

## Chapter 529

(Senate Bill 702)

AN ACT concerning

### Maryland Public Art Initiative Program – ~~Revisions~~ Selection of Art for Capital Projects

FOR the purpose of ~~altering a provision of law relating to the qualifications for appointment as a public member of the Maryland Commission on Public Art; requiring the Commission to include additional State agencies and departments in the Maryland Public Art Initiative Program; requiring the Commission to determine which projects are subject to a certain requirement of the Program; requiring the Commission, in cooperation with the Department of General Services, to be responsible for the management of the collection, including the inventory, conservation, preservation, and deaccession of all artwork acquired through the Program; altering the sources of funding for the Maryland Public Art Fund; repealing a certain provision of law relating to an annual appropriation for the Program in the State operating or capital budget; requiring certain State agencies or departments or other recipients of State funds for certain construction or renovation projects to set aside a certain percentage of the money allocated for the projects to be paid into the Fund; providing that money paid into the Fund under a certain percentage set aside requirement may be used for certain purposes; establishing the intent of the General Assembly that a certain percentage set aside requirement not result in an increase in certain costs; repealing certain provisions of law establishing that all artwork funded by the Program is the property of the Maryland Historical Trust; repealing certain provisions of law relating to the responsibilities of the Trust; establishing, with a certain exception, that all artwork funded by the Program is the property of the Commission~~ providing that artwork funded by the Maryland Public Art Initiative Program is the property of the Maryland Commission on Public Art; providing that the Commission is responsible for the inventory, maintenance, and preservation of certain artwork; requiring the State to include public art into all construction projects and major renovation projects under certain circumstances; requiring, at a certain time, that a certain group determines the identification and selection of public art to be included in a certain project; requiring the Division of Tourism, Film, and the Arts to work with the Maryland State Arts Council and the Commission in the selection of certain public art; requiring the Department of Budget and Management and the Department of General Services to jointly establish a certain waiver process; declaring the intent of the General Assembly; defining certain terms; and generally relating to the Maryland Public Art Initiative Program and the selection of art for capital projects.

~~BY repealing and reenacting, without amendments,  
 Article – Economic Development  
 Section 4-601, 4-603(a), and 4-606  
 Annotated Code of Maryland  
 (2008 Volume and 2012 Supplement)~~

BY repealing and reenacting, with amendments,  
 Article – Economic Development  
 Section 4-603(b), 4-604, 4-605, and 4-608  
 Annotated Code of Maryland  
 (2008 Volume and 2012 Supplement)

BY adding to  
Article – State Finance and Procurement  
Section 3-602.2  
Annotated Code of Maryland  
(2009 Replacement Volume and 2012 Supplement)

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

### Article – Economic Development

~~4-601.~~

- ~~(a) In this subtitle the following words have the meanings indicated.~~
- ~~(b) “Commission” means the Maryland Commission on Public Art.~~
- ~~(c) “Fund” means the Maryland Public Art Fund.~~
- ~~(d) “Program” means the Maryland Public Art Initiative Program.~~

~~4-603.~~

- ~~(a) There is a Maryland Commission on Public Art.~~
- ~~(b) (1) The Commission consists of the following 11 members:~~
- ~~(i) as designated by the chair of the Council, either the Executive Director or a member of the Maryland State Arts Council established under Subtitle 5 of this title;~~
- ~~(ii) as designated by the chair of the Trust, either the Director or a member of the Maryland Historical Trust established under Title 5A, Subtitle 3 of the State Finance and Procurement Article;~~

~~(iii) as designated by the State Archivist, either 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 SUCH as artists, curators, art historians, art educators, or architects.~~

~~(ii) A public member serves at the pleasure of the Secretary.~~

~~4-604.~~

~~The Commission shall:~~

~~(1) work with the Department of General Services, the State Department of Transportation, [and] the University System of Maryland, AND OTHER STATE AGENCIES AND DEPARTMENTS to ensure that new public facilities constructed by State units include the installation of artwork;~~

~~(2) DETERMINE WHICH PROJECTS, UP TO A MAXIMUM OF 10 PROJECTS PER FISCAL YEAR, ARE SUBJECT TO THE PROGRAM PERCENTAGE SET ASIDE REQUIREMENT ESTABLISHED UNDER THIS SUBTITLE;~~

~~[(2)] (3) allocate money from the Fund to commission artwork for installation at public facilities around the State;~~

~~[(3)] (4) establish selection panels to recommend artists and artwork to be funded by the Fund; [and]~~

~~[(4)] (5) make final recommendations concerning the disbursement of money allocated to the Program; AND~~

~~(6) IN COOPERATION WITH THE DEPARTMENT OF GENERAL SERVICES, BE RESPONSIBLE FOR THE MANAGEMENT OF THE COLLECTION, INCLUDING THE INVENTORY, CONSERVATION, PRESERVATION, AND DEACCESSION OF ALL ARTWORK ACQUIRED THROUGH THE PROGRAM.~~

~~4-605.~~

- ~~(a) There is a Maryland Public Art Fund.~~
- ~~(b) The purpose of the Fund is to provide money to carry out the Program.~~
- ~~(c) The Commission shall administer the Fund.~~
- ~~(d) (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) (1) The Fund consists of:~~
- ~~(i) MONEY MADE AVAILABLE TO THE FUND UNDER SUBSECTION (F) OF THIS SECTION;~~
- ~~(ii) money appropriated in the State budget for the Program;~~
- ~~and~~
- ~~[(ii)](iii) 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) 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.]~~
- ~~(F) (1) EACH STATE AGENCY OR DEPARTMENT OR OTHER RECIPIENT OF STATE FUNDS FOR A CONSTRUCTION OR RENOVATION PROJECT THAT THE COMMISSION DETERMINES TO BE SUBJECT TO THE PROGRAM SHALL SET ASIDE 1% OF THE MONEY ALLOCATED FOR THE CONSTRUCTION OR RENOVATION PROJECT TO BE PAID INTO THE FUND IF:~~
- ~~(i) AT LEAST 50% OF THE CONSTRUCTION OR RENOVATION PROJECT IS FUNDED THROUGH ALLOCATIONS IN THE STATE CAPITAL BUDGET; AND~~
- ~~(ii) THE TOTAL AMOUNT ALLOCATED FOR THE PROJECT IN THE STATE CAPITAL BUDGET IS AT LEAST \$500,000.~~
- ~~(2) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE PERCENTAGE SET ASIDE REQUIREMENT ESTABLISHED UNDER PARAGRAPH (1)~~

~~OF THIS SUBSECTION NOT RESULT IN AN INCREASE IN THE COST OF PROJECTS FINANCED IN WHOLE OR IN PART BY THE PROCEEDS OF STATE GENERAL OBLIGATION BONDS.~~

~~(g) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.~~

~~(h) 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; AND~~

~~(3) IF PAID INTO THE FUND UNDER SUBSECTION (F) OF THIS SECTION, FOR:~~

~~(I) COMMISSIONING OR ACQUIRING ARTWORK FOR PROPERTY OWNED OR LEASED BY THE STATE OR FOR PUBLIC SPACES;~~

~~(II) GRANTS TO LOCAL GOVERNMENTS OR INSTRUMENTALITIES; AND~~

~~(III) THE COST OF COLLECTION MANAGEMENT AND PROGRAM ADMINISTRATION.~~

~~4-606.~~

~~(a) Before a grant is awarded to a local government under this subtitle, the local government shall provide and spend a matching fund.~~

~~(b) 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.~~

4-608.

~~¶(a) All~~ ~~EXCEPT FOR A PROJECT FUNDED BY A MATCHING FUND OF A LOCAL GOVERNMENT, ALL~~ artwork funded by the Program is the property of the [Maryland Historical Trust] **COMMISSION**.

~~¶(b)~~ In cooperation with the Department of General Services, the ~~Maryland Historical Trust~~ **COMMISSION** is responsible for the inventory, maintenance, and preservation of all artwork acquired through the Program.~~¶~~

### Article – State Finance and Procurement

#### 3-602.2.

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

(2) “COMMISSION” MEANS THE MARYLAND COMMISSION ON PUBLIC ART ESTABLISHED UNDER TITLE 4, SUBTITLE 6 OF THE ECONOMIC DEVELOPMENT ARTICLE.

(3) “CONSTRUCTION PROJECT” MEANS THE CONSTRUCTION OF A NEW BUILDING THAT IS PROPOSED TO CONTAIN 15,000 OR MORE SQUARE FEET.

(4) “COUNCIL” MEANS THE MARYLAND STATE ARTS COUNCIL ESTABLISHED UNDER TITLE 4, SUBTITLE 5 OF THE ECONOMIC DEVELOPMENT ARTICLE.

(5) “DIVISION” MEANS THE DIVISION OF TOURISM, FILM, AND THE ARTS ESTABLISHED UNDER TITLE 4, SUBTITLE 1 OF THE ECONOMIC DEVELOPMENT ARTICLE.

(6) “MAJOR RENOVATION PROJECT” MEANS THE RENOVATION OF AN EXISTING BUILDING WHERE:

(I) THE BUILDING IS TO BE RECONSTRUCTED AND REUSED AFTER THE CONSTRUCTION;

(II) THE HEATING, VENTILATION, AND AIR CONDITIONING, ELECTRICAL, AND PLUMBING SYSTEMS ARE TO BE REPLACED; AND

(III) THE SCOPE OF THE RENOVATION IS 15,000 OR MORE SQUARE FEET.

(7) (I) “PUBLIC ART” MEANS:

1. AN ARCHITECTURAL ENHANCEMENT OF ARTISTIC SIGNIFICANCE; OR

2. AN INDIVIDUAL PIECE OF ART.

(II) "PUBLIC ART" INCLUDES:

1. A MURAL;

2. A TILE MOSAIC;

3. A PAINTING; OR

4. A SCULPTURE.

(B) (1) THIS SECTION APPLIES TO CAPITAL PROJECTS THAT ARE FUNDED ENTIRELY WITH STATE FUNDS.

(2) THIS SECTION DOES NOT APPLY TO THE FOLLOWING TYPES OF UNOCCUPIED BUILDINGS:

(I) WAREHOUSE AND STORAGE FACILITIES;

(II) GARAGES;

(III) MAINTENANCE FACILITIES;

(IV) TRANSMITTER BUILDINGS;

(V) PUMPING STATIONS; AND

(VI) OTHER SIMILAR BUILDINGS, AS DETERMINED BY THE DEPARTMENT.

(C) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE REQUIREMENTS OF THIS SECTION WILL NOT INCREASE THE COST OF A CONSTRUCTION PROJECT OR A MAJOR RENOVATION PROJECT.

(D) TO THE EXTENT PRACTICABLE AND EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS SECTION, THE STATE SHALL INCLUDE PUBLIC ART IN ALL CONSTRUCTION PROJECTS AND MAJOR RENOVATION PROJECTS.

(E) DURING THE INITIAL DESIGN OF EACH CONSTRUCTION PROJECT AND MAJOR RENOVATION PROJECT, THE IDENTIFICATION AND SELECTION OF

PUBLIC ART TO BE INCLUDED IN THE PROJECT SHALL BE DETERMINED BY A GROUP COMPOSED OF REPRESENTATIVES OF:

(1) THE UNIT OF STATE GOVERNMENT THAT WILL BE THE PRIMARY USER OF THE BUILDING;

(2) THE UNIT OF STATE GOVERNMENT RESPONSIBLE FOR PROJECT MANAGEMENT OF THE BUILDING; AND

(3) THE DIVISION.

(F) THE DIVISION SHALL WORK WITH THE COUNCIL AND THE COMMISSION IN THE SELECTION OF PUBLIC ART FOR ANY PROJECT UNDER THIS SECTION.

(G) (1) THE DEPARTMENT OF BUDGET AND MANAGEMENT AND THE DEPARTMENT OF GENERAL SERVICES SHALL JOINTLY ESTABLISH A PROCESS TO ALLOW A UNIT OF STATE GOVERNMENT TO OBTAIN A WAIVER FROM COMPLYING WITH THIS SECTION.

(2) THE WAIVER PROCESS SHALL:

(i) PROVIDE FOR CONSULTATION WITH THE DIVISION, ON BEHALF OF THE COUNCIL AND THE COMMISSION, TO DETERMINE IF THE INCLUSION OF PUBLIC ART IN A PROPOSED PROJECT IS TOO COSTLY OR NOT PRACTICABLE; AND

(ii) REQUIRE THE APPROVAL OF THE SECRETARIES OF BUDGET AND MANAGEMENT AND GENERAL SERVICES.

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

Approved by the Governor, May 16, 2013.