

SENATE BILL 409

D1, D3

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By: **Senator Raskin**

Introduced and read first time: January 28, 2013

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Courts and Judicial Proceedings – Maryland Mediation Confidentiality Act –**
3 **Applicability**

4 FOR the purpose of altering the scope of the Maryland Mediation Confidentiality Act;
5 authorizing a certain agreement to exclude certain mediation communications
6 from the application of the Maryland Mediation Confidentiality Act; and
7 generally relating to the Maryland Mediation Confidentiality Act.

8 BY repealing and reenacting, with amendments,
9 Article – Courts and Judicial Proceedings
10 Section 3–1802
11 Annotated Code of Maryland
12 (2006 Replacement Volume and 2012 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article – Courts and Judicial Proceedings**

16 3–1802.

17 (a) [Except as provided in subsection (b) of this section, this subtitle applies
18 to a mediation in which:

19 (1) The parties:

20 (i) Are required to mediate by law or are referred to mediation
21 by an administrative agency or arbitrator; or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) Agree in writing that the mediation communications will
2 remain confidential; and

3 (2) The mediator states in writing to any and all parties to the
4 mediation that the mediator has read and, consistent with State law, will abide by the
5 Maryland Standard of Conduct for Mediators during the mediation.] **EXCEPT AS**
6 **PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS SUBTITLE APPLIES TO A**
7 **MEDIATION IN WHICH:**

8 (1) **THE PARTIES ARE REQUIRED TO MEDIATE BY LAW;**

9 (2) **THE PARTIES ARE REFERRED TO MEDIATION BY AN**
10 **ADMINISTRATIVE AGENCY OR ARBITRATOR; OR**

11 (3) **THE MEDIATOR STATES IN WRITING TO ANY AND ALL PARTIES**
12 **AND POTENTIAL PARTIES TO THE MEDIATION THAT:**

13 (I) **THE MEDIATION COMMUNICATIONS WILL REMAIN**
14 **CONFIDENTIAL IN ACCORDANCE WITH THIS SUBTITLE; AND**

15 (II) **THE MEDIATOR HAS READ AND, CONSISTENT WITH**
16 **STATE LAW, WILL ABIDE BY THE MARYLAND STANDARD OF CONDUCT FOR**
17 **MEDIATORS DURING THE MEDIATION.**

18 (b) This subtitle does not apply to a mediation:

19 (1) To which Title 17 of the Maryland Rules applies;

20 (2) Relating to the establishment, negotiation, administration, or
21 termination of a collective bargaining relationship;

22 (3) Relating to a dispute that is pending under, or is part of the
23 processes established by, a collective bargaining agreement unless the dispute has
24 been filed with an administrative agency or court;

25 (4) Relating to an action to enforce an agreement to arbitrate under
26 common law, the Federal Arbitration Act, the Maryland Uniform Arbitration Act
27 under Subtitle 2 of this title, or the Maryland International Commercial Arbitration
28 Act under Subtitle 2B of this title;

29 (5) Relating to an action to foreclose a lien against an owner-occupied
30 residential property subject to foreclosure mediation conducted by the Office of
31 Administrative Hearings under Maryland Rule 14-209.1;

1 (6) Arising from a referral of a matter to a master, examiner, auditor,
2 or parenting coordinator under Maryland Rules 2–541, 2–542, 2–543, or 9–205.2; **OR**

3 (7) Conducted by a judge who might make a ruling on a case based on
4 the dispute[; or].

5 **[(8) (C)]** [In which the] **THE** parties and the mediator, by a written
6 and signed agreement made in advance of the mediation, **MAY** agree to exclude all or
7 part of the mediation communications from the application of this subtitle.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2013.