFIRMATIVE VOTE OF AT LEAST SEVEN MEMBERS IS NEEDED FOR THE BOARD TO ACT.

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

The third sentence of former Art. 83A, § 5–203(c), which provided that a vacancy on the Board did not impair the right of the Board to act, is deleted as an unnecessary elaboration of subsection (a)(2) of this section.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that this section lacks a provision authorizing the Board to determine the times and places of its meetings. The General Assembly may wish to address this matter in substantive legislation.

Defined term: “Board” § 10–101

10–109. EXECUTIVE DIRECTOR.

(A) POSITION; TENURE; SALARY.

(1) SUBJECT TO THE APPROVAL OF THE GOVERNOR, THE BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR.

(2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE BOARD.

(3) THE BOARD SHALL DETERMINE THE SALARY OF THE EXECUTIVE DIRECTOR.

(B) ADMINISTRATIVE OFFICER.

(1) THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE OFFICER OF THE CORPORATION.

(2) THE EXECUTIVE DIRECTOR SHALL MANAGE THE ADMINISTRATIVE AFFAIRS AND TECHNICAL ACTIVITIES OF THE CORPORATION IN ACCORDANCE WITH POLICIES AND PROCEDURES THAT THE BOARD ESTABLISHES.

(C) DUTIES.

THE EXECUTIVE DIRECTOR, OR THE EXECUTIVE DIRECTOR'S DESIGNEE, SHALL:

(1) ATTEND ALL MEETINGS OF THE BOARD;

(2) ACT AS SECRETARY OF THE BOARD;

(3) KEEP MINUTES OF ALL PROCEEDINGS OF THE BOARD;

(4) APPROVE ALL SALARIES, PER DIEM PAYMENTS, AND ALLOWABLE EXPENSES OF THE CORPORATION, ITS EMPLOYEES AND ITS CONSULTANTS;

(5) APPROVE ANY EXPENSES INCIDENTAL TO THE OPERATION OF THE CORPORATION; AND

(6) PERFORM THE OTHER DUTIES THAT THE BOARD DIRECTS IN CARRYING OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–204(a) and (b).

In subsection (b)(2) of this section, the reference to “manag[ing]” is substituted for the former reference to “direct[ing] and supervis[ing]” for brevity and consistency within this article.

Defined terms: “Board” § 10–101

“Corporation” § 10–101

10–110. STAFF; CONSULTANTS.

(A) STAFF.

THE BOARD SHALL EMPLOY ANY ADDITIONAL PROFESSIONAL AND CLERICAL STAFF AS NECESSARY TO CARRY OUT THIS SUBTITLE.

(B) CONSULTANTS.

THE BOARD MAY RETAIN ACCOUNTANTS, ENGINEERS, LAWYERS, FINANCIAL ADVISORS, OR OTHER CONSULTANTS AS NECESSARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–204(d) and the first sentence of (c).

Defined term: “Board” § 10–101

10–111. APPLICABILITY OF LAWS.

(A) STATE LAWS — IN GENERAL.

(1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IN EXERCISING ITS POWERS, THE CORPORATION:

(i) MAY CARRY OUT ITS CORPORATE PURPOSES WITHOUT THE CONSENT OF ANY STATE UNIT; AND

(ii) IS NOT SUBJECT TO:

1. TITLE 12, SUBTITLES 1 THROUGH 3 OF THIS ARTICLE;
2. THE FOLLOWING PROVISIONS OF THE STATE FINANCE AND PROCUREMENT ARTICLE:

A. TITLE 2, SUBTITLES 2 (GIFTS AND GRANTS), 4 (WATER AND SEWERAGE SYSTEMS), AND 5 (FACILITIES FOR THE HANDICAPPED);

B. TITLE 3 (BUDGET AND MANAGEMENT);

C. TITLE 4 (DEPARTMENT OF GENERAL SERVICES);

D. TITLE 5A (DIVISION OF HISTORICAL AND CULTURAL PROGRAMS);

E. TITLE 6, SUBTITLE 1 (STUDIES AND ESTIMATES);

F. TITLE 7, SUBTITLES 1 (STATE OPERATING BUDGET), 2 (DISBURSEMENTS AND EXPENDITURES), AND 3 (UNSPENT BALANCES);

G. §§ 8–127, 8–128, AND 8–129 (CERTAIN RESTRICTIONS ON STATE GENERAL OBLIGATION BONDS);

H. TITLE 8, SUBTITLE 1, PART V (STATE REVENUE ANTICIPATION NOTES);

I. TITLE 10 (BOARD OF PUBLIC WORKS – MISCELLANEOUS PROVISIONS); AND

J. DIVISION II (GENERAL PROCUREMENT LAW);

3. THE FOLLOWING PROVISIONS OF THE STATE GOVERNMENT ARTICLE:

A. TITLE 9, SUBTITLES 10 (STATE ARCHIVES AND ARTISTIC PROPERTY) AND 17 (MARYLAND STATE EMPLOYEES SURETY BOND COMMITTEE);

B. §§ 10–505 AND 10–507 (CERTAIN OPEN MEETINGS PROVISIONS); AND

C. TITLE 11 (CONSOLIDATED PROCEDURES FOR DEVELOPMENT PERMITS); AND

4. ARTICLE 41 OF THE CODE.

(2) THE CORPORATION IS SUBJECT TO THE PUBLIC INFORMATION ACT.

(B) STATE LAWS — ETHICS; PERSONNEL; PENSIONS.

(1) THE CORPORATION, ITS OFFICERS, AND ITS EMPLOYEES ARE SUBJECT TO THE PUBLIC ETHICS LAW.

(2) THE OFFICERS AND EMPLOYEES OF THE CORPORATION ARE NOT SUBJECT TO:

(i) DIVISION II OF THE STATE PERSONNEL AND PENSIONS ARTICLE;

OR

(ii) THE PROVISIONS OF DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE THAT GOVERN THE STATE PERSONNEL MANAGEMENT SYSTEM.

(C) PUBLIC BODY.

FOR PURPOSES OF MAKING AGREEMENTS IN CONNECTION WITH LOANS, GRANTS, INSURANCE, OR OTHER FINANCIAL ASSISTANCE, THE CORPORATION IS A PUBLIC BODY UNDER TITLE 5, SUBTITLE 4 OF THIS ARTICLE, THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY ACT.

(D) REGULATORY REQUIREMENTS.

THE CORPORATION IS SUBJECT TO THE SAME STATE AND LOCAL REGULATORY REQUIREMENTS AS ANY PRIVATE CORPORATION.

(E) ZONING.

A PROJECT OF THE CORPORATION IS SUBJECT TO THE ZONING AND SUBDIVISION REGULATIONS OF THE JURISDICTION WHERE IT IS LOCATED.

(F) PROCUREMENT.

THE CORPORATION, ITS OFFICERS, AND ITS EMPLOYEES ARE SUBJECT TO TITLE 12, SUBTITLE 4 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5–214 and 5–204 (c)(1), (2), and the second sentence of the introductory language of (c).

In subsection (a)(1)(ii)1 of this section, the reference to “Title 12, Subtitles 1 through 3 of this article” is added to reflect the incorporation of pertinent material derived from Article 41 into this article.

In subsection (a)(1)(ii)3B 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 Compliance Board. *See* 4 Off. Op. Comp. Bd. 88, 93 (2004).

In subsection (a)(1)(ii) of this section, several provisions which appeared at one time or another in Article 41 either when the Corporation was first established or in subsequent years have not been included in the list of provisions from which the Corporation is exempt because they were considered not to be germane to the Corporation. *See, e.g.*, SFP §§ 5–310 and 5–311.

Also in subsection (a)(1)(ii) of this section, the former obsolete reference to “Article 78A of the Code” is deleted for accuracy.

In subsection (d) of this section, the former phrase “[n]otwithstanding the provisions of subsection (a)” is deleted as unnecessary and to avoid the creation of interlocking exceptions.

Defined terms: “Corporation” § 10–101

“Project” § 10–101

“State” § 9–101

10–112. FINDINGS OF BOARD.

A FINDING BY THE BOARD CONCERNING THE PUBLIC PURPOSE OF AN ACTION, THE LEGISLATIVE INTENT EXPRESSED UNDER THIS SUBTITLE, OR THE APPROPRIATENESS OF THE ACTION IN SERVING THE PUBLIC PURPOSE AND SATISFYING THE LEGISLATIVE INTENT IS CONCLUSIVE IN A PROCEEDING THAT INVOLVES THE VALIDITY OR ENFORCEABILITY OF:

(1) AN AGREEMENT ENTERED INTO BY THE CORPORATION UNDER THIS SUBTITLE;

(2) A BOND; OR

(3) ANY SECURITY RELATING TO A BOND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–215.

In the introductory language of this section, the former references to a “suit [or] action” is deleted as included in the comprehensive references to a “proceeding”.

Defined terms: “Board” § 10–101

“Bond” § 10–101

“Corporation” § 10–101

10–113. ACCOUNTING; FISCAL YEAR.

(A) ACCOUNTING.

THE CORPORATION SHALL ESTABLISH A SYSTEM OF FINANCIAL ACCOUNTING, CONTROLS, AUDITS, AND REPORTS.

(B) FISCAL YEAR.

THE FISCAL YEAR OF THE CORPORATION BEGINS ON JULY 1 AND ENDS ON THE FOLLOWING JUNE 30.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–212(c).

Defined term: “Corporation” § 10–101

10–114. MONEY OF CORPORATION.

(A) FUNDS.

THE CORPORATION MAY CREATE AND ADMINISTER THE ACCOUNTS THAT IT REQUIRES.

(B) DEPOSIT OF MONEY.

THE CORPORATION SHALL DEPOSIT ITS MONEY INTO A STATE OR NATIONAL BANK OR A FEDERALLY INSURED SAVINGS AND LOAN ASSOCIATION THAT HAS A TOTAL PAID-IN CAPITAL OF AT LEAST \$1,000,000.

(C) DEPOSITORY DESIGNEES.

THE CORPORATION MAY DESIGNATE THE TRUST DEPARTMENT OF A STATE BANK, NATIONAL BANK, OR SAVINGS AND LOAN ASSOCIATION AS A DEPOSITORY TO RECEIVE SECURITIES THAT THE CORPORATION OWNS OR ACQUIRES.

(D) ALLOWED INVESTMENTS.

UNLESS AN AGREEMENT OR COVENANT BETWEEN THE CORPORATION AND THE HOLDERS OF ITS OBLIGATIONS LIMITS CLASSES OF INVESTMENTS, THE CORPORATION

MAY INVEST ITS MONEY IN BONDS OR OTHER OBLIGATIONS OF, OR GUARANTEED AS TO PRINCIPAL AND INTEREST BY, THE UNITED STATES, THE STATE, OR A GOVERNMENTAL UNIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–212(a) and (b).

In subsection (b) of this section, the former reference to a “State” insured savings and loan association is deleted as obsolete.

Defined terms: “Corporation” § 10–101

“Governmental unit” § 10–101

“State” § 9–101

10–115. POWERS — IN GENERAL.

THE CORPORATION MAY:

- (1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;
- (2) ADOPT A SEAL;
- (3) MAINTAIN OFFICES AT A PLACE IT DESIGNATES IN THE STATE;
- (4) ACCEPT LOANS, GRANTS, OR ASSISTANCE OF ANY KIND FROM THE FEDERAL GOVERNMENT, A GOVERNMENTAL UNIT, OR A PRIVATE SOURCE;
- (5) ENTER INTO CONTRACTS AND OTHER LEGAL INSTRUMENTS;
- (6) SUE AND BE SUED IN ITS OWN NAME;
- (7) ACQUIRE, PURCHASE, HOLD, LEASE AS LESSEE, AND USE ANY FRANCHISE, PATENT, OR LICENSE AND REAL, PERSONAL, MIXED, TANGIBLE, OR INTANGIBLE PROPERTY, OR ANY INTEREST IN PROPERTY, NECESSARY OR CONVENIENT TO CARRY OUT ITS PURPOSES;
- (8) SELL, LEASE AS LESSOR, TRANSFER, AND DISPOSE OF ITS PROPERTY OR INTEREST IN PROPERTY;
- (9) FIX AND COLLECT RATES, RENTALS, FEES, AND CHARGES FOR SERVICES AND FACILITIES IT PROVIDES OR MAKES AVAILABLE;
- (10) WITH THE OWNER'S PERMISSION, ENTER LANDS, WATERS, OR PREMISES TO MAKE A SURVEY, SOUNDING, BORING, OR EXAMINATION TO ACCOMPLISH A PURPOSE AUTHORIZED BY THIS SUBTITLE;
- (11) FURTHER DEFINE OR LIMIT THE TERM “REVENUES” DEFINED IN § 10–101 OF THIS SUBTITLE AS THE TERM APPLIES TO A PARTICULAR PROJECT, FINANCING, OR OTHER MATTER;
- (12) CREATE, OWN, CONTROL, OR BE A MEMBER OF A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, OR OTHER PERSON, WHETHER FOR–PROFIT OR NOT–FOR–PROFIT;

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(13) EXERCISE A POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN PERFORMING SIMILAR FUNCTIONS UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW; AND

(14) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS EXPRESSLY GRANTED BY THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5–205(1) through (6), (8), (9), (13), (14), and (16) through (18) and, as it authorized the Corporation to define or limit “revenues”, 5–201(i).

In item (5) of this section, the reference to “enter[ing]” into a contract is substituted for the former reference to “mak[ing], execut[ing], and enter[ing]” into a contract for brevity.

In item (8) of this section, the former phrase “at any time acquired by it” is deleted as unnecessary.

Defined terms: “Corporation” § 10–101

“Finance” § 10–101

“Governmental unit” § 10–101

“Person” §§ 9–101, 10–101

“Project” § 10–101

“Revenues” § 10–101

“State” § 9–101

10–116. POWERS — PROJECTS.

(A) IN GENERAL.

THE CORPORATION MAY:

(1) ACQUIRE, IMPROVE, DEVELOP, MANAGE, MARKET, MAINTAIN, LEASE AS LESSOR OR AS LESSEE, AND OPERATE A PROJECT IN THE STATE;

(2) ACQUIRE, DIRECTLY OR THROUGH A PERSON OR GOVERNMENTAL UNIT, BY PURCHASE, GIFT, OR DEVISE, PROPERTY, FRANCHISES, AND OTHER INTERESTS IN LAND, INCLUDING LAND LYING UNDER WATER AND RIPARIAN RIGHTS, LOCATED IN OR OUTSIDE THE STATE AS NECESSARY OR CONVENIENT TO IMPROVE OR OPERATE A PROJECT, ON TERMS AND AT PRICES THAT THE CORPORATION CONSIDERS REASONABLE;

(3) IF APPROVED BY RESOLUTION BY AT LEAST A TWO–THIRDS MAJORITY OF THE LEGISLATIVE BODY OF EACH GOVERNMENTAL UNIT IN WHICH THE PROPERTY IS LOCATED, ACQUIRE REAL PROPERTY OR RIGHTS OR EASEMENTS IN REAL PROPERTY FOR A PROJECT BY CONDEMNATION FOR PUBLIC USE IN ACCORDANCE WITH APPLICABLE LAW; AND

(4) MAKE LOANS TO A PERSON TO:

(I) FINANCE ALL OR A PART OF THE ACQUISITION OR IMPROVEMENT OF A PROJECT; AND

(II) REFUND OUTSTANDING BONDS, MORTGAGES, ADVANCES, LOANS, OR OTHER OBLIGATIONS OF THE PERSON TO FINANCE ALL OR PART OF THE ACQUISITION OR IMPROVEMENT OF A PROJECT.

(B) LIMITATION ON CONDEMNATION.

THE POWER OF CONDEMNATION OF THE CORPORATION UNDER SUBSECTION (A)(3) OF THIS SECTION MAY NOT EXCEED THE POWER OF CONDEMNATION OF THE GOVERNMENTAL UNIT IN WHICH THE PROPERTY IS LOCATED.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 8–205(7), (10), (11), and (15).

In subsection (a)(2) of this section, the former reference to property “whether real or personal, rights, rights-of-way, ... [and] easements,” is deleted as included in the comprehensive reference to “property”.

Also in subsection (a)(2) of this section, the former reference to “structures” is deleted as included in the comprehensive reference to “real or personal property”.

In the introductory language of subsection (a)(4) of this section and in subsection (a)(4)(ii) of this section, the former references to “persons” are deleted in light of the reference to a “person” and Art. 1, § 8, which provides that the singular generally includes the plural.

- Defined terms: “Bond” § 10–101
- “Corporation” § 10–101
- “Finance” § 10–101
- “Governmental unit” § 10–101
- “Improve” § 10–101
- “Improvement” § 10–101
- “Person” §§ 9–101, 10–101
- “Project” § 10–101
- “State” § 9–101

10–117. POWERS — DEBT.

THE CORPORATION MAY:

(1) BORROW MONEY AND ISSUE BONDS TO FINANCE ANY PART OF THE COST OF A PROJECT OR FOR ANY OTHER CORPORATE PURPOSE OF THE CORPORATION;

(2) SECURE THE PAYMENT OF ANY PORTION OF THE BORROWING BY PLEDGE OF OR MORTGAGE OR DEED OF TRUST ON PROPERTY OR REVENUES OF THE CORPORATION;

(3) COMBINE PROJECTS FOR FINANCING, MAKE AGREEMENTS WITH OR FOR THE BENEFIT OF THE BONDHOLDERS OR WITH OTHERS IN CONNECTION WITH THE ISSUANCE OR FUTURE ISSUANCE OF BONDS, AS THE CORPORATION CONSIDERS ADVISABLE; AND

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(4) OTHERWISE PROVIDE FOR THE SECURITY OF BONDS AND THE RIGHTS OF BONDHOLDERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–205(12).

In item (1) of this section, the reference to “a project” is substituted for the former reference to “any 1 or more projects” for brevity and in light of Art. 1, § 8, which provides that the singular generally includes the plural.

Defined terms: “Bond” § 10–101

“Corporation” § 10–101

“Cost” § 10–101

“Finance” § 10–101

“Project” § 10–101

10–118. BONDS — IN GENERAL.

(A) **RESOLUTION.**

THE CORPORATION MAY AUTHORIZE THE ISSUANCE OF REVENUE BONDS BY RESOLUTION.

(B) **TIMING.**

THE CORPORATION MAY ISSUE THE BONDS AT ONE TIME OR IN ONE OR MORE SERIES FROM TIME TO TIME.

(C) **TERMS AND CONDITIONS.**

THE CORPORATION SHALL DETERMINE:

(1) THE DATE OF THE BONDS;

(2) THE MATURITY DATES OF THE BONDS, WHICH MAY NOT EXCEED 40 YEARS FROM THE DATE OF ISSUE;

(3) THE INTEREST RATES ON THE BONDS;

(4) THE MEDIUM OF PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS;

(5) THE FORM OF THE BONDS;

(6) THE MANNER OF EXECUTING THE BONDS;

(7) THE DENOMINATIONS OF THE BONDS; AND

(8) THE PLACE AT WHICH THE PRINCIPAL OF AND INTEREST ON THE BONDS WILL BE PAYABLE, INCLUDING AT A BANK OR TRUST COMPANY IN OR OUTSIDE THE STATE.

(D) **VALIDITY OF SIGNATURE.**

AN OFFICER'S SIGNATURE OR FACSIMILE SIGNATURE ON A BOND REMAINS VALID EVEN IF THE OFFICER LEAVES OFFICE BEFORE THE BOND IS DELIVERED.

(E) NEGOTIABILITY.

(1) BETWEEN SUCCESSIVE HOLDERS, BONDS ARE NEGOTIABLE INSTRUMENTS UNDER TITLE 3 OF THE MARYLAND UNIFORM COMMERCIAL CODE.

(2) BONDS MAY BE REGISTRABLE.

(F) SALE.

(1) THE CORPORATION SHALL SELL THE BONDS BY COMPETITIVE OR NEGOTIATED SALE IN A MANNER AND FOR A PRICE THE CORPORATION DETERMINES TO BE IN ITS BEST INTERESTS.

(2) BONDS ARE EXEMPT FROM §§ 8-206 AND 8-208 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(G) ESCROW.

BOND PROCEEDS MAY BE PLACED IN ESCROW PENDING APPLICATION OF THE PROCEEDS TO THE PURPOSES FOR WHICH THE BONDS ARE ISSUED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-206(a), (b), and (d) through (g).

In subsection (a) of this section, the former phrase "for the purpose of financing or refinancing all or a part of the costs of a project, and for all other lawful corporate purposes of the Corporation set out in the subtitle" is deleted as redundant of § 10-117(1) of this subtitle.

In subsection (c)(3) of this section, the phrase "interest rates" is substituted for the former reference to the "interest rate or rates" in light of Art. 1, § 8 which provides that the plural generally includes the singular. Similarly, in subsection (c)(7) and (8) of this section, the former references to a "denomination" and to "places" are deleted in light of the references to "denominations" and a "place".

In subsection (e) of this section, the statement that bonds "are negotiable instruments" is substituted for the former statement that bonds "have and are hereby declared to have ... all the qualities and incidents of negotiable instruments" for brevity and clarity.

Also in subsection (e) of this section, the reference to "Title 3 of the Maryland Uniform Commercial Code" is substituted for the former reference to "the Negotiable Instruments Law of the Uniform Commercial Code of this State" for clarity.

Defined terms: "Bond" § 10-101
"Corporation" § 10-101

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“Cost” § 10–101

“Project” § 10–101

“State” § 9–101

10–119. BONDS — LEGAL INVESTMENTS.

BONDS ARE SECURITIES:

(1) IN WHICH ANY OF THE FOLLOWING PERSONS MAY LEGALLY AND PROPERLY INVEST MONEY, INCLUDING CAPITAL THAT THE PERSON OWNS OR CONTROLS:

(I) AN OFFICER OF A GOVERNMENTAL UNIT;

(II) A BANK, TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION, INVESTMENT COMPANY, OR OTHER PERSON OPERATING A BANKING BUSINESS;

(III) AN INSURANCE ASSOCIATION OR OTHER PERSON OPERATING AN INSURANCE BUSINESS;

(IV) A PERSONAL REPRESENTATIVE, GUARDIAN, TRUSTEE, OR OTHER FIDUCIARY; AND

(V) ANY OTHER PERSON; AND

(2) THAT MAY BE DEPOSITED WITH AND RECEIVED BY A GOVERNMENTAL UNIT OR ANY OFFICER OF THE STATE OR A GOVERNMENTAL UNIT FOR ANY PURPOSE FOR WHICH THE DEPOSIT OF BONDS OR OTHER OBLIGATIONS OF THE STATE IS AUTHORIZED BY LAW.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–209.

Defined terms: “Bond” § 10–101

“Corporation” § 10–101

“Governmental unit” § 10–101

“Person” §§ 9–101, 10–101

“State” § 9–101

10–120. BONDS — LIABILITY; FULL FAITH AND CREDIT.

(A) CONSTRUCTION OF SECTION.

(1) THIS SECTION DOES NOT PREVENT THE CORPORATION FROM PLEDGING ITS FULL FAITH AND CREDIT TO THE PAYMENT OF A BOND.

(2) THIS SECTION DOES NOT LIMIT THE ABILITY OF THE STATE OR A GOVERNMENTAL UNIT TO IMPOSE AND COLLECT AN ASSESSMENT, RATE, FEE, OR CHARGE TO PAY TO THE CORPORATION ANY COST, INCLUDING THE PRINCIPAL OF AND INTEREST ON A BOND, UNDER AN AGREEMENT BETWEEN THE CORPORATION AND THE STATE OR GOVERNMENTAL UNIT.

(B) LIABILITY LIMITATIONS.

(1) A BOND:

(I) IS NOT A DEBT, LIABILITY, OR A PLEDGE OF THE FULL FAITH AND CREDIT OF THE STATE OR A GOVERNMENTAL UNIT; AND

(II) IS PAYABLE SOLELY FROM REVENUES PROVIDED UNDER THIS SUBTITLE.

(2) THE ISSUANCE OF A BOND IS NOT DIRECTLY, INDIRECTLY, OR CONTINGENTLY A MORAL OR OTHER OBLIGATION OF THE STATE OR A GOVERNMENTAL UNIT TO LEVY OR PLEDGE ANY TAX OR TO MAKE AN APPROPRIATION TO PAY THE BOND.

(3) EACH BOND SHALL STATE ON ITS FACE THAT:

(I) NEITHER THE STATE NOR ANY GOVERNMENTAL UNIT IS OBLIGED TO PAY THE PRINCIPAL OF OR INTEREST ON THE BOND, EXCEPT FROM REVENUES PLEDGED TO PAYMENT OF THE BOND; AND

(II) NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR A GOVERNMENTAL UNIT IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BOND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–206(c).

In subsection (b)(1)(i) and (3) of this section, the former references to the liability of “the Corporation” are deleted as surplusage. The liability of the Corporation on a bond is governed by the particular bond issue and at the option of the Corporation. No substantive change is intended.

In subsection (b)(2) of this section, the former phrase “whatever therefor” is deleted as superfluous.

In subsection (b)(3) of this section, the references to “pay[ing] the principal of or interest on the bond” are substituted for the former reference to “the same or the interest on them” for clarity.

Defined terms: “Bond” § 10–101

“Corporation” § 10–101

“Governmental unit” § 10–101

“Revenues” § 10–101

“State” § 9–101

10–121. BONDS — TRUST AGREEMENT.

(A) CORPORATE TRUSTEE.

(1) THE CORPORATION MAY SECURE A BOND BY A TRUST AGREEMENT BETWEEN THE CORPORATION AND A CORPORATE TRUSTEE.

(2) A CORPORATE TRUSTEE MAY BE ANY TRUST COMPANY OR BANK THAT HAS THE POWERS OF A TRUST COMPANY IN OR OUTSIDE THE STATE.

(3) A CORPORATION OR TRUST COMPANY INCORPORATED IN THE STATE MAY:

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(I) ACT AS DEPOSITORY OF BOND PROCEEDS OR REVENUES; AND

(II) FURNISH AN INDEMNITY BOND OR PLEDGE SECURITY THAT THE CORPORATION REQUIRES.

(B) CONTENTS.

THE TRUST AGREEMENT OR THE RESOLUTION THAT PROVIDES FOR THE ISSUANCE OF A BOND MAY:

(1) STATE THE RIGHTS AND REMEDIES OF BONDHOLDERS AND ANY TRUSTEE;

(2) CONTAIN PROVISIONS TO PROTECT AND ENFORCE THE RIGHTS AND REMEDIES OF BONDHOLDERS;

(3) CONTAIN COVENANTS STATING THE DUTIES OF THE CORPORATION AS TO THE CUSTODY, SAFEGUARDING, AND APPLICATION OF MONEY;

(4) RESTRICT THE INDIVIDUAL RIGHTS OF ACTION OF BONDHOLDERS;

(5) PROVIDE FOR THE PAYMENT OF THE BOND PROCEEDS AND REVENUES TO AN OFFICER, BOARD, OR DEPOSITORY THAT THE CORPORATION DETERMINES WITH THE SAFEGUARDS AND RESTRICTIONS THAT THE CORPORATION DETERMINES; AND

(6) PROVIDE FOR THE METHOD OF DISBURSEMENT OF THE BOND PROCEEDS AND REVENUES, WITH THE SAFEGUARDS AND RESTRICTIONS THAT THE CORPORATION DETERMINES.

(C) EXPENSES.

EXPENSES INCURRED IN CARRYING OUT A TRUST AGREEMENT MAY BE TREATED AS PART OF THE COST OF OPERATION OF THE CORPORATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–206(1).

Throughout this section, the references to a trust “agreement” are substituted for the former obsolete references to a trust “indenture” for consistency within this article. *See* General Revisor’s Note to article.

In subsection (b)(6) of this section, the reference to disbursement “of the bond proceeds and revenues” is added for clarity.

Defined terms: “Bond” § 10–101

“Corporation” § 10–101

“Cost” § 10–101

“Revenues” § 10–101

“State” § 9–101

10–122. BONDS — INVESTMENT OF PROCEEDS.

(A) IN GENERAL.

THE PORTION OF THE PROCEEDS OF BONDS ISSUED TO PAY COSTS OF A PROJECT MAY BE INVESTED IN INVESTMENTS OR OTHER OBLIGATIONS THAT MATURE NO LATER THAN THE TIMES WHEN THE PROCEEDS WILL BE NEEDED.

(B) DECISION MAKING.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE CORPORATION SHALL DETERMINE THE INVESTMENT OF BOND PROCEEDS.

(2) IF THE CORPORATION LOANS THE PROCEEDS OF THE BONDS TO A PERSON AS PROVIDED IN § 10-125 OF THIS SUBTITLE, THE LOAN RECIPIENT SHALL DETERMINE THE INVESTMENT OF BOND PROCEEDS.

(C) USE.

THE CORPORATION OR THE LOAN RECIPIENT MAY APPLY EARNINGS AND PROFITS ON INVESTMENTS OR OTHER OBLIGATIONS:

- (1) TO THE PAYMENT OF ANY COST; OR
- (2) IN ANY OTHER LAWFUL MANNER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-206(i).

In subsections (b) and (c) of this section, the references to the "loan recipient" are added for clarity.

In subsection (c) of this section, the phrase "earnings and profits on investments or other obligations" is substituted for the former phrase "interest, income, and profits, if any, earned or realized on the investments or other obligations" for brevity.

Defined terms: "Bond" § 10-101
"Corporation" § 10-101
"Cost" § 10-101
"Person" §§ 9-101, 10-101

10-123. BONDS — REFUNDING BONDS.

(A) AUTHORIZATION.

(1) THE CORPORATION MAY ISSUE BONDS TO REFUND OUTSTANDING BONDS, INCLUDING PAYING:

- (I) ANY REDEMPTION PREMIUM;
- (II) INTEREST ACCRUED OR TO ACCRUE TO THE DATE OF REDEMPTION, PURCHASE, OR MATURITY OF THE BONDS; AND
- (III) IF CONSIDERED ADVISABLE BY THE CORPORATION, ANY PART OF THE COST OF A PROJECT.

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(2) REFUNDING BONDS MAY BE ISSUED FOR ANY CORPORATE PURPOSE, INCLUDING:

(I) REALIZING SAVINGS IN THE EFFECTIVE COSTS OF DEBT SERVICE, DIRECTLY OR THROUGH A DEBT RESTRUCTURING;

(II) ALLEVIATING AN IMPENDING OR ACTUAL DEFAULT; OR

(III) RELIEVING THE CORPORATION OF A CONTRACTUAL AGREEMENT THAT THE CORPORATION FINDS TO BE UNREASONABLY ONEROUS, IMPRACTICABLE, OR IMPOSSIBLE TO PERFORM.

(B) ISSUANCE; PAYMENT.

(1) THE CORPORATION MAY ISSUE REFUNDING BONDS IN ONE OR MORE SERIES IN AN AMOUNT GREATER THAN THE AMOUNT OF THE BONDS TO BE REFUNDED.

(2) (I) IN ADDITION TO OTHER SOURCES OF PAYMENT THAT THE CORPORATION DETERMINES, REFUNDING BONDS MAY BE PAYABLE FROM ESCROWED BOND PROCEEDS AND EARNINGS AND PROFITS ON INVESTMENTS.

(II) ESCROWED BOND PROCEEDS AND EARNINGS AND PROFITS ON INVESTMENTS USED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH CONSTITUTE REVENUES OF A PROJECT UNDER THIS SUBTITLE.

(C) PROCEEDS.

IN THE DISCRETION OF THE CORPORATION, THE PROCEEDS OF REFUNDING BONDS MAY BE:

(1) APPLIED TO THE PURCHASE, RETIREMENT AT MATURITY, OR REDEMPTION OF OUTSTANDING BONDS ON A DATE THE CORPORATION DETERMINES; AND

(2) PENDING APPLICATION UNDER ITEM (1) OF THIS SUBSECTION, PLACED IN ESCROW.

(D) INVESTMENT OF PROCEEDS.

(1) THE CORPORATION MAY INVEST ESCROWED REFUNDING BOND PROCEEDS IN INVESTMENTS AND OTHER OBLIGATIONS, MATURING ON APPROPRIATE DATES TO ASSURE THE PROMPT PAYMENT OF THE PRINCIPAL OF, INTEREST ON, AND ANY REDEMPTION PREMIUM ON THE BONDS TO BE REFUNDED.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE CORPORATION SHALL DETERMINE THE INVESTMENT OF THE PROCEEDS OF REFUNDING BONDS.

(II) IF THE CORPORATION LOANS THE PROCEEDS OF REFUNDING BONDS TO A PERSON AS PROVIDED IN § 10-125 OF THIS SUBTITLE, THE LOAN RECIPIENT SHALL DETERMINE THE INVESTMENT OF THE PROCEEDS OF REFUNDING BONDS.

(3) THE EARNINGS AND PROFITS ON INVESTMENTS OR OTHER OBLIGATIONS MAY BE APPLIED TO THE PAYMENT OF THE BONDS TO BE REFUNDED.

(4) AFTER THE TERMS OF THE ESCROW HAVE BEEN FULLY SATISFIED, THE BALANCE OF THE PROCEEDS AND EARNINGS AND PROFITS ON INVESTMENTS OR OTHER OBLIGATIONS MAY BE RETURNED TO THE CORPORATION OR THE LOAN RECIPIENT FOR USE IN ANY LAWFUL MANNER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–206(h).

In subsection (b)(2) of this section, the phrase “[e]scrowed bond proceeds and earnings and profits on investments used under subparagraph (i) of this paragraph” is substituted for the former phrase “[s]uch sources” for clarity.

In the introductory language to subsection (c) of this section, the phrase “refunding bonds” is substituted for the former reference to “bonds issued for the purpose of refunding outstanding bonds” for brevity.

In subsection (c)(2) of this section, the phrase “pending application under item (1) of this subsection” is substituted for the former phrase “to be applied to such purchase or retirement at maturity or redemption” for clarity and brevity.

In subsection (d)(1) of this section, the former reference to “reinvest[ing]” is deleted as included in the reference to “invest[ing]”.

In subsection (d)(2) of this section, the phrase “loan recipient” is substituted for the former word “person” for clarity.

Defined terms: “Bond” § 10–101

“Corporation” § 10–101

“Cost” § 10–101

“Person” §§ 9–101, 10–101

“Project” § 10–101

“Revenues” § 10–101

10–124. BONDS — ENFORCEMENT OF RIGHTS AND DUTIES.

EXCEPT TO THE EXTENT RIGHTS GRANTED BY THIS SUBTITLE ARE RESTRICTED BY RESOLUTION PASSED BEFORE THE ISSUANCE OF THE BONDS OR BY THE TRUST AGREEMENT, A HOLDER OF A BOND ISSUED UNDER THIS SUBTITLE OR A TRUSTEE UNDER A TRUST AGREEMENT MAY SUE TO:

(1) PROTECT AND ENFORCE RIGHTS UNDER THE LAWS OF THE STATE, THE RESOLUTION, OR THE TRUST AGREEMENT; AND

(2) ENFORCE AND COMPEL PERFORMANCE OF DUTIES BY THE CORPORATION OR ITS OFFICERS THAT THIS SUBTITLE, THE RESOLUTION, OR THE TRUST AGREEMENT REQUIRES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–208.

In the introductory language of this section, the former obsolete phrase

“either at law or in equity” is deleted to reflect the merger of law and equity effected by Md. Rule 2–301, which mandates “one form of action known as the ‘civil action’”. Similarly, in the introductory language of this section, the reference to “su[ing]” is substituted for the former phrase “by suit, action, mandamus, or other proceeding” for brevity and clarity.

Defined terms: “Bond” § 10–101

“Corporation” § 10–101

“State” § 9–101

10–125. PROJECT FINANCING.

(A) LOANS.

THE CORPORATION MAY:

(1) LEND OR OTHERWISE MAKE AVAILABLE THE PROCEEDS OF BONDS TO A PERSON TO FINANCE COSTS OF A PROJECT; AND

(2) ENTER INTO FINANCING AGREEMENTS, MORTGAGES, AND OTHER INSTRUMENTS THAT IT DETERMINES ARE NECESSARY OR DESIRABLE TO EVIDENCE OR SECURE THE LOAN.

(B) LEASES.

(1) THE LEASE FOR A PROJECT MAY REQUIRE OR AUTHORIZE THE LESSEE OR ANOTHER PERSON TO PURCHASE OR OTHERWISE ACQUIRE THE PROPERTY FOR CONSIDERATION THAT THE CORPORATION ESTABLISHES, WHEN:

(i) THE PRINCIPAL OF AND INTEREST ON THE BONDS THAT FINANCED THE COST OF THE PROJECT ARE PAID; OR

(ii) PROVISION SATISFACTORY TO THE CORPORATION IS MADE FOR THEIR PAYMENT.

(2) CONSIDERATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE NOMINAL.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–206(k).

Defined terms: “Bond” § 10–101

“Corporation” § 10–101

“Cost” § 10–101

“Finance” § 10–101

“Person” §§ 9–101, 10–101

“Project” § 10–101

10–126. RATES AND CHARGES.

(A) CHARGES FOR SERVICES.

THE CORPORATION MAY:

- (1) FIX AND COLLECT RATES OR CHARGES FOR ITS SERVICES;
- (2) ESTABLISH THE TERMS AND CONDITIONS FOR THE SERVICES; AND
- (3) CONTRACT WITH A PERSON FOR THE USE OF THE CORPORATION'S SERVICES.

(B) CHARGES NOT REGULATED.

THE RATES OR CHARGES OF THE CORPORATION ARE NOT SUBJECT TO SUPERVISION OR REGULATION BY A GOVERNMENTAL UNIT.

(C) USE OF EARNINGS.

SUBJECT TO ANY AGREEMENT, THE CORPORATION MAY APPLY THE RATES, CHARGES, AND OTHER REVENUES RECEIVED BY THE CORPORATION TO ANY LAWFUL PURPOSE.

(D) BENEFIT OF EARNINGS.

EXCEPT AS NECESSARY TO PAY DEBT SERVICE OR IMPLEMENT PROGRAMS OF THE CORPORATION, THE NET EARNINGS OF THE CORPORATION MAY NOT BENEFIT A PERSON OTHER THAN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–207.

In subsection (a)(2) of this section, the former reference to a “person, partnership, association, or corporation” is deleted as included in the defined term “person”.

In subsection (a)(3) of this section, the former reference to fixing “rates of charges for such use” is deleted as included in subsection (a)(1) of this section.

In subsection (c) of this section, the former references to a “resolution” and a “trust indenture” are deleted as included in the comprehensive reference to an “agreement”.

Defined terms: “Corporation” § 10–101

“Governmental unit” § 10–101

“Person” §§ 9–101, 10–101

“Revenues” § 10–101

“State” § 9–101

10–127. PLEDGE.

(A) ASSETS THAT MAY BE PLEDGED.

THE CORPORATION MAY PLEDGE OR ASSIGN:

- (1) ANY OF ITS REVENUES;
- (2) ANY OF ITS RIGHTS TO RECEIVE REVENUES;

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(3) MONEY AND SECURITIES IN ACCOUNTS ESTABLISHED TO SECURE A BOND; AND

(4) A LIEN OR SECURITY INTEREST GRANTED OR ASSIGNMENT MADE TO THE CORPORATION.

(B) STATUS.

A PLEDGE OR ASSIGNMENT:

(1) IS VALID AND BINDING AGAINST ANY PERSON HAVING A CLAIM AGAINST THE CORPORATION IN TORT, CONTRACT, OR OTHERWISE, REGARDLESS OF WHETHER THE PERSON HAS NOTICE OF THE PLEDGE OR ASSIGNMENT; AND

(2) HAS PRIORITY OVER THE CLAIM.

(C) CREATION.

A RESOLUTION, TRUST AGREEMENT, ASSIGNMENT, FINANCING AGREEMENT OR OTHER INSTRUMENT THAT CREATES A LIEN, SECURITY INTEREST, ASSIGNMENT, OR PLEDGE UNDER SUBSECTION (A) OF THIS SECTION:

(1) SHALL BE FILED IN THE RECORDS OF THE CORPORATION; BUT

(2) NEED NOT BE FILED OR RECORDED ELSEWHERE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–206(j).

In subsection (a)(4) of this section, the word “to” is substituted for the former incorrect word “by” for clarity and accuracy. No substantive change is intended.

Defined terms: “Bond” § 10–101

“Corporation” § 10–101

“Person” §§ 9–101, 10–101

“Revenues” § 10–101

10–128. TRANSFER OF REAL PROPERTY.

(A) TRANSFERABLE PROPERTY.

WITH THE APPROVAL OF THE LEGISLATIVE BODY OF EACH GOVERNMENTAL UNIT IN WHICH A PROJECT IS PROPOSED TO BE LOCATED, THE BOARD OF PUBLIC WORKS MAY CONVEY TO THE CORPORATION, FOR ECONOMIC DEVELOPMENT PURPOSES, ANY REAL PROPERTY, INCLUDING IMPROVEMENTS, THAT:

(1) WAS TRANSFERRED TO THE STATE, BY GIFT OR OTHERWISE FOR SUBSTANTIALLY BELOW MARKET VALUE, AS A VACANT OR UNDERUTILIZED INDUSTRIAL FACILITY OR SITE;

(2) HAS EXISTED FOR AT LEAST 10 YEARS; AND

(3) IS AT LEAST 10 ACRES.

(B) PURCHASE OPTION.

IF A PERSON WHO TRANSFERS PROPERTY DESCRIBED IN SUBSECTION (A)(1) OF THIS SECTION TO THE STATE OWNS PROPERTY ADJOINING THE TRANSFERRED PROPERTY, THE BOARD OF PUBLIC WORKS SHALL HAVE THE FIRST OPTION TO PURCHASE THE ADJOINING PROPERTY AT A PRICE DETERMINED WHEN THE ORIGINAL PROPERTY WAS TRANSFERRED.

(C) INSURANCE.

PROPERTY CONVEYED UNDER THIS SECTION MAY BE INSURED UNDER TITLE 9 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–213(b) through (d).

In subsection (b) of this section, the phrase “when the original property was transferred” is substituted for the former reference to “the time of the transfer” for clarity.

Former Art. 83A, § 5–213(a), which required the Board of Public Works to convey the “Fairchild Industries” property to the Corporation, is deleted as obsolete, since the Board of Public Works has complied.

Defined terms: “Corporation” § 10–101

“Governmental unit” § 10–101

“Project” § 10–101

“State” § 9–101

10–129. TAX STATUS.

(A) EXEMPTION.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE CORPORATION IS EXEMPT FROM ANY REQUIREMENT TO PAY TAXES OR ASSESSMENTS ON ITS PROPERTIES OR ACTIVITIES, OR ANY REVENUE FROM ITS PROPERTIES OR ACTIVITIES.

(B) PRIVATE ENTITIES.

PROPERTY THAT THE CORPORATION SELLS OR LEASES TO A PRIVATE ENTITY IS SUBJECT TO STATE AND LOCAL REAL PROPERTY TAXES FROM THE TIME OF THE SALE OR LEASE.

(C) BONDS.

THE BONDS OF THE CORPORATION, INCLUDING THE INTEREST ON THE BONDS, ARE FOREVER EXEMPT FROM ALL STATE AND LOCAL TAXES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–210.

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Defined terms: "Bond" § 10-101

"Corporation" § 10-101

"Revenues" § 10-101

"State" § 9-101

10-130. DORCHESTER COUNTY ECONOMIC DEVELOPMENT FUND.

(A) "FUND" DEFINED.

IN THIS SECTION, "FUND" MEANS THE DORCHESTER COUNTY ECONOMIC DEVELOPMENT FUND.

(B) ESTABLISHED.

THERE IS A DORCHESTER COUNTY ECONOMIC DEVELOPMENT FUND IN THE CORPORATION.

(C) NATURE OF FUND; ADMINISTRATION; INVESTMENT.

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

(2) THE CORPORATION SHALL MANAGE AND ADMINISTER THE FUND ON TERMS AND CONDITIONS ACCEPTABLE TO THE CORPORATION AND THE DEPARTMENT.

(3) THE COMPTROLLER SHALL ACCOUNT AND COLLECT FOR THE FUND AND DISBURSE THE REVENUES TO THE TRUSTEE MAINTAINING THE FUND FOR THE CORPORATION.

(4) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

(D) COMPOSITION.

THE FUND CONSISTS OF REVENUES FROM THE HOTEL SURCHARGE IMPOSED UNDER § 11-102(B) OF THE TAX - GENERAL ARTICLE.

(E) USE.

(1) THE FUND SHALL BE USED TO:

(I) COMPLETE THE CORPORATION PROJECT COMMONLY KNOWN AS THE CHESAPEAKE BAY CONFERENCE CENTER; AND

(II) SATISFY THE FULL AND FINAL SETTLEMENT OF PENDING CONSTRUCTION CLAIMS RELATED TO THE PROJECT AND ANY BONDS ISSUED IN CONNECTION WITH THOSE CLAIMS.

(2) THE FUND MAY BE PLEDGED BY THE CORPORATION TO PAY BONDS ISSUED TO SATISFY THE FULL AND FINAL SETTLEMENT OF PENDING CONSTRUCTION CLAIMS ON THE PROJECT.

REVISOR'S NOTE: Subsection (a) of this section is new language added to avoid repetition of the full title of the Dorchester County Economic Development Fund.

Subsections (b) and (c) of this section are new language derived without substantive changes from former Art. 83A, § 5–216.

In subsection (e)(2) of this section, the reference to claims “on the project” is added for clarity.

Defined terms: “Bond” § 10–101

“Corporation” § 10–101

“Department” § 9–101

“Project” § 10–101

10–131. AUDIT.

(A) IN GENERAL.

(1) AS SOON AS PRACTICAL AFTER THE CLOSE OF THE FISCAL YEAR, AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT SHALL AUDIT THE FINANCIAL BOOKS, RECORDS, AND ACCOUNTS OF THE CORPORATION.

(2) THE AUDIT SHALL INCLUDE REVENUE AND EXPENSE DETAIL FOR EACH OF THE OPERATING FACILITIES OF THE CORPORATION.

(3) THE CORPORATION SHALL SELECT AN ACCOUNTANT TO CONDUCT THE AUDIT WHO:

(i) IS LICENSED TO PRACTICE ACCOUNTANCY IN THE STATE;

(ii) IS EXPERIENCED AND QUALIFIED IN THE ACCOUNTING AND AUDITING OF PUBLIC ENTITIES; AND

(iii) DOES NOT HAVE A DIRECT OR INDIRECT PERSONAL INTEREST IN THE FISCAL AFFAIRS OF THE CORPORATION.

(4) (i) EXCEPT AS PROVIDED IN SUBPARAGRAPH (ii) OF THIS PARAGRAPH, ON OR BEFORE NOVEMBER 1 AFTER EACH FISCAL YEAR, THE ACCOUNTANT SHALL REPORT THE RESULTS OF THE AUDIT, INCLUDING THE ACCOUNTANT’S UNQUALIFIED OPINION OF THE PRESENTATION OF THE FINANCIAL POSITION OF THE FUNDS OF THE CORPORATION, INDIVIDUAL FINANCIAL DETAIL FOR EACH OF THE OPERATING FACILITIES OF THE CORPORATION, AND THE RESULTS OF THE FINANCIAL OPERATIONS OF THE CORPORATION.

(ii) IF THE ACCOUNTANT CANNOT EXPRESS AN UNQUALIFIED OPINION, THE ACCOUNTANT SHALL EXPLAIN IN DETAIL THE REASONS FOR THE QUALIFICATIONS, DISCLAIMERS, OR OPINIONS, INCLUDING RECOMMENDATIONS FOR CHANGES THAT COULD MAKE FUTURE UNQUALIFIED OPINIONS POSSIBLE.

(B) AUDIT BY STATE.

THE STATE MAY AUDIT THE BOOKS, RECORDS, AND ACCOUNTS OF THE CORPORATION.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–212(d) and (e).

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In subsection (a)(4)(i) of this section, the phrase “[e]xcept as provided in subparagraph (ii) of this paragraph” is added for clarity.

Defined terms: “Corporation” § 10–101
“State” § 9–101

10–132. ANNUAL REPORT.

(A) REQUIRED.

ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE CORPORATION SHALL SUBMIT A REPORT TO THE GOVERNOR, THE MARYLAND ECONOMIC DEVELOPMENT COMMISSION, AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(B) CONTENTS.

THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND FINANCIAL STATEMENT AND SUMMARIZE THE ACTIVITIES OF THE CORPORATION DURING THE PRECEDING FISCAL YEAR.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–212(f).

In subsection (a) of this section, the phrase “[o]n or before October 1 of each year” is substituted for the former phrase “[w]ithin the first 90 days of each fiscal year” for clarity and consistency within this article.

Defined term: “Corporation” § 10–101

GENERAL REVISOR’S NOTE TO SUBTITLE:

Former Art. 83A, § 5–211, which authorized the Treasurer to advance money to the Corporation and provided for its repayment, is deleted as obsolete because the transfer and repayment have occurred.

SUBTITLE 2. MARYLAND FOOD CENTER AUTHORITY.

10–201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection is new language derived without substantive change from the first sentence of former Art. 41, § 13–104.

The former phrase “and terms listed in this section and used in their place” is deleted as unnecessary.

The former phrase “unless the context shall indicate another or different meaning or intent” is deleted as a standard rule of statutory construction for defined terms.

(B) AUTHORITY.

“AUTHORITY” MEANS THE MARYLAND FOOD CENTER AUTHORITY.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 13–104(1).

(C) BOND.

“BOND” MEANS A BOND, NOTE, OR ANY OTHER OBLIGATION ISSUED UNDER THIS SUBTITLE.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the phrase “bond, note, or other obligation” and for consistency within this title.

(D) CENTER.

“CENTER” MEANS THE MARYLAND FOOD CENTER.

REVISOR’S NOTE: This subsection formerly was Art. 41, § 13–104(2).

No changes are made.

(E) COSTS.

“COSTS”, WITH RESPECT TO A DEVELOPMENT OR PROJECT, MEANS:

- (1) THE PURCHASE PRICE;
- (2) THE COST OF ANY PROPERTY, RIGHT, EASEMENT, AND FRANCHISE CONSIDERED NECESSARY TO CONSTRUCT AND ESTABLISH A DEVELOPMENT OR PROJECT;
- (3) THE COST OF RELOCATION OF WHOLESALE FOOD DEALERS OR TENANTS UNDER § 10–212 OF THIS SUBTITLE;
- (4) THE COST OF LABOR, MATERIALS, AND EQUIPMENT, INCLUDING EXPENSES OF RELOCATING PUBLIC UTILITY FACILITIES UNDER § 10–210 OF THIS SUBTITLE;
- (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) “FOOD” MEANS AGRICULTURAL AND OTHER EDIBLE FOOD PRODUCTS AND FLORICULTURAL AND HORTICULTURAL PRODUCTS.

(2) “FOOD” INCLUDES THE FOLLOWING:

(I) BUTTER;

(II) CHEESE;

(III) EGGS;

(IV) FRUITS;

(V) MEATS;

(VI) MEAT PRODUCTS;

- (VII) POULTRY;
- (VIII) SEAFOOD; AND
- (IX) VEGETABLES.

- (3) “FOOD” MAY BE IN PACKAGED OR FRESH FORM.
- (4) “FOOD” SHALL BE LIBERALLY CONSTRUED.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 13–104(6).

In the introductory language of paragraph (2) of this subsection, the former phrase “but not limited to” is deleted as unnecessary in light of Art. 1, § 30, which provides that the term “including” is used “by way of illustration, and not by way of limitation”.

Defined term: “Seafood” § 10–201

- (H) IMPROVE.

“IMPROVE” MEANS TO ADD, ALTER, CONSTRUCT, EQUIP, EXPAND, EXTEND, IMPROVE, INSTALL, RECONSTRUCT, REHABILITATE, REMODEL, OR REPAIR.

REVISOR’S NOTE: This subsection is new language added for brevity and clarity.

- (I) IMPROVEMENT.

“IMPROVEMENT” MEANS ADDITION, ALTERATION, CONSTRUCTION, EQUIPPING, EXPANSION, EXTENSION, IMPROVEMENT, INSTALLATION, RECONSTRUCTION, REHABILITATION, REMODELING, OR REPAIR.

REVISOR’S NOTE: This subsection is new language added for brevity and clarity.

- (J) PROJECT.

(1) “PROJECT” MEANS A FACILITY, OPERATION, OR PORTION OF A DEVELOPMENT THAT THE AUTHORITY UNDERTAKES TO FURTHER THE PURPOSES OF THIS SUBTITLE.

- (2) “PROJECT” INCLUDES:

- (I) 1. A MARKET;
- 2. A FOOD HANDLING, PROCESSING, STORAGE, OR DISTRIBUTION FACILITY; AND
- 3. A COMMERCIAL SEAFOOD FACILITY OR OPERATION;

(II) A FACILITY OR SERVICE ANCILLARY OR APPURTENANT TO A DEVELOPMENT OR A PROJECT THAT THE AUTHORITY DETERMINES WILL ENHANCE THE PUBLIC CONVENIENCE OR ATTRACTIVENESS OF THE DEVELOPMENT OR PROJECT, INCLUDING:

1. A BANK;
2. A PARKING OR OTHER TRANSPORTATION FACILITY;
3. A RESTAURANT;
4. A STORE; AND
5. ANY OTHER COMMERCIAL ENTERPRISE;

(III) LAND, STRUCTURES, EQUIPMENT, FURNISHINGS, RAIL OR MOTOR VEHICLES, BARGES, AND BOATS IN A DEVELOPMENT OR PROJECT;

(IV) PROPERTY AND RIGHTS IN A DEVELOPMENT OR PROJECT; AND

(V) LAND AND FACILITIES THAT ARE FUNCTIONALLY RELATED TO A DEVELOPMENT OR PROJECT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 13–104(7)(i) and (ii).

In the introductory language of paragraph (2) of this subsection, the former phrase “without limitation” is deleted as unnecessary in light of Art. 1, § 30, which provides that the term “including” is used “by way of illustration, and not by way of limitation”.

In paragraph (2)(ii) of this subsection, the word “will” is substituted for the former phrase “to be advisable” for brevity.

In paragraph (2)(iii) of this subsection, the former reference to “buildings” is deleted as included in the comprehensive reference to “structures”.

Also in paragraph (2)(iii) of this subsection, the former reference to “machinery” is deleted as redundant of the reference to “equipment”.

In paragraph (2)(iv) of this subsection, the former reference to “real or personal” property is deleted as included in the comprehensive reference to “property”.

Defined terms: “Authority” § 10–201

“Development” § 10–201

“Food” § 10–201

“Seafood” § 10–201

(K) SEAFOOD.

“SEAFOOD” INCLUDES EDIBLE AND INEDIBLE FISH AND SHELLFISH.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 13–104(8).

No changes are made.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that the definition of “seafood” in this subsection as including both “edible” and “inedible” seafood conflicts with the defined term “food”, which only includes “edible” seafood. The apparent intent of the inclusion of “inedible” seafood in this subsection is not to describe unintended by-catch and handling of inedible species. Rather, it is to recognize that a significant portion of the mass of processed edible seafood goes to waste in the form of shells, bone, scales, and other material that is not generally considered edible. No similar provision is made for inedible portions of other foods, such as coconut husks or banana peels. The General Assembly may wish to consider whether it is necessary to assert affirmatively that “seafood” is “food” even when its inedible supporting structures are discarded in food preparation.

REVISOR’S NOTE TO SECTION: Former Art. 41, § 13–104(4), which defined “current expenses” to mean certain reasonable and necessary expenses of the Authority, is deleted because the term is not used in this revision.

10–202. CONSTRUCTION AND PURPOSE OF SUBTITLE.

(A) CONSTRUCTION.

THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO ACCOMPLISH ITS PURPOSES.

(B) PURPOSE.

THE ESTABLISHMENT OF DEVELOPMENTS AND PROJECTS UNDER THIS SUBTITLE IS:

(1) FOR THE BENEFIT OF THE RESIDENTS OF THE STATE AND ITS POLITICAL SUBDIVISIONS; AND

(2) A PUBLIC PURPOSE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, § 13–119, as related to liberal construction, and the first clause of § 13–115.

Defined terms: “Development” § 10–201

“Project” § 10–201

“State” § 9–101

10–203. SCOPE OF SUBTITLE.

A DEVELOPMENT OR PROJECT UNDER THIS SUBTITLE MAY NOT INCLUDE THE DEVELOPMENT OF AN AQUACULTURE DEVELOPMENT OR PROJECT FOR THE COMMERCIAL RAISING OF FINFISH, SHELLFISH, OR AQUATIC PLANTS.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, § 13–104(7)(iii).

It is revised as a scope section rather than as an exception to a definition for clarity and accuracy.

Defined terms: "Development" § 10-201

"Project" § 10-201

10-204. LEGISLATIVE INTENT.

(A) MARKET DEVELOPMENT.

THE GENERAL ASSEMBLY FINDS THAT:

(1) (I) THE MARKETING OF FOOD IS A MATTER OF PUBLIC INTEREST AND THE MAINTENANCE OF WHOLESALE MARKET PLACES IS AND HAS ALWAYS BEEN RECOGNIZED AS A PUBLIC FUNCTION;

(II) PUBLIC HEALTH AND SAFETY ARE ADVERSELY AFFECTED BY THE UNSAFE, OBSOLETE, AND UNSANITARY CONDITIONS OF EXISTING FOOD MARKETS;

(III) THE VAST QUANTITIES OF FOOD AND RELATED FOOD PRODUCTS BROUGHT ANNUALLY FROM ALL PARTS OF THE UNITED STATES INTO THE WHOLESALE MARKETS IN THE STATE MUST PASS THROUGH MARKET FACILITIES THAT ARE OBSOLETE AND INADEQUATE TO MEET PRESENT NEEDS;

(IV) THE SCATTERED LOCATIONS OF AND DIFFICULTY OF ACCESS TO WHOLESALE MARKETS CONSTITUTE AN ECONOMIC LOSS, AND THE OBSOLESCENCE OF MARKETS IS RESPONSIBLE FOR MUCH OF THE HIGH COST OF FOOD HANDLING AND FOR DETERIORATION THAT TAKES PLACE BOTH IN THE WHOLESALE MARKETS AND BETWEEN THE MARKETS AND THE CONSUMER'S DOORSTEP;

(V) MODERN CONSOLIDATED FACILITIES WOULD RESULT IN AN ANNUAL SAVING; AND

(VI) THERE IS A NEED FOR A CONSOLIDATED WHOLESALE FOOD MARKET IN THE STATE, AND, IN SPITE OF THIS NEED, EFFORTS ON THE PART OF THE STATE, THE CITY OF BALTIMORE, THE WHOLESALE FOOD TRADE, GROWERS, AND THE TRANSPORTATION INDUSTRY HAVE FAILED TO EFFECT THE CONSOLIDATION OF WHOLESALE MARKETS SATISFACTORILY;

(2) (I) CONSTRUCTING, OPERATING, AND MAINTAINING WHOLESALE MARKETS, AND IN PARTICULAR A CONSOLIDATED MARKET FOR THE STATE, WOULD REQUIRE THE EXPENDITURE OF A LARGE SUM OF MONEY; AND

(II) THE FINANCIAL SYSTEMS OF THE POLITICAL SUBDIVISIONS OF THE STATE ARE NOT DESIGNED TO UNDERTAKE PROJECTS DESCRIBED UNDER ITEM (I) OF THIS ITEM ON A NOT-FOR-PROFIT, SELF-LIQUIDATING BASIS, AND THE BEST METHOD OF CREATING A MARKET IS TO ESTABLISH AND AUTHORIZE A MARKET AUTHORITY AS A PUBLIC CORPORATION TO:

1. ACQUIRE LAND FOR A MARKET DEVELOPMENT;
2. CONSTRUCT AND OPERATE A MARKET DEVELOPMENT; AND
3. MAKE LOANS TO AND OTHERWISE ASSIST PERSONS ENGAGED IN THE WHOLESALE FOOD INDUSTRY WHO WANT TO LOCATE IN A MARKET DEVELOPMENT;

(3) IT IS IN THE PUBLIC INTEREST TO:

(I) ELIMINATE OR CORRECT THE CONDITIONS DESCRIBED IN ITEM (1) OF THIS SUBSECTION REGARDING THE MARKETING OF FOOD; AND

(II) ESTABLISH AN ECONOMICAL AND MODERN METHOD OF MARKETING WHOLESALE FOOD IN THE STATE BY CONSTRUCTING A MODERN, SANITARY, AND ACCESSIBLE MARKET DEVELOPMENT THAT MAY INCLUDE:

1. WAREHOUSE FACILITIES USED BY WHOLESALERS OR RETAILERS PRINCIPALLY ENGAGED IN THE SALE OF FOOD AND USED FOR STORAGE OF FOOD AND BEVERAGES AND NONFOOD PRODUCTS SOLD FROM TIME TO TIME IN CONNECTION WITH THE SALE OF FOOD AT RETAIL; AND

2. ANY ANCILLARY OR APPURTENANT FACILITY THAT THE AUTHORITY DETERMINES WILL ENHANCE THE PUBLIC CONVENIENCE OR ATTRACTIVENESS OF THE MARKET DEVELOPMENT INCLUDING:

- A. A BANK;
- B. A PARKING OR OTHER TRANSPORTATION FACILITY;
- C. A RESTAURANT;
- D. A STORE; OR
- E. ANY OTHER COMMERCIAL ENTERPRISE; AND

(4) (I) THERE EXISTS A NEED AND THE OPPORTUNITY TO CAPITALIZE ON THE VAST RESOURCES OF FINFISH AND SHELLFISH THAT CAN BE FOUND IN THE STATE'S COASTAL WATERS;

(II) DEVELOPMENT OF THE SEAFOOD INDUSTRY ON THE EASTERN SHORE COULD:

- 1. PROVIDE AN OPPORTUNITY FOR THE STATE TO CAPITALIZE ON THESE RESOURCES;
- 2. CREATE NEW JOBS; AND
- 3. PRODUCE OTHER ECONOMIC BENEFIT TO THE STATE;

(III) A CENTRALIZED SEAFOOD PROJECT IS NEEDED FOR THE DEVELOPMENT OF THESE RESOURCES AND RESULTING ECONOMIC BENEFIT; AND

(IV) THE DEVELOPMENT OF THE PROJECT AND THESE RESOURCES WOULD BE IN THE PUBLIC INTEREST AND CAN BEST BE ACCOMPLISHED THROUGH THE AUTHORITY.

(B) ISSUANCE OF BONDS.

THE GENERAL ASSEMBLY FINDS THAT IT IS DESIRABLE THAT, WHEN SUFFICIENT REVENUE WILL BE DERIVED FROM THE OPERATION OF A PROJECT OR DEVELOPMENT TO AMORTIZE ITS COST WITHIN A REASONABLE PERIOD, THE COST BE DEFRAYED IF

PRACTICABLE BY ISSUING BONDS OR OTHER DEBT INSTRUMENTS PAYABLE FROM THE REVENUE DERIVED FROM PROJECT OPERATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13–102.

Throughout this section, the phrase “finds that” is substituted for the former phrase “makes the following declarations as a statement of its legislative intent in the enactment of this subtitle” for brevity and to conform to similar provisions in other revised articles of the Code.

In subsection (a)(1)(ii) of this section, the former reference to “citizens of Maryland” is deleted as included in the reference to “public” health and because the meaning of the term “citizens” in this context is unclear. *See* General Revisor’s Note to article.

In the introductory language of subsection (a)(2)(ii) of this section, the former phrase “the function of which would be” is deleted as unnecessary.

In subsection (a)(2)(ii)3 of this section, the former reference to “aid[ing]” is deleted as implicit in the reference to “assist[ing]”.

In subsection (a)(3)(i) of this section, the phrase “described in this section regarding the marketing of food” is substituted for the former term “these” for clarity.

Defined terms: “Authority” § 10–201

“Bonds” § 10–201

“Development” § 10–201

“Food” § 10–201

“Project” § 10–201

“Seafood” § 10–201

“State” § 9–101

10–205. ESTABLISHED.

(A) IN GENERAL.

THERE IS A MARYLAND FOOD CENTER AUTHORITY.

(B) STATUS.

THE AUTHORITY IS A BODY POLITIC AND CORPORATE AND AN INSTRUMENTALITY OF THE STATE.

(C) ESSENTIAL GOVERNMENTAL FUNCTION.

THE EXERCISE BY THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR THE AUTHORITY OF A POWER UNDER THIS SUBTITLE IS THE PERFORMANCE OF AN ESSENTIAL GOVERNMENTAL FUNCTION.

(D) COMPOSITION; APPOINTMENT OF MEMBERS.

(1) THE AUTHORITY CONSISTS OF 12 MEMBERS.

(2) (I) EACH MEMBER SHALL BE A RESIDENT OF THE STATE.

(II) ONE MEMBER SHALL RESIDE IN HOWARD COUNTY.

(3) OF THE 12 MEMBERS:

(I) FOUR SHALL BE EX OFFICIO MEMBERS:

1. THE DIRECTOR OF AGRICULTURAL EXTENSION;

2. THE COMPTROLLER;

3. THE SECRETARY OF AGRICULTURE; AND

4. THE SECRETARY OF GENERAL SERVICES; AND

(II) EIGHT SHALL BE OUTSTANDING RESIDENTS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

(E) TENURE; VACANCIES.

(1) THE TERM OF AN APPOINTED MEMBER IS 5 YEARS.

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

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

(F) REMOVAL.

(1) THIRTY DAYS AFTER GIVING WRITTEN NOTICE TO THE MEMBER, THE GOVERNOR MAY REMOVE AN APPOINTED MEMBER FOR INEFFICIENCY, NEGLECT, OR MISCONDUCT.

(2) THE MEMBER IS ENTITLED TO A HEARING BEFORE THE GOVERNOR, IF A WRITTEN REQUEST FOR A HEARING IS MADE TO THE GOVERNOR NO LATER THAN 10 DAYS AFTER RECEIVING THE NOTICE.

(3) IF A MEMBER IS REMOVED, THE GOVERNOR SHALL PROMPTLY APPOINT A SUCCESSOR.

(G) OFFICERS.

(1) FROM AMONG ITS MEMBERS, THE AUTHORITY SHALL ELECT A CHAIR AND A VICE CHAIR.

(2) THE AUTHORITY SHALL ELECT A SECRETARY—TREASURER WHO NEED NOT BE A MEMBER OF THE AUTHORITY.

(H) MEETINGS.

(1) THE AUTHORITY SHALL MEET AT LEAST QUARTERLY.

(2) AT LEAST 10 DAYS BEFORE EACH MEETING, WRITTEN NOTICE OF THE MEETING SHALL BE GIVEN TO EACH MEMBER OF THE AUTHORITY.

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(I) **QUORUM.**

SEVEN MEMBERS OF THE AUTHORITY ARE A QUORUM.

(J) **VOTING.**

(1) A MAJORITY VOTE OF THE MEMBERS PRESENT AT A MEETING HAVING A QUORUM IS NEEDED FOR THE AUTHORITY TO ACT.

(2) AN EX OFFICIO VOTING MEMBER MAY DESIGNATE ANOTHER INDIVIDUAL TO VOTE IN THAT MEMBER'S ABSENCE.

(K) **COMPENSATION; REIMBURSEMENT FOR EXPENSES.**

(1) THE AUTHORITY MAY PAY AN APPOINTED MEMBER UP TO \$1,000 A YEAR ON A PER DIEM BASIS FOR SERVICES.

(2) A MEMBER OF THE AUTHORITY IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS.

(3) REIMBURSEMENT AND COMPENSATION UNDER THIS SUBSECTION MAY ONLY BE PAID FROM MONEY PROVIDED UNDER THIS SUBTITLE.

(L) **RULES AND REGULATIONS.**

THE AUTHORITY SHALL ADOPT RULES AND REGULATIONS NECESSARY FOR THE CONDUCT OF ITS AFFAIRS.

REVISOR'S NOTE: Subsections (a), (b), (c), (d), (e)(1), (e)(3) through (5), and (f) through (l) of this section are new language derived without substantive change from former Art. 41, § 13–103, the introductory language of § 13–105, as it related to the perpetual existence of the Authority, and § 13–115, as it related to the exercise of powers conferred under this subtitle.

In subsection (a) of this section, the former phrase “[t]he Authority shall have perpetual existence” is deleted as redundant of the establishment of the Authority without a termination provision, and with § 10–208(a)(10) of this subtitle, which provides that the Authority exercises any power that a private corporation performing similar functions usually possesses, construed in conjunction with CA § 2–103(1), which provides that a corporation has perpetual existence unless its charter specifically provides for its termination.

In subsection (b) of this section, the former reference to a “public corporation” is deleted as implicit in the reference to a “body politic and corporate”.

Subsection (g)(2) of this section is revised to clarify that the secretary–treasurer “need not be” a member of the Authority.

In subsection (j) of this section, the reference to action being taken by the Authority by majority vote of the members “present” is added for clarity and consistency with the common law rule. *See* McQuillen, *Municipal*

Corporations §§ 13.27, 13.30 (3rd ed. rev'd).

Also in subsection (j) of this section, the former reference to each voting member having “one vote” is deleted as an unnecessary restatement of the common law rule. *See* McQuillen, *Municipal Corporations* §§ 13.27, 13.30 (3rd ed. rev'd). Similarly, the reference to “ex officio” members having a vote is deleted. The method of appointing members and their right to vote are not related. No substantive change is intended.

Subsection (k)(2) of this section is restated in standard language used to describe the reimbursement for expenses of members of the Authority.

Subsection (l) of this section is restated in standard language for consistency within this article.

The first sentence of former Art. 41, § 13–103(c), which required that “[i]mmediately after appointment, the members ... shall enter upon their duties” is deleted as implicit.

The fifth sentence of former Art. 41, § 13–103(c), which stated that “[n]o vacancy ... impairs the right of a quorum” is deleted as an unnecessary restatement of the common-law rule. *See* General Revisor’s Note to article.

Defined terms: “Authority” § 10–201
“State” § 9–101

10–206. STAFF; AGENTS.

THE AUTHORITY MAY EMPLOY OR RETAIN OFFICERS, STAFF, AND AGENTS, INCLUDING ENGINEERING, ARCHITECTURAL, FISCAL, AND CONSTRUCTION EXPERTS AND ATTORNEYS, AND SET THEIR COMPENSATION.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, § 13–105(9).

The former reference to “dismiss[ing]” officers, agents, and employees is deleted as implicit in the authority to “employ” them.

The former phrase “but not limited to” is deleted as unnecessary in light of Art. 1, § 30, which provides that the term “including” is used “by way of illustration and not by way of limitation”.

Defined term: “Authority” § 10–201

10–207. APPLICABILITY OF LAWS.

(A) STATE FINANCE AND PROCUREMENT LAWS; CONSENTS, PROCEDURES, AND CONDITIONS.

EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE AUTHORITY:

(1) IS NOT SUBJECT TO THE FOLLOWING PROVISIONS OF THE STATE FINANCE AND PROCUREMENT ARTICLE:

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(I) TITLE 2, SUBTITLES 4 (WATER AND SEWERAGE SYSTEMS) AND 5 (FACILITIES FOR THE HANDICAPPED);

(II) TITLE 4, SUBTITLES 7 (STATE BOARD OF ARCHITECTURAL REVIEW) AND 8 (ENERGY);

(III) §§ 5A-304 AND 5A-305 (HISTORIC LANDMARKS; CERTAIN ARCHITECTURAL EASEMENTS);

(IV) § 7-114.1 (ARCHEOLOGICAL COSTS);

(V) §§ 8-127, 8-128, AND 8-129 (CERTAIN RESTRICTIONS ON STATE GENERAL OBLIGATION DEBT);

(VI) PART V OF TITLE 8, SUBTITLE 1 (STATE REVENUE ANTICIPATION NOTES);

(VII) TITLE 10 (BOARD OF PUBLIC WORKS – MISCELLANEOUS PROVISIONS); AND

(VIII) DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE (GENERAL PROCUREMENT LAWS); AND

(2) MAY CONSTRUCT DEVELOPMENTS AND PROJECTS WITHOUT OBTAINING THE CONSENT OF ANY OTHER UNIT OF STATE GOVERNMENT AND WITHOUT ANY PROCEEDING, THE SATISFACTION OF ANY CONDITION, OR THE OCCURRENCE OF ANY EVENT.

(B) MINORITY BUSINESS PARTICIPATION.

(1) IN CARRYING OUT ITS DUTIES RELATING TO DEVELOPMENTS AND PROJECTS, THE AUTHORITY SHALL COMPLY WITH TITLE 14, SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE (MINORITY BUSINESS PARTICIPATION).

(2) THE AUTHORITY SHALL TAKE AFFIRMATIVE STEPS TO INCLUDE MINORITY BUSINESSES IN ITS MARKETS TO AT LEAST THE SAME EXTENT AS APPLICABLE TO A PROCUREMENT SUBJECT TO TITLE 14, SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(C) STATE HEALTH LAWS.

A DEVELOPMENT OR PROJECT IS SUBJECT TO APPLICABLE STATE HEALTH LAWS AND REGULATIONS OF THE SECRETARY OF HEALTH AND MENTAL HYGIENE.

(D) ZONING; LICENSES AND PERMITS.

(1) A DEVELOPMENT OR PROJECT IS SUBJECT TO ALL ZONING AND SUBDIVISION REGULATIONS OF THE POLITICAL SUBDIVISION IN WHICH THE DEVELOPMENT OR PROJECT IS LOCATED.

(2) IF REQUIRED BY THIS SUBTITLE, THE AUTHORITY SHALL:

(I) OBTAIN ANY APPLICABLE LICENSES AND PERMITS FROM THE POLITICAL SUBDIVISION WHERE A DEVELOPMENT OR PROJECT IS LOCATED; AND

(II) FOLLOW ANY REQUIRED PROCEDURES.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 41, § 13–105(3)(i), as it related to exemption from certain State and local requirements and to the applicability of certain licensing, procurement, health, and land–use provisions to the Authority, and, except as it related to the perpetual existence of the Authority, the introductory language of § 13–105.

In subsection (a)(2) of this section, the former phrase “[other] than those proceedings, conditions, or things which are specifically required by this subtitle” is deleted in light of the introductory language of this subsection.

In subsection (b)(1) of this section, the former reference to “responsibilities” is deleted in light of the reference to “duties”.

Also in subsection (b)(1) of this section, the former requirement for the Authority to comply with “the minimum minority business participation requirements enumerated [in SF Title 14, Subtitle 3]” is deleted as redundant of the requirement to comply with that entire subtitle and in light of the fact that SF Title 14, Subtitle 3 requires certain minimum percentages of procurement contracts to be made to specified minority business enterprises rather than requiring their “participation” in a market.

In subsection (c) of this section, the reference to applicable “provisions of the State health laws and ... regulations of” the Secretary of Health and Mental Hygiene is substituted for the former reference to applicable “laws and regulations of” the Secretary of Health and Mental Hygiene for accuracy. While the Secretary adopts regulations, statutory laws of the State are enacted by the General Assembly.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that in subsection (c) of this section, some provisions of the “State health laws” as they existed in 1967 when the Authority was first enacted have since been transferred to the Department of the Environment and the Department of Natural Resources. This is especially true in the areas of toxic substances and water quality. The General Assembly may wish to consider adding references to those departments in subsection (c) of this section, as well as reviewing the scope of State and local permitting and construction requirements with which the Authority must comply under this section.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that subsection (d)(2) of this section, which provides that “[i]f required by this subtitle, the Authority shall ... obtain any applicable licenses and permits ... follow any required procedures” is either redundant if it repeats a requirement that is stated elsewhere in this subtitle, or is meaningless if the requirement is not stated elsewhere in this subtitle. The remainder of the section states all

the other requirements for development approvals and other external matters that apply to the Authority, particularly including State health laws and local land use regulations. The General Assembly may wish to consider repealing subsection (d)(2) of this section to eliminate this source of confusion.

Defined terms: “Authority” § 10–201

“Development” § 10–201

“Project” § 10–201

“State” § 9–101

10–208. MONEY OF AUTHORITY.

(A) INVESTMENT AUTHORIZED.

THE MONEY OF THE AUTHORITY MAY BE INVESTED.

(B) INCOME FROM INVESTMENT.

ANY INCOME FROM THE INVESTMENT OF MONEY OF THE AUTHORITY SHALL BE CREDITED TO THE AUTHORITY.

REVISOR’S NOTE: This section is new language derived without substantive change from the second and third clauses of former Art. 41, § 13–105(10).

In subsection (a) of this section, the former reference to “funds” of the Authority is deleted in light of the reference to “money” of the Authority.

In subsection (b) of this section, the reference to income from “the investment of money of the Authority” is substituted for the former reference to income from “any investments” for clarity.

Also in subsection (b) of this section, the former reference to any “interest earned and all other” income is deleted as surplusage.

Defined term: “Authority” § 10–201

10–209. POWERS AND DUTIES — IN GENERAL.

(A) POWERS — IN GENERAL.

THE AUTHORITY MAY:

(1) SUE AND BE SUED;

(2) ADOPT A SEAL;

(3) ACQUIRE, HOLD, AND DISPOSE OF PROPERTY FOR ITS CORPORATE PURPOSES;

(4) SELL, LEASE, OR OTHERWISE CONVEY, IN ANY MANNER THAT THE AUTHORITY CONSIDERS APPROPRIATE, ANY PROPERTY IT OWNS TO ACCOMPLISH THE PURPOSES OF THIS SUBTITLE;

(5) ENTER INTO CONTRACTS AND LEASES, INCLUDING CONTRACTS OR LEASES RELATING TO THE CONSTRUCTION, OPERATION, MAINTENANCE, MANAGEMENT, AND USE OF DEVELOPMENTS AND PROJECTS, CONCESSIONS, STALLS, AUCTION HOUSES, DOCKING FACILITIES, AND OTHER FACILITIES, AND EXECUTE ANY INSTRUMENT NECESSARY OR CONVENIENT, ON THE TERMS AND FOR ANY CORPORATE PURPOSE THAT THE AUTHORITY CONSIDERS ADVISABLE;

(6) ISSUE BONDS IN ACCORDANCE WITH THIS SUBTITLE;

(7) USE THE PROCEEDS OF THE BONDS, OTHER MONEY AVAILABLE UNDER THIS SUBTITLE, OR ANY GRANT OR MONEY FROM THE STATE OR FEDERAL GOVERNMENT OR ANY OF THEIR UNITS OR INSTRUMENTALITIES TO ACCOMPLISH THE PURPOSES OF THIS SUBTITLE;

(8) BORROW MONEY FOR A CORPORATE PURPOSE AND MORTGAGE OR OTHERWISE ENCUMBER ITS PROPERTY AS SECURITY FOR THE LOAN;

(9) ACCEPT GIFTS, CONTRIBUTIONS, OR LOANS OF MONEY, SUPPLIES, GOODS, AND SERVICES, AND ACCEPT APPROPRIATIONS, ALLOTMENTS, AND LOANS OF MONEY FROM THE STATE OR FEDERAL GOVERNMENT, A FEDERAL CORPORATION, A UNIT OR INSTRUMENTALITY OF THE FEDERAL GOVERNMENT, OR A POLITICAL SUBDIVISION OR INSTRUMENTALITY OF THE STATE;

(10) EXERCISE A POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN PERFORMING SIMILAR FUNCTIONS UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW;

(11) DREDGE APPROACHES AND ACQUIRE, CONSTRUCT, MAINTAIN, EQUIP, AND OPERATE WHARVES, DOCKS, PIERS, AND OTHER STRUCTURES, AND ANY FACILITIES NECESSARY FOR COMMERCE; AND

(12) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS EXPRESSLY GRANTED BY THIS SUBTITLE.

(B) DELEGATION OF POWERS AND DUTIES.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE AUTHORITY MAY DELEGATE ANY POWER OR DUTY IT CONSIDERS APPROPRIATE TO A MEMBER, AN OFFICER, AN AGENT, OR AN EMPLOYEE OF THE AUTHORITY.

(2) A CONTRACT IS NOT BINDING ON THE AUTHORITY UNLESS IT IS APPROVED OR AUTHORIZED BY A MAJORITY OF THE MEMBERS OF THE AUTHORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13-105(1), (2), (6), (11), (12), (13), and (15), the first clause of (4), the first clause of the first sentence of (7), the first clause of (10), and the introductory language of § 13-105, the second sentence of § 13-103(a) and the third sentence of (d), and, except as it related to the construction of this subtitle, § 13-119.

In subsection (a)(1) of this section, the former phrase “implead and be impleaded, and complain and defend in all courts” is deleted as included in the comprehensive reference to the authority to “sue and be sued”.

In subsection (a)(2) of this section, the former reference to “alter[ing]” a seal is deleted as implicit in the authority to “adopt” a seal.

Also in subsection (a)(2) of this section, the former phrase “at its pleasure” is deleted as implicit in the general grant of authority given to the Authority in that provision.

In subsection (a)(3) of this section, the former reference to “real or personal” property is deleted as included in the comprehensive reference to “property”. Similarly, in subsection (a)(4) of this section, the former reference to “land” is deleted as included in the comprehensive reference to “property”. *See* General Revisor’s Note to article.

In subsection (a)(4) of this section, the former reference to property “now or hereafter” owned by the Authority is deleted as surplusage.

In subsection (a)(7) and (9) of this section, the references to “money” are substituted for the former references to “funds” for consistency within this article and with other revised articles. Similarly, in subsection (a)(7) of this section, the reference to “money” is substituted for the former reference to “proceeds”. *See* General Revisor’s Note to article.

Also in subsection (a)(7) and (9) of this section, the term “unit[s]” is substituted for the former term “agency” for consistency within this article and with other revised articles of the Code. *See* General Revisor’s Note to article.

In subsection (b)(1) of this section, the reference to “a member” is substituted for the former reference to “one or more ... members” for consistency with the style used in this and other revised articles of the Code. Art. 1, § 8 provides that the singular generally includes the plural.

Defined terms: “Authority” § 10–201

“Bond” § 10–201

“Development” § 10–201

“Project” § 10–201

“State” § 9–101

10–210. POWERS AND DUTIES — RULES AND REGULATIONS.

(A) ADOPTION.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE AUTHORITY MAY ADOPT RULES AND REGULATIONS RELATING TO:

(1) THE USE OF STREETS, ALLEYS, DRIVEWAYS, AND DOCKING SLIPS ON THE AUTHORITY’S PROPERTY;

(2) THE ESTABLISHMENT OF PARKING AREAS ON THE AUTHORITY’S PROPERTY; AND

(3) THE SAFETY AND WELFARE OF PERSONS USING THE AUTHORITY’S PROPERTY.

(B) LIMITATION.

THE RULES AND REGULATIONS THAT THE AUTHORITY ADOPTS MAY NOT BE INCONSISTENT WITH THE LAWS GOVERNING THE POLITICAL SUBDIVISION IN WHICH A DEVELOPMENT IS LOCATED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13–105(14) and, except as it related to the perpetual existence of the Authority, the introductory language of § 13–105.

In subsection (a) of this section, the introductory language, “[s]ubject to subsection (b) of this section”, is added to reflect the limitation on the Authority’s power to adopt rules and regulations.

In the introductory language of subsection (a) of this section, the former reference to adopting “reasonable” regulations is deleted as unnecessary in light of the comprehensive provisions governing the adoption of regulations set forth in Title 10, Subtitle 1 of the State Government Article.

In subsection (a)(1) of this section, the reference to streets, alleys, driveways, and docking slips “on the Authority’s property” is added to clarify the scope of the Authority’s authority to adopt rules and regulations under subsection (a)(1) of this section, and for consistency with subsection (a)(2) and (3) of this section.

In subsection (b) of this section, the requirement that rules and regulations “not be inconsistent” with certain laws is substituted for the former requirement that rules and regulations “[be] made in accordance” with certain laws for accuracy.

Also in subsection (b) of this section, the phrase “political subdivision” is substituted for the former phrase “local jurisdiction” for accuracy and consistency within this subtitle.

Defined terms: “Authority” § 10–201

“Development” § 10–201

“Person” § 1–101

10–211. POWERS AND DUTIES — PROPERTY.

(A) ACQUISITION — IN GENERAL.

THE AUTHORITY MAY ACQUIRE IN ITS OWN NAME PROPERTY, FRANCHISES, AND LICENSES BY:

(1) PURCHASE ON TERMS AND CONDITIONS AND IN THE MANNER THE AUTHORITY CONSIDERS APPROPRIATE; OR

(2) CONDEMNATION FOR PUBLIC USE IN ACCORDANCE WITH APPLICABLE LAW.

(B) ACQUISITION — PROPERTY OWNED BY POLITICAL SUBDIVISION.

(1) IF THE AUTHORITY CONSIDERS IT EXPEDIENT TO ESTABLISH OR CONSTRUCT A DEVELOPMENT OR PROJECT ON ANY LAND, STREET, ALLEY, OR PUBLIC PLACE THAT IS OWNED BY A POLITICAL SUBDIVISION, THE POLITICAL SUBDIVISION MAY:

(i) LEASE THE LAND, STREET, ALLEY, OR PUBLIC PLACE TO THE AUTHORITY ON TERMS AGREED TO BY THE AUTHORITY AND THE POLITICAL SUBDIVISION; OR

(ii) CONVEY TITLE TO THE LAND, STREET, ALLEY, OR PUBLIC PLACE TO THE AUTHORITY ON PAYMENT TO THE POLITICAL SUBDIVISION OF THE REASONABLE VALUE OF THE PROPERTY, AS DETERMINED BY THE AUTHORITY AND THE POLITICAL SUBDIVISION, IN CASH OR BONDS OF THE AUTHORITY AT PAR.

(2) (i) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, A POLITICAL SUBDIVISION MAY LEASE OR CONVEY TO THE AUTHORITY WITHOUT CONSIDERATION ANY PROPERTY THAT IS OWNED BY THE POLITICAL SUBDIVISION AND SUITABLE FOR USE BY THE AUTHORITY FOR THE PURPOSES OF THIS SUBTITLE.

(ii) A LEASE OR CONVEYANCE UNDER THIS PARAGRAPH REQUIRES APPROVAL BY THE POLITICAL SUBDIVISION OR, FOR BALTIMORE CITY, BY THE BOARD OF ESTIMATES.

(3) BEFORE AN ACQUISITION UNDER THIS SUBSECTION, THE AUTHORITY, ON REQUEST OF A POLITICAL SUBDIVISION, SHALL REMOVE OR RELOCATE AT THE EXPENSE OF THE AUTHORITY ANY PUBLIC UTILITY FACILITIES, WHETHER PUBLICLY OR PRIVATELY OWNED OR OPERATED, LOCATED ON THE PROPERTY.

(C) LIMITATION — ON ACQUISITION OF SITE.

THE AUTHORITY MAY NOT ACQUIRE A SITE UNDER THIS SECTION FOR THE ESTABLISHMENT OR CONSTRUCTION OF A DEVELOPMENT, OR ESTABLISH OR CONSTRUCT A DEVELOPMENT ON A SITE, UNLESS THE SITE IS APPROVED:

(1) FOR BALTIMORE CITY, BY THE BOARD OF ESTIMATES; AND

(2) FOR ANY OTHER POLITICAL SUBDIVISION, BY THE COUNTY COMMISSIONERS, COUNTY EXECUTIVE, OR IN A CHARTER COUNTY WITHOUT A COUNTY EXECUTIVE, THE COUNTY COUNCIL.

(D) LIMITATION — ON ACCEPTANCE OF AND PAYMENT FOR PROPERTY.

THE AUTHORITY NEED NOT ACCEPT AND PAY FOR ANY PROPERTY OR RIGHTS IT ACQUIRES EXCEPT FROM MONEY PROVIDED UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13–105(5) and, except as it related to the perpetual existence of the Authority, the introductory language of § 13–105.

In the introductory language to subsection (a) of this section, the former reference to “real” property “or rights or easements therein” is deleted as

included in the comprehensive reference to “property”.

In subsection (a) of this section, the former references to “us[ing] ... leas[ing] or mak[ing] contracts ... or dispos[ing]” of property are deleted as redundant of the general powers of the Authority stated in § 10–209(a) of this subtitle.

In subsection (a)(1) of this section, the word “appropriate” is substituted for the former word “proper” for consistency with § 10–206(a)(5) of this subtitle.

In subsection (a)(2) of this section, the former statement that “[i]n any proceedings to condemn, such orders may be made by the court having jurisdiction of the suit, action or proceedings as may be just to the Authority and to the owners of the property to be condemned;” is deleted as implicit in the requirement that condemnation for public use be “in accordance with applicable law”. As to condemnation proceedings generally, *see* RP Title 12 and Md. Rules Title 12, Chapter 200.

In the introductory language of subsection (b)(1) of this section, the reference to any land or a street, alley, or other public place “that is owned by” a political subdivision is substituted for the former reference to any land or a street, alley, or other public place “the title to which shall then be in” a political subdivision for brevity and clarity.

Also in the introductory language of subsection (b)(1) of this section, the former reference to a political subdivision taking certain actions “through its proper officials” is deleted as unnecessary since this is the only way in which a political subdivision can act. Similarly, in subsection (b)(1)(i) of this section, the former reference to the “proper officials of” the political subdivision is deleted.

In subsection (b)(3) of this section, the requirement that the Authority, “on request of a political subdivision”, remove or relocate certain public utility facilities is added to reflect that the removal or relocation of the facilities is at the option of the political subdivision since there may be circumstances in which the removal or relocation is neither necessary nor desirable. The Economic Development Article Review Committee calls this addition to the attention of the General Assembly.

In the introductory language of subsection (c) of this section, the statement that “[t]he Authority may not” take certain actions “under this section” is substituted for the former statement that “the powers herein contained and conferred in this paragraph shall not be exercised nor applicable to” certain actions for brevity.

In subsection (c)(2) of this section, the phrase “or in a charter county without a county executive, the county council” is added for accuracy.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that in subsection (c)(2) of this

section, the reference to the “county commissioners, county executive, or in a charter county without a county executive, the county council” assumes that the political subdivision in which the Authority is establishing a development is a county, not a municipal corporation other than Baltimore City. The General Assembly may wish to clarify what the approving authority is for a development in another municipal corporation, or substitute more general approval language.

In subsection (d) of this section, the reference to “money” is substituted for the former reference to “funds” for consistency within this article and with other revised articles of the Code. *See* General Revisor’s Note to article.

Also in subsection (d) of this section, the former reference to acquisition “under this subtitle” is deleted as surplusage.

Defined terms: “Authority” § 10–201
“Development” § 10–201
“Project” § 10–201

10–212. DEVELOPMENTS AND PROJECTS — IN GENERAL.

(A) POWERS OF AUTHORITY.

THE AUTHORITY MAY:

(1) DEVELOP, ESTABLISH, ACQUIRE, IMPROVE, OWN, OPERATE, AND MAINTAIN DEVELOPMENTS AND PROJECTS IN THE STATE; AND

(2) PAY THE COST OF DEVELOPMENTS OR PROJECTS, INCLUDING IMPROVEMENTS TO ANY WATERWAYS AT A DEVELOPMENT OR PROJECT, FROM:

(i) THE PROCEEDS OF BONDS;

(ii) OTHER MONEY AVAILABLE UNDER THIS SUBTITLE; OR

(iii) MONEY FROM THE STATE OR FEDERAL GOVERNMENT OR ANY OF THEIR UNITS OR INSTRUMENTALITIES.

(B) CONSTRUCTION OF DEVELOPMENT — REQUIRED STUDY.

CONSTRUCTION OF A DEVELOPMENT MAY NOT BEGIN UNLESS A COMPREHENSIVE STUDY ESTABLISHES THAT THE CONSTRUCTION AND OPERATION OF THE DEVELOPMENT WOULD BE ECONOMICALLY AND ENVIRONMENTALLY SOUND.

(C) CONSTRUCTION OF DEVELOPMENT — REQUIRED ANALYSIS.

EXCEPT FOR THE CENTER, CONSTRUCTION OF A DEVELOPMENT MAY NOT BEGIN UNLESS:

(1) AN ANALYSIS OF THE ECONOMIC BENEFITS OF THE PROPOSED DEVELOPMENT IS SUBMITTED TO THE LEGISLATIVE POLICY COMMITTEE, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE; AND

(2) THE LEGISLATIVE POLICY COMMITTEE IS GIVEN 45 DAYS AFTER RECEIPT TO COMMENT ON THE PROPOSAL.

(D) CONSTRUCTION CONTRACTS BY SEALED BID.

(1) THIS SUBSECTION DOES NOT APPLY TO FACILITIES CONSTRUCTED ON LAND LEASED OR SOLD BY THE AUTHORITY TO A PRIVATE ENTITY.

(2) BEFORE CONTRACTING TO CONSTRUCT A FACILITY AT A DEVELOPMENT OR PROJECT, THE AUTHORITY SHALL SOLICIT SEALED BIDS.

(E) APPROVAL BY BOARD OF PUBLIC WORKS.

(1) ALL PLANS AND ANY ISSUE OF BONDS TO FINANCE A DEVELOPMENT OR PROJECT REQUIRE APPROVAL BY THE BOARD OF PUBLIC WORKS BY RESOLUTION BEFORE THE BONDS ARE SOLD.

(2) ALL LEASES OF REAL PROPERTY AND PLANS AND CONTRACTS FOR THE ACQUISITION CONVEYANCE OF REAL PROPERTY REQUIRE APPROVAL BY THE BOARD OF PUBLIC WORKS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13–105(3) and, except as it related to the perpetual existence of the Authority, the introductory language of § 13–105, and the second clause of § 13–105(4).

In the introductory language of subsection (a)(2) of this section, the former reference to “parking and other ancillary facilities appurtenant thereto” is deleted as included in the defined term “project”.

In subsection (a)(2)(ii) of this section, the reference to “money” is substituted for the former reference to “funds” for consistency within this article and with other revised articles. Similarly, in subsection (a)(2)(iii) of this section, the reference to “money” is substituted for the former reference to “proceeds”. *See* General Revisor’s Note to article.

Also in subsection (a)(2)(ii) of this section, the former reference to money “to become available” is deleted as surplusage.

In subsection (a)(2)(iii) of this section, the term “unit[s]” is substituted for the former term “agency” for consistency within this article and with other revised articles of the Code. *See* General Revisor’s Note to article.

Also in subsection (a)(2)(iii) of this section, the former reference to “grants” is deleted in light of the reference to “money”.

In the introductory language of subsection (c) of this section, the former reference to a development “undertaken by the Authority” is deleted as included in the defined term “development”.

In subsection (c)(1) of this section, the former requirement to submit a certain analysis “to the Department of Legislative Services” is deleted in light of the reference to § 2–1246 of the State Government Article, which

requires copies of reports and publications submitted to a committee of the General Assembly to be submitted to the Department.

Subsection (d)(2) of this section is revised as a condition precedent to a contract rather than as a requirement of contract for clarity.

In subsection (e)(1) of this section, the former requirement that certain plans and bond issues “be submitted to” the Board of Public Works is deleted as implicit in the reference to the plans and bond issues “requir[ing] approval” by the Board of Public Works.

Defined terms: “Authority” § 10–201

“Bond” § 10–201

“Center” § 10–201

“Cost” § 10–201

“Development” § 10–201

“Improve” § 10–201

“Improvement” § 10–201

“Project” § 10–201

“State” § 9–101

10–213. DEVELOPMENTS AND PROJECTS — WHOLESALE FOOD DEALERS AND TENANTS.

(A) POWER OF AUTHORITY TO ASSIST.

THE AUTHORITY MAY ASSIST WHOLESALE FOOD DEALERS AND TENANTS WHO WANT TO LOCATE OR RELOCATE THEIR OPERATIONS IN A DEVELOPMENT OR PROJECT IF, IN THE JUDGMENT OF THE AUTHORITY:

(1) THE WHOLESALE FOOD DEALERS AND TENANTS WILL PROVIDE THE 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.

THE RATES AND CHARGES UNDER SUBSECTION (A) OF THIS SECTION ARE NOT SUBJECT TO SUPERVISION OR REGULATION BY ANY OTHER UNIT OF THE STATE OR A POLITICAL SUBDIVISION.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, § 13–112.

In subsections (a)(1) and (c) of this section, the references to rates “and” charges are substituted for the former references to rates “or” charges to clarify that the provisions of subsections (a)(1) and (c) apply to both “rates” and “charges”, and for consistency with subsection (b) of this section.

In subsection (a)(1) of this section, the former phrase “including any ancillary or other appurtenant facilities” is deleted as included in the defined term “project”.

Also in subsection (a)(1) of this section, the former phrase “from time to time” is deleted as surplusage.

In subsection (a)(3) of this section, the former reference to a “partnership, or association” is deleted as included in the defined term “person”. *See* § 9–101 of this article.

In subsections (b) and (c) of this section, the references to rates and charges “under subsection (a) of this section” are added for clarity.

In subsection (c) of this section, the term “unit” is substituted for the former reference to a “commission, board, bureau, or agency” for consistency within this article and with other revised articles. *See* General Revisor’s Note to article.

Defined terms: “Authority” § 10–201
“Development” § 10–201
“Person” § 9–101
“Project” § 10–201
“State” § 9–101

10–215. DEVELOPMENTS AND PROJECTS — POLITICAL SUBDIVISION MAY VACATE.

A POLITICAL SUBDIVISION IN WHICH A DEVELOPMENT OR PROJECT IS LOCATED MAY:

(1) VACATE ANY STREET, ALLEY, OR OTHER PUBLIC PLACE NECESSARY TO ENSURE THE PROPER OPERATION OF THE DEVELOPMENT OR PROJECT AND THE FULL USE OF ITS FACILITIES; AND

(2) GRANT TO THE AUTHORITY THE EXCLUSIVE RIGHT TO USE THE VACATED STREET, ALLEY, OR OTHER PUBLIC PLACE FOR THE PURPOSE OF THE DEVELOPMENT OR PROJECT ON TERMS AGREED TO BY THE AUTHORITY AND THE POLITICAL SUBDIVISION.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, § 13–108.

Defined terms: “Authority” § 10–201
“Development” § 10–201
“Project” § 10–201

10–216. DEVELOPMENTS AND PROJECTS — CLEANING AND REFUSE.

SUBJECT TO THE TERMS AND CONDITIONS AGREED TO BY THE AUTHORITY AND THE STATE OR THE POLITICAL SUBDIVISION, THE STATE OR A POLITICAL SUBDIVISION IN WHICH A DEVELOPMENT OR PROJECT IS LOCATED MAY PROVIDE FOR:

(1) CLEANING THE DEVELOPMENT OR PROJECT; AND
(2) REMOVING AND DISPOSING OF REFUSE FROM THE DEVELOPMENT OR PROJECT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, § 13–109.

In the introductory language of this section, the former phrase “and in such manner as” agreed to is deleted as included in the reference to the “terms and conditions” agreed to.

Also in the introductory language of this section, the former reference to the State or a political subdivision of the State providing for certain

services subject to the terms and conditions “lawfully” agreed to is deleted as implicit.

Defined terms: “Authority” § 10–201

“Development” § 10–201

“Project” § 10–201

“State” § 9–101

10–217. FINANCING ANOTHER.

(A) “PERSON” DEFINED.

(1) “PERSON” HAS THE MEANING STATED IN § 9–101 OF THIS ARTICLE.

(2) “PERSON” ALSO INCLUDES A PUBLIC OR QUASI–PUBLIC CORPORATION.

(B) POWER OF AUTHORITY TO FINANCE.

SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE AUTHORITY MAY PROVIDE FINANCING TO A PERSON TO ACCOMPLISH THE PURPOSES OF THIS SUBTITLE:

(1) ON PROPERTY THAT IS OWNED OR OTHERWISE HELD OR CONTROLLED BY THE AUTHORITY OR THE STATE; OR

(2) ON, UNDER, OR IN PROPERTY THAT IS OWNED OR OTHERWISE HELD OR CONTROLLED BY ANY OTHER PERSON.

(C) LIMITATION.

(1) THIS SUBSECTION DOES NOT APPLY TO AN EXPENDITURE OF MONEY:

(I) IN CONNECTION WITH THE ACQUISITION OF PROPERTY OR THE PREPARATION OF PLANS;

(II) TO THE EMPLOYMENT OF STAFF OF THE AUTHORITY; OR

(III) FOR OTHER MATTERS THAT CUSTOMARILY ARE PRELIMINARY TO THE COMMENCEMENT OF CONSTRUCTION.

(2) IF THE AUTHORITY PROVIDES FINANCING TO A PERSON TO ACCOMPLISH THE PURPOSES OF THIS SUBTITLE, THE AUTHORITY MAY NOT EXPEND ANY BOND PROCEEDS TO ACQUIRE OR IMPROVE A FACILITY UNTIL THE AUTHORITY, WITH THE APPROVAL OF THE BOARD OF PUBLIC WORKS, HAS ENTERED INTO A BINDING CONTRACT WITH THE PERSON.

(3) THE CONTRACT SHALL:

(I) BE SECURED TO THE SATISFACTION OF THE BOARD OF PUBLIC WORKS; AND

(II) REQUIRE THE PERSON TO PAY TO THE AUTHORITY OR ITS DESIGNEE:

1. THE PRINCIPAL OF AND INTEREST ON BONDS SOLD UNDER THIS SUBTITLE AS THEY BECOME DUE;

2. ANY FISCAL AGENCY CHARGES FOR PAYING PRINCIPAL AND INTEREST;

3. ANY CHARGES OR FEES SET BY THE AUTHORITY FOR ITS ADMINISTRATIVE COSTS AND EXPENSES; AND

4. ANY PREMIUM ON BONDS RETIRED BY CALL OR PURCHASED AS PROVIDED IN THIS SUBTITLE.

(D) ADMINISTRATIVE COSTS AND EXPENSES.

THE AUTHORITY MAY CHARGE TO AND EQUITABLY APPORTION BETWEEN PERSONS FINANCED BY THE AUTHORITY UNDER THIS SECTION ALL OR PART OF THE AUTHORITY'S ADMINISTRATIVE COSTS AND EXPENSES INCURRED IN EXERCISING ITS POWERS AND PERFORMING ITS DUTIES UNDER THIS SUBTITLE.

(E) STATE AND LOCAL PROPERTY TAXES.

IF PROPERTY IS TRANSFERRED BY THE AUTHORITY TO A PERSON FINANCED UNDER THIS SECTION, THE PERSON SHALL PAY ANY STATE AND LOCAL PROPERTY TAXES THAT ACCRUE AFTER THE TRANSFER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13-105(7), as it related to the Authority's financing of certain persons to carry out the purposes of this subtitle, and, except as it related to the perpetual existence of the Authority, the introductory language of § 13-105.

Subsection (a) of this section is revised as a definition to clarify that, for purposes of this section, the article-wide definition of "person" includes a public or quasi-public corporation, and to avoid repetition of the full reference to the enumerated entities throughout this section. Correspondingly, the defined term "person" is substituted throughout this section for the former references to a "private, public, or quasi-public corporation, partnership, association, ... or other legal entity", "the legal entity", and "such legal entity".

In subsection (b) of this section, the introductory language, "[s]ubject to subsection (c) of this section", is added to reflect that limitations exist on the Authority's power to finance a person under this section.

In the introductory language of subsection (c)(1) of this section, the phrase "[t]his subsection does not apply to an expenditure of money" is substituted for the former phrase "as distinguished from funds which are necessary to be expended" for clarity.

In subsection (c)(2)(ii)2 of this section, the former requirement to pay "necessary" fiscal agency charges is deleted as implicit.

In subsection (d) of this section, the reference to persons "financed by the Authority under this section" is substituted for the former reference to "such" persons for clarity.

In subsection (e) of this section, the introductory language, “[i]f property is transferred by the Authority to a person financed under this section”, is added to clarify the circumstances under which a person must pay State and local property taxes.

Also in subsection (e) of this section, the former requirement that the person pay “to the State of Maryland, or any of its political subdivisions” State and local property taxes is deleted as implicit.

Defined terms: “Authority” § 10–201

“Improve” § 10–201

“Person” § 9–101

“State” § 9–101

10–218. BONDS — IN GENERAL.

(A) RESOLUTION; LIMITATION.

THE AUTHORITY MAY AUTHORIZE THE ISSUANCE OF FEDERALLY TAX–EXEMPT OR FEDERALLY TAXABLE REVENUE BONDS BY RESOLUTION.

(B) PURPOSES.

THE AUTHORITY MAY ISSUE REVENUE BONDS:

- (1) TO PAY ANY PART OF THE COST OF DEVELOPMENTS OR PROJECTS;
- (2) TO FUND A DEFICIT IN ACCORDANCE WITH SUBSECTION (I) OF THIS SECTION;
- (3) TO PAY THE COST OF IMPROVEMENTS OF DEVELOPMENTS OR PROJECTS IN ACCORDANCE WITH SUBSECTION (J) OF THIS SECTION;
- (4) TO REFUND OUTSTANDING BONDS ISSUED UNDER THIS SUBTITLE; AND
- (5) FOR ANY OTHER PURPOSE SET FORTH IN THIS SUBTITLE.

(C) TIMING.

THE AUTHORITY MAY ISSUE THE BONDS AT ONE TIME OR IN ONE OR MORE SERIES FROM TIME TO TIME.

(D) TERMS AND CONDITIONS.

THE AUTHORITY SHALL DETERMINE:

- (1) THE DATES OF THE BONDS;
- (2) THE MATURITY DATES OF THE BONDS, WHICH MAY NOT EXCEED 40 YEARS FROM THE DATE OF THEIR ISSUE;
- (3) THE INTEREST RATES ON THE BONDS;
- (4) THE MEDIUM OF PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS;

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(5) INTEREST PAYMENT DATES ON THE BONDS, WHICH SHALL OCCUR TWICE IN EVERY 12 MONTHS;

(6) THE FORM OF THE BONDS;

(7) THE MANNER OF EXECUTING THE BONDS;

(8) THE DENOMINATIONS OF THE BONDS; AND

(9) THE PLACES AT WHICH THE PRINCIPAL OF AND INTEREST ON THE BONDS WILL BE PAYABLE, INCLUDING A BANK OR TRUST COMPANY IN OR OUTSIDE THE STATE.

(E) EARLY REDEMPTION.

THE BONDS MAY BE REDEEMED BEFORE MATURITY AT THE OPTION OF THE AUTHORITY AT THE PRICES AND UNDER TERMS AND CONDITIONS THAT THE AUTHORITY SETS BEFORE THE BONDS ARE ISSUED.

(F) VALIDITY OF SIGNATURE.

AN OFFICER'S SIGNATURE OR FACSIMILE ON A BOND REMAINS VALID EVEN IF THE OFFICER LEAVES OFFICE BEFORE THE BOND IS DELIVERED.

(G) SALE.

(1) THE AUTHORITY SHALL SELL THE BONDS EITHER BY COMPETITIVE OR NEGOTIATED SALE IN A MANNER AND FOR A PRICE THAT THE AUTHORITY DETERMINES TO BE IN ITS BEST INTERESTS.

(2) THE BONDS ARE EXEMPT FROM §§ 8-206 AND 8-208 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(H) TEMPORARY REVENUE BONDS; REPLACEMENT BONDS.

(1) BEFORE IT PREPARES DEFINITIVE REVENUE BONDS, THE AUTHORITY MAY ISSUE TEMPORARY REVENUE BONDS MEETING THE REQUIREMENTS OF THIS SECTION THAT ARE EXCHANGEABLE FOR DEFINITIVE REVENUE BONDS WHEN ISSUED.

(2) THE AUTHORITY MAY REPLACE BONDS THAT ARE MUTILATED, LOST, OR DESTROYED.

(3) THE AUTHORITY MAY ISSUE REPLACEMENT BONDS OR BONDS EXCHANGED FOR TEMPORARY REVENUE BONDS WITHOUT:

(i) ANOTHER PROCEEDING; OR

(ii) THE SATISFACTION OF ANY OTHER CONDITION.

(I) ADDITIONAL BONDS — TO FUND DEFICIT.

(1) IF THE PROCEEDS OF THE BONDS ARE LESS THAN THE AMOUNT REQUIRED FOR THE PURPOSE FOR WHICH THE BONDS WERE AUTHORIZED, THE AUTHORITY MAY ISSUE ADDITIONAL BONDS TO FUND THE AMOUNT OF THE DEFICIT.

(2) UNLESS OTHERWISE PROVIDED IN THE RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS OR IN THE TRUST AGREEMENT, THE ADDITIONAL BONDS ARE:

(I) CONSIDERED TO BE OF THE SAME ISSUE AS THE FIRST ISSUE; AND

(II) ENTITLED TO PAYMENT FROM THE SAME FUNDS AS THE FIRST ISSUE, WITHOUT PREFERENCE OR PRIORITY OF THE BONDS OF THE FIRST ISSUE.

(J) ADDITIONAL BONDS — FOR EXTENSIONS, ADDITIONS, AND IMPROVEMENTS.

(1) THE RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS MAY PROVIDE FOR THE ISSUANCE OF ADDITIONAL BONDS TO PAY THE COST OF ANY NECESSARY IMPROVEMENTS.

(2) THE ADDITIONAL BONDS:

(I) MAY BE LIMITED IN AMOUNT BY THE RESOLUTION OR TRUST AGREEMENT;

(II) SHALL BE CONSIDERED PART OF THE FIRST ISSUE AUTHORIZED BY THE RESOLUTION; AND

(III) SHALL BE ISSUED UNDER THE RESTRICTIONS AND LIMITATIONS PROVIDED BY THE RESOLUTION OR TRUST AGREEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13–111(a), (b), (d) through (f), and (h) through (k).

In subsection (b)(2) of this section, the phrase “in accordance with subsection (i) of this section” is added for clarity. Similarly, in subsection (b)(3) of this section, the phrase “in accordance with subsection (i) of this section” is added for clarity.

In subsection (d)(2) of this section, the phrase “interest rates” is substituted for the former reference to the “interest at such rate or rates” in light of Art. 1, § 8 which provides that the plural generally includes the singular.

In subsection (d)(5) of this section, the reference to interest payments on bonds occurring “twice in every 12 months” is substituted for the former reference to their being payable “semiannually” for clarity. The Economic Development Article Review Committee calls this substitution to the attention of the General Assembly.

In subsection (h)(1) of this section, the reference to temporary revenue bonds “meeting the requirements of this section” is substituted for the former reference to bonds “under the restrictions” for clarity.

In subsection (h)(3) of this section, the former reference to an “election” is deleted as included in the comprehensive references to “another proceeding” and satisfaction of “any other condition”.

In subsections (i) and (j) of this section, the references to a trust “agreement” are substituted for the former obsolete references to a trust “indenture” for consistency within this article. *See* General Revisor’s Note to article.

The second sentence of former Art. 41, § 13–111(j), which provided that the issuance, details, and rights of holders of revenue refunding bonds should, to the extent applicable, be governed by former § 13–111, is deleted as implicit in the reorganization of material in this subtitle. Revenue refunding bonds authorized under subsection (b)(3) of this section are only one of the several types of revenue bonds that the Authority may issue under this section. The general requirements of this section apply to each type of revenue bonds issued by the Authority, unless overridden by a more specific provision of this section that deals only with that type of revenue bond. No substantive change is intended.

Defined terms: “Authority” § 10–201

“Bond” § 10–201

“Cost” § 10–201

“Development” § 10–201

“Improvement” § 10–201

“Project” § 10–201

“State” § 9–101

10–219. REVENUE BONDS — LEGAL INVESTMENTS.

BONDS ARE SECURITIES:

(1) IN WHICH ANY OF THE FOLLOWING PERSONS MAY LEGALLY AND PROPERLY INVEST MONEY, INCLUDING CAPITAL THAT THE PERSON OWNS OR CONTROLS:

(I) AN OFFICER OR UNIT OF THE STATE OR A POLITICAL SUBDIVISION;

(II) A BANK, TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION, INVESTMENT COMPANY, OR OTHER PERSON CONDUCTING A BANKING BUSINESS;

(III) AN INSURANCE COMPANY, INSURANCE ASSOCIATION, OR OTHER PERSON CONDUCTING AN INSURANCE BUSINESS;

(IV) A PERSONAL REPRESENTATIVE, GUARDIAN, TRUSTEE, OR OTHER FIDUCIARY; AND

(V) ANY OTHER PERSON; AND

(2) THAT MAY BE DEPOSITED WITH AND RECEIVED BY A UNIT OF THE STATE OR A POLITICAL SUBDIVISION FOR ANY PURPOSE FOR WHICH THE DEPOSIT OF BONDS OR OTHER OBLIGATIONS OF THE STATE IS AUTHORIZED BY LAW.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, § 13–114.

In items (1)(i) and (2) of this section, the term “unit” is substituted for the former term “agency” for consistency within this article and with other

revised articles of the Code. *See* General Revisor’s Note to article.

In item (1)(iv) of this section, the term “personal representative” is substituted for the former phrase “administrators, executors” for consistency with terminology used throughout the Estates and Trusts Article and in light of Art. 1, § 5, which provides that the term “personal representative” includes both an “administrator” and an “executor”.

Defined terms: “Bonds” § 10–201
 “Person” § 9–101
 “State” § 9–101

10–220. BONDS — LIABILITY; FAITH AND CREDIT.

(A) **LIABILITY LIMITATIONS.**

A BOND IS NOT A DEBT OR A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OR A POLITICAL SUBDIVISION, AND IS PAYABLE SOLELY FROM DEVELOPMENT OR PROJECT REVENUES AS PROVIDED IN ACCORDANCE WITH THIS SUBTITLE.

(B) **STATEMENT.**

EACH BOND SHALL STATE ON ITS FACE THAT THE AUTHORITY, THE STATE, AND A POLITICAL SUBDIVISION OF THE STATE ARE NOT OBLIGED TO PAY THE PRINCIPAL OF OR INTEREST ON THE BOND EXCEPT FROM THE DEVELOPMENT OR PROJECT REVENUES PLEDGED TO THE PAYMENT OF THE BOND.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, § 13–111(c).

Defined terms: “Authority” § 10–201
 “Bond” § 10–201
 “Development” § 10–201
 “Project” § 10–201
 “State” § 9–101

10–221. BONDS — TRUST AGREEMENT.

(A) **CORPORATE TRUSTEE.**

(1) THE AUTHORITY MAY SECURE A BOND BY A TRUST AGREEMENT BETWEEN THE AUTHORITY AND A CORPORATE TRUSTEE.

(2) A CORPORATE TRUSTEE MAY BE ANY TRUST COMPANY OR BANK THAT HAS THE POWERS OF A TRUST COMPANY IN OR OUTSIDE THE STATE.

(B) **PROVISIONS.**

THE TRUST AGREEMENT OR THE RESOLUTION THAT PROVIDES FOR THE ISSUANCE OF A BOND MAY:

(1) PROVIDE FOR THE PROTECTION AND ENFORCEMENT OF RIGHTS AND REMEDIES OF BONDHOLDERS, INCLUDING COVENANTS SETTING FORTH THE DUTIES OF THE AUTHORITY IN RELATION TO:

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(I) ACQUISITION, IMPROVEMENT, MAINTENANCE, OPERATION, AND INSURANCE OF THE DEVELOPMENT OR PROJECT; AND

(II) CUSTODY, SAFEGUARDING, AND APPLICATION OF MONEY;

(2) PROVIDE FOR THE RIGHTS AND REMEDIES OF BONDHOLDERS AND OF THE TRUSTEE;

(3) RESTRICT THE INDIVIDUAL RIGHT OF ACTION BY BONDHOLDERS AS IS CUSTOMARY IN TRUST AGREEMENTS SECURING BONDS OF CORPORATIONS;

(4) PROVIDE FOR THE DEPOSIT OF THE PROCEEDS OF THE SALE OF BONDS AND THE REVENUE OF A DEVELOPMENT OR PROJECT WITH AN OFFICER, BOARD, OR DEPOSITARY THAT THE AUTHORITY DESIGNATES AS CUSTODIAN; AND

(5) PROVIDE FOR THE METHOD OF DISBURSING THE PROCEEDS AND REVENUES WITH SAFEGUARDS AND RESTRICTIONS THAT THE AUTHORITY DETERMINES.

(C) SECURITY FOR BONDS.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND § 10-222 OF THIS SUBTITLE, A TRUST AGREEMENT MAY PLEDGE OR ASSIGN REVENUES TO BE RECEIVED FROM THE DEVELOPMENT OR PROJECT.

(2) NO PORTION OF A DEVELOPMENT OR PROJECT MAY BE CONVEYED OR MORTGAGED WITHOUT THE EXPRESS CONSENT OF THE BOARD OF PUBLIC WORKS.

(D) USE OF PROCEEDS.

THE TRUST AGREEMENT MAY AUTHORIZE THE USE OF MONEY REALIZED FROM THE SALE OR DISPOSITION OF ANY OF THE PROPERTY OF A DEVELOPMENT OR PROJECT TO PAY PRINCIPAL OF AND INTEREST ON THE BONDS.

(E) EXPENSES.

EXPENSES INCURRED IN CARRYING OUT A TRUST AGREEMENT MAY BE TREATED AS PART OF THE COST OF MAINTENANCE, REPAIR, AND OPERATION OF A DEVELOPMENT OR PROJECT.

(F) AUTHORITY OF BANK OR TRUST COMPANY.

A BANK OR TRUST COMPANY INCORPORATED IN THE STATE MAY ACT AS A DEPOSITARY OF THE PROCEEDS OF THE BONDS OR THE REVENUES AND FURNISH INDEMNITY BONDS OR PLEDGE SECURITIES AS REQUIRED BY THE AUTHORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13-111(m).

Throughout this section, the references to a trust "agreement" are substituted for the former obsolete references to a trust "indenture" for consistency within this article. See General Revisor's Note to article.

In subsection (b)(4) of this section, the words "of the proceeds and revenues" are substituted for the former word "thereof" for clarity.

In subsection (c)(1) of this section, the reference to “§ 10–222 of this subtitle is added for clarity.

Defined terms: “Authority” § 10–201

“Bond” § 10–201

“Development” § 10–201

“Improvement” § 10–201

“Project” § 10–201

“State” § 9–101

10–222. BONDS — PROCEEDS; SINKING FUND.

(A) **USE.**

THE AUTHORITY SHALL APPLY THE PROCEEDS OF THE BONDS FOR THE PURPOSES FOR WHICH THE BONDS ARE AUTHORIZED.

(B) **SINKING FUND.**

(1) THE AUTHORITY SHALL SET ASIDE A SUFFICIENT AMOUNT OF THE REVENUES DERIVED FROM A DEVELOPMENT OR PROJECT IN A SINKING FUND OR OTHER SIMILAR FUND AT REGULAR INTERVALS TO THE EXTENT REQUIRED IN THE TRUST AGREEMENT OR RESOLUTION.

(2) **THE SINKING FUND IS PLEDGED TO PAYING:**

(I) THE PRINCIPAL OF AND THE INTEREST ON THE BONDS AS THEY BECOME DUE; AND

(II) THE REDEMPTION OR PURCHASE PRICE OF BONDS RETIRED BY CALL OR PURCHASE AS SPECIFIED IN THE TRUST AGREEMENT OR RESOLUTION.

(C) **OTHER USES.**

TO THE EXTENT PROVIDED IN THE TRUST AGREEMENT OR RESOLUTION, THE AUTHORITY MAY EXCLUDE FROM THE AMOUNT TO BE DEPOSITED IN THE SINKING FUND THE REVENUES THAT MAY BE NECESSARY OR CONVENIENT:

(1) TO PAY FOR MAINTENANCE, REPAIR, AND OPERATION OF A DEVELOPMENT OR PROJECT;

(2) FOR RESERVES; AND

(3) FOR IMPROVEMENTS TO A DEVELOPMENT OR PROJECT.

(D) **DURATION AND EFFECT OF PLEDGE.**

(1) THE LIEN OF THE PLEDGE OF REVENUES UNDER SUBSECTION (B) OF THIS SECTION IS VALID AND BINDING FROM THE TIME THE PLEDGE IS MADE.

(2) THE LIEN OF THE PLEDGE IS VALID AND BINDING AGAINST EACH PARTY WITH A CLAIM AGAINST THE AUTHORITY IN TORT, CONTRACT, OR OTHERWISE, REGARDLESS OF WHETHER THE PARTY HAS NOTICE OF THE LIEN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13–111(l).

In subsection (a) of this section, the word “proceeds” is substituted for the former words “[a]ll moneys received” for accuracy and consistency within this subtitle.

Also in subsection (a) of this section, the former reference to bonds “issued and sold under the provisions of this section” is deleted as implicit in the reorganization of material in this subtitle.

Defined terms: “Authority” § 10–201

“Bond” § 10–201

“Development” § 10–201

“Improvement” § 10–201

“Project” § 10–201

10–223. BONDS — COMBINED PURPOSES.

THE AUTHORITY MAY AUTHORIZE THE ISSUANCE OF A SINGLE ISSUE OF REVENUE BONDS BY RESOLUTION FOR THE COMBINED PURPOSES OF:

- (1) PAYING THE COST OF IMPROVEMENTS OF DEVELOPMENTS OR PROJECTS;
AND
(2) REFUNDING BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 41, § 13–111(k).

In item (2) of this section, the former reference to bonds “theretofore issued for such development or project and then outstanding and which shall then have matured or be subject to redemption or can be acquired for retirement” is deleted as surplusage.

Defined terms: “Authority” § 10–201

“Bonds” § 10–201

“Development” § 10–201

“Improvement” § 10–201

“Project” § 10–201

10–224. BONDS — ENFORCEMENT OF RIGHTS AND DUTIES.

EXCEPT TO THE EXTENT RIGHTS GRANTED BY THIS SUBTITLE ARE RESTRICTED BY RESOLUTION PASSED BEFORE THE ISSUANCE OF THE BONDS OR BY THE TRUST AGREEMENT, A HOLDER OF A BOND ISSUED UNDER THIS SUBTITLE, OR OF ANY ATTACHED COUPONS, OR A TRUSTEE UNDER A TRUST AGREEMENT MAY SUE TO:

- (1) PROTECT AND ENFORCE A RIGHT UNDER THE LAWS OF THIS STATE, THE RESOLUTION, OR THE TRUST AGREEMENT; AND
(2) ENFORCE THE PERFORMANCE OF DUTIES BY THE AUTHORITY, THE STATE, OR A POLITICAL SUBDIVISION OR OFFICER OR ANY OF THEM THAT THIS SUBTITLE

OR THE TRUST AGREEMENT REQUIRES, INCLUDING FIXING, CHARGING, AND COLLECTING OF RATES AND CHARGES TO USE FACILITIES THAT ARE SUBJECT TO THE RESOLUTION OR TRUST AGREEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13–113.

In the introductory language of this section, the former obsolete phrase “either at law or in equity” is deleted to reflect the merger of law and equity affected by Md. Rule 2–301, which mandates “one form of action known as the ‘civil action’”. Similarly, the reference to “su[ing]” is substituted for the former phrase “by suit, action, mandamus, or other proceedings” for brevity and clarity.

Defined terms: “Authority” § 10–201

“Bond” § 10–201

“State” §9–101

10–225. PLEDGE.

(A) IN GENERAL.

THE AUTHORITY MAY PLEDGE OR ASSIGN:

- (1) ANY OF ITS REVENUES;
- (2) ITS RIGHTS TO RECEIVE ITS REVENUES;
- (3) MONEY OR SECURITIES IN ACCOUNTS ESTABLISHED TO SECURE A BOND;

OR

(4) A LIEN OR SECURITY INTEREST GRANTED OR ASSIGNMENT MADE TO THE AUTHORITY.

(B) VALIDITY OF PLEDGE OR ASSIGNMENT.

(1) A PLEDGE OR ASSIGNMENT UNDER SUBSECTION (A) OF THIS SECTION IS VALID AND BINDING FROM THE TIME THE PLEDGE OR ASSIGNMENT IS MADE.

(2) A LIEN, SECURITY INTEREST, OR ASSIGNMENT UNDER SUBSECTION (A) OF THIS SECTION:

(i) ATTACHES IMMEDIATELY TO THE REVENUES OR PROPERTY PLEDGED AND THEN RECEIVED BY THE AUTHORITY, WITHOUT ANY PHYSICAL DELIVERY OR FURTHER ACT; AND

(ii) IS VALID AND BINDING AGAINST ANY PERSON HAVING A CLAIM AGAINST THE AUTHORITY, REGARDLESS OF WHETHER THE PERSON HAS NOTICE OF THE PLEDGE, AND WITHOUT THE RECORDING OR FILING OF AN INSTRUMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13–123.

In subsection (a)(4) of this section, the reference to an interest granted or

assignment made “to” the Authority is substituted for the former incorrect reference to an interest grant or assignment made “by” the Authority for clarity and accuracy.

In subsection (b)(2)(ii) of this section, the former words “of any kind” which modified “claims” are deleted for brevity.

Defined terms: “Authority” § 10–201

“Bond” § 10–201

“Person” § 9–101

10–226. TAX STATUS.

(A) AUTHORITY — EXEMPTION FROM TAXATION.

SUBJECT TO § 10–217(E) OF THIS SUBTITLE, THE AUTHORITY IS EXEMPT FROM TAXATION OR ASSESSMENTS ON ANY PART OF A DEVELOPMENT OR PROJECT, THE AUTHORITY’S ACTIVITIES IN OPERATING AND MAINTAINING A DEVELOPMENT OR PROJECT, AND REVENUES FROM A DEVELOPMENT OR PROJECT.

(B) BONDS.

THE BONDS OF THE AUTHORITY, INCLUDING THE INTEREST ON THE BONDS, ARE FOREVER EXEMPT FROM STATE AND LOCAL TAXES.

REVISOR’S NOTE: This section is new language derived without substantive change from the third, fourth, fifth, sixth, seventh, and eighth clauses of former Art. 41, § 13–115.

In subsection (b) of this section, the former word “municipal” is deleted as included in the word “local”.

Defined terms: “Authority” § 10–201

“Bond” § 10–201

“Development” § 10–201

“Project” § 10–201

“State” § 9–101

10–227. AUDITS.

(A) REQUIRED.

THE LEGISLATIVE AUDITOR:

(1) MAY CONDUCT A FISCAL AND COMPLIANCE AUDIT OF THE ACCOUNTS AND TRANSACTIONS OF THE AUTHORITY YEARLY OR EVERY 2 YEARS; AND

(2) SHALL ADVISE OFFICIALS OF THE AUTHORITY WHETHER THE AUDIT WILL BE YEARLY OR EVERY 2 YEARS.

(B) COST.

THE AUTHORITY SHALL PAY THE COST OF THE FISCAL PART OF THE POST AUDIT EXAMINATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13–118.

In subsection (a) of this section, the former words “[a]t his discretion” which refer to the legislative auditor’s ability to choose to perform an annual audit are deleted as implicit.

Defined term: “Authority” § 10–201

10–228. ANNUAL REPORT.

(A) REQUIRED.

EACH YEAR, THE AUTHORITY SHALL SUBMIT A REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(B) CONTENTS.

THE REPORT SHALL INCLUDE A FINANCIAL STATEMENT COVERING THE OPERATIONS OF DEVELOPMENTS DURING THE PRECEDING FISCAL YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13–117.

In subsection (b) of this section, the phrase “during the preceding fiscal year” is added for clarity and consistency with this article.

Defined terms: “Authority” § 10–201
“Development” § 10–201

10–229. SHORT TITLE.

THIS SUBTITLE MAY BE CITED AS “THE MARYLAND FOOD CENTER AUTHORITY ACT”.

REVISOR'S NOTE: This section formerly was Art. 41, § 13–101.

No changes are made.

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 41, § 13–120, which provided for the severability of provisions of former Article 41, Subtitle 13, is deleted in light of Art. 1, § 23 which provides that all legislation enacted after July 1, 1979 is presumed to be severable absent specific language to the contrary, and in light of the standard rule of judicial construction favoring severability even in the absence of a severability clause in the statute. *See, e.g., Turner v. State*, 299 Md. 565 (1984): “Perhaps the most important of these principles [of statutory construction] is the presumption, even in the absence of an express clause or declaration, that a legislative body generally intends its enactments to be severed if possible. Moreover, when the dominant purpose of an enactment may largely be carried out, notwithstanding the statute’s partial invalidity, courts will generally hold the valid portions severable and enforce them.” 299 Md. 565, 576.

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Former Art. 41, § 13–121, which provided that all laws of the State that were inconsistent with the subtitle were repealed to the extent of such inconsistency is apparently obsolete. However, to avoid any inadvertent substantive effect their repeal might have, it is transferred to the Session Laws. *See* § 4 of Ch. 306, Acts of 2008.

Former Art. 41, § 13–122, which provided that the validity or enforceability of any bonds issued by the Authority before June 1, 2001 may not be impaired by subsequent amendments is not retained in the Code because it applies, if at all, only to a small class of outstanding bonds. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have. *See* § 4 of Ch. 306, Acts of 2008.

SUBTITLE 3. MARYLAND HEALTH AND HIGHER EDUCATIONAL FACILITIES AUTHORITY.

PART I. GENERAL PROVISIONS.

10–301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 43C, § 3.

In this subsection, the former qualification “unless the context indicates another or different meaning or intent” is deleted as an unnecessary statement of a standard rule of statutory construction that applies to all definitions.

(B) AUTHORITY.

“AUTHORITY” MEANS THE MARYLAND HEALTH AND HIGHER EDUCATIONAL FACILITIES AUTHORITY.

REVISOR'S NOTE: This subsection formerly was Art. 43C, § 3(a).

In this subsection, the former phrase “created by § 4 of this article or any board, body, commission, department, or officer succeeding to the principal functions thereof” is deleted in light of § 10–306 of this subtitle.

The only other changes are in style.

(C) BOND.

(1) “BOND” MEANS A BOND ISSUED BY THE AUTHORITY UNDER THIS SUBTITLE.

(2) “BOND” INCLUDES A REVENUE BOND, A REVENUE REFUNDING BOND, A NOTE, AND ANY OTHER OBLIGATIONS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 43C, § 3(e).

The former qualification “notwithstanding that the same may be secured by mortgage or the full faith and credit of a participating institution for higher education or noncollegiate educational institution or a participating hospital or any other lawfully pledged security of a participating institution for higher education or noncollegiate educational institution or a participating hospital” is deleted as surplusage.

Defined term: “Authority” § 10–301

(D) COST.

“COST”, WITH RESPECT TO A PROJECT FINANCED UNDER THIS SUBTITLE, INCLUDES:

- (1) THE PURCHASE PRICE OF A PROJECT;
- (2) THE COST TO ACQUIRE ANY RIGHT, TITLE, OR INTEREST IN A PROJECT;
- (3) THE COST OF ANY IMPROVEMENT;
- (4) THE COST OF ANY PROPERTY, RIGHT, EASEMENT, AND FRANCHISE;
- (5) THE COST OF DEMOLITION, REMOVAL, OR RELOCATION OF STRUCTURES;
- (6) THE COST OF ACQUIRING LAND TO WHICH THE STRUCTURES MAY BE MOVED;
- (7) THE COST OF EQUIPMENT;
- (8) FINANCING CHARGES;
- (9) INTEREST BEFORE AND DURING CONSTRUCTION AND, IF THE AUTHORITY DETERMINES, FOR A LIMITED PERIOD AFTER THE COMPLETION OF CONSTRUCTION;
- (10) RESERVES FOR PRINCIPAL AND INTEREST AND FOR IMPROVEMENTS;
- (11) THE COST OF REVENUE AND COST ESTIMATES, ARCHITECTURAL, ENGINEERING, FINANCIAL, AND LEGAL SERVICES, PLANS, SPECIFICATIONS, STUDIES, SURVEYS, AND OTHER EXPENSES NECESSARY OR INCIDENT TO DETERMINING THE FEASIBILITY OF IMPROVING A PROJECT; AND
- (12) OTHER EXPENSES AS NECESSARY OR INCIDENT TO:
 - (I) FINANCING A PROJECT;
 - (II) ACQUIRING AND IMPROVING A PROJECT; AND
 - (III) PLACING A PROJECT IN OPERATION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 43C, § 3(c).

In item (6) of this subsection, the former reference to “machinery” is deleted as redundant of the references to “equipment”.

- Defined terms: “Authority” § 10–301
“Finance” § 10–301
“Improve” § 10–301
“Improvement” § 10–301
“Participating institution” § 10–301
“Project” § 10–301

(E) EDUCATIONAL INSTITUTION.

“EDUCATIONAL INSTITUTION” MEANS AN INSTITUTION OF HIGHER EDUCATION OR A NONCOLLEGIATE EDUCATIONAL INSTITUTION.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the phrase “institution of higher education or noncollegiate educational institution” and its variants.

- Defined terms: “Institution of higher education” § 10–301
“Noncollegiate educational institution” § 10–301

(F) FINANCE.

“FINANCE” INCLUDES REFINANCE.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the phrase “finance or refinance” and its variants and for consistency within this title.

(G) HEALTH CARE INSTITUTION.

(1) “HEALTH CARE INSTITUTION” MEANS AN INSTITUTION IN THE STATE THAT IS OPERATED BY A PERSON, A LOCAL GOVERNMENT, OR, SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE STATE, IS AVAILABLE TO THE PUBLIC, AND IS:

(I) A NOT-FOR-PROFIT HOSPITAL AS DEFINED UNDER § 19–301 OF THE HEALTH – GENERAL ARTICLE THAT:

1. IS LICENSED AS A HOSPITAL BY THE SECRETARY OF HEALTH AND MENTAL HYGIENE UNDER § 19–318 OF THE HEALTH – GENERAL ARTICLE; OR

2. HAS OBTAINED A CERTIFICATE OF NEED ISSUED BY THE MARYLAND HEALTH CARE COMMISSION UNDER § 19–120 OF THE HEALTH – GENERAL ARTICLE, BUT IS NOT LICENSED AS A HOSPITAL BY THE SECRETARY OF HEALTH AND MENTAL HYGIENE UNDER § 19–318 OF THE HEALTH – GENERAL ARTICLE;

(II) A NOT-FOR-PROFIT RELATED INSTITUTION AS DEFINED UNDER § 19–301 OF THE HEALTH – GENERAL ARTICLE THAT IS LICENSED AS A RELATED INSTITUTION BY THE SECRETARY OF HEALTH AND MENTAL HYGIENE UNDER § 19–318 OF THE HEALTH – GENERAL ARTICLE;

(III) A COMBINATION OF INSTITUTIONS LISTED IN ITEMS (I) AND (II) OF THIS PARAGRAPH;

(IV) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION:

1. A NOT-FOR-PROFIT COMPREHENSIVE HEALTH CENTER THAT PROVIDES OUTPATIENT PRIMARY HEALTH SERVICES AVAILABLE TO THE GENERAL PUBLIC; OR

2. A NOT-FOR-PROFIT LIFE CARE OR CONTINUING CARE COMMUNITY THAT PROVIDES SELF-CONTINUED RESIDENCE FACILITIES FOR THE RETIRED OR ELDERLY;

(V) ANY COMBINATION OF HEALTH CARE ENTITIES LISTED IN ITEM (IV) OF THIS PARAGRAPH;

(VI) AN ENTITY AFFILIATED OR ASSOCIATED WITH AN INSTITUTION LISTED IN ITEMS (I) THROUGH (V) OF THIS PARAGRAPH, IF THE AUTHORITY DETERMINES BY RESOLUTION THAT THE FINANCING OF A PROJECT FOR THE ENTITY SERVES THE PUBLIC PURPOSE OF THAT INSTITUTION; OR

(VII) A NOT-FOR-PROFIT HEALTH SERVICE PLAN THAT HOLDS A CERTIFICATE OF AUTHORITY AND PROVIDES HEALTH INSURANCE POLICIES OR CONTRACTS IN THE STATE IN ACCORDANCE WITH THE INSURANCE ARTICLE.

(2) "HEALTH CARE INSTITUTION" INCLUDES A NOT-FOR-PROFIT CORPORATION ORGANIZED TO CONSTRUCT OR ACQUIRE AN INSTITUTION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) "HEALTH CARE INSTITUTION" DOES NOT INCLUDE A FACILITY DESCRIBED IN PARAGRAPH (1)(IV) OF THIS SUBSECTION THAT IS OWNED AND OPERATED BY THE STATE, EXCEPT FOR THE FOLLOWING FACILITIES IF APPROVED BY THE BOARD OF PUBLIC WORKS AND THE JOINT AUDIT COMMITTEE:

1. A NOT-FOR-PROFIT COMPREHENSIVE HEALTH CENTER THAT IS A MEDICAL OR HEALTH CARE FACILITY OF THE UNIVERSITY SYSTEM OF MARYLAND; OR

2. A NOT-FOR-PROFIT LIFE CARE OR CONTINUING CARE COMMUNITY THAT PROVIDES SELF-CONTAINED RESIDENCE FACILITIES FOR THE RETIRED OR ELDERLY.

(4) FOR PURPOSES OF THIS SUBSECTION THE FACILITIES OF THE UNIVERSITY OF MARYLAND MEDICAL SYSTEM CORPORATION ARE NOT CONSIDERED TO BE OWNED AND OPERATED BY THE STATE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 43C, § 3(h).

In paragraph (1)(i)2 of this subsection, the phrase "has obtained a certificate of need issued by the Maryland Health Care Commission under § 19-120 of the Health - General Article, but is not licensed as a hospital by the Secretary of Health and Mental Hygiene under § 19-318 of the

Health – General Article” is substituted for the former phrase “in the case of a new institution, having a precicensing certification or recertification from the State Health Planning and Development Agency and being or to be, in fact, a health care facility available to the general public maintained and operated as a not-for-profit institution by some person, association, municipal or other corporation, or other agency, or a not-for-profit corporation organized for the purpose of constructing or acquiring such a hospital, related institution or combination of a hospital and a related institution” for clarity and brevity.

Defined terms: “Person” § 9–101

“State” § 9–101

(H) IMPROVE.

“IMPROVE” MEANS TO ADD, ALTER, CONSTRUCT, EQUIP, EXPAND, EXTEND, IMPROVE, INSTALL, RECONSTRUCT, REHABILITATE, REMODEL, OR REPAIR.

REVISOR’S NOTE: This subsection is new language added for brevity and clarity.

(I) IMPROVEMENT.

“IMPROVEMENT” MEANS ADDITION, ALTERATION, CONSTRUCTION, EQUIPPING, EXPANSION, EXTENSION, IMPROVEMENT, INSTALLATION, RECONSTRUCTION, REHABILITATION, REMODELING, OR REPAIR.

REVISOR’S NOTE: This subsection is new language derived in part without substantive change from former Art. 43C, § 3(d) and patterned in part on the term “improvement” defined in § 10–101 of this title.

(J) INSTITUTION OF HIGHER EDUCATION.

(1) “INSTITUTION OF HIGHER EDUCATION” MEANS AN EDUCATIONAL INSTITUTION IN THE STATE THAT:

(I) BY LAW OR CHARTER:

1. IS A PUBLIC OR NOT-FOR-PROFIT EDUCATIONAL INSTITUTION; AND

2. IS AUTHORIZED TO PROVIDE:

A. A PROGRAM OF EDUCATION BEYOND THE HIGH SCHOOL LEVEL AND AWARD A BACHELOR’S OR ADVANCED DEGREE; OR

B. A PROGRAM OF 2 OR MORE YEARS’ DURATION THAT IS ACCEPTED FOR FULL CREDIT TOWARD A BACHELOR’S DEGREE; AND

(II) MEETS THE STANDARDS AND REGULATIONS THAT THE MARYLAND HIGHER EDUCATION COMMISSION PRESCRIBES, AND IS AUTHORIZED TO ISSUE A CERTIFICATE, DIPLOMA, OR DEGREE UNDER TITLE 12 OF THE EDUCATION ARTICLE.

(2) “INSTITUTION OF HIGHER EDUCATION” INCLUDES:

(I) A COMMUNITY COLLEGE FOR WHICH A BOARD OF COMMUNITY COLLEGE TRUSTEES IS ESTABLISHED UNDER § 16–101 OF THE EDUCATION ARTICLE;

(II) A REGIONAL COMMUNITY COLLEGE ESTABLISHED UNDER § 16–202 OF THE EDUCATION ARTICLE;

(III) THE BALTIMORE CITY COMMUNITY COLLEGE ESTABLISHED UNDER § 16–501 OF THE EDUCATION ARTICLE; AND

(IV) THE COLLEGE OF SOUTHERN MARYLAND ESTABLISHED UNDER § 16–603 OF THE EDUCATION ARTICLE.

(3) “INSTITUTION OF HIGHER EDUCATION” DOES NOT INCLUDE AN INSTITUTION OWNED AND OPERATED BY THE STATE OTHER THAN AN INSTITUTION LISTED IN PARAGRAPH (2) OF THIS SUBSECTION.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 43C, § 3(f)(1).

Defined term: “State” § 9–101

(K) NONCOLLEGIATE EDUCATIONAL INSTITUTION.

“NONCOLLEGIATE EDUCATIONAL INSTITUTION” MEANS A NONCOLLEGIATE EDUCATIONAL INSTITUTION AS DEFINED IN § 2–206 OF THE EDUCATION ARTICLE THAT:

(1) HAS RECEIVED A CERTIFICATE OF APPROVAL FROM THE STATE BOARD OF EDUCATION; OR

(2) IS AN INSTITUTION OPERATED BY A BONA FIDE CHURCH ORGANIZATION.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 43C, § 3(f)(2).

(L) PARTICIPATING INSTITUTION.

“PARTICIPATING INSTITUTION” MEANS A PARTICIPATING EDUCATIONAL INSTITUTION OR A PARTICIPATING HEALTH CARE INSTITUTION THAT RECEIVES ASSISTANCE UNDER THIS SUBTITLE.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the phrase “participating educational institution” or “participating health care institution”.

Defined terms: “Participating educational institution” § 10–301

“Participating health care institution” § 10–301

(M) PROJECT.

(1) WITH RESPECT TO AN EDUCATIONAL INSTITUTION:

(I) “PROJECT” MEANS A STRUCTURE OR FACILITY THAT IS REQUIRED OR USEFUL FOR AN EDUCATIONAL INSTITUTION;

(II) "PROJECT" INCLUDES:

1. A STRUCTURE SUITABLE FOR USE AS A DORMITORY OR OTHER HOUSING FACILITY, DINING HALL, STUDENT UNION, ADMINISTRATION BUILDING, ACADEMIC BUILDING, LIBRARY, LABORATORY, RESEARCH FACILITY, CLASSROOM, ATHLETIC FACILITY, HEALTH CARE FACILITY, MAINTENANCE FACILITY, STORAGE FACILITY, UTILITY FACILITY, OR PARKING FACILITY; AND

2. EQUIPMENT AND OTHER SIMILAR ITEMS; AND

(III) "PROJECT" DOES NOT INCLUDE BOOKS, FUEL, SUPPLIES, OR OTHER ITEMS THAT CUSTOMARILY RESULT IN A CURRENT OPERATING CHARGE.

(2) WITH RESPECT TO A HEALTH CARE INSTITUTION:

(I) "PROJECT" MEANS A STRUCTURE OR FACILITY THAT IS REQUIRED OR USEFUL FOR THE EFFECTIVE OPERATION OF A HEALTH CARE INSTITUTION;

(II) "PROJECT" INCLUDES:

1. A STRUCTURE SUITABLE FOR USE AS A HOSPITAL, CLINIC, OR OTHER HEALTH CARE FACILITY, LABORATORY, TRAINING FACILITY FOR NURSING OR ANOTHER HEALTH PROGRAM, LAUNDRY, A RESIDENCE FOR NURSES OR INTERNS, OR A PARKING FACILITY; AND

2. EQUIPMENT AND OTHER SIMILAR ITEMS; AND

(III) "PROJECT" DOES NOT INCLUDE FUEL, SUPPLIES, OR OTHER ITEMS THAT CUSTOMARILY RESULT IN A CURRENT OPERATING CHARGE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 43C, § 3(b).

In paragraph (1)(ii) of this subsection, the former phrases "for the instruction of students", "the conducting of research", and "the operation of an institution for higher education or a noncollegiate educational institution", are deleted as implicit in the facilities and structures to which this paragraph refers.

In paragraph (1)(ii)2 and (2)(ii)2 of this subsection, the former references to "machinery" are deleted as redundant of the references to "equipment".

In paragraph (2)(ii) of this subsection, the former phrase "and other facilities or structures essential or convenient for the orderly operation of a hospital, and shall also include" is deleted as superfluous.

Defined terms: "Health care institution" § 10-301

"Institution of higher education" § 10-301

"Noncollegiate educational institution" § 10-301

(N) SINKING FUND.

"SINKING FUND" MEANS A FUND ESTABLISHED UNDER § 10-328 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language added for clarity.

(O) TRUST AGREEMENT.

(1) "TRUST AGREEMENT" MEANS AN AGREEMENT ENTERED INTO BY THE AUTHORITY TO SECURE A BOND.

(2) "TRUST AGREEMENT" MAY INCLUDE A BOND CONTRACT, BOND RESOLUTION, OR OTHER CONTRACT WITH OR FOR THE BENEFIT OF A BONDHOLDER.

REVISOR'S NOTE: This subsection is new language added for clarity.

Defined terms: "Authority" § 10-301

"Bond" § 10-301

REVISOR'S NOTE TO SECTION:

Former Art. 43C, § 3(g), which defined "participating institution for higher education or noncollegiate educational institution", is deleted because the term is not used in this revision.

Former Art. 43C, § 3(i), which defined "participating hospital", is deleted because the term is not used in this revision.

10-302. CONSTRUCTION OF SUBTITLE.

(A) LIBERAL CONSTRUCTION.

THIS SUBTITLE IS NECESSARY FOR THE WELFARE OF THE STATE AND ITS RESIDENTS AND SHALL BE CONSTRUED LIBERALLY TO ACCOMPLISH ITS PURPOSES.

(B) SUBTITLE ADDITIONAL AND SUPPLEMENTAL.

THIS SUBTITLE:

(1) IS SUPPLEMENTAL AUTHORIZATION AND IS IN ADDITION TO THE POWERS CONFERRED BY OTHER LAWS; AND

(2) DOES NOT DEROGATE ANY POWERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, §§ 22 and 23.

Defined term: "State" § 9-101

10-303. LEGISLATIVE FINDINGS; PURPOSES.

(A) FINDINGS.

THE GENERAL ASSEMBLY FINDS THAT, FOR THE BENEFIT OF THE PEOPLE OF THE STATE, THE INCREASE OF THEIR COMMERCE, WELFARE, AND PROSPERITY, AND THE IMPROVEMENT OF THEIR HEALTH AND LIVING CONDITIONS, THAT:

(1) IT IS ESSENTIAL THAT:

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(I) PEOPLE HAVE THE FULLEST OPPORTUNITY TO LEARN AND TO DEVELOP INTELLECTUAL CAPACITIES;

(II) EDUCATIONAL INSTITUTIONS IN THE STATE HAVE THE APPROPRIATE MEANS TO ASSIST PEOPLE IN ACHIEVING REQUIRED LEVELS OF LEARNING AND DEVELOPMENT OF INTELLECTUAL CAPACITIES;

(III) HEALTH CARE INSTITUTIONS IN THE STATE HAVE APPROPRIATE MEANS TO EXPAND AND ESTABLISH HOSPITALS AND OTHER RELATED HEALTH CARE FACILITIES; AND

(IV) EDUCATIONAL INSTITUTIONS AND HEALTH CARE INSTITUTIONS IN THE STATE ARE ABLE TO FINANCE PROJECTS AT THE LEAST COST TO THEIR USERS;

(2) EXISTING FACILITIES FOR EDUCATION AND HEALTH CARE AND EXISTING FINANCING VEHICLES AVAILABLE TO THESE INSTITUTIONS ARE INSUFFICIENT TO MEET THESE NEEDS; AND

(3) THESE INSTITUTIONS ARE NOT ABLE WITH PRESENT MEANS TO IMPROVE AND ADEQUATELY FINANCE SUFFICIENT FACILITIES, IN ORDER TO PROVIDE THE FACILITIES AT THE LEAST COST TO THEIR USERS.

(B) PURPOSES.

THE PURPOSES OF THE AUTHORITY ARE TO:

(1) ASSIST EDUCATIONAL INSTITUTIONS AND HEALTH CARE INSTITUTIONS IN THE ACQUISITION, IMPROVEMENT, AND FINANCING OF PROJECTS; AND

(2) PROVIDE ASSISTANCE THAT ENABLES EDUCATIONAL INSTITUTIONS AND HEALTH CARE INSTITUTIONS TO FINANCE, AT THE LEAST COST TO THEIR USERS, THE FACILITIES AND STRUCTURES THAT ARE NEEDED TO ACCOMPLISH THE PURPOSES OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from part of former Art. 43C, § 2, and the first sentence of former Art. 43C, § 5(a), as it stated a purpose.

In the introductory language to subsection (a) of this section, the phrase, "[t]he General Assembly finds" is substituted for the former phrase "[i]t is hereby declared" for consistency in style.

In subsection (a)(1)(i) of this section, the reference to "people" is substituted for the former reference to "children" for clarity. Education is not limited to the young. No substantive change is intended.

Defined terms: "Authority" § 10-301

"Cost" § 10-301

"Educational institution" § 10-301

"Finance" § 10-301

"Health care institution" § 10-301

"Improve" § 10-301

“Improvement” § 10–301

“Project” § 10–301

“State” § 9–101

10–304. RESERVED.

10–305. RESERVED.

PART II. MARYLAND HEALTH AND HIGHER EDUCATIONAL FACILITIES AUTHORITY.

10–306. ESTABLISHED.

(A) IN GENERAL.

THERE IS A MARYLAND HEALTH AND HIGHER EDUCATIONAL FACILITIES AUTHORITY.

(B) STATUS.

THE AUTHORITY IS A BODY POLITIC AND CORPORATE AND IS AN INSTRUMENTALITY OF THE STATE.

(C) ESSENTIAL GOVERNMENTAL FUNCTION.

THE EXERCISE OF A POWER UNDER THIS SUBTITLE IS THE PERFORMANCE OF AN ESSENTIAL GOVERNMENTAL FUNCTION.

(D) PUBLIC BENEFIT.

THE EXERCISE OF A POWER UNDER THIS ARTICLE IS:

- (1) FOR THE BENEFIT OF THE PEOPLE OF THE STATE;
- (2) TO INCREASE THEIR COMMERCE, WELFARE, AND PROSPERITY; AND
- (3) TO IMPROVE THEIR HEALTH, EDUCATION, AND LIVING CONDITIONS.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 43C, § 4(a) and, as it related to the exercise of powers under this subtitle, § 17.

Defined terms: “Authority” § 10–301

“State” § 9–101

10–307. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

THE AUTHORITY CONSISTS OF THE FOLLOWING NINE MEMBERS:

- (1) EIGHT RESIDENTS OF THE STATE APPOINTED BY THE GOVERNOR; AND
- (2) THE TREASURER OR A DEPUTY TREASURER DESIGNATED BY THE TREASURER.

(B) OFFICERS.

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EACH YEAR THE GOVERNOR SHALL DESIGNATE ONE MEMBER AS CHAIR AND ONE AS VICE CHAIR.

(C) OATH.

BEFORE TAKING OFFICE, EACH MEMBER SHALL TAKE AN OATH TO ADMINISTER THE DUTIES OF THE OFFICE FAITHFULLY AND IMPARTIALLY.

(D) TENURE; VACANCIES.

1. (1) THE TERM OF AN APPOINTED MEMBER IS 5 YEARS AND BEGINS ON JULY 1.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS IN EFFECT FOR MEMBERS OF THE AUTHORITY ON OCTOBER 1, 2008.

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

(4) THE GOVERNOR SHALL FILL ANY VACANCY FOR THE UNEXPIRED TERM.

(E) REMOVAL.

THE GOVERNOR MAY REMOVE AN APPOINTED MEMBER AT ANY TIME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, § 4(c) and the first through sixth, eighth, and ninth sentences of (b).

In subsection (b) of this section, the references to a "chair" and "vice chair", respectively, are substituted for the former references to a "chairman" and "vice-chairman", respectively, because SG § 2-1246 requires the use of terms that are neutral as to gender to the extent practicable.

Subsection (c) of this section is revised in standard language for clarity.

In subsection (c) of this section, the former reference to "filing the oath" is deleted as redundant of SG § 16-105, which requires all oaths other than those for certain specified offices to be taken and subscribed before the clerk of a circuit court or the clerk's deputy, and SG § 16-108, which requires the clerks to file with the Secretary of State monthly reports of oaths taken.

In subsection (d)(2) of this section, the reference to terms of appointed members being staggered as required by the terms provided for appointed members on "October 1, 2008" is substituted for the former obsolete reference to terms being staggered as required by the terms provided on "July 1, 1970". This substitution is not intended to alter the term of any member of the Authority. See § 13 of Ch. 306, Acts of 2008. The terms of the appointed members serving on October 1, 2008 end as follows: (1) two on June 30, 2009; (2) two on June 30, 2010; (3) one on June 30, 2011; (4) one on June 30, 2012; and (5) two on June 30, 2013.

In subsection (e) of this section, the former requirement that the Governor “reappoint a person to stand in the place of the member so removed to serve for the balance of the term of the member who had been removed” is deleted as redundant of subsection (d)(4) of this section.

The seventh sentence of former Art. 43C, § 4(b), which provided that a member of the Authority is eligible for reappointment, is deleted because there is no contrary provision and thus no reason to believe that this is not the case.

Defined terms: “Authority” § 10–301
“State” § 9–101

10–308. QUORUM; COMPENSATION.

(A) **QUORUM; VOTING.**

(1) **FIVE MEMBERS OF THE AUTHORITY ARE A QUORUM.**

(2) **THE AFFIRMATIVE VOTE OF A MAJORITY OF MEMBERS PRESENT AT A MEETING HAVING A QUORUM IS REQUIRED FOR THE AUTHORITY TO TAKE ANY ACTION.**

(3) **THE AUTHORITY MAY TAKE ACTION UNDER THIS SUBTITLE BY PASSING A RESOLUTION AT A REGULAR OR SPECIAL MEETING.**

(4) **A RESOLUTION SHALL TAKE EFFECT IMMEDIATELY AND WITHOUT BEING PUBLISHED OR POSTED.**

(B) **COMPENSATION; REIMBURSEMENT FOR EXPENSES.**

A MEMBER OF THE AUTHORITY:

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

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

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 43C, § 4(j) and the first and third sentences of (h).

The second sentence of former Art. 43C, § 4(h), which provided that “[n]o vacancy ... shall impair the right of a quorum ...” is deleted as an unnecessary restatement of the common-law rule. *See* General Revisor’s Note to article.

Defined terms: “Authority” § 10–301
“State” § 9–101

10–309. EXECUTIVE DIRECTOR.

(A) **POSITION; TENURE; COMPENSATION.**

(1) **SUBJECT TO THE APPROVAL OF THE GOVERNOR, THE AUTHORITY SHALL APPOINT AN EXECUTIVE DIRECTOR.**

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(2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE AUTHORITY.

(3) THE AUTHORITY SHALL DETERMINE THE COMPENSATION OF THE EXECUTIVE DIRECTOR.

(4) THE EXECUTIVE DIRECTOR MAY NOT BE A MEMBER OF THE AUTHORITY.

(B) ADMINISTRATIVE OFFICER.

SUBJECT TO THE SUPERVISION OF THE AUTHORITY, THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE OFFICER OF THE AUTHORITY.

(C) DUTIES.

THE EXECUTIVE DIRECTOR:

(1) SHALL KEEP A RECORD OF THE PROCEEDINGS OF THE AUTHORITY; AND

(2) IS THE CUSTODIAN OF ALL BOOKS AND DOCUMENTS FILED WITH THE AUTHORITY, THE RECORDS OF THE AUTHORITY, AND THE SEAL OF THE AUTHORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from the first and fourth sentences of former Art. 43C, § 4(e) and the first sentence and, as they related to the Executive Director, the fourth and fifth sentences of (d).

In subsection (b) of this section, the former phrase "and direction" is deleted as implicit in the word "supervision".

In subsection (c) of this section, the former reference to "papers" is deleted in light of the reference to "documents". Similarly, the reference to custody of "records" is substituted for the former reference to custody of "the minute book or journal of the Authority" for clarity and consistency within this article.

Defined term: "Authority" § 10-301

10-310. GENERAL COUNSEL.

(A) POSITION; TENURE; COMPENSATION.

(1) SUBJECT TO THE APPROVAL OF THE GOVERNOR, THE AUTHORITY MAY APPOINT A FULL-TIME OR PART-TIME GENERAL COUNSEL.

(2) THE GENERAL COUNSEL SERVES AT THE PLEASURE OF THE AUTHORITY.

(3) THE AUTHORITY SHALL DETERMINE THE COMPENSATION OF THE GENERAL COUNSEL.

(4) THE GENERAL COUNSEL MAY NOT BE A MEMBER OF THE AUTHORITY.

(B) DUTIES.

THE GENERAL COUNSEL, IF APPOINTED, IS THE LEGAL ADVISOR TO THE AUTHORITY AND, AT THE DIRECTION OF THE AUTHORITY, SHALL REPRESENT THE AUTHORITY IN JUDICIAL OR OTHER PROCEEDINGS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, § 4(f) and the second and, as they related to the General Counsel, the fourth and fifth sentences of (d).

Defined term: "Authority" § 10-301

10-311. OFFICERS.

(A) DUTIES.

THE AUTHORITY MAY DETERMINE THE DUTIES OF ALL ITS OFFICERS.

(B) ADDITIONAL OFFICERS — APPOINTMENT.

THE AUTHORITY MAY APPOINT ADDITIONAL OFFICERS.

(C) TENURE; COMPENSATION.

(1) ADDITIONAL OFFICERS SERVE AT THE PLEASURE OF THE AUTHORITY.

(2) THE AUTHORITY SHALL DETERMINE THE COMPENSATION OF THE ADDITIONAL OFFICERS.

REVISOR'S NOTE: This section is new language derived without substantive change from the third sentence and, as it related to additional officers, the fifth sentence of former Art. 43C, § 4(d).

In subsection (b) of this section, the former reference to "creat[ing] additional offices" is deleted as implicit in the reference to "appoint[ing] additional officers".

In subsection (c) of this section, the former phrase "or officers" is deleted in light of Art. 1, § 8.

Defined term: "Authority" § 10-301

10-312. STAFF.

THE AUTHORITY MAY EMPLOY PROFESSIONAL AND OTHER STAFF AND RETAIN ENGINEERS, ARCHITECTS, ACCOUNTANTS, CONSTRUCTION AND FINANCIAL EXPERTS, MANAGERS, AND OTHER PROFESSIONALS THAT IT CONSIDERS NECESSARY AND SET THEIR COMPENSATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, § 5(a)(9).

Defined term: "Authority" § 10-301

10-313. APPLICABILITY OF OTHER LAWS.

(A) ADMINISTRATIVE FUNCTION SUPPORT.

THE AUTHORITY SHALL FOLLOW STATE PROCEDURES TO OBTAIN, FOR INTERNAL ADMINISTRATIVE FUNCTIONS, OFFICE SPACE, SUPPLIES, FACILITIES, MATERIALS, EQUIPMENT, AND PROFESSIONAL SERVICES.

(B) SURETY BONDS.

EACH MEMBER, THE EXECUTIVE DIRECTOR, EACH OTHER OFFICER, AND EACH EMPLOYEE OF THE AUTHORITY SHALL BE COVERED BY A SURETY BOND IN ACCORDANCE WITH TITLE 9, SUBTITLE 17 OF THE STATE GOVERNMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, § 4(i) and, as it related to the applicability of State procurement procedures, § 5(a)(16).

Subsection (b) of this section is revised in standard language for consistency with other revised articles of the Code.

For State surety bond requirements and procedures, *see* SG Title 9, Subtitle 17.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that the Authority is not specifically listed in the Maryland Tort Claims Act. The General Assembly may wish to address the potential liability of personnel of the Authority in the same manner that it has already done with the Maryland Economic Development Corporation and the Maryland Stadium Authority which are specifically included in that statute. *See* SG § 12–101.

Defined terms: “Authority” § 10–301
“State” § 9–101

10–314. POWERS — IN GENERAL.

(A) IN GENERAL.

THE AUTHORITY MAY:

- (1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;
- (2) SUE AND BE SUED;
- (3) ADOPT A SEAL;
- (4) MAINTAIN AN OFFICE AT A PLACE IT DESIGNATES;
- (5) ISSUE BONDS IN ACCORDANCE WITH THIS SUBTITLE;
- (6) ACCEPT A GRANT, LOAN, OR OTHER ASSISTANCE IN ANY FORM FROM ANY PUBLIC OR PRIVATE SOURCE, SUBJECT TO THE PROVISIONS OF THIS SUBTITLE;
- (7) CHARGE TO AND EQUITABLY ALLOCATE AMONG PARTICIPATING INSTITUTIONS THE ADMINISTRATIVE COSTS AND EXPENSES OF CARRYING OUT THIS SUBTITLE; AND

(8) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS EXPRESSLY GRANTED BY THIS SUBTITLE.

(B) LIMITATION.

(1) A HEALTH CARE INSTITUTION MAY NOT USE ANY MONEY RECEIVED FROM A BOND ISSUED BY THE AUTHORITY TO MATCH ANY STATE LOAN OR GRANT THAT IS AVAILABLE FOR IMPROVEMENT OF A HEALTH CARE INSTITUTION.

(2) THE AUTHORITY SHALL COMPLY WITH THE TERMS AND CONDITIONS OF ASSISTANCE RECEIVED IN ACCORDANCE WITH SUBSECTION (A)(6) OF THIS SECTION.

(C) DELEGATION.

THE AUTHORITY MAY DELEGATE TO A MEMBER OR OFFICER A POWER GRANTED TO THE AUTHORITY BY THIS SUBTITLE, INCLUDING THE POWER TO EXECUTE A BOND, CERTIFICATE, DEED, LEASE, MORTGAGE, AGREEMENT, OR OTHER DOCUMENT OR INSTRUMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, §§ 4(g) and 5(a)(1) through (4), (6), (10), (14), (15), and, as it related to general authorization to carry out this subtitle, (16).

In subsection (a)(6) of this section, the former specific references to assistance from any "public agency" and from "the federal government or any agency or instrumentality thereof or from the State or any agency or instrumentality thereof or from any other source" are deleted as included in the comprehensive reference to "any source".

In subsection (c) of this section, the former reference "to the Authority or any of its officers" is deleted as implicit in the authority of the Authority to authorize its members or officers "to perform any act necessary" to carry out the powers granted by this subtitle. Correspondingly, the former phrase "without limitation" is deleted as superfluous.

- Defined terms: "Authority" § 10-301
- "Bond" § 10-301
- "Cost" § 10-301
- "Health care institution" § 10-301
- "Improvement" § 10-301
- "Participating institution" § 10-301
- "State" § 9-101

10-315. POWERS — PROJECTS.

(A) IN GENERAL.

THE AUTHORITY MAY:

(1) (I) ACQUIRE, DIRECTLY OR THROUGH A PARTICIPATING INSTITUTION ACTING AS ITS AGENT, BY PURCHASE, GIFT, OR DEVISE, ANY PROPERTY, FRANCHISES, AND OTHER INTERESTS IN LAND, INCLUDING SUBMERGED LAND AND RIPARIAN RIGHTS,

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LOCATED IN OR OUTSIDE THE STATE, AS NECESSARY OR CONVENIENT TO CONSTRUCT, ACQUIRE, OR OPERATE A PROJECT, ON TERMS AND AT PRICES THE AUTHORITY CONSIDERS REASONABLE; AND

(II) TAKE TITLE TO THE PROPERTY IN THE NAME OF THE AUTHORITY OR THE PARTICIPATING INSTITUTION AS ITS DESIGNATED AGENT;

(2) DETERMINE THE LOCATION AND CHARACTER OF A PROJECT TO BE FINANCED UNDER THIS SUBTITLE, OR DESIGNATE A PARTICIPATING INSTITUTION AS ITS AGENT TO DO SO;

(3) DIRECTLY, OR THROUGH A PARTICIPATING INSTITUTION ACTING AS ITS DESIGNATED AGENT, ACQUIRE, IMPROVE, MAINTAIN, OPERATE, LEASE AS LESSEE OR LESSOR, AND REGULATE A PROJECT, AND ENTER INTO CONTRACTS FOR ANY OF THESE PURPOSES AND FOR THE MANAGEMENT OF A PROJECT;

(4) FIX AND COLLECT RATES, RENTALS, FEES, AND CHARGES FOR SERVICES AND FACILITIES THAT A PROJECT PROVIDES OR MAKES AVAILABLE;

(5) DIRECTLY, OR THROUGH A PARTICIPATING INSTITUTION ACTING AS ITS DESIGNATED AGENT, ESTABLISH RULES AND REGULATIONS FOR THE USE OF A PROJECT;

(6) MORTGAGE, PLEDGE, OR OTHERWISE ENCUMBER A PROJECT AND ITS SITE OR HOLD A MORTGAGE OR OTHER ENCUMBRANCE ON A PROJECT AND ITS SITE FOR THE BENEFIT OF THE HOLDERS OF BONDS ISSUED TO FINANCE THE PROJECT; AND

(7) MAKE A LOAN TO A PARTICIPATING INSTITUTION TO:

(I) IMPROVE OR ACQUIRE A PROJECT IN ACCORDANCE WITH AN AGREEMENT BETWEEN THE AUTHORITY AND THE PARTICIPATING INSTITUTION;

(II) REFINANCE ANY PART OF A PROJECT; AND

(III) REFUND OR REPAY BONDS, MORTGAGES, ADVANCES, LOANS, OR OTHER OBLIGATIONS OF THE PARTICIPATING INSTITUTION TO THE AUTHORITY, ANY PERSON, OR ANY UNIT OF FEDERAL, STATE, OR LOCAL GOVERNMENT INCURRED TO FINANCE ANY PART OF A PROJECT.

(B) JOINT PROJECT.

THE AUTHORITY MAY UNDERTAKE A JOINT PROJECT FOR TWO OR MORE PARTICIPATING INSTITUTIONS.

(C) LIMITATION.

A LOAN FROM THE AUTHORITY TO A PARTICIPATING INSTITUTION UNDER SUBSECTION (A)(7)(I) OF THIS SECTION MAY NOT EXCEED THE TOTAL COST OF THE PROJECT AS DETERMINED BY THE PARTICIPATING INSTITUTION AND APPROVED BY THE AUTHORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, §§ 5(a)(5), (7), (8), (11) through (13) and (b), and, as it related to the power to acquire property for projects, 7.

In subsection (a)(1) of this section, the former references to “such lands, structures, property, real or personal, rights, rights-of-way, ... [and] easements” are deleted as included in the comprehensive reference to “property”.

In subsection (b) of this section, the former reference to “carrying out the purposes of this article” is deleted as implicit in the powers granted to the Authority in subsection (a) of this section.

Defined terms: “Authority” § 10–301

“Finance” § 10–301

“Improve” § 10–301

“Participating institution” § 10–301

“Person” § 9–101

“Project” § 10–301

“State” § 9–101

10–316. EXPENSES; LIABILITY.

(A) **EXPENSES.**

EXPENSES INCURRED UNDER THIS SUBTITLE ARE PAYABLE ONLY FROM MONEY OBTAINED UNDER THIS SUBTITLE.

(B) **LIABILITY.**

THE AUTHORITY MAY NOT INCUR A LIABILITY IN EXCESS OF MONEY OBTAINED UNDER THIS SUBTITLE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 43C, § 6.

Defined term: “Authority” § 10–301

10–317. INSPECTION OF PUBLIC RECORDS.

(A) **COPIES.**

(1) THE EXECUTIVE DIRECTOR AND EACH OTHER OFFICER AUTHORIZED BY THE AUTHORITY MAY:

(i) ALLOW COPIES TO BE MADE OF THE MINUTES AND RECORDS OF THE AUTHORITY; AND

(ii) CERTIFY RECORDS UNDER SEAL SHOWING THAT THE COPIES ARE TRUE COPIES.

(2) A PERSON MAY RELY ON THE CERTIFIED RECORD.

(B) **PUBLIC RECORDS.**

THE RECORDS OF THE AUTHORITY ARE PUBLIC RECORDS SUBJECT TO REASONABLE INSPECTION.

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REVISOR'S NOTE: This section is new language derived without substantive change from the second and third sentences of former Art. 43C, § 4(e).

Defined term: "Authority" § 10-301

10-318. AUDIT.

(A) **REQUIRED.**

AT LEAST ONCE EACH YEAR THE AUTHORITY SHALL HAVE ITS BOOKS AUDITED BY A CERTIFIED PUBLIC ACCOUNTANT.

(B) **COST.**

THE AUTHORITY SHALL PAY FOR THE COST OF THE AUDIT FROM MONEY AVAILABLE TO IT UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the third sentence of former Art. 43C, § 20.

Defined term: "Authority" § 10-301

10-319. ANNUAL REPORT.

(A) **REQUIRED.**

ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE AUTHORITY SHALL REPORT TO THE GOVERNOR ON ITS ACTIVITIES FOR THE PRECEDING FISCAL YEAR.

(B) **CONTENTS.**

THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND FINANCIAL STATEMENT COVERING THE OPERATIONS OF THE AUTHORITY DURING THE PRECEDING FISCAL YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from the first and second sentences of former Art. 43C, § 20.

Defined term: "Authority" § 10-301

10-320. TERMINATION.

(A) **IN GENERAL.**

A LAW TO TERMINATE THE AUTHORITY MAY NOT TAKE EFFECT UNTIL ADEQUATE PROVISION IS MADE TO PAY EACH OUTSTANDING BOND AND OTHER OBLIGATION OF THE AUTHORITY.

(B) **TRANSFER OF ASSETS TO STATE.**

ON TERMINATION OF THE AUTHORITY, ITS RIGHTS AND PROPERTY PASS TO THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, § 21.

In subsection (a) of this section, the former phrase "[t]he Authority and its

corporate existence shall continue until terminated by law” is deleted as redundant of the establishment of the Authority without a termination provision and CA § 2–103(1), which provides that a corporation has a perpetual existence unless its charter specifically provides for its termination.

In subsection (b) of this section, the former reference to rights and property “be[ing] vested in” the State is deleted as surplusage.

Defined terms: “Authority” § 10–301
“State” § 9–101

10–321. RESERVED.

10–322. RESERVED.

PART III. BONDS.

10–323. GENERAL AUTHORIZATION.

(A) ISSUANCE.

(1) THE AUTHORITY MAY PERIODICALLY:

(I) ISSUE BONDS FOR ANY CORPORATE PURPOSE, INCLUDING OPERATING EXPENSES;

(II) REFUND THOSE BONDS;

(III) PURCHASE ITS BONDS WITH ANY FUNDS AVAILABLE; AND

(IV) HOLD, PLEDGE, CANCEL, OR RESELL BONDS.

(2) BY RESOLUTION, THE AUTHORITY MAY AUTHORIZE THE CHAIR, VICE CHAIR, ONE OF ITS MEMBERS, OR A COMMITTEE OF ITS MEMBERS TO DETERMINE, PROVIDE FOR, OR APPROVE ANY MATTERS RELATING TO BONDS THAT THE AUTHORITY CONSIDERS APPROPRIATE INCLUDING:

(I) SPECIFYING, DETERMINING, PRESCRIBING, AND APPROVING MATTERS, DOCUMENTS, AND PROCEDURES THAT RELATE TO THE AUTHORIZATION, SALE, SECURITY, ISSUANCE, DELIVERY, AND PAYMENT OF AND FOR THE BONDS;

(II) CREATING SECURITY FOR THE BONDS;

(III) PROVIDING FOR THE ADMINISTRATION OF BOND ISSUES; AND

(IV) TAKING OTHER ACTIONS IT CONSIDERS APPROPRIATE CONCERNING THE BONDS.

(3) THE POWER GRANTED IN PARAGRAPH (2) OF THIS SUBSECTION IS IN ADDITION TO POWERS CONFERRED ON THE AUTHORITY BY THIS SUBTITLE AND DOES NOT LIMIT ANY POWER OF THE AUTHORITY UNDER THIS SUBTITLE.

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(4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE AUTHORITY MAY AUTHORIZE THE EXECUTIVE DIRECTOR TO TAKE ANY OF THE ACTIONS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION.

(II) IF THE AUTHORITY AUTHORIZES THE EXECUTIVE DIRECTOR TO TAKE ANY OF THE ACTIONS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION, THE AUTHORITY SHALL PRESCRIBE LIMITS WITHIN WHICH THE EXECUTIVE DIRECTOR MAY EXERCISE DISCRETION.

(B) NATURE OF OBLIGATION.

(1) EXCEPT AS OTHERWISE PROVIDED BY THE AUTHORITY, EACH ISSUE OF ITS BONDS IS A GENERAL OBLIGATION OF THE AUTHORITY PAYABLE FROM ANY REVENUES OR MONEYS OF THE AUTHORITY THAT ARE AVAILABLE AND NOT OTHERWISE PLEDGED.

(2) THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION ARE SUBJECT TO ANY AGREEMENTS WITH:

(I) HOLDERS OF PARTICULAR BONDS PLEDGING ANY PARTICULAR REVENUES OR MONEYS; AND

(II) ANY PARTICIPATING INSTITUTION.

(C) REQUIRED RESOLUTION.

FOR EACH ISSUE OF ITS BONDS, THE AUTHORITY SHALL PASS A RESOLUTION THAT:

(1) SPECIFIES AND DESCRIBES THE PROJECT FOR WHICH THE PROCEEDS OF THE BOND ISSUANCE ARE INTENDED;

(2) GENERALLY DESCRIBES THE PUBLIC PURPOSE AND THE FINANCING TRANSACTION TO BE ACCOMPLISHED;

(3) SPECIFIES THE MAXIMUM PRINCIPAL AMOUNT OF THE BONDS THAT MAY BE ISSUED BY THE AUTHORITY; AND

(4) IMPOSES ANY TERMS OR CONDITIONS ON THE ISSUANCE AND SALE OF THE BONDS THAT THE AUTHORITY CONSIDERS APPROPRIATE.

(D) NEGOTIABILITY.

SUBJECT TO ANY PROVISION FOR THEIR REGISTRATION, BONDS ARE NEGOTIABLE INSTRUMENTS FOR ALL PURPOSES REGARDLESS OF WHETHER THEY ARE PAYABLE FROM A SPECIAL FUND.

(E) TERMS AND CONDITIONS.

(1) THE BONDS MAY BE:

(I) SERIAL BONDS;

(II) TERM BONDS; OR

(III) BOTH IN THE DISCRETION OF THE AUTHORITY.

(2) SUBJECT TO ANY DELEGATION UNDER SUBSECTION (A)(2) OF THIS SECTION, THE RESOLUTION AUTHORIZING BONDS MAY PROVIDE:

- (I) THE DATES OF THE BONDS;
- (II) THE MATURITY DATES OF THE BONDS;
- (III) THE INTEREST RATES ON THE BONDS;
- (IV) THE TIME AT WHICH THE BONDS WILL BE PAYABLE;
- (V) THE DENOMINATIONS OF THE BONDS;
- (VI) WHETHER THE BONDS WILL BE IN A COUPON OR REGISTERED FORM;
- (VII) ANY REGISTRATION PRIVILEGES OF THE BONDS;
- (VIII) THE MANNER OF EXECUTION OF THE BONDS;
- (IX) THE PLACE AT WHICH THE BONDS WILL BE PAYABLE; AND
- (X) ANY TERMS OF REDEMPTION OF THE BONDS.

(3) THE BONDS SHALL MATURE WITHIN A PERIOD NOT TO EXCEED 50 YEARS AFTER THEIR DATE.

(4) THE BONDS SHALL BE PAYABLE IN UNITED STATES CURRENCY.

(F) SALE.

THE BONDS MAY BE SOLD BY COMPETITIVE OR NEGOTIATED SALE AT A PRICE DETERMINED BY THE AUTHORITY.

(G) TEMPORARY CERTIFICATES.

PENDING PREPARATION OF THE DEFINITIVE BONDS, THE AUTHORITY MAY ISSUE INTERIM RECEIPTS OR CERTIFICATES THAT WILL BE EXCHANGED FOR DEFINITIVE BONDS.

(H) TRUST AGREEMENT; RIGHTS AND REMEDIES.

(1) A TRUST AGREEMENT AUTHORIZING BONDS MAY CONTAIN PROVISIONS THAT ARE PART OF THE CONTRACT WITH THE BONDHOLDERS.

(2) THE PROVISIONS MAY INCLUDE:

(I) PLEDGING THE FOLLOWING TO SECURE PAYMENT OF BONDS, SUBJECT TO ANY EXISTING AGREEMENTS WITH BONDHOLDERS:

- 1. THE FULL FAITH AND CREDIT OF THE AUTHORITY;
- 2. THE FULL FAITH AND CREDIT OF A PARTICIPATING INSTITUTION;
- 3. REVENUES OF A PROJECT;

4. A REVENUE—PRODUCING CONTRACT THE AUTHORITY HAS MADE WITH A PERSON OR PUBLIC ENTITY; OR

5. THE PROCEEDS OF THE SALE OF BONDS;

(II) THE RENTALS, FEES, AND OTHER CHARGES, THE AMOUNTS TO BE RAISED IN EACH YEAR, AND THE USE AND DISPOSITION OF THE REVENUES;

(III) SETTING ASIDE OF RESERVES AND SINKING FUNDS AND THEIR DISPOSITION;

(IV) LIMITS ON THE RIGHT OF THE AUTHORITY OR ITS AGENTS TO RESTRICT AND REGULATE THE USE OF A PROJECT;

(V) LIMITS ON THE PURPOSE TO WHICH THE PROCEEDS OF SALE OF BONDS MAY BE APPLIED;

(VI) LIMITS ON ISSUING ADDITIONAL BONDS, THE TERMS UNDER WHICH ADDITIONAL BONDS MAY BE ISSUED AND SECURED, AND REFUNDING OUTSTANDING BONDS;

(VII) THE PROCEDURE TO AMEND OR ABROGATE THE TERMS OF A CONTRACT WITH BONDHOLDERS AND THE REQUIREMENTS FOR CONSENT;

(VIII) LIMITS ON THE AMOUNT OF PROJECT REVENUES TO BE EXPENDED FOR OPERATING, ADMINISTRATIVE, OR OTHER EXPENSES OF THE AUTHORITY;

(IX) THE ACTS OR OMISSIONS THAT CONSTITUTE DEFAULT BY THE AUTHORITY AND THE RIGHTS AND REMEDIES OF THE BONDHOLDERS IN THE EVENT OF A DEFAULT;

(X) THE CONVEYANCE OR MORTGAGING OF A PROJECT AND ITS SITE TO SECURE THE BONDHOLDERS; AND

(XI) CREATION AND DISPOSITION OF A COLLATERAL FUND, INSTEAD OF CONVEYANCE OR MORTGAGE, FOR THE PURPOSE OF SECURING THE BONDHOLDERS.

(I) IMMUNITY FROM PERSONAL LIABILITY.

THE MEMBERS OF THE AUTHORITY AND A PERSON EXECUTING THE BONDS MAY NOT BE HELD LIABLE PERSONALLY ON THE BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, §§ 11(b) through (g) and the first sentence of (a) and 5(a)(6).

In subsection (a)(2)(i) of this section, the phrase “with any funds available” is substituted for the former phrase “out of any funds available therefor” for brevity.

In subsection (a)(3) of this section, the reference to powers “granted in paragraph (2) of this subsection” is substituted for the former reference to “specify[ing], prescrib[ing], determin[ing], ... or approv[ing]” certain matters for clarity.

Also in subsection (a)(3) of this section, the reference to “[t]hese powers are in addition to powers conferred on the Authority by this subtitle and do not limit any power of the Authority under this subtitle” is substituted for the former reference to “[t]he power granted to the Authority in subparagraph (i) of this paragraph shall be deemed to provide additional, alternative, and supplemental authority and shall be regarded as supplemental and additional to powers conferred upon the Authority by this article and shall not be regarded as in derogation of or as a limitation to any power of the Authority now existing under this article” as standard language used to state intended statutory construction for clarity.

In subsection (a)(4)(i) of this section, the reference to “tak[ing]” certain actions is substituted for the former reference to “accomplish[ing] any of the actions described” for clarity. Similarly, in subsection (a)(4)(ii) of this section, the reference to “tak[ing]” certain actions is substituted for the former reference to “accomplish[ing] such acts”.

Also in subsection (a)(4)(ii) of this section, the phrase “[i]f the Authority authorizes the Executive Director” is substituted for the former phrase to “[i]n authorizing the Executive Director to” clarify that the Authority must establish limits to the Executive Director’s authority if it grants that authority.

In subsection (h)(2)(i)4 of this section, the reference to a “person or public entity” is substituted for the former reference to an “individual, partnership, corporation or association or other bodies, public or private” for brevity.

In subsection (h)(2)(v) of this section, the former phrase “issued at that time or in the future” is deleted as surplusage.

Defined terms: “Authority” § 10–301

“Bond” § 10–301

“Finance” § 10–301

“Participating institution” § 10–301

“Project” § 10–301

“Sinking fund” § 10–301

“Trust agreement” § 10–301

10–324. TRUST AGREEMENT.

(A) APPLICABILITY.

THE AUTHORITY MAY SECURE BONDS BY A TRUST AGREEMENT.

(B) CORPORATE TRUSTEE.

THE CORPORATE TRUSTEE UNDER A TRUST AGREEMENT MAY BE A TRUST COMPANY OR A BANK THAT HAS THE POWERS OF A TRUST COMPANY IN OR OUTSIDE THE STATE.

(C) CONTENTS.

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IN ADDITION TO THE PROVISIONS DESCRIBED IN § 10-323(B) OF THIS SUBTITLE, THE TRUST AGREEMENT MAY CONTAIN:

(1) EITHER:

(I) A PROVISION CONVEYING OR MORTGAGING ALL OR A PORTION OF THE PROJECT; OR

(II) A PROVISION CREATING A COLLATERAL ACCOUNT;

(2) OTHER PROVISIONS THAT THE AUTHORITY CONSIDERS REASONABLE AND PROPER FOR THE SECURITY OF BONDHOLDERS; AND

(3) A PROVISION THAT RESTRICTS THE INDIVIDUAL RIGHT OF ACTION BY BONDHOLDERS.

(D) EXPENSES.

AN EXPENSE INCURRED IN CARRYING OUT THE TRUST AGREEMENT OR A RESOLUTION MAY BE TREATED AS PART OF THE COST OF THE OPERATION OF A PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, § 12.

In the introductory language to subsection (c) of this section, the phrase "[i]n addition to the provisions described in § 10-323(b) of this subtitle," is added for clarity.

In subsection (c) of this section, the former references to a "pledge or assignment" of certain revenues and to certain provisions regarding "rights and remedies of the bondholders" are deleted as redundant of similar provisions revised in § 10-323(b) of this subtitle.

Defined terms: "Authority" § 10-301

"Bond" § 10-301

"Participating institution" § 10-301

"Project" § 10-301

"State" § 9-101

"Trust agreement" § 10-301

10-325. LEGAL INVESTMENTS.

BONDS ARE SECURITIES:

(1) IN WHICH ANY OF THE FOLLOWING PERSONS MAY LEGALLY AND PROPERLY INVEST MONEY, INCLUDING CAPITAL THAT THE PERSON OWNS OR CONTROLS:

(I) AN OFFICER OR UNIT OF THE STATE OR A POLITICAL SUBDIVISION;

(II) A BANK, TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION, INVESTMENT COMPANY, OR OTHER PERSON CONDUCTING A BANKING BUSINESS;

(III) AN INSURANCE COMPANY, INSURANCE ASSOCIATION, OR OTHER PERSON CONDUCTING AN INSURANCE BUSINESS;

(IV) A PERSONAL REPRESENTATIVE, GUARDIAN, TRUSTEE, OR OTHER FIDUCIARY; AND

(V) ANY OTHER PERSON; AND

(2) THAT MAY BE DEPOSITED WITH AND RECEIVED BY A UNIT OF THE STATE OR A POLITICAL SUBDIVISION FOR ANY PURPOSE FOR WHICH THE DEPOSIT OF BONDS OR OBLIGATIONS OF THE STATE IS AUTHORIZED BY LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, § 19.

In items (1)(i) and (2) of this section, the term "unit" is substituted for the former reference to "agency" for consistency within this article and with other revised articles of the Code. *See* General Revisor's Note to article.

In item (1)(ii) and (iii) of this section, the references to certain "other persons conducting" certain businesses are added for consistency within their title. No substantive change is intended.

In item (1)(iv) of this section, the term "personal representative" is substituted for the former phrase "executors, administrators" for consistency with terminology used throughout the Estates and Trusts Article and in light of Art. 1, § 5, which provides that the term "personal representative" includes both an "administrator" and an "executor".

Defined terms: "Authority" § 10-301

"Bond" § 10-301

"Person" § 9-101

"State" § 9-101

10-326. LIABILITY; FAITH AND CREDIT.

(A) IN GENERAL.

A BOND:

(1) IS NOT A DEBT, LIABILITY, OR A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE; AND

(2) IS PAYABLE SOLELY FROM MONEY AVAILABLE IN ACCORDANCE WITH THIS SUBTITLE.

(B) REQUIRED STATEMENT.

EACH BOND SHALL STATE ON ITS FACE THAT:

(1) THE STATE AND ITS POLITICAL SUBDIVISIONS ARE NOT OBLIGED TO PAY THE BOND OR THE INTEREST ON THE BOND EXCEPT FROM REVENUES OF THE PROJECT OR THE PORTION OF THE PROJECT FOR WHICH THE BOND IS ISSUED; AND

(2) THE FAITH, CREDIT, AND TAXING POWER OF THE STATE AND ITS POLITICAL SUBDIVISIONS ARE NOT PLEDGED TO PAY THE PRINCIPAL OF OR THE INTEREST ON THE BOND.

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(C) STATE OR POLITICAL SUBDIVISION NOT OBLIGED TO PLEDGE OR LEVY TAX.

THE ISSUANCE OF BONDS DOES NOT DIRECTLY, INDIRECTLY, OR CONTINGENTLY OBLIGATE THE STATE OR ITS POLITICAL SUBDIVISIONS:

(1) TO LEVY OR PLEDGE A TAX TO PAY THE BONDS; OR

(2) TO MAKE AN APPROPRIATION TO PAY THE BONDS.

(D) AUTHORITY OR PARTICIPATING INSTITUTION AUTHORIZED TO PLEDGE ITS FULL FAITH AND CREDIT.

THIS SECTION DOES NOT PREVENT THE AUTHORITY OR A PARTICIPATING INSTITUTION FROM PLEDGING ITS FULL FAITH AND CREDIT TO PAY BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, § 13.

In subsection (a) of this section, the former references to the liability of "the Authority" are deleted as surplusage. The liability of the Authority on a bond is governed by the particular bond issue and at the option of the Authority. No substantive change is intended.

In subsection (d) of this section, the former phrase "or be construed to prevent" is deleted as surplusage.

Defined terms: "Authority" § 10-301

"Bond" § 10-301

"Participating institution" § 10-301

"State" § 9-101

10-327. RATES, RENTS, FEES, AND CHARGES.

(A) IN GENERAL.

THE AUTHORITY MAY:

(1) FIX AND COLLECT RATES, RENTS, FEES, AND CHARGES FOR THE USE OF A PROJECT AND FOR THE SERVICES FURNISHED OR TO BE FURNISHED BY A PROJECT; AND

(2) CONTRACT WITH A PERSON OR GOVERNMENTAL ENTITY TO EXERCISE ITS AUTHORITY UNDER THIS SECTION.

(B) AMOUNT.

THE RATES, RENTS, FEES, AND CHARGES ESTABLISHED BY THE AUTHORITY UNDER THIS SECTION SHALL BE FIXED AND ADJUSTED SO THAT THE AGGREGATE AMOUNT OF THE RATES, RENTS, FEES, AND CHARGES FROM THE PROJECT, WHEN ADDED TO OTHER AVAILABLE MONEY, IS SUFFICIENT TO:

(1) PAY FOR MAINTAINING, REPAIRING, AND OPERATING THE PROJECT;

(2) PAY THE PRINCIPAL OF AND THE INTEREST ON THE BONDS THAT THE AUTHORITY ISSUED FOR THE PROJECT AS THEY BECOME DUE AND PAYABLE; AND

(3) CREATE AND MAINTAIN RESERVES REQUIRED OR PROVIDED FOR IN A TRUST AGREEMENT.

(c) ONLY AUTHORITY MAY REGULATE.

THE RATES, RENTS, FEES, AND CHARGES ESTABLISHED BY THE AUTHORITY UNDER THIS SECTION ARE NOT SUBJECT TO SUPERVISION OR REGULATION BY ANY UNIT OF THE STATE OTHER THAN THE AUTHORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from the first, second, and third sentences of former Art. 43C, § 14.

In subsection (c) of this section, the reference to any "unit" of the State is substituted for the former reference to any "department, commission, board, body, bureau or agency". See General Revisor's Note to article.

Defined terms: "Authority" § 10-301

"Bond" § 10-301

"Cost" § 10-301

"Project" § 10-301

"State" § 9-101

10-328. SINKING FUND — ESTABLISHED.

(A) SET-ASIDE REQUIRED.

(1) THE AUTHORITY SHALL SET ASIDE A SUFFICIENT AMOUNT OF THE REVENUES DERIVED FROM A PROJECT IN A SINKING FUND OR OTHER SIMILAR FUND AT REGULAR INTERVALS TO THE EXTENT REQUIRED IN THE TRUST AGREEMENT.

(2) THE SINKING FUND IS PLEDGED TO PAY:

(I) THE PRINCIPAL OF AND THE INTEREST ON THE BONDS AS THEY BECOME DUE; AND

(II) THE REDEMPTION OR PURCHASE PRICE OF BONDS RETIRED BY CALL OR PURCHASE AS SPECIFIED IN THE TRUST AGREEMENT.

(3) TO THE EXTENT PROVIDED IN THE TRUST AGREEMENT, THE AUTHORITY MAY EXCLUDE FROM THE AMOUNT TO BE DEPOSITED IN THE SINKING FUND THE REVENUES THAT MAY BE NECESSARY:

(I) TO PAY FOR PROJECT MAINTENANCE, REPAIR, AND OPERATION;

(II) FOR RESERVES; AND

(III) FOR IMPROVEMENTS TO THE PROJECT.

(B) DURATION AND EFFECT OF PLEDGE.

(1) THE PLEDGE OF REVENUES UNDER SUBSECTION (A) OF THIS SECTION IS VALID AND BINDING FROM THE TIME THE PLEDGE IS MADE.

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(2) (I) THE RATES, RENTS, CHARGES, FEES, AND OTHER REVENUE OR MONEY THAT THE AUTHORITY PLEDGES AND RECEIVES ARE SUBJECT IMMEDIATELY TO THE LIEN OF THE PLEDGE.

(II) NEITHER PHYSICAL DELIVERY OF THE RATES, RENTS, CHARGES, FEES, AND OTHER REVENUE OR MONEY NOR ANY OTHER ACT IS REQUIRED TO VALIDATE THE LIEN.

(3) THE LIEN OF THE PLEDGE IS VALID AND BINDING AGAINST EACH PARTY WITH A CLAIM AGAINST THE AUTHORITY IN TORT, CONTRACT, OR OTHERWISE, REGARDLESS OF WHETHER THE PARTY HAS NOTICE OF THE LIEN.

(C) RECORDATION OF PLEDGE.

THE TRUST AGREEMENT AND ANY OTHER AGREEMENT OR LEASE CREATING A PLEDGE UNDER THIS SECTION NEED NOT BE FILED OR RECORDED, EXCEPT IN THE RECORDS OF THE AUTHORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from the fourth, fifth, and sixth sentences of former Art. 43C, § 14.

In subsection (a)(3)(i) of this section, the reference to the payment of the "project" maintenance, repair, and operation is added for clarity. Similarly, in subsection (a)(3)(iii) of this section, the reference to "project" renewal, replacement, extension, enlargement, and improvement is added.

Defined terms: "Authority" § 10-301

"Bond" § 10-301

"Improvement" § 10-301

"Project" § 10-301

"Sinking fund" § 10-301

"Trust agreement" § 10-301

10-329. SINKING FUND — NATURE AND APPLICATION.

A SINKING FUND:

(1) MAY BE HELD:

(I) FOR ALL OF THE BONDS ISSUED TO FINANCE PROJECTS AT A PARTICULAR PARTICIPATING INSTITUTION WITHOUT DISTINCTION OR PRIORITY OF ONE BOND OVER ANOTHER BOND;

(II) FOR A PARTICULAR PROJECT AND FOR THE BONDS ISSUED FOR THAT PROJECT;

(III) FOR BONDS HAVING A LIEN SUBORDINATE TO THE LIEN SECURING OTHER BONDS; AND

(2) SHALL BE SUBJECT TO THE TRUST AGREEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from the seventh and eighth sentences of former Art. 43C, § 14.

In item (1)(i) of this section, the references to one “bond” and to another “bond” are added for clarity.

Defined terms: “Authority” § 10–301

“Bond” § 10–301

“Finance” § 10–301

“Participating institution” § 10–301

“Project” § 10–301

“Sinking fund” § 10–301

“Trust agreement” § 10–301

10–330. USE OF BOND PROCEEDS AND REVENUES.

(A) MONEY HELD IN TRUST.

PROCEEDS FROM THE SALE OF BONDS AND OTHER REVENUES RECEIVED UNDER THIS SUBTITLE ARE TRUST FUNDS TO BE HELD AND APPLIED SOLELY AS PROVIDED IN THIS SUBTITLE.

(B) PERSON HOLDING MONEY TO ACT AS TRUSTEE.

(1) EACH OFFICER, BANK, OR TRUST COMPANY THAT RECEIVES MONEY FROM THE AUTHORITY UNDER THIS SUBTITLE SHALL ACT AS TRUSTEE OF THE MONEY AND SHALL HOLD AND APPLY THE MONEY FOR THE PURPOSES SPECIFIED UNDER THIS SUBTITLE.

(2) THE OFFICER, BANK, OR TRUST COMPANY HOLDING MONEY IS SUBJECT TO:

(I) ANY REGULATION ADOPTED UNDER THIS SUBTITLE; AND

(II) THE TRUST AGREEMENT SECURING THE BONDS.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 43C, § 15.

In subsection (b) of this section, the reference to persons with whom the Authority deposits trust money is added for clarity.

Defined terms: “Authority” § 10–301

“Bond” § 10–301

“Trust agreement” § 10–301

10–331. REFUNDING BONDS — IN GENERAL.

(A) AUTHORIZATION.

(1) THE AUTHORITY MAY ISSUE BONDS TO REFUND OUTSTANDING BONDS OF THE AUTHORITY, INCLUDING PAYING:

(I) ANY REDEMPTION PREMIUM;

(II) INTEREST ACCRUED OR TO ACCRUE TO THE DATE OF REDEMPTION, PURCHASE, OR MATURITY OF THE BONDS; AND

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(III) IF CONSIDERED ADVISABLE BY THE AUTHORITY, ANY PART OF THE COST OF ACQUIRING OR IMPROVING A PROJECT.

(2) REFUNDING BONDS MAY BE ISSUED FOR ANY CORPORATE PURPOSE, INCLUDING:

(I) REALIZING SAVINGS IN THE EFFECTIVE COSTS OF DEBT SERVICE, DIRECTLY OR THROUGH A DEBT RESTRUCTURING; OR

(II) ALLEVIATING A POTENTIAL OR ACTUAL DEFAULT.

(B) MANNER AND TERM OF ISSUANCE.

A REFUNDING BOND THAT THE AUTHORITY ISSUES UNDER THIS SECTION SHALL BE ISSUED IN THE SAME MANNER AND IS SUBJECT TO THIS SUBTITLE TO THE SAME EXTENT AS ANY OTHER BOND.

(C) AMOUNT; PAYMENT.

(1) THE AUTHORITY MAY ISSUE REFUNDING BONDS IN ONE OR MORE SERIES IN AN AMOUNT GREATER THAN THE AMOUNT OF THE BONDS TO BE REFUNDED.

(2) (I) IN ADDITION TO OTHER SOURCES OF PAYMENT THAT THE AUTHORITY DETERMINES, REFUNDING BONDS MAY BE PAYABLE FROM ESCROWED BOND PROCEEDS AND EARNINGS AND PROFITS ON INVESTMENTS.

(II) ESCROWED BOND PROCEEDS AND EARNINGS AND PROFITS ON INVESTMENTS USED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH CONSTITUTE REVENUES OF A PROJECT UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, § 18(a) and (e).

In subsection (c)(1) of this section, the reference to the authority of the Authority to issue refunding bonds in certain amounts is added for clarity.

Defined terms: "Authority" § 10-301

"Bond" § 10-301

"Improve" § 10-301

"Project" § 10-301

10-332. REFUNDING BONDS — APPLICATION OF BOND PROCEEDS.

(A) IN GENERAL.

THE AUTHORITY MAY APPLY THE PROCEEDS OF REFUNDING BONDS TO THE PURCHASE, RETIREMENT AT MATURITY, OR REDEMPTION OF OUTSTANDING BONDS ON THE EARLIEST OR A SUBSEQUENT REDEMPTION DATE FOR THOSE BONDS.

(B) ESCROW.

THE AUTHORITY MAY PLACE PROCEEDS OF REFUNDING BONDS IN ESCROW BEFORE APPLYING THE PROCEEDS TO REFUND BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, § 18(b).

Defined terms: "Authority" § 10-301
"Bond" § 10-301

10-333. REFUNDING BONDS — INVESTMENT OR REINVESTMENT IN UNITED STATES OBLIGATIONS.

(A) IN GENERAL.

PENDING THEIR USE IN ACCORDANCE WITH THIS SUBTITLE, PROCEEDS OF BONDS ISSUED UNDER § 10-331 OF THIS SUBTITLE MAY BE INVESTED IN:

- (1) OBLIGATIONS OF OR GUARANTEED BY THE UNITED STATES; OR
- (2) CERTIFICATES OF DEPOSIT OR TIME DEPOSITS SECURED BY OBLIGATIONS OF OR GUARANTEED BY THE UNITED STATES.

(B) MATURITY.

(1) BOND PROCEEDS PLACED IN ESCROW UNDER SUBSECTION (A) OF THIS SECTION SHALL MATURE AT SUCH TIME OR TIMES AS THE AUTHORITY CONSIDERS APPROPRIATE TO ASSURE THE PROMPT PAYMENT OF PRINCIPAL, INTEREST, AND REDEMPTION PREMIUM, IF ANY, ON THE BONDS THAT ARE TO BE REFUNDED.

(2) THE INSTRUMENTS IN WHICH THE AUTHORITY INVESTS PROCEEDS OF BONDS ISSUED FOR ALL OR PART OF THE COST OF IMPROVEMENT OR ACQUISITION OF A PROJECT SHALL MATURE SOON ENOUGH TO PAY THE COST OF THE IMPROVEMENT OR ACQUISITION.

(C) APPLICATION OF INTEREST, INCOME, AND PROFITS.

(1) THE AUTHORITY MAY APPLY THE INTEREST, INCOME, AND PROFIT FROM THE INVESTMENTS DESCRIBED IN SUBSECTION (A) OF THIS SECTION:

- (i) TO PAY THE BONDS THAT ARE TO BE REFUNDED; OR
- (ii) TO PAY THE COSTS OF ACQUIRING OR IMPROVING A PROJECT.

(2) AFTER THE TERMS OF ESCROW ARE SATISFIED, THE BALANCE OF THE REFUNDING BOND PROCEEDS, INTEREST, INCOME, AND PROFIT, IF ANY, MAY BE RETURNED TO THE AUTHORITY FOR USE BY IT IN ANY LAWFUL MANNER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, § 18(c) and (d).

In subsections (a) and (b) of this section, the former references to "of America" are deleted as surplusage.

In subsection (b)(1) of this section, the former reference to bonds issued for the "additional" purpose is deleted as surplusage.

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Defined terms: "Authority" § 10-301

"Bond" § 10-301

"Cost" § 10-301

"Improvement" § 10-301

"Project" § 10-301

10-334. BOND ANTICIPATION NOTES.

(A) AUTHORITY TO ISSUE.

THE AUTHORITY MAY ISSUE NEGOTIABLE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF BONDS FOR ANY CORPORATE PURPOSE.

(B) MANNER OF ISSUANCE.

BOND ANTICIPATION NOTES ISSUED UNDER THIS SECTION SHALL BE ISSUED IN THE SAME MANNER AS BONDS.

(C) CONTENTS OF NOTES AND RESOLUTION.

BOND ANTICIPATION NOTES ISSUED UNDER THIS SECTION AND THE RESOLUTION AUTHORIZING THEM MAY CONTAIN ANY PROVISIONS, CONDITIONS, OR LIMITATIONS THAT MAY BE INCLUDED IN A TRUST AGREEMENT.

(D) PAYMENT OF OTHER NOTES.

THE AUTHORITY MAY ISSUE BOND ANTICIPATION NOTES TO PAY ANY OTHER BOND ANTICIPATION NOTES.

(E) PAYMENT.

BOND ANTICIPATION NOTES SHALL BE PAID FROM:

(1) REVENUES OF THE AUTHORITY;

(2) MONEY AVAILABLE AND NOT OTHERWISE PLEDGED; OR

(3) THE PROCEEDS OF THE SALE OF THE BONDS IN ANTICIPATION OF WHICH THE NOTES WERE ISSUED.

REVISOR'S NOTE: This section is new language derived without substantive change from the second through fifth sentences of former Art. 43C, § 11(a).

In subsection (c) of this section, the defined term "trust agreement" is substituted for the former reference to "bond resolutions" for clarity.

In subsection (d) of this section, the reference to "issu[ing] bond anticipation notes to pay any other" bond anticipation notes is substituted for the former reference to "renew[ing]" those notes for accuracy.

Defined terms: "Authority" § 10-301

"Bond" § 10-301

"Trust agreement" § 10-301

10–335. TITLE CONVEYANCE; RELEASE OF SECURITY.**(A) CONDITIONS FOR CONVEYANCE AND RELEASE.**

THE AUTHORITY SHALL CONVEY TITLE TO A PROJECT AND RELEASE COLLATERAL IN ACCORDANCE WITH THIS SECTION WHEN THE FOLLOWING CONDITIONS ARE MET:

(1) (I) THE PRINCIPAL OF AND INTEREST ON BONDS ISSUED TO FINANCE THE PROJECT, INCLUDING ANY REFUNDING BONDS, HAVE BEEN FULLY PAID AND RETIRED; OR

(II) ADEQUATE PROVISION HAS BEEN MADE TO FULLY PAY AND RETIRE THE BONDS;

(2) ALL OTHER CONDITIONS OF THE TRUST AGREEMENT HAVE BEEN SATISFIED; AND

(3) THE LIEN OF THE TRUST AGREEMENT HAS BEEN RELEASED.

(B) EXECUTION OF DOCUMENTS.

ON SATISFACTION OF THE CONDITIONS UNDER SUBSECTION (A) OF THIS SECTION, THE AUTHORITY PROMPTLY SHALL EXECUTE ANY DEEDS, CONVEYANCES, RELEASES, AND DOCUMENTS AND TAKE ANY OTHER ACTION NECESSARY TO CONVEY TITLE TO THE PROJECT TO THE PARTICIPATING INSTITUTION AND RELEASE COLLATERAL FREE OF ALL LIENS AND ENCUMBRANCES CREATED THROUGH THE AUTHORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, §§ 8 and 9.

In subsection (b) of this section, the reference to liens and encumbrances “created through the Authority” is added for clarity.

Also in subsection (b) of this section, the former phrase “which institution had, pursuant to the trust agreement, deposited and turned over such securities to a trustee or trustees in order to assure the full payment and retirement of said bonds” is deleted as implicit in the references to the “conditions of the trust agreement” in subsection (a)(2) of this section.

Defined terms: “Authority” § 10–301

“Bond” § 10–301

“Participating institution” § 10–301

“Project” § 10–301

“Trust agreement” § 10–301

10–336. ENFORCEMENT AUTHORITY.**(A) IN GENERAL.**

A BONDHOLDER, A HOLDER OF ANY COUPONS ATTACHED TO BONDS, OR A TRUSTEE UNDER A TRUST AGREEMENT SECURING THE BONDS MAY SUE TO:

(1) PROTECT AND ENFORCE RIGHTS UNDER THE LAWS OF THE STATE OR A TRUST AGREEMENT; AND

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(2) ENFORCE AND COMPEL THE PERFORMANCE OF DUTIES BY THE AUTHORITY OR ITS OFFICER, EMPLOYEE, OR AGENT THAT THIS SUBTITLE OR A TRUST AGREEMENT REQUIRES, INCLUDING FIXING AND COLLECTING RATES, RENTS, FEES, AND CHARGES THAT THE TRUST AGREEMENT REQUIRES TO BE FIXED AND COLLECTED.

(B) LIMITATION.

THE RIGHTS UNDER THIS SECTION ARE SUBJECT TO ANY TRUST AGREEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, § 16.

In the introductory language to subsection (a) of this section, the former phrase "at law or in equity, by ... action, mandamus or other proceedings" is deleted as included in the reference to "su[ing]".

Defined terms: "Authority" § 10-301

"Bond" § 10-301

"State" § 9-101

"Trust agreement" § 10-301

10-337. TAX STATUS.

(A) PROJECTS AND PROPERTY.

THE AUTHORITY, ITS AGENT, OR ITS LESSEE IS NOT REQUIRED TO PAY A TAX OR ASSESSMENT ON:

(1) A PROJECT OR PROPERTY THAT IT ACQUIRES OR USES UNDER THIS SUBTITLE; OR

(2) THE INCOME FROM THAT PROJECT OR PROPERTY.

(B) BONDS.

THE PRINCIPAL OF AND INTEREST ON BONDS, THE TRANSFER OF BONDS, AND ANY INCOME DERIVED FROM THE BONDS, INCLUDING PROFITS MADE IN THEIR SALE OR TRANSFER, ARE FOREVER EXEMPT FROM ALL STATE AND LOCAL TAXES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, § 17, as it related to taxation.

Defined terms: "Authority" § 10-301

"Bond" § 10-301

"State" § 9-101

10-338. RESERVED.

10-339. RESERVED.

PART IV. MARYLAND HOSPITAL BOND PROGRAM.

10-340. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 43C, § 16A(b)(1) and 1)(1)(i).

The only changes are in style.

(B) AFFILIATE.

“AFFILIATE” MEANS A PERSON THAT DIRECTLY OR INDIRECTLY, THROUGH ONE OR MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH ANOTHER PERSON.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 43C, § 16A(1)(1)(ii).

Defined term: “Control” § 10–340

(C) CLOSURE COST.

(1) “CLOSURE COST” MEANS COSTS INCURRED IN CONNECTION WITH THE CLOSURE OR DELICENSING OF A HOSPITAL.

(2) “CLOSURE COST” INCLUDES EXPENSES OF OPERATING A HOSPITAL, PAYMENTS TO EMPLOYEES, EMPLOYEE BENEFITS, FEES OF CONSULTANTS, INSURANCE, SECURITY SERVICES, UTILITIES, LEGAL FEES, CAPITAL COSTS, COSTS OF TERMINATING CONTRACTS WITH VENDORS, SUPPLIERS OF GOODS AND SERVICES AND OTHERS, DEBT SERVICE, CONTINGENCIES, AND OTHER NECESSARY OR APPROPRIATE COSTS AND EXPENSES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 43C, § 16A(b)(2).

In paragraph (1) of this subsection, the former word “reasonable” is deleted and included as a substantive provision under § 10–348 of this subtitle.

Defined term: “Hospital” § 10–340

(D) CONTROL.

“CONTROL” MEANS THE DIRECT OR INDIRECT POSSESSION OF THE POWER TO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT AND POLICIES OF A PERSON THROUGH EQUITY INTEREST, MEMBERSHIP INTEREST, OR CONTRACT OTHER THAN A COMMERCIAL CONTRACT FOR GOODS OR NONMANAGEMENT SERVICES, OR OTHERWISE, WHETHER OR NOT THE POWER IS EXERCISED OR SOUGHT TO BE EXERCISED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 43C, § 16A(1)(1)(iii).

The former phrases “controlling”, “controlled by”, and “under common control with” are deleted as surplusage.

Defined term: “Person” § 9–101

(E) HOSPITAL.

“HOSPITAL” MEANS AN INSTITUTION DEFINED AS A HOSPITAL UNDER § 19–301 OF THE HEALTH – GENERAL ARTICLE AND THAT IS LICENSED AS A HOSPITAL BY THE SECRETARY OF HEALTH AND MENTAL HYGIENE UNDER § 19–318 OF THE HEALTH – GENERAL ARTICLE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from the second sentence of the introductory language of former Art. 43C, § 16A(d) as it described the institutions which may benefit from assistance under this part as contrasted with the other health care institutions eligible for assistance under other parts of this subtitle.

(F) PROGRAM.

“PROGRAM” MEANS THE MARYLAND HOSPITAL BOND PROGRAM UNDER THIS PART.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the phrase “Maryland Hospital Bond Program”.

(G) PUBLIC OBLIGATION.

(1) “PUBLIC OBLIGATION” MEANS A BOND, NOTE, EVIDENCE OF INDEBTEDNESS, OR OTHER OBLIGATION, TO REPAY BORROWED MONEY ISSUED BY THE AUTHORITY, THE STATE, A UNIT, INSTRUMENTALITY, OR PUBLIC CORPORATION OF THE STATE, A PUBLIC BODY AS DEFINED IN ARTICLE 31, § 9 OF THE CODE, A COUNTY, OR A MUNICIPAL CORPORATION.

(2) “PUBLIC OBLIGATION” DOES NOT INCLUDE AN OBLIGATION, OR PORTION OF AN OBLIGATION, IF:

(I) THE PRINCIPAL OF AND INTEREST ON THE OBLIGATION OR THE PORTION OF THE OBLIGATION IS:

1. INSURED BY AN EFFECTIVE MUNICIPAL BOND INSURANCE POLICY; AND

2. ISSUED ON BEHALF OF A HOSPITAL THAT VOLUNTARILY CLOSED IN ACCORDANCE WITH § 19–120(L) OF THE HEALTH – GENERAL ARTICLE; AND

(II) THE PROCEEDS OF THE OBLIGATION OR THE PORTION OF THE OBLIGATION ARE USED TO FINANCE WHOLLY OR PARTLY:

1. A FACILITY OR PART OF A FACILITY THAT IS USED PRIMARILY TO PROVIDE OUTPATIENT SERVICES AT A LOCATION OTHER THAN THE HOSPITAL; OR

2. A FACILITY OR PART OF A FACILITY THAT IS USED PRIMARILY BY PHYSICIANS WHO ARE NOT EMPLOYEES OF THE HOSPITAL TO PROVIDE SERVICES TO NONHOSPITAL PATIENTS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 43C, § 16A(b)(3).

In paragraph (1) of this subsection, the phrase "a unit" is substituted for the former phrase "any agency" for consistency with similar provisions elsewhere in the revised articles of the Code. *See* General Revisor's Note to article.

Also in paragraph (1) of this subsection, the defined term "county" is added for clarity.

Defined terms: "Authority" § 10-301

"Bond" § 10-301

"County" § 9-101

"Finance" § 10-301

"Hospital" § 10-340

"State" § 9-101

GENERAL REVISOR'S NOTE TO SECTION

Former Art. 43C, § 16A(l)(1)(iv), which defined "value" as the fair market value of property or services, is deleted as redundant of the common meaning of the term. Throughout this part, the phrase "fair market value" is substituted for the former defined term "value" for clarity.

10-341. SCOPE OF PART.

THIS PART APPLIES TO:

(1) THE CLOSURE OF A HOSPITAL UNDER § 19-120(L) OF THE HEALTH – GENERAL ARTICLE; AND

(2) THE DELICENSURE OF A HOSPITAL UNDER § 19-325 OF THE HEALTH – GENERAL ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, § 16A(a).

In this section and throughout this part, the references to "this part" are substituted for the former references to "this section" to reflect the reorganization of material derived from former Art. 43C, § 16A in this part.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that hospital conversions have not been eligible for support under the Program since October 1, 2002. Accordingly, in this section and throughout this part, provisions of former Art. 43C, § 16A concerning hospital conversions have been deleted as obsolete. No substantive change is intended.

Former Art. 43C, § 16A (a)(3), which applied only to hospital conversions occurring before October 1, 2002, is deleted as obsolete.

Defined term: "Hospital" § 10-340

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10–342. LEGISLATIVE FINDING; PURPOSE; INTENT.

(A) LEGISLATIVE FINDING.

THE GENERAL ASSEMBLY FINDS THAT THE FAILURE TO PROVIDE FOR THE PAYMENT OF PUBLIC OBLIGATIONS OF A CLOSED OR DELICENSED HOSPITAL COULD SERIOUSLY IMPAIR THE ABILITY OF HEALTH CARE FACILITIES AND STATE AND LOCAL GOVERNMENTS TO SECURE SUBSEQUENT FINANCING THROUGH THE ISSUANCE OF TAX–EXEMPT BONDS.

(B) PURPOSE.

THE PURPOSE OF THIS PART IS TO PRESERVE THE ACCESS OF HEALTH CARE FACILITIES IN THE STATE TO ADEQUATE FINANCING THROUGH A PROGRAM THAT FACILITATES THE REFINANCING AND PAYMENT OF PUBLIC OBLIGATIONS OF A CLOSED OR DELICENSED HOSPITAL.

(C) INTENT — INTERAGENCY COOPERATION.

IT IS THE INTENT OF THIS PART THAT THE HEALTH SERVICES COST REVIEW COMMISSION, THE MARYLAND HEALTH CARE COMMISSION, AND THE AUTHORITY SHALL CONSULT WITH AND CONSIDER EACH OTHERS’ RECOMMENDATIONS IN MAKING THE DETERMINATIONS REQUIRED UNDER THIS PART.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 43C, § 16A(c) and (m).

In subsection (a) of this section, the phrase “seriously impair” is substituted for the former phrase “have a serious adverse effect on” for brevity.

Also in subsection (a) of this section, the former phrase “and potentially the ability of the” is deleted as surplusage.

Defined terms: “Authority” § 10–301

“Hospital” § 10–340

“Finance” § 10–301

“Public obligation” § 10–340

“State” § 9–101

10–343. PROGRAM ESTABLISHED.

(A) CREATION.

THERE IS A MARYLAND HOSPITAL BOND PROGRAM IN THE AUTHORITY.

(B) IN GENERAL.

THE PROGRAM SHALL PROVIDE FOR THE PAYMENT AND REFINANCING OF PUBLIC OBLIGATIONS OF A HOSPITAL, IF:

(1) (I) THE CLOSURE OF THE HOSPITAL IS IN ACCORDANCE WITH § 19–120(L) OF THE HEALTH – GENERAL ARTICLE; OR

(ii) THE DELICENSURE OF THE HOSPITAL IS IN ACCORDANCE WITH § 19-325 OF THE HEALTH – GENERAL ARTICLE;

(2) A PUBLIC OBLIGATION ISSUED ON BEHALF OF THE HOSPITAL IS OUTSTANDING; AND

(3) THE HOSPITAL PLAN FOR CLOSURE OR DELICENSURE AND THE RELATED FINANCING PLAN IS ACCEPTABLE TO THE SECRETARY OF HEALTH AND MENTAL HYGIENE AND THE AUTHORITY.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 43C, § 16A(d).

Defined terms: “Authority” § 10-301

“Bond” § 10-301

“Finance” § 10-301

“Hospital” § 10-340

“Public obligation” § 10-340

10-344. NOTICES OF CLOSURE AND DELICENSURE.

(A) NOTICE OF INTENT TO CLOSE OR PETITION FOR DELICENSURE.

(1) THE MARYLAND HEALTH CARE COMMISSION SHALL NOTIFY IN WRITING:

(i) THE AUTHORITY AND THE HEALTH SERVICES COST REVIEW COMMISSION WHEN A HOSPITAL FILES A WRITTEN NOTICE OF INTENT TO CLOSE UNDER § 19-120(L) OF THE HEALTH – GENERAL ARTICLE; AND

(ii) THE AUTHORITY WHEN A PETITION FOR DELICENSURE OF A HOSPITAL IS FILED WITH THE SECRETARY OF HEALTH AND MENTAL HYGIENE UNDER § 19-325 OF THE HEALTH – GENERAL ARTICLE.

(2) THE COMMISSION SHALL GIVE THE NOTICE REQUIRED BY THIS SUBSECTION WITHIN 5 DAYS AFTER THE DATE OF THE FILING.

(B) NOTICE OF DELICENSURE DETERMINATION.

THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL NOTIFY THE AUTHORITY AND THE HEALTH SERVICES COST REVIEW COMMISSION IN WRITING OF EACH DETERMINATION TO DELICENSE A HOSPITAL UNDER § 19-325 OF THE HEALTH – GENERAL ARTICLE AT LEAST 150 DAYS BEFORE THE SCHEDULED DATE OF DELICENSURE.

(C) REQUIRED INFORMATION.

THE NOTIFICATIONS UNDER THIS SECTION SHALL INCLUDE THE NAME AND LOCATION OF THE HOSPITAL AND THE SCHEDULED DATE OF ITS CLOSURE OR DELICENSURE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 43C, § 16A(e) and (f)(1) and (5).

Subsection (c) of this section is revised to require certain information to be included in the initial notification made by the Maryland Health Care Commission to the Authority and the Health Services Cost Review Commission under former Art. 43C, § 16A(e)(1)(i) and (iii) (revised as subsection (a)(1) of this section), as well as in the notifications required under former Art. 43C, § 16A(f) (revised in subsection (b) of this section and in § 10–345 of this subtitle). No substantive change is intended.

Former Art. 43C(e)(1)(ii), which concerned notification of conversions, is deleted as obsolete.

Defined terms: “Authority” § 10–301

“Hospital” § 10–340

10–345. ADDITIONAL REQUIRED INFORMATION.

(A) NOTICE OF HEARING OR FINDING.

AS TO EACH HOSPITAL THAT FILES A NOTICE OF INTENT TO CLOSE UNDER § 10–344(A)(1)(I) OF THIS SUBTITLE, THE MARYLAND HEALTH CARE COMMISSION SHALL PROVIDE TO THE AUTHORITY AND THE HEALTH SERVICES COST REVIEW COMMISSION NOTICE THAT INCLUDES:

(1) FOR A HOSPITAL THAT IS LOCATED IN A COUNTY WITH THREE OR MORE HOSPITALS, A STATEMENT THAT THE HOSPITAL, IN CONSULTATION WITH THE MARYLAND HEALTH CARE COMMISSION, HELD A PUBLIC INFORMATION HEARING IN THE COUNTY WHERE THE HOSPITAL IS LOCATED;

(2) FOR A HOSPITAL THAT IS LOCATED IN A COUNTY WITH FEWER THAN THREE HOSPITALS, NOTIFICATION OF ITS FINDING ON WHETHER THE PROPOSED CLOSING IS:

(I) IN THE PUBLIC INTEREST; AND

(II) NOT INCONSISTENT WITH THE STATE HEALTH PLAN OR AN INSTITUTION–SPECIFIC PLAN THAT THE MARYLAND HEALTH CARE COMMISSION DEVELOPED; AND

(3) THE NAME AND LOCATION OF THE HOSPITAL AND THE SCHEDULED DATE OF THE CLOSURE.

(B) TIMING.

THE MARYLAND HEALTH CARE COMMISSION SHALL SUBMIT THE NOTIFICATIONS REQUIRED UNDER THIS SECTION AT LEAST 150 DAYS BEFORE THE SCHEDULED DATE OF THE CLOSURE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 43C, § 16A(f)(2), (3), and, as it related to closures, (5).

In the introductory language to subsection (a) of this section, the phrase

“[a]s to each hospital that files an intent to close under § 10–344(a)(1)(i) of this subtitle,” is added for clarity.

Former Art. 43C, § 16A(f)(4), which concerned conversions, is deleted as obsolete.

Defined terms: “Authority” § 10–301

“County” § 9–101

“Hospital” § 10–340

“State” § 9–101

10–346. STATEMENT OF OUTSTANDING OBLIGATIONS.

(A) REQUIRED STATEMENT OF PUBLIC OBLIGATIONS.

(1) A HOSPITAL THAT INTENDS TO CLOSE OR IS SCHEDULED TO BE DELICENSED SHALL PROVIDE THE AUTHORITY AND THE HEALTH SERVICES COST REVIEW COMMISSION WITH A WRITTEN STATEMENT OF ANY OUTSTANDING PUBLIC OBLIGATIONS ISSUED ON ITS BEHALF.

(2) THE STATEMENT SHALL INCLUDE:

(i) THE NAME OF EACH ISSUER OF THE PUBLIC OBLIGATION;

(ii) THE OUTSTANDING PRINCIPAL AMOUNT OF EACH PUBLIC OBLIGATION;

(iii) THE DUE DATES FOR PAYMENT OR ANY MANDATORY REDEMPTION OR PURCHASE OF EACH PUBLIC OBLIGATION;

(iv) THE DUE DATES FOR THE PAYMENT OF INTEREST ON EACH PUBLIC OBLIGATION AND THE INTEREST RATES; AND

(v) THE DOCUMENTS AND INFORMATION ABOUT THE PUBLIC OBLIGATION THAT THE AUTHORITY OR THE HEALTH SERVICES COST REVIEW COMMISSION REQUESTS.

(B) TIMING.

THE HOSPITAL SHALL FILE THE STATEMENT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION:

(1) WITHIN 10 DAYS AFTER THE DATE OF FILING THE WRITTEN NOTICE OF INTENT TO CLOSE UNDER § 19–120(L) OF THE HEALTH – GENERAL ARTICLE WITH THE MARYLAND HEALTH CARE COMMISSION; OR

(2) AT LEAST 150 DAYS BEFORE THE SCHEDULED DATE OF DELICENSURE UNDER § 19–325 OF THE HEALTH – GENERAL ARTICLE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 43C, § 16A(g).

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Defined terms: "Authority" § 10-301

"Hospital" § 10-340

"Public obligation" § 10-340

10-347. CLOSURE COSTS — CONDITIONS FOR PAYMENT.

(A) IN GENERAL.

THE HEALTH SERVICES COST REVIEW COMMISSION MAY DETERMINE TO PROVIDE FOR THE PAYMENT OF ALL OR PART OF THE REASONABLE CLOSURE COSTS OF A HOSPITAL HAVING OUTSTANDING PUBLIC OBLIGATIONS IF THE HEALTH SERVICES COST REVIEW COMMISSION DETERMINES THAT THE PAYMENT IS NECESSARY OR APPROPRIATE TO:

(1) ENCOURAGE AND ASSIST THE HOSPITAL TO CLOSE; OR

(2) IMPLEMENT THE PROGRAM CREATED BY THIS PART.

(B) CONSIDERATIONS.

IN MAKING THE DETERMINATIONS UNDER SUBSECTION (A) OF THIS SECTION, THE HEALTH SERVICES COST REVIEW COMMISSION SHALL CONSIDER:

(1) THE SYSTEM-WIDE SAVINGS TO THE STATE HEALTH CARE SYSTEM EXPECTED TO RESULT FROM THE CLOSURE OR DELICENSURE OF THE HOSPITAL DURING THE LONGER OF:

(I) THE PERIOD WHEN THE FEE WILL BE ASSESSED TO PROVIDE FOR THE PAYMENT OF THE CLOSURE COSTS OR ANY BOND ISSUED TO FINANCE THE CLOSURE COSTS; OR

(II) 5 YEARS AFTER THE DATE OF CLOSURE OR DELICENSURE; AND

(2) THE RECOMMENDATIONS OF THE MARYLAND HEALTH CARE COMMISSION AND THE AUTHORITY.

(C) DETERMINATION AND NOTIFICATION.

WITHIN 60 DAYS AFTER RECEIVING THE NOTICE OF CLOSURE OR DELICENSURE REQUIRED BY § 10-344(A)(1)(I) OR (B) OF THIS SUBTITLE, THE HEALTH SERVICES COST REVIEW COMMISSION SHALL:

(1) DETERMINE WHETHER TO PROVIDE FOR THE PAYMENT OF ALL OR A PART OF THE CLOSURE COSTS OF THE HOSPITAL IN ACCORDANCE WITH THIS SECTION; AND

(2) GIVE WRITTEN NOTIFICATION OF ITS DETERMINATION TO THE MARYLAND HEALTH CARE COMMISSION AND THE AUTHORITY.

(D) PAYMENT NOT REQUIRED.

THIS SECTION DOES NOT REQUIRE THE HEALTH SERVICES COST REVIEW COMMISSION TO PROVIDE FOR THE PAYMENT OF ANY CLOSURE COSTS OF A CLOSED OR DELICENSED HOSPITAL.

(E) DETERMINATION BINDING.

IN A PROCEEDING INVOLVING THE VALIDITY OR ENFORCEABILITY OF A BOND ISSUED TO FINANCE CLOSURE COSTS OR ANY SECURITY FOR THE BOND, THE DETERMINATIONS OF THE HEALTH SERVICES COST REVIEW COMMISSION UNDER THIS SECTION IS CONCLUSIVE AND BINDING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, § 16A(h) and, as it related to the reasonableness of closure costs, (b)(2).

In the introductory language of subsection (a) of this section, the word "reasonable" is added to reflect a substantive provision formally contained in the definition of closure cost under § 10-340 of this subtitle.

Also in the introductory language of subsection (a) of this section, the former phrase "of the closing costs" is deleted as surplusage.

In subsection (b)(1) of this section, the former phrase "[t]he amount of" is deleted as surplusage.

In the introductory language to subsection (c) of this section, the reference to notice required by "§ 10-344(a)(1)(i) or (b) of this subtitle" is substituted for the former incorrect reference to notice required by "subsection (f) of this section" for accuracy, to reflect the triggering of review by the Health Services Cost Review Commission based on the last necessary act before a hospital shuts down due to closure or delicensure.

In subsection (e) of this section, the former phrase "any suit, action, or" is deleted as surplusage.

Defined terms: "Authority" § 10-301

"Bond" § 10-301

"Closure cost" § 10-340

"Finance" § 10-301

"Hospital" § 10-340

"Public obligation" § 10-340

"State" § 9-101

10-348. PAYMENT SCHEDULE; PLAN.

(A) PUBLIC OBLIGATIONS — SCHEDULE OF PAYMENTS.

WITHIN 60 DAYS AFTER RECEIVING THE STATEMENT REQUIRED BY § 10-346 OF THIS SUBTITLE, THE AUTHORITY SHALL PREPARE A SCHEDULE OF PAYMENTS NECESSARY TO MEET THE PUBLIC OBLIGATIONS OF THE HOSPITAL.

(B) PUBLIC OBLIGATIONS — PROPOSED PLAN TO FINANCE OR PROVIDE FOR PAYMENT.

(1) AS SOON AS PRACTICABLE AFTER RECEIVING A NOTICE OF CLOSURE OR DELICENSURE, REQUIRED BY § 10-344(A)(1)(I) OR (B) OF THIS SUBTITLE, AND AFTER CONSULTING WITH THE ISSUER OF EACH PUBLIC OBLIGATION AND THE HEALTH

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SERVICES COST REVIEW COMMISSION, THE AUTHORITY SHALL PREPARE A PROPOSED PLAN TO FINANCE OR OTHERWISE PROVIDE FOR THE PAYMENT OF PUBLIC OBLIGATIONS.

(2) THE PROPOSED PLAN MAY INCLUDE A TENDER, REDEMPTION, ADVANCE REFUNDING, OR OTHER TECHNIQUE THAT THE AUTHORITY CONSIDERS APPROPRIATE.

(C) CLOSURE COSTS — PROPOSED PLAN TO FINANCE OR PROVIDE FOR PAYMENT.

AS SOON AS PRACTICABLE AFTER RECEIVING NOTIFICATION THAT THE HEALTH SERVICES COST REVIEW COMMISSION HAS DETERMINED TO PROVIDE FOR THE PAYMENT OF CLOSURE COSTS OF A HOSPITAL UNDER § 10-347 OF THIS SUBTITLE, THE AUTHORITY SHALL PREPARE A PROPOSED PLAN TO FINANCE OR PROVIDE FOR THE PAYMENT OF CLOSURE COSTS STATED IN THE NOTICE.

(D) ANTICIPATED DEVELOPMENT OF PLAN.

ON REQUEST OF THE HEALTH SERVICES COST REVIEW COMMISSION, THE AUTHORITY MAY BEGIN PREPARING THE PLAN REQUIRED BY THIS SECTION BEFORE THE AUTHORITY RECEIVES NOTICE UNDER § 10-344(A)(1)(I) OR (B) OF THIS SUBTITLE.

(E) SUBMISSION OF PLAN AND PAYMENT SCHEDULE.

THE AUTHORITY SHALL PROMPTLY SUBMIT THE SCHEDULE OF PAYMENTS AND THE PROPOSED PLAN REQUIRED BY THIS SECTION TO THE HEALTH SERVICES COST REVIEW COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, § 16A(i).

In subsection (b)(1) of this section, the reference to the notice required by “§ 10-344(a)(1)(i) or (b) of this subtitle” is substituted for the former incorrect references to notice required by “subsection (f) of this section” for accuracy, to reflect the triggering of review by the Health Services Cost Review Commission based on the last necessary act before a hospital shuts down due to closure or delicensure. Similarly, in subsection (d) of this section, the reference to the notice required by “§ 10-344(a)(1)(i) or (b) of this subtitle” is substituted for the former specific references to the dates of certain determinations for clarity and consistency within this part.

Defined terms: “Authority” § 10-301

“Closure cost” § 10-340

“Finance” § 10-301

“Hospital” § 10-340

“Public obligation” § 10-340

10-349. BOND ISSUANCE.

(A) IN GENERAL.

THE AUTHORITY MAY ISSUE BONDS TO FINANCE OR OTHERWISE PROVIDE FOR THE PAYMENT OF PUBLIC OBLIGATIONS OR CLOSURE COSTS OF A HOSPITAL IN ACCORDANCE WITH A PLAN DEVELOPED UNDER § 10-348 OF THIS SUBTITLE.

(B) REQUIREMENTS.

THE BONDS ISSUED UNDER SUBSECTION (A) OF THIS SECTION SHALL:

- (1) BE PAYABLE FROM THE FEES PROVIDED UNDER § 10-350 OF THIS SUBTITLE OR FROM OTHER SOURCES PROVIDED IN THE PLAN;
- (2) BE AUTHORIZED, SOLD, EXECUTED, AND DELIVERED IN ACCORDANCE WITH THIS SUBTITLE; AND
- (3) HAVE TERMS CONSISTENT WITH CONSTITUTIONAL AND OTHER LEGAL REQUIREMENTS.

(C) ASSIGNMENT OF RIGHTS.

IN CONNECTION WITH THE ISSUANCE OF ANY BOND, THE AUTHORITY MAY ASSIGN ITS RIGHTS UNDER A LOAN, LEASE, OR OTHER FINANCING AGREEMENT BETWEEN THE AUTHORITY OR ANY OTHER ISSUER OF A PUBLIC OBLIGATION AND THE CLOSED OR DELICENSED HOSPITAL TO THE STATE OR A STATE UNIT IN CONSIDERATION FOR THE PAYMENT OF A PUBLIC OBLIGATION AS PROVIDED IN THIS PART.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, § 16A(j).

Defined terms: "Authority" § 10-301

"Bond" § 10-301

"Closure cost" § 10-340

"Finance" § 10-301

"Hospital" § 10-340

"Public obligation" § 10-340

"State" § 9-101

10-350. FEES.

(A) ASSESSMENT.

ON THE DATE OF CLOSURE OR DELICENSURE OF A HOSPITAL FOR WHICH A FINANCING PLAN IS DEVELOPED UNDER § 10-348 OF THIS SUBTITLE, THE HEALTH SERVICES COST REVIEW COMMISSION SHALL ASSESS A FEE ON ALL HOSPITALS, AS PROVIDED IN § 19-223 OF THE HEALTH - GENERAL ARTICLE, SUFFICIENT TO:

- (1) PAY THE PRINCIPAL AND INTEREST ON ANY BONDS THAT THE AUTHORITY ISSUES UNDER § 10-349 OF THIS SUBTITLE TO FINANCE PUBLIC OBLIGATIONS;
- (2) PAY THE CLOSURE COSTS OR THE PRINCIPAL AND INTEREST ON BONDS THAT THE AUTHORITY ISSUES UNDER § 10-349 OF THIS SUBTITLE TO FINANCE ANY CLOSURE COSTS;
- (3) MAINTAIN A RESERVE REQUIRED BY THE TRUST AGREEMENT;
- (4) PAY ANY REQUIRED FINANCING FEES OR CHARGES; AND

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(5) MAINTAIN RESERVES THAT THE AUTHORITY CONSIDERS APPROPRIATE TO PROVIDE THE AMOUNTS DESCRIBED IN PARAGRAPHS (1) THROUGH (4) OF THIS SUBSECTION IF A HOSPITAL DEFAULTS IN PAYING THE FEES.

(B) AMOUNT.

THE FEE ASSESSED EACH HOSPITAL SHALL BE:

(1) THE PRODUCT OF THE TOTAL FEES REQUIRED TO BE ASSESSED MULTIPLIED BY THE RATIO OF THE ACTUAL GROSS PATIENT REVENUE OF THE HOSPITAL TO THE TOTAL GROSS PATIENT REVENUE OF ALL HOSPITALS; AND

(2) DETERMINED AS OF THE DATE THE AUTHORITY DETERMINES AFTER CONSULTING WITH THE HEALTH SERVICES COST REVIEW COMMISSION.

(C) PAYMENT.

(1) AS THE AUTHORITY DIRECTS, EACH HOSPITAL SHALL PAY THE FEE:

(I) DIRECTLY TO THE AUTHORITY;

(II) DIRECTLY TO A TRUSTEE FOR THE BONDHOLDERS; OR

(III) OTHERWISE AS THE AUTHORITY DIRECTS.

(2) THE FEE SHALL BE ASSESSED AT ANY TIME NECESSARY TO MEET THE PAYMENT REQUIREMENTS OF THIS SECTION.

(D) NOT SUBJECT TO SUPERVISION OR REGULATION BY THE STATE.

THE FEE ASSESSED IS NOT SUBJECT TO SUPERVISION OR REGULATION BY A UNIT OF THE STATE.

(E) PLEDGE.

(1) A PLEDGE OF THE FEE TO A BOND ISSUED UNDER THIS PART OR TO ANY OTHER PUBLIC OBLIGATION IMMEDIATELY SUBJECTS THE FEE TO THE LIEN OF THE PLEDGE WITHOUT A PHYSICAL DELIVERY OR FURTHER ACT.

(2) WHETHER OR NOT THE PARTIES HAVE NOTICE, THE LIEN OF THE PLEDGE IS VALID AND BINDING AGAINST ALL PARTIES HAVING CLAIMS IN TORT, CONTRACT, OR OTHERWISE AGAINST THE AUTHORITY OR A CLOSED OR DELICENSED HOSPITAL.

(F) TERMINATION OF THE HEALTH SERVICES COST REVIEW COMMISSION.

IF THE HEALTH SERVICES COST REVIEW COMMISSION TERMINATES BY LAW, THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL IMPOSE THE FEE UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, § 16A(k).

In subsection (a)(3) of this section, the former phrase "securing public body obligations, bonds, or notes" is deleted as surplusage.

In subsection (d) of this section, the phrase “a unit of the State” is substituted for the former phrase “any department, commission, board, body, or agency of this State” because the term “unit” is broad enough to encompass all these bodies. *See* General Revisor’s Note to article.

In subsection (e)(2) of this section, the former word “irrespective” is deleted as surplusage.

In subsection (f) of this section, the former phrase “on all hospitals licensed pursuant to § 19–318 of the Health – General Article” is deleted as surplusage.

Defined terms: “Authority” § 10–301

“Bond” § 10–301

“Closure cost” § 10–340

“Finance” § 10–301

“Hospital” § 10–340

“Public obligation” § 10–340

“State” § 9–101

“Trust agreement” § 10–301

10–351. REDUCTION IN AMOUNTS QUALIFYING FOR PAYMENT UNDER PROGRAM.

(A) IN GENERAL.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE AMOUNT OF A PUBLIC OBLIGATION THAT MAY BE PAID UNDER THE PROGRAM SHALL BE REDUCED BY THE SUM OF:

(1) ANY EXCESS OF THE TOTAL FAIR MARKET VALUE OF ALL PROPERTY TRANSFERRED BY A CLOSED OR DELICENSED HOSPITAL TO AN AFFILIATE OR A PERSON WITH AN INTEREST IN THE HOSPITAL AFTER IT IS CLOSED OR DELICENSED OVER THE TOTAL FAIR MARKET VALUE OF THE PROPERTY TRANSFERRED AND SERVICES PROVIDED TO THE HOSPITAL BY THE AFFILIATE OR PERSON; AND

(2) THE TOTAL FAIR MARKET VALUE OF THE PROPERTY RETAINED BY THE HOSPITAL OR AFFILIATE AFTER THE CLOSURE OR DELICENSURE MINUS THE PROPERTY THAT IS APPLIED TO PAYING CLOSURE COSTS APPROVED BY THE HEALTH SERVICES COST REVIEW COMMISSION.

(B) DETERMINATION OF VALUE OF PROPERTY OR SERVICES.

(1) BY ANY METHOD IT CONSIDERS APPROPRIATE, THE AUTHORITY MAY DETERMINE THE FAIR MARKET VALUE OF ANY PROPERTY OR SERVICES, INCLUDING BY:

(I) THE APPRAISAL OF AN INDEPENDENT PROFESSIONAL APPRAISER;

OR

(II) THE REPORT OF AN INDEPENDENT CONSULTANT.

(2) THE CLOSED OR DELICENSED HOSPITAL SHALL PAY THE COST OF THE APPRAISER OR CONSULTANT.

(C) RIGHT TO PROCEED AGAINST HOSPITALS.

(1) THE AUTHORITY MAY ACT UNDER THIS SUBSECTION IF THE AUTHORITY DETERMINES THAT THE ACTION IS:

(I) NECESSARY TO PROTECT THE INTERESTS OF HOLDERS OF PUBLIC OBLIGATIONS; OR

(II) CONSISTENT WITH THE PUBLIC PURPOSE OF ENCOURAGING AND ASSISTING THE HOSPITAL TO CLOSE OR DELICENSE.

(2) THE AUTHORITY MAY PROCEED AGAINST:

(I) A CLOSED OR DELICENSED HOSPITAL; OR

(II) A GUARANTY OR COLLATERAL SECURING THE PAYMENT OF A PUBLIC OBLIGATION OF A CLOSED OR DELICENSED HOSPITAL IF THE GUARANTY OR COLLATERAL WAS PROVIDED BY AN ENTITY ASSOCIATED WITH THE HOSPITAL.

(D) CONSIDERATIONS.

IN MAKING THE DETERMINATION REQUIRED UNDER SUBSECTION (C) OF THIS SECTION, THE AUTHORITY SHALL CONSIDER:

(1) THE CIRCUMSTANCES UNDER WHICH THE GUARANTY OR OTHER COLLATERAL WAS PROVIDED; AND

(2) THE RECOMMENDATIONS OF THE HEALTH SERVICES COST REVIEW COMMISSION AND THE MARYLAND HEALTH CARE COMMISSION.

(E) APPLICATION OF PROCEEDS OF ENFORCEMENT OF CLAIM.

(1) ANY MONEY THAT THE AUTHORITY OR ITS ASSIGNEE REALIZES FROM ENFORCING A CLAIM AGAINST A CLOSED OR DELICENSED HOSPITAL, OR A HOSPITAL WITH A PLAN UNDER § 10-348 OF THIS SUBTITLE, SHALL BE APPLIED TO OFFSET THE FEE THAT THE HEALTH SERVICES COST REVIEW COMMISSION IS REQUIRED TO ASSESS UNDER § 10-350 OF THIS SUBTITLE.

(2) THE COSTS AND EXPENSES OF ENFORCING THE CLAIM, INCLUDING THE COSTS FOR MAINTAINING THE PROPERTY BEFORE DISPOSITION, SHALL BE DEDUCTED FROM THE MONEY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 43C, § 16A(1)(2) through (6).

In subsection (c)(1) of this section, the phrase "act under this subsection" is added for clarity in light of the revised structure of this section.

In subsection (e)(2) of this section, the phrase "from the money realized under paragraph (1) of this subsection" is substituted for the former phrase "from this amount" for clarity.

Defined terms: "Affiliate" § 10-340
"Authority" § 10-301

- “Bond” § 10–301
- “Closure cost” § 10–340
- “Cost” § 10–301
- “Hospital” § 10–340
- “Program” § 10–340
- “Public obligation” § 10–340

10–352. DETERMINATION BY AUTHORITY CONCLUSIVE AND BINDING.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART, IN A PROCEEDING INVOLVING THE VALIDITY OR ENFORCEABILITY OF A BOND OR THE SECURITY FOR A BOND, THE DETERMINATION OF THE AUTHORITY UNDER THIS PART IS CONCLUSIVE AND BINDING.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 43C, § 16A(n).

Defined terms: “Authority” § 10–301
“Bond” § 10–301

10–353. WAIVER OF NOTICE.

THE HEALTH SERVICES COST REVIEW COMMISSION, THE MARYLAND HEALTH CARE COMMISSION, OR THE AUTHORITY MAY WAIVE ANY NOTICE REQUIRED TO BE GIVEN TO IT UNDER THIS PART.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 43C, § 16A(o).

In this section, the reference to this “part” is substituted for the former reference to this “section” in light of the revision of former Art. 43C, § 16A in this part.

Defined term: “Authority” § 10–301

10–354. RESERVED.

10–355. RESERVED.

PART V. SHORT TITLE.

10–356. SHORT TITLE.

THIS SUBTITLE MAY BE CITED AS THE “MARYLAND HEALTH AND HIGHER EDUCATIONAL FACILITIES AUTHORITY ACT”.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 43C, § 1.

GENERAL REVISOR’S NOTE TO SUBTITLE

Former Art. 43C, § 10, which authorized the Authority to issue negotiable notes in the same manner as its revenue bonds, is deleted as duplicative of the provisions relating to issuance of bonds and related forms of debt under Part III of this subtitle,

and in light of the inclusion of the term “note” in the comprehensive definition of “bond” in § 10–301 of this subtitle. No substantive change is intended.

Former Art. 43C, § 24, which provided that the provisions of former Article 43C were severable, is deleted as redundant of Art. 1, § 23.

SUBTITLE 4. MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION.

PART I. GENERAL PROVISIONS.

10–401. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection is new language derived without substantive change from the introductory clause of former Art. 83A, § 5–2A–01.

(B) BOARD.

“BOARD” MEANS THE BOARD OF DIRECTORS OF THE CORPORATION.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2A–04.1(a)(2).

The only changes are in style.

(C) CORPORATION.

“CORPORATION” MEANS THE MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–2A–01, as it defined “Corporation”.

(D) IMPROVE.

“IMPROVE” MEANS TO ADD, ALTER, CONSTRUCT, EQUIP, EXPAND, EXTEND, IMPROVE, INSTALL, RECONSTRUCT, REHABILITATE, REMODEL, OR REPAIR.

REVISOR’S NOTE: This subsection is new language added for brevity and clarity.

(E) IMPROVEMENT.

“IMPROVEMENT” MEANS ADDITION, ALTERATION, CONSTRUCTION, EQUIPPING, EXPANSION, EXTENSION, IMPROVEMENT, INSTALLATION, RECONSTRUCTION, REHABILITATION, REMODELING, OR REPAIR.

REVISOR’S NOTE: This subsection is new language added for brevity and clarity.

10-402. ESTABLISHED.

(A) IN GENERAL.

THERE IS A MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION.

(B) STATUS.

THE CORPORATION IS A BODY POLITIC AND CORPORATE AND IS AN INSTRUMENTALITY OF THE STATE.

(C) PURPOSES.

THE PURPOSES OF THE CORPORATION ARE TO:

(1) ASSIST IN TRANSFERRING TO THE PRIVATE SECTOR THE RESULTS AND PRODUCTS OF SCIENTIFIC RESEARCH AND DEVELOPMENT CONDUCTED BY COLLEGES AND UNIVERSITIES;

(2) ASSIST IN COMMERCIALIZING THOSE RESULTS AND PRODUCTS;

(3) ASSIST IN COMMERCIALIZING TECHNOLOGY DEVELOPED IN THE PRIVATE SECTOR; AND

(4) FOSTER THE COMMERCIALIZATION OF RESEARCH AND DEVELOPMENT CONDUCTED BY COLLEGES, UNIVERSITIES, AND THE PRIVATE SECTOR TO CREATE AND SUSTAIN BUSINESSES THROUGHOUT ALL REGIONS OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-2A-02.

Defined terms: "Corporation" § 10-401

"State" § 9-101

10-403. BOARD OF DIRECTORS.

(A) IN GENERAL.

A BOARD OF DIRECTORS SHALL MANAGE THE CORPORATION AND EXERCISE ITS CORPORATE POWERS.

(B) APPOINTMENT; COMPOSITION.

THE BOARD CONSISTS OF THE FOLLOWING 15 MEMBERS:

(1) THE SECRETARY; AND

(2) FOURTEEN MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE:

(I) TWO REPRESENTING THE NOT-FOR-PROFIT RESEARCH SECTOR OF THE STATE;

(II) TWO WITH EXPERTISE IN VENTURE CAPITAL FINANCING;

(III) FIVE WITH EXPERIENCE IN TECHNOLOGY-BASED BUSINESSES;

(IV) TWO REPRESENTING COLLEGES AND UNIVERSITIES; AND

(V) THREE MEMBERS OF THE GENERAL PUBLIC.

(C) QUALIFICATIONS.

A MEMBER OF THE BOARD SHALL RESIDE IN THE STATE.

(D) CONSIDERATIONS.

IN MAKING APPOINTMENTS TO THE BOARD, THE GOVERNOR SHALL CONSIDER:

(1) DIVERSITY; AND

(2) ALL GEOGRAPHIC REGIONS OF THE STATE.

(E) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE BOARD:

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

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

(F) TENURE; VACANCIES.

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

(2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS ON OCTOBER 1, 2008.

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

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

(G) REMOVAL.

THE GOVERNOR MAY REMOVE AN APPOINTED MEMBER FOR INCOMPETENCE, MISCONDUCT, OR FAILURE TO PERFORM THE DUTIES OF THE POSITION.

(H) CHAIR.

THE BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

(I) ACTION.

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

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-2A-03(a) through (j).

In subsection (f) of this section, the reference to terms being staggered as required by the terms provided for Board members "on October 1, 2008" is substituted for the former obsolete reference to terms being staggered as

required by the terms provided “on July 1, 1998 and July 1, 2000”. This substitution is not intended to alter the term of any member of the Board. See § 13 of Ch. 306, Acts of 2008. The terms of the members serving on October 1, 2007, end as follows: (1) three members on June 30, 2009; (2) four members on June 30, 2010; (3) one member on June 30, 2011; and (4) six members on June 30, 2012.

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

Defined terms: “Board” § 10–401

“Secretary” § 9–101

“State” § 9–101

10–404. EXECUTIVE DIRECTOR.

(A) IN GENERAL.

THE CORPORATION SHALL EMPLOY AN EXECUTIVE DIRECTOR.

(B) QUALIFICATIONS.

THE EXECUTIVE DIRECTOR SHALL HAVE EXPERIENCE WITH AND POSSESS QUALIFICATIONS RELEVANT TO THE ACTIVITIES AND PURPOSES OF THE CORPORATION.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–2A–03(k).

Defined term: “Corporation” § 10–401

10–405. LEGAL ADVISOR.

(A) IN GENERAL.

THE ATTORNEY GENERAL IS THE LEGAL ADVISOR TO THE CORPORATION.

(B) OUTSIDE COUNSEL.

WITH THE APPROVAL OF THE ATTORNEY GENERAL, THE CORPORATION MAY RETAIN ANY NECESSARY LAWYERS.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–2A–04(a)(14).

In subsection (b) of this section, the word “retain” is substituted for the former word “engage” for clarity and consistency within this article.

Defined term: “Corporation” § 10–401

10–406. STAFF.

THE CORPORATION MAY RETAIN ANY NECESSARY ACCOUNTANTS, ENGINEERS, FINANCIAL ADVISORS, OR OTHER CONSULTANTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-2A-04(a)(13).

The word "retain" is substituted for the former word "[e]ngage" for clarity and consistency within this article.

Defined term: "Corporation" § 10-401

10-407. APPLICABILITY OF OTHER LAWS.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTIONS (B), (C), AND (E) OF THIS SECTION, THE CORPORATION IS EXEMPT FROM:

(1) TITLE 10 AND DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

(2) §§ 10-505 AND 10-507 OF THE STATE GOVERNMENT ARTICLE.

(B) PUBLIC INFORMATION ACT.

THE CORPORATION IS SUBJECT TO THE PUBLIC INFORMATION ACT.

(C) ETHICS.

THE BOARD AND THE OFFICERS AND EMPLOYEES OF THE CORPORATION ARE SUBJECT TO THE PUBLIC ETHICS LAW.

(D) PERSONNEL.

THE OFFICERS AND EMPLOYEES OF THE CORPORATION ARE NOT SUBJECT TO THE PROVISIONS OF DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE THAT GOVERN THE STATE PERSONNEL MANAGEMENT SYSTEM.

(E) PROCUREMENT.

THE CORPORATION, ITS BOARD, AND EMPLOYEES ARE SUBJECT TO TITLE 12, SUBTITLE 4 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-2A-08(b) and (a)(2) through (5).

In subsection (a) of this section, the former obsolete reference to exemption from "Article 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) 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).

Subsection (d) of this section is restated in standard language for clarity.

In subsection (d) of this section, the former phrase “[e]xcept as provided in subsection (b) of this section,” is deleted because it is intended to relate only to procurement and not to personnel matters. *See* Ch. 523, Acts of 2005.

Defined terms: “Board” § 10–401

“Corporation” § 10–401

“State” § 9–101

10–408. POWERS — IN GENERAL.

THE CORPORATION MAY:

- (1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;
- (2) ADOPT A SEAL;
- (3) MAINTAIN OFFICES AT A PLACE IT DESIGNATES IN THE STATE;
- (4) ACCEPT LOANS, GRANTS, OR ASSISTANCE OF ANY KIND FROM THE FEDERAL OR STATE GOVERNMENT, A LOCAL GOVERNMENT, A COLLEGE OR UNIVERSITY, OR A PRIVATE SOURCE;
- (5) ENTER INTO CONTRACTS AND OTHER LEGAL INSTRUMENTS;
- (6) SUE OR BE SUED;
- (7) ACQUIRE, PURCHASE, HOLD, LEASE AS LESSEE, AND USE:
 - (I) A FRANCHISE, PATENT, OR LICENSE;
 - (II) ANY REAL, PERSONAL, MIXED, TANGIBLE, OR INTANGIBLE PROPERTY; OR
 - (III) AN INTEREST IN THE PROPERTY LISTED IN THIS ITEM; AND
- (8) SELL, LEASE AS LESSOR, TRANSFER, LICENSE, ASSIGN, OR DISPOSE OF PROPERTY OR A PROPERTY INTEREST THAT IT ACQUIRES;
- (9) FIX AND COLLECT RATES, RENTALS, FEES, ROYALTIES, AND CHARGES FOR SERVICES AND RESOURCES IT PROVIDES OR MAKES AVAILABLE;
- (10) CREATE, OWN, CONTROL, OR BE A MEMBER OF A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, OR OTHER ENTITY, WHETHER OPERATED FOR PROFIT OR NOT FOR PROFIT;

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(11) EXERCISE POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN PERFORMING SIMILAR FUNCTIONS UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW; AND

(12) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS GRANTED BY THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-2A-04(a)(1) through (6), (8), (9), (11), (15), (17), and (18).

Defined terms: "Corporation" § 10-401
"State" § 9-101

10-409. POWERS — GRANTS AND INVESTMENTS.

THE CORPORATION MAY MAKE GRANTS TO OR PROVIDE EQUITY INVESTMENT FINANCING FOR TECHNOLOGY-BASED BUSINESSES.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-2A-04(a)(12).

It is set out as a separate section for emphasis.

The only changes are in style.

Defined term: "Corporation" § 10-401

10-410. POWERS — PROJECTS.

THE CORPORATION MAY:

(1) ACQUIRE, DEVELOP, IMPROVE, MANAGE, MARKET, LICENSE, SUBLICENSE, MAINTAIN, LEASE AS LESSOR OR LESSEE, OR OPERATE A PROJECT IN THE STATE TO CARRY OUT ITS PURPOSES;

(2) ACQUIRE, DIRECTLY OR INDIRECTLY, FROM A PERSON OR POLITICAL SUBDIVISION, BY PURCHASE, GIFT, OR DEVISE ANY PROPERTY, RIGHTS-OF-WAY, FRANCHISES, EASEMENTS, OR OTHER INTERESTS IN LAND, INCLUDING SUBMERGED LAND AND RIPARIAN RIGHTS:

(I) AS NECESSARY OR CONVENIENT TO IMPROVE OR OPERATE A PROJECT TO CARRY OUT ITS PURPOSES; AND

(II) ON THE TERMS AND AT THE PRICES THAT IT CONSIDERS REASONABLE; AND

(3) ENTER INTO A PROJECT WITH A MANUFACTURER TO CARRY OUT ITS PURPOSES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-2A-04(a)(7), (10), and (16).

In item (2) of this section, the former reference to "real or personal" property is deleted as included in the comprehensive reference to "property".

Defined terms: "Corporation" § 10-401

"Improve" § 10-401

"State" § 9-101

10-411. LIABILITY; CREDIT.

A DEBT, CLAIM, OBLIGATION, OR LIABILITY OF THE CORPORATION OR ANY SUBSIDIARY IS NOT:

(1) A DEBT, CLAIM, OBLIGATION, OR LIABILITY OF THE STATE, A UNIT OR INSTRUMENTALITY OF THE STATE, OR OF A STATE OFFICER OR STATE EMPLOYEE; OR

(2) A PLEDGE OF THE CREDIT OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-2A-09.

Defined terms: "Corporation" § 10-401

"State" § 9-101

10-412. PARTICIPATION BY COLLEGES AND UNIVERSITIES.

COLLEGES AND UNIVERSITIES MAY:

(1) CONTRACT WITH THE CORPORATION OR ITS SUBSIDIARIES;

(2) ASSIGN TO THE CORPORATION OR ITS SUBSIDIARIES INTELLECTUAL PROPERTY AND OTHER RESOURCES TO ASSIST IN ITS DEVELOPMENT AND ACTIVITIES; AND

(3) ASSIGN FACULTY AND STAFF TO THE CORPORATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-2A-04(b).

Defined term: "Corporation" § 10-401

10-413. TAX STATUS.

THE CORPORATION IS EXEMPT FROM STATE AND LOCAL TAXES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-2A-08(a)(1).

The former phrase "[e]xcept as provided in subsection (b) of this section," is deleted because it is intended to relate only to procurement and not to taxes. See Ch. 523, Acts of 2005.

Defined terms: "Corporation" § 10-401

"State" § 9-101

10-414. AUDIT.

THE BOOKS AND RECORDS OF THE CORPORATION ARE SUBJECT TO AUDIT:

(1) AT ANY TIME BY THE STATE; AND

(2) EACH YEAR BY AN INDEPENDENT AUDITOR THAT THE OFFICE OF LEGISLATIVE AUDITS APPROVES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-2A-06.

Defined terms: "Corporation" § 10-401
"State" § 9-101

10-415. ANNUAL REPORT.

(A) REQUIRED.

ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE CORPORATION SHALL REPORT TO THE GOVERNOR, THE MARYLAND ECONOMIC DEVELOPMENT COMMISSION, AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(B) CONTENTS.

THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND FINANCIAL STATEMENT COVERING THE CORPORATION'S OPERATIONS AND A SUMMARY OF THE CORPORATION'S ACTIVITIES DURING THE PRECEDING FISCAL YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-2A-07.

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

Defined term: "Corporation" § 10-401

10-416. RESERVED.

10-417. RESERVED.

PART II. MARYLAND TECHNOLOGY INCUBATOR PROGRAM.

10-418. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5-2A-04.1(a)(1).

The reference to this "part" is substituted for the former reference to this "section" to reflect the reorganization of material derived from former Art. 83A, § 5-2A-04.1 in this part.

No other changes are made.

(B) FINANCIAL ASSISTANCE.

“FINANCIAL ASSISTANCE” MEANS A GRANT, LOAN, CREDIT ENHANCEMENT, OR SIMILAR ASSISTANCE.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2A–04.1(a)(3).

The only changes are in style.

(C) PROGRAM.

“PROGRAM” MEANS THE MARYLAND TECHNOLOGY INCUBATOR PROGRAM.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2A–04.1(a)(4).

No changes are made.

10–419. ESTABLISHED.

(A) IN GENERAL.

THERE IS A MARYLAND TECHNOLOGY INCUBATOR PROGRAM.

(B) ADMINISTRATION.

THE CORPORATION SHALL ADMINISTER THE PROGRAM.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–2A–04.1(b).

Defined terms: “Corporation” § 10–401
“Program” § 10–418

10–420. PURPOSE.

THE PURPOSE OF THE PROGRAM IS TO PROMOTE ENTREPRENEURSHIP AND THE CREATION OF JOBS IN TECHNOLOGY–RELATED INDUSTRY BY ESTABLISHING AND OPERATING EFFECTIVE INCUBATORS THROUGHOUT THE STATE THAT PROVIDE ADEQUATE PHYSICAL SPACE DESIGNED, AND PROGRAMS INTENDED, TO INCREASE OR ACCELERATE BUSINESS SUCCESS IN THE FIELD OF TECHNOLOGY.

REVISOR’S NOTE: This section formerly was Art. 83A, § 5–2A–04.1(c).

No changes are made.

Defined terms: “Program” § 10–418
“State” § 9–101

10–421. AWARDS.

TO CARRY OUT THE PURPOSES OF THE PROGRAM, THE BOARD SHALL AWARD FINANCIAL ASSISTANCE UNDER THIS PART.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–2A–04.1(d)(1).

The reference to the purposes “of the Program” is substituted for the former phrase “stated in subsection (c) of this section” for clarity.

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Defined terms: “Board” § 10–401
“Financial assistance” § 10–418
“Program” § 10–418

10–422. SOURCES.

THE BOARD MAY AWARD FINANCIAL ASSISTANCE USING MONEY PROVIDED BY THE STATE, THE FEDERAL GOVERNMENT, OR A NONGOVERNMENTAL ENTITY.

REVISOR’S NOTE: This section formerly was Art. 83A, § 5–2A–04.1(d)(2).

The only changes are in style.

Defined terms: “Board” § 10–401
“Financial assistance” § 10–418
“State” § 9–101

10–423. ALLOWED PURPOSES.

(A) IN GENERAL.

AFTER CONSULTING WITH THE SECRETARY, THE BOARD SHALL ADOPT STANDARDS TO AWARD FINANCIAL ASSISTANCE.

(B) STANDARDS.

THE STANDARDS SHALL AUTHORIZE THE AWARD OF FINANCIAL ASSISTANCE TO:

(1) SUPPORT THE DEVELOPMENT AND USE OF BEST PRACTICES IN THE INCUBATION PROCESS;

(2) PROVIDE STRATEGIC PLANNING, NEEDS ASSESSMENTS, AND FEASIBILITY STUDIES; OR

(3) HELP ACQUIRE OR IMPROVE NEW OR EXPANDED SPACE OR IMPROVE EXISTING SPACE FOR AN INCUBATOR, INCLUDING PROVIDING OR HELPING ANOTHER WITH:

(I) ACQUISITION OF LAND;

(II) ACQUISITION OF ARCHITECTURAL OR ENGINEERING SERVICES;

(III) PAYMENT OF ADMINISTRATIVE COSTS;

(IV) DEVELOPMENT OR UPGRADING OF COMMUNICATIONS INFRASTRUCTURE;

(V) ACQUISITION OF FURNISHINGS OR EQUIPMENT; OR

(VI) ACQUISITION OF OTHER ITEMS ASSOCIATED WITH TENANT BUILD–OUT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–2A–04.1(d)(3).

In subsection (b) of this section, the reference to standards “authoriz[ing]

the award of financial assistance to” accomplish certain purposes is added for clarity.

Defined terms: “Board” § 10–401

“Improve” § 10–401

“Secretary” § 9–101

10–424. ALLOWED RECIPIENTS.

THE BOARD MAY AWARD FINANCIAL ASSISTANCE TO:

(1) A LOCAL GOVERNMENT;

(2) AN AGENCY, INSTRUMENTALITY, OR NOT–FOR–PROFIT CORPORATION THAT THE LOCAL GOVERNMENT DESIGNATES;

(3) A PUBLIC OR PRIVATE COLLEGE OR UNIVERSITY;

(4) THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION; OR

(5) A NOT–FOR–PROFIT ENTITY OPERATING AN INCUBATOR IN THE STATE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–2A–04.1(e).

As to the Maryland Economic Development Corporation, *see* Subtitle 1 of this title.

Defined terms: “Board” § 10–401

“Financial assistance” § 10–418

“Secretary” § 9–101

“State” § 9–101

10–425. MATCHING FUNDS.

(A) IN GENERAL.

A RECIPIENT OF FINANCIAL ASSISTANCE UNDER § 10–423(B)(3) OF THIS SUBTITLE SHALL PROVIDE MATCHING FUNDS OR IN–KIND CONTRIBUTIONS FOR THE PROJECT AT LEAST EQUAL TO THE FINANCIAL ASSISTANCE AWARDED.

(B) WAIVER.

THE BOARD MAY WAIVE THE REQUIREMENT OF SUBSECTION (A) OF THIS SECTION FOR GOOD CAUSE SHOWN.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–2A–04.1(f)(1).

Defined terms: “Board” § 10–401

“Financial assistance” § 10–418

10-426. LIMITATION.

UNLESS TWO-THIRDS OF THE MEMBERSHIP OF THE BOARD APPROVE, THE BOARD MAY NOT AWARD FINANCIAL ASSISTANCE WITHIN A SINGLE COUNTY UNDER § 10-423(B)(3) OF THIS SUBTITLE THAT EXCEEDS A TOTAL OF \$1,000,000 IN A SINGLE FISCAL YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-2A-04.1(f)(2).

The reference to "§ 10-423(3) of this subtitle" is substituted for the former reference to "subsection (d)(3)(iii) of this section" for clarity.

The former phrase "within Baltimore City" is deleted as included in the reference to "a single county" because the definition of "county" includes Baltimore City.

Defined terms: "Board" § 10-401

"County" § 9-101

"Financial assistance" § 10-418

10-427. RESERVED.

10-428. RESERVED.

PART III. STEM CELL RESEARCH.

10-429. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5-2B-01(a).

The reference to this "part" is substituted for the former reference to this "subtitle" to reflect the reorganization of material derived from former Art. 83A, Title 5, Subtitle 2A in this part.

No other changes are made.

(B) ADULT STEM CELL.

"ADULT STEM CELL" MEANS A STEM CELL THAT IS:

(1) DERIVED FROM HUMAN TISSUE; AND

(2) OBTAINED AFTER BIRTH.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5-2B-01(b).

The only changes are in style.

Defined term: "Stem cell" § 10-429

(C) COMMISSION.

“COMMISSION” MEANS THE STEM CELL RESEARCH COMMISSION.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2B–01(c).

No changes are made.

Defined term: “Stem cell” § 10–429

(D) COMMITTEE.

“COMMITTEE” MEANS THE INDEPENDENT SCIENTIFIC PEER REVIEW COMMITTEE THAT CONTRACTS WITH THE COMMISSION UNDER § 10–436 OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2B–01(d).

The only changes are in style.

Defined term: “Commission” § 10–429

(E) FUND.

“FUND” MEANS THE MARYLAND STEM CELL RESEARCH FUND ESTABLISHED UNDER § 10–434 OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–2B–01(f).

Defined term: “Stem cell” § 10–429

(F) HUMAN CLONING.

“HUMAN CLONING” MEANS THE REPLICATION OF A HUMAN BEING THROUGH THE PRODUCTION OF A PRECISE GENETIC COPY OF NUCLEAR HUMAN DNA OR ANY OTHER HUMAN MOLECULE, CELL, OR TISSUE IN ORDER TO CREATE A NEW HUMAN BEING OR TO ALLOW DEVELOPMENT BEYOND AN EMBRYO.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2B–01(g).

The only change is in style.

(G) INSTITUTIONAL REVIEW BOARD.

“INSTITUTIONAL REVIEW BOARD” HAS THE MEANING STATED IN THE FEDERAL REGULATIONS ON THE PROTECTION OF HUMAN SUBJECTS.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2B–01(h).

No changes are made.

(H) OOCYTE.

“OOCYTE” MEANS A FEMALE GERM CELL OR EGG.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2B–01(i).

No changes are made.

(I) STATE—FUNDED STEM CELL RESEARCH.

“STATE—FUNDED STEM CELL RESEARCH” MEANS STEM CELL RESEARCH CONDUCTED WITH STATE MONEY AND USING:

(1) MATERIAL OBTAINED IN ACCORDANCE WITH § 10—438 OF THIS SUBTITLE; OR

(2) ADULT STEM CELLS.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2B–01(j).

In the introductory language to this subsection, the phrase “with State money and” is added to state explicitly that which was only implied by the former law; *i.e.*, that the only stem cell research regulated by this part *as State-funded* is that which is conducted with State money, rather than all stem cell research. The addition does not in any way limit the ambit of the crimes revised in §§ 10–439 and 10–440 of this subtitle. The Economic Development Article Review Committee brings this addition to the attention of the General Assembly. No substantive change is intended.

The only other changes are in style.

Defined terms: “Adult stem cell” § 10–429

“State” § 9–101

“Stem cell” § 10–429

(J) STEM CELL.

“STEM CELL” MEANS A HUMAN CELL THAT HAS THE ABILITY TO:

(1) DIVIDE INDEFINITELY;

(2) GIVE RISE TO MANY OTHER TYPES OF SPECIALIZED CELLS; AND

(3) GIVE RISE TO NEW STEM CELLS WITH IDENTICAL POTENTIAL.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2B–01(k).

No changes are made.

(K) VALUABLE CONSIDERATION.

“VALUABLE CONSIDERATION” MEANS FINANCIAL GAIN OR ADVANTAGE IN CONNECTION WITH MATERIAL OBTAINED IN ACCORDANCE WITH § 10–438 OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–2B–01(l).

The only changes are in style.

REVISOR’S NOTE TO SECTION:

Former Art. 83A, § 5-2B-01(e), which defined “Corporation” to mean the Maryland Technology Development Corporation, is deleted as redundant of the same term defined in § 10-401 of this subtitle.

10-430. CONSTRUCTION OF PART.

NOTHING IN THIS PART MAY BE CONSTRUED TO PROHIBIT THE CREATION OF STEM CELL LINES TO BE USED FOR THERAPEUTIC RESEARCH PURPOSES.

REVISOR’S NOTE: This section formerly was Art. 83A, § 5-2B-11.

The only change is in style.

Defined term: “Stem cell” § 10-429

10-431. STEM CELL RESEARCH COMMISSION.

(A) ESTABLISHED.

THERE IS A STEM CELL RESEARCH COMMISSION.

(B) STATUS.

THE COMMISSION IS AN INDEPENDENT COMMISSION THAT FUNCTIONS IN THE CORPORATION.

(C) COMPOSITION; APPOINTMENT.

THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

(1) THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL’S DESIGNEE;

(2) THREE PATIENT ADVOCATES, ONE APPOINTED BY THE GOVERNOR, ONE APPOINTED BY THE PRESIDENT OF THE SENATE, AND ONE APPOINTED BY THE SPEAKER OF THE HOUSE OF DELEGATES;

(3) THREE INDIVIDUALS WITH EXPERIENCE IN BIOTECHNOLOGY, ONE APPOINTED BY THE GOVERNOR, ONE APPOINTED BY THE PRESIDENT OF THE SENATE, AND ONE APPOINTED BY THE SPEAKER OF THE HOUSE OF DELEGATES;

(4) TWO INDIVIDUALS WHO WORK AS SCIENTISTS FOR THE UNIVERSITY SYSTEM OF MARYLAND AND DO NOT ENGAGE IN STEM CELL RESEARCH, APPOINTED BY THE UNIVERSITY SYSTEM OF MARYLAND;

(5) TWO INDIVIDUALS WHO WORK AS SCIENTISTS FOR THE JOHNS HOPKINS UNIVERSITY AND DO NOT ENGAGE IN STEM CELL RESEARCH, APPOINTED BY THE JOHNS HOPKINS UNIVERSITY;

(6) TWO BIOETHICISTS, ONE APPOINTED BY THE UNIVERSITY SYSTEM OF MARYLAND AND ONE APPOINTED BY THE JOHNS HOPKINS UNIVERSITY; AND

(7) TWO INDIVIDUALS WITH EXPERTISE IN THE FIELD OF BIOMEDICAL ETHICS AS IT RELATES TO RELIGION, APPOINTED BY THE GOVERNOR.

(D) TENURE; VACANCIES; LIMITATION.

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(1) THE TERM OF AN APPOINTED MEMBER IS 2 YEARS.

(2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS ON OCTOBER 1, 2008.

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

(4) AN APPOINTED MEMBER MAY NOT SERVE MORE THAN THREE CONSECUTIVE FULL TERMS.

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

(E) ETHICS.

EACH MEMBER OF THE COMMISSION SHALL DISCLOSE TO THE STATE COMMISSION ON ETHICS WHETHER THE MEMBER IS EMPLOYED BY OR HAS A FINANCIAL INTEREST IN AN ENTITY THAT MAY APPLY TO CONDUCT STATE-FUNDED STEM CELL RESEARCH.

(F) CHAIR.

THE MEMBERS OF THE COMMISSION SHALL ELECT A CHAIR FROM AMONG THE APPOINTED MEMBERS OF THE COMMISSION.

(G) QUORUM.

A MAJORITY OF THE FULL AUTHORIZED MEMBERSHIP OF THE COMMISSION IS A QUORUM.

(H) MEETINGS.

THE COMMISSION SHALL MEET AT LEAST TWICE A YEAR.

(I) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE COMMISSION:

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

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

(J) STAFF.

THE COMMISSION MAY EMPLOY A STAFF, INCLUDING CONTRACTUAL STAFF, IN ACCORDANCE WITH THE STATE BUDGET.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5-2B-04(a) through (h) and (j) and 5-2B-07(b).

In subsection (d)(2) of this section, the reference to terms being staggered

“as required by the terms provided for members on October 1, 2008” is substituted for the former obsolete reference to terms being staggered “as required by the terms provided for members on July 1, 2006”. *See* § 13 of Ch. 306, Acts of 2008. This substitution is not intended to alter the terms of any member of the Commission. The terms of the members serving on October 1, 2008, end as follows: (1) seven on June 30, 2009; and (2) seven on June 30, 2010. *See* § 2 of Ch. 19, Acts of 2006; Bill Review Letter (SB 144) from J. Joseph Curran, Jr., Attorney General, to Robert L. Ehrlich, Jr., Governor (April 5, 2006).

Defined terms: “Commission” § 10–429

“Corporation” § 10–401

“State” § 9–101

“State–funded stem cell research” § 10–429

“Stem cell” § 10–429

10–432. DUTIES.

(A) IN GENERAL.

THE COMMISSION SHALL:

(1) ADOPT REGULATIONS THAT ENSURE THAT ADULT STEM CELL AND STEM CELL RESEARCH FINANCED BY THE FUND COMPLIES WITH STATE LAW;

(2) DEVELOP CRITERIA, STANDARDS, AND REQUIREMENTS FOR THE INITIAL REVIEW OF GRANT AND LOAN APPLICATIONS BY THE COMMISSION;

(3) REVIEW GRANT AND LOAN APPLICATIONS TO ENSURE THAT EACH APPLICATION IS COMPLETE AND SATISFIES THE CRITERIA, STANDARDS, AND REQUIREMENTS DEVELOPED BY THE COMMISSION, INCLUDING APPROVAL BY AN INSTITUTIONAL REVIEW BOARD;

(4) ESTABLISH PROCEDURES AND GUIDELINES TO BE USED BY THE COMMITTEE FOR THE REVIEW, EVALUATION, RANKING, AND RATING OF RESEARCH PROPOSALS FOR STATE–FUNDED STEM CELL RESEARCH;

(5) ENSURE THAT THE PROCEDURES AND GUIDELINES ESTABLISHED UNDER ITEM (4) OF THIS SUBSECTION ARE BASED ON THE GUIDELINES OF THE NATIONAL INSTITUTES OF HEALTH CENTER FOR SCIENTIFIC REVIEW;

(6) ESTABLISH CRITERIA, STANDARDS, AND REQUIREMENTS FOR CONSIDERATION OF GRANT AND LOAN APPLICATIONS BASED ON THE RANKINGS AND RATINGS OF THE COMMITTEE;

(7) MAKE RECOMMENDATIONS CONSISTENT WITH THE CRITERIA, STANDARDS, AND REQUIREMENTS ESTABLISHED BY THE COMMISSION AND BASED ON THE RANKINGS AND RATINGS OF THE COMMITTEE REGARDING THE AWARD OF GRANTS AND LOANS FROM THE FUND;

(8) ESTABLISH STANDARDS FOR THE OVERSIGHT AND USE OF AWARDS;

(9) CONDUCT PROGRESS OVERSIGHT REVIEWS OF RECIPIENTS;

(10) NOTIFY THE CORPORATION REGARDING THE SUBMISSION BY A RECIPIENT, OR FAILURE OF A RECIPIENT, TO SUBMIT INSTITUTIONAL REVIEW BOARD APPROVAL FOR A GRANT OR LOAN AWARDED UNDER THIS SUBTITLE; AND

(11) DEVELOP GUIDELINES ON DISCLOSURE AND RECUSAL TO BE FOLLOWED BY MEMBERS OF THE COMMISSION WHEN CONSIDERING GRANT AND LOAN APPLICATIONS.

(B) CONSULTATION.

THE COMMISSION MAY CONSULT WITH EXPERTS IN PERFORMING ITS DUTIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5-2B-04(i) and 5-2B-07(a).

In subsection (a)(9) and (10) of this section, the references to a "recipient" are substituted for the former reference to a "grantee" for consistency within this part.

In subsection (a)(10) of this section and throughout this subtitle, the references to approval of a grant "or loan" are added for consistency with the requirement that a "loan" as well as a "grant" be approved by an institutional review board under subsection (a)(3) of this section.

Defined terms: "Adult stem cell" § 10-429

"Commission" § 10-429

"Corporation" § 10-401

"Fund" § 10-429

"Institutional review board" § 10-429

"State" § 9-101

"State-funded stem cell research" § 10-429

"Stem cell" § 10-429

10-433. LIMITATIONS ON AUTHORITY OF SECRETARY.

(A) DISAPPROVAL OR MODIFICATION OF DECISION OR DETERMINATION.

THE AUTHORITY OF THE SECRETARY OVER PLANS, PROPOSALS, AND PROJECTS OF UNITS IN THE DEPARTMENT DOES NOT INCLUDE THE AUTHORITY TO DISAPPROVE OR MODIFY ANY DECISION OR DETERMINATION THAT THE COMMISSION MAKES UNDER AUTHORITY SPECIFICALLY DELEGATED BY LAW TO THE COMMISSION.

(B) ORGANIZATION AND FUNDING.

THE AUTHORITY OF THE SECRETARY TO TRANSFER BY REGULATION OR WRITTEN DIRECTIVE ANY STAFF, FUNCTIONS, OR MONEY OF UNITS IN THE DEPARTMENT DOES NOT APPLY TO ANY STAFF, FUNCTIONS, OR MONEY OF THE COMMISSION.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-2B-05.

In subsections (a) and (b) of this section, the references to the "authority" of the Secretary are substituted for the former references to the "power" of the Secretary for consistency within this article.

In subsection (b) of this section, the former reference to a “rule” is deleted as included in the reference to a “regulation”. *See* General Revisor’s Note to article.

The only other changes are in style.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that this section appears to be unnecessary. Neither the Commission nor the Corporation is in the Department or is otherwise subject to the jurisdiction of the Secretary, and the authority of the Secretary over decisions, determinations, organization, and funding of units within the Department does not apply to either unit.

Defined terms: “Commission” § 10–429

“Department” § 9–101

“Secretary” § 9–101

10–434. MARYLAND STEM CELL RESEARCH FUND.

(A) ESTABLISHED.

THERE IS A MARYLAND STEM CELL RESEARCH FUND.

(B) PURPOSE.

THE PURPOSE OF THE FUND IS TO PROMOTE STATE–FUNDED STEM CELL RESEARCH AND CURES THROUGH GRANTS AND LOANS TO PUBLIC AND PRIVATE ENTITIES IN THE STATE.

(C) ADMINISTRATION.

THE CORPORATION SHALL ADMINISTER THE FUND.

(D) 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.

(E) CONTENTS.

THE FUND CONSISTS OF:

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

(2) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(F) USES.

MONEY IN THE FUND MAY ONLY BE USED TO:

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(1) AWARD GRANTS AND LOANS FOR STATE—FUNDED STEM CELL RESEARCH, IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE COMMISSION;

(2) AWARD GRANTS AND LOANS FOR FACILITIES, CAPITAL LEASES, AND CAPITAL EQUIPMENT WHERE STATE—FUNDED STEM CELL RESEARCH IS CONDUCTED, IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE COMMISSION; AND

(3) PAY THE COSTS NECESSARY TO ADMINISTER THE FUND.

(G) INVESTMENT; EARNINGS.

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

(2) ANY INVESTMENT EARNINGS SHALL BE PAID INTO THE FUND.

(H) APPROPRIATION; EXPENDITURES.

(1) THE GOVERNOR MAY INCLUDE IN THE STATE BUDGET BILL EACH FISCAL YEAR AN APPROPRIATION TO THE FUND.

(2) EXPENDITURES FROM THE FUND MAY ONLY BE MADE IN ACCORDANCE WITH AN APPROPRIATION APPROVED BY THE GENERAL ASSEMBLY IN THE STATE BUDGET OR BY AN APPROVED BUDGET AMENDMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–2B–03(a) through (k).

In subsection (h)(1) of this section, the former obsolete phrase “[b]eginning in fiscal year 2008” is deleted.

Defined terms: “Commission” § 10–429

“Corporation” § 10–401

“Fund” § 10–429

“State” § 9–101

“State–funded stem cell research” § 10–429

“Stem cell” § 10–429

10–435. GRANT AND LOAN CONDITIONS.

(A) IN GENERAL.

A GRANT OR LOAN AWARDED UNDER THIS PART IS CONTINGENT ON THE RECIPIENT:

(1) SUBMITTING TO THE COMMISSION APPROVAL FROM AN INSTITUTIONAL REVIEW BOARD; AND

(2) ENTERING INTO A MEMORANDUM OF UNDERSTANDING WITH THE CORPORATION THAT:

(I) ESTABLISHES THE SCOPE OF THE STATE'S OWNERSHIP OR OTHER FINANCIAL INTEREST IN THE COMMERCIALIZATION AND OTHER BENEFITS OF THE RESULTS, PRODUCTS, INVENTIONS, AND DISCOVERIES OF STATE—FUNDED STEM CELL RESEARCH; AND

(II) TO THE EXTENT CONSISTENT WITH FEDERAL AND STATE LAW, REFLECTS THE INTELLECTUAL PROPERTY POLICIES OF THE INSTITUTION.

(B) LIMITATION.

A RECIPIENT SHALL SUBMIT THE APPROVAL REQUIRED UNDER SUBSECTION (A)(1) OF THIS SECTION WITHIN 6 MONTHS AFTER THE AWARD OF THE GRANT OR LOAN.

(C) CONDITIONS PRECEDENT TO DISBURSEMENT.

THE CORPORATION MAY NOT DISBURSE GRANT OR LOAN MONEY TO A RECIPIENT UNTIL:

(1) THE RECIPIENT HAS OBTAINED THE APPROVAL REQUIRED UNDER SUBSECTION (A)(1) OF THIS SECTION; AND

(2) THE RECIPIENT AND THE CORPORATION HAVE ENTERED INTO THE MEMORANDUM OF UNDERSTANDING REQUIRED UNDER SUBSECTION (A)(2) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-2B-08.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that throughout this section and subtitle, the references to a "recipient" are substituted for the former references to a "grantee" for clarity. Although the use of the term "grantee" in former Art. 83A, § 5-2B-08 seemed to imply the recipient of a grant, rather than a loan, the Fund may be used for loans as well as grants. See §§ 10-432(a)(3) and 10-434(f) of this subtitle. Similarly, in the introductory language to subsections (a) and (c) of this section, and in subsection (b) of this section, the references to a "grant or loan" are substituted for the former references to a "grant". No substantive change is intended.

Defined terms: "Commission" § 10-429

"Corporation" § 10-401

"Institutional review board" § 10-429

"State" § 9-101

"State-funded stem cell research" § 10-429

"Stem cell" § 10-429

10-436. PEER REVIEW COMMITTEE.

(A) IN GENERAL.

THE COMMISSION SHALL CONTRACT WITH AN INDEPENDENT SCIENTIFIC PEER REVIEW COMMITTEE COMPOSED OF SCIENTIFICALLY RECOGNIZED EXPERTS IN THE FIELD OF STEM CELL RESEARCH.

(B) DUTIES.

THE COMMITTEE SHALL:

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(1) REVIEW, EVALUATE, RANK, AND RATE RESEARCH PROPOSALS FOR STATE–FUNDED STEM CELL RESEARCH:

(I) BASED ON THE PROCEDURES AND GUIDELINES ESTABLISHED BY THE COMMISSION; AND

(II) IN A MANNER THAT GIVES DUE CONSIDERATION TO THE SCIENTIFIC, MEDICAL, AND ETHICAL IMPLICATIONS OF THE RESEARCH; AND

(2) MAKE RECOMMENDATIONS TO THE COMMISSION, BASED ON THE RANKINGS AND RATINGS AWARDED TO RESEARCH PROPOSALS BY THE COMMITTEE, FOR THE AWARD AND DISBURSEMENT OF GRANTS AND LOANS UNDER THE FUND.

(C) LIMITATIONS; CONFLICT OF INTEREST.

A MEMBER OF THE COMMITTEE:

(1) IS NOT ELIGIBLE TO RECEIVE A GRANT OR LOAN FOR STATE–FUNDED STEM CELL RESEARCH FROM THE FUND;

(2) MAY NOT RESIDE IN THE STATE; AND

(3) SHALL BE SUBJECT TO CONFLICT OF INTEREST STANDARDS THAT ARE AT LEAST AS STRINGENT AS THE STANDARDS ON CONFLICT OF INTEREST ADOPTED BY THE NATIONAL INSTITUTES OF HEALTH.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–2B–06.

In subsection (b)(2) of this section, the reference to “loans” is added for consistency within this part.

Defined terms: “Committee” § 10–429

“Fund” § 10–429

“State” § 9–101

“State–funded stem cell research” § 10–429

“Stem cell” § 10–429

10–437. MANNER OF CONDUCTING STATE–FUNDED STEM CELL RESEARCH.

(A) MANNER OF CONDUCT.

A PERSON WHO CONDUCTS STATE–FUNDED STEM CELL RESEARCH SHALL CONDUCT THE RESEARCH IN A MANNER THAT CONSIDERS THE ETHICAL AND MEDICAL IMPLICATIONS OF THE RESEARCH.

(B) PROHIBITION.

A PERSON WHO CONDUCTS STATE–FUNDED STEM CELL RESEARCH MAY NOT ENGAGE IN ANY RESEARCH THAT INTENTIONALLY AND DIRECTLY LEADS TO HUMAN CLONING.

REVISOR’S NOTE: This section formerly was Art. 83A, § 5–2B–02.

No changes are made.

Defined terms: “Human cloning” § 10–429

“Person” § 9–101

“State–funded stem cell research” § 10–429

“Stem cell” § 10–429

10–438. **UNUSED DONATED MATERIAL.**

(A) **REQUIRED INFORMATION; OPTIONS.**

A HEALTH CARE PRACTITIONER LICENSED UNDER THE HEALTH OCCUPATIONS ARTICLE WHO TREATS INDIVIDUALS FOR INFERTILITY SHALL:

(1) PROVIDE INDIVIDUALS WITH INFORMATION SUFFICIENT TO ENABLE THEM TO MAKE AN INFORMED AND VOLUNTARY CHOICE REGARDING THE DISPOSITION OF ANY UNUSED MATERIAL; AND

(2) PRESENT TO INDIVIDUALS THE OPTION OF:

(i) STORING OR DISCARDING ANY UNUSED MATERIAL;

(ii) DONATING ANY UNUSED MATERIAL FOR CLINICAL PURPOSES IN THE TREATMENT OF INFERTILITY;

(iii) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, DONATING ANY UNUSED MATERIAL FOR RESEARCH PURPOSES; AND

(iv) DONATING ANY UNUSED MATERIAL FOR ADOPTION PURPOSES.

(B) **EXCEPTION.**

ANY UNUSED MATERIAL DONATED FOR STATE–FUNDED STEM CELL RESEARCH MAY NOT BE AN OOCYTE.

(C) **WRITTEN CONSENT.**

AN INDIVIDUAL WHO DONATES ANY UNUSED MATERIAL FOR RESEARCH PURPOSES UNDER SUBSECTION (A)(2) OF THIS SECTION SHALL PROVIDE THE HEALTH CARE PRACTITIONER WITH WRITTEN CONSENT FOR THE DONATION.

REVISOR’S NOTE: This section formerly was Art. 83A, § 5–2B–10.

The only changes are in style.

Defined terms: “Oocyte” § 10–429

“State–funded stem cell research” § 10–429

“Stem cell” § 10–429

10–439. **PROHIBITED ACTS — DONATED MATERIAL.**

(A) **TRANSFER OF DONATED MATERIAL.**

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A PERSON MAY NOT PURCHASE, SELL, TRANSFER, OR OBTAIN ANY MATERIAL DONATED IN ACCORDANCE WITH § 10-438 OF THIS SUBTITLE FOR VALUABLE CONSIDERATION.

(B) SOLICITATION FOR MEDICAL RESEARCH.

A PERSON MAY NOT GIVE VALUABLE CONSIDERATION TO ANOTHER TO ENCOURAGE THE PRODUCTION OF MATERIAL DONATED IN ACCORDANCE WITH § 10-438 OF THIS SUBTITLE FOR THE SOLE PURPOSE OF MEDICAL RESEARCH.

(C) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$50,000 OR BOTH.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-2B-12.

The only changes are in style.

Defined terms: "Person" § 9-101

"Valuable consideration" § 10-429

10-440. PROHIBITED ACTS — HUMAN CLONING.

(A) PROHIBITED.

A PERSON MAY NOT CONDUCT OR ATTEMPT TO CONDUCT HUMAN CLONING.

(B) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING \$200,000 OR BOTH.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-2B-13.

No changes are made.

Defined terms: "Human cloning" § 10-429

"Person" § 9-101

10-441. REGULATIONS.

THE CORPORATION, IN CONSULTATION WITH THE COMMISSION, SHALL ADOPT REGULATIONS TO ESTABLISH PROCEDURES FOR MAKING THE DISBURSEMENT OF A GRANT OR LOAN CONTINGENT ON OBTAINING THE APPROVAL OF AN INSTITUTIONAL REVIEW BOARD.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-2B-03(1).

The reference to making a "loan" contingent on obtaining approval of an institutional review board is added for consistency with § 10-432(a)(3) of this subtitle.

The only other changes are in style.

Defined terms: “Commission” § 10–429

“Corporation” § 10–401

“Institutional review board” § 10–429

10–442. ANNUAL REPORT.

(A) REQUIRED.

ON OR BEFORE JANUARY 1 OF EACH YEAR, THE CORPORATION AND THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE PROGRESS OF STATE–FUNDED STEM CELL RESEARCH CONDUCTED IN ACCORDANCE WITH THIS PART.

(B) CONTENTS.

THE REPORT SHALL IDENTIFY:

(1) EACH RECIPIENT OF MONEY FROM THE FUND;

(2) THE AMOUNT OF MONEY AWARDED TO EACH RECIPIENT; AND

(3) A DESCRIPTION OF THE TYPE OF STEM CELL RESEARCH PERFORMED BY THE RECIPIENT.

REVISOR’S NOTE: This section formerly was Art. 83A, § 5–2B–09.

In subsection (a) of this section, the reference to this “part” is substituted for the former reference to this “subtitle” to reflect the reorganization of material derived from former Art. 83A, Title 5, Subtitle 2A in this part.

In subsection (b)(1) and (2) of this section, the references to “money” are substituted for the former references to “funding” for consistency within this article.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that in subsection (b) of this section, the references to a “recipient” of money are substituted for the former references to a “grantee” for clarity. Although the use of the term “grantee” in former Art. 83A, § 5–2B–09(b) seemed to imply the recipient of a grant, rather than a loan, the Fund may be used for loans as well as grants. *See* §§ 10–432(a)(3) and 10–434(f) of this subtitle. No substantive change is intended.

The only other changes are in style.

Defined terms: “Commission” § 10–429

“Corporation” § 10–401

“State–funded stem cell research” § 10–429

“Stem cell” § 10–429

GENERAL REVISOR’S NOTE TO SUBTITLE:

Former Art. 83A, § 5-2A-05, which authorized the Treasurer to advance certain funds to the Corporation, is deleted as obsolete. The Treasurer has never provided money for initial expenses of the Corporation, and is never expected to. Instead, the Corporation received support for its initial expenses from the Department. *See* Ch. 661, Acts of 1998.

SUBTITLE 5. MARYLAND AGRICULTURAL AND RESOURCE-BASED INDUSTRY
DEVELOPMENT CORPORATION.

10-501. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 13-501(a).

The only changes are in style.

(B) AGRICULTURAL LOAN.

“AGRICULTURAL LOAN” MEANS A LOAN MADE TO A PERSON BY A LENDER TO FINANCE:

- (1) LAND ACQUISITION OR IMPROVEMENT;
- (2) AGRICULTURAL, AQUACULTURAL, EQUINE, HORTICULTURAL, OR SILVICULTURAL PRODUCTION;
- (3) SOIL CONSERVATION;
- (4) POND CONSTRUCTION;
- (5) IRRIGATION;
- (6) WATER WELL DRILLING;
- (7) IMPROVEMENT OF A STRUCTURE OR FACILITY;
- (8) PURCHASE OF A FARM FIXTURE, LIVESTOCK, OR POULTRY;
- (9) FISH, CRUSTACEANS, OR MOLLUSKS OF ANY KIND;
- (10) SEEDS, PLANTS, OR TREES;
- (11) FERTILIZER;
- (12) PESTICIDE;
- (13) FEED;
- (14) EQUIPMENT; OR
- (15) CONTAINERS OR SUPPLIES EMPLOYED IN THE PRODUCTION, CULTIVATION, HARVESTING, PROCESSING, STORAGE, MARKETING, DISTRIBUTION, OR EXPORT OF AN AGRICULTURAL PRODUCT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 13-501(b).

The former reference to "machinery" is deleted as redundant of the reference to "equipment".

Defined terms: "Agricultural" § 10-501

"Improvement" § 10-501

"Lender" § 10-501

"Person" §§ 9-101, 10-501

(C) AGRICULTURE.

"AGRICULTURE" MEANS THE COMMERCIAL PRODUCTION, STORAGE, PROCESSING, MARKETING, DISTRIBUTION, OR EXPORT OF AN AGRONOMIC, AQUACULTURAL, EQUINE, FLORICULTURAL, HORTICULTURAL, ORNAMENTAL, SILVICULTURAL, OR VITICULTURAL CROP, INCLUDING:

- (1) A FARM PRODUCT;
- (2) LIVESTOCK OR A LIVESTOCK PRODUCT;
- (3) POULTRY OR A POULTRY PRODUCT;
- (4) MILK OR A DAIRY PRODUCT;
- (5) TIMBER OR A FOREST PRODUCT;
- (6) FRUIT OR A HORTICULTURAL PRODUCT; AND
- (7) SEAFOOD OR AN AQUACULTURAL PRODUCT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 13-501(c).

(D) BOARD.

"BOARD" MEANS THE BOARD OF DIRECTORS OF THE CORPORATION.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 13-501(d).

The only changes are in style.

Defined term: "Corporation" § 10-501

(E) BOND.

(1) "BOND" MEANS A BOND OF THE CORPORATION ISSUED UNDER THIS SUBTITLE.

(2) "BOND" INCLUDES:

- (I) A RENEWAL NOTE;
- (II) A REFUNDING BOND;

- (III) AN INTERIM CERTIFICATE;
- (IV) A CERTIFICATE OF INDEBTEDNESS;
- (V) A DEBENTURE;
- (VI) A WARRANT;
- (VII) COMMERCIAL PAPER; AND
- (VIII) ANY OTHER OBLIGATION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 13-501(e).

Defined term: "Corporation" § 10-501

(F) CORPORATION.

"CORPORATION" MEANS THE MARYLAND AGRICULTURAL AND RESOURCE-BASED INDUSTRY DEVELOPMENT CORPORATION.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 13-501(f).

The former phrase "established under this subtitle" is deleted as surplusage.

(G) FINANCE.

"FINANCE" INCLUDES REFINANCE.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the phrase "finance or refinance" and its variants and for consistency within this title.

(H) IMPROVE.

"IMPROVE" MEANS TO ADD, ALTER, CONSTRUCT, EQUIP, EXPAND, EXTEND, RECONSTRUCT, REHABILITATE, REMODEL, OR REPAIR.

REVISOR'S NOTE: This subsection is new language added for brevity and clarity.

(I) IMPROVEMENT.

"IMPROVEMENT" MEANS ADDITION, ALTERATION, CONSTRUCTION, EQUIPPING, EXPANSION, EXTENSION, RECONSTRUCTION, REHABILITATION, REMODELING, OR REPAIR.

REVISOR'S NOTE: This subsection is new language added for brevity and clarity.

(J) LENDER.

(1) "LENDER" MEANS A FINANCIAL INSTITUTION AUTHORIZED TO DO BUSINESS IN THE STATE OR OPERATING UNDER THE SUPERVISION OF A FEDERAL UNIT.

- (2) “LENDER” INCLUDES:
- (I) A BANK;
 - (II) A TRUST COMPANY;
 - (III) A FEDERAL LAND BANK;
 - (IV) A FARM CREDIT ASSOCIATION;
 - (V) A BANK FOR COOPERATIVES;
 - (VI) INSURANCE COMPANY;
 - (VII) INVESTMENT BANKER;
 - (VIII) MORTGAGE BANKER OR COMPANY;
 - (IX) PENSION OR RETIREMENT FUND;
 - (X) SAVINGS AND LOAN ASSOCIATION;
 - (XI) SMALL BUSINESS INVESTMENT COMPANY; OR
 - (XII) CREDIT UNION.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 13–501(g).

In paragraph (2) of this subsection, the former references to a “building and loan association”, a “homestead [association]”, and a “savings bank” are deleted as included in the reference to a “savings and loan association”. See Ch. 205, Acts of 1961.

Defined term: “State” § 9–101

(K) PERSON.

(1) “PERSON” HAS THE MEANING STATED IN § 9–101 OF THIS ARTICLE.

(2) “PERSON” ALSO INCLUDES A UNIT OF A STATE OR OF THE FEDERAL GOVERNMENT.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 13–501(h).

In paragraph (1) of this subsection, the cross-reference to § 9–101 of this article is substituted for the former definition of “person” now revised in that provision.

Defined terms: “Person” § 9–101

“State” § 9–101

(L) PROJECT.

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(1) “PROJECT” MEANS ANY PROPERTY, THE ACQUISITION OR IMPROVEMENT OF WHICH THE BOARD, IN ITS SOLE DISCRETION, DETERMINES BY RESOLUTION WILL ACCOMPLISH AT LEAST ONE OF THE PURPOSES LISTED IN § 10–502 OF THIS SUBTITLE, WHETHER OR NOT THE PROPERTY, OR ANY INTEREST IN THE PROPERTY:

(I) IS OR WILL BE USED OR OPERATED FOR PROFIT OR NOT FOR PROFIT;

(II) IS OR WILL BE LOCATED ON ONE OR MORE SITES; OR

(III) MAY BE FINANCED BY BONDS, THE INTEREST ON WHICH IS EXEMPT FROM TAXATION UNDER FEDERAL LAW.

(2) “PROJECT” INCLUDES:

(I) PROPERTY AND RIGHTS RELATED TO THE PROPERTY, APPURTENANCES, RIGHTS–OF–WAY, FRANCHISES, EASEMENTS, AND OTHER INTERESTS IN PROPERTY;

(II) STRUCTURES, EQUIPMENT, FURNISHINGS, RAIL OR MOTOR VEHICLES, BARGES, AND BOATS;

(III) PROPERTY THAT IS FUNCTIONALLY RELATED AND SUBORDINATE TO A PROJECT; AND

(IV) PATENTS, LICENSES, AND OTHER RIGHTS NECESSARY OR USEFUL IN THE IMPROVEMENT OR OPERATION OF A PROJECT.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 13–501(i).

In paragraph (2)(i) of this subsection, the former references to “[l]and or any interest in land” and “real or personal property, or any combination of them” are deleted as included in the comprehensive reference to “property”.

Also in paragraph (2)(i) of this subsection, the reference to interests in “property” is substituted for the former reference to interests in “land” for consistency within this title.

In paragraph (2)(ii) of this subsection, the former reference to “[b]uildings” is deleted as included in the comprehensive reference to “structures”.

In paragraph (2)(iii) of this subsection, the reference to “property” is substituted for the former reference to “[l]and and facilities” for clarity and consistency within this article.

In paragraph (2)(iv) of this subsection, the defined term “improvement” is substituted for the former word “construction” for clarity and consistency within this article.

Defined terms: “Board” § 10–501

“Bond” § 10–501

“Improvement” § 10–501

“Project” § 10–501

(M) REVENUE.

(1) “REVENUE” MEANS THE INCOME, REVENUE, AND OTHER MONEY RECEIVED BY THE CORPORATION FROM OR IN CONNECTION WITH A PROJECT AND ALL OTHER INCOME OF THE CORPORATION.

(2) “REVENUE” INCLUDES GRANTS, RENTALS, RATES, FEES, AND CHARGES FOR THE USE OF THE SERVICES FURNISHED OR AVAILABLE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 13–501(j)(1) and (2).

As to the power of the Corporation to define or limit the defined term “revenue”, see § 10–509 of this subtitle.

Defined terms: “Corporation” § 10–501

“Project” § 10–501

10–502. LEGISLATIVE FINDINGS; PURPOSES.

(A) FINDINGS.

THE GENERAL ASSEMBLY FINDS THAT:

(1) THE STATE’S AGRICULTURAL AND RESOURCE–BASED INDUSTRIES CONTINUE TO UNDERPIN THE LOCAL ECONOMIES OF RURAL COMMUNITIES, BUT ARE INCREASINGLY UNDER THREAT FROM NATIONAL AND INTERNATIONAL MARKET COMPETITION, URBAN ENCROACHMENT AND LAND DEVELOPMENT PRESSURE, AND ENVIRONMENTAL AND REGULATORY INFLUENCES;

(2) THE CONSTRUCTION AND RENOVATION OF FOOD AND FIBER PROCESSING AND SECONDARY MANUFACTURING FACILITIES OFTEN REQUIRE CREDIT AND CAPITAL IN AMOUNTS THAT FAR EXCEED THE AVAILABLE RESOURCES OF INDIVIDUAL SMALL PRODUCERS AND SMALL BUSINESSES;

(3) PRIVATE ENTERPRISE AND EXISTING FEDERAL AND STATE GOVERNMENTAL PROGRAMS HAVE NOT ADEQUATELY ADDRESSED AGRICULTURAL INDUSTRY SUPPORT OR DEVELOPMENTAL OPPORTUNITIES RELATING TO EMERGENT VALUE–ADDED AGRICULTURAL PROCESSING ACTIVITIES, DEVELOPMENT OF NEW OR ALTERNATIVE MARKETS, PRIMARY AND SECONDARY MANUFACTURING, ASSISTANCE FOR BEGINNING FARMERS AND PRODUCERS, AND FINANCIAL SUPPORT FOR ENVIRONMENTAL OR TECHNOLOGICAL ENHANCEMENTS;

(4) WHILE SOME TRADITIONAL AGRICULTURAL ENTERPRISES IN THE STATE MAY HAVE ACCESS TO MARKETS, CAPITAL, AND CREDIT, OTHER EXISTING OR EMERGING SEGMENTS OF THE AGRICULTURAL INDUSTRY LACK MARKET ACCESS, CAPITAL, AND CREDIT AVAILABLE FOR INVESTMENT IN AGRICULTURE, FOR DOMESTIC AND EXPORT

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PURPOSES, AND AT INTEREST RATES WITHIN THE FINANCIAL MEANS OF PERSONS ENGAGED IN AGRICULTURAL PRODUCTION AND AGRICULTURAL EXPORTS;

(5) IN CONJUNCTION WITH THE FINANCIAL AND OTHER CHALLENGES ASSOCIATED WITH TRADITIONAL AGRICULTURAL INDUSTRIES, THERE IS A NEED TO PROVIDE ECONOMIC AND MARKET DEVELOPMENT ASSISTANCE TO THOSE INDIVIDUALS WHO WISH TO START, CONVERT, OR DIVERSIFY THEIR AGRICULTURAL OPERATIONS, OR TO MAKE IMPROVEMENTS ASSOCIATED WITH ENVIRONMENTAL REGULATIONS AND POTENTIAL MARKET OPPORTUNITIES; AND

(6) IT IS A MATTER OF SIGNIFICANT IMPORTANCE TO RURAL ECONOMIC DEVELOPMENT THAT THE CORPORATION BE CREATED AND AUTHORIZED TO:

(i) DEVELOP AGRICULTURAL INDUSTRIES AND MARKETS;

(ii) SUPPORT APPROPRIATE COMMERCIALIZATION OF AGRICULTURAL PROCESSES AND TECHNOLOGY; AND

(iii) ALLEVIATE THE SHORTAGE OF NONTRADITIONAL CAPITAL AND CREDIT AVAILABLE AT AFFORDABLE INTEREST RATES FOR:

1. INVESTMENT IN AGRICULTURE TO PROMOTE AND ASSIST AGRICULTURE IN THE STATE;

2. THE SALE OF AGRICULTURAL PRODUCTS, COMMODITIES, AND SERVICES; AND

3. CAPITAL INVESTMENT IN AGRICULTURAL PROJECTS BY PROVIDING CAPITAL AND CREDIT WITHIN THE FINANCIAL MEANS OF PERSONS ENGAGED IN AGRICULTURE IN THE STATE.

(B) PURPOSES.

THE PURPOSE OF THE CORPORATION IS TO:

(1) ASSIST THE VIABILITY OF THE STATE'S DIVERSE AGRICULTURAL INDUSTRY THROUGH DEVELOPMENT OF NEW MARKETS, CAPITAL AND CREDIT ENHANCEMENTS, AND TECHNICAL AND OTHER ASSISTANCE TO SUPPORT, CREATE, AND SUSTAIN AGRICULTURAL BUSINESSES THROUGHOUT THE STATE;

(2) PROVIDE FINANCING AND OTHER ASSISTANCE FOR PRODUCT DEVELOPMENT, START-UP AND SCALE-UP OF FOOD-RELATED AND FIBER-RELATED GROWING AND PROCESSING OPERATIONS IN THE STATE, AND FOR TECHNOLOGICAL ENHANCEMENTS THAT BENEFIT THE ENVIRONMENT AND WATER QUALITY;

(3) SEEK PARTNERSHIPS AND LEVERAGING OPPORTUNITIES WITH PUBLIC AND PRIVATE FOR-PROFIT AND NOT-FOR-PROFIT ENTITIES IN MAKING CAPITAL AND CREDIT ASSISTANCE AVAILABLE TO INDIVIDUAL PRODUCERS, PRODUCER COOPERATIVES, AND OTHER AGRIBUSINESS CONCERNS OPERATING IN THE STATE;

(4) FACILITATE AND SUPPORT ACCESS TO HIGH QUALITY TECHNICAL RESOURCES FOR AGRICULTURAL ENTREPRENEURS BY INCORPORATING EXISTING SUPPORT

INFRASTRUCTURE INCLUDING THE DEVELOPMENT OF STRATEGIC PARTNERING OPPORTUNITIES AND BUSINESS INCUBATION;

(5) FOSTER CROSS-INDUSTRY COMMUNICATION AND ASSIST OTHER ORGANIZATIONS IN TRANSFERRING TO THE PRIVATE SECTOR AND COMMERCIALIZING THE RESULTS AND PRODUCTS OF SCIENTIFIC AGRICULTURAL RESEARCH AND DEVELOPMENT CONDUCTED BY THE FEDERAL GOVERNMENT AND COLLEGES AND UNIVERSITIES; AND

(6) WORK WITH PUBLIC AND PRIVATE LENDING AND GRANT-MAKING INSTITUTIONS TO:

(I) MAKE LOW-INTEREST AND NO-INTEREST LOANS AND LOAN GUARANTEES AVAILABLE FOR AGRICULTURAL PRODUCT DEVELOPMENT, PRIMARY PROCESSING, AND SECONDARY MANUFACTURING;

(II) PROVIDE CREDIT AND CAPITAL TO BEGINNING FARMERS FOR LAND, EQUIPMENT, AND WORKING CAPITAL ACQUISITION;

(III) MAKE INCENTIVES AVAILABLE FOR ACTIVITIES RELATED TO SMALL FARM OR SMALL LANDOWNER VIABILITY AND BEST MANAGEMENT PRACTICES; AND

(IV) MAKE TEMPORARY LAND AND EASEMENT PURCHASES IN ACCORDANCE WITH STATE OR LOCAL CRITICAL FARM ACQUISITION PROGRAMS.

REVISOR'S NOTE: This section formerly was Art. 41, §§ 13-502 and 13-503(c).

The only other changes are in style.

Defined terms: "Agricultural" § 10-501

"Agriculture" § 10-501

"Corporation" § 10-501

"Lending institution" § 10-501

"Person" §§ 9-101, 10-501

"State" § 9-101

10-503. CONSTRUCTION OF SUBTITLE.

THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO CARRY OUT ITS PURPOSES.

REVISOR'S NOTE: This section formerly was Art. 41, § 13-515.

No changes are made.

10-504. ESTABLISHED.

(A) IN GENERAL.

THERE IS A MARYLAND AGRICULTURAL AND RESOURCE-BASED INDUSTRY DEVELOPMENT CORPORATION.

(B) STATUS.

THE CORPORATION IS A BODY POLITIC AND CORPORATE AND IS AN INSTRUMENTALITY OF THE STATE.

REVISOR'S NOTE: This section formerly was Art. 41, § 13-503(a) and (b).

In subsection (b) of this section, the reference to a "body politic and corporate" is substituted for the former reference to a "public corporation" for accuracy and consistency with similar provisions revised in this article.

The only other changes are in style.

Defined terms: "Corporation" § 10-501
"State" § 9-101

10-505. BOARD OF DIRECTORS.

(A) IN GENERAL.

(1) THERE IS A BOARD OF DIRECTORS OF THE CORPORATION.

(2) THE BOARD MANAGES THE CORPORATION AND EXERCISES ALL OF ITS CORPORATE POWERS.

(B) COMPOSITION; APPOINTMENT OF MEMBERS.

THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:

(1) AS EX OFFICIO MEMBERS:

(I) THE SECRETARY OR A DESIGNEE OF THE SECRETARY WHO IS A SENIOR-LEVEL DEPARTMENTAL OFFICIAL;

(II) THE SECRETARY OF AGRICULTURE OR A DESIGNEE OF THE SECRETARY WHO IS A SENIOR-LEVEL DEPARTMENTAL OFFICIAL;

(III) THE SECRETARY OF NATURAL RESOURCES OR A DESIGNEE OF THE SECRETARY WHO IS A SENIOR-LEVEL DEPARTMENTAL OFFICIAL;

(IV) THE EXECUTIVE DIRECTOR OF THE MARYLAND FOOD CENTER AUTHORITY;

(V) THE EXECUTIVE DIRECTOR OF THE RURAL MARYLAND COUNCIL;
AND

(VI) THE DIRECTOR OF THE MARYLAND COOPERATIVE EXTENSION SERVICE; AND

(2) ELEVEN INDIVIDUALS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE AS FOLLOWS:

(I) TWO AGRICULTURAL PRODUCERS REPRESENTING AT LEAST TWO DIFFERENT FARM COMMODITY INDUSTRIES IN THE STATE;

(II) TWO REPRESENTATIVES FROM COMMERCIAL LENDING INSTITUTIONS SERVING RURAL REGIONS IN THE STATE, ONE OF WHOM SHALL REPRESENT A MAJOR FARM CREDIT ORGANIZATION OPERATING IN THE STATE;

(III) ONE REPRESENTATIVE OF THE TIMBER AND FOREST PRODUCTS INDUSTRY;

(IV) ONE REPRESENTATIVE OF THE AQUACULTURE INDUSTRY;

(V) ONE REPRESENTATIVE OF THE COMMERCIAL SEAFOOD HARVESTING AND PROCESSING INDUSTRY;

(VI) ONE INDIVIDUAL WITH KNOWLEDGE AND EXPERIENCE IN THE AREA OF OPERATING COMMERCIAL FOOD OR FIBER PROCESSING FACILITIES;

(VII) ONE INDIVIDUAL WITH KNOWLEDGE AND EXPERIENCE IN THE AREA OF PUBLIC FINANCE;

(VIII) ONE INDIVIDUAL WITH KNOWLEDGE AND EXPERIENCE IN THE AREA OF RURAL ECONOMIC DEVELOPMENT OR AGRICULTURAL MARKETING; AND

(IX) ONE INDIVIDUAL WITH KNOWLEDGE ABOUT THE AGRICULTURAL, FORESTRY, OR SEAFOOD INDUSTRIES OR AGRITOURISM IN THE STATE OR WITH SUBSTANTIAL AND RELEVANT ECONOMIC DEVELOPMENT EXPERIENCE.

(C) QUALIFICATIONS.

A MEMBER OF THE BOARD SHALL BE A RESIDENT OF THE STATE.

(D) GEOGRAPHIC DIVERSITY.

IN APPOINTING MEMBERS OF THE BOARD UNDER SUBSECTION (B)(2) OF THIS SECTION, THE GOVERNOR SHALL CONSIDER ALL OF THE GEOGRAPHIC REGIONS OF THE STATE.

(E) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER APPOINTED UNDER SUBSECTION (B)(2) OF THIS SECTION IS 4 YEARS.

(2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR THE MEMBERS ON OCTOBER 1, 2008.

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

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

(F) REMOVAL.

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

(G) CHAIR.

THE BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

(H) VOTING.

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THE BOARD MAY ACT WITH AN AFFIRMATIVE VOTE OF NINE MEMBERS.

(I) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE BOARD:

(1) SERVES WITHOUT COMPENSATION AS A MEMBER OF THE BOARD; BUT

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

REVISOR'S NOTE: This section formerly was Art. 41, § 13-504.

In subsection (e)(2) of this section, the reference to terms being staggered as required for appointed Board members on "October 1, 2008" is substituted for the former reference to terms being staggered as required for the terms provided on "July 1, 2004". This substitution is not intended to alter the term of any member of the Board. *See* § 13 of Ch. 306, Acts of 2008. The terms of the members serving on October 1, 2008 end as follows: (1) two on June 30, 2009; (2) three on June 30, 2010; (3) three on June 30, 2011; and (4) three on June 30, 2012.

In subsection (i) of this section, the reference to compensation "as a member of the Board" is added for clarity and consistency within this article.

The only other changes are in style.

Defined terms: "Agricultural" § 10-501

"Board" § 10-501

"Corporation" § 10-501

"Lending institution" § 10-501

"State" § 9-101

10-506. EXECUTIVE DIRECTOR.

THE CORPORATION SHALL EMPLOY AN EXECUTIVE DIRECTOR WITH EXPERIENCE AND QUALIFICATIONS RELEVANT TO THE ACTIVITIES AND THE PURPOSES OF THE CORPORATION.

REVISOR'S NOTE: This section formerly was Art. 41, § 13-505.

No changes are made.

Defined term: "Corporation" § 10-501

10-507. LEGAL ADVISOR.

THE ATTORNEY GENERAL SERVES AS LEGAL ADVISOR TO THE CORPORATION.

REVISOR'S NOTE: This section formerly was Art. 41, § 13-506.

The only changes are in style.

Defined term: "Corporation" § 10-501

10-508. APPLICABILITY OF OTHER LAWS.

(A) IN GENERAL.

THE CORPORATION IS EXEMPT FROM:

(1) TITLE 10 AND DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(2) LAWS GOVERNING THE STATE PERSONNEL MANAGEMENT SYSTEM UNDER DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE; AND

(3) ARTICLE 31, §§ 9, 10, AND 11 OF THE CODE (CONDITIONS UPON SALE OF PUBLIC SECURITIES).

(B) PUBLIC INFORMATION; OPEN MEETINGS.

(1) THE CORPORATION IS SUBJECT TO THE PUBLIC INFORMATION ACT.

(2) THE CORPORATION IS EXEMPT FROM THE OPEN MEETINGS ACT.

(C) ETHICS.

THE BOARD AND EMPLOYEES OF THE CORPORATION ARE SUBJECT TO THE PUBLIC ETHICS LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13-513(a)(2) through (5) and (b).

Defined terms: "Board" § 10-501

"Corporation" § 10-501

"State" § 9-101

10-509. POWERS — IN GENERAL.

THE CORPORATION MAY:

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

(2) ADOPT A SEAL;

(3) MAINTAIN AN OFFICE AT A PLACE IT DESIGNATES IN THE STATE;

(4) ACCEPT LOANS, GRANTS, OR FINANCIAL AND TECHNICAL ASSISTANCE IN ANY FORM FROM THE FEDERAL OR STATE GOVERNMENT, LOCAL GOVERNMENTS, COLLEGES OR UNIVERSITIES, OR A PRIVATE SOURCE;

(5) ENTER INTO CONTRACTS AND OTHER LEGAL INSTRUMENTS;

(6) SUE OR BE SUED;

(7) ACQUIRE, PURCHASE, HOLD, LEASE AS A LESSEE, AND USE ANY FRANCHISE, PATENT, OR LICENSE AND REAL, PERSONAL, MIXED, OR TANGIBLE OR INTANGIBLE PROPERTY, OR ANY INTEREST IN PROPERTY;

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(8) OWN, IMPROVE, SELL, LEASE AS A LESSOR, TRANSFER, LICENSE, ASSIGN, ENCUMBER, AND DISPOSE OF ANY PROPERTY OR INTEREST IN PROPERTY, NECESSARY OR CONVENIENT TO CARRY OUT ITS PURPOSES AT PUBLIC SALE, WITH OR WITHOUT PUBLIC BIDDING;

(9) FIX AND COLLECT RATES, RENTALS, FEES, ROYALTIES, AND CHARGES FOR THE USE OF OR FOR SERVICES AND RESOURCES IT PROVIDES OR MAKES AVAILABLE;

(10) RETAIN ANY NECESSARY ACCOUNTANTS, ENGINEERS, FINANCIAL ADVISORS, AND OTHER CONSULTANTS;

(11) WITH THE APPROVAL OF THE ATTORNEY GENERAL, RETAIN ANY NECESSARY LAWYERS;

(12) FURTHER DEFINE OR LIMIT THE TERM “REVENUE” DEFINED IN § 10–501 OF THIS SUBTITLE AS THE TERM APPLIES TO A PARTICULAR PROJECT, FINANCING, OR OTHER MATTER;

(13) CREATE, OWN, CONTROL, OR BE A MEMBER OF A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, OR OTHER PERSON, WHETHER OPERATED FOR PROFIT OR NOT FOR PROFIT;

(14) EXERCISE A POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN PERFORMING SIMILAR FUNCTIONS UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW; AND

(15) DO ANYTHING NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS GRANTED BY THIS SUBTITLE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 13–501(j)(3) and 13–507(1) through (6), (8), (9), (11), (13) through (15), (17), and (18), and 13–508(5), (8), and (9).

Former Art. 41, § 13–508(5), which authorized the Corporation to receive certain public and private financial and technical assistance, is deleted as redundant of item (4) of this section.

Former Art. 41, § 13–508(8), which authorized the Corporation to acquire property in certain manners, is deleted as redundant of item (7) of this section.

Defined terms: “Corporation” § 10–501

“Finance” § 10–501

“Person” §§ 9–101, 10–501

“Project” § 10–501

“Revenue” § 10–501

“State” § 9–101

10–510. POWERS — GRANTS AND INVESTMENTS.

THE CORPORATION MAY MAKE GRANTS TO OR PROVIDE EQUITY INVESTMENT FINANCING FOR AGRICULTURAL AND RESOURCE–BASED BUSINESSES.

REVISOR'S NOTE: This section formerly was Art. 41, § 13-507(12).

It is set forth as a separate section for emphasis.

No changes are made.

Defined terms: "Agricultural" § 10-501

"Corporation" § 10-501

10-511. POWERS — PROJECTS.

THE CORPORATION MAY:

(1) ACQUIRE, IMPROVE, DEVELOP, MANAGE, MARKET, MANUFACTURE, LICENSE, MAINTAIN, LEASE AS LESSOR OR AS LESSEE, AND OPERATE A PROJECT IN THE STATE TO CARRY OUT THE PURPOSES OF THE CORPORATION;

(2) ACQUIRE, DIRECTLY OR INDIRECTLY, BY PURCHASE, GIFT, OR DEVISE, PROPERTY, RIGHTS, RIGHTS-OF-WAY, FRANCHISES, EASEMENTS, AND OTHER INTERESTS IN LAND, INCLUDING LAND LYING UNDER WATER AND RIPARIAN RIGHTS, LOCATED IN OR OUTSIDE THE STATE AS NECESSARY OR CONVENIENT TO IMPROVE OR OPERATE A PROJECT, ON TERMS AND AT PRICES THE CORPORATION CONSIDERS REASONABLE; AND

(3) ENTER INTO A PROJECT WITH A MANUFACTURER TO CARRY OUT THE PURPOSES OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13-507(7), (10), and (16).

In item (2) of this section, the former references to "real or personal" property are deleted as included in the comprehensive reference to "property".

Defined terms: "Corporation" § 10-501

"Improve" § 10-501

"Project" § 10-501

"State" § 9-101

10-512. POWERS — BORROWING AND LENDING AUTHORITY.

THE CORPORATION MAY:

(1) (I) BORROW MONEY AND ISSUE BONDS;

(II) PURCHASE, DISCOUNT, SELL, NEGOTIATE AND GUARANTEE, INSURE, CO-INSURE, AND REINSURE NEGOTIABLE INSTRUMENTS, BILLS OF EXCHANGE, ACCEPTANCES, BANKERS' ACCEPTANCES, CABLE TRANSFERS, LETTERS OF CREDIT, AND OTHER EVIDENCES OF INDEBTEDNESS; AND

(III) PROVIDE FOR THE RIGHTS OF LENDERS AND BONDHOLDERS;

(2) PROCURE INSURANCE OR REINSURANCE AGAINST:

(I) LOSS IN CONNECTION WITH ITS PROPERTY OR OPERATIONS, INCLUDING INSURANCE, REINSURANCE, OR OTHER GUARANTEES FROM ANY FEDERAL OR

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STATE UNIT OR PRIVATE INSURANCE COMPANY FOR THE PAYMENT OF BONDS ISSUED BY THE CORPORATION, OR BONDS, NOTES, OR ANY OTHER OBLIGATIONS ISSUED OR MADE BY ANY LENDER OR OTHER PERSON; OR

(II) LOSS WITH RESPECT TO AGRICULTURAL LOANS, MORTGAGES OR MORTGAGE LOANS, OR ANY OTHER TYPE OF LOANS, INCLUDING THE POWER TO PAY PREMIUMS ON THE INSURANCE OR REINSURANCE;

(3) (I) INSURE, CO-INSURE, OR REINSURE AGRICULTURAL LOANS, MORTGAGE LOANS OR MORTGAGES, OR ANY OTHER TYPE OF LOANS;

(II) PAY OR RECEIVE PREMIUMS ON THE INSURANCE, CO-INSURANCE, OR REINSURANCE;

(III) ESTABLISH RESERVES FOR LOSSES; AND

(IV) PARTICIPATE IN THE INSURANCE, CO-INSURANCE, OR REINSURANCE OF AGRICULTURAL LOANS, MORTGAGE LOANS OR MORTGAGES, OR ANY OTHER TYPE OF LOANS WITH THE FEDERAL OR STATE GOVERNMENT OR ANY PRIVATE INSURANCE COMPANY;

(4) MAKE LOANS TO OR DEPOSITS WITH LENDERS;

(5) PURCHASE OR SELL AGRICULTURAL LOANS;

(6) FIX AND COLLECT FEES AND CHARGES IN CONNECTION WITH ITS LOANS, DEPOSITS, INSURANCE COMMITMENTS, AND SERVICES, INCLUDING REIMBURSEMENT OF COSTS OF ISSUING BONDS, ORIGATION AND SERVICING FEES, AND INSURANCE PREMIUMS; AND

(7) SUBJECT TO THE RIGHTS OF ITS BONDHOLDERS:

(I) RENEGOTIATE, REFINANCE, OR FORECLOSE ON A MORTGAGE, SECURITY INTEREST, OR LIEN;

(II) COMMENCE AN ACTION TO PROTECT OR ENFORCE ANY RIGHT OR BENEFIT CONFERRED ON THE CORPORATION BY ANY LAW OR AGREEMENT;

(III) CONSENT TO MODIFICATION OF AN INTEREST RATE, TIME, PAYMENT, SECURITY, OR OTHER TERM OR CONDITION OF AN AGREEMENT TO WHICH THE CORPORATION IS A PARTY OR BENEFICIARY;

(IV) BID FOR AND PURCHASE PROPERTY AT ANY FORECLOSURE OR AT ANY OTHER SALE, OR OTHERWISE ACQUIRE OR TAKE POSSESSION OF ANY PROPERTY; AND

(V) IN CONNECTION WITH AN ACQUISITION UNDER ITEM (IV) OF THIS PARAGRAPH, COMPLETE, ADMINISTER, PAY THE PRINCIPAL OF AND INTEREST ON ANY OBLIGATION INCURRED IN CONNECTION WITH THE PROPERTY, DISPOSE OF, AND OTHERWISE DEAL WITH THE PROPERTY IN ANY MANNER NECESSARY OR DESIRABLE TO PROTECT THE INTEREST OF THE CORPORATION OR ITS BONDHOLDERS IN THE PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13-508 (1) through (3), (6), (7), (10), and (11).

In item (1)(ii) of this section, the reference to “negotiable instruments” is substituted for the former reference to “notes, drafts, [and] checks” for brevity.

Defined terms: “Agricultural loan” § 10–501

“Bond” § 10–501

“Corporation” § 10–501

“Finance” § 10–501

“Lending institution” § 10–501

“Person” §§ 9–101, 10–501

“State” § 9–101

10–513. BONDS — IN GENERAL.

(A) RESOLUTION.

THE CORPORATION MAY AUTHORIZE THE ISSUANCE OF REVENUE BONDS BY RESOLUTION.

(B) PURPOSES.

THE CORPORATION MAY ISSUE THE BONDS:

(1) TO FINANCE ALL OR PART OF THE COSTS OF A PROJECT; AND

(2) FOR ANY OTHER LAWFUL PURPOSE OF THE CORPORATION AUTHORIZED IN THIS SUBTITLE.

(C) TIMING.

THE CORPORATION MAY ISSUE THE BONDS AT ONE TIME OR FROM TIME TO TIME.

(D) TERMS AND CONDITIONS.

THE CORPORATION SHALL DETERMINE:

(1) THE DATE OF THE BONDS;

(2) THE INTEREST RATES OF THE BONDS;

(3) THE MATURITY DATE OF THE BONDS, WHICH MAY NOT EXCEED 40 YEARS FROM THE DATE OF ISSUE;

(4) THE PRICES, TERMS, AND CONDITIONS OF SALE OF THE BONDS;

(5) THE FORM OF THE BONDS;

(6) THE MANNER OF EXECUTING THE BONDS;

(7) THE DENOMINATIONS OF THE BONDS; AND

(8) THE PLACES OF PAYMENT OF PRINCIPAL OF AND INTEREST ON THE BONDS, AT A BANK OR TRUST COMPANY IN OR OUTSIDE THE STATE.

(E) VALIDITY OF SIGNATURE.

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AN OFFICER'S SIGNATURE OR FACSIMILE SIGNATURE ON A BOND REMAINS VALID EVEN IF THE OFFICER LEAVES OFFICE BEFORE THE BOND IS DELIVERED.

(F) **NEGOTIABILITY.**

(1) THE BONDS ARE NEGOTIABLE INSTRUMENTS UNDER THE LAWS OF THE STATE.

(2) BONDS MAY BE REGISTRABLE.

(G) **SALE.**

(1) THE CORPORATION MAY SELL THE BONDS BY COMPETITIVE OR NEGOTIATED SALE IN A MANNER AND FOR A PRICE THAT THE CORPORATION DETERMINES.

(2) THE BONDS ARE EXEMPT FROM §§ 8-206 AND 8-208 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(H) **ESCROW.**

BOND PROCEEDS MAY BE PLACED IN ESCROW PENDING APPLICATION OF THE PROCEEDS TO THE PURPOSES FOR WHICH THE BONDS ARE ISSUED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 13-508(12) and 13-510(a), (b), and (d) through (g).

Defined terms: "Bond" § 10-501

"Corporation" § 10-501

"Finance" § 10-501

"Project" § 10-501

"State" § 9-101

10-514. BONDS — LIABILITY; FULL FAITH AND CREDIT.

(A) **CONSTRUCTION OF SECTION.**

(1) THIS SECTION DOES NOT PREVENT THE CORPORATION FROM PLEDGING ITS FULL FAITH AND CREDIT TO THE PAYMENT OF A BOND.

(2) THIS SECTION DOES NOT LIMIT THE ABILITY OF THE STATE OR A POLITICAL SUBDIVISION TO IMPOSE AN ASSESSMENT, RATE, FEE, OR CHARGE TO PAY TO THE CORPORATION ANY COST, INCLUDING THE PRINCIPAL OF AND INTEREST ON A BOND, UNDER AN AGREEMENT BETWEEN THE CORPORATION AND THE STATE OR POLITICAL SUBDIVISION.

(B) **LIABILITY LIMITATIONS.**

(1) **A BOND:**

(I) IS NOT A DEBT, LIABILITY, OR A PLEDGE OF THE FULL FAITH AND CREDIT OF THE STATE OR OF ANY POLITICAL SUBDIVISION; AND

(II) IS PAYABLE SOLELY FROM REVENUES PROVIDED UNDER THIS SUBTITLE.

(2) THE ISSUANCE OF A BOND IS NOT DIRECTLY, INDIRECTLY, OR CONTINGENTLY A MORAL OR OTHER OBLIGATION OF THE STATE OR A POLITICAL SUBDIVISION TO LEVY OR PLEDGE ANY TAX OR TO MAKE AN APPROPRIATION TO PAY THE BOND.

(3) EACH BOND SHALL STATE ON ITS FACE THAT:

(I) NEITHER THE STATE NOR A POLITICAL SUBDIVISION, OTHER THAN THE CORPORATION, IS OBLIGED TO PAY THE PRINCIPAL OF OR INTEREST ON THE BOND, EXCEPT FROM REVENUES PLEDGED TO PAYMENT OF THE BOND; AND

(II) NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR A POLITICAL SUBDIVISION IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BOND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13-510(c).

In subsection (b)(1) and (3) of this section, the former references to the liability of "the Corporation" are deleted as surplusage. The liability of the Corporation on a bond is governed by the particular bond issue and at the option of the Corporation. No substantive change is intended.

Defined terms: "Bond" § 10-501

"Corporation" § 10-501

"Project" § 10-501

"Revenue" § 10-501

"State" § 9-101

10-515. BONDS — TRUST AGREEMENT.

(A) CORPORATE TRUSTEE.

(1) THE CORPORATION MAY SECURE A BOND BY A TRUST AGREEMENT BETWEEN THE CORPORATION AND A CORPORATE TRUSTEE.

(2) A CORPORATE TRUSTEE MAY BE ANY TRUST COMPANY OR BANK THAT HAS THE POWERS OF A TRUST COMPANY IN OR OUTSIDE THE STATE.

(3) A CORPORATION OR TRUST COMPANY INCORPORATED IN THE STATE MAY:

(I) ACT AS DEPOSITORY OF BOND PROCEEDS OR REVENUE; AND

(II) FURNISH ANY INDEMNITY BOND OR PLEDGE SECURITY THAT THE CORPORATION REQUIRES.

(B) CONTENTS.

THE TRUST AGREEMENT OR THE RESOLUTION THAT PROVIDES FOR THE ISSUANCE OF A BOND MAY:

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(1) STATE THE RIGHTS AND REMEDIES OF BONDHOLDERS AND ANY TRUSTEE;

(2) CONTAIN PROVISIONS TO PROTECT AND ENFORCE THE RIGHTS AND REMEDIES OF BONDHOLDERS;

(3) CONTAIN COVENANTS STATING THE DUTIES OF THE CORPORATION AS TO THE CUSTODY, SAFEGUARDING, AND APPLICATION OF MONEY;

(4) RESTRICT THE INDIVIDUAL RIGHT OF ACTION OF BONDHOLDERS;

(5) PROVIDE FOR THE PAYMENT OF THE BOND PROCEEDS AND REVENUES TO AN OFFICER, BOARD, OR DEPOSITORY THAT THE CORPORATION DETERMINES WITH THE SAFEGUARDS AND RESTRICTIONS THAT THE CORPORATION DETERMINES; AND

(6) PROVIDE FOR THE METHOD OF DISBURSEMENT OF THE BOND PROCEEDS AND REVENUES, WITH THE SAFEGUARDS AND RESTRICTIONS THAT THE CORPORATION DETERMINES.

(c) **EXPENSES.**

EXPENSES INCURRED IN CARRYING OUT A TRUST AGREEMENT MAY BE TREATED AS A PART OF THE COST OF OPERATION OF THE CORPORATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13-510(l).

Defined terms: "Bond" § 10-501

"Corporation" § 10-501

"Revenue" § 10-501

"State" § 9-101

10-516. BONDS — INVESTMENT OF PROCEEDS.

(A) **IN GENERAL.**

THE PORTION OF THE PROCEEDS OF BONDS ISSUED TO PAY COSTS OF A PROJECT MAY BE INVESTED IN INVESTMENTS OR OTHER OBLIGATIONS THAT MATURE NO LATER THAN THE TIMES WHEN THE PROCEEDS WILL BE NEEDED.

(B) **DECISION MAKING.**

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE CORPORATION SHALL DETERMINE THE INVESTMENT OF BOND PROCEEDS.

(2) IF THE CORPORATION LOANS THE PROCEEDS OF THE BONDS TO A PERSON AS PROVIDED IN § 10-519 OF THIS SUBTITLE, THE LOAN RECIPIENT SHALL DETERMINE THE INVESTMENT OF BOND PROCEEDS.

(c) **USE.**

THE CORPORATION OR THE LOAN RECIPIENT MAY APPLY EARNINGS AND PROFITS ON INVESTMENTS OR OTHER OBLIGATIONS:

(1) TO THE PAYMENT OF ANY COST; OR

(2) IN ANY OTHER LAWFUL MANNER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13-510(i).

Defined terms: "Bond" § 10-501

"Corporation" § 10-501

"Person" §§ 9-101, 10-501

"Project" § 10-501

10-517. BONDS — REFUNDING BONDS.

(A) REASONS FOR ISSUANCE.

(1) THE CORPORATION MAY ISSUE BONDS TO REFUND ANY OUTSTANDING BONDS, INCLUDING PAYING:

(I) ANY REDEMPTION PREMIUM;

(II) INTEREST ACCRUED OR TO ACCRUE TO THE DATE OF REDEMPTION, PURCHASE, OR MATURITY OF THE BONDS; AND

(III) IF CONSIDERED ADVISABLE BY THE CORPORATION, ANY PART OF THE COST OF A PROJECT.

(2) REFUNDING BONDS MAY BE ISSUED FOR ANY CORPORATE PURPOSE, INCLUDING:

(I) REALIZING SAVINGS IN THE EFFECTIVE COSTS OF DEBT SERVICE, DIRECTLY OR THROUGH A DEBT RESTRUCTURING;

(II) ALLEVIATING AN IMPENDING OR ACTUAL DEFAULT; OR

(III) RELIEVING THE CORPORATION OF A CONTRACTUAL AGREEMENT THAT THE CORPORATION FINDS TO BE UNREASONABLY ONEROUS, IMPRACTICABLE, OR IMPOSSIBLE TO PERFORM.

(B) ISSUANCE.

(1) THE CORPORATION MAY ISSUE REFUNDING BONDS IN ONE OR MORE SERIES IN AN AMOUNT GREATER THAN THE AMOUNT OF THE BONDS TO BE REFUNDED.

(2) (I) REFUNDING BONDS MAY BE MADE PAYABLE FROM:

1. ESCROWED BOND PROCEEDS;

2. EARNINGS AND PROFITS, IF ANY, ON INVESTMENTS; OR

3. ANY OTHER SOURCE.

(II) THESE SOURCES:

1. MAY BE APPLIED TO OTHER USES; AND

2. CONSTITUTE REVENUES OF A PROJECT UNDER THIS

SUBTITLE.

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(C) PROCEEDS.

IN THE DISCRETION OF THE CORPORATION, THE PROCEEDS OF REFUNDING BONDS MAY BE:

(1) APPLIED TO THE PURCHASE, RETIREMENT AT MATURITY, OR REDEMPTION OF OUTSTANDING BONDS ON A DATE THE CORPORATION DETERMINES; AND

(2) PENDING APPLICATION UNDER ITEM (1) OF THIS SUBSECTION, PLACED IN ESCROW.

(D) INVESTMENT OF PROCEEDS.

(1) THE CORPORATION MAY INVEST ESCROWED REFUNDING BOND PROCEEDS IN INVESTMENTS AND OTHER OBLIGATIONS, MATURING ON APPROPRIATE DATES TO ASSURE THE PROMPT PAYMENT OF THE PRINCIPAL OF, INTEREST ON, AND ANY REDEMPTION PREMIUM ON THE BONDS TO BE REFUNDED.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE CORPORATION SHALL DETERMINE THE INVESTMENT OF THE PROCEEDS OF REFUNDING BONDS.

(II) IF THE CORPORATION LOANS THE PROCEEDS OF REFUNDING BONDS TO A PERSON AS PROVIDED IN § 10-519 OF THIS SUBTITLE, THE LOAN RECIPIENT SHALL DETERMINE THE INVESTMENT OF THE PROCEEDS OF REFUNDING BONDS.

(3) THE EARNINGS AND ANY PROFITS ON INVESTMENTS OR OTHER OBLIGATIONS MAY BE APPLIED TO THE PAYMENT OF THE OUTSTANDING BONDS TO BE REFUNDED.

(4) AFTER THE TERMS OF THE ESCROW HAVE BEEN FULLY SATISFIED, THE BALANCE OF THE PROCEEDS AND EARNINGS AND PROFITS ON INVESTMENTS OR OTHER OBLIGATIONS MAY BE RETURNED TO THE CORPORATION OR THE LOAN RECIPIENT FOR USE IN ANY LAWFUL MANNER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13-510(h).

Defined terms: "Bond" § 10-501

"Corporation" § 10-501

"Person" §§ 9-101, 10-501

"Project" § 10-501

"Revenue" § 10-501

10-518. PLEDGE.

(A) ASSETS THAT MAY BE PLEDGED.

THE CORPORATION MAY PLEDGE OR ASSIGN:

(1) ANY OF ITS REVENUES;

(2) ANY OF ITS RIGHTS TO RECEIVE REVENUES;

(3) MONEY AND SECURITIES IN ACCOUNTS ESTABLISHED TO SECURE A BOND; AND

(4) A LIEN OR SECURITY INTEREST GRANTED OR ASSIGNMENT MADE TO THE CORPORATION.

(B) STATUS.

A PLEDGE OR ASSIGNMENT:

(1) IS VALID AND BINDING AGAINST ANY PERSON HAVING A CLAIM AGAINST THE CORPORATION, IN CONTRACT, TORT, OR OTHERWISE, REGARDLESS OF WHETHER THE PERSON HAS NOTICE OF THE PLEDGE OR ASSIGNMENT; AND

(2) HAS PRIORITY OVER THE CLAIM.

(C) CREATION.

A RESOLUTION, TRUST AGREEMENT, ASSIGNMENT, FINANCING AGREEMENT, OR OTHER INSTRUMENT THAT CREATES A LIEN, SECURITY INTEREST, ASSIGNMENT, OR PLEDGE UNDER SUBSECTION (A) OF THIS SECTION:

(1) SHALL BE FILED IN THE RECORDS OF THE CORPORATION; BUT

(2) NEED NOT BE FILED OR RECORDED ELSEWHERE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13–510(j).

In subsection (a)(4) of this section, the word “to” is substituted for the former word “by” for clarity and accuracy. No substantive change is intended.

Defined terms: “Bond” § 10–501

“Corporation” § 10–501

“Person” §§ 9–101, 10–501

“Revenue” § 10–501

10–519. PROJECT FINANCING.

(A) LOANS.

THE CORPORATION MAY:

(1) LEND OR OTHERWISE MAKE AVAILABLE THE PROCEEDS OF ITS BONDS TO A PERSON TO FINANCE COSTS OF A PROJECT; AND

(2) ENTER INTO A FINANCING AGREEMENT, MORTGAGE, OR OTHER INSTRUMENT THAT IT DETERMINES IS NECESSARY OR DESIRABLE TO EVIDENCE OR SECURE THE LOAN.

(B) LEASES.

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(1) A LEASE FOR A PROJECT MAY REQUIRE OR AUTHORIZE THE LESSEE OR ANOTHER PERSON TO PURCHASE OR OTHERWISE ACQUIRE THE PROJECT FOR CONSIDERATION, THAT THE CORPORATION ESTABLISHES, ON:

(I) PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS THAT FINANCED THE COST OF THE PROJECT; OR

(II) OTHER PROVISION FOR PAYMENT SATISFACTORY TO THE CORPORATION.

(2) CONSIDERATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE NOMINAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13-510(k).

Defined terms: "Bond" § 10-501

"Corporation" § 10-501

"Person" §§ 9-101, 10-501

"Project" § 10-501

10-520. AGRICULTURAL LOANS.

(A) IN GENERAL.

(1) THE CORPORATION MAY PURCHASE AND SELL AGRICULTURAL LOANS MADE BY LENDERS, AT THE PRICES AND ON THE TERMS AND CONDITIONS THAT IT DETERMINES.

(2) A LENDER MAY PURCHASE AND SELL AGRICULTURAL LOANS TO THE CORPORATION IN ACCORDANCE WITH THIS SECTION.

(B) TERMS.

(1) THE CORPORATION MAY MAKE LOANS TO AND DEPOSITS WITH LENDERS AT INTEREST RATES, TERMS, AND CONDITIONS THAT IT DETERMINES.

(2) A LENDER MAY BORROW FUNDS AND ACCEPT DEPOSITS FROM THE CORPORATION IN ACCORDANCE WITH THIS SUBTITLE AND THE BYLAWS OF THE CORPORATION.

(3) THE CORPORATION SHALL REQUIRE THAT ALL PROCEEDS OF ITS LOANS TO OR DEPOSITS WITH LENDERS, OR AN EQUIVALENT AMOUNT, SHALL BE USED BY THE LENDERS TO MAKE AGRICULTURAL LOANS, SUBJECT TO TERMS AND CONDITIONS THAT THE CORPORATION DETERMINES.

(C) INSURANCE.

(1) THE CORPORATION MAY INSURE AND REINSURE AGRICULTURAL LOANS MADE BY LENDERS, SUBJECT TO THE TERMS, SECURITY PROVISIONS, AND RESERVE REQUIREMENTS DETERMINED BY THE CORPORATION IN ACCORDANCE WITH THE BYLAWS OF THE CORPORATION.

(2) UNLESS OTHERWISE DETERMINED BY THE CORPORATION, AGRICULTURAL LOANS SHALL BE INSURED TO THE AMOUNT OF 100% OF THE UNPAID PRINCIPAL OF AND INTEREST ON EACH AGRICULTURAL LOAN.

(D) DEFAULT.

AN INSURED AGRICULTURAL LOAN IS IN DEFAULT WHEN THE HOLDER OF THE AGRICULTURAL LOAN REQUESTS THE CORPORATION TO PAY INSURANCE ON THE LOAN IN ACCORDANCE WITH ANY AGREEMENT WITH RESPECT TO THE INSURANCE EXECUTED IN ACCORDANCE WITH THIS SECTION.

(E) ADMINISTRATION.

THE CORPORATION MAY ENTER INTO AGREEMENTS WITH ANY PERSON, LENDER, OR HOLDER OF AN INSURED AGRICULTURAL LOAN TO:

(1) PROVIDE FOR THE ADMINISTRATION, APPLICATION, AND REPAYMENT OF THE AGRICULTURAL LOAN; AND

(2) ESTABLISH THE CONDITIONS FOR PAYMENT OF INSURANCE BY THE CORPORATION, AND THE SERVICING, SUIT ON, OR FORECLOSURE OF THE AGRICULTURAL LOAN.

(F) LIMITATION.

(1) THE AGGREGATE VALUE OF ALL AGRICULTURAL LOANS INSURED BY THE CORPORATION AND OUTSTANDING AT ANY ONE TIME MAY NOT EXCEED 20 TIMES THE TOTAL VALUE OF MONEY, INVESTMENTS, PROPERTIES, AND OTHER ASSETS OF THE CORPORATION.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE AGGREGATE VALUE OF AGRICULTURAL LOANS INSURED AND OUTSTANDING MAY BE FURTHER EXPANDED BY USE OF FEDERAL, STATE, OR PRIVATE LOAN INSURANCE, REINSURANCE, OR GUARANTEES OF WHICH THE CORPORATION IS OR SHALL BECOME THE BENEFICIARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13-509.

Defined terms: "Agricultural loan" § 10-501

"Corporation" § 10-501

"Lending institution" § 10-501

"Person" §§ 9-101, 10-501

"State" § 9-101

10-521. AGRICULTURAL STUDIES.

THE CORPORATION MAY:

(1) STUDY AGRICULTURAL CONDITIONS AND NEEDS IN THE STATE, NEEDS RELATING TO THE PROMOTION OF AGRICULTURAL INDUSTRIES, AND WAYS OF MEETING THOSE NEEDS;

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(2) MAKE THE STUDIES AVAILABLE TO THE PUBLIC AND TO AGRICULTURAL INDUSTRIES; AND

(3) ENGAGE IN RESEARCH OR DISSEMINATE INFORMATION ON AGRICULTURE AND AGRICULTURAL MARKETING AND PROMOTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13-508(4).

Defined terms: "Agricultural" § 10-501

"Agriculture" § 10-501

"Corporation" § 10-501

"State" § 9-101

10-522. COOPERATION WITH OTHER UNITS.

(A) IN GENERAL.

(1) EACH UNIT IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT AND EACH INSTITUTION OF HIGHER EDUCATION IN THE STATE MAY WORK WITH THE CORPORATION ON MATTERS RELATING TO THE UNIT.

(2) EACH POLITICAL SUBDIVISION AND REGIONAL PLANNING AND DEVELOPMENT COUNCIL IN THE STATE MAY WORK WITH THE CORPORATION ON MATTERS RELATING TO THE POLITICAL SUBDIVISION OR ENTITY.

(B) TECHNICAL SUPPORT.

THE FOLLOWING UNITS MAY PROVIDE TECHNICAL AND OTHER SUPPORT TO THE CORPORATION:

(1) THE DEPARTMENT;

(2) THE DEPARTMENT OF AGRICULTURE;

(3) THE DEPARTMENT OF NATURAL RESOURCES;

(4) THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION;

(5) THE MARYLAND FOOD CENTER AUTHORITY;

(6) THE MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION;

(7) THE RURAL MARYLAND COUNCIL; AND

(8) THE MARYLAND COOPERATIVE EXTENSION SERVICE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13-513(d) through (f).

Defined terms: "Corporation" § 10-501

"State" § 9-101

10-523. FUNDING.

(A) IN GENERAL.

(1) THE CORPORATION MAY RECEIVE ANNUAL FUNDING THROUGH AN APPROPRIATION IN THE STATE BUDGET.

(2) THE CORPORATION MAY ALSO RECEIVE MONEY FOR PROJECTS INCLUDED IN THE BUDGETS OF STATE UNITS.

(3) (i) TO ASSIST THE CORPORATION IN COMPLYING WITH SUBSECTION (C) OF THIS SECTION, THE GOVERNOR SHALL INCLUDE EACH YEAR IN THE STATE BUDGET BILL AN APPROPRIATION TO THE CORPORATION FOR RURAL BUSINESS DEVELOPMENT AND ASSISTANCE FOR EACH OF FISCAL YEARS 2010 THROUGH 2020 IN THE AMOUNT OF \$4,000,000.

(ii) IN ADDITION TO ANY MONEY PROVIDED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE GOVERNOR MAY INCLUDE EACH YEAR IN THE STATE BUDGET BILL AN APPROPRIATION TO THE CORPORATION IN AN AMOUNT NOT EXCEEDING \$5,000,000 FOR RURAL LAND ACQUISITION AND EASEMENT PROGRAMS, INCLUDING PROGRAMS TO ASSIST YOUNG AND BEGINNING FARMERS.

(B) RETENTION.

ALL UNEXPENDED AND UNENCUMBERED MONEY APPROPRIATED TO THE CORPORATION SHALL REMAIN WITH THE CORPORATION FOR FUTURE USE.

(C) SELF-SUFFICIENCY.

THE CORPORATION SHALL CONDUCT ITS FINANCIAL AFFAIRS SO THAT, BY THE YEAR 2020, IT IS SELF-SUFFICIENT AND IN NO FURTHER NEED OF GENERAL OPERATING SUPPORT BY THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13-513(c).

In subsection (a)(3) of this section, the former obsolete references to specific appropriations for fiscal years 2008 and 2009 are deleted.

Defined terms: "Corporation" § 10-501

"Project" § 10-501

"State" § 9-101

10-524. LIABILITY OF CORPORATION.

(A) STATE NOT LIABLE.

A DEBT, CLAIM, OBLIGATION, OR LIABILITY OF THE CORPORATION, WHENEVER INCURRED, IS THE DEBT, CLAIM, OBLIGATION, OR LIABILITY OF THE CORPORATION ONLY AND NOT OF THE STATE, A UNIT OR INSTRUMENTALITY OF THE STATE, OR A STATE OFFICER OR EMPLOYEE.

(B) NOT A PLEDGE OF STATE CREDIT.

A DEBT, CLAIM, OBLIGATION, OR LIABILITY OF THE CORPORATION MAY NOT BE CONSIDERED A DEBT OF THE STATE OR A PLEDGE OF ITS CREDIT.

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REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13-514.

Defined terms: "Corporation" § 10-501
"State" § 9-101

10-525. TAX STATUS.

THE CORPORATION IS EXEMPT FROM STATE AND LOCAL TAXES.

REVISOR'S NOTE: This section formerly was Art. 41, § 13-513(a)(1).

No changes are made.

Defined terms: "Corporation" § 10-501
"State" § 9-101

10-526. AUDIT.

THE BOOKS AND RECORDS OF THE CORPORATION ARE SUBJECT TO AUDIT:

(1) BY THE STATE AT ITS DISCRETION; AND

(2) EACH YEAR BY AN INDEPENDENT AUDITOR APPROVED BY THE OFFICE OF LEGISLATIVE AUDITS.

REVISOR'S NOTE: This section formerly was Art. 41, § 13-511.

No changes are made.

Defined terms: "Corporation" § 10-501
"State" § 9-101

10-527. ANNUAL REPORT.

(A) REQUIRED.

ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE CORPORATION SHALL REPORT ON ITS STATUS TO THE GOVERNOR, THE MARYLAND AGRICULTURAL COMMISSION, THE MARYLAND ECONOMIC DEVELOPMENT COMMISSION, AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(B) CONTENTS.

THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND FINANCIAL STATEMENT AND A SUMMARY OF THE CORPORATION'S ACTIVITIES DURING THE PRECEDING FISCAL YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 13-512.

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

Defined term: "Corporation" § 10-501

SUBTITLE 6. MARYLAND STADIUM AUTHORITY.

PART I. DEFINITIONS.

10-601. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was FI § 13-701(a).

No changes are made.

(B) AUTHORITY.

“AUTHORITY” MEANS THE MARYLAND STADIUM AUTHORITY.

REVISOR'S NOTE: This subsection formerly was FI § 13-701(b).

No changes are made.

(C) AUTHORITY AFFILIATE.

“AUTHORITY AFFILIATE” MEANS A FOR-PROFIT OR NOT-FOR-PROFIT ENTITY IN WHICH THE AUTHORITY DIRECTLY OR INDIRECTLY OWNS ANY MEMBERSHIP INTEREST OR EQUITY INTEREST.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former FI § 13-701(t).

Defined term: “Person” § 9-101

(D) BALTIMORE CONVENTION FACILITY.

(1) “BALTIMORE CONVENTION FACILITY” MEANS:

(I) A CONVENTION CENTER, TRADE SHOW FACILITY, MEETING HALL, OR OTHER STRUCTURE IN BALTIMORE CITY USED TO HOLD CONVENTIONS, TRADE SHOWS, MEETINGS, DISPLAYS, OR SIMILAR EVENTS; AND

(II) OFFICES, PARKING LOTS OR GARAGES, ACCESS ROADS, HOTELS, RESTAURANTS, RAILROAD SIDINGS, AND ANY OTHER STRUCTURES, IMPROVEMENTS, EQUIPMENT, FURNISHINGS, OR OTHER PROPERTY FUNCTIONALLY RELATED TO THE FACILITIES DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.

(2) “BALTIMORE CONVENTION FACILITY” INCLUDES THE FOLLOWING, IF USED, USEFUL, OR USABLE IN THE FUTURE AS, OR IN CONNECTION WITH, A BALTIMORE CONVENTION FACILITY:

(I) LAND, STRUCTURES, EQUIPMENT, PROPERTY, PROPERTY RIGHTS, PROPERTY APPURTENANCES, RIGHTS-OF-WAY, FRANCHISES, EASEMENTS, AND OTHER INTERESTS IN LAND;

(II) LAND AND FACILITIES THAT ARE FUNCTIONALLY RELATED TO A BALTIMORE CONVENTION FACILITY; AND

(III) PATENTS, LICENSES, AND OTHER RIGHTS NECESSARY OR USEFUL TO CONSTRUCT OR OPERATE A BALTIMORE CONVENTION FACILITY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former FI § 13-701(d).

In paragraph (1)(i) of this subsection, the former reference to the "Baltimore City Convention Center" as it existed when the Authority assumed certain powers of the former Baltimore Convention Center Authority is deleted as obsolete. *See*, Ch. 60, Acts of 1992.

In paragraph (1)(ii) of this subsection, the reference to "improvements" is added for clarity and consistency within this title.

In paragraph (2)(i) of this subsection, the former reference to "machinery" is deleted as included in the reference to "equipment".

Defined term: "Improvement" § 10-601

(E) BALTIMORE CONVENTION FUND.

"BALTIMORE CONVENTION FUND" MEANS THE BALTIMORE CONVENTION FINANCING FUND ESTABLISHED UNDER § 10-651 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection formerly was FI § 13-701(e).

The only changes are in style.

(F) BALTIMORE CONVENTION SITE.

"BALTIMORE CONVENTION SITE" MEANS THE SITE OF THE BALTIMORE CONVENTION CENTER LOCATED IN BALTIMORE CITY AT THE ADDRESS GENERALLY KNOWN AS 1 WEST PRATT STREET, IDENTIFIED IN THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION REAL PROPERTY DATABASE AS TAX IDENTIFICATION NUMBER WARD 22, SECTION 01, BLOCK 0682, LOTS 001 AND 001A.

REVISOR'S NOTE: This subsection is new language substituted for former FI § 13-701(f) for accuracy.

Defined term: "State" § 9-101

(G) BOND.

"BOND" INCLUDES A NOTE, AN INTERIM CERTIFICATE, REFUNDING BOND, AND ANY OTHER EVIDENCE OF OBLIGATION ISSUED UNDER THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first clause of former FI § 13-712(a)(1)(i).

In this subsection, the phrase "issued under this subtitle" is added for accuracy.

(H) CAMDEN YARDS.

“CAMDEN YARDS” MEANS THE AREA COMPRISING APPROXIMATELY 85 ACRES IN BALTIMORE CITY BOUNDED BY CAMDEN STREET ON THE NORTH, RUSSELL STREET ON THE WEST, OSTEND STREET ON THE SOUTH, AND HOWARD STREET AND INTERSTATE 395 ON THE EAST.

REVISOR’S NOTE: This subsection formerly was FI § 13–701(g).

The only changes are in style.

(I) CAMDEN YARDS FUND.

“CAMDEN YARDS FUND” MEANS THE CAMDEN YARDS FINANCING FUND ESTABLISHED UNDER § 10–652 OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the full title of the “Camden Yards Financing Fund”.

(J) CONVENTION FACILITY.

“CONVENTION FACILITY” MEANS THE BALTIMORE CONVENTION FACILITY, THE MONTGOMERY COUNTY CONFERENCE FACILITY, AND THE OCEAN CITY CONVENTION FACILITY.

REVISOR’S NOTE: This subsection formerly was FI § 13–701(h).

The only changes are in style.

Defined terms: “Baltimore Convention facility” § 10–601
“Montgomery County Conference facility” § 10–601
“Ocean City Convention facility” § 10–601

(K) FACILITY.

“FACILITY” MEANS:

- YARDS;
- (1) A STRUCTURE OR OTHER IMPROVEMENT DEVELOPED AT CAMDEN
 - (2) A CONVENTION FACILITY;
 - (3) THE HIPPODROME PERFORMING ARTS FACILITY; OR
 - (4) A SPORTS FACILITY.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former FI § 13–701(i).

In item (1) of this subsection, the reference to a “structure or other improvement” is substituted for the former reference to “other facilities” for clarity and consistency within this title.

Defined terms: “Camden Yards” § 10–601
“Convention facility” § 10–601

“Hippodrome Performing Arts facility” § 10–601

“Improvement” § 10–601

“Sports facility” § 10–601

(L) HIPPODROME PERFORMING ARTS FACILITY.

(1) “HIPPODROME PERFORMING ARTS FACILITY” MEANS THE PERFORMING ARTS CENTER FACILITY LOCATED AT THE HIPPODROME PERFORMING ARTS SITE.

(2) “HIPPODROME PERFORMING ARTS FACILITY” INCLUDES, AT THE HIPPODROME PERFORMING ARTS SITE:

(I) THE HIPPODROME THEATER AND OFFICES;

(II) FOOD SERVICE FACILITIES; AND

(III) ANY OTHER FUNCTIONALLY RELATED PROPERTY, STRUCTURES, IMPROVEMENTS, FURNISHINGS, OR EQUIPMENT.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former FI § 13–701(q).

In paragraph (2)(iii) of this subsection, the reference to “improvements” is added for clarity and consistency within this title.

Defined terms: “Hippodrome Performing Arts site” § 10–601

“Improvement” § 10–601

(M) HIPPODROME PERFORMING ARTS FUND.

“HIPPODROME PERFORMING ARTS FUND” MEANS THE HIPPODROME PERFORMING ARTS FINANCING FUND ESTABLISHED UNDER § 10–653 OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection formerly was FI § 13–701(r).

The only changes are in style.

(N) HIPPODROME PERFORMING ARTS SITE.

“HIPPODROME PERFORMING ARTS SITE” MEANS THE SITE OF THE FRANCE–MERRICK PERFORMING ARTS CENTER LOCATED IN BALTIMORE CITY AT THE ADDRESS GENERALLY KNOWN AS:

(1) 12 NORTH EUTAW STREET BUILDING, IDENTIFIED IN THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION REAL PROPERTY DATABASE AS TAX IDENTIFICATION NUMBER WARD 04, SECTION 08, BLOCK 0631, LOT 001; AND

(2) 401 WEST FAYETTE STREET, IDENTIFIED IN THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION REAL PROPERTY DATABASE AS TAX IDENTIFICATION NUMBER WARD 04, SECTION 08, BLOCK 0631, LOT 013.

REVISOR’S NOTE: This subsection is new language substituted for former FI § 13–701(s) for accuracy.

Defined term: “State” § 9–101

(O) IMPROVE.

“IMPROVE” MEANS TO ADD, ALTER, CONSTRUCT, EQUIP, EXPAND, EXTEND, IMPROVE, INSTALL, RECONSTRUCT, REHABILITATE, REMODEL, OR REPAIR.

REVISOR’S NOTE: This subsection is new language added for brevity and clarity.

(P) IMPROVEMENT.

“IMPROVEMENT” MEANS ADDITION, ALTERATION, CONSTRUCTION, EQUIPPING, EXPANSION, EXTENSION, IMPROVEMENT, INSTALLATION, RECONSTRUCTION, REHABILITATION, REMODELING, OR REPAIR.

REVISOR’S NOTE: This subsection is new language added for brevity and clarity.

(Q) MONTGOMERY COUNTY.

“MONTGOMERY COUNTY” INCLUDES THE MONTGOMERY COUNTY REVENUE AUTHORITY.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former FI § 13–701(p).

(R) MONTGOMERY COUNTY CONFERENCE FACILITY.

(1) “MONTGOMERY COUNTY CONFERENCE FACILITY” MEANS THE CONFERENCE CENTER FACILITY LOCATED AT THE MONTGOMERY COUNTY CONFERENCE SITE USED FOR CONFERENCES, TRADE SHOWS, MEETINGS, DISPLAYS, OR SIMILAR EVENTS.

(2) “MONTGOMERY COUNTY CONFERENCE FACILITY” INCLUDES, AT THE MONTGOMERY COUNTY CONFERENCE SITE, OFFICES, PARKING LOTS AND GARAGES, ACCESS ROADS, FOOD SERVICE FACILITIES, AND OTHER FUNCTIONALLY RELATED PROPERTY, STRUCTURES, IMPROVEMENTS, FURNISHINGS, OR EQUIPMENT.

(3) “MONTGOMERY COUNTY CONFERENCE FACILITY” DOES NOT INCLUDE THE PRIVATELY OWNED HOTEL ADJACENT TO THE MONTGOMERY COUNTY CONFERENCE CENTER.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former FI § 13–701(m).

In paragraph (2) of this subsection, the reference to “improvements” is added for clarity and consistency within this title.

Defined terms: “Improvement” § 10–601

“Montgomery County Conference site” § 10–601

(S) MONTGOMERY COUNTY CONFERENCE FUND.

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“MONTGOMERY COUNTY CONFERENCE FUND” MEANS THE MONTGOMERY COUNTY CONFERENCE FINANCING FUND ESTABLISHED UNDER § 10–654 OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection formerly was FI § 13–701(n).

The only changes are in style.

(T) MONTGOMERY COUNTY CONFERENCE SITE.

“MONTGOMERY COUNTY CONFERENCE SITE” MEANS THE SITE OF THE MONTGOMERY COUNTY CONFERENCE CENTER LOCATED IN ROCKVILLE AT THE ADDRESS GENERALLY KNOWN AS 5701 MARINELLI ROAD, IDENTIFIED IN THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION REAL PROPERTY DATABASE AS TAX IDENTIFICATION NUMBER DISTRICT 04, ACCOUNT NUMBER 03392987.

REVISOR’S NOTE: This subsection is new language substituted for former FI § 13–701(o) for accuracy.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that the substitution of specific property information for the Montgomery County Conference site in this subsection that the Authority and Montgomery County have already selected and developed contracts with the former definition, which referred to “a site in close proximity to the White Flint metro station in the north Bethesda area of Montgomery County as determined by the Authority and Montgomery County”. The former reference was enacted before the Montgomery County Conference facility was designated and developed; nevertheless, the substitution could be construed to limit the ability of the Authority and Montgomery County to designate a different, alternate site for that facility. No substantive change is intended.

Defined term: “State” § 9–101

(U) OCEAN CITY CONVENTION FACILITY.

(1) “OCEAN CITY CONVENTION FACILITY” MEANS:

(I) A CONVENTION CENTER, TRADE SHOW FACILITY, MEETING HALL, OR OTHER STRUCTURE IN OCEAN CITY USED TO HOLD CONVENTIONS, TRADE SHOWS, MEETINGS, DISPLAYS, OR SIMILAR EVENTS; AND

(II) OFFICES, PARKING LOTS OR GARAGES, ACCESS ROADS, FOOD SERVICE FACILITIES, AND ANY OTHER STRUCTURES, IMPROVEMENTS, EQUIPMENT, FURNISHINGS, OR OTHER PROPERTY FUNCTIONALLY RELATED TO THE FACILITIES DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.

(2) “OCEAN CITY CONVENTION FACILITY” INCLUDES THE FOLLOWING, IF USED, USEFUL, OR USABLE IN THE FUTURE AS, OR IN CONNECTION WITH, AN OCEAN CITY CONVENTION FACILITY:

(I) LAND, STRUCTURES, EQUIPMENT, PROPERTY, PROPERTY RIGHTS, PROPERTY APPURTENANCES, RIGHTS-OF-WAY, FRANCHISES, EASEMENTS, AND OTHER INTERESTS IN LAND;

(II) LAND AND FACILITIES THAT ARE FUNCTIONALLY RELATED TO AN OCEAN CITY CONVENTION FACILITY; AND

(III) PATENTS, LICENSES, AND OTHER RIGHTS NECESSARY OR USEFUL TO CONSTRUCT OR OPERATE AN OCEAN CITY CONVENTION FACILITY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former FI § 13-701(j).

In paragraph (1)(i) of this subsection, the former reference to the "Ocean City Convention Center" as it existed when the Authority was first authorized to renovate and expand the Ocean City Convention Center facilities is deleted as obsolete. *See*, Ch. 603, Acts of 1995.

In paragraph (1)(ii) of this subsection, the reference to "improvements" is added for clarity and consistency within this title.

Defined term: "Improvement" § 10-601

(V) OCEAN CITY CONVENTION FUND.

"OCEAN CITY CONVENTION FUND" MEANS THE OCEAN CITY CONVENTION FINANCING FUND ESTABLISHED UNDER § 10-655 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection formerly was FI § 13-701(k).

The only changes are in style.

(W) OCEAN CITY CONVENTION SITE.

"OCEAN CITY CONVENTION SITE" MEANS THE SITE OF THE OCEAN CITY CONVENTION CENTER LOCATED IN OCEAN CITY AT THE ADDRESS GENERALLY KNOWN AS 4001 COASTAL HIGHWAY, IDENTIFIED IN THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION REAL PROPERTY DATABASE AS TAX IDENTIFICATION NUMBERS DISTRICT 10, ACCOUNT NUMBER 055237; DISTRICT 10, ACCOUNT NUMBER 066301; DISTRICT 10, ACCOUNT NUMBER 247942; AND DISTRICT 10, ACCOUNT NUMBER 280346.

REVISOR'S NOTE: This subsection is new language substituted for former FI § 13-701(l) for accuracy.

Defined term: "State" § 9-101

(X) SPORTS FACILITY.

(1) "SPORTS FACILITY" MEANS:

(I) A STADIUM PRIMARILY FOR PROFESSIONAL FOOTBALL, MAJOR LEAGUE PROFESSIONAL BASEBALL, OR BOTH, IN THE BALTIMORE METROPOLITAN REGION, AS DEFINED IN § 13-301 OF THIS ARTICLE;

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(II) PRACTICE FIELDS OR OTHER AREAS WHERE PROFESSIONAL FOOTBALL OR MAJOR LEAGUE PROFESSIONAL BASEBALL TEAMS PRACTICE OR PERFORM; AND

(III) OFFICES FOR PROFESSIONAL FOOTBALL AND MAJOR LEAGUE PROFESSIONAL BASEBALL TEAMS OR FRANCHISES.

(2) “SPORTS FACILITY” INCLUDES PARKING LOTS, GARAGES, AND ANY OTHER PROPERTY ADJACENT AND DIRECTLY RELATED TO AN ITEM LISTED IN PARAGRAPH (1) OF THIS SUBSECTION.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former FI § 13–701(c).

(Y) TAX SUPPORTED DEBT.

“TAX SUPPORTED DEBT” HAS THE MEANING STATED IN § 8–104 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from the second clause of the second sentence of former FI § 13–712(a)(1)(i).

In this subsection, the former phrase “of the State” is deleted as surplusage.

The only other changes are in style.

10–602. RESERVED.

10–603. RESERVED.

PART II. STADIUM AUTHORITY.

10–604. ESTABLISHED.

(A) IN GENERAL.

THERE IS A MARYLAND STADIUM AUTHORITY.

(B) STATUS.

(1) THE AUTHORITY IS A BODY POLITIC AND CORPORATE AND IS AN INSTRUMENTALITY OF THE STATE.

(2) THE AUTHORITY IS AN INDEPENDENT UNIT IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

(3) THE EXERCISE BY THE AUTHORITY OF ITS POWERS UNDER THIS SUBTITLE IS AN ESSENTIAL GOVERNMENTAL FUNCTION.

(C) PUBLIC BODY.

THE AUTHORITY IS A PUBLIC BODY UNDER TITLE 5, SUBTITLE 4 OF THIS ARTICLE, THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY ACT, FOR PURPOSES OF APPLYING FOR, RECEIVING, AND MAKING AGREEMENTS IN CONNECTION WITH:

- (1) A LOAN;
- (2) A GRANT;
- (3) INSURANCE; OR
- (4) ANY OTHER FORM OF FINANCIAL ASSISTANCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI §§ 13-702 and 13-720.

In subsection (b)(1) of this section, the former phrase "by that name, style, and title" is deleted as implicit in light of subsection (a) of this section.

Defined terms: "Authority" § 10-601
 "State" § 9-101

10-605. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT.

(1) THE AUTHORITY CONSISTS OF THE FOLLOWING SEVEN MEMBERS:

(I) SIX MEMBERS APPOINTED BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE; AND

(II) ONE MEMBER APPOINTED BY THE MAYOR OF BALTIMORE CITY, WITH THE ADVICE AND CONSENT OF THE SENATE.

(2) IN MAKING APPOINTMENTS, THE GOVERNOR SHALL ENSURE THAT THE GEOGRAPHIC AREAS OF THE STATE ARE REPRESENTED.

(B) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER IS 4 YEARS.

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

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

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

(C) REMOVAL.

A MEMBER MAY BE REMOVED FOR INCOMPETENCE, MISCONDUCT, OR FAILURE TO PERFORM THE DUTIES OF THE POSITION BY:

(1) THE GOVERNOR, IF APPOINTED BY THE GOVERNOR; OR

(2) THE MAYOR, IF APPOINTED BY THE MAYOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-703(a), (c)(1) through (4), and (d).

In subsection (b)(2) of this section, the reference to terms being staggered as required by the terms provided for Authority members on "October 1, 2008" is substituted for the former obsolete reference to terms being staggered as required by the terms provided on "June 1, 1993". This substitution is not intended to alter the term of any member of the Authority. See § 13 of Ch. 306, Acts of 2008. The terms of the members serving on October 1, 2008, end as follows: (1) two in 2009; (2) one in 2010; (3) one in 2011; and (4) three in 2012.

Former FI § 13-703(c)(5), which required the Governor and Mayor as appointing authorities to appoint new members on "the end of a term, resignation, or removal of a member" is deleted in light of subsection (a) of this section.

Defined terms: "Authority" § 10-601
"State" § 9-101

10-606. CHAIR.

THE GOVERNOR SHALL DESIGNATE A CHAIR FROM AMONG THE MEMBERS OF THE AUTHORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-703(b).

The reference to a "chair" is substituted for the former reference to a "chairman" because SG § 2-1238 requires the use of terms that are neutral as to gender to the extent practicable.

Defined term: "Authority" § 10-601

10-607. MEETINGS; QUORUM; COMPENSATION.

(A) MEETINGS.

THE AUTHORITY SHALL DETERMINE THE TIMES AND PLACES OF ITS MEETINGS.

(B) QUORUM; VOTING.

(1) FOUR MEMBERS OF THE AUTHORITY ARE A QUORUM.

(2) ACTION BY THE AUTHORITY REQUIRES THE AFFIRMATIVE VOTE OF AT LEAST FOUR MEMBERS.

(C) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE AUTHORITY:

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

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

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-704.

In subsection (b)(1) of this section, the former phrase "for the purpose of conducting business" is deleted as implicit in the reference to a "quorum".

Defined terms: "Authority" § 10-601
"State" § 9-101

10-608. APPLICABILITY OF OTHER LAW.

THE AUTHORITY IS EXEMPT:

- (1) FROM TAXATION BY THE STATE AND LOCAL GOVERNMENT;
- (2) EXCEPT AS PROVIDED IN TITLE 12, SUBTITLE 4 AND TITLE 14, SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, FROM DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND
- (3) FROM THE PROVISIONS OF DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE THAT GOVERN THE STATE PERSONNEL MANAGEMENT SYSTEM.

REVISOR'S NOTE: This section formerly was FI § 13-718.

The only changes are in style.

Defined terms: "Authority" § 10-601
"State" § 9-101

10-609. EXECUTIVE DIRECTOR.

(A) APPOINTMENT.

WITH THE APPROVAL OF THE GOVERNOR, THE AUTHORITY SHALL APPOINT AN EXECUTIVE DIRECTOR.

(B) TENURE.

SUBJECT TO THE CONCURRENCE OF THE GOVERNOR, THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE AUTHORITY.

(C) DUTIES.

THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE OFFICER AND SECRETARY OF THE AUTHORITY AND SHALL:

- (1) DIRECT AND SUPERVISE THE ADMINISTRATIVE AFFAIRS AND ACTIVITIES OF THE AUTHORITY, IN ACCORDANCE WITH ITS REGULATIONS AND POLICIES;
- (2) ATTEND THE MEETINGS OF THE AUTHORITY;
- (3) KEEP MINUTES OF ALL PROCEEDINGS OF THE AUTHORITY;

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(4) APPROVE ALL ACCOUNTS FOR SALARIES, PER DIEM PAYMENTS, AND ALL ALLOWABLE EXPENSES OF THE AUTHORITY, ITS EMPLOYEES, AND ITS CONSULTANTS;

(5) APPROVE ALL EXPENSES INCIDENTAL TO THE OPERATION OF THE AUTHORITY;

(6) REPORT AND MAKE RECOMMENDATIONS TO THE AUTHORITY ON THE MERITS AND STATUS OF ANY PROPOSED FACILITY; AND

(7) PERFORM THE OTHER DUTIES THAT THE AUTHORITY REQUIRES TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-705.

In subsection (c)(1) of this section, the former reference to "rules" is deleted in light of the reference to "regulations". See General Revisor's Note to article.

Defined term: "Authority" § 10-601

10-610. STAFF; INDEPENDENT CONTRACTORS.

THE AUTHORITY MAY EMPLOY OR RETAIN, EITHER AS EMPLOYEES OR AS INDEPENDENT CONTRACTORS, CONSULTANTS, ENGINEERS, ARCHITECTS, ACCOUNTANTS, ATTORNEYS, FINANCIAL EXPERTS, CONSTRUCTION EXPERTS AND PERSONNEL, SUPERINTENDENTS, MANAGERS AND OTHER PROFESSIONAL PERSONNEL, PERSONNEL, AND AGENTS AS THE AUTHORITY CONSIDERS NECESSARY, AND SET THEIR COMPENSATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-708(a)(5).

Defined term: "Authority" § 10-601

10-611. RESERVED.

10-612. RESERVED.

PART III. POWERS.

10-613. MISCELLANEOUS POWERS.

(A) IN GENERAL.

THE AUTHORITY MAY:

(1) ADOPT A SEAL;

(2) SUE AND BE SUED;

(3) ADOPT BYLAWS AND POLICIES;

(4) ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT;

- (5) HAVE AN OFFICE AT THE PLACE THE AUTHORITY DESIGNATES;
- (6) APPOINT ADVISORY COMMITTEES COMPOSED OF LOCAL OFFICIALS, BUSINESS INTERESTS, REPRESENTATIVES OF THE CONVENTION, HOTEL, AND TOURISM BUSINESS, AND OTHER EXPERTS AS APPROPRIATE;
- (7) SUBJECT TO § 10–620 OF THIS SUBTITLE, ACQUIRE, LEASE AS LANDLORD OR TENANT, HOLD, ENCUMBER, OR DISPOSE OF PROPERTY;
- (8) ENTER INTO CONTRACTS AND EXECUTE THE INSTRUMENTS NECESSARY OR CONVENIENT TO CARRY OUT THIS SUBTITLE TO ACCOMPLISH ITS PURPOSES;
- (9) DETERMINE THE LOCATIONS OF, DEVELOP, ESTABLISH, ACQUIRE, OWN, IMPROVE, OPERATE, MAINTAIN, AND CONTRIBUTE TO THE MAINTENANCE AND OPERATING COSTS OF FACILITIES AS NECESSARY TO ACCOMPLISH ITS PURPOSES;
- (10) REGULATE THE USE AND OPERATION OF FACILITIES DEVELOPED UNDER THIS SUBTITLE;
- (11) FIX AND COLLECT RENTS, FEES, AND OTHER CHARGES FOR THE USE OF FACILITIES OR FOR SERVICES RENDERED IN CONNECTION WITH THE FACILITIES;
- (12) SUBJECT TO PARTS IV AND V OF THIS SUBTITLE, ISSUE BONDS;
- (13) EXERCISE THE CORPORATE POWERS OF MARYLAND CORPORATIONS UNDER THE MARYLAND GENERAL CORPORATION LAW;
- (14) WITH RESPECT TO SITE ACQUISITION, CONSTRUCTION, AND DEVELOPMENT OF THE HIPPODROME PERFORMING ARTS FACILITY, ESTABLISH AND PARTICIPATE IN AUTHORITY AFFILIATES;
- (15) IMPOSE THE ADMISSIONS AND AMUSEMENT TAX AUTHORIZED UNDER § 4–102 OF THE TAX – GENERAL ARTICLE; AND
- (16) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS GRANTED BY THIS SUBTITLE.

(B) AUTHORITY — REVIEW AND RECOMMENDATIONS.

THE AUTHORITY MAY REVIEW AND MAKE RECOMMENDATIONS ON PROPOSED CONVENTION CENTER FACILITIES AND THE HIPPODROME PERFORMING ARTS FACILITY, INCLUDING THE EXPANSION AND ENHANCEMENT OF THE BALTIMORE CITY CONVENTION CENTER AND THE OCEAN CITY CONVENTION CENTER AND THE DEVELOPMENT AND CONSTRUCTION OF THE MONTGOMERY COUNTY CONFERENCE CENTER AND THE HIPPODROME PERFORMING ARTS CENTER, WITH RESPECT TO LOCATION, PURPOSE, DESIGN, FUNCTION, CAPACITY, PARKING, COSTS, FUNDING MECHANISMS, AND REVENUE ALTERNATIVES, WITH SPECIFIC RECOMMENDATIONS ON:

- (1) THE LEVEL OF SUPPORT FROM THE PRIVATE SECTOR;
- (2) THE TYPE OF SUPPORT FROM THE PRIVATE SECTOR;
- (3) SPECIAL TAXING SOURCES;

- (4) PROJECTED REVENUES;
- (5) BONDING AUTHORITY AND THE SOURCE OF DEBT SERVICE; AND
- (6) THE FISCAL IMPACT ON THE STATE OF ANY REVENUE ALTERNATIVES.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-708(a)(1) through (4), (6) through (12), and (14) through (19).

In subsection (a)(7) of this section, the former phrase “[d]etermine the locations of, develop, establish, construct, erect, acquire, own, repair, remodel, add to, extend, improve, equip, operate, regulate, maintain, and contribute to the maintenance and operating costs of facilities” is revised in standard language for brevity.

In the introductory language of subsection (a) of this section, the former phrase “[i]n addition to the powers set forth elsewhere in this subtitle” is deleted as implicit in the grant of powers to the Authority under subsection (b) of this section.

In subsection (b)(6) of this section, the reference to “revenue” alternatives is added for clarity.

Defined terms: “Authority” § 10-601

“Authority affiliate” § 10-601

“Bond” § 10-601

“Facility” § 10-601

“Hippodrome Performing Arts facility” § 10-601

“Improve” § 10-601

“State” § 9-101

10-614. MISCELLANEOUS POWERS — FINANCING.

SUBJECT TO THE APPROVAL OF THE BOARD OF PUBLIC WORKS, THE AUTHORITY MAY:

(1) BORROW MONEY FROM ANY SOURCE FOR ANY CORPORATE PURPOSE, INCLUDING WORKING CAPITAL FOR ITS OPERATIONS, RESERVE FUNDS, OR INTEREST;

(2) MORTGAGE, PLEDGE, OR OTHERWISE ENCUMBER THE PROPERTY OR FUNDS OF THE AUTHORITY;

(3) CONTRACT FOR THE SERVICES OF ANY PERSON IN CONNECTION WITH ANY FINANCING, INCLUDING FINANCIAL INSTITUTIONS, ISSUERS OF LETTERS OF CREDIT, OR INSURERS; AND

(4) RECEIVE AND ACCEPT FROM ANY PUBLIC OR PRIVATE SOURCE CONTRIBUTIONS, GIFTS, OR GRANTS OF MONEY OR PROPERTY AND INVEST THE MONEY OR PROPERTY AS A WHOLE OR IN PART.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-708(a)(13) and (15).

Defined terms: “Authority” § 10–601

“Person” § 9–101

10–615. PROHIBITIONS.

(1) AN AUTHORITY SPORTS FACILITY MAY NOT BE USED TO CONDUCT PROFESSIONAL BASKETBALL GAMES.

(2) THE AUTHORITY MAY NOT CONSTRUCT OR ENTER INTO A CONTRACT TO CONSTRUCT A SPORTS FACILITY OTHER THAN AT CAMDEN YARDS UNLESS SPECIFICALLY AUTHORIZED BY AN ENACTMENT OF THE GENERAL ASSEMBLY.

REVISOR’S NOTE: This section is new language derived without substantive change from former FI § 13–708(b).

Defined terms: “Authority” § 10–601

“Sports facility” § 10–601

10–616. AUTHORITY TO DEVELOP CAMDEN YARDS.

(A) IN GENERAL.

SUBJECT TO THE APPROVAL OF THE BOARD OF PUBLIC WORKS AND THE LEGISLATIVE POLICY COMMITTEE, THE AUTHORITY MAY DEVELOP ANY PORTION OF CAMDEN YARDS TO GENERATE INCIDENTAL REVENUES FOR THE BENEFIT OF THE AUTHORITY.

(B) SCOPE OF AUTHORIZATION.

THE AUTHORITY GRANTED UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE POWER TO DEVELOP, ESTABLISH, ACQUIRE, OWN, LEASE, IMPROVE, OPERATE AS LANDLORD, REGULATE, MAINTAIN, SELL, TRANSFER, OR OTHERWISE DISPOSE OF ANY PORTION OF CAMDEN YARDS.

(C) LIMITATION — CONDEMNATION EXCLUDED.

EXCEPT FOR ITS CONDEMNATION POWER, THE AUTHORITY MAY EXERCISE ALL OF ITS POWERS UNDER THIS SUBTITLE WITH RESPECT TO THE DEVELOPMENT OF PORTIONS OF CAMDEN YARDS.

REVISOR’S NOTE: This section is new language derived without substantive change from former FI § 13–708.1.

In subsection (a) of this section, the former phrase “and in addition to the powers set forth elsewhere in this subtitle” is deleted as implicit in the grant of powers to the Authority under subsection (a) of this section.

Defined terms: “Authority” § 10–601

“Camden Yards” § 10–601

“Improve” § 10–601

10–617. CAMDEN YARDS — SPECIFIC LIMITATIONS.

(A) DOME.

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NOTWITHSTANDING ANY OTHER LAW, A DOME MAY BE BUILT OR ADDED ON A STADIUM AT CAMDEN YARDS ONLY IF SPECIFICALLY AUTHORIZED BY AN ENACTMENT OF THE GENERAL ASSEMBLY.

(B) **BASEBALL RESTRICTION.**

DURING ANY PERIOD IN WHICH MAJOR LEAGUE PROFESSIONAL BASEBALL GAMES ARE PLAYED AT THE BASEBALL STADIUM AT CAMDEN YARDS, A MAJOR LEAGUE PROFESSIONAL BASEBALL TEAM MAY NOT PLAY MAJOR LEAGUE PROFESSIONAL BASEBALL GAMES ON A REGULAR BASIS AT ANOTHER PROFESSIONAL SPORTS STADIUM IN THE STATE THAT:

(1) IS CONSTRUCTED IN PART WITH STATE FUNDS; OR

(2) BENEFITS FROM OR IS SUPPORTED BY STATE-FUNDED TRANSPORTATION OR OTHER INFRASTRUCTURE PROJECTS DEVELOPED DUE TO THE CONSTRUCTION OF THE STADIUM.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-715.3.

Defined terms: "Camden Yards" § 10-601
"State" § 9-101

10-618. AUTHORITY TO ACQUIRE SITES.

(A) **APPROVAL OF CONTRACTS.**

CONTRACTS TO ACQUIRE ANY FACILITY SITE, TO CONSTRUCT THE FACILITY, OR FOR CONSTRUCTION ON THE FACILITY SITE REQUIRE THE PRIOR APPROVAL OF THE BOARD OF PUBLIC WORKS.

(B) **ACQUISITION OF SITE AT CAMDEN YARDS.**

THE AUTHORITY MAY:

(1) ACQUIRE BY ANY OF THE MEANS SPECIFIED IN § 10-620(A) OF THIS SUBTITLE:

(i) A SITE AT CAMDEN YARDS FOR A FACILITY;

(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) SUBJECT TO ANNUAL APPROPRIATIONS AND THIS SUBTITLE, THE AUTHORITY MAY ACQUIRE IN ITS OWN NAME, BY GIFT, PURCHASE, OR CONDEMNATION, ANY PROPERTY OR INTEREST IN PROPERTY NECESSARY OR CONVENIENT TO CONSTRUCT OR OPERATE A FACILITY.

(2) WHEN ACQUIRING IN ITS OWN NAME ANY PROPERTY UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE AUTHORITY SHALL FIRST ATTEMPT TO ACQUIRE THE PROPERTY BY NEGOTIATION AND PURCHASE.

(3) IF THE AUTHORITY IS NOT ABLE TO ACQUIRE PROPERTY BY NEGOTIATION, THE AUTHORITY MAY CONDEMN PRIVATE PROPERTY UNDER SUBSECTION (B) OF THIS SECTION.

(4) IF THE AUTHORITY DETERMINES THAT ACTING UNDER PARAGRAPHS (2) AND (3) OF THIS SUBSECTION WOULD BE INAPPROPRIATE, THE AUTHORITY MAY CONDEMN PRIVATE PROPERTY UNDER SUBSECTION (C) OF THIS SECTION.

(B) ORDINARY CONDEMNATION.

(1) THE EXERCISE OF AUTHORITY UNDER THIS SUBSECTION IS SUBJECT TO SUBSECTION (A) OF THIS SECTION, THE PRIOR APPROVAL OF THE BOARD OF PUBLIC WORKS, AND REVIEW BY THE LEGISLATIVE POLICY COMMITTEE.

(2) THE AUTHORITY MAY CONDEMN ANY PRIVATE PROPERTY FOR ANY PURPOSE OF THE AUTHORITY:

(I) IN ACCORDANCE WITH TITLE 12 OF THE REAL PROPERTY ARTICLE; AND

(II) ONLY IN CAMDEN YARDS AND AT THE HIPPODROME PERFORMING ARTS SITE.

(C) QUICK TAKE CONDEMNATION IN BALTIMORE CITY.

(1) THE EXERCISE OF AUTHORITY UNDER THIS SUBSECTION IS SUBJECT TO SUBSECTION (A) OF THIS SECTION, THE PRIOR APPROVAL OF THE BOARD OF PUBLIC WORKS, AND REVIEW BY THE LEGISLATIVE POLICY COMMITTEE.

(2) THE AUTHORITY MAY EXERCISE QUICK TAKE CONDEMNATION UNDER ARTICLE III, § 40A OF THE STATE CONSTITUTION TO ACQUIRE IN BALTIMORE CITY FOR THE STATE PRIVATE PROPERTY FOR ANY PURPOSE OF THE AUTHORITY:

(I) IN ACCORDANCE WITH §§ 8-334 THROUGH 8-339 OF THE TRANSPORTATION ARTICLE AND TITLE 12 OF THE REAL PROPERTY ARTICLE; AND

(II) ONLY IN CAMDEN YARDS AND AT THE HIPPODROME PERFORMING ARTS SITE.

(D) CONVEYANCES FROM STATE.

(1) THE EXERCISE OF AUTHORITY UNDER THIS SUBSECTION IS SUBJECT TO THE PRIOR APPROVAL OF THE BOARD OF PUBLIC WORKS.

(2) ON REQUEST OF THE AUTHORITY, THE STATE, A UNIT OF THE STATE, OR A POLITICAL SUBDIVISION MAY LEASE, LEND, GRANT, OR OTHERWISE CONVEY TO THE AUTHORITY, PROPERTY, INCLUDING PROPERTY DEVOTED TO PUBLIC USE, AS NECESSARY OR CONVENIENT FOR THE PURPOSES OF THIS SUBTITLE.

(3) THE STATE MAY LEASE OR SUBLEASE A FACILITY, OR AN INTEREST IN A FACILITY, FROM OR TO THE AUTHORITY, WHETHER OR NOT CONSTRUCTED OR USABLE.

(4) LEASE PAYMENTS TO THE AUTHORITY APPROPRIATED BY THE STATE SHALL BE TRANSFERRED TO:

(I) THE BALTIMORE CONVENTION FUND IF APPROPRIATED FOR A BALTIMORE CONVENTION FACILITY;

(II) THE CAMDEN YARDS FUND IF APPROPRIATED FOR A SPORTS FACILITY OR OTHER FACILITY AT CAMDEN YARDS;

(III) THE HIPPODROME PERFORMING ARTS FUND IF APPROPRIATED FOR A HIPPODROME PERFORMING ARTS FACILITY.

(IV) THE MONTGOMERY COUNTY CONFERENCE FUND IF APPROPRIATED FOR A MONTGOMERY COUNTY CONFERENCE FACILITY; OR

(V) THE OCEAN CITY CONVENTION FUND IF APPROPRIATED FOR AN OCEAN CITY CONVENTION FACILITY.

(E) COMPLIANCE WITH LOCAL PLANNING, ZONING, AND DEVELOPMENT REGULATIONS; EXCEPTION.

(1) THIS SUBSECTION DOES NOT APPLY TO THE CAMDEN YARDS SITE, BALTIMORE CONVENTION SITE, OCEAN CITY CONVENTION SITE, OR HIPPODROME PERFORMING ARTS SITE.

(2) THE AUTHORITY AND ANY AUTHORITY AFFILIATE IS SUBJECT TO APPLICABLE PLANNING, ZONING, AND DEVELOPMENT REGULATIONS TO THE SAME EXTENT AS A PRIVATE COMMERCIAL OR INDUSTRIAL ENTERPRISE.

(F) COOPERATION WITH BALTIMORE CITY.

THE AUTHORITY SHALL:

(1) IN COOPERATION WITH BALTIMORE CITY, APPOINT A TASK FORCE THAT INCLUDES RESIDENTS AND BUSINESS AND INSTITUTIONAL REPRESENTATIVES FROM THE AREA ADJACENT TO CAMDEN YARDS TO REVIEW THE SCHEMATIC, PRELIMINARY, AND 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;

(2) THE DESIGN AND CONSTRUCTION COSTS OF NECESSARY TRAINING FACILITIES;

(3) THE REASONABLE COSTS OF MOVING AND RELOCATION, INCLUDING:

(I) THE PHYSICAL MOVEMENT OF PROPERTY;

(II) LAND AND AIR TRAVEL COSTS;

(III) EMPLOYEE SEVERANCE COSTS; AND

(IV) EMPLOYEE RELOCATION COSTS;

(4) AMOUNTS OWED TO THE OTHER JURISDICTION AND OTHER INTERESTED PARTIES CLAIMING RIGHTS BECAUSE OF THE RELOCATION OF THE PROFESSIONAL SPORTS TEAM TO THE STATE, INCLUDING ANY AMOUNTS PAID TO THE OTHER JURISDICTION OR INTERESTED PARTIES TO RESOLVE THE CLAIMS;

(5) THE REPAYMENT OF BONDS OR OTHER INDEBTEDNESS INCURRED BY OR FOR THE BENEFIT OF THE TEAM IN CONNECTION WITH FACILITIES THAT THE RELOCATED PROFESSIONAL SPORTS TEAM USED OR OCCUPIED IN THE OTHER JURISDICTION;

(6) PAYMENTS TO THE AUTHORITY; OR

(7) OTHER REASONABLE COSTS AND EXPENSES INCURRED OR LOSSES SUSTAINED BECAUSE OF THE RELOCATION.

(B) USE OF EXCESS PROCEEDS.

PROCEEDS DERIVED FROM THE SALE OF PERSONAL SEAT LICENSES THAT EXCEED THE COSTS DESCRIBED IN SUBSECTION (A) OF THIS SECTION:

(1) MAY NOT ACCRUE DIRECTLY TO THE BENEFIT OF AN INDIVIDUAL OR PRIVATE ENTITY; AND

(2) SHALL BE HELD BY THE AUTHORITY FOR STADIUM CONSTRUCTION AND MAINTENANCE OF THE PROFESSIONAL SPORTS STADIUM IN THE STATE THE RELOCATED PROFESSIONAL SPORTS TEAM USES.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-724.

In the introductory language to subsection (a) of this section, the phrase "for a professional sports team that relocates from another jurisdiction to the State" is added for clarity.

Former FI § 13-724(a) which defined "professional sports team", is deleted as unnecessary.

Defined terms: "Authority" § 10-601

"Bond" § 10-601

"State" § 9-101

10-622. PROJECTS FOR STATE UNITS AND LOCAL GOVERNMENTS.

(A) IN GENERAL.

(1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE AUTHORITY MAY PREPARE STUDIES AND MAY DESIGN AND CONSTRUCT PROJECTS FOR UNITS OF THE STATE, THE UNIVERSITY OF MARYLAND MEDICAL SYSTEM, AND POLITICAL SUBDIVISIONS.

(2) THE STUDIES MAY INCLUDE SITE STUDIES, ARCHITECTURAL PROGRAMS, BUDGET ESTIMATES, VALUE ENGINEERING, AND PROJECT SCHEDULES.

(B) PRIOR NOTIFICATION.

BEFORE BEGINNING WORK UNDER SUBSECTION (A) OF THIS SECTION ON BEHALF OF A UNIT OF THE STATE, THE UNIVERSITY OF MARYLAND MEDICAL SYSTEM, OR A POLITICAL SUBDIVISION, THE AUTHORITY SHALL:

(1) NOTIFY THE BUDGET COMMITTEES OF THE GENERAL ASSEMBLY IN WRITING OF THE PROPOSED PROJECT AND ITS ESTIMATED COSTS AND FUNDING SOURCES; AND

(2) ALLOW THE BUDGET COMMITTEES 30 DAYS TO REVIEW AND COMMENT ON THE PROPOSED WORK.

(C) AUTHORIZED ANCILLARY ACTIVITIES.

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THE AUTHORITY MAY ENTER INTO CONTRACTS, RETAIN CONSULTANTS, AND MAKE RECOMMENDATIONS RELATING TO PROJECT ACTIVITIES UNDER THIS SECTION.

(D) FUNDING.

(1) FOR PROJECT ACTIVITIES UNDER THIS SECTION, THE AUTHORITY SHALL USE MONEY THAT IS:

(I) PROVIDED BY THE UNIT OF THE STATE, THE UNIVERSITY OF MARYLAND MEDICAL SYSTEM, OR LOCAL GOVERNMENT; OR

(II) OTHERWISE APPROPRIATED FOR THE PARTICULAR PURPOSE.

(2) IN EACH FISCAL YEAR THE AUTHORITY:

(I) MAY USE UP TO \$500,000 OF ITS AVAILABLE NON-BUDGETED MONEY FOR FEASIBILITY STUDIES THAT ARE APPROVED BY THE BUDGET COMMITTEES; BUT

(II) MAY NOT USE THIS MONEY FOR CONSTRUCTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former § 12 of Ch. 138, Acts of 1998, as amended by Ch. 204, Acts of 2003, and Ch. 445, Acts of 2005.

In subsection (a) of this section, the reference to "projects" is substituted for the former reference to "facilities" to avoid confusion with the latter term defined in § 10-601 which includes only certain named undertakings. *See* 85 Op. Att'y Gen. 190 (2000).

In subsections (a)(1) and (b) of this section, the references to "political subdivision[s]" are substituted for the former references to "local government[s]" for consistency within this article.

In the introductory language to subsection (b) of this section, the reference to work "under subsection (a) of this section" is added to distinguish project activities that the Authority undertakes under this section from those other activities related to facilities specifically authorized and governed by other provisions of this subtitle.

In subsection (b)(1) of this section, the word "its" is substituted for the former word "the" for clarity.

In subsection (c) of this section, the reference to "project activities under this section" is substituted for the former reference to "this purpose" for clarity. Similarly, in subsection (d)(1) of this section, the phrase "[f]or project activities under this section," is added for clarity.

In subsection (d) of this section, the references to "money" are substituted for the former references to "funds" for clarity and consistency within this article. *See* General Revisor's Note to article.

In subsection (d)(2) of this section, the reference to "its" funds is

substituted for the former reference to “Stadium Authority” funds for brevity.

Also in subsection (d)(2) of this section, the former phrase “including funds in the fiscal year 2005 operating budget” is deleted as obsolete.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that this section is codified at the recommendation of the Attorney General. Although § 12 of Ch. 138, Acts of 1998, was enacted as an uncodified provision of a capital budget bill, the Attorney General has opined that it has a continuing effect authorizing certain activities of the Authority, and should be codified in accordance with Md. Constitution, Art. III, § 29. The subsequent history of this provision, twice amended in the 10 years since its original enactment, supports its placement in the Code. This codification is called to the attention of the General Assembly. *See* 85 Op. Att’y Gen. 190 (2000).

The Economic Development Article Review Committee also notes, for the consideration of the General Assembly, that the Attorney General observed that the legislature may wish to consider *how* local controls should interact with the authority granted to the Authority under § 12, codified in this section, without making any particular recommendation on the subject. The Committee brings this matter to the attention of the General Assembly. *See* 85 Op. Att’y Gen. 190 (2000).

The Economic Development Article Review Committee also notes, for the consideration of the General Assembly, that the Attorney General observed that the authority of the Board of Public Works to issue regulations concerning the Authority’s contracts under this section is unclear. The Attorney General recommended that the Board refrain from issuing regulations on this matter until the General Assembly has had an opportunity to clarify the issue. The Committee brings this matter to the attention of the General Assembly. *See* 85 Op. Att’y Gen. 190 (2000).

Defined terms: “Authority” § 10–601
“State” § 9–101

10–623. DUTIES.

THE AUTHORITY SHALL:

- (1) SUBMIT THE OPERATING AND CAPITAL PROGRAM BUDGET OF THE AUTHORITY EACH YEAR TO THE DEPARTMENT OF BUDGET AND MANAGEMENT FOR INCLUSION IN THE STATE BUDGET BOOK FOR INFORMATIONAL PURPOSES; AND
- (2) KEEP RECORDS THAT ARE CONSISTENT WITH SOUND BUSINESS PRACTICES AND ACCOUNTING RECORDS USING GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

REVISOR’S NOTE: This section is new language derived without substantive change from former FI § 13–719(1) and (5).

In item (1) of this section, the reference to “the operating and capital program budget” is substituted for the former reference to “a budget reflecting the operating and capital program” for brevity.

Defined terms: “Authority” § 10–601
“State” § 9–101

10–624. AUDIT.

THE AUTHORITY SHALL:

(1) HAVE AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT AUDIT THE ACCOUNTS AND TRANSACTIONS OF THE AUTHORITY AT THE END OF EACH FISCAL YEAR; AND

(2) BE SUBJECT, AT ANY REASONABLE TIME, TO AUDIT AND EXAMINATION OF THE ACCOUNTS AND TRANSACTIONS OF THE AUTHORITY BY THE OFFICE OF LEGISLATIVE AUDITS OF THE DEPARTMENT OF LEGISLATIVE SERVICES.

REVISOR’S NOTE: This section is new language derived without substantive change from former FI § 13–719(2) and (3).

Defined term: “Authority” § 10–601

10–625. ANNUAL REPORTS.

THE AUTHORITY SHALL SUBMIT:

(1) AN ANNUAL DETAILED REPORT OF THE ACTIVITIES AND FINANCIAL STATUS OF THE AUTHORITY TO THE GOVERNOR, AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY; AND

(2) ANNUAL REPORTS ON THE ADDITIONAL TAX REVENUES GENERATED BY EACH OF THE FOLLOWING FACILITIES, PREPARED IN COOPERATION WITH THE OFFICE OF THE COMPTROLLER AND THE DEPARTMENT OF BUDGET AND MANAGEMENT:

- (i) THE BALTIMORE CONVENTION FACILITY;
- (ii) THE HIPPODROME PERFORMING ARTS FACILITY;
- (iii) THE MONTGOMERY COUNTY CONFERENCE FACILITY; AND
- (iv) THE OCEAN CITY CONVENTION FACILITY.

REVISOR’S NOTE: This section is new language derived without substantive change from former FI § 13–719(4) and (7) through (10).

Former FI § 13–719(6), which required a one-time report on the effect of sports lotteries conducted on behalf of the Authority on lottery revenues earned for the General Fund, is deleted as obsolete. The report was completed between 1988 and 1992.

Defined terms: “Authority” § 10–601
“Baltimore Convention facility” § 10–601
“Convention facility” § 10–601

“Facility” § 10–601

“Hippodrome Performing Arts facility” § 10–601

“Montgomery County” § 10–601

“Montgomery County Conference facility” § 10–601

“Ocean City Convention facility” § 10–601

10–626. RESERVED.

10–627. RESERVED.

PART IV. BONDS — IN GENERAL.

10–628. BONDING AUTHORITY.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION AND SUBJECT TO THE PRIOR APPROVAL OF THE BOARD OF PUBLIC WORKS, THE AUTHORITY MAY ISSUE BONDS AT ANY TIME FOR ANY CORPORATE PURPOSE OF THE AUTHORITY, INCLUDING THE ESTABLISHMENT OF RESERVES AND THE PAYMENT OF INTEREST.

(B) BONDS FOR SPORTS FACILITIES AT CAMDEN YARDS.

(1) UNLESS AUTHORIZED BY THE GENERAL ASSEMBLY, THE BOARD OF PUBLIC WORKS MAY NOT APPROVE AN ISSUANCE BY THE AUTHORITY OF BONDS FOR SPORTS FACILITIES AT CAMDEN YARDS, WHETHER TAXABLE OR TAX EXEMPT, THAT CONSTITUTE TAX SUPPORTED DEBT IF, AFTER THE ISSUANCE, THERE WOULD BE OUTSTANDING AND UNPAID \$235,000,000 FACE AMOUNT OF BONDS FOR THE PURPOSE OF FINANCING THE SITE ACQUISITION AND PREPARATION, RELOCATION, DEMOLITION AND REMOVAL, CONSTRUCTION AND RELATED EXPENSES FOR CONSTRUCTION MANAGEMENT, PROFESSIONAL FEES, AND CONTINGENCIES OF BASEBALL AND FOOTBALL STADIUMS OR A MULTIUSE STADIUM.

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE LIMITS ON THE ISSUANCE OF BONDS OF THE AUTHORITY, WHETHER TAXABLE OR TAX EXEMPT, THAT CONSTITUTE TAX SUPPORTED DEBT FOR THE FOLLOWING PURPOSES WITH RESPECT TO SPORTS FACILITIES AT CAMDEN YARDS ARE:

1. \$85,000,000 FOR SITE ACQUISITION AND PREPARATION, RELOCATION, DEMOLITION AND REMOVAL, AND CONSTRUCTION AND RELATED EXPENSES FOR CONSTRUCTION MANAGEMENT, PROFESSIONAL FEES, AND CONTINGENCIES FOR CAMDEN YARDS;

2. \$70,000,000 FOR SITE WORK, CONSTRUCTION AND RELATED EXPENSES FOR CONSTRUCTION MANAGEMENT, PROFESSIONAL FEES, AND CONTINGENCIES OF A BASEBALL STADIUM;

3. \$80,000,000 FOR SITE WORK, CONSTRUCTION AND RELATED EXPENSES FOR CONSTRUCTION MANAGEMENT, PROFESSIONAL FEES, AND CONTINGENCIES OF A FOOTBALL STADIUM; AND

4. \$195,000,000 FOR SITE ACQUISITION AND PREPARATION, RELOCATION, DEMOLITION AND REMOVAL, AND CONSTRUCTION AND RELATED EXPENSES FOR CONSTRUCTION MANAGEMENT, PROFESSIONAL FEES, AND CONTINGENCIES OF A MULTIUSE STADIUM.

(ii) THE AUTHORITY MAY EXCEED THE MONETARY LIMITS ON BOND ISSUANCES PROVIDED FOR IN SUBPARAGRAPH (i) OF THIS PARAGRAPH IF THE AUTHORITY:

1. OBTAINS THE AUTHORIZATION OF THE BOARD OF PUBLIC WORKS; AND

2. NOTIFIES THE LEGISLATIVE POLICY COMMITTEE WITH ACCOMPANYING JUSTIFICATION.

(c) BONDS FOR OTHER AUTHORITY FACILITIES.

UNLESS AUTHORIZED BY THE GENERAL ASSEMBLY, THE BOARD OF PUBLIC WORKS MAY NOT APPROVE AN ISSUANCE BY THE AUTHORITY OF BONDS, WHETHER TAXABLE OR TAX EXEMPT, THAT CONSTITUTE TAX SUPPORTED DEBT IF, AFTER ISSUANCE, THERE WOULD BE OUTSTANDING AND UNPAID MORE THAN THE FOLLOWING FACE AMOUNTS OF THE BONDS FOR THE PURPOSE OF FINANCING ACQUISITION, CONSTRUCTION, RENOVATION, AND RELATED EXPENSES FOR CONSTRUCTION MANAGEMENT, PROFESSIONAL FEES, AND CONTINGENCIES IN CONNECTION WITH:

- (1) THE BALTIMORE CONVENTION FACILITY – \$55,000,000;
- (2) THE HIPPODROME PERFORMING ARTS FACILITY – \$20,250,000;
- (3) THE MONTGOMERY COUNTY CONFERENCE FACILITY – \$23,185,000;

AND

- (4) THE OCEAN CITY CONVENTION FACILITY – \$17,340,000.

REVISOR’S NOTE: This section is new language derived without substantive change from former FI § 13–712(a)(1).

In subsection (a) of this section, the former phrase “from time to time” is deleted for consistency with other bonding authority provisions elsewhere in the revised article.

Also in subsection (a) of this section, the phrase “of the Authority” is added for accuracy.

In subsection (b)(2)(i) of this section, the introductory clause is substituted for the introductory clause in the former source law to make it clear that the additional specific amounts of bonds for specific purposes related to sports facilities at Camden Yards can be exceeded if the Authority obtains “author[ization]” (as opposed to “approval”) and provides “accompanying justification” to the Legislative Policy Committee.

Defined terms: “Authority” § 10–601
“Baltimore Convention facility” § 10–601

“Bond” § 10–601

“Camden Yards” § 10–601

“Hippodrome Performing Arts facility” § 10–601

“Montgomery County Conference facility” § 10–601

“Ocean City Convention facility” § 10–601

“Tax supported debt” § 10–601

10–629. PAYMENT OF BONDS.

(A) PAYMENT OF BONDS.

THE AUTHORITY SHALL PAY THE BONDS ISSUED IN ACCORDANCE WITH THIS PART ONLY FROM THE PROPERTY OR RECEIPTS OF THE AUTHORITY.

(B) PROPERTY AND RECEIPTS OF AUTHORITY.

PROPERTY AND RECEIPTS OF THE AUTHORITY INCLUDE:

(1) TAXES, FEES, CHARGES, OR OTHER REVENUES PAYABLE TO THE AUTHORITY;

(2) PAYMENTS IN ACCORDANCE WITH LETTERS OF CREDIT, LINES OF CREDIT, INSURANCE POLICIES, OR PURCHASE AGREEMENTS;

(3) INVESTMENT EARNINGS FROM FUNDS OR ACCOUNTS MAINTAINED IN ACCORDANCE WITH A BOND RESOLUTION OR TRUST AGREEMENT;

(4) THE PROCEEDS OF REFUNDING BONDS; AND

(5) ANY OTHER SOURCE AUTHORIZED BY LAW.

REVISOR’S NOTE: This section is new language derived without substantive change from former FI § 13–712(a)(2).

In subsection (a) of this section, the former phrase “including without limitation” is deleted as surplusage.

In subsection (b)(2)(ii) of this section, the former phrase “by financial institutions, insurance companies, or others” is deleted because it may not cover the universe of entities that make payments to the Stadium Authority for the purpose of this subsection.

Defined terms: “Authority” § 10–601

“Bond” § 10–601

10–630. AUTHORIZATION OF BONDS BY RESOLUTION OR TRUST AGREEMENT.

(A) RESOLUTION.

THE AUTHORITY SHALL AUTHORIZE THE ISSUANCE OF BONDS BY RESOLUTION.

(B) TRUST AGREEMENT.

(1) THE BONDS MAY BE SECURED BY A TRUST AGREEMENT BY AND BETWEEN THE AUTHORITY AND A CORPORATE TRUSTEE.

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(2) A CORPORATE TRUSTEE MAY BE ANY TRUST COMPANY OR BANK THAT HAS THE POWERS OF A TRUST COMPANY IN OR OUTSIDE THE STATE.

(c) TERMS AND CONDITIONS.

THE BONDS SHALL:

(1) BE ISSUED AT, ABOVE, OR BELOW PAR VALUE, AND FOR CASH OR OTHER VALUABLE CONSIDERATION;

(2) MATURE ON A DATE OR DATES NOT EXCEEDING 40 YEARS FROM THEIR RESPECTIVE DATES OF ISSUE, WHETHER OR NOT THE BONDS ARE SERIAL OR TERM BONDS;

(3) BEAR INTEREST AT THE FIXED RATE OR THE VARIABLE RATE PROVIDED IN THE RESOLUTION OR TRUST AGREEMENT;

(4) BE PAYABLE AT A TIME OR TIMES AND BE IN THE DENOMINATIONS AND FORM, EITHER COUPON OR REGISTERED, AS PROVIDED IN THE RESOLUTION OR TRUST AGREEMENT;

(5) BE SUBJECT TO THE REGISTRATION PROVISIONS, HAVE THE PRIVILEGES AS TO CONVERSION, AND BE SUBJECT TO THE PROVISIONS FOR THE REPLACEMENT OF MUTILATED, LOST, OR DESTROYED BONDS AS PROVIDED IN THE RESOLUTION OR TRUST AGREEMENT;

(6) BE A "SECURITY" WITHIN THE MEANING OF § 8-102 OF THE COMMERCIAL LAW ARTICLE, WHETHER OR NOT EACH BOND IS ONE OF A CLASS OR SERIES OR IS DIVISIBLE BY ITS TERMS INTO A CLASS OR SERIES OF INSTRUMENTS;

(7) BE NEGOTIABLE FOR ALL PURPOSES ALTHOUGH PAYABLE FROM A LIMITED SOURCE, NOTWITHSTANDING ANY OTHER LAW;

(8) BE PAYABLE IN LAWFUL MONEY OF THE UNITED STATES AT A DESIGNATED PLACE;

(9) BE SUBJECT TO THE TERMS OF PURCHASE, PAYMENT, REDEMPTION, REFUNDING, OR REFINANCING AS PROVIDED IN THE RESOLUTION OR TRUST AGREEMENT;

(10) SUBJECT TO SUBSECTION (D) OF THIS SECTION, BE EXECUTED BY THE MANUAL OR FACSIMILE SIGNATURES OF THE OFFICERS OF THE AUTHORITY DESIGNATED BY THE AUTHORITY;

(11) BE SOLD IN THE MANNER AND ON THE TERMS DETERMINED BY THE AUTHORITY, INCLUDING COMPETITIVE OR NEGOTIATED SALE; AND

(12) ARE EXEMPT FROM §§ 8-206 AND 8-208 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(d) VALIDITY OF OFFICERS' SIGNATURES.

AN OFFICER'S SIGNATURE OR FACSIMILE SIGNATURE ON A BOND OF THE AUTHORITY REMAINS VALID AT DELIVERY EVEN IF THE OFFICER LEAVES OFFICE BEFORE THE BOND IS DELIVERED.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-712(a)(3).

In subsection (c)(11) of this section, the reference to "competitive" sale is added for clarity and consistency within this title.

Subsection (d) of this section is revised in standard language for consistency within this article.

Defined terms: "Authority" § 10-601

"Bond" § 10-601

"State" § 9-101

10-631. RESOLUTIONS AND TRUST AGREEMENTS — ADDITIONAL PROVISIONS.

A RESOLUTION OF THE AUTHORITY OR A TRUST AGREEMENT BETWEEN THE AUTHORITY AND A CORPORATE TRUSTEE MAY CONTAIN PROVISIONS THAT SHALL BE PART OF THE CONTRACT BETWEEN THE AUTHORITY AND THE HOLDERS OF THE BONDS AS TO:

(1) (i) THE PLEDGING, ASSIGNING, OR DIRECTING THE USE, INVESTMENT, OR DISPOSITION OF RECEIPTS OF THE AUTHORITY OR PROCEEDS OR BENEFITS OF ANY CONTRACT; AND

(ii) THE CONVEYING OR OTHERWISE SECURING OF ANY PROPERTY OR PROPERTY RIGHTS;

(2) DEBT SERVICE RESERVES, CAPITALIZED INTEREST ACCOUNTS, COST OF ISSUANCE ACCOUNTS, SINKING FUNDS, AND THE SETTING ASIDE OF DEPOSITS, AND THE REGULATION, INVESTMENT, AND DISPOSITION OF THE FUNDS SPECIFIED IN THIS ITEM;

(3) LIMITATIONS ON THE USE AND INVESTMENT OF BOND PROCEEDS;

(4) RESTRICTIONS ON THE INVESTMENT OF REVENUES OR BOND PROCEEDS TO GOVERNMENT OBLIGATIONS THE PRINCIPAL AND INTEREST OF WHICH ARE UNCONDITIONALLY GUARANTEED BY THE UNITED STATES OF AMERICA;

(5) LIMITATIONS AND CONDITIONS RELATING TO THE ISSUANCE OF ADDITIONAL BONDS, WHICH MAY RANK ON A PARITY WITH, OR BE SUBORDINATE OR SUPERIOR TO, OTHER BONDS;

(6) THE REFUNDING OR REFINANCING OF OUTSTANDING BONDS;

(7) (i) THE PROCEDURES BY WHICH THE TERMS OF A CONTRACT WITH BONDHOLDERS MAY BE AMENDED; AND

(ii) THE AMOUNT OF BONDS THE HOLDERS OF WHICH ARE NEEDED TO CONSENT TO AN AMENDMENT UNDER ITEM (i) OF THIS ITEM AND THE MANNER OF THAT CONSENT;

(8) DESCRIBING AUTHORITY DEFAULTS AND THE RIGHTS AND REMEDIES OF BONDHOLDERS;

(9) PROVIDING FOR GUARANTEES, PLEDGES OF PROPERTY, LETTERS OF CREDIT, OR OTHER SECURITY, OR INSURANCE FOR THE BENEFIT OF BONDHOLDERS; AND

(10) ANY OTHER MATTER RELATING TO THE BONDS THAT THE AUTHORITY DETERMINES APPROPRIATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-712(b).

In the introductory language of this section, the phrases "of the Authority" and "between the Authority and a corporate trustee" are added for clarity.

In item (2) of this section, the provisions of former FI § 13-113(b)(2) are restructured for clarity.

Item (5) of this section simplifies the provisions of former FI § 13-712(b)(4).

Defined terms: "Authority" § 10-601
"Bond" § 10-601

10-632. PERSONAL LIABILITY OF AUTHORITY MEMBER — EXEMPTION.

NEITHER A MEMBER OF THE AUTHORITY NOR ANY OTHER PERSON EXECUTING THE BONDS IS SUBJECT TO ANY PERSONAL LIABILITY BECAUSE OF THE ISSUANCE OF THE BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-712(c).

In this section, the former phrase "shall be liable personally" is deleted as surplusage.

Defined terms: "Authority" § 10-601
"Bond" § 10-601

10-633. AGREEMENT FOR ENHANCING MARKETABILITY OF BONDS.

THE AUTHORITY MAY ENTER INTO AGREEMENTS FOR THE PURPOSE OF ENHANCING THE MARKETABILITY OF, OR TO PROVIDE SECURITY FOR, ITS BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-712(d).

The former phrase "with agents, banks, insurers, or others" is deleted because it may not cover the universe of entities with which the Authority may make agreements as to the marketability or security of its bonds.

Defined terms: "Authority" § 10-601
"Bond" § 10-601

10-634. PLEDGES OF REVENUES BY AUTHORITY.

(A) PLEDGES AS SECURITY.

A PLEDGE BY THE AUTHORITY OF REVENUES AS SECURITY FOR AN ISSUE OF BONDS IS VALID AND BINDING FROM WHEN THE PLEDGE IS MADE.

(B) PLEDGED REVENUES SUBJECT TO LIEN OF PLEDGE.

(1) THE REVENUES PLEDGED ARE IMMEDIATELY SUBJECT TO THE LIEN OF THE PLEDGE WITHOUT ANY PHYSICAL DELIVERY OR FURTHER ACT.

(2) THE LIEN OF ANY PLEDGE IS VALID AND BINDING AGAINST ANY PERSON HAVING A CLAIM AGAINST THE AUTHORITY IN TORT, CONTRACT, OR OTHERWISE, REGARDLESS OF WHETHER THE PERSON HAS NOTICE OF THE LIEN.

(C) PERFECTING LIEN OF PLEDGED REVENUES.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN ORDER TO PERFECT A LIEN ON PLEDGED REVENUES AGAINST A THIRD PERSON, IT IS NOT NECESSARY TO FILE OR RECORD ANY DOCUMENT ADOPTED OR ENTERED INTO BY THE AUTHORITY IN ANY PUBLIC RECORD OTHER THAN IN THE RECORDS OF THE AUTHORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-712(e).

In subsection (c) of this section, the former specific reference to a "resolution, trust agreement or financing statement, construction statement, or other instrument adopted or entered into by the Authority" is deleted in light of the reference to "any document".

Defined term: "Authority" § 10-601

10-635. ENFORCEMENT OF RIGHTS BY BONDHOLDERS.

EXCEPT TO THE EXTENT RESTRICTED BY AN APPLICABLE RESOLUTION OR TRUST AGREEMENT, A BONDHOLDER OR A TRUSTEE ACTING UNDER A TRUST AGREEMENT ENTERED INTO UNDER THIS SUBTITLE, MAY, BY ANY SUITABLE FORM OF LEGAL PROCEEDINGS, PROTECT AND ENFORCE ANY RIGHTS GRANTED UNDER THE LAWS OF THE STATE OR BY ANY APPLICABLE RESOLUTION OR TRUST AGREEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-712(f).

Defined terms: "Bond" § 10-601
"State" § 9-101

10-636. REFUNDING BONDS.

(A) PURPOSE.

SUBJECT TO THE PRIOR APPROVAL OF THE BOARD OF PUBLIC WORKS, THE AUTHORITY MAY ISSUE BONDS TO REFUND ANY OF ITS OUTSTANDING BONDS, INCLUDING THE PAYMENT OF:

(1) ANY REDEMPTION PREMIUM; AND

(2) ANY INTEREST ACCRUED OR THAT WILL ACCRUE TO THE EARLIEST OR ANY SUBSEQUENT DATE OF REDEMPTION, PURCHASE, OR MATURITY OF THE BONDS.

(B) METHODS OF ISSUANCE.

(1) FOR THE PUBLIC PURPOSE OF ACHIEVING A SAVINGS IN THE EFFECTIVE COSTS OF DEBT SERVICE OR ALLEVIATING IMPENDING OR ACTUAL DEFAULT, THE AUTHORITY MAY ISSUE REFUNDING BONDS DIRECTLY OR THROUGH A DEBT RESTRUCTURING.

(2) THE BONDS AUTHORIZED BY THIS SUBSECTION MAY BE ISSUED IN ONE OR MORE SERIES AND IN AN AMOUNT IN EXCESS OF THAT OF THE BONDS TO BE REFUNDED.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-712(g).

Defined terms: "Authority" § 10-601

"Bond" § 10-601

10-637. RESERVED.

10-638. RESERVED.

PART V. RESTRICTIONS ON BONDS AND BORROWING.

10-639. GENERAL RESTRICTIONS ON BONDS AND BORROWING.

THE CLOSING ON THE SALE OF BONDS THAT CONSTITUTE TAX SUPPORTED DEBT, AND OTHER BORROWING OF MONEY IN AMOUNTS EXCEEDING \$35,000 A YEAR, TO FINANCE ANY SEGMENT OF A FACILITY BY THE AUTHORITY IS GOVERNED BY THIS PART.

REVISOR'S NOTE: This section is new language derived from the introductory language of former FI § 13-712.1.

This section is revised as a scope provision with respect to the authority of the Authority to issue bonds and otherwise borrow money in excess of \$35,000 a year.

Defined terms: "Authority" § 10-601

"Bond" § 10-601

"Facility" § 10-601

"Tax supported debt" § 10-601

10-640. BALTIMORE CONVENTION FACILITY.

(A) SITE ACQUISITION AND CONSTRUCTION OF FACILITY.

EXCEPT AS ALLOWED BY § 10-639 OF THIS SUBTITLE, TO FINANCE SITE ACQUISITION AND CONSTRUCTION, THE AUTHORITY SHALL COMPLY WITH THIS SECTION.

(B) 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 FINANCING PLAN ON FINANCING OPTIONS FOR OTHER SEGMENTS OF THE FACILITY.

(C) APPROVAL OF PLAN BY BOARD OF PUBLIC WORKS.

THE AUTHORITY SHALL OBTAIN THE APPROVAL OF THE BOARD OF PUBLIC WORKS OF THE PROPOSED BOND ISSUE AND THE FINANCING PLAN.

(D) LEASE OR OTHER WRITTEN AGREEMENT — FINANCIAL RESPONSIBILITIES.

THE AUTHORITY SHALL SECURE A LEASE OR OTHER WRITTEN AGREEMENT WITH BALTIMORE CITY, AS APPROVED BY THE BOARD OF PUBLIC WORKS, UNDER WHICH:

(1) BALTIMORE CITY AGREES TO PAY \$50,000,000 FOR THE CAPITAL COSTS OF THE EXPANSION OF THE BALTIMORE CONVENTION CENTER NOT LATER THAN THE DATE OF THE AUTHORITY'S BOND ISSUANCE AS AUTHORIZED UNDER § 10-628 OF THIS SUBTITLE;

(2) BALTIMORE CITY AND THE AUTHORITY EACH OWN A 50% LEASEHOLD INTEREST AS TENANTS IN COMMON IN THE IMPROVEMENTS COMPRISING THE EXISTING BALTIMORE CONVENTION CENTER AND THE BALTIMORE CONVENTION CENTER EXPANSION FOR THE DURATION OF ANY BONDS ISSUED AS AUTHORIZED UNDER § 10-628 OF THIS SUBTITLE; AND

(3) BALTIMORE CITY AND THE AUTHORITY AGREE NOT TO SELL, ASSIGN, MORTGAGE, PLEDGE, OR ENCUMBER THE BALTIMORE CONVENTION FACILITY, OR ANY LEASEHOLD INTEREST IN THE FACILITY, WITHOUT THE PRIOR CONSENT OF THE OTHER, EXCEPT FOR LIENS IN FAVOR OF THEIR RESPECTIVE BONDHOLDERS.

(E) LEASE OR OTHER WRITTEN AGREEMENT — CONSTRUCTION.

THE AUTHORITY SHALL SECURE A DEED, LEASE, OR WRITTEN AGREEMENT WITH BALTIMORE CITY, AS APPROVED BY THE BOARD OF PUBLIC WORKS, AUTHORIZING THE AUTHORITY TO:

(1) DESIGN AND CONSTRUCT, OR CONTRACT FOR THE DESIGN AND CONSTRUCTION OF, THE BALTIMORE CONVENTION FACILITY; AND

(2) PLEDGE THE BALTIMORE CONVENTION FACILITY AND THE BALTIMORE CONVENTION SITE OR THE LEASEHOLD INTEREST IN THE FACILITY AS SECURITY FOR THE AUTHORITY'S BONDS.

(F) WRITTEN AGREEMENT WITH BALTIMORE CITY.

THE AUTHORITY SHALL SECURE A WRITTEN AGREEMENT WITH BALTIMORE CITY, AS APPROVED BY THE BOARD OF PUBLIC WORKS:

(1) IN WHICH BALTIMORE CITY AGREES TO:

(I) OPERATE THE BALTIMORE CONVENTION FACILITY IN A MANNER THAT MAXIMIZES THE FACILITY'S ECONOMIC RETURN; AND

(II) MAINTAIN AND REPAIR THE FACILITY SO AS TO KEEP IT IN FIRST CLASS OPERATING CONDITION; AND

(2) THAT INCLUDES PROVISIONS THAT:

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(I) PROTECT THE RESPECTIVE INVESTMENT OF THE AUTHORITY, THE STATE, AND BALTIMORE CITY IN THE BALTIMORE CONVENTION FACILITY;

(II) REQUIRE:

1. FOR THE PERIOD BEGINNING ON THE COMPLETION OF THE EXPANDED AND RENOVATED BALTIMORE CONVENTION FACILITY AND ENDING ON JUNE 30, 2008:

A. THE AUTHORITY TO CONTRIBUTE TWO—THIRDS AND BALTIMORE CITY TO CONTRIBUTE ONE—THIRD TO ANNUAL OPERATING DEFICITS; AND

B. THE AUTHORITY AND BALTIMORE CITY EACH TO CONTRIBUTE \$200,000 EACH YEAR TO A CAPITAL IMPROVEMENT RESERVE FUND; AND

2. BALTIMORE CITY TO BE SOLELY RESPONSIBLE FOR ALL OPERATING DEFICITS AND CAPITAL IMPROVEMENTS:

A. BEFORE THE COMPLETION OF THE EXPANDED AND RENOVATED BALTIMORE CONVENTION FACILITY; AND

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 FINANCING PLAN ON FINANCING OPTIONS FOR OTHER SEGMENTS OF THE FACILITY AND ANTICIPATED REVENUES FROM PRIVATE INVESTMENT.

(D) **APPROVAL OF PLAN BY BOARD OF PUBLIC WORKS.**

THE AUTHORITY SHALL OBTAIN THE APPROVAL OF THE BOARD OF PUBLIC WORKS OF THE PROPOSED BOND ISSUE AND THE FINANCING PLAN.

(E) **WRITTEN AGREEMENT — FINANCIAL RESPONSIBILITIES.**

THE AUTHORITY SHALL SECURE ONE OR MORE WRITTEN AGREEMENTS, AS APPROVED BY THE BOARD OF PUBLIC WORKS:

(1) ESTABLISHING COMMITMENTS FOR PAYMENTS TO THE AUTHORITY OF AMOUNTS THAT SHALL BE USED BY THE AUTHORITY TO FUND \$60,000,000 OF TOTAL ACQUISITION AND CAPITAL COSTS OF CONSTRUCTION OF THE HIPPODROME PERFORMING ARTS FACILITY; AND

(2) **UNDER WHICH:**

(I) **BALTIMORE CITY AGREES TO PAY \$6,000,000:**

1. \$2,000,000 OF WHICH SHALL BE DEPOSITED TO THE HIPPODROME PERFORMING ARTS FUND BY JULY 1, 2000; AND

2. \$4,000,000 OF WHICH SHALL BE DEPOSITED TO THE HIPPODROME PERFORMING ARTS FUND:

A. BY NOT LATER THAN THE DATE OF THE AUTHORITY'S BOND ISSUANCE AS AUTHORIZED UNDER § 10-628 OF THIS SUBTITLE; OR

B. IN \$2,000,000 INCREMENTS, IN EACH OF THE NEXT 2 SUCCEEDING YEARS, FROM THE PROCEEDS OF BOND ISSUANCES THAT HAVE RECEIVED

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VOTER APPROVAL BY NOT LATER THAN THE DATE OF THE AUTHORITY'S BOND ISSUANCE AS AUTHORIZED UNDER § 10-628 OF THIS SUBTITLE;

(II) THE STATE HAS DEPOSITED TO THE HIPPODROME PERFORMING ARTS FUND AN AGGREGATE AMOUNT OF \$16,500,000 OR A LESSER AMOUNT AS IS AVAILABLE TO THE AUTHORITY AND NOT SUBJECT TO ANY BUDGET CONTINGENCIES;

(III) THE AUTHORITY AGREES TO:

1. ISSUE BONDS AS AUTHORIZED UNDER § 10-628 OF THIS SUBTITLE; AND

2. USE \$17,400,000 OF THE PROCEEDS FROM THE SALE OF THE BONDS IN THE MANNER AND FOR THE PURPOSES DESCRIBED IN THIS SECTION; AND

(IV) ONE OR MORE PRIVATE ENTITIES, WHICH MAY INCLUDE AN AUTHORITY AFFILIATE, AS PRIVATE FUNDING SOURCES:

1. DEPOSIT TO THE HIPPODROME PERFORMING ARTS FUND, NOT LATER THAN THE DATE OF THE AUTHORITY'S BOND ISSUANCE AS AUTHORIZED UNDER § 10-628 OF THIS SUBTITLE, AT LEAST \$8,000,000;

2. AGREE, NOT LATER THAN THE DATE OF THE AUTHORITY'S BOND ISSUANCE AS AUTHORIZED UNDER § 10-628 OF THIS SUBTITLE, TO PAY:

A. AN ADDITIONAL \$12,100,000; AND

B. ALL ACTUAL ACQUISITION AND CAPITAL COSTS OF CONSTRUCTION OF THE HIPPODROME PERFORMING ARTS FACILITY TO THE EXTENT THE COSTS EXCEEDED \$60,000,000; AND

3. AGREE THAT ANY SAVINGS FROM ACQUISITION OR CAPITAL COSTS ON COMPLETION OF THE HIPPODROME PERFORMING ARTS FACILITY SHALL BE PAID TO THE AUTHORITY.

(F) WRITTEN AGREEMENT BETWEEN AUTHORITY AND UNIVERSITY SYSTEM OF MARYLAND.

THE AUTHORITY SHALL SECURE A WRITTEN AGREEMENT WITH THE UNIVERSITY SYSTEM OF MARYLAND, AS APPROVED BY THE BOARD OF PUBLIC WORKS, UNDER WHICH THE UNIVERSITY SYSTEM OF MARYLAND AGREES TO TRANSFER TO THE AUTHORITY FEE TITLE TO THE PROPERTY KNOWN AS THE HIPPODROME THEATRE, 12 NORTH EUTAW STREET, DESCRIBED IN THE BALTIMORE CITY LAND RECORDS IN LIBER S.E.B. 6259, FOLIO 38.

(G) WRITTEN AGREEMENT BETWEEN AUTHORITY AND AUTHORITY AFFILIATE.

THE AUTHORITY SHALL SECURE A WRITTEN AGREEMENT WITH AN AUTHORITY AFFILIATE, AS APPROVED BY THE BOARD OF PUBLIC WORKS, BY WHICH THE AUTHORITY AFFILIATE AGREES:

(1) TO MARKET, PROMOTE, AND OPERATE OR CONTRACT, SUBJECT TO THE APPROVAL OF THE AUTHORITY, FOR THE MARKETING, PROMOTION, AND OPERATION OF THE HIPPODROME PERFORMING ARTS FACILITY;

(2) TO MAINTAIN AND REPAIR OR CONTRACT, SUBJECT TO THE APPROVAL OF THE AUTHORITY, FOR THE MAINTENANCE AND REPAIR OF THE HIPPODROME PERFORMING ARTS FACILITY SO AS TO KEEP THE HIPPODROME PERFORMING ARTS FACILITY IN FIRST CLASS OPERATING CONDITION;

(3) TO PAY TO THE AUTHORITY FOR THE DURATION OF ANY BONDS ISSUED AS AUTHORIZED UNDER § 10-628 OF THIS SUBTITLE AN AMOUNT EQUAL TO \$2 PER TICKET SOLD FOR ADMISSION TO THE HIPPODROME PERFORMING ARTS FACILITY; AND

(4) TO BE SOLELY RESPONSIBLE FOR ALL EXPENDITURES RELATING TO THE OPERATION, MAINTENANCE, AND REPAIR OF THE HIPPODROME PERFORMING ARTS FACILITY THAT MAY BE INCURRED, INCLUDING THE AMOUNT BY WHICH EXPENDITURES EXCEED REVENUES.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-712.1(2), (3), (8), and its introductory language, and, as it related to the Hippodrome Performing Arts Center, (1).

In subsection (a) of this section, the introductory clause is added for clarity.

In subsection (b) of this section, the language of former FI § 13-712.1(1) relating to certification of efforts to maximize private investment in the Hippodrome facility has been revised and incorporated into subsection (b).

Defined terms: "Authority" § 10-601

"Bond" § 10-601

"Hippodrome Performing Arts facility" § 10-601

"State" § 9-101

10-642. MONTGOMERY COUNTY CONFERENCE 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 MONTGOMERY COUNTY CONFERENCE FACILITY, THE AUTHORITY SHALL COMPLY WITH THIS SECTION.

(B) 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 FINANCING PLAN ON FINANCING OPTIONS FOR OTHER SEGMENTS OF THE FACILITY.

(C) APPROVAL OF THE PLAN BY BOARD OF PUBLIC WORKS.

THE AUTHORITY SHALL OBTAIN THE APPROVAL OF THE BOARD OF PUBLIC WORKS OF THE PROPOSED BOND ISSUE AND THE FINANCING PLAN.

(D) LEASE OR OTHER WRITTEN AGREEMENT — FINANCIAL RESPONSIBILITIES.

THE AUTHORITY SHALL SECURE A LEASE OR OTHER WRITTEN AGREEMENT WITH MONTGOMERY COUNTY, AS APPROVED BY THE BOARD OF PUBLIC WORKS, UNDER WHICH:

(1) MONTGOMERY COUNTY AGREES TO CONTRIBUTE \$13,196,000 FOR THE CAPITAL COSTS OF CONSTRUCTION OF THE MONTGOMERY COUNTY CONFERENCE CENTER NOT LATER THAN THE DATE OF THE AUTHORITY'S BOND ISSUANCE AS AUTHORIZED UNDER § 10-628 OF THIS SUBTITLE;

(2) THE AUTHORITY AGREES TO:

(I) ISSUE BONDS AS AUTHORIZED UNDER § 10-628 OF THIS SUBTITLE; AND

(II) CONTRIBUTE \$20,304,000 OF THE PROCEEDS FROM THE SALE OF THE BONDS FOR THE CAPITAL COSTS OF THE CONSTRUCTION OF THE MONTGOMERY COUNTY CONFERENCE CENTER;

(3) MONTGOMERY COUNTY AND THE AUTHORITY AGREE THAT IF THE ACTUAL CAPITAL COSTS FOR THE CONSTRUCTION OF THE MONTGOMERY COUNTY CONFERENCE CENTER ARE LESS THAN \$33,500,000, THE SAVINGS SHALL BE ALLOCATED:

(I) ONE-HALF TO THE AUTHORITY; AND

(II) ONE-HALF TO MONTGOMERY COUNTY;

(4) MONTGOMERY COUNTY AND THE AUTHORITY AGREE THAT IF THE ACTUAL CAPITAL COSTS FOR THE CONSTRUCTION OF THE MONTGOMERY COUNTY CONFERENCE CENTER ARE MORE THAN \$33,500,000, THE EXCESS SHALL BE SHARED:

(I) ONE-HALF BY THE AUTHORITY; AND

(II) ONE-HALF BY MONTGOMERY COUNTY;

(5) MONTGOMERY COUNTY AGREES TO PURCHASE THE LAND FOR THE MONTGOMERY COUNTY CONFERENCE SITE AS DEFINED IN § 10-601 OF THIS SUBTITLE, ON WHICH THE MONTGOMERY COUNTY CONFERENCE CENTER WILL BE CONSTRUCTED;

(6) MONTGOMERY COUNTY AND THE AUTHORITY EACH OWN A 50% LEASEHOLD INTEREST AS TENANTS IN COMMON IN THE MONTGOMERY COUNTY CONFERENCE FACILITY FOR THE DURATION OF ANY BONDS ISSUED AS AUTHORIZED UNDER § 10-628 OF THIS SUBTITLE; AND

(7) MONTGOMERY COUNTY AND THE AUTHORITY AGREE NOT TO SELL, ASSIGN, MORTGAGE, PLEDGE, OR ENCUMBER THE MONTGOMERY COUNTY CONFERENCE FACILITY, OR ANY LEASEHOLD INTEREST IN THE FACILITY, WITHOUT THE PRIOR CONSENT OF THE OTHER, EXCEPT FOR LIENS IN FAVOR OF THE AUTHORITY'S BONDHOLDERS.

(E) LEASE OR OTHER WRITTEN AGREEMENT — CONSTRUCTION.

THE AUTHORITY SHALL SECURE A DEED, LEASE, OR WRITTEN AGREEMENT WITH MONTGOMERY COUNTY, AS APPROVED BY THE BOARD OF PUBLIC WORKS, AUTHORIZING THE AUTHORITY TO:

(1) DESIGN, CONSTRUCT, AND EQUIP, OR CONTRACT FOR THE DESIGN, CONSTRUCTION, AND EQUIPPING OF, THE MONTGOMERY COUNTY CONFERENCE FACILITY; AND

(2) PLEDGE THE MONTGOMERY COUNTY CONFERENCE FACILITY AND THE MONTGOMERY COUNTY CONFERENCE SITE OR THE LEASEHOLD INTEREST IN THE FACILITY AS SECURITY FOR THE AUTHORITY'S BONDS.

(F) WRITTEN AGREEMENT WITH MONTGOMERY COUNTY — PURPOSES.

THE AUTHORITY SHALL SECURE A WRITTEN AGREEMENT WITH MONTGOMERY COUNTY, AS APPROVED BY THE BOARD OF PUBLIC WORKS:

(1) IN WHICH MONTGOMERY COUNTY AGREES:

(I) TO MARKET, PROMOTE, AND OPERATE OR CONTRACT FOR THE MARKETING, PROMOTION, AND OPERATION OF THE MONTGOMERY COUNTY CONFERENCE FACILITY IN A MANNER THAT MAXIMIZES THE FACILITY'S ECONOMIC RETURN TO THE COMMUNITY; AND

(II) TO MAINTAIN AND REPAIR OR CONTRACT FOR THE MAINTENANCE AND REPAIR OF THE MONTGOMERY COUNTY CONFERENCE FACILITY SO AS TO KEEP THE MONTGOMERY COUNTY CONFERENCE FACILITY IN FIRST CLASS OPERATING CONDITION; AND

(2) THAT INCLUDES PROVISIONS THAT:

(I) PROTECT THE RESPECTIVE INVESTMENTS OF THE AUTHORITY AND MONTGOMERY COUNTY IN THE MONTGOMERY COUNTY CONFERENCE FACILITY;

(II) REQUIRE MONTGOMERY COUNTY TO CONTRIBUTE TO A CAPITAL IMPROVEMENT RESERVE FUND IN AN AMOUNT SUFFICIENT TO KEEP THE CONFERENCE CENTER IN FIRST CLASS OPERATING CONDITION;

(III) REQUIRE MONTGOMERY COUNTY TO BE SOLELY RESPONSIBLE FOR ALL EXPENDITURES RELATING TO THE OPERATION OF THE MONTGOMERY COUNTY CONFERENCE FACILITIES THAT MAY BE INCURRED, INCLUDING THE AMOUNT BY WHICH EXPENDITURES EXCEED REVENUES;

(IV) ALLOW MONTGOMERY COUNTY TO KEEP ALL OPERATING PROFITS RESULTING FROM THE OPERATION OF THE MONTGOMERY COUNTY CONFERENCE FACILITY EACH YEAR;

(V) PROVIDE FOR REMEDIES ON DEFAULT, INCLUDING THE RIGHT OF THE AUTHORITY, IF A MATERIAL DEFAULT BY MONTGOMERY COUNTY IS NOT CORRECTED AFTER A REASONABLE NOTICE AND CURE PERIOD, TO:

1. IMMEDIATELY ASSUME RESPONSIBILITY FOR MAINTENANCE AND REPAIRS OF THE MONTGOMERY COUNTY CONFERENCE FACILITY; AND

2. OFFSET THE COSTS OF THE MAINTENANCE AND REPAIRS AGAINST OTHER AMOUNTS OWED BY THE AUTHORITY TO MONTGOMERY COUNTY, WHETHER UNDER THE OPERATING AGREEMENT WITH MONTGOMERY COUNTY OR OTHERWISE;

(VI) AUTHORIZE THE AUTHORITY TO SELECT, THROUGH A COOPERATIVE PROCUREMENT AGREEMENT, A CONTRACTOR TO DEVELOP, DESIGN, CONSTRUCT, OPERATE, AND MANAGE THE MONTGOMERY COUNTY CONFERENCE FACILITY DURING THE PERIOD THAT THE BONDS ISSUED BY THE AUTHORITY FOR THE MONTGOMERY COUNTY CONFERENCE FACILITY ARE OUTSTANDING;

(VII) ALLOW FOR THE ESTABLISHMENT OF A BOARD OF DIRECTORS TO MANAGE THE MONTGOMERY COUNTY CONFERENCE FACILITY;

(VIII) PROVIDE THAT THE BOARD OF DIRECTORS MAY INCLUDE REPRESENTATIVES OF THE AUTHORITY, MONTGOMERY COUNTY, THE PRIVATE DEVELOPER, AND THE COMMUNITY; AND

(IX) PROVIDE THAT, UNLESS ACTION IS TAKEN TO CREATE A LEGAL ENTITY, THE BOARD OF DIRECTORS IS NOT A SEPARATE LEGAL ENTITY.

(G) AGREEMENT AMONG MONTGOMERY COUNTY, AUTHORITY, AND PRIVATE DEVELOPER.

THE AUTHORITY SHALL SECURE AN AGREEMENT AMONG MONTGOMERY COUNTY, THE AUTHORITY, AND A PRIVATE DEVELOPER, AS APPROVED BY THE BOARD OF PUBLIC WORKS, THAT PROVIDES FOR:

(1) THE ACQUISITION, CONSTRUCTION, AND OPERATION OF A HOTEL ADJACENT TO THE MONTGOMERY COUNTY CONFERENCE FACILITY; AND

(2) A CAPITAL COMMITMENT FROM THE DEVELOPER FOR THE HOTEL AND, AS APPROPRIATE, SHARED FACILITIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-712.1(2), (3), and (7), and the introductory language.

In subsection (a) of this section, the introductory clause is added for clarity.

Defined terms: "Authority" § 10-601

"Bond" § 10-601

"Montgomery County" § 10-601

"Montgomery County Conference facility" § 10-601

10-643. OCEAN CITY CONVENTION 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 AN OCEAN CITY CONVENTION FACILITY, THE AUTHORITY SHALL COMPLY WITH THIS SECTION.

(B) 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 FINANCING PLAN ON FINANCING OPTIONS FOR OTHER SEGMENTS OF THE FACILITY.

(C) APPROVAL OF PLAN BY BOARD OF PUBLIC WORKS.

THE AUTHORITY SHALL OBTAIN THE APPROVAL OF THE BOARD OF PUBLIC WORKS OF THE PROPOSED BOND ISSUE AND THE FINANCING PLAN.

(D) LEASE OR OTHER WRITTEN AGREEMENT — PURPOSES.

THE AUTHORITY SHALL SECURE A LEASE OR OTHER WRITTEN AGREEMENT WITH OCEAN CITY, AS APPROVED BY THE BOARD OF PUBLIC WORKS, UNDER WHICH:

(1) OCEAN CITY AGREES TO:

(I) ISSUE BONDS NOT LATER THAN THE DATE OF THE AUTHORITY'S BOND ISSUANCE AS AUTHORIZED UNDER § 10-628 OF THIS SUBTITLE; AND

(II) CONTRIBUTE \$14,700,000 OF THE PROCEEDS FROM THE SALE OF THE BONDS FOR THE CAPITAL COSTS OF THE EXPANSION OF THE OCEAN CITY CONVENTION CENTER;

(2) THE AUTHORITY AGREES TO:

(I) ISSUE BONDS AS AUTHORIZED UNDER § 10-628 OF THIS SUBTITLE; AND

(II) CONTRIBUTE \$14,700,000 OF THE PROCEEDS FROM THE SALE OF THE BONDS FOR THE CAPITAL COSTS OF THE EXPANSION OF THE OCEAN CITY CONVENTION CENTER;

(3) OCEAN CITY AND THE AUTHORITY AGREE THAT IF THE ACTUAL CAPITAL COSTS OF THE EXPANSION OF THE OCEAN CITY CONVENTION CENTER ARE LESS THAN \$29,400,000, THE SAVINGS SHALL BE ALLOCATED:

(I) ONE-HALF TO THE AUTHORITY; AND

(II) ONE-HALF TO OCEAN CITY;

(4) OCEAN CITY AGREES TO PROVIDE THE OCEAN CITY CONVENTION SITE, AS DEFINED IN § 10-601 OF THIS SUBTITLE, FOR THE EXPANSION AND RENOVATION OF THE OCEAN CITY CONVENTION FACILITY;

(5) OCEAN CITY AND THE AUTHORITY SHALL EACH OWN A 50% LEASEHOLD INTEREST AS TENANTS IN COMMON IN THE IMPROVEMENTS COMPRISING THE EXISTING OCEAN CITY CONVENTION CENTER AND THE OCEAN CITY CONVENTION CENTER EXPANSION FOR THE DURATION OF ANY BONDS ISSUED AS AUTHORIZED UNDER § 10-628 OF THIS SUBTITLE; AND

(6) OCEAN CITY AND THE AUTHORITY AGREE NOT TO SELL, ASSIGN, MORTGAGE, PLEDGE, OR ENCUMBER THE OCEAN CITY CONVENTION FACILITY, OR ANY LEASEHOLD INTEREST IN THE FACILITY, WITHOUT THE PRIOR CONSENT OF THE OTHER, EXCEPT FOR LIENS IN FAVOR OF THEIR RESPECTIVE BONDHOLDERS.

(E) DEED, LEASE, OR AGREEMENT WITH OCEAN CITY — IN GENERAL.

THE AUTHORITY SHALL SECURE A DEED, LEASE, OR WRITTEN AGREEMENT WITH OCEAN CITY, AS APPROVED BY THE BOARD OF PUBLIC WORKS, AUTHORIZING THE AUTHORITY TO:

(1) DESIGN, CONSTRUCT, AND EQUIP, OR CONTRACT FOR THE DESIGN, CONSTRUCTION, AND EQUIPPING OF THE OCEAN CITY CONVENTION FACILITY EXPANSION; AND

(2) PLEDGE THE OCEAN CITY CONVENTION FACILITY AND THE OCEAN CITY CONVENTION SITE OR THE LEASEHOLD INTEREST IN THE FACILITY AS SECURITY FOR THE AUTHORITY'S BONDS.

(F) FINANCIAL RESPONSIBILITIES UNDER AGREEMENT.

(1) THE AUTHORITY SHALL SECURE A WRITTEN AGREEMENT WITH OCEAN CITY, AS APPROVED BY THE BOARD OF PUBLIC WORKS:

(I) IN WHICH OCEAN CITY AGREES TO:

1. SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, MARKET, PROMOTE, AND OPERATE THE OCEAN CITY CONVENTION FACILITY IN A MANNER THAT MAXIMIZES THE FACILITY'S ECONOMIC RETURN;

2. MAINTAIN AND REPAIR THE FACILITY SO AS TO KEEP IT IN FIRST CLASS OPERATING CONDITION; AND

3. BE SOLELY RESPONSIBLE FOR ALL OPERATING DEFICITS AND CAPITAL IMPROVEMENTS:

A. BEFORE THE COMPLETION OF THE EXPANDED AND RENOVATED OCEAN CITY CONVENTION FACILITY; AND

B. AFTER THE REPAYMENT OF THE OCEAN CITY CONVENTION FACILITY BONDS ISSUED BY THE AUTHORITY.

(II) THAT INCLUDES PROVISIONS THAT:

1. PROTECT THE RESPECTIVE INVESTMENT OF THE AUTHORITY AND OCEAN CITY;

2. REQUIRE:

A. THE AUTHORITY TO CONTRIBUTE ONE-HALF AND OCEAN CITY TO CONTRIBUTE ONE-HALF TO OPERATING DEFICITS; AND

B. THE AUTHORITY AND OCEAN CITY EACH TO CONTRIBUTE \$50,000 EACH YEAR TO A CAPITAL IMPROVEMENT RESERVE FUND, FOR THE PERIOD

BEGINNING ON THE COMPLETION OF THE EXPANDED AND RENOVATED OCEAN CITY CONVENTION FACILITY AND CONTINUING DURING THE PERIOD THAT THE OCEAN CITY CONVENTION FACILITY BONDS ISSUED BY THE AUTHORITY ARE OUTSTANDING; AND

3. PROVIDE FOR REMEDIES ON DEFAULT, INCLUDING THE RIGHT OF THE AUTHORITY, IF A MATERIAL DEFAULT BY OCEAN CITY IS NOT CORRECTED AFTER A REASONABLE NOTICE AND CURE PERIOD, TO:

A. IMMEDIATELY ASSUME RESPONSIBILITY FOR MAINTENANCE AND REPAIRS OF THE OCEAN CITY CONVENTION FACILITY; AND

B. OFFSET THE COSTS OF THE MAINTENANCE AND REPAIRS AGAINST OTHER AMOUNTS OWED BY THE AUTHORITY TO OCEAN CITY, WHETHER UNDER THE OPERATING AGREEMENT WITH OCEAN CITY OR OTHERWISE.

(2) PARAGRAPH (1)(I)1 OF THIS SUBSECTION MAY NOT BE CONSTRUED TO REQUIRE GAMBLING ACTIVITIES IN THE OCEAN CITY CONVENTION FACILITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-712.1(2), (3), and (6) and the introductory language.

In subsection (a) of this section, the introductory clause is added for clarity.

Defined terms: "Authority" § 10-601

"Bond" § 10-601

"Improvement" § 10-601

"Ocean City Convention facility" § 10-601

"State" § 9-101

10-644. SPORTS FACILITIES.

(A) IN GENERAL.

EXCEPT AS ALLOWED BY § 10-639 OF THIS SUBTITLE, TO FINANCE ACQUISITION AND CONSTRUCTION OF ANY SEGMENT OF A SPORTS 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:

(1) TO MAXIMIZE PRIVATE INVESTMENT IN THE SPORTS FACILITY PROPOSED TO BE FINANCED; AND

(2) WITH RESPECT TO A BASEBALL OR FOOTBALL STADIUM, TO MAXIMIZE THE STATE'S ABILITY TO ENSURE THAT THE PROFESSIONAL BASEBALL AND FOOTBALL FRANCHISES WILL REMAIN PERMANENTLY IN THE STATE.

(C) APPROVAL OF BOND ISSUE — REQUIREMENTS.

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 FINANCING PLAN ON FINANCING OPTIONS FOR OTHER SEGMENTS OF THE FACILITY AND ANTICIPATED REVENUES FROM PRIVATE INVESTMENT.

(D) APPROVAL OF PLAN BY BOARD OF PUBLIC WORKS.

THE AUTHORITY SHALL OBTAIN THE APPROVAL OF THE BOARD OF PUBLIC WORKS OF THE PROPOSED BOND ISSUE AND THE FINANCING PLAN.

(E) LONG-TERM LEASE — REQUIREMENTS.

THE AUTHORITY SHALL SECURE, AS APPROVED BY THE BOARD OF PUBLIC WORKS:

(1) WITH RESPECT TO SITE ACQUISITION AND THE CONSTRUCTION OF A BASEBALL STADIUM, A LONG-TERM LEASE FOR A MAJOR LEAGUE PROFESSIONAL BASEBALL TEAM; OR

(2) SUBJECT TO § 10-617 OF THIS SUBTITLE, WITH RESPECT TO SITE ACQUISITION AND THE CONSTRUCTION OF A FOOTBALL STADIUM:

(I) A FRANCHISE FOR A NATIONAL FOOTBALL LEAGUE TEAM; AND

(II) A LONG-TERM LEASE THAT INCLUDES A PROVISION REQUIRING THE FOOTBALL TEAM THAT LEASES THE STADIUM TO AGREE TO REIMBURSE THE AUTHORITY:

1. FOR \$24,000,000 IN STADIUM CONSTRUCTION COSTS, INCLUDING THE CONSTRUCTION, FITTING OUT, AND FURNISHING OF THE PRIVATE SUITES THAT ARE PART OF THE FOOTBALL STADIUM; AND

2. ON THE TERMS AND CONDITIONS DETERMINED BY THE AUTHORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI § 13-712.1(2), (3), (4)(i) and (ii), and its introductory language, and, as it related to sports facilities, (1).

In subsection (b) of this section, the language of former FI § 13-712.1(1) relating to certification of efforts to maximize private investment is incorporated into the introductory language of subsection (b).

In subsection (c)(2) of this section, the phrase "a report on" is added to clarify how the Authority is to present information on the effect of the financing plan.

Defined terms: "Authority" § 10-601

"Bond" § 10-601

"Facility" § 10-601

“Sports facility” § 10–601
 “State” § 9–101
 “Tax supported debt” § 10–601

10–645. RESERVED.

10–646. RESERVED.

PART VI. MISCELLANEOUS BOND PROVISIONS.

10–647. LEGAL INVESTMENTS.

A FINANCIAL INSTITUTION, INVESTMENT COMPANY, INSURANCE COMPANY OR ASSOCIATION, OR A PERSONAL REPRESENTATIVE, GUARDIAN, TRUSTEE, OR OTHER FIDUCIARY, MAY LEGALLY INVEST ANY MONEY BELONGING TO IT OR WITHIN ITS CONTROL IN ANY BONDS ISSUED BY THE AUTHORITY.

REVISOR’S NOTE: This section is new language derived without substantive change from former FI § 13–713.

Defined terms: “Authority” § 10–601
 “Bond” § 10–601

10–648. TAX STATUS.

(A) IN GENERAL.

THE AUTHORITY IS EXEMPT FROM ANY REQUIREMENT TO PAY TAXES OR ASSESSMENTS OF ANY KIND.

(B) BONDS.

THE PRINCIPAL OF AND INTEREST ON BONDS, AND ANY INCOME DERIVED FROM THE BONDS, INCLUDING PROFITS MADE IN THEIR SALE OR TRANSFER, ARE FOREVER EXEMPT FROM ALL STATE AND LOCAL TAXES.

REVISOR’S NOTE: This section is new language derived without substantive change from former FI § 13–714.

In subsection (b) of this section, the former phrase “from every kind of and nature of taxation” is deleted as surplusage.

Defined terms: “Authority” § 10–601
 “Bond” § 10–601
 “State” § 9–101

10–649. RESERVED.

10–650. RESERVED.

PART VII. FUNDS.

10–651. BALTIMORE CONVENTION FINANCING FUND.

(A) ESTABLISHED.

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THERE IS A BALTIMORE CONVENTION FINANCING FUND.

(B) PURPOSE.

(1) THE BALTIMORE CONVENTION FUND IS A CONTINUING, NONLAPSING FUND THAT SHALL BE AVAILABLE IN PERPETUITY TO IMPLEMENT THIS SUBTITLE CONCERNING BALTIMORE CONVENTION FACILITIES.

(2) THE AUTHORITY SHALL:

(I) USE THE BALTIMORE CONVENTION FUND AS A REVOLVING FUND FOR CARRYING OUT THIS SUBTITLE CONCERNING BALTIMORE CONVENTION FACILITIES; AND

(II) PAY ANY AND ALL EXPENSES FROM THE BALTIMORE CONVENTION FUND THAT ARE INCURRED BY THE AUTHORITY RELATED TO THE BALTIMORE CONVENTION FACILITY.

(C) FUND RECEIPTS PLEDGED.

(1) TO THE EXTENT CONSIDERED APPROPRIATE BY THE AUTHORITY, THE RECEIPTS OF THE BALTIMORE CONVENTION FUND SHALL BE PLEDGED TO AND CHARGED WITH THE FOLLOWING RELATING TO THE BALTIMORE 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 RESOLUTION.

(D) COMPOSITION.

THE BALTIMORE CONVENTION FUND CONSISTS OF:

(1) FUNDS APPROPRIATED FOR DEPOSIT TO THE BALTIMORE CONVENTION FUND;

(2) PROCEEDS FROM THE SALE OF BONDS CONCERNING THE BALTIMORE CONVENTION FACILITY;

(3) REVENUES COLLECTED OR RECEIVED FROM ANY SOURCE UNDER THIS SUBTITLE RELATED TO BALTIMORE CONVENTION FACILITIES; AND

(4) ANY ADDITIONAL MONEY MADE AVAILABLE FROM ANY PUBLIC OR PRIVATE SOURCES FOR THE PURPOSES ESTABLISHED FOR THE BALTIMORE CONVENTION FUND.

(E) INVESTMENTS; EARNINGS; REVERSION.

(1) THE TREASURER SHALL INVEST THE MONEY OF THE BALTIMORE CONVENTION FUND IN THE SAME MANNER AS OTHER STATE FUNDS.

(2) ANY INVESTMENT EARNINGS SHALL BE CREDITED TO THE BALTIMORE CONVENTION FUND.

(3) NO PART OF THE BALTIMORE 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 § 13-716.

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 sources” is substituted for the former reference to “any sources, public or private” for clarity.

In subsection (e)(3) of this section, the former erroneous reference to any “other” special fund is deleted for clarity.

- Defined terms: “Authority” § 10-601
“Baltimore Convention facility” § 10-601
“Baltimore Convention Fund” § 10-601
“Bond” § 10-601
“Convention facility” § 10-601
“Facility” § 10-601
“State” § 9-101

10-652. CAMDEN YARDS FINANCING FUND.

(A) ESTABLISHED.

THERE IS A CAMDEN YARDS FINANCING FUND.

(B) PURPOSE.

THE AUTHORITY SHALL:

(1) USE THE CAMDEN YARDS FUND AS A NONLAPSING, REVOLVING FUND FOR IMPLEMENTING THIS SUBTITLE CONCERNING SPORTS FACILITIES AND OTHER FACILITIES AT CAMDEN YARDS;

(2) PAY ALL EXPENSES AND MAKE ALL EXPENDITURES RELATED TO CAMDEN YARDS FACILITIES FROM THE CAMDEN YARDS FUND; AND

(3) TRANSFER THE SUM OF \$24,000,000 TO THE PUBLIC SCHOOL CONSTRUCTION FUND ESTABLISHED UNDER § 7-326 OF THE STATE FINANCE AND PROCUREMENT ARTICLE BY MAKING AN ANNUAL PAYMENT OF \$2,400,000 BEGINNING IN FISCAL YEAR 2001 AND ENDING IN FISCAL YEAR 2010.

(C) FUNDS RECEIPTS PLEDGED.

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(1) TO THE EXTENT CONSIDERED APPROPRIATE BY THE AUTHORITY, THE RECEIPTS OF THE CAMDEN YARDS FUND SHALL BE PLEDGED TO AND CHARGED WITH THE FOLLOWING RELATING TO SPORTS FACILITIES:

(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 RESOLUTION.

(D) COMPOSITION.

THE CAMDEN YARDS FUND CONSISTS OF:

(1) PROCEEDS FROM THE SALE OF BONDS RELATED TO SPORTS FACILITIES;

(2) REVENUES COLLECTED OR RECEIVED FROM ANY SOURCE UNDER THIS SUBTITLE RELATED TO CAMDEN YARDS FACILITIES;

(3) ANY OTHER REVENUES RELATED TO CAMDEN YARDS FACILITIES, UNDER THE JURISDICTION OF THE AUTHORITY;

(4) ADMISSIONS AND AMUSEMENT TAX REVENUES DISTRIBUTED TO THE AUTHORITY UNDER THE TAX – GENERAL ARTICLE;

(5) ANY ADDITIONAL REVENUE, GIFT, DONATION, OR OTHER FUNDING SOURCE AUTHORIZED BY LAW RELATED TO CAMDEN YARDS FACILITIES; AND

(6) PAYMENTS BY BALTIMORE CITY UNDER SUBSECTION (F) OF THIS SECTION.

(E) INVESTMENTS AND EARNINGS.

(1) THE TREASURER SHALL INVEST THE MONEY OF THE CAMDEN YARDS FUND IN THE SAME MANNER AS STATE FUNDS.

(2) ANY INVESTMENT EARNINGS SHALL BE CREDITED TO THE CAMDEN YARDS FUND.

(3) NO PART OF THE CAMDEN YARDS FUND MAY REVERT TO OR BE CREDITED TO THE GENERAL FUND OR ANY SPECIAL FUND OF THE STATE.

(F) REQUIRED CONTRIBUTION.

BALTIMORE CITY SHALL PAY \$1,000,000 EACH YEAR INTO THE CAMDEN YARDS FUND FOR THE PURPOSES OF DEBT SERVICE AND OTHER FORMS OF OBLIGATION BY THE AUTHORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former FI §§ 13-715, 13-715.1, and 13-715.2.

In subsection (a) of this section, the reference to the “Camden Yards” Financing Fund is substituted for the former reference to the “Maryland Stadium Authority” Financing Fund to reflect the fact that the Authority may only use this fund for matters relating to “Camden Yards” and to a “sports facility” as those terms are defined in § 10–601 of this subtitle, and uses other funds established in this part for other projects authorized under this subtitle. Although the Maryland Stadium Authority Financing Fund was the only fund of the Authority when the Authority was first established, as subsequent legislation has been enacted to authorize the Authority to undertake additional projects, each of those enactments has included the establishment of a new fund particular to the newly authorized project and named for that project. *See*, Ch. 400 of 1993; Ch. 603 of 1995; Ch. 407 of 1996; Chs. 378 and 379 of 1999. No substantive change is intended. Similarly, in subsections (b) through (f) of this section, the defined term “Camden Yards Fund” is substituted for the former references to the “Maryland Stadium Authority Financing Fund”.

Subsection (e)(3) of this section is new language added for consistency within this part.

In subsection (f) of this section, the former obsolete phrase “beginning in calendar year 1988” is deleted as surplusage.

Defined terms: “Authority” § 10–601

“Bond” § 10–601

“Camden Yards” § 10–601

“Camden Yards Fund” § 10–601

“Facility” § 10–601

“Sports facility” § 10–601

“State” § 9–101

10–653. HIPPODROME PERFORMING ARTS FINANCING FUND.

(A) ESTABLISHED.

THERE IS A HIPPODROME PERFORMING ARTS FINANCING FUND.

(B) PURPOSE.

(1) THE HIPPODROME PERFORMING ARTS FUND IS A CONTINUING, NONLAPSING FUND THAT SHALL BE AVAILABLE IN PERPETUITY TO IMPLEMENT THIS SUBTITLE CONCERNING THE HIPPODROME PERFORMING ARTS FACILITY.

(2) THE AUTHORITY SHALL:

(I) USE THE HIPPODROME PERFORMING ARTS FUND AS A REVOLVING FUND FOR IMPLEMENTING THIS SUBTITLE CONCERNING THE HIPPODROME PERFORMING ARTS FACILITY; AND

(II) PAY ANY AND ALL EXPENSES FROM THE HIPPODROME PERFORMING ARTS FUND THAT ARE INCURRED BY THE AUTHORITY CONCERNING THE HIPPODROME PERFORMING ARTS FACILITY.

(C) FUND RECEIPTS PLEDGED.

(1) TO THE EXTENT CONSIDERED APPROPRIATE BY THE AUTHORITY, THE RECEIPTS OF THE HIPPODROME PERFORMING ARTS FUND SHALL BE PLEDGED TO AND CHARGED WITH THE FOLLOWING RELATING TO THE HIPPODROME PERFORMING ARTS 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.

(D) COMPOSITION.

THE HIPPODROME PERFORMING ARTS FUND CONSISTS OF:

(1) FUNDS APPROPRIATED FOR DEPOSIT TO THE HIPPODROME PERFORMING ARTS FUND;

(2) PROCEEDS FROM THE SALE OF BONDS CONCERNING THE HIPPODROME PERFORMING ARTS FACILITY;

(3) REVENUES COLLECTED OR RECEIVED FROM ANY SOURCE UNDER THIS SUBTITLE CONCERNING THE HIPPODROME PERFORMING ARTS FACILITY; AND

(4) ANY ADDITIONAL MONEY MADE AVAILABLE FROM ANY PUBLIC OR PRIVATE SOURCE FOR THE PURPOSES ESTABLISHED FOR THE HIPPODROME PERFORMING ARTS FUND.

(E) INVESTMENTS; EARNINGS; REVERSION.

(1) THE TREASURER SHALL INVEST THE MONEY OF THE HIPPODROME PERFORMING ARTS FUND IN THE SAME MANNER AS STATE FUNDS.

(2) ANY INVESTMENT EARNINGS SHALL BE CREDITED TO THE HIPPODROME PERFORMING ARTS FUND.

(3) NO PART OF THE HIPPODROME PERFORMING ARTS 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 § 13-717.2.

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 (e)(3) of this section, the former erroneous reference to any

“other” special fund is deleted for clarity.

Defined terms: “Authority” § 10–601

“Bond” § 10–601

“Facility” § 10–601

“Hippodrome Performing Arts facility” § 10–601

“Hippodrome Performing Arts Fund” § 10–601

“State” § 9–101

10–654. MONTGOMERY COUNTY CONFERENCE FINANCING FUND.

(A) ESTABLISHED.

THERE IS A MONTGOMERY COUNTY CONFERENCE FINANCING FUND.

(B) PURPOSE.

(1) THE MONTGOMERY COUNTY CONFERENCE FUND IS A CONTINUING, NONLAPSING FUND THAT SHALL BE AVAILABLE IN PERPETUITY TO IMPLEMENT THIS SUBTITLE CONCERNING THE MONTGOMERY COUNTY CONFERENCE FACILITY.

(2) THE AUTHORITY SHALL:

(I) USE THE MONTGOMERY COUNTY CONFERENCE FUND AS A REVOLVING FUND FOR IMPLEMENTING THIS SUBTITLE RELATING TO THE MONTGOMERY COUNTY CONFERENCE FACILITY; AND

(II) PAY ANY AND ALL EXPENSES INCURRED BY THE AUTHORITY CONCERNING THE MONTGOMERY COUNTY CONFERENCE FACILITY FROM THE MONTGOMERY COUNTY CONFERENCE FUND.

(C) FUND RECEIPTS PLEDGED.

(1) TO THE EXTENT CONSIDERED APPROPRIATE BY THE AUTHORITY, THE RECEIPTS OF THE MONTGOMERY COUNTY CONFERENCE FUND SHALL BE PLEDGED TO AND CHARGED WITH THE FOLLOWING RELATING TO THE MONTGOMERY COUNTY CONFERENCE 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.

(D) COMPOSITION.

THE MONTGOMERY COUNTY CONFERENCE FUND CONSISTS OF:

(1) FUNDS APPROPRIATED FOR DEPOSIT TO THE MONTGOMERY COUNTY CONFERENCE FUND;

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(2) PROCEEDS FROM THE SALE OF BONDS CONCERNING THE MONTGOMERY COUNTY CONFERENCE FACILITY;

(3) REVENUES COLLECTED OR RECEIVED FROM ANY SOURCE UNDER THIS SUBTITLE CONCERNING THE MONTGOMERY COUNTY CONFERENCE FACILITY; AND

(4) ANY ADDITIONAL MONEY MADE AVAILABLE FROM ANY PUBLIC OR PRIVATE SOURCES FOR THE PURPOSES ESTABLISHED FOR THE MONTGOMERY COUNTY CONFERENCE FUND.

(E) INVESTMENTS; EARNINGS; REVERSION.

(1) THE TREASURER SHALL INVEST THE MONEY OF THE MONTGOMERY COUNTY CONFERENCE FUND IN THE SAME MANNER AS STATE FUNDS.

(2) ANY INVESTMENT EARNINGS SHALL BE CREDITED TO THE MONTGOMERY COUNTY CONFERENCE FUND.

(3) NO PART OF THE MONTGOMERY COUNTY CONFERENCE 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 § 13-717.1.

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 sources” is substituted for the former reference to “any sources, public or private” for clarity.

In subsection (e)(3) of this section, the former erroneous reference to any “other” special fund is deleted for clarity.

Defined terms: “Authority” § 10-601

“Bond” § 10-601

“Convention facility” § 10-601

“Facility” § 10-601

“Montgomery County” § 10-601

“Montgomery County Conference facility” § 10-601

“Montgomery County Conference Fund” § 10-601

“State” § 9-101

10-655. OCEAN CITY CONVENTION FINANCING FUND.

(A) ESTABLISHED.

THERE IS AN OCEAN CITY CONVENTION FINANCING FUND.

(B) PURPOSE.

(1) THE OCEAN CITY CONVENTION FUND IS A CONTINUING, NONLAPSING FUND THAT SHALL BE AVAILABLE IN PERPETUITY TO IMPLEMENT THIS SUBTITLE RELATING TO THE OCEAN CITY CONVENTION FACILITY.

(2) THE AUTHORITY SHALL:

(I) USE THE OCEAN CITY CONVENTION FUND AS A REVOLVING FUND FOR IMPLEMENTING THIS SUBTITLE RELATING TO THE OCEAN CITY CONVENTION FACILITY; AND

(II) PAY ANY AND ALL EXPENSES INCURRED BY THE AUTHORITY CONCERNING THE OCEAN CITY CONVENTION FACILITY FROM THE OCEAN CITY CONVENTION FUND.

(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 sources” is substituted for the former reference to “any sources, public or private” for clarity.

In subsection (e)(3) of this section, the former erroneous reference to any “other” special fund is deleted for clarity.

Defined terms: “Authority” § 10-601

“Bond” § 10-601

“Convention facility” § 10-601

“Facility” § 10-601

“Ocean City Convention facility” § 10-601

“Ocean City Convention Fund” § 10-601

“State” § 9-101

10-656. RESERVED.

10-657. RESERVED.

PART VIII. SHORT TITLE.

10-658. SHORT TITLE.

THIS SUBTITLE MAY BE CITED AS THE MARYLAND STADIUM AUTHORITY ACT.

REVISOR'S NOTE: This section formerly was FI § 13-722.

No changes are made.

SUBTITLE 7. MARYLAND VENTURE CAPITAL TRUST.

10-701. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-301(a).

The word “subtitle” is substituted for the former word “section” for accuracy.

(B) BOARD.

“BOARD” MEANS THE BOARD OF TRUSTEES OF THE MARYLAND VENTURE CAPITAL TRUST.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the full title of “the Board of Trustees of the Maryland Venture Capital Trust”.

(C) INVESTOR.

“INVESTOR” MEANS A PERSON OR GOVERNMENTAL ENTITY THAT INVESTS MONEY IN THE MARYLAND VENTURE CAPITAL TRUST.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–301(b).

The reference to a “governmental” entity is substituted for the former reference to a “legal” entity because a governmental entity is the only legal entity not included in the defined term “person”. *See* § 9–101 of this article.

Defined term: “Person” § 9–101

(D) SEED CAPITAL FINANCING.

(1) “SEED CAPITAL FINANCING” MEANS FINANCING PROVIDED TO A BUSINESS DURING THE INITIAL STAGES OF ITS DEVELOPMENT.

(2) “SEED CAPITAL FINANCING” INCLUDES FINANCING FOR A BUSINESS:

(I) TO FINISH RESEARCH AND DEVELOPMENT OF A PRODUCT;

(II) TO DEVELOP MARKETING PLANS; AND

(III) TO PROVIDE FOR INITIAL FACILITIES, INVENTORY, AND WORKING CAPITAL.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–301(c).

In paragraph (1) of this subsection and throughout this subtitle, the references to a “business” are substituted for the former references to a “business enterprise” for brevity.

(E) TRUST.

“TRUST” MEANS THE MARYLAND VENTURE CAPITAL TRUST.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–301(d).

No changes are made.

(F) VENTURE CAPITAL FUND.

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“VENTURE CAPITAL FUND” MEANS AN INVESTMENT FUND THAT PROVIDES CAPITAL TO A BUSINESS AT ANY STAGE OF ITS DEVELOPMENT BEFORE THE BUSINESS MAKES A PUBLIC OFFERING OF STOCK.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–301(e).

10–702. LEGISLATIVE FINDINGS; INTENT.

(A) FINDINGS.

THE GENERAL ASSEMBLY FINDS THAT:

(1) SMALL BUSINESSES ARE A MAJOR SOURCE OF NEW JOBS AND INNOVATIONS IN THE STATE;

(2) THE STATE’S RESEARCH CAPACITY COULD SPUR INNOVATION IN NEW AND EXISTING BUSINESSES TO CREATE AND MAINTAIN JOBS IN THE STATE; AND

(3) AN INADEQUATE SUPPLY OF SEED CAPITAL FINANCING AND VENTURE CAPITAL FUNDS HAS LIMITED THE COMMERCIALIZATION OF RESEARCH AND DEVELOPMENT IN THE STATE.

(B) INTENT.

THE GENERAL ASSEMBLY INTENDS FOR THE TRUST TO:

(1) HELP FILL THE GAP IN THE STATE’S ECONOMY CAUSED BY THE INADEQUATE SUPPLY OF SEED CAPITAL FINANCING AND VENTURE CAPITAL FUNDS; AND

(2) STIMULATE THE COMMERCIALIZATION OF RESEARCH AND DEVELOPMENT TO CREATE AND SUSTAIN BUSINESSES THROUGHOUT THE STATE.

REVISOR’S NOTE: This section formerly was Art. 83A, § 5–303.

In subsection (a)(3) of this section, the former reference to research and development “activity” is deleted as surplusage.

In subsection (b)(1) of this section, the former reference to a “critical” economic gap is deleted as surplusage.

Also in subsection (b)(1) of this section, the former phrase “in all regions of the State” is deleted as surplusage.

Defined terms: “Seed capital financing” § 10–701

“State” § 9–101

“Trust” § 10–701

“Venture capital fund” § 10–701

10–703. CONSTRUCTION OF SUBTITLE.

THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO ACCOMPLISH ITS PURPOSES.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–302.

10-704. ESTABLISHED.

(A) IN GENERAL.

THERE IS A MARYLAND VENTURE CAPITAL TRUST.

(B) STATUS.

THE TRUST IS A BODY POLITIC AND CORPORATE AND IS AN INSTRUMENTALITY OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-304(a).

Subsection (a) of this section is revised in standard language for clarity and consistency within this article.

Defined terms: "State" § 9-101

"Trust" § 10-701

10-705. BOARD OF TRUSTEES.

(A) ESTABLISHED.

THERE IS A BOARD OF TRUSTEES OF THE TRUST.

(B) COMPOSITION.

(1) THE BOARD CONSISTS OF SEVEN MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

(2) OF THE SEVEN MEMBERS:

(I) FOUR SHALL REPRESENT THE INVESTORS AND HAVE BEEN RECOMMENDED TO THE GOVERNOR BY THE INVESTORS;

(II) AT LEAST ONE SHALL HAVE EXPERTISE IN VENTURE CAPITAL FINANCING; AND

(III) AT LEAST ONE SHALL HAVE EXPERIENCE AS A SMALL BUSINESS OWNER.

(3) EACH MEMBER SHALL BE A RESIDENT OF THE STATE.

(4) THE GOVERNOR SHALL CONSIDER GEOGRAPHIC DIVERSITY OF THE STATE WHEN APPOINTING MEMBERS OF THE BOARD.

(C) TENURE; VACANCIES; REMOVAL.

(1) THE TERM OF A MEMBER IS 4 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2008.

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

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

(5) THE GOVERNOR MAY REMOVE A MEMBER WITH OR WITHOUT CAUSE.

(D) CHAIR.

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

(E) QUORUM; VOTING.

(1) A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD IS A QUORUM.

(2) A MAJORITY VOTE OF THE MEMBERS PRESENT AT A MEETING HAVING A QUORUM IS NEEDED FOR THE BOARD TO ACT.

(F) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE BOARD:

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

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

(G) DUTIES.

THE BOARD:

(1) SHALL MANAGE THE TRUST; AND

(2) EXERCISES ALL OF THE CORPORATE POWERS OF THE TRUST.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–304(b), (c), and (d).

Throughout this section, the term “member” is substituted for the former term “[t]rustee” for consistency within this subtitle and this article.

In subsection (b)(3) of this section, the reference to a “resident” is substituted for the former reference to a “citizen” for clarity and consistency within this article and because the meaning of “citizen” in this context is unclear.

In subsection (b)(4) of this section, the reference to geographic “diversity” is substituted for the former reference to geographic “representation” for clarity and consistency with other revised articles. *See, e.g.*, BOP § 16–202(a). No substantive change is intended.

In subsection (c)(2) of this section, the reference to “October 1, 2008” is substituted for the former obsolete reference to terms being staggered as required by the terms provided on “July 1, 1990”. This substitution is not intended to alter the term of any member of the Board. *See* § 13 of Ch. 306, Acts of 2008. The terms of the members serving on October 1, 2008 end as

follows: (1) three on June 30, 2010; and (2) four on June 30, 2012.

Subsection (c)(4) of this section is revised in standard language for clarity and consistency within this article.

In subsection (c)(5) of this section, the reference to “remov[al] ... with or without cause” is substituted for the former reference to “serv[ing] at the pleasure” of the Governor for clarity and consistency within this article. See General Revisor’s Note to article.

Subsection (d) of this section is revised in standard language for clarity and consistency within this article.

In subsection (f) of this section, the phrase “as a member of the Board” is added for clarity and consistency within this article.

Defined terms: “Board” § 10–701

“Investor” § 10–701

“State” § 9–101

“Trust” § 10–701

10–706. APPLICABILITY OF OTHER LAWS.

(A) PROCUREMENT.

THE TRUST IS:

(1) EXEMPT FROM THE GENERAL PROCUREMENT LAW PROVISIONS OF DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE; BUT

(2) SUBJECT TO TITLE 12, SUBTITLE 4 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(B) PERSONNEL.

THE TRUST IS EXEMPT FROM THE PROVISIONS OF DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE THAT GOVERN THE STATE PERSONNEL MANAGEMENT SYSTEM.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–308(a)(2) and (3) and (b).

Defined terms: “State” § 9–101

“Trust” § 10–701

10–707. POWERS.

(A) IN GENERAL.

THE TRUST MAY:

(1) SOLICIT AND ACCEPT FOR INVESTMENT IN THE TRUST MONEY FROM ANY SOURCE INCLUDING NOT MORE THAN \$2,000,000 IN APPROPRIATIONS FROM THE STATE;

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(2) ENTER INTO AGREEMENTS WITH THE INVESTORS THAT SET FORTH THE TERMS GOVERNING THE INVESTMENT OF MONEY IN THE TRUST BY THE INVESTORS;

(3) BY PREPARING AND PUBLISHING REQUESTS FOR PROPOSALS, SOLICIT OFFERINGS BY VENTURE CAPITALISTS AND VENTURE CAPITAL FUNDS THAT MEET THE PURPOSES AND REQUIREMENTS OF THE TRUST, WHICH SHALL BE SET FORTH IN THE REQUESTS FOR PROPOSALS;

(4) SUBJECT TO § 10-708 OF THIS SUBTITLE, SELECT THE VENTURE CAPITAL FUNDS IN WHICH TO INVEST MONEY FROM THE TRUST;

(5) RETAIN INVESTMENT EARNINGS THAT EXCEED THE INVESTMENT EARNINGS THAT THE TRUST MUST PAY TO INVESTORS; AND

(6) TAKE ANY ACTION NECESSARY TO CARRY OUT THE POWERS EXPRESSLY GRANTED BY THIS SUBTITLE.

(B) LIMITATIONS.

(1) THE TRUST MAY NOT ACCEPT A CUMULATIVE INVESTMENT OF MORE THAN \$15,000,000 FROM THE STATE RETIREMENT AND PENSION SYSTEM.

(2) THE TRUST MAY NOT ACCEPT A CUMULATIVE INVESTMENT OF MORE THAN \$5,000,000 FROM ANY OTHER SINGLE INVESTOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-305.

Former subsection (a)(5) which required the Trust to “[i]nvest in any venture capital funds selected by the Trust in amounts deemed appropriate by the Board of Trustees” is deleted as implicit in subsection (a)(4) of this section.

In subsection (a)(6) of this section, the phrase “take any action necessary to carry out the provisions of this subtitle” is substituted for the former phrase “[d]o all things necessary and lawful to carry out the powers expressly granted to the Trust by this subtitle” for brevity.

Defined terms: “Investor” § 10-701

“State” § 9-101

“Trust” § 10-701

“Venture capital fund” § 10-701

10-708. PREFERRED PROPOSALS.

THE BOARD SHALL GIVE PREFERENCE TO VENTURE CAPITAL FUND PROPOSALS THAT:

(1) PROVIDE FINANCING PREDOMINATELY TO BUSINESSES THAT CONDUCT A SUBSTANTIAL AMOUNT OF BUSINESS IN THE STATE;

(2) REQUIRE VENTURE CAPITAL FUNDS TO MATCH THE MONEY INVESTED BY THE TRUST WITH MONEY INVESTED BY PRIVATE INVESTORS ON AT LEAST A 1 TO 3 RATIO; AND

(3) ENSURE THAT A MAJORITY OF THE MONEY THAT THE TRUST INVESTS IS FOR SEED CAPITAL FINANCING IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-306(a).

The reference to the "Board" is substituted for the former reference to "Trustees" for consistency within this subtitle.

Defined terms: "Board" § 10-701
"Seed capital financing" § 10-701
"State" § 9-101
"Trust" § 10-701

10-709. SEED CAPITAL INVESTMENTS.

SEED CAPITAL FINANCING MAY NOT EXCEED \$1,000,000 FOR A SINGLE BUSINESS.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-306(b).

The former words "more than" are deleted as surplusage.

The defined term "[s]eed capital financing" is substituted for the former reference to "[s]eed capital investments" for clarity.

The only other changes are in style.

Defined term: "Seed capital financing" § 10-701

10-710. LIABILITY OF STATE.

A DEBT, CLAIM, OBLIGATION, OR LIABILITY OF THE TRUST IS NOT A DEBT, CLAIM, OBLIGATION, OR LIABILITY OF THE STATE OR A UNIT OR INSTRUMENTALITY OF THE STATE OR A PLEDGE OF THE STATE'S CREDIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-309.

The former phrase "and its subsidiaries" is deleted because the Trust has no subsidiaries and is not authorized to create any.

The former phrase "whenever incurred" is deleted as surplusage.

The reference to a debt, claim, "or" liability is substituted for the former reference to a debt, claim, "and" liability for clarity.

The former phrase "its agencies, instrumentalities, officers, or employees" is deleted as implicit in the reference to the "State".

Defined terms: "State" § 9-101
"Trust" § 10-701

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10-711. TAX STATUS.

THE TRUST IS EXEMPT FROM TAXATION BY THE STATE AND LOCAL GOVERNMENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-308(a)(1).

Defined terms: "State" § 9-101

"Trust" § 10-701

10-712. AUDITS.

(A) REQUIRED.

EACH YEAR, AN INDEPENDENT AUDITOR APPROVED BY THE STATE SHALL AUDIT THE BOOKS AND RECORDS OF THE TRUST.

(B) OPTIONAL.

AT ITS DISCRETION, THE STATE MAY AUDIT THE BOOKS AND RECORDS OF THE TRUST.

(C) EXPENSE.

THE TRUST SHALL PAY THE EXPENSE OF AN AUDIT CONDUCTED UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-307(a).

Defined terms: "State" § 9-101

"Trust" § 10-701

10-713. ANNUAL REPORT.

(A) REQUIRED.

ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE TRUST SHALL SUBMIT A REPORT TO THE GOVERNOR, THE MARYLAND ECONOMIC DEVELOPMENT COMMISSION, AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(B) CONTENTS.

THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND FINANCIAL STATEMENT COVERING THE OPERATIONS OF THE TRUST AND SUMMARIZE THE ACTIVITIES OF THE TRUST FOR THE PRECEDING FISCAL YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-307(b).

In subsection (a) of this section, the phrase "[o]n or before October 1" is substituted for the former phrase "within the first 90 days of each fiscal year" for clarity and consistency within this article.

Defined term: “Trust” § 10–701

TITLE 11. MILITARY INSTALLATION SUPPORT.

SUBTITLE 1. BASE REALIGNMENT AND CLOSURE SUBCABINET.

11–101. DEFINITIONS.

(A) **IN GENERAL.**

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former SG § 9–802(a)(1), as it related to the scope of definitions.

(B) **BRAC.**

(1) “BRAC” MEANS THE BASE REALIGNMENT AND CLOSURE PROCESS AS ANNOUNCED BY THE UNITED STATES DEPARTMENT OF DEFENSE.

(2) “BRAC” INCLUDES THE DEFENSE CONVERSION AND DEFENSE ECONOMIC ADJUSTMENT PROGRAM OF THE ECONOMIC DEVELOPMENT ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF COMMERCE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former SG § 9–802(a)(2) and, as it defined “BRAC”, (1).

(C) **SUBCABINET.**

“SUBCABINET” MEANS THE BASE REALIGNMENT AND CLOSURE SUBCABINET ESTABLISHED UNDER § 11–102 OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection is new language added to provide a concise reference to the “Base Realignment and Closure Subcabinet”.

11–102. ESTABLISHED.

THERE IS A BASE REALIGNMENT AND CLOSURE SUBCABINET.

REVISOR’S NOTE: This section formerly was SG § 9–802(b).

No changes are made.

11–103. COMPOSITION.

THE SUBCABINET CONSISTS OF:

- (1) THE LIEUTENANT GOVERNOR;
- (2) THE SECRETARY;
- (3) THE SECRETARY OF BUDGET AND MANAGEMENT;

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- (4) THE SECRETARY OF THE ENVIRONMENT;
- (5) THE SECRETARY OF HIGHER EDUCATION;
- (6) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT;
- (7) THE SECRETARY OF LABOR, LICENSING, AND REGULATION;
- (8) THE SECRETARY OF PLANNING;
- (9) THE SECRETARY OF TRANSPORTATION; AND
- (10) THE STATE SUPERINTENDENT OF SCHOOLS.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9–802(c).

Defined terms: “Secretary” § 9–101
“State” § 9–101
“Subcabinet” § 11–101

11–104. CHAIR.

- (A) IN GENERAL.

THE LIEUTENANT GOVERNOR SERVES AS CHAIR OF THE SUBCABINET.

- (B) DUTIES.

THE CHAIR IS RESPONSIBLE FOR THE OVERSIGHT, DIRECTION, AND ACCOUNTABILITY OF THE WORK OF THE SUBCABINET.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9–802(d).

Defined term: “Subcabinet” § 11–101

11–105. MEETINGS.

THE SUBCABINET SHALL MEET REGULARLY AT THE TIMES AND PLACES THAT IT DETERMINES.

REVISOR'S NOTE: This section formerly was SG § 9–802(g).

The only changes are in style.

Defined term: “Subcabinet” § 11–101

11–106. SUBCOMMITTEES.

- (A) IN GENERAL.

THE CHAIR MAY ESTABLISH SUBCOMMITTEES TO CARRY OUT THE WORK OF THE SUBCABINET.

- (B) MEMBERSHIP.

THE MEMBERSHIP OF A SUBCOMMITTEE MAY INCLUDE INDIVIDUALS WHO ARE NOT MEMBERS OF THE SUBCABINET.

REVISOR'S NOTE: This section formerly was SG § 9–802(f).

The only changes are in style.

Defined term: "Subcabinet" § 11–101

11–107. STAFF.

(A) DEPARTMENT TO PROVIDE PRIMARY STAFF.

THE DEPARTMENT SHALL PROVIDE THE PRIMARY STAFF SUPPORT FOR THE SUBCABINET.

(B) ADDITIONAL STAFF.

THE CHAIR MAY CALL ON ANY MEMBER OF THE SUBCABINET TO PROVIDE ADDITIONAL STAFF ASSISTANCE AS NEEDED.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9–802(e).

Defined terms: "Department" § 9–101

"Subcabinet" § 11–101

11–108. DUTIES.

THE SUBCABINET SHALL:

(1) COORDINATE AND OVERSEE THE IMPLEMENTATION OF ALL STATE ACTION TO SUPPORT THE MISSIONS OF MILITARY INSTALLATIONS IN THE STATE THAT ARE AFFECTED BY THE BRAC RECOMMENDATIONS;

(2) COORDINATE AND OVERSEE THE DEVELOPMENT OF BRAC–RELATED INITIATIVES IN THE AREAS OF:

- (I) WORKFORCE READINESS;
- (II) GRADES K THROUGH 12 AND HIGHER EDUCATION;
- (III) BUSINESS DEVELOPMENT;
- (IV) HEALTH CARE FACILITIES AND SERVICES;
- (V) COMMUNITY INFRASTRUCTURE AND GROWTH;
- (VI) ENVIRONMENTAL STEWARDSHIP;
- (VII) WORKFORCE HOUSING; AND
- (VIII) TRANSPORTATION;

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(3) PROVIDE A FORUM FOR DISCUSSION OF INTERDEPARTMENTAL ISSUES AND COORDINATION RELATING TO ACTIVITIES THAT SUPPORT MILITARY INSTALLATIONS IN THE STATE;

(4) COLLABORATE WITH AND REVIEW THE RECOMMENDATIONS OF THE MARYLAND MILITARY INSTALLATION COUNCIL ESTABLISHED UNDER SUBTITLE 2 OF THIS TITLE;

(5) WORK WITH LOCAL GOVERNMENTS THAT ARE AFFECTED BY THE BRAC RECOMMENDATIONS TO ACHIEVE THE REQUISITE LEVELS OF PLANNING, COORDINATION, AND COOPERATION AMONG THE STATE AND LOCAL GOVERNMENTS;

(6) WORK WITH MARYLAND'S CONGRESSIONAL DELEGATION TO OBTAIN FEDERAL FUNDS TO SUPPORT THE MISSIONS OF MILITARY INSTALLATIONS IN THE STATE;

(7) MAKE POLICY AND BUDGET RECOMMENDATIONS TO THE GOVERNOR AND GENERAL ASSEMBLY TO STRENGTHEN STATE SUPPORT OF MILITARY INSTALLATIONS IN THE STATE; AND

(8) PERFORM OTHER DUTIES ASSIGNED TO IT BY THE GOVERNOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9-802(h).

Defined terms: "BRAC" § 11-101

"State" § 9-101

"Subcabinet" § 11-101

11-109. ANNUAL REPORT.

IN COORDINATION WITH STATE AGENCIES, THE SUBCABINET SHALL EVALUATE AND REPORT EACH YEAR TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON STATE ACTION TO SUPPORT THE MISSION OF MILITARY INSTALLATIONS LOCATED IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 9-802(i).

Defined terms: "State" § 9-101

"Subcabinet" § 11-101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former SG § 9-802, which established the Base Realignment and Closure Subcabinet, was subject to termination on December 31, 2011. *See* § 2 of Ch. 6, Acts of 2007. Accordingly, the legislation that enacts this article provides for the termination of this subtitle if and when that termination provision takes effect. *See* § 23 of Ch. 306, Acts of 2008.

SUBTITLE 2. MARYLAND MILITARY INSTALLATION COUNCIL.

11-201. "COUNCIL" DEFINED.

IN THIS SUBTITLE, "COUNCIL" MEANS THE MARYLAND MILITARY INSTALLATION COUNCIL.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-1710.1(a).

The only changes are in style.

11-202. ESTABLISHED.

THERE IS A MARYLAND MILITARY INSTALLATION COUNCIL.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-1710.1(b).

No changes are made.

11-203. MEMBERSHIP; TENURE; COMPENSATION.

(A) IN GENERAL.

THE COUNCIL CONSISTS OF THE FOLLOWING MEMBERS:

(1) THREE MEMBERS SELECTED BY THE PRESIDENT OF THE SENATE OF MARYLAND TO REPRESENT COMMUNITY INTERESTS, OF WHICH:

(i) ONE SHALL BE A MEMBER OF THE SENATE; AND

(ii) TWO SHALL BE CITIZENS REPRESENTING COMMUNITIES ADJACENT TO MILITARY INSTALLATIONS;

(2) THREE MEMBERS SELECTED BY THE SPEAKER OF THE HOUSE OF DELEGATES TO REPRESENT COMMUNITY INTERESTS, OF WHICH:

(i) ONE SHALL BE A MEMBER OF THE HOUSE OF DELEGATES; AND

(ii) TWO SHALL BE CITIZENS REPRESENTING COMMUNITIES ADJACENT TO MILITARY INSTALLATIONS;

(3) THE SECRETARY, OR THE DESIGNEE OF THE SECRETARY;

(4) THE SECRETARY OF TRANSPORTATION, OR THE DESIGNEE OF THE SECRETARY OF TRANSPORTATION;

(5) THE SECRETARY OF THE ENVIRONMENT, OR THE DESIGNEE OF THE SECRETARY OF THE ENVIRONMENT;

(6) THE SECRETARY OF PLANNING, OR THE DESIGNEE OF THE SECRETARY OF PLANNING;

(7) THE PRESIDENT OF THE SOUTHERN MARYLAND NAVY ALLIANCE;

(8) THE PRESIDENT OF THE ARMY ALLIANCE;

(9) THE PRESIDENT OF THE NAVAL ENERGETICS ALLIANCE;

(10) THE PRESIDENT OF THE MARITIME ALLIANCE;

(11) THE PRESIDENT OF THE FORT DETRICK ALLIANCE;

(12) THE PRESIDENT OF THE FORT MEADE ALLIANCE;

(13) THE PRESIDENT OF THE ANDREWS BUSINESS AND COMMUNITY ALLIANCE; AND

(14) FIVE MEMBERS SELECTED BY THE GOVERNOR.

(B) ADDITIONAL APPOINTMENTS.

(1) THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF DELEGATES SHALL EACH APPOINT THREE NEW MEMBERS REPRESENTING COMMUNITY INTERESTS TO SERVE AS MEMBERS OF THE COUNCIL FROM JULY 1, 2009, TO DECEMBER 31, 2011.

(2) THE CHAIR MAY APPOINT:

(I) ADDITIONAL MEMBERS WHO ARE PRESIDENTS OF OTHER MILITARY BASE ADVOCACY GROUPS THAT ARE NOT-FOR-PROFIT ORGANIZATIONS AND RECOGNIZED BY THE DEPARTMENT; AND

(II) EX OFFICIO MEMBERS AS NECESSARY TO ADDRESS SPECIFIC ISSUES, INCLUDING A REPRESENTATIVE OF THE MARYLAND NATIONAL GUARD.

(C) TENURE OF CERTAIN MEMBERS.

EXCEPT AS PROVIDED IN SUBSECTION (B)(1) OF THIS SECTION, THE TERM OF A MEMBER OF THE COUNCIL APPOINTED BY THE PRESIDENT OF THE SENATE OR THE SPEAKER OF THE HOUSE OF DELEGATES EXPIRES ON JUNE 30, 2009.

(D) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE COUNCIL:

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

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

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1710.1(c), (e), (g), and (d)(2).

Defined terms: "Council" § 11-201

"Department" § 9-101

"Secretary" § 9-101

"State" § 9-101

11-204. CHAIR.

THE GOVERNOR SHALL DESIGNATE THE CHAIR OF THE COUNCIL.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-1710.1(d)(1).

No changes are made.

Defined term: “Council” § 11–201

11–205. STAFF.

THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT TO THE COUNCIL.

REVISOR’S NOTE: This section formerly was Art. 83A, § 5–1710.1(f).

The only changes are in style.

Defined terms: “Council” § 11–201

“Department” § 9–101

11–206. DUTIES.

THE COUNCIL SHALL MAKE REASONABLE EFFORTS TO:

(1) IDENTIFY THE PUBLIC INFRASTRUCTURE AND OTHER COMMUNITY SUPPORT NECESSARY TO IMPROVE THE MISSION EFFICIENCIES AND FOR THE DEVELOPMENT AND EXPANSION OF EXISTING MILITARY INSTALLATIONS IN THE STATE;

(2) IDENTIFY THE EXISTING AND POTENTIAL IMPACTS OF ENCROACHMENT ON MILITARY INSTALLATIONS IN THE STATE;

(3) IDENTIFY POTENTIAL STATE AND COMMUNITY ACTIONS THAT MAY MINIMIZE THE IMPACTS OF ENCROACHMENT AND ENHANCE THE LONG–TERM POTENTIAL OF MILITARY INSTALLATIONS;

(4) IDENTIFY OPPORTUNITIES FOR COLLABORATION AMONG MILITARY CONTRACTORS, LOCAL GOVERNMENTS, THE STATE, ACADEMIC INSTITUTIONS, AND MILITARY DEPARTMENTS TO ENHANCE THE ECONOMIC POTENTIAL OF MILITARY INSTALLATIONS AND THE ECONOMIC BENEFITS OF MILITARY INSTALLATIONS TO THE STATE;

(5) REVIEW STATE POLICIES, INCLUDING FUNDING AND LEGISLATION, TO IDENTIFY ACTIONS NECESSARY TO PROVIDE STATE AND LOCAL GOVERNMENT SUPPORT TO THE MISSION OF EACH MILITARY INSTALLATION IN THE STATE; AND

(6) RESEARCH HOW OTHER JURISDICTIONS HAVE ADDRESSED THE ISSUES REGARDING ENCROACHMENT AND PARTNERSHIP FORMATION, WITH AN EMPHASIS ON THE MOST RECENT EDITION OF THE JOINT PUBLICATION OF THE NATIONAL GOVERNORS ASSOCIATION CENTER FOR BEST PRACTICES AND THE UNITED STATES DEPARTMENT OF DEFENSE ENTITLED “PRACTICAL GUIDE TO COMPATIBLE CIVILIAN DEVELOPMENT NEAR MILITARY INSTALLATIONS”.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1710.1(h).

Defined terms: “Council” § 11–201

“State” § 9–101

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11-207. REPORTS.

(A) **ANNUAL REPORTS.**

ON OR BEFORE **DECEMBER 31** OF EACH YEAR, THE **COUNCIL** SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE **GOVERNOR** AND, IN ACCORDANCE WITH **§ 2-1246** OF THE **STATE GOVERNMENT ARTICLE**, THE **GENERAL ASSEMBLY**.

(B) **FINAL REPORT.**

ON OR BEFORE **DECEMBER 1, 2011**, THE **COUNCIL** SHALL ISSUE A FINAL REPORT TO THE **GOVERNOR** AND, IN ACCORDANCE WITH **§ 2-1246** OF THE **STATE GOVERNMENT ARTICLE**, THE **GENERAL ASSEMBLY**.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-1710.1(i).

The only changes are in style.

Defined term: "Council" § 11-201

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 83A, § 5-1710.1, which established the Maryland Military Installation Council, was subject to termination on December 31, 2011. See § 3 of Chapter 634, Acts of 2006. Accordingly, the legislation that enacts this article provides for the termination of this subtitle if and when that termination provision takes effect. See § 24 of Ch. 306, Acts of 2008.

SUBTITLE 3. LOCAL REDEVELOPMENT AUTHORITIES.

11-301. DEFINITIONS.

(A) **IN GENERAL.**

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5-1701(a).

No changes are made.

(B) **AUTHORITY.**

(1) "AUTHORITY" MEANS A CORPORATION INCORPORATED IN ACCORDANCE WITH THIS SUBTITLE TO ACT AS A LOCAL REDEVELOPMENT AUTHORITY IN ACCORDANCE WITH CRITERIA SET BY THE **UNITED STATES DEPARTMENT OF DEFENSE** OR ITS **MILITARY SERVICES UNDER THE FEDERAL DEFENSE BASE CLOSURE AND REALIGNMENT ACT OF 1990**.

(2) "AUTHORITY" DOES NOT INCLUDE:

(I) **BAINBRIDGE DEVELOPMENT CORPORATION;**

(II) **HOLABIRD WORKING GROUP/BALTIMORE DEVELOPMENT CORPORATION (BDC);** OR

(III) PENMAR DEVELOPMENT CORPORATION.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–1701(g).

(C) BOARD.

“BOARD” MEANS THE BOARD OF DIRECTORS OF AN AUTHORITY.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–1701(b).

No changes are made.

Defined term: “Authority” § 11–301

(D) BOND.

(1) “BOND” MEANS A BOND OR NOTE ISSUED ON BEHALF OF AN AUTHORITY UNDER THIS SUBTITLE.

(2) “BOND” INCLUDES:

(I) A BOND ANTICIPATION NOTE;

(II) A REVENUE ANTICIPATION NOTE;

(III) A GRANT ANTICIPATION NOTE;

(IV) A REFUNDING BOND;

(V) A NOTE IN THE NATURE OF COMMERCIAL PAPER; AND

(VI) ANY OTHER EVIDENCE OF INDEBTEDNESS ISSUED ON BEHALF OF THE AUTHORITY, WHETHER A GENERAL OR LIMITED OBLIGATION OF THE AUTHORITY.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5–1701(c).

In paragraph (1) of this subsection, the reference to a bond or note “issued on behalf of” an authority is substituted for the former reference to a bond or note “of” an authority for clarity and accuracy. An authority is not authorized to issue its own bonds; rather, the Maryland Economic Development Corporation is authorized to issue bonds on behalf of the authority. *See* § 11–318 of this subtitle. Similarly, in paragraph (2)(vi) of this subsection, the reference to evidence of indebtedness “issued on behalf” of the authority is added for clarity.

No other changes are made.

Defined term: “Authority” § 11–301

(E) COST.

“COST” INCLUDES:

(1) THE PURCHASE PRICE OF A PROJECT;

(2) THE COST TO ACQUIRE ANY RIGHT, TITLE, OR INTEREST IN A PROJECT;

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(3) THE AMOUNT TO BE PAID TO DISCHARGE EACH OBLIGATION NECESSARY OR DESIRABLE TO VEST TITLE TO ANY PART OF A PROJECT IN THE AUTHORITY OR OTHER OWNER;

(4) THE COST OF ANY IMPROVEMENT;

(5) THE COST OF ANY PROPERTY, RIGHT, EASEMENT, FRANCHISE, AND PERMIT;

(6) THE COST OF LABOR AND EQUIPMENT;

(7) FINANCING CHARGES;

(8) INTEREST BEFORE AND DURING CONSTRUCTION AND, IF THE AUTHORITY DETERMINES, FOR A LIMITED PERIOD AFTER THE COMPLETION OF CONSTRUCTION;

(9) RESERVES FOR PRINCIPAL AND INTEREST AND FOR IMPROVEMENTS;

(10) THE COST OF REVENUE ESTIMATES, ENGINEERING AND LEGAL SERVICES, PLANS, DESIGNS, SPECIFICATIONS, SURVEYS, INVESTIGATIONS, DEMONSTRATIONS, STUDIES, ESTIMATES OF COST, AND OTHER EXPENSES NECESSARY OR INCIDENT TO DETERMINING THE FEASIBILITY OF AN ACQUISITION OR IMPROVEMENT;

(11) ADMINISTRATIVE EXPENSES; AND

(12) OTHER EXPENSES NECESSARY OR INCIDENT TO:

(I) FINANCING A PROJECT;

(II) ACQUIRING AND IMPROVING 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, § 5-1701(d).

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 an authority or other owner" is deleted as implicit.

Defined terms: "Authority" § 11-301

"Cost" § 11-301

"Finance" § 11-301

"Improve" § 11-301

"Improvement" § 11-301

"Project" § 11-301

(F) FINANCE.

“FINANCE” INCLUDES REFINANCE.

REVISOR’S NOTE: This subsection is new language added for clarity and consistency within this article.

(G) IMPROVE.

“IMPROVE” MEANS TO ADD, ALTER, CONSTRUCT, EQUIP, EXPAND, EXTEND, IMPROVE, INSTALL, RECONSTRUCT, REHABILITATE, REMODEL, OR REPAIR.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1701(f).

No changes are made.

(H) IMPROVEMENT.

“IMPROVEMENT” MEANS ADDITION, ALTERATION, CONSTRUCTION, EQUIPPING, EXPANSION, EXTENSION, IMPROVEMENT, INSTALLATION, RECONSTRUCTION, REHABILITATION, REMODELING, OR REPAIR.

REVISOR’S NOTE: This subsection is new language added for brevity and clarity.

No other changes are made.

(I) PERSON.

(1) “PERSON” HAS THE MEANING STATED IN § 9–101 OF THIS ARTICLE.

(2) “PERSON” ALSO INCLUDES A POLITICAL SUBDIVISION.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–1701(i).

Defined term: “Person” § 9–101

(J) PROJECT.

(1) “PROJECT” MEANS AN UNDERTAKING TO ESTABLISH ECONOMIC ACTIVITY UNDER THIS SUBTITLE ON PROPERTY TO BE CONVEYED TO AN AUTHORITY BY THE UNITED STATES DEPARTMENT OF DEFENSE OR A MILITARY SERVICE, WHETHER OR NOT A FACILITY OR PROPERTY USED OR USEFUL IN CONNECTION WITH THE UNDERTAKING:

(i) IS OR WILL BE USED FOR PROFIT OR NOT FOR PROFIT;

(ii) IS LOCATED ON A SINGLE SITE OR MULTIPLE SITES; OR

(iii) MAY BE FINANCED BY BONDS, THE INTEREST ON WHICH IS EXEMPT FROM TAXATION UNDER FEDERAL LAW.

(2) “PROJECT” INCLUDES:

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(I) PROPERTY AND RIGHTS RELATED TO THE PROPERTY, APPURTENANCES, RIGHTS—OF—WAY, FRANCHISES, AND EASEMENTS;

(II) STRUCTURES, EQUIPMENT, AND FURNISHINGS;

(III) PROPERTY THAT IS FUNCTIONALLY RELATED AND SUBORDINATE TO THE PROJECT; AND

(IV) PATENTS, LICENSES, AND OTHER RIGHTS NECESSARY OR USEFUL IN THE IMPROVEMENT OR OPERATION OF A PROJECT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–1701(j).

In paragraph (1) of this subsection, the reference to “the undertaking” is substituted for the former reference to “any activity related to the economic activity on the property” for clarity and consistency within this article.

In paragraph (1)(iii) of this subsection, the reference to interest “on” bonds is substituted for the former incorrect reference to interest “of” bonds for clarity and accuracy.

In paragraph (2)(i) of this subsection, the former reference to “land or an interest in land” is deleted as included in the comprehensive reference to “property”.

In paragraph (2)(iii) of this subsection, the reference to “property” is substituted for the former reference to “land and facilities” for brevity and clarity.

Defined terms: “Authority” § 11–301

“Finance” § 11–301

“Improvement” § 11–301

“Project” § 11–301

(K) REVENUES.

(1) “REVENUES” MEANS THE INCOME, REVENUE, AND OTHER MONEY AN AUTHORITY RECEIVES FROM OR IN CONNECTION WITH A PROJECT.

(2) “REVENUES” INCLUDES GRANTS, RENTALS, RATES, FEES, AND CHARGES FOR THE USE OF THE SERVICES FURNISHED OR AVAILABLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–1701(k).

In paragraph (2) of this subsection, the former reference to “all other income of the authority connected with a project” is deleted as redundant of paragraph (1) of this subsection.

Defined terms: “Authority” § 11–301

“Project” § 11–301

REVISOR'S NOTE TO SECTION:

Former Art. 83A, § 5–1701(e), which defined “Council” as the Maryland Military Installation Council, was used only once in the former law. It is incorporated into the substance of the revision. *See* § 11–302(a) of this subtitle.

Former Art. 83A, § 5–1701(h), which defined “MEDCO”, is deleted because the term is not used in this revision.

Former Art. 83A, § 5–1701(i)(1), the general definition of “person” as a private entity, is also revised in § 9–101 of this article.

11–302. LEGISLATIVE FINDINGS; INTENT.

(A) FINDINGS.

THE GENERAL ASSEMBLY FINDS THAT:

(1) THE ECONOMY OF THE STATE AND ITS LOCAL GOVERNMENTS WILL BE GREATLY IMPACTED BY THE CLOSURE OR REALIGNMENT OF ANY MILITARY INSTALLATION THROUGH ANY BASE REALIGNMENT OR CLOSING ACTION;

(2) ALTHOUGH A CLOSURE OR REALIGNMENT WILL RESULT IN ECONOMIC CONTRACTION AND DISLOCATION, IT ALSO AFFORDS OPPORTUNITIES TO EXPAND PRODUCTIVE EMPLOYMENT AND EXPAND THE STATE’S ECONOMY AND TAX BASE;

(3) FOR THIS REASON, THE GENERAL ASSEMBLY ENACTED THE MARYLAND MILITARY INSTALLATION STRATEGIC PLANNING COUNCIL ACT; AND

(4) THE ESTABLISHMENT OF STATE–CHARTERED PUBLIC CORPORATIONS TO DEVELOP MILITARY INSTALLATIONS SLATED FOR CLOSURE OR REALIGNMENT IN THE STATE WOULD:

(i) SERVE THE PUBLIC INTEREST;

(ii) COMPLEMENT EXISTING STATE MARKETING PROGRAMS ADMINISTERED BY THE DEPARTMENT THROUGH:

1. ITS DIVISION OF BUSINESS DEVELOPMENT; AND

2. FINANCIAL ASSISTANCE PROGRAMS SUCH AS THOSE OF THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY AND FUND AND THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY; AND

(iii) SERVE AS AN ADDITIONAL MEANS TO ACHIEVE THE MISSION OF THE MARYLAND MILITARY INSTALLATION COUNCIL.

(B) INTENT.

THE GENERAL ASSEMBLY INTENDS THAT:

(1) AN AUTHORITY STRUCTURE ITS PROJECTS TO ACCELERATE THE TRANSFER OF FACILITIES AND SITES FROM THE FEDERAL GOVERNMENT INTO PRODUCTIVE REUSE OF THE FACILITIES AND SITES TO MAXIMIZE ECONOMIC OPPORTUNITIES FOR THE RESIDENTS OF THE STATE; AND

(2) THIS SUBTITLE BE A TEMPLATE FOR THE STRUCTURE, AUTHORIZATION, AND OPERATION OF EACH AUTHORITY ACCEPTED BY THE OFFICE OF ECONOMIC ADJUSTMENT OF THE UNITED STATES DEPARTMENT OF DEFENSE TO PERFORM THE TASKS REQUIRED WHEN LAND IS TRANSFERRED FROM THE FEDERAL GOVERNMENT TO AN AUTHORITY IN ACCORDANCE WITH THE FEDERAL DEFENSE BASE CLOSURE AND REALIGNMENT ACT OF 1990.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 5-1702 and 5-1701(e).

In subsection (a)(4)(ii)1 of this section, the reference to the "Division of Business Development" is substituted for the former obsolete reference to the "Office of Business Development and Resources" to reflect the current name of that unit.

In subsection (b)(1) of this section, the reference to the "residents" of this State is substituted for the former reference to "citizens" of this State because the meaning of the term "citizens" in this context is unclear. *See* General Revisor's Note to article.

Former Art. 83A, § 5-1701(e), which defined "Council" to mean the "Maryland Military Installation Council", was subject to a contingency on the taking effect of the termination provision of legislation that replaced the former "Maryland Military Installation Strategic Planning Council" with the current unit. *See* § 3 of Ch. 634, Acts of 2006. Accordingly, subsection (a)(4)(iii) of this section, which incorporates the substance of the former definition by referring to the Maryland Military Installation "Council", is subject to the same contingency. *See* § 5 of Ch. 306, Acts of 2008.

As to the Maryland Economic Development Assistance Authority and Fund and the Maryland Industrial Development Financing Authority, *see* Title 5, Subtitles 3 and 4 of this article, respectively.

Defined terms: "Authority" § 11-301

"Department" § 9-101

"State" § 9-101

11-303. CONSTRUCTION OF SUBTITLE.

THIS SUBTITLE IS SELF-EXECUTING AND FULLY AUTHORIZES THE SECRETARY TO CREATE A LOCAL REDEVELOPMENT AUTHORITY.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-1703(a).

No changes are made.

Defined term: "Secretary" § 9-101

11-304. INCORPORATION.

(A) FILING OF ARTICLES.

THE SECRETARY SHALL EXECUTE AND FILE PROPOSED ARTICLES OF INCORPORATION OF AN AUTHORITY WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(B) REQUIRED CONTENTS.

THE PROPOSED ARTICLES OF INCORPORATION SHALL STATE:

- (1) THE NAME OF THE AUTHORITY;
- (2) THAT THE AUTHORITY IS FORMED UNDER THIS SUBTITLE;
- (3) THE NAMES, ADDRESSES, AND TERMS OF OFFICE OF THE FIRST MEMBERS OF THE BOARD OF THE AUTHORITY;
- (4) THE LOCATION OF THE PRINCIPAL OFFICE OF THE AUTHORITY;
- (5) THE PURPOSES FOR WHICH THE AUTHORITY IS FORMED; AND
- (6) THE POWERS OF THE AUTHORITY, SUBJECT TO THE RESTRICTIONS OR LIMITATIONS ON THE POWERS OF THE AUTHORITY UNDER THIS SUBTITLE.

(C) EFFECT OF FILING.

ACCEPTANCE OF THE ARTICLES FOR RECORD BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION IS CONCLUSIVE EVIDENCE OF THE FORMATION OF THE AUTHORITY.

(D) AMENDMENT OF ARTICLES.

- (1) THE BOARD MAY AMEND THE ARTICLES OF INCORPORATION.
- (2) ANY AMENDMENT TO THE ARTICLES OF INCORPORATION SHALL BE FILED WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1703(d)(1)(ii) and (b)(1), (2), and, as it related to conclusive evidence, (3).

In subsections (a), (c), and (d)(2) of this section, the references to the "State" Department of Assessments and Taxation are added to reflect the correct name of that unit. In subsection (c) of this section, the reference to acceptance of the articles for record being "conclusive evidence of the formation" of the authority is substituted for the former reference to the authority being "conclusively considered to have been lawfully and properly created and authorized to exercise its powers" for clarity and consistency with the Maryland General Corporation Law. See CA § 2-102(b).

As to the general provisions on articles of incorporation and amendment, see the Maryland General Corporation Law, CA Titles 1 through 3.

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Defined terms: "Authority" § 11-301

"Board" § 11-301

"Secretary" § 9-101

"State" § 9-101

11-305. ESTABLISHED.

(A) STATUS.

AN AUTHORITY IS A BODY POLITIC AND CORPORATE AND IS AN INSTRUMENTALITY OF THE STATE ONCE THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION ACCEPTS THE ARTICLES OF INCORPORATION FOR RECORD.

(B) ESSENTIAL GOVERNMENTAL FUNCTION.

THE EXERCISE BY AN AUTHORITY OF A POWER UNDER THIS SUBTITLE IS THE PERFORMANCE OF AN ESSENTIAL GOVERNMENTAL FUNCTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1703(c) and, as it related to the status of an authority, (b)(3).

In subsection (a) of this section, the reference to "accept[ing] the articles of incorporation for record" is substituted for the former reference to "issu[ing] a certificate of approval" to reflect the current procedures of the State Department of Assessments and Taxation under the Maryland General Corporation Law. *See* CA § 1-202.

In subsection (b) of this section, the reference to an essential "governmental" function is substituted for the former reference to an essential "public" function for clarity and consistency within this article.

Defined terms: "Authority" § 11-301

"State" § 9-101

11-306. BOARD OF DIRECTORS.

(A) IN GENERAL.

A BOARD OF DIRECTORS SHALL MANAGE THE AFFAIRS OF THE AUTHORITY AND EXERCISE ALL OF THE POWERS OF THE AUTHORITY.

(B) COMPOSITION; APPOINTMENT OF MEMBERS.

THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:

(1) AS EX OFFICIO MEMBERS:

(I) THE SECRETARY, OR THE DESIGNEE OF THE SECRETARY;

(II) THE SECRETARY OF GENERAL SERVICES, OR THE DESIGNEE OF THE SECRETARY OF GENERAL SERVICES;

(III) THE SECRETARY OF PLANNING, OR THE DESIGNEE OF THE SECRETARY OF PLANNING; AND

(IV) THE PRESIDENT OF THE MILITARY ALLIANCE OF EACH COUNTY IN WHICH THE FACILITY IS LOCATED;

(2) (I) IF THE FACILITY IS LOCATED IN ONE COUNTY, THE EXECUTIVE DIRECTOR, OR EQUIVALENT OFFICER, OF THE COUNTY ECONOMIC DEVELOPMENT UNIT AND TWO OTHER MEMBERS APPOINTED BY THE GOVERNING BODY OF THE COUNTY IN WHICH THE FACILITY IS LOCATED; OR

(II) IF THE FACILITY IS LOCATED IN MORE THAN ONE COUNTY, THE EXECUTIVE DIRECTOR, OR EQUIVALENT OFFICER, OF THE ECONOMIC DEVELOPMENT UNIT OF EACH COUNTY AND ONE OTHER MEMBER APPOINTED BY THE GOVERNING BODY OF EACH COUNTY; AND

(3) AS NONVOTING, EX OFFICIO MEMBERS:

(I) THE EXECUTIVE DIRECTOR OF THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION;

(II) THE EXECUTIVE DIRECTOR OF THE AUTHORITY; AND

(III) THE DIRECTOR OF TRANSITIONAL SERVICES OF THE STATE DEPARTMENT OF HUMAN RESOURCES.

(C) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER OF THE BOARD APPOINTED UNDER SUBSECTION (B)(2) OF THIS SECTION IS 4 YEARS.

(2) THE TERMS OF APPOINTED MEMBERS SHALL BE STAGGERED.

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

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

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1703(d)(1)(i), (2), and (3).

Defined terms: "Authority" § 11-301

"Board" § 11-301

"County" § 9-101

"Secretary" § 9-101

"State" § 9-101

11-307. OFFICERS.

(A) IN GENERAL.

FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR, A VICE CHAIR, AND A TREASURER.

(B) TENURE.

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THE CHAIR, VICE CHAIR, AND TREASURER SERVE AT THE PLEASURE OF THE GOVERNOR.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-1703(e)(1).

No changes are made.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that the provisions for appointment and tenure of officers under subsections (a) and (b) of this section appear to be inconsistent in that the officers are elected by the Board but serve as officers at the pleasure of the Governor. The General Assembly may wish to address this inconsistency by having the officers serve terms, or be appointed by and subject to the same appointing authority.

Defined term: "Board" § 11-301

11-308. QUORUM.

A MAJORITY OF THE VOTING BOARD MEMBERS SERVING AT THE TIME IS A QUORUM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1703(e)(2).

Former Art. 83A, § 5-1703(e)(3), which provided that a vacancy on the Board does not impair the right of a quorum to act, is deleted as an unnecessary restatement of the common-law rule, and for consistency within this article. *See* General Revisor's Note to article.

Defined term: "Board" § 11-301

11-309. COMMITTEES.

(A) FINANCE COMMITTEE; CHAIR.

(1) THE BOARD SHALL ESTABLISH A FINANCE COMMITTEE.

(2) THE TREASURER OF THE BOARD CHAIRS THE FINANCE COMMITTEE AND OVERSEES THE FINANCES OF THE AUTHORITY.

(B) OTHER COMMITTEES ALLOWED.

(1) THE BOARD MAY ESTABLISH OTHER COMMITTEES AS APPROPRIATE.

(2) THE MEMBERSHIP OF A COMMITTEE MAY INCLUDE INDIVIDUALS WHO ARE NOT BOARD MEMBERS.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-1703(e)(4).

The only changes are in style.

Defined terms: "Authority" § 11-301

"Board" § 11-301

11-310. EXECUTIVE DIRECTOR.

(A) POSITION; TENURE; SALARY.

(1) THE BOARD SHALL APPOINT THE EXECUTIVE DIRECTOR OF THE AUTHORITY.

(2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE BOARD.

(3) THE BOARD SHALL DETERMINE THE SALARY OF THE EXECUTIVE DIRECTOR.

(B) ADMINISTRATIVE OFFICER.

(1) THE EXECUTIVE DIRECTOR IS THE CHIEF OPERATING OFFICER OF THE AUTHORITY.

(2) THE EXECUTIVE DIRECTOR SHALL MANAGE THE ADMINISTRATIVE AFFAIRS AND TECHNICAL ACTIVITIES OF THE AUTHORITY IN ACCORDANCE WITH POLICIES AND PROCEDURES THAT THE BOARD ESTABLISHES.

(C) DUTIES.

THE EXECUTIVE DIRECTOR SHALL:

(1) ATTEND ALL MEETINGS OF THE BOARD;

(2) ACT AS SECRETARY TO THE BOARD;

(3) KEEP MINUTES OF THE PROCEEDINGS OF THE BOARD;

(4) APPROVE SALARIES, PER DIEM PAYMENTS, ALLOWABLE EXPENSES OF THE AUTHORITY AND ITS EMPLOYEES OR CONSULTANTS, AND ANY EXPENSES INCIDENTAL TO THE OPERATION OF THE AUTHORITY; AND

(5) PERFORM THE OTHER DUTIES THAT THE BOARD DIRECTS IN CARRYING OUT THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-1704(a) and (b).

In subsection (c)(4) of this section, the former reference to approval of "accounts for" salaries, etc., is deleted for clarity. The Executive Director approves salaries in accordance with the policies and procedures that the Board establishes, including the budget.

The only other changes are in style.

Defined terms: "Authority" § 11-301

"Board" § 11-301

11-311. STAFF; CONSULTANTS.

(A) STAFF.

THE BOARD SHALL APPROVE ADDITIONAL PROFESSIONAL AND CLERICAL STAFF AS NECESSARY TO CARRY OUT THIS SUBTITLE.

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(B) CONSULTANTS.

THE BOARD MAY RETAIN ACCOUNTANTS, ENGINEERS, LAWYERS, FINANCIAL ADVISORS, OR OTHER CONSULTANTS AS NECESSARY TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1704(c)(1) and (d).

In subsection (b) of this section, the reference to “retain[ing]” consultants is substituted for the former reference to “engag[ing]” them for clarity and consistency within this article.

Also in subsection (b) of this section, the phrase “to carry out this subtitle” is added for clarity.

Defined term: “Board” § 11–301

11–312. APPLICABILITY OF OTHER LAWS.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IN EXERCISING ITS CORPORATE POWERS, THE AUTHORITY:

(1) MAY CARRY OUT ITS CORPORATE PURPOSES WITHOUT OBTAINING THE CONSENT OF ANY STATE UNIT; AND

(2) IS NOT SUBJECT TO THE FOLLOWING PROVISIONS OF THE STATE FINANCE AND PROCUREMENT ARTICLE:

(I) TITLE 2, SUBTITLES 2 (GIFTS AND GRANTS), 4 (FACSIMILE SIGNATURES AND SEALS), AND 5 (FACILITIES FOR HANDICAPPED);

(II) TITLE 3 (BUDGET AND MANAGEMENT);

(III) TITLE 4 (DEPARTMENT OF GENERAL SERVICES);

(IV) TITLE 6, SUBTITLE 1 (REVENUES: STUDIES AND ESTIMATES);

(V) TITLE 7, SUBTITLES 1 (STATE OPERATING BUDGET), 2 (DISBURSEMENTS AND EXPENDITURES), AND 3 (UNSPENT BALANCES);

(VI) TITLE 8, SUBTITLE 1 (GENERAL OBLIGATION DEBT);

(VII) TITLE 10 (BOARD OF PUBLIC WORKS – MISCELLANEOUS PROVISIONS); AND

(VIII) DIVISION II (GENERAL PROCUREMENT LAW).

(B) OPEN MEETINGS; PUBLIC INFORMATION.

(1) THE AUTHORITY AND ITS COMMITTEES ARE SUBJECT TO THE OPEN MEETINGS ACT.

(2) THE AUTHORITY IS SUBJECT TO THE PUBLIC INFORMATION ACT.

(C) ETHICS.

THE OFFICERS AND EMPLOYEES OF THE AUTHORITY ARE SUBJECT TO THE MARYLAND PUBLIC ETHICS LAW.

(D) PERSONNEL.

THE OFFICERS AND EMPLOYEES OF THE AUTHORITY 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 AUTHORITY IS SUBJECT TO THE SAME STATE AND LOCAL REGULATIONS AND REGULATORY REQUIREMENTS AS ANY PRIVATE CORPORATION.

(F) ZONING.

A PROJECT OF THE AUTHORITY 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, §§ 5–1710 and 5–1704(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 enabling legislation for a local redevelopment authority applied to an authority. *See* Ch. 275, Acts of 2005. An authority 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 an authority. No substantive change is intended.

In subsection (b)(1) of this section, the reference to “committees” of the authority is added for clarity.

In subsection (c) of this section, the reference to the “Maryland” Public Ethics Law is added to reflect accurately the short title of SG Title 15.

In subsection (e) of this section, the former limitation “[n]otwithstanding subsection (a) of this section” is deleted as unnecessary in light of the introductory language of subsection (a) of this section.

The Economic Development Article Review Committee also notes, for the consideration of the General Assembly, that a “local redevelopment authority” is not specifically listed in the Maryland Tort Claims Act. The General Assembly may wish to address the potential liability of personnel of an authority, the Bainbridge Development Corporation, and the PenMar

Development Corporation in the same manner that it has already done with the Maryland Economic Development Corporation and the Maryland Stadium Authority which are specifically included in that statute. *See* SG § 12-101.

Defined terms: “Authority” § 11-301

“Project” § 11-301

“State” § 9-101

11-313. ACCOUNTING; FISCAL YEAR.

(A) ACCOUNTING.

THE AUTHORITY SHALL ESTABLISH A SYSTEM OF FINANCIAL ACCOUNTING, CONTROLS, AUDITS, AND REPORTS.

(B) FISCAL YEAR.

THE FISCAL YEAR OF THE AUTHORITY BEGINS ON JULY 1 AND ENDS ON THE FOLLOWING JUNE 30.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1709(c).

Defined term: “Authority” § 11-301

11-314. MONEY OF AUTHORITY.

(A) FUNDS.

THE AUTHORITY MAY ESTABLISH ANY ACCOUNTS THAT IT REQUIRES.

(B) DEPOSIT OF MONEY.

THE AUTHORITY SHALL DEPOSIT ITS MONEY INTO A STATE OR NATIONAL BANK OR A FEDERALLY INSURED SAVINGS AND LOAN ASSOCIATION IN THE STATE THAT HAS A TOTAL PAID-IN CAPITAL OF AT LEAST \$1,000,000.

(C) DEPOSITORY DESIGNEES.

THE AUTHORITY MAY DESIGNATE THE TRUST DEPARTMENT OF A STATE OR NATIONAL BANK OR OF A SAVINGS AND LOAN ASSOCIATION AS A DEPOSITORY TO RECEIVE SECURITIES THAT THE AUTHORITY OWNS OR ACQUIRES.

(D) ALLOWED INVESTMENTS.

UNLESS AN AGREEMENT LIMITS CLASSES OF INVESTMENTS, THE AUTHORITY MAY INVEST ITS MONEY IN BONDS OR OTHER OBLIGATIONS OF, OR GUARANTEED AS TO PRINCIPAL AND INTEREST BY, THE UNITED STATES, A UNIT OF THE UNITED STATES, THE STATE, OR A POLITICAL SUBDIVISION OF THE STATE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1709(a) and (b).

In subsection (b) of this section, the reference to “its” money is substituted

for the former references to money “in these funds and other money” for brevity and clarity.

Also in subsection (b) of this section, the former obsolete reference to a “State” insured savings and loan association is deleted because there is no longer any such State–insured institution.

In subsection (d) of this section, the former phrase “or covenant between the authority and the holders of any of its obligations” is deleted as unnecessary because the authority itself does not issue bonds or any other obligation, and any covenant between an authority, or the Maryland Economic Development Corporation on the authority’s behalf and any other person, including a holder of an obligation, that limits classes of obligations would be an “agreement”. This could even include a bond, which is a form of an agreement.

Defined terms: “Authority” § 11–301
 “State” § 9–101

11–315. POWERS — IN GENERAL.

THE AUTHORITY MAY:

- (1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;
- (2) ADOPT A SEAL;
- (3) MAINTAIN OFFICES IN THE STATE;
- (4) ACCEPT LOANS, GRANTS, OR ASSISTANCE OF ANY KIND FROM THE FEDERAL OR STATE GOVERNMENT, A LOCAL GOVERNMENT, OR A PRIVATE SOURCE;
- (5) ENTER INTO CONTRACTS AND OTHER LEGAL INSTRUMENTS;
- (6) SUE AND BE SUED IN ITS OWN NAME;
- (7) ACQUIRE, PURCHASE, HOLD, LEASE AS LESSEE, AND USE ANY FRANCHISE, PATENT, OR LICENSE AND REAL, PERSONAL, MIXED, TANGIBLE, OR INTANGIBLE PROPERTY, OR ANY INTEREST IN PROPERTY, NECESSARY OR CONVENIENT TO CARRY OUT ITS PURPOSES;
- (8) SELL, LEASE AS LESSOR, TRANSFER, AND DISPOSE OF ITS PROPERTY OR INTEREST IN PROPERTY;
- (9) FIX AND COLLECT RATES, RENTALS, FEES, AND CHARGES FOR SERVICES AND FACILITIES THE AUTHORITY PROVIDES OR MAKES AVAILABLE;
- (10) WITH THE OWNER’S PERMISSION, ENTER LAND, WATERS, OR PREMISES TO MAKE A SURVEY, SOUNDING, BORING, OR EXAMINATION TO ACCOMPLISH A PURPOSE AUTHORIZED BY THIS SUBTITLE;

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(11) EXERCISE A POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN PERFORMING SIMILAR FUNCTIONS, UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW OR UNLESS THE ACTION OR DECISION OF THE AUTHORITY WOULD IMPOSE LIABILITY ON THE STATE OR ANY COUNTY; AND

(12) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS EXPRESSLY GRANTED BY THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5–1705(1) through (6), (8), (9), and (13) through (16).

In item (4) of this section, the former reference to “[a]pply[ing] for” loans is deleted as implicit in the authority to “accept” loans.

The only other changes are in style.

Defined terms: “Authority” § 11–301

“County” § 9–101

“State” § 9–101

11–316. POWERS — PROJECTS.

THE AUTHORITY MAY:

(1) ACQUIRE, IMPROVE, DEVELOP, MANAGE, MARKET, LEASE AS LESSOR OR LESSEE, OPERATE, AND MAINTAIN A PROJECT; AND

(2) ACQUIRE, EITHER DIRECTLY OR BY OR THROUGH AN AGREEMENT WITH THE UNITED STATES DEPARTMENT OF DEFENSE OR A MILITARY SERVICE, BY PURCHASE OR OTHERWISE, ANY PROPERTY, RIGHTS, RIGHTS–OF–WAY, FRANCHISES, EASEMENTS, AND OTHER INTERESTS IN LAND, INCLUDING LAND LYING UNDER WATER AND RIPARIAN RIGHTS LOCATED IN OR OUTSIDE THE STATE AS NECESSARY OR CONVENIENT TO IMPROVE OR OPERATE A PROJECT ON TERMS AND AT PRICES THAT THE AUTHORITY CONSIDERS TO BE REASONABLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1705(7) and (10).

In item (2) of this section, the reference to “real or personal property” is substituted for the former reference to “land, structures, [and] property” for clarity and consistency within this article.

Defined terms: “Authority” § 11–301

“Improve” § 11–301

“Project” § 11–301

“State” § 9–101

11–317. POWERS — BORROWING AUTHORITY.

THE AUTHORITY MAY:

(1) BORROW MONEY TO FINANCE COSTS OF A PROJECT OR FOR ANY OTHER CORPORATE PURPOSE OF THE AUTHORITY;

(2) MORTGAGE OR OTHERWISE ENCUMBER ITS PROPERTY OR REVENUES FOR THE LOAN; AND

(3) COMBINE PROJECTS FOR FINANCING.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-1705(11) and (12).

The only changes are in style.

Defined terms: "Authority" § 11-301

"Cost" § 11-301

"Finance" § 9-101

"Project" § 11-301

"Revenues" § 11-301

11-318. BOND AUTHORIZATION.

TO CARRY OUT THIS SUBTITLE, THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION MAY ISSUE BONDS FROM TIME TO TIME ON BEHALF OF THE AUTHORITY TO FINANCE COSTS OF A PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1706(a).

The phrase "on behalf of the authority" is added for clarity.

The former phrase "at one time" is deleted as implicit.

As to the general authority and procedures of the Maryland Economic Development Corporation to issue bonds, *see* § 10-118 of this article.

Defined terms: "Authority" § 11-301

"Bond" § 11-301

"Cost" § 11-301

"Finance" § 11-301

"Project" § 11-301

11-319. LIABILITY; FULL FAITH AND CREDIT.

AN OBLIGATION OF THE AUTHORITY IS NOT A DEBT, LIABILITY, OR PLEDGE OF THE FULL FAITH AND CREDIT OF THE STATE OR ANY COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1706(c).

The former prohibition that an obligation "may not be deemed to constitute" a debt, liability, or pledge is deleted as included in the statement that the obligation "is not" a debt, liability, or pledge.

Defined terms: "Authority" § 11-301

"County" § 9-101

"State" § 9-101

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11-320. PROJECT FINANCING.

(A) **LOANS.**

THE AUTHORITY MAY:

(1) LEND OR OTHERWISE MAKE AVAILABLE ITS NET REVENUE TO FINANCE COSTS OF A PROJECT; AND

(2) ENTER INTO A FINANCING AGREEMENT, MORTGAGE, OR OTHER INSTRUMENT THAT IT DETERMINES IS NECESSARY OR DESIRABLE TO EVIDENCE OR SECURE THE LOAN.

(B) **LEASES.**

A LEASE OF PROPERTY OF THE AUTHORITY MAY REQUIRE OR AUTHORIZE THE LESSEE OR ANOTHER PERSON, ON CONVEYANCE OF THE PROPERTY TO THE AUTHORITY, TO PURCHASE OR OTHERWISE ACQUIRE THE PROPERTY FOR CONSIDERATION THAT THE AUTHORITY ESTABLISHES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1706(b).

In subsection (a)(1) of this section, the reference to "net revenue" is substituted for the former incorrect reference to "the proceeds of its net earnings" for clarity. A local redevelopment authority does not issue its own bonds, and so it has no "proceeds". No substantive change is intended.

In subsection (b) of this section, the reference to conveyance "to the authority" is added for clarity.

Defined terms: "Authority" § 11-301

"Cost" § 11-301

"Finance" § 9-101

"Person" §§ 9-101, 11-301

"Project" § 11-301

"Revenues" § 11-301

11-321. RATES AND CHARGES; REVENUES.

(A) **CHARGES FOR SERVICES.**

THE AUTHORITY MAY:

(1) FIX AND COLLECT RATES OR CHARGES FOR ITS SERVICES;

(2) ESTABLISH THE TERMS AND CONDITIONS FOR THE SERVICES; AND

(3) CONTRACT WITH A PERSON FOR THE PROVISION OF THE SERVICES OF THE AUTHORITY.

(B) **CHARGES NOT REGULATED.**

THE RATES OR CHARGES OF THE AUTHORITY ARE NOT SUBJECT TO SUPERVISION OR REGULATION BY ANY OTHER UNIT OF THE STATE OR BY A POLITICAL SUBDIVISION OF THE STATE.

(C) USE OF REVENUES.

SUBJECT TO ANY AGREEMENT, THE AUTHORITY MAY APPLY ITS REVENUES TO ANY LAWFUL PURPOSE.

(D) BENEFIT OF REVENUES.

EXCEPT AS NECESSARY TO PAY AN OBLIGATION OR TO IMPLEMENT PROGRAMS OF THE AUTHORITY, THE NET REVENUE OF THE AUTHORITY MAY NOT BENEFIT A PERSON OTHER THAN THE COUNTY OR COUNTIES IN WHICH THE FACILITY IS LOCATED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1707.

In subsection (c) of this section, the former reference to an agreement "relating to bonds of the authority" is deleted as surplusage.

In subsection (d) of this section, the reference to net "revenue" is substituted for the former reference to net "earnings" for accuracy.

Defined terms: "Authority" § 11-301

"County" § 9-101

"Person" §§ 9-101, 11-301

"Revenues" § 11-301

"State" § 9-101

11-322. TAX STATUS.

(A) EXEMPTION.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE AUTHORITY IS EXEMPT FROM ANY REQUIREMENT TO PAY ANY TAXES OR ASSESSMENTS ON ITS PROPERTIES, ACTIVITIES, OR ANY REVENUE FROM ITS PROPERTIES OR ACTIVITIES.

(B) PRIVATE ENTITIES.

PROPERTY THAT THE AUTHORITY SELLS OR LEASES TO A PRIVATE ENTITY IS SUBJECT TO STATE AND LOCAL PROPERTY TAXES FROM THE TIME OF THE SALE OR LEASE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1708.

In subsection (b) of this section, the reference to "[p]roperty" is substituted for the former reference to "[l]and or a facility" for consistency within this subtitle.

Defined terms: "Authority" § 11-301

"State" § 9-101

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11-323. AUDIT.

(A) IN GENERAL.

(1) AS SOON AS PRACTICAL AFTER THE CLOSE OF THE FISCAL YEAR, AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT SHALL AUDIT THE FINANCIAL BOOKS, RECORDS, AND ACCOUNTS OF THE AUTHORITY.

(2) THE FINANCE COMMITTEE OF THE AUTHORITY SHALL SELECT AN ACCOUNTANT TO CONDUCT THE AUDIT WHO:

(I) IS LICENSED TO PRACTICE ACCOUNTANCY IN THE STATE;

(II) IS EXPERIENCED AND QUALIFIED IN THE ACCOUNTING AND AUDITING OF PUBLIC BODIES; AND

(III) DOES NOT HAVE A DIRECT OR INDIRECT INTEREST IN THE FISCAL AFFAIRS OF THE AUTHORITY.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE ACCOUNTANT SHALL REPORT THE RESULTS OF THE AUDIT, INCLUDING THE ACCOUNTANT'S UNQUALIFIED OPINION ON THE PRESENTATION OF THE FINANCIAL POSITION AND THE RESULTS OF THE FINANCIAL OPERATIONS OF THE AUTHORITY.

(II) IF THE ACCOUNTANT CANNOT EXPRESS AN UNQUALIFIED OPINION, THE ACCOUNTANT SHALL EXPLAIN IN DETAIL THE REASONS FOR THE QUALIFICATIONS, DISCLAIMERS, OR OPINIONS, INCLUDING RECOMMENDATIONS OF CHANGES THAT COULD MAKE FUTURE UNQUALIFIED OPINIONS POSSIBLE.

(B) AUDIT BY STATE.

THE STATE MAY AUDIT THE BOOKS, RECORDS, AND ACCOUNTS OF THE AUTHORITY.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-1709(d) and (e).

In subsection (a)(3)(i) of this section, the limitation "[e]xcept as provided in subparagraph (ii) of this paragraph," is added for clarity and consistency within this article.

The only other changes are in style.

Defined terms: "Authority" § 11-301

"State" § 9-101

11-324. ANNUAL REPORT.

(A) REQUIRED.

ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE AUTHORITY SHALL SUBMIT A REPORT TO:

(1) THE GOVERNOR;

(2) THE GOVERNING BODY OF EACH COUNTY IN WHICH THE FACILITY IS LOCATED;

(3) THE DEPARTMENT; AND

(4) IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(B) CONTENTS.

THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND FINANCIAL STATEMENT AND A SUMMARY OF THE ACTIVITIES OF THE AUTHORITY DURING THE PRECEDING FISCAL YEAR.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-1709(f).

In the introductory language to subsection (a) of this section, the phrase "[o]n or before October 1 of each year" is substituted for the former phrase "[w]ithin 90 days after the start of each fiscal year" for clarity and accuracy.

The only other changes are in style.

Defined terms: "Authority" § 11-301

"County" § 9-101

"Department" § 9-101

11-325. SHORT TITLE.

THIS SUBTITLE MAY BE CITED AS THE MARYLAND LOCAL MILITARY INSTALLATION REDEVELOPMENT AUTHORITY ACT.

REVISOR'S NOTE: This section formerly was Art. 83A, § 5-1711.

No changes are made.

SUBTITLE 4. BAINBRIDGE DEVELOPMENT CORPORATION.

11-401. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5-1601(a).

No changes are made.

(B) BOARD.

"BOARD" MEANS THE BOARD OF DIRECTORS OF THE CORPORATION.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title of the "Board of Directors".

Defined term: "Corporation" § 11-401

(C) BOND.

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(1) “BOND” MEANS A BOND OR NOTE ISSUED ON BEHALF OF THE CORPORATION.

(2) “BOND” INCLUDES:

(I) A BOND ANTICIPATION NOTE;

(II) A REVENUE ANTICIPATION NOTE;

(III) A GRANT ANTICIPATION NOTE;

(IV) A REFUNDING BOND;

(V) A NOTE IN THE NATURE OF COMMERCIAL PAPER; AND

(VI) ANY OTHER EVIDENCE OF INDEBTEDNESS ISSUED ON BEHALF OF THE CORPORATION, WHETHER A GENERAL OR LIMITED OBLIGATION OF THE CORPORATION.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–1601(b).

Defined term: “Corporation” § 11–401

(D) CORPORATION.

“CORPORATION” MEANS THE BAINBRIDGE DEVELOPMENT CORPORATION.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1601(c).

No changes are made.

(E) COST.

“COST” INCLUDES:

(1) THE PURCHASE PRICE OF A PROJECT;

(2) THE COST TO ACQUIRE ANY RIGHT, TITLE, OR INTEREST IN A PROJECT;

(3) THE AMOUNT TO BE PAID TO DISCHARGE EACH OBLIGATION NECESSARY OR DESIRABLE TO VEST TITLE TO ANY PART OF A PROJECT IN THE CORPORATION OR OTHER OWNER;

(4) THE COST OF ANY IMPROVEMENT;

(5) THE COST OF ANY PROPERTY, RIGHT, EASEMENT, FRANCHISE, AND PERMIT;

(6) THE COST OF LABOR AND EQUIPMENT;

(7) FINANCING CHARGES;

(8) INTEREST BEFORE AND DURING CONSTRUCTION AND, IF THE CORPORATION DETERMINES, FOR A LIMITED PERIOD AFTER THE COMPLETION OF CONSTRUCTION;

(9) RESERVES FOR PRINCIPAL AND INTEREST AND FOR IMPROVEMENTS;

(10) THE COST OF REVENUE ESTIMATES, ENGINEERING AND LEGAL SERVICES, PLANS, DESIGNS, SPECIFICATIONS, SURVEYS, INVESTIGATIONS, DEMONSTRATIONS, STUDIES, ESTIMATES OF COST, AND OTHER EXPENSES NECESSARY OR INCIDENT TO DETERMINING THE FEASIBILITY OF AN ACQUISITION OR IMPROVEMENT OF A PROJECT;

(11) ADMINISTRATIVE EXPENSES; AND

(12) OTHER EXPENSES NECESSARY OR INCIDENT TO:

(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.

REVISOR'S NOTE: This subsection is new language added for brevity and clarity.

(I) IMPROVEMENT.

"IMPROVEMENT" MEANS ADDITION, ALTERATION, CONSTRUCTION, EQUIPPING, EXPANSION, EXTENSION, IMPROVEMENT, INSTALLATION, RECONSTRUCTION, REHABILITATION, REMODELING, OR REPAIR.

REVISOR'S NOTE: This subsection is new language added for brevity and clarity.

(J) PERSON.

(1) "PERSON" HAS THE MEANING STATED IN § 9-101 OF THIS ARTICLE.

(2) "PERSON" ALSO INCLUDES A POLITICAL SUBDIVISION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-1601(f).

Defined term: "Person" § 9-101

(K) PROJECT.

(1) "PROJECT" MEANS AN UNDERTAKING TO ESTABLISH ECONOMIC ACTIVITY ON PROPERTY CONVEYED TO THE CORPORATION KNOWN AS THE BAINBRIDGE NAVAL TRAINING CENTER, INCLUDING THE HISTORIC TOME SCHOOL FOR BOYS, AT PORT DEPOSIT, MARYLAND, WHETHER OR NOT A FACILITY OR PROPERTY USED OR USEFUL IN CONNECTION WITH THE UNDERTAKING MAY BE FINANCED BY BONDS, THE INTEREST ON WHICH IS EXEMPT FROM TAXATION UNDER FEDERAL LAW.

(2) "PROJECT" INCLUDES:

(I) PROPERTY AND RIGHTS RELATED TO THE PROPERTY, APPURTENANCES, RIGHTS-OF-WAY, FRANCHISES, AND EASEMENTS;

(II) INFRASTRUCTURE, EQUIPMENT, AND FURNISHINGS;

(III) PROPERTY THAT IS FUNCTIONALLY RELATED AND SUBORDINATE TO A PROJECT; AND

(IV) PATENTS, LICENSES, AND OTHER RIGHTS NECESSARY OR USEFUL IN THE CONSTRUCTION OR OPERATION OF A PROJECT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-1601(g).

In paragraph (1) of this subsection, the reference to a facility or property “used or useful in connection with the undertaking” is substituted for the former reference to “these” facilities or properties for clarity and consistency within this article.

In paragraph (2)(i) of this subsection, the former references to “lands” and “other interests in land” are deleted as included in the comprehensive reference to “property”.

In paragraph (2)(iii) of this subsection, the reference to “property” is substituted for the former reference to “land and facilities” for brevity and clarity.

Defined terms: “Bond” § 11–401

“Corporation” § 11–401

“Finance” § 11–401

“Project” § 11–401

(L) REVENUES.

(1) “REVENUES” MEANS:

(I) THE INCOME, REVENUE, AND OTHER MONEY THE CORPORATION RECEIVES FROM OR IN CONNECTION WITH A PROJECT; AND

(II) ALL OTHER INCOME OF THE CORPORATION.

(2) “REVENUES” INCLUDES GRANTS, RENTALS, RATES, FEES, AND CHARGES FOR THE USE OF SERVICES FURNISHED OR AVAILABLE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–1601(h).

Defined terms: “Corporation” § 11–401

“Project” § 11–401

REVISOR’S NOTE TO SECTION: Former Art. 83A, § 5–1601(e), which defined “MEDCO”, is deleted because the term is not used in this revision.

11–402. ESTABLISHED.

(A) IN GENERAL.

THERE IS A BAINBRIDGE DEVELOPMENT CORPORATION.

(B) STATUS.

THE CORPORATION IS A BODY POLITIC AND CORPORATE AND IS AN INSTRUMENTALITY OF THE STATE.

(C) ESSENTIAL GOVERNMENTAL FUNCTION.

THE EXERCISE BY THE CORPORATION OF A POWER UNDER THIS SUBTITLE IS THE PERFORMANCE OF AN ESSENTIAL GOVERNMENTAL FUNCTION.

REVISOR'S NOTE: Subsection (a) of this section is new language added to state expressly that which was only implied in the former law, *i.e.*, the Bainbridge Development Corporation is created by statute.

Subsections (b) and (c) of this section are new language derived without substantive change from former Art. 83A, § 5-1602(a)(1) and (2).

In subsection (b) of this section, the former reference to a "public" instrumentality is deleted as implicit in the reference to a "body politic and corporate".

In subsection (c) of this section, the reference to an essential "governmental" function is substituted for the former reference to an essential "public" function for clarity and consistency within this article.

Defined terms: "Corporation" § 11-401
"State" § 9-101

11-403. BOARD OF DIRECTORS.

(A) IN GENERAL.

A BOARD OF DIRECTORS SHALL MANAGE THE AFFAIRS OF THE CORPORATION AND EXERCISE ALL OF THE POWERS OF THE CORPORATION.

(B) COMPOSITION; APPOINTMENT OF MEMBERS.

THE BOARD CONSISTS OF THE FOLLOWING 15 MEMBERS:

(1) EIGHT MEMBERS APPOINTED BY THE COUNTY COMMISSIONERS AS FOLLOWS:

(I) TWO MEMBERS RECOMMENDED BY THE MAYOR AND TOWN COUNCIL OF PORT DEPOSIT;

(II) TWO MEMBERS RECOMMENDED BY THE STATE LEGISLATIVE DELEGATION OF CECIL COUNTY; AND

(III) FOUR MEMBERS AT LARGE;

(2) THE DIRECTOR OF THE CECIL COUNTY DEPARTMENT OF ECONOMIC DEVELOPMENT; AND

(3) SIX NONVOTING EX OFFICIO MEMBERS AS FOLLOWS:

(I) THE SECRETARY, OR THE DESIGNEE OF THE SECRETARY;

(II) THE SECRETARY OF GENERAL SERVICES, OR THE DESIGNEE OF THE SECRETARY OF GENERAL SERVICES;

(III) THE EXECUTIVE DIRECTOR OF THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION;

- (IV) THE DIRECTOR OF THE MARYLAND HISTORICAL TRUST;
- (V) THE PRESIDENT OF THE COUNTY COMMISSIONERS; AND
- (VI) THE MAYOR OF PORT DEPOSIT.

(C) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER OF THE BOARD APPOINTED UNDER SUBSECTION (B)(1) OF THIS SECTION IS 4 YEARS.

(2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2008.

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

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

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1602(b).

In subsection (c)(2) of this section, the reference to terms of appointed members being "staggered as required by the terms provided for members of the Board on October 1, 2008" is substituted for the former obsolete reference to terms simply being "staggered". This substitution is not intended to alter the term of any member of the Board. *See* § 13 of Ch. 306, Acts of 2008. The terms of the appointed members serving on October 1, 2008 expire as follows: (1) three in 2010; and (2) five in 2011.

Also in subsection (c)(2) of this section, the former reference to terms being staggered "to ensure long-term continuity in Board action" is deleted as surplusage because the rationale for staggered boards is implicit in current law.

Defined terms: "Board" § 11-401
 "Corporation" § 11-401
 "County Commissioners" § 11-401
 "Secretary" § 9-101
 "State" § 9-101

11-404. OFFICERS.

FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR, A VICE CHAIR, AND A TREASURER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1602(c)(1).

The references to a "chair" and a "vice chair" are substituted for the former references to a "chairman" and a "vice chairman", respectively, because SG § 2-1238 requires the use of words that are neutral as to gender to the

extent practicable. *See* General Revisor’s Note to article.

Defined term: “Board” § 11–401

11–405. QUORUM.

(A) IN GENERAL.

FIVE MEMBERS OF THE BOARD ARE A QUORUM.

(B) VOTING.

AN AFFIRMATIVE VOTE OF AT LEAST FIVE MEMBERS IS NEEDED FOR THE BOARD TO ACT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1602(c)(2).

Former Art. 83A, § 5–1602(c)(3), which stated that “[a] vacancy ... does not impair the right of a quorum” is deleted as inconsistent with the requirements that a specified number of members constitute a quorum under subsection (a) of this section, and a specified number of affirmative votes is needed for the Board to act under subsection (b) of this section. *See also* McQuillen, *Municipal Corporations*, §§ 13.30, 13.31 (3rd ed. rev’d).

Defined term: “Board” § 11–401

11–406. EXECUTIVE DIRECTOR.

(A) POSITION; TENURE; SALARY.

(1) SUBJECT TO THE APPROVAL OF THE COUNTY COMMISSIONERS, THE BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR.

(2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE BOARD.

(3) THE BOARD SHALL DETERMINE THE SALARY OF THE EXECUTIVE DIRECTOR.

(B) ADMINISTRATIVE OFFICER.

(1) THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE OFFICER OF THE CORPORATION.

(2) THE EXECUTIVE DIRECTOR SHALL MANAGE THE ADMINISTRATIVE AFFAIRS AND TECHNICAL ACTIVITIES OF THE CORPORATION IN ACCORDANCE WITH POLICIES AND PROCEDURES THAT THE BOARD ESTABLISHES.

(C) DUTIES.

THE EXECUTIVE DIRECTOR, OR THE EXECUTIVE DIRECTOR’S DESIGNEE, SHALL:

(1) ATTEND ALL MEETINGS OF THE BOARD;

(2) ACT AS SECRETARY TO THE BOARD;

(3) KEEP MINUTES OF THE PROCEEDINGS OF THE BOARD;

(4) APPROVE SALARIES, PER DIEM PAYMENTS, ALLOWABLE EXPENSES OF THE CORPORATION AND ITS EMPLOYEES OR CONSULTANTS, AND ANY EXPENSES INCIDENTAL TO THE OPERATION OF THE CORPORATION; AND

(5) PERFORM THE OTHER DUTIES THAT THE BOARD DIRECTS IN CARRYING OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1603(a) and (b).

In subsection (c)(4) of this section, the former reference to approval of "accounts for" salaries, etc. is deleted for clarity. The Executive Director approves salaries in accordance with the policies and procedures that the Board establishes, including the budget.

Defined terms: "Board" § 11-401

"Corporation" § 11-401

"County Commissioners" § 11-401

11-407. STAFF; CONSULTANTS.

(A) STAFF.

THE BOARD SHALL APPROVE ADDITIONAL PROFESSIONAL AND CLERICAL STAFF AS NECESSARY TO CARRY OUT THIS SUBTITLE.

(B) CONSULTANTS.

THE BOARD MAY RETAIN ACCOUNTANTS, ENGINEERS, LAWYERS, FINANCIAL ADVISORS, OR OTHER CONSULTANTS AS NECESSARY TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1603(c)(1) and (d).

In subsection (b) of this section, the word "retain" is substituted for the former word "engage" for clarity and consistency within this article.

Also in subsection (b) of this section, the phrase "to carry out this subtitle" is added for clarity and consistency within this title.

Defined term: "Board" § 11-401

11-408. APPLICABILITY OF OTHER LAWS.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IN EXERCISING ITS CORPORATE POWERS, THE CORPORATION:

(1) MAY CARRY OUT ITS CORPORATE PURPOSES WITHOUT OBTAINING THE CONSENT OF ANY OTHER STATE UNIT; AND

(2) IS NOT SUBJECT TO:

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(I) THE FOLLOWING PROVISIONS OF THE STATE GOVERNMENT ARTICLE:

1. §§ 10–505 AND 10–507 (OPEN MEETINGS); AND
2. TITLE 11 (CONSOLIDATED PROCEDURES FOR DEVELOPMENT PERMITS); AND

(II) THE FOLLOWING PROVISIONS OF THE STATE FINANCE AND PROCUREMENT ARTICLE:

1. TITLE 2, SUBTITLES 2 (GIFTS AND GRANTS), 4 (FACSIMILE SIGNATURES AND SEALS), AND 5 (FACILITIES FOR HANDICAPPED);
2. TITLE 3 (BUDGET AND MANAGEMENT);
3. TITLE 4 (DEPARTMENT OF GENERAL SERVICES);
4. § 5A–304 (MARYLAND HISTORICAL TRUST PROPERTY ACQUISITION);
5. TITLE 6, SUBTITLE 1 (REVENUES: STUDIES AND ESTIMATES);
6. TITLE 7, SUBTITLES 1 (STATE OPERATING BUDGET), 2 (DISBURSEMENTS AND EXPENDITURES), AND 3 (UNSPENT BALANCES);
7. TITLE 8, SUBTITLE 1 (GENERAL OBLIGATION DEBT);
8. TITLE 10 (BOARD OF PUBLIC WORKS – MISCELLANEOUS 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 to be exempt from that provision, derived from former Art. 78A, §§ 56 through 65, although at the time of enactment of the Corporation, that title was already codified in the State Government Article. The statutory charter of the Corporation was directly modeled on that of the PenMar Development Corporation enacted in 1997, which in turn was copied from that of the Maryland Economic Development Corporation enacted in 1984. *See* Ch. 737, Acts of 1997; Ch. 498, Acts of 1984.

In subsection (a)(2)(iii) of this section, the former obsolete reference to SF “§ 2–105” is deleted. SF § 2–105 was repealed by Ch. 5, Acts of 1997, and did not exist when the Bainbridge Development Corporation was created by Ch. 494 of the Acts of 1999.

In subsection (a)(2)(iii)4 of this section, the reference to SF “§ 5A–304” is substituted for the former reference to “Article[s] ... 78A” to reflect the current codification of the only provision remaining in Article 78A at the time of enactment of the Corporation that appears to apply to the Corporation, § 14B, concerning property acquisition by the Maryland Historical Trust. *See* Chs. 26 and 440, Acts of 2005. No substantive change is intended.

In subsection (a)(2)(iii)7 of this section, the former specific reference to SF “§§ 8–127, 8–128, and 8–129” is deleted as included in the comprehensive reference to SF “Title 8, Subtitle 1”. *Cf.* Revisor’s Note to § 11–509 of this title.

In subsection (c) of this section, the reference to the “Maryland Public Ethics Law” is added to reflect accurately the short title of SG Title 15.

In subsections (e) and (f) of this section, the former limitation “[n]otwithstanding subsection (a) of this section” is deleted in light of the introductory language to subsection (a) of this section.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that the Corporation is not specifically listed in the Maryland Tort Claims Act. The General Assembly may wish to address the potential liability of personnel of this corporation, the PenMar Development Corporation, and any subsequently formed local redevelopment authority under Subtitle 3 of this title in the same manner that it has already done with the Maryland Economic Development Corporation and the Maryland Stadium Authority which are specifically included in that statute. *See* SG § 12–101.

Defined terms: “Corporation” § 11–401

“Project” § 11–401

“State” § 9–101

11–409. ACCOUNTING; FISCAL YEAR.

(A) ACCOUNTING.

THE CORPORATION SHALL ESTABLISH A SYSTEM OF FINANCIAL ACCOUNTING, CONTROLS, AUDITS, AND REPORTS.

(B) FISCAL YEAR.

THE FISCAL YEAR OF THE CORPORATION BEGINS ON JULY 1 AND ENDS ON THE FOLLOWING JUNE 30.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1608(c).

In subsection (a) of this section, the reference to “establish[ing]” a system of financial accounting is substituted for the former reference to “mak[ing] provision” for such a system for clarity and consistency within this article.

Defined term: “Corporation” § 11–401

11–410. MONEY OF CORPORATION.

(A) FUNDS.

THE CORPORATION MAY ESTABLISH ANY ACCOUNTS THAT IT REQUIRES.

(B) DEPOSIT OF MONEY.

THE CORPORATION SHALL DEPOSIT ITS MONEY INTO A STATE OR NATIONAL BANK OR A FEDERALLY INSURED SAVINGS AND LOAN ASSOCIATION IN THE STATE THAT HAS A TOTAL PAID–IN CAPITAL OF AT LEAST \$1,000,000.

(C) DEPOSITORY DESIGNEES.

THE CORPORATION MAY DESIGNATE THE TRUST DEPARTMENT OF A STATE OR NATIONAL BANK OR OF A SAVINGS AND LOAN ASSOCIATION AS A DEPOSITORY TO RECEIVE SECURITIES THAT THE CORPORATION OWNS OR ACQUIRES.

(D) ALLOWED INVESTMENTS.

UNLESS AN AGREEMENT LIMITS CLASSES OF INVESTMENTS, THE CORPORATION MAY INVEST ITS MONEY IN BONDS OR OTHER OBLIGATIONS OF, OR GUARANTEED AS TO PRINCIPAL AND INTEREST BY, THE UNITED STATES, THE STATE, OR A UNIT OR POLITICAL SUBDIVISION OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1608(a) and (b).

In subsection (a) of this section, the reference to “establish[ing] any accounts” is substituted for the former obsolete reference to “provid[ing] for the creation, continuation, and administration of any funds” and its implicit reference to the system of “fund accounting” for clarity and consistency within this article.

In subsection (d) of this section, the former phrase “or covenant between the Corporation and the holders of any of its obligations” is deleted as unnecessary because the Corporation itself does not issue bonds or any other obligation, and any covenant between the Corporation, or the Maryland Economic Development Corporation on the Corporation's behalf and any other person, including a holder of an obligation, that limits classes of obligations would be an “agreement”. This could even include a bond, which is a form of an agreement.

Defined terms: “Bond” § 11-401

“Corporation” § 11-401

“State” § 9-101

11-411. POWERS — IN GENERAL.

THE CORPORATION MAY:

- (1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;
- (2) ADOPT A SEAL;
- (3) MAINTAIN AN OFFICE AT THE BAINBRIDGE NAVAL TRAINING CENTER;
- (4) ACCEPT LOANS, GRANTS, OR ASSISTANCE OF ANY KIND FROM THE FEDERAL OR STATE GOVERNMENT, A LOCAL GOVERNMENT, OR A PRIVATE SOURCE;
- (5) ENTER INTO CONTRACTS AND OTHER LEGAL INSTRUMENTS;
- (6) SUE AND BE SUED IN ITS OWN NAME;

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(7) ACQUIRE, PURCHASE, HOLD, LEASE AS LESSEE, AND USE ANY FRANCHISE, PATENT, OR LICENSE AND REAL, PERSONAL, MIXED, TANGIBLE, OR INTANGIBLE PROPERTY, OR ANY INTEREST IN PROPERTY, NECESSARY OR CONVENIENT TO CARRY OUT ITS PURPOSES;

(8) SELL, LEASE AS LESSOR, TRANSFER, AND DISPOSE OF ITS PROPERTY OR INTEREST IN PROPERTY;

(9) FIX AND COLLECT RATES, RENTALS, FEES, AND CHARGES FOR SERVICES AND FACILITIES IT PROVIDES OR MAKES AVAILABLE;

(10) WITH THE OWNER'S PERMISSION, ENTER LAND, WATERS, OR PREMISES TO MAKE A SURVEY, SOUNDING, BORING, OR EXAMINATION TO ACCOMPLISH A PURPOSE AUTHORIZED BY THIS SUBTITLE;

(11) EXERCISE A POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN PERFORMING SIMILAR FUNCTIONS, UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW; AND

(12) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS EXPRESSLY GRANTED BY THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1604(a)(1) through (6), (8), (9), and (13) through (16).

In item (4) of this section, the former reference to “apply[ing] for” loans is deleted as implicit in the authority to “accept” loans.

Defined terms: “Corporation” § 11–401
“State” § 9–101

11–412. POWERS — PROJECTS.

THE CORPORATION MAY:

(1) ACQUIRE, IMPROVE, DEVELOP, MANAGE, MARKET, LEASE AS LESSOR OR LESSEE, OPERATE, AND MAINTAIN ANY PROJECT AT THE BAINBRIDGE NAVAL TRAINING CENTER; AND

(2) ACQUIRE, EITHER DIRECTLY OR BY OR THROUGH AN AGREEMENT WITH THE UNITED STATES NAVY, BY PURCHASE, GIFT, OR DEVISE, ANY PROPERTY, RIGHTS, RIGHTS–OF–WAY, FRANCHISES, EASEMENTS, AND OTHER INTERESTS IN LAND, INCLUDING LAND LYING UNDER WATER AND RIPARIAN RIGHTS LOCATED IN OR OUTSIDE THE STATE AS NECESSARY OR CONVENIENT TO IMPROVE OR OPERATE A PROJECT ON TERMS AND AT PRICES THAT THE CORPORATION CONSIDERS REASONABLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1604(7) and (10).

In item (2) of this section, the former references to “lands” and “structures” are deleted as included in the comprehensive reference to “property”.

Defined terms: “Corporation” § 11-401

“Improve” § 11-401

“Project” § 11-401

“State” § 9-101

11-413. POWERS — BORROWING AUTHORITY.

THE CORPORATION MAY:

(1) BORROW MONEY TO FINANCE COSTS OF A PROJECT OR FOR ANY OTHER CORPORATE PURPOSE OF THE CORPORATION;

(2) SECURE THE PAYMENT OF THE BORROWING BY PLEDGE OF OR MORTGAGE OR DEED OF TRUST ON PROPERTY OR REVENUES OF THE CORPORATION; AND

(3) COMBINE PROJECTS FOR FINANCING.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1604(11) and (12).

Defined terms: “Corporation” § 11-401

“Cost” § 11-401

“Finance” § 11-401

“Project” § 11-401

“Revenues” § 11-401

11-414. BOND AUTHORIZATION.

TO CARRY OUT THIS SUBTITLE, THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION MAY ISSUE BONDS FROM TIME TO TIME ON BEHALF OF THE BAINBRIDGE DEVELOPMENT CORPORATION TO FINANCE COSTS OF A PROJECT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1606(a).

The reference to issuing bonds “on behalf of the Bainbridge Development Corporation” is added for clarity.

Also the reference to issuing bonds “from time to time” is substituted for the former reference to issuing bonds “periodically” for clarity and consistency within this article.

As to the general authority and procedures of the Maryland Economic Development Corporation to issue bonds, *see* § 10-118 of this article.

Defined terms: “Bond” § 11-401

“Corporation” § 11-401

“Cost” § 11-401

“Finance” § 11-401

“Project” § 11-401

11-415. LIABILITY; FULL FAITH AND CREDIT.

AN OBLIGATION OF THE CORPORATION IS NOT A DEBT, LIABILITY, OR PLEDGE OF THE FULL FAITH AND CREDIT OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1602(a)(3).

The former prohibition that an obligation "may not be deemed to constitute" a debt, liability, or pledge is deleted as included in the statement that the obligation "is not" a debt, liability, or pledge.

Defined terms: "Corporation" § 11-401
"State" § 9-101

11-416. PROJECT FINANCING.

THE CORPORATION MAY:

(1) LEND OR OTHERWISE MAKE AVAILABLE ITS NET REVENUE TO FINANCE COSTS OF A PROJECT; AND

(2) ENTER INTO A FINANCING AGREEMENT, MORTGAGE, OR OTHER INSTRUMENT THAT IT DETERMINES IS NECESSARY OR DESIRABLE TO EVIDENCE OR SECURE THE LOAN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1605(b)(1).

In item (1) of this section, the reference to "net revenue" is substituted for the former incorrect reference to "the proceeds of its net earnings" for clarity. The Corporation does not issue its own bonds, and so it has no "proceeds". No substantive change is intended.

Former Art. 83A, § 5-1605(b)(2), which authorized the Corporation to require a lessee or other person to purchase or otherwise acquire property of the Corporation "on conveyance of the property" is repealed as obsolete. The conveyance of property to the Corporation contemplated at the time of enactment has already occurred.

Defined terms: "Corporation" § 11-401
"Cost" § 11-401
"Finance" § 11-401
"Person" §§ 9-101, 11-401
"Project" § 11-401

11-417. RATES AND CHARGES; REVENUES.

(A) CHARGES FOR SERVICES.

THE CORPORATION MAY:

(1) FIX AND COLLECT RATES OR CHARGES FOR ITS SERVICES;

(2) ESTABLISH THE TERMS AND CONDITIONS FOR THE SERVICES; AND

(3) CONTRACT WITH A PERSON FOR THE PROVISION OF THE SERVICES OF THE CORPORATION.

(B) CHARGES NOT REGULATED.

THE RATES OR CHARGES OF THE CORPORATION ARE NOT SUBJECT TO SUPERVISION OR REGULATION BY ANY OTHER UNIT OF THE STATE OR BY A POLITICAL SUBDIVISION OF THE STATE.

(C) USE OF REVENUES.

SUBJECT TO ANY AGREEMENT, THE CORPORATION MAY APPLY ITS REVENUES TO ANY LAWFUL PURPOSE.

(D) BENEFIT OF REVENUES.

EXCEPT AS NECESSARY TO PAY AN OBLIGATION OR TO IMPLEMENT PROGRAMS OF THE CORPORATION, THE NET REVENUE OF THE CORPORATION MAY NOT BENEFIT A PERSON OTHER THAN CECIL COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1606.

In subsection (a)(3) of this section, the former reference to a "partnership, association, or corporation" is deleted as included in the defined term "person". See § 9-101 of this article.

In subsection (c) of this section, the reference to "its revenues" is substituted for the former reference to "rates, charges, and all other revenues" for brevity.

In subsection (d) of this section, the reference to net "revenue" is substituted for the former reference to net "earnings" for accuracy.

Defined terms: "Corporation" § 11-401

"Person" §§ 9-101, 11-401

"Revenues" § 11-401

"State" § 9-101

11-418. TAX STATUS.

(A) EXEMPTION.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE CORPORATION IS EXEMPT FROM ANY REQUIREMENT TO PAY ANY TAXES OR ASSESSMENTS ON ITS PROPERTIES, ACTIVITIES, OR ANY REVENUE FROM ITS PROPERTIES OR ACTIVITIES.

(B) PRIVATE ENTITIES.

PROPERTY THAT THE CORPORATION SELLS OR LEASES TO A PRIVATE ENTITY IS SUBJECT TO STATE AND LOCAL PROPERTY TAXES FROM THE TIME OF THE SALE OR LEASE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1607.

In subsection (b) of this section, the reference to “[p]roperty” is substituted for the former reference to “land or facilities” for consistency within this subtitle.

Defined terms: “Corporation” § 11–401
“State” § 9–101

11–419. ADVISORY BOARD.

(A) ESTABLISHED.

THE BOARD SHALL ESTABLISH A BAINBRIDGE DEVELOPMENT ADVISORY BOARD.

(B) MEMBERSHIP.

THE ADVISORY BOARD CONSISTS OF:

- (1) A REPRESENTATIVE OF THE COUNTY COMMISSIONERS;
- (2) THE STATE LEGISLATIVE DELEGATION OF CECIL COUNTY;
- (3) A REPRESENTATIVE OF THE MAYOR OF PORT DEPOSIT;
- (4) A REPRESENTATIVE OF THE TOWN COUNCIL OF PORT DEPOSIT;
- (5) THE PRESIDENT OF CECIL COMMUNITY COLLEGE;
- (6) THE SUPERINTENDENT OF THE CECIL COUNTY PUBLIC SCHOOLS;
- (7) THE COORDINATOR OF THE LOWER SUSQUEHANNA HERITAGE GREENWAY; AND
- (8) OTHER INDIVIDUALS THE BOARD OF DIRECTORS SELECTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1602(d).

In subsection (b)(8) of this section, the word “individuals” is substituted for the former word “persons” because only a natural person, and not the other legal entities included in the defined term “person”, may serve on an advisory board. *See* §§ 9–101 and 11–401 of this article.

Defined terms: “Board” § 11–401
“County Commissioners” § 11–401
“State” § 9–101

11–420. AUDIT.

(A) IN GENERAL.

(1) AS SOON AS PRACTICAL AFTER THE CLOSE OF THE FISCAL YEAR, AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT SHALL AUDIT THE FINANCIAL BOOKS, RECORDS, AND ACCOUNTS OF THE CORPORATION.

(2) THE CORPORATION SHALL SELECT AN ACCOUNTANT TO CONDUCT THE AUDIT WHO:

(I) IS LICENSED TO PRACTICE ACCOUNTANCY IN THE STATE;

(II) IS EXPERIENCED AND QUALIFIED IN THE ACCOUNTING AND AUDITING OF PUBLIC BODIES; AND

(III) DOES NOT HAVE A DIRECT OR INDIRECT PERSONAL INTEREST IN THE FISCAL AFFAIRS OF THE CORPORATION.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE ACCOUNTANT SHALL REPORT THE RESULTS OF THE AUDIT, INCLUDING THE ACCOUNTANT'S UNQUALIFIED OPINION ON THE PRESENTATION OF THE FINANCIAL POSITION AND THE RESULTS OF THE FINANCIAL OPERATIONS OF THE CORPORATION.

(II) IF THE ACCOUNTANT CANNOT EXPRESS AN UNQUALIFIED OPINION, THE ACCOUNTANT SHALL EXPLAIN IN DETAIL THE REASONS FOR THE QUALIFICATIONS, DISCLAIMERS, OR OPINIONS, INCLUDING RECOMMENDATIONS OF CHANGES THAT COULD MAKE FUTURE UNQUALIFIED OPINIONS POSSIBLE.

(B) AUDIT BY STATE.

THE STATE MAY AUDIT THE BOOKS, RECORDS, AND ACCOUNTS OF THE CORPORATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1608(d) and (e).

In subsection (a)(3)(i) of this section, the limitation "[e]xcept as provided in subparagraph (ii) of this paragraph," is added for clarity and consistency within this article.

Also in subsection (a)(3)(i) of this section, the word "audit" is substituted for the former word "examination" for clarity and consistency within this article.

Defined terms: "Corporation" § 11-401
"State" § 9-101

11-421. ANNUAL REPORT.

(A) REQUIRED.

ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE CORPORATION SHALL SUBMIT A REPORT TO:

(1) THE GOVERNOR;

(2) THE COUNTY COMMISSIONERS;

(3) THE DEPARTMENT; AND

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(4) IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(B) CONTENTS.

THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND FINANCIAL STATEMENT COVERING THE OPERATIONS OF THE CORPORATION DURING THE PRECEDING FISCAL YEAR AND A SUMMARY OF THE ACTIVITIES OF THE CORPORATION DURING THE PRECEDING FISCAL YEAR.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1608(f).

In the introductory language to subsection (a) of this section, the phrase “[o]n or before October 1 of each year” is substituted for the former phrase “[w]ithin the first 90 days of each fiscal year” for clarity and accuracy.

In subsection (b) of this section, the reference to activities of the Corporation “during the preceding fiscal year” is added for clarity and consistency within this article.

Defined terms: “Corporation” § 11–401
“County Commissioners” § 11–401
“Department” § 9–101

SUBTITLE 5. PENMAR DEVELOPMENT CORPORATION.

11–501. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection formerly was Art. 83A, § 5–1201(a).

No changes are made.

(B) BOARD.

“BOARD” MEANS THE BOARD OF DIRECTORS OF THE CORPORATION.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the full title of the “Board of Directors” of the Corporation.

Defined term: “Corporation” § 11–501

(C) BOND.

(1) “BOND” MEANS A BOND OR NOTE ISSUED ON BEHALF OF THE CORPORATION.

(2) “BOND” INCLUDES:

(I) A BOND ANTICIPATION NOTE;

(II) A REVENUE ANTICIPATION NOTE;

(III) A GRANT ANTICIPATION NOTE;

(IV) A REFUNDING BOND;

(V) A NOTE IN THE NATURE OF COMMERCIAL PAPER; AND

(VI) ANY OTHER EVIDENCE OF INDEBTEDNESS ISSUED ON BEHALF OF THE CORPORATION, WHETHER A GENERAL OR LIMITED OBLIGATION OF THE CORPORATION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-1201(b).

Defined term: "Corporation" § 11-501

(D) CORPORATION.

"CORPORATION" MEANS THE PENMAR DEVELOPMENT CORPORATION.

REVISOR'S NOTE: This subsection formerly was Art. 83A, § 5-1201(c).

No changes are made.

(E) COST.

"COST" INCLUDES:

(1) THE PURCHASE PRICE OF A PROJECT;

(2) THE COST TO ACQUIRE ANY RIGHT, TITLE, OR INTEREST IN A PROJECT;

(3) THE AMOUNT TO BE PAID TO DISCHARGE EACH OBLIGATION NECESSARY OR DESIRABLE TO VEST TITLE TO ANY PART OF A PROJECT IN THE CORPORATION OR OTHER OWNER;

(4) THE COST OF ANY IMPROVEMENT;

(5) THE COST OF ANY PROPERTY, RIGHT, EASEMENT, FRANCHISE, AND PERMIT;

(6) THE COST OF LABOR AND EQUIPMENT;

(7) FINANCING CHARGES;

(8) INTEREST BEFORE AND DURING CONSTRUCTION AND, IF THE CORPORATION DETERMINES, FOR A LIMITED PERIOD AFTER THE COMPLETION OF CONSTRUCTION;

(9) RESERVES FOR PRINCIPAL AND INTEREST AND FOR IMPROVEMENTS;

(10) THE COST OF REVENUE ESTIMATES, ENGINEERING AND LEGAL SERVICES, PLANS, DESIGNS, SPECIFICATIONS, SURVEYS, INVESTIGATIONS, DEMONSTRATIONS, STUDIES, ESTIMATES OF COST, AND OTHER EXPENSES NECESSARY OR INCIDENT TO DETERMINING THE FEASIBILITY OF AN ACQUISITION OR IMPROVEMENT;

(11) ADMINISTRATIVE EXPENSES; AND

(12) OTHER EXPENSES NECESSARY OR INCIDENT TO:

(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, § 5-1201(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" § 11-501

"Finance" § 11-501

"Improve" § 11-501

"Improvement" § 11-501

"Project" § 11-501

(F) COUNTY COMMISSIONERS.

"COUNTY COMMISSIONERS" MEANS THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title of the "Board of County Commissioners of Washington 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.

REVISOR’S NOTE: This subsection is new language added for brevity and clarity.

(I) IMPROVEMENT.

“IMPROVEMENT” MEANS ADDITION, ALTERATION, CONSTRUCTION, EQUIPPING, EXPANSION, EXTENSION, IMPROVEMENT, INSTALLATION, RECONSTRUCTION, REHABILITATION, REMODELING, OR REPAIR.

REVISOR’S NOTE: This subsection is new language added for brevity and clarity.

(J) PERSON.

(1) “PERSON” HAS THE MEANING STATED IN § 9–101 OF THIS ARTICLE.

(2) “PERSON” ALSO INCLUDES A POLITICAL SUBDIVISION.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5–1201(g).

Defined term: “Person” § 9–101

(K) PROJECT.

(1) “PROJECT” MEANS AN UNDERTAKING TO ESTABLISH ECONOMIC ACTIVITY ON PROPERTY TO BE CONVEYED TO THE CORPORATION FROM THE UNITED STATES ARMY AT FORT RITCHIE, MARYLAND:

(I) FOR ANY INDUSTRIAL, COMMERCIAL, OR BUSINESS PURPOSE; AND

(II) WHETHER OR NOT A FACILITY OR PROPERTY USED OR USEFUL IN CONNECTION WITH THE UNDERTAKING:

1. IS OR WILL BE USED FOR PROFIT OR NOT FOR PROFIT;

2. IS LOCATED ON A SINGLE SITE OR MULTIPLE SITES; OR

3. MAY BE FINANCED BY BONDS, THE INTEREST ON WHICH IS EXEMPT FROM TAXATION UNDER FEDERAL LAW.

(2) “PROJECT” INCLUDES:

(I) PROPERTY AND RIGHTS RELATED TO THE PROPERTY, APPURTENANCES, RIGHTS—OF—WAY, FRANCHISES, AND EASEMENTS;

(II) STRUCTURES, EQUIPMENT, AND FURNISHINGS;

(III) PROPERTY THAT IS FUNCTIONALLY RELATED AND SUBORDINATE TO A PROJECT; AND

(IV) PATENTS, LICENSES, AND OTHER RIGHTS NECESSARY OR USEFUL IN THE CONSTRUCTION OR OPERATION OF A PROJECT.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-1201(h).

In paragraph (1)(i) of this subsection, the former specific reference to "manufacturing, retail, trade, service industries, supply, wholesaling, [or] warehousing" is deleted as included in the comprehensive reference to "any industrial, commercial, or business purpose". Similarly, also in paragraph (1)(i) of this subsection, the former phrase "including any combination of these activities" is deleted as implicit in the phrase "any industrial, commercial, or business purposes".

In paragraph (1)(ii) of this subsection, the reference to a facility or property used or useful "in connection with the undertaking" is substituted for the former reference to facilities or properties used or useful for certain activities for clarity and consistency within this article.

In paragraph (2)(i) of this subsection, the former references to "land" and "other interests in land" are deleted as included in the comprehensive reference to "property".

In paragraph (2)(ii) of this subsection, the former reference to "buildings" is deleted as included in the reference to "structures".

In paragraph (2)(iii) of this subsection, the reference to "property" is substituted for the former reference to "land and facilities" for brevity and clarity.

Defined terms: "Bond" § 11-501

"Corporation" § 11-501

"Finance" § 11-501

"Project" § 11-501

(L) REVENUES.

(1) "REVENUES" MEANS:

(I) THE INCOME, REVENUE, AND OTHER MONEY THE CORPORATION RECEIVES FROM OR IN CONNECTION WITH A PROJECT; AND

(II) ALL OTHER INCOME OF THE CORPORATION.

(2) "REVENUES" INCLUDES GRANTS, RENTALS, RATES, FEES, AND CHARGES FOR THE USE OF SERVICES FURNISHED OR AVAILABLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 83A, § 5-1201(i).

Defined terms: "Corporation" § 11-501

"Project" § 11-501

REVISOR'S NOTE TO SECTION: Former Art. 83A, § 5-1201(e), which defined "includes or including", is deleted as unnecessary in light of Art. 1, § 30.

Former Art. 83A, § 5-1201(f), which defined "MEDCO", is deleted because the term "MEDCO" is not used in this revision.

11-502. LEGISLATIVE FINDINGS; INTENT.

(A) FINDINGS.

(1) THE GENERAL ASSEMBLY FINDS THAT THE ECONOMY OF WASHINGTON COUNTY WILL BE GREATLY AFFECTED BY THE CLOSURE OF FORT RITCHIE.

(2) THE GENERAL ASSEMBLY RECOGNIZES THAT THE CLOSURE WILL CAUSE ECONOMIC CONTRACTION AND DISLOCATION BUT WILL AFFORD OPPORTUNITIES TO EXPAND PRODUCTIVE EMPLOYMENT AND THE STATE'S ECONOMY AND TAX BASE.

(B) PUBLIC INTEREST.

THE GENERAL ASSEMBLY FINDS THAT ESTABLISHING A STATE PUBLIC CORPORATION TO DEVELOP FORT RITCHIE WOULD:

(1) SERVE THE PUBLIC INTEREST; AND

(2) COMPLEMENT EXISTING STATE MARKETING PROGRAMS ADMINISTERED BY THE DEPARTMENT THROUGH:

(i) ITS DIVISION OF BUSINESS DEVELOPMENT; AND

(ii) FINANCIAL ASSISTANCE PROGRAMS SUCH AS THOSE OF THE MARYLAND ECONOMIC DEVELOPMENT ASSISTANCE AUTHORITY AND FUND AND THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY.

(C) INTENT.

TO FURTHER THE PURPOSES OF THIS SUBTITLE, THE GENERAL ASSEMBLY INTENDS THAT THE CORPORATION:

(1) STRUCTURE ITS PROJECTS IN A MANNER THAT ACCELERATES THE TRANSFER OF FACILITIES AND SITES INTO PRODUCTIVE USE IN THE PRIVATE SECTOR; AND

(2) COOPERATE WITH THE COUNTY COMMISSIONERS IN MAXIMIZING NEW ECONOMIC OPPORTUNITIES FOR THE RESIDENTS OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1202.

In subsection (b)(2)(i) of this section, the reference to the "Division of Business Development" is substituted for the former obsolete reference to the "Division of Business Development and Resources" to reflect the current name of that unit.

In subsection (c)(2) of this section, the reference to "residents" of the State is substituted for the former reference to "citizens" of the State because the

meaning of the term “citizens” in this context is unclear.

As to the Maryland Economic Development Assistance Authority and Fund and the Maryland Industrial Development Financing Authority, *see* Title 5, Subtitles 3 and 4 of this article, respectively.

Defined terms: “Corporation” § 11–501
“County Commissioners” § 11–501
“Department” § 9–101
“Project” § 11–501
“State” § 9–101

11–503. ESTABLISHED.

(A) IN GENERAL.

THERE IS A PENMAR DEVELOPMENT CORPORATION.

(B) STATUS.

THE CORPORATION IS A BODY POLITIC AND CORPORATE AND IS AN INSTRUMENTALITY OF THE STATE.

(C) ESSENTIAL GOVERNMENTAL FUNCTION.

THE EXERCISE BY THE CORPORATION OF A POWER UNDER THIS SUBTITLE IS THE PERFORMANCE OF AN ESSENTIAL GOVERNMENTAL FUNCTION.

REVISOR’S NOTE: Subsection (a) of this section is new language added to state expressly that which was only implied in the former law, *i.e.*, the PenMar Development Corporation is created by statute.

Subsections (b) and (c) of this section are new language derived without substantive change from former Art. 83A, § 5–1203(a).

In subsection (b) of this section, the former reference to a “public” instrumentality is deleted as implicit in the reference to a “body politic and corporate”.

In subsection (c) of this section, the reference to an essential “governmental” function is substituted for the former reference to an essential “public” function for clarity and consistency within this article.

Defined terms: “Corporation” § 11–501
“State” § 9–101

11–504. BOARD OF DIRECTORS.

(A) IN GENERAL.

A BOARD OF DIRECTORS SHALL MANAGE THE AFFAIRS OF THE CORPORATION AND EXERCISE ALL OF THE POWERS OF THE CORPORATION.

(B) COMPOSITION; APPOINTMENT OF MEMBERS.

THE BOARD CONSISTS OF THE FOLLOWING 18 MEMBERS:

- (1) AS EX OFFICIO VOTING MEMBERS:
 - (I) THE SECRETARY;
 - (II) THE EXECUTIVE DIRECTOR OF THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION; AND
 - (III) THE EXECUTIVE DIRECTOR OF THE WASHINGTON COUNTY ECONOMIC DEVELOPMENT COMMISSION; AND
- (2) FIFTEEN MEMBERS APPOINTED BY THE COUNTY COMMISSIONERS.
- (c) TENURE; VACANCIES.
 - (1) THE TERM OF AN APPOINTED MEMBER OF THE BOARD IS 4 YEARS.
 - (2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2008.
 - (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED.
 - (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1203(b).

In subsection (c)(2) of this section, the reference to terms of appointed members being “staggered as required by the terms provided for members of the Board on October 1, 2008” is substituted for the former obsolete reference to terms simply being “staggered”. This substitution is not intended to alter the term of any member of the Board. *See* § 13 of Ch. 306, Acts of 2008. The terms of the members serving on October 1, 2008 expire as follows: (1) four in 2009; (2) six in 2011; and (3) five in 2012.

Also in subsection (c)(2) of this section, the former explanation for terms being staggered “to ensure long-term continuity” is deleted as surplusage because the explanation for staggered boards is implicit in current law.

Defined terms: “Board” § 11–501
 “Corporation” § 11–501
 “County Commissioners” § 11–501
 “Secretary” § 9–101

11–505. OFFICERS.

FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR, A VICE CHAIR, AND A TREASURER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1203(c)(1).

The references to a “chair” and a “vice chair” are substituted for the former references to a “chairman” and a “vice chairman”, respectively, because SG § 2–1238 requires the use of words that are neutral as to gender to the extent practicable. *See* General Revisor’s Note to article.

Defined term: “Board” § 11–501

11–506. QUORUM.

(A) IN GENERAL.

EIGHT MEMBERS OF THE BOARD ARE A QUORUM.

(B) VOTING.

AN AFFIRMATIVE VOTE OF AT LEAST EIGHT MEMBERS IS NEEDED FOR THE BOARD TO ACT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1203(c)(2).

Former Art. 83A, § 5–1203(c)(3), which stated that “[a] vacancy ... does not impair the right of a quorum” is deleted as inconsistent with the requirements that a specified number of members constitute a quorum under subsection (a) of this section, and a specified number of affirmative votes is needed for the Board to act under subsection (b) of this section. *See also* McQuillen, *Municipal Corporations*, §§ 13.30, 13.31 (3rd ed. rev’d).

Defined term: “Board” § 11–501

11–507. EXECUTIVE DIRECTOR.

(A) POSITION; TENURE; SALARY.

(1) SUBJECT TO THE APPROVAL OF THE COUNTY COMMISSIONERS, THE BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR.

(2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE BOARD.

(3) THE BOARD SHALL DETERMINE THE SALARY OF THE EXECUTIVE DIRECTOR.

(B) ADMINISTRATIVE OFFICER.

(1) THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE OFFICER OF THE CORPORATION.

(2) THE EXECUTIVE DIRECTOR SHALL MANAGE THE ADMINISTRATIVE AFFAIRS AND TECHNICAL ACTIVITIES OF THE CORPORATION IN ACCORDANCE WITH POLICIES AND PROCEDURES THAT THE BOARD ESTABLISHES.

(C) DUTIES.

THE EXECUTIVE DIRECTOR, OR THE EXECUTIVE DIRECTOR’S DESIGNEE, SHALL:

- (1) ATTEND ALL MEETINGS OF THE BOARD;
- (2) ACT AS SECRETARY OF THE BOARD;
- (3) KEEP MINUTES OF THE PROCEEDINGS OF THE BOARD;
- (4) APPROVE SALARIES, PER DIEM PAYMENTS, ALLOWABLE EXPENSES OF THE CORPORATION AND ITS EMPLOYEES OR CONSULTANTS, AND ANY EXPENSES INCIDENTAL TO THE OPERATION OF THE CORPORATION; AND
- (5) PERFORM THE OTHER DUTIES THAT THE BOARD DIRECTS IN CARRYING OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1204(a) and (b).

In subsection (c)(4) of this section, the former reference to approval of "accounts for" salaries, etc. is deleted for clarity. The Executive Director approves salaries in accordance with the policies and procedures that the Board establishes, including the budget.

Defined terms: "Board" § 11-501
"Corporation" § 11-501
"County Commissioners" § 11-501

11-508. STAFF; CONSULTANTS.

- (A) STAFF.

THE BOARD SHALL APPROVE ADDITIONAL PROFESSIONAL AND CLERICAL STAFF AS NECESSARY TO CARRY OUT THIS SUBTITLE.

- (B) CONSULTANTS.

THE BOARD MAY RETAIN ACCOUNTANTS, ENGINEERS, LAWYERS, FINANCIAL ADVISORS, OR OTHER CONSULTANTS AS NECESSARY TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1204(c)(1) and (d).

In subsection (b) of this section, the word "retain" is substituted for the former word "engage" for clarity and consistency within this article.

Also in subsection (b) of this section, the phrase "to carry out this subtitle" is added for clarity and consistency within this title.

Defined term: "Board" § 11-501

11-509. APPLICABILITY OF OTHER LAWS.

- (A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IN EXERCISING ITS CORPORATE POWERS, THE CORPORATION:

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(1) MAY CARRY OUT ITS CORPORATE PURPOSES WITHOUT OBTAINING THE CONSENT OF ANY OTHER STATE UNIT; AND

(2) IS NOT SUBJECT TO:

(I) THE FOLLOWING PROVISIONS OF THE STATE GOVERNMENT ARTICLE:

1. §§ 10–505 AND 10–507 (OPEN MEETINGS); AND
2. TITLE 11 (CONSOLIDATED PROCEDURES FOR DEVELOPMENT PERMITS) ; AND

(II) THE FOLLOWING PROVISIONS OF THE STATE FINANCE AND PROCUREMENT ARTICLE:

1. TITLE 2, SUBTITLES 2 (GIFTS AND GRANTS), 4 (FACSIMILE SIGNATURES AND SEALS), AND 5 (FACILITIES FOR HANDICAPPED);
2. TITLE 3 (BUDGET AND MANAGEMENT);
3. TITLE 4 (DEPARTMENT OF GENERAL SERVICES);
4. § 5A–304 (MARYLAND HISTORICAL TRUST PROPERTY ACQUISITION);
5. TITLE 6, SUBTITLE 1 (REVENUES: STUDIES AND ESTIMATES);
6. TITLE 7, SUBTITLES 1 (STATE OPERATING BUDGET), 2 (DISBURSEMENTS AND EXPENDITURES), AND 3 (UNSPENT BALANCES);
7. TITLE 8, SUBTITLE 1 (GENERAL OBLIGATION DEBT);
8. TITLE 10 (BOARD OF PUBLIC WORKS – MISCELLANEOUS 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, §§ 5–1210 and 5–1204(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 to be exempt from that provision, derived from former Art. 78A, §§ 56 through 65, although at the time of enactment of the Corporation, that title was already codified in the State Government Article. The statutory charter of the Corporation was directly modeled on that of the Maryland Economic Development Corporation enacted in 1984. *See* Ch. 498, Acts of 1984.

In subsection (a)(2)(iii)4 of this section, the reference to SF “§ 5A–304” is substituted for the former reference to “Article[s] ... 78A” to reflect the current codification of the only provision remaining in Article 78A at the time of enactment of the Corporation that appears to apply to the Corporation, § 14B, concerning property acquisition by the Maryland Historical Trust. *See* Chs. 26 and 440, Acts of 2005. No substantive change is intended.

In subsection (a)(2)(iii)7 of this section, the former specific reference to SF “§§ 8–127, 8–128, and 8–129” is deleted as included in the comprehensive reference to SF “Title 8, Subtitle 1”. *Cf.* Revisor's Note to § 11–408 of this title.

In subsection (c) of this section, the reference to the “Maryland” Public Ethics Law is added to reflect accurately the short title of SG Title 15.

In subsection (e) of this section, the former limitation “[n]otwithstanding ... subsection (a) of this section” is deleted in light of the introductory language of subsection (a)(1) of this section.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that the Corporation is not specifically listed in the Maryland Tort Claims Act. The General Assembly may wish to address the potential liability of personnel of this corporation, the Bainbridge Development Corporation, and any subsequently formed local redevelopment authority under Subtitle 3 of this title in the same manner that it has already done with the Maryland Economic Development Corporation and the Maryland Stadium Authority which are specifically included in that statute. *See* SG § 12–101.

Defined terms: “Corporation” § 11–501

“Project” § 11–501

“State” § 9–101

11–510. ACCOUNTING; FISCAL YEAR.

(A) ACCOUNTING.

THE CORPORATION SHALL ESTABLISH A SYSTEM OF FINANCIAL ACCOUNTING, CONTROLS, AUDITS, AND REPORTS.

(B) FISCAL YEAR.

THE FISCAL YEAR OF THE CORPORATION BEGINS ON JULY 1 AND ENDS ON THE FOLLOWING JUNE 30.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1209(c).

In subsection (a) of this section, the reference to “establish[ing]” a system of financial accounting is substituted for the former reference to “mak[ing] provision” for such a system for clarity and consistency within this article.

Defined term: “Corporation” § 11–501

11–511. MONEY OF CORPORATION.

(A) FUNDS.

THE CORPORATION MAY ESTABLISH ANY ACCOUNTS THAT IT REQUIRES.

(B) DEPOSIT OF MONEY.

THE CORPORATION SHALL DEPOSIT ITS MONEY INTO A STATE OR NATIONAL BANK OR A FEDERALLY INSURED SAVINGS AND LOAN ASSOCIATION IN THE STATE THAT HAS A TOTAL PAID–IN CAPITAL OF AT LEAST \$1,000,000.

(c) DEPOSITORY DESIGNEES.

THE CORPORATION MAY DESIGNATE THE TRUST DEPARTMENT OF A STATE OR NATIONAL BANK OR OF A SAVINGS AND LOAN ASSOCIATION AS A DEPOSITORY TO RECEIVE SECURITIES THAT THE CORPORATION OWNS OR ACQUIRES.

(d) ALLOWED INVESTMENTS.

UNLESS AN AGREEMENT LIMITS CLASSES OF INVESTMENTS, THE CORPORATION MAY INVEST ITS MONEY IN BONDS OR OTHER OBLIGATIONS OF, OR GUARANTEED AS TO PRINCIPAL AND INTEREST BY, THE UNITED STATES, THE STATE, OR A UNIT OR POLITICAL SUBDIVISION OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1209(a) and (b).

In subsection (a) of this section, the reference to “establish[ing] any accounts” is substituted for the former reference to “provid[ing] for the creation, continuation, and administration of any funds” and its implicit reference to the system of “fund accounting” for clarity and consistency within this article.

In subsection (d) of this section, the former phrase “or covenant between the Corporation and the holders of any of its obligations” is deleted as unnecessary because the Corporation itself does not issue bonds or any other obligation, and any covenant between the Corporation, or the Maryland Economic Development Corporation on the Corporation's behalf and any other person, including a holder of an obligation, that limits classes of obligations would be an “agreement”. This could even include a bond, which is a form of an agreement.

Defined terms: “Bonds” § 11-501

“Corporation” § 11-501

“State” § 9-101

11-512. POWERS — IN GENERAL.

THE CORPORATION MAY:

- (1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;
- (2) ADOPT A SEAL;
- (3) MAINTAIN AN OFFICE AT FORT RITCHIE;
- (4) ACCEPT LOANS, GRANTS, OR ASSISTANCE OF ANY KIND FROM THE FEDERAL OR STATE GOVERNMENT, A LOCAL GOVERNMENT, OR A PRIVATE SOURCE;
- (5) ENTER INTO CONTRACTS AND OTHER LEGAL INSTRUMENTS;
- (6) SUE AND BE SUED IN ITS OWN NAME;

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(7) ACQUIRE, PURCHASE, HOLD, LEASE AS A LESSEE, AND USE ANY FRANCHISE, PATENT, OR LICENSE AND REAL, PERSONAL, MIXED, TANGIBLE, OR INTANGIBLE PROPERTY, OR ANY INTEREST IN PROPERTY, NECESSARY OR CONVENIENT TO CARRY OUT ITS PURPOSES;

(8) SELL, LEASE AS LESSOR, TRANSFER, AND DISPOSE OF ITS PROPERTY OR INTEREST IN PROPERTY;

(9) FIX AND COLLECT RATES, RENTALS, FEES, AND CHARGES FOR SERVICES AND FACILITIES IT PROVIDES OR MAKES AVAILABLE;

(10) WITH THE OWNER'S PERMISSION, ENTER LAND, WATERS, OR PREMISES TO MAKE A SURVEY, SOUNDING, BORING, OR EXAMINATION TO ACCOMPLISH A PURPOSE AUTHORIZED BY THIS SUBTITLE;

(11) EXERCISE A POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN PERFORMING SIMILAR FUNCTIONS UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW; AND

(12) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS EXPRESSLY GRANTED BY THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1205(1) through (6), (8), (9), and (12) through (15).

In item (4) of this section, the former reference to “apply[ing] for” loans is deleted as implicit in the authority to “accept” loans.

Defined terms: “Corporation” § 11–501
“State” § 9–101

11–513. POWERS — PROJECTS.

THE CORPORATION MAY:

(1) ACQUIRE, IMPROVE, DEVELOP, MANAGE, MARKET, LEASE AS LESSOR OR LESSEE, OPERATE, AND MAINTAIN ANY PROJECT AT FORT RITCHIE; AND

(2) ACQUIRE, DIRECTLY OR THROUGH AN AGREEMENT WITH THE UNITED STATES ARMY, BY PURCHASE, GIFT, OR DEVISE, ANY PROPERTY, RIGHTS, RIGHTS-OF-WAY, FRANCHISES, EASEMENTS, AND OTHER INTERESTS IN LAND, INCLUDING LAND LYING UNDER WATER AND RIPARIAN RIGHTS LOCATED IN OR OUTSIDE THE STATE AS NECESSARY OR CONVENIENT TO IMPROVE OR OPERATE A PROJECT ON TERMS AND AT PRICES THAT THE CORPORATION CONSIDERS REASONABLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1205(7) and (10).

In item (2) of this section, the former references to “lands” and “structures” are deleted as included in the comprehensive reference to “property”.

Defined terms: "Corporation" § 11-501

"Improve" § 11-501

"Project" § 11-501

"State" § 9-101

11-514. POWERS — BORROWING AUTHORITY.

THE CORPORATION MAY:

(1) BORROW MONEY TO FINANCE COSTS OF A PROJECT OR FOR ANY OTHER CORPORATE PURPOSE OF THE CORPORATION;

(2) SECURE THE PAYMENT OF THE BORROWING BY PLEDGE OF OR MORTGAGE OR DEED OF TRUST ON PROPERTY OR REVENUES OF THE CORPORATION; AND

(3) COMBINE PROJECTS FOR FINANCING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1205(11).

Defined terms: "Corporation" § 11-501

"Cost" § 11-501

"Finance" § 11-501

"Project" § 11-501

"Revenues" § 11-501

11-515. BOND AUTHORIZATION.

TO CARRY OUT THIS SUBTITLE, THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION MAY ISSUE BONDS FROM TIME TO TIME ON BEHALF OF THE PENMAR DEVELOPMENT CORPORATION TO FINANCE COSTS OF A PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1206(a).

The reference to issuing bonds "on behalf of the PenMar Development Corporation" is added for clarity.

As to the general authority and procedures of the Maryland Economic Development Corporation to issue bonds, *see* § 10-118 of this article.

Defined terms: "Bond" § 11-501

"Cost" § 11-501

"Finance" § 11-501

"Project" § 11-501

11-516. PROJECT FINANCING.

(A) LOANS.

THE CORPORATION MAY:

(1) LEND OR OTHERWISE MAKE AVAILABLE ITS NET REVENUE TO FINANCE COSTS OF A PROJECT; AND

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(2) ENTER INTO A FINANCING AGREEMENT, MORTGAGE, OR OTHER INSTRUMENT THAT IT DETERMINES IS NECESSARY OR DESIRABLE TO EVIDENCE OR SECURE THE LOAN.

(B) LEASES.

A LEASE OF PROPERTY OF THE CORPORATION MAY REQUIRE OR AUTHORIZE THE LESSEE OR ANOTHER PERSON, ON CONVEYANCE OF THE PROPERTY TO THE CORPORATION, TO PURCHASE OR OTHERWISE ACQUIRE THE PROPERTY FOR CONSIDERATION THAT THE CORPORATION ESTABLISHES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1206(b).

In subsection (a)(1) of this section, the reference to “net revenue” is substituted for the former reference to “the proceeds of its net earnings” for clarity. The Corporation does not issue its own bonds, and so it has no “proceeds”. No substantive change is intended.

In subsection (b) of this section, the reference to conveyance “to the Corporation” is added for clarity.

Defined terms: “Corporation” § 11–501

“Cost” § 11–501

“Finance” § 11–501

“Person” §§ 9–101, 11–501

“Project” § 11–501

11–517. RATES AND CHARGES; REVENUES.

(A) CHARGES FOR SERVICES.

THE CORPORATION MAY:

(1) FIX AND COLLECT RATES OR CHARGES FOR ITS SERVICES;

(2) ESTABLISH THE TERMS AND CONDITIONS FOR THE SERVICES; AND

(3) CONTRACT WITH A PERSON FOR THE PROVISION OF THE SERVICES OF THE CORPORATION.

(B) CHARGES NOT REGULATED.

THE RATES OR CHARGES OF THE CORPORATION ARE NOT SUBJECT TO SUPERVISION OR REGULATION BY ANY OTHER UNIT OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

(C) USE OF REVENUES.

SUBJECT TO ANY AGREEMENT, THE CORPORATION MAY APPLY ITS REVENUES TO ANY LAWFUL PURPOSE.

(D) BENEFIT OF REVENUES.

EXCEPT AS NECESSARY TO PAY AN OBLIGATION OR TO IMPLEMENT PROGRAMS OF THE CORPORATION, THE NET REVENUE OF THE CORPORATION MAY NOT BENEFIT A PERSON OTHER THAN WASHINGTON COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1207.

In subsection (a)(3) of this section, the former reference to a “partnership, association, or corporation” is deleted as included in the reference to a “person”. See § 9–101 of this article.

In subsection (c) of this section, the reference to “its revenues” is substituted for the former reference to “rates, charges, and all other revenues” for brevity.

In subsection (d) of this section, the reference to net “revenue” is substituted for the former reference to net “earnings” for accuracy.

Defined terms: “Corporation” § 11–501

“Person” §§ 9–101, 11–501

“Revenues” § 11–501

“State” § 9–101

11–518. TAX STATUS.

(A) EXEMPTION.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE CORPORATION IS EXEMPT FROM ANY REQUIREMENT TO PAY ANY TAXES OR ASSESSMENTS ON ITS PROPERTIES, ACTIVITIES, OR ANY REVENUE FROM ITS PROPERTIES OR ACTIVITIES.

(B) PRIVATE ENTITIES.

PROPERTY THAT THE CORPORATION SELLS OR LEASES TO A PRIVATE ENTITY IS SUBJECT TO STATE AND LOCAL PROPERTY TAXES FROM THE TIME OF THE SALE OR LEASE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1208.

In subsection (b) of this section, the reference to “[p]roperty” is substituted for the former reference to “land or facilities” for consistency within this subtitle.

Defined terms: “Corporation” § 11–501

“State” § 9–101

11–519. AUDIT.

(A) IN GENERAL.

(1) AS SOON AS PRACTICAL AFTER THE CLOSE OF THE FISCAL YEAR, AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT SHALL AUDIT THE FINANCIAL BOOKS, RECORDS, AND ACCOUNTS OF THE CORPORATION.

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(2) THE CORPORATION SHALL SELECT AN ACCOUNTANT TO CONDUCT THE AUDIT WHO:

(I) IS LICENSED TO PRACTICE ACCOUNTANCY IN THE STATE;

(II) IS EXPERIENCED AND QUALIFIED IN THE ACCOUNTING AND AUDITING OF PUBLIC BODIES; AND

(III) DOES NOT HAVE A DIRECT OR INDIRECT PERSONAL INTEREST IN THE FISCAL AFFAIRS OF THE CORPORATION.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE ACCOUNTANT SHALL REPORT THE RESULTS OF THE AUDIT, INCLUDING THE ACCOUNTANT'S UNQUALIFIED OPINION ON THE PRESENTATION OF THE FINANCIAL POSITION AND THE RESULTS OF THE FINANCIAL OPERATIONS OF THE CORPORATION.

(II) IF THE ACCOUNTANT CANNOT EXPRESS AN UNQUALIFIED OPINION, THE ACCOUNTANT SHALL EXPLAIN IN DETAIL THE REASONS FOR THE QUALIFICATIONS, DISCLAIMERS, OR OPINIONS, INCLUDING RECOMMENDATIONS OF CHANGES THAT COULD MAKE FUTURE UNQUALIFIED OPINIONS POSSIBLE.

(B) AUDIT BY STATE.

THE STATE MAY AUDIT THE BOOKS, RECORDS, AND ACCOUNTS OF THE CORPORATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1209(d) and (e).

In subsection (a)(3)(i) of this section, the limitation “[e]xcept as provided in subparagraph (ii) of this paragraph,” is added for clarity and consistency within this article.

Also in subsection (a)(3)(i) of this section, the word “audit” is substituted for the former word “examination” for clarity and consistency within this article.

Defined terms: “Corporation” § 11–501
“State” § 9–101

11–520. ANNUAL REPORT.

(A) REQUIRED.

ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE CORPORATION SHALL SUBMIT A REPORT TO:

(1) THE GOVERNOR;

(2) THE COUNTY COMMISSIONERS;

(3) THE DEPARTMENT; AND

(4) IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(B) CONTENTS.

THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND FINANCIAL STATEMENT COVERING THE OPERATIONS OF THE CORPORATION DURING THE PRECEDING FISCAL YEAR AND A SUMMARY OF THE ACTIVITIES OF THE CORPORATION DURING THE PRECEDING FISCAL YEAR.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5–1209(f).

In the introductory language to subsection (a) of this section, the phrase “[o]n or before October 1 of each year” is substituted for the former phrase “[w]ithin the first 90 days of each fiscal year” for clarity and accuracy.

In subsection (b) of this section, the reference to activities of the Corporation “during the preceding fiscal year” is added for clarity and consistency within this article.

Defined terms: “Corporation” § 11–501
“County Commissioners” § 11–501
“Department” § 9–101

TITLE 12. LOCAL DEVELOPMENT AUTHORITIES AND RESOURCES.

SUBTITLE 1. ECONOMIC DEVELOPMENT REVENUE BOND ACT.

12–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–101(a).

The only change is in style.

(B) AUTHORITY.

“AUTHORITY” MEANS AN INDUSTRIAL DEVELOPMENT AUTHORITY ESTABLISHED IN ACCORDANCE WITH § 12–105 OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from the first sentence of former Art. 41, § 14–101(c).

(C) BOND.

(1) “BOND” MEANS A REVENUE BOND, NOTE, OR OTHER INSTRUMENT, CERTIFICATE, OR EVIDENCE OF OBLIGATION THAT IS ISSUED AND SOLD BY A PUBLIC BODY UNDER THIS SUBTITLE TO FINANCE A FACILITY OR TO REFUND AN OUTSTANDING BOND.

(2) “BOND” INCLUDES:

- (I) A BOND ANTICIPATION NOTE; AND
- (II) A NOTE IN THE NATURE OF COMMERCIAL PAPER.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 14–101(d).

In paragraph (1) of this subsection, the reference to “a facility” is substituted for the former reference to “1 or more facilities” for brevity and in light of Art. 1, § 8, which provides that the singular generally includes the plural.

In the introductory language of paragraph (2) of this subsection, the former phrase “without limitation” is deleted as unnecessary in light of Art. 1, § 30, which provides that the term “including” is used “by way of illustration and not by way of limitation”.

Defined terms: “Facility” § 12–101
“Finance” § 12–101
“Public body” § 12–101

(D) CHIEF EXECUTIVE.

“CHIEF EXECUTIVE” MEANS THE PRESIDENT, CHAIR, MAYOR, COUNTY EXECUTIVE, OR ANY OTHER CHIEF EXECUTIVE OFFICER OF A PUBLIC BODY.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 14–101(e).

The reference to the “chair” is substituted for the former reference to the “chairman” because SG § 2–1238 requires the use of words that are neutral as to gender to the extent practicable. *See* General Revisor’s note to article.

The former phrase “if any” is deleted as surplusage.

The former phrase “however designated” is deleted in light of the reference to “any other chief executive officer”.

The former phrase “whether elected to the office or acting as such under law” is deleted as unnecessary.

Defined term: “Public body” § 12–101

(E) FACILITY.

“FACILITY” MEANS ANY LAND OR AN INTEREST IN LAND, STRUCTURE, WORKING CAPITAL, EQUIPMENT, OR OTHER PROPERTY, OR ANY COMBINATION OF THEM, THE ACQUISITION OR IMPROVEMENT OF WHICH THE LEGISLATIVE BODY OF A COUNTY OR MUNICIPAL CORPORATION, THE BOARD OF DIRECTORS OF AN AUTHORITY, OR THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY, IN ITS SOLE DISCRETION, DETERMINES BY RESOLUTION WILL ACCOMPLISH ONE OR MORE OF THE LEGISLATIVE PURPOSES LISTED IN § 12–103(B) OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first sentence of former Art. 41, § 14–101(g), except as it related to limitations on financing the acquisition of working capital by the issuance of bonds.

In this subsection and throughout this subtitle, the references to a “municipal corporation” are substituted for the former references to a “municipality” to conform to Md. Constitution, Art. XI–E. *See* General Revisor’s Note to article.

The former reference to “facilities” is deleted in light of the reference to a “facility” and Art. 1, § 8, which provides that the singular generally includes the plural.

The former reference to “buildings” is deleted as included in the reference to “structures”.

The former reference to “machinery” is deleted as included in the reference to “equipment”.

The former references to “furnishings” and to other “real or personal” property “or interest in them” are deleted as included in the comprehensive reference to “property”.

The former reference to “absolute” discretion is deleted in light of the reference to “sole” discretion.

The former reference to a “find[ing]” is deleted in light of the reference to a “determin[ation]”.

The former reference to purposes “that or those which may be financed from the proceeds of the issuance and sale of bonds the interest on which is exempt from federal income taxation under the provisions of § 103 of the federal Internal Revenue Code or any other federal statute hereafter enacted” is deleted as surplusage.

As to working capital, *see* § 12–110(b) of this subtitle.

Defined terms: “Authority” § 12–101

“Bond” § 12–101

“County” § 9–101

“Improvement” § 12–101

(F) FACILITY APPLICANT.

“FACILITY APPLICANT” MEANS A PERSON, PUBLIC OR PRIVATE CORPORATION, OR OTHER ENTITY, WHETHER FOR–PROFIT OR NOT–FOR–PROFIT, THAT, BY LETTER OF INTENT OR SIMILAR AGREEMENT WITH A PUBLIC BODY, REQUESTS THE PUBLIC BODY TO PARTICIPATE IN FINANCING A FACILITY UNDER THIS SUBTITLE FOR USE BY A FACILITY USER.

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

The reference to “a facility” is substituted for the former reference to “1 or more facilities” for brevity and in light of Art. 1, § 8, which provides that the singular generally includes the plural. Similarly, the reference to “a facility user” is substituted for the former reference to “1 or more facility users”.

Defined terms: “Facility” § 12–101

“Facility user” § 12–101

“Finance” § 12–101

“Person” § 9–101

“Public body” § 12–101

(G) FACILITY USER.

(1) “FACILITY USER” MEANS A PERSON, PUBLIC OR PRIVATE CORPORATION, OR OTHER ENTITY, WHETHER FOR–PROFIT OR NOT–FOR–PROFIT, THAT OWNS, LEASES, OR USES ALL OR PART OF A FACILITY.

(2) “FACILITY USER” MAY INCLUDE A FACILITY APPLICANT.

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

Defined terms: “Facility” § 12–101

“Facility applicant” § 12–101

“Person” § 9–101

(H) FINANCE.

“FINANCE” INCLUDES REFINANCE.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the phrase “finance or refinance”.

(I) FINANCE BOARD.

(1) “FINANCE BOARD” MEANS A UNIT OR INSTRUMENTALITY OF A COUNTY OR MUNICIPAL CORPORATION THAT IS AUTHORIZED BY STATUTE OR CHARTER TO ISSUE AND SELL BONDS OF THE COUNTY OR MUNICIPAL CORPORATION.

(2) “FINANCE BOARD” DOES NOT INCLUDE THE LEGISLATIVE BODY OF A COUNTY OR MUNICIPAL CORPORATION.

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

In paragraph (1) of this subsection, the term “unit” is substituted for the former terms “board” and “agency” for consistency within this article and with other articles of the Code. *See* General Revisor's Note to article.

Also in paragraph (1) of this subsection, the former reference to being “now

or hereafter” authorized to issue and sell bonds is deleted as surplusage.

Defined terms: “Bond” § 12–101

“County” § 9–101

(J) IMPROVE.

“IMPROVE” MEANS TO ADD, ALTER, CONSTRUCT, EQUIP, EXPAND, EXTEND, IMPROVE, INSTALL, RECONSTRUCT, REHABILITATE, REMODEL, OR REPAIR.

REVISOR’S NOTE: This subsection is new language added for brevity and clarity.

(K) IMPROVEMENT.

“IMPROVEMENT” MEANS ADDITION, ALTERATION, CONSTRUCTION, EQUIPPING, EXPANSION, EXTENSION, IMPROVEMENT, INSTALLATION, RECONSTRUCTION, REHABILITATION, REMODELING, OR REPAIR.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 14–101(b).

The defined term “[i]mprovement” is substituted for the former defined term “[a]cquisition” for clarity since all of the items listed in the former defined term, except “acquisition”, are a type of improvement. Correspondingly, the former term “acquisition” is deleted from the defined term “improvement” and is stated separately where appropriate in the revision.

The references to “addition”, “alteration”, “installation”, and “repair” are added for completeness and consistency with the definition of “improvement” in § 10–101(h) of this article.

The former phrase “of 1 or more facilities” is deleted as unnecessary since a reference to a facility is repeated as appropriate whenever the defined term “improvement” is used in this subtitle.

(L) PUBLIC BODY.

“PUBLIC BODY” MEANS:

- (1) A COUNTY;
- (2) A MUNICIPAL CORPORATION;
- (3) AN AUTHORITY; OR
- (4) THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 14–101(n).

Defined terms: “Authority” § 12–101

“County” § 9–101

(M) PUBLIC PORT.

(1) “PUBLIC PORT” MEANS THE PUBLIC PORTS AND HARBORS ON THE CHESAPEAKE BAY OR THE ISLE OF WIGHT BAY AND THEIR TRIBUTARIES IN THE STATE.

(2) “PUBLIC PORT” INCLUDES:

(I) THE BALTIMORE HARBOR (THE PATAPSCO RIVER AND ITS TRIBUTARIES NORTH AND WEST OF NORTH POINT AND BODKIN POINT);

(II) THE PORT OF CAMBRIDGE (THE SOUTH SIDE OF THE CHOPTANK RIVER BETWEEN HAMBROOK’S BAR AND THE EMERSON C. HARRINGTON BRIDGE); AND

(III) THE PORT OF CRISFIELD (THE LITTLE ANNEMESSEX RIVER EAST OF JAMES ISLAND).

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 14–101(o).

In the introductory language of paragraph (2) of this subsection, the former phrase “without limitation” is deleted as unnecessary in light of Art. 1, § 30, which provides that the term “including” is used “by way of illustration and not by way of limitation”.

Defined term: “State” § 9–101

REVISOR’S NOTE TO SECTION: The second sentence of former Art. 41, § 14–101(c), which excluded the Maryland Industrial Development Financing Authority from the definition of “authority”, is deleted as unnecessary. The term “authority” is defined in subsection (b) of this section to mean “an industrial development authority established in accordance with § 12–105 of this subtitle”, and the Maryland Industrial Development Financing Authority is established under § 5–406 of this article.

Former Art. 41, § 14–101(f), which defined “county” to mean “any of the 23 counties of Maryland, and the Mayor and City Council of Baltimore”, is revised in § 9–101 of this article.

Former Art. 41, § 14–101(k), which defined “lease”, is deleted because the definition added nothing to the common understanding of the term in the context of purposes for which bonds may be issued under this subtitle. Similarly, former Art. 41, § 14–101(l), which defined “loan agreement”, is deleted. Also similarly, former Art. 41, § 14–101(p), which defined “sale agreement”, is deleted.

Former Art. 41, § 14–101(m), which defined “municipality” to mean “a municipal corporation subject to the provisions of Article XI–E of the Constitution”, is deleted as unnecessary since all municipal corporations in the State other than Baltimore City are subject to those provisions.

12–102. CONSTRUCTION AND EFFECT OF SUBTITLE.

(A) CONSTRUCTION — OF SUBTITLE.

THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO ACCOMPLISH ITS PURPOSES.

(B) CONSTRUCTION — OF DEFINED TERM “FACILITY”.

A FACILITY IS NOT A CAPITAL PROJECT OF A PUBLIC BODY WITHIN THE MEANING OF ANY STATUTORY OR CHARTER PROVISION.

(C) EFFECT OF SUBTITLE.

THIS SUBTITLE DOES NOT AUTHORIZE A COUNTY OR MUNICIPAL CORPORATION TO ACQUIRE A FACILITY BY EMINENT DOMAIN.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 14–102(c), 14–104(g), and the second sentence of 14–101(g).

Defined terms: “County” § 9–101

“Facility” § 12–101

“Public body” § 12–101

12–103. LEGISLATIVE FINDINGS; PURPOSES OF SUBTITLE.

(A) FINDINGS.

THE GENERAL ASSEMBLY FINDS THAT:

- (1) CONDITIONS OF UNEMPLOYMENT EXIST IN MANY AREAS OF THE STATE;
- (2) THE ACQUISITION AND IMPROVEMENT OF FACILITIES IS ESSENTIAL TO RELIEVE THIS UNEMPLOYMENT AND TO ESTABLISH A BALANCED ECONOMY IN THE STATE;
- (3) THE PRESENT AND PROSPECTIVE HEALTH, HAPPINESS, SAFETY, RIGHT OF GAINFUL EMPLOYMENT, AND GENERAL WELFARE OF THE RESIDENTS OF THE STATE WILL BE PROMOTED BY THE ACQUISITION AND IMPROVEMENT OF FACILITIES;
- (4) THE CONTROL OR ABATEMENT OF POLLUTION OF THE ENVIRONMENT OF THE STATE, INCLUDING NOISE POLLUTION, IS NECESSARY TO:
 - (I) RETAIN EXISTING INDUSTRY AND COMMERCE IN AND ATTRACT NEW INDUSTRY AND COMMERCE TO THE STATE;
 - (II) PROTECT THE HEALTH, WELFARE, AND SAFETY OF THE RESIDENTS OF THE STATE;
 - (III) PROTECT THE NATURAL RESOURCES OF THE STATE; AND
 - (IV) ENCOURAGE THE ECONOMIC DEVELOPMENT OF THE STATE; AND
- (5) (I) THE PUBLIC PORTS OF THE STATE ARE ASSETS OF VALUE TO THE ENTIRE STATE;

(II) THE RESIDENTS OF THE ENTIRE STATE BENEFIT DIRECTLY FROM THE WATERBORNE COMMERCE THAT THE PUBLIC PORTS ATTRACT AND SERVICE; AND

(III) ANY IMPROVEMENT OF PUBLIC PORTS THAT INCREASES THEIR EXPORT AND IMPORT COMMERCE WILL BENEFIT THE RESIDENTS OF THE ENTIRE STATE.

(B) PURPOSES.

THE LEGISLATIVE PURPOSES OF THIS SUBTITLE ARE TO:

(1) RELIEVE CONDITIONS OF UNEMPLOYMENT IN THE STATE;

(2) ENCOURAGE THE INCREASE OF INDUSTRY AND COMMERCE AND A BALANCED ECONOMY IN THE STATE;

(3) ASSIST IN THE RETENTION OF EXISTING INDUSTRY AND COMMERCE IN, AND THE ATTRACTION OF NEW INDUSTRY AND COMMERCE TO, THE STATE THROUGH, AMONG OTHER THINGS, THE DEVELOPMENT OF PORTS, THE CONTROL OR ABATEMENT OF ENVIRONMENTAL POLLUTION, AND THE USE AND DISPOSAL OF WASTE;

(4) PROMOTE ECONOMIC DEVELOPMENT;

(5) PROTECT NATURAL RESOURCES AND ENCOURAGE RESOURCE RECOVERY;

AND

(6) PROMOTE THE HEALTH, WELFARE, AND SAFETY OF THE RESIDENTS OF THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–102(a) and (b).

In subsections (a)(3) and (b)(6) of this section, the former references to residents of “each of the counties and municipalities of” the State are deleted as unnecessary.

In subsection (a)(3) and (4)(ii) of this section, the references to “residents” are substituted for the former references to “citizens” because the meaning of the term “citizen” in this context is unclear and for consistency with subsections (a)(5)(ii) and (b)(6) of this section and similar provisions in other revised articles of the Code. Correspondingly, in subsection (a)(5)(iii) of this section, the reference to “residents” is substituted for the former reference to “people”. See General Revisor's Note to article.

In subsection (a)(4)(i) of this section, the references to “commerce” are substituted for the former references to “commercial enterprises” for brevity and consistency with subsection (b)(2) and (3) of this section.

In subsection (a)(5)(ii) of this section, the reference to the “entire” State is substituted for the former reference to “all parts of” the State for consistency within subsection (a)(5).

In subsection (a)(5)(iii) of this section, the reference to any “development of” public ports is substituted for the former reference to any

“improvement to” public ports for consistency with subsection (b)(3) of this section.

In subsection (b)(3) of this section, the former reference to the “reduction” of pollution is deleted in light of the reference to the “abatement” of pollution and for consistency with the introductory language of subsection (a)(4) of this section.

Defined terms: “Facility” § 12–101
“Improvement” § 12–101
“Public port” § 12–101
“State” § 9–101

12–104. STATE POLICY.

IT IS THE POLICY OF THE STATE TO ALLOW THE EXERCISE OF THE POWERS GRANTED BY THIS SUBTITLE EVEN THOUGH THE ACTIVITIES AUTHORIZED MAY DISPLACE OR LIMIT FREE ECONOMIC COMPETITION.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–102(d).

Defined term: “State” § 9–101

12–105. INDUSTRIAL DEVELOPMENT AUTHORITIES — IN GENERAL.

(A) AUTHORITY TO ESTABLISH.

TO ACCOMPLISH ONE OR MORE OF THE LEGISLATIVE PURPOSES LISTED IN § 12–103(B) OF THIS SUBTITLE, THE LEGISLATIVE BODY OF A COUNTY OR MUNICIPAL CORPORATION MAY ADOPT A RESOLUTION TO CREATE AN INDUSTRIAL DEVELOPMENT AUTHORITY IN ACCORDANCE WITH THIS SUBTITLE.

(B) NATURE OF RESOLUTION; APPROVAL.

A RESOLUTION ADOPTED UNDER SUBSECTION (A), (F), OR (G) OF THIS SECTION:

- (1) IS ADMINISTRATIVE IN NATURE;
- (2) IS NOT SUBJECT TO REFERENDUM; AND
- (3) IN A COUNTY OR MUNICIPAL CORPORATION THAT HAS A PUBLICLY ELECTED CHIEF EXECUTIVE, IS SUBJECT TO APPROVAL BY THE CHIEF EXECUTIVE.

(C) ADDITIONAL ACTION.

SUBSECTION (A) OF THIS SECTION IS SELF–EXECUTING AND FULLY AUTHORIZES A COUNTY OR MUNICIPAL CORPORATION TO ESTABLISH AN AUTHORITY, NOTWITHSTANDING ANY OTHER STATUTORY OR CHARTER PROVISION.

(D) CONTENTS OF RESOLUTION.

A RESOLUTION ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE PROPOSED ARTICLES OF INCORPORATION OF THE AUTHORITY THAT STATE:

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(1) THE NAME OF THE AUTHORITY, WHICH SHALL BE “INDUSTRIAL DEVELOPMENT AUTHORITY OF (NAME OF THE INCORPORATING COUNTY OR MUNICIPAL CORPORATION)”;

(2) THAT THE AUTHORITY IS FORMED UNDER THIS SUBTITLE;

(3) THE NAMES, ADDRESSES, AND TERMS OF OFFICE OF THE INITIAL MEMBERS OF THE BOARD OF DIRECTORS OF THE AUTHORITY;

(4) THE ADDRESS OF THE PRINCIPAL OFFICE OF THE AUTHORITY;

(5) THE PURPOSES FOR WHICH THE AUTHORITY IS FORMED; AND

(6) THE POWERS OF THE AUTHORITY SUBJECT TO THE LIMITATIONS ON THE POWERS OF AN AUTHORITY UNDER THIS SUBTITLE.

(E) ARTICLES OF INCORPORATION — FILING.

(1) THE CHIEF EXECUTIVE OF THE INCORPORATING COUNTY OR MUNICIPAL CORPORATION, OR ANY OTHER OFFICIAL DESIGNATED IN THE RESOLUTION ESTABLISHING THE AUTHORITY, SHALL EXECUTE AND FILE THE ARTICLES OF INCORPORATION OF THE AUTHORITY FOR RECORD WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(2) WHEN THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION ACCEPTS THE ARTICLES OF INCORPORATION FOR RECORD, THE AUTHORITY BECOMES A BODY POLITIC AND CORPORATE AND AN INSTRUMENTALITY OF THE INCORPORATING COUNTY OR MUNICIPAL CORPORATION.

(3) ACCEPTANCE OF THE ARTICLES OF INCORPORATION FOR RECORD BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION IS CONCLUSIVE EVIDENCE OF THE FORMATION OF THE AUTHORITY.

(F) ARTICLES OF INCORPORATION — AMENDMENT.

(1) BY RESOLUTION, THE LEGISLATIVE BODY OF THE INCORPORATING COUNTY OR MUNICIPAL CORPORATION MAY ADOPT AN AMENDMENT TO THE ARTICLES OF INCORPORATION OF THE AUTHORITY.

(2) ARTICLES OF AMENDMENT MAY CONTAIN ANY PROVISION THAT LAWFULLY COULD BE CONTAINED IN ARTICLES OF INCORPORATION AT THE TIME OF THE AMENDMENT.

(3) THE ARTICLES OF AMENDMENT SHALL BE FILED FOR RECORD WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(4) THE ARTICLES OF AMENDMENT ARE EFFECTIVE AS OF THE TIME THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION ACCEPTS THE ARTICLES FOR RECORD.

(5) ACCEPTANCE OF THE ARTICLES OF AMENDMENT FOR RECORD BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION IS CONCLUSIVE EVIDENCE THAT THE ARTICLES HAVE BEEN LAWFULLY AND PROPERLY ADOPTED.

(G) CHANGES IN OR TERMINATION OF AUTHORITY.

(1) SUBJECT TO THE PROVISIONS OF THIS SECTION AND ANY LIMITATIONS IMPOSED BY LAW ON THE IMPAIRMENT OF CONTRACTS, THE INCORPORATING COUNTY OR MUNICIPAL CORPORATION, IN ITS SOLE DISCRETION, BY RESOLUTION MAY:

(I) SET OR CHANGE THE STRUCTURE, ORGANIZATION, PROCEDURES, PROGRAMS, OR ACTIVITIES OF THE AUTHORITY; OR

(II) TERMINATE THE AUTHORITY.

(2) ON TERMINATION OF AN AUTHORITY:

(I) TITLE TO ALL PROPERTY OF THE AUTHORITY SHALL BE TRANSFERRED TO AND VEST IN THE INCORPORATING COUNTY OR MUNICIPAL CORPORATION; AND

(II) ALL OBLIGATIONS OF THE AUTHORITY SHALL BE TRANSFERRED TO AND ASSUMED BY THE INCORPORATING COUNTY OR MUNICIPAL CORPORATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–103(a), (b), and (c)(1) and (4), the first, second, and fourth sentences of (d), the first and third sentences of (k), and, as it related to the establishment of an authority, (f)(1)(i).

In subsection (c)(1) of this section, the reference to “[s]ubsection (a) of this section” is substituted for the former reference to “[t]his provision” for clarity. Similarly, in subsection (c)(2) of this section, the reference to the authority granted under “subsection (a) of this section” is substituted for the former reference to the authority granted “hereby”.

In subsections (e)(1) and (f)(1) of this section, the former references to an “administrative” resolution are deleted as unnecessary in light of subsection (b)(1) of this section, which provides that a resolution adopted under subsection (a), (f), or (g) of this section is “administrative in nature”.

In subsection (d)(3) of this section, the reference to the “initial members of the board of” directors is substituted for the former reference to the “first” directors for clarity.

In subsections (e)(1) and (f)(1) of this section, the references to the articles of incorporation “of the authority” are added for clarity.

In subsection (e)(1) of this section, the reference to filing articles of incorporation “for record” is added for consistency with CA § 2–102(a)(2). Similarly, in subsection (f)(3) of this section, the reference to filing articles of amendment “for record” is added for consistency with CA § 2–610.

Also in subsection (e)(1) of this section, the reference to the resolution “establishing the authority” is substituted for the former reference to the resolution “referred to in subsection (a)” for clarity.

In subsection (e)(3) of this section, the reference to “accept[ing] the articles

of incorporation for record” is substituted for the former reference to “issu[ing] the certificate of approval” to reflect the current procedures of the State Department of Assessments and Taxation under Maryland General Corporation Law. *See* CA § 1–202. Similarly, in subsection (f)(4) of this section, the reference to “accept[ing] the articles [of amendment] for record” is substituted for the former obsolete reference to “issu[ing] the certificate of approval”. *See* CA § 2–610.1(1).

In subsection (e)(3) of this section, the reference to acceptance of the articles of incorporation for record being “conclusive evidence of the formation” of the authority is substituted for the former reference to the authority being “conclusively considered to have been lawfully and properly created and authorized to exercise its powers” for clarity and consistency with the Maryland General Corporation Law. *See* CA § 2–102(b).

Former Art. 41, § 14–103(c)(2), which required the State Department of Assessments and Taxation to stamp articles of incorporation it received with the time and date of receipt, does not conform to current departmental practice and is deleted as obsolete. Similarly, former Art. 41, § 14–103(c)(3), which required the State Department of Assessments and Taxation to endorse articles of incorporation “approved” and issue a certificate of approval attached to the endorsed articles, does not conform to current departmental practice and is deleted as obsolete. Also similarly, the third sentence of former Art. 41, § 14–103(d), which required the State Department of Assessments and Taxation to endorse articles of amendment “approved” and issue a certificate of approval of the amendments, does not conform to current departmental practice and is deleted as obsolete.

Former Art. 41, § 14–103(e), which required the State Department of Assessments and Taxation to record articles and amendments, is deleted as redundant of CA § 1–202(2), which requires the Department promptly to record all charter documents.

The second sentence of former Art. 41, § 14–103(k), which provided that in a county or municipal corporation that has a publicly elected chief executive officer, a resolution to make changes in or terminate an authority is subject to approval by the chief executive officer, is deleted in light of subsection (b)(3) of this section, which contains the same requirement.

As to the current procedures that the State Department of Assessments and Taxation must follow on acceptance of a charter document, *see* CA § 1–102.

Defined terms: “Authority” § 12–101

“Chief executive” § 12–101

“County” § 9–101

“State” § 9–101

12-106. INDUSTRIAL DEVELOPMENT AUTHORITIES — BOARD OF DIRECTORS.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

(1) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, THE BOARD OF DIRECTORS OF AN AUTHORITY CONSISTS OF FIVE MEMBERS APPOINTED BY THE LEGISLATIVE BODY OF THE INCORPORATING COUNTY OR MUNICIPAL CORPORATION.

(2) APPOINTMENT PROCEDURES SHALL BE PROVIDED IN THE RESOLUTION ESTABLISHING THE AUTHORITY.

(3) (I) IN A COUNTY OR MUNICIPAL CORPORATION THAT HAS A PUBLICLY ELECTED CHIEF EXECUTIVE, THE CHIEF EXECUTIVE SHALL SUBMIT NOMINATIONS FOR THE INITIAL BOARD MEMBERS.

(II) THE CHIEF EXECUTIVE MAY NOMINATE MORE THAN ONE INDIVIDUAL FOR AN INITIAL BOARD MEMBER POSITION.

(4) AN OFFICER OR EMPLOYEE OF THE INCORPORATING COUNTY OR MUNICIPAL CORPORATION MAY NOT BE APPOINTED TO THE BOARD BUT, IF PROVIDED BY RESOLUTION, MAY SERVE AS AN EX OFFICIO, NONVOTING MEMBER OF THE BOARD.

(B) TENURE; VACANCIES.

(1) (I) THE INITIAL FIVE MEMBERS OF THE BOARD OF DIRECTORS OF AN AUTHORITY SHALL BE APPOINTED FOR STAGGERED TERMS, RANGING FROM 1 TO 5 YEARS, RESPECTIVELY, BEGINNING ON THE DATE THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION ACCEPTS THE ARTICLES OF INCORPORATION OF THE AUTHORITY FOR RECORD.

(II) EXCEPT AS PROVIDED FOR INITIAL BOARD MEMBERS, THE TERM OF AN APPOINTED MEMBER IS 5 YEARS.

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

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

(4) (I) IN A COUNTY OR MUNICIPAL CORPORATION THAT HAS A PUBLICLY ELECTED CHIEF EXECUTIVE, THE CHIEF EXECUTIVE SHALL SUBMIT NOMINATIONS FOR VACANCIES ON THE BOARD.

(II) THE CHIEF EXECUTIVE MAY NOMINATE MORE THAN ONE INDIVIDUAL FOR A VACANCY.

(C) REMOVAL.

(1) A MEMBER MAY BE REMOVED AT ANY TIME WITH OR WITHOUT CAUSE.

(2) PROCEDURES FOR REMOVAL SHALL BE THOSE PROVIDED IN THE RESOLUTION ESTABLISHING THE AUTHORITY OR A SUBSEQUENT RESOLUTION.

(D) OFFICERS.

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(1) FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR AND OTHER OFFICERS.

(2) AN EX OFFICIO MEMBER MAY HOLD ANY OFFICE OTHER THAN CHAIR.

(E) QUORUM; VOTING.

(1) THREE VOTING MEMBERS OF THE BOARD ARE A QUORUM.

(2) THE BOARD MAY ACT ON A RESOLUTION ONLY BY THE AFFIRMATIVE VOTE OF AT LEAST THREE VOTING MEMBERS.

(F) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE BOARD:

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

(2) SHALL BE REIMBURSED FOR EXPENSES INCURRED IN PERFORMING THE MEMBER'S DUTIES.

(G) EXERCISE OF POWERS.

THE BOARD SHALL EXERCISE ITS POWERS BY RESOLUTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–103(g)(3) and, as it related to the exercise of the powers of the board of directors of an authority, (2), and (h)(1), (2), and (4) through (7), and the first, second, and third sentences of (3).

In subsection (a)(1) of the section, the introductory language, “[s]ubject to paragraph (4) of this subsection”, is added to reflect that in addition to the five appointed members, the board of directors of an authority may include ex officio members.

In subsection (a)(3)(i) of this section, the reference to nominations “for the initial board members” is added for clarity. Similarly, in subsection (b)(4)(i) of this section, the reference to nominations “for vacancies on the board” is added.

In subsections (a)(3)(ii) and (b)(4)(ii) of this section, the former phrase “but is not required to nominate more than 1 individual for any vacancy” is deleted as implicit.

In subsection (a)(3)(ii) of this section, the reference to nominating more than one individual for “an initial board member position” is added for clarity.

In subsection (a)(4) of this section, the prohibition against an officer or employee “[being] appointed to the board” is substituted for the former prohibition against an officer or employee “[being] a director”, and the reference to these individuals serving as ex officio members of the “board” is substituted for the former reference to them serving as ex officio members of the “authority”, for accuracy and consistency with subsection

(d) of this section. Subsection (d) requires the board, from “among its members” to elect officers, and authorizes an ex officio member to hold any office other than chair.

In subsection (b)(1)(i) and (ii) of this section, the references to “initial” board members is substituted for the former reference to “original” board members for clarity and consistency with § 12–105(d)(3) of this subtitle.

In subsection (b)(1)(i) of this section, the reference to the date “the State Department of Assessments and Taxation accepts the articles of incorporation of the authority for record” is substituted for the former reference to the date “of creation of the authority” for accuracy and consistency with the process for establishing new authority under § 12–105(e) of this subtitle. The Economic Development Article Review Committee calls this substitution to the attention of the General Assembly. No substantive change is intended.

In subsection (b)(4)(ii) of this section, the former reference to nominating more than one individual for a vacancy “including the original 5 members” is deleted in light of the reference to “a” vacancy.

In subsection (c)(1) of this section, the reference to a “member” is substituted for the former reference to a “director” for consistency within this article and with other revised articles of the Code. Similarly, in subsection (e) of this section, the references to “members” are substituted for the former references to “directors”, and in the introductory language of subsection (f) of this section, the reference to a “member of the board” is substituted for the former reference to a “director”.

In subsection (d)(1) and (2) of this section, the references to a “chair” are substituted for the former references to a “chairman” because SG § 2–1238 requires the use of words that are neutral as to gender to the extent practicable. *See* General Revisor’s Note to article.

In subsection (f)(1) of this section, the phrase “as a member of the board” is added to clarify that the prohibition on receipt of compensation is only applicable to a member of the board in the capacity of that individual as a member. *See* General Revisor’s Note to article.

In subsection (f)(2) of this section, the former reference to “actual” expenses is deleted as surplusage.

The fourth sentence of former Art. 41, § 14–103(h)(3), which authorized a member of the board of directors of an authority to “succeed himself”, is deleted since there is no contrary provision and thus no reason to believe this is not the case.

Defined terms: “Authority” § 12–101

“Chief executive” § 12–101

“County” § 9–101

12-107. ADMINISTRATION.

(A) GOVERNANCE BY BOARD OF DIRECTORS.

THE BOARD OF DIRECTORS OF AN AUTHORITY SHALL GOVERN THE AUTHORITY.

(B) PROCEDURES FOR INTERNAL ADMINISTRATION.

EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE OR THE RESOLUTION ESTABLISHING THE AUTHORITY, THE PROCEDURES OF THE INCORPORATING COUNTY OR MUNICIPAL CORPORATION CONTROL ANY MATTER RELATING TO THE INTERNAL ADMINISTRATION OF THE AUTHORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-103(g)(4) and, as it related to governance of an authority, (2).

In subsection (a) of this section, the reference to the board of directors "of an authority" is added for clarity.

In subsection (b) of this section, the word "otherwise" is added for clarity.

Defined terms: "Authority" § 12-101

"County" § 9-101

12-108. BENEFIT OF NET EARNINGS.

EXCEPT AS NECESSARY TO PAY DEBT SERVICE OR IMPLEMENT THE PUBLIC PURPOSES OR PROGRAMS OF THE INCORPORATING COUNTY OR MUNICIPAL CORPORATION, THE NET EARNINGS OF AN AUTHORITY MAY BENEFIT ONLY THE INCORPORATING COUNTY OR MUNICIPAL CORPORATION AND MAY NOT BENEFIT ANY PERSON.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-103(j).

Defined terms: "Authority" § 12-101

"County" § 9-101

"Person" § 9-101

12-109. POWERS OF AUTHORITY, COUNTY, AND MUNICIPAL CORPORATION.

(A) POWERS OF AUTHORITY.

(1) EXCEPT AS LIMITED BY ITS ARTICLES OF INCORPORATION, AN AUTHORITY HAS ALL THE POWERS SET FORTH IN THIS SUBTITLE.

(2) AN AUTHORITY MAY:

(I) RECEIVE MONEY FROM ITS INCORPORATING COUNTY OR MUNICIPAL CORPORATION, THE STATE, OTHER GOVERNMENTAL UNITS, OR NOT FOR PROFIT ORGANIZATIONS;

(II) CHARGE FEES FOR ITS SERVICES;

(III) HAVE EMPLOYEES AND CONSULTANTS AS IT CONSIDERS NECESSARY; AND

(IV) USE THE SERVICES OF OTHER GOVERNMENTAL UNITS.

(B) POWERS OF COUNTY AND MUNICIPAL CORPORATION.

FOR THE PURPOSES OF THIS SUBTITLE, EACH COUNTY AND MUNICIPAL CORPORATION HAS ALL THE POWERS GRANTED IN THIS SUBTITLE TO AN AUTHORITY, INCLUDING THE POWER TO MAKE LOANS TO PRIVATE ENTERPRISES COMPETING WITH ENTERPRISES NOT RECEIVING THE LOANS.

(C) EXERCISE OF POWERS.

(1) (I) AN AUTHORITY SHALL OPERATE AND EXERCISE ITS POWERS SOLELY TO ACCOMPLISH ONE OR MORE OF THE LEGISLATIVE PURPOSES OF THIS SUBTITLE.

(II) THE INCORPORATING COUNTY OR MUNICIPAL CORPORATION MAY USE THE AUTHORITY'S EXERCISE OF ITS POWERS TO ACCOMPLISH ONE OR MORE OF THE LEGISLATIVE PURPOSES.

(2) AN AUTHORITY OR AN INCORPORATING COUNTY OR MUNICIPAL CORPORATION MAY EXERCISE ITS POWERS REGARDLESS OF ANY EFFECT ON ECONOMIC COMPETITION.

(3) THE POWERS GRANTED TO A COUNTY OR MUNICIPAL CORPORATION UNDER PARAGRAPH (2) OF THIS SUBSECTION DO NOT:

(I) GRANT TO THE COUNTY OR MUNICIPAL CORPORATION POWERS IN ANY SUBSTANTIVE AREA NOT OTHERWISE GRANTED TO THE COUNTY OR MUNICIPAL CORPORATION UNDER OTHER PUBLIC GENERAL OR PUBLIC LOCAL LAW;

(II) RESTRICT THE COUNTY OR MUNICIPAL CORPORATION FROM EXERCISING ANY POWER GRANTED TO THE COUNTY OR MUNICIPAL CORPORATION UNDER OTHER PUBLIC GENERAL OR PUBLIC LOCAL LAW OR OTHERWISE;

(III) AUTHORIZE THE COUNTY OR MUNICIPAL CORPORATION, OR THE OFFICERS OF THE COUNTY OR MUNICIPAL CORPORATION, TO ENGAGE IN AN ACTIVITY THAT IS BEYOND THE POWER GRANTED UNDER OTHER PUBLIC GENERAL OR PUBLIC LOCAL LAW OR OTHERWISE; OR

(IV) PREEMPT OR SUPERSEDE THE REGULATORY AUTHORITY OF A UNIT OF STATE GOVERNMENT UNDER A PUBLIC GENERAL LAW.

(4) THE INCORPORATING COUNTY OR MUNICIPAL CORPORATION IS NOT PRECLUDED FROM DIRECTLY EXERCISING THE POWERS GRANTED TO AN AUTHORITY UNDER THIS SUBTITLE AFTER THE ESTABLISHMENT OF THE AUTHORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-103(i), (l), (g)(1), and (f)(2) and (1)(ii), and, as it related to the operation of an authority and the exercise of its powers, (1)(i).

In subsection (a)(1) of this section, the former word “restricted” is deleted as unnecessary in light of the word “limited”.

In subsection (a)(2)(i) of this section, the reference to “money” is substituted for the former reference to “funds” for consistency within this article and with other revised articles of the Code. *See* General Revisor’s Note to article.

In subsection (a)(2)(ii) of this section, the former reference to charging fees “or other charges” is deleted as unnecessary.

In subsection (c)(2)(ii)4 of this section, the term “unit” is substituted for the former terms “department” and “agency” for consistency within this article and with other revised articles of the Code. *See* General Revisor’s Note to article.

Defined terms: “Authority” § 12–101

“County” § 9–101

“State” § 9–101

12–110. BONDS.

(A) AUTHORIZED.

NOTWITHSTANDING ANY LIMITATION OF LAW, A PUBLIC BODY MAY ISSUE AND SELL BONDS PERIODICALLY TO ACCOMPLISH THE LEGISLATIVE PURPOSES OF THIS SUBTITLE.

(B) ISSUANCE AND USE.

(1) A PUBLIC BODY MAY ISSUE AND SELL BONDS TO:

(I) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FINANCE THE COSTS OF THE ACQUISITION OR IMPROVEMENT OF A FACILITY FOR A FACILITY USER, INCLUDING WORKING CAPITAL;

(II) REFUND OUTSTANDING BONDS;

(III) PAY THE COSTS OF PREPARING, PRINTING, SELLING, AND ISSUING THE BONDS;

(IV) FUND RESERVES; AND

(V) PAY THE INTEREST ON THE BONDS IN THE AMOUNT AND FOR THE PERIOD THE PUBLIC BODY CONSIDERS REASONABLE.

(2) (I) A PUBLIC BODY MAY NOT ISSUE BONDS TO ACQUIRE WORKING CAPITAL UNLESS THE BONDS ARE SECURED BY A LETTER OF CREDIT OR AN INTEREST IN PROPERTY.

(II) WORKING CAPITAL ACQUIRED BY ISSUING BONDS MAY NOT EXCEED 25% OF THE PRINCIPAL AMOUNT OF THE BONDS.

(C) NATURE OF BONDS ISSUED.

(1) BONDS ARE LIMITED OBLIGATIONS AND ARE NOT A PLEDGE OF THE FAITH AND CREDIT OR TAXING POWER OF THE PUBLIC BODY.

(2) BONDS ISSUED BY AN AUTHORITY ARE ISSUED ON BEHALF OF THE PUBLIC BODY THAT ESTABLISHED THE AUTHORITY.

(3) BONDS ISSUED BY THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY:

(I) ARE ISSUED ON BEHALF OF THE STATE; AND

(II) SHALL BE ISSUED IN ACCORDANCE WITH THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY ACT, TITLE 5, SUBTITLE 7 OF THIS ARTICLE.

(D) FORM; EXECUTION; MATURITY.

(1) A BOND:

(I) MAY BE IN BEARER FORM;

(II) MAY BE REGISTRABLE AS TO PRINCIPAL ALONE OR AS TO BOTH PRINCIPAL AND INTEREST; AND

(III) IS A "SECURITY" AS DEFINED BY § 8-102 OF THE COMMERCIAL LAW ARTICLE, WHETHER OR NOT THE BOND IS ONE OF A CLASS OR SERIES OR IS DIVISIBLE INTO A CLASS OR SERIES OF INSTRUMENTS.

(2) (I) A BOND SHALL BE SIGNED BY THE CHIEF EXECUTIVE OR BY AN OFFICER DESIGNATED BY RESOLUTION OF THE PUBLIC BODY.

(II) A BOND MAY BE EXECUTED BY FACSIMILE SIGNATURE IN ACCORDANCE WITH § 2-303 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(III) THE SEAL OF THE PUBLIC BODY SHALL BE AFFIXED TO THE BOND AND ATTESTED BY THE CLERK OR SIMILAR ADMINISTRATIVE OFFICER OF THE PUBLIC BODY DESIGNATED BY RESOLUTION.

(IV) AN OFFICER'S SIGNATURE OR COUNTERSIGNATURE ON A BOND OR COUPON REMAINS VALID EVEN IF THE OFFICER LEAVES OFFICE BEFORE THE BOND IS DELIVERED.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A BOND SHALL MATURE NOT LATER THAN 30 YEARS AFTER ITS DATE OF ISSUE.

(II) IF A BOND IS SECURED BY A MORTGAGE INSURED BY A UNIT OF THE FEDERAL GOVERNMENT, THE BOND SHALL HAVE A TERM OF MATURITY THAT DOES NOT EXCEED THE TERM OF THE INSURANCE.

(E) ACQUISITION AND IMPROVEMENT OF FACILITIES.

(1) A PUBLIC BODY MAY ACQUIRE OR IMPROVE A FACILITY WITH BOND PROCEEDS:

(I) BY LEASING THE FACILITY TO A FACILITY USER;

(II) BY SELLING THE FACILITY TO A FACILITY USER UNDER AN INSTALLMENT SALE AGREEMENT;

(III) BY LENDING BOND PROCEEDS TO A FACILITY USER TO BE USED TO FINANCE A FACILITY; OR

(IV) IN ANY OTHER MANNER THAT THE PUBLIC BODY CONSIDERS APPROPRIATE TO ACCOMPLISH THE LEGISLATIVE PURPOSES OF THIS SUBTITLE.

(2) (I) THE LEASE OF A FACILITY UNDER THIS SUBTITLE MAY AUTHORIZE OR REQUIRE THE FACILITY USER TO ACQUIRE THE FACILITY ON PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS APPLICABLE TO THE FACILITY USER.

(II) THE CONSIDERATION FOR THE ACQUISITION OF THE FACILITY MAY BE NOMINAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 14–101(g), 14–104(a), (b), and (c), and 14–106(a), (b), and (c).

In subsection (a) of this section, the reference to the legislative “purposes” of this subtitle is substituted for the former reference to the legislative “policy” of this subtitle for clarity and consistency within this subtitle. Similarly, in subsection (e)(1)(iv) of this section, the reference to “legislative” purposes of this subtitle is added.

Also in subsection (a) of this section, the word “periodically” is substituted for the former phrase “from time to time” for clarity and consistency within this article.

Also in subsection (a) of this section, the former phrase “in addition to whatever other powers it may have” is deleted as redundant.

In subsection (b)(1)(i), the introductory language of subsection (e)(1), and subsection (e)(1)(iii) of this section, the references to “a facility” are substituted for the former references to “1 or more facilities” for brevity and in light of Art. 1, § 30, which provides that the singular generally includes the plural. Similarly, in subsections (b)(1)(i) and (e)(1)(i), (ii), and (iii) of this section, the references to “a facility user” are substituted for the former references to “1 or more facility users”.

In subsection (d)(1)(ii) of this section, the former phrase “or by its terms is divisible into a class or series of instruments” is deleted as unnecessary.

In subsection (d)(2)(ii) of this section, the word “executed”, which refers to the facsimile signature, is added for consistency within this article and with other revised articles of the Code.

Defined terms: “Authority” § 12–101
“Bond” § 12–101

- “Chief executive” § 12–101
- “Facility” § 12–101
- “Facility user” § 12–101
- “Finance” § 12–101
- “Improve” § 12–101
- “Improvement” § 12–101
- “Public body” § 12–101
- “State” § 9–101

12–111. AUTHORIZING RESOLUTION.

(A) ADOPTION OF RESOLUTION TO ISSUE BONDS.

FOR EACH ISSUE OF ITS BONDS, THE LEGISLATIVE BODY OF A COUNTY OR MUNICIPAL CORPORATION, THE BOARD OF DIRECTORS OF AN AUTHORITY, OR THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY, SHALL ADOPT A RESOLUTION THAT:

- (1) SPECIFIES AND DESCRIBES THE FACILITY;
- (2) GENERALLY DESCRIBES THE PUBLIC PURPOSE TO BE SERVED AND THE FINANCING TRANSACTION;
- (3) SPECIFIES THE MAXIMUM PRINCIPAL AMOUNT OF THE BONDS THAT MAY BE ISSUED; AND
- (4) IMPOSES TERMS OR CONDITIONS ON THE ISSUANCE AND SALE OF BONDS 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.

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(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.

(2) THE LIEN OF THE PLEDGE OR ASSIGNMENT MADE IS VALID AND BINDING AGAINST A PERSON WITH A CLAIM AGAINST THE PUBLIC BODY, WHETHER OR NOT THE PERSON HAS NOTICE OF THE LIEN.

(D) FILING OR RECORDATION.

NOTWITHSTANDING ANY OTHER PUBLIC GENERAL OR PUBLIC LOCAL LAW, A PUBLIC BODY NEED NOT FILE OR RECORD A RESOLUTION, TRUST AGREEMENT, LEASE, INSTALLMENT SALE AGREEMENT, LOAN AGREEMENT, OR OTHER INSTRUMENT THAT IT ADOPTS OR MAKES UNDER THIS SUBTITLE, EXCEPT IN THE RECORDS OF THE PUBLIC BODY.

(E) NATURE OF RESOLUTION; APPROVAL.

A RESOLUTION ADOPTED UNDER THIS SECTION:

- (1) IS ADMINISTRATIVE IN NATURE;
- (2) IS NOT SUBJECT TO PROCEDURES REQUIRED FOR LEGISLATIVE ACTS;
- (3) IS NOT SUBJECT TO REFERENDUM; AND
- (4) IN A COUNTY OR MUNICIPAL CORPORATION THAT HAS A PUBLICLY ELECTED CHIEF EXECUTIVE, IS SUBJECT TO APPROVAL BY THE CHIEF EXECUTIVE.

(F) ADDITIONAL ACTION.

THIS AUTHORIZATION IS SELF-EXECUTING, AND FULLY AUTHORIZES A PUBLIC BODY TO ISSUE AND SELL BONDS, NOTWITHSTANDING ANY OTHER STATUTORY OR CHARTER PROVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-104(d), (e), and (f).

In subsection (a)(1) of this section, the former reference to "facilities" is deleted in light of the reference to a "facility" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (b)(1)(iii) of this section, the reference to a "countersignature on a bond" is added for clarity and consistency.

In subsection (b)(1)(iv) of this section, the reference to "tak[ing] other action it considers appropriate concerning the bonds" is substituted for the former references to certain actions "including, without limitation" the actions listed in subsection (b)(1)(i) through (iii) of this section for clarity.

In subsection (b)(2) of this section, the phrase "exercise the powers provided under paragraph (1) of this subsection" is added for clarity.

In subsection (b)(4)(i) of this section, the reference to the legislative "purposes" of this subtitle is substituted for the former reference to the legislative "policy" of this subtitle for clarity and consistency within this subtitle.

In subsection (c)(2) of this section, the words "of the lien" are added to modify the word "notice" for clarity.

Also in subsection (c)(2) of this section, the former reference to a claim "of any kind" is deleted as surplusage.

Defined terms: "Bond" § 12-101

"Chief executive" § 12-101

"County" § 9-101

"Facility" § 12-101

"Finance board" § 12-101

"Lease" § 12-101

"Loan agreement" § 12-101

"Person" § 9-101

"Public body" § 12-101

"Sale agreement" § 12-101

12-112. MANNER AND PRICE OF SALE OF BONDS; APPLICABILITY OF ARTICLE 31.

(A) BOND SALES.

(1) BONDS SHALL BE SOLD IN THE MANNER, AT COMPETITIVE OR NEGOTIATED SALE, AND ON THE TERMS AT, ABOVE, OR BELOW PAR, THAT THE PUBLIC BODY CONSIDERS BEST.

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(2) A CONTRACT TO ACQUIRE OR IMPROVE A FACILITY MAY PROVIDE THAT PAYMENT SHALL BE MADE IN BONDS.

(B) **APPLICABILITY.**

A BOND IS NOT SUBJECT TO THE LIMITATIONS OF ARTICLE 31, §§ 9, 10, AND 11 OF THE CODE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–106(d).

In subsection (a)(1) of this section, the reference to a “competitive or negotiated” sale is substituted for the former reference to a “public or private (negotiated)” sale for clarity and consistency within this article.

Defined terms: “Bond” § 12–101

“Improvement” § 12–101

“Public body” § 12–101

12–113. PAYMENT OF BONDS.

(A) **BONDS PAYABLE FROM REVENUE.**

(1) A BOND AND THE INTEREST ON A BOND ARE LIMITED OBLIGATIONS OF THE PUBLIC BODY.

(2) EXCEPT FOR BOND ANTICIPATION NOTES AND NOTES IN THE NATURE OF COMMERCIAL PAPER, THE PRINCIPAL OF, PREMIUM, AND INTEREST ON A BOND ARE PAYABLE SOLELY FROM:

(I) MONEY FROM THE FINANCING OF A FACILITY; OR

(II) OTHER MONEY MADE AVAILABLE TO THE PUBLIC BODY.

(3) **BONDS AND THE INTEREST ON THEM:**

(I) ARE NOT DEBTS OR CHARGES AGAINST THE GENERAL CREDIT OR TAXING POWERS OF A PUBLIC BODY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR CHARTER PROVISION OR STATUTORY LIMITATION; AND

(II) MAY NOT GIVE RISE TO ANY PECUNIARY LIABILITY OF AN ISSUING PUBLIC BODY.

(4) **A BOND MAY STATE ON ITS FACE THAT THE BOND:**

(I) IS ISSUED UNDER THIS SUBTITLE; AND

(II) IS NOT A DEBT TO WHICH THE PUBLIC BODY'S FAITH AND CREDIT IS PLEDGED.

(B) **APPOINTMENT OF RECEIVER.**

ON DEFAULT IN THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON A BOND, A COURT WITH JURISDICTION:

(1) MAY APPOINT A RECEIVER OR TAKE OTHER APPROPRIATE ACTION TO PROVIDE FOR THE PAYMENT OF THE BOND; AND

(2) SHALL APPLY ANY AVAILABLE REVENUE AS THIS SUBTITLE OR A RESOLUTION ADOPTED UNDER THIS SUBTITLE PROVIDES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–106(e) and (f).

In subsection (a)(2)(ii) of this section, the phrase “financing a facility” is substituted for the former ambiguous reference to “such purpose” for clarity.

In subsection (a)(3)(ii) of this section, the former word “constitute” is deleted as implicit in the phrase “give rise to”.

In the introductory language of subsection (b) of this section, the former words “of the action” are deleted as implicit in the reference to a court’s “jurisdiction”.

Defined terms: “Bond” § 12–101
“Finance” § 12–101
“Public body” § 12–101

12–114. CONCLUSIVE PRESUMPTION OF FINDING BY PUBLIC BODY.

A FINDING BY THE LEGISLATIVE BODY OF A COUNTY OR MUNICIPAL CORPORATION, THE BOARD OF DIRECTORS OF AN AUTHORITY, OR THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY AS TO THE PUBLIC PURPOSE OF AN ACTION TAKEN UNDER THIS SUBTITLE, AND THE APPROPRIATENESS OF THAT ACTION TO SERVE THE PUBLIC PURPOSE, IS CONCLUSIVE IN A PROCEEDING INVOLVING THE VALIDITY OR ENFORCEABILITY OF A BOND, OR SECURITY FOR A BOND, ISSUED UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–104(h).

The former reference to a “suit [or] action” is deleted as included in the comprehensive reference to a “proceeding”.

Defined terms: “Authority” § 12–101
“Bond” § 12–101
“County” § 9–101

12–115. ALTERNATIVE PROCEDURES FOR BOND ISSUANCE.

INSTEAD OF THE PROCEDURES UNDER THIS SUBTITLE, A MUNICIPAL CORPORATION, BY CHARTER AMENDMENT ADOPTED UNDER ARTICLE 23A OF THE CODE, OR A CHARTER COUNTY, BY CHARTER AMENDMENT ADOPTED UNDER ARTICLE XI–A OF THE MARYLAND CONSTITUTION, MAY PROVIDE FOR THE ISSUANCE OF REVENUE BONDS UNDER THE TERMS AND CONDITIONS THAT THE MUNICIPAL CORPORATION OR CHARTER COUNTY CONSIDERS APPROPRIATE TO ACHIEVE THE LEGISLATIVE PURPOSES OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–104(i).

The reference to the legislative “purposes” of this subtitle is substituted for the former reference to the legislative “policy” of this subtitle for clarity and consistency within this subtitle.

Defined terms: “Bond” § 12–101

“County” § 9–101

12–116. TAX STATUS.

THE PRINCIPAL OF AND INTEREST ON BONDS, THE TRANSFER OF BONDS, AND ANY INCOME DERIVED FROM THE BONDS, INCLUDING PROFITS MADE IN THEIR SALE OR TRANSFER, ARE FOREVER EXEMPT FROM STATE AND LOCAL TAXES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–105.

The former words “and shall remain”, which state that certain costs associated with bonds will remain exempt from taxation, are deleted as unnecessary.

Defined terms: “Bond” § 12–101

“State” § 9–101

12–117. LEASE OR CONTRACT AS SECURITY FOR BOND.

(A) APPLICABILITY.

THIS SECTION APPLIES TO A LEASE OR CONTRACT UNDER WHICH:

(1) THE STATE OR A UNIT OF THE STATE WILL BE AN INITIAL USER OR OCCUPANT OF A FACILITY FINANCED BY BONDS ISSUED UNDER THIS SUBTITLE; OR

(2) A FACILITY FINANCED BY BONDS ISSUED UNDER THIS SUBTITLE WILL BE BUILT ON PROPERTY OWNED BY THE STATE.

(B) REQUIRED APPROVALS.

THE STATE OR A UNIT OF THE STATE MAY NOT ENTER INTO A LEASE OR CONTRACT THAT IS SUBJECT TO THIS SECTION AND THAT FORMS A PART OF THE SECURITY FOR BONDS ISSUED UNDER THIS SUBTITLE UNLESS:

(1) THE LEGISLATIVE POLICY COMMITTEE HAS AUTHORIZED THE FACILITY AS BEING CONSISTENT WITH THE CAPITAL BUDGET; AND

(2) THE BOARD OF PUBLIC WORKS SPECIFICALLY HAS APPROVED THE BOND ISSUE FOR THAT FACILITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–108.

In subsection (a)(1) and the introductory language of subsection (b)(1) of this section, the term “unit” is substituted for the former term “agency” for

consistency within this article and with other revised articles of the Code. See General Revisor’s Note to article.

In the introductory language of subsection (b), the word “section” is substituted for the former word “subsection” for accuracy.

In subsection (b)(1) of this section, the former phrase “of the General Assembly”, which describes the Legislative Policy Committee, is deleted as implicit.

Defined terms: “Bond” § 12–101

“Facility” § 12–101

“Finance” § 12–101

“Lease” § 12–101

“State” § 9–101

12–118. SHORT TITLE.

THIS SUBTITLE MAY BE CITED AS THE MARYLAND ECONOMIC DEVELOPMENT REVENUE BOND ACT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–109.

SUBTITLE 2. TAX INCREMENT FINANCING ACT.

12–201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 14–202(a).

In this subsection, the former phrase “unless the context clearly indicates another or different meaning or intent” is deleted as implicit in the normal rules of statutory construction.

(B) ADJUSTED ASSESSABLE BASE.

“ADJUSTED ASSESSABLE BASE” MEANS THE FAIR MARKET VALUE OF REAL PROPERTY THAT QUALIFIES FOR A FARM OR AGRICULTURAL USE UNDER § 8–209 OF THE TAX – PROPERTY ARTICLE, WITHOUT REGARD TO THE AGRICULTURAL USE ASSESSMENT FOR THE PROPERTY AS OF JANUARY 1 OF THE YEAR PRECEDING THE EFFECTIVE DATE OF THE RESOLUTION CREATING THE DEVELOPMENT DISTRICT UNDER § 12–203 OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–202(c).

The only changes are in style.

Defined term: “Development district” § 12–201

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(C) **ASSESSABLE BASE.**

“ASSESSABLE BASE” MEANS THE TOTAL ASSESSABLE BASE, AS DETERMINED BY THE SUPERVISOR OF ASSESSMENTS, OF ALL REAL PROPERTY SUBJECT TO TAXATION IN A DEVELOPMENT DISTRICT.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 14–202(d).

Defined term: “Development district” § 12–201

(D) **ASSESSMENT RATIO.**

(1) “ASSESSMENT RATIO” MEANS A REAL PROPERTY TAX ASSESSMENT RATIO, HOWEVER DESIGNATED OR CALCULATED, THAT IS USED UNDER APPLICABLE GENERAL LAW TO DETERMINE THE ASSESSABLE BASE.

(2) “ASSESSMENT RATIO” INCLUDES THE ASSESSMENT PERCENTAGE SPECIFIED UNDER § 8–103(c) OF THE TAX – PROPERTY ARTICLE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 14–202(e).

Defined term: “Assessable base” § 12–201

(E) **BOND.**

“BOND” MEANS A REVENUE BOND, NOTE, OR OTHER SIMILAR INSTRUMENT ISSUED IN ACCORDANCE WITH THIS SUBTITLE BY:

(1) A POLITICAL SUBDIVISION; OR

(2) THE REVENUE AUTHORITY OF PRINCE GEORGE’S COUNTY.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 14–202(f).

Defined term: “Political subdivision” § 12–201

(F) **CHIEF EXECUTIVE.**

“CHIEF EXECUTIVE” MEANS THE PRESIDENT, CHAIR, MAYOR, OR OTHER CHIEF EXECUTIVE OFFICER OF A POLITICAL SUBDIVISION OR THE REVENUE AUTHORITY OF PRINCE GEORGE’S COUNTY.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 14–202(g).

In this subsection and throughout this subtitle, the references to “municipal corporation” are substituted for the former references to a “municipality” for consistency with the Md. Constitution, Art. XI–E.

In this subsection, the references to the “chair” is substituted for the former reference to the “chairman” because SG § 2–1238 requires the use of terms that are neutral as to gender to the extent practicable.

Defined term: “Political subdivision” § 12–201

(G) DEVELOPMENT.

“DEVELOPMENT” INCLUDES NEW DEVELOPMENT, REDEVELOPMENT, REVITALIZATION, AND RENOVATION.

REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–202(i).

No changes are made.

(H) DEVELOPMENT DISTRICT.

“DEVELOPMENT DISTRICT” MEANS A CONTIGUOUS AREA DESIGNATED BY A RESOLUTION.

REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–202(j).

No changes are made.

(I) ISSUER.

“ISSUER” MEANS A POLITICAL SUBDIVISION OR THE REVENUE AUTHORITY OF PRINCE GEORGE’S COUNTY THAT ISSUES A BOND UNDER THIS SUBTITLE.

REVISOR’S NOTE: This subsection is new language added for clarity.

Defined terms: “Bond” § 12–201

“Political subdivision” § 12–201

(J) ORIGINAL ASSESSABLE BASE.

“ORIGINAL ASSESSABLE BASE” MEANS THE ASSESSABLE BASE AS OF JANUARY 1 OF THE YEAR PRECEDING THE EFFECTIVE DATE OF THE RESOLUTION CREATING THE DEVELOPMENT DISTRICT UNDER § 12–203 OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–202(k).

The only changes are in style.

Defined terms: “Assessable base” § 12–201

“Development district” § 12–201

(K) ORIGINAL FULL CASH VALUE.

“ORIGINAL FULL CASH VALUE” MEANS THE DOLLAR AMOUNT THAT IS DETERMINED BY DIVIDING THE ORIGINAL ASSESSABLE BASE BY THE ASSESSMENT RATIO USED TO DETERMINE THE ORIGINAL ASSESSABLE BASE.

REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–202(l).

The only changes are in style.

Defined terms: “Assessable base” § 12–201

“Assessment ratio” § 12–201

“Original assessable base” § 12–201

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(L) ORIGINAL TAXABLE VALUE.

“ORIGINAL TAXABLE VALUE” MEANS FOR ANY TAX YEAR THE DOLLAR AMOUNT THAT IS:

(1) THE ADJUSTED ASSESSABLE BASE, IF AN ADJUSTED ASSESSABLE BASE APPLIES; OR

(2) IN ALL OTHER CASES, THE LESSER OF:

(I) THE PRODUCT OF MULTIPLYING THE ORIGINAL FULL CASH VALUE BY THE ASSESSMENT RATIO APPLICABLE TO THAT TAX YEAR; AND

(II) THE ORIGINAL ASSESSABLE BASE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 14–202(m).

The legislative history of this subsection makes clear that the “adjusted assessable base” must be used if it applies; otherwise, the “original taxable value” is the lesser of the “original assessable base” and the product of the “original full cash value” and the applicable “assessment ratio”. Bill File, SB 298, 1992, floor report of Senate Budget and Taxation Committee, March 19, 1992.

Defined terms: “Adjusted assessable base” § 12–201

“Assessable base” § 12–201

“Assessment ratio” § 12–201

“Original assessable base” § 12–201

“Original full cash value” § 12–201

“Tax year” § 12–201

(M) POLITICAL SUBDIVISION.

“POLITICAL SUBDIVISION” MEANS A COUNTY OR A MUNICIPAL CORPORATION.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the phrase “county or municipal corporation”.

Defined term: “County” § 9–101

(N) TAX INCREMENT.

“TAX INCREMENT” MEANS FOR ANY TAX YEAR THE AMOUNT BY WHICH THE ASSESSABLE BASE AS OF JANUARY 1 OF THE PRECEDING TAX YEAR EXCEEDS THE ORIGINAL TAXABLE VALUE DIVIDED BY THE ASSESSMENT RATIO USED TO DETERMINE THE ORIGINAL TAXABLE VALUE.

REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–202(n).

The only changes are in style.

Defined terms: “Assessable base” § 12–201

“Assessment ratio” § 12–201

“Original taxable value” § 12–201

“Tax year” § 12–201

(o) TAX YEAR.

“TAX YEAR” MEANS THE PERIOD FROM JULY 1 OF A CALENDAR YEAR THROUGH JUNE 30 OF THE NEXT CALENDAR YEAR.

REVISOR’S NOTE: This subsection formerly was Art. 41, § 14–202(o).

No changes are made.

REVISOR’S NOTE TO SECTION

Former Art. 41, § 14–202(b), which defined “Act”, is deleted because the word is not used as defined in this subtitle.

Former Art. 41, § 14–202(h), which defined “county”, is deleted in light of § 9–101 of this article to the same effect.

12–202. CONSTRUCTION AND APPLICATION OF SUBTITLE.

(A) SELF–EXECUTING.

(1) THIS SUBTITLE IS SELF–EXECUTING.

(2) A POLITICAL SUBDIVISION NEED NOT AMEND ITS CHARTER TO EXERCISE THE POWERS GRANTED BY THIS SUBTITLE.

(B) BALTIMORE CITY.

THIS SUBTITLE DOES NOT APPLY IN BALTIMORE CITY.

REVISOR’S NOTE: This section is new language derived without substantive change from the second and third sentences of former Art. 41, § 14–203.

As to tax increment financing in Baltimore City, *see* Baltimore City Charter, Art. II, § 62.

Defined term: “Political subdivision” § 12–201

12–203. DEVELOPMENT DISTRICT DESIGNATION.

(A) IN GENERAL.

BEFORE ISSUING BONDS, THE GOVERNING BODY OF THE POLITICAL SUBDIVISION SHALL:

(1) DESIGNATE BY RESOLUTION A CONTIGUOUS AREA WITHIN ITS JURISDICTION AS A DEVELOPMENT DISTRICT;

(2) RECEIVE FROM THE SUPERVISOR OF ASSESSMENTS A CERTIFICATION OF THE AMOUNT OF THE ORIGINAL ASSESSABLE BASE, OR IF APPLICABLE, THE ADJUSTED ASSESSABLE BASE; AND

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(3) PLEDGE THAT UNTIL THE BONDS ARE FULLY PAID, OR A LONGER PERIOD, THE REAL PROPERTY TAXES IN THE DEVELOPMENT DISTRICT SHALL BE DIVIDED AS FOLLOWS:

(I) THE PORTION OF THE TAXES THAT WOULD BE PRODUCED AT THE CURRENT TAX RATE ON THE ORIGINAL TAXABLE VALUE SHALL BE PAID TO THE RESPECTIVE TAXING AUTHORITIES IN THE SAME MANNER AS TAXES ON OTHER PROPERTY ARE PAID; AND

(II) THE PORTION OF THE TAXES ON THE TAX INCREMENT THAT NORMALLY WOULD BE PAID INTO THE GENERAL FUND OF THE POLITICAL SUBDIVISION SHALL BE PAID INTO THE SPECIAL FUND ESTABLISHED UNDER § 12-208 OF THIS SUBTITLE AND APPLIED IN ACCORDANCE WITH § 12-209 OF THIS SUBTITLE.

(B) COUNTY DEVELOPMENT DISTRICT OVERLAPPING MUNICIPAL CORPORATION.

THE ESTABLISHMENT BY A COUNTY OF A DEVELOPMENT DISTRICT THAT IS WHOLLY OR PARTLY IN A MUNICIPAL CORPORATION SHALL ALSO REQUIRE A RESOLUTION APPROVING THE DEVELOPMENT DISTRICT BY THE GOVERNING BODY OF THE MUNICIPAL CORPORATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-206(1), (2), and (3)(i) and the first sentence of (ii).

In the introductory language of subsection (a) and (a)(3)(ii) of this section, the phrase "county or municipal corporation" is substituted for the former references to "issuer" and to "issuing body" for clarity and consistency throughout this subtitle.

In subsection (a)(3)(i) of this section, the reference to the "general fund" of the respective taxing bodies is substituted for the former reference to the "funds" for clarity.

Defined terms: "Adjusted assessable base" § 12-201

"Assessable base" § 12-201

"Bond" § 12-201

"Development district" § 12-201

"Original taxable value" § 12-201

"Political subdivision" § 12-201

"Tax increment" § 12-201

12-204. BONDS — AUTHORIZED.

(A) IN GENERAL.

NOTWITHSTANDING ANY LIMITATION OF LAW, AN ISSUER MAY ISSUE BONDS FROM TIME TO TIME TO FINANCE THE DEVELOPMENT OF AN INDUSTRIAL, COMMERCIAL, OR RESIDENTIAL AREA.

(B) ORDINANCE — REQUIRED CONTENTS.

TO ISSUE BONDS UNDER THIS SUBTITLE, THE GOVERNING BODY OF A POLITICAL SUBDIVISION SHALL ADOPT AN ORDINANCE THAT:

(1) DESCRIBES THE PROPOSED UNDERTAKING; AND

(2) STATES:

(I) THAT THE GOVERNING BODY HAS COMPLIED WITH §§ 12-203 AND 12-208(c) AND (D) OF THIS SUBTITLE;

(II) THE MAXIMUM PRINCIPAL AMOUNT OF THE BONDS; AND

(III) THE MAXIMUM RATE OF INTEREST ON THE BONDS.

(c) OPTIONAL CONTENTS.

THE ORDINANCE MAY SPECIFY THE FOLLOWING FOR BONDS ISSUED TO CARRY OUT THE FINANCING OF THE PROPOSED UNDERTAKING:

(1) THE PRINCIPAL AMOUNT;

(2) THE RATE OF INTEREST;

(3) THE MANNER AND TERMS OF SALE;

(4) THE TIME OF EXECUTION, ISSUANCE, AND DELIVERY;

(5) THE FORM AND DENOMINATION;

(6) THE MANNER IN WHICH, AND THE TIMES AND PLACES AT WHICH PRINCIPAL AND INTEREST SHALL BE PAID;

(7) CONDITIONS FOR REDEMPTION BEFORE MATURITY; OR

(8) OTHER PROVISIONS CONSISTENT WITH THIS SUBTITLE THAT THE GOVERNING BODY OF THE POLITICAL SUBDIVISION DETERMINES ARE NECESSARY OR DESIRABLE.

(d) PRINCE GEORGE'S COUNTY.

THE REVENUE AUTHORITY OF PRINCE GEORGE'S COUNTY MAY ISSUE BONDS IN ACCORDANCE WITH AN ORDINANCE ADOPTED BY THE GOVERNING BODY OF PRINCE GEORGE'S COUNTY.

(e) ALTERNATIVE AUTHORIZATION.

THE ORDINANCE MAY SPECIFY THE ITEMS LISTED IN SUBSECTION (c) OF THIS SECTION OR MAY AUTHORIZE:

(1) THE FINANCE BOARD TO SPECIFY THOSE ITEMS BY RESOLUTION OR ORDINANCE; OR

(2) THE CHIEF EXECUTIVE TO SPECIFY THOSE ITEMS BY EXECUTIVE ORDER.

(f) REFERENDUM.

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(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, NEITHER AN ORDINANCE AUTHORIZING THE BONDS NOR AN ORDINANCE, RESOLUTION, OR EXECUTIVE ORDER ISSUED, PASSED, OR ADOPTED UNDER THIS SECTION MAY BE SUBJECT TO REFERENDUM BECAUSE OF ANY OTHER STATE OR LOCAL LAW.

(2) AN ORDINANCE THAT AUTHORIZES THE PLEDGE OF THE FULL FAITH AND CREDIT OF A POLITICAL SUBDIVISION TO THE PAYMENT OF PRINCIPAL AND INTEREST ON A BOND IS SUBJECT TO ANY APPLICABLE RIGHT TO REFERENDUM.

REVISOR'S NOTE: Subsections (a) through (c), and (e) and (f) of this section are new language derived without substantive change from former Art. 41, § 14–210 and the first sentence of § 14–203.

Subsection (d) of this section is new language added to state explicitly that which was only implied by the former law: *i.e.* that the revenue authority of Prince George's County is authorized to act as an issuer under this subtitle in the same manner as a county or municipal corporation to the extent authorized by applicable law, although the authority is not itself a municipal corporation under Md. Constitution, Art. XI–E. *See* § 21A–106 of the Prince George's County Code (2003); *cf.* §§ 12–201(e) and 12–208(c) of this subtitle and Art. 24 of 2002.

In subsection (c)(8) of this section, the reference to the “governing body” of a political subdivision is substituted for the former reference to “legislative body” for consistency in this subtitle and to reflect the authority granted to the governing body under § 12–208 of this subtitle.

Defined terms: “Bond” § 12–201

“Chief executive” § 12–201

“Development” § 12–201

“Issuer” § 12–201

“Political subdivision” § 12–201

“State” § 9–101

12–205. CONDITIONS OF ISSUANCE.

(A) IN GENERAL.

A BOND:

(1) MAY BE IN BEARER FORM;

(2) MAY BE REGISTRABLE AS TO PRINCIPAL ALONE OR AS TO BOTH PRINCIPAL AND INTEREST; AND

(3) IS A “SECURITY” UNDER § 8–102 OF THE COMMERCIAL LAW ARTICLE, WHETHER OR NOT THE BOND IS ONE OF A CLASS OR SERIES OR IS DIVISIBLE INTO A CLASS OR SERIES OF INSTRUMENTS.

(B) EXECUTION.

(1) A BOND SHALL BE SIGNED MANUALLY OR IN FACSIMILE BY THE CHIEF EXECUTIVE OF THE ISSUER.

(2) AN OFFICER'S SIGNATURE OR FACSIMILE SIGNATURE ON A BOND REMAINS VALID EVEN IF THE OFFICER LEAVES OFFICE BEFORE THE BOND IS DELIVERED.

(3) THE CLERK OR OTHER SIMILAR ADMINISTRATIVE OFFICER OF THE ISSUER SHALL ATTEST TO AND AFFIX TO EACH BOND THE SEAL OF THE ISSUER.

(C) MATURITY.

A BOND SHALL MATURE NOT LATER THAN 40 YEARS AFTER THE DATE OF ISSUE.

(D) TERMS OF SALE.

(1) THE ISSUER MAY SELL BONDS AT COMPETITIVE OR NEGOTIATED SALE IN ANY MANNER AND ON ANY TERMS THAT IT CONSIDERS BEST.

(2) A CONTRACT TO ACQUIRE PROPERTY MAY PROVIDE THAT PAYMENT SHALL BE MADE IN BONDS.

(3) BONDS ARE EXEMPT FROM ARTICLE 31, §§ 9, 10, AND 11 OF THE CODE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-212.

Defined terms: "Bond" § 12-201

"Chief executive" § 12-201

"Issuer" § 12-201

12-206. PAYMENT OF BONDS.

(A) IN GENERAL.

BONDS SHALL BE PAYABLE FROM THE SPECIAL FUND ESTABLISHED UNDER § 12-208 OF THIS SUBTITLE.

(B) FULL FAITH AND CREDIT; SINKING FUND.

THE GOVERNING BODY OF THE POLITICAL SUBDIVISION OR THE ISSUER MAY:

(1) PLEDGE ITS FULL FAITH AND CREDIT OR OTHER ASSETS AND REVENUES TO PAY THE BONDS; AND

(2) ESTABLISH A SINKING FUND OR A DEBT SERVICE RESERVE FUND FOR THE BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-204.

In subsection (b) of this section, the reference to the governing body of "the political subdivision" or "the issuer" is added for clarity in light of the role of the Prince George's County Council in issuances of the county revenue authority.

Defined terms: "Bond" § 12-201

"Issuer" § 12-201

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12-207. APPLICATION OF PROCEEDS.

(A) IN GENERAL.

BOND PROCEEDS MAY BE USED ONLY:

(1) TO BUY, LEASE, CONDEMN, OR OTHERWISE ACQUIRE PROPERTY, OR AN INTEREST IN PROPERTY:

(I) IN THE DEVELOPMENT DISTRICT; OR

(II) NEEDED FOR A RIGHT-OF-WAY OR OTHER EASEMENT TO OR FROM THE DEVELOPMENT DISTRICT;

(2) FOR SITE REMOVAL;

(3) FOR SURVEYS AND STUDIES;

(4) TO RELOCATE BUSINESSES OR RESIDENTS;

(5) TO INSTALL UTILITIES, CONSTRUCT PARKS AND PLAYGROUNDS, AND FOR OTHER NEEDED IMPROVEMENTS INCLUDING:

(I) ROADS TO, FROM, OR IN THE DEVELOPMENT DISTRICT;

(II) PARKING; AND

(III) LIGHTING;

(6) TO CONSTRUCT OR REHABILITATE BUILDINGS FOR A GOVERNMENTAL PURPOSE OR USE;

(7) FOR RESERVES OR CAPITALIZED INTEREST;

(8) FOR NECESSARY COSTS TO ISSUE BONDS; AND

(9) TO PAY THE PRINCIPAL OF AND INTEREST ON LOANS, ADVANCES, OR INDEBTEDNESS THAT A POLITICAL SUBDIVISION INCURS FOR A PURPOSE SPECIFIED IN THIS SECTION.

(B) PRINCE GEORGE'S COUNTY.

IN ADDITION TO THE PURPOSES LISTED IN SUBSECTION (A) OF THIS SECTION, THE PROCEEDS FROM BONDS THAT PRINCE GEORGE'S COUNTY OR THE REVENUE AUTHORITY OF PRINCE GEORGE'S COUNTY ISSUES MAY BE USED:

(1) FOR CONVENTION, CONFERENCE, OR VISITORS' CENTERS;

(2) TO MAINTAIN INFRASTRUCTURE IMPROVEMENTS AND CONVENTION, CONFERENCE, OR VISITORS' CENTERS; AND

(3) TO MARKET DEVELOPMENT DISTRICT FACILITIES AND OTHER IMPROVEMENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-205.

In the introductory language of subsection (a) of this section, the phrase “[s]ubject to subsection (b) of this section” is substituted for the former phrase “[e]xcept as provided in subsection (b) of this section” for clarity.

In the introductory language of subsection (a)(1) of this section, the former reference to “land or other” property is deleted as surplusage in light of the comprehensive reference to “property”.

In subsection (a)(1) of this section, the former reference to a development district “area” is deleted in light of the definition of “development district”. See § 12–201 of this subtitle.

In subsection (a)(5) of this section, the former reference to “other facilities” is deleted in light of the reference to “including”.

- Defined terms: “Bond” § 12–201
- “Development district” § 12–201
- “Political subdivision” § 12–201

12–208. SPECIAL FUND — IN GENERAL.

(A) IN GENERAL.

THE GOVERNING BODY OF A POLITICAL SUBDIVISION MAY ADOPT A RESOLUTION CREATING A SPECIAL FUND FOR A DEVELOPMENT DISTRICT EVEN THOUGH NO BONDS:

- (1) HAVE BEEN ISSUED FOR THE DEVELOPMENT DISTRICT; OR
- (2) ARE OUTSTANDING AT THE TIME OF ADOPTION.

(B) PAYMENT OF TAXES INTO FUND.

THE TAXES ALLOCATED TO THE SPECIAL FUND IN ACCORDANCE WITH § 12–203(A)(3)(II) OF THIS SUBTITLE SHALL BE DEPOSITED IN THE SPECIAL FUND WHILE THE RESOLUTION THAT CREATED THE SPECIAL FUND REMAINS IN EFFECT.

(C) YIELD NOT A LOCAL TAX; EXCEPTION.

OTHER THAN TAX REVENUES RECEIVED FROM RESIDENTIAL PROPERTIES IN PRINCE GEORGE’S COUNTY, THE TAX COLLECTED UNDER § 12–203(A)(3)(II) OF THIS SUBTITLE IS NOT CONSIDERED A TAX OF THE POLITICAL SUBDIVISION FOR THE PURPOSES OF ANY CONSTANT YIELD LIMITATION OR STATE OR LOCAL RESTRICTION.

(D) STATE PROPERTY TAX NOT ALLOWED IN SPECIAL FUND.

STATE REAL PROPERTY TAXES MAY NOT BE PAID INTO THE SPECIAL FUND.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–207 and the second and third sentences of § 14–206(3)(ii).

In subsection (b) of this section, the former reference to a special fund created “under § 14–206(3)(ii) of this subtitle”, revised as § 12–203(a)(3)(ii) of this subtitle, is deleted as misleading because the only statutory

authority for the governing body of a political subdivision to create a special fund under this subtitle is § 12–208(a).

Defined terms: “Bond” § 12–201
“Development district” § 12–201
“Political subdivision” § 12–201
“State” § 9–101

12–209. SPECIAL FUND — USES.

(A) NO BOND OBLIGATIONS OUTSTANDING.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE SPECIAL FUND FOR THE DEVELOPMENT DISTRICT MAY BE USED FOR ANY OF THE FOLLOWING PURPOSES AS DETERMINED BY THE GOVERNING BODY OF THE POLITICAL SUBDIVISION:

- (1) A PURPOSE SPECIFIED IN § 12–207 OF THIS SUBTITLE;
- (2) ACCUMULATED TO PAY DEBT SERVICE ON BONDS TO BE ISSUED LATER;
- (3) PAYMENT OR REIMBURSEMENT OF DEBT SERVICE THAT THE POLITICAL SUBDIVISION IS OBLIGED UNDER A GENERAL OR LIMITED OBLIGATION TO PAY, OR HAS PAID, ON BONDS ISSUED BY THE STATE, A POLITICAL SUBDIVISION, OR THE REVENUE AUTHORITY OF PRINCE GEORGE’S COUNTY IF THE PROCEEDS WERE USED FOR A PURPOSE SPECIFIED IN § 12–207 OF THIS SUBTITLE; OR
- (4) PAYMENT TO THE POLITICAL SUBDIVISION FOR ANY OTHER LEGAL PURPOSE.

(B) BOND OBLIGATIONS OUTSTANDING.

IF BONDS ARE OUTSTANDING WITH RESPECT TO A DEVELOPMENT DISTRICT, THE SPECIAL FUND MAY BE USED AS DESCRIBED IN SUBSECTION (A) OF THIS SECTION IN ANY FISCAL YEAR ONLY IF:

- (1) THE BALANCE OF THE SPECIAL FUND EXCEEDS THE UNPAID DEBT SERVICE PAYABLE ON THE BONDS IN THE FISCAL YEAR; AND
- (2) THE SPECIAL FUND IS NOT RESTRICTED SO TO PROHIBIT THE USE.

(C) ISSUANCE OF GENERAL OBLIGATION BONDS.

THE ISSUANCE OF BONDS PLEDGING THE FULL FAITH AND CREDIT OF THE POLITICAL SUBDIVISION SHALL COMPLY WITH APPROPRIATE COUNTY OR MUNICIPAL CHARTER REQUIREMENTS.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–208.

Defined terms: “Bond” § 12–201
“Development district” § 12–201
“Political subdivision” § 12–201
“State” § 9–101

12–210. SPECIAL FUND — PLEDGE OF OTHER TAX REVENUE.

(A) IN GENERAL.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE GOVERNING BODY OF A POLITICAL SUBDIVISION THAT IS NOT THE ISSUER MAY PLEDGE UNDER AN AGREEMENT THAT ITS PROPERTY TAXES LEVIED ON THE TAX INCREMENT SHALL BE PAID INTO THE SPECIAL FUND FOR THE DEVELOPMENT DISTRICT.

(2) THE AGREEMENT SHALL:

(I) BE IN WRITING;

(II) BE EXECUTED BY THE GOVERNING BODIES OF THE ISSUER AND THE POLITICAL SUBDIVISION MAKING THE PLEDGE; AND

(III) RUN TO THE BENEFIT OF AND BE ENFORCEABLE ON BEHALF OF ANY BONDHOLDER.

(B) PRINCE GEORGE’S COUNTY.

THE GOVERNING BODY OF PRINCE GEORGE’S COUNTY MAY ALSO PLEDGE HOTEL RENTAL TAX REVENUES TO THE SPECIAL FUND.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–209.

In subsection (a)(1) of this section, the reference to “the governing body of” a political subdivision is added for clarity and consistency throughout this subtitle. Correspondingly, in subsection (b) of this section, the reference to “[t]he governing body of” Prince George’s County is added.

In subsection (a)(2)(ii) of this section, the reference to a written agreement being “executed” between the governing bodies of a political subdivision and an issuer is added for clarity.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that it is unclear whether the discretion afforded to the nonissuing political subdivision under subsection (a) of this section affects the general requirement to pay proceeds of the tax increment into the special fund for the development district under § 12–203 of this subtitle. The General Assembly may wish to add clarifying language to this section.

Defined terms: “Development district” § 12–201

“Political subdivision” § 12–201

“Tax increment” § 12–201

12–211. TAX STATUS.

(A) BONDS.

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THE PRINCIPAL AMOUNT OF BONDS, INTEREST PAYABLE ON BONDS, THE TRANSFER OF BONDS, AND INCOME FROM BONDS, INCLUDING PROFIT MADE IN THE SALE OR TRANSFER OF BONDS IS EXEMPT FROM STATE AND LOCAL TAXES.

(B) LEASED PROPERTY.

IF A POLITICAL SUBDIVISION LEASES AS A LESSOR ITS PROPERTY WITHIN A DEVELOPMENT DISTRICT:

(1) THE PROPERTY SHALL BE ASSESSED AND TAXED IN THE SAME MANNER AS PRIVATELY OWNED PROPERTY; AND

(2) THE LEASE SHALL REQUIRE THE LESSEE TO PAY TAXES OR PAYMENTS IN LIEU OF TAXES ON THE ASSESSED VALUE OF THE ENTIRE PROPERTY AND NOT ONLY ON THE ASSESSED VALUE OF THE LEASEHOLD INTEREST.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 14-211 and 14-214.

In subsection (a) of this section, the former reference to counties and municipalities "of this State" is deleted as surplusage.

Also in subsection (a) of this section, the former phrase "but shall be included, to the extent required under Title 8, Subtitle 2 of the Tax – General Article, in computing the net earnings of financial institutions" is deleted as obsolete.

Defined terms: "Bond" § 12-201
"Development district" § 12-201
"Political subdivision" § 12-201
"State" § 9-101

12-212. EMINENT DOMAIN.

THIS SUBTITLE DOES NOT AUTHORIZE A COUNTY OR A MUNICIPAL CORPORATION TO ACQUIRE PROPERTY BY EMINENT DOMAIN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-213.

Defined term: "County" § 9-101

12-213. SHORT TITLE.

THIS SUBTITLE MAY BE CITED AS THE TAX INCREMENT FINANCING ACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14-201.

SUBTITLE 3. REDEVELOPMENT BONDS.

12-301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 41, § 14–501(a).

No changes are made.

(B) BOND.

“BOND” MEANS A BOND, NOTE, OR OTHER SIMILAR INSTRUMENT THAT A POLITICAL SUBDIVISION ISSUES UNDER THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 14–801(c).

The former reference to “[b]onds” is deleted in light of the reference to a “bond” and Art. 1, § 8, which provides that the singular generally includes the plural. Correspondingly, the former reference to “instruments” is deleted.

Defined term: “Political subdivision” § 12–301

(C) CHIEF EXECUTIVE.

“CHIEF EXECUTIVE” MEANS THE PRESIDENT, CHAIR, MAYOR, COUNTY EXECUTIVE, OR ANY OTHER CHIEF EXECUTIVE OFFICER OF A POLITICAL SUBDIVISION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 14–801(d).

The term “chief executive” is substituted for the former term “chief executive officer” for brevity.

The former phrase “however designated” is deleted in light of the reference to each “other” chief executive.

The former phrase “whether elected to the office or acting as such under law” is deleted as unnecessary.

Defined terms: “County” § 9–101

“Political subdivision” § 12–301

(D) DESIGNATED BLIGHTED AREA.

“DESIGNATED BLIGHTED AREA” MEANS AN AREA DESIGNATED UNDER § 12–303 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 14–801(f).

The former reference to designation “by a local governing body by ordinance or administrative resolution” is deleted in light of the cross-reference to § 12–303 of this subtitle.

(E) FINANCED AREA.

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“FINANCED AREA” MEANS THE GEOGRAPHIC PORTION OF A DESIGNATED BLIGHTED AREA FOR WHICH THE PROCEEDS OF A BOND ARE TO BE USED UNDER § 12–303 OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 14–801(g).

The former reference to designation “by a local governing body by ordinance or administrative resolution” is deleted in light of the cross-reference to § 12–303 of this subtitle.

The former references to an “issue of bonds” are deleted in light of the definition of “bond” in this section.

Defined terms: “Bond” § 12–301

“Designated blighted area” § 12–301

(F) POLITICAL SUBDIVISION.

“POLITICAL SUBDIVISION” MEANS A COUNTY OR MUNICIPAL CORPORATION.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 41, § 14–801(h).

The defined term “political subdivision” is substituted for the former defined term “local governing body” for consistency within this title and article.

The former references to a county “of Maryland” and “the Mayor and City Council of Baltimore” are deleted in light of the definition of “county” in § 9–101 of this article.

In this subsection and throughout this subtitle, the references to a “municipal corporation” are substituted for the former references to a “municipality” to conform to Md. Constitution, Art. XI–E. Correspondingly, former Art. 41, § 14–801(i), which defined “municipality” as a “municipal corporation”, is deleted.

Defined term: “County” § 9–101

REVISOR’S NOTE TO SECTION: Former Art. 41, § 14–801(k), which defined “ordinance or resolution” as an enactment of a local jurisdiction, is deleted because it did not add to the meaning of the term as ordinarily understood.

12–302. ORDINANCE OR RESOLUTION.

(A) IN GENERAL.

TO ISSUE A BOND, A POLITICAL SUBDIVISION SHALL ADOPT AN ORDINANCE OR RESOLUTION THAT:

(1) DESCRIBES THE PROPOSED UNDERTAKING TO BE FINANCED BY THE BOND PROCEEDS;

(2) REQUIRES COMPLIANCE WITH § 12–303 OF THIS SUBTITLE BEFORE THE BOND IS ISSUED; AND

(3) SPECIFIES THE MAXIMUM PRINCIPAL AMOUNT OF THE BOND.

(B) SPECIFICATIONS — AUTHORITY TO PRESCRIBE.

AS THE POLITICAL SUBDIVISION CONSIDERS APPROPRIATE TO EFFECT THE FINANCING OF THE PROPOSED UNDERTAKING, THE ORDINANCE OR RESOLUTION MAY:

(1) SPECIFY THE ITEMS LISTED IN SUBSECTION (C) OF THIS SECTION;

(2) AUTHORIZE THE FINANCE BOARD OF THE POLITICAL SUBDIVISION TO SPECIFY THOSE ITEMS BY RESOLUTION OR ORDINANCE; OR

(3) AUTHORIZE THE CHIEF EXECUTIVE OF THE POLITICAL SUBDIVISION TO SPECIFY THOSE ITEMS BY EXECUTIVE ORDER.

(C) SPECIFICATIONS — CONTENTS.

FOR EACH ISSUANCE OF A BOND, THE POLITICAL SUBDIVISION MAY SPECIFY:

(1) THE PRINCIPAL AMOUNT;

(2) THE INTEREST RATE OR, FOR FLOATING OR VARIABLE RATES OF INTEREST, THE METHOD TO DETERMINE THE INTEREST RATE;

(3) THE MANNER AND TERMS OF SALE, INCLUDING WHETHER BY COMPETITIVE OR NEGOTIATED SALE;

(4) THE TIME OF EXECUTION, ISSUANCE, AND DELIVERY;

(5) THE FORM AND DENOMINATION;

(6) THE SOURCE, MANNER, TIMES, AND PLACES TO PAY PRINCIPAL OR INTEREST;

(7) CONDITIONS FOR REDEMPTION BEFORE MATURITY;

(8) THE ACTIONS TAKEN TO COMPLY WITH § 12–307 OF THIS SUBTITLE;

(9) THE PURPOSES FOR WHICH PROCEEDS MAY BE SPENT;

(10) THE SOURCE OF SECURITY; AND

(11) OTHER PROVISIONS THAT THE GOVERNING BODY OF THE POLITICAL SUBDIVISION DETERMINES ARE NECESSARY OR DESIRABLE TO EFFECT THE FINANCING OF THE PROPOSED UNDERTAKING.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 14–807, and, as they related to specifications, 14–803(b) and 14–804(b).

In subsection (a) of this section, the former reference to the “governing body” of a political subdivision is deleted as implicit in the reference to

adopting an ordinance or resolution by the political subdivision.

Defined terms: "Bond" § 12-301

"Chief executive" § 12-301

"Political subdivision" § 12-301

12-303. DESIGNATION OF BLIGHTED AREA.

(A) IN GENERAL.

BEFORE A POLITICAL SUBDIVISION ISSUES A BOND, THE POLITICAL SUBDIVISION SHALL PASS AN ORDINANCE OR ADMINISTRATIVE RESOLUTION THAT:

(1) DESIGNATES AN AREA IN THE POLITICAL SUBDIVISION AS A DESIGNATED BLIGHTED AREA BASED ON THE SUBSTANTIAL PRESENCE OF:

(I) EXCESSIVE VACANT LAND ON WHICH STRUCTURES WERE PREVIOUSLY LOCATED;

(II) ABANDONED OR VACANT BUILDINGS;

(III) SUBSTANDARD STRUCTURES;

(IV) DELINQUENCIES IN REAL PROPERTY TAX PAYMENTS; OR

(V) SIMILAR FACTORS THAT THE POLITICAL SUBDIVISION DETERMINES INDICATE BLIGHT;

(2) DESIGNATES THE FINANCED AREA FOR WHICH THE PROCEEDS OF THE BOND ARE TO BE USED; AND

(3) ADOPTS A REDEVELOPMENT PLAN FOR THE DESIGNATED BLIGHTED AREA.

(B) COOPERATION WITH MUNICIPAL CORPORATIONS.

(1) BEFORE A COUNTY MAY DESIGNATE A BLIGHTED AREA OR FINANCED AREA THAT LIES WHOLLY OR PARTLY IN A MUNICIPAL CORPORATION, THE MUNICIPAL CORPORATION SHALL CONSENT TO THE DESIGNATION OF THE PART OF THE AREA THAT IS WITHIN THE MUNICIPAL CORPORATION.

(2) BEFORE A MUNICIPAL CORPORATION MAY DESIGNATE A BLIGHTED AREA OR FINANCED AREA, THE COUNTY THAT CONTAINS THE AREA SHALL CONSENT TO THE DESIGNATION.

(3) CONSENT UNDER THIS SUBSECTION SHALL BE MADE BY ORDINANCE OR ADMINISTRATIVE RESOLUTION.

(C) APPLICATION OF FEDERAL LAW.

A POLITICAL SUBDIVISION THAT ISSUES A BOND AS A QUALIFIED REDEVELOPMENT BOND UNDER THE INTERNAL REVENUE CODE SHALL COMPLY WITH FEDERAL LAW IN DETERMINING:

(1) THE DESIGNATED BLIGHTED AREA AND THE FINANCED AREA TO WHICH THE BOND RELATES; AND

(2) ANY OTHER DESIGNATED BLIGHTED AREAS IN THE POLITICAL SUBDIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–805.

In the introductory language of subsection (a) of this section and throughout this subtitle, the former reference to a bond issued “under this subtitle” is deleted in light of the definition of “bond” in § 12–301 of this subtitle. Correspondingly, in subsection (a)(1) of this section, the former phrase “for which the bond is to be issued” is deleted.

In subsection (c) of this section, the former reference to the Internal Revenue Code “of 1986, as amended” is deleted in light of Art. 1, § 21.

Also in subsection (c) of this section, the former reference to complying with “the applicable restrictions set forth” in federal law is deleted in light of the requirement to comply with “federal law”.

- Defined terms: “Bond” § 12–301
- “County” § 1–101
- “Designated blighted area” § 12–301
- “Financed area” § 12–301
- “Political subdivision” § 12–301

12–304. AUTHORITY TO ISSUE BONDS.

(A) GENERAL OBLIGATION DEBT.

THE GENERAL ASSEMBLY INTENDS THAT GENERAL OBLIGATION DEBT MAY BE INCURRED BY ISSUING BONDS IF THE PURPOSES FOR THE DEBT INCLUDE THE PURPOSES FOR ISSUING BONDS UNDER THIS SUBTITLE.

(B) BONDS.

SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, A POLITICAL SUBDIVISION MAY ISSUE BONDS TO FINANCE THE REDEVELOPMENT OF A DESIGNATED BLIGHTED AREA IN ACCORDANCE WITH THE PROCEDURES OF THE POLITICAL SUBDIVISION FOR AUTHORIZATION TO SELL AND ISSUE BONDS.

(C) APPLICATION OF OTHER LAW.

A BOND ISSUED IN ACCORDANCE WITH AN ORDINANCE OR RESOLUTION THAT PLEDGES THE FULL FAITH AND CREDIT OF A POLITICAL SUBDIVISION IS SUBJECT TO:

(1) ANY APPLICABLE REQUIREMENTS OF THE CONSTITUTION AND THE POLITICAL SUBDIVISION'S CHARTER AND LAWS ON REFERENDUM FOR THE ISSUANCE OF GENERAL OBLIGATION DEBT; AND

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(2) EACH LIMITATION IMPOSED BY PUBLIC GENERAL LAW, PUBLIC LOCAL LAW, OR CHARTER ON GENERAL OBLIGATION DEBT OF THE POLITICAL SUBDIVISION.

(D) COMMISSIONER COUNTIES.

(1) THIS SUBSECTION DOES NOT APPLY TO A COUNTY THAT IS SUBJECT TO ARTICLE 25A OR ARTICLE 25B OF THE CODE.

(2) A COUNTY MAY NOT ISSUE BONDS THAT ARE SECURED BY THE FULL FAITH AND CREDIT OF THE COUNTY UNLESS THE AMOUNT OF BONDS TO BE ISSUED BY THE COUNTY UNDER THIS SUBTITLE IS FIRST AUTHORIZED BY THE GENERAL ASSEMBLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 14-802 and 14-801(e).

In subsection (a) of this section, the former phrase "heretofore or hereafter approved by referendum or otherwise" is deleted as surplusage.

In subsection (c) of this section, the former reference to a bond "secured by" a pledge of the full faith and credit of the local jurisdiction is deleted in light of the reference to a bond issued "in accordance with an ordinance or resolution that" pledges the full faith and credit of the local jurisdiction, for brevity.

Defined terms: "Bond" § 12-301

"County" § 9-101

"Designated blighted area" § 12-301

"Political subdivision" § 12-301

12-305. SECURITY FOR BONDS.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE ORDINANCE OR RESOLUTION DESCRIBED IN § 12-303 OF THIS SUBTITLE MAY PROVIDE THAT A BOND MAY BE SECURED AND MADE PAYABLE FROM ANY COMBINATION OF:

(1) A PLEDGE OF THE FULL FAITH AND CREDIT OF THE POLITICAL SUBDIVISION AND PAYABLE BY TAXES OF GENERAL APPLICABILITY;

(2) AN INCREASE IN REAL PROPERTY TAX REVENUES THAT IS ATTRIBUTABLE TO INCREASES IN ASSESSED VALUE IN DESIGNATED BLIGHTED AREAS RESULTING FROM CARRYING OUT THE PURPOSES FOR WHICH THE BOND IS ISSUED;

(3) REVENUES OF THE PROJECT OR UNDERTAKING FOR WHICH THE BOND IS ISSUED;

(4) PROCEEDS OF BONDS; OR

(5) OTHER MONEY THAT MAY BE LEGALLY MADE AVAILABLE TO PAY THE BOND.

(B) BALTIMORE CITY.

A BOND ISSUED BY BALTIMORE CITY MAY NOT BE SECURED UNDER SUBSECTION (A)(2) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–803(a), (c), and, as it authorized a local jurisdiction to adopt a resolution or ordinance, (b).

In subsection (a)(5) of this section, the former reference to money “that may be legally made” available is deleted as implicit in the reference to money available to pay the bond.

As to tax–supported financing in Baltimore City, *see* Baltimore City Charter, Art. II, § 62 (tax increment financing).

Defined terms: “Bond” § 12–301

“Political subdivision” § 12–301

12–306. ALLOWABLE EXPENDITURES.

(A) IN GENERAL.

THE ORDINANCE OR RESOLUTION DESCRIBED IN § 12–308 OF THIS SUBTITLE MAY PROVIDE THAT BOND PROCEEDS MAY BE SPENT ON ANY COMBINATION OF:

(1) THE FOLLOWING REDEVELOPMENT PURPOSES IN A DESIGNATED BLIGHTED AREA:

- (I) ACQUISITION OF REAL PROPERTY BY THE POLITICAL SUBDIVISION;
- (II) CLEARING AND PREPARING THE REAL PROPERTY;
- (III) REHABILITATING THE REAL PROPERTY; AND
- (IV) RELOCATING OCCUPANTS OF THE REAL PROPERTY;

(2) OTHER PURPOSES THAT THE LOCAL JURISDICTION DETERMINES TO BE INCIDENTAL, NECESSARY, OR APPROPRIATE TO THE REDEVELOPMENT OF THE DESIGNATED BLIGHTED AREA, INCLUDING CONSTRUCTION OF NEW STRUCTURES OR THE ENLARGEMENT OF EXISTING STRUCTURES; AND

(3) EXPENSES OF PREPARING, PRINTING, SELLING, AND ISSUING BONDS, AND FUNDING RESERVES AND INTEREST ON THE BONDS, IN THE AMOUNTS AND FOR THE TIME THAT THE POLITICAL SUBDIVISION CONSIDERS REASONABLE.

(B) SOURCE OF MONEY.

SUBJECT TO SUBSECTION (C) OF THIS SECTION, MONEY FROM THE FEDERAL GOVERNMENT, THE STATE, OR OTHERWISE LEGALLY AVAILABLE FOR THE PURPOSES DESCRIBED IN SUBSECTION (A) OF THIS SECTION MAY BE SPENT FOR ANY OF THOSE PURPOSES.

(C) PROCEDURES.

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EXPENDITURES UNDER THIS SECTION SHALL FIRST BE AUTHORIZED IN ACCORDANCE WITH APPLICABLE LAWS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 14–801(j) and 14–804(a), (c), and, as it authorized a local jurisdiction to adopt a resolution or ordinance, (b).

In subsection (a)(1) of this section, the references to “real property” are substituted for the former references to “land” for consistency within this section.

In subsection (a)(1)(iv), (2), and (3) of this section, the former references to “such area” are deleted in light of the introductory language of this section.

In subsection (a)(3) of this section, the former reference to “necessary” expenses is deleted as implicit in the reference to allowing proceeds to be “spent on” the listed items.

Defined terms: “Bond” § 12–301
“Designated blighted area” § 12–301
“Political subdivision” § 12–301
“State” § 9–101

12–307. AGREEMENTS BETWEEN POLITICAL SUBDIVISIONS.

(A) IN GENERAL.

BY WRITTEN AGREEMENT WITH THE ISSUER OF A BOND, A POLITICAL SUBDIVISION THAT IS NOT THE ISSUER MAY:

(1) PLEDGE TO THE PAYMENT OF THE BOND ANY REAL PROPERTY TAX REVENUES ATTRIBUTABLE TO INCREASES IN ASSESSED VALUE INCREASE OF PROPERTY IN DESIGNATED BLIGHTED AREAS RESULTING FROM CARRYING OUT THE PURPOSES FOR WHICH THE BOND IS ISSUED; AND

(2) MAKE COVENANTS ABOUT REAL PROPERTY TAXES AND OTHER CHARGES IN A DESIGNATED BLIGHTED AREA AS IT CONSIDERS APPROPRIATE.

(B) BENEFICIARY; ENFORCEMENT.

AN AGREEMENT MADE UNDER THIS SECTION MAY BE FOR THE BENEFIT AND BE ENFORCEABLE ON BEHALF OF ANY BONDHOLDER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–806.

Defined terms: “Bond” § 12–301
“Designated blighted area” § 12–301
“Political subdivision” § 12–301

12–308. CONDITIONS OF ISSUANCE.

(A) IN GENERAL.

A BOND:

(1) MAY BE IN BEARER FORM;

(2) MAY BE REGISTRABLE AS TO PRINCIPAL ALONE OR AS TO BOTH PRINCIPAL AND INTEREST; AND

(3) IS A “SECURITY” UNDER § 8–102 OF THE COMMERCIAL LAW ARTICLE, WHETHER OR NOT THE BOND IS ONE OF A CLASS OR SERIES OR IS DIVISIBLE INTO A CLASS OR SERIES OF INSTRUMENTS.

(B) EXECUTION.

(1) A BOND SHALL BE SIGNED MANUALLY OR IN FACSIMILE BY THE CHIEF EXECUTIVE OF THE POLITICAL SUBDIVISION.

(2) THE SIGNATURE OF AN OFFICER WHO LEAVES OFFICE BEFORE DELIVERY OF THE BOND IS VALID AND SUFFICIENT FOR ALL PURPOSES AS IF THE OFFICER HAD REMAINED IN OFFICE UNTIL DELIVERY.

(3) THE SEAL OF THE POLITICAL SUBDIVISION SHALL BE AFFIXED TO THE BOND AND ATTESTED BY THE CLERK OR OTHER SIMILAR ADMINISTRATIVE OFFICER OF THE POLITICAL SUBDIVISION.

(C) MATURITY.

(1) A BOND SHALL MATURE NOT LATER THAN 40 YEARS AFTER THE DATE OF ISSUE.

(2) BONDS MAY BE ISSUED AS SERIAL BONDS OR TERM BONDS WITH PROVISIONS FOR A MANDATORY SINKING FUND OR OTHER ANNUAL PRINCIPAL REDEMPTION BEGINNING NOT LATER THAN 3 YEARS AFTER THE DATE OF ISSUE.

(D) TERMS OF SALE.

(1) A BOND SHALL BE SOLD IN THE MANNER, AT PUBLIC OR PRIVATE (NEGOTIATED) SALE, AND ON THE TERMS AT, ABOVE, OR BELOW PAR, AS THE POLITICAL SUBDIVISION CONSIDERS BEST.

(2) A CONTRACT TO ACQUIRE PROPERTY MAY PROVIDE THAT PAYMENTS SHALL BE MADE IN BONDS.

(3) A BOND IS NOT SUBJECT TO ARTICLE 31, §§ 9, 10, AND 11 OF THE CODE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–808.

In subsection (d)(1) of this section, the former reference to the “governing body” of a political subdivision is deleted as implicit in the reference to adopting an ordinance or resolution by the political subdivision.

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Defined terms: “Bond” § 12–301
“Chief executive” § 12–301
“Political subdivision” § 12–301

12–309. TAX STATUS.

(A) **STATE AND LOCAL.**

A BOND, THE TRANSFER OF A BOND, THE INTEREST PAYABLE ON A BOND, THE INCOME DERIVED FROM A BOND, AND THE PROFIT REALIZED ON SALE OR EXCHANGE OF A BOND ARE EXEMPT FROM STATE AND LOCAL TAXES.

(B) **FEDERAL.**

A POLITICAL SUBDIVISION MAY ISSUE BONDS UNDER THIS SUBTITLE WITHOUT REGARD TO THEIR FEDERAL TAX STATUS.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–809.

Defined terms: “Bond” § 12–301
“Political subdivision” § 12–301
“State” § 9–101

12–310. FINDINGS CONCLUSIVE.

FOR PURPOSES OF AN ACTION INVOLVING THE VALIDITY OR ENFORCEABILITY OF A BOND OR SECURITY FOR A BOND, A FINDING BY A POLITICAL SUBDIVISION IS CONCLUSIVE AS TO:

- (1) THE PUBLIC PURPOSE OF AN ACTION TAKEN UNDER THIS SUBTITLE; AND
- (2) ANY OTHER MATTER RELATING TO THE ISSUANCE OF A BOND.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–810.

Defined terms: “Bond” § 12–301
“Political subdivision” § 12–301

12–311. EMINENT DOMAIN.

THIS SUBTITLE DOES NOT AUTHORIZE A POLITICAL SUBDIVISION TO ACQUIRE PROPERTY BY EMINENT DOMAIN.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, § 14–811.

Defined term: “Political subdivision” § 12–301

12–312. SHORT TITLE.

THIS SUBTITLE MAY BE CITED AS THE REDEVELOPMENT BOND ACT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 14–801(b) and 14–812.

Defined term: “Bond” § 12–301

SUBTITLE 4. INDUSTRIAL DEVELOPMENT BONDS.

12–401. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection is new language derived without substantive change from the introductory language of former Art. 45A, § 3.

(B) ACUTE UNEMPLOYMENT.

“ACUTE UNEMPLOYMENT” MEANS AN UNEMPLOYMENT LEVEL OF AT LEAST 6% OF THE LABOR FORCE IN A COUNTY.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 45A, § 3(b), as it defined a threshold level of “acute unemployment”.

Defined term: “County” § 9–101

(C) BOND.

“BOND” MEANS A BOND OR NOTE ISSUED OR SOLD UNDER §§ 12–403, 12–404, AND 12–405 OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from the first sentence of former Art. 45A, § 2(b), as it defined “industrial development bonds”.

(D) INDUSTRIAL DEVELOPMENT CORPORATION.

“INDUSTRIAL DEVELOPMENT CORPORATION” MEANS A NOT-FOR-PROFIT, NONSTOCK CORPORATION FORMED UNDER TITLE 5, SUBTITLE 2 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE WITH A CHARTER THAT RESTRICTS ITS ACTIVITIES TO THE PURPOSES STATED IN § 12–402(B) OF THIS SUBTITLE.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 45A, § 3(c).

REVISOR’S NOTE TO SECTION:

Former Art. 45A, § 3(a), which defined “county”, is deleted as unnecessary in light of § 9–101 of this article.

The term “acute unemployment” formerly defined in Art. 45A, § 3(b) is revised as a substantive provision in § 12–402(a) of this subtitle.

12–402. UNEMPLOYMENT DETERMINATION.

(A) REQUIRED.

(1) IF THE GOVERNING BODY OF A COUNTY DETERMINES BY ORDINANCE OR RESOLUTION THAT A STATE OF ACUTE UNEMPLOYMENT EXISTS, THE GOVERNING BODY MAY GRANT MONEY TO AN INDUSTRIAL DEVELOPMENT CORPORATION OPERATING IN THE COUNTY IN AN AMOUNT THAT THE GOVERNING BODY CONSIDERS APPROPRIATE.

(2) THE GOVERNING BODY OF THE COUNTY SHALL BASE ITS UNEMPLOYMENT DETERMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION ON DATA FROM AN OFFICIAL FEDERAL, STATE, OR COUNTY GOVERNMENT PUBLICATION THAT THE GOVERNING BODY SELECTS.

(B) PURPOSES.

AN INDUSTRIAL DEVELOPMENT CORPORATION MAY USE MONEY PROVIDED UNDER SUBSECTION (A) OF THIS SECTION ONLY TO:

(1) ASSIST AND, THROUGH COOPERATIVE EFFORTS OF THE INSTITUTIONS AND CORPORATIONS THAT OFFER ASSISTANCE, ADVANCE THE BUSINESS PROSPERITY AND ECONOMIC WELFARE OF THE COUNTY;

(2) PROMOTE AND ASSIST IN LOCATING NEW BUSINESSES AND INDUSTRIES IN THE COUNTY;

(3) REHABILITATE EXISTING BUSINESSES AND INDUSTRIES IN THE COUNTY;

(4) STIMULATE AND ASSIST IN THE EXPANSION OF BUSINESS ACTIVITY THAT PROMOTES BUSINESS DEVELOPMENT AND MAINTAINS ECONOMIC STABILITY IN THE COUNTY;

(5) MAXIMIZE EMPLOYMENT OPPORTUNITIES IN THE COUNTY;

(6) COOPERATE AND ACT WITH PUBLIC OR PRIVATE ORGANIZATIONS THAT PROMOTE AND ADVANCE INDUSTRIAL DEVELOPMENT IN THE COUNTY; OR

(7) PROVIDE MONEY AND EXTEND CREDIT TO RECIPIENTS FOR THE PROMOTION, DEVELOPMENT, OR CONDUCT OF BUSINESS AND INDUSTRIAL ACTIVITY IN THE COUNTY TO THE EXTENT THAT MONEY AND CREDIT FOR THOSE PURPOSES IS NOT OTHERWISE READILY AVAILABLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 45A, §§ 1 and, as it related to computation of "acute unemployment", 3(b).

In subsection (a)(1) of this section, the reference to "grant[ing]" money is substituted for the former reference to "contribut[ing] and deliver[ing]" money for clarity, brevity, and consistency within this subtitle.

Also in subsection (a)(1) of this section, the former reference to a certain law applying "at any time after the passage of this article" is deleted as unnecessary.

In subsection (b)(1) of this section, the former reference to an entity providing assistance "from time to time" is deleted as unnecessary.

Also in subsection (b)(1) of this section, the former reference to money to “develop” economic welfare is deleted as implicit in the reference to money to “advance” economic welfare.

In subsection (b)(2) of this section, the limitation that an industrial development corporation “promote” new business is substituted for the former limitation that the industrial development corporation “encourage” new business for clarity and consistency within this subtitle.

In subsection (b)(5) of this section, the reference to an industrial development corporation “maximiz[ing]” employment opportunities is substituted for the former reference to it “provid[ing] maximum opportunities for employment” for clarity and brevity.

In subsection (b)(7) of this section, the reference to providing money and credit to “recipients” is substituted for the former reference to providing money and credit to “approved and deserving applicants” for clarity.

Defined terms: “County” § 9–101

“Industrial development corporation” § 12–401

“State” § 9–101

12–403. BOND AUTHORIZATION.

(A) IN GENERAL.

IF THE GOVERNING BODY OF A COUNTY DETERMINES UNDER § 12–402(A) OF THIS SUBTITLE THAT ACUTE UNEMPLOYMENT EXISTS IN THE COUNTY, THE GOVERNING BODY MAY ISSUE AND SELL BONDS FROM TIME TO TIME TO FINANCE GRANTS TO INDUSTRIAL DEVELOPMENT CORPORATIONS UNDER § 12–402 OF THIS SUBTITLE.

(B) AMOUNT.

THE TOTAL AMOUNT OF BONDS ISSUED AND OUTSTANDING AT ONE TIME UNDER SUBSECTION (A) OF THIS SECTION MAY NOT EXCEED THE SUM OF:

(1) 0.08% OF THE TOTAL ASSESSED VALUE OF ALL REAL PROPERTY IN THE COUNTY THAT IS SUBJECT TO TAXATION AT THE FULL COUNTY TAX RATE; AND

(2) 0.2% OF THE TOTAL ASSESSED VALUE OF ALL PERSONAL PROPERTY AND OPERATING REAL PROPERTY DESCRIBED IN § 8–109(C) OF THE TAX – PROPERTY ARTICLE IN THE COUNTY THAT IS SUBJECT TO TAXATION AT THE FULL COUNTY TAX RATE.

(C) FORM.

THE GOVERNING BODY OF THE COUNTY THAT ISSUES THE BONDS SHALL DETERMINE THE FORM OF THE BONDS.

(D) GENERAL OBLIGATION OF COUNTY.

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A COUNTY THAT ISSUES AND SELLS BONDS UNDER THIS SECTION SHALL PLEDGE ITS FULL FAITH AND CREDIT TO THE BONDS, WHICH SHALL BE A GENERAL OBLIGATION OF THE COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 45A, § 2(a), the third sentence of (d), and, as they related to full faith and credit, the second and fifth sentences of (b).

In subsection (a) of this section, the reference to "determin[ing]" the existence of acute unemployment is substituted for the former reference to the requirement that a county "shall so provide" for clarity.

Also in subsection (a) of this section, the reference to issuing bonds to "finance" grants is substituted for the former reference to issuing bonds to "make" grants for accuracy.

Also in subsection (a) of this section, the former redundant reference to the issuance and sale of bonds by a county "in connection with the borrowing by it ... of the sums necessary" to finance grants is deleted as surplusage.

Defined terms: "Bond" § 12-401
"County" § 9-101

12-404. TERMS — BONDS.

(A) INTEREST RATE; PAYMENT.

THE INTEREST RATE ON BONDS:

(1) MAY NOT EXCEED 5.5%; AND

(2) SHALL BE PAYABLE AT LEAST TWICE EVERY 12 MONTHS.

(B) MATURITY.

(1) THE BONDS SHALL MATURE SERIALLY OVER A PERIOD OF 30 YEARS.

(2) THE GOVERNING BODY OF THE COUNTY SHALL DETERMINE THE MATURITY DATES AND AMOUNTS OF THE BONDS.

(C) SALE; NOTICE.

THE GOVERNING BODY OF A COUNTY THAT ISSUES BONDS UNDER THIS SUBTITLE SHALL:

(1) OFFER THE BONDS FOR SALE TO THE HIGHEST BIDDER BY SEALED BIDS DELIVERED AT A TIME AND PLACE SELECTED BY THE GOVERNING BODY; AND

(2) ADVERTISE THE TIME AND PLACE SELECTED IN:

(I) TWO OR MORE NEWSPAPERS OF GENERAL CIRCULATION IN THE COUNTY; AND

(II) ANY ADDITIONAL NEWSPAPERS THAT THE GOVERNING BODY SELECTS.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 45A, § 2(d) and, as it related to interest rates and maturities on industrial development bonds, (b).

In subsection (a) of this section, the reference to interest payable "at least twice every 12 months" is substituted for the former reference to interest payable "semiannually" for clarity.

In subsection (c)(1) of this section, the reference to a time and place "selected by the governing body" is added for clarity and to make explicit what was only implied by the former law.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that in subsection (c)(2) of this section, the reference to two or more newspapers "of general circulation in the county" is substituted for the former obsolete reference to two or more newspapers "published in said county" for clarity. The committee wishes to bring this substitution to the attention of the General Assembly.

Defined terms: "Bond" § 12-401
"County" § 9-101

12-405. TERMS — NOTES.

(A) INTEREST RATE.

THE GOVERNING BODY OF A COUNTY THAT ISSUES NOTES OTHER THAN BONDS ISSUED UNDER § 12-405 OF THIS SUBTITLE SHALL ESTABLISH THE INTEREST RATES ON THE NOTES.

(B) MATURITY.

THE GOVERNING BODY OF A COUNTY THAT ISSUES NOTES SHALL ESTABLISH THEIR MATURITIES, NOT TO EXCEED 5 YEARS.

REVISOR'S NOTE: This section is new language derived without substantive change from the fourth sentence of former Art. 45A, § 2(b).

Defined term: "County" § 9-101

12-406. TAX STATUS.

PRINCIPAL OF AND INTEREST ON BONDS ISSUED UNDER THIS SUBTITLE ARE NOT SUBJECT TO STATE OR LOCAL TAXATION.

REVISOR'S NOTE: This section is new language derived without substantive change from the second and fifth sentences of former Art. 45A, § 2(b), as they related to the tax-exempt status of debt instruments.

Defined terms: "Bond" § 12-401
"State" § 9-101

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12-407. PAYMENT OF DEBT INSTRUMENTS.

(A) TAX LEVY.

IF BONDS ISSUED UNDER THIS SUBTITLE ARE OUTSTANDING AT THE TIME TAXES ARE LEVIED FOR GENERAL COUNTY PURPOSES, THE GOVERNING BODY OF THE ISSUING COUNTY EACH YEAR SHALL LEVY TAXES ON ALL ASSESSABLE PROPERTY IN THE COUNTY IN AN AMOUNT SUFFICIENT TO PROVIDE FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS.

(B) SALE PROCEEDS.

IF THE INTEREST BECOMES DUE ON A BOND BEFORE A SUFFICIENT AMOUNT OF TAXES IS COLLECTED UNDER SUBSECTION (A) OF THIS SECTION, THE COUNTY MAY PAY THE INTEREST FROM THE PROCEEDS OF THE SALE OF DEBT INSTRUMENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 45A, § 2(c).

In subsection (b) of this section, the former reference to "an annual [tax] levy" is deleted as implicit in the reference to taxes "collected".

Defined terms: "Bond" § 12-401
"County" § 9-101

12-408. PROHIBITED DEFENSES.

IT IS NOT A DEFENSE TO AN ACTION FOR THE COLLECTION OF PRINCIPAL OF OR INTEREST ON A BOND THAT:

(1) A STATE OF ACUTE UNEMPLOYMENT DID NOT EXIST AS DETERMINED IN THE ORDINANCE OR RESOLUTION ADOPTED BY THE GOVERNING BODY OF THE COUNTY; OR

(2) THE TOTAL AMOUNT OF OUTSTANDING BONDS EXCEEDS THE LIMITS ESTABLISHED IN § 12-403(B) OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the sixth sentence of former Art. 45A, § 2(b).

Defined terms: "Bond" § 12-401
"County" § 9-101

12-409. REGULATIONS.

THE GOVERNING BODY OF A COUNTY THAT ISSUES BONDS UNDER THIS SUBTITLE MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 45A, § 2(d).

The former reference to a county adopting regulations "as it may deem advisable" is deleted as implicit in the regulatory authority granted to counties under this section.

Defined terms: “Bond” § 12–401

“County” § 9–101

GENERAL REVISOR’S NOTE TO SUBTITLE:

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that this subtitle appears to be obsolete. The use of a specific percentage in the definition of “acute unemployment” in § 12–401(b) of this subtitle, the specific requirement for a 30–year maturity for bonds in § 12–404(b) of this subtitle, the limitation on defenses in § 12–408 of this subtitle, and the exclusion of municipal corporations as potential issuers all limit the attractiveness of bonds authorized by this subtitle. The committee is unaware of any jurisdiction that has issued debt under this subtitle. The General Assembly may wish to consider updating the bonding authority under this subtitle, or in the alternative, repealing this subtitle as obsolete.

TITLE 13. REGIONAL DEVELOPMENT RESOURCES.

SUBTITLE 1. APPALACHIAN REGIONAL DEVELOPMENT PROGRAM.

13–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

(B) ACT.

“ACT” MEANS THE FEDERAL APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the full reference to the “federal Appalachian Regional Development Act of 1965”.

(C) COMMISSION.

“COMMISSION” MEANS THE FEDERAL APPALACHIAN REGIONAL COMMISSION.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the full reference to the “federal Appalachian Regional Commission”.

(D) PROGRAM.

“PROGRAM” MEANS THE FEDERAL APPALACHIAN REGIONAL DEVELOPMENT PROGRAM.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the full reference to the “federal Appalachian Regional Development Program”.

13-102. AUTHORITY OF DEPARTMENT.

(A) IMPLEMENTATION OF ACT.

THE DEPARTMENT MAY:

(1) COORDINATE AND COOPERATE WITH ANY UNIT OF THE FEDERAL GOVERNMENT TO IMPLEMENT THE ACT IN THE STATE;

(2) ENTER INTO CONTRACTS AND AGREEMENTS UNDER THE ACT;

(3) SPEND MONEY FOR ANY PURPOSE RELATED TO THE ACT, INCLUDING FOR HIGHWAYS, NATURAL RESOURCES, AGRICULTURE, EDUCATION, TRAINING, HEALTH, AND WELFARE; AND

(4) DO ALL THINGS NECESSARY AND PROPER TO CARRY OUT THE ACT.

(B) ACCEPTANCE OF FEDERAL ASSISTANCE.

(1) IF ANY UNIT OF THE FEDERAL GOVERNMENT OFFERS TO THE STATE SERVICES, EQUIPMENT, SUPPLIES, MATERIALS, OR MONEY AS A GIFT OR GRANT TO IMPLEMENT THE PROGRAM, THE STATE, ACTING THROUGH THE GOVERNOR AND DEPARTMENT, MAY ACCEPT THE OFFER.

(2) IF THE GOVERNOR AND DEPARTMENT ACCEPT THE OFFER OF A GIFT OR GRANT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE GOVERNOR AND DEPARTMENT MAY AUTHORIZE A UNIT OF THE STATE OR A POLITICAL SUBDIVISION TO RECEIVE AND USE THE GIFT OR GRANT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 6-701.

In subsections (a)(1) and (b)(1) and (2) of this section, the former references to an "agency" and "officer" of a governmental unit are deleted as implicit in the references to the "unit". Correspondingly, in subsections (a)(1) and (b)(1) of this section, the references to a "unit" are substituted for the former references to the "federal government or any agency or officer thereof". And, in subsection (b)(2) of this section, the reference to the authority of the Governor and Department to authorize a "unit" of the State or a political subdivision to receive assistance is added. The term "unit" is used as a general term for an entity of government. *See* General Revisor's Note to article.

Also in subsection (a)(1) of this section, the former reference to the Appalachian Regional Development Act of 1965 "as amended from time to time" is deleted as unnecessary in light of Art. 1, § 21.

In subsections (a)(3) and (b)(1) of this section, the word "money" is substituted for the former references to "funds" for consistency throughout this article.

In subsection (a)(3) of this section, the former references to the expenditure of funds in certain "fields" are deleted as surplusage.

In subsection (b)(1) of this section, the reference to “implement[ing]” the Program is added for clarity.

Defined terms: “Act” § 13–101

“Department” § 9–101

“Program” § 13–101

“Secretary” § 9–101

“State” § 9–101

13–103. COMMISSION.

(A) MEMBERSHIP.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE GOVERNOR SHALL BE A MEMBER OF THE COMMISSION.

(B) DESIGNEE.

(1) THE GOVERNOR MAY DESIGNATE AN INDIVIDUAL WHO IS A MEMBER OF THE GOVERNOR’S CABINET OR PERSONAL STAFF TO SERVE AS A MEMBER OF THE COMMISSION ON THE GOVERNOR’S BEHALF.

(2) THE GOVERNOR’S DESIGNEE SERVES AT THE PLEASURE OF THE GOVERNOR.

(3) THE GOVERNOR’S DESIGNEE SHALL RECEIVE COMPENSATION AS PROVIDED IN THE STATE BUDGET.

(4) THE GOVERNOR’S DESIGNEE IS ENTITLED TO REIMBURSEMENT FOR EXPENSES AS PROVIDED UNDER THE STANDARD STATE TRAVEL REGULATIONS.

(C) AUTHORITY OF GOVERNOR OR DESIGNEE.

THE GOVERNOR OR THE GOVERNOR’S DESIGNEE MAY:

(1) CERTIFY A LOCAL DEVELOPMENT COMMISSION TO THE COMMISSION;
AND

(2) PERFORM ANY ACT NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE OR THE ACT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 6–702.

In subsection (b)(1) of this section, the reference to the Governor’s authority to “designate” an individual to serve on the Commission is substituted for the former reference to the Governor’s authority to “appoint” an individual for consistency throughout this article with regard to references to the process that is used to identify an individual who serves on behalf of another individual on a board, task force, or commission.

In subsection (b)(2), (3), and (4) of this section, the references to the “Governor’s designee” are substituted for the former references to

“alternate member” for consistency with subsection (b)(1) of this section.

In subsection (b)(2) of this section, the reference to the Governor’s designee “serv[ing] at the pleasure of the Governor” is substituted for the former reference to the authority of “[t]he Governor [to] remove the individual designated as the alternate and appoint another member of the Governor’s cabinet or the Governor’s personal staff to serve as the alternate” for consistency throughout this article with regard to references to an individual who serves at the pleasure of another individual on a board, task force, or commission, without a definite term of appointment.

In subsection (b)(3) of this section, the former reference to “salary” is deleted as implicit in the reference to “compensation”.

Also in subsection (b)(3) of this section, the reference to the “State” budget is added for consistency throughout this article with regard to references to the State budget.

In subsection (b)(4) of this section, the former reference to reimbursement for “expenses incurred while engaged in the performance of duties” is deleted as implicit in the reference to reimbursement “as provided under the Standard State Travel Regulations”.

In subsection (c)(2) of this section, the former reference to the authority to perform any act “required” to carry out this subtitle or the Act is deleted as implicit in the reference to the authority to perform any act that is “necessary”.

Also in subsection (c)(2) of this section, the former reference to the Appalachian Regional Development Act of 1965 “as amended from time to time” is deleted as unnecessary in light of Art. 1, § 21.

- Defined terms: “Act” § 13–101
- “Commission” § 13–101
- “Department” § 9–101
- “State” § 9–101

SUBTITLE 2. SOUTHERN STATES ENERGY COMPACT.

13–201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

(B) BOARD.

“BOARD” MEANS THE SOUTHERN STATES ENERGY BOARD.

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first sentence of former Art. 41, § 16–103(a), as it defined “board”.

(c) COMPACT.

“COMPACT” MEANS THE SOUTHERN STATES ENERGY COMPACT.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full title of the Southern States Energy Compact.

13–202. SOUTHERN STATES ENERGY COMPACT.

THE SOUTHERN STATES ENERGY COMPACT IS ENTERED INTO BY THIS STATE WITH OTHER STATES LEGALLY JOINING THE COMPACT IN ACCORDANCE WITH ITS TERMS, IN THE FORM SUBSTANTIALLY AS FOLLOWS:

(1) *ARTICLE I. POLICY AND PURPOSE.*

THE PARTY STATES RECOGNIZE THAT THE PROPER EMPLOYMENT AND CONSERVATION OF ENERGY AND EMPLOYMENT OF ENERGY–RELATED FACILITIES, MATERIALS, AND PRODUCTS, WITHIN THE CONTEXT OF A RESPONSIBLE REGARD FOR THE ENVIRONMENT, CAN ASSIST SUBSTANTIALLY IN THE INDUSTRIALIZATION OF THE SOUTH AND THE DEVELOPMENT OF A BALANCED ECONOMY FOR THE REGION. THEY ALSO RECOGNIZE THAT OPTIMUM BENEFIT FROM AND ACQUISITION OF ENERGY RESOURCES AND FACILITIES REQUIRE SYSTEMATIC ENCOURAGEMENT, GUIDANCE, AND ASSISTANCE FROM THE PARTY STATES ON A COOPERATIVE BASIS. IT IS THE POLICY OF THE PARTY STATES TO UNDERTAKE SUCH COOPERATION ON A CONTINUING BASIS; IT IS THE PURPOSE OF THIS COMPACT TO PROVIDE THE INSTRUMENTS AND FRAMEWORK FOR SUCH A COOPERATIVE EFFORT TO IMPROVE THE ECONOMY OF THE SOUTH AND CONTRIBUTE TO THE INDIVIDUAL AND COMMUNITY WELL–BEING OF THE REGION'S PEOPLE.

(2) *ARTICLE II. THE BOARD.*

(A) THERE IS HEREBY CREATED AN AGENCY OF THE PARTY STATES TO BE KNOWN AS THE “SOUTHERN STATES ENERGY BOARD” (HEREINAFTER CALLED THE BOARD). THE BOARD SHALL BE COMPOSED OF THREE MEMBERS FROM EACH PARTY STATE, ONE OF WHOM SHALL BE APPOINTED OR DESIGNATED IN EACH STATE TO REPRESENT THE GOVERNOR, THE STATE SENATE, AND THE STATE HOUSE OF DELEGATES, RESPECTIVELY. EACH MEMBER SHALL BE DESIGNATED OR APPOINTED IN ACCORDANCE WITH THE LAW OF THE STATE WHICH THE MEMBER REPRESENTS AND SERVING AND SUBJECT TO REMOVAL IN ACCORDANCE WITH SUCH LAW. ANY MEMBER OF THE BOARD MAY PROVIDE FOR THE DISCHARGE OF THE MEMBER'S DUTIES AND THE PERFORMANCE OF THE MEMBER'S FUNCTIONS THEREON (EITHER FOR THE DURATION OF THE MEMBERSHIP OR FOR ANY LESSER PERIOD OF TIME) BY A DEPUTY OR ASSISTANT, IF THE LAW OF THE MEMBER'S STATE MAKES SPECIFIC PROVISION THEREFOR. THE FEDERAL GOVERNMENT MAY BE REPRESENTED WITHOUT VOTE IF PROVISION IS MADE BY FEDERAL LAW FOR SUCH REPRESENTATION.

(B) EACH PARTY STATE SHALL BE ENTITLED TO ONE VOTE ON THE BOARD, TO BE DETERMINED BY MAJORITY VOTE OF EACH MEMBER OR MEMBER'S REPRESENTATIVE FROM THE PARTY STATE PRESENT AND VOTING ON ANY QUESTION. NO ACTION OF THE

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BOARD SHALL BE BINDING UNLESS TAKEN AT A MEETING AT WHICH A MAJORITY OF ALL PARTY STATES ARE REPRESENTED AND UNLESS A MAJORITY OF THE TOTAL NUMBER OF VOTES ON THE BOARD ARE CAST IN FAVOR THEREOF.

(C) THE BOARD SHALL HAVE A SEAL.

(D) THE BOARD SHALL ELECT ANNUALLY, FROM AMONG ITS MEMBERS, A CHAIRMAN, VICE-CHAIRMAN, AND A TREASURER. THE BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR WHO SHALL SERVE AT ITS PLEASURE AND WHO SHALL ALSO ACT AS SECRETARY, AND WHO, TOGETHER WITH THE TREASURER, SHALL BE BONDED IN SUCH AMOUNTS AS THE BOARD MAY REQUIRE.

(E) THE EXECUTIVE DIRECTOR, WITH THE APPROVAL OF THE BOARD, SHALL APPOINT AND REMOVE OR DISCHARGE SUCH PERSONNEL AS MAY BE NECESSARY FOR THE PERFORMANCE OF THE BOARD'S FUNCTIONS IRRESPECTIVE OF THE CIVIL SERVICE, PERSONNEL OR OTHER MERIT SYSTEM LAWS OF ANY OF THE PARTY STATES.

(F) THE BOARD MAY ESTABLISH AND MAINTAIN, INDEPENDENTLY OR IN CONJUNCTION WITH ANY ONE OR MORE OF THE PARTY STATES, A SUITABLE RETIREMENT SYSTEM FOR ITS FULL-TIME EMPLOYEES. EMPLOYEES OF THE BOARD SHALL BE ELIGIBLE FOR SOCIAL SECURITY COVERAGE IN RESPECT OF OLD-AGE AND SURVIVORS INSURANCE PROVIDED THAT THE BOARD TAKES SUCH STEPS AS MAY BE NECESSARY PURSUANT TO FEDERAL LAW TO PARTICIPATE IN SUCH PROGRAM OF INSURANCE AS A GOVERNMENTAL AGENCY OR UNIT. THE BOARD MAY ESTABLISH AND MAINTAIN OR PARTICIPATE IN SUCH ADDITIONAL PROGRAMS OF EMPLOYEE BENEFITS AS MAY BE APPROPRIATE.

(G) THE BOARD MAY BORROW, ACCEPT, OR CONTRACT FOR THE SERVICES OF PERSONNEL FROM ANY STATE OF THE UNITED STATES OR ANY SUBDIVISION OR AGENCY THEREOF, FROM ANY INTERSTATE AGENCY, OR FROM ANY INSTITUTION, PERSON, FIRM OR CORPORATION.

(H) THE BOARD MAY ACCEPT FOR ANY OF ITS PURPOSES AND FUNCTIONS UNDER THIS COMPACT ANY AND ALL DONATIONS, AND GRANTS OF MONEY, EQUIPMENT, SUPPLIES, MATERIALS, AND SERVICES (CONDITIONAL OR OTHERWISE) FROM ANY STATE OR THE UNITED STATES OR ANY SUBDIVISION OR AGENCY THEREOF, OR INTERSTATE AGENCY, OR FROM ANY INSTITUTION, PERSON, FIRM, OR CORPORATION, AND MAY RECEIVE, UTILIZE AND DISPOSE OF THE SAME.

(I) THE BOARD MAY ESTABLISH AND MAINTAIN SUCH FACILITIES AS MAY BE NECESSARY FOR THE TRANSACTING OF ITS BUSINESS. THE BOARD MAY ACQUIRE, HOLD, AND CONVEY REAL AND PERSONAL PROPERTY AND ANY INTEREST THEREIN.

(J) THE BOARD SHALL ADOPT BYLAWS, RULES, AND REGULATIONS FOR THE CONDUCT OF ITS BUSINESS, AND SHALL HAVE THE POWER TO AMEND AND RESCIND THESE BYLAWS, RULES, AND REGULATIONS. THE BOARD SHALL PUBLISH ITS BYLAWS, RULES, AND REGULATIONS IN CONVENIENT FORM AND SHALL FILE A COPY THEREOF, AND SHALL ALSO FILE A COPY OF ANY AMENDMENT THERETO, WITH THE APPROPRIATE AGENCY OR OFFICER IN EACH OF THE PARTY STATES.

(K) THE BOARD ANNUALLY SHALL MAKE TO THE GOVERNOR OF EACH PARTY STATE, A REPORT COVERING THE ACTIVITIES OF THE BOARD FOR THE PRECEDING YEAR,

AND EMBODYING SUCH RECOMMENDATIONS AS MAY HAVE BEEN ADOPTED BY THE BOARD, WHICH REPORT SHALL BE TRANSMITTED TO THE LEGISLATURE OF SAID STATE. THE BOARD MAY ISSUE SUCH ADDITIONAL REPORTS AS IT MAY DEEM DESIRABLE.

(3) *ARTICLE III. FINANCES.*

(A) THE BOARD SHALL SUBMIT TO THE EXECUTIVE HEAD OR DESIGNATED OFFICER OR OFFICERS OF EACH PARTY STATE A BUDGET OF ITS ESTIMATED EXPENDITURES FOR SUCH PERIOD AS MAY BE REQUIRED BY THE LAWS OF THAT JURISDICTION FOR PRESENTATION TO THE LEGISLATURE THEREOF.

(B) EACH OF THE BOARD'S BUDGETS OF ESTIMATED EXPENDITURES SHALL CONTAIN SPECIFIC RECOMMENDATIONS OF THE AMOUNT OR AMOUNTS TO BE APPROPRIATED BY EACH OF THE PARTY STATES. ONE HALF OF THE TOTAL AMOUNT OF EACH BUDGET OF ESTIMATED EXPENDITURES SHALL BE APPORTIONED AMONG THE PARTY STATES IN EQUAL SHARES; ONE QUARTER OF EACH SUCH BUDGET SHALL BE APPORTIONED AMONG THE PARTY STATES IN ACCORDANCE WITH THE RATIO OF THEIR POPULATIONS TO THE TOTAL POPULATION OF THE ENTIRE GROUP OF PARTY STATES BASED ON THE LAST DECENNIAL FEDERAL CENSUS; AND ONE QUARTER OF EACH SUCH BUDGET SHALL BE APPORTIONED AMONG THE PARTY STATES ON THE BASIS OF THE RELATIVE AVERAGE PER-CAPITA INCOME OF THE INHABITANTS IN EACH OF THE PARTY STATES BASED ON THE LATEST COMPUTATIONS PUBLISHED BY THE FEDERAL CENSUS-TAKING AGENCY. SUBJECT TO APPROPRIATION BY THEIR RESPECTIVE LEGISLATURES, THE BOARD SHALL BE PROVIDED WITH SUCH FUNDS BY EACH OF THE PARTY STATES AS ARE NECESSARY TO PROVIDE THE MEANS OF ESTABLISHING AND MAINTAINING FACILITIES, A STAFF OF PERSONNEL, AND SUCH ACTIVITIES AS MAY BE NECESSARY TO FULFILL THE POWERS AND DUTIES IMPOSED UPON AND ENTRUSTED TO THE BOARD.

(C) THE BOARD MAY MEET ANY OF ITS OBLIGATIONS IN WHOLE OR IN PART WITH FUNDS AVAILABLE TO IT UNDER ARTICLE II (H) OF THIS COMPACT PROVIDED THAT THE BOARD TAKES SPECIFIC ACTION SETTING ASIDE SUCH FUNDS PRIOR TO THE INCURRING OF ANY OBLIGATION TO BE MET IN WHOLE OR IN PART IN THIS MANNER. EXCEPT WHERE THE BOARD MAKES USE OF FUNDS AVAILABLE TO IT UNDER ARTICLE II (H) HEREOF, THE BOARD SHALL NOT INCUR ANY OBLIGATION PRIOR TO THE ALLOTMENT OF FUNDS BY THE PARTY JURISDICTIONS ADEQUATE TO MEET THE SAME.

(D) THE BOARD SHALL KEEP ACCURATE ACCOUNTS OF ALL RECEIPTS AND DISBURSEMENTS. THE RECEIPTS AND DISBURSEMENTS OF THE BOARD SHALL BE SUBJECT TO THE AUDIT AND ACCOUNTING PROCEDURES ESTABLISHED UNDER ITS BYLAWS. HOWEVER, ALL RECEIPTS AND DISBURSEMENTS OF FUNDS HANDLED BY THE BOARD SHALL BE AUDITED YEARLY BY A QUALIFIED PUBLIC ACCOUNTANT AND THE REPORT OF THE AUDIT SHALL BE INCLUDED IN AND BECOME PART OF THE ANNUAL REPORT OF THE BOARD.

(E) THE ACCOUNTS OF THE BOARD SHALL BE OPEN AT ANY REASONABLE TIME FOR INSPECTION.

(4) *ARTICLE IV. ADVISORY COMMITTEES.*

THE BOARD MAY ESTABLISH SUCH ADVISORY AND TECHNICAL COMMITTEES AS IT MAY DEEM NECESSARY, MEMBERSHIP ON WHICH TO INCLUDE BUT NOT BE LIMITED TO PRIVATE CITIZENS, EXPERT AND LAY PERSONNEL, REPRESENTATIVES OF INDUSTRY, LABOR, COMMERCE, AGRICULTURE, CIVIC ASSOCIATIONS, MEDICINE, EDUCATION, VOLUNTARY HEALTH AGENCIES, AND OFFICIALS OF LOCAL, STATE AND FEDERAL GOVERNMENT, AND MAY COOPERATE WITH AND USE THE SERVICES OF ANY SUCH COMMITTEES AND THE ORGANIZATIONS WHICH THEY REPRESENT IN FURTHERING ANY OF ITS ACTIVITIES UNDER THIS COMPACT.

(5) *ARTICLE V. POWERS.*

THE BOARD SHALL HAVE THE POWER TO:

(A) ASCERTAIN AND ANALYZE ON A CONTINUING BASIS THE POSITION OF THE SOUTH WITH RESPECT TO ENERGY, ENERGY-RELATED INDUSTRIES, AND ENVIRONMENTAL CONCERNS.

(B) ENCOURAGE THE DEVELOPMENT, CONSERVATION, AND RESPONSIBLE USE OF ENERGY AND ENERGY-RELATED FACILITIES, INSTALLATIONS, AND PRODUCTS AS PART OF A BALANCED ECONOMY AND HEALTHY ENVIRONMENT.

(C) COLLECT, CORRELATE, AND DISSEMINATE INFORMATION RELATING TO CIVILIAN USE OF ENERGY AND ENERGY-RELATED MATERIALS AND PRODUCTS.

(D) CONDUCT, OR COOPERATE IN CONDUCTING, PROGRAMS OF TRAINING FOR STATE AND LOCAL PERSONNEL ENGAGED IN ANY ASPECT OF:

(1) ENERGY, ENVIRONMENT, AND APPLICATION OF ENERGY, ENVIRONMENTAL, AND RELATED CONCERNS TO INDUSTRY, MEDICINE, OR EDUCATION OR THE PROMOTION OR REGULATION THEREOF.

(2) THE FORMULATION OR ADMINISTRATION OF MEASURES DESIGNED TO PROMOTE SAFETY IN ANY MATTER RELATED TO THE DEVELOPMENT, USE, OR DISPOSAL OF ENERGY AND ENERGY-RELATED MATERIALS, PRODUCTS, INSTALLATIONS, OR WASTES.

(E) ORGANIZE AND CONDUCT, OR ASSIST AND COOPERATE IN ORGANIZING AND CONDUCTING, DEMONSTRATIONS OF ENERGY PRODUCT, MATERIAL, OR EQUIPMENT USE AND DISPOSAL AND OF PROPER TECHNIQUES OR PROCESSES FOR THE APPLICATION OF ENERGY RESOURCES TO THE CIVILIAN ECONOMY OR GENERAL WELFARE.

(F) UNDERTAKE SUCH NONREGULATORY FUNCTIONS WITH RESPECT TO SOURCES OF RADIATION AS MAY PROMOTE THE ECONOMIC DEVELOPMENT AND GENERAL WELFARE OF THE REGION.

(G) STUDY INDUSTRIAL, HEALTH, SAFETY, AND OTHER STANDARDS, LAWS, CODES, RULES, REGULATIONS, AND ADMINISTRATIVE PRACTICES IN OR RELATED TO ENERGY AND ENVIRONMENTAL FIELDS.

(H) RECOMMEND SUCH CHANGES IN, OR AMENDMENTS OR ADDITIONS TO THE LAWS, CODES, RULES, REGULATIONS, ADMINISTRATIVE PROCEDURES AND PRACTICES OR ORDINANCES OF THE PARTY STATES IN ANY OF THE FIELDS OF ITS INTEREST AND COMPETENCE AS IN ITS JUDGMENT MAY BE APPROPRIATE. ANY SUCH RECOMMENDATION

SHALL BE MADE THROUGH THE APPROPRIATE STATE AGENCY WITH DUE CONSIDERATION OF THE DESIRABILITY OF UNIFORMITY BUT SHALL ALSO GIVE APPROPRIATE WEIGHT TO ANY SPECIAL CIRCUMSTANCE WHICH MAY JUSTIFY VARIATIONS TO MEET LOCAL CONDITIONS.

(I) PREPARE, PUBLISH AND DISTRIBUTE (WITH OR WITHOUT CHARGE) SUCH REPORTS, BULLETINS, NEWSLETTERS OR OTHER MATERIALS AS IT DEEMS APPROPRIATE.

(J) COOPERATE WITH THE UNITED STATES DEPARTMENT OF ENERGY OR ANY AGENCY SUCCESSOR THERETO, ANY OTHER OFFICER OR AGENCY OF THE UNITED STATES, AND ANY OTHER GOVERNMENTAL UNIT OR AGENCY OR OFFICER THEREOF, AND WITH ANY PRIVATE PERSONS OR AGENCIES IN ANY OF THE FIELDS OF ITS INTEREST.

(K) ACT AS LICENSEE OF THE UNITED STATES GOVERNMENT OR ANY PARTY STATE WITH RESPECT TO THE CONDUCT OF ANY RESEARCH ACTIVITY REQUIRING SUCH LICENSE AND OPERATE SUCH RESEARCH FACILITY OR UNDERTAKE ANY PROGRAM PURSUANT THERETO.

(L) ASCERTAIN FROM TIME TO TIME SUCH METHODS, PRACTICES, CIRCUMSTANCES, AND CONDITIONS AS MAY BRING ABOUT THE PREVENTION AND CONTROL OF ENERGY AND ENVIRONMENTAL INCIDENTS IN THE AREA COMPRISING THE PARTY STATES, TO COORDINATE THE NUCLEAR, ENVIRONMENTAL, AND OTHER ENERGY-RELATED INCIDENT PREVENTION AND CONTROL PLANS AND THE WORK RELATING THERETO OF THE APPROPRIATE AGENCIES OF THE PARTY STATES AND TO FACILITATE THE RENDERING OF AID BY THE PARTY STATES TO EACH OTHER IN COPING WITH ENERGY AND ENVIRONMENTAL INCIDENTS. THE BOARD MAY FORMULATE AND, IN ACCORDANCE WITH NEED FROM TIME TO TIME, REVISE A REGIONAL PLAN OR REGIONAL PLANS FOR COPING WITH ENERGY AND ENVIRONMENTAL INCIDENTS WITHIN THE TERRITORY OF THE PARTY STATES AS A WHOLE OR WITHIN ANY SUBREGION OR SUBREGIONS OF THE GEOGRAPHIC AREA COVERED BY THIS COMPACT.

(6) *ARTICLE VI. SUPPLEMENTARY AGREEMENTS.*

(A) TO THE EXTENT THAT THE BOARD HAS NOT UNDERTAKEN AN ACTIVITY OR PROJECT WHICH WOULD BE WITHIN ITS POWER UNDER THE PROVISIONS OF ARTICLE V OF THIS COMPACT, ANY TWO OR MORE OF THE PARTY STATES (ACTING BY THEIR DULY CONSTITUTED ADMINISTRATIVE OFFICIALS) MAY ENTER INTO SUPPLEMENTARY AGREEMENTS FOR THE UNDERTAKING AND CONTINUANCE OF SUCH AN ACTIVITY OR PROJECT. ANY SUCH AGREEMENT SHALL SPECIFY ITS PURPOSE OR PURPOSES; ITS DURATION AND THE PROCEDURE FOR TERMINATION THEREOF OR WITHDRAWAL THEREFROM; THE METHOD OF FINANCING AND ALLOCATING THE COSTS OF THE ACTIVITY OR PROJECT; AND SUCH OTHER MATTERS AS MAY BE NECESSARY OR APPROPRIATE. NO SUCH SUPPLEMENTARY AGREEMENT ENTERED INTO PURSUANT TO THIS ARTICLE SHALL BECOME EFFECTIVE PRIOR TO ITS SUBMISSION TO AND APPROVAL BY THE BOARD. THE BOARD SHALL GIVE SUCH APPROVAL UNLESS IT FINDS THAT THE SUPPLEMENTARY AGREEMENT OR THE ACTIVITY OR PROJECT CONTEMPLATED THEREBY IS INCONSISTENT WITH THE PROVISIONS OF THIS COMPACT OR A PROGRAM OR ACTIVITY CONDUCTED BY OR PARTICIPATED IN BY THE BOARD.

(B) UNLESS ALL OF THE PARTY STATES PARTICIPATE IN A SUPPLEMENTARY AGREEMENT, ANY COST OR COSTS THEREOF SHALL BE BORNE SEPARATELY BY THE STATES PARTY THERETO. HOWEVER, THE BOARD MAY ADMINISTER OR OTHERWISE ASSIST IN THE OPERATION OF ANY SUPPLEMENTARY AGREEMENT.

(C) NO PARTY TO A SUPPLEMENTARY AGREEMENT ENTERED INTO PURSUANT TO THIS ARTICLE SHALL BE RELIEVED THEREBY OF ANY OBLIGATION OR DUTY ASSUMED BY SAID PARTY STATE UNDER OR PURSUANT TO THIS COMPACT, EXCEPT THAT TIMELY AND PROPER PERFORMANCE OF SUCH OBLIGATION OR DUTY BY MEANS OF THE SUPPLEMENTARY AGREEMENT MAY BE OFFERED AS PERFORMANCE PURSUANT TO THE COMPACT.

(7) *ARTICLE VII. OTHER LAWS AND RELATIONSHIPS.*

NOTHING IN THIS COMPACT SHALL BE CONSTRUED TO:

(A) PERMIT OR REQUIRE ANY PERSON OR OTHER ENTITY TO AVOID OR REFUSE COMPLIANCE WITH ANY LAW, RULE, REGULATION, ORDER OR ORDINANCE OF A PARTY STATE OR SUBDIVISION THEREOF NOW OR HEREAFTER MADE, ENACTED OR IN FORCE.

(B) LIMIT, DIMINISH, OR IMPAIR JURISDICTION EXERCISED BY THE UNITED STATES DEPARTMENT OF ENERGY, ANY AGENCY SUCCESSOR THERETO, OR ANY OTHER FEDERAL DEPARTMENT, AGENCY OR OFFICER PURSUANT TO AND IN CONFORMITY WITH ANY VALID AND OPERATIVE ACT OF CONGRESS.

(C) ALTER THE RELATIONS BETWEEN AND RESPECTIVE INTERNAL RESPONSIBILITIES OF THE GOVERNMENT OF A PARTY STATE AND ITS SUBDIVISIONS.

(D) PERMIT OR AUTHORIZE THE BOARD TO EXERCISE ANY REGULATORY AUTHORITY OR TO OWN OR OPERATE ANY NUCLEAR REACTOR FOR THE GENERATION OF ELECTRIC ENERGY; NOR SHALL THE BOARD OWN OR OPERATE ANY FACILITY OR INSTALLATION FOR INDUSTRIAL OR COMMERCIAL PURPOSES.

(8) *ARTICLE VIII. ELIGIBLE PARTIES, ENTRY INTO FORCE AND WITHDRAWAL.*

(A) ANY OR ALL OF THE STATES OF ALABAMA, ARKANSAS, DELAWARE, FLORIDA, GEORGIA, KENTUCKY, LOUISIANA, MARYLAND, MISSISSIPPI, MISSOURI, NORTH CAROLINA, OKLAHOMA, SOUTH CAROLINA, TENNESSEE, TEXAS, VIRGINIA, WEST VIRGINIA, THE COMMONWEALTH OF PUERTO RICO, AND THE UNITED STATES VIRGIN ISLANDS SHALL BE ELIGIBLE TO BECOME PARTY TO THIS COMPACT.

(B) AS TO ANY ELIGIBLE PARTY STATE, THIS COMPACT SHALL BECOME EFFECTIVE WHEN ITS LEGISLATURE HAS ENACTED THE SAME INTO LAW: PROVIDED THAT IT SHALL NOT BECOME INITIALLY EFFECTIVE UNTIL ENACTED INTO LAW BY SEVEN STATES.

(C) ANY PARTY STATE MAY WITHDRAW FROM THIS COMPACT BY ENACTING A STATUTE REPEALING THE SAME, BUT NO SUCH WITHDRAWAL SHALL BECOME EFFECTIVE UNTIL THE GOVERNOR OF THE WITHDRAWING STATE SHALL HAVE SENT FORMAL NOTICE IN WRITING TO THE GOVERNOR OF EACH OTHER PARTY STATE INFORMING SAID GOVERNORS OF THE ACTION OF THE LEGISLATURE IN REPEALING THE COMPACT AND DECLARING AN INTENTION TO WITHDRAW.

(9) *ARTICLE IX. SEVERABILITY AND CONSTRUCTION.*

THE PROVISIONS OF THIS COMPACT AND OF ANY SUPPLEMENTARY AGREEMENT ENTERED INTO HEREUNDER SHALL BE SEVERABLE AND IF ANY PHRASE, CLAUSE, SENTENCE OR PROVISION OF THIS COMPACT OR SUCH SUPPLEMENTARY AGREEMENT IS DECLARED TO BE CONTRARY TO THE CONSTITUTION OF ANY PARTICIPATING STATE OR OF THE UNITED STATES OR THE APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY, PERSON, OR CIRCUMSTANCE IS HELD INVALID, THE VALIDITY OF THE REMAINDER OF THIS COMPACT OR SUCH SUPPLEMENTARY AGREEMENT AND THE APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY, PERSON OR CIRCUMSTANCE SHALL NOT BE AFFECTED THEREBY. IF THIS COMPACT OR ANY SUPPLEMENTARY AGREEMENT ENTERED INTO HEREUNDER SHALL BE HELD CONTRARY TO THE CONSTITUTION OF ANY STATE PARTICIPATING THEREIN, THE COMPACT OR SUCH SUPPLEMENTARY AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT AS TO THE REMAINING STATES AND IN FULL FORCE AND EFFECT AS TO THE STATE AFFECTED AS TO ALL SEVERABLE MATTERS. THE PROVISIONS OF THIS COMPACT AND OF ANY SUPPLEMENTARY AGREEMENT ENTERED INTO PURSUANT HERETO SHALL BE LIBERALLY CONSTRUED TO EFFECTUATE THE PURPOSES THEREOF.

REVISOR'S NOTE: The introductory language of this section is new language substituted for former Art. 41, § 16–101. It reflects the fact that the compact is in force in accordance with Article VIII(b) of the compact. It is patterned after similar language used in the compact as enacted by several other party states. *See, e.g.,* FLA. STAT. ANN. § 377.711; KY. REV. STAT. ANN. § 152.210; LA. REV. STAT. ANN. § 51:1001; OKLA. STAT. ANN. TIT. 32, § 1051; *cf.* TENN. CODE ANN. § 68–202–601.

Items (1) through (9) of this section formerly were Art. 41, §§ 16–102 through 16–110.

The only changes are in style of capitalization in tabulated text and revision of gender-specific pronouns relating to a member of the board.

No other changes are made.

Defined terms: “Board” § 13–201

“Compact” § 13–201

“Person” § 9–101

“State” § 9–101

13–203. MARYLAND MEMBERS.

(A) APPOINTMENT.

THE THREE MEMBERS OF THE BOARD FROM THE STATE ARE AS FOLLOWS:

(1) ONE MEMBER APPOINTED BY THE DIRECTOR OF THE MARYLAND ENERGY ADMINISTRATION, WITH THE APPROVAL OF THE GOVERNOR;

(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE; AND

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(3) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE.

(B) TENURE.

(1) THE TERM OF THE MEMBER APPOINTED UNDER SUBSECTION (A)(1) OF THIS SECTION EXPIRES AT THE END OF THE TERM OF THE APPOINTING GOVERNOR.

(2) THE TERM OF A MEMBER APPOINTED UNDER SUBSECTION (A)(2) OR (3) OF THIS SECTION EXPIRES AT THE END OF THE TERM OF THAT GENERAL ASSEMBLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 16–111.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that subsection (a)(2) and (3) of this section have been revised to conform to practice, under which the legislative members of the board are appointed by their respective presiding officers rather than by the chambers as a whole. No substantive change is intended.

Defined terms: “Board” § 13–201

“State” § 9–101

13–204. SUBMISSION OF BUDGETS TO GOVERNOR.

IN ACCORDANCE WITH ARTICLE III(A) OF THE COMPACT, THE BOARD SHALL SUBMIT ITS BUDGETS OF ESTIMATED EXPENDITURES TO THE GOVERNOR FOR PRESENTATION TO THE GENERAL ASSEMBLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 16–112.

Defined terms: “Board” § 13–201

“Compact” § 13–201

13–205. APPROPRIATION NEEDED.

ANY SUPPLEMENTARY AGREEMENT ENTERED IN ACCORDANCE WITH ARTICLE VI OF THE COMPACT THAT REQUIRES THE EXPENDITURE OF MONEY OR THE ASSUMPTION OF AN OBLIGATION TO EXPEND MONEY MAY NOT BECOME EFFECTIVE AS TO THE STATE BEFORE THE GENERAL ASSEMBLY MAKES AN APPROPRIATION FOR IT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 16–113.

Defined terms: “Compact” § 13–201

“State” § 9–101

13–206. COOPERATION BY STATE AND LOCAL UNITS AND OFFICERS.

THE UNITS AND OFFICERS OF THE STATE AND ITS POLITICAL SUBDIVISIONS MAY COOPERATE WITH THE BOARD IN THE FURTHERANCE OF ANY OF ITS ACTIVITIES UNDER THE COMPACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 16–114.

The word “units” is substituted for the former reference to “departments [and] agencies” for consistency within this article. The term “unit” is broad enough to include both these entities. *See* General Revisor’s Note to article.

Defined terms: “Board” § 13–201

“Compact” § 13–201

“State” § 9–101

GENERAL REVISOR'S NOTE TO SUBTITLE:

In revising the various articles of the Annotated Code, it was the usual practice of the former Commission to Revise the Annotated Code and article review committees to make very few, if any, changes to compacts. The Economic Development Article Review Committee has made very few changes to the text of the Southern States Energy Compact, which comprises § 13–202(1) through (9) of this subtitle. To conform to current code revision drafting conventions, the articles of the compact have been tabulated as separate items, some capitalization has been altered, and certain pronouns have been replaced with gender–neutral terms. These changes do not affect the substance of the compact.

SUBTITLE 3. BALTIMORE METROPOLITAN COUNCIL.

13–301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

(B) COUNCIL.

“COUNCIL” MEANS THE BALTIMORE METROPOLITAN COUNCIL.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 78D, § 1.

(C) REGION.

“REGION” MEANS THE AREA THAT INCLUDES ALL OF ANNE ARUNDEL COUNTY, BALTIMORE CITY, BALTIMORE COUNTY, CARROLL COUNTY, HARFORD COUNTY, AND HOWARD COUNTY.

REVISOR'S NOTE: This subsection is new language added to provide an explicit definition of the Baltimore Metropolitan Region consistent with the membership area of the Council and with similar provisions in this title.

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13–302. ESTABLISHED; PURPOSES.

(A) **ESTABLISHED.**

THERE IS A BALTIMORE METROPOLITAN COUNCIL.

(B) **STATUS.**

THE COUNCIL:

(1) **IS A BODY POLITIC AND CORPORATE; AND**

(2) **IS NOT A UNIT OF STATE GOVERNMENT.**

(C) **PURPOSES.**

THE PURPOSES OF THE COUNCIL ARE TO:

(1) **SERVE AS A FORUM FOR LOCAL OFFICIALS AND THEIR REPRESENTATIVES TO IDENTIFY AND ADDRESS PROBLEMS IN THE REGION;**

(2) **PROVIDE A CENTRAL SOURCE OF INFORMATION AND COORDINATION FOR FASHIONING RESPONSES TO NEEDS IN THE REGION; AND**

(3) **ASSIST LOCAL JURISDICTIONS IN DEVELOPING REGIONAL POLICIES, PRIORITIZING REGIONAL INFRASTRUCTURE NEEDS, AND DEVELOPING REGIONAL STRATEGIES.**

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 78D, § 2.

In subsection (b)(1) of this section, the reference to a “body politic and corporate” is substituted for the former reference to a “body corporate and politic” for consistency within this article.

In subsection (b)(2) of this section, the reference to a “unit” is substituted for the former reference to an “agency” for consistency. *See* General Revisor’s Note to article.

Subsection (c) of this section is revised as a list of purposes rather than duties for clarity and consistency with similar provisions in other subtitles of this title.

In subsection (c)(3) of this section, the former phrase “in the Baltimore Metropolitan Region” is deleted in light of the reference to “regional” policies, needs, and strategies.

Defined terms: “Council” § 13–301

“Region” § 13–301

“State” § 9–101

13–303. MEMBERSHIP.

(A) **COMPOSITION; APPOINTMENT.**

THE COUNCIL CONSISTS OF:

- (1) ONE MEMBER APPOINTED BY THE COUNTY EXECUTIVE OF ANNE ARUNDEL COUNTY;
- (2) ONE MEMBER APPOINTED BY THE MAYOR OF BALTIMORE CITY;
- (3) ONE MEMBER APPOINTED BY THE COUNTY EXECUTIVE OF BALTIMORE COUNTY;
- (4) ONE MEMBER APPOINTED BY THE COUNTY COMMISSIONERS OF CARROLL COUNTY;
- (5) ONE MEMBER APPOINTED BY THE COUNTY EXECUTIVE OF HARFORD COUNTY;
- (6) ONE MEMBER APPOINTED BY THE COUNTY EXECUTIVE OF HOWARD COUNTY; AND
- (7) OTHER MEMBERS AS THE COUNCIL CHARTER PROVIDES.

(B) TENURE.

(1) A MEMBER APPOINTED UNDER SUBSECTION (A)(1) THROUGH (6) OF THIS SECTION SERVES AT THE PLEASURE OF THE APPOINTING AUTHORITY.

(2) A MEMBER APPOINTED UNDER SUBSECTION (A)(7) OF THIS SECTION SERVES AS THE COUNCIL CHARTER PROVIDES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 78D, § 3(a), (b), and (c).

In subsection (b) of this section, the former statement that a member's term is "indefinite" is deleted in light of the statement that a member serves either "at the pleasure of the appointing authority" or "as the Council Charter provides".

Defined term: "Council" § 13-301

13-304. CHAIR.

AS PROVIDED IN THE COUNCIL CHARTER, THE COUNCIL SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 78D, § 3(d).

The reference to a "chair" is substituted for the former reference to a "chairman" because SG § 2-1238 requires the use of words that are neutral as to gender to the extent practicable. See General Revisor's Note to article.

Defined term: "Council" § 13-301

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13–305. MEETINGS; COMPENSATION.

(A) **MEETINGS.**

(1) **THE COUNCIL SHALL MEET AT LEAST QUARTERLY AT THE TIMES AND PLACES THAT IT DETERMINES.**

(2) **A MAJORITY OF THE MEMBERS OF THE COUNCIL IS A QUORUM.**

(3) **AN ACTION OF THE COUNCIL IS NOT EFFECTIVE UNLESS APPROVED BY MAJORITY VOTE OF ALL MEMBERS OF THE COUNCIL.**

(B) **COMPENSATION.**

A MEMBER OF THE COUNCIL:

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

(2) **IS ENTITLED TO REIMBURSEMENT FOR REASONABLE EXPENSES.**

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 78D, §§ 4 and 3(e).

In subsection (a)(1) of this section, the reference to meeting “at the times and places” that the Council determines is added for clarity.

In subsection (a)(2) of this section, the reference to members “then serving on” the Council is substituted for the former reference to members “of” the Council for clarity and consistency with the practice of the Council.

Also in subsection (a)(2) of this section, the former phrase “for the purpose of conducting business” is deleted as implicit in the reference to a “quorum”.

In subsection (a)(3) of this section, the reference to “members then serving on” the Council is added for clarity and consistency with subsection (a)(2) of this section.

Defined term: “Council” § 13–301

13–306. STAFF.

THE COUNCIL MAY EMPLOY A STAFF.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 78D, § 5(a)(6).

The reference to “employ[ing]” a staff is substituted for the former authority to “[h]ire and fire” for brevity and consistency with similar provisions elsewhere in this article.

Defined term: “Council” § 13–301

13–307. MISCELLANEOUS POWERS AND DUTIES.

(A) **POWERS.**

THE COUNCIL MAY:

- (1) ADOPT A SEAL;
- (2) SUE OR BE SUED, SUBJECT TO THE LIMITATIONS OF TITLE 5, SUBTITLE 3 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE;
- (3) ADOPT A CHARTER, BYLAWS, RULES, AND GUIDELINES TO CARRY OUT ITS PURPOSES;
- (4) ACQUIRE, HOLD, LEASE, USE, ENCUMBER, TRANSFER, OR DISPOSE OF PROPERTY;
- (5) ENTER INTO A CONTRACT AND EXECUTE ANY INSTRUMENT NECESSARY OR CONVENIENT TO CARRY OUT ITS PURPOSES;
- (6) EXERCISE ANY CORPORATE POWER GRANTED TO A CORPORATION UNDER THE CORPORATIONS AND ASSOCIATIONS ARTICLE;
- (7) SERVE, WITH THE STATE DEPARTMENT OF TRANSPORTATION, AS A METROPOLITAN PLANNING ORGANIZATION FOR FEDERAL FUNDING AND CERTIFICATION; AND
- (8) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS GRANTED BY THIS SUBTITLE.

(B) DUTIES.

THE COUNCIL CHARTER SHALL INCLUDE PROVISIONS FOR THE ADMISSION AND WITHDRAWAL OF COUNCIL MEMBERS UNDER § 13-303(A)(7) OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 78D, § 5(b) and (a)(1), (2), (3), (4), (5), (8), (9), and (10).

In subsection (a)(1) of this section, the former reference to “alter[ing]” a seal is deleted as implicit in the authority to “adopt” a seal. Similarly, the former reference to an “official” seal is deleted.

In subsection (a)(2) of this section, the former references to “plead[ing]” and being “impleaded” are deleted in light of the references to “suing” and being “sued”.

In subsection (a)(3) of this section, the former phrase “[s]ubject to the provisions of subsection (b) of this section” is deleted as unnecessary. The requirements of that provision apply whether or not referenced here.

Also in subsection (a)(3) of this section, the reference to “rules” is substituted for the former reference to “regulations” to avoid confusion with the regulations adopted by governmental units under Title 10, Subtitle 1 of the State Government Article. *See* General Revisor’s Note to article.

In subsection (a)(4) of this section, the former reference to “real, personal,

or other” property is deleted as unnecessary in light of the comprehensive reference to “property”. *See* General Revisor’s Note to article.

In subsection (a)(5) of this section, the reference to “carry[ing] out its purposes” is substituted for the former reference to “carry[ing] out its powers to accomplish the [its] purposes” for brevity.

Also in subsection (a)(5) of this section, the former reference to a “lease” is deleted in light of the comprehensive reference to a “contract”.

Defined terms: “Council” § 13–301
“State” § 9–101

13–308. CONTRIBUTIONS AND GIFTS.

THE COUNCIL MAY ACCEPT FROM ANY PRIVATE OR PUBLIC SOURCE A CONTRIBUTION OR GRANT OF MONEY OR PROPERTY.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 78D, § 5(a)(7).

The former reference to “receiv[ing]” contributions or grants is deleted as implicit in the authority to “accept” them.

The former reference to a “gift” is deleted as included in the comprehensive reference to a “contribution or grant” for brevity.

The former reference to an “interest in property” is deleted as included in the comprehensive reference to “property”.

Defined term: “Council” § 13–301

13–309. ADVISORY BOARD.

(A) ESTABLISHED.

THERE IS A BALTIMORE METROPOLITAN COUNCIL ADVISORY BOARD.

(B) MEMBERSHIP.

THE ADVISORY BOARD CONSISTS OF:

(1) THE ANNE ARUNDEL COUNTY EXECUTIVE AND THE CHAIR OF THE ANNE ARUNDEL COUNTY COUNCIL OR THE CHAIR’S DESIGNEE;

(2) THE MAYOR OF BALTIMORE AND THE PRESIDENT OF THE BALTIMORE CITY COUNCIL OR THE PRESIDENT’S DESIGNEE;

(3) THE BALTIMORE COUNTY EXECUTIVE AND THE CHAIR OF THE BALTIMORE COUNTY COUNCIL OR THE CHAIR’S DESIGNEE;

(4) TWO MEMBERS OF THE BOARD OF COUNTY COMMISSIONERS OF CARROLL COUNTY;

(5) THE HARFORD COUNTY EXECUTIVE AND THE PRESIDENT OF THE HARFORD COUNTY COUNCIL OR THE PRESIDENT'S DESIGNEE;

(6) THE HOWARD COUNTY EXECUTIVE AND THE CHAIR OF THE HOWARD COUNTY COUNCIL OR THE CHAIR'S DESIGNEE; AND

(7) OTHER MEMBERS AS THE COUNCIL CHARTER PROVIDES.

(c) CHAIR.

AS PROVIDED IN THE COUNCIL CHARTER, THE ADVISORY BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 78D, § 6.

In subsection (b) of this section, the references to the "Chairs" of the county councils of Anne Arundel, Baltimore, and Howard counties are substituted for the former obsolete references to the "Presidents" of those councils. The gender-neutral term "chair" is used in place of the terms "chairman" and "chairperson" in the official titles of these officers because SG § 2-1238 requires the use of words that are neutral as to gender to the extent practicable and for consistency within this article. Similarly, in subsection (c) of this section, the reference to a "chair" is substituted for the former reference to a "chairman". See General Revisor's Note to article.

Defined term: "Council" § 13-301

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 78D, § 7, which provided that the Baltimore Metropolitan Council is not liable for a liability, contract, or obligation of the Baltimore Regional Council of Governments unless expressly assumed, is not retained in the Code because it applies retroactively, if at all, to a small class of obligations after the repeal of the Baltimore Regional Council of Governments in 1992. See § 3 of Ch. 201, Acts of 1992; § 3 of Ch. 624, Acts of 1995. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have. See § 7 of Ch. 306, Acts of 2008.

SUBTITLE 4. RURAL MARYLAND COUNCIL.

13-401. "COUNCIL" DEFINED.

IN THIS SUBTITLE, "COUNCIL" MEANS THE RURAL MARYLAND COUNCIL.

REVISOR'S NOTE: This section formerly was Art. 41, § 15-101.

The only changes are in style.

13-402. ESTABLISHED.

THERE IS A RURAL MARYLAND COUNCIL.

REVISOR'S NOTE: This section formerly was Art. 41, § 15-101.1.

No changes are made.

13-403. DESIGNATION.

THE COUNCIL IS A STATE RURAL DEVELOPMENT COUNCIL THAT BRINGS TOGETHER MEMBERS OF THE PUBLIC AND REPRESENTATIVES OF PUBLIC SECTOR ENTITIES AND PRIVATE SECTOR ORGANIZATIONS TO ADDRESS COLLABORATIVELY PROBLEMS AND CHALLENGES FACING RURAL COMMUNITIES IN THE STATE.

REVISOR'S NOTE: This section formerly was Art. 41, § 15-102(a).

The reference to "members of the public" is substituted for the former reference to "citizens" for clarity because the meaning of the term "citizen" in this context is unclear and for consistency with similar provisions in other revised articles of the Code. *See* General Revisor's Note to article.

The former reference to the Council being "designated as" a State rural development council is deleted as surplusage.

The only other changes are in style.

Defined terms: "Council" § 13-401

"State" § 9-101

13-404. STATUS.

THE COUNCIL IS AN INDEPENDENT UNIT IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT THAT IS PLACED UNDER THE STATE DEPARTMENT OF AGRICULTURE FOR ADMINISTRATIVE AND BUDGETARY PURPOSES.

REVISOR'S NOTE: This section formerly was Art. 41, § 15-107(a).

The only changes are in style.

Defined terms: "Council" § 13-401

"State" § 9-101

13-405. MEMBERSHIP.

(A) OPEN MEMBERSHIP.

THE MEMBERSHIP OF THE COUNCIL IS OPEN TO ANY RESIDENT OF THE STATE WHO HAS AN INTEREST IN IMPROVING THE QUALITY OF LIFE IN RURAL AREAS OF THE STATE AND CHOOSES TO JOIN THE COUNCIL.

(B) SPECIFIED MEMBERS.

THE COUNCIL SHALL INCLUDE:

(1) THE GOVERNOR OR THE GOVERNOR'S DESIGNEE;

(2) AS DETERMINED UNDER THE BYLAWS OF THE COUNCIL:

(I) REPRESENTATIVES FROM LOCAL, STATE, AND FEDERAL AGENCIES THAT SERVE RURAL INTERESTS; AND

(II) REPRESENTATIVES FROM PRIVATE SECTOR ORGANIZATIONS, INCLUDING RURAL-BASED FOR-PROFIT AND NOT-FOR-PROFIT ORGANIZATIONS AND RURAL CLIENT GROUPS; AND

(3) AS NONVOTING MEMBERS:

(I) ONE MEMBER OF THE SENATE OF MARYLAND FROM EACH OF THE THREE RURAL REGIONS OF THE STATE, APPOINTED BY THE PRESIDENT OF THE SENATE;

(II) ONE MEMBER OF THE HOUSE OF DELEGATES FROM EACH OF THE THREE RURAL REGIONS OF THE STATE, APPOINTED BY THE SPEAKER OF THE HOUSE; AND

(III) ONE MEMBER OF THE SENATE OF MARYLAND OR THE HOUSE OF DELEGATES REPRESENTING HARFORD COUNTY, APPOINTED JOINTLY BY THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 15-103.

In subsection (a) of this section, the reference to any "resident of the State" is substituted for the former reference to any "citizen of Maryland" to reflect accurately the practice of the Council.

In subsection (b) of this section, former item (b)(6) is deleted as surplusage since subsection (a) of this section provides that membership is open to any resident of the State and subsection (b) is not an exhaustive listing of the members.

In subsection (b)(3)(iii) of this section, the term "appointed" is substituted for the former term "selected" for consistency with the language in subsection (b)(3)(i) and (ii) of this section.

The only other changes are in style.

Defined terms: "Council" § 13-401
"State" § 9-101

13-406. CHAIR; BYLAWS.

(A) CHAIR.

FROM AMONG ITS MEMBERS, THE COUNCIL SHALL ELECT EACH YEAR A CHAIR AND ONE OR MORE VICE CHAIRS.

(B) BYLAWS.

THE COUNCIL SHALL ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS.

REVISOR'S NOTE: This section formerly was Art. 41, § 15-104(a) and (b).

In subsection (a) of this section, the terms "chair" and "vice chairs" are substituted for the former references to a "Chairman" and "vice chairmen"

because SG § 2–1238 requires the use of words that are neutral as to gender to the extent practicable.

No other changes are made.

Defined term: “Council” § 13–401

13–407. EXECUTIVE BOARD — ESTABLISHED.

THE COUNCIL SHALL ESTABLISH AN EXECUTIVE BOARD.

REVISOR’S NOTE: This section formerly was Art. 41, § 15–104(c)(1).

No changes are made.

Defined term: “Council” § 13–401

13–408. EXECUTIVE BOARD — MEMBERSHIP; CHAIR.

(A) SPECIFIED MEMBERS.

THE EXECUTIVE BOARD SHALL INCLUDE:

- (1) THE CHAIR OF THE COUNCIL;
- (2) THE GOVERNOR OR THE GOVERNOR’S DESIGNEE;
- (3) THE SECRETARY OR THE SECRETARY’S DESIGNEE;
- (4) THE SECRETARY OF AGRICULTURE OR THE DESIGNEE OF THE SECRETARY OF AGRICULTURE;
- (5) THE SECRETARY OF HEALTH AND MENTAL HYGIENE OR THE DESIGNEE OF THE SECRETARY OF HEALTH AND MENTAL HYGIENE;
- (6) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT OR THE DESIGNEE OF THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT;
- (7) THE SECRETARY OF NATURAL RESOURCES OR THE DESIGNEE OF THE SECRETARY OF NATURAL RESOURCES;
- (8) THE DIRECTOR OF THE UNIVERSITY OF MARYLAND COOPERATIVE EXTENSION SERVICE OR THE DIRECTOR’S DESIGNEE;
- (9) TWO REPRESENTATIVES OF THE MARYLAND MUNICIPAL LEAGUE, SELECTED FROM RURAL REGIONS OF THE STATE;
- (10) TWO REPRESENTATIVES OF THE MARYLAND ASSOCIATION OF COUNTIES, SELECTED FROM RURAL REGIONS OF THE STATE;
- (11) ONE REPRESENTATIVE OF EACH OF THE RURAL REGIONAL PLANNING AND DEVELOPMENT COUNCILS IN THE STATE;
- (12) ONE REPRESENTATIVE OF EACH OF THE RESOURCE, CONSERVATION, AND DEVELOPMENT COUNCILS IN THE STATE;

(13) ONE OR MORE REPRESENTATIVES OF UNITS OF THE FEDERAL GOVERNMENT;

(14) ONE REPRESENTATIVE FROM GARRETT COUNTY, ALLEGANY COUNTY, OR WASHINGTON COUNTY;

(15) ONE REPRESENTATIVE FROM CARROLL COUNTY OR FREDERICK COUNTY;

(16) ONE REPRESENTATIVE FROM CALVERT COUNTY, CHARLES COUNTY, OR ST. MARY'S COUNTY;

(17) ONE REPRESENTATIVE FROM CECIL COUNTY OR HARFORD COUNTY;

(18) ONE REPRESENTATIVE FROM DORCHESTER COUNTY, SOMERSET COUNTY, WICOMICO COUNTY, OR WORCESTER COUNTY;

(19) ONE REPRESENTATIVE OF THE PRIVATE FOR-PROFIT SECTOR;

(20) ONE REPRESENTATIVE OF THE NOT-FOR-PROFIT SECTOR;

(21) NO MORE THAN SIX REPRESENTATIVES OF STATEWIDE NOT-FOR-PROFIT ORGANIZATIONS WITH A RURAL FOCUS;

(22) TWO AT-LARGE MEMBERS, SELECTED BY THE MEMBERSHIP OF THE COUNCIL; AND

(23) AS NONVOTING MEMBERS, THE SENATORS AND DELEGATES APPOINTED TO THE COUNCIL UNDER § 13-405(B)(3) OF THIS SUBTITLE.

(B) SELECTION AND SERVICE OF MEMBERS.

MEMBERS OF THE EXECUTIVE BOARD SHALL BE SELECTED AND SERVE IN ACCORDANCE WITH THE BYLAWS OF THE COUNCIL.

(C) EXPANSION OF MEMBERSHIP.

THE COUNCIL MAY EXPAND THE MEMBERSHIP OF THE EXECUTIVE BOARD THROUGH THE BYLAWS OF THE COUNCIL.

(D) CHAIR.

THE CHAIR OF THE COUNCIL IS THE CHAIR OF THE EXECUTIVE BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 15-104(c)(2) and (3) and (d).

In subsections (a)(1) and (d) of this section, the references to the "chair" are substituted for the former references to a "Chairman" because SG § 2-1238 requires the use of words that are neutral as to gender to the extent practicable.

In subsection (a)(8) of this section, the reference to the "University of Maryland Cooperative Extension Service" is substituted for the former incomplete reference to "Maryland Cooperative Extension" for accuracy.

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In subsection (a)(13) through (21), inclusive, of this section, the former phrase “selected in accordance with the bylaws of the Council” is deleted as surplusage in light of the requirements in subsection (b) of this section.

Defined terms: “Council” § 13–401

“Secretary” § 9–101

“State” § 9–101

13–409. EXECUTIVE BOARD — DUTIES.

AFTER A CONSENSUS OF OPINION HAS EMERGED, THE EXECUTIVE BOARD SHALL MAKE RECOMMENDATIONS ON PROGRAMMATIC OR REGULATORY MATTERS OF CONCERN TO RURAL COMMUNITIES.

REVISOR’S NOTE: This section formerly was Art. 41, § 15–105(a).

The only changes are in style.

13–410. EXECUTIVE BOARD — SUBCOMMITTEES.

WITH THE CONSENT OF THE EXECUTIVE BOARD, THE CHAIR MAY ESTABLISH SUBCOMMITTEES OR WORKING COMMITTEES CONSISTING OF MEMBERS OF THE COUNCIL AND INTERESTED PARTIES TO ADDRESS OR STUDY SPECIFIC ISSUES.

REVISOR’S NOTE: This section formerly was Art. 41, § 15–105(b).

The term “chair” is substituted for the former reference to a “Chairman” because SG § 2–1238 requires the use of words that are neutral as to gender to the extent practicable.

No other changes are made.

Defined term: “Council” § 13–401

13–411. EXECUTIVE DIRECTOR.

(A) APPOINTMENT.

THE COUNCIL SHALL EMPLOY AN EXECUTIVE DIRECTOR.

(B) DUTIES.

THE EXECUTIVE DIRECTOR:

(1) IS RESPONSIBLE FOR THE DAILY OPERATIONS OF THE COUNCIL; AND

(2) SHALL HELP DEVELOP POLICY RECOMMENDATIONS FOR CONSIDERATION BY THE COUNCIL OR THE EXECUTIVE BOARD.

(C) TENURE.

THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE EXECUTIVE BOARD.

REVISOR’S NOTE: This section formerly was Art. 41, § 15–106.

The only changes are in style.

Defined term: “Council” § 13–401

13–412. STAFF AND RESOURCES; PARTICIPATION FROM OTHER UNITS; LEGAL ADVISOR.

(A) STAFF AND RESOURCES.

THE STATE DEPARTMENT OF AGRICULTURE SHALL PROVIDE THE COUNCIL WITH NECESSARY STAFF SUPPORT AND RESOURCES, INCLUDING OFFICE SPACE.

(B) PARTICIPATION BY OTHER UNITS.

EACH UNIT IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT SHALL PARTICIPATE IN THE DELIBERATIONS OF THE COUNCIL AND WORK WITH THE COUNCIL ON MATTERS RELATING TO THE UNIT.

(C) LEGAL ADVISOR.

THE ATTORNEY GENERAL IS THE LEGAL ADVISOR TO THE COUNCIL.

REVISOR’S NOTE: This section formerly was Art. 41, § 15–107(d), (e), and (f).

In subsection (a) of this section, the reference to staff “support” is added for consistency within this article.

The only other changes are in style.

Defined terms: “Council” § 13–401

“State” § 9–101

13–413. APPLICABILITY OF OTHER LAWS.

THE COUNCIL IS EXEMPT FROM:

(1) DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE;

(2) DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE, EXCEPT AS OTHERWISE PROVIDED IN § 11–203(B) OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

(3) TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE.

REVISOR’S NOTE: This section formerly was Art. 41, § 15–107(b).

The only changes are in style.

Defined term: “Council” § 13–401

13–414. FUNDING; BUDGET REQUESTS.

(A) FUNDING.

THE GOVERNOR SHALL INCLUDE IN THE BUDGET OF THE STATE DEPARTMENT OF AGRICULTURE FUNDING FOR THE COUNCIL.

(B) BUDGET REQUESTS.

THE SECRETARY OF AGRICULTURE SHALL INCLUDE WITHOUT REVISION THE BUDGET REQUEST OF THE COUNCIL IN THE BUDGET REQUEST OF THE STATE DEPARTMENT OF AGRICULTURE THAT IS PROVIDED TO THE DEPARTMENT OF BUDGET AND MANAGEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 15-107(c).

Defined terms: "Council" § 13-401
"State" § 9-101

13-415. PERMISSIBLE ACTIVITIES.

(A) IN GENERAL.

THE COUNCIL MAY UNDERTAKE ANY ACTIVITY THAT ADDRESSES ISSUES AND CONCERNS OF RURAL AREAS OF THE STATE AS LONG AS THE ACTIVITY IS NOT INCONSISTENT WITH PROVISIONS OF THE FARM SECURITY AND RURAL INVESTMENT ACT OF 2002 REGARDING THE NATIONAL RURAL DEVELOPMENT PARTNERSHIP AND STATE RURAL DEVELOPMENT COUNCILS, 7 U.S.C. § 2008M.

(B) SPECIFIED ACTIVITIES.

THE COUNCIL MAY:

- (1) MAINTAIN A PRINCIPAL OFFICE AT A LOCATION IN THE CENTRAL REGION OF THE STATE THAT IS ACCESSIBLE TO THE RURAL PUBLIC;
- (2) EMPLOY, AS REGULAR EMPLOYEES OR AS INDEPENDENT CONTRACTORS, STAFF THAT THE COUNCIL CONSIDERS NECESSARY IN ACCORDANCE WITH THE COUNCIL BUDGET;
- (3) ENTER INTO CONTRACTS;
- (4) ACCEPT GRANTS AND OTHER ASSISTANCE FROM THE FEDERAL GOVERNMENT, OTHER UNITS OF STATE GOVERNMENT, LOCAL GOVERNMENTS, OR A PRIVATE SOURCE; AND
- (5) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT ITS PURPOSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 15-108 and 15-102(b).

In subsection (a) of this section, the reference to "7 U.S.C. § 2008m" is substituted for the former reference to "P.L. 107-171, Section 6021" for clarity.

Also in subsection (a) of this section, the reference to "state" rural development councils is substituted for the former reference to "State" councils for clarity.

Also in subsection (a) of this section, the former reference to "citizens of" rural Maryland is deleted for clarity because the meaning of the term

“citizen” in this context is unclear and for consistency with similar provisions in other revised articles of the Code. Similarly, in subsection (b)(1) of this section, the reference to “the rural public” is substituted for the former reference to “rural citizens”. *See* General Revisor’s Note to article.

Defined terms: “Council” § 13–401
“State” § 9–101

13–416. ANNUAL REPORT.

THE COUNCIL SHALL PUBLISH AND SUBMIT AN ANNUAL REPORT OF ITS ACTIVITIES TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

REVISOR’S NOTE: This section formerly was Art. 41, § 15–109.

The only changes are in style.

Defined term: “Council” § 13–401

13–417. DISSOLUTION.

(A) SCOPE OF SECTION.

(1) THIS SECTION APPLIES ONLY IF THE COUNCIL IS DISSOLVED.

(2) THIS SECTION DOES NOT APPLY TO THE DISPOSITION OF MONEY OR OTHER ASSETS OF THE STATE.

(B) DISPOSAL OF ASSETS BY COUNCIL.

AFTER PROVIDING FOR THE PAYMENT OF ITS LIABILITIES, THE COUNCIL SHALL DISPOSE OF ITS ASSETS IN A MANNER CONSISTENT WITH THE PURPOSES OF THE COUNCIL BY TRANSFERRING THE ASSETS TO AN ORGANIZATION THAT:

(1) IS ORGANIZED AND OPERATED EXCLUSIVELY FOR CHARITABLE, EDUCATIONAL, RELIGIOUS, OR SCIENTIFIC PURPOSES; AND

(2) QUALIFIES AS A TAX EXEMPT ORGANIZATION UNDER § 501(c)(3) OF THE INTERNAL REVENUE CODE.

(C) DISPOSAL OF REMAINDER BY CIRCUIT COURT.

IN A MANNER CONSISTENT WITH SUBSECTION (B) OF THIS SECTION, THE CIRCUIT COURT FOR THE COUNTY WHERE THE COUNCIL HAS ITS PRINCIPAL OFFICE SHALL DISPOSE OF ANY ASSETS THAT THE COUNCIL FAILS TO DISPOSE OF BY INTERPLEADER OR OTHER APPROPRIATE ACTION.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, § 15–110.

In subsection (a) of this section, the reference to “money” is substituted for the former reference to “funds” for clarity and consistency within this article.

In subsection (b)(2) of this section, the reference to “a tax exempt organization” is substituted for the former reference to “an exempt organization” for clarity.

In subsection (c) of this section, the reference to disposal of remaining property “by interpleader or other appropriate action” is added to avoid the implication that the court could dispose of the property on its own initiative without a case before it, in violation of Md. Decl. of Rights, Art. 8. *See* 89 Op. Att’y Gen. 222 (2004).

The Economic Development Article Review Committee notes, for consideration of the General Assembly, that as a legislatively chartered corporation, the Council may only be dissolved by action of the General Assembly. Accordingly, any legislation to dissolve the Council could specify a different disposition of assets than that specified in this section. Also, conditions specified for grants of property other than State and local moneys to the Council, such as federal funds, may require that those assets be dealt with differently than this section appears to require. *See* 89 Op. Att’y Gen. 222 (2004).

Defined terms: “Council” § 13–401
“State” § 9–101

SUBTITLE 5. RURAL BROADBAND COORDINATION BOARD.

13–501. “BOARD” DEFINED.

IN THIS SUBTITLE, “BOARD” MEANS THE MARYLAND RURAL BROADBAND COORDINATION BOARD.

REVISOR’S NOTE: This section formerly was Art. 41, § 21–101.

The only changes are in style.

13–502. ESTABLISHED.

THERE IS A MARYLAND RURAL BROADBAND COORDINATION BOARD.

REVISOR’S NOTE: This section formerly was Art. 41, § 21–102(a).

No changes are made.

13–503. MEMBERSHIP; CHAIR; BYLAWS.

(A) MEMBERSHIP.

THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:

- (1) THE SECRETARY, OR THE SECRETARY’S DESIGNEE;
- (2) THE SECRETARY OF TRANSPORTATION, OR THE DESIGNEE OF THE SECRETARY OF TRANSPORTATION;

(3) AS SELECTED BY THE SECRETARY OF BUDGET AND MANAGEMENT, EITHER THE CHIEF OF THE STATE OFFICE OF INFORMATION TECHNOLOGY OR THE DIRECTOR OF NETWORK MARYLAND;

(4) THE CHAIR OF THE RURAL MARYLAND COUNCIL, OR THE CHAIR'S DESIGNEE;

(5) THE CHAIR OF THE TRI-COUNTY COUNCIL FOR SOUTHERN MARYLAND, OR THE CHAIR'S DESIGNEE;

(6) THE CHAIR OF THE TRI-COUNTY COUNCIL FOR WESTERN MARYLAND, OR THE CHAIR'S DESIGNEE;

(7) THE CHAIR OF THE MID-SHORE REGIONAL COUNCIL, OR THE CHAIR'S DESIGNEE;

(8) THE CHAIR OF THE TRI-COUNTY COUNCIL FOR THE LOWER EASTERN SHORE OF MARYLAND, OR THE CHAIR'S DESIGNEE; AND

(9) THE CHAIR OF THE UPPER SHORE REGIONAL COUNCIL, OR THE CHAIR'S DESIGNEE.

(B) CHAIR.

THE BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

(C) BYLAWS.

THE BOARD SHALL ADOPT BYLAWS TO CARRY OUT THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 21-103(a) and (b).

In subsection (a) of this section, the references to a "chair" are substituted for the former references to a "chairman" because SG § 2-1238 requires the use of terms that are neutral as to gender to the extent practicable.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that in subsection (c) of this section, the reference to "bylaws" is substituted for the former reference to "rules" as it does not appear that the General Assembly contemplated that the Board would be subject to the Administrative Procedure Act. No substantive change is intended.

Defined terms: "Board" § 13-501

"Secretary" § 9-101

"State" § 9-101

13-504. DUTIES.

THE BOARD SHALL:

(1) ASSIST IN THE DEPLOYMENT OF BROADBAND COMMUNICATION INFRASTRUCTURE IN RURAL AND UNDERSERVED AREAS OF THE STATE;

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(2) COOPERATE WITH PUBLIC, PRIVATE, AND NOT-FOR-PROFIT ENTITIES TO OBTAIN, COORDINATE, AND DISSEMINATE RESOURCES FOR THE ESTABLISHMENT OF BROADBAND COMMUNICATION SERVICES IN RURAL AND UNDERSERVED AREAS OF THE STATE;

(3) REVIEW AND APPROVE THE DISBURSEMENT OF FUNDS UNDER THE RURAL BROADBAND ASSISTANCE FUND UNDER § 5-1102 OF THIS ARTICLE AND ANY OTHER FEDERAL, STATE, AND PRIVATE FINANCIAL RESOURCES THAT MAY BE PROVIDED TO ASSIST THE ESTABLISHMENT OF BROADBAND COMMUNICATION SERVICES IN RURAL AND UNDERSERVED AREAS OF THE STATE; AND

(4) PERFORM OTHER FUNCTIONS THAT ARE CONSISTENT WITH THE INTENT OF THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 41, § 21-102(b).

The only changes are in style.

Defined terms: "Board" § 13-501

"State" § 9-101

13-505. INTERAGENCY COOPERATION.

THE BOARD AND AFFECTED UNITS OF STATE GOVERNMENT SHALL COOPERATE FULLY IN CARRYING OUT THE INTENT OF THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 41, § 21-103(c).

The only changes are in style.

Defined terms: "Board" § 13-501

"State" § 9-101

13-506. DUTIES OF RURAL MARYLAND COUNCIL.

THE RURAL MARYLAND COUNCIL SHALL:

(1) PROVIDE STAFF SUPPORT TO THE BOARD; AND

(2) REPORT ON THE ACTIVITIES OF THE BOARD IN THE PRECEDING FISCAL YEAR IN THE COUNCIL'S ANNUAL REPORT UNDER § 13-416 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 41, § 21-103(d).

Defined term: "Board" § 13-501

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 41, §§ 21-101 through 21-103, which established the Rural Broadband Coordination Board, were subject to termination on June 30, 2020. See § 3 of Ch. 269, Acts of 2006. Accordingly, the legislation that enacts this article provides for the termination of this subtitle if and when that termination provision takes effect. See § 22 of Ch. 306, Acts of 2008.

SUBTITLE 6. TRI-COUNTY COUNCIL FOR SOUTHERN MARYLAND.

PART I. GENERAL PROVISIONS.

13-601. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 20, § 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 20 in this subtitle.

No other changes are made.

(B) COMMISSIONERS.

"COMMISSIONERS" MEANS THE BOARD OF COUNTY COMMISSIONERS OF CALVERT COUNTY, CHARLES COUNTY, OR ST. MARY'S COUNTY, RESPECTIVELY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 20, § 1-102(c).

Defined term: "County" § 9-101

(C) COUNCIL.

"COUNCIL" MEANS THE TRI-COUNTY COUNCIL FOR SOUTHERN MARYLAND.

REVISOR'S NOTE: This subsection formerly was Art. 20, § 1-102(f).

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" § 13-601

(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. 20, § 1-102(g).

Defined terms: "Council" § 13-601

"Region" § 13-601

(F) REGION.

“REGION” MEANS CALVERT, CHARLES, AND ST. MARY’S COUNTIES.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 20, § 1–102(h) and the second sentence of § 1–101.

Defined term: “County” § 9–101

REVISOR’S NOTE TO SECTION: Former Art. 20, § 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 20 with no clear distinction between the “region” as a whole and the planning “area”. Also, the term “area” was used in a manner not consistent with the former definition in the description of the “area of operation” of the Council, revised in § 13–612 of this subtitle, in cooperation with “regional area planning”, revised in § 13–614(b)(2) of this subtitle, and elsewhere.

13–602. ESTABLISHED.

(A) IN GENERAL.

THERE IS A TRI–COUNTY COUNCIL FOR SOUTHERN MARYLAND.

(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 PLANNING AND DEVELOPMENT UNIT FOR THE REGION.

(2) THE PURPOSES OF THE COUNCIL ARE TO:

(I) FOSTER THE PHYSICAL, ECONOMIC, AND SOCIAL DEVELOPMENT OF THE REGION; AND

(II) USE EFFECTIVELY THE ASSISTANCE PROVIDED TO THE REGION BY THE STATE.

(3) THE COUNCIL INITIATES AND COORDINATES PLANS AND PROJECTS FOR THE DEVELOPMENT OF HUMAN AND ECONOMIC RESOURCES OF THE REGION AS A SOUTHERN MARYLAND PLANNING AND DEVELOPMENT UNIT.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 20, §§ 1–106 and 1–103(a), and the first sentence of § 1–101.

In subsection (b)(1) of this section, the former word “public” is deleted as implicit in the reference to a “body politic and corporate”.

In subsection (c)(1) and (2) of this section, the defined term “region” is substituted for the former references to the “tri-county area” and “area” for clarity.

In subsection (c)(1) and (3) of this section, the term “unit” is substituted for the former term “agency” for consistency within this article. *See* General Revisor’s Note to article.

Defined terms: “Council” § 13–601

“Region” § 13–601

“State” § 9–101

13–603. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT.

THE COUNCIL CONSISTS OF:

(1) THE MEMBERS OF THE GENERAL ASSEMBLY REPRESENTING THE REGION, AS VOTING MEMBERS;

(2) THE COMMISSIONERS OF CALVERT, CHARLES, AND ST. MARY’S COUNTIES, AS VOTING MEMBERS;

(3) ONE VOTING MEMBER APPOINTED BY THE PRESIDENT OF THE SOUTHERN MARYLAND MUNICIPAL ASSOCIATION;

(4) ONE VOTING MEMBER AT LARGE FROM EACH COUNTY, APPOINTED BY THE COMMISSIONERS OF THE COUNTY WITH THE CONCURRENCE OF THE MEMBERS OF THE GENERAL ASSEMBLY REPRESENTING THE COUNTY;

(5) ONE NONVOTING MEMBER FROM EACH COUNTY, APPOINTED JOINTLY BY THE ECONOMIC DEVELOPMENT COMMISSION AND THE PLANNING AND ZONING COMMISSION OF THE COUNTY; AND

(6) ONE NONVOTING MEMBER APPOINTED BY THE DEPARTMENT AND THE DEPARTMENT OF PLANNING.

(B) TENURE; VACANCIES.

(1) AN EX OFFICIO MEMBER IS A MEMBER ONLY DURING THE MEMBER’S TERM OF OFFICE.

(2) A MEMBER AT LARGE SERVES AT THE PLEASURE OF THE ELECTED MEMBERS WHO REPRESENT THE SAME COUNTY.

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

(4) EXCEPT FOR AN EX OFFICIO MEMBER, A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20, §§ 2–101, 2–102, 2–103, and 2–104.

In subsection (a)(4) of this section, the former reference to State Senators and Delegates elected “from” a particular county is deleted as included in the comprehensive reference to members of the General Assembly “representing” the county.

In subsection (a)(5) of this section, the reference to three nonvoting members appointed by the appropriate bodies of each county, “respectively”, is added for clarity.

In subsection (b)(1) of this section, the former reference to an “appointed” member serving during a term of office is deleted for clarity.

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that in subsection (b)(3) and (4) of this section, the references to a “term” for an appointed member are confusing. Although the Council could adopt a term for appointed members through its bylaws, it has not yet done so, and the statute is otherwise silent. In practice, appointed members of the Council, like members at large, serve at the pleasure of the appointing authority.

Defined terms: “Commissioners” § 13–601

“Council” § 13–601

“Department” § 9–101

13–604. CHAIR.

THE COUNCIL SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

REVISOR'S NOTE: This section formerly was the first sentence of Art. 20, § 2–401, as it related to the selection of a chairman.

The reference to a “chair” is substituted for the former reference to a “chairman” because SG § 2–1238 requires the use of terms that are neutral as to gender to the extent practicable.

No other changes are made.

Defined term: “Council” § 13–601

13–605. COMMITTEES.

(A) IN GENERAL.

THE COUNCIL SHALL ESTABLISH COMMITTEES TO CONDUCT ITS WORK.

(B) MEMBERSHIP.

THE MEMBERSHIP OF A COMMITTEE MAY INCLUDE INDIVIDUALS WHO ARE NOT COUNCIL MEMBERS OR ELECTED OFFICIALS.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 20, § 2-401 and the first sentence, as it related to the establishment of committees.

Defined term: "Council" § 13-601

13-606. COMPENSATION.

A MEMBER OF THE COUNCIL IS NOT ENTITLED TO COMPENSATION AS A MEMBER OF THE COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20, § 2-105.

Defined term: "Council" § 13-601

13-607. EXECUTIVE DIRECTOR.

(A) POSITION AND APPOINTMENT.

(1) THE COUNCIL SHALL APPOINT AN EXECUTIVE DIRECTOR QUALIFIED BY TRAINING AND EXPERIENCE.

(2) THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE AND PLANNING OFFICER AND TECHNICAL ADVISOR OF THE COUNCIL.

(B) TENURE.

THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE COUNCIL.

(C) RESPONSIBILITIES.

THE COUNCIL SHALL ESTABLISH THE POWERS AND DUTIES OF THE EXECUTIVE DIRECTOR.

(D) COMPENSATION.

THE EXECUTIVE DIRECTOR IS ENTITLED TO THE COMPENSATION THAT THE COUNCIL SETS.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 20, § 2-402 and, as they related to the employment and duties of a director, § 2-301(i) and the second sentence of § 2-402.

Throughout this section, the defined term "Executive Director" is substituted for the former obsolete references to a "director".

In subsections (a), (c)(1), and (d) 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

"Executive Director" § 13-601

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13-608. LEGAL ADVISOR.

THE ATTORNEY GENERAL IS THE LEGAL ADVISOR TO THE COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20, § 1-105.

The former reference to the Attorney General "of Maryland" is deleted as surplusage.

The former phrase "in all matters pertaining to the Council's activities" is deleted as implicit in the capacity of a legal advisor.

Defined term: "Council" § 13-601

13-609. STAFF.

(A) IN GENERAL.

THE COUNCIL MAY EMPLOY A STAFF AND RETAIN PROFESSIONAL CONSULTANTS.

(B) POWERS AND DUTIES.

THE COUNCIL SHALL:

(1) DETERMINE THE POWERS AND DUTIES OF THE STAFF; AND

(2) SET THE COMPENSATION OF THE STAFF.

(C) APPOINTMENT.

(1) THE EXECUTIVE DIRECTOR SHALL APPOINT AND REMOVE THE STAFF OF THE COUNCIL.

(2) THE EXECUTIVE DIRECTOR MAY CONTRACT FOR PROFESSIONAL OR CONSULTANT SERVICES.

(D) COOPERATIVE AGREEMENTS.

THE EXECUTIVE DIRECTOR MAY MAKE AGREEMENTS WITH LOCAL PLANNING UNITS IN THE REGION FOR TEMPORARY TRANSFER OR JOINT USE OF STAFF.

REVISOR'S NOTE: This section is new language derived without substantive change from the third sentence of former Art. 20, § 2-402 and, as they related to employment of staff, § 2-301(i) and the second sentence of § 2-402.

In subsections (a) and (b) of this section, the former phrase "[w]ithout limiting or restricting the general powers conferred by this article" is deleted as surplusage.

In subsection (d) of this section, the defined term "region" is substituted for the former phrase "jurisdiction of the Council of public officials" for clarity.

Defined terms: "Council" § 13-601
"Executive Director" § 13-601
"Region" § 13-601

13-610. IMMUNITY.

THE COUNCIL HAS THE IMMUNITY FROM SUIT PROVIDED IN § 5-505 OF THE COURTS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 20, § 2-301(b).

As to immunity of the Council from suit, *see* CJ § 5-505.

Defined term: "Council" § 13-601

13-611. FINANCIAL SUPPORT.

(A) IN GENERAL.

THE STATE AND CALVERT, CHARLES, AND ST. MARY'S COUNTIES MAY JOINTLY FINANCE THE COUNCIL AND ITS ACTIVITIES.

(B) STATE SUPPORT.

(1) THE STATE MAY PROVIDE FINANCIAL SUPPORT TO THE COUNCIL TO ASSIST IN CARRYING OUT THE ACTIVITIES OF THE COUNCIL.

(2) (I) ON OR BEFORE AUGUST 1 OF EACH YEAR, THE COUNCIL SHALL SUBMIT ITS PROPOSED WORK PROGRAMS AND OPERATING BUDGET FOR THE FOLLOWING FISCAL YEAR TO THE DEPARTMENT.

(II) THE SUBMISSION SHALL INCLUDE SUPPORTING SCHEDULES TO SHOW HOW THE BUDGET IS FINANCED, AND TO PROVIDE FOR REVIEW AND RECOMMENDATIONS.

(III) AFTER REVIEW, THE DEPARTMENT SHALL FORWARD THE SUBMISSION AND ANY RECOMMENDATIONS TO THE DEPARTMENT OF BUDGET AND MANAGEMENT FOR CONSIDERATION.

(3) THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET FOR THE FOLLOWING FISCAL YEAR AN APPROPRIATION TO PARTIALLY SUPPORT THE COUNCIL.

(C) LOCAL SUPPORT.

(1) THE COUNTY COMMISSIONERS OF CALVERT, CHARLES, AND ST. MARY'S COUNTIES SHALL APPROPRIATE MONEY EACH YEAR FOR THE COUNCIL TO FOSTER COOPERATIVE PLANNING AND DEVELOPMENT IN THE REGION AS FOLLOWS:

(I) CALVERT COUNTY – \$7,000;

(II) CHARLES COUNTY – \$9,000; AND

(III) ST. MARY'S COUNTY – \$9,000.

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(2) CALVERT, CHARLES, AND ST. MARY'S COUNTIES MAY APPROPRIATE ANY OTHER MONEY FOR THE COUNCIL AS THEY CONSIDER NECESSARY AND APPROPRIATE.

(D) OTHER MONEY.

THE COUNCIL MAY ACCEPT ADDITIONAL MONEY FROM ANY OTHER PUBLIC OR PRIVATE SOURCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20, § 2-403.

In subsection (b)(2)(ii) of this section, the word "how" is substituted for the former word "that" for consistency within this title.

In subsection (b)(2)(iii) of this section, the reference to "the Department" forwarding the annual submission is added for clarity.

In subsection (b)(3) of this section, the reference to "[t]he Governor ... includ[ing] ... an appropriation to partially support the Council" is substituted for the former reference to "the State's contribution" for accuracy and consistency with the constitutional State budget process.

Also in subsection (b)(3) of this section, the former reference to "annual review by the General Assembly" is deleted as an unnecessary restatement of the ability of the legislature to reduce an appropriation for which a specified amount is not set by statute. *See* Md. Constitution, Art. III, § 52.

In subsection (c)(2) of this section, the reference to appropriating funds that "they consider" necessary and appropriate is substituted for the former reference to appropriating money "as is" necessary and appropriate for accuracy.

Defined terms: "Commissioners" § 13-601

"Council" § 13-601

"Department" § 9-101

"Region" § 13-601

"State" § 9-101

13-612. JURISDICTION, POWERS, AND DUTIES.

(A) JURISDICTION.

THE COUNCIL MAY OPERATE IN THE REGION.

(B) POWERS AND DUTIES.

THE COUNCIL MAY:

(1) ADOPT A SEAL;

(2) SUE;

(3) ADOPT BYLAWS AND RULES FOR THE CONDUCT OF ITS BUSINESS;

(4) ENTER INTO CONTRACTS AND AGREEMENTS;

(5) BORROW MONEY AND ACCEPT ADVANCES, LOANS, GRANTS, CONTRIBUTIONS, AND ANY OTHER FORM OF ASSISTANCE FROM THE FEDERAL GOVERNMENT, THE STATE, OR OTHER PUBLIC OR PRIVATE SOURCE;

(6) GIVE ANY REQUIRED SECURITY;

(7) INCLUDE IN ANY CONTRACT FOR FINANCIAL ASSISTANCE WITH THE FEDERAL GOVERNMENT ANY REASONABLE AND APPROPRIATE CONDITION IMPOSED UNDER FEDERAL LAW THAT IS NOT INCONSISTENT WITH THE PURPOSES OF THIS SUBTITLE; AND

(8) EXECUTE ANY INSTRUMENT AND ACT AS NECESSARY, CONVENIENT, OR DESIRABLE TO CARRY OUT ITS POWERS AND THE PURPOSES OF THIS SUBTITLE.

(c) RULES.

THE COUNCIL SHALL PUBLISH ITS RULES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20, §§ 2–201, 2–301(a), (c) through (e), (o), and the first sentence of (b), and 2–401, as it related to Council rules.

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.

In subsection (b)(1) of this section, the former references to “hav[ing]” and “alter[ing] ... at pleasure” a common seal are deleted as implicit in the reference to “adopt[ing]” a seal.

In subsection (b)(3) of this section, the former reference to “mak[ing] regulations” is deleted as included in the reference to “adopt[ing] bylaws and rules” and for consistency within this article.

In subsection (b)(5) of this section, the former phrase “[f]or the purposes of this article” is deleted as surplusage.

In subsection (b)(6) of this section, the former reference to “enter[ing] into and carry[ing] out contracts or agreements” is deleted as duplicative of subsection (b)(4) of this section.

In subsection (b)(8) of this section, the phrase “to carry out its powers and the purposes of this subtitle” is substituted for the former phrase “for its purposes or to carry out the powers expressly given in this article” for clarity and consistency within this article.

For the immunity of the Council from suit provided in former Art. 20, § 2–301(b), *see* § 13–610 of this subtitle.

Defined terms: “Council” § 13–601

“State” § 9–101

13–613. RESEARCH AND INFORMATIONAL ACTIVITIES.

THE COUNCIL MAY:

(1) PREPARE STUDIES OF THE REGION’S RESOURCES WITH RESPECT TO EXISTING AND EMERGING PROBLEMS OF INDUSTRY, COMMERCE, TRANSPORTATION, POPULATION, HOUSING, AGRICULTURE, PUBLIC SERVICES, LOCAL GOVERNMENTS, AND ANY OTHER MATTERS RELEVANT TO REGIONAL PLANNING;

(2) (I) COLLECT, PROCESS, AND ANALYZE AT REGULAR INTERVALS THE SOCIAL AND ECONOMIC STATISTICS FOR THE REGION THAT ARE NECESSARY TO PLANNING 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; AND

(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. 20, § 2–301(j), (k), (l), and (n).

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 item (3) 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” § 13–601

“Plan” § 13–601

“Region” § 13–601

“State” § 9–101

13–614. 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) COOPERATE WITH AND PROVIDE PLANNING ASSISTANCE TO LOCAL GOVERNMENTS, INSTRUMENTALITIES, AND PLANNING UNITS IN THE REGION; AND

(2) COORDINATE REGIONAL AREA PLANNING WITH:

(I) PLANNING ACTIVITIES OF THE STATE AND OF THE LOCAL GOVERNMENTAL UNITS, INCLUDING SPECIAL DISTRICTS, IN THE REGION AND 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 property "by judicial action" is added to avoid the implication that the court could dispose of the property on its own initiative without a case before it, in violation of Md. Decl. of Rights, Art. 8. *See* 89 Op. Att'y Gen. 222 (2004).

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that as a legislatively chartered corporation, the Council may only be dissolved by action of the General Assembly. Accordingly, any legislation to dissolve the Council could specify a different disposition of assets than that specified in this section. Also, conditions specified for grants of property other than State and local moneys to the Council, such as federal funds, may require that those assets be dealt with differently than this section appears to require. *See* 89 Op. Att'y Gen. 222 (2004).

Defined terms: "Council" § 13-601
"County" § 9-101

13-616. RESERVED.

13-617. RESERVED.

PART II. GENERAL DEVELOPMENT PLAN.

13-618. PLAN REQUIRED.

THE COUNCIL SHALL PREPARE, ADOPT, AND PERIODICALLY REVISE A GENERAL DEVELOPMENT PLAN FOR THE REGION THAT EMBODIES THE POLICY RECOMMENDATIONS OF THE COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20, § 3-101(a) and (b), as they related to the general requirement to adopt a plan.

Defined terms: "Council" § 13-601
"Region" § 13-601

13-619. OBJECTIVES.

THE OBJECTIVES OF THE PLAN ARE TO:

(1) GUIDE A COORDINATED, ADJUSTED, EFFICIENT, AND ECONOMIC DEVELOPMENT OF THE REGION IN A MANNER THAT WILL BEST PROMOTE THE HEALTH, SAFETY, ORDER, CONVENIENCE, PROSPERITY, AND WELFARE OF THE RESIDENTS OF THE REGION IN ACCORDANCE WITH PRESENT AND FUTURE NEEDS AND RESOURCES;

(2) PROVIDE FOR PATTERNS OF URBANIZATION AND THE USES OF LAND AND RESOURCES FOR TRADE, INDUSTRY, RECREATION, FORESTRY, AGRICULTURE, AND TOURISM;

(3) CREATE CONDITIONS FAVORABLE TO THE DEVELOPMENT OF HUMAN RESOURCES;

(4) IDENTIFY THE PUBLIC INTEREST AND THE NECESSITY FOR PUBLIC ACTION AND INTERGOVERNMENTAL COOPERATION AND COORDINATION IN THE REGION; AND

(5) COORDINATE WITH EFFORTS OF THE PRIVATE SECTOR IN THE REGION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20, § 3-101(a), as it related to the objectives of the plan.

In item (1) of this section, the references to "residents of the region" are substituted for the former references to "citizens" for clarity because the meaning of the term "citizen" in this context is unclear and for consistency with similar provisions in other revised articles of the Code. *See* General Revisor's Note to article.

Defined terms: "Plan" § 13-601

"Region" § 13-601

13-620. REQUIRED CONTENTS.

THE PLAN SHALL INCLUDE:

(1) A STATEMENT OF THE OBJECTIVES, STANDARDS, AND PRINCIPLES SOUGHT TO BE EXPRESSED IN THE PLAN;

(2) RECOMMENDATIONS FOR THE MOST DESIRABLE PATTERN AND INTENSITY OF GENERAL LAND USE IN THE REGION IN THE LIGHT OF THE BEST AVAILABLE INFORMATION CONCERNING NATURAL ENVIRONMENTAL FACTORS, THE PRESENT AND PROSPECTIVE ECONOMIC AND DEMOGRAPHIC BASIS OF THE REGION, AND THE RELATION OF LAND USE IN THE REGION TO LAND USE IN ADJOINING AREAS;

(3) RECOMMENDATIONS FOR THE GENERAL CIRCULATION PATTERN FOR THE REGION INCLUDING LAND, WATER, AND AIR TRANSPORTATION AND COMMUNICATION FACILITIES, USED FOR MOVEMENT WITHIN THE REGION OR TO AND FROM ADJOINING AREAS;

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(4) RECOMMENDATIONS ON THE NEED FOR AND PROPOSED GENERAL LOCATION OF PUBLIC AND PRIVATE WORKS AND FACILITIES THAT, BECAUSE OF THEIR FUNCTION, SIZE, EXTENT, OR FOR ANY OTHER REASON, ARE OF A REGIONAL RATHER THAN A PURELY LOCAL CONCERN;

(5) RECOMMENDATIONS FOR THE LONG-RANGE PROGRAMMING AND FINANCING OF CAPITAL PROJECTS AND FACILITIES;

(6) RECOMMENDATIONS FOR MEETING HOUSING NEEDS OF EXISTING AND PROSPECTIVE IMMIGRANT POPULATION OF THE REGION;

(7) RECOMMENDATIONS FOR THE DEVELOPMENT OF PROGRAMS AND IMPROVEMENTS IN THE REGION FOR HEALTH SERVICES, MANPOWER PLANNING, EMPLOYMENT OPPORTUNITY, EDUCATION, ELIMINATION OF POVERTY, AND LAW ENFORCEMENT; AND

(8) ANY OTHER APPROPRIATE RECOMMENDATIONS ON CURRENT AND IMPENDING PROBLEMS THAT MAY AFFECT THE REGION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20, § 3-101(b), as it related to the minimum required contents of the plan.

Throughout this section, the defined term "region" is substituted for the former defined term "area" for consistency within this section.

Defined terms: "Plan" § 13-601

"Region" § 13-601

13-621. ADOPTION AND MAINTENANCE.

(A) ADOPTION.

(1) THE COUNCIL SHALL HOLD A PUBLIC HEARING BEFORE ADOPTING ALL OR PART OF THE PLAN.

(2) AT LEAST 60 DAYS BEFORE THE PUBLIC HEARING, THE COUNCIL SHALL SUBMIT THE PLAN TO THE DEPARTMENT OF PLANNING AND TO THE LOCAL PLANNING COMMISSIONS AND GOVERNING BODIES OF EACH POLITICAL SUBDIVISION IN THE REGION.

(3) THE COUNCIL SHALL PUBLISH NOTICE OF THE HEARING IN NEWSPAPERS OF GENERAL CIRCULATION IN EACH COUNTY IN THE REGION, AT LEAST ONCE EACH WEEK FOR 3 WEEKS BEFORE THE HEARING.

(B) RECOMMENDATIONS.

ON OR BEFORE THE DATE OF THE HEARING:

(1) THE DEPARTMENT OF PLANNING MAY RECOMMEND TO THE COUNCIL CHANGES NEEDED IN THE PLAN TO CONFORM IT TO STATE PLANS AND POLICIES; AND

(2) EACH LOCAL PLANNING COMMISSION AND GOVERNING BODY OF EACH POLITICAL SUBDIVISION IN THE REGION MAY MAKE RECOMMENDATIONS TO THE COUNCIL ON THE EFFECT OF THE PLAN IN THE POLITICAL SUBDIVISION.

(c) MAINTENANCE.

THE COUNCIL SHALL REEVALUATE THE PLAN FOR THE DEVELOPMENT OF THE REGION AT LEAST EVERY 4 YEARS, AFTER THE ELECTION OF STATE AND LOCAL OFFICIALS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20, §§ 2–301(f) and 3–102(a), (b), (c), and, as it related to a required public hearing, (d).

Subsection (a)(1) of this section is revised to state explicitly that which was only implied by the former law: *i.e.* the Council must hold a public hearing before adopting the plan.

In subsection (a)(2) of this section, the reference to “the Council” submitting a proposed plan to the various governmental units is added for clarity, to specify which entity is responsible for submitting the plan. Similarly, in subsection (a)(3) of this section, the reference to “the Council” publishing notice of a public hearing is added for clarity.

In subsection (a)(3) of this section, the reference to the three counties “in the region” is substituted for the former reference to the three counties “comprising the Council” for clarity.

In subsection (c) of this section, the word “shall” is substituted for the former word “may” to reflect the mandatory nature of the Council’s periodic reevaluation of the plan.

Also in subsection (c) 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

“Plan” § 13–601

“Region” § 13–601

“State” § 9–101

13–622. AMENDMENT.

THE COUNCIL MAY AMEND THE PLAN IN THE SAME MANNER THAT IT ADOPTS THE ORIGINAL PLAN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20, § 3–102(e).

The reference to “[t]he Council” amending the plan is added for clarity.

Defined terms: “Council” § 13–601

“Plan” § 13–601

13-623. CONFORMITY.

AFTER THE COUNCIL ADOPTS THE PLAN, THE COUNCIL MAY NOT ESTABLISH A POLICY OR TAKE AN ACTION THAT DOES NOT CONFORM TO THE PLAN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20, § 3-102(d), as it related to the prohibition against nonconforming action.

Defined terms: "Council" § 13-601
"Plan" § 13-601

13-624. PROJECT AND PLAN REFERRALS.

(A) REVIEW AUTHORITY.

THE COUNCIL MAY REVIEW:

(1) ANY APPLICATION THAT A POLITICAL SUBDIVISION IN THE REGION MAKES TO A UNIT OF THE STATE OR FEDERAL GOVERNMENT FOR A LOAN OR GRANT FOR A PROJECT; AND

(2) A LOCAL PLAN, PROPOSAL FOR A PROJECT, OR ORDINANCE THAT MAY HAVE AN IMPACT OUTSIDE THE BOUNDARY OF THE POLITICAL SUBDIVISION OR IN THE REGION.

(B) REQUIRED REFERRAL.

BEFORE APPLYING TO A UNIT OF THE STATE OR FEDERAL GOVERNMENT FOR A LOAN OR GRANT FOR A PROJECT, A POLITICAL SUBDIVISION IN THE REGION SHALL SUBMIT THE APPLICATION TO THE COUNCIL FOR ITS REVIEW.

(C) FINDINGS AND DETERMINATIONS.

THE COUNCIL SHALL FORWARD ITS FINDINGS AND DETERMINATIONS TO THE REFERRING POLITICAL SUBDIVISION AND TO THE APPROPRIATE STATE OR FEDERAL UNIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20, §§ 2-301(g) and (h) and 3-103(a) and (b).

Throughout this section, the references to a "unit" of the State or federal government are substituted for the former references to "agencies" for consistency within this article. *See* General Revisor's Note to article.

In subsections (a) and (b) of this section, the references to a "grant" are substituted for the former references to "grants-in-aid" for clarity and brevity.

In the introductory language of subsection (a) of this section, the former phrase "[w]ithout limiting or restricting the general powers conferred by this article" is deleted as surplusage.

In subsection (c) of this section, the reference to the "referring" political subdivision is substituted for the former reference to the subdivision

“responsible for that referral” for brevity.

Defined terms: “Council” § 13–601

“Region” § 13–601

“State” § 9–101

13–625. LIMITATIONS.

IF THE COUNCIL HAS ADOPTED A PLAN FOR THE REGION:

(1) A GOVERNMENTAL UNIT IN THE REGION MAY NOT ADOPT A PLAN, OR AMENDMENT TO A PLAN, HAVING A REGIONAL IMPACT UNTIL THE PLAN IS REFERRED TO THE COUNCIL FOR ITS CONSIDERATION, REVIEW, AND RECOMMENDATIONS; AND

(2) A ROAD, PARK, PUBLIC WAY, PUBLIC BUILDING, OR OTHER DEVELOPMENT THAT IS REGIONAL IN NATURE OR AFFECTS AN AREA GREATER THAN A SINGLE UNIT OF GOVERNMENT MAY NOT BE CONSTRUCTED OR AUTHORIZED IN THE REGION UNTIL THE PROPOSED LOCATION AND ITS EXTENT ARE REFERRED TO THE COUNCIL FOR CONSIDERATION, REVIEW, AND RECOMMENDATIONS.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 20, § 3–103(c).

In the introductory language of this section, the former phrase “there shall be the following restrictions” is deleted as implicit.

Defined terms: “Council” § 13–601

“Plan” § 13–601

“Region” § 13–601

13–626. RESERVED.

13–627. RESERVED.

PART III. CONSUMER AFFAIRS.

13–628. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

(B) AGREEMENT.

“AGREEMENT” MEANS A WRITTEN SETTLEMENT AGREEMENT OR ASSURANCE OF DISCONTINUANCE.

REVISOR’S NOTE: This subsection is new language added to provide a uniform term that includes the former references to a “written assurance of discontinuance or settlement agreement”, “written assurance or agreement of discontinuance or settlement agreement”, and similar phrases.

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(C) BOARD.

“BOARD” MEANS THE ADVISORY BOARD ON CONSUMER AFFAIRS.

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the full title of the Advisory Board on Consumer Affairs.

(D) CONSUMER.

“CONSUMER” MEANS A PURCHASER, LESSEE, OR RECIPIENT OR A PROSPECTIVE PURCHASER, LESSEE, OR RECIPIENT OF CONSUMER GOODS OR SERVICES OR CONSUMER CREDIT.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 20, § 1–102(d).

The term “consumer” defined in this subsection formerly applied throughout former Article 20, which corresponds to this entire subtitle. However, the term was used only in material revised in this part.

13–629. SCOPE OF PART.

THIS PART APPLIES TO A GOOD, SERVICE, DEBT, OR OBLIGATION OF A CONSUMER, OR AN EXTENSION OF CREDIT TO A CONSUMER, THAT IS PRIMARILY FOR A PERSONAL, HOUSEHOLD, FAMILY, OR AGRICULTURAL PURPOSE.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 20, § 1–102(e).

It is revised as a scope provision rather than as a definition for clarity, and because the former defined term “[c]onsumer goods, services, credit and debts” was not specifically used in the former law.

Defined term: “Consumer” § 13–628

13–630. IMPLEMENTING RESOLUTION REQUIRED.

BEFORE THIS PART MAY BE IMPLEMENTED, THE COUNCIL SHALL ADOPT A RESOLUTION SPECIFICALLY DIRECTING THE IMPLEMENTATION.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 20, § 4–108.

The reference to this “part” is substituted for the former reference to this “title” to reflect the reorganization of former Art. 20, Title 4 in this part.

The former reference to implementation of this part “in any manner” is deleted as surplusage.

The Economic Development Article Revised Committee notes, for the consideration of the General Assembly, that this part has never been implemented. The General Assembly may wish to consider whether this part should be repealed as obsolete.

Defined term: “Council” § 13–601

13-631. ADVISORY BOARD ON CONSUMER AFFAIRS.

(A) ESTABLISHED.

THERE IS AN ADVISORY BOARD ON CONSUMER AFFAIRS UNDER THE COUNCIL.

(B) MEMBERSHIP.

THE BOARD CONSISTS OF THREE MEMBERS APPOINTED BY THE EXECUTIVE DIRECTOR AND CHOSEN FROM THE STAFF MEMBERS OF THE COUNCIL.

(C) TENURE.

A MEMBER OF THE BOARD SERVES AT THE PLEASURE OF THE EXECUTIVE DIRECTOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20, § 4-102, the first and second sentences of § 4-103, and § 4-101, as it related to the establishment of the Board.

Defined terms: "Board" § 13-628

"Council" § 13-601

"Executive Director" § 13-601

13-632. DIRECTOR.

THE EXECUTIVE DIRECTOR IS THE DIRECTOR OF THE BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from the third sentence of former Art. 20, § 4-103.

Defined terms: "Board" § 13-628

"Council" § 13-601

"Executive Director" § 13-601

13-633. MEETINGS; COMPENSATION.

(A) MEETINGS.

THE BOARD SHALL MEET AT LEAST ONCE A MONTH, AT THE TIMES AND PLACES THAT IT DETERMINES.

(B) COMPENSATION.

A MEMBER OF THE BOARD IS NOT ENTITLED TO COMPENSATION AS A MEMBER OF THE BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20, § 4-104 and the fourth sentence of § 4-103.

In subsection (a) of this section, the reference to the Board meeting "at the times and places that it determines" is added for clarity.

Also in subsection (a) of this section, the former reference to the Board

meeting “as frequently as required to perform its duties” is deleted as surplusage.

Defined term: “Board” § 13–628

13–634. PURPOSE, POWERS, AND DUTIES.

(A) PURPOSE.

THE PURPOSE OF THE BOARD IS TO PROMOTE AND PROTECT THE INTERESTS OF CONSUMERS IN THE REGION.

(B) POWERS AND DUTIES.

THE BOARD MAY:

(1) REPRESENT THE INTEREST OF CONSUMERS BEFORE ADMINISTRATIVE, REGULATORY, AND LEGISLATIVE UNITS;

(2) ASSIST, ADVISE, AND COOPERATE WITH THE BETTER BUSINESS BUREAUS OF THE REGION AND LOCAL, STATE, AND FEDERAL UNITS TO PROTECT AND PROMOTE THE INTEREST OF CONSUMERS;

(3) ASSIST, DEVELOP, AND CONDUCT PROGRAMS OF CONSUMER EDUCATION AND INFORMATION THROUGH PUBLIC HEARINGS, MEETINGS, PUBLICATIONS, OR OTHER MATERIALS PREPARED FOR DISTRIBUTION TO CONSUMERS IN THE REGION;

(4) ENCOURAGE LOCAL BUSINESS AND INDUSTRY TO MAINTAIN HIGH STANDARDS OF HONESTY, FAIR BUSINESS PRACTICES, AND PUBLIC RESPONSIBILITY IN THE PRODUCTION, PROMOTION, AND SALE OF CONSUMER GOODS AND SERVICES AND IN THE EXTENSION OF CREDIT; AND

(5) EXERCISE AND PERFORM ANY OTHER FUNCTIONS AND DUTIES CONSISTENT WITH THIS PART THAT ARE NECESSARY OR APPROPRIATE TO PROTECT AND PROMOTE THE WELFARE OF CONSUMERS IN THE REGION.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 20, § 4–105(c) through (g) and, as it related to the purpose of the Board, § 4–101.

In subsection (b)(3) of this section, the reference to “consumers in the region” is substituted for the former reference to the “consumer public of the area” for consistency within this subtitle.

In subsection (b)(4) of this section, the former reference to “undertak[ing] activities” to encourage businesses is deleted as surplusage.

In subsection (b)(5) of this section, the reference to consumers “in the region” is substituted for the former reference to “county” consumers for clarity and consistency within this subtitle.

Defined terms: "Board" § 13-628

"Consumer" § 13-628

"Region" § 13-601

"State" § 9-101

13-635. CONSUMER COMPLAINT.

(A) IN GENERAL.

A CONSUMER WHO IS SUBJECTED TO AN UNLAWFUL, UNFAIR, OR DECEPTIVE TRADE PRACTICE MAY FILE A WRITTEN COMPLAINT WITH THE BOARD.

(B) CONTENTS.

THE COMPLAINT SHALL CONTAIN:

(1) THE NAME AND ADDRESS OF THE PERSON ALLEGED TO HAVE COMMITTED THE PARTICULAR TRADE PRACTICE; AND

(2) THE OTHER INFORMATION THAT THE BOARD REQUIRES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20, § 4-106.

Defined terms: "Board" § 13-628

"Consumer" § 13-628

"Person" § 9-101

13-636. INVESTIGATION.

(A) AUTHORITY.

THE BOARD MAY INVESTIGATE DECEPTIVE OR UNFAIR TRADE PRACTICES:

(1) BASED ON A CONSUMER COMPLAINT; OR

(2) ON ITS OWN INITIATIVE.

(B) COMPLAINT.

THE BOARD SHALL INVESTIGATE EACH COMPLAINT TO ASCERTAIN FACTS AND ISSUES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20, § 4-105(a) and the first sentence of § 4-107(a).

Defined terms: "Board" § 13-628

"Consumer" § 13-628

13-637. CONCILIATION; CIVIL PENALTY.

(A) CONFERENCE.

(1) IF THE BOARD DETERMINES THERE ARE REASONABLE GROUNDS TO BELIEVE AN UNLAWFUL, UNFAIR, OR DECEPTIVE TRADE PRACTICE HAS OCCURRED, THE

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BOARD SHALL ATTEMPT TO CONCILIATE THE MATTER BY INITIAL CONFERENCE AND PERSUASION WITH ALL INTERESTED PARTIES AND ANY REPRESENTATIVES OF THE PARTIES.

(2) A CONCILIATION CONFERENCE IS INFORMAL AND IS NOT PUBLIC.

(B) WRITTEN AGREEMENT.

(1) THE TERMS OF CONCILIATION AGREED TO BY THE PARTIES MAY BE REDUCED TO WRITING AND INCORPORATED INTO AN AGREEMENT TO BE SIGNED BY THE PARTIES.

(2) THE AGREEMENT IS FOR CONCILIATION PURPOSES ONLY AND DOES NOT CONSTITUTE AN ADMISSION BY A PARTY THAT THE LAW HAS BEEN VIOLATED.

(3) THE DIRECTOR OF THE BOARD SHALL SIGN AN AGREEMENT ON BEHALF OF THE BOARD.

(C) VIOLATION.

A PERSON MAY NOT VIOLATE OR FAIL TO ADHERE TO A PROVISION CONTAINED IN AN AGREEMENT.

(D) CIVIL PENALTY.

(1) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL PENALTY PAYABLE TO THE APPROPRIATE COUNTY IN AN AMOUNT NOT EXCEEDING \$500 FOR EACH VIOLATION.

(2) THE COUNTY MAY RECOVER THE CIVIL PENALTY IN A CIVIL ACTION.

(E) FAILURE TO ENFORCE WAIVER.

THE BOARD DOES NOT WAIVE ANY RIGHT OF THE BOARD OR PROVISION OF AN AGREEMENT IF THE BOARD FAILS TO ENFORCE A VIOLATION OF A PROVISION OF THE AGREEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20, § 4-107(b) and (c).

In subsection (b)(3) of this section, the former reference to the "executive" director of the Board is deleted to avoid confusion between the office of director of the Board and the office of the Executive Director of the Council, although they are carried out by the same individual under § 13-631 of this subtitle, which provides that the Executive Director of the Council is the director of the Board.

In subsection (d) of this section, the reference to a violation of this "section" is retained, although this section revises only a portion of former Art. 20, § 4-107. Subsection (c) of this section contains the only prohibited act derived from former § 4-107. Thus only a violation of this section exposes the violator to a civil penalty under subsection (d) of this section. No substantive change is intended.

Defined terms: “Agreement” § 13–628

“Board” § 13–628

“County” § 9–101

“Person” § 9–101

13–638. REFERRAL TO OTHER UNITS.

(A) AUTHORITY.

AS APPROPRIATE, THE BOARD MAY REPORT INFORMATION CONCERNING VIOLATION OF A CONSUMER PROTECTION LAW TO:

(1) THE CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL;

(2) THE FEDERAL TRADE COMMISSION; OR

(3) ANY OTHER UNIT THAT HAS JURISDICTION OVER CONSUMER PROTECTION.

(B) COUNTY ATTORNEY.

THE BOARD SHALL FORWARD A COMPLAINT TO THE APPROPRIATE COUNTY ATTORNEY FOR APPROPRIATE LEGAL ACTION IF THE BOARD:

(1) FAILS TO CONCILIATE THE COMPLAINT AFTER THE PARTIES HAVE ATTEMPTED A CONCILIATION IN GOOD FAITH;

(2) FAILS TO ACHIEVE AN AGREEMENT; OR

(3) DETERMINES THAT THE COMPLAINT IS NOT SUITABLE FOR CONCILIATION.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 20, §§ 4–105(b), 4–107(d), and the second sentence of § 4–107(a).

In subsection (a)(3) of this section, the reference to an appropriate “unit” is substituted for the former reference to appropriate “governmental agencies” for consistency within this article. *See* General Revisor’s Note to article.

In subsection (b)(3) of this section, the phrase “suitable for conciliation” is substituted for the former phrase “susceptible of conciliation” for clarity.

Defined terms: “Agreement” § 13–628

“Board” § 13–628

“County” § 9–101

13–639. REMEDY NOT EXCLUSIVE.

THIS PART DOES NOT PREVENT A PERSON FROM:

(1) EXERCISING A RIGHT OR SEEKING A REMEDY TO WHICH THE PERSON MIGHT BE ENTITLED; OR

(2) FILING A COMPLAINT WITH ANOTHER UNIT OR A COURT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20, § 4-107(e).

The reference to this "part" is substituted for the former reference to this "title" to reflect the reorganization of material derived from former Art. 20, Title 4 in this part.

In item (2) of this section, the former obsolete reference to a court "of law or equity" is deleted in light of the merger of law and equity effected by Md. Rule 2-301, which mandates "one form of action known as the 'civil action'".

Defined term: "Person" § 9-101

13-640. ANNUAL REPORT.

THE BOARD SHALL REPORT EACH YEAR TO THE COUNCIL ON THE NUMBER OF COMPLAINTS FILED, THE NATURE AND DISPOSITION OF THE COMPLAINTS, AND OTHER RELEVANT ACTIVITIES OF THE BOARD DURING THE PREVIOUS YEAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20, § 4-105(h).

Defined terms: "Board" § 13-628

"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).

Defined terms: “Council” § 13–701

“Region” § 13–701

(f) REGION.

“REGION” MEANS ALLEGANY, GARRETT, AND WASHINGTON COUNTIES.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 20A, §§ 1–101(c), 1–102(f), and 4–101(c).

REVISOR’S NOTE TO SECTION: Former Art. 20A, § 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 20A with no clear distinction between the “region” as a whole and the planning “area”.

13–702. ESTABLISHED.

(A) IN GENERAL.

THERE IS A TRI–COUNTY COUNCIL FOR WESTERN MARYLAND.

(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.

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(1) THE COUNCIL IS A COOPERATIVE REGIONAL PLANNING AND DEVELOPMENT UNIT FOR THE REGION.

(2) THE PURPOSES OF THE COUNCIL ARE TO:

(I) FOSTER THE PHYSICAL, ECONOMIC, AND SOCIAL DEVELOPMENT OF THE REGION; AND

(II) USE EFFECTIVELY THE ASSISTANCE PROVIDED TO THE REGION BY THE STATE.

(3) THE COUNCIL INITIATES AND COORDINATES PLANS AND PROJECTS FOR THE DEVELOPMENT OF HUMAN AND ECONOMIC RESOURCES OF THE REGION AS A WESTERN MARYLAND PLANNING AND DEVELOPMENT UNIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20A, §§ 1-106, 1-101(a) and (b), and 1-103(a).

In subsection (b)(1) of this section, the former word "public" is deleted as implicit in the reference to a "body politic and corporate".

In subsection (c)(1) and (2) of this section, the defined term "region" is substituted for the former references to an "area" for clarity and consistency.

In subsection (c)(1) and (3) of this section, the term "unit" is substituted for the former term "agency" for consistency within this article. *See* General Revisor's Note to article.

Defined terms: "Council" § 13-701

"Region" § 13-701

"State" § 9-101

13-703. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT.

THE COUNCIL CONSISTS OF THE FOLLOWING 23 MEMBERS:

(1) FROM ALLEGANY, GARRETT, AND WASHINGTON COUNTIES:

(I) NINE REPRESENTATIVES OF THE COUNTY GOVERNMENTS, THREE FROM EACH COUNTY, APPOINTED BY THEIR RESPECTIVE COMMISSIONERS; AND

(II) THREE MUNICIPAL ELECTED OFFICIALS, ONE FROM EACH COUNTY, APPOINTED BY THEIR RESPECTIVE COMMISSIONERS;

(2) FROM THE MEMBERS OF THE HOUSE OF DELEGATES, THE CHAIR, OR THE DESIGNEE OF THE CHAIR, OF THE ALLEGANY COUNTY DELEGATION, THE GARRETT COUNTY DELEGATION, AND THE WASHINGTON COUNTY DELEGATION, EACH OF WHOM SHALL RESIDE, RESPECTIVELY, IN ALLEGANY COUNTY, GARRETT COUNTY, AND WASHINGTON COUNTY;

(3) THE TWO MEMBERS OF THE SENATE OF MARYLAND REPRESENTING THE REGION AND RESIDING IN ALLEGANY COUNTY, GARRETT COUNTY, OR WASHINGTON COUNTY; AND

(4) SIX PRIVATE CITIZENS, TWO EACH FROM ALLEGANY COUNTY, GARRETT COUNTY, AND WASHINGTON COUNTY, RESPECTIVELY, THAT ARE:

(I) APPOINTED BY THEIR RESPECTIVE COMMISSIONERS;

(II) NOT LISTED UNDER PARAGRAPHS (1), (2), AND (3) OF THIS SUBSECTION; AND

(III) NEITHER ELECTED OFFICIALS NOR EMPLOYEES OF A UNIT OF LOCAL GOVERNMENT.

(B) TENURE; VACANCIES.

(1) A MEMBER WHO QUALIFIES BECAUSE OF THE MEMBER'S ELECTED OR APPOINTED POSITION IS A MEMBER OF THE COUNCIL ONLY DURING THE MEMBER'S TERM OF OFFICE IN THE ELECTED OR APPOINTED POSITION.

(2) A MEMBER APPOINTED UNDER SUBSECTION (A)(4) OF THIS SECTION:

(I) SERVES AT THE PLEASURE OF THE COMMISSIONERS WHO APPOINTED THE MEMBER; AND

(II) HAS THE SAME TERM AS THE COMMISSIONERS WHO APPOINTED THE MEMBER.

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

(4) EXCEPT FOR AN EX OFFICIO MEMBER, A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20A, §§ 2-102, 2-103, and 2-101(b), (c), and (d).

In subsection (b)(2) of this section, the reference to a "member appointed under subsection (a)(4) of this section" is substituted for the former reference to "members-at-large" for clarity.

Defined terms: "Commissioners" § 13-701

"Council" § 13-701

"County" § 9-101

13-704. CHAIR.

THE COUNCIL SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20A, § 2-203(a), as it related to the selection of a chair.

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The reference to a “chair” is substituted for the former reference to a “chairman” because SG § 2–1238 requires the use of terms that are neutral as to gender to the extent practicable.

Defined term: “Council” § 13–701

13–705. COMMITTEES.

(A) IN GENERAL.

THE COUNCIL SHALL ESTABLISH COMMITTEES TO CONDUCT ITS WORK.

(B) MEMBERSHIP.

THE MEMBERSHIP OF A COMMITTEE MAY INCLUDE INDIVIDUALS WHO ARE NOT COUNCIL MEMBERS OR ELECTED OFFICIALS.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 20A, §§ 2–203(b) and, as it related to the establishment of committees, (a).

Defined term: “Council” § 13–701

13–706. COMPENSATION.

A MEMBER OF THE COUNCIL IS NOT ENTITLED TO COMPENSATION AS A MEMBER OF THE COUNCIL.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 20A, § 2–104.

Defined term: “Council” § 13–701

13–707. EXECUTIVE DIRECTOR.

(A) POSITION AND APPOINTMENT.

(1) THE COUNCIL SHALL APPOINT AN EXECUTIVE DIRECTOR QUALIFIED BY TRAINING AND EXPERIENCE.

(2) THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE AND PLANNING OFFICER AND REGULAR TECHNICAL ADVISOR OF THE COUNCIL.

(B) TENURE.

THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE COUNCIL.

(C) RESPONSIBILITIES.

(1) THE COUNCIL SHALL ESTABLISH THE POWERS AND DUTIES OF THE EXECUTIVE DIRECTOR.

(2) THE EXECUTIVE DIRECTOR APPOINTS AND REMOVES THE STAFF OF THE COUNCIL.

(D) COMPENSATION.

THE EXECUTIVE DIRECTOR IS ENTITLED TO THE COMPENSATION THAT THE COUNCIL SETS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20A, § 2-204(a)(1) and, as they related to the executive director, (2) and § 2-202(11).

Throughout this section, the defined term "Executive Director" is substituted for the former obsolete references to a "director".

In subsections (a), (c), and (d) 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" § 13-701
"Executive Director" § 13-701

13-708. LEGAL ADVISOR.

WITH THE CONSENT OF THE ATTORNEY GENERAL, THE COUNCIL MAY:

- (1) SELECT AND RETAIN ITS OWN COUNSEL; OR
- (2) USE THE ATTORNEY GENERAL AS ITS LEGAL COUNSEL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20A, § 1-105.

The phrase "[w]ith the consent of the Attorney General," is added to reflect the general requirement of the Attorney General to provide representation to State units. *See* Md. Constitution, Art. V, § 3. However, the General Assembly may designate other representation for a State unit with a distinctly local orientation. *See* 67 Op. Att'y Gen. 3 (1982).

Defined term: "Council" § 13-701

13-709. STAFF.

(A) IN GENERAL.

THE COUNCIL MAY EMPLOY A STAFF AND RETAIN PROFESSIONAL CONSULTANTS.

(B) POWERS AND DUTIES.

THE COUNCIL SHALL:

- (1) DETERMINE THE POWERS AND DUTIES OF THE STAFF; AND
- (2) SET THE COMPENSATION OF THE STAFF.

(C) CONSULTANTS.

THE EXECUTIVE DIRECTOR MAY CONTRACT FOR PROFESSIONAL OR CONSULTANT SERVICES.

(D) COOPERATIVE AGREEMENTS.

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THE EXECUTIVE DIRECTOR MAY MAKE AGREEMENTS WITH LOCAL PLANNING OR ECONOMIC DEVELOPMENT UNITS IN THE REGION FOR TEMPORARY TRANSFER OR JOINT USE OF STAFF.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20A, §§ 2-204(b) and, as it related to staff, 2-202(11).

In subsections (a) and (b) of this section, the former phrase “[w]ithout limiting or restricting the general powers conferred by this article” is deleted as surplusage.

In subsection (d) of this section, the defined term “region” is substituted for the former phrase “jurisdiction of the Council” for clarity.

Also in subsection (d) of this section, the former reference to agreements “with the concurrence of the appropriate public officials” is deleted as implicit in the nature of an agreement made by a unit of local government. The local unit is accountable to its jurisdiction.

Defined terms: “Council” § 13-701
“Executive Director” § 13-701
“Region” § 13-701

13-710. IMMUNITY.

THE COUNCIL HAS THE IMMUNITY FROM SUIT PROVIDED IN § 5-506 OF THE COURTS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20A, § 2-202(2), as it related to providing immunity.

Defined term: “Council” § 13-701

13-711. FINANCIAL SUPPORT.

(A) STATE SUPPORT.

(1) EACH YEAR THE STATE SHALL APPROPRIATE MONEY TO THE COUNCIL IN THE STATE BUDGET.

(2) THE STATE ALLOCATION IS CONTINGENT ON THE COMMITMENT OF THE PARTICIPATING COUNTIES TO CONTRIBUTE MATCHING AMOUNTS EQUAL TO THE AMOUNT DISBURSED BY THE STATE.

(3) (I) ON OR BEFORE AUGUST 1 OF EACH YEAR, THE COUNCIL SHALL SUBMIT ITS PROPOSED WORK PROGRAMS AND OPERATING BUDGET FOR THE FOLLOWING FISCAL YEAR TO THE DEPARTMENT.

(II) THE SUBMISSION SHALL INCLUDE SUPPORTING SCHEDULES TO SHOW THAT THE BUDGET IS FINANCED AND TO PROVIDE FOR REVIEW AND RECOMMENDATIONS.

(III) AFTER REVIEW, THE DEPARTMENT SHALL FORWARD THE SUBMISSION AND ANY RECOMMENDATIONS TO THE DEPARTMENT OF BUDGET AND MANAGEMENT FOR CONSIDERATION.

(4) THE DEPARTMENT SHALL:

(I) REVIEW, APPROVE, AND CONFIRM THE COUNTIES' COMMITMENTS;
AND

(II) INCLUDE WITH ITS BUDGET REQUEST THE BUDGET REQUEST FOR THE COUNCIL.

(5) THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET FOR THE FOLLOWING FISCAL YEAR AN APPROPRIATION TO PARTIALLY SUPPORT THE COUNCIL.

(B) LOCAL SUPPORT.

(1) THE STATE AND ALLEGANY, GARRETT, AND WASHINGTON COUNTIES MAY JOINTLY FINANCE THE COUNCIL AND ITS ACTIVITIES.

(2) THE COMMISSIONERS OF ALLEGANY, GARRETT, AND WASHINGTON COUNTIES SHALL APPROPRIATE MONEY EACH YEAR TO THE COUNCIL TO FOSTER COOPERATIVE PLANNING AND DEVELOPMENT IN THE REGION.

(3) ALLEGANY, GARRETT, AND WASHINGTON COUNTIES MAY APPROPRIATE ANY OTHER MONEY FOR THE COUNCIL AS THEY CONSIDER NECESSARY AND APPROPRIATE.

(4) OTHER POLITICAL SUBDIVISIONS, INCLUDING SPECIAL DISTRICTS, MAY APPROPRIATE MONEY TO THE COUNCIL AS THEY CONSIDER NECESSARY AND APPROPRIATE.

(C) OTHER MONEY.

THE COUNCIL MAY USE ADDITIONAL MONEY FROM ANY OTHER PUBLIC OR PRIVATE SOURCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20A, § 2-205.

In subsection (a)(5) of this section, the reference to "[t]he Governor ... includ[ing] an appropriation to partially support the Council" is substituted for the former reference to "the State's contribution under this section" for accuracy and consistency with the constitutional State budget process.

Also in subsection (a)(5) of this section, the former reference to "annual review by the General Assembly" is deleted as an unnecessary restatement of the ability of the legislature to reduce an appropriation for which a specified amount is not set by statute. *See* Md. Constitution, Art. III, § 52.

In subsection (b)(3) and (4) of this section, the references to appropriating funds that "they consider" necessary and appropriate are substituted for

the former reference to appropriating money “as is” necessary and appropriate for accuracy.

Defined terms: “Commissioners” § 13–701

“Council” § 13–701

“County” § 9–101

“Department” § 9–101

“Region” § 13–701

“State” § 9–101

13–712. JURISDICTION, ASSOCIATION, POWERS, AND DUTIES.

(A) JURISDICTION; ASSOCIATION.

(1) THE COUNCIL MAY OPERATE IN THE REGION.

(2) ASSOCIATION WITH THE COUNCIL IS OPEN TO ALL COUNTIES, MUNICIPAL CORPORATIONS, AND SPECIAL DISTRICTS IN THE REGION.

(B) POWERS AND DUTIES.

THE COUNCIL MAY:

(1) ADOPT A SEAL;

(2) SUE;

(3) ADOPT BYLAWS AND RULES FOR THE CONDUCT OF ITS BUSINESS;

(4) ENTER INTO CONTRACTS OR AGREEMENTS;

(5) BORROW MONEY AND ACCEPT ADVANCES, LOANS, GRANTS, CONTRIBUTIONS, AND ANY OTHER FORM OF ASSISTANCE FROM THE FEDERAL GOVERNMENT, THE STATE, OR OTHER PUBLIC OR PRIVATE SOURCE;

(6) GIVE ANY REQUIRED SECURITY;

(7) INCLUDE IN ANY CONTRACT FOR FINANCIAL ASSISTANCE WITH THE FEDERAL GOVERNMENT ANY REASONABLE AND APPROPRIATE CONDITION IMPOSED UNDER FEDERAL LAWS THAT IS NOT INCONSISTENT WITH THE PURPOSES OF THIS SUBTITLE;

(8) EXECUTE ANY INSTRUMENT AND ACT AS NECESSARY, CONVENIENT, OR DESIRABLE TO CARRY OUT ITS POWERS AND THE PURPOSES OF THIS SUBTITLE; AND

(9) MONITOR, COORDINATE, AND FACILITATE THE ACTIVITIES AND POLICIES OF ANY ADDITIONAL PROGRAMS SERVING THE REGION, EXCEPT THOSE SUBJECT TO STATE OR FEDERAL DESIGNATION.

(C) BYLAWS AND RULES.

THE COUNCIL SHALL:

(1) ADOPT BYLAWS GOVERNING THE PROCEDURES AND POLICIES OF ITS MEMBERSHIP; AND

(2) PUBLISH ITS RULES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20A, § 2–201, § 2–202(1), (3) through (7), (14), (18), and, as it allowed the Council to sue, (2), the first sentence of § 2–101(a), and § 2–203(a), as it related to Council rules.

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.

In subsection (b)(1) of this section, the former references to “hav[ing]” and “alter[ing] ... at pleasure” a common seal are deleted as implicit in the reference to “adopt[ing]” a seal.

In subsection (b)(3) of this section, the former reference to “mak[ing] rules” is deleted as included in the reference to “adopt[ing] bylaws and rules” and for consistency within this article.

For the immunity of the Council from suit provided in former Art. 20A, § 2–202(2), *see* § 13–710 of this subtitle.

Defined terms: “Council” § 13–701

“County” § 9–101

“Region” § 13–701

“State” § 9–101

13–713. RESEARCH AND INFORMATIONAL ACTIVITIES.

THE COUNCIL MAY:

(1) PREPARE STUDIES OF THE REGION'S RESOURCES WITH RESPECT TO EXISTING AND EMERGING PROBLEMS OF INDUSTRY, COMMERCE, TRANSPORTATION, POPULATION, HOUSING, AGRICULTURE, PUBLIC SERVICES, LOCAL GOVERNMENTS, AND ANY OTHER MATTER RELEVANT TO REGIONAL PLANNING;

(2) (i) COLLECT, PROCESS, AND ANALYZE AT REGULAR INTERVALS THE SOCIAL AND ECONOMIC STATISTICS FOR THE REGION THAT ARE NECESSARY TO PLANNING 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:

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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) COOPERATE WITH AND PROVIDE PLANNING ASSISTANCE TO LOCAL GOVERNMENTS, INSTRUMENTALITIES, AND PLANNING UNITS IN THE REGION; AND

(2) COORDINATE REGIONAL AREA PLANNING WITH:

(I) PLANNING ACTIVITIES OF THE STATE AND OF THE LOCAL GOVERNMENTAL UNITS, INCLUDING SPECIAL DISTRICTS, IN THE REGION AND NEIGHBORING AREAS; AND

(II) PROGRAMS OF THE FEDERAL GOVERNMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20A, §§ 1–104 and 2–202(16).

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” § 13–701

“County” § 9–101

“Plan” § 13–701

“Region” § 13–701

“State” § 9–101

13–715. 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. 20A, § 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 property “by judicial action” is added to avoid the implication that the court could dispose of the property on its own initiative without a case before it, in violation of Md. Decl. of Rights, Art. 8. *See* 89 Op. Att’y Gen. 222 (2004).

The Economic Development Article Review Committee notes, for the

consideration of the General Assembly, that as a legislatively chartered corporation, the Council may only be dissolved by action of the General Assembly. Accordingly, any legislation to dissolve the Council could specify a different disposition of assets than that specified in this section. Also, conditions specified for grants of property other than State and local moneys to the Council, such as federal funds, may require that those assets be dealt with differently than this section appears to require. *See* 89 Op. Att’y Gen. 222 (2004).

Defined terms: “Council” § 13–701
“County” § 9–101

13–716. RESERVED.

13–717. RESERVED.

PART II. GENERAL DEVELOPMENT PLAN.

13–718. PLAN REQUIRED.

THE COUNCIL SHALL PREPARE, ADOPT, AND PERIODICALLY REVISE A GENERAL DEVELOPMENT PLAN FOR THE REGION THAT EMBODIES THE POLICY RECOMMENDATIONS OF THE COUNCIL.

REVISOR’S NOTE: This section is new language derived without substantive change from the introductory clauses of former Art. 20A, § 3–101(a) and (b), as they related to the general requirement to adopt a plan.

Defined terms: “Council” § 13–701
“Plan” § 13–701

13–719. OBJECTIVES.

THE OBJECTIVES OF THE PLAN ARE TO:

(1) GUIDE A COORDINATED, ADJUSTED, EFFICIENT, AND ECONOMIC DEVELOPMENT OF THE REGION IN A MANNER THAT WILL BEST PROMOTE THE HEALTH, SAFETY, ORDER, CONVENIENCE, PROSPERITY, AND WELFARE OF THE RESIDENTS OF THE REGION IN ACCORDANCE WITH PRESENT AND FUTURE NEEDS AND RESOURCES;

(2) PROVIDE FOR PATTERNS OF URBANIZATION AND THE USES OF LAND AND RESOURCES FOR TRADE, INDUSTRY, RECREATION, FORESTRY, AGRICULTURE, AND TOURISM;

(3) CREATE CONDITIONS FAVORABLE TO THE DEVELOPMENT OF HUMAN RESOURCES;

(4) IDENTIFY THE PUBLIC INTEREST AND THE NECESSITY FOR PUBLIC ACTION AND INTERGOVERNMENTAL COOPERATION AND COORDINATION IN THE REGION;

(5) COORDINATE WITH THE EFFORTS OF THE PRIVATE SECTOR IN THE REGION;

(6) RECOGNIZE ANY STATE COMPREHENSIVE PLANNING AND DEVELOPMENT ACTIVITIES;

(7) REFLECT THE PLANS AND PROGRAMS OF THE PARTICIPATING GOVERNMENTAL UNITS; AND

(8) TAKE INTO ACCOUNT ECONOMIC AND DEMOGRAPHIC FACTORS, CONDITIONS, AND TRENDS THAT ARE RELEVANT TO THE FUTURE DEVELOPMENT OF THE REGION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20A, § 3-101(a)(1) through (5).

In item (1) of this section, the references to "residents of the region" are substituted for the former references to "citizens" for clarity because the meaning of the term "citizens" in this context is unclear and for consistency with similar provisions in other revised articles of the Code. *See* General Revisor's Note to article.

Defined terms: "Plan" § 13-701

"Region" § 13-701

"State" § 9-101

13-720. REQUIRED CONTENTS.

THE PLAN SHALL INCLUDE:

(1) A STATEMENT OF THE OBJECTIVES, STANDARDS, AND PRINCIPLES SOUGHT TO BE EXPRESSED IN THE PLAN;

(2) RECOMMENDATIONS FOR THE GENERAL CIRCULATION PATTERN FOR THE REGION INCLUDING LAND, WATER, AND AIR TRANSPORTATION AND COMMUNICATION FACILITIES USED FOR MOVEMENT WITHIN THE REGION OR TO AND FROM ADJOINING AREAS;

(3) RECOMMENDATIONS ON THE NEED FOR AND PROPOSED GENERAL LOCATION OF PUBLIC AND PRIVATE WORKS AND FACILITIES THAT BECAUSE OF THEIR FUNCTION, SIZE, EXTENT, OR FOR ANY OTHER REASON ARE OF A REGIONAL RATHER THAN A PURELY LOCAL CONCERN;

(4) RECOMMENDATIONS FOR THE LONG-RANGE PROGRAMMING AND FINANCING OF CAPITAL PROJECTS AND FACILITIES;

(5) RECOMMENDATIONS FOR MEETING HOUSING NEEDS OF EXISTING AND PROSPECTIVE IMMIGRANT POPULATION OF THE REGION;

(6) RECOMMENDATIONS FOR THE DEVELOPMENT OF PROGRAMS AND IMPROVEMENTS IN THE REGION FOR HEALTH SERVICES, MANPOWER PLANNING, EMPLOYMENT OPPORTUNITY, EDUCATION, ELIMINATION OF POVERTY, AND LAW ENFORCEMENT;

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(7) THE IDENTIFICATION OF ISSUES THAT NEED TO BE RESOLVED BETWEEN LOCAL GOVERNMENTS AND MAKE APPROPRIATE RECOMMENDATIONS CONCERNING THESE ISSUES;

(8) THE PROMOTION OF REGIONAL CONCERNS; AND

(9) ANY OTHER APPROPRIATE RECOMMENDATIONS ON CURRENT AND IMPENDING PROBLEMS THAT MAY AFFECT THE REGION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20A, § 3-101(b)(1) through (8) and the introductory language of (b), as it related to the minimum required contents of the plan.

Throughout this section, the defined term "region" is substituted for the former defined term "area" for consistency within this section.

Defined terms: "Plan" § 13-701

"Region" § 13-701

13-721. ADOPTION AND MAINTENANCE.

(A) ADOPTION.

(1) THE COUNCIL SHALL HOLD A PUBLIC HEARING BEFORE ADOPTING ALL OR PART OF THE PLAN.

(2) AT LEAST 60 DAYS BEFORE THE PUBLIC HEARING, THE COUNCIL SHALL SUBMIT THE PLAN TO THE DEPARTMENT OF PLANNING AND TO THE LOCAL PLANNING COMMISSIONS, AND THE GOVERNING BODY OF EACH POLITICAL SUBDIVISION IN THE REGION.

(3) THE COUNCIL SHALL PUBLISH NOTICE OF THE HEARING IN NEWSPAPERS OF GENERAL CIRCULATION IN EACH COUNTY IN THE REGION, AT LEAST ONCE EACH WEEK FOR 3 WEEKS BEFORE THE HEARING.

(B) RECOMMENDATIONS.

ON OR BEFORE THE DATE OF THE HEARING:

(1) THE DEPARTMENT OF PLANNING MAY RECOMMEND TO THE COUNCIL CHANGES NEEDED IN THE PLAN TO CONFORM IT TO STATE PLANS AND POLICIES; AND

(2) EACH LOCAL PLANNING COMMISSION AND GOVERNING BODY OF EACH POLITICAL SUBDIVISION IN THE REGION MAY MAKE RECOMMENDATIONS TO THE COUNCIL ON THE EFFECT OF THE PLAN IN THE POLITICAL SUBDIVISION.

(C) MAINTENANCE.

THE COUNCIL SHALL REEVALUATE THE PLAN FOR THE DEVELOPMENT OF THE REGION AT LEAST EVERY 4 YEARS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20A, §§ 2–202(8) and 3–102(a), (b), (c), and, as it required a hearing, (d).

Subsection (a)(1) of this section is revised to state explicitly that which was only implied by the former law: *i.e.* the Council must hold a public hearing before adopting the plan.

In subsection (a)(2) of this section, the reference to “the Council” submitting a proposed plan to the various governmental units is added for clarity, to specify which entity is responsible for submitting the plan. Similarly, in subsection (a)(3) of this section, the reference to “the Council” publishing notice of a public hearing is added for clarity.

In subsection (a)(3) of this section, the reference to the three counties “in the region” is substituted for the former reference to the three counties “comprising the Council” for clarity.

In subsection (c) of this section, the former phrase “[w]ithout limiting or restricting the general powers conferred by this article” is deleted as surplusage.

In subsection (c)(1) of this section, the word “shall” is substituted for the former word “may” to reflect the mandatory nature of the Council’s periodic reevaluation of the plan.

Defined terms: “Council” § 13–701

“County” § 9–101

“Plan” § 13–701

“Region” § 13–701

“State” § 9–101

13–722. AMENDMENT.

(A) IN GENERAL.

THE COUNCIL MAY AMEND THE PLAN IN THE SAME MANNER THAT IT ADOPTS THE ORIGINAL PLAN.

(B) STATISTICAL AND INFORMATIONAL UPDATE.

THE COUNCIL NEED NOT FOLLOW THE PROCEDURE USED TO ADOPT THE ORIGINAL PLAN IN ORDER TO REVISE THE PLAN AS NECESSARY AND APPROPRIATE FOR A STATISTICAL AND INFORMATIONAL UPDATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20A, § 3–102(e).

In subsection (a) of this section, the reference to “[t]he Council” amending the plan is added for clarity.

Defined terms: “Council” § 13–701

“Plan” § 13–701

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13-723. CONFORMITY.

AFTER THE COUNCIL ADOPTS THE PLAN, THE COUNCIL MAY NOT ESTABLISH ANY POLICY OR TAKE AN ACTION THAT DOES NOT CONFORM TO THE PLAN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20A, § 3-102(d), as it related to the prohibition against nonconforming action.

Defined terms: "Council" § 13-701
"Plan" § 13-701

13-724. PROJECT AND PLAN REFERRALS.

THE COUNCIL MAY REVIEW:

(1) ANY APPLICATION THAT A POLITICAL SUBDIVISION IN THE REGION MAKES:

(I) TO A UNIT OF THE STATE OR FEDERAL GOVERNMENT FOR A LOAN OR GRANT FOR PROJECTS; OR

(II) THROUGH THE STATE CLEARINGHOUSE FOR INTERGOVERNMENTAL ASSISTANCE IN THE DEPARTMENT OF PLANNING; AND

(2) A LOCAL PLAN, PROPOSAL FOR A PROJECT, OR ORDINANCE THAT MAY HAVE AN IMPACT OUTSIDE THE BOUNDARY OF THE POLITICAL SUBDIVISION OR IN THE REGION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20A, § 2-202(9) and (10).

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 item (1)(i) of this section, the reference to a "unit" of the State or federal government is substituted for the former reference to "agencies" for consistency within this article. *See* General Revisor's Note to article.

Also in item (1)(i) of this section, the reference to a "grant" is substituted for the former reference to "grants-in-aid" for clarity and brevity.

Defined terms: "Council" § 13-701
"Region" § 13-701
"State" § 9-101

13-725. RESERVED.

13-726. RESERVED.

PART III. TOURISM BUREAU.

13-727. "BUREAU" DEFINED.

IN THIS PART, "BUREAU" MEANS THE WESTERN MARYLAND REGIONAL TOURISM BUREAU.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20A, § 4-101(a) and (b).

The reference to "this part" is substituted for the former reference to "this title" in light of the reorganization of this subtitle.

13-728. ESTABLISHED; PURPOSES.

(A) ESTABLISHED.

THERE IS A WESTERN MARYLAND REGIONAL TOURISM BUREAU IN THE COUNCIL.

(B) PURPOSES.

THE PURPOSES OF THE BUREAU ARE TO:

(1) DEVELOP ADVERTISING AND MARKETING PROGRAMS TO DISSEMINATE INFORMATION ABOUT THE REGION;

(2) STIMULATE TOURISM IN THE REGION;

(3) ENCOURAGE THE DEVELOPMENT OF THE REGION'S RECREATIONAL AREAS AND FACILITIES;

(4) PROMOTE BUSINESS AND JOB OPPORTUNITIES IN THE REGION THROUGH TOURISM;

(5) DEVELOP PUBLIC AWARENESS OF THE HERITAGE AND HISTORY OF THE REGION;

(6) COORDINATE AND FACILITATE SPECIAL EVENTS PROGRAMMING FOR THE REGION;

(7) SERVE AS A LIAISON BETWEEN THE REGION'S TOURISM INDUSTRY, THE GOVERNOR, THE DEPARTMENT, OTHER UNITS OF STATE GOVERNMENT, PRIVATE ORGANIZATIONS, AND THE GENERAL ASSEMBLY; AND

(8) ADVISE THE GOVERNOR, THE DEPARTMENT, AND THE GENERAL ASSEMBLY ON PROGRAMS AFFECTING THE TOURISM INDUSTRY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20A, §§ 4-102 and 4-103(a).

In subsection (b)(7) of this section, the reference to "units" is substituted

for the former reference to “agencies” for consistency. *See* General Revisor’s Note to article.

Defined terms: “Bureau” § 13–727

“Council” § 13–701

“Department” § 9–101

“Region” § 13–701

“State” § 9–101

13–729. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT.

THE EXECUTIVE BOARD OF THE BUREAU CONSISTS OF THE FOLLOWING 15 MEMBERS:

(1) FROM ALLEGANY COUNTY:

(i) TWO MEMBERS APPOINTED BY THE COMMISSIONERS;

(ii) TWO MEMBERS APPOINTED BY THE COUNTY CHAMBER OF COMMERCE; AND

(iii) ONE MEMBER APPOINTED BY THE MEMBERS OF THE ALLEGANY COUNTY DELEGATION TO THE GENERAL ASSEMBLY FROM THE MEMBERS OF THE COUNCIL WHO ARE IN THE DELEGATION;

(2) FROM GARRETT COUNTY:

(i) TWO MEMBERS APPOINTED BY THE COMMISSIONERS;

(ii) TWO MEMBERS APPOINTED FROM THE DEEP CREEK LAKE GARRETT COUNTY PROMOTIONAL COUNCIL BY THE COMMISSIONERS; AND

(iii) ONE MEMBER APPOINTED BY THE MEMBERS OF THE GARRETT COUNTY DELEGATION TO THE GENERAL ASSEMBLY FROM THE MEMBERS OF THE COUNCIL WHO ARE IN THE DELEGATION; AND

(3) FROM WASHINGTON COUNTY:

(i) TWO MEMBERS APPOINTED BY THE COMMISSIONERS;

(ii) TWO MEMBERS APPOINTED BY THE COUNTY CHAMBER OF COMMERCE; AND

(iii) ONE MEMBER APPOINTED BY THE MEMBERS OF THE WASHINGTON COUNTY DELEGATION TO THE GENERAL ASSEMBLY FROM THE MEMBERS OF THE COUNCIL WHO ARE IN THE DELEGATION.

(B) TENURE; VACANCIES.

(1) THE MEMBERS OF THE EXECUTIVE BOARD SERVE THE TERMS SET IN THE BYLAWS OF THE BUREAU.

(2) AFTER THE INITIAL APPOINTMENT OF THE EXECUTIVE BOARD, THE QUALIFICATIONS AND APPOINTMENT OF MEMBERS ARE SUBJECT TO THE BYLAWS OF THE BUREAU.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20A, § 4-103(b) through (e).

Defined terms: "Bureau" § 13-727

"Commissioner" § 13-701

"Council" § 13-701

"County" § 9-101

13-730. COMPENSATION; REIMBURSEMENT FOR EXPENSES.

A MEMBER OF THE EXECUTIVE BOARD OF THE BUREAU:

(1) IS NOT ENTITLED TO COMPENSATION AS A MEMBER OF THE EXECUTIVE BOARD; BUT

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

REVISOR'S NOTE: This section formerly was Art. 20A, § 4-103(f).

The only changes are in style.

Defined terms: "Bureau" § 13-727

"State" § 9-101

13-731. OFFICERS; PROCEDURES; STAFF.

(A) IN GENERAL.

THE BUREAU MAY ESTABLISH OFFICERS, PROCEDURES, AND VOTING REQUIREMENTS.

(B) STAFF.

THE BUREAU MAY EMPLOY A STAFF IN ACCORDANCE WITH ITS BYLAWS.

REVISOR'S NOTE: This section formerly was Art. 20A, § 4-103(g) and (h)(1).

The only changes are in style.

Defined term: "Bureau" § 13-727

13-732. BUDGET.

AS THE EXECUTIVE BOARD DECIDES, THE BUDGET OF THE BUREAU MAY CONSIST OF PRIVATE MEMBERSHIPS AND PUBLIC CONTRIBUTIONS.

REVISOR'S NOTE: This section formerly was Art. 20A, § 4-103(h)(2).

The phrase "consist of" is substituted for the former phrase "funded by" for consistency with similar provisions elsewhere in this article.

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The only other changes are in style.

Defined term: “Bureau” § 13–727

13–733. CORPORATION.

(A) IN GENERAL.

THE BUREAU MAY ESTABLISH A PRIVATE, NOT-FOR-PROFIT CORPORATION TO ASSIST THE BUREAU.

(B) POWERS AND DUTIES.

SUBJECT TO THE CORPORATIONS AND ASSOCIATIONS ARTICLE, THE BUREAU SHALL DETERMINE THE POWERS AND DUTIES OF THE CORPORATION.

(C) BOARD OF DIRECTORS.

THE BUREAU MAY:

(1) SET THE NUMBER OF MEMBERS OF THE BOARD OF DIRECTORS OF THE CORPORATION;

(2) SET A PROCEDURE TO ELECT AND REMOVE DIRECTORS;

(3) SET THE COMPENSATION OF A DIRECTOR; AND

(4) REQUIRE THE CORPORATION TO REPORT PERIODICALLY TO THE BUREAU ON ITS ACTIVITIES.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 20A, § 4–103(i).

Defined term: “Bureau” § 13–727

SUBTITLE 8. TRI-COUNTY COUNCIL FOR THE LOWER EASTERN SHORE OF MARYLAND.

13–801. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection formerly was Art. 20B, § 1–101(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 20B in this subtitle.

No other changes are made.

(B) COMMISSIONER.

“COMMISSIONER” MEANS A MEMBER OF THE BOARD OF COUNTY COMMISSIONERS OF SOMERSET COUNTY OR WORCESTER COUNTY OR A MEMBER OF THE COUNTY COUNCIL OF WICOMICO COUNTY.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 20B, § 1–101(c).

(C) COUNCIL.

“COUNCIL” MEANS THE TRI–COUNTY COUNCIL FOR THE LOWER EASTERN SHORE OF MARYLAND.

REVISOR’S NOTE: This subsection formerly was Art. 20B, § 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 SOMERSET, WICOMICO, AND WORCESTER COUNTIES.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 20B, §§ 1–101(e) and 1–102(b).

REVISOR’S NOTE TO SECTION: Former Art. 20B, § 1–101(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 20B with no clear distinction between the “region” as a whole and the planning “area”.

13–802. ESTABLISHED.

(A) IN GENERAL.

THERE IS A TRI–COUNTY COUNCIL FOR THE LOWER EASTERN SHORE OF MARYLAND.

(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 PLANNING AND DEVELOPMENT UNIT FOR THE REGION.

(2) THE PURPOSES OF THE COUNCIL ARE TO:

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(I) FOSTER THE PHYSICAL, ECONOMIC, AND SOCIAL DEVELOPMENT OF THE REGION; AND

(II) USE EFFECTIVELY THE ASSISTANCE PROVIDED TO THE REGION BY THE STATE.

(3) THE COUNCIL INITIATES AND COORDINATES PLANS AND PROJECTS FOR THE DEVELOPMENT OF HUMAN AND ECONOMIC RESOURCES OF THE REGION AS A PLANNING AND DEVELOPMENT UNIT FOR THE LOWER EASTERN SHORE.

REVISOR'S NOTE: Subsection (a) of this section is new language added for clarity.

Subsections (b) and (c) of this section are new language derived without substantive change from former Art. 20B, §§ 1-102(a), 1-103(a), and 1-107.

In subsection (b)(1) of this section, the former word "public" is deleted as implicit in the reference to a "body politic and corporate".

In subsection (c)(1) of this section, the defined term "region" is substituted for the former reference to an "area" for clarity.

In subsection (c)(1) and (3) of this section, the term "unit" is substituted for the former term "agency" for consistency within this article. *See* General Revisor's Note to article.

Defined terms: "Council" § 13-801

"Region" § 13-801

"State" § 9-101

13-803. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT.

(1) THE COUNCIL CONSISTS OF THE MEMBERS DESCRIBED IN THIS SUBSECTION.

(2) THE VOTING MEMBERS OF THE COUNCIL ARE:

(I) FROM SOMERSET COUNTY, THE FIVE COMMISSIONERS;

(II) FROM WICOMICO COUNTY:

1. THE COUNTY EXECUTIVE; AND

2. FOUR MEMBERS OF THE COUNTY COUNCIL, APPOINTED BY THE COUNTY COUNCIL;

(III) FROM WORCESTER COUNTY, FIVE COMMISSIONERS, APPOINTED BY THE BOARD OF COUNTY COMMISSIONERS;

(IV) THREE MUNICIPAL ELECTED OFFICIALS, ONE FROM EACH COUNTY, APPOINTED BY:

1. THEIR RESPECTIVE MUNICIPAL CORPORATIONS; OR

2. THE EASTERN SHORE MUNICIPAL ASSOCIATION IF THE MUNICIPAL CORPORATIONS ARE UNABLE TO APPOINT A MEMBER WITHIN A REASONABLE TIME; AND

(V) IF THE MAJORITY OF THE MEMBER'S LEGISLATIVE DISTRICT IS IN THE REGION, EACH MEMBER OF THE GENERAL ASSEMBLY REPRESENTING THE REGION.

(3) THE NONVOTING MEMBERS OF THE COUNCIL ARE:

(I) EACH COMMISSIONER IN THE REGION WHO IS NOT APPOINTED UNDER PARAGRAPH (2) OF THIS SUBSECTION; AND

(II) EACH OTHER MEMBER OF THE GENERAL ASSEMBLY REPRESENTING THE REGION IF THE MAJORITY OF THE MEMBER'S LEGISLATIVE DISTRICT IS NOT IN THE REGION.

(4) THE BYLAWS OF THE COUNCIL MAY PROVIDE FOR ADDITIONAL MEMBERS WHO ARE PRIVATE INDIVIDUALS.

(B) PROXY VOTING.

(1) A MEMBER APPOINTED UNDER SUBSECTION (A)(2)(I), (II), OR (III) OF THIS SECTION MAY DESIGNATE ANOTHER COMMISSIONER OR A COUNTY ADMINISTRATOR REPRESENTING THE SAME COUNTY TO VOTE BY PROXY FOR THE MEMBER WHEN THE MEMBER IS ABSENT FROM A MEETING.

(2) A MEMBER WHO DESIGNATES A PROXY SHALL INFORM THE EXECUTIVE DIRECTOR IN ADVANCE OF THE MEETING.

(C) TENURE; VACANCIES.

(1) A MEMBER WHO QUALIFIES BECAUSE OF THE MEMBER'S ELECTED POSITION IS A MEMBER OF THE COUNCIL ONLY DURING THE MEMBER'S TERM OF OFFICE IN THE ELECTED POSITION.

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

(D) STATUS.

COUNCIL MEMBERSHIP IS NOT AN OFFICE OF PROFIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20B, §§ 2-101, 2-102, and 2-103.

Defined terms: "Commissioner" § 13-801

"Council" § 13-801

"County" § 9-101

"Executive Director" § 13-801

"Region" § 13-801

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13–804. CHAIR.

THE COUNCIL SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20B, § 2–105.

The reference to a “chair” is substituted for the former reference to a “chairperson” for consistency with similar provisions throughout this article.

Defined term: “Council” § 13–801

13–805. COMPENSATION.

A MEMBER OF THE COUNCIL IS NOT ENTITLED TO COMPENSATION AS A MEMBER OF THE COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20B, § 2–104.

Defined term: “Council” § 13–801

13–806. EXECUTIVE DIRECTOR.

(A) POSITION.

THE COUNCIL MAY EMPLOY AN EXECUTIVE DIRECTOR.

(B) TENURE.

THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20B, § 1–105.

Defined terms: “Council” § 13–801
“Executive Director” § 13–801

13–807. LEGAL ADVISOR.

THE COUNCIL MAY:

- (1) SELECT AND RETAIN ITS OWN LEGAL COUNSEL; OR
- (2) USE THE ATTORNEY GENERAL AS ITS LEGAL COUNSEL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20B, § 1–106.

In item (2) of this section, the former phrase “in all matters pertaining to the Council’s activities” is deleted as implicit in the capacity of a legal advisor.

Defined term: “Council” § 13–801

13-808. FINANCIAL SUPPORT.

(A) IN GENERAL.

THE STATE AND SOMERSET, WICOMICO, AND WORCESTER COUNTIES MAY JOINTLY FINANCE THE COUNCIL AND ITS ACTIVITIES.

(B) STATE SUPPORT.

(1) THE STATE MAY PROVIDE FINANCIAL SUPPORT TO THE COUNCIL TO ASSIST IN CARRYING OUT THE ACTIVITIES OF THE COUNCIL.

(2) (I) ON OR BEFORE AUGUST 1 OF EACH YEAR, THE COUNCIL SHALL SUBMIT ITS PROPOSED WORK PROGRAMS AND OPERATING BUDGET FOR THE FOLLOWING FISCAL YEAR TO THE DEPARTMENT.

(II) THE SUBMISSION SHALL INCLUDE SUPPORTING SCHEDULES TO SHOW HOW THE BUDGET IS FINANCED, AND TO PROVIDE FOR REVIEW AND RECOMMENDATIONS.

(III) AFTER REVIEW, THE DEPARTMENT SHALL FORWARD THE SUBMISSION AND ANY RECOMMENDATIONS TO THE DEPARTMENT OF BUDGET AND MANAGEMENT FOR CONSIDERATION.

(3) THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET FOR THE FOLLOWING FISCAL YEAR AN APPROPRIATION OF AT LEAST \$200,000 TO PARTIALLY SUPPORT THE COUNCIL.

(C) LOCAL SUPPORT.

(1) THE GOVERNING BODIES OF SOMERSET, WICOMICO, AND WORCESTER COUNTIES EACH YEAR SHALL APPROPRIATE TO THE COUNCIL AT LEAST \$10,000 EACH TO FOSTER COOPERATIVE PLANNING AND DEVELOPMENT IN THE REGION.

(2) OTHER POLITICAL SUBDIVISIONS, INCLUDING SPECIAL DISTRICTS, MAY APPROPRIATE MONEY FOR THE COUNCIL AS THEY CONSIDER NECESSARY AND APPROPRIATE.

(D) OTHER MONEY.

THE COUNCIL MAY ACCEPT ADDITIONAL MONEY FROM ANY OTHER PUBLIC OR PRIVATE SOURCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20B, § 2-301.

In subsection (b)(3) of this section, the reference to “[t]he Governor ... includ[ing] in the State budget ... an appropriation” is substituted for the former phrase “[t]he State budget ... shall provide an appropriation” for accuracy and consistency with the constitutional State budget process.

Also in subsection (b)(3) of this section, the former reference to “annual review by the General Assembly” is deleted as an unnecessary restatement of the ability of the legislature to reduce an appropriation for which only a

minimum amount is specified by statute. *See* Md. Constitution, Art. III, § 52.

In subsection (c)(2) of this section, the reference to appropriating funds that “they consider” necessary and appropriate is substituted for the former reference to appropriating money “that is” necessary and appropriate for accuracy.

Defined terms: “Council” § 13–801
“Department” § 9–101
“Region” § 13–801
“State” § 9–101

13–809. BYLAWS AND RULES.

THE COUNCIL MAY ADOPT BYLAWS AND RULES FOR THE CONDUCT OF ITS BUSINESS AND TO CARRY OUT ITS MISSION.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 20B, § 2–201.

Defined term: “Council” § 13–801

13–810. COOPERATION.

THE COUNCIL SHALL COOPERATE WITH STATE AND LOCAL UNITS THAT HAVE RELEVANT STATUTORY FUNCTIONS AND DUTIES.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 20B, § 1–104.

The reference to “units” is substituted for the former reference to “departments and agencies” for consistency within this article. *See* General Revisor’s Note to article.

The reference to “duties” is substituted for the former reference to “responsibilities” for consistency within this article.

Defined terms: “Council” § 13–801
“State” § 9–101

13–811. 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 THE COUNTIES IN THE REGION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20B, § 1-103(b).

In subsection (c) of this section, the reference to disposal of remaining property "by judicial action" is added to avoid the implication that the court could dispose of the property on its own initiative without a case before it, in violation of Md. Decl. of Rights, Art. 8. *See* 89 Op. Att'y Gen. 222 (2004).

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that as a legislatively chartered corporation, the Council may only be dissolved by action of the General Assembly. Accordingly, any legislation to dissolve the Council could specify a different disposition of assets than that specified in this section. Also, conditions specified for grants of property other than State and local moneys to the Council, such as federal funds, may require that those assets be dealt with differently than this section appears to require. *See* 89 Op. Att'y Gen. 222 (2004).

Defined terms: "Council" § 13-801

"County" § 9-101

"Region" § 13-801

SUBTITLE 9. MID-SHORE REGIONAL COUNCIL.

13-901. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 20C, § 1-101(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 20C in this subtitle.

No other changes are made.

(B) COMMISSIONER.

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“COMMISSIONER” MEANS A MEMBER OF THE BOARD OF COUNTY COMMISSIONERS OF CAROLINE COUNTY OR A MEMBER OF THE COUNTY COUNCIL OF DORCHESTER COUNTY OR TALBOT COUNTY.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 20C, § 1–101(c).

(C) COUNCIL.

“COUNCIL” MEANS THE MID–SHORE REGIONAL COUNCIL.

REVISOR’S NOTE: This subsection formerly was Art. 20C, § 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 CAROLINE, DORCHESTER, AND TALBOT COUNTIES.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 20C, §§ 1–101(e) and 1–102(b).

REVISOR’S NOTE TO SECTION: Former Art. 20C, § 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 20C with no clear distinction between the “region” as a whole and the planning “area”.

13–902. ESTABLISHED.

(A) IN GENERAL.

THERE IS A MID–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:

(I) FOSTER THE PHYSICAL, ECONOMIC, AND SOCIAL DEVELOPMENT OF THE REGION; AND

(II) USE EFFECTIVELY THE ASSISTANCE PROVIDED TO THE REGION BY THE STATE.

(3) THE COUNCIL INITIATES AND COORDINATES PLANS AND PROJECTS FOR THE DEVELOPMENT OF HUMAN AND ECONOMIC RESOURCES OF THE REGION AS A PLANNING AND DEVELOPMENT UNIT FOR THE MIDDLE EASTERN SHORE.

REVISOR'S NOTE: Subsection (a) of this section is new language added for clarity.

Subsections (b) and (c) of this section are new language derived without substantive change from former Art. 20C, §§ 1-102(a), 1-103(a), and 1-107.

In subsection (b)(1) of this section, the former word "public" is deleted as implicit in the reference to a "body politic and corporate" for clarity.

In subsection (c)(1) of this section, the defined term "region" is substituted for the former reference to an "area" for clarity and consistency.

In subsection (c)(1) and (3) of this section, the term "unit" is substituted for the former term "agency" for consistency within this article. See General Revisor's Note to article.

Defined terms: "Council" § 13-901

"Region" § 13-901

"State" § 9-101

13-903. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT.

(1) THE COUNCIL CONSISTS OF THE MEMBERS DESCRIBED IN THIS SUBSECTION.

(2) THE VOTING MEMBERS OF THE COUNCIL ARE:

(I) FROM CAROLINE COUNTY, TWO COMMISSIONERS, APPOINTED BY THE BOARD OF COUNTY COMMISSIONERS;

(II) FROM DORCHESTER COUNTY, TWO MEMBERS OF THE COUNTY COUNCIL, APPOINTED BY THE COUNTY COUNCIL;

(III) FROM TALBOT COUNTY, TWO MEMBERS OF THE COUNTY COUNCIL, APPOINTED BY THE COUNTY COUNCIL;

(IV) THREE MUNICIPAL ELECTED OFFICIALS, ONE FROM EACH COUNTY, APPOINTED BY:

1. THEIR RESPECTIVE MUNICIPAL CORPORATIONS; OR

2. THE EASTERN SHORE MUNICIPAL ASSOCIATION IF THE MUNICIPAL CORPORATIONS ARE UNABLE TO APPOINT A MEMBER WITHIN A REASONABLE TIME; AND

(V) IF THE MAJORITY OF THE MEMBER'S LEGISLATIVE DISTRICT IS IN THE REGION, EACH MEMBER OF THE GENERAL ASSEMBLY REPRESENTING THE REGION.

(3) THE NONVOTING MEMBERS OF THE COUNCIL ARE:

(I) EACH COMMISSIONER IN THE REGION WHO IS NOT APPOINTED UNDER PARAGRAPH (2) OF THIS SUBSECTION;

(II) EACH OTHER MEMBER OF THE GENERAL ASSEMBLY REPRESENTING THE REGION IF THE MAJORITY OF THE MEMBER'S LEGISLATIVE DISTRICT IS NOT IN THE REGION; AND

(III) THREE COUNTY ADMINISTRATORS, ONE FROM EACH COUNTY.

(4) THE BYLAWS OF THE COUNCIL MAY PROVIDE FOR ADDITIONAL MEMBERS WHO ARE PUBLIC OFFICIALS OR EMPLOYEES OR PRIVATE INDIVIDUALS.

(B) PROXY VOTING.

(1) A MEMBER APPOINTED UNDER SUBSECTION (A)(2)(I), (II), OR (III) OF THIS SECTION MAY DESIGNATE ANOTHER COMMISSIONER OR A COUNTY ADMINISTRATOR REPRESENTING THE SAME COUNTY TO VOTE BY PROXY FOR THE MEMBER WHEN THE MEMBER IS ABSENT FROM A MEETING.

(2) A MEMBER WHO DESIGNATES A PROXY SHALL INFORM THE EXECUTIVE DIRECTOR IN ADVANCE OF THE MEETING.

(C) TENURE; VACANCIES.

(1) A MEMBER WHO QUALIFIES BECAUSE OF THE MEMBER'S ELECTED OR APPOINTED POSITION IS A MEMBER OF THE COUNCIL ONLY DURING THE MEMBER'S TERM OF OFFICE IN THE ELECTED OR APPOINTED POSITION.

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

(D) STATUS.

COUNCIL MEMBERSHIP IS NOT AN OFFICE OF PROFIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20C, §§ 2-101, 2-102, and 2-103.

Subsection (a)(2)(i) through (iii) of this section is revised to list separately the voting members from the governing bodies of each county for clarity and consistency within this title.

In subsections (a)(3)(i) and (b)(1) of this section, the defined term "Commissioner" is substituted for the former references to a "councilmember or commissioner" for clarity and consistency within this title.

In subsection (a)(4) of this section, the reference to additional "members who are public officials or employees or private individuals" is substituted

for the former reference to additional “private citizen or public membership” for clarity.

Defined terms: “Commissioner” § 13–901

“Council” § 13–901

“County” § 9–101

“Executive Director” § 13–901

“Region” § 13–901

13–904. CHAIR.

THE COUNCIL SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 20C, § 2–105.

The reference to a “chair” is substituted for the former reference to a “chairperson” for consistency with similar provisions throughout this article.

Defined term: “Council” § 13–901

13–905. COMPENSATION.

A MEMBER OF THE COUNCIL IS NOT ENTITLED TO COMPENSATION AS A MEMBER OF THE COUNCIL.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 20C, § 2–104.

Defined term: “Council” § 13–901

13–906. EXECUTIVE DIRECTOR.

(A) POSITION.

THE COUNCIL MAY EMPLOY AN EXECUTIVE DIRECTOR.

(B) TENURE.

THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE COUNCIL.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 20C, § 1–105.

Defined terms: “Council” § 13–901

“Executive Director” § 13–901

13–907. LEGAL ADVISOR.

THE COUNCIL MAY:

(1) SELECT AND RETAIN ITS OWN COUNSEL; OR

(2) USE THE ATTORNEY GENERAL AS ITS LEGAL COUNSEL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20C, § 1-106.

In item (2) of this section, the former phrase "in all matters pertaining to the Council's activities" is deleted as implicit in the capacity of a legal advisor.

Defined term: "Council" § 13-901

13-908. FINANCIAL SUPPORT.

(A) IN GENERAL.

THE STATE AND CAROLINE, DORCHESTER, AND TALBOT COUNTIES MAY JOINTLY FINANCE THE COUNCIL AND ITS ACTIVITIES.

(B) STATE SUPPORT.

(1) THE STATE MAY PROVIDE FINANCIAL SUPPORT TO THE COUNCIL TO ASSIST IN CARRYING OUT THE ACTIVITIES OF THE COUNCIL.

(2) (I) ON OR BEFORE AUGUST 1 OF EACH YEAR, THE COUNCIL SHALL SUBMIT ITS PROPOSED WORK PROGRAMS AND OPERATING BUDGET FOR THE FOLLOWING FISCAL YEAR TO THE DEPARTMENT.

(II) THE SUBMISSION SHALL INCLUDE SUPPORTING SCHEDULES TO SHOW HOW THE BUDGET IS FINANCED, AND TO PROVIDE FOR REVIEW AND RECOMMENDATIONS.

(III) AFTER REVIEW, THE DEPARTMENT SHALL FORWARD THE SUBMISSION AND ANY RECOMMENDATIONS TO THE DEPARTMENT OF BUDGET AND MANAGEMENT FOR CONSIDERATION.

(3) THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET AN APPROPRIATION FOR THE FOLLOWING FISCAL YEAR OF AT LEAST \$200,000 TO SUPPORT THE COUNCIL.

(C) LOCAL SUPPORT.

(1) THE GOVERNING BODIES OF CAROLINE, DORCHESTER, AND TALBOT COUNTIES EACH YEAR SHALL APPROPRIATE TO THE COUNCIL AT LEAST \$10,000 EACH TO FOSTER COOPERATIVE PLANNING AND DEVELOPMENT IN THE REGION.

(2) CAROLINE, DORCHESTER, AND TALBOT COUNTIES MAY APPROPRIATE ANY OTHER MONEY FOR THE COUNCIL AS THEY CONSIDER NECESSARY AND APPROPRIATE.

(3) OTHER POLITICAL SUBDIVISIONS, INCLUDING SPECIAL DISTRICTS, MAY APPROPRIATE MONEY TO THE COUNCIL AS THEY CONSIDER NECESSARY AND APPROPRIATE.

(D) OTHER MONEY.

THE COUNCIL MAY ACCEPT ADDITIONAL MONEY FROM ANY OTHER PUBLIC OR PRIVATE SOURCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20C, § 2–301.

In subsection (b)(3) of this section, the reference to “[t]he Governor ... includ[ing] in the State budget an appropriation” is substituted for the former phrase “[t]he State budget ... shall provide an appropriation” for accuracy and consistency with the constitutional State budget process.

Also in subsection (b)(3) of this section, the former reference to “annual review by the General Assembly” is deleted as an unnecessary restatement of the ability of the legislature to reduce an appropriation for which only a minimum amount is specified by statute. *See* Md. Constitution, Art. III, § 52.

In subsection (c)(2) and (3) of this section, the references to appropriating funds that “they consider” necessary and appropriate is substituted for the former reference to appropriating money “that is” necessary and appropriate for accuracy.

Defined terms: “Council” § 13–901

“Department” § 9–101

“Region” § 13–901

“State” § 9–101

13–909. BYLAWS AND RULES.

THE COUNCIL MAY ADOPT BYLAWS AND RULES FOR THE CONDUCT OF ITS BUSINESS AND TO CARRY OUT ITS MISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20C, § 2–201.

Defined term: “Council” § 13–901

13–910. COOPERATION.

THE COUNCIL SHALL COOPERATE WITH STATE AND LOCAL UNITS THAT HAVE RELEVANT STATUTORY FUNCTIONS AND DUTIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20C, § 1–104.

The reference to “units” is substituted for the former reference to “departments and agencies” for consistency within this article. *See* General Revisor's Note to article.

The reference to “duties” is substituted for the former reference to “responsibilities” for consistency within this article.

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Defined terms: “Council” § 13–901

“State” § 9–101

13–911. 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 THE COUNCIL DETERMINES, SHALL DISPOSE OF ITS ASSETS EXCLUSIVELY:

(1) **FOR THE PURPOSES OF THE COUNCIL; OR**

(2) **TO AN 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 THE COUNTIES IN THE REGION.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 20C, § 1–103.

In subsection (c) of this section, the reference to disposal of remaining property “by judicial action” is added to avoid the implication that the court could dispose of the property on its own initiative without a case before it, in violation of Md. Decl. of Rights, Art. 8. *See* 89 Op. Att’y Gen. 222 (2004).

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that as a legislatively chartered corporation, the Council may only be dissolved by action of the General Assembly. Accordingly, any legislation to dissolve the Council could specify a different disposition of assets than that specified in this section. Also, conditions specified for grants of property other than State and local moneys to the Council, such as federal funds, may require that those assets be dealt with differently than this section appears to require. *See* 89 Op. Att’y Gen. 222 (2004).

Defined terms: “Council” § 13–901

“County” § 9–101

“Region” § 13–901

SUBTITLE 10. UPPER SHORE REGIONAL COUNCIL.

13-1001. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 20D, § 1-101(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 20D in this subtitle.

No other changes are made.

(B) COMMISSIONER.

"COMMISSIONER" MEANS A MEMBER OF THE BOARD OF COUNTY COMMISSIONERS 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.

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(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:

(i) FOSTER THE PHYSICAL, ECONOMIC, AND SOCIAL DEVELOPMENT OF THE REGION; AND

(ii) USE EFFECTIVELY THE ASSISTANCE PROVIDED TO THE REGION BY THE STATE.

(3) THE COUNCIL INITIATES AND COORDINATES PLANS AND PROJECTS FOR THE DEVELOPMENT OF HUMAN AND ECONOMIC RESOURCES OF THE REGION AS A PLANNING AND DEVELOPMENT UNIT FOR THE UPPER EASTERN SHORE.

REVISOR'S NOTE: Subsection (a) of this section is new language added for clarity.

Subsections (b) and (c) of this section are new language derived without substantive change from former Art. 20D, §§ 1-107, 1-102(a), and 1-103(a).

In subsection (b)(1) of this section, the former word "public" is deleted as implicit in the reference to a "body politic and corporate".

In subsection (c)(1) of this section, the defined term "region" is substituted for the former reference to an "area" for clarity and consistency.

In subsection (c)(1) and (3) of this section, the term "unit" is substituted for the former term "agency" for consistency within this article. *See* General Revisor's Note to article.

Defined terms: "Council" § 13-1001

"Region" § 13-1001

"State" § 9-101

13-1003. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT.

(1) THE COUNCIL CONSISTS OF THE MEMBERS DESCRIBED IN THIS SUBSECTION.

(2) THE VOTING MEMBERS OF THE COUNCIL ARE:

(I) FROM CECIL COUNTY, THREE COMMISSIONERS, APPOINTED BY THE BOARD OF COUNTY COMMISSIONERS;

(II) FROM KENT COUNTY, THE THREE COMMISSIONERS;

(III) FROM QUEEN ANNE'S COUNTY, THREE COMMISSIONERS, APPOINTED BY THE BOARD OF COUNTY COMMISSIONERS;

(IV) THREE MUNICIPAL ELECTED OFFICIALS, ONE FROM EACH COUNTY, APPOINTED BY:

1. THEIR RESPECTIVE MUNICIPAL CORPORATIONS; OR

2. THE EASTERN SHORE MUNICIPAL ASSOCIATION IF THE MUNICIPAL CORPORATIONS ARE UNABLE TO APPOINT A MEMBER WITHIN A REASONABLE TIME; AND

(V) IF THE MAJORITY OF THE MEMBER'S LEGISLATIVE DISTRICT IS IN THE REGION, EACH MEMBER OF THE GENERAL ASSEMBLY REPRESENTING THE REGION.

(3) THE NONVOTING MEMBERS OF THE COUNCIL ARE:

(I) EACH COMMISSIONER IN THE REGION WHO IS NOT APPOINTED UNDER PARAGRAPH (2) OF THIS SUBSECTION;

(II) EACH OTHER MEMBER OF THE GENERAL ASSEMBLY REPRESENTING THE REGION IF THE MAJORITY OF THE MEMBER'S LEGISLATIVE DISTRICT IS NOT IN THE REGION; AND

(III) THREE COUNTY ADMINISTRATORS, ONE FROM EACH COUNTY.

(4) THE BYLAWS OF THE COUNCIL MAY PROVIDE FOR ADDITIONAL MEMBERS WHO ARE PRIVATE INDIVIDUALS.

(B) PROXY VOTING.

(1) A MEMBER APPOINTED UNDER SUBSECTION (A)(2)(I), (II), OR (III) OF THIS SECTION MAY DESIGNATE ANOTHER COMMISSIONER OR A COUNTY ADMINISTRATOR REPRESENTING THE SAME COUNTY TO VOTE BY PROXY FOR THE MEMBER WHEN THE MEMBER IS ABSENT FROM A MEETING.

(2) A MEMBER WHO DESIGNATES A PROXY SHALL INFORM THE EXECUTIVE DIRECTOR IN ADVANCE OF THE MEETING.

(C) TENURE; VACANCIES.

(1) A MEMBER WHO QUALIFIES BECAUSE OF THE MEMBER'S ELECTED OR APPOINTED POSITION IS A MEMBER OF THE COUNCIL ONLY DURING THE MEMBER'S TERM OF OFFICE IN THE ELECTED OR APPOINTED POSITION.

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

(D) STATUS.

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COUNCIL MEMBERSHIP IS NOT AN OFFICE OF PROFIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20D, §§ 2-101, 2-102, and 2-103.

Subsection (a)(2)(i) through (iii) of this section is revised to list separately the voting members from the governing bodies of each county for clarity and consistency within this title.

Defined terms: "Commissioner" § 13-1001

"Council" § 13-1001

"County" § 9-101

"Executive Director" § 13-1001

"Region" § 13-1001

13-1004. CHAIR.

THE COUNCIL SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20D, § 2-105.

The reference to a "chair" is substituted for the former reference to a "chairperson" for consistency with similar provisions elsewhere in this article.

Defined term: "Council" § 13-1001

13-1005. COMPENSATION.

A MEMBER OF THE COUNCIL IS NOT ENTITLED TO COMPENSATION AS A MEMBER OF THE COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20D, § 2-104.

Defined term: "Council" § 13-1001

13-1006. EXECUTIVE DIRECTOR.

(A) POSITION.

THE COUNCIL MAY EMPLOY AN EXECUTIVE DIRECTOR.

(B) TENURE.

THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20D, § 1-105.

Defined terms: "Council" § 13-1001

"Executive Director" § 13-1001

13-1007. LEGAL ADVISOR.

THE COUNCIL MAY:

- (1) SELECT AND RETAIN ITS OWN LEGAL COUNSEL; OR
- (2) USE THE ATTORNEY GENERAL AS ITS LEGAL COUNSEL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20D, § 1-106.

In item (2) of this section, the former phrase "in all matters pertaining to the Council's activities" is deleted as implicit in the capacity of a legal advisor.

Defined term: "Council" § 13-1001

13-1008. FINANCIAL SUPPORT.

(A) IN GENERAL.

THE STATE AND CECIL, KENT, AND QUEEN ANNE'S COUNTIES MAY JOINTLY FINANCE THE COUNCIL AND ITS ACTIVITIES.

(B) STATE SUPPORT.

(1) THE STATE MAY PROVIDE FINANCIAL SUPPORT TO THE COUNCIL TO ASSIST IN CARRYING OUT THE ACTIVITIES OF THE COUNCIL.

(2) (I) ON OR BEFORE AUGUST 1 OF EACH YEAR, THE COUNCIL SHALL SUBMIT ITS PROPOSED WORK PROGRAMS AND OPERATING BUDGET FOR THE FOLLOWING FISCAL YEAR TO THE DEPARTMENT.

(II) THE SUBMISSION SHALL INCLUDE SUPPORTING SCHEDULES TO SHOW HOW THE BUDGET IS FINANCED, AND TO PROVIDE FOR REVIEW AND RECOMMENDATIONS.

(III) AFTER REVIEW, THE DEPARTMENT SHALL FORWARD THE SUBMISSION AND ANY RECOMMENDATIONS TO THE DEPARTMENT OF BUDGET AND MANAGEMENT FOR CONSIDERATION.

(C) LOCAL SUPPORT.

(1) THE GOVERNING BODIES OF CECIL, KENT, AND QUEEN ANNE'S COUNTIES EACH YEAR SHALL APPROPRIATE TO THE COUNCIL AT LEAST \$10,000 EACH TO FOSTER COOPERATIVE PLANNING AND DEVELOPMENT IN THE REGION.

(2) CECIL, KENT, AND QUEEN ANNE'S COUNTIES MAY APPROPRIATE ANY OTHER MONEY FOR THE COUNCIL AS THEY CONSIDER NECESSARY AND APPROPRIATE.

(3) OTHER POLITICAL SUBDIVISIONS, INCLUDING SPECIAL DISTRICTS, MAY APPROPRIATE MONEY FOR THE COUNCIL AS THEY CONSIDER NECESSARY AND APPROPRIATE.

(D) OTHER MONEY.

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THE COUNCIL MAY ACCEPT ADDITIONAL MONEY FROM ANY OTHER PUBLIC OR PRIVATE SOURCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20D, § 2–301.

In subsection (c)(2) and (3) of this section, the references to appropriating funds that “they consider” necessary and appropriate are substituted for the former reference to appropriating money “that is” necessary and appropriate for accuracy.

Defined terms: “Council” § 13–1001

“Department” § 9–101

“Region” § 13–1001

“State” § 9–101

13–1009. BYLAWS AND RULES.

THE COUNCIL MAY ADOPT BYLAWS AND RULES FOR THE CONDUCT OF ITS BUSINESS AND TO CARRY OUT ITS MISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20D, § 2–201.

Defined term: “Council” § 13–1001

13–1010. COOPERATION.

THE COUNCIL SHALL COOPERATE WITH STATE AND LOCAL UNITS THAT HAVE RELEVANT STATUTORY FUNCTIONS AND DUTIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20D, § 1–104.

The reference to “units” is substituted for the former reference to “departments and agencies” for consistency within this article. *See* General Revisor's Note to article.

The reference to “duties” is substituted for the former reference to “responsibilities” for consistency within this article.

Defined terms: “Council” § 13–1001

“State” § 9–101

13–1011. 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 THE COUNCIL 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 A PURPOSE OF THE COUNCIL OR TO THE COUNTIES IN THE REGION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 20D, § 1-103(b).

The reference to disposal of remaining property "by judicial action" is added to avoid the implication that the court could dispose of the property on its own initiative without a case before it, in violation of Md. Decl. of Rights, Art. 8. *See* 89 Op. Att'y Gen. 222 (2004).

The Economic Development Article Review Committee notes, for the consideration of the General Assembly, that as a legislatively chartered corporation, the Council may only be dissolved by action of the General Assembly. Accordingly, any legislation to dissolve the Council could specify a different disposition of assets than that specified in this section. Also, conditions specified for grants of property other than State and local moneys to the Council, such as federal funds, may require that those assets be dealt with differently than this section appears to require. *See* 89 Op. Att'y Gen. 222 (2004).

Defined terms: "Council" § 13-1001

"County" § 9-101

"Region" § 13-1001

SUBTITLE 11. MARYLAND LOWER EASTERN SHORE TOURISM CENTER ADVISORY COMMITTEE.

13-1101. "ADVISORY COMMITTEE" DEFINED.

IN THIS SUBTITLE, "ADVISORY COMMITTEE" MEANS THE MARYLAND LOWER EASTERN SHORE TOURISM CENTER ADVISORY COMMITTEE.

REVISOR'S NOTE: This section is new language added for clarity.

13-1102. ESTABLISHED.

THERE IS A MARYLAND LOWER EASTERN SHORE TOURISM CENTER ADVISORY COMMITTEE.

REVISOR'S NOTE: This section formerly was Art. 83A, § 4-301(a).

It is set forth as a separate section for emphasis.

No changes are made.

13-1103. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

(1) THE ADVISORY COMMITTEE CONSISTS OF NINE MEMBERS.

(2) OF THE NINE MEMBERS:

(i) THREE SHALL BE FROM SOMERSET COUNTY;

(ii) THREE SHALL BE FROM WICOMICO COUNTY; AND

(iii) THREE SHALL BE FROM WORCESTER COUNTY.

(3) THE GOVERNING BODY OF EACH COUNTY SHALL APPOINT THE MEMBERS FROM THAT COUNTY.

(B) QUALIFICATIONS.

EACH MEMBER OF THE ADVISORY COMMITTEE SHALL BE A MEMBER OF THE GENERAL PUBLIC AND RESIDE IN THE COUNTY FROM WHICH THE MEMBER IS APPOINTED.

(C) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER IS 5 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE ADVISORY COMMITTEE ON OCTOBER 1, 2008.

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

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

(D) REMOVAL.

THE GOVERNING BODY THAT APPOINTED A MEMBER MAY REMOVE THE MEMBER FOR INCOMPETENCE OR MISCONDUCT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 4-301(b) through (e).

In subsection (c)(2) of this section, the reference to terms being staggered as required by the terms provided for members of the Advisory Committee on "October 1, 2008" is substituted for the former obsolete reference to terms being staggered as required by the terms provided on "July 1, 1984". This substitution is not intended to alter the term of any member of the Advisory Committee. See § 13 of Ch. 306, Acts of 2008. The terms of the members serving on October 1, 2006 end as follows: (1) three on June 30, 2009; (2) three on June 30, 2010; and (3) three on June 30, 2012.

In subsection (d) of this section, the reference to the "governing body that

appointed a member” is substituted for the former reference to the “Board of County Commissioners in Somerset and Worcester County and the County Council in Wicomico County” for brevity and consistency within this section.

Defined term: “Advisory Committee” § 13–1101

13–1104. DUTY.

THE ADVISORY COMMITTEE SHALL ADVISE AND COUNSEL THE DEPARTMENT ON THE DEVELOPMENT AND OPERATION OF THE MARYLAND LOWER EASTERN SHORE TOURISM CENTER.

REVISOR’S NOTE: This section formerly was Art. 83A, § 4–301(f).

No changes are made.

Defined terms: “Advisory Committee” § 13–1101

“Department” § 9–101

TITLE 14. MISCELLANEOUS PROVISIONS.

SUBTITLE 1. BROADENED OWNERSHIP ACT.

14–101. STATEMENT OF POLICY.

(1) THE STATE:

(I) RECOGNIZES THE DECLARATION OF THE JOINT ECONOMIC COMMITTEE OF THE CONGRESS OF THE UNITED STATES THAT BROADENING THE OWNERSHIP OF CAPITAL AND ACHIEVING FULL EMPLOYMENT SHOULD BE THE TWIN PILLARS OF ECONOMIC POLICY; AND

(II) ENCOURAGES THE BROADENING OF THE BASE OF CAPITAL OWNERSHIP AMONG GREATER NUMBERS OF THE RESIDENTS OF THE STATE THROUGH, AS ONE MEANS, THE USE OF EMPLOYEE STOCK OWNERSHIP PLANS.

(2) THE GENERAL ASSEMBLY FINDS THAT EMPLOYEE STOCK OWNERSHIP PLANS, AS DEFINED IN THE INTERNAL REVENUE CODE, MAKE AN IMPORTANT CONTRIBUTION TOWARD THE BROADENING OF CAPITAL OWNERSHIP, INCREASE THE INCOME AND FINANCIAL SECURITY OF THE RESIDENTS OF THE STATE, ASSURE THE RESIDENTS OF THE STATE GREATER CONTROL OF THEIR ECONOMIC FUTURES, IMPROVE PRODUCTIVITY AND LABOR–MANAGEMENT RELATIONS, CONTRIBUTE TO THE NATIONAL EFFORT TO COMBAT INFLATION, STRENGTHEN THE FREE ENTERPRISE SYSTEM, AND PUT MARYLAND IN THE FOREFRONT OF CONTEMPORARY ECONOMIC TRENDS.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 2–106(a).

In items (1)(ii) and (2) of this section, the references to the “residents of the State” are substituted for the former references to “Maryland citizens”, “citizens of this State”, and “citizens” for consistency within this article and

because the meaning of the word “citizen” in these contexts is unclear.

In item (2) of this section, the reference to “Maryland” is substituted for the former reference to “the State” for emphasis.

Also in item (2) of this section, the former reference to the “United States” Internal Revenue Code is deleted as implicit in the reference to the “Internal Revenue Code”.

Defined term: “State” § 9–101

14–102. REPORT OF EFFORTS REQUIRED.

THE DEPARTMENT, THE MARYLAND STATE OFFICE OF MINORITY BUSINESS ENTERPRISE, THE DIVISION OF LABOR AND INDUSTRY OF THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, AND THE PUBLIC SERVICE COMMISSION SHALL SUMMARIZE THEIR EFFORTS TO PROMOTE THE POLICIES RELATED TO BROADENING THE OWNERSHIP OF CAPITAL IN THEIR RESPECTIVE ANNUAL REPORTS AS REQUIRED BY LAW.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 83A, § 2–106(b).

The word “summarize” is substituted for the former phrase “include a discussion of” for clarity and brevity.

Also, the reference to policies “related to broadening the ownership of capital” is substituted for the former reference to “these” policies for clarity.

Defined term: “Department” § 9–101

14–103. SHORT TITLE.

THIS SUBTITLE MAY BE CITED AS THE BROADENED OWNERSHIP ACT.

REVISOR’S NOTE: This section formerly was Art. 83A, § 2–106(c).

The reference to this “subtitle” is substituted for the former reference to this “section” to reflect the reorganization of material from former Art. 83A, § 2–106 in this subtitle.

No other changes are made.

GENERAL REVISOR’S NOTE TO ARTICLE

The Department of Legislative Services is charged with revising the law in a clear, concise, and organized manner, without changing the effect of the law. One precept of revision has been that, once something is said, it should be said in the same way every time. To that end, the Economic Development Article Review Committee conformed the language and organization of this article to that of previously enacted revised articles to the extent possible.

It is the manifest intent both of the General Assembly and the Economic Development Article Review Committee that this bulk revision of the substantive

economic development law of the State render no substantive change. The guiding principle of the preparation of this article is that stated in *Welch v. Humphrey*, 200 Md. 410, 417 (1952):

[T]he principal function of a Code is to reorganize the statutes and state them in simpler form. Consequently any changes made in them by a Code are presumed to be for the purpose of clarity rather than change of meaning. Therefore, even a change in the phraseology of a statute by a codification thereof will not ordinarily modify the law, unless the change is so radical and material that the intention of the Legislature to modify the law appears unmistakably from the language of the Code. (citations omitted)

Accordingly, except to the extent that changes, which are noted in Revisor's Notes, clarify the former law, the enactment of this article in no way is intended to make any change to the substantive law of Maryland. This intent is further stated in uncodified language included in the enactment of this article. *See* § 11 of Ch. 306, Acts of 2008.

Throughout this article, as in other revised articles, the word "regulations" generally is substituted for former references to "rules and regulations" to distinguish, to the extent possible, between regulations of executive units and rules of judicial or legislative units and to establish consistency in the use of the words. This substitution conforms to the practice of the Division of State Documents.

Also throughout this article, for consistency and to avoid unnecessary confusion, the singular verb "adopt" is used in relation to rules or regulations, and verbs such as "prescribe" and "promulgate" are deleted. The procedures to be followed in adopting regulations are set forth in Title 10, Subtitle 1 of the State Government Article.

Also throughout this article, for consistency, the word "law" is substituted for former phrases such as "law or regulation" because the broad reference to a "law" includes a "regulation" adopted under the authority of a law. *See, e.g., Maryland Port Administration v. Brawner Contracting Co.*, 303 Md. 44, 60 (1985).

Also throughout this article, for accuracy, references to "compensation" are substituted for former references to "salary" when referring to remuneration that is provided to an individual in the State budget. The term "compensation" is substituted for the term "salary" to include nonsalary benefits that are provided in the State budget (*e.g.*, retirement and health care benefits). These substitutions do not make substantive changes in law because references to "compensation" in these contexts are always restricted by the phrase "as provided in the State budget". Similarly, the phrase "as a member of the board" is added to provisions restricting compensation of members of boards, commissions, and similar units to clarify that the prohibition on receipt of compensation only applies to a member of the unit in the capacity of that individual as a member.

Also throughout this article, for accuracy, references to "money" are substituted for the former references to "funds" to avoid confusion between an account, referred to as a "fund", and the monetary resources included within or allocated to that account, sometimes referred to as "funds" in the former law.

Also throughout this article, in provisions that establish an office for an officer or member of a unit with a defined, specific length of term, references to removal of the officer or member “with or without cause” are substituted for the former references to service “at the pleasure” of the appointing authority. The concept of service “at the pleasure” implies service for an indefinite term. For an office with a definite term, the concept of service “at the pleasure” implies the ability to remove the officer or member at will, regardless of the term of office specified in law. This distinguishes the particular office from the offices without a stated service or removal provision, under which the common standards for removal include conviction of a crime, failure to attend meetings, incompetence, or misconduct. *See* Md. Constitution, Art. XV, § 2; SG § 8–501; *cf.* former Art. 41, § 8–102(c) through (e); BR § 8–202(g). The substitution is not intended to affect the authority of the appointing body to adopt certain or different conditions concerning removal with cause and removal without cause.

Also throughout this article, for clarity and consistency with other recently revised articles, references to “the public”, “members of the public”, and “residents” are substituted for former phrases such as “the citizens of this State” and “the citizens of Maryland” because the meaning of the word “citizen” in this context is unclear.

Also throughout this article, for consistency with other recently revised articles, the term “municipal corporation” is substituted for former references such as “municipality”, “incorporated city”, “incorporated town”, and “incorporated municipality” to conform to Article XI–E of the Maryland Constitution.

Also throughout this article, for consistency, the former phrase “real or personal”, which formerly modified the comprehensive term “property”, is deleted to avoid the implication that there is any other form of property which is neither real nor personal. Similarly, the phrases “tangible or intangible” and “tangible, intangible, or mixed”, which formerly modified the comprehensive term “property” are deleted to avoid the implication that there is any other form of property that is not tangible, intangible, or that has a mixture of attributes other than tangible and intangible attributes. Also similarly, former references to “interests in” property, in conjunction with references to “property”, are deleted as implicit in the comprehensive references to “property”. Unless otherwise qualified by specific terms such as “real” or “personal”, any reference to “property” in this article means property of any sort, real or personal, tangible or intangible, or with any permissible mixture of those attributes, even in conjunction with a phrase such as an “interest in land”. *See, e.g.*, §§ 10–116(a)(2), 10–315(a)(1)(i), 10–410(2), 10–511(2), 10–601(d)(2)(i), and other similar provisions of this article.

For the first time, the statutory definitions applicable to an entire article distinguish between the term “state” when not capitalized, meaning any state or territory of the United States, and the term “State” when capitalized, meaning Maryland alone. This codifies the drafting convention used by the Department of Legislative Services in preparing revised articles and all recently enacted legislation. *See* §§ 1–101 and 9–101 of this article.

In some provisions in this article, as in other revised articles, the term “unit” is substituted for former references to State entities such as an “agency”, “department”,

“division”, “office”, “commission”, “board”, “committee”, and “council”. In revised articles of the Code, the term “unit” is used as the general term for an organization in the State government because it is broad enough to include all such entities.

References to current units and positions are substituted for obsolete references to entities and positions that have been abolished or have otherwise ceased to exist.

References to the “chair” and “vice–chair”, respectively, are substituted for former references to the “chairman” and “vice–chairman”, respectively, because § 2–1238 of the State Government Article requires, to the extent practicable, the use of words that are neutral as to gender. Similar substitutions are made to other former gender–specific terms.

In provisions establishing special funds, references to these funds not being subject to “reversion under” § 7–302 of the State Finance and Procurement Article are added to give users of the article a sense of the subject of the latter provision, *i.e.* reversion to the General Fund, without requiring them to look it up independently.

In some “Membership” provisions in this article, there is a subsection captioned “Tenure; vacancies”. A standard paragraph included in those subsections provides that a “member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies”. This paragraph applies: (1) when a successor is appointed to replace a member who has died, resigned, or failed for any other reason to complete a term; (2) when a member is appointed to succeed a member who has “held over” into the next term, pending the delayed appointment and qualification of the successor; or (3) when, in any other situation, a member takes office after a term has begun, *e.g.*, when, at the completion of a term, there is a delay in the appointment of a successor but the member who served the prior term does not “hold over”. Similarly, several former provisions which provided that a vacancy on a board, commission, or similar unit does not impair the right of a quorum to act, are deleted as an unnecessary restatement of the common–law rule. *See* McQuillen, MUNICIPAL CORPORATIONS, § 13.30 at 878 (3rd ed. rev’d 2002).

In provisions governing bonding authorities, principally in Title 10 of this article, references to a trust “agreement” are substituted for the former references to a trust “indenture” to reflect current terminology in bond practice. *Cf.* § 10–301(o) of this article, which defines “trust agreement”. Similarly, references to a “competitive or negotiated” sale of bonds are substituted for references to a “public or private” sale to reflect current terminology.

Some apparently obsolete provisions allocated to the Economic Development Article are transferred to the Session Laws for historical purposes or to avoid any inadvertent substantive effect their repeal might have.

In some instances, the staff of the Department of Legislative Services may create “Special Revisor’s Notes” to reflect the substantive effect of legislation enacted during the 2008 Session on some provisions of this article.

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

Article 1 – Rules of Interpretation

25.

(a) Unnumbered revised articles of the Annotated Code of Maryland may be cited as stated in this section.

(b) A section of the Agriculture Article may be cited as: “§__ of the Agriculture Article”.

(c) A section of the Business Occupations and Professions Article may be cited as: “§__ of the Business Occupations and Professions Article”.

(d) A section of the Business Regulation Article may be cited as: “§__ of the Business Regulation Article”.

(e) A section of the Commercial Law Article may be cited as: “§__ of the Commercial Law Article”.

(f) A section of the Corporations and Associations Article may be cited as: “§__ of the Corporations and Associations Article”.

(g) A section of the Correctional Services Article may be cited as: “§__ of the Correctional Services Article”.

(h) A section of the Courts and Judicial Proceedings Article may be cited as: “§__ of the Courts Article”.

(i) A section of the Criminal Law Article may be cited as: “§__ of the Criminal Law Article”.

(j) A section of the Criminal Procedure Article may be cited as: “§__ of the Criminal Procedure Article”.

(K) A SECTION OF THE ECONOMIC DEVELOPMENT ARTICLE MAY BE CITED AS: “§ __ OF THE ECONOMIC DEVELOPMENT ARTICLE”.

[(k)](L) A section of the Education Article may be cited as: “§__ of the Education Article”.

[(l)](M) A section of the Election Law Article may be cited as: “§__ of the Election Law Article”.

[(m)](N) A section of the Environment Article may be cited as: “§__ of the Environment Article”.

[(n)](O) A section of the Estates and Trusts Article may be cited as: “§__ of the Estates and Trusts Article”.

[(o)](P) A section of the Family Law Article may be cited as: “§__ of the Family Law Article”.

[(p)](Q) A section of the Financial Institutions Article may be cited as: “§__ of the Financial Institutions Article”.

[(q)] (R) A section of the Health – General Article may be cited as: “§__ of the Health – General Article”.

[(r)] (S) A section of the Health Occupations Article may be cited as: “§__ of the Health Occupations Article”.

[(s)] (T) A section of the Housing and Community Development Article may be cited as: “§__ of the Housing and Community Development Article”.

[(t)] (U) A section of the Human Services Article may be cited as: “§__ of the Human Services Article”.

[(u)] (V) A section of the Insurance Article may be cited as: “§__ of the Insurance Article”.

[(v)] (W) A section of the Labor and Employment Article may be cited as: “§__ of the Labor and Employment Article”.

[(w)] (X) A section of the Natural Resources Article may be cited as: “§__ of the Natural Resources Article”.

[(x)] (Y) A section of the Public Safety Article may be cited as: “§__ of the Public Safety Article”.

[(y)] (Z) A section of the Public Utility Companies Article may be cited as: “§__ of the Public Utility Companies Article”.

[(z)] (AA) A section of the Real Property Article may be cited as: “§__ of the Real Property Article”.

[(aa)] (BB) A section of the State Finance and Procurement Article may be cited as: “§__ of the State Finance and Procurement Article”.

[(bb)] (CC) A section of the State Government Article may be cited as: “§__ of the State Government Article”.

[(cc)] (DD) A section of the State Personnel and Pensions Article may be cited as: “§__ of the State Personnel and Pensions Article”.

[(dd)] (EE) A section of the Tax – General Article may be cited as: “§__ of the Tax – General Article”.

[(ee)] (FF) A section of the Tax – Property Article may be cited as: “§__ of the Tax – Property Article”.

[(ff)] (GG) A section of the Transportation Article may be cited as: “§__ of the Transportation Article”.

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

Article – Economic Development

5–568.

(a) The Authority may guarantee a surety up to the lesser of 90% or ~~[\$5,000,000]~~ \$1,350,000 of its loss under a bid bond, payment bond, or performance bond on a contract financed by the federal government, a state government, a local government, a private entity, or a utility that the Public Service Commission regulates.

5–569.

(b) (2) The bonds may not exceed ~~[\$5,000,000]~~ \$1,000,000 each.

SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Economic Development

11–302.

(a) The General Assembly finds that:

(4) the establishment of State–chartered public corporations to develop military installations slated for closure or realignment in the State would:

(iii) serve as an additional means to achieve the mission of the Maryland Military Installation STRATEGIC PLANNING Council.

SECTION 6. AND BE IT FURTHER ENACTED, That Section(s) 13–121 and 13–122 of Article 41 – Governor – Executive and Administrative Departments of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

~~[13–121.]~~ 1.

All laws or parts of laws of the State ~~[of Maryland]~~, general and local, THAT ARE inconsistent with ~~[the provisions of this Subtitle]~~ TITLE 10, SUBTITLE 2 OF THE ECONOMIC DEVELOPMENT ARTICLE, are repealed to the extent of ~~[such]~~ THE inconsistency.

~~[13–122.]~~ 2.

The validity or enforceability of any bonds issued by the MARYLAND FOOD CENTER Authority under ~~[the provisions of this Subtitle]~~ FORMER ART. 41, TITLE 13, SUBTITLE 1 OF THE CODE prior to June 1, 2001 or any obligation of the Authority to provide for the payment of principal and interest on those bonds may not in any way be impaired by any amendments to ~~[this]~~ THAT subtitle OR TO TITLE 10, SUBTITLE 2 OF THE ECONOMIC DEVELOPMENT ARTICLE enacted on or after June 1, 2001.

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 41, §§ 13–121 and 13–122.

Former Art. 41, § 13–121 is not retained in the Code because it is apparently obsolete. It is transferred to the Session Laws to avoid any

inadvertent substantive effect that its repeal might have.

Former Art. 41, § 13–122 is not retained in the Code because it applies, if at all, only to a small class of outstanding bonds issued by the Maryland Food Center Authority before June 1, 2001. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have.

SECTION 7. AND BE IT FURTHER ENACTED, That Section 7 of Article 78D – Baltimore Metropolitan Council of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

BALTIMORE METROPOLITAN COUNCIL

[7.] 1.

(a) A liability, contract, or obligation of the Baltimore Regional Council of Governments [may] IS not [be] a liability, contract, or obligation of the Baltimore Metropolitan Council unless the liability, contract, or obligation is expressly assumed by action of the Baltimore Metropolitan Council.

(b) Without limiting the effect of subsection (a) of this section, the Baltimore Metropolitan Council:

(1) Is not liable for any liabilities to the State Retirement and Pension System resulting from the service before July 1, 1992, of the employees of the Baltimore Metropolitan Council who were in the State Retirement and Pension System prior to July 1, 1992 and who are eligible to participate in the State Retirement and Pension System under § 31–104 of the State Personnel and Pensions Article; and

(2) Is not liable for the special accrued liability contribution required under § 21–305.3 of the State Personnel and Pensions Article.

REVISOR’S NOTE: This section formerly was Art. 78D, § 7.

It is not retained in the Code because the Baltimore Regional Council of Governments was repealed in 1992 and the events contemplated by these provisions have long since occurred. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have. *See* § 3 of Ch. 201, Acts of 1992; § 3 of Ch. 624, Acts of 1995.

The only changes are in style.

SECTION 8. AND BE IT FURTHER ENACTED, That Section(s) 4–606(a)(1) and 4–607(a)(1) of Article 83A – Department of Business and Economic Development of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

Governor's Council on the Arts in Maryland

1. The MARYLAND STATE ARTS Council [shall have the power and authority necessary to carry out the duties imposed upon it by this subtitle and subject to the approval of the Secretary, including but not limited to the following:

(1) Continuing] MAY CONTINUE all programs and activities and [assuming] ASSUME all assets, liabilities, contracts, leases and other such obligations of the body formerly known as the Governor's Council on the Arts in Maryland.

2. The MARYLAND STATE ARTS Council [is authorized to conduct programs subject to approval of the Secretary, including, but not limited to the following:

(1) Continuation of] MAY CONTINUE the program of the body formerly known as the Governor's Council on the Arts in Maryland [including its statewide survey of resources and needs in the arts].

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, §§ 4-606(a)(1) and 4-607(a)(1).

Former § 4-606(a)(1) is not retained in the Code because it applies, if at all, to a small class of activities and obligations undertaken before July 1, 1967. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have. *See* Ch. 644, Acts of 1967.

Former § 4-607(a)(1) is not retained in the Code because it applies, if at all, to a small class of programs undertaken before July 1, 1967. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have. *See* Ch. 644, Acts of 1967.

For the statewide survey of resources and needs in the arts formerly conducted by the Governor's Council on the Arts in Maryland, *see* EC § 4-510(a)(1).

SECTION 9. AND BE IT FURTHER ENACTED, That Section(s) 5-914(a) of Article 83A – Department of Business and Economic Development of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

Maryland Industrial Development Financing Authority

[5-914.] 1.

[(a)] There is an Industrial Development Fund which replaces the MARYLAND INDUSTRIAL DEVELOPMENT FINANCING Authority's Bond Insurance Fund, the MARYLAND INDUSTRIAL DEVELOPMENT FINANCING Authority's Authorized Purpose Insurance Fund, the [Department's] Day Care Facilities Loan Guarantee Fund OF THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT, and the Maryland Enterprise Incentive Deposit Fund. [Moneys on deposit in the Authority's Bond Insurance Fund, the Authority's Authorized Purpose Insurance Fund, the

Department's Day Care Facilities Loan Guarantee Fund, and the Maryland Enterprise Incentive Deposit Fund shall be transferred to the Industrial Development Fund on July 1, 2000.】

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 83A, § 5-914(a), as it related to the replacement of certain funds by the Industrial Development Fund.

The first sentence of former Art. 83A, § 5-914(a) is not retained in the Code because it applies, if at all, to a diminishing class of funds invested or otherwise encumbered as of July 1, 2000. It is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have. *See* Ch. 305, Acts of 2000; § 9 of Ch. 306, Acts of 2008.

The second sentence of former Art. 83A, § 5-914(a), which provided that moneys on deposit in various former funds be transferred to the Industrial Development Fund on July 1, 2000, is deleted as obsolete. The contemplated transfers have already occurred.

SECTION 10. AND BE IT FURTHER ENACTED, That Section(s) 5-1501(e)(2) of Article 83A – Department of Business and Economic Development of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

One Maryland Tax Credits

[(2)] 1.

[(i)] (A) A business entity may not be certified as qualifying for the tax credit under [this section] TITLE 6, SUBTITLE 4 OF THE ECONOMIC DEVELOPMENT ARTICLE if an announcement of intent to establish or expand the business facility was made on or before April 10, 1999.

[(ii)] (B) For purposes of this [paragraph] SECTION, an announcement of intent to establish or expand a business facility includes a press conference or press coverage regarding the project.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 83A, § 5-1501(e)(2).

Former Art. 83A, § 5-1501(e)(2), which excluded projects announced before April 10, 1999 from eligibility for a tax credit under this subtitle, is apparently obsolete. *Cf.* Ch. 303, Acts of 1999. However, to avoid any inadvertent substantive effect its repeal might have, it is transferred to the Session Laws. *See* § 10 of Ch. 306, Acts of 2008.

SECTION 11. AND BE IT FURTHER ENACTED, That it is the intention of the General Assembly that, except as expressly provided in this Act, this Act shall be construed as a nonsubstantive revision, and may not otherwise be construed to render any substantive change in the law of the State.

SECTION 12. AND BE IT FURTHER ENACTED, That the catchlines, captions, Revisor's Notes, Special Revisor's Notes, and General Revisor's Notes contained in this Act are not law and may not be considered to have been enacted as a part of this Act.

SECTION 13. AND BE IT FURTHER ENACTED, That nothing in this Act affects the term of office of an appointed or elected member of any commission, office, department, agency, or other unit. An individual who is a member of a unit on the effective date of this Act shall remain a member for the balance of the term to which appointed or elected, unless the member sooner dies, resigns, or is removed under provisions of law.

SECTION 14. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any transaction or employment status affected by or flowing from any change of nomenclature or any statute amended, repealed, or transferred by this Act and validly entered into or existing before the effective date of this Act and every right, duty, or interest flowing from a statute amended, repealed, or transferred by this Act remains valid after the effective date of this Act and may be terminated, completed, consummated, or enforced as required or allowed by any statute amended, repealed, or transferred by this Act as though the repeal, amendment, or transfer had not occurred. If a change in nomenclature involves a change in name or designation of any State unit, the successor unit shall be considered in all respects as having the powers and obligations granted the former unit.

SECTION 15. AND BE IT FURTHER ENACTED, That the continuity of every commission, office, department, agency, or other unit is retained. The personnel, records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, and obligations of each retained unit are continued as the personnel, records, files, furniture, fixtures, properties, appropriations, credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.

SECTION 16. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any person licensed, registered, certified, or issued a permit or certificate by any commission, office, department, agency, or other unit established or continued by any statute amended, repealed, or transferred by this Act is considered for all purposes to be licensed, registered, certified, or issued a permit or certificate by the appropriate unit continued under this Act for the duration of the term for which the license, registration, certification, or permit was issued, and may renew that authorization in accordance with the appropriate renewal provisions of this Act.

SECTION 17. AND BE IT FURTHER ENACTED, That this Act does not rescind, supersede, change, or modify any rule adopted by the Court of Appeals that is or was in effect on the effective date of this Act concerning the practice and procedure in and the administration of the appellate courts and the other courts of this State.

SECTION 18. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by

the General Assembly, cross–references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2008 that affects provisions enacted by this Act. The publisher shall adequately describe any such correction in an editor’s note following the section affected.

SECTION 19. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall take effect on the taking effect of the termination provision specified in Section 4 of Chapter 299 of the Acts of the General Assembly of 2006, as amended by Section 2 of Chapter 635 of the Acts of the General Assembly of 2007. This Act may not be interpreted to have any effect on that termination provision.

SECTION 20. AND BE IT FURTHER ENACTED, That Section 5 of this Act shall take effect on the taking effect of the termination provision specified in Section 3 of Chapter 634 of the Acts of the General Assembly of 2006. This Act may not be interpreted to have any effect on that termination provision.

SECTION 21. AND BE IT FURTHER ENACTED, That Title 4, Subtitle 6, of the Economic Development Article and the subtitle “Subtitle 6. Maryland Public Art Initiative Program” as enacted by Section 2 of this Act, shall remain effective until the taking effect of the termination provision specified in Section 2 of Chapter 393 of the Acts of the General Assembly of 2005. If that termination provision takes effect, Title 4, Subtitle 6 of the Economic Development Article and the subtitle “Subtitle 6. Maryland Public Art Initiative Program”, as enacted by Section 2 of this Act, shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION 22. AND BE IT FURTHER ENACTED, That Title 5, Subtitle 11 of the Economic Development Article, the subtitle “Subtitle 11. Rural Broadband Assistance Fund”, Title 13, Subtitle 5 of the Economic Development Article, and the subtitle “Subtitle 5. Rural Broadband Coordination Board”, as enacted by Section 2 of this Act, shall remain effective until the taking effect of the termination provision specified in Section 3 of Chapter 269 of the Acts of the General Assembly of 2006. If that termination provision takes effect, Title 5, Subtitle 11 of the Economic Development Article, the subtitle “Subtitle 11. Rural Broadband Assistance Fund”, Title 13, Subtitle 5 of the Economic Development Article, and the subtitle “Subtitle 5. Rural Broadband Coordination Board”, as enacted by Section 2 of this Act, shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION 23. AND BE IT FURTHER ENACTED, That Title 11, Subtitle 1 of the Economic Development Article and the subtitle “Subtitle 1. Base Realignment and Closure Subcabinet”, as enacted by Section 2 of this Act, shall remain effective until the taking effect of the termination provision specified in Section 2 of Chapter 6 of the Acts of the General Assembly of 2007. If that termination provision takes effect, Title 11, Subtitle 1 of the Economic Development Article and the subtitle “Subtitle 1. Base Realignment and Closure Subcabinet”, as enacted by Section 2 of this Act, shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION 24. AND BE IT FURTHER ENACTED, That Title 11, Subtitle 2 of the Economic Development Article and the subtitle “Subtitle 2. Maryland Military Installation Council”, as enacted by Section 2 of this Act, shall remain effective until the taking effect of the termination provision specified in Section 3 of Chapter 634 of the Acts of the General Assembly of 2006. If that termination provision takes effect, Title 11, Subtitle 2 of the Economic Development Article and the subtitle “Subtitle 2. Maryland Military Installation Council”, as enacted by Section 2 of this Act, shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION 25. AND BE IT FURTHER ENACTED, That, subject to the provisions of Sections 19 through 24 of this Act, this Act shall take effect October 1, 2008.